

2019 No. (W.)

SEA FISHERIES, WALES

Sea Fishing (Licences and Notices)
(Wales) Regulations 2019

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations relate to licences issued in respect of Welsh fishing boats under sections 4 and 4A of the Sea Fish (Conservation) Act 1967 (c. 84), and to notices varying, suspending or revoking such licences. They revoke and replace, in relation to such licences and notices, the Sea Fishing (Licences and Notices) Regulations 1994 (S.I. 1994/2813).

They provide for the manner in which such licences are to be granted, varied, suspended or revoked, and for the time when such a grant, variation, suspension or revocation is to take effect.

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

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2019 No. (W.)

SEA FISHERIES, WALES

Sea Fishing (Licences and Notices)
(Wales) Regulations 2019

Made 6 March 2019

Laid before the National Assembly for Wales

7 March 2019

*Coming into force in accordance with
regulation 1(1)*

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The Welsh Ministers make the following Regulations in exercise of the powers conferred by section 4B of

the Sea Fish (Conservation) Act 1967(1), and now vested in them(2).

Title, commencement and application

1.—(1) The title of these Regulations is the Sea Fishing (Licences and Notices) (Wales) Regulations 2019 and they come into force on exit day.

(2) These Regulations apply in relation to—

- (a) a licence under section 4 (licensing of fishing boats) or 4A (licensing of vessels receiving trans-shipped fish) of the Sea Fish (Conservation) Act 1967(3) which was granted:
 - (i) in respect of a Welsh fishing boat; or
 - (ii) by the Welsh Ministers in respect of a foreign fishing boat; and
- (b) a notice of variation, suspension or revocation of a licence described in sub-paragraph (a),

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- (1) 1967 (c.84); (“the 1967 Act”). section 4B was inserted by section 4 of the Sea Fish (Conservation) Act 1992 (c.60). Section 22(2)(a) of the 1967 Act, which contains a definition of “the Ministers” for the purposes of section 4B, was amended by the Fisheries Act 1981 (c.29), sections 19(2)(d) and 45(b).
 - (2) The function under section 4B of the 1967 Act in relation to Wales was transferred to the National Assembly for Wales and then transferred from that body to the Welsh Ministers: see article 2(a) of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32). The function under section 4B in relation to the Welsh zone was transferred to the Welsh Ministers by article 4(1)(b) of the Welsh Zone (Boundaries and Transfer of Functions) Order 2010 (S.I. 2010/760).
 - (3) section 4 was substituted by section 3 of the Fishery Limits Act 1976 (c.86) and amended by section 20 of the Fisheries Act 1981 (c.29), section 1 of the Sea Fish (Conservation) Act 1992 (c.60), sections 4, 196 and 197 of the Marine and Coastal Access Act 2009 (c.23) and S.I. 1999/1820. See section 4(12) for the definitions of “relevant British fishing boat” and “foreign fishing boat”. Section 4A was inserted by section 21 of the Fisheries Act 1981 and amended by section 3 of the Sea Fish (Conservation) Act 1992, section 6 of the Marine and Coastal Access Act 2009 and S.I. 1999/1820. The functions of the Ministers under sections 4, 4A, 15(3), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales and then transferred from that body to the Welsh Ministers: see article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order (S.I. 1999/672) and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). So far as exercisable in relation to the Welsh zone, the functions of the Ministers under sections 4 and 4A of the 1967 Act, were transferred to the Welsh Ministers by article 4(1)(b) of the Welsh Zone (Boundaries and Transfer of Functions) Order 2010 (S.I. 2010/760) on a concurrent basis. Those functions were further transferred, on a concurrent basis, in relation to Welsh fishing boats beyond the seaward limit of the Welsh zone by paragraph 2(1) of Schedule 3A to the Government of Wales Act 2006.

including a notice of variation, suspension or revocation of such a licence granted before exit day.

Interpretation

2. In these Regulations—

“electronic communication” (*“cyfathrebu electronig”*) has the meaning given in section 15(1) of the Electronic Communications Act 2000⁽¹⁾;

“licence” (*“trwydded”*) (except in the term “sea fishing licences” (*“trwyddedau pysgota môr”*)) means a licence of a kind described in regulation 1(2);

“newspaper” (*“papur newydd”*) means a newspaper circulating within, or within any part of, the United Kingdom and includes a journal, magazine or other periodical publication;

“nominee” (*“enwebai”*) means either—

- (a) an individual resident in the United Kingdom, or
- (b) a body incorporated and having a place of business in the United Kingdom,

appointed by the owner or charterer of a relevant fishing boat to receive, on the owner or charterer’s behalf, licences and notices;

“notice” (*“hysbysiad”*) means a notice of a kind described in regulation 1(2)(b);

““relevant fishing boat” (*“cwch pysgota perthnasol”*) means—

- (a) a Welsh fishing boat, or
- (b) a fishing boat that is not registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995⁽²⁾;

“Welsh fishing boat” (*“cwch pysgota Cymreig”*) means a fishing boat—

- (a) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995⁽²⁾, and
- (b) whose entry in the register specifies a port in Wales as the port to which the boat is to be treated as belonging.

