

**2000 No. 1503**

**SEA FISHERIES, ENGLAND  
SEA FISHERIES, NORTHERN IRELAND**

CONSERVATION OF SEA FISH

**The Undersized Lobsters Order 2000**

<i>Made - - - -</i>	<i>7th June 2000</i>
<i>Laid before Parliament</i>	<i>8th June 2000</i>
<i>Coming into force</i>	<i>30th June 2000</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) and (2) of the Sea Fish (Conservation) Act 1967(a) and of all other powers enabling them in that behalf, 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) and (6), 15(3) and 20(1) of the said Act, and of all other powers enabling them in that behalf, hereby make the following Order:

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Undersized Lobsters Order 2000 and shall come into force on 30th June 2000.

(2) Subject to paragraph (3), this Order shall not form part of the law of Scotland.

(3) Nothing in paragraph (2) shall be treated as prejudicing the effect in Scotland of section 14 of the Act.

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(a) 1967 c. 84. Section 1 was substituted by the Fisheries Act 1981 (c. 29) section 19(1), and was amended by paragraph 38(a) of Schedule 13 to the Merchant Shipping Act 1995 (c. 21) and paragraph 43(2) and (3) of Schedule 2 to the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820). 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) and S.I. 1999/1820, paragraph 43(2)(b). See section 22(2) for definitions of “the Ministers” for the purposes of sections 1 and 15(3); section 22(2) was amended by the Fisheries Act 1981, sections 19(2)(d) and 45(b) and (c) and by S.I. 1999/1820, paragraph 43(12) of Schedule 2. By virtue of article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions exercisable under section 1 of the 1967 Act were transferred to the National Assembly in so far as exercisable in relation to Wales (defined in section 155(1) of the Government of Wales Act 1998 (c. 38) as including “the sea adjacent to Wales out as far as the seaward boundary of the territorial sea”); in respect of waters beyond Wales these functions remain exercisable by the Ministers. Article 3(1) and Schedule 1 of the Scotland Act 1998 (Concurrent Functions) Order 1999 (S.I. 1999/1592) provide for the functions exercisable under sections 1(3) and 15(3) of the 1967 Act to be exercised by the Ministers, concurrently with Scottish Ministers, in relation to: relevant British fishing boats within the Scottish zone; and Scottish fishing boats within British fishery limits but outside the Scottish zone. Sections 1(3) and 15(3), as adapted and modified, extend to Guernsey, with relevant amendments, by virtue of the Sea Fish (Conservation) (Channel Islands) Order 1981 (S.I. 1981/737) as amended by S.I. 1989/2411.

(4) Except for—

(a) articles 3 and 4; and

(b) article 6 in so far as it applies to the enforcement of articles 3 and 4 of this Order,

this Order extends to Northern Ireland.

(5) Article 6(2) to (5) of this Order extends to Guernsey.

## **Interpretation**

2.—(1) In this Order—

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

“Guernsey” means the Bailiwick of Guernsey;

“Jersey” means the Bailiwick of Jersey;

“lobster” means lobster of the species *Homarus gammarus*;

“size”, in relation to a lobster, means the length of the carapace, parallel to the midline, from the back of either eye socket to the distal edge of the carapace and shall be measured as shown in the Schedule to this Order;

“territorial sea adjacent to Jersey” means the sea within 12 nautical miles from the baselines from which the breadth of the territorial sea adjacent to Jersey is measured.

(2) In this Order—

(a) the term “within relevant British fishery limits” does not include:

(i) the territorial sea adjacent to Wales;

(ii) the territorial sea adjacent to the Isle of Man;

(iii) the territorial sea adjacent to Jersey;

(b) any reference to any relevant British fishing boat, or to any fishing boat registered in Guernsey, “wherever it may be” does not include such a fishing boat while in:

(i) the territorial sea adjacent to Wales; or

(ii) the territorial sea adjacent to Jersey;

(c) the term “any equivalent order” means any other order made under section 1(3) of the Act, extending to any part of the United Kingdom, which prescribes minimum sizes for lobster.

## **Prescribed minimum size for landing lobsters in England**

3.—(1) For the purposes of section 1(1) of the Act (which prohibits the landing in England and Wales 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), there is hereby prescribed as the minimum size for lobsters a size of 87 millimetres.

(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.

(3) This article applies only to landings in England.

