
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

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.
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(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.
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.

(1) 2010 asp 10.
(2) S.I. 1979/1573 (N.I. 12).
(3) 2018 c. 16.

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⁽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 4(1) unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.”.

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