

**EXPLANATORY MEMORANDUM TO  
THE SURFACE WATERS (FISHLIFE) (CLASSIFICATION) (AMENDMENT)  
REGULATIONS 2009**

**2009 No. 1264**

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 Fresh Water Fish Directive (78/659/EEC) was implemented in England and Wales by The Surface Waters (Fishlife) (Classification) Regulations 1997 (S.I. 1997/1331). In 2006 the European Commission reviewed the Directive to consolidate the amendments which had been made to the Directive since the 1970s. The review process produced a new version of the Directive (2006/44/EC), but made no changes to the substance of it. The purpose of this instrument is to incorporate this change into domestic legislation.

**3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]**

3.1 [None]

**4. Legislative Context**

4.1 The Regulation updates the reference to the revised Fresh Water Fish Directive (2006/44/EC).

**5. Territorial Extent and Application**

5.1 This instrument applies to England and Wales.

5.2 Directive 2006/44/EC is implemented in Scotland by The Surface Waters (Fishlife) (Classification) (Scotland) Amendment Regulations 2007 (no 178).

**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 The Surface Waters (Fishlife) (Classification) Regulations 1997 are being amended to reflect the codification of Council Directive 78/659/EEC and its amendments into a single text now contained in Directive 2006/44/EC of the European Parliament and of the Council (OJ No L 264, 25.09.2006, p 20). There is no change to policy.

- ***Consolidation***

7.2 The amendment reflects a consolidation of EU legislation.

## **8. Consultation outcome**

8.1 No consultation as been carried out as this is only a technical change with no impact on policy or enforcement.

## **9. Guidance**

9.1 No guidance has been prepared as this is only a technical change with no impact on policy or enforcement.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is negligible as this is a technical change.

10.2 The impact on the public sector is negligible as this is a technical change.

10.3 An Impact Assessment has not been prepared for this instrument.

## **11. Regulating small business**

11.1 The legislation applies small business.

## **12. Monitoring & review**

12.1 The Environment Agency is responsible for monitoring and enforcement under these Regulations. Monitoring data is reported to Defra annually.

## **13. Contact**

Elaine Connolly at the Department for Environment, Food and Rural Affairs Tel: 020 7238 4451 or email: [Elaine.connolly@defra.gsi.gov.uk](mailto:Elaine.connolly@defra.gsi.gov.uk) can answer any queries regarding the instrument.