

# **STATES OF JERSEY**

## **Environment Panel Fisheries Review**

**TUESDAY, 24th JUNE 2008**

**Panel:**

Deputy R.C. Duhamel of St. Saviour (Chairman)  
Connétable K.A. Le Brun of St. Mary  
Deputy C.J. Scott Warren of St. Saviour

**Witnesses:**

Mr. M. Smith  
Mr. S. Bossy

**Deputy R.C. Duhamel of St. Saviour (Chairman):**

Right, I have to read you the note again. "It is important that you fully understand the conditions under which you are appearing at this hearing. The panel's proceedings are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, P.A.C. and P.P.C.) (Jersey) Regulations 2006. Witnesses are protected from being sued or prosecuted for anything said during this hearing, unless they say something they know to be untrue. This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering questions. The proceedings are being recorded and transcriptions will be made available on the Scrutiny website." All right, that is my bit. So thank you for attending this hearing. The Scrutiny Panel had decided a number of weeks ago to go for a piece of legislative scrutiny which would give us some experience of scrutinising legislation and one of the things about the Sea Fisheries (Inshore Trawling, Netting and Dredging) (Amendment) (Jersey) Regulations 200- is that it is pretty short. There are only really 2 clauses so we thought we would get our teeth into that and see how it goes and we have discharged

some duties. Hopefully sensibly. So you will be familiar with the proposition for the amendment to the legislation. Where we would like to start off with is just to get a little bit of background information about the setting of nets and the normal method of setting because there are some items in the report which indicate that nets can continue to fish, presumably if they fall apart or they become unpegged or whatever and there is a couple of other things there about suggesting that they be in a position to catch fish and shellfish. So we would just like to know a little bit more as background information as to how the nets are set, what is the normal method of placing them and what is the normal kind of time conditions, and the species of fish or shellfish that they fish for, and just for you to kind of set the scene a little bit for us before we get into the legislative scrutiny questions.

**Mr. S. Bossy:**

Okay, shall I kick off then. Mike can fill in any bits I might leave out.

**Deputy R.C. Duhamel:**

If you could speak into the microphone.

**Mr. S. Bossy:**

Are you picking that up all right? Well, as you probably know we have got really big rise and fall of tides around the Island. It can be as much as 40 feet between high/low water tides in the spring and the autumn and really for a long, long time, centuries, people have been going down the beach on the big spring tides to go low water fishing and part of low water fishing, as well as setting hooks called trots, they have been setting nets around the coast to catch fish. So this has been going on for many, many years. We have got aerial photographs of Jersey and the coast at low water and you can see the lines of stones that they often use to put on the bottom of the nets and these have been set, as I say, for a long, long, time. More recently, really probably because of the interaction with other beach users, you know people walking dogs, horses, just enjoying themselves on the beach, and swimming, the regulations have been tightened up so nowadays set nets, which are set usually over the spring tide - the 4 to 5 day period of the spring tide - have to be set below half tide and they have to be properly marked and they have to be set in an area among the rocks, which is all defined in the legislation. So that keeps them out of the big sandy bays like Grouville,

St. Aubin, St. Brelade and St. Ouen and in the rocky areas of a little patch of St. Aubin, the whole of the Violet Bank and maybe up a little bit towards St. Catherine, are the most common places for them to be set. There is a minimum mesh size of 90 millimetres of stretchy mesh which is quite large, in fact in the U.K. (United Kingdom) you are allowed to set nets with a smaller mesh than that for certain species of fish. If you are directing your fishing at certain species. But we have an overall minimum mesh size of 90 millimetres and nothing smaller than that can be used. The nets have to be marked appropriately. I think that is set out in the regulations. It is all set out in the miscellaneous --

**Mr. M. Smith:**

It is set out in these regulations.

**Mr. S. Bossy:**

The Inshore Fishing Regulations now, it has been changed to. It is really done mostly as a pastime for people to catch feeder fish. There are some people that will do it, some professional fishermen that will do it occasionally when the weather is very, very bad and they cannot take the fishing boats out and they will go down the beach and do that sort of fishing. Nowadays it tends to be more that they will be repairing their fishing equipment or painting the boat up but some commercial fishermen do do it and, of course, although you are not allowed to sell your fish that you catch from an unregistered fishing boat you can sell the catch that you catch from the beach.

**Deputy R.C. Duhamel:**

Could I just interrupt, could you tell us a little bit more about the mechanism of the setting of the nets? They are not set as on a tennis court stretched between poles, they are to do with floats attached to the top to make them rise and fall as the tide comes in.

**Mr. S. Bossy:**

Sure, you would look at the tide table and you would probably -- on the Jersey tide card, working in feet, anything more than a 33-34 foot tide people will begin to set nets. They will go down below the half tide mark, take a net which will generally be between 50-100 metres long, maybe a bit longer, I suppose at the most 150 metres,

which when it is dry is quite -- you know, you can carry it in a sack really so you can walk down the beach, or some people take a trolley or a wheelbarrow and you will generally set -- because you have got to set it among rocks it is often set across the sandy gullies with rocks either side. So you just lay it out across the beach and it has a weighted line at the bottom, a lead line, and you also maybe put a few stones on the bottom, hence the lines of rocks across the gullies. Then it will lift up to between 8-12 feet high with a float line. Then you will have, about every 20 feet, a line from the top float line running up the beach to stop the net falling back as the tide goes out. So as the tide comes in the net gets pushed flat and fish come up the beach and then as the tide then turns and reverses and goes down the gully, the net will stand up. It is held up by the floats and it is stopped falling right back again by the lines that got up the beach. So it acts a little bit like a dam. But with 90 millimetre mesh the small fish swim through it. I have to say that because Jersey is Jersey and we get a huge amount of seaweed around here, the nets quite quickly foul up with weed so the nets have got to be set quite carefully and it is very easy just to end up with a big pile of weed and absolutely nothing else, because we have so much large seaweed around the place.

