

Fisheries Bill

[AS AMENDED IN PUBLIC BILL COMMITTEE]

CONTENTS

Fisheries objectives and fisheries statements

- 1 Fisheries objectives
- 2 Fisheries statements
- 3 Preparation and coming into effect of fisheries statements
- 4 Amendment of fisheries statements
- 5 Deadline for first fisheries statements and obligation to review
- 6 Effect of statements

Access to British fisheries

- 7 Revocation of requirement for equal access for EU fishing vessels
- 8 Access to British fisheries by foreign fishing boats

Licensing of fishing boats

- 9 British fishing boats required to be licensed
- 10 Power to grant licences in respect of British fishing boats
- 11 Foreign fishing boats required to be licensed if within British fishery limits
- 12 Power to grant licences in respect of foreign fishing boats
- 13 Further provision about licences

Access and licensing: offences and consequential amendments

- 14 Penalties for offences
- 15 Offences by bodies corporate etc
- 16 Jurisdiction of court to try offences
- 17 ~~Consequential amendments~~
- 18 [Minor and consequential amendments](#)

Fishing opportunities

- 19 Power of Secretary of State to determine fishing opportunities
- 20 Duties relating to a determination of fishing opportunities
- 21 Distribution of fishing opportunities
- 22 Duties to ensure fishing opportunities not exceeded
- 23 Sale of English fishing opportunities for a calendar year

Discard prevention charging schemes

- 24 Discard prevention charging schemes
- 25 Meaning of “chargeable person” and “unauthorised catch of sea fish”

- 26 Catches subject to a charge ignored for certain regulatory purposes
- 27 Charge collectors
- 28 Discard prevention charging schemes: supplementary provision

Grants and charges

- 29 Financial assistance: powers of Secretary of State
- 30 Power of Marine Management Organisation to impose charges
- 31 Sea Fish Industry Authority: fees for services provided for industry in EU

Powers to make further provision

- 32 Power to make provision about fisheries, aquaculture etc
- 33 Section 31: interpretation
- 34 Power to make provision about aquatic animal diseases
- 35 Scope of regulations under section 31 or 33
- 36 Scope of regulations under section 31 or 33 where consent obtained
- 37 Procedural requirements for regulations under section 31 or 33
- 38 Powers of Scottish Ministers, Welsh Ministers and NI department
- 39 Powers relating to the exploitation of sea fisheries resources

Miscellaneous

- 40 [Legislative competence of the National Assembly for Wales](#)
- 41 [Fisheries agreement between the UK and the EU](#)

Final provisions

- 42 [Amendments that could have been made under existing powers](#)
- 43 Regulations
- 44 Interpretation
- 45 Extent
- 46 Commencement
- 47 Short title

-
- Schedule 1 – Fisheries statements: preparation and publication
 - Part 1 – Joint fisheries statement
 - Part 2 – Secretary of State fisheries statement
 - Schedule 2 – Sea fishing licences: further provision
 - Schedule 3 – Access and licensing: consequential amendments
 - Part 1 – Access to British fisheries by foreign fishing boats
 - Part 2 – Licensing of fishing boats
 - Part 3 – Transitional provision
 - Schedule 4 – Financial assistance
 - Schedule 5 – Power of Northern Ireland department to impose charges
 - Schedule 6 – Powers to make further provision: devolved authorities
 - Part 1 – Scottish Ministers
 - Part 2 – Welsh Ministers
 - Part 3 – The Northern Ireland department
 - Schedule 7 – Powers relating to the exploitation of sea fisheries resources

A

B I L L[AS AMENDED IN PUBLIC BILL COMMITTEE]

TO

Make provision about policy objectives in relation to fisheries, fishing and aquaculture; to make provision about access to British fisheries; to make provision about the licensing of fishing boats; to make provision about the determination and distribution of fishing opportunities; to make provision enabling schemes to be established for charging for unauthorised catches of sea fish; to make provision about grants in connection with fishing, aquaculture or marine conservation; to make provision about the recovery of costs in respect of the exercise of public functions relating to fish or fishing; to confer powers to make further provision in connection with fisheries, aquaculture or aquatic animals; to make provision about byelaws and orders relating to the exploitation of sea fisheries; to make provision about the legislative competence of the National Assembly for Wales in relation to fishing, fisheries or fish health in the area of the Welsh zone beyond the seaward limit of the territorial sea; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Fisheries objectives and fisheries statements***1 Fisheries objectives**

- (1) The fisheries objectives are—
- (a) the sustainability objective,
 - (b) the precautionary objective,
 - (c) the ecosystem objective,
 - (d) the scientific evidence objective,
 - (e) the discards objective, and
 - (f) the equal access objective.

5

- (2) The “sustainability objective” is to ensure that fishing and aquaculture activities are –
- (a) environmentally sustainable in the long term, and
 - (b) managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies. 5
- (3) The “precautionary objective” is –
- (a) to apply the precautionary approach to fisheries management, and
 - (b) to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above biomass levels capable of producing maximum sustainable yield. 10
- (4) The “ecosystem objective” is –
- (a) to implement an ecosystem-based approach to fisheries management so as to ensure that negative impacts of fishing activities on the marine ecosystem are minimised, and
 - (b) to ensure that aquaculture and fisheries activities avoid the degradation of the marine environment. 15
- (5) The “scientific evidence objective” is –
- (a) to contribute to the collection of scientific data, and
 - (b) to base fisheries management policy on the best available scientific advice. 20
- (6) The “discards objective” is to gradually eliminate discards, on a case-by-case basis, by –
- (a) avoiding and reducing, as far as possible, unwanted catches, and
 - (b) gradually ensuring that catches are landed. 25
- (7) The “equal access objective” is to ensure that the access of UK fishing boats to any area within British fishery limits is not affected by –
- (a) the location of the fishing boat’s home port, or
 - (b) any other connection of the fishing boat, or any of its owners, to any place in the United Kingdom. 30
- (8) In subsection (7) “UK fishing boat” means a fishing boat –
- (a) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995, or
 - (b) which is owned by a person who is for the purposes of that Part of that Act a person qualified to own a British ship, or owned by two or more persons any one of whom is for those purposes a person so qualified. 35
- (9) Article 2 of the Common Fisheries Policy Regulation (objectives of the common fisheries policy) is revoked.

2 Fisheries statements

- (1) For the purposes of this Act “a joint fisheries statement” (“a JFS”) is a document in which the fisheries policy authorities state their policies (however expressed) for achieving, or contributing to the achievement of, the fisheries objectives. 40

- (2) For the purposes of this Act “a Secretary of State fisheries statement” (“an SSFS”) is a document in which the Secretary of State states policies of the Secretary of State (however expressed) for –
- (a) making the best use of unwanted catches (where it is appropriate to do so) without creating a market for such of those catches as are below the minimum conservation reference size; 5
 - (b) providing conditions for an economically viable and competitive fishing capture and processing industry and land-based fishing related activity;
 - (c) providing for measures to adjust the fishing capacity of fleets to levels of fishing opportunities consistent with the precautionary objective, with a view to having economically viable fleets without overexploiting marine biological resources; 10
 - (d) promoting the development of sustainable aquaculture activities to contribute to food supplies and security and employment; 15
 - (e) contributing to a fair standard of living for those who depend on fishing activities, bearing in mind coastal fisheries and socio-economic factors;
 - (f) contributing to an efficient and transparent internal market for, and ensuring a level playing field for the marketing of, fisheries and aquaculture products; 20
 - (g) taking into account the interests of both consumers and producers;
 - (h) promoting coastal fishing activities, taking into account socio-economic factors;
 - (i) contributing to the achievement by 2020 of a good environmental status (within the meaning of the Marine Strategy Framework Directive). 25
- (3) A document is not a JFS or SSFS unless it contains a statement that it has been prepared for the purposes of this section.
- (4) In this Act, “the fisheries policy authorities” means –
- (a) the Secretary of State, 30
 - (b) the Scottish Ministers,
 - (c) the Welsh Ministers, and
 - (d) the Northern Ireland department.
- (5) In this section, “the Marine Strategy Framework Directive” means Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy. 35

3 Preparation and coming into effect of fisheries statements

- (1) A JFS may only be prepared by the fisheries policy authorities acting jointly.
- (2) Schedule 1 contains –
- (a) in Part 1, provision applying where the fisheries policy authorities propose to prepare and publish a JFS, and
 - (b) in Part 2, provision applying where the Secretary of State proposes to prepare and publish an SSFS. 40
- (3) A later JFS replaces an earlier JFS, and a later SSFS replaces an earlier SSFS. 45

- (4) A JFS or SSFS comes into effect when it has been published in accordance with Schedule 1.

4 Amendment of fisheries statements

- (1) The fisheries policy authorities may from time to time, acting jointly, prepare and publish amendments of a JFS. 5
- (2) The Secretary of State may from time to time prepare and publish amendments of an SSFS.
- (3) Schedule 1 contains –
- (a) in Part 1, provision applying where the fisheries policy authorities propose to prepare and publish amendments of a JFS, and 10
 - (b) in Part 2, provision applying where the Secretary of State proposes to prepare and publish amendments of an SSFS.
- (4) An amendment of a JFS or SSFS comes into effect when it has been published in accordance with that Schedule.
- (5) A reference in this Act to a JFS or SSFS includes a JFS or SSFS as amended. 15

5 Deadline for first fisheries statements and obligation to review

- (1) The fisheries policy authorities must prepare and publish a JFS before 1 January 2021.
- (2) The Secretary of State must prepare and publish an SSFS before 1 January 2021.
- (3) The fisheries policy authorities must review a JFS they have prepared and published whenever they consider it appropriate to do so and in any event –
- (a) before the end of the period of 6 years beginning with the day on which it was published, and
 - (b) before the end of the period of 6 years beginning with the end of the most recent review. 25
- (4) The Secretary of State must review an SSFS the Secretary of State has prepared and published whenever the Secretary of State considers it appropriate to do so and in any event –
- (a) before the end of the period of 6 years beginning with the day on which it was published, and 30
 - (b) before the end of the period of 6 years beginning with the end of the most recent review.

6 Effect of statements

- (1) A relevant national authority must exercise its functions relating to fisheries, fishing or aquaculture in accordance with the policies contained in a JFS that are applicable to the authority, unless relevant considerations indicate otherwise. 35
- (2) If a relevant national authority takes any decision in the exercise of its functions relating to fisheries, fishing or aquaculture otherwise than in accordance with the policies contained in a JFS that are applicable to the authority, the authority must state its reasons. 40

- (3) A relevant national authority within subsection (5)(a) or (b) must exercise its functions relating to fisheries, fishing or aquaculture in accordance with the policies contained in an SSFS that are applicable to the authority, unless relevant considerations indicate otherwise.
- (4) If a relevant national authority within subsection (5)(a) or (b) takes any decision in the exercise of its functions relating to fisheries, fishing or aquaculture otherwise than in accordance with the policies contained in an SSFS that are applicable to the authority, the authority must state its reasons. 5
- (5) In this section “relevant national authority” means – 10
- (a) the Secretary of State,
 - (b) the Marine Management Organisation,
 - (c) the Scottish Ministers,
 - (d) the Welsh Ministers, or
 - (e) the Northern Ireland department.

Access to British fisheries 15

7 Revocation of requirement for equal access for EU fishing vessels

Article 5 of, and Annex I to, the Common Fisheries Policy Regulation (which require a member State to give EU fishing vessels equal access to its waters, and which are accordingly of no practical application in relation to the United Kingdom after exit day) are revoked. 20

8 Access to British fisheries by foreign fishing boats

- (1) A foreign fishing boat must not enter British fishery limits except – 25
- (a) for the purpose of fishing in accordance with a sea fishing licence, or
 - (b) for a purpose recognised by international law or by any international agreement or arrangement to which the United Kingdom is a party.
- (2) A foreign fishing boat that enters British fishery limits for a purpose mentioned in subsection (1) must return outside British fishery limits as soon as the purpose has been fulfilled.
- (3) Where a fishing boat is used in contravention of subsection (1) or (2), the master, the owner and the charterer (if any) are each guilty of an offence. 30
- (4) For further provision about an offence under subsection (3) (including provision as to penalties), see – 35
- (a) sections 14 to 16, and
 - (b) section 12 of the Sea Fisheries Act 1968 (recovery of fines) and section 13 of that Act (compensation in Scotland for damage caused by offence).

Licensing of fishing boats

9 British fishing boats required to be licensed

- (1) Fishing anywhere by a British fishing boat is prohibited unless authorised by a licence. 40

- (2) Subsection (1) does not apply to fishing –
- (a) for salmon or migratory trout;
 - (b) for common eels (*Anguilla anguilla*) by a boat whose length is 10 metres or less;
 - (c) by a boat whose length is 10 metres or less and which does not have an engine to power the boat; 5
 - (d) by a boat used wholly for the purpose of conveying persons wishing to fish for pleasure;
 - (e) in waters lying within 12 miles of the baselines from which the breadth of the territorial sea adjacent to the Isle of Man and the Channel Islands respectively is measured, but not extending beyond a line every point of which is equidistant from the nearest points of such baselines and the corresponding baselines adjacent to the United Kingdom and France respectively. 10
- (3) The Secretary of State may by regulations amend this section so as to add, remove or vary exceptions to the prohibition in subsection (1). 15
- (4) Regulations under subsection (3) may not be made without the consent of –
- (a) the Scottish Ministers,
 - (b) the Welsh Ministers, and
 - (c) the Northern Ireland department. 20
- (5) Regulations under subsection (3) are subject to the affirmative resolution procedure.
- (6) Where a boat is used in contravention of subsection (1), the master, the owner and the charterer (if any) are each guilty of an offence.
- (7) For further provision about an offence under subsection (6) (including provision as to penalties), see sections 14 to 16. 25
- (8) In this section –
- “the baselines” means the baselines established by the Territorial Sea (Baselines) Order 2014 (S.I. 2014/1353);
 - “length”, in relation to a fishing boat, means the length calculated in accordance with the rules specified in Article 2(1) of Regulation (EU) 2017/1130 of the European Parliament and of the Council of 14 June 2017 defining characteristics for fishing vessels; 30
 - “licence” means –
 - (a) a licence granted under section 10, or 35
 - (b) in the case of a British-owned fishing boat registered in the Isle of Man for herring (*Clupea harengus*) in ICES 7.a (Irish sea), a licence granted by the Department of Environment, Food and Agriculture (Isle of Man) under section 4 of the Sea Fish Conservation Act 1967 (as that provision extends to the Isle of Man); 40
 - “mile” means an international nautical mile of 1,852 metres.
- (9) In the definition of “licence” in subsection (8), “ICES 7.a (Irish sea)” means statistical division 7.a of the International Council for the Exploration of the Sea, being the waters between the coast of Great Britain and the coasts of Northern Ireland and Ireland between latitudes 52 degrees and 55 degrees North. 45

10 Power to grant licences in respect of British fishing boats

- (1) A licence may be granted –
 - (a) in respect of a Scottish fishing boat, by the Scottish Ministers;
 - (b) in respect of a Welsh fishing boat, by the Welsh Ministers;
 - (c) in respect of a Northern Ireland fishing boat, by the Northern Ireland department; 5
 - (d) in respect of any other British fishing boat, by the Marine Management Organisation.
- (2) A licence granted under this section may be granted so as to confer limited authority by reference, in particular, to – 10
 - (a) the area in which fishing is authorised,
 - (b) the periods, times or particular voyages during which fishing is authorised,
 - (c) the descriptions and quantities of fish which may be caught, or
 - (d) the method of sea fishing. 15
- (3) A licence granted under this section –
 - (a) must name the fishing boat in respect of which it is granted, and
 - (b) is granted to the boat's owner or charterer.

11 Foreign fishing boats required to be licensed if within British fishery limits

- (1) Fishing within British fishery limits by a foreign fishing boat is prohibited unless authorised by a licence. 20
- (2) The Secretary of State may by regulations amend this section so as to create, or to add, remove or vary, exceptions to the prohibition in subsection (1).
- (3) Regulations under subsection (2) may not be made without the consent of – 25
 - (a) the Scottish Ministers,
 - (b) the Welsh Ministers, and
 - (c) the Northern Ireland department.
- (4) Regulations under subsection (2) are subject to the affirmative resolution procedure.
- (5) Where a boat is used in contravention of subsection (1), the master, the owner and the charterer (if any) are each guilty of an offence. 30
- (6) For further provision about an offence under subsection (5) (including provision as to penalties), see sections 14 to 16.
- (7) In this section “licence” means a licence granted under section 12.

12 Power to grant licences in respect of foreign fishing boats

- (1) *A licence may be granted in respect of a foreign fishing boat by –* 35
 - (a) the Scottish Ministers,
 - (b) the Welsh Ministers,
 - (c) the Northern Ireland department, or
 - (d) *the Marine Management Organisation.* 40
- (2) A licence granted under this section –

- (a) if granted by the Scottish Ministers, does not authorise fishing anywhere outside Scotland and the Scottish zone;
- (b) if granted by the Welsh Ministers, does not authorise fishing anywhere outside Wales and the Welsh zone;
- (c) if granted by the Northern Ireland department, does not authorise fishing outside Northern Ireland and the Northern Ireland zone; 5
- (d) if granted by the Marine Management Organisation, does not authorise fishing within –
- (i) Scotland or the Scottish zone,
 - (ii) Wales or the Welsh zone, or 10
 - (iii) Northern Ireland or the Northern Ireland zone.
- (3) A licence under this section may be granted so as to impose limits on the authority it confers (in addition to the limits imposed by subsection (2)) by reference, in particular, to –
- (a) the area in which fishing is authorised, 15
 - (b) the periods, times or particular voyages during which fishing is authorised,
 - (c) the descriptions and quantities of fish which may be caught, or
 - (d) the method of sea fishing.
- (4) A licence granted under this section – 20
- (a) must name the fishing boat in respect of which it is granted, and
 - (b) is granted to the boat’s owner or charterer.

13 Further provision about licences

- (1) In this Act “sea fishing licence” means a licence granted under section 10 (licensing of British fishing boats) or section 12 (licensing of foreign fishing boats). 25
- (2) Schedule 2 contains further provision about sea fishing licences.

Access and licensing: offences and consequential amendments

14 Penalties for offences

- (1) A person who commits an offence under section 8(3), 9(6) or 11(5) or paragraph ~~1(4)1(4)~~ or ~~3(2)3(2)~~ or ~~(3)(3)~~ of Schedule 2 is liable – 30
- (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland –
 - (i) in the case of an offence under paragraph ~~3(2)3(2)~~ or ~~(3)(3)~~ of Schedule 2, to a fine not exceeding the statutory maximum, and 35
 - (ii) in any other case, to a fine not exceeding £50,000;
 - (c) on conviction on indictment, to a fine.
- (2) The court by or before which a person is convicted of an offence under section 8(3), 9(6) or 11(5) or paragraph ~~1(4)1(4)~~ of Schedule 2 may – 40
- (a) order that the owner or charterer (if any) of the fishing boat used to commit the offence or, as the case may be, of the fishing boat named in the licence of which a condition is broken, be disqualified for a specified period from holding a sea fishing licence in respect of that fishing boat;

- (b) (subject to subsection (4)) order the forfeiture of any fish, or any net or other fishing gear, in respect of which the offence was committed and of any net or other fishing gear used in committing the offence.
- (3) A person who commits an offence under section 9(6) or 11(5) or paragraph ~~1(4)~~1(4) of Schedule 2 is (subject to subsection (4)) liable on summary conviction to a fine not exceeding the value of the fish in respect of which the offence was committed. 5
- (4) A person is not liable to a fine under subsection (3) if, under subsection (2)(b), the court orders the forfeiture of the fish in respect of which the offence was committed; and where a fine is imposed under subsection (3), the court may not under subsection (2)(b) order the forfeiture of the fish in respect of which the offence was committed. 10
- (5) A fine to which a person is liable under subsection (3) is in addition to any other penalty (whether pecuniary or otherwise) to which the person is liable in respect of the same offence (whether under this section or under any other enactment). 15

15 Offences by bodies corporate etc

- (1) Where a relevant offence is committed by a body corporate and is proved –
- to have been committed with the consent or connivance of an officer, or
 - to be attributable to the neglect of any such person, 20
- that person (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) In subsection (1) “officer” means –
- a director, manager, secretary or similar officer of the body corporate, or 25
 - a person purporting to act in such a capacity.
- (3) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and omissions of a member in connection with that management as if the member were a director of the body corporate.
- (4) Where a relevant offence is committed by a Scottish partnership and is proved – 30
- to have been committed with the consent or connivance of a partner or a person purporting to act as a partner, or
 - to be attributable to any neglect on the part of any such person, 35
- that person (as well as the partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (5) In this section “relevant offence” means an offence under section 8(3), 9(6) or 11(5) or paragraph ~~1(4)~~1(4) or ~~3(2)~~3(2) or ~~3(3)~~3(3) of Schedule 2.

