
SCOTTISH STATUTORY INSTRUMENTS

2000 No. 227

SEA FISHERIES

CONSERVATION OF SEA FISH

**The Sea Fish (Specified Sea Areas) (Regulation of
Nets and Other Fishing Gear) (Scotland) Order 2000**

<i>Made</i>	- - - -	<i>5th July 2000</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>6th July 2000</i>
<i>Coming into force (except article 5)</i>	- - - -	<i>3rd August 2000</i>

The Scottish Ministers, 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 makes the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Order 2000.

(2) This Order, except article 5, shall come into force on 3rd August 2000.

(3) Article 5 shall come into force on 1st March 2001.

Interpretation

2.—(1) In this Order—

“the Act” means the Sea Fish (Conservation) Act 1967;

“the Council Regulation” means Council Regulation (EC) No. 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of

(1) 1967 c. 84; section 15(3) was substituted by the Sea Fisheries Act 1968 (c. 77), Schedule 1, paragraph 38(3) and amended by the Fishery Limits Act 1976 (c. 86) Schedule 2, paragraph 16(1). Relevant modifications are contained in the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 (S.I. 1999/1748), article 5 and the Scotland Act 1998 (Modification of Functions) Order 1999 (S.I. 1999/1750), articles 3, 5 and 6. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act (c.46). Section 22(2)(a) which contains a definition of “the Ministers” for the purposes of section 5 and 15(3) was amended by the Fisheries Act 1981, sections 19(2) (d) and 45(b). The definition has effect in relation to Scotland with the modifications made by section 22A(12)(b) inserted by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820); Schedule 2, paragraph 43(13).

marine organisms⁽²⁾ as corrected by Corrigendum to Annex XII of the Council Regulation⁽³⁾ and amended by Council Regulation (EC) No. 308/1999⁽⁴⁾ and Council Regulation (EC) No. 1259/99⁽⁵⁾;

“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;

“equivalent Order” means an Order extending to any other part of the United Kingdom made under section 3 of the Act pursuant to Article 46 of the Council Regulation in so far as it contains requirements as regards square mesh panels to be incorporated or twine thickness to be used in the construction of nets;

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

“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⁽⁶⁾ described in the Schedule is identified therein by that roman numeral or that roman numeral and letter as the case may be; and

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

(2) Expressions used in this Order which appear or are referred to in the Council Regulation and which are not defined in this article have the same meaning in this Order as in that Regulation.

(3) Any reference in this Order to a numbered article shall be construed as a reference to the article so numbered in this Order and any reference to the Schedule as a reference to the Schedule to this Order.

(4) For the purposes of this Order a net shall be deemed to have been carried in a boat for the purpose of fishing for Norway lobsters (*Nephrops norvegicus*) and a boat shall be deemed to have been fishing for Norway lobsters if the catch retained on board that boat includes—

- (a) in the case of a 70 to 79 millimetre net, 35% by weight Norway lobsters and other marine organisms identified in Annex 1 to the Council Regulation as target species for a net of that size; and
- (b) in the case of an 80 to 99 millimetre net, 30% by weight Norway lobsters and other marine organisms identified in Annex 1 to the Council Regulation as target species for a net of that size.

(5) Where detached Norway lobster tails are retained on board a boat, the equivalent weight of the whole Norway lobsters shall be taken into account for the purpose of paragraph (4), and that equivalent weight shall be obtained by multiplying the weight of the tails by 3.

Application

3.—(1) Subject to paragraph (2), articles 4 and 5 apply to any net carried in or used by—

- (a) any Scottish fishing boat in ICES IIa south of 64° north latitude and east of 4° west longitude (Norwegian Sea), ICES IV (North Sea) or ICES VI (West of Scotland); or

(2) O.J. No. L 125, 27.4.98, p.1.

(3) O.J. No. L 318, 27.11.98, p.63.

(4) O.J. No. L 38, 12.2.99, p.6.

(5) O.J. No. L 168, 3.7.99, p.1.

(6) Cmnd. 2586.

