SCOTTISH STATUTORY INSTRUMENTS

2000 No. 405

SEA FISHERIES

CONSERVATION OF SEA FISH

The Prohibition of Fishing with Multiple Trawls (No. 2) (Scotland) Order 2000

Made - - - -	*14th November 2000*
Laid before the Scottish Parliament - - - -	*20th November 2000*
Coming into force - -	*11th December 2000*

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

Citation and commencement

1. This Order may be cited as the Prohibition of Fishing with Multiple Trawls (No. 2) (Scotland) Order 2000 and shall come into force on 11th December 2000.

Interpretation

2.—(1) In this Order–

"the Act" means the Sea Fish (Conservation) Act 1967;

"the Council Regulation" means Council Regulation (EC) No. 850/98 of 30 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

(**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 section 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).

(**2**) O.J. No. L 125, 27.4.98, p.1.

(**3**) O.J. No. L 318, 27.11.98, p.63.

(EC) No. 1459/99(**5**), Council Regulation (EC) No. 2723/99(**6**), Council Regulation (EC) No. 812/2000(**7**) and Council Regulation (EC) No. 1298/2000(**8**);

"the Fladen area" means the waters of the Scottish zone bounded by a line beginning from a point on the north coast of Scotland at 4° west longitude; thence due north to a point on the outer limit of the Scottish zone; thence in a north easterly direction along that outer limit to 62° 30' north latitude; thence due east to a point on the outer limit of the Scottish zone; thence in a south easterly direction along that outer limit to 57° 30' north latitude; thence due west to a point on the east coast of Scotland; and thence in a northerly and westerlydirection following that coast to the point of beginning;

"beam trawl er" means a fishing boat which, in so far as it carries or uses nets, carries or uses only nets which are designed to be towed along the sea-bed and which have their mouth extended by a beam, bar or other rigid device;

"equivalent Order" means an Order extending to any other part of the United Kingdom made under section 5 of the Act pursuant to Article 46 of the Council Regulation which prohibits fishing by any trawl other than a single trawl;

"ICES" followed by a roman numeral with or without 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(**9**) described in the Schedule to this Order is identified therein by the roman numeral or that roman numeral and letter as the case may be;

"net" means a trawl, Danish Seine or similar towed net; and

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

(2) Any reference in this Order–

(a) to an expression which appears or is referred to in the Council Regulation and which is not defined in this article has the same meaning in this Order as in that Regulation; and

(b) to a Community instrument is a reference to that instrument and any amendment of such instrument in force on the date this Order is made.

Prohibition of method of fishing

3.—(1) Subject to paragraphs (2) and (3), fishing–

(a) by any Scottish fishing boat wherever it may be; or

(b) by any relevant British fishing boat within the Scottish zone,

with any trawl other than a single trawl is prohibited.

(2) Paragraph (1) shall not apply–

(a) to any beam trawler;

(b) to fishing with a trawl having a mesh size of not less than 80 millimetres in the Fladen area;

(c) to fishing with a trawl having a mesh size of not less than 80 millimetres–

(i) in ICES VI south of a line drawn westwards from the east coast of the Sound of Jura at 56° north latitude (West of Scotland);

(**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**) Cmnd. 2586.

(ii) in ICES VII (Irish Sea, West of Ireland and Porcupine Bank, South Coast of Ireland, Bristol Channel and English Channel); or

(iii) in ICES IV south of a line drawn eastwards from the east coast of England at 53° north latitude; and

(d) to fishing with any trawl having a mesh size of 100 millimetres or more.

Powers of British sea-fishery officers in relation to fishing boats

4.—(1) For the purpose of the enforcement of this Order or any equivalent Order, a British sea-fishery officer may exercise in relation to–

(a) any Scottish fishing boat wherever it may be; and

(b) any relevant British fishing boat in the Scottish zone,

the powers conferred by this article.

(2) The officer may go on board the boat, with or without persons assigned to assist with the duties of the officer, and for that purpose may require the boat to stop and do anything else which will facilitate the boarding of the boat.

(3) The officer may require the attendance of the master and other persons on board the boat and may make any examination and inquiry which appears to the officer to be necessary for the purpose mentioned in paragraph (1) above and, in particular–

(a) may examine any fish on the boat and the equipment of the boat, including the fishing gear, and require persons on board the boat to do anything which appears to the officer to be necessary for facilitating the examination;

(b) may require any person on board the boat to produce any document relating to the boat, to its fishing operations or other operations ancillary thereto or to the persons on board which is in their custody or possession and maytake copies of any such document;

(c) for the purpose of ascertaining whether the master, owner or charterer of the boat has committed an offence under section 5(1) or (6) of the Act(**10**) as read with this Order or any equivalent Order, may search the boat for any such document and may require any person on board the boat to do anything which appears to the officer to be necessary for facilitating the search; and

(d) where the boat is one in relation to which the officer has reason to suspect that such an offence has been committed, may seize and detain any such document produced to the officer or found on board for the purpose of enabling the document to be used as evidence in proceedings for the offence,

but nothing in sub-paragraph (d) shall permit any document required by law to be carried on board the boat to be seized and detained except while the boat is detained in a port.

(4) Where it appears to a British sea-fishery officer that a contravention of this Order has at any time taken place within British fishery limits, the officer may–

(a) require the master of the boat in relation to which the contravention took place to take, or the officer may take, the boat and its crew to the port which appears to the officer to be the nearest convenient port; and

(b) detain or require the master to detain the boat in the port.

(5) Where the officer detains or requires the detention of a boat under this article the officer shall serve on the master a notice in writing stating that the boat will be or is required to be detained until

(**10**) Subsection (6) was amended by section 22(2) of the Fisheries Act 1981. By virtue of subsection (7), where subsection (6) is not complied with in the case of any fishing boat, the master, the owner and the charterer (if any) are guilty of an offence under that subsection.