

Title: Marking of Fishing Gear and Keep Boxes (Byelaw 5) IA No: NIFCA 006 Lead department or agency: Northumberland Inshore Fisheries and Conservation Authority (NIFCA) Other departments or agencies: MMO, Natural England, Defra	Impact Assessment (IA)
	Date: 19/08/15
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary legislation (byelaw)
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Summary: Intervention and Options	RPC Opinion: N/A

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two- Measure qualifies as Out?
NA	NA	NA	No NA
<p>What is the problem under consideration? IFCAs are required to review their legacy byelaws by April 2015, consolidating/correlating regulations with adjoining IFCAs to give consistency across the country, as well as reflect changes to district boundaries and organisational makeup. The subject of this impact assessment (IA) is a byelaw which will replace the NIFCA's legacy byelaw (regulation) 11 Marking of Fishing gear and Keep Boxes.</p> <p>Why is government intervention necessary? Government intervention is required to redress market failure in the marine environment by implementing appropriate management measures (e.g. this byelaw) to conserve features to ensure negative externalities are reduced or suitably mitigated. Implementing this byelaw will ensure continued provision of public goods in the marine environment. This IA is written in accordance with the Governments Marine Policy Statement and takes into account decisions effecting the marine environment.</p> <p>Specifically, this byelaw will support the long term sustainability of fish stocks and fishing grounds by regulating potentially damaging fishing activities.</p>			

What are the policy objectives and the intended effects?

1. To sustainably manage fish stocks particularly with regards to edible crab (*Cancer pagurus*), lobster (*Homarus gammarus*), and velvet crab (*Necora puber*) stocks through regulation of fishing mortality.
2. To make relevant regulations easier to navigate for resources users to increase rates of compliance.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The following policy options have been considered through this IA:-

0. Do nothing- leave the legacy byelaw regulation as it stands
 1. Use of non-regulatory/voluntary measures
 2. Revise the existing legacy byelaw regulation into one marking of static fishing gear byelaw
 3. Revise the existing legacy byelaws regulation relating to static gear used for targing shellfish into one byelaw
 4. Revoke the current legacy byelaw regulations

All options are compared to option 0. Option 2, was determined as the most appropriate method of managing the static gear fishery within the NIFCA district. The new byelaw keeps in place most of the requirements of the old, and is in line with the requirements covered by UK legislation.

Will the policy be reviewed? Yes.

If applicable, set review date: As soon as possible and no later than 3 years after the byelaw is made.

What is the basis for this review? **Duty to review.** If applicable, set sunset clause date: **N/A**

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A	

I have read the impact assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2013	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV) (£))		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excluding transition) (Constant Price)	Total Cost (Present Value)
Low	No		Optional	Optional
High	No		Optional	Optional
Best Estimate	£700		Optional	£5994.34

Description and scale of key monetised costs by ‘main affected groups’

- Transitional cost of £700 relates to implementing the new byelaw by the IFCA
- No other monetised cost identified

Other key non-monetised costs by ‘main affected groups’

- There is a potential that there could be an increased risk to safe navigation.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				

Description and scale of key monetised benefits by ‘main affected groups’

- There will be no additional monetised benefits to the stake holders as new byelaw will in principal duplicate the old byelaws

Other key non-monetised benefits by ‘main affected groups’

- Sustainable stocks and safety at sea

Key assumptions/sensitivities/risks	Discount rate (%)	
Fishing levels remain static, particularly with regards to total number of pots being fished Shellfish stocks are currently being fished at or below safe biological limits		

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of	Measure qualifies
Costs: Not	No	IN/OUT/Zero net cost
Benefits: Not Known		
Net: Not Known		

Evidence base

1. Introduction

IFCAs were required to review their legacy byelaws by April 2015 consolidating/correlating regulations with adjoining IFCAs to give consistency across the country, as well as reflect changes to district boundaries and organisational makeup. IFCAs are also required to update byelaws in order to modify them to acknowledge the change over from Sea Fisheries Committees to IFCA's.

The subject of this impact assessment (IA) is a byelaw which will replace the NIFCA legacy byelaw (regulation) 11 Marking of Fishing Gear and Keep Boxes.

2. Rational for intervention

The nationally agreed vision of the IFCA's is that they will lead, champion, and manage a sustainable marine environment and inshore fisheries within their Districts by successfully securing the right balance between social environmental and economic benefits to ensure healthy sea, sustainable fisheries and a viable industry".

