

**EXPLANATORY MEMORANDUM TO**  
**THE COMMON FISHERIES POLICY AND ANIMALS (AMENDMENT ETC.)**  
**(EU EXIT) REGULATIONS 2019**

**2019 No. 1312**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 The Common Fisheries Policy (“CFP”) imposes a common approach to the sustainable management of fisheries across the EU and its waters. Three statutory instruments made in early 2019 under powers in the European Union (Withdrawal) Act 2018 (“EUWA”) made corrections to ensure retained CFP legislation would operate effectively on the UK’s withdrawal from the EU when exit day was specified as 29th March 2019. This instrument is required to ensure retained EU law operates effectively following the exit day extension period.
- 2.2 This further instrument is required in relation to three categories of amendments:
  - (a) Amendments required to account for new EU CFP legislation which has come into force since 29th March 2019.
  - (b) Amendments to EU legislation previously de-prioritised due to its non-essential nature that can be amended during the extension period before the new exit day.
  - (c) Minor corrections required to previous statutory instruments made under the EUWA (mentioned above) due to typographic and other errors.

***Explanations***

***What did any relevant EU law do before exit day?***

- 2.3 The CFP regulates fishing activities and the enforcement of those activities in UK waters, as well as implementing the requirements of international agreements the EU has entered into on behalf of Member States. While the UK is an EU Member State, the CFP Regulations have direct effect in UK law. This instrument makes rules in the following areas:
  - (a) The new EU regulation governing technical conservation measures, which specifies the technical rules that vessels must follow when carrying out fishing activities. The technical measures include the characteristics of fishing gear, the minimum size of fish which may be caught and the closure of certain areas, all of which aim to limit unwanted catches and the impact of fishing gear on marine ecosystems.
  - (b) The Western Waters multiannual plan, which delivers a multi-species approach to fisheries management in specific basins in ‘the Western Waters’ (of which

UK waters form part). This establishes a sustainable management plan to ensure that demersal fish and nephrops stocks are exploited in a sustainable way.

- (c) Functions within the North Sea multiannual plan to introduce or amend detailed technical rules relating to this specific regulation by means of delegated or implementing acts.

Why is it being changed?

- 2.4 Existing CFP legislation will be converted into retained EU law on EU Exit, which has the status of primary legislation in the UK. This instrument ensures that the relevant rules contained within the legislation continue to apply to UK fishing vessels wherever they are, subject to different rules stemming from international agreements, and that those same rules continue to apply to all fishing vessels operating within UK waters.
- 2.5 The amendments to the new EU technical conservation measures regulation ensure that the existing rules will continue to apply to UK fisheries after EU Exit, and fishing in UK waters continues to be regulated in a sustainable manner. The new EU regulation streamlines the existing legislative regime, therefore this instrument will make consequential changes to two previous instruments: the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 and the Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019.
- 2.6 The amendments to the Western Waters and North Sea multiannual plans will ensure that the UK has a framework for cooperation on the sustainable management of shared stocks in these areas, while also maintaining the flexibility to diverge on management decisions. The amendments mean that there will be no change to how UK fishers operate after EU Exit.
- 2.7 The functions transferred by this instrument will ensure that fisheries management in the UK can continue to operate efficiently after EU Exit. UK fisheries administrations require this ability to ensure they can keep abreast of the latest scientific evidence and make changes where necessary.
- 2.8 This instrument makes a minor change to the amendments within the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019. Specifically, the revocation of Council Regulation (EC) 768/2005 is removed as this regulation has now been revoked at EU level by Regulation (EU) 2019/473.
- 2.9 This instrument makes a minor change to the amendments within the Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019. Specifically, amendments to the Regional Fisheries Management Organisations Regulations are updated to reflect the revocation at EU level of Council Regulations (EC) No 1386/2007 and 2115/2005 by Regulation (EU) 2019/833.
- 2.10 This instrument makes a minor change to the amendments within the Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2019. Specifically, amendments to the North Sea Discard Plan are updated to reflect a new deficiency created by Commission Delegated Regulation (EU) 2019/906.
- 2.11 This instrument also makes a number of minor changes to the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019, the Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019 and the Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2019 to correct typographical and other minor errors.

