

Statutory Instrument 2000 No. 51

The Sea Fishing (Enforcement of Community Control Measures) Order 2000

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STATUTORY INSTRUMENTS

2000 No. 51

SEA FISHERIES, ENGLAND AND WALES

SEA FISHERIES, NORTHERN IRELAND

The Sea Fishing (Enforcement of Community Control Measures) Order 2000

<i>Made</i>	<i>12th January 2000</i>
<i>Laid before Parliament</i>	<i>17th January 2000</i>
<i>Coming into force</i>	<i>8th February 2000</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^[1], and of all other powers enabling them in that behalf, hereby make the following Order:

Title, commencement and extent

1. - (1) This Order may be cited as the Sea Fishing (Enforcement of Community Control Measures) Order 2000 and shall come into force on 8th February 2000.

(2) Subject to paragraph (3), this Order shall not form part of the law of Scotland.

(3) Nothing in paragraph (2) shall be treated as prejudicing the effect in Scotland of section 30(2A) of the Fisheries Act 1981[2] in relation to, or for purposes incidental to, any provision in this Order which creates an offence.

Interpretation

2. - (1) In this Order -

"Community control measure" means a provision of Regulation 2847/93 or of Regulation 1382/87 specified in Column 1 of the Schedule;

"fishing boat" includes a receiving vessel and a third country vessel, within the meaning of Regulation 2847/93;

"fishery products" includes fish;

"Regulation 2807/83" means Commission Regulation (EEC) No. 2807/83 laying down detailed rules for recording information on Member States' catches of fish[3] as amended by Commission Regulation (EEC) No. 473/89[4], Commission Regulation (EC) No. 2945/95[5], Commission Regulation (EC) 395/98[6], Commission Regulation 1488/98[7] and Commission Regulation (EC) No. 2737/99[8];

"Regulation 1382/87" means Commission Regulation (EEC) No. 1382/87 establishing detailed rules concerning the inspection of fishing vessels[9];

"Regulation 2847/93" means Council Regulation (EEC) No. 2847/93 establishing a control system applicable to the common fisheries policy[10] as amended by Council Regulation (EC) No. 2870/95[11], Council Decision (EC) 95/528[12], Council Regulation (EC) 2489/96[13], Council Regulation (EC) 686/97[14], Council Regulation (EC) 2205/97[15], Council Regulation (EC) 2635/97[16] and Council Regulation (EC) 2846/98[17];

"Regulation 1449/98" means Commission Regulation (EC) No. 1449/98 laying down detailed rules for the application of Council Regulation (EEC) No. 2847/93 as regards effort reports[18];

"relevant British fishing boat" means a fishing boat, other than a Scottish fishing boat, which is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995[19] or is owned wholly by persons qualified to own British ships for the purposes of that part of that Act;

"relevant offence" means an offence under:

(a) Article 3 of this Order, or

(b) any provision in an order extending to any other part of the United Kingdom made for the purposes of implementing a Community control measure, being a provision in respect of which, by virtue of section 30(2A) of the Fisheries Act 1981, proceedings may be commenced in any place in the United Kingdom;

"Scottish fishing boat" means a fishing vessel 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 vessel is to be treated as belonging;

"Scottish zone" has the same meaning as in the Scotland Act 1998[20];

"transport document" means a document drawn up in accordance with Article 13 of Regulation 2847/93;

"transporter" means the owner or the hirer of, or the person responsible for, any vehicle used to transport fisheries products.

(2) In this Order -

(a) the term "within relevant British Fishery Limits" does not include -

- (i) the Scottish zone;**
- (ii) the territorial sea adjacent to Wales;**
- (iii) the territorial sea adjacent to the Isle of Man;**
- (iv) the territorial sea adjacent to Jersey; and**
- (v) seas within British fishery limits adjacent to Guernsey, as defined by section 8 of the Fishery Limits Act 1976[21];**

(b) any reference to any relevant British fishing boat "wherever it may be" does not include such a fishing boat while in the territorial sea adjacent to Wales;

(c) any reference to a logbook, declaration or document includes, in addition to a logbook, declaration or document in writing -

- (i) any map, plan, graph or drawing,**
- (ii) any photograph,**
- (iii) any data, howsoever reproduced, communicated via a satellite-based vessel monitoring system established under Article 3.1 of Regulation 2847/93,**
- (iv) any disk, tape, sound track or other device in 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**
- (v) any film (including microfilm), negative, tape, disk or other device in which one or more visual images are recorded so as to be capable (as aforesaid) of being reproduced therefrom.**

(3) Any reference in this Order -

(a) to the Schedule is a reference to the Schedule to this Order; and

(b) to a Community instrument is a reference to that instrument and any amendment of such instrument in force on the date this Order is made;

(c) to a numbered Article of Regulation 2847/93 is a reference to the Article so numbered in that Regulation as read with any detailed rules for the implementation of that Article specified in the appropriate entry in column 2 of

the Schedule.

