EXPLANATORY MEMORANDUM TO

THE COMMON FISHERIES POLICY AND AQUACULTURE (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 ("Defra") and is laid before Parliament by Act.

2. Purpose of the instrument

2.1 The Common Fisheries Policy (CFP) imposes a common approach to the sustainable management of fisheries across the European Union and its waters (currently UK waters are part of EU waters). This instrument makes corrections to retained EU law so that it can operate effectively after the United Kingdom leaves the European Union.

2.2 This instrument makes a series of amendments to transfer legislative functions that are currently exercisable by European Union entities, in particular the European Commission. The functions are transferred so that they will be exercisable instead by fisheries administrations in the United Kingdom.

2.3 This instrument also makes amendments to provisions contained in an EU Regulation governing aquaculture practices, to transfer European Commission powers to United Kingdom fisheries administrations; and it contains minor consequential amendments to The Sea Fishing (Enforcement) Regulations 2018.

Explanations

What did any relevant EU law do before exit day?

2.4 The CFP regulates fishing activities and the enforcement of those activities in UK waters, as well as implementing the requirements of international agreements the European Union has entered into on behalf of Member States. The CFP Regulations currently have direct effect in domestic law. This instrument will amend the following aspects of retained EU law:

a) Regulations relating to Regional Fisheries Management Organisations ("RFMOs"), which implement international agreements relating to specific areas of fishery stocks. The Regulations to be amended cover the following conventions:

i. Northwest Atlantic Fisheries Organisation ("NAFO");
ii. North-East Atlantic Fisheries Commission ("NEAFC"); and
iii. International Commission for the Conservation of Atlantic Tunas ("ICCAT").

b) The technical conservation measures which specify the technical and conservation measures that fishing vessels must take when undertaking fishing activities.

c) The North Sea multiannual plan which establishes long-term plans for the recovery, preservation and management of fish stocks, including managing how much time fleets can spend at sea, within the North Sea.

2.5 In addition, EU entities possess powers to make legislation or exercise legislative decisions. The majority of these legislative functions are powers conferred upon the European Commission to introduce or amend detailed technical rules relating to the specific Regulation by means of delegated or implementing acts. This instrument deals with legislative functions contained within 15 CFP Regulations and one Aquaculture Regulation.

2.6 The Schedule to the Sea Fishing (Enforcement) Regulations 2018 specifies certain EU conservation fisheries measures. This instrument amends a number of those measures, in line with amendments made to Council Regulation (EC) No 850/98 in this instrument.

2.7 Annex B to this explanatory memorandum contains a full list of the amendments made by this instrument.

Why is it being changed?

2.8 The amendments to the RFMO Regulations will ensure that, when the UK accedes to these RFMOs, the UK will continue to implement regional fisheries management in the same way that it does currently. The amendments to the technical conservation measures will ensure that fishing within UK waters continues to be regulated in a sustainable manner and fishing activity continues to be conducted in accordance with the relevant conservation measures.

2.9 Existing CFP legislation will be converted into retained EU law, which has the status of primary legislation in the UK. This instrument ensures that the relevant rules contained within the legislation continue to apply to UK fishing vessels wherever they are, subject to different rules stemming from international agreements, and that those same rules continue to apply to all fishing vessels operating within UK waters.

2.10 The functions transferred by this instrument will ensure that fisheries management in the UK can continue to operate efficiently. UK fisheries administrations require this ability to ensure they can keep abreast of the latest scientific evidence and make changes where necessary.

What will it now do?

2.11 This instrument ensures there is immediate continuity in the regulation of UK waters when the UK exits the EU. No policy changes are made to the effect of the CFP, or to the implementation of the RFMO measures.

2.12 Legislative and non-legislative functions of EU entities are transferred to the UK fisheries administrations. An example of a legislative function is the power to amend a list of vessels regarded as engaged in IUU fishing. These functions are generally exercisable so that Devolved Administrations can make their own regulations where the matter is devolved, while the Secretary of State can make regulations where matters are reserved. In certain cases, in areas of devolved competence where a UK-wide approach may be preferable, the Secretary of State can exercise the function for the whole of the UK, with the consent of the Devolved Administrations.

2.13 In addition, three functions being transferred relate to the amendment of non-legislative documents. An example of a non-legislative function is the amendment of

the UK work plan for data collection under the EMFF Regulation (Regulation (EU) 508/2014). Previously, the amendment of this document would require authorisation by the European Commission, but that function is being transferred into a UK amendment function.

2.14 Further functions relate to provisions in the "IUU Regulation" (Council Regulation (EC) No 1005/2008) and are linked to amendments made by the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

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)

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

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom subject to section 4.3 of this explanatory memorandum.

4.2 The territorial application of this instrument is the United Kingdom subject to section 4.3 of this explanatory memorandum.

