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S.I. No. 20/2006 — Polyvalent Mackerel Licensing Regulations 2006

S.I. No 20 of 2006

POLYVALENT MACKEREL LICENSING REGULATIONS 2006

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 by 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. 5) Order 2005 (S.I. No. 843 of 2005), hereby make the following regulations:

1. These Regulations may be cited as the Polyvalent Mackerel Licensing Regulations 2006.
2. These Regulations come into operation on 29 January 2006.
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 Minister for the purposes of Regulation 6(3);

“edible crab” means *Cancer pagurus*;

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

“Irish polyvalent vessel” means a boat entered in the Register of Fishing Boats which is licensed as a polyvalent vessel under Section 222B of the Fisheries (Consolidation) Act 1959 (as amended and restated by Section 4 of the Fisheries (Amendment) Act 2003

“licensed boat” means an Irish polyvalent vessel in relation to which a polyvalent mackerel licence has been granted under Regulation 4;

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

“Mackerel” means *Scomber scombrus*;

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

“Polyvalent mackerel licence” means a licence 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 2006¹ or, as the case may be, each subsequent year thereafter;

“registered length” means the length of a vessel established in accordance with the Merchant Shipping (Tonnage) Regulations 1984 (S.I. No. 369 of 1984);

“scallop” means *pecten maximus*;

“spider crab” means *Maja squinado*;

“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 area” means waters falling within ICES sub-areas areas VI, VII, XII and XIV and divisions IIa (non EC waters) IVa, Vb (Community Waters), VIIIa, b, d and e, 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 polyvalent vessel over 65 ft registered length or any vessel which has spent at least 30 days pair fishing in each of the previous four years with a vessel over 65 ft registered length, as recorded on the Department's logsheet systems
- (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 polyvalent mackerel licence authorising, subject to these Regulations, the fishing for mackerel from that boat in the specified areas or parts thereof as mentioned in the polyvalent mackerel licence and the landing or transhipment of mackerel taken in the specified area or parts thereof during such

period as mentioned in the polyvalent mackerel licence.

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

(a) the holder of the polyvalent mackerel 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 Mackerel 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 polyvalent mackerel licence, the Minister may refuse to grant or renew a polyvalent mackerel licence where the applicant or licence holder, as the case may be, has previously had a polyvalent mackerel licence held by him revoked.

5. A polyvalent mackerel licence shall not authorise any fishing for mackerel in the specified areas or parts thereof, or the landing or transshipment of mackerel taken on board a licensed 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 polyvalent mackerel licence conditions:

(a) restricting the quantity of mackerel 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) restricting the number of days that the licensed boat may engage in fishing for edible crab, spider crab and scallop;

(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 polyvalent mackerel licence, fisheries legislation, scientific observation, or otherwise.

(2) The Minister may, at any time, specify, alter, attach or revoke a condition to a polyvalent mackerel licence, and such alteration, attachment or revocation, 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 condition.

- (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 polyvalent mackerel 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 mackerel to which the prosecution relates were taken outside the specified areas or parts of them or outside the period specified in any polyvalent mackerel licence.
 8. In a prosecution for an offence contravening Regulation 6 the following shall be *prima facie* evidence that the Irish polyvalent vessel concerned was, at the time of the alleged offence, used for the transhipment or landing of polyvalent mackerel in contravention of that Regulation -
 - (a) evidence that such Irish polyvalent vessel 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 mackerel 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 Irish polyvalent vessel that at such time she was so used, or
 - (c) any other matter from which it so appears that such Irish polyvalent vessel was so used or which in the opinion of the Court suggests, or tends to suggest, that such vessel was so used.
 9.
 - (1) Subject to paragraph (2), the Minister, if satisfied that a term mentioned in or a condition of, specified in or attached to a polyvalent mackerel 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 polyvalent mackerel 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 polyvalent mackerel licence concerned and sent or given in any of the following ways -
 - (a) by delivering it to the holder of the polyvalent mackerel 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 polyvalent mackerel licence stands revoked if -
- (a) the holder of the polyvalent mackerel 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 polyvalent vessel,
 - (c) a licence under section 222B in relation to the licensed boat is, suspended, revoked or has expired, or
 - (b) the licensed boat ceases to be entered in the Register of Fishing Boats.

GIVEN under my hand,

25 January 2006

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 Mackerel by Irish polyvalent vessels over 65 ft registered length or any polyvalent vessel which has spent at least 30 days pair fishing in each of the previous four years with a vessel over 65ft registered length, as recorded on the Department's logsheet systems

These Regulations shall come into operation on 29 January 2006.

¹ Council Regulation (EC) No. 51/2006, O.J. L16, 20.1.2006, pp. 1-183.

