
STATUTORY INSTRUMENTS

2006 No. 1327

**The Sea Fishing (Restriction on Days at Sea)
(Monitoring, Inspection and Surveillance) Order 2006**

PART 2

Days at Sea

Establishment of management periods for English boats

4.—(1) To establish a management period a person in charge of an English fishing boat shall provide notification of the following to the Secretary of State—

- (a) a period of a number of consecutive calendar months; and
- (b) the regulated gear group or groups that will be used during that period,

and the management period is established on that notification in respect of that period and that gear, except where point 6.2 of the Cod Annex, or point 5.2 of the Sole Annex applies, in which case the management period is established only on receipt of confirmation in writing from the Secretary of State.

(2) The obligation to provide notification in paragraph (1) constitutes an obligation to serve the required information on the Secretary of State by post.

Deeming provisions in respect of certain management periods notified in the first third 2006

5.—(1) Where a person in charge of an English fishing boat has, during the first third 2006, notified to the Secretary of State in writing a management period within the meaning of point 9 of the Cod Annex or point 8 of the Sole Annex, which includes any period before this Order comes into force and continues beyond that date—

- (a) that notification shall be deemed effective for the purposes of article 4(1);
- (b) a management period shall be deemed to be established in accordance with this Order; and
- (c) the requirement in article 10(2) shall not apply.

(2) Any management period deemed established under paragraph (1) shall be treated as beginning on the date that this Order comes into force and ending on the date notified, and the allocation of days shall be calculated and adjusted accordingly.

Offences in relation to management periods

6.—(1) A person in charge of an English or Welsh fishing boat is guilty of an offence if, at any time during the 2006 regulated period, the boat is absent from port in the Cod Recovery Zone, Sole Recovery Zone or a combination of both zones, carrying regulated gear unless a management period—

- (a) established in accordance with article 4;
- (b) deemed to be established under article 5; or

(c) established under an equivalent provision,
exists in respect of that boat and that regulated gear at that time.

(2) Paragraph (1) does not apply to—

- (a) a person in charge of an English fishing boat in respect of which point 20 of the Cod Annex or point 15 of the Sole Annex applies provided that he complies with the restrictions in those points;
- (b) a person in charge of an English fishing boat which is permitted by point 16 of the Cod Annex or point 21 of the Sole Annex to transit the Cod Recovery Zone or the Sole Recovery Zone, provided that he complies with the obligations in those points; or
- (c) a person in charge of a Welsh fishing boat where no equivalent provision has been enacted in respect of Welsh fishing boats.

(3) Where, in respect of the restrictions or obligations referred to in paragraph (2)(a) and (b), there is an obligation to supply information, the Secretary of State is the person to whom the information is to be supplied.

Allocation of days for fishing in the Cod Recovery Zone and Sole Recovery Zone

7.—(1) In this article—

- (a) “allocation of days” means the number of days during which an English fishing boat is permitted to be out of port in the Cod Recovery Zone, Sole Recovery Zone or a combination of both zones, carrying on board notified gear, during a management period established in accordance with this Order;
- (b) “applicable row” means the row in the table in which a reference to the notified gear appears in the first column where the second column of the row is empty;
- (c) “the table” means Table 1 of the Cod Annex; and
- (d) wherever a calculation results in a total containing a fraction, the figure shall be rounded down to the nearest whole number.

(2) The allocation of days for an English fishing boat shall be calculated in accordance with this article subject to adjustment in accordance with articles 9, 10 or 12.

(3) If the boat is absent from port but is present in only one of the Cod Recovery Zone areas during a management period, the allocation of days is as follows—

- (a) if there is one notified gear group, the figure in the column of the applicable row of the table relating to the relevant area divided by twelve and multiplied by the number of calendar months in the management period;
- (b) if there are multiple notified gear groups, the total of the allocations that would apply in respect of each group calculated in accordance with sub-paragraph (a), divided by the number of notified gear groups.

(4) If the boat is present in more than one of the areas in the Cod Recovery Zone but not in the Sole Recovery Zone during the management period, the allocation of days is the highest of the allocations for each area calculated in accordance with paragraph (3).

(5) If the boat is present in both the Cod Recovery Zone and the Sole Recovery Zone or in the Sole Recovery Zone only during the management period, the allocation of days is eighteen multiplied by the number of calendar months in the management period.

