



Protocol for Inspection and Seizure of Fishing Gear at Sea

Last Updated: June 2016 Version 4

1 Introduction & Background

This policy document provides guidance primarily for the inspection, seizure and retention of static fishing gear including but not limited to pots, traps, nets and long lines. The policy is designed as a 'living document' and may be updated and amended as and when necessary or required.

The purpose of this guidance is to consider the legal, practical and safety implications of investigating and seizing attended and unattended static gear. The guidance highlights legislative tools available to Inshore Fisheries and Conservation Officers (IFCO's) in the field and provides practical mechanisms to use such tools successfully and safely with reference to relevant sections of the Marine and Coastal Access Act 2009.

2 Powers provided by the Marine and Coastal Access Act 2009

Power to inspect and seize objects at sea

Section 264 of the Act gives enforcement officers the power to inspect any objects at sea whether attended or not by the owner:

- Any object being used for or in connection with fishing
- The officer may lift an object out of the sea with the purpose of inspecting it
- An officer may, after inspecting an object, seize it for either; determining if an offence has been committed or as evidence of an offence
- If, after inspection an object is not seized it must be replaced in the same location where it was found (if practicable to do so), and in the case of fishing gear, it should be re-set in the same way
- If it is not reasonably practicable to replace an object where it was found then it may be seized until the owner can collect it
- Seizure of an object under this section includes anything attached to the object and anything contained within the object

3 Why and when do we inspect gear?

Fishing gear is inspected to ensure compliance with local byelaws as well as national and EU regulations. Fishing gear cannot be inspected without being hauled from its position in the water column therefore it must be hauled in order to carry out compliance checks. Gear is inspected as part of targeted operations as a result of information received, but may also be inspected more generally when located by IFCA patrol vessels on routine patrols.

4 Attended Gear

If a vessel is approached during the process of hauling or shooting gear, which on closer inspection breaches relevant byelaw regulations, the use of the above powers will be appropriate. Officers must be aware of and follow the IFCA 'Enforcement Code of Conduct' and all relevant health and safety assessments and guidelines throughout.

If a vessel is either shooting or hauling gear in breach of the byelaw IFCO's must ensure a strong evidential link between the vessel and gear is maintained. Once gear is shot or hauled then normal enforcement procedures should be followed.

If a string of gear which officers wish to inspect is not attended but the officers know that the relevant fishing vessel is at sea in the locality, then they may contact the owner to request that the gear is lifted by the owner in the presence of officers for inspection.

4 Unattended gear

Gear will be hauled as gently as possible, keeping as much weight off the gear as possible to reduce dragging of gear or damage to the gear.

Any gear which is hauled and found to be damaged will be photographed and recorded in the inspection report along with information on whether the damage was caused by the inspection or whether the gear was damaged prior to the inspection.

If whilst lifting marked gear the rope snaps or damage is caused to the gear then the owner will be notified at the earliest opportunity. If whilst lifting unmarked gear the rope snaps, any hauled pots will be seized.

5 Compliant fishing gear

If unattended gear is inspected, is found to be compliant and is **not** seized there is the requirement under section 265 (2) of the MACAA 2009 to notify owners of the gear that an inspection has been carried out. The inspection report will be attached to the gear in a waterproof container and the inspection report will contain the following:

- The accurate position of where the gear was set
- The date and time of the inspection
- The warrant number of the officer who carried out the inspection
- Contact details for the IFCA office to enable the owner to discuss the inspection

The amount of time fishing gear is kept aboard the patrol vessel will be minimised as far as possible.

Any catch in the fishing gear must be treated as gently as possible and if the gear is compliant, returned to the sea contained within the gear.

6 Non-compliant fishing gear

If the gear is inspected and found to be not compliant but it is not going to be seized then an offence notice must be attached to the gear with the same details as above, plus:

- Details of the offence found

7 Re-shooting of gear

Gear will be re-shot in the same direction and in the same location from which it was hauled (as far as is reasonably practicable).

Officers will ensure that the gear is not re-shot over the top of any other gear and will make every effort to ensure the gear is set in a professional manner.

8 Seizing of fishing gear

If unattended gear is inspected and is seized from the sea, whether as a result of non-compliance or because it is not safe or practicable to reshoot it, in addition to the information recorded in an inspection report there a requirement under section 265 (4) to also include the following information in the resulting seizure report:

- What has been seized
- The reason for the seizure
- Any further action that is proposed in relation to the object

There is a responsibility for the IFCA to notify potential owners of the fishing gear. This will be done in the following manner:

- Notify potential owners using Notice of Seizure form
- Details of the seizure will be placed on the relevant IFCA website
- Shore-based IFCO's will place a copy of the information at associated ports and harbours.

9 Return of Seized Gear

If, after a period of three months following notices being displayed no individual claims the gear, the item may be disposed of in any manner the Authority thinks fit.

If a claim is made in relation to particular seized gear the following should be undertaken:

- Refer the individual/company to the office.
- Name and address details will be taken over the phone

A letter will then be sent to the individual inviting them to view the seized gear. The letter will inform the individual of any legislative processes to which they may be subject.

If it is the intention of the IFCA not to pursue further investigations the gear must be returned to the owner and a Notice of Collection form must be completed on return.

10 Enquiries

If you have any questions about this document, the carrying out of inspections or subsequent investigations or anyone experiencing dissatisfaction during any of these processes please contact the relevant IFCA for your district.