
EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes the Sea Fishing (Enforcement of Community Conservation Measures) Order 1997 (S.I.1997/1949) and the Sea Fishing (Enforcement of Community Conservation Measures) (Amendment) Order 1997 (S.I. 1997/2841) (article 13).

The Order re-enacts provisions for the enforcement of Article 11 of Council Regulation (EC) No. 894/97 (O.J. No. L132, 23.5.97, p.1) laying down certain technical measures for the conservation of fishery resources (“Regulation 894/97”) and makes provisions for the enforcement of certain of the enforceable Community restrictions and obligations concerning the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms which are contained in Council Regulations (EC) No. 850/98 (O.J. No. L125, 27.4.98, p.1), as amended (“the Council Regulation”).

The Order creates offences in respect of breaches of Regulation 894/97, and of the Council Regulation (article 3).

The Order provides penalties in relation to an offence under article 3 of the Order or any equivalent provision extending to any other part of the United Kingdom proceedings in respect of which were brought in Scotland by virtue of section 30 (2A) of the Fisheries Act 1981 (c. 29) (article 4). (Section 30 (2A) was inserted by the Scotland Act (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraph 68 (5)(a)).

The Order makes provision in relation to the recovery of fines imposed in respect of such offences or an offence under article 10 (obstruction of officers) (article 5).

The Order confers on British sea-fishery officers powers of enforcement in relation to fishing boats and on land. These include power to enter premises, to go on board fishing boats, to stop and search vehicles transporting fish, to examine fish, to require the production of documents, to search for and seize documents, to take a boat to the nearest convenient port and to seize fish and fishing gear (articles 6, 7 and 8).

Provision is also made in relation to the liability of officers for anything done in the purported exercise of powers conferred by the Order (article 9). The Order creates offences and provides penalties in respect of the obstruction of a British sea-fishery officer and makes provision in relation to offences committed by bodies corporate and Scottish partnerships and the admissibility of certain documents (articles 10, 11 and 12).