

**2018 No. 000**

**EXITING THE EUROPEAN UNION**

**ENVIRONMENTAL PROTECTION**

**MARINE MANAGEMENT**

**The Marine Environment (Amendment) (EU Exit) Regulations  
2018**

*Sift requirements satisfied* \*\*\*

*Made* - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force in accordance with regulation 1*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018<sup>(a)</sup>.

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

**PART 1**

**Introduction**

**Citation and commencement**

**1.** These Regulations may be cited as the Marine Environment (Amendment) (EU Exit) Regulations 2018 and come into force on exit day.

**PART 2**

**Amendment of primary legislation**

**Amendment of the Marine and Coastal Access Act 2009**

**2.—(1)** The Marine and Coastal Access Act 2009<sup>(b)</sup> is amended as follows.

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<sup>(a)</sup> 2018 c.16.

<sup>(b)</sup> 2009 c.23. Sections 60(8) and 76 were amended by S.I. 2011/1043.

- (2) In section 60(8)—
  - (a) omit paragraph (a);
  - (b) for paragraph (b) substitute—
    - “(b) functions under section 58 of the Scotland Act 1998 (c. 46) (international obligations);”(a);
  - (c) in paragraph (d)—
    - (i) omit “, or paragraph 5 of Schedule 3 to,”;
    - (ii) for “(EU obligations)” substitute “(retained EU obligations)”.
- (3) In section 76(2)(a), for the words from “under EU law” to “(c. 46)” substitute “exercisable under retained EU law”.
- (4) In section 123(5), for “obligations under EU or international law” substitute “retained EU obligations or obligations under international law”.
- (5) In section 141—
  - (a) omit subsection (6);
  - (b) in subsection (7), omit the definition of “third country vessel”.
- (6) In section 244(1), in the definition of “third country vessel”—
  - (a) in paragraph (a), for “(other than Gibraltar) which is not a member State” substitute “other than the United Kingdom”;
  - (b) in paragraph (b), for “a member State” substitute “the United Kingdom”.

## PART 3

### Amendment of subordinate legislation

#### **Amendment of the Marine Strategy Regulations 2010**

**3.—**(1) The Marine Strategy Regulations 2010(b) are amended as follows.

- (2) In regulation 2—
  - (a) in paragraph (1)—
    - (i) omit the definition of “the Commission”;
    - (ii) in the definition of “devolved policy authority”, for “and” substitute “or”;
  - (b) in paragraph (4), for “as amended from time to time” substitute “as it had effect immediately before exit day”;
  - (c) after paragraph (4) insert—
    - “(5) For the purposes of any reference to an Article or an Annex of the Directive, the Article or Annex is to be read—
      - (a) subject to the modifications specified in Schedule 3; and
      - (b) as if—
        - (i) references to “Member State” or “Member States” (except in Articles 20 to 22) included a reference to the United Kingdom; and
        - (ii) references to “Community legislation” or “existing Community legislation” were, in relation to the United Kingdom, references to retained EU law.
- (6) Any reference in these Regulations to “the requirements of the Directive” is a reference to the requirements of the Directive in so far as any such requirements are not

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(a) Section 58 was amended by section 12(2)(a) of the Scotland Act 2012 (c.11).

(b) S.I. 2010/1627; the relevant amending instruments are S.I. 2018/287, 942.

reflected in any provision of these Regulations or by Commission Decision (EU) 2017/848 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment, and read—

- (a) as if they applied in relation to the United Kingdom as they apply in relation to a member State;
- (b) with the omission of any requirement to provide any information or other matter to the European Commission (however expressed), or any rights of access to or use of any information;
- (c) subject to the modifications specified in Schedule 3.”.

(3) In regulation 5(1), after “must” insert “, in accordance with the requirements of Commission Decision (EU) 2017/848,”.

(4) In regulation 6(1)(c), after “with” insert “the requirements of”.

(5) In regulation 8(2) and (3), for “implementing”, in both places where it occurs, substitute “giving effect to the requirements of”.

(6) In regulation 14, after paragraph (13) insert—

“(14) The competent authority must publish a report describing the progress made in implementing the programme of measures within 3 years of any update to that programme.”

