

Explanatory Memorandum to The Shrimp Fishing Nets (Wales) (Amendment) 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 amend 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** – This Order is being brought forward after comment from the SLC on the Shrimp Fishing Nets (Wales) Order 2008.
3. **Legislative Background** – The Order will be made under sections 3(1) of the Sea Fish (Conservation) Act 1967. The functions of the Ministers in section 3(1) of the 1967 Act, so far as they are exercisable in relation to Wales, were transferred to the National Assembly for Wales (as constituted under the Government of Wales Act 1998) by article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions were subsequently transferred to the Welsh Ministers by section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006. The proposed Order will be subject to the Negative procedure.
4. **Purpose and intended effect of the legislation** - This Order will amend The Shrimp Fishing Nets (Wales) Order 2003 (SI 2003/3035) ensuring 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 Subordinate legislation Committee whilst reviewing the Shrimp Fishing Nets (Wales) Order 2008 discovered a slight typographic error that change the meaning of section 3(1)(d) with the word 'or' instead of 'of'.
8. **Implementation** –The Welsh Assembly Government has given an undertaking to amend the error as soon as possible.
9. **Consultation** – No consultation has taken place of this amendment Order because it must be implemented to comply with Council Regulation (EC) No 850/1998.
10. **Regulatory Impact Assessment** – This amendment Order is being made to correct the minor drafting errors in the original Order and therefore a Regulatory Impact Assessment is not appropriate.