EXPLANATORY MEMORANDUM TO

THE INSHORE FISHERIES AND CONSERVATION (MISCELLANEOUS AMENDMENTS) ORDER 2011

2011 No. 177

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends a error the Isles of Scilly Inshore Fisheries and Conservation Order 2010 (S.I. 2010/2213) and the Cornwall Inshore Fisheries and Conservation Order 2010 (S.I. 2010/2188).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This Order to correct a defect reported by the JCSI in the Sixth Report of Session 2010-2011.

4. Legislative Context

4.1 In October 2010 ten Inshore Fisheries and Conservation districts and their related authorities were created by Order made under section 149 of the Marine and Coastal Access Act 2009 ("the 2009 Act"). The Joint Committee on Statutory Instruments identified an error in two of those Orders, which the Department has undertaken to correct.

5. Territorial Extent and Application

5.1 This instrument applies in relation to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Joint Committee on Statutory Instruments review of the ten Orders identified an error in two of those Orders. Particularly, the Isles of Scilly Inshore Fisheries and Conservation Order 2010 and the Cornwall Inshore Fisheries and Conservation Order. The error is the inclusion of article 16(1), which provides that the expenses incurred by the Cornwall inshore fisheries and conservation authority and the Isles of Scilly inshore

fisheries and conservation authority are to be defrayed by Cornwall Council and the Council of the Isles of Scilly respectively. This article should have been omitted as provision for the payment of the Authority's expenses in circumstances where there is only one Council is already dealt with in the 2009 Act. This is a drafting error which has no legal consequence for the IFC District or Authority but which the Department has undertaken to correct.

8. Consultation outcome

8.1 Section 152 of the 2009 Act requires the Department to consult the following when amending any Order made under section 149 of that Act:

- the authority for the IFC district established by the order,
- the council for every local authority area that falls within the IFC district established by the order,
- the Environment Agency,
- Natural England,
- the Marine Management Organisation,
- the authority for any IFC district that adjoins the IFC district established by the order,
- the Welsh Ministers, in a case where the IFC district established by the order adjoins the Welsh inshore region,
- and any other person likely to be affected by the amendment or revocation of the order.

8.2 A consultation letter and the draft amending Order were sent to the following bodies for their comment between 17 December 2010 and 7 January 2011:

- Cornwall IFCA, Isles of Scilly IFCA
- Cornwall Council, Council of the Isles of Scilly
- Environment Agency (EA)
- Natural England
- Marine Management Organisation (MMO)
- Devon and Severn IFCA

Two consultation responses were received one from the MMO and one from the EA. Both were supportive of the amendments. However EA declined to comment on the Isles of Scilly amendment since EA are not part of the Isles of Scilly IFCA.

9. Guidance

9.1 No guidance is necessary.

10. Impact

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

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument which deals with technical changes to the Orders.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 No review is necessary

13. Contact

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