

S.I. No 170 of 2002

Mackerel (Fisheries Management and Conservation) Order, 2002.

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 (Fisheries Management and Conservation) Order, 2002.
2. This Order shall come into operation on the 27th day of April, 2002.
3. (1) In this Order -  
"the specified area" means ICES sub-areas VI,VII,XII and XIV and divisions IIa (non EC waters) IVa,Vb (Community Waters), VIIIa,b,d and e specified in the Annex to the Communication from the Commission of the European Economic 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 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<sup>(1)</sup>;

4. Neither an Irish sea-fishing boat of length greater than or equal to 55 feet nor a person on board such boat shall engage in fishing for mackerel in the specified area and the master of such boat shall not cause or permit the boat or any person on board to engage in such fishing in the specified area.
5. (1) An Irish sea-fishing boat of length greater than or equal to 55 feet shall not have mackerel on board within the specified area.
- (2) The master of an Irish sea-fishing boat of length greater than or equal to 55 feet 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 an Irish sea-fishing boat of length greater than or equal to 55 feet shall not cause or permit the boat to be used within the specified area for the transhipment of mackerel from an Irish sea-fishing boat.

(<sup>1</sup>) 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 transhipment of mackerel in contravention of that Article;
- (a) evidence that such sea-fishing boat 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 sea-fishing boat that at such time she was so used,
- (c) any other matter from which it so appears that such sea-fishing boat was so used or which in the opinion of the Court suggests, or tends to suggest, that such sea-fishing boat 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.
- (8) Notwithstanding the generality of this Order, with effect from the 27<sup>th</sup> day of April, 2002 an Irish sea-fishing boat of length greater than or equal to 55 feet may have mackerel on board and land or tranship mackerel if the mackerel does not exceed 5% by weight of the total catch on board, landed or transhipped at any one time, as the case may be.



GIVEN under my Official Seal,  
this 26th day of April, 2002.

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).

This Order prohibits with effect from 27<sup>th</sup> April 2002, fishing for, transshipment or having on board mackerel by Irish sea-fishing boats of length greater than or equal to 55 feet in ICES sub-areas and divisions IIa, IVa,Vb,VI,VII, VIIIa,b,d,e, XII and XIV. This fishery has been closed with effect from 27<sup>th</sup> April, 2002, subject to allowance for a 5% by-catch provision.

(PN. 11528 )

Published by the Stationery Office, Dublin.