

**NWIFCA Technical, Science and Byelaw  
Committee**

**14<sup>th</sup> May 2019: 10:00 a.m.**

**AGENDA  
ITEM NO.**

**9**

**BYELAW REVIEW**

**Purpose:** To revise and update Byelaw review.

**Recommendation:** Approve revised byelaw review as set out below

**Background**

1. This paper received by TSB on 16<sup>th</sup> August 2016 has been updated for this meeting as below.
2. The 2009 Marine Act (MACAA) provided IFCA with enhanced byelaw making powers compared with SFC. The provision for emergency byelaws and documented impact assessments were important changes. Provisions in MACAA S155 – 162 define the scope of IFCA byelaw making powers.
3. The Statutory Instruments (SI) under which IFCA were established transferred all relevant SFC and other inshore fisheries byelaws to NWIFCA so there was no break in regulations. SFC and other inherited byelaws remain in force until revised or repealed by NWIFCA. In 2011, IFCA were requested by Defra to review inherited byelaws as soon as possible to simplify and reduce legislation where appropriate and repeal unused byelaws. However, from 2012-2016, the EMS review became Defra's top priority work for IFCA and the byelaw review remains to be completed.
4. Current guidance on IFCA byelaw making, published in 2011 is on the Defra website. Checking and quality assurance of draft byelaws is an MMO responsibility. IFCA are responsible for consultation with stakeholders. A documented impact assessment of all new byelaws is required to identify the rational, justification and regulatory costs.

**Developments in byelaw making**

5. In order to achieve increased flexibility in byelaw regulations, new byelaw structures are being developed using flexible permit schemes such as the NWIFCA permit to Dredge byelaw, the draft potting permit and hand fishing cockle and mussel permit and byelaws.

**The NWIFCA Byelaw review progress**

6. NWIFCA inherited a uniquely complex set of byelaws arising from the amalgamation of 2 SFC Districts and the addition of the Dee estuary previously regulated by the EA. The current set includes byelaws made by North Western SFC and predecessor bodies, Cumbria SFC, the EA and predecessor bodies for the Dee. No other IFCA inherited such a complex byelaw regime and the byelaw review is particularly challenging in this District. The inherited byelaws contain significant differences in approach which are difficult to resolve into District wide regulations in some cases.
7. While the byelaw review is underway all existing byelaws continue in force to maintain an effective functional regulatory regime ensuring no loss of fisheries regulations. Inherited byelaws will be repealed as replacement byelaws come into force.
8. Table 1 shows Byelaws introduced since 2011. Despite the Government intentions to speed up byelaw making this has not worked in practice. Not only are recent byelaws

more complex, the making process has more stages including requirement for impact assessments, increased consultation and sign off by both MMO and Defra.

9. Table 2 shows current byelaw priorities. Byelaw development is lower priority than essential statutory duties such as enforcement and survey so the Authority has limited resources to implement new byelaws. Other 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 of 2 officers to scrutinize and advise all IFCA and MMO on byelaw proposals.
10. Table 3 provides an overview of the planned outcome of the full byelaw review resulting in replacement and repeal of all inherited byelaws.

Byelaw Description	Byelaw Number	Year
Permit to fish for cockles and mussels	NWIFCA Byelaw 3	2012
Heysham Bass nursery 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	2016
Restrictions on the use of a dredge byelaw 2017		2017
Prohibition on Foul hooking byelaw 2017		2018

NWIFCA Byelaws in development	Aim of new byelaw	Current position	Next stage and timescale
<b>NWIFCA Byelaw 7 potting permit.</b>	Create single District wide permit scheme for commercial and non-commercial potting for crab, lobster, nephrops, whelk including escape gaps for crab and lobster and v notching to protect and enhance stocks,	ON agenda Full draft complete	If approved by TSB, may be made at June 2019 meeting
<b>NWIFCA Byelaw 3. Cockle and Mussel hand fishing permit 2019.</b>	Improve regulation with flexible permit provisions.	On agenda. Full draft complete. Non-statutory stakeholder consultation in progress.	If approved by TSB, may be made at June 2019 meeting
<b>NWIFCA Byelaw 9 Net fishing regulations</b>	Create a district wide regulatory framework for all fishing with nets.	Initial work begun	
<b>NWIFCA Byelaw 2. Vessel size limits</b>	To create District wide regulation of vessel size and engine power limits	Agreement on the need for this byelaw and measures required not yet in place.	.
<b>NWIFCA Byelaw 9. Shrimp and Prawn fishing</b>	To create District wide mesh and net size regulations.	Differences between parts of the District, Wales and absence of regulation in Dee to be resolved. A single District wide mesh size may lead to reduction in MLS England and reduced conservation benefit.	On hold pending resolution of measures.
<b>NWIFCA Fish MLS Byelaw.</b>	NWSFC byelaw 19 ensured EU MLS applied to shore fishing and set MLS for species not	The Authority to consider if this byelaw is still needed and if so should be made	

	covered by EU legislation.	District wide.	
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**Table 3. NWIFCA byelaw review showing planned replacement of inherited byelaws with IFCA byelaws in suggested order of priority from the top.**

