
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 70

SEA FISHERIES

The Sea Fishing (Licences and Notices) (Scotland) Regulations 2011

Made - - - - 9th February 2011
Laid before the Scottish Parliament - - - - 11th February 2011
Coming into force - - 1st April 2011

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 4B of the Sea Fish (Conservation) Act 1967^{M1} and all other powers enabling them to do so.

Marginal Citations

M1 1967 c.84 (“the 1967 Act”). Section 4B was inserted by section 4 of the [Sea Fish \(Conservation\) Act 1992 \(c.60\)](#). Section 22(2)(a) of the 1967 Act, which contains a definition of “the Ministers” for the purposes of section 4B was amended by the [Fisheries Act 1981 \(c.29\)](#), [sections 19\(2\)\(d\)](#) and 45(b). The definition was modified in relation to Scotland by section 22A(12)(b) of the 1967 Act, as inserted by S.I. 1999/1820, Schedule 2, paragraph 43(13). The functions of the Secretary of State, in or as regards Scotland, were transferred to the Scottish Ministers by virtue of section 53 of the [Scotland Act 1998 \(c.46\)](#).

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Sea Fishing (Licences and Notices) (Scotland) Regulations 2011 and come into force on 1st April 2011.

(2) These Regulations extend to Scotland^{F1}....

[^{F2}(3) These regulations apply in relation to—

- (a) licences granted under section 15 of the Fisheries Act 2020 (licensing of British fishing boats) in respect of Scottish fishing boats;
- (b) licences granted under section 17 of that Act (licensing of foreign fishing boats) by the Scottish Ministers; and
- (c) licences granted under section 4A of the Sea Fish (Conservation) Act 1967 (licensing of vessels receiving trans-shipped fish)—
 - (i) in respect of Scottish fishing boats, or

(ii) by the Scottish Ministers in respect of foreign fishing boats.]

Textual Amendments

- F1** Words in **reg. 1(2)** omitted (31.12.2020) by virtue of **Fisheries Act 2020 (c. 22), s. 54(3)(b), Sch. 4 para. 18(2)(a)** (with s. 50, Sch. 4 para. 31)
- F2** **Reg. 1(3)** substituted (31.12.2020) by **Fisheries Act 2020 (c. 22), s. 54(3)(b), Sch. 4 para. 18(2)(b)** (with s. 50, Sch. 4 para. 31)

Interpretation

2. In these Regulations—

“electronic communication” includes facsimile transmission and any method of transferring data by computer;

[^{F3}“licence” means a licence to which these regulations apply (see regulation 1(3));]

“newspaper” means such newspaper circulating within, or within any part of, Scotland which the Scottish Ministers think appropriate;

“nominee” means either—

- (a) an individual resident in Scotland; or
- (b) a body incorporated in [^{F4}the United Kingdom] and having a place of business in Scotland,

appointed by the master, owner or charterer of a ^{F5}... fishing boat to receive, on any such person's behalf, licences and notices communicated in accordance with these Regulations;

“notice” means any notice of variation, suspension or revocation of a licence, whether that licence was granted before or after the coming into force of these Regulations;

“Scottish fishing boat” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 ^{M2} and whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging^{F6}... ; and

[^{F7}“sea fishing licence” means a licence to which these regulations apply by virtue of regulation 1(3)(a) or (b);]

[^{F8}“temporary foreign vessel licence” means a licence that—

- (a) is granted in respect of a foreign fishing boat, and
- (b) has effect for a period of no more than three weeks.]

Textual Amendments

- F3** Words in **reg. 2** substituted (31.12.2020) by **Fisheries Act 2020 (c. 22), s. 54(3)(b), Sch. 4 para. 18(3)(a)** (with s. 50, Sch. 4 para. 31)
- F4** Words in **reg. 2** substituted (31.12.2020) by **Fisheries Act 2020 (c. 22), s. 54(3)(b), Sch. 4 para. 18(3)(b)(i)** (with s. 50, Sch. 4 para. 31)
- F5** Word in **reg. 2** omitted (31.12.2020) by virtue of **Fisheries Act 2020 (c. 22), s. 54(3)(b), Sch. 4 para. 18(3)(b)(ii)** (with s. 50, Sch. 4 para. 31)
- F6** Words in **reg. 2** omitted (31.12.2020) by virtue of **Fisheries Act 2020 (c. 22), s. 54(3)(b), Sch. 4 para. 18(3)(c)** (with s. 50, Sch. 4 para. 31)
- F7** Words in **reg. 2** substituted (31.12.2020) by **Fisheries Act 2020 (c. 22), s. 54(3)(b), Sch. 4 para. 18(3)(d)** (with s. 50, Sch. 4 para. 31)

