

SI No 593 of 2002

Deep Sea Fish Stocks (Licensing) Order 2002

I, Dermot Ahern, Minister for Communications, 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 and Natural Resources (Alteration of Name of Department and Title of Minister) Order 2002 (S.I. No. 307 of 2002)), hereby order as follows:

1. (1) This Order may be cited as the Deep Sea Fish Stocks (Licensing) Order 2002.

(2) This Order comes into operation on 1 January 2003.

2. (1) In this Order -

"black scabbard fish" means *Aphanopus carbo*;

"blue ling" means *Molva dypterygia*;

"greater silver smelt" means *Argentina silus*;

"ling" means *Molva molva*;

"orange roughy" means *Hoplostethus atlanticus*;

"red sea bream" means *Pagellus bogareveo*;

"redfish" means *Sebasues spp*;

"roundnose grenadier" means *Coryphaenoides rupestris*;

"tusk" means *Brosme brosme*.

(2) In this Order -

"deep sea fish stocks" means any stocks of black scabbard fish, greater silver smelt, tusk, roundnose grenadier, orange roughy, blue ling, ling, red sea bream or redfish;

"deep sea fish stocks licence" means a licence granted under Article 3;

"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 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic¹, and Council Regulation (EC) No. 2597/95 of 23 October 1995 on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic²;

² O.J. No. L 270, 13.11.1995, p.1. Regulation as amended by Commission Regulation (EC) No. 1638/2001 (O.J. No. L 222, 17.8.2001, p. 29)

¹ O.J. No. L365, 31.12.1991, p.1. Regulation as amended by Commission Regulation (EC) No. 1637/2001 (O.J. No L. 222, 17.8.2001, p. 20)

"licence" means a deep-sea fish stocks licence;

"licensed vessel" means an Irish sea-fishing boat in relation to which a licence has been granted;

"pair fishing" means the towing or hauling of a trawl, seine or other net in the sea from a licensed vessel with another Irish sea-fishing boat for the purpose of taking deep-sea fish stocks.

(3) In this Order "specified area" -

(a) in relation to black scabbard fish, means waters falling within ICES zones V, VI, VII and XII,

(b) in relation to blue ling, means waters falling within ICES zones II, IV, V, VI and VII,

(c) in relation to greater silver smelt, means waters falling within ICES zones III, IV, V, VI and VII,

(d) in relation to ling, means waters falling within ICES zones VI, VII, VIII, IX, X and XII and XIV,

(e) in relation to orange roughy, means waters falling within ICES zones VI and VII,

(f) in relation to red sea bream, means waters falling within ICES zones VI, VII and VIII,

(g) in relation to redfish, means waters falling within ICES zones V, XII and XIV,

(h) in relation to roundnose grenadier, means waters falling within ICES zones Vb, VI and VII, and

(i) in relation to tusk, means waters falling within ICES zones V, VI and VII.

(3) In this Order -

(a) a reference to an Article is to an Article of this Order, unless it is indicated that reference to some other Order is intended, and

(b) a reference to a paragraph is a reference to a paragraph of the Article in which the reference occurs, unless it is indicated that reference to some other Article is intended.

3. (1) The Minister may at his or her discretion -

(a) upon the application in writing of any person who

(i) is the owner, charterer or hirer of an Irish sea-fishing boat,
(ii) in relation to which there is in force a licence under section 222B(3) (inserted by section 5 of the Fisheries (Amendment) Act 1994 (No. 23 of 1994)) of the Fisheries (Consolidation) Act 1959 (No. 14 of 1959), has been granted, and
(iii) 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), 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 licence ("deep sea fish stocks licence") authorising, subject to this Article, the fishing for specified deep sea fish stocks from that boat in the specified area or such parts thereof as mentioned in the licence and the landing or transshipment of deep sea fish stocks taken in those areas or such parts thereof during such period as mentioned in the licence.

