

S.I. 171 of 2006
SEA FISHERIES (TECHNICAL CONSERVATION MEASURES)
REGULATIONS 2006

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 Commission Regulation (EC) No 3440/84¹ of 5 December 1984 on the attachment of devices to trawls, Danish seines and similar nets, as amended and Council Regulation (EC) No. 850/1998² of 27 April 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms, as amended, hereby make the following Regulations:

1. These Regulations may be cited as the Sea Fisheries (Technical Conservation Measures) Regulations 2006.

2. (1) In these Regulations, unless the context otherwise requires -

 " Commission Regulation" means Commission Regulation (EEC) No. 3440/84¹ of 5 December, 1984 as amended by Commission Regulation (EEC) No 955/1987³ of 5 April 1987 and Commission Regulation (EEC) No 2122/89⁴ of 14 July 1989 and any future Regulation of the Commission or the Council made after the making of these Regulations which amends, extends, replaces or consolidates (with or without modification) the Commission Regulation (as defined herein);

 " Council Regulation" means Council Regulation (EC) No. 850/98² of 30 March, 1998, as amended by Council Regulation (EC) No. 973/2001⁵ of 14 May, 2001, Council Regulation (EC) 724/2001⁶ of 4 April 2001,

¹ OJ L 318/23 of 7.12.1984

² O.J.L. 125/1 of 27.4. 1998

³ O.J. L. 90/29 of 2.4.1987

⁴ O.J.L. 203/21 of 15.7.1989

⁵ O.J. L 137/1 of 19.5.2001

⁶ O.J. L 102/16 of 12.4.2001

Council Regulation (EC) 1298/2000⁷ of 8 June 2000, Council Regulation (EC) 812/2000⁸ of 17 April 2000, Council Regulation (EC) 2723/1999⁹ of 17 December 1999, Council Regulation (EC) 1459/1999¹⁰ of 24 June 1999, Council Regulation (EC) 308/1999¹¹ of 8 February 1999, and by 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).

“Principal Act” means the Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8 of 2006) as amended or extended by or under any subsequent enactment.

(2) A word or expression that is used in these Regulations and is also used in the Commission Regulation or in the Council Regulation has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Commission Regulation or the Council Regulation, as may be appropriate.

3. A contravention of any provision of the Commission Regulation or the Council Regulation 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 Commission Regulation or the Council Regulation relating to such boats or fishing gear, 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

⁷ OJ L 148/1 of 22.06.2000

⁸ OJ L 100/3 of 20.04.2000

⁹ OJ L 328/9 of 22.12.1999

¹⁰ OJ L 168/1 of 03.07.1999

¹¹ OJ L 038/6 of 12.02.1999

that Act relating to a contravention of a regulation under the said section 14 shall accordingly apply thereto.

4. (1) The mesh size and thickness of twine of fishing nets shall be measured for the purposes of these Regulations in accordance with the provisions of Commission Regulation (EC) No. 129/03¹² of 24 January, 2003 laying down detailed rules for determining the mesh size and thickness of fishing nets and any future Regulation of the Commission or the Council which amends, extends, replaces or consolidates (with or without modification) the said Commission Regulation (EC) No. 129/03.

(2) The percentage of target species and protected species when fishing with small mesh nets shall, for the purposes of these Regulations, be measured in accordance with the provisions of Commission Regulation (EEC) No. 954/87¹³ of 1 April, 1987 and any future regulation of the Commission or the Council which amends, extends replaces or consolidates (with or without modification) the said Commission Regulation (EEC) No. 954/87.

5. (1) For the purpose of enabling these Regulations to have full effect all of the powers conferred on a sea fisheries protection officer by the Principal Act are hereby extended to such extent as is appropriate for the enforcement of these Regulations.

(2) Without prejudice to the generality of paragraph (1) of this Regulation the following provisions shall apply—

(a) the powers referred to in paragraph (1) of this Regulation and exercisable as regards sea-fish (whether exercisable only as regards sea-fish of a particular description or otherwise exercisable) or as regards sea-fishing boats are hereby extended so as to be exercisable by a sea fisheries protection officer in relation to—

(i) salmon

(ii) any boat other than a sea-fishing boat;

¹² O.J. L. 22/5 of 25.1.2003

¹³ O.J. L. 90/27 of 2.4.1987

- (b) the following provisions of the Principal Act, namely, section 17, section 18 , section 19, section 20, section 21, section 22, and section 23 shall, for the purposes referred to in paragraph (1) of this Regulation, be construed and have effect subject to the modifications specified in sub paragraph (c) of this paragraph;
- (c) the modifications referred to in sub paragraph (b) of this paragraph are—
 - (i) any reference in the said section 17 to sea-fish shall be construed as including a reference to salmon,
 - (ii) the reference in paragraph (f) of subsection (1) of the said section 17 to illegally caught or retained sea-fish shall be construed as including a reference both to sea-fish of any other description and to salmon,
 - (iii) the reference in paragraph (g) of the said subsection (1) to an offence under this Part shall be construed as including an offence under section 14 of the Principal Act which is an infringement of these Regulations,
 - (iv) the reference in paragraph (h) of the said subsection (1) to forfeiture under this Part shall be construed as including a reference to forfeiture under subsections 28(5) and 28(6) of the Principal Act as a statutory consequence of conviction of an offence under the said section 14 which is such an infringement,
 - (v) any reference in the said sections 18, 19, 20, 21, 22 or 23, or in the said Regulations, either to a sea-fishing boat or to a boat, shall be construed as a reference to a boat of any description,
 - (vi) any reference in the said sections 17, 18, 19, 20, 21 or 23 to any of the said sections 17, 18, 19, 20, 21 or 23 or to any subsection or paragraph of any of the last-mentioned sections shall, where appropriate, be construed as a

reference to that section, subsection or paragraph, as may be appropriate, as affected by these Regulations, and

(vii) any other necessary modifications.

(3) In any detention or other order, certificate, authorisation or other instrument made or given, whether wholly or partly by virtue of this Regulation, any reference to section 17, 18, 19, 20, 21 or 22 of the Principal Act shall be construed as a reference to or, as may be appropriate, as including a reference to the section as affected by these Regulations.

GIVEN under my hand,

13th April 2006

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, which relate to technical conditions for all fishing operations (e.g. permitted nets, species composition of catches, etc.) make a contravention of any provisions of Commission Regulation (EEC) No. 3440/84 of 5 December, 1984 as amended and Council Regulation (EC) No. 850 of 1998, as amended, a contravention of the Sea-Fisheries and Maritime Jurisdiction Act 2006.

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