

**EXPLANATORY MEMORANDUM TO**  
**THE COMMON FISHERIES POLICY (AMENDMENT ETC.) (EU EXIT)**  
**REGULATIONS 2020**

**2020 No. [XXXX]**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 The Common Fisheries Policy (“CFP”) imposes a common approach to the sustainable management of fisheries across the EU and its waters. A number of statutory instruments made in 2019 under powers in the European Union (Withdrawal) Act 2018 made amendments to EU CFP legislation that was scheduled to become ‘retained EU law’ on exit day. The amendments were intended to ensure the retained CFP legislation would operate effectively upon the UK’s withdrawal from the EU. Following ratification of the EU withdrawal agreement, EU CFP legislation will now become retained EU law at the end of the Transition Period and this instrument is required to ensure retained EU law operates effectively from that point.
- 2.2 This instrument is required in relation to three categories of amendments:
  - a) Amendments required to account for new EU CFP legislation which has come into force since the previous amending statutory instruments were drafted in preparation for exit day.
  - b) Amendments required in consequence of the EU withdrawal agreement.
  - c) Amendments to previous amending statutory instruments, including amendments to correct minor errors.

***Explanations***

*What did any relevant EU law do before exit day?*

- 2.3 The CFP regulates fishing activities and the enforcement of those activities in EU waters, as well as implementing the requirements of international agreements that the European Union has entered into on behalf of Member States. This instrument will amend the following aspects of retained EU law:
  - a) Demersal discard plans – Regulations (EU) 2019/2238 and 2019/2239. These Regulations (also known as ‘discard plans’) set out exemptions from the landing obligation (as set out in the Common Fisheries Policy Regulation (1380/2013)), as recommended by the North-Western Waters (NWW) or North Sea (NS) Regional Groups, in order to facilitate full implementation of the landing obligation from 1<sup>st</sup> January 2019.

- b) 2020 TAC and quota regulation - Regulation (EU) 2020/123. This Regulation sets fishing opportunities (the total allowable catch (TAC) and each Member State's allocated quota for certain fish stocks) in EU waters and certain non-EU waters.
- c) 2020-21 data collection multiannual programme – Decisions (EU) 2019/909 and (EU) 2019/910. These Decisions set out detailed requirements for the collection, management and use of fisheries data, in particular, scientific data relating to fish stocks.

2.4 Additionally, this instrument will revoke a number of items of EU legislation from retained EU law and amend the following EU Exit statutory instruments, with the detail describing the revocations and amendments found in the table at Annex B:

- a) The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019
- b) The Fisheries (Amendment) (EU Exit) Regulations 2019
- c) The European Structural and Investment Funds Common Provisions (Amendment) (EU Exit) Regulations 2019
- d) The Agriculture (Legislative Functions) (EU Exit) Regulations 2019
- e) The Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019
- f) The Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2019
- g) The Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019

Why is it being changed?

- 2.5 The technical changes made by this instrument are necessary to ensure that the rules contained in the CFP continue to operate effectively, so that fishing within UK waters continues to be regulated in a sustainable manner.
- 2.6 The functions transferred by this instrument will ensure that fisheries management in the UK can continue to operate efficiently. UK fisheries administrations require this ability to ensure they can keep abreast of the latest scientific evidence and make changes where necessary.
- 2.7 Annex B to this explanatory memorandum contains further detail on the amendments made by this instrument.

What will it now do?

- 2.8 This instrument ensures there is immediate continuity in the regulation of UK waters at the end of the Transition Period. Although some changes are required where provisions would no longer operate effectively or make sense outside of the EU structure, no policy changes are made to the effect of the legislation amended by this instrument.

### **3. Matters of special interest to Parliament**

#### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This instrument includes amendments which correct minor errors in earlier EU exit statutory instruments (in S.I. 2019/739 and 2019/1312) and this instrument is being published under the free issue procedure.

#### *Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 The territorial application of this instrument includes Scotland and Northern Ireland.

