SCOTTISH STATUTORY INSTRUMENTS

2004 No. 5

SEA FISHERIES

SHELLFISH

The Ura Firth, Shetland Scallops Several Fishery Order 2004

Made - - - -	*8th January 2004*
Laid before the Scottish Parliament - - - -	*9th January 2004*
Coming into force - -	*31st January 2004*

Whereas an application for an Order under section 1 of the Sea Fisheries (Shellfish) Act 1967(**1**) has been made to the Scottish Ministers(**2**), by Ben Wilcock;

And whereas the Scottish Ministers have prepared a draft Order and have served a copy of it on the applicant in accordance with paragraph 1 of Schedule 1 to that Act;

And whereas the applicant has caused printed copies of the draft Order to be published and circulated and has given notice of the application, all in accordance with paragraph 2 of that Schedule;

And whereas no objections have been received by the Scottish Ministers with respect to the draft Order under paragraph 3 of that Schedule;

Now therefore, the Scottish Ministers in exercise of the powers conferred by sections 1 and 7(4)(a)(iii)(**3**) of, as read with Schedule 1 to, that Act and of all other powers enabling them in that behalf, and with the consent of the Crown Estate Commissioners, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Ura Firth, Shetland Scallops Several Fishery Order 2004 and shall come into force on 31st January 2004.

(**1**) 1967 c. 83; section 1 was amended by the Sea Fisheries Act 1968 (c. 77) ("the 1968 Act"), section 15(2) (and is to be read with section 15(3) to (6) of the 1968 Act), the Fisheries Limits Act 1976 (c. 86), Schedule 2, paragraph 15 and the Sea Fisheries (Shellfish) (Amendment) Act 1997 (c. 3), section 1; Schedule 1 was amended by the 1968 Act, section 15(7). Scallops and queens were specified for the purpose of section 1 by the Shellfish (Specification of Molluscs) Regulations 1987 (S.I.1987/218).

(**2**) The reference to the "appropriate Minister" in section 22(1) of the Sea Fisheries (Shellfish) Act 1967 is to be read as a reference to the Scottish Ministers by virtue of the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), article 4 and Schedule 2, paragraph 42(10).

(**3**) Section 7(4)(a)(iii) was inserted by the Sea Fisheries (Shellfish) Amendment (Scotland) Act 2000 (asp 12).

Interpretation

2. In this Order–

"the applicant" means Ben Wilcock, Northmavine Shellfish, The Smithy, Hillwick, Shetland, ZE2 9RW;

"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;

"the grantee" means the applicant or such other person as is for the time being entitled to the right of several fishery conferred by this Order;

"the fishery" means that part of Ura Firth, Shetland described in the Schedule to this Order.

Right of several fishery

3. Subject to the following provisions of this Order, there is hereby conferred on the applicant for a period of 10 years beginning on the date on which this Order comes into force, the right of several fishery for scallops with respect to the whole of the area of the fishery.

Restriction on harvesting

4. The right of several fishery conferred by article 3 is subject to the restriction that the harvesting of scallops shall be carried out manually by divers.

Permitted fishing implements

5. For the purposes of section 7(4)(a)(iii) of the Sea Fisheries (Shellfish) Act 1967, a creel is specified as an implement of fishing the use of which is permitted within the fishery.

Assignation

6. The grantee shall not without the prior written consent of the Scottish Ministers (which consent may be given in electronic form) assign or in any other way transfer the right of several fishery to any other person.

Marking of limits of fishery

7. The grantee shall cause to be clearly marked the limits of the fishery on the bed and on the surface of the sea and shall maintain the marks in position and in good repair.

Rights of the Crown

8. Nothing in this Order shall affect prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing herein contained shall authorise the applicant to take, use, enter upon or in any manner interfere with any land, or interest in land, or any rights of whatever description (including any portion of the shore or bed of the sea, or of any river channel, creek, bay or estuary) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners.

St Andrew's House, Edinburgh
8th January 2004

ROSS FINNIE
A member of the Scottish Executive