



SECTION 142 Fisheries Contributions

A SECOND CONSULTATION DOCUMENT

N.R.A - Welsh Region

REGIONAL TECHNICAL (PLANNING)

Reference No : RTP200

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NRA

National Rivers Authority

INTRODUCTION

In July 1992 the National Rivers Authority issued the public discussion document *A Fair Assessment* explaining the need to raise money from fisheries owners and occupiers as a contribution towards its fisheries activities. The main objective in issuing the document was to seek views on the preferred basis of assessment of contributions, from those who would be affected by such a scheme.

The NRA received a substantial and valuable response to *A Fair Assessment*, and it is clear that the document achieved wide distribution and consideration. In issuing this second consultation document we have sought to address the major issues which have been raised, and to propose a basis of charging which reflects the need for fairness and simplicity.

FINANCIAL BACKGROUND

There are 4 main groups of beneficiaries from the fisheries work carried out by the NRA. Funding is currently obtained from 3 of these:

- anglers through angling licences
- netmen through commercial fishing licences
- general public through government Grant in Aid (GIA)

The fourth group benefiting from NRA fisheries work, the fisheries owners and occupiers, presently pay no contribution. Many do pay Local Authority rates on their fisheries but neither they nor the NRA receives any direct benefit from this.

If a system of allocating costs to beneficiaries is to be fair then it is clear that fishery owners should contribute to the NRA for the benefits and services provided now and in the future.

The Government has indicated that GIA support for the NRA fisheries work will decline rather than increase and it has been suggested that the NRA will need to fund 60% of its fisheries activities by direct income by 1995/96.

LEGAL BACKGROUND AND PROCEDURES

The 1991 Water Resources Act (Section 142) empowers the National Rivers Authority to apply to Ministers for an Order (or Orders) enabling it to obtain financial contributions from the owners and occupiers of fisheries within its area of jurisdiction in England, Wales and the Border Esk in Scotland.

An Order will contain details of the contributions scheme including the areas to which it relates, the method by which the contributions are to be determined, and the manner in which they are to be paid.

Any finance obtained under such an Order must be spent by the Authority in connection with its fisheries activities. The procedure for obtaining an Order is contained in Section 115 of the Water Resources Act 1991 and requires any Order made by Ministers at the invitation of the NRA to be approved by Parliament.

Prior to this a draft Order must be published and would be open for public representation.

Fisheries owners and occupiers subject to a Section 142 Order would be exempt from rates imposed by Local Authorities on their fisheries.

THE PROPOSED BASIS OF CHARGING

In the first discussion document *A Fair Assessment*, the NRA put forward 3 possible bases for assessing contributions. These were entitled **Market Based Assessments**, **A General Charge for Fisheries Services** and **An Assessment based on Fishery Characteristics**. Additional suggestions were invited. Foremost amongst suggestions received was to increase the rod licence duty. In relation to assessing contributions, the basis which received most support from respondents was the General Charge, although many felt this to be too simplistic and, in its simplest form, unfair. An Assessment Based on Fishery Characteristics was perceived as being potentially fair but too complex.

Taking these factors into account, it is therefore proposed that the assessment of contributions should be based on the concept of the General Charge to maintain a simple approach, but that this should incorporate sufficient fishery characteristics to make it reflect probable benefit while maintaining simplicity as far as possible.

THE MAIN ASPECTS OF THE PROPOSED SCHEME

It would:

- only apply to fisheries in rivers and channels including canals
- be based on Regional programmes of work
- attribute the cost of these Regional programmes to 3 Fishery Types within each Region
- divide all river reaches into 3 Size Categories based on river flow
- allocate the costs within each Fishery Type to fishery owners on the basis of length of river bank owned and the size of the river.

The possibility of including a Fishing Quality Factor is covered later in the document.

