



Northern Ireland  
Assembly

# Research and Information Service Bill Paper

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## **Fisheries Bill – Clause 6**

**NIAR 176-15**

This Bill paper provides an overview of the Fisheries Bill as introduced to the Assembly on the 7th December 2015. The paper also identifies those areas within the Bill which may benefit from further scrutiny in relation to Clause 6.

This Bill Paper should be read in conjunction with NIAR 538-15 which examines the inland fisheries elements of the Bill, and NIAR 685-15 which provides a framework for financial scrutiny of the Bill







## Key Points

- The proposed Fisheries Bill seeks to build upon and update a number of existing pieces of primary legislation;
- The proposed Bill deals with provisions relating to both sea and inland fisheries/fishing activity, and as such within the current Northern Ireland Executive structure has elements which are the responsibility of DARD and DCAL respectively;
- DARD and DCAL conducted a public consultation on proposals for the introduction of amended fisheries legislation between August and November 2015. A total of 57 written responses were submitted to the consultation but the greatest number of these dealt with inland fisheries issues;
- The Fisheries Bill was introduced to the Assembly on the 7<sup>th</sup> December 2015;
- The aim of the Bill is to ensure that local legislation remains fit for purpose in relation to protecting sensitive marine and inland fishery environments and limited fish stocks, whilst also ensuring compliance with EU obligations.
- The Bill itself is composed of 19 clauses that deal with sea fisheries, inland fisheries, fixed penalty notices and general issues;
- DARD Minister Michelle O'Neill MLA proposed, with the consent of the ARD Committee, to take forward only Clause 6 of the Bill to consideration stage;
- There are a number of areas relating to Clause 6 within the Bill which may benefit from further scrutiny as follows:
  - Compliance with Common Fisheries Policy requirements and associated reduction of the threat of potential infringement – will the adoption of the changes proposed within Clause 6 avert the risk of EU infringement?;
  - Statutory Rules impacts in relation to sea fishing obligations – revocation of existing and potential reduction in a number of new ones;
  - Is there a potential risk of 'gold plating' of EU legislation – what steps could be taken to ensure compliance is to an appropriate standard?
  - The assessment of the potential costs of Clause 6 within the Bill is dealt with in an associated briefing paper from RaiSe's Public Finance Scrutiny Unit (NIAR 685-15).



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# 1 Introduction

The proposed Fisheries Bill seeks to build upon and update a number of existing pieces of primary legislation including:

- Fisheries Act (Northern Ireland) 1966<sup>1</sup>;
- Sea Fish (Conservation) Act 1967<sup>2</sup>;
- Sea Fisheries Act 1968<sup>3</sup>; and
- Fisheries Act 1981<sup>4</sup>;

Some of the amendments to these existing pieces of legislation in Northern Ireland will see Northern Ireland being brought into line with provisions within the 2009 Marine and Coastal Access Act in England and Wales.

The proposed Bill deals with provisions relating to both sea and inland fisheries/fishing activity, and as such within the current Northern Ireland Executive structure, has elements which are the responsibility of the Department of Agriculture and Rural Development (DARD) and the Department of Culture, Arts and Leisure (DCAL) respectively.

Due to a number of issues around the available time for committee scrutiny of the Bill, DARD Minister Michelle O'Neill MLA proposed, with the consent of the Agriculture and Rural Development (ARD) Committee, to take forward only Clause 6 of the Bill to consideration stage. This clause was identified by DARD as the most time critical sea fisheries issue in light of a potential risk of EU infringement as a result of a failure to amend Section 30 of the Fisheries Act 1981 as it applies to Northern Ireland. As a result this Bill Paper focuses on issues pertaining to Clause 6 which is sea fisheries specific and as such falls under the legislative scrutiny of the Assembly's ARD Committee.

## 2 Overview of Bill

The following is a brief outline of the Bill, which consists of nineteen clauses.

