

**2010 No. 168**

**SEA FISHERIES**

**The Sea Fishing (Enforcement of Community Control Measures) (Amendment) Order (Northern Ireland) 2010**

*Made* - - - - - *29th April 2010*

*Coming into operation* - - - - - *31st May 2010*

The Department of Agriculture and Rural Development (the Department) makes the following Order, in exercise of the powers conferred by section 30(2) of the Fisheries Act 1981(a) and now vested in it (b), and paragraph 1A of Schedule 2 of the European Communities Act 1972(c).

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972(d) and it appears to the Department that it is expedient for the references to Council Regulation (EC) No 1966/2006 (e) (on electronic recording and reporting of fishing activities and on means of remote sensing) and Commission Regulation (EC) No 1077/2008(f) (laying down detailed rules for the implementation of Council Regulation (EC) No 1966/2006 and repealing Regulation (EC) No 1566/2007(g)) to be construed as references to those instruments as amended from time to time.

**Citation, commencement, extent and application**

1.—(1) This Order may be cited as the Sea Fishing (Enforcement of Community Control Measures) (Amendment) Order (Northern Ireland) 2010 and comes into operation on 31<sup>st</sup> May 2010.

(2) Subject to paragraph (3), this Order shall not form part of the law of England, Scotland or Wales.

(3) Nothing in paragraph (2) shall be treated as prejudicing in the rest of the United Kingdom the effect of section 30(2A)(h) of the Fisheries Act 1981 in relation to, or for purposes incidental to, any provision which creates an offence.

**Amendments to the Sea Fishing (Enforcement of Community Control Measures) Order 2000**

2.—(1) Insofar as it extends to Northern Ireland, the Sea Fishing (Enforcement of Community Control Measures) Order 2000(i) is amended as follows.

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(a) 1981 c.29

(b) See Sea Fisheries (Northern Ireland) Order 2002 (S.I. 2002 No.790) Article 3(2) and Schedule 2.

(c) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).

(d) 1972 c. 68.

(e) OJ No L 409, 30.12.2006, p 1.

(f) OJ No L 295, 4.11.2008, p 3.

(g) OJ No L 340, 22.12.2007, p 46.

(h) Inserted by S.I. 1999/1820 Article 4, Schedule 2, Part 1, para 68(5)(a); S.I. 1998/3178, Art.3.

(i) S.I. 2000/51 to which there are amendments not relevant to this Order.

- (2) In article 2—
- (a) before the definition of “Community control measure” insert—
 

““buyer of the fish” means a buyer of fish obliged to submit sales notes pursuant to Article 9.2 of Regulation 2847/93(a);”;
  - (b) after the definition of “Community control measure” insert—
 

““first seller of the fish” means an auction centre or other authorised person obliged to submit sales notes pursuant to Article 9.1 of Regulation 2847/93, and a person is authorised for the purposes of that Article insofar as it sells fish being marketed for the first time by any form of competitive bidding at a designated auction site either on its own behalf or as the seller’s agent;”;
  - (c) for the definition of “Regulation 2847/93” substitute—
 

““Regulation 2847/93” means Council Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy;”;
  - (d) after the definition of “Regulation 423/04” insert—
 

““Regulation 1966/2006” means Council Regulation (EC) No 1966/2006 on electronic recording and reporting of fishing activities and on means of remote sensing, as amended from time to time;

“Regulation 1077/2008” means Commission Regulation (EC) No 1077/2008 laying down detailed rules for the implementation of Regulation 1966/2006 and repealing Regulation (EC) No 1566/2007, as amended from time to time;”;
  - (e) after the definition of “relevant offence” insert—
 

““requisite financial turnover” means an annual financial turnover in first sales of fisheries products for a person which is in excess of €400,000 and calculated for a calendar year using the annual financial turnover for that person from the calendar year two years previously and based on European Central Bank Euro foreign exchange reference rates applicable on 1st January for the calendar year from which the annual financial turnover information is taken”; and
  - (f) after paragraph (4) insert—
 

“(5) References in this Order to sales notes or take-over declarations being submitted electronically mean sales notes or take-over declarations submitted using an electronic system of a type specified by the Department of Agriculture and Rural Development.”.
- (3) After article 2 insert—

**“Register of those with a requisite annual turnover**

**2A.**—(1) The Department of Agriculture and Rural Development is the competent authority for the purposes of maintaining a register of first sellers, or buyers, of the fish who have a requisite financial turnover pursuant to Article 2(1) of Regulation 1077/2008.

