
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010 (“the principal Order”).

^{M1M2M3M4M5}The principal Order enforces certain EU obligations contained in Council Regulations (EEC) No. 2847/93 (“Regulation 2847/93”), (EC) No. 1006/2008 and (EC) No. 1224/2009 (“the Control Regulation”) and Commission Regulations (EC) No. 1077/2008 (“Regulation 1077/2008”) and (EU) No. 201/2010. These require the recording and reporting of information relating to fishing activity undertaken in EU waters, or by EU fishing boats, and the landing and first sale of fishery products in the EU.

This Order amends the principal Order so as to enforce the following provisions of the Control Regulation, which came into force on 1st January 2011—

- (a) Articles 63 and 67, which replace Article 5(1) and (4) of Regulation 1077/2008 and require registered fish buyers and sellers with an annual financial turnover in first sales of fishery products of [euro]200,000 or more (previously [euro]400,000 or more) to record and report sales note and take-over declaration data electronically; and
- (b) Article 68, which replaces and largely re-enacts Article 13 of Regulation 2847/93 to require transporters of fishery products to draw up and submit a transport document in certain circumstances.

This Order amends the following provisions of the principal Order—

- (a) articles 3(2)(b)(ii) and 15(1)(d) to (f) (relating to methods of reporting data and the admissibility in evidence of logbooks and other documents respectively), to replace references to Article 5(1) and (4) of Regulation 1077/2008 and Article 13 of Regulation 2847/93 with references to Articles 63, 67 and 68 of the Control Regulation respectively (articles 3 and 6 of this Order);
- (b) articles 4(1) and (3) and 5(3) (relating to the financial threshold for the requirement to record and report sales note and take-over declaration data electronically), to revise the prescribed annual financial turnover (defined in the principal Order) to [euro]200,000 or more, and to specify how that threshold is calculated, for the purposes of Articles 63 and 67 of the Control Regulation (articles 4 and 5 of this Order); and
- (c) Schedule 1 (specifying those EU recording and reporting requirements, contravention of which constitutes an offence), to omit entries 2(a) and (b) and 3(d) (relating to Article 5(1) and (4) of Regulation 1077/2008 and Article 13 of Regulation 2847/93 respectively) and to make it an offence to contravene Article 63, 67 or 68 of the Control Regulation (punishable by a fine on conviction on indictment, and by a maximum fine of £50,000 on summary conviction) (article 7 of, and Schedule 1 to, this Order).

This Order also amends the Sea Fishing (Transitional EU Technical Conservation Measures) (Scotland) Order 2010 (“S.S.I. 2010/100”) and the Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2010 (“S.S.I. 2010/238”) so as to—

- (a) update references in article 12(1) of S.S.I. 2010/100 and article 14(1) of S.S.I. 2010/238 (relating to the admissibility in evidence of logbooks and other documents) in consequence of Article 5(1) and (4) of Regulation 1077/2008 and Article 13 of Regulation 2847/93 being replaced by Articles 63, 67 and 68 of the Control Regulation respectively (article 8 of, and paragraphs 1(2) and 2(3) of Schedule 2 to, this Order); and

Changes to legislation: There are currently no known outstanding effects for the *The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Amendment Order 2011*. (See end of Document for details)

- (b) ^{M6M7} update references to EU legislation in article 2(1) and (4) of S.S.I. 2010/238 in consequence of the provisions in Annex IIA to Council Regulation (EU) No. 23/2010 being replaced by, and re-enacted in, Annex IIA to Council Regulation (EU) No. 57/2011 (article 8 of, and paragraph 2(2) of Schedule 2 to, this Order).

No Business and Regulatory Impact Assessment has been prepared for this instrument as it has no impact on the cost of business.

Changes to legislation:

There are currently no known outstanding effects for the The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Amendment Order 2011.