Section 153 of the Marine and Coastal Access Act 2009 details the management of inshore fisheries as follows (extract)

The authority for an IFCA district must manage the exploitation of sea fisheries resource in that district. In performing its duty under subsection (1) the authority for an IFCA district must:

- a) Seek to ensure that the exploitation of sea fisheries resources is carried out in a sustainable way.
- b) Seek to balance the social and economic benefits of exploiting the sea fisheries resources of the district with the need to protect the marine environment from or promote its recovery from the effects of such exploitation.
- c) Take any other steps which in the authorities opinion are necessary or expedient for the purpose of making a contribution to the achievement of sustainable development, and
- d) Seek to balance the differing needs of persons engaged in the exploitation of sea fisheries resources in the district
- e) (Subsection 10) In this Chapter "sea fisheries resources" means any animals or plants, other than fish falling within subsection (11), that habitually live in the sea, including those that are cultivated in the sea.
- f) (Subsection 11) The fish referred to in subsection (10) are—
 - (a) salmon, trout, eels, lampreys, smelt and shad;

(b) any other fish of a kind which migrates from fresh to salt water, or from salt to fresh water, in order to spawn;

IFCA have duties to ensure that fish stocks are exploited in a sustainable manner, and that any impacts from that exploitation on designated features in the marine environment are reduced or suitably mitigated, by implementing appropriate management measures (e.g. this byelaw). Implementing this byelaw will ensure that fishing activities are conducted in a sustainable manner and that the marine environment is suitably protected.

Fishing activities can potentially cause negative outcomes as a result of 'market failures'. These failures can be described as:

- Public goods and services – A number of goods and services provided by the marine environment such as biological diversity are 'public goods' (no-one can be excluded from benefiting from them, but use of the goods does not diminish the goods being available to others). The characteristics of public goods, being available to all but belonging to no-one, mean that individuals do not necessarily have an incentive to voluntarily ensure the continued existence of these goods which can lead to under-protection/provision.
- Negative externalities – Negative externalities occur when the cost of damage to the marine environment is not fully borne by the users causing the damage. In many cases no monetary value is attached to the goods and services provided by the marine environment and this can lead to more damage occurring than would occur if the users had to pay the price of damage. Even for those marine harvestable goods that are traded (such as wild fish), market prices often do not reflect the full economic cost of the exploitation or of any damage caused to the environment by that exploitation.
- Common goods - A number of goods and services provided by the marine environment such as populations of wild fish are 'common goods' (no-one can be excluded from benefiting from those goods however consumption of the goods *does* diminish that available to others). The characteristics of common goods (being available but belonging to no-one, and of a diminishing quantity), mean that individuals do not necessarily have an individual economic incentive to ensure the long term existence of these goods which can lead, in fisheries terms, to potential overfishing. Furthermore, it is in the interest of each individual to catch as much as possible as quickly as possible so that competitors do not take all the benefits. This can lead to an inefficient amount of effort and unsustainable exploitation.

IFCA byelaws aim to redress these sources of market failure in the marine environment through the following ways:

- Management measures to conserve designated features of European marine site will ensure negative externalities are reduced or suitably mitigated.
- Management measures will support continued existence of public goods in the marine environment, for example conserving the range of biodiversity in the sea of the IFCA District.
- Management measures will also support continued existence of common goods in the marine environment, for example ensuring the long term sustainability of fish stocks in the IFCA District.

3. Policy objectives and intended effects

The intention of the remade Marking of Gear and Keep Boxes byelaw is to ensure that that the regulations are easier to navigate for resource users and to increase the levels of compliance while ensuring that the fisheries continue to be sustainable. It will ensure that NIFCA can accurately assess level of fishing with static gear in the NIFCA District in the interest of conservation of the marine environment.

4. Background

Within the NIFCA District in 2013, static gear fishermen landed approximately 400 tonne of lobster¹, with an estimated total first sale value of over £3.9 million². In addition over 1000 tonnes of other shellfish, principally brown crab, velvet crab and nephrops were landed. Also an un-quantified amount of white fish principally cod are also landed mainly from gill nets during the winter months and therefore both fisheries contributes significantly to the local economy. Over 113 licensed permit holders³ are reliant on the long-term sustainability of these fisheries. The requirement for fishermen to mark all static fishing gear allow for ease of identification and aid in enforcement of legislation breaches it also aids in safety and navigation and allows ease of identification of such gear and including the regulation of un-licenced recreational fishers.

5. The Options

The following policy options have been considered:

Option 0: Do nothing - leave the legacy byelaw regulations as they stands

This option would involve allowing the existing NIFCA management regime to continue unchanged. While this would allow continued fishing at the same levels it is not in keeping with national guidelines for a byelaw review of legacy byelaws. This option does not take into account the change from SFC to IFCA. It also does not allow for changes that have occurred in fishing practice and the increased need to protect the environment and fish stocks. It would also not allow future changes in fishing patterns to be observed and accurately recorded.

Option 1: Use of non-regulatory/voluntary measures

Due to the size of the district, the large number of vessels operating in the fixed gear fishery and the need for 100% compliance to be effective, it is believed that voluntary agreements wouldn't enable NIFCA to achieve the stated objectives.

Option 2: Revise the existing legacy byelaw regulations into a Fixed fishing gear byelaw

Revising the Marking of Fishing Gear and Keep Boxes byelaw will ensure that management of the static gear fisheries is maintained. It would be appropriate to keep this as a separate byelaw as this byelaw covers fishing types other than just potting. Keeping it separate will highlight that it is applicable to all static gear types.

