EXPLANATORY MEMORANDUM TO

THE ADJACENT WATERS BOUNDARIES (NORTHERN IRELAND) (AMENDMENT) ORDER 2020

2020 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order makes a small amendment to the boundary of the Northern Ireland Zone.

3. Matters of special interest to Parliament

Matters of special interest to the [Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument is includes Northern Ireland.

3.3 This instrument amends the boundary of the Northern Ireland zone. Any part of the territorial sea falling outside of the Northern Ireland zone is not included within the definition of Northern Ireland. Consequently, this order applies outside of Northern Ireland to the extent that it applies in that part of the territorial sea which will become part of the Northern Ireland zone as a consequence of this Order.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales, Scotland and Northern Ireland

4.2 The territorial application of this instrument is Northern Ireland and England and Wales.

5. European Convention on Human Rights

5.1 The Minister of State for Northern Ireland, Robin Walker has made the following statement regarding Human Rights:

"In my view the provisions of the Adjacent Waters Boundaries (Northern Ireland) Order 2020 are compatible with the Convention rights."

6. Legislative Context

6.1 The Northern Ireland zone is defined in section 98(1) of the Northern Ireland Act 1998 as meaning "the sea within British fishery limits which is adjacent to Northern Ireland".

6.2 The Adjacent Waters Boundaries (Northern Ireland) Order 2002 ("the 2002 Order") defines the boundary between the parts of the sea which are to be treated as adjacent

to Northern Ireland and the parts which are not. In doing so the 2002 order determines the extent of the Northern Ireland zone.

6.3 The significance of the Northern Ireland zone relates to legislative and executive competence.

6.4 Paragraph 19 of Schedule 2 to the Northern Ireland Act 1998 provides that the regulation of sea fishing outside the Northern Ireland zone (except in relation to Northern Ireland fishing boats) is an excepted matter (i.e. a matter outside of the legislative competence of the Northern Ireland Assembly). Various legislation conferring functions on the Department for Agriculture, Environment and Rural Affairs (DAERA) in relation to sea fisheries does so with reference to the Northern Ireland zone. Functions relating to sea fisheries in the Northern Ireland zone were transferred to DAERA by the Sea Fisheries (Northern Ireland) Order 2002.

6.5 The Exclusive Economic Zone Order 2013 ("the 2013 Order") designates the area of the United Kingdom's exclusive economic zone. It revoked and replaced orders relating to renewable energy and pollution but did not revoke the Fishery Limits Act 1976, which sets out British fishery limits for the UK. Instead, the Marine and Coastal Access Act 2009 amended section 1 of the Fishery Limit Acts 1976 Act to align the British fishery limits with the exclusive economic zone.

7. Policy background

What is being done and why?

7.1 The instrument is required to amend the Adjacent Waters Boundaries Order (Northern Ireland) 2002 to accurately reflect the southern boundary of the Northern Ireland zone.

7.2 The coordinates within the 2002 Order were not amended when the UK Government legislated for its Exclusive Economic Zone in 2013. This creates a management issue for DAERA and the Government as there is now an area adjacent to Northern Ireland that lies inside the UKs exclusive economic zone but outside the Northern Ireland zone and which cannot be managed by DAERA in relation to sea fishing. The area of sea which raises this issue straddles the border with Irish waters.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union

9. Consolidation

9.1 There are no plans to consolidate the relevant legislation.

10. Consultation outcome

10.1 No consultation has been undertaken.

11. Guidance

11.1 No guidance is being published alongside this instrument.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for these Regulations as no, or no significant, impact on business, charities, voluntary bodies or the public sector is foreseen.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 Given the technical nature of this instrument, no consultation has been conducted

14. Monitoring & review

14.1 The approach to monitoring of this legislation is it to be monitored in the course of normal departmental business.

14.2 The regulation does not include a statutory review clause.

15. Contact

15.1 Michael Animashaun at the Northern Ireland Office Telephone: 07795 800021 email: Michael.Animashaun@nio.gov.uk can be contacted with any queries regarding the instrument.

15.2 Rebecca Nugent, Deputy Director for Protocol and Free Trade Agreement (FTA) Group, at the Northern Ireland Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Robin Walker MP at the Northern Ireland Office can confirm that this Explanatory Memorandum meets the required standard.