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Rural Affairs and Islands Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Rural Affairs, Land Reform and Islands, with the exception of matters relating to land reform, natural resources and peatland, Scottish Land Commission, Crown Estate Scotland, and Royal Botanic Garden.



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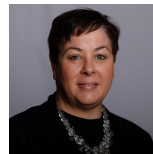
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Executive summary

1. This report details the Rural Affairs and Islands Committee's consideration of the draft Sea Fisheries (Remote Electronic Monitoring and Regulation of Scallop Fishing) (Scotland) Regulations 2024.
2. The Committee agreed to recommend to the Parliament that it approve the instrument.

The Sea Fisheries (Remote Electronic Monitoring and Regulation of Scallop Fishing) (Scotland) Regulations 2024

3. The draft Sea Fisheries (Remote Electronic Monitoring and Regulation of Scallop Fishing) (Scotland) Regulations 2024 were laid in the Scottish Parliament on 24 April 2024 and are subject to the affirmative procedure. The draft instrument was referred to the Rural Affairs and Islands Committee for consideration.
4. This instrument replaces an earlier SSI of the same name which was laid on 22 March and which was subsequently withdrawn.
5. The policy note states that the instrument “mandates the use of remote electronic monitoring (REM) systems on all ‘relevant scallop boats’ and ‘relevant pelagic boats’ during fishing trips in the Scottish zone and, for Scottish vessels falling within those categories, during fishing trips wherever they are fishing”.
6. The key provisions of the instrument are detailed in the rest of this report.

Delegated Powers and Law Reform Committee consideration

7. The [Delegated Powers and Law Reform Committee](#) considered the instrument at its [meeting on 30 April 2024](#) and agreed that no points arose.

Rural Affairs and Islands Committee consideration

8. The Committee issued a two-week [call for views on the initial instrument between 25 March to 8 April 2024](#), receiving 16 responses.
9. The [Cabinet Secretary for Rural Affairs, Land Reform and Islands wrote to the clerk on 24 April 2024 to confirm that the instrument was to be withdrawn](#) to allow a drafting error to be corrected and then the instrument would be re-laid. The Cabinet Secretary stated that the reason for this was that the “Committee’s call for views on this Order highlighted a small error in the drafting that, if uncorrected, will undermine technical restrictions fundamental to the regulation of scallop dredge fisheries”.
10. On [24 April 2024, the Committee took evidence on the instrument from stakeholders](#), it heard from:
 - Future Fisheries Alliance (FFA)
 - Scottish Pelagic Fisherman's Association (SPFA)
 - Scottish Fisherman's Federation (SFF)
 - Isle of Man Government.
11. The [Committee took evidence from the Cabinet Secretary for Rural Affairs, Land Reform and Islands and Scottish Government Officials on 1 May 2024](#).
12. The key themes of evidence are summarised below.

Compliance and enforcement

13. The policy note states the policy objective of the instrument is:
 - ” to improve the capacity to monitor fishing activity in the Scottish zone, and the fishing activity of Scottish fishing vessels wherever they operate. The enhancements in monitoring and enforcement delivered by REM will deter non-compliant fishing activity and provide confidence that fishers are complying with the rules and regulations that are in place.
14. NGOs responding to the Committee's call for views were broadly supportive of the proposals to introduce mandatory REM. They viewed REM as an essential tool for delivering legal obligations and policy commitments for sustainable fisheries management.
15. The FFA elaborated on this view in oral evidence to the Committee, when it referred to the historically low levels of compliance in European waters and the need to improve selectivity and incentivise better management of our seas. It stated:

” hundreds of thousands of marine mammals, seabirds and elasmobranchs—sharks, rays and skates—are caught incidentally each year in our waters and we have very little understanding of the true extent of that. Having cameras on vessels will allow us to improve that understanding.

16. The Isle of Man Government also supported the Scottish Government's approach to REM, noting it had been “heavily involved in working groups on putting REM on vessels and creating the Scottish statutory instrument”.

17. Fishing industry stakeholders who responded to the Committee's call for views, however, expressed concerns that REM would predominantly be used as a tool for compliance and enforcement. The SPFA thought the pelagic sector already operated sustainably and questioned why “another layer of complex and expensive control and enforcement is required for this sector”. It said:

” [...] this is not an industry with a short-term perspective, the long-term objective is to maintain a prosperous and sustainable industry well into the future. In order to achieve that, we need healthy fish stocks and a robust control and enforcement regime, which is already in place.

