Post-Enactment Report

Sea Fisheries (Amendment) Act 2019 (No. 9 of 2019)

(Dáil Éireann – Standing Order 164A)

(Seanad Éireann – Standing Order 168)

March 2020
The President signed the Sea-Fisheries (Amendment) Act 2019 into law on 4 April 2019. The Act was commenced on 23 April 2019 by S.I. No. 165 of 2019 (Sea-Fisheries (Amendment) Act 2019 (Commencement) Order 2019), which was signed on 18 April 2019 by the Minister for Agriculture, Food and the Marine.

The purpose of the Act is to provide for legislative amendments to the Sea-Fisheries and Maritime Jurisdiction Act 2006 in order to address the Supreme Court finding in October 2016 that fishing by Northern Ireland vessels within the zero to six nautical mile zone, measured from the baselines, of the territorial waters of the State under the Voisinage arrangements was not permitted by law.

The Voisinage or neighbourhood arrangements concerning access to fish around Ireland and Northern Ireland have provided reciprocal fishing access for more than 50 years. They have allowed boats from Northern Ireland to fish in Irish coastal waters. They also have allowed Irish-registered fishing boats access to fish in coastal waters off Northern Ireland.

In 2016 the Supreme Court upheld High Court finding that the Voisinage arrangements were not invalid but found that there was insufficient provision for them in domestic law. The Supreme Court noted that the arrangements were a sensible recognition at official level of practice and tradition, where fishing boats traditionally fished neighbouring waters.

During the interval between the Supreme Court judgment and the commencement of the 2019 Act, access to fish was afforded to Irish sea-fishing boats in the waters around Northern Ireland.

**Current Status**

The Sea-Fisheries (Amendment) Act 2019 amended the Sea-Fisheries and Maritime Jurisdiction Act 2006 in order to provide access to fish in Irish waters, from the baselines to six nautical miles, for Northern Ireland owned and operated vessels.

Section 10 of the 2006 Act, which restricts fishing while on board foreign sea-fishing boats within the exclusive fishery limits of the State, was amended to:

- Continue to assert Ireland's exclusive right to fish within the exclusive fishery limits of the State by maintaining previous provisions;
- Explicitly provide for access to fish by sea-fishing boats owned and operated in Northern Ireland within zero to six nautical miles of the baselines of the State's exclusive fishery limits;
- Provide that a Northern Ireland sea-fishing boat will be subject to the same obligations as an Irish sea-fishing boat while availing of the access conferred by the Act, in keeping with the reciprocal Voisinage arrangements for fishing between Ireland and Northern Ireland and the Government of the United Kingdom.

The passage and commencement of the Sea-Fisheries (Amendment) Act 2019 provided legal clarity which was found wanting by the Supreme Court. It reinstated fishing access arrangements which had been in operation up to the point of the Supreme Court judgment and which were suspended in this jurisdiction pending passage of the legislation.
Judicial Review proceedings were lodged in July 2019 by an environmental activist against the State in relation to the commencement of the Sea-Fisheries (Amendment) Act 2019.

**Conclusion**

The Sea-Fisheries (Amendment) Act 2019 remains in force.