



STATUTORY INSTRUMENTS.

S.I. No. 290 of 2013



EUROPEAN UNION (BIRDS AND NATURAL HABITATS) (SEA-
FISHERIES) REGULATIONS 2013

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EUROPEAN UNION (BIRDS AND NATURAL HABITATS) (SEA-FISHERIES) REGULATIONS 2013

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) and for the purpose of giving further effect to Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009¹ and Council Directive 92/43/EEC of 21 May 1992² (as amended by Council Directive 97/62/EC of 27 October 1997³, Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003⁴ and Council Directive 2006/105/EC of 20 November 2006⁵), in so far as those Directives relate to the impact of sea-fisheries on the marine environment, hereby make the following regulations:

Part 1

PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the European Union (Birds and Natural Habitats) (Sea-fisheries) Regulations 2013.

Interpretation

2. (1) In these Regulations—

“Act of 2006” means Sea-Fisheries and Maritime Jurisdiction Act 2006 (No. 8 of 2006);

“Appropriate Assessment” means appropriate assessment as referred to in Article 6(3) of the habitats Directive;

“assessment report” shall be construed in accordance with Regulation 8(1);

“authorised officer” means—

(a) a sea-fisheries protection officer within the meaning of section 16 of the Act of 2006, or

(b) a person appointed as such under Regulation 11;

“Authority” means Sea-Fisheries Protection Authority;

¹OJ No. L 20, 26.1.2010, p. 7

²OJ No. L 206, 22.7.1992, p.7

³OJ No. L 305, 8.11.1997, p. 42

⁴OJ No. L 284, 31.10.2003, p. 1

⁵OJ No. L 363, 20.12.2006, p. 368

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 6th August, 2013.*

“birds Directive” means Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009¹;

“Community fishing vessel” has the meaning assigned to it in Article 3(d) of Council Regulation (EC) No. 2371/2002 of 20 December 2002⁶;

“conservation objectives” has the meaning assigned to it in Regulation 2 of the Regulations of 2011;

“electronic publication” includes publication on the internet;

“European site” has the meaning assigned to it Regulation 2 of the Regulations of 2011;

“fish” and “sea-fish” have the meanings assigned to them in section 6 of the Act of 2006;

“fisheries Natura declaration” shall be construed in accordance with Regulation 9;

“fisheries Natura permit” shall be construed in accordance with Regulation 10;

“fisheries Natura plan” shall be construed in accordance with Regulation 3;

“fishing effort” has the meaning assigned to it in section 6 of the Act of 2006;

“fishing gear” has the meaning assigned to it in section 6 of the Act of 2006;

“fishing licence” has the meaning assigned to it in Article 4 of Council Regulation (EC) No. 1224/2009 of 20 November 2009⁷;

“habitats Directive” means Council Directive 92/43/EEC of 21 May 1992², as amended by—

(a) Council Directive 97/62/EC of 27 October 1997³,

(b) Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003⁴, and

(c) Council Directive 2006/105/EC of 20 November 2006⁵;

“Irish sea-fishing boat” has the meaning assigned to it in section 2 of the Act of 2006;

“licence” means a licence, in respect of a boat, which has been granted—

(a) under section 4 of the Fisheries (Amendment) Act 2003 (No. 21 of 2003) (as amended by section 97 of the Act of 2006), or

⁶OJ No. L 358, 31.12.2002, p. 59

⁷OJ No. L 343, 22.12.2009, p.1

- (b) by the competent authority of another Member State in accordance with Article 6 of Council Regulation (EC) No. 1224/2009 of 20 November 2009⁷;

“Marine Institute” means the body established under section 3 of the Marine Institute Act 1991 (No. 2 of 1991);

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

“Natura Impact Statement” has the meaning assigned to it in Regulation 2 of the Regulations of 2011;

“plan” has the same meaning as it has in Regulation 2 of the Regulations of 2011 in so far as a plan establishes public policy in relation to sea-fishing;

“record” includes a memorandum, book, plan, map, drawing, diagram, pictorial or graphic work or other document, a photograph, film or recording (whether of sound or images or both), any form in which data (within the meaning of the Data Protection Acts 1988 and 2003) are held, any other form (including machine-readable form) or thing in which information is held or stored manually, mechanically or electronically and anything that is a part or a copy, in any form, of any of the foregoing or is a combination of 2 or more of the foregoing;

“Regulations of 2011” means European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011);

“sea-fishing” has the same meaning as it has in section 6 of the Act of 2006;

“sea-fishing boat” includes a Community fishing vessel, or an Irish sea-fishing boat, with a valid fishing licence;

“vehicle” includes a railway wagon or trailer, designed for use or used with a vehicle, or container designed or used for carriage on a vehicle, whether either is attached to or detached from a vehicle;

“vessel” includes sea-fishing boat.

(2) A word or expression that is used in these Regulations and is also used in the birds Directive or the habitats Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in those Directives, as the case may be.

(3) A reference in these Regulations to sea-fishing activity or fishing activity includes—

- (a) taking of sea-fish or fish, by any means,
- (b) surveying or searching for sea-fish or fish, by any means,
- (c) attempting to fish,

- (d) the purchase, sale, handling, transport, processing, or storage of fish or sea-fish, or
- (e) having on board, retaining in possession, landing, trans-shipping, attempting to land or trans-ship, fish or sea-fish,

but does not include carrying out of aquaculture in accordance with an aquaculture licence (within the meaning of section 3 of the Fisheries (Amendment) Act 1997 (No. 23 of 1997)).

(4) These Regulations apply to the regulation of sea-fishing in so far as the regulation of that activity is necessary to secure compliance with the Regulations of 2011 and the objectives of the habitats Directive.

Part 2

MEASURES FOR ENVIRONMENTAL PROTECTION

Fisheries Natura plan

3. (1) Where the Minister is satisfied that a sea-fishing activity has the potential to have an impact on the conservation objectives of a European site, the Minister may invite a person to submit a plan, or an amendment to a plan, in such form (if any) as may be specified from time to time by the Minister (“fisheries Natura plan”), that relates to such activity.

