

EXPLANATORY MEMORANDUM TO
THE COMMON FISHERIES POLICY (AMENDMENT ETC.) (EU EXIT)
REGULATIONS 2019

2019 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The EU's Common Fisheries Policy ("CFP") regulates fishing activities and the enforcement of those activities in UK waters. The CFP comprises numerous EU Regulations which will automatically be transferred into UK law on exit day, by virtue of the European Union (Withdrawal) Act 2018, and will have the status of 'retained direct EU legislation'. These EU Regulations require amendment in order to operate effectively in UK law after the UK has exited from the European Union, and therefore the CFP. This instrument uses the powers in section 8 of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 to make the necessary amendments.

Explanations

What did any relevant EU law do before exit day?

- 2.2 The CFP comprises approximately 100 EU Regulations which impose a common approach to the sustainable management of fisheries across the European Union and its waters (currently UK waters are part of EU waters). The CFP governs fishing effort (the days fishermen can spend at sea fishing for certain stocks), the amount of fish caught for certain species (quotas), and sets technical rules that control, for example, the types of fishing equipment that can be used. Member States are responsible for the implementation of CFP management measures. In the UK, this responsibility is devolved and undertaken by the four fisheries administrations. This includes licensing vessels, managing quota and ensuring compliance with CFP and UK rules. The EU Regulations have direct effect in UK law. The CFP "Basic Regulation" (Regulation (EU) No 1380/2013) contains the overarching aims and objectives of the CFP, but the rest of the CFP regulates the detail of many aspects of fisheries management, in particular:
 - (i) The Control Regulations: these contain the rules for compliance with the CFP legislation, including requirements to produce catch certificates and sales notes, the vessel monitoring and inspection provisions and the enforcement of the CFP generally. There are specific Regulations which impose rules for particular species only, such as for highly migratory fish. This Part also covers the Sustainable Management of External Fishing Fleets, a framework for

authorising EU vessels to operate outside EU waters, and non-EU vessels to operate in EU waters.

- (ii) The Regulations on Illegal, Unregulated and Unreported fishing: these aim to prevent, deter and eliminate illegal fishing activities. They establish the requirement to produce catch certificates and lists of vessels which are in breach of existing rules and prohibit the import of fish from vessels or countries which fish illegally.
- (iii) The multiannual plans and effort regimes: these Regulations establish long-term plans for the recovery, preservation or management of fish stocks, including managing how much time fleets can spend at sea.
- (iv) The data collection frameworks: these Regulations set out rules for the collection, management and use of data, in particular scientific data relating to fish stocks.
- (v) The Regulations on the Common Organisation of the Markets (CMO): these Regulations provide for the collective management of producer organisations, common marketing standards, rules on consumer information, competition rules and the transparency and efficiency of the market as a whole.
- (vi) Regulations relating to the protection of vulnerable marine ecosystems and fish stocks in the deep seas and high seas: these impose technical and control measures to ensure that vulnerable stocks are protected.
- (vii) The regulations of the European Maritime and Fisheries Fund: these establish an EU funding scheme to support the implementation of the CFP and CMO.
- (viii) Other provisions: setting defining characteristics for fishing vessels, establishing an EU vessel fleet list and technical conservation measures governing gear size and design, minimum mesh sizes, by catch limits and other measures for the conservation of resources and ecosystems.

2.3 Annex B to this explanatory memorandum describes the amendments to the above CFP regulations made by this SI. There are additional regulations that form part of the CFP, these will be amended in the same way in separate instruments. CFP Regulations which are not amended in this instrument will be amended at a later date because either they were not in force when this instrument was drafted, they were listed for revocation by the EU, or they were less critical to the effective management of our waters than the Regulations amended by this instrument.

2.4 Provisions in the EU Regulations which contain powers of the EU to make legislation have been left unamended by this instrument, except that a small number of powers which are not required by the UK have been omitted. That is because all provisions which contain powers that are to be transferred to UK authorities will be addressed in a later instrument, which will be subject to the 'affirmative' Parliamentary procedure.

2.5 The CFP is implemented throughout the EU through directly applicable EU Regulations.

Why is it being changed?

2.6 The technical changes made by this instrument are necessary to ensure that the rules contained in the CFP continue to operate effectively, so that fishing within UK waters continues to be regulated in a sustainable manner. This instrument imposes the rules

of the CFP on UK vessels wherever they are, subject to different rules stemming from international agreements, and on all vessels within UK waters.

What will it now do?

- 2.7 This instrument makes the minimum necessary technical fixes to address deficiencies within CFP legislation and enable the same sustainable fisheries management in UK waters after exit as is currently provided for by the CFP. This instrument has the effect of preserving the status quo, so that there is immediate continuity in the regulation of UK waters when the UK exits the EU.
- 2.8 No substantive changes are made to the effect of the CFP and no change to the way in which fisheries conduct their activities is expected. Some functions which are currently carried out by the EU will be carried out by fisheries administrations. A broad description of the amendments being made is given at section 7, and a detailed, regulation-by-regulation explanation given in Annex B.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2018 were presented to the Sifting Committees on 27 November 2018. The Commons and Lords Sifting Committees disagreed with the Government's proposal that the instrument follow the negative procedure, and the Committees recommended that this instrument be subject to the affirmative resolution procedure. Their recommendations were published on gov.uk on 13 December 2018 and 12 December 2018 respectively.
- 3.2 The Commons Sifting Committee made its recommendation on the basis of the following points:
 - The draft Regulations appear to propose the transfer of legislative functions.
 - The draft Regulations propose the transfer of fee raising powers.
 - The draft Regulations remove provisions and obligations requiring independent evaluations or assessments, reporting, monitoring and evaluation, and the publication information or data.
 - The Committee also highlighted that the UK fisheries industry is an important and highly sensitive policy area.

The Committee considered this was sufficient to make the instrument mandatory affirmative.

- 3.3 The Lords Sifting Committee made its recommendation because it believed the explanatory memorandum failed to demonstrate that the proposed amendments would not change the management or regulation of UK fisheries, or adversely impact on the sector. In addition, it believed the instrument confers legislative functions and fee raising powers. The Committee considered this was sufficient to make the instrument mandatory affirmative.
- 3.4 Since it was presented to the Sifting Committees, the explanatory memorandum has been amended and an Annex added in order to address the issues and concerns raised. The additional detail describes the purpose of each regulation; provides a more extensive explanation of the proposed amendments; and demonstrates that the effect of the Regulations is to preserve the status quo so far as is possible given that the UK

will no longer be a Member State and therefore no longer part of, or subject to, European Union institutions and bodies.

- 3.5 Consequently, George Eustice MP, Minister of State for Agriculture, Fisheries and Food, has agreed for this instrument to be made subject to the affirmative procedure.

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)

- 3.6 The territorial application of this instrument includes Scotland and Northern Ireland.

4. Extent and Territorial Application

- 4.1 The territorial extent is the United Kingdom.
4.2 The territorial application is the United Kingdom.

5. European Convention on Human Rights

- 5.1 The Minister of State for Agriculture, Fisheries and Food, George Eustice MP, has made the following statement regarding Human Rights:

“In my view, the provisions of the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 Section 8(1) of the European Union (Withdrawal) Act 2018 provides that a Minister of the Crown may by regulations make such provision as the Minister considers appropriate to prevent, remedy or mitigate any failure of retained EU law to operate effectively or any other deficiency in retained EU law arising from the withdrawal of the United Kingdom from the EU. This instrument is made in exercise of these powers.
6.2 Paragraph 21 of Schedule 7 to the Act specifies that the power to modify retained EU law includes a power to make supplementary, incidental and consequential provision and the power to restate retained EU law in a clearer or more accessible way.
6.3 This SI operates together with the Fisheries (Amendment) (EU Exit) Regulations 2019, which provide technical corrections to correct deficiencies within *domestic* legislation. The two SIs work together to amend the suite of fisheries management legislation that applies to the UK.

7. Policy background

What is being done and why?

- 7.1 The Government remains committed to retaining existing standards of effective fisheries management. This instrument is required to ensure that after the UK leaves the EU there is immediate continuity in regulation, and the same environmental standards are met. In accordance with the provisions of section 8 of the European Union (Withdrawal) Act 2018, all amendments to the CFP have arisen as a result of the UK's departure from the EU and therefore the amendments do not represent any changes in policy regarding fisheries management. Over time, the fisheries administrations will amend retained EU law in order to implement their own policies.
7.2 We do not consider any other policy options in this explanatory memorandum, because the deadline of the UK's departure from the EU means that the priority is to

ensure essential legislation operates in UK law in time for EU exit, so that the UK is not left with a legislative deficit upon exit. The CFP is the main body of law which regulates fishing activities and enforcement in UK waters.

