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22 May 2024

Dear Finlay,

## **THE SEA FISHERIES (AMENDMENT) (NO 2) REGULATIONS 2024**

### **EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT**

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament for proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas.

That protocol, as agreed between the Scottish Government and the Parliament, accompanied the letter from the Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the SI that the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. Please note, we are yet to have sight of the final SI and it is not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether the final SI is in keeping with the terms of this notification.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

I look forward to hearing from you by 26 June 2024.

A handwritten signature in black ink, appearing to read 'Mairi Gougeon'.

**MAIRI GOUGEON**

## **NOTIFICATION TO THE SCOTTISH PARLIAMENT**

### **Name of the SI(s)**

The Sea Fisheries (Amendment) (No. 2) Regulations 2024

### **Is the notification Type 1 or Type 2**

This is a Type 1 notification.

### **Brief overview of the SI (including reserved provision):**

Under the Fisheries Act 2020, the UK fisheries policy authorities (Defra, and the devolved administrations in Northern Ireland, Scotland and Wales) are required to prepare and publish fisheries management plans (FMPs) that set out the policies and actions required to deliver sustainable fisheries.

The Regulations introduce a number of management measures set out in FMPs, published on 14 December 2023. However, this submission and the protocol notification concern the seabass (or 'bass') FMP specifically, as it is the only measure covering stock within Scottish waters. The other content of the instrument is not devolved and not of relevance to this notification.

The instrument will remove the UK-EU annually negotiated catch limits for commercially caught bass from secondary legislation so that they can be transferred into fishing licence conditions. Licence conditions are generally quick to introduce and would allow the commercial bass catch limits to be updated promptly following international negotiations, so they are in line with evolving evidence.

Since 2015, UK and EU bass catch limits have been discussed and agreed at annual fishing negotiations. In the UK, the changes to the catch limits agreed at the negotiations are made via a statutory instrument which can take at least four months to introduce. In contrast, the EU is able to introduce any changes quickly. In the 2023 bass FMP consultation, commercial stakeholders called for prompt implementation of any changes to bass catch limits to allow them to benefit from more favourable terms or to introduce changes to protect stocks if agreed. The instrument will remove the catch limits for commercial bass from secondary legislation and the catch limits will be added to UK fisheries authorities fishing licence conditions which are easier and quicker to update which can be actioned 30 days after the UK and EU negotiations have completed and the EU have been formally notified of the change.

As an EU member state, the UK was part of the EU Common Fisheries Policy which established the rules for sustainably managed fishing fleets and the conservation fish stocks. As an independent coastal state, two pieces of assimilated law (formerly known as retained EU law) will be amended to update or introduce technical conservation measures, as set out in our FMPs. These measures are tailored to the needs of the UK fishing industry ensuring UK fish stocks are managed sustainably.

### **Laying and coming into force dates:**

The Regulations are due to be laid before the UK Parliament on 1 July 2024 and will come into force on 22 July 2024.

### **Details of the provisions that Scottish Ministers are being asked to consent to.**

### **Summary of the proposals**

The aim of the Regulations is to remove the catch limits for commercial bass from Regulation (EU) 2020/123 and these catch limits will be added to UK fisheries authorities fishing licence conditions.

The Fisheries Act 2020 sets out the legal framework for governing fisheries (both commercial and recreational) in the UK. To support the management of UK fisheries the Act places a duty on fisheries policy authorities to prepare and publish FMPs that set out policies to restore stocks and maintain them at sustainable levels. The Joint Fisheries Statement (JFS), published in November 2022, sets out further details of the policies the UK fisheries policy authorities will follow to achieve, or contribute to achieving, the fisheries objectives in the Act. The JFS includes a list of the stocks and areas that should be managed under the umbrella of an FMP. The FMPs support the introduction of new, evidence-based management that has been tailored to the needs of the UK fishing industry.

The catch limits for commercial bass (*Dicentrarchus labrax*) are currently included in Article 10 of Regulation (EU) 2020/123, which lists the fishing opportunities for a number of fish species. This instrument will remove the catch limits for commercial bass from Regulation (EU) 2020/123 and these catch limits will be added to UK fisheries authorities fishing licence conditions.

#### EU alignment:

The Regulations are aligned with the EU's overall approach of managing fish stocks in a sustainable manner with catches of stocks at risk of over-exploitation subject to a variety of restrictions.

#### **Does the SI relate to a common framework or other scheme?**

Yes, the conservation of fish stocks, is covered through the Fisheries Management and Support Framework and this legislation has been jointly agreed through that process.

