

# **Draft General Scheme of the Sea-Fisheries (Amendment) Bill 2021**

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## **Draft General Scheme of the Sea Fisheries (Amendment) Bill 2020**

An Act to amend the Sea-Fisheries and Maritime Jurisdiction Act 2006 to provide for a points system for Masters of Sea-fishing boats in accordance with Article 92 of Council Regulation (EC) No 1224/2009 of 20 November 2009<sup>1</sup> and Title VII of Commission Implementing Regulation (EU) No. 404/2011 of 8 April 2011<sup>2</sup>, miscellaneous amendments, and for related matters.

### **Part 1**

#### **Preliminary and General**

### **Head 1**

#### **Short title, collective citation and commencement**

1. (1) This Act may be cited as the Sea-Fisheries (Amendment) Act 2021.
- (2) The Sea-Fisheries Acts 2003 to 2019 and this Act may be cited together as the Sea-Fisheries Acts 2003 to 2021 and shall be construed together as one.
- (3) The Fisheries Acts 1959 to 2019 and this Act may be cited together as the Fisheries Acts 1959 to 2021 and shall be construed together as one.
- (4) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or by reference to a particular purpose or provision and different days may be appointed for different purposes and different provisions.

### **Explanatory Note**

This Head provides the standard provisions for the title, citation and commencement of the Bill.

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<sup>1</sup> OJ L 343, 22.12.2009, p. 1

<sup>2</sup> OJ No. L 112, 30.4.2011, p.1

## **Head 2**

### **Definitions**

“Act of 2006” means the Sea-Fisheries and Maritime Jurisdiction Act 2006.

### **Explanatory Note**

This Head provides the definitions for the Bill.

**Part 2**  
**Definitions**

**Head 3**

**Amendment to section 2 of Act of 2006 (definitions)**

3. (1) Section 2 of the Act of 2006 is amended by-

(a) substituting for the definition of “Department” the following:

“‘Department’ means Department of Agriculture, Food and the Marine;

‘Fisheries Monitoring Centre’ has the same meaning as assigned under Article 4 of the Council Regulation (EC) No 1224/2009 of 20 November 2009<sup>3</sup>,” and

(b) substituting for the definition of “Minister” the following:

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

**Explanatory Note**

This Head inserts new definitions in the Sea Fisheries and Maritime Jurisdiction Act 2006 for the purposes of other insertions in to the Act under this Bill.

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<sup>3</sup> OJ L 343, 22.12.2009, p. 1

### **Part 3**

### **Points**

### **Head 4**

#### **Master's points**

4. The Act of 2006 is amended by the insertion after section 15 of the following:

#### **“Chapter 2A**

#### **Irish fishing master register**

#15A. (1) The Minister shall establish and maintain a register (to be known as the Irish fishing master Register) of persons who have been approved by him or her to master a sea-fishing boat.

(2) An application for registration in the register shall be made in such form as the Minister may specify.

(3) A person applying for registration in the register shall furnish the Minister with such information as he or she may reasonably require for the purposes of maintaining the register.

(4) The register may be maintained in a form that is not legible if it is capable of being converted into permanent legible form.

(5) A certificate purporting to be signed by a person authorised by the Minister in that behalf and to certify that -

(a) on a specified day or days or during the whole of a specified period a particular person did not stand registered in the register, or

(b) on a specified day the registration of a particular person had been suspended or revoked,

shall, without proof of the signature of the person purporting to sign the certificate or that he or she was so authorised by the Minister, be evidence, unless the contrary is shown, of the matters stated in the certificate.

(6) Subject to subsection (7), a person holding Irish citizenship shall not, with effect from the 1 x 2021, take charge, or attempt to take charge, of a sea-fishing boat in the exclusive

fishery limits of the State or an Irish sea-fishing boat, wherever it may be, unless he or she is for the time being registered in the register.

