

▼B**COMMISSION DELEGATED REGULATION (EU) 2018/2034
of 18 October 2018****establishing a discard plan for certain demersal fisheries in
North-Western waters for the period 2019-2021***Article 1***Implementation of the landing obligation**

In ICES Subareas 5 (excluding 5a and including only Union waters of 5b), 6 and 7, the landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply in demersal fisheries in accordance with this Regulation for the period 2019-2021.

*Article 2***Definitions**

1. ‘Flemish Panel’ means the last tapered netting section of a beam trawl, the posterior of which is directly attached to the cod-end. The upper and lower netting sections of the panel must be constructed of at least 120 mm mesh as measured between the knots and the panel must have a stretched length of at least 3 m.

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2. ‘Seltra panel’ means a selectivity device which:
- (a) consists of a top panel of at least 270 mm mesh size (diamond mesh) or a top panel of at least 300 mm mesh size (square mesh), placed in a four-panel box section, in the straight section of a cod end;
 - (b) is at least 3 metres long;
 - (c) is positioned no more than 4 metres from the cod line; and
 - (d) is the full width of the top sheet of the box section of the trawl (i.e. from selvedge to selvedge).

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3. ‘Netgrid selectivity device’ means a selectivity device consisting of a four panel section inserted into a two-panel trawl with an inclined sheet of diamond mesh netting with a mesh size of at least 200 mm, leading to an escape hole in the top of the trawl;
4. ‘CEFAS Netgrid’ means a Netgrid selectivity device developed by The Centre for Environment, Fisheries and Aquaculture Science for catches of *Nephrops* in the Irish Sea;
5. ‘Flip-flap trawl’ means a trawl equipped with a netting grid developed to reduce the capture of cod, haddock and whiting in Norway lobster fisheries;

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6. ‘Flip-up rope’ means a gear modification on demersal beam trawls to help prevent stones and boulders entering the trawl and causing damage to both gear and catches;

7. ‘Benthic release panel’ means a panel of larger mesh or square mesh netting fitted into the lower panel of a trawl, usually a beam trawl to release any benthic material and seabed debris before it passes into the codend;

8. ‘Celtic Sea Protection Zone’ means the waters inside ICES divisions 7f, 7g and the part of 7j that lies North of latitude 50° N and East of 11° W.

*Article 3***Survivability exemption for Norway lobster**

1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to:

- (a) Norway lobster (*Nephrops norvegicus*) caught in pots, traps or creels (gear codes: ⁽¹⁾ FPO and FIX), in ICES subareas 6 and 7;
- (b) Norway lobster (*Nephrops norvegicus*) caught with bottom trawls with a mesh size equal to or larger than 100 mm in ICES subarea 7;
- (c) Norway lobster (*Nephrops norvegicus*) caught with bottom trawls with a mesh size of 70-99 mm in combination with highly selective gear options, as set out in Articles 9(2) and 10(2) of this Regulation, in ICES subarea 7;

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- (d) Norway lobster (*Nephrops norvegicus*) caught with otter trawls with a mesh size of 80-110 mm in ICES division 6a within twelve nautical miles of the coast.

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2. When discarding Norway lobster caught in cases referred to in paragraph 1, the Norway lobster shall be released whole, immediately and in the area where it has been caught.

⁽¹⁾ Gear codes used in this Regulation refer to those codes in Annex XI to Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy (OJ L 112, 30.4.2011, p. 1). For the vessels whose LOA is less than 10 metres gear codes used in this table refer to the codes from the FAO gear classification.

*Article 4***Survivability exemption for common sole**

1. In ICES division 7d, within six nautical miles of the coast but outside identified nursery areas, the survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to catches of common sole (*Solea solea*) below the minimum conservation reference size made using otter trawl gears (gear codes: OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) with a cod end mesh size of 80-99 mm, by vessels:

(a) having a maximum length of 10 meters and a maximum engine power of 221 kW; and

(b) fishing in waters with the depth of 30 meters or less and with tow durations of no more than 1:30 hours.

2. When discarding common sole caught in cases referred to in paragraph 1, the common sole shall be released immediately.

*Article 5***Survivability exemption for skates and rays**

1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to total allowable catches of skates and rays (*Rajiformes*) caught by any fishing gear in the North Western Waters (ICES subareas 6 and 7).

