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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 168**

**SEA FISHERIES**

**The Marking of Creels (Scotland) Order 2020**

<i>Made</i>	- - - -	<i>3rd June 2020</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>5th June 2020</i>
<i>Coming into force</i>	- -	<i>20th June 2020</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 3(1), (2), (2A) and (4), 22(2) and 22A of the Sea Fish (Conservation) Act 1967<sup>(1)</sup> and all other powers enabling them to do so.

**Citation, commencement, extent and application**

1.—(1) This Order may be cited as the Marking of Creels (Scotland) Order 2020 and comes into force on 20 June 2020.

(2) This Order extends to Scotland only.

(3) This Order applies to waters which are treated as the territorial sea of the United Kingdom adjacent to Scotland, within the boundaries described in article 3 and schedule 1 of the Scottish Adjacent Waters Boundaries Order 1999<sup>(2)</sup>.

**Interpretation**

2.—(1) In this Order—

“the Act” means the Sea Fish (Conservation) Act 1967,

“British fishing boat” means a fishing boat which is either registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995<sup>(3)</sup> or is owned wholly by persons qualified to own British ships for the purpose of that Part of that Act,

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(1) [1967 c.84](#) (“the 1967 Act”). Section 3 was relevantly amended by paragraph 16(1) of schedule 2 of the Fishery Limits Act 1976 ([c.86](#)), schedule 1 of the Inshore Fishing (Scotland) Act 1984 ([c.26](#)), section 195 and Part 4 of schedule 22 of the Marine and Coastal Access Act 2009 ([c.23](#)), which extend to Scotland by virtue of section 158(1) of the Marine (Scotland) Act 2010 ([asp 5](#)) (“the 2010 Act”), and by paragraph 43(2)(b) and (4) of schedule 2 of [S.I. 1999/1820](#). Section 3 of the 1967 Act is modified in relation to Scotland by section 22A(2), (2A), (2B), (6), (11) and (12) of the 1967 Act. Section 22(2) of the 1967 Act, which contains a definition of “the Ministers” for the purposes of relevant powers, was amended by sections 19(2)(d) and (3) and 45 of the Fisheries Act 1981 ([c.29](#)). The definition is modified in relation to Scotland by section 22A(12)(b) of the 1967 Act. Section 22A was inserted by paragraph 43(13) of schedule 2 of [S.I. 1999/1820](#). Section 22A(6) was substituted by section 159(4) of the 2010 Act.

(2) [S.I. 1999/1126](#).

(3) [1995 c.21](#).

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

“dhan” means a buoy with a flag on it,

“fleet of creels” means a number of creels attached to a single length of connecting rope,

“licensed fishing boat” means a British fishing boat in respect of which a licence has been issued under an order made under section 4 of the Act<sup>(4)</sup>,

“marker buoy” means any equipment specifically designed for marking the position of other equipment in water, including—

- (a) buoys, and
- (b) dhans,

“parlour creel” means a creel which has at least two compartments, entry to one or more of which is likely to be gained only through an internal connection from another compartment, and

“PLN number” means a fishing boat’s port number within the meaning of regulation 31 of the Merchant Shipping (Registration of Ships) Regulations 1993<sup>(5)</sup>.

- (2) For the purposes of articles 3 and 4 of this Order, the term “creel” includes parlour creels.

### **Requirement to use marker buoys**

**3.—**(1) This article applies to the use of any creel or fleet of creels whether deployed for fishing in connection with a British fishing boat or deployed otherwise.

(2) Subject to paragraph (3), where a creel or a fleet of creels is used for fishing, one or more marker buoys must be fixed to it.

(3) Where a fleet of creels consists of 10 or more creels, at least one marker buoy must be fixed to each end of the fleet of creels.

### **Requirement to display PLN number on marker buoys**

**4.—**(1) This article applies where any creel or fleet of creels is deployed for fishing in connection with a licensed fishing boat.

(2) A marker buoy must display the same PLN number as is displayed on the hull of the licensed fishing boat from which the marker buoy is deployed.

(3) The PLN number must be displayed on the marker buoy—

- (a) as high above the water as possible so as to be clearly visible, and
- (b) in a colour contrasting with the surface on which it is displayed so as to be clearly legible.

(4) Only one PLN number must be displayed on a marker buoy and, in the case of a fleet of creels, all marker buoys fixed to it must display the same PLN number.

(5) The PLN number displayed on a marker buoy must not be effaced, altered or allowed to become illegible.

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(4) Section 4 of the 1967 Act was substituted by section 3 of the Fishery Limits Act 1976 (c.86) and relevantly amended by paragraph 43(2) and (5) of Part 1 of schedule 2 of S.I. 1999/1820, paragraph 3(a) of schedule 1 of the Aquaculture and Fisheries (Scotland) Act 2007 (asp 12) and section 4 of the Marine and Coastal Access Act 2009 (c.23), which extends to Scotland by virtue of section 158(1) of the Marine (Scotland) Act 2010 (asp 5). Section 4 is modified in relation to Scotland by section 22A of the 1967 Act. Section 22(2) of the 1967 Act, which contains a definition of “the Ministers” for the purposes of the Act, was relevantly amended by the Fisheries Act 1981 (c.29), sections 19(2)(d) and (3) and 45. The definition is modified in relation to Scotland by section 22A(12)(b) of the 1967 Act. Section 22A(12)(b) was inserted by S.I. 1999/1820, schedule 2.

(5) S.I. 1993/3138. Regulation 31 was amended by regulation 7 of S.I. 1999/3206.

St Andrew's House,  
Edinburgh  
3rd June 2020

*FERGUS EWING*  
A member of the Scottish Government

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

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order introduces requirements for the marking of creels. The Order extends to Scotland and applies to territorial sea adjacent to Scotland. The Order is made in accordance with Article 19 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy.

Article 3 applies where creels and fleets of creels are deployed in connection with a British fishing boat or otherwise than in connection with a British fishing boat. It requires that creels and fleets of creels are marked with one or more marker buoys. Fleets of creels comprising 10 or more creels must have at least one marker buoy fitted to each end of the fleet.

Article 4 applies where creels and fleets of creels are deployed in connection with fishing from a licensed fishing boat (being a British fishing boat licensed under an order made under section 4 of the Sea Fish (Conservation) Act 1967 (“the Act”). It requires that marker buoys display the PLN number that is marked on the hull of the deploying licensed fishing boat and provides for how the PLN number is to be displayed. “PLN number” is defined in article 2 of this Order.

Offences for breach of this Order are contained in section 3(5) and (5A) of the Act. Penalties, which are set out at section 11 of the Act, include a fine not exceeding £50,000 on summary conviction and a fine on conviction on indictment. The court may also order the forfeiture of the fishing gear in respect of which the contravention constituting the offence occurred.

A Business and Regulatory Impact Assessment (“BRIA”) has been prepared in relation to this Order and placed in the Scottish Parliament Information Centre. A copy of the BRIA can be obtained from Marine Scotland, the Scottish Government, Victoria Quay, Edinburgh EH6 6QQ or online at [www.legislation.gov.uk](http://www.legislation.gov.uk).