

**2009 No. 165**

**SEA FISHERIES**

**The Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Amendment Order 2009**

<i>Made</i> - - - -	<i>29th April 2009</i>
<i>Laid before the Scottish Parliament</i>	<i>30th April 2009</i>
<i>Coming into force</i> - -	<i>1st May 2009</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 3 and 15(3) of the Sea Fish (Conservation) Act 1967(a) and all other powers enabling them to do so.

**Citation and commencement**

1. This Order may be cited as the Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Amendment Order 2009 and comes into force on 1st May 2009.

**Amendment of the Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Order 2000**

2.—(1) The Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Order 2000(b) is amended in accordance with this article.

(2) In article 2 (interpretation)—

(a) in paragraph (1)—

(i) for the definition of “the Council Regulation” substitute—

““the Council Regulation” means Council Regulation (EC) No. 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms(c) as corrected by Corrigendum to Annex XII of said Council Regulation (EC) No. 850/98(d) and as amended

---

(a) 1967 c.84 (“the 1967 Act”); section 15(3) was substituted by the Sea Fisheries Act 1968 (c.77), section 22(5), Schedule 1, paragraph 38(3). Sections 3 and 15(3) were amended by the Fishery Limits Act 1976 (c.86), Schedule 2, paragraph 16(1) and the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (“S.I. 1999/1820”), Schedule 2, paragraph 43(2)(b) and (4). Sections 3 and 15(3) were modified in relation to Scotland by section 22A(2) and (10) of the 1967 Act, as inserted by S.I. 1999/1820, Schedule 2, paragraph 43(13). Relevant modifications are further contained in the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 (S.I. 1999/1748), article 5 and the Scotland Act 1998 (Modification of Functions) Order 1999 (S.I. 1999/1756), articles 3, 5 and 6. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). See section 22(2)(a) of the 1967 Act for the definition of “the Ministers”, as amended by the Fisheries Act 1981 (c.29), sections 19(2)(d) and 45(b). The definition was modified in relation to Scotland by section 22A(12)(b) of the 1967 Act, as inserted by S.I. 1999/1820, Schedule 2, paragraph 43(13).

(b) S.S.I. 2000/227, amended by S.S.I. 2001/250 and 2003/167.

(c) O.J. No. L 125, 27.4.1998, p.1.

(d) O.J. No. L 318, 27.11.1998, p.63.

by Council Regulation (EC) No. 308/1999(a), Council Regulation (EC) 1459/1999(b), Council Regulation (EC) No. 2723/1999(c), Council Regulation (EC) No. 812/2000(d), Council Regulation (EC) No. 1298/2000(e), Council Regulation (EC) No. 724/2001(f), Council Regulation (EC) No. 973/2001(g), Council Regulation (EC) No. 602/2004(h), Council Regulation (EC) No. 1568/2005(i) and Council Regulation (EC) No. 2166/2005(j);”;

(ii) in the definition of “equivalent Order”, after “Council Regulation” insert “, or to enforcement of an enforceable Community restriction or other obligation in relation to sea fishing,”;

(iii) after the definition of “ICES”, insert–

““Regulation 43/2009” means Council Regulation (EC) No. 43/2009 fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required(k) as amended by Council Regulation (EC) No. 302/2009(l);”;

(b) for paragraph (2), substitute–

“(2) Expressions used in this Order that appear or are referred to in the Council Regulation and Regulation 43/2009, and which are not defined in this article, have the same meaning in this Order as in those Regulations.”; and

(c) in paragraph (4), for “35%” substitute “30%”.

(3) In article 3 (application)–

(a) in paragraph (1), for “Subject to paragraph (2), articles 4 to 5A apply to any net carried in or used by” substitute “Subject to paragraph (2), article 4 applies to any net used by”;

(b) in paragraph (1)(a) and (b), after “ICES VI (West of Scotland)” insert–

“excluding that part of ICES Division VIa which is specified in paragraph (1C)”;

(c) after paragraph (1), insert–

“(1A) Article 4A applies to any net used by–

(a) any Scottish fishing boat within that part of ICES Division VIa which is specified in paragraph (1C);

(b) any relevant British fishing boat within that part of ICES Division VIa which is specified in paragraph (1C); or

(c) any fishing boat within that part of ICES Division VIa which is specified in paragraph (1C).

(1B) Subject to paragraphs (2) and (3), articles 5 and 5A apply to any net used by–

(a) any Scottish fishing boat in ICES IIa south of 64° north latitude and east of 4° west longitude (Norwegian Sea), or ICES VI (West of Scotland); or

(b) any relevant British fishing boat in that part of ICES IIa south of 64° north latitude and east of 4° west longitude (Norwegian Sea), of ICES VI (West of Scotland) or of ICES IV (North Sea) within the Scottish zone.

