

SCHEDULES

FIRST SCHEDULE

Section 1.

INCIDENTAL PROVISIONS AS TO THE WHITE FISH COMMISSION

Constitution of the Commission

- 1 The Commission shall be a body corporate, with a common seal and power to hold land without licence in mortmain.
- 2 The functions of the Commission and of its officers and servants shall be deemed to be exercised on behalf of the Crown.
- 3 Every member of the Commission shall hold and vacate office in accordance with the terms of the instrument under which he is appointed; but notwithstanding anything in such an instrument, any member of the Commission may resign his office by a notice given under his hand to the Ministers, and a member of the Commission who ceases to hold office shall be eligible for re-appointment to the Commission :

Provided that a person shall not hold office as a member of the Commission for more than five years under any one appointment.
- 4 A person shall be disqualified for membership of the Commission, if and so long as he is a member of the Commons House of Parliament.
- 5 It shall be the duty of the Ministers to satisfy themselves, with respect to any person whom they propose to appoint to be a member of the Commission, that that person will have no such financial or commercial interest as is likely to affect him in the discharge of his functions as a Commissioner, and also to satisfy themselves from time to time, with respect to any person who is a member of the Commission, that he has no such interest as aforesaid; and any such person shall, whenever requested by the Ministers so to do, furnish to them such information as they consider necessary for the performance of their duty under this paragraph.

Meetings and Proceedings of the Commission

- 6 Unless and until the Commission otherwise determines, three shall be a quorum at any meeting of the Commission and the Commission shall have power to act notwithstanding a vacancy among the members thereof.
- 7 If at any meeting of the Commission the votes are equally divided on any question, the person acting as Chairman of the meeting shall have a second or casting vote.
- 8 All acts done at any meeting of the Commission shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or qualifications of a person purporting to be a member of the Commission, be as valid as if that defect had not existed.
- 9 Minutes shall be kept of the proceedings of the Commission, and any such minutes shall, if signed by a person purporting to have acted as chairman of the meeting to

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which the minutes relate, or of a meeting at which they were read, be evidence of the proceedings at the first-mentioned meeting, and a meeting to which any such minutes relate shall, unless the contrary is proved, be deemed to have been regularly convened and constituted.

- 10 Subject to the preceding provisions of this Schedule, the Commission shall have power to regulate its own procedure.

Incidental Duties and Powers of the Commission

- 11 The Commission shall have an office at which communications and notices will at all times be received, and shall notify to the Ministers the address of that office and any change of that address.

- 12 The Commission may enter into such agreements, acquire such property, and do such things (including the employment from time to time of technical and professional agents), as may, in the opinion of the Commission, be necessary or desirable for the exercise or performance of any of its powers or duties, and may dispose, as it thinks fit, of any property acquired by it.

The Common Seal

- 13 The application of the common seal of the Commission to any document shall be attested by at least one member of the Commission and by the person for the time being acting as secretary to the Commission.

Instruments executed or issued by the Commission

- 14 Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Commission by any person generally or specially authorised by it for that purpose.
- 15 Any document purporting to be a document duly executed or issued under the seal of the Commission or on behalf of the Commission shall, until the contrary is proved, be deemed to be a document so executed or issued, as the case may be.

SECOND SCHEDULE

Section 2.

INCIDENTAL PROVISIONS AS TO WHITE FISH INDUSTRY JOINT COUNCIL

- 1 Every member of the Joint Council shall hold and vacate office in accordance with the terms of the instrument under which he is appointed; but, notwithstanding anything in such an instrument, any member of the Council may resign his office by a notice given under his hand to the Ministers, and a member of the Council who ceases to hold office shall be eligible for re-appointment.
- 2 Unless and until the Council otherwise determines, the quorum of the Council shall be such number as may be fixed by the Ministers, and the Council shall have power to act notwithstanding any vacancy among the members thereof.
- 3 Subject to any directions which may be given by the Ministers, the Council shall have power to regulate its own procedure.

