

Statutory Instrument 2001 No. 650

The Prohibition of Fishing with Multiple Trawls Order 2001

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STATUTORY INSTRUMENTS

2001 No. 650

SEA FISHERIES, ENGLAND

SEA FISHERIES, NORTHERN IRELAND

CONSERVATION OF SEA FISH

The Prohibition of Fishing with Multiple Trawls Order 2001

<i>Made</i>	<i>28th February 2001</i>
<i>Laid before Parliament</i>	<i>5th March 2001</i>
<i>Coming into force</i>	<i>2nd April 2001</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State concerned with the sea fishing industry in Northern Ireland, acting jointly, in exercise of the powers conferred on them by sections 5(1) and 15(3) of the Sea Fish (Conservation) Act 1967^[1], and of all other powers enabling them in that behalf, hereby make the following Order:

Title, commencement and extent

1. - (1) This order may be cited as the Prohibition of Fishing with Multiple Trawls Order 2001 and shall come into force on 2nd April 2001.

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

(3) Nothing in paragraph (2) above shall be treated as prejudicing the effect in Scotland of section 14 of the Act^[2] in relation to, or for purposes incidental to, any provision of this Order which creates an offence.

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^[3] as corrected by Corrigendum to Annex XII of the Council Regulation^[4] and amended by Council Regulation (EC) No. 308/1999^[5], Council Regulation (EC) No. 1459/1999^[6], Council Regulation (EC) No. 2723/1999^[7], Council Regulation (EC) No. 812/2000^[8] and Council Regulation (EC) No. 1298/2000^[9];

"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 04° 00' 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 westerly direction following that coast to the point of beginning;

"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;

"equivalent Order" means an Order extending to Scotland or having effect in relation to Wales, 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^[10] 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 bosom groundrope (the bosom being the central portion of the trawl between the lower wings), where the groundrope is attached to the towing rig at each wing-end only and does not have any further attachment, including bridles, wires or ropes, connecting it to the said towing rig;

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^[11];

(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.

Prohibition of method of fishing

3. - (1) Subject to paragraph (2) below, fishing -

- (a) by any relevant British fishing boat wherever it may be; or
- (b) by any Scottish fishing boat within relevant British fishery limits,

with any trawl other than a single trawl is prohibited.

(2) Paragraph (1) above shall not apply -

- (a) to any beam trawler;
- (b) to fishing with a trawl having a mesh size of not less than 80 millimetres -
 - (i) in the Fladen area;
 - (ii) in ICES VI (Rockall and West of Scotland) south of a line drawn westwards from the east coast of the Sound of Jura at 56° north latitude;
 - (iii) in ICES VII (Irish Sea, West of Ireland and Porcupine Bank, South Coast of Ireland, Bristol Channel and English Channel); or
 - (iv) in ICES IV (North Sea) south of a line drawn eastwards from the east coast of England at 53° north latitude;
- (c) 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 the powers conferred by paragraphs (2) to (4) of this article in relation to -

- (a) any relevant British fishing boat wherever it may be; and
- (b) any Scottish fishing boat which is 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 may require the boat to stop and do anything else which will facilitate either the

boarding of, or the disembarkation from, 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 appear to him to be necessary for the purpose mentioned in paragraph (1) of this article 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;

(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^[12] 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 him 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 take copies of and 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 this 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 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;

and where such an officer detains or requires the detention of a boat 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.

Revocation

5. - (1) The Norway Lobsters (Prohibition of Method Fishing) Order 1993^[13] is hereby revoked, except in so far as:

(a) it forms part of the law of Scotland; or

(b) it has effect in relation to Wales.

(2) In paragraph (1) above, "Wales" has the same meaning as in section 155(1) of the Government of Wales Act 1998^[14].

Elliot Morley

Parliamentary Secretary Ministry of Agriculture, Fisheries and Food

28th February 2001

Dr John Reid

Secretary of State for Northern Ireland

28th February 2001

SCHEDULE

Article 2(1)

STATISTICAL SUB-AREAS AND DIVISIONS OF THE INTERNATIONAL COUNCIL FOR THE EXPLORATION OF THE SEA

ICES Statistical Sub-Area IV (North Sea)

The waters bounded by a line beginning at a point on the coast of Norway in 62° 00' north latitude; thence due west to 4° 00' west longitude; thence due south to the coast of Scotland; thence in an easterly and southerly direction along the coasts of Scotland and England to a point in 51° 00' north latitude; thence due east to the coast of France; thence in a north easterly direction along the coasts of France, Belgium, the Netherlands and the Federal Republic of Germany to the western terminus of its boundary with Denmark; thence along the west coast of Jutland to Thyboron; thence in a southerly and easterly direction along the south coast of the Limfjord to Egensekloster Point; thence across the eastern entrance of the Limfjord to Hals; thence in a westerly direction along the north coast of Limfjord to the southernmost point of Agger Tange; thence in a northerly direction along the west coast of Jutland to a point in 57° 00' north latitude; thence due west to 8° 00' east longitude; thence due north to 57° 30' north latitude; thence due west to 7° 00' east longitude; thence due north to the coast of Norway; thence in a north-westerly direction along the coast of Norway to the point of beginning.