Allocation of days – pair trawling

8. Where on any day during a management period any regulated gear is at any time affixed to a fishing boat which is absent from port and present in the Cod Recovery Zone (whether or not it is

carried by that fishing boat) at the same time as being affixed to another fishing boat, that day shall be counted as a day in which each boat is present in the zone for the purposes of this Order.

Adjustment of the allocation of days

9.—(1) The Secretary of State may adjust the allocation of days that applies in respect of an English fishing boat by adding further days —

- (a) in accordance with point 7 or 8 of the Cod Annex or point 6 or 7 of the Sole Annex; or
- (b) where days have been allocated to the United Kingdom in accordance with point 10 or 11 of the Cod Annex or point 9 or 10 of the Sole Annex.

(2) Where, in respect of previous management periods established in respect of an English fishing boat, the number of days in any allocation of days calculated in accordance with article 7 would have resulted in fractions of days had paragraph (1)(d) of that article not required the rounding down of fractions, the Secretary of State may add any whole days amounting from the sum of any such fractions.

(3) Where an English fishing boat is absent from port carrying notified gear in the Cod Recovery Zone or Sole Recovery Zone or a combination of both zones in excess of its allocation of days, the Secretary of State shall deduct from any subsequent allocation of days, the number of days during which the boat was so absent from port in excess of the relevant allocation.

(4) Where a person in charge of an English fishing boat contravenes article 6(1), the Secretary of State shall deduct from any subsequent allocation of days the number of days during which the boat was absent from port carrying regulated gear without having established a management period in respect of that period and that gear.

(5) Any adjustment made under this article takes effect when it is served by post on a person in charge of the fishing boat by the Secretary of State.

Fishing in the first third 2006, notification requirement and adjustment of allocation of days

10.—(1) This article applies where, in the first third 2006, an English fishing boat was—

- (a) absent from port and present in the Cod Recovery Zone, Sole Recovery Zone or a combination of both zones; and
- (b) carrying regulated gear,

for more than the number of days that would have been allocated in respect of the boat had this Order been in force in respect of that period and had a person in charge notified a four month management period in respect of the first third 2006.

(2) A person in charge of the boat shall notify to the Secretary of State, within 28 days of the date that this Order comes into force, the number of days during which the boat was absent from port and present in the Cod Recovery Zone, Sole Recovery Sole or combination of both zones carrying regulated gear during the first third 2006.

(3) The Secretary of State shall adjust the allocation of days that applies in respect of the boat to reflect those additional days present in the zones during the first third 2006.

(4) The person in charge of the boat is guilty of an offence if there is a failure to comply with paragraph (2).

(5) The obligation to notify information in paragraph (2) constitutes an obligation to serve the required information on the Secretary of State by post.

Offences in relation to allocation of days and other restrictions on presence in the Cod Recovery Zone and Sole Recovery Zone

11.—(1) In this article “day” means a continuous period of twenty four hours beginning from the moment a boat enters either the Cod Recovery Zone or the Sole Recovery Zone.

(2) Any subsequent re-entry into the Cod Recovery Zone or Sole Recovery Zone during that period shall not trigger a new day.

(3) Where the boat is present in either the Cod Recovery Zone or the Sole Recovery Zone at the end of a day, the next day shall begin at the moment the previous day expires and so on for any contiguous twenty-four hour periods.

(4) Any time spent within the Cod Recovery Zone, Sole Recovery Zone or a combination of both zones during a day is to be counted as a whole day for the purpose of calculating the number of days spent absent from port and present in the Cod Recovery Zone, Sole Recovery Zone or a combination of both zones.

(5) A person in charge of an English or Welsh fishing boat is guilty of an offence if the boat is absent from port carrying regulated gear in the Cod Recovery Zone, Sole Recovery Zone or a combination of both zones for more days than—

- (a) its allocation of days under this Order; or
- (b) the number of days that it is permitted to be out of port carrying on board regulated gear during a management period under an equivalent provision.

(6) Notwithstanding an allocation of days under article 7(3) or an equivalent provision, a person in charge of an English or Welsh fishing boat is guilty of an offence if there are multiple notified gear groups and, a gear group is deployed from the boat during more days than the number of days that would apply in respect of that gear group alone for that management period, calculated respectively either in accordance with article 7(3)(a) or an equivalent provision.

