



STATUTORY INSTRUMENTS.

S.I. No. 37 of 2011

SEA-FISHERIES (RECORDING OF FISH) NO. 2 REGULATIONS 2011

(Prn. A11/0153)

SEA-FISHERIES (RECORDING OF FISH) NO. 2 REGULATIONS 2011

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S.I. No. 37 of 2011

SEA-FISHERIES (RECORDING OF FISH) NO. 2 REGULATIONS 2011

I, SEAN CONNICK, Minister of State at the Department of Agriculture, Fisheries and Food, in exercise of the powers conferred on me by sections 3 and 14 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) and the Agriculture, Fisheries and Food (Delegation of Ministerial Functions) Order 2010 (S.I. No. 303 of 2010) (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 Commission Regulation (EEC) No. 2807/83 of 22 September 1983¹ (as amended by Commission Regulation (EEC) No. 473/89 of 24 February 1989², Commission Regulation (EEC) No. 2945/95 of 20 December 1995³, Commission Regulation (EC) No. 395/98 of 19 February 1998⁴, Commission Regulation (EC) No. 1488/98 of 13 July 1998⁵, Commission Regulation (EC) No. 2737/99 of 21 December 1999⁶, Commission Regulation (EC) No. 1965/2001 of 8 October 2001⁷, Commission Regulation (EC) No. 1804/2005 of 3 November 2005⁸ and Commission Regulation (EC) No. 409/2009 of 18 May 2009⁹), Council Regulation (EEC) No. 2847/93 of 12 October 1993¹⁰ (as amended by Council Regulation (EC) No. 2870/95 of 8 December 1995¹¹, Council Regulation (EC) No. 2489/96 of 20 December 1996¹², Council Regulation (EC) No. 686/97 of 14 April 1997¹³, Council Regulation (EC) No. 2205/97 of 30 October 1997¹⁴, Council Regulation (EC) No. 2635/97 of 18 December 1997¹⁵, Council Regulation (EC) No. 2846/98 of 17 December 1998¹⁶, Council Regulation (EC) No. 1954/2003 of 4 November 2003¹⁷, Council Regulation (EC) No. 768/2005 of 26 April 2005¹⁸, Council Regulation (EC) No. 1966/2006 of 21 December 2006¹⁹, Council Regulation (EC) No. 1006/2008 of 29 September 2008²⁰), Council Regulation (EC) No. 1077/2008 of 3 November

¹O.J. L 276 of 10.10.1983, 1.

²O.J. L 53 of 25.2.1989, 34.

³O.J. L 308 of 21.12.1995, 18.

⁴O.J. L 50 of 20.2.1998, 17.

⁵O.J. L 196 of 14.7.1998, 3.

⁶O.J. L 328 of 22.12.1999, 54.

⁷O.J. L 268 of 9.10.2001, 23.

⁸O.J. L 290 of 4.11.2005, 10.

⁹O.J. L 123 of 19.5.2009, 78.

¹⁰O.J. L 261 of 20.10.1993, 1.

¹¹O.J. L 301 of 14.12.1995, 1.

¹²O.J. L 338 of 28.12.1996, 12.

¹³O.J. L 102 of 19.4.1997, 1.

¹⁴O.J. L 304 of 7.11.1997, 1.

¹⁵O.J. L 356 of 31.12.1997, 14.

¹⁶O.J. L 358 of 31.12.1998, 5.

¹⁷O.J. L 289 of 7.11.2003, 1.

¹⁸O.J. L 128 of 21.5.2005, 1.

¹⁹O.J. L 409 of 30.12.2006, 1.

²⁰O.J. L 286 of 29.10.2008, 33.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 1st February, 2011.*

2008²¹ and Commission Regulation (EC) No. 409/2009 of 18 May 2009²² (as amended by Commission Regulation (EC) No. 1282/2009 of 22 December 2009²³) and Council Regulation (EC) No. 1224/2009 of 20 November 2009²⁴, hereby make the following regulations:

Citation, commencement and application

1. (1) These Regulations may be cited as the Sea-Fisheries (Recording of Fish) No. 2 Regulations 2011 and come into operation on 1 February 2011.

