
STATUTORY INSTRUMENTS

2003 No. 1559

SEA FISHERIES, ENGLAND

CONSERVATION OF SEA FISH

The Prohibition of Fishing with Multiple Trawls Order 2003

<i>Made</i>	- - - -	<i>11th June 2003</i>
<i>Laid before Parliament</i>		<i>16th June 2003</i>
<i>Coming into force</i>	- -	<i>7th July 2003</i>

The Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with the sea fishing industry in Northern Ireland, in exercise of the powers conferred by sections 5(1), 15(3) and 20(1) of the Sea Fish (Conservation) Act 1967(1), and now vested in them(2), make the following Order:

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- (1) 1967 c. 84. Section 5(1) was amended by the Fisheries Act 1981, section 22(1). Section 15(3) was substituted by the Sea Fisheries Act 1968 (c. 77), Schedule 1, paragraph 38(3) and amended by the Fishery Limits Act 1976 (c. 86), Schedule 2, paragraph 16(1) and by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraph 43(2)(b). See section 22(2)(a) for definitions of “the Ministers” for the purposes of sections 5 and 15(3); section 22(2) was amended by the Fisheries Act 1981 (c. 29), sections 19(2)(d) and 45(b) and (c) and by S.I. 1999/1820, Schedule 2, paragraph 43(12).
- (2) By virtue of article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions exercisable under section 5 of the 1967 Act were transferred to the National Assembly in so far as exercisable in relation to Wales (defined in section 155(1) of the Government of Wales Act 1998 (c. 38) as including “the sea adjacent to Wales out as far as the seaward boundary of the territorial sea”); in respect of waters beyond Wales these functions remain exercisable by the Ministers. Section 53 of the Scotland Act 1998 (c. 46) as read with article 3(1) and Schedule 1 of the Scotland Act 1998 (Concurrent Functions) Order 1999 (S.I. 1999/1592) provide for the functions exercisable under sections 5 and 15(3) of the 1967 Act to be exercised by the Ministers, concurrently with Scottish Ministers, in relation to relevant British fishing boats within the Scottish zone, and Scottish fishing boats within British fishery limits but outside the Scottish zone. By virtue of article 2(1) of, and the Schedule to, the Transfer of Functions (Agriculture and Fisheries) Order 2000 (S.I. 2000/1812) any remaining functions of the Secretaries of State for Scotland and Wales under sections 5 and 15(3) of the 1967 Act were transferred to the Minister of Agriculture, Fisheries and Food, By virtue of paragraph 3(1)(h) of Schedule 1 to the Sea Fisheries (Northern Ireland) Order 2002 (S.I. 2002/790), the function of the Ministers under section 5 of the 1967 Act of making an order prohibiting fishing within the Northern Ireland zone (or outside that zone by Northern Ireland fishing boats) was transferred to the Department of Agriculture and Rural Development but, by virtue of paragraph 3(2), the Ministers retain a concurrent function to make an order in relation to British fishing boats, other than Northern Ireland fishing boats, within the Northern Ireland zone and in relation to Northern Ireland fishing boats within British fishery limits but outside the Northern Ireland zone. The functions of the Minister of Agriculture, Fisheries and Food and one or more named Secretaries of State (however described) acting jointly were transferred to the Secretary of State for Environment, Food and Rural Affairs and the one or more Secretaries of State acting jointly by virtue of article 2(5) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

Title, commencement and extent

1.—(1) This order may be cited as the Prohibition of Fishing with Multiple Trawls Order 2003 and shall come into force on 7th July 2003.

(2) Subject to paragraph (3), this Order shall not form part of the law of Scotland or Northern Ireland.

(3) Nothing in paragraph (2) shall be treated as prejudicing the effect in Scotland or Northern Ireland of section 14 of the Act⁽³⁾ in relation to, or for purposes incidental to, any provision of this Order which creates an offence.

