
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the enforcement of restrictions and obligations contained in Council Regulation (EC) No. 2791/99 (OJ No. L337, 30.12.99, p.1), for laying down certain control measures applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries (“the Council Regulation”). The Council Regulation in particular implements two recommendations of the North-East Atlantic Fisheries Commission establishing a scheme of control and enforcement applicable to fishing vessels in the Regulatory Area.

The Regulatory Area referred to in the Order is defined in Article 2.1 of the Council Regulation as “those waters of the Convention Areas as defined in Article 1(1) of the . . . Convention [on future multilateral cooperation in the North-East Atlantic fisheries (“the NEAFC Convention”)], which lie beyond the waters under the jurisdiction of NEAFC Contracting Parties”. Article 1(1) of the NEAFC Convention defines the Convention Areas as:

“the waters:

- (a) within those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 36° north latitude and between 42° west longitude and 51° east longitude, but excluding:
 - (i) the Baltic Sea and the Belts lying to the south and east of lines drawn from Hasenore Head to Gniben Point, from Korshage to Spodsbjerg and from Gilbjerg Head to the Kullen, and
 - (ii) the Mediterranean Sea and its dependent seas as far as the point of intersection of the parallel of 36° latitude and the meridian of 5° 36' west longitude,
- (b) within that part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude.”

Part I of the Order (articles 1 to 3) extends to the whole of the United Kingdom; Part II of the Order (articles 4 to 12) extends to England, Wales and Northern Ireland only; and Part III of the Order (articles 13 to 21) extends to Scotland only (article 1).

Articles 4 and 13 of the Order create offences in respect of: breaches of the provisions of the Council Regulation referred to in column 1 (and briefly described in column 2) of the Schedule to the Order and the provisions of the Council Regulation referred to in paragraphs (2) and (3) of those articles; and, in relation to non-Contracting Party vessels, transshipments to Community fishing vessels and breaches of notices served on non-Contracting Party vessels prohibiting landing or transshipment (paragraphs 4(4) and 13(4)). Penalties, which may include the forfeiture of fish, nets and other fishing gear, are specified for such offences (articles 5 and 14). The statutory maximum penalty referred to in the Order is currently £5,000.

The Order confers power on the Minister of Agriculture, Fisheries and Food and the Scottish Ministers to assign British sea-fishery officers to be NEAFC inspectors (article 3). The Order also confers powers of enforcement on: NEAFC inspectors in respect of relevant British fishing boats and Scottish fishing boats in the Regulatory Area; British sea-fishery officers who are NEAFC inspectors in respect of foreign fishing boats, flying the flag of a state which is a Member State of the European Community or a Contracting Party to the NEAFC Convention, in the Regulatory Area; and British sea-fishery officers in respect of relevant British fishing boats or Scottish fishing boats wherever they may be and other fishing boats which are within relevant British fishery limits or the Scottish zone (articles 7 and 16). Powers to seize fish and fishing gear are also conferred on British sea-

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fishery officers in respect of relevant British fishing boats or Scottish fishing boats wherever they may be and other fishing boats which are within relevant British fishery limits or the Scottish zone (articles 8 and 17). Provision is made for the punishment of anyone found guilty of obstructing or assaulting a British sea-fishery officer (articles 10 and 19).

The Order provides powers for the recovery of fines imposed by a magistrates' court in England, Wales or Northern Ireland (article 6) or by a court in Scotland (article 15).

Articles 9, 11, 12, 18, 20 and 21 contain ancillary provisions.