

Draft General Scheme of the Sea-Fisheries (Amendment) Bill 2019

Contents

Part 1

Preliminary and General

1. Short title, commencement and citation
2. Definitions

Part 2

Definitions

3. Amendment to section 2 of Act of 2006 (definitions)

Part 3

Points System

4. Master's points system

Part 4

Miscellaneous Amendments

5. Miscellaneous amendments

Acts Referred to

Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8)

Draft General Scheme of the Sea Fisheries (Amendment) Bill 2019

An Act to amend the Sea-Fisheries and Maritime Jurisdiction Act 2006 to provide for a points system for Masters of Sea-fishing boats in accordance with Article 92 of Council Regulation (EC) No 1224/2009 of 20 November 2009¹ and Title VII of Commission Implementing Regulation (EU) No. 404/2011 of 8 April 2011², miscellaneous amendments, and for related matters.

Part 1

Preliminary and General

Head 1

Short title, collective citation and commencement

1. (1) This Act may be cited as the Sea-Fisheries (Amendment) (No. 2) Act 2019.
- (2) The Sea-Fisheries Acts 2003 to 2019 includes this Act and shall be construed together as one.
- (3) The Fisheries Acts 1959 to 2009 includes this Act and shall be construed together as one.
- (4) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or by reference to a particular purpose or provision and different days may be appointed for different purposes and different provisions.

Explanatory Note

This Head provides the standard provisions for the title, citation and commencement of the Bill.

¹ OJ L 343, 22.12.2009, p. 1

² OJ No. L 112, 30.4.2011, p.1

Head 2

Definitions

“Act of 2006” means the Sea-Fisheries and Maritime Jurisdiction Act 2006.

Explanatory Note

This Head provides the definitions for the Bill.

Part 2

Definitions

Head 3

Amendment to section 2 of Act of 2006 (definitions)

3. (1) Section 2 of the Act of 2006 is amended by-

(a) substituting for the definition of “Department” the following:

“‘Department’ means Department of Agriculture, Food and the Marine;

‘Fisheries Monitoring Centre’ has the same meaning as assigned under Article 4 of the Council Regulation (EC) No 1224/2009 of 20 November 2009³,” and

(b) substituting for the definition of “Minister” the following:

“‘Minister’ means Minister for Agriculture, Food and the Marine;”.

Explanatory Note

This Head inserts new definitions in the Sea Fisheries and Maritime Jurisdiction Act 2006 for the purposes of other insertions in to the Act under this Bill.

³ OJ L 343, 22.12.2009, p. 1

Part 3

Points

Head 4

Master's points

4. The Act of 2006 is amended by the insertion-

(a) after section 15 of the following:

“Chapter 2A

Definitions (Chapter 2A)

15A. In this Chapter “serious infringement” means an infringement of the rules of the common fisheries policy mentioned in Annex XXX to the Commission Implementing Regulation (EU) No. 404/2011 of 8 April 2011 that is determined by the SFPA, on the balance of probabilities, to be serious and may be prosecuted on indictment.

Points System for master of sea-fishing boats for a serious infringement of the rules of the Common Fisheries Policy

15B. (1) Where the Authority, following receipt of a report from a sea-fisheries protection officer, believes that a serious infringement of the rules of the common fisheries policy has occurred, it shall serve a notice to the master of the sea-fishing boat stating its belief that a serious infringement has occurred and the number of points that shall be assigned to the master on conviction for an offence contained in Part 1 of Schedule 4 or the lesser number of points that may be assigned if the master accepts the points within 28 days of the notice.

(2) Where the master accepts the lesser number of points within the period set out in subsection (1), it shall not be used as evidence against the master for the purposes of any criminal trial to which the serious infringement concerned relates.

