

NOTIFICATION TO THE SCOTTISH PARLIAMENT

The Sea Fisheries (Amendment etc.) Regulations 2022

Is the notification Type 1 or Type 2

This is a Type 1 notification.

Brief overview of the SI (including reserved provision):

The Sea Fisheries (Amendment etc.) Regulations 2022 (the “Regulations”) enact changes to management measures for seabass as agreed between the UK and EU in annual consultations for fishing opportunities for 2022 as set out in the written record¹ signed by the UK and EU on 21 December 2021. Article 13(f) of the written record sets out the agreed management measures for seabass in 2022. The Regulations amend Article 10 of the retained EU law version of Council Regulation (EU) 2020/123 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters (“the retained TQR”), which pertains to European seabass fisheries.

Seabass fisheries are jointly managed by the UK and the EU and the management approach (in place since 2015) that both parties provisionally continue to share has brought the fishing pressure on the stock down to within sustainable limits. As the stock begins to recover, its management is being updated to reflect the increased size of the stock and changes are made by the provisions in the Regulations. The Regulations (1) increases the time period for which weight limits for unavoidable by-catches for vessels using trawls and seines are to be assessed from one month to two consecutive months, and (2) decreases overall the discard limits for vessels using hooks and lines and fixed gillnets.. Article 10(1) of the retained TQR prohibits UK fishing vessels, and commercial fisheries from shore, from fishing for European seabass in ICES divisions 4b and 4c and in subarea 7 and from retaining, transshipping, relocating or landing European seabass caught in those areas.

Article 10(2) of the retained TQR provides a derogation from the paragraph (1) prohibition each year during January and from 1 April to 31 December and permits UK fishing vessels to fish in ICES divisions 4b, 4c, 7d, 7e, 7f and 7h and in waters within 12 nautical miles from baselines under the sovereignty of the United Kingdom in ICES divisions 7a and 7g for European seabass and retain, tranship etc. this catch, providing that they fish with the gear and within the corresponding limits specified in sub-paras (a) to (d) of paragraph (2).

¹ www.gov.scot/publications/european-union-and-the-united-kingdom-fisheries-consultations-written-record-2022/

The Regulations make the following changes to this derogation:

- The commercial demersal trawl and seine flexibility set out in Articles 10(2)(a) and 10(2)(b) is amended from a 380 kg limit per month to a 760 kg limit in any two consecutive months, so long as it is within the retained 5% per trip limit;
- Hook and line limit set out in Article 10(2)(c) is amended from 5.7 to 5.95 tonnes per vessel per year to those vessels with authorisations;
- Fixed gillnet limit set out in Article 10(2)(d) is amended from 1.4 to 1.5 tonnes per vessel per year to those vessels with authorisations.

Laying and coming into force dates

This Regulations are due to be laid before the UK Parliament on 26 April 2022 will come into force 18 May 2022.

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

Measures on European seabass fisheries

Amendments are made to Article 10 of the retained TQR in relation to measures on European seabass fisheries. These amendments fall within devolved legislative competence to the extent that they apply to ICES divisions 4b and 7a, parts of which fall within Scottish waters. There are currently no seabass fisheries in Scottish waters and there is no intention to begin any. However, as certain of the amendments extend to Scottish waters and therefore change the statutory provision applicable to sea fishing activity in those waters (even though the type of activity being regulated is not presently being carried out), those particular provisions within the Regulations are within devolved competence and Scottish Ministers' consent is required.

As noted above, the Regulations make the following changes to the retained TQR:

- The commercial demersal trawl and seine flexibility set out in Articles 10(2)(a) and 10(2)(b) is amended from 380 kg per month to 760 kg limit in any two consecutive months, so long as that is within the retained 5% per trip limit;
- Hook and line limit set out in Article 10(2)(c) is amended from 5.7 to 5.95 tonnes per vessel per year to those vessels with authorisations;
- Fixed gillnet limit set out in Article 10(2)(d) is amended from 1.4 to 1.5 tonnes per vessel per year to those vessels with authorisations.

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

Yes, the Fisheries Management and Support Framework.

Summary of stakeholder engagement / consultation

There is no statutory obligation to consult in this regard. Otherwise, the amendments in the Regulations are largely technical in nature, so no public consultation has been

undertaken. Stakeholders were given regular briefing and updates on the progress and outcome of the bilateral negotiations. Seabass commercial and recreational fisheries are in English and Welsh waters.

A note of other impact assessments (if available)

An impact assessment has not been carried out as:

- The SI makes amendments which are necessary to achieve its objectives.
- There is no, or no significant, impact on business, charities or voluntary bodies.
- There is no, or no significant, impact on the public sector.

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

There are currently no seabass fisheries in Scottish waters and there is no intention to begin any. However, some of the amendments to the retained TQR extend to Scottish waters and do change the statutory provision applicable to sea fishing activity in those waters (even though the type of activity being regulated is not presently being carried out). To this extent, the Regulations are within devolved competence and Scottish Ministers' consent is required.

The Regulations enacts changes to management measures for seabass as agreed between the UK and EU in annual consultations for fishing opportunities for 2022 as set out in the written record signed by the UK and EU on 21 December 2021. Article 13(f) of the written record sets out the agreed management measures for seabass in 2022. Scottish Ministers are obliged to implement international obligations which fall within devolved competence.

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

26 April 2022

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

The measures relevant to seabass fisheries have applied in UK law as retained EU law since 1 January 2021. The amendments made through the Regulations will be applied from 18 May 2022.

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.