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STATUTORY INSTRUMENTS

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**2019 No. 1312**

**The Common Fisheries Policy and Animals  
(Amendment etc.) (EU Exit) Regulations 2019**

**PART 3**

THE MULTIANNUAL PLANS

CHAPTER 1

AMENDMENT OF THE WESTERN WATERS MULTIANNUAL PLAN

**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**

6.—(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—

(a) in the second subparagraph of paragraph 1—

(i) omit “Union or”,

(ii) for “Commission may adopt delegated acts in accordance with Article 18 amending” substitute “ Secretary of State may, subject to paragraph 2A, by regulations amend ”, and

(iii) omit the final sentence;

(b) in paragraph 2—

(i) for “Commission” in the first place it occurs, substitute “ Secretary of State ”, and

(ii) for “Commission may submit a proposal for the amendment of that list” substitute “ Secretary of State may, subject to paragraph 2A, by regulations amend that list ”;

(c) after paragraph 2 insert—

“**2A.** Where, in the circumstances described in paragraph 2B, the exercise of the power to make regulations under paragraph 1 or 2 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under either of those powers the Secretary of State must obtain the consent of—

(a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation in the circumstances described in paragraph 2B;

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**Changes to legislation:** There are currently no known outstanding effects for the The Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019, PART 3. (See end of Document for details)

- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation in the circumstances described in paragraph 2B;
- (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation in the circumstances described in paragraph 2B.

**2B.** The circumstances referred to in paragraph 2A are circumstances where the power in paragraph 1 or, as the case may be, the power in paragraph 2 is treated as a power exercisable by “a fisheries administration” instead of a power exercisable by the Secretary of State.”.

- (d) in paragraph 4 for “Union legal acts” substitute “ enactments ”; and
  - (e) in paragraph 5 for “Union” substitute “ United Kingdom ”.
- (3) In Article 2—
- (a) in point (1)—
    - (i) for “Union” substitute “ United Kingdom ”, and
    - (ii) omit the words from “and the South” to the end;
  - (b) in point (2) omit “Union or”;
  - (c) in point (8) omit “Union or”;
  - (d) in point (9) omit “Union or”; and
  - (e) after point (9) insert—
 

“(10) ‘enactment’ has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018 <sup>M1</sup>.”.
- (4) In Article 3—
- (a) in paragraph 1 omit “of the common fisheries policy”;
  - (b) in paragraph 3—
    - (i) omit “Union”, and
    - (ii) for “set out in Article 1(1) of Directive [2008/56/EC](#)” substitute “ referred to in regulation 4(1) of the Marine Strategy Regulations 2010 <sup>M2</sup> ”;
  - (c) in paragraph 4(c) after “objectives set out in” insert “ the provisions of any enactment specifically giving effect to the objectives set out in ”; and
  - (d) after paragraph 4 insert—

“**4A.** For the purposes of paragraph 4(b), in Annex 1 to Directive [2008/56/EC](#) descriptor 9 is to be read as if the reference to “Community legislation” were a reference to “retained EU law”.”.

- (5) In Article 4 for paragraphs 2 and 3 substitute—

“**2.** A fisheries administration must request from ICES, or a similar independent scientific body recognised at international level, the ranges of  $F_{MSY}$  based on the plan.

3. When fishing opportunities are determined for a stock they must be established in the lower range of  $F_{MSY}$  available at that time for that stock.”.

(6) Omit Article 6.

(7) In Article 7 for the words before point (a) substitute—

“A fisheries administration must request from ICES, or a similar independent scientific body recognised at international level, the following conservation reference points to safeguard the full reproductive capacity of the stocks referred to in Article 1(1) based on the plan—”.

(8) In Article 8(3) omit point (a).

(9) In Article 9—

(a) for paragraph 1 substitute—

“1. A fisheries administration may make regulations in order to supplement this Regulation regarding the technical measures specified in paragraph 1C, insofar as they are not covered by Regulation (EU) 2019/1241.

**1A.** Subject to paragraph 1B, the Secretary of State may make regulations in order to supplement this Regulation regarding the technical measures specified in paragraph 1C, insofar as they are not covered by Regulation (EU) 2019/1241.

**1B.** Where the exercise of the power to make regulations under paragraph 1 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under the power in paragraph 1A the Secretary of State must obtain the consent of—

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;
- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;
- (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.

