

S.I. No. 876/2005 — Horse Mackerel (Licensing) Regulations 2005

S.I. No. 876 of 2005 .

HORSE MACKEREL (LICENSING) 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 Horse Mackerel (Licensing) Regulations 2005.
2. These Regulations come into operation on 1 January 2006.
3. (1) In these Regulations—

“the Act of 1959” means the [Fisheries \(Consolidation\) Act 1959](#) (No. 14 of 1959);

“horse mackerel” means *trachurus trachurus*;

“horse mackerel licence” shall be construed in accordance with Regulation 4 of these Regulations;

“Irish sea fishing boat” means a fishing boat entered in the EU register of fishing boats.

“licensed vessel” means an Irish sea-fishing boat in relation to which there is in force a valid horse mackerel licence;

“pair fishing” means, in relation to a licensed vessel, the towing or hauling of a trawl, seine or other net in the sea by such vessel jointly with another licensed vessel for the purpose of catching horse mackerel;

“section 222B(3)” means section 222B(3) (inserted by [section 5 of the Fisheries \(Amendment\) Act 1994](#) (No. 23 of 1994)), of the Act of 1959;

“section 224B” means section 224B (inserted by [section 5 of the Fisheries \(Amendment\) Act 1983](#) (No. 27 of 1983), of the Act of 1959;

“the specified area” means sub areas VI, VII, XII and XIV and divisions IIa (Community waters), North Sea (Community waters) IVa, Vb (Community waters), VIIa, b, d and e specified in the Annex to the Communication from the Commission of the European Economic 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 85/C347/05¹.

(2) In these Regulations—

- (a) a reference to a Regulation is a reference to a Regulation of these Regulations unless it is indicated that reference to some other instrument is intended, and
- (b) a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that a reference to some other provision is intended.

4. (1) The Minister may—

- (a) upon the application in writing of any person who is the owner, charterer or hirer of an Irish sea-fishing boat—
 - (i) in relation to which there is in force a licence under section 222B(3), which does not preclude the vessel from fishing for pelagic species,
 - (ii) that is entered in the Register of Fishing Boats, and
 - (iii) has over the years 2003, 2004 and 2005, average landings of a minimum quantity of 250 tonnes of horse mackerel in live weight recorded in the Department's EC logbook records, and
- (b) if satisfied that in relation to that boat there will, upon and from its putting to sea, be compliance with the manning requirements of Part II of the Fishing Vessels (Certification of Deck Officers and Engineer Officers) Regulations, 1988 ([S.I. No. 289 of 1988](#)), and
- (c) upon the furnishing by the said owner, charterer or hirer of such information as the Minister may reasonably require in relating to the application,

grant to the person a licence (hereafter in these Regulations referred to as a “horse mackerel licence”) authorising, the fishing for horse mackerel from that boat in the specified area or part thereof as specified in the licence and the landing or transhipment of horse mackerel taken on board a boat or caught in that area or part thereof, during such period as may be specified in the licence.

(2) The Minister may, without application, renew a horse mackerel licence that has

expired, for such period as he or she considers appropriate, which period shall be specified in the licence, if he or she is satisfied that—

- (a) the holder of the horse mackerel licence remains the owner, charterer or hirer, as the case may be, of the boat concerned,
- (b) there is in force in respect of the boat a licence granted under section 222B(3), which does not preclude the vessel from fishing for pelagic species,
- (c) the boat is entered in the Register of Fishing Boats, and

(3) A horse mackerel licence shall not authorise the fishing for horse mackerel in the area, or the divisions or sub-areas specified in the licence, or the landing or transhipment of horse mackerel taken on board a boat or caught in that area, or in those divisions or sub-areas, in contravention of Regulations under section 224B (including these Regulations).

(4) The Minister may refuse to grant a horse mackerel licence where a horse mackerel licence previously granted to the applicant has been revoked.

(5) The Minister may, from time to time, restrict, either generally or with reference to a particular licensed vessel, the quantity of horse mackerel—

- (a) that may be caught from, or taken on board, a licensed vessel in the specified area or part thereof, and
- (b) that may be landed or transhipped from, or retained on board, a licensed vessel, during such period as the Minister may determine.

(6) Notwithstanding any restriction under paragraph (5), that share of horse mackerel of a licensed vessel caught while engaging in pair fishing with another licensed vessel may, subject to such conditions as may be specified in the horse mackerel licence granted in respect of the second-mentioned licensed vessel, be taken on board, or landed or transhipped from, the second-mentioned licensed vessel provided that the combined quantities of horse mackerel taken on board, or combined horse mackerel catches of, both licensed vessels during a period to which restrictions under paragraph (5)(a) apply, do not exceed the aggregate of the quantities of horse mackerel specified in those restrictions in respect of the licensed vessels.

