
STATUTORY INSTRUMENTS

2002 No. 426

SEA FISHERIES, ENGLAND
SEA FISHERIES, NORTHERN IRELAND

The Sea Fishing (Enforcement of Community
Conservation Measures) (Amendment) Order 2002

<i>Made</i>	- - - -	<i>21st February 2002</i>
<i>Laid before Parliament</i>		<i>4th March 2002</i>
<i>Coming into force</i>	- -	<i>26th March 2002</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State concerned with sea fishing in 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 and commencement

1. This Order may be cited as the Sea Fishing (Enforcement of Community Conservation Measures) (Amendment) Order 2002 and shall come into force on 26th March 2002.

Amendment of the principal Order

2. The Sea Fishing (Enforcement of Community Conservation Measures) Order 2000(2) shall be amended in accordance with articles 3 to 6 below.

3. In article 2(1) (interpretation)—

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- (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 the Scottish Ministers, in relation to: relevant British fishing boats within the Scottish zone; and Scottish fishing boats within the British fishery limits but outside the Scottish zone. By virtue of article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. [1999/672](#)) the functions exercisable under section 30(2) of the 1981 Act were transferred to the National Assembly in so far as exercisable in relation to Wales (defined in section 155(1) of the Government of Wales Act 1998 (c. 38) as including “the sea adjacent to Wales out as far as the seaward boundary of the territorial sea”); in respect of waters beyond Wales these functions remain exercisable by the Ministers. By virtue of article 2(1) of the Transfer of Functions (Agriculture and Fisheries) Order 2000 (S.I. [2000/1812](#)) any remaining functions of the Secretaries of State for Scotland and Wales under section 30(2) of the 1981 Act were transferred to the Minister of Agriculture, Fisheries and Food.
- (2) S.I. [2000/1081](#).

- (a) for the definition of “the Council Regulation” there shall be substituted the following definition—

“‘the Council Regulation’ means Council Regulation (EC) No. 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms⁽³⁾, as corrected by Corrigendum to Annex XII of that Council Regulation⁽⁴⁾ and amended by Council Regulation (EC) No. 308/1999⁽⁵⁾, Council Regulation (EC) No. 1459/1999⁽⁶⁾, Council Regulation (EC) No. 2723/1999⁽⁷⁾, Council Regulation (EC) No. 812/2000⁽⁸⁾, Council Regulation (EC) No. 1298/2000⁽⁹⁾ and Council Regulation (EC) No. 724/2001⁽¹⁰⁾,”

- (b) the definition of “Regulation 2742/99” shall be omitted;
 (c) after the definition of “Regulation 894/97” there shall be inserted the following definitions—

“‘Regulation 2549/2000’ means Council Regulation (EC) No. 2549/2000 establishing additional technical measures for recovery of the stock of cod in the Irish Sea (ICES Division VIIa)⁽¹¹⁾ as amended by Council Regulation (EC) No. 1456/2001⁽¹²⁾,”

“‘Regulation 2056/2001’ means Commission Regulation (EC) No. 2056/2001 establishing additional technical measures for the recovery of the stock of cod in the North Sea and to the West of Scotland⁽¹³⁾,”

- (d) for the definition of “specified Community measure” there shall be substituted the following definition—

“‘specified Community measure’ means a provision of Regulation 894/97 or of the Council Regulation or of Regulation 2549/2000 or of Regulation 2056/2001, which is specified in column 1 of the Schedule, as read with any qualifying words relating to that provision in that column;”

4. In article 4(4) (penalties), for “paragraph (6)” there shall be substituted the words “the following provisions of this article”.

5. For paragraph (1) of article 13 (proceedings) there shall be substituted the following paragraph—

“(1) A local fisheries committee in England may take proceedings in respect of any offence occurring within any part of the district of the committee which lies in England under—

- (a) article 3(1) of this Order, where the offence is founded on a contravention of, or failure to comply with—

(i) any of articles 6 to 11, 14 to 16, 18, 19, 26 and 30 to 34 of the Council Regulation,

(ii) article 2 of Regulation 2549/2000, or

(3) OJ No. L125, 27.4.98, p. 1.

(4) OJ No. L318, 27.11.98, p. 63

(5) OJ No. L038, 12.2.99, p. 6.

(6) OJ No. L168, 3.7.99, p. 1.

(7) OJ No. L328, 22.12.99, p. 9.

(8) OJ No. L100, 20.4.2000, p. 3.

