
STATUTORY INSTRUMENTS

1991 No. 1380

SEA FISHERIES

CONSERVATION OF SEA FISH

The Sea Fish (Specified Sea Areas) (Regulation
of Nets and Other Fishing Gear) Order 1991

<i>Made</i>	- - - -	<i>12th June 1991</i>
<i>Laid before Parliament</i>		<i>13th June 1991</i>
<i>Coming into force</i>	- -	<i>1st July 1991</i>

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fishing industry in Scotland, Wales and Northern Ireland, acting jointly, in exercise of the powers conferred on them by sections 3, 15(3) and 22(2)(a) of the Sea Fish (Conservation) Act 1967(1), and of all other powers enabling them in that behalf, hereby make the following Order:

Title and commencement

1. This Order may be cited as the Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) Order 1991 and shall come into force on 1st July 1991.

Interpretation

2.—(1) In this Order—

“beam trawler” means a fishing boat which, in so far as it carries or uses nets, carries or uses only nets which are designed to be towed along the sea-bed and which have their mouth extended by a beam, bar or other rigid device;

“codend” means the rearmost part of a net, being made up of one or more panels (pieces of netting) of the same mesh size attached to one another along their sides in the long axis of the net by a lacing;

“codline” means a rope making it possible to close the rear of the codend by means of either a knot which can be easily loosened or a mechanical device;

(1) 1967 c. 84; section 15(3) was substituted by paragraph 38(3) of Schedule 1 to the Sea Fisheries Act 1968 (c. 77) and amended by paragraph 16(1) of Schedule 2 to the Fishery Limits Act 1976 (c. 86); section 22(2)(a) which contains a definition of Ministers for the purposes of sections 3 and 15(3) was amended by the Fisheries Act 1981 (c. 29), sections 19(2)(d) and 45(b).

“extension piece” means an extension piece located immediately in front of the codend and excludes any tapered part of the net;

“flapper” means a piece of netting with a mesh size at least equal to that of the codend and any extension piece, fastened inside a net in such a way that it allows catches to pass from the front to the rear of the net but limits their possibility of return;

“ICES” followed by a roman numeral with or without a letter shall be construed as a reference to whichever of the statistical sub-areas and divisions of the International Council for the Exploration of the Sea(2) described in the Schedule is identified therein by that roman numeral or that roman numeral and letter as the case may be;

“net” means a trawl, Danish seine or similar towed net;

“protected species” has the same meaning as in Article 2(1) of Council Regulation (EEC) No. 3094/86 laying down certain technical measures for the conservation of fishery resources(3);

“registered engine power”, in relation to a boat, means the engine power as recorded in the Certificate of Registry of that boat issued under regulation 24 of the Merchant Shipping (Registration of Fishing Vessels) Regulations 1988(4);

“square mesh panel” means a panel of netting mounted so that of the two sets of parallel lines formed by the mesh bars one set is parallel to, and the other at right angles to, the long axis of the net;

“strengthening bag” means a construction of netting which surrounds in whole or in part the codend and any extension piece and which is designed to support the codend and any extension piece during hauling of the gear;

“top-side chafer” means a construction of netting which covers in whole or in part the outside of the upper half of the codend and any extension piece.

(2) Any reference in this Order to a numbered article or “the Schedule” shall, unless the context otherwise requires, be construed as a reference to the article bearing that number in this Order or the Schedule to this Order.

Exemptions

3.—(1) This Order shall not apply to any net carried in, or used by, a beam trawler.

(2) Article 4(1) shall not apply to any net carried in, or used by, a boat which has a registered engine power not exceeding 298 kilowatts or, in the case of a boat which is operating a single net with another boat as a pair, where the aggregate registered engine power of both boats does not exceed 298 kilowatts.

(3) The requirements relating to carriage of nets in article 4(2) and (3) shall not apply to any net which is properly lashed and stowed in such a way that it may not be readily used.