**Deputy R.C. Duhamel:**

How frequently are the nets attended?

**Mr. S. Bossy:**

Normally they will be attending them every 12 hours. So they will set the net and -- you will usually set the net -- because all spring tides occur at low water about midday and then again at midnight. That is the way spring tides always occur in Jersey. So they will set the net at midday or thereabouts and then the very best time to go then is at midnight and that is when most of the fish are caught. Then you will return again the next day at lunch time to take the weed out and you might leave it go for another night and then you will catch better on the night time tide when you visit at 12, 1 or 2 in the morning and then you will visit it again -- well, if the net is being fished properly it will be visited every 12 hours, every low water. All the crabs and the unwanted fish generally would be taken out and released and you will take home what you want to catch. Generally speaking, again, if you are setting a net you do not want anyone else to get there before you do so you usually get there before the tide leaves it. So you will get there and you will hear the fish flapping around and you will

probably go and check what is in it while there is still 2 foot of water. So what happens is you can often release the fish that are there that you do not want, alive. But, of course, the crabs are a bit more a problem.

**Deputy R.C. Duhamel:**

So would you say if the nets are not attended as frequently as on every tide then that could impose problems for the fishing of that net and that may foul -- or you are going to have crab damage to the catch that has been caught on a previous time?

**Mr. S. Bossy:**

Surprisingly enough, we got called to a net at La Coupe about 4 weeks ago and all the crabs that were caught in that were all still alive. Because they stay in the water most of the time and they can survive a little bit of drying out and then the tide comes back in. Often the crabs will stay alive for quite a long time, 2, 3, 4 days so if you find the net or if we seize the net we can cut the crabs out and return them and they will live. But what will happen is that you will get a few crabs but also you get a lot of weed in the net and so the net will just bag up full of weed and just will not fish. So after 2 or 3 days you will just get a big sort of sausage of weed on the beach. In fact it might well have some fish in it but not a lot because it has just got absolutely chock full of kelp and other weed floating around the place.

**Deputy R.C. Duhamel:**

Which fish species are normally expected to be caught using this method of fishing?

**Mr. S. Bossy:**

Quite a mixture I suppose. I am going down the species, you know, on our list, and at the top of course is bass because it begins with a B. Dogfish. In fact probably dogfish is about the most common that you get in set nets. You get quite a lot of mullet, probably in equal numbers to bass. Mullet and bass are the sort of inshore silver fish. Then, because it is usually placed on the sand, you will get a few flat fish like plaice and sole, just a small part.

**Mr. M. Smith:**

You get rockfish as well.

**Mr. S. Bossy:**

Yes, of course, rockfish. I have not got that one here.

**Mr. M. Smith:**

It states in the report that they also continue to catch shellfish.

**Mr. S. Bossy:**

Yes, crabs. Absolutely.

**Mr. M. Smith:**

Abandoned nets, the thing you find most of in there is undoubtedly crabs, green crabs. The other problem we do get from time to time is that when the spider crabs all come in to moult, the educated fisherman would not dream of putting a net anywhere it but you will get someone who has not got the experience and he will put a net down and it will come up with a load of spider crab in it, and that is quite a difficult thing to sort. But, as Simon says, they can all successfully be removed, it is just a question of how long it takes.

**Deputy R.C. Duhamel:**

How many nets do you think might be set each year?

**Mr. S. Bossy:**

It is not a hugely popular method because it involves a lot of work. You have got to walk all the way down the beach and your net - even if you are looking after it - will inevitably get fouled. Although you could walk down the beach with it on your back as a sack, when you come to retrieve it you really do almost need 2 or 3 of you, or some people use tractors or carts or wheelbarrows to take it all back because you cannot get all the weed out. How many? How long is a piece a string? It is very difficult to say.

**Deputy R.C. Duhamel:**

In relation to the total fishing effort on the shore?

**Mr. S. Bossy:**

It is pretty small. If we were looking at say the bass catch, we would say that probably 5 or 10 per cent of bass are caught in set nets. Quite a small proportion. A lot more would be caught by line fishing with lures or bait on trots. Because a lot of people set trots of course too. You know, this is hooks, et cetera, below water in the same method as set nets.

**Deputy R.C. Duhamel:**

So economically then would we be right to assume that it is a minor part of the fishing effort and it is mainly used for people to -- as a supplement to their income or to provide fish for their own freezer or their own use?

**Mr. S. Bossy:**

Yes.

**Mr. M. Smith:**

It is, with the one exception that if you get a sustained lot of windy weather in the winter for one or 2 of the smaller fisherman, while it might be a supplement to their income, it could be the difference between turning a profit and turning a loss over the year. So for one or 2 of the smaller fisherman it is quite important.

