STATUTORY INSTRUMENTS

1971 No. 1172

SEA FISHERIES

BOATS AND METHODS OF FISHING

The Fishing Nets (Northwest Atlantic) Order 1971

Made - - - -	20*th July* 1971
Laid before Parliament	27*th July* 1971
Coming into Operation	1*st August* 1971

The Minister of Agriculture, Fisheries and Food and the Secretaries of State for Scotland and the Home Department (being the Secretaries of State respectively concerned with the sea fishing industry in Scotland and Northern Ireland) in exercise of the powers conferred upon them by sections 3 and 15 of the Sea Fish (Conservation) Act 1967(a) as the latter section is amended by section 22(1) of, and sub-paragraph (3) of paragraph 38 of Part II of Schedule 1 to, the Sea Fisheries Act 1968(b) and 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 (Northwest Atlantic) Order and shall come into operation on 1st August 1971.

Interpretation

2.—(1) In this Order—

"British sea-fishery officer" means any person who is for the time being a British sea-fishery officer by virtue of section 7 of the Sea Fisheries Act 1968;

"fishing boat" means a vessel of whatever size, and in whatever way propelled, which is for the time being employed in sea fishing or the sea fishing service;

"net" means any net constructed to take fish whilst being towed or hauled at or near the bottom of the sea by or from a fishing boat;

"subarea 1" means that area forming part of the waters in relation to which this Order has application which lies to the north and east of a rhumb line from a point in 75° north latitude and 73° 30′ west longitude to a point in 69° north latitude and 59° west longitude; east of 59° west longitude; and to the north and east of a rhumb line from a point in 61° north latitude and 59° west longitude to a point in 52° 15′ north latitude and 42° west longitude;

(a) 1967 c. 84, (b) 1968 c. 77,

"subarea 2" means that area forming part of the waters in relation to which this Order has application which lies to the south and west of subarea 1 and to the north of the parallel of 52° 15′ north latitude;

"subarea 3" means that area forming part of the waters in relation to which this Order has application lying south of the parallel of 52° 15′ north latitude and to the east of a line extending due north from Cape Bauld on the north coast of Newfoundland to a point in 52° 15′ north latitude; to the north of the parallel 39° north latitude and to the east and north of a rhumb line extending in a northwesterly direction which passes through a point in 43° 30′ north latitude, 55° west longitude, in the direction of a point in 47° 50′ north latitude, 60° west longitude, until it intersects a straight line connecting Cape Ray on the coast of Newfoundland with Cape North on Cape Breton Island; thence in a northeasterly direction along the said line to Cape Ray;

"division 3 N/P" means those waters forming part of subarea 3 which lie south of the Newfoundland coast, west of a line from Cape St. Mary to a point in 46° north latitude, 54° 30′ west longitude, south of a line drawn eastwards along the parallel 46° north latitude to meet the meridian 46° 30′ west longitude; and west of a line due south to meet the parallel 39° north latitude;

"subarea 4" means that area forming part of the waters in relation to which this Order has application lying to the west of subarea 3 and to the east of a line described as follows:— beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel, at a point in 44° 46′ 35·34″ north latitude, 66° 54′ 11·23″ west longitude, thence due south to the parallel of 43° 50′ north latitude; thence due west to the meridian of 67° 40′ west longitude; thence due south to the parallel of 42° 20′ north latitude; thence due east to a point in 66° west longitude; thence along a rhumb line in a south easterly direction to a point in 42° north latitude, 65° 40′ west longitude; thence due south to the parallel of 39° north latitude;

"subarea 5" means that area forming part of the waters in relation to which this Order has application lying to the west of the western boundary of subarea 4;

(2) The Interpretation Act 1889(a) shall apply for the interpretation of this Order as it applies for 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 (Northwest Atlantic) Order 1969(b) is hereby revoked.

Waters in relation to which this Order has application

4. This Order has application in relation to those waters, except territorial waters, bounded by a line drawn due south from the coast of Rhode Island along 71° 40′ west longitude to 39° north latitude; thence due east to 42° west longitude; thence due north to 59° north latitude; thence due west to 44° west longitude; thence due north to the coast of Greenland; thence along the west coast of Greenland to 78° 10′ north latitude; thence southward to a point in 75° north latitude and 73° 30′ west longitude; thence along a rhumb line to a

(a) 1889 c. 63. (b) S.I. 1969/628 (1969 I, p. 1734).

point in 69° north latitude and 59° west longitude; thence due south to 61° north latitude; thence due west to 64° 30′ west longitude; thence due south to the coast of Labrador; thence in a southerly direction along the coast of Labrador to the southern terminus of its boundary with Quebec; thence in a westerly direction along the coast of Quebec, and in an easterly and southerly direction along the coasts of New Brunswick, Nova Scotia, and Cape Breton Island to Cabot Strait; thence along the coasts of Cape Breton Island, Nova Scotia, New Brunswick, Maine, New Hampshire, Massachusetts, and Rhode Island to the point of beginning; and which waters comprise the subareas 1 to 5 as defined for the purposes of this Order.