THE FISHERY TYPES

Stretches of river or canal within a Region will be categorised into 3 Fishery Types. These will be based on the principal type of fishing activity which takes place on the overall stretch rather than necessarily on the species dominant by numbers. Thus, for example, a stretch of river which was fished mainly for salmon would be classed as a Type I Fishery (mainly migratory salmonids) even if coarse fish were present or indeed if coarse fish were numerically dominant.

capital schemes and maintenance works are now carried out with much greater attention to environmental aspects than previously. All this work will help improve fisheries. However, specific fishery works are correctly funded by the direct beneficiaries.

What if I manage my stretch of river for conservation and don't allow fishing? The NRA will have the discretion to exempt a fishery from paying a contribution if the NRA is fully

satisfied that the fishery is not fished but is managed for genuine conservation purposes over a reasonable timescale. (Zero Fishing Quality Factor if one is included.)

Will I still have to pay even if my fishery isn't fished? People who own only very small stretches of river bank (for example most garden

river frontages), or those who genuinely manage their fisheries for conservation purposes, would not be expected to pay. Nor would those where fishing is impossible for example because of access or where fish are absent. All other owners benefit from the NRA's work even if the fishing rights are not exercised, and therefore could be expected to contribute. However, an alternative view is that having some stretches of water unfished would benefit fisheries as a whole since they could be seen as nursery or safe haven areas from which fish would move to

other fisheries. If this view is accepted then there would be an argument in favour of exempting these from contributions. Exemptions granted to owners who choose not to exercise their fishing rights would result in increased costs to other owners to maintain the same level of income. Nonetheless, the NRA recognises that some discretion may need to be exercised, and would like to hear your views on exemptions.

What if I own a fishery and I have spent my own money to improve it such that no further improvement is considered necessary? The contributions are based on a programme of work which the NRA has discussed with owners and the Regional Fisheries Advisory Committee. If a fishery is within a

Type which does not benefit from any of the programme of works, no contribution will be required.

When will the Scheme be introduced? The NRA has listened to the views expressed in response to *A Fair Assessment*,

and recognises that the introduction of this scheme in 1993 would limit the opportunity for extensive consultation and in addition would cause budgeting difficulties for those who would be expected to pay. As a consequence the NRA accepts that the scheme should not be introduced before 1994.

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THE NEXT STEPS

The purpose of this consultation paper is to seek views and comments on the proposed basis of assessment of fisheries contributions.

The NRA will hold meetings with special groups and organisations and will seek the views of the Regional Fisheries Advisory Committees.

The views of those individuals and organisations that would be affected by the proposals are sought by 30 April 1993.

When the Authority has considered the responses to this consultation paper, it will decide whether and by what means the scheme might be progressed. If it decides to go ahead, the NRA will need to apply to the Minister of Agriculture, Fisheries and Food, and to the Secretary of State for Wales, for an Order. Before an Order can be made, it will need to be published in draft. At that stage interested parties will have an opportunity to submit objections to Ministers. In the light of the comments made, Ministers will then need to decide whether or not to proceed with the order as drafted, or to make amendments to it with the agreement of the Authority. The Order will then have to be laid before Parliament for approval.

It is the NRA's intention that a scheme of levying contributions on owners of fisheries will be in place in 1994.

WHAT YOU SHOULD DO

The NRA wants to hear your views and comments. It would be most helpful if you gave your thoughts to an organisation to which you belong so that they can represent the collective views of their members. If this is not possible we would be pleased to hear from you direct.

The closing date for comment is the 30th April 1993. Responses marked S.142 Contributions Paper should be sent to:

ENVIRONMENT AGENCY
WELSH REGION CATALOGUE
ACCESSION CODE A E P P
CLASS No _____

TABLE 1: FISHERY TYPES

I	Mainly migratory salmonids
II	Mainly non-migratory salmonids
III	Mainly or exclusively coarse fish

A major advantage of this approach is that the owner of, for example, a Type III Fishery would contribute only to that part of his Region's Section 142 programme devoted to Type III Fisheries, and not to that part devoted to Type II or Type I Fisheries, nor would he contribute to other Regions' Section 142 programmes.

