

**COMMISSION DELEGATED REGULATION (EU) 2023/828****of 2 February 2023****correcting Delegated Regulation (EU) 2020/2015 as regards the survivability exemption for common sole catches by vessels under 12 metres long and using otter bottom trawls, in the Western Waters, ICES division 7e, for 2023**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008 <sup>(1)</sup>, and in particular Article 13 thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2020/2015 <sup>(2)</sup> provides details on how to implement the landing obligation for certain demersal fisheries in the Western Waters for the period 2021–2023.
- (2) Delegated Regulation (EU) 2020/2015 was last amended by Commission Delegated Regulation (EU) 2022/2290 <sup>(3)</sup>.
- (3) On 25 October 2022, France informed the Commission of an error introduced in Delegated Regulation (EU) 2020/2015 by Delegated Regulation (EU) 2022/2290. It concerns a new survivability exemption for common sole (*Solea solea*) below the minimum conservation reference size (MCRS) caught in ICES division 7e by vessels under 12 m long and using otter bottom trawls (OTB), with a cod end mesh size larger than 80 mm. The error consists in not including cod end mesh size of 80 mm and not defining a size limit.
- (4) France requested the Commission to correct that error, in order for the exemption concerned to include a mesh size equivalent to 80 mm. France explained that vessels in need of this exemption use mesh sizes ranges including the 80 mm. The confusion arises from a drafting difference between the main body of the joint recommendation on which the delegated act is based and its annex. While the annex of the joint recommendation included explicitly the 80 mm mesh size to 99 mm, the drafting was unfortunately different in the main body of the joint recommendation.
- (5) Moreover, in its advice, the STECF had assessed the requested exemption also for 80 mm mesh size (and not only larger than 80 mm mesh size) with a limit of 99 mm.
- (6) The exemption for common sole below MCRS made using otter trawl gears with a cod end mesh size of 80 to 99 mm, by vessels under 12 m should therefore be granted until 31 December 2023.
- (7) Therefore, Article 4(1) of Delegated Regulation (EU) 2020/2015 should be corrected to cover otter trawl gears with a cod end mesh size of 80 to 99 mm, instead of only those larger than 80 mm.
- (8) As the measures provided for in this Regulation have a direct impact on the planning of the fishing season for Union vessels and on related economic activities, this Regulation should enter into force as soon as possible. It should apply from 1 January 2023, as vessels under 12 m, in need of this exemption, use mesh sizes ranges including the 80 mm,

<sup>(1)</sup> OJ L 83, 25.3.2019, p. 1.

<sup>(2)</sup> Commission Delegated Regulation (EU) 2020/2015 of 21 August 2020 specifying details of the implementation of the landing obligation for certain fisheries in Western Waters for the period 2021–2023 (OJ L 415, 10.12.2020, p. 22).

<sup>(3)</sup> Commission Delegated Regulation (EU) 2022/2290 of 19 August 2022 amending Delegated Regulation (EU) 2020/2015 as regards certain exemptions to the landing obligation in the Western Waters for 2023 (OJ L 303, 23.11.2022, p. 12).

HAS ADOPTED THIS REGULATION:

*Article 1*

**Amendments to Delegated Regulation (EU) 2020/2015**

Article 4(1) of Delegated Regulation (EU) 2020/2015 is replaced by the following:

- ‘1. The survivability exemption provided for in Article 15(4)(b) of Regulation (EU) No 1380/2013 shall apply to:
- in ICES division 7d, within six nautical miles of the coast but outside identified nursery areas, to catches of common sole (*Solea solea*) below the minimum conservation reference size made using otter trawl gears (gear codes: OTT, OTB, TBS, TBN, TB, PTB, OT, PT, TX) with a cod end mesh size of 80 to 99 mm, by vessels:
    - having a maximum length of 10 metres and a maximum engine power of 221 kW; and
    - fishing in waters with the depth of 30 metres or less and with tow durations of no more than 90 minutes;
  - in ICES division 7e, within six nautical miles of the coast but outside identified nursery areas, to catches of common sole (*Solea solea*) below the minimum conservation reference size made using otter trawl gears (gear code: OTB) with a cod end mesh size of 80 to 99 mm, by vessels under 12 metres.’

*Article 2*

**Date of entry into force and period of application**

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2023 until 31 December 2023.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 February 2023.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

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