



STATUTORY INSTRUMENTS.

**S.I. No. 237 of 2012**



EUROPEAN COMMUNITIES (HABITATS AND BIRDS) (SEA-  
FISHERIES) (AMENDMENT) REGULATIONS 2012

EUROPEAN COMMUNITIES (HABITATS AND BIRDS) (SEA-FISHERIES) (AMENDMENT) REGULATIONS 2012

I, SIMON COVENEY, Minister for Agriculture, Food and the Marine, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving further effect to Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009<sup>1</sup> and Council Directive No. 92/43/EEC of 21 May 1992<sup>2</sup> (as amended by Council Directive No. 97/62/EC of 27 October 1997<sup>3</sup>, Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003<sup>4</sup> and Council Directive No. 2006/105/EC of 20 November 2006<sup>5</sup>), so far as those Directives relate to the impact of sea-fisheries on the marine environment, hereby make the following Regulations:

1. These Regulations may be cited as the European Communities (Natural habitats and birds) (Sea-fisheries) (Amendment) Regulations 2012.

2. The European Communities (Natural habitats and birds) (Sea-fisheries) Regulations 2009 (S.I. No. 346 of 2009) (as amended by the European Communities (Natural habitats and birds) (Sea-fisheries) (Amendment) Regulations 2010 (S.I. No. 397 of 2010)) are amended by—

(a) in Regulation 2, substituting the definition of “birds Directive” for the following-

“ ”birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009;”,

(b) in Regulation 3(1), substituting “in accordance with Regulation 9 of the European Communities (Natural Habitats) Regulations 1997 (S.I. No. 94 of 1997)” for the following-

“in accordance with Part 3 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011)”, and

(c) substituting Regulation 5, for the following—

*“Fisheries Natura permit*

5. (1) If a fisheries Natura declaration requires that sea-fishing, either generally or sea-fishing of a particular class or description, be

<sup>1</sup>OJ L 20, 26.1.2010, p. 7

<sup>2</sup>OJ L 206 of 22.7.1992, p.7

<sup>3</sup>OJ L 305, 8.11.1997, p. 42

<sup>4</sup>OJ L 284, 31.10.2003, p. 1

<sup>5</sup>OJ L 363, 20.12.2006, p. 368

regulated by permit, a person shall not, nor cause or permit another person to, fish for, land, tranship or have on board fish of a species specified in the declaration except in accordance with a permit (“fisheries Natura permit”).

(2) The Minister may grant a fisheries Natura permit, attach conditions to a fisheries Natura permit, revoke or vary a condition, insert a new condition, revoke a fisheries Natura permit or refuse an application.

(3) A person shall not contravene a fisheries Natura permit.

(4) An application for a fisheries Natura permit shall be made by the owner of the registered sea-fishing boat or other method of fishing to which the application relates, be in a form, be accompanied by any material and contain any particulars that the Minister specifies.

(5) A fisheries Natura permit may relate to one or more sites referred to in Regulation 3(1).

(6) Without prejudice to the generality of paragraph (2), a condition attached to a fisheries Natura permit may-

- (a) specify the quantities and types of fishing gear which may be kept on board a registered sea-fishing boat to which a permit relates,
- (b) specify the quantities and types of fishing gear which may be used for the purposes of sea-fishing generally or sea-fishing of a particular class or description, and the manner in which the gear may be used or stored,
- (c) prohibit the trans-shipment or landing of sea-fish or sea-fish of a particular class or description other than at specified places and within specified hours,
- (d) require the giving of specified advance notice of entry into port, and any other information as may be specified in the permit,
- (e) require the authorisation by an authorised officer for the landing of sea-fish generally or sea-fish of a particular class or description,
- (f) require the separate storage of different types of sea-fish or sea-fish caught in an area to which the permit relates and other sea-fish,
- (g) require the collection, collation and submission of specified data in relation to fishing for, trans-shipment or landing of sea-fish,

- (h) requiring the keeping of records in relation to the activities of the registered sea-fishing boat as may be specified in the permit,
- (i) require the facilitation of the placing of any person appointed by the Minister on board a registered sea-fishing boat to which a permit relates for the purposes of ensuring compliance with these Regulations or for, scientific observation, and require the provision of assistance and co-operation to that person in carrying out his or her duties or otherwise,
- (j) require the keeping of the permit on the registered sea-fishing boat to which it relates,
- (k) restrict the quantity of sea-fish or sea-fish of a particular class or description, that may be taken or retained, on board a particular registered sea-fishing boat in any specified area or part of it, or, in respect of fish taken or retained on board, that may be landed or trans-shipped from that boat, or
- (l) provide that a fisheries Natura permit is revoked if—
  - (i) the person to whom the permit is granted ceases to be the owner of the boat to which the permit relates, or
  - (ii) the boat ceases to be a registered sea-fishing boat.

