SCOTTISH STATUTORY INSTRUMENTS

2004 No. 276

SEA FISHERIES

The Inshore Fishing (Prohibition of Fishing and Fishing Methods) (Scotland) Order 2004

Made - - - -	*9th June 2004*
Laid before the Scottish Parliament - - - -	*10th June 2004*
Coming into force - -	*5th July 2004*

The Scottish Ministers, in exercise of the powers conferred by section 1 of the Inshore Fishing (Scotland) Act 1984(**1**) and of all other powers enabling them in that behalf and having consulted such bodies as they consider appropriate, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Inshore Fishing (Prohibition of Fishing and Fishing Methods) (Scotland) Order 2004 and shall come into force on 5th July 2004.

Interpretation

2.—(1) In this Order–

"creel" means a basket, 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;

"a parlour creel" means a creel covered by netting which has at least two compartments, entry to one or more of which is likely to be gained only through an internal connection from another compartment;

"sea fish" does not include salmon or migratory trout;

"single trawl" means a single net towed by a two warp rig in which the net has a single groundrope bosom;

"size" in relation to a lobster, means the length of the carapace parallel to the midline, from the back of either eye socket to the distal edge of the carapace;

(**1**) 1984 c. 26. Section 1 was amended by the Inshore Fishing (Scotland) Act 1994 (c. 27), section 1 and by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), article 4 and Schedule 2, paragraph 72. 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).

"suction dredging" means the raising from the seabed of material, fish and shellfish with gear involving the use of a solids pump or air lift, or water jets to dig into the sea bottom; and "suction dredge" shall be construed accordingly.

(2) Any reference in this Order to a numbered column in a numbered Schedule is a reference to the column so numbered in the Schedule so numbered to this Order.

(3) The periods of prohibition specified in column 3 and, where appropriate, the additional periods of prohibition, excepted methods of fishing for sea fish, periods of exception and excepted fishing boats specified, as the case may be, in columns 4, 5 and 6 of Schedules 1, 2 and 3 are so specified for the purposes of articles 3, 4, 5, 7 and 8 of this Order in relation to the areas specified in column 2 of the said Schedules opposite to which they appear.

Prohibition of fishing for sea fish with mobile or active gear

3.—(1) Subject to article 4 below, fishing for sea fish with a trawl, Danish seine or similar net, purse seine, ring net or dredge (including a suction dredge) is prohibited within the areas within Scottish inshore waters specified in column 2 of Schedule 1 during the periods specified in column 3 of that Schedule in relation to such areas.

(2) In addition to the prohibition on suction dredging specified in paragraph (1) above, fishing for sea fish with a suction dredge is prohibited within the areas within Scottish inshore waters specified in column 2 of Schedule 1 during the periods specified in column 4 of that Schedule in relation to such areas.

Exceptions to prohibitions in article 3

4. The prohibitions contained in article 3 of this Order shall not prevent the use in an area specified in column 2 of Schedule 1 of any method of fishing specified in column 5, during the period specified in column 6, of that Schedule, when the method so specified is used in fishing for the species of sea fish also specified in column 5 of the Schedule in the area so specified.

Prohibition of fishing for sea fish with creels

5. Fishing for any species of sea fish with a creel is prohibited within the areas within Scottish inshore waters specified in column 2 of Schedule 2 during the periods specified in column 3 except with the fishing boats specified in column 4 of that Schedule in relation to such areas.

Prohibition of fishing for sea fish with parlour creels

6. Fishing for any species of sea fish with a parlour creel which has a mesh size of less than 60 millimetres is prohibited.

General prohibition of fishing for sea fish in specified areas

7. Subject to article 8 below, fishing for any species of sea fish is prohibited within the areas within Scottish inshore waters specified in column 2 of Schedule 3 during the period specified in column 3 of that Schedule in relation to such areas.

Exceptions to prohibition in article 7

8. The prohibition in article 7 of this Order shall not prevent the use, in an area specified in column 2 of Schedule 3, of any method of fishing specified in column 4, during the period specified in column 5, of that Schedule, when the method so specified is used for fishing for the species of sea fish also specified in column 4 of the Schedule in the area so specified.

Prohibition of fishing for lobsters

9.—(1) Subject to paragraph (2) below, fishing for lobsters (*Homaru gammarus*) within Scottish inshore waters is prohibited.

