



Fisheries Act 1981

1981 CHAPTER 29

PART I

THE SEA FISH INDUSTRY AUTHORITY

Constitution, duties and powers

1 Constitution of the Authority

- (1) There shall be a body known as the Sea Fish Industry Authority.
- (2) The Authority shall consist of not more than twelve members appointed by the Ministers and of those members the Ministers shall appoint one to be chairman and another to be deputy chairman.
- (3) The chairman, deputy chairman and two of the other members of the Authority shall be persons appearing to the Ministers to have no such financial or commercial interests as are likely to affect them in the discharge of their functions as members independent of the sea fish industry.
- (4) The other members of the Authority shall be persons appearing to the Ministers to represent the interests of the sea fish industry or of any part of that industry, and before appointing those members the Ministers shall consult such organisations representing that industry or any part of it as appear to the Ministers to be appropriate.
- (5) Schedule 1 to this Act shall have effect with respect to the Authority.

2 Duties of the Authority

- (1) It shall be the duty of the Authority to exercise its powers under this Part of this Act for the purpose of promoting the efficiency of the sea fish industry and so as to serve the interests of that industry as a whole.
- (2) In exercising its powers under this Part of this Act the Authority shall have regard to the interests of consumers of sea fish and sea fish products.

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- (3) The Ministers may, after consultation with the Authority, give the Authority such directions as they think necessary for ensuring that the activities of the Authority are consistent with subsection (1) above and such other directions as appear to them to be requisite in the public interest; and the Authority shall give effect to any such directions.
- (4) Where the Ministers give a direction under this section they shall lay before Parliament a statement setting out the direction.
- (5) It shall be the duty of the Authority, if so required by any Minister of the Crown, to act as his agent in any matter relating to the sea fish industry.

3 Powers of the Authority

- (1) The Authority shall have power—
 - (a) to carry out research and development with respect to any matters relating to the sea fish industry ;
 - (b) to give advice on any such matters ;
 - (c) to provide training in such matters or to assist in the provision of such training by making grants or by exercising supervisory or co-ordinating functions;
 - (d) to promote the marketing and consumption in, and the export from, the United Kingdom of sea fish and sea fish products;
 - (e) to make loans for assisting persons to meet capital expenditure on constructing, reconditioning or improving fishing vessels or on acquiring, reconditioning or improving plant for making ice or processing sea fish;
 - (f) to give financial assistance (by way of loan, grant or guarantee) to persons incurring expenditure in forming, carrying on or extending the activities of co-operatives for the sale of sea fish or for the purchase of fishing gear, fuel, stores or other materials requisite for the sea fish industry.
- (2) The Authority may charge fees for any services which it provides and may accept voluntary contributions to its expenses or to its expenses in respect of any particular matter.
- (3) In determining its policy with respect to the provision of training or the making of grants under paragraph (c) of subsection (1) above the Authority shall consult with such bodies as may be designated for the purpose by the Ministers; and the Authority shall not without the approval of the Ministers exercise supervisory or co-ordinating functions under that paragraph.
- (4) In determining its policy with respect to any class of financial assistance under subsection (1)(e) or (f) above the Authority shall act with the approval of the Ministers.
- (5) The Authority may provide services for persons concerned with the sea fish industry of countries other than the United Kingdom but shall not do so unless the full cost of the services is recovered by fees and the Authority is satisfied that the services can be provided without prejudice to its other activities.
- (6) In Part I of Schedule 1 to the Overseas Development and Co-operation Act 1980 (bodies with power to assist in overseas development) after the entry relating to the Scottish Tourist Board there shall be inserted the words " The Sea Fish Industry Authority " ; and in section 2(3) of that Act (Ministers whose consent is required) after paragraph (a) there shall be inserted—

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“(aa) in relation to the exercise of that power by the Sea Fish Industry Authority, the consent of the Ministers as defined in section 14(1) of the Fisheries Act 1981 ;”.

- (7) The Authority may enter into such agreements, acquire such property and do all such other things as may in its opinion be necessary or desirable for the exercise of the powers conferred by title foregoing provisions of this section and may dispose as it thinks fit of any property acquired by it.

