

# **S.I. No. 822/2004 — North West Herring Fishing (Licensing) Regulations 2004**

## **Statutory Instruments**

### **SI No. 822 of 2004**

#### **North West Herring Fishing (Licensing) Regulations 2004**

### **S.I. 822 of 2004**

#### **North Western Herring Fishing (Licensing) Regulations 2004**

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 North Western Herring Fishing (Licensing) Regulations 2004.
2. These Regulations come into operation on 17 December 2004.
3. In these Regulations -

“the Communication” means the Communication (85/C347/05) from the Commission of the European Communities on the description of the ICES sub-areas and divisions used for the purpose of fishery statistics and regulations in the north east Atlantic<sup>(1)</sup> ;

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

“length” in relation to a boat, means the distance in a straight line between the foremost part of the bow and the aftermost point of the stern;

“licensed vessel” means an Irish sea-fishing boat in relation to which a herring licence has been granted;

“herring” means *Clupea harengus*;

“herring licence” means a licence granted under Regulation 4 of these Regulations;

“pair fishing” means the towing or hauling of a trawl, seine or other net in the sea from a licensed vessel with another Irish sea-fishing boat for the purpose of taking herring;

“the specified area” means the parts of the sea specified in the Annex to the Communication and therein referred to as sub-areas and divisions VIa, VIb, VIIb and VIIc.

4. (1) The Minister may, at his or her discretion -
- (a) upon the application in writing of any person who -
    - (i) is the owner, charterer or hirer of an Irish sea-fishing boat,
    - (ii) in relation to which a licence permitting the fishing for herring under section 222B (3) (inserted by section 5 of the Fisheries (Amendment) Act, 1994 (No 23 of 1994)) of the Fisheries (Consolidation) Act, 1959 (No 14 of 1959), has been granted, and
    - (iii) which is entered in the Register of Fishing Boats, and
  - (b) upon the furnishing by such person to the Minister of -
    - (i) information, to the satisfaction of the Minister, that the boat to which the application relates when going to sea has complied with any manning requirement of Part II of the Fishing Vessels (Certification of Deck Officers and Engineer Officers) Regulations, 1988 ( S.I. No. 289 of 1988 ), in respect of it, and
    - (ii) such other information as he or she may reasonably require in relation to the application,

grant to the person a licence (“herring licence”) authorising, subject to this Regulation, the fishing for herring from that boat in the specified area or such part thereof as mentioned in the licence and the landing or transhipment of herring taken in that area or such part thereof during such period as mentioned in the licence.

(2) The Minister may renew, subject to this Regulation, without application, at his or her discretion, a licence granted under paragraph (1) of this Regulation for such period as may be stated in the renewed licence:

Provided he or she is satisfied that -

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

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

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

(i) to be licensed to fish for herring under section 222B(3) of the Fisheries (Consolidation) Act, 1959 ,

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

(iii) to comply with the manning requirements referred to in paragraph (1) (b) (i) of this Regulation.

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

(4) A herring licence shall not authorise any fishing for herring in any part of the area mentioned in the licence, or the landing or transhipment of herring taken in that part during any period prohibited by the Minister under 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), for fishing for herring in that part.

(5) The Minister may, from time to time, restrict the quantity of herring -

(a) that may be taken on board a particular licensed vessel in the specified area or part thereof, or

(b) in respect of herring so taken, that may be landed or transhipped from or retained on board the vessel,

during such period as the Minister decides.

(6) Where a licensed vessel is engaged in pair fishing for herring in the specified area, the vessel may, notwithstanding paragraph (5) of this Regulation, take on board any such quantity allowed to the other boat under subparagraph (a) of that paragraph or land or tranship the other boat's share of herring so taken, subject to such conditions as may be specified in the herring licence relating to the vessel.

(7) Notification of any restriction made under paragraph (5) of this Regulation and its duration shall be made in writing by a sea fisheries protection officer to the holder of the herring licence or the master of the licensed vessel concerned and such restriction, upon notification, shall be deemed to be a condition of the licence and the licence holder or the master of the licensed vessel concerned shall comply with or ensure compliance with such condition.

- (8) The Minister may attach to or specify in a herring licence conditions:
- (a) prohibiting the landing or transhipment of herring other than at a specified place and within specified hours,
  - (b) requiring the giving of specified advance notice of landing
  - (c) requiring the keeping by the master of the licensed vessel of such records as are specified in the licence,
  - (d) requiring the master 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 kept on board the vessel in relation to 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 or person, and to give such officer such assistance as may be reasonable to assist in such inspection.
- (9) The Minister may at any time revoke or vary a term or condition in a herring licence or attach a new term or condition to a herring licence.
- (10) The master of a licensed vessel shall not contravene any condition of the licence relating to the vessel or cause or permit such a contravention.
5. (1) Subject to paragraph (2) of this Regulation, the Minister, if satisfied that a term mentioned in or a condition of, specified in or attached to a herring licence has been contravened by the holder of the licence, the master of the licensed vessel or any person on board, may revoke the licence.
- (2) Where the Minister proposes to revoke a licence under paragraph (1) of this Regulation, 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 such representations.
- (3) A notification under paragraph (2) of this Regulation shall be addressed to the holder of the licence concerned and sent or given in any of the following ways -
- (a) by delivering it to the holder of the licence or the master or person in charge of the licensed vessel concerned,
  - (b) by leaving it at the address at which the holder ordinarily resides or carries on business or in a suitably secure and conspicuous position on board the licensed vessel, or
  - (c) by sending it by prepaid post to the holder at such address.
- (4) A herring 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 concerned,

- (b) the licensed vessel ceases to be an Irish sea-fishing boat,
- (c) a licence permitting fishing for herring under section 222B (3) of the Fisheries (Consolidation) Act, 1959 , in relation to the licensed vessel is revoked or has expired, or
- (d) the licensed vessel ceases to be registered in the Register of Fishing Boats.

6. A person shall not, other than pursuant to a herring licence -

- (a) fish for herring from an Irish sea-fishing boat in the specified area, or
- (b) land or tranship from or retain on board such a boat, herring taken on board that boat in the specified area.

7. The owner, charterer, hirer or the master of an Irish sea-fishing boat shall not, other than pursuant to a herring licence, cause or permit -

- (a) the boat or any person on board the boat to fish for herring in the specified area, or
- (b) the landing or transhipment from, or retention on board, the boat of herring taken in the specified area.

7. The North Western Herring Fishing (Licensing) Order 1987 ( S.I. No. 352 of 1987 ) is revoked.

GIVEN under my Official Seal,

14 December 2004

Pat the Cope Gallagher

Minister for 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 set up a licensing regime for the fishing of herring in ICES areas VIa, VIb, VIIb and VIIc.

These Regulations come into operation on 17 December 2004.

(1) O.J. No. C347, 31.12.85, p. 14.

© Government of Ireland. Oireachtas Copyright Material is reproduced with the permission of the House of the Oireachtas