**Deputy R.C. Duhamel:**

But presumably those professional fisherman are setting the set net properly.

**Mr. M. Smith:**

Yes.

**Connétable K.A. Le Brun of St. Mary:**

On the other hand they would not be on the spring tides though.

**Mr. M. Smith:**

They would not leave the nets down either because the nets are money to them.

**The Connétable of St. Mary:**

But it would not be on the spring tide either because you do not get spring tides in the middle of the winter, do you?

**Mr. M. Smith:**

No.

**Deputy R.C. Duhamel:**

You mentioned that these nets are actually set in gullies and not necessarily on the main sandy beaches. Is there any attempt to determine the affect of the fishing, the total fishing, within particular gullies or is it just left to fishermen or those persons going down there to determine whether or not they are in a position to be over catching from a particular area or just taking enough or ...?

**Mr. S. Bossy:**

We do not have the manpower to do small intense studies on that area at the moment. You are possibly aware of this Integrated Coastal Zone Management Strategy, and I think Senator Cohen has now forwarded everybody copies. You have copy, great. So really that sort of work is, you know, an intense focus on looking at the inshore areas and the catch management is really based in that and so -- well, we do not have the manpower anyway to focus on what set nets are catching or what has been caught from a particular area on the beach. Because this has been being talked about for the last 2 or 3 years, we are aware this is coming forward and that would probably be more basic for that sort of work that you are talking about.

**Deputy R.C. Duhamel:**

So bearing in mind that on page 3 of the proposition that suggests, as is the custom at the bottom of the report, that there are no financial or manpower implications arising from these draft regulations, would it be the intention from the department to police this particular regulation or, from your comments, perhaps that would not be the case because you are short of staff?

**Mr. M. Smith:**

We do police nets at the moment and one of the problems is that a net that is quite legally set but might be abandoned, we cannot really do anything about. But we do

get complaints about it so we have to go and visit it from time to time to make sure it is still legally set. This would, if anything, reduce the amount of manpower needed to -- we would make one visit, 4 days later we would make a second visit and if the net had not been moved we would be empowered to seize it.

**Deputy R.C. Duhamel:**

How are you made aware at the moment of the setting of nets? Do fishermen have to notify the department of their intention to do so and to stipulate where the nets are going to be placed?

**Mr. M. Smith:**

No, they do not. We do occasional, and it is very occasional, beach patrols in a Land Rover because we know the spots where people tend to set nets. Or we will watch from the shore what sort of activity people are doing and then go down. But most of the information comes from members of the public who are dog walkers, anglers, people who are concerned.

**Deputy R.C. Duhamel:**

Right.

**Mr. S. Bossy:**

For the record, you suggested -- you said that we do not have too much manpower to do -- when you asked about manpower you were asking about the research work on how much the nets were catching. I was referring to the manpower --

**Deputy R.C. Duhamel:**

Yes, the 2 jobs go hand in hand it would appear. Part of the reasons, it would appear, for bringing forward this regulation is, from the environmental point of view as far as we can ascertain, to ensure there a minimisation of any impact, or negative impact, on the fishing stocks.

**Mr. S. Bossy:**

Yes, to stop the nets ghost fishing. You know, being left their over the neap tides.

**Deputy R.C. Duhamel:**

That is right. So what we are attempting to do with these questions is to draw out, as far as possible, whether or not the responsibility that comes with making amendments to the regulations is well placed in terms of the manpower that is required to police it. Because it does strike us as being a little bit odd that if you bring forward a law and the law carries with it regulations and penalties, if there is not adequate mechanisms to ensure that the law is enforced, there is not much point in having the law, in our view, in the first place.

**Mr. S. Bossy:**

Well, Mike has just described how it is going to help us in fact, because we do not have to just leave a net there when it has been left we then have the power to seize it.

**Deputy R.C. Duhamel:**

Do you think perhaps a better way forward, rather than allowing fisherman or those interested in fishing to place their net without telling the department, would perhaps be to have some further kind of mechanisms for regulating or at least recording the intent of fishermen to place their nets in a particular place which will make it easier to collect the information that is being asked for under the Coastal Management Protection Scheme.

**Mr. S. Bossy:**

What are you proposing?

**Deputy R.C. Duhamel:**

One would be thinking of perhaps a person interested in placing a net would apply or at least record with the department their intention to do so in a particular place so that an eye could be kept on whether or not they are fishing properly.

**Mr. M. Smith:**

There would be a degree of work involved in that obviously from an administrative point of view and I think I would have to balance that against what the benefit would be. I mean, what is the problem with setting nets at the moment?

**Deputy R.C. Duhamel:**

Well, the problem here is that it only becomes an offence if a person has set the net for more than 96 hours and he has not moved it. Now, you have already indicated that you run spot checks or that the public are mainly informing you of any difficulties with nets being fished in a poor fashion, so presumably you are going to have difficulties in terms of manpower in assessing whether or not persons have broken the law under the 96 hour rule, if you have not been notified of the person's intent to set the net at a particular time in a particular place. Likewise under the Regulation 3(6)(a)(iii) it is able to be argued that you have moved the net, so if the net is moved to another location, if each part of that beach set net is located in a different place prior to where this part was located immediately prior to the move. Now, it strikes us that having worded that part of the regulation in that fashion it would be possible, as part of a defence against the non moving of a particular net, to argue that you just lifted the whole thing up and moved it a couple of inches to the right --

**Mr. S. Bossy:**

What is wrong with that? We have no problem with that, that is what we are trying to achieve. The only nets we want on the beach are nets that are being worked properly, and that would be worked properly.

