

Statutory Instruments

S.I. 44 of 2005

Deep Sea Fishing Allocations and Orange Roughy Protection Areas 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 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to the provisions of Article 7 of Council Regulation (EC) No. 2270/2004 of 22 December 2004¹, hereby make the following Regulations:

¹ O.J. No. L396, 31.12.2004, pp. 4-12

1. These Regulations may be cited as the Deep Sea Fishing Allocations and Orange Roughy Protection Areas Regulations 2005.

2. These Regulations come into operation on 1 February 2005.

3. In these Regulations —

"Articles" means Articles 3, 6 and 7 of Council Regulation (EC) No. 2270/2004 of 22 December 2004;

"Council Regulation" means Council Regulation (EC) No. 2270/2004 of 22 December 2004 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);

"Minister" means the Minister of State at the Department of Communications, Marine & Natural Resources;

"orange roughy" means *Hoplostethus atlanticus*;

"sea fisheries protection officer" means an officer of the Minister authorised by the Minister as a sea fisheries protection officer for the purposes of the Fisheries Acts 1959 to 2003 and of these Regulations.

4. A word or expression that is used in these Regulations, and is also used in the Council Regulation, has, unless the contrary indication appears, the same meaning in these Regulations as it has in the Council Regulation.

5. A sea fisheries protection officer shall have all the powers under Sections 233, 233A and 234 of the Fisheries (Consolidation) Act 1959 (No. 14 of 1959) for the purposes of enforcing the provisions of these Regulations.

6. The provisions of these Articles are hereby prescribed and adopted and accordingly any infringement of these Articles after the commencement of these Regulations shall be an infringement of these Regulations.

7. In a prosecution for an infringement of these Regulations it shall be for the person charged to establish a defence by reference to any exclusion, qualification or exception to the relevant obligation provided for by these Regulations and it shall be presumed, until the contrary is proved, that there is no such defence in this particular case.

8. (1) A person who by act or omission, contravenes any provision of these Articles shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000.

(2) An offence under these Regulations may be prosecuted by the Minister.

(3) Where an offence under these Regulations has been committed by a body corporate and it is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and shall be liable to be proceeded against and punished as if guilty of the first-mentioned offence.

(4) Where the affairs of a body corporate are managed by its members, paragraph (3) shall apply in relation to the acts and defaults of a member in connection with the functions of management as if such a member were a director or manager of the body corporate.

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 transpose into Irish law the provisions of Articles 3, 6 and 7 of Council Regulation (EC) No. 2270/2004 of 22 December 2004 in relation to the fixing of fishing opportunities for deep sea species, conditions for landing catch and by-catch and Orange Roughy Protection Areas.