

Act on Fishing Outside of Icelandic Jurisdiction

No. 151, 27 December 1996

Entered into force 30 December 1996. Amended by Act No. 22/1998 (entered into force 29 April 1998), Act No. 82/1998 (entered into force 1 October 1998), Act No. 34/2000 (entered into force 26 May 2000), Act No. 50/2002 (entered into force 6 May 2002), Act No. 22/2005 (entered into force 25 May 2005), Act No. 163/2006 (entered into force 30 December 2006) and Act No. 88/2008 (entered into force 1 January 2009, with the exception of Temporary Provision VII, which entered into force 21 June 2008).

CHAPTER I

Fishing by Icelandic vessels

Article 1

The provisions of this Chapter shall apply to fishing by Icelandic vessels from commercial marine stocks outside of Icelandic jurisdiction, cf. the Act on Icelandic Territorial Waters, Exclusive Economic Zone and Continental Shelf. For the purposes of this Act, fishing shall include any type of utilisation of commercial marine stocks. In this context, commercial marine stocks shall include marine animals, as well as marine vegetation, which are or may be exploited commercially

Article 2

The allocation of harvest rights provided for by this Act endows individual parties neither with the right of ownership nor irrevocable control of harvest rights.

Article 3

The Minister may set rules on fishing by Icelandic vessels outside Icelandic jurisdiction as necessary to satisfy Iceland's general obligations to protect living ocean resources as provided for in detail in this Act.

Article 4

All Icelandic vessels may pursue fishing outside Icelandic jurisdiction subject to the limitations provided for by legislation and rules adopted by virtue of it.

The Minister shall, in a Regulation, require specific licensing of Icelandic vessels for fishing on the high seas if necessary due to Iceland's obligations under international agreements, to satisfy general decisions taken by virtue of Art. 3, or to protect Iceland's interests concerning fishing stocks as referred to in Art. 5; in such instances fishing shall not be authorised without such permits. The permits shall be subject to the necessary conditions. Vessels may only be granted permits as provided for in this Article if their owners and operators satisfy the requirements for pursuing fishing in Iceland's exclusive economic zone, as provided for in the Act on Investment by Foreign Parties in Industrial Operations and the Act on the Right to Fish in Iceland's Exclusive Economic Zone.

The provisions of the second paragraph shall also apply to fishing by Icelandic vessels within the jurisdictions of other states from the stocks referred to in Article 5.

Fishing by Icelandic vessels within the jurisdictions of other states is unauthorised without a permit from the competent authorities.

The Minister may set specific rules on management of fishing by Icelandic vessels in instances where Iceland has availed itself of its right to object to resolutions on fisheries management concluded on the basis of agreements to which Iceland is a party, even if the provisions of the first sentence of the second paragraph do not apply. To this end the Minister may make special permits mandatory for such fishing, which shall then be unauthorised without such permits. The permits may be subject to the necessary conditions. In such cases, the provisions of Articles 5 and 6 shall apply as appropriate.

Article 5

With regard to fishing outside of Icelandic jurisdiction, from stocks caught both within and outside Iceland's jurisdiction, Icelandic straddling stocks, the provisions of the Act on Fisheries Management shall apply as appropriate, cf. however, the provisions of this Article.

If a decision is taken to limit total allowable catch from such stocks for which there is previous uninterrupted fishing experience, the quota share of individual vessels shall be determined on the basis of the three best periods of their previous six fishing periods. For the purposes of this Act, it shall be regarded as uninterrupted fishing experience if the annual catch of Icelandic vessels from the stock concerned has, at least three times during the previous six years, been equivalent to at least one-third of the total catch to be allocated by Icelandic authorities.

If a vessel, which has regularly pursued fishing from a stock of which it has long-term fishing experience, has been prevented from fishing for a period of at least six consecutive months due to major damage or malfunction, a decision on its quota share, based on fishing experience as provided for in the second paragraph, shall include estimated catch for the vessel during the period of its unavailability. The catch for each entire fishing period shall be assumed to amount to the same proportion of total catch as the vessel's average proportion of total catch of the species concerned during the two fishing periods closest to the period or periods of its unavailability. Should the unavailability cover only part of a fishing period, fishing experience shall be estimated proportionally, having regard for catches in general during that portion of the fishing period affected by unavailability.

