Draft order laid before Parliament under section 6(5) and 86(6) of the Northern Ireland Act 1998 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2002 No.

NORTHERN IRELAND
SEA FISHERIES

Sea Fisheries (Northern Ireland) Order 2002

Made - - - - *2002*
Coming into force in accordance with Article 1(2)

At the Court at ... ..., the ... ... day of 2002

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been laid before, and approved by, a resolution of each House of Parliament in accordance with sections 6(5) and 86(6) of the Northern Ireland Act 1998(**1**):

Now, therefore, Her Majesty, in exercise of the powers conferred by sections 6(4) and 86(1), (3), (4) and (5) of the Northern Ireland Act 1998 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement

1.—(1) This Order may be cited as the Sea Fisheries (Northern Ireland) Order 2002.

(2) This Order shall come into force on the second day after the day on which it is made.

Interpretation

2.—(1) In this Order—

"the 1998 Act" means the Northern Ireland Act 1998;

"the Northern Ireland zone" means the sea within British fishery limits which is adjacent to Northern Ireland;

(**1**) 1998 c. 47.

"the transferor" means, in relation to anything transferred by this Order, the Minister or Ministers from whom it is transferred.

(2) Any reference in this Order to a Northern Ireland fishing boat is to a vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995(**2**) and whose entry in the register specifies a port in Northern Ireland as the port to which the vessel is to be treated as belonging.

(3) Any reference in this Order to a function of a Minister of the Crown under any enactment includes a reference to the functions of that Minister under any scheme, regulations, Order in Council, order, bye-laws or similar instrument having effect under or in relation to that enactment.

Modification and transfer of functions

3.—(1) Schedule 1, which makes provision about functions under the Sea Fish (Conservation) Act 1967(**3**), shall have effect.

(2) Schedule 2, which makes provision about functions under the Fisheries Act 1981(**4**), shall have effect.

(3) Schedule 3, which makes provision about functions under other enactments relating to sea fisheries, shall have effect.

Transfer of property, rights and liabilities

4. All property, rights and liabilities to which the transferor is entitled or subject at the coming into force of this Order in connection with any function transferred by this Order are hereby transferred to the Department of Agriculture and Rural Development.

Transfers: supplementary and consequential

5.—(1) This Order shall not affect the validity of anything done (or having effect as if done) by or in relation to the transferor before the coming into force of this Order.

(2) Anything (including legal proceedings) which, at the coming into force of this Order, is in the process of being done by or in relation to the transferor may, so far as it relates to anything transferred by this Order, be continued by or in relation to the Department of Agriculture and Rural Development.

(3) Anything done (or having effect as if done) by or in relation to the transferor for the purposes of or in connection with anything transferred to the Department of Agriculture and Rural Development by this Order shall, if in force at the coming into force of this Order, have effect as if done by or in relation to the Department of Agriculture and Rural Development in so far as that is required for continuing its effect after the coming into force of this Order.

(4) Any enactment or instrument passed or made before the coming into force of this Order shall have effect, so far as may be necessary for the purposes of or in consequence of any transfer effected by this Order as if any references (including references which are to be construed as such references) to the transferor or his department or officers were references to, or (as the context may require) to officers of, the Department of Agriculture and Rural Development.

(5) In this Article "instrument", without prejudice to the generality of that expression, includes in particular Royal Charters, Orders in Council, Letters Patent, judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, contracts and other agreements, memoranda and articles of association, warrants, certificates and other documents.

(**2**) 1995 c. 21.
(**3**) 1967 c. 84.
(**4**) 1981 c. 29.

The Northern Ireland zone

6.—(1) In section 16(1)(f) of the Fisheries Act (Northern Ireland) 1966(**5**) (definition of boundary of Londonderry area) for "waters within British fishery limits which are adjacent to Northern Ireland" substitute "the Northern Ireland zone".

(2) In section 124(1) of that Act(**6**) (sea-fishing regulations) for "waters within British fishery limits which are adjacent to Northern Ireland" substitute "the Northern Ireland zone".

(3) In section 206 of that Act(**7**) (interpretation)—

(a) in subsection (1), after the definition of "net" insert—

""Northern Ireland zone" has the same meaning as in the Northern Ireland Act 1998(**8**);";

(b) in that subsection, in the definition of "waters" for "consisting of waters within British fishery limits which are adjacent to Northern Ireland" substitute "within the Northern Ireland zone";

(c) in that subsection, omit the definition of "waters within British fishery limits which are adjacent to Northern Ireland"; and

(d) in subsection (3) for "waters within British fishery limits which are adjacent to Northern Ireland" substitute "the Northern Ireland zone".

(4) In section 40 of the Fisheries Act 1981(**9**) (fishery protection in waters adjacent to Northern Ireland) for the words from "waters" to the end substitute "the Northern Ireland zone within the meaning of the Northern Ireland Act 1998".

Further amendments relating to sea fisheries

7.—(1) In section 64 of the Sea Fisheries Act 1868(**10**) (application of penalties) at the end insert "or, in relation to Northern Ireland, shall be paid into the Consolidated Fund of Northern Ireland".

(2) Nothing in section 14(1) and 42 of the Sea Fish Industry Act 1970(**11**) (restrictions on disclosure of information) shall prohibit the disclosure of any information to the Department of Agriculture and Rural Development.

