
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 325

SEA FISHERIES

CONSERVATION OF SEA FISH

**The Prohibition of Fishing with
Multiple Trawls (Scotland) Order 2017**

Made - - - - *4th October 2017*
Laid before the Scottish
Parliament - - - - *6th October 2017*
Coming into force - - *1st December 2017*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 5(1) and (2), 15(3), 20(1), 22(2)(a) and 22A of the Sea Fish (Conservation) Act 1967⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement and extent

1.—(1) This Order may be cited as the Prohibition of Fishing with Multiple Trawls (Scotland) Order 2017 and comes into force on 1st December 2017.

(2) Subject to paragraph (3), this Order extends to Scotland and the Scottish zone only.

(3) So far as this Order extends beyond Scotland and the Scottish zone, it does so only as a matter of Scots law.

Interpretation

2.—(1) In this Order—

(1) 1967 c.84 (“the 1967 Act”); section 5 was amended by the Fisheries Act 1981 (c.29) (“the 1981 Act”), section 22; the Marine and Coastal Access Act 2009 (c.23) (“the 2009 Act”), section 198 and schedule 15, paragraph 3, which extend to Scotland by virtue of the Marine (Scotland) Act 2010 (asp 5) (“the 2010 Act”), section 158(1); and by S.I. 1999/1820, schedule 2, paragraph 43(2)(b). 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, 15(3), 20 and 22(2) of the 1967 Act are modified in relation to Scotland by section 22A(2), (6), (10), (11) and (12) of the 1967 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. Section 22(2) of the 1967 Act, which contains a definition of “the Ministers” for the purposes of relevant powers, was amended by the 1981 Act, sections 19 (2)(d) and (3) and 45 and S.I. 1999/1820.

“the Council Regulation” means Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles or marine organisms⁽²⁾;

“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;

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

“single trawl” means a single net towed by a two warp rig in which the net has a single groundrope bosom.

(2) Expressions in this Order which are not defined in paragraph (1) and which appear in the Council Regulation have the same meaning in this Order as they have in the Council Regulation.

Prohibition of method of fishing

3.—(1) This article applies to fishing by—

- (a) any Scottish fishing boat wherever it may be; and
- (b) any relevant British fishing boat within the Scottish zone.

(2) Subject to paragraph (3), fishing for sea fish with any trawl other than a single trawl is prohibited.

(3) Paragraph (2) does not apply to fishing with two trawls—

- (a) by any beam trawler; or
- (b) where both trawls have a mesh size of 80 millimetres or more.

Revocation

4. The following Orders are revoked—

- (a) the Prohibition of Fishing with Multiple Trawls (No. 2) (Scotland) Order 2000⁽³⁾; and
- (b) the Prohibition of Fishing with Multiple Trawls (No. 2) (Scotland) Amendment Order 2007⁽⁴⁾.

St Andrew’s House,Edinburgh
4th October 2017

FERGUS EWING
A member of the Scottish Government

(2) OJ L 125, 27.4.1998, p.1; as last amended by Regulation (EU) 2015/812 of the European Parliament and of the Council of the 20th May 2015 amending Council Regulations (EC) No 850/98, (EC) No 2187/2005, (EC) No 1967/2006, (EC) No 1098/2007, (EC) No 254/2002, (EC) No 2347/2002 and (EC) No 1224/2009, and Regulations (EU) No 1379/2013 and (EU) No 1380/2013 of the European Parliament and of the Council, as regards the landing obligation, and repealing Council Regulation (EC) No 1434/98 (OJ L 133, 29.05.2015, p.1).

(3) S.S.I. 2000/405, as amended by S.S.I. 2007/13.

(4) S.S.I. 2007/13.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and re-enacts with amendments the Prohibition of Fishing with Multiple Trawls (No. 2) (Scotland) Order 2000, by prohibiting fishing for sea fish with more than one trawl, except in two specified situations. The Order forms part of the law of Scotland only.

The Order provides for stricter measures for the management and conservation of stocks pursuant to 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 (“the Council Regulation”) (OJ No L 125, 27.4.98, p.1).

Article 3(2) of the Order prohibits fishing for sea fish with any trawl other than a single trawl. Article 3(1) provides that the prohibition applies to a Scottish fishing boat wherever it may be and to any other British fishing boat within the Scottish zone. Article 3(3)(a) provides that the prohibition does not apply to beam trawlers fishing with two trawls. Article 3(3)(b) provides that the prohibition does not apply to fishing with two trawls where both trawls have a mesh size of 80 millimetres or more.

Article 4 revokes the Prohibition of Fishing with Multiple Trawls (No. 2) (Scotland) Order 2000 and the Prohibition of Fishing with Multiple Trawls (No. 2) (Scotland) Amendment Order 2007.

Any person who contravenes a prohibition imposed by this Order is guilty of an offence under section 5(1) of the Sea Fish (Conservation) Act 1967 (“the Act”). Penalties, which are set out at section 11 of the Act, include a fine not exceeding £50,000 on summary conviction and a fine on conviction on indictment. The court may impose an additional fine not exceeding the value of the fish caught in contravention of the Act or caught with fishing gear that contravened the Act. The court may also order the forfeiture of that fish or fishing gear.

For the purposes of this Order, a British sea-fishery officer has the powers conferred by section 15 of the Act, by Part 7 of the Marine (Scotland) Act 2010 (asp 5) and by sections 35, 36 and 39 of the Aquaculture and Fisheries (Scotland) Act 2013 (asp 7).

The provisions contained in this Order were made in accordance with the procedure set out in Article 46 of the Council Regulation. Article 46 of the Council Regulation authorises Member States to take certain national measures for the conservation and management of local stocks.