SCOTTISH STATUTORY INSTRUMENTS

2005 No. 67

SEA FISHERIES

CONSERVATION OF SEA FISH

The Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2005

Made - - - -	*10th February 2005*
Laid before the Scottish Parliament - - - -	*11th February 2005*
Coming into force - -	*14th February 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 5(1)(c), 15(3) and 22(2) of the Sea Fish (Conservation) Act 1967(**1**) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement, cessation and extent

1.—(1) This Order may be cited as the Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2005 and shall come into force on 14th February 2005.

(2) This Order shall remain in force until 30th April 2005.

(3) Subject to paragraph (4), this Order extends to Scotland and the Scottish zone only.

(4) Insofar as it extends beyond Scotland and the Scottish zone, it does so only as a matter of Scots law.

Interpretation

2.—(1) In this Order–

(**1**) 1967 c. 84; section 5(1) was substituted by the Fisheries Act 1981 (c. 29), 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). Relevant modifications are 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). 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). The definition has effect in relation to Scotland with the modifications made by section 22A(12)(b) inserted by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraph 43(13).

"the Council Regulation" means Council Regulation (EC) No. 850/98 of 30th March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms(**2**) as corrected by Corrigendum to Annex XII of the Council Regulation(**3**) and amended by Council Regulation (EC) No. 308/1999(**4**), Council Regulation (EC) No. 1459/99(**5**), Council Regulation (EC) No. 2723/99(**6**), Council Regulation (EC) No. 812/2000(**7**), Council Regulation (EC) No. 1298/2000(**8**), Council Regulation (EC) No. 724/2001(**9**), and Council Regulation (EC) No. 973/2001(**10**);

"creel" means a basket, small cage, pot, receptacle or container with one or more openings or entrances, which may be baited and is placed on the seabed for the purpose of catching shellfish and crustacea;

"ICES statistical rectangle" followed by numerals with a letter shall be construed as a reference to whichever of the statistical sub-areas and divisions of the International Council for the Exploration of the Sea(**11**) is identified therein by those numerals and that letter;

"scallop dredge" means an appliance with a rigid framed mouth which is towed through the water and is manufactured, adapted, used or intended for use for the purpose of fishing for king scallops of the species *Pecten maximus*;

"Scotland" has the same meaning as in section 126(1) of the Scotland Act 1998(**12**);

"trawl" means a demersal trawl, Danish seine or similar towed net.

(2) For the purposes of this Order a trawl shall be deemed to have been used for the purpose of fishing for Norway lobsters (*Nephrops norvegicus*) if the catch retained on board that boat complies with the conditions laid down with respect to towed gears of mesh size range 70 to 79 millimetres in Annex I of the Council Regulation.

Prohibited methods of fishing

3.—(1) Subject to paragraphs (2) and (3), fishing for sea fish by any method, by any Scottish fishing boat or any relevant British fishing boat, within the area comprising that part of the Scottish zone contained within–

(a) that part of ICES statistical rectangle 39E4 which lies to the east of the peninsula of Kintyre and to the north of a straight line between 55°18'18" North, 05°38'50" West, and 55°00'30" North, 05°09'24" West; and

(b) that part of ICES statistical rectangle 39E4 which lies to the north of a straight line between 55°17'57" North, 05°47'54" West and 55°00'00" North, 05°21'00" West and to the south of a straight line between 55°18'18" North, 05°38'50" West and 55°00'30" North, 05°09'24" West,

is prohibited.

(2) The prohibition in paragraph (1)(a) shall not apply to any fishing boat that fishes with–

(a) a scallop dredge;

(b) a creel; or

(**2**) O.J. No. L 125, 27.4.98, p.1.
(**3**) O.J. No. L 318, 27.11.98, p.63.
(**4**) O.J. No. L 38, 12.2.99, p.6.
(**5**) O.J. No. L 168, 3.7.99, p.1.
(**6**) O.J. No. L 328, 22.12.99, p.9.
(**7**) O.J. No. L 100, 20.4.00, p.3.
(**8**) O.J. No. L 148, 22.6.00, p.1.
(**9**) O.J. No. L 102, 12.4.01, p.16.
(**10**) O.J. No. L 137, 19.5.01, p.1.
(**11**) Cmnd. 2586.
(**12**) 1998 c. 46. The part of the internal waters and territorial sea of the United Kingdom which is adjacent to Scotland is determined by the Scottish Adjacent Waters Boundaries Order 1999 (S.I. 1999/1126).