



Northern Ireland
Assembly

**COMMITTEE FOR
CULTURE, ARTS AND LEISURE**

**OFFICIAL REPORT
(Hansard)**

Eel Fishing Regulations 2010

22 April 2010

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Declan O’Loan (Deputy Chairperson)
Lord Browne
Mr Trevor Clarke
Mr Billy Leonard
Mr Kieran McCarthy
Mr Raymond McCartney
Mr David McClarty
Miss Michelle McIlveen
Mr Ken Robinson

Witnesses:

Mr Liam Devlin)
Mr Marcus McAuley) Department of Culture, Arts and Leisure
Ms Karen Simpson)

The Deputy Chairperson (Mr O’Loan):

I extend a hearty welcome to departmental officials Karen Simpson, who is the head of inland fisheries, Marcus McAuley, who is the chief fisheries officer, and Liam Devlin. I invite the witnesses to make an opening statement, after which members will ask questions.

Ms Karen Simpson (The Department of Culture, Arts and Leisure):

Thank you. The Department of Culture, Arts and Leisure (DCAL) proposes to introduce two statutory rules: the Eel Fishing Regulations 2010 and the Eel Fishing (Licence Duties) Regulations 2010. After I outline the background and purpose of those regulations, we will be

happy to answer members' questions. Marcus, who is the chief fisheries officer, will answer any questions about technical or operational issues, and Liam, who heads the team responsible for finance and legislation in the branch, will answer any questions about the formulation and the process of the legislation. The regulations have been prepared to implement the requirements of the European Union's directive 1100/2007, as set out in the eel management plans that were approved by the Commission in March 2010.

The European eel stock has been in rapid decline since about 1980. Eels spawn in the Sargasso Sea and then migrate randomly to north Africa, the Baltic and northern Norway; they arrive as glass eels in Northern Ireland from November to March. Many elver and bootlace eels migrate into freshwater between May and September. Fishing for glass eel is restricted under special licence for restocking in open water only. Historically, brown eel have been caught in Lough Neagh and Lough Erne by draft nets, fyke nets or long lines, which are licensed by DCAL. Silver eel capture takes place at fixed weirs or fishing engines as the eels migrate back to the Sargasso Sea in the autumn and winter. The decline in eel stock shows no sign of recovery.

Various causes have been suggested: changes in climate, the ocean currents taking eels back to the Sargasso Sea, habitat loss, predation, hydroelectric turbine mortality or parasites; many or all of them could contribute to the decline. Scientific advice issued by the International Council for the Exploration of the Sea (ICES) indicates that European stock is now outside safe limits. Although there has been no co-ordinated approach to the management of the European eel stock, individual member states have introduced measures to protect stocks, including licensing fishermen, regulating the construction of dams and the eel passage, the EU habitats directive and restocking baby eels. However, the decline has continued. Therefore, ICES advised that a recovery programme for the whole of the stock be developed as a matter of urgency and that exploitations and other human activity affecting eel stocks should be reduced to as near zero as possible.

After several years' consultation, the Commission introduced an EU eel regulation on 18 September 2007. The regulation aims to establish measures for the recovery of the eel stock and a new framework for its protection and sustainable use. It covers European Community waters, coastal lagoons, estuaries and rivers, and communicating inland waters that flow into the sea from member states.

Due to the variety of habitat and fisheries affecting the eel population, eel management cannot be addressed by a one-size-fits-all approach. The eel regulations take this diversity into account by proposing that each member state develop a national eel management plan that takes local conditions into account. Member states were required to develop eel management plans for each river and estuary in their jurisdiction. The regulation demands that 40% of the adult eel biomass be allowed to escape to spawn compared with the best estimate of the potential escapement if there was no human activity affecting the stock. The regulation also states that if the Commission did not approve a plan, an immediate temporary reduction of 50% in either catch or effort will be imposed while the plan is amended for the Commission's approval. However, that was not an alternative to the submission of a plan. A member state could not implement a 50% reduction without submitting a plan.

Northern Ireland submitted three eel management plans for the north-east, the Neagh/Bann and the north-west. The plans were submitted to the EU via the Department for Environment, Food and Rural Affairs as part of the overall UK submission in December 2008, as required by the regulation. In December 2008, the Committee was advised of this and was supplied with copies of the draft plans for consideration.