(7) A person (including a master suspended or disqualified from taking control of a sea-fishing boat in the exclusive fishery limits of the State or an Irish sea-fishing boat, wherever it may be) may take control of a sea-fishing boat where there is immediate or imminent danger to the sea-fishing boat or person thereon and the proof of immediate or imminent danger shall rest with the person.

(8) A person who contravenes subsection (6) commits an offence and is liable—

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

(b) on conviction on indictment, to a fine not exceeding €15,000.

(9) The Minister may revoke a registration or refuse to register an applicant in the register where the Minister is not satisfied that this Chapter is being complied with by the person concerned or will be complied with by the applicant.

(10) Where the Minister proposes to revoke a registration, or to refuse to register a person, in the register, he or she shall -

(a) notify the person concerned in writing of the proposal and of the reasons therefore,

(b) notify the person in writing that he or she, or a person acting on his or her behalf, may make representations to the Minister in relation to the proposal within 14 days of the receipt by him or her of the notification, and

(c) consider any such representations duly made before deciding whether to proceed with the proposal or not.

(11) The points system under Article 92 of the Control Regulation and Title VII of the Commission Regulation (with the necessary adaptations and modifications) and this Chapter is a term of an Irish fishing master registration.

(12) The register may contain the following details in relation to each entry:

(a) the name and address of the holder;

(b) any change of address of the holder;

(c) the personal public service number (within the meaning of section 262 of the Social Welfare Consolidation Act 2005) of the holder;



(d) the registration number;

(e) the date of registration;

(f) details of any suspension of registration, including the duration or period of suspension, a reference to the reasons for the suspension and particulars of all removals of such suspensions;

(g) details of any revocation of the registration;

(h) the date and nature of each serious infringement for which the master has been assigned points;

(i) the date of assignment of points;

(j) the date points may expire;

(k) any other matters necessary to ensure that a person seeking to procure a master's services may do so lawfully.

(13) The data contained in the register shall be stored only for as long as necessary for the due functioning of the register, but where the data concerns the points system specified in Article 92 of the Control Regulation, such data is to be stored for a minimum of three calendar years, starting from the year following that in which the information is recorded or from the date of when the last points have been assigned, whichever is the later.

(14) Upon notification to the Minister under section #15D(4) or section #15D(6), the Minister shall record on the register the points assigned to an Irish fishing master that relates to the master concerned.

(15) In this section 'register' means the Irish fishing master register.

## **Points System for master of sea-fishing boats for a serious infringement of the rules of the Common Fisheries Policy**

### **Determination Panel**

#15B. (1) A determination by the determination panel established under and in accordance with Regulation 5 of the Regulations of 2020 shall also be a determination, for the purposes of this Chapter, in respect of whether a serious infringement, as described in Annex XXX of the Commission Regulation, has occurred.

(2) A reference in Regulation 5 of the Regulations of 2020 to-

(a) ‘these Regulations’ shall be construed as including a reference to this Chapter,

(b) ‘licence holder’ shall be construed as including a reference to a master of the sea-fishing boat concerned, and

(c) a provision of the Regulations of 2020 shall be construed as including a reference to the equivalent provision of this Chapter.

### **Notification of an alleged serious infringement**

#15C. (1) Where an official detects an alleged serious infringement—

(a) involving an Irish sea-fishing boat, wherever the boat may be, or

(b) involving a foreign fishing vessel, in the exclusive fishery limits of the State (within the meaning of section 88)

he or she shall prepare a report and forward it to the authority.

(2) The authority shall send the report and any material collected to the Determination Panel to determine if a serious infringement has occurred.

(3) A report prepared and any material collected by an Official in the exercise of his or her powers and any submission referred to in subsection (5) may be used by the Determination Panel in determining whether a serious infringement has occurred for which points should be proposed under this Chapter.

(4) The authority shall, at the same time as it sends the material referred to in subsection (2) to the Determination Panel, provide the Master with a copy of the material.

