

S.I. No. 334/2003 — Sea Fisheries (Conservation and Rational Exploitation of Deep-Sea Species) Regulations 2003

SI No 334 of 2003

SEA FISHERIES (CONSERVATION AND RATIONAL EXPLOITATION OF DEEP-SEA SPECIES) REGULATIONS 2003

I, Dermot Ahern, Minister for Communications, Marine and Natural Resources, in exercise of the powers conferred on me by section 224B (inserted by section 5 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 and Natural Resources (Alteration of Name of Department and Title of Minister) Order 2002 (S.I. No. 307 of 2002)), for the purpose of giving effect to Council Regulation (EC) No. 2347/2002 of 16 December 2002⁽¹⁾, as amended, hereby make the following Regulations:

1. (1) These Regulations may be cited as the Sea Fisheries (Conservation and Rational Exploitation of Deep-Sea Species) Regulations 2003.
- (2) These Regulations come into operation on 23 July 2003.
- 2.(1) In these Regulations, unless the context otherwise requires-

“Council Regulation” means Council Regulation (EC) No. 2347/2002 of 16 December 2002 ⁽¹⁾ as amended by Commission Regulation 876 of 2003(1) of 21 May 2003 and as amended by Commission Regulation 1637 of 2001(2) of 23 July 2001 and amended by 1638 of 2001 of 24 July 2001 and any future Regulation of the Council made after the making of these Regulations which amends, extends, replaces or consolidates (with or without modification) the Council Regulation (as defined herein);

“deep-sea species” means species included in the list in Annex I to the Council Regulation;

“deep-sea species licence” means a licence granted under Regulation 5;

“ICES” means the International Council for the Exploration of the Sea;

“ICES zones” means those zones given, respectively, in Council Regulation (EEC) No. 3880/91 of 17 December 1991 ⁽²⁾ on the submission of nominal

catch statistics by Member States fishing in the north-east Atlantic, and Council Regulation (EC) No. 2597/95 of 23 October 1995 ⁽³⁾ on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic;

“Irish sea-fishing boat” means a fishing boat entered in the Register of Fishing Boats;

“Minister” means the Minister for Communications, Marine and Natural Resources;

“Register of Fishing Boats” means the Register of Fishing Boats established and maintained pursuant to the Merchant Shipping Act, 1894 (as adapted and amended by any subsequent enactment);

“specified area” means waters falling within ICES (International Council for the Exploration of the Sea) sub- areas I to XIV inclusive (Community waters and waters not under the sovereignty or jurisdiction of third countries), and Community waters of CEECAF areas 34.1.1, 34.1.2, 34.1.3 and 34.2;

“licensed boat” means an Irish sea-fishing boat in relation to which a deep-sea species licence has been granted under Regulation 5.

- (2) A word or expression that is used in these Regulations and is also used in the Council Regulation has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Council Regulation.
3. The provisions of the Council Regulation (being measures for the conservation and rational exploitation of deep-sea species) in so far as they relate to the exclusive fishery limits of the State are hereby prescribed and adopted and accordingly any infringement of the Council Regulation within these limits after the commencement of these Regulations shall be an infringement of these Regulations.
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. (1) The Minister may at his or her discretion -
 - (a) upon the application in writing of any person who is the owner, charterer or hirer of an Irish sea-fishing boat -
 - (i) in relation to which there is in force a licence under section 222B (inserted by section 4 of the and the Fisheries (Amendment) Act 2003 (No. 21)) of the Fisheries (Consolidation) Act 1959 (No. 14 of 1959), and
 - (ii) which is entered in the Register of Fishing Boats, and

- (b) upon the furnishing by such person to the Minister of -
- (i) information, to the satisfaction of the Minister, that the boat to which the application relates when going to sea has complied with any manning requirement of Part II of the Fishing Vessels (Certification of Deck Officers and Engineer Officers) Regulations 1988 (S.I. No. 289 of 1988), as amended, in respect of it, and
 - (ii) such other information as he or she may reasonably require in relation to the application,

grant to the person a deep-sea species licence authorising, subject to this Regulation, the fishing for deep-sea species from that boat in the specified area or such parts thereof as mentioned in the licence and the landing or transshipment of deep-sea species taken in that area or such parts thereof as mentioned in the licence during such period as mentioned in the licence.

(2) The Minister may renew, subject to this Regulation, at his or her discretion, a deep-sea species licence granted under paragraph (1) for such period as may be stated in the renewed deep-sea species licence provided that he or she is satisfied that -

- (a) the holder of the deep-sea species licence upon its expiration continues to be the owner, charterer or hirer, as the case may be, of the deep-sea species licensed boat, and
- (b) the deep-sea species licensed boat concerned upon the expiration of the deep-sea species licence continues -
 - (i) to be licensed under section 222B of the Fisheries (Consolidation) Act 1959 ,
 - (ii) to be entered in the Register of Fishing Boats, and
 - (iii) to comply with the manning requirement referred to in paragraph (1)(b)(i) of this Regulation.

(3) Without prejudice to the Minister's discretion to refuse to grant or renew a deep-sea species licence, the Minister may refuse to grant or renew a deep-sea species licence where the applicant or licence holder, as the case may be, has previously had a deep-sea species licence held by him or her revoked.