(2) A first seller, or buyer, of the fish must, on a form provided by the Department of Agriculture and Rural Development, inform the Department whether it has a requisite financial turnover before 1st October in each calendar year.

(3) The Department of Agriculture and Rural Development must make the register available for public inspection on an official website.”.

- (4) After article 3(3) insert—
- “(4) A person who fails to comply with article 2A(2) is guilty of an offence.”.
- (5) After article 4(3) insert—
- “(4) A person found guilty of an offence under article 3(4) is liable—

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(a) OJ No L 261, 20.10.1993, p 1, as last amended by Council Regulation (EC) No 1006/2008 (OJ No L 286, 29.10.2008, p 33).

- (a) on summary conviction, to a fine not exceeding £50,000;  
 (b) on indictment, to a fine.”.

(6) Paragraphs 2(e) and (f) of the table in the Schedule are replaced by—

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Community Provision</i>	<i>Detailed Rules</i>	<i>Subject Matter</i>	<i>Maximum fine on summary conviction</i>	<i>Persons liable</i>
(e) Article 9.1 as read with Article 9.5	Articles 1.3 and 3.4 of Regulation 1966/2006 and Articles 1.1c and 5.1 of Regulation 1077/2008.	Requirement where first marketing of fishery products is carried out by an auction centre or authorised person to submit a completed sales note within 48 hours of sale, which in the case of a first seller of the fish with a requisite annual turnover is to be submitted electronically.	£50,000	The first seller of the fish.
(f) Article 9.2 as read with Article 9.3, 9.4, 9.4b, 9.5 and 13	Articles 1.3 and 3(4) of Regulation 1966/2006 and Articles 1.1c, 5.1 and 5.4 of Regulation 1077/2008.	Requirement where first marketing of fishery products is carried out other than in accordance with Article 9.1 of Regulation 2847/93, to submit—  (a) a completed sales note (when products have been sold or are offered for sale at place of landing), which in the case of a buyer of the fish with a requisite financial turnover is to be submitted electronically; (b) a copy of a transport document (when the products are offered for sale at place of landing); or  (c) a completed take-over declaration (when products are not offered for sale or are intended for sale at a later date) electronically,  before the products are collected.	£50,000	As regards the requirement to submit—  (a) a completed sales note, the buyer of the fish;  (b) a transport document, the transporter of the fish; (c) a completed take-over declaration, the holder of the fish and the holder’s agent (if any).

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 29<sup>th</sup>  
April 2010

*Liam McKibben*  
A senior officer of the  
Department of Agriculture and Rural Development

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Sea Fishing (Enforcement of Community Control Measures) Order 2000 (S.I. 2000/51) (“the 2000 Order”) in relation to Northern Ireland.

It provides for the enforcement of Council Regulation (EC) No 1966/2006 on electronic recording and reporting of fishing activities and on means of remote sensing (OJ No L 409, 30.12.2006, p 1) and Commission Regulation (EC) No 1077/2008 laying down detailed rules for the implementation of Council Regulation (EC) No 1966/2006 and repealing Regulation (EC) No 1566/2007 (OJ No L 295, 4.11.2008, p 3) in relation to the requirement to submit sales notes and take-over declarations electronically.

Article 2(3) establishes a public register, to be maintained by the Department of Agriculture and Rural Development, of those required to submit sales notes electronically because they have an annual financial turnover in excess of €400,000. A failure by a seller or a buyer of fish to inform the Department of Agriculture and Rural Development by 1st October in any calendar year whether it has such a financial turnover is an offence which is punishable on summary conviction by a maximum fine of £50,000 or, on indictment, by a fine.

Article 2(6) amends paragraphs 2(e) and (f) of the Schedule to the 2000 Order to make it an offence for a first seller, or a buyer, of fish with an annual financial turnover in excess of €400,000 not to submit sales notes electronically. It also makes it an offence for the holder of the fish when products are not offered for sale or are intended for sale at a later date not to submit take-over declarations electronically. The maximum fine on summary conviction for breach of either offence is £50,000 or, on indictment, a fine.

A Regulatory Impact Assessment in relation to this Order has been prepared and placed in the library of the Assembly, and on the Departmental website.

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£4.00

Dd. N4409. C2. 5/10. Gp. 130. 14567.