(7) In regulation 15—

(a) in paragraphs (4)(b), (6) and (7), omit “other” in each place where it occurs;

(b) for paragraph (9) substitute—

“(9) The competent authority must—

(a) prepare a report setting out the justification for any such cases identified; and

(b) publish that report as soon as reasonably practicable in a form accessible to the public.”;

(c) for paragraph (11)(a) substitute—

“(a) the competent authority must—

(i) prepare a report setting out the necessary justification; and

(ii) publish that report as soon as reasonably practicable in a form accessible to the public.”.

(8) In regulation 16, for “any other EU instrument” substitute “by any provision of retained EU law other than these Regulations”.

(9) Omit regulation 17.

(10) In regulation 18—

(a) in paragraph (3)—

(i) after “The competent authority” insert “, when consulting under paragraph (1), and the Secretary of State, when consulting under paragraph (2),”;

(ii) in sub-paragraph (a), for “its proposal” substitute “the proposal”;

(b) in paragraph (4)—

(i) after “The competent authority” insert “or the Secretary of State, as the case may be,”;

(ii) after “they” insert “respectively”;

(c) in paragraph (5), after “consultation” insert “under paragraph (1)”;

(d) in paragraph (6), after “consultation” insert “under paragraph (1) or (2)”;

(e) in paragraph (7), for the words before sub-paragraph (a) substitute—

“After taking any decision in relation to a proposal following a consultation on that proposal, the competent authority or the Secretary of State, as the case may be, must publish a report in respect of that decision, which must—”;

(f) in paragraph (8), after “OSPAR Commission” insert “(the Commission established by Article 10 of the Convention for the Protection of the Marine Environment of the North-East Atlantic)”.

(11) In regulation 19—

(a) in paragraph (1), for “implementing” substitute “giving effect to the requirements of”;

(b) in paragraph (8)(a), after “giving effect to the” insert “requirements of the”.

(12) In regulation 20(1), after “of the” insert “requirements of the”.

(13) In Schedule 1—

(a) in Part 1, in paragraph 5—

(i) omit sub-paragraph (a);

(ii) for sub-paragraph (b) substitute—

“(b) functions under section 58 of the Scotland Act 1998 (international obligations);”;

(iii) in sub-paragraph (d)—

(aa) omit “, or paragraph (5) of Schedule 3 to,”;

(bb) for “(Community obligations)” substitute “(retained EU obligations)”;

(b) in Part 2, omit the definition of “regional cooperation”.

(14) After Schedule 2 insert Schedule 3, as set out in Schedule 1.

#### **Amendment of the Marine Licensing (Exempted Activities) Order 2011**

**4.**—(1) The Marine Licensing (Exempted Activities) Order 2011(a) is amended as follows.

(2) In article 37(2)—

(a) in sub-paragraph (a), for “(other than Gibraltar) which is not a member State” substitute “other than the United Kingdom”;

(b) in sub-paragraph (b), for “a member State” substitute “the United Kingdom”.

## **PART 4**

### **Amendment of retained direct EU legislation**

#### **Amendment of Commission Decision (EU) 2017/848**

**5.**—(1) Commission Decision (EU) 2017/848 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment is amended in accordance with paragraph (2) and regulations 6 to 12.

(2) Except where otherwise indicated in regulations 6 to 12, for references to “Member States” substitute “the Secretary of State, in consultation with the devolved policy authorities,”.

#### **Amendment of Article 1**

**6.**—(1) Article 1 is amended as follows.

(2) The first paragraph is renumbered paragraph 1.

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(a) S.I. 2011/409; to which there is an amendment not relevant to these Regulations.

- (3) In point (b), for “Member States” substitute “the competent authorities”.
- (4) In point (c), omit “Union, ”.
- (5) After point (d) insert—

“2. Regulation 7(3) of the Marine Strategy Regulations 2010<sup>(a)</sup> applies for the purposes of any function conferred by this Decision as it applies for the purposes of the adoption or revision of any element of the marine strategy.”.

### **Amendment of Article 2**

7.—(1) Article 2 is amended as follows.

