

## SEA FISHERIES (DRIFTNETS) ORDER 1998

I, MICHAEL WOODS, Minister for the Marine and Natural Resources, in exercise of the powers conferred on me by Section 223A (inserted by Section 9 of the Fisheries (Amendment) Act, 1978 (No. 18 of 1978), and amended by Section 4 of the Fisheries (Amendment) Act, 1983 (No. 27 of 1983)) of the Fisheries (Consolidation) Act, 1959 (No. 14 of 1959), and the Fisheries (Transfer of Departmental Administration and Ministerial Functions) Order, 1977 (S.I. No. 30 of 1977) (as adapted by the Marine (Alteration of Name of Department and Title of Minister) Order, 1997 (S.I. No. 301 of 1997)), for the purpose of giving effect to Council Regulation (EC) No. 1239/98 of 8 June, 1998, hereby order as follows:  
10.J. No. L171, 17.6.89, p.1.

### REG 1

1. This Order may be cited as the Sea Fisheries (Driftnets) Order, 1998.

### REG 2

2. In this Order—

"the Annex" means Annex VIII to the Council Regulation;

"the Council Regulation" means Council Regulation (EC) No. 894/97 of 29 April, 1997, as amended by Council Regulation (EC) No. 1239/98 of 8 June, 1998, and any future regulation of the Council of the European Union made after the making of this Order which amends, extends, replaces or consolidates (with or without modifications) the Council Regulation (as defined herein);

20.J. No. L132, 23.5.97, p.1.

"driftnets" means a wall of netting used in fishing, which is free to move according to tide and wind conditions;

"the Minister" means the Minister for the Marine and Natural Resources.

### REG 3

3. (1) Subject to Article 4 of this Order, the master of an Irish sea-fishing boat shall comply with Articles 11, 11a and 11b of the Council Regulation.

(2) Subject to Article 4 of this Order, the master, owner, charterer or hirer of an Irish sea-fishing boat shall not cause or permit a person on board the boat to fail to comply with Articles 11, 11a or 11b of the Council Regulation.

(3) Subject to Article 5 of this Order, the master of a foreign sea-fishing boat, in the exclusive fishing limits of the State, shall comply with Articles 11, 11a and 11b of the Council Regulation.

(4) Subject to Article 5 of this Order, the master, owner, charterer or hirer of a foreign sea-fishing boat shall not cause or permit a person on board the boat, in the exclusive fishery limits of the State, to fail to comply with Articles 11, 11a or 11b of the Council Regulation.

#### REG 4

4. (1) The holder of an authorisation granted under Article 6 of this Order may, keep on board an Irish sea-fishing boat to which the authorisation relates, or use for fishing from the boat, one or more driftnets whose individual or total length is not more than 2.5 kilometres, intended for the capture of species listed in the Annex, or cause or permit such a boat or any person to keep on board, or use for fishing from the boat, one or more such driftnets intended for the capture of species listed in the Annex.

(2) This Article shall cease to have effect on the 1st day of January, 2002.

#### REG 5

5. (1) The holder of an authorisation granted for the purposes of Article 11a(3) of the Council Regulation by the competent authority of the flag Member State of the European Community (other than the State) may, in the exclusive fishery limits of the State, keep on board the foreign sea-fishing boat to which the authorisation relates, or use for fishing from the boat, one or more driftnets whose individual or total length is not more than 2.5 kilometres, intended for the capture of species listed in the Annex, or cause or permit such a boat or any person to keep on board, or use for fishing from the boat, one or more such driftnets intended for the capture of species listed in the Annex.

(2) This Article shall cease to have effect on the 1st day of January, 2002.

#### REG 6

6. (1) The Minister may, until the 31st day of December, 2001, upon the application of any person who is the owner, charterer or hirer of an Irish sea-fishing boat and upon being furnished by the person with any information which the Minister may reasonably require in relation to the application, grant to the person an authorisation (for the purposes of Article 11a(3) of the Council Regulation) authorising the use from the boat of one or more driftnets, whose individual or total length is not more than 2.5 kilometres, for the capture of species listed in the Annex during such period as may be specified in the authorisation.

(2) An authorisation under this Article shall stand revoked if the holder of the authorisation ceases to be the owner, charterer or hirer of the boat to which the authorisation relates or does not or ceases to hold a licence granted under section 222B (inserted by section 2 of the Fisheries (Amendment) Act, 1983) of the Fisheries (Consolidation) Act, 1959.

(3) An authorisation under this Article shall be subject to—

- (a) the conditions specified in Article 11b of the Council Regulation and specified in the authorisation, and
- (b) any or all of the following conditions (if any) as the Minister thinks fit and specifies in the authorisation—

- (i) restricting the quantity of species listed in the Annex that may be taken, landed or transhipped in a specified period or periods.
  - (ii) prohibiting the landing or transshipment of species listed in the Annex other than at specified places,
  - (iii) requiring the master of the boat concerned to keep specified records, in addition to those required by Article 11b(3) of the Council Regulation in relation to the activities of the boat,
  - (iv) requiring the master of the boat concerned at all times on a request being made in that behalf to permit the boarding and inspection of the boat and inspection of the authorisation and any records kept on board the boat in relation to the boat, whether pursuant to a requirement of the authorisation or otherwise, by a sea fisheries protection officer and the taking of copies of the authorisation or any such records by such an officer.
  - (v) requiring the keeping of the authorisation on the boat concerned, or
  - (vi) requiring the surrender of the authorisation by the holder to the Minister or a sea fisheries protection officer upon its expiry or revocation.
- (4) The Minister may, if he or she is satisfied that there has been a failure to comply with a condition specified in an authorisation under this Article, revoke the authorisation.
- (5) Where an application for an authorisation under this Article is made by a person who has previously held an authorisation that was revoked under this Article by the Minister, the Minister may, if he or she so thinks fit refuse to grant the authorisation to which the application relates.
- (6) The Minister may at any time revoke or vary any condition, or insert a new condition, under paragraph (3) (b) of this Article, and the condition as so revoked, varied or inserted shall be regarded as being specified in the authorisation.
- (7) Neither a person to whom an authorisation is granted under this Article nor the master of an Irish sea-fishing boat to which such an authorisation relates shall fail to comply with a condition specified in the authorisation or cause or permit such a failure.

#### REG 7

7. The following are hereby revoked:

- (a) the Sea Fisheries (International Waters) (Driftnet) Order, 1994 (S.I. No. 201 of 1994), and
- (b) The Sea Fisheries (Driftnet) Order, 1995 (S.I. No. 262 of 1995).

GIVEN under my Official Seal, this 28th day of July, 1998.

MICHAEL WOODS,

Minister for the Marine and Natural Resources.

#### EXPLANATORY NOTE.

The effect of this Order is to give effect to the enforcement of Council Regulation 1239/98. From the making of the Order no vessel may keep on board or use for fishing one or more driftnets whose individual or total length is more than 2.5 kilometres.

From 1 January 2002 no vessel may keep on board or use driftnets for the capture of a specified number of species listed in the Annex to the Council Regulation. Until 31 December 2001 a vessel may keep on board or use for fishing one or more driftnets for the capture of these species if it has received an authorisation. In the case of an Irish Sea fishing boat the authorisation can be granted under this Order.

In the case of a boat operating under the flag of another Member State of the European Community the vessel must keep on board the authorisation from the competent authority of the relevant Member State. Specific conditions attach to authorisations issued under this Order.