
WELSH STATUTORY INSTRUMENTS

2004 No. 3054

The Scarweather Sands Offshore Wind Farm Order 2004

PART IV

MISCELLANEOUS AND GENERAL

Compensation for fishermen

33.—(1) If a relevant person can demonstrate to the reasonable satisfaction of the undertaker that the relevant person has suffered, or will suffer, loss as a result of being unable to fish within the relevant area following commencement of construction of Work No. 1 in consequence of the exercise of the powers of this Order, the undertaker must pay the relevant person reasonable compensation for that loss.

(2) Any such claim must be made no earlier than the commencement of construction of Work No. 1 and no later than 2 years after its completion; and any dispute as to the liability for, or amount of compensation, is to be referred to arbitration in accordance with article 39 of the Order.

(3) No person is entitled to compensation under this provision if convicted of an offence under article 28(1) by virtue of trawling in the relevant area; and, if any person is convicted of such an offence following payment of compensation under this article, such compensation may be recovered by the undertaker from that person.

(4) For the purpose of determining whether or not a person is a relevant person, and the extent of any person's loss for the purpose of paragraph (1), no account is to be taken of any activity unless it was undertaken in compliance with any applicable enactment or rule of law; and, in particular, no account is to be taken of any fish taken unless it has been included in returns submitted to the South Wales Sea Fisheries Committee under byelaws made under section 5 of the Sea Fisheries Regulation Act 1966(1) and, where relevant, in declarations submitted under article 8 of Council Regulation (EEC) No. 2847/93(2).

(5) In this article—

“relevant person” (“*person perthnasol*”) means the owner of a vessel who has been fishing with that vessel on a regular basis, in the course of his business, within the relevant area, in each of the five years immediately preceding commencement of construction of Work No. 1; and

“the relevant area” (“*yr ardal berthnasol*”) means the wind farm site and additional area referred to in article 28(1)(b).

(1) 1966 c. 38.

(2) O.J. No. L261, 20.10.93 p.1.