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STATUTORY INSTRUMENTS

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**2019 No. 753**

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

PART 5

TRANSFER OF LEGISLATIVE FUNCTIONS

CHAPTER 1

AMENDMENT OF THE BASIC REGULATION

**Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy**

26.—(1) [Regulation \(EU\) No 1380/2013](#) of the European Parliament and of the Council on the Common Fisheries Policy is amended as follows.

(2) In Article 15 for paragraph 6 substitute—

“6. A fisheries administration may make regulations laying down a specific discard plan for a particular fishery containing the specifications referred to in points (a) to (e) of paragraph 5 of this Article.”.

(3) In Article 24 for paragraph 4 substitute—

“4. Subject to paragraph 5, the Secretary of State may make regulations establishing technical operational requirements for the recording, format and transmission of the information referred to in paragraph 1.

5. Where, in the circumstances described in paragraph 6, the exercise of the power to make regulations under paragraph 4 would be outside the jurisdiction of the Secretary of State under Article 1(7), before making such regulations under that power 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) in the circumstances described in paragraph 6;
- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) in the circumstances described in paragraph 6;
- (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) in the circumstances described in paragraph 6.

6. The circumstances referred to in paragraph 5 are circumstances where the power in paragraph 4 is treated as a power exercisable by “a fisheries administration” instead of a power exercisable by the Secretary of State.”.

(4) For Article 47 substitute—

*“Article 47**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. 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(3) 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(4));
  - (b) make different provision for different purposes.”.

## CHAPTER 2

## AMENDMENT OF THE CONTROL REGULATION

**Council Regulation (EC) No 1224/2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy**

27.—(1) Council Regulation (EC) No 1224/2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy is amended as follows.

(2) In Article 7 for paragraph 5 substitute—

“5. A fisheries administration may make regulations specifying detailed rules for the application of this Article.”.

(3) In Article 8 for paragraph 2 substitute—

“2. A fisheries administration may make regulations specifying detailed rules for the marking and identification of fishing vessels and their gear.”.

(1) 2010 asp 10.

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

(3) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(4) 2018 c. 16.

- (4) In Article 9 for paragraph 10 substitute—

“10. A fisheries administration may make regulations specifying detailed rules for the application of this Article.”.
- (5) In Article 14 for paragraph 10 substitute—

“10. A fisheries administration may make regulations specifying detailed rules for the application of this Article.”.
- (6) In Article 15 for paragraph 9 substitute—

“9. A fisheries administration may make regulations specifying detailed rules for the application of this Article.”.
- (7) In Article 17(6) for the words from “The Commission” to “Article 119, may” substitute “A fisheries administration may, by regulations,”.
- (8) In Article 21—
  - (a) in paragraph 6 for the words from “The Commission” to “Article 119, may” substitute “A fisheries administration may, by regulations,”; and
  - (b) for paragraph 7 substitute—

“7. A fisheries administration may, by regulations, specify transshipment procedures and forms.”.
- (9) In Article 22 for paragraph 7 substitute—

“7. A fisheries administration may make regulations specifying detailed rules for the application of this Article.”.
- (10) In Article 23 for paragraph 5 substitute—

“5. A fisheries administration may make regulations specifying detailed rules for the application of this Article.”.
- (11) In Article 24 for paragraph 8 substitute—

“8. A fisheries administration may, by regulations, specify landing declaration procedures and forms.”.
- (12) For Article 32 substitute—

*“Article 32*

*Detailed rules*

A fisheries administration may make regulations specifying detailed rules for the application of this Section.”.

- (13) In Article 40 for paragraph 6 substitute—

“6. A fisheries administration may make regulations specifying detailed rules for the application of this Section.”.
- (14) In Article 51 for paragraph 3 substitute—

“3. A fisheries administration may make regulations specifying detailed rules for the application of this Section.”.
- (15) In Article 52 for paragraph 2 substitute—

“2. A fisheries administration may, by regulations, modify the distances referred to in paragraph 1.”.
- (16) In Article 58—

- (a) in paragraph 8—
  - (i) for “Member States” substitute “A fisheries administration”,
  - (ii) for “EUR 50” substitute “£45”, and
  - (iii) for the final sentence substitute “A fisheries administration may amend this threshold by regulations.”; and
- (b) for paragraph 9 substitute—

“9. A fisheries administration may make regulations specifying detailed rules for the application of this Article.”.
- (17) In Article 59(3) for the final sentence substitute “A fisheries administration may amend this threshold by regulations.”.
- (18) In Article 60 for paragraph 7 substitute—

