



# Sea Fish Industry Act 1938

## 1938 CHAPTER 30

### PART II

#### AMENDMENTS OF THE SEA-FISHING INDUSTRY ACT, 1933

#### **38 Provisions for giving effect to convention as to meshes of nets and size limits for fish**

Whereas a convention for the regulation of the meshes of fishing nets and size limits for fish was signed in London on the twenty-third day of March nineteen hundred and thirty-seven on behalf of His Majesty's Government in the United Kingdom :

And whereas it is expedient to make such amendments of the Sea-Fishing Industry Act, 1933, as are necessary for giving effect to the said convention, and, in connection therewith, to make further amendments of the said Act:

Now, therefore, the following sections shall be substituted for sections three and four of the Sea-Fishing Industry Act, 1933, (hereafter in this Part of this Act referred to as " the principal Act " ):—

#### **“3 Mesh of nets.**

- (1) The appropriate Ministers may make an order for securing that the fishing nets carried in any British fishing-boat registered in the United Kingdom are constructed in such manner, and have a mesh of at least such size, as may be prescribed by the order, and an order under this section, or any provisions of such an order, may be framed so as to apply only in relation to fishing for specified descriptions of sea-fish, to specified methods of fishing or to fishing in specified areas or during specified periods.
- (2) An order under this section prescribing minimum sizes of mesh may also—
  - (a) prescribe the manner in which the sizes of mesh are to be measured and, in the case of any class of nets, prescribe different sizes for the nets when in different conditions;

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- (b) make provision for securing that the restrictions imposed by the order are not evaded by the use of any nets in such manner as practically to diminish their mesh, or by the covering of nets with canvas or any other material, or by the use of any other artifice;
  - (c) provide for exempting any nets from any such restrictions as aforesaid, either generally or in relation to particular fishing-boats or classes of fishing-boats, if and so long as such conditions as may be imposed by or under the order for securing that the nets will be used only for taking sea-fish of the descriptions specified in the order are complied with.
- (3) Nothing in any order under this section shall—
- (a) affect the carrying of any nets for the purpose of fishing only within the limits of the territorial waters adjacent to the United Kingdom, or
  - (b) apply in relation to fishing operations which, under the authority of one of the appropriate Ministers, are conducted for the purpose of scientific investigation or for the purpose of transplanting fish from one fishing ground to another.
- (4) If any order under this section is contravened in the case of any fishing-boat, the master, the owner and the charterer (if any) shall each 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, and the court by which the offender is convicted may order the forfeiture of the net in respect of which the contravention occurred.
- (5) Section six hundred and eighty-four of the Merchant Shipping Act, 1894, (which relates to the jurisdiction of courts) shall apply for the purposes of this section as it applies for the purposes of that Act.
- (6) Any British sea-fishery officer may seize any net in respect of which a contravention of an order under this section has been, or is being, committed.
- (7) Any restrictions imposed by an order under this section shall be in addition to, and not in substitution for, any restriction imposed by or under any other Act, and nothing in this section shall affect any power conferred by any Act to regulate sea-fishing.

#### **4 Size limits for fish.**

- (1) No person shall, in Great Britain, land, sell, expose or offer for sale, or have in his possession for the purpose of sale, any sea-fish of any description being a fish of a smaller size than such size as may be prescribed in relation to sea-fish of that description by an order of the Minister of Agriculture and Fisheries and the Secretary of State for Scotland :

Provided that nothing in this subsection shall restrict the landing of fish taken in the course of fishing operations which, under the authority of the said Minister or Secretary of State, are conducted for the purpose of scientific investigation.

- (2) If the Minister of Agriculture and Fisheries and the Secretary of State for Scotland by order so direct, no person shall, in Great Britain, land, sell, expose or offer for sale, or have in his possession for the purpose of sale, any lobster which is carrying any spawn attached to the tail or some other exterior part of

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the lobster, or which is in such a condition as to show that, at the time when it was taken, it was carrying spawn so attached.

- (3) Every person who contravenes either of the two preceding subsections shall, for each offence, be liable on summary conviction to a fine not exceeding fifty pounds.
- (4) Where, in the course of any fishing operations conducted by means of a fishing-boat, any sea-fish of any description which are of less than the minimum size prescribed in relation to sea-fish of that description by any order under subsection (1) of this section are taken on board the boat, those fish shall be returned to the sea forthwith:

Provided that the preceding provisions of this subsection shall not apply in relation to fishing operations which, under the authority of one of the appropriate Ministers, are conducted for the purpose of scientific investigation or for the purpose of transplanting fish from one fishing ground to another.

