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## The need to take an observer on board, appointment of an observer, requirements for the observer, tasks of the observer and the procedure and form of submitting the collected data

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### Amended by the following acts

Reception	Publication	Enforcement
08.12.2019	RT I, 12.12.2019, 8	15.12.2019
13.12.2020	RT I, 18.12.2020, 2	01.01.2021
07/07/2023	RT I, 15.07.2023, 1	18.07.2023

The Regulation is established on the basis of subsections 1, 2, 4 and 5 of § 68 of the Fishing Act .

## Chapter 1 General settings

### § 1. Scope of regulation

The regulation establishes the requirements and duties of an observer assigned to a fishing vessel with an Estonian flag document, as well as the procedure and form of submission of data collected by the observer, the scope of coverage with observers and the procedure for determining the period of the observer and his activity, if it is not regulated by European Union legislation or international agreements, in the following fishing areas: 1

) Regulation (EU) No. 2019/833 of the European Parliament and of the Council establishing the conservation and implementation measures applicable in the regulatory area of the Northwest Atlantic Fisheries Organization, amending Regulation (EU) 2016/1627 and repealing Council Regulations (EC) No. 2115/2005 and (EC) No. 1386/2007 (OJ L 141, 28.05.2019, pp. 1–41), on the basis of Article 27 of the Northwest Atlantic Fisheries Organization (hereinafter *NAFO*) in the regulated area;  
[ RT I, 12.12.2019, 8 - enters into force. 15.12.2019]

2) Regulation (EU) No. 2016/2336 of the European Parliament and the Council establishing special conditions for fishing deep-sea fish stocks in the North-East Atlantic and fishing provisions in the international waters of the North-East Atlantic and repealing Council Regulation (EC) No. 2347/2002 (OJ L 354/1, 14.12.2016), in the area provided for in paragraph 5 of Article 16;

3) Regulation (EU) No 2017/1004 of the European Parliament and of the Council establishing a Union framework for the collection, management and use of data in the fisheries sector and supporting scientific advice related to the common fisheries policy and repealing Council Regulation (EC) No 199/2008 (OJ L 157, 20.06.2017, pages 1–21) in fishing areas determined by the national work plan (hereinafter *the national work plan* ) approved on the basis of Articles 10 and 11;

4) in accordance with Article 11 of Council Regulation (EC) No. 734/2008 on the protection of vulnerable offshore ecosystems from the harmful effects of fishing gear (OJ L 201, 15.07.2008, pp. 8–13), when fishing with bottom gear in offshore areas outside the areas of responsibility of fisheries organizations ;

5) Regulation (EU) 2019/1241 of the European Parliament and of the Council concerning the protection of fish stocks and marine ecosystems by means of technical measures and amending Council Regulations (EC) No. 2019/2006, (EC) No. 1224/2009 and Regulations (EU) of the European Parliament and of the Council No. 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 and repealing Council Regulations (EC) No. 894/97, (EC) No. 850 /98, (EC) No. 2549/2000, (EC) No. 254/2002, (EC) No. 812/2004 and (EC) No. 2187/2005 (OJ L 198, 25.7.2019, pp. 105–201), Article 25 and in accordance with Annex XII when fishing in the waters of the member state of the coastal state or in the waters of sub-divisions 1 and 2 of the North-East Atlantic Fisheries Commission.

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### § 2. The need to take an observer on board

The holder of a fishing permit (hereinafter *the entrepreneur* ) and the captain of a fishing vessel with an Estonian flag document must take an observer on board, taking into account the appointment conditions set forth in §§ 12–15 of this regulation:

1) in the case provided for in Council Regulation (EC) No. 2019/833;

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2) according to the national work plan approved by the European Commission;

3) [invalidated - RT I, 12.12.2019, 8 - entered into force. 15.12.2019] 4) on the basis of Article 16 paragraph 5 of Regulation (EU) No. 2016/2336 of the European Parliament and of the Council in the regulated area of the North-East Atlantic Fisheries Committee (NEAFC) in bottom trawling of deep-sea fish species; 5)

when fishing with bottom fishing gear outside the validity areas of fishing zones in accordance with Article 11 of Council Regulation (EC) No. 734/2008;

6) in the case stipulated in the regulation established annually by the Council of Europe, which determines the fishing opportunities for certain fish stocks and groups of fish stocks and the conditions that apply in Community waters and to Community fishing vessels in waters with fishing restrictions;

7) on the basis of Article 25 of Regulation (EU) No. 2019/1241 of the European Parliament and of the Council;

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8) in the case provided for in paragraph 1 of Article 73 of Council Regulation (EC) No. 1224/2009.

