

SI No 431 of 2002

Common Sole (Fisheries Management and Conservation) (No 5) Order , 2002.

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 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))), hereby order as follows:

1. This Order may be cited as the Common Sole (Fisheries Management and Conservation) (No 5) Order, 2002.
2. This Order shall come into operation on the 1st day of September, 2002.
3. (1) In this Order -
"the specified area" means the parts of the sea described in the Annex to the Communication and therein referred to as ICES Divisions VIIIf and VIIg;

"common sole" means Solea vulgaris otherwise known as black sole or Dover sole.

(2) In this Article -
"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 fishing statistics and regulations in the North East Atlantic⁽¹⁾;

(3) "quotas" 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 2002, or, as the case may be, each subsequent year thereafter.

(4) "ICES" means the International Council for the Exploration of the Sea.
4. In any proceedings in which a contravention of this Order is alleged prima facie evidence of the Communication may be given by the production of a copy of the Official Journal purporting to contain the Communication.
5. An Irish sea-fishing boat fishing in the specified area by means of beam trawls or a person on board such boat may only land or tranship common sole from such boat, whether within the specified area or elsewhere, if the common sole so landed or transhipped does not exceed 0.1 per cent by weight of the total catch of all species of fish subject to quotas landed or transhipped on any occasion.

⁽¹⁾ O.J. C.347/14 of 31/12/85

6. An Irish sea-fishing boat fishing in the specified area by means other than beam trawls or a person on board such boat may only land or tranship common sole from such boat, whether within the specified area or elsewhere, if the common sole so landed or transhipped does not exceed 0.1 per cent by weight of the total catch of all species of fish subject to quotas landed or transhipped on any occasion.
7. In a prosecution for an offence under Article 5 of this Order the following shall be prima facie evidence that the sea-fishing boat concerned was, at the time of the alleged offence, used for the transhipment or landing of common sole in contravention of that Article:
- (1) evidence that such sea-fishing boat 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 common sole were landed or transhipped contrary to that Article;
 - (2) 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 at such time she was so used,
 - (3) any other matter from which it so appears that such sea-fishing boat was so used or which in the opinion of the Court suggests, or tends to suggest, that such sea-fishing boat was so used.
8. The master or other person in charge of an Irish sea fishing boat fishing by means of beam trawls in the specified areas shall, before each landing or transhipment of common sole from the boat, inform a Sea Fisheries Protection Officer of the time and location of the landing or transhipment whether inside or outside the State and the quantity of common sole concerned.
9. The Common Sole (Fisheries Management and Conservation) (No 3) Order, 2002 (S.I. No. 317 of 2002) is hereby revoked.



GIVEN under my Official Seal,
this 23rd day of August, 2002

Dermot Ahern

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).

This Order introduces a new management regime for landings and transshipments of common sole caught by Irish sea fishing boats in ICES Divisions VIIf and VIIg with effect from the 1st September, 2002.

The Order allows Irish sea-fishing boats to land or tranship common sole caught in ICES Divisions VIIf and VIIg provided that

boats fishing by means of beam trawls - the common sole may not exceed 0.1% by weight of the total catch of quota species landed or transhipped on any occasion.

boats fishing by means other than beam trawls - the common sole may not exceed 0.1% by weight of the total catch of all quota species landed or transhipped on any occasion.

(PN. 12085)

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