4.3 The Sea Fishing (Enforcement) Regulations 2018 extend to England, Scotland and Wales. Inshore Fisheries Conservation Officers (IFCOs) are appointed for inshore fisheries conservation districts in England only, but IFCOs may exercise their powers of pursuit under this instrument in Scotland or Wales.

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 and Aquaculture (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 instrument operates together with the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 which provide technical corrections to deficiencies

in retained EU law, and the Fisheries (Amendment) (EU Exit) Regulations 2019, which provide technical corrections to deficiencies in domestic legislation. These three instruments work together to amend the suite of fisheries management legislation that applies to the UK.

6.4 The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 amended 33 of the CFP Regulations. A number of the Regulations that are amended in that instrument contain legislative functions. Some of those functions were deleted by that instrument because they were deemed to be inappropriate or unnecessary for the UK following EU Exit. This instrument transfers the remaining functions to the UK fisheries administrations.

6.5 This instrument does not transfer any powers contained within the RFMO Regulations, because those powers were not deemed to be essential on day one after EU Exit, and will therefore be amended in a future, post EU Exit instrument as necessary.

7. Policy background

What is being done and why?

7.1 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 that applies to all of the retained CFP Regulations.

7.2 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. New functions which have not previously been exercisable at Member State level have been transferred in accordance with the joint decision-making framework agreed with the Devolved Administrations to complement the current position.

7.3 Further examples of the technical changes 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".

7.4 EU Regulations which duplicate existing UK legislation will be removed, and provisions that are not capable of operating within the UK, or which have no relevance to the UK outside of the EU, will be revoked. Explanations of each revocation can be found in Annex B to this explanatory memorandum.

RFMO Regulations

7.5 RFMOs are established at international level to decide on common management of shared resources in given seas or maritime areas. The European Union is a contracting party to the three RFMOs referred to in paragraph 2.4(a) of this explanatory memorandum, and the UK participates in these international agreements as a result of

its membership of the EU. The measures adopted by the RFMOs are binding on the contracting parties, and therefore EU Regulations are required to implement them within all Member States. While the UK remained a Member State, these Regulations, and by extension the RFMO measures, were directly applicable in domestic law.

7.6 The Government is seeking to continue the effect of its current arrangements, so after the UK exits the EU, the UK will apply to be a contracting party. Since the UK has an interest in areas covered by these RFMOs, by retaining the necessary legislation the UK is able to demonstrate that it will be in a position to comply with the RFMOs from exit day, which should accelerate the speed at which the UK is able to accede to them. This instrument will therefore ensure that there is as little gap in membership as possible. It is also HMG policy to have in place measures to implement international agreements, which the UK intends to join as an independent country as a result of EU Exit, before those agreements are entered into.

Technical Conservation Measures

7.7 The technical measures included in these Regulations set out certain rules for how, where and when fishers may fish. The technical measures include the characteristics of fishing gear, the minimum size of fish which may be caught, the closure of certain areas, all of which aim to limit unwanted catches, and the impact of fishing gear on marine ecosystems. This instrument makes amendments to ensure that the existing rules will continue to apply to UK fisheries after EU Exit.

North Sea Multiannual Plan

7.8 This instrument makes minor technical amendments to the North Sea Multiannual Plan. The proposed changes make the Regulation operable, ensuring that the UK has a framework for cooperation on the sustainable management of shared stocks, while also maintaining the flexibility to diverge on management decisions. The amendments mean that there will be no change to how UK fishers operate after EU Exit.

Transfer of Functions

7.9 This instrument also transfers various functions contained within the Regulations that form the CFP. Legislative functions will be transferred to the relevant UK fisheries administration, in accordance with the joint decision-making framework that has been agreed with the Devolved Administrations. “Fisheries administration”, in the context of legislative functions, means: the Scottish Ministers in relation to matters within Scotland’s devolved competence; the Department of Agriculture, Environment and Rural Affairs in relation to matters within Northern Ireland’s devolved competence; and the Welsh Ministers in relation to matters within Welsh devolved competence; or, in relation to England and reserved competence, the Secretary of State.

7.10 The Marine Management Organisation (“MMO”) is also listed as “a fisheries administration” in the retained EU law of which the relevant Regulations form part, but the MMO does not have any legislative functions.

7.11 Where a legislative function is transferred, the relevant Parliament will use the powers to make regulations via statutory instrument (in Scotland, this will be via a Scottish Statutory Instrument and in Northern Ireland via Statutory Rules). In the majority of

instances, these new powers are exercisable subject to the relevant "negative procedure". The exceptions to this are regulations determining landing and transhipment declaration procedures and forms and measures taken in respect of countries allowing non-sustainable fishing, which are subject to the relevant "affirmative procedure".