---

(a) O.J. No. L 38, 12.2.1999, p.6.  
(b) O.J. No. L 168, 3.7.1999, p.1.  
(c) O.J. No. L 328, 22.12.1999, p.9.  
(d) O.J. No. L 100, 20.4.2000, p.3.  
(e) O.J. No. L 148, 22.6.2000, p.1.  
(f) O.J. No. L 102, 12.4.2001, p.16.  
(g) O.J. No. L 137, 19.5.2001, p.1.  
(h) O.J. No. L 97, 1.4.2004, p.30.  
(i) O.J. No. L 252, 28.9.2005, p.2.  
(j) O.J. No. L 345, 28.12.2005, p.5.  
(k) O.J. No. L 22, 26.1.09, p.1.  
(l) O.J. No. L 96, 15.4.2009, p.1.

(1C) The area specified by this paragraph is the area of water within ICES VI (West of Scotland) which is bounded by a line beginning at a point at 55°00'N on the west coast of Scotland; thence to a point at 55°00'N on the east coast of Northern Ireland; thence following the coast north and west to a point at 54°30'N on the west coast of Ireland; thence following those rhumb lines which sequentially join the following coordinates:–

54°30'N, 10°35'W  
55°20'N, 9°50'W  
55°30'N, 9°20'W  
56°40'N, 8°,55'W  
57°0'N, 9°,0'W  
57°20'N, 9°,20'W  
57°50'N, 9°,20'W  
58°10'N, 9°,0'W  
58°40'N, 7°,40'W  
59°0'N, 7°,30'W  
59°20'N, 6°,30'W  
59°40'N, 6°,5'W  
59°40'N, 5°,30'W  
60°0'N, 4°,50'W  
60°15'N, 4°0'W;

thence to a point at 4°00'W on the north coast of Scotland; thence west and south along the mainland Scottish coast to a point at 55°00'N on the west coast of Scotland (hereinafter referred to as “east of the Cod Recovery Line within ICES Division VIa”).”; and

(d) in paragraph (2), for “Articles 4 to 5A” substitute “Articles 4, 5 and 5A”.

(4) After article 4 (square mesh panel requirements), insert–

**“Square mesh panel requirements for east of the Cod Recovery Line within ICES Division VIa**

**4A.** Any net to which this article applies which has a mesh size of 80 millimetres or more shall have incorporated in it as part of the net a square mesh panel which–

- (a) has a mesh size of not less than 120 millimetres;
- (b) is at least 3 metres in length;
- (c) is positioned so that the rearmost row of meshes of the square mesh panel shall be no more than 12 metres from the codline; and
- (d) has no more than two open diamond meshes between the longitudinal side of the panel and the adjacent selvedge.”.

(5) In article 5 (twine thickness requirements)–

(a) for paragraph (2), substitute–

“(2) Where any net to which this article applies is used for the purpose of fishing for Norway lobsters and has a mesh size of between 70 and 94 millimetres, the codend and extension piece shall be constructed of single twine that shall not exceed 4 millimetres in thickness.”; and

(b) after paragraph (2), insert–

“(3) Where any net to which this article applies is used for the purpose of fishing for Norway lobsters and has a mesh size of between 70 and 94 millimetres, the square mesh panel (where fitted) shall be constructed of single twine that shall not exceed 6 millimetres in thickness.”.

(6) In article 6(1) (powers of British sea-fishery officers in relation to fishing boats)–

- (a) at the end of sub-paragraph (a), omit “and”;
- (b) at the end of sub-paragraph (b), for “,” substitute “; and”; and
- (c) after sub-paragraph (b), insert–  
    “(c) any fishing boat in the Scottish zone.”.

Pentland House,  
Edinburgh  
29th April 2009

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

## EXPLANATORY NOTE

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

This Order amends the Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Order 2000 (“the principal Order”) and forms part of the law of Scotland only.

The principal Order provides for the enforcement of additional technical measures in specified sea areas, pursuant to Article 46 of Council Regulation (EC) No. 850/98(a). Article 2(5) of this Order revises those additional technical conservation measures to take account of recent developments in European Community legislation for the protection of cod, haddock and whiting stocks.

Article 2(2), (3), (4) and (6) of this Order provides for the enforcement of paragraph 6 of Annex III of Council Regulation (EC) No. 43/2009(b) in relation to technical conservation measures that apply in West of Scotland (east of the Cod Recovery Line) for the protection of cod, haddock and whiting stocks.

This Order amends article 3(1) of the principal Order which specifies the sea areas to which its provisions apply. The Order amends article 3(1) by further specifying an area within ICES VI (West of Scotland), referred to as “east of the Cod Recovery Line within ICES Division VIa”, to which separate technical conservation measures apply (article 2(3)). A map showing the area east of the Cod Recovery Line within ICES Division VIa is appended to this note for illustrative purposes only.