**Mr. M. Smith:**

Because they are visiting the net.

**Deputy R.C. Duhamel:**

Yes, but they would be being placed in the same gully 6 inches to the left or the right.

**Mr. S. Bossy:**

That is not what we are trying to stop.

**Deputy R.C. Duhamel:**

No, but from the Coastal Zone Management perspective part of the making the most of Jersey's coast is to make sure that there is not an over exploitation of fishing effort in particular areas, and what we are trying to work out is how is that going to be pursued by the various departments.

**Mr. S. Bossy:**

It is likely that with this Integrated Coastal Zone Management Strategy that the whole business of netting might come under the spotlight and looked at. I think really and truly the amount of fish that are caught by set nets is relatively small compared to the amount of fish that is caught by -- certainly if you are including rod and line, but even just on the beach fishing, from trot line fishing. There is quite a lot of that. Because it does not involve seaweed, it does not involve taking huge amounts of gear down the beach. You know, you just go down with these hooks which you need to bait every now and again. Possibly you have done it on the big tides. Then there is inshore netting and people seem to be quite interested in the inshore netting, monofilament netting. So those are the areas where quite large proportions of what fish that is caught inshore are caught and it is not a greater proportion that is caught in the set nets. But it is probably important if you are going to put in place a policy for inshore fishing that you include a policy on all the types of fishing that I am talking about. So you would really look at putting together a proper policy that is based on this sort of work.

**Deputy R.C. Duhamel:**

So are you suggesting then that --

**Mr. S. Bossy:**

This is not to regulate fishing effort, this is really just to stop nets being caught by neap tides and allowing us-- if they are going to be caught by neap tides and then ghost fish, we can get there before that hopefully and seize them, and even if we cannot get them before the neap begins we can get out with dry suits or with a boat and then be able to remove that net and stop it ghost fishing.

**Deputy R.C. Duhamel:**

Okay, another tack. You have told us that persons fishing their nets sensibly would come back every 12 hours to check their catch and stop damage by crabs or to keep the fish in good condition if they are wanting to sell it and that is the normal practice. Can you explain the reasoning behind Regulation 3(2) suggesting that the person using a beach set for more than 96 hours must move that beach set to another location

within the 96 hour period? It seems to us that does not necessarily say anything about having fishermen clear out their nets every 12 hours and you are rather concentrating on the moving of the net every 96 hours which seems to us quite something else.

**Mr. S. Bossy:**

We try and do everything through the Sea Fisheries Advisory Panel in a fairly democratic way. The Sea Fisheries Advisory Panel has on it a large mixture, it has got 3 commercial fishermen; it has got, I think, 2 inshore fishermen; it has got an angling representative; it has got environmental representatives, fish farming perhaps. So it has got a very good cross-section of people that use the marine environment. So we took the whole issue of trying to regulate these set nets - I say, regulate, really trying to stop this neaping of the nets - to the panel with a variety of suggestions and this is the solution that they came up with. So we really go with what the panel in their fairly wide experience agrees with. That is where the 4 days came from. It was the panel recommendation.

**Deputy R.C. Duhamel:**

If the regulation were changed to suggest that the nets must be moved to a different place after 12 hours, would that be reasonable?

**Mr. S. Bossy:**

No, because you would be moving in the middle of the night.

**Mr. M. Smith:**

It takes quite a long time to set a net properly. An hour or so at least?

**Mr. S. Bossy:**

Yes, a couple of hours and you would be doing in the dark because you would set it in the day time and then you would be at 2.00, 3.00 in the morning doing it in the middle of the night.

**Deputy C.J. Scott Warren of St. Saviour:**

Do you see any advantage though of making it a shorter period of time, for instance, 72 hours or 48 hours or do you think that the 4 day period is right?

**Mr. M. Smith:**

The 4 day period is what the panel came up, as Simon suggested. In my report I originally thought 5 days because I had asked a few fishermen and that is what they had come up with. There was one member of the panel I think suggested 3 days would be better but the unanimous conclusion was that 4 days was the right period. Perhaps to get back to the roots of this, if I may. We have not really had a problem with nets in many, many years and then it suddenly occurred and it was almost a specific individual and a specific location. Simon has described how nets bundle up and stop fishing but in this case, a neaped net, that does not necessarily happen the net will continue to fish because it might not be getting weed in it and so you have got a net that is across a valuable bay, it is still fishing and no one is clearing the fish out and the crabs are eating the fish and everything else. So we thought by having a time period that it had to be moved within would quite clearly show those nets that were neaped. They just would not be able to be neaped any more without being moved. So that is what were targeting. We were not really targeting the beach set ones in the gullies.

**The Connétable of St. Mary:**

Is the neap net a smaller net than a --

**Mr. M. Smith:**

No, it is one of the bigger ones. It is an individual who sets them in a particular part of St. Brelade, as it happens, and we have -- we thought we would do it by education, it has not worked, we went back to the panel and we decided we had to do something more formal.

