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STATUTORY INSTRUMENTS

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**2012 No. 2729 (W.292)**

**SEA FISHERIES, WALES**

**The Scallop Dredging Operations  
(Tracking Devices) (Wales) Order 2012**

<i>Made</i>	- - - -	<i>30 October 2012</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>31 October 2012</i>
<i>Coming into force</i>	- -	<i>1 November 2012</i>

The Welsh Ministers make the following Order in exercise of the powers conferred by section 5(1) of the Sea Fisheries Act 1968(1) which are now vested(2) in them.

**Title, commencement and application**

1.—(1) The title of this Order is the Scallop Dredging Operations (Tracking Devices) (Wales) Order 2012 and it comes into force on 1 November 2012.

(2) This Order applies in relation to Wales.

**Interpretation**

2. In this Order—

“nominated receiver” (*“derbynnnydd enwebedig”*) means the body nominated by the Welsh Ministers from time to time to receive the required information transmitted by a tracking device in accordance with this Order;

“person in charge” (*“person sydd â gofal”*) means, in relation to a British fishing boat, the owner, master or charterer, if any, of the British fishing boat or the agent of any of them;

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- (1) 1968 c. 77. Section 5(1) was amended by the Fishery Limits Act 1976 (c. 86), sections 4(2), 5 and 9(1), Schedule 1, paragraph 3(1) and Schedule 2, paragraph 17(1), the Fisheries Act 1981 (c. 29), section 24(2) and the Criminal Justice Act 1991 (c. 53), section 17(3), Schedule 4, Part III and further amended by S.I.1999/1820, article 4, Schedule 2, Part I, paragraph 48(1) and (2). See section 19 of the Sea Fisheries Act 1968 for a definition of “the Ministers”; the definition of “the Ministers” in section 19 was amended by S.I. 1999/1820, article 4, Schedule 2, Part I, paragraph 48(1), (5)(a), (b), (c)(i) and (ii) and (d).
- (2) By virtue of article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions exercisable under section 5 of the 1968 Act were transferred to the National Assembly for Wales (as constituted under the Government of Wales Act 1998 (c. 38)) in so far as exercisable in relation to Wales provided that functions under section 5 relating to the identification and marking of fishing boats were exercisable by the National Assembly for Wales concurrently with any other Minister of the Crown by whom they are exercisable. Those functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

“port letters” (“*llythrennau porthladd*”) has the meaning given in regulation 1 of the Merchant Shipping (Registration of Ships) Regulations 1993(3);

“port number” (“*rhif porthladd*”) has the meaning given in regulation 1 of the Merchant Shipping (Registration of Ships) Regulations 1993;

“required information” (“*yr wybodaeth ofynnol*”) means the information set out in article 5;

“scallop” (“*cregyn bylchog*”) means shellfish of the species *Pecten maximus*;

“scallop dredge” (“*llusgrwyd cregyn bylchog*”) includes any appliance with a rigid framed mouth which is towed through the water and is manufactured, adapted, used or intended for use for the purpose of fishing for scallops;

“tracking device” (“*dyfais olrhain*”) means a device which is capable of transmitting the required information;

“Wales” (“*Cymru*”) has the meaning given in section 158 of the Government of Wales Act 2006(4); and

“WGS 84” (“*WGS 84*”) means the World Geodetic System revised in 1984 and further revised in 2004.

### **Regulation of scallop dredging operations**

3. Subject to article 4, any British fishing boat which has a scallop dredge onboard must—
- (a) have a tracking device installed onboard that boat; and
  - (b) transmit the required information to the nominated receiver at least once in every ten minute period whilst that boat is at sea.

### **Exception**

4. Article 3 does not apply to a British fishing boat which—
- (a) is not engaged in any fishing operation in Wales in relation to scallops; and
  - (b) has all scallop dredges attached to that boat stowed and secured out of the water.

### **Required Information**

5. The required information is—
- (a) the port letters and port number which relate to the British fishing boat which is transmitting the required information;
  - (b) the most recent geographical position of that boat using coordinates of latitude and longitude on the WGS 84, with a position error of less than 10 metres;
  - (c) the date and time of the fixing of the geographical position of that boat; and
  - (d) the speed and course of that boat at that time.

### **Failure of a Tracking Device**

6.—(1) If a tracking device installed pursuant to article 3 is incapable of transmitting the required information, the person in charge of the British fishing boat upon which that tracking device is installed must—

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(3) S.I. 1993/3138. The definitions of “port letters” and “port number” in regulation 1 of S.I. 1993/3138 were amended by S.I. 1999/3206, regulations 2 and 3(a) and (d). There are other amendments to regulation 1 of S.I. 1993/3138 which are not relevant to this Order.

(4) 2006 c. 32. Section 158(1) was amended by the Marine and Coastal Access Act 2009 (c. 23), section 43(1) and (2).

- (a) ensure that that boat is not used to fish for scallops; and
- (b) notify the Welsh Ministers that the tracking device is incapable of transmitting the required information.

(2) A notification under paragraph (1)(b) must include the port letters and port number of the British fishing boat upon which the relevant tracking device is installed.

(3) When a tracking device to which paragraph (1) applies has been repaired or replaced so that the British fishing boat upon which that device was installed is able to transmit the required information in accordance with article 3, the person in charge of that boat must notify the Welsh Ministers that that boat is able to comply with article 3 before that boat may be used to fish for, take or kill scallops.

### **Enforcement**

7.—(1) The person in charge of a British fishing boat which has a tracking device installed onboard pursuant to article 3 must ensure that—

- (a) the tracking device installed is not capable of being manually overridden;
- (b) the tracking device is not capable of transmitting false information;
- (c) the required information is not altered in any way;
- (d) any antenna or the antennas connected to the tracking device are not obstructed in any way; and
- (e) the power supply to the tracking device is not interrupted in any way.

(2) For the purposes of this article “information” (“*gwybodaeth*”) means any information which forms part of the required information.

(3) Subject to paragraph (4), it is prohibited to destroy, damage, render inoperative, remove or otherwise interfere with a tracking device installed for the purposes of article 3.

(4) The person in charge of a British fishing boat must ensure that any scallops caught or taken onboard that boat in contravention of the provisions of this Order, are returned to the sea as soon as possible.

*Alun Davies*  
Deputy Minister for Agriculture, Food, Fisheries  
and European Programmes, under authority  
of the Minister for Business, Enterprise,  
Technology and Science, one of the Welsh  
Ministers

30 October 2012

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## EXPLANATORY NOTE

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

This Order, which applies in relation to Wales, regulates scallop dredging operations by placing a requirement on certain British fishing boats with scallop dredges onboard to transmit certain information. This Order comes into force on 1 November 2012.

Article 3 of this Order requires any British fishing boat which has a scallop dredge onboard to have a tracking device installed and to transmit the required information to the nominated receiver every ten minutes whilst at sea.

Article 4 provides that article 3 does not apply to any British fishing boat which is not engaged in scallop fishing in Wales and which has any attached scallop dredges stowed and secured out of the water.

Article 5 provides a definition of the required information which must be transmitted by the tracking device to the nominated receiver.

Article 6 sets out certain requirements which apply in the event of the tracking device becoming incapable of transmitting the required information in accordance with article 3.

Article 7 places further requirements regarding the tracking device on the person in charge of any British fishing boat which has a scallop dredge onboard.

A Regulatory Impact Assessment has been undertaken in relation to this Order and is available for inspection at the offices of the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.