



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

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

DATE **10 October 2019**

BY **Rebecca Evans AM, Minister for Finance and Trefnydd**

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

The Law that is being amended

- The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019.
- The Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019.
- The Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2019.
- The Animals (Legislative Functions) (EU Exit) Regulations 2019.

European Directly Applicable instruments amended by the 2019 Regulations

- Regulation (EU) No 2019/1241
- Regulation (EU) 2019/472
- Regulation (EU) 2018/973
- Regulation No 2019/1241
- Regulation (EU) 2019/472
- Regulation (EU) 2018/973
- Commission Delegated Regulation (EU) 2019/906.

New deficiency

- Created by Commission Delegated Regulation (EU) 2019/906.

The revocation of:

- Regulation (EU) 2016/1139
- Regulation (EU) 2019/473

- Regulation (EU) 2019/1022
- Council Regulation (EC) 768/2005 - revoked at EU level by Regulation (EU) 2019/473.
- Council Regulations (EC) No 1386/2007 and 2115/2005 - revoked at EU level by Regulation (EU) 2019/833.

The purpose of the amendments

The 2019 Regulations are required in relation to three categories of amendments:

- a) Amendments required as a result of new EU CFP legislation which has come into force since 29th March. This includes both direct amendments to the EU legislation itself to ensure it will operate effectively when it becomes retained EU law on exit day, and also amendments to the existing statutory instruments made under the European Union (Withdrawal) Act (mentioned above) where legislation previously corrected has since been revoked or amended.
- b) Amendments to legislation previously de-prioritised due to its non-essential nature that can be amended during the extension period before the new exit day.
- c) Minor corrections required to four statutory instruments previously approved by Welsh Ministers (as listed above).

Examples of minor corrections that are made by this instrument include amending references from the “European Union” to the “United Kingdom”; and “Union” or “Member State vessels and waters” to “UK vessels and waters”.

EU Regulations which duplicate existing UK legislation are removed, and provisions that are not capable of operating within the UK, or which have no relevance to the UK outside of the EU, are revoked.

The 2019 Regulations also make a minor amendment to a previous EU exit statutory instrument in the field of animal health and welfare relating to the welfare of animals in transport. Regulation 11 of the 2019 Regulations amends the Animals (Legislative Functions) (EU Exit) Regulations 2019). The amendment removes the erroneous provision in that instrument which has been identified as being in conflict with a similar amendment in a different EU exit instrument.

The 2019 Regulations and accompanying Explanatory Memorandum, setting out the effect of amendments are available here: <https://beta.parliament.uk/work-packages/K1v1VCdU>

Any impact the SI may have on the legislative competence of the National Assembly for Wales

Fisheries management is largely devolved to Scotland, Wales and Northern Ireland in relation to their vessels and their waters. Therefore, where provisions place obligations on EU Member States to do something, these references are mostly changed to “a fisheries administration”, which is a term defined in amendments made by the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations.2019 and apply to all of the

retained Common Fisheries Policy (CFP) Regulations.

Animal health and welfare is a matter which falls within the legislative competence of the National Assembly and is therefore devolved.

The 2019 Regulations confer regulation making functions, which can be categorised as “devolved”, on a concurrent basis and also confer regulation making functions, which can be categorised as “devolved” on the Secretary of State with the consent of the devolved administrations.

Functions transferred to the Secretary of State on a concurrent basis may constitute functions of a Minister of the Crown for the purposes Schedule 7B to the Government of Wales Act 2006 (GoWA 2006). This may operate as a constraint on the Assembly’s competence to legislate in the future in these areas. In order to mitigate that risk, Welsh Government officials are working with the Office of the Secretary of State for Wales with a view for amending Schedule 7B to GoWA 2006 by an Order under section 109A of that Act.

Functions transferred so that they are exercisable by the Secretary of State alone, but only subject to the consent of the Welsh Ministers, constitute functions of a Minister of the Crown for the purposes of Schedule 7B. A future Assembly Bill seeking to remove or modify these functions could trigger a requirement to consult the UK Government

Any impact the SI may have on the legislative competence of the Welsh Ministers

The 2019 Regulations will broaden the Welsh Ministers’ executive competence in light of the new functions of requesting that regulations be made by the Secretary of State and consent in respect of the regulations.

Why consent was given

As set out above, the 2019 Regulations are required in relation to three categories of amendments:

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