

SCOTTISH STATUTORY INSTRUMENTS

**2010 No. 334**

**SEA FISHERIES**

**The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010**

*Made* - - - - 16th September 2010  
*Laid before the Scottish Parliament* - - - - 21st September 2010  
*Coming into force* - - 31st October 2010

The Scottish Ministers make the following Order in exercise of the powers conferred by section 30(2) of the Fisheries Act 1981 <sup>M1</sup> and paragraph 1A of Schedule 2 to the European Communities Act 1972 <sup>M2</sup> and all other powers enabling them to do so.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 <sup>M3</sup> and it appears to the Scottish Ministers that it is expedient for any reference to Council Regulation (EC) No. 1224/2009 <sup>M4</sup> to be construed as a reference to that Regulation as amended from time to time.

**Marginal Citations**

- M1** 1981 c.29 (“the 1981 Act”); relevant modifications are contained in the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 (S.I. 1999/1748), article 5 and the Scotland Act 1998 (Modification of Functions) Order 1999 (S.I. 1999/1756), articles 3, 5 and 6. 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 \(c.46\)](#). Definitions of “enforceable Community restriction”, “enforceable Community obligation” and “the Ministers” are contained in section 30(3) of the 1981 Act. Section 30 of the 1981 Act has effect in relation to Scotland as modified by section 30(5) of that Act, inserted by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraph 68(5)(b).
- M2** 1972 (c.68). Paragraph 1A of Schedule 2 was inserted by the [Legislative and Regulatory Reform Act 2006 \(c.51\)](#) (“the 2006 Act”), section 28 and amended by Part 1 of the Schedule to the [European Union \(Amendment\) Act 2008 \(c.7\)](#) (“the 2008 Act”).
- M3** Section 2(2) was amended by the Scotland Act 1998, Schedule 8, paragraph 15(3), which was amended by the 2006 Act, section 27(4). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and Part 1 of the Schedule to the 2008 Act.
- M4** O.J. No. L 343, 22.12.09, p.1.

### Citation, commencement and extent

1.—(1) This Order may be cited as the Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010 and comes into force on 31st October 2010.

(2) Subject to paragraph (3), this Order extends to Scotland and the Scottish zone only.

(3) Insofar as it extends beyond Scotland and the Scottish zone, it does so only as a matter of Scots law.

(4) Nothing in paragraph (2) is to be treated as prejudicing the effect of section 30(2A) of the Fisheries Act 1981<sup>M5</sup> in the rest of the United Kingdom in relation to, or for purposes incidental to, any provision which creates an offence.

#### Marginal Citations

**M5** Section 30(2A) was inserted by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999, Schedule 2, paragraph 68(5)(a).

### Interpretation

2.—(1) In this Order—

“British sea-fishery officer” has the same meaning as in section 7 of the Sea Fisheries Act 1968<sup>M6</sup>;

F1  
...

“Control Regulation” means Council Regulation (EC) No. 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No. 847/96, (EC) No. 2371/2002, (EC) No. 811/2004, (EC) No. 768/2005, (EC) No. 2115/2005, (EC) No. 2166/2005, (EC) No. 388/2006, (EC) No. 509/2007, (EC) No. 676/2007, (EC) No. 1098/2007, (EC) No. 1300/2008, (EC) No. 1342/2008 and repealing Regulations (EEC) No. 2847/93, (EC) No. 1627/94 and (EC) No. 1966/2006<sup>M7</sup>, as amended from time to time;

“equivalent provision” means any provision in any other Order made under section 30(2) of the Fisheries Act 1981 for the purpose of implementing any [F2recording] and reporting requirement or [F3third country] recording and reporting requirement—

- (a) which extends to any part of the United Kingdom and has equivalent effect to a provision in this Order; and
- (b) proceedings in respect of which may be commenced in any place in the United Kingdom by virtue of section 30(2A) of the Fisheries Act 1981;

F4  
...

F5  
...

F6  
...

“fishery product” includes fish;

“logbook” has the same meaning as in [F7[F8Articles 14 and 15] of the Control Regulation (as read with Regulation 404/2011)] and for the purposes of this Order, any reference to a logbook, declaration or document includes, in addition to a logbook, declaration or document in writing any—

- (a) map, plan, graph or drawing;
- (b) photograph;

- (c) data, however reproduced, communicated via a satellite-based vessel monitoring system established under Article 9 of the Control Regulation;
- (d) data, however reproduced, communicated to a fisheries monitoring centre established under Article 9(7) of the Control Regulation;
- (e) disk, tape, sound track or other device on which sounds or other data (not being visual images) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced; and
- (f) film (including microfilm), negative, tape, disk or other device on which one or more visual images are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced;

[<sup>F9</sup>“recording and reporting requirement” means a provision of the Control Regulation or Regulation 404/2011 specified in column 1 of schedule 1, as read with any qualifying words relating to the provision in that column and any detailed rules specified in the corresponding entry in column 2 of schedule 1,]

F10 ...

F11 ...

F12 ...

F13 ...

F14 ...

[<sup>F15</sup>“Regulation 404/2011” means Commission Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy [<sup>F16</sup>, as last amended by Commission Implementing Regulation (EU) 2015/1962];]

F17 ...

“relevant offence” means an offence under article <sup>F18</sup>... 5 or 6 of this Order, or under any equivalent provision;

“Scotland” and “the Scottish zone” have the same meaning as in section 126(1) of the Scotland Act 1998 <sup>M8</sup>;

“Scottish fishing boat” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 <sup>M9</sup> and whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging;

[<sup>F19</sup>“third country” means any country other than [<sup>F20</sup>the United Kingdom];]

[<sup>F21</sup>“third country fishing boat” means a fishing vessel as defined in Article 4 of the Control Regulation, which flies the flag of, or is registered in, a third country.]

