

Act regulating sea fisheries and implementing European Union fisheries legislation (Sea Fisheries Act - SeeFischG)

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Sea Fisheries Act

Date of issuance: 12.07.1984

Long title:

"Sea Fisheries Act in the version promulgated on 06 July 1998 (Federal Law Gazette I p. 1791), last amended by Article 1 of the Act of 23 December 2016 (Federal Law Gazette I p. 3188)".

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3188 Please refer to "Notes" in the menu for more details on the

status

Footnote

(+++ Bibliographic reference as from: 01/08/1984 +++)

Heading: In the version as per Article 1 no. 1 of the Act of 22.12.2011 I 3069 effective as of 30.12.2011 (+++ For the application of section 14b of section 22a +++)

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Section 1 Scope

(1) This Act shall serve

1. to lay down rules for sea fisheries and
2. to implement the provisions of the Treaty on the Functioning of the European Union and of the legal acts of the European Community or of the European Union that were enacted to govern the exercise of sea fisheries in relation to the protection of fish stocks, the conservation of the biological resources of the sea, and the monitoring system or structural policy of the European Union for the fish sector (European Union fisheries legislation), in particular:
 - a) Council Regulation (EC) 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) 2847/93, (EC) 1936/2001 and (EC) 601/2004 and repealing Regulations (EC) 1093/94 and (EC) 1447/1999 (OJ L 286 of 29.10.2008, p. 1) as amended;
 - b) Council Regulation (EC) 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy, amending Regulations (EC) 847/96, (EC) 2371/2002, (EC) 811/2004, (EC) 768/2005, (EC) 2115/2005, (EC) 2166/2005, (EC) 388/2006, (EC) 509/2007, (EC) 676/2007, (EC) 1098/2007, (EC) 1300/2008, (EC) 1342/2008 and repealing Regulations (EEC) 2847/93, (EC) 1627/94 and (EC) 1966/2006 (OJ L 343 of 22 December 2009, p.1) as amended; and
 - c) legal acts of the European Community or of the European Union, enacted pursuant to the Regulations referred to in points (a) and (b), as amended.

(2) The fisheries legislation of the European Union, this Act, legislation enacted on the basis of this Act and other legislation of the Federal Government governing sea fisheries shall apply in the Exclusive Economic Zone of the Federal Republic of Germany; the above legislation shall also apply to the exercise of sea fisheries by fishing vessels that are not entitled to fly the Federal German flag.

(3) In all other respects, section 3 (d) of the Federal Maritime Responsibilities Act (*Seeaufgabengesetz*) shall apply mutatis mutandis insofar as the enforcement of European Union fisheries legislation, of this Act, of regulations enacted on the basis of this Act and of other legislation of the Federal Government governing sea fisheries falls within the responsibility of the Federal Government authorities.

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Section 1a Definitions

(1) Persons shall be deemed to be engaged in sea fishing if they, at sea and for commercial purposes, catch fish, attempt to catch fish, take fish on board, or obtain fish from marine aquaculture or by other means. The landward boundary for sea fishing shall be the same as the boundary for seafaring as per section 1 of the German Flag Ordinance (Flaggenrechtsverordnung).

(2) Fish, within the meaning of this Act, shall be deemed to comprise all marine organisms available to fisheries with the exception of animal species subject to hunting law.

(3) Control officials within the meaning of this Act shall comprise any officials of the Federal Government or of a Land who are deployed to control sea fisheries at sea or on land.

(4) IUU fishing vessels within the meaning of this Act shall comprise fishing vessels listed in Commission Regulation (EU) 468/2010 of 28 May 2010 establishing the EU list of vessels engaged in illegal, unreported and unregulated fishing (OJ L 131 of 29.5.2010, p. 22), as last amended.

(5) FAO 3-alpha identifiers within the meaning of this Act shall constitute the identifiers, each comprising three letters, laid down by the Food and Agriculture Organization of the United Nations for the purpose of describing a fish species and listed in Annex IV of Regulation (EC) 216/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic (recast) (OJ L 87 of 31.3.2009, p. 1) as last amended, in Annex I of Regulation (EC) 217/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of catch and activity statistics by Member States fishing in the north-west Atlantic (recast) (OJ L 87 of 31.3.2009, p. 42) as last amended, and in Annex I of Regulation (EC) 218/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic (recast) (OJ L 87 of 31.3.2009, S. 70) as last amended.

(6) A ban on fishing within the meaning of this Act shall constitute a general ban on sea fishing in respect of a specific fish stock in a specific geographical area for a specific period of time that is imposed by the Federal Office for Agriculture and Food (Federal Office) or a body of the European Union or agreed under an international instrument and published in the Federal Gazette or electronic Federal Gazette.

(7) A moratorium within the meaning of this Act shall constitute a ban on fishing without a time limit.

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Section 2 Responsibilities of the Federal Government

(1) The Federal Office shall be responsible for the tasks listed in the Annex.

(2) The Federal Office shall also bear the responsibility of coordinating the control activities and the recording, processing and certifying of information on fishing activities between all authorities of the Federal Government and of the Laender that are responsible for monitoring sea fisheries and, for the purposes of implementing this Act, the legal instruments referred to in section 1 (1) or the ordinances issued on the basis of this Act, to cooperate with and report to the European Commission, the European Fisheries Control Agency and the responsible authorities of other Member States and third countries.

(3) Other rules governing responsibilities, in particular in this Act and in the areas governed by the European Union's Common Market Organisation for fisheries products and by the European Union's structural policies for the fishing industry, shall remain unaffected.

(4) Upon application by a Land, the Federal Ministry of Food and Agriculture shall be empowered to issue ordinances without the consent of the Bundesrat to expand the Federal Office's remit for monitoring sea fisheries, as per subsection 1 in conjunction with no. 1 of the Annex, to include the area, described in the second sentence, of the Land submitting the application, insofar as this is conducive to promoting uniform monitoring activities. The area within the meaning of the first sentence shall be the area that stretches from the outer limit of the territorial sea landwards to a line that is three nautical miles from the baseline.

(5) The Federal Ministry of Food and Agriculture shall furthermore be authorised to issue ordinances, without the consent of the Bundesrat, to extend the Federal Office's remit to include tasks relating to European Union fisheries legislation that are to be described in greater detail in the respective ordinance, insofar as this is conducive for a uniform application and implementation of European Union fisheries legislation and the additional tasks are materially connected to a task to be performed by the Federal Office as per subsection 1, in conjunction with the Annex or as per section 6.

(6) The Federal Office shall involve the Federal Agency for Nature Conservation in laying down the nature and scope of the measures to monitor compliance with fisheries regulations that are directly aimed at protecting marine areas within the Exclusive Economic Zone as defined in section 57 of the Federal Nature Conservation Act. The monitoring results are to be transmitted to the Federal Agency for Nature Conservation, insofar as this is necessary for it to perform the task as per the first sentence.

