



# Sea Fish Industry Act 1938

## 1938 CHAPTER 30

### PART V

#### SEA FISHERIES

#### **51 Constitution of local fisheries committees**

- (1) The Sea Fisheries Regulation Act, 1888, (hereafter in this Part of this Act referred to as "the principal Act") shall, subject to the provisions of the next following subsection, have effect as if for subsection (2) of section one of the principal Act (which subsection relates to the constitution of local fisheries committees) there were substituted the following subsection :—

“(2) The local fisheries committee for a sea-fisheries district shall be a committee of such county council, or a committee of such borough council, or a joint committee of such councils, being county councils or borough councils, as may be determined by the order creating the district, and shall consist of—

- (a) such number of members to be appointed by the council, or by the constituent councils in such proportions as may be so determined, and
- (b) such number of additional members, not exceeding the number of members required to be appointed by the council or constituent councils, as may be appointed in accordance with the following provisions of this section.

The additional members of such a committee shall include one person appointed by each fishery board having jurisdiction within the district of the committee, and as to the rest shall be persons appointed by the Minister of Agriculture and Fisheries as being persons acquainted with the needs and opinions of the fishing interests of that district.”

- (2) In relation to any local fisheries committee constituted by an order made before the commencement of this Act, the preceding subsection shall not take effect until the first day of April nineteen hundred and forty.

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- (3) The persons who, immediately before the first day of April nineteen hundred and forty are members of such a committee shall cease to hold office on that day, and their places shall be filled by newly appointed members, who shall come into office on that day; and the term of office of any person who becomes a member of such a committee on or after that day shall expire not later than the end of the triennial period in which he takes office.

In this subsection the expression " triennial period " means the period of three years beginning with the first day of April nineteen hundred and forty and with every third anniversary of that day.

- (4) At the beginning of the first day of April nineteen hundred and forty so much of any order made before the commencement of this Act as relates to the additional members of a local fisheries committee or to the term of office of the members of such a committee shall cease to have effect.
- (5) Subsection (3) of section one of the principal Act shall have effect as if in that subsection after the word " subject" there were inserted the words " to the " provisions of the last preceding subsection and of " section fifty of the Sea Fish Industry Act, 1938, " and to " .
- (6) In the definition of " fishing interests " contained in section fourteen of the principal Act, the words " and any board of salmon conservators " shall be omitted.

## **52 Amendment of definitions of " sea-fish" and " salmon conservators."**

In section fourteen of the principal Act for the words " The expression ' sea-fish' shall not include salmon as defined by any Act relating to salmon" there shall be substituted the words " The expression " ' sea-fish ' shall not include salmon as defined by the " Salmon and Freshwater Fisheries Act, 1923, or migratory trout as so defined", and for the words "The " expression ' salmon conservators' means conservators " under the Salmon and Freshwater Fisheries Acts, 1861 " to 1886, or any of them " there shall be substituted the words " The expression ' board of salmon conservators ' means any board of conservators or other similar " body constituted under the Salmon and Freshwater " Fisheries Act, 1923, or any enactment repealed by " that Act, for the regulation of fisheries in a fishery " district."

## **53 Liability of owners of fishing boats for illegal fishing**

- (1) Where any vessel is used for fishing in any manner constituting a contravention of any byelaw of a local fisheries committee having effect by virtue of paragraph (a) of subsection (1) of section two of the principal Act, as amended by section seven of the Fisheries Act, 1891, the skipper and the owner of the vessel shall each be guilty of an offence and liable on summary conviction to a fine not exceeding, in the case of a first offence, fifty pounds, or in the case of a second offence, one hundred and fifty pounds, or, in the case of a third or subsequent offence, to imprisonment for a term not exceeding three months, or to a fine not exceeding three hundred pounds or to both such imprisonment and such fine:

Provided that, in any proceedings which by virtue of this section are taken against the owner of a vessel in respect of an offence under this section committed by the skipper, it shall be a good defence for the owner to prove that he exercised all due diligence to prevent the commission of that offence.

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- (2) The preceding subsection shall, in relation to any vessel which at the material time is under charter, have effect as if any reference in that subsection to the owner were a reference to the charterer.

#### **54 Increase of certain penalties**

- (1) The maximum penalty for refusing to allow a fishery officer to exercise the powers conferred upon him by the principal Act, or for resisting or obstructing any such officer in the performance of his duty, shall be fifty pounds and, accordingly, in subsection (3) of section six of the principal Act for the word " five " there shall be substituted the word " fifty. "
- (2) Without prejudice to the operation of the last preceding section, any person who contravenes any bye-law made, whether before or after the commencement of this Act, by a local fisheries committee shall be liable on summary conviction to a fine not exceeding fifty pounds or, in the case of a second or any subsequent conviction, to a fine not exceeding one hundred pounds.
- (3) Section three of the principal Act (which relates to penalties and forfeitures for the contravention of byelaws) is hereby repealed, and so much of any byelaw made by a local fisheries committee as imposes penalties or forfeitures on persons contravening byelaws so made shall be deemed to have been revoked, and subsection (2) of section six of the principal Act shall have effect as if in paragraph (c) of that subsection for the words " liable to be forfeited in pursuance " there were substituted the words " taken or used in contravention ".
- (4) The maximum fine under subsection (3) of section seven of the Sea Fisheries Act, 1883, (which section relates to foreign sea-fishing boats entering within exclusive fishery limits) shall be, in the case of a first offence fifty pounds, and in the case of a second or any subsequent offence one hundred pounds, and accordingly in the said subsection (3) for the words " ten " and " twenty " there shall be substituted respectively the words " fifty " and " one hundred. "
- (5) His Majesty may by Order in Council extend the provisions of the last preceding subsection and of section five of the Fisheries Act, 1891, to the Channel Islands.

