

SCOTTISH STATUTORY INSTRUMENTS

**2015 No. 320**

The Sea Fishing (EU Control Measures) (Scotland) Order 2015

**PART 5**

AMENDMENTS, REVOCATIONS AND SAVINGS

**Amendment of the Sea Fish (Marketing Standards) (Scotland) Regulations 2004**

**24.**—(1) The Sea Fish (Marketing Standards) (Scotland) Regulations 2004 <sup>M1</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) for the definition of “Regulation 104/2000” substitute—

““Regulation 1379/2013” means Regulation (EU) No 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000<sup>M2</sup>;”; and

(b) in the definition of “specified EU provision”, for “Regulation 104/2000” substitute “Regulation 1379/2013”.

(3) In regulation 4 (powers of authorised officers), in paragraph (1)(a), for “Regulation 104/2000” substitute “Regulation 1379/2013”.

(4) In the Schedule (specified community provision)—

(a) for the entry relating to Article 2 of Regulation 104/2000 substitute—

**“Column 1 Article of the Regulation**

Articles 33 and 34 of Regulation 1379/2013, read with Annex I to that Regulation

**Column 2 Subject matter**

Fishery products intended for human consumption and listed in Annex I to Regulation 1379/2013 to comply with any common marketing standards established under Article 33 of that Regulation. All fishery products landed may be used for purposes other than direct human consumption.”; and

(b) omit the final entry relating to Article 29 and 30 of Regulation 104/2000.

**Marginal Citations**

**M1** S.S.I. 2004/498, amended by S.I. 2011/1043.

**M2** OJ L 354, 28.12.2013, p.1, as amended by Council Regulation (EU) No 1385/2013 (OJ L 354, 28.12.2013, p.86) and Regulation (EU) 2015/812 (OJ L 133, 29.5.2015, p.1).

## Amendment of the Sea Fishing (Prohibition on the Removal of Shark Fins) (Scotland) Order 2007

25.—(1) The Sea Fishing (Prohibition on the Removal of Shark Fins) (Scotland) Order 2007<sup>M3</sup> is amended as follows.

(2) In article 2(1) (interpretation)—

(a) omit the definitions of “Community fishing boat” and “relevant British fishing boat”; and

(b) for the definition of “relevant fishing boat” substitute—

““relevant fishing boat” means—

(a) a Scottish fishing boat wherever it may be; and

(b) any other fishing boat which is within the Scottish zone;”.

(3) In article 3 (offences), omit paragraphs (3) and (4).

(4) Omit article 11 (admissibility in evidence of logbooks and other documents).

(5) For the Schedule (specified Community provisions, contravention of which constitutes an offence) substitute the following Schedule—

“SCHEDULE

Article 3

SPECIFIED PROVISIONS OF THE REGULATION,  
CONTRAVENTION OF WHICH CONSTITUTES AN OFFENCE

### PART 1

<i>Column 1 Provision of Regulation</i>	<i>Column 2 Subject Matter</i>
1. Article 3.1, as read with Article 3.1a	Prohibition on the removal of or retention of shark fins on board vessels, and the transhipment or landing of shark fins.

### PART 2

<i>Column 1 Provision of Regulation</i>	<i>Column 2 Subject Matter</i>
1. Article 3.2	Prohibition on the purchase, offer for sale or sale of shark fins which have been removed on board, transhipped or landed in contravention of the Regulation.”.

#### Marginal Citations

**M3** [S.S.I. 2007/39](#), amended by [S.S.I. 2009/413](#). The definitions of “Community fishing boat”, “relevant British fishing boat” and “relevant fishing boat” and paragraphs (3) and (4) of article 3 were inserted or substituted by articles 2(2) and 3 of [S.S.I. 2009/413](#).

### **Amendment of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007**

**26.**—(1) The Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 <sup>M4</sup> are amended as follows.

(2) In regulations 32(14)(b)(ii) (offences relating to European offshore marine sites), 34(6)(b)(ii) (protection of wild birds, their eggs and nests) and 39(11)(b)(ii) (protection of wild animals listed in Annex IV(a) to the Habitats Directive), for “Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy” substitute “Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC<sup>M5</sup>, as amended from time to time”.

#### **Marginal Citations**

- M4** S.I. 2007/1842. Regulations 32(14), 34(6) and 39(11) were amended by S.I. 2011/1043) and S.I. 2012/1809.
- M5** OJ L 354, 28.12.2013, p.22, as amended by Council Regulation (EU) No 1385/2013 (OJ L 354, 28.12.2013, p.86) and Regulation (EU) 2015/812 (OJ L 133, 29.5.2015, p.1).

### **Amendment of the Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2010**

<sup>F1</sup>27. ....

#### **Textual Amendments**

- F1** Art. 27 revoked (1.12.2017) by The Sea Fishing (Miscellaneous Revocations) (Scotland) Order 2017 (S.S.I. 2017/324), arts. 1(1), 2, sch.