There are no eel fisheries in the north-east, which covers County Antrim and County Down. Therefore, the north-east plan suggests that the conservation target will be met by natural means, assuming that the eel population recovers. It suggests that there are no practicable measures that can or should be implemented.

The Neagh/Bann plan includes the eel fishery in Lough Neagh — the largest in Europe. The plan provides the scientific rationale that the fishery is sustainable and that the conservation target is being reached through prudent management of the fishery and the restocking of baby eels into Lough Neagh by the Lough Neagh Fishermen's Co-operative Society Ltd over the past 20 years. The plan suggests that the fishery can continue at present levels, albeit under prudent management and close scrutiny and monitoring. If the conservation target is not met, further management measures will be introduced. Funding from the European fisheries fund, matched by funding from DCAL and the co-operative society, has been procured to continue restocking baby eels into the lough, as has been done in the past.

The third eel management plan covers the transfer from the Erne catchment. The regulation

requires member states to develop eel management plans jointly where there is a trans-boundary catchment; therefore, the north-west eel management plan was developed with authorities in the Irish Republic. Collaborative scientific work suggests that a cessation of commercial eel fishery is required in order for the UK and the Irish Republic to meet the conservation target and the requirements of the eel regulation. The Irish Republic opted to ban all eel fishing as, even with a complete cessation, it would be unable to meet its conservation target for at least 80 years.

DCAL has issued a capped number of licences and permits to fish for eels in Lough Erne. Seventeen licences were issued in 2008, and not all were actively fished. Our historical policy was to phase out eel fishing by a capped system of issuing licences so that as no new licences were issued and as people retired or, unfortunately, died, fishing would cease after a generation. Recent scientific evidence suggests, however, that a phased approach is no longer appropriate, and the Lough Erne eel fishery should close.

The north-east and north-west eel management plan therefore recommends that the traditional eel fishery in Lough Erne be replaced with a conservation fishery, which is run and funded by the Electricity Supply Board (ESB) in the Irish Republic. The Ballyshannon hydroelectric power station uses two turbines to generate electricity for the Republic, and these have been shown to cause a high mortality rate among eels and other fish trying to migrate to the sea from Lough Erne. The conservation fishery, which was established as a pilot scheme in 2009, captures live silver eels as they begin to migrate to the sea and transports them in tanks around the Ballyshannon station to the seaward side, where they are released to spawn. Under the plan, the ESB must undertake further research to establish and implement further mitigation measures to reduce and eliminate mortality at the turbines.

DCAL encouraged any Lough Erne eel fishermen who wished to tender for that conservation fishery, and we provided assistance wherever we could. Letters were issued and meetings were held in Enniskillen. As a result, four Lough Erne fishermen and two of their sons formed a group and submitted a tender for the conservation fishery. Unfortunately, the tender was unsuccessful.

The eel management plans were expected to receive formal approval by the European Commission in June 2009; in the event, only plans submitted by the Irish Republic were considered and approved at that meeting. The then DCAL Minister decided that although the plans that were approved included the north-west joint plan, because it was not approved as part

of the UK submission, eel fishing on Lough Erne should continue until the Commission considered and approved, or otherwise, the plan as part of a submission. Minister McCausland has continued that approach. The Commission approved the UK's eel management plans, including those submitted by Northern Ireland, at its management meeting on 4 March 2010. The requirements in each plan must be implemented immediately after approval.

The regulations were prepared to implement the cessation of commercial eel fishing, other than in Lough Neagh, specified weirs in the Lower Bann catchment, and, where specifically authorised, for conservation purposes.

The list of available licences in the schedule to the Eel Fishing (Licence Duties) Regulations (Northern Ireland) 2007 has been amended to remove any reference to eel fishing licences for Lough Erne and to remove licences for fyke nets, which were used for eel fishing outside Lough Neagh.

The Eel Fishing Regulations 2010 are a recast of the previous regulations; they prescribe the minimum size of eels that can be taken and provide for the return of undersized eels to the water from which they were taken after they have been graded. They also provide for the annual closed season for eel fishing and fishing weirs; these were part of the 1979 regulations and remain unchanged.

A suggestion that the length of eels described as "undersized" be increased has been received this week by the Department; it will be considered during the next legislative revision of the regulations.

