
STATUTORY INSTRUMENTS

2015 No. 191

SEA FISHERIES, ENGLAND AND WALES

SEA FISHERIES, NORTHERN IRELAND

**The Sea Fishing (Enforcement and Miscellaneous Provisions)
Order 2015**

Made - - - - *8th February 2015*
Laid before Parliament *12th February 2015*
Laid before the National Assembly for Wales *12th February 2015*
Coming into force - - *6th March 2015*

The Secretary of State and (acting only in relation to Wales and the Welsh zone^(a)) the Welsh Ministers make this Order in exercise of the powers conferred by section 30(2) of the Fisheries Act 1981^(b), which are now vested in them^(c).

-
- (a) The Welsh zone is defined in section 158(1) of the Government of Wales Act 2006 (c.32), as amended by section 43(1) and (2) of the Marine and Coastal Access Act 2009 (c.23). The boundaries of the Welsh zone were specified in S.I. 2010/760. Article 5(3)(a) of S.I. 2010/2690 provides that the designation of the Welsh Ministers applies in relation to Wales and the Welsh zone.
- (b) 1981 c.29. See section 30(3) for the definition of “the Ministers”.
- (c) Section 30(2) provides for the Ministers to make provision for the enforcement of enforceable Community restrictions and obligations relating to sea fishing. The function of the Ministers under section 30(2) of the Fisheries Act 1981 (“the 1981 Act”) in relation to Wales was transferred to the National Assembly for Wales and then transferred from that body to the Welsh Ministers: see article 2(a) of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and paragraph 30 of Schedule 11 to the Government of Wales Act 2006. In so far as that function was exercisable in relation to the Welsh zone, it has been transferred to the Welsh Ministers by article 4(1)(e) of the Welsh Zone (Boundaries and Transfer of Functions) Order 2010 (S.I. 2010/760). The function under section 30(2) exercisable in relation to the Northern Ireland zone and Northern Ireland fishing boats outside that zone remains exercisable by the Ministers despite being transferred to the Department of Agriculture and Rural Development in Northern Ireland under article 3(2) of, and paragraph 3(1) of Schedule 2 to, the Sea Fisheries (Northern Ireland) Order 2002 (S.I. 2002/790): see paragraph 3(2) of Schedule 2 to that Order. Any remaining functions of the Secretaries of State concerned with sea fishing in Scotland and Wales under section 30(2) of the 1981 Act were transferred to the Minister of Agriculture, Fisheries and Food: see article 2(1) of, and the Schedule to, the Transfer of Functions (Agriculture and Fisheries) Order 2000 (S.I. 2000/1812). The function of that Minister and the Secretary of State concerned with sea fishing in Northern Ireland acting jointly under section 30(2) was transferred to the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with sea fishing in Northern Ireland acting jointly: see article 2(5) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794). The function of the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with sea fishing in Northern Ireland was transferred to the Secretary of State by article 3(1)(d) of the Transfer of Functions (Sea Fisheries) Order 2012 (S.I. 2012/2747).

(2) Subject to paragraph (3) and, as regards the Schedule, to any contrary provision in the third column, it extends to England and Wales and, except for articles 3 and 4, to Northern Ireland.

(3) The revocations of the British Fishing Boats Act 1983 (Guernsey) Order 1985(a) and the Undersized Lobsters Order 2000(b) in the Schedule, and article 7 in so far as it applies to those revocations, extend to the Bailiwick of Guernsey.

(4) In the Schedule—

- (a) revocations which extend to Wales have effect, for the purposes of the application of the instruments revoked which apply to Wales and the Welsh zone, to Wales and the Welsh zone;
- (b) revocations which extend to Northern Ireland have effect, for the purposes of the application of the instruments revoked which apply to Northern Ireland and the Northern Ireland zone, to Northern Ireland and the Northern Ireland zone(c).

Competent authorities

2.—(1) The competent authorities responsible for fisheries monitoring centres for the purposes of Article 9(8) of the Control Regulation are—

- (a) for the fisheries monitoring centre for English and Welsh fishing boats and for EU and third country fishing boats in British Fishery Limits (other than in Scotland, the Scottish zone(d), Northern Ireland or the Northern Ireland zone), the Marine Management Organisation;
- (b) for the fisheries monitoring centre for Northern Ireland fishing boats and for EU and third country fishing boats in Northern Ireland or the Northern Ireland zone, the Department of Agriculture and Rural Development.