[<sup>F22</sup>“third country recording and reporting requirement” means—

- (i) a provision of the Control Regulation or Regulation 404/2011 specified in entries 1(aa) to (e) or 2(a) to (e) of column 1 of schedule 1, as read with any qualifying words relating to the provisions in that column and any detailed rules specified in the corresponding entry in column 2 of schedule 1. <sup>F23</sup>...
- (ii) <sup>F23</sup>...]

(2) In this Order, any reference to a numbered—

- (a) article is, except where otherwise indicated, a reference to the article so numbered in this Order;
- (b) paragraph is, except where otherwise indicated, a reference to the paragraph so numbered in the article in which it appears in this Order; and
- (c) Schedule is a reference to the Schedule to this Order so numbered.

<sup>F24</sup>(3) .....

(4) Any information provided to any authority for the purpose of any provision of this Order is to be treated as also provided for the purpose of any equivalent provision.

[<sup>F25</sup>(5) Any expression used, and not defined, in this Order that is used in the Control Regulation or Regulation 404/2011, or that is used in both of those Regulations, has the meaning it has in the Regulation or Regulations in which it is used.]

#### Textual Amendments

- F1** Words in art. 2(1) omitted (31.12.2020) by virtue of The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(2)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Word in art. 2(1) substituted (31.12.2020) by The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(2)(a)(ii)(aa)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F3** Words in art. 2(1) substituted (31.12.2020) by The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(2)(a)(ii)(bb)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in art. 2(1) omitted (31.12.2020) by virtue of The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(2)(a)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in art. 2(1) omitted (31.12.2020) by virtue of The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(2)(a)(iv)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in art. 2(1) omitted (31.12.2020) by virtue of The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(2)(a)(v)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in art. 2(1) substituted (5.10.2015) by The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), **28(2)(d)**
- F8** Words in art. 2(1) substituted (31.12.2020) by The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(2)(a)(vi)**; 2020 c. 1, Sch. 5 para. 1(1)
- F9** Words in art. 2(1) inserted (31.12.2020) by The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(2)(a)(vii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in art. 2(1) omitted (5.10.2015) by virtue of The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), **28(2)(e)**
- F11** Words in art. 2(1) omitted (5.10.2015) by virtue of The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), **28(2)(f)**
- F12** Words in art. 2(1) omitted (28.3.2019) by virtue of The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(a), **4(2)(a)(ii)**
- F13** Words in art. 2(1) omitted (5.10.2015) by virtue of The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), **28(2)(g)**
- F14** Words in art. 2(1) omitted (28.3.2019) by virtue of The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(a), **4(2)(a)(iii)**
- F15** Words in art. 2(1) inserted (5.10.2015) by The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), **28(2)(h)**
- F16** Words in art. 2(1) inserted (28.3.2019) by The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(a), **4(2)(a)(iv)**
- F17** Words in art. 2(1) omitted (31.12.2020) by virtue of Fisheries Act 2020 (c. 22), s. 54(3)(f), **Sch. 11 para. 16(1)(a)(i)** (with s. 50, Sch. 4 para. 31)
- F18** Word in art. 2(1) omitted (5.10.2015) by virtue of The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), **28(2)(i)**

- F19** Words in art. 2(1) inserted (28.3.2019) by *The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24)*, regs. 1(2)(a), **4(2)(a)(vi)**
- F20** Words in art. 2(1) substituted (31.12.2020) by *The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24)*, regs. 1(2)(b), **8(2)(a)(viii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F21** Words in art. 2(1) substituted (28.3.2019) by *The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24)*, regs. 1(2)(a), **4(2)(a)(vii)**
- F22** Words in art. 2(1) inserted (31.12.2020) by *The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24)*, regs. 1(2)(b), **8(2)(a)(ix)**; 2020 c. 1, Sch. 5 para. 1(1)
- F23** Words in art. 2(1) omitted (31.12.2020) by virtue of *Fisheries Act 2020 (c. 22)*, s. 54(3)(f), **Sch. 11 para. 16(1)(a)(ii)** (with s. 50, Sch. 4 para. 31)
- F24** Art. 2(3) omitted (31.12.2020) by virtue of *The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24)*, regs. 1(2)(b), **8(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F25** Art. 2(5) substituted (31.12.2020) by *Fisheries Act 2020 (c. 22)*, s. 54(3)(f), **Sch. 11 para. 16(1)(b)** (with s. 50, Sch. 4 para. 31)

---

### Marginal Citations

- M6** 1968 c.77; section 7 is relevantly amended by the *Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999*, Schedule 2, paragraph 48(3); the 1981 Act, section 46(2); and the *Marine and Coastal Access Act 2009 (c.23)*, section 239 and Schedule 22, Part 6.
- M7** O.J. No. L 343, 22.12.09, p.1. The Control Regulation replaces Regulation 2847/93, although some of its provisions come into force in stages (either on specific dates or pending implementation of EU detailed rules).
- M8** 1998 c.46. The sea within British fishery limits (that is, the limits set by or under section 1 of the *Fishery Limits Act 1976 (c.86)*) which is adjacent to Scotland is determined by the *Scottish Adjacent Waters Boundaries Order 1999 (S.I. 1999/1126)*.
- M9** 1995 c.21.