Miss McIlveen:

I thank the witnesses for their presentation. I knew very little about eel fishing until I read the information before us today. It is shocking that it has taken 30 years from when the decline was first identified to adopting a co-ordinated approach to address the issue through eel management plans. However, I understand that other measures have been taken in advance of that. Is there a demand for eel?

Ms K Simpson:

There is a demand for eel, but not in Northern Ireland. Most of the catch from the Lough Neagh

fisheries is exported, mainly to Holland where there is a considerable demand.

Miss McIlveen:

Is it likely that there will be an increase in poaching as a result of more rigorous legislation?

Mr Marcus McAuley (Department of Culture, Arts and Leisure):

Yes. Those who have fished in areas outside Lough Neagh, particularly Lough Erne, may seek to poach. Responsibility for enforcing the legislation has transferred from the former Fisheries Conservancy Board to the Department under my supervision. The Department reorganised the enforcement function and hopes to be able to deal with the issue.

Miss McIlveen:

Scotland has banned eel fishing. Has the Department held discussions with representatives from Scotland on how they police it, what enforcement measures they use and whether there has been an increase in poaching?

Mr McAuley:

Scotland had very little in the way of eel fisheries; the rivers and lakes in Scotland do not provide the natural habitat for eels that, for example, Lough Neagh does. However, Scotland is required to deal with small matters of eel poaching and has enforcement capabilities similar to other jurisdictions.

Miss McIlveen:

Has the Department determined the penalties to be incurred by those involved in eel poaching?

Mr McAuley:

Penalties are prescribed in the legislation; however, the maximum penalty is ultimately a matter for the courts.

Miss McIlveen:

How does the Department plan to police the areas in question?

Mr McAuley:

The Department has teams of regionally organised enforcement officers. The Fermanagh team,

which works out of Riversdale near Enniskillen, has particular responsibility for that area and a patrol craft that is based on Lough Erne. Likewise, a dedicated team polices Lough Neagh.

Mr K Robinson:

The Lough Erne fishery is a cross-border operation and the one that will see the cessation of eel fishing. What are the Irish authorities doing to implement the EU regulation? What stage are they at and what level of co-operation will there be? I was going to ask about poaching because there are some similarities to what happened with the cross-border salmon fisheries. They struggled over many years to reduce the amount of netting, involve legitimate fishermen and push the others out of the picture altogether. What is happening in respect of cross-border co-operation?

Mr McAuley:

As the statement outlined, the Irish Republic has decided to ban eel fishing in its entire jurisdiction. There was close co-operation in drafting the north-west plan, which was trans-boundary. There was co-operation at scientific level and official level in the preparation and submission of that plan. It is identical to what was submitted on behalf of Ireland and the UK. Both were considered at different times, which was unfortunate but out of our control.

The Northern Regional Fisheries Board in Ballyshannon, which is soon to become part of Inland Fisheries Ireland, is co-operating on enforcement with people in Fermanagh. There is also close co-operation on scientific monitoring. Joint scientific groups meet regularly.

Mr K Robinson:

I wanted to expand on that point. The figures that you have provided indicate a couple of peaks in the Lough Erne system in 1982 and 1994. There were declines and suddenly, for whatever reason, there was a large increase. By my reckoning, there should have been another increase by about 2006, but that did not happen. Should the situation change in the future and should the fishery re-establish itself naturally, will the proposed legislation allow for eel fishing to be reintroduced?

Mr McAuley:

The eel stock is a European stock. That is unlike salmon, the population of which is specific to rivers and is, therefore, managed by member states. The intention of the regulation is that measures are taken across Europe to recover that stock. If recruitment into Lough Erne recovers

to a level at which a fishery would be sustainable, I hope that I am right in saying that it would simply be a matter of amending the regulations to permit fishing in the future.

Unfortunately, the life cycle of the animal is very long. Eels could be anything up to 20 years old before they mature from recruitment and escape as silver eels. There are still quite a few eels around. If there is any potential for a recovery, it is key that we protect them and allow them to spawn.

Mr K Robinson:

Could the legislation be amended to respond to a recovery?

Mr McAuley:

Absolutely.

