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STATUTORY INSTRUMENTS

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**2006 No. 1970**

**SEA FISHERIES, ENGLAND**

**The Sea Fishing (Enforcement of Annual Community and Third Country Fishing Measures) (England) Order 2006**

<i>Made</i>	- - - -	<i>18th July 2006</i>
<i>Laid before Parliament</i>		<i>24th July 2006</i>
<i>Coming into force</i>	- -	<i>15th August 2006</i>

In exercise of the powers conferred by section 30(2) of the Fisheries Act 1981(1) and now vested in them(2), the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with sea fishing in Northern Ireland make the following Order.

**Citation and commencement**

1. This Order—

- (a) may be cited as the Sea Fishing (Enforcement of Annual Community and Third Country Fishing Measures) (England) Order 2006; and
- (b) comes into force on 15th August 2006.

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(1) 1981 c. 29. See section 30(3) for the definitions of “enforceable Community restriction” and “enforceable Community obligation” and for the definition of “the Ministers”, as modified by section 30(5), inserted by Schedule 2, paragraph 68(5) of the Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999 (S.I. 1999/1820).

(2) Article 3(1) of and Schedule 1 to the Scotland Act 1998 (Concurrent Functions) Order 1999 (S.I. 1999/1592) provides for the functions exercisable under section 30(2) of the Fisheries Act 1981 (“the 1981 Act”) to be exercised by the Ministers, concurrently with Scottish Ministers, in relation to British fishing boats, but not Scottish fishing boats, within the Scottish zone; and in relation to 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 the functions exercisable under section 30(2) of the 1981 Act remain exercisable by the Ministers. By virtue of article 3(2) of, and paragraph (3) of Schedule 2 to, the Sea Fisheries (Northern Ireland) Order 2002 (S.I. 2002/790), the function conferred by section 30(2) within the Northern Ireland zone and outside that zone in relation to Northern Ireland fishing boats is transferred to the Department of Agriculture and Rural Development (of Northern Ireland). 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. By virtue of article 2(5) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794), the functions of the Minister of Agriculture, Fisheries and Food and one or more named Secretaries of State (however described) acting jointly were transferred to the Secretary of State for Environment, Food and Rural Affairs and the one or more Secretaries of State acting jointly.

## Extent and application

- 2.—(1) This Order extends only to England and Wales.
- (2) This Order applies—
- (a) in England;
  - (b) in relation to English fishing boats and Welsh fishing boats wherever they are except when they are in the sea adjacent to Wales out as far as the seaward boundary of the territorial sea (3); and
  - (c) in relation to other fishing boats within British fishery limits except where they are in—
    - (i) the Scottish zone;
    - (ii) the Northern Ireland zone; or
    - (iii) the sea adjacent to Wales out as far as the seaward boundary of the territorial sea.
- (3) In this article—
- (a) “British fishery limits” means the limits set by or under section 1 of the Fishery Limits Act 1976(4);
  - (b) “English fishing boat” means a fishing boat—
    - (i) registered under the Merchant Shipping Act 1995(5) as to be treated as belonging to an English port; or
    - (ii) which is owned wholly by persons qualified to own British ships for the purposes of Part II of that Act;
  - (c) “Northern Ireland zone” has the same meaning as in section 98 of the Northern Ireland Act 1998(6);
  - (d) “Scottish zone” has the same meaning as in section 126(1) of the Scotland Act 1998(7); and
  - (e) “Welsh fishing boat” means a fishing boat registered under the Merchant Shipping Act 1995 as to be treated as belonging to a Welsh port.

## Interpretation

- 3.—(1) In this Order—
- “British sea-fishery officer” means any person who, by virtue of section 7 of the Sea Fisheries Act 1968(8), is a British sea-fishery officer;
- “Council Regulation 2847/93” means Council Regulation (EEC) No. 2847/93 establishing a control system applicable to the common fisheries policy(9);
- “Council Regulation 51/2006” means Council Regulation (EC) No. 51/2006 fixing for 2006 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required(10);

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(3) See the definition of “Wales” in section 155(1) of the Government of Wales Act 1998 (c. 38).

