

Bass Nursery Areas – 21 April 2015

UK Measures Forum - Guidelines and Proposals

Introduction

George Eustice MP recently announced a high level review of UK measures to protect the Sea Bass.

This paper focuses on a single UK measure, Bass Nursery Areas (“**BNA**”), and has been written by a group of concerned recreational bass anglers who have pooled their knowledge and experience in order to assist DEFRA, the IFCA and the MMO in carrying out the review.

This paper sets out:

- 1) proposed objectives;
- 2) specific proposals to improve the operation of BNA; and
- 3) recommendations regarding the process.

Background

In 1990, 34 BNA were created in the UK by the “Bass (Specified Areas) (Prohibition of Fishing) Order 1990.

The Bass (Specified Areas) (Prohibition of Fishing) (Variation) Order 1999 prohibited fishing in the BNA using sand eels for bait and increased the number of BNA to 37.

A CEMARE questionnaire in 1993 revealed widespread support for BNA.

However, in 1995 a MAFF paper, Lableaflet 75, highlighted several problems with BNA (see Appendix 1). However, 20 years after MAFF highlighted serious weaknesses in the operation of BNA, the rules governing BNA remain unchanged and inadequate.

In June 2014, ICES recommended an 80% reduction in the amount of bass landed.

In January 2015, at the request of the UK Government, the EU Commission introduced emergency measures to prevent pelagic trawling for sea bass until 30 April 2015.

In January 2015, DEFRA advised: “Aligned with this work at the European level we have initiated a high-level review of our current domestic management measures, such as minimum landing size for bass and protection of bass nursery areas. Where it is identified that action is required, this work will be further developed and, where national legislation may be required, this will follow the usual legislative process.”

In March 2015, the Association of IFCA's published a note on sea bass protection measures which proposed amending the current BNA rules as follows:

- 1) a deeming clause, which deems any bass has been caught within the BNA when found in the possession of a person who is fishing in a BNA (on a boat or on the shore).
- 2) the restriction of the removal of bass to include fishing (in all forms) from the shore.

Timing and Process

BNA are a longer term measure, unlike the currently proposed cuts in landings for 2015. However, the current severe threat to the stock makes it imperative that the review moves quickly and that actions recommended by the review are implemented as soon as possible. It is important that this process is run on a tight timetable with specific milestones.

Each action recommended by the review should be accompanied by advice regarding the quickest way of implementing such action.

Certain actions may require consultation, which will add time to the process. To avoid wasting time unnecessarily, such consultation should be tightly framed on the specific actions that are proposed.

The process should be transparent, enabling stakeholders to monitor progress and to provide input where this may be beneficial.

The process should be structured to protect it being delayed or interrupted by the imminent General Election.

Proposed Objectives

Proposed objectives for BNA should include:

- Revised legislation that sets out clear and simple rules that are easy to understand and easy to enforce.
- Rules that do not unnecessarily interfere with other legitimate activities conducted in BNAs.
- Rules that do not discriminate between commercial and recreational fishing.
- The provision of specific funding to publicise BNA, their locations and their purpose.
- The provision of specific funding to enforce BNA.

Proposed Rules

In order to make the rules easy for everyone to understand and follow:

1) Certain key rules should apply to all BNA.

Certain key rules, for example a proposed ban on all netting (see 3 below), should be the same across all IFCAs. This will enable fishermen across the UK to easily understand key rules that must be followed in every BNA.

However, an IFCA may feel that local circumstances require additional restrictions and will need the flexibility to introduce these.

Accordingly it is proposed that DEFRA should draft the key rules and then, rather than using a Statutory Instrument, should instruct all the IFCAs to implement the key rules via bye-laws.

Where an IFCA does decide that additional restrictions are required, it will need to be mindful that local variations may create confusion, particularly for non-locals and therefore will necessitate the IFCA engaging in additional education and providing extra signage to ensure that people are aware of and understand the additional restrictions.

2) The same rules should apply all year round

This rule will make BNA simpler for fishermen to understand, improving compliance.

3) The use of nets in a BNA to be illegal.

Certain netting activities, for example the netting of mullet and bream, result in significant discarding/mortality of bass, (including juvenile fish under the MLS) and therefore should not be allowed in a BNA.

However, some forms of netting are strictly controlled/licensed and do not represent a major threat to juvenile bass. This includes netting for: Salmon, Trout, Eels, Herring, Sand-eels and scientific research.

It is proposed that only these strictly controlled/licensed forms of netting should be legal in a BNA.

The use of landing nets would of course need to remain legal.

4) 3 Bass per person per day bag limit to apply to all shore fishing in BNA, i.e. to apply to both Recreational and Commercial fishing.

The EU Commission has recently imposed a 3 bass bag limit on recreational anglers. In BNA this restriction should be extended to commercial fishermen too; it is inappropriate to allow unrestricted commercial bass fishing to take place in a BNA.

NB we note that the AIFCA recently released a note proposing that BNA become a no-take zone for shore fishing. In view of the imposition of the bag limit, we feel that such a restriction is unnecessary for conservation purposes and would have damaging social and economic impacts. We are opposed to the idea of BNA becoming a no-take zone for shore fishing.

(NB fishing for bass from a boat in a BNA is currently illegal, so effectively a 0 fish bag limit will continue to apply to fishing for bass from a boat in a BNA.)