16 Jurisdiction of court to try offences

Proceedings for an offence under section 8(3), 9(6) or 11(5) or paragraph ~~1(4)~~1(4) or ~~3(2)~~3(2) or ~~3(3)~~3(3) of Schedule 2 may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom. 40

17 **Consequential amendments**

18 **Minor and consequential amendments**

Schedule 3 contains –

- (a) in Part 1, consequential amendments relating to the provision made by sections 7 and 8; 5
- (b) in Part 2 –
 - (i) minor amendments relating to the licensing of fishing boats, and
 - (ii) consequential amendments relating to the provision made by sections 9 to 16; 10
- (c) ~~Schedule 3 contains consequential amendments and~~ in Part 3, transitional provision relating to the provision made by sections ~~7~~9 to 16.

Fishing opportunities

19 **Power of Secretary of State to determine fishing opportunities**

- (1) The Secretary of State may determine, for a calendar year –
 - (a) the maximum quantity of sea fish that may be caught by British fishing boats;
 - (b) the maximum number of days that British fishing boats may spend at sea. 20
- (2) A determination under subsection (1) may be made only for the purpose of complying with an international obligation of the United Kingdom to determine the fishing opportunities of the United Kingdom.
- (3) Different maxima may be determined under subsection (1) – 25
 - (a) for, or for fishing boats fishing for, different descriptions of sea fish,
 - (b) for different areas of sea, or
 - (c) (subject to subsection (4)) for different descriptions of fishing boat.
- (4) Different maxima may not be so determined by reference to –
 - (a) the location of a British fishing boat’s home port, or 30
 - (b) any other connection of a British fishing boat, or any of its owners, to any place in the United Kingdom.
- (5) In this Act –
 - (a) “catch quota” means a quantity of sea fish determined under subsection (1)(a); 35
 - (b) “effort quota” means a number of days at sea determined under subsection (1)(b).
- (6) The Secretary of State may –
 - (a) exercise a power in subsection (1) so as to – 40
 - (i) determine a maximum quantity of sea fish, or maximum number of days at sea, of zero, or
 - (ii) make a determination replacing a determination already made;
 - (b) withdraw a determination already made.

- (7) A determination under subsection (1) may not be made or withdrawn after the end of the calendar year to which it relates.
- (8) The Secretary of State may by regulations make provision for determining, for the purposes of this Act, the number of days in a calendar year that a fishing boat is to be regarded as spending at sea in any area of sea. 5
- (9) Regulations under subsection (8) may make provision by reference to provision made under paragraph ~~1(3)~~1(3) of Schedule 2 (provision included in sea fishing licence as to the circumstances in which time is, or is not, to count as time spent at sea for the purposes of the licence).
- (10) Regulations under subsection (8) are subject to the negative resolution procedure. 10

20 Duties relating to a determination of fishing opportunities

- (1) Before making or withdrawing a determination under section 18, the Secretary of State must consult— 15
- the Scottish Ministers,
 - the Welsh Ministers,
 - the Northern Ireland department, and
 - the Marine Management Organisation.
- (2) As soon as reasonably practicable after making or withdrawing a determination under section 18, the Secretary of State must— 20
- publish, in such manner as the Secretary of State considers appropriate, a notice stating that the determination has been made or (as the case may be) withdrawn,
 - lay a copy of that notice before Parliament, and
 - send a copy of that notice to the Scottish Ministers, the Welsh Ministers and the Northern Ireland department. 25

21 Distribution of fishing opportunities

- (1) Article 16 of the Common Fisheries Policy Regulation (which makes provision about the distribution of fishing opportunities by the ~~European~~ Council to Member States, and which is accordingly of no practical application in relation to the United Kingdom after exit day) is revoked. 30
- (2) Article 17 of that regulation (which makes provision about the criteria to be applied by Member States when deciding how fishing opportunities are to be distributed for use by individual fishing boats) is amended in accordance with subsections (3) to (6). 35
- (3) In the heading—
- for “allocation” substitute “distribution”;
 - for “Member States” substitute “for use by fishing boats”.
- (4) The existing text becomes paragraph 1.
- (5) In that paragraph— 40
- in the first sentence, for “When allocating the fishing opportunities available to them, as referred to in Article 16, Member States” substitute “When distributing fishing opportunities for use by fishing boats, the relevant national authorities”;

- (b) in the third sentence, for “allocated to them, Member States” substitute “available for distribution by them, the relevant national authorities”.

(6) After that paragraph insert—

“2 In this Article, “the relevant national authorities” means—

(a) the Secretary of State, and

(b) the Marine Management Organisation.”

5

3 The documents and evidence forming the basis for allocation decisions must be made available to the public within 20 days of the decision being made.”

22 Duties to ensure fishing opportunities not exceeded

10

(1) The relevant national authorities must exercise their functions relating to fisheries so as to secure (so far as possible) that, in any calendar year—

(a) no sea fish are caught by British fishing boats in excess of a catch quota for that year;

(b) no days are spent at sea by British fishing boats in excess of an effort quota for that year.

15

(2) In determining under subsection (1) whether a catch quota or effort quota is exceeded, ignore any sea fish caught, or days spent at sea, that are referable to fishing opportunities of a territory outside the United Kingdom.

(3) In this section “the relevant national authorities” means—

20

(a) the Secretary of State,

(b) the Marine Management Organisation,

(c) the Scottish Ministers,

(d) the Welsh Ministers, and

(e) the Northern Ireland department.

25

23 Sale of English fishing opportunities for a calendar year

(1) The Secretary of State may by regulations make provision for the sale of—

(a) rights to use an English catch quota for a calendar year;

(b) rights to use an English effort quota for a calendar year.

30

(2) A right to use an English catch or effort quota that is sold in accordance with the regulations is exercisable in relation to such fishing boats, by such persons, in such manner, and subject to such conditions, as may be specified in or in accordance with the regulations.

(3) The regulations may include provision—

35

(a) for rights to be sold by competitive tender or auction;

(b) for a competitive tender process or auction to be run by such person as the regulations may designate;

(c) conferring functions (including functions involving the exercise of a discretion) on a person running a competitive tender process or auction, or on any other person;

40

(d) specifying persons, or descriptions of person, who are eligible or ineligible to buy rights;

- (e) requiring a person to pay a deposit, or do any other thing, in order to be eligible to buy rights;
- (f) requiring or prohibiting the repayment of a deposit;
- (g) setting, or conferring power to set, limits on the rights that may be bought by a person or description of person; 5
- (h) ~~setting, or conferring power to set, minimum prices;~~
- (i) requiring or permitting rights to be sold, or not to be sold, to a person who meets such conditions (whether relating to the price offered for the rights or otherwise) as may be specified in or in accordance with the regulations; 10
- (j) for terminating a competitive tender process or auction where there has been, or appears to the person running the competitive tender process or auction to have been, a failure to comply with the regulations;
- (k) about how and when – 15
- (i) payments for rights are to be made, and
- (ii) payments received are to be dealt with;
- (l) allowing or requiring rights sold in accordance with the regulations to a person to be transferred to, or be exercised by, another person;
- (m) prohibiting rights sold to a person in accordance with the regulations from being transferred to, or being exercised by, another person; 20
- (n) for extinguishing or limiting rights sold in accordance with the regulations where any amount due in respect of them is not paid, or any condition attached to the exercise of the rights is not met;
- (o) for the payment of compensation to a person who holds but does not use rights sold in accordance with the regulations; 25
- (p) about appeals relating to eligibility for, or the outcome of, a tender process or auction;
- (q) requiring a person running a tender process or auction to issue guidance.
- (4) The Marine Management Organisation must exercise its functions so as to secure (so far as possible) that – 30
- (a) fishing boats are not used in contravention of section 9(1) (prohibition on fishing without authority of licence), and
- (b) conditions attached to sea fishing licences under paragraph ~~1~~1 of Schedule 2 are not broken,
- as a result of the exercise of rights sold in accordance with the regulations. 35
- (5) Before making regulations under this section the Secretary of State must consult such persons as the Secretary of State thinks appropriate.
- (6) Regulations under this section are subject to the affirmative resolution procedure. 40
- (7) In this section –
- “English catch quota” means so much of a catch quota as would (if not sold in accordance with the regulations) be available for distribution by the Secretary of State or the Marine Management Organisation for use by English fishing boats; 45
- “English effort quota” means so much of an effort quota as would (if not sold in accordance with the regulations) be available for distribution by the Secretary of State or the Marine Management Organisation for use by English fishing boats.

*Discard prevention charging schemes***24 Discard prevention charging schemes**

- (1) The Secretary of State may by regulations establish a scheme (“a charging scheme”) under which chargeable persons are required to pay a charge in respect of unauthorised catches of sea fish. 5
For the meaning of “chargeable person” and “unauthorised catch of sea fish”, see section 24.
- (2) A charging scheme must include provision about—
(a) how a charge is to be calculated, and
(b) when payments of a charge are due. 10
- (3) A charging scheme may provide for a charge to be calculated (to any extent) by reference to a matter specified in the scheme, for example—
(a) the quantity of fish caught;
(b) the description of fish caught;
(c) the value of fish caught; 15
(d) the method by which fish are caught;
(e) the area in which fish are caught.
- (4) A charging scheme—
(a) may only require a chargeable person to pay a charge in respect of an unauthorised catch of sea fish caught while the person is registered under the scheme, and 20
(b) may not require a chargeable person to register under the scheme.
- (5) A charging scheme may provide that—
(a) only a chargeable person in relation to whom prescribed conditions are met is eligible to be registered under the scheme, or 25
(b) a chargeable person in relation to whom prescribed conditions are met is ineligible to be registered under the scheme.
In this subsection “prescribed” means prescribed by or in accordance with the scheme.
- (6) A charging scheme may make further provision about registration or de-registration under the scheme, including provision about the effect of a person’s de-registration. 30
- (7) Regulations under this section are subject to the affirmative resolution procedure.

25 Meaning of “chargeable person” and “unauthorised catch of sea fish” 35

- (1) In the charging scheme provisions, “chargeable person” means—
(a) the holder of an English sea fishing licence, or
(b) a producer organisation that has at least one member who is the holder of an English sea fishing licence.
- (2) In the charging scheme provisions, “unauthorised catch of sea fish” means— 40
(a) in relation to a chargeable person who is the holder of an English sea fishing licence, an amount of sea fish caught in any period by the fishing boat named in that licence that exceeds the amount which that

- boat is authorised by the Marine Management Organisation to catch in that period;
- (b) in relation to a chargeable person who is a producer organisation, an amount of sea fish caught in any period by the fishing boats named in the English sea fishing licences held by its members that exceeds the total amount which those boats are authorised by the Marine Management Organisation to catch in that period. 5
- (3) A charging scheme may make provision about whether, for the purposes of subsection (2), the catching in any period of an amount of sea fish by a fishing boat is authorised by the Marine Management Organisation. 10
- (4) In this section “the charging scheme provisions” means sections 23 to 27.

26 Catches subject to a charge ignored for certain regulatory purposes

- (1) A charging scheme may provide that if—
- (a) a charge is payable in respect of an unauthorised catch of sea fish, and
- (b) such other conditions as may be prescribed by or in accordance with the scheme are met, 15
- the catch is to be ignored in determining (for any purpose) whether a relevant regulatory breach has occurred.
- (2) For this purpose “a relevant regulatory breach” means the catching by a fishing boat of a quantity of sea fish which— 20
- (a) by virtue of a limit imposed under section 10(2) on the authority conferred by the fishing boat’s sea fishing licence, constitutes a contravention of the prohibition in section 9(1), or
- (b) constitutes a breach of a condition attached under paragraph 41 of Schedule 2 to the fishing boat’s sea fishing licence. 25
- (3) The conditions which may be prescribed by virtue of subsection (1)(b) include any condition that could be contained in an English sea fishing licence.

27 Charge collectors

- (1) A charging scheme may include provision—
- (a) for the appointment by the Secretary of State of one or more persons (“charge collectors”) to administer the scheme; 30
- (b) about the terms on which a charge collector holds office;
- (c) conferring functions on a charge collector, including functions involving the exercise of a discretion;
- (d) about the termination of a charge collector’s appointment. 35
- (2) The functions that may be conferred on a charge collector under subsection (1)(c) include functions relating to—
- (a) the keeping, for the purposes of the scheme, of registers of chargeable persons;
- (b) the imposition of, or monitoring of compliance with, conditions prescribed by virtue of— 40
- (i) section 23(5) (conditions relating to eligibility to be registered), or
- (ii) section 25(1)(b) (conditions relating to availability of regulatory action); 45

- (c) the collection or management of payments received under the scheme;
 - (d) the keeping, disclosure or publication of accounts, records or other documents or information relating to the scheme.
- (3) The provision that may be made under subsection (1)(d) includes –
- (a) provision imposing duties on a person who has ceased to be a charge collector; 5
 - (b) provision under which a person is treated as de-registered on the termination of the appointment of the charge collector who registered that person.
- (4) A charging scheme may make provision about appeals from decisions of charge collectors under the scheme. 10
- (5) *The Secretary of State may make payments to charge collectors to cover expenditure incurred in the carrying out of their functions.*
- (6) Payments may be made under subsection (5) subject to any conditions the Secretary of State thinks appropriate (including conditions as to repayment). 15

28 Discard prevention charging schemes: supplementary provision

- (1) A charging scheme may provide that, where the holder of an English sea fishing licence is liable to pay a charge, the master of a fishing boat that catches the fish in respect of which the charge is due is liable for the payment jointly and severally with the licence holder. 20
- (2) A charging scheme may provide that a payment due to be paid to a person under the scheme is recoverable by that person as a debt.
- (3) A charging scheme may make provision about the application of payments received under the scheme, including provision –
- (a) permitting or requiring charge collectors to pay such receipts to the Secretary of State; 25
 - (b) permitting or requiring charge collectors to use such receipts to cover expenditure incurred by them in carrying out their functions under the scheme;
 - (c) permitting or requiring charge collectors or the Secretary of State to use such receipts for such charitable or conservation purposes as may be specified in the scheme. 30
- (4) A charging scheme may –
- (a) confer functions on the Secretary of State, including functions involving the exercise of a discretion; 35
 - (b) provide for the Secretary of State to appoint a person to exercise any of the Secretary of State’s functions under the scheme.
- (5) In this section “conservation purpose” has the meaning given by section 31(2).

Grants and charges

29 Financial assistance: powers of Secretary of State 40

- (1) *The Secretary of State may give financial assistance, or arrange for financial assistance to be given, to any person for any of the following purposes –*

- (a) *the conservation, enhancement or restoration of the marine and aquatic environment;*
 - (b) *the promotion or development of commercial aquaculture activities or commercial fish activities;*
 - (c) *the reorganisation of businesses involved in commercial aquaculture activities or commercial fish activities;* 5
 - (d) *contributing to the expenses of persons involved in commercial aquaculture activities or commercial fish activities;*
 - (e) *the promotion or development of recreational fishing.*
- (2) Financial assistance given under, or under arrangements made pursuant to, subsection (1) must be given in accordance with a scheme established by regulations made by the Secretary of State. 10
- (3) The scheme may only provide for financial assistance to be given –
- (a) in relation to England,
 - (b) in relation to an area that is, or areas that are – 15
 - (i) within the UK marine area, but
 - (ii) not within the Scottish zone, the Welsh zone or the Northern Ireland zone, or
 - (c) in relation to English fishing boats.
- (4) The scheme may – 20
- (a) confer functions (including functions involving the exercise of a discretion) on a person;
 - (b) require a person on whom functions are conferred to keep, and make available for inspection, accounts and other records.
- (5) The scheme may include provision under which – 25
- (a) financial assistance is given subject to conditions specified by, or in accordance with, the scheme;
 - (b) financial assistance is required to be repaid in circumstances specified by, or in accordance with, the scheme.
- (6) Regulations under this section are subject to the affirmative resolution procedure. 30
- (7) In this section –
- “financial assistance” means grants or loans;
 - “UK marine area” has the meaning given by section 42(1) of the Marine and Coastal Access Act 2009. 35
- (8) Schedule 4 contains –
- (a) provision conferring power on the Welsh Ministers, and on the Northern Ireland department, corresponding to that conferred on the Secretary of State by this section, and
 - (b) amendments consequential on this section and the provision mentioned in paragraph (a). 40

30 Power of Marine Management Organisation to impose charges

- (1) *The Secretary of State may by regulations make provision for the Marine Management Organisation (“the MMO”) to impose charges in respect of the exercise by the MMO of a relevant marine function.* 45

- (2) “Relevant marine function” means a function relating to –
- (a) fishing quotas;
 - (b) ensuring that commercial fish activities are carried out lawfully;
 - (c) the registration of buyers and sellers of first-sale fish;
 - (d) catch certificates for the import and export of fish. 5
- (3) The charges which may be authorised by the regulations are –
- (a) a charge on a person in respect of the exercise of a function in relation to that person, or
 - (b) periodic or other charges on persons carrying out an activity in respect of the exercise of a function which relates to that activity. 10
- (4) The regulations may include provision about –
- (a) who is liable to pay a charge;
 - (b) the circumstances in which a charge is payable;
 - (c) the amount of a charge (including how an amount is to be calculated);
 - (d) reductions and exemptions; 15
 - (e) waivers;
 - (f) how and when a charge is to be paid;
 - (g) the collection and recovery of payments;
 - (h) interest payable on outstanding payments;
 - (i) the resolution of disputes (including appeals). 20
- (5) The regulations may confer a discretion on the MMO.
- (6) A power conferred on the MMO under this section does not affect, and is not affected by, any other power of the MMO to impose charges.
- (7) Before making regulations under this section the Secretary of State must consult such persons as the Secretary of State considers appropriate. 25
- (8) Regulations under this section are subject to the negative resolution procedure.
- (9) In this section –
- “first-sale fish” means fish which is marketed for the first time;
 - “fishing quota” means –
 - (a) a catch quota or an effort quota, or
 - (b) any other limit relating to the quantity of sea fish that may be caught or the time that fishing boats may spend at sea. 30
- (10) Schedule 5 contains provision conferring power on the Northern Ireland department, corresponding to that conferred on the Secretary of State by this section. 35

31 Sea Fish Industry Authority: fees for services provided for industry in EU

In the Fisheries Act 1981, in section 3 (powers of the Sea Fish Industry Authority), in subsection (5)(a), omit “in the case of a country which is not a member State,”.

