
STATUTORY INSTRUMENTS

1996 No. 2

SEA FISHERIES

The Sea Fishing (Enforcement of Community Control Measures) (Amendment) Order 1996

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| <i>Made</i> | - - - - | <i>3rd January 1996</i> |
| <i>Laid before Parliament</i> | | <i>4th January 1996</i> |
| <i>Coming into force</i> | - - | <i>5th January 1996</i> |

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with sea fishing in Scotland, Wales and Northern Ireland, in exercise of the powers conferred on them by section 30(2) and (3) of the Fisheries Act 1981⁽¹⁾, and of all other powers enabling them in that behalf, hereby make the following Order:

Title, commencement and interpretation

1.—(1) This Order may be cited as the Sea Fishing (Enforcement of Community Control Measures) (Amendment) Order 1996 and shall come into force on 5th January 1996.

(2) In this Order “the principal Order” means the Sea Fishing (Enforcement of Community Control Measures) Order 1994⁽²⁾.

Amendment of the principal Order

2. The principal Order shall be amended in accordance with articles 3 to 11 of this Order and any reference in those provisions to any specified provision shall, unless the context requires otherwise, be taken to be a reference to the provision so specified of the principal Order.

3. In article 2(1)—

(a) for the definition of “Regulation 2807/83” there shall be substituted the following definition—

““Regulation 2807/83” means Commission Regulation (EEC) No. 2807/83 laying down detailed rules for recording information on member States' catches of fish⁽³⁾”

(1) 1981 c. 29.

(2) S.I.1994/451.

(3) OJ No. L276, 10.10.83, p.1.

- as amended by Commission Regulation (EEC) No. 473/89⁽⁴⁾ and Commission Regulation (EC) No. 2945/95⁽⁵⁾
- (b) for the definition of “Regulation 2241/87” there shall be substituted the following definition—
- ““Regulation 2241/87” means Council Regulation (EEC) No. 2241/87 establishing certain control measures for fishing activities⁽⁶⁾ as amended by Council Regulation (EEC) No. 3483/88⁽⁷⁾
- (c) for the definition of “Regulation 2847/93” there shall be substituted the following definition—
- ““Regulation 2847/93” means Council Regulation (EEC) No. 2847/93 establishing a control system applicable to the common fisheries policy⁽⁸⁾ as amended by Council Regulation (EC) No. 2870/95⁽⁹⁾
4. In article 3—
- (a) in paragraph (1)—
- (i) the words “as read with any qualifying words relating thereto in the Schedule” shall be omitted;
- (ii) in paragraphs (i), (ii) and (iii), for the words “or the charterer” (wherever they occur) there shall be substituted the words “and the charterer”;
- (iii) in paragraph (ii), for the words “article 3.1, 3.2 or 3.3 of Regulation 1382/87” there shall be substituted the words “article 3.1 of, article 3.2 of and Annex II to, or article 3.3 of, Regulation 1382/87”;
- (iv) in paragraph (iii)—
- (aa) for the words “article 6, 7, 10.1, 11, 12, 17.2, 20.1 or 21.3” there shall be substituted the words “article 6, 7, 10.1 11, 12, 17.2, 19a.2, 19e.1, 19e.2, 19e.3, 20.1, 20.2, 20a, 21.3 or 21c.2”;
- (bb) for the words “article 8.1” there shall be substituted the words “article 8.1 or articles 19b and 19c”;
- (b) in paragraph (2)—
- (i) for the words “set out” there shall be substituted the word “specified”;
- (ii) in sub-paragraph (a), for the words “or the charterer” there shall be substituted the words “and the charterer”;
- (iii) in sub-paragraphs (b) and (c), for the words “in the case of the provision of” (wherever they occur) there shall be substituted the words “in relation to the requirement to provide”;
- (c) in paragraph (3), for the words “articles 6 to 13, 17.2 or 21” there shall be substituted the words “articles 6, 7, 8.1, 9, 10.1, 11, 12, 13 or 17.2, articles 19b and 19c or article 19e or 20.2”;
- (d) at the end of the article there shall be inserted the following paragraph—
- “(4) Where there is in respect of any fishing boat a contravention of, or failure to comply with, articles 19b and 19c of Regulation 2847/93 in so far as it concerns entry

(4) OJ No. L53, 25.2.89, p.34.