(2) The competent authority acting as the contact point for the purposes of Article 80(5) of the Control Regulation is the Marine Management Organisation.

(3) The competent national authority for the purposes of Article 125 of the Commission Implementing Regulation is—

- (a) in relation to vessels registered at a port in England, the Marine Management Organisation;
- (b) in relation to vessels registered at a port in Wales, the Welsh Ministers;
- (c) in relation to vessels registered at a port in Northern Ireland, the Department of Agriculture and Rural Development.

(4) In this article—

“the Commission Implementing Regulation” means Commission Regulation (EU) No. 404/2011 laying down detailed rules for the implementation of the Control Regulation, as amended from time to time;

“the Control Regulation” means Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, as amended from time to time;

“fishing boat” means a vessel equipped for the commercial exploitation of living aquatic resources, including sea fish, and—

- (a) an “English fishing boat” is a fishing boat registered at a port in England;
- (b) a “Northern Ireland fishing boat” is a fishing boat registered at a port in Northern Ireland;
- (c) a “Welsh fishing boat” is a fishing boat registered at a port in Wales.

(a) S.I. 1985/1203.

(b) S.I. 2000/1503.

(c) The Northern Ireland zone is defined in section 98(1) of the Northern Ireland Act 1998 (c.47).

(d) The Scottish zone is defined in section 126(1) of the Scotland Act 1998 (c.46).

Amendment of the Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007

5. In the Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007(a), in regulations 32(14)(b)(ii) (offences relating to European offshore marine sites), 34(6)(b)(ii) (protection of wild birds, their eggs and nests) and 39(11)(b)(ii) (protection of wild animals listed in Annex IV(a) to the Habitats Directive), for “Council Regulation (EC) No. 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy” substitute “Council Regulation (EU) No. 1380/2013 on the Common Fisheries Policy(b), as amended from time to time”.

Amendment of the Tope (Prohibition of Fishing) Order 2008

6. In the Tope (Prohibition of Fishing) Order 2008(c), in article 2 (application), for paragraph (2) substitute—

“(2) This Order does not apply to fishing vessels, as defined in Article 4 of Council Regulation (EU) No. 1380/2013 on the Common Fisheries Policy, which are registered in another member State or in a third country”.

Revocations

7. The instruments specified in the Schedule are revoked to the extent (including, in certain cases, geographical extent) specified there.

8th February 2015 *George Eustice*
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

5th February 2015 *Carl Sargeant*
Minister for Natural Resources, one of the Welsh Ministers

SCHEDULE Article 7
Revocations

<i>Instruments revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Whaling Industry (Ship) Regulations 1955	S.I. 1955/1973(d)	The whole Regulations
The Whaling Industry (Ship) (Amendment) Regulations 1958	S.I. 1958/2042	The whole Regulations
The Whaling Industry (Ship) (Amendment) Regulations 1959	S.I. 1959/2054	The whole Regulations
The Whaling Industry (Ship) (Amendment) Regulations 1960	S.I. 1960/547	The whole Regulations
The Anglo-Norwegian Sea Fisheries Order 1961	S.I. 1961/342	The whole Order

(a) S.I. 2007/1842, to which there are amendments not relevant to these Regulations.
 (b) OJ No. L 354, 28.12.2013, p. 22, as amended by Council Regulation (EU) No. 1385/2013 (OJ No. L 354, 28.12.2013, p. 86).
 (c) S.I. 2008/691.
 (d) Amended by S.I. 1958/2042, 1959/2054, 1960/547, and 1961/2336.

