



Statutory Document No. 159/07

SEA-FISHERIES ACT 1971

**SEA-FISHERIES (SATELLITE-TRACKING DEVICES) (ISLE OF MAN)
BYE-LAWS 2007**

Approved by Tynwald: 21st March 2007

Coming into operation: on 1st April 2007

WHEREAS the Department of Agriculture, Fisheries and Forestry has -

- (a) consulted such organisations and authorities as is required by section 2(2A)(a) of the Sea-Fisheries Act 1971 **(a)**; and
- (b) satisfied itself as required by section 2(2A)(b) of that Act.

AND in exercise of the powers conferred on the Department of Agriculture, Fisheries and Forestry by section 2 of the Sea-Fisheries Act 1971, and of all other enabling powers, the following Bye-laws are hereby made:-

Part I

General

Citation, and commencement

1. These Bye-laws may be cited as the Sea-Fisheries (Satellite-Tracking) (Isle of Man) Bye-laws 2007 and shall come into operation on 1st April 2007.

(a) 1971 c. 18; section 2 was amended by the Fisheries Act 1983, the Statute Law Revision Act 1986, G.C. 121/86 and the Territorial Sea (Consequential Provisions) Act 1991, which added section 2(2A)

(b) S.D. No. 653/99

Price: £ 1.20; Band: A.

Interpretation

2. (1) In these Bye-laws –

“Department” means the Isle of Man Department of Agriculture, Fisheries and Forestry;

“Fisheries Monitoring Centre” means a Fisheries Monitoring Centre established under Article 3(7) of Council Regulation 2847/93;

“mile” means an international nautical mile of 1,852 metres;

“person in charge”, in relation to a fishing vessel, means the owner, master or charterer, if any, of the fishing vessel or the agent of any of them;

“fishing vessel” means a fishing vessel registered in the Isle of Man, United Kingdom or Channel Islands;

“required information” means the information set out in Bye-law 6;

“satellite-tracking device” means a tamper resistant terminal, approved by the Department, which sends the required information by way of satellite and land earth station to the Department or a Fisheries Monitoring Centre;

“sea-fishery officer” means an officer appointed under the Sea Fisheries act 1971 (an Act of Tynwald)(**a**);

“three mile area” means waters lying within 3 miles of the baseline from which the breadth of the territorial sea adjacent to the Island is measured.

(2) Any reference to a logbook, declaration or document or any required information includes, in addition to a logbook, declaration or document or required information in writing –

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any disk, tape, sound track or other device in which sounds or other data (not being visual aids) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (d) any film (including microfilm), negative, tape, disk or other device in which one or more visual images are recorded so as to be capable (as aforesaid) of being reproduced therefrom.

Application

3. These Bye-laws only apply to fishing vessels operating within the three mile area under the provisions contained in the Sea-Fisheries (Scallop Fishing) Bye-Laws 1999(**b**).

(**a**) 1971, c. 18; (**b**) S.D. 653/99.

PART II

Provisions relating to registered fishing vessels operating within the three mile area

Installation of a satellite-tracking device

4. (1) A person in charge of a fishing vessel which has a satellite-tracking device installed for the purposes of these bye-laws which is capable of being manually overridden is guilty of an offence.

(2) A person in charge of a fishing vessel which has a satellite-tracking device installed for the purposes of these bye-laws which permits the input or output of false positions is guilty of an offence.

(3) A person in charge of a fishing vessel which leaves port without an operational satellite-tracking device installed on board is guilty of an offence.

Prohibition against switching off a satellite-tracking device whilst in port without prior notification

5. (1) Subject to paragraph (2), a person in charge of a fishing vessel on which a satellite-tracking device is switched off shall be guilty of an offence.

(2) When a fishing vessel is in port, the satellite-tracking device may be switched off provided that –

- (a) the Department has been given prior notice that the satellite-tracking device is to be switched off; and
- (b) the next report shows that the fishing boat has not changed its position in relation to the previous report.

