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SCHEDULES

SCHEDULE 11

Section 49

RETAINED DIRECT EU LEGISLATION: MINOR AND CONSEQUENTIAL AMENDMENTS

Introduction

- 1 In this Schedule—
- (a) paragraphs 2 to 13 make amendments of retained direct EU legislation (as amended by regulations made under section 8(1) of the European Union (Withdrawal) Act 2018),
 - (b) paragraph 15 makes transitional provision, and
 - (c) paragraph 16 makes consequential amendments.

Common Fisheries Policy Regulation

- 2 (1) The Common Fisheries Policy Regulation is amended as follows.
- (2) Article 2 (objectives) is revoked.
- (3) In Article 4 (definitions), in paragraph 1, at the end insert—
- “(46) ‘the fisheries objectives’ has the meaning given by section 1(1) of the Fisheries Act 2020.”
- (4) Article 5 (right of equal access for EU fishing vessels to waters of member States) is revoked.
- (5) Article 9 (principles and objectives of multiannual plans) is revoked.
- (6) Article 10 (content of multiannual plans) is revoked.
- (7) Article 16 (distribution of fishing opportunities by the Council to member States) is revoked.
- (8) Article 17 (criteria for the allocation of fishing opportunities by member States) is revoked.
- (9) In Article 28 (external relations)—
- (a) in paragraph 1—
 - (i) for “a fisheries administration” substitute “ the Secretary of State ”;
 - (ii) omit “objectives and”;
 - (iii) for “Articles 2 and 3” substitute “ Article 3 ”;
 - (b) in paragraph 2, for “In particular, a fisheries” substitute “ A fisheries ”.
- (10) In Article 29 (United Kingdom activities in international fisheries organisations) for paragraph 2 substitute—

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“2 The Secretary of State must take such steps as the Secretary of State considers appropriate for the purpose of supporting the improvement of the performance of RFMOs in relation to the conservation and management of marine living resources.”

- (11) In Article 33 (management of stocks of common interest), in paragraph 1—
- (a) for “a fisheries administration”, in both places it occurs, substitute “ the Secretary of State ”;
 - (b) omit the words from “, and in” to “Article 2(2)”;
 - (c) omit the words from “, in particular, concerning” to the end.
- (12) In Article 35 (organisation of the markets), in paragraph 1, in point (a), for the words from “objectives” to the end substitute “ fisheries objectives ”.
- (13) Annex I (right of equal access for EU fishing vessels to waters of member States) is revoked.

Regulation (EU) No 1379/2013

- 3 In Regulation (EU) No 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products, in Article 41 (exceptions to the application of competition rules), in paragraph 2(f), for “objectives specified in Article 2 of Regulation 1380/2013” substitute “ fisheries objectives ”.

Commission Delegated Regulation (EU) No 1393/2014

- 4 (1) Commission Delegated Regulation (EU) No 1393/2014 establishing a discard plan for certain pelagic fisheries in north-western waters is amended as follows.
- (2) In Article 1 (subject matter)—
- (a) the existing text becomes paragraph 1;
 - (b) in that paragraph, for the words from “in the north-western” to “that Regulation” substitute “ and applies to waters within ICES subarea 5B that are within United Kingdom waters and to waters within ICES subareas 6 and 7 that are not within Union waters ”;
 - (c) after that paragraph insert—

“2 In paragraph 1, “United Kingdom waters” and “Union waters” have the meaning they have in Regulation (EU) No 1380/2013.”
- (3) In Article 2 (survivability exemption), in paragraph 6 for “and 2020” substitute “ , 2020 and 2021 ”.
- (4) In Article 3a (de minimis exemptions in the years 2018, 2019 and 2020)—
- (a) in the heading, for “and 2020” substitute “ , 2020 and 2021 ”;
 - (b) in points (a), (b) and (c), for “and 2020” substitute “ , 2020 and 2021 ”.
- (5) For Article 5 (entry into force) substitute—

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“Article 5

Expiry

This regulation ceases to have effect at the end of 31 December 2021.”

