



CYNULLIAD CENEDLAETHOL CYMRU

OFFERYNNAU STATUDOL

2002 Rhif 676 (Cy.73)

PYSGODFEYDD, CYMRU

CADWRAETH PYSGOD MÔR

Gorchymyn Cimychiaid a
Chimychiaid Cochion (Gwahardd
eu Pysgota a'u Glanio) (Cymru)
2002

NODYN ESBONIADOL

(*Nid yw'r nodyn hwn yn rhan o'r Gorchymyn*)

Mae'r Gorchymyn hwn yn gwahardd cychod pysgota Prydeinig perthnasol a chychedd pysgota'r Alban rhag pysgota am gimychiaid a chimychiaid cochion y mae arnynt holtt V, neu rai sydd wedi'u llurgunio mewn modd sy'n cuddio holtt V, a'u glanio (erthyglau 3 a 4). Mae'r Gorchymyn yn gymwys i Gymru a'r môr triogaethol sy'n gyfagos at Gymru.

Mae'r Gorchymyn hefyd yn rhoi pwerau gorfodi pellach i swyddogion pysgodfeydd môr Prydain mewn perthynas â chychedd pysgota perthnasol o Brydain a chychedd pysgota o'r Alban yn y môr sy'n gyfagos at Gymru (erthygl 5). Mae ganddynt bwerau yn barod o dan adran 15(2) o Ddeddf Pysgod Môr (Cadwraeth) 1967 ("Deddf 1967"), fel y'i diwygiwyd gan Ddeddf Pysgodfeydd 1981, i gipio unrhyw bysgod y mae tramgywydd wedi'i gyflawni, neu wrthi yn cael ei gyflawni, mewn perthynas â hwy o dan adrannau 5(1) a (6) o Deddf 1967.

Yn rhinwedd adrannau 5(1) a 6(5), yn y drefn honno, o Deddf 1967, tramgywydd yw pysgota am gimychiaid neu gimychiaid cochion o'r fath neu eu glanio yn groes i'r Gorchymyn hwn. Mae adran 5(6) o'r Deddf honno yn darparu bod rhaid i unrhyw bysgod sy'n cael eu dal yn groes i'r Gorchymyn gael eu dychwelyd i'r môr ar unwaith (yn ddarostyngedig i adran 9 o Deddf 1967). Os na chydymffurfir ag is-adran (6), mae adran 5(7) yn darparu bod meistr a pherchennog y cwch pysgota, a'r

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2002 No. 676 (W.73)

SEA FISHERIES, WALES

CONSERVATION OF SEA FISH

The Lobsters and Crawfish
(Prohibition of Fishing and
Landing) (Wales) Order 2002

EXPLANATORY NOTE

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

This Order prohibits fishing for, and landing of, lobsters and crawfish bearing a V notch or mutilated in such a manner as to obscure a V notch by both relevant British fishing boats and Scottish fishing boats (articles 3 and 4). The Order applies to Wales and to the territorial sea adjacent to Wales.

The Order also gives British sea-fishery officers further enforcement powers in relation to relevant British fishing boats and Scottish fishing boats within Wales and the territorial sea adjacent to Wales (article 5). They already have powers under section 15(2) of the Sea Fish (Conservation) Act 1967 ("the 1967 Act"), as amended by the Fisheries Act 1981, to seize any fish in respect of which an offence has been or is being committed under sections 5(1) and (6) of the 1967 Act.

By virtue of respectively sections 5(1) and 6(5) of the 1967 Act it is an offence to fish for or land such lobsters or crawfish in contravention of this Order. Section 5(6) of that Act provides that any fish caught in contravention of the Order shall (subject to section 9 of the 1967 Act) be returned to the sea forthwith. Section 5(7) provides that where subsection (6) is not complied with the master, the owner and the charterer (if any) of the fishing boat shall each be guilty of an offence.

siartrwr (os oes un), bob un yn euog o dramgywydd. Rhagnodir cosbau gan adran 11 o Ddeddf 1967, fel y'i diwygiwyd gan Ddeddf Pysgodfeydd 1981 a Deddf Cyflawnder Troseddol 1991.

Mae'r Gorchymyn hwn yn cael ei wneud drwy ddibynnu ar Erthygl 46.1 o Reoliad y Cyngor (EC) Rhif 850/98 (OJ Rhif L125, 27.4.98, t.1), ynghylch cadw adnoddau pysgodfeydd drwy gyfrwng mesurau technegol i ddiogelu rhai bach organeddau morol, sy'n awdurdodi'r Aelod-wladwriaethau i gymryd mesurau cenedlaethol penodol i gadw a rheoli stociau.