- 2.12 This instrument also makes minor changes to the Animals (Legislative Functions) (EU Exit) Regulations 2019 to remove two amendments to Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations:
- a) The first amendment is necessary to avoid confusion after EU Exit as to how paragraph 2.2 in Chapter 3 of Annex 1, in Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations should be read.
  - b) The second amendment removes a regulation-making power which is no longer considered necessary. As regulation 6(7)(a) of the Animals (Legislative Functions) (EU Exit) Regulations 2019 already transfers to the appropriate authority a power to amend the Annexes (which, amongst other things, contain detailed provisions regarding certain species of animals), there is no need for the power created by regulation 6(7)(g) to make separate regulations about animals not already covered by the Annexes. The Annexes themselves can be amended using the power transferred by regulation 6(7)(a).
- 2.13 Annex B to this explanatory memorandum contains further detail on the amendments made by this instrument.

*What will it now do?*

- 2.14 This instrument ensures there is immediate continuity in the regulation of UK waters when the UK exits the EU. No policy changes are made to the effect of the CFP.
- 2.15 Legislative functions of the European Commission are transferred to the UK fisheries administrations, for example the power to limit or prohibit the use of certain fishing gears. These functions are generally exercisable so that Devolved Administrations can make their own regulations where the matter is devolved, while the Secretary of State can make regulations where matters are reserved. In certain cases, in areas of devolved competence where a UK-wide approach may be preferable, the Secretary of State can exercise the function for the whole of the UK with the consent of the Devolved Administrations.

### **3. Matters of special interest to Parliament**

***Matters of special interest to the Joint Committee on Statutory Instruments***

- 3.1 This instrument is made subject to the urgent ‘made affirmative’ procedure. The Ministerial statement in Part 2 of the Annex sets out the reasons for this decision. This instrument includes amendments which correct minor errors in earlier EU Exit statutory instruments (in S.I.s 2019/588, 2019/739, 2019/848 and 2019/753) and this instrument is being published under the free issue procedure.

***Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)***

- 3.2 The territorial application of this instrument includes Scotland and Northern Ireland.

### **4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.

## **5. European Convention on Human Rights**

5.1 The Minister of State at the Department for Environment, Food and Rural Affairs, George Eustice MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019 are compatible with the Convention rights.”

## **6. Legislative Context**

6.1 Section 8(1) of the EUWA provides that a Minister of the Crown may by regulations make such provision as the Minister considers appropriate to prevent, remedy or mitigate any failure of retained EU law to operate effectively or any other deficiency in retained EU law arising from the withdrawal of the UK from the EU. This instrument is made in exercise of these powers.

6.2 Paragraph 21 of Schedule 7 to the EUWA specifies that the power to modify retained EU law includes a power to make supplementary, incidental and consequential provisions and the power to restate retained EU law in a clearer or more accessible way.

6.3 This instrument operates together with the following four instruments to amend the suite of fisheries management legislation that applies to the UK:

- The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019;
- The Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019;
- The Common Fisheries Policy (Amendment etc.) (EU Exit) (No.2) Regulations 2019; and
- The Fisheries (Amendment) (EU Exit) Regulations 2019.

The first three instruments provide technical corrections to deficiencies in retained EU law, whilst the last instrument provides technical corrections to deficiencies in domestic legislation.

6.4 This instrument operates together with the following six instruments to amend the legislation relating to the welfare of animals at transport that apply to the UK:

- The Animals (Legislative Functions) (EU Exit) Regulations 2019;
- The Animal Welfare (Amendment) (EU Exit) Regulations 2019;
- The Animal Health and Welfare (Miscellaneous Amendments) (England) (EU Exit) Regulations 2018;
- The Animal Welfare (EU Exit) (Scotland) (Amendment) Regulations 2019;
- The Animal Health and Welfare (Amendment) (Northern Ireland) (EU Exit) Regulations 2019; and
- The Animal Health and Welfare (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019.

The first two instruments provide technical corrections to deficiencies in retained EU law. The remaining instruments provide technical corrections to deficiencies in domestic legislation.