(4) Article 4(2) shall not apply to any net carried in, or used by, a boat for the purpose of fishing for queen scallops (*Chlamys opercularis*).

(5) For the purposes of paragraph (4) above, a net shall be deemed to have been carried in a boat for the purpose of fishing for queen scallops and a boat shall be deemed to have been fishing for queen scallops if the catch retained on board that boat includes at least 80% by weight queen scallops and not more than 10% by weight protected species.

(2) Cmnd. 2586.

(3) OJ No. L288, 11.10.86, p.1.

(4) S.I.1988/1926.

Regulation of carriage and use of nets

4.—(1) Subject to article 3(1) and (2), any net with a minimum mesh size of between 90 millimetres and 100 millimetres inclusive carried in, or used by, any British fishing boat registered in the United Kingdom in ICES IIa south of 64° north latitude and east of 4° west longitude (Norwegian Sea), ICES IV (North Sea) or ICES VI north of a line drawn westwards from the east coast of the Sound of Jura at 56° north latitude (Rockall and West of Scotland) shall have incorporated in it as part of the net a square mesh panel which—

- (a) has a minimum mesh size of 90 millimetres;
- (b) is at least 3 metres in length, extends widthways across the net at right angles to the towing axis for the top half of the net and is attached along each lateral edge to the net in such a way that the stretched length of the section of the net to which the panel is attached is the same as the stretched length of the panel along that lateral edge; and
- (c) is placed—
 - (i) in the codend or in any extension piece or immediately in front of any extension piece or, in the absence of an extension piece, immediately in front of the codend;
 - (ii) with, in each case, the rearmost part of the panel not more than 7 metres in front of the codline which is nearest to the front of the net; and
 - (iii) either forward of any flapper or with the front end of the panel to the rear of any flapper by at least 3 flapper lengths.

(2) Subject to article 3(1), (3) and (4), any net with a minimum mesh size of between 70 millimetres and 85 millimetres inclusive carried in, or used by, any British fishing boat registered in the United Kingdom in ICES VIIa (Irish Sea) shall have incorporated in it as part of the net a square mesh panel which has a minimum mesh size of 75 millimetres and complies with the criteria set out in paragraph (1)(b) and (c) above.

(3) Subject to article 3(1) and (3), any net with a minimum mesh size of 70 millimetres or more but less than 90 millimetres carried in, or used by, any British fishing boat registered in the United Kingdom in ICES IIa south of 64° north latitude and east of 4° west longitude (Norwegian Sea), ICES IV (North Sea) or ICES VI (Rockall and West of Scotland) for the purpose of fishing for nephrops (*Nephrops norvegicus*) shall have incorporated in it as part of the net a square mesh panel which has a minimum mesh size of 80 millimetres and complies with the criteria set out in paragraph (1) (b) and (c) above.

(4) For the purposes of paragraph (3) above, a net shall be deemed to have been carried in a boat for the purpose of fishing for nephrops and a boat shall be deemed to have been fishing for nephrops if the catch retained on board that boat includes at least 30% by weight nephrops and not more than 60% by weight protected species.

Measurement of mesh size of nets

5.—(1) Subject to paragraph (2) below, for the purposes of this Order the mesh size of nets shall be measured in accordance with the provisions of Commission Regulation (EEC) No. 2108/84 laying down detailed rules for determining the mesh size of fishing nets(5).

(2) In the case of square mesh the method set out in Articles 2(1) and 4 of the Commission Regulation referred to in paragraph (1) above shall not be used and instead the net shall be stretched in the direction of each diagonal of the mesh and the measurement shall be taken of each stretched diagonal, and the size of the mesh shall be taken to be the average of those two measurements, each such measurement being the width of the gauge at the point where the gauge is stopped, when using the gauge in accordance with Article 2(2) and (3) of that Regulation.

(5) OJ No. L194, 24.7.84, p.22.

