

**NWIFCA Technical, Science and Byelaw
Committee
31 October 2017.**

**AGENDA
ITEM NO.
9**

BYELAW REVIEW

Purpose: Update Byelaw review discussed at TSB August 2016.

Recommendation: Approve revised byelaw review as set out below

Background

1. This report is a summary of the August 2016 byelaw review report to TSB.
2. The 2009 Marine Act (MACAA) S155–162 set out enhanced IFCA byelaw making powers. Statutory Instrument (SI) 2011 No 603 MACAA (Transitional and Savings Provisions) Order transferred SFC and other inshore fisheries byelaws to IFCA so that the existing byelaw regime remains in force revides by the Authority.
3. In 2011 Defra published new byelaw making guidance and requested IFCA create a coherent regulatory regime by reviewing inherited byelaws. A byelaw review continues but was delayed by higher priority work, in particular the EMS review.

The NWIFCA Byelaw review progress

4. While the byelaw review is underway all existing byelaws continue in force. Inherited byelaws are repealed when replacement NWIFCA byelaws come into force. There is therefore an effective functional byelaw regime in place and no loss of fisheries regulations as a result of the setting up IFCA.
5. NWIFCA inherited a uniquely complex byelaw regime from of two SFC Districts and EA byelaws for the Dee Estuary. The Dee was not previously part of the SFC District having been regulated by the EA.
6. While some inherited byelaws follow common themes in the different areas, the three or more sets of inherited byelaws are mostly significantly different in content and purpose. The NWSFC and Cumbria SFC had different fisheries requiring different management solutions. Unsurprisingly, the two SFCs developed different approaches to tackle the issues. Dee byelaws add another level of complication.
7. Since 2011 NWIFCA has introduced the byelaws listed in Table 1. Despite the Government intentions expressed at the inception of MACCA, that byelaw making would be speeded up this has not been the case in practice. Not only are recent byelaws more complex, the byelaw making process has more stages including requirement for regulatory impact assessments, increased consultation and sign off by two Government Departments (MMO and Defra).

Table 1. NWIFCA Byelaws introduced since 2011		
Permit to fish for cockles and mussels	NWIFCA Byelaw 3	2012
Heysham Bass nurse area and prohibition of fishing	NWIFCA Byelaw 5	2013
Protection of European Marine Site features	NWIFCA Byelaw 6	2014

Amendments to byelaws requested by Defra to meet landing obligation	Various	2015
Restrictions on fishing for Bivalve shellfish	NWIFCA Emergency byelaw (Expired)	2016
NWIFCA Byelaw 8. Prohibition of foul hooking	Byelaw with Defra for confirmation	2017.
NWIFCA Byelaw 11 Prohibition of Dredging without permit	Byelaw with Defra for confirmation	2017.

8. Byelaw work must be done along with higher priority essential statutory duties so resources are limited. A schedule of one byelaw per year is a reasonable target. Limiting factors are the requirements for consultation with stakeholders before and after the byelaw is made, the requirements for approval by the Authority at various stages in the byelaw making process and the capacity of the MMO byelaw team to quality check all IFCA and MMO byelaws.

Byelaw work in progress

9. Since 2011, work has started on a number of NWIFCA byelaws as shown in Table 2.
10. Table 3 provides an overview of the planned outcome of the byelaw review resulting in replacement and repeal of inherited byelaws.

Table 2 Current byelaw work in progress in suggested order of priority from the top.

NWIFCA Byelaws in development	Aim of new byelaw	Current position	Next stage and timescale
Lobster protection	Protection and enhancement of lobster stocks, including escape gaps, v notching, berried hens.	SI in force October 2017. Bans fishing for and landing berried hens.	Work on NWIFCA byelaw restarted. Draft to TSB early 2018
Cockle and Mussel permit (review).	Strengthen Byelaw 3 with flexible permit provisions. Removal of safety provisions as not IFCA role and support worker permits.	Delayed by dredge byelaw given higher priority. Consultation on measures completed 2017.	Next draft for TSB asap. Complete 2018
Non-commercial potting permit.	Create single District wide permit scheme for hobby potting for crab, lobster, prawn, whelk	Awaiting Defra ruling on deeming clause and decision on SI.	Work can proceed. Full draft for TSB asap. Complete late 2017.
NWIFCA Byelaw 2. Vessel size limits	To create District wide regulation of vessel size and engine power limits	Agreement on measures not achieved. Awaiting new draft	Next draft in prep for discussion at TSB Complete 2018.
NWIFCA Byelaw 9. Shrimp and Prawn fishing	To create District wide mesh and net size regulations	Differences between parts of the District cannot be resolved	Delayed pending resolution of measures.

