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STATUTORY INSTRUMENTS

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**2008 No. 2347**

**SEA FISHERIES, ENGLAND AND WALES**

**The Sea Fishing (Recovery Measures) Order 2008**

<i>Made</i>	- - - -	<i>1st September 2008</i>
<i>Laid before Parliament</i>		<i>5th September 2008</i>
<i>Coming into force</i>	- -	<i>30th September 2008</i>

The Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with sea fishing in Northern Ireland make the following Order in exercise of the powers conferred by section 30(2) of the Fisheries Act 1981<sup>(1)</sup>, and now vested in them<sup>(2)</sup>, and by paragraph 1A of Schedule 2 to the European Communities Act 1972<sup>(3)</sup>.

This Order makes provision for a purpose mentioned in section 2(2) of the European Communities Act 1972, and it appears to those Secretaries of State that it is expedient for references in this Order to a Community instrument or to any provision of a Community instrument to be construed as a reference to that instrument or that provision as amended from time to time.

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- (1) [1981 c. 29](#) (“the 1981 Act”). See section 30(3) for the definitions of “the Ministers” (as modified in relation to Scotland by section 30(5), “enforceable Community restriction” and “enforceable Community obligation”).
- (2) The function of the Ministers under section 30(2) of the 1981 Act in relation to Wales was transferred to the National Assembly for Wales and then transferred from that body to the Welsh Ministers: see article 2(a) of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 ([S.I. 1999/672](#)) and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 ([c. 32](#)). Despite its transfer, that function remains exercisable by the Ministers in relation to Wales for the purpose of implementing Community obligations and connected purposes: see section 58 of, and paragraph 5 of Schedule 3 to, the Government of Wales Act 2006, as read with paragraph 26(1) of Schedule 11.
- The function under section 30(2) exercisable in relation to British fishing boats (other than Scottish ones) within the Scottish zone and Scottish fishing boats outside that zone but within British fishery limits remains exercisable by the Ministers despite being transferred to the Scottish Ministers under section 53(1) of the Scotland Act 1998 ([c. 46](#)): see article 3(1) of, and Schedule 1 to, the Scotland Act 1998 (Concurrent Functions) Order 1999 ([S.I. 1999/1592](#)).
- The function under section 30(2) exercisable in relation to the Northern Ireland zone and Northern Ireland fishing boats outside that zone remains exercisable by the Ministers despite being transferred to the Department of Agriculture and Rural Development in Northern Ireland under article 3(2) of, and paragraph 3 of Schedule 2 to, the Sea Fisheries (Northern Ireland) Order 2002 ([S.I. 2002/790](#)): see paragraph 3(2) of Schedule 2 to that Order.
- Any remaining functions of the Secretaries of State for Scotland and Wales under section 30(2) the 1981 Act in relation to England have been transferred to the Minister of Agriculture, Fisheries and Food: see article 2(1) of the Transfer of Functions (Agriculture and Fisheries) Order 2000 ([S.I. 2000/1812](#)). The function of that Minister and the Secretary of State concerned with sea fishing in Northern Ireland acting jointly under section 30(2) has been transferred to the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with sea fishing in Northern Ireland acting jointly: see article 2(5) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 ([S.I. 2002/794](#)).
- (3) [1972 c. 68](#). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 ([c. 51](#)).

**Citation and commencement**

1. This Order may be cited as the Sea Fishing (Recovery Measures) Order 2008 and comes into force on 30th September 2008.

**Extent and application**

2.—(1) This Order extends to England and Wales.

(2) This Order applies—

- (a) in England and Wales;
- (b) in relation to English fishing boats and Welsh fishing boats wherever they are; and
- (c) in relation to other fishing boats within British fishery limits except when they are in—
  - (i) the Scottish zone (as defined in section 126(1) of the Scotland Act 1998<sup>(4)</sup>);
  - (ii) the Northern Ireland zone (as defined in section 98 of the Northern Ireland Act 1998<sup>(5)</sup>); or
  - (iii) the territorial sea adjacent to the Isle of Man, Jersey<sup>(6)</sup> or Guernsey.