### Competent authority and methods of reporting

3.—(1) The Scottish Ministers are the competent authority to which information must be reported for the purpose of any [<sup>F26</sup>recording] and reporting requirement or [<sup>F27</sup>third country] recording and reporting requirement where the information relates to—

- (a) fishing activity or fishing operations undertaken by—
  - (i) Scottish fishing boats wherever they may be; and
  - (ii) any other fishing boat within the Scottish zone; and
- (b) fishery products that are landed, stored, transported or first sold in Scotland.

(2) Where an [<sup>F28</sup>recording] and reporting requirement or [<sup>F29</sup>third country] recording and reporting requirement requires the information specified in paragraph (1) to be—

- (a) submitted in written form, or sent other than by electronic means, that information must be submitted or sent to the Scottish Ministers by such methods as they may from time to time require <sup>M10</sup>;
- (b) sent by electronic means, that information must be transmitted to the Scottish Ministers—
  - (i) in relation to Scottish fishing boats, and for the purposes of Articles 15, 17, 22 and 24 of the Control Regulation, by an electronic logbook software system of a type approved by the Scottish Ministers <sup>M11</sup>; and
  - (ii) in relation to registered buyers, registered auctions and other authorised bodies or persons responsible for the first sale of fishery products in Scotland, and for the purposes of [<sup>F30</sup>Articles 63 and 67 of the Control Regulation], by an electronic

reporting system of a type specified by the Scottish Ministers on the form provided by them for the purposes of article 4.

#### Textual Amendments

- F26** Word in art. 3(1) substituted (31.12.2020) by [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(b), **8(3)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F27** Words in art. 3(1) substituted (31.12.2020) by [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(b), **8(3)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F28** Word in art. 3(2) substituted (31.12.2020) by [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(b), **8(3)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F29** Words in art. 3(2) substituted (31.12.2020) by [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(b), **8(3)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F30** Words in art. 3(2)(b)(ii) substituted (7.3.2011) by [The Sea Fishing \(EU Recording and Reporting Requirements\) \(Scotland\) Amendment Order 2011 \(S.S.I. 2011/59\)](#), arts. 1, **3**

#### Marginal Citations

- M10** Details of the methods for submitting information to the Scottish Ministers in written form, and for sending information to the Scottish Ministers other than by electronic means, will be available from 31st October 2010 on the Scottish Government's (Marine and Fisheries) website which can be accessed via the following web-link:  
<http://www.scotland.gov.uk/Topics/marine/Sea-Fisheries/Regulation>.
- M11** Details of approved electronic logbook software systems (ELSS) are published on the Scottish Government's (Marine and Fisheries) website and can be accessed via the following web-link:  
<http://www.scotland.gov.uk/Topics/marine/Sea-Fisheries/Regulation/approveduk>.

### Register of fish buyers and sellers with the prescribed annual financial turnover

<sup>F31</sup>4. ....

#### Textual Amendments

- F31** Art. 4 omitted (5.10.2015) by virtue of [The Sea Fishing \(EU Control Measures\) \(Scotland\) Order 2015 \(S.S.I. 2015/320\)](#), arts. 1(1), **28(4)**

### [<sup>F32</sup>Recording] and reporting requirements

5.—[<sup>F33</sup>(1) Where there is, in respect of—

- (a) any Scottish fishing boat wherever it may be; or
- (b) any fishery product, premises or vehicle in Scotland,

a contravention of any recording and reporting requirement, the persons specified in the corresponding entry in column 4 of schedule 1 are each guilty of an offence.]

(2) A person is guilty of an offence if that person, in purported compliance with any [<sup>F34</sup>recording] and reporting requirement, knowingly or recklessly records or reports information which is false in a material particular where that information is recorded or reported—

- (a) in relation to a Scottish fishing boat; or
- (b) in Scotland or in the Scottish zone.

(3) For the purposes of [<sup>F35</sup>Articles 62, 63, 66 and 67] of the Control Regulation, the specified annual financial turnover of [<sup>F36</sup>£175,000] is calculated [<sup>F37</sup>for a calendar year using the annual financial turnover for a person for the calendar year <sup>F38</sup>...].

**Textual Amendments**

- F32** Word in art. 5 heading substituted (31.12.2020) by [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(b), **8(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F33** Art. 5(1) substituted (31.12.2020) by [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(b), **8(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F34** Word in art. 5(2) substituted (31.12.2020) by [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(b), **8(4)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F35** Words in art. 5(3) substituted (7.3.2011) by [The Sea Fishing \(EU Recording and Reporting Requirements\) \(Scotland\) Amendment Order 2011 \(S.S.I. 2011/59\)](#), arts. 1, **5**
- F36** Sum in Art. 5(3) substituted (31.12.2020) by [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(b), **8(4)(d)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F37** Words in art. 5(3) substituted (5.10.2015) by [The Sea Fishing \(EU Control Measures\) \(Scotland\) Order 2015 \(S.S.I. 2015/320\)](#), arts. 1(1), **28(5)**
- F38** Words in art. 5(3) omitted (31.12.2020) by virtue of [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(b), **8(4)(d)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

**EU (third country) recording and reporting requirements**

[<sup>F39</sup>6.—(1) Where there is, in respect of—

- (a) any third country fishing boat within the Scottish zone; or
- (b) the entry into the Scottish zone by any third country fishing boat,

a contravention of any third country recording and reporting requirement, the persons specified in the corresponding entry in column 4 of schedule 2 are each guilty of an offence.

<sup>F40</sup>(2) .....

(3) A person is guilty of an offence if that person, in purported compliance with a third country recording and reporting requirement, knowingly or recklessly records or reports information which is false in a material particular where that information is recorded or reported in Scotland or in the Scottish zone.]

