STATUTORY RULES OF NORTHERN IRELAND

2008 No. 492

FISHERIES

The Sea Fishing (Enforcement of Community Measures) (Penalty Notices) Order (Northern Ireland) 2008

Made - - - - 10th December 2008

Coming into operation 5th January 2009

The Department of Agriculture and Rural Development in exercise of the powers conferred by section 30(2) of the Fisheries Act 1981(**1**), and now vested in it(**2**) makes the following Order:

Citation and commencement

1. This Order may be cited as the Sea Fishing (Enforcement of Community Measures) (Penalty Notices) Order (Northern Ireland) 2008 and shall come into operation on 5th January 2009.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to this Order as it applies to an Act of the Assembly.

(2) In this Order—

"British sea fishery officer" means any person who by virtue of section 7 of the Sea Fisheries Act 1968(**4**) is a British sea fishery officer;

"the Department" means the Department of Agriculture and Rural Development;

"English fishing boat" means a fishing boat which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995(**5**) and whose entry in the register specifies a port in England as the port to which the boat is to be treated as belonging;

"Northern Ireland fishing boat" means—

(a) 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 Northern Ireland as the port to which the boat is to be treated as belonging; or

(**1**) 1981 c.29.
(**2**) Sea Fisheries Order (Northern Ireland) 2002 (S.I. 2002/790 Article 3(2)) and Schedule 2.
(**3**) 1954 c.33(N.I.)
(**4**) 1968 c.77.
(**5**) 1995 c.21.

(b) a fishing boat, other than—

(i) a Scottish fishing boat,

(ii) a Welsh fishing boat, or

(iii) an English fishing boat,

which is owned wholly by persons qualified to own British ships for the purposes of Part II of that Act;

"Northern Ireland zone" has the same meaning as in section 98(1) of the Northern Ireland Act 1998(**6**)

"penalty" means the amount specified in a penalty notice;

"penalty notice" means a notice offering the opportunity, by payment of a specified amount in accordance with this Order, to discharge any liability to be convicted of the penalty offence to which the notice relates;

"penalty offence" means an offence (other than one involving assault, obstruction, or failure to comply with a requirement imposed by a person) under—

(c) section 30(1)(a) of the Fisheries Act 1981 (offences relating to enforceable Community restrictions relating to sea fishing);

(d) an order made under section 30(2) of that Act (provisions for the enforcement of any enforceable Community restriction or other obligation relating to sea fishing);

(e) the Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites Regulations (Northern Ireland) 2005(**7**);

(f) the Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites (Wales) Regulations 2005(**8**);

(g) the Registration of Fish Buyers and Sellers and Designation of Fish Auction Sites Regulations 2006(**9**); or

(h) the Registration of Fish Sellers and Buyers and Designation of Auction Sites (Scotland) Regulations 2005(**10**);

"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 vessel is to be treated as belonging;

"Welsh 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 Wales as the port to which the vessel is to be treated as belonging.

Issue of a penalty notice for a penalty offence

3.—(1) A British sea fishery officer may exercise the powers conferred by paragraph (2) in relation to—

(a) a Northern Ireland fishing boat, wherever it may be,

(b) an English fishing boat within the Northern Ireland zone,

(c) a Scottish fishing boat within the Northern Ireland zone,

(d) a Welsh fishing boat within the Northern Ireland zone, or

(**6**) 1998 c.47.
(**7**) S.R.2005/419.
(**8**) S.I.2005/1605.
(**9**) S.I.2006/1495.
(**10**) S.S.I.2005/286, as amended by S.S.I.2005/438.

(e) any other fishing boat within the Northern Ireland zone.

(2) A British sea fishery officer who has reason to believe that a person has committed a penalty offence may issue that person with a penalty notice for an amount not exceeding £2000.

(3) A penalty notice is issued at the time it is sent by post or delivered by hand to the person to whom it relates.

Restriction on proceedings for penalty offence

4.—(1) Where a person is issued with a penalty notice—

(a) no proceedings may be brought against that person for the penalty offence to which that notice relates before the end of the period of 28 days beginning with the date on which the notice was issued; and

(b) that person may not be convicted of the offence if the penalty is paid before the end of that period.

(2) Paragraph (1)—

(a) is subject to Article 9; and

(b) does not apply if the penalty notice is withdrawn in accordance with Article 8.

Payment of penalty

5.—(1) Payment of a penalty must be made to the person specified in the penalty notice by sending it by post or by such method as may be specified in the notice.

(2) Payment may not be made in cash.

Payment of one penalty treated as payment of connected penalties

6.—(1) Where a person ("A") pays the penalty in accordance with Article 5, a British sea fishery officer must give a notice (a "notice of deemed payment") to all other persons who have been issued with a connected penalty notice.

(2) A penalty notice is a "connected penalty notice" if the penalty offence to which that notice relates is the same as, and arises out of the same set of circumstances as, the penalty offence to which a penalty notice issued to another person relates.

(3) A notice of deemed payment must—

(a) be sent by post or delivered by hand;

(b) indicate that A has paid the penalty for A's connected penalty notice;

(c) indicate that the penalty notice issued to the recipient of the notice of deemed payment will be treated as having been paid unless that person gives written notice indicating that it should not be so treated (a "notice of objection"); and

(d) state the name and address of the person to whom any notice of objection must be given.

(4) A notice of objection must be sent by post or delivered by hand to the person stated in paragraph (3)(d) within—

(a) 28 days beginning with the date on which the penalty notice was issued, or

(b) if later, five days beginning with the date on which the notice of deemed payment was given.

(5) If no notice of objection is given in accordance with this Article, the penalty notice issued to a person who has been given a notice of deemed payment is to be treated as having been paid.