



STATUTORY INSTRUMENTS.

S.I. No. 8 of 2011

SEA-FISHERIES (RECORDING OF FISH) REGULATIONS 2011

(Prn. A11/0083)

SEA-FISHERIES (RECORDING OF FISH) REGULATIONS 2011

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S.I. No. 8 of 2011

SEA-FISHERIES (RECORDING OF FISH) REGULATIONS 2011

I, SEAN CONNICK, Minister of State at the Department of Agriculture, Fisheries and Food, in exercise of the powers conferred on me by sections 3 and 14 of the Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8 of 2006) and the Sea-Fisheries, Foreshore and Dumping at Sea (Transfer of Departmental Administration and Ministerial Functions) Order 2007 (S.I. No. 707 of 2007) and the Agriculture, Fisheries and Food (Delegation of Ministerial Functions) Order 2010 (S.I. No. 303 of 2010) (as adapted by the Agriculture and Food (Alteration of Name of Department and Title of Minister) Order 2007 (S.I. No. 705 of 2007)), for the purpose of giving full effect to Commission Regulation (EEC) No. 2807/83 of 22 September 1983¹ (as amended by Commission Regulation (EEC) No. 473/89 of 24 February 1989², Commission Regulation (EEC) No. 2945/95 of 20 December 1995³, Commission Regulation (EC) No. 395/98 of 19 February 1998⁴, Commission Regulation (EC) No. 1488/98 of 13 July 1998⁵, Commission Regulation (EC) No. 2737/99 of 21 December 1999⁶, Commission Regulation (EC) No. 1965/2001 of 8 October 2001⁷, Commission Regulation (EC) No. 1804/2005 of 3 November 2005⁸ and Commission Regulation (EC) No. 409/2009 of 18 May 2009⁹), Council Regulation (EEC) No. 2847/93 of 12 October 1993¹⁰ (as amended by Council Regulation (EC) No. 2870/95 of 8 December 1995¹¹, Council Regulation (EC) No. 2489/96 of 20 December 1996¹², Council Regulation (EC) No. 686/97 of 14 April 1997¹³, Council Regulation (EC) No. 2205/97 of 30 October 1997¹⁴, Council Regulation (EC) No. 2635/97 of 18 December 1997¹⁵, Council Regulation (EC) No. 2846/98 of 17 December 1998¹⁶, Council Regulation (EC) No. 1954/2003 of 4 November 2003¹⁷, Council Regulation (EC) No. 768/2005 of 26 April 2005¹⁸, and Council Regulation (EC) No. 1006/2008 of 29 September 2008¹⁹), Commission Regulation (EC) No. 409/2009

¹O.J. L 276 of 10.10.1983, 1.

²O.J. L 53 of 25.2.1989, 34.

³O.J. L 308 of 21.12.1995, 18.

⁴O.J. L 50 of 20.2.1998, 17.

⁵O.J. L 196 of 14.7.1998, 3.

⁶O.J. L 328 of 22.12.1999, 54.

⁷O.J. L 268 of 9.10.2001, 23.

⁸O.J. L 290 of 4.11.2005, 10.

⁹O.J. L 123 of 19.5.2009, 78.

¹⁰O.J. L 261 of 20.10.1993, 1.

¹¹O.J. L 301 of 14.12.1995, 1.

¹²O.J. L 338 of 28.12.1996, 12.

¹³O.J. L 102 of 19.4.1997, 1.

¹⁴O.J. L 304 of 7.11.1997, 1.

¹⁵O.J. L 356 of 31.12.1997, 14.

¹⁶O.J. L 358 of 31.12.1998, 5.

¹⁷O.J. L 289 of 7.11.2003, 1.

¹⁸O.J. L 128 of 21.5.2005, 1.