(5) OJ No. L308, 21. 12.95, p.18.

(6) OJ No. L207, 29.7.87, p.1.

(7) OJ No. L306, 11.11.88, p.2.

(8) OJ No. L261, 20.10.93, p.1.

(9) OJ No. L301, 14.12.95, p.1.

into British fishery limits, the master and his representative, the owner and the charterer (if any) shall each be guilty of an offence.”.

5. In article 4—
 - (a) in paragraph (1), for the words “article 3(1) or (2)” there shall be substituted the words “article 3(1), (2) or (4)”;
 - (b) in paragraph (2)—
 - (i) for the words “article 3(1) or (2)” there shall be substituted the words “article 3(1), (2) or (4)”;
 - (ii) in sub-paragraph (a), for the words “articles 20.1 or 21” there shall be substituted the words “article 19a.2, 20.1, 20a, 21.3 or 21c.2”;
 - (iii) in sub-paragraph (b), for the words “article 6, 8.1 or 9 to 13 or 17.2” there shall be substituted the words “article 6, 8.1, 9, 10.1, 11, 12, 13 or 17.2, articles 19b and 19c or article 19e or 20.2”.
6. In article 5—
 - (a) in paragraphs (1) and (2), for the words “on the master and the owner or the charterer (if any), any other person responsible for the vessel and any other person, who is convicted” (in each place that they occur) there shall be substituted the words “on the master, owner, charterer, person responsible for the vessel or any other person who is convicted”;
 - (b) in paragraphs (1)(b) and (2)(b), for the words “if the boat is a foreign fishing boat, order it” (in each place that they occur) there shall be substituted the words “order the boat”.
7. In article 6(4), the words “within British fishery limits” shall be omitted.
8. In article 8—
 - (a) in paragraph (a)—
 - (i) after the word “fish” there shall be inserted the words “(including any receptacle which contains the fish)”;
 - (ii) for the words “article 6, 8.1, 9 to 13, 17.2 or 21” there shall be substituted the words “article 6, 8.1, 9, 10.1, 11, 12, 13, 17.2 or 19a.2, articles 19b and 19c or article 19e, 20.2, 21.3 or 21c.2”;
 - (b) in paragraph (b), for the words “article 20.1” there shall be substituted the words “article 20.1 or 20a”;
 - (c) in paragraph (c)—
 - (i) in sub-paragraph (i), for the words “article 20.1” there shall be substituted the words “article 20.1 or 20a”;
 - (ii) in sub-paragraph (ii), for the words “article 21” there shall be substituted the words “article 19a.2, 21.3 or 21c.2”.
9. In article 10(c) the word “intentionally” shall be omitted.
10. In article 12, before the words “and any document drawn up under article 9” there shall be inserted the words “, any effort report completed under articles 19b and 19c of Regulation 2847/93”.
11. In the Schedule—
 - (a) items 5(k) and (l) shall be omitted;
 - (b) after item 5(j) there shall be inserted, in the appropriate columns, the Community provisions, subject matters and maximum fines on summary conviction which are specified in the Schedule to this Order.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

3rd January 1996 *Tim Boswell*
Parliamentary Secretary, Ministry of Agriculture,
Fisheries and Food

28th December 1995 *James Douglas-Hamilton*
Minister of State, Scottish Office

Signed by authority of the Secretary of State for Wales

2nd January 1996 *Rod Richards*
Parliamentary Under Secretary of State, Welsh
Office

