

S.I. No. 124 of 2002

SEA FISHERIES (CONSERVATION AND RATIONAL EXPLOITATION
OF HAKE) 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)), for the purpose of giving effect to Commission Regulation (EC) No. 494/2002 of 19 March, 2002⁽¹⁾ hereby order as follows:

1. This Order may be cited as the Sea Fisheries (Conservation and Rational Exploitation of Hake) Order, 2002 and shall come into operation on the 10th day of April, 2002.

2. In this Order -

“the Commission Regulation” means Commission Regulation (EC) No. 494/2002 of 19 March, 2002 and any future Regulation of the Commission made after the making of this Order which amends, extends, replaces or consolidates (with or without modifications) the Commission Regulation (as defined herein);

“hake” means *Merluccius merluccius*.

3. The provisions of the Commission Regulation (being measures for the recovery of stocks of hake) in so far as they relate to the State, including the exclusive fishery limits of the State, are hereby prescribed and adopted and accordingly any infringement of the Commission Regulation within these limits (or, as the case may be, within the State) after the commencement of this Order, shall be an infringement of this Order.

4. In a prosecution for an infringement of the Commission Regulation in respect of which provision is made in the Commission Regulation for an exclusion, qualification, or exception to the relevant obligation imposed by the Commission Regulation which would be capable of constituting a defence to the charge, it shall be for the person charged to establish any such defence and it shall be presumed, until the contrary is proved, that there is no such defence in the particular case.

5. Where, in proceedings in which a contravention of this Order is alleged, it is proved that —

(a) hake were found on board a sea-fishing boat, and

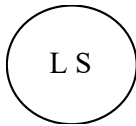
(b) at the time when the hake were so found the sea-fishing boat concerned was within any of areas specified in the Commission Regulation,

it shall be presumed until the contrary is proved that all of the hake so found was taken within such areas as may be appropriate.

6. The mesh size of nets shall be measured for the purposes of this Order in accordance with the provisions of Commission Regulation (EEC) No. 2108/84 of 23 July, 1984⁽²⁾ as amended by Commission Regulation (EC) No. 2550/97 of 16 December, 1997⁽³⁾ and any future Regulation of the Commission which amends, extends, replaces or consolidates the said Commission Regulation (EEC) 2108/84.
7. The Sea Fisheries (Conservation and Rational Exploitation of Hake) Order, 2001 (S.I. No. 409 of 2001) is hereby revoked.

- (1) O.J.L. 77/8 of 20.3.02.
- (2) O.J.L. 194/22 of 24.7.84.
- (3) O.J.L. 349/1 of 19.12.97.

GIVEN under my Official Seal,
this 5th day of April, 2002,



FRANK FAHEY, T.D.,
Minister for the Marine and Natural Resources.

EXPLANATORY NOTE

This Order makes any infringement of Council Regulation (EC) No. 494/2002 of 19 March, 2002, which prescribes certain technical measures for the recovery of the stock of hake, an offence in so far as the Regulation relates to the State.

Provision has been made in this Order for the automatic enforcement of future Commission Regulations amending or replacing any of the Regulations prescribed and adopted in this Order.

(PN. 11423)

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