



NWIFCA Quarterly Meeting

24th March 2021: 11.00 a.m.

Held Truckhaven, Carnforth

SI 698 Sea Fisheries (Amendment etc.) Regulations 2021 Implications for bass fishing in NWIFCA District

Purpose: Decision

Recommendations

- 1. Note the SI and implications**
- 2. Consider options:**

Issues:

1. This SI signed into law by SOS in June 2021 is at Annex A.
2. Issue 1: The SI states that 26 permits to take bass as bycatch from shore nets can be issued in the NWIFCA District. During the 1 month formal consultation prior to the SI becoming law in 2021, NWIFCA informed Defra that it could not issue these permits as it has no appropriate byelaw.
3. Issue 2: The SI allows the taking of bass as bycatch. However evidence from the 2015 bass regulations (para 7 below) shows that bass is the main target of shore set nets in NWIFCA District and is not bycatch. Defra has not provided a definition of bycatch in this SI.
4. Issue 3: There is no RIA (Regulatory Impact Assessment) for SI 698 and therefore no documented evidence to explain why that the number of permits allowed in NWIFCA District (26) is appropriate. At a meeting on 8 March Defra reported that an RIA was deemed unnecessary as no, significant, impact was expected. A Regulatory Triage Assessment (RTA), was carried out to ensure that costs to business were considered in a proportionate way. An RTA is not normally published so not readily accessible. NWIFCA considers an RIA was needed to assess if the provision of permits in NWIFCA District was a practical measure..
5. NWIFCA was not consulted on the content of this SI prior to May 2021 and requested Defra not to issue the SI expressing concern that it could bring the Authority and Defra into disrepute.

6. When the SI came into force fishers immediately requested permits which cannot be issued and continue to blame the Authority for not providing permits. This error in the SI has not been resolved.

Background:

7. The problems appear to date back to 2015 when new regulations prohibiting the taking of bass from non-commercial shore set nets were introduced and fishers were required to prove that their catch was commercial. After the introduction of these regulations NWIFCA observed that the use of intertidal nets almost ceased. This observation indicated that bass were the main target of intertidal nets but most fishers do not want to become commercial with the additional administration and registration this requires.
8. In 2018, NWIFCA was asked informally by a science officer of another IFCA about the extent of commercial intertidal netting in this District. An estimate was provided of 26 known commercial intertidal fishers setting nets, 4 further possible commercial fishers and 1 fisher no longer active as a result of the bass regulations. The quality of the estimate was further limited because in many cases, IFCA are unable to ascertain whether intertidal nests are commercial or purely recreational with the catch for personal use only.
9. It was not known that this request was intended to inform future bass policy or that the estimate provided would be used in an SI. Therefore the estimate was not given the quality check that would have been documented had the purpose of the request been known. No evidence such as details of the identity and location of the fishers was recorded. The fishers were never contacted to inform them of the policy development or gain their consent to being included in data collected for new bass policy or confirm if they were fishing commercially.
10. NWIFCA has issued 100-200 permits for shore set nets for many years under a permit scheme operated by the NW Sea fisheries Committee which is still in force. However, this permit scheme does not distinguish between commercial and recreational fishing and only applies to the southern half the NWIFCA district, i.e. the NWSFC area. NWSFC byelaw 26 does not apply to the northern Cumbria SFC area of the NWIFCA District.
11. Therefore the Authority was surprised in May 2021 to receive the draft SI 698 for consultation. The draft included the provision now in the signed SI for 26 permits for the taking of bass from intertidal nets in the NWIFCA District.
12. NWIFCA responded to the consultation requesting the SI not be signed because the Authority had no legal mechanism for the provision of permits to take bass and 26 is not a good estimate of the number of fishers in the NWIFCA District who would wish to receive permits. The SI would lead fishers to expect that permits would be issued and could bring the Authority and Defra into disrepute for not making permits available.
13. Nevertheless, the SI was made and signed on 10 June 2021 as at Annex A. Since the SI was made the Authority has received a stream of increasingly frustrated inquiries from fishers asking for permits to take bass as specified in the SI.