- 7.3 The intention of this SI is to make simple technical operability changes. Where provisions place obligations on EU Member States to do something, these references to Member States are mostly changed to “a fisheries administration”, which is a new defined term that applies to all of the CFP Regulations being retained in domestic law.
- 7.4 The definition ensures that “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. This definition has the effect of preserving the status quo, so that the administration which currently carries out the function in question, or which exercises the power in question, continues to do so. This instrument does not alter the devolution settlements in any way.
- 7.5 For example, Article 90 of the Control Regulation (Council Regulation (EC) No 1224/2009) provides a list of activities which can be considered as serious infringements, to be determined by the competent authority of the relevant Member State. Fisheries management is devolved, therefore the devolved administrations are the competent authorities in each of their territories. Regulation 4(82) of this instrument amends Article 90 so that all references to “Member State(s)” are changed to “a fisheries administration”. The definition of a fisheries administration interprets these references so as to provide for the devolved fisheries authorities to carry out these functions, as they do now.
- 7.6 This instrument makes a number of amendments that are common to many of the Regulations. Below is an explanation of these repeated amendments, but for a detailed explanation of specific amendments to Regulations, please see Annex B to this explanatory memorandum.
- 7.7 Duplication of domestic law:
Provisions in EU Regulations which duplicate existing UK legislation are removed as are provisions that are not capable of operating within the UK, or which have no relevance to the UK outside of the EU. A number of provisions already exist as a matter of UK domestic law. For example, Articles 6, 7 and 8 of the CFP Basic Regulation (Regulation (EU) No 1380/2013), which relate to conservation measures, are omitted by this instrument because UK legislation already provides UK fisheries administrations with powers relating to conservation (for example, powers in the Sea Fish (Conservation) Act 1967). Other provisions that merely duplicate what is already in domestic law are omitted accordingly.
- 7.8 Areas where the UK has no fishing interest:
A number of provisions in the CFP relate to specific regions in which UK vessels do not fish. One such example is Regulation (EU) 1343/2011, regarding fishing in the General Fisheries Commission for the Mediterranean Agreement area. As described in Annex B, the UK does not have fishing interests in the Mediterranean and this Regulation is therefore revoked by this instrument.
- 7.9 Data:

This instrument amends existing EU rules on fisheries data collection. There is a comprehensive system of data collection; right from the point of catching and where those fish were caught, through to sales, and this system is amended to make it operable in retained EU law on our domestic statute book. However, outside of the EU, it will no longer be appropriate for the UK to report its data to the European Commission.

Flexible, efficient and effective fisheries management needs the best possible scientific data on fish stocks and impacts on the wider environment. Data for scientific purposes will continue to be collected and shared with international organisations, such as the International Council for the Exploration of the Sea (ICES) and relevant Regional Fisheries Management Organisations (RFMOs), under the retained Data Collection Framework Measures. This will ensure continuation of the current UK data programme, enabling UK scientists to continue making a strong contribution to international co-operation on stock assessments and related fisheries science.

7.10 Oversight:

When the UK leaves the European Union, it will no longer be a Member State. Therefore, the Commission will not be able to oversee the application of the CFP within the UK. The implementation and oversight of fisheries management in the UK will be the subject of new arrangements, as proposed in the draft Environment Bill and draft Fisheries Bill, as well as the 2018 Fisheries White Paper, consistent with the devolution settlements.

7.11 Funding:

Funding in the fishing and aquaculture industries is currently available through the European Maritime and Fisheries Fund (EMFF). When the UK leaves the EU, we will no longer be part of the EMFF. However, the Government has confirmed that all EMFF projects approved before the closure date of the current programme (December 2020) will be fully funded under a Treasury guarantee; this applies across the UK. As such, this instrument amends the EMFF Regulation (Regulation (EU) No 508/2014) to ensure that the principles and conditions for funding continue in UK law whilst removing references to the involvement of the European Commission.

7.12 Advisory Councils:

Advisory Councils advise the EU on fisheries matters and will, therefore, have no involvement with the UK after exit. Advisory Councils play an important role for the EU, but we already have extensive involvement with stakeholders, including environmental NGOs and the fishing industry. We have a number of other models, such as the scallop industry consultation group; work closely with other fisheries science partnerships around the country; and have a multi-stakeholder expert advisory group to consider EU exit issues. We are working with the industry to establish a replacement fisheries advisory infrastructure for the UK that can be put in place after we leave the EU.

7.13 Cooperation with Member States:

There are a number of provisions throughout the CFP that oblige Member States to coordinate with or assist other Member States, often in close cooperation with the European Commission. One such example is Article 18 of the Basic Regulation (Regulation (EU) No 1380/2013), providing for regional cooperation on conservation

measures. As the CFP is a single regulatory system where all EU Member States are subject to the same law and obligations, these provisions make sense as part of EU law. The UK is unable to legislate for cooperation with Member States in the absence of international agreements and any future cooperation with the European Union or other countries will form the basis of those future agreements and be the subject of negotiations. References to regional cooperation or coordination have therefore been omitted from retained EU law.

7.14 Expired provisions:

Certain provisions throughout the CFP impose a deadline; for example, Article 4 of the 'Eels Regulation' (Council Regulation (EC) No 1100/2007) required Member States to produce Eel Management Plans and send them to the European Commission by 31 December 2008 for approval. The UK produced the necessary Eel Management Plans and these have already been approved by the Commission and implemented in the UK. This, and other references to expired deadlines, has been omitted from retained EU law. In the context of the example in the Eels Regulation, the provisions were amended to make reference to the specific Eel Management Plans that have been approved by the Commission. As such, the provisions will no longer require the UK to produce Eel Management Plans for approval by the Commission, instead they require the UK to continue to implement the plans that have already been approved prior to exit.

7.15 Currency:

The retained EU law amended by this instrument contains references to values and thresholds that are set in euros. Defra has followed the Government's default position of changing references from euros to pounds sterling in this instrument using a consistent conversion factor.

7.16 This instrument does not amend all of the Regulations within the CFP, it amends 31 Regulations. Regulations concerning specific Member States, regions and operations which are not relevant to the UK once it is no longer part of the EU are being revoked. A full schedule of legislation which is being revoked is contained in the instrument, with an explanation for each regulation contained in Annex B to this explanatory memorandum.

7.17 Some Regulations, particularly those concerned with technical conservation measures, multi-annual plans, discard plans and Regional Fisheries Management Organisations have not yet been introduced by the EU, or are currently being amended, therefore these regulations will be included in a future instrument as appropriate.

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

8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of Annex A to this explanatory memorandum.

9. Consolidation

9.1 There are no plans to consolidate the legislation.

10. Consultation outcome

- 10.1 The Devolved Administrations (Scottish Government, Department of Agriculture, Environment and Rural Affairs, and Welsh Government) were involved in the drafting of the proposed amendments.
- 10.2 A targeted engagement was carried out on the approach to the amendments, involving key stakeholders from the fisheries sector, food industry and environmental non-governmental bodies. In addition, a ten-week consultation was conducted through the Fisheries White Paper. Stakeholders were broadly supportive of the approach being taken.

11. Guidance

- 11.1 As these are technical changes to existing legislation there is no associated guidance.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or the voluntary sector.
- 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 there are no changes to what the public sector, or business, will have to do under the regulations.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 As the legislation will continue to operate as it did before exit it will not disproportionately affect small business.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that Defra, as well as the Devolved Administrations in relation to devolved matters, will monitor and review the impact of this instrument as part of its standard policy-making procedures.
- 14.2 As this instrument is made under the EU Withdrawal Act 2018, no review clause is required.

15. Contact

- 15.1 Tim Godson at the Department for Environment, Food and Rural Affairs, Telephone: 0208 225 8532 or email: Tim.Godson@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Anne Freeman, Deputy Director for Domestic Fisheries and Reform at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.
- 15.3 George Eustice MP at the Department for Environment, Food and Rural Affairs can confirm that this explanatory memorandum meets the required standard.

Annex A

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Appropriateness statement

1.1 The Minister of State for Agriculture, Fisheries and Food, George Eustice MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 do no more than is appropriate”.

1.2 This is the case because: this instrument corrects deficiencies in retained EU legislation which have arisen out of the UK’s exit from the EU. It does no more than ensure the UK has functional and operable fisheries legislation in place immediately after EU exit.

2. Good reasons

2.1 The Minister of State for Agriculture, Fisheries and Food, George Eustice MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

2.2 These are: without the amendments contained in this instrument the retained EU legislation in question would not operate in the context of the UK as an independent coastal state, rather than as part of the EU’s common fisheries policy. The amendments ensure that the UK has an operable legal framework for the maintenance of existing standards of sustainable fisheries management after EU exit. This is essential in the absence of other legislation.

3. Equalities

3.1 The Minister of State for Agriculture, Fisheries and Food, George Eustice MP, has made the following statement:

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts”.

3.2 The Minister of State for Agriculture, Fisheries and Food, George Eustice MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, George Eustice MP, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

4. Explanations

4.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.

Annex B to the Explanatory Memorandum

Explanation of amendments in the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019

Amendments have been made throughout the regulations on the Common Fisheries Policy (“the CFP”) to enable them to take effect in domestic law. Where provisions place obligations, or confer functions or powers, on Member States, namely the UK, the references to Member States are, generally speaking, changed to “a fisheries administration”. In addition, EU-specific terms, such as “Union vessels” or “Union waters”, have been replaced with an equivalent term (e.g. “United Kingdom vessels” and “United Kingdom waters”) to apply them to the UK only.

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

Article 1: Powers and obligations of fisheries administrations in relation to relevant retained direct EU legislation - Regulation 3(2) of the instrument replaces Article 1 of the CFP Regulation, which currently provides that the scope of the CFP is the management of marine biological resources, and the fisheries and fleets exploiting those resources, across the waters of the Member States and by the nationals of those Member States. The new Article 1 establishes the concept of a “fisheries administration”, which means whichever of the four administrations in the UK has the function, power or obligation in question. “Fisheries administration” means the Scottish Ministers in relation to Scotland; the Department of Agriculture, Environment and Rural Affairs in relation to Northern Ireland; the Welsh Ministers in relation to Wales or, in relation to England, the Secretary of State or the Marine Management Organisation (MMO). The definition of “fisheries administration” reflects the fact that fisheries is largely a devolved matter in the UK and, crucially, it has the effect of preserving the status quo in relation to devolution, so that the administration which currently performs the function, or has the power or obligation, in question continues to do so on EU exit. The instrument does not alter the devolution settlements in any way.

Article 2: Objectives of the CFP - The instrument is silent on this Article of the CFP Regulation, because it is re-stated and updated by the draft Fisheries Bill.

Article 3: Principles of good governance - Regulation 3(3) of the instrument applies the principles of good governance to fisheries administrations, so that these principles continue to apply to the exercise of retained EU law in relation to fisheries. A reference to EU “Advisory Councils” in point (f) of the CFP Regulation is omitted. This is because once we are no longer members of the EU, we will be outside of EU processes. Further information on this can be found in the summary for Articles 43-45 below.

