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SCOTTISH STATUTORY INSTRUMENTS

2010 No. 231

SEA FISHERIES

The Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Amendment Order 2010

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| <i>Made</i> | - | - | - | - | <i>10th June 2010</i> |
| <i>Laid before the Scottish Parliament</i> | - | - | - | - | <i>11th June 2010</i> |
| <i>Coming into force</i> | - | - | | | <i>3rd July 2010</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⁽¹⁾ 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 2010 and comes into force on 3rd July 2010.

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⁽²⁾ is amended in accordance with this article.

(2) In paragraph (1) of article 2 (interpretation)—

(a) in the definition of “equivalent Order”, for “Community” substitute “EU”; and

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- (1) [1967 c.84](#) (“the 1967 Act”); section 3 was amended by the Fishery Limits Act [1976 \(c.86\)](#) (“the 1976 Act”), Schedule 2, paragraph 16(1), the Inshore Fishing (Scotland) Act [1984 \(c.26\)](#), Schedule 1 and the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (“[S.I. 1999/1820](#)”), Schedule 2, paragraph 43(2)(b) and (4). Section 15(3) was substituted by the Sea Fisheries Act [1968 \(c.77\)](#), section 22(5), Schedule 1, paragraph 38(3) and was amended by the 1976 Act, Schedule 2, paragraph 16(1) and [S.I. 1999/1820](#), Schedule 2, paragraph 43(2)(b). 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, in or as regards Scotland, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c.46\)](#). A definition of “the Ministers” is contained in section 22(2)(a) of the 1967 Act. Section 22(2)(a) was 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).
- (2) [S.S.I. 2000/227](#), amended by [S.S.I. 2001/250](#), [2003/167](#) and [2009/165](#).

(b) for the definition of “Regulation 43/2009”, substitute—

““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⁽³⁾ as corrected by Corrigendum to the Annexes to said Council Regulation (EC) No. 43/2009⁽⁴⁾ and as amended by Council Regulation (EC) No. 302/2009⁽⁵⁾, Commission Regulation (EC) No. 517/2009⁽⁶⁾, Commission Regulation (EC) No. 593/2009⁽⁷⁾, Commission Regulation (EC) No. 709/2009⁽⁸⁾, Council Regulation (EC) No. 753/2009⁽⁹⁾ and Council Regulation (EC) No. 1288/2009⁽¹⁰⁾”.

(3) In paragraph (1A) of article 3 (application)—

(a) at the end of sub-paragraph (a), insert “or”; and

(b) for sub-paragraphs (b) and (c), substitute—

“(b) any other fishing boat within that part of ICES Division VIa which is specified in paragraph (1C) and is within the Scottish zone.”.

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

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(a) at the end of sub-paragraph (a), insert “and”; and

(b) for sub-paragraphs (b) and (c), substitute—

“(b) any other fishing boat within the Scottish zone,”.

St Andrew’s House,
Edinburgh
10th June 2010

RICHARD LOCHHEAD
A member of the Scottish Executive

(3) O.J. No. L 22, 26.1.09, p.1.
(4) O.J. No. L 124, 20.5.09, p.75.
(5) O.J. No. L 96, 15.4.09, p.1.
(6) O.J. No. L 155, 18.6.09, p.9.
(7) O.J. No. L 178, 9.7.09, p.12.
(8) O.J. No. L 204, 6.8.09, p.12.
(9) O.J. No. L 214, 19.8.09, p.1.
(10) O.J. No. L 347, 24.12.09, p.6.

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 mainly for the enforcement of additional technical measures in specified sea areas, pursuant to Article 46 of Council Regulation (EC) No. 850/98⁽¹¹⁾. However, article 4A of the principal Order enforces paragraph 6 of Annex III to Council Regulation (EC) No. 43/2009⁽¹²⁾. Paragraph 6 of Annex III applies technical conservation measures to a specified sea area within West of Scotland (that part of ICES Division VIa which is east of the Cod Recovery Line) for the protection of cod, haddock and whiting stocks.

Article 2(3) of this Order amends article 3(1A) of the principal Order by clarifying the application of article 4A. Article 4A of the principal Order continues to apply to any Scottish fishing boat within that part of ICES Division VIa which is east of the Cod Recovery Line (as specified by article 3(1C) of the principal Order). However, in relation to non-Scottish fishing boats, the amendment restricts the application of article 4A to any other fishing boat within that part of ICES Division VIa which is east of the Cod Recovery Line and is within the Scottish zone.

This Order also amends article 2(1) of the principal Order, by revising certain definitions, and article 6(1) of the principal Order, by clarifying the application of British sea-fishery officers’ powers in relation to fishing boats (article 2(2) and (4)).

No Regulatory Impact Assessment has been prepared for this instrument as it has no impact on the cost of business.

⁽¹¹⁾ Council Regulation (EC) No. 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (O.J. No. L 125, 27.4.98, p.1).

⁽¹²⁾ 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 (O.J. No. L 22, 26.1.09, p.1).