THE SIZE FACTOR

The potential performance of a fishery is to a large extent related to its size. It would therefore be seen as unfair if, for example, the owner of a fishery on a tributary had to pay the same per kilometre as the owner of a fishery on the main channel.

It is therefore proposed that a 'Size Factor' is included in the charging formula. Although the width of a watercourse may seem an obvious measure of size, this can vary substantially even over a short length of river as well as seasonally. The overall size of a river is largely determined by the flow, and therefore for the purposes of the scheme, fisheries are grouped in 3 categories based on flow.

Measured flow is denoted by the symbol Q, and the NRA has selected the Q80 as the best representative river flow to denote size. The Q80 is broadly equivalent to the average summer flow (technically it is the flow which is exceeded for 80 per cent of the year). The 3 categories of river flow which have been identified are:

- Flow band 1 Q80 = less than 2 cumecs (small)
- Flow band 2 Q80 = 2 to 8 cumecs (medium)
- Flow band 3 Q80 = greater than 8 cumecs (large)

On the basis that large fisheries will benefit to a greater extent from improvement works than small fisheries, the weighting factors relating to these bands are as follows:

TABLE 2: FLOW FACTORS

FLOW BAND	WEIGHTING FACTOR
1	1
2	2
3	4

In other words, the owner of a Fishery in Band 2 would pay twice as much as the owner of an equivalent length and Type of Fishery in Band 1 while an owner in Band 3 would pay 4 times as much.

THE LENGTH OWNED

The amount that an owner contributes should be directly related to the amount of fishery that he owns, and therefore it is proposed that the charge is calculated per kilometre of bank. Because in many cases opposite river banks are owned by two different people, the charge will relate to the length of individual bank owned, so that owners of one bank would pay half the amount that an owner of both banks would pay.

THE COST PER KILOMETRE

The cost per kilometre of fishery bank will depend on:

- which Fishery Type it is
- what Size it is
- how much of that Fishery Type and Size there is in the Region
- how much of the Region's Section 142 programme is to be spent on that Fishery Type

Table 3 is based on a theoretical but realistic Regional example, and shows hypothetical costs for each Fishery Type and Size.

TABLE 3: A HYPOTHETICAL EXAMPLE

Calculation of the cost per kilometre of bank for each Fishery Type and Size based on a hypothetical Region containing a total of 4630km of fishery and with a Section 142 programme cost for the particular year of £440K. The values in this table include overheads and the one third of S.142 income which offsets GIA.

Total bank length of fishery in Region	= 4630km
Total programme cost	= £440K
Proportion of programme allocated to each Fishery Type:	
Fishery Type: I	£ 48K (mainly migratory salmonids)
II	£132K (mainly non-migratory salmonids)
III	£260K (mainly or exclusively coarse fish)
TOTAL	£440K

Fishery Type	Flow Band	Length (km) in each band	Size Factor	Km x Factor	Cost per Kilometre
I	1	110	1	110	£51.61
	2	290	2	580	£103.23
	3	60	4	240	£206.45
				930	
II	1	1260	1	1260	£49.25
	2	430	2	860	£98.51
	3	140	4	560	£197.01
				2680	
III	1	190	1	190	£34.08
	2	580	2	1160	£68.16
	3	1570	4	6280	£136.32
				7630	
Total		4630km			

The above is an example based on a hypothetical Region. The actual cost per kilometre will depend on the agreed Section 142 programme in each Region.

CALCULATING THE CHARGE

The charge to an individual owner is based on his Fishery Type and Size and how much he owns, and is calculated simply on:

$$\text{Length of bank owned (in kilometres)} \times \text{Cost per kilometre (for that Fishery Type and Size)}$$

Remember that the cost per kilometre will depend on the Regional programme and that the examples given are only hypothetical.