¹⁹O.J. L 286 of 29.10.2008, 33.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 21st January, 2011.*

of 18 May 2009²⁰ (as amended by Commission Regulation (EC) No. 1282/2009 of 22 December 2009²¹) and Council Regulation (EC) No. 1224/2009 of 20 November 2009²², hereby make the following regulations:

Citation

1. These Regulations may be cited as the Sea-Fisheries (Recording of Fish) Regulations 2011.

Interpretation

2. (1) In these Regulations—

“Commission Regulation” means Commission Regulation (EEC) No. 2807/83 of 22 September 1983 as amended by Commission Regulation (EEC) No. 473/89 of 24 February 1989, Commission Regulation (EEC) No. 2945/95 of 20 December 1995, Commission Regulation (EC) No. 395/98 of 19 February 1998, Commission Regulation (EC) No. 1488/98 of 13 July 1998, Commission Regulation (EC) No. 2737/99 of 21 December 1999, Commission Regulation (EC) No. 1965/2001 of 8 October 2001, Commission Regulation (EC) No. 1804/2005 of 3 November 2005 and Commission Regulation (EC) No. 409/2009 of 18 May 2009;

“Control Regulation” means Council Regulation (EC) No. 1224/2009 of 20 November 2009;

“sell” includes offer, expose or keep for sale, invite an offer to buy, or distribute for reward or otherwise (whether directly or through another person);

“supply” means to give without reward.

(2) A word or expression that is used in the Commission Regulation, Commission Regulation (EC) No. 2847/93 of 12 October 1993, Commission Regulation (EC) No. 409/2009 of 18 May 2009 or the Control Regulation and that is also used in these Regulations has, in these Regulations, the same meaning as it has in the act of the institution of the European Union in which it occurs.

Contravention of Commission Regulation (EC) No. 2807/83

3. A person shall not contravene—

- (a) Article 1 or 1a, which refer to recording information in a logbook,
- (b) Article 2, which refers to completing a landing or transhipment declaration,
- (c) Article 3, which refers to information to be communicated to the flag state,
- (d) Article 3a, which refers to radio communication, or
- (e) Article 5(2), which refers to tolerances,

²⁰O.J. L 123 of 19.5.2009, 78.

²¹O.J. L 344 of 23.12.2009, 31.

²²O.J. L 343 of 22.12.2009, 1.

of the Commission Regulation in relation to—

- (i) a sea-fishing boat within the exclusive fishery limits of the State,
- (ii) an Irish sea-fishing boat wherever it may be, or
- (iii) a person engaged in buying, handling, weighing, transshipping, transporting, landing, processing, storing, documenting or selling fish within the State or the exclusive fishery limits of the State.

Contravention of Commission Regulation (EC) No. 409/2009 (Conversion factors)

4. (1) A person shall not contravene Article 6, which refers to the use of community conversion factors in a logbook, landing declaration and transshipment declaration, of Commission Regulation (EC) No. 409/2009 of 18 May 2009 (as amended by Commission Regulation (EC) No. 1282/2009 of 22 December 2009) in relation to—

- (a) a sea-fishing boat within the exclusive fishery limits of the State,
- (b) an Irish sea-fishing boat wherever it may be, or
- (c) a person engaged in buying, handling, weighing, transshipping, transporting, landing, processing, storing, documenting or selling fish within the State or the exclusive fishery limits of the State.

(2) A person shall not use any equipment or machinery for weighing fish unless a calibration certificate relating to the equipment or machinery has been issued by the manufacturer or The Legal Metrology Service of the National Standards Authority of Ireland.

Contravention of Regulation (EC) No. 2847/93

5. (1) A person shall not contravene—

- (a) Article 6 (other than paragraphs (5), (6) and (8)), which relates to keeping a logbook,
- (b) Article 8(1), which relates to making a landing declaration,
- (c) until 1 January 2011, Article 9(5), which refers to the submission of sales notes, take-over declarations and transport documents,
- (d) until 1 January 2011, Article 13 (other than paragraphs (5), (6), (7) and (7a)), which relates to use and submission of transport documents, or
- (e) Article 11(1), which relates to transshipments,

of Council Regulation (EC) No. 2847/93 of 12 October 1993 in relation to—

- (i) a sea-fishing boat within the exclusive fishery limits of the State,

(ii) an Irish sea-fishing boat wherever it may be, or

(iii) a person engaged in buying, handling, weighing, transshipping, transporting, landing, processing, storing, documenting or selling fish within the State or the exclusive fishery limits of the State.

