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WELSH STATUTORY
INSTRUMENTS

2019 Rhif 507 (Cy. 117)

2019 No. 507 (W. 117)

**PYSGODFEYDD MÔR,
CYMRU**

SEA FISHERIES, WALES

Gorchymyn Trwyddedu Pysgota
Môr (Cymru) 2019

The Sea Fish Licensing (Wales)
Order 2019

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Gydag eithriadau, mae'r Gorchymyn hwn yn gwahardd cychod pysgota Cymreig rhag pysgota (erthygl 3) a chychod o Dirioogaethau Dibynnol y Goron rhag pysgota (erthygl 4) o fewn parth Cymru oni bai eu bod wedi eu trwyddedu gan Weinidogion Cymru. Mae hefyd yn gwahardd cychod tramor rhag pysgota (erthygl 5) o fewn parth Cymru oni bai eu bod wedi eu trwyddedu felly.

Mae erthygl 6 o'r Gorchymyn yn dirymu Gorchymyn Trwyddedu Pysgota Môr 1992 (O.S. 1992/2633) ac offerynnau a amrywiodd neu a ddiwygiodd y Gorchymyn hwnnw i'r graddau y maent yn ymwneud â chychod pysgota Cymreig a physgota o fewn parth Cymru.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Gorchymyn hwn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Gorchymyn hwn. Gellir cael copi oddi wrth Lywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prohibits, subject to exceptions, fishing by Welsh fishing boats (article 3) and fishing by Crown Dependency Boats within the Welsh zone (article 4) unless such boats are licensed by the Welsh ministers. It also prohibits fishing by foreign boats (article 5) within the Welsh zone unless those boats are so licensed.

Article 6 of the Order revokes the Sea fish Licensing Order 1992 (S.I. 1992/2633) and instruments which varied or amended it so far as they relate to Welsh fishing boats and fishing within the Welsh zone.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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SEA FISHERIES, WALES

**Gorchymyn Trwyddedu Pysgota
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Order 2019**

Gwnaed 6 Mawrth 2019

Made 6 March 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 7 Mawrth 2019

Laid before the National Assembly for Wales
7 March 2019

Yn dod i rym yn unol ag erthygl 1(1)

*Coming into force in accordance with article
1(1)*

Mae Gweinidogion Cymru drwy arfer y pwerau a roddir gan adrannau 4(1) a (2), 4A, 15(3) ac 20(1) o Ddeddf Pysgod Môr (Cadwraeth) 1967(1), ac a freiniwyd bellach ynddynt hwy(2), yn gwneud y Gorchymyn a ganlyn.

The Welsh Ministers in exercise of the powers conferred by sections 4(1) and (2), 4A, 15(3) and 20(1) of the Sea Fish (Conservation) Act 1967(1) and now vested in them(2), make the following Order.

- (1) 1967 p.84 (“Deddf 1967”); amnewidiwyd adran 4 gan adran 3 o Ddeddf Terfynau Pysgodfeydd 1976 (p.86) a’i diwygio gan adran 20 o Ddeddf Pysgodfeydd 1981 (p.29), adran 1 o Ddeddf Pysgod Môr (Cadwraeth) 1992 (p.60), adrannau 4, 196 a 197 o Ddeddf y Môr a Mynediad i’r Arfordir 2009 (p.23) ac O.S. 1999/1820. Cynhwysir y diffiniadau o “relevant British fishing boat” a “foreign fishing boat” yn adran 4(12). Mewnosodwyd adran 4A gan adran 21 o Ddeddf Pysgodfeydd 1981 a’i diwygio gan adran 3 o Ddeddf Pysgod Môr (Cadwraeth) 1992, adran 6 o Ddeddf y Môr a Mynediad i’r Arfordir 2009 ac O.S. 1999/1820. Diwygiwyd adran 15 gan adran 22 o Ddeddf Pysgodfeydd Môr 1968 (p. 77), paragraff 38 o Atodlen 1 a Rhan II o Atodlen 2 iddi, adran 25 o Ddeddf Pysgodfeydd 1981, paragraff 15 o Atodlen 2 i Ddeddf Terfynau Pysgodfeydd 1976, adran 199 o Ddeddf y Môr a Mynediad i’r Arfordir 2009. Diwygiwyd adran 20 gan adran 21 o Ddeddf Pysgodfeydd 1981 ac adran 7 o Ddeddf Pysgod Môr (Cadwraeth) 1992.
- (2) Cafodd swyddogaethau’r Gweinidogion o dan adrannau 4, 4A a 15(3), i’r graddau yr oeddent yn arferadwy o ran Cymru eu trosglwyddo i Gynulliad Cenedlaethol Cymru a’u trosglwyddo wedyn o’r corff hwnnw i Weinidogion Cymru: gweler erthygl 2(a) o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999/672) ac Atodlen 1 iddi a paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32). I’r graddau yr oeddent yn arferadwy o ran parth Cymru, cafodd swyddogaethau’r Gweinidogion o dan adrannau 4, 4A a 15(3) o Ddeddf 1967 eu trosglwyddo i Weinidogion Cymru gan erthygl 4(1)(b) o Orchymyn Parth Cymru (Ffiniau a Throsglwyddo Swyddogaethau) 2010 (O.S. 2010/760) ar sail gyddredol. Cafodd y swyddogaethau hynny eu trosglwyddo ymhellach, ar sail gyddredol, o ran cychod pysgota Cymreig y tu hwnt i derfyn parth Cymru tua’r môr gan baragraff 2(1) o Atodlen 3A i Ddeddf Llywodraeth Cymru 2006.