HOW AN INDIVIDUAL CAN ESTIMATE HIS CHARGE

METHOD	EXAMPLE 1	EXAMPLE 2	
What type of Fishery do I own?	I	III	From Table 1
What is the likely Size of my own Fishery?	FLOW BAND 2	FLOW BAND 2	From Table 2
What is the cost per kilometre of my Fishery Type and Size?	£103.23	£68.16	From Table 3
What length of Fishery bank do I own?	2.5km	2.5km	
Charge = Length owned x Cost per kilometre	C = 2.5 x 103.23	C = 2.5 x 68.16	
	£258.08	£170.40	

The costs in these examples are based on a hypothetical Region as in Table 3. In reality the charge in each Region will depend on the Regional programme. During the consultation process your Region will have its own worked examples.

A FISHING QUALITY FACTOR?

The scheme as proposed includes the Size Factor based on flow and uses length owned and Fishery Type to calculate the individual contribution. While the flow measurement will generally reflect the potential performance of a fishery, there is no specific provision within the scheme to reflect the actual quality of a fishery nor the ease with which it can be fished. Views have been expressed that these factors need to be allowed for in some way. A "Fishing Quality Factor" could be included along the following lines:

TABLE 4: FISHING QUALITY FACTORS

BAND	FACTOR	BASIS
1	0	UNFISHABLE WATERS
2	1	MODERATE QUALITY FISHERY
3	2	GOOD QUALITY FISHERY

Fisheries could be fitted into the appropriate band in a number of ways. For example, on the basis of catches in salmon and sea trout fisheries, or on an assessment of market values, or on the judgement of fisheries officers.

Fishing Quality has not been included in the scheme as demonstrated in Table 3, and it must be recognised that whilst the inclusion of a further factor in this way would add fairness to a scheme, it would also add complexity and costs. Significant costs would be associated with the development and implementation of a Fishing Quality factor based on market values or some other approach; this would reduce the proportion of the money raised which would be available to spend on fisheries work. The allocation of fisheries to appropriate Fishing Quality bands is the area most likely to lead to challenge/appeal; this will further increase costs. It is therefore important to seek further views on the need to include this additional factor into the charging formula.



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YOUR QUESTIONS ANSWERED

Note that the answers below reflect the NRA's current proposals. No decisions have yet been made as to the final form and content of a Contributions Scheme.

What is a fishery? For the purposes of this scheme a fishery has been defined as a private right to fish in any waters. The NRA proposes to have discretion to grant relief from the requirement to pay a contribution if, in its opinion, the fishery has no commercial value or, for certain reasons, it is incapable of being fished or the contribution payable would be below the minimum amount determined by the NRA as being appropriate for collection.

Why don't you simply increase the rod licence duty? Although this would be administratively simple and inexpensive, it would fail to meet the major objectives of fairness and payment by beneficiaries. Because of the uneven distribution of anglers in England and Wales, some Regions would raise more money than they would need to spend, while others would need more than they could raise. In addition, the majority of the money would be raised from coarse anglers and this would not reflect the needs of Section 142 programmes of work.

Why not simply charge all owners a standard fee, say £100 each, and increase the rod licence cost for salmon anglers? A standard charge would be unfair as the owner of a short stretch of river bank would pay the same as the owner of several miles of bank. Nor would the cost reflect the type of fishery owned, so expensive salmon river works could end up being paid for by coarse fisheries. A further problem is that £100 per owner would raise a relatively small sum of money, but the associated administration costs would not be significantly lower. Consequently, a higher proportion would be spent on administration rather than on fisheries work. With the NRA's proposed scheme, those most likely to benefit from particular kinds of work are the ones who are expected to pay for that work. The introduction of a Section 142 scheme would not in itself exclude the possibility of a higher-cost salmon licence, although it might reduce the need for one.