Table 3. NWIFCA byelaw review showing planned replacement of inherited byelaws with IFCA byelaws in suggested order of priority from the top.	
1. NWIFCA byelaws to be made	2. Inherited Byelaws to be reviewed
Byelaw 6 (2014) Protection of features on 6 EMS no change.	None. Byelaw may need to be amended to an MPA byelaw to include MCZ protection
Prohibition of foul hooking 2017 made in 2015. With Defra for confirmation	NWSFC Byelaw 18 1985 NWSFC District Cumbria Byelaw 17 2004 Cumbria SFC District NRA byelaw 6 Dee Estuary
Prohibition of dredging 2017. With Defra for confirmation	NWSFC Byelaw 12 (1998) NWSFC District. Fishing restrictions (dredging)
Lobster protection (Commercial and non-commercial fishing) Was delayed pending Defra decision to make SI prohibiting fishing for and landing berried hens. SI now in place. Work to restart..	NWSFC Byelaw 31 1997 NWSFC District Protection for v notched lobster Cumbria Byelaw 8 1993 Protection berried lobsters
Non-commercial potting permit. To be completed after Lobster protection byelaw above.	NWSFC Byelaw 30 2007 District Hobby fishing permit Cumbria Byelaw 26 2007 Hobby fishing permit
Potting, traps and creels byelaw to include measures for gear not covered by lobster protection byelaw.	Cumbria Byelaw 25 1997 Requirement for escape gaps
Cockle & Mussel permit. Under review to include measures in Byelaw13A and other amendments.	NWIFCA Byelaw 3, (2012) NWSFC Byelaw 13A (1996) Cockle & Mussel fishery management
Vessel size and engine power limits Delayed because SFC sizes not acceptable in other parts of the District	NWSFC Byelaw 9 (2005) Vessel max length 15m Cumbria SFC Byelaw 3 (1993) 0-3 miles. Vessel max length 13.72m Cumbria SFC Byelaw 15 (1993) Solway Firth. Engine power limit 221Kw Cumbria SFC Byelaw 13 (1996) Prohibition on multi-rigged trawls
Shrimp & Prawn. Have NW and Welsh mesh sizes but beam length restrictions in Dee. A single mesh sizes across the District may lead to reduction in MLS England and reduced conservation benefit. Decision needed.	NWSFC Byelaw 6 (2001) Shrimp and prawn fishing restrictions Cumbria Byelaw 14 2004 Shrimp & prawn regulations
NWIFCA byelaw Winkles. Convert to NWIFCA District wide.	Cumbria SFC Byelaw 7 (2004) Fishing method and min size
NWIFCA Fish MLS Byelaw. SFC byelaws Introduced to establish EU MLS for shore fishing. May be national solution with landing obligation Some MLS in byelaws for shore based fishing may still be needed. MLS need reviewing taking in up to date research – eg. whelk MLS. Decision pending	NWSFC Byelaw 19 2009 Fish MLS to cover shore fishing in byelaw. Cumbria Byelaw 9 1993 Skate min size

<p>NWIFCA Netting Byelaw The main SFC netting byelaws NWSFC Byelaw 26 and Cumbria Byelaw 10 were reviewed by EA in 2010-11.</p> <p>A further review to incorporate other netting measures and create a common regulatory netting regime is being considered.</p>	NWSFC Byelaw 2 (1951) Attachments to nets
	NWSFC Byelaw 3 (1989) Prohibition of seine netting
	NWSFC Byelaw 7 (1989) Mesh sizes for nets other than trawls
	NWSFC Byelaw 8 (1989) Small mesh net regs
	NWSFC Byelaw 10 (1985) Set and drift nets
	NWSFC Byelaw 26 (2011) District Fixed nets Protection of salmonids
	NWSFC Byelaw 27 (1996) Drift nets Protection of salmonids
	Cumbria SFC Byelaw 10 (2010) Fixed and drift nets protection of salmoni
	Cumbria SFC Byelaw 20 (1998) Min mesh size for protection of plaice
	EA Byelaw 5 Dee Estuary Trammel nets, trawl nets, beam trawls, otter trawls, Any instrument
<p>NWIFCA gear marking byelaw not needed. Put requirements in new potting and netting byelaws and then repeal both these byelaws</p>	NWSFC Byelaw 11 (2003) Requirement to mark nets lines pots traps
	Cumbria Byelaw 4 (1993) Requirement to mark nets traps pots and lines
<p>Measures will be covered by NWIFCA byelaw 3 and Dredge Byelaw..</p>	NWSFC Byelaw 16 (1973) Shell fishery temporary closure
	Cumbria Byelaw 18 (1993) Shellfish temporary closure
<p>NWIFCA byelaws not needed. Application of byelaws. All will be repealed when suite of NWIFCA byelaws is complete.</p>	NWSFC Byelaw 1 (1986) Defines District
	NRA byelaw 1 Defines EA District (Dee Estuary
	NRA byelaw 2 EA District (Dee Estuary only) interpretation
	NRA byelaw 7 Exemptions
	NWSFC Byelaw 28 (1992). Pre 1992 byelaws only apply within 3 miles
	Cumbria Byelaw 19 (1993) Pre 1992 byelaws only apply within 3 miles
	Cumbria Byelaw 1 (1993) Revocation of all pre1993 byelaws
	Cumbria Byelaw 2 1993 Authority to make byelaws
	EA Byelaw Fishing for seafish in rivers below tidal limit

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CEO

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