

**2005 No. 49**

**SEA FISHERIES, ENGLAND**

**RESTRICTION OF SEA FISHING**

**The South-west Territorial Waters (Prohibition of Pair Trawling)  
(Amendment) Order 2005**

<i>Made</i> - - - -	<i>13th January 2005</i>
<i>Laid before Parliament</i>	<i>14th January 2005</i>
<i>Coming into force</i> - -	<i>15th January 2005</i>

The Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with the sea fishing industry in Northern Ireland, in exercise of the powers conferred by sections 3, 5(1) and 5A of the Sea Fish (Conservation) Act 1967(a), and now vested in them(b), make the following Order:

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- (a) 1967 c.84, as extended to Guernsey by the Sea Fish (Conservation) (Channel Islands) Order 1981 (S.I. 1981/737), as modified by the Sea Fish (Conservation) (Channel Islands) (Amendment) Order 2001 (S.I. 2001/959). Section 1 was substituted by the Fisheries Act 1981 (c. 29), section 19(1) and the Merchant Shipping Act 1995 (c. 21), Schedule 13, paragraph 38(a) and the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraph 43(1), (2) and (3). Section 3 was amended by the Fishery Limits Act 1976 (c.86), Schedule 2, paragraph 16(1), the Inshore Fishing (Scotland) Act 1984 (c. 26), Schedule 1 and S.I. 1999/1820, Schedule 2, paragraph 43(1), (2) and (4). Section 5(1) was amended by the Fisheries Act 1981, section 22(1). Section 5A was inserted by the Environment Act 1995, section 103(1). See section 22(2)(a) for definitions of “the Ministers” for the purposes of section 3; section 22(2) was amended by the Fisheries Act 1981 (c. 29), sections 19(2)(d) and 45(b) and (c) and by S.I. 1999/1820, Schedule 2, paragraph 43(12).
- (b) By virtue of article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions exercisable under sections 1 and 3 of the 1967 Act were transferred to the National Assembly in so far as exercisable in relation to Wales (defined in section 155(1) of the Government of Wales Act 1998 (c. 38) as including “the sea adjacent to Wales out as far as the seaward boundary of the territorial sea”); in respect of waters beyond Wales these functions remain exercisable by the Ministers. Section 53 of the Scotland Act 1998 (c.46) as read with article 3(1) and Schedule 1 of the Scotland Act 1998 (Concurrent Functions) Order 1999 (S.I. 1999/1592) provide for the functions exercisable under sections 1(3), (4) and (6), 3(1), (3) and (4) of the 1967 Act to be exercised by the Ministers, concurrently with Scottish Ministers, in relation to relevant British fishing boats within the Scottish zone, and Scottish fishing boats within British fishery limits but outside the Scottish zone. By virtue of article 2(1) of, and the Schedule to, the Transfer of Functions (Agriculture and Fisheries) Order 2000 (S.I. 2000/1812) any remaining functions of the Secretaries of State for Scotland and Wales under sections 1 and 3 of the 1967 Act were transferred to the Minister of Agriculture, Fisheries and Food. By virtue of paragraph 2 of Schedule 1 to the Sea Fisheries (Northern Ireland) Order 2002 (S.I. 2002/790), an order under section 1 or 3 of the 1967 Act may make provision applying only to relevant British fishing boats other than Northern Ireland fishing boats. By virtue of paragraph 3(1)(a) and (b) of that Schedule the functions of the Ministers under sections 1 (of making an order prescribing the minimum size of fish which may be carried on a Northern Ireland fishing boat or within the Northern Ireland zone) and 3 (of making an order requiring nets and other fishing gear carried in Northern Ireland fishing boats or in the Northern Ireland zone to comply with prescribed requirements) of the 1967 Act were transferred to the Department of Agriculture and Rural Development but, by virtue of paragraph 3(2), the Ministers retain a concurrent function to make an order in relation to British fishing boats, other than Northern Ireland fishing boats, within the Northern Ireland zone and in relation to Northern Ireland fishing boats within British fishery limits but outside the Northern Ireland zone. The functions of the Minister of Agriculture, Fisheries and Food and one or more named Secretaries of State (however described) acting jointly were transferred to the Secretary of State for Environment, Food and Rural Affairs and the one or more Secretaries of State acting jointly by virtue of article 2(5) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).

## **Title and commencement**

1. This Order may be cited as the South-west Territorial Waters (Prohibition of Pair Trawling) (Amendment) Order 2005 and shall come into force on 15th January 2005.

## **Amendment of the South-west Territorial Waters (Prohibition of Pair Trawling) Order 2004**

2.—(1) The South-west Territorial Waters (Prohibition of Pair Trawling) Order 2004(a) shall be amended in accordance with paragraph (2).

(2) For Article 3(2)(b)(ii) there shall be substituted—

“(ii) incorporating no individual mesh, irrespective of its position within the net, greater than 300mm.”.

12th January 2005

*Ben Bradshaw*  
Parliamentary Under Secretary of State  
Department of Environment, Food and Rural Affairs

13th January 2005

*Ian Pearson*  
Parliamentary Under Secretary of State  
Northern Ireland Office

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the South-west Territorial Waters (Prohibition of Pair Trawling) Order 2004 so that those vessels which use nets where no individual mesh is greater than 300mm are not prevented from pair trawling. The effect is that those vessels which do use nets, any part of which incorporate mesh of greater than 300mm, are prohibited from pair trawling.

This Order comes into force on 15th January 2005.

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(a) S.I.2004 No. 3397

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