- (5) The last preceding subsection shall apply to all fishing-boats within the limits of the territorial waters adjacent to the United Kingdom and also to British fishing-boats registered in the United Kingdom, wherever they may be; and if that subsection is not complied with in the case of any fishing-boat, the master, the owner and the charterer (if any) shall each be liable on summary conviction to a fine not exceeding fifty pounds, and the court by which the offender is convicted may order the forfeiture of any fish in respect of which the offence was committed.
- (6) With a view to enforcing any order under this section, any of the following officers, that- is to say,—
- (a) any officer authorised by the Minister of Agriculture and Fisheries or the Fishery Board for Scotland,
  - (b) any officer of police,
  - (c) any officer of a market authority, acting within the limits of any market which that authority has power to regulate,
  - (d) any fishery officer of a local fisheries committee acting within the district of the committee,
  - (e) any officer authorised by the Fishmongers' Company and acting within the city of London ;

may, at all reasonable times, go on board any fishing-boat or enter any premises used for carrying on any business in connection with the treatment, storage or sale of sea-fish, may search for and examine-any sea-fish in any place, whether on board a fishing-boat or elsewhere, and whether in a receptacle or not, and may seize any sea-fish which have been landed, sold or exposed or offered for sale by any person in contravention of this section, or which any person has in his possession in contravention of this section; and a local fisheries committee may take proceedings in respect of any contravention of this section occurring within the district of the committee.

For the purposes of this subsection, the district of a local fisheries committee shall be deemed to extend throughout the area of any council liable to pay, or contribute to the payment of, the expenses of the committee, except that the powers conferred by this subsection on the committee or any officer thereof shall not be exercisable in respect of any matter arising within the limits of any market under the control of the council of any county borough or county district.

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- (7) On the date on which the first order under subsection (1) of this section relating to crabs comes into operation, paragraph (1) of section eight of the Fisheries (Oysters, Crabs and Lobsters) Act, 1877, shall cease to have effect in Great Britain; and on the date on which the first order under this section relating to lobsters comes into operation, section nine of that Act, shall cease to have effect in Great Britain.

#### **4A Powers of British sea-fishery officers.**

Any British sea-fishery officer may exercise, with respect to any fishing-boat within the limits of the territorial waters adjacent to the United Kingdom and with respect to any British fishing-boat registered in the United Kingdom, wherever it may be, such of the powers conferred on British sea-fishery officers by paragraphs (1) to (8) of section twelve of the Sea Fisheries Act, 1883, as may be conferred on him by order of the appropriate Ministers, being powers which the said Ministers consider necessary for the enforcement of sections three and four of this Act, and of any orders under those sections; and for the purpose of an order under this section—

- (a) section twelve of the Sea Fisheries Act, 1883, shall apply as if any reference in paragraph (7) of that section to that Act or to an Order in Council thereunder included a reference to sections three and four of this Act or to an order under either of those sections, as the case may be; and
- (b) section fourteen of the Sea Fisheries Act, 1883, as amended by any subsequent enactment, (which section provides for the protection of sea-fishery officers and for the punishment of persons obstructing such officers) shall apply as if any reference in that section to that Act included a reference to this section.

#### **4B Application to Isle of Man and Channel Islands, and fishing-boats registered therein.**

His Majesty may by Order in Council direct—

- (1) that, subject to such exceptions, adaptations and modifications (if any) as may be specified in the Order, the provisions of sections three and four of this Act shall apply in relation to British fishing-boats registered in the Isle of Man or any of the Channel Islands, as those provisions apply in relation to British fishing-boats registered in the United Kingdom ;
- (2) that, subject as aforesaid, the said provisions shall extend to the Isle of Man or any of the Channel Islands.”

### **39 Provisions as to orders regulating and prohibiting landing of sea-fish**

- (1) On the date on which the first producers' marketing scheme under Part I of this Act comes into operation, subsection (3) of section one of the principal Act (which provides that no order regulating the landing of sea-fish shall be made under that section unless orders made under sections two, three and four of the said Act are in force) shall cease to have effect.

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- (2) An order under section two of the principal Act (which enables the appropriate Ministers temporarily to prohibit the landing in the United Kingdom of sea-fish caught in certain waters) may be made so as to apply either to all sea-fish or to sea-fish of a particular description, and so as to apply to sea-fish caught in any specified waters; and accordingly subsection (1) of the said section shall have effect as if in that subsection after the word " sea-fish " there were inserted the words " or any particular description of sea-fish, being fish, " and as if the words from " being waters situate " to the end of the subsection were omitted.

**40 Abolition of Sea Fish Commission**

Section five of the principal Act (under which the Sea-Fish Commission for the United Kingdom was constituted) shall cease to have effect.

**41 Amendment of definition of " sea-fish."**

References to sea-fish in the principal Act, as amended by this Part of this Act, shall be construed as including references to parts of sea-fish, and accordingly subsection (1) of section nine of the said Act shall have effect as if, in the definition of the expression " sea-fish " contained in that subsection, after the word " shell-fish " there were inserted the words " and includes parts of such fish as aforesaid. "

**42 Citation of Part II**

The principal Act and this Part of this Act may be cited together as the Sea-Fishing Industry Acts, 1933 and 1938.