

# Marine Scotland

## GUIDANCE NOTE ON EU POINTS SYSTEM FOR SERIOUS INFRINGEMENTS

May 2013

# **GUIDANCE NOTE ON EU POINTS SYSTEM FOR SERIOUS INFRINGEMENTS**

## **Background**

1. Council Regulation 1224/2009 (“the Control Regulation”) requires Member States to apply points to the holder of a fishing licence where serious infringements have been committed. The Control Regulation and the associated Commission implementing regulation (Commission Regulation EC number 404/2011) provide the relevant legislative framework. Extracts of the relevant articles from both regulations are attached in Annex A.

2. This note sets out the processes that will be used by Marine Scotland acting on behalf of the Scottish Ministers, to apply points to the fishing vessel licences attached to Scottish vessels. This includes:-

- The application of points;
- When the points will be applied;
- The number of points that will be given for each serious infringement;
- The totting up of points;
- Suspension of fishing licences – how long that period will last for;
- How points are removed from a fishing licence;
- Transfer/aggregation/disaggregation of fishing licences with points attached;
- A Points system for masters of fishing vessels

## **Jurisdiction**

3. The Scottish Ministers will be responsible for the application of points to the fishing vessel licences granted by them to the owners of Scottish fishing vessels. They will do so regardless of where serious infringements have been committed including any committed outside of the Scottish zone. This could be in relation to any serious infringements committed elsewhere within the UK, or in other Member States, or by a Scottish fishing vessel fishing in another part of the world under any international agreement.

## **Fishing Vessel licences – application of points**

4. The Control Regulation requires Member States to apply points to the holders of fishing licences when a serious infringement is committed. A serious infringement is a term defined in a European regulation (see Annex B) which sets out a list of different offences. For points to be applied a significant breach of the relevant rule must have been committed. Committing an offence which appears on that list does not in itself make it automatically a serious infringement.

5. Points will be applied to the fishing vessel licence of the vessel involved in the offence. The points will be applied to a fishing vessel licence where either the master, owner or charterer of the vessel is successfully prosecuted.

6. Marine Scotland will consider an offence to be a serious infringement in circumstances where it considers that the only appropriate disposal for that offence in isolation is to refer the matter to the Procurator Fiscal for prosecution, or where a

serious infringement has been established within the jurisdiction of another Member State and brought to the attention of the Scottish Ministers. The points system will not apply to:-

- Offences where no action is taken by Marine Scotland;
- Verbal Warnings;
- Written official warnings;
- Fixed Penalty Notices (“FPN”)<sup>1</sup>;
- Offences which are not of themselves viewed as serious infringements and in other circumstances would have resulted in a FPN or other disposal but have been included in a report to the Fiscal along with details of a serious infringement detected at the same time.

### **When the points will apply**

7. The requirement on Marine Scotland to apply points to a fishing vessel licence will be triggered when the accused is convicted of a serious infringement. This includes convictions for serious infringements imposed in courts outside of Scotland in the rest of the UK and in any other Member State. If the accused is found not guilty or the case against them is abandoned for any reason then the points will not be applied.

8. Points which are applied following proceedings in court may take some time to fully resolve. To avoid the possible transfer of a licence during this transitional period where points may be applied at a later date the licence will be frozen for all licence transactions until court proceedings have concluded and points allocated as appropriate. Licence holders will be advised when their licence is frozen of the number of points that are associated with the offences Marine Scotland is now reporting to the Procurator Fiscal. The actual number of points imposed following conviction will depend on the charges ultimately pursued by the Fiscal.

9. In very exceptional circumstances consideration will be given to permit certain licence and Fixed Quota Allocation Units (“FQAs”) transactions where parties are aware of the pending potential points. An example of exceptional circumstances might be where unavoidable transactions may be necessary to deal with the estate of a licence holder.

10. Upon conviction Marine Scotland will seek to retrospectively apply the appropriate number of points to the fishing vessel licence used in the relevant offence. The effective date of the points will be the date on which the offence was committed. Where the case involves the same offences committed over a range of dates, and prosecuted under a single charge, the effective date for the application of points will be the earliest date in that range. A revised fishing vessel licence will be issued to show the points now attached to it.

11. Criminal convictions may of course be subject to an appeal. In the event that a conviction is overturned on appeal the associated number of points will be removed from the licence. See also paragraph 16.

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<sup>1</sup> At present application of points will not apply to offences dealt with by FPN irrespective of whether the FPN offer is accepted and paid, or not paid and the matter referred to the Fiscal for prosecution

12. Licence holders will be given a date when the points will be removed from the licence providing that no other serious infringements are committed in the intervening period. This will be 3 years from the date of the last serious infringement.

### **Number of points**

13. Each serious infringement will attract a fixed number of points. The number of points that will be imposed for different offence types is set out at Annex C.

14. Where a single inspection results in a number of different offences being detected, then the maximum number of points that can be imposed as a result of that 'incident' is capped under EU rules at 12 points.

### **Totting up of points**

15. Repeat offenders run the risk of accumulating a growing number of points. When a certain number of points is reached, the suspension of the fishing vessel licence is triggered, as below

<b>Suspension is triggered at the following accumulations of points</b>	<b>Periods of suspension</b>
18 points	2 months
36 points	4 months
54 points	8 months
72 points	One year

16. After each period of suspension, the fishing vessel licence still has the same number of points attached to it. For example, after a one year suspension, on returning to fishing the fishing vessel licence would still have 72 points attached to it. If further serious infringements continue to be committed and 90 points is reached, then the consequences of doing so are not a further one year suspension, the consequences are that the licence will be withdrawn permanently.