(1) 2000 c.7; that definition was amended by the Communications Act 2003 (c.21), section 406(1) and paragraph 158 of Schedule 17.

(2) 1995 c.21.

Communication of licences and notices

3.—(1) A licence is to be granted, and a notice relating to a licence is to be given, by communicating it to an appropriate recipient (“P”).

(2) A licence must be communicated by—

- (a) personally delivering it to P;
- (b) posting it to P at P’s address or place of business;
- (c) leaving it at P’s address or place of business, or in the hands of a person there; or
- (d) subject to paragraph (6), transmitting it to P by means of an electronic communication to an address which the appropriate recipient has specified in accordance with sub-paragraph (b) of that paragraph.

(3) A notice must be effected by communicating it to P—

- (a) in any of the ways specified in paragraph (2);
- (b) by publishing it on a website, the address of which is indicated on the licence to which the notice relates; or
- (c) where the notice is a general notice, publishing it in a newspaper.

(4) A general notice must—

- (a) provide that it applies to all sea fishing licences; or
- (b) specify those sea fishing licences to which it relates by reference to species, area, method, or licence type, or any combination of those matters.

(5) A notice other than a general notice must specify the licences to which it relates by reference to the name, port letters and number of each vessel in respect of which such a licence was granted.

(6) A licence or a notice may be communicated by means of an electronic communication as described in paragraph (2)(d) only if the following conditions are satisfied—

- (a) the use of an electronic communication results in the information contained in the licence or notice being available to P in all material respects as it would appear in a licence or notice given in printed form; and
- (b) P has specified an address for the purpose of receiving such communications.

(7) In this regulation “an appropriate recipient” means—

- (a) In relation to a licence or notice relating to a Welsh fishing boat—
 - (i) the owner or charterer of the fishing boat, or
 - (ii) a nominee of that owner or charterer; and
- (b) in relation to a licence or notice relating to any other fishing boat, the owner or charterer of the fishing boat

(8) In this regulation a “general notice” means a notice which relates to—

- (a) all sea fishing licences; or
- (b) all sea fishing licences authorising fishing—
 - (i) for one or more specified descriptions of sea fish,
 - (ii) in one or more specified areas,
 - (iii) by a specified method or methods,
 - (iv) by licence type, or
 - (v) by reference to a combination of two or more of the matters referred to in paragraphs (i) to (iv).

(9) In this regulation “sea fishing licences” means licences under section 4 of the Sea Fish (Conservation) Act 1967.

Time at which licences are delivered and notices are given

4.—(1) A licence or a notice communicated personally is treated as delivered or given immediately it is communicated.

(2) Subject to paragraph (7), a licence or a notice communicated by post is treated as delivered or given 48 hours after the end of the day on which it was posted.

(3) A licence or a notice communicated by leaving it at the address or place of business of an owner, charterer or nominee or in the hands of a person there, is treated as delivered or given 24 hours after the time at which it was left.

(4) A licence or a notice communicated by an electronic communication as described in regulation 3(2)(d) is treated as delivered or given 24 hours after the time of that transmission.

(5) A notice communicated by publication on a website is treated as given immediately it is published.

(6) A notice communicated by publication in a newspaper is treated as given at the end of the day on which it is published.

(7) Where a licence or a notice—

- (a) is communicated by post, and
- (b) is treated as delivered or given on a Sunday or on a bank holiday (within the meaning of the Banking and Financial Dealings Act 1971⁽¹⁾),

the licence or notice is treated as delivered or given at the end of the next day which is not a Sunday or a bank holiday.

Time at which licences and notices have effect

5. Subject to regulation 6—

- (a) a licence has effect at the time it is treated as delivered in accordance with regulation 4;
- (b) a notice communicated in accordance with regulation 3(3)(a) has effect 24 hours after the time it is treated as given in accordance with regulation 4;
- (c) a notice communicated in accordance with regulation 3(3)(b) (publication on website) has effect 24 hours after the time it is treated as given in accordance with regulation 4(5); and
- (d) a notice communicated in accordance with regulation 3(3)(c) (publication in a newspaper) has effect 48 hours after the time it is treated as given in accordance with regulation 4(6).

Special provision for certain licences and notices

6.—(1) A licence or a notice communicated by more than one of the methods specified in regulation 3 has effect at the earliest of the times corresponding to each such method specified in regulation 5.

(2) A licence or a notice which purports on its face to have effect at a time later than that at which it is treated as having effect in accordance with regulation 5 has effect at the time shown on its face.

Revocation of the Sea Fishing (Licences and Notices) Regulations 1994

7. The Sea Fishing (Licences and Notices) Regulations 1994⁽²⁾ are revoked in relation to Wales, the Welsh zone and Welsh fishing boats wherever they may be.

(1) 1971 c.80; see section 1 and Schedule 1.

(2) S.I. 1994/2813, which was revoked in relation to Scotland by S.S.I. 2011/70.

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one of the Welsh Ministers
6 March 2019