**Interpretation**

3.—(1) In this Order—

“British sea-fishery officer” has the same meaning as in section 7 of the Sea Fisheries Act 1968<sup>(7)</sup>;

“the Cod Regulation” means Council Regulation (EC) No 423/2004 establishing measures for the recovery of cod stocks<sup>(8)</sup>, as amended from time to time;

“Community fishing boat” means a fishing boat flying the flag of, and registered in, a member State, other than a relevant fishing boat;

“the Control Regulation” means Council Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy<sup>(9)</sup>, as amended from time to time;

“English fishing boat” means—

- (a) a fishing boat which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995<sup>(10)</sup> and whose entry in the register specifies a port in England as the port to which the boat is to be treated as belonging, or
- (b) a fishing boat, other than a Scottish fishing boat, a Welsh fishing boat or a Northern Ireland fishing boat, which is owned wholly by persons qualified to own British ships for the purposes of Part II of that Act;

“equivalent provision” means a provision in any other Order extending to any part of the United Kingdom which has equivalent effect to a provision in this Order, proceedings in respect of

(4) 1998 c. 46.

(5) 1998 c. 47.

(6) See section 1 of the Territorial Sea Act 1987 (c. 49), as extended to Jersey by the Territorial Sea Act 1987 (Jersey) Order 1997 (S.I. 1997/278) as amended by S.I. 2002/250, and to the Isle of Man by the Territorial Sea Act 1987 (Isle of Man) Order 1991 (S.I. 1991/1722).

(7) 1968 c. 77; section 7 is amended by article 4 of, and paragraph 48 of Schedule 2 to, S.I. 1999/1820; by sections 26(1) and 46(2) of, and Part II of Schedule 5 to, the Fisheries Act 1981, and by section 40 of, and Schedule 5 to, the Northern Ireland Constitution Act 1973 (c. 36).

(8) OJ No L 70, 9.3.04, p 8.

(9) OJ No L 261, 20.10.93, p 1, as last amended by Council Regulation (EC) No 1967/2006 (OJ No L 409, 30.12.06, p 11).

(10) 1995 c. 21.

which may be taken in England or Wales by virtue of section 30(2A) of the Fisheries Act 1981<sup>(11)</sup>;

“the Hake Regulation” means Council Regulation (EC) No 811/2004 establishing measures for the recovery of the northern hake stock<sup>(12)</sup>, as amended from time to time;

“the North Sea Plaice and Sole Regulation” means Council Regulation (EC) No 676/2007 establishing a multiannual plan for fisheries exploiting stocks of plaice and sole in the North Sea<sup>(13)</sup>, as amended from time to time;

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

“person in charge”, in relation to any fishing boat, means the owner, the master and the charterer, if any, of the fishing boat and the agent of any of them;

“relevant fishing boat” means an English fishing boat, a Northern Ireland fishing boat, a Scottish fishing boat or a Welsh fishing boat;

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

“Wales” has the same meaning as in section 158(1) of the Government of Wales Act 2006<sup>(14)</sup>;

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

“the Western Channel Sole Regulation” means Council Regulation (EC) No 509/2007 establishing a multi-annual plan for the sustainable exploitation of the stock of sole in the Western Channel<sup>(15)</sup>, as amended from time to time.

(2) In this Order, a reference to a document includes a reference to—

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any data, however reproduced, communicated via a fisheries monitoring centre established under Article 3.7 of the Control Regulation;
- (d) any disk, tape, sound track or other device on which sounds or other data, other than visual images, are recorded so as to be capable of being reproduced with or without the aid of some other equipment;
- (e) any film, microfilm, negative, tape, disk or other device on which one or more visual images are recorded so as to be capable of being reproduced with or without the aid of some other equipment.

(3) Expressions which are not defined in this Order but which appear in this Order and in the Cod Regulation, the Hake Regulation, the North Sea Plaice and Sole Regulation or the Western Channel Sole Regulation have the same meaning in this Order as they have in those Regulations.

#### **Requirements to communicate effort reports etc. and to record and account for time**

4. A person in charge of a relevant fishing boat or a Community fishing boat is guilty of an offence if that person fails to comply with a requirement of—

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<sup>(11)</sup> Section 30(2A) was inserted by [S.I. 1999/1820](#).

<sup>(12)</sup> OJ No L 150, 30.4.04, p 1, as corrected by a corrigendum published in OJ No L 185, 24.5.04, p 1.

<sup>(13)</sup> OJ No L 157, 19.6.07, p 1.

<sup>(14)</sup> [2006 c. 32](#).