#### **Summary of stakeholder engagement/consultation**

FMPs have been developed in close collaboration with the fishing industry. Between July and October 2023, Defra ran public consultations on the Channel demersal NQS FMP, the crab and lobster FMP, and the bass FMP, which this protocol notification concerns. These consultations sought views on a range of management measures including amendments to bass catch limits.

The consultations sought views from a wide range of stakeholders. In total 255 responses were received for the bass FMP consultation. In addition to the consultations, there was also extensive face to face engagement and informal consultation. Defra held 23 in-person engagement events and a series of online meetings where views of over 300 individuals were noted and fed into the analysis process. These events covered the wide range of interested sectors and stakeholders including a diverse catching sector, the wider supply chain, eNGOs, scientists, academia, EU Commission and Member States, and others interested in fisheries management. During the consultations, stakeholders expressed considerable support for the measures included in this instrument including bass.

The bass FMP, including the recommendation to move the commercial bass catch limits into fishing licence conditions was developed in collaboration with Welsh Government. Scotland and Northern Ireland has also directly consulted relevant

fishers on this bass proposal. Consent has been received from Scottish Government, Welsh Government, and DAERA to introduce the changes to the catch limits for commercially caught bass.

### **A note of other impact assessments (if available)**

A full Impact Assessment has not been prepared for this instrument because of the predicted low-level impact on business and the low economic effects of the changes being applied. The net cost to businesses per year is anticipated to be approximately £2.6m.

There is no, or no significant, impact on business, charities or voluntary bodies because this instrument applies only to commercial fishing businesses and because of the predicted low-level impact on business and the low economic effects of the changes being applied.

The legislation does impact small or micro businesses.

To minimise the impact of the requirements on small businesses (employing up to 50 people), updated guidance from the UK fisheries authorities, detailing the relevant changes and timelines, will be released in sufficient time to allow industry to take any practical steps required to meet the new standards.

There is no, or no significant, impact on the public sector because the number of technical changes are limited and any compliance will be factored into UK fisheries authorities and IFCA's existing risk-based work plans. In addition, the transfer of the commercial bass catch limits into licence conditions could positively impact public sector resources.

### **Monitoring and review**

The approach to monitoring this legislation is that the Fisheries Act 2020 requires all fisheries policy authorities, acting jointly, to prepare and publish a report, on a three-year cycle, on the extent to which the policies in the JFS have been implemented, their impact. The report must include an assessment of the extent to which the policies contained in a relevant FMP have been implemented and these measures have affected sea fish stock levels. In addition, the Act requires the FMPs to be reviewed at least every 6 years to assess the extent to which the policies in the plan have been implemented and how the stock has been affected. Depending upon the outcome of the review, the FMPs could be revoked, amended, replaced or remain the same.

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

### **Summary of reasons for Scottish Ministers proposing to consent to UK Ministers' legislation**

Consent to the Sea Fisheries (Amendment) (No. 2) Regulations 2024 is recommended due to the historically low interest in seabass fishery in Scotland (one licenced vessel with necessary permit), and consequently its minimal impact on Scottish fishers, this change may only reduce the officials' time and resources required for future work on setting seabass measures.

### **The intended laying date (if known) of instruments likely to arise**

N/A

**If the Scottish Parliament does not have 28 days to scrutinise the Scottish Minister's proposal to consent, why not?**

N/A

**Information about any time dependency associated with the proposal**

N/A

**Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?**

N/A

**Any significant financial implications?**

None identified.

### SI NOTIFICATION: SUMMARY

<b>Title of Instrument</b> The Sea Fisheries (Amendment) (No. 2) Regulations 2024
<b>Proposed laying date at Westminster</b> 01 July 2024
<b>Date by which Committee has been asked to respond</b> 26 June 2024
<b>Power(s) under which SI is to be made</b> The catch limits for commercial bass ( <i>Dicentrarchus labrax</i> ) are currently included in Article 10 of Regulation (EU) 2020/123, which lists the fishing opportunities for a number of fish species. This instrument will remove the catch limits for commercial bass from Regulation (EU) 2020/123 and these catch limits will be added to UK fisheries authorities fishing licence conditions.
<b>Categorisation under SI Protocol</b> Type 1
<b>Purpose</b> The aim of the Regulations is to remove the catch limits for commercial bass from Regulation (EU) 2020/123 and these catch limits will be added to UK fisheries authorities fishing licence conditions.
<b>Other information</b> N/A
<b>SG Policy contact:</b> Marta Machut <a href="mailto:Marta.Machut@gov.scot">Marta.Machut@gov.scot</a>