



Sea Fish Industry Act 1938

1938 CHAPTER 30

PART I

ORGANISATION OF WHITE FISH INDUSTRY

General and Supplementary Provisions

22 Registration fees payable to Commission

(1) Every person who applies to be registered in the Commission's register as carrying on the business of a home producer of white fish, shall pay to the Commission, for each fishing-boat which is in his possession at the date of the application, such fee (if any) not exceeding five shillings as the Commission, with the approval of the Ministers, may by order prescribe in relation to that business; and every person who applies to be registered in the Commission's register as carrying on any other designated business, shall pay to the Commission—

- (a) for each set of premises at which he is carrying on that business in Great Britain at the said date, and
- (b) (if and so far as that business involves the use of vehicles for the purpose of offering or exposing white fish thereon for sale) for each vehicle used or intended to be used for that purpose which, at the said date, is in his possession in Great Britain,

such fee (if any) not exceeding five shillings as the Commission, with the approval of the Ministers, may by order prescribe in relation to that business.

(2) Every person who, at the beginning of any financial year after the date on which he was first registered in the Commission's register as carrying on the business of a home producer of white fish, is a person registered in that register as carrying on that business, shall pay to the Commission, for every fishing-boat which, at the beginning of that year, is shown in the said register as being in his possession, such fee (if any) not exceeding five shillings as the Commission, with the approval of the Ministers, may by order prescribe in relation to that business; and every person who, at the beginning of any financial year after the date on which he was first registered in the Commission's

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register as carrying on any other designated business, is a person registered in that register as carrying on that business, shall pay the Commission—

- (a) for each set of premises which, at the beginning of that year, is shown in the said register as premises at which he is carrying on that business in Great Britain, and
- (b) for each vehicle which, at the beginning of that year, is shown in the register as being in his possession in Great Britain,

such fee (if any) not exceeding five shillings as the Commission, with the approval of the Ministers, may by order prescribe in relation to that business.

- (3) Any fee payable by a person to the Commission under the last preceding subsection shall be taken to accrue due from that person to the Commission at the beginning of the financial year in respect of which the fee is payable; and any fee so payable may (without prejudice to the recovery thereof as a debt due to the Crown) be recovered by the Commission summarily as a civil debt.
- (4) Any order under this section shall be laid before Parliament as soon as may be after it is made, and if either House of Parliament, within the next twenty-eight days on which that House has sat, after any such order is laid before it, resolves that the order be annulled, it shall thereupon become void, without prejudice, however, to anything previously done thereunder or to the making of a new order.

23 Power of Commission to receive and apply voluntary contributions for general benefit of white fish industry

- (1) The Commission shall have power to accept payments voluntarily made to it by any person, and may, after consulting the Joint Council, apply such payments for the purpose of promoting or conducting research and experiments in matters affecting the white fish industry, for the purpose of taking any measures which the Commission thinks likely to increase the consumption of white fish, and for any other purpose the effecting of which appears to the Commission to be likely to be of benefit to the said industry as a whole.
- (2) The board administering any marketing scheme shall have power to make voluntary contributions to the Commission, to be applied by the Commission in the exercise of its powers under the preceding subsection; and any payment made by the board under this subsection shall be deemed to be expenses incurred by it under the scheme.
- (3) All sums received by the Commission under this section shall be paid into a fund, which shall be established under the control of the Commission, and all expenditure of the Commission under subsection (1) of this section, and such other expenses of the Commission as may be determined by the Treasury to be attributable to the discharge of the functions of the Commission under this section, shall be defrayed out of that fund.
- (4) The Commission shall prepare and submit to the Ministers, at such time, and in such form and manner, as they may determine, an account for each accounting period of sums received, and payments made, by the Commission under this section; and the Minister of Agriculture and Fisheries shall, on or before the thirtieth day of November next following the end of each accounting period transmit to the Comptroller and Auditor General the accounts for that accounting period which have been submitted to him under this subsection, and the Comptroller and Auditor General shall examine and certify the said accounts and lay copies thereof, together with his report thereon before Parliament.

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- (5) In this section the expression " accounting period " means—
- (a) the period beginning at the commencement of this Act and ending with the thirty-first day of March nineteen hundred and thirty-nine;
 - (b) the financial year ending with the thirty-first day of March nineteen hundred and forty or any subsequent financial year.

24 General power of Commission to obtain information

Without prejudice to any special provisions having effect by virtue of this Part of this Act, the Commission may from time to time serve on any person registered in the Commission's register, or on the board administering any marketing scheme, or on the authorised body constituted under a co-operative scheme, a written notice requiring that person, board or body to furnish to the Commission such returns and other information specified in the notice as the Commission may require for the discharge of its functions under this Part of this Act or any scheme or regulations having effect by virtue of this Part of this Act.

