EXPLANATORY MEMORANDUM TO

The Strangford Lough (Sea Fishing Exclusion Zones) Regulations (Northern Ireland) 2012

2012 SR no. 441

1. Introduction

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

1.2. The Statutory Rule is made under powers conferred on it by 19(1) and 124(1), (2) and (2A) of the Fisheries Act (Northern Ireland) 1966 (1) and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of these regulations is to offer additional protection from sea fishing activities to the identified sites containing Modiolus modiolus (horse mussel) within the Strangford Lough Special Area of Conservation (SAC).

3. Background

3.1. A letter of complaint was sent to the European Commission in November 2011 by the Ulster Wildlife Trust. In this letter the Trust expressed concerns that not enough was being done to protect remaining Modiolus (Horse Mussel) reefs in the Lough despite a previous commitment to do so as a result of the previous infringement case in 2006.

3.2. As a result the Commission wrote to DARD and the DOE to inform them that it was re-opening the infringement case. The Commission requires the larger total protection zones as part of the actions to be undertaken to protect and restore Modiolus and to avoid further infringement proceedings.

3.3. Zone 1 was identified by the Queen's University Modiolus Restoration Project report that was completed during 2011. Zone 2 has been included on the basis that it is considered beneficial for modiolus restoration as it previously supported areas of biogenic reef. In addition there is no significant commercial fishing activity currently taking place in the area and was chosen for long term monitoring as it had been protected from trawling and dredging since 1993.

4. Consultation

4.1. Extensive discussions have taken place with the DOE and NIEA and several stakeholder meetings have been held with the Strangford Lough Fishermen's Association and the Ulster Wildlife Trust to take forward the list of proposals that will satisfy the Commission and remove the high threat of infraction.

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 examined these regulations and have screened them out, as the Department considers that the regulations will not result in any equality differentials amongst Section 75 groups.

6. Regulatory Impact

6.1. Businesses and individuals who own fishing vessels which operate with static gear in Strangford Lough would be affected by these revised measures. All these businesses are small businesses. It is estimated that there are around 20 vessels using static gears in Strangford Lough. It is thought that around 6 of these are full-time fishermen with the rest fishing on seasonal basis, mainly during the summer months.

6.2. It is estimated that 30-40% of all potting within Strangford Lough takes place within the proposed exclusion zones. Closing this enlarged area will also require a pot fishery management plan to ensure sustainable fishing in the area that remains open. A suitable management plan has already been drawn-up and discussed with industry representatives. A copy of the Regulatory Impact Assessment is attached at Annex A.

6.3. The Department is content that the proposed legislation meets DARD's commitment to Better Regulation and "gold plating" is not applicable.

7. Financial Implications

7.1. Failure to introduce these regulations will result in infraction fines from Europe, which could result in an initial fine of £7m followed by a daily fine of £500,000. It is estimated that 30-40% of all pot fishing that occurs within Strangford Lough does so within the proposed protected area and the potential cost in terms of the value of landings lost would be around £60,000 per year.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Regulations are compatible with section 24 of the Northern Ireland Act 1998.

8.2. The Regulations deal with the prohibition of fishing within two defined areas and apply to all Northern Ireland registered fishing vessels and is therefore not discrimatory in terms of human rights, religious belief, or political opinion.

8.3. The scope and extent of the Regulations are compatible with the Common Fishery Policy and are therefore compatible with EU law.

8.4. The Regulations help to meet obligations under the EU Habitats Directive to protect a Special Area of Conservation

9. EU Implications

9.1. All government departments have a responsibility under the Habitats Directive to restore designated features of SACs to favourable conservation status. Failure to do so risks infraction proceedings by the

Commission and ultimately large fines being imposed on the Member State.

9.2. The proposals for larger exclusion zones are acceptable to the European Commission and will help to avoid an infraction case proceeding.

10. Parity or Replicatory Measure

10.1. Administrations in the rest of GB have similar obligations to protect any designated marine European Sites under the Habitats Directive, however Strangford is unique in that a site has been damaged and therefore requires restoration.

10.2. The Habitats Directive also applies in ROI and there several examples of marine areas where fishing activity has been restricted .

11. Additional Information

11.1. Not applicable