<sup>(15)</sup> OJ No L 122, 11.5.07, p 7.

- (a) Article 19b, 19c (communication of effort reports) or 19e (recording and accounting of time spent in areas) of the Control Regulation<sup>(16)</sup> as applied by Article 9 of the Cod Regulation;
- (b) Article 19e of the Control Regulation as applied by Article 7 of the Hake Regulation; or
- (c) Article 19b, 19c or 19e of the Control Regulation as applied by Article 10 of the North Sea Plaice and Sole Regulation.

### **Margin of tolerance in estimation of quantities reported in the logbook**

**5.** A person in charge of a relevant fishing boat or a Community fishing boat is guilty of an offence if the 8% margin of tolerance referred to in any of the following Articles is exceeded—

- (a) Article 13 of the Cod Regulation;
- (b) Article 10 of the Hake Regulation;
- (c) Article 11 of the North Sea Plaice and Sole Regulation;
- (d) Article 6 of the Western Channel Sole Regulation.

### **Prior notification requirements and prohibition of certain transhipment**

**6.—(1)** A person in charge of a relevant fishing boat or a Community fishing boat is guilty of an offence if that person fails to comply with a requirement imposed by—

- (a) Article 11(1) or (3) of the Cod Regulation (prior notification to competent authority of entry into port or landing location where more than one tonne of cod on board, of transhipping or discharging cod at sea or of landing it in third countries);
- (b) Article 8(1) or (3) of the Hake Regulation (prior notification to competent authority of entry into port or landing location where more than two tonnes of northern hake on board, of transhipping or discharging northern hake at sea or of landing it in third countries);
- (c) Article 13 of the North Sea Plaice and Sole Regulation (prior notification to competent authority of landing plaice or sole in third countries); or
- (d) Article 7 of the Western Channel Sole Regulation (prior notification to competent authority of transhipping sole or landing it in third countries).

(2) A person in charge of a relevant fishing boat or a Community fishing boat is guilty of an offence if that person fails to comply with a prohibition imposed by Article 16 of the North Sea Plaice and Sole Regulation (prohibition of transhipment of sole and plaice).

(3) A person in charge of a relevant fishing boat or a Community fishing boat is guilty of an offence if that person fails to comply with a requirement imposed by a British sea-fishery officer that the discharge of catch referred to in Article 11(2) of the Cod Regulation or Article 8(2) of the Hake Regulation does not commence until authorised by a British sea-fishery officer.

(4) For the purposes of paragraph (1), the competent authority is—

- (a) the Welsh Ministers, in relation to ports and landing locations in Wales, and
- (b) the Secretary of State for Environment, Food and Rural Affairs in all other cases.

<sup>(16)</sup> Articles 19b, 19c and 19e of the Control Regulation should be read with Commission Regulation (EEC) 1449/98 laying down detailed rules for the application of Council Regulation (EEC) No 2847/93 as regards effort reports (OJ No L 192, 8.7.98, p 4), and Commission Regulation (EEC) No 2807/83 laying down detailed rules for recording information on Member States' catches of fish (OJ No L 276, 10.10.83, p 1, corrected by a corrigendum published in OJ No L 353, 15.12.83, p 21), as last amended by Commission Regulation (EC) No 1804/2005 (OJ No L 290, 4.11.05, p 10).

### **Prohibition of retention on board of containers of mixed fish and requirement of separate stowage of fish**

7. A person in charge of a relevant fishing boat or a Community fishing boat is guilty of an offence if that person fails to comply with a prohibition or a requirement imposed by—

- (a) Article 14 of the Cod Regulation (prohibition of retention on board of containers of cod mixed with other species and requirement for separate stowage of containers of cod);
- (b) Article 11 of the Hake Regulation (prohibition of retention on board of containers of northern hake mixed with other species and requirement for marking of containers of northern hake or their separate stowage);
- (c) Article 14(1) of the North Sea Plaice and Sole Regulation (prohibition of retention on board of individual containers of plaice or sole mixed with other species); or
- (d) Article 8(1) of the Western Channel Sole Regulation (prohibition of retention on board of individual containers of common sole mixed with other species).

