

EXPLANATORY MEMORANDUM TO
THE UNDERSIZED BASS (REVOCATION) ORDER 2007

2007 No. 857

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. **Description**

2.1 The Undersized Bass (Revocation) Order 2007 revokes the Undersized Bass Order 2007 before it comes into force to allow additional time to consider further evidence, recently made available, on the impact of the measures. The objective of the measures of the Undersized Bass Order 2007 is to provide more and bigger bass for capture by both commercial and recreational fishermen.

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

3.1 None

4. **Legislative Background**

4.1 The SI revokes The Undersized Bass Order 2007 (S.I. 2007/809) before it is due to come into force on 6 April 2007. It also revives the Undersized Bass Order 1989 in England (S.I. 1989/1285). The Undersized Bass Order 2007 implements an increase in the size at which bass can be landed in England from 36 to 40cm. It applies to both recreational and commercial fishermen, whether fishing from a boat or from the shore. The landing size is supported by an increase in the mesh size of enmeshing nets (such as gill, trammel and drift nets) used to target bass from 90 to 100mm. Boats that only land bass as a bycatch (i.e. less than 10% of the total catch) will not be subject to these mesh size restrictions. Enforcement of the measures is further enhanced by a provision that prohibits the carriage of undersized bass (i.e. bass less than 40cm) on board fishing boats.

4.2 Powers stem from the Sea Fish (Conservation) Act 1967. Under EC regulations (Council Regulation (EC) No 850/98, as amended), the MLS for bass is currently 36cm and the MMS at which bass can be retained on board a vessel is 90mm.

5. Territorial Extent and Application

5.1 The instrument applies to 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 The objective of the measures of the Undersized Bass Order 2007 is to increase the number and size of bass available to both commercial and recreational fishermen. The measures were proposed in response to a recommendation in the Prime Minister's Strategy Unit Report 'Net Benefits' in relation to bass and calls by recreational sea anglers in 2005 to provide increased protection for bass stocks and increase the number and size of bass available for capture. This is a species of significant importance to the recreational angling sector.

7.2 A three month consultation was launched in November 2005 on possible options to provide more and bigger bass. The central option was to increase the MLS to 45cm with an accompanying MMS of 105mm. There was a significant public reaction to the proposals with 2749 responses to the consultation. Views were polarised with strong sectoral support. With some exceptions, the commercial fishing sector supported option 1 (do nothing) and the angling sector supported option 2 (increase the MLS to 45cm).

7.3 The Minister announced his decision on 10 August 2006. On the basis of the analysis of the costs and benefits set out in the RIA, it was decided that an increase in MLS to 45cm would be difficult to justify at present. However, an increase to 40cm would bring the MLS closer to the average spawning size of bass, thereby protecting more juvenile fish and providing enhanced recruitment to the spawning stock. This should provide benefits to the angling community and to commercial fishermen and at a reduced cost to the commercial sector, with the prospect of a recovery in landings in 3 to 4 year's time.

7.6 The Undersized Bass (Revocation) Order 2007 revokes the legislation intended to introduce the measures before the coming into force date to enable additional evidence to be considered. This evidence was presented after the SI had been signed but before it had been laid.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Nicola Clarke at the Department for Environment Food and Rural Affairs Tel: 020 7270 8031 or e-mail: nicola.clarke@defra.gsi.gov.uk can answer any queries regarding the instrument.