18. The SFF argued that the Scottish Government has not set out clearly identified the exact problem which REM is being introduced to solve. It said:

” REM is not a silver bullet solution to anything. If the fisheries management policies that are in place are not practical and are difficult or impossible to comply with, then REM is simply setting up fishermen to fail.

19. In her opening remarks to the Committee on 1 May 2024, the Cabinet Secretary described the introduction of REM as a “game changer in the world of fisheries management”. She stated that “REM will deter non-compliance with fisheries legislation and ensure compliance with key legal requirements, such as the landing obligation and area restrictions; it will enhance our understanding and knowledge of fisheries and stocks, and support a robust scientific evidence base; and it will deliver confidence and accountability in the activities of fishing vessels at sea, which will enhance the reputation of the fishing industry”.

Providing better data to informing government decision making

20. The policy note states that high-resolution data generated from REM systems will enhance the evidence base on which decisions are taken by the Scottish Government or other relevant public authorities, including the provision of scientific advice and decisions relating to wider marine planning.

21. NGOs who responded to the Committee's call for views supported this objective. The FFA, in oral evidence, highlighted the example of the Devon & Severn Inshore Fisheries and Conservation Authority using REM “as a very successful way to protect its MPAs”.

22. Fishing industry stakeholders and NGOs agreed that REM data could be useful for

marine spatial planning and to mitigate ‘spatial squeeze’ in fisheries. For example, the Shetland Shellfish Management Organisation (SSMO) thought REM could provide “accurate anonymised information showing where the Shetland scallop fleet fishes over a period of years could be used as evidence in the marine planning process when the industry faces site applications from fish farmers and other developers”.

23. Fishing industry stakeholders were more sceptical, however, about claims made about the wider applicability of REM data for scientific and sustainability objectives. The SPFA explained how it already engages in a range of data collection and scientific sampling to inform scientific assessments and suggested REM would “not add anything new” to these.
24. In oral evidence, the SFF stated:
 - ” The impacts are spoken about very much in terms of “could”, “may” and “in the future”, so it is what you might describe as jam tomorrow. There are possibilities here, but we do not yet have any way of describing how we could achieve those or anything concrete setting out a pathway to getting some of the more positive benefits.
25. Some concerns were also raised about whether the Marine Directorate’s current resources would be sufficient to achieve the stated objectives of REM.
26. In response to these concerns, the Cabinet Secretary told the Committee that “sound fisheries management is underpinned by robust scientific evidence, and the more data that we have, the more confidence we can have in that information, which in turn means that we can be more confident in the management decisions that we make”. Officials provided more details on how scientific data would be used to inform decision making in the future.
27. The Cabinet Secretary stated that the Marine Directorate has the capacity and the resources to manage this data and the anticipated costs have been set out in the [business and regulatory impact assessment](#) (BRIA) but the Scottish Government would keep this under review.

Providing better data to informing consumer choices

28. The use of REM is also expected to help deliver the confidence and accountability that consumers and members of the public want to see from seafood products.
29. Some stakeholders agreed that REM data could increase confidence in the sustainability of seafood supply chains. The SSMO argued that the voluntary use of REM for the scallop fishery had “provided assurance to buyers who source quality Shetland scallops by demonstrating that the fleet follows the highest monitoring and compliance standards and is endorsed by the Marine Stewardship Council”.
30. The SPFA, however, did not agree that REM was linked to a consumer-led demand for sustainability in the seafood supply chain. It stated in written evidence:

” REM has never once been raised during meetings [with UK retailers and international buyers of pelagic fish] as a tool the market would like to have, and it is also an issue the overwhelming majority of consumers would most likely have no interest or knowledge about. Rather than REM, the market, especially the UK retailers, are solely concerned about the lack of international quota sharing agreements for mackerel, blue whiting and Atlanto Scandian herring.

31. The Cabinet Secretary, however, told the Committee the Scottish Government was responding to “clear calls from consumers and retailers who want greater trust in fishing activities”. She referred to the 41 members of the seafood supply chain, including Sainsbury’s, Marks and Spencer and Tesco, who jointly responded to the 2021 consultation on the UK joint fisheries statement calling for clear commitments to fully implement REM in domestic fisheries.

Costs

32. The BRIA provides the following estimate costs based on 2023 prices:

- Scallop vessels:
 - Annual cost Year 1 and replacement years: £3,250 - £8,320
 - Annual cost Year 2 onwards: £360 - £810
- Pelagic vessels:
 - Annual cost Year 1 and replacement years (excludes maintenance): £10,050 - £27,630
 - Annual cost Year 2 onwards: £2,730 - £11,000.

