



CONSULTATION DOCUMENT

PROPOSED FOYLE AREA AND CARLINGFORD AREA (EEL PASSAGE) REGULATIONS 2015



PROPOSED FOYLE AREA AND CARLINGFORD AREA (EEL PASSAGE) REGULATIONS 2015

CONSULTATION DOCUMENT

INTRODUCTION

This Consultation Document sets out proposals by the Loughs Agency to introduce Regulations for the protection and enhancement of eel stocks through the regulation of eel passes and obstructions to eels in the Foyle and Carlingford areas.

These Regulations are made under Section 13(1) of the Foyle Fisheries Act 1952 and the Foyle Fisheries Act (Northern Ireland) 1952.

The consultation document is available on the Loughs Agency website at www.loughs-agency.org.

PURPOSE

These Regulations propose to;

1. Require people notify the Loughs Agency if they intend to construct, alter or maintain a dam or structure which may impede the passage of eels.
2. Require a report of any obstructions to the Loughs Agency if they are a responsible person. A “responsible person” in relation to a dam,



diversion structure or obstruction means the owner, occupier or person in charge of the land on which the dam, structure or obstruction lies.

3. Require, if the passage of eels is being impeded, that a responsible person may have to construct, alter or operate an eel pass, or remove any obstruction to an eel pass if the Loughs Agency serves them a notice to that effect.
4. Make it an offence for any person to damage, interfere with, obstruct or do anything that impedes the passage of eels through an eel pass.

BACKGROUND

The Loughs Agency has the conservation, protection and improvement of the fisheries of the Foyle Area as one of its key functions according to Section 11 of the Foyle Fisheries Acts 1952. As part of this the Loughs Agency manages the conservation and protection of fish and eel stocks in its jurisdiction.

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 (*Anguilla anguilla*) was outside safe biological limits across European waters. At this time the European eel population level was at approximately 5% of the levels in the 1980s. Following this, 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.



A major cause of this population crash which has been identified is the increased prevalence in recent years of hydroelectric plants and other obstructions to rivers. These interfere with the 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 therefore preventing them from reaching their spawning grounds or the young from returning to the rivers and thus can have a serious detrimental effect on the population. A method of negating this is through the introduction of eel passes which allow eels to successfully traverse such obstructions therefore enabling them to complete their migration to and from their spawning grounds. It is, therefore, the Loughs Agency's aim to introduce regulations which allow for the introduction, upkeep, and maintenance of eel passes.

OVERVIEW OF THE PROPOSED REGULATION

The proposed Regulation allows for the introduction of provisions which will compel persons to report any obstructions or proposed obstructions to the Loughs Agency. They also regulate the introduction, maintenance and alteration of eel passes.

- Regulation 3 – Any person who constructs, alters or maintains a dam or structure which may cause an obstruction to eel passage must first notify the Loughs Agency. If they fail to do so they will be deemed to have committed an offence.
- Regulation 4 – A responsible person (as defined in Regulation 2) shall be required to inform the Loughs Agency if there is any obstruction



which has come into being from the time when the Regulations come into force.

- Regulation 5 – If the Loughs Agency is informed that the passage of eels is likely to be impeded by a dam or obstruction in or near waters to which these Regulations apply, any works notified to the Loughs Agency under regulation 3, or any obstruction notified to the Loughs Agency under regulation 4, then the Loughs Agency may issue a notice to a responsible person requiring them to construct an eel pass, operate an eel pass, or alter an eel or fish pass at their own cost. The notice may also require them to remove an obstruction. Failure to comply with this notice will be an offence.
- A further notice may then be issued requiring that the responsible person operate any eel pass constructed or altered, or any fish pass altered, or to make any alterations to an eel pass constructed or altered or to any fish pass altered under this regulation. Failure to comply with this notice will be an offence.
- A notice issued by the Loughs Agency cannot require anything that interferes with any statutory right of navigation.
- The notice issued by the Loughs Agency can require a responsible person to submit plans for an eel pass or for alterations to an existing eel pass or fish pass to the Loughs Agency for approval by a specified time and date, and may require the construction of an eel pass, or alterations to an existing eel or fish pass, to be carried out in accordance with plans approved by the Loughs Agency.
- Regulation 6 – It will be an offence to damage, interfere with, obstruct or do anything that impedes the passage of eels through an eel pass.



