

Consultation Document

Consultation on the review of European Union (Birds and Natural Habitats) (Sea-fisheries) Regulations 2013 (S.I. No. 290 of 2013)

Purpose of the Consultation

The purpose of this consultation is to seek your views on the review of [European Union \(Birds and Natural Habitats\) \(Sea-fisheries\) Regulations 2013 \(S.I. No. 290 of 2013\)](#).

Reasons for the Review

Given that the Regulations have been in place for seven years it is appropriate to review the Regulations at this time. The review will consider the potential updating of said Regulations to ensure continued compatibility with EU law.

Overview of Regulations

The European Union (Birds and Natural Habitats) (Sea-Fisheries) Regulations 2013 (S.I. No. 290 of 2013 as amended by [S.I. No. 565 of 2014](#)) were introduced to put in place legally binding mitigation measures in accordance with Article 6 of the Habitats Directive as part of Ireland's response to the ECJ judgment in [Case C-418/04](#) concerning Ireland's failure to implement the Habitats Directive.

The Regulations, which consolidate Regulations in place in 2009, 2010 and 2012, provide the Minister for Agriculture, Food and the Marine ("the Minister") regulatory powers to manage sea-fisheries, consistent with the responsibilities conferred under the Sea-Fisheries & Maritime Jurisdiction Act 2006 and permissible to Ireland as a Member State under the Common Fisheries Policy, specifically for the purpose of the Birds and Habitats Directives.

The Regulations apply to the regulation of sea-fishing activity in so far as the regulation of that activity is necessary to secure compliance with the European Communities (Birds and Natural Habitats) Regulations 2011 ([S.I. No. 477 of 2011](#)) and the objectives of the Habitats Directive. The scope of the Regulations is neither constrained by nor specific to the length of sea-fishing boats.

A brief summary of S.I. No. 290 of 2013 is as follows:

- Regulation 3 provides for the submission of a Fisheries Natura Plan in relation to planned fisheries.
- Regulation 4 provides for a screening of a Fisheries Natura Plan to determine whether or not an appropriate assessment is required.

- Regulation 5 provides for an appropriate assessment of a Fisheries Natura Plan and also provides for public and statutory consultation.
- Regulation 6 provides for the Minister to make a determination to adopt a Fisheries Natura Plan. The Minister may amend, withdraw or revoke a plan.
- Regulation 7 provides for publication of the adopted Fisheries Natura Plan.
- Regulation 8 provides for a risk assessment of unplanned fisheries and also provides for public and statutory consultation on the assessment.
- Regulation 9 provides for the issue of a Fisheries Natura Declaration to prohibit, restrict including restricting by permit, control, etc. of sea-fishing activities.
- Regulation 10 provides for Fisheries Natura Permits to be issued where required by Fisheries Natura Declaration.
- Regulations 11 to 31 deal with functions of authorised officers and related matters, offences, etc.

The Fisheries Natura Declaration is the legal instrument which prescribes the measures for managing the risks posed by specific sea-fishing activities. S.I. No. 290 of 2013 identifies offences including failure to comply with a Declaration (Regulation 25). S.I. No. 290 of 2013 sets down the enforcement powers available to the Sea-Fisheries Protection Authority, consistent with the scope of powers available for sea-fisheries generally.

Examples of completed appropriate assessments include Castlemaine Harbour SAC/SPA in 2017 and Dundalk Bay SAC/SPA in 2016. Fisheries Natura Declarations were issued for each fishery enforcing conditions of fishing.

In respect of Castlemaine Harbour SAC/SPA, the Fisheries Natura Declaration restricts mussel seed fishing in the harbour to holders of Fisheries Natura Permits. Permits in turn restrict fishing to defined coordinates and imposed catch limits in order to preserve a percentage of the mussel biomass for over-wintering birds.

