

S.I. No. 397/1999 — Norwegian Cod (Licensing) Order, 1999.

STATUTORY INSTRUMENTS.

S.I. No. 397 of 1999.

NORWEGIAN COD (LICENSING) ORDER, 1999.

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

2. In this Order—

“cod” means *Gadus morhua*;

“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 fishery statistics and regulations in the north east Atlantic⁽¹⁾ ,

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

“licensed vessel” means an Irish sea-fishing boat in relation to which a Norwegian cod licence has been granted;

“Norwegian cod 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 cod;

“the specified area” means waters falling within the Norwegian exclusive economic zone north of 62° 00' N or within the fishing zone around Jan Mayen falling within ICES divisions I, II and also within ICES divisions I, IIb (commonly known as the Svalbard) and specified in the Annex to the Communication.

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 licence permitting the fishing for cod 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,
- (iii) which is entered in the Register of Fishing Boats, and
- (iv) in respect of which a class certificate (within the meaning of Article 2 of Council Directive 94/57/EC of 22 November 1994 (2)) has been issued, 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 (“Norwegian cod licence”) authorising, subject to this Article, the fishing for cod from that boat in the specified area or such part thereof as mentioned in the licence and the landing or transhipment of cod 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, 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 cod 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 Norwegian cod licence, the Minister may refuse to grant or renew a Norwegian cod licence where the applicant or licence holder, as the case may be, has previously had a Norwegian cod licence held by him revoked.

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

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

- (a) that may be taken on board a particular licensed vessel in the specified area or part thereof, or
- (b) in respect of cod 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 cod 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 cod so taken, subject to such conditions as may be specified in the Norwegian cod 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 Norwegian cod 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 Norwegian cod licence conditions—

- (a) prohibiting the landing or transhipment of cod 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 or a duly authorised person under the law of Norway 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,
- (d) requiring the master or person in charge, for the time being, of the licensed vessel to comply with any requirements of any competent Norwegian authority in respect of the specified area.

(9) The Minister may at any time revoke or vary a term or condition in a Norwegian cod licence or attach a new term or condition to a cod 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 Norwegian cod 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 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) of this Article shall 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 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 Norwegian cod 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 cod in the specified area under section 222B (3) of the Fisheries (Consolidation) Act, 1959 , in relation to the licensed vessel is revoked or has expired,
- (d) the licensed vessel ceases to be registered in the Register of Fishing Boats, or
- (e) any class certificate referred to in paragraph (1)(a)(iii) of Article 3 of this Order issued in respect of the licensed vessel is withdrawn by the organisation which issued it.

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

- (a) fish for cod from an Irish sea-fishing boat in the specified area, or
- (b) land or tranship from or retain on board such a boat, cod taken on board that boat in the specified area.

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

- (a) the boat or any person on board the boat to fish for cod in the specified area, or
- (b) the landing or transhipment from, or retention on board, the boat of cod taken in the specified area.

GIVEN under my Official Seal, this 14th day of December, 1999.

MICHAEL WOODS TD,

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 Norwegian cod in those areas defined in the Order. This Order is effective from the 14th day of December, 1999.

⁽¹⁾ O.J. No. C347, 31.12.85, p. 14.

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