

SCHEDULE 1

Article 3(1)

FUNCTIONS UNDER THE SEA FISH (CONSERVATION) ACT 1967

Interpretation

1.—(1) References in this Schedule to statutory provisions are to provisions of the Sea Fish (Conservation) Act 1967**(1)**, unless otherwise indicated.

(2) Expressions used in this Schedule which are also used in the Sea Fish (Conservation) Act 1967 shall have the same meaning as in that Act, and cognate expressions shall be construed accordingly, except that references to, or to any of, the Ministers shall be construed without the modification made by section 22A of that Act**(2)**.

(3) Any reference in this Schedule to a function of the Ministers or to a function of one of the Ministers includes a function which has been transferred to the Scottish Ministers or the National Assembly of Wales only if, and only to the extent that, it remains exercisable by the Ministers or (as the case may be) one of the Ministers, as well as by the Scottish Ministers or the National Assembly of Wales.

Modification of order-making functions

2.—(1) An order under section 1(3)**(3)** may make provision applying—

- (a) only to Northern Ireland fishing boats;
- (b) only to relevant British fishing boats other than Northern Ireland fishing boats;
- (c) only to the Northern Ireland zone.

(2) An order under section 3**(4)** may make provision applying—

- (a) only to Northern Ireland fishing boats;
- (b) only to relevant British fishing boats other than Northern Ireland fishing boats.

(3) Orders under section 4(1)**(5)** or 4A(1)**(6)** prohibiting fishing or the receiving of fish may make provision applying only to Northern Ireland fishing boats.

(4) Orders under section 6(1A)**(7)** prohibiting the trans-shipment of fish may make provision applying only to the Northern Ireland zone.

Transfer of functions to the Department of Agriculture and Rural Development

3.—(1) The following functions shall be treated as exercisable in or as regards Northern Ireland for the purposes of sections 6 (legislative competence) and 86 (provision for purposes consequential

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- (1) 1967 c. 84. Relevant amendments to the Sea Fish (Conservation) Act 1967 include the transfer of functions under the Scotland Act 1998 (c. 46), the Scotland Act 1998 (Concurrent Functions) Order 1999 (S.I.1999/1592) art.3 and Sch.1, the Scotland Act 1998 (Modification of Functions) Order 1999 (S.I. 1999/1756) art.3, Consequential Modifications Order, the Government of Wales Act 1998 (c. 38) the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) art.2, Sch.1, the Transfer of Functions (Agriculture and Fisheries) Order 2000 (S.I. 2000/1812) [and the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/)].
 - (2) Section 22A was inserted by the Consequential Modifications Order art.4, Sch.2, para.43.
 - (3) Section 1 was substituted by the Fisheries Act 1981 (c. 29), s.19(1). Section 1(3) was amended by the Consequential Modifications Order art.4, Sch.2, para.43.
 - (4) Section 3 was amended by the Fishery Limits Act 1976 (c. 86) s.9(1) Sch.2, para.16(1) and the Consequential Modifications Order art.4, Sch.2, para.43.
 - (5) Section 4 was substituted by the Fishery Limits Act 1976 (c. 86) s.3. Subsection (1) was amended by Consequential Modifications Order art.4, Sch.2, para.43.
 - (6) Section 4A was inserted by the Fisheries Act 1981 (c. 29) s.21(1). Subsection (1) was amended by the Consequential Modifications Order art.4, Sch.2, para.43.
 - (7) Section 6(1A) was inserted by the Fisheries Act 1981 (c. 29) s.23(2) and was amended by the Consequential Modifications Order art.4, Sch.2, para.43.

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on Act etc.) of the 1998 Act, and shall be transferred to the Department of Agriculture and Rural Development, namely—

- (a) the functions of the Ministers under section 1(3) of—
 - (i) making an order prescribing the minimum size of fish which may be carried on a Northern Ireland fishing boat, and
 - (ii) making provision in such an order prohibiting the carrying of fish of less than the prescribed size within the Northern Ireland zone by fishing boats other than Northern Ireland fishing boats;
- (b) the functions of the Ministers under section 3 of—
 - (i) making an order requiring nets and other fishing gear carried in Northern Ireland fishing boats to comply with prescribed requirements, and
 - (ii) making an order requiring nets and other fishing gear carried within the Northern Ireland zone in fishing boats other than Northern Ireland fishing boats to comply with prescribed requirements;
- (c) the function of the Ministers under section 4(1) of providing by order—
 - (i) that in the Northern Ireland zone or any area comprised within that zone fishing by fishing boats is prohibited unless authorised by a licence, and
 - (ii) that in any specified area outside that zone fishing by Northern Ireland fishing boats is prohibited unless authorised by a licence;
- (d) the function of the Ministers under section 4(8) of granting—
 - (i) licences authorising fishing within the Northern Ireland zone,
 - (ii) licences authorising fishing in any area within that zone, and
 - (iii) licences authorising fishing outside that zone by Northern Ireland fishing boats,
 and the functions under section 4 in relation to such licences of the Minister who grants the licence;
- (e) the function of the Ministers under section 4A(1) of providing by order—
 - (i) that in the Northern Ireland zone or in any area comprised within that zone the receiving by any vessel of trans-shipped fish is prohibited unless authorised by a licence, and
 - (ii) that within, or in any specified area within, British fishery limits but outside the Northern Ireland zone, the receiving by Northern Ireland fishing boats of trans-shipped fish is prohibited unless authorised by a licence;
- (f) the function of the Ministers under section 4A(9) of granting—
 - (i) licences authorising the receiving by any vessel of trans-shipped fish within the Northern Ireland zone,
 - (ii) licences authorising the receiving by any vessel of trans-shipped fish in an area comprised within that zone, and
 - (iii) licences authorising the receiving of trans-shipped fish within, or in any specified area within, British fishery limits but outside the Northern Ireland zone by Northern Ireland fishing boats,

(8) Section 4 was substituted by the Fishery Limits Act 1976 (c. 86) s.3, and was amended by the Fisheries Act 1981 (c. 29) s.20, the Sea Fish (Conservation) Act 1992 (c. 60) s.1, and the Consequential Modifications Order art.4, Sch.2, para.43.

