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STATUTORY INSTRUMENTS

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**2008 No. 691**

**SEA FISHERIES, ENGLAND**

**The Tope (Prohibition of Fishing) Order 2008**

*Made* - - - - *9th March 2008*  
*Laid before Parliament* *13th March 2008*  
*Coming into force* - - *6th April 2008*

The Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with the sea fishing industry in Northern Ireland, having consulted the Secretary of State for Trade and Industry<sup>(1)</sup>, make this Order in exercise of the powers conferred by sections 5(1), 5(6), 6(1), 6(1A) and 15(3) of the Sea Fish (Conservation) Act 1967<sup>(2)</sup>.

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- (1) The functions of the Board of Trade under section 6(1) and the functions of the Secretary of State for Trade under section 6(1A) have been transferred to the Secretary of State for Business, Enterprise and Regulatory Reform by virtue of [S.I. 1970/1537](#) articles 2(1) and 5(3), [S.I. 1974/692](#) article 2(1) and Part III of Schedule 1, [S.I. 1983/1127](#) article 2(1), and [S.I. 2007/3224](#) article 11. The consultation requirement for this Order was undertaken with the Secretary of State for Trade and Industry prior to the transfer of functions to the Secretary of State for Business, Enterprise and Regulatory Reform.
- (2) [1967 c. 84](#). Section 5(1) was amended by the Fisheries Act 1981 ([c. 29](#)), section 22(1). Section 5A was inserted by the Environment Act 1995 ([c. 25](#)), section 103(1). Section 6(1A) was inserted by the Fisheries Act 1981, section 23(2). Section 15(3) was substituted by the Sea Fisheries Act 1968 ([c. 77](#)), section 22(1), Schedule 1, Part II and amended by the Fishery Limits Act 1976 ([c. 86](#)) section 9(1), Schedule 2, paragraph 16(1). Sections 6(1), 6(1A) and 15(3) were substituted, in part, by [S.I. 1999/1820](#), Schedule 2, paragraph 43(2) and (6) respectively. See section 22(2)(a) for definitions of “the Ministers” for the purposes of sections 5, 6 and 15(3); section 22(2) was amended by the Fisheries Act 1981, sections 19(2)(d) and 45(b) and (c) and by [S.I. 1999/1820](#), Schedule 2, paragraph 43(12). Article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999 ([S.I. 1999/672](#)) transferred functions of the Secretary of State for Wales under the 1967 Act to the National Assembly in so far as exercisable in relation to Wales (acting concurrently with the Secretary of State in relation to section 15(3)). Section 53 of the Scotland Act 1998 ([c. 46](#)) transferred functions of the Secretary of State for Scotland to the Scottish Ministers. Article 3(1) of, and Schedule 1 to, the Scotland Act 1998 (Concurrent Functions) Order 1999 ([S.I. 1999/1592](#)) provide for the functions exercisable under section 15(3) of the 1967 Act to be exercised by the person by whom it was exercisable immediately before that transfer concurrently with Scottish Ministers, in relation to relevant British fishing boats within the Scottish zone and Scottish fishing boats within British fishery limits outside the Scottish zone. Paragraph 3(1) (m) of Schedule 1 to the Sea Fisheries (Northern Ireland) Order 2002 ([S.I. 2002/790](#)) transferred the functions of the Ministers under section 15(3) of the 1967 Act to the Department of Agriculture and Rural Development, but paragraph 3(2) retains a concurrent function for Ministers to make an order in relation to British fishing boats, other than Northern Ireland boats, within the Northern Ireland zone and in relation to Northern Ireland fishing boats within British fishery limits but outside the Northern Ireland zone. Functions of the Secretaries of State for Scotland and Wales in England were transferred to the Minister of Agriculture, Fisheries and Food by article 2(1) of, and the Schedule to, the Transfer of Functions (Agriculture and Fisheries) Order 2000 ([S.I. 2000/1812](#)). The functions of the Ministers of Agriculture, Fisheries and Food and a named Secretary of State acting jointly were transferred to the Secretary of State for Environment, Food and Rural Affairs and the named Secretary of State acting jointly by article 2(5) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 ([S.I. 2002/794](#)).