

2004 No. 1237

SEA FISHERIES, ENGLAND

**The Sea Fishing (Enforcement of Community Quota and
Third Country Fishing Measures) (England) Order 2004**

Made - - - - - *27th April 2004*

Laid before Parliament *30th April 2004*

Coming into force - - *26th May 2004*

The Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with sea fishing in Northern Ireland, in exercise of the powers conferred upon them by section 30(2) of the Fisheries Act 1981(a) hereby make the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures) (England) Order 2004 and shall come into force on 26th May 2004.

(2) Subject to paragraph (3) below, this Order shall not form part of the law of Scotland or Northern Ireland or apply in Wales.

(3) Nothing in paragraph (2) above shall be treated as prejudicing the effect of section 30(2A) of the Fisheries Act 1981(b) in relation to, or for purposes incidental to, any provision in this Order which creates an offence.

(a) 1981 c. 29. See section 30(3) for the definitions of “enforceable Community restriction”, “enforceable Community obligation” and “the Ministers”, as modified by Schedule 2, paragraph 68(5) of the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820). Article 3(1) and Schedule 1 to the Scotland Act 1998 (Concurrent Functions) Order 1999 (S.I. 1999/1592) provide for the functions exercisable under section 30(2) of the 1981 Act to be exercised by the Ministers, concurrently with Scottish Ministers, in relation to: British fishing boats (other than Scottish ones) within the Scottish zone; and Scottish fishing boats within British fishery limits but outside the Scottish zone. By virtue of article 2(a) of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions exercisable under section 30(2) of the 1981 Act were transferred to the National Assembly in so far as exercisable in relation to Wales (defined in section 155(1) of the Government of Wales Act 1998 (c. 38) as including “the sea adjacent to Wales out as far as the seaward boundary of the territorial sea”); in respect of waters beyond Wales these functions remain exercisable by the Ministers. By virtue of article 2(1) of the Transfer of Functions (Agriculture and Fisheries) Order 2000 (S.I. 2000/1812) any remaining functions of the Secretaries of States for Scotland and Wales under section 30(2) of the 1981 Act were transferred to the Minister of Agriculture, Fisheries and Food. By virtue of article 2(1) of the Transfer of Functions (Agriculture and Fisheries) Order 2000 (S.I. 2000/1812), any remaining functions of the Secretaries of State for Scotland and Wales under section 30(2) of the 1981 Act were transferred to the Minister of Agriculture, Fisheries and Food. The functions of the Minister of Agriculture, Fisheries and Food and one or more named Secretaries of State (however described) acting jointly by virtue of article 2(5) of the Ministry of Agriculture, Fisheries and Rural Affairs and the one or more Secretaries of State acting jointly by virtue of article 2(5) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order.

(b) Section 30(2A) was inserted by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820).

Interpretation

2.—(1) In this Order—

“the Council Regulation” means Council Regulation (EC) No. 2287/2003 fixing for 2004 the fishing opportunities and associated conditions for fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required^(a);

“Council Regulation 2847/93” means Council Regulation (EEC) No. 2847/93 establishing a control system applicable to the common fisheries policy^(b);

“Northern Ireland fishing boat” means a fishing boat which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995^(c) and whose entry in the register specifies a port in Northern Ireland as the port to which the boat is to be treated as belonging;

“Northern Ireland zone” has the same meaning as in the Northern Ireland Act 1998^(d);

“relevant British fishing boat” means a fishing boat (other than a Scottish fishing boat or a Northern Ireland fishing boat), which is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995 or is owned wholly by persons qualified to own British ships for the purposes of that part of that Act;

“relevant offence” means an offence under—

(a) article 4, or

(b) any provision in any other order extending to any part of the United Kingdom made for the purposes of implementing a specified Community provision, being a provision in respect of which, by virtue of section 30(2A) of the Fisheries Act 1981, proceedings may be commenced in any place in the United Kingdom;

“Scottish fishing boat” means a fishing boat which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Scotland as the port to which the boat is to be treated as belonging;

“Scottish zone” has the same meaning as in the Scotland Act 1998^(e);

“specified Community provision” means a provision of the Council Regulation specified in column 1 of Schedules 1, 2, or 3 to this Order as read with any qualifying words relating to that provision in that column; and

“third country fishing boat” means a fishing boat flying the flag of and registered in a state other than a Member State of the European Community.

