
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2024 No.

The Sea Fisheries (Remote Electronic Monitoring and Regulation of Scallop Fishing) (Scotland) Regulations 2024

PART 3

Remote electronic monitoring for pelagic fishing boats

Interpretation of Part 3

13. In this Part—

“chilled sea water system” means any system in which sea water cooled by the addition of ice is used to preserve or transport fish,

“fishing trip” means any voyage of a relevant pelagic boat during which a relevant pelagic fishing operation is conducted and—

- (a) for a relevant Scottish pelagic boat, a fishing trip starts when the boat leaves a port and ends on arrival in a port,
- (b) for any other relevant pelagic boat, a fishing trip—
 - (i) starts when the boat—
 - (aa) leaves a port in Scotland, or
 - (bb) enters the Scottish zone, and
 - (ii) ends—
 - (aa) on arrival in a port in Scotland, or
 - (bb) when the boat leaves the Scottish zone,

“refrigerated sea water system” means any system in which sea water cooled by mechanical refrigeration is used to preserve or transport fish,

“relevant pelagic boat” means—

- (a) any fishing boat which—
 - (i) is 12 metres or more in length,
 - (ii) is equipped with at least one of a chilled sea water system, a refrigerated sea water system or freezer storage capabilities, and
 - (iii) deploys any kind of fishing net in the Scottish zone for the primary purpose of fishing for small pelagic species of fish, and
- (b) any Scottish fishing boat which—
 - (i) is 12 metres or more in length,
 - (ii) is equipped with at least one of a chilled sea water system, a refrigerated sea water system or freezer storage capabilities, and

(iii) deploys any kind of fishing net outwith the Scottish zone for the primary purpose of fishing for small pelagic species of fish,

“relevant pelagic fishing operation” means—

- (a) where any fishing boat deploys a fishing net of any kind in the Scottish zone for the primary purpose of fishing for small pelagic species of fish,
- (b) where any Scottish fishing boat deploys a fishing net of any kind outwith the Scottish zone for the primary purpose of fishing for small pelagic species of fish,

“relevant Scottish pelagic boat” means any relevant pelagic boat which is a Scottish fishing boat, and

“small pelagic species” includes mackerel, herring, horse mackerel, anchovy, sardine, blue whiting, argentines, sprat, and boarfish.

Requirements to install an REM system, submit specified information and undergo a remote inspection before the commencement of the rest of this Part

14.—(1) Before the commencement of the rest of this Part in accordance with regulation 1(2)(d), the Scottish Ministers may from time to time specify for the purposes of paragraph (2)(b) information and documentation, including drawings, plans and schematics, which must be submitted in writing to the Scottish Ministers in accordance with that paragraph.

(2) Before the commencement of the rest of this Part in accordance with regulation 1(2)(d), the master, the owner and the charterer (if any) of a relevant pelagic boat must—

- (a) ensure that an REM system which complies with the technical specifications specified by the Scottish Ministers under regulation 16(1) is installed on board the boat,
- (b) ensure that any information and documentation specified by the Scottish Ministers under paragraph (1) are submitted to the Scottish Ministers in writing,
- (c) ensure that the REM system installed on board the boat undergoes a remote inspection and co-operate with the Scottish Ministers for this purpose, and
- (d) following a remote inspection and with the prior written consent of the Scottish Ministers, ensure that the boat undertakes a fishing trip (a “system test trip”) under the remote supervision of the Scottish Ministers.

(3) Where, following a system test trip in accordance with paragraph (2)(d), the Scottish Ministers are satisfied that the REM system installed on board a relevant pelagic boat is fully functioning, the Scottish Ministers must confirm this in writing.

(4) Where any information or documentation submitted to the Scottish Ministers in accordance with paragraph (2)(b) changes in any respect after it has been submitted, then an updated version of that information or documentation must be submitted to the Scottish Ministers in writing no later than the end of the period of 7 working days beginning with the day after the day on which the change occurs.

Requirement to install a functioning REM system and related duties

15.—(1) An REM system which complies with the technical specifications specified by the Scottish Ministers under regulation 16(1) must be installed on board any relevant pelagic boat.