**The Connétable of St. Mary:**

But that particular one, not having fished down at St. Brelade on a tide, on a neap tide, does that have sufficient that they can do it across the gullies down there? There would not be the same amount of gully because you would have thought more gullies would be on the east coast from --

**Mr. S. Bossy:**

The legislation is rock to rock, or between rocks situated no more than 120 metres apart. So there are enough rocks. I use gullies perhaps as the most traditional -- you have got the map up behind you showing quite a lot of the gullies that are set across.

**The Connétable of St. Mary:**

I used to do it myself down towards Echo Tower, so I know all the gullies down there but that is what I was thinking of.

**Mr. S. Bossy:**

Exactly you can see the stones still now across them. But around St. Aubin, around the fort there, there are rocks that are situated at the appropriate distance so you can set them around St. Aubin too. Even though they are not quite gullies specifically. Sorry, I did not mean to mislead you by saying “gullies” but it is rocks.

**The Connétable of St. Mary:**

Yes, in between rocks. So in effect this was brought in merely for one specific person?

**Mr. M. Smith:**

Pretty much but then if one person started doing it others may follow I think what it is true to say is we have seen a move away from netting by responsible professional fishermen, not necessarily professional fisherman, people who have always done it the old Jersey way. We have had some individuals putting nets in really peculiar places, who do not really know what they are doing and that is really why we need to tighten up on it.

**The Connétable of St. Mary:**

So it is primarily nets and not just the trots, as it were, there is not the same problem with a trot at all? Or is there the same regulation on trots?

**Mr. M. Smith:**

There are regulations on trots and we have in the past had similar instances where a group of people have moved to the Island and have not been aware of the way to set

trots and they have set them in a peculiar way. But at the moment we are not really encountering that problem.

**Mr. S. Bossy:**

Trots are slightly different in that nets may be set throughout the year below half tide, trots can only be set through the winter from -- I cannot remember exactly the dates but it is approximately mid October through to the end of April. I may not be exactly correct on the dates. So in the summer -- again, it was really not for fish stock management it was more a danger to the general public. You know, you do not want people paddling and swimming in --

**The Connétable of St. Mary:**

Because draw netting is illegal, inshore draw netting or is that -- because that would be more of a problem than --

**Mr. M. Smith:**

Under some very tight circumstances you still draw net, but it is very restricted in how you can do it. We do not really -- it is just not something that is done any more.

**Mr. S. Bossy:**

In St. Ouen and Grouville Bay at very specific times of the tide.

**Deputy R.C. Duhamel:**

Are there any regulations or guidelines that the department give to prospective fishermen to discourage them from setting these nets too low down the beach so that they are not neaped?

**Mr. M. Smith:**

No.

**Deputy R.C. Duhamel:**

Would that be another way of dealing with the problem?

**Mr. M. Smith:**

That is how we tried to tackle this particular problem but it did not seem to work.

**Deputy R.C. Duhamel:**

So it does come back to the same principle that unless there is a registration system or recording system of some description where the department would have an element of control in terms of being able to educate those who presumably are not traditional fishermen, in the setting of these nets indiscriminately, we seem to be in a position where we have got a law which is going to perhaps be useful or perhaps not be useful and perhaps being able to be policed properly or not be policed properly.

**Mr. M. Smith:**

But surely the people who are not going to follow this law will be the very people who would not register the nets in the first place.

**Deputy R.C. Duhamel:**

Well, in that case if that were an offence then presumably if there is some recording system the nets have to be marked and they have to be marked with the owner's name, I would have thought.

**Mr. M. Smith:**

Which they do at the moment.

**Deputy R.C. Duhamel:**

So if nets are being placed on the beach without that minimum of recording then presumably they are breaking the law?

**Mr. S. Bossy:**

But everyone else that fishes on the beach do not have to record their fishing effort. So trot lines do not have to be recorded, monofilament nets do not have to be recorded, anglers do not tell us when they are fishing. It would be a new policy essentially.

**Deputy R.C. Duhamel:**

What I am trying to get to is would a recording system be a better way of stopping the practices that this law is trying to stop rather than the law itself which has been phrased in a particular fashion without the emphasis being placed on a person's requirement to clear the net at the earliest opportunity to stop it fishing in a way that is going to be difficult to control by catching seaweed or fouling up or fishing indiscriminately. There is no particular clause, for example, at the moment which says that it is illegal to allow a net to continue to fish for a period of time not having cleared it. I am thinking from the panel point of view that perhaps that would be a more focused approach rather than saying that the nets can be set for 96 hours, allowed to be moved in the same place slightly - and it is going to be very difficult if there is no recording system to know exactly where they have been put and whether or not they have been moved after the 4 days. It seems to me that the law, the way it is framed, does not necessarily give you the opportunities in the Fisheries Department to police it in a way that it is intended.

**Mr. M. Smith:**

It was not really intended to make sure that people clear their net every 12 hours.

**Deputy R.C. Duhamel:**

But this is what it says in the report. The report is coming from the environmental point of view and there is an economic interest as well. If people are fishing as part of an economic livelihood presumably they would wish to have the fish that they are catching in as best condition as possible for the market because the market are not going to be paying top whack for bass that have got their tails chopped off by crabs or picked over and no eyeballs or this, that and the other, so one would think that the effort that is being put into the regulation is to achieve best fishing practices tied in with economic return. I am not sure that it is worded in those terms to enable the department to get that out of the application of the regulation.