Financial provisions

4 Levies

- (1) For the purpose of financing its activities the Authority may impose a levy on persons engaged in the sea fish industry.
- (2) Any levy under this section shall be imposed by regulations made by the Authority and confirmed by an order of the Ministers; and in this section " prescribed " means prescribed by such regulations.
- (3) Regulations under this section may impose a levy either—
- (a) in respect of the weight of sea fish or sea fish products landed in the United Kingdom or trans-shipped within British fishery limits at a prescribed rate which, in the case of sea fish, shall not exceed 0.8p. per kilogram; or
 - (b) in respect of the value, ascertained in the prescribed manner, of sea fish or sea fish products landed or trans-shipped as aforesaid at a prescribed rate not exceeding 1 per cent, of that value.
- (4) If regulations under this section impose a levy as provided in subsection (3)(a) above the prescribed rate in relation to any sea fish product shall be such that its yield will not in the opinion of the Authority exceed the yield from a levy at the rate of 0.8p. per kilogram on the sea fish required on average (whether alone or together with any other substance or article) to produce a kilogram of that product.
- (5) Different rates may be prescribed for sea fish or sea fish products of different descriptions ; and the Authority may repay the whole or part of the levy in such circumstances as it may determine but not so as to discriminate between different persons in the same circumstances.
- (6) Any levy imposed under this section shall be payable by such persons engaged in the sea fish industry, in such proportions and at such times as may be prescribed; and the amount payable by any person on account of the levy shall be a debt due from him to the Authority and recoverable accordingly.
- (7) The Ministers may by order increase or further increase the rate per kilogram specified in subsections (3)(a) and (4) above and the percentage specified in subsection (3)(b) above.
- (8) For the purposes of this section—
- (a) parts of a sea fish shall be treated as sea fish products and not as sea fish;
 - (b) references to the landing of fish include references to the collection for consumption of sea fish which have been bred, reared or cultivated in the course of fish farming whether in the sea or otherwise.

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- (9) Any order under subsection (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament and no order shall be made under subsection (7) above unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (10) Schedule 2 to this Act shall have effect with respect to the making of regulations and orders under subsection (2) above.

5 Records and information for levy purposes

- (1) Regulations imposing a levy under section 4 above may require persons engaged in the sea fish industry to keep and preserve such records and to furnish to the Authority such information as may be specified in the regulations.
- (2) Any officer authorised by the Authority may, on producing on demand evidence of his authority, require the production of, and take copies of, any records which a person is required to keep by virtue of the regulations and for that purpose may at any reasonable time enter any premises occupied for the purposes of his business by any person who is or may be liable to pay the levy and board any vessel owned by or in the possession of any such person.
- (3) Any person who—
- (a) fails without reasonable excuse to comply with a requirement imposed by virtue of subsection (1) or (2) above; or
 - (b) wilfully obstructs an officer in the exercise of his powers under subsection (2) above,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.
- (4) Any person who—
- (a) in purported compliance with a requirement imposed by virtue of subsection (1) above knowingly makes a record or furnishes any information which is false in a material particular; or
 - (b) knowingly alters a record made in compliance with any such requirement so that it becomes false as aforesaid,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding three months or to both.

6 Borrowing powers

- (1) The Authority may borrow for the purpose of financing its activities.
- (2) The Authority's powers under this section shall be exercised subject to and in accordance with regulations made by the Ministers with the approval of the Treasury.
- (3) Subject to subsection (4) below, the amount outstanding at any time of the aggregate of—
- (a) the sums borrowed by the Authority under this section ; and
 - (b) sums borrowed by another person and guaranteed by the Authority under section 3(1)(f) above;
- shall not exceed £30 million.

- (4) The Ministers may by an order made with the approval of the Treasury increase or further increase the maximum amount specified in subsection (3) above but not by more than £10 million at a time.
- (5) An order under subsection (4) above shall not have effect unless approved by a resolution of the House of Commons.

7 Government loans

- (1) The Ministers may lend to the Authority, on such terms as the Treasury may approve, any sums required to be borrowed by the Authority for a purpose approved by the Ministers and the Treasury.
- (2) Subject to subsection (3) below, the amount outstanding at any time of the sums lent under this section shall not exceed £30 million.
- (3) The Ministers may by an order made with the approval of the Treasury increase or further increase the maximum amount specified in subsection (2) above but not by more than £10 million at a time.
- (4) An order under subsection (3) above shall not have effect unless approved by a resolution of the House of Commons.
- (5) This section shall not be construed as authorising borrowing by the Authority in excess of the limit imposed by section 6 above.

8 Government grants

The Ministers may, with the consent of the Treasury, make grants to the Authority, on such conditions as they think fit, in respect of—

- (a) any expenses incurred by the Authority in fulfilling a guarantee given under section 3(1)(f) above;
- (b) any loss incurred by the Authority by reason of foreign exchange fluctuations where the Authority has borrowed money in one currency and lent it in another.

9 Government guarantees

- (1) The Ministers may guarantee, in such manner and on such conditions as they think fit, the repayment of the principal of and the payment of interest on any sums which the Authority borrows otherwise than from the Ministers.
- (2) Immediately after giving any such guarantee the Ministers shall lay before each House of Parliament a statement showing the extent and character of the guarantee and the circumstances in which it came to be given.
- (3) If any sum is paid by the Ministers in fulfilment of a guarantee under this section, the Authority shall as from the date of the payment be indebted to the Ministers in the amount of the payment and the Ministers shall lay before each House of Parliament as soon as practicable after the end of the financial year in which the payment is made a statement showing the amount and the circumstances in which it was made.
- (4) Where any sum is so paid, the Authority shall make to the Ministers at such time and in such manner as the Ministers from time to time direct—

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- (a) payments of such amounts as the Ministers so direct in or towards repayment of that sum ; and
- (b) payments of interest at such rates as the Ministers so direct on what is outstanding for the time being in respect of that sum ;

and so long as that sum has not been repaid in full, together with any interest payable, the Ministers shall, from time to time as the Treasury may request and in any case not less often than once in each financial year, lay before each House of Parliament a statement showing how much of that sum remains to be repaid by the Authority, the proposed programme for future repayments, and what directions are currently in force or are proposed to be given with respect to the payment of interest.

