

Licensing Authority for Sea-fishing Boats

Annual Report 2004

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Report to the Minister of State at the Department of Communications, Marine and Natural Resources on the performance of the functions of the Licensing Authority for Sea-fishing Boats in the year 2004, pursuant to section 3(7) of the Fisheries (Amendment) Act 2003.

Introduction

In accordance with section 3 of the Fisheries (Amendment) Act 2003 (No. 21 of 2003), the function of sea-fishing boat licensing was transferred from the Minister for Communications, Marine and Natural Resources to the Licensing Authority for Sea-fishing Boats with effect from 1 July 2003. As specified in that Act, the Licensing Authority is the Registrar General of Fishing Boats or, under the superintendence of the Registrar General, the Deputy Registrar General of Fishing Boats.

The Registrar General and the Deputy Registrar General were appointed by the Minister for Communications, Marine and Natural Resources under Regulation 5 of the Merchant Shipping (Registry, Lettering and Numbering of Fishing Boats) Regulations 1997 (S.I. No. 294 of 1997). The Registrar General is Mr. Aidan Hodson and the Deputy Registrar General is Mr. James Moloney, both officials of the Department of Communications, Marine and Natural Resources.

Legislative Overview in relation to Licensing and Registration

The legislation governing sea-fishing boat licensing is set out in section 222B (as substituted by section 4 of the Fisheries (Amendment) Act 2003) of the Fisheries (Consolidation) Act 1959. The legislation governing sea-fishing boat registration is Part IV of the Merchant Shipping Act 1894, as amended, and the Merchant Shipping (Registry, Lettering and Numbering of Fishing Boats) Regulations 1997 (now revoked and replaced by the Merchant Shipping (Registry, Lettering and Numbering of Fishing Boats) Regulations 2005 (S.I. No. 261 of 2005)).

The 2003 Act provides that the Licensing Authority shall be independent in the exercise of his or her functions subject to

- (a) the law for the time being in force in relation to sea-fishing boat licensing, including, in particular, the legal obligations of the State arising under any

law of an institution of the European Communities or other international agreement which is binding on the State, and

- (b) such policy directives in relation to sea-fishing boat licensing as the Minister may give in writing from time to time.

The 2003 Act provides that decisions of the Licensing Authority on licence applications or on the revocation or amendment of a licence may be appealed to an Appeals Officer within one month of the decision, revocation or amendment. A person who is dissatisfied with a determination of the Appeals Officer may, within 3 months after the date of the determination, apply to the High Court for Judicial Review of the determination. The Minister has appointed three Appeals Officers, Mr. Niall Beirne BL, Ms. Miriam Reilly BL and Mr. Michael Vallely BL.

In addition to national law and Ministerial policy directives, EU law plays a significant role in the management of Ireland's sea-fishing fleet, as is apparent from the provisions of the 2003 Act referred to above. Council Regulation 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy requires Member States to put in place measures to adjust the fishing capacity of their fleets in order to achieve a stable and enduring balance between such fishing capacity and their fishing opportunities. It empowers the European Commission to establish for each Member State Reference Levels (effectively fleet capacity limits) expressed in terms of gross tonnes ("GT") and engine power (kilowatts – "kW") for the total fishing capacity of fishing vessels flying the flag of that Member State. It requires Member States to ensure that these Reference Levels are not exceeded and to manage entries into the fleet and exits from the fleet in such a way that, from 1 January 2003, the entry of new capacity into the fleet without public aid is compensated by the previous withdrawal without public aid of at least the same amount of capacity. The Regulation also sets out provisions relating to the maintenance by Member States of fishing fleet registers as well as the Community fleet register, containing information supplied by Member States on vessel characteristics and activity.

Commission Regulation 1438/2003 of 12 August 2003 laying down implementing rules on the Community Fleet Policy as defined in the Council Regulation specifies the Reference Levels for Member State fishing fleets. The situation of the Irish fleet in 2004 is set out in this report.

In 2004 the European Commission introduced new requirements regarding the registration of fishing vessels and the reporting of national registration data to the Commission. These requirements are set out in Commission Regulation (EC) No. 26/2004 of 30 December 2003 on the Community fishing fleet register (OJ L 5, 9.1.2004, p. 25) which entered into force on 1 September 2004. Information on compliance with this Regulation in 2004 is set out in this report.