The Minister may make allocations as provided for in the second and sixth paragraphs subject to a vessel relinquishing catch quotas within Icelandic jurisdiction equal in terms of cod equivalents to as much as 15% of the catch quotas decided upon in accordance with those paragraphs. Vessel operators who cannot fulfil the requirements of this paragraph shall be subject to an equivalent reduction of their allocated catch quotas pursuant to this Article.

Those catch quotas which are not allocated in accordance with the above must be allocated in the manner referred to in the sixth paragraph.

If no uninterrupted fishing experience of the stock in question is available, the Minister shall determine the quota shares of individual vessels. Such decision shall be based, for instance, on the vessel's previous fishing. The Minister may also have regard for the size of a vessel, its type or gear, and other aspects of significance. The Minister may also allocate harvest rights to vessels of those operators who, following an advertisement, have declared themselves in a binding manner prepared to surrender the

most catch quotas of the vessel in question, calculated in cod equivalents, for species subject to total allowable catch limitations.

Such catch quotas, which have been relinquished pursuant to the first sentence of the fourth paragraph, or pursuant to the sixth paragraph, must be allocated to other vessels in proportion to their total catch shares, calculated in cod equivalents, pursuant to the second paragraph of Article 7 of the Act on Fisheries Management or pursuant to this Act.

The Minister may grant Icelandic vessels, which do not hold commercial fishing permits within Icelandic jurisdiction, as provided for in the first paragraph of Article 4 of the Fisheries Management Act, permits to fish from the stocks concerned in this Article outside Icelandic jurisdiction, provided they fulfil the requirements of the final sentence of the second paragraph of Article 4 of this Act. Such vessels shall be eligible for allocation of a quota share provided they have fishing experience of the stock in question.

Notwithstanding the provisions of this Article, the Minister may decide that as much as 5% of total catch will be allocated specifically to those vessels which began fishing the stock in question.

Article 6

If total allowable catch is decided upon for stocks other than those referred to in Article 5, pursuant to an agreement to which Iceland is a party, the Minister shall set rules concerning fishing by Icelandic vessels of that portion of the total allowable catch allocated to Iceland. Such rules shall ensure that the catch will be within the agreed limits and for this purpose the Minister may divide the harvest rights for the stock in each fishing period between individual Icelandic vessels.

In dividing harvest rights for stocks for which there is previous uninterrupted fishing experience, the harvest rights of individual vessels shall be determined on the basis of the three best periods of their previous six fishing periods.

If a vessel which has regularly pursued fishing from a stock of which it has long-term fishing experience is prevented from fishing for a period of at least six consecutive months due to major damage or malfunction, a decision on its quota share, based on fishing experience as provided for in the second paragraph, shall include estimated catch for the vessel during the period of its absence. The catch for each entire fishing period shall be assumed to amount to the same proportion of total catch as the vessel's average proportion of total catch of the species concerned during the two fishing periods closest to the period or periods of its unavailability. Should the unavailability cover only part of a fishing period, fishing experience shall be estimated proportionally, having regard for catches in general during that portion of the fishing period affected by unavailability.

The Minister may make allocations as provided for in the second and seventh paragraphs subject to a vessel relinquishing harvest rights within Icelandic jurisdiction equal in terms of cod equivalents to as much as 7% of the harvest rights decided upon in accordance with those paragraphs. Vessel operators who cannot fulfil the requirements of this paragraph shall be subject to an equivalent reduction of their allocated harvest rights pursuant to this Article.

Those harvest rights which are not allocated in accordance with the above must be allocated in the manner referred to in the seventh paragraph.

The Minister may decide on a fixed share of catch for individual vessels for a longer term than one fishing period when allocating harvest rights as provided for in the second paragraph, in which case he/she may decide that provisions of the Fisheries Management Act concerning transfer of harvest rights shall apply as appropriate.

If no uninterrupted fishing experience of the stock in question is available, the Minister shall determine the harvest rights of individual vessels. Such decision shall be based, for instance, on the vessel's previous fishing. The Minister may also have regard for the size of a vessel, its type or gear, and other aspects of significance. The Minister may also allocate harvest rights to vessels of those operators who, following an advertisement, have declared themselves in a binding manner prepared to relinquish the most catch quotas of the vessel in question, calculated in cod equivalents, for species subject to total allowable catch limitations.