(2) The master, the owner and the charterer (if any) of a relevant pelagic boat must ensure that the REM system installed on board that boat is fully functional for the duration of any fishing trip.

(3) But paragraph (2) does not apply in the event of a technical failure or malfunction of an REM system—

- (a) which occurs during a fishing trip for which the Scottish Ministers have given prior written consent under paragraphs (3) or (4)(a) of regulation 19,
- (b) of the sort described in regulation 20, provided that the applicable processes set out in that regulation are complied with.

(4) The master, the owner and the charterer (if any) of a relevant pelagic boat must take all reasonable steps to arrange and maintain access for the Scottish Ministers to the data storage system owned, operated or hosted by or on behalf of the manufacturer of the REM system and the companion software to the REM system.

(5) The owner and the charterer (if any) of a relevant pelagic boat must pay in full any costs, charges and fees arising from or in connection with arranging and maintaining access for the Scottish Ministers to the data storage system and the companion software to the REM system in accordance with paragraph (4).

Technical specifications for REM systems

16.—(1) The Scottish Ministers may from time to time specify in a document published for the purposes of this Part the technical specifications for REM systems for relevant pelagic boats.

(2) The Scottish Ministers may, if they are satisfied that there is reasonable cause to do so, serve a written notice on any one or more of the master, the owner and the charterer (if any) of a relevant pelagic boat exempting an REM system installed on board that boat from any technical specification concerning automatic transmission of video recording data specified under paragraph (1).

(3) A written notice served under paragraph (2)—

- (a) may only relate to the relevant pelagic boat and fishing trip specified in it, and
- (b) may be subject to conditions.

Duties to retain and make accessible REM system data

17.—(1) The master, the owner and the charterer (if any) of a relevant pelagic boat must take all reasonable steps to ensure that all data recorded in relation to a fishing trip by an REM system installed on board the boat are—

(a) retained and stored throughout the 1 year period on at least one of—

- (i) the data storage system owned, operated or hosted by or on behalf of the manufacturer of the REM system, or
- (ii) the control box or storage box of the REM system, and

(b) made accessible to the Scottish Ministers on request during the 1 year period, including at such storage location for such period of time, and by using such means of transmitting the requested data, as the Scottish Ministers may specify.

(2) The Scottish Ministers may serve a written notice on any one or more of the master, the owner and the charterer (if any) of a relevant pelagic boat which exempts data specified in the notice from one or more of the duties in paragraph (1) with effect from the date specified in the notice.

(3) In paragraph (1), the “1 year period” means the period of 1 year beginning with—

(a) for REM data being stored on the data storage system, whichever is the later of—

- (i) the time at which the data are recorded, or
- (ii) the time at which automatic transmission of that data to that system is successfully completed in accordance with the technical specifications specified by the Scottish Ministers under regulation 16(1),

- (b) for REM data being stored on the control box or storage box of the REM system, the time at which the data are recorded.

Data transmission request notices

18.—(1) The Scottish Ministers may at any time serve a data transmission request notice on any one or more of the following—

- (a) the owner of a relevant pelagic boat,
- (b) the master of a relevant pelagic boat,
- (c) the charterer (if any) of a relevant pelagic boat.

(2) But the Scottish Ministers may not serve a data transmission request notice under paragraph (1) in respect to a relevant pelagic boat which is not a relevant Scottish pelagic boat at a time when the boat is located outwith Scotland and the Scottish zone.

(3) If the Scottish Ministers serve a data transmission request notice on any one or more of the persons listed in paragraph (1), the master, the owner and the charterer (if any) of the relevant pelagic boat must ensure that the requested data are transmitted in accordance with paragraph (4) to the data storage system identified in the notice no later than the end of the period of 72 hours beginning with the time at which the notice is received.

- (4) Any requested data must be transmitted in a manner which ensures that the data—
 - (a) cannot be altered in any way after they are recorded by the REM system, and
 - (b) are transmitted in a secure manner.

(5) In this regulation—

“data transmission request notice” means a written notice containing a request made by the Scottish Ministers to any one or more of the persons listed in paragraph (1) that any relevant data be transmitted to a data storage system identified in the notice and which is owned, operated or hosted by or on behalf of the manufacturer of the REM system, and

“relevant data” means any data in relation to a fishing trip recorded by an REM system installed on board the relevant pelagic boat in relation to which a data transmission request notice is served.

