

STATUTORY INSTRUMENTS

**2015 No. 191**

**The Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015**

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015 and comes into force on 6th March 2015.

(2) Subject to paragraph (3) and, as regards the Schedule, to any contrary provision in the third column, it extends to England and Wales and, except for articles 3 and 4, to Northern Ireland.

(3) The revocations of the British Fishing Boats Act 1983 (Guernsey) Order 1985 <sup>M1</sup> and the Undersized Lobsters Order 2000 <sup>M2</sup> in the Schedule, and article 7 in so far as it applies to those revocations, extend to the Bailiwick of Guernsey.

(4) In the Schedule—

- (a) revocations which extend to Wales have effect, for the purposes of the application of the instruments revoked which apply to Wales and the Welsh zone, to Wales and the Welsh zone;
- (b) revocations which extend to Northern Ireland have effect, for the purposes of the application of the instruments revoked which apply to Northern Ireland and the Northern Ireland zone, to Northern Ireland and the Northern Ireland zone <sup>M3</sup>.

**Marginal Citations**

**M1** [S.I. 1985/1203](#).

**M2** [S.I. 2000/1503](#).

**M3** The Northern Ireland zone is defined in section 98(1) of the [Northern Ireland Act 1998 \(c.47\)](#).

**Competent authorities**

2.—(1) The competent authorities responsible for fisheries monitoring centres for the purposes of Article 9(8) of the Control Regulation are—

- (a) for the fisheries monitoring centre for English and Welsh fishing boats and for <sup>F1</sup>... third country fishing boats in British Fishery Limits (other than in Scotland, the Scottish zone <sup>M4</sup>, Northern Ireland or the Northern Ireland zone), the Marine Management Organisation;
- (b) for the fisheries monitoring centre for Northern Ireland fishing boats and for <sup>F2</sup>... third country fishing boats in Northern Ireland or the Northern Ireland zone, the Department of Agriculture and Rural Development.

<sup>F3</sup>(2) .....

(3) The competent national authority for the purposes of Article 125 of the Commission Implementing Regulation is—

- (a) in relation to vessels registered at a port in England, the Marine Management Organisation;

- (b) in relation to vessels registered at a port in Wales, the Welsh Ministers;
  - (c) in relation to vessels registered at a port in Northern Ireland, the Department of Agriculture and Rural Development.
- (4) In this article—
- “the Commission Implementing Regulation” means Commission Regulation (EU) No. 404/2011 laying down detailed rules for the implementation of the Control Regulation, as amended from time to time;
- “the Control Regulation” means Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, as amended from time to time;
- “fishing boat” means a vessel equipped for the commercial exploitation of living aquatic resources, including sea fish, and—
- (a) an “English fishing boat” is a fishing boat registered at a port in England;
  - (b) a “Northern Ireland fishing boat” is a fishing boat registered at a port in Northern Ireland;
  - (c) a “Welsh fishing boat” is a fishing boat registered at a port in Wales.

#### Textual Amendments

- F1** Words in art. 2(1)(a) omitted (31.12.2020) by virtue of [The Fisheries \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/746\)](#), regs. 1, **12(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in art. 2(1)(b) omitted (31.12.2020) by virtue of [The Fisheries \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/746\)](#), regs. 1, **12(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** [Art. 2\(2\)](#) omitted (31.12.2020) by virtue of [The Fisheries \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/746\)](#), regs. 1, **12(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Marginal Citations

- M4** The Scottish zone is defined in section 126(1) of the [Scotland Act 1998 \(c.46\)](#).

### Recovery of fines

3.—(1) This article applies where a court in England or Wales imposes a fine on a person convicted of an offence under—

- (a) section 30(1) of the Fisheries Act 1981 <sup>F4</sup> ... <sup>M5</sup>; or
  - (b) an order extending to any part of the United Kingdom which is to any extent made under section 30(2) of that Act.
- (2) The court may, for the purposes of recovering the fine—
- (a) issue a warrant of distress against the fishing boat involved in the commission of the offence, its gear or catch or any property of the person convicted;
  - (b) order that the fishing boat, its gear or catch be detained until the earliest of—
    - (i) the expiry of a period not exceeding three months from the date of the conviction;
    - (ii) payment of the fine;
    - (iii) the recovery of the amount of the fine in pursuance of any such warrant.

