
STATUTORY INSTRUMENTS

1992 No. 130

SEA FISHERIES
COMMUNITY RESTRICTIONS

The Sea Fishing (Days in Port) Regulations 1992

<i>Made</i>	- - - -	<i>28th January 1992</i>
<i>Laid before Parliament</i>		<i>29th January 1992</i>
<i>Coming into force</i>	- -	<i>31st January 1992</i>

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated(1) for the purposes of section 2(2) of the European Communities Act 1972(2) in relation to the common agricultural policy of the European Economic Community, acting jointly in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title and commencement

1. These Regulations may be cited as the Sea Fishing (Days in Port) Regulations 1992 and shall come into force on 31st January 1992.

Interpretation

2.—(1) In these Regulations—

“British sea-fishery officer” means any person who by virtue of section 7 of the Sea Fisheries Act 1968(3) is a British sea-fishery officer;

“day” means a period of 24 hours commencing immediately after midnight;

“licence” means a fishing licence issued under section 4 of the Sea Fish (Conservation) Act 1967(4) and “licensed” shall be construed accordingly.

(1) S.I.1972/1811.

(2) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read, as regards England and Wales, with sections 37, 40 and 46 of the Criminal Justice Act 1982 (c. 48), section 52(4) of the Criminal Justice Act 1988 (c. 33) and S.I. 1984/447, as regards Scotland, with section 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21) as inserted by section 54 of the Criminal Justice Act 1982, S.I. 1984/526 and section 66 of the Criminal Justice (Scotland) Act 1987 (c. 41) and, as regards Northern Ireland, with S.I. 1984/703 (N.I. 3) and S.R. (N.I.) 1984 No. 253.

(3) 1968 c. 77; section 7 was amended by the Fisheries Act 1981 (c. 29), section 26(1) and Schedule 5, Part II and by the Northern Ireland Constitution Act 1973 (c. 36), section 40 and Schedule 5, paragraph 8(1).

(4) 1967 c. 84; section 4 was amended by the Fishery Limits Act 1976 (c. 86), section 3 and by the Fisheries Act 1981 (c. 29), section 20.

(2) Except in the case of regulation 13 of these Regulations any reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation or Schedule so numbered in these Regulations.

Scope

3. These Regulations apply to—

- (a) any fishing vessel which is registered in the United Kingdom where the vessel has an overall length that exceeds 10 metres and its landings of cod and haddock from the sea areas described in Schedule 1 during the period 1st January 1989 to 30th June 1990 exceeded 100 tonnes and 40% by weight of its total landings, and
- (b) any vessel replacing a vessel in the category referred to in paragraph (a) above.

Management of days in port

4.—(1) A vessel to which these Regulations apply shall remain in port for one or more periods totalling 135 days during the period 1st February 1992 to 31st December 1992.

- (2) A period in port may consist of a single day or of a group of days taken consecutively.
- (3) No period in port shall count for the purposes of paragraph (1) above unless—
 - (a) it consists of at least one day,
 - (b) it is notified in accordance with regulation 5, and
 - (c) where paragraph (5) below applies, the requirements of that paragraph are satisfied.

(4) Once a period has been notified and has commenced the vessel concerned shall remain in port until either that period has expired or a revised period notified in accordance with regulation 5(4) has expired.

(5) Where the port in which the vessel is to remain is not in the United Kingdom the master, owner or charterer shall within 14 days of the expiry of the period in port furnish to the Department of Agriculture for Northern Ireland in the case of a vessel licensed by that Department or to a British sea-fishery officer in any other case a statement signed and dated by the authority in charge of that port containing the particulars specified in Schedule 2.

Notice of intended period in port

5.—(1) At least 9 hours' prior notice of an intended period in port for the purpose of regulation 4 shall be given by the master, owner or charterer of the vessel or by any person authorised to act in that regard by any or all of them.

(2) The notice shall be in writing in the form set out in Part I of Schedule 3 and shall be signed by the person giving it.