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

Offences

3. - (1) Where there is, in respect of -

- (a) any relevant British fishing boat wherever it may be;**
- (b) any other fishing boat which is within relevant British Fishery Limits;**
- (c) any entry into seas within relevant British Fishery Limits by any fishing boat;**
or
- (d) any fishery products, premises or vehicle in England or Northern Ireland,**

a contravention of, or failure to comply with, a Community control measure specified in Column 1 of the Schedule the persons specified in the appropriate entry in Column 5 of the Schedule shall each be guilty of an offence.

(2) Subject to paragraph (3), any person who in purported compliance with Articles 6, 7, 8.1, 9.1, 9.2, 9.5, 11, 12, 13 or 17.2, Articles 19b and 19c or Articles 19e, 20.2, 28.2a, 28c, 28e or 28f of Regulation 2847/93, furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular shall be guilty of an offence.

(3) Paragraph (2) applies to any furnishing of information -

- (a) in England and Northern Ireland,**
- (b) to a British sea-fishery officer performing any function under article 6 or 7 of this Order, or**
- (c) in relation to any activity of a relevant British fishing boat, to the competent authorities in another Member State within the meaning of Regulation 2847/93.**

Penalties

4. - (1) A person found guilty in England or Northern Ireland of an offence under article 3(1) of this Order, or under any equivalent provision in an order extending to any other part of the United Kingdom proceedings in respect of which were brought in England or Northern Ireland by virtue of section 30(2A) of the Fisheries Act 1981, shall be liable -

- (a) on summary conviction to a fine not exceeding the amount specified in the appropriate entry in Column 4 of the Schedule;**
- (b) on conviction on indictment to a fine.**

(2) A person found guilty in England or Northern Ireland of an offence under article

3(1) of this Order, or under any equivalent provision in an order extending to any other part of the United Kingdom proceedings in respect of which were brought in England or Northern Ireland by virtue of section 30(2A) of the Fisheries Act 1981, founded on a contravention of, or failure to comply with -

(a) Articles 19a.2, 20.1, 20a or 21c.2 of Regulation 2847/93 shall also be liable -

(i) to the forfeiture of any net or other fishing gear in respect of which the offence was committed, or which was used in committing the offence, or which was used for catching any fish in respect of which the offence was committed; and

(ii) to the forfeiture of any fish in respect of which the offence was committed, or, on summary conviction only, to a fine not exceeding the value of any fish in respect of which the offence was committed; or

(b) Articles 6, 8.1, 9, 11, 12, 13 or 17.2, Articles 19b and 19c or Articles 19e, 20.2, 28c (in relation to the requirements in respect of logbooks and recording of catches on board) or 28d of Regulation 2847/93 shall also be liable to the forfeiture of any fish in respect of which the offence was committed, or to a fine not exceeding the value of any fish in respect of which the offence was committed.

(3) A person found guilty in England or Northern Ireland of an offence under article 3(2) of this Order, or under any equivalent provision extending to any other part of the United Kingdom proceedings in respect of which were brought in England or Northern Ireland by virtue of section 30(2A) of the Fisheries Act 1981, shall be liable -

(a) on summary conviction to a fine not exceeding £50,000;

(b) on conviction on indictment to a fine.

Recovery of fines

5. - (1) Where a fine is imposed by a magistrates' court in England or Northern Ireland on the master, owner, charterer, person responsible for the vessel or any other person who is convicted by the court of a relevant offence or an offence under article 10 of this Order, the court may for the purposes of recovering the fine -

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

(b) order such boat and its gear and catch to be detained for a period not exceeding three 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.

(2) Sections 77(1) and 78 of the Magistrates' Courts Act 1980[22] (postponement of issue of, and defects in, warrants of distress) shall apply to a warrant of distress issued under this article in England as they apply to a warrant of distress issued under Part III of that Act.

(3) Articles 114(2) and 154 of the Magistrates' Courts (Northern Ireland) Order 1981[23] (postponement of issue of certain warrants and objections as to want of form or variance between complaint etc and evidence adduced) shall apply to a warrant of distress issued under this article in Northern Ireland as it applies to a warrant referred to in those articles of that Order.

