



Sea Fish Industry Act 1938

1938 CHAPTER 30

PART I

ORGANISATION OF WHITE FISH INDUSTRY

Marketing schemes

13 Provisions as to the submission, confirmation, amendment and revocation of marketing schemes

- (1) Before submitting a marketing scheme to the Ministers, the Commission shall cause to be published, in the Gazettes and in such other manner as the Ministers may direct with a view to informing persons affected, a notice stating that the scheme has been made, and specifying the place where the scheme may be inspected and copies thereof obtained, and the price (being a price approved by the Ministers) at which such copies will be supplied, and the time (not being less than twenty-eight days after publication of the said notice in the Gazettes) within which written objections and representations with respect to the scheme may be sent to the Ministers.
- (2) Where a marketing scheme has been submitted to the Ministers, they shall consider any objections and representations duly made with respect to the scheme, and may, after holding such inquiries (if any) as they think fit, make such modifications in the scheme as they may, after consulting the Commission, think proper:

Provided that—

- (a) where an objection to the scheme has been duly made to the Ministers by any person appearing to them to be affected thereby, and has not been withdrawn, the Ministers, unless they consider the objection to be frivolous or irrelevant or unless the scheme has been modified as required by the objection, shall, before taking any further action in the matter of the scheme, direct the holding of an inquiry with respect to the objection and consider the report of the person who held the inquiry; and

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- (b) if the Ministers decide to make any modifications in the scheme, they shall cause notice of the proposed modifications to be published in such manner as they think best adapted for informing persons affected.
- (3) If, after the preceding provisions of this section have been complied with in relation to a marketing scheme, the Ministers decide to proceed in the matter of the scheme, they shall forthwith direct the Commission to cause a poll of the appropriate registered persons to be taken in the prescribed manner, and shall take no further action in the matter of the scheme unless the result of the poll shows that at least half the total number of appropriate registered persons have voted, and that at least two-thirds of all the votes polled have been cast in favour of the scheme.
- (4) Subject to the provisions of the last preceding subsection, the Ministers, if satisfied with respect to any marketing scheme that the scheme is desirable in the public interest and would be likely to promote efficiency in the carrying on of the class of business to which the scheme relates, may lay a draft of the scheme before Parliament, and if each House of Parliament resolves that the scheme be approved, the Ministers shall make an order confirming the scheme in terms of the draft.

The Ministers shall, at the same time as they lay any draft of a marketing scheme before either House of Parliament for approval, lay before that House a statement of the result of the poll which, in pursuance of the last preceding subsection, has been taken in relation to that scheme.

- (5) Any power conferred by this Part of this Act to prepare, submit or confirm a marketing scheme shall be construed as including a power, exercisable in the like manner and subject to the like conditions, to prepare, submit or confirm a scheme amending or revoking a marketing scheme which is already in operation:

Provided that it shall not be necessary to take any poll under subsection (3) of this section in relation to such an amending scheme if, within one month after a copy of the draft scheme in the terms in which the Ministers propose to lay the draft before Parliament has been delivered by the Ministers to the board administering the scheme to be amended, that board gives written notice to the Ministers that, in the opinion of the board, such a poll in relation to the amending scheme can properly be dispensed with.

- (6) If, in the case of any marketing scheme for the time being in force, a request for a poll on the question whether or not the scheme should be revoked is made in writing by or on behalf of the prescribed number of persons registered under the scheme to the board administering the scheme, the board shall forthwith communicate the request to the Commission, and thereupon the Commission shall cause a poll of persons so registered to be taken in the prescribed manner, and shall communicate the result of the poll to the Ministers; and if the result of the poll shows that not less than half the total number of votes polled have been cast in favour of revocation of the scheme, the Ministers shall by order revoke the scheme:

Provided that no poll under this subsection on the question whether or not a scheme should be revoked shall, without the consent of the board administering the scheme, be taken—

- (a) within the two years immediately following the date on which the order confirming that scheme was made, or
- (b) within such period after the date of the declaration of any previous poll taken under this subsection in relation to that scheme as may be specified in the scheme.

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- (7) Without prejudice to any other powers conferred on them by this Part of this Act, the Ministers, if, after consulting the Commission, they are of opinion that any provision of a marketing scheme, or any act or omission in the administration of such a scheme, is contrary to the interest of consumers of white fish, or that any such provision, act or omission is contrary to the interest of a substantial number of persons affected by the scheme and is not in the public interest, may lay before Parliament the draft of an order revoking the scheme, and if each House of Parliament resolves that the order be approved, the Ministers shall make the order in terms of the draft.
- (8) The provisions contained in Part IV of the Fourth Schedule to this Act (being incidental provisions with respect to the revocation of schemes) shall have effect in relation to any marketing scheme.
- (9) The revocation of a marketing scheme shall be without prejudice to the making, submission and approval of a new scheme.
- (10) In this section—
- (a) the expression " appropriate registered persons " means—
 - (i) in relation to an original marketing scheme, persons who, at the beginning of the relevant day, are persons registered in the Commission's register as carrying on the class of business to which the scheme relates and are not exempted by the provisions of the scheme from registration thereunder; or
 - (ii) in relation to a scheme amending or revoking a marketing scheme, persons who, at the beginning of the relevant day, are persons registered under the scheme which it is proposed to amend or revoke, or registered in the Commission's register as carrying on the class of business to which the scheme relates, not being persons exempted from registration by the provisions of the revoking scheme or, as the case may be, by the provisions of the original scheme as proposed to be amended;
 - (b) the expression " the relevant day " means such day falling after the expiration of two months from the commencement of this Act as may be prescribed; and
 - (c) the expression " prescribed " means prescribed by regulations of the Ministers.
- (11) In relation to a marketing scheme for regulating, in any respect, the carrying on of two or more designated businesses, this section shall have effect as if for subsections (3) and (6) thereof there were respectively substituted the subsections directed by the Fifth Schedule to this Act to be substituted therefor.