**Mr. M. Smith:**

I do not think it is but that was not the problem that we were trying to tackle. The problem we were trying to tackle was the neap nets and we did not have law drafting time. As you are probably aware, all of our legislation has to go through the U.K. and anything that is going apply in areas where the French can fish has to go through the

French and get their approval as well. We targeted this specifically just to above the low water mark so that it would not need to go to the U.K. so that we could bring it in really, really quickly and by restricting it to a very sort of narrow band of what we were trying to legislate, we were able to get law drafting time. If we looked at the bigger issues, as Simon is suggesting, the Coastal Zone Management Strategy, well then there would have been a considerable delay to this, the problem would still have occurred and we would have still been losing fish to nets at Belcroute for no good reason. That was why we just focused on that particular problem. Now, I am not saying we should not look at the bigger issues but this did not seem to be the opportunity to do it.

**Deputy R.C. Duhamel:**

So perhaps you would like to comment, did you think then that perhaps if there was an extra clause perhaps focused on the lack of fishing effort that people put into clearing their nets, that would give you extra powers to ensure that the nets are not fishing in the way that you do not want them to be.

**Mr. S. Bossy:**

We are very, very cautious. Legally we spend out time dealing with legislation, we are dealing with it right at the moment and defining is very difficult. What is the definition of clearing a net? Do they have to clear every scrap of weed out of it? How do we prove that they have or have not cleared or cleaned the net? You are beginning to get a very, very complicated piece of legislation for trying to tackle quite a simple piece of work.

**Deputy R.C. Duhamel:**

So can you tell me then how, bearing in mind that under the spot checking that is being running at the moment, you are going to be able to prove without a recording system whether or not a net has been set for any particular period of time?

**Mr. S. Bossy:**

Because when you go down to check a net, you might have had a complaint about it, you will record that it is there and usually we will put a notice on it too. Then be able

to return within 4 days and if it still there then you would remove it. At the moment we do not have the ability to do that.

**Deputy R.C. Duhamel:**

That is only if the public have come back and suggested that the net is not being attended particularly well in the first place.

**Mr. S. Bossy:**

Yes.

**Deputy R.C. Duhamel:**

So the time period may well be greater than the 96 hours.

**Mr. S. Bossy:**

Yes, it may be but at least then we are still able to move the net, but at the moment we cannot. Yes, it might have been set for more than 96 hours so what? What is the problem with that?

**Deputy R.C. Duhamel:**

Well, the problem is it is the law. I mean, the law is saying that it would be an offence, right, if you do not move your net to another location in every 96 hour period. Now, the point is because there is a statement saying there is no financial or manpower implications arising from these draft regulations the implication there is that perhaps the policing of the law is not going to be done in the fashion that one would expect the law to be policed in. Now, if that is the case there is an administrative issue. Bringing in a law to discourage something then obviously there is an effect because a law is set up and there is a penalty system if you do things wrong, but there has to be an element of policing in order to ensure that those persons who are going to flout the law are brought to book and the law will not. I am not sure whether or not you have got the manpower to deal with it, but certainly from what you are telling us there does not appear to be any recording system which, under the law, if there is nothing written down to say: "I have, as a fisherman, placed a net in a particular location at a particular time" how are you are going to determine (a) whether or not under Regulation 3(3) that the net has been moved to a different place,

i.e. every part of the net has been moved from where it was before under that clause and (b) how are you going to determine whether or not the net has been set for longer than the 96 hour period that the regulation prohibits nets from being set?

**Mr. M. Smith:**

We have regulations at the moment that say that you have to a mesh size of 90 millimetre in a static net, but people do not have to tell us whether they are using static nets. We do a percentage check. A very small percentage because, as it happens, I do not think we have found a net -- I remember one net under 90 millimetres in the last probably about 5 years. This would be the same. I can only remember 2 incidents where nets that have been worked have been left in the same spot for -- well, they are not being worked, but for more than 96 hours. That is the particular problem we are trying to tackle.

**Deputy R.C. Duhamel:**

But we asked you earlier how many instances of this practice are happening throughout an average year?

**Mr. S. Bossy:**

Of the illegal practice or ...

**Deputy R.C. Duhamel:**

Yes, of the illegal practice.

**Mr. S. Bossy:**

Sorry, when you asked earlier I thought you said how many instances of netting, just general beach set netting --

**Deputy R.C. Duhamel:**

Yes, we did, but I am asking now of the illegal. That is bearing in mind you are statistically sampling so you may miss a few.

**Mr. M. Smith:**

We may miss a few but I can assure you anglers do not miss very much, to be honest. They are all around the coast and they do not like nets and they do phone us up. It is the biggest complaint we get. So we do investigate them. There have been the 2 incidents of the neap net but it is quite true an abandoned net would have been on the beach for probably longer than 96 hours. We do not come across every abandoned net but we probably had about 10 last year, I think.

**Mr. S. Bossey:**

Was it that many? I did not think it was quite that many.

**Mr. M. Smith:**

We had 2 at the start of this year and we had 3 just before Christmas and 2 just before that, so it was -- I do not know. Last year was a bit exceptional. It may be 7 or 8 a year.

**Deputy C.J. Scott Warren:**

So am I right that it is really the power to police this that is important here, rather than necessarily getting everybody within that 4 days? Obviously if people know that is the provision they are more likely to stick to it and it is the fact that you can do something which at the moment you cannot?