(2) The purpose of a fisheries Natura plan is to assist in the achievement of the conservation objectives of a European site having regard to sea-fishing activity which has the potential to have an impact on those conservation objectives.

(3) A fisheries Natura plan may relate to one or more European sites.

(4) A fisheries Natura plan shall contain a description of the sea-fishing activity to which the plan relates and such other matters as may be specified from time to time by the Minister.

(5) A plan that relates to sea-fishing (other than a fisheries Natura plan) which the Minister may consider for adoption, approval or authorisation may be treated as a fisheries Natura plan for the purposes of these Regulations.

Screening of fisheries Natura plan

4. (1) Where the Minister receives a fisheries Natura plan submitted under Regulation 3(1), or proposes to substitute or amend a fisheries Natura plan adopted under Regulation 6, he or she may direct the Marine Institute, and if so directed the Marine Institute shall—

- (a) carry out screening for an Appropriate Assessment in accordance with Regulation 42(1) of the Regulations of 2011, and

- (b) make a recommendation to the Minister as to whether or not an Appropriate Assessment should be carried out on the fisheries Natura plan.

(2) The Minister may, having taken account of a recommendation received under paragraph (1)(b)—

- (a) determine the need for an Appropriate Assessment of the fisheries Natura plan in accordance with Regulation 42(6) and (7) of the Regulations of 2011, and
- (b) make a determination referred to in subparagraph (a) available in accordance with Regulation 42(18) of the Regulations of 2011.

Appropriate Assessment of fisheries Natura plan

5. (1) Where the Minister determines under Regulation 4 that an Appropriate Assessment is not required in respect of a fisheries Natura plan, he or she may determine whether or not to adopt the fisheries Natura plan in accordance with Regulation 6.

(2) Where the Minister determines under Regulation 4 that an Appropriate Assessment is required in respect of a fisheries Natura plan, the Minister shall direct the Marine Institute to, and if so directed the Marine Institute shall, prepare and furnish to him or her a report which shall include—

- (a) a Natura Impact Statement,
- (b) a concluding statement setting out the potential impacts on the conservation objectives of the relevant European site, and
- (c) any other evidence compiled in accordance with Regulation 42(9)(b) of the Regulations of 2011.

(3) The Minister may—

- (a) publish the fisheries Natura plan, and the report furnished to him or her under paragraph (2), in a manner that he or she considers appropriate (including by way of electronic publication),
- (b) send a copy of the fisheries Natura plan, and the report furnished to him or her under paragraph (2), to the Minister for the Environment, Community and Local Government, the Minister for Communications, Energy and Natural Resources and any other person that the Minister considers appropriate, and
- (c) invite representations on the report sent by him or her under subparagraph (b) to be submitted to him or her not later than one month after the date of publication under subparagraph (a).

(4) The Minister shall send a copy of the fisheries Natura plan, and the report furnished to him or her under paragraph (2), to the Minister for the Arts, Heritage and the Gaeltacht in accordance with Regulation 42(9) of the Regulations

of 2011 and invite submissions from that Minister on the report to be submitted to him or her not later than one month after the date of sending.

(5) The Minister shall not make a determination in accordance with Regulation 6(1) earlier than 6 weeks after the date of the sending of the draft plan and report, referred to in paragraph (4), without the agreement of the Minister for the Arts, Heritage and the Gaeltacht.

(6) As soon as may be after receipt of representations under paragraph (3), or a submission under paragraph (4), the Minister may direct the Marine Institute to, and if so directed the Marine Institute shall, finalise a report taking account of any representations or submissions received and to submit the final report to him or her.

Adoption of fisheries Natura plan

6. (1) In determining whether or not to adopt a fisheries Natura plan, the Minister shall consider—

- (a) any report furnished to him or her under Regulation 5(2) or 5(6), as the case may be,
- (b) any representations submitted to him or her under Regulation 5(3),
- (c) any submissions submitted to him or her under Regulation 5(4),
- (d) the general requirements imposed on a public authority, when considering whether to adopt a plan or project, set out in Regulation 42 of the Regulations of 2011, and
- (e) such matters concerning the protection, conservation or the sustainable exploitation of fish, or the rational management of fisheries, in so far as such matters are compatible with the Minister's obligations under the Regulations of 2011.

(2) A determination by the Minister to adopt a plan under paragraph (1)—

- (a) may contain such modifications, or with such conditions attached, to the plan as the Minister considers necessary in accordance with Regulation 42(17) of the Regulations of 2011, and
- (b) shall be made available in accordance with Regulation 42(18) of the Regulations of 2011.

(3) The Minister may withdraw, revoke or, subject to Regulations 4 and 5, substitute or amend a fisheries Natura plan, or the Minister may withdraw, revoke, substitute or amend any condition attached to such a plan, which has been adopted.

Publication of fisheries Natura plan

7. (1) Where the Minister determines to adopt a fisheries Natura plan under Regulation 6, the Minister shall publish the fisheries Natura plan, or plan, in any manner that he or she considers appropriate (including electronic publication).

(2) The Minister shall publish notice of the adoption of a fisheries Natura plan, or the amendment or withdrawal of a fisheries Natura plan, in *Iris Oifigiúil*.

Assessment of sea-fishing

8. (1) The Minister may direct the Marine Institute to, and if so directed the Marine Institute shall, prepare an assessment of sea-fishing activity for the purposes of enabling the Minister to fulfil his or her obligations as a public authority under Regulation 27 of the Regulations of 2011 and to make a report of the assessment (“assessment report”) to him or her.

(2) The Minister shall—

- (a) publish the assessment report in a manner that he or she considers appropriate (including electronic publication),
- (b) send a copy of the assessment report to the Minister for the Arts, Heritage and the Gaeltacht, the Minister for the Environment, Community and Local Government, the Minister for Communications, Energy and Natural Resources and any other person who he or she considers appropriate, and
- (c) invite representations on the assessment report to be submitted to him or her not later than one month after the date of publication under subparagraph (a).

(3) As soon as may be after receipt of representations (if any) under paragraph (2), the Minister may request the Marine Institute to, and if requested the Marine Institute shall, finalise the assessment report taking account, as necessary, of any representations received and to submit the final report to the Minister.

