



STATUTORY INSTRUMENTS.\

S.I. No. 134 of 2005.

MACKEREL (FISHERIES MANAGEMENT AND CONSERVATION) REGULATIONS, 2005.

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 by section 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) as amended by 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. 2) Order 2004 (No. 703 of 2004)), hereby make the following regulations:

1. These Regulations may be cited as the Mackerel (Fisheries Management and Conservation) Regulations 2005.

2. These Regulations come into operation on 18 March 2005.

3. In these Regulations—

"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);

"mackerel" means *Scomber scombrus*;

"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 2005¹;

¹ Council Regulation (EC) No. 27/2005, O.J. L12, 14.1.2005, pp. 1-151.

"specified area" means waters falling within ICES sub-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. The master of an polyvalent vessel shall not engage in or cause or permit any person on board to engage in fishing for mackerel in the specified area.

5. (1) An Irish polyvalent vessel shall not have mackerel on board within the specified area.

(2) The master of an Irish polyvalent vessel shall not cause or permit the boat or any person on board to have mackerel on board within the specified area.

6. The master of an Irish polyvalent vessel shall not cause or permit the boat to be used in the specified area for the transshipment of mackerel.

7. (1) In a prosecution for an offence for contravening Regulation 6 of these Regulations, the following shall be *prima facie* evidence that the Irish polyvalent vessel concerned was, at the time of the alleged offence, used for the transshipment of mackerel in contravention of that Regulation—

(a) evidence that the 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 received on board the vessel otherwise than in the course of fishing,

(b) any admission by any person who is for the time being the master, or another member of the crew, of the vessel that at such time she was so used, or

(c) any other matter from which it so appears that the boat was so used or which in the opinion of the Court suggests, or tends to suggest, that the vessel was so used.

(2) In a prosecution for an offence for contravening Regulation 5 of these Regulations, it is a defence for the defendant to show that the mackerel to which the prosecution relates was taken outside the specified area.

8. Notwithstanding anything contained in these Regulations, an Irish sea-fishing boat may have mackerel on board and land or tranship mackerel if the mackerel were taken in the course of fishing for other species, and were inextricably mixed with catches of other species and did not exceed 5 per cent by weight of the total catch.

GIVEN under my Hand, this 15th day of March 2005.

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 prohibit fishing for, transshipment or having on board mackerel by Irish polyvalent vessels in ICES sub-areas VI, VII, XII and XIV and divisions IIa (non EC waters) IVa, Vb (Community Waters), VIIIa, b, d and e, with effect from 18 March 2005.