

2024 No. 165

SEA FISHERIES

CONSERVATION OF SEA FISH

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

Made - - - - *6th June 2024*

Coming into force

for the purpose of regulation 1(2)(a) *7th June 2024*

for the purpose of regulation 1(2)(b) *17th June 2024*

for the purpose of regulation 1(2)(c) *7th September 2025*

for the purpose of regulation 1(2)(d) *7th March 2026*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraph 1(1)(b) and (c) of schedule 8 of the Fisheries Act 2020^(a) and all other powers enabling them to do so.

In accordance with section 51(4)(b) and paragraph 5(2)(c) of schedule 8 of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

In accordance with paragraph 5(1) of schedule 8 of that Act, the Scottish Ministers have consulted with the Secretary of State, the Welsh Ministers, the Northern Ireland department, and such other persons likely to be affected by these Regulations as the Scottish Ministers consider appropriate.

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Sea Fisheries (Remote Electronic Monitoring and Regulation of Scallop Fishing) (Scotland) Regulations 2024.

(2) These Regulations come into force as follows—

^(a) 2020 c. 22. For relevant provisions specifying the scope of the powers to make regulations under paragraph 1 of schedule 8 of the Fisheries Act 2020, see, in particular, section 51(1) and paragraphs 1(6)(b), 4(1)(a), 4(2), 4(3) and 4(6) of schedule 8 of that Act.

- (a) Part 1 of these Regulations and regulations 4, 6(1), 8(1) and (6), 13, 14(1), 16(1), and 19(1) and (6) come into force on 4 June 2024 or, if these Regulations have not been made by 3 June 2024, on the day after the day on which these Regulations are made,
 - (b) the rest of Part 2 and the whole of Part 4 of these Regulations come into force on 17 June 2024,
 - (c) regulations 14(2) to (4), 15(4) and (5) and 16(2) and (3) come into force on 7 September 2025, and
 - (d) the rest of these Regulations come into force on 7 March 2026.
- (3) Subject to paragraph (4), these Regulations extend to Scotland and the Scottish zone only.
- (4) So far as these Regulations extend beyond Scotland and the Scottish zone, they do so only as a matter of Scots law.

General interpretation

2. In these Regulations—

“companion software to the REM system” means any software provided by or on behalf of the manufacturer of an REM system which is capable of synchronising the winch sensor, vessel positioning system device and video recording data outputs from the REM system along a single timeline and of displaying the data in an integrated interface, including in the form of graphs, maps and videos,

“data storage system” means any server, cloud computing service or any other means of receiving and storing the data recorded by an REM system,

“REM system” means remote electronic monitoring system,

“remote electronic monitoring system” means a system used to monitor sea fishing,

“remote inspection” means an assessment, carried out remotely by the Scottish Ministers, of whether an REM system installed on board a fishing boat complies with the applicable requirements of these Regulations, including the applicable technical specifications specified by the Scottish Ministers under these Regulations,

“specify” means specify in writing, including in any documentation published or otherwise provided by the Scottish Ministers and “specified” shall be construed accordingly,

“video recording” means any recording, on any medium, from which a moving image may by any means be produced,

“working day” means any day other than a Saturday, a Sunday or a day which, under the Banking and Financial Dealings Act 1971(a), is a bank holiday in Scotland,

“written consent” means consent in writing, and

“writing” includes electronic communications within the meaning of section 15 (general interpretation) of the Electronic Communications Act 2000(b), which have been recorded and are consequently capable of being reproduced and “written” shall be construed accordingly.

Service of notices

3. Section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010(c) (service of documents) applies to the service of notices under these Regulations as it applies to the service of documents for the purposes of that Act.

(a) 1971 c. 80 (“the 1971 Act”). Subject to any proclamation made under section 1(2) of the 1971 Act in any year, paragraph 2 of schedule 1 of that Act sets out the bank holidays in Scotland. Paragraph 2 of schedule 1 of the 1971 Act was amended by section 1 of the St Andrew’s Day Bank Holiday (Scotland) Act 2007 (asp 2).