- 4 The Commission shall appoint a person to act as secretary to the Council.

THIRD SCHEDULE

Section 4.

PROVISIONS WITH RESPECT TO THE MAKING, CONFIRMATION
AND PUBLICATION OF COMMISSION'S REGULATIONS

- 1 At least two months before making any regulations under Part I of this Act the Commission shall cause to be published in the Gazettes and in such other manner as it thinks best adapted for informing persons affected, a notice of the Commission's intention to make the regulations—

- (a) specifying the place where the draft regulations 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
- (b) stating that the Commission is prepared to receive and consider any objection to the proposed regulations which may be made to the Commission in writing within such period after the date of the publication of the notice, not being less than two months, as may be specified in the notice;

and the Commission shall, before making the regulations, take into consideration any such objection so made to it before the end of the period specified on that behalf in the said notice.

- 2 When submitting any such regulations as aforesaid to the Ministers for confirmation, the Commission shall transmit to them any objection to the regulations which has been duly made to the Commission and has not been withdrawn.

- 3 Before confirming any such regulations as aforesaid submitted to them for confirmation, the Ministers shall consider any objections to the regulations which have been transmitted to them under the last preceding paragraph, and may, after holding such inquiries (if any) as they think fit, make such modifications in the regulations as they may, after consultation with the Commission, consider desirable :

Provided that—

- (a) where an objection to the regulations has been duly made by any person appearing to the Ministers to be affected thereby, and has not been withdrawn, the Ministers, unless they consider the objection to be frivolous or irrelevant or unless the regulations have been modified as required by the objection, shall, before taking any further action with respect to the regulations, 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 Ministers decide to make any modifications in the regulations, they shall cause notice of the proposed modifications to be published in such manner as they think best adapted for informing persons affected.

- 4 As soon as may be after confirming any such regulations as aforesaid, the Ministers shall cause to be published by advertisement in the Gazettes, and in such other manner as they think best adapted for informing persons affected, a notice stating that the regulations have come into operation, and specifying the place where copies of the regulations may be obtained.

FOURTH SCHEDULE

Sections 12 and 13.

PROVISIONS CORRESPONDING TO CERTAIN PROVISIONS OF THE AGRICULTURAL MARKETING ACTS, 1931 TO 1934

PART I

PROVISIONS WITH RESPECT TO REGISTRATION UNDER MARKETING SCHEMES, AND FINANCIAL POWER OF BOARDS

- 1 A marketing scheme may provide for securing the removal from the register to be kept under the scheme of the names of persons who have ceased to carry on in Great Britain the business by virtue of which they may have been registered in the said register or who are exempted from registration under the scheme.
- 2 For the purpose of determining the financial powers and duties of the board, a marketing scheme may provide—
- (a) for the establishment of a fund to be administered and controlled by the board, for the payment into the said fund of all moneys received by the board, and for the payment out of the said fund of all expenses lawfully incurred by the board;
 - (b) for determining the manner in which any moneys standing to the credit of the said fund may be invested, and for the keeping, audit and publication of accounts relating to the fund;
 - (c) for empowering the board to borrow money for the purpose of discharging its functions under the scheme;
 - (d) for empowering the board to lend money to any person registered under the scheme, on such terms, and against such security, as may be specified in the scheme.

PART II

PROVISIONS WITH RESPECT TO INCORPORATION, REGISTRATION AND WINDING-UP OF BOARDS

- 1 The board constituted to administer a marketing scheme shall be a body corporate with a common seal and power to hold land without licence in mortmain.
- 2 The board administering any such scheme shall notify to the Ministers the address of the office of the board at which communications and notices will at all times be received, and 01 any change in that address; and the Ministers shall cause a register to be kept showing the address of every such board, and the register shall be open for inspection by the public at such times and at such places as the Ministers may direct.
- 3 A marketing scheme may provide for the winding-up of the board, and for that purpose may apply Part X of the Companies Act, 1929, subject to the following modifications, that is to say :—
- (a) for the purpose of section three hundred and thirty-eight of the Companies Act, 1929, the principal place of business of the board shall be deemed to be the office of the board registered under this Part of this Schedule;

