

2019 No. 69

EXITING THE EUROPEAN UNION

FISHERIES

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

Made - - - - - *21st February 2019*

Laid before the Scottish Parliament *25th February 2019*

Coming into force in accordance with regulation 1

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

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Fisheries (EU Exit) (Scotland) (Amendment) (No. 2) Regulations 2019.

(2) These Regulations come into force as follows—

- (a) Parts 1 and 2 come into force on 28 March 2019,
- (b) Part 3 comes into force on exit day.

(a) 1972 c.68. Section 2(2) was amended by paragraph 15(3) of schedule 8 of the Scotland Act 1998 (c.46) (“the 1998 Act”) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by section 3(3) and Part 1 of schedule 1 of the European Union (Amendment) Act 2008 (c.7). The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) 2018 c.16.

PART 2

Amendments to Out of Date References in Subordinate Legislation

The Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Order 2000

2.—(1) The Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Order 2000(a) is amended as follows.

(2) In article 2—

(a) in paragraph (1)—

(i) for the definition of “the Council Regulation”, substitute—

““the Council Regulation” means Council Regulation (EC) No. 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms(b), as last amended by Council Regulation (EU) No. 2015/812(c);”

(ii) omit the definition of “Regulation 2847/93”,

(iii) in the definition of “Regulation 894/97”, for “amended by Council Regulation (EC) No. 1239/98” substitute “last amended by Council Regulation (EC) No. 809/2007(d)”,

(iv) in the definition of “Regulation 2056/2001”, at the end insert “, as amended by Commission Implementing Regulation (EU) No. 2015/1897(e)”,

(v) in the definition of “Regulation 254/2002”, at the end insert “, as corrected by Corrigendum to Regulation 254/2002(f) and amended by Council Regulation (EU) No. 2015/812(g)”,

(vi) after the definition of “Regulation 254/2002”, insert—

““Regulation 1224/2009” means Council Regulation (EC) No. 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No. 847/96, (EC) No. 2371/2002, (EC) No. 811/2004, (EC) No. 768/2005, (EC) No. 2115/2005, (EC) No. 2166/2005, (EC) No. 388/2006, (EC) No. 509/2007, (EC) No. 676/2007, (EC) No. 1098/2007, (EC) No. 1300/2008, (EC) No. 1342/2008 and repealing Regulations (EEC) No. 2847/93, (EC) No. 1627/94 and (EC) No. 1966/2006(h), as last amended by Council Regulation (EU) No. 2015/812(i);”

(b) in paragraph (2)(c), for “Article 3.1 of Regulation 2847/93” substitute “Article 9.1 of Regulation 1224/2009”.

(3) In article 12—

(a) for paragraph (1) substitute—

“(1) Any—

(a) logbook kept under Article 14 or 15;

(b) declaration submitted under Article 21, 22, 23 or 24;

(c) effort report completed under Article 28;

(a) S.S.I. 2000/53 as amended by S.S.I. 2002/81.

(b) OJ L 125, 27.4.1998, p.1.

(c) OJ L 133, 29.5.2015, p.1, as corrected by a corrigendum (OJ L 319, 4.12.2015, p.21).

(d) OJ L 182, 12.7.2007, p.1.

(e) OJ L 277, 22.10.2015, p.11.

(f) OJ L 45, 15.2.2002, p.58.

(g) OJ L 133, 29.5.2015, p.1, as corrected by a corrigendum (OJ L 319, 4.12.2015, p.21).

(h) OJ L 343, 22.12.2009, p.1.

(i) OJ L 133, 29.5.2015, p.1, as corrected by a corrigendum (OJ L 319, 4.12.2015, p.21).

- (d) document drawn up under Article 62, 63, 64, 65, 66, 67 or 68; and
- (e) document containing required information received by a fisheries monitoring centre established under Article 9.7,

of Regulation 1224/2009 may, in any proceedings for a relevant offence, be received in evidence without being produced or sworn to by any witness and shall be sufficient evidence of the matters stated therein.”,

- (b) in paragraph (2), for “Article 3.1 of Regulation 2847/93” substitute “Article 9.1 of Regulation 1224/2009”.

(4) In the schedule, in Entry II (the Council Regulation)—

- (a) in entry 2, in column 2, for “Article 6 of Regulation 2847/93” substitute “Articles 14 and 15 of Regulation 1224/2009”,
- (b) in entry 13, in column 1, omit “and 35”,
- (c) omit entry 19,
- (d) in entry 24, in column 2, for “Article 20(1) of Regulation 2847/93” substitute “Article 47 of Regulation 1224/2009”,
- (e) in entry 27, in column 2, for “Article 20(1) of Regulation 2847/93” substitute “Article 47 of Regulation 1224/2009”,
- (f) in entry 28, in column 1, omit “, as read with Article 41”,
- (g) omit entries 30, 32 and 35,
- (h) in entry 37, in column 2, for “Article 20(1) of Regulation 2847/93” substitute “Article 47 of Regulation 1224/2009”.