(b) 2000 c. 7. Section 15 was amended by paragraph 158 of schedule 17 of the Communications Act 2003 (c. 21).

(c) 2010 asp 10.

PART 2

Remote electronic monitoring for fishing boats deploying scallop dredges

Interpretation of Part 2

4. In this Part—

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

- (a) for a relevant Scottish scallop boat, a fishing trip starts when the boat leaves a port and ends on arrival in a port,
- (b) for any other relevant scallop 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,

“relevant scallop boat” means—

- (a) any fishing boat which deploys scallop dredges in the Scottish zone, and
- (b) any Scottish fishing boat which deploys scallop dredges outwith the Scottish zone,

“relevant scallop dredge operation” means—

- (a) where any fishing boat deploys scallop dredges in the Scottish zone,
- (b) where any Scottish fishing boat deploys scallop dredges outwith the Scottish zone,

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

“scallop” means a bivalve mollusc of the *Pectinidae* family, and

“scallop dredge” means an appliance with a rigid framed mouth which is towed through the water and is manufactured, adapted, used or intended for use for the purpose of fishing for scallops.

Requirement to install a functioning REM system and related duties

5.—(1) An REM system which complies with the technical specifications specified by the Scottish Ministers under regulation 6(1) must be installed on board any relevant scallop boat.

(2) The master, the owner and the charterer (if any) of a relevant scallop 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 8,
- (b) of the sort described in regulations 9 and 10, provided that the applicable processes set out in those regulations are complied with.

(4) The master, the owner and the charterer (if any) of a relevant scallop 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 scallop 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

6.—(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 scallop 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 scallop 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 scallop boat and fishing trip specified in it, and
- (b) may be subject to conditions.

Duties to retain and make accessible REM system data

7.—(1) The master, the owner and the charterer (if any) of a relevant scallop 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 scallop 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 6(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.

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

8.—(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 scallop 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 scallop 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 scallop 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 scallop 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 scallop boat, where this occurs on or after the date this regulation enters into force.

Technical failure or non-functioning of REM systems

9.—(1) This regulation applies in the event of a technical failure or non-functioning of the REM system installed on board a relevant scallop boat.

(2) But this regulation does not apply to—

- (a) a fishing trip which is a system test trip in terms of regulation 8(3),
- (b) a fishing trip undertaken with the prior written consent of the Scottish Ministers under regulation 8(4)(a),
- (c) a technical failure or non-functioning of a winch sensor to which regulation 10 applies.

(3) Paragraph (4) applies in the event of a technical failure or non-functioning of the REM system installed on board a relevant scallop boat which occurs before the boat starts a fishing trip.

(4) 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.

(5) In the event that a technical failure or non-functioning of the REM system installed on board a relevant scallop boat occurs during a fishing trip (the “first breakdown”), paragraphs (6) to (8) apply.

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

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

- (a) a relevant Scottish scallop boat must not leave a port for the purpose of undertaking the first fishing trip after the first breakdown,
- (b) any other relevant scallop 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 (8) are met.

- (8) For the purposes of paragraph (7), the conditions are that—
- (a) the REM system installed on board the relevant scallop 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.

(9) In the event that a technical failure or non-functioning of the REM system installed on board a relevant scallop boat occurs during the first fishing trip following a fishing trip during which a first breakdown occurred (the “second breakdown”), paragraphs (10) to (13) apply.

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

(11) The relevant scallop boat must cease any relevant scallop dredge operation immediately after a notification is made under paragraph (10).

(12) Following the end of the fishing trip during which the second breakdown occurred—

- (a) a relevant Scottish scallop boat must not leave a port for the purpose of undertaking the first fishing trip after the second breakdown,
- (b) any other relevant scallop 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 (13) are met.

