EXPLANATORY MEMORANDUM TO

MUSSELS (PROHIBITION OF FISHING) REGULATIONS (NORTHERN IRELAND) 2013

2013 No. 1

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture and Rural Development (DARD) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under sections 19(1) and 124(1) and (2) of the Fisheries Act (Northern Ireland) 1966, as amended, and is subject to the negative resolution procedure.

2. Purpose

2.1. The Statutory Rule revokes and re-enacts with amendments, the Mussels (Prohibition of Fishing) Regulations (Northern Ireland) 1999 and provides DARD with a mechanism to manage and regulate the exploitation of the mussel seed resource around the Northern Ireland coastline.

3. Background

3.1. The Regulations prohibit any person fishing for, or retaining on board any fishing boat, mussels otherwise than for direct human consumption. The prohibition is subject to a number of exemptions including fishing for, or retaining onboard any fishing board, mussels under the authority of and in accordance with the terms and conditions of a fish culture licence or a permit granted under sections 11 and 14 respectively of the Fisheries Act (Northern Ireland) 1966 or a mussel seed licence granted by the Department under section 4 of the Sea Fish (Conservtion Act) 1967.

4. Consultation

4.1. DARD undertook a 12 week public consultation from 07 November 2007 with a closing date of 31 January 2008. Copies of the consultation were sent to relevant stakeholders.

4.2. A total of 5 responses were received. Four organisations indicated they had no comments or objections to make on the Regulations. One organisation sought clarification on a number of points and subsequently confirmed that it was content with DARD's assurances. There has been no significant amendments to the Regulations as a result of the consulation exercise.

4.3. The Food Standards Agency were concerned that the Regulations may contradict or contravene EU food hygiene legislation. Legal advice from the Departmental Solicitor's Office however confirmed that the Regulations would not contradict or contravene EU food hygience legislation as their purpose is to conserve stocks of mussels whereas the EU legislation is to protect human health.

5. Equality Impact

5.1. The Statutory Rule has been subject to equality screening which concluded that a full EQIA is not necessary as the Regulations will not have any adverse differential impact on any of the section 75 equality categories.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment has been prepared for the Mussels (Prohibition of Fishing) Regulations (Northern Ireland) 2013.

6.2. DARD has considered how the Regulations meet the requirement for Better Regulations and has concluded that they will not impose any additional burden on the aquaculture sector. Officials are content that the proposed legislation meets DARD's commitment to Better Regulation and "gold plating" is not applicable.

7. Financial Implications

7.1. There are no direct or indirect cost implications for the bottom grown mussel sector as a result of the Regulations and the cost of monitoring and enforcing compliance will be borne within existing DARD budgets.

8. Section 24 of the Northern Ireland Act 1998

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

9. EU Implications

9.1. The Regulations do not implement any EU requirement and there are no EU implications. Under Commission Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, a Member State may take non-discriminatory measures for the conservation and management of fisheries resources and to minimise the effect of fishing on the conservation of marine eco-systems within 12 nautical miles of its baselines provided that the Community has not taken measures addressing conservation and management specifically for this area.

10. Parity or Replicatory Measure

10.1. Not applicable.

11. Additional Information

11.1. Not applicable.