### **Sampling and weighing regime**

8.—(1) A person in charge of any fishing boat is guilty of an offence if that person fails to comply with a requirement imposed by a British sea-fishery officer to weigh fish—

- (a) in the presence of a controller, in accordance with—
  - (i) Article 15(1) of the Cod Regulation (weighing of cod before being transported from port of first landing and weighing of representative samples before cod landed in designated ports offered for first sale and sold);
  - (ii) Article 12(1) of the Hake Regulation (weighing of northern hake before being transported from port of first landing and weighing of representative samples before northern hake landed in designated ports offered for first sale and sold); or
  - (iii) Article 9(1) of the Western Channel Sole Regulation (weighing of common sole exceeding 300 kilograms before being transported from port of first landing); or
- (b) in accordance with Article 15(1) of the North Sea Plaice and Sole Regulation (weighing of plaice exceeding 500 kilograms or sole exceeding 300 kilograms before being transported from port of first landing and weighing before transportation from port of first landing using scales certified as accurate).

(2) A person in charge of any fishing boat who fails to weigh fish in accordance with Article 12 of the North Sea Plaice and Sole Regulation (weighing of sole exceeding 300 kilograms or plaice exceeding 500 kilograms before sale using scales certified as accurate) is guilty of an offence.

(3) For the purposes of this article—

- (a) a British sea-fishery officer is a controller, and
- (b) the Secretary of State for Environment, Food and Rural Affairs in relation to England, and the Welsh Ministers in relation to Wales, may authorise any other person to be a controller, and any such authorisation may be restricted to apply only in respect of certain fishing boats or certain ports.

### **Transport without required documentation**

9. The owner or hirer of, and the person responsible for, a vehicle is guilty of an offence if that vehicle is used to transport—

- (a) cod in contravention of Article 15(2) of the Cod Regulation (requirement that more than 50 kilograms of cod transported to place other than that of first landing or import be accompanied by declaration);

- (b) northern hake in contravention of Article 12(2) of the Hake Regulation (requirement that more than 50 kilograms of northern hake transported to place other than that of first landing or import be accompanied by declaration);
- (c) plaice or sole in contravention of Article 15(2) of the North Sea Plaice and Sole Regulation (requirement that more than 500 kilograms of plaice or more than 300 kilograms of sole transported to a place other than that of landing be accompanied by declaration); or
- (d) common sole in contravention of Article 9(2) of the Western Channel Sole Regulation (requirement that more than 300 kilograms of common sole transported to place other than that of landing or import be accompanied by declaration).

### **Landing of fish in excess of two tonnes at designated ports**

**10.**—(1) A person in charge of a relevant fishing boat or a Community fishing boat is guilty of an offence if that person fails to comply with an obligation imposed by—

- (a) Article 12(1) of the Cod Regulation (requirement to land more than two tonnes of cod at designated ports), or
- (b) Article 9(1) of the Hake Regulation (requirement to land more than two tonnes of northern hake at designated ports).

(2) The Schedule specifies the ports, and where applicable the landing locations within them, which are designated in accordance with Article 12(2) of the Cod Regulation and Article 9(2) of the Hake Regulation.

### **Penalties**

**11.**—(1) A person found guilty of an offence under any of articles 4 to 10 or under an equivalent provision is liable—

- (a) on summary conviction, to a fine not exceeding £50,000,
- (b) on conviction on indictment, to a fine.

(2) A court by or before which a person is convicted of an offence referred to in paragraph (1) may also order—

- (a) the forfeiture of any fish in respect of which the offence was committed, or
- (b) a fine not exceeding the value of any fish in respect of which the offence was committed.

### **Recovery of fines**

**12.**—(1) Where a magistrates' court imposes a fine on a person convicted of an offence under this Order or under an equivalent provision, the court may—

- (a) for the purpose of levying the amount of the fine, issue a warrant of distress against—
  - (i) the boat involved in the commission of the offence;
  - (ii) its gear and catch; and
  - (iii) any property of the person convicted; and
- (b) order that the boat, its gear and catch be detained until the earlier of—
  - (i) the expiry of a period not exceeding three months from the date of the conviction;
  - (ii) the fine being paid; or
  - (iii) the amount of the fine being levied in pursuance of any such warrant.

(2) Sections 77(1) and 78 of the Magistrates' Courts Act 1980<sup>(17)</sup> apply to a warrant of distress issued under this article as they apply to a warrant of distress issued under Part III of that Act.