Policy Directives to the Licensing Authority

Policy Directive 2/2003 issued by the Minister for Communications, Marine and Natural Resources on 17 November 2003 to the Licensing Authority in accordance with section 3(2)(b) of the 2003 Act set out an overall sea-fishing boat licensing policy. This policy was laid down in the light of the new EU fleet management rules and followed a review of the situation of the Irish fishing fleet and related capacity. During 2004 the Minister issued three further Policy Directives to the Licensing Authority:

- Policy Directive 1/2004 of 22 March 2004. This amends section H of Policy Directive 2/2003 which relates to the withdrawal of replacement capacity in respect of outstanding “safety tonnage”.
- Policy Directive 2/2004 of 21 June 2004 which requires that fishing boat licences granted by the Licensing Authority shall be non-operative until the boat is entered on the Fishing Boat Register. This Policy Directive entered into force on 21 September 2004.
- Policy Directive 3/2004 of 21 September 2004 which deals with a number of issues relating to fishing boats in the Polyvalent segment of the fleet fishing for pelagic species.

Description of Irish Fishing Fleet

In accordance with Policy Directive 2/2003, the Irish fishing fleet is categorised into five segments. This fleet segmentation essentially retains the fleet segmentation provided for in the EU's Fourth Multi-annual Guidance Programme, which was replaced by Council Regulation 2371/2002, with the addition of a new Aquaculture segment. Other than in specified circumstances as set out in the Policy Directive, the transfer of capacity between the segments is not permitted and replacement capacity must be taken out of the segment into which a vessel is being introduced. A general description of the fleet segments, and their composition in 2004, is set out below:

- **Refrigerated Seawater (RSW) Pelagic Segment:** This segment contained 23 vessels engaged predominantly in fishing for pelagic species (herring, mackerel, horse mackerel and blue whiting mainly).
- **Beam Trawler Segment:** This contained 9 vessels, which are dedicated to beam trawling.
- **Polyvalent Segment:** This segment comprised 1,237 vessels, the vast majority of the fleet. These vessels are multi-purpose and include small inshore vessels (netters and potters), and medium and large offshore vessels targeting whitefish, pelagic fish and bivalve molluscs. This segment will also include vessels in the process of being licensed and registered under the Scheme for the Licensing of Traditional Pot Fishing Boats in the Irish Inshore Fleet. These potting vessels, which may only fish for non-quota species and by means of pots, are being ring-fenced within this segment and the capacity of these boats may not be used elsewhere in the segment for the purposes of compliance with the entry/exit regime. Further information on this Scheme is set out in page 12. A number of inshore boats licensed under a previous inshore scheme approved by the European Commission are also being entered on the Fishing Boat Register within the Polyvalent segment.

- ***Specific Segment:*** This segment contained 159 vessels, which can fish for bivalve molluscs and aquaculture species. Under EU fleet management policy this segment is now subject to compliance with the entry/exit regime. There had, however, already been in place, at national level, a moratorium on the licensing of further vessels in this segment, other than through the transfer of existing licence entitlements. This policy, which had been in place since April 1999, was designed to ensure the conservation and rational exploitation of bivalve mollusc stocks.
- ***Aquaculture Segment:*** This segment contained 8 vessels. Vessels in this segment are required to be entered on the Fishing Boat Register but are not subject to the entry / exit regime and the capacity involved is not governed by the EU Reference Levels. These vessels must be exclusively used in the management, development and servicing of aquaculture areas but can collect spat from wild mussel stocks as part of a service to aquaculture installations, subject to certain restrictions, as have been determined in the context of Article 1 of Commission Regulation 1438/2003.

Compliance with Reference Levels

The Reference Levels for the Irish fishing fleet at 1 January 2003 as set out in Commission Regulation 1438/2003 are 86,981 GT and 230,226 kW.

The capacity situation of the Irish fishing fleet at 1 January 2004 was as follows:

Segment	GT	kW
Polyvalent	43,849	144,532
Pelagic	32,413	47,127
Beam Trawl	1,352	5,346
Specific	7,278	30,149
Total	84,892	227,154

The capacity situation of the Irish fishing fleet at 31 December 2004 was:

Segment	GT	kW
Polyvalent	42,749	135,577
Pelagic	36,327	47,826
Beam Trawl	1,450	5,639
Specific	6,271	24,530
Total	86,797	213,572

It should be noted, however, that the Reference Levels and the fishing fleet capacity figures set out above are provisional and are subject to adjustment. The figures will have to be revised to take account of the following:

- 1. Re-measurement:* Commission Regulation 1438/2003 allows for the adjustment of the Reference Level and capacity situation for tonnage to take account of

the standardisation of tonnage measurement in terms of Gross Tonnes (GT) in accordance with Council Regulation 2930/86, as amended by Council Regulation 3259/94. The tonnage capacity figures outlined above for 1 January 2004 and 31 December 2004 include GT values for vessels remeasured since 1 January 2003 but the Reference Levels have yet to be adjusted by the European Commission accordingly. The position as regards re-measurement of the Irish fishing fleet is further described in page 12.