2. Member States having a direct management interest shall submit, every year as soon as possible before 31 May, additional scientific information supporting the exemption laid down in paragraph 1. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August every year.

3. The exemption set out in paragraph 1 shall apply to Cuckoo ray until 31 December 2019. Member States having a direct management interest shall submit as soon as possible before 31 May 2019, additional scientific information supporting that exemption. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August 2019.

4. When discarding skates and rays caught in cases referred to in paragraph 1, the skates and rays shall be released immediately and below the sea surface.

▼B*Article 6***Survivability exemption for plaice**

1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to:

- (a) plaice (*Pleuronectes platessa*) caught in ICES divisions 7d, 7e, 7f and 7g with trammel nets;
- (b) plaice (*Pleuronectes platessa*) caught in ICES divisions 7d, 7e, 7f and 7g with otter trawls;
- (c) plaice (*Pleuronectes platessa*) caught in ICES divisions 7a-7k by vessels having a maximum engine greater than 221 kW, and using beam trawls (BT2) fitted with a flip-up rope or benthic release panel;
- (d) plaice (*Pleuronectes platessa*) caught in ICES divisions 7a-7k by vessels using beam trawls (BT2), having a maximum engine power of 221 kW or a maximum length of 24 meters, which are constructed to fish within 12 nautical miles of the coast and with average tow durations of no more than 1:30 hours.

2. The exemptions referred to in paragraphs 1(c) and (d) shall be provisionally applicable until 31 December 2019. Member States having a direct management interest shall submit as soon as possible before 31 May 2019 additional scientific information supporting those exemptions. The Scientific, Technical and Economic Committee for Fisheries shall assess that information before 1 August 2019.

3. When discarding plaice caught in cases referred to in paragraph 1, the plaice shall be released immediately and below the sea surface.

*Article 7***Survivability exemption for species caught in pots, traps and creels**

1. In ICES subareas 5 (excluding 5a and including only Union waters of 5b), 6 and 7 the survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to species caught with pots, traps and creels.

2. When discarding fish caught in cases referred to in paragraph 1, the fish shall be released immediately.

*Article 8****De minimis exemptions***

1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded pursuant to Article 15(5)(c) of that Regulation:

- (a) for whiting (*Merlangius merlangus*), up to a maximum of 6 % in 2019, and up to a 5 % in 2020 and 2021, of the total annual catches of that species by vessels using bottom trawls and seines with a mesh size equal to or greater than 80 mm (OTB, OTT, OT, PTB, PT, SSC, SDN, SPR, SX, SV, TBN, TBS, TB, TX), pelagic trawls (OTM, PTM) and beam trawls (BT2) with a mesh size of 80-119 mm in ICES division 7d;
- (b) for whiting (*Merlangius merlangus*), up to a maximum of 6 % in 2019, and up to a 5 % in 2020 and 2021, of the total annual catches of that species by vessels using bottom trawls and seines with a mesh size equal to or greater than 80 mm (OTB, OTT, OT, PTB, PT, SSC, SDN, SPR, SX, SV, TBN, TBS, TB, TX), pelagic trawls (OTM, PTM) and beam trawls (BT2) with a mesh size of 80-119 mm in ICES divisions 7b-c and 7e-k;
- (c) for common sole (*Solea solea*), up to a maximum of 3 % of the total annual catches of that species by vessels using trammel and gill nets to catch common sole in ICES divisions 7d, 7e, 7f and 7g;
- (d) for common sole (*Solea solea*), up to a maximum of 3 % of the total annual catches of that species by vessels using TBB gear with a mesh size of 80-119 mm equipped with Flemish panel, to catch common sole in ICES divisions 7d, 7e, 7f, 7g and 7h;
- (e) for haddock (*Melanogrammus aeglefinus*), up to a maximum of 7 % in 2019 of the total annual catches of that species by vessels using bottom trawls, seines and beam trawls with a mesh size equal to or greater than 80 mm in ICES divisions 7b-7c and 7e-7k;
- (f) for cod (*Gadus morhua*), 7 % in 2019 of the total annual catches of that species by vessels using bottom trawls, seines and beam trawls with a mesh size equal to or greater than 80 mm in ICES divisions 7b-7c and 7e-7k;
- (g) for horse mackerel (*Trachurus* spp.), up to a maximum of 7 % in 2019 of the total annual catches of that species by vessels using bottom trawls, seines and beam trawls in ICES subarea 6 and ICES divisions 7b-7k;
- (h) for mackerel (*Scomber scombrus*), up to a maximum of 7 % in 2019 of the total annual catches of that species by vessels using bottom trawls, seines and beam trawls in ICES subarea 6 and ICES divisions 7b-7k.