Clauses 1 to 9 deal exclusively with sea fisheries as follows:

### **Clause 1 – Sea Fishing**

This clause would see the extension of Section 124 of the Fisheries Act (Northern Ireland) 1966, and would allow for the development of regulations that would either prohibit or restrict fishing for sea fish without a permit issued by DARD.

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<sup>1</sup> Fisheries Act (Northern Ireland) 1966: <http://www.legislation.gov.uk/apni/1966/17>

<sup>2</sup> Sea Fish (Conservation) Act 1967: <http://www.legislation.gov.uk/ukpga/1967/84>

<sup>3</sup> Sea Fisheries Act 1968: <http://www.legislation.gov.uk/ukpga/1968/77>

<sup>4</sup> Fisheries Act 1981: <http://www.legislation.gov.uk/ukpga/1981/29>

The clause also deals with the issue of sea fishing permit provisions through the creation of new sections, 124A and 124B within the 1966 Act. These provisions identify where, how and to whom permit regulations would apply, and also deal with the issue of conditions (both general and specific) that may apply to a permit. The clause also deals with new powers to vary, revoke or suspend permits and also outlines the appeals mechanism against any such decision. A new section specified within the clause would also create an offence of giving false information for the purpose of obtaining a permit.

### **Clause 2 – Size limits for sea fish**

Clause 2 within the proposed Bill would amend Section 127 of the Fisheries Act 1966 and would allow DARD to bring forward subordinate legislation relating to the sizes of sea fish. Whilst the 1966 Act deals with ‘minimum sizes of fish’, the proposed amendment would refer to ‘requirements as to size’, and as a result would theoretically mean that DARD could have wider powers to restrict the size of fish caught.

### **Clause 3 – Grant of licences subject to conditions imposed for environmental purposes**

Clause 3 amends Section 4 of the Sea Fish (Conservation) Act 1967 by including conditions in relation to marine environmental purposes as an optional element of sea fishing licences for specified areas.

### **Clause 4 – Powers of British sea-fishery officers to enforce sea fisheries legislation**

Clause 4 deals with the issue of sea fisheries legislation enforcement and would give authorised officers the common and fisheries enforcement powers set out in the Marine and Coastal Access Act 2009<sup>5</sup>.

### **Clause 5 – Section 4: interpretation etc**

Clause 5 sets out interpretation of the terms and phrases used in Clause 4 of the Bill.

### **Clause 6 – Enforcement of EU rules**

Clause 6 amends Section 30(1) of the Fisheries Act 1981 so that it applies to enforceable EU restrictions and obligations. These requirements would also apply to all fishing boats within the Northern Ireland Zone and to Northern Ireland fishing boats outside the Northern Ireland Zone.

### **Clause 7 – Penalties for certain offences under the 1966 Act**

Clause 7 amends the Fisheries Act (Northern Ireland) 1966 to increase the maximum level of fine applicable for anyone found guilty of certain sea fisheries offences under the 1966 Act. The increases would result in the following:

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<sup>5</sup> Marine and Coastal Access Act 2009: <http://www.legislation.gov.uk/ukpga/2009/23>

- **Breaching sea fishing regulations made under Section 124** – up to £50,000 penalty on summary conviction. Fine on indictment;
- **Breaching an order relating to undersize fish made under Section 127** – up to £50,000 penalty on summary conviction. Fine on indictment;
- **Assaulting an authorised person (Section 182)** – up to £50,000 penalty on summary conviction and/or a maximum 6 months imprisonment;
- **Obstructing or impeding authorised person (Section 183)** – up to £20,000 penalty on summary conviction.

#### **Clause 8 – Penalties for offences under the Sea Fish (Conservation) Act 1967**

Clause 8 amends the Sea Fish (Conservation) Act 1967 to increase the maximum level of fine applicable for anyone found guilty of certain sea fisheries offences under specified sections of the 1967 Act.