Requirements to submit specified information and undergo a remote inspection following a first installation or replacement of an REM system

19.—(1) The Scottish Ministers may from time to time specify for the purposes of this regulation information and documentation, including drawings, plans and schematics, which must be submitted in writing to the Scottish Ministers following a relevant event.

- (2) Before a relevant pelagic boat undertakes the first fishing trip following a relevant event—
 - (a) any information and documentation specified under paragraph (1) must be submitted to the Scottish Ministers in writing, and
 - (b) the REM system installed on board the boat must undergo a remote inspection.

(3) A relevant pelagic boat must not undertake the first fishing trip following a relevant event unless—

- (a) following a remote inspection, the Scottish Ministers have given prior written consent for the boat to undertake the first fishing trip (the “system test trip”), and
- (b) the system test trip is undertaken under the remote supervision of the Scottish Ministers for the purpose of assessing whether the REM system is fully functioning to the satisfaction of the Scottish Ministers.

(4) Where, following a system test trip undertaken in accordance with paragraph (3), the REM system installed on board a relevant pelagic boat is not fully functioning to the satisfaction of the Scottish Ministers, the boat must not undertake any further fishing trip unless—

- (a) the Scottish Ministers have given their prior written consent to that fishing trip, or
- (b) the REM system is fully functioning to the satisfaction of the Scottish Ministers.

(5) Where any information or documentation submitted to the Scottish Ministers in accordance with paragraph (2)(a) changes in any respect after it has been submitted, then an updated version of that information or documentation must be submitted to the Scottish Ministers in writing no later than the end of the period of 7 working days beginning with the day after the day on which the change occurs.

(6) In this regulation, “relevant event” means either of the following—

- (a) the first installation of an REM system on board a relevant pelagic boat, where this occurs on or after the date this regulation enters into force,
- (b) the replacement of an REM system installed on board a relevant pelagic boat, where this occurs on or after the date this regulation enters into force.

Technical failure or non-functioning of REM systems

20.—(1) In the event of a technical failure or non-functioning of the REM system installed on board a relevant pelagic boat which occurs before the boat starts a fishing trip, paragraph (2) applies.

(2) Where this paragraph applies, the boat must not leave the port or, as the case may be, enter the Scottish zone for the purpose of undertaking the first fishing trip after the technical failure or non-functioning until the REM system is fully functioning to the satisfaction of the Scottish Ministers.

(3) In the event that a technical failure or non-functioning of the REM system installed on board a relevant pelagic boat occurs during a fishing trip (the “first breakdown”), paragraphs (4) to (6) apply.

(4) The master of the relevant pelagic boat or their representative must notify the Scottish Ministers of the technical failure or non-functioning immediately after its detection.

(5) Following the end of the fishing trip during which the first breakdown occurred—

- (a) a relevant Scottish pelagic boat must not leave a port for the purpose of undertaking the first fishing trip after the first breakdown,
- (b) any other relevant pelagic boat must not leave a port in Scotland or, as the case may be, enter the Scottish zone for the purpose of undertaking the first fishing trip after the first breakdown,

unless the conditions in paragraph (6) are met.

(6) For the purposes of paragraph (5), the conditions are that—

- (a) the REM system installed on board the relevant pelagic boat has undergone a remote inspection, and
- (b) following a remote inspection, the REM system is fully functioning to the satisfaction of the Scottish Ministers.

(7) In the event that a technical failure or non-functioning of the REM system occurs during the first fishing trip following a fishing trip during which a first breakdown occurred (the “second breakdown”), paragraphs (8) to (11) apply.

(8) The master of the relevant pelagic boat or their representative must notify the Scottish Ministers of the technical failure or non-functioning immediately after its detection.

(9) The relevant pelagic boat must cease any relevant pelagic fishing operation immediately after a notification is made under paragraph (8).