Article 4: Definitions - Regulation 3(4) of the instrument applies the definitions that are contained in the CFP Regulation to all of retained EU law in relation to fisheries. For this reason the amendments to the rest of the regulations do not re-state all of the definitions. In addition, this provision adds definitions of “United Kingdom fishing vessels”, “United

Kingdom waters” and “Fisheries Rules” which refers to body of law on fisheries that is transferred to domestic law under the Withdrawal Act. This provisions also makes technical amendments to the **CFP definitions**, substituting or removing inoperable references to “Member State” or “Union”, and a reference to “financial compensation from the Union”, of which we will no longer be a beneficiary. Definitions which are not used in retained EU legislation are omitted, as they are unnecessary, such as the definition of “fresh water biological resources”, “Union fishing vessel”, “Member State having a direct management interest” and “transferable fishing concession”.

Article 5: Equal access to waters for all EU vessels – the instrument is silent on Article 5 as it is revoked by the draft Fisheries Bill.

Articles 6, 7, 8: These Articles on **conservation measures** are omitted by the instrument because there are existing conservation management powers in the Sea Fish (Conservation) Act 1967. In addition, the draft Fisheries Bill would put into a place a more detailed and comprehensive set of conservation management powers. Paragraph 6 of Schedule 7 to the draft Fisheries Bill¹ amends the Marine and Coastal Access Act 2009 to give powers to the MMO to make byelaws relating to the exploitation of sea fisheries resources, for the purposes of conserving marine flora or fauna, marine habitats or types of marine habitat in England and the English offshore region. Schedule 7 to the draft Bill also extends powers to the Devolved Administrations where they currently don’t have them.

Articles 9, 10: Multiannual plans (MAPs) - Article 9 on the principles and objectives of the MAPs does not require amendment. Regulation 6(1) makes simple amendments to Article 10, on the content of MAPs. A reference to Article 6 in point (b) is removed as a consequence of that Article being revoked for reasons set out above. A reference to Article 18 is removed as a consequence of that Article being revoked for reasons set out below. Retaining these Articles allows UK fisheries to use MAPs as frameworks for managing fish stocks long-term in specific areas that include UK waters. One such example is the North Sea MAP Regulation, which is being made operable by a later statutory instrument, to be laid in early 2019.

Articles 11, 12, 13: Conservation measures – these Articles are omitted by the instrument because there are already powers for conservation measures under domestic legislation (in the Sea Fish (Conservation) Act 1967), and further powers, introduced in the draft Fisheries Bill, as referred to above in respect of Articles 6 to 8.

Article 14: Avoidance and minimisation of unwanted catches - minor technical amendments for operability. A reference to “Advisory Councils” is removed for reasons set out in respect of Article 45.

Article 15: Landing obligation – Regulation (9) re-states Article 15 so that parts of the Article which are time-dependent and no longer have practical effect are removed. In addition, cross-references to Articles in the Regulation which would be omitted are also removed. Paragraph 9 is re-stated to refer to fisheries administrations rather than Member States and to remove the reference to quota allocated to Member States, which will not be allocated to the UK after Exit. A reference to Article 105 of Regulation 1224/2009 (“the Control Regulation”) is also omitted because that Article would be revoked by this

¹ Please note that this, and all references to the draft Fisheries Bill in this document, refer to the version as amended by House of Commons Committee.

instrument because it has no practical application to the UK after Exit (it gives the Commission power to deduct quotas in circumstances where Member States have exceeded the quota allocated to them).

Articles 16, 17: These Articles, which deal with **fishing opportunities** and the criteria for allocation of fishing opportunities would not be amended by this instrument. Article 16 would be revoked by clause 20(1) of the draft Fisheries Bill and replaced by the provisions set out in Clause 18 of the Bill, which would give the Secretary of State the power to determine the quality of sea fish that may be caught by British fishing boats, as well as the maximum number of days that British fishing boats may spend at sea. Article 17 would be amended by clause 20 of the draft Fisheries Bill so that it reflects that, after EU exit, the relevant national authorities of the UK (i.e. the Secretary of State and the MMO) will distribute the fishing opportunities for use by fishing boats, instead of Member States allocating fishing opportunities that the European Council has made available to them.

Article 18: Regional cooperation on conservation measures, would be revoked by this instrument, because we are unable to legislate for cooperation with Member States in the absence of international agreements.

Articles 19, 20: These Articles relating to **National Measures** would be revoked by this instrument. Article 19 states that Member States may adopt conservation measures and this duplicates powers that the UK already has, both in existing domestic law (in particular the Marine and Coastal Access Act 2009 and the Sea Fish (Conservation) Act 1967, but also that the UK would hold under the draft Fisheries Bill). Article 20 gives Member States the power to take measures in the 12 nautical mile zone, but it is framed in accordance with the shared competence that the EU has with Member States and after Exit it will not apply to the UK in that respect. The UK already has powers over its territorial waters and therefore this Article would duplicate existing law.

Article 21: This Article is revoked by the SI, because it concerns **transferable fishing concessions** between Member States, which would not have practical effect to the UK after Exit. Any such transfers would be the subject of international agreements.

Article 22 – Adjustment and management of fishing capacity: Regulation 3(12) would make technical amendments to paragraph 1, ensuring it is operable for the UK. Paragraphs 2 to 4 oblige Member States to report to the Commission on the balance between **the fishing capacity of their fleets and their fishing opportunities**, and are therefore omitted by this instrument as it would not be appropriate for the UK as an independent coastal state to report to the Commission. The UK will comply with any requirements to report to international bodies that are imposed by international agreements. More detail on reporting, assessments and evidence can be found in the summary for Articles 49-51 below. Paragraph 7 is re-stated so that the figures for maximum fishing capacity from Annex 2, which would be omitted by this instrument, are referred to directly in the Article (thus removing the figures which apply to other EU Member States and are not appropriate for our statute book).

Article 23: Entry/Exit from fishing fleets – Regulation 3(13) would make technical amendments to paragraph 1. Paragraphs 2 and 3 are omitted, because the Commission can no longer adopt implementing acts or evaluate the scheme on behalf of the UK after EU exit, and fisheries administrations do not require this power.

Article 24: Fishing Fleet Registers – Regulation 3(14) would make technical amendments to paragraph 1, so that it would operate in the same way in the UK after exit. Paragraph 2 would be omitted because it will no longer be appropriate for the UK, after Exit, to report to the Commission. Paragraph 3 is an obligation on the Commission to maintain a Union fishing fleet register. The instrument would transfer this obligation onto the Secretary of State to maintain a register of United Kingdom vessels (the Devolved Administrations agree that the Secretary of State will maintain a single register based on the information that the fisheries administrations collate under paragraph 1). Paragraph 4 confers a power on the Commission, which would be transferred to the relevant UK authority in a later instrument, due to be laid in 2019. The amendments made to this Article are linked to the amendments made to **Regulation 2017/218** which are explained below in the final section of this Annex (the section entitled “Amendment of other measures”).

Article 25: Data requirements for fisheries management - Regulation 3(15) would re-state the first part of paragraph 1 so that it applies in the UK and omits references to EU bodies and schemes which will not apply to the UK after Exit. Paragraph 2 would be amended to correct deficiencies. Paragraphs 3 to 5 would be omitted as, in the absence of an international agreement to the contrary, it will no longer be appropriate for the UK to give access to the Commission to its national databases, report to the Commission, or coordinate with Member States.

It is Government policy that an annual statement of our assessment of the state of stocks that are of interest to the UK, and of our approach to setting fishing rates and other management measures, will be published. This was a commitment made by the Government in the Fisheries White Paper.

Article 26: Consulting scientific bodies - Regulation 3(16) would re-state Article 26 so that the Commission’s obligation to consult appropriate scientific bodies is transferred to fisheries administrations. The requirement to consult the Scientific, Technical and Economic Committee for Fisheries (STECF) is removed, because this is an EU body, and we will no longer be a part of it after EU exit. The UK has its own scientific bodies already in existence, including the Centre for Environment, Fisheries and Aquaculture Science (CEFAS), which is an executive agency of the Department for the Environment, Food and Rural Affairs.

Article 27: Research and scientific advice - Regulation 3(17) would re-state Article 27 to retain the obligation to carry out research and to remove references to co-ordination with other Member States and the Commission, which are deficient in the absence of an agreement, and the use of Union financial resources.

Article 28: Objectives - Regulation 3(18) would amend Article 28 on the objectives of external policies so that the objectives apply to fisheries administrations. Paragraph 3 would be omitted because it refers to Article 218 of the Treaty, which sets out the procedure for the Union to make international agreements, and which therefore will not apply to the UK after Exit.

Articles 29, 30: International fisheries organisations - Regulation 3(19) and (20) would make amendments to Article 29 to ensure that fisheries administrations must support and contribute to the activities of international organisations including RFMOs, to which the UK will accede after Exit (the EU Regulations which implement RFMOs are amended in a separate instrument to be laid before Exit), and to ensure that fisheries administrations are

subject to the other duties in the Article. Article 30 would be amended so that fisheries administrations must co-operate with third countries to strengthen compliance with measures. A reference to the European Fisheries Control Agency is omitted because EFCA is a European Union body and, since we will no longer be a member of the EU, we will no longer have membership to that organisation. The UK fisheries authorities currently provide this function within the UK for the control of fishing activity in UK waters.

Articles 31, 32: Sustainable fisheries partnership agreements - Regulation 3(21) would ensure that the United Kingdom abides by the same principles as the Union when entering into fisheries partnership agreements with the Union. References to Union fleets, vessels and waters, and “Member States” are amended to “United Kingdom” and “fisheries administration” where appropriate, so that these Articles continue to function as they currently do in a UK context. Regulation 3(22) would amend Article 32 to ensure that where financial assistance forms part of any sustainable fisheries partnership agreement the UK may enter into, the same principles for providing such financial assistance and the same conditions apply as are currently provided for where the EU enters into sustainable fisheries partnership agreements.