- (5) The Master shall be given the opportunity to make submissions in writing to the Determination Panel within 30 working days from the date of the notification.
- (6) The authority, on receipt of a report citing an alleged serious infringement, shall notify the Master -
- (a) that an alleged serious infringement has been detected,
  - (b) state that the master was in charge of the fishing vessel when the serious infringement took place,
  - (c) that the matter shall be sent to the Determination Panel to determine if a serious infringement has occurred,
  - (d) of the opportunity for the Master to make submissions in writing to the Determination Panel within 30 working days from the date of the notification, and
  - (e) that the Master may, within 30 working days from the date of the notification, make in writing a request for an oral hearing to the Determination Panel.
- (7) In case the master is a national of another Member State-
- (a) if the master of the fishing vessel is not contactable, the holder of the licence relating to the vessel concerned shall be provided with the material and notified in accordance with subsections (4) and (6), or
  - (b) if neither the master of the fishing vessel nor holder of the licence relating to the vessel is contactable, then the competent authority of the Member State of which the master is a national shall be provided with the material and notified in accordance with subsections (4) and (6).
- (8) The Determination Panel may request that extra information be provided by the authority or the Master in relation to the issue under determination by the Determination Panel and, in any case, not later than 20 working days after receiving the request, the authority or Master, as the case may be, shall provide the information.
- (9) The Determination Panel shall, within 70 working days of the date of notification to the Master, determine on the balance of probabilities if a serious infringement has occurred.
- (10) In determining whether an alleged serious infringement has occurred, the Determination Panel shall have regard to the criteria set out in Article 3(2) of the IUU Regulation.

(11) The Determination Panel shall communicate their determination and reasons for their determination to the authority and the Master.

### **Proposal to assign points by authority**

#15D. (1) Where the Determination Panel determines that a serious infringement has occurred, the authority shall-

(a) in case the master is an Irish national—

(i) state that the master was in charge of the fishing vessel when the serious infringement took place,

(ii) propose to assign the appropriate points in accordance with Annex XXX of the Commission Regulation to the Master for the serious infringement,

(iii) notify the Master of the proposal to assign points, and

(iv) notify the Master of the reasons for the determination given by the Determination Panel, or

(b) in case the master is a national of another Member State, notify the Master or, where the Master is not contactable, the holder of the licence relating to the fishing vessel concerned of—

(i) that the master was in charge of the fishing vessel when the serious infringement took place,

(ii) the proposal to notify the competent authority of the Member State of which the master is a national of the detection of the serious infringement, and

(iii) the reasons for the determination given by the Determination Panel.

(2) A notification under subsection (1) to a master or the holder of the licence relating to the fishing vessel concerned shall—

(a) give particulars of-

(i) the serious infringement, and

(ii) where relevant, the appropriate number of points proposed to be assigned, and

(b) inform, as the case may be,—

(i) the master,

(ii) if the foreign master is not contactable, then the holder of the licence relating to the fishing vessel concerned, or

(iii) if neither the master nor the holder of the licence relating to the fishing vessel is contactable, then the competent authority of the Member State of which the master is a national

of the Master's right to appeal in accordance with section #15I.

(3) The assignment of the points or the notification to the competent authority of a Member State of which the master is a national, in accordance with subsection (1), shall not occur until—

(a) the period allowed to refer the determination by the Determination Panel to the Appeals Officer under section #15I has expired, without such an appeal having been made, or

(b) where an appeal under section #15I is made—

(i) in case the appeal is withdrawn, the date of the withdrawal, or

(ii) in case the Appeals Officer decides to uphold the determination of the Determination Panel in respect of the serious infringement, the date of that decision.

(4) The authority shall, in the case of a master that is an Irish national, notify the Registering authority, as soon as practicable, after—

(a) the period allowed to make an appeal under section #15I has expired without such an appeal having been made, or

(b) where an appeal is made under section #15I, the withdrawal of the appeal or the decision of the Appeals Officer to uphold the determination of the Determination Panel,

of:

(i) the name and address of the Master to whom the proposed points are to be assigned,

(ii) the identity of the fishing vessel to which the infringement concerned relates,

(iii) the nature of the serious infringement concerned, and

(iv) the number of points to be assigned.

