
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 60

SEA FISHERIES

**The Aquaculture and Fisheries (Scotland) Act 2007
(Fixed Penalty Notices) Amendment Order 2011**

<i>Made</i>	- - - -	<i>2nd February 2011</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>4th February 2011</i>
<i>Coming into force</i>	- -	<i>7th March 2011</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 25(2)(b), 27(3), 29(2)(b) and 43(1)(b) of the Aquaculture and Fisheries (Scotland) Act 2007⁽¹⁾ and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Aquaculture and Fisheries (Scotland) Act 2007 (Fixed Penalty Notices) Amendment Order 2011 and comes into force on 7th March 2011.

Amendment of the Aquaculture and Fisheries (Scotland) Act 2007 (Fixed Penalty Notices) Order 2008

2. The Aquaculture and Fisheries (Scotland) Act 2007 (Fixed Penalty Notices) Order 2008⁽²⁾ is amended in accordance with articles 3 to 5.

Amendment of article 5 (address at which and method by which fixed penalty is payable)

3. In article 5(1), for “Scottish Government, Banking Section, Financial Management Branch, Mail Point 8, Area 3-A South, Victoria Quay, Edinburgh EH6 6QQ” substitute “The Scottish Government, Treasury and Banking Branch, Victoria Quay, Edinburgh, EH6 6QQ”.

(1) 2007 asp 12.
(2) S.S.I. 2008/101, amended by S.S.I. 2008/151.

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Amendment of article 6 (person to whom and address to which intimation of non payment of fixed penalty to be sent)

4. In article 6, for “Head of Prosecutions and Enforcement Policy, SFPA, Room 527, Pentland House, 47 Robbs’s Loan, Edinburgh, EH14 1TY” substitute “Head of Enforcement Operations, Marine Scotland – Compliance, The Scottish Government, Victoria Quay, Edinburgh, EH6 6QQ”.

Substitution of Schedule 1 (relevant offences for the purposes of section 25(1) of the Aquaculture and Fisheries (Scotland) Act 2007)

5. For Schedule 1 substitute the Schedule set out in the Schedule to this Order.

Revocation

6. The Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures and Restriction on Days at Sea) (Scotland) Order 2008⁽³⁾ (so far as not previously revoked) is revoked.

St Andrew’s House,
Edinburgh
2nd February 2011

RICHARD LOCHHEAD
A member of the Scottish Executive

(3) [S.S.I. 2008/151](#); articles 2 to 33 were revoked by [S.S.I. 2009/317](#), article 21.

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SCHEDULE

Article 5

Substitution of Schedule 1 to the Aquaculture and Fisheries
(Scotland) Act 2007 (Fixed Penalty Notices) Order 2008

“SCHEDULE 1

Article 2

Relevant offences for the purposes of section 25(1)
of the Aquaculture and Fisheries (Scotland) Act 2007

PART 1

Enactments under or by virtue of which relevant offences are created

<i>Enactment</i>	<i>Offence provision</i>
Sea Fisheries (Shellfish) Act 1967(4)	Section 17(1)
Sea Fish (Conservation) Act 1967(5)	Sections 4(6), (7) and (7A) and 4A(6), (7) and (8)
Fishery Limits Act 1976(6)	Section 2(5)
Fisheries Act 1981(7)	Section 30(1)(a)
Inshore Fishing (Scotland) Act 1984(8)	Section 4(1) and (1A)
The Foreign Fishing Boats (Stowage of Gear) Order 1970(9)	Article 3, as read with section 2(5) of the Fishery Limits Act 1976(10)
The Salmon and Migratory Trout (Restrictions on Landing) Order 1972(11)	Article 3, as read with section 6(5) of the Sea Fish (Conservation) Act 1967(12)

