

Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2019 No. 0000

**EXITING THE EUROPEAN UNION
FISHERIES, ENGLAND AND WALES
FOOD
MARINE MANAGEMENT
SEA FISHERIES**

The Fisheries (Amendment) (EU Exit) Regulations 2019

Made - - - - *****

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018⁽¹⁾.

In accordance with paragraph 1(1) of Schedule 7 to that Act, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Fisheries (Amendment) (EU Exit) Regulations 2019 and come into force on exit day.

PART 2

Amendment of primary legislation

The Sea Fish (Conservation) Act 1967

2. In section 4C(2)(a) of the Sea Fish (Conservation) Act 1967(2), for “an enforceable” substitute “a retained”.

The Fisheries Act 1981

3.—(1) The Fisheries Act 1981(3) is amended as follows.

(2) In section 2—

- (a) in subsection (1), omit “Subject to subsection (2A) below”;
- (b) omit subsection (2A);
- (c) in subsection (3), for “subsections (1) and (2A)” substitute “subsection (1)”.

(3) In section 14(2), in the words before paragraph (a), for “sections 2(2A) and 3(5)” substitute “section 3(5)”.

(4) In section 30, insofar as it extends to England and Wales and Scotland—

- (a) in the heading, for “Community rules” substitute “rules relating to sea fishing”;
- (b) in subsection (1), in the words before paragraph (a), for “enforceable Community restrictions, and enforceable EU obligations,” substitute “retained EU restrictions and retained EU obligations”;
- (c) in subsection (2), for “enforceable Community restriction or other” substitute “retained EU restriction or retained EU”;
- (d) in subsection (3), for the definition of “enforceable Community restriction” and “enforceable EU obligation” substitute—

““retained EU restriction” means a restriction that—

- (a) was created or arose by or under the EU Treaties before exit day, and
 - (b) forms part of retained EU law,
- as modified from time to time;”.

(5) In section 30, insofar as it extends to Northern Ireland—

- (a) in the heading, for “EU rules” substitute “rules relating to sea fishing”;
- (b) in subsection (1), in the words before paragraph (a), for “enforceable EU restrictions, and enforceable EU obligations,” substitute “retained EU restrictions and retained EU obligations”;
- (c) in subsection (2), for “enforceable EU restriction or other” substitute “retained EU restriction or retained EU”;
- (d) in subsection (3), for the definition of “enforceable EU restriction” and “enforceable EU obligation” substitute—

(2) 1967 c. 84. Section 4C was inserted by the Sea Fish (Conservation) Act 1992 (c. 60), section 4. Section 4C(2) was amended by S.I. 2011/1043.

(3) 1981 c. 29. Section 2(1) and (3) was amended by S.I. 1989/1190. Section 2(2A) was inserted by S.I. 1989/1190. Section 14(2) was amended by S.I. 1989/1190. In section 30(1), the words before paragraph (a) were amended in relation to England and Wales by the Marine and Coastal Access Act 2009 (c. 23), section 293(2)(a) and in relation to Scotland by the Aquaculture and Fisheries (Scotland) Act 2007 (asp 12), section 33(a); the definition of “enforceable Community restriction” and “enforceable EU obligation” in section 30(3) was amended by S.I. 2011/1043. Section 30 was amended in relation to Northern Ireland by the Fisheries Act (Northern Ireland) 2016 (c. 27). Section 31(3) was amended by S.I. 2011/1043.

““retained EU restriction” means a restriction that—

- (a) was created or arose by or under the EU Treaties before exit day, and
- (b) forms part of retained EU law,
as modified from time to time;”.

(6) Omit section 31(3).

The Marine and Coastal Access Act 2009

4.—(1) The Marine and Coastal Access Act 2009(4) is amended as follows.

(2) In section 30—

- (a) in subsection (2)(b), for “enforceable EU restrictions and enforceable EU obligations” substitute “retained EU restriction or retained EU obligation”;
- (b) in subsection (4), for the definitions of “enforceable EU obligation” and “enforceable EU restriction” substitute—

““retained EU restriction” means a restriction that—

- (a) was created or arose by or under the EU Treaties before exit day, and
- (b) forms part of retained EU law,
as modified from time to time.”.