Amendment of other measures

7.12 Amendments are made to provisions in the IUU Regulation to allow the Secretary of State to enter into new arrangements with other countries regarding the specification of catch certificates for imports of fishery products and the validation of catch certificates for exports. These provisions will allow the Secretary of State to replicate arrangements the EU already has in place with a number of third countries as well as affording flexibility to enter into new arrangements in the future.

7.13 Amendments are also made to functions concerning the use of alien and locally absent species (Council Regulation (EC) 708/2007). The amendments will allow the Secretary of State to change the conditions that must be met for a permitted movement; amend the assessment process that takes place when an application for a permit is made; and update the list of exempt species. Further powers will allow UK fisheries administrations to amend both the administrative processes involved when applying to move an alien or locally absent species, and the conditions associated with any quarantine requirements.

Amendment of subordinate legislation

7.14 The Sea Fishing (Enforcement) Regulations 2018 give Inshore Fisheries Conservation Officers powers to enforce certain specified EU technical and conservation fisheries measures in their inshore (0-6 nautical miles) fishery districts. Part 7 of this instrument makes a consequential amendment to the Regulations to bring them into line with technical amendments made to Council Regulation (EC) No 850/98 in Part 3 of this instrument.

8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is being made using the power in section 8 of, and paragraph 21 of Schedule 7 to, 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 (the Scottish Government, Department of Agriculture, Environment and Rural Affairs in Northern Ireland, and the Welsh Government) were involved in the drafting of the proposed amendments.

10.2 A targeted engagement was carried out on the approach, involving key stakeholders from the fisheries sector, food industry and environment non-governmental bodies. In addition, a ten-week consultation was conducted through the Fisheries White Paper which described future fisheries policy. Stakeholders were broadly supportive of the approach being taken in the White Paper.

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 voluntary bodies.

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 no significant changes to what the public sector, or business, will have to do under the regulations are envisaged. The amendments made by the instrument will ensure UK vessels are subject to largely the same rules they are now. The impact of each set of regulations made using the powers transferred by this instrument will be assessed separately, as and when the powers are exercised.

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 substantially as it did before EU Exit, it will not disproportionately affect small business.

13.3 The effect on small businesses of each set of regulations made using the powers transferred in this instrument will be assessed separately, as and when the powers are exercised.

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 the instrument as part of their standard policy-making procedures.

14.2 As this instrument is made under the European Union (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, Minister of State for Agriculture, Fisheries and Food 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 s2(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 1972.	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA 1972, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under s2(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 1972.	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 and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019 do no more than is appropriate".

1.2 This is the case because: this instrument corrects deficiencies in legislation that arise from the withdrawal of the UK from the EU, to ensure the UK has functional and operable fisheries legislation 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: correcting deficiencies as necessary to ensure we continue to have operable fisheries legislation after EU Exit and provisions for the powers to make changes to regulations to enable a sustainable approach to fisheries management.

3. Equalities

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

"The draft 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 draft 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.

5. Legislative sub-delegation

5.1 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 it is appropriate to create a relevant sub-delegated power in the Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019."

5.2 This is appropriate because: the powers to amend Eel Management Plans, the EMFF operational programme and the data collection work plan need to be exercisable administratively rather than by statutory instrument (as set out in Annex B to this explanatory memorandum) because these documents are themselves not statutory instruments and the amendment powers contain safeguards to ensure that, either the document cannot be amended in a manner which is inconsistent with the legislative requirements it sits under, or appropriate consultation and consent provisions must be complied with.

Annex B to the Explanatory Memorandum

Summary of amendments made in the Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019

Regional Fisheries Management Organisations (RFMO) Regulations	
In all regulations which implement international fisheries agreements	This instrument would, in all of the regulations which implement international agreements: • amend requirements on Member States to report to the European Commission to requirements on fisheries administrations to report directly to the Secretariat of the international agreement in question. The deadline for the Secretariat to receive the information is the same as it is currently, albeit that currently it is received via the European Commission; and • omit powers for the European Commission to make tertiary legislation. Although the instrument would transfer such powers in other areas of the CFP to fisheries administrations or the Secretary of State, in relation to international agreements this is unnecessary because the Fisheries Bill would provide an express power to implement international agreements.
Council Regulation (EC) No **1386/2007** laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation	This Regulation provides conservation and enforcement measures, as agreed by the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (NAFO). Control measures include: arrangements for inspections at sea and in port, encompassing inspection, surveillance and infringement procedures; the mandatory inspection of Non-Contracting Party vessels where they enter the Contracting Parties' ports, and a prohibition on the landing and transhipment of catches if taken in breach of NAFO conservation measures. This instrument would make minor technical amendments to inoperable references throughout this Regulation. Paragraphs 3-5 of Article 16, and Article 38, would be omitted because it will no longer be appropriate for the UK to report to the European Commission. Article 41 refers to