Such catch quotas, which have been relinquished on the basis of the first sentence of the fourth paragraph, or on the basis of the seventh paragraph, must be allocated to other vessels in accordance with their total catch shares, calculated in cod equivalents, on the basis of the second paragraph of Article 7 of the Act on Fisheries Management or pursuant to this Act.

If a total allowable catch has not been decided upon, as referred to in the first paragraph, but other limits on high sea fishing are provided for, the Minister shall set such rules as are necessary to ensure that fishing by Icelandic vessels will be within the limits. The Minister may, for this purpose set rules on, for instance, the number of vessels, number of fishing trips and length of time at sea of individual vessels.

The Minister may also set rules as necessary to limit fishing in other instances, cf. Article 3, and shall seek the opinion of the Marine Research Institute in this regard.

Notwithstanding the provisions of this Article, the Minister may decide that as much as 5% of total catch will be allocated specifically to those vessels which began fishing the stock in question.

Article 7

The Minister shall in a Regulation set provisions on the type and make of fishing gear used by Icelandic vessels fishing outside of Icelandic jurisdiction, including provisions on minimum mesh size. He/She may also set rules on closure of fishing areas and other actions which may be necessary to ensure protection of juvenile fish and responsible fishing. The Minister shall base such provisions on agreements to which Iceland is a party. Furthermore, the Minister may have regard for rules applying to fishing within Icelandic jurisdiction, rules applicable in jurisdictions of other states adjacent to the ocean area in question or rules which have been adopted by the regional body concerned.

Article 8

Inspectors of the Directorate of Fisheries may, for surveillance purposes, accompany Icelandic vessels fishing outside of Icelandic jurisdiction. Provisions of the Fisheries Management Act and the Act on Full Processing of Demersal Catch Aboard Fishing Vessels shall apply to surveillance of the enforcement of this Act as appropriate. In addition, the Minister shall, in a Regulation, oblige Icelandic vessels to comply with

such surveillance as is provided for in agreements to which Iceland is a party. The Minister may also set rules on surveillance pursuant to the fifth paragraph of Article 4

...¹⁾

Icelandic vessels pursuing fishing outside of Icelandic jurisdiction must satisfy all the provisions on delivery of catch reports applicable to fishing within Icelandic jurisdiction. In addition, the Minister shall, in a regulation, oblige Icelandic vessels to fulfil provisions of agreements to which Iceland is a party concerning notifications and information provision to foreign authorities or international institutions.

¹⁾Act No 34/2000, Article 9.

Article 9

Icelandic laws and rules adopted by virtue of them concerning hygiene, gear and internal checks and controls, as well as on the handling and utilisation of catches, which apply to fishing by Icelandic vessels within Icelandic jurisdiction, shall also apply to fishing outside this jurisdiction. The Minister may, however, grant exemptions concerning catch utilisation for fishing outside of Icelandic jurisdiction if the distance from land, length of fishing trips or other circumstances make this necessary.

CHAPTER II

Fishing by Foreign Vessels

Article 10

...¹⁾

¹⁾Act No 22/1998, Article 16.

Article 11

Icelandic authorities may take such other measures towards foreign vessels concerning their fishing on the high seas which are necessary to enforce agreements to which Iceland is a party.

CHAPTER III Penalties

Article 12

Violations of the provisions of this Act and rules adopted pursuant to it shall be liable to penalties as provided for in Articles 13 and 14, whether committed deliberately or through negligence. Cases of serious or repeated deliberate violation shall furthermore be liable to ...¹⁾ imprisonment for up to six years.

Provisions of the Act on Special Fees for Illegal Marine Catches shall be applied in the case of violations against this Act, as appropriate.

¹⁾Act No 82/1998, Article 231.

Article 13

[In cases of serious or repeated violations deliberately committed against rules adopted as provided for in the second sentence of Article 7 of this Act, the fishing gear of a vessel which has been used for the illegal fishing, including trawl wires, shall be confiscated together with its illegal catch.

Instead of confiscating catch and fishing gear, as provided for in the first paragraph, an amount corresponding to the value of the catch and fishing gear, as assessed by court-appointed experts, may be confiscated.]¹⁾

¹⁾Act No 163/2006, Article 13.

Article 14

[Violations against ... ¹⁾ the provisions of this Act, rules set pursuant to this Act or permit provisions shall be liable to fines which shall not exceed ISK 4,000,000, depending upon the nature and scope of the violation. Fines for repeated offences shall amount to a minimum of ISK 400,000 and a maximum of ISK 8,000,000, again, depending upon the nature and scope of the violation.]²⁾

The Directorate of Fisheries shall suspend the fishing permits of legal entities violating this Act as provided for in detail in the Act Concerning the Treatment of Commercial Marine Stocks.

