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STATUTORY INSTRUMENTS

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**2001 No. 649**

**The Sea Fish (Specified Sea Areas) (Regulation  
of Nets and Other Fishing Gear) Order 2001**

**Title, commencement and extent**

1.—(1) This Order may be cited as the Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) Order 2001 and shall come into force—

- (a) except for article 6, on 2nd April 2001;
- (b) in the case of article 6, on 16th April 2001.

(2) Subject to paragraph (3), this Order shall not form part of the law of Scotland.

(3) Nothing in paragraph (2) shall be treated as prejudicing the effect in Scotland of section 14 of the Sea Fish (Conservation) Act 1967(1) in relation to, or for purposes incidental to, any provision in this Order which creates an offence.

**Interpretation**

2.—(1) In this Order—

“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;

“codline” means a rope making it possible to close the rear of the codend by means of either a knot which can be easily loosened or a mechanical device;

“the Council Regulation” means Council Regulation (EC) No 850/98 of 30th 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 (EC) No. 1459/1999(5), Council Regulation (EC) No. 2723/1999(6), Council Regulation (EC) No. 812/2000(7) and Council Regulation (EC) No. 1298/2000(8);

“equivalent order” means an order extending to Scotland or having effect in relation to Wales made under section 3 of the Sea Fish (Conservation) Act 1967 pursuant to Article 46 of the Council Regulation in so far as it contains requirements relating to the incorporation of square mesh panels into nets or the thickness of twine to be used in their construction;

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(1) Section 14 was substituted by the Fisheries Act 1981 (c. 29), section 29.

(2) OJ No. L125, 27.4.98, p.1.

(3) OJ No. L318, 27.11.98, p.63.

(4) OJ No. L038, 12.2.99, p.6.

(5) OJ No. L168, 3.7.99, p.1.

(6) OJ No. L328, 22.12.99, p.9.

(7) OJ No. L100, 20.4.2000, p.3.

(8) OJ No. L148, 22.6.2000, p.1.

“extension piece” means an 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<sup>(9)</sup> described in the Schedule is identified therein by that roman numeral or that roman numeral and letter as the case may be;

“net” means a trawl, Danish seine or similar towed net;

“Regulation 2108/84” means Commission Regulation (EEC) No. 2108/84 laying down detailed rules for determining the mesh size of fishing nets<sup>(10)</sup> as amended by Commission Regulation (EC) No.2550/97<sup>(11)</sup>;

any other expression used in the Council Regulation has the same meaning in this Order as in that Regulation.

(2) In this Order—

(a) the term “within relevant British fishery limits” does not include—

- (i) the territorial sea adjacent to Wales;
- (ii) the territorial sea adjacent to the Isle of Man;
- (iii) the territorial sea adjacent to the Bailiwick of Jersey; and
- (iv) seas within British fishery limits adjacent to Guernsey, as defined by section 8 of the Fishery Limits Act 1976<sup>(12)</sup>;

(b) any reference to any relevant British fishing boat “wherever it may be” does not include such a fishing boat while in the territorial sea adjacent to Wales.

(3) Unless the context otherwise requires, any reference in this Order—

- (a) to a numbered article is a reference to that article bearing that number in this Order;
- (b) to “the Schedule” is 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 net which has a mesh size in the range 70 to 79 millimetres, at least 35% by weight of Norway lobsters and other marine organisms identified in Annex I to the Council Regulation as target species for a net of that mesh size;
- (b) in the case of a net which has a mesh size in the range 80 to 99 millimetres, at least 30% by weight of Norway lobsters and other marine organisms identified in Annex I to the Council Regulation as target species for a net of that mesh 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) above, and that equivalent weight shall be obtained by multiplying the weight of the tails by 3.

(6) For the purposes of this Order, a net shall be deemed to have been carried in a boat for the purpose of fishing for queen scallops (*Chlamys opercularis*), and a boat shall be deemed to have been fishing for queen scallops, if at least 80% by weight of the total catch retained on board that boat comprises queen scallops.

