

2000 No. 874

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

CONSERVATION OF SEA FISH

**The Lobsters and Crawfish (Prohibition of Fishing and
Landing) Order 2000**

<i>Made</i> - - - -	<i>24th March 2000</i>
<i>Laid before Parliament</i>	<i>27th March 2000</i>
<i>Coming into force</i>	<i>17th April 2000</i>

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fishing industry in Scotland, Wales and Northern Ireland, after having consulted the Secretary of State for Trade and Industry, in exercise of the powers conferred on them by sections 5(1), 6(1) and 15(3) of the Sea Fish (Conservation) Act 1967^(a) 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 Lobsters and Crawfish (Prohibition of Fishing and Landing) Order 2000 and shall come into force on 17th April 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 Sea Fish (Conservation) Act 1967^(b).

Interpretation

2.—(1) In this Order—

“crawfish” means crawfish of the species *Palinurus elephas* and *Palinurus mauritanicus*;

^(a) 1967, c. 84. See section 22(2)(a) for the definition of “the Ministers”, as amended by sections 19(2)(d) and 45(b) of the Fisheries Act 1981 (c. 29). Section 5(1) was substituted by section 22(1) of the 1981 Act. 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). Sections 15(3) and 6(1) were amended by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraph 43(2) and (6) respectively. Sections 5(1) and 6 were modified in their effect by section 33(1) of the 1981 Act. 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 5 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. The functions of the Board of Trade under section 6(1) are exercisable concurrently with the Secretary of State for Trade and Industry by virtue of S.I. 1970/1537 articles 2(1) and 5(3), S.I. 1974/692 articles 2(1) and Part III of Schedule 1, and S.I. 1983/1127 article 2(1).

^(b) Section 14 was substituted by section 29 of the Fisheries Act 1981, c. 29.

“flap” in relation to the tail of a lobster or crawfish, means any part of the central three flaps of the tail fan of the lobster or crawfish including the telson with anus and left and right uropod immediately adjacent to the telson;

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

“mutilated” in relation to a lobster or crawfish, means a lobster or crawfish which is mutilated in such a manner as to obscure a V notch; and

“V notch” means a marking in the shape of the letter “V” with a depth of at least 5 mm cut into at least one of the inner uropods of the tail fan of any lobster or crawfish, with the apex of the letter “V” positioned inward from the edge of the flap.

(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 the Bailiwick of Jersey; and

(iv) seas within British fishery limits adjacent to Guernsey, as defined by section 8 of the Fishery Limits Act 1976^(a);

(b) any reference to any relevant British fishing boat “wherever it may be” does not include such a fishing boat while in the territorial sea adjacent to Wales;

(c) the term “any equivalent order” means any other order made under sections 5 or 6 of the Sea Fish (Conservation) Act 1967, extending to any part of the United Kingdom, which prohibits fishing for, or the landing in any part of the United Kingdom of:

(i) a mutilated lobster,

(ii) a mutilated crawfish,

(iii) any lobster or crawfish bearing a V notch.

Fishing prohibition

3.—(1) This article applies to fishing for—

(a) a mutilated lobster,

(b) a mutilated crawfish, or

(c) any lobster or crawfish bearing a V notch.

(2) Fishing by—

(a) a relevant British fishing boat registered in the United Kingdom wherever it may be; or

(b) any other relevant British fishing boat within relevant British fishery limits,

is prohibited.

(3) Fishing by a Scottish fishing boat within relevant British fishery limits is prohibited.

Landing prohibition

4.—(1) This article applies to—

(a) a mutilated lobster,

(b) a mutilated crawfish, or

(c) any lobster or crawfish bearing a V notch

wherever caught.

(2) The landing in England or Northern Ireland of any sea fish to which this article applies from a relevant British fishing boat or a Scottish fishing boat is prohibited.

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

5.—(1) For the purpose of the enforcement of sections 5 and 6 of the Sea Fish (Conservation) Act 1967, as read with this Order or any equivalent order, a British sea-fishery officer may exercise the powers conferred by paragraphs (2) to (4) below in relation to—

^(a) 1976, c. 86; as modified by paragraph 3(c)(i) of the Schedule to the Fishery Limits Act 1976 (Guernsey) Order 1989 (S.I. 1989/2407).

- (a) any relevant British fishing boat registered in the United Kingdom wherever it may be; and
 - (b) any other relevant British fishing boat and any Scottish fishing boat in any waters adjacent to the United Kingdom and within relevant British fishery limits.
- (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 5(1) or (6) or 6(5) of the Sea Fish (Conservation) Act 1967(a) 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.

(4) 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.

22nd March 2000 *Elliot Morley*
Parliamentary Secretary,
Ministry of Agriculture, Fisheries and Food

24th March 2000 *John Reid*
Secretary of State for Scotland

23rd March 2000 *Paul Murphy*
Secretary of State for Wales

21st March 2000 *Peter Mandelson*
Secretary of State for Northern Ireland

(a) Section 5(6) was amended by the Fisheries Act 1981 (c. 29), section 22(2). Section 6(5) was amended by section 23(3) of the 1981 Act. By virtue of section 5(7) of the 1967 Act where section 5(6) is not complied with in the case of any fishing boat, the master, the owner and the charterer (if any) are guilty of an offence under subsection (6).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prohibits fishing for, and landing of, lobsters and crawfish bearing a V notch or mutilated in such a manner as to obscure a V notch by both relevant British fishing boats and Scottish fishing boats (Articles 3 and 4).

The Order also gives British sea-fishery officers further enforcement powers in relation to relevant British fishing boats and Scottish fishing boats (article 5). They already have powers under section 15(2) of the Sea Fish (Conservation) Act 1967 (“the 1967 Act”), as amended by the Fisheries Act 1981, to seize any fish in respect of which an offence has been or is being committed under sections 5(1) and (6) and 6 of the 1967 Act.

By virtue of respectively sections 5(1) and 6(5) of the Sea Fish (Conservation) Act 1967 it is an offence to fish for or land such lobsters or crawfish in contravention of this Order. Section 5(6) of that Act provides that any fish caught in contravention of the Order shall (subject to section 9 of the 1967 Act) be returned to the sea forthwith. Section 5(7) provides that where subsection (6) is not complied with the master, the owner and the charterer (if any) of the fishing boat shall each be guilty of an offence. Penalties are prescribed by section 11 of the 1967 Act, as amended by the Fisheries Act 1981 and the Criminal Justice Act 1991.

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

This Order is made in reliance on Article 46.1 of Council Regulation (EC) No. 850/98 (OJ No. L125, 27.4.98, 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 Fisheries Division III of the Ministry of Agriculture, Fisheries and Food, Room 421d, Nobel House, 17 Smith Square, London SW1P 3JR.

£1.50

© Crown copyright 2000

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo,
Controller of Her Majesty’s Stationery Office and Queen’s Printer of
Acts of Parliament

E 0757 04/00 ON (MFK)