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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 311**

**The Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures) (Scotland) Order 2005**

**Interpretation**

2.—(1) In this Order—

“authorised officer” means a person authorised by the Scottish Ministers for the purpose of article 4(1);

“Community fishing boat” means a fishing boat flying the flag of and registered in a Member State of the European Community;

“Community quota measure” means a provision of the Council Regulation specified in column 1 of Schedule 1 as read with any qualifying words relating to the provision in that column and, in the case of Article 10 and Annex II of the Council Regulation, with article 3 of this Order;

“Community third country fishing measure” means a provision of the Council Regulation specified in column 1 of Schedule 3;

“the Council Regulation” means Council Regulation (EC) No. 27/2005 of 22nd December 2004<sup>(1)</sup> fixing for 2005 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required;

“Council Regulation 1434/98” means Council Regulation (EC) No. 1434/98 of 29th June 1998 specifying conditions under which herring may be landed for industrial purposes other than direct human consumption<sup>(2)</sup>;

“fishery product” includes fish;

“ICES” followed by a roman numeral with or without a letter shall be construed as a reference to whichever of the statistical sub-areas and divisions of the International Council for the Exploration of the Sea<sup>(3)</sup> identified therein by that roman numeral or that roman numeral and letter as the case may be;

“pelagic weighing system” means any system used to weigh herring, mackerel or horse mackerel for the purposes of paragraph 9 of Annex III of the Council Regulation;

“Regulation 2847/93” means Council Regulation (EEC) No. 2847/93 establishing a control system applicable to the common fisheries policy<sup>(4)</sup> as amended by Council Regulation (EC) No. 2870/95<sup>(5)</sup>, Council Decision (EC) No. 95/524<sup>(6)</sup>, Council Regulation (EC) No. 2489/96<sup>(7)</sup>, Council Regulation (EC) No. 686/97<sup>(8)</sup>, Commission Regulation (EC) No. 1489/97<sup>(9)</sup>, Council Regulation (EC) No. 2205/97<sup>(10)</sup>, Council Regulation (EC)

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(1) O.J. No. L 12, 14.1.05, p.1.

(2) O.J. No. L 191, 7.7.98, p.10.

(3) Cmnd. 2586.

(4) O.J. No. L 261, 20.10.93, p.1.

(5) O.J. No. L 301, 14.12.95, p.1.

(6) O.J. No. L 301, 14.12.95, p.35.

(7) O.J. No. L 338, 28.12.96, p.12.

(8) O.J. No. L 102, 19.4.97, p.1.

(9) O.J. No. L 202, 30.7.97, p.18.

No. 2635/97(11) and Council Regulation (EC) No. 2846/98(12), Council Regulation (EC) No. 806/2003(13) and Council Regulation (EC) No. 1954/2003(14);

“relevant offence” means an offence under–

- (a) articles 4(5) to (7) or 5(2) or 5(4) or 6(1) to (3); or
- (b) any provision extending to any other part of the United Kingdom made for the purposes of implementing a Community quota measure, a specified Community provision or a Community third country fishing measure, being a provision in respect of which, by virtue of section 30(2A) of the Fisheries Act 1981(15), proceedings may be commenced in any place in the United Kingdom;

“Scotland” has the same meaning as in section 126(1) of the Scotland Act 1998(16);

“Scottish fishing boat” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995(17) and whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging;

“Scottish zone” has the same meaning as in section 126(1) of the Scotland Act 1998(18);

“specified Community provision” means a provision of the Council Regulation specified in Column 1 of Schedule 2 as read with any qualifying words relating to the provision in that column;

“third country fishing boat” means a fishing boat flying the flag of and registered in a State other than a Member State of the European Community.

(2) In this Order, any reference to a logbook, declaration or document includes, in addition to a logbook, declaration or document in writing–

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any data, however reproduced, communicated via a satellite-based vessel monitoring system established under Article 3.1 of Regulation 2847/93;
- (d) any disk, tape, sound track or other device on which sounds or other data (not being visual aids) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (e) any film (including microfilm), negative, tape, disk or other device on which one or more visual images are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom.

(3) In this Order, any reference–

- (a) to a numbered article is a reference to the article so numbered in this Order;
- (b) to a numbered paragraph is a reference to the paragraph so numbered in the article in which it appears in this Order;
- (c) to a numbered Schedule is a reference to the Schedule to this Order so numbered; and
- (d) to a numbered Article or Annex is a reference to the Article or Annex so numbered in the Council Regulation.

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(10) O.J. No. L 304, 7.11.97, p.1.

(11) O.J. No. L 356, 31.12. 97, p.14.

(12) O.J. No. L 358, 31.12. 98, p.5.

(13) O.J. No. L 122, 16.5.03, p.1.

(14) O.J. No. L 289, 7.11.03, p.1.

(15) 1981 c. 29; section 30(2A) was inserted by S.I.1999/1820.

(16) 1998 c. 46.

(17) 1995 c. 21.

(18) The sea within British fishery limits (that is, the limits set by or under section 1 of the Fishery Limits Act 1976 (c. 86)) which is adjacent to Scotland is determined by the Scottish Adjacent Waters Boundaries Order 1999 (S.I. 1999/1126).

(4) Column 2 of Schedule 1 (which provides in relation to each Community quota measure an indication of the subject matter of the measure) shall not be read as limiting the scope of any Community quota measure and shall be disregarded in relation to any question arising as to the construction of this Order.

(5) Column 2 of Schedule 2 (which provides in relation to each specified Community provision an indication of the subject matter of the provision) shall not be read as limiting the scope of any specified Community provision and shall be disregarded in relation to any question arising as to the construction of this Order.

(6) Column 2 of Schedule 3 (which provides in relation to each Community third country fishing measure an indication of the subject matter of the measure) shall not be read as limiting the scope of any Community third country fishing measure and shall be disregarded in relation to any question arising as to the construction of this Order.