

S.I. No. 243 of 1999.

WHELK (CONSERVATION OF STOCKS) ORDER, 1999.

I, MICHAEL WOODS, Minister for the Marine and Natural Resources, 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)), (as amended by the Marine (Alteration of Name of Department and Title of Minister) Order, 1997 (S.I. No. 301 of 1997)), hereby order as follows:

1. This Order may be cited as the Whelk (Conservation of Stocks) Order, 1999.

2. (1) In this Order—

"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 fishery statistics and regulations in the north east Atlantic(1);

(1) O.J. No. C347, 31.12.85, p.14.

"diameter" in relation to whelk, means the width of the shell across its broadest part and the longest dimension in length from the apex of the shell to the end of the siphonal canal;

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

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

"whelk" means *Buccinum undulum*.

(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.

3. This Order applies to whelk whose diameter is less than 25 millimetres across its broadest part.

4. (1) An Irish sea-fishing boat shall not have whelk to which this Order applies on board taken in the specified area.

(2) The master or person in charge of an Irish sea-fishing boat shall not cause or permit the boat or any person to have whelk to which this Order applies on board taken in the specified area.

5. (1) An Irish sea-fishing boat shall not be used for the landing or transhipment of whelk to which this Order applies taken in the specified area.

(2) The master or person in charge of an Irish sea-fishing boat shall not cause or permit the boat to be used for the landing or transhipment of whelk to which this Order applies taken in the specified area.

6. Any whelk to which this Order applies taken in the specified area in the course of fishing shall be carefully handled and returned alive, immediately, to the sea.

7. (1) A person shall not display, sell, offer for sale or store for the purposes of selling any whelk to which this Order applies taken in the specified area.

(2) In a prosecution for an offence under this Article it shall be a defence for the defendant to show that he or she could not reasonably have known that the whelk to which the prosecution relates were taken in the specified area.

8. The Whelk (Conservation of Stocks) Order, 1994 (S.I. No. 278 of 1994), is hereby revoked.

GIVEN under my Official Seal, this 15th day of July, 1999.

MICHAEL WOODS T.D.,

Minister for the Marine and Natural Resources.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The effect of this Order is to prohibit the landing of any whelk whose diameter is less than 25mm across its broadest part and replaces Whelk (Conservation of Stocks) Order, S.I. No. 278 of 1994.