

Scottish Statutory Instrument 2000 No. 7

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

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SCOTTISH STATUTORY INSTRUMENTS

2000 No. 7

SEA FISHERIES

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

<i>Made</i>	<i>13th January 2000</i>
<i>Laid before the Scottish Parliament</i>	<i>17th January 2000</i>
<i>Coming into force</i>	<i>8th February 2000</i>

ARRANGEMENT OF THE ORDER

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SCHEDULE: Community control measures, contravention of which constitutes an offence.

The Scottish Ministers, 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:

Citation, commencement and extent

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

(2) This Order extends to Scotland only.

(3) Nothing in paragraph (2) shall be treated as prejudicing the effect in any other part of the United Kingdom 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 the Council Regulation or of Regulation 1382/87 specified in Column 1 of the Schedule;

"fishery product" includes fish;

"fishing boat" includes a receiving vessel and a third vessel, within the meaning of the Council Regulation;

"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) No. 395/98[6], Commission Regulation No. 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[2];

"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[10];

"relevant offence" means an offence under-

(a) article 3 or

(b) any provision 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[11] 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 section 126(1) of the Scotland Act 1998[12];

"the Council Regulation" means Council Regulation (EEC) No. 2847/93 establishing a control system applicable to the common fisheries policy[13] as amended by Council Regulation (EC) No. 2870/95[14], Council Decision (EC) No. 95/528[15], Council Regulation (EC) No. 2489/96[16], Council Regulation (EC) No. 686/97[17], Council Regulation (EC) No. 2205/97[18], Council Regulation (EC) No. 2635/97[19] and Council Regulation (EC) No. 2846/98[20];

(2) In this Order any reference to a logbook, declaration or document includes, in addition to a logbook, declaration or document in writing-

(a) any map, plan, graph or drawing,

(b) any photograph,

(c) any data, however reproduced, communicated via a satellite-based vessel monitoring system established under Article 3.1 of the Council Regulation;

(d) 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

(e) 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 a numbered article is a reference to the article so numbered in this Order;**
- (b) to the Schedule is a reference to the Schedule to this Order; and**
- (c) to a numbered Article of the Council Regulation is a reference to the Article so numbered in the Council 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 Scottish fishing boat wherever it may be;**
- (b) any other fishing boat within the Scottish zone,**
- (c) the entry into the Scottish zone by any fishing boat; or**
- (d) any fishery products, premises or vehicle in Scotland,**

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) Any person who in purported compliance with Articles 6, 7, 8.1, 9.1, 9.2, 11, 12, 13 or 17.2, Articles 19b and 19c or Articles 19e, 20.2, 28.2a, 28c, 28e, or 28f of the Council Regulation, knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence-

- (a) where the information is furnished in relation to a Scottish fishing boat, wherever the information is furnished; and**
- (b) in any other case, where the information is furnished in Scotland or in the Scottish zone.**

Penalties

4. - (1) A person guilty of an offence under article 3(1), or any equivalent provision extending to any other part of the United Kingdom proceedings in respect of which were brought in Scotland by virtue of section 30(2A) of the Fisheries Act 1981[21], 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; or**
- (b) on conviction on indictment to a fine.**

(2) A person guilty of an offence under article 3(1), or any equivalent provision

referred to in paragraph (1), in respect of a contravention of, or failure to comply with-

(a) Articles 19a.2, 20.1, 20a or 21c.2 of the Council Regulation 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 fishery product in respect of which the offence was committed, or, on summary conviction only, to a fine not exceeding the value of any such product 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 the Council Regulation shall also be liable to the forfeiture of any fishery product in respect of which the offence was committed, or to a fine not exceeding the value of any such product.

(3) A person guilty of an offence under article 3(2), or any equivalent provision extending to any other part of the United Kingdom proceedings in respect of which were brought in Scotland 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; or

(b) on conviction on indictment to a fine.

Recovery of fines

5. - (1) Without prejudice to the provisions of section 221 of the Criminal Procedure (Scotland) Act 1995[22], where a court has imposed a fine on any person in respect of a relevant offence or an offence under article 10 that court may for the purposes of recovering the fine -

(a) order any boat involved in the commission of the offence 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, the order is renewed for a further such period or a warrant is issued under sub-paragraph (b), whichever first occurs; or

(b) subject to paragraph (2), at any time after the imposition of the fine issue a warrant for the arrestment and sale of any such boat, its gear and catch.