(3) A notice under subsection (1) shall-

(a) set down the serious infringement of the rules of the common fisheries policy that is alleged to have taken place,

(b) state that the master was in charge of the sea-fishing boat when the serious infringement took place,

(c) advise that the Authority is seeking the Director of Public Prosecutions to prosecute the master in respect of the serious infringement,

(d) state the number of points that may be assigned with the master's acceptance, within 28 days of this notice,

(e) state the number of points that shall be assigned on conviction if the master does not accept the assignment within 28 days,

(f) advise that the master is not obliged to accept points but if the master accepts the points within 28 days, it shall result in that number of points being assigned irrespective of the outcome of any possible future trial to which the serious infringement concerned relates,

(g) state that acceptance of points within 28 days shall not be used in evidence in a prosecution relating to the offence,

(h) state the name and address of the officer in the Authority to whom the letter of acceptance should be sent to in writing by registered post, electronic-mail or facsimile.

(4) The Authority, on receipt of an acceptance from a master within 28 days of the notice, shall record on the register established under *section 15F* the master's name, the number of points set out in the column titled "Points on Acceptance" opposite the serious infringement in Part 1 of Schedule 4 and any other details required by regulations made under *section 15F(3)*.

(5) The Authority, in respect of a master who has not accepted points under a notice issued under this section, shall-

(a) 28 days following the conviction for an offence contained in Part 1 of Schedule 4, or

(b) in case an appeal is brought against the conviction and it is determined against the person, 28 days after such determination

record on the register established under *section 15F* the master's name, the number of points set out in the column titled "Points on Conviction" opposite the serious infringement in Part 1 of Schedule 4 and any other details required by regulations made under *section 15F(3)*.

(6) Points recorded under –

(a) subsection (4) (irrespective of a conviction or otherwise) shall remain on the register, or

(b) subsection (5) shall remain on the register

subject to *section 15G*, for a period of 3 years from the date on which they were recorded.

(7) The Authority shall not assign more than –

(a) 6 points on an acceptance by the master, or

(b) 12 points following a conviction of the master

in respect of one inspection.

(8) The Minister may by Regulations-

(a) specify additional offences to those in column (2) of Part 1 of Schedule 4 to which points may be assigned if those offences consist of activities set out in Article 3(1) of Council Regulation (EC) No 1005/2008 of 29 September 2008, and

(b) specify the number of points to be assigned to such offences having regard to Annex XXX to Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011.

(9) Offences specified in Regulations made under subsection (8) shall have like effect as though they were listed in column (2) of Part 1 of Schedule 4.

Suspension of masters

15C.(1) Subject to subsection (2), where a master has accumulated the number of points specified in column (2) of Part 2 of Schedule 4, he or she shall not take control of a sea-fishing boat in the exclusive fishery limits of the State or an Irish sea-fishing boat, wherever it may be, for the period specified in column (3) of Part 2 of that Schedule.

(2) A master suspended from taking control of a sea-fishing boat in the exclusive fishery limits of the State or an Irish sea-fishing boat, wherever it may be, may take control of a sea-fishing boat where there is immediate or imminent danger to the sea-fishing boat or person thereon and the proof of immediate or imminent danger shall rest with the master.

(3) Subject to subsection (7) the start date of a period of suspension under subsection (1) shall commence on the day specified in *section 15B* for the assignment of points.

(4) A master who takes control of a sea-fishing boat other than in accordance with subsection (2) while suspended commits an offence and is liable on summary conviction to a class A fine or on conviction on indictment to a fine not exceeding €15,000.

(5) A person who has been suspended under subsection (1) shall immediately inform the owner of that sea-fishing boat, or the owner of a sea-fishing boat who engages or proposes to engage him or her as master to take charge of a sea-fishing boat, of the suspension and the reasons for and period of same.

(6) A person who contravenes subsection (5) is liable on summary conviction to a class B fine.

(7) Where during the period of suspension under subsection (1) the master is assigned further points, the start date of any subsequent period of suspension shall commence no earlier than the day following the day of the expiry of the earlier suspension.

Disqualification

15D.(1) Subject to subsection (2), a master who has, at any one time, accumulated 90 points or more or has received 5 suspensions under *section 15C*, shall be permanently disqualified from taking control of a sea-fishing boat in the exclusive fishery limits of the State or an Irish sea-fishing boat, wherever it may be.