Fisheries Natura declaration

9. (1) Where the Minister considers that—

- (a) it is necessary in order to give effect to a fisheries Natura plan which has been adopted under Regulation 6,
- (b) it is necessary having regard to the conclusions contained in an assessment report received under Regulation 8(1) or 8(3), as the case may be, in order to ensure compliance with Regulation 27 of the Regulations of 2011, or
- (c) there may be an immediate and significant risk arising from sea-fishing activities to the conservation objectives of a European site,

he or she may issue a declaration (“fisheries Natura declaration”).

(2) A fisheries Natura declaration issued under paragraph (1)(c) shall expire not later than 18 months after its issue but may be renewed in accordance with this Regulation.

(3) A person shall comply with a fisheries Natura declaration.

(4) A fisheries Natura declaration may relate to one or more European sites and to any fishing activity which has the potential to impact on the conservation objectives of a European site.

(5) A fisheries Natura declaration may include measures effecting one or more of the following:

- (a) restricting, including prohibiting, fishing activity or fishing activity of a particular class or description;
- (b) restricting, including prohibiting, use of fishing gear or fishing gear of a particular class or description;
- (c) limiting fishing effort by sea-fishing boats generally or sea-fishing boats of particular class or description;
- (d) limiting fishing activity by means other than sea-fishing boats;
- (e) restricting, including prohibiting, times and locations of fishing;
- (f) restricting, including prohibiting, the taking of particular species of fish;
- (g) prohibiting 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;
- (h) requiring the giving of specified advance notice of entry into port or exit from port, together with such information concerning fishing activity as may be specified;
- (i) requiring the authorisation by an authorised officer for the landing of sea-fish generally or sea-fish of a particular class or description;
- (j) requiring the separate storage of different types of sea-fish, or the separate storage of sea-fish caught in different areas as may be specified by the Minister;
- (k) requiring the collection, collation and submission of data in relation to fishing for, trans-shipment or landing of sea-fish as may be specified by the Minister;
- (l) requiring the keeping of records in relation to the activities of a sea-fishing boat (including records in relation to time and locations) as may be specified in the declaration;

- (m) requiring the facilitation of the placing of any person nominated by the Minister on board a sea-fishing boat to which the declaration relates for the purposes of ensuring compliance with these Regulations or for scientific observation, and require the provision of assistance and co-operation to such person in carrying out his or her duties or otherwise;
 - (n) restricting the quantity of sea-fish, or sea-fish of a particular class or description, that may be taken or retained, on board a particular 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;
 - (o) requiring the monitoring of species or habitats and the effects of sea-fishing and any other activity on such species or habitats, and including the means of monitoring;
 - (p) restricting, including prohibiting, the purchase, handling, weighing, trans-shipping, transporting, landing, processing, storing or selling of sea-fish;
 - (q) requiring the keeping of records in relation to the catch of species, whether intentional or otherwise, the release of catch and the disposal of catch as may be specified in a declaration;
 - (r) any other measure that the Minister considers necessary for the purpose fulfilling his or her obligations under these Regulations.
- (6) A reference in paragraph (5) to restricting includes restricting by permit.
- (7) The Minister shall publish a fisheries Natura declaration in such manner as he or she considers appropriate and expedient in the circumstances including, but not limited to, one or more of the following:
- (a) electronic means;
 - (b) publication in a newspaper published and circulating in the State;
 - (c) transmission to organisations the Minister considers representative of persons who may be affected by the declaration.
- (8) The Minister shall publish notice of the making of a fisheries Natura declaration in *Iris Oifigiúil*.
- (9) Failure to publish a notice in accordance with paragraph (8) does not affect its validity.
- (10) A fisheries Natura declaration shall state the date of its issue and the date on which it comes into force.

(11) The Minister may revise, amend, suspend or withdraw a fisheries Natura declaration, or issue a new fisheries Natura declaration in place of an existing fisheries Natura declaration, in accordance with this Regulation.

Fisheries Natura permit

10. (1) Where a fisheries Natura declaration requires that sea-fishing, or the purchase, sale, handling, transport, processing, or storage of fish be regulated by permit, a person shall not, nor cause or allow another person to, except in accordance with a permit (“fisheries Natura permit”), fish for, land, tranship or have on board, fish of a species specified in the declaration or, as the case may be, purchase, sell, handle, transport, process or store such fish.

(2) The Minister may grant a fisheries Natura permit to a person mentioned in paragraph (4), 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) The holder of a fisheries Natura permit shall comply with the permit and any conditions attached to it.

(4) An application for a fisheries Natura permit may be made by—

- (a) a person who is the owner of a sea-fishing boat, which is registered and licensed, or other method of fishing to which the application relates,
- (b) a person who is the owner, or in possession of, a premises or vehicle used in connection with any of the activities mentioned in paragraph (1), or
- (c) such other class of person as may be specified in a fisheries Natura declaration,

and shall be in such form, accompanied by such material and contain such particulars that the Minister specifies.

(5) A fisheries Natura permit may relate to one or more European sites.

(6) Without prejudice to the generality of paragraph (2), a condition attached to a fisheries Natura permit may include one or more of the following:

- (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 activity generally or sea-fishing activity 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 or within specified hours;

- (d) require the giving of advance notice of entry into, and exit from, port, and such other information concerning fishing activity which may impact on the conservation objectives of a European site 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 the separate storage of 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 and records in relation to fishing for, trans-shipment, landing or other sea-fishing activity;
 - (h) require 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 nominated 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 or in the registered sea-fishing boat, vehicle or premises, to which it relates, or on the person to whom it relates, as the case may be;
 - (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;
 - (l) provide that a fisheries Natura permit shall stand revoked where—
 - (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 paragraph (2), the Minister may refuse an application for, or revoke, a fisheries Natura permit where—
- (a) the applicant or person to whom a fisheries Natura permit is granted is failing, or has failed to comply with, a condition attached to, a permit,

- (b) the applicant or person to whom a fisheries Natura permit is granted is not, or no longer is, in the opinion of the Minister, a fit and proper person to hold a permit,
- (c) in relation to an application, information required under paragraph (4) has not been furnished or information that is, in the opinion of the Minister, false or misleading has been furnished, or
- (d) the refusal or revocation 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 Union or Regulations under the European Communities Act 1972 relating to the environment.

