
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 90

The Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2005

PART III

SOLE

Absence from port

14.—(1) A person in charge of a relevant fishing boat which—

- (a) contravenes paragraph 8 of Annex IVc; or
- (b) is absent from port in excess of the number of days permitted to it under the following provisions of this article,

is guilty of an offence.

(2) In addition to the number of days indicated in paragraph 6(a) of Annex IVc, applicable to the boat in accordance with any regulated gear it carries (“the basic number”), for each calendar month there is added to the number indicated in paragraph 6(a) of Annex IVc, such number of days (if any) as may be allocated to United Kingdom vessels under paragraph 6(c) of Annex IVc.

(3) Where days have been transferred from one relevant fishing boat (“the donor”) to another relevant fishing boat (“the recipient”) the following shall apply, subject to any adjustment required by paragraph 9(a) of Annex IVc—

- (a) the donor shall have deducted from its allocation of days such number of days as have been transferred to the recipient;
- (b) the recipient shall have added to its allocation of days such number of days as have been transferred by the donor.

(4) Where during any management period regulated gear is affixed to two or more fishing boats there shall be deducted from the basic number for each such boat that is a relevant fishing boat in relation to that gear and that period a number of days equal to the number when it was absent from port but the gear was being carried by any other such boat.

(5) Where during any management period a relevant fishing boat is absent from port operating with regulated gear within the same grouping of fishing gear and present within the cod recovery zone there shall be deducted from the basic number for that boat in relation to that period a number of days equal to the number when it was absent from port and present within that area.

(6) Subject to article 15, where during any management period a relevant fishing boat has—

- (a) been absent from port carrying fishing gear in excess of the days permitted to it by this article; or
- (b) purported to transfer days in accordance with article 17 in excess of its unused days,

the Scottish Ministers may deduct a number equal to the number of days in that excess.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(7) In any proceedings for an offence under paragraph (1)(b) of this article, it shall be a defence for a person to show that the number of days of absence from port carrying any type of fishing gear comprising the offence was no greater than the number of days of absence carrying that gear purportedly but not validly transferred to that person under article 17 and that person did not know and had no reasonable cause to suspect that the donor was not entitled to transfer the days.