

Environment, Food and Rural Affairs Committee

Oral evidence: Scrutiny of the Fisheries Bill, HC 1722

Wednesday 12 December 2018

Ordered by the House of Commons to be published on 12 December 2018.

[Watch the meeting](#)

Members present: Neil Parish (Chair); John Grogan; Dr Caroline Johnson; David Simpson; Angela Smith; Julian Sturdy.

Questions 251 - 292

Witnesses

I: George Eustice MP, Minister for Agriculture, Fisheries and Food, Department for Environment, Food and Rural Affairs; Anne Freeman, Deputy Director for Domestic Fisheries and Reform, Department for Environment, Food and Rural Affairs.

Written evidence from witnesses:

- [Department for Environment, Food and Rural Affairs](#) (SFB0050)
- [Department for Environment, Food and Rural Affairs](#) (SFB0048)

Examination of witnesses

Witnesses: George Eustice and Anne Freeman.

Q251 **Chair:** Good afternoon. Perhaps you can introduce yourselves for the record.

George Eustice: I am George Eustice and I am here in my capacity as Fisheries Minister.

Anne Freeman: I am Anne Freeman. I am deputy director in Defra in charge of domestic fisheries and reform.

Q252 **Chair:** Welcome. We will try to get on with it fairly fast if we can, because I think I am going to lose all my members during the afternoon. George, you will be quite happy with that. We will expect very concise,



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quick answers from you, and we will have to try to do the same as far as the questions are concerned.

The Bill proposes to control access to UK waters with conditional licences for non-UK fishing boats, so they have to adhere to the same rules as the UK vessels. Why does the Bill not stipulate that non-UK fishing boats must also adhere to the same technical and environmental standards? That is a nice easy question to start off with.

George Eustice: Simply, there are two ways you can achieve that. One is through the vessel licensing conditions. When it talks about the power to grant licences, for instance in clause 12, subsection 3, it spells out all of the things you can stipulate, from fishing methods, the type of fish you can catch, method of fishing and so on and so forth. It is absolutely our intention that any foreign fishing vessel coming in would have to abide by standards we had.

Q253 **Chair:** In reality, you are saying they will not be able to fish in our waters unless they meet our rules.

George Eustice: Absolutely.

Q254 **Chair:** Why have you done it in that particular way? Why do you not just stipulate that everybody goes by the same rules?

George Eustice: At the moment, we have a challenge in that the EU control access to our waters. Even if there are fishing methods that we might have problems with—for instance, pulse fishing by the Netherlands. We are not actually able to do anything about that because they are abiding by an EU derogation. In future, the right way to do this, and the way that every other country does it, is to control access to waters and to place conditions on that access via the licence. It is a much more flexible, adaptable thing. If you changed a technical measure, you could apply that to the licence.

The other thing to bear in mind is that it will frequently be the case that we will not grant foreign vessels access to waters that we might grant British vessels access to. There may be areas that are reserved for British vessels. There may be certain species of fish that you will not allow foreign vessels to catch. You might allow them in only to catch some. It is not the case that we necessarily want them to abide by exactly the same rules as British vessels. We might actually put more restrictive covenants on their licence.

Q255 **Chair:** Do you think you can police that? If they come into our waters and can only catch certain fish, I suppose provided they have the surveillance cameras on board and they are filming what they are catching, you think that will suffice, do you?

George Eustice: Yes, we do that already. There are some countries with whom we have agreements, the Faroes for instance, where it is already the case that we allow them to catch 30% of their mackerel in UK waters. We have to police that and we have methods for doing that. They have



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to, effectively, clock in when they enter our waters and clock back out. We can record their catches at that point. There are regulations in place that require them to record catches but also to record their landings through sales notes and to have vessel monitoring equipment as well.

Q256 **Chair:** Just going back, you mentioned pulse fishing. Whatever wonderful deal we may or may not have by 29 March, how soon could we stop pulse fishing? I do not think anybody likes it very much, to say the least.