(4) Where in relation to a fine in respect of a relevant offence a transfer of fine order under section 90 of the Magistrates' Courts Act 1980, Article 95 of the Magistrates' Courts Order 1981 or section 222 of the Criminal Procedure (Scotland) Act 1995[24] specifies a petty sessions area in England or a petty sessions district in Northern Ireland this article shall apply as if the fine were imposed by a court within that petty sessions area or petty sessions district.

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

6. - (1) For the purpose of enforcing article 3 of this Order, or any equivalent provision in an order extending to any other part of the United Kingdom made for the purposes of implementing a Community control measure, a British sea-fishery officer may exercise in relation to -

- (a) any relevant British fishing boat wherever it may be, or**
- (b) any other fishing boat which is within relevant British Fishery Limits,**

the powers conferred by paragraphs (2) to (4) of this article.

(2) He may go on board the boat, with or without persons assigned to assist him in his duties, and may require the boat to stop and do anything else which will facilitate either the boarding of, or the disembarkation from, the boat.

(3) He may require the attendance of the master and other persons on board the boat and may make any examination and inquiry which appears to him to be necessary for the purpose mentioned in paragraph (1) of this article and, in particular

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(a) may search for fish or fishing gear on the boat and may examine any fish on the boat and the equipment of the boat, including the fishing gear, and require persons on board the boat to do anything which appears to him to be necessary for facilitating the examination;

(b) may require any person on board the boat to produce any document relating to the boat, to any fishing operations or other operations ancillary thereto or to the persons on board which is in his custody or possession;

(c) for the purpose of ascertaining whether a relevant offence has been committed, may search the boat for any such document and may require any person on board the boat to do anything which appears to him to be necessary for facilitating the search;

(d) inspect, take copies of and retain in his possession while he completes any search, examination and inspection provided for under this article, any such document produced to him or found on board;

(e) without prejudice to sub-paragraphs (c) and (d), may require the master and any person for the time being in charge of the boat to render all such documents on a computer system into a visible and legible form, including requiring any such document to be produced in a form in which it may be taken away; and

(f) where the boat is one in relation to which he has reason to suspect that a relevant offence has been committed, may seize and detain any such document produced to him or found on board for the purpose of enabling the document to be used as evidence in proceedings for the offence;

but nothing in sub-paragraph (f) above shall permit any document required by law to be carried on board the boat to be seized and detained except while the boat is detained in a port.

(4) Where it appears to a British sea-fishery officer that a relevant offence has at any time been committed, he may -

(a) require the master of the boat in relation to which the offence took place to take, or may himself take, the boat and its crew to the port which appears to him to be the nearest convenient port; and

(b) detain or require the master to detain the boat in the port;

and where such an officer detains or requires the detention of a boat he shall serve on the master a notice in writing stating that the boat will be or is required to be detained until the notice is withdrawn by the service on the master of a further notice in writing signed by a British sea-fishery officer.

Powers of British sea-fishery officers on land

7. - (1) For the purpose of enforcing the provisions of article 3 of this Order, or any equivalent provision in an order extending to any other part of the United Kingdom made for the purposes of implementing a Community control measure, any British sea-fishery officer may in England and Northern Ireland -

(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 activities connected therewith or ancillary thereto or with the treatment, storage or sale of sea fish;

(b) take with him such other persons as appear to him to be necessary and any equipment or materials;

(c) examine any fish on the premises and require persons on the premises to do anything which appears to him to be necessary for facilitating the examination;

(d) carry out at such 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 from such premises for such a period as may be reasonably necessary for the purposes of establishing whether a relevant offence has at any time been committed;

(f) require any person on the premises to produce any documents which are in his custody or possession relating to the catching, landing, transportation, trans-shipment, sale or disposal of any sea fish;

(g) for the purpose of ascertaining whether any person on the premises has committed a relevant offence, search the premises for any such document and may require any person on the premises to do anything which appears to him to

be necessary for facilitating the search;

(h) inspect and take copies of any such document produced to him 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 he has reason to suspect that a relevant offence has been committed, seize and detain any such document produced to him or found on the premises for the purpose of enabling the document to be used in proceedings for the offence.

(2) The provisions of paragraph (1) above shall apply *mutatis mutandis* in relation to any land used in connection with any of the activities described in paragraph (1) above, or in respect of any vehicle which a British sea-fishery officer has reasonable cause to believe is being used to transport fisheries products, as they apply in relation to premises and, in the case of a vehicle, shall 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.