Commission Delegated Regulation (EU) No 1395/2014

- 5 (1) Commission Delegated Regulation (EU) No 1395/2014 establishing a discard plan for certain small pelagic fisheries and fisheries for industrial purposes in the North Sea is amended as follows.
- (2) In Article 1 (subject matter)—
- (a) the existing text becomes paragraph 1;
 - (b) in that paragraph, for the words from “in the North” to “that Regulation” substitute “ and applies to waters within ICES division 2a and subarea 4 that are within United Kingdom waters ”;
 - (c) after that paragraph insert—
- “2 In paragraph 1, “United Kingdom waters” has the meaning it has in Regulation (EU) No 1380/2013.”
- (3) In Article 3a (de minimis exemption in the years 2018, 2019 and 2020)—
- (a) in the heading, for “and 2020” substitute “ , 2020 and 2021 ”;
 - (b) in the body, for “and 2020” substitute “ , 2020 and 2021 ”.
- (4) Article 4a (Danish North Sea coast) is revoked.
- (5) For Article 5 (application) substitute—

“Article 5

Expiry

This regulation ceases to have effect at the end of 31 December 2021.”

Regulation (EU) 2016/2336

- 6 In Regulation (EU) 2016/2336 of the European Parliament and of the Council establishing specific conditions for fishing for deep sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic, in Article 1 (objectives), in paragraph 1, for “objectives listed in Article 2 of Regulation (EU) No 1380/2013” substitute “ fisheries objectives ”.

Regulation (EU) 2017/1004

- 7 (1) Regulation (EU) 2017/1004 of the European Parliament and of the Council on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy is amended as follows.
- (2) In Article 1 (subject matter and scope), in paragraph 1—
- (a) for the words from “With” to “this” substitute “ This ”;

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- (b) at the end insert “ with a view to contributing to the achievement of the fisheries objectives ”.
- (3) In Article 5 (content and criteria for multiannual programmes)—
 - (a) in paragraph 1, in point (a), for the words from “requirements” to the end substitute—
 - “to be collected for the purpose of contributing to the achievement of—
 - (i) the objectives set out in Article 25 of EU Regulation 1380/2013, and
 - (ii) the fisheries objectives”;
 - (b) in paragraph 4, in point (a), for the words from “reaching” to the end substitute “ contributing to the achievement of the fisheries objectives ”;
 - (c) in paragraph 5, in point (a), for the words from “reaching” to the end substitute “ contributing to the achievement of the fisheries objectives ”.

Regulation (EU) 2017/2403

- 8 Regulation (EU) 2017/2403 of the European Parliament and of the Council on the sustainable management of external fishing fleets is revoked.

Regulation (EU) 2018/973

- 9 (1) Regulation (EU) 2018/973 of the European Parliament and of the Council establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea is amended as follows.
- (2) In Article 1 (subject-matter and scope), in paragraph 1—
 - (a) omit points (f), (i) and (j);
 - (b) in point (k) omit the seventh and eighth indents.
 - (3) In Article 3 (objectives)—
 - (a) in paragraph 1—
 - (i) for the words from “objectives listed” to “1380/2013” substitute “ fisheries objectives ”;
 - (ii) for the words from “, and shall” to the end substitute “ (within the meaning given by section 1(11) of the Fisheries Act 2020) ”;
 - (b) in paragraph 3—
 - (i) after “fisheries management” insert “ (within the meaning given by section 1(11) of the Fisheries Act 2020) ”;
 - (ii) for the words from “. It shall” to the end substitute “ and, where possible, reversed ”.
 - (4) In Article 4 (targets)—
 - (a) in paragraph 1, omit “by 2020”;
 - (b) in paragraph 2—
 - (i) for “A fisheries administration” substitute “ The Secretary of State ”;
 - (ii) after “ICES” insert “ , or a similar independent scientific body recognised at international level, ”;
 - (c) in paragraph 6—

