
STATUTORY INSTRUMENTS

2019 No. 753

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

PART 5

TRANSFER OF LEGISLATIVE FUNCTIONS

CHAPTER 3

AMENDMENT OF THE ILLEGAL, UNREPORTED
AND UNREGULATED FISHING REGULATIONS

Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing

28.—(1) Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing is amended as follows.

(2) In Article 6(3) for the words from “The Commission” to “may” substitute “A fisheries administration may, by regulations,”.

(3) In Article 8 for paragraph 3 substitute—

“**3.** A fisheries administration may, by regulations, specify landing and transshipment declaration procedures and forms.

3A. Subject to paragraph 3B, the Secretary of State may, by regulations, specify landing and transshipment declaration procedures and forms.

3B. Where the exercise of the power to make regulations under paragraph 3 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 3A 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.”.

(4) In Article 9(1)—

- (a) for “Member States shall” substitute “A fisheries administration must”;
- (b) for “their” substitute “its”; and
- (c) for the words from “, in accordance with” to “risk management,” substitute “. A fisheries administration may, by regulations, specify benchmarks for such inspections determined

on the basis of risk management. Benchmarks specified in regulations made under this paragraph are”.

(5) In Article 12 for paragraph 5 substitute—

“5. A fisheries administration may, by regulations, amend the list of the products in Annex 1 excluded from the scope of the requirement for a catch certificate on the basis of a review of the results of the information gathered under Chapters 2, 3, 5 and 8.

6. Subject to paragraph 7, the Secretary of State may, by regulations, amend the list of the products in Annex 1 excluded from the scope of the requirement for a catch certificate on the basis of a review of the results of the information gathered under Chapters 2, 3, 5 and 8.

7. Where the exercise of the power to make regulations under paragraph 5 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 6 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.”.

(6) In Article 16(3) omit the final subparagraph.

(7) After Article 16 insert—

“Article 16A

Regulations relating to the status of approved economic operator

1. A fisheries administration may, by regulations, specify rules relating to the status of approved economic operator.

2. Subject to paragraph 3, the Secretary of State may, by regulations, specify rules relating to the status of approved economic operator

3. 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.”.

(8) In Article 27 for paragraph 1 substitute—

“1. The United Kingdom IUU vessel list is, subject to any amendments made by virtue of this Article or Article 28, the list contained in [Commission Regulation \(EU\) No 468/2010](#) establishing the EU list of vessels engaged in illegal, unreported and unregulated fishing.

1A. The Secretary of State may, by regulations, amend the United Kingdom IUU vessel list to include any vessel—

- (a) included in an IUU vessel list adopted by a regional fisheries management organisation;
- (b) in relation to which, further to measures taken pursuant to Articles 25 and 26, the information obtained in accordance with this Regulation establishes is engaged in IUU fishing; and
- (c) whose flag state has not complied with the official request referred to in Article 26(2)(b) and (c) in response to an allegation of IUU fishing.

1B. The remaining paragraphs of this Article apply to the inclusion of a vessel on the United Kingdom IUU vessel list under points (b) and (c) of paragraph 1A.”.

(9) For Article 28 substitute—

“Article 28

Removal of fishing vessels from the United Kingdom IUU vessel list

1. Subject to paragraphs 2 and 3, the Secretary of State may, by regulations, remove a fishing vessel from the United Kingdom IUU vessel list in accordance with the provisions of paragraphs 4 to 7.

2. Where a vessel was added to the United Kingdom IUU vessel list because it was included in an IUU vessel list adopted by a regional fisheries management organisation, the Secretary of State must have regard to any decisions taken with regard to that vessel by the relevant regional fisheries management organisation when making any decision regarding the removal of that vessel from the United Kingdom IUU vessel list.

3. The Secretary of State may only make regulations under this Article with the consent of the other fisheries administrations.

4. The Secretary of State may remove a fishing vessel under paragraph 1 if the Secretary of State is satisfied that the vessel’s flag state has demonstrated that—

- (a) the vessel did not engage in any of the IUU fishing activities for which it was placed on the list; or
- (b) proportionate, dissuasive and effective sanctions have been applied in response to the IUU fishing activities in question.

5. The owner or, where appropriate, the operator of a fishing vessel included on the United Kingdom IUU vessel list may submit a request to the Secretary of State to review the status of that vessel in case of inaction by the flag state under paragraph 4.