Option 3: Revise all the existing legacy byelaws regulation relating to static gear used for targeting shellfish into one byelaw

As this byelaw relates mainly to potting for shellfish, it has the potential to be included within a single potting byelaw, but because other static gear is also included this could lead to some confusion and therefore does not make it easier to reference.

¹ NIFCA permit return information 2013

² Marine Management Organisation Average prices landed by UK vessels into the UK 2010

³ NIFCA permits issued 2013

Option 4: Revoke the current legacy byelaw regulations

This option would remove significant management and potentially lead to stock collapse by allowing fishing to occur at levels that it would be impossible to monitor. This is particularly an issue when dealing with “recreational vessels”, which currently have other regulations that restrict overall effort. Revoking this byelaw would remove the ability of NIFCA to enforce these other regulations.

Preferred Option

Option 2, was determined as the most appropriate method of managing the static gear fishery within the NIFCA district. The new byelaw keeps in place most of the requirements of the old, and is in line with the requirements covered by UK legislation. By revising this byelaw in this manner is seen as the most suitable and makes it easier for interested parties to reference.

Under the preferred option, the changes to byelaw 11 are;

The revised byelaw removes the words “The site of all pots, traps, keep pots and boxes, nets or long or set lines shall be clearly identified by a marker buoy or dahn fixed to both ends of the fishing gear.” now only requires that a marker buoy or dahn only requires that one marker is required where 5 or fewer pots are set or a marker at either end where more than 5 pots are set. There is a further requirement that they have to be marked with the relevant details of the vessel or person who sets the gear.

6. Analysis of costs and benefits

The transitional cost to the IFCA relates to the implementation of the byelaw and is a one off cost. The removal of the wording requiring gear to be “clearly identified” may result in the use of marker that become more difficult to see and could lead to an increase in vessels becoming entangled in gear. The reason why the clause has been removed is because no legal definition is available to define what clearly identified means. At present the main gear that tends to have poorer marking is that of recreation fishermen and a number of incidents have been reported where other vessels have required assistance from a lifeboat. The main benefits by revising the byelaw are the continued sustainable fisheries, principally for shellfish by enabling the NIFCA to accurately monitor compliance of other fisheries regulations within the sector.

7. Consultation

Amendment of the NIFCA’s legacy regulations have been subject to discussion and consultation over a number of years including a 28 day public consultation process throughout the NIFCA district, thus exceeding the minimum guidelines. Five stakeholder meetings have taken place within the NIFCA District in which a number of stakeholders participated from a diverse range of interest groups. Comments from these stakeholders were considered and where appropriate changes to the byelaws were made. These changes were minor in nature, and on the whole the changes to the byelaws are well supported by the industry and other stakeholders.

8. Implementation

The NIFCA would expect to implement these revised regulations before the end of 2015. This is existing regulation and resources are already in place to actively enforce its provisions. Although no additional implementation costs are expected the wider application of the revised regulations could increase the number of formal enforcement actions taken (but this cannot be estimated accurately at this stage). Any subsequent changes in compliance and enforcement actions will be monitored

through the Post Implementation Review Plan. This plan will form part of the NIFCA annual plan and will be published on the NIFCA website.

9. Conclusion

Recommended option:

Option 2, was determined as the most appropriate method of managing the fixed gear fisheries within the NIFCA district; the new byelaws will assist in regulating this fishery. The byelaws includes the potting for lobster, brown crab, velvet crab and nephrops (which are the most financially important species locally) and the gill net fishery that mainly occurs during the winter months. The new byelaw will continue to give NIFCA a better understanding of the level of fishing within the NIFCA district and allow more targeted management in the future thus ensuring that the fisheries remain sustainable. The new Marking of Fishing Gear and Keep Boxes byelaw remains similar to the NSFC byelaw and remade to bring it into line with the requirements contained in the Marine and Coastal Access Act 2009

Annex A: Policy and Planning

Which marine plan area is the management measure in?

- Within Northumberland IFCA district currently there is no Marine Plan.

Have you assessed whether the decision on this management measure is in accordance with the Marine Policy Statement and any relevant marine plan?

- There is no relevant Marine Plan.
- When assessing these byelaws due regard was given to the UK Marine Policy Statement, the byelaws contribute to the following;
 - The achievement of sustainable development of marine areas.
 - Promote sustainable economic development.
 - Ensure a sustainable marine environment which promotes healthy, functioning marine ecosystems and protects marine habitats, species and our heritage assets.
 - Contribute to the societal benefits of the marine area, including the sustainable use of marine resources to address local social and economic issues.
 - Achieve integration between different objectives.
 - Recognise that the demand for use of our seas and the resulting pressures on them will continue to increase.
 - Manage competing demands on the marine area, taking an ecosystem-based approach.
 - Enable the co-existence of compatible activities wherever possible.