(5) In case the master is a national of another Member State the authority shall notify the competent authority of the Member State of which the master is a national of the serious infringement detected and number of points appropriate to that infringement.

(6) Where the authority receives a notification under Article 89(4) of the Control Regulation from the competent authority of another Member State of the detection of a serious infringement by a master that is an Irish national, the authority shall—

(a) assign points to the master, and

(b) notify the master and the Registering authority accordingly.

(7) Points assigned by the authority in accordance with this section shall apply from the date of detection of the serious infringement concerned.

(8) The authority shall not assign more than 12 points in respect of any one inspection.

(9) In this section ‘identity’, in relation to a fishing vessel, includes the lettering and numbering of the vessel.

### **Matters relating to points assigned**

#15E. (1) Subject to subsection (2), points assigned to a Master that is an Irish national remain assigned regardless of any criminal proceedings pending, or the outcome of any such proceedings, in respect of the serious infringement concerned.

(2) If the master referred to in subsection (1) does not commit, within three years from the date of the last serious infringement, another serious infringement, all points on the Irish fishing master register relating to the master concern shall be deleted.

(3) Points recorded [assigned] to a master shall not expire if the master has been disqualified under section #15G.

(4) The Minister may prescribe additional conditions and circumstances (having regard to the Control Regulation and the Commission Regulation) where points assigned may be removed.

(5) The authority shall establish procedures for the application of subsection (2) which shall be published on its website on the internet.

### **Suspension of Irish fishing master from register**

#15F. (1) Where a master has accumulated the number of points specified in paragraphs (a) to (d), the registering authority shall suspend the registration in respect of that master for the corresponding period specified in that paragraph:

- (a) 18 points, 2 months in case of first suspension;
- (b) 36 points, 4 months in case of second suspension;
- (c) 54 points, 8 months in case of third suspension;
- (d) 72 points, 12 months in case of fourth suspension.

(2) A person who has been suspended under subsection (1) shall immediately inform the owner of a sea-fishing boat who engages or proposes to engage him or her as master to take charge of a sea-fishing boat, of the suspension and the reasons for and period of same.

(3) A person who contravenes subsection (2) is liable on summary conviction to a class B fine.

(4) Where during the period of suspension under subsection (1) the master is assigned further points, the start date of any subsequent period of suspension shall commence no earlier than the day following the day of the expiry of the earlier suspension.

### **Disqualification of master and removal from register**

#15G.(1) Where a master has, at any one time, accumulated 90 points or more or has received 5 suspensions under section #15F, the registering authority shall revoke the registration in respect of that master, and he or she shall be permanently disqualified from taking control of a sea-fishing boat in the exclusive fishery limits of the State or an Irish sea-fishing boat, wherever it may be.

(2) A person who has been disqualified under subsection (1) shall immediately inform the owner of a sea-fishing boat who engages or proposes to engage him or her as master of his or her disqualification.

(3) A person who contravenes subsection (2) shall be liable on summary conviction to a class B fine.

## **Appeals Officer**

#15H. (1) An appeals officer appointed under and in accordance with Regulation 11 of the Regulations of 2020 shall also consider an appeal under section #15I, who shall, in relation to the appeal, be called the ‘Appeals Officer’.

(2) A reference in Regulation 11 of the Regulations of 2020 to-

(a) a vessel being an Irish sea-fishing boat shall be construed as including a reference to a master being an Irish national,

(b) a vessel being a foreign fishing vessel, or a holder of a foreign licence shall be construed as including a reference to a master being a national of another Member State,

(c) a holder of an Irish licence shall be construed as including reference to a master that is an Irish citizen,

(d) flag Member State shall be construed as including reference to another Member State of which the master is a national,

(e) ‘these Regulations’ shall be construed as including a reference to this Chapter, and

(f) a provision of the Regulations of 2020 shall be construed as including a reference to the equivalent provision of this Chapter.

