

**NWIFCA Technical, Science and Byelaw
Sub-Committee**

7th February 2014: 10:00am

**REPORT
NUMBER**

6

BYELAW 2 – VESSEL MAXIMUM LENGTH

Recommendations

1. **The report be received.**
2. **The TSB accept the proposals made by the MMO legal team.**

Background

1. A draft of NWIFCA Byelaw 2 Mechanically Propelled Vessels Maximum-Length was tabled for the consultation by the CEO for consultation of members at the TSB on the 1st November 2013.
2. Officers were tasked with re-making the byelaw and taking into consideration the concerns of the TSB and the results of consultation with the MMO. The advice of the MMO was received in the form of an Impact Assessment (IA) on the 8th January 2014.
3. The draft of Byelaw 2 replaces Cumbria Byelaw 3 and NWSFC 9 and combines the results of suggestions by the TSB, the MMO consultation and the suggested changes of officers. A table of documenting suggested changes and the rationale behind them is given below in Annex A. The full draft of Byelaw 2 is given in Annex B.
4. Significant changes are described below for discussion:

Removal of “mechanically propelled”

5. MMO advised that that inclusion of “mechanically propelled” was obsolete and the title should only refer to vessel maximum length.

Use of Species Reference in Exemptions

6. Removal of “Shellfish” reference to paragraph 4a which is intended to give provision for the specific Cockle and Mussel fisheries and operations. This has been changed to species specific references for clarity and to avoid any “loop hole” issues.
7. The rationale for this is that section 186 of the Marine and coastal Access Act 2009 lays out the interpretations for chapter 1 (IFCAs). The relevant definitions are:

“Shellfish”	“Includes crustaceans and molluscs of any kind”
“Sea Fisheries Resources”	The definition uses section 153 (10) (Main duties of IFCAs) which reads: “means any animals or plants, other than fish falling within subsection (11) that habitually lives in the sea including those that are cultivated in the sea”.

8. Officers confirm that the inclusion of “shellfish” as the reference for the provisions in paragraphs 4 may be problematic. This is due to the inclusion of crustaceans which potentially include an number of other fisheries including, significantly:
- Nephrops (*Nephrops norvegicus*) trawl fisheries
 - Lobster (*Homarus gammurus*) and Crab (*Cancer pagurus*) pot fisheries
 - Whelk (*Buccinum undatum*) pot fisheries

Insertion of Scientific Provisions

9. MMO advise that a provision for following are included in all Byelaws:
- Scientific purposes
 - Stocking
 - Breeding
10. MMO advice received by the IFCA's on the 20th Nov 2013 recommends that exemptions for the above are included in all NWIFCA's byelaws. The text is a direct incorporation of the wording in the advice to IFCA's.

A. Deary
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30th January 2014