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► **B** **COMMISSION DELEGATED REGULATION (EU) 2018/2035**
 of 18 October 2018
specifying details of implementation of the landing obligation for certain demersal fisheries in the
North Sea for the period 2019-2021
(OJ L 327, 21.12.2018, p. 17)

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COMMISSION DELEGATED REGULATION (EU) 2018/2035
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**specifying details of implementation of the landing obligation for
certain demersal fisheries in the North Sea for the period 2019-2021**

Article 1

Implementation of the landing obligation

In Union waters of the North Sea (ICES divisions 2a, 3a and subarea 4) the landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply to demersal fisheries which are subject to catch limits in accordance with this Regulation for the period 2019-2021.

Article 2

Definitions

For the purpose of this Regulation the following definitions shall apply:

- (1) ‘Seltra panel’ means a selectivity device which:
 - consists of a top panel of at least 270 mm mesh size (diamond mesh) placed in a four-panel section and mounted with a joining ratio of three meshes of 90 mm to one mesh of 270 mm, or of a top panel of at least 140 mm mesh size (square mesh),
 - is at least 3 metres long,
 - is positioned no more than 4 metres from the cod line, and
 - is the full width of the top sheet of the trawl (i.e. from selvedge to selvedge);
- (2) ‘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;
- (3) ‘Flemish Panel’ means the last tapered netting section of a beam trawl whose:
 - posterior is directly attached to the cod-end,
 - upper and lower netting sections are constructed of at least 120 mm mesh as measured between the knots,
 - stretched length is at least 3 m;

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- (4) ‘SepNep’ means an otter trawl which:
- is constructed within the mesh size range of 80 to 99 + \geq 100 mm,
 - is fitted with multiple cod-ends of mesh sizes ranging from at least 80 to 120 mm attached to a single extension piece, the uppermost cod-end being constructed with a mesh size of at least 120 mm and fitted with a separation panel with a maximum mesh size of 105 mm, and
 - may furthermore be fitted with an optional selection grid with a bar spacing of at least 17 mm provided it is constructed in such a way so as to allow the escape of small Norway lobster.

*Article 3***Survivability exemptions for Norway lobster**

1. The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in Union waters of the North Sea (ICES divisions 2a, 3a and subarea 4) to the following catches of Norway lobster:

- (a) catches with pots (FPO ⁽¹⁾);
- (b) ► **M1** catches with bottom trawls (OTB, OTT, TBN) fitted with: ◀
- (1) a cod-end larger than 80 mm; or
 - (2) a cod-end with a mesh size of at least 70 mm equipped with a species selective grid with a bar spacing of maximum 35 mm; or
 - (3) a cod-end of at least 35 mm equipped with a species selective grid with a bar spacing of maximum 19 mm.

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.

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3. 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(b). The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August every year.

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

1. The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in Union waters of ICES division 4c, within six nautical miles of the coast but outside identified nursery areas, to catches of common sole below minimum conservation reference size made using otter trawls (OTB) with a cod-end mesh size of 80-99 mm.

2. The exemption referred to in paragraph 1 shall only apply to vessels with a maximum length of 10 metres and a maximum engine power of 221 kW, fishing in waters with a depth of 30 metres or less and with tow durations of no more than 1:30 hours.

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

*Article 5***Survivability exemption for bycatch of all species subject to catch limits in pots and fyke nets**

1. The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in Union waters of ICES division 3a and ICES subarea 4 to catches of all species subject to catch limits made with pots and fyke nets (FPO, FYK).

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

*Article 6***Survivability exemption for catch and bycatch of plaice**

1. The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in Union waters of ICES division 3a and subarea 4 to:

(a) plaice caught with nets (GNS, GTR, GTN, GEN);

(b) plaice caught with Danish seines;

▼M1

- (c) plaice caught with bottom trawls (OTB, OTT, PTB) with a mesh size of at least 120 mm when targeting flatfish or roundfish in winter months (from 1 November to 30 April).