ICES Statistical Sub-Area VI (Rockall and West of Scotland)

The waters bounded by a line beginning at a point on the north coast of Scotland in 4° 00' west longitude; thence due north to 60° 30' north latitude; thence due west to 5° 00' west longitude; thence due south to 60° 00' north latitude; thence due west to 18° 00' west longitude; thence due south to 54° 30' north latitude; thence due east to the coast of the Republic of Ireland; thence in a northerly and easterly direction along the coasts of the Republic of Ireland and of Northern Ireland to a point on the east coast of Northern Ireland in 55° 00' north latitude; thence due east to the coast of Scotland; thence in a northerly direction along the west coast of Scotland to the point of beginning.

ICES Statistical Sub-Area VII (Irish Sea, West of Ireland and Porcupine Bank, South Coast of Ireland, Bristol Channel and English Channel)

The waters bounded by a line beginning at a point on the west coast of the Republic of Ireland in 54° 30' north latitude; thence due west to 18° 00' west longitude; thence due south to 48° 00' north latitude; thence due east to the coast of France; thence in a northerly and north-easterly direction along the coast of France to a point in 51° 00' north latitude; thence due west to the south-east coast of England; thence in a westerly and northerly direction along the coasts of England, Wales and Scotland to a point on the west coast of Scotland in

55° 00' north latitude; thence due west to the coast of Northern Ireland; thence in a northerly and westerly direction along the coasts of Northern Ireland and the Republic of Ireland to the point of beginning.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and re-enacts with amendments the Norway Lobsters (Prohibition of Method of Fishing) Order 1993 (S.I. 1993/1887) in relation to England and Northern Ireland.

The Order prohibits fishing with any trawl other than a single trawl. The prohibition in the 1993 Order related only to fishing for Norway lobsters. The prohibition in this Order is not so confined. The prohibition applies to a relevant British fishing boat wherever it may be and to any Scottish fishing boat which is within relevant British fishery limits (article 3(1)). The Order introduces a definition of "single trawl" (article 2(1)). The prohibition does not apply to beam trawlers, to fishing in certain areas with a trawl having a specified mesh size of not less than 80 millimetres or to fishing in any area with a trawl having a mesh size of 100 millimetres or more (article 3(2)).

An area termed the Fladen Ground was excepted from the prohibition in the 1993 Order. This Order applies the exception to an extended area termed the Fladen area and to three other specified areas (article 2(1)). Within these areas to which this exception applies multiple trawls may be used provided they have a minimum mesh size of 80 millimetres (article 3(2)(b)).

British Sea Fishery officers are given certain powers for the purpose of the enforcement of the Order (article 4).

Offences are prescribed by sections 5(1) and (6) of the Sea Fish (Conservation) Act 1967 (c. 84) and penalties by section 11 of that Act, as amended by section 24(1) of the Fisheries Act 1981 (c. 29).

The Order does not form part of the law of Scotland. It does not apply to fishing activities within the territorial sea of Wales.

This Order is made in reliance on Article 46 of Council Regulation (EC) 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (O.J. No. L 125, 27.4.98, p.1), which authorises Member States to take certain national measures for the conservation and management of stocks.

A Regulatory Impact Assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the Sea Fisheries Conservation Division of the Ministry of Agriculture, Fisheries and Food, Room 421d, Nobel House, 17 Smith Square, London SW1P 3JR.

Notes:

[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) section 22(1), Schedule 1, paragraph 38(3) and amended by the Fishery Limits Act 1976 (c. 86) section 9(1), Schedule 2, paragraph 16(1) and S.I. 1999/1820, Article 4, Schedule 2, paragraph 43(2)(b).

See section 22(2)(a) for definitions of "the Ministers" for the purposes of sections 5 and 15(3); section 22(2) was amended by the Fisheries Act 1981, sections 19(2)(d) and 45(b) and (c) and by S.I. 1999/1820, Article 4, paragraph 43(12) of Schedule 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 section 5 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"); in respect of waters beyond Wales these functions remain exercisable by the Ministers. Article 3(1) and Schedule 1 of the Scotland Act 1998 (Concurrent Functions) Order 1999 (S.I. 1999/1592) provide for the functions exercisable under sections 5 and 15(3) of the 1967 Act to be exercised by the Ministers, concurrently with Scottish Ministers, in relation to: relevant British fishing boats within the Scottish zone; and, Scottish fishing boats within British fishery limits but outside the Scottish zone. By virtue of article 2(1) of the Transfer of Functions (Agriculture and Fisheries) Order 2000 (S.I. 2000/1812) any remaining functions of the Secretaries of State for Scotland and Wales under sections 5 and 15(3) of the 1967 Act were transferred to the Minister of Agriculture, Fisheries and Food.[back](#)

[2] Section 14 was substituted by the Fisheries Act 1981 (c. 29), section 29.[back](#)

[3] OJ No. L125, 27.4.98, p.1.[back](#)

[4] OJ No. L318, 27.11.98, p.63.[back](#)

[5] OJ No. L038, 12.2.99, p.6.[back](#)

[6] OJ No. L168, 3.7.99, p.1.[back](#)

[7] OJ No. L328, 22.12.99, p.9.[back](#)

[8] OJ No. L100, 20.4.2000, p.3.[back](#)

[9] OJ No. L148, 22.6.2000, p.1.[back](#)

[10] Cmnd. 2586.[back](#)

[11] 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).[back](#)

[12] 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.[back](#)

[13] S.I. 1993/1887.[back](#)

[14] 1998 c. 38.[back](#)

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