(13) For the purposes of paragraph (12), the conditions are that—

- (a) the REM system installed on board the relevant scallop 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.

Technical failure or non-functioning of a winch sensor forming part of an REM system

10.—(1) This regulation applies in the event of a technical failure or non-functioning of a winch sensor forming part of the REM system installed on board a relevant scallop boat.

(2) But this regulation does not apply to a—

- (a) a fishing trip which is a system test trip in terms of regulation 8(3),
- (b) a fishing trip undertaken with the prior written consent of the Scottish Ministers under regulation 8(4)(a).

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

(4) The master of the relevant scallop boat must ensure that the winch sensor is repaired so that it is fully functioning to the satisfaction of the Scottish Ministers by the end of the 28 day period.

(5) During the 28 day period—

- (a) a relevant Scottish scallop boat may leave a port for the purpose of undertaking a fishing trip,
- (b) any other relevant scallop boat may leave a port in Scotland or, as the case may be, enter the Scottish zone for the purpose of undertaking a fishing trip,
- (c) a relevant scallop boat may continue a fishing trip which started before the 28 day period began,
despite the winch sensor not being fully functional, where the condition in paragraph (6) is met.

(6) The condition is that the digital cameras and vessel positioning system device forming part of the REM system installed on board the relevant scallop boat are fully functioning throughout the duration of the fishing trip.

(7) Following the end of the 28 day period—

- (a) a relevant Scottish scallop boat must not leave a port for the purpose of undertaking the first fishing trip after the end of the 28 day period,
- (b) any other relevant scallop 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 end of the 28 day period,

unless the winch sensor is fully functioning to the satisfaction of the Scottish Ministers.

(8) In this regulation, “28 day period” means the period of 28 days beginning with whichever is the earlier of—

- (a) the time at which a technical failure or malfunction of a winch sensor is notified to the Scottish Ministers in accordance with paragraph (3), or
- (b) the time at which the Scottish Ministers notify the owner of a relevant scallop boat of a technical failure or malfunction of a winch sensor.

Prohibitions on interfering with REM systems

11. A person must not, in relation to an REM system installed on board a relevant scallop 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 6(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 7(1)(b), the data recorded by the REM system,
- (c) 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,
- (d) interrupt any power supply to the REM system otherwise than for the purpose of repairing or replacing that system,
- (e) remove the REM system otherwise than for the purpose of repairing or replacing that system,
- (f) destroy, damage, render inoperative or otherwise interfere with the REM system otherwise than for the purpose of repairing or replacing that system,
- (g) communicate a false geographical position for a relevant scallop boat.

Offences, penalties and jurisdiction

12.—(1) The master, the owner and the charterer (if any) of a relevant scallop boat each commit an offence if any of the requirements of regulations 5(1) to (4) and 7 to 10 are contravened.

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

(3) If any person contravenes regulation 11, 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 scallop 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 8,

- (c) in relation to any technical failure or non-functioning of an REM system which occurs during a fishing trip in terms of regulation 9(5) (a first breakdown) and is notified to the Scottish Ministers in accordance with regulation 9(6), 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 9(9) (a second breakdown) where—
 - (i) the technical failure or malfunction is notified to the Scottish Ministers in accordance with regulation 9(10), and
 - (ii) regulation 9(11) is complied with.

(5) Section 12 of the Sea Fish (Conservation) Act 1967 (offences by directors, partners, etc)(a) 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)(b) 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.

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,

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

(b) 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).

- (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)(a) 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)(b) 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.

PART 4

Regulation of Scallop Fishing

The Regulation of Scallop Fishing (Scotland) Order 2017

23.—(1) The Regulation of Scallop Fishing (Scotland) Order 2017(c) is amended as follows.

