



Licensing Authority for Sea-fishing Boats

Annual Report 2006

**Department of Communications,
Marine and Natural Resources
Ireland**

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Report to the Minister for Communications, Marine and Natural Resources on the performance of the functions of the Licensing Authority for Sea-fishing Boats in the year 2006, 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 the Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8 of 2006). The Registrar General is Mr. Paschal Hayes and the Deputy Registrar General is Mr. Brendan Linehan, both officials of the Department of Communications, Marine and Natural Resources. Mr. Hayes replaced Mr. Aidan Hodson with effect from 6th October 2006.

Legislative Overview in relation to Licensing and Registration

The legislation governing sea-fishing boat licensing in force in 2006 was set out in section 4 of the Fisheries (Amendment) Act 2003 (as inserted by section 97 of the Sea-Fisheries and Maritime Jurisdiction Act 2006. The legislation governing sea-fishing boat registration in 2006 was set out in section 76 of the Sea-Fisheries and Maritime Jurisdiction Act 2006, 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.

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 2006 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 2006 the Minister issued one further Policy Directive to the Licensing Authority:

- Policy Directive 1/2006 dated 31 January 2006

This Policy Directive addressed two matters. Firstly it addressed the need to avoid the transfer of capacity into the sectors of the fleet being targeted under the decommissioning schemes 2005 –2007 by re-segmenting the existing polyvalent and specific segments of the fleet. Secondly, the Directive continued the moratorium on active pelagic track record to cover 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 2006, 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 14 vessels, which are dedicated to beam trawling.
- *Polyvalent Segment:* This segment comprised 1,640 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 licensed and registered under the Scheme for the Licensing of Traditional Pot Fishing Boats in the Irish Inshore Fleet. The scheme for the registration of previously unregistered traditional potting boats in the inshore fleet was launched in 2003 following approval from the European Commission. These potting vessels, which may only fish for non-quota species and by means of pots, are 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.
- *Specific Segment:* This segment contained 111 vessels, which are permitted to fish for bivalve molluscs and aquaculture species.
- *Aquaculture Segment:* These vessels must be exclusively used in the management, development and servicing of aquaculture areas and 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. This segment, which contained 23 vessels, with a total capacity of 4,345 GT and 9,622 kW, is not subject to the entry / exit regime.

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 2006 was 82,957 GT and 217,138 kW. This is calculated by subtracting the amount of exits from the fleet financed by public aid, i.e. through the Decommissioning Scheme, from the Reference Levels.

The capacity situation of the Irish fishing fleet at 1 January 2006 was as follows (revised figures):

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

The capacity situation of the Irish fishing fleet at 31 December 2006 was:

Segment	No. of Vessels	GT	kW
Polyvalent ¹	1,640	39,241	136,989
Pelagic	23	35,865	47,771
Beam Trawl	14	2,002	6,953
Specific	111	3,561	14,879
Total	1,788	80,669	206,591
Aquaculture	23	4,345	9,622

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 2006 and 31 December 2006 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.
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 boats, to allow for final completion of these inshore schemes, is

¹ Includes 468 vessels licensed and registered as at 31 December 2006 under the Scheme for the Licensing of Traditional Pot-fishing Boats in the Irish Inshore Fleet with capacity totalling 1082 GT and 14,017 kW.

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 11.

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 2006 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.

Activities of the Licensing Authority in 2006

Licence Applications and Renewals

A total of 240 applications for sea-fishing boat licences were received during the year. 11 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 2005, were subsequently licensed and registered during 2006, following fulfilment by the applicants concerned of the necessary requirements for licensing and registration.

A substantial number of licences for fishing vessels of less than 15 metres in overall length which expired on 30 June 2006 were renewed in accordance with the requirements of the Maritime Safety Act 2005.

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 2006 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.

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 continued 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.

By the end of the year, approximately 468 of these, with a total capacity of 1082 GT and 14,017 kW, had completed the licensing and registration process.

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

Three Appeals Officers, appointed by the Minister under section 6 of the Fisheries (Amendment) Act 2003 (No. 21), determined appeals in 2006, Mr. Michael Vallely BL, Ms. Miriam Reilly BL and Ms. Emile Daly BL . In September 2006 Ms. Miriam Reilly BL resigned her position as Appeals Officer.

During the year the Licensing Authority received notice from Appeals Officers of 61 appeals against licensing decisions lodged with them, of which 40 related to the Scheme for the Licensing of Traditional Pot-fishing Boats in the Irish Inshore Fleet, 17 related to refusal of Replacement Capacity for Sea Fishing Boat Licence Applications and 4 related to the inclusion of a licence condition in a licence.

Decisions on 55 appeals were made before the end of the year, with 4 further cases withdrawn and 2 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:

2 Higher Executive Officers

3 Executive Officers

1 Staff Officer

2 Clerical Officers.

The Licensing Authority was also assisted in carrying out its functions by ongoing liaison with the Seafood Policy and Development Division and the Seafood Control Division (now the Sea Fisheries Protection Authority).

I am grateful for the support and assistance provided by the Deputy Registrar General, Mr. Brendan Linehan and my predecessor Mr. Aidan Hodson, the staff of the Licensing Authority and the Department's other divisions, to enable the Licensing Authority to carry out its functions.

*Paschal Hayes
Registrar General of Fishing Boats
June 2007*