
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 261

SEA FISHERIES

CONSERVATION OF SEA FISH

The Shrimp Fishing Nets (Scotland) Order 2004

<i>Made</i>	- - - -	<i>3rd June 2004</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>4th June 2004</i>
<i>Coming into force</i>	- -	<i>1st July 2004</i>

The Scottish Ministers, in exercise of the powers conferred by sections 3(1) and 15(3) of the Sea Fish (Conservation) Act 1967(1) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Shrimp Fishing Nets (Scotland) Order 2004 and shall come into force on 1st July 2004.

(1) Subject to paragraph (3), this Order extends to Scotland and the Scottish zone only.

(2) Insofar as it extends beyond Scotland and the Scottish zone, this Order does so only as a matter of Scots law.

Interpretation

2.—(1) In this Order—

“codend” means the rearmost part of a net, being made up of one or more panels comprising 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; and

(1) 1967 c. 84. Section 3 was amended by the Fishery Limits Act 1976 (c. 86), section 9(1) and Schedule 2, paragraph 16(1); the Inshore Fishing (Scotland) Act 1984 (c. 26), section 10(1) and Schedule 1; and the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I.1999/1820) (“the 1999 Order”), article 4 and Schedule 2, paragraph 43(1), (2) and (4). Section 15(3) was substituted by the Sea Fisheries Act 1968 (c. 77), section 22(1) and Schedule 1, paragraph 38(3); and amended by the Fishery Limits Act 1976 (c. 86), section 9(1) and Schedule 2, paragraph 16(1); and the 1999 Order, Schedule 2, paragraph 43(13). See section 22(2) for the definition of “the Ministers” for the purposes of sections 3 and 15(3). Section 22(2) was amended by the Fisheries Act 1981 (c. 29), sections 19(2)(d) and 45; and by the 1999 Order, article 4 and Schedule 2, paragraph 43(12).

“equivalent Order” means an order extending to any other part of the United Kingdom made under section 3 of the Sea Fish (Conservation) Act 1967 containing a similar prohibition to that in article 3.

(2) For the purposes of this Order, the mesh of a net or netting shall be measured in accordance with Commission Regulation (EC) No. 129/2003 laying down detailed rules for determining the mesh size and thickness of twine of fishing nets⁽²⁾.

Prohibition on fishing for shrimps without a separator trawl or sorting grid

3.—(1) This article applies to—

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

(2) No fishing boat to which this article applies shall carry or deploy a net the mesh of which measures between 16 and 31 millimetres unless—

- (a) netting, the mesh of which measures at least twice that of the codend and no more than 70 millimetres, is fitted across the entire cross-section of the net in such a way that—
 - (i) sea fish cannot reach the codend without first passing through the netting; and
 - (ii) there is a hole in the net through which all sea fish that do not pass through the netting are able to escape;
- (b) a rigid grid, the spacing between the bars of which is no more than 20 millimetres, is fitted across the entire cross-section of the net in such a way that—
 - (i) sea fish cannot reach the codend without first passing through the grid; and
 - (ii) there is a hole in the net through which all sea fish that do not pass through the grid are able to escape;
- (c) no sea fish have been caught; or
- (d) where sea fish have been caught, less than 60% by live weight of the total catch comprises common shrimps (*Crangon* spp.), Aesop shrimps (*Pandalus montagui*) or a combination of the two, and the retention of sea fish on board the boat is consistent with Article 25 of Council Regulation (EC) No. 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms⁽³⁾ as amended by Council Regulation (EC) No. 1298/2000⁽⁴⁾.

Powers of British sea-fishery officers

4.—(1) For the purposes of the enforcement of this Order or any equivalent Order, a British sea fishery officer may exercise the powers conferred by this article in relation to—

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

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

(3) A British sea fishery 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 that officer to be necessary for the purpose of enforcing this Order or any equivalent Order and, in particular—

⁽²⁾ O.J. No. L 22, 25.1.03, p.5.

⁽³⁾ O.J. No. L 125, 27.4.98, p.1.

⁽⁴⁾ O.J. No. L 148, 22.6.00, p.1.

- (a) may examine any fish on the boat and the equipment of the boat, including the fishing gear, and require any person on board the boat to do anything which appears to that officer to be necessary for facilitating the examination;
- (b) may require any person on board the boat to produce any document in the custody of that person relating to the boat, to any fishing operations ancillary thereto or to the persons on board;
- (c) may take copies of any such document;
- (d) 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 or any equivalent Order, may search the boat for any such document and may require any person on board the boat to do anything which appears to that officer to be necessary for facilitating the search; and
- (e) where the boat is one in relation to which that officer has reason to suspect that such an offence has been committed, may seize and detain any such document produced to that officer or found on board, for the purpose of enabling the document to be used as evidence in proceedings for that 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 any provision of this Order or any equivalent Order has at any time taken place within British fishery limits, that officer may—

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

and where such an officer detains or requires the detention of a boat, that officer shall serve on the master a notice in writing stating that the boat will be or is required to be detained until that notice is withdrawn by the service on the master of a further notice in writing signed by a British sea fishery officer.

St Andrew's House, Edinburgh
3rd June 2004

ROSS FINNIE
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Order)

This Order regulates the carriage and use of any fishing nets within mesh size between 16 and 31 millimetres, measured in accordance with Commission Regulation (EC) No. 129/2003 laying down detailed rules for determining the mesh size and thickness of twine of fishing nets (O.J. No. L 22, 25.1.03, p.5). The Order implements Article 25 (on the use of veil nets and sorting grids in shrimp fisheries) of Council Regulation (EC) No. 850/98 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 applies to a Scottish fishing boat wherever it may be and to relevant British fishing boats in the Scottish Zone.

The Order prohibits such fishing boats from carrying or using such nets other than in specified circumstances (article 3).

The specified exceptions are where defined attachments are fitted to the net (article 3(2)(a) and (b)), where no sea fish have been retained on board (article 3(2)(c)) or where less than 60% by live weight of the total catch retained comprises common shrimps, Aesop shrimps or a combination of the two and any sea fish retained on board the boat are retained in accordance with Article 25 of Council Regulation 850/98 (article 3(2)(d)).

If the prohibition in the Order is contravened in the case of any fishing boat, the master, the owner and the charterer are each guilty of an offence and liable on summary conviction to a fine not exceeding £5000 and on conviction on indictment to a fine (sections 3(5) and 11(1)(b) of the Sea Fish (Conservation) Act 1967 (c. 84)). The court may also impose an additional fine not exceeding the value of the fish caught with the net or order the forfeiture of the net (section 11(2)(b) and (3) of that Act).

The Order confers powers of enforcement on British sea-fisheries officers for the purposes of enforcing the Order or any equivalent Order (article 4).

A Regulatory Impact Assessment has been prepared for this Order. Copies can be obtained from the Scottish Executive Environment and Rural Affairs Department, Sea Fisheries Division, Pentland House, 47 Robb's Loan, Edinburgh EH14 1TY.