EXPLANATORY MEMORANDUM TO

THE SEA FISHERIES (AMENDMENT) REGULATIONS 2024

2024 No. 231

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. Purpose of the instrument

2.1 This instrument makes amendments to assimilated law relating to sea fisheries, which was previously part of the Common Fisheries Policy. These amendments cover both discard exemptions and the multiannual programme for the collection and management of fisheries data.

Discard exemptions

2.2 The instrument will amend Commission Delegated Regulations (EU) Nos 1393/2014, 1395/2014, 2019/2238 and 2019/2239, removing the expiry date of 31 December 2024 from each of the discard exemptions contained within. The legislation is being amended to allow sufficient time for review and reform of the discard exemptions.

Multiannual Programme for collection and management of fisheries data

2.3 The instrument will amend Commission Implementing Decision (EU) 2019/909 and Commission Delegated Decision (EU) 2019/910, extending the expiry date of each piece of legislation by two years from the end of 2024 to the end of 2026. The legislation is being extended to allow sufficient time for review and reform of the Data Collection Framework and Multiannual Programme legislation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales, Scotland and Northern Ireland.

4.2 The territorial application of this instrument is England and Wales, Scotland and Northern Ireland.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

6. Legislative Context

Discard exemptions

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". The discard plans are set out in:

- Commission Delegated Regulation (EU) No 1393/2014 establishing a discard plan for certain pelagic fisheries in North-Western waters;
- Commission Delegated Regulation (EU) No 1395/2014 establishing a discard plan for small pelagic fisheries and fisheries for industrial purposes in the North Sea;
- 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; and
- Commission Delegated Regulation (EU) 2019/2239 specifying details of the landing obligation for certain demersal fisheries in North-Western waters for the period 2020-2021.

6.2 This instrument amends the four discard plans by removing the expiry date of 31 December 2024 in each of the Regulations. The Sea Fisheries (Amendment etc) (No.2) Regulations 2021 (2021/1429) previously amended the expiry date in the four Regulations.

Multiannual Programme for collection and management of fisheries data

6.3 The Data Collection Framework Regulation (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 provides for a data collection multiannual programme. This instrument amends the two Decisions below to extend the application of the multiannual programme to the end of 2026. The data collection multiannual programme is set out in:

- Commission Implementing Decision (EU) 2019/909 establishing the list of mandatory research surveys and thresholds for the purposes of the multiannual Union programme for the collection and management of data in the fisheries and aquaculture sectors; and
- Commission Delegated Decision (EU) 2019/910 establishing the multiannual Union programme for the collection and management of biological, environmental, technical and socioeconomic data in the fisheries and aquaculture sectors.

6.4 The Sea Fisheries (Amendment etc.) (No.2) Regulations 2021 (2021/1429) previously amended the expiry date in the two Decisions to the end of December 2024, this ensured continuation of UK data collection in line with its international commitments whilst developing a basis for future governance and technical reform. Due to delays in finalising DCF reform, a further 2 year extension of the MAP legislation to the end of 2026 is being implemented, to ensure reform meets government priorities whilst maintaining the case to drive change and allowing sufficient time to align technical and legislative reform.

7. Policy background

What is being done and why?

Discard exemptions

7.1 The current discard exemptions expire on 31 December 2024. These scientifically justified exemptions from the landing obligation allow a limited level of discarding for certain stocks in specific circumstances. For example, these exemptions allow discarding where the discarded species have a high chance of surviving. These exemptions apply across all UK waters.

7.2 The purpose of this change is to enable these exemptions to continue unchanged, until otherwise amended by each administration for their waters. This provides ongoing flexibilities to support compliance with the landing obligation.

Multiannual Programme for collection and management of fisheries data

7.3 The current Multiannual Programme (MAP) Decisions expire on 31 December 2024. The MAP Decisions refer to a UK national work plan (non-legislative) for the detail of data collection and management activities.