F8 Words in reg. 2 inserted (31.12.2020) by Fisheries Act 2020 (c. 22), s. 54(3)(b), Sch. 4 para. 18(3)(e) (with s. 50, Sch. 4 para. 31)

Marginal Citations

M2 1995 c.21.

Communication of licences and notices

3.—(1) A licence^{F9}, other than a temporary foreign vessel licence,] is to be granted by the Scottish Ministers to the master, owner or charterer of a [^{F10} fishing boat] by communicating it to that master, owner or charterer or a nominee (as the case may be)—

- (a) by delivering it personally to the master, owner, charterer or^{F11}, in the case of a Scottish fishing boat,] nominee;
- (b) by sending it to the master, owner, charterer or^{F11}, in the case of a Scottish fishing boat,] nominee by post at the address or place of business of any such person;
- (c) by leaving it at the address or place of business of the master, owner or charterer, or in the hands of any person there; or
- (d) by transmitting it to the master, owner or charterer by electronic communication.

^{F12}(1A) A temporary foreign vessel licence is to be granted to the owner or charterer of a foreign fishing boat by communicating it to the relevant person by—

- (a) transmitting it to the relevant person by means of an electronic communication, and
- (b) subsequently publishing it on the website of the Scottish Ministers or of a person granting the licence on their behalf.

(1B) In paragraph (1A), “the relevant person”, in relation to a foreign fishing boat, means—

- (a) if the fishing boat is registered in a member State, the European Commission;
- (b) if the fishing boat is registered in a country or territory that is not a member State, the authority in that country or territory that is responsible for the regulation of fishing boats.]

(2) A notice is to be effected by—

- (a) [^{F13}in the case of a Scottish fishing boat] communicating it to a nominee, in a manner specified in paragraph (1)(a) or (b);
- (b) communicating it to the master, owner or charterer of the ^{F14}... fishing boat—
 - (i) by delivering it personally to the master, owner or charterer; or
 - (ii) by transmitting it to the master, owner or charterer by electronic communication; or
- (c) publishing it—
 - (i) in a newspaper; or
 - (ii) on a website ^{M3}, the address of which is indicated on the sea fishing licence to which the notice relates.

(3) Where a notice effected by publication in accordance with paragraph (2)(c) is a notice to which paragraph (5) applies, it must either—

- (a) provide that it applies to all sea fishing licences; or
- (b) specify those sea fishing licences to which it relates by reference to species, area or method or any combination thereof,

but it will not require to specify the name or port letters and number, or the name of any master, owner or charterer or nominee (as the case may be), of any [^{F15} fishing boat].

(4) Where a notice effected by publication in accordance with paragraph (2)(c) is not a notice to which paragraph (5) applies, it must specify the sea fishing licences to which it relates by reference to the name or port letters and number of any [^{F16}fishing boat] in respect of which those licences were granted.

- (5) This paragraph applies to a notice which varies, suspends or revokes—
- (a) all sea fishing licences; or
 - (b) all sea fishing licences authorising fishing—
 - (i) for one or more specified description of sea fish;
 - (ii) in one or more specified areas;
 - (iii) by a specified method or methods; or
 - (iv) by reference to a combination of two or more of the matters referred to in heads (i) to (iii).

