

*These notes refer to the Scotland Act 1998 (c.46)
which received Royal Assent on 19th November 1998*

SCOTLAND ACT 1998

EXPLANATORY NOTES

SCHEDULES

Schedule 5

Part II: Preliminary paragraphs

Head C: Trade and Industry

Section C6: Sea Fishing

Purpose and Effect

This Section reserves the regulation of sea fishing outwith the Scottish zone, except in relation to Scottish fishing boats. By so doing, it clarifies the extent to which the Scottish Parliament can legislate about sea fishing outwith Scotland.

Details of Provisions

This Section reserves the regulation of sea fishing outwith the Scottish zone.

The Scottish zone is defined in section 126(1) as meaning the sea within British fishery limits (that is, the limits set by or under section 1 of the Fishery Limits Act 1976) which is adjacent to Scotland. Section 1(1) of the 1976 Act provides that the British fishery limits extend 200 miles from the baselines from which the territorial sea of the United Kingdom is measured. Section 126(2) enables Her Majesty by Order in Council to make provision for determining (among other things) any boundary between waters which are to be treated as sea within the British fishery limits which are adjacent to Scotland and those which are not. Such provision has been made in the Scottish Adjacent Waters Boundary Order 1999 ([S.I. 1999/1126](#)).

This has the effect of providing that the Scottish Parliament can legislate to regulate sea fishing within the Scottish zone, even although it may be outwith Scotland (including the territorial seas adjacent to Scotland).

Exception

There is an exception from the reservation which would enable the Scottish Parliament to regulate sea fishing by Scottish fishing boats even outwith the Scottish zone.

The interpretation part defines “Scottish fishing boat” as meaning a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in that register specifies a port in Scotland as the port to which the vessel is to be treated as belonging.

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Parliamentary Consideration

<i>Stage</i>	<i>Date</i>	<i>Column</i>
LC	23-Jul-98	1100

Executive Devolution

The following functions have been made exercisable by a Minister of the Crown subject to a requirement for agreement of or consultation with the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750).

The Merchant Shipping Act 1995 (c.21) , section 10(2)(f).	The function of the Secretary of State, by regulation, to make provision for and in connection with the registration of a fishing vessel as British ships (section 10(2)(f), provide for regulations to be made with respect to (among other matters) the marking of ships registered or to be registered, including marks for identifying the port to which a fishing vessel is to be treated as belonging).
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Agency Arrangements

The Scotland Act 1998 (Agency Arrangements) Order 1999 (S.I. 1999/1512) specified functions under section 4 of the Sea Fish (Conservation) Act 1967 and the Sea Fish Licensing Order 1992 (functions in relation to licensing of fishing boats) for the purpose of section 93 of the Scotland Act.