

EXPLANATORY MEMORANDUM TO

The Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order (Northern Ireland) 2018

SR 2018 No. 106

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs (the Department) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and section 30(2) of the Fisheries Act 1981 and is subject to negative resolution.

2. Purpose

- 2.1. This Statutory Rule is being made to implement EC Council Regulation 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing and Commission Regulation 1010/2009 laying down detailed rules for the implementation of the Council Regulation.
- 2.2. The Council and Commission Regulations complement the Fisheries Control Regulation which establishes a modernised system to ensure compliance of European operators with the rules of the European Union (EU)'s Common Fisheries Policy, and Council Regulation 1006/2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters. These regulations together set up a comprehensive system to ensure the legality of fishing by European vessels and imports of fish and fisheries products into the EU from third countries.

3. Background

- 3.1. Illegal fishing is a major problem world-wide. The EU estimates that it is worth €10 billion annually. It directly impacts on the environment and the sustainability of fish stocks, threatening the livelihood of all legitimate fishermen, particularly those in developing countries where fisheries control and enforcement is less well developed.
- 3.2. Council Regulation EC 1005/2008 and Commission Regulation 1010/2009 came into force on 1 January 2010 and this Statutory Rule (IUU Order) formally transposes relevant parts of the aforementioned Regulations into NI legislation. The IUU Order will affect Northern Ireland vessels wishing to land fish into third countries (e.g. Norway) and imports of fish and fishery products from third countries that enter Northern Ireland by air or port in

containers etc. The impact of implementation locally is minor, requiring the issuing of catch certificates to one Northern Ireland administered vessel that regularly lands in Norway, and checking the documentation of up to 20 containers annually of processed fish products imported through Belfast Port.

- 3.3 The Department can directly implement the EU's IUU Regulation without the need for subordinate legislation. However it wishes to make provision to delegate powers for the inspection and validation of catch certificates for processed fish imports to District Councils. This has been a low priority until now because the level of imports has been relatively low and only involved a single importation point and only Belfast Council, which manages the port health authority at the Port of Belfast.
- 3.4 However impending EU exit requires the Department to have similar legislation to England, Scotland and Wales to facilitate straightforward adoption of the EU acquis in relation to catch certificates and to ensure that all district councils in Northern Ireland with the potential to have to deal with fish imports after EU exit will be able to avail of appropriate delegated powers.
- 3.5 Council Regulation 1005/2008 aims to afford the EU market better protection against imports of illegally caught fish. The regulation applies in all maritime waters, in as much as derived products are traded with the community or community nationals are involved in IUU fishing.
- 3.6 One of the key requirements of the IUU Order is the introduction of a catch certificate scheme for imports of fishery products from third countries. Exporters will need to obtain catch certificates that will be validated by the country to which the fishing vessel is registered. These certificates are required on entry to the EU, and checked by national authorities of Member States. The IUU Order also provides for stricter sanctions and penalties to be applied to those found to be engaging in illegal activity. This applies to both nationals of the EU as well as those importers found to be supporting IUU activity. The regulation also outlines a range of measures that can be taken against vessels engaged in IUU fishing as well as against countries failing to address IUU fishing or marketing of illegal fish catches.

4. Consultation

- 4.1 The fishing industry has been consulted on the provisions in this IUU Order. The main group affected are local fish processors who either, sell NI caught fish to other Member States and who then export fish from the EU, or who export prawns to the Far East for initial processing and then import them back to NI for final processing packing and sale. These consignments of fish require EU IUU Catch Certificates validated by the UK authorities.

- 4.2. The concerns of the fishing industry were addressed at the time the EU IUU's Regulation became operational and the system has been operating satisfactorily in NI since 2010.

5. Equality Impact

- 5.1. There are no equality issues associated with this IUU Order. The IUU Order has been screened out from a full equality impact assessment.

6. Regulatory Impact

- 6.1. The IUU Order provides that a District Council is a competent authority for the purposes of the catch certification scheme of imported fishery products from third countries and that it may charge an importer a fee in respect of reasonable expenses it incurs in carrying out its functions under the Order. In Northern Ireland, Belfast City Council is currently the only district council affected as it manages the Port Health Authority at the Port of Belfast, Border Inspection Post (BIP).
- 6.2. Local processors exporting prawns to the Far East and back again complete a catch certificate for each consignment. The catch certificate documentation includes the details of all vessels (whose catches are included in the consignment) to be attached on a separate appendix to a single catch certificate rather than have a certificate for each vessel as the Commission originally proposed.
- 6.3. There is a uniform charge of £45 which is applied by the port health authorities in the United Kingdom for the reasonable costs in certifying catch certificates for imported products. Based on approximately 20 consignments per year into Northern Ireland, the total annual cost to local processors and importers is estimated to be £900.
- 6.4. The cost to the one local fishing vessel that may land into a third country is negligible as all the information required to complete the IUU catch certificate will be in the masters possession and only one vessel and one fish species will be entered. The certificate is generated by the vessel and validated electronically by the Marine Management Organisation. Neither the Department or the MMO currently charge for the provision of catch certificates to vessels landing fresh fish.

7. Financial Implications

- 7.1. Failure to implement the EU's IUU Regulation would risk infraction proceedings by the European Commission. Costs of infraction fines would fall to the Department in such circumstances.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The IUU Order complies with the provisions set out in Section 24.

9. EU Implications

- 9.1. This IUU Order is being made to implement EC Council Regulation 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing and Commission Regulation 1010/2009 laying down detailed rules for the implementation of the Council Regulation.

10. Parity or Replicatory Measure

- 10.1. The Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order 2009 S.I. 2009 No. 3391 (as amended) implements EC Council Regulation 1005/2008 for England and Wales.
- 10.2. The Sea Fishing (Illegal, Unreported and Unregulated Fishing) (Scotland) Order 2009 S.S.I. 2013 No. 189 implements EC Council Regulation 1005/2008 for Scotland.

11. Additional Information

- 11.1. For further information contact Paddy Campbell (02844618007) or Patrick Smith (Tel. 028448618111) at the Department of Agriculture, Environment and Rural Affairs or e-mail seafisheries@daera-ni.gov.uk.