

Statutory Instrument 2000 No. 2029

The Undersized Edible Crabs Order 2000

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STATUTORY INSTRUMENTS

2000 No. 2029

SEA FISHERIES, ENGLAND

SEA FISHERIES, NORTHERN IRELAND

CONSERVATION OF SEA FISH

The Undersized Edible Crabs Order 2000

<i>Made</i>	<i>24th July 2000</i>
<i>Laid before Parliament</i>	<i>4th August 2000</i>
<i>Coming into force</i>	<i>28th August 2000</i>

The Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fishing industry in Scotland and Wales, acting jointly, in exercise of the powers conferred on them by section 1(1), (4) and (6) of the Sea Fish (Conservation) Act 1967[1] and of all other powers enabling them in that behalf, and the said Minister, the said Secretaries of State and the Secretary of State concerned with the sea fishing industry in Northern Ireland, acting jointly after having consulted the Secretary of State for Trade and Industry, in exercise of the powers conferred upon them by sections 6(1) and (3), 15(3) and 20(1) of the said Act, and of all other powers enabling them in that behalf, hereby make the following Order:

Title, commencement and extent

1. - (1) This Order may be cited as the Undersized Edible Crabs Order 2000 and shall come into force on 28th August 2000.

(2) Except for -

(a) article 3; and

(b) article 5 in so far as it applies to the enforcement of article 3 of this Order,

this Order extends to Northern Ireland.

Interpretation

2. - (1) In this Order -

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

"Eastern Sea Fisheries District" means the sea fisheries district defined in article 2 of the Eastern Sea Fisheries District (Variation) Order 1978[2];

"edible crab" means crab of the species *Cancer pagurus*;

"size", in relation to an edible crab, means the maximum width of the carapace measured perpendicular to the antero-posterior midline of the carapace and shall be measured as shown in Schedule 1 to this Order.

(2) In this Order -

(a) the term "within relevant British fishery limits" does not include:

(i) the territorial sea adjacent to Wales;

(ii) the territorial sea adjacent to the Isle of Man;

(iii) the territorial sea adjacent to the Bailiwick of Jersey; and,

(iv) seas within British fishery limits adjacent to Guernsey, as defined by section 8 of the Fishery Limits Act 1976[3];

(b) any reference to any relevant British fishing boat "wherever it may be" does not include such a fishing boat while in the territorial sea adjacent to Wales;

(c) the term "any equivalent order" means any other order made under section 6 of the Act, extending to any part of the United Kingdom, which prohibits the landing in any part of the United Kingdom of edible crabs which have not attained a size of 130 millimetres and have been caught in waters within British fishery limits which are outside the Eastern Sea Fisheries District.

Prescribed minimum size for edible crabs landed in certain areas outside the Eastern Sea Fisheries District

3. - (1) For the purposes of section 1(1) of the Act (which prohibits the landing in England and Wales of any sea fish of any description, being a fish of a smaller size than such size as may be prescribed in relation to sea fish of that description), there is

hereby prescribed as the minimum size for edible crab, in relation to each area specified in column 1 of Schedule 2 to this Order, the appropriate size specified for the particular sex of edible crab specified in relation to that area in column 2 of that Schedule.

(2) Landings from foreign fishing boats shall be exempt from the prohibition imposed by section 1(1) of the Act as read with paragraph (1) above.

Prohibition on landing edible crabs caught outside the Eastern Sea Fisheries District

4. - (1) Subject to paragraphs (2) and (3), it is prohibited to land in England or Northern Ireland edible crabs which -

(a) have not attained a size of 130 millimetres; and

(b) have been caught in any waters within British fishery limits which are outside the Eastern Sea Fisheries District.

(2) The prohibition in paragraph (1) applies only to landings from a relevant British fishing boat or a Scottish fishing boat.

(3) This article shall not affect the application of article 3 of the Sea Fishing (Enforcement of Community Conservation Measures) Order 2000[4].

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

5. - (1) For the purpose of the enforcement of sections 1(1) and 6 of the Act as read with this Order or any equivalent order, a British sea-fishery officer may exercise the powers conferred by paragraphs (2) to (4) below -

(a) in relation to any relevant British fishing boat, wherever it may be; and

(b) in any waters adjacent to the United Kingdom and within relevant British fishery limits in relation to any Scottish fishing boat.

(2) He may go on board the boat, with or without persons assigned to assist him in 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 section 1 or 6 of the Act[5] as read with this Order or any equivalent order, may search the boat for any such document and may require any person on board the boat to do anything which appears to

him to be necessary for facilitating the search; and

(d) where the boat is one in relation to which he has reason to suspect that such an offence has been committed, may seize and detain any such document produced to him or found on board for the purpose of enabling the document to be used as evidence in proceedings for the offence,

but nothing in sub-paragraph (d) above shall permit any document required by law to be carried on board the boat to be seized and detained except while the boat is detained in a port.

(4) Where it appears to a British sea-fishery officer that a contravention of this Order, or any equivalent order, has at any time taken place within British fishery limits he may -

(a) require the master of the boat in relation to which the contravention took place to take, or may himself take, the boat and its crew to the port which appears to him to be the nearest convenient port, and

(b) detain or require the master to detain the boat in the port;

and where such an officer detains or requires the detention of a boat he shall serve on the master notice in writing stating that the boat will be or is required to be detained until the notice is withdrawn by the service on the master of a further notice in writing signed by a British sea-fishery officer.

Revocation

6. - (1) The Undersized Crabs Order 1986[6] and the Undersized Crabs (Variation) Order 1989[7] are hereby revoked except in so far as:

(a) they form part of the law of Scotland; or

(b) they have effect in relation to Wales.

