

STATUTORY INSTRUMENTS.

S.I. No. 364 of 1985.

**SEA FISHERIES (CONSERVATION AND
MANAGEMENT OF FISHERY RESOURCES) ORDER,
1985.**

(Pl. 3595)

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MANAGEMENT OF FISHERY RESOURCES) ORDER,
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I, PADDY O'TOOLE, Minister for Fisheries and Forestry, 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 the Fisheries (Transfer of Departmental Administration and Ministerial Functions) Order, 1977 (S.I. No. 30 of 1977) (as adapted by the Fisheries (Alteration of Name of the Department and Title of Minister) Order, 1978 (S.I. No. 195 of 1978)), hereby make the following Order:

1. This Order may be cited as the Sea Fisheries (Conservation and Management of Fishery Resources) Order, 1985.

2. In this Order—

“the Communication” means the Communication from the Commission of the European Communities on the description of the ICES sub-areas and divisions used for the purposes of fisheries statistics and regulations in the North East Atlantic¹;

“the Council Regulations” means Council Regulations (EEC) No. 3436/84² of 4 December, 1984, Council Regulation (EEC) No. 4/85³ of 19 December, 1984, Council Regulation (EEC) No. 5/85⁴ of 19 December, 1984, Council Regulation (EEC) No. 7/85⁵ of 19 December, 1984, and Council Regulation (EEC) No. 97/85 of 14 January, 1985⁶;

“Sub-area VI”, “Sub-area VII”, “Division VI (a)”, “Division VI (b)”, “Division VII (a)”, “Division VII (b)”, “Division VII (c)”, “Division VII (g)”, “Division VII (h)”,

¹O.J. No. C140/3 of 3.6.1982.

²O.J. No. L318/9 of 7 December 1984.

³O.J. No. L1/42 of 1 January 1985.

⁴O.J. No. L1/52 of 1 January 1985.

⁵O.J. No. L1/64 of 1 January 1985.

⁶O.J. No. L13/5 of 16 January 1985.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 12th November, 1985.

“Division VII (j)”, and “Division VII (k)”, mean, respectively, the parts of the sea described in the Annex to the Communication and therein referred to as Sub-area VI, Sub-area VII, Division VI (a), Division VI (b), Division VII (a), Division VII (b), Division VII (c), Division VII (g), Division VII (h), Division VII (j), and Division VII (k).

3. The provisions of each of the Council Regulations (being measures of conservation of fish stocks and management of fishery resources), in so far as they relate to the State, including the exclusive fishery limits of the State, are hereby prescribed and adopted and accordingly, any infringement of any provision of the Council Regulations within those limits (or, as the case may be, within the State), after the commencement of this Order shall, in addition to any offence which such infringement may constitute under the Fisheries Acts, 1959 to 1983, be an infringement of this Order.

4 (1) Where, in proceedings in which there is alleged a contravention of this Order or any provision of the Fisheries Acts 1959 to 1983 (whether or not the alleged contravention is also a contravention of this Order) by a person on board a sea-fishing boat to which any of the Council Regulations applies, it is proved that—

- (a) fish were found on board a sea-fishing boat, and
- (b) at the time when fish were so found such sea-fishing boat was within both the exclusive fishery limits of the State and any of the ICES Sub-areas or Divisions specified in paragraph (2) of this article.

it shall be presumed until the contrary is proved that all of the fish so found were taken within such limits and within such Sub-area or Division, as may be appropriate.

(2) The ICES Sub-areas and Divisions referred to in paragraph (1) of this Article are,

- (a) Sub-area VI and Sub-area VII,
- (b) the following Divisions of Sub-area VI, namely, division VI (a) and Division VI (b), and
- (c) the following Divisions of Sub-area VII, namely, Division VII (a), Division VII (b), Division VII (c), Division VII (g), Division VII (h), Division VII (j), and Division VII (k).

(3) (a) In any proceedings referred to in paragraph (1) of this Article—

(i) *prima facie* evidence of the Communication may be given by the production of a copy of the Official Journal of the European Communities purporting to contain the Communication, and

(ii) each of the following shall be *prima facie* evidence that the sea-fishing boat concerned was, at the time of the alleged offence, registered in a particular State:

(I) evidence that at or about the time of the alleged offence such sea-fishing boat wore the ensign or national flag of that State,

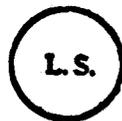
(II) evidence that at or about such time such sea-fishing boat had marked on her stern the name of a port or other place in that State,

(III) evidence that at or about such time such sea-fishing boat had on board any books, papers or other documents from which it appears to the court that at such time she was so registered,

(IV) 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 she was at such time so registered,

(V) any other matter from which it so appears that such sea-fishing boat was so registered or which in the opinion of the court suggests, or tends to suggest, that such sea-fishing boat was so registered.

(b) For the purpose of this paragraph the Faroe Islands shall be regarded as being a State.



GIVEN under my Official Seal this 7th day of November, 1985.

PADDY O'TOOLE,
Minister for Fisheries and Forestry.

EXPLANATORY NOTE.

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This Order makes any infringement of EEC Council Regulations laying down for 1985 certain measures for the conservation and management of fishing resources applicable to the vessels of Sweden, Norway, the Faroe Islands and Spain an offence in so far as those Regulations relate to the exclusive fishery limits of the State.