6. Where a request is submitted under paragraph 4, the Secretary of State may consider the removal of a fishing vessel under paragraph 1 if the owner or operator provides evidence as to the fact that the fishing vessel—

- (a) is no longer engaged in IUU fishing; or
- (b) has sunk or has been scrapped.

7. In all other cases, the Secretary of State may only consider removing a fishing vessel under paragraph 1 if the following conditions are fulfilled—

- (a) at least two years have elapsed since the fishing vessel was included on the United Kingdom IUU vessel list during which no further reports of alleged IUU fishing by the vessel have been received by a fisheries administration in accordance with Article 25;

- (b) the owner submits information relating to the current operation of the fishing vessel that demonstrates that it is operating in full conformity with relevant United Kingdom and international laws and any conservation and management measures that apply to any fisheries in which it is participating; and
- (c) the fishing vessel concerned, its owner or operator, maintain no operational or financial links, whether direct or indirect, with any other vessel, owner or operator presumed or confirmed to be engaged in IUU fishing.”.

(10) In Article 29—

- (a) for the heading substitute—

“Content and publicity of the United Kingdom IUU vessel list”;

- (b) in paragraph 1, for the first sentence substitute “Regulations made by the Secretary of State under Article 27(1A) must contain the following information for each vessel included on the United Kingdom IUU vessel list—”;
- (c) for paragraph 2 substitute—

“2. The Secretary of State must take such measures as the Secretary of State feels necessary to ensure the publicity of the United Kingdom IUU vessel list as amended from time to time under Article 27(1A) or Article 28. In particular, the Secretary of State must publish the vessel list on a website that is accessible to the public.”; and

- (d) omit paragraph 3.

(11) For Articles 33 and 34 substitute—

“Article 33

Establishment of a list of non-cooperating countries

1. Subject to paragraph 2, the Secretary of State may, by regulations, amend the United Kingdom list of non-cooperating countries to add any country to the list as a result of the provisions of Articles 31 and 32.

2. The Secretary of State may only make regulations under this Article with the consent of the other fisheries administrations.

3. The Secretary of State must, without delay, notify any country added to the United Kingdom list of non-cooperating countries by regulations made under paragraph 1 of—

- (a) its inclusion on the list, and
- (b) the measures applied in accordance with Article 38,

and request the country to rectify the current situation and to advise on the measures taken to ensure compliance with conservation and management measures by its fishing vessels.

4. The “United Kingdom list of non-cooperating countries” is the list contained in Council Implementing [Decision 2014/170/EU](#) establishing a list of non-cooperating third countries in fighting IUU fishing pursuant to Regulation [\(EC\) No 1005/2008](#) subject to any amendments made by virtue of this Article or Article 34.

Article 34

Removal from the list of non-cooperating countries

1. The Secretary of State may, by regulations, remove a country from the United Kingdom list of non-cooperating countries where the Secretary of State is satisfied that the country has demonstrated that the situation that warranted its inclusion on the list has been rectified.

2. In reaching a decision under paragraph 1, the Secretary of State must take into consideration whether the country concerned has taken concrete measures capable of achieving the lasting improvement of the situation.

3. The Secretary of State may only make regulations under this Article with the consent of the other fisheries administrations.”.

(12) For Article 54 substitute—

“Article 54

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⁽¹⁾.

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⁽²⁾.

4. 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⁽³⁾));
- (b) make different provision for different purposes.

Article 54A

Regulations: the Secretary of State

1. Except as specified in paragraph 2, 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.

2. A statutory instrument containing regulations made by the Secretary of State under Article 8(3) or (3A) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(1) 2010 asp 10.

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

(3) 2018 c. 16.

*Article 54B**Regulations: the Welsh Ministers*

1. Except as specified in paragraph 2, a statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of National Assembly for Wales.

2. A statutory instrument containing regulations made by the Welsh Ministers under Article 8(3) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

*Article 54C**Regulations: the Scottish Ministers*

1. Except as specified in paragraph 2, 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).

2. Regulations made by the Scottish Ministers under Article 8(3) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).

*Article 54D**Regulations: Northern Ireland*

1. Except as specified in paragraph 2, 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⁽⁴⁾ as if they were a statutory instrument within the meaning of that Act.

2. Regulations may not be made by the Department under Article 8(3) unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.”.

Regulation (EU) No 1026/2012 of the European Parliament and of the Council on certain measures for the purpose of the conservation of fish stocks in relation to countries allowing non-sustainable fishing

29.—(1) Regulation (EU) No 1026/2012 of the European Parliament and of the Council on certain measures for the purpose of the conservation of fish stocks in relation to countries allowing non-sustainable fishing is amended as follows.