## **Prescribed minimum size for sale etc. of lobsters in England**

4.—(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 in England and Wales of any sea fish of any

description, being a fish of a smaller size as may be prescribed in relation to sea fish of that description), there is hereby prescribed as the minimum size for lobster a size of 87 millimetres.

(2) The sale, exposure or offer for sale or possession for the purpose of sale of lobsters 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.

(3) This article applies only to England.

### **Prescribed minimum size for carriage of lobsters**

5.—(1) This article applies to:

- (a) any relevant British fishing boat wherever it may be; and
- (b) any Scottish fishing boat which is within relevant British fishery limits.

(2) For the purposes of section 1(3) of the Act (which prohibits the carriage on a relevant British fishing boat or on a Scottish fishing boat within relevant British fishery limits of sea fish of any description which are of less than the minimum size prescribed in relation to sea fish of that description), a size of 87 millimetres is hereby prescribed as the minimum size in relation to lobsters.

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

6.—(1) For the purpose of the enforcement of section 1(1), (2) and (3) of the Act as read with this Order or any equivalent order, a British sea-fishery officer may exercise the powers conferred by paragraphs (3) to (5) below—

- (a) in relation to any relevant British fishing boat wherever it may be; and
- (b) in relation to any Scottish fishing boat which is within relevant British fishery limits.

(2) For the purpose of the enforcement of section 1(3) of the Act as it has effect in Guernsey by virtue of the Sea Fish (Conservation) (Channel Islands) Order 1981 **(a)**, as read with this Order or any equivalent order, a British sea-fishery officer may exercise the powers conferred by paragraphs (3) to (5) below in relation to any fishing boat registered in Guernsey, wherever it may be.

(3) 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.

(4) 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 paragraphs (1) and (2) 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(1), (2) or (3) of the Act as read with this Order or any equivalent 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.

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**(a)** S.I. 1981/737, as amended by S.I. 1989/2411.

(5) Where it appears to a British sea-fishery officer that a contravention of this Order, or any equivalent 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 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**

7.—(1) The Undersized Lobsters Order 1993(a) is hereby revoked, except in so far as:

- (a) it forms part of the law of Scotland; or
- (b) it has effect in relation to Wales.

(2) For the purposes of paragraph (1), “Wales” has the same meaning as in section 155(1) of the Government of Wales Act 1998(b).

25th May 2000

*Elliot Morley*  
Parliamentary Secretary,  
Ministry of Agriculture, Fisheries and Food

7th June 2000

*John Reid*  
Secretary of State for Scotland

25th May 2000

*Paul Murphy*  
Secretary of State for Wales

7th June 2000

*Peter Mandelson*  
Secretary of State for Northern Ireland

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(a) S.I. 1993/1178.

(b) 1998, c. 38.

SCHEDULE  
MEASUREMENT OF THE SIZE OF A LOBSTER

Article 2(1)

## EXPLANATORY NOTE

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

This Order prescribes a minimum size for the landing of lobsters (*Homarus gammarus*) in England (article 3(1)). There is an exemption from the minimum landing size for the landing of lobsters from foreign fishing boats (article 3(2)).

The Order also prescribes a minimum size for the sale of lobsters in England (article 4(1)) and for the carriage of lobsters on a relevant British fishing boat, or on a Scottish fishing boat which is in waters within relevant British fishery limits, (article 5). There is an exemption from the minimum sale size for lobsters which are landed from foreign fishing boats (article 4(2)).

The Order also gives British sea-fishery officers further enforcement powers in relation to British fishing boats (article 6). 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, as amended by the Criminal Justice Act 1991 (c. 53).

This Order does not form part of the law of Scotland. It does not apply in relation to fishing activities within the territorial sea adjacent to Wales.

This Order revokes the Undersized Lobsters Order 1993 in relation to England and Northern Ireland.

This Order is made in reliance on the power conferred on Member States by Article 46.1 of Council Regulation (EC) No. 850/98 (OJ No. L125, 27.04.98, p. 1), for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms, which authorises Member States to take certain national measures for the conservation and management of stocks.

A Regulatory Impact Assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the Sea Fisheries Conservation Division of the Ministry of Agriculture, Fisheries and Food, Room 421d, Nobel House, 17 Smith Square, London SW1P 3JR.

**£2.00**

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E 1214 07/00 ON (MFK)