## **Appeal to the Appeals Officer**

#15I. (1) A master who is—

(a) an Irish national concerned with an alleged serious infringement detected, where points are to be assigned to him or her, or

(b) a national of another Member State, concerned with an alleged serious infringement detected, where a notification may be made to the Member State of which the master is a national, in accordance with section #15D(5) may appeal to the Appeals Officer, not later than 30 working days from the date of the notification of the proposal by the authority, as the case may be –

(i) to assign points to him or her, or

(ii) to notify the Member State of which the master is a national.



(2) An appeal shall—

(a) be made by the master,

(b) be made in writing,

(c) be accompanied by a statement of grounds relied on by the appellant, and

(d) be accompanied by such fee as may be determined by the Minister, from time to time, and is published on the website of the Department of Agriculture, Food and the Marine on the internet.

(3) The Appeals Officer shall, if so requested by the Master, hold an oral hearing for the purposes of the appeal.

(4) A request by a party for any oral hearing shall be made in writing to the Appeals Officer not later than 30 working days from the date of the notification of the proposal by the authority, as the case may be –

(a) to assign points to him or her, or

(b) to notify the Member State of which the master is a national.

(5) An oral hearing shall not be held if the request is received later than the time specified in subsection (4).

(6) The Appeals Officer may request that extra information with regard to the issue of any serious infringement be provided by the authority or the master in relation to the determination of the Determination Panel and, in any case, not later than 20 working days after receiving the request, the authority or Master, as the case may be, shall provide the information.

(7) The Appeals Officer shall arrange his or her business as he or she sees fit and may set down the procedures to be followed in respect of the conduct and consideration of appeals.

(8) The authority shall provide all reasonable facilities and services as may be required by the Appeals Officer for the performance of his or her functions.

(9) The Appeals Officer may—

(a) confirm that the points shall be assigned to the master or that notification be made to the Member State of which the master is a national, as the case may be, or

(b) find in favour of the master, in which event—

- (i) in the case of a master that is an Irish national, the points shall not be assigned and a notification under section #15D(4) shall not be made, or
- (ii) in the case of a master that is a national of another Member State, a notification under section #15D(5) shall not be made.

(10) The Appeals Officer shall confirm that the points shall be assigned to the master where on the balance of probabilities, he or she considers that the alleged serious infringement in respect of which it is proposed to assign points —

- (a) did occur,
- (b) occurred after the commencement of this Chapter,
- (c) involved an infringement that was serious, and
- (d) did involve the fishing vessel of which the master concerned had charge.

(11) Subject to subsection (12), an Appeals Officer shall make a decision in relation to the appeal not later than 45 working days from the date of receipt of the appeal to him or her under subsection (1).

(12) In exceptional circumstances, the Appeals Officer may take not more than 15 working days in addition to the number of days mentioned in subsection (11) to make a decision.

(13) The Appeals Officer shall notify the master concerned, and the authority, in writing of his or her decision and the reasons for it and the decision or reasons for the decision may be published on a publicly available website on the internet.

(14) A party to an appeal may apply to the High Court on a point of law regarding a decision of the Appeals Officer.

(15) An application to the High Court under subsection (14) shall be made not later than 28 days after the notification to the parties of the decision of the Appeals Officer under subsection (13).

(16) In this section ‘appeal’ means an appeal under this section.

### **Matters relating to oral hearings**

#15J. (1) In conducting an oral hearing referred to in section #15B(7) or section #15I(3), the Determination Panel or Appeals Officer, as the case may be, may-

(a) by notice in writing to any person, require the person to attend at such time and place as is specified in the notice to give evidence in relation to any matter in question at the hearing or to produce any books, accounts, maps, plans or other documents in his or her possession, custody or control which relate to the matter,

(b) take evidence on oath and for that purpose may administer oaths, and a person giving evidence at an oral hearing shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.

