STATUTORY INSTRUMENTS

1984 No. 173

SEA FISHERIES

The Sea Fishing (Enforcement of Miscellaneous Community Quota Measures) Order 1984

Made - - - -	17*th February* 1984
Laid before Parliament	17*th February* 1984
Coming into Operation	18*th February* 1984

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(**a**), and of all other powers enabling them in that behalf, hereby make the following order:—

Title, commencement and duration

1. This order may be cited as the Sea Fishing (Enforcement of Miscellaneous Community Quota Measures) Order 1984, shall come into operation on 18th February 1984 and shall cease to have effect on 1st January 1985.

Interpretation

2. In this order "the Council Regulation" means Council Regulation (EEC) No. 320/84 fixing, for certain fish stocks and groups of fish stocks occurring in the Community's fishing zone, provisional total allowable catches for 1984, the provisional share of these catches available to the Community, the allocation of that share between the Member States and the conditions under which the total allowable catches may be fished(**b**).

Offences and penalties

3.—(1) Where there is, in respect of—

(*a*) any fishing boat which is within British fishery limits; or

(*b*) any British fishing boat wherever it may be;

a contravention of any provision of an article of the Council Regulation specified in column 1 of the Schedule to this order, the master, the owner and the charterer (if any) shall each be guilty of an offence and liable—

(i) on summary conviction to a fine not exceeding the maximum specified in column 3 of that Schedule opposite the reference to that article in column 1; or

(**a**) 1981 c. 29. (**b**) OJ No. L37, 8.2.84.

(ii) on conviction on indictment to a fine.

(2) Subject to the following provisions of this article, the court by which a person is convicted of an offence under paragraph (1) above may order the forfeiture of any fish in respect of which the offence was committed and of any net or other fishing gear used in committing the offence or used on the fishing boat in catching any fish retained on board or landed in contravention of article 4 of the Council Regulation.

(3) Any person guilty of an offence under paragraph (1) above shall, subject to paragraph (5) below, be liable on summary conviction to a fine not exceeding the value of the fish in respect of which the offence was committed.

(4) A person shall not be liable to a fine under paragraph (3) above in respect of an offence if, under paragraph (2) above, the court orders the forfeiture of the fish in respect of which the offence was committed; and where a fine is imposed under paragraph (3) above in respect of any offence, the court shall not have power under paragraph (2) above to order the forfeiture of the fish in respect of which the offence was committed.

(5) Subject to paragraph (4) above, any fine to which a person is liable under paragraph (3) above in respect of an offence shall be in addition to any other penalty (whether pecuniary or otherwise) to which he is liable in respect of that offence under this article or under any other enactment.

Enforcement

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

(*a*) any fish in respect of which an offence under article 3(1) of this order has been or is being committed;

(*b*) any net or other fishing gear in respect of which an offence founded on a contravention of article 7, 8 or 9 of the Council Regulation has been or is being committed;

(*c*) any net or other fishing gear used in catching any fish retained on board or landed in contravention of article 4 of the Council Regulation.

(2) The provisions of section 15(2A) of the Sea Fish (Conservation) Act 1967(**a**) (powers of British sea-fishery officers for enforcement of that Act) shall have effect in relation to the enforcement of this order as they have effect in relation to the enforcement of that Act.

(3) The provisions of section 8(2) to (4) of the Sea Fisheries Act 1968(**b**) (general powers of British sea-fishery officers) shall have effect in relation to this order as they have effect in relation to the enactments mentioned in section 8(1) of that Act, and for the purpose of the enforcement of this order there are hereby conferred on every British sea-fishery officer in relation to any fishing boat within British fishery limits, and any British fishing boat wherever it may be, all the powers of a British sea-fishery officer under those subsections.

(**a**) 1967 c. 84; subsection (2A) was inserted by the Fisheries Act 1981, section 25(2).
(**b**) 1968 c. 77; subsection (3) was amended by the Fisheries Act 1981, section 26(2), and subsection (4) was substituted by section 26(3) of that Act.

