

**2015 No. 647**

**SEA FISHERIES, ENGLAND**

**CONSERVATION OF SEA FISH, ENGLAND**

**The Sea Fish Licensing (England) Order 2015**

<i>Made</i> - - - -	<i>9th March 2015</i>
<i>Laid before Parliament</i>	<i>13th March 2015</i>
<i>Coming into force</i> - -	<i>1st July 2015</i>

The Secretary of State, in exercise of the powers conferred by sections 4(1) and (2), 15(3) and 20(1) of the Sea Fish (Conservation) Act 1967(a), section 14A of the Interpretation Act 1978(b) and sections 105, 112 and 113 of the Scotland Act 1998(c), and now vested in the Secretary of State(d), makes the following Order.

**Title, commencement, extent and application**

**1.**—(1) This Order may be cited as the Sea Fish Licensing (England) Order 2015 and comes into force on 1st July 2015.

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- (a) 1967 c.84 (“the 1967 Act”). Section 4 was substituted by the Fishery Limits Act 1976 (c.86), section 3, and amended by the Fisheries Act 1981 (c.29) (“the 1981 Act”), section 20; the Sea Fish (Conservation) Act 1992 (c.60), section 1; the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820) (“the 1999 Order”), article 4, Schedule 2 Part 1, paragraphs 43(1), (2)(b) and (5); the Aquaculture and Fisheries (Scotland) Act 2007 (asp 12), section 41 and paragraph 3(a) of the Schedule; and the Marine and Coastal Access Act 2009 (c.23) (“the 2009 Act”), sections 4(6), 196(1) and 197. Section 22(2)(a) of the 1967 Act, which contains a definition of “the Ministers” for the purposes of section 4, was amended by the 1981 Act, sections 19(2)(d) and 45(b). Section 15(3) was substituted by the Sea Fisheries Act 1968 (c.77), section 22(1), Schedule 1, Part 2, paragraph 38(1) and (3), and amended by the Fishery Limits Act 1976, section 9(1), Schedule 2, paragraph 16(1), and the 1999 Order, article 4, Schedule 2, Part 1, paragraph 43(1) and (2)(b).
- (b) 1978 c.30. Section 14A was inserted by section 59(1) and (2) of the Enterprise and Regulatory Reform Act 2013 (c.24).
- (c) 1998 c.46.
- (d) The functions under sections 4, 15(3) and 20(1) of the 1967 Act in relation to Wales were transferred to the National Assembly for Wales and then transferred from that body to the Welsh Ministers: see article 2(a) of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32). The functions under sections 4, 15(3) and 20(1) in relation to the Welsh zone were transferred to the Welsh Ministers by article 4(1)(b) of the Welsh Zone (Boundaries and Transfer of Functions) Order 2010 (S.I. 2010/760). The functions under sections 4, 15(3) and 20(1) in relation to Scotland were transferred to the Scottish Ministers under section 53(1) of the Scotland Act 1998 (c.46), and section 22A of the 1967 Act (inserted by the 1999 Order) modifies references in sections 4 and 15(3) accordingly. The functions under sections 4(1) and 15(3) in relation to Northern Ireland were transferred to the Department of Agriculture and Rural Development in Northern Ireland under article 3(1) of, and paragraph 3(1)(c) and (m) of Schedule 1 to, the Sea Fisheries (Northern Ireland) Order 2002 (S.I. 2002/790). Any remaining functions in relation to England of the Secretaries of State concerned with sea fishing in Scotland and Wales under sections 4, 15(3) and 20(1) of the 1967 Act were transferred to the Minister of Agriculture, Fisheries and Food: see article 2(1) of, and the Schedule to, the Transfer of Functions (Agriculture and Fisheries) Order 2000 (S.I. 2000/1812). The function of that Minister and the Secretary of State concerned with sea fishing in Northern Ireland acting jointly under section 4 of the 1967 Act was transferred to the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with sea fishing in Northern Ireland acting jointly: see article 2(5) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794). Functions which were exercisable by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with sea fishing in Northern Ireland have been transferred to the Secretary of State: see article 3(1)(a) of the Transfer of Functions (Sea Fisheries) Order 2012 (S.I. 2012/2747).