**1C.** The technical measures referred to in paragraphs 1 and 1A are—

- (a) specifications of characteristics of fishing gears and rules governing their use, to ensure or improve selectivity, to reduce unwanted catches or to minimise the negative impact on the ecosystem;
- (b) specifications of modifications or additional devices to the fishing gears, to ensure or improve selectivity, to reduce unwanted catches or to minimise the negative impact on the ecosystem;
- (c) limitations or prohibitions on the use of certain fishing gears and on fishing activities in certain areas or periods to protect spawning fish, fish below the minimum conservation reference size or non-target fish species, or to minimise the negative impact on the ecosystem; and

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- (d) the fixing of minimum conservation reference sizes for any of the stocks to which this Regulation applies, to ensure the protection of juveniles of marine organisms.

**1D.** Before making any regulations under this Article, a fisheries administration must consult—

- (a) such bodies or persons as appear to the fisheries administration to be representative of the interests likely to be substantially affected by the regulations;
  - (b) such other bodies or persons as the fisheries administration may consider appropriate.”; and
- (b) in paragraph 2 for “The measures referred to in paragraph 1 of” substitute “ Regulations made under ”.
- (10) In Article 10—
- (a) for paragraph 1 substitute—

“**1.** When a fisheries administration distributes fishing opportunities for use by fishing vessels it must take account of the likely catch composition of fishing vessels participating in mixed fisheries.”; and

- (b) omit paragraph 2.
- (11) In Article 11—
- (a) in paragraph 1 for “the Council” substitute “ any person determining fishing opportunities ”;
  - (b) in paragraph 2 for “the Council” substitute “ any person determining fishing opportunities ”; and
  - (c) in paragraph 3 for “Member States shall” substitute “ a fisheries administration must ”.
- (12) In Article 12(2) for “When fixing fishing opportunities, the Council shall” substitute “ Any person determining fishing opportunities must ”.
- (13) In Article 13—
- (a) in the heading for “Union” substitute “ United Kingdom ”;
  - (b) in paragraph 1 for the words from “the Commission” to “Article 18 of Regulation (EU) No 1380/2013” substitute “ a fisheries administration may make regulations ”; <sup>F1</sup>...
- [<sup>F2</sup>(ba) after paragraph 1 insert—

“**1A.** Subject to paragraph 1B, for all stocks of species in the Western Waters to which the landing obligation applies under Article 15(1) of [Regulation \(EU\) No. 1380/2013](#), the Secretary of State may make regulations in order to supplement this Regulation by specifying details of that obligation as provided for in points (a) to (e) of Article 15(5) of [Regulation \(EU\) No 1380/2013](#).”

**1B.** Where the exercise of the power to make regulations under paragraph 1 would be outside the jurisdiction of the Secretary of State under Article 1(7) of [Regulation \(EU\) No 1380/2013](#), before making such regulations under the power in paragraph 1A the Secretary of State must obtain the consent of—

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;

- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;
  - (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.”; and]
  - (c) in paragraph 2 for “the Council sets limits” substitute “ limits are set ”.
- (14) In Article 14—
- (a) in paragraph 1—
    - (i) for “each Member State shall” substitute “ a fisheries administration must ”,
    - (ii) for “flying its flag and” substitute “ in its fleet ”, and
    - (iii) for “Member States” substitute “ a fisheries administration ”;
  - (b) omit paragraph 2; and
  - (c) in paragraph 3—
    - (i) for “Each Member State shall” substitute “ A fisheries administration must ”, and
    - (ii) omit “to the Commission and the other Member States”.
- (15) In Article 15—
- (a) in the heading for “Union” substitute “ United Kingdom ”;
  - (b) in paragraph 1—
    - (i) for “the Union shall” in both places it occurs, substitute “ a fisheries administration must ”, and
    - (ii) for “Union operators” substitute “ United Kingdom operators ”; and
  - (c) in paragraph 2 for “the Union” substitute “ a fisheries administration ”.
- (16) Omit Chapter 10.
- (17) In the heading to Chapter 11 omit “Evaluation and”.
- (18) Omit Article 17.
- (19) For Article 18 substitute—

*“Article 18*

*Regulations*

1. Regulations made by the Secretary of State or the Welsh Ministers under this Regulation are to be made by statutory instrument.
2. For regulations made under this Regulation by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 <sup>M3</sup>.
3. Any power of the Department of Agriculture, Environment and Rural Affairs to make regulations under this Regulation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 <sup>M4</sup>.