(2) For article 4 (restrictions on number of scallop dredges)(d), substitute—

“Restrictions on tow bars and number of scallop dredges

4.—(1) Subject to paragraph (2), a fishing boat—

- (a) must not deploy at any time in Scottish inshore waters or any other part of the territorial sea of the United Kingdom adjacent to Scotland—
 - (i) more than 8 scallop dredges from each of the port and starboard sides of the fishing boat;
 - (ii) more than 16 scallop dredges in total;
 - (iii) any tow bar with a total length exceeding 7.5 metres; or
 - (iv) more than 2 tow bars;
- (b) must not deploy at any time in any other part of the Scottish zone—
 - (i) more than 14 scallop dredges from each of the port and starboard sides of the fishing boat; or
 - (ii) more than 28 scallop dredges in total; and

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

(b) 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).

(c) S.S.I. 2017/127, to which relevant amendments are made by the Fisheries Act 2020 (c. 22).

(d) Article 4 was amended by paragraph 27(4) of schedule 2 of the Fisheries Act 2020.

- (c) when undertaking a single fishing trip for king scallops within the Scottish zone, in the course of which the fishing boat deploys scallop dredges in Scottish inshore waters or any other part of the territorial sea of the United Kingdom adjacent to Scotland and in any other part of the Scottish zone, must not deploy at any time—
 - (i) more than 8 scallop dredges from each of the port and starboard sides of the fishing boat;
 - (ii) more than 16 scallop dredges in total;
 - (iii) any tow bar with a total length exceeding 7.5 metres; or
 - (iv) more than 2 tow bars.

(2) A fishing boat is exempt from the restrictions in paragraph (1)(a) in so far as they apply to that part of the territorial sea of the United Kingdom adjacent to Scotland which is not within Scottish inshore waters, if and so long as the following conditions are complied with—

- (a) the fishing boat has fished for king scallops at least once at any time during the reference period in any part of the territorial sea of the United Kingdom adjacent to Scotland other than in Scottish inshore waters and while so fishing at any time during the reference period the fishing boat deployed either 9 or 10 scallop dredges from each of the port and starboard sides of the fishing boat while a remote electronic monitoring system was installed on board; and
- (b) while fishing for king scallops in any part of the territorial sea of the United Kingdom adjacent to Scotland other than in Scottish inshore waters, the fishing boat does not deploy at any time—
 - (i) more than 10 scallop dredges from each of the port and starboard sides of the fishing boat; or
 - (ii) more than 20 scallop dredges in total.

(3) For the purposes of paragraph (2), “remote electronic monitoring system” means a remote electronic monitoring system which includes—

- (a) a control box or storage box which is capable of housing and storing software and data—
 - (i) consisting of recorded images from digital cameras and recorded data from winch sensors and a global positioning system device;
 - (ii) which is capable of storing a minimum of 1000 hours of recorded data; and
 - (iii) which automatically over-writes the recorded data when the maximum data capacity is reached;
- (b) a minimum of 2 digital cameras, each of which—
 - (i) produces images of at least 1080 pixels per frame;
 - (ii) is capable of visually recording fishing and related activities, including all movements related to the setting and hauling of fishing gear; and
 - (iii) has a minimum IP Rating of IP66;
- (c) winch sensors which are—
 - (i) connected to the winches by which fishing gear can be deployed;
 - (ii) activated when the winches are operated; and
 - (iii) linked to the digital cameras in such a way that clear recorded images from the point at which the winches are operated can be readily retrieved;
- (d) a global positioning system device which automatically stores in the control box or storage box, at intervals of a least once every 10 seconds, the following information—
 - (i) the fishing boat’s unique identifier;

- (ii) the most recent geographical position of the fishing boat, using co-ordinates of latitude and longitude on the World Geodetic System 1984 Datum^(a);
- (iii) the date and time of the fixing of each geographical position of the fishing boat; and
- (iv) the speed and course of the fishing boat at that time;
- (e) a means of enabling the master to view the recorded data in real time on board the fishing boat on which the system is installed; and
- (f) a means of allowing a British sea-fishery officer—
 - (i) from a position inside the wheelhouse of the fishing boat, to extract data held in the control box or storage box; and
 - (ii) to view recorded data on the system from a remote location.

