STATUTORY INSTRUMENTS

1977 No. 440

SEA FISHERIES

BOATS AND METHODS OF FISHING

The Fishing Nets (North-East Atlantic) Order 1977

Made - - - -	*9th March* 1977
Laid before Parliament	*11th March* 1977
Coming into Operation	*1st April* 1977

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fishing industry in Scotland and Northern Ireland, in exercise of the powers conferred on them by sections 3 and 15 of the Sea Fish (Conservation) Act 1967(**a**) (as section 15 is amended by section 22(1) of, and paragraph 38 of Schedule 1 to, the Sea Fisheries Act 1968(**b**) and as sections 3 and 15 are amended by section 9(1) of, and paragraph 16(1) of Schedule 2 to, the Fishery Limits Act 1976(**c**)) and of all other powers enabling them in that behalf, hereby make the following order:—

Citation and commencement

1. This order may be cited as the Fishing Nets (North-East Atlantic) Order 1977 and shall come into operation on 1st April 1977.

Interpretation

2.—(1) In this order—

"the area dividing line" means a line drawn south from the coast of Greenland along 44° west longitude to 59° north latitude; thence due east to 42° west longitude; thence due south to 48° north latitude; thence due east to 18° west longitude; thence due north to 60° north latitude; thence due east to 5° west longitude; thence due north to 60° 30′ north latitude; thence due east to 4° west longitude; thence due north to 64° north latitude; thence due east to the coast of Norway;

"foreign fishing boat" means a fishing boat which is neither registered in the United Kingdom, the Channel Islands or the Isle of Man nor exempted from registration by regulations under section 373 of the Merchant Shipping Act 1894(**d**);

"the Irish Sea" means the area bounded in the north by 54° 38′ north latitude; in the east by the western coasts of England and Wales; in the south by 51° north latitude; and in the west by 7° west longitude and the eastern coasts of the Republic of Ireland and Northern Ireland;

"the North Sea" means the area bounded in the north by 62° north latitude; in the west by 4° west longitude and the east coast of Great Britain; in the south by 51° north latitude and the coasts of France, Belgium, the

(a) 1967 c. 84. (b) 1968 c. 77. (c) 1976 c. 86. (d) 1894 c. 60.

Netherlands and the Federal Republic of Germany; and in the east by a line drawn northwards along the west coast of Denmark to 57° north latitude, thence westwards to 8° east longitude, thence northwards to 57° 30′ north latitude, thence westwards to 7° east longitude, thence northwards to the coast of Norway, and thence northwards along the coast of Norway to 62° north latitude;

"net" means any net (not being a purse-seine net or a ring-net) constructed to take fish whilst being towed or hauled through the sea, whether on or near the bottom of the sea or otherwise, by or from a fishing boat;

"topside chafer" means a piece of netting attached to the upper-side of the cod-end of a net for the purpose of preventing or reducing wear and tear.

(2) In determining whether a mesh is smaller or larger than the size specified by this order in relation to that mesh, the mesh shall be stretched diagonally lengthwise of the net and shall be measured by pushing through it a flat gauge 2 millimetres thick and of a width corresponding to the size specified. If the mesh does not allow such gauge to pass easily through it (whether the net is wet or dry), it shall be deemed to be smaller than the size specified, and if it does allow the gauge to so pass, it shall be deemed to be larger than the size specified.

(3) The Interpretation Act 1889(**a**) shall apply to the interpretation of this order as it applies to the interpretation of an Act of Parliament and as if this order and the order hereby revoked were Acts of Parliament.

Revocation of previous order

3. The Fishing Nets (North-East Atlantic) Order 1976(**b**) is hereby revoked.

Areas to which this order applies

4. This order applies to those areas of the Atlantic and Arctic Oceans and seas adjacent to those oceans which lie north of 36° north latitude between 42° west longitude and 51° east longitude and north of 59° north latitude between 44° west longitude and 42° west longitude (but excluding the Mediterranean and Baltic Seas and Belts lying to the south and east of lines drawn from Hasenore Head, Denmark, to Gniben Point, Denmark, from Korshage, Denmark, to Spodsbierg, Denmark, and from Gilbierg Head, Denmark, to Kullen, Sweden).

Sizes of mesh of nets

5. Subject to Article 6 of this order, there shall not be carried—

(*a*) in any British fishing boat registered in the United Kingdom, or

(*b*) in any foreign fishing boat in waters adjacent to the United Kingdom and within British fishery limits

for the purpose of fishing for sea fish in any waters referred to in column 1 of Schedule 1 to this order, any net or part of a net of a type specified in column 2 of Schedule 1 opposite the reference to those waters which has in any of its parts any mesh smaller than the minimum size specified in column 3 of Schedule 1 opposite the reference to that type of net.

(**a**) 1889 c. 63. (**b**) S.I. 1976/1324 (1976 II, p. 3720).