DETAILS OF CONSULTATION PROCESS

1. Responses to this Consultation Document should be received no later than 26th August 2015.
2. Responses and any comments about this Consultation should be either:
 - sent to the Foyle Area and Carlingford Area (Eel Passage) Regulations Consultation, Loughs Agency, 22 Victoria Road, Prehen, Londonderry, BT47 2AB, (Fax Number (028) 71342720); or
 - emailed to laura.mccready@loughs-agency.org
3. Hard copies of this Consultation Document can be obtained from Loughs Agency at the above address or by telephoning Laura McCready on (028) 71342100.
4. The Consultation Document is also available on the Loughs Agency website at www.loughs-agency.org
5. Copies of this document in an alternative format can be made available on request in large print, disk, Braille and audiocassette. It may also be made available in other languages on request.



FREEDOM OF INFORMATION

Loughs Agency will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Agency can only refuse to disclose information in exceptional circumstances. A full copy of the Freedom of information Code of Practice is available for download or viewing at www.loughs-agency.org

EQUALITY IMPACT AND HUMAN RIGHTS IMPLICATIONS

The policy has been screened for section 75 groupings and there are no equality issues for any of the section 75 groups.

The Loughs Agency is of the view that the proposed legislation is compatible with the Human Rights Act 1998.

REGULATORY IMPACT ASSESSMENT

A partial regulatory impact assessment is attached at Annex a. The Agency would welcome comments on the draft assessment.

ENQUIRIES AND FURTHER COPIES

For enquiries and further copies please contact the address below:



Loughs Agency
22 Victoria Road
Londonderry
Northern Ireland
BT47 2AB

The consultation document is also available on the on the Loughs Agency website at www.loughs-agency.org

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

John McCartney
Director of Conservation and Protection.

Consultation Responses



1. Name / Organisation

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Forename

2. Postal Address

<input type="text"/>		
<input type="text"/>		
<input type="text"/>		
<input type="text"/>		
Postcode:	Phone:	Email:



Response Questions

Question 1: Have you any comments on the requirement that any person who constructs, alters or maintains a dam or structure must first notify the Loughs Agency and that a failure to do so shall be an offence?

Question 2: Have you any comments on the requirement that a responsible person (as defined in the regulations) must immediately notify the Loughs Agency of any obstruction occurring since the coming into force of these Regulations and that a failure to do so shall be an offence?



Question 3: Have you any comments on the proposal that the Loughs Agency may, by service of a notice, require a responsible person, at their own cost, to—

- (a) construct an eel pass;
- (b) make alterations to an existing eel or fish pass;
- (c) operate an existing eel pass in accordance with any conditions stated in the notice;
- (d) remove an obstruction; or
- (e) take any other action specified in the notice.

And that a failure to comply with the notice shall constitute an offence.

Question 4: Have you any comments on the proposal that the Loughs Agency may, by service of a further notice, require the responsible person—

- (a) to operate any eel pass constructed or altered, or any fish pass altered, under this regulation in accordance with any conditions stated in the notice;
- (b) to make any alterations to an eel pass constructed or altered or to any fish pass altered under this regulation.



And that a failure to comply with the notice shall constitute an offence.

Question 5: Have you any comments on the proposals that the notice—

- (a) may not require anything that interferes with any statutory right of navigation;
- (b) may require the responsible person to submit plans for an eel pass or for alterations to an existing eel pass or fish pass to the Loughs Agency for approval;
- (c) must give the date by which such plans must be submitted;
- (d) may require the construction of an eel pass, or alterations to an existing eel or fish pass, to be carried out in accordance with plans approved by the Loughs Agency.