(7) The Federal Ministry of Food and Agriculture shall be empowered to issue ordinances, without the consent of the Bundesrat, to partly or entirely transfer to customs authorities or federal police authorities the monitoring and support of sea fisheries (fisheries control) seaward of the outer limit of the Federal Republic of Germany's territorial sea and to regulate the cooperation with the Federal Office. Ordinances issued pursuant to the first sentence shall require, in the case of the customs authorities, the consent of the Federal Ministry of Finance and, in the case of the federal police authorities, the consent of the Federal Ministry of the Interior. In ordinances issued pursuant to the first sentence, fisheries control may also, following consultation with the respective Land, be transferred to an area designated in an ordinance as per subsection 4. Insofar as tasks are, pursuant to the first sentence, transferred to customs authorities or federal police authorities, these authorities shall be subject to the technical supervision of the Federal Ministry of Food and Agriculture. The responsibilities and powers of the Federal Office shall remain unaffected.

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Section 3 Fishing permits

(1) If sea fishing is restricted due to European Union fisheries legislation or due to an Ordinance issued pursuant to section 15 (3) no. 2, permission (a fishing permit) shall be required to engage in sea fishing. This permit shall be issued subject to the catch possibilities available. The fishing permit may only be refused to be granted if:

1. the deadline for application has been missed and the catch possibilities available have been distributed;
2. one of the three most recently granted fishing permits was significantly exceeded or misused; or
3. facts justify the assumption that the applicant will not use the fishing permit himself / herself.

The fishing permit shall only be granted insofar as the applicant wishes to engage in sea fishing with fishing vessels that were already operated on the basis of a fishing permit in 1986 or 1987 or insofar as the construction or purchase of these fishing vessels was or is supported by funds of the Federal Government or of the Laender. By way of derogation from the fourth sentence, a fishing permit may be granted by the Federal Ministry of Food and Agriculture for the operation of a fishing vessel:

1. for which permission to fly the Federal German flag as per Section 11 (1) of the Flag Act (Flaggenrechtsgesetz) has been granted;
2. that replaces a vessel that is a write-off, insofar as its gross registered tonnage (GRT) is not greater, or its engine power in kilowatts (kW) is not greater, than that of the lost vessel;
3. that replaces a vessel belonging to a fleet segment the capacity of which has already fallen below the capacity ceiling for the German fishing fleet laid down by the legal instruments referred to in section 1 (3), insofar as the vessel's gross registered tonnage is not greater, or its engine power in kilowatts is not greater, than that of the replaced vessel; such a replacement shall, however, also be possible if this reduces the capacity in the respective fleet segment.

The fishing permit may be subject to the requirement that the catch data per haul are to be entered in the logbook. It may be subject to incidental conditions that are necessary in the interest of fisheries or in order to implement European Union fisheries legislation.

(2) In determining the allocations, account is to be taken of the productive capacity and suitability of the fishery enterprises, their participation to-date in the respective fishery, the economic commitment of the fishing fleet and the optimum market supply; account may also be taken of whether fishery enterprises have been particularly affected by a fishing ban or other kind of restriction.

(3) The Federal Office shall be responsible for issuing the fishing permits. It is to consult the respective trade associations prior to the decision, particularly in respect of laying down the allocation parameters. In addition to this, the affected Laender are to be consulted if the broad guidelines for granting fishing permits are to be laid down.

(4) The Federal Office may grant legal entities, which fishery enterprises have joined together to form, collective permits for all members subject to the requirement that, under the collective permit, such an entity grants fishing permits to its members in accordance with the stipulations of subsection 1. The commissioned bodies shall be subject to this extent to the technical supervision of the Federal Office.

(5) By way of derogation from section 52 of the Code of Administrative Court Procedure (Verwaltungsgerichtsordnung), the Administrative Court of Hamburg shall have jurisdiction for all disputes concerning fishing permits.

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Section 4 Sea fishing by vessels that are not entitled to fly the Federal German flag

Sea fishing shall require special approval if it:

1. is conducted in the Exclusive Economic Zone or in territorial seas by fishing vessels that are not entitled to fly the flag of a Member State of the European Union; or
2. is conducted in territorial seas by fishing vessels that are entitled to fly the flag of a Member State of the European Union other than the Federal Republic of Germany,

insofar as these vessels do not, by virtue of European Union fisheries legislation, have a legal right to fish. The Federal Office shall issue the special approval. The approval for sea fishing in territorial seas pursuant to the first and second sentences shall be granted after consultation with the respective Land authority responsible for fisheries. . Section 3 (1), (2), (3), third sentence, and subsection 5 shall apply mutatis mutandis.

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Section 5 Monitoring sea fisheries

(1) Sea fisheries may, by virtue of European Union fisheries legislation or of a bilateral agreement, be monitored by the fisheries monitoring service of another State.

(2) Without prejudice to the provisions of Article 80 of Regulation (EC) 1224/2009, the following shall be subject to the monitoring:

1. all fishing vessels in the Exclusive Economic Zone and in territorial seas;
2. fishing vessels entitled to fly the Federal German flag, also in all other marine areas except in the territorial seas of another Member State unless this Member State has agreed.

(3) (repealed)

(4) (repealed)

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Section 6 Fisheries Monitoring Centre

(1) The Federal Office shall conduct the duties of the Fisheries Monitoring Centre provided for by European Union fisheries legislation.

(2) The Federal Office shall decide, pursuant to Article 81 of Regulation (EC) 1224/2009, on applications by other Member States to be granted authorisation for control officials of a Member State to control at sea a fishing vessel from this Member State of the European Union in the Exclusive Economic Zone.

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Section 7 Automatic identification system

Insofar as the Federal Government's waterways and shipping authorities (Wasserstraßen- und Schifffahrtsverwaltung des Bundes) have shipping data, in particular data from the automatic identification system, at their disposal, the authorities responsible for fisheries monitoring shall be entitled, upon request, to have these data transmitted to them for inspection purposes.

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Section 8 Union inspectors

The Federal Office and the Laender may put forward their control officials as candidates for becoming Community inspectors or Union inspectors.

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Section 9 Involvement of customs authorities in the monitoring of the import, export and transit of fishery products

(1) The customs authorities shall participate in the monitoring of the import, export and transit of fishery products subject to an import or export rule pursuant to:

1. directly applicable legal instruments of the European Community or of the European Union, in particular Chapter III of Regulation (EC) 1005/2008 and the legal instruments of the European Community or European Union issued under Chapter III of Regulation (EC) 1005/2008; and of
2. Acts and Ordinances issued under the legal instruments referred to in no. 1

(2) The customs authorities may:

1. for inspection purposes stop consignments, including the means of transport, containers, loading devices and packaging material for fishery products, during import, export and transit;
2. communicate to the responsible authorities any suspicion of an infringement of the regulations referred to in subsection 1 that may arise during the performance of their duties; and,
3. in cases of suspicion as per no.2, order the consignments referred to in no. 1 to be presented to the responsible authority at the expense and risk of the holder of rights of disposal.