(2) For the purposes of paragraph (1), "Wales" has the same meaning as in section 155(1) of the Government of Wales Act 1998[8].

Elliot Morley

Parliamentary Secretary, Ministry of Agriculture, Fisheries and Food

19th July 2000

John Reid

Secretary of State for Scotland

21st July 2000

Paul Murphy

Secretary of State for Wales

24th July 2000

Peter Mandelson
Secretary of State for Northern Ireland

20th July 2000

SCHEDULE 1

Article 2(1)

MEASUREMENT OF THE SIZE OF AN EDIBLE CRAB

SCHEDULE 2

Article 3(1)

MINIMUM LANDING SIZES

<i>Column 1</i>	<i>Column 2</i>
<i>Area</i>	<i>Prescribed minimum landing sizes</i>
The coast of England from its north-eastern border with Scotland south to a point at 51° north latitude; but excluding the Eastern Sea Fisheries District.	Male edible crabs: 130 mm Female edible crabs: 130 mm
The coasts of Devon and Cornwall. The coasts of the Scilly Isles.	Male edible crabs: 160 mm

EXPLANATORY NOTE

(This note is not part of the Order)

This Order prescribes minimum sizes for the landing of edible crabs (*Cancer pagurus*) in certain areas in England (article 3(1)). There is an exemption from the minimum landing size for the landing of edible crabs from foreign fishing boats (article 3(2)), but the Order does not affect minimum sizes for the landing of edible crabs in areas of

England and in Northern Ireland generally prescribed by article 19.1 of Council Regulation (EC) No 850/98 (OJ No L125, 27.4.1998, p. 1) for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms ("the Council Regulation").

The Order also prohibits the landing in England or Northern Ireland by relevant British fishing boats or Scottish fishing boats of edible crabs which have not attained a size of 130 mm and have been caught in any waters within British fishery limits which are outside the Eastern Sea Fisheries District (article 4).

The Order also gives British sea-fishery officers further enforcement powers in relation to British fishing boats (article 5).

Offences and penalties are prescribed respectively by sections 1(7) and 6(5), and section 11, of the Sea Fish (Conservation) Act 1967, as amended by the Fisheries Act 1981 and the Criminal Justice Act 1991 (c.53).

This Order revokes the Undersized Crabs Order 1986 and the Undersized Crabs (Variation) Order 1989, except in so far as they form part of the law of Scotland or apply in relation to Wales.

This Order is made in reliance on Article 46.1 of the Council Regulation, which authorises Member States to take certain national measures for the conservation and management of stocks.

A Regulatory Impact Assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from the Sea Fisheries Conservation Division of the Ministry of Agriculture, Fisheries and Food, Room 421d, Nobel House, 17 Smith Square, London SW1P 3JR.

Notes:

[1] 1967 c. 84. Section 1 was substituted by the Fisheries Act 1981 (c. 29) section 19(1), and was amended by paragraph 38(a) of Schedule 13 to the Merchant Shipping Act 1995 (c. 21) and paragraph 43(2) and (3) of Schedule 2 to the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820). Section 6 was modified in its effect by section 33(1) of the 1981 Act and amended by S.I. 1999/1820, Schedule 2, paragraph 43(6). The functions of the Board of Trade under section 6(1) are exercisable concurrently with the Secretary of State for Trade and Industry by virtue of S.I. 1970/1537 articles 2(1) and 5(3), S.I. 1974/692 article 2(1) and Part III of Schedule 1, and S.I. 1983/1127 article 2(1). 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) and S.I. 1999/1820, Schedule 2, paragraph 43(2)(b). See section 22(2) for definitions of "the Ministers" for the purposes of sections 1, 6 and 15(3); section 22(2) was amended by the Fisheries Act 1981, sections 19(2)(d) and 45(b) and (c) and by S.I. 1999/1820, paragraph 43(12) of Schedule 2. By virtue of article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) the functions exercisable under sections 1 and 6 of the 1967 Act were transferred to the National Assembly in so far as exercisable in relation to Wales (defined in section 155(1) of the Government of Wales Act 1998 (c. 38) as including "the sea adjacent to Wales out as far as the seaward boundary of the territorial sea"); in respect of waters beyond Wales these functions remain exercisable by the Ministers. Article 3(1) and Schedule 1 of the Scotland Act 1998 (Concurrent Functions) Order 1999 (S.I. 1999/1592) provide for the functions exercisable under section 15(3) of the 1967 Act to be exercised by the Ministers, concurrently with Scottish Ministers, in relation to: relevant British fishing boats within the Scottish zone; and, Scottish fishing boats within British fishery limits but outside the Scottish zone.[back](#)

[2] S.I. 1978/438, as amended by S.I. 1980/808 and article 5 of S.I. 1993/2532.[back](#)

[3] 1976, c. 86; as modified by paragraph 3(c) of the Schedule to the Fishery Limits Act 1976 (Guernsey) Order 1989 (S.I. 1989/2407).[back](#)

[4] S.I. 2000/1081. Article 3 of S.I. 2000/1081 makes it an offence to land edible crabs in England and in Northern Ireland which are smaller than the sizes prescribed by article 19.1 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 L125, 27.4.1998, p. 1).[back](#)

[5] Section 6(5) was amended by section 23(3) of the Fisheries Act 1981.[back](#)

[6] S.I. 1986/497.[back](#)

[7] S.I. 1989/2443.[back](#)

[8] 1998, c. 38.[back](#)

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