Defences

6. In any proceedings in respect of a contravention of Article 5 of this order it shall be a sufficient defence to prove that the net to which the proceedings relate—

(1) was being carried solely for the purpose of fishing in waters north of the area dividing line for sea fish of a description specified in Part 1 of Schedule 2 to this order and did not have in any of its parts any mesh smaller than 16 millimetres; or

(2) was being carried solely for the purpose of fishing in waters north of the area dividing line for clupeoid fish other than herring, eels, great weevers (*Trachinus draco*), horse mackerel (*Trachurus trachurus*), mackerel (*Scomber scombrus*), sand-eels (*Ammodytidae*), saury (*Scomberesox saurus*), shrimps (*Crangon*) or smelts (*Osmerus*); or

(3) had in no part of its cod-end any mesh larger than 50 millimetres and—

(*a*) was being carried for the purpose of fishing in waters south of the area dividing line and north of 48° north latitude for sea fish of a description specified in Part 2 of Schedule 2 to this order and did not have in any of its parts any mesh smaller than 16 millimetres; or

(*b*) was being carried solely for the purpose of fishing for blue whiting (*Micromesistius poutassou*) in waters south of the area dividing line and north of 48° north latitude other than such part of those waters as lies between 52° 30′ north latitude and 48° north latitude and between 7° west longitude and 18° west longitude and did not have in any of its parts any mesh smaller than 16 millimetres; or

(*c*) was being carried during the period 1st November in every year to the last day of February in the following year (both dates inclusive) solely for the purpose of fishing for sand-eels (*Ammodytidae*) in the North Sea and did not have in any of its parts any mesh smaller than 16 millimetres; or

(*d*) was being carried in a British fishing boat solely for the purpose of fishing for nephrops in the Irish Sea and did not have in any of its parts any mesh smaller than 40 millimetres, provided that this defence shall not apply if any of the sea fish taken in the course of the voyage on which the net to which the proceedings relate was carried, was landed, or was to be landed, at a place other than one bordering upon the Irish Sea; or

(*e*) was being carried in a foreign fishing boat solely for the purpose of fishing for nephrops in waters which lie south of the area dividing line, north of 51° north latitude and east of 4° west longitude and the east coast of Great Britain and did not have in any of its parts any mesh smaller than 16 millimetres; or

(*f*) was being carried in a foreign fishing boat solely for the purpose of fishing for nephrops in waters south of the area dividing line and north of 48° north latitude other than such part of those waters as is described in sub-paragraph (*e*) above and did not have in any of its parts any mesh smaller than 40 millimetres,

Provided that the defences referred to in sub-paragraphs (*a*) to (*f*) above shall not apply if the catch on board after sorting or below deck includes a quantity of sea fish of a description specified in Schedule 3 to this order which exceeds 20% of the total weight of the catch determined on the basis of a sample of at least 100 kg. taken by a British sea-fishery officer from any part of the catch; or

(4) had in no part of its cod-end any mesh larger than 50 millimetres and was being carried solely for the purpose of fishing for sand-eels (*Ammodytidae*)—

(*a*) in waters south of the area dividing line and north of 48° north latitude other than the North Sea at any time, or

(*b*) in the North Sea during the period 1st March to 31st October in every year (both dates inclusive),

Provided that this defence shall not apply if the catch on board at any time includes a quantity of other sea fish which exceeds 10% of the total weight of the catch determined on the basis of a sample of at least 100 kg. taken by a British sea-fishery officer from any part of the catch.

Attachments to nets

7.—(1) Subject to paragraph (2) of this Article and Article 8 of this order, there shall not be carried—

(*a*) in any British fishing boat registered in the United Kingdom, or

(*b*) in any foreign fishing boat in waters adjacent to the United Kingdom and within British fishery limits

for the purpose of fishing for sea fish in any of the areas to which this order applies, any net which has attached to it any canvas, netting or other material, or has in any of its parts any mesh which is obstructed or diminished in effect by the use of any artifice.

(2) The provisions of this Article shall be without prejudice to the provisions of Articles 6 and 7 of the Fishing Nets (Northwest Atlantic) Order 1971(**a**) and anything attached to a net or any artifice used in respect of a net in accordance with the provisions of those Articles shall be deemed not to be a contravention of the provisions of this Article.

Exceptions

8. Notwithstanding the prohibition contained in Article 7 of this order, there may be attached—

(*a*) any canvas, netting or other material to the underside of the cod-end of a net for the purpose of preventing or reducing wear and tear;

(*b*) to the cod-end of any of the nets to which Article 6 of this order applies, a piece of netting which does not have in any of its parts any mesh smaller than 80 millimetres, provided that the piece of netting shall consist of heavier material than that of the cod-end to which it is attached; and

(**a**) S.I. 1971/1172 (1971 II, p. 3453).

