

Explanatory Memorandum to The Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015

This Explanatory Memorandum has been prepared by Marine and Fisheries Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015.

Carl Sargeant AM
Minister for Natural Resources

5 February 2015

1. Description

The primary purpose of this instrument is to revoke obsolete instruments related to fisheries. This includes England and Wales instruments which enforce EU restrictions and obligations relating to sea fishing which are no longer required following amendments made to section 30(1) of the Fisheries Act 1981 (c.29) by section 293 of the Marine and Coastal Access Act 2009 (c.23).

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

The making of this Order on a composite basis will provide more clarity for fishermen who often operate on both sides of the border. In this circumstance there is no difference in policy between the Welsh and UK governments and many of the instruments being revoked extend to England and Wales.

3. Legislative background

The primary purpose of this instrument is to revoke obsolete instruments related to fisheries. This includes England and Wales instruments which enforce EU restrictions and obligations relating to sea fishing which are no longer required following amendments made to section 30(1) of the Fisheries Act 1981 (c.29) by section 293 of the Marine and Coastal Access Act 2009 (c.23). As a result of these amendments a breach of enforceable EU restrictions and obligations relating to sea fishing is an offence in England and Wales.

Article 2 designates the Marine Management Organisation, the Welsh Ministers and the Department of Agriculture and Rural Development in Northern Ireland as competent authorities for various purposes of Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (OJ No. L 343, 22.12.2009, p. 1), and of Commission Implementing Regulation (EU) No. 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No. 1224/2009 (OJ No. L 112, 30.4.2011, p. 1).

Article 3 confers powers as to the recovery of fines by courts imposing fines on persons convicted of an offence under section 30(1) of the 1981 Act or under an order made under section 30(2) of the 1981 Act.

Articles 4 to 6 amend the Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites Regulations 2005 (S.I. 2005/1605), the Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007 (S.I. 2007/1842) and the Tote (Prohibition of Fishing) Order 2008 (S.I. 2008/691), updating references to relevant EU legislation.

Article 7 and the Schedule revoke 57 instruments in their entirety and 5 partially with (in some cases) specified limits of territorial extent.

4. Purpose & intended effect of the legislation

Section 30(1) of the Fisheries Act 1981 (c.29) as amended by section 293 of the Marine and Coastal Access Act 2009 (c.23) makes a breach of enforceable EU restrictions and obligations relating to sea fishing an offence in England and Wales. This reduces the number of instruments that need to be made to implement and enforce EU fisheries legislation in England and Wales. It also means that a number of existing instruments are no longer required and can be revoked.

5. Consultation

No consultation was undertaken as this exercise produces no material change to existing regulation where references are merely updated and also is to remove obsolete and redundant legislation.

6. Regulatory Impact Assessment (RIA)

No Regulatory Impact Assessment has been undertaken because the Order imposes no costs or no savings, or negligible costs or savings on the public, private or charities and voluntary sectors. The Order will remove redundant legislation rather than introducing any new burdens on the industry.