(3) If in England or Northern Ireland a justice of the peace on sworn information in writing is satisfied -

(a) that there is reasonable ground to believe that any documents or other items which a British sea-fishery officer has power under this article to inspect are on any premises and that their inspection is likely to disclose evidence of the commission of a relevant offence; and

(b) either -

(i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant has been given to the occupier; or

(ii) that an application for admission or the giving of such notice would defeat the object of the entry, or that the premises are unoccupied, or that the occupier is temporarily absent and it might defeat the object of the entry to await his return;

the justice may by warrant signed by him, and valid for one month, authorise a British sea-fishery officer to enter the premises, if need be by reasonable force, and take with him such persons as appear to him to be necessary.

Powers of British sea-fishery officers to seize fish and fishing gear

8. - (1) This article applies -

(a) in England and Northern Ireland,

(b) to any relevant British fishing boat wherever it may be, and

(c) to any other fishing boat which is within relevant British fishery limits.

(2) Where this article applies, any British sea-fishery officer may seize -

(a) any fish (including any receptacle which contains the fish) in respect of which he has reasonable grounds to suspect that a relevant offence founded on a contravention of, or failure to comply with, Articles 6, 8.1, 9, 11, 12, 13, 17.2 or 19a.2, Articles 19b and 19c, Articles 19e, 20.2 or 21c.2 or Articles 28c or 28d of Regulation 2847/93 has been committed;

(b) any fish caught with a net in respect of which he has reasonable grounds to suspect that a relevant offence founded on a contravention of, or failure to comply with, Articles 20.1 or 20a of Regulation 2847/93 has been committed; and

(c) any net or other fishing gear -

(i) in respect of which he has reasonable grounds to suspect that a relevant offence founded on a contravention of, or failure to comply with, Articles 20.1 or 20a of Regulation 2847/93 has been committed, or

(ii) which he has reasonable grounds to suspect has been used for catching any fish in respect of which a relevant offence founded on a contravention of, or failure to comply with, Articles 19a.2, or 21c.2 of Regulation 2847/93 has been committed.

Protection of officers

9. A British sea-fishery officer or a person assisting him by virtue of article 6(2) or 7(1) (b) of this Order shall not be liable in any civil or criminal proceedings for anything done in the purported exercise of the powers conferred on him by virtue of article 6, 7 or 8 of this Order 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.

Obstruction etc

10. Any person who -

(a) fails without reasonable excuse to comply with any requirement imposed by a British sea-fishery officer under the powers conferred on him by virtue of article 6, 7 or 8 of this Order;

(b) without reasonable excuse prevents any other person from complying with any such requirement; or

(c) obstructs any such officer who is exercising any of those powers,

shall be guilty of an offence, and liable -

(i) on summary conviction to a fine not exceeding the statutory maximum; or

(ii) on conviction on indictment to a fine.

Provisions as to offences and proceedings

11. - (1) 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, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where any offence under article 3 of this Order committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and liable to be proceeded against and punished accordingly.

(3) Where any offence under article 3 of this Order committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the association or any member of its governing body, he as well as the association shall be guilty of the offence and liable to be proceeded against and punished accordingly.

Admissibility in evidence of logbooks and other documents

12. - (1) Any -

- (a) logbook kept under Articles 6, 17.2 or 28c;**
- (b) declaration submitted under Articles 8.1, 11, 12, 17.2 or 28f;**
- (c) effort report completed under Articles 19b and 19c;**
- (d) document drawn up under Articles 9 or 13;**
- (e) document containing required information received by a fisheries monitoring centre established under Article 3.7,**

of Regulation 2847/93 shall, in any proceedings in England or Northern Ireland for a relevant offence, be evidence of the matters stated therein.

(2) For the purposes of paragraph (1), "required information" shall mean data relating to -

- (a) a fishing boat's identification;**
- (b) the most recent geographical position of the fishing boat expressed in degrees and minutes of longitude and latitude; and**
- (c) the date and time of the fixing of that position,**

as communicated via a satellite-based vessel monitoring system established under Article 3.1 of Regulation 2847/93.

Revocation

13. The Sea Fishing (Enforcement of Community Control Measures) Order 1994[25] and the Sea Fishing (Enforcement of Community Control Measures) (Amendment) Order 1996[26] are hereby revoked insofar as they extend to England and Northern Ireland.