(8) Without prejudice to paragraph (2), the Minister may refuse an application for, or revoke a, fisheries Natura permit where the applicant or person to whom a permit is granted is convicted, on indictment, of an offence under an enactment relating to the environment or sea-fishing.

(9) Where the Minister is of the opinion that it is necessary to give effect to an act of an institution of the European Union or an enactment relating to the environment, food safety or to sea-fisheries generally, he or she may revoke a fisheries Natura permit, attach conditions to, revoke or vary a condition in, insert a new condition to, or refuse an application for, such a permit.

(10) Other than in the case of paragraph (8) or (9), where the Minister proposes to modify or revoke a fisheries Natura permit or to refuse an application under this Regulation, 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 not later than 14 days of the date of the notice,
- (b) consider any representations duly made before deciding whether to proceed with, modify or annul the proposal, and
- (c) notify the person concerned in writing of the decision and the reasons therefor.

(11) 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.

(12) The Minister may renew without application, at his or her discretion, with or without additional conditions, a fisheries Natura permit for a period stated in the renewed permit, where the Minister is satisfied the holder of an existing 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, or continues to be of the class of person specified in a fisheries Natura declaration.

(13) Where 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 or she shall notify the applicant or person to whom the fisheries Natura permit was granted in writing.

(14) The 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 the day after the notification is sent.

(15) A holder of a fisheries Natura permit shall, where the permit relates to a registered sea-fishing boat, inform the master of the sea-fishing boat to which the permit relates of the revocation of the permit, or of the revocation or variation of a condition of the permit, notified to the holder under paragraph (13).

(16) Where 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.

(17) In paragraph (16), "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.

Part 3

AUTHORISED OFFICERS AND RELATED MATTERS

Appointment of authorised officer

11. (1) The Minister may appoint, in writing, such persons or classes of persons as he or she considers appropriate to be authorised officers and a person so appointed may exercise all or any of the functions of an authorised officer under these Regulations that are specified in the appointment.

(2) A member of the Authority may appoint, in writing, such officers of the Authority as he or she considers appropriate to be authorised officers and a person so appointed may exercise all or any of the functions of an authorised officer under these Regulations that are specified in the appointment.

(3) The Minister, or a member of the Authority, as the case may be, may at any time terminate the appointment of an authorised officer appointed by him or her, whether or not the appointment was for a fixed period or specified purpose.

(4) An appointment as an authorised officer ceases—

(a) when it is terminated in accordance with paragraph (3),

- (b) where it is for a fixed period, on the expiration of that period,
- (c) where it is for a specified purpose, on the completion of that purpose, or
- (d) where the person appointed is an officer of the Minister or the Authority, upon the person ceasing to be such an officer or class of person.

(5) Nothing in paragraph (4) is to be construed so as to prevent the Minister or a member of the Authority, as the case may be, from re-appointing as an authorised officer a person whose appointment has ceased under paragraph (4).

(6) A person appointed under this Regulation shall be furnished with a warrant of his or her appointment and, when exercising a function of an authorised officer, the officer shall, where requested by a person affected, produce the warrant for inspection.

Functions of authorised officer

12. (1) Where an authorised officer has cause to suspect that—

- (a) a vessel is, or has been, in a European site,
- (b) fish or a fishery product is, or has been, present on a vessel, vehicle, premises or container,
- (c) fish or a fishery product is, or has been, processed, stored or otherwise dealt with on a premises,
- (d) a document relating to fish or a fishery product is, or has been, present on a premises, or
- (e) an offence under these Regulations is being, or has been, committed,

the authorised officer may do one or more of the following:

- (i) subject to paragraph (2), enter and search the premises;
- (ii) stop a person, vehicle, vessel or container, or require that a vehicle, vessel or container be manoeuvred as directed for the purposes of identification or of allowing the officer to go on board it;
- (iii) board, open, search and examine a vehicle, vessel or container, and examine fishing gear or other equipment used in connection with fishing therein;
- (iv) instruct a person to take a vehicle, vessel or container to a specified port or place;
- (v) examine fish, a fishery product, fishing gear or other equipment used in connection with fishing, a vessel, vehicle, container or other thing that may consist of or contain fish or a fishery product,

and for that purpose open any package, hold, tank, container or other article which contains or is suspected of containing fish, fishing gear or other equipment used in connection with fishing;

- (vi) take, without payment, samples of fish or a fishery product or other article, substance or liquid as he or she may reasonably require and carry out or cause to be carried out on a sample such tests, analyses, examinations or inspections as the authorised officer considers necessary or expedient;
- (vii) seize and detain (for so long as is necessary) a sea-fishing boat, fishing gear or other equipment used in connection with fishing, any fish (with or without any container) or a fishery product, a vehicle, vessel or container, any computer or other storage medium in which any record is kept or any thing reasonably believed to be used in connection with one, or more, of the matters mentioned in subparagraphs (a) to (e);
- (viii) require the production of a document, record or thing relating to fish or a fishery product, a vehicle, vessel, container, fishing gear or other equipment used in connection with fishing;
- (ix) examine and verify the accuracy of, or retain, a document, record or thing relevant to the matters mentioned in subparagraphs (a) to (e);
- (x) dispose of, or require the owner or person in charge of or in possession of, fish or a fishery product to deal with or dispose of it (or any fishing gear, equipment, machinery, plant or other thing used in connection with, or that may have been in contact with, the fish or a fishery product) in a manner that the authorised officer sees fit;
- (xi) take evidence, including photographic evidence or electronically recorded evidence, of anything relating to an offence under these Regulations which is being committed or is suspected of being or having been committed;
- (xii) check the size, weight, characteristics and condition of sea-fish and the operation of any equipment used for the measurement, weighing, handling, storage, trans-shipment, transportation and processing of sea-fish;
- (xiii) give a direction to, or request information of, a person regarding a premises, fish or a fishery product relevant to the matters mentioned in subparagraphs (a) to (e);
- (xiv) require the owner, master or member of the crew of a sea-fishing boat to produce the certificates of registry, licences, authorisations, permits, logbooks or other records relating to the boat,

any fishing gear or equipment, on the boat, or the crew or a member of the crew, which are in his or her possession or control;

- (xv) require the master of a sea-fishing boat to give an explanation concerning the boat, any fishing gear or equipment on it, the boat's fishing activity or the certificates, licences, authorisations, permits, logbooks or other records relating to it;
- (xvi) require the name and address of a person and the name and address of any other relevant person including the person to whom fish or a fishery product is being delivered or who is causing it to be delivered;
- (xvii) require of a person the ownership, identity and origin of fish or a fishery product;
- (xviii) mark or otherwise identify fish or a fishery product or a sample taken under subparagraph (vi).