### **4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is the United Kingdom.  
4.2 The territorial application of this instrument is the United Kingdom.

### **5. European Convention on Human Rights**

- 5.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Victoria Prentis MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2020 are compatible with the Convention rights.”

### **6. Legislative Context**

- 6.1 Section 8(1) of the European Union (Withdrawal) Act 2018 provides that a Minister of the Crown may by regulations make such provision as the Minister considers appropriate to prevent, remedy or mitigate any failure of retained EU law to operate effectively or any other deficiency in retained EU law arising from the withdrawal of the United Kingdom from the EU. This instrument is made in exercise of these powers.
- 6.2 Paragraph 21 of Schedule 7 to that Act specifies that the power to modify retained EU law includes a power to make supplementary, incidental and consequential provision and the power to restate retained EU law in a clearer or more accessible way.
- 6.3 Section 41(1) of the European Union (Withdrawal Agreement) Act 2020 provides that a Minister of the Crown may make such provision as the Minister considers appropriate in consequence of the Act. In this instrument, this power is exercised to make amendments which relate to the implementation of the Transition Period (for example, updating references from ‘exit day’ to ‘IP completion day’).
- 6.4 This instrument operates together with five other instruments, which work together to amend the suite of fisheries management legislation that applies to the UK. These are:
- a) The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019
  - b) The Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019
  - c) The Common Fisheries Policy (Amendment etc.) (EU Exit) (No.2) Regulations 2019

- d) The Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019
- e) The Fisheries (Amendment) (EU Exit) Regulations 2019, which provided technical corrections to deficiencies in domestic legislation.

## 7. Policy background

### *What is being done and why?*

- 7.1 The Government remains committed to maintaining existing standards of effective fisheries management. This instrument is required to ensure that after the end of the Transition Period there is immediate continuity in regulation, and the same environmental standards are met. In accordance with the provisions of section 8 of the European Union (Withdrawal) Act 2018, all amendments to the CFP have arisen as a result of the UK's departure from the EU and therefore the amendments do not represent any changes in policy regarding fisheries management. Over time, the fisheries administrations will amend retained EU law in order to implement their own policies.
- 7.2 Fisheries management is largely devolved to Scotland, Wales and Northern Ireland in relation to their vessels and their waters. Therefore, where provisions place obligations on EU member States to do something, these references are mostly changed to "a fisheries administration", which is a term defined in amendments made by the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 that applies to all of the retained CFP Regulations.
- 7.3 The definition ensures that "a fisheries administration" means the Secretary of State, a devolved fisheries administration or the Marine Management Organisation, and "a devolved fisheries administration" means the Scottish Ministers, the Welsh Ministers or, in Northern Ireland, the Department of Agriculture, Environment and Rural Affairs. This definition has the effect of preserving the status quo, so that the administration which currently carries out the function in question, or which exercises the power in question, continues to do so. New functions which have not previously been exercisable at member State level have been transferred in accordance with the joint decision-making framework agreed with the Devolved Administrations to complement the current position.
- 7.4 Further examples of the technical changes that are made by this instrument include amending references from the "European Union" to the "United Kingdom"; and "Union" or "Member State vessels and waters" to "UK vessels and waters".
- 7.5 In addition to amending retained EU law, this instrument also amends previous EU exit statutory instruments in consequence of the ratification of the EU withdrawal agreement. In particular, the EU withdrawal agreement contains provisions which apply elements of EU legislation directly in the UK after the end of the Transition Period. EU exit statutory instruments made prior to the EU withdrawal agreement were drafted on the basis that such EU legislation would form part of retained EU law. However, the European Union (Withdrawal Agreement) Act 2020 ensures that there will not be duplication of retained EU law and EU law which applies directly by virtue of the EU withdrawal agreement. As such, the amendments made in this instrument in consequence of the EU withdrawal agreement revoke previous deficiency corrections to retained EU law in this area as the retained EU law will no longer be created by operation of the European Union (Withdrawal) Act 2018.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument is being made using the power in section 8 of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of Annex A to this explanatory memorandum.

