



Sea Fish Industry Act 1970

1970 CHAPTER 11

PART II

HERRING INDUSTRY

The Board and the Advisory Council

29 Constitution and functions of Herring Industry Board

- (1) There shall continue to be a Herring Industry Board (in this Act referred to as " the Board ") which shall have: —
 - (a) such functions as may be conferred on it by a scheme under this Part of this Act;
 - (b) the function of keeping generally under review matters relating to the herring industry, including the conditions of employment of persons employed therein ; and
 - (c) such other functions as are mentioned in this Act.
- (2) The Board shall consist of a chairman appointed by the Ministers and the Secretary of State concerned with the sea fishing industry in Wales and such number of other members so appointed as the Ministers and the said Secretary of State may from time to time determine.
- (3) If it appears to the Board to be practicable and desirable to make provision for the election of members of the Board by persons engaged in the herring industry, the Board shall prepare and submit to the Ministers proposals for the variation of the composition of the Board so as to enable members to be so elected, and thereupon the Ministers shall lay the proposals before Parliament together with a report setting out their views thereon.
- (4) The provisions of Schedule 4 to this Act shall have effect with respect to the Board and their proceedings.

- (5) The Ministers may give the Board such directions of a general character as to the exercise and performance by the Board of their functions as appear to the Ministers to be requisite in the national interest, and the Board shall give effect to any such directions.
- (6) Any directions under subsection (5) above in connection with the Board's functions under section 45 of this Act shall be given by the Secretary of State concerned with the sea fishing industry in Wales as well as by the Ministers, and references to the Ministers in that subsection shall be construed accordingly.

30 The Herring Industry Advisory Council

- (1) For the purpose of giving advice to the Board in the discharge of their functions, there shall continue to be a Herring Industry Advisory Council.
- (2) The Advisory Council shall consist of a chairman, who shall be such member of the Board as may from time to time be appointed by the Board, and of such other members as may be appointed by the Ministers and the Secretary of State concerned with the sea fishing industry in Wales to represent the interests of the different sections of the herring industry and any such other interests (including those of persons employed in the industry) as the Ministers and the said Secretary of State may consider to be affected.
- (3) Before appointing to the Council a member to represent any such interests as aforesaid, the Ministers and the said Secretary of State shall consult such bodies, if any, as appear to them to be representative of the interests concerned.
- (4) The Board shall appoint a person to act as secretary to the Council.
- (5) The provisions of Schedule 2 to this Act shall have effect with respect to the Advisory Council.

Herring Industry Schemes

31 Schemes for reorganisation, development and regulation of the herring industry

- (1) The Ministers may by order make a scheme with a view to effecting or better effecting the reorganisation, development and regulation of the herring industry, and any scheme so made may contain any provisions which the Ministers in their discretion think expedient with a view to effecting or better effecting those purposes.
- (2) Any such scheme may confer on the Board powers for all or any of the purposes mentioned in Part I of Schedule 5 to this Act, but nothing in the said Part I shall be construed as limiting the provisions that may be contained in any such scheme and in particular as limiting the powers that may be conferred on the Board by any such scheme to purchase herring or to fix prices of herring or products of herring.
- (3) The provisions of Part II of Schedule 5 to this Act shall have effect with respect to the making of any such scheme.
- (4) If it appears to the Ministers, after consultation with the Board, that any such scheme ought to be revoked (otherwise than for the purpose of being replaced by a new scheme) they may by order revoke that scheme and provide for the winding up of the

Board, but an order shall not be made under this subsection unless a draft thereof has been laid before Parliament and approved by resolution of each House.