### **Suspension of fishing vessel licence**

17. Where one of the trigger points for licence suspension is reached, the Scottish Ministers will deem it to be necessary to suspend that licence, with the result that there will be no authority to fish during the relevant period of suspension. This action will be taken 3 weeks from the date of conviction unless an appeal against conviction has been lodged with the courts. If an appeal is lodged any decision on licence suspension will be delayed until the outcome of the appeal is known.

18. Marine Scotland will issue a Notice of Suspension in accordance with the provisions of the Sea Fishing (Licences and Notices) (Scotland) Regulations 2011, advising of the suspension of the fishing vessel licence. The Notice of Suspension

will be sent to the licence nominee, or the notice handed in person to the vessel master or owner.

## **Removal of points**

19. If there are no further serious infringements committed within three years of the date of the last serious infringement – all points on the fishing licence at that point are deleted. Therefore if you continue to commit serious infringements where there is no 3 year gap of 'good behaviour' you will continue to amass points.

20. There are mechanisms available to remove 2 points from a fishing vessel licence in certain circumstances. These are described in Annex D.

21. At the end of a period of suspension the vessel would re-enter any fishery with that number of points still attached to its fishing vessel licence. Deletion of those points thereafter would be subject to the rules described in the two paragraphs above.

## **Transfer/aggregation/disaggregation of fishing licences with points attached**

### ***A - Transfer of fishing vessel licences***

22. Points are transferred with any fishing vessel licence. Points will remain on the fishing vessel licence under any new licence holder for the balance of the 3 years and will be deleted at the expiry of that period provided no further serious infringements are committed.

23. Any potential purchaser of a licence will need to be advised by the existing fishing vessel licence holder of existing points.

24. If, prior to a licence being transferred, the licence holder has used one of the methods in Annex D to reduce the number of points on the licence, the new holder of the licence will not be able to use any of those methods to further reduce the number of points on the licence.

### ***B - Aggregation or Disaggregation of fishing vessel licences***

25. If more than one licence is aggregated, that is, if a vessel owner purchases two or more licences with the intention of joining those licences together into one licence, if the licences purchased have points attached to them these points will transfer to the new aggregated licence.

26. If the licences have different numbers of points which were applied to them on different dates, the higher number of points will be attached to the new licence, and will be treated as if these points were attached to the licence from the latest infringement date.

27. If a licence is split, or disaggregated into more than one licence, and the licence that is being split has points attached to it, that number of points will be attached to **each** of the new licences which is created, and shall attach for the same period of time as would have been relevant to the original licence. The licence holder who is selling these licences has an obligation to inform potential buyers of

the new licence details on what points are attached to licences. See also paragraph 19

### **Entitlements and points**

28. Where a licence holder removes a licence from a vessel and creates an entitlement –that is, a licence which is not for the time being attached to a vessel, but which the licence holder still owns – if the licence has points attached to it at the time it is made into an entitlement, the three year period for which points stay on the licence shall be suspended from the date on which the licence is made into an entitlement, and shall begin to run again once the entitlement is reverted to a licence.

### **Points system for masters of fishing vessels**

29. Marine Scotland will bring forward separate proposals to implement the EU requirement to have a similar penalty point system for vessel masters.

### **Disclaimer**

30. Please note that this guidance note is not a definitive guide to the law. Copies of the relevant European legislation can be found on the Eur-lex web site:-

<http://eur-lex.europa.eu/en/index.htm>

Further information and advice can also be obtained through the Marine Scotland website below or by contacting your nearest Marine Scotland Fishery Office.

<http://www.scotland.gov.uk/About/People/Directorates/marinescotland>

Marine Scotland  
May 2013

## **Annex A – Extracts from EU Regulations**

### **EXTRACT FROM 1224/2009**

#### *Article 92*

#### **Point system for serious infringements**

1. Member States shall apply a point system for serious infringements as referred to in Article 42(1)(a) of Regulation (EC)No 1005/2008 on the basis of which the holder of a fishing licence is assigned the appropriate number of points as a result of an infringement of the rules of the common fisheries policy.

2. When a natural person has committed or a legal person is held liable for a serious infringement of the rules of the common fisheries policy, the appropriate number of points shall be assigned to the holder of the fishing licence as a result of the infringement. The points assigned shall be transferred to any future holder of the fishing licence for the fishing vessel concerned where the vessel is sold, transferred or otherwise changes ownership after the date of the infringement. The holder of the fishing licence shall be entitled to review proceedings in accordance with national law.

3. When the total number of points equals or exceeds a specified number of points, the fishing licence shall be automatically suspended for a period of at least two months. That period shall be four months if the fishing licence is suspended a second time, eight months if the fishing licence is suspended a third time and one year if the fishing licence is suspended a fourth time as a consequence of a licence holder being assigned the specified number of points. In case of the holder being assigned the specified number of points for a fifth time, the fishing licence shall be permanently withdrawn.

4. If the holder of a fishing licence does not commit, within three years from the date of the last serious infringement, another serious infringement, all points on the fishing licence shall be deleted.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 119.

6. Member States shall also establish a point system under which the master of a 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.

