

S.I. No. 58 of 2002

**SEA FISHERIES (CONSERVATION AND RATIONAL EXPLOITATION OF COD
IN THE IRISH SEA) 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 Council Regulation (EC) No. 2549/2000 of 17 November, 2000⁽¹⁾, as amended, hereby order as follows:

1. This Order may be cited as the Sea Fisheries (Conservation and Rational Exploitation of Cod in the Irish Sea) Order, 2002 and shall come into operation on 28 February, 2002.
2. In this Order –

"the Council Regulation" means Council Regulation (EC) No. 2549/2000 of 17 November, 2000 as amended by Council Regulation (EC) No. 1456 of 16 July, 2001⁽²⁾ and by any future Regulation of the Council made after the making of this Order which amends, extends, replaces or consolidates (with or without modifications) the Council Regulation (as defined herein);

"cod" means *Gadus morhua*;

"the Irish Sea" means ICES Division VIIa as defined in Council Regulation (EEC) No. 3880/91 of 17 December, 1991⁽³⁾.
3. The provisions of the Council Regulation (being measures for the recovery of the stocks of cod 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 Council 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 Council Regulation in respect of which provision is made in the Council Regulation for an exclusion, qualification, or exception to, the relevant obligation imposed by the Council 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 —

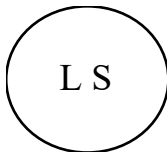
- (a) fish were found on board a sea-fishing boat, and
- (b) at the time when the fish were so found the sea-fishing boat concerned was within the Irish Sea,

it shall be presumed until the contrary is proved that all of the fish so found were taken within the Irish Sea.

- 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⁽⁴⁾ as amended by Commission Regulation (EC) No. 2550/97 of 16 December, 1997⁽⁵⁾ 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 Cod in the Irish Sea) Order, 2002 (S.I. No. 46 of 2002) is hereby revoked.

- (1) O.J.L 292/5 of 21.11.00
- (2) O.J.L 194/1 of 18.7.01
- (3) O.J.L 365/1 of 31.12.91
- (4) O.J.L 194/22 of 24.7.84
- (5) O.J.L. 349/1 of 19.12.97

GIVEN under my Official Seal,
this 27th day of February, 2002,



Frank Fahey T.D.,
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 prescribes and adopts Council Regulation (EC) No. 2549/2000 of 17 November, 2000, which establishes certain technical measures for the recovery of the stock of cod in the Irish Sea. These measures are additional to those defined in Council Regulation (EC) No. 850/98 which were prescribed and adopted by Statutory Instrument No. 557 of 2001. This Order also provides that any infringement of the Council Regulation 2549/2000 is an infringement of the Order.

The Order also revokes the Sea Fisheries (Conservation and Rational Exploitation of Cod in the Irish Sea) Order, 2002 (S.I. No. 46 of 2002).

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

(PN. 11251)

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