EXPLANATORY MEMORANDUM TO

THE SEA FISHERIES (AMENDMENT) (ENGLAND) REGULATIONS 2025

2025 No. 92

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 Command of His Majesty.

2. Declaration

2.1 Daniel Zeichner MP, Minister of State at the Department for Environment, Food and Rural Affairs, confirms that this Explanatory Memorandum meets the required standard.

2.2 Mike Dowell, Deputy Director for Quota, Policy and Negotiations at the Department for Environment, Food and Rural Affairs, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Alison Kerrigan at the Department for Environment, Food and Rural Affairs, email: discards@defra.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes amendments to assimilated law relating to sea fisheries, which was previously part of the European Union ("EU") Common Fisheries Policy. These amendments relate to discard exemptions. Exemptions permit a limited amount of discarding to take place during commercial fishing for species managed by quotas.

4.2 This instrument will disapply four discard exemptions in English waters, three fully and one partially. When disapplied, fishers will no longer be allowed to discard fish using these exemptions. All fish caught will have to be landed and counted against quota.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. Policy Context

What is being done and why?

5.1 Many fishing activities in UK waters are subject to a landing obligation[1], which requires fish caught at sea to be brought to shore. There are some exemptions to allow fish to be discarded, such as when the discarded species have a high chance of survival or where further selectivity is difficult to achieve.

5.2 Exemptions are defined in four assimilated Regulations[2345], known as discard plans, and apply to certain fish species, gear types and areas. Where applicable, exemptions are available for use by all vessels fishing in a particular area, regardless of their country of origin, supporting fishers to comply with the landing obligation. The use of exemptions is not mandatory.

5.3 Following a scientific review[6] of exemptions by the Centre for Environment, Fisheries and Aquaculture ("Cefas") and a public consultation,[7] this instrument will disapply a limited number of exemptions in English waters. Four exemptions will be disapplied, three fully and one partially, by amending the relevant discard plan. All other UK exemptions will remain unchanged.

5.4 The de minimis exemption for mackerel, horse mackerel, herring and whiting caught in the fishery carried out with pelagic trawlers up to 25 metres in length overall, using mid-water trawls, and targeting mackerel, horse mackerel and herring in International Council for the Exploration of the Sea ("ICES") division 7d will be disapplied. This is due to insufficient evidence to support this exemption (Article 3a of Commission Delegated Regulation (EU) No 1393/2014).

5.5 The de minimis exemption for mackerel, horse mackerel, herring and whiting caught in the pelagic fishery carried out by pelagic trawlers up to 25 metres in length overall, using mid-water trawls, and targeting mackerel, horse mackerel and herring in ICES divisions 4b and c south of 54 degrees north will be disapplied. This is due to insufficient evidence to support this exemption (Article 3a of Commission Delegated Regulation (EU) No 1395/2014).

5.6 The high survivability exemption for turbot caught in English waters of ICES subarea 4 with beam trawls with a cod-end larger than 80 mm will be disapplied. This is due to insufficient discard survival evidence to support this exemption (Article 8 of Commission Delegated Regulation (EU) 2019/2238).

5.7 The cod element of the de minimis exemption for cod and whiting below the minimum conservation reference size caught in the mixed demersal fisheries by vessels using bottom trawls or seines with a mesh size of 70-99 mm in ICES division 4c will be disapplied. This is due to concerns about the Northern shelf cod stock, in particular in the Southern North Sea, and insufficient evidence to support this exemption. It provides a consistent approach across ICES subarea 4 (Article 10 of Commission Delegated Regulation (EU) 2019/2238). The whiting element of this exemption will be retained.

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[1] https://www.legislation.gov.uk/eur/2013/1380/article/15
[2] https://www.legislation.gov.uk/eur/2014/1393/contents
[3] https://www.legislation.gov.uk/eur/2014/1395/contents
[4] https://www.legislation.gov.uk/eur/2019/2238/contents
[5] https://www.legislation.gov.uk/eur/2019/2239/contents/2020-01-31
[6] https://assets.publishing.service.gov.uk/media/61fa5be1d3bf7f78e9604a32/MF1288_FRD014b_A_Review_of_Existing_and_Proposed_Exemptions_from_the_Landing_Obligation_Applicable_in_UK_Waters.pdf
[7] https://consult.defra.gov.uk/marine-and-fisheries/discards-reform/

5.8 Under the landing obligation, all fish caught must be landed and not discarded if there is no exemption in place. In the long-term, removal of these exemptions is likely to reduce levels of unwanted catch in the fisheries concerned, supporting the sustainability of these stocks. This aligns with the objectives set out in the Fisheries Act 2020.

What was the previous policy, how is this different?

5.9 As a member of the EU, the UK followed the Common Fisheries Policy. This established rules for sustainably managing fishing, which included the landing obligation and discard exemptions.

5.10 As an independent coastal state, the UK can tailor its exemptions to support its fishing industry in complying with the landing obligation, and to align with the best available scientific evidence. Each national fisheries authority in the UK can also develop appropriate exemptions for their respective waters.