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- (b) sub-paragraph (ii) of paragraph (e) of subsection (1) of section three hundred and thirty-eight of the Companies Act, 1929, shall not apply, and sub-paragraph (iii) of that paragraph shall apply as if the words " or any member thereof as such " were omitted;
- (c) a petition for winding-up a board may be presented by the Ministers as well as by any person authorised under the provisions of the Companies Act, 1929, to present a petition for winding-up a company; and
- (d) in the event of the winding-up of a board, every person - who, at any time during the relevant period, was a person registered under the scheme shall be liable to contribute to the payment of the debts and liabilities of the board and of the payment of the costs and expenses of the winding-up an amount assessed in such manner and subject to such limitations as may be provided by the scheme, but save as aforesaid no person shall be liable to contribute to the assets of the board in the winding-up by reason only of his being or having been a person registered under the scheme or a member of the board.

In this paragraph the expression " the relevant period " means—

- (a) in a case where, before the commencement of the winding-up, the scheme has been revoked, the year immediately before the revocation of the scheme, or
- (b) in any other case, the year immediately before the commencement of the winding-up.

PART III

EFFECT OF MARKETING SCHEMES ON CONTRACTS

- 1 Subject as hereinafter provided, a contract of which neither the making nor the performance was, at the time when the contract was made, prohibited by or under any marketing scheme in force shall not, unless the terms of the contract otherwise provide, be void or unenforceable by reason that, at the time for the performance of any provision of the contract, the performance thereof is so prohibited :

Provided that, where the performance of any such contract is prohibited by or under any such scheme, this paragraph shall cease to apply to that contract upon the expiration of three months after the prohibition first takes effect, unless the contract is registered under this Part of this Schedule,

- 2 It shall be the duty of the board administering a marketing scheme, on the application of any party to such a contract as aforesaid, to register the contract within the period of fourteen days after the application unless—
- (a) the application is made after the time at which it is provided by the proviso to the preceding paragraph that that paragraph shall cease to apply to the contract; or
 - (b) the board is of opinion—
 - (i) that the contract is unenforceable by any party thereto by virtue of the provisions of section four of the Statute of Frauds or section four of the Sale of Goods Act, 1893; or
 - (ii) in the case of a contract made during the relevant period, that the contract was made with a view to evading the operation of the scheme;

and if any party to a contract is aggrieved by the omission of a board to register the contract within the period aforesaid, he may, within twenty-one days after the expiration of that period, appeal to the court, and, pending the determination of any such appeal, paragraph 1 of this Part of this Schedule shall, notwithstanding anything in the proviso to that paragraph, continue to apply to the contract.

3 On any appeal under the last preceding paragraph the board concerned and any party to the contract may appear and be heard, and if, on the hearing of any such appeal, the court finds—

- (a) that the application for registration of the contract was made before the time at which it is provided by the proviso to paragraph 1 of this Part of this Schedule that that paragraph shall cease to apply to the contract; and
- (b) that the contract is not unenforceable by any party thereto by virtue of the provisions of section four of the Statute of Frauds or section four of the Sale of Goods Act, 1893; and
- (c) in the case of a contract made during the relevant period, that the contract was not made with a view to evading the operation of the scheme;

the court shall by order direct the registration of the contract, and thereupon the contract shall be deemed to be registered as from the date of the order; but where, in the case of a contract made during the relevant period, the court does not direct the registration of the contract, any party to the contract certified by the court to have entered into the contract bona fide without a view to the evasion of the operation of the scheme may recover the amount of any damage suffered by him by reason of the avoidance of the contract from any party certified by the court to have entered into the contract with a view to such evasion as aforesaid.