#### **Clause 9 – Offences by directors, partners etc.**

Clause 9 replaces Section 12 of the Sea Fish (Conservation) Act 1967 and provides that where certain offences under the Act have been committed by a body corporate, then an officer, as defined, of the body corporate may be found guilty of that offence and liable to proceedings and fines. Officers will be liable in this way only where the offence has been committed with their consent or connivance or through their neglect.

Clauses 10 to 13 deal exclusively with inland fisheries as follows:

#### **Clause 10 – Fish Dealer’s licence: no need for certificate of Justice of the Peace**

Clause 10 amends Section 114 of the Fisheries Act (Northern Ireland) 1966 to remove the need for an application for a fish dealer’s licence to be accompanied by a certificate from a Justice of the Peace stating that the person is a fit and proper person to hold such a licence.

#### **Clause 11 – Restriction of removal material from bed of lake**

Clause 11 amends Section 48 of the Fisheries Act (Northern Ireland) 1966 to extend the restriction to include lakes as well as rivers.

#### **Clause 12 – Dams in rivers: fish passes etc.**

Clause 12 amends Section 54 of the Fisheries Act (Northern Ireland) 1966 which requires dam owners to provide and maintain fish passage for salmon, trout and eels. Clause 12 adds lampreys to the list of protected species. Clause 12 would also enable the Department to remove dams which are a barrier to fish passage where an owner cannot be identified and would also enable the Department to enter land for the purposes of carrying out this work.

**Clause 13 – Gratings in certain watercourses**

Clause 13 amends Section 59 of the Fisheries Act (Northern Ireland) 1966 to require anyone taking water from a river to fit a grill of not more than 10mm at the entrance and exit of watercourses to protect the entry of small fish into these watercourses. Change will only apply to new installations and exemptions will be permitted if the Department is satisfied that sufficient arrangements will be made by means other than a 10mm grill size. Clauses 14 and 15 deal with fixed penalty notices which would apply across both sea and inland fisheries.

**Clause 14 – Fixed penalty notices**

Clause 14 empowers DARD and DCAL to make regulations in connection with giving fixed penalty notices in relation to sea fisheries and inland fisheries offences respectively. Clause 14 also details the potential provisions within the regulations including the content of the penalty notice, the minimum and maximum amount of the penalty and how penalties would be paid.

**Clause 15 – Fixed penalty notices: effect on prosecution**

Clause 15 provides that proceedings against a person in respect of the offence may not be brought within the notice period (unless the fixed penalty notice is withdrawn or unless the recipient of the fixed penalty gives written notice under Clause 14(3)(i) that they do not intend to pay the fixed penalty).

The clause also provides that if the fixed penalty is paid before the end of the notice period, the person may not be convicted of the offence unless the fixed penalty notice is withdrawn or the circumstances are of a kind prescribed by virtue of Clause 14(3)(j)).

Clauses 16 to 19 deal with general issues around the Bill.

**Clause 16 – Interpretation**

Clause 16 sets out the interpretations used within the Bill.

**Clause 17 – Power to make consequential amendments**

Clause 17 makes provision for the Department to make consequential amendments by regulations.

**Clause 18 – Commencement**

Clause 18 makes provision for the commencement of provisions in the Bill. It also makes provision for regulations with regard to transitional, transitory or saving provisions.

**Clause 19 – Short title**

Clause 19 provides the short Title for the Act, namely the Fisheries Act (Northern Ireland) 2016.

### 3 Public Consultation

DARD and DCAL conducted a public consultation on proposals for the introduction of amended fisheries legislation between August and November 2015<sup>6</sup>.

It is worth noting that the consultation included proposals relating to aquaculture but there are no aquaculture related clauses within the Bill as introduced to the Assembly.

DARD and DCAL informed more than 1800 stakeholders of the consultation process and also advertised the process within the local press.