7.4 The UK Work Plan ensures coordination of activities across the Fisheries Administrations to enable the UK to meet international commitments for fisheries data management and collection. Extending the MAP Decisions ensures that the UK Work Plan for 2024 to the end of 2026 will have legislative underpinning (by referring to a current MAP). This provides assurance that the four UK Fisheries Administrations collectively will meet international obligations, whilst providing an expiry point to drive forward reform of the UK's data collection.

Explanations

Discards exemptions

7.5 Many fishing activities in UK waters are subject to a 'landing obligation'. This requires fish which are caught at sea to be brought to shore. However, there are some exemptions to the landing obligation which allow fish to be discarded. For example, where the discarded species have a high chance of surviving.

7.6 Before the changes to be made by this instrument, these exemptions were subject to an expiry date of 31 December 2024. This instrument would not make any substantive change to the exemptions but would remove that expiry date. This is being changed because there is a risk that any updates to these exemptions may not be made before the current expiry date. Removing the expiry date reduces any uncertainty for UK businesses which are dependent upon these exemptions.

7.7 Following this change, the exemptions will stay in force until they are updated. Timelines for this vary because this is a devolved responsibility. In England, consultation on updates took place in 2023 and it is expected that a decision will be made in 2024 on what updates should be made.

Multiannual Programme for collection and management of fisheries data

7.8 Before the changes to be made by this instrument, the Multiannual Programme established the list of mandatory research surveys and thresholds for the collection and management of data in the fisheries and aquaculture sectors, and for the collection and management of biological, environmental, technical and socioeconomic data in

the fisheries and aquaculture sectors. These requirements were subject to an expiry date of 31 December 2024. This instrument would not make any substantive changes to these requirements but would extend the expiry date to the end of 2026.

7.9 These changes allow the UK to continue to meet its data collection obligations under the Data Collection Framework (DCF). Under the DCF (Art 6 of Regulation 2017/1004) the UK must produce an annual work plan and it is not possible to have a work plan without having MAP legislation in place. Therefore, amendments to the overarching DCF legislation would be required to allow any change to these obligations.

7.10 Following this change, these requirements would stay in force until 31 December 2026.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

8.2 This instrument does, however, relate 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 should notify ahead of the legislative changes coming into force. Considering this, the UK will notify the EU of the measures in this instrument which will affect EU vessels fishing in UK waters and allow time for comment before this instrument is laid. These measures 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.

9. Consolidation

9.1 There are no plans to consolidate the legislation amended by this instrument.

10. Consultation outcome

Discard exemptions

10.1 The devolved administrations have been consulted and have agreed that discard exemptions should continue to their respective waters via this instrument. Industry and other stakeholders have also been consulted.

Multiannual Programme for collection and management of fisheries data

10.2 The devolved administrations have been consulted and agreed to the proposed amendments for the Multiannual Programme via the two main UK governance bodies for fisheries science. The UK's ICES representatives have been consulted as the end users of the data collected and were content with the extension. The agreement to extend was subject to a commitment to look at options to reform the overarching Data Collection Framework legislation. Defra has engaged the stakeholders who collect the data under the Multiannual Programme across the devolved administrations.

11. Guidance

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

11.2 The Marine Management Organisation (MMO) publishes a list of discard exemptions in force in UK waters. This information will be updated to reflect amendments in this instrument.

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 produced for this instrument as no, or no significant, impact on the public, private or voluntary sector is foreseen.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach to be taken is a note from the Marine Management Organisation that will detail the relevant changes.

13.3 The basis for the final decision on what action to take to assist small businesses is that by releasing a note from the Marine Management Organisation the information would reach the relevant businesses in good time.

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 The instrument does not include a statutory review clause, as a requirement for a review would be disproportionate when taking into account the economic impact of the regulatory provision on the qualifying activity.

15. Contact

15.1 Emma Place at the Department for Environment, Food and Rural Affairs (telephone: 07342 052438 or email: emma.place@defra.gov.uk) can be contacted with any queries regarding the discard elements in this instrument.

15.2 Thomas Parker at the Department for Environment, Food and Rural Affairs (telephone: 07385383069 or email: Thomas.Parker1@defra.gov.uk) can be contacted with any queries regarding the Multiannual Programme elements in this instrument.

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

15.4 Mark Spencer, Minister of State at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.