(2) An authorised officer shall not enter a private dwelling, except with the consent of the occupier, unless he or she has obtained a search warrant under Regulation 13, other than where he or she has reasonable cause to suspect that, before a search warrant could be sought in relation to the dwelling, anything to which relates to the matters mentioned in subparagraphs (a) to (e) is being or is likely to be destroyed or disposed of.

(3) An authorised officer may use reasonable force, where necessary, in exercise of his or her powers under these Regulations.

(4) An authorised officer, when exercising a power under this Regulation may be accompanied by other persons and may take with him or her, or those persons may take with them, any equipment or materials to assist the officer in the exercise of the power.

(5) An authorised officer is not liable in any proceedings for anything done in the purported exercise of his or her powers under these Regulations where a court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(6) An authorised officer may when exercising a power under this Regulation at a premises—

- (a) operate any computer or cause a computer to be operated by a person accompanying the officer, and
- (b) require a person who appears to the officer to have access to the information in any computer—
 - (i) to give to the officer any password necessary to operate the computer or access the information, or both,

- (ii) otherwise to enable the officer to examine the information accessible by the computer in a form in which the information is visible and legible, or
- (iii) to produce the information in a form in which it can be removed and in which it is, or can be made, visible and legible.

(7) Without prejudice to the generality of paragraph (1), a direction or requirement of an authorised officer may include conditions prohibiting, restricting or otherwise controlling the use, processing or movement of a sea-fishing boat, fishing gear, fish or a fishery product as may be specified by the authorised officer.

(8) Nothing in this Regulation operates to prejudice any power to search, or to seize or detain property, which may, apart from these Regulations, be exercised by an authorised officer, member of the Garda Síochána or an officer of Customs and Excise.

(9) Nothing in section 17 of the Industrial and Provident Societies Act 1893 (1893 (56 & 57 Vict.) c. 39) prevents an authorised officer from exercising a power conferred on him or her by these Regulations.

(10) In this Regulation, “premises” includes a vessel, vehicle, container or aircraft.

Search warrant

13. (1) Where a judge of the District Court is satisfied by information on oath of an authorised officer that there are reasonable grounds for suspecting that—

- (a) evidence of, or relating to, the commission or intended commission of an offence under these Regulations is to be found on a premises, or
- (b) a document or other record related to a thing to which subparagraph (a) refers is or may be on the premises,

the judge may issue a search warrant.

(2) A search warrant under this Regulation shall be expressed and operate to authorise a named authorised officer, accompanied by such authorised officers or other persons as the named authorised officer thinks necessary, at any time within one month from the date of issue of the warrant, on production where so requested of the warrant, to enter (where necessary by use of reasonable force) the premises named in the warrant.

(3) Where a premises is entered pursuant to a warrant issued under this Regulation, an authorised officer so entering may exercise all or any of the powers conferred on him or her specified in their appointment under these Regulations.

(4) In this Regulation, “premises” includes a vessel, vehicle, container or aircraft.

Assistance to authorised officer

14. An authorised officer, or a person who accompanies an authorised officer, when exercising a power under these Regulations, may require a person to give assistance and such person shall give any such assistance requested.

Obstruction, etc

15. A person shall not—

- (a) obstruct or impede an authorised officer in the exercise of his or her powers under Regulation 12,
- (b) fail, without reasonable cause, to comply with a request, instruction, requirement or direction of an authorised officer under Regulation 12,
- (c) fail, without reasonable cause, to comply with a request for assistance under Regulation 14,
- (d) in making an application for a fisheries Natura permit or in purporting to give information to an authorised officer for the performance of the officer's powers under Regulation 12—
 - (i) make a statement that he or she knows to be false in a material particular or recklessly make a statement which is false in a material particular, or
 - (ii) fail to disclose a material particular,
- (e) tamper or otherwise interfere with a sample taken under Regulation 12,
- (f) fail to obey an order that a boat be stopped or manoeuvred in accordance with the directions of an authorised officer,
- (g) fail to obey an instruction that a boat be taken to a specified port, given by an authorised officer,
- (h) when his or her name and address is lawfully requested of him or her by an authorised officer, refuse or fail to give his or her name and address or give a name or address knowing it to be false or misleading, or
- (i) when the name and address of any other person is lawfully requested of him or her by an authorised officer, refuse or fail, knowing such name and address, to give the name or address or give a name or address knowing it to be false or misleading.

Disposal of sea-fish, etc

16. (1) Where an authorised officer detains in his or her custody any sea-fish, fishery product or other article under Regulation 12, he or she shall, as soon as conveniently may be, take such steps as may be proper to have the person

accused of the alleged offence committed in relation to the sea-fish, fishery product or other article dealt with according to law.

(2) Where an authorised officer detains in his or her custody any sea-fish or fishery product and the sea-fish or fishery product is likely to become unfit for human consumption before the matter can conveniently be dealt with by any court, he or she may produce the sea-fish or fishery product to a designated officer (if the authorised officer is not a designated officer) and, if authorised so to do by the designated officer, sell or otherwise dispose of the sea-fish or fishery product.

(3) Where an authorised officer detains in his or her custody any live sea-fish, he or she may produce the sea-fish to a designated officer (where the authorised officer is not a designated officer) and, where authorised so to do by the designated officer, return the sea-fish to the sea.