32 Consumers' committee and committee of investigation

- (1) The Ministers shall appoint a consumers' committee and a committee of investigation.
- (2) A consumers' committee shall—
 - (a) consist of a chairman and of not less than six other members, who shall be such persons as appear to the Ministers, after consultation with the Board of Trade and, as to one member, with the Co-operative Union, to represent the interests of the consumers of herring and their products ; and
 - (b) be charged with the duty of considering and reporting to the Ministers on—
 - (i) the effect of any scheme in force under this Part of this Act on consumers of herring and their products; and
 - (ii) any complaint made to the committee as to the effect of a scheme in force under this Part of this Act on consumers of herring and their products.
- (3) A committee of investigation shall—
 - (a) consist of a chairman and four other members, and
 - (b) be charged with the duty, if the Ministers in any case so direct, of considering and reporting to the Ministers on any report made by a consumers' committee and any complaint made to the Ministers as to the operation of a scheme in force under this Part of this Act which, in the opinion of the Ministers, could not be considered by a consumers' committee under subsection (2) above.
- (4) For the purpose of enabling a consumers' committee or a committee of investigation to consider any matter which it is their duty to consider, the Board shall furnish the committee with such accounts and other information relating to the affairs of the Board as the committee may reasonably require, and shall be entitled to make representations to the committee with respect to the matter in such manner as may be prescribed by regulations made by the Ministers under subsection (9) below with respect to the procedure of the committee.
- (5) If a committee of investigation reports to the Ministers that any provision of a scheme in force under this Part of this Act, or any act or omission of the Board, is contrary to the interests of consumers of herring and their products, or is contrary to the interests of any person affected by the scheme, and is not in the public interest, the Ministers shall consider the report with a view to making such amendments in the scheme as they consider necessary or expedient for the purpose of rectifying the matter or to revoking the scheme; and in the event of the matter being one which it is within the power of the Board to rectify, may by order direct the Board to take such steps to rectify the matter as may be specified in the order, and thereupon it shall be the duty of the Board forthwith to comply with the order.
- (6) In considering for the purpose of this section whether any person represents the interests of consumers of herring and their products or whether any provision of a scheme in force under this Part of this Act or any act or omission of the Board is contrary to the interests of consumers of herring and their products, regard shall be had to the interests of persons who purchase herring and their products for their own consumption or use and not to the interests of persons who purchase herring and their products for the purpose of any trade or industry carried on by them.

Status: This is the original version (as it was originally enacted).

- (7) The Ministers may appoint a secretary to a committee and a committee may employ such officers, agents and servants as the Ministers may, with the approval of the Minister for the Civil Service, determine.
- (8) The chairman and other members of a committee shall be appointed by the Ministers for such period and subject to such conditions as may be determined by them, and the meetings, quorum and procedure of a committee shall be regulated in accordance with regulations made by the Ministers for the purpose, and a committee shall have power to act notwithstanding any vacancy among the members thereof.
- (9) Orders and regulations made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In this section " products " has the same meaning as in Part I of this Act.

Finance

33 Borrowing power of the Board

- (1) The Board shall have power to borrow, subject to and in accordance with regulations made by the Ministers with the approval of the Treasury, any sums required by them for the purpose of their functions under this Part of this Act or a scheme in force thereunder, so long as the amount outstanding at any time of the principal sums borrowed under this section and section 7 of the Herring Industry Act 1935 does not exceed £4 million or such greater amount as may be specified by an order for the time being in force under subsection (2) below.
- (2) The limit on the amount outstanding at any time of the sums borrowed by the Board under subsection (1) above may be raised from time to time, by an amount not exceeding £500,000 at any one time, by an order made by the Ministers with the approval of the Treasury.
- (3) An order under this section shall be of no effect unless it is approved by a resolution of the Commons House of Parliament.

34 Expenses of the Advisory Council

The Board may make such payments in respect of the expenses of the Advisory Council as the Ministers and the Treasury may approve, and any such payments shall be deemed to be part of the general administrative expenses of the Board.