	the Community Fisheries Control Agency (now European Fisheries Control Agency), which is a European Union body to which we will no longer have membership after EU Exit. The UK fisheries authorities currently provide this function within the UK. Dates for forwarding reports to the NAFO Secretariat in Article 60 and 61 have been amended to reflect the fact that the European Commission will no longer be sending the reports on the UK's behalf.
Council Regulation (EC) No **2115/2005** establishing a recovery plan for Greenland halibut in the framework of the Northwest Atlantic Fisheries Organisation	The recovery plan for stocks of Greenland halibut provides for a reduction of the Total Allowable Catch level, as well as control measures to ensure its effectiveness. The Regulation prohibits catching of Greenland halibut in certain areas, unless a fishing permit has been issued, and states that any catches must be landed in a designated port and subject to inspection. The instrument would retain the regulation, with amendments to make it effective in domestic law, save that it would omit the provision on Total Allowable Catch because that provision is time limited and has expired.
Regulation (EU) No **1236/2010** of the European Parliament and of the Council laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries	This Regulation makes provisions for control and enforcement measures to implement the requirements of the North-East Atlantic Fisheries Commission (NEAFC). The Regulation makes arrangements for inspection at sea, including inspection, surveillance and infringement procedures, a Port State Control system, and provisions to promote compliance by vessels that are not from Contracting Parties. This Regulation supplements Council Regulation (EC) No 1224/2009, which imposes rules on the control and enforcement of the CFP, and which would be made to operate in domestic law in a separate instrument, the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019. This instrument would make amendments to ensure that this regulation operates effectively in domestic law.
Commission Implementing Regulation (EU) No **433/2012** laying down detailed rules for the application of Regulation (EU) No 1236/2010 of the European Parliament and of the Council laying down a scheme of control and enforcement	This Regulation implements, and provides more detailed rules on, parts of Regulation (EU) No 1236/2010 (above). The instrument would amend this regulation so that it has effect in domestic law. The instrument would remove references to the European Fisheries Control Agency, in Articles 2, 7, 9 and 15, which designate that Agency as the body to coordinate surveillance, inspection and keep records. This will no longer be relevant to the UK outside of the EU.

applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries	
Regulation (EU) **2017/2107** of the European Parliament and of the Council laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT)	This Regulation implements the International Commission for the Conservation of Atlantic Tunas ICCAT. Minor technical amendments ensure that this Regulation - laying down detailed rules on the conservation and management of tunas and tuna-like species in the Atlantic Ocean and the adjoining seas – has effect for UK fisheries after EU Exit. Article 13, requiring the production of logbooks, has been omitted from this instrument because this is a process of the European Commission which will no longer be relevant to the UK.
Regulation (EU) **2016/1627** of the European Parliament and of the Council on a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean	This instrument would give effect in domestic law to the limited parts of Regulation 2016/1627 (which implements the recovery plan for bluefin tuna) which apply to the UK. These are the provisions on by-catch and recreational fishing. A large part of the Regulation does not apply to the UK because currently the UK does not have a quota to fish for bluefin tuna and it does not have farms for bluefin tuna. The parts that do not currently apply to the UK have been left un-amended, so that, in the future, if the UK does obtain a quota, these implementing measures can be amended and given effect in domestic law.
Commission Delegated Regulation (EU) No **2015/98** on the implementation of the Union's international obligations under the International Convention for the Conservation of Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries	Technical amendments ensure that this Regulation, prohibiting the target, retention, transhipment, transportation, transfer, processing or landing of a number of species of certain sizes in certain areas, continues to operate effectively for UK fisheries after EU Exit.

Technical Conservation Regulations	
Council Regulation (EC) No **850/98** for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms	This Regulation lays down technical conservation measures for the protection of juveniles of marine organisms. These measures include mesh sizes and combinations thereof appropriate for the capture of certain species and other characteristics of fishing gear, and the minimum sizes of marine organisms, as well as limitations of fishing within certain areas and time-periods and with certain gears and equipment. This instrument makes technical amendments so that the technical measures remain operable for UK fisheries after EU Exit, ensuring that conservation practices continue to apply. This instrument amends the application of the Regulation so that it primarily applies only within United Kingdom waters. The only exceptions to this limit of application are set out expressly in the amendments to Article 1 and cover provisions contained in Articles 26, 29g, 29h, 32a, 34b, 34d and 34e – all of which relate to the North-East Atlantic Fisheries Commission (NEAFC) Convention. In line with the approach taken to EU Regulations implementing RFMO provisions, this instrument retains the provisions of the Regulation that apply to the NEAFC Convention as the UK intends to apply to NEAFC as a contracting party outside of the EU after EU Exit. Provisions in the Regulation which apply outside of United Kingdom waters and which aren't listed in the articles mentioned in Article 1, will not apply. Articles 29 (conditions applicable in a major plaice nursery area) and 29b (restrictions on fishing for Norway lobster) have been omitted by this instrument because these areas are entirely outside of United Kingdom waters. These provisions would be considered at a later date during any consideration of arrangements to obtain access for UK fishing vessels to areas outside of United Kingdom waters. Article 31 of the Regulation prohibits the use of unconventional fishing methods – in particular, the catching of marine organisms using methods incorporating the use of electric current is prohibited. Article 31a contains a limited derogation from the prohibition in Article 31 for fishing with beam trawl using electrical pulse current in a certain specified area. The area in question