Elliot Morley
Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food

10th January 2000

John Reid
Secretary of State for Scotland

10th January 2000

Paul Murphy
Secretary of State for Wales

12th January 2000

Peter Mandelson
Secretary of State for Northern Ireland

9th January 2000

SCHEDULE

Articles 3 and 4(1) and (2)

COMMUNITY CONTROL MEASURES, CONTRAVENTION OF WHICH CONSTITUTES AN OFFENCE

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>
<i>Community Provision</i>	<i>Detailed Rules</i>	<i>Subject Matter</i>	<i>Maximum fine on summary conviction</i>	<i>Persons liable</i>
1. Regulation 1382/87				
(a) Article 3.1		Requirement to stop, manoeuvre or carry out other actions to facilitate boarding.	The Statutory Maximum.	The master, the owner, the charterer (if any) and any other person responsible for the vessel.
(b) Article 3.2 and Annex II		Provision of boarding ladder.	The Statutory Maximum.	The master, the owner, the charterer (if any) and any other person responsible for the vessel.

(c) Article 3.3		Use of communications equipment and operator thereof.	The Statutory Maximum.	The master, the owner, the charterer (if any) and any other person responsible for the vessel.
2. Regulation 2847/93				
(a) Article 4.2		Requirement to co-operate in facilitating inspections of fishing vessels, premises and transport vehicles.	The Statutory Maximum.	The master, the owner, the charterer (if any) and any other person responsible for the vessel or, as the case may be, the person responsible for the premises or vehicle.
(b) Article 6	Article 1 of and Annexes I, II, IIa, IV, V, VI and VII of Regulation 2807/83	Requirement to keep a logbook in computer readable form or on paper, for fishing boats of 10 metres or more, and submit it to the flag Member State, and the Member State of landing, if different, within 48 hours of landing.	£50,000	The master, the owner and the charterer (if any).
(c) Article 7		Requirement for a Community fishing boat wishing to land catches into a Member State other than the flag state to -		The master, the owner and the charterer (if any).
		(a) comply with the requirements of any designated ports scheme established in accordance with article 38 of Regulation 2847/93 by the Member State in whose zone it is intended to land; or	£50,000	
		(b) or, if no such scheme has been established to give at least 4 hours advance notification (or 2 hours where article 1 of Regulation 728/1999[27] applies) to the control authority of the Member State in whose zone it is intended to land fish of - (i) landing location and estimated time of arrival	£50,000	

		there; and		
		(ii) quantities of each species to be landed.	£50,000	
(d) Article 8.1	Article 2 of, and Annexes I, IIa, III, IV and V of Regulation 2807/83	Requirement to submit, after each trip and within 48 hours of landing, to the flag Member State and the Member State of landing, if different, for vessels of 10 metres or more, a landing declaration of quantities of each species and area where caught.	£50,000	The master, his representative, the owner and the charterer (if any).
(e) Article 9.1 as read with Article 9.5		Requirement, where first marketing of fishery products is carried out by an auction centre or authorised body/person, to submit a completed sales note within 48 hours of sale.	£50,000	The first seller of the fish.
(f) Article 9.2 as read with Articles 9.3, 9.4, 9.4b, 9.5 and 13		Requirement, where first marketing of fishery products is carried out other than in accordance with article 9.1 of Regulation 2847/93, to submit -	£50,000	As regards the requirement to submit -
		(a) a completed sales note (when products have been sold or are offered for sale at place of landing); or		(a) a completed sales note, the buyer of the fish;
		(b) a copy of a transport document (when the products are offered for sale at a location other than place of landing); or		(b) a transport document, the transporter of the fish;
		(c) a completed take-over declaration (when products are not offered for sale or are intended for sale at a later date),		(c) a completed take-over declaration, the owner of the fish and his agent (if any).
		before the products are collected.		
(g) Article 9.5 as read		Requirement -		As regards the requirement to

with Article 9.2				submit -
		(a) to submit a sales note within 48 hours of landing or first marketing of products (except where the sales note must be submitted before the products are collected) and append where required a copy of the transport document relating to the products;	£50,000	(a) a sales note, the buyer of the fish;
		(b) to submit a take-over declaration within 48 hours of landing of products (except where the take-over declaration must be submitted before the products are collected);	£50,000	(b) a take-over declaration, the owner of the fish and his agent (if any);
		(c) where products are first marketed in a Member State other than that in which they were landed, to transmit, within 48 hours following the products being landed, a copy of the transport document to the competent authorities of the Member State in which first marketing takes place.	£50,000	(c) a transport document, the transporter of the fish.
(h) Article 11		Requirement in respect of any trans-shipping vessel, receiving vessel and third country vessel to keep and notify details of trans-shipments anywhere and landings of specified stocks outside Community territory.	£50,000	The master, the owner and the charterer (if any).
(i) Article 12		Requirements to keep and notify within 15 days of the catch, the details required under articles 8 and 11 of Regulation 2847/93 where trans-shipment or landing will take place more than 15 days after the catch.	£50,000	The master, the owner and the charterer (if any).
(j) Article 13		Where the fisheries products are transported outside the compound of the port of landing or place of import -	£50,000	The transporter of the fish.
		(a) (and first sale has not taken place) requirement to provide completed transport document		