The Whaling Industry (Ship) (Amendment) Regulations 1961	S.I. 1961/2336	The whole Regulations
The Foreign Sea-Fishery Officers Order 1973	S.I. 1973/1998	The whole Order
The Fishing Vessels (Temporary Financial Assistance) Scheme 1982	S.I. 1982/1686	The whole Scheme
The Sea Fishing (Enforcement of Community Licensing Measures) (North of Scotland Box) Order 1984	S.I. 1984/291(a)	The whole Order, in England and Wales
The Fish Farming (Financial Assistance) Scheme 1984	S.I. 1984/341(b)	The whole Scheme, in England and Wales
The British Fishing Boats Act 1983 (Guernsey) Order 1985	S.I. 1985/1203	The whole Order, in the Bailiwick of Guernsey
The Sea Fishing (Enforcement of Community Measures for Spanish and Portuguese Vessels) Order 1986	S.I. 1986/110(c)	The whole Order
The Importation of Salmonid Viscera Order 1986	S.I. 1986/2265	The whole Order
The Fish Farming (Financial Assistance) Scheme 1987	S.I. 1987/1134(d)	The whole Scheme, in England and Wales
The Fishing Vessels (Acquisition and Improvement grants) Scheme 1987	S.I. 1987/1135(e)	The whole Scheme
The Fishing Vessels (Financial Assistance) Scheme 1987	S.I. 1987/1136(f)	The whole Scheme
The Sandeels Licensing Order 1989	S.I. 1989/1066	The whole Order
The Fishing Vessels (Acquisition and Improvement) (Grants) (Amendment) Scheme 1990	S.I. 1990/685	The whole Scheme
The Sea Fishing (Specified Western Waters) (Restrictions on Landing) Order 1990	S.I. 1990/2052(g)	The whole Order
The Agricultural, Fishery and Aquaculture Products (Improvement Grant) Regulations 1991	S.I. 1991/777(h)	The whole Regulations, in England and Wales
The Sea Fishing (Specified Western Waters) (Restrictions on Landing) (Variation) Order 1991	S.I. 1991/2565	The whole Order
The Sea Fishing (Days in Port) Regulations 1992	S.I. 1992/130	The whole Regulations
The Sea Fishing (Days in Port) (Amendment) Regulations 1992	S.I. 1992/670	The whole Regulations
The Shellfish and Specified Fish (Third Country Imports) Order 1992	S.I. 1992/3301(i)	The whole Order, in England and Wales
The Fishing Boats (Marking and Documentation) (Enforcement) Order 1993	S.I. 1993/2015(j)	The whole Order, in England and Wales

-
- (a) Amended by section 51 of the Criminal Justice Act 1988 (c.33).
 (b) Amended by S.I. 2011/1043.
 (c) Amended by section 51 of the Criminal Justice Act 1988 and by S.I. 2011/1043.
 (d) Amended by S.I. 2011/1043.
 (e) Amended by S.I. 1990/685.
 (f) Amended by S.I. 2011/1043.
 (g) Amended by S.I. 1991/2565.
 (h) Amended by S.I. 1999/1820, 2011/1043.
 (i) Revoked in relation to Scotland by S.S.I. 2011/427.
 (j) Amended by S.I. 1997/2971.

The Sea Fishing (Enforcement of Community Satellite Monitoring Measures) Order 2000 Amendment Regulations 2001	S.I. 2001/3912(a)	The whole Regulations, in Northern Ireland
The Sea Fishing (Enforcement of Community Conservation Measures) (Amendment) Order 2002	S.I. 2002/426	The whole Order, in England and Wales
The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002	S.I. 2002/794	Schedule 1, paragraph 46, and article 5(1) in so far as it has effect in relation to that paragraph
The Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002	S.I. 2002/794	Schedule 1, paragraph 47, and article 5(1) in so far as it has effect in relation to that paragraph, in England and Wales
The Sea Fishing (Enforcement of Community Control Measures) (Wales) (Amendment) Order 2003	S.I. 2003/559 (W.79)	The whole Order, in England and Wales
The Sea Fishing (Restriction on Days at Sea) (No. 2) Order 2003	S.I. 2003/1535(b)	The whole Order, in England and Wales
The Fishing Vessels (Decommissioning) Scheme 2003	S.I. 2003/2669(c)	The whole Scheme, in England and Wales
The Sea Fishing (Restriction on Days at Sea) (No. 2) (Amendment) Order 2004	S.I. 2004/38(d)	The whole Order, in England and Wales
The Sea Fishing (Enforcement of Community Satellite Monitoring Measures) Order 2004	S.I. 2004/3226(e)	The whole Order, in England and Wales
The Sea Fishing (Enforcement of Community Satellite Monitoring Measures) Amendment (Revocation) (England) Regulations 2004	S.I. 2004/3227	The whole Regulations, in England and Wales
The Incidental Catches of Cetaceans in Fisheries (England) Order 2005	S.I. 2005/17(f)	The whole Order, in England and Wales
The Courts Act 2003 (Consequential Provisions) (No. 2) Order 2005	S.I. 2005/617	Paragraphs 179, 180, 183 to 185, 187 to 190, 212, 235 and 236 of the Schedule, and article 2 in so far as it has effect in relation to those paragraphs, in England and Wales; paragraph 180 and article 2 in so far as it has effect in relation to that paragraph, in Northern Ireland
The Sea Fishing (Enforcement of Community Control Measures) (Amendment) Order 2005	S.I. 2005/2624	The whole Order, in England and Wales
The Sea Fishing (Marking and	S.I. 2006/1549	The whole Order, in England

(a) Revoked in relation to England by S.I. 2004/3227.