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

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

(2) In article 2(1), for the definition of “the Council Regulation”, substitute—

““the Council Regulation” means Council Regulation (EC) No. 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms(b), as last amended by Council Regulation (EU) No. 812/2015(c);”.

The Shrimp Fishing Nets (Scotland) Order 2004

4.—(1) The Shrimp Fishing Nets (Scotland) Order 2004(d) is amended as follows.

(2) For article 2(2), substitute—

“(2) For the purposes of this Order, the mesh of a net or netting shall be measured in accordance with Commission Regulation (EC) No. 517/2008 laying down detailed rules for the implementation of Council Regulation (EC) No. 850/98 as regards the determination of the mesh size and assessing the thickness of twine of fishing nets(e).”.

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

(b) OJ L 125, 27.4.1998, p.1.

(c) OJ L 133, 29.5.2015, p.1, as corrected by a corrigendum (OJ L 319, 4.12.2015, p.21).

(d) S.S.I. 2004/261 as amended by S.S.I. 2008/10.

(e) OJ L 151, 11.6.2008, p.5.

The Sea Fishing (Prohibition on the Removal of Shark Fins) (Scotland) Order 2007

5.—(1) The Sea Fishing (Prohibition on the Removal of Shark Fins) (Scotland) Order 2007(a) is amended as follows.

(2) In article 2(1), in the definition of “the Regulation”, at the end insert “, as amended by Council Regulation (EU) No. 605/2013(b)”.

The Sea Fishing (Transitional EU Technical Conservation Measures) (Scotland) Order 2010

6.—(1) The Sea Fishing (Transitional EU Technical Conservation Measures) (Scotland) Order 2010(c) is amended as follows.

(2) In article 2—

(a) in paragraph (1)—

(i) in the definition of “EU technical conservation measure”, for “Annex III to the Council Regulation” substitute “Regulation 850/98”,

(ii) in the definition of “logbook”, for “Article 6 of Regulation 2847/93 (as read with Regulation 2807/83)” substitute “Articles 14 and 15 of Regulation 1224/2009”,

(iii) after the definition of “person in charge”, insert—

““Regulation 850/98” means Council Regulation (EC) No. 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms(d), as last amended by Council Regulation (EU) No. 2015/812(e);”

(iv) omit the definition of “Regulation 2807/83”,

(v) omit the definition of “Regulation 2847/93”,

(vi) in the definition of “Regulation 1224/2009” at the end insert “, as last amended by Council Regulation (EU) No. 2015/812(f)”,

(vii) after the definition of “Regulation 1224/2009”, insert—

““Regulation 404/2011” means Commission Implementing Regulation (EU) No. 404/2011 of 8 April 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(g), as last amended by Council Regulation (EU) No. 2015/1962(h);”

(viii) omit the definition of “Regulation 1288/2009”,

(ix) omit the definition of “the Council Regulation”,

(b) in paragraph (2)—

(i) in sub-paragraph (b), omit “, except where specified as a numbered paragraph of an Annex to the Council Regulation,”

(ii) at the end of sub-paragraph (c), omit “and”,

(iii) omit sub-paragraph (d),

(c) omit paragraph (5).

(3) In article 3(2), for “paragraph 9.10 of Annex III” substitute “Article 34b(9) of Regulation 850/98”.

(a) S.S.I. 2007/39 as amended by S.S.I. 2015/320.

(b) OJ L 181, 29.6.2013, p.1.

(c) S.S.I. 2010/100 as amended by S.S.I. 2011/59.

(d) OJ L 125, 27.4.1998, p. 1.

(e) OJ L 133, 29.5.2015, p.1, as corrected by a corrigendum (OJ L 319, 4.12.2015, p.21).

(f) OJ L 133, 29.5.2015, p.1, as corrected by a corrigendum (OJ L 319, 4.12.2015, p.21).

(g) OJ L 112, 30.4.2011, p.1.

(h) OJ L 287, 31.10.2015, p.6.

(4) In article 8(3), for “paragraph 9.8 of Annex III” substitute “Article 34b(7) of Regulation 850/98”.

(5) In article 12(1)—

- (a) in sub-paragraph (a), for “Article 6 of Regulation 2847/93” substitute “Article 14 of Regulation 1224/2009”,
- (b) in sub-paragraph (b), for “Article 8(1) of Regulation 2847/93” substitute “Article 23 of Regulation 1224/2009”,
- (c) in sub-paragraph (c), for “Article 11 of Regulation 2847/93” substitute “Article 21 of Regulation 1224/2009”.