(4) For the purposes of this article—

“IP Rating” means ingress protection rating as defined in international standard IEC 60529, setting out degrees of protection by enclosures against harmful ingress of water^(b);

“the reference period” means the period beginning with 1 January 2018 and ending with 31 December 2020; and

“tow bar” means any device or appliance which is capable of being used for the purpose of fixing or attaching a scallop dredge to a fishing boat for the purpose of enabling such a dredge to be towed by the fishing boat and the length of a tow bar is to be measured in accordance with paragraph (5).

(5) For the purposes of this article, the length of a tow bar is measured by measuring the length of the bar, including those parts of the bar which extend over the wheels, skids or any other devices at each end of the bar which are designed to facilitate its movement.”.

(3) Omit article 5 (exemption from the restrictions in article 4)^(c).

(4) Omit article 6 (requirement to install a functioning remote electronic monitoring system)^(d).

MAIRI GOUGEON
A member of the Scottish Government

St Andrew’s House,
Edinburgh
6th June 2024

(a) The World Geodetic System 1984 Datum is defined at paragraph 2.1 of the United States National Imagery and Mapping Agency Technical Report TR8350.2, third edition, amendment 1 of 3rd January 2000 entitled “Department of Defense World Geodetic System 1984”.

(b) Edition 2.2: International Electrotechnical Commission, 2013.

(c) Article 5 was amended by paragraph 27(5) of schedule 2 of the Fisheries Act 2020.

(d) Article 6 was amended by paragraph 27(6) of schedule 2 of the Fisheries Act 2020.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations place new requirements on scallop and pelagic fishing boats in respect of remote electronic monitoring systems (“REM systems”) and amend and partially revoke the Regulation of Scallop Fishing (Scotland) Order 2017.

Part 2 of these Regulations makes provision for REM system requirements for scallop fishing boats and Part 3 for pelagic fishing boats. The provisions apply to fishing trips in the Scottish zone and, for Scottish fishing boats, to fishing trips wherever they are undertaken.

The Part 2 provisions for scallop fishing boats include—

- requirements to have an REM system installed and fully functional throughout the duration of a fishing trip (regulation 5);
- powers for the Scottish Ministers to specify the technical specifications for REM systems and to grant exemptions from any specified requirement concerning automatic transmission of video recording data (regulation 6);
- duties to retain REM data recorded in relation to a fishing trip for 1 year and make that data available to the Scottish Ministers on request during that period, as well as a power for the Scottish Ministers to grant exemptions from those duties (regulation 7);
- requirements to submit and update information and for a remote inspection and system test trip following the first installation or the replacement of an REM system (regulation 8);
- requirements where an REM system fails or malfunctions before the start of or during a fishing trip (regulation 9);
- requirements where a winch sensor forming part of an REM system fails or malfunctions (regulation 10);
- prohibitions on tampering or interfering with REM systems (regulation 11); and
- offences, penalties and provision for the jurisdiction for trying those offences (regulation 12).

Part 3 makes broadly equivalent provision for pelagic fishing boats, however, the following content is specific to Part 3—

- provision is made for a 6 month transitional period to come into force on 7 September 2025, before the rest of Part 3 comes into force on 7 March 2026 (regulations 1(2)(c) and (d) and 14). By the end of this transitional period and before the rest of Part 3 comes into force, a number of requirements in relation to pelagic boats must be met, including that an REM system has been installed, specified information has been submitted to the Scottish Ministers, and that a remote inspection and system test trip have been carried out;
- a power is conferred on the Scottish Ministers to request that data recorded by an REM system in relation to a fishing trip is securely transmitted to a data storage system to which they have access within 72 hours of the time the request is received (regulation 18); and
- provision is made for requirements where an REM system fails or malfunctions before the start of or during a fishing trip, however, no separate provision is made in relation to winch sensor failures or malfunctions (regulation 20).

