



Fisheries Act 2020

2020 CHAPTER 22

Powers to make further provision

39 Scope of regulations under section 36 or 38

- (1) Regulations under section 36 or 38 may—
 - (a) confer a function, including a function involving the exercise of a discretion, on any person, or
 - (b) impose fees.
- (2) Regulations under section 36 or 38 may create a criminal offence, but not one punishable with imprisonment.
- (3) Regulations under section 36 or 38 may not include provision which—
 - (a) would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament,
 - (b) would be within the legislative competence of Senedd Cymru if it were included in an Act of Senedd Cymru (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006), or
 - (c) would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly,unless the provision is merely incidental to, or consequential on, provision which would be outside that legislative competence.
- (4) Subsection (3) does not prevent the inclusion of provision in regulations under section 36 or 38 if and to the extent that the provision relates to the regulation of sea fishing by—
 - (a) Scottish fishing boats within British fishery limits but outside the Scottish zone,
 - (b) Welsh fishing boats outside the Welsh zone,
 - (c) Northern Ireland fishing boats within British fishery limits but outside the Northern Ireland zone, or

Status: This is the original version (as it was originally enacted).

- (d) British fishing boats that are not Scottish fishing boats, Welsh fishing boats or Northern Ireland fishing boats.
- (5) Regulations under section 36 or 38 may not include provision modifying a function of the Secretary of State, or of any of the sea fish licensing authorities, under any of the provisions of sections 14 to 18 or Schedule 3 (licensing of fishing boats).
- (6) A reference in subsection (5) to “modifying” a function of a person under an enactment includes—
 - (a) abolishing the function;
 - (b) changing the purpose or objective for which the function is exercised;
 - (c) changing the conditions under which the function is exercised.
- (7) A power to make regulations under section 36 or 38 is capable of being exercised so as to amend, repeal or revoke any enactment (apart from sections 36 to 42, Schedule 8, and section 52 so far as it applies for the purposes of those enactments).
- (8) In subsection (7) “enactment” has the same meaning as in the European Union (Withdrawal) Act 2018.