- (2) In the heading, at the end insert “and interpretation”.
- (3) The first paragraph is renumbered paragraph 1.
- (4) In the first paragraph, for “laid down in Article 3 of Directive 2008/56/EC shall apply” substitute “in regulation 3 (meaning of the “marine strategy area” and “marine waters”) of, and Part 2 of Schedule 1 to, the Marine Strategy Regulations 2010 apply”.
- (5) The second paragraph is renumbered paragraph 2.
- (6) In the second paragraph, after point (5) insert—

“(6) “regional sea convention” means any of the international conventions or international agreements together with their governing bodies established for the purpose of protecting the marine environment of the marine regions referred to in Article 4, such as the Convention on the Protection of the Marine Environment of the Baltic Sea, the Convention for the Protection of the Marine Environment of the North-east Atlantic and the Convention for the Marine Environment and the Coastal Region of the Mediterranean Sea.

(7) “regional cooperation” means cooperation and coordination of activities between the United Kingdom and, whenever possible, other countries sharing the same marine region or subregion, for the purpose of developing and implementing marine strategies.

(8) “competent authority” has the meaning given by regulation 2(1) of the Marine Strategy Regulations 2010.

(9) “devolved policy authority” has the meaning given by regulation 2(1) of the Marine Strategy Regulations 2010.”.

- (7) After the second paragraph insert—

“3. For the purposes of any reference to Directive 2008/56/EC, or to any Article or Annex of that Directive, that Directive, or the Article or Annex, is to be read subject to the modifications specified in Annex 2 and as if—

- (a) references to “Member State” or “Member States” (except in Articles 20 to 22) included a reference to the United Kingdom; and
- (b) references to “Community legislation” or “existing Community legislation” were, in relation to the United Kingdom, references to retained EU law.”.

### **Amendment of Article 3**

8.—(1) Article 3 is amended as follows.

- (2) For “the Annex”, in each place where it occurs, substitute “Annex 1”.
- (3) In paragraph 1—
  - (a) in the first subparagraph—
    - (i) for “Member States”, in the first place where it occurs, substitute “The competent authorities”;

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(a) S.I. 2010/1627.

- (ii) for the final sentence substitute—  
 “In such cases, the Secretary of State shall provide a justification for that opinion in any report provided pursuant to regulation 18(7) of the Marine Strategy Regulations 2010.”;
- (b) in the second subparagraph—
  - (i) for “a Member State” substitute “the Secretary of State”;
  - (ii) omit “other”.
- (4) In paragraph 2, for “each Member State” substitute “the Secretary of State, in consultation with the devolved policy authorities,”.
- (5) In paragraph 4—
  - (a) omit “Union,”;
  - (b) for “Member States” substitute “the competent authorities”.

#### **Amendment of Article 4**

- 9.**—(1) Article 4 is amended as follows.
- (2) In the heading, omit “Union,”.
  - (3) In paragraph 1—
    - (a) in the words before point (a)—
      - (i) for “are” substitute “is”;
      - (ii) omit “Union,”;
    - (b) in point (b), for “Union legislation” substitute “retained EU law”.
  - (4) In paragraph 2—
    - (a) for “have” substitute “has”;
    - (b) omit “Union,”;
    - (c) for “they” substitute “the Secretary of State, in consultation with the devolved policy authorities,”.
  - (5) In paragraph 3—
    - (a) omit “by Member States”;
    - (b) for “that Member State” substitute “the Secretary of State, in consultation with the devolved policy authorities,”;
    - (c) for “Member States”, in the second place where it occurs, substitute “the competent authority”.
  - (6) In paragraph 4—
    - (a) omit “by Member States”;
    - (b) for “Article 17(2)(a) of Directive 2008/56/EC” substitute “regulations 10(2) and 11(4) of the Marine Strategy Regulations 2010”.

#### **Amendment of Article 5**

- 10.**—(1) Article 5 is amended as follows.
- (2) In paragraph 1—
    - (a) omit “Union,”;
    - (b) for “Article 17(2)(a) of Directive 2008/56/EC” substitute “regulations 10(2) and 11(4) of the Marine Strategy Regulations 2010”.
  - (3) In paragraph 2—
    - (a) for “are” substitute “is”;
    - (b) omit “Union,”;

- (c) omit from “, on the condition that” to the end.