(4) 1976 c. 76. See also S.I. 1997/1750 and S.I. 1999/1741.

(5) 1995 c. 21.

(6) 1998 c. 47.

(7) 1999 c. 46.

(8) 1968 c. 77; section 7 is amended by S.I. 1999/1820, article 4 and paragraphs 41 and 48 of Schedule 2, by the Fisheries Act 1981, sections 26(1) and 46(2) and Part II of Schedule 5 and by the Northern Ireland Constitution Act 1973 (c. 36), section 40 and Schedule 5.

(9) OJ No. L261, 20.10.93, p.1, as amended by amendments up to and including those made by Council Regulation (EC) No. 1954/2003 (OJ No L289, 7.11.2003, p.1).

(10) OJ No. L16, 20.1.2006, p.1.

“equivalent provision” means a provision in any other Order extending to any part of the United Kingdom which has equivalent effect to a provision in this Order, proceedings in respect of which may be taken in England by virtue of section 30(2A) of the Fisheries Act 1981(11);

“pelagic weighing system” means a system used for weighing herring, mackerel or horse mackerel for the purposes of point 1 of Annex III.

(2) In this Order, a reference to a document includes a reference to—

- (a) any map, plan, graph or drawing;
- (b) any photograph;
- (c) any data, howsoever reproduced, communicated via a satellite-based vessel monitoring system established under Article 3.7 of Council Regulation 2847/93;
- (d) any disk, tape, sound track or other device on which sounds or other data, other than visual images, are recorded so as to be capable of being reproduced with or without the aid of some other equipment; and
- (e) any film, microfilm, negative, tape, disk or other device on which one or more visual images are recorded so as to be capable of being reproduced with or without the aid of some other equipment.

(3) Expressions—

- (a) which are not defined in this Order;
- (b) but which appear in this Order, other than in article 19, and in Council Regulation 51/2006,

have the same meaning in this Order as they have in that Council Regulation.

(4) In this Order—

- (a) except where the context otherwise requires—
  - (i) a reference to an Article followed by an Arabic numeral, and
  - (ii) a reference to an Annex followed by a Roman numeral,is a reference to the Article or Annex, as the case may be, in Council Regulation 51/2006 so numbered; and
- (b) a reference to a Community instrument is a reference to that instrument as amended on the date this Order is made.

(5) For the purposes of point 1.2.1 of Annex III, the designated ports are—

- (a) for the landing of herring, other than herring caught in ICES Subareas IVc and VIIId—
  - (i) Brixham,
  - (ii) Fleetwood,
  - (iii) Grimsby,
  - (iv) North Shields,
  - (v) Plymouth,
  - (vi) Scarborough, and
  - (vii) Whitehaven;
- (b) for the landing of herring caught in ICES Subareas IVc and VIIId, Lowestoft; and
- (c) for the landing of mackerel and horse mackerel—
  - (i) Brixham,
  - (ii) Fleetwood,

- (iii) Plymouth, and
- (iv) Whitehaven.

#### **Landing of unsorted catches**

- 4.—(1) This article applies for the purposes of Article 9.
- (2) No catch that includes unsorted fish may be landed at a harbour unless—
- (a) the master of the fishing boat from which the catch is to be landed applies to a British sea-fishery officer at the harbour for a decision as to the suitability of the harbour for landing the catch; and
  - (b) having regard to the overall size and characteristics of the catch, the British sea-fishery officer—
    - (i) decides that the sampling systems at the harbour are adequate for the purpose of efficiently monitoring the landing of that catch, and
    - (ii) notifies the master of his decision in writing.
- (3) The master, the owner and any charterer of a fishing boat are each guilty of an offence if a catch that includes unsorted fish is landed from the fishing boat at a harbour before the master has received the decision of a British sea-fishery officer at the harbour in question under paragraph (2) (b)(ii).