George Eustice: The powers are in the Bill to do it. You could do it either through vessel licence conditions, because it is a method of fishing, or indeed you could do it under clause 31, which gives you the ability to do wider technical conservation measures.

Q257 **Chair:** When could we do that?

George Eustice: After the end of the implementation period, assuming there will be one.

Chair: We will not go into a huge debate over that just at the moment.

Q258 **Angela Smith:** We have received evidence, especially from Scotland, that the fishing industry is concerned about equal access to all UK vessels being a risk to vulnerable fishing communities. Are you aware of the issue and will you consider it as part of your work on the economic link? It is from the Orkney Fisheries Association particularly that we have heard, so very vulnerable communities, barely scraping a living, and more quota but then other UK vessels come in and take their share.

George Eustice: The equal access objective is in clause 1. All it does is bring across a principle that is effectively there anyway but, paradoxically, so far it is protected through EU law. We had this rather ironic situation that the only legal provision that guaranteed each component part of the UK access to one another's waters was a piece of EU legislation that gave everyone access to our waters, including the EU countries. Therefore, what we have sought to do is to say, "We obviously want to have equal access across the UK". A lot of the Northern Ireland fleet fish to the west of Scotland.

Q259 **Angela Smith:** No, this is not about that, George. This is about the fact that there are some very vulnerable communities, as I said, and it may be that the extra quota goes to vessels from elsewhere in the UK. Those fishing communities will get no benefit at all from that. Do you recognise the potential for that to happen?

George Eustice: No, I do not really understand that concern. All we are doing here is having access in the way we do now. It is already the case that vessels from England fish in Scottish waters and vice versa, and Northern Ireland vessels fish in Scottish waters. I would not anticipate fishing patterns for the UK fleet to change that much at all.

Q260 **Angela Smith:** Okay. The Orkney Fisheries Association, Clyde



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Fishermen's Association and Communities Inshore Fisheries Alliance all said equal access to all UK vessels to all parts of UK waters will not allow economic links to be established for areas shown to be fragile and vulnerable or under economic pressure.

George Eustice: I do not understand that argument, because it is no different than what would happen now. If that does not happen now, there is no reason why it would happen in the future.

Q261 **Angela Smith:** Is this Bill not supposed to improve things?

Chair: Is there not an opportunity?

Angela Smith: Yes, it is an opportunity, exactly.

George Eustice: Some of these stocks they are interested in—Orkney crab and Clyde herring—are stocks that are not generally negotiated internationally and are where Scotland already has its own provisions, a little bit like we do in England on lobsters and crabs. Ultimately, people can only fish if they have the quota. A vessel from England would only be able to go up to fish around the Shetland Islands if it had quota allocated to that vessel to fish in that zone. That is the case now and that would be the case in future.

Q262 **Angela Smith:** We are asking whether there is a case for recognising that could happen potentially and will not be helpful for those communities. This is an opportunity, when issuing quota, to think about these very vulnerable communities and make the economic link.

George Eustice: This is not a representation I have had from them, but I am going to ask Anne Freeman, who has done a roadshow over the past 12 months to lots of fishing communities.

Anne Freeman: I have indeed. Thank you, Minister. One of the issues is that Scotland will get its allocation of quota, as it does now, and it can choose how it will allocate that quota. It can use the quota it gets to help boost and bolster local communities, should it wish to do so. It is something that the devolved Administrations can manage themselves.

Q263 **Angela Smith:** Will the Westminster Government think about doing that for English coastal communities?

George Eustice: Yes. We have already said, during the committee stage of this debate, that, as we depart from relative stability and have new fishing opportunities coming in, we would envisage putting additional quota to the inshore pool, the under-10-metre pool. We intend to use some new quota coming in in order to create a national reserve, potentially to help new entrants and to help make the discard ban work more effectively. We may also tender additional quota to producer organisations, based on their sustainability track record.

Q264 **Chair:** On the national reserve, who would be able to tap into it? Is that just new entrants or is that some of the smaller fishermen that do not



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have very much quota, or what?

