
EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the enforcement of Articles 3 and 28c of Council Regulation (EEC) No. 2847/93 establishing a control system applicable to the common fisheries policy and Commission Regulation (EC) 1489/97 laying down detailed rules for the application of Council Regulation (EEC) No. 2847/93 as regards satellite-based vessel monitoring systems.

Those Regulations provide for the transmission via satellite of vessel identification and location reports by fishing boats measuring more than 20 metres between perpendiculars or more than 24 metres in overall length. Article 3 of the Order is the principal provision giving effect to these requirements.

The Order creates offences in respect of breaches of the provisions referred to in article 4 of this Order, including breaches of articles 6.1 and 6.2 of Commission Regulation (EC) No. 1489/97. Articles 6.1 and 6.2 require the required information (as defined in article 2(1) of the Order) to be sent to the flag Member State and the concerned coastal Member State by alternative means, at least every 24 hours, in the event of a technical failure or non-function of either a satellite tracking device installed on a fishing boat or the vessel monitoring system of the flag Member State. Also, in the event of a technical failure or non-function of a satellite tracking device the owner is required to have it repaired or replaced within one month or, where such event occurs during a fishing trip that lasts for more than one month, as soon as the fishing boat enters a port. The master of the fishing boat is not authorised to commence a new fishing trip until the satellite tracking device has been repaired or so replaced.

Penalties for contravention of the provisions referred to in article 4 of this Order are to be found in article 5 of the Order.

For the purpose of enforcing this Order British sea-fishery officers are given powers to board fishing boats, to search, examine and test the equipment of the boat, to require the production of documents and to take the boat to the nearest convenient port (article 7).

Provision is also made for the prosecution of offences of changing the identification of a satellite tracking device installed on a fishing boat or removing the device from the boat without prior authorisation (article 4(3)), interfering with transmissions from the device or knowingly furnishing false information (article 4(4)), and obstruction of British sea-fishery officers (article 9). Penalties following conviction are set out in article 5(2) and 9. The statutory maximum penalty specified in the Order is currently £5,000.

The Order provides powers for the recovery of fines imposed by a magistrate's court in England or Northern Ireland (article 6).

Articles 8, 10 and 11 contain ancillary provisions.

The Order does not form part of the law of Scotland. It does not apply in relation to fishing activities within the territorial sea of Wales.

The Regulatory Impact Assessment in relation to the application of the satellite-based vessel monitoring system to UK fishing boats has been prepared and placed in the library of each House of Parliament. Copies can be obtained from Fisheries Division IV of the Ministry of Agriculture, Fisheries and Food, Room 420, Nobel House, 17 Smith Square, London SW1P 3JR.