The terms defined at section 52 of the Fisheries Act 2020 (c. 22) apply to Parts 1 to 3 of these Regulations. For the purpose of enforcing Parts 2 and 3 of these Regulations, by virtue of section 35 of the Aquaculture and Fisheries (Scotland) Act 2013 (asp 7), a British sea-fishery officer has the powers conferred by sections 36 and 39 of that Act and by Part 7 of the Marine (Scotland) Act 2010 (asp 5). By virtue of section 25 of the Aquaculture and Fisheries (Scotland) Act 2007 (asp

12), where a fixed penalty officer has reasonable grounds for suspecting that a person has committed an offence under regulation 12 or regulation 22, the officer may issue that person with a fixed penalty notice.

Regulation 23 amends the Regulation of Scallop Fishing (Scotland) Order 2017 (“the Order”) which relates to fishing for king scallops in the Scottish zone and landing king scallops in Scotland. Article 5 of the Order is being revoked as the provisions of the current articles 4 and 5 of the Order are being consolidated into a new version of article 4 which is being substituted into the Order.

In addition to this consolidation, three substantive amendments are made to the rules governing fishing for king scallops in the Scottish zone. These rules are now set out in article 4 of the Order, as amended.

Firstly, restrictions on the maximum number of scallop dredges which can be deployed by a fishing boat for the purpose of fishing for king scallops (8 scallop dredges from each of the port and starboard sides of the fishing boat and 16 scallop dredges in total) which previously only applied in Scottish inshore waters are extended so that these restrictions will also apply to fishing for king scallops in any other part of the territorial sea of the United Kingdom adjacent to Scotland.

Secondly, a fishing boat deploying scallop dredges for that purpose in any part of the territorial sea of the United Kingdom adjacent to Scotland must not deploy at any time any tow bar with a total length exceeding 7.5 metres or more than 2 tow bars.

Thirdly, an exemption is introduced which would, if and so long as a fishing boat complies with the two conditions to qualify for it, exempt a fishing boat from the restrictions on the use of tow bars and on the maximum number of scallop dredges which can be deployed for the purpose of fishing for king scallops in any part of the territorial sea of the United Kingdom adjacent to Scotland, other than in Scottish inshore waters.

To comply with the first condition, a fishing boat must have an historic track record of having undertaken at least one fishing trip at any time during the period from 1 January 2018 to 31 December 2020 (inclusive of both dates) to fish for king scallops in any part of the territorial sea of the United Kingdom adjacent to Scotland, other than in Scottish inshore waters, during which it deployed either 9 or 10 scallop dredges from each of its port and starboard sides while a remote electronic monitoring system which complied with the requirements of Article 6(4) of the Order (as they applied during that period) was installed on board.

To comply with the second condition, the fishing boat, while fishing for king scallops in any part of the territorial sea of the United Kingdom adjacent to Scotland, other than in Scottish inshore waters, must not deploy at any time more than 10 scallop dredges from each of its port and starboard sides or more than 20 scallop dredges in total.

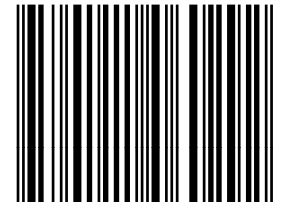
Regulation 23(4) revokes article 6 of the Order, which is superseded by the provision made in Part 2 of these Regulations.

A Business and Regulatory Impact Assessment has been prepared in relation to these Regulations and placed in the Scottish Parliament Information Centre. A copy of this can be obtained from Marine Directorate, the Scottish Government, Victoria Quay, Edinburgh, EH6 6QQ.

£8.14

<http://www.legislation.gov.uk/id/ssi/2024/165>

ISBN 978-0-11-106029-2



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