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WELSH STATUTORY INSTRUMENTS

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**2019 No. 1042 (W. 184)**

**SEA FISHERIES, WALES**

**CONSERVATION OF SEA FISH**

**The Whelk Fishing (Wales) Order 2019**

<i>Made</i>	- - - -	<i>24 June 2019</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>25 June 2019</i>
<i>Coming into force</i>	- -	<i>4 July 2019</i>

The Welsh Ministers make the following Order in exercise of the powers conferred by sections 1(1), 1(3) 1(4), 1(6), 5(1) and 5(2) of the Sea Fish (Conservation) Act 1967(1), now vested in them(2).

**Title, commencement and application**

1.—(1) The title of this Order is the Whelk Fishing (Wales) Order 2019 and it comes into force on 4 July 2019.

(2) Subject to paragraph (3), this Order applies in relation to Wales.

(3) Articles 3 and 5 apply in relation to the Welsh zone.

**Interpretation**

2. In this Order, unless the context requires otherwise—

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- (1) 1967 c. 84, (“the 1967 Act”). Section 1 of the 1967 Act was substituted by the Fisheries Act 1981 (c. 29), section 19(1). Section 1(1) of the 1967 Act was amended by the Marine and Coastal Access Act 2009 (c. 23) (“the 2009 Act”), section 194(1) and (2) and S.I. 1999/1820, article 4, Schedule 2, Part 1, paragraphs 43(1), (2)(a). Section 1(3) of the 1967 Act was substituted by the 2009 Act, section 194(1) and (4). Section 1(4) of the 1967 Act was amended by the 2009 Act, section 201, Schedule 15, paragraph 1(1), (2)(a) and (b). See section 1(9) for a definition of the “appropriate national authority”. Section 1(9) was inserted by the 2009 Act, section 194(1) and (5) and amended by S.I. 2010/760, article 4(2) and (3). Section 5(1) was substituted by the 2009 Act, section 198(1) and (2). Section 5(2) was amended by the 2009 Act, section 201, Schedule 15, paragraph 3(1) and (2). See section 5(9) for a definition of “the appropriate national authority”. Section 5(9) was inserted by the 2009 Act, section 198(3) and amended by S.I. 2010/760, article 4(2) and (4). Section 22(2) of the 1967 Act, which contains a definition of “the Ministers”, was amended by the Fisheries Act 1981 (c. 29), section 19(2)(d) and (3), and 45 and 46, Schedule 5, Part II and S.I. 1999/1820, article 4, Schedule 2, Part I, paragraph 43(1) and (12)), Part IV.
- (2) The functions of the Ministers under sections 1(1), 1(3) 1(4), 1(6), 5(1) and 5(2) so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales (as constituted under the Government of Wales Act 1998 (c. 38)): see article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order (S.I. 1999/672). Those functions were then further transferred to the Welsh Ministers by section 162 and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). So far as exercisable in relation to the Welsh zone, the functions of the Ministers under sections 1(3), 1(4), 1(6), 5(1) and 5(2) of the 1967 Act, were transferred to the Welsh Ministers by article 4(1)(b) of the Welsh Zone (Boundaries and Transfer of Functions) Order 2010 (S.I. 2010/760).

“the Act” (“*y Ddeddf*”) means the Sea Fish (Conservation) Act 1967(3);

“British fishing boat” (“*cwch pysgota Prydeining*”) means a fishing boat which is either registered in the United Kingdom under Part II of the Merchant Shipping Act 1995(4) or is owned wholly by persons qualified to own British ships for the purposes of that part of the Act;

“Specified minimum size” (“*maint lleiaf penodedig*”) means—

- (i) 55 millimetres before 4 July 2020, and
- (ii) 65 millimetres on and after 4 July 2020;

“Wales” (“*Cymru*”) has the meaning given in section 158 of the Government of Wales Act 2006(5);

“Welsh zone” (“*parth Cymru*”) has the meaning given in section 158 of the Government of Wales Act 2006(6); and

“Whelk” (“*cregyn moch*”) means shellfish of the species *Buccinum undatum*.

### **Fishing prohibition for specified whelk**

3. It is prohibited for a British fishing boat to fish for whelk with a size of less than the specified minimum size.

### **Prohibition on landing of specified whelk**

4. For the purpose of section 1(1) of the Act (which prohibits the landing of any sea fish of any description which does not meet the requirements as to size as may be prescribed in relation to sea fish of that description) it is prescribed that the minimum size for whelk is the specified minimum size.

### **Prohibition on carriage of specified whelk**

5. For the purpose of section 1(3) of the Act (which prohibits the carriage on specified fishing boats of any sea fish of any description which does not meet the requirements as to size prescribed in relation to sea fish of that description), it is prohibited for a British fishing boat to carry any whelk with a size of less than the specified minimum size.

### **Measurement of whelk**

6. For the purposes of articles 3, 4 and 5, the size of a whelk is to be measured in accordance with paragraph 7 of Annex XIII to Council Regulation (EC) No 850/98 for the conservation and management of fishery resources through technical measures for the protection of juvenile marine organisms(7).

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(3) 1967 c. 84.

(4) 1995 c. 21.