3rd January 1996 *Patrick Mayhew*
Secretary of State for Northern Ireland

SCHEDULE

Article 11

AMENDMENTS TO THE SCHEDULE TO THE PRINCIPAL ORDER

| Column 1 Community provision | Column 2 Subject matter | Column 3 Maximum fine on summary conviction |
|--|--|--|
| (k) (k) Article 19a.2 | Prohibition from carrying out of fishing activities in the areas specified in article 19a.1 of Regulation 2847/93 in relation to Community fishing boats exceeding 15 metres in length between perpendiculars or over 18 metres in overall length which have not been authorised by member States in accordance with articles 2, 3.5 and 9 of Council Regulation (EEC) No. 685/95 on the management of the fishing effort relating to certain Community fishing areas and resources ⁽¹⁰⁾ | £50,000 |
| (l) (l) Articles 19b and 19c, as read with article 3a of, and Annexes VIIIa and VIIIb to, Regulation 2807/83 | Requirement in relation to Community fishing boats exceeding 15 metres in length between perpendiculars or over 18 metres in overall length authorised to carry out fishing activities directed at demersal species to complete an effort report containing the information prescribed in article 19b of Regulation 2847/93– (a) by one of the methods prescribed in article 19c.1 (as read with article 19c.3) of Regulation 2847/93 or, in the case of boats carrying out fishing activities in the waters of the State in which they are registered, in accordance with arrangements | £50,000 |

⁽¹⁰⁾ OJ No. L71, 31.3.95, p.5. The provisions laid down in articles 2 and 3 of Regulation 685/95 apply only to vessels over 15 metres in length between perpendiculars. Under article 19a.2 of Regulation 2847/93 vessels over 15 metres in length between perpendiculars are considered equivalent to vessels over 18 metres in overall length. Article 19f.3 of Regulation 2870/95 requires the Commission of the European Communities to ensure that member States responsible for control have available data concerning identification of fishing boats having access to their waters.

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| Column 1 Community provision | Column 2 Subject matter | Column 3 Maximum fine on summary conviction |
|--|---|--|
| | <p>adopted under article 19c.2, second indent, of Regulation 2847/93;</p> | |
| | <p>(b) (b) to the authorities prescribed in article 19c.1 of Regulation 2847/93;</p> | £50,000 |
| | <p>(c) (c) at the time or times prescribed in article 19c.1 of Regulation 2847/93 or—</p> | £50,000 |
| | <p>(i) in the case of boats conducting trans-zonal fisheries as defined in article 19b.2, prescribed in article 19b.2 and 19c.2, first indent, of Regulation 2847/93;</p> | |
| | <p>(ii) in the case of boats spending less than 72 hours at sea, prescribed in article 19c.2, third indent, of Regulation 2847/93 (including the requirement in such case to notify changes occurring in the information provided in the report).</p> | |
| <p>(m) (m) Article 19e.1 and 19e.2, as read with article 1a of, and Annexes I, IVa and</p> | <p>Requirement in relation to Community fishing boats exceeding 15 metres in length between perpendiculars or over 18 metres in overall</p> | £50,000 |

| Column 1 Community provision | Column 2 Subject matter | Column 3 Maximum fine on summary conviction |
|--|--|--|
| Via to, Regulation 2807/83 | length to record in logbooks the information (as regards time spent at sea) prescribed in article 19e.1 of Regulation 2847/93 or, in the case of boats conducting trans-zonal fisheries as defined in article 19b.2 of Regulation 2847/93, prescribed in article 19e.2 of Regulation 2847/93. | |
| (n) (n) Article 19e.3, as read with article 1a of, and Annexes I, IVa and VIa to, Regulation 2807/83 | Requirement on Community fishing boats exceeding 15 metres in length between perpendiculars or over 18 metres in overall length authorised to carry out fishing activities directed at demersal species to record in logbooks an effort report containing the information prescribed in article 19b of Regulation 2847/93. | £50,000 |
| (o) (o) Article 20.1 | Requirement relating to stowage of nets, when not in use, in Community fishing boats. | The statutory maximum |
| (p) (p) Article 20.2 | Requirement in relation to Community fishing boats to record in log books and landing declarations all changes in mesh size and catch composition at moment of change. | £50,000 |
| (q) (q) Article 20a | Requirements relating to carriage, use and stowage of gear in Community fishing boats exceeding 15 metres in length between perpendiculars or over 18 metres in overall length carrying out fishing activities in the areas specified in article 19a.1 of Regulation 2847/93. | The statutory maximum |
| (r) (r) Article 21.3 | Prohibitions in relation to Community fishing boats from fishing for, and retention on board, trans-shipment and | £50,000 |