Regulation of codend and extension piece

6.—(1) Subject to article 3(1), where any net with a minimum mesh size of between 90 millimetres and 100 millimetres inclusive is carried in, or used by, any British fishing boat registered in the United Kingdom in ICES IIa south of 64° north latitude and east of 4° west longitude (Norwegian Sea), ICES IV (North Sea) or ICES VI north of a line drawn westwards from the east coast of the Sound of Jura at 56° north latitude (Rockall and West of Scotland)—

- (a) the codend of that net shall have either a cylindrical shape, being the same circumference throughout, or a shape tapering towards the rear end only;
- (b) the circumference of the codend at any point shall not exceed the circumference at any point of any extension piece; and
- (c) the number of meshes at any point on the circumference of any extension piece shall be not less than the number of meshes on the circumference of the codend at any point.

(2) For the purpose of calculating the number of meshes on the circumference of the codend or any extension piece under paragraph (1)(c) above, meshes in the selvages, if any, shall be excluded and each square mesh, if any, shall be counted as two meshes.

Regulation of carriage and use of strengthening bags and top-side chafers

7.—(1) Where a square mesh panel is required to be incorporated in any net by article 4(1), the carriage in, or use by, any British fishing boat registered in the United Kingdom of any strengthening bag or top-side chafer is prohibited in ICES IIa south of 64° north latitude and east of 4° west longitude (Norwegian Sea), ICES IV (North Sea) and ICES VI north of a line drawn westwards from the east coast of the Sound of Jura at 56° north latitude (Rockall and West of Scotland).

(2) Where any strengthening bag or top-side chafer is used with any net which has incorporated in it a square mesh panel as required by article 4(2) or (3), that strengthening bag or top-side chafer shall not overlap the square mesh panel.

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

8.—(1) For the purpose of the enforcement of this Order a British sea-fishery officer may exercise anywhere in relation to any British fishing boat registered in the United Kingdom the powers conferred by paragraphs (2) to (4) below.

(2) He may go on board the boat, with or without persons assigned to assist him in his duties, and for that purpose may require the boat to stop and do anything else which will facilitate the boarding of the boat.

(3) He may require the attendance of the master and other persons on board the boat and may make any examination and inquiry which appears to him to be necessary for the purpose mentioned in paragraph (1) above and, in particular—

- (a) 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 its fishing operations or other operations ancillary thereto or to the persons on board which is in his custody or possession and may take copies of any such document;
- (c) for the purpose of ascertaining whether the master, owner or charterer of the boat has committed an offence under section 3(5) of the Sea Fish (Conservation) Act 1967 as read with this Order, 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; and

- (d) where the boat is one in relation to which he has reason to suspect that such an offence 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;

but nothing in sub-paragraph (d) above shall permit any document required by law to be carried on board the boat to be seized and detained except while the boat is detained in a port.

(4) Where it appears to a British sea-fishery officer that a contravention of this Order has at any time taken place within British fishery limits, he may—

- (a) require the master of the boat in relation to which the contravention took place to take, or may 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;

and where such an officer detains or requires the detention of a boat he shall serve on the master a notice in writing stating that the boat will be 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.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 10th June 1991.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

Strathclyde
Parliamentary Under Secretary of State, Scottish
Office

10th June 1991

David Hunt
Secretary of State for Wales

12th June 1991

Peter Brooke
Secretary of State for Northern Ireland

12th June 1991

SCHEDULE

Article 2(1)

SUB-AREAS AND DIVISIONS OF THE INTERNATIONAL
COUNCIL FOR THE EXPLORATION OF THE SEA**ICES Statistical Division IIa (Norwegian Sea)**

The waters bounded by a line beginning at a point on the coast of Norway in 62°00' north latitude; thence due west to 4°00' west longitude; thence due north to 63°00' north latitude; thence due west to 11°00' west longitude; thence due north to 73°30' north latitude; thence due east to 30°00' east longitude; thence due south to 72°00' north latitude; thence due west to 26°00' east longitude; thence due south to the coast of Norway; thence in a westerly and south-westerly direction along the coast of Norway to the point of beginning.

