
DRAFT STATUTORY INSTRUMENTS

2019 No.

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

PART 2

AMENDMENT OF THE BASIC REGULATION

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

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

(2) For Article 1 substitute—

“Article 1

*Powers and obligations of fisheries administrations
in relation to relevant retained direct EU legislation*

1. Any obligation of, or having effect in relation to, “a fisheries administration” under this Regulation or any relevant retained direct EU legislation is an obligation of, or having effect in relation to, a particular fisheries administration to the extent that the obligation is within the jurisdiction of that administration.

2. Any power exercisable by “a fisheries administration” under this Regulation or any relevant retained direct EU legislation is a power exercisable by a particular fisheries administration to the extent that the power is within the jurisdiction of that administration.

3. An obligation or power is within the jurisdiction of the Scottish Ministers if it would be within the legislative competence of the Scottish Parliament to impose or confer that obligation or power on, or in relation to, the Scottish Ministers (if it were included in an Act of the Scottish Parliament) where, to the extent that it relates to—

- (a) fishing and aquaculture in the Scottish zone;
- (b) fishing outside that zone by Scottish fishing vessels;
- (c) any fish or aquaculture organisation applying for recognition as a producers’ organisation, or recognised as such, whose area covered by the application for recognition, in so far as within the United Kingdom or United Kingdom waters, is wholly or mainly within Scotland or the Scottish zone,

it is treated as a function exercisable in or as regards Scotland for the purposes of the Scotland Act 1998(1).

(1) 1998 c.46. S.I. 1999/1126 determines the extent of the area of the sea which is to be treated as adjacent to Scotland for the purposes of the definition of the Scottish zone.

4. An obligation or power is within the jurisdiction of the Welsh Ministers if—
- (a) it would be within the legislative competence of the National Assembly for Wales to impose or confer that obligation or power on, or in relation to, the Welsh Ministers (if it were included in an Act of that Assembly); or
 - (b) it could have been imposed or conferred by, or relates to a function exercisable by the Welsh Ministers immediately before exit day.

5. An obligation or power is within the jurisdiction of the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, if it would be within the legislative competence of the Northern Ireland Assembly to impose or confer that obligation or power on, or in relation to, the Department (if it were included in an Act of that Assembly) where, to the extent that it relates to—

- (a) fishing and aquaculture in the Northern Ireland zone;
- (b) fishing outside that zone by Northern Ireland fishing vessels;
- (c) any fish or aquaculture organisation applying for recognition as a producers' organisation, or recognised as such, whose area covered by the application for recognition, in so far as within the United Kingdom or United Kingdom waters, is wholly or mainly within Northern Ireland or the Northern Ireland zone,

it is treated as a function exercisable in or as regards Northern Ireland for the purposes of the Northern Ireland Act 1998⁽²⁾.

6. An obligation or power is within the jurisdiction of the Marine Management Organisation⁽³⁾, if it corresponds to any obligation or power imposed or conferred by EU law which immediately before exit day was imposed on or in relation to, or exercisable by, the Marine Management Organisation by virtue of any enactment.

7. An obligation or power is within the jurisdiction of the Secretary of State, if—
- (a) it applies in relation to an English fishing vessel;
 - (b) it is not within the jurisdiction of a devolved fisheries administration or the Marine Management Organisation; or
 - (c) it is a power exercisable by the Secretary of State, or an obligation of or having effect in relation to the Secretary of State, concurrently or jointly with a devolved fisheries administration.

8. Where functions under this Regulation or any relevant retained direct EU legislation are, by virtue of paragraphs 3 to 7, exercisable by more than one fisheries administration concurrently, paragraph 1 does not require any obligation to be met by, or in relation to, a particular fisheries administration to the extent that the obligation has been or is being met by, or in relation to, any other fisheries administration.

9. For this purpose—
- (a) 'a fisheries administration' means the Secretary of State, a devolved fisheries administration or the Marine Management Organisation, and 'a devolved fisheries administration' means the Scottish Ministers, the Welsh Ministers or, in Northern Ireland, the Department of Agriculture, Environment and Rural Affairs;
 - (b) 'English fishing vessel' means a fishing vessel which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 and whose entry in the

(2) 1998 c.47. S.I. 2002/791 determines the extent of the area of the sea which is to be treated as adjacent to Northern Ireland for the purposes of the definition of the Northern Ireland zone.

(3) The Marine Management Organisation was established by section 1 of the Marine and Coastal Access Act 2009 (c.23).

register specifies a port in England as the port to which the vessel is to be treated as belonging;

- (c) ‘Northern Ireland fishing vessel’ means a fishing vessel which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995⁽⁴⁾ and whose entry in the register specifies a port in Northern Ireland as the port to which the vessel is to be treated as belonging;
- (d) ‘Northern Ireland zone’ has the same meaning as in section 98(1) of the Northern Ireland Act 1998;
- (e) ‘Scottish fishing vessel’ means a fishing vessel which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging;
- (f) ‘Scottish zone’ has the same meaning as in section 126(1) of the Scotland Act 1998.’.