## 7. Policy background

### *What is being done and why?*

- 7.1 Fisheries management is largely devolved to Scotland, Wales and Northern Ireland in relation to their vessels and their waters. Therefore, where provisions place obligations on EU Member States to do something, these references are mostly changed to “a fisheries administration”, which is a term defined in amendments made by the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 that applies to all of the retained CFP Regulations.
- 7.2 The definition ensures that “a fisheries administration” means the Secretary of State, a devolved fisheries administration or the Marine Management Organisation (“MMO”), and “a devolved fisheries administration” means the Scottish Ministers, the Welsh Ministers or, in Northern Ireland, the Department of Agriculture, Environment and Rural Affairs (“DAERA”). This definition has the effect of preserving the status quo, so that the administration which currently carries out the function in question, or which exercises the power in question, continues to do so. New functions which have not previously been exercisable at Member State level have been transferred in accordance with the joint decision-making framework agreed with the Devolved Administrations to complement the current position.
- 7.3 Further examples of the technical changes that are made by this instrument include amending references from the “European Union” to the “United Kingdom”; and “Union” or “Member State vessels and waters” to “UK vessels and waters”.
- 7.4 EU regulations which duplicate existing UK legislation are removed, and provisions that are not capable of operating within the UK, or which have no relevance to the UK outside of the EU, are revoked. Explanations of each revocation can be found in Annex B to this explanatory memorandum.
- 7.5 This instrument also transfers various functions contained within the regulations referred to in section 2.4 of this explanatory memorandum. Legislative functions are transferred to the relevant UK fisheries administration, in accordance with the joint decision-making framework that has been agreed with the Devolved Administrations. “Fisheries administration”, in the context of legislative functions, means: the Scottish Ministers in relation to matters within Scotland’s devolved competence; DAERA in relation to matters within Northern Ireland’s devolved competence; and the Welsh Ministers in relation to matters within Welsh devolved competence; or, in relation to England and reserved competence, the Secretary of State.
- 7.6 The MMO is also listed as “a fisheries administration” in the retained EU law of which the relevant regulations form part, but the MMO does not have any legislative functions.
- 7.7 Where a legislative function is transferred, the relevant parliament will use the powers to make regulations via statutory instrument (in Scotland, this will be via a Scottish Statutory Instrument and in Northern Ireland via Statutory Rules). The functions transferred by this instrument are transferred into powers exercisable subject to the relevant “negative procedure”.

## **8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union**

8.1 This instrument is being made using the power in section 8 of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the UK from the EU. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of Annex A to this explanatory memorandum.

## **9. Consolidation**

9.1 There are no plans to consolidate the legislation.

## **10. Consultation outcome**

10.1 The Devolved Administrations (the Scottish Government, DAERA, and the Welsh Government) were involved in the drafting of the proposed amendments.

10.2 A targeted engagement was carried out on the approach, involving key stakeholders from the fisheries sector, food industry and environment non-governmental bodies. In addition, a ten-week consultation was conducted through the Fisheries White Paper which described future fisheries policy. Stakeholders were broadly supportive of the approach being taken in the White Paper.

## **11. Guidance**

11.1 As these are technical changes to existing legislation there is no associated guidance.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because no significant changes to what the public sector, or business, will have to do under the regulations are envisaged. The amendments made by this instrument will ensure UK vessels are subject to largely the same rules they are now. The impact of each set of regulations made using the powers transferred by this instrument will be assessed separately, as and when the powers are exercised.

## **13. Regulating small business**

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 As the legislation will continue to operate substantially as it did before EU Exit, it will not disproportionately affect small business.

13.3 The effect on small businesses of each set of regulations made using the powers transferred in this instrument will be assessed separately, as and when the powers are exercised.

## **14. Monitoring & review**

14.1 The approach to monitoring of this legislation is that Defra, as well as the Devolved Administrations in relation to devolved matters, will monitor and review the impact of this instrument as part of their standard policy-making procedures.

14.2 As this instrument is made under the European Union (Withdrawal) Act 2018, no review clause is required.

**15. Contact**

15.1 Paul Simpson at the Department for Environment, Food and Rural Affairs, telephone: 020 7895 5263 or email: Paul.Simpson@defra.gov.uk can be contacted with any queries regarding this instrument.