**Textual Amendments**

- F39** Art. 6 substituted (31.12.2020) by [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(b), **8(5)**; 2020 c. 1, Sch. 5 para. 1(1)
- F40** Art. 6(2) omitted (31.12.2020) by virtue of [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(f), **Sch. 11 para. 16(1)(c)** (with s. 50, Sch. 4 para. 31)

**Penalties**

7.—(1) A person guilty of a relevant offence is liable—

- (a) on summary conviction, to a fine not exceeding £50,000; or
- (b) on conviction on indictment, to a fine.

(2) The court which convicts a person of a relevant offence, other than an offence under article 4(4) or (5), may order the forfeiture of any fish in respect of which the offence was committed.

(3) Subject to the following provisions of this article, any person found guilty of a relevant offence <sup>F41</sup>... is liable on summary conviction to a fine not exceeding the value of the fish in respect of which the offence was committed.

(4) A person is not liable to a fine under paragraph (3) if, under paragraph (2), the court orders the forfeiture of the fish in respect of which that offence was committed.

(5) The court may not order the forfeiture of any fish under paragraph (2), if a fine is imposed under paragraph (3).

(6) Subject to paragraphs (4) and (5), any fine to which a person is liable under paragraph (3) is in addition to any other penalty (whether pecuniary or otherwise) to which that person is liable in respect of that offence under this article or under an equivalent provision.

---

#### Textual Amendments

**F41** Words in art. 7(3) omitted (5.10.2015) by virtue of [The Sea Fishing \(EU Control Measures\) \(Scotland\) Order 2015 \(S.S.I. 2015/320\)](#), arts. 1(1), **28(7)**

#### Recovery of fines

**8.—**(1) Without prejudice to section 221 of the Criminal Procedure (Scotland) Act 1995 <sup>M12</sup>, where a court has imposed a fine on any person in respect of an offence under this Order, that court may for the purpose of recovering the fine—

- (a) order any boat involved in the commission of the offence and its gear and catch to be detained for a period not exceeding 3 months from the date—
  - (i) of the conviction or until the fine is paid;
  - (ii) the order is renewed for a further period (not exceeding 3 months); or
  - (iii) on which a warrant is issued under sub-paragraph (b),
 whichever first occurs; or
- (b) subject to paragraph (2), at any time after the imposition of the fine, issue a warrant for the arrestment and sale of any boat involved in the commission of the offence, its gear and catch.

(2) The court must not issue a warrant under paragraph (1)(b) without first affording the owner of the boat, gear or catch liable to be included in the warrant an opportunity to be heard on the issue of such warrant.

(3) A warrant issued under paragraph (1)(b), whatever the amount of the fine imposed, may be executed in the same manner as if the proceedings were on an extract decree of the sheriff in a summary cause.

(4) Where in relation to a fine in respect of an offence under this Order a transfer of fine order under section 222 of the Criminal Procedure (Scotland) Act 1995 <sup>M13</sup>, section 90 of the Magistrates' Courts Act 1980 <sup>M14</sup> or article 95 of the Magistrates' Courts (Northern Ireland) Order 1981 <sup>M15</sup> specifies a court of summary jurisdiction in Scotland, this article applies as if the fine were a fine imposed by that court.

---

#### Marginal Citations

**M12** [1995 c.46](#); section 221 was amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), schedule 5, paragraph 23.

- M13** Section 222 was amended by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), schedule 1, paragraph 20(3).
- M14** 1980 c.43; section 90 was amended by the Criminal Justice and Public Order Act 1994 (c.33), section 47(2) and the Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), article 50.
- M15** S.I. 1981/1675 (N.I. 26).

### **Powers of British sea-fishery officers in relation to fishing boats**

**9.—(1)** For the purpose of enforcing article 5 or 6, or any equivalent provision, a British sea-fishery officer may exercise the powers conferred by paragraphs (2), (3), (4) and (5) in relation to any—

- (a) Scottish fishing boat wherever it may be; or
- (b) any other fishing boat within the Scottish zone.

(2) A British sea-fishery officer may go on board the boat, with or without persons assigned to assist in the duties of that officer, and may require the boat to stop and do anything else which will facilitate either the boarding of, or the disembarkation from, the boat.

(3) A British sea-fishery officer may require the attendance of the master and other persons on board the boat and may make any examination and inquiry which appears to that officer to be necessary for the purposes of enforcement referred to in paragraph (1) and, in particular, may—

- (a) search for fishery products or fishing gear on the boat and may examine any such products on the boat and the equipment of the boat, including the fishing gear, and require persons on board the boat to do anything which appears to that officer to be necessary for facilitating the examination;
- (b) require any person on board the boat to produce any document relating to the boat, to any fishing operations ancillary thereto or to the persons on board, which is in the custody or possession of that person;
- (c) for the purpose of ascertaining whether a relevant offence has been committed, search the boat for any such document and may require any person on board the boat to do anything which appears to that officer to be necessary for facilitating the search;
- (d) inspect, take copies of and retain in the possession of that officer while any search, examination or inspection provided for under this article is being carried out, any such document produced to that officer or found on board;
- (e) require the master, or any person for the time being in charge of the boat, to render all such documents on a computer system into visible and legible form and to produce them in a form in which they may be taken away; and
- (f) where the boat is one in relation to which that officer has reason to suspect that a relevant offence has been committed, seize and detain any such document produced to that officer or found on board, for the purpose of enabling the document to be used as evidence in proceedings for the offence,

but nothing in sub-paragraph (f) permits any document required by law to be carried on board the boat to be seized and detained except while the boat is detained in a port.