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- (i) for “Fishing” substitute “ Where the spawning stock biomass is above B_{lim} , fishing ”;
- (ii) omit “in any event”;
- (iii) for “the spawning stock biomass” substitute “ it ”;
- (d) after paragraph 6 insert—
 - “7 The Secretary of State may, in view of a relevant change of circumstances, make a determination under section 23 of the Fisheries Act 2020 (power of Secretary of State to determine fishing opportunities) otherwise than in accordance with paragraphs 3 to 6.
 - 8 If the Secretary of State makes a determination in reliance on paragraph 7 the Secretary of State must prepare and publish a document—
 - (a) describing the relevant change of circumstances, and
 - (b) explaining how the relevant change in circumstances affected the determination.
 - 9 For the purposes of this Article, the changes in circumstances that are capable of being “relevant” include (in particular) changes relating to—
 - (a) the international obligations of the United Kingdom,
 - (b) things done (or not done) by the government of a territory outside the United Kingdom that affect the marine and aquatic environment (within the meaning of the Fisheries Act 2020),
 - (c) available scientific evidence, or
 - (d) available evidence relating to the social, economic or environmental elements of sustainable development.”
- (5) In Article 5 (management of by-catch stocks)—
 - (a) in paragraph 2, for the words from “as defined” to “1380/2013” substitute “ (within the meaning given by section 1(11) of the Fisheries Act 2020) ”;
 - (b) in paragraph 3, for “In accordance with Article 9(5) of Regulation (EU) No 1380/2013, the” substitute “ The ”.
- (6) In Article 6 (conservation reference points), for “A fisheries administration” substitute “ The Secretary of State ”.
- (7) In Article 7 (safeguards)—
 - (a) in paragraph 1—
 - (i) omit “all”;
 - (ii) for “decrease in biomass” substitute “ current biomass or, in the case of Norway lobster, current abundance ”;
 - (b) after paragraph 4 insert—
 - “5 The Secretary of State may, in view of a relevant change of circumstances, make a determination under section 23 of the Fisheries Act 2020 otherwise than in accordance with paragraphs 1 to 4.
 - 6 If the Secretary of State makes a determination in reliance on paragraph 5 the Secretary of State must prepare and publish a document—

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- (a) describing the relevant change of circumstances, and
 - (b) explaining how the relevant change in circumstances affected the determination.
- 7 For the purposes of this Article, the changes in circumstances that are capable of being “relevant” include (in particular) changes relating to—
- (a) the international obligations of the United Kingdom,
 - (b) things done (or not done) by the government of a territory outside the United Kingdom that affect the marine and aquatic environment (within the meaning of the Fisheries Act 2020),
 - (c) available scientific evidence, or
 - (d) available evidence relating to the social, economic or environmental elements of sustainable development.”
- (8) In Article 12 (fishing authorisations and capacity ceilings), in paragraph 1—
- (a) after “fishing authorisations” insert “ (which may be contained in a licence granted under section 15 of the Fisheries Act 2020) ”;
 - (b) for “vessels in its fleet” substitute “ United Kingdom fishing vessels ”.
- (9) In Article 13 (principles and objectives of management of stocks of common interest) —
- (a) in paragraph 1—
 - (i) for “a fisheries administration”, in both places it occurs, substitute “ the Secretary of State ”;
 - (ii) omit “Regulation (EU) No 1380/2013, in particular Article 2(2) thereof, and of”;
 - (iii) omit “, thereby promoting a level-playing field for United Kingdom operators”;
 - (b) omit paragraph 2.
- Regulation (EU) 2019/472*
- 10 (1) Regulation (EU) 2019/472 of the European Parliament and of the Council establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks is amended as follows.
- (2) In Article 1 (subject-matter and scope), in paragraph 1—
- (a) omit points (4) to (7), (11), (13), (18), (20), (24) to (26), (30) and (34) to (36);
 - (b) in point (23) omit the third, fourth and fifth indents.
- (3) In Article 3 (objectives)—
- (a) in paragraph 1—
 - (i) for the words from “objectives listed” to “1380/2013” substitute “ fisheries objectives ”;
 - (ii) for the words from “, and shall” to the end substitute “ (within the meaning given by section 1(11) of the Fisheries Act 2020) ”;
 - (b) in paragraph 3—
 - (i) after “fisheries management” insert “ (within the meaning given by section 1(11) of the Fisheries Act 2020) ”;

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(ii) for the words from “. It shall” to the end substitute “ and, where possible, reversed ”.

(4) In Article 4 (targets)—

- (a) in paragraph 1 omit “by 2020”;
- (b) in paragraph 2, for “A fisheries administration” substitute “ The Secretary of State ”;
- (c) in paragraph 7—
 - (i) for “Fishing” substitute “ Where the spawning stock biomass is above B_{lim} , fishing ”;
 - (ii) omit “in any event”;
 - (iii) for “the spawning stock biomass” substitute “ it ”;
- (d) after paragraph 7 insert—

“8 The Secretary of State may, in view of a relevant change of circumstances, make a determination under section 23 of the Fisheries Act 2020 (power of Secretary of State to determine fishing opportunities) otherwise than in accordance with paragraphs 3 to 7.