#### **Amendment of Article 6**

**11.**—(1) Article 6 is amended as follows.

(2) For the words from “Each Member State” to “Article 17(3) of Directive 2008/56/EC” substitute, “The Secretary of State shall specify, as part of the report made pursuant to regulation 18(7) of the Marine Strategy Regulations 2010”.

(3) Omit “Union, ”.

#### **Amendment of the Annex and insertion of Annex 2**

**12.**—(1) The Annex is renumbered Annex 1.

(2) The Annex is amended as follows—

(a) in the words before Part 1 of the Annex, for “Member States”, in both places where it occurs, substitute “the Secretary of State”;

(b) Part 1 of the Annex is amended as set out in Schedule 2;

(c) Part 2 of the Annex is amended as set out in Schedule 3.

(3) After the Annex insert Annex 2, as set out in Schedule 4.

Date

*Name*  
Parliamentary Under Secretary of State  
Department for Food and Rural Affairs

### **SCHEDULE 1**

Regulation 3(14)

## **NEW SCHEDULE 3 TO THE MARINE STRATEGY REGULATIONS 2010**

### **“SCHEDULE 3**

Regulation 2(5)(a)

#### **Modification of Marine Strategy Framework Directive**

**1.** Omit the following provisions—

- (a) in Article 4(2), the final subparagraph;
- (b) in Article 5(3), from “In these cases” to the end;
- (c) Article 7;
- (d) Article 9(2);
- (e) Article 10(2);
- (f) Article 11(3);
- (g) Article 12;
- (h) Article 13(9);
- (i) Article 15;
- (j) Article 16;
- (k) Article 18;
- (l) Article 23;

- (m) Article 24;
  - (n) Article 26;
  - (o) in Annex 1, the final sentence in the paragraph after point (11);
  - (p) Annex 2.
2. In Article 3(9), for “third countries” substitute “other countries”.
  3. In Article 5(2), omit “for which Member States concerned endeavour to follow a common approach”.
  4. In Article 6(2)—
    - (a) in the first subparagraph, for “third countries” substitute “other countries”;
    - (b) in the third subparagraph—
      - (i) after “Member States”, in the first place where it occurs, insert “and other countries”;
      - (ii) omit “in order to allow Member States”.
  5. In Article 8(2), after “in particular” insert “any enactment giving effect to”.
  6. In Article 9(3), omit—
    - (a) “in accordance with the regulatory procedure with scrutiny referred to in Article 25(3)”;
    - (b) the final sentence.
  7. In Article 10(1), omit “, Community”.
  8. In Article 11—
    - (a) in paragraph 1, omit “including the Habitats and Birds Directives”;
    - (b) in paragraph 4, omit “in accordance with the regulatory procedure with scrutiny referred to in Article 25(3)”.
  9. In Article 13—
    - (a) in paragraph 2, for the words from “in particular Directive 2000/60/EC” to “forthcoming legislation on environmental quality standards in the field of water policy” substitute “(in particular in relation to water quality, including urban waste-water treatment and bathing water quality)”;
    - (b) in paragraph 3, omit “referred to in Article 7”;
    - (c) in paragraph 4—
      - (i) for “special areas of conservation pursuant to the Habitats Directive, special protection areas pursuant to the Birds Directive” substitute “special areas of conservation or special protection areas pursuant to retained EU law”;
      - (ii) for “Community or Members States concerned in the framework of international or regional agreements to which they are parties” substitute “United Kingdom in the framework of international or regional agreements to which it is a party”;
    - (d) in paragraph 5, omit—
      - (i) “Community or”;
      - (ii) “, individually or jointly,”;
      - (iii) “competent authority or”;
    - (e) in paragraph 10, omit “Subject to Article 16”.
  10. In Article 14—



- (a) in paragraph 1, in the second subparagraph, omit “and shall substantiate its views to the Commission”;
- (b) in paragraph 4, omit the second subparagraph.

**11. In Article 17—**

- (a) in paragraph 3—
  - (i) omit “to the Commission,”;
  - (ii) omit “and to any other Member State concerned”;
  - (iii) for “Article 19(2)” substitute “regulation 18(7) of the Marine Strategy Regulations 2010”;
- (b) omit paragraph 4.

**12. In Article 19(3)—**

- (a) in the first subparagraph, for “Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information” substitute “the retained EU law which transposed Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information”;
- (b) omit the second and third subparagraphs.