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| Column 1 Community provision | Column 2 Subject matter | Column 3 Maximum fine on summary conviction |
|---------------------------------|---|--|
| | landing of, stock subject to quota or total allowable catch from the date, fixed by the Commission of the European Communities, on which the quota or total allowable catch for such stock is deemed to have been exhausted. | |
| (s) (s) Article 21c.2 | Prohibition in relation to fishing boats of a member State from carrying out fishing activities in a fishery from the date, fixed by the Commission of the European Communities, on which the maximum fishing effort of that State for that fishery is deemed to have been exhausted. | £50,000 |

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Sea Fishing (Enforcement of Community Control Measures Order 1994 (“the principal Order”), which includes provision for the enforcement of—

- (a) Council Regulation (EEC) No. 2241/87 establishing certain control measures for fishing activities (OJ No. L207, 29.7.87, p.1) (“the first Council Regulation”) and Commission Regulation (EEC) No. 2807/83 laying down detailed rules for recording information on Member States’ catches of fish (OJ No. L276, 10.10.83, p.1) (“the Commission Regulation”), in so far as those Regulations relate to a duty to keep and submit logbooks, in consequence of the Commission Regulation having been amended by Commission Regulation (EC) No. 2945/95 (OJ No. L308, 21.12.95, p.18);
- (b) Council Regulation (EEC) No. 2847/93 establishing a control system applicable to the common fisheries policy (OJ No. L261, 20.10.93, p.1) (“the second Council Regulation”), in consequence of the second Council Regulation having been amended by Council Regulation (EC) No. 2870/95 (OJ No. L301, 14.12.95, p.1).

The principal Order creates offences in respect of breaches of provisions of the first Council Regulation, the Commission Regulation and the second Council Regulation referred to in column 1 (and briefly described in column 2) of the Schedule to that Order and in article 3 of that Order. The principal Order also specifies penalties for such offences and confers powers of enforcement.

Council Regulation (EC) No. 2870/95 provides for control and monitoring measures applicable to Community fishing boats exceeding 18 metres in overall length (equivalent to 15 metres in length between perpendiculars) when carrying out fishing activities in ICES divisions Vb, VI, VII, VIII, IX and X and CECAF areas 34.1.1, 34.1.2 and 34.2.0 (“Western waters”), so as to ensure compliance with the system for the management of fishing effort for certain fishery resources in Western waters established by Council Regulation (EC) No. 685/95 (OJ No. L71, 31.3.95, p.5) in implementation of Council Regulation (EC) No. 1275/94 (OJ No. L140, 3.6.94, p.1) on adjustments to the arrangements in the fisheries chapters of the Acts of Accession of Spain and Portugal.

The amendments made by Council Regulation (EC) No. 2870/95 include in particular—

- (a) a prohibition on the carrying out of fishing activities by boats which have not been authorised by member States in accordance with Articles 2, 3.5 and 9 of Council Regulation (EC) No. 685/95;
- (b) a requirement on boats authorised to carry out fishing activities directed at demersal species to complete an effort report detailing each entry into, and exit from, ports located inside each Western waters area, and each entry and exit from such area, either immediately prior to such entry and exit or, in the case of boats conducting trans-zonal fisheries or spending less than 72 hours at sea, at the times prescribed in the Regulation;
- (c) a requirement on boats to record in their logbooks entries into, and exits from, ports and areas, as well as additional information in the case of boats using static gear;
- (d) requirements relating to carriage, use and stowage of gear;
- (e) a prohibition on boats of a member State from carrying out fishing activities in a fishery from the date, fixed by the Commission of the European Communities, on which the maximum fishing effort of that State for that fishery is deemed to have been exhausted.

Commission Regulation (EC) No. 2945/95 supplements Council Regulation (EC) No. 2870/95 by specifying the radio stations via which, and the details of the competent authorities to whom, communications of effort reports may be made and by setting out detailed rules for the requirement to record information in logbooks.

The Order makes contravention of each of these provisions an offence by incorporating them in the Schedule to the principal Order.

The Order additionally provides for certain other, incidental, amendments to the principal Order.

A compliance cost assessment in relation to Council Regulation (EC) No. 2870/95 has been prepared and a copy has been placed in the library of each House of Parliament. A copy of it can be obtained from Fisheries IV Division of the Ministry of Agriculture, Fisheries and Food, Nobel House, 17 Smith Square, London SW1P 3JR.