(4) A designated officer to whom sea-fish or fishery product is produced under this Regulation or which he or she has detained in exercise of the powers of an authorised officer shall, where he or she is of opinion that the sea-fish or fishery product ought to be sold, destroyed, returned to the sea or otherwise disposed of, give to the authorised officer producing the sea-fish or fishery product, or create for himself or herself, as the case may be, a certificate in writing—

(a) describing the sea-fish or fishery product and any marks, peculiarities or other particulars thereof which he or she is, or has been, made aware, by the authorised officer, and

(b) where appropriate, authorising the officer to sell or otherwise dispose of the sea-fish or fishery product or return the sea-fish to the sea.

(5) A certificate under paragraph (4) is, until the contrary is shown, evidence in every court of all matters of fact stated in it.

(6) In this Regulation, “designated officer” means a person designated under section 17(9) of the Act of 2006.

Part 4

PROCEEDINGS, OFFENCES AND RELATED MATTERS

Detention order

17. (1) Where an authorised officer has, in the exercise of the powers conferred on him or her by Regulation 12, detained a boat or vehicle and the persons on board the boat or on the vehicle at a port and he or she suspects that the persons on board the boat or on the vehicle have committed an offence under these Regulations, an authorised officer shall (other than where he or she is proceeding under Regulation 16), as soon as may be, apply to a judge of the District Court for an order authorising the continued detention of the boat or vehicle and those persons, and the judge may grant an order authorising the detention for a period of 48 hours where he or she is satisfied that the authorised

officer has a reasonable suspicion that a person on board the boat or on the vehicle has committed an offence under these Regulations.

(2) Upon the expiration of the period of 48 hours mentioned in paragraph (1)—

- (a) the boat or vehicle shall be released, unless an order or an application for an order providing for its further detention has been made under this Regulation before the expiration of that period, and
- (b) each person shall be released, unless an order providing for his or her further detention has been made under this Regulation before the expiration of that period.

(3) In this Regulation, “application for an order” includes mentioning to the court that an application will be made to the court.

Detention pending trial

18. (1) Where an authorised officer has, in the exercise of the powers conferred on him or her by Regulation 12, detained a boat or vehicle and the persons on board the boat or on the vehicle at a port, an authorised officer shall, as soon as may be, bring the master of the boat and any other persons on board the boat or on the vehicle against whom proceedings for an offence under these Regulations have been, or are about to be, instituted before a judge of the District Court.

(2) Subject to paragraph (3), the judge of the District Court shall, where he or she is satisfied that proceedings have been, or are about to be, instituted against the master and those other persons or any one or more of them, by order, directed to an authorised officer, require the officer to detain at a specified port in the State the boat or vehicle and each person (including the master) in respect of whom he or she is satisfied that proceedings have been or are about to be instituted, until the proceedings have been determined.

(3) The judge of the District Court may order the release on bail of a person against whom proceedings have been instituted before the proceedings have been determined.

Provision of security

19. (1) Where a person is convicted by a judge of the District Court of an offence under these Regulations or proceedings in relation to the offence are dismissed by a judge of the District Court, and the offence relates to a sea-fishing boat and the boat, on which the person committed the offence or to which the proceedings related, has been detained under Regulation 17 or 18, the judge shall, by order directed to an authorised officer, require the officer in the event of an appeal from, or any other proceedings in relation to the order of the District Court or the order of any other court to which the case is brought, whether by way of appeal or otherwise, to detain the boat further pending the determination of the appeal or other proceedings (and any proceedings consequent upon the appeal or the other proceedings) at a specified port in the State.

(2) Where—

- (a) a person is sent forward for trial or for sentence by a judge of the District Court to a court other than the District Court, charged with an offence under these Regulations, and
- (b) the offence relates to a sea-fishing boat and the boat on which the person committed, or is alleged to have committed, the offence has been detained under Regulation 12, 17 or 18,

the judge shall, by order directed to an authorised officer, require the officer—

- (i) to detain the boat further at a specified port in the State pending the determination of the case in that other court, and
 - (ii) in the event of an appeal from, or other proceedings in relation to the order of the District Court or of the other court to which the person is sent forward under this Regulation or of any other court to which the case is brought, whether by way of appeal or otherwise, to detain the boat further pending the determination of the appeal or the other proceedings (and any proceedings consequent upon the appeal or the other proceedings) at a specified port in the State.
- (3) (a) Where, in respect of an offence under these Regulations, an order is made under paragraph (1) or Regulation 17(2) in relation to a boat, a judge of the District Court may, at his or her discretion, by order directed to an authorised officer, require the boat to be released if security, which in the opinion of the judge is satisfactory, is given for payment, in the event of conviction of the defendant in respect of the offence or in the event of his or her failure to attend before any court when attendance is required, in relation to the offence or any trials, appeals or other proceedings in relation to the offence, of a sum that, in the opinion of the judge, is sufficient to provide for—
- (i) payment of the maximum fine ordered, or which may be ordered, to be paid in respect of the offence,
 - (ii) the estimated amount of the costs (if any) of any trials, appeals or other proceedings in relation to the offence awarded, or which may be awarded, against the defendant, and
 - (iii) the estimated value of any forfeitures ordered, or which may be ordered, to be made upon the final determination of any trial, appeal or other proceedings in relation to the offence.
- (b) The security provided for in subparagraph (a) is in addition to and not in substitution for any other bond or recognisance which a defendant may be required to enter into by the judge of the District Court in relation to any trial, appeal or other proceedings in respect of the alleged offence.

(4) Where an order is made under this Regulation for the detention or release of a boat, the boat shall be detained or released in accordance with its terms.

Matters relating to indictable offences

20. (1) A person charged with an indictable offence under these Regulations may, with the consent of the prosecutor, elect to be sent forward for trial in the Circuit Court on a plea of not guilty.

(2) Where a person elects to be sent forward for trial in the Circuit Court on a plea of not guilty under paragraph (1), the prosecutor shall cause to be served on the accused person or the solicitor (if any) for that person, not later than 42 days after the not guilty plea is entered (or such longer period as the District Court determines under paragraph (3)), any documents that under section 4B (as amended by section 37 of the Criminal Procedure Act 2010 (No. 27 of 2010)) and 4C (inserted by section 9 of the Criminal Justice Act 1999 (No. 10 of 1999)) of the Criminal Procedure Act 1967 (No. 12 of 1967) are required to be served and have not already been served, and a copy of those documents is to be furnished to the District Court.