Ms K Simpson:

There is provision in the eel regulations for periodic review. If a recovery of eel stocks were to be observed, the review could recommend that measures be put in place to resume exploitation of the recovered stock at a sustainable level.

Mr McCarthy:

Ms Simpson, you spoke about the 17 commercial eel fishermen who were entitled to fish for eels in Lough Erne. Obviously, they will lose that source of income as a result of the new regulation. You said that there is an opportunity to tender for the job of catching and transporting eels for conservation purposes. Am I correct in thinking that they lost that contract?

Ms K Simpson:

A group of our previous permit holders was formed to tender; their tender was unsuccessful.

Mr McCarthy:

Were those 17 fishermen in that group?

Ms K Simpson:

The four fishermen who formed the group to tender were part of those 17.

Mr McCarthy:

Are there any plans to compensate the 17 fishermen? They will have to find other sources of income.

Ms K Simpson:

There is no provision for the payment of compensation. Indeed, there is no precedent for the payment of compensation, either internationally in the EU, or in the UK. We are engaged in discussions with the Department of Agriculture and Rural Development (DARD), which is the lead Department in administering the European Fisheries Fund, in an effort to establish whether there is any provision in that fund to provide some form of funding for the previous permit holders. Those discussions are ongoing. It would be a fairly imaginative interpretation of the fisheries fund if we are able to secure funding from it, but we are engaged with DARD on that. Both Departments are very keen to pursue that as far as possible.

Mr McCarthy:

Are the fishermen affected involved in consultation? They will be seeking compensation because the regulations being introduced will lose them their income.

Ms K Simpson:

We are in contact with the fishermen and their representatives. The Minister of Culture, Arts and Leisure has met Minister Gildernew, Diane Dodds MEP and some permit holders. There has been a significant level of engagement with the fishermen and that is ongoing.

Mr McCarthy:

OK. That is fine.

Mr McClarty:

The Department received three consultation responses to the closure of Lough Erne eel fishery: did they all support the closure?

Mr McAuley:

The responses followed a presentation to the fishermen in Enniskillen on the scientific advice and recommendations. In some form or other, all the responses recognised the particular difficulties presented on the Erne by the entrainment of the system and the hydroelectric facilities. They also

fully supported the trap-and-transport operation; that is, the need to catch the eels and get them around that particular trauma. As was referred to, the fishermen recognise that their future prospects for eel fishing and perhaps that of their sons and grandsons depends on that. Therefore, they were very supportive of that approach, which we put to the Irish Republic. The resultant plan requires the delivery of that trap-and-transport operation, an assessment of the turbine damage and, ultimately, a solution to the turbine problem. That is the strategy that we adopted following their input.

The Deputy Chairperson:

I am not quite clear as to how the fishermen are reacting to the cessation of fishing.

Mr McAuley:

They are obviously disappointed that traditional fishing on Lough Erne must cease. There is regular discussion with the fishermen. There is also a review of the conservation fishery, which will be re-established as a more thorough, full conservation fishery this autumn, when the silver eels start to run. Fishermen will be supported in and advised about tendering for that so that they can participate in the conservation fishery in Lough Erne.

It is important not to lose sight of the many more fishermen on Lough Neagh — 120 or so — who, along with their families and helpers, we have enabled to continue with their fishery, but only after thorough negotiation and representations back and forth with the Commission. The plan was sent back on a number of occasions when we had to defend the fact that a large fishery would persist on Lough Neagh. We won that battle. Closure is faced at Lough Erne, but its fishermen may have an opportunity to participate in creating a future in eel fishing for them and their children.

Mr McCartney:

On a small point, there were 11 licence holders who were not part of that. Was anything proactive done to try to meet them?

Ms K Simpson:

All our permit holders were written to and invited to attend a series of meetings. It was up to them to choose whether to do so.

Mr McCartney:

Do I take it that the tender has now been granted?

Ms K Simpson:

The tender was granted for the pilot conservation fishery that was established last autumn. We expect there to be another tendering exercise for the full conservation fishery that will be established this autumn. DCAL will endeavour to assist, as far as it can, any permit holders who wish to establish a group to tender for the new conservation fishery.

Mr McCartney:

This matter may be confidential, but without giving any detail, can you say whether the six who attended the meeting were the basis of the tender application?