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Section 10 Databases and validation system

(1) The Federal Office shall be entitled:

1. to record, store for a period of five years, and use for control purposes the applications for the issuing of a certificate certifying the applicant's status as an approved economic operator pursuant to Article 16 of Regulation (EC) 1005/2008 (APEO certificate) in conjunction with Chapter II of Commission Regulation (EC) 1010/2009 of 22 October 2009 laying down detailed rules for the implementation of Council Regulation (EC) 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (OJ L 280 of 27.10.2009, p.5), the details transmitted for this purpose electronically or in other form, and, as required, information on the amendment or the withdrawal of an APEO certificate or on the abeyance of the status as approved economic operator;
2. to record the catch data pursuant to Article 33 of Regulation (EC) 1224/2009 electronically, to store these data for a period of ten years, to use them for control purposes and to transmit them for control purposes to the responsible authorities of the European Union ;
3. to set up, pursuant to Article 78 of Regulation (EC) 1224/2009, an electronic database for storing inspection and monitoring reports of the authorities of the Federal Government and of the Laender, to store the data from the inspection and monitoring reports for a period of five years and to use them for control purposes; and
4. to electronically record details of the mode of operation of the electronic reporting system in a database, to store these details, to use them and to transmit them to the responsible agencies of the European Union.

(2) The Federal Office shall set up and maintain an electronic database and a validation system pursuant to Article 109 of Regulation (EC) 1224/2009 for the purpose of validating, cross-checking and evaluating the data that have been recorded during monitoring of the fisheries. The Federal Office shall be entitled to electronically record the data referred to in Article 109 of Regulation (EC) 1224/2009, to store these data for a period of ten years, and to use them for control purposes.

(3) Following the respective expiry of the time periods stated in subsection 1 numbers 1-3 and subsection 2, the data are to be deleted without delay.

(4) The Laender shall transmit to the Federal Office without delay the catch data referred to in subsection 1 no. 2 and the data from the inspection and monitoring reports referred to in subsection 1 no. 3 that are held by their authorities for the purpose of storing these data in the database. The authorities of the Laender shall be entitled to record and use data from the database, as referred to in subsection 1 numbers 2 and 3, that are required to perform these authorities' own control duties. The data referred to in the second sentence are to be deleted without delay once the control duties referred to in the second sentence have been performed.

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Section 11 Data exchange

The Federal Office shall be entitled, pursuant to Article 111 of Regulation (EC) 1224/2009, to make available the information referred to therein to other Member States, to the European Commission and to the European Fisheries Control Agency.
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Section 12 Website

The Federal Office shall set up and maintain a website as per Articles 114 - 116 in conjunction with Article 110 of Regulation (EC) 1224/2009. The Federal Office shall be entitled to record electronically the data referred to in Article 116 of Regulation (EC) 1224/2009, to store these data for a period of three calendar years from the year following their recording and, pursuant to Article 116 of Regulation (EC) 1224/2009, to make these remotely accessible to the European Commission and the European Fisheries Control Agency. Upon expiry of the time period referred to in the second sentence, the data are to be deleted without delay.
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Section 13 Point system for serious infringements

(1) To ensure effective implementation of the provisions of the Common Fisheries Policy, the measures referred to in (2) to (8) (point system) of Article 92 of Regulation (EC) 1224/2009 are to be taken in the event of serious infringements of these Common Fisheries Policy provisions. The point system shall apply to:

1. the holder of a fishing licence; and
2. the master of a fishing vessel who is authorised to command a fishing vessel on the basis of a certificate of competency issued by the Federal Republic of Germany for nautical service on fishing vessels.

The points for each serious infringement shall be assigned:

1. by the Federal Office, in the case of a holder of a fishing licence;
2. by the authority responsible for the regulatory fine proceedings or criminal proceedings, in the case of a master of a fishing vessel.

The responsible authority pursuant to the third sentence, no. 2, is, without delay and giving details of the infringement, to notify the Federal Office of the points assigned in order for this information to be entered in the national infringement file set up pursuant to section 14.

(2) Further details regarding the point system in the cases of subsection 1, second sentence, no. 1, including the number of points for a serious infringement, shall be determined based on Commission Implementing Regulation (EU) 404/2011 of 8 April 2011 with implementing provisions regarding Council Regulation (EC) 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy.

(3) In the cases of subsection 1, second sentence, no. 2, a certain number of points shall be assigned for criminal or administrative offences that are defined in sections 18 and 19 and that constitute a punishment for infringement of provisions of European Union fisheries legislation that, under European Union fisheries legislation, entail an imposition of points for serious infringements in the cases of subsection 1, second sentence, no. 1, insofar as:

1. the criminal or administrative offence referred to in the second sentence is described in an Ordinance pursuant to section 15 (1) no. 11; and
2. the offence is, over and beyond this, a serious offence as defined by Article 3(2) of Regulation (EC) 1005/2008.

In respect of the reference made in the first sentence, no. 1, the criminal and administrative offences are, based on the classification of the regulations liable to penalties in the points-awarding system, to be assigned between one and seven points in accordance with the European Union fisheries legislation. If several infringements have been committed by means of a single action, only the infringement subject to the highest number of points shall be entered. When assigning the points, the responsible authority shall be bound by the final and binding judgment on the criminal offence or by the final and absolute decision or final and binding judgment on the administrative offence.

(4) If the master of a fishing vessel reaches:

1. 18 points or more for the first time, the master shall be considered, for a period of two months, to be:
2. 18 points or more for the second time, the master shall be considered, for a period of four months, to be:
3. 18 points or more for the third time, the master shall be considered, for a period of eight months, to be:
4. 18 points or more for the fourth time, the master shall be considered, for a period of one year, to be:

unreliable, as defined by the maritime shipping legislation on the acquisition of certificates of competency for nautical officers. The Federal Maritime and Hydrographic Agency shall order the certificate of competency to be suspended for the respective period. The master shall hand over the certificate of competency to the Federal Maritime and Hydrographic Agency without delay. The issuing or re-issuing of a certificate of competency of a lower or equal order for navigational service on fishing vessels shall not be permissible for the duration of the suspension; the issuing or re-issuing of a certificate of competency for navigational service or marine engineering service on commercial vessels other than fishing vessels shall be permissible. A certificate of competency for navigational service or marine engineering service on commercial vessels other than fishing vessels shall be issued or re-issued upon application, insofar as the prerequisites for the issuing or re-issuing are met. After expiry of the time period resulting from sentence 1, also in conjunction with sentence 7, all points shall be deleted without delay if no additional points were assigned to the master during this period. Otherwise, the time period and the suspension of the certificate of competency shall be extended by a further month per point.