(7) Notification of any restriction under paragraph (5) and its duration shall be in writing and shall be given by a sea fisheries protection officer to the holder of the horse mackerel licence or the master or person in charge of the licensed vessel concerned, and any such restriction shall, upon such notification, be deemed to be a condition of the horse mackerel licence.

(8) The Minister may attach to, or specify in a horse mackerel licence conditions—

- (a) prohibiting the landing or transhipment of horse mackerel other than at a

specified place and within specified hours.

- (b) requiring the giving of specified advance notice of landing,
- (c) relating to the sale of horse mackerel caught from or taken on board a licensed vessel,
- (d) requiring the keeping by the master or other person in charge, for the time being, of the licensed vessel of such records as are specified in the licence and the additional reporting of such records as specified in the licence,
- (e) requiring the master or other person in charge, for the time being, 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 relating to the vessel kept on board 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, and to give to such officer such assistance as he or she may reasonably require for the purposes of carrying out such inspection.

(9) The holder of a horse mackerel licence and the master or person in charge of an Irish sea-fishing boat to which such licence applies shall not contravene or cause another person to contravene a condition of that licence.

(10) An Irish sea-fishing boat that is not a licensed vessel within the meaning defined in these Regulations and is not subject to a restriction under paragraph (5) may have horse mackerel on board and land or tranship horse mackerel if the horse mackerel were taken in the course of fishing for other species, and were inextricably mixed with catches of other species and did not exceed 5 per cent by weight of the total catch.

5. (1) Subject to paragraph (2), the Minister may revoke the licence, if satisfied that the holder of a horse mackerel licence or the master or person in charge of a licensed vessel has contravened—

- (a) Regulations 6 or 7,
- (b) a provision of an order made under section 224B (other than these Regulations),
- (c) a condition specified in or attached to a horse mackerel licence, or
- (d) a restriction under paragraph (5) of Regulation 4, revoke the licence.

(2) Where the Minister proposes to revoke a licence under paragraph (1), he or she shall notify in writing the holder of the horse mackerel licence of his or her intention to do so and the reasons therefor, and the holder of the horse mackerel licence 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) The Minister may at any time revoke or vary a condition attached to a horse

mackerel licence or attach a new condition to a horse mackerel licence.

(4) A horse 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,
- (b) the licensed vessel ceases to be an Irish sea-fishing boat,
- (c) a licence under section 222B(3) 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,

(5) A notification under paragraph (2) shall, subject to paragraph (6), be addressed to the person concerned by name, and may be served on or given to the person in one of the following ways—

- (a) by delivering it to the person,
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address,
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address, or
- (d) by affixing it to a suitably secure and conspicuous part of the licensed vessel concerned.

(6) For the purposes of paragraph (5), a company within the meaning of the Companies Acts, 1963 to 1999, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

6. Subject to paragraph (10) of regulation 4, a person shall not, other than pursuant to a horse mackerel licence—

- (a) fish for horse mackerel from an Irish sea-fishing boat, in the specified area or part thereof, or,
- (b) land or tranship from, or retain on board, such a boat, horse mackerel taken on board a boat or caught in the specified area or part thereof.

7. Subject to paragraph (10) of regulation 4, the owner, charterer or hirer, or the master or person in charge of an Irish sea-fishing boat, shall not, other than pursuant to a horse mackerel licence, cause or permit—

- (a) the fishing for horse mackerel in the specified area or part thereof from such boat, or

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

8. (1) A person shall not forge, or utter knowing it to be forged, a horse mackerel licence or other document purporting to be issued, granted or given under these Regulations (hereafter in this Regulation referred to as a “forged document”).

(2) A person shall not alter with intent to defraud or deceive, or utter knowing it to be so altered, a horse mackerel licence or other document issued, granted or given under these Regulations (hereafter in this Regulation referred to as “an altered document”).

(3) A person shall not, without lawful authority, have in his or her possession a forged document or an altered document.

9. The Horse Mackerel (Licensing) Regulations 2004 ([S.I. No. 824 of 2004](#)) is revoked.

GIVEN under my Hand, this 21st day of December, 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 licensing regime for the fishing of horse mackerel in ICES areas VI, VII, XII and XIV and divisions IIa (Community waters), North Sea (Community waters) IVa, Vb (Community waters), VIIIa, b, d and e with effect from 1 January 2006.

¹O.J. No. C347 of 31.12.85 p14