		and ensure it accompanies fisheries products until time of first sale; (b) (and where the goods have been declared as sold in accordance with article 9 of Regulation 2847/93) requirement to prove at all times by means of documentary evidence that sales transaction has taken place.		
(k) Article 17.2	Articles 1 and 2 of, and Annexes I, II, IIa, IV, V, VI and VII to Regulation 2807/83	In respect of catches made outside Community waters, requirement to -		The master, the owner and the charterer (if any).
		(a) keep a logbook recording catches; and	£50,000	
		(b) submit a landing declaration to the flag Member State, and the Member State of landing, if different, when landing made at a Community port; and	£50,000	
		(c) submit details of trans-shipments on to third country fishing boats or of landings in third countries.	£50,000	
(l) Article 19a.2		Prohibition from carrying out of fishing activities in the areas specified in article 19a.1 and 19a.1a of Regulation 2847/93 in relation to Community fishing boats exceeding 15 metres in length between perpendiculars or over 18 metres in overall length which have not been authorised by Member States in accordance with articles 2, 3.5 and 9 of Council Regulation (EEC) No.685/95 on the management of the fishing effort relating to certain Community fishing areas and resources[28] or article 2 of Council Regulation (EC) No. 779/97 introducing arrangements for the management of fishing	£50,000	The master, the owner and the charterer (if any).

		effort in the Baltic Sea.[29]		
(m) Articles 19b and 19c	Article 3a of, and Annexes VIIIa and VIIIb of, Regulation 2807/83, and Regulation 1449/98	Requirement in relation to Community fishing boats exceeding 15 metres in length between perpendiculars or over 18 metres in overall length authorised to carry out fishing activities directed at demersal species to complete an effort report containing the information prescribed in article 19b of Regulation 2847/93 as read with Regulation 1449/98 -		The master, his representative, the owner and the charterer (if any).
		(a) by one of the methods prescribed in article 19c.1 (as read with article 19c.3) of Regulation 2847/93 or, in the case of boats carrying out fishing activities in the waters of the State in which they are registered, in accordance with arrangements adopted under article 19c.2, second indent, of Regulation 2847/93;	£50,000	
		(b) to communicate it to the authorities prescribed in article 19c.1 of Regulation 2847/93;	£50,000	
		(c) at the time or times prescribed in article 19c.1 of Regulation 2847/93 or - (i) in the case of boats conducting trans-zonal fisheries as defined in article 19b.2, prescribed in article 19b.2 and 19c.2, first indent, of Regulation 2847/93; (ii) in the case of boats spending less than 72 hours at sea, prescribed in article 29c.2, third indent, of Regulation 2847/93 (including the requirement in such case to notify changes occurring in the information provided in the report).	£50,000	

(n) Article 19e.1 and 19e.2	Article 1a of, and Annexes I, IVa and VIa to, Regulation 2807/83	Requirement in relation to Community fishing boats exceeding 15 metres in length between perpendiculars or over 18 metres in overall length to record in logbooks the information (as regards time spent at sea) prescribed in article 19e.1 of Regulation 2847/93 or, in the case of boats conducting trans-zonal fisheries as defined in article 19b.2 of Regulation 2847/93, prescribed in article 19e.2 of Regulation 2847/93.	£50,000	The master, the owner and the charterer (if any).
(o) Article 19e.3	Article 1a of, and Annexes I, IVa, and VIa to, Regulation 2807/83	Requirement on Community fishing boats exceeding 15 metres in length between perpendiculars or over 18 metres in overall length authorised to carry out fishing activities directed at demersal species to record in logbooks an effort report containing the information prescribed in article 19b of Regulation 2847/93.	£50,000	The master, the owner and the charterer (if any).
(p) Article 20.1		Requirement to stow nets, when not in use, in Community fishing boats.	The Statutory Maximum.	The master, the owner and the charterer (if any).
(q) Article 20.2		Requirement in relation to Community fishing boats to record in log books and landing declarations all changes in mesh size and catch composition at moment of change.	£50,000	The master, the owner and the charterer (if any).
(r) Article 20a		Requirements relating to carriage, use and stowage of gear in Community fishing boats exceeding 15 metres in length between perpendiculars or over 18 metres in overall length carrying out fishing activities in the areas specified in article 19a.1 of Regulation 2847/93.	The Statutory Maximum	The master, the owner and the charterer (if any).
(s) Article 21c.2		Prohibition in relation to fishing boats of a Member State from carrying out fishing activities in a fishery from the date, fixed by the Commission of the European Communities, on which the maximum fishing effort of that State for that fishery is deemed to have been exhausted.	£50,000	The master, the owner and the charterer (if any).