(5) By way of derogation from subsection 4, and over and beyond the existence of personal unreliability pursuant to the maritime shipping legislation on the obtaining of the certificate of competency for navigational officers, a master of a fishing vessel who has reached 18 points or more for the fifth time shall be deemed personally unsuitable for the obtaining of the

possession of a certificate of competency for navigational service on fishing vessels. The Federal Maritime and Hydrographic Agency is to withdraw the certificate of competency; other than this, the maritime shipping legislation on the obtaining of the certificates of competency for navigational officers are to be applied in respect of the cancellation and handing over of the cancelled certificate of competency and of the entry in the Record of Seafarers' Competencies. If, as a consequence of a master's unreliability, a final order has been made to withdraw a certificate of competency, all points shall be deleted without delay. A certificate of competency shall, without prejudice to the maritime shipping legislation on the obtaining of the certificate of competency for navigational officers, be permitted to be re-issued at the earliest one year after the withdrawal has become effective. This time period shall begin with the handing over to the Federal Maritime and Hydrographic Agency of the certificate of competency pursuant to the maritime shipping legislation on the obtaining of certificates of competency for navigational officers. The issuing or re-issuing of a certificate of competency for navigational service or marine engineering service on commercial vessels other than fishing vessels shall be permissible, irrespective of the rules as per the first to fifth sentences. A certificate of competency for navigational service or marine engineering service on commercial vessels other than fishing vessels is to be issued or re-issued upon application, insofar as the prerequisites for the issuing or re-issuing are met.

(6) If, since the last decision to assign points to a master of a fishing vessel who has not yet reached 18 points or more, no additional points have been assigned to this master, one point shall be deleted without delay after every twelve months. All points shall be deleted without delay after three years. By way of derogation from the second sentence, points that have been assigned due to a criminal offence shall be deleted without delay after five years.

(7) Once a master reaches 16 points, the Federal Office shall inform the master that he is in danger of having his certificate of competency suspended or withdrawn by the Federal Maritime and Hydrographic Agency. If a master reaches 18 points, the Federal Office shall, for the purpose of ordering the suspension or withdrawal of his certificate of competency, transmit to the Federal Maritime and Hydrographic Agency the existing entries for the respective master from the national infringement file in accordance with section 14 and shall inform it whether and how often the master has previously reached 18 points. The Federal Maritime and Hydrographic Agency shall store the data referred to in the second sentence only for as long as is necessary to implement the procedure for ordering the certificate of competency to be suspended or withdrawn; after that, the data are to be deleted without delay. The Federal Maritime and Hydrographic Agency shall notify the Federal Office without delay of any decisions on ordering the suspension or withdrawal of a certificate of competency in order for this to be entered in the national infringement file. Whenever a master's number of points changes, the Federal Office shall inform him of the reason for this change and of his overall number of points and, upon request, shall provide him with an excerpt from the national infringement file in accordance with section 14.

(8) If a master who has a certificate of competency from another EU Member State or from a third country, and an endorsement of recognition pursuant to the maritime shipping legislation pertaining to the obtaining of certificates of competency for navigational officers, commits a serious infringement of the provisions of the Common Fisheries Policy, then subsection 1, first and second sentences, no 2, and third and fourth sentences, and subsections 3 - 7 shall apply subject to the proviso that the certificate of competency shall be replaced by the endorsement of recognition pursuant to the maritime shipping legislation on the obtaining of the certificate of competency for navigational officers. If a master of a fishing vessel flying the flag of another EU Member State or of a third country commits a serious infringement of the provisions of the Common Fisheries Policy when engaging in sea fishing in territorial seas or in the Exclusive Economic Zone, the Federal Office shall submit, over and beyond the data pursuant to subsection 7, second sentence and fourth sentence, the information pursuant to section 14, once this has been entered in the national infringement file:

1. also to the respective authority of the flag Member State that is responsible for assigning points, for the purpose of this information being used in the flag Member State's point system for serious infringements; or
2. also to the respective authority of the third country whose flag the fishing vessel is flying that is responsible for investigating and sanctioning infringements, for the purpose of imposing sanctions;

and shall immediately notify the master that the data referred to in numbers 1 or 2 have been transmitted.

(9) Any objections and proceedings for annulment made and initiated in respect of the assignment of points, the suspension of a fishing licence or the withdrawal of a fishing licence in the cases of subsection 1, second sentence, no. 1 or in respect of the ordered suspension or withdrawal of the certificate of competency in the cases of subsection 1, second sentence, no. 2, also in conjunction with subsection 8, shall have no suspensive effect.

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Section 14 National infringement file

(1) The Federal Office shall set up a national infringement file pursuant to Article 93 of Regulation (EC) 1224/2009. The national infringement file shall be used to electronically record and store data on infringements of the provisions of the Common Fisheries Policy if the infringements:

1. have been committed by German nationals;
2. have been committed on fishing vessels entitled to fly the Federal German flag; or
3. have been committed while engaging in sea fishing in territorial seas or in the Exclusive Economic Zone.

The courts, public prosecution office and the fisheries supervisory authorities of the Federal Government and of the Laender shall without delay transmit to the Federal Office the data that, pursuant to the second sentence, are to be stored or that will lead to an entry being amended or deleted. The Federal Office shall enter in the national infringement file the data transmitted to the Federal Office pursuant to the third sentence, also in conjunction with section 13 (1), third sentence, no. 2, and the data as defined by the second sentence that are, under the assignment pursuant to section 13 (1), third sentence, no. 1, to be stored by the Federal Office or that will lead to an entry being amended or deleted. The authorities of the Federal Government and of the Laender that are responsible for fisheries supervision may inspect the national infringement file and use the data in the course of administrative offence proceedings and proceedings for assigning points pursuant to section 13.

(2) Insofar as the deletion of the data stored in the infringement file is not regulated in directly applicable legal instruments of the European Union establishing a Community control system to ensure compliance with the regulations of the Common Fisheries Policy, an entry shall:

- 1.

insofar as it relates to a criminal offence, be deleted without delay after expiry of five years from the year following the year in which it was recorded;

2. in all other cases, be deleted without delay after expiry of three calendar years from the year following the year in which it was recorded

(3) The Federal Office shall be entitled to record and store the following data in the national infringement file:

1. family name, forenames, maiden name, date of birth, place of birth, address, nationality;
2. type and registration number of the certificate of competency for navigational service on fishing vessels or of the endorsement of recognition, date of issue and period of validity, powers linked to the certificate of competency or
3. endorsement of recognition including any restrictions;
details of the certificate of competency of another Member State of the European Union: name of the State, type and registration number of the certificate of competency, scope, date of issue, period of validity, powers linked to the certificate of competency including any restrictions, issuing authority;
4. number of the fishing licence, powers linked to the fishing licence including any restrictions, date of issue;
5. nature, date and place of the infringement of the regulations of the Common Fisheries Policy;
6. name, flag, radio call sign, fisheries fleet register number (CFR number) and external identification number and markings of the fishing vessel with which an infringement was committed;
7. final and binding judgments or final and absolute decisions on the criminal or administrative offence, date of the legal force of the judgment or binding effect of the decision, authority;
8. details of the assigning of points pursuant to section 13: nature, date and location of the serious infringement of the Common Fisheries Policy regulations, by virtue of which points have been assigned, final and binding judgment or final and absolute decision on the points, number of points assigned, date of the legal force of the judgment or binding effect of the decision on the points, authority;
9. further details regarding points pursuant to section 13: date and number of deleted points, reason for the respective deletion of points, number of times the maximum number of points has been reached and date on which the maximum number was respectively reached, current total number of points;
10. final and binding or final and absolute decisions by an authority on the suspension or withdrawal of the fishing licence, incidental provisions, date of the legal force or binding effect of the decision; and
11. final and binding or final and absolute decisions by an authority on the suspension, the withdrawal or the re-issuing of a certificate of competency for navigational service on fishing vessels or of an endorsement of recognition pursuant to the maritime shipping legislation on the obtaining of certificates of competency for navigational officers, incidental provisions, date of legal force or binding effect of the decision.
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Section 14a Application for written information on the contents of the national infringement file

(1) The Federal Office shall provide any person, upon application, with written information on content of the national infringement file relating to the respective person. If the person concerned has a legal representative, this legal representative shall also be entitled to submit an application. If the person concerned is legally incapable, only his/her legal representative shall be entitled to submit an application.