George Eustice: Predominantly, the idea that we set out in our White Paper and that we have taken the powers for in the Bill is it is a system where we would have a national reserve of quota, particularly on some of the choke species, that we would top-slice off our UK allocation from a TAC negotiation. Then, if there were out of quota stocks landed by fishermen, if they could not avoid it, you would make that out-of-quota fish subject to a super levy, so there would be a powerful financial disincentive to avoid it.

Q265 **Chair:** That is very similar to what used to happen with milk over quota.

George Eustice: It is a bit like milk. I often use the example that, when milk quotas first came in, TV crews used to film farmers pouring milk down the drain because they could not sell it. We then refined the system so there was a super levy for overproduction, which meant they could still sell it but there was a powerful disincentive to do so.

Q266 **Chair:** Exactly. It was not profitable to produce it if you paid the super levy. That is what you are going try to fix with the fishing.

George Eustice: It is that principle we envisage bringing forward to try to make the discard ban work. At the moment, there are lots of challenges to making it work properly.

Chair: Having paid a super levy in the past, I understand exactly what it means.

Q267 **Julian Sturdy:** Good afternoon, Minister. The Bill will give the Secretary of State powers to sell catch or quota, through a tender process of the additional fishing opportunities that become available when we withdraw from the EU. These powers have been described as abhorrent by the New Under Ten Fishermen's Association. What actions will you take or commit to, to be able to make this process fairer and more equitable going forward?

George Eustice: It does not mean we would do all quota through that direction. Broadly, what we have said is, to ensure that there is stability, bearing in mind some people have built businesses and borrowed money to buy vessels with certain entitlements on, we will leave the existing FQA units as they are for existing fishing opportunities. As we depart from relative stability and have new fishing opportunities coming in, I do not think it makes any sense at all to compound the injustice of the FQA system. That is a rather arbitrary system that has given people a kind of quasi-entitlement and right. That is there and we are going to recognise it for the time being, but in terms of allocating new opportunities, we do not think it makes much sense.

What we are really asserting there is that our fisheries resources are a national resource, like any other national resource. I would envisage producer organisations tendering for quota. Potentially an opportunity



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could be for one year, or it could be for multiple years. The legislation would allow that.

Q268 **Julian Sturdy:** How would you come to that, whether it is for one year or multiple years?

George Eustice: Underlying it would be an entitlement that would then change according to the size of the TAC. You could create a tender scheme that ran for, say, five years.

Q269 **Julian Sturdy:** What I am trying to ask is whether that would be your decision, as the Minister, or the Secretary of State?

George Eustice: Yes. It would be a decision for the Minister for England. By the way, this would only apply for England. We know that Scotland is very interested in something similar. They have also, in the recent past, tried to get away from the FQA system. We would envisage producer organisations having their FQA entitlements they have now, but having the opportunity to bid for additional new opportunities. You could judge their bids based on what they are doing to help new entrants, what they are doing to support coastal communities, what investment they are making in coastal communities, what their sustainability track record is, what their compliance levels are like and, yes, also whether they are going to make a financial consideration.

Q270 **Julian Sturdy:** Sorry to interrupt. Would you put all those points you have raised there in the tender process?

George Eustice: Yes. You would have, effectively, a call for lots of quota. You would invite tenders to that. You would not have to judge them solely on the financial consideration. Indeed, I would want to be judging them on a broader range of criteria, so we were rewarding those producer organisations who put something back, who support coastal communities.

Q271 **Julian Sturdy:** Would you consult on that tender process before going out?

George Eustice: Yes, absolutely. We would do that. For the under-10 pool, you might do something very different. You might actually, as I explained earlier, simply just put some extra fishing opportunities in there and not tender it. I think the under-10 complaint or concern is that people with deep pockets will still be the ones that get all the quota and they will not get any. It is not exclusively the case that that is how we would allocate quota. It will be absolutely open to us to increase the size of the pool as well. Indeed, that is what I have indicated we would do.

Q272 **Julian Sturdy:** Yes, but it is still an indication. It is open-ended; that is what I am trying to say.