Characteristics of satellite-tracking devices

6. For the purposes of these bye-laws the satellite-tracking devices installed on board registered fishing vessels shall ensure the automatic transmission at all times of data relating to –

- (a) the fishing vessel identification;
- (b) the most recent geographical position of the fishing vessel, with a position error which shall be less than 500 metres, with a confidence interval of 99%;
- (c) the date and time (GMT) of the fixing of the said position of the fishing vessel; and
- (d) the speed and course of the vessel.

Transmission of required information

7. (1) A person in charge of a fishing vessel, the satellite-tracking device on which fails to transmit data in compliance with bye-law 6 above, on a two-hourly basis, is guilty of an offence except where –

- (a) the satellite-tracking device has been switched off in compliance with bye-law 5, or
- (b) data is being communicated in compliance with bye-law 9.

Responsibilities in relation to the satellite-tracking device

8. (1) Subject to compliance with bye-law 5, a person in charge of a fishing vessel who fails to ensure that the satellite-tracking device is fully operational at all times and that the data referred to in bye-law 6 is transmitted, shall be guilty of an offence.

(2) In particular, a person in charge of a fishing vessel shall ensure that –

- (a) the data is not altered in any way;
- (b) the antenna or the antennas connected to the satellite-tracking device are not obstructed in any way;
- (c) the power supply of the satellite-tracking device is not interrupted in any way; and
- (d) the satellite-tracking device is not removed from the fishing vessel.

(3) It shall be prohibited to destroy, damage, render inoperable or otherwise interfere with the satellite-tracking device.

Technical failure of non-functioning of the satellite-tracking device

9. (1) A person in charge of a fishing vessel in respect of which, in the event of a technical failure or non-functioning of the satellite-tracking device, there is a failure to communicate information every four hours, by whatever means, starting from the time the that event was detected or from the time that he was informed by the Department, is guilty of an offence.

(2) A fishing vessel shall not leave a port following a technical failure or non-functioning, before the satellite-tracking device fitted on board is functioning to the satisfaction of the Department, unless the Department grants permission for that fishing vessel to so leave port. Any person in charge of a fishing vessel contravening this bye-law shall be guilty of an offence.

(3) The Department shall seek to inform the person in charge of a fishing vessel or their representative when the satellite-tracking device on board the fishing vessel appears to be defective or not to be functioning.

(4) The Department may authorise the satellite-tracking device to be replaced by an approved functioning tamper resistant device.

PART III

Penalties

Penalties

10. A person found guilty of an offence under these bye-laws or under any equivalent provision is liable –

- (a) on summary conviction to a fine not exceeding £10,000,
- (b) on conviction on information to a fine.

Part IV

Miscellaneous and Supplemental

Provisions as to offences and proceedings

11. (1) Where any offence under these bye-laws, or under any equivalent provision, committed by a body corporate is proved to have been committed with the consent or approval of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where any offence under these bye-laws, or under any equivalent provision, committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner, as well as the partnership, shall be guilty of the offence and liable to be proceeded against and punished accordingly.

(3) Where any offence under these bye-laws, or under any equivalent provision, committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the association, that officer as well as the association, shall be guilty of the offence and liable to be proceeded against and punished accordingly.

Made 18th February 2007

Phil Gawne

Minister for Agriculture, Fisheries and Forestry

EXPLANATORY NOTE

(This note is not part of the bye-laws)

1. These Bye-Laws lay down detailed provisions in relation to the installation of satellite-tracking devices on fishing vessels fishing for scallops within a three mile area of the Isle of Man.
2. In particular, the Bye-Laws create offences for contravening requirements relating to:
 - the installation of a satellite-tracking device;
 - the switching off of a satellite-tracking device in port without prior notification;
 - the information to be transmitted by the satellite-tracking device;
 - the responsibilities relating to a satellite-tracking device; and
 - the technical failure or non-functioning of a satellite-tracking device.
3. The Bye-Laws provide that any person guilty of an offence under them is liable, on summary conviction to a fine not exceeding £10,000, or on conviction on indictment, to a fine.

(a) S.D. 672/06.