

UK MINISTERS ACTING IN DEVOLVED AREAS

185 – The Common Fisheries Policy (Amendment etc) (EU Exit) Regulations 2020

Laid in the UK Parliament: 14 October 2020

Sifting

Subject to sifting in UK Parliament?	No
Procedure:	Draft affirmative
Date of consideration by the House of Commons European Statutory Instruments Committee	NA
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	NA
Date sifting period ends in UK Parliament	NA
Written statement under SO 30C:	Paper 63
SICM under SO 30A (because amends primary legislation)	SICM(5)34

Scrutiny procedure

Outcome of sifting	NA
Procedure	Draft affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known

Background

These Regulations are proposed to be made by the UK Government pursuant to section 8(1) of, and paragraph 21(b) of Schedule 7 to, the European Union (Withdrawal) Act 2018 and section 41(1) of the European Union (Withdrawal Agreement) Act 2020.

Summary

These Regulations address deficiencies within Common Fisheries Policy (CFP) legislation, as a result of the UK's exit from the European Union. These changes will ensure that fishing in UK waters continues to be regulated in a sustainable manner post EU exit.

The CFP imposes a common approach to the sustainable management of fisheries across the EU and its waters. A number of statutory instruments made in 2019 under powers in the European Union (Withdrawal) Act 2018

made amendments to EU CFP legislation that was scheduled to become 'retained EU law' on exit day. The amendments were intended to ensure the retained CFP legislation would operate effectively upon the UK's withdrawal from the EU. Following ratification of the EU withdrawal agreement, EU CFP legislation will now become retained EU law at the end of the Transition Period and these Regulations are required to ensure retained EU law operates effectively from that point.

The Regulations are required in relation to three categories of amendments:

1. Amendments required to account for new EU CFP legislation which has come into force since the previous amending statutory instruments were drafted in preparation for exit day.
2. Amendments required in consequence of the EU withdrawal agreement.
3. Amendments to previous amending statutory instruments, including amendments to correct minor errors.

Statement by Welsh Government

Legal Advisers make the following comments in relation to the Welsh Government's statement dated 16 October 2020 regarding the effect of these Regulations:

These Regulations create functions that can be exercised by the Welsh Ministers and UK Ministers on a concurrent basis. Under Schedule 7B to the Government of Wales Act 2006 (the 2006 Act), the Senedd cannot remove or modify such concurrent functions (in so far as they are exercised by UK Ministers) without UK Government consent. The Welsh Government's written statement says that the Welsh Government are in negotiations with the UK Government in relation to a section 109 Order to amend Schedule 7B of the 2006 Act so as to negate the potential restriction on the future competence of the Senedd.

Intergovernmental Agreement on the European Union (Withdrawal) Bill

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.

Consent motion under Standing Order 30A.10

The Welsh Government laid a Statutory Instrument Consent Memorandum (SICM) before the Senedd on 22 October 2020, on the basis that the Regulations amend primary legislation within the legislative competence of the Senedd (in this case, sections 30, 238 and 278 of the Marine and Coastal Access Act 2009).

In a [letter](#) to the Committee dated 22 October 2020, the Minister for Environment, Energy and Rural Affairs said that a SICM had been laid, but made no reference as to whether the Welsh Government would table a motion to debate the SICM.