Whilst no formal consultation meetings were held, 57 written responses were submitted to the Departments from a range of different sectoral interests as follows:

- sea-fisheries producer organisation (ANIFPO);
- environmental organisations/interests;
- a sea-angling representative group (IFSA);
- inland angling interests;
- aquaculture representative groups and producers;
- mill/hydroelectric providers;
- fish processor;
- a quarry industry representative;
- The Honourable the Irish Society;
- Waterways Ireland;
- two district councils;
- Inland Fisheries Ireland;
- the Lough Neagh Fishermen's Association; and
- a number of individuals.

There were a greater number of responses from stakeholders potentially impacted by the inland fisheries proposals as compared to the sea fishing proposals.

With specific reference to Clause 6, which only affects the sea fishing sector, there was a general endorsement of DARD's proposals (eleven respondents generally in support and two against<sup>7</sup>). These were outlined within section 2.1.3 Modification of the Fisheries Act 1981 regarding enforcement of EU rules and questions 4 and 5 within the consultation document, as follows:

- Q4 Have you any comments on the proposal to extend DARD Fisheries Officers direct inspection powers to include 'enforceable Community obligations'?
- Q5 Have you any comments on the proposal to extend direct enforcement on EU legislation to anyone whose activities are subject to EU rules on the regulation of

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<sup>6</sup> [Consultation on Policy Proposals for a Fisheries Bill, DARD and DCAL, 18 August 2014](#)

<sup>7</sup> [Consultation on Policy Proposals for a Fisheries Bill- Analysis of Consultation Outcome and Departmental Response, DARD and DCAL, March 2015](#)

commercial sea fisheries (instead of having to make specific subordinate legislation in order to comply with the EU requirements)?

The two respondents against these proposals were the IFSA and a private individual. A summary of their reasons for opposition is set out below:

- Irish Federation of Sea Anglers (IFSA) – *‘this should not affect sea angling’ and ‘enforcement should not be limited to government staff but should also include members of local established accredited NGOs.’*
- Private individual – *‘Due to the vague description I would err on the side of caution before I would agree to changing legislation’.*

## 4 Issues that may merit further consideration within the Bill in relation to Clause 6

There follows a number of specific issues that may merit further consideration within the Bill in relation to Clause 6.

### 4.1 Compliance with Common Fisheries Policy requirements and associated reduction of the threat of potential infringement

Clause 6 within the Fisheries Amendment Bill proposes amendments to Section 30(1) of the Fisheries Act 1981<sup>8</sup> and the proposed changes would result in the following:

- Addition of ‘enforceable EU restrictions and enforceable EU obligations’ to the already existing ‘enforceable Community restrictions’;
- Would make it an offence for a master, owner and charterer of any fishing boat within the Northern Ireland Zone to fish in contravention of any such restriction or fail to comply with any such obligation;
- Would make it an offence for a master, owner and charterer of a Northern Ireland fishing boat outside the Northern Ireland Zone to fish in contravention of any such restriction or fail to comply with any such obligation;
- Would make it an offence for any person in Northern Ireland to either fish in contravention of any such restriction or fail to comply with any such obligation.

These proposed changes would bring Northern Ireland into line with the provisions currently operating in the rest of the UK as set out in table 1 below which outlines additions/amendments to Section 30 of the 1981 Act through recently adopted legislation within those jurisdictions.

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<sup>8</sup> [Fisheries Act 1981](#)

Table 1: Recent legislative amendments to Section 30(1) of the Fisheries Act 1981 in England, Wales and Scotland

