

SEA FISHING GRANTS (CHARGES) ACT 2000

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

3. The purpose of the Act is to ensure the validity of certain charges levied by the Sea Fish Industry Authority and by the Herring Industry Board (which was abolished in 1981 but whose liabilities transferred to the Authority).
4. In relation to the Sea Fish Industry Authority, the Act relates to charges made by it in its administration of certain schemes of financial assistance which had effect under Part II of the [Fisheries Act 1981 \(1981 c.21, “the 1981 Act”\)](#). The Sea Fish Industry Authority was instructed on 3rd May 1996 to cease levying such charges.
5. Part II of the 1981 Act (section 15) empowers Ministers to make various schemes of financial assistance “for the purpose of reorganising, developing or promoting the sea fish industry or of contributing to the expenses of those engaged in it”.
 - Throughout the relevant period the “Ministers” for these purposes were the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fish industry in Scotland, Wales and Northern Ireland (see section 18 of the 1981 Act as originally enacted).
6. Under Part II of the 1981 Act (section 16) the Ministers are also able to require the Sea Fish Industry Authority to administer for them any financial assistance scheme made under that Part of that Act.
7. Between 1981 and 1996 the Ministers required the Sea Fish Industry Authority to administer four separate schemes for them which were made under Part II of the 1981 Act. These were the Fishing Vessels (Acquisition and Improvement) (Grants) Scheme 1981 ([S.I. 1981 No. 1765](#)), the Fishing Vessels (Acquisition and Improvement) (Grants) Scheme 1987 ([S.I. 1987 No. 1135](#)), the Fishing Vessels (Safety Improvements) (Grants) Scheme 1993 ([S.I. 1993 No. 1325](#)) and the Fishing Vessels (Safety Improvements) (Grants) Scheme 1995 ([S.I. 1995 No. 1609](#)).
 - The Fishing Vessels (Acquisition and Improvement) (Grants) Scheme 1981 was amended by the Fishing Vessels (Acquisition and Improvement) (Grants) (Amendment) Scheme 1984 ([S.I. 1984 No. 1879](#)) and the Fishing Vessels (Acquisition and Improvement) (Grants) Scheme 1987 was amended by the Fishing Vessels (Acquisition and Improvement) (Grants) (Amendment) Scheme 1990 ([S.I. 1990 No. 685](#)).
8. The Sea Fish Industry Authority was also required to administer an earlier assistance scheme, the Fishing Vessels (Acquisition and Improvement) (Grants) Scheme 1976 ([S.I. 1976/304](#)) (the “1976 Scheme”). This had originally been made under earlier legislation, the [Sea Fish Industry Act 1970 \(c.11\)](#), to be administered by the White Fish Authority and the Herring Industry Board. However, both these bodies were abolished by section 13 of the 1981 Act on 1st October 1981. In consequence, transitional provisions in that Act (section 13(2) and paragraph 4 of Schedule 3) provided that from that date the 1976 scheme was deemed to have been made under Part II of the 1981 Act

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and the Sea Fish Industry Authority was deemed to have been required by the Minister to administer it.

- The White Fish Authority was originally constituted as a body corporate under the [Sea Fish Industry Act 1951 \(14 & 15 Geo 6, c. 30\)](#) and the Herring Industry Board was originally constituted as a body corporate under the [Herring Industry Act 1935 \(25 & 26 Geo. 5, c.9\)](#). Both bodies were continued in being under the Sea Fish Industry Act 1970, which repealed and consolidated the earlier legislation.
 - The Fishing Vessels (Acquisition and Improvement) (Grants) Scheme 1976 was extended by S.I.s [1976 No. 2136](#), [1977 No. 2136](#), [1978 No. 1820](#), [1979 No. 1692](#) and [1980 No. 1973](#).
9. Under these various schemes of financial assistance grants were made available to cover a proportion of expenditure incurred in the acquisition and/or improvement of fishing vessels.
10. As part of its administration of these schemes, marine surveyors employed by the Sea Fish Industry Authority carried out various checks and inspections. These were to confirm at the outset the extent of the work needed for which assistance was being sought and on completion of the assisted works to ensure work had been properly undertaken and the financial assistance had been properly expended.
11. The charges which this Act is intended to validate were charges (known as “technical charges”) which were levied by the Sea Fish Industry Authority to cover the costs of these various checks and inspections. No other charges were made by the Sea Fish Industry Authority in administering these schemes. The Sea Fish Industry Authority was instructed on 3rd May 1996 to cease levying such charges. It is considered doubtful that the Authority had statutory authority to make these charges.
12. The intention to legislate to ensure the validity of these charges, as soon as the legislative programme permitted, was announced to Parliament in a written answer given by the Parliamentary Secretary at the Ministry of Agriculture, Fisheries and Food (Mr Elliot Morley MP) on 5th November 1998.
13. In relation to the Herring Industry Board, the Act relates to charges by the Board in its administration of two schemes of financial assistance made under (among other powers) section 6 of the [White Fish and Herring Industries Act 1953 \(1 & 2 Eliz. 2 c. 17, “the 1953 Act”\)](#) and the [Sea Fish Industry Act 1970 \(1970, c.11, “the 1970 Act”\)](#), respectively.
14. Section 6 of the 1953 Act, as amended, enabled the Herring Industry Board to make grants, in accordance with a scheme made by “the Ministers” with Treasury approval after consulting the Board, to persons engaged or proposing to become engaged in the herring industry in relation to expenditure incurred in acquiring or improving fishing vessels under a certain size limit. Acting under section 6 of the 1953 Act, the Minister of Agriculture, Fisheries and Food and the Secretary of State for Scotland made the Fishing Vessels (Acquisition and Improvement) (Grants) Scheme 1967 ([S.I. 1967 No. 372](#)), enabling the Board to make grants towards a proportion of the expenditure incurred in the acquisition or improvement of fishing vessels, in accordance with the terms of the scheme.
- Relevant amendments were made to section 6 of the White Fish and Herring Industries Act 1953 by section 1 of the [White Fish and Herring Industries Act 1957 \(5 & 6 Eliz. 2 c. 22\)](#) and section 3 of the [Sea Fish Industry Act 1962 \(10 & 11 Eliz. 2 c. 31\)](#).
 - As to the Herring Industry Board, see the first note to paragraph 8 above.

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- The Fishing Vessels (Acquisition and Improvement) (Grants) Scheme 1967 was amended by S.I.s [1967 No. 1131](#), [1971 No. 797](#), [1973 No. 116](#), [1974 No. 194](#), and [1975 No. 360](#).
15. Section 45 of the 1970 Act re-enacted the powers formerly contained in section 6 of the 1953 Act (as amended). Acting under that section, the Minister of Agriculture, Fisheries and Food, the Secretary of State for Scotland and the Secretary of State for Wales made the Fishing Vessels (Acquisition and Improvement) (Grants) Scheme 1976 ([S.I. 1976 No. 304](#)), which also enabled the Board to make grants towards a proportion of the expenditure incurred in the acquisition or improvement of fishing vessels in accordance with the terms of the scheme.

The 1976 Scheme was extended as noted in the second note to paragraph 8 above.

16. In administering these two schemes the Herring Industry Board made similar checks and inspections to those later made by the Sea Fish Industry Authority. Following a decision made on 23 March 1972, the Board made similar “technical charges” for this purpose up to the time of its abolition on 1 October 1981. The Board lacked statutory authority to make these charges.