
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 4

The Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2012

Citation, commencement, cessation, effect and extent

1.—(1) This Order may be cited as the Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2012 and comes into force on 14th February 2012.

(2) This Order remains in force until the end of 30th April 2013.

(3) The prohibition in article 3(1) has effect during the following periods:—

(a) from 14th February 2012 until the end of 30th April 2012; and

(b) from 14th February 2013 until the end of 30th April 2013.

(4) Subject to paragraph (5), this Order extends to Scotland and the Scottish zone only.

(5) So far as it extends beyond Scotland and the Scottish zone, it does so only as a matter of Scots law.

Interpretation

2.—(1) In this Order—

“creel” means a basket, small cage, pot, receptacle or container with one or more openings or entrances, which may be baited and is placed on the seabed for the purpose of catching shellfish and crustacea;

“ICES statistical rectangle” followed by numerals with a letter is a reference to whichever of the statistical sub-areas and divisions of the International Council for the Exploration of the Sea⁽¹⁾ is identified therein by those numerals and that letter;

“relevant British fishing boat” means a fishing boat which is not a Scottish fishing boat and which either is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995⁽²⁾ or is owned wholly by persons qualified to own British ships for the purposes of that Part of that Act;

“scallop dredge” means an 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 of the species *Pecten maximus*;

“Scotland” and “the Scottish zone” have the same meaning as in section 126(1) of the Scotland Act 1998⁽³⁾;

“Scottish fishing boat” means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging; and

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

(1) Cmnd. 2586.

(2) 1995 c.21.

(3) 1998 c.46. The sea within British fishery limits (that is, the limits set by or under section 1 of the Fishery Limits Act 1976 (c.86)) which is adjacent to Scotland is determined by the Scottish Adjacent Waters Boundaries Order 1999 (S.I. 1999/1126).

(2) For the purposes of this Order, a trawl is deemed to have been used for the purpose of fishing for Norway lobsters (*Nephrops norvegicus*) if the catch retained on board that boat meets the minimum percentage of target species specified for Norway lobster in respect of towed gears of mesh size range 80 to 99 millimetres in Annex I to Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms⁽⁴⁾.

Prohibited methods of fishing

3.—(1) Fishing for sea fish by any method, by any Scottish fishing boat or relevant British fishing boat, is prohibited in the area comprising that part of the Scottish zone contained within—

- (a) that part of ICES statistical rectangle 39E4 which lies to the east of the peninsula of Kintyre and to the north of a straight line between 55°18'18" North, 05°38'50" West, and 55°00'30" North, 05°09'24" West; and
- (b) that part of ICES statistical rectangle 39E4 which lies to the north of a straight line between 55°17'57" North, 05°47'54" West and 55°00'00" North, 05°21'00" West and to the south of a straight line between 55°18'18" North, 05°38'50" West and 55°00'30" North, 05°09'24" West.

(2) The prohibition in paragraph (1)(a) does not apply to any fishing boat that fishes with only—

- (a) a scallop dredge;
- (b) a creel; or
- (c) a trawl used for fishing for Norway lobsters.

(3) The prohibition in paragraph (1)(b) does not apply to any fishing boat that fishes with only—

- (a) a scallop dredge; or
- (b) a creel.

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

4.—(1) For the purpose of enforcing this 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) The officer may go on board the boat, with or without persons assigned to assist with the duties of the officer, and 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) 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 (or other ancillary) operations or to the persons on board, which is in the custody or possession of that person, and may take copies of any such document;

(4) OJ L 125, 27.4.98, p.1, as last amended by Regulation (EU) No 579/2011 of the European Parliament and of the Council (OJ L 165, 24.6.11, p.1); Annex I was relevantly amended by Council Regulation (EC) No 308/1999 (OJ L 38, 12.2.99, p.6).

- (c) for the purpose of ascertaining whether the master, the owner or the charterer (if any) of the boat has committed an offence under section 5(1) 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) permits 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 has at any time taken place, the officer may—

- (a) take, or require the master of the boat in relation to which the contravention took place to 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 the officer detains or requires the detention of a boat under this article, the officer must serve notice in writing on the master stating that the boat is 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

- 5.** The Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2010(5) is revoked.

St Andrew's House,
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10th January 2012

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