SCOTTISH STATUTORY INSTRUMENTS

2003 No. 300

SEA FISHERIES

The Sea Fishing (Restriction on Days at Sea) (Scotland) Amendment (No. 2) Order 2003

Made - - - -	*5th June 2003*
Laid before the Scottish Parliament - - - -	*6th June 2003*
Coming into force - -	*27th June 2003*

The Scottish Ministers, in exercise of the powers conferred by section 30(2) of the Fisheries Act 1981(**1**) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Sea Fishing (Restriction on Days at Sea) (Scotland) Amendment (No. 2) Order 2003 and shall come into force on 27th June 2003.

Amendment of the Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2003

2.—(1) The Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2003(**2**) is amended as follows.

(2) In article 2(1) (interpretation)–

(a) in the definition of "Annex XVII" at the end insert "as amended by Council Regulation (EC) No. 671/2003 of 10th April 2003(**3**)"; and

(b) after the definition of "British fishing boat" insert–

> ""the Commission Decision" means Commission Decision 2003/185/EC on the allocation of additional days absent from port to Member States in accordance with Annex XVII of Council Regulation (EC) No. 2341/2002(**4**);".

(**1**) 1981 c. 29; relevant modifications are contained in the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 (S.I.1999/1748), article 5 and the Scotland Act 1998 (Modifications of Functions) Order 1999 (S.I. 1999/1756), articles 3, 5 and 6. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). See section 30(3) for a definition of "the Ministers". Section 30(2) has effect in relation to Scotland as modified by section 30(5). Section 30(5) was inserted by the Scotland Act 1999 (Consequential Modifications) (No. 2) Order (S.I. 1999/1820), Schedule 2, paragraph 68.

(**2**) S.S.I. 2003/56, amended by S.S.I. 2003/66.

(**3**) O.J. No. L 97, 15.4.03, p.11.

(**4**) O.J. No. L 71, 15.3.03, p.28.

(3) In article 3 (absence from port)–

(a) for paragraph (2) substitute–

"(2) In this Order, the person in charge of a relevant British fishing boat is its owner, master or charterer (if any), and the number of days permitted to such a boat for any period identified below is the basic number, that is to say–

(a) in application of paragraph 11(a) (aggregation of periods) of Annex XVII, for the period beginning on the date of the coming into force of the Sea Fishing (Restriction on Days at Sea) (Scotland) Amendment (No. 2) Order 2003 ("the No. 2 Order") and ending on 31st July 2003, the greater of–

(i) the basic number that would have applied in respect of the period from 1st June 2003 to 31st July 2003 in accordance with this Order had the No. 2 Order not been made; or

(ii) the basic number that would have applied in respect of the period from 1st June 2003 to 31st July 2003 in accordance with this Order had–

(A) the No. 2 Order come into force on 1st June 2003; and

(B) sub-paragraph (b) below applied to that period,

less the number of days on which the boat, conform to this Order, was absent from port in the period beginning on 1st June 2003 and ending on the day before the date of the coming into force of the No. 2 Order;

(b) in application of paragraph 11(a) (aggregation of periods) of Annex XVII, for each successive period of two calendar months, the first of which starts on 1st August 2003 and the last of which ends on 30th November 2003, whichever is the greater of–

(i) double the number indicated in paragraph 6(a) of Annex XVII; or

(ii) any other number of days granted in writing in respect of such a boat by the Scottish Ministers in accordance with paragraph 6(e) of Annex XVII,

as read with paragraph 5(b), 5(c), 9 and 13 of Annex XVII, and applicable to the boat in accordance with any fishing gear it carries; and

(c) for December 2003, whichever is the greater of–

(i) the number indicated in paragraph 6(a) of Annex XVII; and

(ii) any other number of days granted in writing in respect of such a boat by the Scottish Ministers in accordance with paragraph 6(e) of Annex XVII,

as read with paragraph 5(b), 5(c), 9 and 13 of Annex XVII, and applicable to the boat in accordance with any fishing gear it carries,

cumulatively adjusted in accordance with paragraphs (3) to (7) and subject to paragraph (8).";

(b) for paragraph (3) substitute –

"(3) In relation to any relevant British fishing boat and in respect of the type of fishing gear it may carry, for each calendar month there is, subject to paragraph 6(e) of Annex XVII, added to the basic number the maximum number of additional days (if any) that the United Kingdom may allocate in accordance with the Commission Decision.";

(c) after paragraph (5) add–