Interpretation

2.—(1) In this Order—

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

“the Fladen area” means the waters of the Scottish zone bounded by a line beginning from a point on the north coast of Scotland at 04° 00– west longitude; thence due north to a point on the outer limit of the Scottish zone; thence in a north easterly direction along that outer limit to 62° 30– north latitude; thence due east to a point on the outer limit of the Scottish zone; thence in a south easterly direction along that outer limit to 57° 30– north latitude; thence due west to a point on the east coast of Scotland; and thence in a northerly and westerly direction following that coast to the point of beginning;

“beam trawler” means a fishing boat which, in so far as it carries or uses nets, carries or uses only nets which are designed to be towed along the sea-bed and which have their mouth extended by a beam, bar or other rigid device;

“equivalent Order” means any order made under section 5 of the Act creating a prohibition similar to the one in article 3 of this Order and extending or applying to any part of the United Kingdom;

“ICES” followed by a roman numeral and a description shall be construed as a reference to the statistical sub-area of the International Council for the Exploration of the Sea with the same numeral and description identified in the Schedule to this Order;

“net” means a trawl, Danish Seine or similar towed net, all of which have the same meaning as in Council Regulation (EC) No. 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms⁽⁴⁾ as last amended by Council Regulation (EC) No. 973/2001⁽⁵⁾;

“Northern Ireland fishing boat” means a vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995⁽⁶⁾ and whose entry in the register specifies a port in Northern Ireland as the port to which the vessel is to be treated as belonging;

“Northern Ireland zone” means the sea within British fishery limits which is adjacent to Northern Ireland;

“relevant British fishing boat” does not include a Northern Ireland fishing boat; and

“single trawl” means a single net towed by a two warp rig in which the net has a single bosom groundrope (the bosom being the central portion of the trawl between the lower wings), where the groundrope is attached to the towing rig at each wing-end only, and does not have any further attachment, including bridles, wires or ropes, connecting it to the towing rig.

(2) In this Order—

⁽³⁾ Section 14 was substituted by Fisheries Act 1981 (c. 29), s. 29.

⁽⁴⁾ OJ No. L125, 27.4.1998, p. 1.

⁽⁵⁾ OJ No. L137, 19.5.2001, p. 1.

⁽⁶⁾ 1995 c. 21.

- (a) the term “within relevant British fishery limits” does not include—
 - (i) the Northern Ireland zone;
 - (ii) the territorial sea adjacent to Wales;
 - (iii) the territorial sea adjacent to the Isle of Man;
 - (iv) the territorial sea adjacent to the Bailiwick of Jersey; and
 - (v) seas within British fishery limits adjacent to Guernsey, as defined by section 8 of the Fishery Limits Act 1976(7) as extended to Guernsey;
- (b) any reference to any relevant British fishing boat “wherever it may be” does not include such a fishing boat while in the territorial sea adjacent to Wales.

Prohibition of method of fishing

3.—(1) Subject to paragraph (2), fishing for sea fish—

- (a) by any relevant British fishing boat wherever it may be; or
- (b) by any Scottish fishing boat or Northern Ireland fishing boat within relevant British fishery limits,

with any net other than a single trawl is prohibited.

(2) Paragraph (1) shall not apply—

- (a) to any beam trawler;
- (b) to fishing with a net having a mesh size of not less than 80 millimetres—
 - (i) in the Fladen area;
 - (ii) in ICES VI (Rockall and West of Scotland) south of a line drawn westwards from the east coast of the Sound of Jura at 56° north latitude;
 - (iii) in ICES VII (Irish Sea, West of Ireland and Porcupine Bank, South Coast of Ireland, Bristol Channel and English Channel); or
 - (iv) in ICES IV (North Sea) south of a line drawn eastwards from the east coast of England at 53° north latitude; or
- (c) to fishing with any net having a mesh size of 95 millimetres or more.

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

4.—(1) For the purpose of the enforcement of this Order or any equivalent Order, a British sea-fishery officer may exercise the powers conferred by paragraphs (2) to (4) of this article in relation to—

- (a) any relevant British fishing boat wherever it may be; and
- (b) any Scottish fishing boat or Northern Ireland fishing boat which is within relevant British fishery limits.

(2) He may go on board the boat, with or without persons assigned to assist him in his duties, and may require the boat to stop and do anything else which will facilitate either the boarding of, or the disembarkation from, 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 appear to him to be necessary for the purpose mentioned in paragraph (1) and, in particular—

(7) 1976 c. 86; see also paragraph 3(c) of the Schedule to the Fishery Limits Act (Guernsey) Order 1989 (S.I. 1989/2407).