4 For the purposes of an appeal under this Part of this Schedule with respect to any contract, the court shall be any county court within the district in which any party to the contract has dwelt or carried on business at any time during the period within which the appeal may be brought:

Provided that—

- (a) if, before proceedings in respect of any such appeal are commenced in the county court, the board and all parties to the contract agree that the appeal should be heard by the High Court, the High Court shall be the court for the purposes of the appeal; and
- (b) section one hundred and eleven of the County Courts Act, 1934, which provides for- the removal of matters from the county court to the High Court shall apply with respect to any appeal under this section as if the appeal were a matter commenced in the county court under that Act.

5 No person shall be liable to any penalty in respect of a contravention of any marketing scheme, if he proves that the contravention was necessary for the performance of a contract which, by virtue of this Part of this Schedule, was not, at the time of the contravention, void or unenforceable.

6 For the purposes of this Part of this Schedule, the expression " the relevant period " means, in relation to a scheme, a period beginning twelve months before the date when notice of the submission of the scheme was published in the Gazettes and ending six months after the date when the scheme comes into force.

PART IV

INCIDENTAL PROVISIONS WITH RESPECT TO REVOCATION OF MARKETING SCHEMES

- 1 Where a marketing scheme is revoked by a subsequent scheme, the subsequent scheme may provide for the transfer to the new board of the whole or any part of the property, rights and liabilities of the existing board, for the continuation by or against the new board of any legal proceedings instituted by or against the existing board which are pending at the time of the revocation, and for the dissolution, without winding-up, of the existing board.

In this paragraph the expression " the new board " means the board administering the subsequent scheme, and the expression " the existing board " means the board administering the scheme revoked.

- 2 The Ministers shall by order revoke a marketing scheme if an order is made for the winding-up of the board.
- 3 The board administering a marketing scheme shall not be deemed to be dissolved by reason only that the scheme has been revoked, and (except in a case where the board is dissolved without winding-up under paragraph 1 of this Part of this Schedule) so much of the scheme as relates to the winding-up of the board shall continue in force notwithstanding the revocation.
- 4 Where a marketing scheme or any provision of such a scheme is revoked, subsection (2) of section thirty-eight of the Interpretation Act, 1889, (which relates to the effect of repeals) shall apply as if the revocation of the scheme or of that provision, as the case may be, were the repeal of an enactment by another Act.

FIFTH SCHEDULE

Section 13.

PROVISIONS TO BE SUBSTITUTED FOR SUBSECTIONS (3) AND (6) OR SECTION THIRTEEN OR THIS ACT IN RELATION TO A MARKETING SCHEME FOR REGULATING THE CARRYING ON OF TWO OR MORE DESIGNATED BUSINESSES

Subsection to be substituted for subsection (3) of section thirteen

- “(3) If, after the preceding provisions of this section have been complied with in relation to a marketing scheme for regulating, in any respect, the carrying on of two or more designated businesses, the Ministers decide to proceed in the matter of the scheme, they shall forthwith direct the Commission to cause to be taken in the prescribed manner, in relation to each of those businesses, a poll of appropriate registered persons, being persons who are registered in the Commission's register as carrying on that business, and shall take no further action in the matter of the scheme unless, in the case of each poll so taken, the result of the poll shows that at least half the total number of appropriate registered persons entitled to vote have voted, and that at least two-thirds of all the votes polled have been cast in favour of the scheme.”

Subsection to be substituted for subsection (6) of section thirteen

- “(6) If, in the case of any marketing scheme for the time being in force which is a scheme for regulating, in any respect, the carrying on of two or more designated businesses, a request for a poll on the question whether or not the scheme should be revoked is made in

writing to the board administering the scheme by or on behalf of the prescribed number of persons registered under the scheme as carrying on a particular designated business, the board shall forthwith communicate the request to the Commission, and thereupon the Commission shall cause to be taken in the prescribed manner a poll of persons registered under the scheme as carrying on that business, and shall communicate the result of the poll to the Ministers; and if the result of the poll shows that not less than half of 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 of persons registered under the scheme as carrying on a particular designated business shall, without the consent of the board, be taken under this subsection—

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