

DEPARTMENT OF AGRICULTURE, FOOD AND THE MARINE

Joint Committee on Agriculture, Food and the Marine

Meeting with the Minister for Agriculture, Food and the Marine
on Aquaculture Licensing

23rd October 2018

Opening Statement by Minister Creed

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I would like to thank the members of the Committee for the invitation to meet with them today to discuss Aquaculture Licensing in the context of the Report of the Independent Aquaculture Licensing Review Group. The Committee is familiar with the background to this issue but it is useful to restate the position for the avoidance of confusion. This Opening Statement is therefore intended to provide the Committee members with:

- 1) A broad overview of the aquaculture licensing system and how it operates
- 2) The key issues associated with the licensing backlog which gave rise to the Review
- 3) A brief overview of the key recommendations of the Review
- 4) Progress to date on implementation

I will be glad to take any questions from the Committee members afterwards.

1. A Broad Overview of the Aquaculture Licensing System and how it operates

An aquaculture licence is required by law for the cultivation of finfish, shellfish and certain marine plants such as seaweed. Some aquaculture takes place on land but the vast majority of aquaculture activity takes place in the marine environment on the foreshore. In Ireland almost all foreshore is in public ownership and aquaculture activity therefore requires both an aquaculture licence to conduct operations and a companion foreshore licence to lawfully occupy the area of foreshore in question. Even in the rare case of private foreshore an aquaculture licence is required to engage in aquaculture activity.

The Foreshore is measured from the high water mark out to 12 nautical miles and is approximately 39,000 square kilometres in overall size. It is roughly equal in size to just over 50% of the land area of the State. However, the areas suitable for aquaculture represent a small fraction of the foreshore and, in the case of finfish cultivation, are exclusively on the western seaboard.

Legislation

My Department considers all applications for aquaculture licences in accordance with the following legislation:

- Fisheries (Amendment) Act 1997
- Foreshore Act 1933
- EU Habitats Directive of 92/43/EEC

- EU Birds Directive 79/409/EEC
- Consolidated Environmental Impact Assessment Directives 2011/92/EU
- Public Participation Directive (Aarhus Convention)

The licensing process involves consultation with a wide range of scientific and technical advisers as well as various Statutory Consultees. The legislation also provides for a period of public consultation. In addition to the above legislation my Department must adhere to a wide range of regulatory requirements and other legislation which impact on the licensing process.

The Public Participation Directive has emerged as a crucial factor in the roll out of the licensing system as it applies to individual cases. The key aim of this Directive is to grant the general public specific rights regarding access to information in governmental decision-making processes on matters concerning the local, national and trans-boundary environment.

2. The Key Issues associated with the Licensing Backlog which gave rise to the Review

The major complaint from aquaculture farmers on licensing relates to the backlog that has developed in the processing of licence applications.

The background to the backlog is that in 2007 the European Court of Justice (ECJ) issued a negative judgement against Ireland for breaches of the EU Birds and Habitats Directives. A large element of the judgement concerned a failure by the State to put in place a system for data collection, definition of scientific interests and adequate assessment of aquaculture licence

applications in Natura 2000 areas. At the time of the ECJ Case national legislation was put in place to ensure that Irish aquaculture operations operating under pre-existing licences and who were seeking renewals could continue to operate under those licences until a determination could be made on their renewal applications in compliance with the Natura 2000 Directives.

In the negotiations to address this ECJ judgement and to enable aquaculture to continue in Natura 2000 areas in the interim, a process was agreed with DG Environment and this is being implemented. The process includes data collection, the setting of Conservation Objectives by the National Parks and Wildlife Service, identifying the scientific interests to be protected in the bays, carrying out of Appropriate Assessments of the licence applications against those scientific interests and appropriate licensing, taking account of, among other things, Natura 2000 requirements.

The production of these Appropriate Assessments has been resource intensive and very time consuming not least because of tidal cycles and seasonality issues in relation to data gathering on bird migrations and other environmental phenomena. In many cases multi-year time series data had to be collected. In addition the sea beds in Natura 2000 areas also had to be mapped to identify conservation interests.

For example, this work involved 123 survey events carried out by 10 contractors. In addition, profiling of aquaculture industry activities was carried out for all bays in order to define the likely interactions with conservation features of sites. In many instances there were little data or published literature on likely interactions between aquaculture activities

and conservation features. A number of targeted studies and reviews were commissioned to investigate responses of conservation features, e.g. birds and/or habitats to specific aquaculture and fisheries activities. Many of these have subsequently been published in primary literature. All of this preliminary work to prepare the groundwork for consideration of licensing went on from 2009 onwards.

I am glad to report that most of this data collection, definition of scientific interests and the Appropriate Assessment process itself is almost complete and Appropriate Assessment reports have been received by my Department from the Marine Institute in respect of 29 bays. These bays constitute the bulk of the aquaculture activity and the work carried out since 2009 permitted licensing in compliance with the Natura 2000 Directives and the ECJ Judgement to commence. Since licensing commenced under the new system a little over 600 licensing decisions were made on aquaculture sites around the coast up to the end of 2017.

