

Shark Fins Bill

[AS BROUGHT FROM THE COMMONS]

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[AS BROUGHT FROM THE COMMONS]

A

B I L L

TO

Prohibit the import and export of shark fins and to make provision relating to the removal of fins from sharks.

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Prohibition on import and export of shark fins

- (1) It is prohibited—
 - (a) to import shark fins, or things containing shark fins, into the United Kingdom as a result of their entry into Great Britain, or
 - (b) to export shark fins, or things containing shark fins, from the United Kingdom as a result of their removal from Great Britain. 5
- (2) The prohibition in subsection (1) does not apply where—
 - (a) the shark fins are naturally attached to the body of the shark, and
 - (b) the body is substantially intact, ignoring any removal of the head and internal organs. 10
- (3) The Schedule contains provision for exemption certificates relating to the prohibition in subsection (1).
- (4) In this section and the Schedule—
 - “shark fins” means any fins or parts of fins of a shark, other than the pectoral fins or parts of pectoral fins of a ray;
 - “shark” means any fish of the taxon Elasmobranchii. 15

2 Removal of shark fins on board fishing vessels

In Council Regulation (EC) No 1185/2003 on the removal of fins of sharks on board vessels, for Article 1 substitute—

“Article 1

Scope

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This Regulation applies to the removal of shark fins, retention on board, transshipment and landing of shark fins:

1. by United Kingdom fishing vessels in any maritime waters;
2. by other fishing vessels in United Kingdom waters.”

3 Extent, commencement and short title

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- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) Section 1 and the Schedule come into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.
- (3) Section 2 comes into force at the end of the period of two months beginning with the day on which this Act is passed.
- (4) This section comes into force on the day on which this Act is passed.
- (5) The Secretary of State may by regulations made by statutory instrument make transitional or saving provision in connection with the coming into force of any provision of this Act.
- (6) This Act may be cited as the Shark Fins Act 2023.

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SCHEDULE

Section 1(3)

EXEMPTION CERTIFICATES

Exemption certificates

- 1 (1) The import or export of shark fins, or things containing them, is exempt from the prohibition in section 1 if— 5
- (a) the appropriate authority has issued a certificate under this paragraph (an “exemption certificate”) in respect of the import or export,
 - (b) it takes place on the date, or within the period, specified in the certificate, and 10
 - (c) the certificate has not been revoked.
- (2) An exemption certificate must—
- (a) contain a unique number (or a combination of letters and figures);
 - (b) contain enough information to identify the shark fins concerned;
 - (c) specify whether it relates to an import or export. 15

Applications

- 2 (1) A person applying for an exemption certificate (an “applicant”) must provide such information as the appropriate authority requests.
- (2) The appropriate authority must grant the application and issue an exemption certificate to the applicant if— 20
- (a) the applicant has provided all the information, and paid any fee, required by the authority, and
 - (b) the authority is satisfied that the shark fins concerned are to be used for purposes connected with the conservation of sharks, 25
- and must otherwise refuse the application.
- (3) If the appropriate authority refuses the application, the authority must inform the applicant why it has been refused.

Revocation and revision

- 3 (1) Where an exemption certificate has been issued but, before the import or export takes place, it appears to the appropriate authority that any information supplied in connection with the application is, or has become, inaccurate or incomplete, the authority may— 30
- (a) revoke the certificate, or
 - (b) issue a revised certificate.
- (2) The appropriate authority must revoke an exemption certificate if— 35
- (a) the authority ceases to be satisfied as described in paragraph 2(2)(b) in relation to the shark fins concerned, and
 - (b) the import or export has not taken place.

- (3) If the appropriate authority revokes an exemption certificate, the authority must inform the applicant why it has been revoked.

Penalty for providing inaccurate etc information in connection with an application

- 4 (1) Sub-paragraph (2) applies where the appropriate authority is satisfied that, in connection with an application for an exemption certificate, the applicant provided inaccurate or incomplete information or provided a document that contained an inaccuracy and – 5
- (a) the inaccuracy or incompleteness was deliberate or due to a failure by the applicant to take reasonable care,
 - (b) the applicant knew of the inaccuracy or incompleteness at the time the information or document was provided but did not inform the authority at that time, or 10
 - (c) the applicant discovered the inaccuracy or incompleteness before the import or export takes place and failed to take reasonable steps to inform the authority. 15
- (2) The appropriate authority may impose a monetary penalty on the applicant.
- (3) In this Schedule “monetary penalty” means a requirement to pay the appropriate authority a penalty of an amount, not exceeding £3,000, determined by the authority.
- (4) The appropriate authority may by regulations amend sub-paragraph (3) so as to substitute a different amount for the amount for the time being specified there. 20
- (5) Regulations made by the Secretary of State under sub-paragraph (4) must be made by statutory instrument; and a statutory instrument containing such regulations may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament. 25
- (6) Regulations made by the Welsh Ministers under sub-paragraph (4) must be made by statutory instrument; and a statutory instrument containing such regulations may not be made unless a draft of the instrument has been laid before, and approved by resolution of, Senedd Cymru. 30
- (7) Regulations made by the Scottish Ministers under sub-paragraph (4) are subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
- 5 (1) Where the appropriate authority proposes to impose a monetary penalty on an applicant the authority must give the applicant a notice of what is proposed (an “initial penalty notice”). 35
- (2) An initial penalty notice must offer the applicant the opportunity to avoid liability in relation to a monetary penalty by payment of a sum specified in the notice (which must be less than or equal to the amount of the proposed penalty). 40
 - (3) The applicant may make written representations and objections to the appropriate authority in relation to the proposed imposition of the monetary