“7. A fisheries administration may make regulations specifying detailed rules on the risk-based methodology and procedure of weighing.”.
- (19) In Article 64 for paragraph 2 substitute—

“2. A fisheries administration may make regulations specifying detailed rules for the application of this Article.”.
- (20) In Article 65—
  - (a) omit paragraph 1; and
  - (b) in paragraph 2 for the final sentence substitute “A fisheries administration may amend this threshold by regulations.”.
- (21) In Article 71 for paragraph 5 substitute—

“5. A fisheries administration may, by regulations, specify the content of the surveillance report.”.
- (22) In Article 73 for paragraph 9 substitute—

“9. A fisheries administration may make regulations specifying detailed rules for the application of this Article.”.
- (23) In Article 75 for paragraph 2 substitute—

“2. A fisheries administration may make regulations specifying detailed rules for the application of this Article.”.
- (24) In Article 76 for paragraph 4 substitute—

“4. A fisheries administration may make regulations specifying detailed rules for the application of this Article.”.
- (25) In Article 78 for paragraph 2 substitute—

“2. A fisheries administration may make regulations specifying detailed rules for the application of this Article.”.
- (26) In Article 92 for paragraph 5 substitute—

“5. A fisheries administration may make regulations specifying detailed rules for the application of this Article.”.
- (27) In Article 95(1) for the words from “The Commission” to “may” substitute “A fisheries administration may, by regulations,”.
- (28) For Article 119 substitute—

*“Article 119*

*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>(5)</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>(6)</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>(7)</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>(8)</sup>));
  - (b) make different provision for different purposes.”.

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.

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(5) 2010 asp 10.

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

(7) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(8) 2018 c. 16.

**3A.** Subject to paragraph 3B, the Secretary of State may, by regulations, specify landing and transhipment 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(9).

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(10).

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(11));
- (b) make different provision for different purposes.

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(9) 2010 asp 10.

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

(11) 2018 c. 16.

*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.

*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<sup>(12)</sup> 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.

(12) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(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.
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(13).
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(14).
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(15)));

(13) 2010 asp 10.

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

(15) 2018 c. 16.

(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.

#### *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(16) 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.”.

## CHAPTER 4

### AMENDMENT OF THE MULTIANNUAL PLANS AND EFFORT REGIMES

#### **Council Regulation (EC) No 1100/2007 establishing measures for the recovery of the stock of European Eel**

30.—(1) Council Regulation (EC) No 1100/2007 establishing measures for the recovery of the stock of European Eel is amended as follows.

(2) For Article 5 substitute—

#### *“Article 5*

##### *Amendment and continuing implementation of Eel Management Plans*

1. A fisheries administration may amend an Eel Management Plan provided that, on the basis of a technical and scientific evaluation of the proposed amendments, the fisheries administration is satisfied that the requirements of this Regulation will continue to be met by the amended Plan.

2. Before amending an Eel Management Plan, a fisheries administration must consult such persons or bodies as the fisheries administration considers appropriate.

3. Following any amendment of an Eel Management Plan in accordance with this Article, the fisheries administration must, without delay, publish the amended version of the Eel Management Plan together with a notice specifying the date on which the amendments will take effect and an explanation of how they will be implemented.

4. A fisheries administration must ensure that each Eel Management Plan is correctly implemented.

5. A fisheries administration may permit fishing for eel of the species *Anguilla anguilla* the whole year round provided that the fishery in question conforms to the specifications and restrictions set out in the relevant Eel Management Plan.”.

(3) In Article 7 omit paragraph 6.

#### **Council Regulation (EC) No 1954/2003 on the management of the fishing effort relating to certain Community fishing areas and resources**

31.—(1) Council Regulation (EC) No 1954/2003 on the management of the fishing effort relating to certain Community fishing areas and resources is amended as follows.

(2) For Article 12 substitute—

#### *“Article 12*

##### *Adaptations*

1. Subject to paragraphs 2 and 3, the Secretary of State may, by regulations, adjust the maximum annual fishing effort in Article 11 either by an increase of the maximum fishing effort in a particular area or division, or by a shift of fishing effort between areas or divisions.

2. Where, in the circumstances described in paragraph 4, 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 that power 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 4;
  - (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 4;
  - (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 4.
3. Before making any regulations under this Article, the Secretary of State must—
- (a) obtain scientific information on the relevant fishing stocks; and
  - (b) consult—
    - (i) such bodies or persons as appear to the Secretary of State to be representative of the interests likely to be substantially affected by the regulations,
    - (ii) such other bodies or persons as the Secretary of State may consider appropriate.

