
EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the enforcement in Scotland of the provisions of Annex IIa and IIc (“the Annexes”) to Council Regulation 51/2006 (O.J. No. L 16, 20.1.06, p.1) fixing for certain fish stocks and groups of fish stocks the fishing opportunities in Community waters for 2006 and the monitoring, inspection and surveillance provisions in Council Regulation 423/2004.

The Order contains provisions relating to the determination for certain fishing boats of the management periods referred to in paragraphs 9.1 and 8.1 of the Annexes (articles 3 and 14); and the calculation of the number of days on which a vessel may be absent from port for the purposes of the Annexes (articles 4 and 15). It contains provisions relating to the deduction of days by the Scottish Ministers (articles 4(10) and 15(10)) and the procedure to be followed in doing so (articles 5 and 16).

Provision is made as to the use of regulated gears and associated offences (articles 6 and 17), and the transfer of days from one boat to another (articles 7 and 18).

The Order creates offences in respect of contraventions by certain persons of other provisions of Regulation 423/2004 and Annex IIc concerning mixing of species, transportation of cod and sole, the landing of cod and sole where prior notification is required, the landing of cod at a designated port, the recording of information on catches of fish and the weighing of sole (articles 8 to 12 and 19 to 23). By virtue of article 11(4), the ports named in the Schedule to the Order are designated for the purposes of Article 12 of Regulation 423/2004.

Provision is made for the maintenance of a logbook (article 24), and for the submission of the relevant part of the logbook at a designated port (article 25).

The Order extends the application of the Sea Fishing (Enforcement of Community Control Measures) (Scotland) Order 2000 (S.S.I. 2000/7) in pursuance of Regulation 423/2004 (O.J. No. L 70, 9.3.04, p.8) and Annex IIc (article 26).

The Order provides for penalties (article 27) and for the recovery of fines imposed in respect of a relevant offence as defined in the Order (article 28).

For the purposes of enforcing provisions of the Annexes and Council Regulation 423/2004 the Order confers on British sea-fishery officers the powers to enter premises, to go on board fishing boats, to stop and search vehicles transporting fish, to examine fish, to require the production of documents, to search for and seize documents, to take a boat to the nearest convenient port and to seize fish and fishing gear (articles 29 to 31).

Provision is made for the protection of British sea-fishery officers in the exercise of their powers under the Order (article 32) and for an offence of obstructing such officers (article 33).

Provision is made in relation to offences committed by a body corporate, a partnership or an unincorporated association (article 34) and in relation to the admissibility in evidence of logbooks and other documents (article 35).

The Order revokes the Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2005 (S.I.2005/90) (article 36).

A Regulatory Impact Assessment in the relation to this Order has been prepared and placed in SPICE. Copies can be obtained from the Scottish Executive Environment and Rural Affairs Department, Robb’s Loan, Edinburgh, EH14 1TY.