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STATUTORY INSTRUMENTS

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**1989 No. 2006**

**MERCHANT SHIPPING**

**The Merchant Shipping Act 1988 (Amendment) Order 1989**

*Made - - - - 1st November 1989*

*Coming into force - - 2nd November 1989*

At the Court at Buckingham Palace the 1st day of November 1989

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before Parliament and has been approved by a resolution of each House of Parliament in accordance with paragraph 2(2) of Schedule 2 to the European Communities Act 1972<sup>(1)</sup>:

Now therefore Her Majesty, in exercise of the powers conferred upon Her by section 2(2) of the European Communities Act 1972, and of all other powers enabling Her in that behalf is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation and commencement**

1. This Order may be cited as the Merchant Shipping Act 1988 (Amendment) Order 1989 and shall come into force on 2nd November 1989.

**Application**

2.—(1) This Order applies to any fishing vessel which—

(a) immediately before 1st April 1989—

(i) was by virtue of section 13(3) of the Merchant Shipping Act 1988<sup>(2)</sup> registered under Part I of the Merchant Shipping Act 1894<sup>(3)</sup>, under section 373 of that Act (registry of British fishing boats) or under the Sea Fishing Boats (Scotland) Act 1886<sup>(4)</sup>, and

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(1) 1972 c. 68.  
(2) 1988 c. 12.  
(3) 1894 c. 60.  
(4) 1886 c. 53.

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*Status: This is the original version (as it was originally made).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

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- (ii) was used for sea fishing as a British fishing boat pursuant to a licence granted under section 4 of the Sea Fish (Conservation) Act 1967<sup>(5)</sup>; and
  - (b) on 1st April 1989 was ineligible for registry under Part II of the Merchant Shipping Act 1988 by reason only of the requirement of British citizenship imposed by virtue of section 14(7) of that Act.
- (2) In this Order “fishing vessel” has the same meaning as in Part II of the Merchant Shipping Act 1988.

**Modification of Merchant Shipping Act 1988 for certain fishing vessels**

3. In relation to a fishing vessel to which this Order applies, section 14 of the Merchant Shipping Act 1988 shall, so long as this Order remains in force, have effect as if—
- (a) for “British-owned” in paragraph (a) of subsection (1) and in subsection (2) there was substituted “Community-owned”; and
  - (b) in the definition of “qualified person” in subsection (7), after “British citizen” there were inserted “or a national of a member State other than the United Kingdom and in either case”.

*G. I. de Deney*  
Clerk of the Privy Council

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(5) 1967 c. 84.

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## EXPLANATORY NOTE

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

This Order gives effect to an interim order of the President of the European Court of Justice in *Commission v United Kingdom* (Case 246/89R), made on 10th October 1989. The interim order requires the United Kingdom, pending delivery of the judgment of the Court in the main proceedings, (Case 246/89), to suspend the British citizenship requirements (but not the United Kingdom residence and domicile requirements) of section 14 of the Merchant Shipping Act 1988 so far as they relate to fishing vessels which were fishing under the British flag up to March 31st 1989 and were owned by nationals of member States of the European Communities. Pending publication of the Order in the Official Journal of the European Communities, copies of the order may be obtained from the Treasury Solicitor (European Section), Queen Anne's Chambers, 28 Broadway, London SW1H 9JS.