SCOTTISH STATUTORY INSTRUMENTS

2000 No. 227

SEA FISHERIES

CONSERVATION OF SEA FISH

The Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Order 2000

Made - - - -	*5th July 2000*
Laid before the Scottish Parliament - - - -	*6th July 2000*
Coming into force (except article 5) - - - -	*3rd August 200*

The Scottish Ministers, in exercise of the powers conferred on them by sections 3, 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 makes the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) (Scotland) Order 2000.

(2) This Order, except article 5, shall come into force on 3rd August 2000.

(3) Article 5 shall come into force on 1st March 2001.

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

(**1**) 1967 c. 84; 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. 1999/1750), 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 (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).

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**) and Council Regulation (EC) No. 1259/99(**5**);

"beam trawler" 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;

"codend" means the rearmost part of a net, being made up of one or more panels (pieces of netting) of the same mesh size attached to one another along their sides in the long axis of the net by a lacing;

"equivalent Order" means an Order extending to any other part of the United Kingdom made under section 3 of the Act pursuant to Article 46 of the Council Regulation in so far as it contains requirements as regards square mesh panels to be incorporated or twine thickness to be used in the construction of nets;

"extension piece" means extension piece located immediately in front of the codend and excludes any tapered part of the net;

"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(**6**) described in the Schedule is identified therein by that roman numeral or that roman numeral and letter as the case may be; and

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

(2) Expressions used in this Order which appear or are referred to in the Council Regulation and which are notdefined in this article have the same meaning in this Order as in that Regulation.

(3) Any reference in this Order to a numbered article shall be construed as a reference to the article so numbered in this Order and any reference to the Schedule as a reference to the Schedule to this Order.

(4) For the purposes of this Order a net shall be deemed to have been carried in a boat for the purpose of fishing for Norway lobsters (*Nephrops norvegicus*) and a boat shall be deemed to have been fishing for Norway lobsters if the catch retained on board that boat includes–

(a) in the case of a 70 to 79 millimetre net, 35% by weight Norway lobsters and other marine organisms identified in Annex 1 to the Council Regulation as target species for a net of that size; and

(b) in the case of an 80 to 99 millimetre net, 30% by weight Norway lobsters and other marine organisms identified in Annex 1 to the Council Regulation as target species for a net of that size.

(5) Where detached Norway lobster tails are retained on board a boat, the equivalent weight of the whole Norway lobsters shall be taken into account for the purpose of paragraph (4), and that equivalent weight shall be obtained by multiplying the weight of the tails by 3.

Application

3.—(1) Subject to paragraph (2), articles 4 and 5 apply to any net carried in or used by–

(a) any Scottish fishing boat in ICES IIa south of 64° north latitude and east of 4° west longitude (Norwegian Sea), ICES IV (North Sea) or ICES VI (West of Scotland); 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**) Cmnd. 2586.

(b) any relevant British fishing boat in that part of ICES IIa south of 64° north latitude and east of 4° west longitude (Norwegian Sea), of ICES VI (West of Scotland) or of ICES IV (North Sea) within the Scottish zone.

(2) Articles 4 and 5 do not apply to any net that is–

(a) carried in, or used by, a beam trawler; or

(b) properly lashed and stowed in such a way that it may not be readily used.

Square mesh panel requirements

4. Any net to which this article applies which has a mesh size of 70 millimetres or more but less than 119 millimetres shall have incorporated in it as part of the net a square mesh panel which–

(a) has a mesh size of not less than 90 millimetres; and

(b) is no more than 12 metres from the codline or, in any case where the net is used for the purpose of fishing for Norway lobsters, no more than 18 metres from the codline.

Twine thickness requirements

5.—(1) Where any net to which this article applies is constructed wholly or in part in the codend, extension piece or square mesh panel of multiple twine netting, the sum of the thicknesses of the multiple twines on any side of any mesh shall not exceed 10 millimetres.

(2) Where any net to which this article applies is carried or used for the purpose of fishing for Norway lobsters the codend, extension piece and any square mesh panel shall be constructed of single twine that does not exceed 4 millimetres.

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

6.—(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 may take 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 3(5) of the Sea Fish (Conservation) Act 1967 as read with this 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