(2) Where a person requests an oral hearing under section #15B(7) or section #15I(3), and that person fails to attend at the scheduled hearing in accordance with a notification referred to in subsection (1)(a), the Determination Panel or the Appeals Officer, as the case may be, may make the determination or finding within the time specified in sections #15C(9) or #15I(11) notwithstanding a person's failure to attend at a scheduled hearing.

(3) A person to whom a notice referred to in subsection (1)(a) has been given who—

(a) refuses or neglects to attend in accordance with the notice,

(b) alters, suppresses, conceals or destroys any document to which the notice relates, or

(c) having so attended, refuses to give evidence or refuses or fails to produce any document to which the notice relates,

commits an offence and is liable on summary conviction to a class C fine.

### **Obligations on sea-fishing boat licence holders**

#15K. (1) A sea-fishing boat licence holder shall not permit a person who –

(a) is suspended under section #15F, or

(b) is disqualified under section #15G

take control of the sea-fishing boat, other than in case of immediate or imminent danger to the sea-fishing boat or person thereon and the onus of proof of immediate or imminent danger shall lie with the sea-fishing boat licence holder.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a Class A fine, or on conviction on indictment, to a fine not exceeding €15,000.'

## **Definitions (Chapter 2A)**

#15L. In this Chapter

‘Appeals Officer’ shall be construed in accordance with section #15H;

‘Commission Regulation’ means Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 as amended by Commission Implementing Regulation (EU) 2015/1962 of 28 October 2015 and Commission Implementing Regulation (EU) 2020/30 of 14 January 2020;

‘Control Regulation’ means Council Regulation (EC) No 1224/2009 of 20 November 2009 as amended by Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 , Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 , Council Regulation (EU) No 1385/2013 of 17 December 2013 , Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 , Regulation (EU) 2015/812 of the European Parliament and of the Council of 20 May 2015, Regulation (EU) 2019/473 of the European Parliament and of the Council of 19 March 2019 and Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 ;

‘Determination Panel’ shall be construed in accordance with section #15B;

‘foreign fishing vessel’ means a European Union fishing vessel other than an Irish sea-fishing boat;

‘infringement’ means an infringement of the Common Fisheries Policy;

‘IUU Regulation’ means Council Regulation (EC) No 1005/2008 of 29 September 2008 as amended by Commission Regulation (EC) No 1010/2009 of 22 October 2009 , Commission Regulation (EU) No 86/2010 of 29 January 2010 and Commission Regulation (EU) No 202/2011 of 1 March 2011 .

‘registering Authority’ has the meaning assigned to it by section #15A;

‘Register’ means Irish Fishing Master Register maintained under section #15A;

‘Regulations of 2020’ means the European Union (Common Fisheries Policy) (Point System) Regulations 2020 (S.I. No. 318 of 2020);

‘report’ includes an inspection report, a surveillance report, a report of control data or material collected by a sea-fisheries protection officer in the exercise of his or her powers under section 17 or 18;

‘serious infringement’ means an infringement of the rules of the common fisheries policy mentioned in Annex XXX to the Commission Regulation that is determined by the Determination Panel, on the balance of probabilities, to be serious.”.

### **Explanatory Note**

This Head provides for the establishment of a Points System for Masters of fishing vessels as required by EU Fisheries Control Regulation (EC) No. 1224/2009 and its Implementing Regulation (Commission Regulation (EU) No. 404/2011). The Masters Points System is intended to complement sanctions and act as a deterrent to serious infringements of the rules of the Common Fisheries Policy.

This Head provides for the assignment of points to the master of a sea-fishing vessel. It closely resembles the points system already in place for the holder of a sea-fishing boat licence established in response to the same EU legislation.

To that end, a register will be established for the masters of fishing vessels and the register shall record points assigned to each master that commits a serious infringement of the Common Fisheries Policy.

