EXPLANATORY MEMORANDUM TO

THE ISLES OF SCILLY INSHORE FISHERIES AND CONSERVATION ORDER 2010

2010 No 2213

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.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument will provide for the establishment of the Isles of Scilly Inshore Fisheries and Conservation District and subsequent Inshore Fisheries and Conservation Authority (IFCA).

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

3.1 This instrument is subject to annulment by a resolution of either House of Parliament pursuant to section 316(8) of the Marine and Coastal Access Act 2009

4. Legislative Context

4.1 At present, inshore fisheries in England are managed primarily by Sea Fisheries Committees (SFCs). SFCs were established under the Sea Fisheries Regulation Act 1888 and now operate principally under the Sea Fisheries Regulation Act 1966. Their duty is to regulate sea fisheries within their district.

4.2 The enabling powers for this Order are sections 149, 151, 180 and 316 of the Marine and Coastal Access Act 2009 ("the Act").

4.3 This Order should be read in conjunction with the Order[1] commencing various enactments of the Act, and thereby providing the Isles of Scilly IFCA with limited powers. The remaining powers and duties relevant to IFCAs as laid out in Chapter 1, Part 6 of the Act will be commenced by Order on 1 April 2011, which will also repeal the Sea Fisheries Regulation Act 1966, thereby dissolving SFCs.

5. Territorial Extent and Application

5.1 This instrument applies to England, specifically to that part of the Isles of Scilly IFCA, as defined in the Order.

6. European Convention on Human Rights

[1] The Marine and Coastal Access Act 2009 (Commencement No.4 and Transitional Provisions) Order 2010 S.I. 2010/2195 (C.110)

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

7. Policy background

- ***What is being done and why***

7.1 At present, inshore fisheries in England are managed primarily by SFCs. SFCs were established under the Sea Fisheries Regulation Act 1888 and now operate principally under the Sea Fisheries Regulation Act 1966. Their duty is to regulate sea fisheries within their district.

7.2 SFCs are made up of members representing their constituent local authorities, the Environment Agency and Defra appointees who represent the fisheries interests of that district or as having knowledge of, or expertise in, the marine environment.

7.3 The Act includes measures to reform inshore fisheries management by replacing SFCs in England with Inshore Fisheries and Conservation Authorities (IFCAs). IFCAs will be established on **1 October 2010** with limited powers, and will be fully functional from **1 April 2011** across England.

7.4 This Order establishes the Isles of Scilly IFCA, lists the local authorities which will constitute it, the boundaries of the IFC District, membership of the Authority; terms of appointment and other rules about appointing and removing the chair, resignation, suspension, termination of membership and eligibility for appointment or reappointment. Additionally the Order outlines the quorum and general procedures, attendance at and chairing of meetings; expenses and allowances payable to members. The Order also defines the proportion of the IFCAs costs to be met by each of the constituent local authorities.

7.5 This Order should be read in conjunction with the Order[2] commencing various enactments of the Act, and thereby providing the Isles of Scilly IFCA with limited powers. These powers will enable them to undertake their financial and annual planning prior to IFCAs being vested with their full suite of powers on 1 April 2011. The remaining powers and duties relevant to IFCAs as laid out in Chapter 1, Part 6 of the Act will be commenced by Order on 1 April 2011 which will also repeal the Sea Fisheries Regulation Act 1966 thereby dissolving SFCs.

8. Consultation outcome

8.1 Defra undertook a 12 week consultation from 28 January 2009 to 22 April 2009 on the number of IFCAs that the Department would establish and which local authorities would be represented on each IFCA.

8.2 74 responses were received to the consultation. A clear majority of respondents supported the establishment of ten IFCAs around the English coast and the local authorities that would be included.

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[2] The Marine and Coastal Access Act 2009 (Commencement No.4 and Transitional Provisions) Order 2010 S.I. 2010/2195 (C.110)

8.3 Defra undertook a further 12 week consultation from 22 March 2010 to 14 June 2010 on the principles and content of the Orders establishing IFC Districts and their associated Authorities.

8.4 50 responses were received to the consultation. On most questions, respondents were in general agreement with the policies proposed in the consultation. The areas where there was disagreement was regarding the funding formula for levying local authorities and the level of representation each would have on the Committee.

8.5 Defra provided additional time from 14 June 2010 to 20 August 2010 to enable the constituent local authorities to seek to reach agreement on the proportion of the levy each would contribute.

8.6 A full summary of consultation responses received by the deadline to both consultation exercises can be found on the Defra website.

9. Guidance

9.1 Defra has not issued any guidance in relation to this instrument.

10. Impact

10.1 No impact on business, charities or voluntary bodies is foreseen as a result of this instrument.

10.2 No impact on the public sector is foreseen as a result of this instrument.

10.3 A full impact assessment of the effect that the 2009 Act will have on the costs of business and the voluntary sector has been produced, and copies are available from the website of the Department for Environment, Food and Rural Affairs at www.defra.gov.uk. No separate impact assessment has been produced for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Secretary of State for Environment, Food and Rural Affairs is required under s183 of the Marine and Coastal Access Act 2009 to lay before Parliament a report about the conduct and operation of the authorities for any IFC districts at the end of every relevant four year period.

13. Contact

13.1 Gordon Friend at the Department for Environment, Food and Rural Affairs Tel: 020 7238 1203 or email: gordon.friend@defra.gsi.gov.uk can answer any queries regarding the instrument.