(2) Paragraph (1)(a) ceases to have effect on the entry into force of rules implementing Article 14 of the Control Regulation.

(3) Paragraph (1)(b) ceases to have effect on the entry into force of rules implementing Article 23 of the Control Regulation.

(4) Paragraph (1)(e) ceases to have effect on the entry into force of rules implementing Article 21 of the Control Regulation.

Contravention of Control Regulation (EC) No. 1224/2009

6. (1) A person shall not contravene—

(a) Article 8(1), which refers to marking and identification of fishing gear,

(b) Article 9(2) or (6), which refer to having a functioning vessel monitoring system,

(c) Article 10(1), which refers to having an automatic identification system,

(d) Article 20(1), which refers to transshipment at sea,

(e) Article 27, which refers to notification of fishing gear, or

(f) Article 28(1), which refers to fishing effort reporting,

of the Control Regulation in relation to—

(i) a sea-fishing boat within the exclusive fishery limits of the State,

(ii) an Irish sea-fishing boat wherever it may be, or

(iii) a person engaged in buying, handling, weighing, transshipping, transporting, landing, processing, storing, documenting or selling fish within the State or the exclusive fishery limits of the State.

(2) A person shall not contravene—

(a) Article 29(1), which refers to conditions of transit,

(b) Article 30, which refers to measures when fishing effort is exhausted,

(c) Article 42(1) or (2), which restricts transshipment, or

(d) Article 44, which refers to separate storage of different species,

(e) Article 47, which refers to stowage of fishing gear,

- (f) Article 48 (other than paragraphs (4) and (5)), which refers to recovery of fishing gear,
- (g) Article 49(1), which refers to catch composition,
- (h) Article 50(3) or (4), which refer to fishing in and transit through restricted areas,
- (i) Article 52, which refers to exceeding a trigger catch level,
- (j) Article 55(2), which prohibits marketing of catches from recreational fisheries,
- (k) Article 56(2), which refers to the relevant geographical area of origin of products,
- (l) Article 57(3), which refers to compliance with minimum marketing standards,
- (m) Article 62(1), 62(5), or 63(1), which refer to the completion and submission of sales notes,
- (n) Article 66(1), which refers to the completion and submission of a take over declaration, or
- (o) Article 75(1), which refers to facilitation of safe access and related matters,

of the Control Regulation in relation to—

- (i) a sea-fishing boat within the exclusive fishery limits of the State,
 - (ii) an Irish sea-fishing boat wherever it may be, or
 - (iii) a person engaged in buying, handling, weighing, transshipping, transporting, landing, processing, storing, documenting or selling fish within the State or the exclusive fishery limits of the State.
- (3) A person shall not contravene—
- (a) Article 43(2), which refers to designated landing ports or places,
 - (b) Article 58(1), which refers to traceability,
 - (c) Article 58(2), which refers to labelling,
 - (d) Article 58(3), which refers to merging or splitting of lots,
 - (e) Article 58(5), which refers to labelling,
 - (f) Article 67(1), which refers to the completion and submission of a take over declaration,

- (g) Article 68(1), (3), (4), or (7), which refer to the completion and submission of a transport document,
- (h) Article 73(7), which refers to co-operation with control observers, or
- (i) Article 84(4), which refers to proceeding to port,

of the Control Regulation in relation to—

- (i) a sea-fishing boat within the exclusive fishery limits of the State,
- (ii) an Irish sea-fishing boat wherever it may be, or
- (iii) a person engaged in buying, handling, weighing, transshipping, transporting, landing, processing, storing, documenting or selling fish within the State or the exclusive fishery limits of the State.