<b>New byelaws required</b>	<b>Inherited byelaws replaced</b>
<b>Possible Byelaw 2</b> Vessel size and engine power limits. May not be required.	<b>NWSFC Byelaw 9 (2005)</b> Vessel max length 15m
	<b>Cumbria SFC Byelaw 3 (1993)</b> 0-3 miles. Vessel max length 13.72m
	<b>Cumbria SFC Byelaw 15 (1993)</b> Solway Firth. Engine power limit 221Kw
	<b>Cumbria SFC Byelaw 13 (1996)</b> Prohibition on multi-rigged trawls
<b>Byelaw 9 Shrimp &amp; Prawn.</b>	<b>NWSFC Byelaw 6 (2001)</b> Shrimp and prawn fishing restrictions <b>Cumbria Byelaw 14 2004</b> Shrimp & prawn regulations
<b>Winkles byelaw</b> Consider District wide replacement.	<b>Cumbria SFC Byelaw 7 (2004)</b> Fishing method and min size
<b>NWIFCA Fish MLS Byelaw.</b>	<b>NWSFC Byelaw 19 2009</b> Fish MLS to cover shore fishing in byelaw. <b>Cumbria Byelaw 9 1993</b> Skate min size
<b>NWIFCA Netting Byelaw</b> The main SFC netting byelaws NWSFC Byelaw 26 and Cumbria Byelaw 10 were reviewed by EA in 2010-11.  A further review to incorporate other netting measures and lines and create a common regulatory netting and lining regime is being considered.	<b>NWSFC Byelaw 2 (1951)</b> Attachments to nets
	<b>NWSFC Byelaw 3 (1989)</b> Prohibition of seine netting
	<b>NWSFC Byelaw 7 (1989)</b> Mesh sizes for nets other than trawls
	<b>NWSFC Byelaw 8 (1989)</b> Small mesh net regs
	<b>NWSFC Byelaw 10 (1985)</b> Set and drift nets
	<b>NWSFC Byelaw 26 (2011)</b> District Fixed nets Protection of salmonids
	<b>NWSFC Byelaw 27 (1996)</b> Drift nets Protection of salmonids
	<b>Cumbria SFC Byelaw 10 (2010)</b> Fixed/drift nets salmonid protection
	<b>Cumbria SFC Byelaw 20 (1998)</b> Min mesh size for protection of plaice
	<b>EA Byelaw 5 Dee Estuary</b> Trammel nets, trawl nets, beam trawls, otter trawls, Any instrument
NWIFCA. requirements included in new potting and netting and lining byelaw.	<b>NWSFC Byelaw 11 (2003)</b> Requirement to mark nets lines pots traps
	<b>Cumbria Byelaw 4 (1993)</b> Requirement to mark nets traps pots and lines
Measures covered by new draft NWIFCA byelaw 3.	<b>NWSFC Byelaw 16 (1973)</b> Shell fishery temporary closure
	<b>Cumbria Byelaw 18 (1993)</b> Shellfish temporary closure
Byelaws not needed. All will be repealed when suite of NWIFCA byelaws is complete.	<b>NWSFC Byelaw 1 (1986)</b> Defines District
	<b>NRA byelaw 1</b> Defines EA District (Dee Estuary)
	<b>NRA byelaw 2</b> EA District (Dee Estuary only) interpretation
	<b>NRA byelaw 7</b> Exemptions
	<b>NWSFC Byelaw 28 (1992).</b> Pre 1992 byelaws apply within 3 miles
	<b>Cumbria Byelaw 19 (1993)</b> Pre 1992 byelaws apply within 3 miles
	<b>Cumbria Byelaw 1 (1993)</b> Revocation of all pre1993 byelaws
	<b>Cumbria Byelaw 2 1993</b> Authority to make byelaws
	<b>EA Byelaw</b> Fishing for seafish in rivers below tidal limit