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

*Article 7***Survivability exemption for plaice below the minimum conservation reference size**

1. The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in Union waters of ICES division 2a and ICES subarea 4 and to catches of plaice below the minimum conservation reference size made with 80-119 mm beam trawls (BT2).
2. The exemption referred to in paragraph 1 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 that exemption. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific 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 8***Survivability exemption for skates and rays**

1. The survivability exemption referred to in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply in Union waters of the North Sea (ICES divisions 2a, 3a and subarea 4) to catches of skates and rays with all fishing gears.
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.

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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.

*Article 9****De minimis exemptions***

By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded pursuant to Article 15(4)(c) of that Regulation:

- (a) in fisheries for common sole by vessels using trammel nets and gill nets (GN, GNS, GND, GNC, GTN, GTR, GEN, GNF) in Union waters of ICES divisions 2a and 3a, and ICES subarea 4:

a quantity of common sole below and above the minimum conservation reference size, which shall not exceed 3 % of the total annual catches of that species;

- (b) in fisheries for common sole by vessels using beam trawl (TBB) of mesh size 80-119 mm equipped with a Flemish panel, in Union waters of ICES subarea 4:

a quantity of common sole below minimum conservation reference sizes, which shall not exceed 6 % of the total annual catches of that species in 2019 and 5 % the rest of the period;

- (c) ►**M1** in the fishery for Norway lobster by vessels using bottom trawls (OTB, OTT, TBN) with a mesh size equal to or larger than 70 mm equipped with a species-selective grid with a bar spacing of maximum 35 mm in Union waters of ICES division 3a: ◀

a combined quantity of common sole, haddock, whiting, cod, saithe and hake below the minimum conservation reference size, which shall not exceed 4 % of the total annual catches of Norway lobster, common sole, haddock, whiting and Northern prawn, cod, saithe and hake;

- (d) ►**M1** in the fishery for Northern prawn by vessels using bottom trawls (OTB, OTT) with a mesh size equal to or larger than 35 mm equipped with a species selective grid with a bar spacing of maximum 19 mm, and with unblocked fish outlet, in Union waters of ICES division 3a: ◀

a combined quantity of common sole, haddock, whiting, cod, plaice, saithe, herring, Norway pout, greater silver smelt and blue whiting below minimum conservation reference size, which shall not exceed 5 % of the total annual catches of Norway lobster, common sole, haddock, whiting, cod, saithe, plaice, Northern prawn, hake, Norway pout, greater silver smelt, herring and blue whiting;

▼ M1

- (e) in the mixed demersal fisheries by vessels using bottom trawls or seines (OTB, OTT, SDN, SSC) with a mesh size of 70-99 mm (TR2) in Union waters of ICES division 4c:

a combined quantity of whiting and cod below minimum conservation reference size, which shall not exceed 6 % in 2019 and 5 % in 2020 and 2021 of the total annual catches of whiting and cod; the maximum amount of cod that may be discarded shall be limited to 2 % of those total annual catches;

- (f) in the mixed demersal fisheries by vessels using bottom trawls or seines (OTB, OTT, SDN, SSC) with a mesh size of 70-99 mm (TR2) in Union waters of ICES divisions 4a and 4b:

a combined quantity of whiting and cod below minimum conservation reference size, which shall not exceed 6 % in 2019 of the total annual catches of whiting and cod; the maximum amount of cod that may be discarded shall be limited to 2 % of those total annual catches;

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- (g) ► **M1** in fisheries by vessels using bottom trawls (OTB, OTT, TBN, PTB) with a mesh size of 90-119 mm, equipped with Seltra panel, or bottom trawls (OTB, OTT, TBN, PTB) with a mesh size equal to or larger than 120 mm, in Union waters of ICES division 3a: ◀

a quantity of whiting below minimum conservation reference sizes, up to a maximum of 2 % of the total annual catches of Norway lobster, cod, haddock, whiting, saithe, common sole, plaice and hake;