2. ***Inshore Vessels:*** The Reference Levels and capacity situation will require to be adjusted on completion of the licensing and registration of vessels approved under the Scheme for the Licensing of Traditional Pot Fishing Boats in the Irish Inshore Fleet. In addition, a number of inshore boats licensed under the previous inshore scheme have also to be entered on the Fishing Boat Register. There were approximately 140 vessels remaining to be registered under this earlier scheme, with a total capacity of approximately 475 GT and 4,200 kW. Provision for the registration of inshore boats, to allow for final completion of these inshore schemes, is made in footnote (1) to Annex I of Commission Regulation 1438/2003 concerning reference levels for Member States' fleets. The Licensing Authority understands that the Commission has made provision for 3,904 GT and 35,914 kW for inclusion in Ireland's Reference Levels in respect of completion of the registration of the inshore fishing vessels concerned. Further information on the progress of the work on the new Inshore Scheme is set out in page 12.
3. ***Administrative Decisions:*** Article 6 of Commission Regulation 1438/2003 allows for inclusion in the fishing capacity situation of the fleet on 1 January 2003 of the capacity of vessels entering the fleet based on administrative decisions taken between 1 January 2000 and 31 December 2002, provided that the entry takes place not later than three years from the date of the administrative decision and that the Reference Levels are not exceeded. This

“coups partis” provision, as it is sometimes known, was only relevant in an Irish context in relation to a maximum of 4,474 GT (arising from an administrative decision relating to the removal of the MFV “Veronica” from the pelagic segment in 2002) and approximately 3,100 kW (arising from administrative decisions taken in respect of the Polyvalent segment). A total of 3,474 GT and 358 kW was used towards the entry of eleven vessels into the fleet under the “coups partis” provision in 2004. A total of 889 GT and 2,745 kW was used towards the entry of fourteen vessels under the provision in 2003. The combined totals of 4,363 GT and 3,103 kW represent the total amount of capacity entering the Irish fleet under the “coups partis” provision.

4. *Specific Segment Vessels:* In calculating the Reference Levels for Ireland the European Commission included 6,706 GT and 28,259 kW in respect of vessels in this segment. However the Licensing Authority considers that these figures are less than the actual capacity of vessels in this segment on 1 January 2003 and have sent the Commission an updated list of the vessels concerned to the Commission. The reference levels require, therefore, to be adjusted, in accordance with footnote (1) to Annex I of Commission Regulation 1438/2003.

The following further information is also of relevance in relation to monitoring compliance with the entry/exit regime and the Reference Levels:

- No increases in tonnage were granted in 2004 under the “safety tonnage” provisions in Article 11(5) of Council Regulation 2371/2002 and Article 8 of Commission Regulation 1438/2003.
- No vessels left the Irish fleet with public aid in 2004.
- No vessels in the Irish fleet were approved for public aid in respect of renewal and modernisation after 31 December 2002.

Activities of the Licensing Authority in 2004

Licence Applications

A total of 136 valid applications for sea-fishing boat licences were received during the year. 4 of these were subsequently withdrawn. By year-end, licensing decisions had been issued in respect of 123 of these applications, of which 121 were licence offers, 1 was refused and 1 was exempt from licensing. Of the remaining 9 cases, further information was sought in relation to 4 applications and 5 applications were still under consideration. 86 licence offers were also issued in respect of applications received in 2003, during which licensing had had to be suspended pending introduction of a new fishing fleet licensing policy. A backlog of licence applications which had developed as a result of the suspension in 2003 was eliminated and before the end of the year all applications were assessed within the period of 3 weeks specified in the Department's Customer Service Action Plan.

A number of cases in which licence offers had been issued in 2003 as well as in 2004 were subsequently licensed and registered before the end of 2004, following fulfilment by the applicants concerned of the necessary requirements for licensing and registration.

In discussions with the European Commission, clarification was achieved on tonnage measurement requirements. A new form for the measurement of fishing boats, together with guidance notes, was then produced by the Licensing Authority, following consultation with the Marine Survey Office, and was issued with licence offers.

Fleet Register

Work continued during the year on clearing a backlog of registration matters which had arisen mainly from technical problems with the computer-based registration system. In October, the European Commission lifted a suspension upon Ireland on grant aid for the fishing fleet. This suspension had been imposed in 2002 by the

Commission in the light of concerns in relation to compliance with EU fishing fleet register requirements.