(2) A master disqualified from taking control of a sea-fishing boat in the exclusive fishery limits of the State or an Irish sea-fishing boat, wherever it may be, may take control of a sea-fishing boat where there is immediate or imminent danger to the sea-fishing boat or person thereon and the proof of immediate or imminent danger shall rest with the disqualified master.

(3) The start date of the disqualification is the date specified in *section 15B* for the assignment of points.

(4) A master who masters a sea-fishing boat other than in accordance with subsection (2) while disqualified commits an offence and is liable on summary conviction to a class A fine or, on conviction on indictment to a fine not exceeding €15,000.

(5) A person who has been disqualified under subsection (1) shall immediately inform the owner of that sea-fishing boat or the owner of a sea-fishing boat who engages or proposes to engage him or her as master of his or her disqualification.

(6) A person who contravenes subsection (4) shall be liable on summary conviction to a class B fine.

Application to Court for confirmation of Authority's decision

15E. (1) Where a master has been suspended under *section 15C(1)* or disqualified under *section 15D(1)*, the Authority shall, as soon as is practicable after the suspension or disqualification, make an application to the High Court for the confirmation of the suspension or disqualification.

(2) The Court shall, on the hearing of an application under subsection (1), confirm the suspension under *section 15C(1)* or disqualification under *section 15D(1)* the subject of the application unless the Court sees good reason not to do so.

(3) The decision of the Court on an application under subsection (1) is final except that the Authority or master to whom the decision relates may, by leave of the Court or Court of Appeal, appeal against the decision to the Court of Appeal on a specified question of law.

(4) A statement, admission or evidence provided by a person pursuant to a hearing for an application under subsection (1) shall not be admissible in proceedings brought against the person for an offence under this Act.

Register

15F. (1) The Authority shall establish and maintain a register of masters who have been assigned points under this Chapter.

(2) The Minister may make regulations setting out the information that the Authority shall record in the Register established under subsection (1) and how that information is to be published.

(3) Regulations made under this section may prescribe for the recording and publication of -

- (a) personal details of any master who has been assigned points,
- (b) the date and nature of each serious infringement for which the master has been assigned points,
- (c) the date of assignment of points,
- (d) the date points may expire,
- (e) if the master is suspended, the start date and proposed duration of the suspension,
- (f) if the master has been disqualified, the start date of the disqualification, and
- (g) any other matters necessary to ensure that a person seeking to procure a master's services may do so lawfully.

Expiry of points

15G. (1) Subject to subsections (2) and (3), points assigned to a master under this Chapter shall expire 3 years after the date they were recorded under *section 15B*.

(2) Points recorded [assigned] to a master shall not expire if the master has been disqualified under *section 15D*.

(3) Points assigned to a master shall not expire if the master is assigned further points within 3 years of the first or subsequent assignment of points. In this case all points shall expire 3 years after the date the last points were recorded under *section 15B*.

Obligations on sea-fishing boat licence holders

15H. (1) A sea-fishing boat licence holder shall not permit a person who –

(a) is suspended under *section 15C*, or

(b) is disqualified under *section 15D*

take control of the sea-fishing boat, other than in case of immediate or imminent danger to the sea-fishing boat or person thereon and the onus of proof of immediate or imminent danger shall lie with the sea-fishing boat licence holder.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a Class A fine, or on conviction on indictment, to a fine not exceeding €15,000.”, and

(b) after Schedule 3 of the following:

“SCHEDULE 4

Sections 15B and 15C

Part 1

Points to be assigned to Masters for serious infringements of the rules of the common fisheries policy on acceptance or conviction

