

This Scottish Statutory Instrument has been made to clarify a provision in S.S.I. 2004/44 and to correct other minor errors in that instrument and is being issued free of charge to all known recipients of that instrument.

SCOTTISH STATUTORY INSTRUMENTS

2004 No. 81

SEA FISHERIES

**The Sea Fishing (Restriction on Days at Sea) (Scotland)
Amendment Order 2004**

Made - - - - 2nd March 2004

Laid before the Scottish Parliament 3rd March 2004

Coming into force in accordance with article 1

The Scottish Ministers, in exercise of the powers conferred by section 30(2) of the Fisheries Act 1981(a) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Sea Fishing (Restriction on Days at Sea) (Scotland) Amendment Order 2004 and shall come into force at 6 p.m. on 2nd March 2004.

Amendment of the Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2004

2.—(1) The Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2004(b) is amended as follows.

(2) In article 6 (use of regulated gear)—

(a) for paragraph (4) substitute—

“(4) A relevant fishing boat or a foreign fishing boat which is present in the cod recovery zone carrying on board regulated gear falling within one of the groupings of fishing gears specified in paragraph 4 of Annex V shall not simultaneously carry on board regulated gear falling within any of the other groupings of fishing gear specified in paragraph 4 of Annex V.”; and

(b) in paragraph (5), after “boat” insert “or a foreign fishing boat”.

(a) 1981 c.29; relevant modifications are contained in the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 (S.I. 1999/1748), article 5 and the Scotland Act 1998 (Modifications of Functions) Order 1999 (S.I. 1999/1756) articles 3, 5 and 6. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46). See section 30(3) for a definition of “the Ministers”. Section 30(2) has effect in relation to Scotland as modified by section 30(5). Section 30(5) was inserted by the Scotland Act 1999 (Consequential Modifications) (No. 2) Order (S.I. 1999/1820), Schedule 2, paragraph 68.

(b) S.S.I. 2004/44.

(3) For article 13 (maintenance of logbook) substitute—

“Maintenance of logbook

13.—(1) An entry shall be made in a logbook of a relevant fishing boat which is absent from port carrying any regulated gear but not fishing as specified in Article 6 of Regulation 2847/93, in respect of each particular which would be required to be entered by that Article (as read with Regulation 2807/83) were the boat so fishing, and such an entry shall state the type of fishing gear carried; and the requirements of those Regulations for handing over and dispatch of logbook entries, as modified by article 14, shall apply to the entries required by this article as they apply to other entries.

(2) Such an entry shall be made—

- (a) daily, but not later than midnight at the end of each day;
- (b) at the time of arrival in port;
- (c) at the time of any inspection at sea; and
- (d) at the time that an effort report is made as required by Article 19e.3 of Regulation 2847/93.

(3) Where a relevant fishing boat is absent from port and paragraph (1) requires a logbook entry to be made in respect of that absence the logbook entries shall be handed over and dispatched as if landing were made at the time of the arrival of the boat in port.

(4) Where there is, in respect of a relevant fishing boat, a failure to make an entry required by this article the person in charge of the fishing boat is guilty of an offence.”.

(4) In article 14 (submission of logbook at designated port)—

- (a) in paragraph (2), for “paragraph (2)” substitute “paragraph (1)”; and
- (b) after paragraph (2) add—

“(3) For the purposes of this article “designated port” means any port specified in the Schedule to this Order.”.

(5) In article 17 (powers of British sea-fishery officers in relation to fishing boats), in paragraph (1), for “6 to 14” substitute “6, 7 and 9 to 14”.

(6) In article 18 (powers of British sea-fishery officers on land), in paragraph (1), for “6 to 14” substitute “6, 7 and 9 to 14”.

(7) In article 23 (admissibility in evidence of logbooks and other documents), in paragraph (1), omit “of 12th October 1993”.

ALLAN WILSON

Authorised to sign by the Scottish Ministers

Pentland House,
Edinburgh
2nd March 2004

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2004 (“the principal Order”) to clarify and extend the legal effect of article 6(4) of the principal Order. Paragraph (4) of article 6 (use of regulated gear) of the principal Order is substituted by a new paragraph (4) which provides that any fishing boat which is present in the cod recovery zone carrying on board any regulated gear falling within any one of the groupings of regulated gear specified in paragraph 4 of Annex V to Council Regulation 2287/2003 may not simultaneously carry on board any regulated gear falling within any of the other groupings of regulated gear specified in paragraph 4 of Annex V. This provision enforces paragraph 8 of Annex V of Council Regulation 2287/2003 (article 2(2)). Article 6 of the principal Order makes provision only in relation to the carriage of regulated gear in the cod recovery zone (defined in paragraph 2 of Annex V of Council Regulation 2287/2003).

The Order substitutes article 13 of the Order (maintenance of logbook) with a new article 13 which corrects several minor errors (article 2(3)).

The Order corrects a minor error in article 14 of the principal Order (submission of logbook at designated port) (article 2(4)(a)) and clarifies the definition of “designated port” for the purposes of that article (article 2(4)(b)). The Order corrects other errors in articles 17 (powers of British sea fishery officers in relation to fishing boats), 18 (powers of British sea-fishery officers on land) and 23 of the principal Order (admissibility in evidence of logbooks and other documents) (article 2(5) to (7)).

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