	currently forms part of EU waters but, following EU Exit, part of the area will be contained within UK waters. As such, the derogation has been amended so that it will only apply to United Kingdom fishing vessels following EU Exit. The derogation will therefore permit the authorisation of up to 5% of all the beam trawlers in the United Kingdom fleet to use the electric pulse trawl, along with certain other conditions that remain the same as before EU Exit. Decisions on the authorisation of UK fishing vessels to use electrical pulse beam trawling will be for UK fisheries administrations to make post EU Exit and the legislation ultimately provides the option for them to prohibit all electrical pulse beam trawling by foreign and United Kingdom fishing vessels in UK waters. Articles 34f (measures for the protection of a vulnerable deep-sea habitat in ICES division VIIIc) and 34g (restrictions in the 24-mile zone around Mayotte) have been omitted because these specified areas are not relevant to UK fisheries. Articles 37 to 42 concern fishing in the Skagerrak and Kattegat, and have been omitted by this instrument because these areas are outside UK waters.
Council Regulation (EC) No **1984/2003** introducing a system for the statistical monitoring of trade in swordfish and bigeye tuna within the Community	Technical amendments have been made by this instrument to this Regulation, establishing a statistical document programme to help regulate stocks of bigeye tuna and Atlantic swordfish. This will ensure that the same requirements for imports, exports and re-exports of these two species of fish continue to apply to UK fisheries administrations after EU Exit. Chapter 3 of the Regulation has been omitted, because it concerns transmission of data to the European Commission, which will no longer be applicable to the UK on EU Exit.
Council Regulation (EC) No **1185/2003** on the removal of fins of sharks on board vessels	Technical amendments are made to this Regulation so that, after EU Exit, the prohibition on the removal of shark fins, retention on board, transhipment and landing of sharks or shark fins continues to apply to UK fishing vessels in maritime waters. The amendments to Article 6 on reports will result in fisheries administrations publishing a comprehensive report on the implementation of this Regulation, where UK fishing vessels do catch, retain on-board, tranship or land sharks, as was the case before EU Exit.

Council Regulation (EC) No **520/2007** laying down technical measures for the conservation of certain stocks of highly migratory species	This Regulation establishes technical measures for certain stocks of highly migratory species: specifying authorised sizes and weights of fish; restrictions on fishing within certain areas and time periods, with certain gears; and capacity. Article 16, on sport and recreational fishing in the Mediterranean, has been omitted by this instrument, because this area of water is not relevant to UK fisheries administrations.
Commission Regulation (EEC) No **3440/84** on the attachment of devices to trawls, Danish seines and similar nets	There is one amendment to this Regulation, which omits the coming into force day. The remainder of this Regulation would be retained.
Commission Regulation (EC) No **494/2002** establishing additional technical measures for the recovery of the stock of hake in ICES sub-areas III, IV, V, VI and VII and ICES divisions VII a, b, d, e	The technical amendments to this Regulation change "fishing vessels" to "United Kingdom fishing vessels", and update cross-references to other Regulations that form part of retained EU law.
Commission Implementing Regulation (EU) No **737/2012** on the protection of certain stocks in the Celtic Sea	Technical amendments ensure that the technical measures and the onboard observer programme would continue to have effect for UK fisheries administrations after EU Exit.
Council Regulation (EC) No **812/2004** laying down measures concerning incidental catches of cetaceans in fisheries	This Regulation makes provisions for acoustic deterrent devices and an at-sea observer scheme, and this instrument makes technical amendments so that it has effect in the UK after EU Exit. Articles 6-10 are omitted by the instrument, since they refer to Member States sending annual reports to the European Commission, and other Commission procedures. Areas A and E have been omitted from Annex 1, because they are not relevant to UK fishing vessels.
Commission Regulation (EEC) No **3440/84** on the attachment of devices to trawls, Danish seines and similar nets	There is one amendment to this Regulation, omitting its entry into force provision.