5) A Minimum Landing Size of 42cm in a BNA

The EU Commission will shortly publish a proposal to increase the bass minimum landing size to 42cm for both recreational and commercial fishing, and this may come into force as soon as June. If introduced, this will apply both inside and outside BNA.

6) Deeming Rule

The AIFCA has recently proposed a deeming rule: “which deems any bass has been caught within the BNA when found in possession of a person who is fishing in a BNA (on a boat or on the shore). “

We fully support this deeming rule.

7) Development

No development should be allowed in a BNA without the Environmental Impact Assessment taking full consideration of the effect on the juvenile bass population.

8) Exemption for scientific research approved by the relevant IFCA.

Clearly it is important that the rules should not restrict legitimate scientific research in BNA.

New BNA

Designation of new areas

We fully support the idea of giving designating new areas as BNA; it is clear that juvenile bass are present in many areas outside the current BNA.

However, we believe that before new BNA are established, we should first make the changes that we have outlined in this paper for existing BNA. New BNA will impact many more people and it is therefore important to make sure that the rules that will govern them are appropriate and effective.

Communication of Law

- 1) The BNA rules need to be clearly signed at strategic points around each BNA. Central funding will be needed for this.
- 2) DEFRA, the MMO and the IFCA's will need to undertake an education campaign targeted at: angling clubs; tackle shops; angling press, angling websites, twitter, Facebook, etc.

Enforcement

- 1) IFCA's will require additional resource to allow them to carry out checks on BNA at appropriate intervals.
- 2) Recreational anglers could also assist with the monitoring of BNA, particularly if the rules governing BNA are simplified. We would draw your attention to the Voluntary Bailiff Service and the Fisheries Enforcement Campaign that are sponsored by the Angling Trust. These community schemes could deliver significant benefits with the assistance of relatively small levels of funding.
- 3) Fines should be set according to the seriousness of the offence. Commercial bass fishing in a BNA should carry fines that are many multiples of the profits that are judged to have been made from illegal fishing in BNA. Boat/equipment confiscation should be a possible enforcement measure.

Appendix 1

Excerpts from 1995 MAFF paper Lableaflet 75 discussing problems with BNAs:

Poorly drafted rules:

“bass found on board a vessel inside a nursery area cannot necessarily be deemed to have been caught in that nursery area”

“it is almost impossible to secure convictions under the national legislation because “fishing for bass” per se is difficult to prove and any bass found on board a vessel inside a nursery cannot be deemed to have been caught there.”

Poor prosecution history

“A lack of adequate deterrence has been noted in some areas due to the low fines imposed and costs awarded on successful prosecutions which have been brought to court, and other unsuccessful prosecutions. This has discouraged some SFCs from continuing to prosecute, especially where the nursery area legislation is involved”.

Poor history of enforcement

“there are local difficulties in enforcing the nursery areas due to lack of manpower or lack of marking or notification of nursery areas”

“in a few areas, local SFC’s are less able to assist in enforcing the nursery area legislation.”

Failure to introduce local bye-laws to support the BNAs

“there is no compulsion on local enforcement agencies to bring in supportive legislation in the form of local bye-laws, and few have done so”

“In framing this legislation consideration was given to the closure to all fishing methods of small key areas (special protection zones), or alternatively large areas where dispensations for “harmless” gears could be given. The final outcome was neither one solution nor the other but a mixture of large and small areas where only fishing for bass was prohibited. It was left to Sea Fisheries Committees to control “harmful” methods

by making appropriate bye-laws but, to date, of the 34 nursery areas established only 6 have had supportive legislation introduced by SFCs. Specifying all controlled or allowed methods was ruled out as an option for national legislation, being deemed too detailed and clumsy. This option would have also been unpopular with local non-bass fishing interests and may explain why few local bye-laws have been introduced. Legal advice was that there was a right to fish from the shore which went back to Magna Carta.”

Poorly defined boundaries

“some nursery area boundaries are inappropriate or ill defined”

Proposals for Improvement

Lableaflet 75 recommended that consideration be given to the following options:

- 1) “The possession or retention of bass on board any vessel fishing inside a bass nursery area regardless of where it was caught, could be made an offence. We understand that this would necessitate the introduction of primary legislation.
- 2) The introduction of further controls in bass nursery areas, either by means of SFC bye-laws or national legislation, of methods which take a high by-catch of bass. Such methods include small mesh trawls, gill-nets, seines and angling with various types of live bait (e.g. sand-eel). For smaller nursery areas, especially those centred on power station installation, prohibitions of all fishing activity is suggested as there are few fishery interest, other than bass, associated with these sites.
- 3) Changes to the boundaries of some nursery areas, mainly by extending the seaward limit. This would be in consultation with the SFI, SFCs and NRA units. Under review at the moment are the TAW-Torridge, Camel and Conwy estuaries, all of which are known to have concentrations of small bass and attendant effort just beyond existing nursery area seaward boundaries. Various options for new boundaries that would give protection to those bass and also be more clearly identifiable from fishing vessels are being considered.
- 4) Possible restrictions on shore fishing (mainly angling) in nursery areas. It is premature to suggest that regulations controlling shore angling (and netting) should be introduced in all nursery areas. However, in locations where under-size bass are often concentrated in large numbers, particularly around industrial warm water discharges, restriction of shore fishing is already merited. In general this would require consultation between SFCs and the companies concerned.”