(2) The application is to be submitted to the Federal Office via the authority responsible pursuant to Land law. Insofar as the applicant does not appear in person, the application may be submitted in written form with an officially or publically certified signature by the applicant. The applicant is to prove his/her identity and, if he/she is acting as a legal representative, his/her power of attorney. The applicant and his/her legal representative may not have themselves represented by an authorised person when submitting the application.

(3) The transmission of the information to a person other than the person concerned or his/her representative as defined by subsection 1, second or third sentence, shall not be permissible.

(4) If the information is applied for in order to be presented to an authority, the information is to be transmitted to this authority directly. The authority is to allow the applicant, upon request, to inspect the information. The applicant may request that the information, insofar as it contains entries, is first sent to an authority designated by the applicant, which is not the authority to which the information is to be presented, for the purpose of inspection by the applicant. The applicant is to be notified of this possibility when the applicant submits the application. The authority designated by the applicant may only allow the applicant in person to inspect the information. After the applicant has inspected the information, the information is to be forwarded to the authority to which the information is to be presented or, insofar as the applicant objects to this, to be destroyed by the designated authority.

(5) If the applicant lives outside the purview of this Act, he/she may request that the information, insofar as it contains entries, is initially transmitted to an official representation of the Federal Republic of Germany designated by the applicant for the purpose of inspection by the applicant. Subsection 4, fifth and sixth sentences, shall apply to the official representation of the Federal Republic of Germany accordingly.

(6) The Federal Office may publish a sample application and sample information in the Federal Gazette and have available preprints - including preprints that can be downloaded from the internet; insofar as a sample application is published and a preprint is available, these are to be used.

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§ 14b Electronic application

(1) By way of derogation from section 14a, subsection 2, first and second sentences, the application may also be submitted directly to the Federal Office in electronic form as per subsections 2 to 4, using the access provided on the internet.

(2) Proof of identity shall be provided via the electronic identity card as per section 18 of the Act on Identity Cards and Electronic Identification (Personalausweisgesetz) or as per section 78 subsection 5 of the Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory Residence Act (Aufenthaltsgesetz). In this case, the following must be transmitted to the Federal Office from the electronic storage and processing medium of the identity card or of the electronic residence title:

1. the data as per section 18 subsection 3, first sentence, of the Act on Identity Cards and Electronic Identification (Personalausweisgesetz) or as per section 78 subsection 5, second sentence, of the Act on the Residence, Economic Activity and Integration of Foreigners in the Federal Territory Residence Act (Aufenthaltsgesetz); and
2. the nationality.

If the electronic storage and processing medium does not permit the maiden name to be transmitted, the maiden name is to be given in the application and proved by other means. In respect of the data transmission, a state-of-the-art secure procedure is to be used that ensures the confidentiality and integrity of the electronically transmitted data set.

(3) Evidence to be presented is to be submitted electronically at the same time as the application and the authenticity and factual accuracy of this evidence to be affirmed on oath. The Federal Office may in individual cases, with regard to the documents that are to be presented, require the original to be presented.

(4) The Federal Office shall lay down the more detailed technical particulars of the electronic procedure. These particulars as per the first sentence are to be published in the Federal Gazette.

Footnote

(+++ Section 14b: For application cf. Section 22a +++)

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Section 15 Authorisation to issue ordinances

(1) For the purpose of implementing this Act, implementing the fisheries legislation of the European Union or meeting obligations from international fisheries agreements, the Federal Ministry of Food and Agriculture shall be empowered to issue ordinances, without the approval of the Bundesrat, in order to regulate:

1. the implementation of the monitoring of the import, export and re-export of fishery products as per Chapter III of Regulation (EC) 1005/2008, and in particular in this regard the requirements and the procedure for presenting catch certificates and for the granting of APEO status, the restriction of admissibility of imports, exports and re-exports to specific locations, and other measures and procedures for simplifying administration;
2. the content and scope of the duty to equip fishing vessels with a device to transmit position data in the satellite-based vessel monitoring system, including the duty of the master to carry such a device on board and to maintain it, and the content and scope of the duty to transmit data, and exemptions from these duties;
implementing provisions on the operation of the Fisheries Monitoring Centre and the establishment of a fisheries monitoring centre operated jointly with other Member States;
3. the content and scope of the duty to equip fishing vessels with a device to transmit data in the automatic ship identification system, including the duty of the master to carry such a device on board and to maintain it;
4. the procedure regarding the monitoring of the fishing effort regime pursuant to Articles 26 to 32 of Regulation (EC) 1224/2009, in particular regarding the inspection and management of the fishing effort data;
5. the content and scope of the masters' duties regarding the retrieval of lost fishing gear and exemptions from these duties;
6. the implementation of Community control observer schemes as defined in Article 73 of Regulation (EC) 1224/2009 by an authority of the Federal Government; and the content and scope of the masters' duties under such a scheme;
7. the content and scope of the duties of the respective person responsible for the fishing vessel that is to be controlled, for the transport vehicle or for the room in which the sea fishery products are stored, processed or marketed, in respect of the control official during fisheries control;
8. the implementing provisions for storing and using data; the design of databases and of the validation system;
9. the content and scope of the masters' duties to land catches of fish species subject to quota that are caught during a fishing operation in fisheries or in fishing areas subject to the provisions of the Common Fisheries Policy;
10. the designation of the administrative offences and criminal offences as defined in section 13 subsection 3, first sentence, and the classification of the constituent elements of the offences as defined in section 13 subsection 3, second sentence;
11. particular powers of the Federal Maritime and Hydrographic Agency in respect of exercising entitlements arising from certificates of competency with regard to ordering the suspension or withdrawal of certificates of competency in connection with the implementation of the point system as per section 13 subsection 1, second sentence, no. 2;
12. the procedure and technical details for implementing the provisions relating to the national infringement file;
the content and scope of the duties of the master of a fishing vessel to carry on board, have available and make available means for enabling a sea control to take place;
13. the responsibility of the Federal Office for
14. a);
- 15.

the receipt of applications for the European Union to provide financial contribution towards the expenditure of natural or legal persons under private law arising from implementing certain regulations of European Union fisheries legislation in the area of fisheries monitoring and control; and

b) the disbursement of these funds to the respective beneficiaries; and

the monitoring and management procedure necessary for this purpose.