Legislation and extent	Amendments to the 1981 Fisheries Act
Marine and Coastal Access Act 2009 <sup>9</sup> – England and Wales	Part 8 – Enforcement, Chapter 6 – Miscellaneous and Supplementary Section 293 – Enforcement of Community rules <ul style="list-style-type: none"> <li>• Addition of ‘enforceable Community obligations’ to the already existing ‘enforceable community restrictions’;</li> <li>• Made it an offence for master, owner and charterer of any fishing boat within British fishery limits to fish in contravention of any such restriction or fail to comply with any such obligation;</li> <li>• Made it an offence for master, owner and charterer of an English or Welsh fishing boat outside British fishery limits to fish in contravention of any such restriction or fail to comply with any such obligation;</li> <li>• Made it an offence for any person in England or Wales to either fish in contravention of any such restriction or fail to comply with any such obligation.</li> </ul>
Aquaculture and Fisheries (Scotland) Act 2013 <sup>10</sup> - Scotland	Part 3 – Sea Fisheries, Enforcement of EU rules Section 51 – Modification of the Fisheries Act 1981: enforcement of EU rules <ul style="list-style-type: none"> <li>• Addition of ‘enforceable community obligations’ to the already existing ‘enforceable community restrictions’;</li> <li>• Made it an offence for master, owner and charterer of any fishing boat within the Scottish Zone to fish in contravention of any such restriction or fail to comply with any such obligation;</li> <li>• Made it an offence for master, owner and charterer of any Scottish fishing boat outside the Scottish Zone to fish in contravention of any such restriction or fail to comply with any such obligation;</li> <li>• Made it an offence for any person in Scotland to either fish in contravention of any such restriction or fail to comply with any such obligation.</li> </ul>

The motivation for amending Section 30(1) of the 1981 Fisheries Act in England, Wales and Scotland appears to have been an apparent willingness to make the legislation compliant with the EU fisheries obligations set out in EU Council Regulation 1224/2009<sup>11</sup> which effectively established a Community control system for ensuring compliance with the rules of the Common Fisheries Policy, and the associated Commission Implementing Regulation (EU) No 404/2011<sup>12</sup>. For example, in Scotland a consultation proposals document<sup>13</sup> produced for the Aquaculture and Fisheries Bill noted in relation to the proposed changes to Section 30(1) of the Fisheries Act 1981 that,

<sup>9</sup> [Marine and Coastal Access Act 2009](#)

<sup>10</sup> [Aquaculture and Fisheries \(Scotland\) Act 2013](#)

<sup>11</sup> [COUNCIL REGULATION \(EC\) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations \(EC\) No 847/96, \(EC\) No 2371/2002, \(EC\) No 811/2004, \(EC\) No 768/2005, \(EC\) No 2115/2005, \(EC\) No 2166/2005, \(EC\) No 388/2006, \(EC\) No 509/2007, \(EC\) No 676/2007, \(EC\) No 1098/2007, \(EC\) No 1300/2008, \(EC\) No 1342/2008 and repealing Regulations \(EEC\) No 2847/93, \(EC\) No 1627/94 and \(EC\) No 1966/2006, 20 November 2009](#)

<sup>12</sup> [COMMISSION IMPLEMENTING REGULATION \(EU\) No 404/2011 laying down detailed rules for the implementation of Council Regulation \(EC\) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy, 8 April 2011](#)

<sup>13</sup> [Aquaculture and Fisheries Bill Consultation Document, Marine Scotland, The Scottish Government, 2011, point 127, page 40.](#)

*'If the proposed changes are not made, there is a risk that the Scottish Government may not fully meet obligations under the Common Fisheries Policy to control the activity of Scottish vessels engaged in commercial fishing activity<sup>14</sup>.'*

By way of context and illustration in relation to EU sea fishing requirements, Commission Implementing Regulation 404/2011, which came into force fully on the 1<sup>st</sup> January 2012, contains a range of obligations relating to making sea fishing across the EU compliant with requirements within the Common Fisheries Policy including but not limited to the following:

- Article 6 – marking requirements for EU fishing vessels;
- Article 7 – documents to be carried on board an EU fishing vessel;
- Article 18 – requirement of satellite-tracking devices on EU fishing vessels.