- (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;
- (c) for the purpose of ascertaining whether the master, owner or charterer of the boat has committed an offence under section 5 of the Act as read with this Order or any equivalent 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 the officer has reason to suspect that such an offence has been committed, may take copies of and 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 this offence;

but nothing in sub-paragraph (d) 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.

(4) Where it appears to a British sea-fishery officer that a contravention of this Order or any equivalent order has at any time taken place, the officer may—

- (a) require the master of the boat in relation to which the contravention took place to take, or 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.

Revocation

5. The Prohibition of Fishing with Multiple Trawls Order 2001(8) is revoked, except insofar as it forms part of the law of Northern Ireland.

9th June 2003

Elliot Morley
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

11th June 2003

Paul Murphy
Secretary of State for Northern Ireland

SCHEDULE

Article 2(1)

STATISTICAL SUB-AREAS AND DIVISIONS OF THE
INTERNATIONAL COUNCIL FOR THE EXPLORATION OF THE SEA

ICES Statistical Sub-Area IV (North Sea)

The waters bounded by a line beginning at a point on the coast of Norway in 62° 00– north latitude; thence due west to 4° 00– west longitude; thence due south to the coast of Scotland; thence in an easterly and southerly direction along the coasts of Scotland and England to a point in 51° 00– north latitude; thence due east to the coast of France; thence in a north easterly direction along the coasts of France, Belgium, the Netherlands and the Federal Republic of Germany to the western terminus of its boundary with Denmark; thence along the west coast of Jutland to Thyboron; thence in a southerly and easterly direction along the south coast of the Limfjord to Egensekloster Point; thence across the eastern entrance of the Limfjord to Hals; thence in a westerly direction along the north coast of Limfjord to the southernmost point of Agger Tange; thence in a northerly direction along the west coast of Jutland to a point in 57° 00– north latitude; thence due west to 8° 00– east longitude; thence due north to 57° 30– north latitude; thence due west to 7° 00– east longitude; thence due north to the coast of Norway; thence in a north-westerly direction along the coast of Norway to the point of beginning.

ICES Statistical Sub-Area VI (Rockall and West of Scotland)

The waters bounded by a line beginning at a point on the north coast of Scotland in 4° 00– west longitude; thence due north to 60° 30– north latitude; thence due west to 5° 00– west longitude; thence due south to 60° 00– north latitude; thence due west to 18° 00– west longitude; thence due south to 54° 30– north latitude; thence due east to the coast of the Republic of Ireland; thence in a northerly and easterly direction along the coasts of the Republic of Ireland and of Northern Ireland to a point on the east coast of Northern Ireland in 55° 00– north latitude; thence due east to the coast of Scotland; thence in a northerly direction along the west coast of Scotland to the point of beginning.

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.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and re-enacts with amendments the Prohibition of Fishing with Multiple Trawls Order 2001 (S.I.2001/650) in relation to England. S.I. 2001/650 continues to apply insofar as it forms part of the law of Northern Ireland.

The Order prohibits fishing with any net other than a single trawl. The prohibition applies to a relevant British fishing boat wherever it may be and to any Scottish or Northern Ireland fishing boat which is within relevant British fishery limits (article 3(1)). The prohibition does not apply to beam trawlers, to fishing in certain areas with a net having a specified mesh size of not less than 80 millimetres or to fishing in any area with a net having a mesh size of 95 millimetres or more (article 3(2)). The prohibition in the previous Order did not provide an exemption for a mesh size between 95 and 100 millimetres.

Multiple trawls may be used in the Fladen area and three other specified areas provided they have a minimum mesh size of 80 millimetres (articles 2(1) and 3(2)(b)).

British Sea Fishery officers are given certain powers for the purpose of the enforcement of the Order (article 4).

Offences are prescribed by sections 5(1) of the Sea Fish (Conservation) Act 1967 (c. 84) and penalties by section 11 of that Act, as amended by section 24(1) of the Fisheries Act 1981 (c. 29).

The Order does not form part of the law of Scotland or Northern Ireland. It does not apply to fishing activities within the territorial sea of Wales, Isle of Man or Jersey or the sea adjacent to Guernsey (article 2(2) and Sea Fish (Conservation) Act 1967, section 22 as amended by S.I. 1999/1820).