EXPLANATORY MEMORANDUM TO

THE SEA FISHERIES (INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS) (AMENDMENT) (NO. 2) REGULATIONS 2024

2024 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs ("Defra") and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 The UK is a contracting party to the International Convention for the Conservation of Atlantic Tunas (ICCAT) which sets strict requirements for the management of Bluefin Tuna (BFT) in the ICCAT Convention area.

2.2 As well as setting the requirements for the management of commercial fishing for BFT in the ICCAT Convention area, ICCAT requires any recreational targeting of BFT to be prohibited unless specifically authorised. The UK Administrations currently do not have the appropriate powers to do this, thus preventing the UK opening managed recreational BFT fisheries.

2.3 This instrument creates clear prohibitions in relation to recreational BFT fishing. It also establishes a legislative framework to enable the four UK fisheries authorities to establish permitting regimes to authorise the recreational targeting of BFT in their waters and enable recreational BFT fisheries to be opened.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland with the exception of regulation 3 which extends to Great Britain only.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland with the exception of regulation 3 which only applies in relation to Great Britain.

5. European Convention on Human Rights

5.1 The Minister of State for Food, Farming and Fisheries, the Right Honourable Mark Spencer MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Sea Fisheries (International Commission for the Conservation of Atlantic Tunas) (Amendment) (No. 2) Regulations 2024 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument makes amendments to the following retained EU law:

6.2 Regulation (EU) 2016/1627 of the European Parliament and of the Council on a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean. Regulation (EU) 2016/1627 implements ICCAT requirements in relation to the management of BFT fisheries, however, it falls short on prohibiting the unauthorised recreational targeting of BFT and it doesn't provide a framework for authorisation.

6.3 The amendments made by this instrument therefore establish a legal framework enabling the recreational targeting of BFT within UK waters in an ICCAT compliant manner by 1) enabling the four UK Fisheries Administrations, if they wish, to establish permitting regimes for recreational BFT fisheries in their waters and 2) creating a new offence for targeting BFT without an authorisation.

6.4 These amendments are distinct from the current licensing requirements for commercial fishing boats under section 14 of the Fisheries Act 2020 ('the Act') as those licensing requirements do not apply to recreational fishing boats.

6.5 This instrument also amends the Sea Fishing (Enforcement) Regulations 2018 (S.I. 2018/849) to confer enforcement powers on Inshore Fisheries and Conservation Officers in relation to the prohibition on unauthorised recreational BFT fishing.

7. Policy background

What is being done and why?

7.1 The primary purpose of this instrument is to ensure that the UK has in place the proper legislative framework and enforcement powers to open recreational BFT fisheries while meeting the requirements specified for contracting parties by ICCAT. This also supports the objectives of the Act, including the sustainability objective which states that fishing activities are "environmentally sustainable in the long term" and "managed so as to achieve economic, social and employment benefits".

7.2 BFT is present again in UK waters after an absence of many years. In 2021, the International Union for the Conservation of Nature changed their assessment of BFT from "endangered" to "least concern".

7.3 Increasing abundance of BFT in UK waters is generating interest from both commercial and recreational fishers, the scientific community and environmental non-governmental organisations.

7.4 In 2021, after leaving the EU, the UK joined ICCAT as an independent contracting party and was able to establish its own BFT quota, enabling us to open BFT fisheries for the first time.

7.5 The UK Fisheries Administrations have initially taken a cautious and measured approach to managing BFT quota. They have worked closely with the Centre for Environment,

Fisheries and Aquaculture Science (Cefas), the Agriculture, Fisheries and Biosciences Institute, Swansea University, and recreational sea fishing stakeholders to run scientific catch and release tagging (CHART) programmes in 2021, 2022 and 2023. Twenty five vessels were permitted to recreationally target BFT under the English CHART programme in 2023.

7.6 The English CHART programme received [£950,000] of Defra funding over three years and further funding would have to be found to continue the programme in 2024. CHART is scientifically valuable, but expensive and its social and economic benefits are constrained.

7.7 This instrument puts in place a legislative framework to enable the four UK Fisheries Administrations to establish recreational permitting regimes in their waters. It also amends UK legislation to prohibit the recreational targeting of BFT in UK waters without a permit.

7.8 In Defra's 2023 consultation on establishing permitting regimes for the recreational targeting of BFT in UK waters, most of the 167 respondents said they wanted to 'participate in a future fishery'. A BFT catch and release recreational fishery (CRRF) is a natural successor to the CHART programme which will increase participation, bring increased social and economic benefits, continue valuable data collection and reduce costs to government.