Penalties are prescribed by section 11 of the 1967 Act, as amended by the Fisheries Act 1981 and the Criminal Justice Act 1991.

This Order is made in reliance on Article 46.1 of Council Regulation (EC) No. 850/98 (OJ No. L125, 27.4.98, p.1), for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms, which authorises Member States to take certain national measures for the conservation and management of stocks.

2002 Rhif 676 (Cy.73)

PYSGODFEYDD, CYMRU
CADWRAETH PYSGOD MÔR

**Gorchymyn Cimychiaid a
Chimychiaid Cochion (Gwahardd
eu Pysgota a'u Glanio) (Cymru)
2002**

Wedi'u gwneud

12 Mawrth 2002

Yn dod i rym

1 Ebrill 2002

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adrannau 5(1), 6(1) a 15(3) o Ddeddf Pysgod Môr (Cadwraeth) 1967(a), a phob pŵer arall sy'n ei alluogi yn y cyswllt hwnnw(b), drwy hyn yn gwneud y Gorchymyn canlynol:

Enwi, cychwyn a chymhwysyo

1.-(1) Enw'r Gorchymyn hwn yw Gorchymyn Cimychiaid a Chimychiaid Cochion (Gwahardd eu Pysgota a'u Glanio) (Cymru) 2002 a daw i rym ar 1 April 2002.

(2) Mae'r Gorchymyn hwn yn gymwys mewn perthynas â Chymru (fel y mae wedi'i diffinio yn adran 155(1) o Ddeddf Llywodraeth Cymru 1998(c) yn unig.

Dehongli

2.-(1) Yn y Gorchymyn hwn -
ystyr "cimwch" ("lobster") yw cimwch o'r

(a) 1967, p.84. *Gweler* adran 22(2)(a) i gael y diffiniad o "the Ministers", fel y'i diwygiwyd gan adrannau 19(2)(d) a 45(b) o Ddeddf Pysgodfeydd 1981 (p.29). Amnewidiwyd adran 5(1) gan adran 22(1) o Ddeddf 1981. Amnewidiwyd adran 15(3) gan Ddeddf Pysgodfeydd Môr 1968 (p.77), Atodlen 1, paragraff 38(3) a'i diwygio gan Ddeddf Terfynau Pysgota 1976 (p.86), Atodlen 2, paragraff 16(1). Diwygiwyd adrannau 6(1) a 15(3) gan Orchymyn Deddf yr Alban 1998 (Addasiadau Canlyniadol) (Rhif 2) 1999 (O.S. 1999/1820), Atodlen 2, paragraff 43(2) a (6) yn y drefn honno. Addaswyd adrannau 5(1) a 6 o ran eu heffaith gan adran 33(1) o Ddeddf 1981.

(b) Trosglwyddodd Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) holl swyddogaethau Gweinidog y Goron o dan y Ddeddf hon (ac eithrio swyddogaethau'r Bwrdd Masnach mewn perthynas ag adran 8) i Gynulliad Cenedlaethol Cymru, i'r graddau y maent yn arferadwy mewn perthynas â Chymru.

(c) 1998 p.38.

2002 No. 676 (W.73)

SEA FISHERIES, WALES

CONSERVATION OF SEA FISH

**The Lobsters and Crawfish
(Prohibition of Fishing and
Landing) (Wales) Order 2002**

Made

12th March 2002

Coming into force

1st April 2002

The National Assembly for Wales, in exercise of the powers conferred on it by sections 5(1), 6(1) and 15(3) of the Sea Fish (Conservation) Act 1967(a) and of all other powers enabling it in that behalf(b), hereby makes the following Order:

Title, commencement and application

1.-(1) This Order is called the Lobsters and Crawfish (Prohibition of Fishing and Landing) (Wales) Order 2002 and comes into force on 1st April 2002.

(2) This Order applies in relation to Wales (as defined in section 155(1) of the Government of Wales Act 1998(c) only.

Interpretation

2.-(1) In this Order -

"crawfish" ("cimwch coch") means crawfish of

(a) 1967, c.84. See section 22(2)(a) for the definition of "the Ministers", as amended by sections 19(2)(d) and 45(b) of the Fisheries Act 1981 (c.29). Section 5(1) was substituted by section 22(1) of the 1981 Act. 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). Sections 6(1) and 15(3) were amended by the Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820), Schedule 2, paragraph 43(2) and (6) respectively. Sections 5(1) and 6 were modified in their effect by section 33(1) of the 1981 Act.

