

1990 No. 2051

SEA FISHERIES

CONSERVATION OF SEA FISH

The Sea Fish (Specified Manx Waters)  
Licensing Order 1990

<i>Made</i>	- - - -	<i>16th October 1990</i>
<i>Laid before Parliament</i>		<i>26th October 1990</i>
<i>Coming into force</i>	-	<i>15th November 1990</i>

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fishing industry in Scotland, Wales and Northern Ireland, acting jointly, in exercise of the powers conferred on them by sections 4, 15(3), 20(1) and 22(2)(a) of the Sea Fish (Conservation) Act 1967(a), and of all other powers enabling them in that behalf, hereby make the following Order:

**Title, commencement and extent**

1.—(1) This Order may be cited as the Sea Fish (Specified Manx Waters) Licensing Order 1990 and shall come into force on 15th November 1990.

(2) This Order extends to the United Kingdom and the Isle of Man.

**Interpretation**

2. In this Order—

“length”, in relation to a boat, means the length calculated in accordance with the rules specified in Article 2(1) of Council Regulation (EEC) No. 2930/86 defining characteristics for fishing vessels(b);

“mile” means an international nautical mile of 1,852 metres.

**Prohibition of fishing without a licence and exceptions thereto**

3.—(1) Subject to paragraph (2) of this article, fishing by British fishing boats in the area of sea described in Schedule 1 to this Order for any sea fish (other than salmon or

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(a) 1967 c.84; section 4 was amended by the Fishery Limits Act 1976 (c.86), section 3 and by the Fisheries Act 1981 (c.29), section 20; section 15(3) was amended by the Sea Fisheries Act 1968 (c.77), Schedule 1, paragraph 38(3) and by the Fishery Limits Act 1976, Schedule 2, paragraph 16(1); section 4 was applied in relation to British fishing boats registered in the Isle of Man and any of the Channel Islands by the Sea Fish (Conservation) (Manx Boats) Order 1978 (S.I. 1978/281) and the Sea Fish (Conservation) (Channel Islands Boats) Order 1978 (S.I. 1978/280); section 4, as amended by 1976 c.86, and section 15(3), as amended by 1968 c.77 and 1976 c.86, were extended to the Isle of Man subject to adaptations and modifications by the Sea Fish (Conservation) (Isle of Man) Order 1973 (S.I. 1973/237) and the Sea Fish (Conservation) (Isle of Man) Order 1977 (S.I. 1977/1244); section 22(2)(a) which contains a definition of “the Ministers” for the purposes of sections 4 and 15(3) was amended by the Fisheries Act 1981, sections 19(2)(d) and 45(b).

(b) OJ No. L274,25.9.86, p. 1.

migratory trout) is hereby prohibited unless authorised by a licence granted by the Department of Agriculture, Fisheries and Forestry, the Isle of Man.

(2) The prohibition in paragraph (1) above shall not apply to—

- (a) fishing by any boat whose length is not more than 10 metres, except in the case of a boat fishing for herring (*Clupea harengus*);
- (b) fishing by any boat used wholly for the purpose of conveying persons wishing to fish for pleasure with rod and line or by handline;
- (c) fishing by handline for mackerel (*Scomber scombrus*).

#### **Powers of British sea-fishery officers in relation to fishing boats**

4.—(1) For the purpose of the enforcement of this Order a British sea-fishery officer may exercise anywhere in relation to any British fishing boat the powers conferred by paragraphs (2) to (4) of this article.

(2) He may go on board the boat, with or without persons assigned to assist him in his duties, and for that purpose may require the boat to stop and do anything else which will facilitate the boarding of the boat.

(3) He may require the attendance of the master and other persons on board the boat and may make any examination and inquiry which appears to him to be necessary for the purpose mentioned in paragraph (1) of this article and, in particular—

- (a) may examine any fish on the boat and the equipment of the boat, including the fishing gear, and require persons on board the boat to do anything which appears to him to be necessary for facilitating the examination;
- (b) may require any person on board the boat to produce any document relating to the boat, to its fishing operations or other operations ancillary thereto or to the persons on board which is in his custody or possession and may take copies of any such document;
- (c) for the purpose of ascertaining whether the master, owner or charterer of the boat has committed an offence under section 4 of the Sea Fish (Conservation) Act 1967 as read with this Order, may search the boat for any such document and may require any person on board the boat to do anything which appears to him to be necessary for facilitating the search; and
- (d) where the boat is one in relation to which he has reason to suspect that such an offence has been committed, may seize and detain any such document produced to him or found on board for the purpose of enabling the document to be used as evidence in proceedings for the offence;

but nothing in sub-paragraph (d) above shall permit any document required by law to be carried on board the boat to be seized and detained except while the boat is detained in a port.