(2) These Regulations apply to—

an Irish sea-fishing boat exceeding 24m length overall authorised under section 13 of the Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8 of 2006) to fish north of the line of latitude 62 degrees north wherever that sea-fishing boat may be.

Interpretation

2. (1) In these Regulations—

“Commission Regulation” means Commission Regulation (EEC) No. 2807/83 of 22 September 1983 as amended by Commission Regulation (EEC) No. 473/89 of 24 February 1989, Commission Regulation (EEC) No. 2945/95 of 20 December 1995, Commission Regulation (EC) No. 395/98 of 19 February 1998, Commission Regulation (EC) No. 1488/98 of 13 July 1998, Commission Regulation (EC) No. 2737/99 of 21 December 1999, Commission Regulation (EC) No. 1965/2001 of 8 October 2001, Commission Regulation (EC) No. 1804/2005 of 3 November 2005 and Commission Regulation (EC) No. 409/2009 of 18 May 2009;

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

“Electronic Data Regulation” means Commission Regulation (EC) No. 1077/2008 of 3 November 2008;

“sell” includes offer, expose or keep for sale, invite an offer to buy, or distribute for reward or otherwise (whether directly or through another person);

“supply” means to give without reward.

(2) A word or expression that is used in the Commission Regulation, Electronic Data Regulation, Commission Regulation (EC) No. 2847/93 of 12 October 1993, Commission Regulation (EC) No. 409/2009 of 18 May 2009 or the Control Regulation and that is also used in these Regulations has, in these Regulations, the same meaning as it has in the act of the institution of the European Union in which it occurs.

²¹O.J. L 295 of 4.11.2008, 3.

²²O.J. L 123 of 19.5.2009, 78.

²³O.J. L 344 of 23.12.2009, 31.

²⁴O.J. L 343 of 22.12.2009, 1.

Contravention of Commission Regulation (EC) No. 2807/83

3. A person shall not contravene—

- (a) Article 1 or 1a, which refer to recording information in a logbook,
- (b) Article 2, which refers to completing a landing or transhipment declaration,
- (c) Article 3, which refers to information to be communicated to the flag state,
- (d) Article 3a, which refers to radio communication, or
- (e) Article 5(2), which refers to tolerances,

of the Commission Regulation in relation to—

an Irish sea-fishing boat to which Regulation 1(2) refers.

Contravention of Electronic Data Regulation (EC) No. 1077/2008

4. (1) A person shall not contravene—

- (a) Article 4(1), which refers to the transmission of logbook and transhipment data by electronic means,
- (b) Article 4(2), which refers to the transmission of landing declaration data by electronic means,
- (c) Article 4(4), which refers to notification of prior entry into port,
- (d) Article 5(1), which refers to the transmission of data required to be recorded in a sales not by electronic means,
- (e) Article 5(4), which refers to the transmission of take-over declaration data by electronic means,
- (f) subject to Article 6(2), Article 6(1), which refers to the frequency of transmission of electronic logbook information,
- (g) Article 6(3), which refers to the frequency of transmission of the landing declaration by electronic means,
- (h) Article 6(4), which refers to the frequency of transmission of transhipment data by electronic means,
- (i) Article 6(5), which refers to the retention of logbook and transhipment data,
- (j) Article 6(6), which refers to suspension of transmission of data,
- (k) Article 10(1), which refers to procedures for use if there is a failure of the electronic recording and reporting system on board a boat,

- (l) Article 10(3), which refers to leaving a port following the rectification of a technical failure or non-functioning of an electronic recording and reporting system,
- (m) Article 11(3), which refers to the transmission of data,
- (n) Article 12 (3), which refers to the transmission of data in certain circumstances, or
- (o) Article 12(4), which prohibits fishing in certain circumstances,

of the Electronic Data Regulation in relation to an Irish sea-fishing boat to which Regulation 1(2) refers.