3. A Brief Overview of the Key Recommendations of the Review

Dealing with the Natura 2000 elements has been the major focus for all involved in the licensing process up to recently. But there are other issues including legislative reform, the streamlining of procedures and the optimum use of technology associated with licensing which also need to be addressed. Because of all these elements, I commissioned the Independent Review of Aquaculture Licensing in December 2016 and the report was delivered to me at the end of May 2017.

The Review Group carried out a detailed examination of the existing aquaculture licensing process, undertook comprehensive stakeholder consultation and looked at comparative national and international consent

systems to determine best practice for managing a complex licensing process in a transparent, environmentally appropriate and legally robust manner. The Group's Report is published and available to view on my Department's website. A total of 30 separate recommendations are contained in the Report.

4. Progress to date on Implementation

Since receiving the Report of the Review Group my Department has engaged in detailed consideration of the recommendations set out in the Report with a view to their implementation, having regard to the legislative, environmental, technical and public interest issues that arise.

My Department has also engaged closely with industry representatives and relevant State Agencies. The core recommendation of the Independent Review was to deal with the backlog by the end of 2019. In response to the priority given by stakeholders to the elimination of the licensing backlog, my Department has been actively working towards the achievement of 300 licence determinations this year with a further 300 projected for 2019.

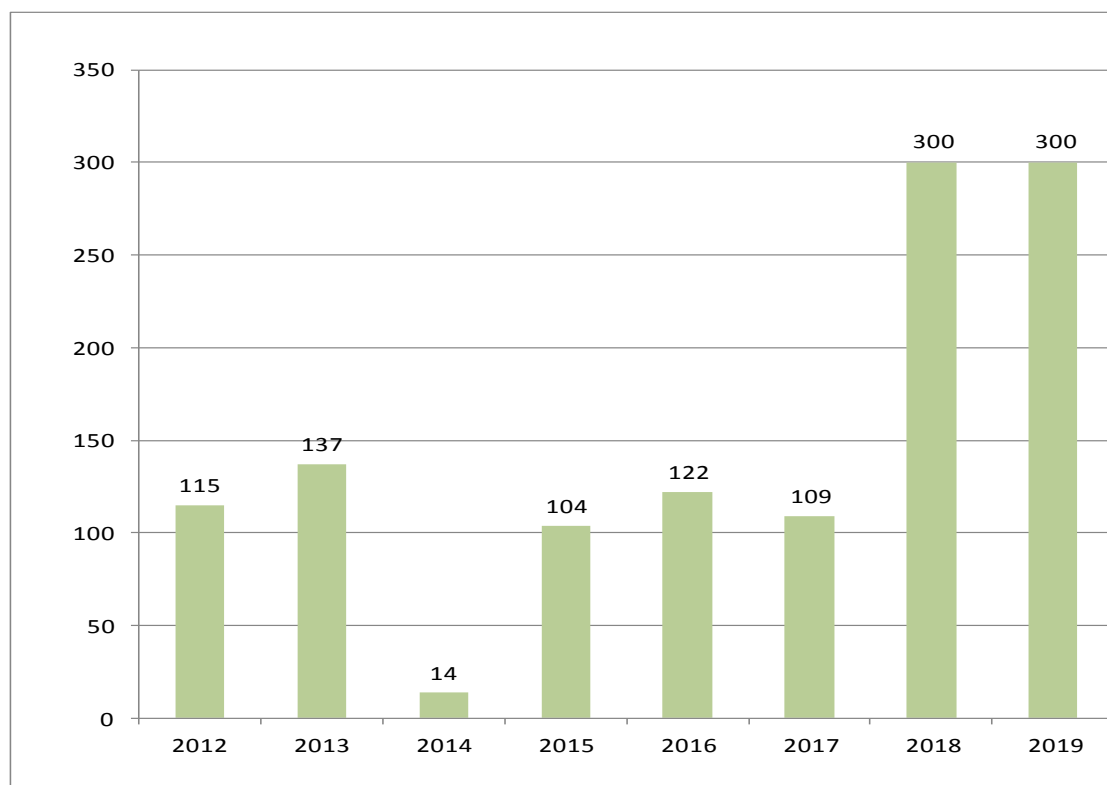
I can confirm that the target of 300 licence determinations has been achieved two months ahead of schedule. This is a very substantial achievement and gives a clear indication of my commitment and the commitment of my Department to dealing with this issue in a comprehensive manner. I can further confirm that we are fully committed to achieving 300 further licence determinations in 2019 and that this will effectively eliminate the shellfish licensing backlog as an issue affecting the industry.

The elimination of the shellfish licensing backlog will be a game changer for the industry and will provide the solid footing for the industry long demanded by industry representatives.

Licensing Determinations

The bar chart below sets out clearly the dimensions of the change that has been brought about in 2018 and is projected for 2019. Effectively the rate of determinations of aquaculture licence applications this year is almost three times the level of decisions that were made in previous years.