Council Regulation (EC) No **894/97** laying down certain technical measures for the conservation of fishery resources	Technical amendments to this Regulation are made by this instrument, to ensure that all of the technical measures continue to have effect in domestic law. References to "Member State" are amended to be "fisheries administration", an out-of-date provision in paragraph 3 of Article 11a has been omitted, along with a requirement to report to the European Commission in paragraph 4.
Council Regulation (EC) No **2549/2000** establishing additional technical measures for the recovery of the stock of cod in the Irish Sea (ICES Division VIIa)	The amendments to this Regulation update references to out-of-date EU Regulations, and omit its entry into force.
Council Regulation (EEC) No **1638/87** fixing the minimum mesh size for the pelagic trawls used in fishing for blue whiting in that part of the area covered by the Convention on Future Multilateral Cooperation in the North East Atlantic Fisheries which extends beyond the maritime waters falling with in the fisheries jurisdiction of Contracting Parties to the Convention	Minor technical amendments to this Regulation ensure it continues to have effect in domestic law.
Commission Regulation (EC) No **2056/2001** establishing additional technical measures for the recovery of the stocks of cod in the North Sea and to the West of Scotland	Minor technical amendments ensure this Regulation is operable for UK fisheries after EU Exit. Article 9 has been amended so that Norwegian vessels may fish in the ICES Sub-area IV for Pandalus shrimps as long as they have the correct licence or authorisation.

The North Sea Multiannual Plan	
Regulation (EU) **2018/973** of the European Parliament and of the Council establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea	The technical amendments to this Regulation ensure that the multiannual plan for demersal stocks in the North Sea continues to operate effectively for UK fisheries. Amendments ensure that the plan functions for United Kingdom waters, as opposed to Union waters. The amendments to Article 4 and Article 6 ensure that the Secretary of State will request from ICES the ranges of F_{MSY} (a range of values where all levels of fishing mortality within that range result in maximum sustainable yield) based on the plan, as it is defined in Article 2, and the conservation reference points, in order to safeguard the full reproductive capacity of the stocks referred to in Article 1. The amendments take account of the changes to allocation of fishing opportunities that will result from EU Exit. Since the Council will no longer be fixing fishing opportunities for the UK, these references have been amended. Article 14 on regional cooperation will no longer apply to the UK, so has been omitted by the instrument.

Transfer of Functions

Regulation (EU) No **1380/2013** of the European Parliament and of the Council on the Common Fisheries Policy.	The European Commission has the legislative power to create and amend discard plans relating to the implementation of the 'landing obligation'. This function will be transferred to the Secretary of State, the Department of Agriculture, Environment and Rural Affairs, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas. The European Commission also has a legislative power in relation to the information necessary to produce an EU fishing fleet register. This power was exercised by the European Commission in the form of Commission Implementing Regulation (EU) 2017/218 on the Union fishing fleet register which is amended by the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 to provide for a UK fishing fleet register. This function will be transferred to the Secretary of State to exercise for the UK on behalf of the Devolved Administrations, with their consent, to ensure a consistent approach is achieved in any future amendments to a UK-wide fishing fleet register.
Council Regulation (EC) No **1224/2009** establishing a Union control system for ensuring compliance with the rules of the common fisheries policy.	The European Commission has legislative powers to set out detailed rules or make exemptions in relation to a number of technical measures, including: satellite-based VMS; conversion of fish weight into live weight; completion and transmission of logbook data; transhipment declarations; sales notes; surveillance reports; officer safety during inspections; and electronic databases. These functions will be transferred to the Secretary of State, the Department of Agriculture, Environment and Rural Affairs, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas.
Council Regulation (EC) No **1005/2008** establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated ("IUU") fishing.	The European Commission has legislative powers in relation to allowing non-EU vessels to give a shorter than the default notice period of arrival in port; determining landing and transhipment declaration procedures and forms; determining benchmarks for inspections of at least 5% of non-EU vessel operations; reviewing the list of excluded products from the requirement for a catch certificate; determining rules relating to the status of 'approved economic operator' and establishing and amending the EU list of vessels regarded as engaged in IUU fishing. Some of these functions are transferred to the Secretary of State, the Department of Agriculture, Environment and Rural Affairs, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas. In some cases, the Secretary of State is also provided with a power to