- (1) 1967 c.84 (“the 1967 Act”); section 4 was substituted by section 3 of the Fishery Limits Act 1976 (c.86) and amended by section 20 of the Fisheries Act 1981 (c.29), section 1 of the Sea Fish (Conservation) Act 1992 (c.60), sections 4, 196 and 197 of the Marine and Coastal Access Act 2009 (c.23) and S.I. 1999/1820. The definitions of “relevant British fishing boat” and “foreign fishing boat” are contained in section 4(12). Section 4A was inserted by section 21 of the Fisheries Act 1981 and amended by section 3 of the Sea Fish (Conservation) Act 1992, section 6 of the Marine and Coastal Access Act 2009 and S.I. 1999/1820. Section 15 was amended by section 22, paragraph 38 of Schedule 1 and Part II of Schedule 2 to the Sea Fisheries Act 1968 (c.77), section 25 of the Fisheries Act 1981, paragraph 15 of Schedule 2 to the Fishery Limits Act 1976, section 199 of the Marine and Coastal Access Act 2009. Section 20 was amended by section 21 of the Fisheries Act 1981 and section 7 of the Sea Fish (Conservation) Act 1992.
- (2) The functions of the Ministers under sections 4, 4A, 15(3), so far as exercisable 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 (S.I. 1999/672) and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). So far as exercisable in relation to the Welsh zone, the functions of the Ministers under sections 4, 4A and 15(3) of the 1967 Act, 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) on a concurrent basis. Those functions were further transferred, on a concurrent basis, in relation to Welsh fishing boats beyond the seaward limit of the Welsh zone by paragraph 2(1) of Schedule 3A to the Government of Wales Act 2006.

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Trwyddedu Pysgota Môr (Cymru) 2019 a daw i rym ar y diwrnod ymadael.

(2) Mae'r Gorchymyn hwn yn gymwys o ran Cymru, parth Cymru a chychod pysgota Cymreig lle bynnag y bônt.

Dehongli

2. Yn y Gorchymyn hwn—

ystyr “cwch pysgota Cymreig” (“*Welsh fishing boat*”) yw cwch pysgota sydd wedi ei gofrestru yn y gofrestr a gedwir o dan adran 8 o Ddeddf Llongau Masnach 1995 ac y mae ei gofnod yn y gofrestr yn pennu porthladd yng Nghymru fel y porthladd y mae'n rhaid trin y cwch fel pe bai'n perthyn iddo;

ystyr “y gwaelodlinau” (“*the baselines*”) yw'r gwaelodlinau a sefydlwyd gan Orchymyn y Môr Tiriogaethol (Gwaelodlinau) 2014(1);

ystyr “hyd” (“*length*”) o ran cwch, yw'r hyd o'i gyfrif yn unol â'r rheolau a bennir yn Erthygl 2(1) o Reoliad (EU) 2017/1130 Senedd Ewrop a'r Cyngor yn diffinio nodweddion llestri pysgota;

ystyr “milltir” (“*mile*”) yw milltir forol ryngwladol o 1,852 o fetrau; ac

mae i “parth Cymru” yr un ystyr ag a roddir i “the Welsh zone” yn Neddf Llywodraeth Cymru 2006(2) (gweler adran 158(1) a (3) o'r Ddeddf honno).

