

Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999

CHAPTER II

INSPECTIONS OF THIRD COUNTRY FISHING VESSELS IN [F¹UNITED KINGDOM] PORTS

SECTION 1

Conditions for access to port by third country fishing vessels

Article 4

Inspection in port schemes

1 With a view to prevent, deter and eliminate IUU fishing, an effective scheme of inspections in port for third country fishing vessels calling at the ports of [F²the United Kingdom] shall be maintained.

2 Access to ports of [F³the United Kingdom], the provision of port services, and the conduct of landing or transhipment operations in such ports shall be prohibited for third country fishing vessels unless they meet the requirements laid down in this Regulation, except in cases of *force majeure* or distress within the meaning of Article 18 of the Unclos (*force majeure* or distress) for services strictly necessary to remedy those situations.

3 Transhipments between third country fishing vessels or between the latter and [F⁴United Kingdom fishing vessels] shall be prohibited in [F⁵United Kingdom] waters and shall take place only in port, in accordance with the provisions of this Chapter.

4 [F⁶United Kingdom fishing vessels] shall not be authorised to tranship at sea catches from third country fishing vessels outside [F⁷United Kingdom] waters unless the fishing vessels are registered as carrier vessels under the auspices of a regional fisheries management organisation.

Textual Amendments

- F2** Words in Art. 4(1) substituted (31.12.2020) by The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739), regs. 1, 9(6)(a); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 4(2) substituted (31.12.2020) by The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739), regs. 1, 9(6)(b); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 4(3) substituted (31.12.2020) by The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739), regs. 1, 9(6)(c)(i); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Art. 4(3) substituted (31.12.2020) by The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739), regs. 1, 9(6)(c)(ii); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Art. 4(4) substituted (31.12.2020) by The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739), regs. 1, 9(6)(d)(i); 2020 c. 1, Sch. 5 para. 1(1)

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F7 Words in Art. 4(4) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(6)(d)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

Article 5

Designated ports

1 ^{F8} A fisheries administration must] designate ports, or places close to the shore, where landings or transhipment operations of fishery products and port services referred to in Article 4(2) are permitted.

2 Access to port services and the conduct of landing or transhipment operations by third country fishing vessels shall be authorised only in designated ports.

^{F9} A fisheries administration must publish on a website that is accessible to the public a list of ports, or places close to the shore, designated under paragraph 1.]

^{F10}

Textual Amendments

F8 Words in Art. 5(1) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(7)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F9 Art. 5(3) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(7)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F10 Art. 5(4) omitted (31.12.2020) by virtue of [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(7)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Article 6

Prior notice

1 Masters of third country fishing vessels or their representatives shall notify the competent authorities of ^{F11} a fisheries administration when they wish to use a port or landing facility designated under Article 5] at least three working days before the estimated time of arrival at the port, of the following information:

- a vessel identification;
- b name of the designated port of destination and the purposes of the call, landing, transhipment or access to services;
- c fishing authorisation or, where appropriate, authorisation to support fishing operations or to tranship fishery products;
- d dates of the fishing trip;
- e estimated date and time of arrival at port;
- f the quantities of each species retained on board or, where appropriate, a negative report;
- g the zone or zones where the catch was made or where transhipment took place, whether in ^{F12} United Kingdom] waters, in zones under the jurisdiction or sovereignty of a third country or on the high seas;
- h the quantities for each species to be landed or transhipped.

Masters of third country fishing vessels or their representatives shall be exempted from notifying information contained in points (a), (c), (d), (g) and (h), where a catch

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certificate has been validated in accordance with Chapter III for the full catch to be landed or transhipped in the [F13United Kingdom].

2 The notification set out in paragraph 1 shall be accompanied by a catch certificate validated in accordance with Chapter III if the third country fishing vessel carries on board fishery products. The provisions laid down in [X1Article 13] on the recognition of catch documents or port State control forms which are part of catch documentation or port State control schemes adopted by regional fisheries management organisations shall apply *mutatis mutandis*.

3 [F14A fisheries administration may, by regulations,] exempt certain categories of third country fishing vessels from the obligation stipulated in paragraph 1 for a limited and renewable period, or make provision for another notification period taking into account, *inter alia*, the type of fishery product, the distance between the fishing grounds, landing places and ports where the vessels in question are registered or listed.

4 This Article shall apply without prejudice to special provisions set forth in fisheries agreements concluded between the [F15United Kingdom] and third countries.

