



Sea Fish Industry Act 1938

1938 CHAPTER 30

PART I

ORGANISATION OF WHITE FISH INDUSTRY

Co-operative Schemes for In-shore Fishermen

18 Co-operative schemes

- (1) If, with respect to any class of persons carrying on the business of a home producer of white fish within an area in Great Britain, the Commission is satisfied—
- (a) that no useful purpose would be served by the application of a marketing scheme to such persons, and
 - (b) that measures should be taken to promote co-operation between such persons in the marketing of white fish,

the Commission may, subject to the following provisions of this Part of this Act, submit to the appropriate Minister a scheme (hereafter in this Part of this Act referred to as "a co-operative scheme") applicable to that area, for enabling a body constituted under the scheme as representing the interests of such persons as aforesaid (hereafter in this Part of this Act referred to as "the authorised body") to exercise such control, and perform such services, as may be authorised under the following provisions of this section.

- (2) A co-operative scheme may make provision—
- (a) incorporating the authorised body, providing for the manner in which that body is to be constituted, and specifying the class of persons whose interests are to be represented by that body;
 - (b) enabling the authorised body—
 - (i) to direct that no person registered under the scheme shall sell white fish, or any particular description of white fish, otherwise than to or through the agency of the authorised body or such persons as that body may designate;

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- (ii) to acquire, deal with and dispose of white fish, and any such other property as the said body considers it desirable, for the discharge of its functions under the scheme, to acquire;
- (iii) to purchase on behalf of, or to make arrangements for supplying to, persons registered under the scheme any such things as are required by them for the carrying on of their business;
- (iv) to take such other measures as the authorised body thinks desirable with a view to promoting or encouraging economy and efficiency in the carrying on of their business by such persons as aforesaid;
- (v) to co-operate with any persons in the exercise of any powers conferred upon the authorised body by virtue of sub-paragraphs (ii), (iii) and (iv) of this paragraph;

and to make such charges in respect of services performed by the said body as may be authorised by the scheme;

- (c) for making exemptions from all or any of the provisions of the scheme in respect of such classes of persons, and such activities, as may be specified in the scheme or determined by the authorised body;
 - (d) for securing that the expenses lawfully incurred by the authorised body in connection with the operation of the scheme shall be defrayed by means of contributions to be made to that body by persons registered under the scheme, and for the assessment and recovery of such contributions ;
 - (e) for requiring persons registered under the scheme to furnish to the authorised body such estimates, returns, accounts and other information as that body considers necessary for the operation of the scheme;
 - (f) for the reference to arbitration of any dispute on the question whether or not any sum is payable by any person by way of contribution under the scheme, or as to the amount of any sum so payable.
- (3) A co-operative scheme containing such provisions as are authorised by sub-paragraph (i) of paragraph (b) of subsection (2) of this section shall be of no effect unless provision is made by such a scheme requiring the authorised body to impose on, and to recover from, any person who contravenes or fails to comply with the said provisions such monetary penalties as may be specified in the scheme:

Provided that a co-operative scheme shall not authorise the imposition or recovery of any penalty in respect of any act or omission which constitutes an offence apart from the provisions of such a scheme.

19 Registration under co-operative schemes

- (1) A co-operative scheme shall be of no effect unless provision is made by the scheme whereby any person of the class whose interests are, by virtue of the scheme, to be represented by the authorised body is entitled, on application made by him in that behalf, to be registered under the scheme; and the scheme may provide that, on and after such date as may be specified in the scheme, no such person shall carry on business as a home producer of white fish in the area to which the scheme is applicable, unless he is either registered under the scheme or, by virtue of the provisions of the scheme, exempt from registration thereunder.
- (2) If any person carries on business in contravention of any provisions of a co-operative scheme which have effect by virtue of the preceding subsection, he shall be guilty of an offence, and liable on summary conviction to a fine not exceeding one hundred

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pounds, and to a further fine not exceeding twenty pounds for every day on which the offence continues after conviction therefor.

- (3) If and so long as any person is registered under a co-operative scheme,—
- (a) he shall be exempt from any obligation to be registered in the Commission's register, or under a producers' marketing scheme, as carrying on the business of a home producer of white fish, and
 - (b) it shall be the duty of the Commission and of the board administering any producers' marketing scheme to secure that he is not so registered as aforesaid.

20 Provisions with respect to submission, confirmation, amendment and revocation of co-operative schemes

- (1) Where a co-operative scheme is duly submitted to the appropriate Minister, then, if he is satisfied—
- (a) that the scheme is likely to promote efficiency or economy in the production and marketing of white fish or to increase the demand for white fish, and is desirable in the public interest, and
 - (b) that there is a preponderating opinion in favour of confirmation of the scheme among the persons of the class whose interests are by virtue of the scheme to be represented by the authorised body,

he may, subject to the following provisions of this section, lay a draft of the scheme before Parliament, and if each House of Parliament resolves that the scheme be approved, the appropriate Minister shall make an order confirming the scheme in terms of the draft.

- (2) The Commission shall, before submitting a cooperative scheme to the appropriate Minister, cause to be published, in such manner as he may direct, 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 said Minister) at which such copies will be supplied, and the time (not being less than twenty-eight days after publication of the notice) within which objections to the scheme and representations with respect thereto may be made in writing to the said Minister.
- (3) The appropriate Minister, before laying the draft of a co-operative scheme before Parliament, shall consider any objections to the scheme and representations with respect thereto which have been duly made to him, and may, after holding such inquiries (if any) as he thinks fit, make such modifications in the scheme as he may, after consulting the Commission, consider desirable :

Provided that—

- (a) where an objection to the scheme has been duly made by any person appearing to the appropriate Minister to be affected thereby, and has not been withdrawn, the said Minister, unless he considers 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 with respect to the scheme, direct the holding of an inquiry with respect to the objection and consider the report of the person holding the inquiry; and
- (b) if the appropriate Minister decides to make any modifications in the scheme, he shall cause notice of the proposed modifications to be published in such manner as he thinks best adapted for informing persons affected.

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- (4) Any power conferred by this Part of this Act to make, submit or confirm a co-operative scheme shall include a power, exercisable in the like manner and subject to the like conditions, to make, submit or confirm a scheme amending or revoking a co-operative scheme.
- (5) The appropriate Minister may by order revoke a co-operative scheme, if it appears to him, after consultation with the Commission, that there is a preponderating opinion in favour of revocation of the scheme among the persons of the class whose interests are by virtue of the scheme to be represented by the authorised body, or that the scheme is not serving the purposes for which it was made, or that the continued operation of the scheme would be contrary to the public interest, but the revocation of a co-operative scheme shall be without prejudice to anything previously done under the scheme or to the making, submission or confirmation of a new scheme.
- (6) An order revoking a co-operative scheme may make provision with respect to the winding up of the authorised body, and with respect to the disposal of any assets of that body remaining after the payment of its debts and liabilities and of the cost and expenses of the winding up.

21 Loans to meet initial expenses of authorised bodies

- (1) The Minister of Agriculture and Fisheries, upon a recommendation of the Commission in that behalf, may make such advances by way of loan to the authorised body constituted under a co-operative scheme as the Ministers and the Treasury may approve as being necessary for the purpose of providing for expenses incurred by that body in connection with the initial operation of the scheme.
- (2) Every loan under this section shall be made on such terms, and subject to such conditions, as the Ministers, with the approval of the Treasury, may determine.
- (3) No such loan as aforesaid shall be made after the expiration of the period of five years from the commencement of this Act, and not more than ten thousands pounds in all shall be advanced by way of loans under this section.