## **9. Consolidation**

- 9.1 There are no plans to consolidate the legislation.

## **10. Consultation outcome**

- 10.1 The Devolved Administrations (the Scottish Government, Department of Agriculture, Environment and Rural Affairs in Northern Ireland, and the Welsh Government) were involved in the drafting of the proposed amendments.
- 10.2 A targeted engagement was carried out on the approach, involving key stakeholders from the fisheries sector, food industry and environment non-governmental bodies. In addition, a ten-week consultation was conducted through the Fisheries White Paper which described future fisheries policy. Stakeholders were broadly supportive of the approach being taken in the White Paper.

## **11. Guidance**

- 11.1 As these are technical changes to existing legislation there is no associated guidance.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because no significant changes to what the public sector, or business, will have to do under the regulations are envisaged. The amendments made by the instrument will ensure UK vessels are subject to largely the same rules they are now. The impact of each set of regulations made using the powers transferred by this instrument will be assessed separately, as and when the powers are exercised.

## **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 As the legislation will continue to operate substantially as it did before EU Exit, it will not disproportionately affect small business.
- 13.3 The effect on small businesses of each set of regulations made using the powers transferred in this instrument will be assessed separately, as and when the powers are exercised.

#### **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is that Defra, as well as the Devolved Administrations in relation to devolved matters, will monitor and review the impact of the instrument as part of their standard policy-making procedures.
- 14.2 As this instrument is made under the European Union (Withdrawal) Act 2018, no review clause is required.

#### **15. Contact**

- 15.1 Jack Mitchell at the Department for Environment, Food and Rural Affairs, telephone: 020 8720 2848 or email: Jack.Mitchell@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Anne Freeman, Deputy Director for Domestic Fisheries and Reform at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.
- 15.3 Victoria Prentis MP, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.

# Annex A

## Statements under the European Union (Withdrawal) Act 2018

### Part 1

#### Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI.	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees.
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.  State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs.	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence.	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under s2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA 1972.	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA 1972, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under s2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA 1972.	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.



## **Part 2**

### **Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act**

#### **1. Appropriateness statement**

- 1.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Victoria Prentis MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2020 do no more than is appropriate”.

- 1.2 This is the case because: this instrument corrects deficiencies in legislation that arise from the withdrawal of the UK from the EU, to ensure the UK has functional and operable fisheries legislation after EU Exit.

#### **2. Good reasons**

- 2.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Victoria Prentis MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

- 2.2 These are: correcting deficiencies as necessary to ensure we continue to have operable fisheries legislation after EU Exit and provisions for the powers to make changes to regulations to enable a sustainable approach to fisheries management.

#### **3. Equalities**

- 3.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Victoria Prentis MP, has made the following statement:

“The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts”.

- 3.2 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Victoria Prentis MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the draft instrument, I, Victoria Prentis MP, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

#### **4. Explanations**

- 4.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.

## **5. Legislative sub-delegation**

- 5.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Victoria Prentis MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view it is appropriate to create a relevant sub-delegated power in the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2020.”

- 5.2 This is appropriate because: the power to amend the data collection work plan which sits under the data collection framework regulation should be exercisable administratively rather than by statutory instrument (as set out in Annex B to this explanatory memorandum). The data collection work plan itself is not a statutory instrument and the amendment power contains a safeguard to ensure that the document cannot be amended in a manner which is inconsistent with the legislation it sits under, as well as an obligation to publish any amendments.