**13. In Annex 3—**

- (a) in the notes below Table 1, in Note 1 and Note 3, for “in accordance with Article 9(3)” substitute “in Commission Decision (EU) 2017/848 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment”;
- (b) in the notes below Table 2, in Note 3, for “in accordance with Article 9(3)” substitute “in Commission Decision (EU) 2017/848 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment”.

**14. In Annex 4, in point (11), for “the Community and its Member States have committed themselves” substitute “the United Kingdom has committed itself”.**

**15. In Annex 5, in point (9), for “at Community level” substitute “at regional or subregional level”.**

## SCHEDULE 2

Regulation 12(2)(b)

### AMENDMENT OF PART 1 OF THE ANNEX TO COMMISSION DECISION (EU) 2017/848

**1. Under the heading “Descriptor 3”—**

- (a) under the sub-heading “Criteria, including criteria elements, and methodological standards”—
  - (i) in the third column of the table, in point (a) under “Use of criteria”, for “agreed at Union level” substitute “jointly agreed by the competent authorities”;
  - (ii) in footnote (3) to that table, for “Article 17(2)(a) of Directive 2008/56/EC” substitute “Regulations 10(2) and 11(4) of the Marine Strategy Regulations 2010”;
- (b) under the sub-heading “Specifications and standardised methods for monitoring and assessment”—
  - (i) in paragraph 1—

- (aa) in the words before point (a), for “Council Regulation (EC) No 199/2008” substitute “Regulation (EU) 2017/1004 of the European Parliament and of the Council of 17 May 2017 on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy”, and omit footnote (4);
- (bb) in point (b), for “by Council under Article 43(3) of the Treaty on the Functioning of the European Union” substitute “in relation to the United Kingdom and its exclusive economic zone”;
- (cc) omit point (c);
- (dd) omit point (e);
- (ii) for paragraph 2 substitute—

“2. Regulation (EU) 2017/1004 establishes a framework for the collection, management and use of data in the fisheries sector which shall be used for monitoring in Descriptor 3.”.

**2. Under the heading “Descriptor 5”—**

- (a) before “Directive 2000/60/EC”, in each place where it occurs (other than the second occurrence in paragraph 6, under the sub-heading “Specifications and standardised methods for monitoring and assessment”), insert “any enactment which gives effect to”;
- (b) under the sub-heading “Criteria, including criteria elements, and methodological standards”, in the third column of the table, in point (c) under “Use of criteria”, omit “where possible at Union level, but at least”;
- (c) under the sub-heading “Specifications and standardised methods for monitoring and assessment”—
  - (i) in paragraph 6—
    - (aa) for “Commission Decision 2013/480/EU” substitute “Commission Decision 2018/229 establishing, pursuant to Directive 2000/60/EC of the Parliament and of the Council, the values of the Member State monitoring system classifications as a result of the intercalibration exercise”, and omit footnote (6);
    - (bb) before “national” insert “the relevant”;
  - (ii) after paragraph 7 insert—

“8.—(1) This paragraph 8 has effect for the purposes of the reference in paragraph 6 to Article 8 of, and Annex 5 to, Directive 2000/60/EC.

(2) Article 8 of that Directive is to be read as if—

- (a) in paragraph 1—
  - (i) for “Member States” there were substituted “the United Kingdom”;
  - (ii) in the final indent, the reference to “Community legislation” were a reference to retained EU law;
- (b) in paragraph 2, in the second sentence, the reference to Annex 5 of Directive 2000/60/EC were a reference to that Annex as modified by paragraph 8(3) below;
- (c) in paragraph 3, the second sentence were omitted.

