
STATUTORY INSTRUMENTS

2005 No. 393

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

PART 3

SOLE

Establishment of management periods

13.—(1) Management periods for an English fishing boat, as referred to in point 6(b) of Annex IVc, 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 15;

and they are established by that determination and notification unless point 11 of Annex IVc 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 IVc 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 sole 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

14.—(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 8 of Annex IVc; or

(b) subject to any adjustments made under this article for the purposes of Annex IVc, during a management period is absent from port in the sole recovery zone in excess of the number of days permitted to it under point 6(a) of Annex IVc,
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 proportion of such number of days as may be allocated to the United Kingdom under point 6(c) of Annex IVc.

(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 16 for the purposes of point 9 of Annex IVc, 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 a relevant British fishing boat and one or more other fishing boats whilst they are in the sole 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 sole recovery zone carrying regulated gear in excess of its allocation of days in respect of a previous management period, there shall be deducted from the next management period the number of days during which the boat was so absent.

(6) Where the management period includes the month of February, any number of days spent absent from port in the sole 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 was absent from port in the circumstances as set out in point 12 of Annex IVc, 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

15.—(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 IVc is guilty of an offence.

(2) Where point 7 of Annex IVc 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 10 of Annex IVc is guilty of an offence.

Transfer of days from one boat to another

16.—(1) Unused days may be transferred from one British fishing boat (“donor”) to another British fishing boat (“recipient”) in accordance with point 9 of Annex IVc.

(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; 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 sole

17. Where any quantities of sole are transported, during the Annex IV year, in contravention of point 20 of Annex IVc, the owner or hirer of, and the person responsible for, the vehicle used to transport the sole is guilty of an offence.

Mixing of species

18. A person in charge of—

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

on which quantities of sole greater than 50kg are stowed or retained during the Annex IV year in contravention of point 17 of Annex IVc, is guilty of an offence.

Transshipment or landing relating to third countries

19.—(1) The person in charge of a British or foreign fishing boat to which point 15 of Annex IVc applies, which, during the Annex IV year, fails to provide information as required by that point, is guilty of an offence.

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

Weighing of sole

20.—(1) The person in charge of a British or foreign fishing boat shall ensure that any quantity of sole exceeding 300kg caught in the sole recovery zone shall be weighed using auction room scales in accordance with point 18 of Annex IVc.

(2) If the person in charge of a British or foreign fishing boat fails to comply with paragraph (1) they shall be guilty of an offence.

Recording information on catches of fish

21. 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 point 16 of Annex IVc is exceeded during the Annex IV year, is guilty of an offence.

Maintenance of logbooks

22.—(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 sole 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 in relation to any time in the Annex IV year 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.