George Eustice: Exactly, but this would be for new opportunities as we diverge from relative stability. This is a fresh opportunity for everyone. It is right we share it in a different way. If all we did was simply divvy it



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out along FQA lines we would effectively be giving the opportunities back out, in many cases, to foreign-owned vessels.

Q273 **Julian Sturdy:** I understand that. You are saying you would make sure all the different sizes, whether it is the big organisations or those smaller fishermen and operations, will have a fair crack at it. That is what you are saying.

George Eustice: Absolutely, yes. Some of the inshore fleet are keen to form one or more producer organisations themselves, as an alternative to the MMO-managed pool. Through a tender process, if you decided to go that way, you could even have a category of inshore fish they could tender for.

Q274 **Chair:** You could allocate quota to them then, could you?

George Eustice: That is right. If they form these producer organisations, they could tender for it, but it could be restricted so only the inshore fleet could tender for those certain parts of the quota.

Q275 **Chair:** Going back to my milk quota analogy, will fishermen be able to lease that as well as actually buy it, just lease it for the year? They can now to a degree, can they not? That is the flexibility. Also, the smaller fishermen will argue that, if you do not have a lot of capital, actually buying the quota sometimes can be difficult.

George Eustice: What I would envisage happening during that period where you have, effectively, a mixed economy, where most of your quota in the initial years would still be allocated through FQA units, and then the fresh—

Q276 **Chair:** That is the bought and paid for quota.

George Eustice: Exactly. It is sort of bought. It is a kind of entitlement. That is the bit that would be readily tradable and is readily tradable now. People do quota swaps and they can lease quota. I would envisage, certainly in the early years, that the type of quota we are talking about coming in as being potentially tendered would be perhaps not impossible but less likely to be traded.

Q277 **Chair:** Is that tendered just for the one year, or were you talking about four or five years? How would you do it?

George Eustice: Just for legal clarity, it is described as selling an opportunity for a calendar year. That is because quotas are set annually each year. We envisage that, underlying that, you might tender a fishing opportunity, or an entitlement to an opportunity, for five years, bearing in mind that the total allowable catch for that particular stock might go up and down. The price that Government might get back would also go up and down if the stock was in a precarious state.

Chair: Or plentiful.

Q278 **John Grogan:** I want to ask about one little further detail, because we



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discussed quite a bit about the tenders and so on. Would trialling that be wise, do you think—trialling the tender process in some way? Would that be a possibility?

George Eustice: Yes, absolutely, and I would envisage us doing that. I would also point out that we are clear in the White Paper that initially, in year one after leaving the EU or coming out of the implementation period, the existing fishing opportunities that we have under relative stability would still flow through the FQA system to provide some stability. We have been talking about tendering new opportunities coming in, and actually we do not envisage departing from relative stability in one bound, in one year. We would envisage this being a multi-annual agreement we would have with the EU for potentially three years or five years, where we would gradually see a year-on-year rise for the UK. By design and by the nature of our likely departure and divergence from relative stability, it would mean it would be a growing component.

Q279 **David Simpson:** Minister, your letter of 10 December to the Chair said the Government had tabled an amendment to the Bill to enshrine its commitments to secure a fairer share of fishing opportunities for UK fishermen. What practical difference, if any, will the amendment make to the UK's negotiating position?

George Eustice: It will create a statutory barrier to our negotiators not delivering.

David Simpson: I thought you were hesitating there in the answer.

George Eustice: I suppose it has been put there to provide that statutory protection. That is simply this: we will not grant access to EU vessels into our waters unless we get a presumption of an inward transfer of quota that is in excess of relative stability. The type of framework agreement that we would envisage with the EU—similar to that which Norway has with the EU now, which is a sort of multi-annual framework agreement—would broadly say there would be a presumption on continuing to allow them some access to our waters, with some restrictions, particularly in the six-to-12. It would probably exclude them from that.

