
STATUTORY INSTRUMENTS

1992 No. 670

SEA FISHERIES
COMMUNITY RESTRICTIONS

The Sea Fishing (Days in Port) (Amendment) Regulations 1992

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| <i>Made</i> | - - - - | <i>11th March 1992</i> |
| <i>Laid before Parliament</i> | | <i>11th March 1992</i> |
| <i>Coming into force</i> | - - | <i>12th March 1992</i> |

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated(1) for the purposes of section 2(2) of the European Communities Act 1972(2) in relation to the common agricultural policy of the European Economic Community, acting jointly in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Title, commencement and interpretation

1.—(1) These Regulations may be cited as the Sea Fishing (Days in Port) (Amendment) Regulations 1992 and shall come into force on 12th March 1992.

(2) In these Regulations “the principal Regulations” means the Sea Fishing (Days in Port) Regulations 1992(3).

Amendment of the principal Regulations

2. The principal Regulations are hereby amended in accordance with regulations 3 to 7 below.

3. In regulation 2(1) thereof (interpretation)—

(a) there shall be inserted after the words “In these Regulations—” the following definition—

““the appropriate Minister” means—

(i) in relation to England, the Minister of Agriculture, Fisheries and Food,

(1) S.I.1972/1811.

(2) 1972 c. 68; section 2 is subject to Schedule 2 to that Act and is to be read, as regards England and Wales, with sections 37, 40 and 46 of the Criminal Justice Act 1982 (c. 48), section 52(4) of the Criminal Justice Act 1988 (c. 33) and S.I. 1984/447, as regards Scotland, with sections 289F and 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21) as inserted by section 54 of the Criminal Justice Act 1982, S.I. 1984/526 and section 66 of the Criminal Justice (Scotland) Act 1987 (c. 41) and, as regards Northern Ireland, with S.I. 1984/703 (N.I.3) and S.R.(N.I.) 1984 No. 253.

(3) S.I. 1992/130.

- (ii) in relation to Scotland or Wales, the Secretary of State,
 - (iii) in relation to Northern Ireland, the Department of Agriculture for Northern Ireland;”;
- (b) there shall be inserted after the definition of “British sea-fishery officer” the following definition—
- ““the Commission Decision” means the Commission Decision of 24th February 1992(4) exempting the United Kingdom from the obligation contained in Article 13 of Council Regulation (EEC) No. 3882/91(5);”.
4. For regulation 4 thereof (management of days in port) there shall be substituted the following regulations—

“4.—(1) Unless exempted by the appropriate Minister in accordance with either paragraph (4) or paragraph (5) below, a vessel to which these Regulations apply shall, subject to paragraph (8) below, remain in port for one or more periods totalling 135 days during the period 1st February 1992 to 31st December 1992.

(2) Where exempted by the appropriate Minister in accordance with paragraph (5) below, a vessel to which these Regulations apply shall, subject to paragraph (8) below, remain in port for one or more periods totalling 67 days during the period 1st February 1992 to 31st December 1992.

(3) An application for exemption shall be in writing given by the master, owner or charterer of the vessel to the appropriate Minister before 31st March 1992.

(4) If he is satisfied that a vessel will carry from 15th April 1992 only the fishing gear prescribed by paragraph (i) of Article 1 of the Commission Decision, that is to say, longlines or nets having a mesh size equal to or greater than 120 millimetres, with or without a 110 millimetre square mesh panel, the appropriate Minister shall grant the vessel total exemption from the requirement to remain in port for 135 days.

(5) If he is satisfied that a vessel will carry from 15th April 1992 only the fishing gear prescribed by paragraph (ii) of Article 1 of the Commission Decision, that is to say, nets having a mesh equal to or greater than 110 millimetres, with or without a 100 millimetre square mesh size panel, the appropriate Minister shall grant the vessel exemption from 68 days of the requirement to remain in port for 135 days.

(6) If, at any time after exemption has been granted in respect of a fishing vessel, the appropriate Minister is satisfied that there has been a failure to carry only therelevant fishing gear prescribed by Article 1 of the Commission Decision or a contravention of any of the conditions relating to that gear set out in the Annex to that Decision, he may withdraw the exemption.

(7) The appropriate Minister shall notify the applicant for exemption in writing of the date from which exemption is withdrawn.