15.2 Anne Freeman, Deputy Director for Domestic Fisheries and Reform at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.

15.3 George Eustice MP, Minister of State at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.

# Annex A

## Statements under the European Union (Withdrawal) Act 2018

### Part 1

#### Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a negative procedure SI.	Explain why the SI should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees.
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	Explain the good reasons for making the SI and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2.	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.  State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA 2018 SIs.	Explain the SI, identify the relevant law before exit day, explain the SI's effect on retained EU law and give information about the purpose of the SI, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.



		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence.	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by SI.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under s2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA 1972.	Statement explaining the good reasons for modifying the SI made under s. 2(2) ECA 1972, identifying the relevant law before exit day, and explaining the SI's effect on retained EU law.
Scrutiny statement where amending regulations under s2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA 1972.	Statement setting out: a) the steps which the relevant authority has taken to make the draft SI published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft SI, and (ii) any other representations made to the relevant authority about the published draft SI, and c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the SI or draft SI which is to be laid.

## Part 2

### Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

#### 1. Appropriateness statement

- 1.1 The Minister of State at the Department for Environment, Food and Rural Affairs, George Eustice MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019 do no more than is appropriate”.

- 1.2 This is the case because: this instrument corrects deficiencies in legislation that arise from the withdrawal of the UK from the EU, to ensure the UK has functional and operable fisheries legislation after EU Exit.

#### 2. Good reasons

- 2.1 The Minister of State at the Department for Environment, Food and Rural Affairs, George Eustice MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

- 2.2 These are: correcting deficiencies as necessary to ensure we continue to have operable fisheries legislation after EU Exit and provisions for the powers to make changes to regulations to enable a sustainable approach to fisheries management.

#### 3. Equalities

- 3.1 The Minister of State at the Department for Environment, Food and Rural Affairs, George Eustice MP, has made the following statement:

“This instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts”.

- 3.2 The Minister of State at the Department for Environment, Food and Rural Affairs, George Eustice MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to this instrument, I, George Eustice MP, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

#### 4. Explanations

- 4.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.

## **5. Urgency**

5.1 The Minister of State at the Department for Environment, Food and Rural Affairs, George Eustice MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view by reason of urgency, it is necessary to make the Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019, without a draft of this instrument containing the regulations being laid before, and approved by a resolution of, each House of Parliament.”

5.2 This is because: There is a need to ensure that this instrument is in place for exit day, otherwise the UK fishing industry will be tied to outdated technical conservation measures that the EU will no longer be subject to, making our industry less competitive than the EU fleet.

5.3 If the amendments to the Western Waters Multiannual Plan are not in place, it will limit the UK’s ability to set quota for these stocks within sustainable ranges, which is to the detriment of both fish stocks and the economic viability of our fishing industry. It might also fetter our ability to apply recovery measures to stocks that science suggest are being over-exploited.

5.4 This instrument is necessary to ensure that minor drafting errors in previously laid Defra CFP and Animal and Plant Health EU Exit statutory instruments are corrected before they come into effect at the point of EU Exit.

5.5 Finally, the errors identified in the affirmative Animals instrument require correction immediately before exit day to ensure that the retained EU legislation can operate as intended and that there is clarity for UK businesses (see section 2.12 of this Explanatory Memorandum for further detail on the required corrections).

5.6 The Government has concluded that the ‘made affirmative’ procedure provided for in the European Union (Withdrawal) Act 2018 ensures that this instrument is in place for exit day. The Government considers it important to urgently have this instrument in place so as to provide confidence and certainty to the public and business and to ensure the effective functioning of the statute book after EU Exit. Using this procedure still allows for parliamentary scrutiny and Parliament will need to approve its making for it to remain in force.

