

The Fisheries Law Cap.135 and relevant Regulations/Recent amendments for harmonisation with the EU Legislation governing the fishing activities of vessels operating under the flag of the Republic of Cyprus

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To all Owners, Managers and Representatives of Ships under the Cyprus Flag

1. Introduction- General

I refer to the above subject and I wish to inform you that *The Fisheries Law Cap.135* and the *Fisheries Regulations 1990-1994* have been recently amended by Law no 102 (I)/2000 and by Regulations P.I. 194/2000 respectively (both are published in the Official Gazette of the Republic No. 3417,dated 7.7.2000,Suppl. I(I) and III (I) respectively) (hereinafter referred to as the "Law as amended" and the "Regulations as amended").

Most of these new legislative provisions entered into force and became effective on the **7th of July 2000** (see section 9 of Law no 102 (I)/20 and Reg.14 of P.I. 194/2000).

The main objective of the above mentioned amendments is to set up the necessary basis for the progressive harmonisation of the Cyprus legislation with the compulsory European Union legislation contained in the following EU instruments, which will be binding upon the Republic of Cyprus on its accession date to the EU:

- Council Regulation (EC) No. 3690/93 dated 20.12.1993 establishing a Community system laying down rules for the minimum information to be contained in fishing licences.
- Commission Regulation (EC) No. 2090/98 dated 30.09.1998 concerning the fishing vessel register of the Community.
- Council Regulation (EC) No. 2847/93 dated 12.10.1993 establishing a control system applicable to the Common fisheries policy.

In broad terms, the new amendments impose the obligation on all Cyprus flag fishing vessels to be furnished with a fishing licence; establish the monitoring of the fishing activities of the Cyprus flag fishing vessels operating within or outside the territorial waters of the Republic and exclude from the registration under the Cyprus flag, or from being used in fishing, of fishing vessels whose majority ownership lies with foreign interests.

So far, only vessels fishing within the territorial waters of the Republic of Cyprus were required to obtain a ***fishing licence*** from the Department of Fisheries and Marine Research. With the new provisions, all vessels flying the Cyprus flag which are engaged in fishing activities, irrespective of their length and of the fishing area they operate, are required to obtain a fishing licence issued by the Cypriot authorities. Furthermore, this licence constitutes a prerequisite, in order to obtain a **fishing permit** from another State or International Organization.

2. All Cyprus flag fishing vessels must be furnished with a fishing licence.

2.1. Prerequisite conditions for obtaining fishing licence.

Under new section 3 of the Law as amended, no Cyprus flag vessel shall be used for the purpose of catching fish, unless a fishing licence has been issued in respect thereof under the provisions of the Law, by the Director of the Department of Fisheries and Marine Research of the Ministry of Agriculture, Natural Resources and the Environment of the Republic of Cyprus (hereinafter referred to as the "Director").

The fishing licence allows the use of the vessel for the purpose of carrying fishing activities in specific areas prescribed in the licence.

Cyprus vessels registered parallel -out in a foreign register, on the basis of a bareboat charter arrangement and flying the flag of the country of the foreign register, are exempted from the obligation to have a fishing licence issued by the Cypriot authorities, as long as they remain registered parallel –out and fly the flag of the foreign register.

According to section 3 (2) of the Law as amended, a fishing licence is issued provided the Director is satisfied that the following conditions are fulfilled:

(a) (i) More than one half of the shares of the vessel are beneficially owned by a Cypriot national and/or by a Cypriot legal person, provided that at least 51% of the shares of such a legal person belongs beneficially to Cypriot nationals and at least 50% of its Directors are Cypriot nationals; or

(ii) In case the vessel is registered in the Register of Cyprus Ships and flies the Cyprus flag by virtue of sections 23 C and 23 D of the *Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws 1963- 1996*, or it is registered under a foreign flag, its charterer is a Cypriot national and/or a Cypriot legal person, provided that at least 51% of the shares of such a legal person belongs beneficially to Cypriot nationals and at least 50% of its Directors are Cypriots (Cypriot nationals).

(b) In the case of vessels exceeding 20 years of age, the above required shareholding percentages are increased to 75%.

(c) The vessel's management and operations are directed and controlled from within the territory of the Republic of Cyprus.

The above three prerequisite conditions must be **continuously complied with**, from the date of issue, until the date of expiration of the licence. If any one of these three conditions ceases to be fulfilled, the Director must be consequently informed within 15 days, and upon that, he has the right to terminate the validity of the licence. In case the Director is not informed within the 15 days period, the licence is deemed suspended (section 3(3) of the Law as amended).

Furthermore, according to new Regulation 10A of the Regulations as amended, fishing licences will not be issued to Cyprus flag vessels of 24 metres in length and over, unless they are equipped with a **device** considered appropriate by the Director for the monitoring of their fishing activities and which will operate as deemed expedient by the Director. The cost of the installation of such devices will be borne by the owners of the vessels. The Director may require the installation of such devices on Cyprus flag fishing

vessels less than 24m in length, depending on the fishing method employed by such vessels and/or the area they operate (Regulation 10A is not yet in force and will come into effect at a later stage, by virtue of an Order issued by the Minister of Agriculture, when a Cypriot Vessel Monitoring Station will be in place, see Reg.14 of P.I. 194/2000).