The need to make Northern Ireland legislation compliant with these EU obligations would also appear to be the motivation for the creation of Clause 6 within the Fisheries Bill. In a letter to the ARD Committee on the 7th December 2015, Minister O'Neill stated that Clause 6 constitutes the '...most urgent provision' within the Bill, and went on to detail that the urgent requirement for Clause 6 related to the fact that it would enable DARD to enforce most EU fisheries legislation as soon it came into operation, an issue which had been raised by EU inspectors as a possible infringement issue following inspection in January 2015.

The Minister's correspondence also revealed that the European Commission had subsequently opened a pilot case against Northern Ireland for not being able to directly enforce Council Regulation 1224/2009.

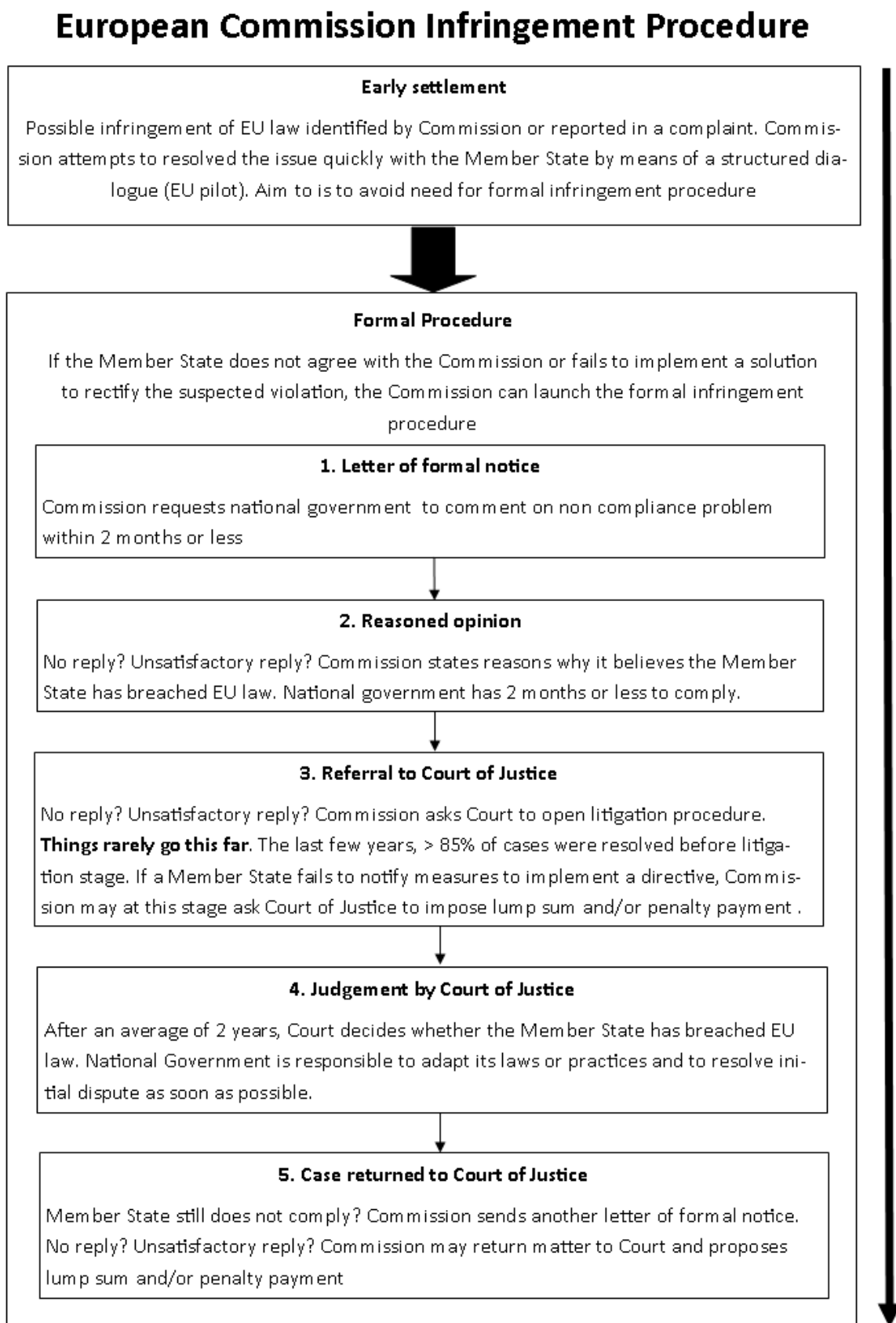
In responding to this issue, DARD has written to and submitted supplementary information to the Commission in September and October respectively, citing the provisions within the Fisheries Bill as an appropriate means to adequately address the Commission's concerns. As things stand DARD has received no further correspondence from the Commission.