(2) In this Order—

(a) the term “within relevant British fishery limits”^(f) does not include—

(i) the Scottish zone;

(ii) the Northern Ireland zone;

(iii) the territorial sea adjacent to the Isle of Man;

(iv) the territorial sea adjacent to the Bailiwick of Jersey; and

(v) seas within British fishery limits adjacent to Guernsey, as defined by section 8 of the Fishery Limits Act 1976^(g) as extended to Guernsey;

(b) any reference to a document includes—

(i) any map, plan, graph or drawing;

(ii) any photograph;

(iii) any data, howsoever reproduced, communicated via a satellite-based vessel monitoring system established under Article 3.1 of Council Regulation 2847/93;

(a) OJ No. L344, 31.12.2003, p. 1.

(b) OJ No. L261, 20.10.93, p. 1; the latest amending instrument is Council Regulation (EC) No. 2846/98 (OJ No. L358, 31.12.1998, p. 5).

(c) 1995 c. 21.

(d) 1998 c. 47; *see* section 98.

(e) 1998 c. 46; *see* section 126 and the Scottish Adjacent Waters Boundaries Order 1999 (S.I. 1999/1126).

(f) As defined by section 1 of the Fishery Limits Act 1976 (c. 86).

(g) 1976 c. 86; *see* also article 2 and paragraph 3(c) of the Schedule to the Fisheries Limits Act (Guernsey) Order 1989 (S.I. 1989/2407).

- (iv) any disk, tape, sound track or other device in which sounds or other data (not being visual images) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (v) any film (including microfilm), negative, tape, disk or other device in which one or more visual images are recorded so as to be capable (as aforesaid) of being reproduced therefrom.

(3) In this Order—

- (a) any reference to a Community instrument is a reference to that instrument as amended on the date this Order is made; and
- (b) any reference to an article shall, unless the context otherwise requires, be construed as a reference to an article of this Order.

(4) For the purpose of the prohibition contained in point 1 of Annex III to the Council Regulation (which prohibits the landing of herring unsorted from the remainder of the catch at a harbour where adequate sampling programmes are not in place), a harbour in England shall not be regarded as having in place a system which is adequate for sampling a catch that includes unsorted herring unless, before the landing of the catch in question,—

- (a) the master of the fishing boat in question has applied to a British sea-fishery officer at the harbour in question for a decision as to the suitability of that harbour for landing the catch on that boat; and
- (b) the British sea-fishery officer has decided that the sampling systems at the harbour are adequate, having regard to the overall size and characteristics of the catch, for the purpose of monitoring effectively the landing of that catch, and has so notified the master.

Weighing procedures for herring, mackerel and horse mackerel

3.—(1) For the purposes of point 12.8 of Annex IV to the Council Regulation the controller, in relation to any buyer or holder of fish at a port, shall be a British sea-fishery officer, unless—

- (a) the buyer or holder is party to an arrangement made among buyers, holders or both using the port with a person or organisation to act as the controller; and
- (b) details of the arrangement and of the buyers, holders or both who are parties to it have been notified to the competent authority,

in which case the controller shall be that person or a British sea-fishery officer.

(2) For the purposes of these Regulations, failure to weigh in the presence of the controller in circumstances where that point applies shall be treated as a contravention of that point.

Offences

4.—(1) Where there is, in relation to—

- (a) any relevant British fishing boat wherever it may be, or
- (b) any other fishing boat which is within relevant British fishery limits,

a contravention of, or failure to comply with, any specified Community provision in column 1 of Schedule 1 or column 1 of Schedule 2 to this Order, the master, the owner and the charterer (if any) shall each be guilty of an offence.

(2) Where there is a contravention of, or failure to comply with, any specified Community provision in column 1 of Schedule 2 to this Order which does not relate to fishing boats, each person responsible for the contravention shall be guilty of an offence.

(3) Where there is, in respect of any third country fishing boat to which any specified Community provision in column 1 of Schedule 3 to this Order applies which is within relevant British fishery limits, a contravention of, or failure to comply with, that specified Community provision, the master, the owner and the charterer (if any) shall each be guilty of an offence.