9 If the Secretary of State makes a determination in reliance on paragraph 8 the Secretary of State must prepare and publish a document—

- (a) describing the relevant change of circumstances, and
- (b) explaining how the relevant change in circumstances affected the determination.

10 For the purposes of this Article, the changes in circumstances that are capable of being “relevant” include (in particular) changes relating to—

- (a) the international obligations of the United Kingdom,
- (b) things done (or not done) by the government of a territory outside the United Kingdom that affect the marine and aquatic environment (within the meaning of the Fisheries Act 2020),
- (c) available scientific evidence, or
- (d) available evidence relating to the social, economic or environmental elements of sustainable development.”

(5) In Article 5 (management of by-catch stocks)—

- (a) in paragraph 2, for the words from “as defined” to “1380/2013” substitute “ (within the meaning given by section 1(11) of the Fisheries Act 2020) ”;
- (b) in paragraph 3, for “In accordance with Article 9(5) of Regulation (EU) No 1380/2013, the” substitute “ The ”.

(6) In Article 7 (conservation reference points), for “A fisheries administration” substitute “ The Secretary of State ”.

(7) In Article 8 (safeguards)—

- (a) in paragraph 1—
 - (i) omit “all”;
 - (ii) for “decrease in biomass” substitute “ current biomass or, in the case of Norway lobster, current abundance ”;

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- (b) after paragraph 4 insert—
- “5 The Secretary of State may, in view of a relevant change of circumstances, make a determination under section 23 of the Fisheries Act 2020 otherwise than in accordance with paragraphs 1 to 4.
- 6 If the Secretary of State makes a determination in reliance on paragraph 5 the Secretary of State must prepare and publish a document—
- (a) describing the relevant change of circumstances, and
 - (b) explaining how the relevant change in circumstances affected the determination.
- 7 For the purposes of this Article, the changes in circumstances that are capable of being “relevant” include (in particular) changes relating to—
- (a) the international obligations of the United Kingdom,
 - (b) things done (or not done) by the government of a territory outside the United Kingdom that affect the marine and aquatic environment (within the meaning of the Fisheries Act 2020),
 - (c) available scientific evidence, or
 - (d) available evidence relating to the social, economic or environmental elements of sustainable development.”

(8) In Article 11 (recreational fisheries), in paragraphs 1 and 2, for “any person determining fishing opportunities”, in both places it occurs, substitute “ a fisheries administration ”.

(9) In Article 12 (effort limitation for sole in the Western Channel), in paragraph 2—

 - (a) for “Any person determining fishing opportunities” substitute “ A fisheries administration ”;
 - (b) omit the words from “and for vessels” to the end.

(10) In Article 14 (fishing authorisations and capacity ceilings), in paragraph 1—

 - (a) after “fishing authorisations” insert “ (which may be contained in a licence granted under section 15 of the Fisheries Act 2020) ”;
 - (b) for “vessels in its fleet” substitute “ United Kingdom fishing vessels ”.

(11) In Article 15 (principles and objectives of management of stocks of common interest)

—

 - (a) in paragraph 1—
 - (i) for “a fisheries administration”, in both places it occurs, substitute “ the Secretary of State ”;
 - (ii) omit “Regulation (EU) No 1380/2013, in particular Article 2(2) thereof, and of”;
 - (iii) omit “thereby promoting a level-playing field for United Kingdom operators”;
 - (b) omit paragraph 2.

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Regulation (EU) 2019/1241

- 11 (1) Regulation (EU) 2019/1241 of the European Parliament and of the Council on the conservation of fishery resources and the protection of marine ecosystems through technical measures is amended as follows.
- (2) In Article 3, in paragraph 1, for “objectives set out in the applicable provisions of Article 2 of Regulation (EU) No 1380/2013” substitute “achievement of the fisheries objectives”.
- (3) In Article 4, in paragraph 1—
- (a) in point (a), for “Article 2(2) of Regulation (EU) No 1380/2013” substitute “the fisheries objectives”;
- (b) in point (c), for “point (j) of Article 2(5) of Regulation (EU) No 1380/2013” substitute “the fisheries objectives”.
- (4) In Article 11, in paragraph 4, omit “and shall be compatible with the objectives set out in Article 2 of Regulation (EU) No 1380/2013”.

