STATUTORY INSTRUMENTS

1986 No. 250

SEA FISHERIES

COMMUNITY RESTRICTIONS

The Sea Fishing (Enforcement of Community Quota Measures) Order 1986

Made - - - -	13*th February* 1986
Laid before Parliament	17*th February* 1986
Coming into Operation	18*th February* 1986

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 and commencement

1. This order may be cited as the Sea Fishing (Enforcement of Community Quota Measures) Order 1986, and shall come into operation on 18th February 1986.

Interpretation

2. In this order—

"the Council Regulation" means Council Regulation (EEC) No. 3721/85 fixing, for certain fish stocks and groups of fish stocks, total allowable catches for 1986 and certain conditions under which they may be fished **(b)**, as amended by Council Regulations (EEC) Nos. 3777/85 **(c)** and 114/86 **(d)**;

"specified Community provision" means any provision of an article of the Council Regulation specifed in column 1 of the Schedule to this order, as read with any qualifying words relating to the article in that column of the Schedule.

Offences

3. Where there is, in respect of—

(a) any British fishing boat wherever it may be, or

(b) any other fishing boat which is within British fishery limits,

a contravention of, or failure to comply with, any specified Community provision, the master, the owner and the charterer (if any) shall each be guilty of an offence.

(a) 1981 c.29.
(b) O.J. No. L 361, 31.12.85, p.5.
(c) O.J. No. L 363, 31.12.85, p.1.
(d) O.J. No. L 17, 23.1.86, p.4.

Penalties

4.—(1) A person guilty of an offence under article 3 of this order shall be liable—

(a) on summary conviction to a fine not exceeding the amount specified in the appropriate entry in column 3 of the Schedule to this order; or

(b) on conviction on indictment to a fine.

(2) The court by or before which a person is convicted of an offence under article 3 of this order may—

(a) order the forfeiture of any fish in respect of which the offence was committed; and

(b) order the forfeiture of any net or other fishing gear which was used in the course of the commission of the offence.

(3) A person guilty of an offence under article 3 of this order shall be liable on summary conviction to a fine not exceeding the value of any fish in respect of which an order for forfeiture might be made under paragraph (2)*(a)* of this article, unless the court by or before which such a person is convicted makes such an order for forfeiture.

(4) A fine to which a person is liable under paragraph (3) of this article shall be in addition to any other penalty (whether pecuniary or otherwise) to which he is liable in respect of the offence.

Recovery of fines

5.—(1) Where a fine is imposed by a magistrates' court in England and Wales or Northern Ireland on the master, owner or charterer of a fishing boat who is convicted by the court of an offence under article 3 of this order, the court may—

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

(b) order the boat 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) Where a fine is imposed by a sheriff in Scotland on the master, owner or charterer of a fishing boat who is convicted by the sheriff of an offence under article 3 of this order, the sheriff may—

(a) issue a warrant for the poinding and sale of the boat and its gear and catch and any property of the person convicted; and

(b) order the boat to be detained for a period not exceeding three months from the date of the conviction or until the fine is paid, whichever occurs first.

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

(a) 1980 c.43.

(4) Article 114(2) of the Magistrates' Courts (Northern Ireland) Order 1981(**a**) (postponement of issue of certain warrants) shall apply to a warrant of distress issued under this article in Northern Ireland as it applies to a warrant referred to in that article.

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

6.—(1) For the purpose of enforcing article 3 of this order, a British sea-fishery officer—

(a) may go on board any British fishing boat wherever it may be or any other fishing boat which is within British fishery limits;

(b) may take with him, to assist him in performing his functions, any other person and any equipment or materials;

(c) may require any such boat to stop and do anything else to enable him to board it;

(d) may require the attendance of the master of the boat or any other person on board;

(e) may require any person on board to assist him in the performance of his functions; and

(f) may make any examination or inquiry which appears to him to be necessary and, without prejudice to the generality of the foregoing, he may in particular—

(i) examine any fish on the boat and the equipment of the boat, including the fishing gear;

(ii) require the production of any document relating to the boat or to its fishing operations or other operations ancillary to its fishing operations;

(iii) search the boat for any such document; and

(iv) take copies of any such document.

