EXPLANATORY MEMORANDUM TO

Eel Fishing (Licence Duties) Regulations (NI) 2010

SR 2010 No. 167

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Culture, Arts and Leisure to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under sections 15(1) and 19(1) of the Fisheries Act (NI) 1966 and is subject to the negative resolution procedure.

2. Purpose

The purpose of these Regulations is:

2.1 To amend the schedule of available eel fishing licences in the Eel Fishing (Licence Duties) Regulations.

3. Background

3.1 The European eel stock has been in rapid decline since around 1980. This long term decline continues to show no sign of recovery and is a matter for considerable concern. The European Commission, following a number of years of consultation, adopted European Eel Regulation (EC) No 1100/2007 on 18 September 2007 which aims to establish measures for the recovery of the European eel stock.

3.2 The EU Regulation requires the establishment of Eel Management Plans (EMP) for each eel river basin, of which there are three covering NI (North West, Neagh Bann and North East), which will demonstrate that at least 40% of the biomass of adult eels from each river basin relative to the best estimate of the potential escapement in the absence of human activities affecting the fishing area or stock are escaping to spawn.

3.3 The Plan for the Lough Neagh – Bann catchment, which is Europe's largest wild eel fishery, concludes that the fishery is sustainable and can continue at current levels of effort albeit under close regulation and subject to ongoing monitoring. Unfortunately the cross-border Lough Erne fishery (North West Plan) is not sustainable and in order to comply with the requirement of the EU legislation there will be a cession of commercial eel fishing in the Erne catchment. There are no eel fisheries in the North East River Basin.

3.4 The European Commission approved the EMPs at their Management Meeting held on 4 March 2010. The requirements specified in each EMP must be implemented immediately.

3.5 New Eel Fishing Regulations have been prepared to implement the cessation of eel fishing other than in the Lough Neagh and at named weirs on the lower River Bann catchment or unless specifically authorised for conservation purposes. The list of available licences in the Schedule to the Eel Fishing (Licence Duties) Regulations also needs to be amended to remove any references to eel fishing licences for Lough Erne. Licences for fyke netting will also be removed from the Schedule as these were only used for eel fishing outside of Lough Neagh.

4. Consultation

EU Regulation

4.1 Before adoption of the European Eel Regulation (EC) No 1100/2007 on 18 September 2007, the European Commission entered into extensive consultation with member states.

Lough Erne

4.2 DCAL Officials met with Erne eel fishermen to discuss the Eel Regulation and the development of the North West Plan and fishermen were asked to submit any comments they might have to the Department of Communication, Energy and Natural Resources in the Irish Republic (as the NW Plan is trans-boundary) or DCAL. Six of the 17 licence holders attended a meeting in Enniskillen on the 11 September 2008 and 3 formal consultation responses were received in writing. All respondees acknowledged the crisis in eel stocks and the need for action. DCAL has also engaged with local politicians who have raised concerns on the fishermen's behalf.

5. Equality Impact

5.1 Consideration has been given to compliance with section 75 of the Northern Ireland Act 1998. The screening exercise did not identify any equality issues.

6. Regulatory Impact

6.1 There are currently 17 commercial eel fishermen who retain an entitlement to fish for eels in Lough Erne and not all are actively fishing. Whilst these fishermen will no longer be entitled to catch eels for sale, they will have the opportunity to tender for contracts to catch and transport eels for conservation purposes. A conservation fishery, operated by the Electricity Supply Board, has been established to "trap and transport" eels around the hydro-electric power station at Ballyshannon.

7. Financial Implications

7.1 See above

8. Section 24 of the Northern Ireland Act 1998

8.1 It is not expected that any of the amendments set out in the draft Statutory Rule will have any Section 24 implications or impact on Human Rights or European Community law. The EQIA screening did not raise any discrimination issues.

9. EU Implications

9.1 Failure to implement the approved Eel Management Plans, or failure to meet the targets prescribed by the Plans, may result in sanctions. The European Commission may initiate infraction proceedings against member states in breach of European Regulations.

10. Parity or Replicatory Measure

10.1 The Loughs Agency of the Foyle, Carlingford and Irish Lights Commission has prohibited the capture and killing of eels in the Londonderry and Newry areas. The Irish Republic has implemented legislation banning the capture or sale of live eels anywhere in their jurisdiction. Fishing for eels has been banned in England and Wales where the Environment Agency is the fishery owner. Eel fishing has been prohibited in Scotland since January 2009.

11. Additional Information

11.1 Not applicable