### **Amendment of the Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010**

**28.**—(1) The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010 <sup>M6</sup> is amended as follows.

(2) In article 2(1) (interpretation)—

(a) after the definition of “British sea-fishery officer” insert—

““Common Fisheries Policy Regulation” means Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC<sup>M7</sup>”;

(b) for the definition of “EU fishing boat” substitute—

““EU fishing boat” means a Union fishing vessel as defined in Article 4.1(5) of the Common Fisheries Policy Regulation”;

(c) in the definition of “EU recording and reporting requirement”, for “, Regulation 1077/2008 or Regulation 2847/93” substitute “ or Regulation 404/2011 ”;

(d) in the definition of “logbook”, for “Article 6 of Regulation 2847/93 (as read with Regulation 2807/83)” substitute “ Articles 14, 15 and 16 of the Control Regulation (as read with Regulation 404/2011) ”;

- (e) omit the definition of “Regulation 2807/83”;
  - (f) omit the definition of “Regulation 2847/93”;
  - (g) omit the definition of “Regulation 1077/2008”;
  - (h) after the definition of “Regulation 201/2010” insert—
    - ““Regulation 404/2011” means Commission 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 <sup>M8</sup>,”; and
  - (i) in the definition of “relevant offence” omit “4,”.
- (3) In article 2(5), for “Regulations 2847/93, 1006/2008, 1077/2008 and 201/2010,” substitute “Regulations 1006/2008, 201/2010 and 404/2011, ”.
- (4) Omit article 4 (register of fish buyers and sellers with the prescribed annual financial turnover).
- (5) In article 5 (EU recording and reporting requirements), in paragraph (3) <sup>M9</sup>, for “on the same basis as the prescribed annual financial turnover referred to in article 4(3)” substitute “ for a calendar year using the annual financial turnover for a person for the calendar year and based on the European Central Bank's official average euro foreign exchange reference rate applicable for that calendar year ”.
- (6) In article 6 (EU (third country) recording and reporting requirements), in paragraph (2), for “1(a) to (e), 2(c) to (g) and 3(a) to (c)” substitute “ 1(aa) to (e) and 2(a) to (e) ”.
- (7) In article 7 (penalties), in paragraph (3) omit “, other than an offence under article 4(4) or (5),”.
- (8) In article 10 (powers of British sea-fishery officers on land), in paragraph (1) omit “4,”.
- (9) In article 11 (powers of British sea-fishery officers to seize fish), omit “, other than an offence under article 4(4) or (5),”.
- (10) In article 15 (admissibility in evidence of logbooks and other documents)—
- (a) in paragraph (1)(a) for “Article 6 of Regulation 2847/93” substitute “ Article 14 ”;
  - (b) in paragraph (1)(b) for “Article 8(1) of Regulation 2847/93” substitute “ Article 23(3) ”; and
  - (c) in paragraph (1)(c) for “Article 11 of Regulation 2847/93” substitute “ Article 21(4) ”.
- (11) In the table in Schedule 1 (EU recording and reporting requirements, contravention of which constitutes an offence)—
- (a) before entry 1(a), insert entry 1(aa) as set out in the table in Part 1 of the Schedule to this Order;
  - (b) in entry 1(a), in column 2 (detailed rules), for “Article 6(1), (2) and (5) of Regulation 1077/2008” substitute “ Article 47 of Regulation 404/2011 ”;
  - (c) after entry 1(c), insert entry 1(ca) as set out in the table in Part 1 of the Schedule to this Order;
  - (d) in entry 1(d), in column 2 (detailed rules), for “Article 6(2) of Regulation 1077/2008” substitute “ Article 47(2) of Regulation 404/2011 ”;
  - (e) after entry 1(d), insert entry 1(da) as set out in the table in Part 1 of the Schedule to this Order;
  - (f) for entry 1(ha) <sup>M10</sup>, substitute entry 1(ha) as set out in the table in Part 1 of the Schedule to this Order;

- (g) for entries 2(c) to (g) <sup>M11</sup> (relating to Regulation 1077/2008) substitute the entries set out in the table in Part 2 of the Schedule to this Order; and
- (h) omit entries 3(a) to (c) <sup>M12</sup> (relating to Regulation 2847/93).

#### Marginal Citations

- M6** [S.S.I. 2010/334](#), amended by [S.S.I. 2011/59](#).
- M7** OJ L 354, 28.12.2013, p.22, as amended by Council Regulation (EU) No 1385/2013 (OJ L 354, 28.12.2013, p.86) and Regulation (EU) 2015/812 (OJ L 133, 29.5.2015, p.1).
- M8** OJ L 112, 30.4.2011, p.1, as corrected by a corrigendum (OJ L 328, 10.12.2011, p.58).
- M9** [Article 5\(3\)](#) was amended by [S.S.I. 2011/59](#).
- M10** Entry 1(ha) was inserted by [S.S.I. 2011/59](#).
- M11** Entries 2(a) and (b) were omitted by [S.S.I. 2011/59](#), [article 7\(e\)](#).
- M12** Entry 3(d) was omitted by [S.S.I. 2011/59](#), [article 7\(d\)](#).

### Amendment of the Sharks, Skates and Rays (Prohibition of Fishing, Trans-shipment and Landing) (Scotland) Order 2012

29.—(1) The Sharks, Skates and Rays (Prohibition of Fishing, Trans-shipment and Landing) (Scotland) Order 2012 <sup>M13</sup> is amended as follows.