25 Offences in connection with the making of returns, and in connection with obstruction

- (1) If any person fails to produce or furnish to any authority or person any book or other document, or any estimate, return, account or other information, which he is required under or by virtue of this Part of this Act to produce or furnish to that authority or person, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty pounds and to a further fine not exceeding ten pounds for every day on which the failure continues, and if, in furnishing any information for the purposes of any of the provisions of this Part of this Act or any scheme made thereunder, any person knowingly or recklessly makes a statement false in a material particular, he shall be guilty of an offence and liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.
- (2) Every person who wilfully obstructs any person in the exercise of any powers conferred on him by or under this Part of this Act shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty pounds and to a further fine not exceeding ten pounds for every day on which the offence continues after conviction therefor.

26 Restrictions on disclosure of information

No information with respect to any particular undertaking which has been obtained under or by virtue of this Part of this Act shall, without the consent of the person carrying on that undertaking, be disclosed otherwise than in connection with the execution of this Part of this Act or the execution of any regulations or scheme having effect by virtue of this Part of this Act; and if any person discloses any such information in contravention of this section, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine :

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Provided that nothing in this section shall apply to any disclosure of any information made for the purposes of any proceedings pursuant to this Part of this Act (including arbitrations), or any criminal proceedings which may be taken whether by virtue of this Part of this Act or otherwise, or for the purposes of any report of such proceedings as aforesaid.

27 Incidental provisions as to regulations and schemes

- (1) Any regulations or scheme under this Part of this Act may make provision for such matters as are incidental and supplementary to any of the matters for which provision is made by the regulations or scheme by virtue of the preceding provisions of this Part of this Act.
- (2) As soon as may be after making or confirming any regulations under this Part of this Act, the Ministers shall lay the regulations before Parliament, and if either House of Parliament, within the next twenty-eight days on which that House has sat after any such regulations are laid before it, resolves that the regulations be annulled, they shall thereupon become void, without prejudice, however, to anything previously done thereunder or to the making or confirmation of new regulations.
- (3) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, regulations and schemes under this Part of this Act shall be deemed not to be statutory rules to which that section applies.

28 Power of Commission to hold inquiries

- (1) The Commission may hold such inquiries as it considers necessary or desirable for the discharge of any of its functions; and if the Ministers are satisfied that, for the purposes of any inquiry on the part of the Commission into a particular matter, it is necessary so to do, the Ministers may by order, specifying the matter to be inquired into, direct that in respect of any meeting of the Commission held for the purpose of inquiring into that matter, being a meeting at which not less than three members of the Commission are present, the Tribunals of Inquiry (Evidence) Act, 1921, shall apply to the Commission as if it were a tribunal established in accordance with that Act and as if that Act had been applied to the Commission in the manner prescribed :

Provided that the said Act shall in its application to the Commission have effect as if for paragraph (a) of section two of the Act there were substituted the following paragraph :—

- “(a) may refuse to allow the public or any portion of the public to be present at the proceedings of the Commission, if and so far as it is, in the opinion of the Commission, necessary so to do for reasons connected with the subject-matter of the inquiry or the nature of the evidence to be given;”.
- (2) Any order under this section shall, as soon as may be after it is made, be laid before Parliament, and, if either House of Parliament, within the next twenty-eight days on which that House has sat after the order is laid before it, resolves that the order be annulled, it shall thereupon become void, without prejudice, however, to anything previously done thereunder or to the making of a new order.

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29 Provisions as to inquiries held by Ministers

- (1) For the purpose of any inquiry which, in relation to any regulations or scheme under this Part of this Act is held by direction of the Ministers or the appropriate Minister, the person appointed to hold the inquiry may by summons require any person to attend, at such time and place as is specified in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry, and may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined :

Provided that no person shall be required, in obedience to such a summons, to go more than ten miles from his place of residence, unless the necessary expenses of his attendance are paid or tendered to him.

- (2) Every person who refuses or wilfully neglects to attend in obedience to a summons issued under this section, or to give evidence, or who wilfully alters, suppresses, conceals, destroys or refuses to produce any book or other document which he may be required to produce for the purpose of this section, shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

30 Annual reports to be made by Commission

The Commission shall, as soon as may be after the end of each financial year, prepare and submit to the Ministers a report on the operation in that year of any schemes under this Part of this Act which have been in force in that year and generally on the discharge of the functions of the Commission in that year, and the Ministers, upon receiving any report submitted to them under this section, shall lay copies of the report before Parliament.

31 Form, publication, validity and commencement of orders confirming schemes

- (1) An order confirming a scheme under this Part of this Act shall set forth the scheme in a schedule to the order, and the scheme shall come into operation at the same time as the order confirming it.
- (2) As soon as may be after such an order as aforesaid has been made, the Ministers or the appropriate Minister, as the case may be, shall cause to be published in the Gazettes, and in such other manner as appears to them or him to be best adapted for informing persons affected, a notice stating that the order has been made and specifying the place where copies of the order may be obtained.

The reference in the preceding provisions of this subsection to the Gazettes shall, in relation to an order confirming a co-operative scheme applicable to an area wholly in England, be construed as a reference to the London Gazette, or, in relation to an order confirming a co-operative scheme applicable to an area wholly in Scotland, be construed as a reference to the Edinburgh Gazette.