ICES Statistical Sub-Area IV (North Sea)

The waters bounded by a line beginning at a point on the coast of Norway in 62°00' north latitude; thence due west to 4°00' west longitude; thence due south to the coast of Scotland; thence in an easterly and southerly direction along the coasts of Scotland and England to a point in 51°00' north latitude; thence due east to the coast of France; thence in a north-easterly direction along the coasts of France, Belgium, the Netherlands and the Federal Republic of Germany to the western terminus of its boundary with Denmark; thence along the west coast of Jutland to Thyboron; thence in a southerly and easterly direction along the south coast of the Limfjord to Egensekloster Point; thence across the eastern entrance of the Limfjord to Hals; thence in a westerly direction along the north coast of Limfjord to the southernmost point of Agger Tange; thence in a northerly direction along the west coast of Jutland to a point in 57°00' north latitude; thence due west to 8°00' east longitude; thence due north to 57°30' north latitude; thence due west to 7°00' east longitude; thence due north to the coast of Norway; thence in a north-westerly direction along the coast of Norway to the point of beginning.

ICES Statistical Sub-Area VI (Rockall and West of Scotland)

The waters bounded by a line beginning at a point on the north coast of Scotland in 4°00' west longitude; thence due north to 60°30' north latitude; thence due west to 5°00' west longitude; thence due south to 60°00' north latitude; thence due west to 18°00' west longitude; thence due south to 54°30' north latitude; thence due east to the coast of the Republic of Ireland; thence in a northerly and easterly direction along the coasts of the Republic of Ireland and of Northern Ireland to a point on the east coast of Northern Ireland in 55°00' north latitude; thence due east to the coast of Scotland; thence in a northerly direction along the west coast of Scotland to the point of beginning.

ICES Statistical Division VIIa (Irish Sea)

The waters bounded by a line beginning at a point on the west coast of Scotland in 55°00' north latitude; thence due west to the coast of Northern Ireland; thence in a southerly direction along the coasts of Northern Ireland and the Republic of Ireland to a point on the south-east coast of the Republic of Ireland in 52°00' north latitude; thence due east to the coast of Wales; thence in a north-easterly and northerly direction along the coasts of Wales, England and Scotland to the point of beginning.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order regulates the carriage of certain nets and other fishing gear in British fishing boats registered in the United Kingdom in specified sea areas and restricts the manner in which such nets and gear may be used. The Order is made in reliance on Article 14(1) of Council Regulation (EEC) No. 3094/86, laying down certain technical measures for the conservation of fishery resources, which authorises Member States to take certain national measures for the conservation and management of stocks.

In particular, the Order—

- (a) requires a square mesh panel complying with specified criteria to be incorporated in nets of certain mesh sizes carried in, or used by, boats in part of ICES IIa (Norwegian Sea) or in ICES IV (North Sea), ICES VI (Rockall and West of Scotland) or ICES VIIa (Irish Sea) (article 4 and the Schedule);
- (b) prescribes how the mesh size of nets is to be measured for the purposes of the Order (article 5);
- (c) regulates the codend and any extension piece of nets of certain mesh sizes carried in, or used by, boats in parts of ICES IIa or VI or in ICES IV (article 6);
- (d) regulates the carriage in, and use by, boats of strengthening bags and top-side chafers in specified sea areas in certain circumstances (article 7);
- (e) provides for exemptions (article 3);
- (f) gives British sea-fishery officers enforcement powers in relation to British fishing boats registered in the United Kingdom (article 8).

Offences and penalties are prescribed respectively by sections 3(5) and 11 of the Sea Fish (Conservation) Act 1967, as amended by section 24(1) of the Fisheries Act 1981.