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4. A statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

5. A statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

6. Regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

7. Regulations made by the Department of Agriculture, Environment and Rural Affairs under this Regulation are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 <sup>M5</sup> as if they were a statutory instrument within the meaning of that Act.

8. Such regulations may—

- (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018 <sup>M6</sup>));
- (b) make different provision for different purposes.”.

(20) Omit Chapters 12 and 13.

(21) Omit Article 23.

#### Textual Amendments

**F1** Word in reg. 6(13)(b) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1542\)](#), regs. 1(2), **17(3)(a)**

**F2** Reg. 6(13)(ba) inserted (31.12.2020 immediately before IP completion day) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1542\)](#), regs. 1(2), **17(3)(b)**

#### Commencement Information

**I1** Reg. 6 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

#### Marginal Citations

**M1** [2018 c. 16](#).

**M2** [S.I. 2010/1627](#); relevant amending instruments are [S.I. 2018/287](#) and [2018/1399](#).

**M3** [2010 asp 10](#).

**M4** [S.I. 1979/1573 \(N.I. 12\)](#).

**M5** [1954 c. 33 \(N.I.\)](#). Section 41(6) was amended by [S.I. 1999/663](#).

**M6** [2018 c. 16](#).

## CHAPTER 2

### AMENDMENT OF THE NORTH SEA MULTIANNUAL PLAN

#### **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**

7.—(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—

- (a) in the second subparagraph of paragraph 1, for “Commission may adopt delegated acts in accordance with Article 16 amending” substitute “ Secretary of State may, subject to paragraph 2A, by regulations amend ”;
- (b) in paragraph 2—
  - (i) for “Commission” in the first place it occurs, substitute “ Secretary of State ”, and
  - (ii) for “Commission may submit a proposal for the amendment of that list” substitute “ Secretary of State may, subject to paragraph 2A, by regulations amend that list ”; and
- (c) after paragraph 2 insert—

“**2A.** Where, in the circumstances described in paragraph 2B, the exercise of the power to make regulations under paragraph 1 or 2 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under either of those powers the Secretary of State must obtain the consent of—

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation in the circumstances described in paragraph 2B;
- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation in the circumstances described in paragraph 2B;
- (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation in the circumstances described in paragraph 2B.

**2B.** The circumstances referred to in paragraph 2A are circumstances where the power in paragraph 1 or, as the case may be, the power in paragraph 2 is treated as a power exercisable by “a fisheries administration” instead of a power exercisable by the Secretary of State.”

(3) For Article 8 substitute—

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*“Article 8*

*Specific conservation measures*

1. Where paragraph 3 applies, a fisheries administration may make regulations in order to supplement this Regulation in relation to the rules mentioned in paragraph 5.
  
2. Where paragraph 3 applies, subject to paragraph 4, the Secretary of State may make regulations in order to supplement this Regulation in relation to the rules mentioned in paragraph 5.
  
3. This paragraph applies where scientific advice indicates that remedial action is required for the conservation of any of the demersal stocks referred to in Article 1(4) of this Regulation, or when the spawning stock biomass and, in the case of Norway lobster stocks, the abundance of any of the stocks covered by Article 1(1) for a given year are below  $MSY B_{trigger}$
  
4. Where the exercise of the power to make regulations under paragraph 1 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under the power in paragraph 2 the Secretary of State must obtain the consent of—
  - (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;
  - (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;
  - (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.
  
5. The rules referred to in paragraphs 1 and 2 are rules regarding—
  - (a) characteristics of fishing gear, in particular mesh size, hook size, construction of the gear, twine thickness, size of the gear or the use of selectivity devices to ensure or improve selectivity;
  - (b) use of the fishing gear, in particular immersion time, depth of gear deployment, to ensure or improve selectivity;
  - (c) prohibition or limitation to fish in specific areas to protect spawning and juvenile fish, fish below the minimum conservation reference size or non-target fish species;
  - (d) prohibition or limitation on fishing or the use of certain types of fishing gear during specific time periods, to protect spawning fish, fish below the minimum conservation reference size or non-target fish species;
  - (e) minimum conservation reference sizes, to ensure the protection of juveniles of marine organisms;
  - (f) other characteristics linked to selectivity.”
  
- (4) In Article 9—
  - (a) for paragraph 1 substitute—



“1. A fisheries administration may make regulations in order to supplement this Regulation regarding the technical measures specified in paragraph 1C, insofar as they are not covered by Regulation (EU) 2019/1241.