(3) Sections 77(1) and 78 of the Magistrates' Courts Act 1980 <sup>M6</sup> (postponement of issue of, and defects in, warrants of distress) apply to a warrant of distress issued under this article as they apply to a warrant of distress issued under Part 3 of that Act.

(4) Where, in relation to a fine in respect of an offence referred to in paragraph (1), an order under article 95 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>M7</sup> or section 222 of the Criminal Procedure (Scotland) Act 1995<sup>M8</sup> (which deal with the transfer of fines from one jurisdiction to another) specifies a local justice area in England or Wales, this article applies as if the fine were imposed by a court within that area.

(5) In this article, "fine" includes any pecuniary penalty, pecuniary forfeiture or pecuniary compensation payable under a conviction.

#### Textual Amendments

- F4** Words in art. 3(1)(a) omitted (31.12.2020) by virtue of [The Fisheries \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/746\)](#), regs. 1, **12(3)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Marginal Citations

- M5** Section 30(1) was amended by section 293(2) of the [Marine and Coastal Access Act 2009 \(c.23\)](#) and by S.I. 2011/1043.
- M6** 1980 c.43; section 77(1) was amended by paragraph 47 of Schedule 13 to the [Tribunals, Courts and Enforcement Act 2007 \(c.15\)](#). Section 78 was amended by sections 37 and 46 of the [Criminal Justice Act 1982 \(c.48\)](#), and paragraph 219 of Schedule 8 to the Courts Act 2003.
- M7** S.I. 1981/1675 (N.I. 26).
- M8** 1995 c.46; section 222 was amended by paragraph 20(3) of Schedule 1 to the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6)

### Amendment of the Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites Regulations 2005

4.—(1) The Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites Regulations 2005<sup>M9</sup> are amended as follows.

(2) In regulation 1 (citation, commencement and extent)—

- (a) in paragraph (3)(b) and (c)(iv), after "Wales" insert " or the Welsh zone "; and
- (b) for paragraph (4) substitute—

"(4) In paragraph (3)(b) and (c)(iv), "Wales" and the "Welsh zone" have the same meanings as in section 158(1) of the Government of Wales Act 2006".<sup>M10</sup>

(3) In regulation 2 (interpretation)—

(a) in paragraph (1)—

- (i) omit the definition of "Article 9";
- (ii) omit the definition of "the CFP Regulation";
- (iii) after the definition of "British fishing boat" insert—
- "the Control Regulation" means Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, as amended from time to time";
- (iv) in the definition of "equivalent provisions", for "Article 9, or Article 22 of the CFP Regulation" substitute " Chapter II of Title V "; and
- (v) in the definition of "fish", for "Article 9 or Article 22 of the CFP Regulation" substitute " the Control Regulation "; and

(b) for paragraph (3) substitute—

“(3) Terms used in these Regulations which are not defined in paragraph (1) or (2) and which appear in the Control Regulation have the same meaning in these Regulations as they have for the purposes of the Control Regulation.

(4) In these Regulations, a reference to an Article means an Article of the Control Regulation, and a reference to Chapter II of Title V means Chapter II of Title V of the Control Regulation”.