(2) The court shall not issue a warrant under paragraph (1)(b) without first affording the owner of the boat, gear or catch liable to be included in the warrant an opportunity to be heard on the issue of such warrant.

(3) A warrant issued under paragraph (1)(b), whatever the amount of the fine imposed, may be executed in the same manner as if the proceedings were on an extract decree of the sheriff in a summary cause.

(4) Where in relation to a fine in respect of a relevant offence a transfer of fine order under section 222 of the Criminal Procedure (Scotland) Act 1995, section 90 of the Magistrates' Courts Act 1980[23] or article 95 of the Magistrates' Courts (Northern Ireland) Order 1981[24] specifies a court of summary jurisdiction in Scotland this article shall apply as if the fine were a fine imposed by that court.

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

6. - (1) For the purposes of enforcement of article 3 or any provision 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 Scottish fishing boat wherever it may be, or**
- (b) any other fishing boat within the Scottish Zone,**

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 purposes of enforcement mentioned in paragraph (1) to which this article applies and, in particular-

- (a) may search for fishery products or fishing gear on the boat and may examine any such products on board 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 the custody or possession of that person;**
- (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 or inspection provided for under this article, any such document produced to him or found on board;**
- (e) may require the master or any person for the time being in charge of the boat to render all such documents on a computer system into visible and legible form and to produce them in a form in which they 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 or any provision 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-

(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 fishery products;

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

(c) examine any fishery product 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 fishery product 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, transshipment, sale or disposal of any fishery product;

(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 documents on a computer system into a visible and legible form and to produce them in a

form in which they 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 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 a Sheriff on information on oath-

(a) is satisfied 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) is also satisfied 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 Sheriff 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, accompanied by such persons as appear to the officer to be necessary.

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

8. - (1) Any British sea fishery officer may seize-

(a) in Scotland or in the Scottish zone; or

(b) on a Scottish fishing boat wherever it may be,

any fishery product (including any receptacle which contains such product) and any net or other fishing gear to which this article applies.

(2) This article applies to-

(a) any fishery product (including any receptacle which contains such product) in respect of which the officer 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 or Articles 19e, 20.2, 21.3 or

21c.2 of the Council Regulation has been committed;

(b) any fish caught with a net in respect of which the officer 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 the Council Regulation has been committed; and

(c) any net or other fishing gear-

(i) in respect of which the officer 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 the Council Regulation 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, 21.3 or 21c.2 of the Council Regulation has been committed.

Protection of officers

9. A British sea fishery officer or a person assisting him by virtue of articles 6(2) or 7(1)(b) 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 articles 6, 7 or 8 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 of officers

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 articles 6, 7 or 8;

(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.

Offences committed by bodies corporate and Scottish partnerships

11. - (1) Where an offence under this Part has been committed by a body corporate and the contravention in question is proved to have occurred with the consent or connivance of, or to be attributable to any neglect on the part of-

(a) a director, manager, secretary or other similar officers of the body corporate, or

(b) any person who was purporting to act in any such capacity,

he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) In paragraph (1) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(3) Where an offence under this Part has been committed by a Scottish partnership and the contravention in question is proved to have occurred 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 that offence and shall be 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 the Council Regulation shall, in any proceedings for a relevant offence, be received in evidence without being produced or sworn to by any witness and shall be sufficient 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 the Council Regulation.

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 revoked.

JOHN HOME ROBERTSON

A member of the Scottish Executive

St Andrew's House, Edinburgh
13th 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>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		(a) 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		(b) 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		(c) 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. The Council Regulation				
(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, the person responsible for

				the premises or vehicle.
(b) Article 6	Article 1 of and Annexes I, II, IV, V, VI and VII to 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-£50,000 (a) to 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 (b) 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 there; and (ii) quantities of each species to be landed.	£50,000	The master, the owner and the charterer (if any).
(d) Article 8.1	Article 2 of, and Annexes I,	Requirement to submit, after each trip and within 48 hours of landing to the flag	£50,000	The master, his representative, the owner and the