Penalties

5.—(1) A person found guilty of a relevant offence shall be liable—

- (a) on summary conviction to fine not exceeding the amount specified in column 3 of the Schedules to this Order in relation to the specified Community provision, the contravention of, or failure to comply with which, founded the offence; and
- (b) on conviction on indictment, to a fine.

- (2) A person found guilty of a relevant offence shall also be liable—
- (a) to the forfeiture of any net or other fishing gear in respect of which the offence was committed, or which was used in committing the offence, or which was used for catching any fish in respect of which the offence was committed; and
 - (b) to the forfeiture of any fish in respect of which the offence was committed, or, on summary conviction only, to a fine not exceeding the value of any fish in respect of which the offence was committed.

Recovery of fines

6.—(1) Where a fine is imposed by a magistrates' court on the master, owner or charterer, or a member of the crew, of a fishing boat who is convicted by the court of a relevant offence or an offence under article 11, the court may—

- (a) issue a warrant of distress against the boat involved in the commission of the offence 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 that boat and its gear and catch 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) 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 as they apply to a warrant of distress issued under Part III of that Act.

(3) Where in relation to a fine in respect of a relevant offence an order under Article 95 of the Magistrates' Courts (Northern Ireland) Order 1981^(b) or section 222 of the Criminal Procedure (Scotland) Act 1995^(c) (both of which deal with transfer of fines from one jurisdiction to another) specifies a petty sessions area in England this article shall apply as if the fine were imposed by a court within that petty sessions area or petty sessions district.

Powers of British sea-fishery officers in relation to fishing boats

7.—(1) For the purpose of enforcing the provisions of article 4(1) or (3), or any equivalent provision in any other order extending to any part of the United Kingdom made for the purposes of implementing a specified Community provision, any British sea-fishery officer may exercise the powers conferred by paragraphs (2) to (4) below in relation to—

- (a) any relevant British fishing boat wherever it may be; and
- (b) any other fishing boat which is within relevant British fishery limits.

(2) He may go on board the boat, with or without persons assigned to assist him in his duties, and may require the boat to stop and do anything else which will facilitate either the boarding of, or the disembarkation from, the boat.

(3) He may require the attendance of the master and other persons on board the boat and may make any examination and inquiry which appears to him to be necessary for the purpose mentioned in paragraph (1) above and, in particular—

- (a) may search for fish or fishing gear on the boat and may examine any fish on the boat and the equipment of the boat, including the fishing gear, and require persons on board the boat to do anything which appears to him to be necessary for facilitating the examination;
- (b) may require any person on board the boat to produce any document (relating to the boat, to any fishing operations or other operations ancillary thereto or to the persons on board) which is in that person's custody or possession;
- (c) for the purpose of ascertaining whether a relevant offence has been committed, may search the boat for any such document and may require any person on board the boat to do anything which appears to him to be necessary for facilitating the search;

^(a) 1980 c. 43; section 78 was amended by sections 37 and 46 of the Criminal Justice Act 1982 (c. 48).

^(b) S.I. 1981/1675 (NI 26).

^(c) 1995 c. 46.

- (d) may inspect and take copies of any such document produced to him or found on board and, where any such document is kept by means of a computer, require it to be produced in a form in which it may be taken away; and
- (e) where the boat is one in relation to which he has reason to suspect that a relevant offence has been committed, may seize and detain any such document produced to him or found on board for the purpose of enabling the document to be used as evidence in proceedings for the offence;

but nothing in sub-paragraph (e) above shall permit any document required by law to be carried on board the boat to be seized and detained except while the boat is detained in a port.

(4) Where it appears to a British sea-fishery officer that a relevant offence has at any time been committed in relation to a fishing boat, he may—

- (a) require the master of the boat in relation to which the offence took place to take, or may himself take, the boat and its crew to the port which appears to him to be the nearest convenient port; and
- (b) detain or require the master to detain the boat in the port;

and where such an officer detains or requires the detention of a boat he shall serve on the master a notice in writing stating that the boat will be or is required to be detained until the notice is withdrawn by the service on the master of a further notice in writing signed by a British sea-fishery officer.