(3) In section 37—

(a) in subsection (2)—

- (i) omit paragraph (a);
- (ii) in paragraph (b), omit “or the European Union”;

(b) omit subsection (9).

(4) In section 238—

(a) in subsection (2)(b), for “enforceable EU restrictions and enforceable EU obligations” substitute “retained EU restriction or retained EU obligation”;

(b) in subsection (10)—

(i) omit the definitions of “enforceable EU obligation” and “enforceable EU restriction”;

(ii) after the definition of “relevant British fishing boat” insert—

““retained EU restriction” means a restriction that—

- (a) was created or arose by or under the EU Treaties before exit day, and
- (b) forms part of retained EU law,
as modified from time to time;”.

(5) In section 278(6)—

(a) in the definition of “the fisheries legislation”, in paragraph (b), for “enforceable EU restrictions and enforceable EU obligations” substitute “retained EU restriction or retained EU obligation”;

(b) for the definitions of “enforceable EU obligation” and “enforceable EU restriction” substitute—

““retained EU restriction” means a restriction that—

- (a) was created or arose by or under the EU Treaties before exit day, and
 - (b) forms part of retained EU law,
- as modified from time to time.”.

PART 3

Amendment of subordinate legislation

The Merchant Shipping (Registration of Ships) Regulations 1993

5. In paragraph 5(a) of Schedule 4 to the Merchant Shipping (Registration of Ships) Regulations 1993(5), omit “and EC Number”.

The Sea Fisheries (Northern Ireland) Order 2002

- 6.—(1) The Sea Fisheries (Northern Ireland) Order 2002(6) is amended as follows.
- (2) In Schedule 2, in paragraph 3—
 - (a) in the heading, omit “(enforcement of Community rules)”;
 - (b) in sub-paragraph (1), for “enforceable Community restriction or other” substitute “retained EU restriction or retained EU”.
 - (3) In Schedule 3, in paragraph 3(2)(c), for “an obligation under EU law” substitute “a retained EU obligation”.

The Tope (Prohibition of Fishing) Order 2008

7. In article 2(2) of the Tope (Prohibition of Fishing) Order 2008(7)—
- (a) omit “another member State or in”;
 - (b) after “country”, insert “as defined in Article 4 of that Council Regulation.”.

The Eels (England and Wales) Regulations 2009

- 8.—(1) The Eels (England and Wales) Regulations 2009(8) are amended as follows.
- (2) In regulation 9, in the definition of “eel river basin”, for the words from “that has” to “Article 2(1)”, substitute “for which there is an Eel Management Plan as defined in Article 1A”.
 - (3) Omit regulation 11.

The Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order 2009

- 9.—(1) The Sea Fishing (Illegal, Unreported and Unregulated Fishing) Order 2009(9) is amended as follows.
- (2) In article 3(1), in the definition of “third country fishing vessel”, for “Community” substitute “United Kingdom”.
 - (3) In article 9—

(5) S.I. 1993/3138, to which there are amendments not relevant to these Regulations.

(6) S.I. 2002/790, amended by S.I. 2011/1043.

(7) S.I. 2008/691, amended by S.I. 2015/191.

(8) S.I. 2009/3344, to which there are amendments not relevant to these Regulations.

(9) S.I. 2009/3391, amended by S.I. 2018/643; there is another amending instrument but it is not relevant.

- (a) in paragraphs (5)(b) and (6), for “Community” substitute “United Kingdom”;
- (b) in paragraph (6A)—
 - (i) in sub-paragraph (c), for “fishing vessel flying the flag of a member State” substitute “United Kingdom fishing vessel”;
 - (ii) in sub-paragraph (d), omit the words from “in relation to” to the end;
 - (iii) in sub-paragraph (e), for “Community” substitute “United Kingdom”;
 - (iv) in sub-paragraph (f), for “fishing vessel flying the flag of a member State” substitute “United Kingdom fishing vessel”.

