STATUTORY INSTRUMENTS

1983 No. 720

SEA FISHERIES

The Third Country Fishing (Enforcement) (No. 2) Order 1983

Made - - - - -	12*th May* 1983
Laid before Parliament	12*th May* 1983
Coming into Operation	2*nd June* 1983

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 their other enabling powers, hereby make the following order:—

Title, commencement, duration and interpretation

1.—(1) This order may be cited as the Third Country Fishing (Enforcement) (No. 2) Order 1983, shall come into operation on 2nd June 1983 and shall cease to have effect on 1st January 1984.

(2) In this order, "relevant community provision" means any provision of a Regulation of the European Communities referred to in column 1 of the Schedule to this order which is set out in column 2 of that Schedule opposite the reference to that Regulation.

Offences and penalties

2. If there is, in respect of any vessel to which a relevant community provision applies, a contravention of, or failure to comply with, that provision within British fishery limits, the master of that vessel shall be guilty of an offence and liable—

(*a*) on summary conviction to a fine not exceeding the maximum specified in column 4 of that Schedule opposite the reference to that provision in column 2; or

(*b*) on conviction on indictment to a fine.

Enforcement

3.—(1) The provisions of section 8(2) to (4) of the Sea Fisheries Act 1968**(b)** (general powers of British sea-fishery officers) shall have effect in relation to this order 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**(c)**, and for the purpose

(a) 1981 c. 29.

(b) 1968 c. 77; subsection (3) was amended by the Fisheries Act 1981, section 26(2) and subsection (4) by section 26(3) of that Act.

(c) 1976 c. 86.

of the enforcement of this order, 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 the 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, that there were reasonable grounds for doing it and that it was done with reasonable skill and care.

(3) Any person who on any fishing boat flying the flag of Spain, Norway or Sweden, or any fishing boat registered in the Faroe Islands, which is within British fishery limits—

(*a*) fails without reasonable excuse to comply with any requirement imposed, or to answer any question (other than a question tending to show that he has committed any criminal offence) 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 liable;

(i) on summary conviction to a fine not exceeding £5,000; or

(ii) on conviction on indictment to a fine.

Recovery of fines

4.—(1) Where a fine is imposed by a magistrates' court in England and Wales or Northern Ireland on the master or a member of the crew of a fishing boat who is convicted by the court of an offence under article 2 or 3(3) of this order, the court may—

(*a*) issue a warrant of distress against the boat and its gear and catch and any property of the person convicted for the purpose of levying the amount of the fine; and

(*b*) order the boat to be detained for a period not exceeding three months from the date of the conviction or until the fine is paid or the amount of the fine is levied in pursuance of any such warrant, whichever occurs first.

(2) Where a fine is imposed by a sheriff in Scotland on the master or a member of the crew of a fishing boat who is convicted by the sheriff of an offence under article 2 or 3(3) of this order, the sheriff may—

(*a*) issue a warrant for the poinding and sale of the boat and its gear and catch and any property of the person convicted; and

(*b*) order the boat to be detained for a period not exceeding three months from the date of the conviction or until the fine is paid, whichever occurs first.

(3) Sections 77(1) and 78 of the Magistrates' Courts Act 1980**(a)** (postponement of issue of, and defects in, warrants of distress) shall apply to a warrant of distress issued under this article in England and Wales as they apply to a warrant of distress issued under Part III of that Act.

(4) Article 114(2) of the Magistrates' Courts (Northern Ireland) Order 1981**(b)** (postponement of issue of certain warrants) shall apply to a warrant of distress issued under this article in Northern Ireland as it applies to a warrant referred to in that article.

Jurisdiction to try offences

5. Proceedings for an offence under the foregoing provisions of this order may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 11th May 1983.

(L.S.)

Peter Walker,
Minister of Agriculture, Fisheries and Food.

George Younger,
Secretary of State for Scotland.

11th May 1983.

Nicholas Edwards,
Secretary of State for Wales.

11th May 1983.

James Prior,
Secretary of State for Northern Ireland.

12th May 1983.

(a) 1980 c. 43. **(b)** S.I. 1981/1675 (N.I. 26).

Articles 1(2) and 2

SCHEDULE

PENALTIES

Column 1	Column 2	Column 3	Column 4
Regulation of the European Communities	Provision	Subject matter	Maximum Penalty
1. Council Regulation (EEC) No 709/83 laying down, for 1983, certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Spain (OJ No L83, 30.3.83, p.9).	Article 2(1) and (4)	Holding on board of licence and observance of conditions thereof	£5,000
	Article 7(b), (c) and (e)	Limitations on fishing gear on board	£5,000
2. Council Regulation (EEC) No 1008/83 laying down for 1983 certain measures for the conservation and management of fishery resources applicable to vessels registered in the Faroe Islands (OJ No L115, 30.4.83, p. 1).	Article 2(2)	Keeping of logbook	£1,000
	Article 2(3)	Transmission of information	£1,000
	Article 2(4)	Marking on vessels of registration letters and numbers	£1,000
	Article 3(1)	Holding on board of licence and observance of conditions thereof	£5,000
3. Council Regulation (EEC) No 1009/83 laying down for 1983 certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Norway (OJ No L115, 30.4.83, p. 11).	Article 2(2)	Keeping of logbook	£1,000
	Article 2(3)	Transmission of information	£1,000
	Article 2(4)	Marking on vessels of registration letters and numbers	£1,000
	Article 3(2)	Holding on board of licence and observance of conditions thereof	£5,000
4. Council Regulation (EEC) No 1010/83 laying down for 1983 certain measures for the conservation and management of fishery resources applicable to vessels flying the flag of Sweden (OJ No L115, 30.4.83, p. 21).	Article 2(2)	Keeping of logbook	£1,000
	Article 2(3)	Transmission of information	£1,000
	Article 2(4)	Marking on vessel of registration letters and numbers	£1,000
	Article 3(1)	Holding on board of licence and observance of conditions thereof	£5,000

EXPLANATORY NOTE

(This Note is not part of the Order.)

This order makes breaches of specified articles of the Community Regulations set out in column 1 of the Schedule to the order offences for the purposes of United Kingdom law where they occur within British fishery limits.

The Community Regulations authorise fishing in certain specified areas within member States' fishery limits for specified descriptions of fish by vessels of third countries being in this case vessels flying the flags of Spain, Norway and Sweden, and by vessels registered in the Faroe Islands. The offences arise out of breaches of the provisions of the Community Regulations concerning the holding on board of licences and observance of the conditions thereof, the keeping of log books, radio reports and similar matters, and are all triable summarily or on indictment. On summary conviction, the master of an offending vessel will be liable to a fine not exceeding the sum specified in relation to his offence in column 4 of the Schedule to the order and, on conviction on indictment, to a fine. The order ceases to have effect on 1st January 1984.

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