

# Federation of Irish Salmon & Sea Trout Anglers

Conaidhm na Slat Iascairí Bradáin agus Breac Geal

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F.I.S.S.T.A.

## FISSTA National Executive Council Approved Questions for IFI & DECC to answer at the ACCI meeting on 22.2.22.

**FISSTA OVERALL QUESTION: Can IFI and the DECC confirm that both the Pike Conservation Bye-Law No. 809 of 2006 and the Coarse Fish Conservation Bye-Law No. 806 of 2006 are in compliance with the EU Habitats Directive considering the following facts?**

DECC ANSWER: In the first instance, your overall question in relation to the specific Bye-laws and their compliance with the EU Habitats Directive, should be considered in the context of relevant EU case law. FISSTA may find it helpful to consider the Judgments of the ECJ in these matters. It is also important to note that the carrying out of appropriate assessments or screening assessments or the initiation of assessment processes on more recent Regulations or bye-laws does not imply that DECC considers Bye-Laws 809 of 2006 or 806 of 2006 to be non-compliant with the Habitats Directive.

However, it is standing DECC policy that all bye-laws relating to conservation measures are subject to AA screening and, where screened in, full AA. The future application of bye-laws 806 and 809 of 2006 to the Western Lakes will be informed by the implementation of the IFI's forthcoming Management Plan.

- a. FISSTA members have submitted recent FOI/AIE requests to both IFI and DECC, our members have ascertained that no appropriate assessment screenings were conducted on the two byelaws in 2006 as required by Article 6 of the EU Habitats Directive.**

DECC ANSWER: In the interests of clarity, FOI requestors were advised by DECC that following a search of files no records within the scope of the requests were located. In other words, no assessments or screenings were found on file, which may indicate that the Department concluded that the bye-laws did not come within the scope of the Directive and that, as such, AA or even AA screening was not necessary. FOI decisions are published and available on the Departments website.

- b. The Designated Salmonid Waters Bye-Law No.964 of 2018, could not be defended by the State in the High Court (Case 2018 No. 441 MCA) as no appropriate assessment screening was conducted.**

DECC ANSWER: It is not correct to suggest that bye-law 964 of 2018 could not be defended. It was defended – five court appearances were made in the case as part of the

defence. However, the Department followed the recommendation contained in legal advice to conclude proceedings. The Department is precluded from sharing legal advice received from the Attorney General but can confirm that the legal advice did not assert that the Bye-law could not be defended.

- c. Due to the fallout from the High Court challenge, the Annual Wild Salmon and Sea Trout Tagging Scheme Regulations have been subjected to the appropriate assessment screening process for 2020 and 2021.**

DECC ANSWER: It is a fact that both orders were screened for appropriate assessment and the screenings are in the public domain on the Department's website. The screenings were carried out on legal advice. The relevant case was settled before the orders were considered and there is no connection.

- d. The abandoned Draft Designated Salmonid Waters Bye-Law of 2021, was to be subjected to an appropriate assessment screening considering that the DECC issued a "Request for Quotation" to the private sector for screening services on July 21st 2021.**

DECC ANSWER: The statement is factual as it relates to the process of progressing the proposed Bye-law at the time. However, as already confirmed to all ACCI members, based on responses received in the public consultation on the former proposed Bye-law and the advice of IFI, the proposed bye-law is not being pursued. Instead IFI, at the request of the Minister, submitted (in October 2021) its detailed draft Western Lakes Management Plan. The Department has since reverted to IFI and the plan is expected to be published soon.

- e. On July 27th 2021, Minister Ryan in response to a PQ submitted by Mairéad Farrell TD regarding Lough Corrib SAC made the following statement: "the Department has tendered for an independent Appropriate Assessment (AA), in line with the requirements of the EU Habitats Directive to be undertaken to bring independent professional advice to bear on potential impacts of the bye-law on the conservation objectives of the waters concerned".**

DECC ANSWER: (e) The statement partly quotes the response to the Parliamentary Question, which related to the then proposed DSW Bye-law. The response is factual as regards the then mooted Bye-law. The response at (d) above as regards IFI's draft the Western Lakes Management Plan refers.

- f. On January 19th 2022, Minister Ryan in response to a PQ submitted by Noel Grealish TD regarding the two aforementioned bye-laws and their compliance with the EU Habitats Directive, the Minister failed to defend the two bye-laws and their compliance with the EU Habitats Directive in his response.**

DECC ANSWER: In response to Deputy Grealish's Parliamentary Question, the Minister set out the factual position that legislative change, if any, required would be addressed in the context of the draft Western Lakes Management Plan. ends.