Aquaculture Licence Determinations 2012 - 2019



Shellfish aquaculture represents by far the greatest number of operators who are also, in the main, small family-run businesses. For this reason and in conjunction with industry representatives, my Department has prioritised the elimination/reduction of the backlog in respect of shellfish

aquaculture during 2018. For 2019, it is expected that the backlog in shellfish aquaculture will be effectively eliminated. Once shellfish farmers operating within Natura areas have been re-licensed in compliance with the Natura Directives they can access development funding under our Seafood Development Programme.

Finfish Aquaculture

In relation to finfish aquaculture a focused modular approach towards addressing the backlog in finfish licensing will be accelerated. The processing of applications for finfish licences in the marine environment is significantly more complex than the situation in relation to shellfish aquaculture, due to the requirement for operators to produce Environmental Impact Statements and for my Department and relevant Agencies to analyse these reports in detail. My Department must then produce an Environmental Impact Assessment (EIA) in relation to each application.

In addition, developments that apply generally to aquaculture licensing have a particular resonance for finfish licensing for the following reasons:

- A greater focus by environmental NGOs and the general public on key EU legislation;
- Heightened public awareness and concerns about aquaculture operations (mainly relating to salmon farming, but concerns also arise frequently in relation to shellfish licensing).

Next Steps

There should be no doubt in anybody's mind that the core reason I established the Independent Aquaculture Licensing Review Group was the

need to address the licensing backlog arising from the ECJ Judgement. This was the primary concern of industry stakeholders. This core need is being actively and urgently addressed by my Department and the first results of our efforts are already discernible. We have achieved 300 licence determinations this year.

We will, I am confident, achieve a further 300 licence determinations next year. The related recommendations are also being addressed and will be implemented as part of a larger reform of the regulatory process. However, I have been very conscious of the need to prioritise implementation in response to what the industry has itself pointed to as the most urgent issue - the licensing backlog. Once this has been eliminated for the bulk of the operators, who are in the shellfish sector, they will be operating under 10 year licences and can access developmental funding and supports available from the State.

In relation to finfish licensing, my Department is scheduled to formally request operators to submit Environmental Impact Statements (EISs) in respect of their licence renewal applications. This request is scheduled to issue to all operators shortly and will specify the timeline for submission of the necessary documentation. This process was commenced by my Department in 2014 but following strong representations from IFA Aquaculture on behalf of the aquaculture industry, the matter was not advanced until additional guidelines and workshops on the issue were provided by BIM. My Department indicated that it would suspend its request until these workshops etc were complete. However this was without prejudice to any operator in the finfish industry who wished to submit a valid Environmental Impact Statement in the interim.

The process will now be renewed with requests for Environmental Impact Statements before the end of the year. This represents a significant response to the Recommendations of the Independent Aquaculture Licensing Review Group in the context of finfish aquaculture. The provision of valid Environmental Impact Statements in compliance with the guidelines prepared by BIM and given to applicants will enable my Department to advance these applications in line with the EU legal requirements.

An efficient and effective licensing system can be an important tool in the strategic direction of the aquaculture industry and can 'set the weather' in terms of aquaculture development. As indicated above, my Department has delivered 300 aquaculture licence determinations this year, a trebling of the previous rate of determinations, and a commitment to deliver a further 300 next year with a view to clearing the backlog which built up due to the ECJ Judgement.

In addition, my Department is currently engaged in forward-planning in conjunction with industry representatives and relevant Agencies directly focussed on the rapid reduction and elimination of the finfish licensing backlog. A key part of this planning process is ensuring that the industry can continue to operate as normal in accordance with legislative requirements. The legislative provisions that were put in place to enable operators to continue working, pending completion of the licensing process in line with the EU Natura requirements have enabled all operators to continue their business. This still applies.

Aquaculture Output and Value

It is important to note that while attention has been given to difficulties associated with licensing this is in fact a buoyant industry with a good record of employment.

The 2018 BIM Annual Aquaculture Survey indicates that Irish Aquaculture output in 2017 increased to 47,147 tonnes of farm-gate produce, worth €208.4 million. Production continued to expand in both overall volume (plus 7%), value (plus 24%) and unit value from 2016. The salmon sector was the major contributor to the increase in both overall volume and value, while oyster sector output continued to expand. The unit value of both these sectors continues to increase, as does the recognition of their product quality. The bottom mussel sector continued to recover in 2017 though seed supply uncertainty remains a threat to this. The overall industry employed almost 2,000 people directly on circa 280 primary production units in 2017.

My Department has also put in place substantial financial and other supports for the industry as a whole. Financial support is supplied under the EMFF Operational Programme and is directed towards three main areas:

- sustainable aquaculture production;
- knowledge, innovation and new technology;
- more effective governance of marine planning.

In addition to the direct financial supports, BIM provides a range of technical supports to the aquaculture sector to assist in the development of

existing businesses and to address industry-wide issues such as disease management and the introduction of new technologies.

To conclude, the steps that have been taken by myself and my Department, to establish the Independent Review and take forward the core recommendation on eliminating the backlog are bearing fruit and I believe we are well on the way to eliminating this historic issue and putting the industry on a sound footing going forward. My Department will be glad to update the Committee on progress in aquaculture licensing as and when required.

ENDS