(3) In Article 3—

- (a) for “The CFP shall” substitute “In exercising its functions under relevant retained direct EU legislation, a fisheries administration must”;
- (b) in point (a) omit “Union, regional,”;
- (c) omit point (b);
- (d) in point (f) omit “, in particular Advisory Councils,”; and
- (e) omit points (g), (h) and (j).

(4) In Article 4(1)—

- (a) for “For the purpose of this Regulation the following definitions shall apply” substitute “The following definitions apply in this Regulation and, to the extent that they are not already defined, in relevant retained direct EU legislation”;
- (b) in point (1) at the end insert “on the Functioning of the European Union”;
- (c) omit point (3);
- (d) omit point (5);
- (e) in point (6) for “a Member State” substitute “the United Kingdom”;
- (f) in point (17) omit “Union”;
- (g) omit point (22);
- (h) omit point (23);
- (i) in point (24) for “[Council Regulation \(EEC\) No 2930/86](#)” substitute “[Regulation \(EU\) 2017/1130](#) of the European Parliament and of the Council defining characteristics for fishing vessels”;
- (j) in point (31) omit “Union”;
- (k) in point (37)—
 - (i) for “a third” substitute “another”, and
 - (ii) omit “, in exchange for financial compensation from the Union, which may include sectoral support”; and
- (l) at the end insert—

(4) 1995 c.21. Section 15 was amended by [S.I. 2002/794](#) and [2015/664](#).

“(38) ‘United Kingdom fishing vessel’ means a fishing vessel which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995⁽⁵⁾;

(39) ‘United Kingdom fleet’ means all United Kingdom fishing vessels;

(40) ‘United Kingdom waters’ has the same meaning as “British Fishery Limits” as contained in section 1 of the Fishery Limits Act 1976⁽⁶⁾.

(41) ‘third country’ means any country that is not the United Kingdom;

(42) ‘competent authority’ means any person or body to whom a fisheries administration has delegated the function in question;

(43) ‘relevant retained direct EU legislation’ means retained direct EU legislation corresponding to any direct EU legislation adopted under the EU common fisheries policy;

(44) ‘Fisheries Rules’ means relevant retained direct EU legislation;

(45) ‘a fisheries administration’ is to be interpreted in accordance with Article 1. A reference to ‘the other fisheries administrations’ is to be interpreted accordingly and, for this purpose, the fisheries administrations are listed in Article 1(9)(a). A reference to the ‘fleet’ of a fisheries administration is a reference to all United Kingdom fishing vessels which are—

(a) in the case of the Secretary of State and the Marine Management Organisation, registered to a port in England;

(b) in the case of the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, registered to a port in Northern Ireland;

(c) in the case of the Scottish Ministers, registered to a port in Scotland; or

(c) in the case of the Welsh Ministers, registered to a port in Wales.”.

(5) Omit Title 1 of Part 3.

(6) In Article 10—

(a) in paragraph 1—

(i) omit “and without prejudice to the respective competences under the Treaty”, and

(ii) in point (b) for “Articles 6 and 9” substitute “Article 9”; and

(b) in paragraph 2(a) omit “, in accordance with Article 18”.

(7) Omit Articles 11 to 13.

(8) In Article 14—

(a) in paragraph 1—

(i) for “Member States” substitute “a fisheries administration”, and

(ii) omit “and taking into account the opinions of the relevant Advisory Councils”; and

(b) in paragraph 2, for “Member States” substitute “A fisheries administration”.

(9) In Article 15—

(a) for paragraphs 1 and 2 substitute—

“1. All catches of species which are subject to catch limits caught during fishing activities in United Kingdom waters, or by United Kingdom fishing vessels outside United Kingdom waters in waters not subject to third countries’ sovereignty or jurisdiction, shall

(5) 1995 c. 21.

(6) 1976 c. 86. By virtue of section 1(1) of the Fishery Limits Act 1976, “British fishery limits” are designated by [S.I. 2013/3161](#); section 1 of the Fishery Limits Act 1976 was amended (in relation to England and Wales) by paragraph 2(2) and (3) of Schedule 4, and Part 1 of Schedule 22, to the Marine and Coastal Access Act 2009 (c. 23).

be brought and retained on board the fishing vessels, recorded, landed and counted against the quotas where applicable, except when used as live bait.