The new EU Fleet Register reporting system entered into force with effect from 1 September 2004. This requires each Member States to send by electronic means to the European Commission on a quarterly basis, commencing on 1 September 2004, a “snapshot” of its fishing fleet containing the data specified in Commission Regulation 26/2004 for each vessel in its database. It was necessary for the Licensing Authority to re-formulate its data to conform with the new data format laid down by the Commission and this gave rise to technical difficulties which required the assistance of the Department’s Information Services Division to overcome.

Fleet Re-measurement

The programme for tonnage re-measurement of the Irish fleet in Gross Tonnes (GT), referred to in page 8, involved a survey carried out on each vessel concerned on behalf of the Department’s Marine Survey Office to ascertain the tonnage in terms of GT. It was the task of the Licensing Authority then to re-issue the fishing boat licence with the revised tonnage figure and to modify the tonnage figure for the vessel on the Irish Fishing Boat Register. Virtually all vessels with an overall length of 15 metres or greater had been re-measured in GT by the end of 2003 but about 20 boats not yet re-measured at that stage were actively pursued by the Licensing Authority to have the task completed. A further 30 vessels under 15 metres in overall length had to have their tonnage re-calculated, following clarification of measurement requirements with the European Commission. This work was completed early in 2005.

Inshore Potting Boats

The Assessment Committee (comprising Licensing Authority and Departmental control staff as well as BIM staff) completed its work on the assessment of applications received under the Scheme for the Licensing of Traditional Pot-fishing Boats in the Irish Inshore Fleet. Approximately 1200 applications had been received. On 6 July licensing decisions were issued to all applicants under the Scheme. Licence offers were issued to 720 applicants and 480 were refused licence offers on the basis that they did

not satisfy one or more of the criteria of the Scheme. A number of those who were refused licence offers initiated the appeals process under the 2003 Act. The Licensing Authority received notice of 77 such appeals, from 2 of the 3 Appeals Officers, by the end of the year. The third Officer had yet to notify the Licensing Authority of appeals received by him. Decisions on 28 appeals were made before the end of the year, with 7 further cases deemed by the Appeals Officer to be invalid.

Fishing Boat Safety

One of the amendments to the legislation relating to fishing-boat licensing made by the 2003 Act is a provision that the Licensing Authority is prohibited from granting a fishing boat licence unless an independent survey conducted by a competent person approved of by the Licensing Authority has confirmed to the satisfaction of the Licensing Authority that the boat is in a safe and sea-worthy condition. Following public consultation, the Maritime Safety Directorate introduced in May 2004 a code of practice on safety of fishing boats under 15m in overall length and published a list of surveyors authorised to declare compliance with it. The Licensing Authority then included in licence offers for the boats concerned a requirement that a declaration of compliance with the code be provided as a condition of licensing.

Integrated Fisheries Information System (IFIS)

The annual report for 2003 described the proposed introduction of a new comprehensive and integrated computer-based information system on all aspects of fisheries management. Staff of the Licensing Authority continued to participate in work in relation to the development and testing of the new system before its introduction. In addition Licensing Authority staff carried out work on preparation of existing databases for migration to the new system.

Website

In accordance with section 3(8) of the Fisheries (Amendment) Act 2003, the Licensing Authority continued to have regularly updated information on licence applications and licensing decisions published on the Department's website (www.dcmnr.gov.ie).

Appeals

By the end of the year the Licensing Authority had notice of 78 appeals against licensing decisions lodged with Appeals Officers. 77 of the appeals related to refusal of a licence offer under the Scheme for the Licensing of Traditional Pot-fishing Boats in the Irish Inshore Fleet and one appeal related to the inclusion of a licence condition in a licence. Decisions on 28 Inshore Potting Scheme appeals were made before the end of the year, with 7 further cases deemed by the Appeals Officer to be invalid. The names of the appellants, the Appeals Officers concerned and the determinations of the Appeals Officers are published on the Department's website.

Staffing and organisational arrangements

The staffing resources made available to the Licensing Authority, apart from the Registrar General and Deputy Registrar General, were as follows:

- 1 Assistant Principal (from December 2003 to September 2004)
- 2 Higher Executive Officers
- 3 Executive Officers
- 1 Staff Officer
- 2 Clerical Officers.

The Licensing Authority is also assisted in carrying out its functions by ongoing liaison with the Seafood Policy and Development and the Seafood Control Divisions of the Department as well with the Department's central divisions.

I am grateful for the support and assistance provided by the Deputy Registrar General, Mr. James Moloney, and the staff of the Licensing Authority, as well as by the Department's other divisions, to enable the Licensing Authority to carry out its functions.

Aidan Hodson

Registrar General of Fishing Boats

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