(2) In proceedings for an offence in which a contravention of the Control Regulation or the Electronic Data Regulation is alleged, it is a defence to show that, at the time of the commission of the alleged offence the electronic recording and reporting system relating to the sea-fishing boat was not operational.

(3) Paragraph (2) only applies if the master of the sea-fishing boat has, in all other respects, complied with Article 10 of the Electronic Data Regulation.

(4) In any proceedings evidence of Electronic Data may be given by the production of a copy of the data in legible form.

Contravention of Commission Regulation (EC) No. 409/2009 (Conversion factors)

5. (1) A person shall not contravene Article 6, which refers to the use of community conversion factors in a logbook, landing declaration and transshipment declaration, of Commission Regulation (EC) No. 409/2009 of 18 May 2009 (as amended by Commission Regulation (EC) No. 1282/2009 of 22 December 2009) in relation to—

an Irish sea-fishing boat to which Regulation 1(2) refers.

(2) A person shall not use any equipment or machinery for weighing fish unless a calibration certificate relating to the equipment or machinery has been issued by the manufacturer or The Legal Metrology Service of the National Standards Authority of Ireland.

Contravention of Regulation (EC) No. 2847/93

6. (1) A person shall not contravene—

- (a) Article 6 (other than paragraphs (5), (6) and (8)), which relates to keeping a logbook,
- (b) Article 8(1), which relates to making a landing declaration,
- (c) until 1 February 2011, Article 9(5), which refers to the submission of sales notes, take-over declarations and transport documents,

(d) until 1 February 2011, Article 13 (other than paragraphs (5), (6), (7) and (7a)), which relates to use and submission of transport documents, or

(e) Article 11(1), which relates to transhipments, of Council Regulation (EC) No. 2847/93 of 12 October 1993 in relation to—

an Irish sea-fishing boat to which Regulation 1(2) refers.

(2) Paragraph (1)(a) ceases to have effect on the entry into force of rules implementing Article 14 of the Control Regulation.

(3) Paragraph (1)(b) ceases to have effect on the entry into force of rules implementing Article 23 of the Control Regulation.

(4) Paragraph (1)(e) ceases to have effect on the entry into force of rules implementing Article 21 of the Control Regulation.

Contravention of Control Regulation (EC) No. 1224/2009

7. (1) A person shall not contravene—

(a) Article 8(1), which refers to marking and identification of fishing gear,

(b) Article 9(2) or (6), which refer to having a functioning vessel monitoring system,

(c) Article 10(1), which refers to having an automatic identification system,

(d) Article 15 (1), (2) or (5), which refer to electronic keeping and transmission of logbook data,

(e) Articles 17 (1) or (5) or 18 (1), which refer to the giving of advance notice of landing by the master of a sea-fishing boat,

(f) Article 20(1), which refers to transhipment at sea,

(g) Article 22 (1), which refers to electronic transmission of transhipment declaration data,

(h) Article 24 (1), which refers to electronic transmission of landing declaration data,

(i) Article 27, which refers to notification of fishing gear, or

(j) Article 28(1), which refers to fishing effort reporting,

of the Control Regulation in relation to—

an Irish sea-fishing boat to which Regulation 1(2) refers.