4. The circumstances referred to in paragraph 2 are circumstances where the power in paragraph 1 is treated as a power exercisable by “a fisheries administration” instead of a power exercisable by the Secretary of State.

5. Regulations made by the Secretary of State under this Article are to be made by statutory instrument.

6. A statutory instrument containing regulations made under this Article is subject to annulment in pursuance of a resolution of either House of Parliament.

7. 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(17)));
  - (b) make different provision for different purposes.”.

## CHAPTER 5

### AMENDMENT OF THE DATA COLLECTION FRAMEWORK REGULATION

#### **Regulation (EU) 2017/1004 of the European Parliament and of the Council on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy**

32.—(1) [Regulation \(EU\) 2017/1004](#) of the European Parliament and of the Council on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy is amended as follows.

- (2) For Article 4 substitute—

*“Article 4*

*Multiannual programme*

1. A fisheries administration may, by regulations, establish a multiannual programme for the collection and management of data referred to in Article 1(1), in accordance with the content and the criteria set out in Article 5.

2. Subject to paragraph 3, the Secretary of State may, by regulations, establish a multiannual programme for the collection and management of data referred to in Article 1(1), in accordance with the content and the criteria set out in Article 5.

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.”.

(3) For Article 25 substitute—

*“Article 25*

*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>(18)</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>(19)</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>(20)</sup> as if they were a statutory instrument within the meaning of that Act.

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<sup>(18)</sup> 2010 asp 10.

<sup>(19)</sup> S.I. 1979/1573 (N.I. 12).

<sup>(20)</sup> 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.



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>(21)</sup>));
  - (b) make different provision for different purposes.”.

## CHAPTER 6

### AMENDMENT OF THE COMMON ORGANISATION OF THE MARKETS REGULATIONS

#### **Regulation (EU) No 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products**

**33.**—(1) Regulation (EU) No 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products is amended as follows.

- (2) For Article 21 substitute—

#### *“Article 21*

##### *Regulations on recognition of producer organisations and inter-branch organisations*

1. A fisheries administration may make regulations in relation to the time limits and procedures and the form of applications for the recognition of producer organisations and inter-branch organisations pursuant to Articles 14 and 16 respectively, or for the withdrawal of such recognition pursuant to Article 18.

2. When making regulations under paragraph 1, a fisheries administration must consider, where appropriate, adapting the regulations to the special characteristics of small-scale fisheries and aquaculture.”.

- (3) For Article 29 substitute—

#### *“Article 29*

##### *Regulations on production and marketing plans*

A fisheries administration may make regulations in relation to the format and structure of the production and marketing plan referred to in Article 28 and the procedure and time limits for the submission by producer organisations and the approval of such plans.”.

- (4) For Article 43 substitute—

#### *“Article 43*

##### *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>(22)</sup>.

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(21) 2018 c. 16.

(22) 2010 asp 10.

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>(23)</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>(24)</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>(25)</sup>));
- (b) make different provision for different purposes.”.

### **Council Regulation (EC) No 2406/96 laying down common marketing standards for certain fishery products**

34.—(1) Council Regulation (EC) No 2406/96 laying down common marketing standards for certain fishery products is amended as follows.

(2) In Article 2 for paragraph 3 substitute—

“3. A fisheries administration may make regulations specifying detailed rules for the application of this Article.

4. Subject to paragraph 5, the Secretary of State may make regulations specifying detailed rules for the application of this Article.

5. 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 4 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.

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

(24) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(25) 2018 c. 16.

6. Article 43 of [Regulation \(EU\) No 1379/2013](#) applies in relation to regulations made under this Article in the same way that it applies to regulations made under that Regulation.”.

(3) In Article 8 for paragraph 4 substitute—

“4. A fisheries administration may make regulations specifying detailed rules for the application of this Article, in particular as regards the method of weighing and the determination of a variation in the net weight, above or below that marked or presumed, permitted for each lot.

5. Subject to paragraph 6, the Secretary of State may make regulations specifying detailed rules for the application of this Article, in particular as regards the method of weighing and the determination of a variation in the net weight, above or below that marked or presumed, permitted for each lot.

6. Where the exercise of the power to make regulations under paragraph 4 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 5 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.

7. Article 43 of [Regulation \(EU\) No 1379/2013](#) applies in relation to regulations made under this Article in the same way that it applies to regulations made under that Regulation.”.