Article 33: Management of stocks of common interest – Regulation 3(23) would make technical amendments to make the principles and objectives of management of stocks of common interest apply in domestic law.

Article 34: Promoting sustainable aquaculture - Regulation 3(24) would ensure that fisheries administrations, in conjunction with each other, establish the guidelines relating to sustainable aquaculture. Paragraphs 2 to 6 are omitted because they refer to an obligation on Member States to “establish a multiannual national strategic plan for the development of aquaculture activities on their territory” by 30 June 2014 – a date which has passed.

Article 35: Objectives relating to the Common Market Organisation - Regulation 3(25) would transfer the appropriate objectives of the Common Market Organisation to the UK. Point (b) is omitted as applying the CFP is no longer relevant. Part 7 of this instrument deals with the specific Common Organisation of the Markets Regulations.

Article 36: Objectives relating to control and enforcement - Regulation 3(26) would amend Article 36 to apply the objectives on the control and enforcement regime to the UK (the control and enforcement EU Regulations are amended in Part 3 of the instrument). References to the CFP are removed, as is cooperation and coordination with other Member States. Paragraph 3 is omitted because fisheries administrations already have the power to adopt appropriate measures for ensuring control, inspection and enforcement of activities, and in addition clause 31(4) of the draft Fisheries Bill would confer a power to make provision on matters including monitoring, or enforcing, compliance with the regulation of any matters mentioned previously in that paragraph.

Article 37: Expert Group on Compliance - Regulation 3(27) would omit Article 37 because it sets up an EU expert group on compliance, to which we will no longer be a party. The UK currently has its own expert group on compliance, the UK Fisheries Enforcement and Compliance Coordination Group.

Article 38: Pilot projects on new control technologies and data management systems: Regulation 3(27) would omit Article 38 because it is a permissive provision, providing

guidance to Member States, and fisheries administrations do not require a statutory power to carry out pilot projects.

Article 39: Contribution to control, inspection enforcement and data collection costs - Regulation 3(27) would omit Article 39 because clause 29 of the draft Fisheries Bill would provide for the Secretary of State to make provision for the MMO to impose charges in respect of the exercise of a relevant marine function. The Devolved Administrations already have that power.

Articles 40 to 42: Objectives and conditions of financial assistance from the EU - Regulation 27(3) would omit Articles 40 to 42 as funding for the industry currently comes from the European Maritime and Fisheries Fund (EMFF). After Exit, we will no longer be part of the EMFF. Accordingly, the EMFF Regulation (**Regulation 508/2014**) is amended to ensure that current programme continues under the same principles in the UK (see below for the relevant EMFF amendments in the section entitled “European Maritime and Fisheries Fund Regulations”).

Articles 43 to 45: Tasks, composition, functioning and funding of Advisory Councils - Regulation 3(27) would revoke these Articles because once we are no longer members of the EU, we will be outside of EU processes. Advisory Councils advise the EU on fisheries matters, and once we are outside of the EU we will not be subject to this advice.

Article 46: Delegated acts - Regulation 3(27) would revoke Articles 46 because it refers to the legislative processes of the Commission, and therefore has no relevance to the UK. Instead, we will be transferring individual functions from the Commission to the relevant UK authority in a separate instrument, to be laid before 29 March 2019.

Article 47: This Article is replaced by a provision in a separate instrument which transfers all powers conferred on the Commission by the CFP Regulation to the relevant UK authority. This separate instrument is due to be laid in 2019 before 29 March and details how a UK authority exercises the power to make Regulations under this Regulation.

Article 48 – Repeals and amendments: Regulation 3(28) would omit paragraphs 2 to 5 of Article 48. Any repealed EU Regulations will not form part of retained EU law on exit. Paragraph 5 amends Article 105 of Regulation 1224/2009, which has been omitted elsewhere by this instrument.

Articles 49 to 51: Article 49 requires the **Commission to report to the European Parliament** on the functioning of the CFP by 31 December 2022, Article 50 requires the Commission to report annually, and Article 51 brings the CFP Regulation into force. None of these Articles will be relevant to the UK after EU exit, therefore are omitted by regulation 3(29).

The draft Fisheries Bill currently before Parliament proposes a Joint Fisheries Statement (JFS) to be agreed between the four fisheries administrations, as well as a Secretary of State fisheries statement (SSFS) on English and reserved matters, which will set out policies for specified purposes with which the relevant administrations will be required to comply. Together with the commitment to publish annual statements on UK stocks made in the Fisheries White Paper, these will provide a framework for coordinating and reporting on fisheries management in the UK, consistent with the devolution settlements.

The draft Environment Bill, published in December 2018, proposes arrangements for a future independent body to oversee protection of the environment, including the marine environment.

Annex 1: This, along with Article 5 above, is revoked by Article 7 of the draft Fisheries Bill because it sets the countries which are permitted access to the UK's coastal waters.

Annex 2: Omitted, as the fishing capacity ceilings of EU countries is irrelevant to the UK. The fishing capacity ceiling of the UK as detailed in this Annex is retained in Article 3 (12) (c) of this instrument, amending Article 22 Paragraph 7 of the CFP Regulation.

Annex 3: This Annex names Advisory Councils and details their functioning, and is omitted by this instrument, consequential to the omission of Articles 43 to 45 of the CFP Regulation, as detailed above.

Control Regulations
Council Regulation (EC) No 1224/2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy
Commission Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy
Council Regulation (EC) No 1936/2001 laying down control measures applicable to fishing for certain stocks of highly migratory fish
Commission Regulation (EU) No 724/2010 laying down detailed rules for the implementation of real-time closures of certain fisheries in the North Sea and Skagerrak
Regulation (EU) 2017/2403 of the European Parliament and of the Council on the sustainable management of external fishing fleets

The Control Regulations set out the rules for compliance with the CFP legislation, including control, inspection and enforcement. Member States are responsible for the implementation of such management measures, and in the UK, this responsibility is devolved. This includes licensing vessels, managing quota and ensuring compliance with both CFP and UK rules. Requirements on Member States under the CFP, such as for vessel monitoring systems, data transmission and the provision of catch certificates and information in logbooks, will continue to apply to UK vessels.

Council Regulation 1224/2009 establishes a Union control system for ensuring compliance with the rules of the common fisheries policy.

Article 3: Relationship with other provisions - Regulation 4(5) would re-state Article 3 to establish that the regulation applies without prejudice to provisions concluded between the UK and other countries.

Article 4: Definitions - Regulation 4(6) would amend Article 4 to ensure that the defined terms work in UK law, for example references to “the rules of the common fisheries policy” have been changed to “Fisheries Rules”, which has been defined as “relevant retained direct EU legislation”. A number of definitions will have no relevance to the UK after EU exit and have therefore been omitted, for example the definition “Community Inspectors”. Likewise, the definition of “vessel monitoring system data” has been omitted, as this definition and the further uses of the term, such as in Articles 9, 109 and 111 (concerned with the analysis and exchange of data) within this Regulation, will not appear in retained EU law.

Article 6: Fishing licence - Regulation 4(8) would amend Article 6 so that it requires United Kingdom fishing vessels to have a licence in order to be able to lawfully fish within United Kingdom waters.

Article 9: Vessel monitoring systems - Regulation 4(10) would amend Article 9 so that each fisheries administration is required to operate VMS to monitor its fleet in UK waters. Paragraph 9 of the Article has been omitted as fisheries administrations may already use licence conditions to oblige vessels to be fitted with VMS.

Regulation 4(10)(c) removes paragraph 3, which requires Member States to share VMS data from their vessels fishing in another Member State’s waters or landing at another Member State’s port. As an independent coastal state, these issues will form part of international agreements.

Article 10: Automatic identification system - Regulation 4(11) omits paragraphs 2 and 3 of Article 10. Paragraph 2 details commencement dates for EU vessels to be equipped with automatic identification system (AIS) transmitters, which have now passed. Paragraph 3 has been omitted because fisheries administrations already have the power to cross-check vessel identification data. Articles 109 and 110 are omitted by this instrument.

Article 16: Sampling - Regulation 4(17) would omit Article 16 the power to monitor the activities of fishing vessels not subject to fishing logbook requirements. This is not required in domestic law because vessels which are not subject to the logbook requirements in Articles 14 and 15 will be obliged by licence conditions to provide information on their catches. Therefore sampling will not be undertaken. For the same reason, regulation 4(26) would omit **Article 25** on sampling of vessels not subject to the landing declaration requirements.

Article 26: Monitoring of fishing effort - Regulation 4(27) would remove certain obligations in paragraph 1 on Member States to control compliance with the fishing effort of their fleet because it is already a criminal offence to breach an effort requirement. Furthermore, clause 21 of the draft Fisheries Bill would impose a duty on the fisheries administrations to ensure that fishing opportunities are not exceeded in any year.

Article 33 of the Control Regulation obliges Member States to record catches and fishing effort. Whilst the provisions requiring Member States to record all relevant data have been amended so that fisheries administrations are required to record this data, provisions requiring the sharing of this data with the Commission have been omitted. As an independent coastal state, it is not appropriate for fisheries administrations to share this information with the Commission. Likewise, **Article 34** which requires Member States to inform the

Commission when certain levels of quota have been exhausted has been omitted by regulation 4(34).

Within the Control Regulation, there are two provisions enabling Member States to charge costs, in part or in full, to the operators of fishing vessels. These are costs borne by Member States arising from the certification of engine power (Regulation 4(37)(b) amending **Article 39(3)**) and the operation of control observers (Regulation 72(f) **amending Article 73(8)**). This instrument makes amendments to these provisions to make them operable in the UK, in line with other amendments.

Article 49c: Landing of catches below the minimum conservation reference size - Regulation 4(49) the amendment to this provision would ensure that landed catches below the minimum conservation reference sizes continue to be stored separately. The final sentence of this provision would be omitted, as this obliges Member States to enforce this requirement in accordance with Article 5 which this instrument revokes on the basis that the UK already has enforcement powers. Likewise, **Article 90(1)** states that “Member States may also, or alternatively, use effective, proportionate and dissuasive criminal sanctions”, and this reference is amended by regulation 4(82)(e) changing “Member States” to “fisheries administrations”.