**Mr. M. Smith:**

Yes.

**Mr. S. Bossy:**

Yes.

**Deputy C.J. Scott Warren:**

That is really the whole nub of it?

**Mr. M. Smith:**

But with most set nets people who are working there responsibly do not leave them there for 96 hours. They are gone after 3 days probably.

**Mr. S. Bossy:**

You have to remember that a set net might cost £100-£150. They are quite valuable and to set them at the wrong time of the year and get them full of spider crabs, which then damage the net -- the spider crabs seem to be all right but they damage the net. You know that is a waste of your investment and then just leaving it on the beach to be neaped, get it caught with big chunks of the base of the kelp which rip it is a complete waste of an investment. It is still relatively exceptional circumstances that this is occurring and we believe that the nets might have been bought in a pub or something. You know, they are being set by a few inexperienced people

**Deputy R.C. Duhamel:**

Can I just come in there. We had Mike tell us that there is maybe 7 a year, he stated 10 to start with.

**Mr. S. Bossy:**

Certainly in the last year. But probably 5 years before there would be none.

**Mr. M. Smith:**

Not too many, yes.

**Deputy R.C. Duhamel:**

Okay, so on average how many would you be expecting? So the number 7 that you quoted as probably an exceptional year, you just said that you did not expect it to be happening except exceptionally so is it one or 2 a year on average?

**Mr. M. Smith:**

I would say 2 or 3 of abandoned set nets a year. The other thing we do get is nets that have been set not as set nets but set offshore that have rolled up the beach and sometimes you cannot tell the difference.

**The Connétable of St. Mary:**

Can I just ask there, when you say they get reported is it on average the people that are walking the beaches or walking down to there or is it the responsible people who look after their nets reporting the irresponsible people, shall we say? I was just

wondering where the actual information comes from because if somebody is a responsible person with their set net they are going to do it all properly and then they will feel very aggrieved if it is an irresponsible one. I just wondered where the information came from.

**Mr. M. Smith:**

It tends not to be other netters. I cannot think of other netters having complained but then the other netters are probably fishing in areas where the problems will not arise. So they may not see the nets. It tends to be people walking dogs or people who are angling. Quite often we will get a complaint about a net that is perfectly acceptable, it is just someone who is concerned. They think should there be a net there and if so what should the mesh size be? When we go in it is perfectly okay.

**The Connétable of St. Mary:**

So therefore they are higher up the beach --

**Mr. M. Smith:**

People walk their dogs quite low down the beach these days.

**The Connétable of St. Mary:**

Do they as well?

**Mr. M. Smith:**

Yes.

**The Connétable of St. Mary:**

I always think they are more on the beach rather than down at the edge.

**Mr. M. Smith:**

Anglers walking out to Seymour Tower, or not necessarily Seymour Tower but Seymour area and will come past nets. But the problem at Belcroute is particularly prevalent because anyone who is angling anywhere around Belcroute can see this particular net all the time until it is covered.

**The Connétable of St. Mary:**

So on the other hand it could be anglers that are reporting these as well?

**Mr. M. Smith:**

It could anglers, yes.

**Deputy R.C. Duhamel:**

There are licensing schemes for fishing in other areas within the Jersey Law.

**Mr. S. Bossy:**

Professional fishing.

**Deputy R.C. Duhamel:**

Professional fishing, yes. Do you think there would be anything gained by bringing in a licensing system for the setting of these nets in relation to stopping the 2 or 3 ...

**Mr. S. Bossy:**

I think if you looked at the overall picture of shore fishing, it may be that you would want to develop some possible licensing system. But, as I say, we mentioned the Integrated Coastal Zone Management Plan and it would probably be better to look at the overall picture as opposed to the specific beach netting that is allowed in certain places.

**Deputy R.C. Duhamel:**

Is it likely then that in the fullness of time if the Coastal Zone Management Strategy is endorsed, and there is every likelihood that it will be, that perhaps this particular regulation might be subsumed into a wider piece of work which would give you a greater control over the fishing effort in the gullies and across the rocks than you have got at the moment?

**Mr. S. Bossy:**

You are asking us to crystal ball gaze a little bit, but yes I think that is right. I think we want to look at the overall inshore fishing effort, particularly in the area that is perhaps most dear to Jersey, that is from La Collette to Galree(?) in the Ramsar areas.

**Deputy R.C. Duhamel:**

So this particular regulation might be seen as a stop gap?

**Mr. S. Bossy:**

Absolutely.

**Mr. M. Smith:**

Can I mention bag limits?

**Mr. S. Bossy:**

Yes, absolutely.