Gwahardd cychod pysgota Cymreig rhag pysgota heb drwydded ac eithriadau

3.—(1) Yn ddarostyngedig i baragraff (2), gwaherddir cychod pysgota Cymreig (lle bynnag y bônt) rhag pysgota oni bai bod hynny wedi ei awdurdodi drwy drwydded a roddir gan Weinidogion Cymru.

(2) Nid yw'r gwaharddiad ym mharagraff (1) yn gymwys—

- (a) i bysgota am eogiaid neu frithyllod mudol;
- (b) i bysgota gan unrhyw gwch a ddefnyddir yn gyfan gwbl er mwyn cludo pobl sy'n dymuno pysgota er pleser yn unig;
- (c) i bysgota mewn dyfroedd sy'n gorwedd o fewn 12 milltir o'r gwaelodlinau y mesurir lled y môr tiriogaethol sy'n gyfagos i Ynys Manaw ac Ynsoedd y Sianel yn eu trefn

(1) O.S. 2014/1353.

(2) 2006 p.32.

Title, commencement and application

1.—(1) This Order may be cited as the Sea Fish Licensing (Wales) Order 2019 and comes into force on exit day.

(2) This Order applies in relation to Wales, the Welsh zone and Welsh fishing boats wherever they may be.

Interpretation

2. In this Order –

“the baselines” (“*y gwaelodlinau*”) means the baselines established by the Territorial Sea (Baselines) Order 2014(1);

“length” (“*hyd*”) in relation to a boat, means the length calculated in accordance with the rules specified in Article 2(1) of Regulation (EU) 2017/1130 of the European Parliament and of the Council defining characteristics for fishing vessels;

“mile” (“*milltir*”) means an international nautical mile of 1,852 metres;

and

“Welsh fishing boat” (“*cwch pysgota Cymreig*”) means a fishing boat which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and the entry of which in the register specifies a port in Wales as the port to which the boat is to be treated as belonging.

“the Welsh zone” (“*parth Cymru*”) has the same meaning as in the Government of Wales Act 2006(2) (see section 158(1) and (3) of that Act).

Prohibition on Welsh fishing boats fishing without a licence and exceptions

3.—(1) Subject to paragraph (2), fishing by Welsh fishing boats (wherever they may be) is prohibited unless authorised by a licence granted by the Welsh Ministers.

(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 Mann and

(1) S.I. 2014/1353.

(2) 2006 c.32.

ohonynt, ond heb ymestyn y tu hwnt i linell y mae pob pwynt ar ei hyd yn gyttbell o bwyntiau agosaf y gwaelodlinau hynny a'r gwaelodlinau cyfatebol sy'n gyfagos i'r Deyrnas Unedig a Ffrainc yn eu trefn;

- (d) i bysgota am lyswennod cyffredin (*Anguilla anguilla*) gan unrhyw gwch nad yw'n fwy na 10 metr o hyd; neu
- (e) i bysgota gan unrhyw gwch nad yw'n fwy na 10 metr o hyd ac nad oes ganddo injan i bweru'r cwch.

Gwahardd cychod pysgota o Dirioagaethau Dibynnol y Goron nad ydynt mewn perchnogaeth Brydeinig rhag pysgota ym mharth Cymru

4.—(1) Gwaherddir cwch pysgota a gofrestrwyd o dan gyfraith Jersey, Guernsey neu Ynys Manaw ac nad yw mewn perchnogaeth Brydeinig rhag pysgota ym mharth Cymru oni bai bod hynny wedi ei awdurdodi drwy drwydded a roddir gan Weinidogion Cymru.

(2) Nid yw paragraff (1) yn gymwys i bysgota—

- (a) am eogiaid neu frithyllod mudol;
- (b) am lyswennod cyffredin (*Anguilla anguilla*) gan gwch sy'n 10 metr o hyd neu lai;
- (c) gan gwch sy'n 10 metr o hyd neu lai ac nad oes ganddo injan i bweru'r cwch;
- (d) gan gwch a ddefnyddir yn gyfan gwbl er mwyn cludo pobl sy'n dymuno pysgota er pleser.

Gwahardd cychod pysgota tramor rhag pysgota ym mharth Cymru

5.—(1) Gwaherddir cwch pysgota tramor rhag pysgota ym mharth Cymru oni bai bod hynny wedi ei awdurdodi drwy drwydded a roddir gan Weinidogion Cymru.