# Annex B to the Explanatory Memorandum

## Summary of amendments made in the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2020

Discard Plans	
<p>Commission Delegated Regulation (EU) 2019/2238 specifying details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2020-2021</p>	<p>References to the ‘Union’ have been amended to the ‘United Kingdom’, and ICES area references have been amended so that they generally apply to UK waters but, in particular, exclude areas which exclusively fall within EU waters.</p> <p>As the UK is now an independent coastal state, the amendments remove legal requirements for all EU member states to provide data annually to STECF for review, on the impact of a number of the discarding exemptions (flexibilities), which are in force until the end of 2021. Despite the removal of these requirements, the UK still plans to ensure the relevant data is collated and reviewed, but will no longer submit the data to STECF for review.</p> <p>The EU Regulation is due to expire at the end of 2021. The amendments made by this instrument do not change the expiry date and therefore the Regulation in UK retained EU law (and all of the discarding exemptions outlined) will also expire at the end of 2021.</p>
<p>Commission Delegated Regulation (EU) 2019/2239 specifying details of the landing obligation for certain demersal fisheries in North-Western waters for the period 2020-2021</p>	<p>References to the ‘Union’ have been amended to the ‘United Kingdom’, and ICES area references have been amended so that they generally apply to UK waters but, in particular, exclude areas which exclusively fall within EU waters.</p> <p>As the UK is now an independent coastal state, the amendments remove legal requirements for all EU member states to provide data annually to STECF for review, on the impact of a number of the discarding exemptions (flexibilities), which are in force until the end of 2021. Despite the</p>

	<p>removal of these requirements, the UK still plans to ensure the relevant data is collated and reviewed, but will no longer submit the data to STECF for review.</p> <p>Additionally, some of the discarding exemptions are only available when fishers are using particular selective gear types. STECF (an EU body) may assess other gear types, not specified in this regulation, as being as equally selective as those specified in the regulation, and therefore equivalent. We have replaced this reference to STECF with ‘a fisheries administration’ who in the future will be responsible for determining equivalence in gear types, and other fishing equipment.</p> <p>The EU Regulation is due to expire at the end of 2021. The amendments made by this instrument do not change the expiry date and therefore the Regulation in UK retained EU law (and all of the discarding exemptions outlined) will also expire at the end of 2021.</p>
<p>The Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2019 and the Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulation 2019</p>	<p>Amendments to these two statutory instruments in Chapter 1 of Part 2 to this instrument revoke previous deficiency corrections which related to previous discard plans which have since been repealed at EU level.</p>

<p><b>TAC and Quota Regulations</b></p>	
<p>Council Regulation (EU) 2020/123 fixing for 2020 the fishing opportunities for</p>	<p>This instrument removes all of the provisions relating to quota (total allowable catch or TAC) as UK quota will in future be set by the Secretary of State.</p>

<p>certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters</p>	<p>References to ‘Union’ in remaining provisions are amended to ‘United Kingdom’, ensuring that UK boats are required to fish under the same management measures as EU boats, for instance prohibiting UK boats fishing for European seabass in ICES divisions 4b and 4c, and in ICES subarea 7.</p> <p>In relation to the seabass fishing management measures in Article 10, this instrument amends the time periods for the fishing restrictions and derogations as these are written into the EU text specifically for 2020 with a transitional provision in Article 54 which states that the provisions continue into 2021 until replaced by next year’s quota regulation. As the UK will not be subject to next year’s quota regulation, the relevant provisions will instead be extended by this instrument to apply in 2021 in the same way they applied in 2020. The provisions will then be reviewed after the end of the Transition Period and amended or replaced as necessary.</p> <p>We have replaced references to STECF, an EU body, with references to ‘an independent body recognised at international level’, ensuring flexibility in seeking the best scientific advice.</p> <p>References to areas of the sea which fall solely within EU waters have also been removed.</p>
<p>The Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2019 and the Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019</p>	<p>Amendments to these two statutory instruments in Chapter 1 of Part 2 to this instrument revoke previous deficiency corrections which related to the previous EU TAC and quota regulation which has now been superseded by the 2020 version.</p>
<p><b>Data Collection Framework</b></p>	