The Director of the Fisheries Department has the discretionary power to limit the number of fishing licences to be issued during a given year to Cyprus flag vessels (Reg.6(1) (a) of the Regulations as amended)..

When the number of the applicants for the issue of a fishing licence exceeds the limited number of licences for any given year, the fishing licences to be issued for that year shall be on the basis of objective criteria determined by the Director. Among these criteria, the degree of economic dependence of each applicant from fishing and his degree of occupation with fisheries, constitute two major criteria (Reg.6(1) (c) of the Regulations as amended).

All fishing licences expire on the 31st day of December next following the issue thereof (section 4(2) of the Law as amended).

2.2. Procedure for the issuing of a fishing licence and Fees

A relevant written application must be submitted to the Director of the Fisheries Department (Postal address : Department of Fisheries and Marine Research of the Republic of Cyprus, 1416 Nicosia. Tel: + 357-2-807867 Fax: + 357-2- 775955) by the owner or the operator of the vessel as the case may be .The application must contain the details of the applicant and a brief description of the vessel, of its gear and any other information considered necessary by the Director .

Fishing licences are issued or renewed upon the payment of appropriate annual fees prescribed in Schedule IV of the Regulations as amended. For vessels flying the Cyprus flag and fishing outside the territorial waters of the Republic of Cyprus the following fees apply:

- for fishing in the Mediterranean50 Cyprus pounds.
- for fishing elsewhere, outside the Mediterranean10.000 Cyprus pounds.

The same Schedule prescribes also various annual fees for fishing exclusively within the territorial waters of the Republic of Cyprus.

2.3. Timetable to secure a fishing licence

Under section 9 of Amending Law no 102 (I) of 2000, the obligation to secure a fishing licence as described above becomes effective :

- i) on the **7th July 2000** (i.e. date of publication of the Amending Law in the Official Gazette of the Republic) in respect of Cyprus and foreign flag vessels fishing within the territorial waters of the Republic of Cyprus.
- ii) on the **7th July 2001** (i.e. 12 months following the date of publication of the Amending Law in the Official Gazette of the Republic) in respect of

Cyprus flag vessels fishing outside the territorial waters of the Republic of Cyprus.

2.4. Transitional arrangements (Section 10 of Amending Law 102(I)/2000)

Notwithstanding the provisions of section 3(2) of the Law as amended, a fishing licence may be issued to a Cyprus flag vessel engaged in fishing activities outside the

territorial waters of the Republic, provided that the Director is satisfied that on the **7th of July 2000** (i.e. date of entry into force of the Amending Law) a **valid fishing permit** issued by a foreign country or an International Organization existed for the vessel.

A fishing licence so issued, expires on the date of expiration of the fishing permit and does not grant the right to carry fishing activities in areas other than those expressly stated on the fishing permit .

Any person using a vessel in contravention of the restrictive provisions contained in a fishing licence issued under Section 10 of Amending Law 102(I)/2000

and the owner of such vessel, or in case of a lease (chartering), its operator (charterer), shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding 3 years or to a fine not exceeding 10.000 Cyprus pounds or to both such imprisonment and fine.

2.5. Obligations imposed on Cyprus flag vessels furnished with a fishing licence

The fishing licence must always be carried on board the vessel and upon request be presented to any Fisheries Inspector or to any other authorized person, or to any foreign competent authority (Regulation 4(2) of the Regulations as amended).

Under new section 7B of the Law as amended, all Cyprus flag vessels furnished with a fishing licence must:

(a) Call at least once a year at a port or fishing shelter situated in the Republic of Cyprus for inspection purposes according to the Law and its Regulations and for sanitary control. The actual expenses of the inspection are borne by the operator and the owner of the vessel and are paid to the Director as inspection and control fees (see new Regulation 10B of the Regulations as amended).

(b) Unload at least 50% of their total annual catch in ports and /or fishing shelters of the Republic of Cyprus.

Any person using a vessel in contravention of the above provisions (a) and (b) and the owner of such vessel, or in case of a lease (chartering), its operator (charterer), shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding 3 years or to a fine not exceeding 10.000 Cyprus pounds or to both such imprisonment and fine.

Finally, it should be recalled that under the new Regulation 10A of the Regulations as amended, the master, the operator and if such operator does not exist, the owner of a Cyprus flag fishing vessel of 24 metres in length and

over, is responsible for the **maintenance and good operation** of the device installed on board for the monitoring of its fishing activities (Blue box), so as to be always in a good operational condition. The responsible person which contravenes such an obligation, shall be guilty of an offence and shall on conviction for the first time be liable to a fine not exceeding 5.000 Cyprus pounds and in the case of any subsequent convictions be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding 5.000 Cyprus pounds or to both such imprisonment and fine (section 6 (3) of the Law as amended).

