

S.I. No. 549 of 1998.

EUROPEAN COMMUNITIES (FISHING VESSEL SAFETY) REGULATIONS, 1998

I, MICHAEL WOODS, Minister for the Marine and Natural Resources, in exercise of the powers conferred on me by Section 3 of the European Communities Act, 1972 (No. 27 of 1972) and for the purpose of giving effect to Articles 3 and 7 of Council Directive 97/70/EC of 11 December, 1997, hereby make the following Regulations:-

1 OJ No. L34, 9.2.98, p.1

1. These Regulations may be cited as the European Communities (Fishing Vessel Safety) Regulations, 1998.

2. (1) In these Regulations:-

"Directive" means Council Directive 97/70/EC of 11 December, 1997;

" fishing vessel " has the same meaning as it has in the Directive;

"internal waters of the State" means the internal waters of the State for the purposes of the Maritime Jurisdiction Acts, 1959 to 1988;

"Member State" means a Member State of the European Communities;

"Minister" means the Minister for the Marine and Natural Resources;

"territorial seas of the State" means the territorial seas of the State for the purposes of the Maritime Jurisdiction Acts, 1959 to 1988.

"third State" means a State which is not a Member State.

(2) A word or expression that is used in these Regulations and is also used in the Directive, has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Directive.

3. A fishing vessel flying the flag of a third State shall not land its catch at a port in the State, unless it has on board a certificate issued by the flag State concerned showing that it complies with the requirements of Article 3, paragraphs 1, 2, 3 and 4 and Article 5 of the Directive.

4. (1) This Regulation applies to fishing vessels flying the flag of

(a) another Member State

(i) while they are operating within the internal waters or territorial seas of the State; or

(ii) while they are in a port in the State.

(b) a third State while they are landing their catch at a port in the State.

(2) An authorised officer under the Merchant Shipping Act, 1992 (No. 2 of 1992) in exercise of his powers under Section 25 of that Act may verify that any certificate pursuant to the Directive held on board a fishing vessel referred to in paragraph (1) is valid:

(3) Where an authorised officer forms the opinion that there are clear grounds for believing that the condition of the vessel or of its equipment does not correspond substantially with the particulars of such certificate or that the vessel and its equipment are not in compliance with the provisions of the Directive, or that a certificate has expired or ceased to be valid, the officer may detain the vessel until it can proceed to sea or leave the port for the purpose of proceeding to an appropriate repair yard without danger to the vessel or persons on board.

(4) Where an authorised officer detains a vessel under the previous paragraph, the officer shall forthwith, in writing, notify that fact to the Consul, or in his absence the nearest diplomatic representative, of the State whose flag the vessel is entitled to fly and the recognised organisation responsible for the issue of the certificate in question.

(5) If the authorised officer is unable for whatever reason to detain the vessel as provided for in paragraph (3), he shall notify all relevant information about the vessel to the representative(s) of the flag State concerned referred to in paragraph (4) and to the port authorities at the vessel's next port of call.

(6) An authorised officer exercising his functions under this Regulation shall take all possible steps to ensure that a vessel is not unduly detained or delayed. If a vessel is so unduly detained or delayed, the owner or operator shall be entitled to compensation for any loss or damage suffered thereby.

(7) Section 26 of the Merchant Shipping Act of 1992 shall apply in relation to a fishing vessel as respects which an authorised officer is of the opinion that it should be detained under this Regulation

GIVEN UNDER MY OFFICIAL SEAL this 30th day of December, 1998.

Michael Woods

Minister for the Marine and Natural Resources

EXPLANATORY NOTE

This implements EC Directive 97/70/EC laying down safety standards for fishing vessels insofar as the Annex to the Torremolinos Protocol refers.