SCOTTISH STATUTORY INSTRUMENTS

2000 No. 197

SEA FISHERIES

CONSERVATION OF SEA FISH

The Undersized Lobsters (Scotland) Order 2000

Made - - - -	*15th June 2000*
Laid before the Scottish Parliament - - - -	*16th June 2000*
Coming into force - -	*7th July 2000*

The Scottish Ministers, in exercise of the powers conferred on them by sections 1(1), (2), (3) and (6) and section 15(3) and section 20(1) of the Sea Fish (Conservation) Act 1967(**1**) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Undersized Lobsters (Scotland) Order 2000 and shall come into force on 7th July 2000.

Interpretation

2. In this Order—

"the Act" means the Sea Fish (Conservation) Act 1967;

"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; and

"equivalent technical conservation provision" means any Order extending to any other part of the United Kingdom made under section 1(3) of the Act in pursuance of article 46 of Council Regulation 850/98(**2**).

(**1**) 1967 (c. 84) ("the 1967 Act"); section 1 was substituted by the Fisheries Act 1981 (c. 29), section 19(1) and was amended by the Merchant Shipping Act 1988 (c. 12), Schedule 6. 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). See section 22(2) for the definition of "the Ministers". Section 22(2) was amended by the Fisheries Act 1981, section 19(2)(d) and 45(b) and (c). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). Sections 1, 15(3), 20 and 22 of the 1967 Act were amended by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I.1999/1820), Schedule 2, paragraph 43.

(**2**) O.J. 125 27.4.98 pl.

Prescribed minimum size for landing lobsters

3.—(1) For the purposes of section 1(1) of the Act (which prohibits the landing in Scotland 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 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).

Prescribed minimum size for sale etc of lobsters

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 Scotland 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).

Prescribed minimum size for carriage of lobsters

5.—(1) For the purposes of section 1(3) of the Act (which prohibits the carriage on a Scottish 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), there is hereby prescribed as the minimum size for lobsters a size of 87 millimetres.

(2) The carrying by any relevant British fishing boat within the Scottish zone of lobsters of less than the minimum size prescribed in paragraph (1) is prohibited.

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

6.—(1) For the purposes of the enforcement of sections 1(1) and (2) of the Act as read with this Order and section 1(3) of the Act as read with this Order or any equivalent technical conservation provision, a British sea-fishery officer may exercise in relation to—

(a) any Scottish fishing boat wherever it may be; and

(b) any relevant British fishing boat within the Scottish zone,

the powers conferred by paragraphs (2) to (4) of this article.

(2) He may go on board the boat, with or without persons assigned to assist him with 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 sections 1(1) or (2) of the Act as read with this Order and section 1(3) of the Act as read with this Order or any equivalent technical conservation