

S.I. 45 of 2005

Fishing Effort for Vessels in the Context of the Recovery of Certain Stocks 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) 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)) and the Marine (Delegation of Ministerial Functions) (No. 2) Order 2004 (S.I. No. 703 of 2004)), for the purpose of giving effect to Annex IVa of Council Regulation (EC) 27/2005 of 22 December 2004¹ and Council Regulation (EC) 423/2004 of 14 February 2004², hereby make the following Regulations:

² O.J. No. L70, 9.3.2004, pp. 8-11

¹ O.J. No L12, 14.1.2005, pp. 1-151

1. (1) These Regulations may be cited as the Fishing Effort for Vessels in the Context of the Recovery of Certain Stocks Regulations 2005.

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

2. (1) In these Regulations, unless the context otherwise requires -
"Annex" means Annex IVa to the Council Regulation;

"Cod Recovery Plan" means Council Regulation (EC) No. 423/2004 of 26 February 2004 establishing measures for the recovery of cod stocks;

"Competent Authority" means the Department of Communications, Marine and Natural Resources;

"Council Regulation" means Council Regulation (EC) No. 27/2005 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);

"Designated port" means Greencastle, Killybegs, Rossaveal, Howth, Dunmore East, or a listed designated port in another Member State;

"EC logbook" means the document as described in Commission Regulation (EEC) No 2807/1983 of 22 September 1983 Laying Down Detailed Rules for Recording Information on Member States Catches of Fish³;

³ O.J. No. L276, 10.10.1983, p.1, as last amended by Commission Regulation (EC) No. 1965/2001, O.J. No. L268, 9.10.2001, p.23.

"Fisheries Monitoring Centre" means the Fisheries Monitoring Centre, Naval Base Haulbowline, Co Cork;

"Length overall" in relation to a sea-fishing boat, means the distance in a straight line between the foremost point of the bow and the aftermost point of the stern. For the purposes of this definition:

(i) the bow shall be taken to include the watertight hull structure, forecastle, stem and forward bulwark, if fitted, but shall exclude bowsprits and safety rails,

(ii) the stern shall be taken to include the watertight hull structure, transom, poop, trawl ramp and bulwark but shall exclude safety rails, bumkins, propulsion machinery, rudders and steering gear, and divers' ladders and platforms, and

(iii) the length overall shall be measured in metres with an accuracy of two decimals;

"Master", in relation to a sea-fishing boat, includes a person in charge of the boat;

"Member State" means a Member State of the European Communities other than the State;

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

"Official Days at Sea Declaration form" means the appropriate form provided by the Competent Authority on which the master of an Irish sea-fishing boat makes an official declaration of choice of fishing gear, area and total days at sea as per these Regulations for the following management period;

"Register of Fishing Boats" means the Register of Fishing Boats established and maintained pursuant to the Merchant Shipping Act 1894 (as adapted and amended by any subsequent enactments);

"Sea-fishing boat" means a boat registered on the Irish sea-fishing boat register or on the EU Community Fishing Fleet Register;

"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.

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

(3) A word or expression that is used in these Regulations and is also used in the Council Regulation and the Cod Recovery Plan, has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Council Regulation and the Cod Recovery Plan.

3. The provisions of these Regulations shall apply to sea-fishing boats specified in the Annex and the Cod Recovery Plan, operating in an area specified in the Annex and the Cod Recovery Plan and deploying any fishing gears specified in the Annex and the Cod Recovery Plan.

4. The provisions of the Annex and the Cod Recovery Plan, in so far as they relate to the exclusive fishery limits of the State, are hereby prescribed and adopted, and, accordingly any infringement of the Annex and the Cod Recovery Plan within these limits after the commencement of these Regulations, shall be an infringement of these Regulations.

5. In a prosecution for an infringement of the Annex or the Cod Recovery Plan in respect of which provision is made in the Annex or the Cod Recovery Plan for an exclusion, qualification, or exception to, the relevant obligation imposed by the Annex or the Cod Recovery Plan, which would be capable of constituting a defence to the charge, it shall be for the person charged to establish any such defence and it shall be presumed, until the contrary is proved, that there is no such defence in the particular case.

6. Where, in proceedings in which a contravention of these Regulations is alleged, it is proved that —

(a) any fishing gears specified in the Annex or the Cod Recovery Plan were found on board a sea-fishing boat, other than as provided for in the Annex or the Cod Recovery Plan, and

(b) at the time when the fishing gears specified in the Annex or the Cod Recovery Plan were so found the sea-fishing boat concerned was in an area specified in the Annex or the Cod Recovery Plan, as provided for in the Annex or the Cod Recovery Plan,

it shall be presumed until the contrary is proved that all fishing gears specified in the Annex or the Cod Recovery Plan were deployed in an area specified in the Annex or the Cod Recovery Plan.

7. (1) Derogations from days present within the area and absent from port may be allocated by the competent authority in accordance with the Annex and the Cod Recovery Plan to an Irish sea-fishing boat which complies with the conditions set out in the Annex and the Cod Recovery Plan .

(2) Derogations granted under the provisions of Regulation 7(1) must be recorded in the Official Days at Sea Declaration Form.

