

Commission Implementing Regulation (EU) No 404/2011 of 8 April
2011 laying down detailed rules for the implementation of Council
Regulation (EC) No 1224/2009 establishing a Community control system
for ensuring compliance with the rules of the Common Fisheries Policy

TITLE VI

INSPECTION

CHAPTER I

Conduct of inspections

Section 1

General provisions

Article 97

Officials authorised to conduct inspections at sea or on land

1 Officials responsible for carrying out inspections, as referred to in Article 74 of the Control Regulation shall be authorised by the competent authorities of the Member States. To this end, Member States shall provide their officials with a service card stating their identity and the capacity under which they operate. Each official on duty shall carry that service card and present it during an inspection at the earliest opportunity.

2 Member States shall confer adequate powers on their officials as necessary for the fulfilment of control, inspection and enforcement in accordance with this Regulation, and to ensure compliance with the rules of the Common Fisheries Policy.

Article 98

General principles

1 Without prejudice to provisions contained in multi-annual plans, competent authorities of Member States shall adopt a risk based approach for the selection of targets for inspection, using all available information. In accordance with this approach, officials shall carry out inspections in accordance with rules laid down in this Chapter.

2 Without prejudice to provisions contained in multi-annual plans, Member States shall coordinate their control, inspection and enforcement activities. To this end, they shall adopt and execute national control action programmes as referred to in Article 46 of the Control Regulation and common control programmes as referred to in Article 94 of the Control Regulation covering both activities at sea and on land as necessary to ensure compliance with the rules of the Common Fisheries Policy.

Changes to legislation: There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 404/2011. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

3 Subject to a risk based control and enforcement strategy each Member State shall carry out the necessary inspection activities in an objective way in order to prevent the retention on board, transshipment, landing, transfer to cages and farms, processing, transport, storage, marketing and stocking of fishery products originating from activities that are not in compliance with the rules of the Common Fisheries Policy.

4 Inspections shall be carried out in a manner as to prevent to the extent possible any negative impact on the hygiene and quality of the fisheries products inspected.

5 Member States shall ensure that national fisheries related information systems allow for the direct electronic exchange of information on port state inspections between themselves, other Member States, the Commission and the body designated by it as appropriate, in accordance with Article 111 of the Control Regulation.

Article 99

Duties of officials during the pre-inspection phase

During the pre-inspection phase officials shall, where possible, collect all appropriate information, including:

- (a) fishing licences and fishing authorisations;
- (b) VMS information corresponding to the current fishing trip;
- (c) aerial surveillance, and other sightings;
- (d) previous inspection records and available information on the secure part of the website of the flag Member State on the [F¹Union fishing vessel] concerned.

Textual Amendments

- F1** Substituted by [Commission Implementing Regulation \(EU\) 2015/1962 of 28 October 2015 amending Implementing Regulation \(EU\) No 404/2011 laying down detailed rules for the implementation of Council Regulation \(EC\) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.](#)

Article 100

Duties of officials authorised to conduct inspections

1 Officials authorised to conduct inspections shall verify and note the relevant items defined in the appropriate inspection module of the inspection report in Annex XXVII. For this purpose they may take pictures, video and audio recordings in accordance with national law, and, where appropriate, samples.

2 Officials shall not interfere with the right of any operator to communicate with the competent flag state authorities during inspection operations.

3 Officials shall take into account any information provided in accordance with Article 95(2) of this Regulation by a control observer on board the fishing vessel to be inspected.

4 On completion of an inspection officials shall debrief operators as appropriate on fisheries regulations relevant to the prevailing circumstances.

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5 Officials shall leave as soon as possible the fishing vessel or the inspected premise following the completion of the inspection if no evidence of an apparent infringement is detected.

Article 101

Obligations of Member States, the Commission and European Fisheries Control Agency

1 The competent authorities of Member States, and, where appropriate, the Commission and the European Fisheries Control Agency, shall ensure that their officials, whilst being courteous and sensitive, conduct inspections professionally and to a high standard.