(7) Notwithstanding the allocation of days under article 7(4) or an equivalent provision, a person in charge of an English or Welsh fishing boat that is present in more than one of the areas in the Cod Recovery Zone during a management period established in accordance with this Order or an equivalent provision, is guilty of an offence if—

- (i) the boat is absent from port in any one of the areas in the Cod Recovery Zone during more days than the number of days that would apply in respect of presence in that area alone for that management period, calculated in accordance with article 7(3) or an equivalent provision; or
- (ii) there are multiple notified gear groups and a gear group is deployed from the boat during more days than the number of days that would apply in respect of that gear group alone for that management period, calculated in accordance with article 7(3)(a) or an equivalent provision.

(8) Notwithstanding the allocation of days under article 7(5) or an equivalent provision, a person in charge of an English or Welsh fishing boat that is present in both the Cod Recovery Zone and the Sole Recovery Zone during a management period established in accordance with this Order or an equivalent provision, is guilty of an offence if—

- (i) the boat is absent from port in any one of the areas in the Cod Recovery Zone during more days than the number of days that would apply in respect of presence in that area alone, for that management period, calculated in accordance with article 7(4) or an equivalent provision; or
- (ii) there are multiple notified gear groups and a gear group is deployed from the boat during more days than the number of days that would apply in respect of that gear group alone, for that management period, calculated in accordance with article 7(3)(a), or an equivalent provision.

Transfer of days

12.—(1) In this article—

- (a) “the 1993 Regulations” means the Merchant Shipping (Registration of Ships) Regulations 1993(1);
- (b) “British fishing boat” means—
 - (i) an English fishing boat; or
 - (ii) a fishing boat registered under the Merchant Shipping Act 1995 as to be treated as belonging to a Scottish, Northern Irish or Welsh port;
- (c) “foreign fishing boat” means a fishing boat covered by the Sole Annex or the Cod Annex which is not a British fishing boat.

(2) Unused days within an allocation of days established in accordance with this Order may be transferred from an allocation relating to one English fishing boat (“the donor”) to an allocation relating to another British fishing boat (“the recipient”) in the circumstances permitted by, and subject to the conditions in point 14 of the Cod Annex and point 12 of the Sole Annex.

(3) A transfer under paragraph (2) is only effective if a written notification of transfer containing the following particulars, signed by the donor’s owner, is sent to the Secretary of State before the end of the management period in relation to which the transfer is to take effect—

- (a) in relation to the donor and recipient—
 - (i) the registered name within the meaning of regulation 30 of the 1993 Regulations; and
 - (ii) the port number and official number within the meaning of regulation 31 of the 1993 Regulations;
- (b) the calendar months in the management period and the notified gear to which the transfer relates;
- (c) the number of days transferred to each recipient;
- (d) a declaration to the effect that the donor is entitled to make the transfer; and
- (e) the date of signature.

(4) On written application from a person in charge of an English fishing boat, the Secretary of State may transfer unused days that apply in respect of that boat to a foreign fishing boat subject to the conditions in point 15 of the Cod Annex or point 13 of the Sole Annex and any such transfer takes effect when notice of it is served by post on the person in charge of the fishing boat by the Secretary of State.

Offence in relation to transfers of days

13. A person is guilty of an offence if he makes a false declaration in a notification made in respect of a transfer pursuant to article 12.

Offences in relation to fishing gears

14.—(1) A person in charge of a fishing boat in respect of which point 17 or 18 of the Cod Annex applies, is guilty of an offence if he fails to comply with the obligations imposed by either of those points.

(2) Where, in respect of the obligations referred to in paragraph (1), there is an obligation to supply information, the Secretary of State is the person to whom the information is to be supplied.

(1) [S.I. 1993/3138](#).

Maintenance of logbooks requirements and related offence

15.—(1) A person in charge of a fishing boat is guilty of an offence if he fails to comply with the requirements in this article.

(2) Where a fishing boat is absent from port carrying regulated gear in the Cod Recovery Zone, Sole Recovery Zone or both zones on any day where the logbook requirements in article 6 of Regulation 2847/93 read with Regulation 2807/83 do not apply, a logbook entry stating the gear carried shall be made as though that article did apply.

(3) The logbook entry referred to in paragraph (2)—

(a) shall be made—

(i) before midnight in respect of each day;

(ii) at the time of arrival in port;

(iii) at the time of any inspection at sea; and

(iv) at the time that an effort report is made as required by Article 19e.3 of Regulation 2847/93; and

(b) shall be handed over and dispatched as if landing were made at the time of the fishing boat's arrival in port.

(4) In this article, “day” has the meaning given in article 11.