
STATUTORY INSTRUMENTS

2005 No. 17

SEA FISHERIES, ENGLAND
CONSERVATION, ENGLAND

**The Incidental Catches of Cetaceans
in Fisheries (England) Order 2005**

Made - - - - *10th January 2005*
Laid before Parliament *11th January 2005*
Coming into force - - *2nd February 2005*

The Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with sea fishing in Northern Ireland, in exercise of the powers conferred by section 30(2) of the Fisheries Act 1981⁽¹⁾ and now vested in them⁽²⁾ make the following Order:

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- (1) [1981 c. 29](#). See section 30(3) for the definitions of “enforceable Community restriction”, “enforceable Community obligation” and “the Ministers”.
- (2) Article 3(1) of and Schedule 1 to the Scotland Act 1998 (Concurrent Functions) Order 1999 (S.I. [1999/1592](#)) provide for the functions exercisable under section 30(2) of the 1981 Act to be exercised by the Ministers, concurrently with Scottish Ministers, in relation to: British fishing boats (other than Scottish ones) within the Scottish zone; and Scottish fishing boats within British fishery limits but outside the Scottish zone. By virtue of article 2(a) of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. [1999/672](#)) the functions exercisable under section 30(2) of the 1981 Act were transferred to the National Assembly in so far as exercisable in relation to Wales (defined in section 155(1) of the Government of Wales Act [1998 \(c. 38\)](#) as including “the sea adjacent to Wales out as far as the seaward boundary of the territorial sea”); in respect of waters beyond Wales these functions remain exercisable by the Ministers. The Government of Wales Act 1998, Schedule 3, paragraph 5 provides that any power of a Minister of the Crown transferred to the Assembly by virtue of S.I. [1999/672](#) should continue to be exercisable by the Minister who, but for that transfer, would have continued to hold that power for the purpose of implementing any Community obligation. By virtue of article 2(1) of the Transfer of Functions (Agriculture and Fisheries) Order 2000 (S.I. [2000/1812](#)) any remaining functions of the Secretaries of State for Scotland and Wales under section 30(2) of the 1981 Act were transferred to the Minister of Agriculture, Fisheries and Food. By virtue of article 2(1) of the Transfer of Functions (Agriculture and Fisheries) Order 2000 (S.I. [2000/1812](#)), any remaining functions of the Secretaries of State for Scotland and Wales under section 30 (2) of the 1981 Act were transferred to the Minister of Agriculture, Fisheries and Food. The functions of the Minister of Agriculture, Fisheries and Food and one or more named Secretaries of State (however described) acting jointly were transferred to the Secretary of State for Environment, Food and Rural Affairs and the one or more Secretaries of State acting jointly by virtue of article 2(5) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. [2002/794](#)).