3. Fishing permits issued by foreign authorities and International Organizations.

According to the new legislation , Cyprus flag vessels are entitled to carry fishing operations in areas which are under the exclusive jurisdiction of a foreign State or of an International Organization, provided that they are concurrently furnished with both a **Fishing Permit** issued by the foreign State or the International Organization and a fishing licence issued by the Cypriot authorities.

No fishing permit may be requested and/or obtained, unless the vessel is already furnished with a fishing licence issued by the Cypriot authorities as described in paragraph 2 above (section 3 (4) of the Law). Any person using a vessel in contravention of the above provision and the owner of such vessel, or in case of a lease (chartering), its operator (charterer), shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding 3 years or to a fine not exceeding 10.000 Cyprus pounds or to both such imprisonment and fine .In this respect,the existence of fishing gear on board the vessel,or trawled by the vessel, constitutes a *rebuttable presumption* that the vessel is used for the purpose of catching fish (section 3 (5) of the Law as amended).

Furthermore, according to new section 4 A of the Law as amended, the owner, or in the case of a lease (chartering), the operator (charterer) of the vessel, for which a **fishing permit** has been issued by a foreign State or by an International Organization, is required to inform in writing of this permit, the Director of the Fisheries Department within 30 days from the date of its issue (a photocopy of the fishing permit must be produced). In case the Director realizes that he was not informed in time as required above, he may refuse to renew the fishing licence of the vessel concerned.

4. Penalties for non compliance

- Any person using a vessel flying the Cyprus flag in fishing activities without a fishing licence or with a fishing licence whose prerequisite conditions are not **fulfilled at all times**, and the owner of such vessel, or in case of a lease (chartering), its operator (charterer), shall be guilty of an offence and shall on conviction be liable to imprisonment for a term not exceeding 3 years or to a fine not exceeding 10.000 Cyprus pounds or to both such imprisonment and fine .In this respect, the existence of fishing gear on board the vessel, or

trawled by the vessel, constitutes a *rebuttable presumption* that the vessel is used for the purpose of catching fish (section 3 (5) of the Law as amended).

- In addition to the above, according to Part I, section D of my Circular No. 23/99 dated 11.11.1999 (*New Government Policy for the Registration of Cyprus Ships*), a vessel which has been registered in the Register of Cyprus Ships after the 1st of January 2000 and engages in fishing activities without a fishing licence, commits a breach of the conditions for its registration and is liable to deletion from the Register of Cyprus Ships. The Order for such a deletion is effected under section 6A of *the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws 1963- 1996*, which provides for the revocation of the Cyprus nationality of the ship and her deletion thereof from the Register, when her owner, or master or any person having charge of the ship does not comply with any condition for her registration imposed by the Minister of Communications and Works.

For any additional information or clarifications, interested persons may contact directly the Department of Fisheries and Marine Research of the Republic of Cyprus.

The Owners, Managers and Representatives of vessels flying the Cyprus Flag are requested to strictly abide by the above mentioned legislation and this Circular.

1. According to section 2 of the Law as amended, the term "fish" means any aquatic animal whether mammalian or not and shell fish, but does not include sponge.
2. According to new section 7A of the Law as amended, the Director of the Fisheries Department keeps a *Register of Fishing Activities* for all vessels furnished with a fishing licence.
3. According to section 2 of the Law as amended, the term " fishing licence" means a fishing licence issued under the provisions of the Law and which: (a) allows the use of the vessel for the purpose of catching fish in areas prescribed in the licence; (b) constitutes a prerequisite condition for the submission of an application for the obtaining a fishing permit.
4. This arises from the fact that under section 2 of the Law as amended, the term " Cyprus vessel" means a ship registered in the Register of Cyprus Ships and flying the Cyprus flag by virtue of sections 6, 23 C , 23 D and 53 of *the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws 1963- 1996*.
5. This provision actually refers to a satellite- tracking device installed on board Community fishing vessels (the so-called "*Blue Box*") in accordance with Commission Regulations (EEC) No 2847/93 and No. 1489/97 regarding satellite-based vessel monitoring systems.
6. According to section 2 of the Law as amended the term "Fishing permit" means a fishing permit issued by a foreign State or by an International Organization to a Cyprus flag vessel, which allows the vessel to catch fish, in the case of the issue of the permit by a foreign State, within its territorial waters, its fishing zone and/or within its Exclusive Economic Zone and in the case of the issue of the permit by an International Organization, within an area in which fishing activities are monitored by this Organization.

Serghios S. Serghiou
Director

Department of Merchant Shipping

CC: - Permanent Secretary, Ministry of Communications and Works

- Permanent Secretary, Ministry of Agriculture, Natural Resources and the Environment
- Permanent Secretary, Ministry of Foreign Affairs
- Permanent Secretary, Planning Bureau
- Director, Department of Fisheries and Marine Research
- Maritime Offices of the Department of Merchant Shipping abroad
- Diplomatic Missions and Honorary Consular Officers of the Republic
- Cyprus Shipping Council
- Cyprus Shipping Association (Sea Rovers) Ltd
- Union of Cypriot Shipowners
- Cyprus Bar Association