
WELSH STATUTORY INSTRUMENTS

2022 No. 70 (W. 26)

SEA FISHERIES, WALES

The Sea Fishing Operations (Monitoring Devices) (Wales) Order 2022

<i>Made</i>	- - - -	<i>24 January 2022</i>
<i>Laid before Senedd Cymru</i>		<i>27 January 2022</i>
<i>Coming into force</i>	- -	<i>15 February 2022</i>

The Welsh Ministers make the following Order in exercise of the powers conferred by section 5(1) of the Sea Fisheries Act 1968(1) which are now vested in them(2).

Title, commencement, extent and application

1.—(1) The title of this Order is the Sea Fishing Operations (Monitoring Devices) (Wales) Order 2022.

(2) This Order comes into force on 15 February 2022.

(3) This Order—

(a) extends to England and Wales;

(b) applies in relation to—

(i) Welsh fishing boats fishing at sea, wherever they may be;

(ii) relevant fishing boats fishing in Wales or the Welsh zone.

(1) 1968 c. 77 (“the 1968 Act”). Section 5(1) was amended by the Fishery Limits Act 1976 (c. 86), section 4(2). See section 19 of the 1968 Act for a definition of “the Ministers”; the definition of “the Ministers” in section 19 was amended by S.I. 1999/1820, article 4, Schedule 2, Part I, paragraph 48(1) and (5)(c).

(2) By virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions exercisable under section 5 of the 1968 Act were transferred to the National Assembly for Wales in so far as exercisable in relation to Wales (acting concurrently with any Minister of the Crown by whom they are exercisable in relation to functions under section 5 relating to the identification and marking of fishing boats). Those functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32). By virtue of articles 4(1)(c) and 5(1)(c) of the Welsh Zone (Boundaries and Transfer of Functions) Order 2010 (S.I. 2010/760), functions exercisable under section 5 of the 1968 Act were further transferred to the Welsh Ministers in relation to the Welsh zone (acting concurrently with any Minister of the Crown by whom they are exercisable in relation to functions under section 5 relating to the identification and marking of fishing boats). By virtue of section 59A of, and paragraph 2(1) and (2)(c) of Schedule 3A to, the Government of Wales Act 2006, functions exercisable under section 5 of the 1968 Act were further transferred to the Welsh Ministers in relation to Welsh fishing boats beyond the seaward limit of the Welsh zone (acting concurrently with any Minister of the Crown by whom they are exercisable in relation to functions under section 5(1) and (2)(a) of the 1968 Act). See paragraph 2(4) of Schedule 3A for the definition of “Welsh fishing boat”.

Interpretation

2. In this Order—

“fishing operations” (“*gweithrediadau pysgota*”) means catching fish and includes activities ancillary thereto;

“Fleet Register Number” (“*Rhif Cofrestr Fflyd*”) means—

- (a) the United Kingdom fleet register number assigned to the vessel by the Secretary of State as referred to in Article 8 of Commission Implementing Regulation (EU) 2017/218⁽³⁾; or
- (b) the common fleet register number assigned to the vessel by a member State as referred to in Article 8 of Commission Implementing Regulation (EU) 2017/218 on the Union fishing fleet register ⁽⁴⁾;

“IRCS” (“*IRCS*”) means the international radio call sign of the fishing boat⁽⁵⁾;

“length” (“*hyd*”) in relation to a fishing boat, means the length calculated in accordance with the rules specified in Article 2(1) of Regulation (EU) 2017/1130 of the European Parliament and of the Council of 14 June 2017 defining characteristics for fishing vessels⁽⁶⁾;

“monitoring device” (“*dyfais fonitro*”) means a device which has a unique identification number and is capable of transmitting the required information every 30 seconds;

“relevant fishing boat” (“*cwch pysgota perthnasol*”) means a fishing vessel of less than 12 metres in length which is licensed under section 15 or section 17 of the Fisheries Act 2020⁽⁷⁾, other than a Welsh fishing boat;

“the person in charge” (“*person sydd â gofal*”) means the owner, master and charterer, if any, of the fishing boat;

“the required information” (“*yr wybodaeth ofynnol*”) means the information specified in article 4;

“Welsh fishing boat” (“*cwch pysgota Cymreig*”) means a fishing vessel of less than 12 metres in length which is—

- (a) registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995⁽⁸⁾ and whose entry in that register specifies a port in Wales at which the vessel is to be treated as belonging; and
- (b) licensed under section 15 of the Fisheries Act 2020.

Regulation of fishing operations

3.—(1) The fishing boat must not undertake fishing operations unless—

- (a) it has a monitoring device installed;
- (b) the Welsh Ministers have been notified of—
 - (i) the unique identification number of the monitoring device;
 - (ii) the name of the fishing boat upon which the monitoring device is installed;
 - (iii) the Fleet Register Number or IRCS of the fishing boat; and

⁽³⁾ EUR 2017/218.

