



Licensing Authority for Sea-fishing Boats

Annual Report 2005

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Marine and Natural Resources
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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 2005, 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. Brendan Linehan, both officials of the Department of Communications, Marine and Natural Resources. Mr. Linehan replaced Mr. James Moloney with effect from 17 October 2005.

Legislative Overview in relation to Licensing and Registration

The legislation governing sea-fishing boat licensing in force in 2005 was 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 in 2005 was Part IV of the Merchant Shipping Act 1894, as amended, and 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.

Amending legislation relating to licensing and registration of sea-fishing boats came into force in 2005. The Maritime Safety Act 2005 amended the law relating to safety of fishing vessels. The relevant provisions of this Act, which came into force on 29 June 2005, clarified the law relating to safety requirements to be met before a sea-fishing boat licence may be granted or renewed.

The Merchant Shipping (Registry, Lettering and Numbering of Fishing Boats) Regulations 2005 (S.I. No. 261 of 2005) brought the law into line with EU requirements regarding the measurement of tonnage and dimensions of fishing boats as well as updating the procedures relating to registration of fishing boats. The Regulations also introduced a requirement that segmentation indicators for vessels registered in certain segments of the fleet (Potting Sub-segment and Aquaculture Segment) be marked on the bow of the vessel along with the Port Code and Registration Number.

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 2005 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 2005 the Minister issued two further Policy Directives to the Licensing Authority:

- Policy Directive 1/2005 dated 25 January 2005
- Policy Directive 2/2005 dated 28 September 2005.

The texts of all Policy Directives issued to the Licensing Authority can be viewed on the Department's website.

Description of Irish Fishing Fleet

In accordance with Policy Directive 2/2003, the Irish fishing fleet was categorised into five segments. This fleet segmentation essentially retained 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 at the end of 2005, 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 13 vessels, which are dedicated to beam trawling.
- *Polyvalent Segment:* This segment comprised 1,229 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 also includes 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 for the purposes of compliance with the entry/exit regime. Further information on this Scheme is set out in page 13.
- *Specific Segment:* This segment contained 135 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 15 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 and Fleet Ceiling

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 fleet ceiling is the capacity situation of the fleet at 1 January 2003, subject to allowable adjustments not exceeding the Reference Levels. The fleet ceiling is the baseline for operation of the entry-exit regime. The fleet ceiling for Ireland at 31 December 2005 was 84,517 GT and 222,484 kW. This was calculated by subtracting the amount of exits from the fleet financed by public aid, i.e. through the 2005 Decommissioning Scheme, from the pre-existing fleet ceiling, which in Ireland's case had been equal to the Reference Levels for Ireland. 22 vessels, with capacity totalling 2,464 GT and 7,742 kW, left the Irish fleet with public aid in 2005 under the Decommissioning Scheme.

The capacity situation of the Irish fishing fleet at 1 January 2005 was as follows (revised figures):

Segment	No. of Vessels	GT	kW
Polyvalent	1,253	41,822	132,477
Pelagic	23	36,327	47,827
Beam Trawl	12 ¹	1,848	6,963
Specific	139	5,521	22,928
Total	1,427	85,518	210,195
Aquaculture	9	1,279	3,375

¹ Includes vessels with full-time beaming entitlements transferred from the Polyvalent segment pursuant to Section I of Policy Directive 2/2003.

The capacity situation of the Irish fishing fleet at 31 December 2005 was:

Segment	No. of Vessels	GT	kW
Polyvalent	1,229 ²	41,056	133,136
Pelagic	23	36,355	47,771
Beam Trawl	13 ³	1,943	7,387
Specific	135	4,921	20,377
Total	1,400	84,275	208,671
Aquaculture	15	3,391	7,497

It should be noted, however, that the Reference Levels and capacity situation 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 2005 and 31 December 2005 include GT values for vessels re-measured 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 13.
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 and under the previous inshore scheme. Provision for the registration of inshore

² Includes 52 vessels licensed and registered as at 31 December 2005 under the Scheme for the Licensing of Traditional Pot-fishing Boats in the Irish Inshore Fleet with capacity totalling 190 GT and 2,754 kW.

³ Includes vessels with full-time beaming entitlements transferred from the Polyvalent segment pursuant to Section I of Policy Directive 2/2003.

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 Inshore Pot-Licence Scheme is set out in page 13.