### **EXTRACT FROM 404/2011**

#### *Article 125*

#### **Setting up and operation of a point system for serious infringements**

Each Member State shall designate the competent national authorities which shall be responsible for:

- (a) setting up the system for the attribution of points for serious infringements, as referred to in Article 92(1) of the Control Regulation;
- (b) assigning the appropriate numbers of points to the holder of a fishing licence;

(c) transferring assigned points to any future holder of a fishing licence for the fishing vessel concerned where the latter is sold, transferred or otherwise changes ownership; and

(d) keeping relevant records of the points assigned or transferred to the holder for each fishing licence.

#### *Article 126*

##### **Assignment of points**

1. The number of points for serious infringements shall be assigned in accordance with Annex XXX to the holder of the fishing licence for the fishing vessel concerned by the competent authority of the flag Member State.

2. When two or more serious infringements by the same natural or legal person holding the licence are detected in the course of one inspection, points in respect of each serious infringement concerned shall be assigned to the holder of the fishing licence referred to in paragraph 1 up to a maximum of 12 points.

3. The holder of the fishing licence shall be informed that points have been assigned to him.

4. The points are assigned to the holder of the licence on the date set in the decision assigning them. Member States shall ensure that the application of national rules concerning the suspensory effects of review proceedings do not render the point system ineffective.

5. Where the serious infringement is detected in a Member State other than the flag Member State, the points shall be assigned by the competent authorities of the flag Member State referred to in Article 125 of this Regulation upon notification pursuant to Article 89(4) of the Control Regulation.

#### *Article 127*

##### **Notification of decisions**

If the authority designated in accordance with Article 125 of this Regulation is not the same as the single authority referred to in Article 5(5) of the Control Regulation, the latter shall be informed of any decision taken pursuant to this Title.

#### *Article 128*

##### **Transfer of ownership**

When the fishing vessel is offered for sale or for other type of transfer of ownership, the holder of the fishing licence shall inform any potential future licence holder of the number of points which are still assigned to him by means of a certified copy obtained from the competent authorities.

#### *Article 129*

##### **Suspension and permanent withdrawal of a fishing licence**

1. The accumulation of 18, 36, 54, 72 points by the holder of a fishing licence shall automatically trigger the first, second, third and fourth suspension of the fishing

licence respectively for the relevant periods referred to in Article 92(3) of the Control Regulation.

2. The accumulation of 90 points by the holder of a fishing licence shall trigger automatically the permanent withdrawal of the fishing licence.

#### *Article 130*

##### **Follow-up of suspension and permanent withdrawal of fishing licence**

1. If a fishing licence is suspended or permanently withdrawn in accordance with Article 129 of this Regulation, the competent authority of the flag Member State shall inform the holder of the fishing licence immediately of this suspension or permanent withdrawal.

2. Upon receiving the information referred to in paragraph 1 the holder of the fishing licence shall ensure that the fishing activity of the vessel concerned ceases immediately. He shall ensure that it proceeds immediately to its home port or a port indicated by the competent authorities of the flag Member State. During the voyage the fishing gear shall be lashed and stowed in accordance with Article 47 of the Control Regulation. The holder of the fishing licence shall ensure that any catch on board the fishing vessel is dealt with in accordance with the instructions of the competent authorities of the flag Member State.

#### *Article 131*

##### **Deletion of fishing licences from relevant lists**

1. If the fishing licence is suspended or withdrawn permanently in accordance with Article 129(1) or (2) of this Regulation, the fishing vessel to which the suspended or permanently withdrawn fishing licence relates shall be identified as being without fishing licence in the national register referred to in Article 15(1) of Regulation (EC) No 2371/2002. This fishing vessel shall also be identified in this way in the EU fishing fleet register referred to in Article 15(3) of Regulation (EC) No 2371/2002.

2. The permanent withdrawal of a fishing licence in accordance with Article 129(2) of this Regulation shall not affect the reference levels of the Member State issuing the licence as referred to in Article 12 of Regulation (EC) No 2371/2002.

3. The competent authorities of Member States shall immediately update the list referred to in Article 116(1)(d) of the Control Regulation with an indication of all points assigned and resulting suspensions and permanent withdrawals of fishing licences, including the date on which they became applicable and their duration.

#### *Article 132*

##### **Illegal fishing during the suspension period or after the permanent withdrawal of a fishing licence**

1. If a fishing vessel, the fishing licence of which is suspended or has been permanently withdrawn in accordance

with Article 129 of this Regulation, carries out fishing activities during the suspension period or after the permanent withdrawal of the fishing licence, the competent authorities shall take immediate enforcement measures in accordance with Article 91 of the Control Regulation.

2. The fishing vessel referred to in paragraph 1 may, where appropriate, be included the EU IUU vessel list in accordance with Article 27 of Regulation (EC) No 1005/2008.

#### *Article 133*

##### **Deletion of points**

1. If a fishing licence has been suspended in accordance with Article 129 of this Regulation, the points on the basis of which the fishing licence has been suspended shall not be deleted. Any new points assigned to the holder of the fishing licence shall be added to existing points for the purpose of Article 129 of this Regulation.

2. For the application of Article 92(3) of the Control Regulation, if points have been deleted in accordance with Article 92(4) of the Control Regulation the holder of fishing licence shall be considered as if his fishing licence had not been suspended in accordance with Article 129 of this Regulation.

