

## **EXPLANATORY MEMORANDUM**

### **THE FREEDOM OF INFORMATION (ADDITIONAL PUBLIC AUTHORITIES) (AMENDMENT) ORDER 2004 No. 1870**

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

#### **2. Description**

- 2.1. This instrument clarifies a potential confusion arising from The Freedom of Information (Additional Public Authorities) Order 2004 (SI 2004/938). That Order inserted a reference to local sea fisheries committees into Part II of Schedule 1 to the Freedom of Information Act 2000 'at the appropriate place'. The Freedom of Information (Additional Public Authorities) (Amendment) Order 2004 replaces these words with 'at paragraph 35A' to indicate precisely where in the numbered list forming Part II of Schedule 1 to the 2000 Act this reference should appear.

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

- 3.1. None.

#### **4. Legislative Background**

- 4.1. The Freedom of Information Act 2000 applies to all bodies and office holders who are identified in one of three ways as public authorities:

- either they are listed in Schedule 1 to the Act (as amended by order made under section 4), or;
- they are designated as a public authority by an order made under section 5 of the Act, or;
- they are a publicly-owned company as defined by section 6.

- 4.2. Bodies may be added to Schedule 1 by an order made under section 4 of the 2000 Act if they meet the criteria set down in that section. These criteria are:

- that the body or office in question was established by Her Majesty's prerogative or by legislation, or by a Minister or government department, or by the National Assembly for Wales; and that
- in the case of a body, it is wholly or partly constituted by appointment made by the Crown, by a Minister or government department or the National Assembly for Wales, or
- in the case of an office, that appointments are made by the Crown, by a Minister or government department or the National Assembly for Wales.

- 4.3. The Freedom of Information (Additional Public Authorities) Order 2004 (SI 2004/938) is one such order.

4.4. This Order amends SI 2004/938 (using the same power) by clarifying an ambiguity in article 2 of that Order.

## **5. Extent**

5.1. This instrument applies to England, Wales and Northern Ireland

## **6. European Convention on Human Rights**

6.1. Not applicable.

## **7. Policy Background**

7.1. Orders under section 4 of the Freedom of Information Act 2000 are made annually to ensure that Schedule 1 to the 2000 Act, listing the bodies and offices subject to the Act, is up to date.

7.2. Paragraph 2 of the Freedom of Information (Additional Public Authorities) Order 2004 states:

“The bodies and offices listed in Schedule 1 to this Order shall be added to Part II of Schedule 1 to the Act, at the appropriate place in each case.”

7.3. Schedule 1 of the Order includes only one entry:

“A local fisheries committee for a sea fisheries district established under section 1 of the Sea Fisheries Regulation Act 1966.”

7.4. It has been drawn to our attention that Part II of Schedule 1 to the Act is presented as a list of numbered paragraphs. Therefore, whilst the existing Order was effective in adding the reference to the local fisheries committees to that list, it failed to make clear where in the list it should appear.

7.5. The Freedom of Information (Additional Public Authorities) (Amendment) Order 2004 replaces the words ‘at the appropriate place’ in paragraph 2 with ‘at paragraph 35A’ to remedy that failure.

## **8. Impact**

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

## **9. Contact**

Charlotte Mercer at the Department for Constitutional Affairs

Tel: 020 7210 8033

Email: [charlotte.mercer@dca.gsi.gov.uk](mailto:charlotte.mercer@dca.gsi.gov.uk)

can answer any queries regarding the instrument.