EXPLANATORY MEMORANDUM TO

THE ALIEN AND LOCALLY ABSENT SPECIES (AQUACULTURE) (AMENDMENT) (EU EXIT) REGULATIONS (NORTHERN IRELAND) 2020

2020 No.

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs (the Department) to accompany the Statutory Rule and is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under section 11 of, and Part 1C of Schedule 2 to, the European Union (Withdrawal) Act 2018.

1.3 The Statutory Rule is laid before the Assembly under the draft affirmative resolution procedure. This Statutory Rule is due to come into operation in accordance with paragraph (1) of regulation 1.

2. Purpose of the instrument

2.1 The purpose of the Statutory Rule is to ensure that Northern Ireland subordinate legislation relating to alien and locally absent species in aquaculture is compatible with the Withdrawal Agreement and the Ireland/Northern Ireland Protocol and can continue to operate effectively after the EU Exit Transition Period.

3. Background

3.1 In 2018 and 2019, a number of Statutory Instruments were made by the Department for Environment, Food and Rural Affairs to ensure that domestic Regulations could operate in the event that the UK left the EU without an agreement. Some of those Statutory Instruments amended Northern Ireland domestic legislation for which the Department has responsibility. They were taken forward at Westminster to ensure transparency and scrutiny in the absence of the Northern Ireland Assembly and are due to come into operation at the end of the transition period.

3.2 In the area of aquatic animal health and alien and locally absent species in aquaculture, one Statutory Instrument was made: The Aquatic Animal Health and Alien Species in Aquaculture (Amendment) (Northern Ireland) (EU Exit) Regulations 2019. The provision of this Statutory Instrument relating to alien and locally absent species is still needed because it reflects that the UK is no longer a Member State.

3.3 Further amendments to alien and locally absent species in aquaculture domestic legislation are required to ensure compatibility with the Withdrawal Agreement and the Ireland/Northern Ireland Protocol. This Statutory Rule removes references to the UK contained in The Alien and Locally Absent Species in Aquaculture Regulations (Northern Ireland) 2012 ("the 2012 Regulations"). This Statutory Rule omits references to "or to Northern Ireland from another part of the United Kingdom" to reflect that the UK is no longer a member of the EU.

3.4 The 2012 Regulations provide for a system of permits governing the introduction of alien species and the translocation of locally absent species for use in aquaculture into Northern Ireland. The Department may, however, exempt aquaculture businesses

from the requirement to hold a permit to translocate locally absent species from another part of the UK.

3.5 As a consequence of the technical amendment to regulation 4(2)(b) provided for in this Statutory Rule, the Department will no longer be able to exempt translocations of locally absent species into Northern Ireland from other parts of the UK from the permit requirement. It will become an offence to move these species into Northern Ireland from other parts of the UK without a permit, and as such, in legal terms, this widens the offence provided for in regulation 4(1). There is no change to the penalty for the offence.

3.6 There is no policy change as it has always been the policy to control and, where necessary, restrict movements into Northern Ireland of species which could pose a threat to aquaculture businesses and the environment from other parts of the UK and elsewhere.

4. Consultation

4.1 As the amendments contained in the Statutory Rule are technical in nature and do not involve policy changes, they have not been subject to public consultation.

4.2 Given that this Statutory Rule widens an offence, this is a cross-cutting matter with the Department of Justice. It was therefore necessary to consult with the Department of Justice and to seek the Justice Minister's approval to the amendment. The Justice Minister has approved the amendment relating to offences contained within this Statutory Rule.

5. Equality Impact

5.1 The Department is required under section 75 of the Northern Ireland Act 1998 to screen the proposed changes to ascertain if an Equality Impact Assessment is required. A screening exercise was carried out on the Statutory Rule. No equality issues were identified.

6. Regulatory Impact

6.1 Given the technical nature of the Statutory Rule, no Regulatory Impact Assessment is required. There are no impacts on the private, voluntary or public sector as a result of these changes.

7. Rural Needs Impact

7.1 A Rural Needs Screening exercise has been carried out on the Statutory Rule. As the Statutory Rule makes technical changes only no impact was identified.

8. Financial Implications

8.1 There are no financial implications associated with the introduction of this Statutory Rule.

9. Section 24 of the Northern Ireland Act 1998

9.1 The Statutory Rule does not have any human rights implications nor is it incompatible with EU law. It, therefore, complies with the requirements of section 24 of the NI Act 1998.

10. EU Implications

10.1 The Statutory Rule takes account of the need to align with the agreement reached between the UK and the EU on the UK's withdrawal from the EU.

11. Parity or Replicatory Measure

11.1 N/A

12. Additional Information

12.1 N/A

13. Contact

13.1 Donna Lyons at the Department of Agriculture, Environment and Rural Affairs can be contacted with any queries regarding the instrument: Telephone: 028 44618039; E-mail: Donna.Lyons@daera-ni.gov.uk.

13.2 Claire Vincent at the Department of Agriculture, Environment and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.