Powers to make further provision

32 Power to make provision about fisheries, aquaculture etc 40

- (1) The Secretary of State may by regulations make provision –

- (a) for the purpose of implementing an international obligation of the United Kingdom relating to fisheries, fishing or aquaculture,
 - (b) for a conservation purpose (see subsection (2)), or
 - (c) for a fish industry purpose (see subsection (3)).
- (2) “A conservation purpose” means any of the following – 5
- (a) the purpose of conserving, improving or developing stocks of sea fish;
 - (b) the purpose of protecting the marine and aquatic environment from the effects of fishing or aquaculture, or of related activities;
 - (c) the purpose of protecting or improving the health of any fish or other aquatic animal. 10
- (3) “A fish industry purpose” means any of the following –
- (a) the purpose of promoting or developing commercial fish activities or commercial aquaculture activities;
 - (b) the purpose of improving the traceability of fishery products;
 - (c) the purpose of disseminating information about fishery products. 15
- (4) Except so far as they are regional fisheries management regulations, regulations under subsection (1) may only include provision about –
- (a) the quantity of sea fish that may be caught;
 - (b) the amount of time that fishing boats may spend at sea;
 - (c) the landing of sea fish; 20
 - (d) bycatch;
 - (e) catching, landing or selling sea fish that are below a certain size;
 - (f) setting and enforcing targets relating to stocks of sea fish;
 - (g) the design of sea fishing equipment;
 - (h) the use of sea fishing equipment; 25
 - (i) the retrieval of lost or discarded sea fishing equipment;
 - (j) methods of sea fishing;
 - (k) the processing of sea fish on fishing boats;
 - (l) the use to which the Secretary of State may put information obtained in the exercise of the Secretary of State’s functions relating to fisheries or aquaculture; 30
 - (m) the functions, objectives or regulation of producer organisations or inter-branch organisations;
 - (n) the marketing of fishery products (including labelling);
 - (o) keeping, disclosing or publishing accounts, records or other documents or information by persons involved in – 35
 - (i) commercial fish activities or commercial aquaculture activities, or
 - (ii) monitoring, or enforcing, compliance with the regulation of commercial fish activities or commercial aquaculture activities; 40
 - (p) the use in aquaculture, or transport, of aquatic organisms that are members of an alien species or a locally absent species;
 - (q) monitoring, or enforcing, compliance with the regulation of any of the matters mentioned in the preceding paragraphs of this subsection.
- (5) In subsection (4) “regional fisheries management regulations” means regulations that give effect (or change the way in which effect is given) to a requirement imposed on, or a recommendation made to, the United Kingdom (whether directly or indirectly) – 45

- (a) by, or pursuant to, a regional fisheries management agreement, or
- (b) by a regional fisheries management organisation.

(6) Without prejudice to the generality of section 3942(1)(b), regulations under this section may make different provision in relation to—

- (a) different descriptions of sea fish or other animal, 5
- (b) different descriptions of fishing boat, or
- (c) different areas of the sea or inland waters.

33 Section 31: interpretation

(1) In section 31 and this section—

“bycatch” means— 10

- (a) fish that are caught in the course of fishing for fish of a different description, or
- (b) animals other than fish that are caught in the course of fishing;

“fishery products” means—

- (a) fish or other aquatic organisms resulting from fishing or aquaculture, or 15
- (b) products derived from aquatic organisms within paragraph (a);

“regional fisheries management agreement” means an international agreement (including an international agreement to which the United Kingdom is not a party) the sole or main purpose of which is the conservation or management of— 20

- (a) straddling stocks,
- (b) stocks of highly migratory species, or
- (c) any other stocks of fish or aquatic animal found in the high seas;

“regional fisheries management organisation” means an organisation (including an organisation of which the United Kingdom is not a member) established pursuant to a regional fisheries management agreement; 25

“sea fishing equipment” means—

- (a) fishing nets or any other equipment used in the course of sea fishing (including, for example, equipment used to navigate, or to deter animals that are not intended to be caught), or 30
- (b) equipment used to monitor sea fishing;

“traceability”, in relation to fishery products, means the ability of any person to discover information about how, where or when the fishery products were— 35

- (a) caught, harvested or made, or
- (b) transported, stored or sold.

(2) In the definition of “regional fisheries management agreement” in subsection (1)— 40

- (a) “the high seas” has the same meaning as in the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) (“UNCLOS”);
- (b) “straddling stocks” means stocks to which Article 63(2) of UNCLOS (stocks both in, and in an area beyond and adjacent to, an EEZ) applies;
- (c) “highly migratory species” means a species listed in Annex 1 to UNCLOS. 45

- (3) For the purposes of section 31, an aquatic organism is a member of an “alien species” if –
- (a) it is located outside the known natural range, and the area of the natural dispersal potential, of the species or subspecies of which it is a member,
 - (b) it is a polyploid organism, or
 - (c) it is a member of a fertile artificially hybridised species or subspecies.
- (4) For the purposes of section 31, an aquatic organism is a member of a “locally absent species” if it is located –
- (a) within the known natural range of the species or subspecies of which it is a member, and
 - (b) in an area in which that species or subspecies is absent (in a wild state).

34 Power to make provision about aquatic animal diseases

- (1) The Secretary of State may by regulations make provision for the purpose of monitoring, controlling, preventing or eradicating diseases of fish or other aquatic animals.
- (2) Regulations under this section may, in particular, include provision regulating the importation, exportation, movement, storage or handling of –
- (a) fish or other aquatic animals;
 - (b) products derived from fish or other aquatic animals;
 - (c) any other thing that the Secretary of State considers may carry, or otherwise affect the prevalence of, a disease of fish or other aquatic animals.

35 Scope of regulations under section 31 or 33

- (1) *Regulations under section 31 or 33 may –*
- (a) confer a function, including a function involving the exercise of a discretion, on any person, or
 - (b) *impose fees.*
- (2) Regulations under section 31 or 33 may create a criminal offence, but not one punishable with imprisonment.
- (3) Regulations under section 31 or 33 may not include provision which –
- (a) would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament,
 - (b) would be within the legislative competence of the National Assembly for Wales if it were included in an Act of that Assembly, or
 - (c) would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly,
- unless the provision is merely incidental to, or consequential on, provision which would be outside that legislative competence.
- (4) Regulations under section 31 or 33 may not include provision modifying a function of the Welsh Ministers under any of the following enactments –
- (a) section 15(3) of the Sea Fish (Conservation) Act 1967 (power to make orders extending powers of British sea-fishery officers in relation to enforcement of sea fishing licences etc);
 - (b) section 5 of the Sea Fisheries Act 1968 (power to make orders regulating conduct of fishing operations).

- (5) Regulations under section 31 or 33 may not include provision modifying a function of the Secretary of State, the Scottish Ministers, the Welsh Ministers or the Northern Ireland department under any of the provisions of sections 9 to 13 or Schedule 2 (licensing of fishing boats).
- (6) A reference in subsection (4) or (5) to “modifying” a function of a person under an enactment includes – 5
- (a) abolishing the function;
 - (b) changing the purpose or objective for which the function is exercised;
 - (c) changing the conditions under which the function is exercised.
- (7) A power to make regulations under section 31 or 33 is capable of being exercised so as to amend, repeal or revoke any enactment (apart from sections 31 to 37, Schedule 6, and section ~~40~~43 so far as it applies for the purposes of those enactments). 10
- (8) In subsection (7) “enactment” has the same meaning as in the European Union (Withdrawal) Act 2018. 15

36 Scope of regulations under section 31 or 33 where consent obtained

- (1) Provision which could be included in regulations under section 31 or 33 but for section 34(3)(a) may be so included with the consent of the Scottish Ministers.
- (2) Provision which could be included in regulations under section 31 or 33 but for section 34(3)(b) or (4) may be so included with the consent of the Welsh Ministers. 20
- (3) Provision which could be included in regulations under section 31 or 33 but for section 34(3)(c) may be so included with the consent of the Northern Ireland department.
- (4) Provision which could be included in regulations under section 31 or 33 but for section 34(5) may be so included with the consent of – 25
- (a) the Scottish Ministers,
 - (b) the Welsh Ministers, and
 - (c) the Northern Ireland department.

37 Procedural requirements for regulations under section 31 or 33 30

- (1) Before making regulations under section 31 or 33, the Secretary of State must consult –
- (a) the Scottish Ministers,
 - (b) the Welsh Ministers,
 - (c) the Northern Ireland department, and 35
 - (d) such other persons likely to be affected by the regulations as the Secretary of State considers appropriate.
- (2) Regulations under section 31 or 33 are subject to the affirmative resolution procedure if they contain provision – 40
- (a) amending or repealing primary legislation;
 - (b) amending Article 17 of the Common Fisheries Policy Regulation (distribution of fishing opportunities);
 - (c) imposing fees;

- (d) creating a criminal offence or increasing the penalty for, or widening the scope of, a criminal offence; or
- (e) conferring functions on, modifying functions of, or otherwise relating to the regulation of—
- (i) a producer organisation in the United Kingdom, or
 - (ii) an inter-branch organisation in the United Kingdom.
- (3) Subject to subsection (2), regulations under section 31 or 33 are subject to the negative resolution procedure.
- 38 Powers of Scottish Ministers, Welsh Ministers and NI department**
- Schedule 6 contains—
- (a) provision conferring power on the Scottish Ministers corresponding to that conferred on the Secretary of State by section 33, and
 - (b) provision conferring powers on the Welsh Ministers, and on the Northern Ireland department, corresponding to those conferred on the Secretary of State by sections 31 and 33.
- 39 Powers relating to the exploitation of sea fisheries resources**
- Schedule 7 contains provision conferring power on the Marine Management Organisation, the Welsh Ministers and the Scottish Ministers to make byelaws or orders relating to the exploitation of sea fisheries resources for conservation purposes.

Miscellaneous

- 40 Legislative competence of the National Assembly for Wales**
- (1) The Government of Wales Act 2006 is amended as follows.
 - (2) In section 108A (legislative competence), after subsection (4) insert—

“(4A) References in subsections (2)(b) and (3) to Wales include, in relation to a relevant provision of an Act of the Assembly, the area of the Welsh zone beyond the seaward limit of the territorial sea.
A provision of an Act of the Assembly is “relevant” if it relates to fishing, fisheries or fish health.”
 - (3) In section 157A (devolved Welsh authority), after subsection (8) insert—

“(9) References in this section to Wales include, in relation to a relevant function of a public authority, the area of the Welsh zone beyond the seaward limit of the territorial sea.
A function of a public authority is “relevant” if it relates to fishing, fisheries or fish health.”
 - (4) In Schedule 3, in paragraph 9 (Parliamentary and Assembly procedure applying to exercise of legislative function transferred to Assembly under GOWA 2006), after sub-paragraph (6) insert—

“(6A) References in sub-paragraph (6) to Wales include, in relation to a relevant function or activity of a cross-border body, the area of the Welsh zone beyond the seaward limit of the territorial sea.”

A function or activity of a cross-border body is “relevant” if it relates to fishing, fisheries or fish health.”

- (5) In Schedule 7A (reserved matters)–
- (a) in paragraph 9, after sub-paragraph (4) insert–
- “(4A) References in this paragraph to Wales include, in relation to a relevant function of a tribunal, the area of the Welsh zone beyond the seaward limit of the territorial sea.
A function of a tribunal is “relevant” if it relates to fishing, fisheries or fish health.” 5
- (b) in paragraph 195, after sub-paragraph (3) insert– 10
- “(3A) References in this paragraph to Wales include, in relation to a relevant function of an authority, the area of the Welsh zone beyond the seaward limit of the territorial sea.
A function of an authority is “relevant” if it relates to fishing, fisheries or fish health.” 15
- (6) In Schedule 11, in paragraph 33 (Parliamentary and Assembly procedure applying to exercise of legislative function transferred to Assembly under GOWA 1998), after sub-paragraph (6) insert–
- “(6A) References in sub-paragraph (6) to Wales include, in relation to a relevant function or activity of a cross-border body, the area of the Welsh zone beyond the seaward limit of the territorial sea.
A function or activity of a cross-border body is “relevant” if it relates to fishing, fisheries or fish health.” 20

41 Fisheries agreement between the UK and the EU

- (1) This section applies if– 25
- (a) the United Kingdom and the EU enter into a withdrawal agreement, and
- (b) pursuant to that agreement, the Secretary of State enters into negotiations with the EU, on behalf of the United Kingdom, for an agreement about the management of shared stocks (a “fisheries agreement”). 30
- (2) The Secretary of State must pursue the following two objectives when negotiating a fisheries agreement.
- (3) The first objective is that the agreement should provide for annual negotiations to determine fishing opportunities. 35
- (4) The second objective is that the agreement should have the effect that Union fishing boats are not granted access to UK waters in any year unless the fishing opportunities for that year that are available for distribution by the United Kingdom are (looked at in the round) greater than those that would have been so available under relative stability. 40
- (5) The reference in subsection (4) to the fishing opportunities for any year that would have been available for distribution by the United Kingdom “under relative stability” is to the fishing opportunities that would, in the opinion of the Secretary of State, have been so available for that year under the common fisheries policy, were the United Kingdom still a member of the EU. 45

- (6) In this section –
- “exclusive economic zone” has the meaning given by Part 5 of the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941);
- “fishing opportunities” means –
- (a) the maximum quantities of shared stocks of particular descriptions that may be caught annually in particular areas within UK and Union waters, and 5
- (b) the maximum number of days that fishing boats may spend at sea annually, in particular areas within UK and Union waters, fishing for particular descriptions of shared stocks; 10
- “shared stocks” means stocks of sea fish which are found –
- (a) in waters within the exclusive economic zone of the United Kingdom, and
- (b) in waters within the exclusive economic zone of a member State; 15
- “UK waters” means waters within British fishery limits;
- “Union fishing boat” means a fishing vessel flying the flag of a member State and registered in the EU;
- “Union waters” has the meaning given by Article 4 of the Common Fisheries Policy Regulation; 20
- “withdrawal agreement” means an agreement setting out the arrangements for the withdrawal of the United Kingdom from the EU in the terms (or essentially in the terms) endorsed by the meeting of the European Council held on 25 November 2018.

Final provisions 25

42 Amendments that could have been made under existing powers

- (1) Where –
- (a) any provision of this Act amends or revokes subordinate legislation, and
- (b) the amendment or revocation could have been made under a power conferred by an enactment, 30
- the amendment or revocation is treated, for the purpose of making further provision under that enactment, as having been made under it.
- (2) In this section –
- “enactment” has the same meaning as in the European Union (Withdrawal) Act 2018; 35
- “subordinate legislation” has the same meaning as in the Interpretation Act 1978.

43 **Regulations**

- (1) Regulations under any provision of this Act may make – 40
- (a) consequential, supplementary, incidental, transitional, or saving provision;
- (b) different provision for different purposes or areas.
- (2) Regulations under this Act made by the Secretary of State or the Welsh Ministers are to be made by statutory instrument. 45

- (3) Where regulations under this Act are subject to “the negative resolution procedure” and are made –
- (a) by the Secretary of State, the statutory instrument containing them is subject to annulment in pursuance of a resolution of either House of Parliament; 5
 - (b) by the Scottish Ministers, they are subject to the negative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10));
 - (c) by the Welsh Ministers, they are subject to annulment in pursuance of a resolution of the National Assembly for Wales; 10
 - (d) by the Northern Ireland department, the instrument containing them is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).
- (4) Where regulations under this Act are subject to “the affirmative resolution procedure” and are made – 15
- (a) by the Secretary of State, they may not be made unless a draft of the statutory instrument containing them has been laid before Parliament and approved by a resolution of each House of Parliament;
 - (b) by the Scottish Ministers, they are subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)); 20
 - (c) by the Welsh Ministers, they may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the National Assembly for Wales;
 - (d) by the Northern Ireland department, they may not be made unless a draft of the instrument containing them has been laid before, and approved by a resolution of, the Northern Ireland Assembly. 25
- (5) Any provision that may be made by regulations under this Act subject to the negative resolution procedure may be made by regulations subject to the affirmative resolution procedure. 30
- I (6) This section does not apply to regulations under section [4245](#).

44 Interpretation

In this Act –

“aquaculture” means the breeding, rearing, growing or cultivation of –

- (a) any fish or other aquatic animal, 35
- (b) seaweed or any other aquatic plant, or
- (c) any other aquatic organism;

“British fishing boat” means a fishing boat –

- (a) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995, 40
- (b) which is British-owned, or
- (c) which is registered under the law of Jersey, Guernsey or the Isle of Man;

“British-owned” means owned by –

- (a) a person who is for the purposes of Part 2 of the Merchant Shipping Act 1995 a person qualified to own a British ship, or 45
- (b) two or more persons any one of whom is for those purposes a person so qualified;

- “catch quota” has the meaning given by section 18(5)(a);
- “a charging scheme” has the meaning given by section 23(1);
- “commercial aquaculture activities” means any of the following activities carried out in the course of a business or employment –
- (a) aquaculture; 5
 - (b) harvesting aquatic organisms resulting from aquaculture (“aquaculture organisms”);
 - (c) operating vessels for harvesting or processing aquaculture organisms;
 - (d) storing or transporting aquaculture organisms; 10
 - (e) loading and unloading aquaculture organisms;
 - (f) selling aquaculture organisms (whether wholesale or retail);
 - (g) processing aquaculture organisms;
- “commercial fish activities” means any of the following activities carried out in the course of a business or employment – 15
- (a) catching fish;
 - (b) operating vessels for catching or processing fish;
 - (c) transporting fish or fish products;
 - (d) loading and unloading fish or fish products;
 - (e) selling fish or fish products (whether wholesale or retail); 20
 - (f) processing fish;
- “the Common Fisheries Policy Regulation” means Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy;
- “effort quota” has the meaning given by section 18(5)(b); 25
- “English fishing boat” means a fishing boat –
- (a) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995, and
 - (b) whose entry in the register specifies a port in England as the port to which the boat is to be treated as belonging; 30
- “English sea fishing licence” means a licence granted under section 10 in respect of an English fishing boat;
- “fish” includes shellfish;
- “the fisheries policy authorities” has the meaning given by section 2(4);
- “fishing boat” means a vessel of whatever size, and in whatever way propelled, which is for the time being employed in sea fishing; 35
- “foreign fishing boat” means a fishing boat which is not a British fishing boat;
- “home port”, in relation to a fishing boat which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995, means the port specified in the boat’s entry in that register as the port to which the boat is to be treated as belonging; 40
- “inland waters” has the meaning given by section 221(1) of the Water Resources Act 1991;
- “inter-branch organisation” means an organisation established under Article 11 of Regulation (EU) No 1379/2013 of the European Parliament and of the Council and recognised in accordance with Section 2 of Chapter 2 of that Regulation; 45

- “international obligation of the United Kingdom” includes any obligation that arises or may arise under an international agreement or arrangement to which the United Kingdom is a party;
- “JFS” means a joint fisheries statement;
- “joint fisheries statement” has the meaning given by section 2(1); 5
- “the marine and aquatic environment” includes –
- (a) the natural beauty or amenity of marine or coastal areas, or of inland waters or waterside areas,
 - (b) features of archaeological or historic interest in those areas, and
 - (c) flora and fauna which are dependent on, or associated with, a marine or coastal, or aquatic or waterside, environment; 10
- “master”, in relation to a fishing boat, includes the person for the time being in command or charge of the boat;
- “Northern Ireland” and “the Northern Ireland zone” have same meaning as in the Northern Ireland Act 1998 (see section 98(1) and (8) of that Act); 15
- “the Northern Ireland department” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;
- “Northern Ireland fishing boat” means a fishing boat –
- (a) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995, and
 - (b) whose entry in the register specifies a port in Northern Ireland as the port to which the boat is to be treated as belonging; 20
- “primary legislation” means –
- (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) a Measure or Act of the National Assembly for Wales, or
 - (d) Northern Ireland legislation; 25
- “processing”, in relation to fish or any other aquatic organism, includes preserving or preparing the organism, or producing any substance or article from it, by any method for human or animal consumption; 30
- “producer organisation” means an organisation established under Article 6 of Regulation (EU) No 1379/2013 of the European Parliament and of the Council and recognised in accordance with Section 2 of Chapter 2 of that Regulation; 35
- “Scotland” and “the Scottish zone” have the same meaning as in the Scotland Act 1998 (see section 126(1) and (2) of that Act);
- “Scottish fishing boat” means a fishing boat –
- (a) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995, and
 - (b) whose entry in the register specifies a port in Scotland as the port to which the boat is to be treated as belonging; 40
- “sea fish” means fish of any kind found in the sea;
- “sea fishing licence” has the meaning given by section 13(1);
- “Secretary of State fisheries statement” has the meaning given by section 2(2); 45
- “shellfish” includes molluscs and crustaceans of any kind found in the sea or inland waters;
- “SSFS” means a Secretary of State fisheries statement;

“Wales” and “the Welsh zone” have the same meaning as in the Government of Wales Act 2006 (see section 158(1) and (3) of that Act);

“Welsh fishing boat” means a fishing boat—

- (a) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995, and
- (b) whose entry in the register specifies a port in Wales as the port to which the boat is to be treated as belonging.

