

2017 No. 419

SEA FISHERIES

**The Razor Clams (Prohibition on Fishing and Landing)
(Scotland) Order 2017**

Made - - - - - *28th November 2017*

Laid before the Scottish Parliament *30th November 2017*

Coming into force - - - *1st February 2018*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 5(1)(a) and (b) and (2), 6(1) and (3), 22(2) and 22A of the Sea Fish (Conservation) Act 1967(a) and all other powers enabling them to do so.

Citation, commencement and extent

1.—(1) This Order may be cited as the Razor Clams (Prohibition on Fishing and Landing) (Scotland) Order 2017 and comes into force on 1st February 2018.

(2) This Order extends to Scotland and the Scottish zone only.

Interpretation

2. In this Order—

“day” means a period of 24 hours beginning and ending at midnight;

“razor clams” means razor clams of the species *Ensis* spp.; and

“tidal waters” means those parts of the Scottish zone, including the seabed and subsoil, which are enclosed between the boundary line following the mean high water spring mark and the boundary line following the mean low water spring mark.

Prohibition on fishing for razor clams

3.—(1) Fishing for razor clams within the Scottish zone is prohibited.

(a) 1967 c.84 (“the 1967 Act”); section 5(1) was substituted by the Marine and Coastal Access Act 2009 (c.23) (“the 2009 Act”), section 198(2), which extends to Scotland by virtue of the Marine (Scotland) Act 2010 (asp 5) (“the 2010 Act”), section 158. Section 5(2) of the 1967 Act was substituted by section 22(1) of the Fisheries Act 1981 (c.29) and amended by the 2009 Act, schedule 15, paragraph 3 which extends to Scotland by virtue of the 2010 Act, section 158. Section 6 was amended by the Fisheries Act 1981 (c.29), section 23(2) and (3); by S.I. 1970/1537, schedule 2, paragraph 10; by S.I. 1974/692, articles 2(1) and 5(3) and schedule 1, Part III; and by S.I. 1999/1820, schedule 2, Part I, paragraph 43 and Part IV, paragraph 1. Sections 5 and 6 of the 1967 Act are modified in relation to Scotland by section 22A(2), (6), (7) and (12) of that Act. Section 22A was inserted by S.I. 1999/1820, schedule 2, paragraph 43(13) and section 22A(6) was substituted by section 159(4) of the 2010 Act. Relevant modifications are contained in S.I. 1999/1748, article 5 and S.I. 1999/1756, articles 3, 5 and 6.

(2) The prohibition in paragraph (1) does not apply to any operations involving fishing for razor clams which, under the authority of the Scottish Ministers, are conducted for the purpose of scientific investigation.

(3) Subject to paragraph (4), the prohibition in paragraph (1) does not apply to fishing for razor clams by hand in tidal waters.

(4) A person fishing for razor clams by hand in tidal waters may take no more than 30 razor clams in any day.

(5) In paragraph (3), “fishing for razor clams by hand” means the taking of razor clams by hand, without the use of any fishing gear or other mechanical device.

Prohibition on landing razor clams in Scotland

4.—(1) The landing in Scotland of any razor clams caught in the Scottish zone is prohibited.

(2) The prohibition in paragraph (1) does not apply to any operations involving the landing of any razor clams in Scotland or the catching of any razor clams in the Scottish zone which, under the authority of the Scottish Ministers, are conducted for the purpose of scientific investigation.

(3) The prohibition in paragraph (1) does not apply to the landing of razor clams after fishing for those razor clams by hand in tidal waters in accordance with article 3(3) and (4).

St Andrew’s House,
Edinburgh
28th November 2017

FERGUS EWING
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order restricts fishing for razor clams in Scottish waters and the landing of razor clams in Scotland.

Article 2 defines the terms “day”, “razor clams” and “tidal waters”.

Article 3 prohibits fishing for razor clams within the Scottish zone. This prohibition does not apply to operations involving fishing for razor clams which are authorised by the Scottish Ministers and conducted for the purpose of scientific investigation. The prohibition also does not apply to fishing for razor clams by hand in tidal waters. A person fishing for razor clams by hand in tidal waters may take no more than 30 razor clams in any day.

Article 4 prohibits the landing in Scotland of razor clams which have been caught within the Scottish zone. This prohibition does not apply to operations involving the landing of razor clams in Scotland or the catching of razor clams in the Scottish zone which are authorised by the Scottish Ministers and conducted for the purpose of scientific investigation. The prohibition also does not apply to the landing of razor clams after fishing for those razor clams by hand in tidal waters, in accordance with article 3.

It is an offence under section 5(1) or section 6(5) of the Sea Fish (Conservation) Act 1967 to contravene 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 £50,000. On conviction on indictment, the penalty is an unlimited fine. In either case, the court may also order forfeiture of any fish in respect of which the offence was committed and of any net or other fishing gear used in committing the offence. On summary conviction, if the court does not order the forfeiture of fish, it may impose an additional fine not exceeding the value of the fish.

A Business and Regulatory Impact Assessment has been prepared in relation to this Order and placed in the Scottish Parliament Information Centre. A copy of this can be obtained from Marine Scotland, the Scottish Government, Victoria Quay, Edinburgh EH6 6QQ.

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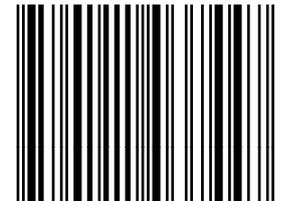
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