

## **Byelaw & Byelaw Review Update**

### **Exemptions Byelaw 2019**

The Exemptions Byelaw 2019 was submitted to the Marine Management Organisation (MMO) for final Quality Assurance assessment, in October 2019, the penultimate step before submission to Defra for consideration by the Secretary of State. In November 2019 the MMO notified D&S IFCA that it could not support the submission of the Exemptions Byelaw 2019 in its current state. The MMO considers that D&S IFCA do not have the powers to implement the Exemptions Byelaw 2019. The Byelaw states that an exemption can be given for any activity relating to the discharge of the Authority's duties under sections 153 and 154 of the Marine and Coastal Access Act 2009 (MaCAA). These two sections constitute the entire remit of an IFCA and as such the MMO believe that the scope of the Exemptions Byelaw 2019 is too wide to be enforceable or legally robust.

On 19<sup>th</sup> December 2019, on request from D&S IFCA, the MMO submitted the Exemptions Byelaw 2019 to Defra. The MMO's submission included a covering letter confirming its position that the Exemptions Byelaw 2019 was outside of the scope of the MaCAA.

The Emergency Application Byelaw ceased on 9<sup>th</sup> November 2019 and since that date, D&S IFCA has not been able to consider exempting any activity from the requirements set out in any of its permit byelaws. This has resulted in several scientific survey applications being refused or withdrawn.

On 25<sup>th</sup> February 2020, Defra informed D&S IFCA that after reviewing the initial draft of the Exemptions Byelaw 2019 (prepared for potential confirmation), their lawyers have advised that the Byelaw contains a lack of legal certainty, which stems from the fact the initial draft is extremely broad as it refers only to 'an activity' and does not specify scientific, stocking and breeding purposes. The Exemptions Byelaw 2019 has been returned with suggested track changes and further advice to add specific exemption clauses in any new byelaws that are created by D&S IFCA.

The Byelaw Technical Working Group (BTWG), who act on behalf of the Byelaw and Permitting Sub-Committee (B&PSC), were informed and have broadly accepted the advice from Defra. It is thought that aquaculture could be referenced instead of stocking or breeding purposes. Officers are amending the Exemptions Byelaw 2019 and creating a revised "final" Impact Assessment to reflect the recommended changes to the Exemptions Byelaw 2019.

### **Changes to Permit Conditions – Live Wrasse Pot Fishery**

On the 11<sup>th</sup> February, members of the B&PSC were presented with a detailed report – *The Three-Year Comprehensive Review of the Live Wrasse Fishery*. The report contained data from the 2019 live wrasse fishery and the on-board surveys carried out by the environment team. Members considered the findings of the report and came to the following key conclusions:

- a) That D&S IFCA should continue with the monitoring of the fishery with at least the same level of on-board observer effort at 2019.
- b) Changes should be made to the Potting Permit Byelaw Permit Conditions to require all rock cook wrasse to be returned to sea.

Work will now begin preparing revised potting permit conditions which, as part of the required permit review process, must be subjected to a consultation. The findings of the consultation will be presented to the B&PSC in May 2020, when a final decision can be taken regarding changes to the Potting Permit Conditions. It is possible that amended permit conditions would

## **Agenda Item 8**

be circulated in June 2020, before the live wrasse fishing season begins after the closed fishing season.

In addition to this work, the five-year review of the Potting Permit Byelaw will commence in 2020 as set out in the 2020-21 Annual Plan.

### **Development of the Hand Gathering Permit Byelaw**

At the B&PSC meeting held in November 2019, members considered different options to manage hand working fishing activities. Members concluded that a Hand Working Permit Byelaw should be developed. The potential structuring of the Byelaw was discussed by the B&PSC on the 23<sup>rd</sup> January 2020. Members concluded that pre-consultation should be conducted in February and March 2020 relating to the potential setting of bag limits for different sea fisheries resources that would apply to fishers without a permit. The findings of this consultation and how to proceed with the development of the Hand Working Permit Byelaw will be agenda items for the B&PSC in 2020.

The different workstreams associated with the development of the Hand Working Permit Byelaw are set out within the 2020-21 Annual Plan.

### **Review of the Mobile Fishing Permit Byelaw**

The review of this Byelaw is effectively a re-make of the Byelaw. The B&PSC considered that it was important to introduce management to regulate fishing for sand eels using towed gear. The BTWG identified that to introduce the necessary management framework two further permit categories would need to be created to accommodate for recreational and commercial activities. Consultation on the proposal to introduce two new permits and the associated permit conditions (management measures) ended on 17<sup>th</sup> January 2020. Members of the B&PSC discussed the findings of the consultation and have actioned further work for the BTWG.

A second issue was discussed by the B&PSC relating to the expansion of seagrass beds within the Torbay MCZ. Members concluded that the beds should be afforded protection via amendments to Category One (at sea) Mobile Fishing Permit Conditions.

Development, amendments and drafting of the new permit categories (1, 2, 3 and 4) and refinement to the wording in the Mobile Fishing Permit Byelaw (in preparation for formal consultation later in 2020) will be reported to the B&PSC in due course and the decision making of the B&PSC will influence the delivery timetable.

The different workstreams associated with the development of the re-made Mobile Fishing Permit Byelaw are set out within the 2020-21 Annual Plan.

### **Further Information**

The [D&S IFCA Website](#) provides additional information for members and stakeholders.

All B&PSC meeting papers are posted in advance of meetings on the [Meetings Tab](#).

The [Consultation Page](#) is updated to reflect current “call for information” consultation campaigns.

The [Resource Library](#) contains a mixture of documentation relevant to byelaw review work.

End. (28/02/20)