

2010 No. 375

SEA FISHERIES

CONSERVATION OF SEA FISH

The Scallops (Luce Bay) (Prohibition of Fishing) Order 2010

<i>Made</i>	- - - -	<i>29th October 2010</i>
<i>Laid before the Scottish Parliament</i>		<i>2nd November 2010</i>
<i>Coming into force</i>	- -	<i>1st November 2010</i>

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

Citation, commencement, cessation, effect and extent

1.—(1) This Order may be cited as the Scallops (Luce Bay) (Prohibition of Fishing) Order 2010 and comes into force on 1st November 2010.

(2) This Order remains in force until the end of 28th February 2011.

(3) The prohibition in article 3 has effect during the period from 1st November 2010 until the end of 28th February 2011.

(4) This Order extends to Scotland only.

Interpretation

2. In this Order—

“Luce Bay” means the area comprising that part of the Scottish zone described in the Schedule to this Order;

“Scottish zone” has the meaning assigned to that term by section 126(1) of the Scotland Act 1998(b).

(a) 1967 c.84 (“the 1967 Act”); 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(5), Schedule 1, paragraph 38(3) and amended by the Fishery Limits Act 1976 (c.86), Schedule 2, paragraph 16(1) and the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraph 43(2)(b). 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. 1999/1756), 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 sections 5 and 15(3), was amended by the Fisheries Act 1981, sections 19(2)(d), (3) and 45. The definition was modified in relation to Scotland by section 22A(12)(b) of the 1967 Act, as inserted by S.I. 1999/1820, Schedule 2, paragraph 43(13).

(b) 1998 c.46. The sea within British fishery limits (that is, the limits set by or under section 1 of the Fishery Limits Act 1976 (c.86)) which is adjacent to Scotland is determined by the Scottish Adjacent Waters Boundaries Order 1999 (S.I. 1999/1126).

Prohibition

3. Fishing for scallops of the species *Pecten maximus* by any fishing boat is prohibited within Luce Bay.

Enforcement

4.—(1) For the purposes of the enforcement of this Order, the powers that may be exercised by any British sea-fishery officer by virtue of section 15(3) of the Sea Fish (Conservation) Act 1967 in relation to any fishing boat within Luce Bay to which the prohibition imposed by article 3 of this Order applies are the powers of a British sea-fishery officer under section 8(2) to (4) of the Sea Fisheries Act 1968(a).

(2) For the purposes mentioned in paragraph (1)—

- (a) section 8(3) of the Sea Fisheries Act 1968 shall be construed as if article 3 of this Order were one of the provisions mentioned in section 8(1) of that Act, and
- (b) section 8(4) of that Act shall be construed as if article 3 of this Order were one of the provisions mentioned in that subsection and the reference to “British fishery limits” shall be construed as a reference to Luce Bay.

DAVID BREW

A member of the staff of the Scottish Ministers

Victoria Quay,
Edinburgh
29th October 2010

(a) 1968 c.77; section 8(3)(b)-(d) and section 8(4) were substituted by the Fisheries Act 1981 (c.29), section 26(2) and (3).

SCHEDULE

Article 2

Area to which the Order applies

That part of the Scottish zone contained within a straight line drawn from a point on the mainland at 54°38'.05 North latitude and 4°51'.3 West longitude (Mull of Galloway) to a point on the mainland at 54°40'.6 North latitude and 4°23'.45 West longitude (Burrow Head).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which extends to Scotland only, prohibits fishing for scallops of the species *Pecten maximus* within Luce Bay (article 3) which is described in the Schedule to the Order (article 2).

The prohibition has effect from 1st November 2010 and applies to any fishing boat within the area of the Scottish zone described within the Schedule to the Order. The Order remains in force until the end of 28th February 2011 at which time the prohibition will come to an end (article 1).

For the purposes of enforcing the Order British Sea Fishery Officers are given the powers provided for by section 8(2) to (4) of the Sea Fisheries Act 1968 as adapted by article 4(2) for the purposes of this Order.

A person who contravenes the prohibition contained in article 3 of this Order is guilty of an offence under section 5(1) of the Sea Fish (Conservation) Act 1967. Penalties applicable to the Commission of such offences are contained in section 11 of the 1967 Act.

No Regulatory Impact Assessment has been prepared for this instrument.

© Crown Copyright 2010

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland.