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SCOTTISH STATUTORY INSTRUMENTS

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**2002 No. 81**

**SEA FISHERIES**

**The Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Amendment Order 2002**

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| <i>Made</i>                                | - - - - | <i>4th March 2002</i>  |
| <i>Laid before the Scottish Parliament</i> | - - - - | <i>5th March 2002</i>  |
| <i>Coming into force</i>                   | - -     | <i>26th March 2002</i> |

The Scottish Ministers, in exercise of the powers conferred by section 30(2) of the Fisheries Act 1981<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Amendment Order 2002 and shall come into force on 26th March 2002.

(2) In this Order “the principal Order” means the Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Order 2000<sup>(2)</sup>.

**Amendment of the principal Order**

2. In article 2 (interpretation) of the principal Order—

(a) for the definition of “the Council Regulation” there is substituted—

““the Council Regulation” means Council Regulation (EC) No. 850/98 for the conservation of fishery resources through technical resources for the protection of juveniles of marine organisms<sup>(3)</sup> as corrected by Corrigendum to Annex XII of the Council Regulation<sup>(4)</sup> and amended by Council Regulation (EC) No. 308/1999<sup>(5)</sup>,

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(1) 1981 c. 29; 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. 1999/1756), 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 1998 (c. 46). See section 30(3) of the 1981 Act for definitions of “enforceable Community restriction”, “enforceable Community obligation” and “the Ministers”. Section 30 has effect in relation to Scotland as modified by section 30(5) which was inserted by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraph 68(5)(b).

(2) S.S.I. 2000/53.

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

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

(5) O.J. No. L 038, 12.2.99, p.6.

Council Regulation (EC) No. 1459/99(6), Council Regulation (EC) No. 2723/99(7), Council Regulation (EC) No. 812/2000(8), Council Regulation No. 1298/2000(9) and Council Regulation (EC) No. 724/2001(10);”;

(b) for the definition of “Community conservation measure” there is substituted–

““Community conservation measure” means a measure provided by–

- (i) Regulation 894/97(11);
- (ii) Regulation 2549/2000(12);
- (iii) Regulation 2056/2001(13); or
- (iv) the Council Regulation;

and which is specified in column 1 of the Schedule, as read with any related provision mentioned in the entry in respect of such measure in column 1 of the Schedule;” and

(c) after the definition of “Regulation 894/97” there is inserted–

““Regulation 2549/2000” means Council Regulation (EC) No. 2549/2000 establishing additional technical measures for the recovery of the stock of cod in the Irish Sea (ICES Division VIIa) as amended by Council Regulation (EC) No. 1456/2001(14);

“Regulation 2056/2001” means Commission Regulation (EC) No. 2056/2001 establishing additional technical measures for the recovery of the stocks of cod in the North Sea and to the West of Scotland;

“Regulation 254/2002” means Council Regulation (EC) No. 254/2002(15) establishing measures to be applicable in 2002 for the recovery of the stock of cod in the Irish sea (ICES Division VIIa);”.

3. In Part II of the Schedule (the Council Regulation) to the principal Order–

(a) after paragraph 6 there is inserted the following entry:–

|                      |  |                       |
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| <b>6A</b> Article 10 | Prohibition on transhipment and landing or retaining on board, of marine organisms where dredges are carried, except where the quantity of marine organisms landed or retained on board consists of at least 95% bivalve molluscs. | The statutory maximum |
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(b) for the entry in column 2 of paragraph 12, there is substituted–

“Prohibition on the retention and landing of detached crab claws, subject to a maximum percentage for catches made by pots or creels and a maximum weight for catches made by any other fishing gear.”; and

- (6) O.J. No. L 168, 3.7.99, p.1.
- (7) O.J. No. L 328, 22.12.99, p.9.
- (8) O.J. No. L 100, 20.4.00, p.3.
- (9) O.J. No. L 148, 22.6.00, p.1.
- (10) O.J. No. L 102, 12.4.01, p.16.
- (11) O.J. No. L 132, 23.5.97, p.1.
- (12) O.J. No. L 292, 21.11.00, p.5.
- (13) O.J. No. L 277, 20.10.01, p.1.
- (14) O.J. No. L 194, 18.7.01, p.1.
- (15) O.J. No. L 41, 13.2.02, p.1.

(c) after paragraph 25 there is inserted the following entry:—

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| <b>25A</b> Article 29 | Prohibition during 2002 of £50,000<br>the retention on board or<br>landing of sand eels caught<br>within a specified area. |
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**4.** After Part II of the Schedule to the principal Order there is inserted Parts III and IV set out in the Schedule to this Order.

St Andrew's House,  
Edinburgh  
4th March 2002

*ROSS FINNIE*  
A member of the Scottish Executive

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

## SCHEDULE

Article 4

## Community Conservation Measures (Maximum Fines on Summary Conviction)

| <i>Column 1</i><br><i>Community conservation Measure</i>       | <i>Column 2</i><br><i>Subject matter</i>  | <i>Column 3</i><br><i>Maximum fine on summary conviction</i> |
|--|---|--|
| <b>III Regulation 2549/2000</b>                                |   |  |
| 1. Article 2.1 as read with Article 3                          | Provisions as to the use of multiple-twine netting within a cod-end or extension piece incorporated into a demersal towed net.  | The statutory maximum  |
| 2. Article 2.2 as read with Article 3                          | Provisions as to twine thickness in relation to cod-end or extension piece incorporated into a demersal towed net.  | The statutory maximum  |
| 3. Article 2.3   | Provisions as to the circumference of a cod-end of mesh size range 70 to 79mm or 80 to 89mm.  | The statutory maximum  |
| 4. Article 2.4   | Provisions as to the construction of a demersal towed net incorporating quadrilateral mesh.   | The statutory maximum  |
| 5. Article 2.5 as read with Article 3.1 of Regulation 254/2002 | Provisions as to the construction of a demersal towed net of mesh size range 70 to 79mm or 80 to 99mm requiring the insertion of a panel of diamond-meshed netting of a minimum mesh size of 140mm. | The statutory maximum  |
| 6. Article 2.6 as read with Article 3.2 of Regulation 254/2002 | Provisions as to the construction of a beam trawl of mesh size range 70 to 79mm or 80 to 99mm requiring the insertion of a panel of diamond-meshed netting of a minimum mesh size of 180mm.         | The statutory maximum  |
| 7. Article 2.7 as read with Article 3.1 of Regulation 254/2002 | Provision as to the fitting of a square mesh panel of mesh size of at least 80mm in a demersal towed net of a mesh size range 80 to 99mm.   | The statutory maximum  |
| 8. Article 2.8   | Provisions as to the method of attachment of a cod-end of mesh size less than 100mm.  | The statutory maximum  |

| <i>Column 1</i><br><i>Community Measure</i>  | <i>Column 2</i><br><i>conservation Subject matter</i>   | <i>Column 3</i><br><i>Maximum fine on summary conviction</i> |
|--|---|--|
| <b>IV Regulation 2056/2001</b>               |   |  |
| 1. Article 4.1                               | Provisions as to catch composition for nets with a mesh size in the range of 70 to 79mm to the west of Scotland.  | The statutory maximum  |
| 2. Article 4.2                               | Provisions as to catch composition for nets with a mesh size in the range 80 to 109mm in a specified area in the North Sea.   | The statutory maximum  |
| 3. Article 4.3                               | Provisions as to catch composition for nets with a mesh size in the range 100 to 109mm to the west of Scotland.   | The statutory maximum  |
| 4. Article 4.4                               | Provisions as to catch composition for nets with a mesh size in the range 110 to 119mm to the west of Scotland and, during 2002 only, in the North Sea and to the West of Scotland. | The statutory maximum  |
| 5. Article 4.5                               | Provisions relating to the construction of and catch composition required for nets with a mesh size in the range 100 to 119mm.  | The statutory maximum  |
| 6. Article 4.6 as read with Articles 4.1–4.5 | Provisions relating to a maximum by-catch of cod, for nets with mesh size in the range 32-119mm.  | The statutory maximum  |
| 7. Article 5.1.i                             | Provisions relating to mesh construction of demersal towed nets.  | The statutory maximum  |
| 8. Article 5.1.ii                            | Provisions relating to the length of a combined cod-end and extension piece for demersal towed nets, with a mesh size greater than or equal to 70mm.                                | The statutory maximum  |
| 9. Article 5.1.iii                           | Provisions relating to construction of cod-end and extension pieces of demersal towed nets.   | The statutory maximum  |
| 10. Article 5.1.iv                           | Provisions relating to the type of netting material used in demersal towed nets.  | The statutory maximum  |

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

| <i>Column 1</i><br><i>Community</i><br><i>Measure</i> | <i>conservation</i>          | <i>Column 2</i><br><i>Subject matter</i>   | <i>Column 3</i><br><i>Maximum fine on summary</i><br><i>conviction</i> |
|---|------------------------------|--|--|
| 11.   | Article 5.1.v                | Provisions relating to the attachment of the cod-end in demersal towed nets.   | The statutory maximum  |
| 12.   | Article 5.1.vi               | Limitations on twine thickness, used in the construction of a demersal towed net of a mesh size equal to, or greater than, 55mm. | The statutory maximum  |
| 13.   | Article 5.2.i                | Limitation on the maximum number of meshes in demersal towed nets with a mesh size in the range 70 to 89mm.                      | The statutory maximum  |
| 14.   | Article 5.2.iii              | Provisions relating to the construction of demersal towed nets with a mesh size in the range 70 to 99mm.                         | The statutory maximum  |
| 15.   | Article 5.2.iv               | Provisions as to the fitting of a square mesh panel in a demersal towed net of 70 to 99mm.                                       | The statutory maximum  |
| 16.   | Article 5.3                  | Provisions relating to the construction of beam trawl nets.  | The statutory maximum  |
| 17.   | Article 6.1 as read with 6.2 | Prohibitions relating to the geographical areas within which beam trawls with a mesh size within a certain range may be used.    | The statutory maximum  |
| 18.   | Article 6.3                  | Prohibitions relating to the carriage of certain beam trawls, within a specified geographical area.                              | The statutory maximum  |
| 19.   | Article 7                    | Provisions as to the catch composition for fixed gears of a mesh size less than 140mm.   | The statutory maximum  |
| 20.   | Article 8.1                  | Prohibition relating to deployment of certain towed nets in a specified area, and provision as to catch composition.             | The statutory maximum  |

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Sea Fishing (Enforcement of Community Conservation Measures) (Scotland) Order 2000 (“the principal Order”).

The Order makes a number of amendments to the definition of the Council Regulation and inserts definitions of Council Regulations 2549/2000, 2056/2001 and 254/2002 (article 2).

It also makes further provision for the enforcement of certain Community restrictions and obligations concerning the recovery of the stocks of cod in the Irish Sea (Council Regulation 2549/2000 and Council Regulation 254/2002) and the North Sea and to the west of Scotland (Commission Regulation 2056/2001) (article 3).

The Order creates a number of new offences in respect of breaches of the Council Regulation, Council Regulation 2549/2000 and 2056/2001 (article 4 and the Schedule).

The Order includes references to the year 2002 which, because the Order comes into force part way through the year, are to be taken for the purposes of the principal Order as references only to the period from the date of coming into force of this Order up to 31st December 2002.