



STATUTORY INSTRUMENTS.

S.I. No. 490 of 2011

SEA-FISHERIES (COMMON FISHERIES POLICY COMMUNITY
CONTROL SYSTEM) REGULATIONS 2011

(Prn. A11/1782)

SEA-FISHERIES (COMMON FISHERIES POLICY COMMUNITY
CONTROL SYSTEM) REGULATIONS 2011

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SEA-FISHERIES (COMMON FISHERIES POLICY COMMUNITY
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I, SIMON CONVENEY, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3, 12, 13, 14 and 15 of the Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8 of 2006) and the Sea-Fisheries, Foreshore and Dumping at Sea (Transfer of Departmental Administration and Ministerial Functions) Order 2007 (S.I. No. 707 of 2007) (as adapted by the Agriculture and Food (Alteration of Name of Department and Title of Minister) Order 2007 (S.I. No. 705 of 2007)), for the purpose of giving full effect to, Council Regulation (EC) No. 1224/2009 of 20 November 2009¹, and Commission Implementing Regulation (EU) No. 404/2011 of 8 April 2011² hereby make the following regulations:

Citation

1. These Regulations may be cited as the Sea-Fisheries (Common Fisheries Policy Community Control System) Regulations 2011.

Interpretation

2. (1) In these Regulations—

“2006 Act” means the Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8 of 2006) as amended;

“Commission Regulation” means Commission Implementing Regulation (EU) No. 404/2011 of 8 April 2011;

“Council Regulation” means Council Regulation (EC) No. 1224/2009 of 20 November 2009;

“Legal Metrology Service” is the body established under the Metrology Act 1996 (Number 27 of 1996) as amended by Section 49 of Industrial Development (Enterprise Ireland) Act, 1998 (No. 34 of 1998);

“master” has the meaning assigned to it in Section 6 of Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8 of 2006);

“operator” includes a transporter;

(2) A word or expression that is used in the Commission Regulation or the Council Regulation or in the recitals thereto has the same meaning for the purpose of this Regulation.

¹O.J. L 343, 22.12.2009

²O.J. L 112, 30.4.2011

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 30th September, 2011.*

Fishing Licence

3. A person shall not operate a Community fishing vessel unless he or she has a valid fishing licence issued in accordance with Article 6(1) of the Council Regulation and Article 3 of the Commission Regulation.

Vessel Monitoring System

4. (1) Subject to paragraph (2), a person shall not operate a fishing vessel to which Article 9(2) and (6) of the Council Regulation relate in contravention of Article 9(2) and (6) of the Council Regulation and Articles 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 of the Commission Regulation which refer to the installation of a vessel monitoring system.

(2) Notwithstanding paragraph (1), the Minister may exempt the master or owner of a Community fishing vessel to which Article 9(5) of the Council Regulation relates, from the obligation in paragraph (1) in accordance with Article 9(5) of the Council Regulation.

(3) The Minister may authorise or oblige the master or owner of a fishing vessel to fit such vessel with a vessel monitoring system in accordance with Article 9(9) of the Council Regulation.

Completion and submission of the fishing logbook

5. (1) A master of a Community fishing vessel to which Article 14(1) of the Council Regulation relates shall complete a fishing logbook and submit it to the Minister or the competent authority in the Member State where the landing has taken place in accordance with Article 14 (1), (2), (3), (4), (5), (6), (7) and (9) of the Council Regulation and Articles 29, 30, 31, 32, 33, 34, 35, 48, 49, 50 and 51 of the Commission Regulation.

(2) A master of a fishing vessel shall complete a fishing logbook in accordance with Article 14 (8) of the Council Regulation.

Electronic completion and transmission of fishing logbook data and prior notification

6. (1) A master of a Community fishing vessel to which Article 15(3) of the Council Regulation relates shall record by electronic means the information required in Regulation 5 and submit it to the competent authority of his or her flag Member State in accordance with Article 15 of the Council Regulation and Articles 36 to 47 of the Commission Regulation.

(2) A master of a Community fishing vessel to which Article 17(1) of the Council Regulation relates shall notify the information referred to in paragraph (1) to the fisheries monitoring centre in accordance with Article 17 of the Council Regulation.

(3) The Minister may grant an exemption from paragraph (1) to a master of an Irish fishing vessel in accordance with Article 15 (4) of the Council Regulation.