- (h) in the fisheries for Norway lobster by vessels using bottom trawls with a mesh size of 80-99 mm, equipped with a SepNep, in Union waters of ICES subarea 4:

a quantity of plaice below the minimum conservation reference size, which shall not exceed 3 % of the total annual catches of saithe, plaice, haddock, whiting, cod, Northern prawn, common sole and Norway lobster;

- (i) in the fisheries for brown shrimp by vessels using beam trawls in Union waters of ICES divisions 4b and 4c:

a quantity of all species subject to catch limits, which shall not exceed 7 % in 2019 and 2020, 6 % in 2021 of the total annual catches of all species subject to catch limits;

- (j) in the demersal fisheries by vessels using bottom trawls (OTB, OTT, PTB) with a mesh size between 100 and 119 mm catching ling in Union waters of ICES subarea 4:

a quantity of ling below minimum conservation reference size, which shall not exceed 3 % of the total annual catches of ling in that fishery;

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the *de minimis* exemption set out in this point (j) shall be provisionally applicable until 31 December 2019. Member States having a direct management interest shall submit 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;

- (k) in the demersal fisheries by vessels using bottom trawls (OTB, OTT, PTB) with a mesh size equal to or greater than 120 mm catching ling in Union waters of ICES subarea 4:

a quantity of ling below minimum conservation reference size, which shall not exceed 3 % of the total annual catches of ling in that fishery;

- (l) in the demersal mixed fishery by vessels using beam trawls with a mesh size of 80-119 mm in Union waters of ICES subarea 4:

a quantity of whiting below minimum conservation reference size, which shall not exceed 2 % of the total annual catches of plaice and sole;

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

- (m) in the demersal mixed fishery with bottom trawls (OTB, OTT, PTB, TBB) with a mesh size between 80 and 99 mm in ICES subarea 4:

a quantity of horse mackerel, which shall not exceed 7 % in 2019 of the total annual catches in that fishery of horse mackerel;

the *de minimis* exemption set out in this point (m) 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 the exemption. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August 2019;

- (n) in the demersal mixed fishery with bottom trawls (OTB, OTT, PTB, TBB) with a mesh size between 80 and 99 mm in ICES subarea 4:

a quantity of mackerel, which shall not exceed 7 % in 2019 of the total annual catches in that fishery of mackerel;

the *de minimis* exemption set out in this point (n) 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 the exemption. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess the provided scientific information before 1 August 2019.

▼B*Article 10***Specific technical measures in the Skagerrak**

1. The carrying on board or the use of any trawl, Danish seine, beam trawl or similar towed net having a mesh size of less than 120 mm shall be prohibited in the Skagerrak.
2. By way of derogation from paragraph 1, the following trawls may be used:
 - (a) trawls with a cod-end having a mesh size of at least 90 mm, provided they are equipped with a seltra panel or a sorting grid with no more than 35 mm bar spacing.
 - (b) trawls with a cod-end having a mesh size of at least 70 mm (square mesh), equipped with a sorting grid with no more than 35 mm bar spacing;
 - (c) trawls with a minimum mesh sizes of less than 70 mm when fishing for pelagic or industrial species, provided the catch contains more than 80 % of one or more pelagic or industrial species;
 - (d) trawls with a cod-end of at least 35 mm mesh size when fishing for Northern prawn, provided the trawl is equipped with a sorting grid with a maximum bar spacing of 19 mm.
3. A fish retention device may be used when fishing for Northern prawn in accordance with paragraph 2(d), provided there are adequate fishing opportunities to cover by-catch and that the retention device is:
 - (a) constructed with a top panel with a minimum mesh size of 120 mm square mesh;
 - (b) at least 3 metres long; and
 - (c) at least as wide as the sorting grid.

*Article 11***SepNep**

In accordance with Article 9(1)(a) of Regulation (EU) 2018/973, it shall be permitted to use the SepNep nets.

*Article 12***Entry into force and application**

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.