

STATUTORY INSTRUMENTS.

S.I. No. 311 of 1999.

MACKEREL (LICENSING) ORDER, 1999.

I, MICHAEL WOODS, 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)), hereby order as follows:

1. This Order may be cited as the Mackerel (Licensing) Order, 1999.

2. In this Order—

"the Communication" means the Communication (85/C347/05) from the Commission of the European Communities on the description of the ICES sub-areas and divisions used for the purpose of fishing statistics and regulations in the north-east Atlantic⁽¹⁾;

⁽¹⁾ O.J. No. C347, 31.12.85. p.14.

"ICES" means the International Council for the Exploration of the Sea.

"length" in relation to a boat, means the distance from the forepart of the stem of the boat to the aft side of the head of the sternpost of the boat;

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

"mackerel" means *Scomber scombrus*;

"mackerel licence" means a licence granted under Article 3 of this Order;

"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 mackerel;

"the specified area" means the parts of the sea specified in the Annex to the Communication and therein referred to as sub-areas and divisions IIa (except Community waters), IVa, Vb (Community waters), VI, VII, VIIIa,b,d,e, XII and XIV.

3. 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 of more than 16.764 metres (55 feet) in length,

(ii) in relation to which a licence permitting the fishing for mackerel 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) 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, 1998 (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 ("mackerel licence") authorising, subject to this Article, the fishing for mackerel from that boat in the specified area or such part thereof as mentioned in the licence and the landing or transhipment of mackerel taken in that area or such part thereof during such period as mentioned in the licence.

(2) The Minister may renew, subject to this Article, without application, at his or her discretion, a licence granted under paragraph (1) of this Article 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 to fish for mackerel 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 mackerel licence, the Minister may refuse to grant or renew a mackerel

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

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

(5) The Minister may, from time to time, restrict the quantity of mackerel—

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

(b) in respect of mackerel 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 mackerel in the specified area, the vessel may, notwithstanding paragraph (5) of this Article, 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 mackerel so taken, subject to such conditions as may be specified in the mackerel licence relating to the vessel.

(7) Notification of any restriction made under paragraph (5) of this Article and its duration shall be made in writing by a sea fisheries protection officer to the holder of the mackerel 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 mackerel licence conditions—

(a) prohibiting the landing or transshipment of mackerel 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 vessel 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 mackerel licence or attach a new term or condition to a mackerel 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) of this Article, the Minister, if satisfied that a term mentioned in or a condition of, specified in or attached to a mackerel 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) of this Article, he or she shall notify in writing the holder of the licence of the proposal and the reason 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 such representations.

(3) A notification under paragraph (2) of this Article 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 suitably secure or conspicuous position on board the licensed vessel, or

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

(4) A mackerel licence shall stand 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 vessel ceases to be an Irish sea fishing boat,

(c) a licence permitting fishing for mackerel under section 222B (3) of the Fisheries (Consolidation) Act, 1959, in relation to the licensed vessel is revoked or has expired, or

(d) the licensed vessel ceases to be registered in the Register of Fishing Boats.

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

(a) fish for mackerel from an Irish sea-fishing boat of more than 16.764 metres (55 feet) in length, in the specified area, or

(b) land or tranship from or retain on board such a boat, mackerel taken on board that boat in the specified area.

6. The owner, charterer, hirer or the master of an Irish sea-fishing boat of more than 16.764 metres (55 feet) shall not, other than pursuant to a mackerel licence, cause or permit—

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

(b) the landing or transshipment from, or retention on board, the boat of mackerel taken in the specified area.

7. The Control of Fishing for Mackerel (No. 2) Order, 1984 (S.I. No. 260 of 1984), is hereby revoked.



GIVEN under my Official Seal, this 6th day of October, 1999.

MICHAEL WOODS, 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.)

The effect of this Order is to set up a licensing regime for the fishing of mackerel in those areas defined in the Order. The licensing regime applies to boats of more than 16.764 metres (55 feet).

The Order comes into operation on the 6th day of October, 1999