- (4) 1967 c.83; section 17(1) was amended by the Marine and Coastal Access Act 2009 (c.23), section 212(2) (which extends to Scotland by virtue of section 323(4)(g)(i) of that Act).
- (5) 1967 c.84 (“the 1967 Act”); section 4(6) was amended by the Sea Fish (Conservation) Act 1992 (c.60) (“the 1992 Act”), section 1(2). Section 4(7) was amended by the Fisheries Act 1981 (c.29) (“the 1981 Act”), section 20(2) and the 1992 Act, section 1(4). Sections 4(7A) and 4A were inserted by the 1981 Act, sections 20(3) and 21(1) respectively. Section 4A(7) was amended by the 1992 Act, section 3(2). Sections 4(6) and (7) and 4A(6) and (7) are modified in relation to Scotland by section 22A(3) of the 1967 Act (as inserted by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (“S.I. 1999/1820”), Schedule 2, paragraph 43(13)).
- (6) 1976 c.86 (“the 1976 Act”); section 2(2) to (4) (contravention of which is an offence under section 2(5)) was amended by S.I. 1999/1820, Schedule 2, paragraph 57(2)(a) and is modified in relation to Scotland by section 2(9)(a) and (b) of the 1976 Act (as inserted by S.I. 1999/1820, Schedule 2, paragraph 57(2)(b)).
- (7) 1981 c.29; section 30(1) was amended by the Aquaculture and Fisheries (Scotland) Act 2007, asp 12, section 33.
- (8) 1984 c.26; section 4(1A) was inserted by the Inshore Fishing (Scotland) Act 1994 (c.27), section 2.
- (9) S.I. 1970/318.
- (10) S.I. 1970/318 was made under section 6(4) of the Sea Fisheries Act 1968 (c.77). Section 6(4) was repealed by the 1976 Act, Schedule 4, subject to transitional provisions in the 1976 Act, Schedule 3, paragraph 7. Section 2(5) of the 1976 Act applies by virtue of those transitional provisions.
- (11) S.I. 1972/1966, amended by S.I. 1975/639 and 1983/58. Article 3 was amended by S.I. 1983/58, article 2.
- (12) Section 6(5) of the 1967 Act was amended by the 1981 Act, section 23(3).

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<i>Enactment</i>	<i>Offence provision</i>
The Salmon and Migratory Trout (Prohibition of Fishing) (No. 2) Order 1972 (13)	Article 3(1), as read with section 5(1), (6) and (7) of the Sea Fish (Conservation) Act 1967 (14)
The Molluscan Shellfish (Control of Deposit) Order 1974 (15)	Article 5, as read with section 14(2) of the Sea Fisheries (Shellfish) Act 1967 (16)
The Molluscan Shellfish (Control of Deposit) (Scotland) Order 1978 (17)	Article 5, as read with section 14(2) of the Sea Fisheries (Shellfish) Act 1967
The Lobsters (Control of Deposit) Order 1981 (18)	Article 6, as read with section 14(2) of the Sea Fisheries (Shellfish) Act 1967
The Lobsters (Control of Importation) Order 1981 (19)	Article 5, as read with section 14(2) of the Sea Fisheries (Shellfish) Act 1967
The Receiving of Trans-shipped Sea Fish (Licensing) Order 1982 (20)	Article 3, as read with section 4A(3) of the Sea Fish (Conservation) Act 1967
The Sea Fishing (Enforcement of Community Licensing Measures) (North of Scotland Box) Order 1984 (21)	Article 3
The Scallops (Irish Sea) (Prohibition of Fishing) Order 1984 (22)	Article 2, as read with section 5(1), (6) and (7) of the Sea Fish (Conservation) Act 1967

(13) [S.I. 1973/207](#); article 3 was amended by [S.I. 1975/844](#), article 3 and [S.I. 1983/60](#), article 2.

(14) Section 5(1) of the 1967 Act was substituted by the 1981 Act, section 22(1). Section 5(6) (contravention of which is an offence by virtue of section 5(7)) was amended by the 1981 Act, section 22(2).

(15) [S.I. 1974/1555](#), amended by [S.I. 1983/159](#).

(16) Section 14(2) of the Sea Fisheries (Shellfish) Act 1967 was amended by the Criminal Procedure (Scotland) Act 1975 (c.21), sections 289E and 289G(4) and the Criminal Justice and Public Order Act 1994 (c.33), Schedule 8, Part 1.

(17) [S.I. 1978/560](#).