In the case of assignment, the points will remain assigned for three years from the date the last points were recorded. The accumulation of points will result in the suspension of a master, that is, he/she will be prohibited from taking control of a sea-fishing boat in the exclusive fishery limits of the State or an Irish sea-fishing boat, wherever it may be. The period of the suspension is determined by the number of points accumulated – the higher the number of points accumulated, the longer the suspension. The accumulation of 18, 36, 54 and 72 points will trigger suspensions of two, four, eight and twelve months, respectively. A master who has accumulated 90 points or more or has received 5 suspensions shall be permanently disqualified from taking control of a sea-fishing boat in the exclusive fishery limits of the State or an Irish sea-fishing boat, wherever it may be.

The system is applicable to masters of all fishing vessels which fish in the Irish exclusive fisheries zone, whether they are Irish or Foreign flagged.

Part 4

Data

**Head 5**

5. The Act of 2006 is amended by inserting after section 26, the following section:

**Data Transfer**

26A. (1)(a) Information held by the Sea-Fisheries Protection Authority for the purposes of this Act may be transferred by the Sea-Fisheries Protection Authority to the Revenue Commissioners, and—

(b) information held by the Revenue Commissioners for the purposes of the Income Tax Acts relating to income derived from the fisheries sector may be transferred by the Revenue Commissioners to the Sea-Fisheries Protection Authority.

(2) The information referred to in subsection (1) includes, but is not limited to, the following:

(a) available sales invoices;

(b) VAT returns, in particular the annual trading returns;

(c) Any income or corporation returns regarding fish landings / sales;

(d) information on companies related to the commercialisation and handling of fish including the transport or storage of fish;

(e) additional details on turnover and contracts for supply of fish;

(f) Transport cost details;

(g) cost overheads including loans related to business activity;

(h) stock balances.”.

**Explanatory Note**

This Head provides for the transfer of data between the SFPA and the Revenue Commissioners. It is similar to the transfer of data between the Department of Employment Affairs and Social Protection and the Revenue Commissioners which is provided for by section 261 of the Social Welfare Consolidation Act 2005.

Part 5

Miscellaneous Amendments

**Head 6**

**Miscellaneous amendments**

6. The Act of 2006 is amended by-

(a) substituting for subsection 12(9) the following:

“(9) Without prejudice to subsection (8), notification of publication of a notice shall be made by publishing a notification in *Iris Oifiguil*.”,

(b) in section 13,

(i) inserting “(in electronic form or otherwise)” in subsection (1) following the word “grant”,

(ii) in subsection (1)(a)(i), inserting “any person” after “from”,

(iii) in subsection (2), deleting “, charterer or hirer, as the case may be,”, and

(iv) in subsection (5) substituting for paragraph (k) the following:

“(k) requiring the keeping of the authorisation or where the authorisation is issued in electronic form a printed copy of the authorisation on the boat concerned.”,

(c) in section 15 –

(i) subsection (1)(c) after “engaged in” inserting “fishing,”, and

(ii) subsection (2)(a)(i), substituting for “equipment on them” the following: “fishing gear or equipment”,

(d) in section 16(1), in paragraph (c), inserting after “the State”, “or serving in the Fisheries Monitoring Centre”,

(e) in section 17(1)(j)(i), substituting for “paragraph (b)(i) and (ii) and (v),” the following: “paragraph (b)(i), (ii) or (v),”,



(f) in section 28,

(i) substituting for “illegal nets or other equipment” in column (2) of Table 1 opposite Reference Number 1(b) the following: “a contravention in relation to fishing gear or equipment”, and

(ii) substituting for “Section 4(12) (fishing without or in contravention of a sea-fishing boat licence)” in column (2) of Table 2 opposite Reference Number 1 the following: “Section 4(13) (as amended by section 97) (fishing without or in contravention of a sea-fishing licence)”,

(g) in section 37(b), substituting for “nets or other” the following: “fishing gear or”, and

(h) in section 54(b), substituting for “51(2)(a)” the following: “51(2)”.