(7) Without prejudice to the generality of paragraph (2), the Minister may refuse an application or revoke a fisheries Natura permit if—

- (a) the applicant or person to whom a fisheries Natura permit is granted has been convicted of, or committed, an offence, whether he or she has been convicted or not, under any enactment that relates to the environment,
- (b) the applicant or person to whom a fisheries Natura permit is granted has failed to comply with a condition attached to a permit,
- (c) the applicant or person to whom a fisheries Natura permit is granted is not, in the opinion of the Minister, a fit and proper person to hold a permit,
- (d) without prejudice to paragraph (11), in relation to the application, information required has not been furnished or information that is, in the opinion of the Minister, false or misleading has been furnished, or
- (e) it is, in the opinion of the Minister necessary, incidental, supplementary or consequential for the purposes of giving

effect to an act of an institution of the European Communities or Regulations under the European Communities Act 1972 relating to the environment.

(8) Without prejudice to the generality of paragraph (2), the Minister shall refuse an application or revoke a fisheries Natura permit if the applicant or person to whom a permit is granted is convicted, on indictment, of an offence under an enactment relating to the environment.

(9) Other than in the case of paragraph (8) or (10), if the Minister proposes to revoke a fisheries Natura permit or to refuse an application, he or she shall—

- (a) notify the person concerned in writing of the proposal and of the reasons for the proposal, and that he or she may make representations to the Minister in relation to the proposal within 14 days of the notification,
- (b) consider a representation duly made before deciding whether to proceed with, modify or annul the proposal, and
- (c) notify the person concerned of the decision and the reasons therefor.

(10) If the Minister is of the opinion that it is necessary to give effect to an act of an institution of the European Communities or an enactment relating to the environment, he or she may revoke a fisheries Natura permit or refuse an application in accordance with paragraph (11).

(11) If the Minister revokes a fisheries Natura permit or refuses an application in accordance with this paragraph, he or she shall—

- (a) notify the person concerned in writing of the decision and the reasons for the decision, and that he or she may make representations to the Minister in relation to the decision within 14 days of the date of the notification,
- (b) consider a representation made, and
- (c) confirm, modify or annul the decision and notify the person concerned of the decision and the reasons for the decision.

(12) A person to whom a fisheries Natura permit is granted shall make such returns to the Minister as and when, and in such form as, the Minister may from time to time direct.

(13) The Minister may renew without application, at his or her discretion, a fisheries Natura permit for a period stated in the renewed permit, if the Minister is satisfied the holder of the permit upon its

expiration continues to be the owner of the registered sea-fishing boat or other method of fishing to which the permit relates.

(14) If the Minister grants a fisheries Natura permit, attaches conditions to a fisheries Natura permit, revokes or varies a condition, inserts a new condition, revokes a fisheries Natura permit, or refuses an application, he shall notify the applicant or person to whom the fisheries Natura permit was granted in writing (including writing in electronic form).

(15) Revocation of a fisheries Natura permit, or insertion or variation of a condition, after the fisheries Natura permit is granted, comes into force as specified in the notification to the holder of the permit, no earlier than 24 hours after the notification is sent.

(16) The holder of a fisheries Natura permit shall, if the permit relates to a registered sea-fishing boat, inform the master of the sea-fishing boat to which the permit relates of revocation of the permit or of a condition or variation of a condition notified to the holder under paragraph (14).

(17) If a registered sea-fishing boat to which a fisheries Natura permit relates is engaged with another registered sea-fishing boat in pair fishing for a specified stock or stocks in an area specified in a permit, the boat may, take on board the quantity allowed to the other boat or land or trans-ship the other boat's share of the specified stock or stocks taken, subject to any conditions as may be specified in the fisheries Natura permit relating to the second-mentioned boat.

(18) In paragraph (17), "pair fishing" means, the towing or trawling of a trawl, seine or other net in the sea by the boat jointly with another authorised boat for the purpose of catching fish.

(19) In this Regulation, "registered sea-fishing boat", means a sea-fishing boat registered on the sea-fishing boat register of a member State of the European Union."



GIVEN under my Official Seal,  
21 June 2012.

SIMON COVENEY,  
Minister for Agriculture Food and the Marine.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

The effect of these regulations is to amend S.I. 346 of 2009, which provide for the management of sea-fisheries that may impact on Natura 2000 sites. The amendments are designed to allow for the more effective management of fisheries Natura permits.

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