

**2020 No. 367**

**EXITING THE EUROPEAN UNION**

**FISHERIES**

**The Fisheries (Technical Conservation Measures) (EU Exit)  
(Scotland) (Amendment etc.) Regulations 2020**

*Made* - - - - *10th November 2020*

*Laid before the Scottish Parliament* *11th November 2020*

*Coming into force in accordance with regulation 1*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and paragraph 1(1) and (3) of schedule 2 of the European Union (Withdrawal) Act 2018(b) and all other powers enabling them to do so.

In accordance with paragraph 4 of schedule 2 of the European Union (Withdrawal) Act 2018, they have consulted with the Secretary of State.

**Citation and commencement**

**1.**—(1) These Regulations may be cited as the Fisheries (Technical Conservation Measures) (EU Exit) (Scotland) (Amendment etc.) Regulations 2020.

(2) Subject to paragraph (3), these Regulations come into force on 21 December 2020.

(3) Regulation 7(3) comes into force immediately before IP completion day.

**The Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Order 2000**

**2.**—(1) The Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Order 2000(c) is amended as follows.

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(a) 1972 c.68 (“the 1972 Act”). The 1972 Act was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c.16) (“the 2018 Act”) with effect from exit day (see section 20 of the 2018 Act), but saved, subject to modifications, until IP completion day by section 1A of that Act. Section 1A of the 2018 Act was inserted by the European Union (Withdrawal Agreement) Act 2020 (c.1) (“the 2020 Act”), and defines “IP completion day” by reference to section 39(1) to (5) of the 2020 Act. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), section 3(3) and schedule 1, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) 2018 c.16.

(c) S.S.I. 2000/227 as amended by S.S.I. 2001/250, S.S.I. 2009/165, S.S.I. 2010/231 and S.S.I. 2019/69.

- (2) In article 2—
- (a) in paragraph (1)—
- (i) for the definition of “the Council Regulation”, substitute—
- ““Regulation 2019/1241” means Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures(a);”,
- (ii) omit the definition of “codend”,
- (iii) omit the definition of “equivalent Order”,
- (b) in paragraph (2), for “the Council Regulation” substitute “Regulation 2019/1241”.
- (3) Omit article 6.

### **The Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Amendment Order 2001**

**3.** In the Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Amendment Order 2001(b) omit article 2(a)(i).

### **The Shrimp Fishing Nets (Scotland) Order 2004**

- 4.**—(1) The Shrimp Fishing Nets (Scotland) Order 2004(c) is amended as follows.
- (2) For article 2(1) substitute—
- “(1) In this Order, “codend” has the meaning given in Article 6 of Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures(d).”.
- (3) In article 3(2)(d), omit “in accordance with Article 25 of Council Regulation (EC) No. 850/98”.
- (4) Omit article 4.

### **The Regulation of Scallop Fishing (Scotland) Order 2017**

**5.** In article 3(4) of the Regulation of Scallop Fishing (Scotland) Order 2017(e), for the words from “Annex XIII” to the end, substitute “Annex 4 of Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures(f).”.

### **The Prohibition of Fishing with Multiple Trawls (Scotland) Order 2017**

**6.**—(1) The Prohibition of Fishing with Multiple Trawls (Scotland) Order 2017(g) is amended as follows.

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(a) EUR 2019/1241.  
(b) S.S.I. 2001/250.  
(c) S.S.I. 2004/261 as amended by S.S.I. 2008/10 and S.S.I. 2019/69.  
(d) EUR 2019/1241.  
(e) S.S.I. 2017/127.  
(f) EUR 2019/1241.  
(g) S.S.I. 2017/325.

- (2) In article 2—
- (a) in paragraph (1), for the definition of “the Council Regulation”, substitute—  
““Regulation 2019/1241” means Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures(a),”,
  - (b) in paragraph (2), for “the Council Regulation” substitute “Regulation 2019/1241”.
- (3) In article 3—
- (a) in paragraph (2), for “paragraph (3)”, substitute “paragraphs (3) and (4)”,
  - (b) at the beginning of paragraph (3)(b), insert “subject to paragraph (4),”,
  - (c) after paragraph (3), insert—  
“(4) Fishing for redfish with trawls with a mesh size of less than 100 millimetres in the area described in the first sub-paragraph of paragraph 1(1) of Part C of Annex 12 of Regulation 2019/1241 is prohibited.”.

### **The Fisheries (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019**

7.—(1) The Fisheries (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019(b) are amended as follows.

- (2) Omit regulations 2 and 6.
- (3) Omit part 3.

### **Revocations and savings**

8.—(1) The following instruments are revoked—

- (a) the Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Order 2000(c),
- (b) the Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Amendment Order 2002(d),
- (c) the Prevention and Monitoring of Cetacean Bycatch (Scotland) Order 2005(e),
- (d) the Sea Fishing (Transitional EU Technical Conservation Measures) (Scotland) Order 2010(f).

(2) Notwithstanding paragraph (1), the instruments referred to in that paragraph continue to have effect for the purposes of any investigation or legal proceedings relating to any acts or omissions which occurred before 21 December 2020 and constitute an offence under any of those instruments.

*FERGUS EWING*  
A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
10th November 2020

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(a) EUR 2019/1241.  
(b) S.S.I. 2019/69.  
(c) S.S.I. 2000/53 as amended by S.S.I. 2002/81 and S.S.I. 2019/69.  
(d) S.S.I. 2002/81.  
(e) S.S.I. 2005/330.  
(f) S.S.I. 2010/100 as amended by S.S.I. 2011/59 and S.S.I. 2019/69.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (c.68) and paragraph 1(1) and (3) of schedule 2 of the European Union (Withdrawal) Act 2018 (c.16). These Regulations make miscellaneous amendments to legislation concerning technical conservation measures for sea fisheries to reflect the coming into force of Regulation (EU) 2019/1241 of the European Parliament and of the Council (OJ No. L 198, 25.7.2019, p.105) (“the Technical Conservation Regulation”) and the consequential repeal and amendment of other EU instruments. These Regulations also address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a) of the 2018 Act) arising from the withdrawal of the United Kingdom from the European Union.

Regulations 2 to 6 make minor amendments to the following subordinate legislation to replace, amend or remove out of date references to, and in respect of, Council Regulation (EC) No 850/98 (OJ No. L 125, 27.4.1998, p.1): the Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Order 2000; the Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Amendment Order 2001; the Shrimp Fishing Nets (Scotland) Order 2004; the Regulation of Scallop Fishing (Scotland) Order 2017; and the Prohibition of Fishing with Multiple Trawls (Scotland) Order 2017.

In addition, regulations 2 and 4 amend the definition of “codend” to have the same the meaning as in the Technical Conservation Regulation. Regulations 2 and 4 also revoke redundant powers of British sea-fishery officers, which are now provided for by the common enforcement powers in section 35(1) of the Aquaculture and Fisheries (Scotland) Act 2013 (asp 7).

Regulation 6 also amends the minimum mesh size requirement for fishing for redfish with trawls in the area described in the first sub-paragraph of paragraph 1(1) of Part C of Annex 12 of the Technical Conservation Regulation.

Regulation 7 revokes provisions in the Fisheries (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019 which are redundant as a result of these Regulations.

Regulation 8 revokes subordinate legislation which is now redundant and makes saving provision.

A Business and Regulatory Impact Assessment has not been produced for this instrument as no significant impact upon business, charities or voluntary bodies is foreseen.

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