(3) Where, in relation to a fine in respect of an offence under this Order or under an equivalent provision, an order under Article 95 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>(18)</sup> or section 222 of the Criminal Procedure (Scotland) Act 1995<sup>(19)</sup> (which deal with transfer of fines from one jurisdiction to another) specifies a local justice area in England and Wales, this article applies as if the fine were imposed by a court within that area.

### **Powers of British sea-fishery officers in relation to fishing boats**

**13.**—(1) For the purpose of enforcing this Order or an equivalent provision, a British sea-fishery officer has the powers set out in this article in relation to a fishing boat to which this Order applies.

(2) A British sea-fishery officer may go on board the boat, with or without persons assigned to assist in that officer's duties, and may require it to stop and do anything else which will facilitate boarding or disembarkation.

(3) A British sea-fishery officer may require the attendance of the master and other persons on board and may make any examination and inquiry as appears to the officer to be necessary for the purpose mentioned in paragraph (1) and, in particular may—

- (a) search for fish or fishing gear on the boat and examine any fish on the boat and the equipment of the boat, including the fishing gear, and require persons on board to do anything which appears to the officer to be necessary for facilitating the examination;
- (b) require any person on board to produce any document in that person's custody or possession relating to the boat, to any fishing or ancillary operations or to persons on board;
- (c) for the purpose of ascertaining whether an offence under this Order or an equivalent provision has been committed, search the boat for any such document and may require any person on board to do anything which appears to the officer to be necessary for facilitating the search;
- (d) inspect and copy any such document produced or found on board and, where any such document is kept by means of a computer, require it to be produced in a form in which it may be taken away; and
- (e) where the boat is one in relation to which the officer has reason to suspect that an offence under this Order or an equivalent provision has been committed, seize and detain any such document produced or found on board for the purpose of enabling it to be used as evidence in proceedings in connection with any offence under this Order or any equivalent provision.

(4) Where it appears to a British sea-fishery officer that an offence under this Order or any equivalent provision has at any time been committed in relation to a fishing boat, the officer may—

- (a) take, or require the master of the boat to take, the boat and its crew to the port which appears to the officer to be the nearest convenient port, and
- (b) detain, or require the master to detain, the boat in the port.

(5) A British sea-fishery officer who detains or requires the detention of a boat must serve on the master a written notice stating that the boat is, or is required to be, detained until the notice is withdrawn by the service on the master of a further written notice signed by a British sea-fishery officer.

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<sup>(17)</sup> 1980 c. 43; section 78 was amended by the Courts Act 2000 (c. 39), section 109(1) and Schedule 8 paragraph 219.

<sup>(18)</sup> S.I. 1981/1675 (NI 26).

<sup>(19)</sup> 1995 c. 46.

### **Powers of British sea-fishery officers on land**

**14.—**(1) For the purpose of enforcing this Order or an equivalent provision, a British sea-fishery officer may—

- (a) enter and inspect at any reasonable time any premises used for carrying on any business in connection with the operation of fishing boats (or any connected or ancillary activities) or with the treatment, storage or sale of fish or fisheries products;
- (b) bring such other persons as appear to the officer to be necessary and any equipment or materials;
- (c) examine any fish or fisheries products on the premises and require persons on the premises to do anything which appears to the officer to be necessary for facilitating the examination;
- (d) carry out at the premises such other inspections or tests as may reasonably be necessary;
- (e) require any person not to remove or cause to be removed any fish or fisheries products from the premises for such a period as may be reasonably necessary for the purposes of establishing whether an offence under this Order or an equivalent provision has been committed;
- (f) require any person on the premises to produce any documents in that person's custody or possession relating to the catching, landing, transportation, transhipment, sale or disposal of any fish or fisheries products or to the entry to, or exit from, any port or harbour by any fishing boat;
- (g) for the purpose of ascertaining whether any person present has committed an offence under this Order or any equivalent provision, search the premises for any such document and require any person present to do anything which appears to the officer to be necessary for facilitating the search;
- (h) inspect and take copies of any such document produced or found on the premises;
- (i) require any appropriate or responsible person to render any such document on a computer system into a visible and legible form, including requiring it to be produced in a form in which it may be taken away; and
- (j) if the officer has a reason to suspect that an offence under this Order or any equivalent provision has been committed, seize and detain any such document produced or found on the premises for the purpose of enabling it to be used as evidence in proceedings in connection with any offence under this Order or any equivalent provision.