Likewise, the Fisheries Natura Declaration for Dundalk Bay imposes a minimum landing size for cockles, restricts cockle fishing to holders of Fisheries Natura Permits, for both dredge fishing and hand raking from the shore, and specifies mechanisms for triggering closure of the fishery to preserve a percentage of cockles for over-wintering birds. Fishing for cockles did not take place during 2014 or 2015. Permits were only issued to vessels for cockle fishing in Dundalk Bay for 2016, 2017, 2018, 2019 and 2020. As there was evidence of poor compliance amongst hand gatherers in recent years, no permits were issued for this activity in these years.

Fisheries Natura Declarations which are in place for a number of areas are available online at:

<http://www.fishingnet.ie/sea-fisheriesinnaturaareas/natura2000sitesundermanagement/>

Consultation Document

This Consultation Document requires a response from you to the questions provided. The Consultation Document has two parts. These are:

- Part 1 - Tell us about you
- Part 2 - Give us your views.

Submissions will be accepted:

- online at the following webpage: <https://www.surveymonkey.com/r/PCMJGN8>
- by email to: inshore@agriculture.gov.ie (with the subject line “Review of S.I. No. 290 of 2013”), or
- by post to: Review of S.I. No. 290 of 2013
 Marine Programmes Division
 Department of Agriculture, Food and the Marine
 National Seafood Centre
 Clonakilty, Co. Cork P85 TX47

The closing date for responses is: close of business on Friday, 9 October 2020.

Freedom of Information

All submissions and comments submitted to the Department for this purpose are subject to release under the Freedom of Information (FOI) Act 2014 and the European Communities (Access to Information on the Environment) Regulations 2007- 2014. Submissions are also subject to Data Protection legislation.

Personal, confidential or commercially sensitive information should not be included in your submission and it will be presumed that all information contained in your submission is releasable under the Freedom of Information Act 2014.

Data Protection

Please note that if you make a submission you are agreeing for it to be published in accordance with the EU General Data Protection Regulation (GDPR EU 2016/679), the Data Protection Acts 1988-2018, the Freedom of Information Act 2014 and the DPER Consultation Principles and Guidance.

Privacy Statement

The Department of Agriculture, Food and the Marine is committed to protecting and respecting your privacy and employs appropriate technical and organisational measures to protect your information from unauthorised access. The Department

will not process your personal data for any purpose other than that for which they were collected. Personal data may be exchanged with other Government Departments, local authorities, agencies under the aegis of the Department, or other public bodies, in certain circumstances where this is provided for by law.

The Department will only retain your personal data for as long as it is necessary for the purposes for which they were collected and subsequently processed. When the business need to retain this information has expired, it will be examined with a view to destroying the personal data as soon as possible, and in line with Department policy. Further information on Data Protection can be found on our website at: <https://www.agriculture.gov.ie/dataprotection/informationondataprotection/>

Part 1 - Tell us about you

1. I am making this submission:

<input type="checkbox"/> On my own behalf	<input type="checkbox"/> On behalf of an organisation/group
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2. I am a:

<input type="checkbox"/> Fisherman	<input type="checkbox"/> Political representative
<input type="checkbox"/> Representative of fishermen association	<input type="checkbox"/> Representative of an environmental NGO
<input type="checkbox"/> Representative of state body	<input type="checkbox"/> Representative of trade association
<input type="checkbox"/> Scientist / technical expert	<input type="checkbox"/> Other (please specify)
<input type="checkbox"/> Member of general public	

3. My contact information is:

Name	
Address	
Phone number (optional)	
Email address (optional)	

Part 2 - Give us your views

Q1. Do the Regulations fulfil the objectives they set out to achieve? Please provide details to support your answer.

Q2. What, in your opinion, are the positive benefits of the Regulations?

Q3. Should any specific part of the Regulations be amended? If yes, please provide details of the suggested amendment and why you consider such an amendment to be necessary.

Q4. Prior to this consultation what was your awareness of the Regulations and the impacts they have on sea-fishing activities?

Q5. Do you have any further comments you would like to make in relation to the Regulations?