(2) In article 2 (interpretation)—

(a) before the definition of “EU fishing boat” insert—

““Common Fisheries Policy Regulation” means Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC<sup>M14</sup>.”; and

(b) for the definition of “EU fishing boat” substitute—

““EU fishing boat” means a Union fishing vessel as defined in Article 4.1(5) of the Common Fisheries Policy Regulation, other than a Scottish fishing boat and a relevant British fishing boat.”.

(3) In article 3 (application), for paragraph (2)(c) substitute—

“(c) any other fishing boat or vessel (other than an EU fishing boat or third country fishing boat), whose master, owner or charterer (if any) is a person established in the United Kingdom within the meaning of Article 19(1)(a) of the Common Fisheries Policy Regulation <sup>M15</sup>.”.

#### Marginal Citations

- M13** [S.S.I. 2012/63](#).
- M14** OJ L 354, 28.12.2013, p.22, as amended by Council Regulation (EU) No 1385/2013 (OJ L 354, 28.12.2013, p.86).
- M15** [Article 19](#) permits a Member State to take measures for the conservation and management of stocks in its own waters, subject to certain conditions. (For the purposes of interpreting Article 19(1)(a), “fishing vessel” is defined in Article 4.1(4) of regulation (EU) No 1380/2013.

## Amendment of the Sea Fishing (Illegal, Unreported and Unregulated Fishing) (Scotland) Order 2013

**30.**—(1) The Sea Fishing (Illegal, Unreported and Unregulated Fishing) (Scotland) Order 2013<sup>M16</sup> is amended as follows.

(2) In article 1 (citation, commencement, extent and application), for paragraph (2) substitute—

“(2) Subject to paragraph (2A), this Order extends to Scotland and the Scottish zone only.

(2A) So far as this Order extends beyond Scotland and the Scottish zone, it does so only as a matter of Scots law.”.

(3) In article 9 (offences)—

(a) after paragraph (4) insert—

“(4A) It is an offence for a person to import fishery products caught by a third country fishing boat flying the flag of a non-cooperating third country unless the products are from stock or species to which the listing by the Council under Article 33 of the Council Regulation of the country as a non-cooperating third country does not apply.”; and

(b) after paragraph (10) insert—

“(10A) It is an offence for a person to reflag a fishing boat flying the flag of a member State so that it flies the flag of a non-cooperating third country.”.

### Marginal Citations

**M16** [S.S.I. 2013/189](#).

## Revocations and savings

**31.**—(1) The following instruments are revoked—

- (a) the Foreign Fishing Boats (Stowage of Gear) Order 1970<sup>M17</sup>;
- (b) the Fishing Boats (Marking and Documentation) (Enforcement) Order 1993<sup>M18</sup>;
- (c) the Sea Fishing (Enforcement of Community Satellite Monitoring Measures) (Scotland) Order 2004<sup>M19</sup>;
- (d) the Registration of Fish Sellers and Buyers and Designation of Auction Sites (Scotland) Regulations 2005<sup>M20</sup>;
- (e) the Registration of Fish Sellers and Buyers and Designation of Auction Sites (Scotland) Amendment Regulations 2005<sup>M21</sup>;
- (f) the Sea Fishing (Marking and Identification of Passive Fishing Gear and Beam Trawls (Scotland) Order 2006<sup>M22</sup>;
- (g) the Sea Fishing (Northern Hake Stock) (Scotland) Order 2006<sup>M23</sup>;
- (h) the Sea Fishing (Control Procedures for Herring, Mackerel and Horse Mackerel) (Scotland) Order 2008<sup>M24</sup>;
- (i) the Sea Fishing (Control Procedures for Herring, Mackerel and Horse Mackerel) (Scotland) Amendment Order 2008<sup>M25</sup>; and
- (j) the Sea Fishing (Prohibition on the Removal of Shark Fins) (Scotland) Amendment Order 2009<sup>M26</sup>.

(2) Articles 4 and 7(a) of, and Part 1 of Schedule 1 to, the Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Amendment Order 2011 are revoked.

(3) Notwithstanding paragraphs (1) and (2), the provisions and instruments referred to in those paragraphs continue to have effect for the purposes of any investigation or legal proceedings relating to any acts or omissions which occurred before 5th October 2015 and constitute an offence under any of those instruments.

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**Marginal Citations**

**M17** [S.I. 1970/318](#).

**M18** [S.I. 1993/2015](#).

**M19** [S.S.I. 2004/392](#).

**M20** [S.S.I. 2005/286](#), amended by [S.S.I. 2005/438](#).

**M21** [S.S.I. 2005/438](#).

**M22** [S.S.I. 2006/284](#).

**M23** [S.S.I. 2006/505](#).

**M24** [S.S.I. 2008/102](#), amended by [S.S.I. 2008/156](#) and [S.S.I. 2011/1043](#).

**M25** [S.S.I. 2008/156](#).

**M26** [S.S.I. 2009/413](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Sea Fishing (EU Control Measures) (Scotland) Order 2015, PART 5.