(18) [S.I. 1981/994](#).

(19) [S.I. 1981/995](#).

(20) [S.I. 1982/80](#); article 3 was substituted by [S.I. 1983/1139](#), article 2.

(21) [S.I. 1984/291](#); article 3 was amended by the Criminal Procedure (Scotland) Act 1975, section 289 GD.

(22) [S.I. 1984/1523](#); article 2 and the Schedule (referred to in article 2) were substituted by [S.I. 1986/988](#), article 3 and the Schedule respectively.

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<i>Enactment</i>	<i>Offence provision</i>
The Inshore Fishing (Salmon and Migratory Trout) (Prohibition of Gill Nets) (Scotland) Order 1986 (23)	Article 3, as read with section 4(1) and (1A) of the Inshore Fishing (Scotland) Act 1984
The Undersized Velvet Crabs Order 1989 (24)	Articles 2(1) and 3(1), as read with section 1(1), (2) and (7) of the Sea Fish (Conservation) Act 1967, and article 4, as read with section 1(3) and (8) of that Act (25)
The Sandeels Licensing Order 1989 (26)	Article 2, as read with section 4(3) of the Sea Fish (Conservation) Act 1967
The Sea Fish (Specified Sea Area) (Regulation of Nets and Prohibition of Fishing Methods) Order 1989 (27)	Article 2, as read with sections 3(5) and 5(1) of the Sea Fish (Conservation) Act 1967
The Undersized Bass Order 1989 (28)	Article 3, as read with section 1(1) and (7) of the Sea Fish (Conservation) Act 1967
The Sea Fish (Specified Manx Waters) Licensing Order 1990 (29)	Article 3(1), as read with section 4(3) of the Sea Fish (Conservation) Act 1967
The Sea Fishing (Specified Western Waters) (Restrictions on Landing) Order 1990 (30)	Article 3, as read with section 6(5) of the Sea Fish

(23) S.I. 1986/59.

(24) S.I. 1989/919.

(25) Section 1 of the 1967 Act was substituted by the 1981 Act, section 19(1). Section 1(1), (2) and (3) (contravention of which is an offence by virtue of section 1(7) and (8) of the 1967 Act respectively) and section 1(8) of the 1967 Act was amended by S.I. 1999/1820, Schedule 2, paragraph 43(2) and (3)(a) and (b) and is modified in relation to Scotland by section 22A(2) of the 1967 Act (as inserted by S.I. 1999/1820, Schedule 2, paragraph 43(13)).

(26) S.I. 1989/1066.

(27) S.I. 1989/1284; article 2 was amended by S.I. 1999/74, article 2(2).

(28) S.I. 1989/1285.

(29) S.I. 1990/2051.

(30) S.I. 1990/2052.

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<i>Enactment</i>	<i>Offence provision</i>
	(Conservation) Act 1967
The Sea Fish Licensing Order 1992 (31)	Article 3(1), as read with section 4(3) of the Sea Fish (Conservation) Act 1967
The Fishing Boats (Marking and Documentation) (Enforcement) Order 1993 (32)	Article 3
The Inshore Fishing (Monofilament Gill Nets) (Scotland) Order 1996 (33)	Articles 2 and 3(1), as read with section 4(1) and (1A) of the Inshore Fishing (Scotland) Act 1984
The Food Protection (Emergency Prohibitions) (Dounreay Nuclear Establishment) Order 1997 (34)	Articles 4, 5 and 6, as read with section 1(6) of the Food and Environment Protection Act 1985 (35)
The Lobsters and Crawfish (Prohibition of Fishing and Landing) (Scotland) Order 1999 (36)	Article 3, as read with section 5(1), (6) and (7) of the Sea Fish (Conservation) Act 1967, and article 4, as read with section 6(5) of that Act
The Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Order 2000 (37)	Article 3(1) and (2)
The Undersized Lobsters (Scotland) Order 2000 (38)	Articles 3(1) and 4(1), as read with section 1(1), (2) and (7) of the Sea Fish (Conservation) Act 1967, and article 5, as read with

(31) S.I. 1992/2633, amended by S.I. 1993/188, 1993/2291 and 1999/1820. Article 3(1) was amended by S.I. 1999/1820, Schedule 2, paragraph 150(3).

