STATUTORY INSTRUMENTS

1983 No. 1818

SEA FISHERIES

The Sea Fishing (Enforcement of Community Conservation Measures) (Amendment) Order 1983

Made - - - -	*8th December* 1983
Laid before Parliament	*9th December* 1983
Coming into Operation	*1st January* 1984

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with sea fishing in Scotland, Wales and Northern Ireland, in exercise of the powers conferred on them by section 30(2) of the Fisheries Act 1981 (**a**), and of all other powers enabling them in that behalf, hereby make the following order:—

Title and commencement

1. This order may be cited as the Sea Fishing (Enforcement of Community Conservation Measures) (Amendment) Order 1983 and shall come into operation on 1st January 1984.

Amendment of the Sea Fishing (Enforcement of Community Conservation Measures) Order 1983

2. The Sea Fishing (Enforcement of Community Conservation Measures) Order 1983 (**b**) shall be amended in accordance with articles 3 to 8 of this order.

Amendment of article 2

3. In article 2 (interpretation) there shall be inserted at the end the words ", as amended by Council Regulation (EEC) No 2931/83 (**c**); and 'fish' includes crustacea, molluscs and parts of fish".

Amendment of article 3

4. In article 3 (offences and penalties) there shall be deleted the words "in any waters adjacent to the United Kingdom and" and the words "registered in the United Kingdom".

Amendment of article 6

5. In article 6 (forfeiture of fish or gear and fines not exceeding value of fish)—

(a) there shall be substituted in paragraph (1)*(b)* for the words "the first subparagraph of article 3(1), article 3(2), 4(1)," the words "(as read with the first subparagraph of article 3(1) and articles 3(2), 4(1), 8 and 9),";

(**a**) 1981 c.29.
(**b**) S.I. 1983/256.
(**c**) OJ No. L288, 21.10.83, p.1.

(b) there shall be substituted in paragraph (1)*(c)* for the words "article 8, 9, 10(2) or the first paragraph of article 12" the words "article 10(2), 12(1)";

(c) there shall be inserted in paragraph (1)*(c)* after the word "landing)" the words "or article 15(1a)"; and

(d) there shall be substituted in paragraph (2) for the words ", the first subparagraph of article 3(1), article 3(2), 4(1)", the words "(as read with the first subparagraph of article 3(1) and articles 3(2), 4(1), 8 and 9),".

Amendment of article 7

6. In article 7 (enforcement)—

(a) there shall be substituted for paragraph (1)*(a)* the following subparagraph:—

"*(a)* any fish in respect of which an offence founded on a contravention of, or failure to comply with, article 10(2), 11 (in so far as it relates to retention on board, trans-shipment from a vessel or landing), article 12(1) (in so far as it relates to retention on board, trans-shipment from a vessel or landing) or article 15(1a) of the Council Regulation or article 4 or 5 of this order has been or is being committed;";

(b) there shall be substituted for paragraph (1)*(b)* the following subparagraph:—

"*(b)* any net or other fishing gear in respect of which an offence founded on a contravention of, or failure to comply with, article 2(1) (as read with the first subparagraph of article 3(1) and articles 3(2), 4(1), 8 and 9), 5, 7, 14 or 15(1a) of the Council Regulation has been or is being committed;";

(c) there shall be substituted in paragraph (1)*(c)* for the words "the first paragraph of article 12" (in both places) the words "article 12(1)"; and

(d) there shall be deleted from paragraph (3) the words "in any waters adjacent to the United Kingdom and" and the words "registered in the United Kingdom".

Amendment of article 8

7. There shall be substituted for article 8(2)*(a)* (power of a local fisheries committee to take proceedings) the following subparagraph:—

"*(a)* article 3 of this order where that offence is founded on a contravention of, or failure to comply with, article 2(1) (as read with the first subparagraph of article 3(1) and articles 3(2), 4(1), 8 and 9), 5, 7, 10(2), 11(1) or (2) or 14 of the Council Regulation;".

Amendment of Schedule

8. There shall be substituted for the Schedule (maximum penalties on summary conviction) the schedule contained in the Schedule to this order.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 7th December 1983.

L.S.

Michael Jopling,
Minister of Agriculture, Fisheries and Food.