- penalty within the period of 28 days beginning with the day on which the initial penalty notice is given.
- (4) After the end of the period mentioned in sub-paragraph (3) the appropriate authority must decide whether to give the applicant a notice imposing a monetary penalty (a “final penalty notice”). 5
- (5) The appropriate authority may not give an applicant a final penalty notice if the authority is no longer satisfied as mentioned in paragraph 4(1).
- (6) The penalty specified in the final penalty notice may be –
- (a) a penalty of the amount proposed in the initial penalty notice, or
 - (b) a penalty of a smaller amount. 10
- (7) An initial or final penalty notice may be withdrawn at any time by the appropriate authority.
- 6 (1) An initial penalty notice must include information as to –
- (a) the grounds for the proposal to impose the monetary penalty,
 - (b) the period within which payment may be made so as to avoid liability for a monetary penalty (which must be at least 28 days beginning with the day on which the notice is given), 15
 - (c) the right to make representations and objections within the period of 28 days beginning with the day on which the notice is given, and 20
 - (d) the effect of paragraph 5(5).
- (2) A final penalty notice must include information as to –
- (a) the grounds for imposing the monetary penalty,
 - (b) how payment may be made,
 - (c) the period within which payment is to be made (which must be at least 28 days beginning with the day on which the notice is given), 25
 - (d) rights of appeal, and
 - (e) the consequences of non-payment.
- (3) A final penalty notice may provide for interest or other penalties specified in the notice to be payable in the event that payment is not made in the period referred to in sub-paragraph (2)(c). 30

Appeals

- 7 (1) An applicant may appeal to the First-tier Tribunal against the decision –
- (a) to refuse an application for an exemption certificate,
 - (b) to revoke an exemption certificate, or 35
 - (c) to give a final penalty notice.
- (2) An appeal may be on the ground –
- (a) that the decision was based on an error of fact,
 - (b) that the decision was wrong in law, or
 - (c) that the decision was unreasonable. 40

- (3) An appeal against a decision mentioned in sub-paragraph (1)(c) may also be on the ground that the amount of penalty imposed by the notice is unreasonable.
- (4) On an appeal against a decision mentioned in sub-paragraph (1)(a) or (b), the First-tier Tribunal may – 5
- (a) confirm the appropriate authority’s decision to refuse the application or revoke the exemption certificate,
 - (b) require the appropriate authority to issue an exemption certificate, or to cancel the decision to revoke an existing exemption certificate, or 10
 - (c) remit the decision to refuse the application or revoke the exemption certificate to the appropriate authority for reconsideration.
- (5) On an appeal against a decision mentioned in sub-paragraph (1)(c), the First-tier Tribunal may – 15
- (a) confirm the final penalty notice,
 - (b) quash the final penalty notice, or
 - (c) vary the final penalty notice by reducing the amount of the penalty.
- (6) Where an appeal under this paragraph is made against a decision mentioned in sub-paragraph (1)(c) – 20
- (a) the requirement to pay the monetary penalty is suspended pending the final determination or withdrawal of the appeal, and
 - (b) no interest or other penalty is payable by virtue of paragraph 6(3) in respect of the period during which that requirement is suspended.
- (7) In this paragraph, references to the First-tier Tribunal, in relation to a decision of the Scottish Ministers, are to the First-tier Tribunal for Scotland. 25

Enforcement

- 8 If a person does not pay the whole or any part of a penalty which the person is liable to pay under this Schedule (including an amount payable by virtue of paragraph 6(3)), the penalty or part of the penalty is recoverable – 30
- (a) in England and Wales, as if it were payable under an order of the county court,
 - (b) in Scotland, in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland, and 35
 - (c) in Northern Ireland, as if it were payable under an order of a county court in Northern Ireland.

“Appropriate authority”

- 9 In this Schedule “appropriate authority” means – 40
- (a) the Secretary of State, in relation to the entry into, or removal from, England of shark fins or things containing them,

- (b) the Scottish Ministers, in relation to the entry into, or removal from, Scotland of shark fins or things containing them, and
- (c) the Welsh Ministers, in relation to the entry into, or removal from, Wales of shark fins or things containing them.

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Brought from the Commons on 23rd January 2023

Ordered to be Printed, 23rd January 2023.

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