In return, for that access, there would be a presumption that we would have a far greater share of the total allowable catch, so it was more in line with zonal attachment, rather than the existing relative stability shares. The essence of a settlement with the European Union on fisheries management is that the quid pro quo for continuing to allow them and grant them access to our waters is that they accept that the current relative stability shares are unfair, and that we will adopt zonal attachment as an alternative. The clause, insofar as it is able to, broadly reflects that as our intention.

Q280 **David Simpson:** Right, okay. It will give the British Government better



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control or a better position.

George Eustice: The way I would put it is it does not strengthen the hand of the British Government, in that we have a very strong hand now. It prevents the British Government from making concessions on fishing to get some sort of advance elsewhere.

Q281 **Chair:** Is it legally binding?

George Eustice: It is legally binding because it is in an Act of Parliament.

David Simpson: Interesting.

Q282 **Chair:** So we can take you to the Tower if you concede on any negotiation on anything.

George Eustice: If it is me still around, yes.

Chair: I will look forward to taking you to the Tower then, George. No, I am sure that will not happen.

George Eustice: It is an important point. It does not strengthen the British Government's hand, but it does place some restrictions on how the British Government can play that hand in respect of other issues.

Q283 **Chair:** George, can you explain the basis of us setting a review of the fisheries statement at least every six years? Under what circumstances would you expect a review of the statement sooner? Will they be subject to expert assessment? It seems a bit weak, to be perfectly blunt with you, that every six years you are going to report to us or whoever. In the meantime, you can do what you like, can you? What is the thinking behind every six years as well? It is not even a five-year Parliament, is it?

George Eustice: No. This came up in committee yesterday. In fact, a representative from the SNP made the point that this is a joint fisheries statement and, while we have a five-year Parliament here, other devolved Administrations have different electoral timescales, so setting it for a UK Parliamentary timescale does not work either.

The answer to your question is, when you draft pieces of legislation like this, you try, as far as possible, to be consistent with what has been said in previous legislation and to have some consistency. If you needed to look for a review period, we looked at the Marine and Coastal Access Act, which had provisions for marine spatial planning. In that Act, they set six years as being the period over which you should review. We then took the view that, if things changed more quickly or there was a dynamic change in the scientific advice, you might want to review those plans sooner. We take power, I think in clause 4, to be able to review the plans sooner if needed.

The two circumstances where you might do it sooner are, first, if there was a genuine fundamental change in the science of some particular



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element that you needed to reflect, and, secondly, it could be that a new Government took over and had different priorities and manifesto commitments and therefore wanted to review and amend the joint fisheries statement. It is entirely proper that new Governments, when they come in, have the ability to do so.

Q284 Chair: The Government of the day would be able to bring a statement or review forward earlier than six years if they chose to do so.

George Eustice: That is right. There is a power to do that in clause 4. The only slight practical restriction on that is obviously the joint fisheries statement has to be agreed with all the devolved Administrations.

Chair: That would probably take six years.

George Eustice: I suspect that, although the power is there, there will be a natural disinclination to engage in that kind of discussion on a highly frequent basis because it will require a consensus.

Q285 Chair: The only last point I would make on this is, because we are moving into a completely new situation regarding managing our own fishing, I wonder whether having done it and leaving it six years before reviewing it is just too long, basically.

George Eustice: As I said, it can be amended if it needs to be. We have also said very clearly in the White Paper—it is not on the face of the Bill and we have had amendments to suggest it should be—that we have committed to annually publish a state of the stocks. Effectively, annually there would be an update on our progress towards those environmental objectives.

Q286 Chair: Very quickly, on expert assessment, who is the expert? Is it you, or what?

George Eustice: In which clause?

Q287 Chair: It says it will be subject to an expert assessment. I do not know which clause it is. I think you have it in there, have you not?

George Eustice: If you say expert assessment, I always have in mind Cefas. Cefas is probably the world's leading fisheries science agency. We have Dr Carl O'Brien, who is our chief fisheries scientist and is one of the best in the world; he has an incredibly talented team underneath him. Cefas lead on all our fisheries science technical work.

