

Summary of amendments agreed at the 34th Eastern IFCA Meeting as a result of the formal consultation on the Shrimp Permit Byelaw 2018 and the Marine Protected Areas Byelaw 2018

| Amendment   | Rationale for amendment   |
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| <p>Various wording changes in relation to the byelaws, permit conditions and impact assessments.</p>  | <p>The MMO policy team provided feedback on the wording of the byelaws, permit conditions and eligibility criteria taking into account legislative and policy drivers and current trends in the wording of byelaws (including ensuring transparency). Various amendments were proposed, none of which had the effect of altering the intended effect of the byelaws.</p> <p>Such changes included, for example, the formatting of coordinates set out in the Marine Protected Areas Byelaw and additions and amendments to the definitions section of the Shrimp Permit Byelaw.</p> <p>In addition, the impact assessments have been updated to reflect advice received.</p>  |
| <p>Removal of the eligibility criteria (i.e. the provision relating to relevant offences).</p>  | <p>An objection was received to the effect that this provision was too harsh. Further legal advice was received after the byelaw was made specifically in relation to the proposed eligibility criteria. The criteria originally proposed sets out that persons who have been convicted of, or received a Financial Administrative Penalty for, shrimp fishing related offences on more than two occasions within a three-year period were not eligible for a further permit.</p> <p>The advice received is to the effect that the eligibility criteria as proposed were not in keeping with the Rehabilitation of Offenders Act 1974 because spent convictions (i.e. those more than 12 months old) cannot be used to prejudice a person's employment.</p> <p>Reducing the period that convictions and FAPs can be taken into account makes this provision less effective. To require two convictions or FAPs within a 12-month period makes the provision less. Reducing the number of convictions to just one over the 12 months' time period is not, at this time, considered proportionate.</p> <p>On balance, whilst the proposed criteria had the benefit of taking into account additional offences, the legal advice received reduces the efficacy of the measure and it is therefore it has been removed but may be considered further going forward.</p> |
| <p>To amend the wording of the requirement for vessels to have I-VMS from:</p> <ul style="list-style-type: none"> <li>• when engaged in shrimp fishing;</li> </ul> <p>to:</p> | <p>Paragraph 5 of the byelaw originally proposed sets out the following: <i>A person must not <u>fish for shrimp</u> without a fully functioning, remotely accessed electronic reporting device on board the vessel...</i></p> <p>The effect of this provision would be that a person could not fish for shrimp without using I-VMS but could transit the district or fish for other species without I-VMS. Whilst the wording of this provision was in keeping with the intention of the nationally agreed model, officers have subsequently identified that the wording leaves significant room for exploitation and reduces the effectiveness of the measure. For example, a legitimate defence to not having a functional device (in the case of a device malfunction for example) could be that the vessel is simply</p>   |

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| <ul style="list-style-type: none"> <li>at all times the vessel is within the district if the vessel is named on a shrimp permit.</li> </ul> | <p>transiting the area. For the requirement to be effective, the provision needs to apply at all times as, in theory, the vessel is capable of fishing for shrimp at any time.</p> <p>It is proposed therefore that the provision is reworded as follows: <i>A person must not use a vessel which is named on a shrimp permit without a fully functioning, remotely accessed electronic reporting device on board the vessel...</i></p> <p>This would have the effect of requiring a vessel to have I-VMS on at all times regardless of the activity.</p> <p>Reporting costs for the fishers will not increase as a result of this measure as the contracts offered by suppliers relate to three-minute reporting at all times. There is however likely to be an additional burden on fishers who would not be able to fish at all (i.e. for any species) from a vessel named on a shrimp permit if a device has malfunctioned. It should be noted however that two instances of non-reporting devices are known to have occurred in the Devon and Severn IFCA district and in both cases, I-VMS devices were operational within hours of malfunction.</p>   |
| <p>Removal of closed areas 32 and 33 (inshore North Norfolk Coast and 'seasonal corridor' areas respectively)</p>                           | <p>Several objections were raised in relation to the closures 32 and 33 on the basis that neither contain habitats or sub-features which are deemed as sensitive to shrimp fishing activity within the Habitat Regulation Assessment.</p> <p>The HRA identified that subtidal mixed sediments and subtidal mud were the most sensitive habitats in the site, particularly where they occurred at depths greater than 10m below chart datum. For intertidal sand, the HRA found that impacts could not be ruled out, so a precautionary high mitigation score was given for this habitat. More evidence was available for The Wash embayment than for the Norfolk Coast. The HRA identified that appropriate mitigation for intertidal sand is to control the level of shrimp trawling over this feature, rather than to close it to shrimp fishing.</p> <p>Habitat data (Natural England data release) shows that the inshore closures on the Norfolk Coast predominantly contain intertidal sand (closure 32) and a mix of subtidal sand, mixed sediment and mud at depths less than 10m below chart datum (closure 33). These areas had been proposed for closure as a continuum from closure 31 (North Norfolk coast offshore) and because these areas provide an important nursery ground for juvenile fish, which form part of the water column sub-feature and are a food source for harbour seals (a designated feature of the site). However, closures 32 and 33 had not been identified as being <i>necessary</i> to avoid adverse effects on site integrity, since the HRA had assessed that the shrimp fishery does not cause an adverse effect on site integrity through the removal of juvenile fish.</p> <p>Therefore, since closures 32 and 33 had not been identified as being necessary through the HRA, they have been removed from the Marine Protected Areas Byelaw 2018. In recognition of likely wider ecological benefits of these closures, they should be further considered in future iterations of management of the shrimp fishery –</p> |

