

STATUTORY INSTRUMENTS

1984 No. 291

SEA FISHERIES

The Sea Fishing (Enforcement of Community Licensing Measures) (North of Scotland Box) Order 1984

<i>Made - - - -</i>	<i>2nd March 1984</i>
<i>Laid before Parliament</i>	<i>9th March 1984</i>
<i>Coming into Operation</i>	<i>1st April 1984</i>

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with sea fishing in Scotland, Wales and Northern Ireland, in exercise of the powers conferred on them by section 30(2) of the Fisheries Act 1981 (a) and of all their other enabling powers, hereby make the following order:—

Citation and commencement

1. This order may be cited as the Sea Fishing (Enforcement of Community Licensing Measures) (North of Scotland Box) Order 1984 and shall come into operation on 1st April 1984.

Interpretation

2. In this order—

“the Commission Regulation” means Commission Regulation (EEC) No. 2166/83 (b) establishing a licensing system for certain fisheries in an area north of Scotland;

“licensed EC fishing boat” means any vessel flying the flag of, or registered in, a member state and in possession of, or considered to be in possession of, a licence in accordance with Article 3 of the Commission Regulation; and

“the North of Scotland Box” means those waters within the region referred to in Annex IIA to Council Regulation (EEC) No. 170/83 establishing a Community system for the conservation and management of fisheries resources (c).

Offences and Penalties

3. Where there is in respect of any licensed EC fishing boat within British fishery limits a failure to comply with Article 4 of the Commission Regulation, the master and the owner shall each be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding £1000;

(b) on conviction on indictment, to a fine.

(a) 1981 c.29.

(b) OJ No. L206, 30.7.83, p.71.

(c) OJ No. L24, 27.1.83, p.1.

Enforcement

4.—(1) The provisions of section 8(2) to (4) of the Sea Fisheries Act 1968 (a) (general powers of British sea fishery officers) shall have effect in relation to this order as they have effect in relation to an order under section 5 of that Act or section 2 of the Fishery Limits Act 1976 (b) and for the purpose of the enforcement of this order, there are hereby conferred on every British sea fishery officer in relation to any licensed EC fishing boat within British fishery limits all the powers of a British sea fishery officer under those subsections.

(2) Any person who, on any licensed EC fishing boat within British fishery limits—

(a) fails without reasonable excuse to comply with any requirement imposed, or to answer any question (other than a question tending to show that he has committed a criminal offence) asked by a British sea fishery officer under the powers conferred on him by paragraph (1) above;

(b) prevents, or attempts to prevent, any other person from complying with any such requirement or answering any such question; or

(c) assaults any such officer while exercising any of the powers conferred on him by paragraph (1) above or obstructs any such officer in the exercise of those powers;

shall be guilty of an offence and liable—

(i) on summary conviction, to a fine not exceeding £5000; or

(ii) on conviction on indictment, to a fine.

(3) A British sea fishery officer shall not be liable in any civil or criminal proceeding for anything done in the purported exercise of the powers conferred on him by paragraph (1) above if the court is satisfied that the act was done in good faith, that there were reasonable grounds for doing it and that it was done with reasonable skill and care.

Recovery of fines

5.—(1) Where a fine is imposed by a sheriff in Scotland on any person who is convicted by the sheriff of an offence under article 3 or 4(2) of this order, the sheriff may—

(a) issue a warrant for the pouncing and sale of the boat and its gear and catch and any property of the person convicted; and

(b) order the boat to be detained for a period not exceeding 3 months from the date of the conviction or until the fine is paid, whichever occurs first.

(2) Where a fine is imposed by a magistrates' court in England, Wales or Northern Ireland on any person who is convicted by the court of an offence under article 3 or 4(2) of this order, the court may—

(a) issue a warrant of distress against the boat and its gear and catch and any property of the person convicted for the purpose of levying the amount of the fine; and

(b) order the boat to be detained for a period not exceeding 3 months from the date of the conviction or until the fine is paid or the amount of the fine is levied in pursuance of any such warrant, whichever occurs first.

(a) 1968 c.77; subsection (3) was amended by the Fisheries Act 1981, section 26(2) and subsection (4) by section 26(3) of that Act.

(b) 1976 c.86.

(3) Sections 77(1) and 78 of the Magistrates' Courts Act 1980(a) (postponement of issue of, and defects in, warrants of distress) shall apply to a warrant of distress issued under this article in England and Wales as they apply to a warrant of distress issued under Part III of that Act.

(4) Article 114(2) of the Magistrates' Courts (Northern Ireland) Order 1981(b) (postponement of issue of certain warrants) shall apply to a warrant of distress issued under this article in Northern Ireland as it applies to a warrant referred to in that article.

Offences by bodies corporate

6. Where any offence under article 3 of this order committed by a body corporate is proved to have been committed with the consent or approval of any director, manager, secretary or other officer of any body corporate, he, as well as the body corporate, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Jurisdiction to try offences

7. Proceedings for an offence under the foregoing provisions of this order may be taken and the offence may for all incidental purposes be treated as having been committed in any place in the United Kingdom.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 2nd March 1984.

Michael Jopling,
Minister of Agriculture, Fisheries and Food.

George Younger,
Secretary of State for Scotland.

2nd March 1984.

Nicholas Edwards,
Secretary of State for Wales.

2nd March 1984.

James Prior,
Secretary of State for Northern Ireland.

2nd March 1984.

(a) 1980 c.43.

(b) S.I. 1981/1675 (N.I. 26).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This order makes a breach of Article 4 of Commission Regulation 2166/83 an offence for the purposes of United Kingdom law, and provides penalties.

Article 4 of the Commission Regulation requires a master or owner of a vessel flying the flag of, or registered in, a member state which is licensed to fish in the North of Scotland Box to communicate that vessel's movements into or out of the North of Scotland Box or any port in that area (Article 4.1) and also specifies the information which must be contained in that communication (Article 4.2).

British sea fishery officers are given powers for the purpose of enforcement of the order.

The order also makes provision for the punishment of anyone found guilty of failing to comply with a requirement imposed or to answer a question asked by a British sea fishery officer or of preventing, or attempting to prevent, anyone else from complying or answering, or of assaulting or obstructing such an officer.

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