Powers of British sea-fishery officers on land

8.—(1) For the purpose of enforcing the provisions of article 4 or any equivalent provision in any other order extending to any part of the United Kingdom made for the purposes of implementing a specified Community provision, any British sea-fishery officer may in England—

- (a) enter and inspect at any reasonable time any premises used for carrying on any business in connection with the operation of fishing boats or activities connected therewith or ancillary thereto or with the treatment, storage or sale of fish;
- (b) take with him such other persons as appear to him to be necessary and any equipment or materials;
- (c) examine any fish on the premises and require persons on the premises to do anything which appears to him to be necessary for facilitating the examination;
- (d) carry out at such premises such other inspections or tests as may reasonably be necessary;
- (e) require any person not to remove or cause to be removed any fish from such premises for such a period as may be reasonably necessary for the purposes of establishing whether a relevant offence has at any time been committed;
- (f) require any person on the premises to produce any documents which are in that person's custody or possession relating to the catching, landing, transportation, trans-shipment, sale or disposal of any sea fish;
- (g) for the purpose of ascertaining whether any person on the premises has committed a relevant offence, search the premises for any such document and require any person on the premises to do anything which appears to him to be necessary for facilitating the search including rendering all documents on computer systems into a visible and legible form;
- (h) inspect and take copies of any such document produced to him or found on the premises and where any such document is kept by means of a computer, require it to be produced in a form in which it may be taken away; and
- (i) if he has a reason to suspect that a relevant offence has been committed, seize and detain any such document produced to him or found on the premises for the purpose of enabling the document to be used as evidence in proceedings for the offence.

(2) The provisions of paragraph (1) above shall also apply in relation to any land used in connection with any of the activities described in paragraph (1) above, and in respect of any vehicle which a British sea-fishery officer has reasonable cause to believe is being used to transport fisheries products, as they apply in relation to premises and, in the case of a vehicle, shall include power to require the vehicle to stop at any time and, if necessary, direct the vehicle to some other place to facilitate the inspection.

- (3) If in England a justice of the peace on sworn information in writing is satisfied—
- (a) that there is reasonable ground to believe that any documents or other items which a British sea-fishery officer has power under this article to inspect are on any premises and that their inspection is likely to disclose evidence of the commission of a relevant offence, and
 - (b) either—
 - (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant has been given to the occupier, or
 - (ii) that an application for admission or the giving of such notice would defeat the object of the entry, or that the premises are unoccupied, or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,
- the justice may by warrant signed by him, and valid for one month, authorise a British sea-fishery officer to enter the premises, if need be by reasonable force, and take with him such persons as appear to him to be necessary.

Powers of British sea-fishery officers to seize fish and fishing gear

- 9.—(1) This article applies—
- (a) in England,
 - (b) to any relevant British fishing boat wherever it may be, and
 - (c) to any other fishing boat which is within relevant British fishery limits.
- (2) Where this article applies, any British sea-fishery officer may seize—
- (a) any fish (including any receptacle which contains the fish) in respect of which he has reasonable grounds to suspect that a relevant offence has been committed; and
 - (b) any net or other fishing gear which he has reasonable grounds to suspect has been used in the course of the commission of such an offence.

Protection of officers

10. An officer or a person assisting him by virtue of article 7(2) or 8(1)(b) or a warrant under article 8(3) shall not be liable in any civil or criminal proceedings for anything done in the purported exercise of the powers conferred on him by articles 6 to 8 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.

Obstruction of officers

- 11.—(1) Any person who—
- (a) fails without reasonable excuse to comply with any requirement imposed by a British sea-fishery officer under the powers conferred on British sea-fishery officers by article 7, 8 or 9;
 - (b) without reasonable excuse prevents, or attempts to prevent, any other person from complying with any such requirement; or
 - (c) assaults an officer who is exercising any of the powers conferred on him by article 7, 8 or 9 or intentionally obstructs any such officer in the exercise of any of those powers,
- shall be guilty of an offence.
- (2) A person guilty of an offence under paragraph (1) is liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment to a fine.

Provisions as to offences

12.—(1) Where any relevant offence committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where any relevant offence committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and liable to be proceeded against and punished accordingly.

(3) Where any relevant offence committed by an unincorporated association is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the association or any member of its governing body, he as well as the association shall be guilty of the offence and liable to be proceeded against and punished accordingly.