Ref No. (1)	Offence (2)	Serious Infringement of the rules of the common fisheries policy (3)	Points On Acceptance (4)	Points On Conviction (5)
1	<ul style="list-style-type: none"> • Mussel Seed (Fishing) Regulations 2006 (S.I. No. 311 of 2006) Regulation: 4(a) 4(b) and 6 • Cockle (Fisheries Management and Conservation) (Waterford Estuary) Regulations 2007 (S.I. No. 531 of 2007) Regulation: 8 (a) and (b) • Sea-fisheries (Control on fishing for clams in Waterford Estuary)(No.2) Regulations 2009 (S.I. No. 418 of 2009) Regulation: 6(1) • Sea-fisheries (Control on fishing for clams in Waterford Estuary)Regulations 2011 (S.I. No. 221 of 2011) Regulation: 6 • Monkfish (Control of Landings) (No. 2) Regulations 2013 (S.I. No. 55 of 2013) Regulation 2(1), 3, 4 and 5 • Sea-Fisheries (Technical Measures) Regulations 2019 (S.I. No. 520 of 2019) Regulation 3 • Razor Clam (Conservation of Stocks) Regulations 2015 (S.I. No. 206 of 2015) Regulation 4, 5 and 6 • Sea-Fisheries (Community Control 	Not fulfilling of obligations to record and report catch or catch related data, including data to be transmitted by satellite vessel monitoring system	1.5	3

Ref No. (1)	Offence (2)	Serious Infringement of the rules of the common fisheries policy (3)	Points On Acceptance (4)	Points On Conviction (5)
	System) Regulations 2016 (S.I. No. 54 of 2016) Regulation 5. <ul style="list-style-type: none"> Sea-Fisheries (Conservation and Rational Exploitation of Deep-Sea Species) Regulations 2017(S.I. No 50 of 2017) Regulation 7 			
2	<ul style="list-style-type: none"> Sea Fisheries (Conservation and Rational Exploitation of Hake) Regulations 2006 (S.I. No. 179 of 2006) Regulation 3 Sea-Fisheries (Incidental Catches of Cetaceans in Fisheries) Regulations 2007 (S.I. No. 274 of 2007) Regulation 5 and 6 Sea-Fisheries (Technical Measures) Regulations 2019 (S.I. No. 520 of 2019) Regulation 3 Sea-Fisheries (Community Control System) Regulations 2016 (S.I. No. 54 of 2016) Regulation 5 	Use of prohibited or non-compliant gear according to EU legislation	2	4
3	<ul style="list-style-type: none"> Sea-Fisheries (Community Control System) Regulations 2016 (S.I. No. 54 of 2016) Regulation 5 	Falsification or concealing of markings, identity or registration	2.5	5
4	Under Review	Concealing, tampering or disposal of evidence relating to an investigation	2.5	5

Ref No. (1)	Offence (2)	Serious Infringement of the rules of the common fisheries policy (3)	Points On Acceptance (4)	Points On Conviction (5)
5	<ul style="list-style-type: none"> • Bass (Conservation of Stocks) Regulations 2006 (S.I. No. 230 of 2006) Regulation: 6,7 and 8 • Spider Crab (Conservation of Stock) Regulations 2006 (S.I. No. 236 of 2006) Regulation: 4 (2) and 5(2) • Whelk (Conservation of Stocks) Regulations 2006 (S.I. No. 237 of 2006) Regulation: 4 (2) and 5(2) • Crawfish (Conservation of Stocks Regulations 2006 (S.I. No. 232 of 2006) Regulation: 4 (2) and 5(2) • Sea-Fisheries (Technical Measures) Regulations 2019 (S.I. No. 520 of 2019) Regulation 3 • Lobster (Conservation of Stocks) Regulations 2014 (S.I. No. 591 of 2014) Regulation: 5(1), 5(2), 6 and 7 • Velvet Crab (Conservation of Stocks) Regulations 2017 (S.I. No. 431 of 2017) Regulation: 4 (1) &(2) and 5 • Razor Clam (Conservation of Stocks) (North Irish Sea) Regulations 2018 (S.I. No. 160 of 2018) Regulation: 4 (1) & (2) and 5 • Brown Crab (Conservation of Stocks) Regulations 2019 (S.I. No. 26 of 2019) Regulation: 4 (1) & (2) and 5 	Taking on board, transshipping or landing of undersized fish in contravention of the legislation in force	2.5	5