3. Two points shall be deleted provided that the total amount of points assigned to the holder of the fishing licence for the fishing vessel concerned exceeds two, if:

- (a) the fishing vessel which has been used in committing the infringement for which points were assigned uses thereafter VMS or records and transmits thereafter fishing logbook, transshipment and landing declaration data electronically without being legally subject to these technologies; or
- (b) the holder of the fishing licence volunteers after the assignation of points to take part in a scientific campaign for the improvement of the selectivity of the fishing gear; or
- (c) the holder of the fishing licence is a member of a producer organisation and the holder of the fishing licence accepts a fishing plan adopted by the producer organisation in the year following the assignation of the points involving a reduction of 10 % of the fishing opportunities for the holder of the fishing licence; or
- (d) the holder of the fishing licence joins a fishery covered by an eco-labelling scheme that is designed to certify and promote labels for products from well-managed marine capture fisheries and focus on issues related to the sustainable use of fisheries resources.

For each 3-year period since the date of the last serious infringement, the holder of a fishing licence can avail himself of one of the options under (a), (b), (c) or (d), to reduce the amount of points assigned only once, and provided that such reduction does not lead to the deletion of all points on the fishing licence.

4. If the points were deleted in accordance with paragraph 3 the holder of the fishing licence shall be informed of that deletion. The holder of the fishing licence shall also be informed of the number of points that still remain.

*Article 134*

**Point system for masters of fishing vessels**

Member States shall inform the Commission 6 months after the date of application of this Title of their national point systems for masters as referred to in Article 92(6) of the Control Regulation.

## Annex A continued Annex XXX of 404/2011

### POINTS TO BE ASSIGNED FOR SERIOUS INFRINGEMENTS

No.	Serious infringement	Points
1	<p><b>Not fulfilling of obligations to record and report catch or catch related data, including data to be transmitted by satellite vessel monitoring system</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(b) of Regulation (EC) No 1005/2008)</p>	3
2	<p><b>Use of prohibited or non-compliant gear according to EU legislation</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(e) of Regulation (EC) No 1005/2008)</p>	4
3	<p><b>Falsification or concealing of markings, identity or registration</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(f) of regulation (EC) No 1005/2008)</p>	5
4	<p><b>Concealing, tampering or disposal of evidence relating to an investigation</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(g) of Regulation (EC) No 1005/2008)</p>	5
5	<p><b>Taking on board, transshipping or landing of undersized fish in contravention of the legislation in force</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(i) of regulation (EC) No 1005/2008)</p>	5
6	<p><b>Carrying out of fishing activities in the area of a regional fisheries management organisation in a manner inconsistent with or in contravention of the conservation and management measures of that organisation</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(k) of Regulation (EC) No 1005/2008)</p>	5
7	<p><b>Fishing without a valid licence, authorisation or permit issued by the flag State or the relevant coastal State</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(a) of Regulation (EC) No 1005/2008)</p>	7
8	<p><b>Fishing in a closed area or during a closed season, without or after attainment of a quota or beyond a closed depth</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(c) of regulation (EC) No 1005/2008)</p>	6
9	<p><b>Directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(d) of Regulation (EC) No 1005/2008)</p>	7
10	<p><b>Obstruction of work of officials in the exercise of their duties in inspecting for compliance with the applicable conservation and management measures or the work of observers in the exercise of their duties of observing compliance with the applicable Union rules</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(h) of Regulation (EC) No 1005/2008)</p>	7

No.	Serious infringement	Points
11	<p><b>Transshipping to or participating in joint fishing operations with, support or re-supply of fishing vessels identified as having engaged in IUU fishing under Regulation (EC) No 1005/2008, in particular those included in the Union IUU vessel list or in the IUU vessel list of a regional fisheries management organisation</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(j) of regulation (EC) No 1005/2008)</p>	7
12	<p><b>Use of a fishing vessel with nor nationality and that is therefore a stateless vessel in accordance with international law</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(l) of regulation (EC) No 1005/2008)</p>	7

## **Annex B – Extract from 1005/2008**

### *Article 42*

#### **Serious infringements**

1. For the purpose of this Regulation, serious infringement means:

- (a) the activities considered to constitute IUU fishing in accordance with the criteria set out in Article 3;
- (b) the conduct of business directly connected to IUU fishing, including the trade in/or the importation of fishery products;
- (c) the falsification of documents referred to in this Regulation or the use of such false or invalid documents.

2. The serious character of the infringement shall be determined by the competent authority of a Member State taking into account the criteria set out in Article 3(2).

### *Article 3*

#### **Fishing vessels engaged in IUU fishing**

1. A fishing vessel shall be presumed to be engaged in IUU fishing if it is shown that, contrary to the conservation and management measures applicable in the fishing area concerned, it has:

- (a) fished without a valid licence, authorisation or permit issued by the flag State or the relevant coastal State; or
- (b) not fulfilled its obligations to record and report catch or catch-related data, including data to be transmitted by satellite vessel monitoring system, or prior notices under Article 6; or
- (c) fished in a closed area, during a closed season, without or after attainment of a quota or beyond a closed depth; or
- (d) engaged in directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited; or
- (e) used prohibited or non-compliant fishing gear; or
- (f) falsified or concealed its markings, identity or registration; or
- (g) concealed, tampered with or disposed of evidence relating to an investigation; or
- (h) obstructed the work of officials in the exercise of their duties in inspecting for compliance with the applicable conservation and management measures; or the work of observers in the exercise of their duties of observing compliance with the applicable Community rules; or
- (i) taken on board, transhipped or landed undersized fish in contravention of the legislation in force; or
- (j) transhipped or participated in joint fishing operations with, supported or re-supplied other fishing vessels identified as having engaged in IUU fishing under this Regulation, in particular those included in the Community IUU vessel list

or in the IUU vessel list of a regional fisheries management organisation; or

(k) carried out fishing activities in the area of a regional fisheries management organisation in a manner inconsistent with or in contravention of the conservation and management measures of that organisation and is flagged to a State not party to that organisation, or not cooperating with that organisation as established by that organisation;

or

(l) no nationality and is therefore a stateless vessel, in accordance with international law.