The UK’s ability to close fisheries or prohibit fishing where a stock has been exhausted will be provided by powers on real time closures through licensing, as they are now. Consequently, provisions which duplicate domestic legislation (such as section 5 of the Sea Fish (Conservation) Act 1967 which allows fisheries administrations to make orders prohibiting, among other things, fishing in certain areas for specified times), such as **Articles 35-37** and **Article 54** have been omitted. In addition to legislative powers, the fisheries administrations are also able to regulate fishing activities through licence conditions and/or Part 1 of the annex of the licence (general closures), which is arguably more effective than legislation, as licence conditions can be implemented more quickly. In addition, overfishing will be enforced (and where necessary prosecuted) under the licence.

Other provisions have also been removed to avoid duplicating domestic legislation, for example those concerned with recreational fisheries (**Article 55**), from which the sale of fish is already prohibited, and the inspection of vessels. Regulation 4(69) and 4(74) remove **Article 70** and **Article 74** respectively. Article 70 places an obligation on Member States in respect of Producer Organisations’ price intervention mechanisms. Post-exit this will be regulated by the retained CMO Regulation (1379/2013) and domestic and retained EU competition law. Article 74 establishes a standard of conduct with regards to inspections, to promote a consistent approach across Member States. This aspect of fisheries management will be covered in part by Part 8 of the Marine and Coastal Access Act 2009 and otherwise as part of the general discretion of investigating authorities as to how an investigation is conducted. Similarly, Regulation 4(78) removes **Articles 79 to 83** as domestic powers in a combination of the Marine and Coastal Access Act 2009, The Fisheries Act 1981 and the Sea Fish (Conservation) Act provide the legislation required to inspect UK vessels outside the UK’s exclusive economic zone, and the provisions on the inspection of foreign vessels are not required in the absence of an agreement that those vessels enter UK waters. Finally, Regulation 4(81) removes **Article 89** as the UK already has the competence to ensure compliance with fisheries laws. In addition, there is an express power in clause 31(4) of the draft Fisheries Bill which would allow the UK to enforce the matters it has regulated under the Bill.

Commission Implementing Regulation 404/2011 lays down detailed rules for the implementation of the Control Regulation. This Regulation is amended to concern the application of the control system of the UK, rather than the control system of the EU, as established by the Control Regulation and without prejudice to provisions within agreements made between the UK and other countries, or applicable in the framework of RFMOs or similar agreements.

Similar changes have been made to ensure this regulation is capable of operating as EU retained law. For example, the reference to “Member States” in **Article 3(2)** has been changed to “fisheries administrations”. This maintains the status quo so that fishing licences continue to be issued, managed and withdrawn by fishing administrations for UK fishing vessels. Furthermore, the amendments maintain the existing systems in place for the marking of vessels and gear, documents to be carried on board, vessel monitoring systems and other rules.

A number of provisions have been omitted:

- Provisions which implement provisions omitted from the Control Regulation are also omitted in this regulation, for example **Articles 56 – 60** on sampling, the control of fishing effort and fishing opportunities, and **Articles 119-124** on Union inspectors.
- There are provisions within this regulation that are concerned with the transmission of data between Member States and/or to the Commission, for example **Articles 24, 26, 28 and 41**. These provisions have been omitted in line with our general approach to the exchange of data, as outlined in section 7 of the explanatory memorandum.
- **Articles 139-142** relate to fishing opportunities and the deduction of quota, which would be regulated by the Secretary of State under the draft Fisheries Bill.
- **Articles 143 – 146a** relate to data requirements which are omitted from the Control Regulation.
- **Articles 146e – 146j** relate to the exchange of data between Member States, which would be subject to a separate agreement.
- **Articles 147 – 149** concern websites, and the corresponding provisions from the Control Regulation are omitted because fisheries administrations are able to set up websites without statutory powers to do so.
- **Articles 150 – 153 and 155 - 161** regulate mutual assistance between Member States. Fisheries administrations’ ability to provide such assistance to third countries would form part of separate agreements.
- **Articles 162 – 164** regulate communication with and by the Commission, and with third countries. Again, these matters would be the subject of separate agreements.

Council Regulation 1936/2001 lays down control measures applicable to fishing for certain stocks of highly migratory fish. This regulation has been amended to apply to UK fishing vessels operating in the relevant marine zones. Simple technical changes have been made to place an obligation on fisheries administrations to act to ensure that vessels in their fleet respect the provisions in each zone.

Provisions requiring Member States to notify or share data with the Commission have been removed. However, the requirement in **Article 20d** to transmit statistical data to the Indian Ocean Tuna Commission Secretariat for scientific purposes has been retained.

Commission Regulation 724/2010 establishes rules for the implementation of real-time closures of certain fisheries in the North Sea and Skagerrak. Technical changes have been made to enable the relevant fisheries administration to close fishing areas when the threshold for the catch level of juveniles has been reached in their waters. The sampling methodology and sample report template have been retained unamended.

Regulation 2017/2403 covers the Sustainable Management of External Fishing Fleets, a framework for authorising EU vessels to operate outside EU waters, and non-EU vessels to operate in EU waters. The amendments to this Regulation are very important to the management of UK fisheries because they require third country vessels to be licensed by fisheries administrations before they enter UK waters. This will enable the UK to regulate the activities of third country vessels in UK waters. Similarly, UK vessels will require licences from the countries whose waters they enter.

Provisions concerned with authorisations issued to vessels under the auspices of RFMOs or issued or issued by a third country have been omitted, as these aspects of fisheries management will be agreed when the UK forms agreements with the relevant parties as an independent coastal state.

Illegal, Unreported and Unregulated Fishing Regulations
Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing
Commission Regulation (EU) No 468/2010 establishing the EU list of vessels engaged in illegal, unreported and unregulated fishing
Council Implementing Decision 2014/170/EU establishing a list of non-cooperating third countries in fighting IUU fishing pursuant to Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing
Commission Regulation (EC) No 1010/2009 laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing
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

Regulation 1005/2008 sets out measures to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing, which causes damage to the marine environment, the sustainability of fish stocks and the socioeconomic situation of fishermen who do abide by the rules, and jeopardises the main objectives of the CFP.

Article 1: Subject matter and scope - Regulation 9(1) would amend Article 1 so that the retained Regulation applies to IUU fishing in United Kingdom waters, as well as that of third countries and the high seas. This ensures that the UK remains able to combat IUU fishing, but in a way that is functional in the context of UK fisheries. Paragraph 2 is omitted because it is otiose (fisheries administrations are already required to ensure that the laws that they make are effective).

Article 2: Definitions - The definitions of “fishing vessel” and “Community fishing vessel” have been omitted because these terms have not been used throughout the retained EU law.

The IUU Regulation sets out the criteria by which a vessel can be deemed to be engaged in IUU fishing. These criteria remain the same in retained EU law as before, but with amendments to ensure that the provisions have effect in domestic law. The Regulation makes provisions for inspections of third country fishing vessels in ports, detailing the requirements for vessels to land in ports, and the principles and procedure for such inspections. These Articles would be retained and amended to operate in domestic law, so that for example, in **Article 11**, if a suspected infringement occurred in the high seas, currently the UK as a Member State has to cooperate with the flag State to investigate that vessel. The amendments would alter this so that, if the UK is the port state, then a fisheries administration would have to cooperate with the flag State to investigate that vessel.

The Regulation prohibits the importing of fish obtained from IUU fishing, and requires catch certificates to accompany any products to enforce this. **Articles 12 to 22** detail the technical aspects of this scheme, which are amended to function in a UK context. However, in **Article 12**, a paragraph has been inserted exempting catches by vessels from the Isle of Man or the Channel Islands from the requirement to submit a catch certificate. This is because the UK has Fisheries Management Agreements with these administrations that say that we do not require catch certificates from them and those Agreements would not operate if there was legislation to the contrary. The amendments to the Regulation ensure that the catch certificate scheme continues to operate in UK law, for example in **Article 18**, currently the competent authorities of a Member State are required to, if certain criteria are not fulfilled, refuse the importation into the Community of fishery products. The amendments would re-state this requirement so that the competent authorities of a fisheries administration would be required to refuse the importation into the UK of those fishery products. **Article 19** has been omitted because it relates to transit and transshipment between Member States, which will no longer apply to the UK on exit. Similarly, paragraphs relating to cooperation with, notifications to and record keeping by the Commission in **Articles 20 to 22** have been omitted.

Articles 23 and 24 on a Community alert system will no longer apply to the UK as an independent coastal state, and have therefore been omitted.

Articles 25 to 30 deal with the identification of vessels engaged in IUU fishing, including a list of IUU vessels. The amended **Article 25** would provide that, instead of the Commission keeping a file on fishing vessels reported as allegedly involved in IUU fishing, a fisheries administration must do the same, but additionally, that a fisheries administration must share the contents of this file with other fisheries administrations, informing them when this file is updated. Similar additions are made to **Article 26**, requiring fisheries administrations to inform other fisheries administrations on each occasion it identifies a vessel it believes should be subject to an official enquiry, and to agree jointly with other fisheries administrations whether an official enquiry should be carried out. These amendments ensure that existing standards for the investigation of alleged IUU fishing are maintained, and that a coordinated approach can be taken.

Articles 28 and 29 on removal from, content, publicity and maintenance of the vessel list will be dealt with in a separate instrument, to be laid before 29 March 2019.

Article 30 on the inclusion of IUU vessel lists adopted by Regional Fisheries Management Organisations (RFMOs) in the main IUU vessel list is omitted because this is an issue that will be agreed when the UK joins RFMOs as an independent coastal state.