(32) S.I. 1993/2015.

(33) S.I. 1996/1907.

(34) S.I. 1997/2622.

(35) 1985 c.48.

(36) S.S.I. 1999/88.

(37) S.S.I. 2000/53, amended by S.S.I. 2002/81.

(38) S.S.I. 2000/197.

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<i>Enactment</i>	<i>Offence provision</i>
	section 1(3) and (8) of that Act
The Undersized Spider Crabs (Scotland) Order 2000(39)	Article 3(1), as read with section 1(1) and (7) of the Sea Fish (Conservation) Act 1967
The Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Order 2000(40)	Articles 4, 4A, 5 and 5A, as read with section 3(5) of the Sea Fish (Conservation) Act 1967
The Undersized Edible Crabs (Scotland) Order 2000(41)	Article 3(1), as read with section 1(1) and (7) of the Sea Fish (Conservation) Act 1967
The Prohibition of Fishing with Multiple Trawls (No. 2) (Scotland) Order 2000(42)	Article 3(1), as read with section 5(1), (6) and (7) of the Sea Fish (Conservation) Act 1967
The Sea Fishing (North-East Atlantic Control Measures) Order 2000(43)	Article 13
The Prohibition of Fishing for Scallops (Scotland) Order 2003(44)	Articles 3, 4 and 5, as read with section 5(1), (6) and (7) of the Sea Fish (Conservation) Act 1967
The Ura Firth, Shetland Scallops Several Fishery Order 2004(45)	Article 3, as read with section 7(4) of the Sea Fisheries (Shellfish) Act 1967(46)
The Shrimp Fishing Nets (Scotland) Order 2004(47)	Article 3, as read with section 3(5)

(39) S.S.I. 2000/198.

(40) S.S.I. 2000/227, amended by S.S.I. 2001/250, 2003/167, 2009/165 and 2010/231. Article 4 was amended by S.S.I. 2001/250, article 4. Article 4A was inserted by S.S.I. 2009/165, article 2(4). Article 5 was amended by S.S.I. 2009/165, article 2(5). Article 5A was inserted by S.S.I. 2001/250, article 6.

(41) S.S.I. 2000/228.

(42) S.S.I. 2000/405; article 3 was substituted by S.S.I. 2007/13, article 2(2).

(43) S.I. 2000/1843, amended by S.I. 2005/617.

(44) S.S.I. 2003/371.

(45) S.S.I. 2004/5.

(46) Section 7(4) of the Sea Fisheries (Shellfish) Act 1967 was amended by the [Sea Fisheries \(Shellfish\) Amendment \(Scotland\) Act 2000, asp 12](#), section 1.

(47) S.S.I. 2004/261; article 3 was amended by S.S.I. 2008/10, article 2.

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<i>Enactment</i>	<i>Offence provision</i>
	of the Sea Fish (Conservation) Act 1967
The Inshore Fishing (Prohibition of Fishing and Fishing Methods) (Scotland) Order 2004 (48)	Articles 3, 5, 6, 7, 9(1) and 10(1), as read with section 4(1) and (1A) of the Inshore Fishing (Scotland) Act 1984
The Sea Fishing (Enforcement of Community Satellite Monitoring Measures) (Scotland) Order 2004 (49)	Article 9
The Sea Fish (Marketing Standards) (Scotland) Regulations 2004 (50)	Regulation 3(1) and (2)
The Registration of Fish Sellers and Buyers and Designation of Auction Sites (Scotland) Regulations 2005 (51)	Regulations 3(7) and (8), 4(1), 5(6) and (7), 6(6) and (7), 7(7) and (8), 8, 9(6) and (7), 10 and 11(1)
The Loch Crinan Scallops Several Fishery Order 2005 (52)	Article 3, as read with section 7(4) of the Sea Fisheries (Shellfish) Act 1967
The Prevention and Monitoring of Cetacean Bycatch (Scotland) Order 2005 (53)	Articles 3(2) and 4(1)
The Sea Fishing (Marking and Identification of Passive Fishing Gear and Beam Trawls) (Scotland) Order 2006 (54)	Article 14
The Inshore Fishing (Prohibition of Fishing for Cockles) (Scotland) (No. 3) Order 2006 (55)	Article 2, as read with section 4(1) and (1A) of the Inshore Fishing (Scotland) Act 1984
The Sea Fishing (Northern Hake Stock) (Scotland) Order 2006 (56)	Articles 3, 4, 5, 6(2) and (3), 7(1) and (3) and 8
The Sea Fishing (Prohibition on the Removal of Shark Fins) (Scotland) Order 2007 (57)	Article 3