14. An ongoing correspondence with Defra has continued in which NWIFCA sought discussion with Defra arguing that the SI should be urgently withdrawn or amended to remove the provision for permits in the NWIFCA District as it was bringing the Authority and Defra into disrepute.

Meeting of NWIFCA and Defra on January 2 February 2022 to identify options

15. NWIFCA explained the problem and requested withdrawal or amendment of the section in the SI section relating to permits in the NWIFCA District. Defra reply was that it was not feasible to have withdrawn the SI at the point of asking because of the negative impact this would have on implementing a range of seabass (not just shore netting) and non-seabass policy outcomes agreed with the EU in the recently concluded annual consultations.
16. The following other options were considered for resolving the problem:
 - i. A NWIFCA permitting byelaw to provide 26 permits as specified in the SI. We estimate that such a byelaw would take a minimum of 2 years to bring into force and be strongly opposed by certain NGO seeking to curtail all fishing for bass.
 - ii. Issue of a byelaw as above quickly as a NWIFCA emergency byelaw, however we consider such a byelaw would not qualify as an emergency and would be strongly opposed by NGO as above.
 - iii. With both the above options looking impractical, urgent development of a bass plan was considered. A plan would be written under the new Defra objective to produce fisheries management plans (FMP) for important commercial fisheries in English waters.

A proposed Bass FMP

17. On the commitment to develop a Bass FMP as a matter of urgency, Defra provided comment as follows:

'the Fisheries Act 2020 highlights the Government's commitment to produce Fishery Management Plans (FMPs) to ensure stocks are fished sustainably, including for key non-quota species such as bass. The frontrunner bass FMP will provide a vital opportunity to examine current bass management measures. The FMP process will be externally facilitated to ensure that we capture a breadth of views from all those with an interest. It will be underpinned by up to date scientific evidence and stakeholder views will be vital in helping shape future bass management. This work is progressing currently and changes to management measures such as shore netting will be considered as part of the package towards wider reform.

18. NWIFCA agreed to contribute evidence to the development of a bass FMP on which Defra have already started work with the aim of having a draft for consultation by the end of 2022. We also requested that the FMP should contain acknowledgment that bass requires local management measures to ensure sustainable bass fishing is maximised. Once an FMP is developed, the Authority could consider the potential benefits of a NWIFCA byelaw to introduce the local management that may be necessary.
19. These discussions will be reported to the Authority at the 24 March 2022 quarterly meeting and members will be invited to indicate their preferred option to address the bass issue.

CEO March 2020

The Sea Fisheries (Amendment etc.) Regulations 2021

Made

9th June 2021

Laid before Parliament

10th June 2021

Coming into force in accordance with regulation 1

The Secretary of State, in exercise of the powers conferred by sections 36(1)(c) and 51(1) of the Fisheries Act 2020⁽¹⁾, makes the following Regulations.

In accordance with section 41(1) of the Fisheries Act 2020, the Secretary of State has consulted the Scottish Ministers, the Welsh Ministers, the Northern Ireland department and such other persons likely to be affected by the Regulations as the Secretary of State considered appropriate.

These Regulations are made with the consent of the Welsh Ministers.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Sea Fisheries (Amendment etc.) Regulations 2021.

(2) Subject to paragraph (3), these Regulations come into force on 30th July 2021.

(3) Regulations 2(3), 3 and 4 come into force on 5th September 2021.

(4) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Council Regulation (EU) 2020/123 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters

2.—(1) Council Regulation (EU) 2020/123 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters⁽²⁾ is amended as follows.