2. The activities set out in paragraph 1 shall be considered as serious infringements in accordance with Article 42 depending on the gravity of the infringement in question which shall be determined by the competent authority of the Member State, taking into account the criteria such as the damage done, its value, the extent of the infringement or its repetition.

## Annex C – Number of points

### POINTS TO BE ASSIGNED FOR SERIOUS INFRINGEMENTS

No.	Serious infringement	Points
1	<p><b>Not fulfilling of obligations to record and report catch or catch related data, including data to be transmitted by satellite vessel monitoring system</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(b) of Regulation (EC) No 1005/2008)</p>	3
2	<p><b>Use of prohibited or non-compliant gear according to EU legislation</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(e) of Regulation (EC) No 1005/2008)</p>	4
3	<p><b>Falsification or concealing of markings, identity or registration</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(f) of regulation (EC) No 1005/2008)</p>	5
4	<p><b>Concealing, tampering or disposal of evidence relating to an investigation</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(g) of Regulation (EC) No 1005/2008)</p>	5
5	<p><b>Taking on board, transshipping or landing of undersized fish in contravention of the legislation in force</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(i) of regulation (EC) No 1005/2008)</p>	5
6	<p><b>Carrying out of fishing activities in the area of a regional fisheries management organisation in a manner inconsistent with or in contravention of the conservation and management measures of that organisation</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(k) of Regulation (EC) No 1005/2008)</p>	5
7	<p><b>Fishing without a valid licence, authorisation or permit issued by the flag State or the relevant coastal State</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(a) of Regulation (EC) No 1005/2008)</p>	7
8	<p><b>Fishing in a closed area or during a closed season, without or after attainment of a quota or beyond a closed depth</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(c) of regulation (EC) No 1005/2008)</p>	6
9	<p><b>Directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(d) of Regulation (EC) No 1005/2008)</p>	7
10	<p><b>Obstruction of work of officials in the exercise of their duties in inspecting for compliance with the applicable conservation and management measures or the work of observers in the exercise of their duties of observing compliance with the applicable Union rules</b></p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(h) of Regulation (EC) No 1005/2008)</p>	7



## Annex C – Continued

No.	Serious infringement	Points
11	<p>Transshipping to or participating in joint fishing operations with, support or re-supply of fishing vessels identified as having engaged in IUU fishing under Regulation (EC) No 1005/2008, in particular those included in the Union IUU vessel list or in the IUU vessel list of a regional fisheries management organisation</p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(j) of regulation (EC) No 1005/2008)</p>	7
12	<p>Use of a fishing vessel with not nationality and that is therefore a stateless vessel in accordance with international law</p> <p>(Article 90 paragraph 1 of the Control Regulation in conjunction with Article 42 paragraph 1(a) and Article 3 paragraph 1(l) of regulation (EC) No 1005/2008)</p>	7

## **Annex D – Mechanisms to reduce the number of points on a licence**

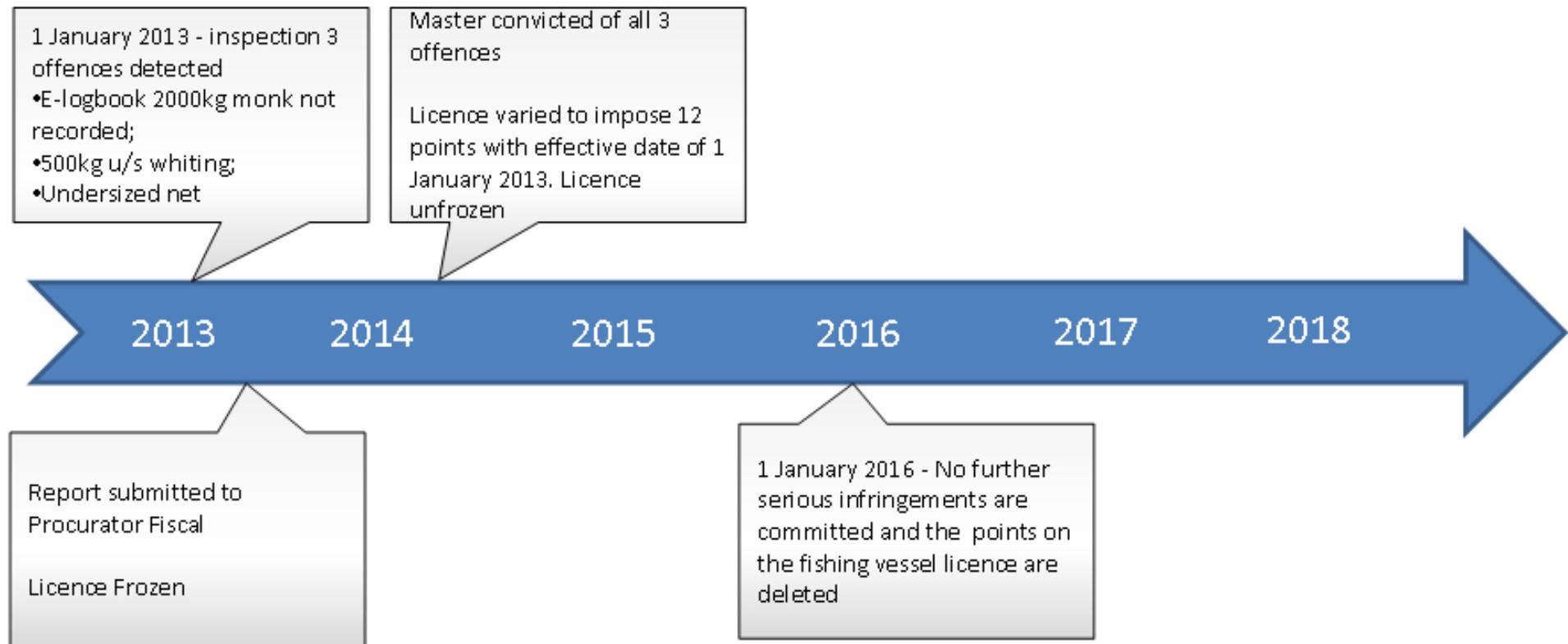
If no further serious infringements are committed within three years from the date of the last serious infringement, all points on the fishing licence record shall be deleted.