(48) S.S.I. 2004/276.

(49) S.S.I. 2004/392.

(50) S.S.I. 2004/498.

(51) S.S.I. 2005/286; regulations 4 and 8 (and 12(2)(a)) were amended by S.S.I. 2005/438, regulation 2.

(52) S.S.I. 2005/304.

(53) S.S.I. 2005/330.

(54) S.S.I. 2006/284.

(55) S.S.I. 2006/487.

(56) S.S.I. 2006/505.

(57) S.S.I. 2007/39; articles 2(1) and 3 and Schedule 1 (referred to in article 3) were amended by S.S.I. 2009/413, article 2.

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<i>Enactment</i>	<i>Offence provision</i>
The Inshore Fishing (Prohibited Methods of Fishing) (Loch Creran) Order 2007 (58)	Articles 3, 4 and 5, as read with section 4(1) and (1A) of the Inshore Fishing (Scotland) Act 1984
The Inshore Fishing (Prohibited Methods of Fishing) (Firth of Lorn) (No. 2) Order 2007 (59)	Article 3(1), as read with section 4(1) and (1A) of the Inshore Fishing (Scotland) Act 1984
The Sea Fishing (Control Procedures for Herring, Mackerel and Horse Mackerel) (Scotland) Order 2008 (60)	Articles 3(5), (6) and (7), 4(4), 6(4) and 7(2)
The Inshore Fishing (Prohibition on Fishing) (Lamlash Bay) (Scotland) Order 2008 (61)	Article 2(1), as read with section 4(1) and (1A) of the Inshore Fishing (Scotland) Act 1984
The Inshore Fishing (Prohibition of Fishing for Cockles) (Western Isles) (Scotland) Order 2009 (62)	Article 2(1), as read with section 4(1) and (1A) of the Inshore Fishing (Scotland) Act 1984
The Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2010 (63)	Article 3(1), as read with section 5(1), (6) and (7) of the Sea Fish (Conservation) Act 1967
The Sea Fishing (Transitional EU Technical Conservation Measures) (Scotland) Order 2010 (64)	Article 3(1)
The Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2010 (65)	Articles 4(1) and 5(1), (2) and (4)
The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010 (66)	Articles 4(4) and (5), 5(1) and (2) and 6(1) and (5)

(58) [S.S.I. 2007/185](#).

(59) [S.S.I. 2007/240](#).

(60) [S.S.I. 2008/102](#); article 7 was substituted (and the Schedule was amended) by [S.S.I. 2008/156](#), article 2.

(61) [S.S.I. 2008/317](#).

(62) [S.S.I. 2009/444](#).

(63) [S.S.I. 2010/9](#).

(64) [S.S.I. 2010/100](#), amended by [S.S.I. 2011/59](#).

(65) [S.S.I. 2010/238](#), amended by [S.S.I. 2011/59](#).

(66) [S.S.I. 2010/334](#), amended by [S.S.I. 2011/59](#).

