

# SL(6)146 –The Sea Fishing Operations (Monitoring Devices) (Wales) Order 2022

## Background and Purpose

This [Order](#) prohibits:

- licensed fishing boats of less than 12 metres in length (undertaking fishing operations in Wales or the Welsh zone), and
- Welsh fishing boats of less than 12 metres in length (undertaking fishing operations wherever the boat may be),

from undertaking fishing operations without an operating vessel monitoring system (“VMS”). Certain information (including the geographical position, date, time, speed and course of the vessel) must be transmitted from each boat’s VMS to the Welsh Ministers at least once in every 10 minutes whilst undertaking fishing operations.

## Procedure

No procedure.

## Scrutiny under Standing Order 21.7

The following points are identified for reporting under Standing Order 21.7 in respect of this Order:

### **1. Standing Order 21.7(i) – any other subordinate legislation laid before the Senedd other than that subject to Special Senedd Procedure under Standing Order 28**

Article 3 of these Regulations creates a new offence. Paragraph (1) provides that a fishing boat must not undertake fishing operations unless the requirements of that paragraph (i.e. that the boat have VMS installed and transmitting the required information to the Welsh Ministers) are satisfied. Paragraph (2) provides that where a fishing boat is used in contravention of paragraph (1), then the person in charge of the boat is guilty of an offence.

The new offence created by Article 3(2) is punishable on summary conviction by an unlimited fine.<sup>1</sup>

### **2. Standing Order 21.7(i) – any other subordinate legislation laid before the Senedd other than that subject to Special Senedd Procedure under Standing Order 28**

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<sup>1</sup> By virtue of section 5(4) of the Sea Fisheries Act 1968



This Order is made by the Welsh Ministers in exercise of powers conferred by section 5(1) of the Sea Fisheries Act 1968. Orders made under that section are not subject to a procedure of the Senedd.<sup>2</sup>

The creation of a new offence is a significant matter, and ordinarily it would be expected that a statutory instrument that did so would be subject to (as a minimum) the negative procedure. However, in this instance the enabling power is over half a century old.

## Government response

A Welsh Government response is not required.

### Legal Advisers

**Legislation, Justice and Constitution Committee**

**1 February 2021**

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<sup>2</sup> Section 18(2) of the Sea Fisheries Act 1968

