
STATUTORY INSTRUMENTS

2005 No. 393

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

PART 2

COD

Establishment of management periods

3.—(1) Management periods for an English fishing boat, as referred to in point 6(b) of Annex IVa, shall be determined and notified by the person in charge of the boat, as follows:

- (a) the base unit for determination of management periods shall be one calendar month;
- (b) each management period may be determined in multiples of the base unit from 1 to 11 calendar months; and
- (c) the determination of each management period must be notified to the Secretary of State for Environment, Food and Rural Affairs at the same time as any notification under article 5;

and they are established by that determination and notification unless point 12 of Annex IVa applies to the boat, in which case they are established by confirmation of that determination and notification by the Secretary of State for Environment, Food and Rural Affairs taking that point into account.

(2) The person in charge of a British fishing boat may aggregate the days allocated for each calendar month as set out in point 6 of Annex IVa for being present within the area and absent from port, within management periods.

(3) Where a management period covers the month of February—

- (a) a notification given to the Secretary of State for Environment, Food and Rural Affairs (whether after or in anticipation of the coming into force of this Order) covering a management period including February 2005 and any grouping of gears for the period shall be treated as meeting the requirement of paragraph (1)(c) but with the management period counting as beginning immediately on the date this Order comes into force and ending as notified; and
- (b) the second February stage counts as one month and shall accordingly be treated as a single base unit.

(4) The person in charge of a British fishing boat which, at any time during the Annex IV year, is absent from port in the cod recovery zone carrying regulated gear for which a management period has not been established as provided in paragraph (1), or any equivalent provision, is guilty of an offence.

Absences from port

4.—(1) A person in charge of a relevant fishing boat carrying regulated gear which, at any time in the Annex IV year, either—

- (a) contravenes point 9 of Annex IVa; or

(b) subject to any adjustments made under this article for the purposes of Annex IVa, during a management period is absent from port in the cod recovery zone in excess of the number of days permitted to it under point 6(a) of Annex IVa,
is guilty of an offence.

(2) In addition to the number of days of absence from port permitted under point 6(a) applicable to the relevant fishing boat in accordance with any regulated gear that it carries, for each calendar month the Secretary of State may allocate to the boat—

- (a) a proportion of such number of days as may be allocated to the United Kingdom under point 6(c) of Annex IVa; and
- (b) further days in accordance with point 6(d), (e) and (f) of Annex IVa.

(3) Where in respect of a management period established for it days have been transferred from one British fishing boat (“the donor”) to another British fishing boat (“the recipient”) under article 6 for the purposes of point 10 of Annex IVa, the following shall apply—

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

(4) Where on any day during a management period any regulated gear is at any time affixed to both a relevant British fishing boat and one or more other fishing boats whilst they are in the cod recovery zone, that day shall be deducted from each boat’s allocation.

(5) Where a relevant British fishing boat was absent from port in the cod recovery zone carrying regulated gear in excess of its allocation of days in respect of a previous management period, there shall be deducted the number of days during which the boat was so absent from the next management period.

(6) Where the management period includes the month of February, any number of days spent absent from port in the cod recovery zone carrying the regulated gear by a relevant British fishing boat in the first February stage shall be deducted from the allocation of days for that month.

(7) Where during the management period, a relevant British fishing boat is absent from port in the circumstances as set out in point 13 of Annex IVa, the person in charge of the relevant British fishing boat shall apply to the Secretary of State for Environment, Food and Rural Affairs for an adjustment of the allocation of days in respect of those circumstances.

(8) For the purposes of paragraph (2) and (7), where additional days are allocated by the Secretary of State to a relevant fishing boat, the allocation does not have effect until the person in charge of the relevant fishing boat is notified of the allocation by the Secretary of State.

Carriage and operation of fishing gears

5.—(1) The person in charge of a relevant British fishing boat which fishes or deploys regulated gear in contravention of any requirement of point 7 of Annex IVa is guilty of an offence.

(2) Where point 7 of Annex IVa requires notification or prior notice it must, in the case of an English fishing boat, be given to the Secretary of State for Environment, Food and Rural Affairs.

(3) The person in charge of a relevant British fishing boat which carries fishing gear on board in contravention of point 8 or 11 of Annex IVa is guilty of an offence.

Transfer of days from one boat to another

6.—(1) Unused days may be transferred from one British fishing boat (“donor”) to another British fishing boat (“recipient”) in accordance with point 10 of Annex IVa.

