

## **EXPLANATORY MEMORANDUM TO**

### **The Marine Licensing (Register of Licensing Information) Regulations (Northern Ireland) 2011**

#### **Introduction**

1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule detailed above which is laid before the Northern Ireland Assembly.
2. The Statutory Rule has been made under sections 101(3) of the Marine and Coastal Access Act 2009 (“the 2009 Act”) and is subject to the negative resolution procedure.

#### **Purpose**

3. This Statutory Rule requires the Department to maintain a public register containing particulars about marine licensing under Part 4 of the 2009 Act. It applies in relation to any area, and any licensable marine activity taking place in that area, in relation to which the Department of the Environment is the appropriate licensing and enforcement authority under section 113(6)(b) of the 2009 Act.

#### **Background**

4. Part 4 of the 2009 Act provides a framework for a new marine licensing system for activities carried out in the marine environment. These activities are defined in section 66 of the 2009 Act and include construction on the sea bed, off-shore renewable energy installations and dredging. The Department of the Environment is the appropriate licensing and enforcement authority for devolved matters within the Northern Ireland “inshore region” as defined in section 322 of the 2009 Act.
5. The marine licensing system provided for in the 2009 Act will replace that set out in Part 2 of the Food and Environmental Protection Act 1985 (FEPA) and will take effect through a Commencement Order on 6 April 2011. It will be supplemented by a suite of subordinate legislation which is being brought forward by the UK government and each of the Devolved Administrations.
6. The Northern Ireland Environment Agency (NIEA), an Executive Agency within the Department, will act as the appropriate licensing and enforcement authority. It will determine licence applications having regard to the need to protect the environment, human health and other legitimate users of the sea and in accordance with sustainable development principles and the requirements of national, European and international law.

#### **Policy Objectives of the Statutory Rule**

7. The register of marine licensing information will be a useful source of information for users of the marine environment. It will include

information on applications made and licences granted, varied or revoked, as well as details of enforcement and remedial action taken by the Department. It is intended that NIEA website will provide an initial point of contact for those seeking information, with the actual register maintained in hard copy format (due to the size / nature of some of the information to be held), which will be open for public viewing by appointment.

### **Consultation**

8. A statutory consultation on the proposals was carried out and concluded on 3 November 2010. Thirty written responses were received which were generally supportive of the Department's proposals. No changes were made to the Regulations following consideration of the consultation responses.

### **Equality Impact Assessment**

9. The Marine Licensing (Register of Licensing Information) Regulations (Northern Ireland) 2011 have been screened for compliance with section 75 of the Northern Ireland Act 1998. The revised licensing system will benefit the whole of Northern Ireland in terms of sustainable use of marine resources. It was therefore found that a full EQIA was not necessary.

### **Regulatory Impact**

10. A Regulatory Impact Assessment (RIA) was prepared which considered the regulatory impact of the range of subordinate legislation proposed to fully implement the requirements of the 2009 Act.
11. Two options were considered within the RIA; option 1 "do nothing", and option 2 "introducing the legislation".
12. The benefits identified under option 1 were minimal as the Department is already required to maintain an existing public register under FEPA. In the same way, additional costs under option 2 would be minimal.
13. The costs of option 1 were expressed in terms of the type of information being held, which could lead to the collection of an amount of poorly focused information, with gaps in the record developing over time, which would be of little use in the long term.
14. The benefits of option 2 were the development of an accurate and transparent record of licensing and enforcement information, updated to meet the needs of marine licensing and sustainable development of the marine area.
15. On balance, the Department considers that the benefits of the new legislation outweigh the costs.

### **Financial Implications**

16. The financial implications of the Statutory Rule are minimal.

### **Section 24 of the Northern Ireland Act 1998**

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

### **EU Implications**

18. Not applicable.

### **Parity or Replicatory Measure**

19. Similar legislation is being introduced simultaneously by the other UK Administrations to allow for a common approach to recording information on licensable activity and enforcement action in the marine area. There are minor differences between the GB and Northern Ireland legislation. This reflects local circumstances, structures and priorities.

### **Additional Information**

20. Not applicable.

**PLANNING POLICY DIVISON  
DEPARTMENT OF THE ENVIRONMENT  
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