(3) In section 12(2) of the Fisheries Act 1981 (restriction on disclosure of information), after paragraph (b) insert—

", or

(c) to the Department of Agriculture and Rural Development for the purposes of any of its functions relating to the sea fish industry in Northern Ireland or to the regulation of sea fishing;".

(4) In section 43 of that Act (financial provision), at the end add—

"(3) Any sums received by the Department of Agriculture and Rural Development under this Act shall be paid into the Consolidated Fund of Northern Ireland."

(**5**) 1966 c. 17. Section 16(1)(f) was inserted by 1968 c. 31 (N.I.) s.7, Sch.2 and amended by the Fishery Limits Act 1976 (c. 86) s.9, Sch.2 para.14, and the Fisheries (Amendment) (Northern Ireland) Order 1981 (S.I.1981/227 (NI 7)) art.10(2), Sch.4.
(**6**) Section 124 was substituted by the Fisheries (Amendment) (Northern Ireland) Order 1981 (S.I. 1981/227 (NI 7)) art.6.
(**7**) Relevant amendments to section 206 were made by 1968 c. 31 (N.I.) s.7, Sch.2, the Fishery Limits Act 1976 (c. 86) s.9, Sch.2 para.14, and the Fisheries (Amendment) (Northern Ireland) Order 1981 (S.I. 1981/227 (NI 7)) art.10(2), Sch.4.
(**8**) 1998 c. 47.
(**9**) 1981 c. 29.
(**10**) 1868 c. 45. Section 64 was amended by the Statute Law Revision Act 1893 and the Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999 (S.I. 1999/1820) ("the Consequential Modifications Order") Sch.2, para.2.
(**11**) 1970 c. 11. Sections 14 and 42 were amended by the Consequential Modifications Order, art.4, Sch.1, para.49.

Repeals

8. The statutory provisions specified in Schedule 4 are hereby repealed to the extent specified in that Schedule.

Clerk of the Privy Council

SCHEDULE 1

Article 3(1)

FUNCTIONS UNDER THE SEA FISH (CONSERVATION) ACT 1967

Interpretation

1.—(1) References in this Schedule to statutory provisions are to provisions of the Sea Fish (Conservation) Act 1967(**12**), unless otherwise indicated.

(2) Expressions used in this Schedule which are also used in the Sea Fish (Conservation) Act 1967 shall have the same meaning as in that Act, and cognate expressions shall be construed accordingly, except that references to, or to any of, the Ministers shall be construed without the modification made by section 22A of that Act(**13**).

(3) Any reference in this Schedule to a function of the Ministers or to a function of one of the Ministers includes a function which has been transferred to the Scottish Ministers or the National Assembly of Wales only if, and only to the extent that, it remains exercisable by the Ministers or (as the case may be) one of the Ministers, as well as by the Scottish Ministers or the National Assembly of Wales.

Modification of order-making functions

2.—(1) An order under section 1(3)(**14**) may make provision applying—

(a) only to Northern Ireland fishing boats;

(b) only to relevant British fishing boats other than Northern Ireland fishing boats;

(c) only to the Northern Ireland zone.

(2) An order under section 3(**15**) may make provision applying—

(a) only to Northern Ireland fishing boats;

(b) only to relevant British fishing boats other than Northern Ireland fishing boats.

(3) Orders under section 4(1)(**16**) or 4A(1)(**17**) prohibiting fishing or the receiving of fish may make provision applying only to Northern Ireland fishing boats.

(4) Orders under section 6(1A)(**18**) prohibiting the trans-shipment of fish may make provision applying only to the Northern Ireland zone.

Transfer of functions to the Department of Agriculture and Rural Development

3.—(1) The following functions shall be treated as exercisable in or as regards Northern Ireland for the purposes of sections 6 (legislative competence) and 86 (provision for purposes consequential

(**12**) 1967 c. 84. Relevant amendments to the Sea Fish (Conservation) Act 1967 include the transfer of functions under the Scotland Act 1998 (c. 46), the Scotland Act 1998 (Concurrent Functions) Order 1999 (S.I. 1999/1592) art.3 and Sch.1, the Scotland Act 1998 (Modification of Functions) Order 1999 (S.I. 1999/1756) art.3, Consequential Modifications Order, the Government of Wales Act 1998 (c. 38) the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) art.2, Sch.1, the Transfer of Functions (Agriculture and Fisheries) Order 2000 (S.I. 2000/1812) [and the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/)].

(**13**) Section 22A was inserted by the Consequential Modifications Order art.4, Sch.2, para.43.

(**14**) Section 1 was substituted by the Fisheries Act 1981 (c. 29), s.19(1). Section 1(3) was amended by the Consequential Modifications Order art.4, Sch.2, para.43.

(**15**) Section 3 was amended by the Fishery Limits Act 1976 (c. 86) s.9(1) Sch.2, para.16(1) and the Consequential Modifications Order art.4, Sch.2, para.43.

(**16**) Section 4 was substituted by the Fishery Limits Act 1976 (c. 86) s.3. Subsection (1) was amended by Consequential Modifications Order art.4, Sch.2, para.43.

(**17**) Section 4A was inserted by the Fisheries Act 1981 (c. 29) s.21(1). Subsection (1) was amended by the Consequential Modifications Order art.4, Sch.2, para.43.

(**18**) Section 6(1A) was inserted by the Fisheries Act 1981 (c. 29) s.23(2) and was amended by the Consequential Modifications Order art.4, Sch.2, para.43.