(2) The Federal Ministry of Food and Agriculture shall furthermore be authorised, for the purposes described in subsection 1, to issue ordinances, subject to the consent of the Bundesrat:

1. to draw up a list of the designated ports or places close to the shore:
 - a) where third-country fishing vessels may land or transship fishery products;
 - b) where third-country fishing vessels may be granted access to port services;
 - c) where fishing vessels from Member States of the European Union transship fishery products; or
 - d) where catches of a species subject to a multi-annual plan may be landed as per Article 43 of Regulation (EC) No. 1224/2009;
2. to regulate, for the purpose of preventing, controlling and prohibiting IUU fisheries, the cooperation between authorities of the Federal Government and of the Laender with regard to the reporting procedures and other administrative procedures and to regulate, for the purpose of preventing, controlling and prohibiting IUU fisheries, the duties of masters and operators of fishing vessels, market operators and other economic operators;
3. to regulate the procedure for monitoring, and authorising access to ports by, third-country fishing vessels, to regulate the mutual notification of the responsible Land authorities with regard to monitoring access to ports by, and conducting the monitoring process of, third-country fishing vessels;
4. to regulate the content and scope of the master's duties to issue and transmit notifications prior to arrival in a port (prior notification), landing declarations and transshipment declarations, and to keep a logbook, to regulate the exemptions from these obligations, and to regulate the procedure for presenting, monitoring, storing and using prior notifications, landing declarations, transshipment declarations and the data from the logbooks, and to regulate the mutual notification between the responsible Land authorities;
5. to issue regulations, in respect of the marketing of sea fishery products from the first sale to the retail sale, including transport, on:
 - a) evidence of the origin of the products;
 - b) the packaging of sea fishery products in lots;
 - c) compliance with the marketing standards;
 - d) systems and procedures for identifying operators for the purposes of traceability; these systems and procedures are to be set up by the economic operators;
 - e) labelling of sea fishery products;
 - f) consumer information in retail trade;
 - g) the direct sale of sea fishery products; and
 - h) conditions applicable at the first sale;
6. to regulate the procedure for weighing sea fishery products prior to the first sale;
7. to regulate the content and scope of the duties to issue and transmit sales notes, take-over declarations and transport documents for sea fishery products, and the procedure for presenting, checking, storing and using sales notes, take-over declarations and transport documents, and the mutual notification between the competent Land authorities.

Ordinances as per the first sentence, no. 6, are to provide that exemptions from weighing obligations shall be made possible insofar as this is compatible with the fisheries legislation of the European Union.

(3) The Federal Ministry of Food and Agriculture shall be authorised to issue ordinances with the consent of the Bundesrat for the purpose of conserving fish stocks, using fish stocks for economic purposes, implementing the fisheries legislation of the European Union and meeting obligations arising from international fisheries agreements;

1. to prohibit fish of certain species from being caught, kept on board, landed or sold;
2. to restrict the exercise of sea fisheries in terms of quantity, time period, geographical area or in any other way;
3. to prescribe, prohibit or restrict the use of fishing gear, fishing devices, processing devices, and fishing methods;
4. to impose a duty to keep records, provide information or provide other notifications, insofar as this is necessary in order to be able to monitor compliance with the restrictions, ascertain the fishing effort or follow the development of the fish stocks.

(4) The Federal Ministry of Food and Agriculture shall be authorised to issue ordinances with the consent of the Bundesrat that provide for monitoring measures to be tolerated and supported, instructions by control officials to be followed without delay and details of catches and fishing activities to be provided.

(5) The Federal Ministry of Food and Agriculture shall be authorised to issue ordinances without the consent of the Bundesrat that provide technical descriptions of fishing gear. The ordinances are to designate the geographical areas in which the technical description of the respective fishing gear applies.

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Section 16 Powers of intervention

(1) The competent authorities of the Federal Government and the Laender may, insofar as they are implementing the legal instruments referred to in section 1 subsection 1 no. 2, this Act or the ordinances issued by virtue of this Act on board fishing vessels, in ports or on land, require, for the purpose of monitoring masters of fishing vessels, other crew members of fishing vessels, holders of fishing licences, fisheries enterprises and their commercial alliances, fish traders and fisheries market authorities, the submission of information necessary to this end, the presentation of all fisheries documents necessary to this end, and the handing over of these documents. They may for this purpose also carry out inspections in relation to the parties obliged to provide information. The parties required to provide information are to provide the information, present documents and tolerate inspections as per the first sentence. Documents as defined in the first and third sentences shall also include certificates of competency, certificates of proficiency, and endorsements of recognition, also insofar as the documents were issued by a foreign authority.

(2) The control officials shall be authorised, to this end, to enter vessels and vehicles, production sites, property and business premises. Outside business and office hours, and in respect of premises that also serve living purposes, these powers may only be exercised to prevent urgent risks to public safety and order; the fundamental right to the inviolability of the home (Article 13 of the German Basic Law) shall be limited to this extent.

(3) If the master or a member of the crew of a fishing vessel does not tolerate or support a monitoring measure or does not follow instructions issued by a control official without delay, the control officials may apply direct force to persons and property. With regard to the monitoring by federal control officials, the Application of Force Act (Gesetz über den unmittelbaren Zwang bei Ausübung öffentlicher Gewalt durch Vollzugsbeamte des Bundes) shall apply to this extent. The control officials shall, in the case of administrative offences as per section 18, have the same rights and duties as police officers pursuant to the Act on Administrative Offences (Gesetz über Ordnungswidrigkeiten); they may, during fine procedures, confiscate, search and examine in accordance with the regulations of the German Code of Criminal Procedure (Strafprozessordnung) that apply to officials assisting the public prosecution office.

(4) The Federal Office shall be authorised, for the purpose of monitoring the import, export and transit of fishery products, to stop consignments, including the means of transport, the containers, the loading equipment and the packaging material, for inspection.

(5) The party that is, pursuant to an ordinance issued by virtue of section 15 subsection 4 or pursuant to subsection 1, required to provide information may refuse to answer questions if the reply would make the party, or one of the dependents referred to in section 383 subsection 1, numbers 1 to 3, of the Code of Civil Procedure (Zivilprozessordnung), liable to the risk of criminal prosecution or to the risk of proceedings pursuant to the Act on Administrative Offences.

(6) The control officials may only exercise their powers to the extent necessary to monitor compliance with fisheries legislation.

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Section 17 Prohibitions

(1) The master of a third-country fishing vessel may not:

1. enter a port without authorisation; or
2. land, tranship or process fish on board, insofar as the Federal Office has not issued authorisation for this.

(2) The conclusion of a chartering agreement, regarding a fishing vessel that is entitled to fly the Federal German flag, with a national of a non-cooperating third country, as defined in Chapter VI of Regulation (EC) 1005/2008, shall be prohibited.

(3) If and for as long as the responsible authority refuses fishing vessels from Member States of the European Union access to port, the master shall be prohibited from entering a port. The responsible Land authority shall refuse the respective fishing vessel entrance into the port for as long as the prohibition is in force.

(4) Masters may not use for fishing a fishing vessel equipped with an engine that exceeds the maximum continuous engine power given in the engine certificate.

