

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the administration and enforcement of Article 22 of Council Regulation (EC) No 2371/2002, “the CFP Regulation”, (O.J. No. L 358, 31.12.02, p.59) and Article 9 of Council Regulation (EEC) No 2847/93 (O.J. NO. L 261, 20.10.93, p.1.) which impose requirements relating to the first marketing and purchasing of fish (first sale fish). The Regulations come into force on 7th July 2005 except for regulations 4,5,8 and 9 which come into force on 1st September. The Regulations do not form part of the law of Scotland, Wales or Northern Ireland, for which separate administration and enforcement provisions are respectively being made.

The Regulations make provision for the registration by the Secretary of State of sellers of first sale fish (regulation 3), designation of fish auction sites (regulation 6) and registration of buyers of first sale fish (regulation 7). Regulation 5 requires registered fish sellers to maintain records of their sales of first sale fish and regulation 9 requires buyers of first sale fish to maintain records of their purchases of first sale fish. And the Regulations provide offences for the purposes of the enforcement of these registrations and designations (regulations 3(9), 3(10), 5(7), 6(8), 6(9), 7(8), 7(9) and 9(6).

The Regulations provide offences in relation to the sale and purchase of first sale fish. Regulation 4 provides an offence to sell first sale fish at a designated auction site unless registered as a fish seller. By regulation 8 it is an offence to buy first sale fish contrary to Article 22(2)(b) of the CFP Regulation (requirement that buyers of first sale fish are registered) as read with the final sub-paragraph of that article 22(2), which provides an exception for fish bought for private consumption. By regulation 10 it is an offence to sell first sale fish landed otherwise than by a licensed fishing vessel. And by regulation 11 it is an offence to buy first sale fish unless the fish has been landed by a licensed fishing vessel.

Penalties for these offences are provided by regulation 12: on summary conviction, a fine not exceeding the statutory maximum and on conviction on indictment a fine. Where a person is convicted of an offence under regulations 3(9), 3(10), 5(7) 6(8), 6(9), 7(8), 7(9) or 9(6) a court may also revoke the registration or designation concerned and may order that the person convicted is disqualified from applying for registration or designation for a specified period.

The Regulations confer powers of enforcement on British sea fishery officers for the purposes of enforcing these Regulations. These powers may be exercised in relation to premises in England, to any fishing boat within relevant British fishery limits and in relation to a relevant British fishing boat wherever it may be (regulations 13 to 15). Regulation 16 makes provision for protection of British sea fishery officers and regulation 17 provides offences and penalties for their obstruction. Regulation 18 makes provision in respect of offences by bodies corporate.

Changes to legislation:

There are currently no known outstanding effects for the The Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites Regulations 2005.