(3) The notice shall be given—

- (a) in the case of a vessel which is to remain in a port where there is a British sea-fishery officer, to such an officer, or
- (b) in the case of a vessel licensed by the Department of Agriculture for Northern Ireland, to that Department, or
- (c) in the case of a vessel not so licensed, to a British sea-fishery officer of the port from which the vessel's licence was issued.

(4) Subject to paragraphs (5) and (6) below the notice may be varied by the giving of a further notice (hereinafter referred to as "a variation notice") at least 9 hours in advance of the commencement of the variation.

(5) A variation notice shall be given by the master, owner or charterer of the vessel or by any person authorised to act in that regard by any or all of them, shall be in writing in the form set out in Part II of Schedule 3 and shall be signed by the person giving it.

(6) Paragraph (3) above shall apply in the case of a variation notice as it applies in the case of a notice under paragraph (1) above.

Offences

6.—(1) Where a vessel to which these Regulations apply does not remain in port in accordance with regulation 4(1) or 4(4), its master, owner and charterer (if any) shall each, in the absence of a reasonable excuse, be guilty of an offence.

(2) Any person who—

- (a) assaults a British sea-fishery officer who is exercising any of the powers conferred on him by regulation 9, or
- (b) intentionally obstructs any such officer in the exercise of any of those powers, or
- (c) fails without reasonable excuse to comply with any requirement imposed by a British sea-fishery officer under the powers conferred on British sea-fishery officers by regulation 9 or without reasonable excuse prevents any other person from complying with such a requirement,

shall be guilty of an offence.

Penalties

7.—(1) A person guilty of an offence under regulation 6(1) shall be liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to a fine.

(2) A person guilty of an offence under regulation 6(2)(a) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) A person guilty of an offence under regulation 6(2)(b) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(4) A person guilty of an offence under regulation 6(2)(c) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Recovery of fines

8.—(1) Where a fine is imposed by a magistrates' court in England and Wales or Northern Ireland on the master, owner or charterer of a fishing vessel who is convicted by the court of an offence under regulation 6, the court may—

- (a) issue a warrant of distress against the vessel and its gear and catch and any property of the person convicted for the purpose of levying the amount of the fine; and
- (b) order the vessel to be detained for a period not exceeding three months from the date of the conviction or until the fine is paid or the amount of the fine is levied in pursuance of any such warrant, whichever occurs first.

(2) Where a fine is imposed by a sheriff in Scotland on the master, owner or charterer of a fishing vessel who is convicted by the sheriff of an offence under regulation 6, the sheriff may—

- (a) issue a warrant for the arrestment and sale of the vessel and its gear and catch and any property of the person convicted; and
- (b) order the vessel to be detained for a period not exceeding three months from the date of the conviction or until the fine is paid, whichever occurs first.

(3) Sections 77(1) and 78 of the Magistrates' Courts Act 1980⁽⁵⁾ (postponement of issue of, and defects in, warrants of distress) shall apply to a warrant of distress issued under this regulation in England and Wales as they apply to a warrant of distress issued under Part III of that Act.

(4) Articles 114(2) and 154 of the Magistrates' Courts (Northern Ireland) Order 1981⁽⁶⁾ (postponement of issue of certain warrants and objections as to want of form or variance between complaint etc and evidence adduced) shall apply to a warrant of distress issued under this regulation in Northern Ireland as it applies to a warrant referred to in those articles.

Powers of British sea-fishery officers

9.—(1) For the purpose of enforcing regulation 6, a British sea-fishery officer—

- (a) may go on board any fishing vessel to which these Regulations apply;
- (b) may require any such vessel to stop and do anything else to enable him to board it;
- (c) may require the attendance of the master of the vessel or any other person on board;
- (d) may require any person on board to assist him in the performance of his functions; and
- (e) may take with him, to assist him in performing his functions, any other person and any equipment or materials;
- (f) may make any examination or inquiry which appears to him to be necessary and, without prejudice to the generality of the foregoing, he may in particular—
 - (i) examine any fish on the vessel and the equipment of the vessel, including the fishing gear;
 - (ii) require the production of any document relating to the vessel or to its fishing operations or other operations ancillary to its fishing operations;
 - (iii) search the vessel for any such document, and require any person on board the vessel to do anything which appears to the officer to be necessary for facilitating the search; and
 - (iv) take copies of any such document.