Ref No. (1)	Offence (2)	Serious Infringement of the rules of the common fisheries policy (3)	Points On Acceptance (4)	Points On Conviction (5)
6	<ul style="list-style-type: none"> • Sections 12 and 13 • Section 8 • Sea-Fisheries (Technical Measures) Regulations 2019 (S.I. No. 520 of 2019) Regulation 3 • Sea-Fisheries (Community Control System) Regulations 2016 (S.I. No. 54 of 2016) Regulation 5 	Carrying out of fishing activities in the area of a regional fisheries management organisation in a manner inconsistent with or in contravention of the conservation and management measures of that organisation	2.5	5
7	<ul style="list-style-type: none"> • Section 4(13) of the 2003 Act • Sections 12 and 13 • Sea-Fisheries (Community Control System) Regulations 2016 (S.I. No. 54 of 2016) Regulation 5 	Fishing without a valid licence, authorisation or permit issued by the flag state or the relevant coastal state	3.5	7

Ref No. (1)	Offence (2)	Serious Infringement of the rules of the common fisheries policy (3)	Points On Acceptance (4)	Points On Conviction (5)
8	<ul style="list-style-type: none"> • Section 10 • Sea-Fisheries (Technical Measures) Regulations 2019 (S.I. No. 520 of 2019) Regulation 3 • Shrimp (Conservation of Stocks) Regulations 2014 (S.I. No. 592 of 2014) Regulation 3 • Razor Clam (Conservation of Stocks) Regulations 2015 (S.I. No. 206 of 2015) Regulation 3(1) and 3(2) • Razor Clam (Conservation of Stocks) (North Irish Sea) Regulations 2015 (S.I. No. 207 of 2015) Regulation 3(1) and 3(2) • Razor Clam (Conservation of Stocks) (North Irish Sea) Regulations 2015 (S.I. No. 588 of 2015) Regulation 2 • Sea-Fisheries (Community Control System) Regulations 2016 (S.I. No. 54 of 2016) Regulation 5 	Fishing in a closed area or during a closed season, without or after attainment of a quota or beyond a closed depth	3	6
9	<ul style="list-style-type: none"> • Section 12 • Sea-Fisheries (Technical Measures) Regulations 2019 (S.I. No. 520 of 2019) Regulation 3 • Lobster (Conservation of Stocks) Regulations 2014 (S.I. No. 591 of 2014) Regulation: 5(1), 5(2), 6 and 7 • Crawfish(Conservation of Stocks) Regulations 2019 (S.I. No. 289 of 2019) Regulation: 5(1), 5(2), 6 and 7 	Directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited	3.5	7

Ref No. (1)	Offence (2)	Serious Infringement of the rules of the common fisheries policy (3)	Points On Acceptance (4)	Points On Conviction (5)
10	<ul style="list-style-type: none"> • Section 27 of the 2003 Act • Section 24 • Sea-Fisheries (Community Control System) Regulations 2016 (S.I. No. 54 of 2016) Regulation 5 	Obstruction of work of officials in the exercise of their duties in inspecting for compliance with the applicable conservation and management measures or the work of observers in the exercise of their duties of observing compliance with the applicable Union rules	3.5	7

Ref No. (1)	Offence (2)	Serious Infringement of the rules of the common fisheries policy (3)	Points On Acceptance (4)	Points On Conviction (5)
11	<ul style="list-style-type: none"> Sea-Fisheries (Illegal, Unreported and Unregulated Fishing) Regulations 2010 (S.I. No. 554 of 2010) Regulation 3 	<p>Transshipping to or participating in joint fishing operations with, support or re-supply of fishing vessels identified as having engaged in Illegal Unreported or Unrecorded fishing and included in the European Union list of vessel recorded as engaging in Illegal Unreported or Unrecorded fishing or in the Illegal Unreported or Unrecorded vessel list of a regional fisheries management organisation.</p>	3.5	7
12	Under Review	<p>Using a fishing vessel with no nationality that is a stateless vessel in accordance with international law</p>	3.5	7

Part 2

Period of Suspension

Reference No. (1)	Number of Points Accumulated (2)	Period of Suspension (3)
1	18 to 35 points inclusive	2 months
2	36 to 53 points inclusive	4 months
3	54 to 71 points inclusive	8 months
4	72 to 89 points inclusive	12 months

“.