The Fish Labelling Regulations 2013

- 10.**—(1) The Fish Labelling Regulations 2013(**10**) are amended as follows.
- (2) In regulation 1(2), omit the words from “except Part 2” to the end.
 - (3) In regulation 2—
 - (a) in paragraph (1), in the definition “the EU Regulations”, for “EU” substitute “specified”;
 - (b) in paragraph (2)(a) and (b), for “EU”, in each place it occurs, substitute “specified”.
 - (4) Omit regulation 3.
 - (5) In regulation 6—
 - (i) in paragraph (3), for “and (5)”, in the second place it occurs, substitute “, (5) to (7) and (9)”;
 - (ii) in paragraph (7), for “the sterling equivalent of 50 euros” substitute “£45”.
 - (6) In regulation 7(3), in the definition of “operator”, for “EU” substitute “specified”.

The Sea Fishing (Points for Masters of Fishing Boats) Regulations 2014

- 11.**—(1) The Sea Fishing (Points for Masters of Fishing Boats) Regulations 2014(**11**) are amended as follows.
- (2) In regulation 2(1)—
 - (a) in the definition of “administrative sanction”, for “ another member State or” substitute “a”;
 - (b) in the definition of “third country”, for “which is not a member State” substitute “other than the United Kingdom”.
 - (3) In regulation 3—
 - (a) omit paragraph (1);
 - (b) in paragraph (2)—
 - (i) in sub-paragraph (a)(ii)—
 - (aa) in paragraphs (aa) and (bb), omit “another member State or in”;
 - (bb) in paragraph (cc), omit “another member State or”;
 - (ii) in sub-paragraph (b)(ii)—
 - (aa) in paragraphs (aa) and (bb), omit “another member State or in”;
 - (bb) in paragraph (cc), omit “another member State or”;
 - (iii) in sub-paragraph (c)(ii)—

(10) S.I. 2013/1768, amended by S.I. 2014/3104.

(11) S.I. 2014/3345, to which there are amendments not relevant to these Regulations.

- (aa) in paragraphs (aa) and (bb), omit “another member State or in”;
- (bb) in paragraph (cc), omit “another member State or”.
- (4) In regulation 8—
 - (a) in the heading, omit “other member States and”;
 - (b) in paragraphs (1), (3) and (5), in the words before sub-paragraph (a), omit “another member State or”.
- (5) In regulation 9(2)(a)—
 - (a) in the words before paragraph (i), for “Article 74 of the Control Regulation” substitute “carrying out inspections”;
 - (b) omit paragraph (ii) (together with the final “or”).

The Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015

12.—(1) The Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015(**12**) is amended as follows.

- (2) In article 2—
 - (a) in paragraph (1)(a) and (b), omit “EU and”;
 - (b) omit paragraph (2).
- (3) In article 3(1)(a), omit “(enforcement of Community rules)”.

The Grants for Fishing and Aquaculture Industries Regulations 2015

13.—(1) The Grants for Fishing and Aquaculture Industries Regulations 2015(**13**) are amended as follows.

- (2) In regulation 3—
 - (a) in paragraph (1), omit—
 - (i) “of Article 123”;
 - (ii) “EMFF”;
 - (b) in paragraph (3)—
 - (i) omit “EMFF” in the first place it occurs;
 - (ii) for “drawn up for the purposes of Article 17” substitute “referred to in Article 18”.

The Sea Fishing (Enforcement) Regulations 2018

14.—(1) The Sea Fishing (Enforcement) Regulations 2018(**14**) are amended as follows.

- (2) In regulation 2—
 - (a) in paragraph (1), omit “EU”.
 - (b) in paragraph (2), omit “EU” in both places it occurs.
- (3) In the Schedule—
 - (a) in the heading, omit “EU”;
 - (b) in the entry for Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy—

(12) [S.I. 2015/191](#).

(13) [S.I. 2015/1711](#).

(14) [S.I. 2018/849](#).

- (i) in the first column, omit “Article 42”;
- (ii) in the second column, omit the corresponding entry for Article 42;
- (c) in the entry for Council Regulation (EU) 2016/1627 of the European Parliament and of the Council on a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean, in the entry for Article 19(1), in the second column, omit “issued by the Member State”.

Date

Name
Minister of State
Department for Environment, Food and Rural
Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 (c. 16) (in particular under section 8(2)(a), (c), (d) and (g)) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of sea fisheries, inland fisheries, marine management and food. Part 2 amends primary legislation and Part 3 amends subordinate legislation.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.