Admissibility in evidence of logbooks and other documents

13.—(1) Any—

- (a) logbook kept under Article 6, 17.2 or 28c;
- (b) declaration submitted under Article 8.1, 12, 17.2 or 28f;
- (c) effort report completed under Articles 19b and 19c;
- (d) document drawn up under Article 9 or 13;
- (e) document containing required information received by a fisheries monitoring centre established under Article 3.7,

of Council Regulation 2847/93 shall, in any proceedings in England for a relevant offence, be evidence of the matters stated therein.

(2) For the purpose of paragraph (1) above, “required information” shall mean—

- (a) a fishing boat’s identification,
- (b) the most recent geographical position of the fishing boat expressed in degrees and minutes of longitude and latitude, and
- (c) the date and time of the fixing of that position,

as communicated via a satellite-based vessel monitoring system established under Article 3.1 of Council Regulation 2847/93.

Revocation

14. The Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures) Order 2003(a) is revoked insofar as it relates to England.

26th April 2004

Ben Bradshaw
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

27th April 2004

Paul Murphy
Secretary of State for Northern Ireland

(a) S.I. 2003/722.

SCHEDULE 1

Articles 2(1), 4(1) and 5

SPECIFIED COMMUNITY PROVISIONS APPLICABLE TO COMMUNITY VESSELS AND MAXIMUM FINES ON SUMMARY CONVICTION

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Provision of the Council Regulation	Subject matter	maximum fine on summary conviction
1. Article 8.1, except in so far as referred to in paragraph 2 of this column	Prohibitions on retaining on board or landing catches from stocks for which total allowable catches or quotas are fixed and have been exhausted.	£50,000
2. Article 8.1, in so far as that point relates to catch composition or sorting	Prohibitions in certain circumstances on retaining on board or landing catches having a certain composition or which have been sorted.	The statutory maximum
3. Article 8.3	Prohibition on landing catches which are unsorted and contain herring when catch limitations set out in Annex II have been exhausted.	£50,000
4. Article 9	Prohibition on fishing by Community vessels in certain waters.	£50,000
5. Article 10 and Annex III, points 2 and 6	Prohibition on landing catches containing unsorted herring in harbours where adequate sampling systems are not in place; prohibition on offering for sale for human consumption landed herring which have been caught in the areas specified in Annex III, point 6, by vessels carrying towed nets of a minimum mesh size less than 32mm.	The statutory maximum
6. Article 11 as read with:		
(a) point 5 of Annex IV	Prohibition on all fishing in the Bornholm Deep from 15th May 2004 to 31 August 2004 inclusive.	£50,000
(b) point 6 of Annex IV	Requirements as to mesh sizes and by-catches in Skagerrak and Kattegat during 2004.	The statutory maximum
(c) point 7 of Annex IV	Prohibition on all fishing, except with longlines, in the Haddock box.	£50,000
(d) point 8 of Annex IV	Permitted period of Fishing for herring in Area IIa (EC waters) with towed gear of a mesh size less than 54mm or with purse seines.	The statutory maximum
(e) point 10 of Annex IV	Prohibition on landing or retaining on board sandeels caught in certain waters.	£50,000
(f) point 13 of Annex IV	Prohibition on fishing for cod in certain West of Scotland waters.	£50,000

SCHEDULE 2

Articles 2(1),4(1), 4(2) and 5

**SPECIFIED COMMUNITY PROVISIONS APPLICABLE TO ALL VESSELS
IN RELATION TO CATCHES OF HERRING, MACKEREL AND HORSE
MACKEREL OR A COMBINATION OF THE THREE EXCEEDING
10 TONNES AND MAXIMUM FINES ON SUMMARY CONVICTION**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Provision of the Council Regulation	Subject matter	Maximum fine on summary conviction
Article 11 as read with:		
(a) point 12.2 of Annex IV	Prohibitions on landing fish in ports other than those designated.	£50,000
(b) point 12.4 of Annex IV	Requirement to give 4 hours prior notification, to the relevant authorities, of landing and catch details.	£50,000
(c) point 12.4 of Annex IV	Prohibition on landing until authorised.	£50,000
(d) point 12.5 of Annex IV	Requirement to submit logbook immediately upon arrival to port.	£50,000
(e) point 12.5 of Annex IV	Requirement that catch details previously notified and recorded in the logbook shall be equal to that catch on board, subject to a permitted margin of tolerance of 7%.	£50,000
(f) point 12.6 of Annex IV	Requirement on buyers of fresh fish to weigh all landings received, any deduction for water not to exceed 2%.	£50,000
(g) point 12.6 of Annex IV	Requirement on buyers of fish to submit copies of invoices or VAT receipts on demand or within 48 hours of the completion of weighing.	£50,000
(h) point 12.7 of Annex IV	Requirement on buyers or holders of frozen fish to weigh all landings.	£50,000
(i) point 12.8 of Annex IV	Requirement on all buyers or holders of fish to weigh fish in the presence of a controller.	£50,000

