STATUTORY RULES OF NORTHERN IRELAND

2007 No. 407

FISHERIES

The Sea Fishing (Restriction on Days at Sea) Order (Northern Ireland) 2007

Made - - - -	*18th September 2007*
Coming into operation	*31st October 2007*

The Department of Agriculture and Rural Development, makes the following Order in exercise of the powers conferred by section 30(2) of the Fisheries Act 1981(**1**), and now vested in it(**2**).

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Sea Fishing (Restriction on Days at Sea) Order (Northern Ireland) 2007; and shall come into operation on 31 October 2007.

Interpretation

2.—(1) In this Order—

"allocation of days" has the meaning given in Article 6;

"the Cod Annex" means Annex IIA to the Council Regulation;

"the Cod Recovery Zone" means the geographical area set out in point 2 of the Cod Annex and reference to an area within the Cod Recovery Zone is a reference to one of the areas listed in that point;

"the Council Regulation" means Council Regulation (EC) No 41/2007 fixing for 2007 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(**3**);

(**1**) 1981 c.29.
(**2**) Sea Fisheries Order (Northern Ireland) 2002 (S.I. 2002/790 Article 3 (2)) and Schedule 2.
(**3**) OJ No L 15, 20.1.2007

"the Department" means the Department of Agriculture and Rural Development;

"the first period of 2007" means the period commencing on 1st February 2007 and ending immediately before this Order comes into operation;

"equivalent provision" means any provision, in any other Order made for the purposes of implementing the Cod Annex or the Sole Annex, 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 Northern Ireland by virtue of section 30(2A) of the Fisheries Act 1981(**4**);

"fishing boat" means any vessel to which the Cod Annex or the Sole Annex applies;

"logbook" means the same as in Article 6 of Regulation 2847/93 read with Regulation 2807/83;

"management period" means a period established under Article 3 or deemed to be established under Article 4(1), in respect of which an allocation of days applies;

"notified gear" means the regulated gear group or groups notified to the Department of Agriculture and Rural Development under Article 3(1);

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

"regulated gear" means fishing gear referred to in point 4 of the Cod Annex or point 3 of the Sole Annex, and references to gear groups are references to gear groups listed in those points;

"Regulation 2807/83" means Commission Regulation (EEC) No 2807/83 laying down detailed rules for recording information on Member States' catches of fish(**5**);

"Regulation 2847/93" means Council Regulation (EC) No 2847/93 establishing a control system applicable to the Common Fisheries Policy(**6**);

"the Sole Annex" means Annex IIC to the Council Regulation;

"the Sole Recovery Zone" means the area referred to in point 1 of the Sole Annex; and

(2) In this Order—

(a) "Northern Ireland fishing boat" means a boat registered under the Merchant Shipping Act 1995(**7**) as to be treated as belonging to a Northern Ireland port; or

(b) which is owned wholly by persons qualified to own British ships for the purposes of Part II of that Act.

(3) Expressions in this Order which are not defined in this Order and which appear in the Cod Annex or the Sole Annex have the same meaning in this Order as they have in those Annexes.

(4) Any information notified for the purpose of any provision of this Order must be treated as notified for the purposes of any equivalent provision.

(5) The Interpretation Act (Northern Ireland) 1954(**8**) except section 20(2) and (3) shall apply to this Order as it applies to an Act of the Assembly

(**4**) Section 30(2A) was inserted by the Scotland Act 1998 (Consequential Modifications)(No.2) Order 1999, S.I. 1999/1820.
(**5**) OJ No L 276, 10.10.83, p.1, as amended by Commission Regulation (EEC) No 473/89 of 24 February 1989, Commission Regulation (EEC) No 2945/95 of 20 December 1995, Commission Regulation (EC) No 395/98 of 19 February 1998, Commission Regulation (EC) No 1488/98 of 13 July 1998, Commission Regulation (EC) No 2737/1999 of 21 December 1999, Commission Regulation (EC) No 1965/2001 of 8 October 2001 and Commission Regulation (EC) No 1804/20005 of 3 November 2005.
(**6**) OJ No L 261, 20.10.93, p1, as amended by Council Regulation (EC) No 2870/95, Council Decision 95/528/EC of 5 December 1995, Council Regulation (EC) No 2489/96 of 20 December 1996, Council Regulation (EC) No 686/97 of 14 April 1997, Council Regulation (EC) No 2205/97 of 30 October 1997, Council Regulation (EC) No 2635/97 of 18 December 1997, Council Regulation (EC) No 2846/98 of 17 December 1998, Council Regulation (EC) No 806/2003 of 14 April 2003 and Commission Regulation (EC) 768/2005 of 26 April 2005.
(**7**) 1995 c.21.
(**8**) 1954 c.33(NI)

PART 2

Days at Sea

Establishment of management periods for Northern Ireland fishing boats

3.—(1) To establish a management period a person in charge of a Northern Ireland fishing boat must provide notification of the following to the Department—

(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, subject to paragraph (2), the management period is established on that notification in respect of that period and the regulated gear group or groups.

