

SI No 641 of 2001

MACKEREL (PROHIBITION ON FISHING) (NO 2) ORDER, 2001

I, Frank Fahey, 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)), hereby order as follows:

1. This Order may be cited as the Mackerel (Prohibition on Fishing) (No 2) Order, 2001.
2. This Order shall come into operation from 4pm on the 21st day of December, 2001 and shall cease to have effect on the 1st day of January 2002.
3. In this Order -
 - (1) “the specified area” means ICES sub-areas VI, VII, XII and XIV and divisions IIa (non EC waters) IVa, Vb, (Community Waters), VIIa,b,d and e specified in the Annex to the Communication from the Commission of the European Economic Community on the description of the ICES sub-areas and divisions used for the purpose of fishing statistics and regulations in the North East Atlantic 85/C347/05.
 - (2) In any proceedings in which a contravention of this Order is alleged prima facie evidence of the Communication may be given by the production of a copy of the Official Journal purporting to contain the Communication.
 - (3) In this Article-

“the Communication” means the Communication from the Commission of the European communities on the description of the ICES Sub-areas and Divisions used for the purpose of fishing statistics and regulations in the North East Atlantic⁽¹⁾;
4. Neither a master nor a person on board an Irish polyvalent vessel shall engage in fishing for mackerel in the specified area and the master of an Irish dry hold vessel shall not cause or permit the boat or any person on board to engage in such fishing in the specified area.
5.
 - (1) A polyvalent vessel shall not have mackerel on board within the specified area.
 - (2) The master of a polyvalent vessel shall not cause or permit the boat or any person on board to have mackerel on board within the specified area.
6. The master of a polyvalent vessel shall not cause or permit the vessel to be used within the specified area for the transhipment of mackerel from a polyvalent vessel.

⁽¹⁾ O.J. C.347/14 of 31/12/85

- 7 (1) In a prosecution for an offence under Article 6 of this Order the following shall be prima facie evidence that the sea-fishing boat concerned was, at the time of the alleged offence, used for the transshipment of mackerel in contravention of that Article;
- (a) evidence that such dry hold vessel had on board any books, papers or other documents from which it appears to the Court that on the day on which the offence is alleged to have been committed mackerel were received on board the boat otherwise than in the course of fishing,
 - (b) any admission by any person who is for the time being the master or other person in charge, or

another member of the crew, of such polyvalent vessel that at such time she was so used,
 - (c) any other matter from which it so appears that such dry hold vessel was so used or which in the opinion of the Court suggests, or tends to suggest, that such dry hold vessel was so used.
- (2) In a prosecution for an offence under Article 5 of this Order it shall be a defence for the defendant to prove that the mackerel to which the prosecution relates -
- (a) were taken in the course of fishing that did not contravene Article 4 of this Order, or
 - (b) were taken outside the specified area.

GIVEN under my Official Seal,
this 21st day of December, 2001

LS

Frank Fahey
Minister for the Marine
and Natural Resources

EXPLANATORY NOTE

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

The effect of this Order is to prohibit fishing for, transshipment or having on board mackerel by polyvalent vessels in ICES sub-areas VI, VII, XII and XIV and divisions IIa (non EC waters) IVa, Vb, (Community Waters), VIIa,b,d and e with effect from 4pm on the 21st day of December, 2001 and shall cease to have effect on the 1st day of January, 2002.

(PN.11001)

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