(4) For Article 9 substitute—

*“Article 9*

1. Pelagic species may be graded in the different categories of freshness and size on the basis of a system of sampling. This system must ensure that the freshness and size of the products contained in the lot are as uniform as possible.

2. A fisheries administration may make regulations specifying detailed rules for the application of this Article, in particular for determining the number of samples to be taken, the weight or volume of fish in each sample, and the methods for assessing the grading and verifying the weight of lots offered for sale.

3. Subject to paragraph 4, the Secretary of State may make regulations specifying detailed rules for the application of this Article, for determining the number of samples to be taken, the weight or volume of fish in each sample, and the methods for assessing the grading and verifying the weight of lots offered for sale.

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. Article 43 of [Regulation \(EU\) No 1379/2013](#) applies in relation to regulations made under this Article in the same way that it applies to regulations made under that Regulation.”.

(5) In Article 10—

- (a) in the first paragraph for “Community” substitute “United Kingdom”; and  
 (b) for the second paragraph substitute—

“A fisheries administration may, by regulations, determine the zones in question and the corresponding marketing sizes. Article 43 of [Regulation \(EU\) No 1379/2013](#) applies in relation to regulations made under this Article in the same way that it applies to regulations made under that Regulation.”.

**Council Regulation (EEC) No 2136/89 laying down common marketing standards for preserved sardines and trade descriptions for preserved sardines and sardine-type products**

35.—(1) [Council Regulation \(EEC\) No 2136/89](#) laying down common marketing standards for preserved sardines and trade descriptions for preserved sardines and sardine-type products is amended as follows.

(2) For Article 8 substitute—

*“Article 8*

A fisheries administration may make regulations in relation to the application of this Regulation, in particular the sampling plan for assessing conformity of manufacturing batches with the requirements of this Regulation.

Article 43 of [Regulation \(EU\) No 1379/2013](#) applies in relation to regulations made under this Article in the same way that it applies to regulations made under that Regulation.”.

**Council Regulation (EEC) No 1536/92 laying down common marketing standards for preserved tuna and bonito**

36.—(1) [Council Regulation \(EEC\) No 1536/92](#) laying down common marketing standards for preserved tuna and bonito is amended as follows.

(2) For Article 8 substitute—

*“Article 8*

1. A fisheries administration may make regulations in relation to the application of this Regulation.

2. Article 43 of [Regulation \(EU\) No 1379/2013](#) applies in relation to regulations made under this Article in the same way that it applies to regulations made under that Regulation.”.

## CHAPTER 7

### AMENDMENT OF THE NORTH-EAST ATLANTIC DEEP SEA STOCKS AND INTERNATIONAL WATERS REGULATION

#### **Regulation (EU) 2016/2336 of the European Parliament and of the Council establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic**

37.—(1) Regulation (EU) 2016/2336 of the European Parliament and of the Council establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic is amended as follows.

(2) For Article 7 substitute—

#### *“Article 7*

##### *Existing deep-sea fishing areas*

1. Using relevant VMS records or, if VMS records are not available, other relevant verifiable information, a fisheries administration must seek to establish the locations of the fishing activities of vessels catching more than 10 tonnes each calendar year to which it has granted deep-sea fishing authorisations.

2. On the basis of the information referred to in paragraph 1, as well as on the basis of the best available scientific and technical information, a fisheries administration may, by regulations, determine the existing deep-sea fishing areas.”.

(3) In Article 8—

(a) for paragraph 5 substitute—

“5. By way of derogation from paragraph 2, a fisheries administration may, by regulations, authorise exploratory fisheries in locations outside the existing deep-sea fishing areas provided that—

(a) an impact assessment conducted in accordance with the standards set out in the 2008 FAO International Guidelines for the management of Deep-Sea Fisheries in the High Seas has been produced and, having assessed that impact assessment, the fisheries administration is satisfied it is appropriate to authorise the exploratory fishery in question;

(b) the fisheries administration has obtained advice from a scientific advisory body and, having assessed that advice, the fisheries administration is satisfied it is appropriate to authorise the exploratory fishery in question; and

(c) the authorisation is subject to appropriate mitigation measures to prevent an encounter with or effectively protect VMEs.”;

(b) in paragraph 6 for the words from “The Commission, after” to “the Commission may” substitute “Regulations made under paragraph 5 may”;

(c) in paragraph 7 for “paragraph 6” substitute “paragraphs 5 and 6”; and

(d) in paragraph 8 for the words from “On the basis” to “by means of implementing acts,” substitute “A fisheries administration may, by regulations, adjust”.