- (10) Following the end of the fishing trip during which the second breakdown occurred—
- (a) a relevant Scottish pelagic boat must not leave a port for the purpose of undertaking the first fishing trip after the second breakdown,
 - (b) any other relevant pelagic boat must not leave a port in Scotland or, as the case may be, enter the Scottish zone for the purpose of undertaking the first fishing trip after the second breakdown,

unless the conditions in paragraph (11) are met.

- (11) For the purposes of paragraph (10), the conditions are that—
- (a) the REM system installed on board the relevant pelagic boat has undergone a remote inspection, and
 - (b) following a remote inspection, the REM system is fully functioning to the satisfaction of the Scottish Ministers.

Prohibitions on interfering with REM systems

21. A person must not, in relation to an REM system installed on board a relevant pelagic boat, in any way—

- (a) alter, at any time before automatic transmission in accordance with the technical specifications specified by the Scottish Ministers under regulation 16(1), the data recorded by the REM system,
- (b) alter, at any time before being made accessible to the Scottish Ministers in fulfilment of a request made under regulation 17(1)(b), the data recorded by the REM system,
- (c) alter, at any time before transmission in accordance with regulation 18(3) in fulfilment of a data transmission request notice, the data recorded by the REM system,
- (d) obstruct or block—
 - (i) the field of view of the digital cameras, or
 - (ii) the functioning of the winch sensors,
 - of the REM system during a fishing trip,
- (e) interrupt any power supply to the REM system otherwise than for the purpose of repairing or replacing that system,
- (f) remove the REM system otherwise than for the purpose of repairing or replacing that system,
- (g) destroy, damage, render inoperative or otherwise interfere with the REM otherwise than for the purpose of repairing or replacing that system,
- (h) communicate a false geographical position for a relevant pelagic boat.

Offences, penalties and jurisdiction

22.—(1) The master, the owner and the charterer (if any) of a relevant pelagic boat each commit an offence if any of the requirements of regulations 14(4), 15(1) to (4), and 17 to 20 are contravened.

(2) The owner and the charterer (if any) of a relevant pelagic boat each commit an offence if any of the requirements of regulation 15(5) are contravened.

(3) If any person contravenes regulation 21, that person, along with the master, the owner and the charterer (if any) each commit an offence.

(4) But no offence is committed—

- (a) in relation to a particular requirement, if the Scottish Ministers serve on the master, the owner or the charterer (if any) of a relevant pelagic boat a written notice under this Part exempting, as the case may be, the REM system installed on board that boat, or data recorded by that REM system in relation to a fishing trip, from that requirement,
 - (b) in respect of a fishing trip carried out with the prior written consent of the Scottish Ministers under regulation 19,
 - (c) in relation to any technical failure or non-functioning of an REM system which occurs during a fishing trip in terms of regulation 20(3) (a first breakdown) and is notified to the Scottish Ministers in accordance with regulation 20(4), or
 - (d) in relation to any technical failure or non-functioning of an REM system which occurs during a fishing trip in terms of regulation 20(7) (a second breakdown) where—
 - (i) the technical failure or malfunction is notified to the Scottish Ministers in accordance with regulation 20(8), and
 - (ii) regulation 20(9) is complied with.
- (5) Section 12 of the Sea Fish (Conservation) Act 1967 (offences by directors, partners, etc)(1) applies to offences under this Part as it applies to offences under any provision of sections 1 to 6 of that Act.
- (6) Section 11 of the Sea Fish (Conservation) Act 1967 (penalties for offences)(2) applies to offences under this Part as it applies to offences under section 5(1) of that Act.
- (7) Proceedings for an offence under this Part may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in Scotland.
- (8) In this regulation, “a contravention” includes a failure to comply and “contravene” shall be construed accordingly.

(1) 1967 c. 84. Section 12 was amended by section 200 of the Marine and Coastal Access Act 2009 (c. 23).

(2) To which relevant amendments were made by paragraph 3(b)(ii), (iv) and (v) of schedule 1 of the Aquaculture and Fisheries (Scotland) Act 2007 (asp 12), paragraph 4 of schedule 15 of the Marine and Coastal Access Act 2009, and paragraph 6(7)(a) (i), (b)(ii) and (vi), and (d) of schedule 4 of the Fisheries Act 2020 (c. 22).