#### **55 Power of Minister to revoke byelaws**

If it appears to the Minister of Agriculture and Fisheries that the revocation of a byelaw made by any local fisheries committee is necessary or desirable for the maintenance or improvement of fisheries, he may, after giving notice to the committee and considering any objection raised by them and, if so required by them, holding a public inquiry, revoke the byelaw.

#### **56 Extension of powers of local fisheries committees**

- (1) A local fisheries committee shall have the following further powers, that is to say—
- (a) the committee may, with the approval of the Minister of Agriculture and Fisheries and subject to such conditions as he may impose, undertake, or cause to be undertaken, the destruction of predatory fish, predatory marine animals, predatory birds and eggs of predatory birds, if and so far as such destruction appears to the committee to be desirable for the preservation and improvement

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of the fisheries within their district, and is not illegal under any Act other than this Act;

- (b) the committee may contribute to the payment of the cost of executing works for the maintenance or improvement of any small harbour situate wholly or in part within the district of the committee, being a harbour as to which the Minister of Agriculture and Fisheries is satisfied that it is principally used by persons engaged in the sea-fishing industry; and
  - (c) if the committee or any of its officers is authorised in that behalf under subsection (4) of section seven of the Oil in Navigable Waters Act, 1922, the committee may institute proceedings for any offence under that Act committed within the district of the committee.
- (2) In this section the expressions "harbour" and "works" have the meanings respectively assigned to them by paragraph (4) of section two of the Fishery Harbours Act, 1915.

## **57 Variation and revocation of orders constituting local fisheries committees**

The power to vary an order under section one of the principal Act (which enables the Minister of Agriculture and Fisheries to constitute local fisheries committees for specified districts) shall include a power, exercisable in the like manner, to revoke such an order, and an order varying or revoking a previous order made under the said section may be made on the application of the local fisheries committee and after consultation with every county or borough council concerned, and accordingly subsection (1) of that section shall have effect as if in that subsection for the words "on like application by subsequent order vary" there were substituted the words "by a subsequent order made" on like application or made on the application of the "local fisheries committee and after consultation with " every county or borough council concerned, vary or " revoke ".

## **58 Amendments of Part III of 31 and 32 Vict. c. 45**

- (1) The provisions of sections thirty-two and thirty-three of the Sea Fisheries Act, 1868, as amended by the Sea Fisheries Act, 1884, (which sections require the making of an inquiry with respect to any proposed order under Part III of that Act for the establishment or improvement, or the maintenance and regulation, of an oyster, mussel and cockle fishery) shall apply in relation to any such proposed order as aforesaid only in a case where an objection with respect to the proposed order, being an objection which the Minister of Agriculture and Fisheries considers to be neither frivolous nor irrelevant, has been duly made to the said Minister and has not been withdrawn; but the said Minister may, in any case, cause any such inquiry as he thinks fit to be held with respect to any such proposed order.
- (2) In section thirty-four of the Sea Fisheries Act, 1868, for the words "proceed to consider the objections" or representations that have been made respecting the "proposed order and also the report of the inspector, and "thereupon they shall" there shall be substituted the words "after considering the objections or representations, if any, that have been made with respect to "the proposed order, and also the report of the person "by whom any inquiry with respect thereto has been "held."
- (3) The following section shall be substituted for section thirty-seven of the Sea Fisheries Act, 1868 :—
  - (1) As soon as may be after the making of an order under this Part of this Act, the promoters shall cause to be published in such manner as the Minister

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of Agriculture and Fisheries thinks sufficient for giving information to all parties interested, and shall, in such manner as the said Minister may direct or approve, give to the persons to whom notices are required to be given under section thirty-five of this Act, a notice stating that the order will become final and come into operation unless within such period, not being less than thirty days, as may be specified in the notice, a memorial praying that the order shall not become law without confirmation by Parliament is presented to the said Minister by some person affected by the order.

- (2) If no such memorial has been presented within the period aforesaid, or if every such memorial so presented has been withdrawn, the order shall thereupon come into operation; but if such a memorial has been so presented and has not been withdrawn, the order shall have no effect until confirmed by Parliament.”

## **59      Extent of Part V**

Except in so far as it amends the Sea Fisheries Act, 1883, and the Sea Fisheries Act, 1868, this Part of this Act shall not extend to Scotland or to Northern Ireland.