Prior notification of landing in another Member State

7. A master of a Community fishing vessel to which Article 18(1) of the Council Regulation relates shall submit the information referred to in that Article to the competent authority of the coastal Member State in accordance with Article 18(1) of the Council Regulation and Article 80 of the Commission Regulation.

Notification of fishing gear

8. (1) A master of a fishing vessel or his or her representative shall notify the competent authority of his or her flag Member State of the fishing gear he or she will use in accordance with Article 27 of the Council Regulation.

(2) The competent authority with the State for the purpose of Article 27 of the Council Regulation is the fisheries monitoring centre.

Fishing Effort report, Exemption and Exhaustion of fishing effort

9. (1) Subject to paragraph (2), a master of a Community fishing vessel to which Article 28(1) of the Council Regulation relates shall communicate a fishing effort report to the Minister in accordance with Article 28(1) of the Council Regulation and Article 58 of the Commission Regulation.

(2) Notwithstanding paragraph (1), a person may operate a fishing vessel in accordance with Article 29 of the Council Regulation if he or she satisfies the conditions in that Article.

(3) Without prejudice to paragraph (2), a person shall not operate a fishing vessel in contravention of Article 30 of the Council Regulation which refers to exhaustion of fishing effort.

Designated ports

10. (1) The ports designated within the State for the purposes of Article 79 of the Commission Regulation are set out in the Schedule to these Regulations.

(2) A person shall not land pelagic fish referred to in Article 78 of the Commission Regulation except in a port referred to in paragraph (1).

Fishing Gear

11. A master of a Community fishing vessel shall not contravene Article 47 of the Council Regulation which refers to fishing gear.

Certification and approval of Weighing Equipment

12. (1) An operator or master of a fishing vessel shall weigh a fishery product in accordance with Article 60 of the Council Regulation and Articles 69, 70, 71, 72, 73, 74 and 75 of the Commission Regulation.

(2) An operator shall not use any equipment or system for weighing a fishery product unless it is certified by the Legal Metrology Service and approved by the Sea Fisheries Protection Authority in accordance with Article 72 of the Commission Regulation.

Take-over declaration

13. (1) An operator shall not contravene Article 66(1) of the Council Regulation or Article 87 of the Commission Regulation, which refer to take-over declaration.

(2) An operator shall submit the information referred to in Article 66(1) and (3) and 67(1) of the Council Regulation, to the Minister in accordance with Article 66(1) and (3) and 67(1) of the Council Regulation.

Transport documents

14. (1) An operator (other than those exempt under Article 68(8)) shall not contravene Article 68(1), (2), (3), (4), (5) or (7) of the Council Regulation, which refer to completion and submission of a transport document.

(2) An operator (other than those exempt under Article 68(8)) shall submit the information referred to in Article 68 of the Council Regulation to the Sea Fisheries Protection Authority in accordance with Article 68 of the Council Regulation.

(3) The Minister may grant an exemption to an operator in accordance with Article 68(6) of the Council Regulation.

Inspections

15. (1) An operator shall not contravene Article 75(1) of the Council Regulation or Article 113(2) of the Commission Regulation which refer to duties of the operator during an inspection.

(2) A master of a fishing vessel shall not contravene Article 114(1) of the Commission Regulation which refers to the obligations of the master during an inspection.

Forgery

16. (1) A person shall not forge or utter knowing it to be forged—

- (a) a logbook, landing declaration, transshipment declaration or transport document,
- (b) an entry in a logbook, landing declaration, transshipment declaration or transport document, or
- (c) a document purporting to be an extract of a logbook, landing declaration or transport document, (hereafter in this Regulation referred to as “a forged document”).

(2) A person shall not alter with intent to defraud or deceive, or utter knowing it to be altered—

- (a) a logbook, landing declaration, transshipment declaration or transport document,

- (b) an entry in a logbook, landing declaration, transshipment declaration or transport document, or
- (c) a document purporting to be an extract of a logbook, landing declaration, transshipment declaration or transport document, (hereafter in this Regulation referred to as “an altered document”).

(3) A person shall not have, without lawful authority, in his or her possession or under his or her control a forged document or an altered document.

