



**An Bille Iascaigh Mhara (Forálacha
Ilghnéitheacha), 2021**
Sea Fisheries (Miscellaneous Provisions) Bill 2021

Meabhrán Míniúcháin agus Airgeadais
Explanatory and Financial Memorandum



**AN BILLE IASCAIGH MHARA (FORÁLACHA
ILGHNÉITHEACHA), 2021
SEA FISHERIES (MISCELLANEOUS PROVISIONS) BILL 2021**

EXPLANATORY AND FINANCIAL MEMORANDUM

General:

The main purpose of the Bill is to provide for a points system for masters (skippers) of fishing vessels for serious infringements of the rules of the Common Fisheries Policy, as required by EU Council Regulation 1224/2009 and introduce certain amendments to the Principal Act (the Sea Fisheries and Maritime Jurisdiction Act 2006), including of a miscellaneous and technical nature.

Council Regulation 1224/2009 establishes a Community control system for ensuring compliance with the rules of the Common Fisheries Policy and establishing a level playing-field across the EU on fisheries control.

The Regulation requires *inter alia* that Member States implement a points system for serious infringements of the rules of the CFP committed by the master of a fishing vessel. The system was due to have been implemented in Member States by 1 January 2012.

The delay in implementing this system is subject to EU infringement proceedings. Separately, the European Commission has suspended recoupment to Ireland of EU co-funding for investments in control and enforcement under Ireland's European Maritime Fisheries Fund (EMFF) Programme, with €25 million temporarily withheld to date, and this will grow to €37 million in due course unless this Bill is enacted. The withholding of EU co-funding for these essential investments to modernise Ireland's control and enforcement systems, and their potential loss, may impact on the State's ability to fund ongoing investments to enhance sea fisheries controls within Ireland.

The scheme for masters points proposed in the Bill follows, insofar as is possible, the provisions of the existing separate Sea Fishing Boat Licence Holders' Point system with regard to *inter alia* the list of serious infringements, the number of points assigned and the suspension thresholds as provided for under the EU Regulations.

Detailed Provisions:

Section 1 clarifies that "Act of 2006" means the Sea-Fisheries and Maritime Jurisdiction Act 2006.

Section 2 amends section 2 of the Act of 2006 insofar as certain definitions provided for thereunder are concerned.

Section 3 amends section 12 of the Act of 2006 to provide clarity around the publication of a notification in *Iris Oifigiúil* as provided for thereunder.

Sections 4 and 5 amend sections 13 and 15 of the Act of 2006 respectively to provide for certain miscellaneous and technical amendments.

Section 6 inserts into Part 2 of the Act of 2006 a new Chapter 2A (“Regulation of Irish Fishing masters”) and 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 Minister shall establish and maintain a register of Irish citizens who are masters of sea fishing boats (“Irish Fishing Master Register”) and the points assigned to each such master. The register shall contain certain details e.g., master’s name and address, contact details etc. The control authorities shall have access to and may examine the register.

The Minister may refuse to register a person if his/her application for registration is incomplete, inaccurate, false or misleading. However, the person concerned may make representations to the Minister before any such decision is taken. It shall be an offence for a person to knowingly furnish the Minister with false or misleading information when applying for registration.

A certificate of master registration shall be issued by the Minister in respect of each person entered on the register. Data entered in the register shall be stored only for as long as necessary for the operation of the register.

It shall be an offence for an Irish citizen to take charge or attempt to take charge of an Irish sea fishing boat or a foreign sea fishing boat unless he/she is registered.

The procedures around detection and notification of alleged serious infringements of the rules of the Common Fisheries Policy committed by masters and subsequent assignment of points by the Sea Fisheries Protection Authority very closely resemble those provided for in the separate points system already in place under the European Union (Common Fisheries Policy) (Point System) Regulations 2020 (S.I. No. 318 of 2020) for the holder of a sea-fishing boat licence established in response to the same EU legislation. For example:

- The same independent Determination Panel and independent Appeals officer will determine on the balance of probabilities whether a serious infringement has occurred.
- The procedures and timelines laid down in the Bill for the Determination Panel and the Appeals Officer to make their determinations are very similar to those provided for under S.I. No. 318 of 2020.
- The master can request an oral hearing before both the Determination Panel and Appeals Officer.
- A decision of the Appeals Officer to assign points can be appealed to the High Court on a point of law.
- Points assigned to a master remain assigned regardless of any criminal proceedings in respect of the serious infringement concerned.
- Points assigned to a foreign master will be notified to the relevant authorities of the relevant Member State.

The accumulation of points will result in the suspension of a master from the register, that is, he/she will be prohibited from taking control of an Irish sea-fishing boat or a foreign 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 removed from the register by the Minister. When points are assigned to a master on the register, the Minister shall notify him/her of certain matters. A master who has been suspended or removed from the register is required to immediately inform the sea fishing boat licence holder who engages or proposes to engage him or her as master of such suspension or removal. It shall be an offence for a sea fishing boat licence holder to employ a person knowing that he or she has been suspended or removed from the register.

Sections 7 and 8 amend sections 16 and 17 of the Act of 2006 respectively to provide for certain miscellaneous and technical amendments.

Section 9 provides for the transfer of certain data between the SFPA and the Revenue Commissioners. Such data sharing already occurs in respect of other public bodies e.g. between Revenue and the Department of Social Protection.

Section 10 amends section 28 of the Act of 2006 to provide clarity on certain drafting matters identified therein.

Sections 11 and 12 amend sections 37 and 54 of the Act of 2006 respectively to provide for certain miscellaneous and technical amendments.

Section 13 amends the Fisheries (Amendment) Act 2003 to *inter alia* rectify a *lacuna* to the effect that there is at present no legal impediment to a minor applying for a sea fishing boat licence.

Section 14 provides for certain amendments to Regulation 7 of the European Union (Common Fisheries Policy) (Point System) Regulations 2020 (S.I. No. 318 of 2020).

Section 15 provides the standard provisions for the title, citation and commencement of the Bill.

Financial Implications

It is anticipated that the provisions of the Bill will be cost neutral to the Exchequer in overall terms.

In particular, the Points System for Masters is cost neutral as it is an extra enforcement tool which can be accommodated within the existing control process.

An Roinn Talmhaíochta, Bia agus Mara
September, 2021.