(8) Where an exemption has been withdrawn in accordance with paragraph (6) above, the vessel concerned shall remain in port from the date of the withdrawal of the exemption up to 31st December 1992 for a total number of days calculated in accordance with the formula set out below, namely,

$$\frac{(A \times B) - (135 \times C)}{335} \quad D$$

(4) Decision No. C(92) 405/1.

(5) OJ No. L367, 31.12.91, p.1, as corrected in OJ No. L24, 1.2.92, p.98.

where

“A” equals the number of days in port required as a result of the application of Article 1 of the Commission Decision; “B” equals the number of days from 1st February 1992 to the day before the date of withdrawal; “C” equals the number of days from the date of withdrawal to 31st December 1992; and “D” equals the number of days during which the vessel has remained in port in accordance with these Regulations.

4A.—(1) A period in port may consist of a single day or of a group of days taken consecutively.

(2) No period in port shall count for the purposes of regulation 4(1), 4(2) or 4(8) above unless—

- (a) it consists of at least one day,
- (b) it is notified in accordance with regulation 5, and
- (c) where paragraph (4) below applies, the requirements of that paragraph are satisfied.

(3) Once a period has been notified and has commenced the vessel concerned shall remain in port until either that period has expired or a revised period notified in accordance with regulation 5(4) has expired.

(4) Where the port in which the vessel is to remain is not in the United Kingdom the master, owner or charterer shall within 14 days of the expiry of the period in port furnish to the Department of Agriculture for Northern Ireland in the case of a vessel licensed by that Department or to a British sea-fishery officer in any other case a statement signed and dated by the authority in charge of that port containing the particulars specified in Schedule 2.”

5. In regulation 5 thereof (notice of intended period in port) in paragraph (4) the words “at least 9 hours” shall be omitted.

6. In regulation 6 thereof (offences) in paragraph (1) for the words “regulation 4(1) or 4(4)” there shall be substituted the words “regulation 4(1), 4(2), 4(8) or 4A(3)”.

7. In the second paragraph of Schedule 1 (sea areas)—

- (a) in the heading to that paragraph for the words “(Area VI)” there shall be substituted the words “(Area VIa)”;
- (b) in the third line for “18°00” there shall be substituted “12°00”.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on

11th March 1992.

John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

10th March 1992

Strathclyde
Parliamentary Under Secretary of State, Scottish
Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Sea Fishing (Days in Port) Regulations 1992 (“the principal Regulations”) which make provision for the enforcement throughout the United Kingdom of Article 13(1) of Council Regulation (EEC) No. 3882/91 (“the Council Regulation”) fixing for certain fish stocks and groups of fish stocks the total allowable catches for 1992 and certain conditions under which they may be fished.

The present Regulations amend the principal Regulations by substituting new regulations 4 and 4A (management of days in port). Provision is made for fishing vessels to be exempted from the requirement in the principal Regulations to remain in port for 135 days during the period from 1st February to 31st December 1992. Exemption from the entire 135 days in port requirement may be granted in the case of vessels which carry only longlines or nets with a mesh size of at least 120 mm (regulation 4(4)), and exemption from 68 days of that requirement in the case of vessels which carry only nets with a mesh size of at least 110 mm (regulation 4(5)). Application for exemption must be made before 31st March 1992 (regulation 4(3)), and the vessels concerned must be in a position to carry the appropriate gear from 15th April 1992 (regulation 4(4) and (5)).

Regulation 4(6), (7) and (8) provides for the withdrawal of exemption and the imposition of a different requirement to remain in port calculated by reference to the formula in paragraph (8).

The Regulations also insert two new definitions in the principal Regulations (regulation 3), delete the requirement to give notice of at least 9 hours before the commencement of a variation of a notice of an intended period in port (regulation 5), provide for further offences of not remaining in port (regulation 6), and make some corrections to Schedule 1 thereto consequent upon the publication of a corrigendum to the Council Regulation (regulation 7).

The amendment to regulation 4 of the principal Regulations is consequent upon Commission Decision No. C(92) 405/1 of 24th February 1992 exempting the United Kingdom from the obligation contained in Article 13. Copies of the Decision are available from the Ministry of Agriculture, Fisheries and Food, Nobel House, 17 Smith Square, London SW1P 3JR, the Scottish Office Agriculture and Fisheries Department, Pentland House, 47 Robb’s Loan, Edinburgh EH14 1TW, the Welsh Office Agriculture Department, Cathays Park, Cardiff CF1 3NQ, and the Department of Agriculture for Northern Ireland, Hut 5, Castle Grounds, Stormont, Belfast BT4 3TA.