(2) If a British sea-fishery officer has reasonable grounds to suspect that an offence under article 3 of this order has been committed within British fishery limits in respect of a boat that he has power to go on board under paragraph (1)*(a)* of this article, the officer—

(a) may require the master to take, or may himself take, the boat and its crew to the port which appears to the officer to be the nearest convenient port; and

(b) may detain the boat in the port.

(3) If a British sea-fishery officer detains a boat, he shall serve on the master a notice stating that it is to be detained until the notice is withdrawn by the service on him of a further notice in writing signed by a British sea-fishery officer.

Powers of British sea-fishery officers on land

7. For the purpose of enforcing article 3 of this order, a British sea-fishery officer—

(a) may enter at any reasonable time any premises (other than a dwelling) 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;

(**a**) S.I. 1981/1675 (NI 26).

(b) may take with him, to assist him in performing his functions, any other person and any equipment or materials;

(c) may require any person on the premises to assist him in the performance of his functions;

(d) may examine any fish on the premises;

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

(f) may take copies of any such document;

and, if he has reasonable grounds to suspect that an offence under article 3 of this order has been committed, he may search the premises for any such document.

Powers of seizure of British sea-fishery officers

8.—(1) If a British sea-fishery officer has reasonable grounds to suspect that an offence under article 3 of this order has been committed, he may seize any document produced to him or found by him while exercising the powers conferred on him by articles 6 and 7 of this order.

(2) Nothing in paragraph (1) of this article shall permit any document required by law to be carried on board a boat to be seized except while the boat is detained in port under article 6(2) of this order.

(3) A British sea-fishery officer may seize—

(a) any fish in respect of which he has reasonable grounds to suspect that an offence under article 3 of this order has been committed; and

(b) any net or other fishing gear which he has reasonable grounds to suspect has been used in the course of the commission of such an offence.

Obstruction of officers

9. 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 British sea-fishery officers by articles 6 and 7 of this order;

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

(c) assaults an officer who is exercising any of the powers conferred on him by articles 6, 7 or 8 of this order 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.

Protection of officers

10. An 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 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.

Offences by bodies corporate

11. Where an offence under article 3 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.

Jurisdiction to try offences

12. 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.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 10th February 1986.

L.S.

Michael Jopling,
Minister of Agriculture,
Fisheries and Food.

Gray of Contin,
Minister of State, Scottish Office.

11th February 1986.

Nicholas Edwards,
Secretary of State for Wales.

12th February 1986.

Tom King,
Secretary of State for
Northern Ireland.

13th February 1986.

SCHEDULE

Articles 2 and 4

SPECIFIED COMMUNITY PROVISIONS AND MAXIMUM FINES ON SUMMARY CONVICTION

Column 1	Column 2	Column 3
Article of the Council Regulation	Subject matter	Amount
1. Article 5, in so far as it relates to retaining on board.	Restrictions on retaining on board catches from stocks for which total allowable catches or quotas are fixed.	£5,000
2. Article 5, in so far as it relates to landing.	Restrictions on landing catches from stocks for which total allowable catches or quotas are fixed.	£2,000
3. Article 6, 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
4. Article 7, 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

EXPLANTORY NOTE

(*This Note is not part of the Order.*)

This order provides for the enforcement of certain of the enforceable Community restrictions and other obligations relating to sea fishing set out in Council Regulation (EEC) No. 3721/85, as amended by Council Regulations (EEC) Nos. 3777/85 and 114/86 ("the Council Regulation"). The Council Regulation fixes total allowable catches and quotas for 1986. The relevant provisions of the Council Regulation are referred to, and their subject matter briefly described, in columns 1 and 2 of the Schedule to the order. Breaches of these provisions are made offences by the order (article 3) and the order also provides for the prosecution of offenders (articles 3, 11 and 12), specifies penalties for offences (article 4) and confers powers of enforcement on British sea-fishing officers (articles 6, 7 and 8).

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