Sizes of Mesh of Nets

5.—(1) Except as hereinafter provided, there shall not be carried in any British fishing boat registered in the United Kingdom any net or part of a net of a description specified in Column 2 of Schedule 1 to this Order for the purpose of fishing in any of the subareas forming part of the waters to which this Order has application and specified in Column 1 of the Schedule for fish of a description specified in relation to that subarea unless it has in all its parts meshes of such a size that when any mesh is stretched diagonally lengthwise of the net a flat gauge 2 mm. thick and of the width specified in Column 3 of the said Schedule 1 opposite to the reference to that description of net and that subarea, will pass easily through the mesh whether the net is wet or dry.

(2) For the purposes of the last foregoing paragraph the reference to fish of a description specified in relation to any subarea shall be construed as a reference to fish of a description specified in relation to that subarea in Schedule 2 to this Order.

Obstruction of Nets

6.—(1) Except as hereinafter provided, there shall not be carried in any British fishing boat registered in the United Kingdom for the purpose of fishing in any of the subareas forming part of the waters to which this Order has application for fish of any description specified in Schedule 2 to this Order in relation to that subarea any net or part of a net having a covering of canvas or any other material attached to it or in respect of which any artifice may have been employed in such manner that the mesh in any part of the net is obstructed or otherwise diminished in effect.

(2) Nothing in this Order shall be deemed to prohibit the attachment to the underside of the cod-end of any net, of canvas, netting or other material for the purpose of preventing or reducing wear and tear.

Topside Chafers

7.—(1) There shall not be carried in any British fishing boat registered in the United Kingdom any net to which a topside chafer is attached unless the net is a trawl net, the attachment is made for the purpose of fishing in waters in relation to which this Order has application and the chafer complies with one of the following specifications:—

(*a*) a piece of netting, rectangular in shape, having in all its parts meshes the dimensions of which are not less than those of the meshes of the cod-end whether the netting and the cod-end respectively be wet or dry; being in width at least one and a half times the width of the part of the

cod-end which is covered by it, (such widths being measured at right angles to the long axis of the cod-end); and fastened to the cod-end only along the forward and lateral edges of the piece of netting in such a way that—

(i) if there is a splitting strop, the piece of netting begins at a distance of not more than four of the meshes to which it is attached forward of the splitting strop and ends at a distance of not less than four of such meshes forward of the cod-line mesh, or

(ii) if there is no splitting strop, the piece of netting extends for not more than one-third of the length of the cod-end and ends at a distance of not less than four of the meshes of the net to which it is attached forward of the cod-line mesh; or

(*b*) pieces of netting having in all their parts meshes the dimensions of which are not less than those of the meshes of the cod-end whether the netting and the cod-end respectively be wet or dry; each piece being—

(i) fastened by its forward edge only across the cod-end at right angles to the long axis of the cod-end;

(ii) of a width of at least the width of the cod-end (such width being measured at right angles to the long axis of the cod-end at the point of attachment), and

(iii) of not more than ten meshes long; and the said pieces having an aggregate length when so attached not exceeding two-thirds of the length of the cod-end; or

(*c*) a piece of netting made of the same material as the cod-end, having in all its parts meshes whereof the dimensions are twice the dimensions of the meshes of the cod-end, whether the netting and the cod-end respectively be wet or dry, and fastened to the cod-end along the forward, lateral and rear edges only of the netting, in such a way that each mesh of the piece of netting coincides with four meshes of the cod-end.

(2) In this Article "topside chafer" means a piece of netting attached to the upperside of the cod-end of a net for the purpose of preventing or reducing wear and tear.

(3) The provisions of this Article shall be without prejudice to the provisions of Article 7 of the Fishing Nets (North-East Atlantic) Order 1971(**a**) and the carrying of any net to which a topside chafer is attached in accordance with the provisions of that Article shall be deemed not to be a contravention of the provisions of this Article.

Defences

8.—(1) In any proceedings in respect of a contravention of Article 5 of this Order it shall be a sufficient defence to prove in relation to any net to which the proceedings relate being a net carried for the purpose of fishing in subarea 3 that the net was being carried on a voyage undertaken solely for the purpose of fishing in division 3 N/P primarily for redfish (Sebastes):

(**a**) S.I. 1971/1171 (1971 II, p. 3446).

Provided that the provisions of this paragraph shall not apply in any case where the fishing boat on which the net was carried has on board during the voyage a quantity of—

(*a*) cod (Gadus morhua); or

(*b*) haddock (Melanogrammus aeglefinus); or

(*c*) sea fish of any other description specified in relation to subarea 3 in said Schedule 2 (excluding redfish (Sebastes))

any of which exceeds 5,000 lbs. (2,268 Kgs.) or one-tenth of the total weight of all fish on board whichever is the greater.

