

S.I. No. 72 of 2007

**Fishing Effort for Vessels in the Context of the Recovery of Certain Stocks (No. 2)
Regulations 2007**

I, John Browne, Minister of State at the Department of Communications, Marine and Natural Resources, in exercise of the powers conferred on me by section 14 of the Sea-Fisheries and Maritime Jurisdiction Act 2006 (No.8 of 2006), and the Marine (Delegation of Ministerial Functions) (No.2) Order 2006 (No. 167 of 2006), and for the purpose of giving effect to Annex IIa to Council Regulation (EC) 41/2007¹ of 21 December 2006 fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required, and Council Regulation (EC) 423/2004² of 14 February 2004 establishing measures for the recovery of cod stocks, hereby make the following Regulations:

1. (1) These Regulations may be cited as the Fishing Effort for Vessels in the Context of the Recovery of Certain Stocks (No. 2) Regulations 2007.
2. (1) In these Regulations, unless the context otherwise requires -

“Annex” means Annex IIa to the Council Regulation;

“Cod Recovery Plan” means Council Regulation (EC) No. 423/2004² of 26 February 2004 establishing measures for the recovery of cod stocks or the Commission Cod Recovery Plan;

“competent authority” means, as the context may require, the Minister or a sea-fisheries protection officer;

“Council Regulation” means Council Regulation (EC) No. 41/2007¹ of 21 December 2006 and any future Regulation of the Council or the Commission made after the making of these Regulations which amends, extends, replaces or consolidates (with or without modification) the Council Regulation (as defined herein);

“Day at sea” means any continuous period of 24 hours as recorded in the logbook beginning when the vessel leaves a port based in the Cod

¹ O.J. L. 15/1 of 20.1.2007

² O.J. L. 70/8 of 9.3.2004

Recovery Area or enters the Cod Recovery Area from outside. Any part of a day as defined above will count as a whole day.

“EC logbook” means the document as described in Commission Regulation (EEC) No 2807/1983³ of 22 September 1983 Laying Down Detailed Rules for Recording Information on Member States Catches of Fish;

“Fisheries Monitoring Centre” means the Fisheries Monitoring Centre, Naval Base, Haulbowline, Co Cork;

“length overall” in relation to a sea-fishing boat, means the distance in a straight line between the foremost point of the bow and the aftermost point of the stern. For the purposes of this definition:

- (i) the bow shall be taken to include the watertight hull structure, forecastle, stem and forward bulwark, if fitted, but shall exclude bowsprits and safety rails,
- (ii) the stern shall be taken to include the watertight hull structure, transom, poop, trawl ramp and bulwark but shall exclude safety rails, bumkins, propulsion machinery, rudders and steering gear, and divers’ ladders and platforms, and
- (iii) the length overall shall be measured in metres with an accuracy of two decimals;

“Member State” means a Member State of the European Communities other than the State;

“Official Days at Sea Declaration Form” means the appropriate form provided by the competent authority on which the master of an Irish sea-fishing boat is required to make, in accordance with these Regulations, an official declaration of choice of fishing gear or gears, area and total days at sea in respect of a management period specified in Regulation 7 of these Regulations.;

“Sea-fishing boat” means a boat registered on the Irish sea-fishing boat register or on the EU Community Fishing Fleet Register;

³ O.J. L. 276/1 of 10.10.1983

- (2) A reference to a point is a reference to a point of the Regulation in which the reference occurs, unless it is indicated that reference to some other Regulation is intended.
- (3) A word or expression that is used in these Regulations and is also used in the Council Regulation or the Cod Recovery Plan, has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Council Regulation or the Cod Recovery Plan, as may be appropriate.
3. The provisions of these Regulations shall apply to sea-fishing boats specified in the Annex or the Cod Recovery Plan, operating in an area specified in the Annex or the Cod Recovery Plan and deploying any fishing gear or gears specified in the Annex or the Cod Recovery Plan, as may be appropriate.
4. A contravention of any provision of the Council Regulation or the Cod Recovery plan relating to:
- (a) sea-fishing boats within the exclusive fishery limits of the State; or
 - (b) an Irish sea-fishing boat wherever it may be,
- or a failure to comply with an obligation imposed by the Council Regulation or the Cod Recovery Plan so relating, other than an obligation imposed on the State, shall, for the purposes of subsection (3) of section 14 of the Sea-Fisheries and Maritime Jurisdiction Act 2006 be deemed to be a contravention of these Regulations and the provisions of that Act relating to a contravention of a regulation under the said section 14 shall accordingly apply thereto.
5. Where, in proceedings in which a contravention of these Regulations is alleged, it is proved that –
- (a) any fishing gear or gears specified in the Annex or the Cod Recovery Plan were found on board a sea-fishing boat, other than as provided for in the Annex or the Cod Recovery Plan, and
 - (b) at the time when the fishing gear or gears specified in the Annex or the Cod Recovery Plan were so found the sea-fishing boat concerned was in an area specified in the Annex or the Cod Recovery Plan, as provided for in the Annex or the Cod Recovery Plan,

it shall be presumed until the contrary is proved that all fishing gear or gears specified in the Annex or the Cod Recovery Plan were deployed in an area specified in the Annex or the Cod Recovery Plan.

6. (1) Derogations from days present within the area and absent from port may be allocated by the competent authority in accordance with the Annex and the Cod Recovery Plan to an Irish sea-fishing boat which complies with the conditions set out in the Annex and the Cod Recovery Plan .