Why can't you make an Order to transfer current fisheries rates to the NRA? It is not legally possible for a Section 142 Order to merely transfer the monies collected by local authorities in respect of fisheries to the NRA. Nor could

such an arrangement be made 'outside' the Order. To reflect the existing situation an Order would need to define the fisheries covered as those currently rated i.e. existing as separate hereditaments, and adopt fully the provisions of a rating system e.g. valuation list, appeals procedures etc. Such an Order would be lengthy and cumbersome. In addition it would not achieve the NRA's stated objectives of equity and simplicity.

Why not increase Grant in Aid? GIA is provided by the Government and currently funds about half of the NRA's fisheries activities, the remainder coming mainly from rod licences and commercial fishing licences. The Government has indicated that GIA to fisheries will decline in the future rather than increase. Income from a contributions scheme would help in this respect because one third would automatically offset GIA. The NRA will need to demonstrate that there will be a continuing need for some GIA to reflect the element of fisheries work carried out for the benefit of the general public.

Why not simply charge for fisheries services? This approach could work well and could be used on still waters where in most cases a single owner benefits from NRA work. But river improvements will benefit many owners, and such schemes cannot be funded on a piecemeal basis. Nor would such an approach address the fact that riparian owners already benefit from the NRA's fisheries activities without contributing to its funding.

How much of the money raised will actually go on fisheries work? In recognition of the fact that fisheries owners currently benefit from the Grant in Aid component of fisheries expenditure, the NRA is required to offset one third of the new income against GIA. The NRA will wish to promote a scheme which has the lowest associated costs consistent with fairness, in order to ensure that the maximum amount of money is spent on fisheries work.

How will the NRA decide what works are carried out? Each Region will have its own 5 year Section 142 programme on which contributions from owners will be based. The programme will reflect the priority needs of the Region and will be discussed and developed with owners and the Regional Fisheries Advisory Committees.

What about still waters? Many of the responses to *A Fair Assessment* were from still water owners who were concerned that they would all make a contribution but that only a few would see a benefit. Unlike improvement works to river and

channel fisheries, in most cases only a single owner would benefit from works on still waters, and hence it seems more appropriate for the NRA to make an individual charge for individual services. Consequently it is proposed that still waters are excluded from this scheme.

What about exemptions for charities? Charities will benefit from improvement works as much as any other owner, and any exemptions from charges simply mean that those who do pay must pay more. The NRA recognises that wherever possible this scheme must be fair to all, and would welcome further views on this.

Won't owners simply pass on the charge to anglers? In many cases owners are already paying rates on their fisheries to their Local Authority for which no fisheries benefits are received, and these payments would cease under a Section 142 scheme. Section 142 contributions are unlikely to be higher than fisheries rates so in such cases there should be no "pass on" to anglers on fisheries where rates are currently paid. Where the scheme imposes a new charge, it may well be passed on to anglers by owners, but this will be a fair allocation of costs to those who stand to benefit directly.

What if it is physically impossible to fish the river, or there are no fish in my stretch of river? In cases such as this where clearly a right to fish cannot be exercised, the NRA proposes to grant relief from payment of a contribution, or if a Fishing Quality Factor is included, this would be set to zero for such cases.

Who will be responsible for the payment of the contribution? The NRA is proposing that the owner will be initially responsible, but if he fails to pay, the payment can be sought from the occupier.

How do I know your information on my fishery is correct? Owners will be notified of the details which are entered on a Register and have the opportunity to make corrections. Owners will have the right to inspect their own entry on the Register but not others. Where there is disagreement over the entry there will be a right of appeal.

Why should owners pay to repair damage to rivers caused in the past by others? The NRA is giving a high priority to correcting inherited problems. For example, rivers suffering low flows due to excessive abstraction are being investigated and solutions implemented. Costs for the work are being paid for by the Water Resources Account. Income from discharges is used to maintain and improve water quality. Flood defence