(2) A transfer under paragraph (1) is only effective if, where the donor is an English fishing boat, a written notification of transfer, signed by the donor's owner (or, as the case may be, each part owner), is sent to the Secretary of State for Environment, Food and Rural Affairs before the end of the management period in relation to which the transfer is to take effect, and contains all the following particulars:

- (a) the name and PLN and RSS number of the donor;
- (b) the management period and any grouping of regulated gear to which the transfer relates;
- (c) the name and PLN and RSS number of each recipient;
- (d) the number of days transferred to each recipient;
- (e) a declaration to the effect that the donor is entitled to make the transfer; and
- (f) the date of signature.

(3) A person who makes a false declaration in a notification under paragraph (2) is guilty of an offence.

(4) For the purpose of this article—

- (a) "name" in relation to a fishing boat which is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995, means its registered name as referred to in regulation 30 of the Merchant Shipping (Registration of Ships) Regulations 1993 (1); and
- (b) the requirement for a notification to contain PLN and RSS numbers applies only in relation to a fishing boat which is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995, and those numbers are respectively its port number and its official number within the meaning of regulation 31 of the Merchant Shipping (Registration of Ships) Regulations 1993.

Transport of cod

7. Where any quantities of cod are transported in contravention of Article 15(2) of Regulation 423/04, the owner or hirer of, and the person responsible for, the vehicle used to transport the cod is guilty of an offence.

Mixing of species

8. A person in charge of—

- (a) a relevant British fishing boat, or
- (b) a Scottish, Northern Ireland or foreign fishing boat within relevant British fishery limits,

on which cod is stowed or retained in contravention of Article 14 of Regulation 423/04, is guilty of an offence.

Prior notification of landing, discharge or transhipment

9.—(1) The person in charge of a British or foreign fishing boat to which Article 11 of Regulation 423/04 applies, which enters a port in England without providing the information called for by that Article, is guilty of an offence.

(2) A British sea-fishery officer may, by written or oral direction to the person in charge of a British or foreign fishing boat landing at a port in England, require that the discharge referred to in Article 11(2) of Regulation 423/04 does not commence until authorised by a British sea-fishery officer.

(1) [S.I. 1993/3138](#); the relevant amending instrument is [S.I. 1999/3206](#).

(3) The person in charge of a fishing boat from which a discharge is made in contravention of any requirement under paragraph (2) is guilty of an offence.

(4) The person in charge of a British or foreign fishing boat to which Article 11(3) of Regulation 423/04 applies, who fails to provide information as required by that article, is guilty of an offence.

(5) For the purposes of paragraph (1) and (4), the Secretary of State for Environment, Food and Rural Affairs is the person to whom that information is to be provided.

Landing of cod at a designated port

10.—(1) The person in charge of a British or foreign fishing boat which lands cod in England in contravention of Article 12 of Regulation 423/04 is guilty of an offence.

(2) If, in the circumstances to which Article 15 of Regulation 423/04 applies, cod is first landed from a fishing boat in a port within England designated as specified in paragraph (3), the person in charge of that boat shall ensure that a representative sample, obtained in accordance with that Article, shall be weighed in the presence of a British sea-fishery officer prior to the cod being offered for first sale, unless the conditions in paragraph 3 are met.

(3) The conditions referred to in paragraph 2 are—

- (a) the fishing boat is party to an arrangement made among fishing boats using the port with a person or organisation to act as their controller for the purposes of that point; and
- (b) details of the arrangement, and the fishing boats which are party to it, have been notified to the Secretary of State for Environment, Food and Rural Affairs.

(4) For landings in England, the ports, and where applicable the landing locations within them listed in the Schedule are designated for the purposes of Article 12 of Regulation 423/04.

(5) The person in charge of a fishing boat from which cod is offered for first sale in contravention of paragraph 2 is guilty of an offence.

Recording information on catches of fish

11. The person in charge of a relevant British fishing boat or foreign fishing boat in respect of which the 8% margin of tolerance referred to in Article 13 of Regulation 423/04 is exceeded, is guilty of an offence.

Maintenance of logbooks

12.—(1) An entry shall be made in a logbook of any relevant British fishing boat which is absent from port (on a trip which includes any period in the cod recovery zone) carrying regulated gear but not fishing as specified in Article 6 of Regulation 2847/93, in respect of each particular gear which would be required to be entered by that article (as amplified by Regulation 2807/83) were the boat so fishing, and such an entry shall state the type of fishing gear carried.

(2) Such an entry shall be made—

- (a) daily, but not later than midnight in respect 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,

and the requirements of those Regulations for handing over and dispatch of logbook entries shall apply to the entries required by this article as they apply to other entries.

(3) Where a relevant British 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 boat's arrival in port.

(4) Where there is, in respect of a relevant British fishing boat, a failure to make an entry required by this article, or to comply with requirements for handing over and dispatch referred to in this article, the person in charge of that fishing boat is guilty of an offence.