(4) Where it appears to a British sea-fishery officer that a relevant offence has at any time been committed the officer may—

- (a) take, or require the master of the boat in relation to which the offence took place to take, the boat and its crew to the port which appears to the officer to be the nearest convenient port; and
- (b) detain, or require the master to detain, the boat in the port.

(5) If such an officer detains or requires the detention of a boat, the officer must serve notice in writing on the master stating that the boat is to be detained until the notice is withdrawn by the service on the master of a further notice in writing signed by a British sea-fishery officer.

### **Powers of British sea-fishery officers on land**

**10.**—(1) For the purpose of enforcing article <sup>F42</sup>... 5 or 6, or any equivalent provision, a British sea-fishery officer may—

- (a) enter and inspect at any reasonable time any premises used for carrying on any business in connection with the operation of fishing boats or any connected or ancillary activities or with the treatment, storage or sale of fishery products;
- (b) take with the officer such other persons as appear to the officer to be necessary and any equipment or materials;
- (c) examine any fishery product on the premises and require persons on the premises to do anything which appears to that officer to be necessary for facilitating the examination;
- (d) carry out at such premises such other inspections or tests as may reasonably be necessary;
- (e) require any person not to remove, or cause to be removed, any fishery product from such premises for such a period as may be reasonably necessary for the purposes of establishing whether a relevant offence has at any time been committed;
- (f) require any person on the premises to produce any documents which are in the custody or possession of that person relating to the catching, landing, transportation, transhipment, sale or disposal of any fishery product;
- (g) for the purpose of ascertaining whether a relevant offence has been committed, search the premises for any such document and may require any person on the premises to do anything which appears to that officer to be necessary for facilitating the search;
- (h) inspect and take copies of any such document produced or found on the premises;
- (i) require any appropriate or responsible person to render any such documents on a computer system into a visible and legible form and to produce them in a form in which they may be taken away; and
- (j) if the officer has reason to suspect that a relevant offence has been committed, seize and detain any such document produced or found on the premises, for the purposes of enabling the document to be used as evidence in proceedings for the offence.

(2) The provisions of paragraph (1) apply in relation to any land used in connection with any of the activities described in paragraph (1)(a), and in respect of any vehicle which a British sea-fishery officer has reasonable cause to believe is being used to transport fishery products, as they apply in relation to premises and, in the case of a vehicle, include the power to require the vehicle to stop at any time and, if necessary, direct the vehicle to some other place to facilitate inspection.

(3) If a sheriff by information on oath is—

- (a) satisfied that there are reasonable grounds to believe that any documents or other items which a British sea-fishery officer has power under this article to inspect are on any premises and that their inspection is likely to disclose evidence of the commission of a relevant offence; and
- (b) also satisfied either—
  - (i) that admission to the premises has been, or is likely to be, refused and that notice of intention to apply for a warrant has been given to the occupier;
  - (ii) that an application for admission or the giving of such notice would defeat the object of the entry; or

- (iii) that the premises are unoccupied, or the occupier is temporarily absent, and it would defeat the object of the entry to await the return of the occupier,

the sheriff may by signed warrant, valid for a period of no more than 1 month, authorise a British sea-fishery officer to enter the premises, if need be by using reasonable force, accompanied by such persons as appear to the officer to be necessary.

#### Textual Amendments

- F42** Word in art. 10(1) omitted (5.10.2015) by virtue of [The Sea Fishing \(EU Control Measures\) \(Scotland\) Order 2015 \(S.S.I. 2015/320\)](#), arts. 1(1), **28(8)**

### Power of British sea-fishery officers to seize fish

**11.** Any British sea-fishery officer may seize—

- (a) in Scotland or in the Scottish zone; or
- (b) on board a Scottish fishing boat wherever it may be,

any fishery product (including any receptacle which contains such product) in respect of which the officer has reasonable grounds to suspect that a relevant offence <sup>F43</sup>... has been committed.

#### Textual Amendments

- F43** Words in art. 11 omitted (5.10.2015) by virtue of [The Sea Fishing \(EU Control Measures\) \(Scotland\) Order 2015 \(S.S.I. 2015/320\)](#), arts. 1(1), **28(9)**

### Protection of officers

**12.** A British sea-fishery officer, or a person assisting such an officer by virtue of article 9(2) or 10(1)(b) or (3), is not liable in any civil or criminal proceedings for anything done in the purported exercise of the powers conferred by article 9, 10 or 11 if the court is satisfied that—

- (a) the act was done in good faith;
- (b) there were reasonable grounds for doing it; and
- (c) it was done with reasonable skill and care.

### Obstruction of officers

**13.—(1)** A person is guilty of an offence if that person—

- (a) fails without reasonable excuse to comply with any requirement imposed by a British sea-fishery officer under the powers conferred on such officers by article 9 or 10;
  - (b) without reasonable excuse prevents, or attempts to prevent, any other person from complying with such requirement;
  - (c) conceals, tampers with or disposes of evidence relating to an investigation;
  - (d) assaults an officer who is exercising any of the powers conferred by this Order; or
  - (e) obstructs any such officer in the exercise of the powers conferred by article 9, 10 or 11.
- (2) Any person guilty of an offence under paragraph (1) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment, to a fine.

