

UK MINISTERS ACTING IN DEVOLVED AREAS

196 - The Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2020

Laid in the UK Parliament: 22 October 2020

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Draft affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	NA
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	NA
Date sifting period ends in UK Parliament	NA
Written statement under SO 30C:	Paper 14
SICM under SO 30A (because amends primary legislation)	SICM(5)36

Scrutiny procedure

Outcome of sifting	NA
Procedure	Draft affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	3 November 2020

Background

These Regulations are proposed to be made by the UK Government pursuant to sections 8(1) and 8C(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018.

Summary

The Common Fisheries Policy ("CFP") imposes a common approach to the sustainable management of fisheries across the European Union and its waters. Several provisions of the CFP are included in Annex 2 to the Protocol on Ireland / Northern Ireland in the EU Withdrawal Agreement ("the Protocol") and will therefore be directly applicable in the UK in respect of Northern Ireland from the end of the transition period. This instrument makes amendments to domestic law, retained EU law and previous amendments to retained EU law, all in the field of the CFP, to

ensure that the legislation operates effectively for the UK outside of the EU to account for the inclusion of that legislation in Annex 2 to the Protocol.

The changes made by this instrument enable the UK to accede to the Port State Measures Agreement (“the PSMA”) and to the International Commission for the Conservation of Atlantic Tunas (“ICCAT”), to be in a position to fulfil its obligations stemming from those agreements, and separately those required under the Conservation of Antarctic Marine Living Resources (“CCAMLR”), to ensure the continued ability to tackle illegal, unreported and unregulated (“IUU”) fishing practices, to promote sustainable fishing, and to enable the operability of the Protocol.

Amongst others, this instrument deals with the Fisheries (Amendment) (EU Exit) Regulations 2019 (“the 2019 Regulations”), specifically regulation 3 which amends section 30 of the Fisheries Act 1981 (“the 1981 Act”). Section 30 of the 1981 Act provides for the enforcement of breaches of EU law relating to sea fishing. Regulation 3 of the 2019 Regulations currently amends section 30 to provide for the enforcement of breaches of retained EU law instead. This instrument makes further technical changes to regulation 3 of the 2019 Regulations to update the wording in relation to section 30 of the 1981 Act to enable restrictions and obligations under CFP legislation made directly applicable in respect of Northern Ireland under the Protocol to be enforced.

Statement by Welsh Government

Legal Advisers agree with the statement laid by the Welsh Government dated 23 October 2020 regarding the effect of these Regulations.

In particular, Legal Advisers note the commentary provided in respect of the Welsh Ministers’ executive competence.

Intergovernmental Agreement on the European Union (Withdrawal) Bill

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.

Consent motion under Standing Order 30A.10

The Welsh Government laid a Statutory Instrument Consent Memorandum (SICM) before the Senedd on 27 October 2020, because the Regulations amend primary legislation within the legislative

competence of the Senedd (in this case, section 30 of the Fisheries Act 1981).

In a [letter](#) to the Committee dated 27 October 2020, the Minister for Environment, Energy and Rural Affairs said that a SICM had been laid, but made no reference as to whether the Welsh Government would table a motion to debate the SICM in Plenary.