<p>Commission Implementing Decision (EU) 2019/909 establishing the list of mandatory research surveys and thresholds for the purposes of the multiannual Union programme for the collection and management of data in the fisheries and aquaculture sectors</p>	<p>The Commission Implementing Decision sets out the list of mandatory research surveys for the purposes of the data collection framework regulation and the thresholds below which it is not mandatory to collect data. This list is an EU-wide list whereby the specific surveys are split across the various member States (often including individually split surveys and cost-sharing arrangements). The Decision, however, makes it clear that it is each member State's individual data collection work plan which sets out the surveys that a member State will be responsible for. As such, this instrument amends the Decision to remove the EU-wide list of mandatory research surveys and the thresholds and instead confirm that the relevant surveys are those specified in the UK's data collection work plan.</p>
<p>Commission Delegated Decision (EU) 2019/910 establishing the multiannual Union programme for the collection and management of biological, environmental, technical and socioeconomic data in the fisheries and aquaculture sectors</p>	<p>The amendments made to this Commission Implementing Decision are technical deficiency correction. For example, they will remove a reference to examining the methods and result of studies to verify that they are appropriate for the management of the common fisheries policy and replaced it so that examination must ensure that they are appropriate for the management of fishing activity.</p> <p>The amendments replace references to 'Union waters' and 'fisheries' with 'UK waters' etc. These ensures that surveys are required to be carried out within UK waters, and on UK fishing boats fishing within and outside of UK waters where appropriate.</p> <p>They also change references to Euro to Pounds Sterling.</p> <p>This instrument also makes amendments to the Commission Implementing Decision to complement the amendments made elsewhere by this instrument – for example, amendment to an outdated reference to Article 21 of Regulation (EU) 508/2014 (see immediately below).</p>
<p>The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019</p>	<p>This instrument makes a number of amendments to a previous EU Exit SI (2019/739) as follows:</p> <p>It deletes previous deficiency corrections to the 2017/2019 data collection multiannual programme as this Commission Implementing Decision was revoked by the EU and replaced with the 2020-2021 multiannual programme amended above.</p>

	<p>It updates previous amendments to the data collection framework regulation (2017/1004) to complement the amendments made to the new data collection multiannual programme – the amendments which provide for the relevant research surveys and thresholds to be those set out in the data collection work plan.</p> <p>It also adds new provisions to the data collection framework regulation which were previously added to regulation (EU) 508/2014 (the European Maritime and Fisheries Fund “EMFF” Regulation). The provisions in question are provisions which provide the Secretary of State with the power to amend the data collection work plan (with the consent of the devolved administrations where necessary). These were previously amendments to Article 21 of the EMFF Regulation but following the EU withdrawal agreement there will no longer be a retained EU law version of the EMFF Regulation to amend. As the data collection work plan will continue to be used outside the framework of the 2014-2020 EMFF, the most appropriate place to put these amendment powers is in the data collection framework regulation itself. As the data collection work plan is not a statutory instrument, the power to amend it will be an administrative rather than a legislative power.</p>
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<b>Amendments to existing EU Exit Regulations</b>	
<p>The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019</p>	<p>This instrument makes a number of amendments to a previous EU exit statutory instrument (2019/739) as follows:</p> <p>An amendment is made to change references to ‘exit day’ to ‘IP completion day’ which has the legal meaning of 11pm 31<sup>st</sup> December 2020 as found in section 39(1) of the European Union (Withdrawal Agreement) Act 2020.</p> <p>It amends the original deficiency corrections to the Common Fisheries Policy Regulation (1380/2013) to correct an error in the original definition of ‘British fishery limits’ which was</p>

