

**NWIFCA Technical, Science and Byelaw
Sub-Committee**

12th May 2015: 10:00 a.m.

**AGENDA
ITEM NO.**

6

LOBSTER EMERGENCY BYELAW AND ENFORCING EU TECHNICAL MEASURES

1. This paper is intended to update members on:

- Recent revocations of Statutory Instruments (SIs)
- Changes to the mechanism by which IFCOs can enforce EU technical conservation measures
- The making of an emergency byelaw.

Background

1. IFCOs can exercise their common and fisheries enforcement powers to enforce the legislation listed under section 166 of MACAA. This specifically includes:
 - Orders made under section 1-3, 5 and 6 of the Sea Fish (Conservation) Act 1967 Act.
2. Orders made under the 1967 Act gives the secretary of state powers to create Orders that set Minimum Landing Sizes (MLS), prohibitions of methods and restrictions on fishing gear.
3. An important piece of legislation made under sections 1 and 2 of the 1967 Sea Fish (Conservation) Act was SI1503 of 2000 – The Undersized Lobsters Order 2000. This legislation gave provision for:
 - A national MLS for Lobster of 87mm in England
 - A national minimum size for sale of 87mm in England
 - A national minimum size for carriage on a fishing vessel of 87mm
4. This legislation is especially important in the Northern District (former CSFC district) as this part of the District has no MLS Byelaw coverage as the southern District does through Byelaw 19 – which contains a MLS of 87mm for Lobster.
5. Byelaw 19 applies to “remove from a fishery” when applying an MLS and this requires evidencing from within the district.
6. In addition to the legislation identified in section 166 of MACAA IFCOs also had powers to enforce EU technical conservation measures through section 9 (c) of the Sea Fishing (Enforcement of Community Conservation Measures) Order 2000 (SI 1081 of 2000) as amended.
7. This legislation gave IFCOs powers to enforce technical measures such as mesh sizes for gear and EU MLS primarily laid out in EC 850/98.

Recent Changes

SI 191 of 2015 - The Sea Fishing (Enforcement and Miscellaneous Provisions Order

8. This legislation came into force on the 8th February 2015 and had a significant effect upon legislation that IFCOs could enforce and the legislation providing protection for Lobster through the revocation of the following in the schedule of the SI:

- SI 1503 of 2000 – The Undersized Lobster Order
- SI 1081 of 2000 – Enforcement of Community Measures Order - amended

9. This legislation was brought into force without prior notification or holding consultation with the IFCA's. The implications of this were the IFCOs lost:

SI 1503 of 2000 – The Undersized Lobster Order	This removed the ability to enforce: <ul style="list-style-type: none"> • Any MLS for Lobster in the northern district • A minimum size for sale/carriage in the whole district • Requires the evidencing of “removal” when enforcing Lobster MLS in the southern district
SI 1081 of 2000 – Enforcement of Community Measures Order - amended	This removed the ability to enforce: <ul style="list-style-type: none"> • All EU technical measures against licensed vessels • The MLS for species listed in annex XII of 850/98 against licensed vessels

10. Following the revocation of both of these pieces of legislation there was a number of over stated articles in the national press – including Private Eye which initially reported the issues – that incorrectly indicated that IFCOs nationally had lost all enforcement powers and insinuated the 6nm limit was currently unregulated which was never the case.
11. All of the IFCA's byelaws were unaffected as was a raft of SIs made under the 1967 Sea Fish act such as the MLS for Edible crabs, the Bass MLS legislation and the Scallop Order that restricts the number of dredges etc.

Response

Emergency Byelaw

12. In response to the revocation of the national Lobster legislation IFCA officers drafted and implemented the emergency byelaw in Annex A. This was made under sections 155 (Power to make byelaws) and 157 (emergency byelaws). Section 157 allows IFCA's to make byelaws without being confirmed by the Secretary of State in the following circumstances:
- If the IFCA consider there is an urgent need for the byelaw
 - The need for the byelaw could not reasonably have been foreseen
13. Given the circumstances by which the original SI was revoked the above applied and the byelaw came into force on the 2nd April 2015 and the Secretary of State was notified within the required 24hrs.
14. The byelaw will remain in force for 12 months (until the 16th April 2016) from the date of making. There is provision within MACAA to extend this byelaw by 6 months if required.
15. **This byelaw directly replaces all the provisions lost following the revocation of SI1503 of 2000 and there is no weakening of the current protection measures for Lobsters across the district.**

Cross Warranting

16. The loss of the ability of IFCOs to enforce EU tech con has been addressed by the MMO issuing limited Marine Enforcement Officer (MEO) cross warrants which cover the following:

EC 894/97	Provision for drift nets
EC 850/98	All relevant technical conservation measures
EC 2549/2000	Specific Irish Sea technical conservation measures

17. Only a limited number of IFCOs have been cross warranted as certain criteria of experience was required. Four Officers have been cross warranted – the HoE and the Solway Protector crew.
18. **Under the current MEO cross warranting the IFCA is able to enforce EU technical measures as previously.**

Moving Forward

1. The immediate situation has been addressed in the short term but how the situation will be addressed moving forward will not become clear until after the purdah and a new government is in power.

**Andy Deary
Head of Enforcement
3rd May 2015**