### Offences by bodies corporate

14.—(1) Where—

- (a) an offence under this Order has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
  - (i) a relevant individual; or
  - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association, is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
  - (i) a director, manager, secretary or other similar officer of the body;
  - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner;
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

### Admissibility in evidence of logbooks and other documents

15.—(1) Any—

- (a) logbook kept under [<sup>F44</sup>Article 14] or sent under Article 15 of the Control Regulation;
- (b) declaration submitted under [<sup>F45</sup>Article 23(3)] or sent under Article 24 of the Control Regulation;
- (c) declaration submitted under [<sup>F46</sup>Article 21(4)] or sent under Article 22 of the Control Regulation;
- [<sup>F47</sup>(d) sales note submitted under Article 62, or sent under Article 63, of the Control Regulation;
- (e) declaration submitted under Article 66, or sent under Article 67, of the Control Regulation;
- (f) document drawn up under Article 68 of the Control Regulation; or]
- (g) document containing required information received by a fisheries monitoring centre established under Article 9(7) of the Control Regulation,

is, in any proceedings for a relevant offence, to be received in evidence without being produced or sworn to by any witness and is, unless the contrary is shown, conclusive evidence as to the matters stated therein.

(2) For the purpose of paragraph (1)(g), “required information” means data relating to—

- (a) a fishing boat's identification;
- (b) a fishing boat's course and speed;
- (c) the most recent geographical position of the fishing boat expressed in degrees and minutes of longitude and latitude; and
- (d) the date and time of the fixing of that position,

as communicated via a satellite-based vessel monitoring system established under Article 9 of the Control Regulation.

### Textual Amendments

- F44** Words in art. 15(1)(a) substituted (5.10.2015) by *The Sea Fishing (EU Control Measures) (Scotland) Order 2015* (S.S.I. 2015/320), arts. 1(1), **28(10)(a)**
- F45** Words in art. 15(1)(b) substituted (5.10.2015) by *The Sea Fishing (EU Control Measures) (Scotland) Order 2015* (S.S.I. 2015/320), arts. 1(1), **28(10)(b)**
- F46** Words in art. 15(1)(c) substituted (5.10.2015) by *The Sea Fishing (EU Control Measures) (Scotland) Order 2015* (S.S.I. 2015/320), arts. 1(1), **28(10)(c)**
- F47** Art. 15(1)(d)-(f) substituted (7.3.2011) by *The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Amendment Order 2011* (S.S.I. 2011/59), arts. 1, **6**

### Revocations and savings

16.—(1) The following instruments are revoked—

- (a) the *Sea Fishing (Enforcement of Community Control Measures) (Scotland) Order 2000* (“the 2000 Order”) <sup>M16</sup>;
- (b) the *Sea Fishing (Enforcement of Community Control Measures) (Scotland) Amendment Order 2005* <sup>M17</sup>; and
- (c) the *Sea Fishing (Enforcement of Community Control Measures) (Scotland) Amendment Order 2009* <sup>M18</sup>.

(2) Notwithstanding paragraph (1), the instruments referred to in that paragraph continue to have effect for the purposes of any investigation or legal proceedings relating to any acts or omissions which occurred before 31st October 2010 and constitute an offence under the 2000 Order.

### Marginal Citations

- M16** S.S.I. 2000/7; relevant amending instruments are S.S.I. 2005/552 and 2009/304.
- M17** S.S.I. 2005/552.
- M18** S.S.I. 2009/304.

St Andrew's House,  
Edinburgh

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

**Changes to legislation:** There are currently no known outstanding effects for the The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010. (See end of Document for details)

SCHEDULE 1

Articles 2(1) and (3), 5(1) and 6(2)

[<sup>F48</sup>RECORDING] AND REPORTING REQUIREMENTS,  
CONTRAVENTION OF WHICH CONSTITUTES AN OFFENCE

**Textual Amendments**  
**F48** Word in sch. 1 heading substituted (31.12.2020) by The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

<i>Column 1</i>	<i>Column 2</i>	<i>F49</i>	<i>Column 4</i>
<i>Provision</i>	<i>Detailed Rules</i>	<i>F49</i>	<i>Persons liable</i>
1. The Control Regulation			
[ <sup>F50</sup> (a)] Article 14(1) to (7) and (9), subject to Article 15(1) and (5).	Articles 29 to 33, and 48 to 51 of Regulation 404/2011.	<sup>F49</sup> ...	The master; the master's agent.
(a) Article 15(1) and (2), subject to Article 15(3).	[ <sup>F52</sup> Article 47 of Regulation 404/2011].	<sup>F49</sup> ...	The master, the owner, the charterer (if any) and the agent of any of these persons.
...		<sup>F49</sup> ...	
(b) Article 17(1) and (4).		<sup>F49</sup> ...	The master, the owner, the charterer (if any) and the agent of any of these persons.
		<sup>F49</sup> ...	
<sup>F53</sup> <sup>F53</sup>		<sup>F49</sup> ...	<sup>F53</sup>
...			...
		<sup>F49</sup> ...	
[ <sup>F54</sup> (a)] Article 21(1) to (5), subject to Articles 34, 48 to	Articles 29 to 32, and 48 to	<sup>F49</sup> ...	The master of the transshipping fishing boat; the

15(5) and 22(1).	and 50 and 52 and 53 of Regulation 404/2011.	master of the receiving fishing boat; either master's agent.
	F49 . . .	
(d) Article 22(1) F55	[ <sup>F56</sup> Article 47(2) of Regulation 404/2011].	The master, the owner, the charterer (if any) and the agent of any of these persons.
....	F49 . . .	
[ <sup>F57</sup> Article 23(1) (a)]	Articles 29 to 32, 35, 48 to 50, 54 and 55 of Regulation 404/2011.	The master; the master's agent.
	F49 . . . ]	
(e) Article 24(1) F58		The master, the owner, the charterer (if any) and the agent of any of these persons.
....	F49 . . .	
	F49 . . .	
(f) Article 28(1).	F49 . . .	The master, the owner, the charterer (if any) and the agent of any of these persons.
	F49 . . .	
(g) Article 62(1), as read with Article 64 and subject to Article 65(2).	F49 . . .	The registered buyer, the registered auction or other authorised body or person responsible for the first sale of the fisheries products.
	F49 . . .	