(t) Article 28.2a		Requirement, where fisheries products offered for sale, stocked or transported are of a size smaller than the minimum size set for that species pursuant to article 4 of Regulation 3760/92, to prove geographic area of origin or aquaculture provenance of products.	The Statutory Maximum.	The person responsible for selling, stocking or transporting the fish.
(u) Article 28b.1		Prohibition of catching, retaining on board or processing of fishery products by third country fishing boats unless licensed and issued with special fishing permits issued in accordance with article 9 of Council Regulation (EC) 1627/94.[30]	£50,000	The master, the owner and the charterer (if any).
(v) Article 28c		Requirement for third country fishing boats operating in the Community fishing zone -		The master, the owner and the charterer (if any).
		(a) to record information referred to in article 6 of Regulation 2847/93 in a logbook;	£50,000	
		(b) to comply with a system for reporting catches retained on board;	£50,000	
		(c) to comply with the instructions of the authorities responsible for monitoring and inspections;	The Statutory Maximum.	
		(d) to comply with the rules on the marking and identification of fishing vessels and their gear.	The Statutory Maximum.	
(w) Article 28d		Prohibition in relation to third country fishing boats of fishing for and retention on board, transshipment and landing of, stock subject to quota from the date, fixed by the Commission of the European Communities, on which the quota for such stock is deemed to have been exhausted.	£50,000	The master, the owner and the charterer (if any).
(x) Article 28e		Requirement for a third-country fishing boat wishing to land catches into a Member State		The master, his representative, the owner and the charterer

				(if any).
		(a) to give at least 72 hours advance notification to the control authority of the Member State in whose zone it is intended to land fish of - (i) their time of arrival at the port of landing,	£50,000	
		(ii) the catches retained on board,	£50,000	
		(iii) the zone or zones where the catch was made;	£50,000	
		(b) to obtain authorisation from competent authority of Member State before landing operations are commenced.	£50,000	
(y) Article 28f		Requirement for third country fishing boats to submit, within 48 hours of landing, to the competent authority of the Member State in which the fishery products have been landed, a declaration stating - (a) the quantity of fishery products landed by species; and (b) the date and place of each catch.	£50,000	The master, his representative, the owner and the charterer (if any).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes the Sea Fishing (Enforcement of Community Control Measures) Order 1994 ("the 1994 Order") and the Sea Fishing (Enforcement of Community Control Measures) (Amendment) Order 1996 insofar as they extend to England and Northern Ireland.

In providing for the enforcement of Council Regulation (EEC) No. 2847/93 establishing a control system applicable to the common fisheries policy (O.J. No. L261, 20.10.93, p.1) ("the Control Regulation") in consequence of it having been amended by

Council Regulation (EC) 2846/98 (O.J. No. L192, 8.7.98, p.4), this Order largely re-enacts the provisions of the 1994 Order as well as introducing some new provisions.

The Order creates offences in respect of breaches of the provisions referred to in column 1 (and briefly described in column 3) of the Schedule to this Order and in article 3 of this Order.

The amendments to the Control Regulation made by Council Regulation (EC) No. 2846/98 include in particular -

- 1. the requirement to keep a logbook in respect of amounts of fish of over 50kgs;**
- 2. the requirement for vessels wishing to land catches into a Member State other than the flag Member State to comply with the requirements of a designated ports scheme (if any) or give four hours advance notification of their intention to land to the competent authorities of the Member State of landing;**
- 3. new rules in respect of the submission of sales notes, transport declarations and take-over declarations; and**
- 4. the extension of a number of requirements to third country fishing vessels.**

Penalties for contravention of the Community provisions are to be found in article 4 of, and the Schedule to, the Order.