	II, IV and V to Regulation 2807/83	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.		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 other authorised body or person to submit a completed sales note within 48 hours of sale.	£50,000	The first seller of the fishery products.
(f) Articles 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 Regulation 2847/83, to submit- (a) a completed sales note (where products are offered for sale at place of landing); or (b) a transport document (when the products are offered for sale at a location other than place of landing); or (c) a completed take over declaration (where products are not offered for sale or are intended for sale at a later date), before the products are collected.	£50,000	As regards the requirement to submit- (a) a completed sales note, the buyer of the fishery product; (b) a transport document, the transporter of such product; and (c) a completed take-over declaration, the owner of such product and his agent (if any).
(g) Article 9.5 as read with Article 9.2		Requirement- (a) to submit a sales note within 48 hours of landing or first marketing of products (except where the sales note must be submitted	£50,000	As regards the requirement to submit- (a) a sales note, the buyer of the fishery

		before the products are collected) and append a copy of the transport document relating to the products where there is one; or (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); (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.		product; (b) a take over declaration, the owner of such product and his agent (if any); and (c) a transport document, the transporter of such product.
(h) Article 11		Requirement in respect of any trans-shipping vessel or receiving vessel to keep and notify details of transhipments anywhere and landing of specified stocks outside Community territory.	£50,000	The master, the owner and the charterer (if any).
(i) Article 12		Requirement to keep and notify within 15 days of the catch, the details required under Articles 8 and 11 of the Council Regulation 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 the requirement- (a) if the first sale has not taken place, to provide completed	£50,000	The transporter of the fishery products.

		transport document, ensure it accompanies fisheries products until time of first sale; (b) if the goods have been declared as sold in accordance with Article 9 of the Council Regulation, to prove at all times by means of documentary evidence that a sales transaction has taken place.		
(k) Article 17.2	Articles 1 and 2 of, and Annexes I, II, IV, V, VI and VII to Regulation 2807/83	In respect of catches made outside Community waters, requirement to- (a) keep a logbook for recording catches; and (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 (c) submit details of trans-shipments on to third country fishing boats or of landings in third countries.	£50,000	The master, the owner and the charterer (if any).
(l) Article 19a.2		Prohibition from carrying out of fishing activities in the areas specified in Articles 19a.1 and 19a.1a of the Council Regulation 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	£50,000	The master, the owner and the charterer (if any).

		areas and resources[28] or article 2 of Council Regulation (EC) No. 779/97 introducing arrangements for the management of fishing effort in the Baltic Sea[29].		
(m) Articles 19b and 19c	Article 3a of, and Annexes VIIIa and VIIIb to Regulation 2807/83 as read with 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 the Council Regulation as read with Regulation 1449/98- (a) by one of the methods prescribed in Article 19c.1 (as read with Article 19c.3) of the Council Regulation 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 that Regulation; (b) communicate it to the authorities prescribed in article 19c.1 of Regulation 2847/93; and (c) at the time or times prescribed in article 19c.1 of the Council Regulation or- (i) in the case of boats conducting trans-zonal fisheries as defined in Article 19b.2, prescribed in Articles 19b.2	£50,000	The master, his representative, the owner and the charterer (if any).

		and 19c.2, first indent, of the Council Regulation; (ii) in the case of boats spending less than 72 hours at sea, prescribed in Article 19c.2, third indent, of the Council Regulation (including the requirement in such a case to notify changes occurring in the information provided in the report).		
(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 the Council Regulation or, in the case of boats conducting trans-zonal fisheries as defined in article 19b.2 of that Regulation, prescribed in article 19e.2 of that Regulation.	£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 the Council Regulation.	£50,000	The master, the owner and the charterer (if any).
(p) Article 20.1		Requirement to stow nets, when not in use, on 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 logbooks 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 on 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 the Council Regulation.	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 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 fishery products.
(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-	(a) In the case of a failure to comply with	The master, the owner and the charterer (if any).

		(a) to record information referred to in Article 6 of the Council Regulation in a logbook; (b) to comply with a system for reporting catches retained on board; (c) to comply with the instructions of the authorities responsible for monitoring and inspections; (d) to comply with the rules on the marking and identification of fishing vessels and their gear.	the instructions of the authorities responsible for monitoring and inspections or with the rules on marking and identification of fishing vessels and their gear, the statutory maximum; and (b) in any other case, £50,000.	
(w) Article 28d		Prohibition in relation to third country fishing boats of fishing for and retention on board, trans-shipment and landing of, stock subject to quota from the date, fixed by 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- (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; (ii) the catches retained on board; and	£50,000	The master, his representative, the owner and the charterer (if any).