(2) The prohibition in paragraph (1) above shall not apply to male lobsters of 87 millimetres or more in size or to female lobsters between 87 millimetres and 155 millimetres, inclusive, in size.

Prohibition of fishing for shrimps

10.—(1) Subject to paragraph (2) below, fishing for shrimps (*Crangon crangon and Crangon allmani*) by beam trawl or otter trawl in the area described in paragraph (3) below is prohibited.

(2) Paragraph (1) hereof shall not apply–

(a) in the case of fishing by beam trawl, where the length of the beam, or where more than one beam is used at the same time by the same vessel the combined lengths of those beams, is 6 metres or less, or

(b) in the case of fishing by otter trawl, where the length of the headline is 6 metres or less.

(3) The area referred to in paragraph (1) above means that part of Scottish inshore waters adjacent to the coast of Scotland between, in the west, a point at 54°52'.35 North latitude and 3°35'.60 West longitude (hereafter "Southerness Point") and, in the east, the border with England and lying to the east of a straight line drawn from Southerness Point in a direction of 184.5° true, but excluding from that area any waters which are nearer to any point on the coast of England than to any point on the coast of Scotland.

(4) In this article, "length" in relation to a beam shall be measured between its extremities including all attachments thereto.

Exemption for scientific investigation

11. The prohibitions contained in this Order shall not apply to fishing for sea fish for the purpose of scientific investigation.

Revocations and saving

12.—(1) Subject to paragraph (2) below, the Orders specified in Schedule 4 to this Order are hereby revoked.

(2) The Inshore Fishing (Prohibition of Fishing and Fishing Methods) (Scotland) Order 1989(**2**) shall continue to apply for the purposes of the legal process of such charges as may be brought in relation to an offence under that Order.

Pentland House, Edinburgh
9th June 2004

ROSS FINNIE
A member of the Scottish Executive

(**2**) S.I. 1989/2307 amended by S.I. 1994/326, 1996/1475, 1999/751 and S.S.I. 2001/174, 2003/404, 2003/514.

SCHEDULE 1

Articles 2(3), 3 and 4

PROHIBITION OF FISHING FOR SEA FISH WITH MOBILE OR ACTIVE GEAR

Column 1 *Item*	*Column 2* *Area within which prohibition applies*	*Column 3* *Period of prohibition of use of mobile or active gear (all dates inclusive)*	*Column 4* *Additional period of prohibition of suction dredging (all dates inclusive)*	*Column 5* *Method of fishing for species of sea fish excepted from prohibition*	*Column 6* *Period of exception (all dates inclusive)*
1.	*Luce Bay*, within a straight line drawn from a point on the mainland at 54°38'.05 North latitude and 4°51'.3 West longitude (Mull of Galloway) to a point on the mainland at 54°40'.6 North latitude and 4°23'.45 West longitude (Burrow Head).	1st March to 31st August in each year.			
2.	*Loch Ryan*, within a straight line drawn from a point on the mainland at 55°01'.1 North latitude and 05°05'.8 West longitude (Milleur Point) to a point on the mainland at 55°00'.65 North latitude and 05°03'.2 West longitude (Garry Point).	1st January to 31st December in each year.		Dredging for mussels and oysters.	1st January to 31st December in each year.

Column 1 Item	*Column 2 Area within which prohibition applies*	*Column 3 Period of prohibition of use of mobile or active gear (all dates inclusive)*	*Column 4 Additional period of prohibition of suction dredging (all dates inclusive)*	*Column 5 Method of fishing for species of sea fish excepted from prohibition*	*Column 6 Period of exception (all dates inclusive)*
3.	*Ballantrae Bank*, being the area of waters bounded by a line drawn from a point on the mainland at 55°04'.9 North latitude and 5°01'.6 West longitude (Downan Point) to a point at 55°04'.9 North latitude and 5°06' West longitude; thence to a point at 55°9'.04 North latitude and 5°06' West longitude; and thence to a point on the mainland at 55°08'.3 North latitude and 4°59'.7 West longitude (Bennane Head).	1st February to 30th April in each year.			
4.	*The Gare Loch*, within a straight line drawn from a point on the mainland at 55°59'.26 North latitude and 4°46'.01	1st January to 31st December in each year.			