Editorial Information

X1 Substituted by [Corrigendum to Council Regulation \(EC\) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations \(EEC\) No 2847/93, \(EC\) No 1936/2001 and \(EC\) No 601/2004 and repealing Regulations \(EC\) No 1093/94 and \(EC\) No 1447/1999 \(Official Journal of the European Union L 286 of 29 October 2008\)](#).

Textual Amendments

- F11** Words in Art. 6(1) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(8)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in Art. 6(1)(g) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(8)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F13** Words in Art. 6(1) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(8)(a)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in Art. 6(3) substituted (31.12.2020) by [The Common Fisheries Policy and Aquaculture \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/753\)](#), regs. 1, **28(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F15** Words in Art. 6(4) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(8)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Article 7

Authorisation

1 Without prejudice to point 5 of Article 37, a third country fishing vessel shall be granted authorisation to access the port only if the information set out in Article 6(1) is complete and, if the third country vessel carries on board fishery products, is accompanied by the catch certificate referred to in Article 6(2).

2 Authorisation to commence landing or transhipment operations in port shall be subject to a check to determine the completeness of the information submitted as prescribed in paragraph 1 and, where appropriate, to an inspection carried out in accordance with Section 2.

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3 By way of derogation to paragraphs 1 and 2 of this Article [F16a fisheries administration] may authorise port access and all or part of a landing in cases where the information set out in Article 6(1) is not complete or its check or verification is pending, but shall, in such cases, keep the fishery products concerned in storage under the control of the competent authorities. The fishery products shall only be released to be sold, taken over or transported once the information set out in Article 6(1) has been received or the checking or verification process is completed. If this process is not completed within 14 days of the landing, [F16a fisheries administration] may confiscate and dispose of the fishery products in accordance with [F17applicable law]. The cost of storage shall be borne by the operators.

Textual Amendments

- F16 Words in Art. 7(3) substituted (31.12.2020) by The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739), regs. 1, 9(9)(a); 2020 c. 1, Sch. 5 para. 1(1)
F17 Words in Art. 7(3) substituted (31.12.2020) by The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739), regs. 1, 9(9)(b); 2020 c. 1, Sch. 5 para. 1(1)

Article 8

Recording of landing or transhipment operations

1 Masters of third country fishing vessels or their representative shall submit to the authorities of [F18a fisheries administration, in circumstances when they use landing or transhipment facilities in the United Kingdom], if possible by electronic means prior to landing or transhipment operations, a declaration indicating the quantity of fishery products by species to be landed or transhipped, and the date and place of each catch. Masters and their representatives shall be held responsible for the accuracy of such declarations.

2 [F19A fisheries administration must] keep the originals of the declarations set out in paragraph 1, or a hard copy when transmitted electronically, for a period of three years or longer in accordance with national rules.

[F203 A fisheries administration may, by regulations, specify landing and transhipment declaration procedures and forms.

3A. Subject to paragraph 3B, the Secretary of State may, by regulations, specify landing and transhipment declaration procedures and forms.

3B. Where the exercise of the power to make regulations under paragraph 3 would be outside the jurisdiction of the Secretary of State under Article 1(7) of Regulation (EU) No 1380/2013, before making such regulations under the power in paragraph 3A the Secretary of State must obtain the consent of—

- (a) the Scottish Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(3) of that Regulation;
(b) the Welsh Ministers, to the extent that the exercise of the power would be within their jurisdiction under Article 1(4) of that Regulation;
(c) the Department of Agriculture, Environment and Rural Affairs, in Northern Ireland, to the extent that the exercise of the power would be within its jurisdiction under Article 1(5) of that Regulation.]

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Textual Amendments

- F18** Words in Art. 8(1) substituted (31.12.2020) by The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739), regs. 1, **9(10)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F19** Words in Art. 8(2) substituted (31.12.2020) by The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739), regs. 1, **9(10)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F20** Art. 8(3)-(3B) substituted for Art. 8(3) (31.12.2020) by The Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/753), regs. 1, **28(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F21** Art. 8(4) omitted (31.12.2020) by virtue of The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739), regs. 1, **9(10)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

SECTION 2

Port inspections

Article 9

General principles

1 [F22 A fisheries administration must] carry out inspections in [F23 its] designated ports of at least 5 % of landing and transhipment operations by third country fishing vessels each year [F24]. A fisheries administration may, by regulations, specify benchmarks for such inspections determined on the basis of risk management. Benchmarks specified in regulations made under this paragraph are] without prejudice to the higher thresholds adopted by regional fisheries management organisations.