Explanatory Note

This Head provides for the establishment of a Points System for Masters of fishing vessels as required by EU Fisheries Control Regulation (EC) No. 1224/2009 and its Implementing Regulation (Commission Regulation (EU) No. 404/2011). The Masters Points System is intended to complement sanctions and act as a deterrent to serious infringements of the rules of the Common Fisheries Policy.

This Head provides for the assignment of points to the master of a sea-fishing vessel. Where a serious infringement is alleged to have been committed by a master, he/she would be given an option to accept a lesser number of points than would apply as a consequence of a successful prosecution. If the points are accepted, they will remain assigned to the master irrespective of the outcome of the prosecution. However, the fact that a master has accepted points shall not be used as evidence against the master for the purposes of any criminal trial to which the serious infringement concerned relates. If the master decides not to accept the points initially and is

subsequently convicted of the serious infringement, he/she will be assigned a higher number of points.

In the case of assignment, the points will remain assigned for three years from the date the last points were recorded. The accumulation of points will result in the suspension of a master, that is, he/she will be prohibited from taking control of a sea-fishing boat in the exclusive fishery limits of the State or an Irish sea-fishing boat, wherever it may be. The period of the suspension is determined by the number of points accumulated – the higher the number of points accumulated, the longer the suspension. The accumulation of 18, 36, 54 and 72 points will trigger suspensions of two, four, eight and twelve months, respectively. A master who has accumulated 90 points or more or has received 5 suspensions shall be permanently disqualified from taking control of a sea-fishing boat in the exclusive fishery limits of the State or an Irish sea-fishing boat, wherever it may be.

The system is applicable to masters of all fishing vessels which fish in the Irish exclusive fisheries zone, whether they are Irish or Foreign flagged.

Part 4

Miscellaneous Amendments

Head 5

Miscellaneous amendments

5. The Act of 2006 is amended by-

(a) substituting for subsection 12(9) the following:

“(9) Without prejudice to subsection (8), notification of publication of a notice shall be made by publishing a notification in *Iris Oifiguil*.”,

(b) in section 13,

(i) inserting “(in electronic form or otherwise)” in subsection (1) following the word “grant”,

(ii) in subsection (1)(a)(i), inserting “any person” after “from”,

(iii) in subsection (2), deleting “, charterer or hirer, as the case may be,”, and

(iv) in subsection (5) substituting for paragraph (k) the following:

“(k) requiring the keeping of the authorisation or where the authorisation is issued in electronic form a printed copy of the authorisation on the boat concerned.”,

(c) in section 15 –

(i) subsection (1)(c) after “engaged in” inserting “fishing,”, and

(ii) subsection (2)(a)(i), substituting for “equipment on them” the following: “fishing gear or equipment”,

(d) in section 16(1), in paragraph (c), inserting after “the State”, “or serving in the Fisheries Monitoring Centre”,

(e) in section 17(1)(j)(i), substituting for “paragraph (b)(i) and (ii) and (v),” the following: “paragraph (b)(i), (ii) or (v),”,

(f) in section 28,

(i) substituting for “illegal nets or other equipment” in column (2) of Table 1 opposite Reference Number 1.(b) the following: “a contravention in relation to fishing gear or equipment”, and

(ii) substituting for “Section 4(12) (fishing without or in contravention of a sea-fishing boat licence)” in column (2) of Table 2 opposite Reference Number 1 the following: “Section 4(13) (as amended by section 97) (fishing without or in contravention of a sea-fishing licence)”,

(g) in section 37(b), substituting for “nets or other” the following: “fishing gear or”, and

(h) in section 54(b), substituting for “51(2)(a)” the following: “51(2)”.

