
STATUTORY INSTRUMENTS

1992 No. 1212

SEA FISHERIES

CONSERVATION OF SEA FISH

The Undersized Whiting Order 1992

<i>Made</i>	- - - -	<i>20th May 1992</i>
<i>Laid before Parliament</i>		<i>28th May 1992</i>
<i>Coming into force</i>	- -	<i>1st June 1992</i>

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fishing industry in Scotland and Wales, acting jointly, in exercise of the powers conferred on them by sections 1(1), (2) and (6) and 22(2)(b) of the Sea Fish (Conservation) Act 1967⁽¹⁾ and of all their other enabling powers, and the said Minister, the said Secretaries of State and the Secretary of State concerned with the sea fishing industry in Northern Ireland, acting jointly, in exercise of the powers conferred on them by sections 1(3), 15(3) and 22(2)(a) of the said Act, and of all their other enabling powers, hereby make the following Order:

Title, commencement and interpretation

1.—(1) This Order may be cited as the Undersized Whiting Order 1992 and shall come into force on 1st June 1992.

(2) In this Order—

“the Act” means the Sea Fish (Conservation) Act 1967;

“length”, in relation to a whiting, means length from the tip of the snout to the extreme end of the tail fin;

“whiting” means whiting of the species *Merlangius merlangus*.

Prescribed minimum size for landing whiting and exemption from landing prohibition

2.—(1) For the purpose of section 1(1) of the Act (which prohibits the landing in Great Britain of any sea fish of any description, being a fish of a smaller size than such size as may be prescribed

(1) 1967 c. 84; section 1 was substituted by the Fisheries Act 1981 (c. 29), section 19(1); section 15(3) was substituted by the Sea Fisheries Act 1968 (c. 77), Schedule 1, paragraph 38(3), and amended by the Fishery Limits Act 1976 (c. 86), Schedule 2, paragraph 16(1); section 22(2) contains definitions of “the Ministers” for the purposes of sections 1(1) and 15(3) and was amended by the Fisheries Act 1981, sections 19(2)(d) and 45(b) and (c).

in relation to sea fish of that description), a length of 27 centimetres is hereby prescribed as the minimum size in relation to whiting.

(2) Landing from foreign fishing boats is exempted from the prohibition imposed by section 1(1) of the Act as read with paragraph (1) above.

Prescribed minimum size for sale etc. of whiting and exemptions from sale prohibitions

3.—(1) For the purposes of section 1(2) of the Act (which prohibits the sale, exposure or offer for sale or possession for the purpose of sale of any sea fish of any description, being a fish of a smaller size than such size as may be prescribed in relation to sea fish of that description), a length of 27 centimetres is hereby prescribed as the minimum size in relation to whiting.

(2) The sale, exposure or offer for sale or possession for the purpose of sale of whiting which are landed from foreign fishing boats is exempted from the prohibitions imposed by section 1(2) of the Act as read with paragraph (1) above.

Prescribed minimum size for carriage of whiting on a British fishing boat

4.—(1) For the purpose of section 1(3) of the Act (which prohibits the carriage on a British fishing boat of sea fish of any description which are of less than the minimum size prescribed in relation to sea fish of that description), a length of 27 centimetres is hereby prescribed as the minimum size in relation to whiting.

(2) The carriage on a British fishing boat of whiting which have not been sorted is exempted from the prohibition imposed by section 1(3) of the Act as read with paragraph (1) above.

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

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

(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) above 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 1 of the Act 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 an offence under section 1 of the Act as read with this Order has at any time been committed within British fishery limits, he may—

(a) require the master of the boat in relation to which the offence 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.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 18th May 1992.

L.S.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

Hector Monro
Parliamentary Under Secretary of State, Scottish
Office

19th May 1992

David Hunt
Secretary of State for Wales

18th May 1992

Patrick Mayhew
Secretary of State for Northern Ireland

20th May 1992

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes a minimum size for the landing of whiting (*Merlangius merlangus*) in Great Britain (article 2(1)). There is an exemption from the minimum landing size for the landing of whiting from foreign fishing boats (article 2(2)).

The Order also prescribes a minimum size for the sale of whiting (article 3(1)) and for the carriage of whiting on a British fishing boat (article 4(1)). There is an exemption from the minimum sale size for whiting which are landed from foreign boats (article 3(2)) and from the minimum size for whiting carried on board British fishing boats in the case of unsorted whiting (article 4(2)).

The Order gives British sea-fishery officers further enforcement powers in relation to fishing boats (article 5). They already have powers under section 15(2) of the Sea Fish (Conservation) Act 1967, as amended by the Fisheries Act 1981, (“the 1967 Act”) to seize any fish in respect of which an offence has been or is being committed under section 1(3) of the 1967 Act.

Offences and penalties are prescribed respectively by section 1(7) and (8) and section 11 of the 1967 Act.

This Order is made in reliance on Article 14(1) of Council Regulation (EEC) No. 3094/86 (OJ No. L288, 11.10.86, p. 1), laying down certain technical measures for the conservation of fishery resources, which authorises Member States to take certain national measures for the conservation and management of stocks.