(4) Where it appears to a British sea-fishery officer that a contravention of this Order has at any time taken place within British fishery limits, he may—

- (a) require the master of the boat in relation to which the contravention took place to take, or may himself take, the boat and its crew to the port which appears to him to be the nearest convenient port; and
- (b) detain or require the master to detain the boat in the port;

and where such an officer detains or requires the detention of a boat he shall serve on the master a notice in writing stating that the boat will be or is required to be detained until the notice is withdrawn by the service on the master of a further notice in writing signed by a British sea-fishery officer.

#### **Revocation**

5. The Orders mentioned in Schedule 2 to this Order are revoked.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 16th October 1990.



*John Selwyn Gummer*  
Minister of Agriculture, Fisheries and Food

11th October 1990                      *Lord Strathclyde*  
Parliamentary Under Secretary of State, Scottish Office

12th October 1990                      *David Hunt*  
Secretary of State for Wales

16th October 1990                      *Peter Brooke*  
Secretary of State for Northern Ireland

### SCHEDULE 1

Article 3

#### AREA OF SEA IN RESPECT OF WHICH PROHIBITION OF FISHING WITHOUT LICENCE APPLIES

The area of sea within 12 miles of the baselines from which the breadth of the territorial sea adjacent to the Isle of Man is measured<sup>(a)</sup> but not extending beyond a line every point of which is equidistant from the nearest points of such baselines and the corresponding baselines of the United Kingdom, and excluding the territorial sea around the Isle of Man.

### SCHEDULE 2

Article 5

#### ORDERS WHICH ARE REVOKED BY THIS ORDER

<i>Orders revoked</i>	<i>References</i>
The Herring and White Fish (Specified Manx Waters) Licensing Order 1983	S.I. 1983/1204
The Herring and White Fish (Specified Manx Waters) Licensing (Variation) Order 1983	S.I. 1983/1879
The Herring and White Fish (Specified Manx Waters) Licensing (Variation) Order 1986	S.I. 1986/1439
The Herring and White Fish (Specified Manx Waters) Licensing (Variation) Order 1987	S.I. 1987/1564

<sup>(a)</sup> See the Territorial Waters Order in Council 1964 (1965 III, p. 6452A, amended by 1979 II, p. 2866).

## EXPLANATORY NOTE

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

This Order consolidates with variations the Herring and White Fish (Specified Manx Waters) Licensing Order 1983, as varied, ("the 1983 Order") which prohibited fishing for herring and for descriptions of white fish specified in the Order by British fishing boats within the twelve-mile belt around the Isle of Man but outside territorial waters without a licence. This Order extends the scope of that prohibition to include fishing for any sea fish (other than salmon or migratory trout) (article 3(1)). This Order extends to the United Kingdom and the Isle of Man (article 1(2)).

The prohibition on fishing in the 1983 Order did not apply to fishing for white fish by any boat whose length was not more than 10 metres. This Order widens that exemption to include any sea fish except herring, salmon and migratory trout and amends the definition of "length" to that calculated in accordance with the rules specified in Article 2(1) of Council Regulation (EEC) No. 2930/86 (OJ No. L274, 25.9.86, p. 1) (articles 2 and 3(2)(a)). This Order also makes two new exemptions to the prohibition on fishing (article 3(2)(b) and (c)).

This Order omits the provision in the 1983 Order which permitted the retention on board a fishing boat of a quantity of fish consisting of one or more of the following species, namely cod, plaice and whiting, the fishing for which was for the time being prohibited, when caught as a by-catch not exceeding ten per cent. by weight of sea fish on board the fishing boat in the course of lawful fishing for another description of sea fish. In consequence, section 4(9A) of the Sea Fish (Conservation) Act 1967 (which applies in the United Kingdom but not in the Isle of Man) requires such cod, plaice and whiting to be returned to the sea forthwith.

British sea-fishery officers are given enforcement powers in relation to boats to which the Order applies (article 4).

The Order revokes the 1983 Order together with the Orders which varied it (article 5).

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