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STATUTORY INSTRUMENTS

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**1994 No. 3273**

**SEA FISHERIES**

**CONSERVATION OF SEA FISH**

**The Sole and Nephrops (Prohibition of Fishing) Order 1994**

*Made* - - - - *18th December 1994*  
*Laid before Parliament* *19th December 1994*  
*Coming into force* - - *20th December 1994*

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fishing industry in Scotland, Wales and Northern Ireland, acting jointly, in exercise of the powers conferred on them by sections 5(1), 15(3) and 22(2)(a) of the Sea Fish (Conservation) Act 1967(1), and of all other powers enabling them in that behalf, hereby make the following Order:

**Title, commencement and interpretation**

1.—(1) This Order may be cited as the Sole and Nephrops (Prohibition of Fishing) Order 1994 and shall come into force on 20th December 1994.

(2) In this Order—

“British fishing boat” means a fishing boat which is registered in the United Kingdom, the Isle of Man or any of the Channel Islands or which, not being so registered, is British-owned;

“length”, in relation to a boat, means the length calculated in accordance with the rules specified in Article 2(1) of Council Regulation (EEC) No. 2930/86 defining characteristics for fishing vessels(2);

“sea area” means a statistical division or sub-area of the International Council for the Exploration of the Sea(3) specified in the Schedule hereto.

**Prohibition and exception**

2.—(1) Subject to paragraph (2) below, fishing:

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(1) 1967 c. 84; section 5(1) was substituted by section 22(1) of the Fisheries Act 1981 (c. 29); section 15(3) was substituted by paragraph 38(3) of Schedule 1 to the Sea Fisheries Act 1968 (c. 77) and amended by paragraph 16(1) of Schedule 2 to the Fishery Limits Act 1976 (c. 86); section 22(2)(a) which contains a definition of “the Ministers” for the purposes of sections 5 and 15(3) was amended by the Fisheries Act 1981, sections 19(2)(d) and 45(b).

(2) OJ No. L274, 25.9.86, p.1.

(3) Cmnd. 2586.

- (a) by any British fishing boat registered in the United Kingdom within any part of a sea area; or
  - (b) by any other British fishing boat within any part of a sea area which lies within British fishery limits<sup>(4)</sup>,
- for:
- (i) sole (*Solea solea*) in sea area ICES Division VIId, or
  - (ii) nephrops (*Nephrops norvegicus*) in sea area ICES Sub-Area VII,

is prohibited during the period beginning with the date of coming into force of this Order and ending immediately before 1st January 1995.

(2) The prohibition in paragraph (1) above shall not apply to any boat whose length exceeds 10 metres, except in the case of any boat when used for the purpose of conveying persons wishing to fish for pleasure.

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

**3.—**(1) For the purpose of the enforcement of this Order a British sea-fishery officer may exercise the powers conferred by paragraphs (2) to (4) below—

- (a) anywhere in relation to any British fishing boat registered in the United Kingdom, and
- (b) in any waters adjacent to the United Kingdom and within British fishery limits in relation to any other British fishing boat.

(2) He may go on board the boat, with or without persons assigned to assist him in his duties, and for that purpose may require the boat to stop and do anything else which will facilitate the boarding of the boat.

(3) He may require the attendance of the master and other persons on board the boat and may make any examination and inquiry which appears to him 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 him 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 his custody or possession and may take copies of any such document;
- (c) for the purpose of ascertaining whether the master, owner or charterer of the boat has committed an offence under section 5(1) or (6) of the Sea Fish (Conservation) Act 1967<sup>(5)</sup> 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 him to be necessary for facilitating the search; and
- (d) where the boat is one in relation to which he has reason to suspect that such an offence has been committed, may seize and detain any such document produced to him 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) 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.

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(4) See section 1(1) of the Fishery Limits Act 1976 (c. 86).

(5) Subsection (6) was amended by section 22(2) of the Fisheries Act 1981. By virtue of subsection (7), where subsection (6) is not complied with in the case of any fishing boat, the master, the owner and the charterer (if any) are guilty of an offence under that subsection.

(4) Where it appears to a British sea-fishery officer that a contravention of this Order has at any time taken place within British fishery limits, he may—

- (a) require the master of the boat in relation to which the contravention took place to take, or may himself take, the boat and its crew to the port which appears to him to be the nearest convenient port; and
- (b) detain or require the master to detain the boat in the port;

and where such an officer detains or requires the detention of a boat he 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.

12th December 1994

*Michael Jack*  
Minister of State, Ministry of Agriculture,  
Fisheries and Food

13th December 1994

*Hector Monro*  
Parliamentary Under Secretary of State, Scottish  
Office

Signed by authority of the Secretary of State for Wales

18th December 1994

*Roderick Richards*  
Parliamentary Under Secretary of State, Welsh  
Office

13th December 1994

*John Wheeler*  
Minister of State, Northern Ireland Office

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

SCHEDULE

Article 1(2)

SEA AREA IN RESPECT OF WHICH PROHIBITION OF FISHING FOR SOLE APPLIES

**ICES Statistical Division VIII d (Eastern English Channel)**

The waters bound by a line beginning at a point on the west coast of France in 51°00' north latitude; thence due west to the coast of England; thence in a westerly direction along the south coast of England to 2°00' west longitude; thence in a southerly direction to the coast of France at Cape de la Hague; thence in a north-easterly direction along the coast of France to the point of beginning.

SEA AREA IN RESPECT  
OF WHICH PROHIBITION  
OF FISHING FOR  
NEPHROPS APPLIES

**ICES Statistical Sub-Area VII (Irish Sea, West of Ireland and Porcupine Bank, South Coast of Ireland, Bristol Channel and English Channel)**

The waters bounded by a line beginning at a point on the west coast of the Republic of Ireland in 54°30' north latitude; thence due west to 18°00' west longitude; thence due south to 48°00' north latitude; thence due east to the coast of France; thence in a northerly and north-easterly direction along the coast of France to a point in 51°00' north latitude; thence due west to the south-east coast of England; thence in a westerly and northerly direction along the coasts of England, Wales and Scotland to a point on the west coast of Scotland in 55°00' north latitude; thence due west to the coast of Northern Ireland; thence in a northerly and westerly direction along the coasts of Northern Ireland and the Republic of Ireland to the point of beginning.

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**EXPLANATORY NOTE**

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

This Order prohibits, subject to an exception, fishing for sole (*Solea solea*) and nephrops (*Nephrops norvegicus*) during the period beginning with the date of coming into force of the Order and ending immediately before 1st January 1995—

- (a) by any British fishing boat registered in the United Kingdom within any part of the sea area applicable to that species and specified in the Schedule to the Order, or
- (b) by any British fishing boat registered in the Isle of Man or any of the Channel Islands or by any British-owned fishing boat within any part of such sea area which lies within British fishery limits (article 2).

This Order does not apply to any boat over 10 metres in length, except in the case of any boat when used for the purpose of conveying persons wishing to fish for pleasure (article 2(2)). “Length” is defined in article 1(2).

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By virtue of section 5(6) of the Sea Fish (Conservation) Act 1967 (as amended by section 22(2) of the Fisheries Act 1981), where, in the course of any fishing operations conducted in any of the specified sea areas, sole or nephrops, as the case may be, are taken on board a boat to which this Order applies, those fish shall (subject to section 9 of that Act) be returned to the sea forthwith.

British sea-fishery officers are given certain enforcement powers for the purpose of the enforcement of the Order (article 3).