

SL(5)392 – The Sea Fish Licensing (Wales) Order 2019

Background and Purpose

This Order prohibits, subject to exceptions, fishing by Welsh fishing boats (article 3) and fishing by Crown Dependency Boats within the Welsh zone (article 4) unless such boats are licensed by the Welsh ministers. It also prohibits fishing by foreign boats (article 5) within the Welsh zone unless those boats are so licensed.

Article 6 of the Order revokes the Sea fish Licensing Order 1992 (S.I. 1992/2633) and instruments which varied or amended it so far as they relate to Welsh fishing boats and fishing within the Welsh zone.

Procedure

Negative

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

The Explanatory Memorandum makes the following points, which we draw to the attention of the National Assembly:

- i. “There are two purposes of this instrument:
 - To make provision about the licensing of fishing boats from outside the UK when fishing in Welsh waters after the UK leaves the EU. This provision is essential for Wales to control access by non-UK vessels to its domestic waters, and endorse any international agreements on fisheries access to UK waters post EU exit. This provision will be required if the Fisheries Bill does not receive Royal Assent by 29 March 2019. This will ensure continuity of current management measures in Welsh waters and allow us to progress our policy objectives beyond EU exit day.
 - To consolidate and update existing legislation, including the Sea Fish Licensing Order 1992 (S.I. 1992/2663) with the subsequent orders which varied and amended it. The consolidated instrument prohibits fishing, subject to exceptions, by Welsh fishing boats unless they are licensed by the Welsh Ministers. The Order revokes the existing legislation (listed in Schedule I).”
[paragraph 4.1]



- ii. "The preferred approach is to introduce these powers through the UK Fisheries Bill, so that there is a consistent approach across the UK. However in the event that the UK Fisheries Bill does not gain Royal Assent before the UK leaves the EU, it is important that foreign vessels access to Welsh waters can still be controlled and managed." [paragraph 4.4]
- iii. "Failure to introduce this legislation would mean fishing by foreign vessels within Welsh waters post EU exit would be unlicensed and therefore uncontrolled and unmanaged. There would be no provision to license foreign vessels under current domestic legislation, or EU legislation being retained under the Withdrawal Act. This could jeopardise the UK's ability to enter into international fisheries agreements as provision to license and allow managed access to foreign vessels in Welsh waters would not be in place. This could also result in the UK not being able to demonstrate the management of marine resources effectively, which could have an adverse impact on fish stocks in Welsh waters and could attract criticism internationally." [paragraph 4.7]
- iv. "The provisions in this instrument are being implemented to align Wales with the rest of the UK and to give consistency for the interim period between exit from the EU and the UK Fisheries Bill gaining Royal Assent. A decision was required urgently and it was deemed the introduction of this legislation was the only realistic option available to Ministers and therefore, taking account of a fixed EU exit day over which Welsh Government has no control, no consultation was carried out." [paragraph 5.1]
- v. "To address any concerns from Welsh licence holders, this legislation will be brought to the attention of affected stakeholders (all Welsh fishing vessel licence holders and the Wales Marine and Fisheries Advisory Group) immediately it comes into force." [paragraph 5.2]

The Committee reported on the Welsh Government's Legislative Consent Memorandum on the Fisheries Bill on 12 February 2019.

Implications arising from exiting the European Union

The issues noted in the merits scrutiny above demonstrate the complexity of EU exit-related legislation.

Government Response

A government response is not required.

Legal Advisers

Constitutional and Legislative Affairs Committee

13 March 2019