2. Paragraph 1 is without prejudice to any of the United Kingdom's international obligations.”;

- (b) omit paragraph 3;
 - (c) in paragraph 4(a) for “a Union legal act adopted in the area of the CFP” substitute “relevant retained direct EU legislation”;
 - (d) in paragraph 5—
 - (i) omit “referred to in Articles 9 and 10 and, where relevant further specified in accordance with Article 18”;
 - (ii) in point (a) omit the words from “, such as the technical measures referred to in Article 7(2),” to the end, and
 - (iii) in point (c) omit the words from “For a transitional period of four years” to the end;
 - (e) omit paragraph 7;
 - (f) in paragraph 8 for “the Member State” substitute “a fisheries administration”;
 - (g) for paragraph 9 substitute—

“9. For stocks subject to the landing obligation, a fisheries administration may use a year to year flexibility of up to 10% of the landings that it has permitted. For this purpose, a fisheries administration may allow landing of additional quantities of the stock that is subject to the landing obligation provided that such quantities do not exceed 10% of the quota allocated.”;
 - (h) in paragraph 13 for “Member States shall” in each place it occurs, substitute “a fisheries administration must”; and
 - (i) omit paragraph 14.
- (10) Omit Titles 3 and 4 of Part 3.
- (11) Omit Article 21.
- (12) In Article 22—
- (a) in paragraph 1—
 - (i) for “Member States shall” substitute “A fisheries administration must”, and
 - (ii) for “their fleet to their fishing opportunities” substitute “its fleet to the fishing opportunities available to it”;
 - (b) omit paragraphs 2 to 4;
 - (c) for paragraph 7 substitute—

“7. A fisheries administration must, jointly with the other fisheries administrations, ensure that the fishing capacity of the United Kingdom fleet does not exceed at any time 231,106 GT or 909,141 kW.”.
- (13) In Article 23—
- (a) in paragraph 1—
 - (i) for “Member States shall” substitute “A fisheries administration must”, and
 - (ii) for “their fleets” in both places it occurs, substitute “its fleet”;
 - (b) omit paragraphs 2 to 4.
- (14) In Article 24—
- (a) in paragraph 1—

- (i) for “Member States shall” substitute “A fisheries administration must”,
- (ii) omit “Union”, and
- (iii) for “flying their flag” substitute “in its fleet”;
- (b) omit paragraph 2;
- (c) in paragraph 3—
 - (i) for “Commission shall” substitute “Secretary of State must”,
 - (ii) for “Union” in each place it occurs, substitute “United Kingdom”,
 - (iii) for “that it receives pursuant to paragraph 2” substitute “referred to in paragraph 1”, and
 - (iv) for “It shall provide public access” substitute “Public access must be provided”.
- (15) In Article 25—
 - (a) in paragraph 1—
 - (i) for the first paragraph substitute—

“1. A fisheries administration must, in accordance with the rules adopted in the area of data collection, collect biological, environmental, technical and socio-economic data necessary for fisheries management, manage those data and make them available to end-users. Those data shall, in particular, enable the assessment of:”, and
 - (ii) in point (c), for “Union” substitute “United Kingdom”;
 - (b) in paragraph 2—
 - (i) omit point (d), and
 - (ii) in point (e) omit “Union”;
 - (c) omit paragraphs 3 to 5;
 - (d) omit paragraph 7.
- (16) For Article 26 substitute—

“Article 26

Consulting scientific bodies

A fisheries administration must consult appropriate scientific bodies. Consultations of scientific bodies shall take into account the proper management of public funds, with the aim of avoiding duplication of work by such bodies.”.

- (17) For Article 27 substitute—

“Article 27

Research and Scientific Advice

A fisheries administration must carry out fisheries and aquaculture research and innovation programmes.”.

- (18) In Article 28—
 - (a) in paragraph 1, for “the Union shall conduct its external fisheries relations” substitute “a fisheries administration must conduct the external fisheries relations of the United Kingdom”;
 - (b) in paragraph 2—

