

# **The European Union (Withdrawal) Bill 3:- fisheries shows the need for exemptions**

The European Union (Withdrawal) Bill was designed to ensure that life continues as normal the day we leave the EU. In an earlier post, we explained the rationale behind this bill. While Labour in particular is concerned about the “repatriated” legislation being tweaked for political ends, a far more serious problem concerns legislation which will need tweaking because of the new status of the UK as an independent sovereign nation outside the EU. Indeed, the degree of tweaking required for some legislation which does not concern merely domestic issues is so great that we believe that it is best that there should be exemptions included in the Great Repeal Bill – in other words, replacement legislation should come into force on Brexit day and the regulation, decision or directive in question should not be put onto the statute books at all.

Regulation 1380/2013 is the main piece of EU legislation which governs the Common Fisheries Policy. Leaving the EU will free us from this iniquitous, environmentally damaging piece of legislation which has wrought havoc to our fishing industry. All we have to do is exempt this one single Regulation from the EU (Withdrawal) Bill and our fishermen will be freed from control by Brussels. Even if no agreement on fishing is signed by Brexit day, this would be better than the current set-up. We would find ourselves excluded from EU waters, but the exclusion of EU vessels from our Exclusive Economic Zone (up to 200 nautical miles from the shoreline, or the median point where the sea is less than 400 nautical miles wide) would be more than a compensation.

In other words, unlike customs arrangements, trade in goods and services or mutual recognition of standards, fisheries is one area where we really don't have to worry if there is no agreement with the EU by 29th March 2019. We would revert to UN guidelines which would allow us to manage our own waters.

So the current plans by the government to include Regulation 1380/2013 make no sense whatsoever – all the more when analysis of the actual document shows that a massive re-write would be needed before it could be incorporated into UK law or else a tremendous muddle would ensue. You only have to go as far as paragraph (2) on the first page before encountering the terms “Union waters” and “Union fishing vessels.” At the moment, these terms refer to the boats and EEZs of all EU28 countries – at least, all those which have a coastline and therefore a maritime fishing industry. On Brexit day, the term will mean something different as phrase containing the word “Union” will refer to EU27 – in other words, not the UK.

Read on to paragraphs (3) and (4) on the same page and they talk about the objectives of the Common Fisheries Policy. Unless the government wants us to be in the CFP even though we will be out of the EU, these two paragraphs can be struck through as irrelevant.

Paragraph (5) begins by mentioning “the Union”. Well, we happen to be a signatory to the same UN agreement, so perhaps our Civil Servants can just cross this out and put in “the UK” instead. Sadly, it's not that simple. Read on a few lines and you come across a reference to a decision by the EU Council. That doesn't apply to us any more so that needs to be changed.

Given the document is 40 pages long, I won't bore you with going through the other pages in detail, but the absurdity of repatriating this Regulation must already be apparent. Every reference to “union”, “member states” “Commission” and so on will need alteration. Why bother with a piece of legislation which is so flawed? Scroll through it in its entirety and

there are numerous references to quotas. UK fishermen do not want a quota system on independence. Our booklet *Seizing the Moment*, written by John Ashworth of *Fishing for Leave* proposes a “days-at-sea” basis, modelled on Faeroese practise, which is far better than any quota system for preventing discards, while at the same time enables a much better management of the environment.

Three further objections to the incorporation of this Regulation into the EU (Withdrawal) Bill should, however, be mentioned. Firstly, the final 12 pages comprise an annex listing the access to coastal waters by different member states. This obviously includes the UK’s territorial waters which the Government indicated it intended to return to UK control by denouncing the 1964 London Convention. If these pages are included, then the good done by doing this is essentially undone and the government would have broken a promise.

Secondly, this Regulation is the latest of a series of regulations enshrining the UK’s 10-year derogation restricting access to the waters up to 12 nautical miles from the shore, which currently expires on 31st December 2022. If the Regulation is included in UK law featuring any wording implying that restricting access to any part of the waters around the UK is subject to agreement with Brussels, then we have in effect granted the EU a right to continue dictating who may or may not fish in our waters. This is unacceptable.

Finally, if anything resembling Regulation 1380/2013 ends up on the UK statute books after Brexit, even if it has been heavily amended, it will be scrutinised in minute detail by, among others, the French, who will seek to find any opportunity they can to take us to an international court and challenge our decision to repatriate our fishing policy. Given that so much of this document needs to be deleted or amended to make any sense and that there is plenty of scope for ambiguity creeping in, the threat of a legal challenge

adds still further to the reasons for saying that excluding it from the EU (Withdrawal) Bill in its entirety is the only sensible approach to take. Fishing for Leave has the expertise to devise a fishing policy in 18 months – one which will revitalise our coastal communities after years of decline. If even a heavily amended version of this Regulation finds its way onto the UK statute books, it will not be truly Brexit for an industry that has campaigned so long for the return of fisheries to UK control. Given the appalling way in which previous Conservative governments have betrayed our fishermen, this present administration must not be allowed to bungle this great opportunity to right an historic wrong. Thankfully, one Conservative MP has already flagged up the potential problems a bungled fisheries Brexit would cause. We can but hope his colleagues will take heed.