(2) If a British sea-fishery officer has reasonable grounds to suspect that an offence under regulation 6 is being or has been committed in respect of a vessel to which these Regulations apply he may seize and detain any document produced to him or found on board the vessel, and if he has reasonable grounds to suspect that an offence has been committed within British fishery limits the officer—

- (a) may require the master to take, or may himself take, the vessel and its crew to the port which appears to the officer to be the nearest convenient port; and
- (b) may detain the vessel in the port.

(3) Nothing in paragraph (2) above shall permit any document required by law to be carried on board any vessel to be seized or detained except while the vessel is detained in a port.

(4) If a British sea-fishery officer detains a vessel, he shall serve on the master a notice stating that it is to be detained until the notice is withdrawn by the service on him of a further notice in writing signed by a British sea-fishery officer.

(5) For the purpose of enforcing regulation 6, a British sea-fishery officer—

- (a) may enter at any reasonable time any premises (other than a dwelling) used for carrying on any business in connection with the operation of fishing vessels or activities connected therewith or ancillary thereto or with the treatment, storage or sale of sea fish;

⁽⁵⁾ 1980 c. 43; section 78 was amended by the Criminal Justice Act 1982 (c. 48), sections 37 and 46.

⁽⁶⁾ S.I. 1981/1675 (N.I. 26).

- (b) may examine any fish on the premises;
- (c) may require any person on the premises to produce any documents which are in his custody or possession relating to the catching, landing, trans-shipment, sale or disposal of sea fish;
- (d) may take copies of any such document;

and if he has reasonable grounds to suspect that an offence under regulation 6 has been committed, the officer—

- (e) may search the premises for any such document and require any person on the premises to do anything which appears to the officer to be necessary for facilitating the search; and
- (f) may seize and detain any such document produced to him or found on the premises.

Protection of officers

10. An officer shall not be liable in any civil or criminal proceedings for anything done in the purported exercise of the powers conferred on him by regulation 9 if the court is satisfied that the act was done in good faith, that there were reasonable grounds for doing it and that it was done with reasonable skill and care.

Offences by bodies corporate

11. Where an offence under regulation 6 committed by a body corporate is proved to have been committed with the consent or approval of any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. Proceedings

12. Proceedings for an offence under these Regulations may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom. Revocations and saving

13. The Sea Fishing (Days in Port) Regulations 1991(7) and the Sea Fishing (Days in Port) (Amendment) Regulations 1991(8) are hereby revoked but without prejudice to the application of regulations 8 and 9 of the former Regulations in relation to the enforcement of regulation 5 thereof.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

28th January 1992.

Trumpington
Minister of State, Ministry of Agriculture,
Fisheries and Food

28th January 1992

Strathclyde
Parliamentary Under Secretary of State, Scottish
Office

(7) S.I. 1991/139.

(8) S.I. 1991/335.

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

SCHEDULE 1

Regulation 3

SEA AREAS

North Sea (Area IV)

The waters bounded by a line beginning at a point on the coast of Norway in 62°00' north latitude; thence due west to 4°00' west longitude; thence due south to the coast of Scotland; thence in an easterly and southerly direction along the coasts of Scotland and England to a point in 51°00' north latitude; thence due east to the coast of France; thence in a north-easterly direction along the coasts of France, Belgium, the Netherlands and the Federal Republic of Germany to the western terminus of its boundary with Denmark; thence along the west coast of Jutland to Thyboron; thence in a southerly and easterly direction along the south coast of the Limfjord to Egensekloster Point; thence across the eastern entrance of the Limfjord to Hals; thence in a westerly direction along the north coast of Limfjord to the southernmost point of Agger Tange; thence in a northerly direction along the west coast of Jutland to a point in 57°00' north latitude; thence due west to 8°00' east longitude; thence due north to 57°30' north latitude; thence due west to 7°00' east longitude; thence due north to the coast of Norway; thence in a north-westerly direction along the coast of Norway to the point of beginning.