#### **Approval of pelagic weighing systems**

- 5.—(1) The Secretary of State may approve a pelagic weighing system if he is satisfied that it is suitable for weighing herring, mackerel or horse mackerel.
- (2) The Secretary of State may—
- (a) determine conditions to which an approval given under paragraph (1) may be subject; and
  - (b) at any time amend such conditions.
- (3) As regards a pelagic weighing system approved under paragraph (1)—
- (a) the owner;
  - (b) the operator; and
  - (c) the owner of the premises in which the pelagic weighing system is located,
- are each guilty of an offence if there is a contravention of, or failure to comply with, a condition of the approval.
- (4) A person is guilty of an offence if he—
- (a) interferes with a pelagic weighing system approved under paragraph (1); and
  - (b) by so doing, causes the pelagic weighing system to provide an inaccurate weight reading.

#### **Weighing procedures for herring, mackerel and horse mackerel**

- 6.—(1) Paragraph (2) applies for the purposes of point 1.6.1 of Annex III and paragraphs (5) and (6) apply for the purposes of point 1.10.2(c) of that Annex.
- (2) Subject to paragraph (3), the buyer of the fresh fish must ensure that the fish are weighed using an approved pelagic weighing system before at least one of the following, namely—
- (a) sorting;
  - (b) processing;
  - (c) holding in storage;

- (d) transporting from the port of landing; or
- (e) reselling,

is carried out in relation to the fish.

(3) Fresh fish may be weighed after transport from the port of landing in accordance with point 1.7 of Annex III, and for the purposes of—

- (a) point 1.7.1(a), a British sea-fishery officer must accompany the tanker; and
- (b) point 1.7.1(b), approval to transport the fish must be given by a British sea-fishery officer.

(4) A person is guilty of an offence if he fails to comply with paragraph (2).

(5) The person who weighs the fish must keep the weighing logbook for a period of three years.

(6) A person who receives fresh fish weighed after transport from the port of landing must keep the copy of the declaration referred to in point 1.7(b) relating to the fish for a period of three years.

(7) A person referred to in paragraph (5) or paragraph (6) is guilty of an offence if he fails to comply with that paragraph.

(8) In this article—

- (a) “approved pelagic weighing system” means a pelagic weighing system which—
  - (i) has been approved by the Secretary of State under article 5(1); or
  - (ii) has been passed as fit for use for trade in accordance with regulation 15 of the Weighing Equipment (Beltweighers) Regulations 2001<sup>(12)</sup>;
- (b) “the weighing logbook” means the logbook referred to in point 1.10.2(a) of Annex III.

#### **Vessels engaged in illegal, unreported and unregulated fishing in the North-East Atlantic**

7.—(1) The master, owner and any charterer of an IUU fishing boat are each guilty of an offence if, in relation to the IUU fishing boat in question, there is a contravention of, or failure to comply with—

- (a) that part of point 13.1.a of Annex III which prohibits landing or transhipping; or
- (b) point 13.1.d of that Annex.

(2) The master, owner and any charterer of a vessel, other than an IUU fishing boat, referred to in point 13.1.b of Annex III are each guilty of an offence if, in relation to that vessel, there is a contravention of that point.

(3) A person is guilty of an offence if he contravenes point 13.1.c of Annex III.

(4) In this article, “IUU fishing boat” means a vessel listed in Appendix 4 to Annex III.

#### **Offences in relation to provisions of Council Regulation 51/2006**

8.—(1) The master, the owner and any charterer of a fishing boat are each guilty of an offence if, in relation to the fishing boat in question, there is a contravention of, or a failure to comply with, a provision of Council Regulation 51/2006 specified in Column 1 of Schedule 1 or Column 1 of Part 1 of Schedule 2, as read with any qualifying words in the Column relating to the provision.

(2) A person is guilty of an offence if he contravenes, or fails to comply with, a provision of Council Regulation 51/2006 specified in Column 1 of Part 2 of Schedule 2.

(3) The master, the owner and any charterer of a third country fishing boat are each guilty of an offence if, in relation to the fishing boat in question, there is a contravention of, or a failure to

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<sup>(12)</sup> S.I. 2001/1208, to which there are amendments not relevant to this Order.

comply with, a provision of Council Regulation 51/2006 specified in Column 1 of Schedule 3, as read with any qualifying words in the Column relating to the provision.

