
STATUTORY INSTRUMENTS

2005 No. 393

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

PART 1

PRELIMINARY

Title, commencement, extent and application

1.—(1) This Order may be cited as the Sea Fishing (Restriction on Days at Sea) Order 2005 and shall come into force on 28th February 2005.

(2) Subject to paragraph (3) this Order shall not form part of the law of Scotland or Northern Ireland or apply in Wales.

(3) Nothing in paragraph (2) shall be treated as prejudicing the effect of section 30(2A) of the Fisheries Act 1981 in relation to, or for purposes incidental to, any provision which creates an offence.

(4) This Order does not apply to any fishing boat which is less than 10 metres in length as set out in point 1 of Annex IVa and point 1 of Annex IVc.

Interpretation

2.—(1) In this Order—

“Annex IVa” means Annex IVa to Council Regulation (EC) No. 27/2005 fixing for 2005 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required⁽¹⁾;

“Annex IVc” means Annex IVc to Council Regulation (EC) No. 27/2005 fixing for 2005 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required;

“the Annex IV year” means the period commencing with the coming into force of this Order and ending with 31st December 2005, and references to things done during the Annex IV year cover things done at any time within it;

“base unit” has the same meaning as in article 3 in relation to cod and article 13 in relation to sole;

“British fishing boat” means a fishing boat which is registered in the United Kingdom under Part II of the Merchant Shipping Act 1995⁽²⁾ or is owned wholly by persons qualified to own British ships for the purposes of that Part of that Act;

“cod recovery zone” means the geographical area defined in point 2 of Annex IVa;

(1) OJ No. L12, 14.1.2005, p.1.

(2) 1995 c. 21.

“day” has the meaning set out in point 3(b) of Annex IVa and point 3(b) of Annex IVc;

“English fishing boat” means a relevant British fishing boat other than a Welsh fishing boat;

“equivalent provision” means any provision, in any other Order made for the purposes of implementing Annex IVa or IVc or Regulation 423/04 in relation to any part of the United Kingdom, which has equivalent effect to a provision in this Order, proceedings in respect of which may be taken in England by virtue of section 30(2A) of the Fisheries Act 1981;

“the first February stage” means the period starting with 1st February 2005 and ending immediately before the date on which this Order comes into force, and “the second February stage” means the remainder of February 2005;

“fishing boat” includes any vessel covered by Annex IVa or Annex IVc;

“foreign fishing boat” means a fishing boat covered by Annex IVa or Annex IVc which is not a British fishing boat;

“management period” means a period established as provided in article 3 or 13;

“Northern Ireland fishing boat” means a fishing boat which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Northern Ireland as the port to which the boat is to be treated as belonging;

“Northern Ireland zone” has the same meaning as in the Northern Ireland Act 1998(3);

“person in charge”, in relation to a fishing boat, means the owner, master or charterer, if any, of the fishing boat or the agent of any of them;

“regulated gear” means any gear within a grouping of fishing gears set out in point 4 of Annex IVa in relation to cod and point 4 of Annex IVc in relation to sole;

“Regulation 2807/83” means Commission Regulation (EEC) No. 2807/83 laying down detailed rules for recording information on Member States' catches of fish, as amended at the date this Order is made(4);

“Regulation 2847/93” means Council Regulation (EEC) No. 2847/93 establishing a control system applicable to the Common Fisheries Policy, as amended at the date this Order is made(5);

“Regulation 423/04” means Council Regulation (EC) No 423/2004 establishing measures for the recovery of cod stocks(6);

“relevant British fishing boat” means a British fishing boat which is neither a Scottish fishing boat nor a Northern Ireland fishing boat;

“Scottish fishing boat” means a British fishing boat which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Scotland as the port to which the boat is to be treated as belonging;

“Scottish zone” has the same meaning as in the Scotland Act 1998(7);

“sole recovery zone” means the geographical area defined in point 2 to Annex IVc.

“unused days” in relation to any fishing boat, grouping of regulated gear and management period, means in relation to cod the number of days available to the boat carrying the gear in the cod recovery zone during the period before its allocation of days under article 4 is exhausted

(3) 1998 c. 47.

(4) OJ No. L276, 10.10.1983, p. 1; the last amending instrument is Commission Regulation (EC) No 1965/2001 (OJ No. L268, 9.10.2001, p. 28).

(5) OJ No. L261, 20.10.1993, p. 1; the last amending instrument is Council Regulation (EC) No 806/2003 (OJ No. L122, 16.5.2003, p. 1).

(6) OJ No L70, 9.3.2004, p.8.

(7) 1998 c. 4; see section 126 and the Scottish Adjacent Waters Boundaries Order (S.I.1999/1126).

and in relation to sole the number of days available to the boat carrying the gear in the sole recovery zone during the period before its allocation of days under article 14 is exhausted;

“Wales” has the same meaning as in the Government of Wales Act 1998⁽⁸⁾; and

“Welsh fishing boat” means a British fishing boat which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Wales as the port to which the boat is to be treated as belonging.

(2) In this Order—

(a) the term “within relevant British fishery limits” does not include the Scottish zone or the Northern Ireland zone;

(b) “logbook” means the same as in Article 6 of Regulation 2847/93 as amplified by Regulation 2807/83, and, for the purposes of any provision other than article 12 and 22, any reference to a document or logbook includes any—

(i) map, plan, graph or drawing;

(ii) photograph;

(iii) data, howsoever reproduced, communicated via a satellite-based vessel monitoring system established under Article 3.1 of Regulation 2847/93;

(iv) disk, tape, sound track or other device in which sounds or other data (not being visual images) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced; and

(v) film (including microfilm), negative, tape, disk or other device in which one or more visual images are recorded so as to be capable of being reproduced.

(3) Any information provided to any authority for the purposes of any provision of this Order shall be treated as also provided for the purposes of any equivalent provision.

(4) Expressions in this Order which are not defined in paragraph (1) above and which appear in Annex IVa or Annex IVc of Council Regulation (EC) No 27/2005 or Regulation 423/04 have the same meaning in this Order as they respectively do in those Regulations.

(8) 1998 c. 38; see section 155.