	make regulations for the whole of the UK, subject to the consent of the Devolved Administrations. In relation to the power under Article 27 to provide for a list of vessels regarded as engaged in IUU fishing, this is a power purely for the Secretary of State which reflects the fact that the Devolved Administrations will (by virtue of amendments made by the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 to other provisions in this Chapter of the Regulation) be involved in identifying and agreeing which vessels should be included on the list. The Regulation also contains legislative powers for the European Council in relation to establishing and amending a list of countries considered to be non-cooperating in fighting IUU fishing. These functions will be transferred to the Secretary of State to exercise with the consent of the Devolved Administrations.
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.	The European Commission has legislative powers to take measures against countries allowing non-sustainable fishing. These functions will be transferred to the Secretary of State, the Department of Agriculture, Environment and Rural Affairs, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas. The Secretary of State may also exercise the functions for the UK on behalf of the Devolved Administrations with their consent.
Council Regulation (EC) No **1100/2007** establishing measures for the recovery of the stock of European Eel.	The Regulation requires Member States to establish Eel Management Plans which the European Commission must approve, including any amendments at a later date, by legislative decision. The UK already has established eel management plans in place (previously approved by the European Commission) so the European Commission's approval power will be transferred into a power to make amendments to the existing plans for the Secretary of State, the Department of Agriculture, Environment and Rural Affairs, the Scottish Ministers and the Welsh Ministers in relation to plans in their respective areas. As Eel Management Plans are themselves not legislative instruments, the power to make amendments to them will be an administrative, rather than a legislative, power.

Council Regulation (EC) No **1954/2003** on the management of the fishing effort relating to certain Community fishing areas and resources.	The Regulation creates an 'effort regime' for certain fish stocks in identified areas (known as 'the Western Waters effort regime'). The management of fishing effort relates to the limitation of both the capacity of a Member States' fleet and the amount of time that can be spent at sea. The European Commission has the legislative power to make amendments to the maximum annual fishing effort allocations for Member States' fleets specified for each fishing area. This function will be transferred to the Secretary of State (to be exercisable with the consent of the Devolved Administrations) and will apply in relation to making adjustments for the whole of the UK fleet's effort allocation in the specified fishing areas.
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.	The European Commission has the legislative power to create a multiannual Union programme, to ensure that there is a uniform application of the obligation to collect and manage fisheries data. This function will be transferred to the Secretary of State, the Department of Agriculture, Environment and Rural Affairs, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas. The Secretary of State will also have the power to exercise the function for the whole of the UK with the consent of the Devolved Administrations.
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.	The European Commission has legislative powers to set the required format and structure of 'producer organisation' applications and production and marketing plans. These functions will be transferred to the Secretary of State, the Department of Agriculture, Environment and Rural Affairs, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas.
Council Regulation (EC) No **2406/96** laying down common marketing standards for certain fishery products.	The European Commission has legislative powers to make detailed general rules for the implementation of the requirements of the Regulation as well as further legislative powers to make detailed rules for specific provisions such as weighing methods and sampling systems and the power to exempt certain coastal zones from marketing size requirements. These functions will be transferred to the Secretary of State, the Department of Agriculture, Environment and Rural

	Affairs, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas. The Secretary of State will also be able to exercise the functions which relate to introducing detailed rules for the whole of the UK on behalf of the Devolved Administrations with their consent.
Council Regulation (EEC) No **2136/89** laying down common marketing standards for preserved sardines and trade descriptions for preserved sardines and sardine-type products.	The European Commission has the legislative power to adopt further measures necessary to apply the requirements of the Regulation. This function will be transferred to the Secretary of State, the Department of Agriculture, Environment and Rural Affairs, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas.
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.	The European Commission has legislative powers to determine the areas where exploratory fishing may be conducted as well as establishing a list of areas where VMEs are known or likely to occur. These functions will be transferred to the Secretary of State, the Department of Agriculture, Environment and Rural Affairs, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas.
Regulation (EU) No **508/2014** of the European Parliament and of the Council on the European Maritime and Fisheries Fund ("EMFF").	Member States are required to draw up an 'operational programme' to set out how the priorities of the EMFF will be implemented as well as a 'work plan' for the requirement to collect data for sustainable fisheries. Operational programmes and data collection work plans, and any amendments thereto, must be approved by the European Commission by legislative decision. As the UK already has an existing operational programme and data collection work plan (both approved by the European Commission) the European Commission's approval function will be transferred into a power to make amendments to these documents. As both apply to the whole of the UK the Secretary of State will hold the power to amend these documents with the consent of the Devolved Administrations. As the operational programme and data collection work plan are themselves not legislative instruments, the power to make amendments to them will be an administrative, rather than a legislative, power.

