Aquaculture and Fisheries (Scotland) Act 2013

2013 asp 7

PART 3

SEA FISHERIES

Inspection and seizure of objects used in commercial sea fishing

40 Reports of inspections under section 39

(1) This section applies where a British sea-fishery officer inspects an object under section 39.

(2) The officer must prepare a report in relation to the inspection.

(3) The report must state—

(a) the date and time of the inspection,

(b) the identity of the officer who carried out the inspection, and

(c) how the officer may be contacted.

(4) In the case of an object seized under section 39(3) or (6), the report must also state—

(a) what has been seized,

(b) the reasons for its seizure, and

(c) any further action that it is proposed will be taken in relation to the object.

(5) Where the object has not been seized under section 39(3) or (6), the officer must, if it is reasonably practicable to do so, attach a copy of the report to the object.

(6) If it is not reasonably practicable to do so, the officer must serve a copy of the report on every person who appears to the officer to be an owner of the object.

(7) In a case where the officer, after taking reasonable steps to do so, is unable to identify any person as an owner of the object, the officer must take such steps as the officer thinks fit to bring the contents of the report to the attention of persons likely to be interested in it.

(8) Where—

(a) the object has been seized under section 39(3), and

(b) one of the conditions in subsection (9) is satisfied,

the Scottish Ministers must serve a copy of the report on every person who appears to them to be an owner of the object.

(9) The conditions are—

(a) that a procurator fiscal has decided not to take any proceedings in respect of any offence in relation to which the object was seized,

(b) where a fixed penalty notice has been issued in respect of such an offence, that the appropriate fixed penalty has been paid,

(c) that any proceedings taken in respect of such an offence have concluded.

(10) Where the object has been seized under section 39(6), the Scottish Ministers must serve a copy of the report on every person who appears to the Ministers to be an owner of the object at the same time as they serve a notice of collection on that person under section 42.

(11) In a case where the Scottish Ministers, after taking reasonable steps to do so, are unable to identify any person as an owner of the object—

(a) the reference in this section to a requirement for the Scottish Ministers to serve a copy of the report on such a person is to be read as a reference to a requirement to take such steps as the Ministers think fit to bring the contents of the report to the attention of persons likely to be interested in it, and

(b) the reference in subsection (10) to serving a notice of collection under section 42 is to be read as a reference to taking the steps referred to in subsection (5) of that section.