Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Scallop Dredging Operations (Tracking Devices) (Wales) Order 2012. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

WELSH STATUTORY INSTRUMENTS

2012 No. 2729 (W.292)

SEA FISHERIES, WALES

The Scallop Dredging Operations (Tracking Devices) (Wales) Order 2012

Made - - - -	*30 October 2012*
Laid before the National Assembly for Wales - -	*31 October 2012*
Coming into force - -	*1 November 2012*

The Welsh Ministers make the following Order in exercise of the powers conferred by section 5(1) of the Sea Fisheries Act 1968(**1**) which are now vested(**2**) in them.

Title, commencement and application

1.—(1) The title of this Order is the Scallop Dredging Operations (Tracking Devices) (Wales) Order 2012 and it comes into force on 1 November 2012.

(2) This Order applies in relation to Wales.

Commencement Information

I1 Art. 1 in force at 1.11.2012, see **art. 1(1)**

Interpretation

2. In this Order—

(**1**) 1968 c. 77. Section 5(1) was amended by the Fishery Limits Act 1976 (c. 86), sections 4(2), 5 and 9(1), Schedule 1, paragraph 3(1) and Schedule 2, paragraph 17(1), the Fisheries Act 1981 (c. 29), section 24(2) and the Criminal Justice Act 1991 (c. 53), section 17(3), Schedule 4, Part III and further amended by S.I.1999/1820, article 4, Schedule 2, Part I, paragraph 48(1) and (2). See section 19 of the Sea Fisheries Act 1968 for a definition of "the Ministers"; the definition of "the Ministers" in section 19 was amended by S.I. 1999/1820, article 4, Schedule 2, Part I, paragraph 48(1), (5)(a), (b), (c)(i) and (ii) and (d).

(**2**) By virtue of article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions exercisable under section 5 of the 1968 Act were transferred to the National Assembly for Wales (as constituted under the Government of Wales Act 1998 (c. 38)) in so far as exercisable in relation to Wales provided that functions under section 5 relating to the identification and marking of fishing boats were exercisable by the National Assembly for Wales concurrently with any other Minister of the Crown by whom they are exercisable. Those functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

"nominated receiver" ("*derbynnydd enwebedig*") means the body nominated by the Welsh Ministers from time to time to receive the required information transmitted by a tracking device in accordance with this Order;

"person in charge" ("*person sydd â gofal*") means, in relation to a British fishing boat, the owner, master or charterer, if any, of the British fishing boat or the agent of any of them;

"port letters" ("*llythrennau porthladd*") has the meaning given in regulation 1 of the Merchant Shipping (Registration of Ships) Regulations 1993(**3**);

"port number" ("*rhif porthladd*") has the meaning given in regulation 1 of the Merchant Shipping (Registration of Ships) Regulations 1993;

"required information" ("*yr wybodaeth ofynnol*") means the information set out in article 5;

"scallop" ("*cregyn bylchog*") means shellfish of the species Pecten maximus;

"scallop dredge" ("*llusgrwyd cregyn bylchog*") includes any 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 scallops;

"tracking device" ("*dyfais olrhain*") means a device which is capable of transmitting the required information;

"Wales" ("*Cymru*") has the meaning given in section 158 of the Government of Wales Act 2006(**4**); and

"WGS 84" ("*WGS 84*") means the World Geodetic System revised in 1984 and further revised in 2004.

Commencement Information
I2 Art. 2 in force at 1.11.2012, see **art. 1(1)**

Regulation of scallop dredging operations

3. Subject to article 4, any British fishing boat which has a scallop dredge onboard must—

(a) have a tracking device installed onboard that boat; and

(b) transmit the required information to the nominated receiver at least once in every ten minute period whilst that boat is at sea.

Commencement Information
I3 Art. 3 in force at 1.11.2012, see **art. 1(1)**

Exception

4. Article 3 does not apply to a British fishing boat which—

(a) is not engaged in any fishing operation in Wales in relation to scallops; and

(b) has all scallop dredges attached to that boat stowed and secured out of the water.

(**3**) S.I. 1993/3138. The definitions of "port letters" and "port number" in regulation 1 of S.I. 1993/3138 were amended by S.I. 1999/3206, regulations 2 and 3(a) and (d). There are other amendments to regulation 1 of S.I. 1993/3138 which are not relevant to this Order.

(**4**) 2006 c. 32. Section 158(1) was amended by the Marine and Coastal Access Act 2009 (c. 23), section 43(1) and (2).

Commencement Information
I4 Art. 4 in force at 1.11.2012, see **art. 1(1)**

Required Information

5. The required information is—

(a) the port letters and port number which relate to the British fishing boat which is transmitting the required information;

(b) the most recent geographical position of that boat using coordinates of latitude and longitude on the WGS 84, with a position error of less than 10 metres;

(c) the date and time of the fixing of the geographical position of that boat; and

(d) the speed and course of that boat at that time.

Commencement Information
I5 Art. 5 in force at 1.11.2012, see **art. 1(1)**

Failure of a Tracking Device

6.—(1) If a tracking device installed pursuant to article 3 is incapable of transmitting the required information, the person in charge of the British fishing boat upon which that tracking device is installed must—

(a) ensure that that boat is not used to fish for scallops; and

(b) notify the Welsh Ministers that the tracking device is incapable of transmitting the required information.

(2) A notification under paragraph (1)(b) must include the port letters and port number of the British fishing boat upon which the relevant tracking device is installed.

(3) When a tracking device to which paragraph (1) applies has been repaired or replaced so that the British fishing boat upon which that device was installed is able to transmit the required information in accordance with article 3, the person in charge of that boat must notify the Welsh Ministers that that boat is able to comply with article 3 before that boat may be used to fish for, take or kill scallops.

Commencement Information
I6 Art. 6 in force at 1.11.2012, see **art. 1(1)**

Enforcement

7.—(1) The person in charge of a British fishing boat which has a tracking device installed onboard pursuant to article 3 must ensure that—

(a) the tracking device installed is not capable of being manually overridden;

(b) the tracking device is not capable of transmitting false information;

(c) the required information is not altered in any way;