

sStatutory Instruments

SI No. 43 of 2005

Whiting (Fisheries Management and Conservation)

Regulations 2005

I, Pat the Cope Gallagher, Minister of State at the Department of 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) as amended by 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) and the Marine (Delegation of Ministerial Functions) (No. 2) Order 2004 (S.I. No. 703 of 2004)), hereby make the following regulations:

1. These Regulations may be cited as the Whiting (Fisheries Management and Conservation) Regulations 2005.

2. These Regulations come into operation on 1 February 2005 and cease to have effect on 28 February 2005.

3. In these Regulations —

"Whiting" means *Merlangius merlangus*;

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

"Irish sea-fishing boat" means a boat entered in the Register of Fishing Boats or in the EU Community Fishing Fleet Register;

"quotas" means the State's share of the total allowable catch (TAC) fixed by the Council of the European Communities relating to certain species of fish in respect of the year 2005¹ or, as the case may be, each subsequent year thereafter;

¹ Council Regulation (EC) No. 27/2005, O.J. L12, 14.1.2005, pp. 1-151.

"specified area" means waters falling within ICES sub-areas VIIa as described in Communication (85/C347/05) from the Commission of the European Communities on the description of the ICES sub-areas and divisions used for the purposes of fishing statistics and regulations in the North East Atlantic;

"specified period" means the period from 1 February 2005 to 28 February 2005.

4. An Irish sea-fishing boat, or a person on board that boat, fishing in the specified area, shall not, during the specified period, have or retain on board —

(a) in case the boat is of length greater than or equal to 55 feet, 2 tonnes of whiting, or

(b) in any other case, 1 tonne of whiting, nor land more than that quantity.

5. The master of an Irish sea fishing boat shall not during the specified period cause or permit the boat to be used in the specified area for the transshipment of whiting or cause or permit such boat to engage in transshipment operations at sea.

6. The master of an Irish sea-fishing boat —

(a) shall, before setting out on a voyage to fish for whiting, inform a sea fisheries protection officer of the expected port at which whiting is intended to be landed from the boat on completion of the voyage, and

(b) if requested by a sea fisheries protection officer, shall not land whiting at any port or place, unless on each occasion a sea fisheries protection officer has given prior approval of the landing.

7. In a prosecution for an offence contravening Regulation 4 or 5 of these Regulations the following shall be *prima facie* evidence that the sea-fishing boat concerned was, at the time of the alleged offence, used for the transhipment or landing of whiting in contravention of those Regulations —

(a) evidence that such sea-fishing boat had on board any books, papers or other documents from which it appears to the Court that on the day on which the offence is alleged to have been committed whiting were landed or transhipped contrary to those Regulations,

(b) any admission by any person who is for the time being the master or other person in charge, or another member of the crew, of such sea-fishing boat that at such time she was so used, or

(c) any other matter from which it so appears that such sea-fishing boat was so used or which in the opinion of the Court suggests, or tends to suggest, that such sea-fishing boat was so used.

(L.S.)

GIVEN under my Official Seal,

25 January 2005

Pat the Cope Gallagher

Minister of State at the Department of Communications, Marine and Natural Resources

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation)

These Regulations provide for a management regime for the whiting fishery in ICES sub-areas VIIa with effect from 1 February 2005.

From that date, an Irish sea-fishing boat equal to or greater than 55 feet in length, or a person on board such boat, fishing in the specified area may not have or retain on board or land more than 2 tonnes of whiting during the period from 1 February 2005 to 28 February 2005.

Any other Irish sea-fishing boat fishing for whiting, or a person on board such boat, fishing in the specified area may not have or retain on board or land more than 1 tonne of whiting during this period.

It is prohibited to tranship or to engage in transhipment operations of whiting.