STATUTORY INSTRUMENTS

1980 No. 1810

SEA FISHERIES

BOATS AND METHODS OF FISHING

The Fishing Nets Order 1980

Made - - - -	*27th November* 1980
Laid before Parliament	*28th November* 1980
Coming into Operation	*19th December* 1980

The Minister of Agriculture, Fisheries and Food, the Secretaries of State respectively concerned with the sea fishing industry in Scotland and Northern Ireland and the Secretary of State for Wales, acting jointly, in exercise of the powers conferred on them by sections 3, 15(3) and 20(1) of the Sea Fish (Conservation) Act 1967**(a)** and now vested in them**(b)** 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 Order 1980, and shall come into operation on 19th December 1980.

Interpretation

2. In this order—

"the Council Regulation" means Council Regulation (EEC) No 2527/80 laying down technical measures for the conservation of fishery resources **(c)**;

"trawl, Danish seine or similar net" has the same meaning as in the Council Regulation.

General Provisions

3. Every trawl, Danish seine or similar net carried—

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

(*b*) in any waters adjacent to the United Kingdom and within British fishery limits by a fishing boat registered in any country outside the United Kingdom or not registered in any country

shall comply with such requirements as to size of mesh imposed by article 2 of and Annex I to the Council Regulation as are appropriate to the type of the net, the area in which it is used or hauled and the period during which it is used or hauled.

(a) 1967 c. 84; section 15 is amended by the Sea Fisheries Act 1968 (c. 77) section 22(1) and paragraph 38 of Schedule 1; sections 3 and 15 are amended by the Fishery Limits Act 1976 (c. 86) section 9(1) and paragraph 16(1) of Schedule 2.

(b) By virtue of the Transfer of Functions (Wales) (No. 1) Order 1978 (S.I. 1978/272).

(c) OJ No L258, 1.10.80, p. 1.

Exemption for small meshed nets

4. Subject to article 10 of this order, article 3 of this order shall not apply to a trawl, Danish seine or similar net carried in a fishing boat for the purpose of fishing for a description of sea fish specified in Annex II to the Council Regulation in an area specified therein in relation to that description if the trawl, Danish seine or similar net complies with the requirements as to size of mesh imposed by article 3 of and Annex II to the Council Regulation.

Exemption for nephrops

5. Subject to article 11 of this order, article 3 of this order shall not apply to a trawl, Danish seine or similar net carried in a fishing boat for the purpose of fishing for nephrops (*Nephrops norvegicus*) in an area specified in Annex IV to the Council Regulation during a period specified therein in relation to that area if the trawl, Danish seine or similar net complies with the requirements as to size of mesh imposed by article 4(1) of and Annex IV to the Council Regulation.

Hake

6.—(1) Every trawl, Danish seine or similar net carried—

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

(*b*) in any waters adjacent to the United Kingdom and within British fishery limits by any fishing boat not registered in the United Kingdom or not registered in any country,

where the fishing boat is fishing for hake (*Merluccius merluccius*) in an area specified in article 5 of the Council Regulation, shall comply with the requirements as to size of mesh in that article.

(2) Article 9(2) of the Council Regulation shall apply in relation to determining whether a fishing boat is fishing for hake.

Measurement of mesh sizes

7. The size of the mesh of any trawl, Danish seine or similar net shall be determined for the purposes of the Council Regulation in the following manner:—

The mesh shall be stretched diagonally lengthwise of the net and shall be measured by pushing through it a flat gauge 2mm thick and of a width corresponding to the appropriate size specified in the Council Regulation. If the mesh does not allow the 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 so to pass, it shall be deemed to be larger than the size specified.

Attachments to nets

8.—(1) A trawl, Danish seine or similar net carried—

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

(*b*) in any waters adjacent to the United Kingdom and within British fishery limits by a fishing boat not registered in the United Kingdom or not registered in any country

shall not have attached to it a device having the effect of obstructing or diminishing the mesh in contravention of article 7 of the Council Regulation.