Textual Amendments

- F9** Words in [reg. 3\(1\)](#) inserted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(4\)\(a\)\(i\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F10** Words in [reg. 3\(1\)](#) substituted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(4\)\(a\)\(ii\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F11** Words in [reg. 3\(1\)\(a\)\(b\)](#) inserted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(4\)\(b\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F12** [Reg. 3\(1A\)\(1B\)](#) inserted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(4\)\(c\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F13** Words in [reg. 3\(2\)\(a\)](#) inserted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(4\)\(d\)\(i\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F14** Word in [reg. 3\(2\)\(b\)](#) omitted (31.12.2020) by virtue of [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(4\)\(d\)\(ii\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F15** Words in [reg. 3\(3\)](#) substituted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(4\)\(e\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F16** Words in [reg. 3\(4\)](#) substituted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(4\)\(e\)](#) (with s. 50, [Sch. 4 para. 31](#))

Marginal Citations

- M3** As of the date of making of these Regulations, the address of the website for the purposes of regulation 3(2)(c)(ii) is <http://www.scotland.gov.uk/Topics/marine/Sea-Fisheries/17681/licencevariations>. Any alteration to that address will be notified to the sea fishing licence holder or any nominee, as the case may be.

[^{F17}Granting] of licences and giving of notices

4.—(1) A licence or a notice communicated personally is to be treated as [^{F18}granted] or given immediately it is communicated.

(2) Subject to paragraph (5), a licence or a notice communicated by post is to be treated as [^{F19}granted] or given 48 hours after the end of the day on which it was posted.

(3) A licence[^{F20}, other than a temporary foreign vessel licence,] or a notice communicated by leaving it at [^{F21}an] address or place of business or in the hands of a person there, or by transmission by electronic communication, is to be treated as [^{F22}granted] or given 24 hours after the time of leaving or transmitting.

[^{F23}(3A) In relation to a licence or notice transmitted by electronic communication at any time during January 2021, the reference in paragraph (3) to 24 hours is to be read as a reference to one hour.

(3B) A temporary foreign vessel licence communicated in accordance with regulation 3(1A) is to be treated as granted immediately it is published in accordance with that provision.]

- (4) A notice effected by publication in accordance with regulation 3(2)(c) is—
- (a) where it is published in a newspaper, to be treated as given at the end of the day on which it is published;
 - (b) where it is published on a website, to be treated as given immediately it is published.
- (5) Where a licence or a notice—
- (a) is communicated by post; and
 - (b) is to be treated as [^{F24}granted] or given, in accordance with this regulation—
 - (i) on a Sunday;
 - (ii) on a bank holiday within the meaning of the Banking and Financial Dealings Act 1971 ^{M4}; or
 - (iii) on a local holiday,

the licence or notice is to be treated as [^{F24}granted] or given at the end of the next day following which is not a bank holiday or a local holiday.

Textual Amendments

- F17** Word in [reg. 4](#) heading substituted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(5\)\(a\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F18** Word in [reg. 4\(1\)](#) substituted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(5\)\(b\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F19** Word in [reg. 4\(2\)](#) substituted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(5\)\(b\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F20** Words in [reg. 4\(3\)](#) inserted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(5\)\(c\)\(i\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F21** Word in [reg. 4\(3\)](#) substituted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(5\)\(c\)\(ii\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F22** Word in [reg. 4\(3\)](#) substituted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(5\)\(c\)\(iii\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F23** [Reg. 4\(3A\)\(3B\)](#) inserted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(5\)\(d\)](#) (with s. 50, [Sch. 4 para. 31](#))
- F24** Words in [reg. 4\(5\)](#) substituted (31.12.2020) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(b), [Sch. 4 para. 18\(5\)\(e\)](#) (with s. 50, [Sch. 4 para. 31](#))

Marginal Citations

- M4** [1971 c.80](#), as relevantly amended by the [St Andrew's Day Bank Holiday \(Scotland\) Act 2007 \(asp 2\)](#), section 1.

Time at which licences and notices to have effect

5. Subject to regulation 6—

- (a) a licence communicated in accordance with regulation 3(1) [^{F25}or (1A)], and a notice communicated in accordance with regulation 3(2)(b), has effect at the time it is treated as [^{F26}granted] or given in accordance with regulation 4;
- (b) a notice communicated in accordance with regulation 3(2)(a) has effect 24 hours after the time it is treated as given in accordance with regulation 4;
- (c) a notice communicated in accordance with regulation 3(2)(c)(i) has effect 48 hours after the time it is treated as given in accordance with regulation 4; and
- (d) a notice which is effected by publication in accordance with regulation 3(2)(c)(ii) has effect 24 hours after midnight on the day upon which the notice is treated as given under regulation 4(4)(b).