5

45 Extent

(1) Subject as follows, this Act extends to England and Wales, Scotland and Northern Ireland.

10

(2) In Schedule 6—

- (a) Part 1 extends to Scotland only;
- (b) Part 2 extends to England and Wales only;
- (c) Part 3 extends to Northern Ireland only.

(3) An amendment, repeal or revocation made by this Act has the same extent as the provision amended, repealed or revoked.

15

(4) But an amendment, repeal or revocation does not, by virtue of subsection (3), extend to any of the Channel Islands or the Isle of Man.

(5) Her Majesty may by Order in Council provide for any of the following provisions of this Act to extend, with or without modifications, to any of the Channel Islands or the Isle of Man—

20

- (a) sections 7 to 17 and Schedules 2 and 3 (access and licensing);
- (b) sections 18 to 22 (fishing opportunities);
- (c) sections 31 to 36 (powers to make further provision);
- (d) section ~~39~~42 (regulations);
- (e) section ~~40~~43 (interpretation).

25

46 Commencement

(1) Sections ~~39~~40 and 41 to ~~43~~46 come into force on the day on which this Act is passed.

(2) The following provisions come into force at the end of the period of two months beginning with the day on which this Act is passed—

30

- (a) section 29 and Schedule 5;
- (b) section 38 and Schedule 7.

(3) The other provisions of this Act come into force on such day as the Secretary of State may by regulations appoint.

35

(4) Different days may be appointed for different purposes.

(5) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.

(6) The power to make regulations under subsection (5) includes power to make different provision for different purposes.

40

(7) Regulations under this section are to be made by statutory instrument.

47 Short title

This Act may be cited as the Fisheries Act 2019.

SCHEDULES

SCHEDULE 1

Sections 3 and 4

FISHERIES STATEMENTS: PREPARATION AND PUBLICATION

PART 1

JOINT FISHERIES STATEMENT

5

Introductory

1 (1) This Part applies where the fisheries policy authorities propose to prepare and publish a JFS, or amendments of a JFS.

(2) In this Part “the relevant document” means the JFS, or the amendments of a JFS, mentioned in sub-paragraph (1).

10

Consultation

2 (1) The fisheries policy authorities (acting jointly) must—

- (a) prepare a draft (“the consultation draft”) of the relevant document,
- (b) publish the consultation draft in such manner as they consider appropriate, and

15

- (c) take such steps as they consider appropriate to secure that the consultation draft is brought to the attention of interested persons.

(2) Each of the fisheries policy authorities must, in settling the final text of the relevant document, have regard to any representations made to them about the consultation draft.

20

(3) In this paragraph “interested persons” means—

- (a) any persons appearing to the fisheries policy authorities to be likely to be interested in, or affected by, the policies contained in the consultation draft, and

- (b) members of the general public.

25

Requirement to lay consultation draft before appropriate legislature

3 (1) Each of the fisheries policy authorities must—

- (a) specify a period (“the scrutiny period”) for scrutiny of the consultation draft by the appropriate legislature, and

- (b) on or before the first day of that period lay a copy of the consultation draft before the appropriate legislature.

30

(2) Sub-paragraph (3) applies if, during the scrutiny period—

-
- (a) an appropriate legislative body passes a resolution with regard to the consultation draft, or
- (b) an appropriate legislative committee makes a recommendation with regard to the consultation draft.
- (3) The fisheries policy authority must lay before the appropriate legislature a statement setting out its response to the resolution or recommendation. 5
- (4) In this paragraph –
- “the appropriate legislature” means –
- (a) where the fisheries policy authority is the Secretary of State, Parliament; 10
- (b) where the fisheries policy authority is the Scottish Ministers, the Scottish Parliament;
- (c) where the fisheries policy authority is the Welsh Ministers, the National Assembly for Wales;
- (d) where the fisheries policy authority is the Northern Ireland department, the Northern Ireland Assembly; 15
- “an appropriate legislative body” means –
- (a) where the fisheries policy authority is the Secretary of State, either House of Parliament;
- (b) where the fisheries policy authority is the Scottish Ministers, the Scottish Parliament; 20
- (c) where the fisheries policy authority is the Welsh Ministers, the National Assembly for Wales;
- (d) where the fisheries policy authority is the Northern Ireland department, the Northern Ireland Assembly; 25
- “an appropriate legislative committee” means a committee of an appropriate legislative body;
- “the consultation draft” means the draft prepared and published under paragraph 2.
- Publication of the relevant document* 30
- 4 (1) Sub-paragraph (2) applies where –
- (a) each fisheries policy authority has complied with paragraphs 2 and 3, and
- (b) the fisheries policy authorities have decided on the final text of the relevant document. 35
- (2) The fisheries policy authorities (acting jointly) must publish the relevant document as soon as reasonably practicable.

PART 2

SECRETARY OF STATE FISHERIES STATEMENT

- Introductory* 40
- 5 (1) This Part applies where the Secretary of State proposes to prepare and publish an SSFS, or amendments of an SSFS.
- (2) In this Part “the relevant document” means the SSFS, or the amendments of an SSFS, mentioned in sub-paragraph (1).

Consultation

- 6 (1) The Secretary of State must –
- (a) prepare a draft (“the consultation draft”) of the relevant document,
 - (b) publish the consultation draft in such manner as the Secretary of State considers appropriate, and 5
 - (c) take such steps as the Secretary of State considers appropriate to secure that the consultation draft is brought to the attention of interested persons.
- (2) The Secretary of State must, in settling the final text of the relevant document, have regard to any representations made to the Secretary of State about the consultation draft. 10
- (3) In this paragraph “interested persons” means –
- (a) any persons appearing to the Secretary of State to be likely to be interested in, or affected by, the consultation draft, and
 - (b) members of the general public. 15

Requirement to lay consultation draft before Parliament

- 7 (1) The Secretary of State must –
- (a) specify a period (“the scrutiny period”) for scrutiny of the consultation draft by Parliament, and
 - (b) on or before the first day of that period lay a copy of the consultation draft before Parliament. 20
- (2) Sub-paragraph (3) applies if, during the scrutiny period –
- (a) either House of Parliament passes a resolution with regard to the consultation draft, or
 - (b) a committee of either House of Parliament makes a recommendation with regard to the policies contained in the consultation draft. 25
- (3) The Secretary of State must lay before Parliament a statement setting out the Secretary of State’s response to the resolution or recommendation.
- (4) In this paragraph “the consultation draft” means the draft prepared and published under paragraph 6. 30

Publication of the relevant document

- 8 (1) Sub-paragraph (2) applies where the Secretary of State has –
- (a) complied with paragraphs 6 and 7, and
 - (b) decided on the final text of the relevant document.
- (2) The Secretary of State must publish the relevant document as soon as reasonably practicable. 35

SCHEDULE 2

Section 13

SEA FISHING LICENCES: FURTHER PROVISION

Power to attach conditions to sea fishing licence

- 1 (1) A sea fish licensing authority may, on granting a sea fishing licence, attach to the licence such conditions as appear to it to be necessary or expedient for the regulation of sea fishing (including conditions which do not relate directly to fishing). 5
- (2) The conditions that may be attached to a sea fishing licence include, in particular, conditions – 10
- (a) as to the landing of fish or parts of fish (including specifying the ports at which catches are to be landed);
 - (b) as to the use to which the fish caught may be put;
 - (c) restricting the time the fishing boat may spend at sea (whether for the purpose of fishing or otherwise);
 - (d) which are imposed for the purposes of conserving or enhancing the marine and aquatic environment. 15
- (3) Where a sea fish licensing authority attaches a condition under sub-paragraph (2)(c) to a licence, it may include in the licence provision as to the circumstances in which time is, or is not, to count as time spent at sea for the purposes of the condition. 20
- (4) If a licence condition is broken, the master, the owner and the charterer (if any) of the fishing boat named in the licence are each guilty of an offence.
- (5) For further provision about an offence under sub-paragraph (4) (including provision as to penalties), see sections 14 to 16.

Power to vary, suspend or revoke sea fishing licence etc 25

- 2 (1) A sea fish licensing authority may from time to time –
- (a) vary a sea fishing licence it has granted so as to alter the authority the licence confers, or
 - (b) add, remove or vary a condition attached to a sea fishing licence it has granted. 30
- (2) A sea fish licensing authority may suspend or revoke a sea fishing licence it has granted if this appears to it to be –
- (a) necessary or expedient for the regulation of sea fishing, or
 - (b) appropriate in a case where there is – 35
 - (i) a contravention of the prohibition in section 9~~(1)~~(1) or 11~~(1)~~(1), or
 - (ii) a contravention of a condition attached to the licence.
- (3) Where –
- (a) a sea fish licensing authority exercises the power in sub-paragraph (1) or (2), and 40
 - (b) a charge in respect of the sea fishing licence in question has been made in accordance with regulations under paragraph 7(3),
- the authority may, if it considers it appropriate in all the circumstances of the case, refund the whole or part of the charge.

Power to obtain information

- 3 (1) A sea fish licensing authority may require the master, the owner and the charterer (if any) of the fishing boat named in a sea fishing licence granted by the authority to provide such information, in such form, as the authority may direct. 5
- (2) A person who fails without reasonable excuse to comply with such a requirement is guilty of an offence.
- (3) Any person who –
(a) for the purpose of obtaining a sea fishing licence, or
(b) in purported compliance with sub-paragraph (1), 10
provides information which the person knows to be false in a material particular or recklessly provides information which is false in a material particular is guilty of an offence.
- (4) For further provision about an offence under sub-paragraph (2) or (3) (including provision as to penalties), see sections 14 to 16. 15

Duty to comply with request of another sea fish licensing authority

- 4 (1) This paragraph applies where –
(a) a sea fish licensing authority exercises its licensing functions in relation to sea fishing licences granted in respect of fishing boats of a particular description so as to – 20
(i) limit the authority conferred by the licences, or
(ii) attach conditions to the licences; and
(b) the limit or conditions mentioned in paragraph (a) apply when the fishing boats are in an area for which the authority is responsible.
- (2) The sea fish licensing authority mentioned in sub-paragraph (1) (“the requesting authority”) may request any other sea fish licensing authority (“the other authority”) to exercise its licensing functions in such a way that the licences granted by the other authority in respect of fishing boats of the same description, so far as they confer authority in relation to the area mentioned in sub-paragraph (1)(b), are made subject to the limit or conditions mentioned in sub-paragraph (1)(a). 25 30
- (3) The other authority must comply with the request unless, in its opinion, it is unreasonable to do so.
- (4) References in this paragraph to an area for which a sea fish licensing authority is responsible are – 35
(a) in the case of the Scottish Ministers, to an area in Scotland or the Scottish zone;
(b) in the case of the Welsh Ministers, to an area in Wales or the Welsh zone;
(c) in the case of the Northern Ireland department, to an area in Northern Ireland or the Northern Ireland zone; 40
(d) in the case of the Marine Management Organisation, to any other area within British fishery limits.

Use of licensing functions to limit fishing activity

- 5 A sea fish licensing authority may exercise its licensing functions so as to limit—
- (a) the number of fishing boats, or any class of fishing boats, engaged in fishing in any area, or
 - (b) fishing in any area for any description of fish,
- to such extent as appears to it to be necessary or expedient for the regulation of sea fishing.

Power to arrange for licensing functions to be exercised by others

- 6 (1) A sea fish licensing authority may make arrangements for any of its licensing functions to be exercised by other persons on its behalf.
- (2) Arrangements made by a sea fish licensing authority under this paragraph do not affect that authority's responsibility for the exercise of the licensing function in question.
- (3) A public authority that exercises functions on behalf of a sea fish licensing authority under this paragraph may charge that authority such fees as it considers reasonable in respect of the cost of doing so.

Regulations about the licensing of fishing boats

- 7 (1) The relevant national authority may by regulations make provision—
- (a) as to the manner in which a sea fish licensing authority's licensing functions are to be exercised;
 - (b) as to the time when—
 - (i) a sea fishing licence, or a variation, suspension or revocation of a sea fishing licence, has effect, or
 - (ii) a condition attached to a sea fishing licence, or the addition, removal or variation of such a condition, has effect.
- (2) Regulations under sub-paragraph (1) may, in particular, include provision—
- (a) for documents to be delivered, or notices given, to the nominees of persons to whom licences are granted;
 - (b) for documents or notices to be treated as delivered or given if they are posted or otherwise communicated in accordance with the regulations;
 - (c) for notices to be given by publication in newspapers;
 - (d) as to the transitional effects of variations.
- (3) *The relevant national authority may by regulations make provision authorising the making of charges in relation to a sea fishing licence.*
- (4) Regulations under sub-paragraph (3) may, in particular—
- (a) make provision for the amount of any charge to be specified in, or determined in accordance with provision made by, the regulations;
 - (b) make different provision in relation to different classes of licence;
 - (c) make provision for no charge to be payable in such circumstances as may be specified in the regulations.

- (5) The relevant national authority must by regulations make provision as to the principles that are to be applied by the relevant sea fish licensing authority in exercising its functions in relation to conditions attached to a sea fishing licence under paragraph 1(2)(c) (conditions as to time spent at sea).
- (6) A principle of the kind to which sub-paragraph (7) applies may not be included in any regulations under sub-paragraph (5) which make provision for principles of any other kind. 5
- (7) This sub-paragraph applies to a principle providing for a reduction in the time which all fishing boats, or all fishing boats of a specified description, may spend at sea during any period by comparison with the time which they, or fishing boats of that description, were permitted to spend (or spent or were treated as spending) during a specified previous period (making any necessary adjustment where the periods are of different lengths); and for this purpose “description” means description framed by reference to size of fishing boat, method or area of fishing or description of fish. 10 15
- (8) Regulations under sub-paragraph (5) providing for a principle of the kind to which sub-paragraph (7) applies are subject to the affirmative resolution procedure.
- (9) Any other regulations under this paragraph are subject to the negative resolution procedure. 20
- (10) In this paragraph “the relevant national authority” means—
- (a) the Scottish Ministers, in relation to regulations containing provision about the licensing of—
 - (i) Scottish fishing boats, or
 - (ii) foreign fishing boats in Scotland or the Scottish zone; 25
 - (b) the Welsh Ministers, in relation to regulations containing provision about the licensing of—
 - (i) Welsh fishing boats, or
 - (ii) foreign fishing boats in Wales or the Welsh zone;
 - (c) the Northern Ireland department, in relation to regulations containing provision about the licensing of— 30
 - (i) Northern Ireland fishing boats, or
 - (ii) foreign fishing boats in Northern Ireland or the Northern Ireland zone;
 - (d) the Secretary of State, in relation to regulations containing provision about the licensing of— 35
 - (i) British fishing boats that are not Scottish, Welsh or Northern Ireland fishing boats, or
 - (ii) foreign fishing boats outside Scotland and the Scottish zone, Wales and the Welsh zone, and Northern Ireland and the Northern Ireland zone. 40

Power of Secretary of State under paragraph 7 where consent obtained

- 8 (1) Provision which could be included in regulations made by the Scottish Ministers under any provision of paragraph 7 may be included in regulations made by the Secretary of State under that provision with the consent of the Scottish Ministers. 45

- (2) Provision which could be included in regulations made by the Welsh Ministers under any provision of paragraph 7 may be included in regulations made by the Secretary of State under that provision with the consent of the Welsh Ministers.
- (3) Provision which could be included in regulations made by the Northern Ireland department under any provision of paragraph 7 may be included in regulations made by the Secretary of State under that provision with the consent of the Northern Ireland department. 5

Interpretation

- 9 (1) In this Schedule, “a sea fish licensing authority” means – 10
- (a) the Scottish Ministers,
 - (b) the Welsh Ministers,
 - (c) the Northern Ireland department, or
 - (d) the Marine Management Organisation.
- (2) In this Schedule “licensing function” means a function of a sea fish licensing authority under – 15
- (a) section 10 or 12,
 - (b) paragraphs 1 to 4 of this Schedule, or
 - (c) regulations under paragraph 7 of this Schedule.

SCHEDULE 3

Section 17 20

ACCESS AND LICENSING: CONSEQUENTIAL AMENDMENTS

PART 1

ACCESS TO BRITISH FISHERIES BY FOREIGN FISHING BOATS

Sea Fish Industry Act 1962

- 1 Section 17 of the Sea Fish Industry Act 1962 (exemption from s.2 of the Fishery Limits Act 1976 for operations for scientific and certain other purposes) is repealed. 25

Sea Fisheries Act 1968

- 2 (1) The Sea Fisheries Act 1968 is amended as follows.
- (2) In section 8 (general powers of British sea-fishery officers) – 30
- (a) in subsection (1), for “section 2 of the Fishery Limits Act 1976 or any order thereunder” substitute “of section 8 of the Fisheries Act 2019”;
 - (b) in subsection (4), for “section 2 of the Fishery Limits Act 1976 or any order thereunder” substitute “section 8 of the Fisheries Act 2019”.
- (3) In section 12 (recovery of fines imposed on master etc or crew), in subsections (1) and (2), for “section 2 of the Fishery Limits Act 1976” substitute “section 8 of the Fisheries Act 2019”. 35

- (4) In section 13 (compensation for damage caused by offence), in subsections (2) and (4), for “section 2 of the Fishery Limits Act 1976” substitute “section 8 of the Fisheries Act 2019”.
- (5) In section 14 (jurisdiction to try offences), omit “or section 2 of the Fishery Limits Act 1976”.

5

Fishery Limits Act 1976

- 3 (1) Section 2 of the Fishery Limits Act 1976 (access to British fisheries) is repealed.
- (2) In consequence of the repeal made by sub-paragraph (1), the following provisions of the Fishery Limits Act 1976 are also repealed –
- (a) in section 8 (interpretation), the following definitions –
- “relevant British fishery limits”;
- “the Scottish zone”;
- “sea fish”;
- “wholly British-owned”;
- (b) in Schedule 3 (transitional provisions), paragraphs 1 and 7.