Where sufficient points have been accumulated that have resulted in a fishing licence being suspended, the points which gave rise to the suspension remain on the fishing licence until three years pass since the date of the last serious infringement. Two points can be deleted from those attached to a fishing vessel licence provided the total amount of points associated with the licence is more than two and one of the following activities is successfully undertaken:-

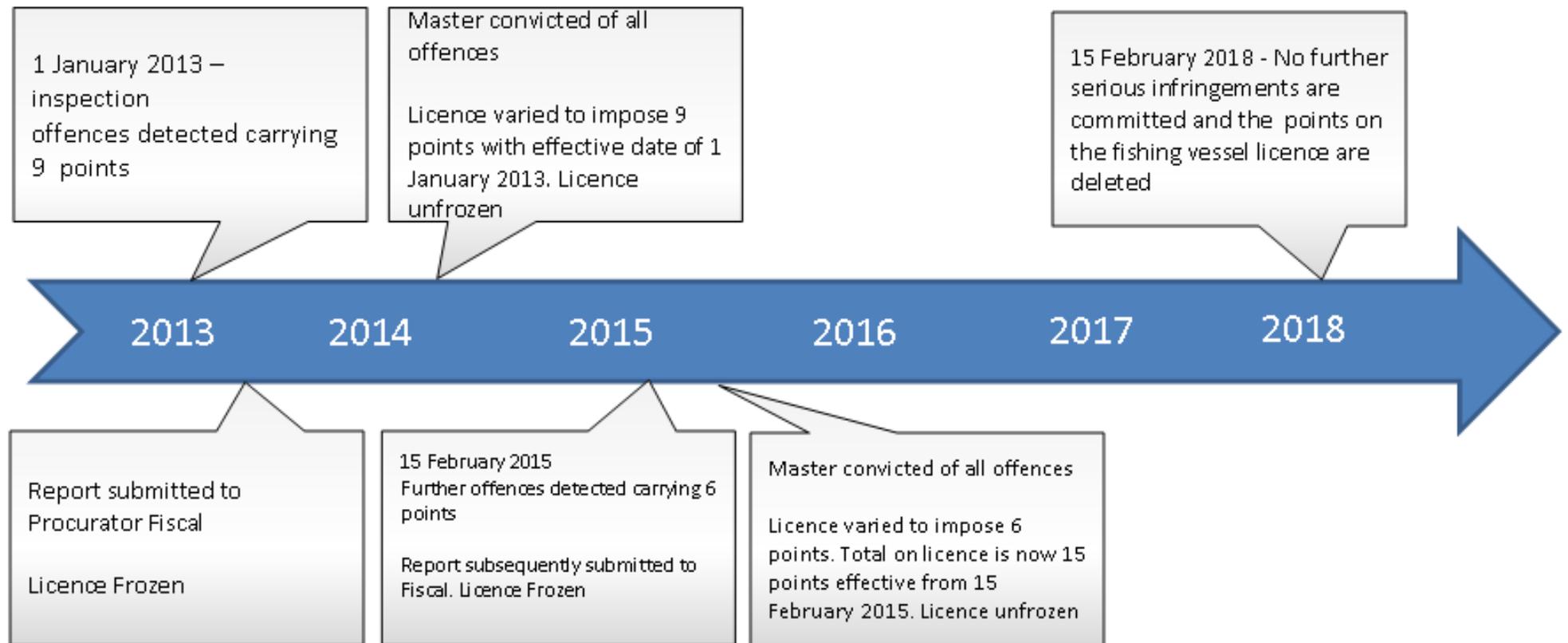
- (a) the fishing vessel which has been used in committing the infringement for which points were assigned uses thereafter VMS or records and transmits thereafter fishing logbook, transshipment and landing declaration data electronically without being legally subject to these technologies; or
- (b) the holder of the fishing licence volunteers after the assignation of points to take part in a scientific campaign for the improvement of the selectivity of the fishing gear; or
- (c) the holder of the fishing licence is a member of a producer organisation and the holder of the fishing licence accepts a fishing plan adopted by the producer organisation in the year following the assignation of the points involving a reduction of 10 % of the fishing opportunities for the holder of the fishing licence; or
- (d) the holder of the fishing licence joins a fishery covered by an eco-labelling scheme that is designed to certify and promote labels for products from well-managed marine capture fisheries and focus on issues related to the sustainable use of fisheries resources.

For each 3-year period since the date of the last serious infringement, the holder of a fishing licence can avail himself of one of the options under (a), (b), (c) or (d), to reduce the amount of points assigned only once, and provided that such reduction does not lead to the deletion of all points on the fishing licence.