SCHEDULE 3

Articles 2(1), 4(3) and 5

SPECIFIED COMMUNITY PROVISIONS APPLICABLE TO THIRD COUNTRY VESSELS AND MAXIMUM FINES ON SUMMARY CONVICTION

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Provision of the Council Regulation	Subject matter	Maximum fine on summary conviction
1. Article 14	Requirements in relation to vessels flying the flag of Norway or the Faroe Islands to fish within the geographical zone set out in Article 14(a).	£50,000
2. Article 15 and 18 (so far as applicable to vessels described in column 2).	Requirement in relation to vessels flying the flag of Norway or the Faroe Islands to fish within the quota limits contained in Annex I.	£50,000
3. Article 18.1	Requirement in relation to vessels flying the flag of Norway (those vessels of less than 200GT exempted) or the Faroe Islands to hold a valid licence and fishing permit.	£50,000
3. Article 23 (so far as applicable to vessels described in column 2)	Requirement in relation to vessels flying the flag of Norway or the Faroe Islands to comply with the conservation and control measures and other provisions governing fishing by Community vessels in the zones concerned, including those measures and provisions referred to in Article 23.	£50,000
4. Article 23.2 (so far as applicable to vessels described in column 2)	Requirement in relation to vessels flying the flag of Norway or the Faroe Islands to keep a logbook in compliance with Annex VIII, Part 1 to the Council Regulation.	£50,000
5. Article 23.3 (so far as applicable to vessels described in column 2)	Requirement in relation to vessels flying the flag of Norway (other than those fishing in ICES division IIIa) or the Faroe Islands to transmit to the Commission information in compliance with Annex IX to the Council Regulation.	The statutory maximum

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the enforcement of certain enforceable Community restrictions and other obligations relating to sea fishing by vessels of the Community or of third countries set out in Council Regulation (EC) No. 2287/2003 (OJ No. L344, 31.12.2003, p.1) (“the Council Regulation”). The Council Regulation fixes total allowable catches and Member States’ quotas for 2004 and lays down certain conditions under which they may be fished. It also authorises fishing by vessels of Norway and the Faroe Islands for specified descriptions of fish in certain specified areas within Member States’ fishery limits in 2004 and imposes requirements concerning fishing quotas and authorised zones, methods of fishing, the holding of licences and observance of licence conditions, the keeping of logbooks, the making of reports and weighing obligations of buyers and holders of fish.

Article 4 of the Order creates offences in respect of breaches of the provisions of the Council Regulation referred to in column 1 (and briefly described in column 2) of Schedules 1 and 2 to the Order, in the case of Community vessels, and Schedules 2 and 3, in the case of buyers and holders of fish and of third country vessels. Penalties are specified for such offences (article 5). The statutory maximum penalty specified in the Schedules is currently £5,000. Provision is made for the recovery of fines (article 6).

The Order confers powers of enforcement on British sea-fishery officers in relation to certain fishing boats as well as on land in England and in relation to the seizure of fish and fishing gear (articles 7, 8, 9 and 10). Provision is made for the punishment of anyone found guilty of assaulting or obstructing an officer (article 11).

This Order does not form part of the law of Scotland or Northern Ireland and does not apply in relation to Wales. It revokes the Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures) Order 2003 (S.I. 2003/772) insofar as it relates to England.

STATUTORY INSTRUMENTS

2004 No. 1237

SEA FISHERIES, ENGLAND

The Sea Fishing (Enforcement of Community Quota and
Third Country Fishing Measures) (England) Order 2004

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