(9) OJ No. L148, 22.6.2000, p. 1.

(10) OJ No. L102, 12.4.2001, p. 16.

(11) OJ No. L292, 21.11.2000, p. 5. ICES Division VIIa is defined in Council Regulation (EEC) No. 3880/91 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic (OJ No. L365, 31.12.91, p. 1).

(12) OJ No. L194, 18.7.2001, p. 1.

(13) OJ No. L277, 20.10.2001, p. 13.

- (iii) articles 4 to 8 of Regulation 2056/2001; or
 (b) article 3(2)(a) of this Order.”

6. In the Schedule (maximum fines on summary conviction apart from fines related to value of fish)—

- (a) after paragraph 6 of Part II there shall be inserted the following paragraph in columns 1, 2 and 3—

“6A. Article 10	Prohibition on transshipment of marine organisms etc. during any voyage when dredges are carried on board.	The statutory maximum.”
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- (b) for paragraph 12 of Part II there shall be substituted the following paragraph in columns 1, 2 and 3—

“12. Article 18(4)	Prohibition on the retention and landing of detached crab claws subject to a maximum percentage for catches made by pots or creels and subject to a maximum for catches made by any other fishing gear.	The statutory maximum.”
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- (c) after paragraph 25 of Part II there shall be inserted the following paragraph in columns 1, 2 and 3—

“25A. Article 29a	Prohibition during 2002 on the retention on board or landing of sand eels caught within a specified area off the east coast of England and Scotland.	£50,000.”
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- (d) Part III shall be omitted;

- (e) at the end there shall be inserted the following Parts—

“Part IV Regulation 2549/2000	Prohibition on fishing in the Irish Sea with specified towed gear.	The statutory maximum”
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Article 2 as read with
Article 3

Part V Regulation 2056/2001 Article 4	Requirements relating to the retention on board of catches taken with demersal towed nets of certain sizes in specified areas and prohibition on the retention on board and	The statutory maximum.
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	use of demersal towed nets of a specified size unless specified conditions satisfied.	
Article 5	Prohibition relating to the construction of certain demersal towed nets and the carrying on board and use of certain beam trawls.	The statutory maximum.
Article 6	Prohibition on the use of certain beam trawls in specified areas.	The statutory maximum.
Article 7	Prohibition on the retention on board of any cod in excess of a specified percentage by weight and caught in specified fixed gears.	The statutory maximum.
Article 8	Prohibition on use of certain demersal towed nets in specified areas.	The statutory maximum.”

13th February 2002

Elliot Morley
Parliamentary Under-Secretary of State,
Department for Environment, Food and Rural
Affairs

21st February 2002

John Reid
Secretary of State for Northern Ireland

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Sea Fishing (Enforcement of Community Conservation Measures) Order 2000 (S.I.2000/1081) (“the principal Order”) which makes provision for the enforcement of restrictions and obligations contained in Council Regulation (EC) No. 850/98 (OJ No. L125, 27.4.98, p. 1) for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms, as amended (“the Council Regulation”). Like the principal Order, the present Order does not form part of the law of Scotland and does not apply in relation to fishing activities within the territorial sea of Wales.

Article 3 of this Order updates the definition of “the Council Regulation” in article 2(1) of the principal Order to take account of the amendment of the Council Regulation by Council Regulation (EC) No. 812/2000 (OJ No. L100, 20.4.2000, p. 3), Council Regulation (EC) No. 1298/2000 (OJ No. L148, 22.6.2000, p. 1) and Council Regulation (EC) No. 724/2001 (OJ No. L102, 12.4.2001, p. 16).

This Order also amends the principal Order to make provision for the enforcement of restrictions contained in article 2 of Council Regulation (EC) No. 2549/2000 (OJ No. L292, 21.11.2000, p. 5) establishing additional technical measures for the recovery of the stock of cod in the Irish Sea (ICES Division VIIa) as amended by Council Regulation 1456/2001 (OJ No. L194, 18.7.2001, p. 1) and articles 4 to 8 of Commission Regulation (EC) No. 2056/2001 (OJ No. L277, 20.10.2001, p. 13) establishing additional technical measures for the recovery of the stocks of cod in the North Sea and to the coast of Scotland. This Order inserts references to the provisions in the definition of “specified Community measure” in article 2(1) and in the Schedule to the principal Order (articles 3 and 6). Article 5 makes other consequential changes. Article 4 corrects a drafting error in the principal Order.