

# NWIFCA Netting Permit Byelaw

## Intertidal Bass Entitlement Policy

### 1. Introduction and Background

Upon the Secretary of State's confirmation of the NWIFCA's Byelaw 7 – Netting Permit Byelaw, the Authority will have the ability to issue up to 26 Category 2 permit holders with an entitlement to retain European seabass (*Dicentrarchus labrax*) (hereafter “bass”) caught as bycatch in shore-set, intertidal fixed nets being fished for commercial purposes. This entitlement will act as an exemption from the prohibition on retaining bass as derived from Article 10(1) of Council Regulation (EU) 2020/123 (as retained in UK law). The exemption itself is derived from Section 2(2) of The Sea Fisheries (Amendment etc.) Regulations 2021, which allows for an exemption from the Article 10 prohibition for bycatches of bass for up to 26 nets in the Authority's district. Prior to the confirmation of Byelaw 7, there was no pre-existing regulatory framework in place to allow the Authority to apply this exemption.

It is expected that substantially more than 26 Category 2 permit holders across the district may wish to take up this additional entitlement on their permit, as bass is a high value species when its retention for sale is permitted. Indeed, it is anticipated that the vast majority of fishers who wish to acquire a Category 2 permit to fish intertidal fixed nets commercially will only wish to do so if they can retain bass as a bycatch. Therefore, the Authority needs a clear policy and decision making process in place in time for when Byelaw 7 is confirmed, or at least soon afterwards.

Paragraph 18 of the proposed Byelaw 7 sets out that, subject to ‘suitable evidence’<sup>1</sup>, the Authority may issue these entitlements to retain bass as a bycatch. The purpose of this document is to frame what the criteria should be for deciding who should be afforded an entitlement and what evidence will be accepted as part of any decision making process.

---

<sup>1</sup> The decision making process will not follow a ‘track record’ approach as seen with previous processes of this nature, primarily because, since the Article 10 prohibition came in in January 2020, fishers have not been able to retain bass. As such, many that would have fished if they could have retained some level of bass have not, and those that have continued to fish will not have any track record of bass catches, as it would have had to have been discarded. Applying a track record approach would unfairly advantage fishers who were retaining bass prior to the 2020 ban, which may also create inequities in relation to fishers' ages.

Furthermore, it will set out how it should be prioritised to ensure the process of issuing a set number of entitlements is fair and transparent.

## **2. Entitlement Definition**

An entitlement provided under Byelaw 7 for up to 26 Category 2 permit holders will allow those individuals to retain bass in a shore-set, intertidal fixed net being used for commercial purposes. This entitlement effectively provides relevant individuals with an exemption from the aforementioned Article 10 prohibition on retaining bass in such nets. As The Sea Fisheries (Amendment etc.) Regulations 2021 specifically state “26 nets”, this means that for the 26 individuals receiving this entitlement, they will be able to retain bass in only one net each<sup>2</sup>. In the first instance, under the flexible permit conditions (FPCs) associated with the relevant Category 2 permit, fishers with this entitlement will be allowed to swap which net is used to retain bass, but on any given day / over a tide, bass may be retained from one net only. The Authority may vary such FPCs in the future to require permit holders to only use one specific net at all times, and may include further restrictions on those nets (*i.e.* mesh size, length, configuration), along with other requirements such as a net being tagged to delineate that it holds a bass entitlement.

In the initial application of this entitlement, the Authority does not propose specifying or limiting the quantities of bass that can be retained as bycatch by a permitted fisher in their permitted net. This is on the basis of legal advice given to the Authority that the bass caught under such entitlements can be regarded as bycatch for the intertidal fixed net fishery as a whole, and therefore individual limits on the 26 nets do not need to be implemented. Indeed, the limit of 26 nets itself is an effort limit for the fishery. However, the Authority may vary associated FPCs in the future to require permit holders with this entitlement to only retain specific quantities of bass, whether via a set individual quota, as a maximum percentage of total catch, and / or any other means.

In order to monitor the amount of bass being retained as bycatch in the 26 nets with an entitlement, permitted individuals will be required to provide returns to the Authority. These returns requirements may align with those under the standard Category 2 FPCs, but the Authority may at any time in the future deem it appropriate to increase the reporting requirements for those holding a bass entitlement, given the sensitive nature of the fishery.

---

<sup>2</sup> This net will need to be in accordance with all associated permit conditions for Category 2 permitted nets.

### **3. Decision Making Process**

The following process will be followed in determining the distribution of the 26 entitlements based on set, weighted criteria. Eligible Category 2 permit holders applying for a bass entitlement will complete an application form covering a number of set criteria. Applicants will accrue points for each criterion and they can then be ranked in a list. Assuming there are more than 26 applications, the 26 highest scoring applicants will be issued entitlements first. Based on rankings derived from applicants' points, this will help establish a waiting list for subsequent years of the entitlement scheme.