[ RT I, 12.12.2019, 8 - enters into force. 15.12.2019]

## **Chapter 2**

### **Requirements for the observer and tasks of the observer**

#### **§ 3. Requirements for the observer**

(1) The observer's education, knowledge, skills and experience must be as follows:

1) at least secondary education;

2) Knowledge of the legislation regulating fishing of the Republic of Estonia and the European Union, the fishing requirements applicable in the water area regulated by international fisheries organizations, and the legislation regulating other duties arising from the position, and the ability to implement them;

3) sufficient knowledge to identify fish species and fishing gear;

4) knowledge and ability to use communication and navigation equipment and relevant safety training;

5) the ability to collect primary data for scientific research, including collecting samples and making accurate observations and records;

6) other knowledge and skills required for the position.

(2) The observer must be independent from the company and the captain on whose ship he performs the observer's duties.

#### **§ 4. Data collected by the observer**

(1) The observer collects data:

1) on the live weight and species composition of fish on board and thrown back, including undersized fish, fish catch, time, place, depth and time the trap is in the water by fishing operations. The fishing location is determined by latitude and longitude;

2) on the weight of the production by species, in case the fish is processed on board;

3) on the type of fishing gear used on the ship, the size of the mesh, the fastening methods and the structures of the net traps;

4) on inspections organized on the ship;

5) scientific data prescribed in the national work plan;

6) other relevant data, including incidental bycatch of mammals, birds, reptiles and invertebrates.

(2) [Repealed - RT I, 12.12.2019, 8 - entry into force. 15.12.2019]

#### **§ 5. Sampling plan used by the observer**

The observer collects data on discards and discards following the sampling plan described in the National Work Plan or NAFO Conservation and Enforcement Measures when fishing in a NAFO Regulatory Area. If the national work plan or the NAFO conservation and implementation measures do not provide for a sampling plan, the following sampling plan is used:

1) for each species, the total weight of the catch by species and the weight of the fish released into the water by species are indicated;

2) a random sample is taken from at least one species per day, which is sorted and the length indicators of all the most important species are recorded for both the part of the catch that is landed and the part that is put back into the water.

#### **§ 6. Additional tasks of the observer in the regulated area of NAFO**

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(1) In addition to the duties provided for in § 4 of this regulation, the observer performs the duties provided for in Article 27(11) of Council Regulation (EU) No. 2019/833.

(2) When checking the production diary, a conversion factor suitable for the type of fish and product is used to obtain the live weight of the fish, which is determined in accordance with § 11 of this regulation.

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#### **§ 7. Notification obligations of the observer**

(1) The observer shall immediately inform the master of discovered inconsistencies between the vessel's fishing activities and the requirements stipulated in the legislation.

(2) If the observer detects an obvious violation of the requirements, the observer shall inform the Environmental Board within 24 hours or as soon as possible.

[ RT I, 18.12.2020, 2 - enters into force. 01.01.2021]

#### **§ 8. Requirements for the performance of the duties of the observer**

(1) The observer ensures that his presence on board the fishing vessel does not disturb the proper functioning of the vessel, including fishing activities.

(2) The observer must keep secret the data that has become known in the performance of official duties, which constitute a business secret, if the disclosure of this data does not result from legislation.

## **Chapter 3**

### **Procedure and form of submission of data collected by the observer**

#### **§ 9. Reports of the observer**

(1) In the case provided for in Clause 1 of § 2 of this Regulation, the observer submits a report in the form required by the NAFO protection and implementation measures.

(2) In the cases provided for in points 2 and 4–8 of § 2 of this Regulation, the observer submits a report in the form provided in Appendix 1 of this Regulation.

[ RT I, 12.12.2019, 8 - enters into force. 15.12.2019]

(3) [Repealed - RT I, 12.12.2019, 8 - entry into force. 15.12.2019]

#### **§ 10. Method and time of submission of catch data**

(1) In the case provided for in clause 2, clause 1 of this regulation, the observer submits the report described in clause 9, clause 1 of this regulation at the times specified in the NAFO protection and implementation measures to the NAFO Secretariat, the European Commission, the Environment Agency and the Ministry of Regional Affairs and Agriculture.

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(2) Within 20 days after the end of the observation period, the observer shall submit the report specified in Appendix 1 to the Ministry of Regional Affairs and Agriculture, and the "Ship inspection information" part of the report to the Environmental Board at the same time.

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(3) The observer shall submit the report specified in Appendix 2 of this Regulation to the Ministry of Regional Affairs and Agriculture within 20 days after the end of the observation period.

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(4) Reports are transmitted via e-mail or in another way at the request of the recipient of the report.