(5) 2006 c. 32; Section 158(1) was amended by the Marine and Coastal Access Act 2009 (c. 23), section 43(1) and (2). For the purposes of the definition of “Wales” in section 158(1) of the 2009 Act, the boundary between those parts of the sea within the Severn and Dee Estuaries which are to be treated as adjacent to Wales and those which are not are, in each case, a line drawn between the co-ordinates set out in Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). By virtue of section 162 of and paragraph 26 of Schedule 11 to the 2006 Act, S.I. 1999/672 continues to have effect.

(6) The Welsh zone is specified in S.I. 2010/760.

(7) OJ No. L125, 27.4.1998, p.30.

## Revocation and Amendments

7.—(1) Byelaw 11 (Whelk – Minimum Size)(8) of the former South Wales Sea Fisheries Committee(9) is revoked.

(2) In Byelaw 19 (Specified Fish Sizes)(10) of the former North Western and North Wales Sea Fisheries Committee(11), in the Table specifying minimum shellfish size, delete the row relating to Whelk.

(3) In the Marine and Coastal Access Act 2009 (Commencement No. 1, Consequential, Transitional and Savings Provisions) (England and Wales) Order 2010(12), in the Table in Schedule 3, delete the row relating to Byelaw 11.

24 June 2019

*Lesley Griffiths*  
Minister for Environment, Energy and Rural  
Affairs, one of the Welsh Ministers

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- (8) Byelaw 11 of the former South Wales Sea Fisheries Committee has effect as if made by the Welsh Ministers in a statutory instrument in relation to the same area of Wales as the area to which that Byelaw originally applied by virtue of article 13(1) of and Schedule 3 to the Marine and Coastal Access Act 2009 (Commencement No. 1, Consequential, Transitional and Savings Provisions) (England and Wales) Order 2010 (S.I. 2010/630 (C. 42)).
- (9) The South Wales Sea Fisheries Committee was dissolved on 1 April 2010 when article 3 of the Marine and Coastal Access Act 2009 (Commencement No. 1, Consequential, Transitional and Savings Provisions) (England and Wales) Order 2010 (S.I. 2010/630 (C. 42)) brought into force section 187 of the Marine and Coastal Access Act 2009 (c. 23), with the effect of repealing the Sea Fisheries Regulation Act 1966 (c. 38).
- (10) Byelaw 19 of the former North Western and North Wales Sea Fisheries Committee has effect as if made by the Welsh Ministers in a statutory instrument in relation to the same area of Wales as the area to which that Byelaw originally applied by virtue of article 13(3) of and Schedule 4 to the Marine and Coastal Access Act 2009 (Commencement No. 1, Consequential, Transitional and Savings Provisions) (England and Wales) Order 2010 (S.I. 2010/630 (C. 42)).
- (11) The North Western and North Wales Sea Fisheries Committee was dissolved, in relation to Wales, on 1 April 2010 when article 3 of the Marine and Coastal Access Act 2009 (Commencement No. 1, Consequential, Transitional and Savings Provisions) (England and Wales) Order 2010 (S.I. 2010/630 (C. 42)) brought into force section 187 of the Marine and Coastal Access Act 2009 (c. 23), with the effect of repealing the Sea Fisheries Regulation Act 1966 (c. 38) in relation to Wales.
- (12) S.I. 2010/630 (C. 42), as amended by the Specified Crustaceans (Prohibition on Fishing, Landing, Sale and Carriage) (Wales) Order 2015 (S.I. 2015/2076 (W. 312)), article 7(6)(a).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision regarding the fishing, landing and carriage of whelk by British fishing boats in Wales and the Welsh zone.

Articles 3 of this Order prohibits fishing for whelk under specified minimum size in Wales and the Welsh zone.

Article 4 prescribes the specified minimum size for the landing of whelk in Wales.

Article 5 prescribes the specified minimum size for the carriage of whelk in Wales or the Welsh zone.

The specified minimum size for the purposes of Articles 3, 4 and 5 is 55 millimetres before 4 July 2020 and 65 millimetres on and after 4 July 2020.

Article 6 prescribes the method by which the size of a whelk is to be determined for the purposes of this Order.

Article 7 revokes Byelaw 11 (Whelk – Minimum Size) of the former South Wales Sea Fisheries Committee (“SWSFC”) and amends Byelaw 19 (Specified Fish Sizes) of the former North Western and North Wales Sea Fisheries Committee (“NWNWSFC”).

The SWSFC and the NWNWSFC were abolished, in relation to Wales, on 1 April 2010 when the Sea Fisheries Regulation Act 1966 (c. 38) was repealed by section 187 of the Marine and Coastal Access Act 2009 (c. 23). Since 1 April 2010, the Byelaws mentioned above have had effect as if made by the Welsh Ministers in a statutory instrument by virtue of paragraphs (1) and (3) of article 13 of and Schedules 3 and 4 to the Marine and Coastal Access Act 2009 (Commencement No. 1, Consequential, Transitional and Savings Provisions) (England and Wales) Order 2010 (S. I. 2010/630 (C. 42)). Article 7(3) makes a consequential amendment to the 2010 Order.

The provisions of this order were notified in draft to the European Commission in accordance with the requirements of Article 46 of Council Regulation (EC) No. 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ No. L 125, 24.04.98, p. 1).

A Regulatory Impact Assessment has been undertaken in respect of this Order and is available for inspection at the offices of the Welsh Government, Cathays Park, Cardiff CF10 3NQ.