(4) Any person who on any fishing boat within British fishery limits or on any premises (other than a dwelling-house) within the United Kingdom—

(*a*) fails without reasonable excuse to comply with any requirement imposed, or to answer any question (other than a question tending to show that he has committed any criminal offence) asked, by a British sea-fishery officer under the powers conferred on him by virtue of paragraph (1), (2) or (3) above;

(*b*) prevents, or attempts to prevent, any other person from complying with any such requirement or answering any such question; or

(*c*) assaults any such officer while exercising any of the powers conferred on him by virtue of paragraph (1), (2) or (3) above or intentionally obstructs any such officer in the exercise of any of those powers;

shall be guilty of an offence and liable—

(i) on summary conviction to a fine not exceeding £5,000; or

(ii) on conviction on indictment to a fine.

(5) A British sea-fishery officer 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 paragraph (1), (2) or (3) above 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.

Provisions as to offences and proceedings

5.—(1) Where any offence under article 3(1) of this order committed by a body corporate is proved to have been committed with the consent or approval of any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Proceedings for an offence under the provisions of this order may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

Revocation

6. The Sea Fishing (Enforcement of Miscellaneous Community Quota Measures) Order 1983(**a**) is hereby revoked.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 16th February 1984.

(L.S.)

John MacGregor,
Minister of State,
Ministry of Agriculture, Fisheries and Food.

(**a**) S.I. 1983/257.

George Younger,
Secretary of State for Scotland.

16th February 1984.

Nicholas Edwards,
Secretary of State for Wales.

17th February 1984.

James Prior,
Secretary of State for Northern Ireland.

16th February 1984.

SCHEDULE

Article 3(1)

MAXIMUM PENALTIES ON SUMMARY CONVICTION

Column 1	Column 2	Column 3
Article of the Council Regulation	Subject matter	Maximum penalty on summary conviction
1. Article 4, in so far as it relates to retention on board.	Restrictions on retaining on board catches from stocks for which total allowable catches or quotas are fixed.	£5,000
2. Article 4, in so far as it relates to landing.	Restrictions on landing catches from stocks for which total allowable catches or quotas are fixed.	£1,000
3. Article 7, in so far as it relates to waters outside British fishery limits.	Prohibition on fishing for mackerel in specified waters off the north coast of Scotland.	£50,000
4. Article 8, in so far as it relates to waters outside British fishery limits.	Prohibitions on fishing for herring in specified waters off the west coast of Denmark and in the Irish Sea.	£50,000
5. Article 9, in so far as it relates to waters outside British fishery limits.	Prohibitions on fishing for sprat in specified waters off the west coast of Denmark.	£50,000

EXPLANATORY NOTE

(This Note is not part of the Order.)

This order makes provision for the enforcement of certain of the enforceable Community restrictions or other obligations relating to sea fishing set out in Council Regulation (EEC) No. 320/84 ("the Council Regulation").

The relevant provisions of the Council Regulation—

(*a*) prohibit the retention on board or landing of catches from stocks for which total allowable catches or quotas are fixed otherwise than within those quotas (or within the Community share of the total allowable catch where there has been no allocation by quota among Member States), subject to certain exceptions (article 4);

(*b*) prohibit fishing for mackerel in specified waters off the north coast of Scotland between specified dates (article 7);

(*c*) prohibit fishing for herring in specified waters off the west coast of Denmark between specified dates and, subject to exceptions, in specified waters in the Irish Sea throughout the year (article 8); and

(*d*) prohibit fishing for sprat in specified waters off the west coast of Denmark between specified dates (article 9).

For the purpose of enforcing those provisions the order confers on British sea-fishery officers powers to enter at all reasonable times premises other than dwelling houses, to go on board fishing boats and to seize documents, fish and fishing gear.

Provision is also made for the prosecution of offenders and for the punishment of anyone found guilty of obstructing or assaulting a British sea-fishery officer. The maximum penalties for such offences, and for offences relating to the provisions of the Council Regulation listed above, correspond to the maximum penalties for equivalent offences under the Sea Fish (Conservation) Act 1967 and the Sea Fisheries Act 1968, as amended in each case by the Fisheries Act 1981.

The Council Regulation fixes total allowable catches and quotas for 1984. Consequently the order ceases to have effect on 1st January 1985.

The order revokes the Sea Fishing (Enforcement of Miscellaneous Community Quota Measures) Order 1983.

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