(2) Ym mharagraff(1), ystyr "cwch pysgota tramor" yw cwch pysgota—

- (a) nad yw wedi ei gofrestru yn y Deyrnas Unedig o dan Ran 2 o Ddeddf Llongau Masnach 1995(1),
- (b) nad yw wedi gofrestru o dan gyfraith Jersey, Guernsey neu Ynys Manaw, ac
- (c) nad yw mewn perchnogaeth Brydeinig(2).

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.

Prohibition on fishing in the Welsh zone by non-British-owned Crown Dependencies fishing boats

4.—(1) Fishing in the Welsh zone by a fishing boat registered under the law of Jersey, Guernsey or the Isle of Man that is not British-owned is prohibited unless authorised by a licence granted by the Welsh Ministers.

(2) Paragraph (1) does not apply to fishing

- (a) for salmon or migratory trout;
- (b) for common eels (*Anguilla Anguilla*) by a boat whose length is 10 metres or less;
- (c) by a boat whose length is 10 metres or less and which does not have an engine to power the boat;
- (d) by a boat used wholly for the purpose of conveying persons wishing to fish for pleasure.

Prohibition on fishing in the Welsh zone by foreign fishing boats

5.—(1) Fishing in the Welsh zone by a foreign fishing boat is prohibited unless authorised by a licence granted by the Welsh Ministers.

(2) In paragraph (1), "foreign fishing boat" means a fishing boat that—

- (a) is not registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995(1);
- (b) is not registered under the law of Jersey, Guernsey or the Isle of Man; and
- (c) is not British-owned(2).

(1) 1995 p.21.

(2) Gweler adran 22(1) (fel y'i diwygiwyd gan baragraff 38(c) o Atodlen 13 i Ddeddf Llongau Masnach 1995 (p.21) ac O.S. 1999/1820) am y diffiniad o "British-owned".

(1) 1995 c.21.

(2) See section 22(1) (as amended by paragraph 38(c) of Schedule 13 to the Merchant Shipping Act 1995 (c. 21) and S.I. 1999/1820) for the definition of "British-owned".

Dirymu

6. I'r graddau y maent yn gymwys o ran cychod pysgota Cymreig, mae'r offerynnau a bennir yng ngholofn gyntaf yr Atodlen wedi eu dirymu i'r graddau a bennir yn nhrydedd golofn yr Atodlen.

Revocations

6. In so far as they apply in relation to Welsh 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.

Lesley Griffiths

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig,
un o Weinidogion Cymru
6 Mawrth 2019

Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers
6 March 2019

Dirymu

Revocations

<i>Enw</i>	<i>Cyfeirnod</i>	<i>Graddau'r dirymu</i>	<i>Title</i>	<i>Reference</i>	<i>Extent of revocation</i>
Gorchymyn Trwyddedu Pysgota Môr 1992 ⁽¹⁾	O.S. 1992/2633	I'r graddau mae'n gymwys o ran cychod pysgota Cymreig	The Sea Fish Licensing Order 1992 ⁽¹⁾	S.I. 1992/2633	In so far as it applies to Welsh fishing boats
Gorchymyn Trwyddedu Pysgota Môr (Amrywio) 1993(1)	O.S. 1993/188	I'r graddau mae'n gymwys o ran cychod pysgota Cymreig	The Sea Fish Licensing (Variation) Order 1993(1)	S.I. 1993/188	In so far as it applies to Welsh fishing boats
Gorchymyn Trwyddedu Pysgota Môr (Amrywio) (Rhif 2) 1993	O.S. 1993/2291	I'r graddau mae'n gymwys o ran cychod pysgota Cymreig	The Sea Fish Licensing (Variation) (No.2) Order 1993	S.I. 1993/2291	In so far as it applies to Welsh fishing boats
Gorchymyn Deddf yr Alban 1998 (Addasiadau Canlyniadol O.S. 1999/1820) (Rhif 2) 1999	O.S. 1999/1820	Paragraff 150 o Atodlen 2	The Scotland Act 1998 (Consequential S.I. 1999/1820 Modifications) (No.2) Order 1999	S.I. 1999/1820	Paragraph 150 of Schedule 2

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(1) A amrywiwyd gan O.S. 1993/188 a 2291 ac a ddiwygiwyd gan O.S. 1999/1820.

(1) Varied by S.I. 1993/188 and 2291 and amended by S.I. 1999/1820.

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