# Annex B

## Summary of amendments made in the Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019

Technical Conservation Regulations	
<p>Regulation (EU) No <b>2019/1241</b> of the European Parliament and of the Council on the conservation of fishery resources and the protection of marine ecosystems through technical measures</p>	<p>This new EU Regulation lays down technical conservation measures concerning the taking and landing of marine biological resources, the operation of fishing gear and the interaction of fishing activities with marine ecosystems. The technical measures cover issues such as the characteristics of fishing gear, the minimum size of the fish which may be caught, and the closure or limitation of fishing in certain areas or during certain periods. This instrument makes technical amendments so that the technical measures remain operable for UK fisheries after EU Exit, ensuring that conservation practices continue to apply.</p> <p>This instrument amends the application of the EU Regulation so that it primarily applies within UK waters. The exceptions to this limit of application include international waters where the UK fleet has a direct fishing interest as well as areas which relate to the North-East Atlantic Fisheries Commission (“NEAFC”) Convention. In line with the approach taken to EU regulations implementing RFMO provisions, this instrument retains the provisions of the Regulation that apply to the NEAFC Convention as the UK intends to apply to NEAFC as a contracting party outside of the EU after EU Exit.</p> <p>Article 8 provides the European Commission the power to adopt implementing acts to establish detailed rules for the specification of codends and certain devices. This power has been transferred to the Secretary of State, DAERA, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas, with a supplemental power for the Secretary of State to be able to act on a UK-wide basis, subject to the consent of the Devolved Administrations.</p> <p>Articles 10 and 12 provide the European Commission the power to amend Annexes 1 and 2.</p>

More specifically, the Commission is able to amend the prohibited fish and shellfish species listed in Annex 1 and the list of areas set out in Annex 2, on the basis of the best scientific advice. These powers have been transferred to the Secretary of State to amend the relevant Annex for the whole of the UK, however the Secretary of State is required to obtain the consent of the Devolved Administrations in circumstances where the exercise of the power is within devolved competence and does not relate to an area where the Secretary of State essentially has a shared power to act.

Article 11 concerns the catches of marine mammals, seabirds and marine reptiles. A power to put in place mitigation measures or restrictions on the use of certain gear, which is currently exercisable by Member States, is transferred to the UK fisheries administrations to exercise within their own areas of competence.

Article 12(3) and Article 14(2) concerns the ability of Member States to establish conservation measures to protect certain habitats or reduce unwanted catches. These provisions have been omitted as they duplicate powers the UK already has in existing domestic law (in particular in the Marine and Coastal Access Act 2009 and in the Sea Fish (Conservation) Act 1967). These powers are also provided for under the draft Fisheries Bill.

References to EU entities, such as Advisory Councils, and reporting processes have been omitted. Examples include Articles 14 and 31.

Article 15 provides the European Commission the power to adopt delegated acts to make changes to the technical measures to take into account regional specificities, with the aim of achieving the objectives and targets set out in this EU Regulation and other EU law. This power has been transferred to the Secretary of State, subject to the requirement to obtain the consent of the Devolved Administrations where necessary and scientific evidence to support the technical measures adopted.

Articles 17 to 22 have been amended or omitted to remove reference to joint recommendations, which will be irrelevant to the UK as an independent coastal state.

Article 23 provides the European Commission with the power to supplement this EU Regulation by defining pilot projects that involve a system of full documentation of catches and discards. Such projects may derogate from the measures set out in the EU Regulation if, for example, they aim to improve the selectivity of fishing gear. This power has been transferred to the Secretary of State, subject to the consent of the Devolved Administrations where necessary.

The power to make implementing regulations for the purposes referred to in Article 24(1) has been transferred from the European Commission to the Secretary of State, subject to the consent of the Devolved Administrations where necessary.

Part D of Annex 5 to the EU Regulation prohibits the use of unconventional fishing methods – in particular, the catching of marine organisms using methods incorporating the use of electric current is prohibited. The Regulation contains a limited derogation from the prohibition for fishing with beam trawl using electrical pulse current in a certain specified area. The area in question currently forms part of EU waters but, following EU Exit, part of the area will be contained within UK waters. As such, the derogation has been amended so that it will only apply to UK fishing vessels following EU Exit. The derogation will therefore permit the authorisation of up to 5% of all the beam trawlers in the UK fleet to use the electric pulse trawl, along with certain other conditions that remain the same as before EU Exit.

