

Explanatory Memorandum to The Shrimp Fishing Nets (Wales) Order 2008

This Explanatory Memorandum has been prepared by Fisheries Unit of The Department for Rural Affairs and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

1. **Description** – This Order will revoke and replace The Shrimp Fishing Nets (Wales) Order 2003 (SI 2003/3035) ensuring compliance with Article 25 of Council Regulation (EC) No. 850/1998.
2. **Matters of special interest to the Subordinate Legislation Committee** – None.
3. **Legislative Background** – The Order will be made under sections 3(1) and 15(3) of the Sea Fish (Conservation) Act 1967. Functions under the said section 3 were transferred to the National Assembly for Wales and functions under the said section 15(3) were transferred to the NAW concurrently with any other Minister of the Crown by whom they are exercisable (The National Assembly for Wales (Transfer of Functions) Order 1999 (SI 1999/672)). Those functions have subsequently been transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 the Government of Wales Act 2006. Responsibility for issues relating to the contents of the Order has been delegated to the Minister for Rural Affairs. This legislation will follow the Negative procedure.
4. **Purpose and intended effect of the legislation** - This Order will revoke and replace The Shrimp Fishing Nets (Wales) Order 2003 (SI 2003/3035) ensuring full compliance with Article 25 of Council Regulation (EC) No. 850/1998 for the conservation of fishery resources through technical measures for the protection of juvenile marine organisms.
5. Article 3 of the 2003 Order applies to British fishing boats in Welsh waters and prohibits them from carrying or using fishing nets which have a mesh size between 16 and 31 millimetres, other than in certain specified circumstances.
6. The European Commission has brought infraction proceedings against the UK, in an Article 226 Letter, because The Shrimp Fishing Nets (Wales) Order 2003, as well as Shrimp Fishing Net Orders of England, Scotland and Northern Ireland, did not fully comply with Article 25 of Council Regulation (EC) No. 850/1998. In the UK response of 21st December 2006, the Welsh Assembly gave an undertaking to amend the Welsh Order to ensure full compliance with the said Article.

7. The Order will replace Article 3 of the 2003 Order by:
 - removing the exemption for when less than 60% by live weight of the total catch on board the boat comprises shrimps; and
 - require that, in addition to the requirements of the Order, any retention of sea fish on board the boat must be consistent with Article 25 of Council Regulation (EC) No. 850/1998.

The requirements of Article 25 of the Regulation are:

- the retention on board of shrimps caught with nets with a mesh size between 16 and 31mm, is prohibited unless the vessel has installed a functioning device designed to separate flatfish from shrimps;
 - a separator trawl or a net with a sorting grid shall be used to catch shrimps; and
 - quantities of shrimp can be retained on board vessels that do not comply with the above provisions, if they do not exceed 5% of the total weight of the catch on board.
8. **Implementation** -The European Commission has given the Assembly the opportunity to submit observations as to why it has not fully complied with Council Regulation (EC) No 850/1998, in its Article 226 letter 2005/5140. In the UK response of 21st December 2006, the Assembly gave an undertaking to amend the Welsh Order to ensure full compliance with the said article; therefore it is essential that there is no delay in the coming into force date of this Order.
 9. **Consultation** – No consultation has taken place under this Order because it must be implemented to comply with Council Regulation (EC) No 850/1998
 10. **Regulatory Impact Assessment** – Having regard to paragraph 13 of the Assembly Guidance, I concluded that a regulatory impact assessment would not be appropriate in this instance because the Assembly has under article 226 of the Treaty establishing the European Community, been given an opportunity by the European Commission to submit observations as to why it has not implemented or complied with an EC Regulation.