Explanatory Note

This Head provides for miscellaneous amendments of the Act of 2006. They are primarily technical in nature and correct typographic and reference errors in the Act and so would improve the overall operation of the Act.

5(a) is a purely drafting amendment to correct a minor typographical error in section 12(9).

5 (b) amends section 13 by:-

- (i) providing for the issue of authorisations in electronic format. The amendment at 8(b)(iv), follows on from this by requiring that a printed copy of an authorisation issued in electronic form be kept on the boat concerned.
- (ii) correcting a typographical error in order to make clear that only a person who is an owner of an Irish registered sea-fishing boat and to whom a sea-fishing boat licence has been granted under the Act of 2006 can apply for or be granted a fishing authorisation under section 13, and

(iii) deleting unnecessary words. “Owner” is defined in section 6 of the Act of 2006 as including a charterer and hirer, as well as the owner of a sea-fishing boat, as the case may require.

5 (c) (i) amends section 15(1)(c) to provide that the Minister may make regulations to supplement the Common Fisheries Policy under section 15 which also apply to fishing by means other than using a vessel, such as hand gathering of fish. This power to regulate this activity is absent in the 2006 Act and this amendment would correct that. These activities can have significant impacts on stocks concerned. Accordingly scope is required to regulate these activities effectively under the Act.

5 (c) (ii) is a drafting amendment to section 15(2)(a)(i) which is necessary to specifically include “fishing gear” which is not specifically covered by the term “equipment” (as defined in section 6 of the Act of 2006). The amendment is thus consistent with the specific reference to “fishing gear” in the parallel section 14(2)(a)(i) of the Act of 2006.

5 (d) amends section 16(1) by ensuring that a member of the Permanent Defence Forces serving in the Fisheries Monitoring Centre (FMC) is a sea fisheries protection officer for the purposes of enforcing sea fisheries law and food safety law, as defined in the Act. The Naval Service acts as the official agency with responsibility for the operation of Ireland’s FMC. The FMC is located at Naval Base Haulbowline in Co. Cork. This responsibility is carried out as part of a Service Level Agreement between the Department of Defence, the Naval Service and the Sea Fisheries Protection Authority (SFPA). The FMC carries out monitoring and surveillance of all vessels equipped with a Vessel Monitoring System (VMS) that are operating in the Irish Exclusive Economic Zone (EEZ) and also of all Irish vessels operating in any jurisdiction. The FMC also carries out monitoring and surveillance of all vessels equipped with VMS that are operating in the waters of the North East Atlantic Fisheries Commission (NEAFC) adjacent to Irish waters.

5 (e) is a purely drafting amendment which is proposed to distinguish between the different premises referred to in section 17(j), which may not all be owned by the same person, or with all of which the same person may not be connected.

5 (f) amends section 28 by:-

(i) taking account of the definition of “fishing gear” as inserted at Dáil Report Stage in section 6 of the Act of 2006. That definition includes “net” and it is necessary, therefore, to

substitute a reference to “fishing gear or equipment” for “nets or other equipment”. “Equipment” as defined in section 6 of the Act of 2006, excludes “fishing gear” as so defined. This amendment was inadvertently overlooked when the definition of “fishing gear” was revised at Dáil Report Stage of the 2006 Bill.

- (ii) correcting an existing typographic error in Table 2 by substituting section 4(13) for section 4(12).

5 (g) is a drafting amendment required to take account of the term “fishing gear” (in a revised definition inserted at Dáil Report Stage in section 6 of the Act of 2006). That definition includes “net” and therefore it is necessary to substitute “fishing gear” for the words to be deleted, and

5(h) deletes the reference to paragraph (a) of section 51(2) of the Act of 2006 so as to also cover persons authorised under paragraph (b) of section 51(2) of that Act.