
STATUTORY INSTRUMENTS

1993 No. 1197

The Third Country Fishing (Enforcement) Order 1993

Title, commencement and interpretation

1.—(1) This Order may be cited as the Third Country Fishing (Enforcement) Order 1993 and shall come into force on 5th May 1993.

(2) In this Order, “relevant Community provision” means a provision of a Regulation of the European Communities referred to in column 1 of the Schedule to this Order which is specified in column 2 thereof, opposite the reference to that Regulation, as read with any qualifying words relating to that provision in that column.

Offences and penalties

2. If there is, in respect of any fishing boat to which a relevant Community provision applies, a contravention of, or failure to comply with, that provision within British fishery limits, the master of that boat shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the amount specified in column 4 of the Schedule to this Order opposite the reference to that provision in column 2; or
- (b) on conviction on indictment to a fine.

Recovery of fines

3.—(1) Where a fine is imposed by a magistrates' court in England and Wales or Northern Ireland on the master or a member of the crew of a fishing boat who is convicted by the court of an offence under article 2 or 5 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 or a member of the crew of a fishing boat who is convicted by the sheriff of an offence under article 2 or 5 of this Order, the sheriff may

- (a) issue a warrant for the arrestment 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 (1) (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.

(1) 1980 c. 43; section 78 was amended by the Criminal Justice Act 1982 (c. 48), sections 37 and 46.

(4) Articles 114(2) and 154 of the Magistrates' Courts (Northern Ireland) Order 1981(2) (postponement of issue of and stay of execution of certain warrants and objections as to want of form or variance between complaint etc and evidence adduced) shall apply to a warrant of distress issued under this article in Northern Ireland as it applies to a warrant referred to in those articles.

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

- 4.—(1) For the purpose of enforcing article 2 of this Order, a British sea-fishery officer—
- (a) may go on board any fishing boat to which a relevant Community provision applies and 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 require any person on board the boat to do anything which appears to the officer to be necessary for facilitating the search; 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 2 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, he may seize and detain any document produced to him or found on board the boat, and 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) Nothing in paragraph (2) of this article shall permit any document required by law to be carried on board any boat to be seized or detained except while the boat is detained in a port.

(4) 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.

Obstruction of officers

5. Any person who, on any fishing boat which is within British fishery limits and to which a relevant Community provision applies—

- (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 article 4 of this Order; or
- (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 article 4 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 not exceeding £5,000; or
- (ii) on conviction on indictment to a fine.

Protection of officers

6. 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 4 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.

Proceedings

7. Proceedings for an offence under 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 and saving

8. The Third Country Fishing (Enforcement) Order 1991(3) is hereby revoked, but without prejudice to the application of articles 4 to 6 of that Order in relation to the enforcement of article 2 of that Order.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 3rd May 1993.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

29th April 1993

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

29th April 1993

Gwilym Jones
Parliamentary Under Secretary of State, Welsh
Office

30th April 1993

Patrick Mayhew
Secretary of State for Northern Ireland