
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 57

The Solway Firth Regulated Fishery (Scotland) Order 2006

Licensing of Fishing

5.—(1) Subject to paragraph (3), no person shall dredge, fish for or take cockles within the fishery except under the authority of a licence issued, on application, by the Association.

(2) No person shall use a—

- (a) vessel for dredging, fishing for or taking cockles within the fishery except under the authority of a licence issued under this article in which the vessel is named;
- (b) vehicle for dredging, fishing for or taking cockles within the fishery except under the authority of a licence issued under this article in which the registered number of the vehicle is specified.

(3) The prohibition in paragraph (1) shall not apply to any person taking up to 3 kilograms, in live weight, of cockles by hand in any period of 24 hours provided that such cockles are intended only for personal consumption.

(4) A licence for dredging, fishing for or taking cockles—

(a) from a vessel—

- (i) shall be issued only to the applicant, who shall be the owner of the vessel; and
- (ii) shall be used only by that person or, with the written authority of the Association and in accordance with any conditions contained in that authority, by a deputy nominated by that person;

(b) from or by means of a vehicle—

- (i) shall be issued only to the applicant, who shall be the registered keeper of the vehicle; and
- (ii) shall be used only by that person or, with the written authority of the Association and in accordance with any conditions contained in that authority, by a deputy nominated by that person;

(c) by hand (which shall include the use of any hand held fishing instruments or machines), shall be issued only to the applicant and shall be used only by that person.

(5) No applicant who is the joint owner of a vessel shall be issued with a licence under this article to dredge, fish for or take cockles from that vessel if, for the period in respect of which the application relates, the Association has—

- (a) received from another joint owner an application for a licence; or
- (b) granted to another joint owner a licence,

to dredge, fish for or take cockles from that vessel.

(6) A licence shall be valid for a period not exceeding 12 months specified therein.

(7) Subject to any directions given by the Scottish Ministers and the provisions of this Order the Association may—

- (a) issue licences under this article—

- (i) in such numbers; and
 - (ii) to such persons,
- as it may determine; and
- (b) in particular may, after consultation with—
 - (i) such organisations as appear to it to be representative of interests likely to be substantially affected by a limitation on the number of licences issued; and
 - (ii) such other persons as the Association thinks fit,place a limitation on the number of such licences which may be issued in any one fishing season having particular regard to scientific advice on the desirability of limiting the level of exploitation.

(8) Subject to any directions given by the Scottish Ministers and the provisions of this Order, licences issued under this article may authorise the dredging, fishing for or taking of cockles at such times, in such manner and in such parts of the fishery as the Association may determine.

(9) Any person dredging, fishing for or taking cockles within the fishery (other than for personal consumption as permitted by paragraph (3)), shall, when so requested by any officer authorised by the Association and after production by that officer of written evidence of that officer's authority if so required, produce the relevant licence and shall desist from dredging, fishing for or taking cockles within the fishery until it is produced.

(10) In respect of—

- (a) the first fishing season or part of that season after the coming into force of this Order, an applicant for a licence for dredging, fishing for or taking cockles—
 - (i) from a vessel shall, subject to paragraphs (4)(a), (5) and (7), be entitled to a licence if the applicant was, as the owner of that vessel or of another vessel of similar size, capacity and fishing power to that vessel, engaged as a commercial activity, or as part of a commercial activity, in dredging, fishing for or taking cockles from the vessel within the fishery at any time prior to 6th October 1992;
 - (ii) from or by means of a vehicle shall, subject to paragraphs (4)(b) and (7), be entitled to a licence if the applicant was, as the registered keeper of that vehicle or of another vehicle, engaged as a commercial activity, or as part of a commercial activity, in dredging, fishing for or taking cockles from or by means of the vehicle within the fishery at any time prior to 15th June 1995;
 - (iii) by hand shall, subject to paragraphs (4)(c) and (7), be entitled to a licence if the applicant was engaged as a commercial activity, or as part of a commercial activity, in dredging, fishing for or taking cockles by hand (including the use of any hand held fishing instrument or machines) within the fishery at any time prior to 1st January 2002; and
- (b) all subsequent fishing seasons, an applicant for a licence for dredging, fishing for or taking cockles—
 - (i) from a vessel shall, subject to paragraphs (4)(a), (5), (7) and (11), be entitled to a licence if the applicant held a licence issued under this article in which that vessel (or another vessel of similar size, capacity and fishing power to that vessel) was named in respect of the immediately preceding fishing season;
 - (ii) from or by means of a vehicle shall, subject to paragraphs (4)(b), (7) and (11), be entitled to a licence if the applicant held a licence issued under this article in which that vehicle was specified in respect of the immediately preceding fishing season;

(iii) by hand shall, subject to paragraphs (4)(c), (7) and (11) be entitled to a licence if the applicant held a licence issued under this article in which that applicant was named in respect of the immediately preceding fishing season.

(11) At the discretion of the Association the entitlement described in paragraph (10) shall not apply if on at least two separate occasions within the period of 24 months immediately preceding the date of application for the licence the applicant has been convicted of a relevant offence or if during that period any licence held by the applicant under this Order has been cancelled by the Association under section 4(7) of the 1967 Act.

(12) In this article—

“registered keeper” means, in relation to a vehicle, the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994⁽¹⁾;

“registered number” in respect of a vehicle means the number indicated by the registration mark (within the meaning of section 23 of the Vehicle Excise and Registration Act 1994) assigned to the vehicle under that section; and

“relevant offence” means an offence under section 3(3) of the 1967 Act.