WELSH STATUTORY INSTRUMENTS

2005 No. 1717 (W.132)

SEA FISHERIES, WALES
CONSERVATION OF SEA FISH

The Scallop Fishing (Wales) Order 2005

Made - - - -	*28 June 2005*
Coming into force - -	*29 June 2005*

The National Assembly for Wales, in exercise of the powers conferred by sections 1, 3, 5, 15(3) and 20(1) of the Sea Fish (Conservation) Act 1967(**1**), and now vested in it(**2**), makes the following Order:

Title, commencement and application

1.—(1) The title of this Order is the Scallop Fishing (Wales) Order 2005.

(2) This Order applies in relation to Wales and comes into force on 29 June 2005.

(3) In this Order "Wales" has the same meaning as in section 155(1) of the Government of Wales Act 1998(**3**) and "Welsh waters" means those sea areas within Wales.

Interpretation

2. In this Order —

"the Act" ("*y Ddeddf*") means the Sea Fish (Conservation) Act 1967;

"baselines" ("*gwaelodlinau*") has the same meaning as in the Territorial Sea Act 1987(**4**);

(**1**) 1967 c. 84. Section 1 was substituted by the Fisheries Act 1981 (c. 29), section 19(1) and the Merchant Shipping Act 1995 (c. 21), Schedule 13, paragraph 38(a) and the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I.1999/1820), Schedule 2, paragraph 43(1), (2) and (3). Section 3 was amended by the Fishery Limits Act 1976 (c. 86), Schedule 2, paragraph 16(1), the Inshore Fishing (Scotland) Act 1984 (c. 26), Schedule 1 and S.I. 1999/1820, Schedule 2, paragraph 43(1), (2) and (4). 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) and S.I. 1999/1820, Schedule 2, paragraph 43(2)(b). *See* section 22(2)(a) for definitions of "the Ministers" for the purposes of sections 3 and 15(3); section 22(2) was amended by the Fisheries Act 1981 (c. 29), sections 19(2)(d) and 45(b) and (c) and by S.I. 1999/1820, Schedule 2, paragraph 43(12).

(**2**) By virtue of article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions exercisable under sections 1, 3, 5, 15(3) and 20 of the 1967 Act were transferred to the National Assembly in so far as exercisable in relation to Wales (defined in section 155(1) of the Government of Wales Act 1998 (c. 38) as including "the sea adjacent to Wales out as far as the seaward boundary of the territorial sea").

(**3**) 1998 c. 38.

(**4**) 1987 c. 49.

"British fishing boat" ("*cwch pysgota Prydeinig*") means a fishing boat which is either registered in the United Kingdom under Part II of the Merchant Shipping Act 1995(**5**) or is owned wholly by persons qualified to own British ships for the purposes of that part of that Act;

"equivalent order" ("*gorchymyn cyfatebol*") means any other order made under sections 1, 3, 5 or 15 of the Act, creating prohibitions similar to any of those in articles 3, 4, 5, 6 and 7 of this Order and extending or applying to any part of the United Kingdom;

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

"scallop dredge" ("*llusgrwyd cregyn bylchog*") means 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;

"tow bar" ("*bar tynnu*") means any device or appliance which is capable of being used for the purpose of fixing or attaching a scallop dredge to a vessel for the purpose of enabling such a dredge to be towed by the vessel.

Restriction on number of scallop dredges

3.—(1) No British fishing boat is permitted, at any time, to tow more than 4 scallop dredges on each side of the boat in any part of Welsh waters which lie within 3 nautical miles of the shore, such distance being measured from baselines.

(2) No British fishing boat is permitted, at any time, to tow more than 8 scallop dredges on each side of the boat in any part of Welsh waters which lie beyond 3 nautical miles from the shore, such distance being measured from baselines.

Restriction on size of tow bars

4.—(1) No British fishing boat is permitted, at any time, in any part of Welsh waters that lie within 3 nautical miles of the shore, (such distances being measured from baselines), to use a tow bar unless that tow bar complies with the requirements of paragraph (2);

(2) The requirements referred to in paragraph (1) are as follows:

(a) a tow bar must not exceed 3.8 metres in length, and

(b) where a tow bar is 3.8 metres or less in length, it must not be constructed in such a way as to enable more than 4 scallop dredges to be attached to it at the same time.

(3) No British fishing boat is permitted at any time, in any part of Welsh waters that lie beyond 3 nautical miles from the shore, (such distance being measured from baselines), to use a tow bar unless that tow bar complies with the requirements of paragraph (4);

(4) The requirements referred to in paragraph (3) are as follows:

(a) a tow bar must not exceed 7.6 metres in length, and

(b) where a tow bar is 7.6 metres or less in length, it must not be constructed in such a way as to enable more than 8 scallop dredges to be attached to it at the same time.

Specification of scallop dredges

5.—(1) No British fishing boat is permitted to carry or tow a scallop dredge within Welsh waters unless in relation to such a dredge —

(a) its frame is less than or equal to 85 centimetres in width in any part;

(b) it includes a functioning, operational and moveable spring loaded tooth bar;

(**5**) 1995 c. 21.

(c) it does not contain any attachments to the rear, top or inside of the dredge;

(d) it does not contain a diving plate or any other similar device; and

(e) the total weight of the dredge including all fittings does not exceed 150 kilogrammes.

(2) No British fishing boat is permitted to carry or tow a scallop dredge within Welsh waters unless —

(a) where the dredge measures 80 centimetres or more in breadth —

(i) the number of rows of belly rings hanging from the belly bar does not exceed 8 across;

(ii) where all of the teeth measure 12 millimetres or less, the number of teeth on the tooth bar does not exceed 9;

(iii) where any of the teeth measure more than 12 millimetres, the number of teeth on the tooth bar does not exceed 8;

(b) where the dredge measures less than 80 centimetres in breadth —

(i) the number of rows of belly rings hanging from the belly bar does not exceed 6; and

(ii) the number of teeth on the tooth bar does not exceed 6;

(c) it has no more than 1 row of belly rings hanging from either side of the dredge perpendicular to the rings which hang from the belly bar; and

(d) each tooth on the tooth bar measures no more than —

(i) 22 millimetres where the dredge measures 80 centimetres or more in breadth; or

(ii) 12 millimetres where the dredge measures less than 80 centimetres in breadth.

(3) In this article —

(a) a row of belly rings is a line of single interconnecting rings, where the ring at one end of the line hangs either from the belly bar or from the main structure of the dredge perpendicular to the belly bar;

(b) a belly bar is the bar attached to the frame of the dredge which runs parallel to the tooth bar and from which the belly rings hang;

(c) a tooth bar is the bar to which are attached teeth, the ends of which point downwards and which are intended to be in contact with the sea bed when the dredge is in operation;

(d) the size of a tooth is its maximum width measured in the direction of the line of the tooth bar.

(4) Belly rings and the fastenings which attach them to each other and to the frame are not to be regarded as attachments for the purpose of paragraph (1)(c).

Fishing Restrictions

6.—(1) For the purposes of section 1(3) of the Act, the minimum size of scallop that may be carried by a British fishing boat in Welsh waters is 110mm.

(2) Subject to paragraph (3) no person is to fish for, take or kill scallops in Welsh waters during the period 1 June to 31 October inclusive, in each year, by any means, including diving.

(3) In respect of calendar year 2005 the period referred to in paragraph 2 is to commence on 30 June.

Measurement of scallops

7. For the purposes of article 6, the size of a scallop is to be measured in accordance with paragraph 6 of Annex XIII to Council Regulation (EC) No. 850/98 for the conservation of fishery