(4) From the date of entry into force of rules implementing them, a person shall not contravene—

- (a) Article 6(1), which refers to having a valid fishing licence,
- (b) Article 7(1), which refers to having a valid fishing authorisation,
- (c) Article 14 (other than paragraph (10)), which refers to completion and submission of a fishing logbook,
- (d) Article 21 (except paragraphs (6) and (7)), which refers to the completion and submission of a transshipment declaration, or
- (e) Article 23 (except paragraph (5)), which refers to the completion and submission of a landing declaration,

of the Control Regulation in relation to—

- (i) a sea-fishing boat within the exclusive fishery limits of the State,
- (ii) an Irish sea-fishing boat wherever it may be, or
- (iii) a person engaged in buying, handling, weighing, transshipping, transporting, landing, processing, storing, documenting or selling fish within the State or the exclusive fishery limits of the State.

(5) An operator shall not contravene Article 58(4) of the Control Regulation, which requires that systems and procedures are in place to identify—

- (a) a person who has supplied the operator with lots of fishery products,
or
- (b) a person to whom the operator has supplied fishery products.

(6) A person shall not contravene Article 58(5)(h) and (g) of the Control Regulation which requires that information detailed is readily available and easily legible on a label that accompanies, or a notice that is placed adjacent to fish, being sold or supplied.

Additional duties of master of an Irish sea-fishing boat

7. (1) The master of an Irish sea-fishing boat shall, when completing the logbook, include particulars—

- (a) regarding the capacity of gear used in accordance with column 2 of Annex VI to the Commission Regulation,
- (b) of the number of fishing operations in accordance with column 3 of Annex VI to the Commission Regulation, and
- (c) of fishing time in accordance with point 2.4.1 of Annex IV to the Commission Regulation.

Forgery

8. (1) A person shall not forge or utter knowing it to be forged a logbook or landing declaration, an entry in—

- (a) a logbook, landing declaration, transshipment declaration or transport document,
- (b) an entry in a logbook, landing declaration, transshipment declaration or transport document, or
- (c) a document purporting to be an extract of a logbook, landing declaration or transport document,

(hereafter in this Regulation referred to as “a forged document”).

(2) A person shall not alter with intent to defraud or deceive, or utter knowing it to be altered—

- (a) a logbook, landing declaration, transshipment declaration or transport document,
- (b) an entry in a logbook, landing declaration, transshipment declaration or transport document,
- (c) a document purporting to be an extract of a logbook, landing declaration, transshipment declaration or transport document,

(hereafter in this Regulation referred to as “an altered document”).

(3) A person shall not have, without lawful authority, in his or her possession or under his or her control a forged document or an altered document.

Functions of Fisheries Monitoring centre

9. (1) The authority within the State to which data must be transmitted is the Fisheries Monitoring Centre, Naval Base, Haulbowline, Co. Cork (telephone: + 353 21 437 8752 or + 1890 252081, facsimile: + 353 21 437 8096 or electronic mail (fmcireland@defenceforces.ie)).

(2) A certificate purporting to be signed by an officer of the Naval Service and to certify that on a specific day or days or during the whole of a specified period information required to be communicated was not received by the Fisheries Monitoring Centre is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the Naval Service, evidence, unless the contrary is shown, of the matters stated in the certificate and that the information was not transmitted.

Contravention of these Regulations

10. A person shall not contravene Regulation 7 or 8 of these Regulations.

Proof of European legislation

11. (1) In proceedings, evidence of an act of the institutions of the European Union may be given by production of a copy of the act certified by an officer of the Minister for Agriculture, Fisheries and Food to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Minister.

(2) Paragraph (1) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Revocation

12. The Sea-Fisheries (Recording of Catches) Regulations 2009 (S.I. No. 253 of 2009) are revoked.

GIVEN under my hand,
14 January 2011.

SEAN CONNICK,
Minister of State at the Department of Agriculture, Fisheries
and Food.

EXPLANATORY NOTE.

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations, which relate to fisheries control systems and rules for the recording of fish catches, provide that a contravention of any provision of Commission Regulations is a contravention of the Sea-Fisheries and Maritime Jurisdiction Act 2006.

BAILE ÁTHA CLIATH
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