Authorised Officers

17. The official responsible for carrying out inspections in accordance with Article 74 of the Council Regulation and Article 97 of the Commission Regulation shall be a sea-fisheries protection officer declared by section 16 or appointed under section 51(1) of the Sea-Fisheries and Maritime Jurisdiction Act 2006.

Fisheries Monitoring Centre

18. (1) The fisheries monitoring centre within the State to which data must be transmitted is the Fisheries Monitoring Centre, Naval Base, Haulbowline, Co. Cork (telephone: 353 21 437 8752 or 1890 252081, facsimile: 353 21 437 8096 or electronic mail— fmcireland@defenceforces.ie).

(2) A certificate purporting to be signed by an officer of the Naval Service to certify that on a specific day or days or during the whole of a specified period information required to be communicated was not received by the Fisheries Monitoring Centre is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the Naval Service, evidence, unless the contrary is shown, of the matters stated in the certificate and that the information was not transmitted.

Evidence on certificate

19. (1) A certificate purporting to be signed by an officer of the Minister and to certify that on a specific day or days or during the whole of a specified period—

- (a) a person was or was not the holder of licence, registration or authorisation granted for the purposes of the Council Regulation or the Commission Regulation, or
- (b) that a particular licence, registration or authorisation referred to in this paragraph, was subject to a particular condition or conditions,

is, without proof of the signature of the person purporting to sign the certificate or that he or she is an officer of the Minister, evidence, unless the contrary is shown, of the matters stated in the certificate.

(2) In proceedings for an offence consisting of a contravention of the

Council Regulation or the Commission Regulation, an inspection or surveillance report drawn up by a Community inspector or an official of another Member

State or the Commission shall constitute admissible evidence of the matters stated in the inspection or surveillance report.

(3) In proceedings for an offence under these Regulations the court may, if it considers that the interests of justice so require, direct that oral evidence of the matters stated in a certificate under paragraph (1) be given, and the court may for the purpose of receiving oral evidence adjourn the matter.

(4) In proceedings for an offence, evidence of an act of the institutions of the European Union may be given by production of a copy of the act certified by an officer of the Minister to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Minister.

(5) Paragraphs (2) and (4) are in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Single Authority

20. The Single Authority for the purposes of Article 5(5) of the Council Regulation shall be the Sea Fisheries Protection Authority.

Contravention of these Regulations

21. Failure to comply with Regulations 3, 4(1), 5, 6(1) and (2), 7, 8, 9, 10(2), 11, 12, 13, 14, 15 or 16 is a contravention of these Regulations for the purposes of sections 14(3) and 15(3) of the 2006 Act.

Revocation

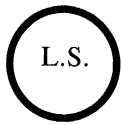
22. The following regulations are hereby revoked—

- (a) Sea Fisheries (Inspection Of Fishing Boats) Regulations 2006 S.I. No. 181 of 2006,
- (b) Sea Fisheries (Marking & Documentation Of Sea Fishing Boats) Regulations 2006 S.I. No. 182 of 2006,
- (c) Satellite-Based Vessel Monitoring Systems Regulations 2006 S.I. No. 183 of 2006,
- (d) Sea-Fisheries (First Marketing of Fish) Regulations 2007 S.I. No. 260 of 2007,
- (e) Sea-Fisheries (Landing & Weighing Of Pelagic Fish) Regulations 2010 (S.I. No. 453 of 2010),
- (f) The Sea-Fisheries (Recording Of Fish) Regulations 2011 (S.I. No. 8 of 2011) and,
- (g) Sea-Fisheries (Recording Of Fish) (Amendment) 2011 S.I. No. 91 of 2011.

SCHEDULE

LIST OF DESIGNATED PORTS IN THE STATE FOR THE PURPOSES OF ARTICLE 79 OF THE
COMMISSION REGULATION ARE—

- (a) An Daingean (Dingle),
- (b) Baltimore,
- (c) Castletownbere,
- (d) Dunmore East,
- (e) Howth,
- (f) Killybegs,
- (g) Ringaskiddy,
- (h) Rossaveel.



GIVEN under my Official Seal,
28 September 2011.

SIMON COVENEY,
Minister for Agriculture Fisheries and Food.

EXPLANATORY NOTE.

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

These Regulations, which relate to fisheries control systems and rules for the recording of fish catches, provide that a contravention of any provision of Commission Regulations is a contravention of the Sea-Fisheries and Maritime Jurisdiction Act 2006.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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