(2) Notwithstanding paragraph (1) of this article, any canvas, netting or other material may be attached to the underside of the cod-end of a net for the purpose of preventing or reducing wear and tear, if it is fastened to the cod-end only along the forward and lateral edges of such canvas, netting or other material.

Exemption for nets carried but not used

9. Subject to article 8(2) of the Council Regulation, articles 3 to 8 of this order shall not apply to a trawl, Danish seine or similar net carried in a fishing boat in any case where such trawl, seine or net is not used or hauled.

By-catch requirements relating to exemption for small meshed nets

10. The exemption in article 4 of this order shall not apply to a trawl, Danish seine or similar net carried in a fishing boat if the catch taken by that fishing boat with that trawl, seine or net fails to satisfy the by-catch requirements imposed by article 8 of and Annex V to the Council Regulation, as read with the provisions relating to determination of by-catch percentage in article 10(1) thereof.

By-catch requirements relating to exemption for nephrops

11. The exemption in article 5 of this order shall not apply to a trawl, Danish seine or similar net carried in a fishing boat if the catch taken by that fishing boat with that trawl, seine or net fails to satisfy the by-catch requirements imposed by article 9(1) of the Council Regulation, as read with the provisions relating to determination of by-catch percentage in article 10(1) thereof.

Enforcement

12. 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)**.

Duration

13. The provisions of this order shall cease to have effect on 20th December 1980.

Revocation

14. The orders specified in the Schedule to this order are hereby revoked.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 21st November 1980.

(L.S.)

Peter Walker,
Minister of Agriculture, Fisheries and Food.

25th November 1980.

George Younger,
Secretary of State for Scotland.

27th November 1980.

Humphrey Atkins,
Secretary of State for Northern Ireland.

26th November 1980.

Nicholas Edwards,
Secretary of State for Wales.

(a) 1968 c. 77; section 8(4) is amended by the Fishery Limits Act 1976 sections 2(8) and 9(1) and paragraph 17(1) of Schedule 2.

SCHEDULE *Article 14*

REVOCATIONS

Column 1 Orders revoked	Column 2 References
The Fishing Nets (North East Atlantic) Order 1977	S.I. 1977/440
The Fishing Nets (North East Atlantic) (Variation) Order 1978	S.I. 1978/946
The Fishing Nets (North East Atlantic) (Variation) Order 1979	S.I. 1979/744

EXPLANATORY NOTE

(This Note is not part of the Order.)

This order, which applies throughout the United Kingdom, provides for the enforcement of certain provisions of Council Regulation (EEC) No 2527/80 laying down technical measures for the conservation of fishery resources (OJ No L258. 1.10.80, p.1).

The order—

(*a*) requires trawls, Danish seines and similar nets to comply with the size of mesh requirements in article 2 and Annex I of the Council Regulation (article 3);

(*b*) provides an exemption for small meshed nets used for certain species of fish in accordance with article 3 and Annex II of the Council Regulation (article 4);

(*c*) provides an exemption for nets used for nephrops in accordance with article 4 and Annex IV of the Council Regulation (article 5);

(*d*) requires trawls, Danish seines and similar nets used for hake to comply with the mesh size requirements in article 5 of the Council Regulation (article 6);

(*e*) prescribes the manner in which sizes of mesh are to be measured (article 7);

(*f*) prohibits the use of devices having the effect referred to in article 7 of the Council Regulation, with one exception (article 8);

(*g*) provides an exemption in cases where a net is not used or hauled (article 9);

(*h*) disapplies the exemption of small meshed nets in cases where the by-catch requirements in article 8 and Annex V of the Council Regulation are not satisfied (article 10);

(*i*) disapplies the exemption of nets used for nephrops in cases where the by-catch requirements in article 9(1) of the Council Regulation are not satisfied (article 11);

(*j*) confers enforcement powers on British sea-fishery officers (article 12);

(*k*) revokes certain orders relating to the regulation of nets and other fishing gear (article 14 and the Schedule).

If the Order is contravened in the case of any fishing boat, the master, the owner and the charterer (if any) are each liable on summary conviction to a fine not exceeding £1,000 and on conviction on indictment to an unlimited fine.

The Order ceases to have effect on 20th December 1980 (article 13).

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