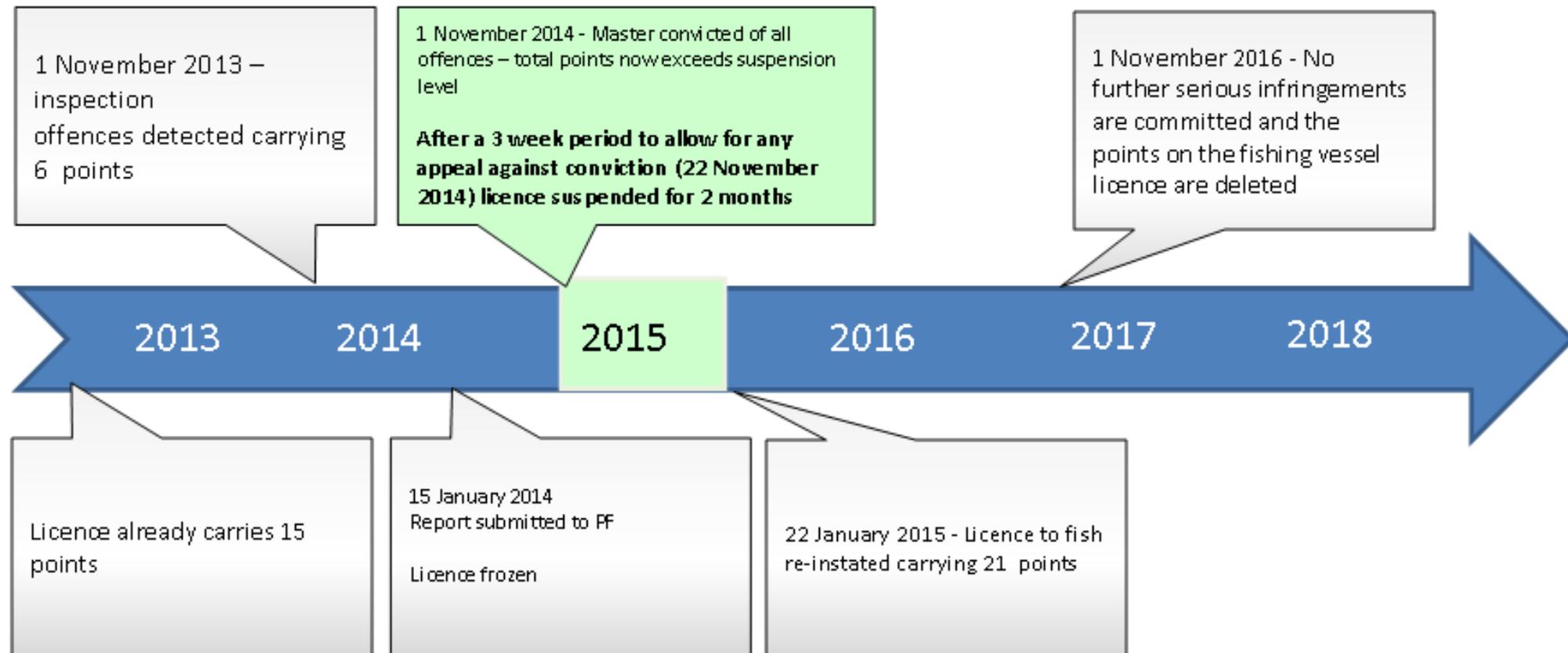
# Points imposed then no further offending for 3 years



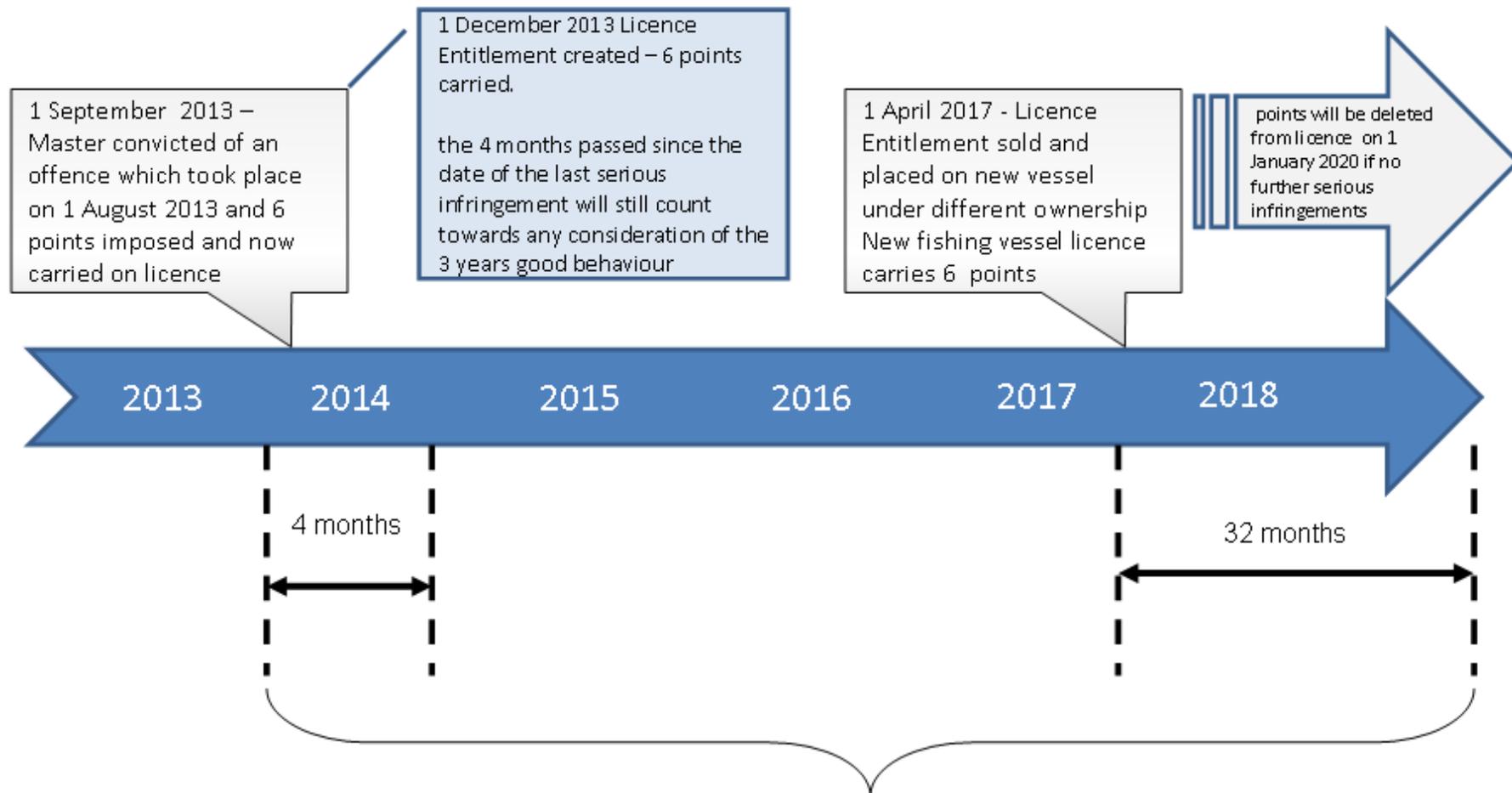
# Further conviction while carrying points on fishing licence