(b) By the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), all functions of a Minister of the Crown under this Act (except the functions of the Board of Trade in relation to section 8) were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales.

(c) 1998 c.38.

rhywogaeth *Homarus gammarus*;
 ystyr "cimwch coch" ("crawfish") yw cimwch coch o'r rhywogaeth *Palinurus elephas* a *Palinurus mauritanicus*;
 ystyr "llabed" ("flap"), mewn perthynas â chynffon cimwch neu gimwch coch, yw unrhyw ran o dair llabed ganolog ffan cynffon y cimwch neu'r cimwch coch gan gynnwys y telson gyda'r anws a'r iwropod de a chwth yn union yn ymyl y telson;
 ystyr "hollt V" ("V notch") yw marc ar siâp y llythyren "V" sy'n 5mm o leiaf o ddyfnder wedi'i dorri yn un o leiaf o iwropodau ffan cynffon cimwch neu gimwch coch, a phig y llythyren "V" wedi'i osod i mewn o ymyl y llabed;
 ystyr "wedi'i lurgunio" ("mutilated"), mewn perthynas â chimwch neu gimwch coch, yw cimwch neu gimwch coch sydd wedi'i lurgunio mewn modd sy'n cuddio hollt V.

(2) Yn y Gorchymyn hwn ystyr "unrhyw orchymyn cyfatebol" yw unrhyw orchymyn arall wedi'i wneud o dan adrannau 5 neu 6 o Ddeddf Pysgod Môr (Cadwraeth) 1967, sy'n gymwys i unrhyw ran o'r Deyrnas Unedig ac sy'n gwahardd pysgota am y canlynol, neu eu glanio, mewn unrhyw ran o'r Deyrnas Unedig:

- (i) cimwch wedi'i lurgunio,
- (ii) cimwch coch wedi'i lurgunio,
- (iii) unrhyw gimwch neu gimwch coch ac arno hollt V.

(3) At ddibenion y Gorchymyn hwn, pennir "y môr tiriogaethol cyfagos at Gymru" yn unol â darpariaethau adran 1 o Ddeddf Môr Tiriogaethol 1987(a) ac ag unrhyw ddarpariaethau a wnaed, neu sy'n dwyn effaith fel pe baent wedi'u gwneud, o dan yr adran honno. Pennir y ffin rhwng y rhannau hynny o'r môr yn Aberoedd Hafren a Dyfrdwy sydd i'w trin fel moroedd tiriogaethol cyfagos at Gymru, a'r rhannau nad ydynt i'w trin felly, yn unol ag Erthygl 6 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 ac Atodlen 3 iddo ym mhob achos.

Gwahardd pysgota

3.-(1) Mae'r erthygl hon yn gymwys i bysgota am y canlynol -
 (a) cimwch wedi'i lurgunio,
 (b) cimwch coch wedi'i lurgunio, neu
 (c) unrhyw gimwch neu gimwch coch ac arno hollt V.

(2) Mae pysgota gan gwch pysgota Prydeinig perthnasol o fewn y môr tiriogaethol cyfagos at Gymru wedi'i wahardd.

the species *Palinurus elephas* and *Palinurus mauritanicus*;

"flap" ("llabed") in relation to the tail of a lobster or crawfish, means any part of the central three flaps of the tail fan of the lobster or crawfish including the telson with anus and left and right uropod immediately adjacent to the telson;

"lobster" ("cimwch") means lobster of the species *Homarus gammarus*;

"mutilated" ("wedi'i lurgunio") in relation to a lobster or crawfish, means a lobster or crawfish which is mutilated in such a manner as to obscure a V notch;

"V notch" means a marking in the shape of the letter "V" with a depth of at least 5mm cut into at least one of the inner uropods of the tail fan of any lobster or crawfish, with the apex of the letter "V" positioned inward from the edge of the flap.

(2) In this Order the term "any equivalent order" means any other order made under sections 5 or 6 of the Sea Fish (Conservation) Act 1967, applying to any part of the United Kingdom, which prohibits fishing for, or the landing in any part of the United Kingdom of:

- (i) a mutilated lobster,
- (ii) a mutilated crawfish,
- (iii) any lobster or crawfish bearing a V notch.

(3) For the purposes of this Order, "the territorial sea adjacent to Wales" shall be determined in accordance with the provisions of section 1 of the Territorial Sea Act 1987(a) and with any provisions made or having effect as if made under that section. The boundary between those parts of the sea within the Severn and Dee Estuaries which are to be treated as being territorial seas adjacent to Wales, and those which are not, shall in each case be determined in accordance with Article 6 and Schedule 3 of the National Assembly for Wales (Transfer of Functions) Order 1999.

