

EXPLANATORY MEMORANDUM TO

THE SEA FISHING (ENFORCEMENT) (AMENDMENT) REGULATIONS 2020

2020 No. 516

1. Introduction

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

2. Purpose of the instrument

- 2.1 This instrument updates an out of date reference to EU fisheries legislation in the Sea Fishing (Enforcement) Regulations 2018 (S.I. 2018/849) (“the 2018 Regulations”). This reflects the EU’s introduction of new EU fishing opportunity fixing legislation for 2020. The instrument replaces a reference to fisheries conservation measures in relation to sea bass, including measures on bass catch limits for vessels and recreational bass bag limits, in EU legislation applying in 2019 with a reference to the new measures for 2020. This will enable Inshore Fisheries and Conservation Officers (IFCOs) to enforce these updated measures in England’s inshore waters.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

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

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 This instrument extends to England, Wales and Scotland.
- 4.2 This instrument applies in relation to the enforcement powers of Inshore Fisheries Conservation Officers (“IFCOs”) who are appointed for inshore fisheries conservation districts in England.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 This instrument amends the 2018 Regulations which grant IFCOs the enforcement powers in section 166(3) of the Marine and Coastal Access Act 2009. These enforcement powers relate to the EU fisheries conservation measures listed in the Schedule to the 2018 Regulations.

- 6.2 Regulation 2 of this instrument updates a reference in the Schedule to the 2018 Regulations to measures for the protection of sea bass stocks in Article 10 of Council Regulation (EU) 2019/124 fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters. It replaces it with a reference to corresponding measures in Article 10 of Council Regulation (EU) 2020/123 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters.

7. Policy background

What is being done and why?

- 7.1 This instrument updates an out of date reference to EU fisheries legislation in the 2018 Regulations in order to reflect the EU's introduction of new legislation. The new EU legislation fixes for 2020 the fishing opportunities for certain fish stocks applicable in EU waters and EU fishing vessels. The new EU legislation replaces EU legislation fixing fishing opportunities for 2019.
- 7.2 The reference being updated is to measures for the protection of sea bass stocks in Article 10 of Council Regulation (EU) 2019/124 which is replaced with a reference to sea bass measures in Article 10 of Council Regulation (EU) 2020/123.
- 7.3 New Council Regulation (EU) 2020/123 came into force on 31 January 2020, replacing the equivalent measures in the 2019 Regulation. Until the date this instrument comes into force, IFCOs do not have the necessary powers under the 2018 Regulations to enforce the new 2020 sea bass measures.
- 7.4 During this period, the enforcement gap has been addressed by the Marine Management Organisation (MMO) "cross warranting" IFCOs as Marine Enforcement Officers under section 235 of the Marine and Coastal Access Act 2009 so that they can continue to enforce the new EU sea bass measures. There have been no adverse impacts on enforcement in inshore fisheries and conservation districts resulting from this cross warranting arrangement. It should be noted that while the "cross warranting" of IFCOs has been seen as a workable interim solution, due to practical and operational issues it is not seen by the MMO or IFCA as a viable permanent one.

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

- 8.1 This instrument does not relate to the withdrawal of the UK from the EU or the European Union (Withdrawal) Act 2018.

9. Consolidation

- 9.1 There are no plans to consolidate this legislation.

10. Consultation outcome

- 10.1 The amendments within this instrument consist of an update to out of date references to EU law and consultation was not considered necessary.
- 10.2 The original consultation for the 2018 Regulations noted that "where a substantive change to an EU technical fisheries measure or where a new EU technical measure is introduced, we will amend the Sea Fishing (Enforcement) Regulations 2018 following

public notification of the proposal to all our stakeholders”. We have therefore notified the stakeholders affected – the Inshore Fisheries and Conservation Authorities and the Marine Management Organisation by letter of the policy intention of the amendments and the decision not to run a public consultation.

11. Guidance

11.1 None.

12. Impact

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

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

12.3 An Impact Assessment has not been prepared for this instrument because the amendments made by this instrument seek to maintain the status quo as far as possible, and no significant impact on business is foreseen as a result (less than +/- £5 million net annualised).

13. Regulating small business

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

13.2 No specific action is proposed to minimise regulatory burdens on small businesses as there is expected to be no significant impact on business as a direct result of this instrument as it relates to the maintenance of existing regulation.

14. Monitoring & review

14.1 Defra and its agencies will monitor and review the impact of the instrument as part of its standard policy-making procedures, and will ensure that the provisions are adhered to and implemented.

14.2 This instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Victoria Prentis MP, Parliamentary Under Secretary of State, has made the following statement:

“The statutory instrument being amended by this instrument does not contain a review clause and the Minister considers that inserting review provisions in that statutory instrument is not appropriate, because there is not expected to be a significant annualised net impact on business (greater than +/- £5 million net annualised). It would not be proportionate to undertake a review in this case, given the costs of doing so and the limited scope for change, particularly in relation to out of date references.”

15. Contact

15.1 Ross Robertson at the Department for Environment, Food and Rural Affairs, Telephone: 02087201493 or email: Ross.Robertson@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Colin Faulkner, Deputy Director for Control and Enforcement, at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.

15.3 Victoria Prentis MP, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.