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Finlay Carson MSP
Convener of Rural Affairs, Islands and Natural
Environment Committee
Scottish Parliament
Edinburgh
EH99 1SP

23 January 2023

Dear Finlay,

THE SEA FISHERIES (AMENDMENT) REGULATIONS 2023 PROTOCOL NOTIFICATION TO SCOTTISH PARLIAMENT

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to 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 which 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 3 March.

Yours sincerely,

MAIRI GOUGEON

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot



SI NOTIFICATION: SUMMARY

Title of Instrument The Sea Fisheries (Amendment) Regulations 2023
Proposed laying date at Westminster 8 March 2023
Date by which Committee has been asked to respond 3 March 2023
Power(s) under which SI is to be made Section 36(1)(b) and (c) of <i>the Fisheries Act 2020</i> , and In accordance with section 40 of the Fisheries Act 2020, the Secretary of State is seeking the consent of the Scottish Ministers to the making of this SI, having consulted with the Scottish Ministers in accordance with section 41(1).
Categorisation under SI Protocol Type 1
Purpose <p>These Regulations make adjustments to the level of European seabass that may be caught within British fishery limits, both as bycatch and as a targeted species by commercial fishing vessels. These Regulations also adjust the dates of the fishing seasons for recreational fisheries for European seabass so that the fishing seasons for recreational fisheries are aligned with the fishing seasons for commercial fishing activity.</p> <p>These Regulations also make adjustments to the list of prohibited species contained in Article 16 of Council Regulation (EU) 2020/123 (EUR 2020/123) to remove picked dogfish under or equal to 100cm in length from the list and to add shortfin mako shark to the list. Fish species contained on the prohibited species list may not be targeted, retained on board, transhipped or landed and if accidentally caught must be promptly released back to the sea unharmed.</p> <p>This SI stems from the UK-EU Bilateral, which reached agreement relating to sea bass and picked dogfish (commonly referred to as spurdog) as outlined in the Regulations. The provisions relating to shortfin mako shark were agreed The International Commission for the Conservation of Atlantic Tunas (ICAAT).</p>
Other information N/A
SG Policy contact: William Griffiths: William.griffiths@gov.scot

NOTIFICATION TO THE SCOTTISH PARLIAMENT

The Sea Fisheries (Amendment) Regulations 2023

Is the notification Type 1 or Type 2

This is a Type 1 notification.

Brief overview of the SI (including reserved provision):

These Regulations make adjustments to the level of European seabass that may be caught within British fishery limits, both as bycatch and as a targeted species by commercial fishing vessels. These Regulations also adjust the dates of the fishing seasons for recreational fisheries for European seabass so that the fishing seasons for recreational fisheries are aligned with the fishing seasons for commercial fishing activity.

These Regulations also make adjustments to the list of prohibited species contained in Article 16 of Council Regulation (EU) 2020/123 (EUR 2020/123) to remove picked dogfish under or equal to 100cm in length from the list and to add shortfin mako shark to the list. Fish species contained on the prohibited species list may not be targeted, retained on board, transhipped or landed and if accidentally caught must be promptly released back to the sea unharmed.

Laying and coming into force dates

This SI is due to be laid before the UK Parliament on 8 March 2023 and will come into force on 29 March 2023.

Details of the provisions that Scottish Ministers are being asked to consent to. Summary of the proposals

Given the devolved nature of fisheries, this SI relates to matters in the competence of Scottish Ministers to the extent that it applies to sea fishing activities in the Scottish zone or to the sea fishing activities of Scottish fishing vessels outwith that zone.

The instrument does not confer powers to legislate on either UK or Scottish Ministers.

Regulation 2 amends Article 10 of EUR 2020/123 to change the tonnage of European seabass which can be caught during specified timeframes and makes amendments to the previous timeframes for recreational fishing of European seabass.

Regulation 3 amends the *Squalus acanthias* (picked dogfish) prohibition so that it only applies to fish greater than 100 cm in length, thereby removing fish of 100 cm or less from the prohibited fisheries list in Article 16 of EUR 2020/123. It also adds *Isurus oxyrinchus* (shortfin mako shark) to the prohibited list.

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

This SI is the outcome of the UK-EU Bilateral agreement relating to fisheries agreed for 2023. The Written Record of the UK-EU Bilateral outlines that when the MSY approach is applied, catches of spurdog, *Squalus acanthias*, in subareas 1-10, 12 and

14 in 2023 and 2024 should be no more than 17,353 tonnes and 17,855 tonnes, respectively. Both the EU and the UK agreed through the Written Record to work towards removing the stock from their respective prohibited lists as soon as possible in 2023. This SI enacts that agreement from the UK-EU Bilateral. The prohibition in licences issued by the UK to EU vessels will be lifted at the same time as the legislative prohibition that applies to UK vessels is lifted.

As a precautionary measure to discourage targeting of mature females, the UK and the EU agreed to introduce a measure to discourage the targeting of spurdog individuals over 100cm in length (from the tip of the snout to the end of the tail fin) at the point the stock is removed from the prohibited list. Both the EU and the UK Governments and devolved nations may also consider additional measures in 2023 to protect the recovery of the stock if it considers this necessary.

The Written Record further outlines that adjustments relating to seabass will be made by each party as appropriate for their own waters. There is no directed fishery for seabass in Scotland. This SI enacts these adjustments for UK and Scottish waters.

Summary of stakeholder engagement / consultation

The amendments in this SI are largely technical in nature, so no public consultation has been undertaken.

A note of other impact assessments (if available)

An impact assessment has not been produced for this instrument as no, or no significant, impact on the public, private or voluntary sector is foreseen.

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

This SI is the result of the UK-EU Bilateral agreement for fisheries for 2023. Legislating in a UK SI brings the revised provisions into force on the same day across the UK avoids the risk of delay or inconsistent implementation of the international agreement reached with the EU.

The Scottish Ministers therefore consider that it is appropriate for the instrument to be made by the UK Government. The approach set out in the proposed UK SI is realistic, achievable and minimises immediate disruption.

Intended laying date (if known) of instruments likely to arise

N/A

If the Scottish Parliament does not have 28 days to scrutinise 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.