5.11 There are already different fisheries management requirements in UK and EU waters, including for exemptions. Despite some changes on both sides, most exemptions are still aligned, and the use of exemptions remains optional. All fishers in a specific water, whether from the UK or EU, have access to the same exemptions as everyone else in that water, if they meet the exemption conditions such as gear type.

6. Legislative and Legal Context

How has the law changed?

6.1 The landing obligation is contained in Article 15 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy. There are four additional assimilated Regulations which specify exemptions from the landing obligation known as "the discard plans". This instrument makes changes to three discard plans set out in:

- Commission Delegated Regulation (EU) No 1393/2014 establishing a discard plan for certain pelagic fisheries in north-western waters[8];
- Commission Delegated Regulation (EU) No 1395/2014 establishing a discard plan for small pelagic fisheries and fisheries for industrial purposes in the North Sea[9]; and
- Commission Delegated Regulation (EU) 2019/2238 specifying details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2020-2021[10].

Why was this approach taken to change the law?

6.2 This is the only possible approach to make these changes, as UK exemptions are set out in Regulations. In the Explanatory Memorandum[11] for The Sea Fisheries (Amendment) Regulations 2024[12], paragraph 7.7, it was noted that a decision would be taken on what updates to exemptions should be made in English waters following the discards reform consultation in 2023. This instrument takes forward these changes.

[8] https://www.legislation.gov.uk/eur/2014/1393/contents
[9] https://www.legislation.gov.uk/eur/2014/1395/contents
[10] https://www.legislation.gov.uk/eur/2019/2238/contents
[11] https://www.legislation.gov.uk/uksi/2024/231/pdfs/uksiem_20240231_en_001.pdf
[12] https://www.legislation.gov.uk/uksi/2024/231/contents/made

7. Consultation

Summary of consultation outcome and methodology

7.1 Proposals to reform the discards management in England were consulted on during a 12-week period in 2023. On exemptions, the consultation[13] asked stakeholders if they agreed with their continued use from 2025 onwards, and proposed several changes in English waters, including disapplying some existing exemptions.

7.2 The consultation included both an online questionnaire held on Citizen Space, a UK government online consultation tool, and face-to-face stakeholder engagement through webinars and meetings. A range of stakeholders were consulted, including the fishing industry, environmental non-governmental organisations, the devolved governments and the EU.

7.3 The summary of responses and government response[14] to the consultation was published in 2024. Feedback generally supported the continued use of evidence-based exemptions. A limited number of responses provided views on certain exemption proposals.

7.4 Following the outcome of the consultation, and consistent with our ongoing approach to review and amend exemptions in line with the best available scientific evidence, this instrument takes forward proposals to disapply four exemptions, three fully and one partially, in English waters.

7.5 Whilst this instrument relates to English waters only, the devolved governments have been consulted on these proposals and are aware of the disapplication of these four exemptions. All remaining exemptions in UK waters still apply.

8. Applicable Guidance

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

8.2 The Marine Management Organisation ("MMO") will amend relevant information detailing the changes to the exemptions applicable in English waters.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the direct business impacts of the measures are expected to be less than the £10 million de minimis threshold (net annualised). A proportionate assessment of the impacts has been completed.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies. This instrument applies only to commercial fishing businesses, and the changes being applied are predicted to have low economic effects and a low-level impact on business.

9.3 The legislation does apply to activities that are undertaken by small and micro businesses, with no disproportionate impact expected.

[13] https://consult.defra.gov.uk/marine-and-fisheries/discards-reform/

[14] https://www.gov.uk/government/consultations/discards-reform/outcome/summary-of-responses-and-government-response#summary-of-responses-to-questions

9.4 To minimise the impact of the requirements on small or micro businesses (employing up to 50 people), the MMO will amend relevant information detailing the changes in time to allow industry to take any necessary practical steps.

9.5 There is no, or no significant, impact on the public sector because the number of technical changes is limited, and any compliance issues will be factored into the MMO's existing risk-based work plans.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that Defra will monitor and review the impact of this instrument as part of their standard policy-making procedures. Any future amendments to discard exemptions will be made, where appropriate, in line with best available scientific evidence and in consultation with stakeholders. Data on discarding will continue to be collected and monitored by Cefas to inform such decisions.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Daniel Zeichner, Minister of State, has made the following statement:

"The requirement for a review would be disproportionate when taking into account the economic impact of the regulatory provision on the qualifying activity."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Daniel Zeichner MP, Minister of State, has made the following statement regarding Human Rights:

"In my view the provisions of The Sea Fisheries (Amendment) (England) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (''relevant European Union Acts'').

13.2 This instrument does, however, relate to the withdrawal of the United Kingdom from the European Union because it relates to the implementation of the Trade and Cooperation Agreement 2020, whereby either party making changes to legislation which will have an effect on vessels of the other party should notify ahead of the legislative changes coming into force.

13.3 Considering this, the UK will notify the EU of the measures in this instrument which will affect EU vessels fishing in English waters and allow time for comment before this instrument is laid. This measure will apply equally to UK and EU vessels. It is the responsibility of the UK and EU fisheries administrations to ensure compliance of their fleets.