- (3) The validity of such an order as aforesaid shall not be called in question except in proceedings duly begun during the period of six weeks from the beginning of the day on which notice of the order having been made is published in accordance with this section; and unless the final decision in proceedings duly begun during the said period is that the order is invalid, the order shall be conclusive evidence that the requirements

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of this Part of this Act have been complied with in relation to the making of the order, and that the order and the scheme confirmed thereby have been duly made and confirmed respectively and are within the powers conferred by this Part of this Act.

- (4) Subject as hereinafter provided, such an order as aforesaid shall come into operation at the end of the period of six weeks from the beginning of the day on which notice of the making of the order is published in accordance with this section :

Provided that, if proceedings for the purpose of questioning the validity of such an order are duly begun within the period aforesaid, the court before which such proceedings are taken may, at any time before the end of the said period, direct that the order shall not come into operation before the final determination of the proceedings.

32 Service of notices, and c

Any notice or demand to be served for the purposes of this Part of this Act, or of any regulations or scheme under this Part of this Act, may be served by post, and—

- (a) if it is to be served on the owner or occupier of any premises, may be addressed " the owner " or " the occupier," as the case may be, of those premises (identifying them by their postal address), or
- (b) if it is to be served on the owner, charterer or skipper of a fishing-boat, may be addressed "the owner," "the charterer," or "the skipper," as the case may be, of the fishing-boat (identifying it by name or otherwise);

and any such notice or demand to be served on the skipper of a fishing-boat shall be deemed to be duly served if it is delivered or sent by post to, or to the agent of, the owner or the charterer (if any) of the fishing-boat, together with a written request that it be transmitted to the skipper.

33 Registration of partnerships

- (1) Any two or more persons jointly carrying on a designated business (whether in partnership or otherwise) shall, in so far as it is material, for the purposes of this Part of this Act or any scheme under this Part of this Act, to ascertain the number of votes to which those persons are entitled in connection with any poll, or the amount of any fee or contribution payable by them to the Commission or to the board or authorised body, be treated as constituting together a single person.
- (2) Registration, in the Commission's register or under a marketing or co-operative scheme, in the name or style under which two or more persons carry on any designated business in partnership, shall operate as the registration of all the partners for the time being.

34 Meaning of home producer of white fish

For the purposes of this Part of this Act, a person shall be deemed to carry on the business of a home producer of white fish if, and only if, while carrying on the business of catching and landing white fish, he causes white fish to be landed in Great Britain from a fishing-boat registered in the United Kingdom or in any other part of His Majesty's dominions, or from a British fishing-boat registered at any port of registry established by Order in Council under the Merchant Shipping Act, 1894.

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35 Provisions as to amending schemes

Where a marketing scheme or co-operative scheme is amended by any subsequent scheme or schemes, then, for the purposes of so much of this Part of this Act as determines the provisions which must or may be contained in any marketing scheme or co-operative scheme, as the case may be, the original scheme and the amending scheme or schemes shall be treated as a single scheme.

36 Expenses of Ministers, Commission, Joint Council, consumers' committee and committee of investigation, and receipts of Commission

- (1) There shall be paid out of moneys provided by Parliament—
 - (a) to the members, officers and servants of the Commission, and to the members, officers and servants of the consumers' committee and of the committee of investigation, such remuneration (whether by way of salaries or by way of fees) as the Ministers, with the approval of the Treasury, may determine,
 - (b) the amounts necessary to defray such expenses of the Commission (other than expenses which, by virtue of this Part of this Act, are to be defrayed out of the fund established under the control of the Commission), such expenses of the Joint Council, and such expenses of the consumers' committee and of the committee of investigation, as the Ministers and the Treasury may approve, and
 - (c) the amounts necessary to defray any expenses incurred in pursuance of this Part of this Act by the Minister of Agriculture and Fisheries or a Secretary of State.
- (2) All sums received under this Part of this Act by the Commission (other than sums which, by virtue of this Part of this Act, are to be paid into the fund established under the control of the Commission) shall be paid into the Exchequer.

37 Extension of Part I to Northern Ireland

- (1) His Majesty may, by an Order in Council made in pursuance of a resolution passed by both Houses of the Parliament of Northern Ireland, direct that the provisions of this Part of this Act or any of them (except in so far as they relate to co-operative schemes) shall with such adaptations and modifications as may be specified in the order extend to Northern Ireland.

Any such order may be varied or revoked by a subsequent Order in Council made in pursuance of such a resolution as aforesaid.
- (2) If any provisions of this Part of this Act are so extended to Northern Ireland, such sums paid out of the Exchequer of the United Kingdom in connection with the execution of those provisions as may be determined by the Joint Exchequer Board to be properly payable by the Government of Northern Ireland shall be made good by means of deductions from the Northern Ireland residuary share of reserved taxes.
- (3) Subject to the provisions of any Order in Council under this section, this Part of this Act shall not extend to Northern Ireland.