Articles 31 to 36 deal with third countries who are considered to be non-cooperating in fighting IUU fishing, requiring those countries to be notified as such, and a list of those countries to be established and published. These Articles would be amended by the instrument so that they are able to have effect in UK law and, and will otherwise function in the same way as before exit, with a similar change to Articles 25 and 26 above, in that, fisheries administrations must, jointly with other fisheries administrations, agree whether countries should be identified as such, and the reasoning and evidence for this decision. **Articles 33 and 34** on lists of non-cooperating third countries will be dealt with in a separate instrument, to be laid before 29 March 2019. **Article 35** has been amended so that the Secretary of State must take such measures as the Secretary of State feels necessary to ensure a list of non-cooperating countries is published, in particular that the list is published on a website accessible to the public. **Article 36** would be amended to ensure that, whereas before, the Commission was entitled to adopt emergency measures to against a third country, now, a fisheries administration is entitled to adopt those same emergency measures.

Articles 39 and 40 relate to nationals of a Member State supporting or engaging in IUU fishing, and would be amended so that they take effect in domestic law, with parts relating to cooperation with and notifications to the Commission being omitted. **Articles 41 to 43** relating to enforcement measures are amended. **Articles 44 to 53** would be omitted because UK law already imposes effective, proportionate and dissuasive sanctions based on the penalty points system in the CFP which will become retained EU law. The drafting of Article 44 is slightly at odds with the legal system in the UK as ultimately it is the court which imposes sanctions, rather than the fisheries administration. There are thorough enforcement regimes already pertaining to fisheries administrations. Section 11 of the Sea Fish (Conservation) Act 1967 sets out a list of sanctions that may be imposed for offences which correspond to those in Article 45. The draft Fisheries Bill would also give the Secretary of State the power to make provision for criminal sanctions.

Regulation 468/2010 and **Council Implementing Decision 2014/170/EU** establish lists of vessels engaged in IUU fishing and non-cooperating third countries respectively. The amendments are such that the “EU IUU vessel list” becomes the “United Kingdom IUU vessel list”, and “the Union list of non-cooperating third countries” becomes “the United Kingdom list of non-cooperating countries”. Consequently, we are retaining the existing lists, rather than creating our own. Further amendments will be made in a separate SI to be laid before 29 March 2019, which will provide powers to amend the UK IUU and non-cooperating third countries lists as necessary.

Regulation 1010/2009 lays down detailed rules for the implementation of Regulation 1005/2008, ensuring that these rules continue to function in the same way after EU exit. The former Regulation modifies certain aspects of the latter, such as establishing additional factors affecting the three working days’ prior notification of landings and submission of catch certificates; consistency in documents transmitted; benchmarks for port inspections; conditions for establishing approved economic operators, etc.

References to reporting to the Commission have been omitted because we will no longer be under such an obligation, for example **Article 5** and **Article 30**. **Article 17** on consultation of other Member States and **Article 33** on administrative cooperation with third countries on catch certificates will no longer apply and are therefore omitted.

Article 34 on submission of information regarding sighted fishing vessels, and **Articles 35 to 52** on mutual assistance between Member States, third countries and the Commission, are omitted, because it is not appropriate for retained EU legislation to require the UK to cooperate with the Community.

Regulation 1026/2012 defines the conditions upon which a country could be considered to be allowing non-sustainable fishing, and the measures that may be taken to discourage that. The Regulation is amended so that it operates effectively in UK law allowing us to continue to take measures in respect of countries allowing non-sustainable fishing.

Multiannual Plans (MAPs) and Effort Regime Regulations
Council Regulation (EC) No 1100/2007 establishing measures for the recovery of the stock of European Eel
Council Regulation (EC) No 1954/2003 on the management of the fishing effort relating to certain Community fishing areas and resources

Regulation 1100/2007 establishes measures for the recovery of the stock of European Eel.

The Regulation establishes a framework for the protection and sustainable use of the stock of European Eel in certain areas, and requires Member States to prepare, communicate, seek approval for, and report on an Eel Management Plan (EMP). This SI makes amendments so that the Regulation only applies to the UK, and in the specific areas (namely ICES areas 4, 6 and 7) that are relevant to the UK.

A new **Article 1A** has been inserted so that references to EMPs throughout retained EU law refer to each EMP that was already approved by the Commission before EU exit.

Certain sections are no longer relevant due to the fact the provisions have expired or the required action (production of an EMP) has been carried out, such as paragraphs 1-3 of **Article 2**, and **Articles 3, 4 and 6**.

Article 9 concerns reporting and evaluation on the EMPs. Whereas before, Member States were required to report to the Commission, now, fisheries administrations are required to prepare and publish a report for each EMP, ensuring accountability and transparency surrounding this multiannual plan continues as before. **Article 11** is omitted because the UK already has sufficient powers to adopt conservation measures within UK waters, in particular those in the Marine and Coastal Access Act 2009, which would be extended by the draft Fisheries Bill, and in the way in which sea fishing is regulated under licences.

Other multiannual plans, such as the North Sea MAP and the Western Waters MAP, will be amended in future instruments.

Regulation 1954/2003 sets the criteria and procedure for managing fishing effort, related to certain demersal species, scallops, edible crabs and spider crabs in certain fishing areas. Commonly known as the ‘Western Waters effort regime’, the Regulation restricts the amount of time that vessels can spend while fishing for certain species in the western waters region. Regulation 1415/2004 set the limits for fishing effort, and the two Regulations have been amalgamated for the purposes of retained EU law. Technical amendments are made to

provide continuity to industry from day one, ensuring the UK is able to manage fishing effort in ICES areas within UK waters, as the amendment to **Article 1** makes clear.

Until a suitable alternative is developed, the retained Regulation will ensure that management of our demersal, scallop and crab fisheries continues in the same way in the event of no deal.

The amendments to **Articles 3 and 4** ensure that the current obligations to assess historic fishing effort and restrict the future effort of certain classes of UK fishing vessels continue to apply in the same way and to the same areas within UK waters.

Article 12 will be amended in a separate SI to be laid before exit day to provide the power to amend the effort limit set out in the Regulation.

The effort regimes will be enforced by the retained Control Regulation 1224/2009, please see the relevant summary for the details of amendments to that Regulation.

Data Collection Framework Measures
Regulation (EU) 2017/1004 of the European Parliament and of the Council on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy
Commission Implementing Decision (EU) 2016/1251 adopting a multiannual Union programme for the collection, management and use of data in the fisheries and aquaculture sectors for the period 2017-2019
Regulation (EC) No 218/2009 of the European Parliament and of the Council on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic

Regulation 2017/1004 establishes rules for the collection, management and use of biological, environmental, technical and socioeconomic data concerning the fisheries sector. **Articles 4 to 6** (concerning “multiannual Union programmes” for the collection and management of data, and related national work plans) are amended to refer to a “multiannual programme”. Therefore, as an independent coastal state, the UK will retain its multiannual data collection programme, and the associated work plan. However, **Articles 7 to 11** have been omitted because they relate to national correspondents for exchanging information with the Commission, cooperation with the Union, regional coordination, and evaluation respectively, all of which will no longer be applicable to the UK.

Commission Implementing Decision 2016/1251 adopts a multiannual Union programme for the collection, management and use of data in the fisheries and aquaculture sectors for the period 2017-2019. This is amended to ensure that it would have effect in UK law, removing references to “Union”, “Member States” and “Union waters”. This ensures that the data requirements for UK fisheries remain the same as before EU exit. **Chapter 5** details certain thresholds, below which no data need be collected. This is omitted because the thresholds relate to relative shares of EU Total Allowable Catch, and therefore will not apply to the UK after exit.

Regulation 218/2009 requires each Member State to submit to the Commission nominal catch statistics for fishing operations in the north-east Atlantic. The majority of this

regulation has been omitted in line with our general approach on data sharing. However, the ICES definitions have been retained in this regulation due to the existence of multiple cross-references in other legislation.

Common Organisation of the Markets Regulations
Regulation (EU) No 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products
Council Regulation (EC) No 2406/96 laying down common marketing standards for certain fishery products
Commission Regulation (EEC) No 3703/85 laying down detailed rules for applying the common marketing standards for certain fresh or chilled fish
Council Regulation (EEC) No 2136/89 laying down common marketing standards for preserved sardines and trade descriptions for preserved sardines and sardine-type products
Council Regulation (EEC) No 1536/92 laying down common marketing standards for preserved tuna and bonito
Commission Implementing Regulation (EU) No 1418/2013 concerning production and marketing plans pursuant to Regulation (EU) No 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products
Commission Implementing Regulation (EU) No 1419/2013 concerning the recognition of producer organisations and inter-branch organisations, the extension of the rules of producer organisations and inter-branch organisations and the publication of trigger prices as provided for by Regulation (EU) No 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products

Amendments to the Common Organisation of the Markets (CMO) Regulations are technical amendments, replacing “Member States” or “competent national authorities” with “United Kingdom” or “fisheries administration” where appropriate. This respects the devolution settlement and ensures that the CMO Regulations continue to function as they did before. For example, each producer organisation (PO) is required to submit a production and marketing plan to its “competent national authorities”. POs currently submit their plans to the relevant devolved authority, therefore this reference has been changed to “a fisheries administration”, to reflect the existing arrangements. The objectives, principles of good governance and some of the definitions that guide the CMO are retained in Article 35 of the CFP Regulation (1380/2013).

The overarching **Regulation 1379/2013** provides for the collective management of producer organisations, the establishment of common marketing standards, rules on consumer information, competition rules and the transparency and efficiency of the market as a whole. The CMO currently applies to a number of fishery and aquaculture products listed in Annex I to this regulation, marketed in the Union – after EU exit, this will apply to those products marketed in the United Kingdom.

Articles 19, 20, and 25-27 are omitted because they deal with allocation of fishing opportunities, checks and authorisation by the Commission respectively, all of which will no

longer be relevant to UK fisheries. References to the Treaty on the Functioning of the European Union (TFEU) are replaced with relevant domestic legislation.