8. (1) For the purpose of these Regulations the following management periods apply

Table 1

Management periods for 2005

Period 1

1 February 2005 — 30 April 2005

Period 2

1 May 2005 — 31 July 2005

Period 3

1 August 2005 — 31 October 2005

Period 4

1 November 2005 — 31 December 2005

Period 5

1 February 2005 — 31 December 2005

Period 6

1 May 2005 — 31 December 2005

Period 7

1 August 2005 — 31 December 2005

(2) The master of an Irish sea-fishing boat, shall inform the Sea Fisheries Protection Officer by completion of an entry in the Official Days at Sea Declaration Form of their intended fishing gear as defined in the Annex and the Cod Recovery Plan and their intended area as defined in the Annex or the Cod Recovery Plan and the total number of effort days allocated in accordance with the Annex and the Cod Recovery Plan.

(3) The Official Days at Sea Declaration Form shall be signed by the Sea Fisheries Protection Officer in advance of the relevant management period. The information declared on the Official Days at Sea Declaration Form shall not subsequently be altered for the duration of that management period. The original Official Days at Sea Declaration Form shall be retained on board the sea-fishing boat at all times while the boat is operating in the areas as specified in the Annex and the Cod Recovery Plan. A copy of the Official Days at Sea Declaration Form shall be retained by the Sea Fisheries Protection Officer.

9. An Irish sea-fishing boat in one of the areas defined in point 2 of the Annex may be permitted to transit across these areas provided that it has first notified a Sea Fisheries Protection Officer of its intention to do so. While that boat is within any of the areas defined in point 2 of the Annex any fishing gears carried on board must be lashed and stowed in accordance with the conditions laid down in article 20(1) of Regulation (EEC) No 2847/93⁴.

⁴ O.J. L261, 20.10.1993, p.1, as amended by Council Regulation (EC) No. 1954/2003, O.J. L289, 7.11.2003, p.1.

10. (1) An Irish sea-fishing boat, which has no record of fishing activity for the years 2001, 2002 or 2003 shall not be permitted to fish in the area as specified in the Annex and the Cod Recovery Plan with any of the fishing gears as specified in the Annex and the Cod Recovery Plan.

(2) Notwithstanding 10(1), such fishing activity may be permitted if the master of the Irish sea-fishing boat concerned ensures that equivalent capacity, measured in kilowatts, with a record of fishing activity for the years 2001, 2002, 2003 is excluded from fishing.

11. The master of an Irish sea-fishing boat or his representative, deploying any fishing gears specified in the Annex and the Cod Recovery Plan in an area specified in the Annex and the Cod Recovery Plan shall give at least four hours notice to the Sea Fisheries Protection Officer of the intention to land cod of a quantity in excess of 1 tonne at a port or landing place in the State, or at a landing place outside the State. The master of an Irish sea-fishing boat shall inform the Sea Fisheries Protection Officer by means of telephone or fax:

- the name of the vessel
- the name of the port,
- the estimated time of arrival at that port,
- the quantities in kilograms live weight for each species of which

more than 50 kg is retained on board.

12. The master of an Irish sea-fishing boat greater than or equal to 18 metres in overall length deploying any fishing gears specified in the Annex and the Cod Recovery Plan shall communicate to the Fisheries Monitoring Centre by e-mail, fax, telephone message, or by radio station via a radio station approved under Community legislation for the reception of such reports, information as required in the Annex and the Cod Recovery Plan, on each occasion that the boat enters, exits or re-enters an area as specified in the Annex and the Cod Recovery Plan.

13. (1) The master of an Irish sea-fishing boat less than 18 metres in overall length deploying any fishing gears specified in the Annex and the Cod Recovery Plan shall communicate to the Competent Authority on each occasion that the boat enters, exits or re-enters an area as specified in the Annex and the Cod Recovery Plan using contact numbers in Table 2.

14. For the purposes of Regulations 9, 11 and 13 (1) the following contact numbers should be used

Table 2

Port/Area

Telephone Number

Fax Number

Killybegs & Greencastle(VIa)

+353 74 9731264

+353 74 9731819

Howth (VIIa)

+353 1 8321910

+353 1 8321911

Dunmore East(VIIa)

+353 51 383135

+353 51 383045

Rossaveal (VIa)

+353 91 572405

+353 91 572585

15. The Interim Fishing Effort Limitation and Additional Conditions for Monitoring, Inspection and Surveillance in the Context of Certain Fish Stocks Recovery Regulations 2004 are revoked.

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 Annex IVa of Council Regulation (EC) No 27/2005 which establishes, for fishing vessels greater than 10 metres in overall length and operating in certain waters, a fishing effort limitation scheme in the context of the recovery of certain fish stocks, and the provisions of Council Regulation (EC) No. 423/2004 (Cod Recovery Plan) which establishes measures for the recovery of cod stocks and additional conditions for monitoring, inspection and surveillance.

Masters or other persons in charge of the Irish sea-fishing boats in question and operating in any of the areas specified in the Annex or the Cod Recovery Plan will be restricted if deploying any of the fishing gears specified in the Annex or the Cod Recovery Plan to the maximum number of days in a calendar month as specified in the Annex. They will be required to give advance notice of landings to Sea Fisheries Protection Officers, and must obtain the prior approval of the relevant Sea Fisheries Protection Officer to land cod in excess of 1 tonne into ports or landing places. Quantities of cod in excess of 2 tonnes may only be landed into designated ports.