STATUTORY INSTRUMENTS

1981 No. 100

SEA FISHERIES

The Sea Fish (Conservation) (Enforcement of Miscellaneous EEC Provisions) Regulations 1981

Made - - - -	*29th January* 1981
Laid before Parliament	*30th January* 1981
Coming into Operation	*31st January* 1981

The Minister of Agriculture, Fisheries and Food and the Secretary of State, acting jointly in exercise of the powers conferred on them by section 2(2) of the European Communities Act 1972(**a**) and of all other powers enabling them in that behalf, hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Sea Fish (Conservation) (Enforcement of Miscellaneous EEC Provisions) Regulations 1981, and shall come into operation on 31st January 1981.

Interpretation

2. In these regulations—

"the Council Regulation" means Council Regulation (EEC) No. 2527/80 laying down technical measures for the conservation of fishery resources(**b**), as amended(**c**);

"fishing boat" has the meaning assigned to it by section 19 of the Sea Fisheries Act 1968(**d**).

Disposal of prohibited and excess by-catches

3. Where a by-catch is retained on board—

(a) by any British fishing boat registered in the United Kingdom,

or

(b) in any waters adjacent to the United Kingdom and within British fishery limits by any other fishing boat

(**a**) 1972 c.68: the Minister of Agriculture, Fisheries and Food and the Secretary of State are Ministers designated in relation to the common agricultural policy by virtue of the European Communities (Designation) Order 1972 (S.I. 1972/1811).
(**b**) OJ No. L258, 1.10.80, p.1.
(**c**) By a Regulation of the Council adopted at its meeting on 27th January 1981.
(**d**) 1968 c.77.

in contravention of article 10(2) of the Council Regulation, the master, the owner and the charterer (if any) shall each be guilty of an offence under these regulations.

Carrying, trans-shipping and landing of undersized fish

4. Where any undersized fish is retained on board, trans-shipped or landed—

(a) by a British fishing boat registered in the United Kingdom,

or

(b) in any waters adjacent to the United Kingdom and within British fishery limits by any other fishing boat

in contravention of article 11(1) or (2) of the Council Regulation, the master, the owner and the charterer (if any) shall each be guilty of an offence under these regulations.

Sale of undersized fish

5. Any person who, in the United Kingdom, transports, sells or holds in possession, displays or offers for sale any undersized fish, in contravention of article 11(1) or (2) of the Council Regulation shall be guilty of an offence under these regulations.

Determination of minimum size

6. Article 11(3) and (4) of the Council Regulation shall apply in relation to determining when a fish is to be regarded as undersized for the purpose of these regulations.

Trans-shipping, landing, transport or sale of salmon caught outside 12 mile limit

7.—(1) Where any salmon (Salmo salar) is trans-shipped—

(a) by a British fishing boat registered in the United Kingdom, or

(b) in any waters adjacent to the United Kingdom and within British fishery limits by any other fishing boat

in contravention of article 12 of the Council Regulation, the master, the owner and the charterer (if any) shall each be guilty of an offence under these regulations.

(2) Where any salmon is landed in the United Kingdom by any fishing boat in contravention of article 12 of the Council Regulation, the master, the owner and the charterer (if any) shall each be guilty of an offence under these regulations.

(3) Any person who in the United Kingdom transports, sells or holds in possession, displays or offers for sale any salmon in contravention of article 12 of the Council Regulation shall be guilty of an offence under these regulations.

Processing operations carried out on fishing vessels

8. Where any processing operation is carried out—

(a) on a British fishing boat registered in the United Kingdom, or

(b) in any waters adjacent to the United Kingdom and within British fishery limits on any other fishing boat

in contravention of article 16 of the Council Regulation, the master, the owner and the charterer (if any) shall each be guilty of an offence under these regulations.

Penalties

9. Any person who is guilty of an offence under these regulations shall be liable—

(a) on summary conviction to a fine not exceeding £1,000; or

(b) on conviction on indictment to a fine.

Enforcement

10.—(1) The provisions of section 8(2) to (4) of the Sea Fisheries Act 1968(**a**) (general powers of British sea-fishery officers) shall have effect in relation to these regulations as they have effect in relation to an order made under section 5 of that Act or section 2 of the Fishery Limits Act 1976(**b**) and, for the purpose of the enforcement of these regulations, there are hereby conferred on every British sea-fishery officer all the powers of a British sea-fishery officer under those subsections.

(2) A British sea-fishery officer shall not be liable in any civil or criminal proceedings for anything done in purported exercise of the powers conferred on him by paragraph (1) above if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(3) Any person who on any fishing boat which is within British fishery limits—

(a) fails to comply with any requirement imposed, or to answer any question asked, by a British sea-fishery officer under the powers conferred on him by paragraph (1) above;

(b) prevents, or attempts to prevent, any other person from complying with any such requirement or answering any such question; or

(c) assaults any such officer while exercising any of the powers conferred on him by paragraph (1) above or obstructs any such officer in the exercise of any of those powers

shall be guilty of an offence, and shall, on summary conviction, be liable to a fine not exceeding £400.

(4) The provisions of section 16 of the Sea Fish (Conservation) Act 1967 (**c**) (enforcement of orders relating to size limits for fish) shall have effect in relation to these regulations as they have effect in relation to an order made under section 1 of that Act or to section 2 thereof.

Provisions as to offences and proceedings

11.—(1) Section 12 of the Sea Fish (Conservation) Act 1967 (offences committed by bodies corporate) shall have effect in relation to an offence under these regulations as it has effect in relation to an offence under the provisions of that Act mentioned in that section.

(2) Section 13 of that Act (institution of proceedings by local fisheries committee) shall have effect in relation to the institution of proceedings in respect of a contravention of regulation 4 or 5 of these regulations as they have effect in relation to the institution of proceedings in respect of a contravention of section 1 or 2 of that Act.

(3) Proceedings for an offence under the foregoing provisions of these regulations may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

(**a**) Subsection (4) is amended by the Fishery Limits Act 1976 (c.86) sections 2(8) and 9(1) and Schedule 2, paragraph 17(1).

(b) 1976 c. 86.

(c) 1967 c. 84.

Duration of regulations

12. The provisions of these regulations shall cease to have effect on 1st March 1981.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 29th January 1981.

(L.S.)

Peter Walker,
Minister of Agriculture, Fisheries and Food.

George Younger,
29th January 1981. Secretary of State.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations, which apply throughout the United Kingdom, provide for the enforcement of certain provisions of Council Regulation (EEC) No. 2527/80 laying down technical measures for the conservation of fishery resources (OJ No. L258, 1.10.80, p.1), as amended by a Regulation of the Council adopted at its meeting on 27th January 1981. The regulations create offences in respect of contraventions of the following articles of the Council Regulation—

(a) article 10(2), which relates to the return of prohibited by-catches and excess by-catches to the sea (regulation 3);

(b) article 11, which relates to the carrying, trans-shipping, landing, transporting and selling of undersized fish (regulations 4, 5 and 6);

(c) article 12, which relates to salmon taken outside the 12 mile limit within British fishery limits (regulation 7);

(d) article 16, which relates to processing operations carried out on a fishing vessel within British fishery limits (regulation 8).

The regulations impose penalties on persons convicted of an offence under the regulations (regulation 9) and also contain provisions relating to enforcement (regulations 10 and 11).

The regulations cease to have effect on 1st March 1981 (regulation 12).

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