(3) Annex 5 of that Directive is to be read as if—

- (a) any reference to “Community legislation” were a reference to retained EU law;
- (b) references in tables 1.2.1 to 1.2.5 to Directive 91/414/EC, wherever they occur, were references to Regulation (EC) 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market;

- (c) references in tables 1.2.1 to 1.2.5 to Directive 98/8/EC, wherever they occur, were references to Regulation (EC) 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products;
- (d) in section 1.3.1, in the unnumbered paragraph headed “selection of monitoring points”, the fourth indent (referring to “the Information Exchange Decision 77/795/EEC”) were omitted;
- (e) in section 1.3.5, the reference to “the Drinking Water Directive” were a reference to retained EU law which transposed Directive 98/83/EC on the quality of water intended for human consumption;
- (f) in section 1.4.1—
  - (i) in point (iii), for the words from “shall be established” to the end there were substituted “are as set out in Commission Decision 2018/229 establishing, pursuant to Directive 2000/60/EC of the Parliament and of the Council, the values of the Member State monitoring system classifications as a result of the intercalibration exercise”;
  - (ii) points (iv) to (ix) were omitted;
- (g) in section 1.4.3, for the words “Annex IX, Article 16 and under other relevant Community legislation” there were substituted “Annex 1 to Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy and under other relevant retained EU law”;
- (h) in section 2.3.2, for “other relevant Community legislation in accordance with Article 17” there were substituted “retained EU law which transposed Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration<sup>(a)</sup>”;
- (i) in section 2.4.5—
  - (i) “Without prejudice to the Directives concerned” were omitted;
  - (ii) for “Article 17” there were substituted “retained EU law which transposed Directive 2006/118/EC”;
- (j) any reference to a “Member State” or “Member States” were a reference to the United Kingdom;
- (k) any reference to any Article or Annex of Directive 2000/60/EC were read in accordance with paragraph 8(4) below.
  - (4) For the purposes of paragraph 8(3)(k), any reference to any Article or Annex of Directive 2000/60/EC is to be read as if—
    - (a) any reference to a “Member State” or “Member States” were a reference to the United Kingdom;
    - (b) any reference to “Community legislation” were a reference to retained EU law;
    - (c) any reference to Article 8 were a reference to that Article as modified by paragraph 8(2) above;
    - (d) any reference to Article 13 were a reference to that Article except in so far as it gives rise to any obligation under Article 15;
    - (e) in Article 4—
      - (i) in paragraph 1—
        - (aa) in point (a)(iv), for “Article 16(1) and (8)” there were substituted “retained EU law which transposed Directive 2008/105/EC”;

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(a) OJ No L 372, 27.12.2006, p 19, as last amended by Directive 2014/80/EU (OJ No L 182, 21.6.2014, p 52).

- (bb) in point (b)(iii), in the second subparagraph, for “paragraphs 2, 4 and 5 of Article 17” there were substituted “retained EU law which transposed Directive 2006/118/EC”;
- (ii) in paragraph 8, the reference to “other Community environmental legislation” were a reference to retained EU law relating to the environment;
- (iii) in paragraph 9, the reference to “existing Community legislation” were a reference to retained EU law which was in force before 23rd October 2000;
- (f) in Article 7(2)—
  - (i) for “at Community level under Article 16” there were substituted “by retained EU law which transposed Directive 2008/105/EC”;
  - (ii) for “Directive 80/778/EEC as amended by Directive 98/83/EC” there were substituted “retained EU law which transposed Directive 98/83/EC”;
- (g) in Article 11—
  - (i) in paragraph 3(a), for the words from “required to implement” to the end there were substituted “under retained EU law for the protection of water”;
  - (ii) in paragraph 3(j), in the fourth indent, for the words from “Directive” to the end there were substituted “Chapter 3 of Part 1 of the Energy Act 2008(a) and other retained EU law which transposed Directive 2009/31/EC on the geological storage of carbon dioxide”;
  - (iii) in paragraph 3(k)—
    - (aa) “in accordance with action taken pursuant to Article 16,” were omitted;
    - (bb) for “agreed pursuant to Article 16(2)” there were substituted “in Annex 10”;
  - (iv) in paragraph 6, the reference to “existing legislation” were a reference to retained EU law which was in force before 23rd October 2000;
- (h) in Annex 2—
  - (i) in section 1.1, point (vi) were omitted;
  - (ii) in section 1.4—
    - (aa) after “gathered under”, in both places where it occurs, there were inserted “retained EU law which transposed”;
    - (bb) in the second paragraph, in point (ii), the reference to “Articles 9 and 15 of Directive 96/61/EC” were a reference to retained EU law which transposed Articles 5(3), 14 and 24 of Directive 2010/75/EC of the European Parliament and of the Council on industrial emissions(b);
    - (cc) in the third paragraph, in point (iii), the reference to “Directive 98/8/EC” were a reference to Regulation (EC) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products.”.

