
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provisions regarding fishing for, landing, sale, exposure or offer for sale and possession for the purposes of sale and carriage of specified crustaceans in Scotland and the Scottish zone.

The Order revokes, replaces and remakes with amendments the provisions of the Undersized Lobsters (Scotland) Order 2000 (S.S.I. 2000/197), the Undersized Spider Crabs (Scotland) Order 2000 (S.S.I. 2000/198), the Undersized Edible Crabs (Scotland) Order 2000 (S.S.I. 2000/228), the Outer Hebrides (Landing of Crabs and Lobsters) Order 2015 (S.S.I. 2015/183) and the Orkney Islands (Landing of Crabs and Lobsters) Order 2016 (S.S.I. 2016/50). The Undersized Velvet Crabs Order 1989 (S.I. 1989/919) is revoked and replaced in relation to Scotland and the Scottish zone.

Article 3(1) of the Order prescribes a minimum size for the landing of edible crab in Scotland. Article 3(2) provides that there is an exemption from this minimum landing size in relation to landings from foreign fishing boats. Article 3(3) provides for an additional exemption in relation to landings of edible crab in the Shetland Islands. The effect of this provision, as combined with section 1(1) of the Sea Fish (Conservation) Act 1967 (“the 1967 Act”), is to prohibit the landing in all of Scotland (except the Shetland Islands) of edible crab which do not meet the requirements as to minimum size. The minimum size for the landing of edible crab in the Shetlands Islands remains prescribed by Article 19(1) and Annex XII of Council Regulation (EC) No 850/98 (OJ No L 125, 27.4.1998, p.1) for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (“the Council Regulation”).

Article 4(1) of the Order prescribes a minimum size for the landing of velvet crab in Scotland. The effect of this provision, as combined with section 1(1) of the 1967 Act, is to prohibit the landing in Scotland of velvet crab which do not meet the requirements as to minimum size. Article 4(2) prescribes a minimum size for the sale, exposure or offer for sale or possession in Scotland. The effect of this provision, as combined with section 1(2) of the 1967 Act, is to prohibit the selling, exposure or offering for sale or possession of any velvet crab in Scotland which does not meet the requirements as to minimum size. Article 4(3) and (4) prohibits UK fishing boats other than Scottish fishing boats from carrying velvet crabs within the Scottish zone if they measure less than a prescribed minimum size. A similar prohibition applies to Scottish fishing boats, by virtue of article 4(3) and section 1(3B) of the 1967 Act. Article 4(5) prohibits the landing in Scotland of any berried velvet crab which is caught in the territorial sea (0 – 12 nautical mile limits) of the UK adjacent to Scotland. Article 4(6) and (7) provides for exemptions to these prohibitions in relation to landings from foreign fishing boats.

Article 5(1) of the Order prescribes a minimum size for the landing of male spider crab in Scotland. Article 5(2) provides that there is an exemption from this minimum landing size in relation to landings from foreign fishing boats. The effect of this provision, as combined with section 1(1) of the 1967 Act, is to prohibit the landing in Scotland of any male spider crab which does not meet the requirements as to minimum size.

Article 6(1) of the Order prescribes a minimum size for the landing of green crab in the Orkney Islands. Article 6(2) provides that there is an exemption from this minimum landing size in relation to landings from foreign fishing boats. The effect of this provision, as combined with section 1(1) of the 1967 Act, is to prohibit the landing in Scotland of any green crab which does not meet the requirements as to minimum size.

Article 7(1), (2), (3) and (4) of the Order prescribes minimum sizes for the landing of lobster in different parts of Scotland. Article 7(5), (6) and (7) of the Order prescribes maximum sizes for the landing of female lobster in different parts of Scotland. The effect of these provisions,

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as combined with section 1(1) of the 1967 Act, is to prohibit the landing in Scotland of lobster which do not meet the relevant requirements as to minimum or maximum size. Article 7(8) prescribes a minimum size for the sale, exposure or offer for sale or possession in Scotland. The effect of this provision, as combined with section 1(2) of the 1967 Act, is to prohibit the selling, exposure or offering for sale or possession of any lobster in Scotland which does not meet the requirements as to minimum size. Article 7(9) and (10) prohibits UK fishing boats other than Scottish fishing boats from carrying lobster within the Scottish zone if they measure less than a prescribed minimum size. A similar prohibition applies to Scottish fishing boats, by virtue of article 7(9) and section 1(3B) of the 1967 Act. Article 7(11) prohibits the landing in Scotland of any female lobster with a missing or partly missing crusher or cutter claw which is caught in specified inshore waters around the Outer Hebrides. Schedule 6 specifies the geographical extent of these waters. Article 7(12) and (13) provide for exemptions to these prohibitions in relation to landings from foreign fishing boats.

Schedules 1, 2, 3, 4 and 5 include diagrams which demonstrate how an edible crab, a velvet crab, a spider crab, a green crab and a lobster, respectively, are to be measured to determine its size.

Offences and penalties are prescribed in section 1(7) and (8), section 6(5) and section 11 of the 1967 Act. Common enforcement powers are set out in Part 3 of the Aquaculture and Fisheries (Scotland) Act 2013 (asp 7) and Part 7 of the Marine (Scotland) Act 2010 (asp 5).

This Order is made in accordance with the procedure set out in Article 46 of the Council Regulation which authorises Member States to take certain national measures for the conservation and management of local stocks.

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