(4) In Article 9 for paragraphs 6 and 7 substitute—

“6. On the basis of—

(a) the best scientific and technical information available;

(b) an assessment of areas where VMEs are known to occur or likely to occur, carried out by a competent scientific advisory body; and

(c) any assessments and identifications carried out by a fisheries administration,

a fisheries administration may, by regulations, establish a list of areas where VMEs are known to occur or are likely to occur.

**6A.** A fisheries administration must review any regulations made under paragraph 6 annually on the basis of advice received from a competent scientific advisory body and, where appropriate, amend the list by regulations. The fisheries administration may remove an area from the list provided that it determines, on the basis of an impact assessment and after consulting the competent scientific advisory body, that there is sufficient evidence to indicate that VMEs are not present, or that appropriate conservation and management measures have been adopted which ensure that significant adverse impacts on VMEs in that area are prevented.

**7.** A fisheries administration may review, on the basis of the best available scientific information, the VME indicators and may, by regulations, amend the list included in Annex 3.”.

(5) 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(26).

**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(27).

**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(28) as if they were a statutory instrument within the meaning of that Act.

**8.** Such regulations may—

(26) 2010 asp 10.

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

(28) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

- (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(29)));
- (b) make different provision for different purposes.”.

## CHAPTER 8

### AMENDMENT OF THE EUROPEAN MARITIME AND FISHERIES FUND REGULATION

#### **Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund**

**38.**—(1) [Regulation \(EU\) No 508/2014](#) of the European Parliament and of the Council on the European Maritime and Fisheries Fund is amended as follows.

(2) For Article 20 substitute—

#### *“Article 20*

#### *Amendment of the operational programme*

**1.** In accordance with Article 30(4) of [Regulation \(EU\) No 1303/2013](#), the procedure for amendment of the operational programme is as follows.

**2.** The Secretary of State may, in accordance with Article 49(3) of [Regulation \(EU\) No 1303/2013](#), submit a proposal for amendment of the operational programme to the monitoring committee for consultation.

**3.** Before submitting a proposal to the monitoring committee under paragraph 2, the Secretary of State must—

- (a) consult the Marine Management Organisation; and
- (b) obtain the consent of—
  - (i) the Welsh Ministers,
  - (ii) the Scottish Ministers, and
  - (iii) in Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.

**4.** The Secretary of State may, following completion of the consultation and consent requirements mentioned in paragraphs 2 and 3, make the amendment.

**5.** The Secretary of State must publish any amended version of the operational programme together with a notice of the date on which any amendments take effect.

**6.** In this Article, “monitoring committee” means the monitoring committee referred to in Article 47 of [Regulation \(EU\) No 1303/2013](#).”.

(3) In Article 21 for paragraph 2 substitute—

“**2.** Subject to paragraph 3, the Secretary of State may amend the work plan referred to in paragraph 1 provided that the amended version of the work plan continues to comply with the requirements of Article 6 of [Regulation \(EU\) 2017/1004](#).”

**3.** Where, in the circumstances described in paragraph 4, the exercise of the power to amend the work plan under paragraph 2 would be outside the jurisdiction of the Secretary

of State under Article 1(7) of [Regulation \(EU\) 1380/2013](#), before amending the work plan 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 [Regulation \(EU\) 1380/2013](#) in the circumstances described in paragraph 4;
- (b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of [Regulation \(EU\) 1380/2013](#) in the circumstances described in paragraph 4;
- (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 [Regulation \(EU\) 1380/2013](#) in the circumstances described in paragraph 4.

4. The circumstances referred to in paragraph 3 are circumstances where the power in paragraph 4 is treated as a power to amend the work plan by regulations which is exercisable by “a fisheries administration” instead of a power exercisable by the Secretary of State.

5. The Secretary of State must publish any amended version of the work plan together with a notice of the date on which any amendments take effect.”.

## CHAPTER 9

### AMENDMENT OF THE TECHNICAL CONSERVATION REGULATION

#### **Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms**

**39.**—(1) Council Regulation (EC) No 850/98 for the protection of fishery resources through technical measures for the protection of juveniles of marine organisms is amended as follows.

(2) In Article 7(5) for “under the conditions laid down in Article 46” substitute “by regulations made under Article 46”.