(2) Where point 5.2 of the Cod Annex or point 4.2 of the Sole Annex applies, the management period is established only on receipt of confirmation in writing from the Department.

(3) The obligation to provide notification in paragraph (1) constitutes an obligation to serve the required information on the Department by post.

Deeming provisions in respect of certain management periods notified in the first period of 2007

4.—(1) Where a person in charge of a Northern Ireland fishing boat has, during the first period of 2007, notified to the Department 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 is deemed effective for the purposes of Article 3(1);

(b) a management period is deemed to be established in accordance with this Order; and

(c) Article 9(2) does not apply.

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

Offences in relation to management periods

5.—(1) Subject to paragraph (2), a person in charge of a Northern Ireland fishing boat is guilty of an offence if, at any time during the 2007 regulated period, the fishing boat is absent from port and present in the Cod Recovery Zone, the Sole Recovery Zone or a combination of both zones carrying regulated gear unless a management period—

(a) established in accordance with Article 3;

(b) deemed to be established under Article 4; or

(c) established under an equivalent provision,

exists in respect of that fishing boat and that regulated gear at that time.

(2) Paragraph (1) does not apply to—

(a) a person in charge of a Northern Ireland fishing boat in respect of which point 20 of the Cod Annex or point 14 of the Sole Annex applies provided that he complies with the restrictions in those points; or

(b) a person in charge of a Northern Ireland fishing boat which is permitted by point 21 of the Cod Annex or point 15 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.

(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 Department is the person to whom the information must be supplied.

(4) In this Article, "the 2007 regulated period" means the period commencing on the day this Order comes into operation and ending on 31st January 2008.

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

6.—(1) In this Article—

(a) "allocation of days" means the number of days during which a Northern Ireland 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 must be rounded down to the nearest whole number.

(2) The allocation of days for a Northern Ireland fishing boat must be calculated in accordance with this Article subject to adjustment in accordance with Article 8, 9 or 11.

(3) If the Northern Ireland fishing 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 group of notified gear, 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 two or more groups of notified gear, 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 such groups.

(4) If the Northern Ireland fishing 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 Northern Ireland fishing 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 16 multiplied by the number of calendar months in the management period.

Allocation of days – pair trawling

7. 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 must be counted as a day in which each fishing boat is present in the zone for the purposes of this Order.

Adjustment of the allocation of days

8.—(1) The Department may adjust the allocation of days that applies in respect of a Northern Ireland 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 a Northern Ireland fishing boat, the number of days in any allocation of days calculated in accordance with Article 6 would have resulted in fractions of days had paragraph (1)(d) of that Article not required the rounding down of fractions, the Department may add any whole days amounting from the sum of any such fractions.

(3) Where a Northern Ireland boat is absent from port carrying notified gear in the Cod Recovery Zone or the Sole Recovery Zone or a combination of both zones in excess of its allocation of days, the Department must 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 a Northern Ireland fishing boat contravenes Article 5(1), the Department must 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 Department.

Fishing in the first period of 2007, notification requirement and adjustment of allocation of days

9.—(1) This Article applies where, in the first period of 2007, a Northern Ireland fishing boat was—

(a) absent from port and present in the Cod Recovery Zone, the 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 fishing boat had this Order been in operation in respect of that period and had a person in charge notified a nine month management period in respect of the first period of 2007.

(2) A person in charge of the boat must notify to the Department, within 28 days of the date that this Order comes into operation, the number of days during which the boat was absent from port and present in the Cod Recovery Zone, the Sole Recovery Zone or a combination of both zones carrying regulated gear during the first period of 2007.

(3) The Department must adjust the allocation of days that applies in respect of the boat to reflect those additional days present in the zones during the first period of 2007.

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

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

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

10.—(1) In this Article, "day" means a continuous period of 24 hours which begins the moment a fishing 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 does not trigger a new day.

(3) Where the fishing boat in question is present in either the Cod Recovery Zone or the Sole Recovery Zone at the end of a day, the next day begins at the moment the previous day expires and so on for any contiguous 24–hour periods.

(4) Any time which a fishing boat spends within the Cod Recovery Zone, the Sole Recovery Zone or a combination of both zones during a day is to be counted as a whole day for the purpose