

2017 No. 57

SEA FISHERIES

CONSERVATION OF SEA FISH

The Shellfish (Restrictions on Taking by Unlicensed Fishing Boats) (Scotland) Order 2017

<i>Made</i> - - - -	<i>28th February 2017</i>
<i>Laid before the Scottish Parliament</i>	<i>2nd March 2017</i>
<i>Coming into force</i> - -	<i>17th April 2017</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 5(1)(b) and (2) of the Sea Fish (Conservation) Act 1967(a) and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Shellfish (Restrictions on Taking by Unlicensed Fishing Boats) (Scotland) Order 2017 and comes into force on 17th April 2017.

Interpretation

2. In this Order—

“day” means a period of 24 hours beginning and ending at midnight;

“unlicensed fishing boat” means any fishing boat which is not—

- (a) a Scottish fishing boat;
- (b) a relevant British fishing boat; or
- (c) a fishing boat which flies the flag of a country other than the United Kingdom.

Restriction on taking lobsters

3. An unlicensed fishing boat may take no more than 1 lobster (*Homarus gammarus*) in the Scottish zone in any day.

(a) 1967 c.84 (“the 1967 Act”); section 5(1) was substituted by the Marine and Coastal Access Act 2009 (c.23) (“the 2009 Act”), section 198(2), which extends to Scotland by virtue of the Marine (Scotland) Act 2010 (asp 5) (“the 2010 Act”), section 158. Section 5(2) of the 1967 Act was substituted by section 22(1) of the Fisheries Act 1981 (c.29) and amended by the 2009 Act, schedule 15, paragraph 3 which extends to Scotland by virtue of the 2010 Act, section 158. Section 5 of the 1967 Act is modified in relation to Scotland by section 22A(6) of that Act. Section 22A was inserted by S.I. 1999/1820, schedule 2, paragraph 43(13) and section 22A(6) was substituted by section 159(4) of the 2010 Act. Relevant modifications are contained in S.I. 1999/1748, article 5 and S.I. 1999/1756, articles 3, 5 and 6. The functions of the Secretary of State, in or as regards Scotland, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

Restriction on taking Norway lobsters

4. An unlicensed fishing boat may take no more than 10 Norway lobsters (*Nephrops norvegicus*) in the Scottish zone in any day.

Restriction on taking crabs

5. An unlicensed fishing boat may take no more than 5 of any of the following species of crabs (including any combination of those species) in the Scottish zone in any day:—

- (a) edible crab (*Cancer pagarus*);
- (b) green crab (*Carcinus maenas*);
- (c) spinous spider crab (*Maja squinado*); and
- (d) velvet crab (*Liocarcinus puber*).

Restriction on taking scallops

6. An unlicensed fishing boat may take no more than 6 of any of the following species of scallops (including any combination of those species) in the Scottish zone in any day:—

- (a) king scallop (*Pecten maximus*); and
- (b) queen scallop (*Chlamys opercularis*).

St Andrew's House,
Edinburgh
28th February 2017

FERGUS EWING
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order restricts the number of specified species of shellfish that an unlicensed fishing boat can take per day from the Scottish zone.

Article 2 defines the terms “day” and “unlicensed fishing boat”.

Article 3 provides for a daily take limit of 1 lobster.

Article 4 provides for a daily take limit of 10 Norway lobsters.

Article 5 provides for a daily take limit of 5 of any (or any combination of) specified species of crabs. The specified species are edible crab, green crab, spinous spider crab and velvet crab.

Article 6 provides for a daily take limit of 6 of any (or any combination of) king scallops or queen scallops.

It is an offence under section 5(1) of the Sea Fish (Conservation) Act 1967 to use a fishing boat in contravention of a restriction imposed by this Order. The penalties are fixed by section 11 of that Act. On summary conviction, the penalty is a fine not exceeding £50,000. On conviction on indictment, the penalty is an unlimited fine. In either case, the court may also order forfeiture of any fish in respect of which the offence was committed and of any net or other fishing gear used in committing the offence. On summary conviction, if the court does not order the forfeiture of fish, it may impose an additional fine not exceeding the value of the fish.

A Business and Regulatory Impact Assessment has been prepared in relation to this Order and placed in the Scottish Parliament Information Centre. A copy of this can be obtained from Marine Scotland, the Scottish Government, Victoria Quay, Edinburgh EH6 6QQ.

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