7.9 Furthermore, opting for self-regulation by industry, without formal legislation, would not be sufficient for the UK to comply with ICCAT requirements.

7.10 As a result of this legislation, Defra intends to open a BFT CRRF in England in 2024. The maximum scale of the English BFT CRRF in 2024 will be determined by the availability of BFT quota. Based on a combination of CHART programme data and consultation feedback, demand is expected to be high (initially 150+ vessels) and BFT CRRFs are expected to generate a net positive impact for local economies around the English coast. With an annual allocation of twenty tonnes of quota, BFT CRRFs would be expected to generate around £60m of benefits, over the next ten years, mostly in coastal communities.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 There are no plans to consolidate legislation amended by this instrument.

10. Consultation outcome

10.1 Defra's consultation lasted for seven weeks, from 17 July to 4 September 2023. It was conducted primarily using Citizen Space and was supplemented by face-to-face meetings with stakeholders at local ports in England, virtual meetings with stakeholders and email communication.

10.2 There were 167 responses to the public consultation from a range of stakeholders, including: recreational fishers, commercial fishers, environmental and non-governmental organisations, of which most respondents (139) broadly supported the proposed design for the new UK permitting regimes for the recreational targeting of BFT.

10.3 The text of this statutory instrument reflects three key changes resulting from the consultation: 1) the introduction of charges for permits has been postponed, to allow time for further work to confirm the scope and scale of such charges, as well as how any charging income would be used 2) the legislation does not expressly exclude access to a BFT CRRF for vessels licensed under the commercial licensing regime, to help maximise the socio-economic benefits attainable from the BFT quota and 3) Defra consulted on making permits available to vessel 'owners' and 'charterers' but consultation responses indicated that this was confusing, so permits will now only be available to vessel owners. This does not prevent chartered vessels from being used in a BFT CRRF fishery.

10.4 Reponses to consultation questions on the design of the English BFT CRRF will inform the detailed fishery design work that Defra is now undertaking collaboratively with other government bodies and sector stakeholders.

10.5 In addition, Defra has consulted with the devolved administrations, and the Marine Management Organisation (MMO) regarding the specific text of this statutory instrument.

10.6 The consultation summary and government response were published on 7 December 2023. The link can be found on gov.uk.[1]

11. Guidance

11.1 Guidance on the activities associated with BFT caught in the Convention area by recreational fishers is being produced and will be made available on GOV.UK before the English CRRF opens in 2024. This will include provision of detailed application guidance, in due course.

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 A full Impact Assessment has not been prepared for this instrument because of the predicted low-level impact on business and the low economic effects of the changes being applied. Instead, a De-Minimis Assessment (DMA) has been undertaken. This shows an expected net benefit to participating charter angling vessels of £1.3m per year. The benefit results from this legislation allowing recreational charter fishing businesses to open up a new income stream by diversifying into BFT trips. The income generated through such trips is expected to offset any setup costs in the first year.

12.4 A full Justice Impact Test has been undertaken which confirms that the new offences created will result in a negligible number of prosecutions (between 0.04 and 0.06 per year).

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[1] https://www.gov.uk/government/news/recreational-fishing-for-atlantic-bluefin-tuna-set-to-start-in-english-waters-next-year#:~:text=Each%20UK%20fisheries%20administration%20will,commercial%20fishery%20for%20bluefin%20tuna.

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 This is enabling legislation that will create economic opportunity for charter businesses and the local tourism industry, including hotels, restaurants and gear suppliers.

13.4 Twenty one of the respondents to the consultation identified themselves as charter vessel owners, of which 85% stated that they broadly agreed with the 'small and net positive' economic impact estimated in the consultation document.

13.5 Using socioeconomic data collected through the CHART programme, the DMA estimates that each charter vessel taking part in the CRRF is expected to receive £17,220 in charter fees per year.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that Defra, the MMO, as well as the devolved administrations in relation to devolved matters, will monitor and review the operation of CRRFs and the impact of this instrument as part of their standard policy-making procedures.

14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Right Honourable Mark Spencer MP, Minister of State for Food, Farming and Fisheries has made the following statement: "In my view a review provision is not appropriate given the minimal impact on business".

15. Contact

15.1 Jamie Muddimer at the Department for Environment, Food & Rural Affairs. Telephone: 07880 456706 or email: jamie.muddimer@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Anne Freeman, Deputy Director for Domestic Fisheries, at the Department of Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister Spencer at the Department of Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.