**3.** Under the heading “Descriptor 6”, under the sub-heading “Specifications and standardised methods for monitoring and assessment”, in paragraph 1(c), before “Directive 2000/60/EC” insert “any enactment which gives effect to”.

**4.** Under the heading “Descriptor 7”, under the sub-heading “Specifications and standardised methods for monitoring and assessment”, in paragraph 1(c), before “Directive 2000/60/EC” insert “any enactment which gives effect to”.

**5.** Under the heading “Descriptor 8”—

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(a) 2008 c.32.

(b) OJ No L 334, 17.12.2010, p 17, as last corrected by a corrigendum (OJ No L 158, 19.6.2012, p 25).

- (a) under the sub-heading “Criteria, including criteria elements, and methodological standards”, in the following places in the first row of the table, before “Directive 2000/60/EC” insert “any enactment which gives effect to”—
    - (i) in the first column, in point (1)(a);
    - (ii) in the second column, in points (a) and (b);
    - (iii) in the third column, in the first indent under “Scale of assessment”;
  - (b) under the sub-heading “Specifications and standardised methods for monitoring and assessment”—
    - (i) in paragraph 2(a)—
      - (aa) before “Directive 2000/60/EC” insert “any enactment which gives effect to”;
      - (bb) before “that Directive” insert “any enactment which gives effect to”;
    - (ii) in paragraph 2(d), omit the second sentence;
    - (iii) in paragraph 3, for “at Union level” substitute “through regional or subregional cooperation”.
- 6.** Under the heading “Descriptor 9”—
- (a) in the heading, for “Union legislation” substitute “retained EU law”;
  - (b) under the sub-heading “Specifications and standardised methods for monitoring and assessment”—
    - (i) in paragraph 1(d), for “Member State” substitute “United Kingdom”;
    - (ii) in paragraph 3, for “Commission Regulation (EU) No 589/2014” substitute “Commission Regulation (EU) 2017/644 of 5 April 2017 laying down methods of sampling and analysis for the control of levels of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in certain foodstuffs”, and omit footnote (11).
- 7.** Under the heading “Descriptor 10”, in the table—
- (a) in the second column, in both places where it occurs, omit “through cooperation at Union level”;
  - (b) in the third column, for “agreed at Union level”, in both places where it occurs, substitute “jointly agreed by the competent authorities”.
- 8.** Under the heading “Descriptor 11”, in the table—
- (a) in the second column, in both places where it occurs, omit “through cooperation at Union level”;
  - (b) in the third column, for “agreed at Union level” substitute “jointly agreed by the competent authorities”.

### SCHEDULE 3

Regulation 12(2)(c)

## AMENDMENT OF PART 2 OF THE ANNEX TO COMMISSION DECISION (EU) 2017/848

- 1.** Under the heading “Species groups of birds, mammals, reptiles, fish and cephalopods (relating to Descriptor 1)”, under the sub-heading “Criteria, including criteria elements, and methodological standards”, in the table—
- (a) in the first column, in the first row, omit from “, pursuant to” to “Decision (EU) 2016/1251” and footnote (15);
  - (b) in the first column, in the second row, omit “Union legislation” and the brackets around the words in parenthesis which follow;

- (c) in the second column, in the second and fourth rows, for “by the relevant Member States under” substitute “under any enactment which gives effect to”;
- (d) in the third column, in the second row, in point (b) under “Use of criteria”, before “that Directive” insert “any enactment which gives effect to”;
- (e) in the third column, in the second row, for “at Union level”, in both places where it occurs, substitute “by the Secretary of State, in consultation with the devolved policy authorities”.

2. Under the heading “Specifications and standardised methods for monitoring and assessment relating to theme ‘Species groups of marine birds, mammals, reptiles, fish and cephalopods’”, in paragraph 4—

- (a) in the words before point (a), before “Directive 92/43/EEC” insert “any enactment giving effect to”;
- (b) in points (a) and (b), before “Directive” insert “any enactment giving effect to”.