(4) In this article, “third country fishing boat” means a fishing boat flying the flag of, and registered in, a state other than a member State.

### **Competent authorities for the purposes of Council Regulation 51/2006**

9.—(1) For the purposes of point 1.3.1 of Annex III and point 7(a) of Annex VI, the competent authority is the Secretary of State.

(2) For the purposes of point 1.5.1 and point 1.9.1 of Annex III, the competent authority is a British sea-fishery officer.

### **Penalties**

10.—(1) A person found guilty of an offence under article 4(3), 5(3), 5(4), 6(4), 6(7) or 7, or under an equivalent provision, is liable—

- (a) on summary conviction, to a fine not exceeding £50,000; and
- (b) on conviction on indictment, to a fine.

(2) A person found guilty of an offence under article 8 is liable—

- (a) on summary conviction to a fine not exceeding the amount specified in Column 3 of each Schedule in respect of the provision of Council Regulation 51/2006 in the corresponding entry in Column 1, the contravention of which, or failure to comply with which, founded the offence; and
- (b) on conviction on indictment to a fine.

(3) A court by or before which a person is convicted of an offence under this Order, or an equivalent provision, may also order either—

- (a) the forfeiture of any—
  - (i) fish caught at any time in the period during which the offence was committed; and
  - (ii) fishing gear used in the course of, or in activities leading to, the commission of the offence; or
- (b) a fine not exceeding the value of the fish caught at any time during which the offence was committed.

### **Recovery of fines**

11.—(1) Where a magistrates' court imposes a fine on a person convicted of an offence under any article referred to in paragraph 10(1) or under an equivalent provision, the court may—

- (a) issue a warrant of distress against—
  - (i) the boat involved in the commission of the offence,
  - (ii) its gear and catch, and
  - (iii) 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 until—
  - (i) the expiry of a period not exceeding three months from the date of the conviction, or
  - (ii) the fine is paid, or
  - (iii) 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<sup>(13)</sup> apply to a warrant of distress issued under this article 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 an offence under this Order or an equivalent provision, an order under article 95 of the Magistrates' Courts (Northern Ireland) Order 1981<sup>(14)</sup> or section 222 of the Criminal Procedure (Scotland) Act 1995<sup>(15)</sup> (both of which deal with transfer of fines from one jurisdiction to another) specifies a local justice area in England, this article shall apply as if the fine were imposed by a court within that local justice area.

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

**12.**—(1) For the purpose of enforcing this Order, or an equivalent provision, a British sea-fishery officer may exercise the powers conferred by this article in relation to a fishing boat to which this Order applies.

(2) A British sea-fishery officer 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) A British sea-fishery officer may require the attendance of the master and other persons on board the boat and may make any examination and inquiry as appears to him to be necessary for the purpose mentioned in paragraph (1) 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 an offence under this Order or an equivalent provision 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;
- (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 an offence under this Order or an equivalent provision 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.

(4) Where it appears to a British sea-fishery officer that an offence under article 4, 7 or 8, or an equivalent provision, has at any time been committed in relation to a fishing boat, he may—

- (a) require the master of the boat to take, or 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.

(5) Where such an officer detains or requires the detention of a boat, he must serve on the master a notice in writing stating that the boat is, 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.

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<sup>(13)</sup> 1980 c. 43; section 78 was amended by the Courts Act 2000 (c. 39), section 109(1) and Schedule 8 paragraph 219.

<sup>(14)</sup> S.I. 1981/1675 (NI 26).

<sup>(15)</sup> 1995 c. 46.

### **Powers of British sea-fishery officers on land**

**13.**—(1) For the purpose of enforcing this Order or an equivalent provision, a British sea-fishery officer may—

- (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 the 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 the premises for such a period as may be reasonably necessary for the purposes of establishing whether an offence under this Order or an equivalent provision has at any time been committed;
- (f) require any person on the premises to produce any documents which are in his custody or possession relating to the catching, landing, transportation, transshipment, sale or disposal of any fish or to the entry to, or exit from, any port or harbour by any fishing boat;
- (g) for the purpose of ascertaining whether any person on the premises has committed an offence under this Order or an equivalent provision, 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;
- (h) inspect and take copies of any such document produced to him or found on the premises;
- (i) require any appropriate or responsible person to render any such document on a computer system into a visible and legible form, including requiring it to be produced in a form in which it may be taken away; and
- (j) if he has a reason to suspect that an offence under any of those articles or an equivalent provision 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 suspected offence.