(b) Amended by S.I. 2004/38, 2005/617 and 2011/2043, and revoked in relation to England by S.I. 2004/398.

(c) Amended by S.I. 2011/1043.

(d) Revoked in relation to England by S.I. 2004/398.

(e) Amended by S.I. 2005/617 and 2011/1043.

(f) Amended by S.I. 2005/617 and 2011/603.

Identification of Passive Fishing Gear and Beam Trawls) (England) Order 2006		and Wales
The Sea Fishing (Enforcement of Community Satellite Monitoring Measures) (Wales) Order 2006	S.I. 2006/2798 (W.237)(a)	The whole Order, in England and Wales
The Sea Fishing (Restriction on Days at Sea) Order 2007	S.I. 2007/927	The whole Order, in England and Wales
The Decommissioning of Fishing Vessels Scheme 2007	S.I. 2007/312	The whole Scheme, in England and Wales
The Sea Fishing (Prohibition on the Removal of Shark Fins) Order 2007	S.I. 2007/2554	The whole Order, in England and Wales
The Sea Fishing (Recovery Measures) Order 2008	S.I. 2008/2347(b)	The whole Order, in England and Wales
The Sea Fishing (Enforcement of Community Control Measures) (Amendment) Order 2009	S.I. 2009/1847	The whole Order, in England and Wales
The Sea Fishing (Landing and Weighing of Herring, Mackerel and Horse Mackerel) Order 2009	S.I. 2009/1850	The whole Order in England and Wales
The Marine and Coastal Access Act 2009 (Commencement No. 1, Consequential, Transitional and Savings Provisions) (England and Wales) Order 2010	S.I. 2010/630	In Part 1 of Schedule 1, paragraphs 5 and 6, and article 4(a) in so far as it has effect in relation to those paragraphs, in England and Wales
The Marine and Coastal Access Act 2009 (Transitional and Savings Provisions) Order 2011	S.I. 2011/603	In Part 1 of Schedule 2, paragraphs 6 and 11, and article 9(a) in so far as it has effect in relation to those paragraphs, in England and Wales; Part 2 of Schedule 2, and article 9(b), in England and Wales.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to England and Wales and, except for articles 3 and 4, to Northern Ireland. The revocation of the British Fishing Boats Act 1983 (Guernsey) Order 1985 (S.I. 1985/1203) and the Undersized Lobsters Order 2000 (S.I. 2000/1503) extend to the Bailiwick of Guernsey. The Order makes amendments to instruments relating to the enforcement of EU obligations and restrictions relating to sea fishing. It also revokes a number of instruments.

Following amendments made to section 30(1) of the Fisheries Act 1981 (c.29) (“the 1981 Act”) by section 293 of the Marine and Coastal Access Act 2009 (c.23), a breach of enforceable EU restrictions and obligations relating to sea fishing is an offence in England and Wales under section 30(1) of the 1981 Act. Accordingly, instruments which enforce EU restrictions and obligations relating to sea fishing are revoked by this Order for England and Wales (article 8 and the Schedule, which also revoke other obsolete instruments).

Article 2 designates the Marine Management Organisation, the Welsh Ministers and the Department of Agriculture and Rural Development in Northern Ireland as competent authorities

(a) Amended by S.I. 2011/1043.
(b) Amended by S.I. 2011/1043.

for various purposes of Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (OJ No. L 343, 22.12.2009, p. 1), and of Commission Implementing Regulation (EU) No. 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No. 1224/2009 (OJ No. L 112, 30.4.2011, p. 1).

Article 3 confers powers as to the recovery of fines by courts imposing fines on persons convicted of an offence under section 30(1) of the 1981 Act or under an order made under section 30(2) of the 1981 Act.

Articles 4 to 6 amend the Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites Regulations 2005 (S.I. 2005/1605), the Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007 (S.I. 2007/1842) and the Tope (Prohibition of Fishing) Order 2008 (S.I. 2008/691), updating references to relevant EU legislation.

Article 7 and the Schedule revoke 57 instruments in their entirety and 5 partially with (in some cases) specified limits of territorial extent.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.