

**2005 No. 552**

**SEA FISHERIES**

**The Sea Fishing (Enforcement of Community Control Measures) (Scotland) Amendment Order 2005**

*Made* - - - - - *8th November 2005*

*Laid before the Scottish Parliament* *9th November 2005*

*Coming into force* - - - *1st December 2005*

The Scottish Ministers, in exercise of the powers conferred 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:

**Citation and commencement**

1. This Order may be cited as the Sea Fishing (Enforcement of Community Control Measures) (Scotland) Amendment Order 2005 and shall come into force on 1st December 2005.

**Amendment of the Sea Fishing (Enforcement of Community Control Measures) (Scotland) Order 2000**

2.—(1) The Sea Fishing (Enforcement of Community Control Measures) (Scotland) Order 2000(b) is amended in accordance with the provisions of this article.

(2) In article 2(1) (interpretation) for the definition of “the Council Regulation” substitute—

“the Council Regulation” means Council Regulation (EEC) No. 2847/93 establishing a control system applicable to the common fisheries policy(c) as amended by Council Regulation (EC) No. 2870/95(d), Council Decision (EC) No. 95/528(e), Council Regulation (EC) No. 2489/96(f), Council Regulation (EC) No. 686/97(g), Council Regulation (EC) No. 2205/97(h), Council Regulation (EC) No. 2635/97(i), Council Regulation (EC) No. 2846/98(j), Council Regulation (EC) No. 806/2003(k) corrected by a Corrigendum

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(a) 1981 c.29 (“the 1981 Act”); 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 3, 5 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 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraph 68(5)(b).

(b) S.S.I. 2000/7 amended by S.S.I. 2005/90.

(c) O.J. No. L 261, 20.10.93, p.1.

(d) O.J. No. L 301, 14.12.95, p.1.

(e) O.J. No. L 301, 14.12.95, p.35.

(f) O.J. No. L 338, 28.12.96, p.12.

(g) O.J. No. L 102, 19.4.97, p.1.

(h) O.J. No. L 304, 7.11.97, p.1.

(i) O.J. No. L 356, 31.12.97, p.14.

(j) O.J. No. L 358, 31.12.98, p.5.

(k) O.J. No. L 122, 16.5.03, p.1.

dated 14th March 2003(a), Council Regulation (EC) No. 1954/2003(b) and Council Regulation (EC) No. 768/2005(c), and as applied by Article 9 of and modified by Articles 15 and 16 of Council Regulation (EC) No. 423/2004(d) and as applied by paragraph 13 of Annex IVc and modified by paragraphs 20 and 21 of Annex IVc;”.

(3) In article 7 (powers of British sea-fishery officers on land), for paragraph (g) substitute–

“(g) for the purpose of ascertaining whether a relevant offence has been committed, search the premises for any such document and may require any person on the premises to do anything which appears to the officer to be necessary for facilitating the search;”.

(4) In the Schedule (Community control measures, contravention of which constitutes an offence)–

(a) in item 2(l), for the entry in column 3, in relation to Article 19a.2, substitute–

“Prohibition from carrying out of fishing activities in the areas specified in Article 19a of the Council Regulation in relation to Community fishing boats which have not been authorised by Member States in accordance with Article 10 of Council Regulation (EC) No. 1954/2003 on the management of the fishing effort relating to certain Community fishing areas and resources or Article 2 of Council Regulation (EC) No. 779/97 introducing arrangements for the management of fishing effort in the Baltic Sea(e).”;

(b) in item 2(m), for the opening paragraph of the entry in column 3, relating to Article 19b and 19c, down to the end of the term “Regulation 1449/98” substitute–

“Requirement in relation to Community fishing boats equal to or greater than 10 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–”;

(c) in item (2)(n), for the entry in column 3, in relation to Article 19e.1 and 19e.2, substitute–

“Requirement in relation to Community fishing boats equal to or greater than 10 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 the Council Regulation, prescribed in Article 19e.2 of that Regulation.”;

(d) in item (2)(o), for the entry in column 3, in relation to Article 19e.3, substitute–

“Requirement on Community fishing boats equal to or greater than 10 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.”; and

(e) in item (2)(r), for the entry in column 3, in relation to Article 20a, substitute–

“Requirements relating to carriage, use and stowage of gear in Community fishing boats exceeding 10 metres in overall length carrying out fishing activities in areas specified in Article 19a.1 of the Council Regulation.”.

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(a) O.J. No. L 138, 5.6.03, p.49.  
(b) O.J. No. L 289, 7.11.03, p.1.  
(c) O.J. No. L 128, 21.5.05, p.1.  
(d) O.J. No. L 70, 9.3.04, p.8.  
(e) O.J. No. L 113, 30.4.97, p.1.

**Amendment of the Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2005**

3. In article 25 (amendment of the Sea Fishing (Enforcement of Community Control Measures) (Scotland) Order 2005) of the Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2005(a) omit articles 25(a)(iii) and 25(b).

Pentland House,  
Edinburgh  
8th November 2005

*ROSS FINNIE*  
A member of the Scottish Executive

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(a) S.S.I. 2005/90.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Sea Fishing (Enforcement of Community Control Measures) (Scotland) Order 2000 (S.S.I. 2000/7) (“the principal Order”). The principal Order makes provision for the enforcement of restrictions and obligations contained in Council Regulation (EC) No. 1382/87 (O.J. No. L 132, 21.5.87, p.11) establishing detailed rules for the inspection of fishing vessels, as amended, and those contained in Council Regulation (EC) No. 2847/93 establishing a control system applicable to the common fisheries policy (O.J. No. L 261, 20.10.93, p.1) (“the Council Regulation”).

The Order comes into force on November 2005.

Article 2 of the Order updates the definition of the Council Regulation and the corresponding paragraphs of the Schedule to the principal Order so that the application of certain measures to vessels equal to or greater than 10 metres are implemented. Article 2(3) amends the powers available to British sea-fishery officers so that the power to search the premises for documents and the power to require any person on the premises to do anything which appears to the British sea-fishery officer necessary for facilitating the search is not restricted to the purpose of ascertaining whether any person on the premises has committed an offence but can exercised for the purpose of ascertaining whether a relevant offence has been committed.

Article 3 of the Order amends the Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2005 to omit article 25(a)(iii) which inserted a definition of “the Council Regulation” into the principal Order and to omit article 25(b) which amended the Schedule to the principal Order. These provisions are now otiose due to the new definition of “the Council Regulation” inserted into the principal Order and the amendments made to the Schedule to the principal Order by article 2 of this Order.

A Regulatory Impact Assessment in relation to the Order has been prepared and placed in SPICE. Copies can be obtained from the Scottish Executive Environment and Rural Affairs Department, Robb’s Loan, Edinburgh, EH14 1TY.

£3.00

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