(2) The provisions of paragraph (1) also apply in relation to any land used in connection with any of the activities described in paragraph (1)(a), or in respect of any vehicle which a British sea-fishery officer has reasonable cause to believe is being used to transport fish or 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.

### **Warrants to enter premises**

**14.**—(1) If a justice of the peace on sworn information in writing is satisfied that the circumstances in paragraph (2) apply, he may issue a warrant authorising a British sea-fishery officer to enter any premises, if necessary using reasonable force, and to take with him such persons as appear to be necessary.

(2) The circumstances are that—

- (a) there are reasonable grounds to believe that any documents or other items which a British sea-fishery officer has power under article 13 to inspect are on the premises;
- (b) the inspection of such documents or other items is likely to disclose evidence of the commission of an offence under this Order or an equivalent provision; and
- (c) either—



- (i) entry to the premises has been or is likely to be refused and notice of intention to apply for a warrant has been given to the occupier,
- (ii) an application for entry, or the giving of notice, would defeat the object of the entry,
- (iii) the premises are unoccupied, or
- (iv) the occupier is temporarily absent and it might defeat the object of the entry to await his return.

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

**15.** A British sea-fishery officer may seize—

- (a) any fish, including any receptacle which contains the fish, caught at the time of an offence which he suspects has been committed under this Order, other than under article 5 or 6, or an equivalent provision; and
- (b) any fishing gear which he has reasonable grounds to suspect has been used in the course of the commission of any such suspected offence.

### **Protection of officers**

**16.—(1)** An officer is not liable in any civil or criminal proceedings for anything done or omitted to be done in the purported exercise of the powers conferred by articles 12, 13 or 15 if the court is satisfied that—

- (a) the officer acted in good faith;
  - (b) there were reasonable grounds for so acting; and
  - (c) he acted with reasonable skill and care.
- (2) In this article, “officer” means—
- (a) a British sea-fishery officer; or
  - (b) a person assisting him by virtue of —
    - (i) article 12(2) or 13(1)(b), or
    - (ii) a warrant issued under article 14.

### **Obstruction of officers**

**17.—(1)** A person is guilty of an offence if—

- (a) he fails without reasonable excuse to comply with any requirement imposed by a British sea-fishery officer under the powers conferred by article 12 or 13;
  - (b) without reasonable excuse, he prevents, or attempts to prevent, any other person from complying with any such requirement;
  - (c) he assaults a British sea-fishery officer while exercising any of the powers conferred by article 12, 13 or 15; or
  - (d) he intentionally obstructs any such officer in the exercise of any of those powers.
- (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.

### **Offences by corporate bodies**

**18.**—(1) If an offence under this Order, or an equivalent provision, committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.

(3) If an offence under this Order, or an equivalent provision, committed by a partnership is shown—

- (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to any neglect on his part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) If an offence under this Order, or an equivalent provision, committed by an unincorporated association, other than a partnership, is shown—

- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body; or
- (b) to be attributable to any neglect on the part of such an officer or member,

that officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In this article—

- (a) “officer” in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity; and
- (b) “partner” includes a person purporting to act as a partner.

### **Admissibility of documents in evidence**

**19.**—(1) Any—

- (a) logbook kept under Article 6, 17.2 or 28c;
- (b) declaration submitted under Article 8.1, 9, 12, 17.2 or 28f;
- (c) effort report communicated under Article 19b or 19c;
- (d) sales note or document submitted under Article 9;
- (e) document drawn up under Article 13; or
- (f) 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 respect of an offence under this Order or an equivalent provision, be evidence of the matters stated in the logbook, declaration, effort report, sales note or document, as the case may be.