Mr McAuley:

Yes. Of those 17, some were very much part-time, and not all the licences were exercised. There was a core of regular fishermen, and it is they who have been most communicative and whom we have tried to assist.

Mr McCartney:

Is it fair to say that the Lough Neagh fishermen increased their chances to ensure that the stocks were properly managed because they organised as a co-operative? Will the Lough Erne licence holders be encouraged to do likewise, so that if they work as a co-operative, the situation may not be repeated in 10 or 20 years?

Mr McAuley:

The Lough Neagh fishermen showed considerable foresight when they recognised in 1982 that no glass eels were coming into Coleraine and, therefore, started to buy them. They have done that ever since, and that strategy meant that there was sufficient input so that even with the fishery, there has been sufficient output. Forming a co-operative clearly helped. The Lough Erne group is much smaller, and the set-up is different. However, the Department's encouragement led to four or five of them getting together to submit a tender. You are quite right about the importance of working as a co-operative, and they recognise that.

Mr McCartney:

Not having been awarded the tender may have left them a bit disgruntled, to say the least.

Mr McAuley:

The reasons why they did not get the tender are, unfortunately, commercial and in confidence, because it was run by ESB as an open tender. However, I engaged with ESB again recently about how they will organise in future and the need for more effort and involvement if possible.

Mr T Clarke:

What is the monetary value of eel fishing to the economy of Northern Ireland?

Mr McAuley:

Lough Neagh is the largest wild eel fishery in Europe. At one time, it paid its co-operative members up to £5 million. That is now down to about £2 million.

Mr T Clarke:

And Lough Erne?

Mr McAuley:

That is a much smaller concern. There was a small core of about eight to 10 regular fishermen. The Department analysed their income from that fishery. I probably should not say what that is, but they made a living, and the total value is approximately £300,000.

Mr T Clarke:

You said that you were going to have some craft. I understood that you already had some craft on the lough for the fisheries.

Mr McAuley:

The Department has an enforcement craft patrol on Lough Erne and Lough Neagh.

Mr T Clarke:

What is your success rate in enforcement and prosecution, given that there have been changes with the co-operative at Lough Neagh and that the number of fishing boats on the lough has been defined as a result of the process at Toomebridge? Illegal fishing took place there for many

years, so what is your success rate in catching those who are illegally fishing?

Mr McAuley:

On Lough Neagh, the co-operative is the fishery owner and had patrolled the fishery to enforce its own regulations.

Mr T Clarke:

I am talking about the Department.

Mr McAuley:

Quite; I am sorry. The Department recently assumed the functions of the Fisheries Conservancy Board, which was the enforcement agency. Only since last June, I have organised a team and organised how we will prevent illegal fishing on Lough Neagh. We already have a number of detections.

Mr T Clarke:

How many, and how many prosecutions?

Mr McAuley:

Nothing has come through since the Department began to manage that. However, we have implemented a system of recording those detections and of taking the process through to prosecution.

Mr T Clarke:

It seems that Lough Erne has been earning a considerable amount of money, which it has worked for. However, it would be disheartening to find that, due to illegal fishing, which has been going on for a number of years, people who fish legitimately are being forced out of businesses because of European regulations. How many people have been prosecuted for illegal fishing has not been established definitively. I do not live far from Lough Neagh and know that illegal fishing has been going on for many years, contrary to what everybody wants. Therefore, it is not very encouraging that some people will lose their licences and income while others continue to sustain a living illegally. Marcus said that the Department took over in June last year and that it has recorded incidents of illegal fishing. However, I am not hearing of any action being taken.

Mr McAuley:

I assure you that action is being taken and will be taken and, in future, I will be quite happy to provide the Committee with details of that.

Mr T Clarke:

Good work has happened with the fishermen's co-operative at Lough Neagh, such as the insight that it showed in the 1980s when it realised that stocks were unsustainable.

How long was the Fisheries Conservancy Board in operation?

Ms K Simpson:

The Fisheries Conservancy Board was established by fishermen in 1966. The number of prosecutions for illegal activity on the lough is not directly representative of the success of the enforcement effort, either by the board or as inherited by DCAL. A number of the illegal nets that are detected on the lough are unmarked and, therefore, we do not know who owns them. In those cases, a prosecution cannot be taken. Nets are seized and removed from the lough if they are illegal nets, which are usually monofilament and marked. However, without knowledge of ownership, a prosecution cannot follow.