- (5) The consent of the Treasury is required for any guarantee given by the Ministers under this section and for any direction given by them under subsection (4) above.

10 Investment of reserve funds

Any money of the Authority which is not immediately required for any other purpose may be invested by the Authority in accordance with the Trustee Investments Act 1961 ; and sections 1, 2, 5, 6, 12 and 13 of that Act shall have effect in relation to any such money and to any investments for the time being representing it as if the money and investments constituted a trust fund and the Authority were trustee of that fund.

Supplementary

11 Accounts and reports

- (1) it shall be the duty of the Authority—
 - (a) to keep proper accounts and proper records in relation to the accounts ; and
 - (b) to prepare a statement of accounts in respect of each financial year.
- (2) The statement of accounts shall give a true and fair view of the state of the Authority's affairs at the end of the financial year and of the Authority's income and expenditure in the financial year, and shall comply with any directions given by the Ministers with the consent of the Treasury as to the information to be contained in the statement or the manner in which it is to be presented or as to the methods and principles according to which the statement is to be prepared.
- (3) Separate accounts shall be kept by the Authority in respect of services provided as mentioned in section 3(5) above and of such other matters as the Ministers may direct.
- (4) The accounts shall be audited by persons to be appointed in respect of each financial year by the Ministers, and the auditors shall be furnished by the Authority with copies of the statement of accounts.
- (5) The auditors shall complete the audit of the accounts and send the Ministers copies of the statement of accounts and of their report on the accounts and the statement as soon as possible after the end of the financial year to which they relate and in any event not later than 30th September following the end of that year.
- (6) No person shall be qualified to be appointed auditor under this section 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 Accountants ;

The Institute of Chartered Accountants in Ireland ;

but a Scottish firm may be appointed under this section if each of the partners is qualified to be so appointed.

- (7) As soon as possible after the end of any financial year and in any event not later than 30th September following the end of that year the Authority shall prepare and submit to the Ministers a report of its proceedings in that year.
- (8) The Ministers shall lay before Parliament copies of the Authority's report for any financial year together with copies of the statement of accounts and of the auditors' report for that year.
- (9) The Ministers and the Comptroller and Auditor General shall be entitled to inspect all books, papers and other records of the Authority relating to, or to matters dealt with in, the accounts required to be kept pursuant to this section.

12 Restriction on disclosure of information

- (1) Subject to subsection (2) below, no information with respect to any particular undertaking which has been obtained by or on behalf of the Authority under this Act shall, without the consent of the person carrying on the undertaking, be disclosed otherwise than for the purpose of the discharge of the Authority's functions.
- (2) Subsection (1) above shall not preclude the disclosure of information by or on behalf of the Authority—
 - (a) to the Ministers or any of them for the purposes of any of their functions relating to the sea fish industry or to the regulation of sea fishing ; or
 - (b) for the purposes of any legal proceedings or of any report of any such proceedings.
- (3) If any person discloses information in contravention of this section he shall be guilty of an offence and liable—
 - (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both ;
 - (b) on summary conviction, to a fine not exceeding the prescribed sum or to imprisonment for a term not exceeding six months or to both.
- (4) In subsection (3)(b) above " the prescribed sum " means—
 - (a) in the case of an offence committed in England, Wales or Northern Ireland, the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (£1,000 at the passing of this Act);
 - (b) in the case of an offence committed in Scotland the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (£1,000 at the passing of this Act);

and for the purposes of the application of this definition in Northern Ireland the provisions of the said Act of 1980 which relate to the sum mentioned in paragraph (a) above shall extend to Northern Ireland.

13 Abolition of White Fish Authority and Herring Industry Board

- (1) The White Fish Authority and the Herring Industry Board shall cease to exist.

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- (2) Schedule 3 to this Act shall have effect with respect to the matters there dealt with, being matters consequential on subsection (1) above

14 Interpretation of Part I

- (1) In this Part of this Act—

" the Authority " means the Sea Fish Industry Authority;

" financial year " means the twelve months ending with 31st March;

" the Ministers " means the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fish industry in Scotland, Wales and Northern Ireland ;

" sea fish " means fish of any kind found in the sea, including shellfish and, subject to section 4(8)(a) above, any part of any such fish but does not include salmon or migratory trout.

- (2) For the purposes of this Part of this Act other than section 3(5) " the sea fish industry " means the sea fish industry in the United Kingdom and a person shall be regarded as engaged in the sea fish industry if—

(a) he carries on the business of operating vessels for catching or processing sea fish or for transporting sea fish or sea fish products, being vessels registered in the United Kingdom ; or

(b) he carries on in the United Kingdom the business of breeding, rearing or cultivating sea fish for human consumption, of selling sea fish or sea fish products by wholesale or retail, of buying sea fish or sea fish products by wholesale, of importing sea fish or sea fish products or of processing sea fish (including the business of a fish fryer).