10

15

Subordinate legislation made under section 2 of the Fishery Limits Act 1976

- 4 The following orders were made (or have effect as if made) under powers contained in section 2 of the Fishery Limits Act 1976 and are therefore revoked by virtue of paragraph 3(1) –
- (a) the Foreign Fishing Boats (Stowage of Gear) Order 1970 (S.I. 1970/318);
- (b) the Fishing Boats (European Economic Community) Designation Order 1983 (S.I. 1983/253);
- (c) the Fishing Boats (European Economic Community) Designation (Variation) Order 1986 (S.I. 1986/382);
- (d) the Fishing Boats (European Economic Community) Designation (Variation) Order 1992 (S.I. 1992/3108);
- (e) the Fishing Boats (European Economic Community) Designation (Variation) Order 1996 (S.I. 1996/248);
- (f) the Fishing Boats (Specified Countries) Designation Order 1996 (S.I. 1996/1035);
- (g) the Fishing Boats (Specified Countries) Designation (Variation) Order 1997 (S.I. 1997/1630);
- (h) the Fishing Boats Designation (England) Order 2015 (S.I. 2015/648);
- (i) the Fishing Boats Designation (England) (Amendment) Order 2017 (S.I. 2017/1219).

20

25

30

35

PART 2

LICENSING OF FISHING BOATS

Sea Fish (Conservation) Act 1967

40

- 5 (1) The Sea Fish (Conservation) Act 1967 is amended as follows.
- (2) Omit section 4 (licensing of fishing boats).

- (3) In section 4AA (restrictions on time spent at sea: appeals) –
- (a) in subsection (2)(a), for “section 4 of this Act” substitute “section 10 or 12 of the Fisheries Act 2019”;
 - (b) in subsection (4), for “order made under section 4(6C) of this Act” substitute “regulations made under paragraph 7(5) of Schedule 2 to the Fisheries Act 2019”. 5
- (4) In section 4B (regulations supplementary to sections 4 and 4A) –
- (a) in the heading, for “sections 4 and 4A” substitute “section 4A”;
 - (b) in subsection (1)(a), omit “4 or”.
- (5) In section 4C (provisions supplementary to sections 4 and 4A: evidence) – 10
- (a) in the heading, for “Provisions supplementary to sections 4 and 4A” substitute “Proceedings for offences relating to licences”;
 - (b) in subsection (1)(a), for “condition included in a licence by virtue of section 4(6) or 4A(6) of this Act” substitute “relevant condition”;
 - (c) in subsection (1), in the closing words, for “an offence under section 4 or 4A” substitute “a relevant offence”; 15
 - (d) in subsection (2), in the opening words, for “an offence under section 4 or 4A” substitute “a relevant offence”;
 - (e) in subsection (2)(c)(i) –
 - (i) for “condition imposed under section 4(6) or 4A(6)” substitute “relevant condition”; 20
 - (ii) for “condition imposed under section 4(6)” substitute “relevant condition within subsection (3A)(a)”;
 - (f) in subsection (2)(c)(ii), for “requirement under section 4(7) or 4A(7)” substitute “relevant requirement”; 25
 - (g) after subsection (3) insert –
 - “(3A) In this section “relevant condition” means a condition –
 - (a) attached, by virtue of paragraph 1 of Schedule 2 to the Fisheries Act 2019, to a sea fishing licence granted under section 10 or 12 of that Act, or 30
 - (b) included by virtue of subsection (6) of section 4A of this Act in a licence granted under that section.
 - (3B) In this section “relevant offence” means –
 - (a) an offence under section ~~9(6)~~(6) or ~~11(5)~~(5) of, or paragraph 1(4) or 3(2) or (3) of Schedule 2 to, the Fisheries Act 2019 (offences relating to sea fishing licences), or 35
 - (b) an offence under section 4A of this Act.
 - (3C) In this section “relevant requirement” means –
 - (a) a requirement under paragraph 3 of Schedule 2 to the Fisheries Act 2019 (power to obtain information in connection with sea fishing licence), or 40
 - (b) a requirement under section 4A(7) of this Act.”
- (6) In section 9 (exemption for operations for scientific and other purposes), in subsection (5), omit “4,”. 45
- (7) In section 11 (penalties for offences) –
- (a) in subsection (1) –

- (i) in paragraph (a) (as it has effect in Scotland and Northern Ireland), omit “4(3), (6) or (9A)”;
 - (ii) in paragraph (b) (as it has effect in Northern Ireland), omit “4(9A)”;
 - (iii) in paragraph (c) (as it has effect in Scotland and Northern Ireland), omit “4(7) or (7A)”;
 - (b) in subsection (2) –
 - (i) in the opening words as they have effect in England and Wales and Northern Ireland, omit “4(3), (6) and (9A)”;
 - (ii) in those words as they have effect in Scotland, omit “4(3) and (6)”;
 - (iii) in paragraph (c) as it has effect in England and Wales and Northern Ireland, omit “4(3), (6) or (9A) or”;
 - (iv) in that paragraph as it has effect in Scotland, omit “4(3) or (6) or”;
 - (v) in paragraph (d) as it has effect in England and Wales and Northern Ireland, omit “section 4(3), (6) or (9A) or”;
 - (vi) in that paragraph as it has effect in Scotland, omit “section 4(3) or (6) or”;
 - (c) in subsection (3) as it has effect in England and Wales and Northern Ireland, omit “4(3), (6) or (9A)”;
 - (d) in that subsection as it has effect in Scotland, omit “4(3) or (6)”.
- (8) In section 14 (jurisdiction of court to try offences), omit “4,”.
- (9) In section 15 (powers of British sea-fishery officers for enforcement of Act) –
- (a) in subsection (2) –
 - (i) in paragraph (b) as it has effect in England and Wales and Northern Ireland, omit “4(3), (6) or (9A) or”;
 - (ii) in that paragraph as it has effect in Scotland, omit “4(3) or (6) or”;
 - (iii) in that paragraph, after “this Act” insert “, or under section 9~~(6)~~(6) or 11~~(5)~~(5) of, or paragraph 1(4) of Schedule 2 to, the Fisheries Act 2019,”;
 - (iv) in paragraph (c), for the words after “an order under”, substitute “section 5 of this Act or by section 10 or 12 of the Fisheries Act 2019;”;
 - (b) in subsection (3), at the end insert “or any of the provisions of sections 9 to 13 of, or Schedule 2 to, the Fisheries Act 2019 or any regulations made under any of those provisions.”;
 - (c) in subsection (3A)(a)(i) –
 - (i) omit “4(6) or”;
 - (ii) after “this Act” insert “or paragraph 1 of Schedule 2 to the Fisheries Act 2019”;
 - (d) in subsection (3B) –
 - (i) omit “4(6) or”;
 - (ii) after “this Act” insert “or paragraph 1 of Schedule 2 to the Fisheries Act 2019”.
- (10) In section 18 (enforcement of orders in relation to salmon and migratory trout) –
- (a) in subsection (1) –

- (i) in the opening words, omit “4,”;
 - (ii) in paragraph (b), omit “section 4 of this Act, and”;
 - (b) in subsections (2) and (3), omit “4.”
- (11) In section 20 (orders) –
- (a) in subsection (2), omit “4,”; 5
 - (b) in subsection (5) –
 - (i) omit “4,”;
 - (ii) after “thereunder,” insert “and a statutory instrument containing an order made under section 15 in relation to any of the provisions of sections 9 to 13 of, or Schedule 2 to, the Fisheries Act 2019 or any regulations made under any of those provisions,”; 10
 - (iii) omit “(5A) or”;
 - (c) omit subsections (5A) and (5B).
- (12) In section 22 (interpretation), ~~in the definition of “sea fish”, omit “4.”~~ 15
- (a) in subsection (1), at the appropriate place, insert –
 - “British fishing boat” means a fishing boat –
 - (a) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995, 20
 - (b) which is British-owned, or
 - (c) which is registered under the law of Jersey, Guernsey or the Isle of Man;”;
 - (b) in that subsection, in the definition of “sea fish”, omit “4.”;
 - (c) after subsection (1) insert – 25
 - “(1A) In any order or regulations made under this Act “foreign fishing boat” means (unless the contrary intention appears) a fishing boat which is not a British fishing boat.”
- (13) In section 22A (application to Scotland) –
- (a) in subsection (3), for “sections 4 and” substitute “section”; 30
 - (b) in subsection (4), for “sections 4(4) and” substitute “section”;
 - (c) omit subsection (9A).

Fishing Limits Act 1976

- 6 In the Fishery Limits Act 1976, omit section 3 (which substitutes section 4 of the Sea Fish (Conservation) Act 1967). 35

Fisheries Act 1981

- 7 In the Fisheries Act 1981, omit section 20 (which amends section 4 of the Sea Fish (Conservation) Act 1967).

Sea Fish (Conservation) Act 1992

- 8 In the Sea Fish (Conservation) Act 1992, omit section 1 (which amends section 4 of the Sea Fish (Conservation) Act 1967) 40

Government of Wales Act 2006

- 9 (1) The Government of Wales Act 2006 is amended as follows.
- (2) In Schedule 3A (functions of Ministers of Crown etc exercisable concurrently or jointly with Welsh Ministers) –
- (a) in paragraph 1(2), in the table, in the entry for the Sea Fish (Conservation) Act 1967, in column 2 – 5
- (i) omit “(a) section 4 (licensing of fishing boats), and”;
- (ii) for “sections 4 and” substitute “section”;
- (b) in paragraph 2(2)(b), omit sub-paragraph (i);
- (c) in paragraph 2(3), omit “4 or”. 10

Marine and Coastal Access Act 2009

- 10 (1) The Marine and Coastal Access Act 2009 is amended as follows.
- (2) In section 4 (licensing of fishing boats) –
- (a) omit subsections (1) to (6);
- (b) in subsection (7), for “that section” substitute “section 4 of the Sea Fish (Conservation) Act 1967 (licensing of fishing boats)”. 15
- (3) In section 7 (regulations supplementary to sections 4 and 4A of the Sea Fish (Conservation) Act 1967), omit “4 or”.
- (4) In section 196 (charging for commercial fishing licences), omit subsection (9A1). 20
- (5) Omit section 197 (grant of licences subject to conditions imposed for environmental purposes).
- (6) In section 284 (power to require production of certain equipment), in subsection (2)(a), for “section 4(6) or” substitute “paragraph 1 of Schedule 2 to the Fisheries Act 2019 or section”. 25

Sea Fish Licensing Order 1992

- 11 (1) The Sea Fish Licensing Order 1992 (S.I. 1992/2633) is amended as follows.
- (2) Articles 2 and 3, and the Schedule, were made under powers contained in section 4 of the Sea Fish (Conservation) Act 1967 and are therefore revoked by virtue of paragraph 5(2). 30
- (3) In article 4 –
- (a) in paragraph (1), for “this Order” substitute “section 9 of the Fisheries Act 2019”;
- (b) in paragraph (3)(c), for “section 4 of the Sea Fish (Conservation) Act 1967 as read with this Order” substitute “section 9(6) of, or paragraph 1(4) or 3(2) or (3) of Schedule 2 to, the Fisheries Act 2019”; 35
- (c) in paragraph (3)(e4), for “~~section 4 of the Sea Fish (Conservation) Act 1967 as read with this Order~~” substitute “~~section 9(6) of, or paragraph 1(4) or 3(2) or (3) of Schedule 2 to,~~ the Fisheries Act 2019”;

Sea Fishing (Licences and Notices) Regulations 1994

- 12 (1) The Sea Fishing (Licences and Notices) Regulations 1994 (S.I. 1994/2813) are amended as follows.
- (2) In regulation 1 (citation, commencement and interpretation) – 5
- (a) in the heading, after “commencement” insert “, application”;
- (b) after paragraph (1) insert –
- “(1A) These regulations apply in relation to –
- (a) licences granted under section 10 of the Fisheries Act 2019 (licensing of British fishing boats) in respect of Welsh fishing boats; 10
- (b) licences granted under section 12 of that Act (licensing of foreign fishing boats) by the Welsh Ministers; and
- (c) licences granted under section 4A of the Sea Fish (Conservation) Act 1967 (licensing of vessels receiving trans-shipped fish) – 15
- (i) in respect of Welsh fishing boats, or
- (ii) by the Welsh Ministers in respect of foreign fishing boats.”; 20
- (c) in paragraph (2), for the definition of “licence” substitute –
- ““licence” means a licence to which these regulations apply (see regulation 1(1A));”;
- (d) in paragraph (2), in the definition of “nominee”, in paragraph (b), for “in a member State and having a place of business” substitute “, and having a place of business,”; 25
- (e) in paragraph (2), for the definition of “sea fishing licence” substitute –
- ““sea fishing licence” means a licence to which these regulations apply by virtue of regulation 1(1A)(a) or (b);”;
- (f) in paragraph (2), at the end insert –
- ““Welsh fishing boat” means a fishing boat –
- (a) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995, and 35
- (b) whose entry in the register specifies a port in Wales as the port to which the boat is to be treated as belonging.”
- (3) In regulation 2 (communication of licences and notices) – 40
- (a) in paragraph (1), in the opening words, for “a nominee” substitute “an appropriate recipient”;
- (b) in paragraph (1), for sub-paragraph (d) substitute –
- “(d) subject to paragraph (6), transmitting it to the appropriate recipient by means of an electronic communication to an address which the appropriate recipient has specified in accordance with sub-paragraph (b) of that paragraph.”; 45

- (c) for paragraph (2) substitute –
- “(2) A notice shall be effected by communicating it to an appropriate recipient –
- (a) in any of the ways specified in paragraph (1); 5
 - (b) by publishing it on a website, the address of which is indicated on the licence to which the notice relates; or
 - (c) in accordance with paragraph (3).”;
- (d) after that paragraph insert –
- “(2A) In this regulation, “an appropriate recipient” means – 10
- (a) in relation to a licence or notice relating to a Welsh fishing boat –
 - (i) the owner or charterer of the fishing boat, or
 - (ii) a nominee of that owner or charterer; and 15
 - (b) in relation to a licence or notice relating to any other fishing boat, the owner or charterer of the fishing boat.”;
- (e) in paragraph (3), in the closing words, omit “granted by the appropriate Minister.”;
- (f) after paragraph (4) insert – 20
- “(5) A notice, other than a notice published in accordance with paragraph (3), must –
- (a) specify the name, port letters and number of the fishing boat named in the licence to which the notice relates, or 25
 - (b) in the case of a notice in respect of two or more licences, specify the name, port letters and number of the fishing boats named in the licences.
- (6) A licence or notice may be communicated to a person by means of an electronic communication only if the following conditions are met – 30
- (a) the use of the electronic communication results in the information contained in the licence or notice being available to the person in all material respects as it would appear in a licence or notice given in printed form, and 35
 - (b) the person has specified an address for the purpose of receiving such communications.”
- (4) In regulation 3 (delivery of licences and giving of notices) – 40
- (a) in paragraph (3), for “a nominee’s” substitute “an”;
 - (b) after paragraph (3) insert –
- “(3A) A notice communicated in accordance with regulation 2(2)(b) (publication on website) shall be treated as given immediately it is published.”
- (5) In regulation 4 (time at which licences and notices to have effect) – 45
- (a) in paragraph (a) omit “, and a notice which is communicated in accordance with regulation 2(2)(b).”;

- (b) in paragraph (b), omit the “and” at the end;
- (c) after that paragraph (b) insert –
 - “(ba) a notice which is communicated in accordance with regulation 2(2)(b) (publication on website) shall have effect 24 hours after it is treated as given in accordance with regulation 3; and”.

5

Scotland Act (Agency Arrangements) (Specification) Order 1999

- 13 (1) The Scotland Act (Agency Arrangements) (Specification) Order 1999 (S.I. 1999/1512) is amended as follows.
- (2) In Schedule 1 (functions conferred on Minister of the Crown), omit paragraph 1.
- (3) In Schedule 2 (functions exercisable by Scottish Ministers), omit paragraph 1.

10

Scotland Act 1998 (Concurrent Functions) Order 1999

- 14 (1) The Scotland Act 1998 (Concurrent Functions) Order 1999 (S.I. 1999/1592) is amended as follows.
- (2) In Schedule 1 –
 - (a) in column 1, omit the entry for section 4 of the Sea Fish (Conservation) Act 1967, and
 - (b) omit the corresponding entry in column 2.

15

Sea Fishing (Licences and Notices) (Scotland) Regulations 2011

20

- 15 (1) The Sea Fishing (Licences and Notices) (Scotland) Regulations 2011 (S.I. 2011/70) are amended as follows.
- (2) In regulation 1 (citation, commencement, extent and application) –
 - (a) in paragraph (2), omit the words from “and the Scottish zone” to the end;
 - (b) for paragraph (3) substitute –
 - “(3) These regulations apply in relation to –
 - (a) licences granted under section 10 of the Fisheries Act 2019 (licensing of British fishing boats) in respect of Scottish fishing boats;
 - (b) licences granted under section 12 of that Act (licensing of foreign fishing boats) by the Scottish Ministers; and
 - (c) licences granted under section 4A of the Sea Fish (Conservation) Act 1967 (licensing of vessels receiving trans-shipped fish) –
 - (i) in respect of Scottish fishing boats, or
 - (ii) by the Scottish Ministers in respect of foreign fishing boats.”
- (3) In regulation 2 (interpretation) –

25

30

35

40

- (a) for the definition of “licence” substitute –
 ““licence” means a licence to which these regulations
 apply (see regulation 1(3));”;
- (b) in the definition of “nominee” –
 (i) in paragraph (b) for “a member State” substitute “the United
 Kingdom”; 5
 (ii) in the closing words, omit “Scottish”;
- (c) in the definition of “Scottish fishing boat”, omit “; and in respect of
which the Scottish Ministers may grant or have granted a licence”;
- (d) for the definition of “sea fishing licence” substitute – 10
 ““sea fishing licence” means a licence to which these
 regulations apply by virtue of regulation 1(3)(a) or
 (b).”
- (4) In regulation 3 (communication of licences and notices) –
 (a) in paragraph (1), in the opening words, for “Scottish fishing boat”
 substitute “fishing boat”; 15
 (b) in paragraph (1), in sub-paragraphs (a) and (b), after “charterer or”
 insert “, in the case of a Scottish fishing boat,”;
 (c) in paragraph (2) –
 (i) in sub-paragraph (a), at the beginning, insert “in the case of a
 Scottish fishing boat”; 20
 (ii) in sub-paragraph (b), omit “Scottish”;
 (d) in paragraphs (3) and (4), for “Scottish fishing boat” substitute
 “fishing boat”
- (5) In regulation 4 (delivery of licences and giving of notices), in paragraph (3),
for “a nominee’s” substitute “an”. 25
- Sea Fishing (Licences and Notices) (England) Regulations 2012
- 16 (1) The Sea Fishing (Licences and Notices) (England) Regulations 2012 (S.I. 2012/827)
are amended as follows.
- (2) In regulation 1 (citation, commencement and application), for paragraph (2)
substitute – 30
 “(2) These regulations apply in relation to –
 (a) licences granted under section 10 of the Fisheries Act 2019
 (licensing of British fishing boats) in respect of relevant
 fishing boats; 35
 (b) licences granted under section 12 of that Act (licensing of
 foreign fishing boats) by the Marine Management
 Organisation; and
 (c) licences granted under section 4A of the Sea Fish
 (Conservation) Act 1967 (licensing of vessels receiving
 trans-shipped fish) – 40
 (i) in respect of relevant fishing boats, or
 (ii) by the Marine Management Organisation in
 respect of foreign fishing boats.”
- (3) In regulation 2 (interpretation) – 45

- (a) for the definition of “licence” substitute—
““licence” means a licence to which these regulations apply (see regulation 1(2));”;
- (b) in the definition of “nominee” —
 (i) in paragraph (b), for “in a member State and having a place of business” substitute “, and having a place of business;”; 5
 (ii) in the closing words, omit “relevant”;
- (c) for the definition of “relevant fishing boat” substitute —
““relevant fishing boat” means a British fishing boat other than a fishing boat —
 (a) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995, and
 (b) whose entry in the register specifies a port in Scotland, Wales or Northern Ireland as the port to which the boat is to be treated as belonging;”; 10
 (d) at the end insert —
““sea fishing licence” means a licence to which these regulations apply by virtue of regulation 1(2)(a) or (b).” 15
- (4) In regulation 3 (communication of licences and notices) — 20
 (a) in paragraph (1), for the words from “the owner” to the end substitute “an appropriate recipient (“P”);
 (b) after that paragraph insert —
“(1A) In this regulation, “an appropriate recipient” means — 25
 (a) in relation to a licence or notice relating to a relevant fishing boat —
 (i) the owner or charterer of the fishing boat, or
 (ii) a nominee of that owner or charterer; and
 (b) in relation to a licence or notice relating to any other fishing boat, the owner or charterer of the fishing boat.”; 30
 (c) omit paragraph (8).