For the purpose of enforcing the Community control measures specified in the Schedule, this Order confers on British sea-fishery officers powers to enter premises, to go on board fishing boats, to stop and search vehicles transporting fish, to examine fish, to require the production of documents, to search for and seize documents, to take a boat to the nearest convenient port and to seize fish and fishing gear (articles 6, 7 and 8 of the Order).

Provision is also made for the prosecution of offenders in England and Northern Ireland and for the punishment of anyone found guilty of furnishing false information or obstructing a British sea-fishery officer (articles 3 and 10 of the Order). The statutory maximum penalty specified in the Schedule is currently £5,000.

The Order provides powers for the recovery of fines imposed by a magistrates' court in England or Northern Ireland (article 5 of the Order).

Articles 9, 11 and 12 contain ancillary provisions.

The Order does not form part of the law of Scotland. It does not apply in relation to fishing activities within the territorial sea of Wales.

A Regulatory Impact Assessment in relation to Council Regulation (EC) No. 2846/98 has been prepared and placed in the library of each House of Parliament. Copies can be obtained from Fisheries IV Division of the Ministry of Agriculture, Fisheries and Food, Room 432, Nobel House, 17 Smith Square, London SW1P 3JR.

Notes:

[1] 1981 c. 29. See section 30(3) for the definitions of "enforceable Community restriction", "enforceable Community obligation" and "the Ministers", as modified by Schedule 2, paragraph 68(5) of the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820). Article 3(1) and Schedule 1 of 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: relevant British fishing boats within the Scottish zone; and Scottish fishing boats within British fishery limits but outside the Scottish zone.[back](#)

[2] Section 30(2A) was inserted by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999[back](#)

[3] OJ No. L276, 10.10.83, p.1.[back](#)

[4] OJ No. L53, 25.2.89, p.34.[back](#)

[5] OJ No. L308, 21.12.95, p.18.[back](#)

[6] OJ No. L50, 20.2.98, p.17.[back](#)

[7] OJ No. L196, 14.7.98, p.3.[back](#)

[8] OJ No. L328, 22.12.99, p.54.[back](#)

[9] OJ No. L132, 21.5.87, p.11.[back](#)

[10] OJ No. L261, 20.10.93, p.1.[back](#)

[11] OJ No. L301, 14.12.95, p.1.[back](#)

[12] OJ No. L301, 14.12.95, p.35.[back](#)

[13] OJ No. L338, 28.12.96, p.12.[back](#)

[14] OJ No. L102, 19.4.97, p.1.[back](#)

[15] OJ No. L304, 7.11.97, p.1.[back](#)

[16] OJ No. L356, 31.12.97, p.14.[back](#)

[17] OJ No. L358, 31.12.98, p.5.[back](#)

[18] OJ No. L192, 8.7.98, p.4.[back](#)

[19] 1995, c.21.[back](#)

[20] 1998, c.46; see section 126 and the Scottish Adjacent Waters Boundaries Order 1999 (S.I. 1999/1126).[back](#)

[21] 1976, c.86; as modified by paragraph 3(c)(1) of the Schedule to the Fishery Limits Act 1976 (Guernsey) Order 1989 (S.I. 1989/2407).[back](#)

[22] 1980, c. 43.[back](#)

[23] S.I. 1981/1675 (N.I. 26).[back](#)

[24] 1995, c. 46.[back](#)

[25] S.I. 1994/451.[back](#)

[26] S.I. 1996/2.[back](#)

[27] Commission Regulation (EC) No. 728/1999 providing, pursuant to Article 7(3) of Regulation 2847/93, for a notification period for Community fishing vessels carrying on fishing activities in the Baltic Sea, the Skagerrak and the Kattegat (OJ No. L 93, 8.4.1999, p.10).[back](#)

[28] OJ No. L71, 31.3.95, p.5. The provisions laid down in articles 2 and 3 of Regulation 685/95 apply only to vessels over 15 metres in length between perpendiculars. Under article 19a.2 of Regulation 2847/93 vessels over 15 metres in length between perpendiculars are considered equivalent to vessels over 18 metres in overall length. Article 19f.3 of Regulation 2870/95 requires the Commission of the European Communities to ensure that Member States responsible for control have available data concerning identification of fishing boats having access to their waters.[back](#)

[29] OJ No. L113, 30.4.97, p.1.[back](#)

[30] Council Regulation (EC) No. 1627/94 laying down general provisions concerning special fishing permits (OJ No. L17, 6.7.94, p.7).[back](#)

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