



Sea Fish Industry Act 1938

1938 CHAPTER 30

PART I

ORGANISATION OF WHITE FISH INDUSTRY

Marketing schemes

9 Licensing provisions of producers' marketing schemes

- (1) A producers' marketing scheme may provide for regulating, by means of a system of licences, the landing of white fish in Great Britain, and for that purpose may contain provisions—
- (a) for securing that a person registered under the scheme shall not cause any white fish to be landed in Great Britain from a fishing-boat registered in the United Kingdom or 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, except under the authority of a licence granted by the board in respect of that boat;
 - (b) for determining the period for which any licence granted under the scheme shall remain valid (subject to the renewal, suspension or revocation of the licence), for the renewal and transfer of licences in such circumstances as may be specified in the scheme, and for enabling the board to charge, in respect of the grant, renewal or transfer of a licence, such fee as may be authorised by the scheme;
 - (c) for enabling the board—
 - (i) to give with respect to the equipment of, or the operations conducted on board, any boat in relation to which a licence under the scheme is in force, such directions as the board thinks desirable for the purpose of promoting efficiency or economy in the production, storage or treatment of white fish;
 - (ii) in particular, but without prejudice to the generality of the powers which may be conferred by virtue of the preceding sub-paragraph, to give, with respect to any such boat as aforesaid, directions for limiting

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the quantity of white fish (taken either in any waters whatever or in any particular waters) which may be landed from the boat in Great Britain or any part thereof on any particular occasion, or the number of landings of white fish so taken which may be effected from the boat in Great Britain or any part thereof during any specified period;

- (iii) to vary from time to time, or revoke, any directions given by virtue of this paragraph, and (without prejudice to any provisions of the scheme requiring the board to impose penalties) to revoke, or suspend the operation of a licence in relation to any boat in the event of a contravention of any such direction given in respect of that boat;

and for securing that any quantity of white fish landed in contravention of any directions having effect by virtue of sub-paragraph (ii) of this paragraph shall become the property of the board and may be disposed of by the board accordingly; and

- (d) (subject to the provisions of the next following subsection with respect to compensation) for enabling the board to suspend the operation of a licence granted under the scheme in respect of any boat, if and so far as it appears to the board to be desirable so to do for the purpose of promoting economy in the production of white fish.

(2) No provisions contained in a producers' marketing scheme by virtue of the preceding subsection shall be of any effect unless provision is also made by such a scheme—

- (a) for securing that the grant of a licence under the scheme shall not be refused, except—

- (i) on the ground that, in the opinion of the board, a sufficient number of licences are already in force, regard being had to the demand for white fish, or

- (ii) on such other ground (if any) as may be specified in the scheme;

- (b) directing, that until such date after the coming into operation of the scheme as may be specified therein, the grant of a licence under the scheme shall not, except on the ground mentioned in sub-paragraph (i) of the preceding paragraph, be refused in relation to any boat as to which the board is satisfied either—

- (i) that, at the time of the coming into operation of the scheme, the boat was in the possession of a home producer of white fish and was being used, or was fit to be used, for the production of white fish, and had been continuously in the possession of one or more home producers of white fish since the beginning of the fourth day of November nineteen hundred and thirty-seven, or

- (ii) that, before the fourth day of November nineteen hundred and thirty-seven a contract had been entered into for the construction of the boat being a contract under which delivery of the boat was to be taken by a home producer of white fish;

- (c) for securing—

- (i) that where an application for a licence under the scheme is refused on the ground mentioned in sub-paragraph (i) of paragraph (a) of this subsection, or the operation of such a licence is suspended by the board in the exercise of any power conferred on it by virtue of paragraph (d) of subsection (1) of this section, the board shall, in accordance with such principles as may be determined by the scheme, pay to the applicant or the holder of the licence, as the case may be,

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compensation for any direct loss which he may suffer by reason of the refusal or suspension, and

- (ii) that where such an application is refused on any other ground, the board is enabled to pay such compensation to the applicant;

and for determining the manner in which compensation under the scheme is to be claimed and assessed;

- (d) enabling any person aggrieved by any refusal of the board to grant, renew or transfer a licence under the scheme, or by any decision of the board to revoke or suspend the operation of such a licence, to appeal to the Commission, and determining the powers exercisable by the Commission on any such appeal; and
- (e) for the reference to arbitration of any dispute on the question whether or not any compensation is recoverable under the scheme, or as to the amount of any compensation so recoverable:

Provided that the scheme shall not (except in such circumstances as may be specified therein) require or authorise the board to pay compensation to any person in consequence of any decision of the board to refuse to grant a licence in respect of a boat the construction of which, or a contract for the construction of which, had not been begun or entered into, as the case may be, before the fourth day of November nineteen hundred and thirty-seven.

- (3) Any reference in the preceding subsection to the construction of a boat shall be construed as including a reference to the adaptation of the boat for use for the purpose of, or in connection with, the taking of white fish.