EXPLANATORY MEMORANDUM TO

[The Lough Neagh (Levels) Scheme (Confirmation) Order (Northern Ireland) 2010

SR 2010 No. 28

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Agriculture and Rural Development (Rivers Agency) (the "department)[a]to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under the Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland) 1955[b] and is subject to the negative resolution procedure.

2. Purpose

2.1 The Department has prepared the Lough Neagh (Levels) Scheme 2010 ("the 2010 Scheme") which supplements and modifies the Lough Neagh (Levels) Scheme 1955[c] ("the 1955 Scheme") so that Toomebridge, Oxford Island, Loughview Road and Ardboe Point are the specified locations on the northern, southern, eastern, and western shores respectively for recording the mean level of Lough Neagh. The 2010 Scheme in effect adds the two new locations at Loughview Road and Ardboe Point.

3. Background

3.1 To enhance its management and monitoring of Lough levels, the Department proposes to utilise two new measuring stations at Lough View Road on the eastern shore and at Ardboe Point on the western shore. These sites are optimum locations for measurement of Lough levels and agreement has been reached with the relevant landowners for use and access. The range of levels within which Lough Neagh is controlled will not change under the new Scheme.

4. Consultation

Consultation took place over three months from 20th April to 20th July 2009. All 26 district councils, the Advisory and Management Committees for Lough Neagh and the Lower Bann, and other recognised interests in the system such as farming, fishing, sand extraction, conservation, navigation, and water recreation were consulted. The Scheme was announced in local press and the Belfast Gazette. The ARD committee were given notice of the public consultation.

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[a] Formerly known as the Department of Agriculture. See S.R.& O (N.I.)1964 No. 205 and S.I.1999/283 (N.I.1)

[b] 1955 c.15 (NI) as amended by 1970 c.7 (NI)

[c] Made on 26th July 1955 by the Ministry of Finance and brought into operation by and scheduled to the Lough Neagh (Levels) Scheme 1955 (Operstive Date) Order (Northern Ireland) 1958, (S.R. & O (NI) 1958 No. 179 (p.309); and supplemented and modified by the Lough Neagh (Levels) Scheme 1955 brought into operation by and scheduled to the Lough Neagh (Levels) Scheme (Confirmation) Order (Northern Ireland) 1999, (S.R. 1999 No. 69) and the Lough Neagh (Levels) Scheme 2004 brought into operation by and scheduled to the Lough Neagh (Levels) Scheme (Confirmation) Order (Northern Ireland) 2004, (S.R. 2004 No.513)

4.1 Twelve replies were received during the consultation process, with nine agreeing to the statements without further comment. The Council for Nature Conservation and the Countryside welcomed the Scheme, stating that they believed it would provide a more accurate determination of the level of the Lough, and so assist in better management. The Lands Tribunal considered that it would not be proper to comment as its role is limited to that provided by statute, however they welcomed the opportunity to consult informally in future. The response from Northern Ireland Environment Agency commented upon the need for Rivers Agency, as the competent authority, to carry out an environmental assessment - Rivers Agency met this obligation at the planning stage of the process.

5. Equality Impact

5.1 In accordance with DARD's obligations under Section 75 of the Northern Ireland Act 1998, the equality implications of the proposed Regulations have been assessed. The Department considers that the regulations will not result in any equality differentials amongst Section 75 groups.

6. Regulatory Impact

6.1 Regulatory Impact Assessment not necessary as the proposal results in negligible costs.

7. Financial Implications

7.1 No financial implications as the proposal results in negligible costs.

8. Section 24 of the Northern Ireland Act 1998

8.1 The Regulations deal solely with monitoring the levels of Lough Neagh and do not have any human rights implications, nor are they incompatible with EU law. The Regulations are therefore deemed to comply with the requirements of Section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 Not applicable.

10. Parity or Replicatory Measure

10.1 Not applicable.

11. Additional Information.

11.1 Not applicable.