EXPLANATORY MEMORANDUM TO

THE RIVER ROACH OYSTER FISHERY ORDER 2013

2013 No. 1979

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 The Order confers on the Kent and Essex Inshore Fisheries and Conservation Authority ("the Grantee") a right of several fishery for oysters (*Ostrea edulis* (Native) & *Crassostrea gigas* (Pacific)) in a specified area of the River Roach (Essex) for a period of 10 years (see map at end of document).

3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]

3.1 None

4. Legislative Context

4.1 The Order is made under Section 1 of the Sea Fisheries (Shellfish) Act 1967 ("the 1967 Act").

4.2 Section 1(1) of the 1967 Act provides that the Appropriate Minister may, on application, provide by Order for the establishment or improvement, and for the maintenance and regulation, of a fishery for shellfish of any kind specified in the Order. The Order can cover any portion of the sea shore and bed or estuary or tidal river within 6 nautical miles of the baselines.

4.3 This Order is subject to negative parliamentary procedure (pursuant to section 20(2) of the 1967 Act) which means that it is subject to annulment by resolution of either House of Parliament.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales and applies in England only.

5.2 The extent of the fishery is defined using the co-ordinates set out in article 2(2) of the Order and is shown for illustrative purposes only on a map (see below) which forms part of the Explanatory Note to the Order. The map is also available for inspection from the Department for Environment, Food and Rural Affairs electronically.

6. European Convention on Human Rights

6.1 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 Sea Fisheries (Shellfish) Act 1967 allows the Secretary of State to make Shellfish Orders around the English coast. These Orders provide for the establishment or improvement and for the regulation and management of commercial shellfisheries.

7.2 Section 2 of the 1967 Act gives the Grantee of the several fishery right exclusive rights, exercisable within a defined area of the sea shore, to fish, dredge for or take the shellfish species to which the Several Order applies. The right of several fishery empowers the Grantee to collect, move or deposit shellfish as they see fit within the defined area, which can amount to a property right that may be leased or transferred.

7.3 The Order is made at the request of the applicant. Granting such rights allows the applicant to plan for the long-term development of their business, and encourages them to invest in the good maintenance of the fishery.

7.4 Defra is keen to encourage the use of Shellfish Orders to develop shellfish aquaculture and improve the management of wild shellfish stocks.

8. Consultation outcome

8.1 In accordance with the procedure prescribed in paragraph 1 of Schedule 1 to the 1967 Act, a draft Order was prepared and a copy served on the applicant (the Kent and Essex Inshore Fisheries and Conservation Authority). Further, the applicant caused printed copies of that draft Order to be published and circulated and gave notice of the application in accordance with the requirements of paragraph 2 of Schedule 2 to the 1967 Act.

9. Guidance

9.1 The Department does not plan to publish guidance on this instrument.

10. Impact

10.3 An Impact Assessment has not been prepared for this instrument.

10.4 No RIA has been completed because no significant impact is foreseen to the interests of any individual, business, group or organisation, as a result of the making of this Order.

11. Regulating small business

11.1 The legislation does not apply to small business. This Order is made at the request of the applicant.

12. Monitoring & review

12.1 This Order is time-limited for 10 years and will cease on 31st August 2023.

13. Contact

Matt Whittles at the Department for Environment, Food and Rural Affairs Tel: 0207 238 5204 or email: James.Turner@Defra.gsi.gov.uk can answer any queries regarding the instrument.

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