Q288 David Simpson: The Bill includes the CFP's commitment to the MSY and sustainable fisheries, but not the 2020 target date. Will you amend the Bill to commit the UK to the shared management of stock with other countries and align with the MSY?

George Eustice: In clause 1, with all those objectives, broadly speaking, we have taken the language exactly as it is written in the EU basic regulation for the common fisheries policy and brought it across. The only thing that has changed, for a very practical reason, is the language



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on the precautionary objective on maximum sustainable yield is there in exactly the same way as it is in the EU draft, bar that it does not say to deliver this by 2020. Put bluntly, the real reason is that this Bill, or many sections of it, may not be commenced until the end of 2020, or even early 2021. Just from a legal drafting point of view, you cannot have a statutory deadline and a target that has expired before a Bill even commences.

David Simpson: It is as simple as that.

George Eustice: It is as simple as that. We would envisage the joint fisheries statement having commitments on MSYs for certain stocks, potentially including dates as well. It may be that when that statement is published it has commitments to keep certain stocks within MSY ranges, to get others there if they have not been able to get there. The other, broader problem is that, even under the EU's CFP, they are not going to hit that target. They are getting close, but they are not going to hit the 2020 target.

Chair: The MSY is maximum sustainable yield.

George Eustice: Maximum sustainable yield, yes.

Q289 **John Grogan:** We have quite a lot of very good written evidence, and just one line strikes me from the Orkney Fisheries Association. They argued that a caveat is needed in the Bill to provide for instances where social and economic stability are needed. Without this type of caveat, remote islands and areas will suffer stock decline from unlimited fishing pressures from nomadic vessels, which will displace small local vessels and so on. Some people have argued as a result that there perhaps should be in the Bill an additional objective regarding socioeconomic development of coastal communities or something. How would you react to that?

George Eustice: That is a very good point, and it is open to the Scottish Government to do that, but it is their responsibility to do that. In clause 2 of the Bill, we outline a plan for a joint fisheries statement. That would be for all the Administrations and cover those sustainability objectives. Separate to that, we also outline something that we call the Secretary of State fisheries statement, which is an England-only statement. That England-only statement includes, for instance, promoting coastal fishing activities, taking into account socioeconomic factors, and contributing to a fair standard of living for those who depend on fishing activities. For England we have already done that. It is a very good point that the Scottish Government should consider doing the same. It is open to them to do so, but it is not something we can require them to do.

Q290 **Julian Sturdy:** Minister, your 10 December letter to the Chair announced new funding to support the fishing industry during the implementation period. What exactly will that fund support and when will the scheme come forward and open up?



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George Eustice: I do not think we have determined that yet.

Anne Freeman: The £37 million is to top up existing Government co-financing to the European Maritime and Fisheries Fund, which will continue up to December 2020. It will just be added to the pot of EMFF and be divided up between the devolved Administrations and used for the purposes of EMFF, so for things like ice chillers, ice plants, safety equipment, et cetera.

Q291 **Chair:** So early processing of the fish, really.

Anne Freeman: And aspects to help fishermen fish more sustainably and safely. The Government also announced that they will create a new scheme comparable to EMFF to go beyond 2020. The details of that are still being developed.

Q292 **Julian Sturdy:** Do you have a timeframe for when you might be coming forward with that?

Anne Freeman: Discussions are ongoing and that will be taken forward as part of the spending review. The press notice set out broadly what England would cover. Again, there will be four different schemes and it will be up to each Administration to develop its own scheme. We have given the very high-level stuff in the press notice.

Chair: I had better call order now. I do not think we will resume afterwards, Minister, because I think you are busy and I am not sure I can get a quorum here in order to be quorate. There are another four or five questions here. Could you make sure we get the answers in writing?

George Eustice: Yes, absolutely.

Chair: And as soon as possible please, because, naturally, we are following this Bill as it goes through Parliament, so we would like these answers before we do our report, which will have to be before the Fishing Bill meets its Third Reading. I very much appreciate you and Anne coming this afternoon. Thank you very much for the evidence.