- (4) In regulation 3 (registration of fish sellers)—
- (a) in paragraph (1), for “Article 9” substitute “ Chapter II of Title V (control of marketing: post-landing activities) ”;
  - (b) in paragraph (4), for “Article 9, Article 22 of the CFP Regulation” substitute “Articles 59, 62, 63, 64, 66 and 67”;
  - (c) in paragraph (8)(b), for “Article 9, Article 22 of the CFP Regulation” substitute “ Article 59, 62, 63, 64, 66 or 67 ”.
- (5) In regulation 5 (maintenance of records by registered fish seller), in paragraph (3), for “until the end of the second calendar year following that sale” substitute “ for 3 years ”.
- (6) In regulation 6 (designation of fish auction sites)—
- (a) in paragraph (1), for “Article 9 and Article 22 of the CFP Regulation” substitute “ Chapter II of Title V ”; and
  - (b) in paragraphs (3) and (7)(b), for “Article 9, Article 22 of the CFP Regulation” substitute “ Chapter II of Title V ”.
- (7) In regulation 7 (registration of fish buyers)—
- (a) in paragraph (1), for “Article 22(2)(b) of the CFP Regulation” substitute “ Article 59 ”;
  - (b) in paragraph (3), for “Article 9, Article 22 of the CFP Regulation” substitute “ Articles 62, 63, 64, 66 and 67 ”; and
  - (c) in paragraph (7)(b), for “Article 9, Article 22 of the CFP Regulation” substitute “ Article 62, 63, 64, 66 or 67 ”.
- (8) For regulation 8 (purchase of fish by an unregistered buyer), substitute—
- “(8) Any person who buys fish contrary to Article 59(2) is guilty of an offence, unless the exemption in Article 59(3) applies”.
- (9) In regulation 9 (maintenance of records by registered fish buyer), in paragraph (3), for “until the end of the second calendar year following that purchase” substitute “ , for 3 years ”.
- (10) In Schedule 1 (conditions applicable to registrations of fish sellers), in paragraph 2, for “Article 9 of Council Regulation (EEC) 2847/1993<sup>M11</sup>” substitute “ Articles 62 to 64 ”.
- (11) In Schedule 3 (conditions applicable to registrations of fish buyers), in paragraph 2, for “Article 22(2) of Council Regulation (EC) 2371/2002<sup>M12</sup>” substitute “ Articles 62 to 64 ”.

#### Marginal Citations

- M9** S.I. 2005/1605, amended by S.I. 2009/1309.
- M10** 2006 c.32. The definition of the “Welsh zone” was inserted into section 158(1) by section 43(2) of the [Marine and Coastal Access Act 2009 \(c.23\)](#).
- M11** OJ No. L 261, 20.10.1993, p. 1, repealed by Council Regulation (EC) No. 1224/2009 (OJ No. L 343, 22.12.2009, p. 1).
- M12** OJ No. L 358, 31.12.2002, p. 59, repealed by Regulation (EU) No. 1380/2013 (OJ No. L 354, 28.12.2013, p. 22).

### **Amendment of the Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007**

5. In the Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007 <sup>M13</sup>, in regulations 32(14)(b)(ii) (offences relating to European offshore marine sites), 34(6)(b)(ii) (protection of wild birds, their eggs and nests) and 39(11)(b)(ii) (protection of wild animals listed in Annex IV(a) to the Habitats Directive), for “Council Regulation (EC) No. 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy” substitute “ Council Regulation (EU) No. 1380/2013 on the Common Fisheries Policy <sup>M14</sup>, as amended from time to time ”.

#### **Marginal Citations**

**M13** S.I. 2007/1842, to which there are amendments not relevant to these Regulations.

**M14** OJ No. L 354, 28.12.2013, p. 22, as amended by Council Regulation (EU) No. 1385/2013 (OJ No. L 354, 28.12.2013, p. 86).

### **Amendment of the Tope (Prohibition of Fishing) Order 2008**

6. In the Tope (Prohibition of Fishing) Order 2008 <sup>M15</sup>, in article 2 (application), for paragraph (2) substitute—

“(2) This Order does not apply to fishing vessels, as defined in Article 4 of Council Regulation (EU) No. 1380/2013 on the Common Fisheries Policy, which are registered in another member State or in a third country”.

#### **Marginal Citations**

**M15** S.I. 2008/691.

### **Revocations**

7. The instruments specified in the Schedule are revoked to the extent (including, in certain cases, geographical extent) specified there.

Department for Environment, Food and Rural  
Affairs

*George Eustice*  
Parliamentary Under Secretary of State

*Carl Sargeant*  
Minister for Natural Resources, one of the Welsh  
Ministers

**Changes to legislation:**

There are currently no known outstanding effects for the The Sea Fishing (Enforcement and Miscellaneous Provisions) Order 2015.