(6) In schedule 1—

(a) in column 1—

- (i) for the heading substitute, “Provision(s) of Regulation 850/98”,
 - (ii) for entry 1, substitute “Article 20a”,
 - (iii) for entry 2, substitute “Annex IV”,
 - (iv) for entry 3, substitute “Article 29a”,
 - (v) for entry 4, substitute “Article 29c”,
 - (vi) for entry 5, substitute “Article 19a”,
 - (vii) for entry 7, substitute “Article 29e”,
 - (viii) for entry 8, substitute “Article 29f(2)”,
 - (ix) for entry 9, substitute “Article 29f(1)”,
 - (x) for entry 10, substitute “Article 29f(5)”,
 - (xi) for entry 11, substitute “Article 34a(1) as read with Article 34a(2)”,
 - (xii) for entry 12, substitute “Article 34b(1) as read with Article 34b(2)”,
 - (xiii) for entry 13, substitute “Article 34b(5) as read with Article 34b(2)”,
 - (xiv) for entry 14, substitute “Article 34b(4)”,
 - (xv) for entry 15, substitute “Article 34b(6) and Article 34b(8)”,
 - (xvi) for entry 16, substitute “Article 34b(9)”,
 - (xvii) for entry 17, substitute “Article 34b(10) as read with Article 34b(2)”,
 - (xviii) for entry 18, substitute “Articles 34d and 34e”,
 - (xix) for entry 19, substitute “Article 34e(4) to (7)”,
 - (xx) for entry 20, substitute “Article 34d(2)”,
 - (xxi) for entry 21, substitute “Annex XII”,
 - (xxii) for entry 22, substitute “Annex XII”,
- (b) in column 2, in entry 13, for “paragraph 9.4(a) and (b) of Annex III” substitute “Article 34b(2) of Regulation 850/98”,
- (c) omit entry 6.

PART 3

Other Amendments to Subordinate Legislation (EU Exit)

The Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Order 2000

7.—(1) The Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Order 2000(a) is amended as follows.

(2) In article 3(2) for “Articles 19.1, 26.1 or 36 of the Council Regulation” substitute “Article 19.1 or 26.1 of the Council Regulation”.

(3) In the schedule, in Entry II (the Council Regulation)—

- (a) in entry 20, in column 1, for “Article 25.2 and 25.3” substitute “Article 25.3”,
- (b) omit entries 25 and 25A,
- (c) omit entries 33 and 34,
- (d) omit entries 36 and 37.

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

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

(2) In article 2(1)—

- (a) in the definition of “equivalent order”, for “an enforceable EU restriction” substitute “a retained EU restriction”,
- (b) after the definition of “Regulation 43/2009”, insert—
 - ““retained EU restriction” means a restriction that—
 - (a) was created or arose by or under the EU Treaties (within the meaning of schedule 1 of the Interpretation Act 1978(c) before exit day (within the meaning of section 20(1) of the European Union (Withdrawal) Act 2018), and
 - (b) forms part of retained EU law (within the meaning of section 6(7) of the European Union (Withdrawal) Act 2018),as modified from time to time;”.

FERGUS EWING

A member of the Scottish Government

St Andrew’s House,
Edinburgh
21st February 2019

(a) S.S.I. 2000/53 as amended by S.S.I. 2002/81.

(b) S.S.I. 2000/227 as amended by S.S.I. 2001/250, S.S.I. 2009/165 and S.S.I. 2010/165.

(c) 1978 c.30. Schedule 1 was relevantly amended by paragraph 22 of schedule 8 of the European Union (Withdrawal) Act 2018 (c.16).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (c.68) and paragraph 1(1) and (3) of schedule 2 of the European Union (Withdrawal) Act 2018 (c.16). These Regulations make amendments to legislation concerning technical conservation measures for sea fisheries. The amendments update references to a number of EU instruments referred to in that legislation. The amendments also address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

Part 2 amends the following subordinate legislation concerning technical conservation measures relating to sea fisheries: the Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Order 2000; the Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Order 2000; the Shrimp Fishing Nets (Scotland) Order 2004; the Sea Fishing (Prohibition on the Removal of Shark Fins) (Scotland) Order 2007; and the Sea Fishing (Transitional EU Technical Conservation Measures) (Scotland) Order 2010. Regulations 2 to 6 update or replace out of date references to EU law with either equivalent text or references to current EU instruments. References to EU instruments which are no longer in force are removed and, where appropriate, references to repealed EU instruments are replaced with references to current EU equivalents.

Part 3 makes amendments to subordinate legislation concerning technical conservation measures relating to sea fisheries. Regulations 7 and 8 make amendments to remedy deficiencies arising from the withdrawal of the United Kingdom from the European Union by updating, replacing or removing EU references, including references to EU instruments, which will become redundant or will no longer be appropriate after exit day.

A Business and Regulatory Impact Assessment has not been produced for this instrument as no significant impact on the private or voluntary sectors is foreseen.

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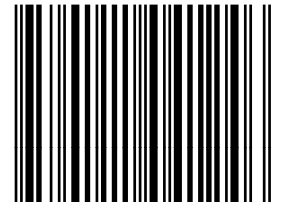
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