
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 12

SEA FISHERIES

CONSERVATION OF SEA FISH

The Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2016

Made - - - - *12th January 2016*
Laid before the Scottish Parliament - - - - *14th January 2016*
Coming into force - - *14th February 2016*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 5(1)(a) and (2), 15(3) and 20(1) of the Sea Fish (Conservation) Act 1967⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement, cessation and effect

1.—(1) This Order may be cited as the Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2016 and comes into force on 14th February 2016.

(2) This Order remains in force until the end of 30th April 2017.

(3) The prohibition in article 3(1) has effect during the following periods:—

(a) from 14th February 2016 until the end of 30th April 2016; and

(b) from 14th February 2017 until the end of 30th April 2017.

(1) 1967 c.84 (“the 1967 Act”); section 5(1) was substituted by the Marine and Coastal Access Act 2009 (c.23) (“the 2009 Act”), section 198(2), which extends to Scotland by virtue of the Marine (Scotland) Act 2010 (asp 5) (“the 2010 Act”), section 158(1). Section 5(2) of the 1967 Act was amended by the 2009 Act, Schedule 15, paragraph 3 which extends to Scotland by virtue of the 2010 Act, section 158(1). Section 15(3) of the 1967 Act was substituted by the Sea Fisheries Act 1968 (c.77), section 22(5), 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. Sections 5 and 15(3) of the 1967 Act are modified in relation to Scotland by section 22A(2), (6) and (10) of that Act. Section 22A was inserted by S.I. 1999/1820, Schedule 2, paragraph 43(13) and section 22A(6) was substituted by section 159(4) of the 2010 Act. Relevant modifications are contained in S.I. 1999/1748, article 5 and S.I. 1999/1756, articles 3, 5 and 6. The functions of the Secretary of State, in or as regards Scotland, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). Section 22(2) of the 1967 Act, which contains a definition of “the Ministers” for the purposes of section 15(3), was relevantly amended by the Fisheries Act 1981 (c.29), sections 19(2)(d) and (3) and 45. The definition was modified in relation to Scotland by section 22A(12)(b) of the 1967 Act.

Interpretation

2.—(1) In this Order—

“creel” means a basket, small cage, pot, receptacle or container with one or more openings or entrances, which may be baited and is placed on the seabed for the purpose of catching sea fish;

“ICES statistical rectangle” followed by numerals with a letter is a reference to whichever of the statistical sub-areas and divisions of the International Council for the Exploration of the Sea(2) is identified therein by those numerals and that letter;

“British fishing boat” means a fishing boat which either is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995(3) or is owned wholly by persons qualified to own British ships for the purposes of that Part of that Act;

“scallop dredge” means an 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 king scallops of the species *Pecten maximus*; and

“trawl” means a demersal trawl, seine net or similar towed net.

(2) For the purposes of this Order, a trawl is deemed to have been used for the purpose of fishing for Norway lobsters (of the species *Nephrops norvegicus*) if the catch retained on board a fishing boat meets the minimum percentage of target species specified for Norway lobster in respect of towed gears of mesh size range 80 to 99 millimetres in Annex I to Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms(4).

Prohibited methods of fishing

3.—(1) Fishing for sea fish by any method, by any British fishing boat, is prohibited in the area comprising that part of the Scottish zone contained within—

(a) that part of ICES statistical rectangle 39E4 which lies to the east of the peninsula of Kintyre and to the north of a straight line between 55°18'18" north latitude, 05°38'50" west longitude, and 55°00'30" north latitude, 05°09'24" west longitude; and

(b) that part of ICES statistical rectangle 39E4 which lies to the north of a straight line between 55°17'57" north latitude, 05°47'54" west longitude and 55°00'00" north latitude, 05°21'00" west longitude and to the south of a straight line between 55°18'18" north latitude, 05°38'50" west longitude and 55°00'30" north latitude, 05°09'24" west longitude(5).