(2) For Article 4 substitute—

*“Article 4**Measures in respect of countries allowing non-sustainable fishing*

1. A fisheries administration may, by regulations, adopt the measures specified in paragraph 3 in respect of a country allowing non-sustainable fishing.

2. Subject to paragraph 4, the Secretary of State may, by regulations, adopt the measures specified in paragraph 3 in respect of a country allowing non-sustainable fishing.

(4) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

3. The measures referred to in paragraphs 1 and 2 are—
- (a) identifying that country as a country allowing non-sustainable fishing;
 - (b) identifying, where necessary, the specific vessels or fleets of that country to which certain measures are to apply;
 - (c) imposing quantitative restrictions on importations of fish from the stock of common interest that have been caught under the control of that country and on importations of fishery products made of or containing such fish;
 - (d) imposing quantitative restrictions on importations of fish of any associated species, and fishery products made of or containing such fish, when caught while conducting fisheries on the stock of common interest under the control of that country; any regulations made under the powers in paragraphs 1 and 2 adopting this measure must determine the species and their catches falling within the scope of the measure;
 - (e) imposing restrictions on the use of United Kingdom ports by vessels flying the flag of that country that fish the stock of common interest and/or associated species and by vessels transporting fish and fishery products stemming from the stock of common interest and/or associated species that have been caught either by vessels flying the flag of that country or by vessels authorised by it while flying another flag; such restrictions must not be applied in cases of force majeure or distress within the meaning of Article 18 of the UNCLOS for services strictly necessary to remedy those situations;
 - (f) prohibiting the purchase by United Kingdom economic operators of a fishing vessel flying the flag of that country;
 - (g) prohibiting the reflagging of United Kingdom fishing vessels to the flag of that country;
 - (h) prohibiting the chartering of United Kingdom fishing vessels to economic operators of that country;
 - (i) prohibiting the exportation to that country of United Kingdom fishing vessels or of fishing equipment and supplies needed to fish on the stock of common interest;
 - (j) prohibiting the conclusion of private trade arrangements between United Kingdom economic operators and that country that enable a United Kingdom fishing vessel to use fishing opportunities of that country;
 - (k) prohibiting joint fishing operations involving United Kingdom fishing vessels and fishing vessels flying the flag of that country.

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.”.

(3) In Article 5(4) for “the Commission” substitute “a fisheries administration”.

(4) In Article 7 for paragraph 2 substitute—

“2. A fisheries administration may, by regulations, determine whether the conditions specified in paragraph 1 have been complied with and, where necessary, provide that the measures adopted in respect of the country concerned pursuant to Article 4 cease to apply.

3. Subject to paragraph 4, the Secretary of State may, by regulations, determine whether the conditions specified in paragraph 1 have been complied with and, where necessary, provide that the measures adopted in respect of the country concerned pursuant to Article 4 cease to apply.

4. Where the exercise of the power to make regulations under paragraph 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 the power in paragraph 3 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) For Article 8 substitute—

“Article 8

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⁽⁵⁾.

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⁽⁶⁾.

4. 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⁽⁷⁾));
- (b) make different provision for different purposes.

5. Before making any regulations under Article 4 of this Regulation, 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.

⁽⁵⁾ 2010 asp 10.

⁽⁶⁾ S.I. 1979/1573 (N.I. 12).

⁽⁷⁾ 2018 c. 16.

Article 8A

Regulations: the Secretary of State

1. Except as specified in paragraph 2, 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.

2. A statutory instrument containing regulations made by the Secretary of State under Article 4(1) or (2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

Article 8B

Regulations: the Welsh Ministers

1. Except as specified in paragraph 2, a statutory instrument containing regulations made by the Welsh Ministers under this Regulation is subject to annulment in pursuance of a resolution of National Assembly for Wales.

2. A statutory instrument containing regulations made by the Welsh Ministers under Article 4(1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

Article 8C

Regulations: the Scottish Ministers

1. Except as specified in paragraph 2, 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).

2. Regulations made by the Scottish Ministers under Article 4(1) are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).

Article 8D

Regulations: Northern Ireland

1. Except as specified in paragraph 2, 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⁽⁸⁾ as if they were a statutory instrument within the meaning of that Act.

2. Regulations may not be made by the Department under Article 4(1) unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.”.

(8) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.