(9) Section 4A was inserted by the Fisheries Act 1981 s.21(1) and was amended by the Sea Fish (Conservation) Act 1992 s.3 and the Consequential Modifications Order art.4, Sch.2, para.43.

and the functions under section 4A in relation to such licences of the Minister who grants the licence;

- (g) the function of the Ministers under section 4B(10) of making regulations about licences granted under section 4 or 4A by the Department of Agriculture and Rural Development;
- (h) the function of the Ministers under section 5(11) of prohibiting by order fishing within the Northern Ireland zone or in any area within that zone or fishing outside that zone by Northern Ireland fishing boats;
- (i) the function of the Ministers under section 6(12) of prohibiting by order the landing of fish in Northern Ireland or the trans-shipment of fish within the Northern Ireland zone;
- (j) the function of the Secretary of State for Trade and Industry under section 8(13) of regulating by order the landing of sea fish in Northern Ireland;
- (k) the functions of one of the Ministers under section 9(2), (3) and (4)(14) of authorising operations in the Northern Ireland zone or operations by Northern Ireland fishing boats outside that zone;
- (l) the function of the Ministers under section 10 of taking measures within the Northern Ireland zone for the increase or improvement of marine resources, and the function of concurring and assisting in such measures;
- (m) the function of the Ministers under section 15(3)(15) of conferring on British sea-fishery officers powers relating to—
 - (i) any fishing boat in the Northern Ireland zone, or
 - (ii) any Northern Ireland fishing boat outside that zone.

(2) So far as the functions mentioned in sub-paragraph (1)(a) to (f), (h), (i) and (m), and the function mentioned in sub-paragraph (1)(k) of authorising operations by Northern Ireland fishing boats outside the Northern Ireland zone, are exercisable—

- (a) in relation to British fishing boats, other than Northern Ireland fishing boats, within the Northern Ireland zone, and
- (b) in relation to Northern Ireland fishing boats, within British fishery limits but outside the Northern Ireland zone,

they shall, despite their transfer under sub-paragraph (1), be exercisable by the person by whom they were exercisable immediately before the transfer as well as by the Department of Agriculture and Rural Development.

Orders and regulations

4.—(1) Section 20(2) shall not apply to any order made under section 1(3), 3 or 15 by the Department of Agriculture and Rural Development, but any such order—

- (a) shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(16), and

(10) Section 4B was inserted by the Sea Fish (Conservation) Act 1992 (c. 60) s.4.

(11) Section 5 was amended by the Fisheries Act 1981 s.22(1), (2), (3), and the Consequential Modifications Order art.4, Sch.2, para.43.

(12) Section 6 was amended by the Fisheries Act 1981 (c. 29) s.23, and the Consequential Modifications Order art.4, Sch.2, para.43.

(13) Section 8 was amended by the Consequential Modifications Order art.4, Sch.2, para.43.

(14) Section 9 was amended by the Fisheries Act 1981 (c. 29) s.19(2)(b), 46(6), 21(2)(a). The enactments to which section 9(4) applies are described in section 9(5), which was amended by Fisheries Act 1981 s.21(2)(a).

(15) Subsections (3)–(5) of section 15 were substituted for the original subsections (3)–(7) by the Sea Fisheries Act 1968 (c. 77) s.22(1), Sch.1 Pt.II. Subsection (3) was amended by the Fishery Limits Act 1976 (c. 86) s.9(1), Sch.2, para.16(1), (3), and the Consequential Modifications Order art.4, Sch.2, para.43.

(16) S.I. 1979/1573 (N.I. 12).

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- (b) shall be laid before the Assembly.
- (2) Section 20(2)(**17**) shall not apply to any order made under section 4(1), 4A(1), 5(1), 6(1) or (1A) or 8 by the Department of Agriculture and Rural Development, but any such order—
 - (a) shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979, and
 - (b) shall be subject to negative resolution, within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**18**).
- (3) In its application to an order made under section 4(1) or 4A(1) by the Department of Agriculture and Rural Development, section 4(4) and section 4A(4) respectively shall have effect with the substitution of “the Department of Finance and Personnel” for “the Treasury”.
- (4) Section 4B(4) shall not apply to any regulations made by the Department of Agriculture and Rural Development under section 4B(1), but such regulations—
 - (a) shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979, and
 - (b) shall be subject to negative resolution, within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.
- (5) In their application to an order made by the Department of Agriculture and Rural Development, section 6(1) and (1A) shall have effect with the omission of the reference to consultation with the Secretary of State.
- (6) In its application to an order made under section 8 by the Department of Agriculture and Rural Development, section 8(1), (2) and (3) shall have effect with the omission of the references to consultation with the Ministers.

(17) Section 20(2) was amended by the Fisheries Act 1981 (c. 29) s.21(2)(b).

(18) 1954 c. 33 (N.I.). Section 41(6) was amended by the Northern Ireland (Modification of Enactments—No.1) Order 1999 (S.I. 1999 No.663) Sch.1, para.9(18).