

S.I. No. 45/2002 — Sea Fisheries (Recovery of the Stock of Cod in The Irish Sea) Order, 2002

S.I. No. 45 of 2002

SEA FISHERIES (RECOVERY OF THE STOCK 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. 254/2002 of 12 February, 2002 ⁽¹⁾ hereby order as follows:

1. This Order may be cited as the Sea Fisheries (Recovery of the Stock of Cod in the Irish Sea) Order, 2002 and shall come into operation on 21 February, 2002.
2. In this Order —

“the Council Regulation” means Council Regulation (EC) No. 254/2002 of 12 February, 2002 and 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*.

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 any of the regions specified in Article 2 of the Council Regulation,

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

GIVEN under my Official Seal,

this 21th 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 Commission Regulation (EC) No. 254/2002 of 12 February, 2002, which establishes technical measures, applicable in 2002, to protect mature cod during their spawning season in the Irish Sea, and provides that any infringement of the Regulation is an infringement of the Order.

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.

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(1) O.J.L 41/1 of 13.02.02

(2) O.J.L 194/22 of 24.7.84

(3) O.J.L 349/1 of 19.12.97