(2) A person shall not contravene—

- (a) Article 29(1), which refers to conditions of transit,
- (b) Article 30, which refers to measures when fishing effort is exhausted,
- (c) Article 42(1) or (2), which restricts transshipment, or
- (d) Article 44, which refers to separate storage of different species,
- (e) Article 47, which refers to stowage of fishing gear,
- (f) Article 48 (other than paragraphs (4) and (5)), which refers to recovery of fishing gear,
- (g) Article 49(1), which refers to catch composition,
- (h) Article 50(3) or (4), which refer to fishing in and transit through restricted areas,
- (i) Article 52, which refers to exceeding a trigger catch level,
- (j) Article 55(2), which prohibits marketing of catches from recreational fisheries,
- (k) Article 56(2), which refers to the relevant geographical area of origin of products,
- (l) Article 57(3), which refers to compliance with minimum marketing standards,
- (m) Article 62(1), 62(5), or 63(1), which refer to the completion and submission of sales notes,
- (n) Article 66(1), which refers to the completion and submission of a take over declaration, or
- (o) Article 75(1), which refers to facilitation of safe access and related matters,

of the Control Regulation in relation to—

an Irish sea-fishing boat to which Regulation 1(2) refers.

- (3) A person shall not contravene—
 - (a) Article 43(2), which refers to designated landing ports or places,
 - (b) Article 58(1), which refers to traceability,
 - (c) Article 58(2), which refers to labelling,
 - (d) Article 58(3), which refers to merging or splitting of lots,
 - (e) Article 58(5), which refers to labelling,

- (f) Article 67(1), which refers to the completion and submission of a take over declaration,
- (g) Article 68(1), (3), (4), or (7), which refer to the completion and submission of a transport document,
- (h) Article 73(7), which refers to co-operation with control observers, or
- (i) Article 84(4), which refers to proceeding to port,

of the Control Regulation in relation to—

an Irish sea-fishing boat to which Regulation 1(2) refers.

(4) From the date of entry into force of rules implementing them, a person shall not contravene—

- (a) Article 6(1), which refers to having a valid fishing licence,
- (b) Article 7(1), which refers to having a valid fishing authorisation,
- (c) Article 14 (other than paragraph (10)), which refers to completion and submission of a fishing logbook,
- (d) Article 21 (except paragraphs (6) and (7)), which refers to the completion and submission of a transshipment declaration, or
- (e) Article 23 (except paragraph (5)), which refers to the completion and submission of a landing declaration,

of the Control Regulation in relation to—

an Irish sea-fishing boat to which Regulation 1(2) refers.

(5) An operator shall not contravene Article 58(4) of the Control Regulation, which requires that systems and procedures are in place to identify—

- (a) a person who has supplied the operator with lots of fishery products,
or
- (b) a person to whom the operator has supplied fishery products.

(6) From 1 February 2011, a person shall not contravene Article 58(5)(h) and (g) of the Control Regulation which requires that information detailed is readily available and easily legible on a label that accompanies, or a notice that is placed adjacent to fish, being sold or supplied.

Additional duties of master of an Irish sea-fishing boat

8. (1) The master of an Irish sea-fishing boat shall, when completing the log-book, include particulars—

- (a) regarding the capacity of gear used in accordance with column 2 of Annex VI to the Commission Regulation,
- (b) of the number of fishing operations in accordance with column 3 of Annex VI to the Commission Regulation, and
- (c) of fishing time in accordance with point 2.4.1 of Annex IV to the Commission Regulation.

(2) The master of an Irish sea-fishing boat to which Regulation 1(2) refers shall, no later than the time of the boat's departure from port, complete and transmit a departure declaration as provided for in the Annex to the Electronic Data Regulation.

Forgery

9. (1) A person shall not forge or utter knowing it to be forged a logbook or landing declaration, an entry in—

- (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,
- (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.

Functions of Fisheries Monitoring centre

10. (1) The authority 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 and 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.

Contravention of these Regulations

11. A person shall not contravene Regulation 8 or 9 of these Regulations.

Proof of European legislation

12. (1) In proceedings, 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 for Agriculture, Fisheries and Food 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.

(2) Paragraph (1) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Non Application of regulations

13. The Sea-Fisheries (Recording of Fish) Regulations 2011 (S.I. No. 008 of 2011) do not apply to an Irish sea-fishing boat to which Regulation 1(2) refers.

GIVEN under my hand,
25 January 2011.

SEAN CONNICK,
Minister of State at the Department of 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.

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