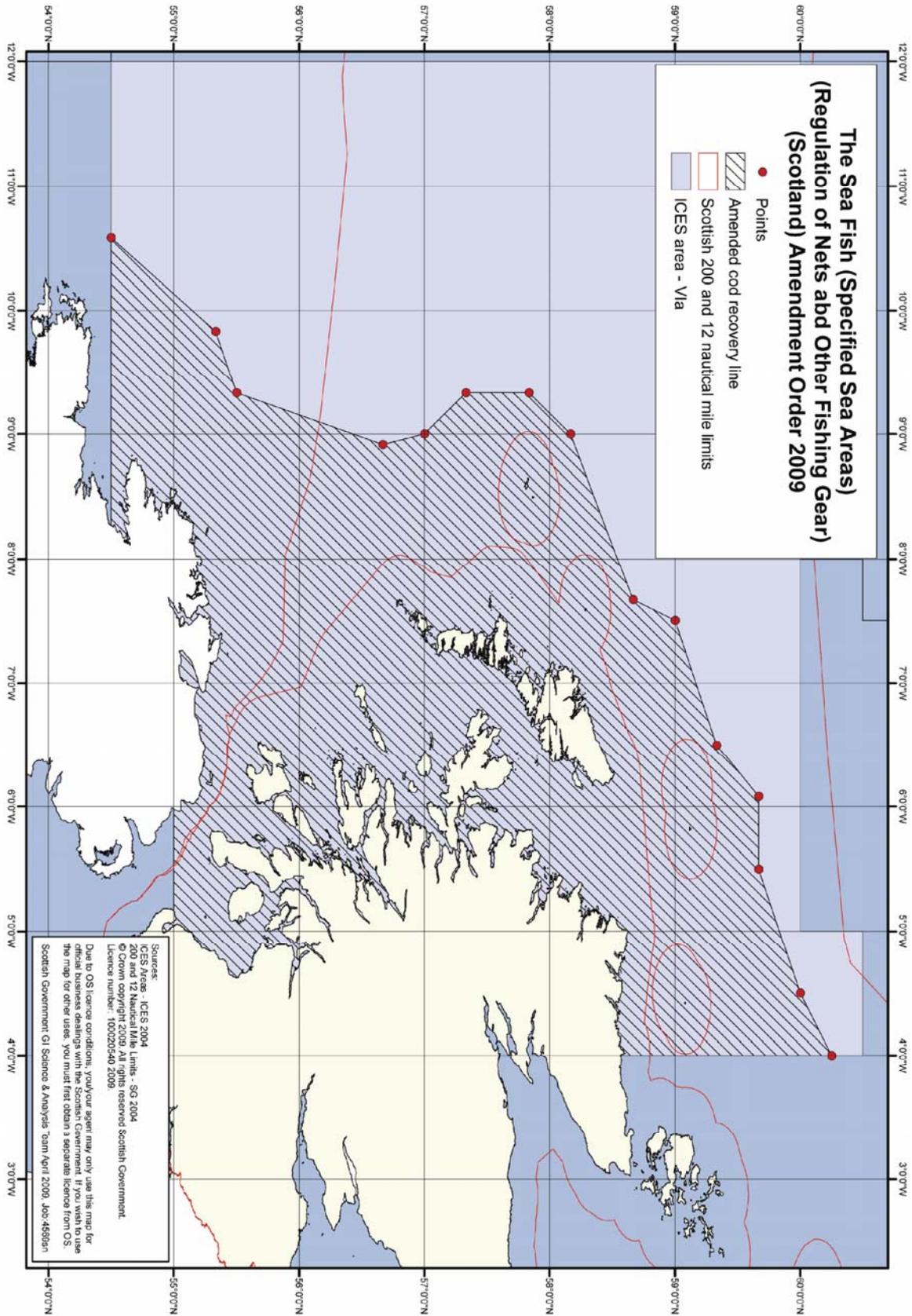
This Order inserts Article 4A into the principal Order which introduces square mesh panel requirements for nets of mesh size 80 millimetres or more that are used by any Scottish, relevant British or other fishing boat whilst fishing east of the Cod Recovery Line within ICES Division VIa (article 2(4)).

This Order also amends article 5 of the principal Order which makes provision in relation to the twine thickness of nets to be used within the specified sea areas. The Order amends article 5 to provide that any square mesh panel fitted to a net of mesh size between 70 and 94 millimetres, used for the purpose of fishing for Norway lobsters, must be constructed of single twine that is 6 millimetres thick or less (article 2(5)).

This Order amends article 6(1) of the principal Order which specifies British sea-fishery officers’ powers in relation to fishing boats. The Order amends article 6(1) by broadening the application of such powers to include any fishing boat within the Scottish zone for the purpose of enforcing the square mesh panel requirements for east of the Cod Recovery Line within ICES Division VIa (article 2(6)).

A Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from Marine Scotland, Pentland House, 47 Robb’s Loan, Edinburgh, EH14 1TY.

- 
- (a) Council Regulation (EC) No. 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms.
- (b) Council Regulation (EC) No. 43/2009 fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required.



© Crown Copyright 2009

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland.



**2009 No. 165**

**SEA FISHERIES**

The Sea Fish (Specified Sea Areas) (Regulation of Nets and  
Other Fishing Gear) (Scotland) Amendment Order 2009