West of Scotland (Area VI)

The waters bounded by a line beginning at a point on the north coast of Scotland in 4°00' west longitude; thence due north to 60°30' north latitude; thence due west to 5°00' west longitude; thence due south to 60°00' north latitude; thence due west to 18°00' west longitude; thence due south to 54°30' north latitude; thence due east to the coast of the Republic of Ireland; thence in a northerly and easterly direction along the coasts of the Republic of Ireland and of Northern Ireland to a point on the east coast of Northern Ireland in 55°00' north latitude; thence due east to the coast of Scotland; thence in a northerly direction along the west coast of Scotland to the point of beginning.

SCHEDULE 2

Regulation 4(5)

STATEMENT OF SPECIFIED PARTICULARS

1. Name and address of owner of vessel
2. Name, registration number and letters of vessel
3. Date and time of arrival of vessel in port
4. Date on which vessel leaves port
5. Details of port authority signing the statement

SCHEDULE 3

Regulation 5(2) and 5(5)

PART I

FORM OF NOTICE OF INTENDED PERIOD IN PORT THE SEA FISHING (DAYS IN PORT)
REGULATIONS 1992 NOTICE OF INTENDED PERIOD IN PORT

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

I
(name and address), the master*/owner*/charterer*/person authorised to give this notice*, hereby give notice that the fishing vessel

..... (name of vessel)

..... (Reg. No.)

will remain in port at (name of port)

for the period (s) 1992 (enter date(s)),

a total of day(s).

I understand that if the above-named vessel fails to remain in port during any part of any day specified above—

that day will not count towards the total number of days for which the vessel must remain in port under the above Regulations; and

unless a variation notice has been given in accordance with the above Regulations, the master, owner or charterer (if any) may be guilty of an offence under regulation 6(1) of those Regulations.

*delete as appropriate

..... Signed

..... (time)

..... (date)

PART II

FORM OF VARIATION NOTICE THE SEA FISHING (DAYS IN PORT) REGULATIONS 1992 VARIATION NOTICE

I
(name and address), the master*/owner*/charterer*/person authorised to give this notice*, hereby give notice that the fishing vessel

..... (name of vessel)

..... (Reg. No.)

will NOT now remain in port on 1992 (enter date(s))
as previously notified.

*delete as appropriate

..... Signed

..... (time)

..... (date)

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the enforcement throughout the United Kingdom of Article 13(1) of Council Regulation (EEC) No. 3882/91 fixing for certain fish stocks and groups of fish stocks, the total allowable catches for 1992 and certain conditions under which they may be fished (OJ No. L367, 31.12.91, p.1).

These Regulations apply to fishing vessels registered in the United Kingdom whose overall length exceeds 10 metres and whose landings of cod and haddock from Areas IV (North Sea) and VI (West of Scotland) during the period 1st January 1989 to 30th June 1990 exceeded 100 tonnes and 40% by weight of their total landings. They also apply to vessels that replace such vessels (regulation 3 and Schedule 1).

Vessels are required to stay in port for one or more periods totalling 135 days during the period from 1st February 1992 to 31st December 1992. No period shall count for the purposes of these Regulations unless it consists of at least one day, and it is notified in accordance with regulation 5 (regulation 4(3)). Notice must be given at least 9 hours in advance of the commencement of a period in port by the master, owner or charterer of the vessel or by a person authorised by him or them (regulation 5(1)). The notice must be in writing in the form set out in Part I of Schedule 3 (regulation 5(2)). Notice of any variation must be in the form set out in Part II of Schedule 3 (regulation 5(5)). Where the period is to be spent in a non-UK port certain particulars must be furnished to a British sea-fishery officer (regulation 4(5) and Schedule 2). After the commencement of a notified period a vessel must remain in port until expiry of that period or of a revised notified period (regulation 4(4)). Offences and associated penalties are created by regulations 6 and 7 respectively and regulation 9 confers powers of enforcement on British sea-fishery officers.