

2017 No. 899

SEA FISHERIES, ENGLAND

CONSERVATION OF SEA FISH

**The Lobsters and Crawfish (Prohibition of Fishing and Landing)
(Amendment) (England) Order 2017**

<i>Made</i>	- - - -	<i>7th September 2017</i>
<i>Laid before Parliament</i>		<i>8th September 2017</i>
<i>Coming into force</i>	- -	<i>1st October 2017</i>

The Secretary of State for Environment, Food and Rural Affairs makes the following Order in exercise of the powers conferred by sections 5(1)(a)(ii), 6(1) and 20(1) of the Sea Fish (Conservation) Act 1967^(a) and now vested in the Secretary of State^(b).

In accordance with section 6(1) of that Act, the Secretary of State has consulted the Secretary of State for Business, Energy and Industrial Strategy^(c).

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- (a) 1967 c.84. Section 5 was amended by section 22(1), (2) and (3) of the Fisheries Act 1981 (c.29); section 198 of, and paragraph 3 of Schedule 15 to, the Marine and Coastal Access Act 2009 (c.23) and S.I. 2010/760. See section 5(9) for the definition of “the appropriate national authority” and section 22(1) for the definition of “sea fish”. The function exercisable under section 5 in relation to Wales was transferred to the National Assembly for Wales by article 2(a) of, and Schedule 1 to, S.I. 1999/672 and then transferred from that body to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32). In so far as exercisable in relation to the Welsh zone, that function was transferred to the Welsh Ministers by article 4(1)(b) of S.I. 2010/760. Section 6 was amended by section 23(1), (2) and (3) of the Fisheries Act 1981 and by S.I. 1999/1820. Sections 5(1) and 6 were modified in their effect by section 33(1) of the Fisheries Act 1981. See section 22(2)(a) (as amended by section 45(b) of the Fisheries Act 1981) for the definition of “the Ministers”.
- (b) The function exercisable under section 5 in relation to Scottish fishing boats within British fishery limits but outside the Scottish zone is exercisable by the Secretary of State concurrently with the Scottish Ministers by virtue of article 3(1) of, and Schedule 1 to, S.I. 1999/1592. The function exercisable under section 5 in relation to Northern Ireland fishing boats within British fishery limits but outside the Northern Ireland zone also remains exercisable by the Secretary of State by virtue of paragraph 3(2) of Schedule 1 to S.I. 2002/790. The functions of the Secretaries of State respectively concerned with the sea fishing industry in Scotland and Wales under section 6 were transferred to the Minister of Agriculture, Fisheries and Food by article 2(1) of, and the Schedule to, S.I. 2000/1812. The function of the Minister of Agriculture, Fisheries and Food under section 6 was transferred to the Secretary of State by article 2(2) of S.I. 2002/794 and the function of the Minister of Agriculture, Fisheries and Food and the Secretary of State concerned with the sea fishing industry in Northern Ireland, acting jointly, under section 6 was transferred to the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with the sea fishing industry in Northern Ireland, acting jointly, by article 2(5) of that Order. The function under section 6 exercisable by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State concerned with the sea fishing industry in Northern Ireland jointly was transferred to the Secretary of State for Environment, Food and Rural Affairs by article 3(2) of S.I. 2012/2747.
- (c) The functions of the Board of Trade under section 6(1) were transferred to the Secretary of State for Business, Energy and Industrial Strategy by virtue of consecutive transfers made by: paragraph 10 of Schedule 2 to S.I. 1970/1537; article 2(1) of, and Schedule 1 to, S.I. 1974/692; article 2(1) of S.I. 1983/1127; article 11 of S.I. 2007/3224; article 4(1) of S.I. 2009/2748 and article 6(1) of S.I. 2016/992.

Citation and commencement

1. This Order may be cited as the Lobsters and Crawfish (Prohibition of Fishing and Landing) (Amendment) (England) Order 2017 and comes into force on 1st October 2017.