Sea Fishing (Licences and Notices) Northern Ireland) Regulations 2014

- 17 (1) The Sea Fishing (Licences and Notices) (Northern Ireland) Regulations 2014 (S.R. (N.I.) 2014 No. 209) are amended as follows. 35
- (2) In regulation 1 (citation, commencement and application), for paragraph (2) substitute —
“(2) These Regulations apply in relation to — 40
 (a) licences granted under section 10 of the Fisheries Act 2019 (licensing of British fishing boats) in respect of Northern Ireland fishing boats;
 (b) licences granted under section 12 of that Act (licensing of foreign fishing boats) by the Department; and
 (c) licences granted under section 4A of the Sea Fish (Conservation) Act 1967 (licensing of vessels receiving trans-shipped fish) — 45

- (i) in respect of Northern Ireland fishing boats, or
 - (ii) by the Department in respect of foreign fishing boats.”
- (3) In regulation 2 (interpretation) – 5
 - (a) in the definition of “the Department”, for “of Agriculture and Rural Development” substitute “of Agriculture, Environment and Rural Affairs”;
 - (b) for the definition of “licence” substitute –
““licence” means a licence to which these regulations apply (see regulation 1(2));”; 10
 - (c) in the definition of “nominee” –
 - (i) in paragraph (b) for “in a member State of the European Union and having a place of business” substitute “, and having a place of business,”; 15
 - (ii) in the closing words, omit “Northern Ireland”;
 - (d) for the definition of “Northern Ireland fishing boat” substitute –
““Northern Ireland fishing boat” means a fishing boat –
 - (a) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995, and
 - (b) whose entry in the register specifies a port in Northern Ireland as the port to which the boat is to be treated as belonging;”; 20
 - (e) for the definition of “sea fishing licence” substitute –
““sea fishing licence” means a licence to which these regulations apply by virtue of regulation 1(2)(a) or (b).” 25
- (4) In regulation 3 (manner in which a licence is granted etc) –
 - (a) in paragraph (1) –
 - (i) omit “Northern Ireland”;
 - (ii) for the words from “the owner or charterer of the boat” to the end substitute “an appropriate recipient (“the recipient”); 30
 - (b) after that paragraph insert –
“(1A) In this regulation, “an appropriate recipient” means –
 - (a) in relation to a licence or notice relating to a Northern Ireland fishing boat – 35
 - (i) the owner or charterer of the fishing boat, or
 - (ii) a nominee of that owner or charterer; and
 - (b) in relation to a licence or notice relating to any other fishing boat, the owner or charterer of the fishing boat.”;
 - (c) in paragraph (43), for the words from “~~this Order~~the owner or charterer” to the end substitute “~~section 9 of an appropriate recipient~~ (“the ~~Fisheries Act 2019~~recipient”).” 40

Sea Fish Licensing (England) Order 2015

- 18 The Sea Fish Licensing (England) Order 2015 (S.I. 2015/647) was made under powers contained in section 4 of the Sea Fish (Conservation) Act 1967 and is therefore revoked by virtue of paragraph 5(2).

PART 3

TRANSITIONAL PROVISION

Continuity of the law

- | | | |
|----|--|---|
| 19 | <p>(1) This paragraph applies where any provision of this Act re-enacts (with or without modification) an enactment repealed by Part 2 of this Schedule.</p> <p>(2) The repeal and re-enactment does not affect the continuity of the law.</p> <p>(3) Anything done (including any subordinate legislation made) or having effect as if done, under or for the purposes of the amended <u>repealed</u> provision that could have been done under or for the purposes of the corresponding provision of this Act, if in force or effective immediately before the commencement of that corresponding provision, has effect thereafter as if done under or for the purposes of that corresponding provision.</p> <p>(4) Any reference (express or implied) in this Act or any other enactment, instrument or document to a provision of this Act shall be construed (so far as the context permits) as including, as respects times, circumstances or purposes in relation to which the corresponding repealed provision had effect, a reference to that corresponding provision.</p> <p>(5) Any reference (express or implied) in any enactment, instrument or document to a repealed provision shall be construed (so far as the context permits) as respects times, circumstances or purposes in relation to which the corresponding provision of this Act has effect, as being or (according to the context) including a reference to the corresponding provision of this Act.</p> <p>(6) This paragraph has effect subject to any specific transitional provision or saving contained in or made under this Act.</p> <p>(7) In this paragraph a reference to an enactment being repealed includes its being revoked, or amended so that it no longer applies in any case.</p> <p>(8) In this paragraph “subordinate legislation” has the same meaning as in the Interpretation Act 1978.</p> | 5

10

15

20

25 |
|----|--|---|

SCHEDULE 4

Section 28

FINANCIAL ASSISTANCE

Financial assistance: power of the Welsh Ministers

- | | | |
|---|---|------------------|
| 1 | <p>(1) The Welsh Ministers may give financial assistance, or arrange for financial assistance to be given, to any person for any of the following purposes –</p> <p style="margin-left: 20px;">(a) the conservation, enhancement or restoration of the marine and aquatic environment;</p> <p style="margin-left: 20px;">(b) the promotion or development of commercial aquaculture activities or commercial fish activities;</p> <p style="margin-left: 20px;">(c) the reorganisation of businesses involved in commercial aquaculture activities or commercial fish activities;</p> | 35

40 |
|---|---|------------------|

- (d) contributing to the expenses of persons involved in commercial aquaculture activities or commercial fish activities;
 - (e) the promotion or development of recreational fishing.
- (2) Financial assistance given under, or under arrangements made pursuant to, sub-paragraph (1) must be given in accordance with a scheme established by regulations made by the Welsh Ministers. 5
- (3) The scheme may only provide for financial assistance to be given –
- (a) in relation to Wales or the Welsh zone, or
 - (b) in relation to Welsh fishing boats. 10
- (4) The scheme may –
- (a) confer functions (including functions involving the exercise of a discretion) on a person;
 - (b) require a person on whom functions are conferred to keep, and make available for inspection, accounts and other records.
- (5) The scheme may include provision under which –
- (a) financial assistance is given subject to conditions specified by, or in accordance with, the scheme; 15
 - (b) financial assistance is required to be repaid in circumstances specified by, or in accordance with, the scheme.
- (6) Regulations under this paragraph are subject to the affirmative resolution procedure. 20
- (7) In this paragraph “financial assistance” means grants or loans.

Financial assistance: power of the Northern Ireland department

- 2 (1) The Northern Ireland department may give financial assistance, or arrange for financial assistance to be given, to any person for any of the following purposes – 25
- (a) the conservation, enhancement or restoration of the marine and aquatic environment;
 - (b) the promotion or development of commercial aquaculture activities or commercial fish activities; 30
 - (c) the reorganisation of businesses involved in commercial aquaculture activities or commercial fish activities;
 - (d) contributing to the expenses of persons involved in commercial aquaculture activities or commercial fish activities;
 - (e) the promotion or development of recreational fishing. 35
- (2) Financial assistance given under, or under arrangements made pursuant to, sub-paragraph (1) must be given in accordance with a scheme established by regulations made by the Northern Ireland department.
- (3) The scheme may only provide for financial assistance to be given – 40
- (a) in relation to Northern Ireland or the Northern Ireland zone, or
 - (b) in relation to Northern Ireland fishing boats.
- (4) The scheme may –
- (a) confer functions (including functions involving the exercise of a discretion) on a person; 45

- (b) require a person on whom functions are conferred to keep, and make available for inspection, accounts and other records.
- (5) The scheme may include provision under which –
 - (a) financial assistance is given subject to conditions specified by, or in accordance with, the scheme;
 - (b) financial assistance is required to be repaid in circumstances specified by, or in accordance with, the scheme. 5
- (6) Regulations under this paragraph are subject to the affirmative resolution procedure.
- (7) In this paragraph “financial assistance” means grants or loans. 10

Financial assistance: consequential amendments

- 3 (1) The Fisheries Act 1981 is amended in accordance with sub-paragraphs (2) to (6). 15
- (2) In section 15 (schemes of financial assistance for sea fish industry) –
 - (a) in subsection (1) –
 - (i) for “The Ministers” substitute “The Scottish Ministers”, and
 - (ii) omit “with the approval of the Treasury”,
 - (b) in subsection (2) –
 - (i) for “England and Wales and Northern Ireland” substitute “Scotland”, and 20
 - (ii) for “the Ministers” substitute “the Scottish Ministers”,
 - (c) in subsection (3) –
 - (i) for “Parliament”, in both places it occurs, substitute “the Scottish Parliament”, and 25
 - (ii) omit “each House of”, and
 - (d) in subsection (4) –
 - (i) for “Parliament” substitute “the Scottish Parliament”, and
 - (ii) for “prorogued or during which both Houses are adjourned” substitute “is in recess”. 30
- (3) In section 16 (administration of schemes by Sea Fish Industry Authority) –
 - (a) in subsection (1), for “the Ministers”, in both places it occurs, substitute “the Scottish Ministers”,
 - (b) in subsection (3), for “the Ministers with the approval of the Treasury” substitute “the Scottish Ministers”, 35
 - (c) in subsection (5A), for words from “the Comptroller” to the end of paragraph (b) substitute “the Auditor General for Scotland as soon as reasonably practicable after the end of the financial year to which the statement relates.”,
 - (d) in subsection (5B) –
 - (i) for “Comptroller and Auditor General” substitute “Auditor General for Scotland”, and 40
 - (ii) for “Parliament” substitute “the Scottish Parliament”, and
 - (e) in subsection (6), for “The Ministers and the Comptroller and Auditor General” substitute “The Scottish Ministers and the Auditor General for Scotland”. 45
- (4) In section 18 (interpretation of Part 2) –

- (a) in subsection (1), omit the definition of “the Ministers”, and
 - (b) in subsection (2) for “England and Wales and Northern Ireland, in each place it occurs, substitute “Scotland”.
- (5) Omit section 18A (application of Part 2 to Scotland). 5
- (6) In section 31 (fish farming: schemes of financial assistance) –
- (a) in subsection (1) –
 - (i) for “The Ministers” substitute “The Scottish Ministers”,
 - (ii) omit “with the approval of the Treasury”, and
 - (iii) for “England and Wales” substitute “Scotland”,10
 - (b) in subsection (3), for “the Ministers” substitute “the Scottish Ministers”,
 - (c) omit subsection (4),
 - (d) omit subsection (5),
 - (e) in subsection (6) –
 - (i) for “Parliament”, in both places it occurs, substitute “the Scottish Parliament”, and
 - (ii) omit “each House of”,15
 - (f) in subsection (7) –
 - (i) for “Parliament” substitute “the Scottish Parliament”, and
 - (ii) for the words “prorogued or during which both Houses are adjourned” substitute “is in recess”, and
 - (g) omit subsection (9). 20
- (7) In consequence of the amendments made by this paragraph –
- (a) in the Government of Wales Act 2006, in Schedule 3A, omit paragraph 2(2)(d);
 - (b) in the Sea Fisheries (Northern Ireland) Order 2002 (S.I. 2002/790), in Schedule 2, omit paragraph 2. 25

SCHEDULE 5

Section 29

POWER OF NORTHERN IRELAND DEPARTMENT TO IMPOSE CHARGES

- 1 The Northern Ireland department may by regulations make provision for it to impose charges in respect of the exercise by it of a relevant marine function. 30
- 2 “Relevant marine function” means a function relating to –
- (a) fishing quotas;
 - (b) ensuring that commercial fish activities are carried out lawfully;
 - (c) the registration of buyers and sellers of first-sale fish;
 - (d) catch certificates for the import and export of fish. 35
- 3 The charges which may be authorised by the regulations are –
- (a) a charge on a person in respect of the exercise of a function in relation to that person, or
 - (b) periodic or other charges on persons carrying out an activity in respect of the exercise of a function which relates to that activity. 40

-
- 4 The regulations may include provision about—
- (a) who is liable to pay a charge;
 - (b) the circumstances in which a charge is payable;
 - (c) the amount of a charge (including how an amount is to be calculated);
 - (d) reductions and exemptions; 5
 - (e) waivers;
 - (f) how and when a charge is to be paid;
 - (g) the collection and recovery of payments;
 - (h) interest payable on outstanding payments;
 - (i) the resolution of disputes (including appeals). 10
- 5 The regulations may confer a discretion on the Northern Ireland department.
- 6 A power conferred on the Northern Ireland department under this Schedule does not affect, and is not affected by, any other power of it to impose charges. 15
- 7 Before making regulations under this Schedule the Northern Ireland department must consult such persons as it considers appropriate.
- 8 Regulations under this Schedule are subject to the negative resolution procedure.
- 9 In this Schedule—
- “first-sale fish” means fish which is marketed for the first time;
 - “fishing quota” means—
 - (a) a catch quota or an effort quota, or
 - (b) any other limit relating to the quantity of sea fish that may be caught or the time that fishing boats may spend at sea. 20

SCHEDULE 6

Section 37

POWERS TO MAKE FURTHER PROVISION: DEVOLVED AUTHORITIES 25

PART 1

SCOTTISH MINISTERS

Power to make provision about aquatic animal diseases 30

- 1 (1) The Scottish Ministers may by regulations make provision for the purpose of monitoring, controlling, preventing or eradicating diseases of fish or other aquatic animals.
- (2) Regulations under this paragraph may, in particular, include provision regulating the importation, exportation, movement, storage or handling of— 35
- (a) fish or other aquatic animals;
 - (b) products derived from fish or other aquatic animals;

- (c) any other thing that the Scottish Ministers consider may carry, or otherwise affect the prevalence of, a disease of fish or other aquatic animals.

Scope of regulations under paragraph 1 5

- 2 (1) Regulations under paragraph 1 may –
 - (a) confer a function, including a function involving the exercise of a discretion, on any person, or
 - (b) impose fees. 10
- (2) Regulations under paragraph 1 may create a criminal offence, but not one punishable with imprisonment. 10
- (3) Regulations under paragraph 1 may only include provision which would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament, unless the provision is merely incidental to, or consequential on, provision which would be within that legislative competence. 15
- (4) Regulations under paragraph 1 may not include provision modifying a function of the Secretary of State, the Scottish Ministers, the Welsh Ministers or the Northern Ireland department under any of the provisions of sections 9 to 13 or Schedule 2 (licensing of fishing boats). 20
- (5) The reference in sub-paragraph (4) to “modifying” a function of a person under an enactment includes –
 - (a) abolishing the function;
 - (b) changing the purpose or objective for which the function is exercised;
 - (c) changing the conditions under which the function is exercised. 25
- (6) The power to make regulations under paragraph 1 is capable of being exercised so as to amend, repeal or revoke any enactment (apart from sections 31 to 37, this Schedule, and section ~~40~~ 43 so far as it applies for the purposes of those enactments). 30
- (7) In sub-paragraph (6) “enactment” has the same meaning as in the European Union (Withdrawal) Act 2018. 30

Procedural requirements

- 3 (1) Before making regulations under paragraph 1 the Scottish Ministers must consult –
 - (a) the Secretary of State,
 - (b) the Welsh Ministers,
 - (c) the Northern Ireland department, and
 - (d) such other persons likely to be affected by the regulations as the Scottish Ministers consider appropriate. 40
- (2) Regulations under paragraph 1 are subject to the affirmative resolution procedure if they contain provision –
 - (a) amending or repealing primary legislation;
 - (b) amending Article 17 of the Common Fisheries Policy Regulation (distribution of fishing opportunities);

- (c) imposing fees;
 - (d) creating a criminal offence or increasing the penalty for, or widening the scope of, a criminal offence; or
 - (e) conferring functions on, modifying functions of, or otherwise relating to the regulation of –
 - (i) a producer organisation in the United Kingdom, or
 - (ii) an inter-branch organisation in the United Kingdom.
- (3) Subject to sub-paragraph (2) regulations under paragraph 1 are subject to the negative resolution procedure. 5

PART 2

WELSH MINISTERS 10

Power to make provision about fisheries, aquaculture etc

- 4 (1) The Welsh Ministers may by regulations make provision –
- (a) for the purpose of implementing an international obligation of the United Kingdom relating to fisheries, fishing or aquaculture, 15
 - (b) for a conservation purpose (see sub-paragraph (2)), or
 - (c) for a fish industry purpose (see sub-paragraph (3)).
- (2) “A conservation purpose” means any of the following –
- (a) the purpose of conserving, improving or developing stocks of sea fish; 20
 - (b) the purpose of protecting the marine and aquatic environment from the effects of fishing or aquaculture, or of related activities;
 - (c) the purpose of protecting or improving the health of any fish or other aquatic animal. 25
- (3) “A fish industry purpose” means any of the following –
- (a) the purpose of promoting or developing commercial fish activities or commercial aquaculture activities;
 - (b) the purpose of improving the traceability of fishery products;
 - (c) the purpose of disseminating information about fishery products. 30
- (4) Except so far as they are regional fisheries management regulations, regulations under sub-paragraph (1) may only include provision about –
- (a) the quantity of sea fish that may be caught;
 - (b) the amount of time that fishing boats may spend at sea;
 - (c) the landing of sea fish; 35
 - (d) bycatch;
 - (e) catching, landing or selling sea fish that are below a certain size;
 - (f) setting and enforcing targets relating to stocks of sea fish;
 - (g) the design of sea fishing equipment;
 - (h) the use of sea fishing equipment; 40
 - (i) the retrieval of lost or discarded sea fishing equipment;
 - (j) methods of sea fishing;
 - (k) the use of fishing boats;
 - (l) the processing of sea fish on fishing boats; 45

- (m) the use to which the Welsh Ministers may put information obtained in the exercise of their functions relating to fisheries or aquaculture;
 - (n) the functions, objectives or regulation of producer organisations or inter-branch organisations;
 - (o) the marketing of fishery products (including labelling); 5
 - (p) keeping, disclosing or publishing accounts, records or other documents or information by persons involved in –
 - (i) commercial fish activities or commercial aquaculture activities, or
 - (ii) monitoring, or enforcing, compliance with the regulation of commercial fish activities or commercial aquaculture activities; 10
 - (q) the use in aquaculture, or transport, of aquatic organisms that are members of an alien species or a locally absent species;
 - (r) monitoring, or enforcing, compliance with the regulation of any of matters mentioned in the preceding paragraphs of this sub-paragraph. 15
- (5) In sub-paragraph (4) “regional fisheries management regulations” means regulations that give effect (or change the way in which effect is given) to a requirement imposed on, or a recommendation made to, the United Kingdom (whether directly or indirectly) –
- (a) by, or pursuant to, a regional fisheries management agreement, or
 - (b) by a regional fisheries management organisation. 20
- I (6) Without prejudice to the generality of section ~~39(1)(b)~~42(1)(b), regulations under this paragraph may make different provision in relation to –
- (a) different descriptions of sea fish or other animal,
 - (b) different descriptions of fishing boat, or
 - (c) different areas of the sea or inland waters. 25