(2) In any proceedings in respect of a contravention of Article 5 of this Order it shall be a sufficient defence to prove in relation to any net to which the proceedings relate being a net carried for the purpose of fishing in subarea 4 that the net was being carried on a voyage undertaken solely for the purpose of fishing in subarea 4 primarily for sea fish of a description other than the descriptions of sea fish specified in relation to subarea 4 in Schedule 2 to this Order:

Provided that the provisions of this paragraph shall not apply in any case where the fishing boat on which the net was carried has on board during the voyage a quantity of—

(*a*) cod (Gadus morhua); or

(*b*) haddock (Melanogrammus aeglefinus); or

(*c*) sea fish of any other description specified in relation to subarea 4 in said Schedule 2

any of which exceeds 5,000 lbs. (2,268 Kgs.) or one-tenth of the total weight of all the fish on board whichever is the greater.

(3) In any proceedings in respect of a contravention of Article 5 of this Order it shall be a sufficient defence to prove in relation to any net to which the proceedings relate being a net carried for the purpose of fishing in subarea 5 that the net was being carried on a voyage undertaken solely for the purpose of fishing in subarea 5 primarily for any description of sea fish other than cod (Gadus morhua) or haddock (Melanogrammus aeglefinus):

Provided that the provisions of this paragraph shall not apply in any case where the fishing boat on which the net was carried has on board during the voyage a quantity of such cod or of such haddock exceeding in either case 5,000 lbs. (2,268 Kgs.) or one-tenth in weight of the total weight of all fish on board whichever is the greater.

Enforcement

9. For the purpose of the enforcement of the provisions 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) and (3) of the Sea Fisheries Act 1968(**a**).

(**a**) 1968 c. 77.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 14th July 1971.

(L.S.)

J. M. L. Prior,
Minister of Agriculture, Fisheries and Food.

16th July 1971.

Gordon Campbell,
Secretary of State for Scotland.

20th July 1971.

R. Maudling,
Secretary of State for the Home Department.

Article 5

SCHEDULE 1

PRESCRIPTION OF SIZE OF MESH

Column 1	Column 2	Column 3
Subarea	Description of Net	Width of flat gauge
1.	(1) Seine net	110 millimetres
2.	(2) Such part of any trawl net as is made of cotton, hemp, polyamide fibres or polyester fibres	120 millimetres
3.	(3) Such part of any trawl net as is made of manila or any other material not mentioned in (2) above	130 millimetres
4.	(1) Seine net	100 millimetres
	(2) Such part of any trawl net as is made of cotton, hemp, polyamide fibres or polyester fibres	105 millimetres
5.	(3) Such part of any trawl net as is made of manila or any other material not mentioned in (2) above	114 millimetres

SCHEDULE 2

Specifications of Descriptions of Fish in Relation to Subareas

Subarea 1	Subarea 2	Subarea 3	Subarea 4	Subarea 5
cod (Gadus morhua)	cod (Gadus morhua)	cod (Gadus morhua)	cod (Gadus morhua)	cod (Gadus morhua)
haddock (Melanogrammus aeglefinus)	haddock (Melanogrammus aeglefinus)	haddock (Melanogrammus aeglefinus)	haddock (Melanogrammus aeglefinus)	haddock (Melanogrammus aeglefinus)
redfish (Sebastes)	redfish (Sebastes)	redfish (Sebastes)	witch (Glyptocephalus cynoglossus)	yellowtail flounder (Limanda ferruginea)
halibut (Hippoglossus hippoglossus)	halibut (Hippoglossus hippoglossus)	halibut (Hippoglossus hippoglossus)	yellowtail flounder (Limanda ferruginea)	
witch (Glyptocephalus cynoglossus)	witch (Glyptocephalus cynoglossus)	witch (Glyptocephalus cynoglossus)	winter flounder (Pseudopleuronectes americanus)	
American plaice (Hippoglossoides platessoides)	American plaice (Hippoglossoides platessoides)	yellowtail flounder (Limanda ferruginea)	American plaice (Hippoglossoides platessoides)	
Greenland halibut (Reinhardtius hippoglossoides)	Greenland halibut (Reinhardtius hippoglossoides)	American plaice (Hippoglossoides platessoides)		
		Greenland halibut (Reinhardtius hippoglossoides)		
		pollock (Pollachius virens)		
		white hake (Urophycis tenuis)		

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order regulates the sizes of mesh of seine and trawl nets carried by registered British fishing boats for the purpose of fishing in five defined areas of the Northwest Atlantic for sea fish specified in the Order. The Order, which supersedes the Fishing Nets (Northwest Atlantic) Order 1969, increases the minimum mesh sizes for subareas 2 and 3 and has been extended to include yellowtail flounder in relation to subarea 5.