In considering the issue of infringement, it is perhaps useful to consider the actual process utilised by the European Commission, which is set out in Figure 1 below. Based on the information in Figure 1 and the information drawn from the DARD Minister's letter to the ARD Committee, it would appear that any formal infringement proceedings have yet to commence and in the context of the process may not do so if DARD satisfies the Commission with the action it proposes.

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<sup>14</sup> ibid



Figure 1: European Commission Infringement Procedure – derived from Commission data<sup>15</sup>

<sup>15</sup> [Infringement procedure, European Commission website, 21st December 2015](#)

This raises the obvious question as to how imminent or real the threat of formal infringement is in this case. By way of context there may be value in DARD outlining how many other instances, in either fisheries or other unrelated policy areas within DARD, where there have been cases of potential infringement that were subsequently dealt with prior to the issuance of a letter of formal notice.

It would also be useful for DARD to clarify if the threat of EU infringement is linked to any specific obligation/obligations within EU Council Regulation 1224/2009 or whether the actual issues raised by EU inspectors relate to all of the obligations within the entire Regulation.

Additionally, and given the fact that Northern Ireland is the last part of the UK to propose changes to Section 30(1) of the 1981 Fisheries Act, can DARD clarify if the changes made in England and Wales, and Scotland, were triggered by EU inspections and whether those jurisdictions were facing real or imminent threat of infringement prior to making these changes? If so how far did the infringement process progress i.e. was it resolved at pilot stage or did it progress to formal stage and if so what was the outcome?

There may also be value in determining whether there has there been any subsequent threat of, or actual, EU infringement action within England, Wales or Scotland in relation to compliance with Council Regulation 1224/2009. In effect have the changes made within England, Wales and Scotland been enough to satisfy any concerns, and if this is the case has this been confirmed through EU inspection?

#### **4.2 Statutory Rules impacts in relation to sea fishing obligations – revocation of existing and potential reduction in number of new ones**

The proposed changes to Section 30 of the Fisheries Act 1981, and in particular the addition of enforceable EU obligations, will have the effect of potentially reducing the number of pieces of subordinate legislation that DARD will have to bring forward in order to implement future EU fisheries obligations. The full effects of such a move are hard to determine at this time but there could be an impact in relation to the costs that DARD bears for the development of subordinate legislation. These costs could include the actual drafting of subordinate legislation and the conducting of public consultation on the proposals, but there is a lack of data on what these costs would/could amount to. Within this context there may be value in DARD seeking to quantify any potential savings that could be accrued as a result of a reducing or non-existent need for new sea fisheries sub-ordinate legislation.

