EXPLANATORY MEMORANDUM TO

THE SALMON AND MIGRATORY TROUT (PROHIBITION OF FISHING AND LANDING) (ENGLAND) ORDER 2015

2015 No. 441

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 consolidates ten instruments relating to the prohibitions of fishing for, and landing, of salmon and migratory trout, and the enforcement of those prohibitions, into one single Order. The extent of the Order is England and therefore, the ten instruments remain in force in Scotland, Wales and Northern Ireland.

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

3.1 None

4. Legislative Context

4.1 This instrument is made under section 5(1) and (2) and section 6(1), (2) and (3) of the Sea Fish (Conservation) Act 1967([1]). It also relies on the power in section 14A of the Interpretation Act 1978 to make a review clause, requiring the Secretary of State to review the regulatory scheme within 5 years. The instrument consolidates the following Orders:

- the Salmon and Migratory Trout (Prohibition of Fishing) Order 1972;
- the Salmon and Migratory Trout (Prohibition of Fishing) (No 2) Order 1972;
- the Salmon and Migratory Trout (North-East Atlantic) Order 1972;
- the Salmon and Migratory Trout (Restrictions on Landing) Order 1972;
- the Salmon and Migratory Trout (Enforcement) Order 1973;
- the Salmon and Migratory Trout (Prohibition of Fishing) Amendment Order 1975;
- the Salmon and Migratory Trout (Restrictions on Landing) Amendment Order 1975;
- the Salmon and Migratory Trout (Prohibition of Fishing) (Variation) Order 1983;
- the Salmon and Migratory Trout (Prohibition of Fishing) (Variation No. 2) Order 1983;
- the Salmon and Migratory Trout (Restrictions on Landing) (Variation) Order 1983.

([1]) 1967 c. 29; section 5(1) and (2) were amended by section 22(1) of the Fisheries Act 1981 (c. 29). Subsection (1) was further amended by section 198(1) and (2) of the Marine and Coastal Access Act 2009 (c. 23). Subsection (2) was further amended by section 201 and paragraphs (1) and (2) of Schedule 15 to the Marine and Coastal Access Act 2009. Section 6(1) was amended by article 4 and paragraphs 43(1), (2)(b), (6)(a) and (b) of Schedule 2 to S.I. 1999/1820.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales but, subject to article 3, applies only in England.

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 This instrument is part of Defra's Water and Marine Theme Red Tape Challenge commitment to simplify the legislative landscape. Defra identified ten separate instruments relating to the prohibitions of fishing for, and landing of, salmon and migratory trout, and the enforcement of those prohibitions to consolidate into one Order.

7.2 This group of instruments prohibits fishing for salmon and migratory trout in identified regions of the sea beyond the territorial sea but within the UK's exclusive economic zone, save that fishing by a specified method (i.e. with certain types of net) is allowed in particular waters. The instruments also prohibit the landing in England of salmon and migratory trout caught in waters around the United Kingdom.

7.3 These instruments are aimed at conserving salmon stocks at sea and implement Article 2 of the North Atlantic Salmon Conservation Organisation Convention (which prohibits fishing for salmon outside a 12 mile limit of coastlines of the parties to the Convention).

7.4 As this is a consolidation exercise we have made no substantive changes to the regulatory requirements in the existing instruments, save that we have not replicated the provisions of the Salmon and Migratory Trout (Enforcement) Order 1973 because enforcement is now carried out by the Marine Management Organisation.

7.5 Whilst the Salmon and Migratory Trout (Prohibition of Fishing and Landing) (England) Order 2015 will come into force in England, the 10 current instruments will still remain in force in relation to Scotland, Wales and Northern Ireland. Therefore, the prohibition of fishing and landing of salmon and migratory trout will remain unchanged throughout the UK.

8. Consultation outcome

8.1 The proposal was included as part of Defra's commitment to reducing Regulation and formed part of the Water and Marine Theme Red Tape Challenge consultation in 2012. This legislative proposal is part of this initiative. Defra has consulted with Cefas and the Environment Agency regarding the drafting of the Order and we have also sought agreement from the Marine Management Organisation as enforcers of the regulatory scheme. Devolved Administrations are content with this proposal. Defra also consulted the Department for Business, Innovation and Skills as required by section 6(1) of the Sea Fish (Conservation) Act 1967, which was also content with the draft instrument.

9. Guidance

9.1 The Marine Management Organisation (MMO) will provide notification of the changes to all stakeholders and will update its guidance accordingly.

10. Impact

10.1 As this is a consolidation of existing legislation and no substantive changes have been made, there is no, or no significant, impact on the businesses who may operate within the scope of the Salmon and Migratory Trout (Prohibition of Fishing and Landing) (England) Order 2015. An impact assessment was not required for this instrument.

11. Regulating small business

11.1 The legislation applies to small business. There are no costs associated with those sectors within scope of the consolidating Order.

12. Monitoring & review

12.1 Pursuant to article 6 of the Order, Defra will undertake regular reviews of the legislation at a maximum of five-year intervals from the date the instrument comes into force.

13. Contact

Emma Boyd at the Department for Environment, Food and Rural Affairs Tel: 020 7238 3149 or email: emma.boyd@defra.gsi.gov.uk can answer any queries regarding the instrument.