**Changes to legislation:** There are currently no known outstanding effects for the *The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010*. (See end of Document for details)

(h) Article 62(5), as read with Article 64 and subject to Article 65(2).	F49 ...	The master, the owner, the charterer (if any) and the agent of any of these persons.
[ <sup>F59</sup> (h)] Article 63(1), Article 90 as read with and 91(1) Articles 60(5) of and 64, and Regulation subject to 404/2011. Article 65.	F49 ... F49 ...	The registered buyer; the registered auction; any other authorised body or person responsible for the first sale of fisheries products.
(i) Article 66(1) and (3).	F49 ...] F49 ...	The registered buyer, the registered auction or other authorised body or person responsible for the first sale of the fisheries products.
[ <sup>F60</sup> (g)] Article 67(1).	F49 ... F49 ...	The registered buyer, the registered auction or other authorised body or person responsible for the first sale of the fisheries products.
(k) Article 68(1), (3), (5) and (7), subject to Article 68(2) and (8).	F49 ... F49 ...	The transporter of fisheries products. (“Transporter” means the owner of, the hirer of, and the person responsible for, any vehicle used to transport fisheries products.)
	F49 ...]	

[<sup>F61</sup>2. Regulation  
404/2011

(a) Article 39(1) and (2) F49  
. . .  
F49  
. . .  
F49  
. . .

The master; the owner; the charterer (if any); the agent of any of these persons.

(b) Article 39(4) F49  
. . .  
F49  
. . .

The master; the owner; the charterer (if any); the agent of any of these persons.

(c) Article 40(3) F49  
. . .  
F49  
. . .

The master; the owner; the charterer (if any); the agent of any of these persons.

F62 F62 F62  
. . . . .  
. . .  
F62  
. . .

3. Regulation  
2847/93

- (a)<sup>F63</sup>  
. . .
- (b)<sup>F63</sup>  
. . .
- (c)<sup>F63</sup>  
. . .
- (d)<sup>F64</sup>  
. . .

**Textual Amendments**

**F49** Sch. 1 Table Column 3 omitted (31.12.2020) by virtue of [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(b), **8(6)(b)(i)**; 2020 c. 1, **Sch. 5 para. 1(1)**

**Changes to legislation:** There are currently no known outstanding effects for the The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010. (See end of Document for details)

- F50** Sch. 1 entry 1(aa) inserted (5.10.2015) by The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), 28(11)(a), **Sch. Pt. 1**
- F51** Words in Sch. 1 entry 1(a) omitted (28.3.2019) by virtue of The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(a), **4(4)(a)(i)**
- F52** Words in Sch. 1 entry 1(a) substituted (5.10.2015) by The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), **28(11)(b)**
- F53** Words in sch. 1 Table omitted (31.12.2020) by virtue of The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(6)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F54** Sch. 1 entry 1(ca) inserted (5.10.2015) by The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), 28(11)(c), **Sch. Pt. 1**
- F55** Words in sch. 1 Table omitted (31.12.2020) by virtue of The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(6)(b)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F56** Words in Sch. 1 entry 1(d) substituted (5.10.2015) by The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), **28(11)(d)**
- F57** Sch. 1 entry 1(da) inserted (5.10.2015) by The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), 28(11)(e), **Sch. Pt. 1**
- F58** Words in sch. 1 Table omitted (31.12.2020) by virtue of The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(6)(b)(iv)**; 2020 c. 1, Sch. 5 para. 1(1)
- F59** Sch. 1 entry 1(ha) substituted (5.10.2015) by The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), 28(11)(f), **Sch. Pt. 1**
- F60** Sch. 1 entry 1(j)(k) inserted (7.3.2011) by The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Amendment Order 2011 (S.S.I. 2011/59), arts. 1, 7(b), **Sch. 1 Pt. 2**
- F61** Sch. 1 entry 2 substituted (5.10.2015) by The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), 28(11)(g), **Sch. Pt. 2**
- F62** Words in sch. 1 Table omitted (31.12.2020) by virtue of The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(6)(b)(v)**; 2020 c. 1, Sch. 5 para. 1(1)
- F63** Sch. 1 entry 3(a)-(c) omitted (5.10.2015) by virtue of The Sea Fishing (EU Control Measures) (Scotland) Order 2015 (S.S.I. 2015/320), arts. 1(1), **28(11)(h)**
- F64** Sch. 1 entry 3(d) omitted (7.3.2011) by virtue of The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Amendment Order 2011 (S.S.I. 2011/59), arts. 1, **7(d)**

SCHEDULE 2

Articles 2(1) and (3) and 6(1)

[<sup>F65</sup>THIRD COUNTRY] RECORDING AND REPORTING REQUIREMENTS,  
CONTRAVENTION OF WHICH CONSTITUTES AN OFFENCE

- Textual Amendments**
- F65** Words in sch. 2 heading substituted (31.12.2020) by The Fisheries (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/24), regs. 1(2)(b), **8(7)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

<i>Column 1 Provision</i>	<i>F66 ...</i>	<i>F67 ...</i>	<i>Column 4 Persons Liable</i>
1.			
<b>F68</b>			
...			
<b>F68</b>		<b>F68</b>	<b>F68</b>
...		...	...

**Changes to legislation:** There are currently no known outstanding effects for the The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010. (See end of Document for details)

		F68 ...	
F68 ...	F68 ...	F68 ...	F68 ...
		F68 ...	
		F68 ...	
2.			
[ <sup>F69</sup> Regulation 1224/2009]			
(a) [ <sup>F70</sup> Article 14(8)].		F67 ...	The master, the owner, the charterer (if any) and the agent of any of these persons.
		F67 ...	