	<p>inserted into the Regulation. This is required because the previous definition only set an outer limit and not an area of the sea; and, secondly, on the assumption that it would be interpreted as the sea within BFL, it does not exclude Isle of Man territorial waters from scope. The replacement definition made by this amendment resolves both of these issues.</p> <p>Amendments are made to the original deficiency corrections to the Control Regulation (1224/2009) to account for the fact that Article 45 of the IUU regulation (2008/1005) was revoked but, in error, corresponding references to it in the control regulation were not. Similarly, an amendment is made to the original deficiency corrections to the CMO Regulation (1379/2013) to account for the fact that Articles 30 and 31 have been revoked but, in error, a reference to these Articles was not.</p> <p>Part 9 of the previous EU exit statutory instrument is revoked by this instrument in its entirety. Part 9 contained the original deficiency corrections to the European Maritime and Fisheries Fund “EMFF” Regulation. Following the ratification of the EU withdrawal agreement, the EMFF Regulation and associated provisions will no longer form part of retained EU law. This is due to Article 138 of the EU withdrawal agreement which provides that the relevant EMFF legislation will continue to apply directly in the United Kingdom to govern the wind down of the 2014-2020 EMFF programme. As such, this instrument revokes all previous deficiency corrections to the EMFF suite of legislation as there will no longer be retained EU law in this area to amend. For the same reason, this instrument also revokes a number of entries in the Schedule to the previous EU exit SI. The entries deleted are all items of EMFF legislation that will no longer form part of retained EU law.</p>
<p>The Fisheries (Amendment) (EU Exit) Regulations 2019</p>	<p>Amendments are made to previous amendments made to domestic legislation in consequence of EU exit to change references to ‘exit day’ to ‘IP completion day’ which has the legal meaning of 11pm 31<sup>st</sup> December 2020 as found in section 39(1) of the European Union (Withdrawal Agreement) Act 2020.</p>



	<p>Previous amendments to the Grants for Fishing and Aquaculture Industries Regulations 2015 are also replaced with a new amendment in consequence of the changes to the EMFF suite of legislation mentioned above. Whereas previously the amendments made changes to the 2015 Regulations in consequence of deficiency corrections made to the retained EU law, now those deficiency corrections will be revoked so those consequential changes should also be undone. Furthermore, as the EMFF Regulation is being repealed and replaced at the EU level on 1<sup>st</sup> January, the cross reference in the 2015 Regulations for the purposes of the MMO grant making power is amended to ensure there is no ambiguity and that the purposes for which grants can continue to be made are those set out in the EMFF Regulation as it has effect immediately before IP completion day.</p>
<p>The European Structural and Investment Funds Common Provisions (Amendment) (EU Exit) Regulations 2019</p>	<p>These previous EU exit amendment Regulations made amendments to the ‘common provisions regulation’ (1303/2013) which governs the operation of EU structural and investment funds. In particular, they made amendments in relation to the aspects of the common provisions regulation which govern the EMFF. This instrument amends the previous EU exit amendment Regulations to remove deficiency corrections which relate to the EMFF now that the EMFF aspects of the common provisions regulation will not form part of retained EU law. This instrument does not remove the other previous deficiency corrections made to the common provisions regulation in relation to funding for rural development because those provisions will be treated differently due to other provisions contained in relevant rural development legislation.</p>
<p>The Agriculture (Legislative Functions) (EU Exit) Regulations 2019</p>	<p>These amendments are as above – removing references to the EMFF from previous deficiency corrections to the common provisions Regulation (1303/2013) because of the effect of Article 138 of the EU Withdrawal Agreement combined with the European Union (Withdrawal) Act 2018 providing for the EMFF legislation to no longer form part of retained EU law.</p>
<p>The Common Fisheries Policy and Aquaculture (Amendment etc) (EU Exit) Regulations 2019</p>	<p>This previous EU exit amendment SI is amended to alter the powers available to create, or amend existing, discard exemptions from the landing obligation (‘discard plans’). The original approach to these powers was for each of the fisheries administrations to be able to exercise them independently within their area of competence. However, following further consultation with the devolved administrations, it was agreed that there would be benefits if the Secretary of State also</p>

