
SCOTTISH STATUTORY INSTRUMENTS

2024 No. 165

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

PART 2

Remote electronic monitoring for fishing boats deploying scallop dredges

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)(1) applies to offences under this Part as it applies to offences under any provision of sections 1 to 6 of that Act.

(6) Section 11 of the Sea Fish (Conservation) Act 1967 (penalties for offences)(2) applies to offences under this Part as it applies to offences under section 5(1) of that Act.

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

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

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(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.