Paragraph 4: interpretation

- 5 (1) In paragraph 4 and this paragraph – 30
- “bycatch” means –
- (a) fish that are caught in the course of fishing for fish of a different description, or
 - (b) animals other than fish that are caught in the course of fishing; 35
- “fishery products” means –
- (a) fish or other aquatic organisms resulting from fishing or aquaculture, or
 - (b) products derived from aquatic organisms within paragraph (a); 40
- “regional fisheries management agreement” means an international agreement (including an international agreement to which the United Kingdom is not a party) the sole or main purpose of which is the conservation or management of –
- (a) straddling stocks, 45
 - (b) stocks of highly migratory species, or
 - (c) any other stocks of fish or aquatic animal found in the high seas;

- “regional fisheries management organisation” means an organisation (including an organisation of which the United Kingdom is not a member) established pursuant to a regional fisheries management agreement;
- “sea fishing equipment” means – 5
- (a) fishing nets and any other equipment used in the course of sea fishing (including, for example, equipment used to navigate, or to deter animals that are not intended to be caught), or
- (b) equipment used to monitor sea fishing;
- “traceability”, in relation to fishery products, means the ability of any person to discover information about how, where or when the fishery products were – 10
- (a) caught, harvested or made, or
- (b) transported, stored or sold.
- (2) In the definition of “regional fisheries management agreement” in subparagraph (1) – 15
- (a) “the high seas” has the same meaning as in the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) (“UNCLOS”);
- (b) “straddling stocks” means stocks to which Article 63(2) of UNCLOS (stocks both in, and in area beyond and adjacent to, an EEZ) applies; 20
- (c) “highly migratory species” means a species listed in Annex 1 to UNCLOS.
- (3) For the purposes of paragraph 4, an aquatic organism is a member of an “alien species” if – 25
- (a) it is located outside the known natural range, and the area of the natural dispersal potential, of the species or subspecies of which it is a member,
- (b) it is a polyploid organism, or
- (c) it is a member of a fertile artificially hybridised species or subspecies.
- (4) For the purposes of paragraph 4, an aquatic organism is a member of a “locally absent species” if it is located – 30
- (a) within the known natural range of the species or subspecies of which it is a member, and
- (b) in an area in which that species or subspecies is absent (in a wild state).
- Power to make provision about aquatic animal diseases* 35
- 6 (1) The Welsh Ministers may by regulations make provision for the purpose of monitoring, controlling, preventing or eradicating diseases of fish or other aquatic animals.
- (2) Regulations under this paragraph may, in particular, include provision regulating the importation, exportation, movement, storage or handling of – 40
- (a) fish or other aquatic animals;
- (b) products derived from fish or other aquatic animals;
- (c) any other thing that the Welsh Ministers consider may carry, or otherwise affect the prevalence of, a disease of fish or other aquatic animals. 45

Scope of regulations under paragraph 4 or 6

- 7 (1) Regulations under paragraph 4 or 6 may –
- (a) confer a function, including a function involving the exercise of a discretion, on any person, or 5
 - (b) impose fees.
- (2) Regulations under paragraph 4 or 6 may create a criminal offence, but not one punishable with imprisonment.
- (3) Regulations under paragraph 4 or 6 may only include provision which would be within the legislative competence of the National Assembly for Wales if it were included in an Act of that Assembly, unless the provision is merely incidental to, or consequential on, provision which would be within that legislative competence. 10
- (4) Regulations under paragraph 4 or 6 may not include provision modifying a function of the Secretary of State, the Scottish Ministers, the Welsh Ministers or the Northern Ireland department under any of the provisions of sections 9 to 13 or Schedule 2 (licensing of fishing boats). 15
- (5) The reference in sub-paragraph (4) to “modifying” a function of a person under an enactment includes –
- (a) abolishing the function; 20
 - (b) changing the purpose or objective for which the function is exercised;
 - (c) changing the conditions under which the function is exercised.
- (6) A power to make regulations under paragraph 4 or 6 is capable of being exercised so as to amend, repeal or revoke any enactment (apart from sections 31 to 37, this Schedule, and section ~~40~~ 43 so far as it applies for the purposes of those enactments). 25
- (7) In sub-paragraph (6) “enactment” has the same meaning as in the European Union (Withdrawal) Act 2018.

Procedural requirements

- 8 (1) Before making regulations under paragraph 4 or 6 the Welsh Ministers must consult – 30
- (a) the Secretary of State,
 - (b) the Scottish Ministers,
 - (c) the Northern Ireland department, and 35
 - (d) such other persons likely to be affected by the regulations as the Welsh Ministers consider appropriate.
- (2) Regulations under paragraph 4 or 6 are subject to the affirmative resolution procedure if they contain provision – 40
- (a) amending or repealing primary legislation;
 - (b) amending Article 17 of the Common Fisheries Policy Regulation (distribution of fishing opportunities);
 - (c) imposing fees;
 - (d) creating a criminal offence or increasing the penalty for, or widening the scope of, a criminal offence; or

- (e) conferring functions on, modifying functions of, or otherwise relating to the regulation of –
- (i) a producer organisation in the United Kingdom, or
 - (ii) an inter-branch organisation in the United Kingdom.
- (3) Subject to sub-paragraph (2) regulations under paragraph 4 or 6 are subject to the negative resolution procedure.

5

PART 3

THE NORTHERN IRELAND DEPARTMENT

Power to make provision about fisheries, aquaculture etc

- 9 (1) The Northern Ireland department may by regulations make provision –
- (a) for the purpose of implementing an international obligation of the United Kingdom relating to fisheries, fishing or aquaculture,
 - (b) for a conservation purpose (see sub-paragraph (2)), or
 - (c) for a fish industry purpose (see sub-paragraph (3)).
- (2) “A conservation purpose” means any of the following –
- (a) the purpose of conserving, improving or developing stocks of sea fish;
 - (b) the purpose of protecting the marine and aquatic environment from the effects of fishing or aquaculture, or of related activities;
 - (c) the purpose of protecting or improving the health of any fish or other aquatic animal.
- (3) “A fish industry purpose” means any of the following –
- (a) the purpose of promoting or developing commercial fish activities or commercial aquaculture activities;
 - (b) the purpose of improving the traceability of fishery products;
 - (c) the purpose of disseminating information about fishery products.
- (4) Except so far as they are regional fisheries management regulations, regulations under sub-paragraph (1) may only include provision about –
- (a) the quantity of sea fish that may be caught;
 - (b) the amount of time that fishing boats may spend at sea;
 - (c) the landing of sea fish;
 - (d) bycatch;
 - (e) catching, landing or selling sea fish that are below a certain size;
 - (f) setting and enforcing targets relating to stocks of sea fish;
 - (g) the design of sea fishing equipment;
 - (h) the use of sea fishing equipment;
 - (i) the retrieval of lost or discarded sea fishing equipment;
 - (j) methods of sea fishing;
 - (k) the use of fishing boats;
 - (l) the processing of sea fish on fishing boats;
 - (m) the use to which the Northern Ireland department may put information obtained in the exercise of its functions relating to fisheries or aquaculture;

10

15

20

25

30

35

40

- (n) the functions, objectives or regulation of producer organisations or inter-branch organisations;
 - (o) the marketing of fishery products (including labelling);
 - (p) keeping, disclosing or publishing accounts, records or other documents or information by persons involved in – 5
 - (i) commercial fish activities or commercial aquaculture activities, or
 - (ii) monitoring, or enforcing, compliance with the regulation of commercial fish activities or commercial aquaculture activities; 10
 - (q) the use in aquaculture, or transport, of aquatic organisms that are members of an alien species or a locally absent species;
 - (r) monitoring, or enforcing, compliance with the regulation of any of matters mentioned in the preceding paragraphs of this sub-paragraph. 15
- (5) In sub-paragraph (4) “regional fisheries management regulations” means regulations that give effect (or change the way in which effect is given) to a requirement imposed on, or a recommendation made to, the United Kingdom (whether directly or indirectly) – 15
- (a) by, or pursuant to, a regional fisheries management agreement, or
 - (b) by a regional fisheries management organisation. 20
- (6) Without prejudice to the generality of section ~~39(1)(b)~~42(1)(b), regulations under this paragraph may make different provision in relation to –
- (a) different descriptions of sea fish or other animal,
 - (b) different descriptions of fishing boat, or
 - (c) different areas of the sea or inland waters. 25

Paragraph 9: interpretation

- 10 (1) In paragraph 9 and this paragraph –
- “bycatch” means –
- (a) fish that are caught in the course of fishing for fish of a different description, or 30
 - (b) animals other than fish that are caught in the course of fishing;
- “fishery products” means –
- (a) fish or other aquatic organisms resulting from fishing or aquaculture, or 35
 - (b) products derived from aquatic organisms within paragraph (a);
- “regional fisheries management agreement” means an international agreement (including an international agreement to which the United Kingdom is not a party) the sole or main purpose of which is the conservation or management of – 40
- (a) straddling stocks,
 - (b) stocks of highly migratory species, or
 - (c) any other stocks of fish or aquatic animal found in the high seas; 45
- “regional fisheries management organisation” means an organisation (including an organisation of which the United Kingdom is not a

- member) established pursuant to a regional fisheries management agreement;
- “sea fishing equipment” means –
- (a) fishing nets and any other equipment used in the course of sea fishing (including, for example, equipment used to navigate, or to deter animals that are not intended to be caught), or
 - (b) equipment used to monitor sea fishing;
- “traceability”, in relation to fishery products, means the ability of any person to discover information about how, where or when the fishery products were –
- (a) caught, harvested or made, or
 - (b) transported, stored or sold.
- (2) In the definition of “regional fisheries management agreement” in subparagraph (1) –
- (a) “the high seas” has the same meaning as in the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) (“UNCLOS”);
 - (b) “straddling stocks” means stocks to which Article 63(2) of UNCLOS (stocks both in, and in area beyond and adjacent to, an EEZ) applies;
 - (c) “highly migratory species” means a species listed in Annex 1 to UNCLOS.
- (3) For the purposes of paragraph 9, an aquatic organism is a member of an “alien species” if –
- (a) it is located outside the known natural range, and the area of the natural dispersal potential, of the species or subspecies of which it is a member,
 - (b) it is a polyploid organism, or
 - (c) it is a member of a fertile artificially hybridised species or subspecies.
- (4) For the purposes of paragraph 9, an aquatic organism is a member of a “locally absent species” if it is located –
- (a) within the known natural range of the species or subspecies of which it is a member, and
 - (b) in an area in which that species or subspecies is absent (in a wild state).

Power to make provision about aquatic animal diseases

- 11 (1) The Northern Ireland department may by regulations make provision for the purpose of monitoring, controlling, preventing or eradicating diseases of fish or other aquatic animals.
- (2) Regulations under this paragraph may, in particular, include provision regulating the importation, exportation, movement, storage or handling of –
- (a) fish or other aquatic animals;
 - (b) products derived from fish or other aquatic animals;
 - (c) any other thing that the Northern Ireland department considers may carry, or otherwise affect the prevalence of, a disease of fish or other aquatic animals.

Scope of regulations under paragraph 9 or 11

- 12 (1) Regulations under paragraph 9 or 11 may –
- (a) confer a function, including a function involving the exercise of a discretion, on any person, or 5
 - (b) impose fees.
- (2) Regulations under paragraph 9 or 11 may create a criminal offence, but not one punishable with imprisonment.
- (3) Regulations under paragraph 9 or 11 may only include provision which would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly, unless the provision is merely incidental to, or consequential on, provision which would be within that legislative competence. 10
- (4) Regulations under paragraph 9 or 11 may not include provision modifying a function of the Secretary of State, the Scottish Ministers, the Welsh Ministers or the Northern Ireland department under any of the provisions of sections 9 to 13 or Schedule 2 (licensing of fishing boats). 15
- (5) The reference in sub-paragraph (4) to “modifying” a function of a person under an enactment includes –
- (a) abolishing the function; 20
 - (b) changing the purpose or objective for which the function is exercised;
 - (c) changing the conditions under which the function is exercised.
- (6) A power to make regulations under paragraph 9 or 11 is capable of being exercised so as to amend, repeal or revoke any enactment (apart from sections 31 to 37, this Schedule and section ~~40~~⁴³ so far as it applies for the purposes of those enactments). 25
- (7) In sub-paragraph (6) “enactment” has the same meaning as in the European Union (Withdrawal) Act 2018.

Procedural requirements

- 13 (1) Before making regulations under paragraph 9 or 11 the Northern Ireland department must consult –
- (a) the Secretary of State,
 - (b) the Scottish Ministers,
 - (c) the Welsh Ministers, and 35
 - (d) such other persons likely to be affected by the regulations as the Northern Ireland department considers appropriate.
- (2) Regulations under paragraph 9 or 11 are subject to the affirmative resolution procedure if they contain provision –
- (a) amending or repealing primary legislation; 40
 - (b) amending Article 17 of the Common Fisheries Policy Regulation (distribution of fishing opportunities);
 - (c) imposing fees;
 - (d) creating a criminal offence or increasing the penalty for, or widening the scope of, a criminal offence; or 45

- (e) conferring functions on, modifying functions of, or otherwise relating to the regulation of –
- (i) a producer organisation in the United Kingdom, or
 - (ii) an inter-branch organisation in the United Kingdom.
- (3) Subject to sub-paragraph (2), regulations under paragraph 9 or 11 are subject to the negative resolution procedure.

5

SCHEDULE 7

Section 38

POWERS RELATING TO THE EXPLOITATION OF SEA FISHERIES RESOURCES

- 1 The Marine and Coastal Access Act 2009 is amended in accordance with paragraphs 2 to 25. 10
- 2 In the heading of Chapter 1 of Part 5, after “marine conservation zones” insert “and management of sea fisheries”.
- 3 (1) Section 117 (grounds for designation of MCZs) is amended as follows. 15
- (2) In subsection (4) for “The reference in subsection (1)(a)” substitute “Any reference in this Chapter”.
- (3) In subsection (5), for “The references in subsection (1)(a) and (b)” substitute “Any reference in this Chapter”.
- 4 In the italic heading before section 129, for “protection of MCZs etc: England” substitute “marine conservation: England and the English offshore region”. 20
- 5 In section 129 (byelaws for protections of MCZs in England), in subsection (7), for “subject to specified exceptions” substitute – 25
- “(a) subject to specified exceptions or conditions;
 - (b) so as to cease to have effect after a specified period.”
- 6 After section 129 insert –
- “129A Byelaws relating to exploitation of sea fisheries resources: England**
- (1) The MMO may make one or more byelaws relating to the exploitation of sea fisheries resources in England for the purposes of conserving – 30
- (a) marine flora or fauna, or
 - (b) marine habitats or types of marine habitat.
- (2) A byelaw under this section may be made so as to apply to any area in England. 35
- (3) A byelaw under this section must specify the flora or fauna, or habitat or type of habitat, for the conservation of which the byelaw is made.
- (4) The provision that may be made by a byelaw under this section includes provision that prohibits, restricts or otherwise interferes with the exercise of – 40
- (a) a right of several fishery;

- (b) any right on, to or over any portion of the seashore that is enjoyed by a person under a local or special Act, a Royal charter, letters patent or by prescription or immemorial usage.
 - (5) But the MMO may make a byelaw that prohibits, or significantly restricts or interferes with, a right referred to in subsection (4), only if the person who enjoys the right consents. 5
 - (6) Subsection (5) does not apply in relation to the exercise of such a right in relation to—
 - (a) a site of special scientific interest, within the meaning of Part 2 of the Wildlife and Countryside Act 1981, 10
 - (b) a national nature reserve declared in accordance with section 35 of that Act,
 - (c) a Ramsar site, within the meaning of section 37A of that Act,
 - (d) a European marine site, within the meaning of the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/940), or 15
 - (e) an MCZ.
 - (7) See also section 129C (supplementary).
- 129B Byelaws relating to exploitation of sea fisheries resources: English offshore region** 20
- (1) The MMO may make one or more byelaws relating to the exploitation of sea fisheries resources in the English offshore region for the purposes of conserving—
 - (a) marine flora or fauna,
 - (b) marine habitats or types of marine habitat, or
 - (c) features of geological or geomorphological interest. 25
 - (2) A byelaw under this section may be made so as to apply to any area in the English offshore region.
 - (3) A byelaw under this section must specify the flora or fauna, habitat or type of habitat or features for the conservation of which it is made. 30
 - (4) See also section 129C (supplementary).
- 129C Byelaws under sections 129A and 129B: supplementary**
- (1) The provision that may be made by a byelaw under section 129A or 129B includes, in particular, provision falling within any of the Heads set out in subsections (2) to (4). 35
 - (2) Head 1 is provision prohibiting or restricting the exploitation of sea fisheries resources, including—
 - (a) provision prohibiting or restricting such exploitation in specified areas or during specified periods; 40
 - (b) provision limiting the amount of sea fisheries resources a person or vessel may take in a specified period;
 - (c) provision limiting the amount of time a person or vessel may spend fishing for or taking sea fisheries resources in a specified period.

-
- (3) Head 2 is provision prohibiting or restricting the exploitation of sea fisheries resources without a permit issued by the MMO, including –
- (a) *provision for the charging of fees for permits;*
 - (b) provision enabling conditions to be attached to a permit; 5
 - (c) provision enabling the MMO to limit the number of permits issued by it.
- (4) Head 3 is –
- (a) provision prohibiting or restricting the use of vessels of specified descriptions; 10
 - (b) provision prohibiting or restricting any method of exploiting sea fisheries resources;
 - (c) provision prohibiting or restricting the possession, use, retention on board, storage or transportation of specified items, or items of a specified description, that are used in the exploitation of sea fisheries resources; 15
 - (d) provision for determining whether such items are items of a specified description.
- (5) A byelaw under section 129A or 129B may be made –
- (a) subject to specified exceptions or conditions;
 - (b) so as to cease to have effect after a specified period. 20
- (6) A byelaw under section 129A or 129B may make different provision for different cases, including in particular –
- (a) different times of the year,
 - (b) different means or methods of carrying out an activity, and
 - (c) different descriptions of sea fisheries resources.
- (7) In this section “specified” means specified in the byelaw.” 25
- 7 (1) Section 130 (byelaws: procedure) is amended as follows.
- (2) In subsection (1) after “129” insert “, 129A or 129B”.
- (3) In subsection (2), after “the byelaw” insert “is made under section 129 or 129A and”. 30
- (4) After subsection (2) insert –
- “(2A) If the byelaw is made under section 129B and –
- (a) the byelaw would or might affect the exploitation of sea fisheries resources in the Welsh offshore region, the MMO must send a copy of a draft of the byelaw to the Welsh Ministers; 35
 - (b) the byelaw would or might affect the exploitation of sea fisheries resources in the Scottish offshore region, the MMO must send a copy of a draft of the byelaw to the Scottish Ministers; 40
 - (c) the byelaw would or might affect the exploitation of sea fisheries resources in the Northern Ireland offshore region, the MMO must send a copy of a draft of the byelaw to the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.”