(2) In this article, “required information” means the following information as communicated via a satellite-based boat monitoring system established under Article 3.1 of Council Regulation 2847/93—

- (a) the identification of a fishing boat;
  - (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.
- (3) Expressions—
- (a) which are not defined in this Order;
  - (b) but which appear in this article and in Council Regulation 2847/93,
- have the same meaning in this article as they have in that Council Regulation.

### **Revocation and consequential amendment**

**20.**—(1) The Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures) (England) Order 2004(**16**) is revoked.

(2) In the Courts Act 2003 (Consequential Provisions) (No. 2) Order 2005(**17**), paragraph 231 of the Schedule is omitted.

18th July 2006

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

18th July 2006

*David Cairns*  
Parliamentary Under Secretary of State Northern  
Ireland Office

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**(16)** S.I. 2004/1237.  
**(17)** S.I. 2005/617.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE 1

Articles 8(1) and 10(2)

Specified Provisions of Council Regulation 51/2006 applicable to  
Community Vessels and Maximum Fines on Summary Conviction

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<b>Provision of Council Regulation 51/2006</b>	<b>Subject matter</b>	<b>Maximum fine on summary conviction</b>
1. Article 8.1, subject to the derogation in Article 8.2	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 8.5	Prohibition on landing catches which are unsorted and contain herring when catch limitations have been exhausted.	£50,000
3. Article 10	Prohibition on fishing by Community vessels in specified areas.	£50,000
4. Article 11 as read with (a) point 2 of Annex III	Prohibition on the landing or retention on board of herring caught in the EC waters of the International Council for the Exploration of the Sea Division IIa in the period 16th May to 31st December 2006.	The statutory maximum
(b) (b) point 3 of Annex III and Appendix 1 to that Annex	Requirements as to mesh sizes in the Skaggerak and the Kattegat.	The statutory maximum
(c) (c) point 4.1 of Annex III, subject to the derogations in points 4.3 and 4.4 of that Annex	Prohibition on fishing activity in certain waters off the West of Scotland until 31st December 2006.	£50,000
(d) (d) point 5 of Annex III	Prohibition on landing or retaining on board sandeels caught in certain waters of the east coasts of England and Scotland.	£50,000
(e) (e) point 6 of Annex III	Prohibition on fishing, except with longlines, in the Rockall Haddock Box.	£50,000
(f) (f) point 8.3 of Annex III	Prohibition on the use of gillnets, entangling nets and trammel nets in certain waters	£50,000

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
	where the charted depth is greater than 200 metres.	
(g) (g) point 11 of Annex III	Prohibition on bottom trawling and fishing with static gear in certain waters.	£50,000
(h) (h) point 12 of Annex III	Prohibitions relating to octopus ( <i>octopus vulgaris</i> ) weighing under 450 grammes (gutted) caught in certain waters.	The statutory maximum

## SCHEDULE 2

Articles 8(1), 8(2) and 10(2)

Specified Provisions of Council Regulation 51/2006 Applicable in Relation to Catches of Herring, Mackerel and Horse Mackerel, or a Combination of All Three, Exceeding 10 Tonnes and Maximum Fines on Summary Conviction

## PART 1

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<b>Provision of Council Regulation 51/2006</b>	<b>Subject matter</b>	<b>Maximum fine on summary conviction</b>
Articles 11 and 12 as read with:		
(a) (a) point 1.2.1 of Annex III	Prohibitions on landing fish, taken in the specified areas, in ports other than designated ports.	£50,000
(b) (b) point 1.3.1 of Annex III	Requirement to give 4 hours' prior notification, to the competent authority, of landing, catch details and other information.	£50,000
(c) (c) point 1.4.1 of Annex III	Prohibition on landing until authorised.	£50,000
(d) (d) point 1.5.1 of Annex III	Requirement to submit relevant page or pages of logbook immediately upon arrival in port.	£50,000
(e) (e) point 1.5.1 of Annex III	Requirement that catch details previously notified and recorded in the logbook shall be equal to that catch on board,	£50,000

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
	subject to a permitted margin of tolerance of 8%.	