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|  | <p>including the consideration of sustainability measures for the shrimp fishery (planned to follow the current work for protection of designated habitats and species).<br/>No additional burdens or impacts on stakeholders are anticipated as a result of this amendment.</p> <p>Closure 32 was planned to subsume closures previously in place by the Marine Protected Areas Byelaw 2016. As closure 32 has been removed these closures need to be added to the byelaw to ensure that the same protective effect is achieved as in the Marine Protected Areas Byelaw 2016. The closures were previously named EH, SF, BP, BC and are now named 32, 33, 34 and 35.</p>   |
| <p>Removal of the requirement for all shrimp fishing nets to have veil nets (i.e. separator trawls) or sorting grids.</p>  | <p>Two objections were received setting out that there was insufficient evidence to require veil nets within the HRA.</p> <p>Eastern IFCA proposed that all fishing boats would require a separator trawl or sorting grid through permit conditions. This is an extension of the requirement in place under the Shrimp Fishing Nets Order 2002 which requires shrimp beam trawls with an aggregate length of more than 8 meters to have such.</p> <p>The use of veil nets (separator trawls) is considered a responsible approach to minimise the impacts related to by-catch mortality of species which may be of importance to the site as a whole and as a commercial fishery resource. However, it could be argued that consideration of the use of veil nets through the HRA is not sufficient to evidence a need for this measure in relation to the sub-features, as assessed in the document.</p> <p>It is therefore the requirement has been removed from the byelaw. It should be noted that the vast majority of the fishing fleet uses separator trawls by virtue of the Shrimp Fishing Nets Order 2002 and only two vessels are thought to be fishing with gear smaller than this. However, it is also proposed that the use of veil nets is considered further in relation to the development of fisheries sustainability measures within the shrimp fishery.</p> |
| <p>Implementation of a formal operating procedure in relation to the issuing, varying and revoking of flexible management measures (i.e. limitations on the number of permits and flexible permit conditions).</p> | <p>One objection was received related to Eastern IFCA not having a 'formal operating procedure' as required under paragraph 1 of Schedule 1 of the Shrimp Permit Byelaw.</p> <p>Eastern IFCA published a document which set out the process for the issuing, varying and revoking Regulatory notices under the Protected Areas Byelaw (May, 2014). This process is analogous to the process set out in the Shrimp Permit Byelaw. On further consideration however, the process as set out in this document requires updating to reflect its use for flexible management measures as opposed to Regulatory Notices.</p> <p>An updated procedure has been proposed and agreed by the Authority.</p> <p>Given that the procedure does not form part of the byelaw it is not considered subject to consultation and as such, no further action is required however, Eastern IFCA will publish the agreed updated procedure.</p>   |

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| <p>Update of the impact assessment to reflect the following:</p> <ul style="list-style-type: none"><li>• Additional benefits identified resultant of the proposed measures.</li><li>• Potential risk / cost associated with Eastern IFCA closing the shrimp fishery mid-season.</li><li>• Include acknowledgement of smaller scale fishers / fishers who may wish to enter the fishery or have not fished for many years.</li></ul> | <p>A crucial part of the formal consultation is to fill any gaps in the impact assessment which can be tested against a much wider audience than in the more targeted informal consultation stage. The comments received are reasonable and the impact assessment has been amended to take these comments into account.</p> |
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