- (5) In subsections (8) and (9), after “129” insert “, 129A or 129B”.
- (6) In subsection (11), for the words from “where” to the end substitute “in relation to a byelaw made by virtue of section 131 (emergency byelaws)”.
- 8 (1) Section 131 (emergency byelaws) is amended as follows. 5
- (2) In subsection (1), after “that purpose” insert “under section 129”.
- (3) After subsection (1) insert –
- “(1A) Where the MMO thinks that there is an urgent need to protect the English offshore region, a byelaw made by it under section 129B for that purpose has effect without being confirmed by the Secretary of State.” 10
- (4) In subsection (8)(a), after “MCZ” insert “, or under section 129B in respect of the English offshore region,”.
- 9 (1) Section 132 (interim byelaws) is amended as follows. 15
- (2) After subsection (1) insert –
- “(1A) The MMO may make one or more byelaws relating to the exploitation of sea fisheries resources in the English offshore region for the purpose of protecting any feature in an area in that region if the MMO thinks –
- (a) that there are or may be reasons for the Secretary of State to consider whether to designate the area as an MCZ, and 20
- (b) that there is an urgent need to protect the feature.”
- (3) In subsection (2), after “subsection (1)” insert “or (1A)”.
- (4) In subsection (4), for “an interim byelaw” substitute “a byelaw made under subsection (1)”.
- (5) After subsection (4) insert – 25
- “(4A) Section 129C applies to a byelaw made under subsection (1A) as it applies to a byelaw made under section 129A or 129B.”
- 10 (1) Section 133 (further provision) is amended as follows.
- (2) In subsection (1) for “or 132” substitute “, 129A, 129B or 132(1) or (1A)”.
- (3) In subsection (3), after “applies” insert “is made under section 129, 129A or 132(1) and”.
- (4) After subsection (3) insert –
- “(3A) If the byelaw is made under section 129B or 132(1A) and – 35
- (a) the byelaw will or may affect the exploitation of sea fisheries resources in the Welsh offshore region, the MMO must send a copy of the byelaw to the Welsh Ministers;
- (b) the byelaw will or may affect the exploitation of sea fisheries resources in the Scottish offshore region, the MMO must send a copy of the byelaw to the Scottish Ministers; 40
- (c) the byelaw will or may affect the exploitation of sea fisheries resources in the Northern Ireland offshore region, the MMO must send a copy of the byelaw to the Department of

Agriculture, Environment and Rural Affairs in Northern
Ireland.”

- (5) In subsection (6) after “129” insert “or 129A”.
- (6) After subsection (6) insert – 5
- “(6A) In the case of a byelaw made under section 129B in accordance with section 130, subsection (3A) applies only after the byelaw has been confirmed under section 130(8).”
- 11 In the italic heading before section 134, for “protection of MCZs etc: Wales” substitute “marine conservation: Wales and the Welsh offshore region”. 10
- 12 After section 134 insert – 10
- “134A Orders relating to exploitation of sea fisheries resources: Wales**
- (1) The Welsh Ministers may make one or more orders relating to the exploitation of sea fisheries resources in Wales for the purposes of conserving – 15
- (a) marine flora or fauna, or
- (b) marine habitats or types of marine habitat.
- (2) An order under this section may be made so as to apply to any area in Wales.
- (3) An order under this section must specify the flora or fauna, or habitat or type of habitat, for the conservation of which the ~~byelaw~~ order is made. 20
- (4) The provision that may be made by an order under this section includes provision that prohibits, restricts or otherwise interferes with the exercise of – 25
- (a) a right of several fishery;
- (b) any right on, to or over any portion of the seashore that is enjoyed by a person under a local or special Act, a Royal charter, letters patent or by prescription or immemorial usage.
- (5) But the Welsh Ministers may make ~~a byelaw~~ an order that prohibits, or significantly restricts or interferes with, a right referred to in subsection (4), only if the person who enjoys the right consents. 30
- (6) Subsection (5) does not apply in relation to the exercise of such a right in relation to – 35
- (a) a site of special scientific interest, within the meaning of Part 2 of the Wildlife and Countryside Act 1981,
- (b) a national nature reserve declared in accordance with section 35 of that Act,
- (c) a Ramsar site, within the meaning of section 37A of that Act, 40
- (d) a European marine site, within the meaning of the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/940), or
- (e) an MCZ.
- (7) See also section 134C (supplementary). 45

134B Orders relating to exploitation of sea fisheries resources: Welsh offshore region

- (1) The Welsh Ministers may make one or more orders relating to the exploitation of sea fisheries resources in the Welsh offshore region for the purposes of conserving – 5
 - (a) marine flora or fauna,
 - (b) marine habitats or types of marine habitat, or
 - (c) features of geological or geomorphological interest.
- (2) An order under this section may be made so as to apply to any area in the Welsh offshore region.
- (3) An order under this section must specify the flora or fauna, habitat or type of habitat or features for the conservation of which it is made. 10
- (4) See also section 134C (supplementary).

134C Orders relating to exploitation of sea fisheries resources: Wales

- (1) The provision that may be made by an order under section 134A or 134B includes, in particular, provision falling within any of the Heads set out in subsections (2) to (4). 15
- (2) Head 1 is provision prohibiting or restricting the exploitation of sea fisheries resources, including – 20
 - (a) provision prohibiting or restricting such exploitation in specified areas or during specified periods;
 - (b) provision limiting the amount of sea fisheries resources a person or vessel may take in a specified period;
 - (c) provision limiting the amount of time a person or vessel may spend fishing for or taking sea fisheries resources in a specified period. 25
- (3) Head 2 is provision prohibiting or restricting the exploitation of sea fisheries resources without a permit issued by the Welsh Ministers, including – 30
 - (a) provision for the charging of fees for permits;
 - (b) provision enabling conditions to be attached to a permit;
 - (c) provision enabling the Welsh Ministers to limit the number of permits issued by them.
- (4) Head 3 is – 35
 - (a) provision prohibiting or restricting the use of vessels of specified descriptions;
 - (b) provision prohibiting or restricting any method of exploiting sea fisheries resources;
 - (c) provision prohibiting or restricting the possession, use, retention on board, storage or transportation of specified items, or items of a specified description, that are used in the exploitation of sea fisheries resources; 40
 - (d) provision for determining whether such items are items of a specified description.
- (5) An order under section 134A or 134B may be made – 45
 - (a) subject to specified exceptions or conditions;

- (b) so as to cease to have effect after a specified period.
- (6) An order under section 134A or 134B may make different provision for different cases, including in particular –
- (a) different times of the year,
 - (b) different means or methods of carrying out an activity, and
 - (c) different descriptions of sea fisheries resources. 5
- (7) In this section “specified” means specified in the order.”
- 13 (1) Section 135 (consultation) is amended as follows.
- (2) In subsection (1), after “section 134” insert “, 134A or 134B”.
- (3) After subsection (1) insert – 10
- “(1A) Before making an order under section 134B the Welsh Ministers must –
- (a) if the order would or might affect the exploitation of sea fisheries resources in the English offshore region, consult the MMO, 15
 - (b) if the order would or might affect the exploitation of sea fisheries resources in the Scottish offshore region, consult the Scottish Ministers,
 - (c) if the order would or might affect the exploitation of sea fisheries resources in the Northern Ireland offshore region, consult the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, and 20
 - (d) consult any other person whom they think fit to consult.”
- (4) In subsection (4), after “MCZ” insert “, or to make an order under section 134B in order to protect the Welsh offshore region”. 25
- 14 (1) Section 136 (interim orders) is amended as follows.
- (2) After subsection (1) insert –
- “(1A) The Welsh Ministers may make one or more orders relating to the exploitation of sea fisheries resources in the Welsh offshore region for the purpose of protecting any feature in an area in that region if they think – 30
- (a) that there are or may be reasons to consider whether to designate the area as an MCZ, and
 - (b) that there is an urgent need to protect the feature.”
- (3) In subsection (2), after “subsection (1)” insert “or (1A)”. 35
- (4) In subsection (4), for “an interim order” substitute “an order made under subsection (1)”.
- (5) After subsection (4) insert –
- “(4A) Section 134C applies to an order made under subsection (1A) as it applies to an order made under section 134A or 134B.”
- 15 (1) Section 137 (further provision) is amended as follows.
- (2) In subsection (1), for “or 136” substitute “, 134A, 134B or 136(1) or (1A)”.

- (3) In subsection (2), at the end insert “and (in the case of an order under section 134B) to any person consulted under section 135(1A)”.

16 After section 137 insert –

“Orders for marine conservation: Scottish offshore region

137A Orders relating to exploitation of sea fisheries resources: Scottish offshore region 5

- (1) The Scottish Ministers may make one or more orders relating to the exploitation of sea fisheries resources in the Scottish offshore region for the purposes of conserving – 10
- (a) marine flora or fauna,
 - (b) marine habitats or types of marine habitat, or
 - (c) features of geological or geomorphological interest.
- (2) An order under this section may be made so as to apply to any area in the Scottish offshore region.
- (3) An order under this section must specify the flora or fauna, habitat or type of habitat or features for the conservation of which it is made. 15
- (4) The provision that may be made by an order under this section includes, in particular, provision falling within any of the Heads set out in subsections (5) to (7).
- (5) Head 1 is provision prohibiting or restricting the exploitation of sea fisheries resources, including – 20
- (a) provision prohibiting or restricting such exploitation in specified areas or during specified periods;
 - (b) provision limiting the amount of sea fisheries resources a person or vessel may take in a specified period; 25
 - (c) provision limiting the amount of time a person or vessel may spend fishing for or taking sea fisheries resources in a specified period.
- (6) Head 2 is provision prohibiting or restricting the exploitation of sea fisheries resources without a permit issued by the Scottish Ministers, including – 30
- (a) provision for the charging of fees for permits;
 - (b) provision enabling conditions to be attached to a permit;
 - (c) provision enabling the Scottish Ministers to limit the number of permits issued by it. 35
- (7) Head 3 is –
- (a) provision prohibiting or restricting the use of vessels of specified descriptions;
 - (b) provision prohibiting or restricting any method of exploiting sea fisheries resources; 40
 - (c) provision prohibiting or restricting the possession, use, retention on board, storage or transportation of specified items, or items of a specified description, that are used in the exploitation of sea fisheries resources; 45

- (d) provision for determining whether such items are items of a specified description.
- (8) An order under this section may be made—
- (a) subject to specified exceptions or conditions;
 - (b) so as to cease to have effect after a specified period. 5
- (9) An order under this section may make different provision for different cases, including in particular—
- (a) different times of the year,
 - (b) different means or methods of carrying out an activity, and
 - (c) different descriptions of sea fisheries resources. 10
- (10) In this section “specified” means specified in the order.
- (11) An order under this section is subject to the negative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010) (asp 10)).
- 137B Consultation etc regarding orders under section 137A 15**
- (1) Before making an order under section 137A the Scottish Ministers must—
- (a) consult the Secretary of State,
 - (b) if the order would or might affect the exploitation of sea fisheries resources in the English offshore region, consult the MMO, 20
 - (c) if the order would or might affect the exploitation of sea fisheries resources in the Welsh offshore region, consult the Welsh Ministers, 25
 - (d) if the order would or might affect the exploitation of sea fisheries resources in the Northern Ireland offshore region, consult the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, and
 - (e) consult any other person whom they think fit to consult.
- (2) The Scottish Ministers must publish notice of the making of an order under section 137A. 30
- (3) The notice under subsection (3) must—
- (a) be published in such manner as the Scottish Ministers think is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it; 35
 - (b) give an address at which a copy of the order may be inspected.
- (4) Where the Scottish Ministers think that there is an urgent need to make an order under section 137A to protect the Scottish offshore region— 40
- (a) subsection (1) does not apply, and
 - (b) the notice under subsection (3) must also state that any person affected by the making of the order may make representations to the Scottish Ministers. 45

137C Interim orders made by Scottish Ministers

- (1) The Scottish Ministers may make one or more orders relating to the exploitation of sea fisheries resources in the Scottish offshore region for the purpose of protecting any feature in any area in that region if they think – 5
 - (a) that there are or may be reasons to consider whether to designate the area as an MCZ, and
 - (b) that there is an urgent need to protect the feature.
- (2) An interim order under this section must contain a description of the boundaries of the area to which it applies (which must be no greater than is necessary for the purpose of protecting the feature in question). 10
- (3) Subsections (4) to (10) of section 137A apply to an interim order under this section.
- (4) An interim order under this section – 15
 - (a) comes into force on a date specified in the order, and
 - (b) remains in force (unless revoked) for such period, not exceeding 12 months, as is specified in the order.
- (5) The Scottish Ministers must publish notice of the making of an interim order under this section. 20
- (6) The notice under subsection (5) must –
 - (a) be published in such manner as the Scottish Ministers think is most likely to bring the order to the attention of any persons who are likely to be affected by the making of it;
 - (b) give an address at which a copy of the order may be inspected; 25
 - (c) state that any person affected by the make of the order may make representations to the Scottish Ministers.
- (7) The Scottish Ministers must keep under review the need for an interim order under this section to remain in force. 30
- (8) The Scottish Ministers may be further order extend the period for which an interim order remains in force.
- (9) In this section “feature” means any flora, fauna, habitat or feature which could be a protected feature if the area in question were designated as an MCZ.
- (10) An order under this section is subject to the negative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010) (asp 10)). 35

137D Further provision as to orders made under section 137A or 137C

- (1) This section applies to any order made under section 137A or 137C. 40
- (2) The Scottish Ministers must send a copy of any order to which this section applies to the Secretary of State and to any person consulted under section 137B(2).
- (3) The Scottish Ministers must –

- (a) make a copy of any order to which this section applies available for inspection at such place as they think fit for that purpose at all reasonable hours without payment;
- (b) provide a copy of any such order to any person who requests one.”
- 17 (1) Section 138 (hearings) is amended as follows. 5
- (2) In subsection (1)(a) for “section 129” substitute “this Chapter”.
- (3) In subsection (2) –
- (a) in paragraph (a), after “134” insert “, 134A or 134B”;
- (b) in paragraph (b), after “136(1)” insert “or (1A)”. 10
- (4) After subsection (2) insert –
- “(2A) This section also applies where the Scottish Ministers have the function of –
- (a) deciding whether to make an order under section 137A;
- (b) deciding whether to make an order under section 137C.”
- (5) In subsections (3), (4) and (5), after “Welsh Ministers” insert “or Scottish Ministers”. 15
- 18 (1) Section 139 (offences) is amended as follows.
- (2) In subsection (1) –
- (a) in paragraph (a), for “or 132(1)” substitute “, 129A, 129B or 132(1) or (1A)”;
- (b) in paragraph (b), for “or 136(1)” substitute “, 134A, 136(1) or (1A), 137A or 137C”. 20
- (3) For subsection (2) substitute –
- “(2) A person who is guilty of an offence under this section in respect of a contravention of –
- (a) a byelaw made under section 129 or 129A,
- (b) a byelaw made under section 132(1),
- (c) an order made under section 134 or 134A, or
- (d) an order made under section 136(1), 30
- is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (2A) A person who is guilty of an offence under this section in respect of a contravention of a byelaw or order not specified in subsection (2) is liable –
- (a) on conviction on indictment, to a fine, or 35
- (b) on summary conviction, to a fine (in Scotland or Northern Ireland, not exceeding the statutory maximum).”
- (4) In subsection (4), for “England and Wales” substitute “the United Kingdom”.
- 19 In section 141 (exceptions), in subsection (1)(c)(i), for “or 134(4)” substitute “129C(3), 134(4), 134C(3) or 137A(6)”. 40
- 20 In section 142 (fixed monetary penalties), in subsection (1), omit “(other than the Scottish offshore region)”. 40

- 21 In section 147 (interpretation), in subsection (1) –
- (a) in the definition of “interim byelaw” after “132(1)” insert “or (1A)”;
 - (b) in the definition of “interim order”, after “136(1)” insert “or (1A)”;
 - (c) after the definition of “sea” insert –
““sea fisheries resources” has the same meaning as in Chapter 1 of Part 6, and references to the exploitation of sea fisheries resources are to be read in accordance with section 153(12);”.
- 22 In section 166 (powers of IFC officers), in subsection (1)(e), after “129” insert “, 129A, 129B”.
- 23 (1) Section 237 (enforcement of nature conservation legislation) is amended as follows.
- (2) In the heading, after “conservation” insert “or fisheries exploitation”.
 - (3) In subsection (1), after “legislation” insert “or the fisheries exploitation legislation”.
 - (4) In subsection (2) –
 - (a) in paragraph (f), for “132” substitute “132(1)”;
 - (b) in paragraph (g), for “136” substitute “136(1)”.
 - (5) After subsection (2) insert –
“(2A) In this section “the fisheries exploitation legislation” means –
 - (a) any byelaws made under section 129A, 129B or 132(1A) of this Act;
 - (b) any orders made under section 134A, 134B, 136(1A), 137A or 137C of this Act.”
 - (6) In subsection (3), after “legislation” insert “or the fisheries exploitation legislation”.
 - (7) In subsection (8), after “legislation” insert “or the fisheries exploitation legislation”.
 - (8) After subsection (9) insert –
“(9A) The powers which a marine enforcement officer has for the purposes of enforcing the fisheries exploitation legislation may not be exercised in relation to a vessel falling within paragraph (b) or (c) of subsection (10) unless the Commissioners have given authority to exercise those powers.”
 - (9) In subsection (11), after “(9)(b)” insert “or (9A)”.
 - (10) After subsection (13) insert –
“(14) Where the fisheries exploitation legislation consists of an order made under section 137A or 137C of this Act (orders relating to Scottish offshore region), this section applies as if –
 - (a) references to a marine enforcement officer included a person appointed as such by the Scottish Ministers,
 - (b) for the purposes of subsection (3)(a), the relevant enforcement area were Scotland, the Scottish inshore region and the Scottish offshore region, and

-
- (c) subsections (3)(c) and (d) and (4) to (6) were omitted.”
- 24 In section 238(3), after paragraph (d) insert—
 “(da) any byelaws made under section 129A, 129B or 132(1A);
 (db) any orders made under section 134A, 134B, 136(1A), 137A or 137C;”. 5
- 25 In section 316 (regulations and orders), in subsection (4)(a)—
 (a) for “137” substitute “137C”;
 (b) after “MCZs” insert “etc”.
- 26 (1) In the Water Resources Act 1991, in Schedule 25, paragraph 5(4) (byelaws for flood defence and drainage purposes) is amended as follows. 10
- (2) In paragraph (b)—
 (a) for “or 132” substitute “, 129A, 129B or 132(1) or (1A)”;
 (b) for “protecting marine conservation zones” substitute “marine conservation”. 15
- (3) In paragraph (c)—
 (a) for “or 136” insert “, 134A, 134B or 136(1) or (1A)”;
 (b) for “protecting marine conservation zones” substitute “marine conservation”.

Fisheries Bill

A

B I L L

[AS AMENDED IN PUBLIC BILL COMMITTEE]

To make provision about policy objectives in relation to fisheries, fishing and aquaculture; to make provision about access to British fisheries; to make provision about the licensing of fishing boats; to make provision about the determination and distribution of fishing opportunities; to make provision enabling schemes to be established for charging for unauthorised catches of sea fish; to make provision about grants in connection with fishing, aquaculture or marine conservation; to make provision about the recovery of costs in respect of the exercise of public functions relating to fish or fishing; to confer powers to make further provision in connection with fisheries, aquaculture or aquatic animals; to make provision about byelaws and orders relating to the exploitation of sea fisheries; to make provision about the legislative competence of the National Assembly for Wales in relation to fishing, fisheries or fish health in the area of the Welsh zone beyond the seaward limit of the territorial sea; and for connected purposes.

*Presented by Secretary Michael Gove
supported by The Prime Minister,
Chancellor of the Duchy of Lancaster,
Secretary Dominic Raab, Secretary Liam Fox,
Secretary David Mundell,
Secretary Alun Cairns
and Secretary Karen Bradley.*

© Parliamentary copyright House of Commons 2018

*This publication may be reproduced under the terms of the Open Parliament Licence, which is published at
www.parliament.uk/site-information/copyright*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS

*Ordered, by The House of Commons,
to be Printed, ~~25 October~~ 17 December
2018.*
