

EXPLANATORY MEMORANDUM TO
The Marine Licensing (Exempted Activities) (Amendment) Order Northern
Ireland 2022

2022 No. 68

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs (DAERA)] to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under sections 74(1), (2) and (3) and 316(1) of the Marine and Coastal Access Act 2009 (the Act) and is subject to the negative resolution procedure.

2. Purpose

- 2.1. This Rule amends the Marine Licensing (Exempted Activities) Order (Northern Ireland) 2011, which exempts certain activities from the need to obtain a marine licence under Part 4 of the Act. It applies in relation to activities for which DAERA is the appropriate licensing authority under section 113(6)(b) of the Act. This Order amends eight existing articles and introduces seven new ones.

3. Background

- 3.1. The Marine and Coastal Access Act 2009 is designed to help achieve clean, healthy, safe, productive and biologically diverse seas, in line with the UK vision. It provides for the sustainable use of marine resources and an integrated planning system for the marine area.
- 3.2. Part 4 of the Act introduced a streamlined marine licensing system that came into effect in April 2011. The aim is to enable consistent and sustainable decision making on activities within the marine area. In making those decisions, DAERA must balance the need to protect the environment, human health, prevent interference with legitimate uses of the sea and any other such matter that the Department considers relevant.
- 3.3. DAERA is the licensing authority for the Northern Ireland inshore region (0 to 12 nautical miles). The Secretary of State (SoS) is the licensing authority for the Northern Ireland offshore region (12 nautical miles to the boundary with other jurisdictions) as set out in section 113(6)(a) of the Act.
- 3.4. The objective in amending the Marine Licensing (Exempted Activities) Order (Northern Ireland) 2011 is to ensure that the legislation is current, responsive to the needs of users of the marine area and is broadly consistent with equivalent legislation in other parts of the UK.

4. Consultation

- 4.1. DAERA issued a consultation entitled "Proposed Amendments to The Marine Licensing (Exempted Activities) Order (NI) 2011" on the 28th

May 2021, which ran for nine weeks and closed on the 30th July 2021. Twenty nine substantive responses were received from stakeholders which included environmental bodies, industry, government agencies, local government, legal representatives and private individuals. DAERA engaged with stakeholders before and during the consultation period. This included an on-line stakeholder event on the 29th June 2021 which was attended by thirty four people.

- 4.2. A number of issues were discussed and most comments were supportive of the proposals.

5. Equality Impact

- 5.1. The Department undertook a screening exercise which indicated that no adverse equality impacts would result from the enactment of the Order. It therefore concluded that a full EQIA was not required.

6. Regulatory Impact

- 6.1. An Impact Assessment is not required as the legislative amendments being introduced by the Marine Licensing (Exempted Activities) (Amendment) Order (Northern Ireland) 2022 would have no significant cost implications. The Department undertook a screening process and determined that the policy does not have an impact (positive or negative) on the wider business community and as such a Regulatory Impact Assessment does not need to be completed.

7. Financial Implications

- 7.1. No financial implications associated with this Statutory Rule have been identified.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Rule does not discriminate on the grounds of religious belief or political opinion nor does it modify the European Communities Act 1972, the Human Rights Act 1998 or statutory provisions listed in section 7 of the 1998 Act.

9. EU Implications

- 9.1. Not applicable, the legislation does not transpose an European Directive.

10. Parity or Replicatory Measure

- 10.1. Equivalent legislation was brought forward by UK Administrations in 2011 to ensure a common approach to marine licensing. There were minor differences at that time. In the intervening years other Administrations have amended their equivalent Orders resulting in disparities in the approaches taken by each Administration. Particularly relevant are those amendments made by DEFRA, as the Secretary of State is the licensing authority for the Northern Ireland offshore region. Marine licensing in this region is undertaken by the Marine Management Organisation on behalf of the Secretary of State. The equivalent legislation, the Marine Licensing (Exempted Activities) Order 2011, was amended in 2013 and in 2019 and differs significantly from the Marine Licensing (Exempted Activities) Order (Northern Ireland) 2011. This is undesirable for business.

- 10.2. The Department considered the "Do nothing" option, but the risks that the current legislation could become further outdated and not adequately responsive to the needs of users of the marine environment were thought to be considerable, hence the need for intervention.

11. Additional Information

- 11.1. Not applicable.