
STATUTORY INSTRUMENTS

2005 No. 17

**The Incidental Catches of Cetaceans
in Fisheries (England) Order 2005**

Interpretation

2.—(1) In this Order—

“the Council Regulation” means Council Regulation (EC) No. 812/2004(1) laying down measures concerning incidental catches of cetaceans in fisheries and amending Regulation (EC) No 88/98;

“equivalent provision” means any provision in any other Order made for the purposes of making provision for the administration and enforcement of the Council Regulation, extending to any part of the United Kingdom, which has equivalent effect to a provision in this Order, proceedings in respect of which may be commenced in any place in the United Kingdom by virtue of section 30(2A) of the Fisheries Act 1981;

“Northern Irish fishing boat” means a fishing boat which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Northern Ireland as the port to which the boat is to be treated as belonging;

“the Northern Ireland zone” has the same meaning as in the Northern Ireland Act 1998(2);

“observer” means an independent person appointed in accordance with the Council Regulation;

“relevant British fishing boat” means a fishing boat (other than a Scottish fishing boat or a Northern Ireland fishing boat), which is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995 or is owned wholly by persons qualified to own British ships for the purposes of that part of that Act;

“Scottish fishing boat” means a British fishing boat which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Scotland as the port to which the boat is treated as belonging;

“the Scottish zone” has the same meaning as in section 126(1) of the Scotland Act 1998(3);

“specified Community provision” means a provision of the Council Regulation specified in column 1 of the Schedule to this Order; and

“Wales” has the same meaning as in section 155 of the Government of Wales Act 1998(4).

(2) In this Order the term “within relevant British fishery limits”(5) does not include—

- (a) the Scottish zone;
- (b) the Northern Ireland zone;
- (c) the territorial sea adjacent to Wales;
- (d) the territorial sea adjacent to the Isle of Man;

(1) OJ No. L150 30.04.04, p. 12, as amended by Corrigendum OJ No L185 24.05.04, p. 4

(2) 1998 c. 47

(3) 1998 c. 46; see section 126 and the Scottish Adjacent Waters Boundaries Order 1999 (S.I.1999/1126).

(4) 1998 c. 38

(5) As defined by section 1 of the Fishery Limits Act 1976 (c. 86).

(e) the territorial sea adjacent to Jersey; and

(f) seas within British fishery limits adjacent to Guernsey, as defined by section 8 of the Fishery Limits Act 1976⁽⁶⁾ as extended to Guernsey.

(3) Expressions in this Order which are not defined in the Order and which appear in the Council Regulation have the same meaning in this Order as they have for the purposes of the Council Regulation.

⁽⁶⁾ 1976 c. 86: see also article 2 and paragraph 3(c) of the Schedule to the Fisheries Limits Act (Guernsey) Order 1989 (S.I. 1989/2407).