Fishing prohibition

3.-(1) This article applies to fishing for -
 (a) a mutilated lobster,
 (b) a mutilated crawfish, or
 (c) any lobster or crawfish bearing a V notch.

(2) Fishing by a relevant British fishing boat within the territorial sea adjacent to Wales is prohibited.

(a) 1987 p.47.

(a) 1987 c.47.

(3) Mae pysgota gan gwch pysgota Albanaidd o fewn y môr tiriogaethol cyfagos at Gymru wedi'i wahardd.

Gwahardd glanio

- 4.-(1) Mae'r erthygl hon yn gymwys i'r canlynol -
- (a) cimwch wedi'i lurgunio,
 - (b) cimwch coch wedi'i lurgunio, neu
 - (c) unrhyw gimwch neu gimwch coch ac arno hollt V;

sydd wedi eu dal.

(2) Mae glanio unrhyw bysgod môr y mae'r erthygl hon yn gymwys iddynt yng Nghymru oddi ar gwch pysgota Prydeinig perthnasol neu gwch pysgota Albanaidd wedi'i wahardd.

Pwerau swyddogion pysgodfeydd môr Prydeinig mewn perthynas â chyched pysgota

5.-(1) Er mwyn gorfodi adrannau 5 a 6 o Ddeddf Pysgod Môr (Cadwraeth) 1967, fel y'u darllenir gyda'r Gorchymyn hwn neu unrhyw orchymyn cyfatebol, caiff swyddog pysgodfeydd môr Prydeinig arfer y pwerau a roddir gan baragraffau (2) i (4) isod mewn perthynas ag unrhyw gwch pysgota Prydeinig perthnasol neu gwch pysgota Albanaidd o fewn y môr tiriogaethol cyfagos at Gymru.

(2) Caiff y swyddog fynd ar fwrdd y cwch, gyda phersonau a neilltuwyd i'w gynorthwyo gyda'i ddyletswyddau neu hebddynt, ac at y diben hwnnw caiff ei gwneud yn ofynnol bod y cwch yn stopio ac yn gwneud unrhyw beth arall a fyddai yn ei gwneud yn hwylus i fynd ar fwrdd y cwch.

(3) Caiff y swyddog fynnu presenoldeb y meistr ac unrhyw bersonau eraill sydd ar fwrdd y cwch a chaiff wneud unrhyw archwiliad ac ymholiadau sy'n ymddangos i'r swyddog yn angenrheidiol at y diben a grybwyllyd ym mharagraff (1) uchod ac, yn benodol

- (a) caiff archwilio unrhyw bysgod ar y cwch a chyfarpar y cwch, gan gynnwys yr offer pysgota, a'i gwneud yn ofynnol bod personau sydd ar fwrdd y cwch yn gwneud unrhyw beth sy'n ymddangos i'r swyddog yn angenrheidiol ar gyfer hwyluso'r archwilio;
- (b) caiff ei gwneud yn ofynnol bod unrhyw berson sydd ar fwrdd y cwch yn cyflwyno unrhyw ddogfen sy'n ymwneud â'r cwch, ei weithrediadau pysgota neu unrhyw weithrediadau ategol iddynt, neu'n ymwneud â'r personau sydd ar fwrdd y cwch, sydd yng nghadwraeth neu feddiant y person hwnnw a chaiff gymryd copïau o unrhyw ddogfen o'r fath;
- (c) er mwyn canfod a yw meistr, perchennog neu siartrwr y cwch wedi cyflawni tramgwydd o

(3) Fishing by a Scottish fishing boat within the territorial sea adjacent to Wales is prohibited.

Landing prohibition

- 4.-(1) This article applies to -
- (a) a mutilated lobster,
 - (b) a mutilated crawfish, or
 - (c) any lobster or crawfish bearing a V notch;

that have been caught.

(2) The landing in Wales of any sea fish to which this article applies from a relevant British fishing boat or a Scottish fishing boat is prohibited.

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

5.-(1) For the purpose of the enforcement of sections 5 and 6 of the Sea Fish (Conservation) Act 1967, as read with this Order or any equivalent order, a British sea-fishery officer may exercise in relation to any relevant British fishing boat or Scottish fishing boat within the territorial sea adjacent to Wales the powers conferred by paragraphs (2) to (4) below.

(2) The officer may go on board the boat, with or without persons assigned to assist him or her in his or her duties, and for that purpose may require the boat to be stopped and do anything else that would facilitate the boarding of the boat.