George Younger,
Secretary of State for Scotland.

7th December 1983.

Nicholas Edwards,
Secretary of State for Wales.

7th December 1983.

James Prior,
Secretary of State for Northern Ireland.

8th December 1983.

SCHEDULE

Article 8

NEW SCHEDULE TO THE SEA FISHING (ENFORCEMENT OF COMMUNITY CONSERVATION MEASURES) ORDER 1983

SCHEDULE

Article 3

MAXIMUM PENALTIES ON SUMMARY CONVICTION

Column 1	Column 2	Column 3
Provision of the Council Regulation	Subject Matter	Maximum Penalty
1. Article 2(1), as read with articles 3(1) first subparagraph, 3(2), 4(1), 8 and 9	Provisions relating to mesh size of nets	£5,000
2. Article 5	Nets authorised to be used when fishing for hake	£5,000
3. Article 7	Attachments to nets	£5,000
4. Article 10(2)	Disposal of prohibited by-catches	£5,000
5. Article 11, in so far as it relates to retention on board, trans-shipment from a vessel or landing	Minimum fish sizes and prohibition on landing lobster tails or claws of lobsters and crabs	£1,000
6. Article 11, in so far as it relates to trans-shipment into a vessel	Trans-shipment of undersized fish into a vessel	£50,000
7. Article 12(1), in so far as it relates to retention on board	Prohibition on retaining salmon on board	£5,000
8. Article 12(1), in so far as it relates to trans-shipment from a vessel or landing	Prohibition on trans-shipment from a vessel or landing of salmon	£1,000
9. Article 12(1), in so far as it relates to trans-shipment into a vessel	Prohibition on trans-shipment into a vessel of salmon	£50,000
10. Article 14	Limitation on the use of specified gear or vessels	£5,000
11. Article 15(1a), first subparagraph, in so far as it relates to waters outside British fishery limits	Prohibition on fishing for mackerel in specified waters in western English Channel and south-east of Ireland	£50,000
12. Article 15(1a), fourth subparagraph	Requirement to notify appropriate control authority of intention to fish in waters specified in article 15(1a), first subparagraph	£1,000

Column 1	Column 2	Column 3
Provision of the Council Regulation	Subject Matter	Maximum Penalty
13. Article 15(1a), fifth subparagraph	Requirement to notify appropriate control authority of quantity of mackerel on board vessel on entering waters specified in article 15(1a), first subparagraph	£1,000
14. Article 16	Prohibition of certain processing operations at sea	£1,000

EXPLANATORY NOTE

(This Note is not part of the Order.)

This order amends the Sea Fishing (Enforcement of Community Conservation Measures) Order 1983 ("the principal order") to make provision for the enforcement of certain provisions set out in Council Regulation (EEC) No. 2931/83 (OJ No. L288, 21.10.83, p.1) amending Council Regulation (EEC) No. 171/83 (OJ No. L24, 27.1.83, p.14). The relevant provisions of Council Regulation (EEC) No. 171/83 as so amended ("the Council Regulation")—

(a) prohibit the retention on board, trans-shipment, landing, transporting or sale of any undersized crustacea or molluscs for which a minimum size has been laid down (article 11(1) to (4));

(b) prohibit the landing of lobster tails or claws of lobsters, edible crabs and spinous spider crabs in areas where a minimum size is laid down for lobsters and such crabs (article 11(5));

(c) prohibit fishing for mackerel throughout the year in specified waters in the western English Channel and south-east of Ireland subject to certain derogations (article 15(1a)).

The maximum penalties specified for offences relating to these provisions (ranging from £1,000 to £50,000 on summary conviction) correspond to the penalties imposed for equivalent offences by virtue of the Sea Fish (Conservation) Act 1967 (c.84), as amended by the Fisheries Act 1981.

References to provisions of the Council Regulation have been modified to clarify the inter-relationship of those provisions.

The order (articles 4 and 6*(d)*) amends articles 3 and 7(3) of the principal order, which create offences in respect of contraventions of the relevant provisions of the Council Regulation and confer enforcement powers on British sea-fishery officers, so that they apply in relation to—

(a) any fishing boat anywhere within British fishery limits; and

(b) any British fishing boat wherever it may be.

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