(2) The provisions of paragraph (1) also apply in relation to any land used in connection with any of the activities described in paragraph (1)(a), or in respect of any vehicle which a British sea-fishery officer has reasonable cause to believe is being used to transport fish or fisheries products, as they apply in relation to premises and, in the case of a vehicle, include power to require the vehicle to stop at any time and, if necessary, direct the vehicle to some other place to facilitate the inspection.

### **Warrants to enter premises**

**15.—**(1) A justice of the peace who on sworn information in writing is satisfied that the circumstances in paragraph (2) apply may issue a warrant authorising a British sea-fishery officer to enter any premises, if necessary using reasonable force, and to take with that officer such persons as appear to be necessary.

(2) The circumstances are that—

- (a) there are reasonable grounds to believe that any documents or other items which a British sea-fishery officer has power under article 14 to inspect are on the premises;
- (b) the inspection of such documents or other items is likely to disclose evidence of the commission of an offence under this Order or an equivalent provision; and



(c) either—

- (i) entry to the premises has been or is likely to be refused and notice of intention to apply for a warrant has been given to the occupier;
- (ii) an application for entry, or the giving of notice, would defeat the object of the entry;
- (iii) the premises are unoccupied; or
- (iv) the occupier is temporarily absent and it might defeat the object of the entry to await that person's return.

### **Powers of British sea-fishery officers to seize fish**

**16.** A British sea-fishery officer may seize any fish, including any receptacle which contains the fish, in respect of which the officer has reasonable grounds to suspect that an offence under this Order or an equivalent provision has been committed.

### **Protection of officers**

**17.—**(1) An officer is not liable in any civil or criminal proceedings for anything done or omitted to be done in the purported exercise of the powers conferred by article 13, 14, 15 or 16 if the court is satisfied that—

- (a) the officer acted in good faith;
  - (b) there were reasonable grounds for so acting; and
  - (c) the officer acted with reasonable skill and care.
- (2) In paragraph (1), “officer” means—
- (a) a British sea-fishery officer, or
  - (b) a person assisting a British sea-fishery officer by virtue of—
    - (i) article 13(2) or 14(1)(b), or
    - (ii) a warrant issued under article 15.

### **Obstruction of officers**

**18.—**(1) A person is guilty of an offence if that person—

- (a) fails without reasonable excuse to comply with any requirement imposed by a British sea-fishery officer under the powers conferred by this Order;
  - (b) without reasonable excuse, prevents, or attempts to prevent, any other person from complying with any such requirement;
  - (c) assaults an officer who is exercising any of the powers conferred by this Order; or
  - (d) intentionally obstructs an officer in the exercise of any of the powers conferred by this Order.
- (2) In paragraph (1)(c) and (d), “officer” means—
- (a) a British sea-fishery officer, or
  - (b) a person assisting a British sea-fishery officer by virtue of—
    - (i) article 13(2) or 14(1)(b), or
    - (ii) a warrant issued under article 15.
- (3) A person guilty of an offence under paragraph (1) is liable—
- (a) on summary conviction, to a fine not exceeding £50,000,

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

### **Offences by corporate bodies**

**19.**—(1) If an offence under this Order or under an equivalent provision committed by a body corporate is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer, that officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with that member's functions of management as if that member were a director of the body.

(3) In this article "officer", in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

### **Admissibility of documents in evidence**

**20.**—(1) In any proceedings in respect of an offence under this Order or under an equivalent provision, a document specified in paragraph (3) is evidence of the matters stated in that document.

(2) In paragraphs (3) and (4), a reference to an Article is a reference to an Article of the Control Regulation.

(3) The documents are—

- (a) a logbook kept under Article 6, 17.2 or 28c;
- (b) a declaration submitted under Article 8.1, 9, 12, 17.2 or 28f;
- (c) an effort report communicated under Article 19b or 19c;
- (d) a sales note or document submitted under Article 9;
- (e) a document drawn up under Article 13; or
- (f) a document containing required information received by a fisheries monitoring centre established under Article 3.7.

(4) In paragraph (3)(f), "required information" means the following information as communicated via a satellite-based vessel monitoring system established under Article 3.1—

- (a) the identification of a fishing boat;
- (b) its course and speed;
- (c) its most recent geographical position expressed in degrees and minutes of longitude and latitude; and
- (d) the date and time of the fixing of that position.