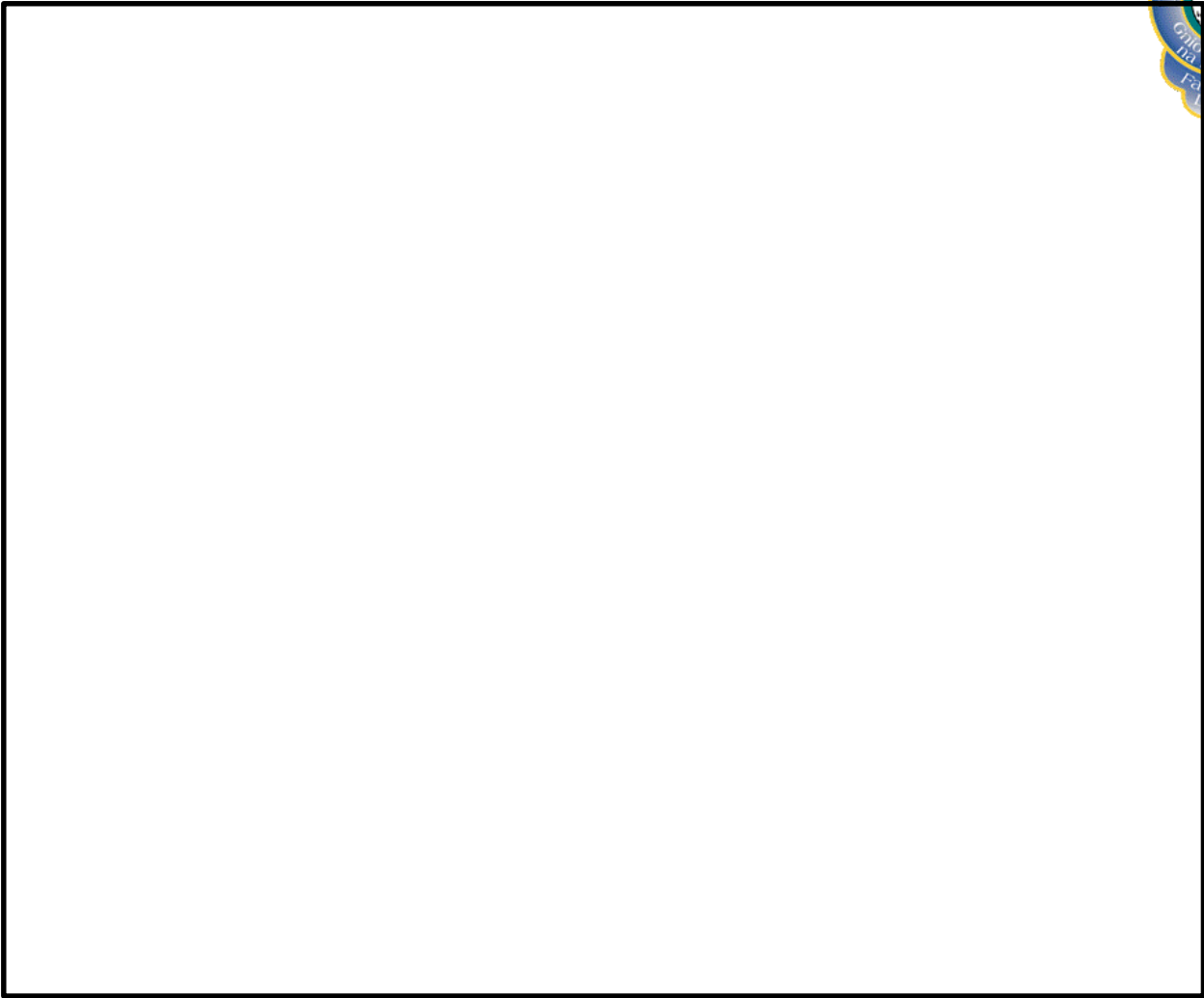


Question 6: Have you any comments on the proposals that a person must not damage, interfere with, obstruct or do anything that impedes the passage of eels through an eel pass and that failure to comply with this shall be an offence?



Question 7: Have you any comments on the provisions which determine when these Regulations will apply?

Question 8: Do you have any further comments or recommendations regarding these proposals?



Thank you for taking time to respond to this consultation.