(*c*) a topside chafer to the cod-end of a trawl net if—

(i) the chafer is attached for the purpose of fishing for sea fish in waters north of the area dividing line,

(ii) the chafer is made of the same material as the cod-end and has in all its parts meshes the dimensions of which are twice the dimensions of the meshes of the cod-end, whether the chafer and the cod-end respectively be wet or dry, and

(iii) the chafer is attached to the cod-end along the forward, lateral and rear edges only of the chafer in such a way that each mesh of the chafer coincides with four meshes of the cod-end.

Enforcement

9. For the purpose of the enforcement of this order, there are hereby conferred on every British sea-fishery officer the powers of a British sea-fishery officer under section 8(2) to (4) of the Sea Fisheries Act 1968(**a**) as subsection (4) is amended by section 9(1) of, and paragraph 17(1) of Schedule 2 to, the Fishery Limits Act 1976(**b**).

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 8th March 1977.

(L.S.)

John Silkin,
Minister of Agriculture, Fisheries and Food.

Bruce Millan,
Secretary of State for Scotland.

9th March 1977.

Roy Mason,
Secretary of State for Northern Ireland.

9th March 1977.

(**a**) 1968 c. 77. (**b**) 1976 c. 86.

SCHEDULE 1 Article 5

Column 1	*Column* 2	*Column* 3
Waters	*Type of net*	*Minimum size of mesh*
(*a*) Waters north of the area dividing line	(1) Seine net	110 millimetres
	(2) Such part of any trawl net as is made of cotton, hemp, polyamide fibres or polyester fibres	120 millimetres
	(3) Such part of any trawl net as is made of any other material	130 millimetres
(*b*) Waters south of the area dividing line and north of 48° north latitude	(1) Seine net, or such part of any trawl net as is made of single twine and contains no manila or sisal	70 millimetres
	(2) Such part of any trawl net as is made of double twine and contains no manila or sisal	75 millimetres
	(3) Such part of any trawl net as is made of manila or sisal	80 millimetres
(*c*) Waters south of 48° north latitude	(1) Seine net, or such part of any trawl net as is made of single twine and contains no manila or sisal	60 millimetres
	(2) Such part of any trawl net as is made of double twine and contains no manila or sisal	65 millimetres
	(3) Such part of any trawl net as is made of manila or sisal	70 millimetres

Article 6(1) and (3)

SCHEDULE 2

DESCRIPTION OF FISH

PART 1

Blue whiting (*Micromesistius poutassou*)
Capelin (*Mallotus villosus*)
Herring (*Clupea harengus*)
Molluscs
Nephrops
Norway pout (*Trisopterus esmarkii*)
Polar cod (*Boreogadus saida*)
Prawns (*Pandalus*)
Silver pout (*Gadiculus thorii*)
Silver smelts (*Argentina*)

PART 2

Capelin (*Mallotus villosus*)
Clupeoid fish
Eels
Great weevers (*Trachinus draco*)
Horse mackerel (*Trachurus trachurus*)
Mackerel (*Scomber scombrus*)
Molluscs
Norway pout (*Trisopterus esmarkii*)
Polar cod (*Boreogadus saida*)
Prawns (*Pandalus*)
Saury (*Scomberesox saurus*)
Shrimps (*Crangon*)
Silver smelts (*Argentina*)
Smelts (*Osmerus*)

Article 6(3)

SCHEDULE 3

DESCRIPTION OF FISH

Brill (*Scophthalmus rhombus*)
Cod (*Gadus morhua*)
Dab (*Limanda limanda*)
Haddock (*Melanogrammus aeglefinus*)
Hake (*Merluccius merluccius*)
Lemon sole (*Microstomus kitt*)
Megrim (*Lepidorhombus whiffiagonis*)
Plaice (*Pleuronectes platessa*)
Saithe (*Pollachius virens*)
Sole (*Solea solea*)
Turbot (*Scophthalmus maximus*)
Whiting (*Merlangius merlangus*)
Witch (*Glyptocephalus cynoglosus*)

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which supersedes the Fishing Nets (North-East Atlantic) Order 1976, prescribes minimum sizes of mesh for fishing nets carried—

(*a*) in British fishing boats registered in the United Kingdom, or

(*b*) in foreign fishing boats in waters adjacent to the United Kingdom and within British fishery limits,

for fishing in areas specified in the order.

The Order also regulates the attachment to nets of canvas, netting or other material.

The principal changes are:—

(1) the catch taken by small mesh nets in the course of fishing for specified descriptions of sea fish (e.g. those listed in Part 2 of Schedule 2) in waters south of the area dividing line and north of 48° north latitude or in the specified parts of those waters may not include more than 20% of species listed in Schedule 3.

(2) Stricter conditions have been imposed in relation to carrying small mesh nets for the purpose of fishing for sand-eels.

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