	<p>had the ability to exercise this power for the whole of the UK (provided the devolved administrations consent where the exercise of the power would fall within devolved competence). As such, this instrument amends the previous deficiency corrections to maintain the previous powers but also add in this additional UK-wide power for the Secretary of State.</p> <p>Omitting Chapter 8 of Part 5 also removes previous deficiency corrections which relate to the EMFF for the reasons set out above.</p>
<p>The Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2019</p>	<p>This previous EU exit amendment SI made deficiency corrections to Regulation 2018/2025. This instrument makes minor amendments to those deficiency corrections to revoke Article 6 and the associated definitions in Article 2 for consistency with the new approach taken to similar measures in the TAC and Quota Regulation.</p>
<p>The Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019</p>	<p>This previous EU exit amendment SI is amended as follows:</p> <p>The first amendment corrects an error, where an entire provision was deleted when only the part which specifies a minimum mesh size for the Skagerrak and Kattegat should have been deleted.</p> <p>A further amendment takes the same approach as above with the discard plan powers. The powers in question here also relate to discard exemptions from the landing obligation. As above, whereas these powers were originally created in the deficiency corrections to be exercisable by the fisheries administrations individually, they are amended to allow the Secretary of State to exercise them (to make amendments to the (or create a new) North Sea discard plan (currently 2019/2238)) for the whole of the UK with the consent of the DAs where necessary. This mirrors the change made to the Common Fisheries Policy and Aquaculture (Amendment etc) (EU Exit) Regulations 2019.</p> <p>Additionally, an identical amendment will allow the Secretary of State to make amendments to the (or create a new) North Western Waters discard plan (currently 2019/2239) for the whole of the UK with the consent of the DAs where necessary, again as per the similar changes made elsewhere.</p>

	Finally, a correction to the EMFF amendments is revoked in line with the above.
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## Retained EU law revoked by the instrument: Part 1

Regulation	Reason for Revocation
<p>(a) Commission Delegated Regulation (EU) 2020/3 establishing a discard plan for Venus shells (Venus spp.) in certain Italian territorial waters.</p>	<p>Revoking as this Regulation applies to Italian waters.</p>
<p>(b) Commission Delegated Regulation (EU) 2019/2201 supplementing Regulation (EU) 2019/1241 of the European Parliament and of the Council with detailed rules for the implementation of real-time closures for Northern prawn fisheries in the Skagerrak.</p>	<p>Revoking as this Regulation applies to the Skagerrak.</p>

<p>(c) Council Regulation (EU) 2019/124 fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters.</p>	<p>This Regulation is revoked because it has been superseded by the 2020 TAC and Quota Regulation.</p>
<p>(d) Commission Implementing Decision (EU) 2018/1283 laying down rules on the format and timetables for the submission of annual data collection reports in the fisheries and aquaculture sectors.</p>	<p>This Decision is being revoked because Article 11 of the Data Collection Framework Regulation has already been revoked (see regulation 16(9) of SI 2019/739). There will no longer be a requirement to produce an annual report and this Decision sets out the requirements for annual reports so it should also be revoked.</p>
<p>(e) Council Regulation (EC) No 601/2004 laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources.</p>	<p>A replacement regime will be put in place under domestic powers in the Antarctic Act 1994.</p>
<p>(f) Council Regulation (EC) No 600/2004 laying down certain technical measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources.</p>	<p>A replacement regime will be put in place under domestic powers in the Antarctic Act 1994.</p>

## Legislation revoked by the instrument so far as it forms part of retained EU law: Part 2

Regulation	Reason for Revocation
<p>(a) so far as relating to the European Maritime and Fisheries Fund, Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund.</p>	<p>As above, following the ratification of the EU withdrawal agreement, the EMFF Regulation and associated provisions will no longer form part of retained EU law. By virtue of Article 138 of the EU withdrawal agreement and section 7A of the European Union (Withdrawal) Act 2018, the EMFF Regulation and associated provisions will apply directly in their EU law form in the United Kingdom in respect of 2014-2020 EU multiannual financial framework. However, whilst each legislative instrument will not be carried across into retained EU law in its full form, an individual provision of such an instrument could form part of retained EU law to the extent that the purpose of the provision falls outside the purposes of Article 138 of the EU withdrawal agreement. As such, the revocations contained in Part 2 of the Schedule to this instrument provide legal certainty by revoking any individual provisions of the listed legislation which exist in retained EU law. This approach not only provides legal certainty but also clarity on the statute book.</p> <p>In the case of Regulation (EU) No 1303/2013, the revocation of the regulation so far as it forms part of retained EU law is limited to just the EMFF aspects of the Regulation and not the provisions which apply to other funds.</p>