#### **§ 11. Production conversion factor**

(1) The production conversion factor is determined by Commission Implementing Regulation (EU) No. 404/2011 establishing the detailed implementing rules of Council Regulation (EC) No. 1224/2009 (establishing a Community control system to ensure compliance with the rules of the common fisheries policy) (OJ L 112, 30.04.2011, pages 1–153), in Article 49.

(2) If the regulation specified in subsection 1 of this section does not stipulate the necessary conversion factor or the regulation does not apply in the fishing area, the regulation valid in the relevant area is used as the production conversion factor or the production conversion factor is found by performing the following sequential actions: 1) a random sample is taken from the catch to be processed ;

2) the number and weight of fish before processing, i.e. live weight, are recorded;

3) the sample specified in point 1 of this subsection is processed by the team using standard processing methods;

4) the processed finished product specified in point 3 of this subsection is counted and weighed, obtaining the processed weight;

5) the conversion factor is obtained by dividing the live weight specified in point 2 of this subsection by the processed weight specified in point 4 of this subsection.

### **Chapter 4**

#### **Appointment of observers to vessels fishing in the NAFO Regulatory Area**

##### **§ 12. Reduction of coverage with observers**

Pursuant to paragraph 3 of Article 27 of Council Regulation (EU) No. 2019/833, the coverage with observers on vessels fishing in the NAFO regulated area is reduced to 75% of the time the vessel or vessels are fishing in the NAFO regulated area during the calendar year. The time spent fishing is measured in fishing days.

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##### **§ 13. Time period of observers' activities**

(1) The period of the observer's activity in the following calendar year shall be determined by the Environment Agency in cooperation with the Ministry of Regional Affairs and Agriculture and the entrepreneur who wishes to apply for a fishing permit in the NAFO-regulated area for the following calendar year, based on the forecasted fishing plan, taking into account the needs of the national work plan and the requirements of NAFO's protection and implementation measures. The appointment of observers ensures a balance between fishing vessels fishing for different species and in different areas.

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(2) [Repealed - RT I, 12.12.2019, 8 - entry into force. 15.12.2019]

(3) The Ministry of Regional Affairs and Agriculture informs the European Commission of the reduction of activities with observers as early as possible before the start of the fishing trip, in accordance with the provisions of Article 27(3) of Regulation (EU) No. 2019/833 of the European Parliament and of the Council.

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(4) The Ministry of Regional Affairs and Agriculture submits to the European Commission every year before the vessels start fishing in the fishing area regulated by NAFO, and then immediately after the appointment of each new observer, a list of observers who can perform observer duties on vessels sailing under the Estonian flag in the regulated area of NAFO.

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### **Chapter 5**

#### **Appointment of observers to vessels fishing outside the NAFO Regulatory Area**

##### **§ 14. Scope of coverage with observers**

(1) [Repealed - RT I, 12.12.2019, 8 - entry into force. 15.12.2019]

(2) On every fishing trip of a fishing vessel, an observer must be on board if fishing is carried out with bottom gear in areas of the open sea that are outside the areas of responsibility of fishing organizations.

(3) In the NEAFC area, an observer must be on board a fishing vessel fishing for deep-sea species with a bottom trawl for at least 10% of the fishing time.

(4) In addition to what is stipulated in subsection 3 of this section, an observer must be on board the fishing vessel in the event that it is necessary for the collection of scientific samples from commercial fishing as stipulated in the national work plan.

[ RT I, 12.12.2019, 8 - enters into force. 15.12.2019]

(5) [Repealed - RT I, 12.12.2019, 8 - entry into force. 15.12.2019]

(6) An observer must be on board the fishing vessel if it is necessary in the cases arising from clauses 6-8 of § 2 of this regulation.

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#### **§ 15. Determining the period of activity of observers**

(1) The period of observers' activities to fulfill the conditions of § 14 (3) of this regulation is determined by the Environmental Board in cooperation with the Ministry of Regional Affairs and Agriculture and the company. The time period of the observers' activities is determined based on the needs of the national work plan, trying to ensure uniform coverage of the observations in different regions and during the fishing season.

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(2) The period of observers' activities to fulfill the conditions of § 14 (4) of this regulation is determined by the Ministry of Regional Affairs and Agriculture in cooperation with the entrepreneur. The time period of the observers' activities is determined based on the needs of the national work plan, trying to ensure uniform coverage of the observations in different regions and during the fishing season.

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## **Chapter 6 Application setting**

#### **§ 16. Revocation of the regulation**

[Omitted from this text.]

Appendix 1 Observer's report

Appendix 2 Whale watching and trawling monitoring report

[Repealed - RT I, 12.12.2019, 8 - entered into force. 15.12.2019]