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

(a) the holder of the licence upon its expiration continues to be the owner, charterer or hirer, as the case may be, of the licensed vessel, and

(b) the licensed vessel concerned upon the expiration of the licence continues -

(i) to be licensed under section 222B(3) of the Fisheries (Consolidation) Act 1959,

(ii) to be entered in the Register of Fishing Boats, and
(iii) to comply with the manning requirements referred to in paragraph (1)(b)(i) of this Article.

(3) Without prejudice to the Minister's discretion to refuse to grant or renew a licence, the Minister may refuse to grant or renew a deep sea fish stocks

licence where the applicant or licence holder, as the case may be, has previously had a licence held by him or her revoked.

(4) A licence does not authorise any fishing for deep sea fish stocks in any part of the area mentioned in the licence, or the landing or transshipment of deep sea fish stocks taken in that part during any period prohibited by the Minister under section 223A of the Fisheries (Consolidation) Act 1959 for fishing for deep sea fish stocks in that part.

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

(a) that may be taken on board a particular licensed vessel in the specified area or part thereof, or

(b) in respect of deep sea fish stocks so taken, that may be landed or transhipped from or retained on board the vessel,

during such period as the Minister decides.

(6) Where a licensed vessel is engaged in pair fishing for deep sea fish stocks in the specified area, the vessel may, notwithstanding paragraph (5), take on board any such quantity allowed to the other boat under subparagraph (a) of that paragraph or land or tranship the other boat's share of deep sea fishing stocks so taken, subject to such conditions as may be specified in the licence relating to the vessel.

(7) 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 licence or the master of the licensed vessel concerned and such restriction, upon notification, shall be deemed to be a condition of the licence and the licence holder or the master of the licensed vessel concerned shall comply with or ensure compliance with such condition.

(8) The Minister may attach to or specify in a licence such conditions -

(a) prohibiting the landing or transshipment of deep sea fish stocks other than at a specified place,

(b) requiring the keeping by the master of the licensed vessel of such records as are specified in the licence,

(c) requiring the master of the licensed vessel 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 vessel in relation to the vessel, whether pursuant to a requirement of the 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,

(9) The Minister may at any time revoke or vary a term or condition in a licence or attach a new condition to a licence.

(10) The master of a licensed vessel shall not contravene any condition of the licence relating to the vessel or cause or permit such a contravention.

4. (1) Subject to paragraph (2), the Minister, if satisfied that a term mentioned in or a condition of, specified in or attached to a licence has been contravened by the holder of the licence, the master of the licensed vessel or any person on board may revoke the licence.

(2) Where the Minister proposes to revoke a 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 licence concerned and, sent or given in any of the following ways -

(a) by delivering it to the holder of the licence or the master or person in charge of the licensed vessel 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 vessel, or

(c) by sending it by prepaid registered post to the holder at such address.

(4) A licence stands revoked if -

(a) the holder of the licence ceases to be the owner, charterer or hirer, as the case may be, of the licensed vessel 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 revoked or has expired, or

(c) the licensed boat ceases to be registered in the Register of Fishing Boats.

5. A person shall not, other than pursuant to a licence -

(a) fish for deep sea fish stocks from an Irish sea-fishing boat in the specified area, or

(b) land or tranship from or retain on board an Irish sea-fishing boat deep sea fish stocks taken on board that boat in the specified area.

6. The owner, charterer or hirer or the master or person in charge of an Irish sea-fishing boat shall not, other than pursuant to a licence, cause or permit -

(a) the boat or any person on board the boat to fish for deep sea fish stocks in the specified area, or

(b) the landing or transshipment from, or retention on board, the boat of deep sea fish stocks taken in the specified area.

GIVEN under my Official Seal,

This 17th day of December 2002.

(L.S.)

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 Order is to set up a licensing regime for the fishing of quotas allocated to Ireland of black scabbard fish, greater silver smelt, tusk, roundnose grenadier, orange roughy, blue ling, ling, red seabream and redfish. The Order will be effective from 1 January 2003.

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