

# **S.I. No. 239/2005 — Monkfish Licensing Regulations 2005**

## **Statutory Instruments**

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#### **MONKFISH LICENSING REGULATIONS 2005**

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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 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 ), hereby make the following regulations:

1. These Regulations may be cited as the Monkfish Licensing Regulations 2005.
2. These Regulations come into operation on 20 May 2005.
3. In these Regulations -

“Department” means the Department of Communications, Marine and Natural Resources

“Departmental Official” means an officer of the Department, authorised by the for the purposes of Regulation 6(3);

“ICES” means the International Council for the Exploration of the Sea;

“Irish sea-fishing boat” means a fishing boat entered in the Register of Fishing Boats;

“licensed boat” means an Irish sea-fishing boat in relation to which a monkfish licence has been granted under Regulation 5;

“Minister” means the Minister for Communications, Marine and Natural Resources;

“monkfish” means *Lophiidae*;

“monkfish licence” means a licence granted under Regulation 4;

“monkfish permit” means a permit granted under Regulation 4;

“quota” 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 2005<sup>1</sup> or, as the case may be, each subsequent year thereafter;

“section 222B” means section 222B (inserted by section 4 of the Fisheries (Amendment) Act 2003 (No. 21)) of the Fisheries (Consolidation) Act 1959 (No. 14 of 1959);

“specified areas” means waters falling within ICES sub-area VII and stock area code ANF/07, and waters falling within ICES sub-area Vb (EC waters), VI, XII, XIV and stock area code ANF/561214 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. (1) The Minister may, at his or her discretion upon the application in writing of any person who is the owner, charterer or hirer of an Irish sea-fishing boat —
- (a) (i) in relation to which there is in force a licence under section 222B; and
  - (ii) which is entered in the Register of Fishing Boats, and
  - (b) upon the furnishing by such person to the Minister of such information as he or she may reasonably require in relation to the application including the electronic means of notification for the purposes of Regulation 6(3),

grant to the person a monkfish licence authorising, subject to these Regulations, the fishing for monkfish from that boat in the specified areas or parts thereof as mentioned in the monkfish licence and the landing or transhipment of monkfish taken in the specified areas or parts thereof during such period as mentioned in the monkfish licence.

(2) A monkfish licence granted under paragraph (1) shall restrict the quantities of other quota species that may be caught, landed and transhipped by the licensed boat.

(3) The Minister may renew, subject to this Regulation, without application, at his or her discretion, a monkfish licence granted under paragraph (1) for such period as may be stated in the renewed monkfish licence where he or she is satisfied that -

- (a) the holder of the monkfish licence upon its expiration continues to

be the owner, charterer or hirer, as the case may be, of the licensed boat, and

(b) the licensed boat concerned upon the expiration of the monkfish licence continues -

(i) to be licensed to fish under section 222B, and

(ii) to be entered in the Register of Fishing Boats.

(4) Without prejudice to the Minister's discretion to refuse to grant or renew a monkfish licence, the Minister may refuse to grant or renew a monkfish licence where the applicant or licence holder, as the case may be, has previously had a monkfish licence held by him revoked.

5. A monkfish licence shall not authorise any fishing for monkfish in the specified areas or parts thereof, or the landing or transshipment of monkfish taken on board a boat or caught in the specified areas or parts of them during any period prohibited by the Minister.

6. (1) The Minister may attach to a monkfish licence conditions:

(a) restricting the quantity of monkfish and other quota species -

(i) that may be taken on board a particular licensed boat in the specified areas or part thereof, or

(ii) that may be landed or transhipped from or retained on board the licensed boat, during such period as the Minister decides;

(b) requiring the licensed boat to stop all fishing activity including fishing for quota species and any other species for a period of time which will be specified in the monkfish licence;

(c) requiring the provision of assistance to sea-fisheries protection officers in carrying out their duties;

(d) requiring the facilitation of the placing of any person appointed by the Department on board the boat for the purposes of ensuring compliance with the requirements of the monkfish licence, fisheries legislation, scientific observation, or otherwise.

(2) The Minister may at any time, by means of a permit, specify, alter, attach or revoke a condition to a monkfish licence, and such permit, upon notification, shall be deemed to be a condition of the licence and the licence holder or the master of the licensed boat concerned shall comply with or ensure compliance with such permit.

(3) Notification of any condition attached to the licence under this Regulation shall be made by electronic means by a Departmental Official to the holder of the monkfish licence or the master of the licensed boat concerned.

(4) The master of a licensed boat shall not contravene any condition of the licence relating to the boat or cause or permit such a contravention.

7. In a prosecution for an offence contravening Regulation 6 it shall be a defence for the defendant to show that the monkfish to which the prosecution relates were taken outside the specified areas or parts of them or outside the period specified any monkfish licence or monkfish permit.
8. In a prosecution for an offence contravening Regulation 6 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 monkfish 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 monkfish 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.
7. (1) Subject to paragraph (2), the Minister, if satisfied that a term mentioned in or a condition of, specified in or attached to a monkfish licence has been contravened by the holder of the licence, the master of the licensed boat or any person on board, may revoke the licence.
  - (2) Where the Minister proposes to revoke a monkfish licence under paragraph (1), he or she shall notify in writing the holder of the licence of the proposal and the reasons for it and the holder 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) A notification under paragraph (2) shall be addressed to the holder of the monkfish licence concerned and sent or given in any of the following ways -
    - (a) by delivering it to the holder of the monkfish licence or the master or other person in charge of the licensed boat concerned,
    - (b) by leaving it at the address at which the holder ordinarily resides or carries on business or in a suitable secure and conspicuous position on board the licensed boat, or
    - (c) by sending it by prepaid registered post to the holder at such address.

(4) A monkfish licence stands revoked if -

- (a) the holder of the monkfish licence ceases to be the owner, charterer or hirer, as the case may be, of the licensed boat concerned,
- (b) the licensed boat ceases to be an Irish sea-fishing boat,
- (c) a licence under section 222B in relation to the licensed boat is, suspended, revoked or has expired, or
- (d) the licensed boat ceases to be entered in the Register of Fishing Boats.

GIVEN under my hand,

17 May 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).

The effect of these Regulations is to establish a licensing regime for the fishing of monkfish.

These Regulations also provide for additional control measures for those who apply for a licence under this scheme.

These Regulations shall come into operation on 20 May 2005.

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