		(iii) the zone or zones where the catch was made; and (b) to obtain authorisation from the competent authority of the Member State before landing operations are commenced.		
(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 provides 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) No. 2846/98 (O.J. No. L192, 8.7.98, p.4) ("Regulation 2846/98"). It revokes and re-enacts with drafting amendments and new provisions in implement of the amendments made by Regulation 2846/98 the Sea Fishing (Enforcement of Community Control Measures) Order 1994 (S.I. 1994/451) ("the 1994 Order").

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 the Order (article 3).

The amendments to the Control Regulation made by Regulation 2846/98 include in particular-

- (a) the requirement to keep a logbook in respect of amounts of fish of over 50kgs;**
- (b) 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 4 hours advance notification of their intention to land to the competent authorities of the Member State of landing;**
- (c) new rules in respect of the submission of sales notes, transport declarations and take over declarations; and**
- (d) the extension of certain requirements to third country fishing vessels.**

The Order provides penalties in relation to an offence ("a relevant offence") under article 3 of the Order or any equivalent provision extending to any other part of the United Kingdom proceedings in respect of which were brought in Scotland by virtue of section 30(2A) of the Fisheries Act 1981 (c.29) (article 4). Section 30(2A) was inserted by the Scotland Act (Consequential Modification) (No. 2) Order 1999, Schedule 2, paragraph 68(5)(a).

The Order makes provisions in relation to the recovery of fines imposed in respect of a relevant offence or an offence under article 10 (obstruction of officers) (article 5).

The Order confers on British sea-fishery officers enforcement powers in relation to fishing boats and on land. These include power 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).

Provision is also made in relation to the liability of officers for anything done in the purported exercise of powers conferred by the Order (article 9). The Order creates offences and provides penalties in respect of obstruction of a British sea-fishery officer and makes provision in relation to offences committed by bodies corporate and Scottish partnerships and the admissibility of certain documents (articles 10, 11 and 12).

Notes:

[1] 1981 c.29; relevant modifications are contained in the Scotland Act 1998 (Functions Exercisable in or as regards Scotland) Order 1999 (S.I. 1999/1748), article 5 and the Scotland Act 1998 (Modification of Functions) Order 1999 (S.I. 1999/1756), articles 35 and 6. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). See section 30(3) of the 1981 Act for definitions of "enforceable Community restriction", "enforceable Community obligation" and "the Ministers". Section 30 has effect in relation to Scotland as modified by section 30(5) inserted by the Scotland Act (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraph 68(5) [\(b\).back](#)

[2] Section 30(2A) was inserted by the Scotland Act (Consequential Modification) (No. 2) Order 1999, Schedule 2, paragraph 68(5)(a). [back](#)

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

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

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

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

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

[8] O.J. No. L238, 22.12.99, p.54.[back](#)

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

[10] O.J. No. L192, 8.7.98, p.4.[back](#)

[11] 1995 c.21.[back](#)

[12] 1998 c.46. The sea within British fishery limits (that is, the limits set by or under section 1 of the Fishery Limits Act 1976 (c.86)) which is adjacent to Scotland as determined by the Scottish Adjacent Waters Boundaries Order 1999 (S.I. 1999/1126).[back](#)

[13] O.J. No. L261, 20.10.93, p.1.[back](#)

[14] O.J. No. L301, 14.12.95, p.1.[back](#)

[15] O.J. No. L301, 14.12.95, p.35.[back](#)

[16] O.J. No. L338, 28.12.96, p.12.[back](#)

[17] O.J. No. L102, 19.4.97, p.1.[back](#)

[18] O.J. No. L304, 7.11.97, p.1.[back](#)

[19] O.J. No. L356, 31.12.97, p.14.[back](#)

[20] O.J. No. L358, 31.12.98, p.5.[back](#)

[21] Section 30(2A) was inserted by the Scotland Act (Consequential Modification) (No. 2) Order 1999, Schedule 2, paragraph 68(5)(a).[back](#)

[22] 1995 c.46.[back](#)

[23] 1980 c.43.[back](#)

[24] S.I. 1981/1675 (N.I. 26).[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 the Council Regulation, for a notification period for Community fishing vessels carrying on fishing activities in the Baltic Sea, the Skogerrak and the Kattegat (O.J. No. L93, 8.4.1999, p.10).[back](#)

[28] O.J. 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] O.J. No. L113, 30.4.97, p.1.back

**[30] O.J. No. L17, 6.7.94, p.7. Council Regulation (EC) No.1627/94 of 27 June 1994
laying down general provisions concerning special fishing permitsback**

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