33. The BRIA states, however, that the specific cost of purchasing REM systems is difficult to quantify as fishers will procure their systems on the open market and prices will likely vary.

34. Fishing industry stakeholders called for the Scottish Government to finance the costs of installing REM systems. The SFF reported that the REM systems installed in the scallop fleet on a voluntary basis cost significantly more than expected and that they are prone to technical failures, leading to further financial and time costs for repairs. The SSMO argued the ongoing viability of inshore scallop fishing is being threatened by the costs associated with REM systems. In written evidence, it stated:

” Up to now they have willingly adopted REM, despite teething issues with the technology and occasional difficulties accessing the Government's contracted engineer to arrange installation and repairs. However, the prospect of ongoing and open-ended costs potentially running into many thousands of pounds to each fisherman for equipment which is not there for their benefit may change that attitude.

35. The Cabinet Secretary confirmed to the Committee that the Scottish Government

had no plans to provide funding to meet the installation costs for REM.

Level-playing field

36. The regulations apply to Scottish vessels wherever they fish and to non-Scottish vessels fishing within the Scottish zone.
37. Stakeholders were broadly supportive of the requirements for non-Scottish vessels to comply with the regulations. NGOs suggested this demonstrated leadership and could encourage and accelerate the adoption of REM by other nations' fleets. Concerns were expressed, however, about how the Marine Directorate would ensure compliance by non-Scottish vessels, especially considering that there are approximately 150 non-UK vessels fishing pelagic species in Scottish waters throughout the year.
38. Concerns were also raised related to the requirement for Scottish vessels to use REM when fishing outside Scottish waters, where non-Scottish vessels may not be subject to the same requirements and that this might potentially put Scottish vessels at a disadvantage. In oral evidence, the SFF stated:
 - ” That does not feel like a level playing field. There might be a level playing field in Scottish waters, although we are unclear about how the Government will seek and receive the same assurances from non-Scottish vessels fishing in Scottish waters as it might seek from Scottish vessels. There is still asymmetry in that, when Scottish vessels are fishing elsewhere, they will still be required, under the full force of the law, to have REM installed and operational, whereas other vessels will not, at the moment.
39. Stakeholders were also concerned that Scottish vessels would be the primary target for Marine Directorate compliance due to the easy access to vessels registered in Scotland.
40. Stakeholders emphasised the need for coordination between fisheries administrations to ensure a coherent approach to REM requirements in order to avoid conflicting requirements on vessels across GB. For example, the Isle of Man Government Department of Environment, Food and Agriculture (DEFA) submitted a response to the Scottish Government's consultation calling for UK fisheries authorities “to develop statutory REM requirements that are coherent throughout British Fishery Limits, such that technology on British fishing vessels are compatible throughout domestic waters”.
41. The Cabinet Secretary sought to reassure the Committee, and stakeholders, by affirming her view that “ensuring that we have a level playing field is critical, and that is what I believe we have achieved through the draft regulations”.

Offences and penalties

42. The instrument specifies that the offences for breaching the regulations are contained in sections 1(7) and 3(5) of the Sea Fish (Conservation) Act 1967 and

include:

- a fine not exceeding £50,000 on summary conviction and a fine on conviction on indictment;
- an additional fine “not exceeding the value of the fish caught in contravention of the Act” or “caught with fishing gear that contravened the Act”; and
- the forfeiture of that fish or fishing gear.

43. Some written submissions expressed concerns about the fairness of a uniform maximum penalty for all offences and questioned whether this approach would ensure any penalty would accurately reflect the severity of the offence. For instance, SIFT asked “whether it is proportionate, in principle, to impose the same £50,000 penalty for an offence for failing to submit certain information to the Scottish Ministers within a particular timeframe ... compared to an offence of failing to operate a REM system ... or an offence of altering or obstructing a REM system.” SIFT suggested the Scottish Government should ensure penalties match the severity of the offence, possibly by creating sentencing guidelines.
44. Fishing industry stakeholders were less concerned about the penalties, which they viewed as broadly in line with the suite of penalties for non-compliance with existing fishing legislation, but they did highlight the potential impact a sizeable penalty could have on smaller vessels, particularly in the scallop sector:
- ” For a vessel with relatively low profitability—perhaps only £30,000 a year—a significant fine could really eat into the profitability of the vessel and perhaps threaten its viability. That is why it is important that courts think very carefully about how they apply penalties in the event of a conviction.
45. The Cabinet Secretary emphasised that the imposition of penalties is the responsibility of the sheriff or court in each case and that it would not be appropriate for the Scottish Government to interfere in this process. She did, however, highlight that the Scottish Government has previously committed to review the overall enforcement penalty regime, although it does not plan to undertake this review immediately.

