

**EXPLANATORY MEMORANDUM TO  
THE MARINE AND COASTAL ACCESS ACT 2009 (TRANSITIONAL AND SAVINGS  
PROVISIONS) ORDER 2011**

**2011 No. 603**

**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 order, made under section 188 of the Marine and Coastal Access Act 2009 (the Act), makes provision for the transition from Sea Fisheries Committees (SFCs) to Inshore Fisheries and Conservation Authorities (IFCAs).

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

3.1 None

**4. Legislative Context**

4.1 The Act received Royal Assent on 12 November 2009. Part 6 of the Act provides for the establishment of inshore fisheries and conservation districts and IFCAs in England. Certain provisions relating to Part 6 were commenced by order (S.I. 2010/2195) on 1 October 2010. A further commencement order, due to come into force on 1 April 2011, will commence the remaining provisions in Part 6 on that date.

This order makes transitional arrangements and savings consequential on the abolition of SFCs, which fall on 1 April 2011 when section 187 of the Act repealing the Sea Fisheries Regulation Act 1966 is commenced.

**5. Territorial Extent and Application**

5.1 This instrument applies to England.

**6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**7. Policy background**

- What is being done and why

7.1 There are 11 SFCs in England. They were established by the Sea Fisheries Regulation Act 1888 to regulate sea fisheries within their District, and now operate principally under the Sea Fisheries Regulation Act 1966.

7.2 Under reform measures set out in Part 6 of the Act the existing SFCs in England will be replaced with IFCAs.

7.3 The main duties of IFCAs are set out in sections 153,154, 155 -160 of the Act. In summary, IFCAs will have a new duty to protect the marine environment and

7.4 As well as introducing and enforcing their own byelaws to protect sea fisheries resources from the effects of exploitation they will also be able to introduce byelaws within their districts for the protection of a Marine Conservation Zone (MCZ), where the impact is from fishing activity. IFCA's will also be able to enforce MMO byelaws introduced for the protection of MCZs.

7.5 On 1 October 2010 the Marine and Coastal Access Act 2009 (Commencement No.4 and Transitional Provisions) Order 2010 (S.I. 2010/2195) commenced certain administratively related provisions in Part 6 of the Act.

7.6 This order makes provision for the transition from SFC to IFCA's. In particular:

- Transfer of staff from the SFC to the IFCA;
- Transfer of assets, contractual liabilities and rights;
- Transferring existing SFC byelaws - and byelaws made by the Environment Agency where it acted as a local fisheries committee - to IFCA's. It also makes provision for certain Environment Agency byelaws made by the Agency where it acted as a local fisheries committee in rivers, streams or estuaries falling outside the SFC district and which fall outside one of the IFC districts to continue in existence as if made under other legislation. This means that there is no reduction in the protection of sea fish as a consequence of the repeal of the Sea Fisheries Regulation Act 1966, or increase in regulation. To ensure that a review of these requirements is carried out the order includes a sunset clause that means they will fall on 1 April 2015 unless renewed;
- Continuity for matters started by SFCs such as investigations and prosecutions, accounts and reports so that IFCA's can carry on what an SFC started; and
- Consequential transitional provisions and amendments to secondary legislation that will be needed - for example, to replace references to "local fisheries committees" with "Inshore Fisheries and Conservation Authorities" in light of the repeal of the Sea Fisheries Regulation Act 1966.

## **8. Consultation outcome**

8.1 The Act has been the subject of extensive consultation, both before and during its Parliamentary process.

8.2 The policy relating to the reform of inshore fisheries management and the establishment of IFC districts and their associated authorities has also been subject to separate consultation. The first consultation ran from 28 January 2009 to 22 April 2009. The aim of this consultation was to seek views on the establishment of inshore fisheries and conservation district (IFC district) boundaries, the number of IFC districts to be established and which upper tier and unitary local authorities would be included within each IFC district.

8.3 A second consultation ran from 22 March 2010 to 14 June 2010. The aim of the consultation was to seek views on the approach to IFCA implementation and on the detail of the provisions to be included in each of the Orders establishing them. Part 1 of the consultation sought views on issues such as district boundaries and the membership

8.4 A total of 49 responses were received during the consultation period of 22 March 2010 to 14 June 2010. A list of organisations, who responded to the consultation, including their corresponding respondent category, can be found at [www.defra.gov.uk](http://www.defra.gov.uk).

**9. Guidance**

9.1 No guidance is necessary.

**10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 An Impact Assessment was prepared to accompany the Marine and Coastal Access Bill and also for the first of the boundary consultations which identified the costs and benefits as they affect local government.

**11. Regulating small business**

11.1 The legislation does not apply to small business.

**12. Monitoring & review**

12.1 No review is necessary

**13. Contact**

13.1 Chris Preston at the Department for Environment, Food and Rural Affairs Tel: 020 7979 8563 or email: [chris.preston@defra.gsi.gov.uk](mailto:chris.preston@defra.gsi.gov.uk) can answer any queries regarding the instrument.