- (b) any relevant British fishing boat in that part of ICES IIa south of 64° north latitude and east of 4° west longitude (Norwegian Sea), of ICES VI (West of Scotland) or of ICES IV (North Sea) within the Scottish zone.
- (2) Articles 4 and 5 do not apply to any net that is—
- (a) carried in, or used by, a beam trawler; or
 - (b) properly lashed and stowed in such a way that it may not be readily used.

Square mesh panel requirements

4. Any net to which this article applies which has a mesh size of 70 millimetres or more but less than 119 millimetres shall have incorporated in it as part of the net a square mesh panel which—
- (a) has a mesh size of not less than 90 millimetres; and
 - (b) is no more than 12 metres from the codline or, in any case where the net is used for the purpose of fishing for Norway lobsters, no more than 18 metres from the codline.

Twine thickness requirements

5.—(1) Where any net to which this article applies is constructed wholly or in part in the codend, extension piece or square mesh panel of multiple twine netting, the sum of the thicknesses of the multiple twines on any side of any mesh shall not exceed 10 millimetres.

(2) Where any net to which this article applies is carried or used for the purpose of fishing for Norway lobsters the codend, extension piece and any square mesh panel shall be constructed of single twine that does not exceed 4 millimetres.

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

6.—(1) For the purpose of the enforcement of this Order or any equivalent Order, a British sea-fishery officer may exercise in relation to—

- (a) any Scottish fishing boat wherever it may be; and
- (b) any relevant British fishing boat in the Scottish zone,

the powers conferred by this article.

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

(3) The officer may require the attendance of the master and other persons on board the boat and may make any examination and inquiry which appears to the officer 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 the officer 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 their 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 the officer to be necessary for facilitating the search; and

- (d) where the boat is one in relation to which the officer has reason to suspect that such an offence has been committed, may seize and detain any such document produced to the officer 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 or any equivalent order has at any time taken place within British fishery limits, the officer may—

- (a) require the master of the boat in relation to which the contravention took place to take, or the officer may take, the boat and its crew to the port which appears to the officer to be the nearest convenient port; and
- (b) detain or require the master to detain the boat in the port.

(5) Where an officer detains or requires the detention of a boat under this article the officer 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.

Revocation

7. The Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) Order 1991(7) and the Sea Fishing (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Variation) Order 1992(8) are revoked.

St Andrew's House,
Edinburgh
5th July 2000

JOHN HOME ROBERTSON
Authorised to sign by the Scottish Ministers

(7) S.I. 1991/1380
(8) S.I. 1992/1344.

SCHEDULE

Article 2(1)

STATISTICAL 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 (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 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.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order regulates the carriage of certain nets and other fishing gear. The Order is made pursuant to Article 46 of Council Regulation (EEC) No. 850/98 of 30th March 1998 for the Conservation of Fishery resources through technical measures for the protection of juveniles of marine organisms (O.J. No. L 125, 27.4.98, p.1). The Order forms part of the law of Scotland only.

Status: This is the original version (as it was originally made).

The Order applies to nets carried or used by Scottish fishing boats and relevant British fishing boats in certain specified areas (article 3(1)). Nets carried or used by beam trawlers and nets which are lashed and stowed so that they may not readily be used are excepted from the requirements of the Order (article 3(2)).

The Order requires that–

- (a) a square mesh panel complying with specified conditions be incorporated in nets of certain mesh sizes carried in, or used by Scottish fishing boats and relevant British fishing boats in the specified areas (article 4);
- (b) in the case of multiple twine netting in the codend, extension piece or square mesh panel of any net to which the Order applies, the sum of the thicknesses of the multiple twines on any side of any mesh do not exceed 10 millimetres (article 5(1)); and
- (c) in the case of any net to which the Order applies and which is carried or used for the purpose of fishing for Norway lobsters, any square mesh panel is constructed of single twine that does not exceed 4 millimetres (article 5(2)).

The Order gives certain enforcement powers to British sea fishery officers (article 6).

The Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) Order 1991 (S.I.1991/1380) and the Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Variation) Order 1992 (S.I. 1992/1344) are revoked (article 7).

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.