Technical specifications

46. The instrument provides powers allowing that Scottish Ministers “may from time to time specify in a document [...] technical specifications for REM systems” required by the regulations (regulations 6 and 16).
47. In written evidence, Professor James Harrison, SIFT, OpenSeas and the SFF questioned why the technical specifications would be provided in separate documentation rather than being included in the SSI, as was the case in the 2017 Order, highlighting concerns around a lack of scope for parliamentary scrutiny. In its written evidence, SFF stated that “the government is giving itself the powers to introduce the technical specifications with no scrutiny, and also the powers to change the technical requirements ‘from time to time’ with no evident legal obligation to consult those who will be impacted, and who will be required to spend

more money – another blank cheque - to meet any amended or new requirements”.

48. In addition, several stakeholders identified a lack of clarity around the technical specifications for required REM equipment.
49. The Scottish Government wrote to the Committee on 23 April 2024 to provide the draft technical specifications for pelagic and scallop boats. The specifications were shared with the SFF and SPFA prior to the evidence with the Cabinet Secretary on 1 May 2024. The SPFA highlighted the following concerns:
 - Many pelagic vessels are equipped with analogue cameras, which do not meet the proposed integration specification. Unless the specification is changed, these vessels will need to operate two camera systems: one for REM purposes and another to monitor the fishing operation.
 - Retrofitting a new digital camera system is a major financial undertaking. While fitting new cameras is relatively straightforward, the major work involves running new cables for the additional digital cameras.
 - The technical specification suggests that seven cameras could cover the fishing operation, but marine electronics companies estimate that a minimum of 12 cameras will be required.
 - The retrofit cost is difficult to estimate at this stage, but it is expected to be around £30,000.
 - During the scallop pilot trial winch sensors were prone to technical failure.
50. The Cabinet Secretary told the Committee that the industry had been consulted via the wider consultation exercise undertaken prior to the introduction of the regulations. She added that the specifications were highly technical and would need to evolve over time and gave a commitment to update the Committee, should they change in future.

Malfunction and inspection of REM equipment

51. The instrument introduces processes to be followed if an REM system technical fault or malfunction is detected prior to, or during, a fishing trip:
 - The requirement for scallop and pelagic vessels to undergo a remote inspection when first installing or replacing REM equipment (regulations 8 and 19).
 - The requirement for scallop dredge vessel owners to repair malfunctioning REM equipment within 28 days but can continue to fish during this period (regulation 10). For pelagic vessel owners there is no 28-day grace period. Vessels may complete a fishing trip but cannot return to sea until REM equipment is repaired and has undergone a remote inspection (regulation 20).
52. A number of issues were raised in responses to the call for views. NGOs expressed concern that the 28-day grace period for repairs for REM systems on scallop dredgers would be too long; OpenSeas thought this could “effectively allow

a month of unmonitored fishing and non-compliance”.

53. Fishing industry stakeholders expressed concerns the proposed requirements could be onerous and costly, the vulnerability of REM systems to severe weather conditions at sea and the availability of marine electronic engineers. Concerns were also raised about the potential impact technical issues could have on short fishing seasons in the pelagic sector. The SPFA stated:

” As you all know, the pelagic seasons can be very short— just a matter of weeks. I am really concerned that a vessel could be tied up in port and unable to get the system functioning again while the fishing season passes it by and it is not able to fulfil its quota.

54. In relation to industry concerns, the Cabinet Secretary told the Committee that, whilst technical faults do occur, “there have been few such incidents and cases” and officials confirmed that relevant engineers were available nationally. Scottish Government officials went on to confirm the process to be followed in the event of a first and second malfunction would depend on where a breakdown occurred, explaining that:

- If a skipper identifies a malfunctioning REM system before setting sail, it is expected to be fixed before departure.
- If a breakdown occurs at sea, the master of the vessel should inform the compliance officers. They can continue fishing during this voyage but must repair the system upon return to port.
- If another breakdown occurs on a subsequent voyage, it indicates a more serious issue with the system. In this case, fishing should cease and the vessel should return to port for repairs.

