

EXPLANATORY MEMORANDUM TO
THE SEA FISHING (ENFORCEMENT AND MISCELLANEOUS PROVISIONS)
ORDER 2015

2015 No. 191

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 The primary purpose of this instrument is to revoke obsolete instruments related to fisheries. This includes England and Wales instruments which enforce EU restrictions and obligations relating to sea fishing which are no longer required following amendments made to section 30(1) of the Fisheries Act 1981 (c.29) by section 293 of the Marine and Coastal Access Act 2009 (c.23). As a result of these amendments a breach of enforceable EU restrictions and obligations relating to sea fishing is an offence in England and Wales.

2.2 In addition Article 2 designates the Marine Management Organisation, the Welsh Ministers and the Department of Agriculture and Rural Development in Northern Ireland as competent authorities for various purposes of Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (OJ No. L 343, 22.12.2009, p. 1), and of Commission Implementing Regulation (EU) No. 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No. 1224/2009 (OJ No. L 112, 30.4.2011, p. 1).

2.3 Article 3 confers powers as to the recovery of fines by courts imposing fines on persons convicted of an offence under section 30(1) of the 1981 Act or under an order made under section 30(2) of the 1981 Act.

2.4 Articles 4 to 6 amend the Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites Regulations 2005 (S.I. 2005/1605), the Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007 (S.I. 2007/1842) and the Tope (Prohibition of Fishing) Order 2008 (S.I. 2008/691), updating references to relevant EU legislation.

2.5 Article 7 and the Schedule revoke 57 instruments in their entirety and 5 partially with (in some cases) specified limits of territorial extent.

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

3.1 None.

4. Legislative Context

4.1 The instrument will revoke or amend the various instruments set out in the Schedule.

4.2 It also amends the Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites Regulations 2005 (S.I. 2005/1605), the Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007 (S.I. 2007/1842) and the Tope (Prohibition of Fishing) Order 2008 (S.I. 2008/691), updating references to relevant EU legislation.

5. Territorial Extent and Application

5.1 This instrument extends to England, Wales and in part to Northern Ireland. Two revocations extend to Guernsey.

6. European Convention on Human Rights

George Eustice has made the following statement regarding Human Rights:

In my view the provisions of The Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015 are compatible with the Convention rights.

7. Policy background

7.1 Section 30(1) of the Fisheries Act 1981 (c.29) as amended by section 293 of the Marine and Coastal Access Act 2009 (c.23) makes a breach of enforceable EU restrictions and obligations relating to sea fishing an offence in England and Wales. This reduces the number of instruments that need to be made to implement and enforce EU fisheries legislation in England and Wales. It also means that a number of existing instruments are no longer required and can be revoked.

7.2 The opportunity is also being taken to revoke a number of other obsolete instruments as part of the Government's Red Tape Challenge initiative, in order to simplify the legislative landscape.

7.3 Given the nature of this instrument the question of consolidation does not arise.

8. Consultation outcome

8.1 No consultation has been carried out because this instrument has no direct impact on the private or voluntary sector.

9. Guidance

9.1 No guidance is considered necessary for this instrument.

10. Impact

10.1 The instrument will have no adverse impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is minimal.

10.3 An Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen.

11. Regulating small business

11.1 The legislation has no adverse impact on small business.

12. Monitoring & review

12.1 Given the nature of the instrument review is not necessary

13. Contact

Jacinta Vaz at the Department for Environment, Food and Rural Affairs (tel: 020 7238 4606 or email: Jacinta.Vaz@defra.gsi.gov.uk) can answer any queries regarding the instrument.