# Suspension of Fishing Licence after trigger level reached

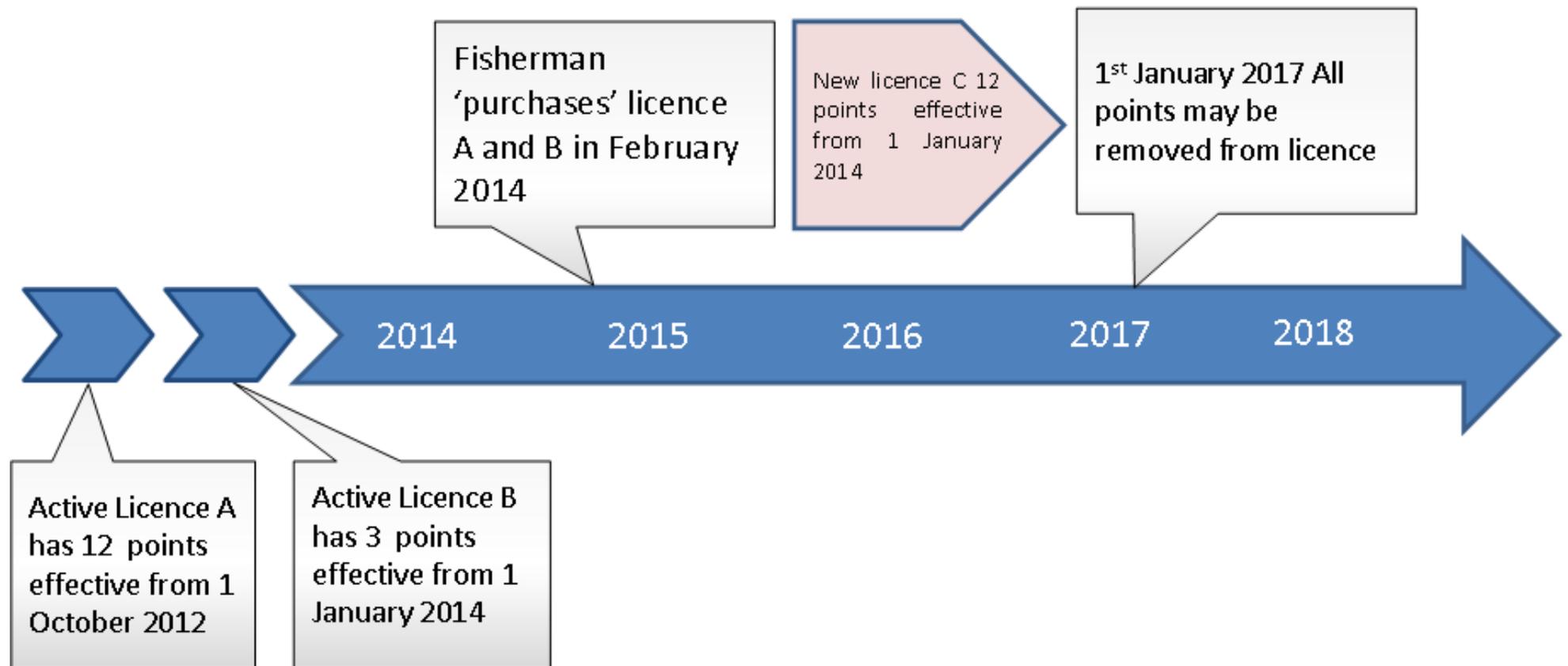


# Creation and transfer of licence entitlement with points attached



How 3 year demonstration period for good behaviour is calculated

# Aggregation of licenses with points attached to both



# Disaggregation of a licence carrying points