3. *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 in 2004 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 2005 under the "safety tonnage" provisions in Article 11(5) of Council Regulation 2371/2002 and Article 8 of Commission Regulation 1438/2003.
 - No vessels in the Irish fleet were approved for public aid in respect of renewal and modernisation after 31 December 2002.
4. *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). No vessels were introduced in 2005 using capacity arising under this provision. The combined totals of 4,363 GT and 3,103 kW used towards the entry of vessels in 2003 and 2004 represent the total amount of capacity entering the Irish fleet under the “coups partis” provision.

Activities of the Licensing Authority in 2005

Licence Applications and Renewals

A total of 276 applications for sea-fishing boat licences were received during the year, a substantial increase over 2004. 7 of these were subsequently withdrawn. Except in a small number of cases which required further consideration or further information, decisions on all applications were made within the 3 week period specified in the Department's customer service action plan. A number of cases in which licence offers had been issued, including cases where licence offers had been issued in 2004, were subsequently licensed and registered during 2005, following fulfilment by the applicants concerned of the necessary requirements for licensing and registration.

Following enactment of the Maritime Safety Act 2005, which introduced new provisions relating to the safety requirements for fishing vessels, the Licensing Authority applied these requirements to all applications for sea-fishing boat licences as well as to the grant and renewal of sea-fishing boat licences. A substantial number of licences for fishing vessels under 24 metres in registered length which expired on 30 June 2005 were renewed in accordance with the requirements of the 2005 Act. Also in accordance with the Act, renewal of licences of fishing vessels of 24 metres in registered length or greater was dependent on a certificate of compliance with the relevant safety requirements being approved or in place for the vessel.

Fleet Register

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. The Licensing Authority sent the required snapshots on 1 March, 1 June, 1 September and 1 December 2005 as required. Any errors identified in accordance with the European Commission's Business Rules for the snapshot transmission were resolved within the deadlines set down in the fleet reporting regulation.

Fleet Re-measurement

The programme for tonnage re-measurement of the Irish fleet in Gross Tonnes (GT), referred to in page 9, involved a survey carried out on each vessel concerned on behalf of the 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 licensing and registration of vessels which had been approved in 2004 under the Scheme for the Licensing of Traditional Pot-fishing Boats in the Irish Inshore Fleet commenced in the cases of those vessels which completed the requirements for licensing. These requirements included provision of a declaration of compliance by an independent surveyor with the applicable fishing vessel safety requirements. Approximately 740 vessels have been approved under this Scheme. By the end of the year, approximately 200 non-operative licences had been issued to enable the vessels to be registered and 52 of these, with a total capacity of 190 GT and 2,754 kW, had completed the registration process. 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. At the end of 2005, there were approximately 100 vessels remaining to be registered under this earlier scheme.

A number of those who had been refused licence offers initiated the appeals process under the 2003 Act. During the year the Licensing Authority

received notice of 58 such appeals in addition to those notified in 2004, bringing the total number of appeals to 135. Decisions on 48 appeals were made during the year, with 4 further cases deemed by the Appeals Officer to be invalid. Licence offers were issued to those whose appeals were successful.

Integrated Fisheries Information System (IFIS)

The annual reports for 2003 and 2004 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. The new system went live for fishing boat licensing and registration in June 2005.

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.

Appeals

The Minister appointed three Appeals Officers, Mr. Niall Beirne BL, Ms. Miriam Reilly BL and Mr. Michael Vallely BL. in July 2003 for a period of 3 years. In September 2005 Mr. Beirne resigned his position as Appeals Officer. The Minister of State appointed two further Appeals Officers, Ms. Emile Daly BL and Mr. Daniel Donnelly BL in October 2005 for a period of 3 years. Mr. Donnelly resigned his position in January 2006.

During the year the Licensing Authority received notice from Appeals Officers of 59 appeals against licensing decisions lodged with them, of which 58 related to the Scheme for the Licensing of Traditional Pot-fishing Boats in the Irish Inshore Fleet. One appeal related to the inclusion of a

licence condition in a licence. Decisions on 48 Inshore Potting Scheme appeals were made before the end of the year, with 4 further cases withdrawn. 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:

- 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 his successor Mr. Brendan Linehan, the staff of the Licensing Authority and the Department's other divisions, to enable the Licensing Authority to carry out its functions.

*Aidan Hodson
Registrar General of Fishing Boats
June 2006*