(3) In Article 29d—

(a) in paragraph 7 for the final subparagraph substitute—

“A fisheries administration may, by regulations, determine which gears are to be considered to have equivalent high selectivity for the purpose of point (a).”; and

(b) for paragraph 10 substitute—

“**10.** At least every two years following exit day, a fisheries administration must assess the characteristics of gears specified in paragraph 9 and obtain scientific advice on their appropriateness. If, following such advice, a fisheries administration considers the characteristics of any gears specified in paragraph 9 are no longer appropriate, it may, by regulations, amend paragraph 9.”.

(4) In Article 29h(2)—

(a) for “a Union legal act” substitute “regulations made by a fisheries administration”;

(b) for “Union vessels” substitute “United Kingdom vessels”;

(c) for “their respective Member State” substitute “a fisheries administration”; and

(d) omit “to the Commission”.

(5) For Article 45 substitute—



*“Article 45*

1. Where the conservation of stocks of marine organisms calls for immediate action, a fisheries administration may, by regulations, adopt any measures necessary in addition to or by way of derogation from this Regulation
  2. Subject to paragraph 3, where the conservation of stocks of marine organisms calls for immediate action, the Secretary of State may, by regulations, adopt any measures necessary in addition to or by way of derogation from this Regulation.
  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.
  4. Where the conservation of certain species or fishing grounds is seriously threatened, and where any delay would result in damage which would be difficult to repair, a fisheries administration may take appropriate conservation measures.”
- (6) For Article 46 substitute—

*“Article 46*

1. A fisheries administration may, by regulations, take measures for the conservation and management of stocks which—
  - (a) in the case of strictly local stocks which are of interest solely to the United Kingdom, depart from the measures laid down in this Regulation; or
  - (b) in the case of shared stocks, comprise conditions or detailed arrangements designed to limit catches by technical measures supplementing or going beyond the minimum requirements laid down in this Regulation.
2. Subject to paragraph 3, the Secretary of State may, by regulations, take measures for the conservation and management of stocks which—
  - (a) in the case of strictly local stocks which are of interest solely to the United Kingdom, depart from the measures laid down in this Regulation; or
  - (b) in the case of shared stocks, comprise conditions or detailed arrangements designed to limit catches by technical measures supplementing or going beyond the minimum requirements laid down in this Regulation.
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.
4. 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.”.
- (7) For Articles 48 and 48a substitute—

*“Article 48*

*Implementation*

1. A fisheries administration may make regulations specifying detailed rules for the implementation of this Regulation including, in particular, the rules described in paragraph 4
2. Subject to paragraph 3, the Secretary of State may make regulations specifying detailed rules for the implementation of this Regulation including, in particular, the rules described in paragraph 4
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.
4. The rules referred to in paragraphs 1 and 2 are—
- (a) technical rules for the determination of twine thickness;
  - (b) technical rules for the determination of mesh size;
  - (c) rules for sampling;
  - (d) lists and technical descriptions of devices that may be attached to nets;
  - (e) technical rules for measuring engine power;
  - (f) technical rules relating to square-meshed netting;
  - (g) technical rules relating to netting materials;
  - (h) amendments to rules for the use of mesh size combinations.
5. 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.

*Article 48a*

*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(30).
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(31).
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(32) 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(33)));
  - (b) make different provision for different purposes.”.

CHAPTER 10

AMENDMENT OF THE FISHING VESSEL CHARACTERISTICS REGULATION

**Regulation (EU) 2017/1130 of the European Parliament and of the Council defining characteristics for fishing vessels**

40.—(1) Regulation (EU) 2017/1130 of the European Parliament and of the Council defining characteristics for fishing vessels is amended as follows.

(2) In Article 5—

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(30) 2010 asp 10.

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

(32) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(33) 2018 c. 16.

(a) in paragraph 3 for the words from “The Commission” to “amendment of” substitute “The Secretary of State may, by regulations, amend”; and

(b) after paragraph 3 insert—

“4. Regulations made by the Secretary of State under paragraph 3 are to be made by statutory instrument.

5. A statutory instrument containing regulations made by the Secretary of State under paragraph 3 is subject to annulment in pursuance of a resolution of either House of Parliament.

6. Before making any regulations under paragraph 3, the Secretary of State must consult—

(a) the Scottish Ministers;

(b) the Welsh Ministers;

(c) the Department of Agriculture, Environment and Rural Affairs in Northern Ireland; and

(d) such bodies or persons as appear to the Secretary of State to be representative of the interests likely to be substantially affected by the regulations and such other bodies or persons as the Secretary of State may consider appropriate.”.