

Q&A

Q. What would happen if the byelaw was left as it is?

Retaining byelaws which contradict with directly applicable EU law will render them unenforceable in situations of a direct conflict. It would not be possible to prosecute a fisherman for an offence under the original byelaw if the fisherman committed the offence in order to comply with directly applicable EU law (i.e. the landing obligation). Retaining contradictory byelaws creates legal ambiguity. It would also be open to interested parties to challenge the validity of your byelaws in such circumstances.

If you are in any doubt as to the legal position regarding your byelaws and the proposed Amendment Order, we recommend you consult with your legal advisers.

Q Can the Amendment Order revoke a byelaw?

Yes it is possible to revoke a byelaw entirely and in lieu of a replacement byelaw national SIs and/or EU legislation will apply. The IFCA is responsible for choosing the most appropriate solution/amendment for their region.

Q. Can the Amendment Order issue a new byelaw?

No the Amendment Order can only amend or revoke existing byelaws.

Q. Does this amendment to a byelaw prevent IFCAs from amending or reviewing the byelaw in the future?

No. This amendment serves as a quick fix solution. An IFCA is free to revoke or replace their byelaws as normal; however we would be keen to work with them to ensure any future byelaws are compliant with the landing obligation.

Q. Will the byelaw remain an offence?

Yes the essence of the byelaw will remain unchanged and enforceable. It is only the requirement to return a species to the sea which will be amended so that it does not conflict with the landing obligation.