

Annex A

PARTIAL REGULATORY IMPACT ASSESSMENT ON THE PROPOSED FOYLE AREA AND CARLINGFORD AREA (EEL PASSAGE) REGULATIONS 2015



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1.0 Title of proposal

The Foyle Area and Carlingford Area (Eel Passage) Regulations 2015

2.0 Purpose and intended effect

Objectives

The objective of this impact assessment is to inform policy on the proposed Regulations which will:-

1. Compel anyone who constructs, alters or maintains a dam or other similar structure to first notify the Loughs Agency.
2. Compel responsible persons to immediately notify the Loughs Agency of any obstructions.
3. Allow the Loughs Agency to issue notices to responsible persons compelling them to construct an eel pass or passes, alter existing eel or fish passes and operate an existing eel pass or passes in accordance with prescribed conditions. The notice may also compel them to remove an obstruction.
4. Allow the Loughs Agency to issue notices to responsible persons requiring them to submit plans for new eel passes or for the alteration of existing eel passes, and require the construction of eel passes or alteration of eel passes or fish passes in accordance with Loughs Agency approved plans.

5. Prescribe the conditions attached to a notice to be issued on eel passes.
6. Allow the Loughs Agency to issue notices to responsible persons to operate any eel passes constructed or altered, and alter any fish passes altered under the Regulation, and also make alterations to any eel pass constructed or altered or to any fish pass altered under the Regulation.
7. Make it an offence to damage, interfere with, obstruct or do anything that impedes eels through an eel pass.

3.0 Background

The Loughs Agency holds the management, conservation, protection, improvement and development of the inland fisheries of the Foyle and Carlingford areas as vital in fulfilling its aims and objectives as set out in the North/South Co-operation (Implementation Bodies) (NI) Order 1999, the British-Irish Agreement Act 1999, the Foyle Fisheries Act (NI) 1952 (as amended) and the Foyle Fisheries Act 1952 (as amended).

As part of its duties the Loughs Agency aims to maintain, preserve, protect and enhance the stocks of fish species within its jurisdiction. The European eel (*Anguilla anguilla*) which is found in the jurisdiction is in need of significant protection as it has undergone a catastrophic decline in population over recent decades. The European eel is classed as 'Critically Endangered' by the IUCN Red List of Threatened Species, and in 2006 the International Council for the Exploration of the Sea (ICES) warned that the stock of the European eel was outside safe biological limits across European waters. According to their statistics, the European eel population level was at approximately 5% of the levels in the 1980s. Additionally the EU introduced

Council Regulation (EC) No.1100/2007 in September 2007 which introduced a framework for the recovery of the stock of the European eel, the goal of which is to achieve 40% of adult eels to spawn, proving that there is a need to increase the protection afforded to the European eel.

4.0 Rationale for regulatory intervention

European eel stocks are currently severely depleted and a major cause of the population crash affecting the European eel which has been identified is the increased prevalence in recent years of hydroelectric plants and other obstructions along rivers. These interfere with the normal migratory behaviour of the European eel which leaves European rivers to find their spawning grounds in the western Atlantic/Sargasso Sea area before the young return to European Rivers. These obstructions prevent the eels from making their migration and thus can have a serious detrimental effect on the population.

Eels may travel upstream from the sea at various stages in their lives. There are a number of obstructions (such as weirs or dams) that prevent or reduce this upstream migration, limiting the colonisation of suitable habitat. Glass eels (the young eels) undergo a significant density dependant mortality as they come to the end of this vulnerable life stage and start feeding in rivers and in doing so have the stores needed to gain pigment and muscle up into young eels. This is a natural process but if habitat and food availability were increased, the levels of this mortality would decrease accordingly, improving survival rates and likely eel numbers developing into adults.

A method of negating this is through the introduction of eel passes which allow eels to successful traverse such obstructions therefore enabling them to complete their migration to and from their spawning grounds.

Currently there are few protections for eels in legislation enforceable in the Loughs Agency jurisdiction and these Regulations would serve to right this. By introducing legislation to assist in the passage of eels the Regulations will increase the number of eels which can successfully migrate to and from their spawning grounds thus having a positive effect the population.

5.0 Consultation

Within government

Government Departments will be routinely consulted as part of the public consultation exercise.

Public consultation

A public consultation exercise with stakeholders will be undertaken. The proposed regulation has been screened for equality implications and there are no equality issues for any of the groups highlighted in section 75 of the Northern Ireland Act 1998.

6.0 Options

Option 1: Do nothing.

Option 2: Change regulations

Option (1) - Do nothing.

Doing nothing would not be an acceptable option for the Loughs Agency. European eel numbers have been severely reduced in recent decades and an area identified as contributing to this is the increasing number of obstructions to their passage along rivers. Many of these obstructions prove impassable to eels. Without regulatory intervention to introduce, manage, and maintain eel passes around barriers to their migration, these obstructions will still prevent eels from completing their migrations thereby continuing to negatively impact eel populations in the Foyle and Carlingford areas.

Option (2) - Introduce Regulations

This option is the only viable option Loughs Agency has in terms of regulatory development.

7.0 Costs

The Regulations propose that a person who is the owner, occupier or person in charge of the land on which the dam, structure or obstruction lies, shall at their own expense construct an eel pass, make alterations to an existing eel or fish pass, operate an existing eel pass in accordance with any conditions stated in the notice, remove an obstruction, or any other action specified in the notice which the Loughs Agency will issue in accordance with the limits set out in the Regulations. Plans for possible obstructions to a river such as hydroelectric schemes may be forced to alter any plans they have to include an eel pass if the plans are proposed after the date of the introduction of this Regulation.

8.0 Sectors and groups affected

The proposed Regulations have been screened for equality implications and there are no equality issues for any of the section 75 groups as specified in the Northern Ireland Act 1998; however these groups will be included in the consultation process.

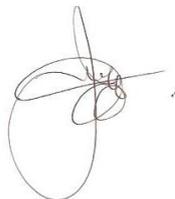
9.0 Summary and recommendation

To introduce the regulations as proposed.

10.0 Declaration and publication

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed

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Date

1st January 2015