**1A.** Subject to paragraph 1B, the Secretary of State may make regulations in order to supplement this Regulation regarding the technical measures specified in paragraph 1C, insofar as they are not covered by Regulation (EU) 2019/1241.

**1B.** Where the exercise of the power to make regulations under paragraph 1 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under the power in paragraph 1A the Secretary of State must obtain the consent of—

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;
- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;
- (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.

**1C.** The technical measures referred to in paragraphs 1 and 1A are—

- (a) specifications of characteristics of fishing gears and rules governing their use, to ensure or improve selectivity, to reduce unwanted catches or to minimise the negative impact on the ecosystem;
- (b) specifications of modifications or additional devices to the fishing gears, to ensure or to improve selectivity, to reduce unwanted catches or to minimise the negative impact on the ecosystem;
- (c) limitations or prohibitions on the use of certain fishing gears and on fishing activities, in certain areas or periods to protect spawning fish, fish below the minimum conservation reference size or non-target fish species, or to minimise the negative impact on the ecosystem; and
- (d) the fixing of minimum conservation reference sizes for any of the stocks to which this Regulation applies, to ensure the protection of juveniles of marine organisms.

**1D.** Before making any regulations under this Article, a fisheries administration must consult—

- (a) such bodies or persons as appear to the fisheries administration to be representative of the interests likely to be substantially affected by the regulations;
  - (b) such other bodies or persons as the fisheries administration may consider appropriate.”;
- (b) in paragraph 2 for “The measures referred to in paragraph 1 of” substitute “ Regulations made under ”; and

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- (c) omit paragraph 3.
- (5) In Article 11—
  - (a) in the heading omit “Union waters of”;
  - (b) in paragraph 1 for the words from “the Commission” to “Article 18 of Regulation (EU) No 1380/2013” substitute “ a fisheries administration may make regulations ”; <sup>F3</sup> ...
  - [<sup>F4</sup>(ba) after paragraph 1 insert—
    - “**1A.** Subject to paragraph 1B, for all stocks of species in the North Sea to which the landing obligation applies under Article 15(1) of [Regulation \(EU\) No. 1380/2013](#), the Secretary of State may make regulations in order to supplement this Regulation by specifying details of that obligation as provided for in points (a) to (e) of Article 15(5) of [Regulation \(EU\) No 1380/2013](#).
    - 1B.** Where the exercise of the power to make regulations under paragraph 1 would be outside the jurisdiction of the Secretary of State under Article 1(7) of [Regulation \(EU\) No 1380/2013](#), before making such regulations under the power in paragraph 1A the Secretary of State must obtain the consent of—
      - (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;
      - (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;
      - (c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.”; and]
  - (c) in paragraph 2 for “the Council sets limits” substitute “ limits are set ”.
- (6) For Article 16 substitute—

*“Article 16  
Regulations*

1. Regulations made by the Secretary of State or the Welsh Ministers under this Regulation are to be made by statutory instrument.
2. For regulations made under this Regulation by the Scottish Ministers, see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010 <sup>M7</sup>.
3. Any power of the Department of Agriculture, Environment and Rural Affairs to make regulations under this Regulation is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 <sup>M8</sup>.
4. A statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

5. A statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

6. Regulations made by the Scottish Ministers under this Regulation are subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).

7. Regulations made by the Department of Agriculture, Environment and Rural Affairs under this Regulation are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954<sup>M9</sup> as if they were a statutory instrument within the meaning of that Act.

8. Such regulations may—

- (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018<sup>M10</sup>);
- (b) make different provision for different purposes.”.

#### Textual Amendments

- F3** Word in reg. 7(5)(b) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1542\)](#), regs. 1(2), **17(4)(a)**
- F4** Reg. 7(5)(ba) inserted (31.12.2020 immediately before IP completion day) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1542\)](#), regs. 1(2), **17(4)(b)**

#### Commencement Information

- I2** Reg. 7 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1](#), [Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

#### Marginal Citations

- M7** [2010 asp 10](#).
- M8** [S.I. 1979/1573 \(N.I. 12\)](#).
- M9** [1954 c. 33 \(N.I.\)](#). Section 41(6) was amended by [S.I. 1999/663](#).
- M10** [2018 c. 16](#).

**Status:**

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**Changes to legislation:**

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