(3) The officer 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 or her 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 the officer 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 relating to the persons on board, that is in that person's 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

dan adran 5(1), 5(6) neu 6(5) o Ddeddf Pysgod Môr (Cadwraeth) 1967(a) fel y'u darllenir gyda'r Gorchymyn hwn neu unrhyw orchymyn cyfatebol, caiff chwilio'r cwch am unrhyw ddogfen o'r fath a gall ei gwneud yn ofynnol bod unrhyw berson ar fwrdd y cwch yn gwneud unrhyw beth sy'n ymddangos i'r swyddog yn angenrheidiol ar gyfer hwyluso'r chwilio;

- (ch) os oes gan y swyddog reswm dros amau bod tramgwydd o'r fath wedi'i gyflawni mewn perthynas â'r cwch, caiff gipio a chadw unrhyw ddogfen o'r fath a gyflwynir iddo neu y deur o hyd iddi ar fwrdd y cwch er mwyn galluogi defnyddio'r ddogfen fel dystiolaeth mewn achos ynghylch y tramgwydd;

ond fydd dim yn is-baragraff (ch) uchod yn caniatâu cipio a chadw unrhyw ddogfen y mae'r gyfraith yn mynnu ei bod yn cael ei chario ar fwrdd y cwch, ac eithrio pan fydd y cwch yn cael ei gadw mewn porthladd.

(4) Pan fydd yn ymddangos i swyddog pysgodfeydd môr Prydeinig fod y Gorchymyn hwn, neu unrhyw orchymyn cyfatebol, wedi'i dorri ar unrhyw adeg o fewn terfynau pysgodfeydd Prydain, fe gaiff y swyddog -

- (a) ei gwneud yn ofynnol bod meistr y cwch y torrwyd y gorchymyn mewn perthynas ag ef yn mynd â'r cwch a'i griw i'r porthladd sy'n ymddangos i'r swyddog fel y porthladd cyfleus agosaf, neu caiff y swyddog wneud hynny ei hun; a
- (b) cadw'r cwch yn y porthladd, neu ei gwneud yn ofynnol bod y meistr yn ei gadw yno;

a phan fydd swyddog o'r fath yn cadw cwch, neu'n ei gwneud yn ofynnol bod cwch yn cael ei gadw, rhaid iddo gyflwyno hysbysiad ysgrifenedig i'r meistr yn datgan y bydd angen, neu fod angen, cadw'r cwch hyd oni thynnir yr hysbysiad yn ôl drwy gyflwyno hysbysiad ysgrifenedig arall i'r meistr wedi'i lofnodi gan swyddog pysgodfeydd môr Prydeinig.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998.

12 Mawrth 2002

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

committed an offence under section 5(1), 5(6) or 6(5) of the Sea Fish (Conservation) Act 1967(a) 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 the officer to be necessary for facilitating the search; and

- (d) where the boat is one in relation to which the officer has reason to suspect that such an offence has been committed, may seize and detain any such document produced to him or her 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 the officer may -

- (a) require the master of the boat in relation to which the contravention took place to take, or the officer may personally take, the boat and its crew to the port which appears to the officer 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 or she 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.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998.

12th March 2002

The Presiding Officer of the National Assembly

- (a) Diwygiwyd adran 5(6) gan Ddeddf Pysgodfeydd 1981 (p.29), adran 22(2). Diwygiwyd adran 6(5) gan adran 23(3) o Ddeddf 1981. Yn rhinwedd adran 5(7) o Ddeddf 1967 os na chydymffurfir ag adran 5(6) yn achos unrhyw gwch pysgota, mae'r meistr, y perchen nog a'r siartrwr (os oes un) yn euog o dramgwydd o dan is-adran (6).

- (a) Section 5(6) was amended by the Fisheries Act 1981 (c.29), section 22(2). Section 6(5) was amended by section 23(3) of the 1981 Act. By virtue of section 5(7) of the 1967 Act where section 5(6) is not complied with in the case of any fishing boat, the master, the owner and the charterer (if any) are guilty of an offence under sub-section (6).

2002 Rhif 676 (Cy.73)

PYSGODFEYDD, CYMRU

CADWRAETH PYSGOD MÔR

Gorchymyn Cimychiaid a
Chimychiaid Cochion (Gwahardd
eu Pysgota a'u Glanio) (Cymru)
2002

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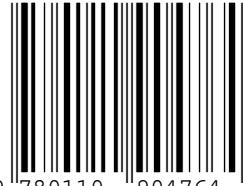
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