Mr T Clarke:

You said that the Fisheries Conservancy Board existed since the 1960s. Michelle asked about the decline in stock over the past 30 years. Given that the fishermen's co-operative had the insight to look at stocking Lough Neagh, which obviously helped to sustain their fishing, why was a similar intervention not made at Lough Erne? Why did the Fisheries Conservancy Board not have the foresight to try to invest in the lough? You said that the profit of Lough Neagh has gone from £5 million to £2 million and that Lough Erne makes around £200,000 or £300,000, which is a substantial amount of money to keep anybody employed. Why was no effort made in the past to stock Lough Erne?

Mr McAuley:

I will start with what has been done, if I may. The turbines in Lough Erne, which date from the 1950s, have presented a significant problem for migratory fish. Glass eels coming into the river in the 1950s and 1960s, until the decline in the 1980s, were captured, lifted and redistributed into the lough to support the fishery. As Karen mentioned, the policy for Lough Erne has been for a

very small, traditional fishery, which has been capped.

Mr T Clarke:

You are saying that you moved the glass eels and brought them into the lough, which makes sense. Glass eels make a similar passage, albeit without the turbines, when coming through Coleraine. However, the large fishery at Lough Neagh recognised some time ago that it was still not getting enough migrating eels and had the foresight to purchase some. Why did the Fisheries Conservancy Board not have the same vision for Lough Erne?

Mr McAuley:

For very many years, as I was describing, glass eels that came in were transported around to sustain the level of the traditional fishery. Unfortunately, it was never scientifically established how bad the glass eel recruitment situation was until relatively recently.

Mr T Clarke:

What have you done to improve the situation since that was established? Other than capped fishing and what sounds like removing fishing rights, what has the Department done to try to change the situation?

Mr McAuley:

The Department has developed the eel management plan, which introduces a conservation fishery to try to get the silver eels out and contribute to the spawning stock.

Mr T Clarke:

You said that that was already happening.

Mr McAuley:

No, the conservation fishery in Lough Erne was only established as a result of the eel management plan. That plan requires the Electricity Supply Board to operate and pay for the conservation fishery. The plan also requires ESB to work out the mortality caused by the turbines, which, in recent years, scientific information suggests could be close to 100%. That is the key issue. Finally, the Electricity Supply Board must come up with an engineering solution to that. That is the commitment in the plan that was submitted by the Irish Government to Europe.

Although it would have been good to have had the foresight to stock Lough Erne with eels, that did not happen.

Mr T Clarke:

It sounds as though there is no joined-up approach. We have had an admission from the Department regarding how the situation was handled in Toomebridge over 20 years ago. There, they had the foresight to restock. Even in your submission today, you recognise that restocking has been going on for some time in Lough Neagh. However, the Department has not taken a joined-up approach. How can it be that one fishery can operate properly but the Department did not assist another fishery at which it was aware that stock was being lost due to the turbines? I am bewildered by that.

Mr McAuley:

I can only say that the Lough Neagh Fishermen's Co-operative Society Ltd is just that; a co-operative that operates as a limited society. Therefore, it is organised as a very significant business in Lough Neagh and has invested in its future. The co-operative did an excellent job and continues to do so. However, Lough Erne is different. It was fished by a small number of independently operating permit holders and, for a considerable time, the stocks sustained their living. The dire situation as regards the future was only scientifically established relatively recently. However, I acknowledge that it would have been helpful if those permit holders had approached the Department in an organised way to suggest that Lough Erne needed to be restocked, or if the Department had had more information so that it could have been proactive. Unfortunately, that did not happen.

Mr T Clarke:

When did you first know that the number of eels in Lough Erne was in decline?

Mr McAuley:

The data shows that Lough Erne has had a very unusual pattern of recruitment in comparison with the overall European picture. In Lough Neagh, the decline happened suddenly in the early 1980s, as was spotted by the fishery. The decline was drastic and the numbers did not come back. However, Lough Erne was more of a hotchpotch. Therefore, there was not as clear a signal as to how bad the problem was.

The Deputy Chairperson:

Thank you for answering our questions. We shall consider the matter further.