<p>(b) Commission Implementing Decision 2014/372/EU setting out the annual breakdown by Member State of the global resources of the European Maritime and Fisheries Fund available in the framework of shared management for the period 2014-2020.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>
<p>(c) Commission Implementing Decision 2014/464/EU identifying the priorities of the Union for enforcement and control policy in the framework of the European Maritime and Fisheries Fund.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>
<p>(d) Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>
<p>(e) Commission Implementing Regulation (EU) 763/2014 laying down rules for applying Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund as regards the technical characteristics of information and publicity measures and instructions for creating the Union emblem.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>

<p>(f) Commission Implementing Regulation (EU) No 771/2014 laying down rules pursuant to Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regard to the model for operational programmes, the structure of the plans for compensation of additional costs incurred by operators in the fishing, farming, processing and marketing of certain fishery and aquaculture products from the outermost regions, the model for the transmission of financial data, the content of the ex ante evaluation reports and the minimum requirements for the evaluation plan to be submitted under the European Maritime and Fisheries Fund.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>
<p>(g) Commission Delegated Regulation (EU) No 1014/2014 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regards to the content and construction of a common monitoring and evaluation system for the operations funded under the European Maritime and Fisheries Fund.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>

<p>(h) Commission Delegated Regulation (EU) No 1046/2014 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regards to the criteria for the calculation of the additional costs incurred by operators in the fishing, farming, processing and marketing of certain fishery and aquaculture products from the outermost regions.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>
<p>(i) Commission Implementing Regulation (EU) No 1242/2014 laying down rules pursuant to Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regard to the presentation of relevant cumulative data on operations.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>
<p>(j) Commission Implementing Regulation (EU) No 1243/2014 laying down rules pursuant to Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regard to the information to be sent by Member States, as well as on data needs and synergies between potential data sources.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>



<p>(k) Commission Implementing Regulation (EU) No 1362/2014 laying down rules on a simplified procedure for the approval of certain amendments to operational programmes financed under the European Maritime and Fisheries Fund and rules concerning the format and presentation of the annual reports on the implementation of those programmes.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>
<p>(l) Commission Delegated Regulation (EU) 2015/288 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regard to the period of time and the dates for the inadmissibility of applications.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>
<p>(m) Commission Delegated Regulation (EU) 2015/531 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council by identifying the costs eligible for support from the European Maritime and Fisheries Fund in order to improve hygiene, health, safety and working conditions of fishermen, protect and restore marine biodiversity and ecosystems, mitigate climate change and increase the energy efficiency of fishing vessels.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>

<p>(n) Commission Delegated Regulation (EU) 2015/852 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council as regards the cases of non-compliance and the cases of serious non-compliance with the rules of the Common Fisheries Policy that may lead to an interruption of a payment deadline or suspension of payments under the European Maritime and Fisheries Fund.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>
<p>(o) Commission Delegated Regulation (EU) 2015/1930 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund as regards the criteria for establishing the level of financial corrections and for applying flat rate financial corrections.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>
<p>(p) Commission Delegated Regulation (EU) 2015/2252 amending Delegated Regulation (EU) 2015/288 as regards the period of inadmissibility of applications for support from the European Maritime and Fisheries Fund.</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>
<p>(q) Commission Implementing Decision C(2015) 8628 on approving the</p>	<p>As above, each item of listed legislation is revoked so far as it forms part of retained EU law, thereby ensuring that any relevant articles or aspects of the legislation that may be said to fall</p>

<p>operational programme “European Maritime and Fisheries Fund – Operational Programme for the United Kingdom” for support from the European Maritime and Fisheries Fund in the United Kingdom.</p>	<p>outside of the scope of Article 138 of the EU withdrawal agreement do not sit in retained EU law and are revoked for legal certainty and clarity on the statute book.</p>
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