(2) Derogations granted under the provisions of Regulation 6(1) must be recorded in the Official Days at Sea Declaration Form.

7. (1) For the purpose of these Regulations the following management periods shall apply:

Table 1

Management periods for 2007	
Period 1	1 February 2007 – 30 April 2007
Period 2	1 May 2007 – 31 July 2007
Period 3	1 August 2007 – 31 October 2007
Period 4	1 November 2007 – 31 January 2008
Period 5	1 February 2007 – 31 January 2008
Period 6	1 May 2007 – 31 January 2008
Period 7	1 August 2007 – 31 January 2008

(2) The master of an Irish sea-fishing boat shall inform the competent authority by completion of an entry in the Official Days at Sea Declaration Form of their intended fishing gear or gears as defined in the Annex and the Cod Recovery Plan and their intended area as defined in the Annex or the Cod Recovery Plan and the total number of effort days allocated in accordance with the Annex and the Cod Recovery Plan.

(3) (a) The Official Days at Sea Declaration Form shall be signed by the competent authority in advance of the relevant management period.

(b) The information declared on the Official Days at Sea Declaration Form shall not subsequently be altered for the duration of that management period.

(c) The original Official Days at Sea Declaration Form shall be retained on board the sea-fishing boat at all times while the boat is operating in the areas as specified in the Annex and the Cod Recovery Plan.

(d) A copy of the Official Days at Sea Declaration Form shall be retained by the competent authority.

(4) The following ports in the State are hereby designated for the purposes of Article 12 of the Cod Recovery Plan: Greencastle, Killybegs, Ros an Mhíl, Howth and Dunmore East.

8. (1) An Irish sea-fishing boat in one of the areas defined in point 2 of the Annex may be permitted to transit across these areas provided that it has first notified the Fisheries Monitoring Centre of its intention to do so.

(2) While that boat is within any of the areas defined in point 2 of the Annex any fishing gears carried on board must be lashed and stowed in accordance with the conditions laid down in article 20(1) of Regulation (EEC) No 2847/93¹.

9. (1) An Irish sea-fishing boat, which has no record of fishing activity for the years 2001, 2002 2003, 2004, 2005 or 2006 shall not be permitted to fish in the area as specified in the Annex and the Cod Recovery Plan with any of the fishing gears as specified in the Annex and the Cod Recovery Plan.

(2) Notwithstanding 9(1), such fishing activity may be permitted if the master of the Irish sea-fishing boat concerned ensures that equivalent capacity, measured in kilowatts, with a record of fishing activity for the years 2001, 2002, 2003, 2004, 2005 or 2006 is excluded from fishing.

10. (1) The master of an Irish sea-fishing boat or his representative, prior to any entry into port or any landing location carrying more than 1 tonne of cod, shall give the Competent Authority through the Fisheries Monitoring Centre at least four hours' notice of his intention to enter a port or landing place in the State, or a landing place outside the State.

¹ O.J. L261, 20.10.1993, p.1, as amended by Council Regulation (EC) No. 1954/2003, O.J. L289, 7.11.2003, p.1.

(2) The master of an Irish sea-fishing boat or his representative to which paragraph (1) refers shall inform the Competent Authority by means of telephone or fax of the following:

- § the name of the vessel
- § the name of the port,
- § the estimated time of arrival at that port,
- § the quantities in kilograms live weight for each species of which more than 50 kg is retained on board.

11. The master of an Irish sea-fishing boat greater than or equal to 10 metres in length overall deploying any fishing gears specified in the Annex or the Cod Recovery Plan shall communicate to the Fisheries Monitoring Centre by e-mail, fax, telephone message, or by radio via a radio station approved under European Community legislation for the reception of such reports, information as required in the Annex or the Cod Recovery Plan, on each occasion that the boat enters, exits or re-enters an area as specified in the Annex or the Cod Recovery Plan.
12. For the purposes of Regulations 8, 10 and 11 the following contact numbers for the Fisheries Monitoring Centre should be used: Telephone + 353 21 437 8752 or + 1890 252081. Fax + 353 21 437 8096. Email: nscstaff@eircom.net
13. The Fishing Effort for Vessels in the Context of the Recovery of Certain Stocks Regulations 2006 (S. I. No. 34 of 2007) are revoked.

GIVEN under my hand,

21 February, 2007

John Browne

**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)

These Regulations transpose into Irish law the provisions of Annex IIa of Council Regulation (EC) No 41/2007, which establishes, for fishing vessels greater than 10 metres in overall length and operating in certain waters, a fishing effort limitation scheme in the context of the recovery of certain fish stocks, and the provisions of Council Regulation (EC) No. 423/2004 (Cod Recovery Plan) which establishes measures for the recovery of cod stocks and additional conditions for monitoring, inspection and surveillance.

Masters or other persons in charge of the Irish sea-fishing boats in question and operating in any of the areas specified in the Annex or the Cod Recovery Plan will be restricted if deploying any of the fishing gears specified in the Annex or the Cod Recovery Plan to the maximum number of days in a calendar month as specified in the Annex. They will be required to give advance notice of landings to the Competent Authority through the Fisheries Monitoring Centre(FMC), and must obtain the prior approval of the Competent Authority to enter port carrying cod in excess of 1 tonne into ports or landing places. Quantities of cod in excess of 2 tonnes may only be landed into designated ports.

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