POLICY NOTE

THE SEA FISHING (LICENCES AND NOTICES) (EU EXIT) (SCOTLAND) (AMENDMENT) REGULATIONS 2019

SSI 2019/88

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 4B of the Sea Fish (Conservation) Act 1967. This instrument is subject to the negative procedure.

Purpose of the Regulations: The Sea Fishing (Licences and Notices) (EU Exit) (Scotland) (Amendment) Regulations 2019 (the "Regulations") make amendments to the Sea Fishing (Licences and Notices) (Scotland) Regulations 2011 ("the 2011 Regulations") which make provisions for the manner in which a licence under section 4 and 4A of the Sea Fish (Conservation) Act 1967 may be granted and in which a notice of variation, revocation or suspension of any such licence may be effected.

These Regulations extend the application of the 2011 Regulations to licences granted by the Scottish Ministers to foreign fishing boats.

Policy Objectives

These Regulations are made on a contingency basis for the event of the UK leaving the EU with no deal or withdrawal agreement in place, and accompany the Sea Fish Licensing (Foreign Vessels) (EU Exit) (Scotland) Order 2019 ("the Licensing Order"). The policy intent is to use vessel licensing as the means of imposing and enforcing conditions on any foreign vessels through domestic law, and create a level playing field for the foreign and domestic fleets fishing in the Scottish zone. These Regulations make amendments to the 2011 Regulations. The 2011 Regulations make provisions for the manner in which a licence under section 4 and 4A of the Sea Fish (Conservation) Act 1967 may be granted and in which a notice of variation, revocation or suspension of any such licence may be effected.

Although this Order is being made to prepare for EU Exit it is not being made under the European Union (Withdrawal) Act 2018. Therefore, the SSI protocol between Scottish Ministers and the Scottish Parliament does not apply and the SSI is not subject to the requirement for sifting by committee to determine the appropriate procedure (the procedure for these Regulations is set out in the Sea Fish (Conservation) Act 1967), nor are the written statements made under the terms of EUWA or the SSI protocol considered appropriate.

Provision to this effect is made within the Fisheries Bill, however these Regulations are required as we do not consider that the UK Fisheries Bill will be in force by 29th March 2019. The Secretary of State for Defra and the other devolved administrations are making equivalent provisions so all foreign fishing boats in the UK EEZ will need to be licenced by the Secretary of State and each of the Devolved Ministers in order to fish in their respective parts of UK waters.

The Licensing Order makes provision prohibiting fishing by foreign fishing boats in the Scottish zone unless authorised by a licence granted by the Scottish Ministers. These Regulations amend the 2011 Regulations to make provision about the issuing of foreign vessel

licences and sending notices in respect of such licences. This enables the Scottish Ministers to publish notices of variation, suspension or revocation of a foreign vessel licence on a nominated Government website. Introducing this facility to the notices publication process will ensure more effective procedures in line with domestic licensing.

The Regulations will be underpinned by a licence condition which will require licence holders to check the nominated website regularly and on a specified day/s each week for the publication of notices relating to their licences.

Further information

Consultation

This instrument is a contingency required in the event that the UK Fisheries Bill is not in place if the UK leaves the EU without a deal or withdrawal agreement in place. There has been no formal public consultation regarding this instrument.

Impact Assessments

This instrument is a contingency required in the event that the UK Fisheries Bill is not in place if the UK leaves the EU without a deal or withdrawal agreement in place, as such no impact assessment has not been prepared for this instrument. The amendments do not alter Scottish Government's current environmental policies and priorities and, therefore, do not have a significant impact on the environment. The impact on business, charities or voluntary bodies is expected to be minimal.

Financial Effects

The Cabinet Secretary for Rural Economy, Mr Fergus Ewing, confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business

Scottish Government
Marine Scotland Directorate

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