



Department
for Environment
Food & Rural Affairs

Consultation on the Introduction of the Sea Fishing (Enforcement) Regulations 2018

A summary of responses

July 2018



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1. Introduction

1. Defra is proposing to introduce the Sea Fishing (Enforcement) Regulations 2018 (2018 Regulations) to provide Inshore Fisheries Conservation Officers (IFCOs) with powers to enforce EU fisheries measures.
2. Inshore Fisheries Conservation Officers (IFCOs) previously had enforcement powers in relation to a list of EU technical fisheries measures under the Sea Fishing (Enforcement of Community Conservation Measures) Order 2000 (the 2000 Order). The 2000 Order was inadvertently revoked by the Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015 (the 2015 Order) as part of the Red Tape Challenge. However, equivalent updated enforcement powers were not given to IFCOs at that time.
3. This instrument reinstates IFCO powers to enforce certain specified EU technical and conservation fisheries measures.
4. In addition to updated references to the measures listed in the 2000 Order, it extends IFCO enforcement powers to a number of additional EU fisheries technical and conservation measures, including conservation measures in relation to bass and bluefin tuna.
5. Most EU fisheries legislation is directly applicable in EU Member States and is continually being updated. Further changes are expected to be made to relevant EU fisheries legislation until the UK leaves the EU. Changes to EU legislation are negotiated at EU level between all Member States, the European Commission and the European Parliament. Details of the process can be found at http://ec.europa.eu/atwork/decision-making/index_en.htm. All EU legislation is subject to UK Parliamentary scrutiny which includes an assessment of the impact of the proposals. Before the UK leaves the EU we expect changes to the EU Technical Conservation Regulation, the Control Regulation and the bass provisions in the annual TAC and quota regulations.
6. As a response to this the 2018 Regulations will also contain “ambulatory references”, i.e. they will cross refer to EU measures that will be read as references to those measures as amended from time to time. This is a new addition, however it is a recognised approach that will allow a degree of future-proofing when technical amendments are made to the EU measures to save time and cost.
7. The ambulatory references in the 2018 Regulations will enable the government to implement minor and technical textual changes by following the standard procedures for approving EU legislation. Once adopted the changes will be legally binding and will require enforcement by the relevant bodies within England.

8. In the event that changes to the EU measures referred to in the 2018 Regulations go beyond those that are minor and technical, or if completely new EU measures are introduced the ambulatory references cannot be used. Instead, the government will amend the 2018 Regulations by following the usual Parliamentary scrutiny process.

2. Summary of responses

9. Defra held a public consultation seeking views on the proposed 2018 Regulations which ran for four weeks from 16 March to 18 April 2018. The consultation can be found at <https://consult.defra.gov.uk/marine-management/intro-of-seafishing-enforcement-regs-2018/>. Respondents were invited to reply via an internet survey package, email or to post written comments to: the Department for Environment, Food and Rural Affairs. In total 21 responses were received to the consultation; 4 responses from industry, 6 from members of public and 11 from stakeholder organisations. There were 15 responses received via Citizen Space and 6 via email.

10. Overall, Defra received a positive response to the consultation. The majority of respondents agreed with the introduction of the 2018 Regulations.

Number of responses

Response by type of respondent	Number	Proportion as %
Industry	4	19
Public Representation	6	29
Stakeholder Organisations	11	52
Total	21	100

3. Responses by question

Question 1: Do you agree with the introduction of the Sea Fishing (Enforcement) Regulations 2018? If you disagree, please state your reasons.

Summary of responses

11. Responses to the consultation were largely supportive of introducing the proposed 2018 Regulations.

- Of the 21 responses received during the consultation, 15 agreed with the introduction of the 2018 Regulations. A number of these responses stressed the importance of the reinstatement of IFCOs as direct enforcers of fisheries legislation.
- Six respondents disagreed with the introduction of the 2018 Regulations. Respondents suggested that the 2018 Regulations would create a duplication of resources and increased cost to the taxpayer. Concerns were also raised about the IFCA management structure including the inability of IFCAs to enforce without input from the Marine Management Organisation (MMO).

Government response

12. There will be no duplication of resources as responsibility to enforce EU Regulations in IFCA districts is transferred from the MMO to the IFCAs. It is not considered a viable long-term solution to temporarily cross warrant IFCOs as there are practical and operational issues with this process. This is because an IFCO acting as MEO would be acting under the control and authority of the MMO rather than the authority of its IFCA.