(2) Subject to paragraph (4), the prohibition in paragraph (1)(a) does not apply to any fishing boat that fishes with only—

(a) a scallop dredge;

(b) a creel; or

(c) a trawl used for fishing for Norway lobsters.

(3) The prohibition in paragraph (1)(b) does not apply to any fishing boat that fishes with only—

(2) Cmnd. 2586.

(3) 1995 c.21.

(4) OJ L 125, 27.4.98, p.1, as last amended by Regulation (EU) 2015/812 of the European Parliament and of the Council (OJ L 133, 29.5.2015, p.1); Annex I was relevantly amended by Council Regulation (EC) No 308/1999 (OJ L 38, 12.2.99, p.6).

(5) These are co-ordinates of latitude and longitude according to the World Geodetic System 1984 (“WGS 84”). WGS84 is defined at paragraph 2.1 of the United States National Imagery and Mapping Agency Technical Report TR8350.2, third edition, amendment 1 of 3rd January 2000 entitled “Department of Defense World Geodetic System 1984” (<http://earth-info.nga.mil/GandG/publications/tr8350.2/wgs84fin.pdf>). The International Council for the Exploration of the Sea (ICES) standardises the division of sea areas for statistical analysis. Each ICES statistical rectangle is ‘30 min latitude by 1 degree longitude’ in size. A more detailed description of ICES statistical rectangles is available at <http://www.ices.dk/marine-data/maps/Pages/ICES-statistical-rectangles.aspx>.

- (a) a scallop dredge; or
- (b) a creel.

(4) Paragraph (2) is not to be read as allowing any fishing for sea fish in any part of the area described in paragraph (1)(a) which is otherwise prohibited by the South Arran Marine Conservation Order 2015⁽⁶⁾.

Revocation

4. The Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2014⁽⁷⁾ is revoked.

St Andrew's House, Edinburgh
12th January 2016

RICHARD LOCHHEAD
A member of the Scottish Government

⁽⁶⁾ S.S.I. 2015/437.
⁽⁷⁾ S.S.I. 2014/2.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prohibits, subject to certain exceptions, all methods of fishing within specified areas of the Firth of Clyde from 14th February until 30th April, during both 2016 and 2017 (articles 1(3) and 3(1)). It is made in accordance with the procedure set out in Article 46 of Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and it remains in force until the end of 30th April 2017 (article 1(2)).

The areas closed to fishing under this Order are shown on the illustrative map which accompanies this Note.

The area diagonally hatched on the illustrative map is defined in article 3(1)(a).

The area horizontally hatched on the illustrative map is defined in article 3(1)(b).