The assessment and scoring of applications will be carried out by a decision panel of a small number of Authority members (between three and five), who will assess each application and agree a consensus score against each criterion. Appropriate Authority officers will be available during the assessment process to provide technical support and advice as panel members require. The panel's individual assessments of each application will then produce an overall score for each applicant, and ultimately a list of the 26 individuals to receive an entitlement, along with a score-based prioritised waiting list.

Assessment of applications will be 'blind' in that application forms will be anonymised at the point of submission by the Authority's Administration Team, so that decision panel members will not know whose application it is they are assessing.

Prospective applicants will be invited to apply for a bass entitlement during an application window, as set by the Authority for an appropriate length of time. Applications will then be assessed by the panel once the application window has closed. Applicants applying after this window will still be assessed, but regardless of the score given to them, they will not be able to receive an entitlement, but will join the waiting list in the position commensurate to their score.

In order to avoid a geographical concentration of bass entitlements in one particular area of the district, there will be a maximum of 20 fishers provided with an entitlement from any one of our nine NWIFCA-funding local authorities. If more than 20 of the highest scoring fishers are from one local authority, the lowest scoring of those will be placed on the waiting list, and would only receive an entitlement when a fisher from their own local authority gives up theirs.

### **4. Criteria for Application**

The following criteria must be met in order for an individual to apply / be eligible for a bass entitlement:

- Lives within the district<sup>3</sup>
- No significant unspent convictions for bass-related offences in the past five years (*i.e.* a FAP or prosecution issued by the Authority or any other relevant fisheries authority)

An applicant's failure to meet the abovementioned criteria will exclude their application from being passed to the decision panel for consideration. Eligible applications will then be assessed by the panel under the following categories:

- Evidence of sales of fish caught in intertidal nets set within the district from the past five years<sup>4</sup>
- Demonstrable routes to markets for bass, preferably within the district<sup>5</sup>
- Good fisheries compliance history<sup>6</sup>

An application form will be developed and provided to applicants which will require the provision of certain information to allow the decision panel to assess their suitability against the above categories. To help applicants, the application form will indicate the weighted scoring that will be applied to each of the elements captured therein.

Relevant proof will be required against each of the eligibility criteria and categories being assessed.

There will be no appeals process for unsuccessful applicants or those who are placed on the waiting list. This is primarily because, under the aforementioned 2021 Regulations, there is only provision for 26 nets to be given an entitlement, so once these 26 entitlements are issued, the Authority is not legally entitled to issue any more. Furthermore, the decision-making process described above will ensure that the decisions taken on who does and does not get an entitlement is as transparent and fair as possible, particularly with the inclusion of blind application assessments by an independent panel of Authority members.

Once they receive notification of a successful entitlement application, fishers will be provided with an entitlement to retain bass as a bycatch in their shore-set intertidal fixed net for the remainder of the permitting period within which the decision falls. There is the potential for this decision making process to be completed *before* Byelaw 7 is confirmed by the Secretary of State. If this is the case, successful applicants will have to wait until the Byelaw comes into force and their associated Category 2 permit has been issued. There is also the faint prospect that the Byelaw does not get confirmed, or that the

---

<sup>3</sup> Has an address within one of the nine local authorities.

<sup>4</sup> Not necessarily bass as the prohibition on retaining bass has been in place since 2020.

<sup>5</sup> Buyers based within one of the nine NWIFCA-funding local authorities.

<sup>6</sup> Officers will provide the panel with a list of all fisheries offences the Authority has recorded against the applicant.

provision for these bass entitlements is removed from it by the Secretary of State; in either case, these entitlements could not be issued.

After the first permitting period, entitlements will then be reissued each year in conjunction with the permitted fishers' renewal of their Category 2 permit. Fishers will be free to give up their entitlement at any point during the permit period, or by not renewing their entitlement as part of their Category 2 permit. Furthermore, the Authority may look to apply a 'use it or lose it'-type policy to these entitlements to ensure the maximum socio-economic benefit from them is being realised. This would involve requirements for fishers to demonstrate retention of bass over the annual permitting period via the provision of statutory returns, with failure to reach a certain threshold quantity of bass (as defined by the Authority) leading to the potential removal of their entitlement. In the first instance, such a policy will not be implemented, as the Authority needs to see what level of take-up and interest there is in these entitlements, and the associated size of the entitlement waiting list.

*North Western Inshore Fisheries and Conservation Authority*

*March 2025*