

Statutory Instruments.

SI No 258 of 2004

SEA FISHERIES (TUNA AND CERTAIN OTHER SPECIES FISHING) ORDER, 2004.

I, Dermot Ahern, Minister for Communications, Marine and Natural Resources in exercise of the powers conferred on me by Section 223A (inserted by Section 9 of the Fisheries (Amendment) Act, 1978 (No. 18 of 1978) and amended by Section 4 of the Fisheries (Amendment) Act, 1983 (No. 27 of 1983)) of the Fisheries (Consolidation) Act, 1959 (No. 14 of 1959) and by Section 224B (inserted by Section 10 of the Fisheries (Amendment) Act 1978 (No 18 of 1978) and amended 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)), for the purpose of giving effect to Council Regulation (EC) No. 1239/98 of 8 June, 1998¹, and to that part of Annex IF of Council Regulation 2287/2003² of 19thDecember, 2003 which refers to Northern Albacore (*Germo alalunga*) hereby order as follows:

2. O.J.No.L347, 31.12.2003.p.1

1. O.J.No.L171, 17.6.98.p.1

1. This Order may be cited as the Sea Fisheries (Tuna and Certain Other Species Fishing) Order, 2004.

This Order shall come into operation on the 03rd day of June, 2004.

2. In this Order —

"tuna" means Albacore (*Thunnus alalunga*) listed in Annex X and Northern Albacore (*Germo alalunga*) referred to in Annex 1E of Council Regulation 2287/2003;

"the Council Regulation" means Council Regulation (EC) No. 894/97 of 29 April, 1997⁴, as amended by Council Regulation (EC) No. 1239/98 of 8 June, 1998³, and Council Regulation (EC) No. 2287/2003 of 19 December 2003 and any future regulation of the Council of the European Union made after the making of this Order which amends, extends, replaces or consolidates (with or without modifications) the Council Regulation (as defined herein);

3.O.J.No.L.171,17.6.98, p1.

4.O.J.No.L.132,23.5.97.p1

"tuna fishing" means fishing for tuna and certain other species listed in the Annex by means of fishing gears other than any type of gill net, driftnets, bottom set gill nets, trammel nets and entangling nets;

"gill nets" means any type of gill nets, driftnets, bottom set gill nets, trammel nets and entangling nets;

"the Minister" means the Minister for Communications, Marine and Natural Resources.

3. A person who is the owner, charterer or hirer of an Irish sea fishing boat may not engage in fishing for the species listed in the Annex or for Northern Albacore within the exclusive fishery limits of the State and outside the exclusive fishery limits of the State unless an authorisation has been granted under Regulation 4 of this Order for the purposes of conducting tuna fishing within the exclusive fishery limits of the State and outside the exclusive fishery limits of the State.

4. (1) The Minister may, upon the application of any person who is the owner, charterer or hirer of an Irish sea-fishing boat and upon being furnished by the person with any information which the Minister may reasonably require in relation to the application, grant to the person an authorisation for the purposes of conducting tuna fishing.

(2) An authorisation under this Regulation shall stand revoked if the holder of the authorisation ceases to be the owner, charterer or hirer of the boat to which the authorisation relates or does not or ceases to hold a licence granted under section 222B (inserted by section 2 of the Fisheries (Amendment) Act, 1983) of the Fisheries (Consolidation) Act, 1959 or ceases to be registered in the Register of Fishing Boats.

(3) An authorisation under this Regulation shall be subject to any or all of the following conditions as the Minister thinks fit and specifies in the authorisation;

(i) specifying the quantities or types of fishing gear or gears which may be kept on board or used for the purposes of tuna fishing, and the manner in which such gear or gears may be used;

(ii) specifying the duration of the authorisation;

(iii) restricting the quantity of the species listed in the Annex or for Northern Albacore that may be taken, landed or transhipped in a specified period or periods;

(iv) prohibiting the landing or transhipment of the species listed in the Annex or for Northern Albacore other than at specified places;

(v) the collection, collation and submission of all specified data considered necessary in relation to tuna fishing;

(vi) the keeping by the master of the boat in relation to the activities of the boat such records as may be specified by the Minister in the authorisation under this Regulation;

(vii) requiring the master of the boat concerned at all times on a request being made in that behalf to facilitate the boarding and inspection of the boat and inspection of the authorisation and any records kept on board the boat in relation to the boat, whether pursuant to a requirement of the authorisation or otherwise, by a sea fisheries protection officer and the taking of copies of the authorisation or any such records by such an officer;

(viii) requiring the master of the boat to facilitate the placing of any person appointed by the Minister on board the vessel for the purposes of ensuring compliance with the requirements of the authorisation, fisheries legislation generally and scientific observation or otherwise;

(ix) requiring the keeping of the authorisation on the boat concerned; or

(x) requiring the surrender of the authorisation by the holder to the Minister or a sea fisheries protection officer upon its expiry or revocation.

5. The Master of a vessel in respect of which an authorisation has been granted, under Regulation 4 of this Order shall be prohibited during the period of

validity of such authorisation from having any gill nets on board that vessel either within or outside the exclusive fishery limits of the State.

6. (i) Neither an Irish sea-fishing boat nor a person on board an Irish sea-fishing boat within the exclusive fishery limits of the State shall engage in fishing for the species listed in the Annex or for Northern Albacore and the master of an Irish sea-fishing boat within the exclusive fishery limits of the State shall not cause or permit the boat or any person on board to engage in fishing for the species listed in the Annex or for Northern Albacore unless operating under an authorisation granted under Regulation 4 of this Order.

(ii) Neither an Irish sea-fishing boat nor a person on board an Irish sea-fishing boat outside the exclusive fishery limits of the State shall engage in fishing for the species listed in the Annex or for Northern Albacore and the master of an Irish sea-fishing boat outside the exclusive fishery limits of the State shall not cause or permit the boat or any person on board to engage in fishing for the species listed in the Annex or for Northern Albacore unless operating under an authorisation granted under Regulation 4 of this Order.

7. The Minister may, if he or she is satisfied that there has been a failure to comply with all relevant EU and national legislation or with a condition specified in an authorisation granted under Regulation 4 by the holder of the authorisation or the master of the vessel to which such an authorisation relates, revoke the authorisation.

8. The Minister may at any time revoke or vary any condition, or insert a new condition, under Regulation 4, and the condition as so revoked, varied or inserted shall be regarded as being specified in the authorisation.

9 Neither a person to whom an authorisation is granted under Regulation 4 nor the master of an Irish sea-fishing boat to which such an authorisation relates shall fail to comply with a condition specified in the authorisation or cause or permit such a failure.

10. The following Order is hereby revoked:

Sea Fisheries (Tuna and Certain Other Species Fishing) Order,
2002 (S.I. No. 321 of 2002).

GIVEN under my Official Seal,

(L.S.)

Dermot-Ahern

2 June, 2004.

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 this Order is to allow for the fishing for tuna and certain other species by means of fishing gears other than any type of gill net, driftnets, bottom set gill nets, trammel nets and entangling nets.

This Order comes into operation on 03 June, 2004.