13. Introduction of the 2018 Regulations will not result in any one-off or ongoing costs for the fishing industry, or other businesses. The 2018 Regulations merely identify IFCOs as regulators that can enforce the listed fisheries conservation measures. Whilst there may be some cost and resource implications for the IFCAs associated with enforcement of EU regulations relating to bass or bluefin tuna, IFCAs will consider whether any action needs to be taken in relation to these measures as part of their local risk based strategy for enforcement.

14. Defra will meet any downstream costs of any additional enforcement cases that may arise as a result of this legislation.

15. With regard to the suitability of IFCA's and their officers, IFCOs have enforced EU fisheries measures under the 2000 Order and since its revocation in 2015, they have been appointed by the MMO and cross-warranted as MEOs under section 235 of the Marine and Coastal Access Act 2009 (the 2009 Act). As a result, IFCOs have experience of interpreting and enforcing EU Regulations. In addition, all warranted IFCOs are required to receive training in order to obtain their warrant and followed by a continued programme of training for warranted officers. IFCOs attend the MMO Training Course that is mandatory for MEOs and Naval Fisheries Officers.

Question 2: Do you agree with the proposal to reinstate IFCOs as direct enforcers of EU fisheries legislation? If not, why not?

Summary of responses

16. Responses to the consultation were largely supportive of the proposal to reinstate IFCOs as direct enforcers of EU fisheries legislation.

- Of the 21 responses received during the consultation, 15 agreed with the proposal to reinstate IFCOs as direct enforcers of EU fisheries legislation.
- 6 respondents disagreed with the proposal to reinstate IFCOs as direct enforcers of EU fisheries legislation. Concerns raised by respondents suggested IFCOs were incapable of interpreting EU directives and that MMO officers were better equipped to enforce current EU regulation.
- One respondent asked whether IFCOs would continue to enforce once the UK leave the European Union.

Government response

17. As stated above, since 2015 IFCOs have been cross-warranted by the MMO to carry on this enforcement function. IFCOs have demonstrated they are able to carry out the function due to this temporary solution. IFCOs will continue to carry out their current operational role under the proposed 2018 Regulations.

18. IFCOs are responsible for enforcement of English waters in the 0-6 nautical miles. IFCOs will continue to enforce legislation in England once the UK leaves the European Union.

Question 3: It is proposed that where a substantive change to an EU technical fisheries measure or where a new EU technical measure is introduced, we will amend the Sea Fishing (Enforcement) Regulations 2018 following public notification of the proposal to all our stakeholders regardless of whether or not they are involved in enforcing EU legislation. Do you have any comments on this approach?

Summary of responses

19. Responses to the consultation were largely supportive of the proposal to notify all stakeholders of amendment regardless of whether or not they involved in enforcing EU legislation where a substantive change is made to EU technical measures or a new measure is introduced.

- Of the 21 responses we received to this question, 15 respondents agreed with the proposal to notify all stakeholders regardless of whether or not they involved enforcing EU legislation.
- Of the respondents that disagreed with this proposal, the main concern raised suggested that stakeholder notification ought to be broader.

Government response

20. The government will notify all relevant stakeholders whenever a substantive or technical measure is amended or introduced regardless of whether or not it involves enforcing EU legislation.

Question 4: Do you have any general comments about this proposal or about how it will be implemented?

Summary of responses

21. General comments about the consultation were largely supportive. A number of respondents were keen for the 2018 Regulations to be swiftly implemented, highlighting the importance of keeping technical and conservation measures up to date.

- Two responses suggested that IFCA's will require additional funds if there are to effectively enforce the 2018 Regulations.

- One response asked whether other Devolved Administrations would be introducing measures to the same effect.
- One response asked whether the Royal Navy would be responsible for enforcing the 2018 Regulations once the UK leaves the European Union.

Government response

22. The IFCA's will seek to work with Defra and their delivery partners to balance any additional resource requirements these additional powers may bring alongside current existing statutory duties. The IFCA's will utilise the 2018 Regulations to increase their effectiveness in regulating inshore marine fisheries and recreational angling to deliver marine enforcement policy for England.

23. Control and enforcement is a devolved matter. As such, it will continue to be for each Devolved Administration to decide how best to control its waters, and what new arrangements may be needed when the UK leaves the EU.

24. The ten IFCA's are responsible for compliance and enforcement within inshore waters (0-6nms). The MMO undertakes compliance and enforcement activity within the UK's Exclusive Economic Zone (200nm). The Royal Navy works closely with both organisations to make sure the appropriate arrangements to enforce fisheries regulations are in place to protect our waters. There are no immediate plans to change this.