Council Regulation (EC) No **850/98** for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms.	The European Commission has specific legislative powers to determine which gears are considered to have high selectivity for the purposes of fishing for Norway Lobster in certain areas and to provide for very limited derogations to the prohibition on catching redfish in specified areas within international waters; as well as more general legislative powers to adopt measures additional to the Regulation in cases where the conservation of stocks of marine organisms requires immediate action and to produce technical rules in relation to fishing gear. These powers will be transferred to the Secretary of State, the Department of Agriculture, Environment and Rural Affairs, the Scottish Ministers and the Welsh Ministers to exercise in their respective areas. The general powers referred to above will also be exercisable by the Secretary of State for the whole of the UK on behalf of the Devolved Administrations with their consent.
Regulation (EU) **2017/1130** of the European Parliament and of the Council defining characteristics for fishing vessels.	The European Commission has the legislative power to amend the determination of engine power by updating the reference to the relevant ISO International Standard, should it be necessary to update to technical progress. This function will be transferred to the Secretary of State to exercise for the whole of the UK, with a requirement to consult the Devolved Administrations.
Council Regulation (EC) No **708/2007** concerning use of alien and locally absent species in aquaculture.	The Regulation establishes an EU-wide framework governing aquaculture practices to assess and minimise their possible impact and to contribute to the sustainable development of the aquaculture sector. The amendments being made transfer powers currently held by the European Commission to amend the Annexes to Council Regulation (EC) No 708/2007. The power to amend Annexes 1 and 3 is transferred to the Devolved Administrations in relation to their territories. The power to amend Annexes 2 and 4 will be transferred to the Secretary of State, who may exercise the functions for the UK on behalf of the Devolved Administrations with their consent.

Amendment of other measures

Council Regulation (EC) No **1005/2008** establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated ("IUU") fishing.	Provisions relating to the acceptance of different forms of catch certificates for catches made by the vessels of other flag states were removed by the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 as these ultimately relate to agreements the EU has entered into with other countries, which won't necessarily apply to the UK after EU exit. Article 12 is amended by this instrument (new paragraphs 4A and 4B added) to provide the Secretary of State with the ability to enter into arrangements with other flag states regarding catch certificates. This would allow the Secretary of State to replicate, if desired, the provisions of Annex 9 to Commission Regulation (EC) No 1010/2009 which sets out the specific details of the catch certificates and administrative arrangements the EU has agreed with certain flag states. Similarly, Article 15 is amended by this instrument to provide the Secretary of State with the ability to make arrangements with other states to the effect that exports of UK fisheries products will be subject to the validation of a catch certificate. Where no such arrangements are entered into, the legislation provides for exportation without validation of the catch certificate as is currently the case.
Council Regulation (EC) No **708/2007** concerning use of alien and locally absent species in aquaculture.	The regulation establishes an EU-wide framework governing aquaculture practices to assess and minimise their possible impact and to contribute to the sustainable development of the aquaculture sector. The amendments being made transfer powers currently held by the European Commission to amend the Annexes to Council Regulation (EC) No 708/2007. The power to amend Annexes 1 and 3 is transferred to the devolved administrations in relation to their territories. The power to amend Annexes 2 and 4 will be transferred to the Secretary of State, who may exercise the functions for the UK on behalf of the Devolved Administrations with their consent.

Subordinate Legislation	
Sea Fishing (Enforcement) Regulations 2018	These Regulations give Inshore Fisheries Conservation Officers powers to enforce certain specified EU technical and conservation fisheries measures in their inshore (0-6 nautical miles)

	fishery districts. The EU measures are listed in the Schedule to the Regulations, which is being amended to bring it into line with technical amendments made to Council Regulation (EC) No 850/98 in Part 3 of this instrument. Specifically, the reference to the measures in Articles 36, 37(1), 39 and 40 are being omitted from the Schedule as a consequence of their being omitted from Council Regulation (EC) No 850/98.

EU Regulations revoked by the instrument

Regulation	Reason for Revocation
Council Regulation (EU) **2018/120** fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127	This Regulation will be replaced by the regulation implementing the outcome of the 2018 December Council. That Regulation will be amended in a forthcoming instrument.
Commission Implementing Decision of 19 March 2014 (**2014/156/EU**) establishing a specific control and inspection programme for fisheries exploiting stocks of bluefin tuna in the Eastern Atlantic and the Mediterranean, swordfish in the Mediterranean and for fisheries exploiting stocks of sardine and anchovy in the Northern Adriatic Sea	This Decision does not apply to UK fishers.
Council Regulation (EC) No **1967/2006** concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94	This Regulation does not apply to UK fishers as they do not fish in the Mediterranean Sea.
Council Regulation (EC) No **2187/2005** for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98	This Regulation regulates waters that are outside UK waters.
Commission Regulation (EC) No **1922/1999** laying down detailed rules for the application of Council Regulation (EC) No 850/98 as regards conditions under which vessels exceeding eight metres length overall shall be permitted to use beam trawls within certain waters of the Community	This Regulation lays down rules for the application of Article 29 of Council Regulation (EC) No. 850/98 (see above). In amendments to that Regulation, Article 29 has been omitted because it relates to a fishing area which is wholly outside United Kingdom waters. As such this Commission Regulation will be of no effect and should also be revoked.