35 Exchequer loans to Board

- (1) The Ministers may advance to the Board, on such terms as the Treasury may approve, any sums required to be borrowed by the Board for any purpose approved by the Ministers and the Treasury, so long as the amount outstanding at any time of the sums advanced under this section and section 7(2) of the White Fish and Herring Industries Act 1953 does not exceed £4 million or such greater amount as may be specified by an order for the time being in force under subsection (3) below; but no such advance—
 - (a) if it is for the purpose of enabling the Board to give financial assistance by way of loan, shall be made unless the application for the assistance is approved by the Board before the end of the year 1972, or

- (b) in any other case, shall be made after the end of the year 1972.
- (2) Subsection (1) above shall not be construed as extending the powers of the Board to borrow money under section 33 of this Act.
- (3) The limit of the amount outstanding at any time of the sums advanced to the Board under subsection (1) above may be raised from time to time, by an amount not exceeding £500,000 at any one time, by an order made by the Ministers with the approval of the Treasury.
- (4) An order under this section shall be of no effect unless it is approved by a resolution of the Commons House of Parliament.
- (5) Any sums received by the Ministers by way of interest on or repayment of any advances under this section shall, subject to section 37(2) of this Act, be paid into the Consolidated Fund.

36 Exchequer grants to Board

- (1) The Ministers shall have power with the approval of the Treasury given before the end of the year 1972 to make grants to the Board in respect of any expenses incurred by the Board after 3rd August 1944 (being the date of the passing of the Herring Industry Act 1944) in the exercise of any powers exercisable by the Board—
 - (a) for promoting the sale of herring or herring products,
 - (b) for promoting market development,
 - (c) for promoting schemes for the revival of winter fisheries,
 - (d) for purchasing vessels and equipment for the purpose of being chartered or hired,
 - (e) for promoting or carrying out schemes of research or experiment, or
 - (f) for converting herring to oil and other products.
- (2) The aggregate amount of any grants made under subsection (1) above and any grants made under section 3 of the Herring Industry Act 1944 and section 5 of the White Fish and Herring Industries Act 1948 shall not exceed £4 million, but this limit may be raised from time to time, by an amount not exceeding £500,000 at any one time, by an order made by the Ministers with the approval of the Treasury.
- (3) An order under this section shall be of no effect unless it is approved by a resolution of the Commons House of Parliament.

37 Herring Marketing Fund

- (1) There shall continue to be a fund called the Herring Marketing Fund under the control and management of the Ministers, and so much of any sums to be advanced to the Board under section 35 of this Act as is required for the making of loans in connection with export or for the undertaking of operations involving the outlay of working capital shall be paid into that fund.
- (2) Notwithstanding anything in section 35 of this Act, any sums received by the Ministers by way of repayment of the principal of sums advanced to the Board (whether before or after the commencement of this Act) out of the Herring Marketing Fund shall, if received before the end of the year 1972 be paid into that fund ; but the Ministers may at any time repay out of the Herring Marketing Fund into the Consolidated Fund any sums so paid into the Herring Marketing Fund.

Status: This is the original version (as it was originally enacted).

- (3) If it is shown to the satisfaction of the Ministers and the Treasury that any sum representing the principal of an advance made (whether before or after the commencement of this Act) out of the Herring Marketing Fund or part of such an advance cannot be repaid, the Treasury may direct that the liability of the Board to the Ministers shall be reduced to the extent of that sum.
- (4) The Secretary of State concerned with the sea fishing industry in Scotland shall prepare, in such form and manner and at such times as the Treasury may direct, an account of the sums received into and paid out of the Herring Marketing Fund in each financial year.
- (5) On or before 30th September in each year, the said account and, in a case where the Treasury have directed under subsection (3) above that the liability of the Board to the Ministers shall be reduced, a statement of the reasons for that reduction, shall be transmitted to the Comptroller and Auditor-General, who shall examine and certify the account and lay copies thereof together with his report thereon, before both Houses of Parliament.
- (6) As soon as may be after the end of the year 1972 the Herring Marketing Fund shall be wound up in accordance with directions given by the Treasury and any sums then standing to the credit thereof shall be paid into the Consolidated Fund.