2 The competent authorities of each Member State shall establish procedures to ensure that any complaint made by operators regarding the conduct of inspections carried out by their officials is investigated in a fair and thorough manner in accordance with national law.

3 Coastal Member States may, subject to appropriate arrangements with the flag Member State of a fishing vessel, invite officials of the competent authorities of that Member State to participate in inspections of fishing vessels of that Member State, whilst those vessels are operating in waters of the coastal Member State or landing in its ports.

Changes to legislation:

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Changes and effects yet to be applied to :

- Regulation continued by [S.I. 2019/739 reg. 5\(1\)](#)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Title 10 s. 3 omitted by [S.I. 2019/739 reg. 5\(102\)](#)
- Title 10 s. 4 omitted by [S.I. 2019/739 reg. 5\(102\)](#)
- Title 10 s. 5 omitted by [S.I. 2019/739 reg. 5\(102\)](#)
- Art. 2(1) omitted by [S.I. 2019/739 reg. 5\(3\)\(a\)](#)
- Art. 2(2) omitted by [S.I. 2019/739 reg. 5\(3\)\(a\)](#)
- Art. 2(4) omitted by [S.I. 2019/739 reg. 5\(3\)\(b\)](#)
- Art. 2(12) words substituted by [S.I. 2019/739 reg. 5\(3\)\(c\)](#)
- Art. 2(14) omitted by [S.I. 2019/739 reg. 5\(3\)\(d\)](#)
- Art. 2(15) words substituted by [S.I. 2019/739 reg. 5\(3\)\(e\)](#)
- Art. 2(17) words omitted by [S.I. 2019/739 reg. 5\(3\)\(f\)](#)
- Art. 2(19) inserted by [S.I. 2019/739 reg. 5\(3\)\(g\)](#)
- Art. 7(1)(e) words substituted by [S.I. 2019/739 reg. 5\(9\)\(b\)\(iii\)](#)
- Art. 18(2)(a) words substituted by [S.I. 2019/739 reg. 5\(15\)\(c\)\(ii\)](#)
- Art. 23(c) words substituted by [S.I. 2019/739 reg. 5\(20\)\(c\)](#)
- Art. 33(1)(c) words substituted by [S.I. 2019/739 reg. 5\(30\)](#)
- Art. 39(2)(a) words substituted by [S.I. 2019/739 reg. 5\(35\)\(b\)\(i\)](#)
- Art. 39(2)(e) words substituted by [S.I. 2019/739 reg. 5\(35\)\(b\)\(ii\)](#)
- Art. 42(1)(a) words substituted by [S.I. 2019/739 reg. 5\(38\)\(a\)\(ii\)](#)
- Art. 42(1)(b) word substituted by [S.I. 2019/739 reg. 5\(38\)\(a\)\(iii\)](#)
- Art. 42(1)(c) word substituted by [S.I. 2019/739 reg. 5\(38\)\(a\)\(iii\)](#)
- Art. 47(1)(e) words substituted by [S.I. 2019/739 reg. 5\(43\)\(a\)\(iii\)](#)
- Art. 62(1)(b) words omitted by [S.I. 2019/739 reg. 5\(52\)\(a\)\(iv\)](#)
- Art. 62(1)(c) words substituted by [S.I. 2019/739 reg. 5\(52\)\(a\)\(v\)](#)
- Art. 67(13)(a) words omitted by [S.I. 2019/739 reg. 5\(54\)\(c\)](#)
- Art. 80(1)(d) words substituted by [S.I. 2019/739 reg. 5\(63\)\(b\)\(iv\)](#)
- Art. 99(d) omitted by [S.I. 2019/739 reg. 5\(76\)](#)
- Art. 105(1)(b) words substituted by [S.I. 2019/739 reg. 5\(78\)\(a\)](#)
- Art. 113(2)(a) words substituted by [S.I. 2019/739 reg. 5\(84\)\(b\)](#)