2 The following fishing vessels shall be inspected in all cases:

- F25 a
- F26 b
- c fishing vessels identified F27... as presumed to have engaged in IUU fishing in accordance with Article 25;
- d fishing vessels appearing in a IUU vessel list adopted by a regional fisheries management organisation notified to [F28 the United Kingdom].

Textual Amendments

- F22** Words in Art. 9(1) substituted (31.12.2020) by The Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/753), regs. 1, **28(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F23** Word in Art. 9(1) substituted (31.12.2020) by The Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/753), regs. 1, **28(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F24** Words in Art. 9(1) substituted (31.12.2020) by The Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/753), regs. 1, **28(4)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F25** Art. 9(2)(a) omitted (31.12.2020) by virtue of The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739), regs. 1, **9(11)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F26** Art. 9(2)(b) omitted (31.12.2020) by virtue of The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739), regs. 1, **9(11)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

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- F27** Words in Art. 9(2)(c) omitted (31.12.2020) by virtue of [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(11)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F28** Words in Art. 9(2)(d) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(11)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Article 10

Inspection procedure

1 Officials in charge of inspections (officials) shall be able to examine all relevant areas, decks and rooms of the fishing vessel, catches processed or not, nets or other gear, equipment and any relevant documents which officials deem it necessary to verify in compliance with applicable laws, regulations or international management and conservation measures. Officials may also question persons deemed to have information on the matter subject to inspection.

2 Inspections shall involve the monitoring of the entire landing or transshipment operations and include a cross-check between the quantities by species recorded in the prior notice of landing and the quantities by species landed or transhipped.

3 Officials shall sign their inspection report in the presence of the master of the fishing vessel, who shall have the right to add or cause to be added any information that he considers relevant. Officials shall indicate in the logbook that an inspection has been made.

4 A copy of the inspection report shall be handed over to the master of the fishing vessel, who may forward it to the owner.

5 The master shall cooperate with and assist in the inspections of the fishing vessel and shall not obstruct, intimidate or interfere with the officials in the performance of their duties.

Article 11

Procedure in the event of infringements

1 If the information collected during the inspection provides evidence to the official to believe that a fishing vessel has engaged in IUU fishing in accordance with the criteria set out in Article 3, the official shall:

- a record the suspected infringement in the inspection report;
- b take all necessary action to ensure safekeeping of the evidence pertaining to such suspected infringement;
- c immediately forward the inspection report to the competent authority.

2 If the results of the inspection provide evidence that a third country fishing vessel has engaged in IUU fishing in accordance with the criteria set out in Article 3, [F29]a fisheries administration] shall not authorise such vessels to land or tranship their catch.

3 The [F30]fisheries administration must] immediately notify its decision not to authorise landing or transshipment operations taken in accordance with paragraph 2, accompanied by a copy of the inspection report, to F31... the competent authority of the flag [F32]state] of the inspected fishing vessel with a copy to the flag [F32]state] or [F32]states] of donor vessels where the inspected fishing vessel has engaged in transshipment operations. Where appropriate, a copy of the notification shall also be communicated to the Executive Secretary of the regional fisheries management organisation in whose area of competence the catch was made.

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[^{F334} Where the suspected breach has taken place in the high seas, and the United Kingdom is the port state, a fisheries administration must co-operate with the flag state in carrying out an investigation into it and, where appropriate, must apply the sanctions provided for under the law applying in the relevant part of the United Kingdom, under the condition that, in accordance with international law, that flag state has expressly agreed to transfer its jurisdiction. In addition, where the suspected breach has taken place in the maritime waters of a third country, a fisheries administration must also co-operate with the coastal state in carrying out an investigation into it and, where appropriate, must apply the sanctions provided for under the law applying in the relevant part of the United Kingdom, under the condition that, in accordance with international law, that coastal state has expressly agreed to transfer its jurisdiction.]

Textual Amendments

- F29** Words in Art. 11(2) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(12)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F30** Words in Art. 11(3) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(12)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F31** Words in Art. 11(3) omitted (31.12.2020) by virtue of [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(12)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F32** Word in Art. 9(3) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(12)(b)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F33** Art. 11(4) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(12)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Textual Amendments

- F1** Words in Ch. 2 heading substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

- C1** Ch. 2 applied (with modifications) (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) \(No. 2\) Regulations 2020 \(S.I. 2020/1599\)](#), regs. 1(3), **5**

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