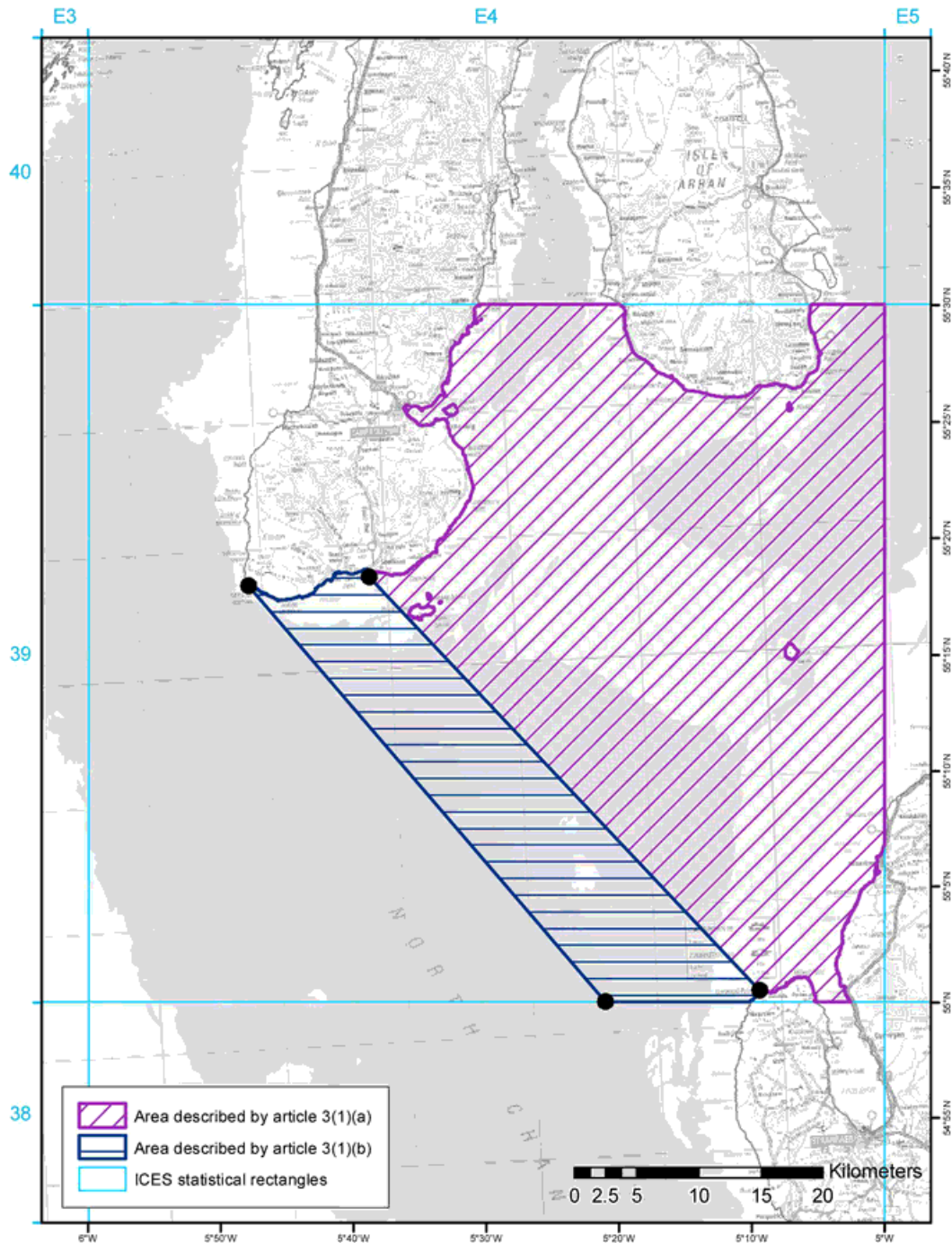
The Order applies only to British fishing boats (article 3(1)). The prohibition does not apply to fishing boats that fish within the closed areas exclusively with scallop dredges, creels and (in relation to the area diagonally hatched on the illustrative map) trawls used for fishing for Norway lobsters (article 3(2) and (3)). However, the South Arran Marine Conservation Order 2015 imposes separate restrictions on fishing activities within part of the area described in article 3(1)(a). Article 3(4) provides that article 3(2) is not to be read as allowing fishing for sea fish within part of the area described in article 3(1)(a), where this is otherwise prohibited under that Order.

It is an offence under section 5(1) of the Sea Fish (Conservation) Act 1967 to use a fishing boat in contravention of a prohibition imposed by this Order. The penalties are fixed by section 11 of that Act. On summary conviction, the penalty is a fine not exceeding £50,000. On conviction on indictment, the penalty is an unlimited fine. In either case, the court may also order forfeiture of any fish in respect of which the offence was committed and of any net or other fishing gear used in committing the offence. On summary conviction, if the court does not order the forfeiture of fish, it may impose an additional fine not exceeding the value of the fish.

The Order revokes the Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2014 (article 4).

A business and regulatory impact has been prepared in relation to this Order and placed in the Scottish Parliament Information Centre. A copy of this can be obtained from Marine Scotland, the Scottish Government, Victoria Quay, Edinburgh EH6 6QQ.

Illustrative Map Referred to in the Explanatory Note to the Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2016



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