## PART 2

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<b>Provision of Council Regulation 51/2006</b>	<b>Subject matter</b>	<b>Maximum fine on summary conviction</b>
1. Point 1.6.2 of Annex III	Requirement that, when determining weight of fresh fish, any deduction made for water must not exceed 2%.	£50,000
2. Point 1.8 of Annex III	Requirement on buyers or holders of frozen fish to weigh the quantities landed.	£50,000
3. Point 1.9 of Annex III	Requirement to submit documents to the competent authority.	£50,000
4. Point 1.10.1	Requirements to issue weighing slips and to attach such slips to sales notes or take-over declarations.	£50,000
5. Point 1.10.2(a) and (b)	Requirement to keep, and record information in, a paginated weighing logbook.	£50,000

## SCHEDULE 3

Articles 8(3) and 10(2)

Specified Provisions of Council Regulation 51/2006 applicable to Third Country Vessels and Maximum Fines on Summary Conviction

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<b>Provision of Council Regulation 51/2006</b>	<b>Subject matter</b>	<b>Maximum fine on summary conviction</b>
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	Requirement to stow nets whilst in transit through Community waters.	£50,000

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
3. Article 16	Requirement not to retain on board or land fish except within quota limits.	£50,000
4. Article 19.2	Requirement to keep on board licence and special fishing permits.	£50,000
5. Article 24 .1	Requirement to comply with the conservation and control measures and other provisions governing fishing by Community vessels in the zones concerned.	£50,000
6. Article 24.2	Requirement to keep a logbook.	£50,000
7. Article 24.3	Requirement to transmit information to the Commission.	The statutory maximum
8. Point 7(a) of Annex VI, as read with point 7(b)	Requirement as regards third country vessels with catch on board to obtain authorisation before commencing fishing for blue whiting.	£50,000
9. Point 7(c) of Annex VI	Requirements as regards vessels fishing for blue whiting leaving Community waters.	£50,000

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision for the enforcement of certain restrictions and obligations relating to sea fishing by Community vessels and third country vessels which are contained in Council Regulation (EC) No. 51/2006 (OJ No. L16, 20.1.2006, p.1) (“Council Regulation 51/2006”).

The Order revokes the Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures) (England) Order 2004 (S.I. 2004/1237); see article 20.

Subject to certain conditions, Council Regulation 51/2006 fixes total allowable catches and the quotas of Member States for 2006. It also authorises for 2006 fishing by vessels of Norway and the Faroe Islands for specified descriptions of fish in specified areas within the fishery limits of Member States and imposes requirements concerning fishing quotas and authorised zones, methods of fishing, the weighing of fish, the holding of licences and observance of licence conditions, the keeping of log books, the making of reports and similar matters.

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Article 2 of the Order contains provisions relating to the extent and application of the Order. Article 3 contains interpretation provisions and, in paragraph (5), lists the designated ports for the purposes of point 1.2.1 of Annex III to the Council Regulation 51/2006. Article 4 of the Order makes provision for the purposes of Article 9 of Council Regulation 51/2006 relating to the landing of unsorted catches.

Provision is made in article 5 for the approval of pelagic weighing systems by the Secretary of State and it is an offence to fail to comply with such an approval or to interfere with a pelagic weighing system which has been so approved.

Articles 6 and 7 make provision for the purposes of Annex III to Council Regulation 51/2006 relating to weighing herring, mackerel and horse mackerel and to illegal fishing in the north-east Atlantic. Article 8 makes it an offence to contravene a number of provisions of Council Regulation 51/2006 which are referred to in Schedules 1, 2 and 3 to the Order. Article 9 specifies the competent authorities for the purposes of Council Regulation 51/2006.

The penalties for offences under articles 4 to 8 of the Order are contained in article 10 and in the Schedules. Provisions for the recovery of fines are contained in article 11.

Articles 12 to 17 set out the powers of British sea-fishery officers and contain provisions concerned with related matters. Provisions relating to corporate offences and admissibility of evidence are contained in articles 18 and 19.

A Regulatory Impact Assessment in relation of this Order has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the Department for Environment, Food and Rural Affairs, Sea Fisheries Conservation Division, Area 6A, 3, Whitehall Place, London SW1A 2HH.