EXPLANATORY MEMORANDUM TO

Fisheries (Amendment) Regulations (NI) 2010

SR 2010 No. 196

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 section 26 (1) b 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 designate four waters as rainbow trout waters for the purposes of Byelaw 73 (2) (b) of the Fisheries Regulations (Northern Ireland) 2003 which provides that there shall be no annual close season for rainbow trout in waters so designated; and

2.2 to amend the appeals procedure described in the Fisheries Regulations (Northern Ireland) 2003 to the Magistrates Court instead of DCAL in respect of a refusal (or revocation) by the Department to issue a fishing licence. This is a consequential change arising from the Public Authorities (Reform) Act 2009 which transferred the functions of the Fisheries Conservancy Board (which included the issuing of fishing licences) to DCAL. Paragraph 3(9), Part 2 of Schedule 1 describes the change to section 37(1)(e) of the Fisheries Act (NI) 1966 in this regard.

3. Background

3.1 The Department of Culture, Arts and Leisure is responsible, under the provisions of the Fisheries Act (NI) 1966 as amended (the Fisheries Act) for the salmon and inland fisheries of Northern Ireland except the Foyle and Carlingford catchments which are the responsibility of the Loughs Agency of the Foyle, Carlingford and Irish Lights Commission. (N.B. It should be noted that the Department retains overall policy responsibility for salmon and inland fisheries and certain conservation and development responsibilities in the Loughs Agency area). Under the Act, the Department is empowered to make subordinate legislation to regulate fishing activity.

Rainbow Trout Waters:

3.2 Byelaw 73 (2) (b) of the Fisheries Regulations (Northern Ireland) 2003 provides that the annual close season for angling for salmon or trout shall not apply in the case of rainbow trout waters so designated, allowing the fishery to remain open throughout the year. Schedule 6

lists the designated rainbow trout waters and requires amendment if new waters are to be added.

3.3 The Department has received 4 applications from fishery owners seeking approval to create new rainbow trout fisheries at;

- McCutcheon's Lake, Moorfields, Ballymena;
- Dunalis Reservoir, County Londonderry
- Quoilie Reservoirs, Broughshane;
- Castle Hume Lough, County Fermanagh.

3.4 Fisheries Officers have inspected the above sites and are content that works to prevent the escape of rainbow trout have been carried out to the required standard.

***Fishing Licence Appeals*:**

3.5 The Fisheries Conservancy Board (FCB) was responsible for the issuing of fishing licences. The Public Authorities (Reform) Act 2009 transferred the functions of the FCB to DCAL and amended section 37(1)(e) of the Fisheries Act to permit appeals to a Magistrates Court rather than the Department. As DCAL is now responsible for issuing fishing licences it would be inappropriate for the Department to adjudicate in appeal hearings. Part III of the Fisheries Regulations (Northern Ireland) 2003 describes the process for appeals to the Department against a refusal (or revocation) by the FCB to issue a licence and needs to be amended to reflect the change in the Fisheries Act.

4. Consultation

4.1 Rainbow Trout Waters

The rainbow trout fisheries to be created are privately owned. The Department is content to approve on the basis that such sites are secured to prevent escapement of rainbow trout into the wild. The Angling Clubs concerned are keen to stock with the faster growing rainbow trout to provide better more cost effective angling which can be accessed all year long. The draft Regulations were presented to the Salmon and Inland Fisheries Forum for comment.

4.2 Fishing Licence Appeals:

The Public Authorities (Reform) Act 2009 transferred the functions of the FCB to DCAL and amended section 37(1)(e) of the Fisheries Act to permit appeals to a Magistrates Court rather than the Department, was subject to a public consultation by OFMDFM. The amendment to Part III of the Fisheries Regulations (Northern Ireland) 2003 which describes the process for appeals, is therefore a consequential change and does not require further consultation.

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 The owners of the fisheries designated as rainbow trout waters would be able to operate the fishery as a rainbow trout fishery throughout the year with no annual close season resulting in the potential for increased income through the sale of their fishing permits.

6.2 No compliance costs have been identified for business, charities or voluntary organisations.

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. The creation of rainbow trout waters is a routine procedure which is carried out on an annual basis and will not impact on Human Rights or European Community law. The EQIA screening did not raise any discrimination issues.

9. EU Implications

9.1 Not applicable

10. Parity or Replicatory Measure

10.1 In GB, in the Environment Agency's jurisdiction, there is no annual close season for fishing for rainbow trout in all reservoirs, lakes and ponds. The annual close season for other waters is determined by local byelaws.

11. Additional Information

11.1 Not applicable