38 Board's accounts and reports

- (1) A scheme under this Part of this Act shall provide—
 - (a) for the establishment of a Fund, the payment into the Fund of all moneys received by the Board and the payment thereof of all their disbursements;
 - (b) for the keeping by the Board of proper accounts, the audit of the accounts by an auditor approved by the Ministers and the submission of the audited accounts in every year by the Board to the Ministers together with the report of the Board's proceedings made under subsection (5) below ; and
 - (c) for the submission to the Ministers of such audited statements as they may from time to time require with respect to the application of advances under section 7 of the White Fish and Herring Industries Act 1953 or section 35 of this Act.
- (2) The audit of the Board's accounts as aforesaid shall be carried out in accordance with such directions as may be given by the Ministers.
- (3) The said statements shall be transmitted to the Comptroller and Auditor-General, who shall lay copies thereof before both Houses of Parliament together with the report and accounts mentioned in section 37(5) of this Act.
- (4) No person shall be qualified to be appointed auditor unless he is a member of one or more of the following bodies:—
 - The Institute of Chartered Accountants in England and Wales;
 - The Institute of Chartered Accountants of Scotland;
 - The Association of Certified and Corporate Accountants.
- (5) The Board shall also, not later than the expiration of three months from the last day of each financial year of the Board, make a report to the Ministers on the proceedings of the Board during that year, and the Ministers shall lay every such report before Parliament; but no information with respect to any individual business (other than a

business carried on by or on behalf of the Board) shall, without the consent of the owner of that business, be included in any report so laid.

39 Financial provision for Board, etc.

There shall be paid out of moneys provided by Parliament—

- (a) to the members of the Board such salaries and allowances as the Ministers, with the approval of the Minister for the Civil Service, may determine;
- (b) to the members of the Advisory Council such allowances as the Ministers, with the approval of the Minister for the Civil Service, may determine ;
- (c) to the members, officers and servants of the consumers' committee and the committee of investigation such remuneration (whether by way of salaries or by way of fees) as the Ministers, with the approval of the Minister for the Civil Service, may determine;
- (d) the amount necessary to defray such expenses of the said committees as the Ministers and the Treasury may approve;
- (e) such sums as may from time to time be required by the Ministers for making advances or grants under this Part of this Act to the Board.

Legal proceedings and offences

40 Recovery of levy

Any contribution leviable by virtue of a scheme in force under this Part of this Act shall be recoverable as a debt by and from the persons by and from whom the contribution is made leviable by virtue of the scheme.

41 Offences against schemes

- (1) Any person who contravenes or fails to comply with any provision of, or having effect under, a scheme under this Part of this Act, not being a provision for the levying of contributions, shall, if the scheme provides that a contravention of, or a failure to comply with that provision is to be deemed to be an offence, be liable on summary conviction, in the case of a first offence to a fine not exceeding £5 and, in the case of a second or subsequent offence, to a fine not exceeding £20, and, in either case, to forfeit any herring or herring products in relation to which the offence is committed, or to an additional fine not exceeding the value thereof.
- (2) In Scotland the court by which a fine is imposed for an offence under this Part of this Act may, if the court thinks fit, having regard to the prejudicial effect which the commission of the offence has had, or is likely to have, on the operation of a scheme in force under this Part of this Act, direct that the whole or any part of the fine be paid to the Board.
- (3) Subsections (1) and (2) above shall have effect in addition to and not in derogation of any provision which may be made by a scheme for the enforcement, otherwise than by way of fine, forfeiture of goods or money or imprisonment, of any provision of, or having effect under, a scheme in force under this Part of this Act, not being a provision for the levying of contributions.

42 Publication or disclosure of information

Any person who publishes or discloses any information obtained by him in the exercise of any power conferred by or under this Part of this Act, otherwise than for the purpose of the proper discharge of a duty in that behalf or to the Minister of Agriculture, Fisheries and Food or the Secretary of State, shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine not exceeding £100, or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding £50 or to both.

Northern Ireland

43 Application of Part II to Northern Ireland

- (1) This Part of this Act shall, for the purposes of section 6 of the Government of Ireland Act 1920, be deemed to be an Act passed before the appointed day.
- (2) Such sums paid out of the Exchequer of the United Kingdom in connection with the execution of this Part of this Act 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.