
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 371

SEA FISHERIES

The Regulation of Scallop Dredges (Scotland) Order 2005

<i>Made</i>	- - - -	<i>29th June 2005</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>30th June 2005</i>
<i>Coming into force</i>	- -	<i>21st July 2005</i>

The Scottish Ministers, in exercise of the powers conferred by sections 3 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 Regulation of Scallop Dredges (Scotland) Order 2005 and shall come into force on 21st July 2005.

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

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

Interpretation

2. In this Order—

“belly rod” means a bar attached to the frame of the dredge which runs parallel to the tooth bar and from which most of the belly rings ultimately hang;

“column of back rings” means a line of single interconnecting rings where the rings at each end of the line are attached to flanking rings at the side of the back of the dredge;

“king scallops” mean scallops of the species *Pecten maximus*;

(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. 1999/1756), 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). Section 22(2) which contains a definition of “the Ministers” for the purposes of sections 3 and 15(3) was amended by the Fisheries Act 1981, sections 19(2) (a) 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).

“lifting bar” means a bar or pipe at the rear of the dredge to which the belly rings and back rings are attached and used to tip the catch out of the dredge;

“row of belly rings” means a line of single interconnecting rings where the ring at one end of the line hangs from either the belly rod or from the main structure of the dredge perpendicular to the belly rod;

“row of back rings” means a line of single interconnecting rings on the upper surface of the dredge forming part of an array of rings attached to the net cover at the front, flanking rings at the sides and the lifting bar at the rear;

“row of flanking rings” means a line of single interconnecting rings attached to either side of the belly rings on the underside of a dredge and to the net cover and back rings on the top side;

“scallop dredge” means any appliance with a rigid framed mouth which is towed through the water and is manufactured, adapted, used or intended for use for the purpose of fishing for king scallops;

“tooth bar” means the bar to which are attached teeth, the ends of which point downwards and are dragged along the sea bed when the dredge is towed.

Regulation of scallop dredges

3.—(1) No Scottish fishing boat or relevant British fishing boat shall carry or tow a scallop dredge within the Scottish zone unless the dredge complies with paragraph (2).

(2) A dredge complies with this paragraph if—

(a) it does not—

- (i) measure more than 86.5 centimetres or less than 60 centimetres in breadth in any part;
- (ii) have more than one row of flanking rings hanging from either side of the dredge perpendicular to the rings which hang from the belly rod; and
- (iii) have any tooth on the tooth bar which measures more than 22 millimetres;

(b) where the dredge—

- (i) measures 80 centimetres or more in breadth in any part, it does not have—
 - (aa) more than 8 rows of belly rings hanging from the belly rod;
 - (bb) fewer than 5 columns or more than 8 rows of back rings hanging from the lifting bar;
 - (cc) more than 9 teeth on the tooth bar, where each of the teeth measure 12 millimetres or less; or
 - (dd) more than 8 teeth on the tooth bar, where any tooth measures more than 12 millimetres;
- (ii) does not measure 80 centimetres or more in breadth in any part, it does not have—
 - (aa) more than 6 rows of belly rings hanging from the belly rod;
 - (bb) fewer than 5 columns or more than 6 rows of back rings hanging from the lifting bar;
 - (cc) more than 7 teeth on the tooth bar, where each of the teeth measure 12 millimetres or less; or
 - (dd) more than 6 teeth on the tooth bar, where any tooth measures more than 12 millimetres.

(3) For the purposes of this article the measurement of a tooth shall be its maximum width measured in the direction of the line of the tooth bar.

Powers of British sea-fishery officers

4.—(1) For the purpose of enforcing the provisions of this 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 set out in this article.

(2) The officer may go on board the boat, with or without persons assigned to assist the 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) 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 the custody or possession of that person and may take copies of any such document;
- (c) for the purpose of ascertaining whether the master, owner or charterer of the boat has contravened 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 a contravention 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 relating to the contravention,

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 the officer that a contravention of this Order has at any time taken place within the Scottish zone, 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,

and where the officer detains or requires the detention of a boat, 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.

St Andrew's House, Edinburgh
29th June 2005

ROSS FINNIE
A member of the Scottish Executive

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order regulates the use and carriage of scallop dredges and applies to Scottish and relevant British fishing boats within the Scottish zone (article 3(1)).

It prohibits the use or carriage of scallop dredges (as defined in article 2(1)) which do not conform to certain technical specifications (article 3(2)).

Article 4 sets out the powers of British sea-fishery officers to enforce this Order.

It is an offence under section 3(5) of the Sea Fish (Conservation) Act 1967 to use a fishing boat in contravention of a prohibition imposed by this Order. The penalties are fixed by section 11 of that Act. On summary conviction the penalty is a fine not exceeding £5,000. On conviction on indictment the penalty is an unlimited fine. In either case the court may also order forfeiture of any net or gear used in committing the offence. On summary conviction the court may also impose a fine not exceeding the value of the fish caught with the net or gear.