¹⁾Act No 163/2006, Article 14. ²⁾Act No 22/2005, Article 4.

Article 15

Fines may be imposed on both legal entities and individuals. Notwithstanding the provisions of Article 12, fines may be levied against legal entities, even though the guilt of their representatives or employees or other persons acting on their behalf has not been proven, if the violation has been or could have been to the advantage of the legal entity. Similarly, fines may also be imposed against legal entities if their representatives or employees or other persons acting on their behalf are guilty of a violation.

An attempt to commit or participation in a violation of this Act is liable to punishment as prescribed by the Criminal Code.

Article 16

A vessel which has been escorted to port due to a violation of this Act may be impounded. In such case a judge may release the vessel if a bank guarantee or other guarantee equivalent, in the judge's assessment, is provided for payment of the fine, court cost and confiscation as provided for in [the second paragraph of Article 13.]¹⁾

A lien shall be placed on the vessel to guarantee payment of the fine, court cost and confiscation.

...²⁾

Fines provided for in this Act, as well as the value of confiscated catch and fishing gear, shall accrue to the Icelandic Coast Guard Fund (*Landhelgissjóður Íslands*).

¹⁾Act No 163/2006, Article 15. ²⁾Act No 88/2008, Article 233.

Article 17

[Illegal fishing gear may be confiscated. Fishing gear or parts of fishing gear are illegal if they do not conform to the rules set on fishing gear by virtue of this Act.]¹⁾

¹⁾Act No 163/2006, Article 16.

CHAPTER IV Miscellaneous provisions

Article 18

If Icelandic authorities have, on the basis of an international agreement, authorised the supervisory parties of a foreign state to send inspectors aboard Icelandic fishing vessels outside of Icelandic jurisdiction, the Minister shall provide in detail for such supervision in a Regulation.

The Regulation shall, for instance, provide for the authorisation of supervisory parties to investigate suspected violations of fisheries management rules in the ocean area concerned and on their legal protection in accordance with the agreement in question. Provision shall also be made for the obligations of crews of Icelandic vessels, for instance, to provide their assistance in inspection when vessels are boarded.

Article 19

The Minister shall make further provision for the enforcement of this Act in a Regulation.¹⁾

¹⁾*Reg.471/1994 (on fishing by Icelandic vessels outside Iceland's exclusive fishing zone) Reg. 310/1995. Reg.685/1996 (on allocation of harvest rights in the Flemish Cap), cf. 28/1997. Reg.27/1997 (on allocation of harvest rights for deep-sea redfish on Reykjanes hryggur) Reg.24/1998 (on mesh measures and the implementation of mesh measuring) Reg.150/1998 (on measurement of fishing vessel holds), cf. 445/1999 and 359/2007. Reg.306/1999 (on allocation of cod quota shares in the Barents Sea). Reg.307/1999 (on the use of a juvenile fish sorting grid in shrimp fishing in international waters of the Barents Sea). Reg.543/2002 (on mesh sizes and construction of trawls for fishing of demersal species, shrimp and nephrops). Reg. 224/2006 (on weighing and recording of marine catch), cf. 684/2006, 70/2007, 651/2007, 893/2007 and 114/2008. Reg.557/2007 (on catch log books), cf. 78/2008 and 918/2008. Reg.573/2008 (on fishing of East Atlantic bluefin tuna). Reg.770/2008 (on Remote Surveillance). Reg.1221/2008 (on surveillance of fishing in the area covered by the North East Atlantic Fisheries Commission (NEAFC)).*

Article 20

This Act shall enter into force at once. ...

Temporary Provisions ...

[Notwithstanding the provision of the second paragraph of Article 5, the Directorate of Fisheries shall allocate individual vessels quota shares in the Atlantico-Scandic herring stock based on their fishing experience during the years 1994-2001, including those years. If a vessel has replaced another vessel which had acquired fishing experience, cf. sub-paragraph b of Art. 2 of Act No 38/1998, on Management of Fishing of the Atlantico-Scandic Herring Stock, the replacement vessel shall benefit from this fishing experience.]¹⁾

¹⁾*Act No 50/2002, Article 1.*