(5) As master, it shall be prohibited to have on board a fishing vessel, or employ for fishing, fishing gear that does not, or does not fully, conform to a technical description set out by an ordinance issued by virtue of section 15 subsection 5.

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Section 18 Provisions on administrative fines

(1) An administrative offence shall be deemed to have been committed by anyone who wilfully fishes a fish stock that is subject to a fishing ban as defined in section 1a, subsection 6, or to a moratorium as defined in section 1a, subsection 7, during the time period or geographical area covered by the fishing ban or the moratorium.

(2) An administrative offence shall be deemed to have been committed by anyone who wilfully or by negligence:

1. without permission pursuant to section 3, subsection 1, first sentence, engages in sea fishing;
2. contravenes an enforceable order as per section 3 (1) sentence 6;
3. without permission pursuant to section 4, first sentence, engages in sea fishing;
4. contravenes an ordinance pursuant to
 - a) section 15, subsection 1, numbers 2, 4 or 10, subsection 2 no. 2 or no. 5 letters b, c, d, g or h, subsection 3 numbers 1, 2 or 3, or
 - b) section 15 subsection 1 numbers 6, 7, 8 or 13, subsection 2 numbers 4, 5, letters a, e or f, or 7, subsection 3 no. 4 or subsection 4

or an enforceable order based on such an ordinance, insofar as the ordinance refers, in relation to a specific set of circumstances, to these provisions on administrative fines;

5. contravenes an enforceable order as per section 16 (1), first sentence,

6. violates section 16 subsection 1, third sentence, by failing to tolerate an inspection;
7. violates section 17 subsection 1, no. 1 or subsection 3, first sentence, by entering the port;
8. violates section 17 subsection 1, no. 2 , by landing, transshipping or processing fishery
9. products; or violates section 17 subsection 4 by using a fishing vessel;
10. violates section 17 (5), in conjunction with an ordinance pursuant to section 15 subsection 5, by carrying or using fishing gear referred to therein; or
11. infringes a directly applicable provision laid down in legal instruments of the European Community or of the European Union which were issued to regulate the exercise of sea fisheries in respect of:
 - a) protecting fish stocks and conserving the biological resources of the sea;
 - b) monitoring; or
 - c) the structural policy of the European Union for the fisheries sector,
 insofar as an Ordinance as per subsection 6 refers, in relation to a specific element of an offence, to these provisions on administrative fines.

(3) An administrative offence shall be deemed to have been committed by anyone who, intentionally or negligently:

1. from a fishing vessel contained in the EU list as per section 1a, subsection 4, transships a catch, conducts joint fishing activities with such a vessel, provides such a fishing vessel with fuel, material or crew, or carries out repair work on such a vessel;
2. as master engages in sea fishing with a vessel that is stateless as per Article 91 of the United Nations Convention on the Law of the Sea of 10 December 1982 (Federal Law Gazette 1994 II p. 1798, 1799);
3. trades in fishery products or imports fishery products based on catches originating from illegal fishing as per Article 2 no. 2 letter a of Regulation (EC) 1005/2008, or from unreported fishing as per Article 2 no. 3 letter a of Regulation (EC) 1005/2008;
4. as master of a fishing vessel with an overall length of twelve metres or more that is entitled to fly the Federal German flag, does not, or does not correctly, transmit electronically to the Federal Office, within 24 hours of the landing in a port outside the European Union, a landing declaration containing:
 - a) the external identification number and markings and the name of the fishing vessel;
 - b) the FAO 3-alpha identifier, as defined in section 1a subsection 5, of every landed species and the geographical area in which the fish were caught;
 - c) the quantities of each landed species in kilogram product weight, broken down by presentation type or the number of animals; and
 - d) the port of landing;
5. as master of a fishing vessel entitled to fly the Federal German flag, does not, or does not correctly, within 48 hours of the first sale of fishery products if the catches were landed in a port outside the European Union and the first sale took place outside the European Union, electronically send the Federal Office a copy of the sales note, or an equivalent document, containing:
 - a) the external identification number and markings and the name of the fishing vessel that has landed the products;
 - b) the port and the date of the landing;
 - c) the name of the fishing-vessel operator or master and, if different, the name of the vendor (1224/2009);
 - d) the name of the purchaser and its VAT number, tax identification number or other unique identifier;
 - e) the FAO 3-alpha identifier, as defined in section 1a subsection 5, of every landed species and the geographical area in which the fish were caught;
 - f) the quantities of each landed species in kilogram product weight, broken down by presentation type or the number of animals;
 - g) in respect of fishery products as defined in Article 2 of Regulation (EU) 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) 1184/2006 and (EC) 1224/2009 and repealing Council Regulation (EC) 104/2000 (OJ L 354 of 28.12.2013, p. 1), last amended by Regulation (EU) 2015/812 (OJ L 133 of 29.5.2015, p. 1), the individual size or weight, grade, presentation and freshness;
 - h) the place and the date of the sale, and
 - i) the price;
6. manipulates an engine of a fishing vessel with the aim of increasing the continuous engine power to more than the maximum continuous engine power given in the engine certificate as per Article 40 in conjunction with Article 4 no. 27 of Regulation (EC) 1224/2009; or

7. as master, commercially exploits living aquatic resources without having a valid fishing licence for the fishing vessel.
- (4) The administrative offence may, in the cases given in subsections 1, 2 numbers 1 - 3, 4 letter a, 7 - 10 and 11 letter a and c, and subsection 3, be punished with a fine of up to one hundred thousand Euros, and in all other cases with a fine of up to fifty thousand Euros.
- (5) The administrative offence may, in the cases of subsections 1, 2 numbers 1 - 5, 8 - 10 and 11 letters a and b, and subsection 3 numbers 1 - 3, 6 and 7, also be punished if it is committed in the Exclusive Economic Zone on a vessel that is not entitled to fly the Federal German flag.
- (6) The Federal Ministry shall be authorised, to the extent required to enforce legal instruments of the European Community or of the European Union, to issue ordinances without the consent of the Bundesrat that designate the facts and circumstances that are punishable as an administrative offence pursuant to subsection 2 no. 11. The Federal Ministry of Food and Agriculture may issue ordinances without the consent of the Bundesrat to transfer to the Federal Office, either entirely or partially, the authorisation pursuant to the first sentence.
- (7) Objects to which an administrative offence as per subsection 1, 2 or 3 refers, or which have been used, or were intended to be used, to commit or prepare the offence, may be confiscated.

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Article 19 Penal provisions

- (1) Any person shall be punished with imprisonment of up to one year or punished with a fine who
1. performs an action referred to in section 18 subsection 1; or
 2. wilfully performs an action referred to in section 18 subsection 2 numbers 1 or 3, or subsection 3 numbers 1, 2, 3, 6 or 7;

and seeks profit or acts on a commercial basis.

(2) Likewise, any person shall be punished who persistently repeats an action under section 18 subsection 1 or subsection 2 numbers 1 or 3 or subsection 3 numbers 1, 2, 3, 6 or 7.

(3) Subsections 1 and 2 shall also apply in conjunction with section 18 subsection 5.