Amendments to **Articles 22 and 23** of the Regulation in 19(18)(a) and 19(19)(a) of this instrument extend rules agreed within a PO or inter-branch organisation so that they are binding on other operators who are not members or do not belong to that organisation. This is not a transfer of a power or a function of a legislative character. This function currently falls within the competence of the UK, and the fisheries administrations will continue to carry it out pursuant to the devolution settlements

Articles 30 and 31 are omitted because there is no funding on this aspect included in the UK's approved operational programme under EMFF.

Articles 40 and 41, which apply EU law on competition to the production and marketing of fisheries products, would be amended so that equivalent provisions in UK law would be applied, as the Competition Act 1998 mirrors Articles 101 to 106 of the TFEU. The reference to Article 39 of the TFEU is un-amended because it will continue to have effect as it was immediately before Exit (paragraph 2 of schedule 8 to the EU (Withdrawal) Act 2018 states that an ambulatory reference to an EU Treaty contained in an EU Regulation survives as if it was a reference to the Treaty as it stood immediately before exit.) This ensures that the status quo would be preserved.

The following EU Regulations are amended simply in order to enable them to have effect in UK law and to remove references to other EU law which are out of date. **Regulation 2406/96** establishes freshness categories, size categories and packaging information. **Regulation 3703/85** makes rules for applying common standards to certain fresh or chilled fish. **Regulation 2136/89** sets common standards for marketing preserved sardines, and **Regulation 1536/92** does the same for preserved tuna and bonito. **Regulations 1418/2013 and 1419/2013** concern producer organisations and inter-branch organisations, the plans they must submit, and the extension of their rules to other organisations or operators in certain areas.

Measures relating to the protection of vulnerable marine ecosystems in the deep seas and high seas
Council Regulation (EC) No 734/2008 on the protection of vulnerable marine ecosystems in the high seas from the adverse impacts of bottom fishing gears
Regulation (EU) 2016/2336 of the European Parliament and of the Council establishing specific conditions for fishing for deep sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic

Regulation 734/2008 intends to protect marine ecosystems in the high seas, such as reefs, seamounts, deep water corals, hydrothermal vents and sponge beds, by regulating the use of bottom gears in those areas. It makes a number of provisions, such as only allowing permitted vessels under strict conditions to fish in those areas, prohibiting fishing with bottom gears in areas where no proper scientific assessment has been carried out, describing the process for unforeseen encounters with vulnerable marine ecosystems, and placing observers on board all

aforementioned permitted vessels. The amendments will ensure that this regulation functions in the same way after exit. For example, currently the Regulation ensures that “Community fishing vessels shall have a special fishing permit” to fish in the specified areas. It would be amended to state that “United Kingdom fishing vessels must have a fishing authorisation” to fish in those areas.

Regulation 2016/2336 establishes specific conditions for fishing for deep-sea stocks in the north-east Atlantic, and makes provisions for fishing in international waters of the north-east Atlantic. It makes fishing for deep-sea species subject to a fishing authorisation, and limits deep-sea fishing with bottom trawls to particular depths, and bottom gears to specific requirements. The amendments would ensure that the rules continue to apply to UK fishing vessels after EU exit as they did before. For example, previously, **Article 9** required fishing vessels to report any encounter with vulnerable marine ecosystems to the competent national authorities, who would notify the Commission immediately. The amendments ensure that this continues, but fishing vessels report to the “competent authorities” of a fisheries administration, which reflects how UK fisheries is managed. **Articles 7 and 8**, on existing deep-sea fishing areas and requirements for applications for fishing authorisations, are dealt with in a separate instrument, to be laid before 29 March 2019.

European Maritime and Fisheries Fund Regulations
Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund
Commission Delegated Regulation (EU) 2015/288 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regard to the period of time and the dates for the inadmissibility of applications
Commission Delegated Regulation (EU) 2015/531 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council by identifying the costs eligible for support from the European Maritime and Fisheries Fund in order to improve hygiene, health, safety and working conditions of fishermen, protect and restore marine biodiversity and ecosystems, mitigate climate change and increase the energy efficiency of fishing vessels.
Commission Implementing Decision C(2015) 8628 on approving the operational programme “European Maritime and Fisheries Fund – Operational Programme for the United Kingdom” for support from the European Maritime and Fisheries Fund in the United Kingdom

The European Maritime and Fisheries Fund (EMFF) **Regulation 508/2014** establishes the framework for an EU funding scheme that supports the successful implementation of the CFP and CMO. The current EMFF programme runs from 2014 to 2020. In the case of no deal, immediately upon exiting the EU, the UK will no longer be a beneficiary of this scheme. However, all EMFF projects approved in the UK before December 2020 will be fully funded under a Treasury guarantee. The amendments made to **Article 1** articulate that, as part of retained EU law, this Regulation will apply to financial assistance provided to the fishing and aquaculture sector in the UK. In order to make it operable in the context of UK fisheries, references to “the EMFF” will be changed to “financial assistance to the fishing and aquaculture sector” throughout.

Title 3 (**Articles 12 to 16**) have been omitted because they specify the technical details of budgetary resources and implementation, which will no longer be relevant to the UK after exit. **Articles 17, 18 and 19** detail the preparation, content and approval of an operational programme (OP) for each Member State. These are replaced by provisions which confirm that the UK OP, which was approved by the Commission on 30 November 2015, will continue to apply. Similarly, **Articles 21 and 22** make provisions for a work plan for data collection for each Member State, these are replaced by provisions which confirm that the UK work plan for data collection 2018-9, which was approved in its most recent form by the Commission on 14 December 2018 will continue to apply.

Article 37 is omitted, as a consequence of the Articles it refers to in the CFP Regulation 1380/2013 (Articles 7, 8, 11, 18) being omitted from retained EU law. Please see the summary of that Regulation for details.

Article 53 refers to financial support to promote the development of organic or energy-efficient aquaculture. It is omitted because in order to obtain support under Article 53 there must be participation in the Union eco-management and audit scheme (EMAS). This is not something that the UK currently supports, and it was not established in our OP, so it is not necessary to retain this Article.

Paragraph 2 of **Article 62** refers to advances paid to Fisheries Local Action Groups (FLAGs) for community-led local development, and is omitted by this instrument because advances are not being paid to FLAGs under the UK's OP. Paragraphs 3 to 5 of Article 64 refer to the establishment of transnational co-operation networks, which no longer apply to the UK, and are therefore omitted.

Article 67 on storage aid for producer organisations is omitted because the Article requires all assistance under this provision to end by 31 December 2018 and therefore it will no longer be operable after EU exit. **Articles 70-73** on compensation for additional costs in outermost regions are not relevant to the UK, and so are omitted.

Article 77 provides for the ability to give financial assistance for data collection purposes. The amendments to this Article are technical changes to ensure that, after EU exit, financial assistance under retained EU law may still support the collection, management and use of data.

Title 6 (Articles 81 to 92) is omitted because direct management of EMFF funds will no longer apply to the UK once we have left the EMFF.

Article 94 determines the EMFF contribution when approving a Member State's operational programme. The UK's operational programme has already been approved, however, after exit the UK will no longer be part of the EMFF and therefore the EMFF contribution rates are no longer relevant. This Article has therefore been omitted.

Article 97 is amended so that, whereas before, Member States were required to report to the Commission, and publicise the operational programme and Union contribution, after exit the Secretary of State is simply required to publicise the operational programme. This is because it will no longer be necessary to report to the Commission.

Articles 98 to 111 are omitted because these provisions relate to the management of the EMFF as it applies now and are not appropriate for the UK once we have left the EMFF – for

example, data requirements which must be sent to the Commission, Commission powers in relation to payments and access to information, and a monitoring and evaluation system with associated reporting requirements to the Commission. None of these provisions will apply once the UK is no longer part of the EMFF.

Articles 114 to 118, referring to an annual implementation report and the evaluation by the Commission are omitted because, although the MMO will continue to monitor the programme in a similar fashion, we will no longer be required to report to, or be evaluated by, the Commission.

Title 8 (Articles 120-125) is omitted because it deals with measures financed under direct management, which is consequential of the omission of Title 6 (see above). Evaluation and reporting (Articles 124 and 125, respectively) will also no longer apply to the UK after EU exit.

Title 9 (Articles 126 and 127) is omitted because it relates to Commission powers and EU procedures which are not relevant for the UK statute book.

Annexes 2, 3 and 4 are omitted by the CFP SI because they outline the Commission's specific commitment appropriations until 2020, the relative proportion of funds to particular objectives, and the conditions and criteria for each priority, as identified by the Commission. As such, these will no longer apply to the UK.

Regulation 2015/288 applies to applications for EMFF support, and identifies the period during which applications submitted by operators who have infringed on other CFP measures are inadmissible. **Regulation 2015/531** provides further detail in relation to the eligibility of support to costs associated with measures relating to the hygiene and safety of fishermen, protection of biodiversity and the improvement of the efficiency of fishing vessels. The amendments to this Regulations are all technical changes for operability, ensuring that the provisions governing the admissibility of applications for financial assistance and the costs eligible for support continue to function in the same way as they did while the UK was part of the EMFF. Certain amendments have been made as a consequence of amendments to Regulation 508/2014. For example, Article 8 Paragraph 1(d) of Regulation 2015/531 is removed because costs in outermost regions are not relevant to the UK, as per the amendments to Articles 70-73 in Regulation 508/2014.

Commission Implementing Decision C(2015) 8628 approves the UK's OP for EMFF. The OP sets out how the UK will implement the EMFF programme and sets out our individual targets and indicators against each specific EMFF measure.

There are a number of powers conferred on the Commission by the EMFF Regulations, including the power to approve alterations to the OP and alterations to the UK work plan for data collection. These are not amended by this instrument, but will, instead, be amended by a later affirmative instrument, to be laid in early 2019.