(3) The District Court may, on the application of the prosecutor, extend the period within which a document required under section 4B of the Criminal Procedure Act 1967 is to be served, where satisfied that—

- (a) there is good reason for doing so, and
- (b) it would be in the interests of justice to do so.

(4) An application may be made and an extension may be granted under paragraph (3) before or after the expiry of—

- (a) the period of 42 days mentioned in paragraph (2), or
- (b) any extension of that period, granted under paragraph (2).

(5) Where a judge of the District Court refuses to grant an extension of the period mentioned in paragraph (3), he or she shall strike out the proceedings against the accused in relation to the offence.

(6) The striking out of proceedings under paragraph (5) does not prejudice the institution of any further proceedings against the accused by the prosecutor.

Service of documents

21. (1) Where a judge of the District Court proposes to make an order for the release on bail of a defendant charged with an offence under these Regulations before him or her who is ordinarily resident outside the State, the judge shall direct that all documents (including an indictment) required by law to be served on the defendant in connection with or for the purpose of the charge or of any proceedings arising out of or connected with the charge may, instead of being served on the defendant, be served on a person specified in the direction who is ordinarily resident in the State, unless he or she is satisfied that the documents can be duly served on the defendant in the State.

(2) Where a judge of the District Court who has given a direction under paragraph (1) or another judge of the District Court acting in his or her place is satisfied that, owing to the death or absence from the State of a person specified in the direction or for any other reason a document referred to in paragraph (1) cannot be served on that person, the judge shall direct that the document may be served on another person specified in the direction who is ordinarily resident in the State.

(3) Service of a document referred to in this Regulation on a person specified in a direction under this Regulation is deemed for all purposes to be service on the defendant.

Notices

22. (1) A notice or notification required to be given to a person by the Minister under Regulation 10, shall be addressed to the person by name and shall be given to the person in one of the following ways—

- (a) by delivering it to the person,
- (b) by leaving it at the address at which the person ordinarily resides or carries on business,
- (c) by sending it by post in a prepaid registered letter addressed to the person at the address at which he or she ordinarily resides or carries on business,
- (d) if an address for the service of notices or notifications has been furnished by the person, by leaving it at, or sending it by prepaid registered post addressed to the person to, that address,
- (e) where there is a facility for receiving a copy of the notice or notification by electronic mail or a facsimile of the notice or notification by electronic means at the address at which the person ordinarily resides or carries on business, by sending a copy of the notice or notification by electronic mail or a facsimile of the notice or notification by such means to that address, provided that the notice is also served or given in any of the other ways referred to in this subsection other than this subparagraph.

(2) For the purposes of this Regulation, a company registered under the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

Part 5

OFFENCES, ETC.

Due diligence, etc

23. Where an offence under these Regulations is alleged to have been committed by a person on board a sea-fishing boat, and the master or owner of the

boat is charged with having committed the offence, it is a defence such master or owner to show that—

- (a) he or she used due diligence to prevent the commission of the acts alleged to constitute the offence and they were done without his or her consent, connivance or default, or
- (b) the acts were necessary to secure the safety of the boat or any other vessel or person in peril on the sea.

Presumption

24. In a prosecution of an offence under these Regulations in relation to the catching, retention, storage on board, trans-shipment or landing of fish on board, by, or from a sea-fishing boat, it shall be presumed, unless the contrary is shown, that the sea-fishing boat was, at the time of the alleged offence, used for the catching, retention, storage on board, trans-shipment or landing on board of the fish in contravention of these Regulations, from—

- (a) any fish relevant to the offence on board the sea-fishing boat,
- (b) any net or other equipment or articles on board the sea-fishing boat indicating use of the boat for fishing, the retention, storage on board, trans-shipment or landing of fish relevant to the offence,
- (c) evidence that the sea-fishing boat had on board any records from which it appears to the court that on the day on which the offence is alleged to have been committed fish relevant to the offence were caught, retained, stored on board, trans-shipped or landed contrary to these Regulations,
- (d) any admission by any person who is for the time being the master, or another member of the crew, of the sea-fishing boat that it was so used,
- (e) any photographic evidence from which it so appears that the sea-fishing boat was so used or which in the opinion of the court suggests, or tends to suggest, that the sea-fishing boat was so used, or
- (f) any data received by a fisheries monitoring centre (within the meaning of Article 4 of Council Regulation (EC) No. 1224/2009 of 20 November 2009⁷) from which it appears that the sea-fishing boat was so used or which in the opinion of the court suggests, or tends to suggest, that the boat was so used.

Offences

25. (1) A person who contravenes Regulation 10(1) or 15, or fails to comply with Regulation 9(3), paragraphs (3), (11) or (15) of Regulation 10 or Regulation 14, commits an offence.

(2) An offence under these Regulations may be prosecuted summarily by the Authority.

(3) Where an offence under these Regulations is committed using, or on board, a sea-fishing boat, the master and the owner of the boat, in addition to any other person alleged to have committed the offence, commits an offence.

(4) Where an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of or to have been attributable to the wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purported to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she was guilty of the offence.

(5) Where the affairs of a body corporate are managed by its members, paragraph (4) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

Penalties

26. (1) A person who commits an offence under Regulation 25 is liable—

(a) on summary conviction, to a class A fine, or

(b) on conviction on indictment—

(i) to a fine not exceeding €35,000, and

(ii) if a sea-fishing boat is used in the commission of the offence, to the forfeiture of all fish and fishing gear aboard that boat.

Jurisdiction of District Court

27. (1) Notwithstanding anything contained in any other enactment, an offence under these Regulations, may be determined in a summary way by a judge of the District Court upon the complaint, verbal or otherwise, of an authorised officer.

(2) Where an offence under these Regulations is committed using, or on board, a sea-fishing boat, the offence is deemed to have been committed—

(a) in any place in which the accused person may be, or

(b) where the offence was committed at a place within limits of an area in respect of which a fisheries Natura declaration applied at the time the offence was committed or when the accused person was arrested, in a District Court district abutting on, or adjacent to, that portion of those limits in which the boat was when the act was committed or the accused person arrested.