(2) This Order extends to England and Wales but applies only in relation to English fishing boats.

## Interpretation

2. In this Order—

“the baselines” means the baselines established by the Territorial Sea (Baselines) Order 2014(a);

“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; and

“English fishing boat” means a fishing boat which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995(c) and the entry of which in the register specifies a port in England as the port to which the boat is to be treated as belonging.

## Prohibition on fishing without a licence and exceptions

3.—(1) Subject to paragraph (2), fishing by English fishing boats (wherever they may be) is prohibited unless authorised by a licence granted by the Marine Management Organisation(d).

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

- (a) fishing for salmon or migratory trout;
- (b) fishing by any boat used wholly for the purpose of conveying persons wishing to fish solely for pleasure;
- (c) fishing in waters lying within 12 miles of the baselines from which the breadth of the territorial sea adjacent to the Isle of Man and the Channel Islands respectively is measured, but not extending beyond a line every point of which is equidistant from the nearest points of such baselines and the corresponding baselines adjacent to the United Kingdom and France respectively;
- (d) fishing for common eels (*Anguilla anguilla*) by any boat the length of which is not more than 10 metres; or
- (e) fishing by any boat the length of which is not more than 10 metres and which does not have an engine to power the boat.

## Revocations

4. In so far as they apply in relation to English fishing boats, the instruments specified in the first column of the Schedule are revoked to the extent specified in the third column of the Schedule.

## Review

5.—(1) The Secretary of State must from time to time—

- (a) carry out a review of this Order;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

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(a) S.I. 2014/1353.

(b) OJ No. L 274, 25.9.1986, p.1.

(c) 1995 c.21.

(d) The Marine Management Organisation was established by section 1 of the Marine and Coastal Access Act 2009 (c.23) ('the 2009 Act'). The Secretary of State's function of granting licences under section 4 of the Sea Fish (Conservation) Act 1967 was transferred to the Marine Management Organisation by section 4 of the 2009 Act.

(2) In carrying out the review the Secretary of State must, so far as reasonable, have regard to how Article 6 of Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy<sup>(a)</sup> is given effect in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regime established by the EU legislation referred to in paragraph (2);
- (b) assess the extent to which the objectives have been achieved;
- (c) assess whether the objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this article must be published before the end of the period of five years beginning with the day on which this Order comes into force.

(5) Reports under this article are afterwards to be published at intervals not exceeding five years.

9th March 2015

*George Eustice*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

## SCHEDULE

### Revocations

Article 4

<i>Title</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Sea Fish Licensing Order 1992 <sup>(b)</sup>	S.I. 1992/2633	The whole of the instrument
The Sea Fish Licensing (Variation) Order 1993	S.I. 1993/188	The whole of the instrument
The Sea Fish Licensing (Variation) (No.2) Order 1993	S.I. 1993/2291	The whole of the instrument
The Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999	S.I. 1999/1820	Paragraph 150 of Schedule 2

<sup>(a)</sup> OJ No. L 343, 22.12.2009, p.1.

<sup>(b)</sup> Varied by S.I. 1993/188 and 2291 and amended by S.I. 1999/1820.

## EXPLANATORY NOTE

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

This Order consolidates the provisions of the Sea Fish Licensing Order 1992 (S.I. 1992/2633), as varied and amended, ('the 1992 Order') in so far as it applies in relation to English fishing boats, as defined in article 2. The Order provides for the execution and enforcement of Article 6 of Council Regulation (EC) No. 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.<sup>(a)</sup>

Subject to specified exceptions, the Order prohibits fishing by English fishing boats, wherever they may be, unless authorised by a licence (*article 3*). It is an offence under section 4(3) of the Sea Fish (Conservation) Act 1967 (c.84) for the master, owner or charterer to use a fishing boat in contravention of the prohibition.

The Order revokes the 1992 Order, together with the instruments which varied and amended it, in so far as it applies in relation to English fishing boats (*article 4*).

Article 5 provides that the Secretary of State must carry out a periodic review of this Order.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen. The Explanatory Memorandum is available at [www.legislation.gov.uk](http://www.legislation.gov.uk).

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<sup>(a)</sup> OJ No. L 343, 22.12.2009, p.1.







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