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Section 20 External representation

(1) The Federal Office may, in agreement with the Federal Ministry of Food and Agriculture, perform official acts for the purpose of effectively applying and implementing the fisheries legislation of the European Union in relation to other Member States, third countries and the bodies of the European Union. If and to the extent that the responsibility of the Laender is affected, agreement is to be reached with the respective Laender.

(2) The Federal Office may, with the consent of the Federal Ministry of Food and Agriculture, issue or compile notifications, reports, data, statements, sampling schemes or other information and transmit these to the responsible bodies of the European Union as per section 4b of the Federal Data Protection Act (Bundesdatenschutzgesetz) if and insofar as the Federal Republic of Germany, by virtue of provisions of the Common Fisheries Policy or by virtue of a request by the bodies of the European Union, has a duty to transmit. The Laender concerned are to be involved; insofar as the issuing or compiling of notifications, reports, data, statements, sampling schemes or other information falls within the responsibility of the Laender, the Laender shall, upon request, transmit these to the Federal Office without delay for the purposes referred to in the first sentence.

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Section 21 Regulatory powers of the Laender

The Laender may, in order to regulate sea fisheries or to implement the fisheries legislation of the European Union, issue further regulations, insofar as this Act does not set out any rule or the Federal Ministry of Food and Agriculture does not make any use of its authorisations as per section 15. They may, in the interest of the optimum sustainable use and conservation of the fish stocks, subject fishing to restrictions that exceed requirements under federal law. The Laender regulations are to remain in line with the fisheries legislation of the European Union.

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Section 22 Promulgation of ordinances

By way of derogation from section 1 of the Act on the Promulgation of Ordinances (Gesetz über die Verkündung von Rechtsverordnungen), ordinances issued under this Act may also be promulgated in the electronic Federal Gazette. For information purposes, reference shall be made in the Federal Law Gazette to ordinances promulgated in the electronic Federal Gazette, stating the source reference of their publication and the date of their entry into force.

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§ 22a Transitional and implementing rules

Section 14b is to be applied from 1 July 2018.

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Section 23 (Entry into force; repeal)

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Annex (regarding Section 2 (1))

Responsibilities of the Federal Government pursuant to section 2 (1)

serial no.	Task
1	Monitoring and support of sea fisheries seaward of the outer limit of the territorial sea 1a) Order of a real-time closure as per Article 53 of Regulation (EC) 1224/2009 laying down the geographical area of the fishing grounds concerned, the duration of the closure and the conditions that apply to fisheries in the respective area during the closure as well as the notifications necessary as per Article 53 of Regulation (EC) 1224/2009.
2	Monitoring of sea fisheries on land in respect of fishing vessels from Member States of the European Union with a gross registered tonnage of 500 or more.
3	Monitoring of sea fisheries on land in respect of fishing vessels from third countries pursuant to: a) Chapter II of Regulation (EC) 1005/2008 and the legal instruments of the European Community or European Union issued under Chapter II of Regulation (EC) 1005/2008; and b) Acts and Ordinances issued under the legal instruments referred to in letter (a).
4	Monitoring of the information to be recorded and transmitted in electronic or other form from the fishing log books, landing declarations and transshipment declarations: a) of fishing vessels entitled to fly the Federal German flag, in respect of landings in a port of another Member State of the European Union or of a third country; b) of fishing vessels from Member States of the European Union with a gross registered tonnage of 500 or more, and of fishing vessels from third countries.
5	Receipt, temporary electronic storage and forwarding of the information recorded and transmitted in electronic form from the fishing log books, landing declarations and transshipment declarations of all fishing vessels.
6	Receipt, first electronic recording, temporary electronic storage and forwarding of information recorded and transmitted by other means from the fishing log books, landing declarations and transshipment declarations: a) of fishing vessels from Member States of the European Union with a gross registered tonnage of 500 or more and third-country vessels; b) of fishing vessels that are entitled to fly the Federal German flag, with a gross registered tonnage of under 500, in respect of landings in a port of another Member State of the European Union or of a third country.
7	Temporary electronic storage and forwarding of the information, recorded and transmitted by other means, from the fishing log books, landing declarations and transshipment declarations of fishing vessels from Member States of the European Union with a gross registered tonnage of under 500, without prejudice to the rule as per No. 6 (b).
8	Receipt, examination, temporary storage and forwarding of the notification prior to arrival in port (prior notification) of fishing vessels from Member States of the European Union with a gross registered tonnage of 500 or more.
9	Receipt, examination, temporary storage and forwarding of the electronically transmitted prior notification of fishing vessels from Member States of the European Union with a gross registered tonnage of up to 500.
10	Receipt, examination, temporary storage and forwarding of the notification prior to arrival in port of another Member State of the European Union by fishing vessels entitled to fly the Federal German flag.
11	Prohibition, from entering ports, of fishing vessels from Member States of the European Union with a gross registered tonnage of 500 and more that are, as per the fishing legislation of the European Union, subject to the duty to give prior notification and that do not transmit the prior notification, or do not do so completely.
12	Authorisation of transshipments and the resumption of transshipments by fishing vessels from Member States of the European Union with a gross registered tonnage of 500 or more.
13	Monitoring of the recreational fisheries in the Exclusive Economic Zone.
14	Monitoring of the weighing of sea fishery products upon or after the landing or on board a fishing vessel from a Member State of the European Union with a gross registered tonnage of 500 or more or a fishing vessel from a third country.
15	Receipt and examination of the information, to be recorded and transmitted in electronic or other form, from the sales notes on the first sale of sea fishery products after landing and the information from the take-over declarations regarding sea fishery products that are intended for a first sale at a later point in time: a)

- | serial no. | Task |
|------------|---|
| | of fishing vessels that are entitled to fly the Federal German flag, in respect of landings in a port of another Member State of the European Union or of a third country; |
| | b) of fishing vessels from Member States of the European Union with a gross registered tonnage of 500 or more and of fishing vessels from third countries. |
| 16 | Temporary electronic storage and forwarding of the information, recorded and transmitted in electronic or other form, from the sales notes and the take-over declarations of all fishing vessels. |
| 17 | Implementation of fisheries legislation of the European Union on the monitoring of fishing effort. |
| 18 | Issuing of fishing licences for vessels that are entitled to fly the Federal German flag. |
| 19 | Establishment and maintenance of the national infringement file as per section 14. |
| 20 | Monitoring of the import, export and re-export of fishery products that are subject to an import, export or re-export rule under:
a) directly applicable legal instruments of the European Community or of the European Union, in particular under Chapter III of Regulation (EC) 1005/2008 as last amended and the legal instruments of the European Community or European Union issued under Chapter III of Regulation (EC) 1005/2008; and
b) Acts and Ordinances issued under the legal instruments referred to under letter a;
and the authorisation of the status of an "approved economic operator" as per the legal instruments referred to in letters a and b. |
| 21 | Receipt of the applications for the European Union to contribute financially to the support measures laid down in Regulation (EU) No. 508/2014 and carried out by the Federal Office in accordance with the pertinent national provisions. |

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