

### SCHEDULE 3

Article 3(3)

#### FUNCTIONS UNDER OTHER ENACTMENTS RELATING TO SEA FISHERIES

##### ***Sea Fish Industry Act 1962***

1. The function under section 17 of the Sea Fish Industry Act 1962 <sup>M1</sup> of authorising operations in the Northern Ireland zone—

- (a) 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 on Act etc.) of the 1998 Act, and
- (b) shall be transferred to the Department of Agriculture and Rural Development.

##### **Marginal Citations**

**M1** 1962 c.31. Section 17 was amended by the Sea Fish (Conservation) Act 1967 s.25(1), Sch. and the Fishery Limits Act 1976 s.2(8). [A] relevant amendment[s] to the definition of “the Ministers” in section 33(2) [was] [were] made by the Consequential Modifications Order art.4, Sch.2, para.33 [and the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/)].

##### ***Sea Fisheries Act 1968***

2. Orders under section 5 of the Sea Fisheries Act 1968 <sup>M2</sup> may make provision applying only to Northern Ireland fishing boats.

##### **Marginal Citations**

**M2** 1968 c.77. Relevant amendments to the Sea Fisheries Act 1968 include the transfer of functions under that Act by the [Scotland Act 1998 \(c.46\)](#), the [Scotland Act 1998 \(Concurrent Functions\) Order 1999 S.I. 1999/1592 art.3, Sch.1](#), the [Scotland Act 1998 \(Modification of Functions\) Order 1999 \(S.I. 1999/1756\)](#), the [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/)]. Section 5 was amended by the [Fishery Limits Act 1976 \(c.86\) ss.4, 5, 9, Sch.1 para.3, Sch.2, para.17](#), the [Fisheries Act 1981 \(c.29\) s.24\(2\)](#), and the [Consequential Modifications Order art.4, Sch.2, para.48\(2\)](#).

3.—(1) The function conferred by section 5 of that Act of making provision by order in relation to operations within the Northern Ireland zone or in any area within that zone or operations outside that zone by Northern Ireland fishing boats—

- (a) 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 on Act etc.) of the 1998 Act, and
  - (b) shall be transferred to the Department of Agriculture and Rural Development.
- (2) So far as that function is exercisable—
- (a) in relation to British fishing boats other than Northern Ireland fishing boats, within the Northern Ireland zone,
  - (b) in relation to Northern Ireland fishing boats outside the Northern Ireland zone,

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- (c) in relation to any boat, for the purpose of implementing an obligation under Community law,

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

(3) Section 18(1) and (2) <sup>M3</sup> shall not apply to any order made under section 5 of the Sea Fisheries Act 1968 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 <sup>M4</sup>, and
- (b) shall be subject to negative resolution, within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 <sup>M5</sup>.

#### Marginal Citations

- M3** Section 18 was amended by the [Sea Fish Industry Act 1970 \(c.11\)](#) s.61, Sch.6 and the Consequential Modifications Order art.4, Sch.2, para.48(2).
- M4** [S.I. 1979/1573 \(N.I. 12\)](#).
- M5** [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).

#### *Fishery Limits Act 1976*

4.—(1) The function conferred by section 2 of the Fishery Limits Act 1976 <sup>M6</sup> of designating by order a country and areas within the Northern Ireland zone in which fishing boats registered in that country may fish—

- (a) shall be treated as exercisable in or as regards Northern Ireland for the purposes of sections 6 and 86 of the 1998 Act, and
- (b) shall be transferred to the Department of Agriculture and Rural Development.

(2) Sections 2(7) and 6(1) of the Fishery Limits Act 1976 shall not apply to any order made under section 2 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.

#### Marginal Citations

- M6** [1976 c.86](#). Relevant amendments to the Fishery Limits Act 1976 include the transfer of functions under that Act by the [Scotland Act 1998 \(c.46\)](#), the [Scotland Act 1998 \(Modification of Functions\) Order 1999 \(S.I. 1999/1756\)](#), the [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 \(S.I. 2002/\)](#)]. Section 2 was amended by the [Consequential Modifications Order art.4, Sch.2, para.57](#), the [Fisheries Act 1981 s.46\(2\), Sch.5 Pt.II](#), and the [Merchant Shipping Act 1988 s.57\(5\), Sch.7](#).

### **British Fishing Boats Act 1983**

5.—(1) References in paragraphs 6 and 7 to statutory provisions are to provisions of the British Fishing Boats Act 1983 <sup>M7</sup>, unless otherwise indicated.

(2) Expressions used in paragraphs 6 and 7 which are also used in the British Fishing Boats Act 1983 shall have the same meaning as in that Act, and cognate expressions shall be construed accordingly.

#### **Marginal Citations**

**M7** 1983 c.8. Relevant amendments to the British Fishing Boats Act 1983 include the transfer of functions under that Act by the [Scotland Act 1998 \(c.46\)](#), the Scotland Act 1998 (Concurrent Functions) Order 1999 S.I. 1999/1592 art.3, Sch.1, the [Scotland Act 1998 \(Modification of Functions\) Order 1999 \(S.I. 1999/1756\)](#), the [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/)].

6.—(1) Orders under section 1 <sup>M8</sup> may make—

- (a) provision applying only to Northern Ireland fishing boats;
- (b) provision applying only to Northern Ireland.

#### **Marginal Citations**

**M8** [Section 1](#) was amended by the [Consequential Modifications Order](#) art.4, Sch.2, para.70.

7.—(1) The following functions conferred by section 1 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 on Act etc.) of the 1998 Act, and shall be transferred to the Department of Agriculture and Rural Development, namely—

- (a) making an order under subsection (2) specifying as a restricted fishing area—
  - (i) the Northern Ireland zone,
  - (ii) any area within that zone, or
  - (iii) for the purpose only of prescribing qualifications for Northern Ireland fishing boats, any area;
- (b) making an order under subsection (1) prescribing the qualifications for boats to be used in carrying out the operations mentioned in subsection (2)(a) or (b)—
  - (i) in the Northern Ireland zone,
  - (ii) in any area within that zone, or
  - (iii) in the case of Northern Ireland fishing boats, in any restricted fishing area;
- (c) making an order under subsection (1) prescribing the qualifications for—
  - (i) boats to be used in landing sea fish in Northern Ireland, or
  - (ii) Northern Ireland fishing boats to be used in landing sea fish anywhere in the United Kingdom;
- (d) making an order under subsection (5) about the stowing of fishing gear on boats in the Northern Ireland zone or any restricted fishing area within that zone; and

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- (e) making an order under subsection (5) about the stowing of fishing gear on Northern Ireland fishing boats in any restricted fishing area.
- (2) So far as those functions are exercisable—
  - (a) in relation to British fishing boats other than Northern Ireland fishing boats, in Northern Ireland or within the Northern Ireland zone, or
  - (b) in relation to Northern Ireland fishing boats, outside Northern Ireland and the Northern Ireland zone, or
  - (c) in relation to any boat, for the purpose of implementing an obligation under Community law,

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.

(3) In relation to any provision made by order by the Department of Agriculture and Rural Development by virtue of section 1(3) prescribing conditions for qualification with respect to nationality, section 1(4) shall have effect with the substitution for the requirement that the conditions be such as appear to the Ministers to be necessary or expedient for the protection of the sea fishing industry in England and Wales and Northern Ireland, of a requirement that the conditions be such as appear to the Department of Agriculture and Rural Development to be necessary or expedient for the protection of the sea fishing industry in Northern Ireland.

(4) Section 1(8) shall not apply to any order made under section 1 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.

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