#### Textual Amendments

- F66** Words in Sch. 2 omitted (28.3.2019) by virtue of [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(a), **4(5)(e)**
- F67** Sch. 2 Table Column 3 omitted (31.12.2020) by virtue of [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(b), **8(7)(b)(i)**; 2020 c. 1, **Sch. 5 para. 1(1)**
- F68** Words in sch. 2 Table omitted (31.12.2020) by virtue of [Fisheries Act 2020 \(c. 22\)](#), s. 54(3)(f), **Sch. 11 para. 16(1)(d)** (with s. 50, Sch. 4 para. 31)
- F69** Words in Sch. 2 entry 2 substituted (28.3.2019) by [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(a), **4(5)(d)(i)**
- F70** Words in Sch. 2 entry 2(a) substituted (28.3.2019) by [The Fisheries \(EU Exit\) \(Scotland\) \(Amendment\) Regulations 2019 \(S.S.I. 2019/24\)](#), regs. 1(2)(a), **4(5)(d)(ii)**

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order enforces the EU obligations relating to sea fishing contained in—

- Council Regulation ([EEC](#)) No. 2847/93 (“Regulation 2847/93”), Articles 6, 8(1), 11(1) and 13;
- Council Regulation ([EC](#)) No. 1006/2008, Articles 22 and 23(1);
- Commission Regulation ([EC](#)) No. 1077/2008 (“Regulation 1077/2008”), Articles 2(1), 5(1) and (4), 10(1) and (3), 11(3) and 12(3) and (4);
- Council Regulation ([EC](#)) No. 1224/2009, Articles 15(1) and (2), 17(1) and (4), 18(1), 22(1), 24(1), 28(1), 62(1) and (5) and 66(1) and (3); and
- Commission Regulation (EU) No. 201/2010, Article 8 and Annex II.

**Changes to legislation:** *There are currently no known outstanding effects for the The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010. (See end of Document for details)*

These are requirements to record and report information relating to fishing activity undertaken by EU fishing boats wherever they may be, and by third country fishing boats within EU waters, and to the landing and first sale of fishery products in the EU.

The Order forms part of the law of Scotland only. It applies to: Scottish fishing boats wherever they may be; EU and third country fishing boats within the Scottish zone, and registered buyers and sellers of fishery products in Scotland.

The Order designates the Scottish Ministers as the competent authority to which information must be reported where it relates to fishing activity undertaken by Scottish fishing boats, or in the Scottish zone, or to fishery products landed, stored, transported or first sold in Scotland. It also specifies the methods by which such information must be reported to the Scottish Ministers (article 3).

The Order provides for the Scottish Ministers to maintain, and publish on an official website, a register of all registered buyers and sellers responsible for the first sale of fishery products in Scotland which have the prescribed annual financial turnover (as defined in the Order) for the purposes of Articles 2(1) and 5(1) and (4) of Regulation 1077/2008. It requires registered buyers and sellers to inform the Scottish Ministers annually whether or not they have the prescribed annual financial turnover and makes it an offence to fail to comply with that requirement or to provide materially false information in purported compliance with that requirement (article 4).

The Order makes it an offence to contravene any EU recording and reporting requirement or EU (third country) recording and reporting requirement (as defined in the Order), which are specified in Schedules 1 and 2 respectively, or to record or report materially false information in purported compliance with any requirement (articles 5 and 6).

The Order specifies the penalties for a relevant offence (as defined in the Order) (article 7) and makes provision for the recovery of fines imposed in respect of a relevant offence or an offence under article 13 of the Order (article 8).

For the purpose of enforcing articles 4, 5 and 6 of the Order, or any equivalent provision, the Order confers on British sea-fishery officers powers to: go on board fishing boats; search for and examine fishery products and equipment; require the production of documents; search for and seize documents; take a boat to the nearest convenient port; enter and inspect premises; stop and search vehicles transporting fish, and seize fish (articles 9 to 11).

The Order provides for the protection of British sea-fishery officers in the exercise of their powers under the Order (article 12). It creates offences of, and specifies the penalties for, obstructing such officers (article 13).

The Order makes provision in relation to offences committed by a body corporate, a Scottish partnership or other unincorporated association (article 14) and in relation to the admissibility in evidence of logbooks and other documents (article 15).

The Order revokes the Sea Fishing (Enforcement of Community Control Measures) (Scotland) Order 2000 (S.S.I. 2000/7) (“the 2000 Order”) and those instruments amending the 2000 Order (article 16). Articles 4 and 5 of this Order re-enact the following provisions of the 2000 Order: articles 2A and 3(3) and (4), as well as article 3(1) and (2) so far as it applies to Articles 6, 8(1), 11(1) and 13 of Regulation 2847/93 (referred to in entries 2(b), (d), (h) and (j) in the Schedule to the 2000 Order).

The Order makes savings in relation to the 2000 Order and its amending instruments. These provide that, despite the commencement of this Order on 31st October 2010, the 2000 Order and its amending instruments continue to apply for the purposes of any investigation or legal proceedings relating to any acts or omissions which occurred before that date and constitute an offence under the 2000 Order (article 16).

A Regulatory Impact Assessment in relation to this Order has been prepared and placed in the Scottish Parliament Information Centre (“SPICe”). Copies can be obtained from Marine Scotland, 1B South, Victoria Quay, Edinburgh, EH6 6QQ.

**Changes to legislation:**

There are currently no known outstanding effects for the The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010.