

STATUTORY INSTRUMENTS

S.I. No. 313 of 2005

Common Sole (Fisheries Management and Conservation) (No. 3) 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 Common Sole (Fisheries Management and Conservation) (No. 3) Regulations 2005.

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

3. In these Regulations —

"Common Sole" means *Solea solea*;

"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;

"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 zone 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;

4. An Irish sea-fishing boat fishing in the specified area or a person on board the boat —

(a) may only land Common Sole from such a boat, whether within the specified area or elsewhere, if the Common Sole landed does not exceed 5 percent by live-weight of the total catch of all species of fish subject to quotas landed on any occasion;

(b) may at all times, subject to paragraph (c), retain on board up to 50% more Common Sole than the maximum amount of Common Sole permitted in paragraph (a);

(c) must ensure by 24:00 of each day of the fishing voyage that the logbook has been completed in accordance with the conditions laid out in Article 6 of Regulation (EEC) No. 2847/93, and that the total amount of Common Sole retained on board such boat does not exceed the maximum amount of Common Sole permitted in paragraph (a).

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

6. An Irish sea-fishing boat fishing in the specified area by means of beam trawls or a person on board such boat shall not land Common Sole except at the ports of Howth, Dunmore East, Kilmore Quay and Rosslare when landing within the State.

7. In a prosecution for an offence for contravening Regulation 4 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 transshipment or landing of Common Sole in contravention of that Regulation —

(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 Common Sole were landed or transhipped contrary to that Regulation,

(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.

8. The master of an Irish sea fishing boat fishing in the specified areas shall, before each landing or transshipment of Common Sole from the boat, inform a sea fisheries protection officer of the time and location of the landing or transshipment whether inside or outside the State and the quantity of Common Sole concerned.

9. The Common Sole (Fisheries Management and Conservation) Order 2004 (S.I. No. 229 of 2004) is revoked.

10. The Common Sole (Fisheries Management and Conservation) (No. 2) Regulations 2005 (S.I. No. 91 of 2005) is revoked.

GIVEN under my Hand,

27 June 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 introduce a new management regime for landings and transshipment of Common Sole caught by Irish sea fishing boats in ICES Divisions VIIa with effect from 1 July 2005.

These Regulations allow Irish sea-fishing boats to land or tranship Common Sole caught in ICES Divisions VIIa, provided that the Common Sole does not

exceed 5 percent by weight of the total catch of quota species landed or transhipped on any occasion.

of Common Sole. It is prohibited to tranship or to engage in transshipment operations