Commission Delegated Regulation (EU) 2019/2238

- 12 (1) 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 is amended as follows.
- (2) In Article 3 (exemptions for Norway lobster)—
- (a) in paragraph 1, omit point (b);
- (b) omit paragraph 3.
- (3) In Article 6 (exemption for plaice)—
- (a) in paragraph 1, omit point (c);
- (b) in paragraph 2, in point (b), for “80-99” substitute “80”;
- (c) omit paragraph 4.
- (4) In Article 8 (exemption for turbot), omit paragraph 2.
- (5) In Article 10 (de minimis exemptions)—
- (a) in point (f) after “6% in 2020” insert “and 2021”;
- (b) in each of points (f), (h) and (k) to (n), omit the words from “the de minimis” to the end;
- (c) after point (n) insert—
- “(o) in fisheries by vessels using bottom trawls (OTB, OTT, TB, TBN) of mesh size 80-99mm in the United Kingdom waters of ICES subarea 4 and ICES Division 2a:
- a quantity of Norway lobster below the minimum conservation reference size, which shall not exceed 2% of the total annual catches of that species.”

Commission Delegated Regulation (EU) 2019/2239

- 13 (1) 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 is amended as follows.

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- (2) In Article 6 (exemption for plaice), omit paragraph (2).
- (3) In Article 8 (de minimis exemptions)—
 - (a) in paragraph 1, in each of points (d) to (k), omit “in 2020”;
 - (b) omit paragraph 2.

Council Regulation (EU) 2020/123

- 14 In Council Regulation (EU) 2020/123 fixing for 2020 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, in Article 14 (remedial measures for cod in the North Sea), omit paragraphs 2 to 4.

Transitional provision

- 15 (1) This paragraph applies until the first JFS comes into effect.
- (2) The Common Fisheries Policy Regulation (as amended by this Schedule) has effect as if—
- (a) in Article 28(1), after “Article 3” there were inserted “ in a way that contributes to the achievement of the fisheries objectives ”;
 - (b) in Article 29(2), at the beginning there were inserted “The positions of the United Kingdom in international organisations dealing with fisheries and in RFMOs shall be based on the best available scientific advice so as to ensure that fishery resources are managed in a way that contributes to the achievement of the fisheries objectives.”;
 - (c) in Article 33(1)—
 - (i) after “Regulation” there were inserted “ and that contributes to the achievement of the fisheries objectives ”;
 - (ii) after “management possible” insert “ in a way that contributes to the achievement of the fisheries objectives ”.
- (3) Regulation (EU) 2018/973 (as amended by this Schedule) has effect as if in Article 13(1), after “Regulation” there were inserted “ and that contributes to the achievement of the fisheries objectives ”.
- (4) Regulation (EU) 2019/472 (as amended by this Schedule) has effect as if in Article 15(1), after “Regulation” there were inserted “ and that contributes to the achievement of the fisheries objectives ”.
- (5) Regulation (EU) 2019/1241 (as amended by this Schedule) has effect as if in Article 11(4), after “paragraph 1 of this Article” there were inserted “ and shall contribute to the achievement of the fisheries objectives ”.

Consequential amendments

- 16 (1) In the Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010 (S.S.I. 2010/334) (as amended by the Exit Regulations)—
- (a) in article 2, in paragraph (1)—
 - (i) omit the definition of “Regulation 2017/2403”;
 - (ii) in the definition of “third country recording and reporting requirement” omit paragraph (ii) (and the “or” before it);

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- (b) in that article, for paragraph (5) substitute—
 - “(5) Any expression used, and not defined, in this Order that is used in the Control Regulation or Regulation 404/2011, or that is used in both of those Regulations, has the meaning it has in the Regulation or Regulations in which it is used.”;
 - (c) in article 6, omit paragraph (2);
 - (d) in Schedule 2, in the table, omit the entries relating to Regulation 2017/2403.
- (2) In the Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320) (as amended by the Exit Regulations), in article 2(1)—
- (a) omit the definition of “Regulation 2017/2403”;
 - (b) in the definition of “third country control measure”—
 - (i) omit “Regulation 2017/2403 or”;
 - (ii) omit paragraph (a).
- (3) In this paragraph “the Exit Regulations” means the Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24).

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