Textual Amendments

- F25** Words in **reg. 5(a)** inserted (31.12.2020) by **Fisheries Act 2020 (c. 22)**, s. 54(3)(b), **Sch. 4 para. 18(6)(a)** (with s. 50, Sch. 4 para. 31)
- F26** Word in **reg. 5(a)** substituted (31.12.2020) by **Fisheries Act 2020 (c. 22)**, s. 54(3)(b), **Sch. 4 para. 18(6)(b)** (with s. 50, Sch. 4 para. 31)

Special provision for certain licences and notices

6.—(1) A licence or a notice communicated by more than one of the methods specified in regulation 3 has effect at the earliest of the times corresponding to each such method specified in regulation 5.

(2) A licence or a notice, which purports on its face to have effect at a time later than that at which it is treated as having effect in accordance with regulation 5, has effect at the time shown on its face.

Revocation of the Sea Fishing (Licences and Notices) (Scotland) Regulations 1994

7. The Sea Fishing (Licences and Notices) Regulations 1994 ^{M5} are revoked.

Marginal Citations

M5 S.I. 1994/2813.

Transitional provision

8. Notwithstanding the revocation of the Sea Fishing (Licences and Notices) Regulations 1994 under regulation 7, any licence granted or notice effected under those Regulations continues to have effect for the purposes of any investigation or legal proceedings relating to any acts or omissions which occurred before 1st April 2011 and which constitute an offence under the Sea Fish (Conservation) Act 1967 ^{M6}.

Marginal Citations

M6 1967 c.84.

St Andrew's House,
Edinburgh
9th February 2011

RICHARD LOCHHEAD
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in accordance with section 4B of the Sea Fish (Conservation) Act 1967 (c.84) (“the 1967 Act”) for the manner in which a sea fishing licence under section 4 of that Act or a licence to receive trans-shipped fish under section 4A of that Act may be granted and in which a notice of variation, revocation or suspension of any such licence may be effected in accordance with section 4(9) or 4A(10), respectively, of the 1967 Act. The Regulations extend to Scotland and the Scottish zone and apply to Scottish fishing boats wherever they may be (regulation 1(3)).

Regulation 3(1) provides for the granting of a licence by the Scottish Ministers to the master, owner or charterer of a Scottish fishing boat by communicating it, by a method specified, to that person or to a person nominated by the master, owner or charterer to receive it (“a nominee”). Regulation 3(2) provides for the effecting of a notice by communicating it to a nominee or to the master, owner or charterer of the Scottish fishing boat. Regulation 3(3) to (5) provides for the effecting of notices of variation, suspension or revocation of all sea fishing licences or all sea fishing licences of a particular type granted by the Scottish Ministers by publishing a notice in a newspaper or on the Scottish Government website (<http://www.scotland.gov.uk/Topics/marine/Sea-Fisheries/17681/licencevariations>).

Regulation 4 specifies the time at which a licence or notice communicated in accordance with regulation 3 will be treated as having been delivered or given, according to the method of communication adopted.

Regulation 5 specifies the time at which a licence or notice treated as delivered or given in accordance with regulation 4 will have effect, according to the method of communication adopted.

Regulation 6 makes provision for the time at which a licence or a notice will take effect where—

- (a) more than one method of communicating it is employed; and
 - (b) the licence or notice states that it will take effect later than provided for under regulation 5.
- Regulation 7 revokes the Sea Fishing (Licences and Notices) Regulations 1994 (S.I. 1994/2813) insofar as they extend to Scotland, and regulation 8 contains a transitional provision in consequence of that revocation.

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from Marine Scotland, Victoria Quay, Leith, Edinburgh EH6 6QQ.

Changes to legislation:

There are currently no known outstanding effects for the The Sea Fishing (Licences and Notices) (Scotland) Regulations 2011.