- (i) for “the Union shall” substitute “a fisheries administration must”,
 - (ii) in point (b) for “Union” substitute “United Kingdom”,
 - (iii) in point (c) for “Union” substitute “United Kingdom”, and
 - (iv) for point (d) substitute—
 - “(d) ensure that the fishing activities of United Kingdom fishing vessels outside of United Kingdom waters are based on the same principles and standards as those applicable under the law of the United Kingdom, while promoting a level-playing field for United Kingdom operators vis-a-vie operators from other countries;” and
 - (c) omit paragraph 3.
- (19) In Article 29—
- (a) in the heading for “Union” substitute “United Kingdom”;
 - (b) in paragraph 1 for “The Union shall” substitute “A fisheries administration must”;
 - (c) in paragraph 2—
 - (i) for “Union” in the first place it occurs, substitute “United Kingdom”; and
 - (ii) for “The Union shall” substitute “A fisheries administration must”;
 - (d) in paragraph 3, for “The Union shall” substitute “A fisheries administration must”; and
 - (e) in paragraph 4, for “The Union shall” substitute “A fisheries administration must”.
- (20) In Article 30—
- (a) for “The Union shall”, substitute “A fisheries administration must”; and
 - (b) omit “, including through the European Fisheries Control Agency (“the Agency”),”.
- (21) In Article 31—
- (a) in paragraph 1, for “Union” substitute “United Kingdom”;
 - (b) in paragraph 2—
 - (i) for “the Union shall” substitute “a fisheries administration must”,
 - (ii) for “Union” in the second place it occurs, substitute “United Kingdom”,
 - (iii) for “Union fleets” in the first place it occurs, substitute “the United Kingdom fleet”, and
 - (iv) for “Union fleets” substitute “United Kingdom fleet’s”;
 - (c) in paragraph 3—
 - (i) for “Union” in the first place it occurs, substitute “United Kingdom fishing”,
 - (ii) for “Union” in the second and third places it occurs, substitute “United Kingdom”, and
 - (iii) for “the Union shall” substitute “a fisheries administration must”;
 - (d) in paragraph 4, for “Union” in both places it occurs, substitute “United Kingdom”;
 - (e) in paragraph 5, for “Union” substitute “United Kingdom”;
 - (f) in paragraph 6—
 - (i) for “The Union shall” substitute “A fisheries administration must”, and
 - (ii) in point (a) for “Union” substitute “United Kingdom”;
 - (g) in paragraph 7—
 - (i) omit “at Union level”,

- (ii) for “Union” substitute “United Kingdom”, and
- (iii) for “non-Union” substitute “ non-United Kingdom”;
- (h) in paragraph 8—
 - (i) for “Member States shall” substitute “A fisheries administration must”,
 - (ii) for “Union fishing vessels flying their flag and” substitute “United Kingdom fishing vessels”, and
 - (iii) for “Union waters” substitute “United Kingdom waters”;
- (i) in paragraph 9—
 - (i) for “Union fishing fleet register” in both places it occurs, substitute “United Kingdom fishing fleet register”,
 - (ii) for “the competent authorities of the flag Member State” substitute “a fisheries administration”,
 - (iii) for “vessel flagged in the Union” substitute “United Kingdom fishing vessel”, and
 - (iv) for “Union law” substitute “relevant law”; and
- (j) omit paragraph 10.
- (22) In Article 32—
 - (a) in paragraph 1—
 - (i) for “The Union shall” substitute “A fisheries administration may”, and
 - (ii) in point (a) for “Union” substitute “United Kingdom fishing”; and
 - (b) for paragraph 2 substitute—

“2. Where financial assistance is provided under a Sustainable fisheries partnership agreement—

 - (a) any financial assistance for sectoral support must be decoupled from payments for access to fisheries resources; and
 - (b) the agreement must require the achievement of specific results as a condition for payments and the fisheries administration must closely monitor progress.”.
- (23) In Article 33—
 - (a) in the heading for “Union” substitute “United Kingdom”;
 - (b) in paragraph 1—
 - (i) for “the Union shall” in each place it occurs, substitute “a fisheries administration must”, and
 - (ii) for “Union operators” substitute “operators within the United Kingdom”; and
 - (c) in paragraph 2, for “the Union shall” substitute “a fisheries administration must”.
- (24) In Article 34—
 - (a) in paragraph 1—
 - (i) for “the Commission shall” substitute “a fisheries administration must, in conjunction with the other fisheries administrations, seek to”,
 - (ii) omit “Union” in the first place it occurs,
 - (iii) for “Union” in the second place it occurs, substitute “United Kingdom”, and
 - (iv) in point (b) for “Union” substitute “relevant”;
 - (b) omit paragraphs 2 to 6.

- (25) In Article 35—
 - (a) in paragraph 1—
 - (i) omit point (b),
 - (ii) in points (c), (d) and (e) for “Union” in each place it occurs, substitute “United Kingdom”; and
 - (b) in paragraph 2 for “Union” substitute “United Kingdom”.
- (26) In Article 36—
 - (a) for paragraph 1 substitute—

“1. Compliance with Fisheries Rules is to be ensured through an effective fisheries control system, including the fight against IUU fishing.”;
 - (b) in paragraph 2—
 - (i) omit “of the CFP”,
 - (ii) omit point (b),
 - (iii) omit point (e), and
 - (iv) in the last sentence, for “The Union shall” substitute “A fisheries administration must”; and
 - (c) omit paragraphs 3, 4 and 5.
- (27) Omit Articles 37 to 46.
- (28) In Article 48 omit paragraphs 2 to 5.
- (29) Omit Articles 49 to 51.
- (30) Omit Annexes 2 and 3.