

LOBSTER (CONSERVATION OF STOCKS) ORDER 1994

I, DAVID ANDREWS, Minister for the Marine, in exercise of the powers conferred on me by section 223A (inserted by section 9 of the Fisheries (Amendment) Act, 1978 (No. 18 of 1978), and amended by section 4 of the Fisheries (Amendment) Act, 1983 (No. 27 of 1983)) of the Fisheries (Consolidation) Act, 1959 (No. 14 of 1959), and the Fisheries (Transfer of Departmental Administration and Ministerial Functions) Order, 1977 (S.I. No. 30 of 1977) (as adapted by the Tourism, Fisheries and Forestry (Alteration of Name of Department and Title of Minister) Order, 1987 (S.I. No. 82 of 1987)), hereby order as follows:

REG 1

1. This Order may be cited as the Lobster (Conservation of Stocks) Order, 1994 and shall come into operation on the 6th day of October, 1994.

REG 2

2. (1) In this Order—

"flap" means any part of the five flaps of the tail fan of any lobster including the telson with anus and left and right uropod each uropod containing two flaps.

"lobster" means *Homarus gammarus*;

"mutilated lobster" means a lobster which has been mutilated in such a manner which could hide or obliterate a V notch;

"the specified area" means the parts of the sea described in the Annex to the Communication and therein referred to as Sub-area VI and Sub-area VII;

"V notch" means a marking in the shape of the letter "V" with a depth of at least 5mm cut (for the purposes of identification of particular lobsters) into one or more of the five flaps of the tail fan of any lobster, with the apex of the V positioned inwards from the edge of the flap;

"V notched lobster" means a lobster bearing or containing a V notch.

"the Communication" means the Communication (85/C347/05) from the Commission of the European Communities on the description of the ICES Sub-areas and Divisions used for the purpose of fishing statistics and regulations in the North East Atlantic(1);

(1)O.J. C.347/14 of 31/12/85.

"ICES" means the International Council for the Exploration of the Sea.

(2) In any proceedings in which a contravention of this Order is alleged prima facie evidence of the Communication may be given by the production of a copy of the Official Journal purporting to contain the Communication.

REG 3

3. (1) From the 6th day of October, 1994 an Irish sea-fishing boat, or a person on board such boat in the specified area, shall not retain on board a V notched or mutilated lobster.

(2) The master of an Irish sea-fishing boat shall not cause or permit the boat or any person on board to have a V notched or mutilated lobster on board within the specified area.

REG 4

4. The master of a sea-fishing boat shall not cause or permit the boat to be used within the specified area for the transshipment of lobster containing a V notch in any flap from a sea-fishing boat.

REG 5

5. Any V notched or mutilated lobster taken while fishing in the specified area shall be carefully handled and returned to the water from which it was taken.

REG 6

6. A person shall not transport, land, store, display, offer for sale, sell or purchase a V notched or mutilated lobster.

REG 7

7. In a prosecution for an offence under Article 3 or 4 of this Order, the following shall be prima facie evidence that the sea-fishing boat concerned was, at the time of the alleged offence, used for the retention or having on board or the transshipment of V notched lobster or mutilated lobster in contravention of the said Article 3 or 4;

(1) evidence that such sea-fishing boat had on board any books, papers or other documents from which it appears to the court that on the day on which the offence is alleged to have been committed V notched or mutilated lobster were transhipped or otherwise dealt with contrary to the said Article 3 or 4;

(2) any admission by any person who is for the time being the master or other person in charge, or another member of the crew, of such sea fishing boat that at such time she was so used,

(3) any other matter from which it so appears that such sea-fishing boat was so used or which in the opinion of the court suggest, that such sea-fishing boat was so used.

REG 8

8. A person shall not, within the State, have in his possession V notched or mutilated lobster.

GIVEN under my Official Seal, this 6th day of October, 1994.

DAVID ANDREWS,

Minister for the Marine.

EXPLANATORY NOTE.

The effect of this Order is to impose a conservation measure whereby all lobster containing a V notch are returned to the sea.