(2) In Article 10 (measures on European seabass fisheries)—

(a) in paragraph (1), at the end insert—

“This prohibition does not apply to by-catches in shore-based fixed gillnets⁽³⁾ that are not set from a vessel of—

(a) up to—

(i) 26 nets in relation to the IFC authority for the North West,

(ii) 5 nets in relation to the IFC authority for the North East, and

(iii) 1 net in relation to the IFC authority for Devon and Severn, and

(b) up to 50 nets in the Welsh zone.”;

(b)in paragraph (2)—

(i)for subparagraphs (a) to (d), substitute—

“(a)in so far as those ICES divisions are in the English or Welsh zones—

(i)using demersal trawls(4), for unavoidable by-catches not exceeding 380 kilogrammes per month and 5% of the weight of the total catches of marine organisms on board caught by that vessel per fishing trip,

(ii)using seines(5), for unavoidable by-catches not exceeding 380 kilogrammes per month and 5% of the weight of the total catches of marine organisms on board caught by that vessel per fishing trip,

(iii)using hooks and lines(6), not exceeding 5,7 tonnes per vessel per year,

(iv)using fixed gillnets, for by-catches not exceeding 1,4 tonnes per vessel per year;

(b)in so far as those ICES divisions are within British fishery limits but not in the English or Welsh zones—

(i)using demersal trawls, for unavoidable by-catches not exceeding 520 kilogrammes per two months and 5% of the weight of the total catches of marine organisms on board caught by that vessel per fishing trip,

(ii)using seines, for unavoidable by-catches not exceeding 520 kilogrammes per two months and 5% of the weight of the total catches of marine organisms on board caught by that vessel per fishing trip,

(iii)using hooks and lines, not exceeding 5,7 tonnes per vessel per year,

(iv)using fixed gillnets, for unavoidable by-catches not exceeding 1,4 tonnes per vessel per year.”;

(ii)in the subparagraph following paragraph (d)—

(aa)for “point (c)” substitute “points (a)(iii) and (b)(iii)”,

(bb)for “point (d)” substitute “points (a)(iv) and (b)(iv)”, and

(iii)at the end insert—

“Where the replacement vessel for an English or Welsh fishing vessel is 8 metres or under in overall length and has no more than one hull, for the purposes of calculating the fishing capacity of the replacement vessel, and whether it may be subject to the derogation, it may be assumed that the replacement vessel’s gross tonnage and engine capacity is no greater than the vessel it replaced.”;

(c)after paragraph (5) insert—

“(6) In this Article—

“British fishery limits” has the same meaning as in section 1(1) of the Fishery Limits Act 1976(7);

“English fishing vessel” has the same meaning that ‘English fishing boat’ has in the Fisheries Act 2020(8);

“the English zone” means the sea within British fishery limits other than—

(a)

the Northern Ireland zone,

(b)

the Scottish zone,

(c)

the Welsh zone, and

(d)

the sea within 12 nautical miles of the baselines from which the breadth of the territorial sea adjacent to the Isle of Man is measured;

“IFC authority” has the same meaning as in section 150 of the Marine and Coastal Access Act 2009(9);

“the Northern Ireland zone” has the same meaning as in the Fisheries Act 2020(10);

“the Scottish zone” has the same meaning as in the Fisheries Act 2020(11);

“Welsh fishing vessel” has the same meaning that ‘Welsh fishing boat’ has in the Fisheries Act 2020(12); and

“the Welsh zone” has the same meaning as in the Fisheries Act 2020(13).”.

(3) Omit Article 13 (remedial measures for cod and whiting in the Celtic Sea).

Commission Delegated Regulation (EU) 2019/2239 specifying details of the landing obligation for certain demersal fisheries in North-Western waters for the period 2020-2021

3.—(1) Commission Delegated Regulation (EU) 2019/2239 specifying details of the landing obligation for certain demersal fisheries in North-Western waters for the period 2020-2021(14) is amended as follows.

(2) In Article 2 (definitions), omit paragraph 8.

(3) Omit Article 9 (specific technical measures in the Celtic Sea Protection Zone).

Commission Implementing [Regulation \(EU\) No 737/2012](#) on the protection of certain stocks in the Celtic Sea

4. Commission Implementing [Regulation \(EU\) No 737/2012](#) on the protection of certain stocks in the Celtic Sea(15) is revoked.

Victoria Prentis

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

9th June 2021