Amendment of other measures
Regulation (EU) 2017/1130 of the European Parliament and of the Council defining characteristics for fishing vessels
Commission Implementing Regulation (EU) 2017/218 on the Union fishing fleet register
Commission Decision 95/84/EC concerning the implementation of the Annex to Council Regulation (EEC) No 2930/86 defining the characteristics of fishing vessels
Commission Regulation (EEC) No 954/87 on sampling of catches for the purpose of determining the percentage of target species and protected species when fishing with small-meshed nets

Regulation 2017/1130 sets defining characteristics for fishing vessels, such as length, breadth, tonnage and engine power. References to “Union rules” are amended to become “relevant retained direct EU legislation”, so that the definitions continue to operate in retained EU law.

Regulation 2017/218 establishes and sets rules for a fishing fleet list. Amendments are made to this Regulation so that, what was before a “Union fishing fleet register” becomes a “United Kingdom fishing fleet register”. Additionally, whereas Member States are required to collect and validate data, now fisheries administrations must, jointly with other fisheries administrations, collect and validate the same data, ensuring the existing process continues post-exit. The Secretary of State will keep a single UK fishing fleet register which combines the information gathered by all of the fisheries administrations.

Commission Decision 95/84/EC implements an Annex to the Regulation defining the characteristics of fishing vessels, which has been amended to be operable in the UK.

Regulation 954/87 makes provisions for the sampling of catches, so as to determine the percentage of target species and protected species when fishing with small meshed nets. The Regulation will continue to function in the same way as part of retained EU law, so that whereas before a “representative of the competent authorities of the Member State” was required to perform this function, now, “a representative of a fisheries administration” will fulfil the same role.

EU Regulations revoked by the instrument

The following table sets out the reasoning behind the revocations listed in the Schedule in this instrument.

REGULATION	REASON FOR REVOCATION
Commission Regulation (EEC) No 2166/83 establishing a licencing system for certain fisheries in an area north of Scotland (Shetland area).	This Regulation contains requirements to report to the Commission, which are no longer appropriate once the UK has left the EU. In addition, Article 2 contains a power to licence vessels in the Shetland area, and this power exists in section 4 of the Sea Fish (Conservation) Act 1967. Article 5 refers to a regulation no longer in force.
Council Regulation (EC) No 847/96 introducing additional conditions for year-to-year management of TACs and quotas.	Revoked because, as an independent coastal state the UK will set its own fishing opportunities, save that the UK will transpose the new total allowable catch and quota settlement for 2019 into retained EU law.
Council Regulation (EC) No 1415/2004 fixing the maximum annual fishing effort for certain fishing areas and fisheries	Revoked because the set limits for fishing effort have been amalgamated into Regulation 1954/2003 in retained EU law.
Commission Regulation (EC) No 2103/2004 concerning the transmission of data on certain fisheries in western waters and the Baltic Sea.	Revoked because, in circumstances where there is no deal with the EU, the transmission of data will form part of a separate agreement.
Council Regulation (EC) No 768/2005 establishing a Community Fisheries Control Agency	This regulation relates to the European Control Agency which is set up to ensure consistent application of the CFP. We will not be part of the EU and therefore not part of EFCA once we leave the EU. The regulation sets out how the EFCA functions and therefore is not applicable to the UK.
Council Regulation (EC) No 764/2006 on the conclusion of the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco	Arrangements between the EU and other countries will not be relevant to the UK on exit. When we leave the EU we will no longer be party to the Sustainable Fisheries Partnership Agreements (SFPAs) negotiated between the EU and third countries (which includes this agreement) because it is an exchange of financial support from the EU for quota.
Council Regulation (EC) No 509/2007 establishing a multiannual plan for the	This Regulation imposes obligations on the European Council, and sets out the procedure for setting Total Allowable

sustainable exploitation of the stock of sole in the Western Channel.	Catch, neither of which will apply to the UK after EU exit.
Commission Regulation (EC) No 665/2008 laying down detailed rules for the application of Council Regulation (EC) No 199/2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy.	This Regulation lays down detailed rules for the application of the Data Collection Framework Regulation 199/2008, which was repealed by Regulation (EU) 2017/1004, and therefore no longer has any effect.
Commission Regulation (EC) No 1078/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 861/2006.	This Regulation lays down detailed rules for the implementation of Council Regulation (EC) 861/2006, a financial assistance Regulation, which was repealed by Regulation (EU) No 508/2014, and therefore no longer has any effect.
Commission Regulation (EU) No 201/2010 laying down detailed rules for the implementation of Council Regulation (EC) No 1006/2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters.	Concerns the rules for operating vessels in Norwegian and Faroese Waters, which will be subject to separate negotiations between these countries and UK after EU exit.
Council Regulation (EU) No 779/2011 concerning the allocation of the fishing opportunities under the Protocol between the European Union and the Kingdom of Morocco.	Revoked because, as an independent coastal state the UK will set its own fishing opportunities in agreement with third countries. When we leave the EU we will no longer be party to the Sustainable Fisheries Partnership Agreements (SFPAs) negotiated between the EU and third countries (which includes this agreement) because it is an exchange of financial support from the EU for quota.
Regulation (EU) No 1343/2011 of the European Parliament and of the Council on certain provisions for fishing in the General Fisheries Commission for the Mediterranean Agreement area.	The UK does not have fishing interest in the Mediterranean, and is not a member of the General Fisheries Commission for the Mediterranean RFMO. This instrument is therefore not relevant to the UK.
Council Regulation (EU) No 1270/2013 on the allocation of fishing opportunities under	Revoked because, as an independent coastal state the UK will set its own fishing

<p>the Protocol between the European Union and the Kingdom of Morocco</p>	<p>opportunities in agreement with third countries. When we leave the EU we will no longer be party to the Sustainable Fisheries Partnership Agreements (SFPAs) negotiated between the EU and third countries (which includes this agreement) because it is an exchange of financial support from the EU for quota.</p>
<p>Commission Implementing Decision 2014/372/EU setting out the annual breakdown by Member State of the global resources of the European Maritime and Fisheries Fund available in the framework of shared management for the period 2014-2020.</p>	<p>The UK will no longer be part of the EU's EMFF on exit.</p>
<p>Commission Implementing Decision 2014/464/EU identifying the priorities of the Union for enforcement and control policy in the framework of the European Maritime and Fisheries Fund.</p>	<p>The UK will no longer be part of the EU's EMFF on exit.</p>
<p>Commission Implementing Regulation (EU) 763/2014 laying down rules for applying Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund as regards the technical characteristics of information and publicity measures and instructions for creating the Union emblem</p>	<p>The UK will not use the EU emblem on exit.</p>
<p>Commission Implementing Regulation (EU) No 771/2014 laying down rules pursuant to Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regard to the model for operational programmes, the structure of the plans for compensation of additional costs incurred by operators in the fishing, farming, processing and marketing of certain fishery and aquaculture products from the outermost regions, the model for the transmission of financial data, the content of the ex ante evaluation reports and the minimum requirements for the evaluation plan to be submitted under the European Maritime and Fisheries Fund</p>	<p>The UK will no longer be part of the EU's EMFF on exit, and will not report on its operation to the EU.</p>

<p>Commission Implementing Regulation (EU) No 902/2014 amending Council Regulation (EC) 1415/2004 as regards the adaptation for the United Kingdom of the maximum annual fishing effort in certain fishing areas</p>	<p>Revoked because, as an independent coastal state the UK will set its own fishing opportunities, save that the UK will transpose the new total allowable catch and quota settlement for 2019 into retained EU law.</p>
<p>Commission Delegated Regulation (EU) No 1014/2014 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regards to the content and construction of a common monitoring and evaluation system for the operations funded under the European Maritime and Fisheries Fund.</p>	<p>The UK will no longer be part of the EU's EMFF on exit, and will not report on its operation to the EU.</p>
<p>Commission Delegated Regulation (EU) No 1046/2014 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regards to the criteria for the calculation of the additional costs incurred by operators in the fishing, farming, processing and marketing of certain fishery and aquaculture products from the outermost regions.</p>	<p>The UK will no longer be part of the EU's EMFF on exit, and will not report on its operation to the EU.</p>
<p>Commission Implementing Regulation (EU) No 1242/2014 laying down rules pursuant to Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regard to the presentation of relevant cumulative data on operations.</p>	<p>The UK will no longer report to the EU on the operation of the EMFF.</p>
<p>Commission Implementing Regulation (EU) No 1243/2014 laying down rules pursuant to Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund with regard to the information to be sent by Member States, as well as on data needs and synergies between potential data sources</p>	<p>The UK will no longer report to the EU on the operation of the EMFF.</p>
<p>Commission Implementing Regulation (EU) No 1362/2014 laying down rules on a simplified procedure for the approval of</p>	<p>The UK will no longer report to the EU on the operation of the EMFF.</p>

<p>certain amendments to operational programmes financed under the European Maritime and Fisheries Fund and rules concerning the format and presentation of the annual reports on the implementation of those programmes</p>	
<p>Commission Delegated Regulation (EU) 2015/852 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council as regards the cases of non-compliance and the cases of serious non-compliance with the rules of the Common Fisheries Policy that may lead to an interruption of a payment deadline or suspension of payments under the European Maritime and Fisheries Fund.</p>	<p>The UK will no longer report to the EU on the operation of the EMFF.</p>
<p>Commission Delegated Regulation (EU) 2015/1930 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund as regards the criteria for establishing the level of financial corrections and for applying flat rate financial corrections</p>	<p>The UK will no longer report to the EU on the operation of the EMFF.</p>
<p>Commission Delegated Regulation (EU) 2015/2252 amending Delegated Regulation (EU) 2015/288 as regards the period of inadmissibility of applications for support from the European Maritime and Fisheries Fund.</p>	<p>The UK will no longer report to the EU on the operation of the EMFF.</p>
<p>Commission Implementing Decision (EU) 2016/1701 laying down rules on the format for the submission of work plans for data collection in the fisheries and aquaculture sectors.</p>	<p>The UK will no longer report to the EU on exit.</p>