<sup>(9)</sup> Cmnd. 2586.

<sup>(10)</sup> OJ No. L194, 24.7.84, p.22.

<sup>(11)</sup> OJ No. L349, 19.12.97, p.1.

<sup>(12)</sup> 1976 c. 86; as modified by paragraph 3(c) of the Schedule to the Fishery Limits Act 1976 (Guernsey) Order 1989 (S.I.1989/2407).

### **Application and Exemptions**

3.—(1) Subject to paragraph (3), articles 4 and 6 apply to any net carried in, or used by, any relevant British 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 (Rockall and West of Scotland).

(2) Subject to paragraph (3), articles 4 and 6 apply to any net carried in, or used by, any Scottish fishing boat when within any part of ICES IV (North Sea) or ICES VI (Rockall and West of Scotland) which is within relevant British fishery limits.

(3) Articles 4 and 6 do not apply to any net that is—

- (a) carried in, or used by, a beam trawler;
- (b) carried properly lashed and stowed in such a way that it may not be readily used; or
- (c) carried in, or used by, a boat for the purpose of fishing for queen scallops.

### **Square mesh panels**

4. Any net to which this article applies which has a mesh size in the range 70 to 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) in its entirety is no more than 12 metres from the codline or, where the net is carried in or used by a boat for the purpose of fishing for Norway lobsters, no more than 18 metres from the codline.

### **Measurement of mesh size of nets**

5. Without prejudice to the application of all other provisions of Regulation 2108/84, for the purposes of this Order the mesh size of nets of square mesh shall be measured as follows—

- (a) the method of measurement set out in Articles 2(1) and 4 of Regulation 2108/84 shall not be used; and
- (b) the net shall instead be stretched in the direction of each diagonal of the mesh and the measurement shall be taken of each stretched diagonal, and the size of the mesh shall be taken to be the largest of the two diagonals measured, each such measurement being the width of the gauge at the point where the gauge is stopped, when using the gauge in accordance with Article 2(2) and (3) of that Regulation.

### **Twine thickness requirements**

6.—(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 purposes of fishing for Norway lobsters the codend, extension piece and any square mesh panel shall be constructed of single twine of a thickness not exceeding 4 millimetres.

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

7.—(1) For the purpose of the enforcement of this Order or any equivalent order, a British sea-fishery officer may exercise the powers conferred by this article in relation to—

- (a) any relevant British fishing boat wherever it may be;
- (b) any Scottish fishing boat in any waters within relevant British fishery limits.

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

(3) He may require the attendance of the master and other persons on board the boat and may make any examination and inquiry which appears to him 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 him 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 his 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
- (d) where the boat is one in relation to which he has reason to suspect that such an offence has been committed, may seize and detain any such document produced to him 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) above 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, he may—

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

(5) Where such an officer detains or requires the detention of a boat under this article he shall serve on the master a notice in writing stating that the boat will be or is required to be detained until the notice is withdrawn by the service on the master of a further notice in writing signed by a British sea-fishery officer.

### **Amendment of the Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) Order 1991**

**8.**—(1) The Sea Fish (Specified Sea Areas) (Regulation of Nets and Other Fishing Gear) Order 1991(13) shall be amended in accordance with paragraphs (2) and (3) below.

(2) In article 4 thereof (Regulation of carriage and use of nets)—

- (a) the words “ICES VI south of a line drawn westwards from the east coast of the Sound of Jura at 56° north latitude (Rockall and West of Scotland) or” shall be omitted;
- (b) paragraph (2) shall be omitted.

(3) In the Schedule thereto (sub-areas and divisions of the International Council for the Exploration of the Sea) the entries relating to ICES Statistical Division IIa (Norwegian Sea), ICES

Statistical Sub-Area IV (North Sea) and ICES Statistical Sub-Area VI (Rockall and West of Scotland) shall be omitted.

28th February 2001

*Elliot Morley*  
Parliamentary Secretary, Ministry of Agriculture,  
Fisheries and Food

28th February 2001

*Dr John Reid*  
Secretary of State for Northern Ireland