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PART 2

Enactments under or by virtue of which relevant offences are created, proceedings in respect of which may be taken in Scotland by virtue of section 30(2A) of the Fisheries Act 1981

<i>Enactment</i>	<i>Offence Provision</i>
The Sea Fishing (Enforcement of Community Licensing Measures) (North of Scotland Box) Order 1984 (67)	Article 3
The Fishing Boats (Marking and Documentation) (Enforcement) Order 1993 (68)	Article 3
The Sea Fishing (Enforcement of Community Control Measures) Order 2000 (69)	Article 3(1) and (2)
The Sea Fishing (Enforcement of Measures for the Recovery of the Stock of Cod) (Irish Sea) (Wales) Order 2000 (70)	Article 3
The Sea Fishing (Enforcement of Community Control Measures) (Wales) Order 2000 (71)	Article 3(1) and (2)
The Sea Fishing (North-East Atlantic Control Measures) Order 2000 (72)	Article 4
The Sea Fishing (Enforcement of Community Conservation Measures) (Wales) Order 2000 (73)	Article 3(1) and (2)
The Sea Fishing (Enforcement of Community Satellite Monitoring Measures) Order 2004 (74)	Articles 5, 6, 7, 8(1), (2) and (4), 9(1) and (2), 11, 12, 13 and 14(1) and (2)
The Incidental Catches of Cetaceans in Fisheries (England) Order 2005 (75)	Article 4
The Sea Fishing (Marking and Identification of Passive Fishing Gear and Beam Trawls) (England) Order 2006 (76)	Article 4
The Sea Fishing (Enforcement of Community Satellite Monitoring Measures) (Wales) Order 2006 (77)	Articles 5, 6, 7, 8(1), (2) and (4), 9(1) and (2), 11, 12, 13 and 14(1) and (2)
The Sea Fishing (Recovery Measures) Order 2008 (78)	Articles 4, 5, 6(1), (2) and (3), 7, 8(1) and (2), 9 and 10(1)”

(67) S.I. 1984/291; article 3 was amended by the Criminal Procedure (Scotland) Act 1975, section 289 GD.

(68) S.I. 1993/2015.

(69) S.I. 2000/51, amended by S.I. 2003/229, 2003/1535, 2004/38, 2004/398, 2005/393, 2005/617, 2005/2624 and 2009/1847. Article 3 was amended by S.I. 2004/398, article 23(b), S.I. 2005/393, article 32(b) and S.I. 2009/1847, article 2(4).

(70) S.I. 2000/976, amended by S.I. 2005/617 and 2010/630.

(71) S.I. 2000/1075, amended by S.I. 2003/559 and 2005/617.

(72) S.I. 2000/1843, amended by S.I. 2005/617.

(73) S.I. 2000/2230 (W.148), amended by S.I. 2005/617 and 2010/630.

(74) S.I. 2004/3226, amended by S.I. 2005/617.

(75) S.I. 2005/17, amended by S.I. 2005/617.

(76) S.I. 2006/1549.

(77) S.I. 2006/2798 (W.237).

(78) S.I. 2008/2347.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Aquaculture and Fisheries (Scotland) Act 2007 (Fixed Penalty Notices) Order 2008 (“the principal Order”).

The principal Order provides for the offer and payment of a fixed penalty (as an alternative to prosecution) in relation to certain sea fisheries offences for the purposes of sections 25 to 31 of the Aquaculture and Fisheries (Scotland) Act 2007 (“the 2007 Act”).

This Order amends the principal Order so as to—

- (a) update the address at which a fixed penalty is payable in accordance with article 5 of the principal Order (article 3);
- (b) update the details of the person to whom, and the address to which, intimation of non payment of a fixed penalty is to be sent in accordance with article 6 of the principal Order (article 4); and
- (c) substitute Schedule 1 to (as read with article 2 of) the principal Order, which lists the relevant offences for which a fixed penalty notice may be issued in accordance with section 25(1) of the 2007 Act (article 5 and the Schedule). The replacement Schedule 1 updates that list of relevant offences by: re-specifying some of the offence provisions cited as relevant offences; omitting those that are no longer in force, and specifying additional relevant offences for the purpose of section 25(1) of the 2007 Act.

This Order revokes the Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures and Restriction on Days at Sea) (Scotland) Order 2008 (“the 2008 Order”) to the extent that it has not already been revoked by the Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures and Restriction on Days at Sea) (Scotland) Order 2009 (article 6). Article 34 of the 2008 Order amended Schedule 1 to the principal Order. The amendments in this Order supersede those amendments.

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