55. In relation to concerns around the 28-day grace period for scallop dredgers, the Cabinet Secretary told the Committee she thought that 28 days provided a balanced approach, which would allow for the necessary work to take place. Scottish Government officials also confirmed that during the 28-day grace period, scallop boats would still need to have a functioning camera and vessel monitoring system (VMS).

Duty to retain and make accessible REM data

56. The instrument provides duties regarding the storage and transmission of REM data to Scottish Ministers. This includes:

- The requirement for scallop and pelagic vessels to retain and store REM data for a 1-year period made accessible to Scottish Ministers on request (regulations 7 and 17).
- Power for Scottish Ministers to serve a ‘data transmission request notice’ to pelagic vessels requiring them to transmit requested REM data within 72 hours from the notice being served (regulation 18).

57. Stakeholders responding to the Committee's call for views called for clarification

about how request notices would be submitted in practice and what criteria the Scottish Government would apply when deciding to request REM data, as well as the reasons why there appears to be no equivalent power to serve a data transmission request notice to scallop vessels as applied to pelagic vessels under regulation 18.

58. In relation to issuing request notices, the Cabinet Secretary highlighted the importance of having the capability to use data transmission requests to request REM data on an ad-hoc basis to avoid delays in receiving information, particularly in the pelagic sector where freezer vessels can be at sea for extended periods. She added that the Scottish Government did not expect to use them frequently.
59. In relation to the lack of a corresponding power to serve a data transmission request notice to scallop vessels, the Cabinet Secretary explained this was due to the different handling methods, and again highlighted the example of a freezer vessel that could be at sea for a long time, whereas scallop vessels typically make shorter voyages.

Data processing

60. Stakeholders highlighted a lack of clarity around how REM data would be managed, with questions raised regarding how the data would be stored, who would control and have access to the data and how the data would be used for wider purposes, such as science and monitoring.
61. Fishing industry stakeholders expressed particular concern about whether data would be publicly available, citing concerns regarding commercial sensitivity. The SFF called for “clear legal assurances from the Scottish Government that the data generated from REM will only be used for purposes intended, and that will not be shared outside of government”.
62. NGOs, however, advocated for public access to REM data to promote transparency. In its written evidence, the Coastal Communities Network stated:
 - ” It's imperative that REM data is utilised in scientific research and management decision-making processes. The statutory instrument must adequately address and facilitate these needs. Failure to incorporate this aspect into the Statutory Instrument would be a missed opportunity.
63. The FFA suggested data-sharing agreements – whereby data could be made available for scientific purposes but on an anonymised basis – would be a reasonable compromise.
64. In response to these points, the Cabinet Secretary acknowledged the importance of data use, storage, and privacy, highlighting that the Scottish Government had worked closely with the Scottish Information Commissioner to ensure compliance with general data protection regulations. She confirmed that only certain data, once aggregated and anonymised, would be eligible for sharing, taking into account the commercial sensitivity and personal nature of some data.

Timescales for implementation

65. The instrument provides a lead-in time before the main pelagic provisions come into force. This includes a 6 month preparatory period (beginning on 7 September 2025) before the main pelagic provisions come into force on 7 March 2026.
66. Fishing industry stakeholders raised concerns about this timescale and the SPFA said that it had been told by the Marine Directorate that there would be a two-year lead-in period from the time the legislation is adopted. The SPFA told the Committee:
 - ” It was a bit of a shock to us to see the appearance of the hard deadline of the middle of March 2026, because it had been our full understanding that there would two full years before implementation, once Parliament had finished with the legislation. That has broken a bit of trust between the pelagic fishermen and the marine directorate.
67. The FFA considered the timescales to be adequate, whilst some other NGOs viewed the timescale for the pelagic fleet to be “too slow”.
68. The Cabinet Secretary told the Committee she believed that there was ample time for the industry to comply with the regulations.

Conclusion

69. Following the evidence session with the Cabinet Secretary for Rural Affairs, Land Reform and Islands on 1 May 2024, the Cabinet Secretary moved motion S6M-12641:

That the Rural Affairs and Islands Committee recommends that the Sea Fisheries (Remote Electronic Monitoring and Regulation of Scallop Fishing) (Scotland) Regulations 2024 [draft] be approved.

70. After debate, the motion was agreed to by division: For 7, Against 0, Abstentions 2.