⁽⁴⁾ OJ No. L 34, 9.2.2017, p. 9.

⁽⁵⁾ The international radio call sign is allocated to a fishing boat by the national telecommunications authority to all vessels with radio equipment on board, as part of the radio licensing process. Each country is allocated a call sign series by the International Telecommunication Union.

⁽⁶⁾ EUR 2017/1130.

⁽⁷⁾ 2020 c. 22.

⁽⁸⁾ 1995 c. 21. Part 2 has been amended by S.I. 2002/794 and S.I 2015/664.

- (c) the monitoring device transmits the required information to the Welsh Ministers at least once in every ten minute period.
- (2) Where the fishing boat is used in contravention of paragraph (1), the person in charge is guilty of an offence.

Required Information

- 4. The required information is—
 - (a) the unique identification number of the monitoring device;
 - (b) the most recent geographical position of that boat using coordinates of latitude and longitude on the World Geodetic System 1984(9), with a position error of less than 10 metres;
 - (c) the date and time expressed in Co-ordinated Universal Time of any geographical position of that boat; and
 - (d) the speed and course of that boat at that time.

Ongoing responsibilities concerning the monitoring devices

- 5. The person in charge of the fishing boat must use all reasonable endeavours to ensure that—
 - (a) the monitoring device is not capable of being manually overridden;
 - (b) the monitoring device is not destroyed, damaged, rendered inoperative, or otherwise interfered with;
 - (c) any antenna connected to the monitoring device is not obstructed in any way; and
 - (d) the power supply to the monitoring device is not interrupted.

Failure of a Monitoring Device

- 6.—(1) If the monitoring device on board the fishing boat becomes incapable of transmitting the required information, the person in charge, at the point at which they know, or could reasonably be expected to know the device had stopped transmitting, must—
 - (a) notify the Welsh Ministers that the monitoring device is incapable of transmitting the required information; and
 - (b) ensure the fishing boat does not undertake any further fishing operations until the monitoring device is capable of transmitting the relevant information in accordance with article 3(1)(c) and notice of that fact has been given the Welsh Ministers.
- (2) A notification under paragraph (1)(a) or (b) must include—
 - (a) the unique identification number of the monitoring device;
 - (b) the name of the fishing boat upon which the monitoring device is installed;
 - (c) the Fleet Register Number or IRCS of the fishing boat; and
 - (d) where known by the person in charge—
 - (i) the time at which the monitoring device stopped transmitting the required information;

(9) The World Geodetic System 1984 (“WGS 84”) defines a reference frame for the earth, for use in geodesy and navigation. It was developed by the United States’ National Geospatial-Intelligence Agency and is maintained by it. WGS 84 is defined at paragraph 2.1 of the United States’ National Imagery and Mapping Agency Technical Report TR8350.2, third edition, amendment 1 of 3rd January 2000 entitled “Department of Defense World Geodetic System 1984” <https://gis-lab.info/docs/nima-tr8350.2-wgs84fin.pdf>.

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- (ii) the reason or reasons that the monitoring device ceased to function correctly;
- (iii) what element of the required information the relevant monitoring device is incapable of transmitting.

24 January 2022

Lesley Griffiths,
Minister for Rural Affairs and North Wales, and
Trefnydd, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies in relation to Welsh fishing boats (wherever they may be) and relevant fishing boats fishing in Wales or the Welsh zone. It regulates fishing at sea and comes into force on 15 February 2022.

Article 2 of this Order defines terms used in this Order, including the definition of “Welsh fishing boat” and “relevant fishing boat” for the purpose of this Order.

Article 3, paragraph (1) of this Order requires Welsh fishing boats, when fishing at sea, and relevant fishing boats, when fishing in Wales or the Welsh zone, to have a monitoring device on board, to notify the Welsh Ministers of certain matters and for certain information (the required information) to be transmitted to the Welsh Ministers at least once in every ten minute period. Paragraph (2) of article 3 provides the owner, master and charterer (if any) (the person in charge) is guilty of an offence if the fishing boat is used on contravention of paragraph (1).

Article 4 prescribes the required information that must be transmitted to the Welsh Ministers.

Article 5 provides for continuing obligations on the person in charge regarding the monitoring device.

Article 6 sets out certain requirements which apply to the person in charge in the event of the monitoring device becoming incapable of transmitting the required information.

By virtue of section 5(4) of the Sea Fisheries Act 1968 (c. 77), breach of this Order constitutes an offence punishable on summary conviction by an unlimited fine.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a Regulatory Impact Assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.