### **Explanatory Note**

This Head provides for miscellaneous amendments of the Act of 2006. They are primarily technical in nature and correct typographic and reference errors in the Act and so would improve the overall operation of the Act.

6 (a) is a purely drafting amendment to correct a minor typographical error in section 12(9).

6 (b) amends section 13 by:-

- (i) providing for the issue of authorisations in electronic format. The amendment at 8(b)(iv), follows on from this by requiring that a printed copy of an authorisation issued in electronic form be kept on the boat concerned.
- (ii) correcting a typographical error in order to make clear that only a person who is an owner of an Irish registered sea-fishing boat and to whom a sea-fishing boat licence has been granted under the Act of 2006 can apply for or be granted a fishing authorisation under section 13, and
- (iii) deleting unnecessary words. “Owner” is defined in section 6 of the Act of 2006 as including a charterer and hirer, as well as the owner of a sea-fishing boat, as the case may require.

6(c)(i) amends section 15(1)(c) to provide that the Minister may make regulations to supplement the Common Fisheries Policy under section 15 which also apply to fishing by means other than using a vessel, such as hand gathering of fish. This power to regulate this activity is absent in the 2006 Act and this amendment would correct that. These activities can have significant impacts on stocks concerned. Accordingly scope is required to regulate these activities effectively under the Act.

6(c)(ii) is a drafting amendment to section 15(2)(a)(i) which is necessary to specifically include “fishing gear” which is not specifically covered by the term “equipment” (as defined in section 6 of the Act of 2006). The amendment is thus consistent with the specific reference to “fishing gear” in the parallel section 14(2)(a)(i) of the Act of 2006.

6(d) amends section 16(1) by ensuring that a member of the Permanent Defence Forces serving in the Fisheries Monitoring Centre (FMC) is a sea fisheries protection officer for the purposes of enforcing sea fisheries law and food safety law, as defined in the Act. The Naval Service acts as the official agency with responsibility for the operation of Ireland’s FMC. The FMC is located at Naval Base Haulbowline in Co. Cork. This responsibility is carried out as part of a Service Level Agreement between the Department of Defence, the Naval Service and the Sea Fisheries Protection Authority (SFPA). The FMC carries out monitoring and surveillance of all vessels equipped with a Vessel Monitoring System (VMS) that are operating in the Irish Exclusive Economic Zone (EEZ) and also of all Irish vessels operating in any jurisdiction. The FMC also carries out monitoring and surveillance of all vessels equipped with VMS that are operating in the waters of the North East Atlantic Fisheries Commission (NEAFC) adjacent to Irish waters.

6(e) is a purely drafting amendment which is proposed to distinguish between the different premises referred to in section 17(j), which may not all be owned by the same person, or with all of which the same person may not be connected.

6(f) amends section 28 by:-

- (i) taking account of the definition of “fishing gear” as inserted at Dáil Report Stage in section 6 of the Act of 2006. That definition includes “net” and it is necessary,

therefore, to substitute a reference to “fishing gear or equipment” for “nets or other equipment”. “Equipment” as defined in section 6 of the Act of 2006, excludes “fishing gear” as so defined. This amendment was inadvertently overlooked when the definition of “fishing gear” was revised at Dáil Report Stage of the 2006 Bill.

- (ii) correcting an existing typographic error in Table 2 by substituting section 4(13) for section 4(12).

6(g) is a drafting amendment required to take account of the term “fishing gear” (in a revised definition inserted at Dáil Report Stage in section 6 of the Act of 2006). That definition includes “net” and therefore it is necessary to substitute “fishing gear” for the words to be deleted, and

6(h) deletes the reference to paragraph (a) of section 51(2) of the Act of 2006 so as to also cover persons authorised under paragraph (b) of section 51(2) of that Act.