**Mr. M. Smith:**

One of the other bits of legislation that we have been working on for a couple of years now, which has taken far longer than it should but there are very good reasons for that, is bass limits. Bag limits will impose a limit of 5 bass, if they go through the States, on each individual fisherman and that will clearly cut into the net side of things. There is a -- at the moment the draft legislation contains an exemption and the exemption is for commercial fishing boats. Obviously a fish caught by a commercial fishing boat, you cannot restrict them to -- but there is also going to possibly be another exemption which the Minister may make by Gazette notice and that will be 2 classes of people on application. The 2 classes that are envisaged at the moment are those commercial fishermen who wish to use shore nets or trots on the shore or even angling on the shore to fish commercially away from the shore, and those people who might not be affiliated to a fishing boat but have commercially fished on the shore. There would need to be an exemption for them to carry on doing that. Under that exemption, if they are using fishing equipment, which obviously includes nets, the way the regulation is drafted at the moment is they will have to register with the Minister, they will get an exemption that will relate to them as an individual. They have to carry that exemption with them all the time and they will have to attach a special tag issued by the Minister to their fishing equipment on the beach. So in a small way we are going towards achieving what you are suggesting in that all the gear that is worked commercially on the beach will have to be registered with the Minister

if this is all approved. Obviously you are going to say: “Well, other people could still set massive amounts of nets” but they would be restricted to 5 bass so would they set a massive amount of net. They probably would not to start with but in time they would realise.

**Deputy R.C. Duhamel:**

Okay, one final question if I may, bearing in mind that the Integrated Coastal Zone Management Strategy is being promoted by the Environment Minister and the regulations and responsibility for fishing has recently been passed over to the Economic Development Minister, to what extent is this cross-over causing problems from an environmental point of view, because one would have thought - without trying to put words into your mouth - that the responsibility for fishing in environmental terms might not necessarily be being as followed perhaps as closely as it was when the responsibility was totally within the Environment Department.

**Mr. S. Bossy:**

Well, since the responsibility was transferred there has not been any problem at all. Long may that continue. But, yes, I imagine -- we are moving into a new area when the Integrated Coastal Zone Management Strategy begins to get teeth, when the policy begins to get pieces -- the jigsaw is filled in underneath it.

**Deputy R.C. Duhamel:**

So do you think there will be a flowing back of responsibility from Economic Development? They have a slightly limited point of view in terms fishing, do you think that the responsibility perhaps for the regulations will go back to the Environment Minister in the long term and this is just a temporary blip?

**Mr. S. Bossy:**

I really have no idea. It depends on what responsibility the Ministers want to have under their wing, I guess. At the moment all the Fisheries regulations come under the Minister for E.D.D. (Economic Development Department).

**Deputy R.C. Duhamel:**

At the moment, but it did not do previously.

**Mr. S. Bossy:**

That is correct.

**Deputy R.C. Duhamel:**

So what I am asking you is from an environmental point of view, a Fisheries point of view, are you satisfied that as close attention to the environmental considerations of fishing are taking place by having the regulations for fishing with the Economic Development Department whereas previously it would have been with the Environment Department?

**Mr. S. Bossy:**

Yes, all of our objectives are being met at the moment. But I think, as I said, we are probably moving into a new arena when this comes to the fore. I imagine we have just got to look at the situation -- we do not know what regulations, what new restrictions and regulations we are going to be putting place. So to start second guessing who is going to do them is very, very difficult when we do not know what we are talking about. So I find it difficult to answer your question really.

**Deputy R.C. Duhamel:**

But bearing in mind that the Integrated Coastal Zone Management Strategy is being brought at this point in time by the Environment Minister, do you think that into the future the responsibilities that are being called for within this particular document will be discharged primarily through the Environment Department or primarily through the Economic Development Department.

**Mr. S. Bossy:**

It depends what the regulations are. If you look at this, if there are likely to be regulations on fishing and the taking of sea fish, at the moment under the current scenario they are going to be put forward by the E.D. Department. However, if there are further regulations on pollution, water pollution, environmental damage, they will come in under the Waste Management -- we have within the department the water pollution regulatory body, so those regulations on maintaining the cleanliness of the water would come in under the Environmental Department. It really depends what

policy there is. There may be other policies that would come in under a third department. I think there would be other regulations that would come in under Harbours because we are talking about management of certain of the Ramsar zones. We might be looking at a special regime for the Minkies and the Ecréhous, we might be looking at no take zones, marine protected areas which might include, for example, the Anchorage at the Ecréhous and therefore it would be the Harbour Department that would bring in --

**Deputy R.C. Duhamel:**

Yes, but your expectation would be in the main that the prime focus on the administration of this particular piece of work would be from the Environment Department?

**Mr. S. Bossy:**

The focus on the administration bit, yes. Yes, I think so. As to which politician enacts the legislation, I am not sure, but the actual focus on the doing of it and the monitoring of it is going to be the Environment Department.

**Mr. M. Smith:**

Yes, that is right. There is likely to be, we would hope, a specific person that will be charged with putting -- you know, actioning these areas.

**Deputy R.C. Duhamel:**

The reason I am mentioning this is that we just a similar situation with the Air Quality Report. Air Quality used to reside with the Environment Department in terms of bringing forward legislation and then policing of that legislation was undertaken by departments like Environmental Health or other bodies, and recently what has happened is that there has been a shift apparently in terms of moving the responsibility for the strategy making, the plan making, the regulation making away from the environment to other bodies. We were just wondering whether or not there is a potential opportunity for a similar thing to be happening in that respect over the coastal area administration?

**Mr. M. Smith:**

I think from an admin point of view the Minister for the Environment still has the purse strings, we still work for him, we are doing more and more environmental work on a daily basis, it is just that the Minister who enacts the legislation is E.D.D. at the moment. So it does not really have a practical impact.

**Deputy R.C. Duhamel:**

Right, I have got no further questions, does anyone? Okay, thank you very much.