Dear Jenny

Sea Fishing (Points for Masters of Fishing Boats) (Scotland) Regulations 2014 (SSI 2014/379)

Thank you for your letter of 27 March 2015 about matters raised during the Rural Affairs, Climate Change and Environment Committee’s consideration of the above Regulations, in particular; how is the register of masters kept; how is the register made available and how are people who have broken EU fishing rules pursued.

How is the register of masters kept

The purpose of the new Regulations is to meet Scotland’s obligations under Article 92(6) of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy. Article 92(6) of the Regulation states that Member States are required to establish a point system under which a master of a fishing vessel is assigned the appropriate number of points as a result of a serious infringement of the rules of the common fisheries policy committed by him/her. In the UK, points may only be applied to an individual on the back of a conviction in a UK court.

The agreed policy position of UK Fisheries Administrations is that a UK-wide central register of points requires to be established and operated in order to ensure a level playing field. The most practical way of achieving this is through one central authority, in this case the Marine Management Organisation, setting up and operating the register in respect of any points allocated to a master in any part of the UK. A separate UK statutory instrument has been made, containing provision to this effect.

However, it is considered appropriate that the Scottish Ministers are identified as the authority responsible for allocating points to a master of a Scottish-registered fishing boat who has committed any serious infringements of the common fisheries policy. It is therefore

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considered appropriate to make a Scottish Statutory Instrument which provides for points to be allocated by the Scottish Ministers in these circumstances, but which also provides for the way in which those points feed into the UK-wide central register. Marine Scotland compliance and licensing units will monitor case convictions and update the central UK points register when convictions for serious fisheries offences by a master are confirmed by the Courts.

The English, Welsh and Northern Ireland Administrations are bringing their own points for masters’ subordinate legislation into force to ensure continuity across their parts of the UK. Marine Scotland is committed to maintaining a level playing field for its fishing industry and believes that this option provides the best solution for ensuring compliance with EU law, maintaining the no punishment without law principle and limiting any potential for administration hopping by convicted masters within the UK Member State.

How is the register made available

Convicted fishing vessel masters will individually be advised by letter of any points awarded, the point’s expiry dates and their current points tally on the back of a court conviction for a serious fisheries infringement. In accordance with data protection rules the UK central points register will not be made publically available.

How are people who have broken EU fishing rules pursued

Effective monitoring and enforcement of marine and fishing laws is vital if we are to protect Scotland's valuable marine areas and fisheries. It is important that these are protected by detecting breaches of fisheries regulations by monitoring and inspection at sea and in ports, and then reporting as appropriate to the prosecuting authorities, and by providing intelligence on fishing activity in the sea areas around Scotland.

Marine Scotland Compliance maintains and deploys its resources and assets on a risk based approach in order to monitor compliance with and detect infringements of EU and UK fisheries laws. On detection of an infringement a thorough investigation is carried out by warranted Fisheries Officers. Once an investigation is completed, and if sufficient evidence is produced, a person suspected of committing an infringement of fisheries law may be reported to the prosecuting authorities, who in turn may refer the issue to a UK court.

I hope that the Committee find the above helpful. If you should require further information or clarification on any related point please do not hesitate to contact me.

Yours sincerely

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