(4) A deep-sea species licence does not authorise any fishing for deep-sea species in any part of the area mentioned in the licence, or the landing or transshipment of deep-sea species taken in that part, during any period prohibited by the Minister under section 224B of

the Fisheries (Consolidation) Act 1959 for fishing for deep-sea species in that part.

(5) The Minister may, from time to time, restrict both the quantity and the species of deep-sea species -

- (a) that may be taken on board a particular licensed boat in the specified area or part thereof, or
- (b) in respect of deep-sea species so taken, that may be landed or transhipped from or retained on board the boat, during such period as the Minister decides.

(6) Notification of any restriction made under paragraph (5) and its duration shall be made in writing by a sea fisheries protection officer to the holder of the deep-sea species licence or the master of the licensed boat concerned and such restriction, upon notification, shall be deemed to be a condition of the deep-sea species licence and the licence holder or the master of the licensed boat concerned shall comply with or ensure compliance with such condition.

(7) The Minister may attach to or specify in a deep-sea species licence such conditions -

- (a) prohibiting the landing or transhipment of deep-sea species other than at a specified place,
- (b) requiring the keeping by the master of the licensed boat of such records as are specified in the deep-sea species licence,
- (c) requiring the master of the licensed boat at all times on a request being made in that behalf to permit the boarding and inspection of the boat and inspection of any records kept on board the boat in relation to the boat, whether pursuant to a requirement of the deep-sea species licence or otherwise, by a sea fisheries protection officer and the taking of copies of any such records by such an officer or person, and to give such officer such assistance as may be reasonable to assist in such inspection,

(8) The Minister may at any time revoke or vary a term or condition in a deep-sea species licence or attach a new condition to a deep-sea species licence.

(9) The master of a licensed boat shall not contravene any condition of the deep-sea species licence relating to the boat or cause or permit such a contravention.

6. (1) Subject to paragraph (2), the Minister, if satisfied that a term mentioned in or a condition of, specified in or attached to a deep-sea species licence has been contravened by the holder of the licence, the

master of the licensed boat or any person on board, may revoke the licence.

- (2) Where the Minister proposes to revoke a deep-sea species licence under paragraph (1), he or she shall notify in writing the holder of the licence of the proposal and the reasons for it and the holder may within 14 days of service of the notification make representations to the Minister about the proposal and the Minister shall consider any such representations.
- (3) A notification under paragraph (2) shall be addressed to the holder of the deep-sea species licence concerned and sent or given in any of the following ways -
- (a) by delivering it to the holder of the deep-sea species licence or the master or other person in charge of the licensed boat concerned,
 - (b) by leaving it at the address at which the holder ordinarily resides or carries on business or in a suitable secure and conspicuous position on board the licensed boat, or
 - (c) by sending it by prepaid registered post to the holder at such address.
- (4) A deep-sea species licence stands revoked if -
- (a) the holder of the deep-sea species licence ceases to be the owner, charterer or hirer, as the case may be, of the licensed boat concerned,
 - (b) the licensed boat ceases to be an Irish sea-fishing boat,
 - (c) a licence under section 222B of the Fisheries (Consolidation) Act 1959 in relation to the licensed boat is, suspended, revoked or has expired, or
 - (d) the licensed boat ceases to be registered in the Register of Fishing Boats.

7. (1) A person shall not, other than pursuant to a deep-sea species licence granted under Regulation 5 in respect of the specified area or such parts thereof as mentioned in the licence, catch and retain on board, tranship or land from an Irish sea-fishing boat an aggregate quantity of deep-sea species in excess of 100 kg in each sea trip or catch and retain on board an aggregate quantity of deep-sea species in excess of 10 tonnes in any calendar year.

(2) The owner, charterer or hirer or the master or other person in charge of an Irish sea-fishing boat shall not, other than pursuant to a deep-sea species

licence granted under Regulation 5 in respect of the specified area or such parts thereof as mentioned in the licence, cause or permit the boat to catch and retain on board, tranship or land an aggregate quantity of deep-sea species in excess of 100 kg in each sea trip or catch and retain on board an aggregate quantity of deep-sea species in excess of 10 tonnes in any calendar year.

GIVEN under my Official Seal,

23 July 2003.



Dermot Ahern

Minister for Communications,
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 Regulation is to establish a licensing regime for the fishing of a range of deep-sea species, including a number for which quotas have been allocated by the European Community to Member States.

The Regulation also provides for additional control measures as well as collection of additional data on deep-sea species.

The Regulation shall come into operation on 23 July 2003.

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¹ O.J.L 351/6, 28.12.2002, as amended by Commission Regulation (EC) No 876/2003 (O.J.L 126/22 of 22.5.2003)

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² O.J.L 365/1, 31.12.1991, as amended by Commission Regulation (EC) No. 1637/2001 (O.J.L. 222/20 of 17.8.2001)

³ O.J.L 270/1, 13.11.1995, as amended by Commission Regulation (EC) No. 1638/2001 (O.J.L. 222/29 of 17.08.2001)