Amendment of the Lobsters and Crawfish (Prohibition of Fishing and Landing) Order 2000

2.—(1) The Lobsters and Crawfish (Prohibition of Fishing and Landing) Order 2000(a) is amended as follows.

(2) In article 2 (interpretation)—

(a) in paragraph (1)—

(i) before the definition of “crawfish” insert—

““berried” in relation to a lobster or crawfish, means a lobster or crawfish which is carrying eggs attached to its tail or some other exterior part, or which is in such a condition as to show that, at the time when it was taken, it was carrying eggs so attached;”;

(ii) at the end of the definition of “mutilated” omit “and”;

(iii) at the end of the definition of “V notch” for the full stop substitute “; and”; and

(iv) after the definition of “V notch” insert—

““Welsh zone” has the same meaning as it has by virtue of section 158(1) of the Government of Wales Act 2006(b).”; and

(b) in paragraph (2)—

(i) in sub-paragraphs (a)(i) and (b) for “territorial sea adjacent to Wales” substitute “Welsh zone”; and

(ii) in sub-paragraphs (c)(i) and (ii) after “mutilated” insert “or berried”.

(3) After article 4 (landing prohibition) insert—

“Berried lobsters and crawfish

4A.—(1) Fishing for a berried lobster or a berried crawfish by—

(a) a relevant British fishing boat, or

(b) a Scottish fishing boat

within relevant British fishery limits but not within the Northern Ireland zone is prohibited.

(2) The landing in England of a berried lobster or a berried crawfish, wherever caught, from a relevant British fishing boat or a Scottish fishing boat is prohibited.”.

(4) After article 5 (powers of British sea-fishery officers in relation to fishing boats) insert—

“Review

6.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in this Order, and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 1st October 2022.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(a) S.I. 2000/874, which was revoked in relation to the area of the Welsh zone that lies beyond Wales by article 7(2) of S.I. 2015/2076 (W. 312). See article 2 of that Order for the definition of “Wales”.

(b) 2006 c.32. Section 158(1) was amended by section 43(2) of the Marine and Coastal Access Act 2009. See also S.I. 2010/760.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(a) requires that a report published under this article must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
- (b) assess the extent to which those objectives are achieved,
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this article, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).”.

George Eustice
Minister of State

7th September 2017

Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Lobsters and Crawfish (Prohibition of Fishing and Landing) Order 2000 (“the 2000 Order”) to prohibit fishing for, and the landing of, lobsters and crawfish which are carrying eggs (“berried” lobsters and crawfish).

Article 2(3) inserts new article 4A into the 2000 Order. This article prohibits fishing for berried lobsters and crawfish by relevant British fishing boats or Scottish fishing boats within British fishery limits excluding the Scottish zone, the Welsh zone, the Northern Ireland zone, the territorial sea adjacent to the Isle of Man, the territorial sea adjacent to the Bailiwick of Jersey and the seas adjacent to Guernsey. New article 4A also prohibits the landing in England of berried lobsters or crawfish by relevant British fishing boats or Scottish fishing boats regardless of where the lobsters or crawfish were caught.

Section 5(6) of the Sea Fish (Conservation) Act 1967 requires, subject to section 9 of that Act, all fish caught in contravention of the fishing prohibition contained in new article 4A to be returned to the sea forthwith.

Article 2(2) makes consequential amendments to the interpretation provisions in the 2000 Order. Article 2(4) inserts new article 6 into the 2000 Order which requires the Secretary of State to review the operation and effect of the 2000 Order and publish a report within five years of this Order coming into force (and then within every five years after that).

The provisions of this Order were notified in draft to the European Commission in accordance with the requirements of Article 46(2) of Council Regulation (EC) No. 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ No. L 125, 27.4.1998, p.1, as last amended by Regulation (EU) 2015/812 of the European Parliament and of the Council (OJ No. L 133, 29.5.2015, p.1)).

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available at www.gov.uk/defra or from the Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London, SW1P 3JR and is submitted with the Explanatory Memorandum which is available alongside this instrument on www.legislation.gov.uk.

(a) 2015 c.26.

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