Recovery of fine and forfeiture, etc

28. (1) Where a person is convicted of an offence under these Regulations—

- (a) the Court shall fix a time within which the costs and fine (if any) are to be paid,
- (b) where the boat to which the person belongs is detained, the Court shall by order directed to an authorised officer or officers require the officer or officers to continue to detain the boat, until the costs and fine (if any) are paid, at a specified port in the State the boat, and the boat shall be detained accordingly,
- (c) in the event of the costs and fine (if any) mentioned in subparagraph (b) not being paid within the time specified in accordance with subparagraph (a), the fine and costs (if any) may be recovered by distress and the sale of such boat (including the capacity thereof).

(2) Where—

- (a) an article on board a boat is ordered by a court to be forfeited or, as a consequence of conviction by a court, is forfeited, and
- (b) the boat is detained under Regulation 17 or 18,

the Court may, on the application of the prosecutor, by order directed to an authorised officer, authorise the officer to detain the boat until possession has been taken of the article forfeited, and the boat may be detained accordingly.

(3) Where an article on board a boat is forfeited under these Regulations, an authorised officer may request the master of the boat to make available facilities (including moving of the boat from place to place and the doing of things upon, to or with the boat, its equipment or machinery) as the authorised officer may reasonably require for the purpose of enabling him or her to take possession of the article.

Non-recording of forfeiture

29. Where a person is convicted on indictment of an offence under these Regulations and any fishing gear or fish is, as a consequence of the conviction, forfeited, then it is not necessary for the court to—

- (a) pronounce the fact of such forfeiture at the time of adjudication, or
- (b) record the fact of the forfeiture in the judge's minute book, the charge sheet or in the order of conviction.

Appeal by prosecutor

30. (1) Where any proceedings tried summarily in the District Court for an offence under these Regulations are dismissed the prosecutor may appeal against the order of dismissal to the judge of the Circuit Court within whose Circuit the courthouse where the order was made is situated.

(2) The judge of the Circuit Court on an appeal under paragraph (1) may vary, confirm or reverse the order and his or her decision is final and conclusive and may not be appealed.

Evidence on certificate

31. (1) A copy of a fisheries Natura plan or a fisheries Natura declaration, which has endorsed on it a certificate purporting to be signed by an officer of the Minister stating that the copy is a true copy of the plan or declaration may, without proof of signature of that officer, be produced in every court and in all legal proceedings and is evidence, unless the contrary is shown, of the plan or declaration.

(2) In proceedings, evidence of an act of the institutions of the European Communities may be given by production of a copy of the act certified by an officer of the Minister to be a copy of the act, and it is not necessary to prove the signature of the officer or that he or she is an officer of the Minister.

(3) Paragraph (2) is in addition to and not in substitution for the European Communities (Judicial Notice and Documentary Evidence) Regulations 1972 (S.I. No. 341 of 1972).

Part 6

AMENDMENTS, REVOCATIONS AND SAVERS

Amendments to Regulations

32. (1) Regulation 41(8) of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No 477 of 2011) is amended by substituting “European Union (Birds and Natural Habitats) (Sea-fisheries) Regulations 2013” for “European Communities (Natural Habitats and Birds) (Sea-fisheries) Regulations 2009”.

(2) Paragraphs (2) and (3) of Regulation 4 (as amended by Regulation 26(2)(a) and (b) respectively of the European Communities (Natural habitats and birds) (Sea-fisheries) Regulations 2009 (S.I. No. 346 of 2009)) of the European Communities (Conservation of Wild Birds (Illanmaster SPA 004074)) Regulations 2005 (S.I. No. 714 of 2005) are amended by substituting “European Union (Birds and Natural Habitats) (Sea-fisheries) Regulations 2013” for “European Communities (Natural habitats and birds) (Sea-fisheries) Regulations 2009” in each place where it occurs.

(3) Paragraphs (2) and (3) of Regulation 4 (as amended by Regulation 26(3)(a) and (b) respectively of the European Communities (Natural habitats and birds) (Sea-fisheries) Regulations 2009 (S.I. No. 346 of 2009)) of the European Communities (Conservation of Wild Birds (Stags of Broad Haven SPA 004072)) Regulations 2005 (S.I. No. 716 of 2005) are amended by substituting “European Union (Birds and Natural Habitats) (Sea-fisheries) Regulations 2013” for “European Communities (Natural habitats and birds) (Sea-fisheries) Regulations 2009” in each place where it occurs.

Revocations and savers

33. (1) The following Regulations are revoked:

- (a) the European Communities (Natural habitats and birds) (Sea-fisheries) Regulations 2009 (S.I. No. 346 of 2009),
- (b) the European Communities (Natural habitats and birds) (Sea-fisheries) (Amendment) Regulations 2010 (S.I. No. 397 of 2010), and
- (c) the European Communities (Natural habitats and birds) (Sea-fisheries) (Amendment) Regulations 2012 (S.I. No. 237 of 2012).

(2) Any plan finalised, declaration made or permit issued under the European Communities (Natural habitats and birds) (Sea-fisheries) Regulations 2009 that is in force on the day these Regulations come into effect shall continue in force as though made under these Regulations.

(3) Where, before the making of these Regulations, the Minister engaged in a process approximating to a process in these Regulations, whether that process was completed before or after the making of these Regulations,

- (a) a plan prepared in accordance with that process shall be deemed to be a fisheries Natura plan under Regulation 7, or
- (b) a report or an assessment report prepared in accordance with that process shall be deemed to be a report or assessment report, as the case may be, under Regulation 8.

(4) Any warrant issued, security held and in force or prosecution pending under the European Communities (Natural habitats and birds) (Sea-fisheries) Regulations 2009 immediately before the commencement of these Regulations continues in force as if issued, held or pending under these Regulations.



GIVEN under my Official Seal,
30 July 2013.

SIMON COVENEY,
Minister for Agriculture, Food and the Marine.

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nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€6.60



Wt. (B30043). 285. 8/13. Clondalkin. Gr 30-15.