As well as reducing or potentially removing the need for new subordinate legislation in relation to sea fishing, there may also be potential impacts in relation to the revocation of either entire existing Statutory Rules or components of the same. The potential effect of this issue could be considerable given the number of existing Statutory Rules

relating to sea fishing, with the following, for example coming into force between 2013 and 2014 alone:

- The European Maritime and Fisheries Fund (Financial Assistance) Regulations (Northern Ireland) 2015 - 2015 No. 399<sup>16</sup>;
- The Sea Fishing (Licences and Notices) Regulations (Northern Ireland) 2014 - 2014 No. 209<sup>17</sup>;
- The Fishing Boats (Satellite-Tracking Devices) Scheme (Northern Ireland) 2013 - 2013 No. 212<sup>18</sup>;
- The Mussels (Prohibition of Fishing) Regulations (Northern Ireland) 2013 - 2013 No. 1<sup>19</sup>; and
- The Sea Fish Industry (Harbour and Landing Dues) Scheme (Northern Ireland) 2013 - 2013 No. 215<sup>20</sup>.

Given this context it would be useful if DARD could give an indication as to how many existing sea fishing Statutory Rules are likely to be either fully or partially revoked as a result of the proposed changes to Section 30 of the Fisheries Act 1981, as well as quantifying any associated costs with this activity.

On a broader basis any reduction in the volume of subordinate sea fisheries legislation through either revocation of existing provisions or a lack of new provisions going forward may provide more streamlined legislation in this policy area. Such a move could be welcomed by many stakeholders as it may potentially make it easier for them to understand and be fully aware of the obligations that they need to meet. In order for this to happen, however, there may be value in DARD reviewing and potentially increasing the level of written guidance that it provides to stakeholders in order for them to comply with CFP requirements. This suggestion is premised on the potential that the lack of Statutory Rules going forward could conversely make it more likely that some stakeholders, used to having this mechanism at present, could potentially struggle to understand the obligations that they need to meet and how to do so.

Additionally, a reduction or total removal of subordinate legislation in relation to sea fishing may well reduce the opportunity for stakeholders to comment on these issues through consultation and for MLAs to scrutinise them. Despite this loss, however, in some ways the current scrutiny mechanism could be construed as toothless given that subordinate legislation, particularly in relation to EU CFP obligations, is not something that either the public or MLAs can alter, simply because the obligation is binding. This

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<sup>16</sup> [The European Maritime and Fisheries Fund \(Financial Assistance\) Regulations \(Northern Ireland\) 2015, Statutory Rules of Northern Ireland, 2015 No. 399](#)

<sup>17</sup> [The Sea Fishing \(Licences and Notices\) Regulations \(Northern Ireland\) 2014, Statutory Rules of Northern Ireland, 2014 No. 209](#)

<sup>18</sup> [The Fishing Boats \(Satellite-Tracking Devices\) Scheme \(Northern Ireland\) 2013, Statutory Rules of Northern Ireland, 2013 No. 212](#)

<sup>19</sup> [The Mussels \(Prohibition of Fishing\) Regulations \(Northern Ireland\) 2013, Statutory Rules of Northern Ireland, 2013 No. 1](#)

<sup>20</sup> [The Sea Fish Industry \(Harbour and Landing Dues\) Scheme \(Northern Ireland\) 2013, Statutory Rules of Northern Ireland, 2013 No. 215](#)

issue further highlights the need for an effective local voice at EU level in order to shape sea fisheries policy in a way that either mitigates or limits forthcoming obligations with a particular potentially negative impact for Northern Ireland. This issue raises the question as to how DARD will ensure that DEFRA is both cognisant, and takes account, of our local industry needs when obligations are identified or set out in CFP and associated policy.

### **4.3 Is there a risk of 'gold plating' of EU legislation**

Building upon an issue identified within section 4.2, the potential removal of the need for new subordinate legislation in relation to enforceable EU obligations within the Common Fisheries Policy (CFP) may reduce the level of public and Assembly scrutiny that currently exists in these policy areas. Whilst arguably more efficient, could the removal of this scrutiny potentially create a situation where DARD may theoretically exceed or 'gold plate' the enforceable obligations and restrictions as they relate to sea fishing?

Would there be merit in an annual update from DARD outlining how they have met the minimum requirements in relation to CFP requirements and obligations?