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2. The *de minimis* exemptions set out in the paragraph 1 points (e)-(h) shall be applicable until 31 December 2019. Member States having a direct management interest shall submit as soon as possible before 31 May 2019, additional scientific information supporting the exemption. The Scientific, Technical and Economic Committee for Fisheries shall assess the provided scientific information before 1 August 2019.

*Article 9***Specific technical measures in the Celtic Sea Protection Zone**

1. From 1 July 2019, fishing vessels operating with bottom trawls or seines in the Celtic Sea Protection Zone shall use one of the following gear options:

- (a) 110 mm cod-end with 120 mm squared mesh panel ⁽¹⁾;
- (b) 100 mm T90 cod-end;
- (c) 100 mm cod-end with 160 mm squared mesh panel.

2. By way of derogation from paragraph 1, vessels operating with bottom trawls or seines with catches comprising more than 5 % of Norway lobster shall use one of the following gear options:

- (a) 300 mm squared mesh panel; vessels below 12 meters in length over all may use a 200 mm square mesh panel;
- (b) Seltra panel;
- (c) Sorting grid with a 35 mm bar spacing as defined in the Annex XIVa to Regulation (EC) No 850/98 ⁽²⁾ or a similar Netgrid selectivity device;
- (d) 100 mm cod-end with a 100 mm square mesh panel.

3. By way of derogation from paragraph 1, vessels operating with bottom trawls or seines with catches comprising more than 55 % of whiting or 55 % of anglerfish, hake or megrim combined, shall use one of the following gear options:

- (a) 100 mm cod-end with a 100 mm squared mesh panel;
- (b) 90 mm T90 cod-end and extension;

⁽¹⁾ Squared mesh panels shall be fitted in accordance with Article 7 of Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p. 1).

⁽²⁾ Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p. 1).

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- (c) 80 mm cod-end with a 160 mm squared mesh panel;
- (d) 80 mm cod-end with a 2 m multiplied by 100 mm squared mesh cylinder.

4. By way of derogation from paragraph 1, vessels operating with bottom trawls or seines with catches comprising less than 10 % of gadoids (*Gadidae*) in ICES division 7f East of 5° West, shall use 80 mm cod-end fitted with a 120 mm square mesh panel.

5. A selective gear or device assessed by the STECF as having the same or higher selectivity characteristics for cod, haddock and whiting may be added as an alternative gear to the above.

*Article 10***Specific technical measures in the Irish Sea**

1. From 1 January 2019, fishing vessels operating with bottom trawls or seines in ICES division 7a (Irish Sea) shall comply with the technical measures set out in paragraphs 2, 3 and 4.

2. Vessels operating with bottom trawls or seines with a cod-end mesh size equal to or larger than 70 mm and smaller than 100 mm and with catches comprising more than 5 % of Norway lobster shall use one of the following gear options:

- (a) 300 mm squared mesh panel; vessels below 12 meters in length over all may use a 200 mm squared mesh panel;
- (b) Seltra panel;
- (c) Sorting grid with 35 mm bar spacing as defined in the Annex XIVa to Regulation (EC) No 850/98;
- (d) CEFAS Netgrid;
- (e) Flip-flap trawl.

3. Vessels operating with bottom trawls or seines with catches comprising more than 10 % of haddock, cod and skates and rays combined, shall use one of the following gear options:

- (a) 120 mm cod-end;
- (b) an eliminator trawl with 600 mm large mesh panels and a 100 mm cod-end.

4. Vessels operating with bottom trawls or seines with catches comprising less than 10 % of haddock, cod and skates and rays combined shall apply a cod-end mesh size of 100 mm with a 100 mm squared mesh panel. ►**MI** This provision shall not apply to vessels with catches comprising more than 30 % of Norway lobster or more than 85 % of Queen scallops. ◀

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5. A selective gear or device assessed by the STECF as having the same or higher selectivity characteristics for cod, haddock and whiting may be added as an alternative gear to the above.

Article 11

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2019 until 31 December 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.