

# NATIONAL ASSEMBLY FOR WALES

## LEGISLATION COMMITTEE REPORT

### **The Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures) (Wales) Order 2000**

#### **Background**

This Order provides for the enforcement of EU restrictions on sea fishing. The restrictions in question fix total allowable catches and Member State quotas for the year 2000 and lay down certain conditions with regard to the manner in which such fishing may be carried out. The EU provisions also authorise fishing by Norway and the Faroe Islands for specified descriptions of fish in specified areas.

The Order includes provision with regard to –

The creation of criminal offences for contravention of the EU restrictions,

the recovery of fines,

powers of investigation for British sea fishery officers,

admissibility of evidence.

#### **Standing Order 11.5**

The Committee noted that the purpose of article 5(3) was to apply the provisions of article 5 (recovery of fines) in cases where a court in Scotland or Northern Ireland, in imposing a fine for a "relevant offence", had made an order for the fine to be enforceable in Wales.

In these circumstances it seemed that the words "or a petty session district in Northern Ireland" and "or petty sessions district" had been wrongly included in article 5(3).

It also appeared that the reference in article 5(3) to section 90 of the Magistrates' Courts Act 1980 had been wrongly included. Section 90 provides only for a fine to be enforceable in Scotland or Northern Ireland whereas article 5(3) deals only with fines which are made enforceable in Wales.

These points were drawn to the attention of the relevant Assembly Secretary, in accordance with the requirements of Standing Order 11.4.

The Assembly Secretary confirms that the words "or a petty sessions district in Northern Ireland" and "or petty sessions district" were included by clerical error and will not be included in the printed Order.

With regard to the reference to section 90 of the Magistrates' Courts Act 1980, the Assembly Secretary confirms that this was also included in error, although it is suggested that it is merely otiose and does not affect the validity of the Order.

The Assembly Secretary further indicates that as the inclusion of the reference to section 90 of the 1980 Act cannot be said to have been merely a clerical error it is not considered that it can be amended in the printed Order, although it is accepted that the defect should be remedied when the Order is next amended.

The Committee agrees the action taken and proposed to be taken. Since both errors were in the Order as submitted to the Committee, however, the Committee is obliged to report to the Assembly under Standing Order 11 that it should pay special attention to this Order on the ground that its drafting appears to be defective in the above respects.

## **General Observations**

### **Preamble**

In relation to footnote (a) it is not thought that the lengthy reference to the modifications which have been made for Scotland will be of assistance to users of this Order.

### **Article 2(1) "relevant offence"**

With regard to the reference to section 30(2A) in paragraph (b) a footnote would have been helpful to identify the amending order under which this additional subsection was inserted. This is particularly so, since with subsection (2A) being essentially a provision relating to Scotland, Halsbury and LEXIS do not seem to include it in their texts.

### **Article 5(1)(a)**

Insertion of a comma after "convicted" might have made this slightly easier to follow.

### **Article 6(3)**

"require the boat to stop" might have been better expressed as "require the boat to be stopped".

## **M. GERMAN OBE AM**

**Chair,**

**Legislation Committee**

13 June 2000