The EU pulse derogation will now be subject to a phase-out period meaning it will cease to apply across EU waters, and therefore within UK waters, from 1 July 2021, and no new licences may be issued to any vessel during this phase-out period. Decisions on the authorisation of UK fishing vessels to use electrical pulse beam trawling until 1 July 2021 will be for UK fisheries administrations to make and the legislation ultimately provides the option for them to prohibit all electrical pulse beam trawling by foreign and UK fishing vessels in UK waters.

## Multiannual Plans

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

The technical amendments to this EU Regulation ensure that the multiannual plan for stocks fished in the Western Waters and adjacent waters continues to operate effectively for UK fisheries after EU Exit. Amendments ensure that the plan functions for UK waters, as opposed to EU waters.

The amendments to Article 4 and Article 7 ensure that the Secretary of State will request from the International Council for the Exploration of the Sea (“ICES”) the ranges of  $F_{MSY}$  (a range of values where all levels of fishing mortality within that range result in maximum sustainable yield) based on the plan, as it is defined in Article 2, and the conservation reference points, in order to safeguard the full reproductive capacity of the stocks referred to in Article 1.

Article 6 has been omitted. Advisory Councils advise the EU on fisheries matters and are, therefore, not relevant to UK fisheries management.

Article 9 provides the European Commission with the legislative power to supplement the Western Waters multiannual plan with regards to technical measures, for example limiting or prohibiting the use of certain fishing gears in so far as they are not covered by Regulation (EU) 2019/1241. This function will be transferred to the Secretary of State, DAERA, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas.

Article 13 provides the European Commission with the power to adopt delegated acts to supplement this Regulation by specifying details concerned with the landing obligation. This power has been transferred to the UK fisheries administrations to exercise in their respective areas.

The amendments take account of the changes to allocation of fishing opportunities that will result from EU Exit. Since the European Council will no longer be fixing fishing opportunities for the UK, these references have been amended. Likewise, Article 17 regarding EU evaluation processes has been omitted.

	<p>Article 14(2) is omitted because the UK fisheries administrations already have the ability to limit the capacities of their fleets.</p> <p>Article 16 on regional cooperation will no longer apply to the UK and has therefore been omitted by this instrument.</p> <p>Article 19 has been omitted because the relevant provisions it cross refers to in the European Maritime and Fisheries Fund Regulation have already been revoked in an earlier EU Exit SI as they are not relevant to the UK’s operational programme following EU Exit.</p>
<p><b>Regulation (EU) 2018/973</b> 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</p>	<p>The European Commission has the legislative power, where scientific advice indicates a change is required to adjust the geographical areas or amend the list of stocks listed in this EU Regulation, to adopt delegated acts in order to reflect that change. These functions will be transferred to the Secretary of State, DAERA, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas.</p> <p>The European Commission has legislative powers to make regulations for the conservation of the relevant stocks, where scientific advice indicates remedial action is required. These functions will be transferred to the Secretary of State, DAERA, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas.</p> <p>Article 9 provides the European Commission with the legislative power to supplement the North Sea multiannual plan with regards to technical measures, for example limiting or prohibiting the use of certain fishing gears in so far as they are not covered by Regulation (EU) 2019/1241. This function will be transferred to the Secretary of State, DAERA, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas.</p>



## EU Regulations revoked by this instrument

Regulation	Reason for Revocation
Regulation (EU) <b>2016/1139</b> of the European Parliament and of the Council establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks.	This EU Regulation does not apply to UK fishers as they do not fish in the Baltic Sea.
Regulation (EU) <b>2019/473</b> of the European Parliament and of the Council on the European Fisheries Control Agency.	This EU Regulation concerns the European Fisheries Control Agency (EFCA). EFCA is an EU body and, since we will no longer be a member of the EU, we will no longer have membership to that organisation.
Regulation (EU) <b>2019/1022</b> of the European Parliament and of the Council establishing a multiannual plan for the fisheries exploiting demersal stocks in the western Mediterranean Sea.	This EU Regulation does not apply to UK fishers as they do not fish in the western Mediterranean Sea.