3. Under the heading “Benthic habitats (relating to Descriptors 1 and 6)”—

- (a) under the sub-heading “Criteria, including criteria elements, and methodological standards”, in the table—
  - (i) in the second column, in the first and second rows, in each place where it occurs, omit “, through cooperation at Union level,”;
  - (ii) in the third column, in the first row, omit “agreed at Union level”;
- (b) under the sub-heading “Specifications and standardised methods for monitoring and assessment relating to theme ‘Benthic habitats’”, in paragraphs 1 and 3, before “Directive 92/43/EEC” insert “any enactment giving effect to”.

## SCHEDULE 4

Regulation 12(3)

### NEW ANNEX 2 TO COMMISSION DECISION (EU) 2017/848

#### “ANNEX 2

Article 2(3)

#### Modification of Marine Strategy Framework Directive

1. Omit the following provisions—
  - (a) in Article 4(2), the final subparagraph;
  - (b) in Article 5(3), from “In these cases” to the end;
  - (c) Article 9(2);
  - (d) Article 10(2);
  - (e) Article 11(3);
  - (f) Article 13(9);
  - (g) in Annex 1, the final sentence in the paragraph after point (11).
2. In Article 3(9), for “third countries” substitute “other countries”.
3. In Article 5(2), omit “for which Member States concerned endeavour to follow a common approach”.
4. In Article 6(2)—
  - (a) in the first subparagraph, for “third countries” substitute “other countries”;
  - (b) in the third subparagraph—

- (i) after “Member States”, in the first place where it occurs, insert “and other countries”;
  - (ii) omit “in order to allow Member States” to the end.
5. In Article 8(2), after “in particular” insert “any enactment giving effect to”.
6. In Article 9(3), omit—
- (a) “in accordance with the regulatory procedure with scrutiny referred to in Article 25(3)”;
  - (b) the final sentence.
7. In Article 10(1), omit “, Community”.
8. In Article 11—
- (a) in paragraph 1, omit “including the Habitats and Birds Directives”;
  - (b) in paragraph 4, omit “in accordance with the regulatory procedure with scrutiny referred to in Article 25(3)”.
9. In Article 13—
- (a) in paragraph 2, for the words from “in particular Directive 2000/60/EC” to “forthcoming legislation on environmental quality standards in the field of water policy” substitute “(in particular in relation to water quality, including urban waste-water treatment and bathing water quality)”;
  - (b) in paragraph 3, omit “referred to in Article 7”;
  - (c) in paragraph 4—
    - (i) for “special areas of conservation pursuant to the Habitats Directive, special protection areas pursuant to the Birds Directive” substitute “special areas of conservation or special protection areas pursuant to retained EU law”;
    - (ii) for “Community or Members States concerned in the framework of international or regional agreements to which they are parties” substitute “United Kingdom in the framework of international or regional agreements to which it is a party”;
  - (d) in paragraph 5, omit—
    - (i) “Community or”;
    - (ii) “, individually or jointly,”;
    - (iii) “competent authority or”;
  - (e) in paragraph 10, omit “Subject to Article 16”.
10. In Article 17—
- (a) in paragraph 3—
    - (i) omit “to the Commission,”;
    - (ii) omit “and to any other Member State concerned”;
    - (iii) for “Article 19(2)” substitute “regulation 18(7) of the Marine Strategy Regulations 2010”;
  - (b) omit paragraph 4.
11. In Annex 3—
- (a) in the notes below Table 1, in Note 1 and Note 3, for “in accordance with Article 9(3)” substitute “in Commission Decision (EU) 2017/848 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment”;
  - (b) in the notes below Table 2, in Note 3, for “in accordance with Article 9(3)” substitute “in Commission Decision (EU) 2017/848 laying down criteria and methodological

standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment”.

12. In Annex 4, in point (11), for “the Community and its Member States have committed themselves” substitute “the United Kingdom has committed itself”.

13. In Annex 5, in point (9), for “at Community level” substitute “at regional or subregional level”.

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(b), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of the marine environment and, in particular, marine strategy. Part 2 amends primary legislation (the Marine and Coastal Access Act 2009 (c. 23)), Part 3 amends subordinate legislation (the Marine Strategy Regulations 2010 (S.I. 2010/1627) and the Marine Licensing (Exempted Activities) Order 2011 (S.I. 2011/409)), and Part 4 amends other legislation (Commission Decision (EU) 2017/848).

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