(5) Expressions not defined in this Order which appear in this article and in the Control Regulation have the same meaning in this article as they have in that Regulation.

### **Revocations**

**21.** The following are revoked—

- (a) the Sea Fishing (Restriction on Days at Sea) Order 2005<sup>(20)</sup>;
- (b) the Sea Fishing (Days at Sea) (Monitoring, Inspection and Surveillance) Order 2006<sup>(21)</sup>;

<sup>(20)</sup> S.I. 2005/393.

<sup>(21)</sup> S.I. 2006/1327.

(c) the Sea Fishing (Northern Hake Stock) (Wales) Order 2006<sup>(22)</sup>.

26th August 2008

1st September 2008

*Jonathan Shaw*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs  
*Paul Goggins*  
Minister of State  
Northern Ireland Office

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<sup>(22)</sup> S.I. 2006/1796 (W 191).

**Status:** This is the original version (as it was originally made).

## SCHEDULE

Article 10(2)

### Designated Ports

The following are designated ports for the landing of cod and northern hake.

<i>Port</i>	<i>Location within port (where applicable)</i>
<b>England and Wales</b>	
Brixham	
Fleetwood	Wyre Fish Dock
Grimsby	Fish Dock, Market Quay
Holyhead	Fish Dock
Hull	North Side of Albert Dock and William Wright Dock
Lowestoft	Waveney Dock
Milford Haven	
Newlyn	
North Shields	
Plymouth	Sutton Harbour, New Fish Market
Scarborough	West Pier
Shoreham Harbour	Within the confines of the Harbour
Whitby	Fish Quay
Whitehaven	North Harbour on the Old North Wall Quay next to the Ice Plant and on the North Wall Quay next to the Fish Handling Facility building
<b>Scotland</b>	
Aberdeen	Palmerston Quay and Commercial Quay
Buckie	
Campbeltown	
Cullivoe	
Eyemouth	
Fraserburgh	
Kinlochbervie	All quays lying to the North of the ice factory quay
Kirkwall	
Lerwick	All piers, quays and docks within harbour limits excluding those in Dales Voe

<i>Port</i>	<i>Location within port (where applicable)</i>
Lochinver	
Mallaig	
Oban	
Peterhead	Peterhead Harbour excluding Peterhead Bay Harbour
Pittenweem	
Portree	
Scalloway	
Scrabster	
Stornoway	
Troon	
Ullapool	
<b>Northern Ireland</b>	
Ardglass	
Bangor	
Ballycastle	
Kilkeel	
Lisahally	
Portavogie	

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision for the enforcement of restrictions and obligations relating to fishing for cod, northern hake, plaice and sole contained in Council Regulation (EC) No 423/2004 (OJ No L 70, 9.3.04, p 70) (the “Cod Regulation”), Council Regulation (EC) No 811/2004 (OJ No L 150, 30.4.04, p 1, as corrected by a corrigendum published in OJ No L 185, 24.5.04, p 1) (the “Hake Regulation”), Council Regulation (EC) No 676/2007 (OJ No L 157, 19.6.07, p 1) (the “North Sea Plaice and Sole Regulation”) and Council Regulation (EC) No 509/2007 (OJ No L122, 11.5.07, p 7) (the “Western Channel Sole Regulation”).

Articles 4 to 9 make it an offence to fail to comply with provisions in the Cod Regulation, Hake Regulation, North Sea Plaice and Sole Regulation or Western Channel Sole Regulation relating to fishing effort messages and recording time spent in the areas, margin of tolerance in estimation of

**Status:** *This is the original version (as it was originally made).*

quantities in the logbook, requirements for prior notification of entry into a port, landing, discharge at sea and transshipment, separate stowage of fish, sampling regimes and transport of cod, northern hake and sole. Article 10 makes it an offence to contravene or fail to comply with provisions in the Cod Regulation and Hake Regulation relating to the requirement to land fish at designated ports.

The penalties for offences under articles 4 to 10 are contained in article 11. Article 12 contains provisions for the recovery of fines.

Articles 13 to 18 set out the powers of British sea-fishery officers.

Article 21 contains revocations.

An impact assessment of the effect that this Order will have on the costs of business and the voluntary sector is available from the Department for Environment, Food and Rural Affairs, Sea Fisheries Conservation Division, Nobel House, 17 Smith Square, London SW1P 3JR.