



# Sea Fisheries Act 1883

## 1883 CHAPTER 22

### *Preliminary*

#### **1 Short title**

This Act may be cited as the Sea Fisheries Act, 1883.

### *Confirmation of Convention*

#### **2 Confirmation of Convention**

The Convention set out in the first schedule to this Act (referred to in this Act as the Convention) is hereby confirmed, and the Articles thereof shall be of the same force as if they were enacted in the body of this Act.

### *Fishery Regulations*

#### **3 Power to Her Majesty, by Orders in Council, to make, &c regulations for execution of Act and maintenance of order**

It shall be lawful for Her Majesty from time to time, by Order in Council, to make, alter, and revoke regulations for carrying into execution this Act, and the intent and object thereof, and for the maintenance of good order among sea fishing boats, and the persons belonging thereto, and to impose fines not exceeding ten pounds for the breach of such regulations.

#### **4 Punishment for violation of Articles 13 to 22 of Convention, and for other offences**

If within the exclusive fishery limits of the British Islands any person, or if outside those limits any person belonging to a British, sea fishing boat,

- (a) acts in contravention of Articles thirteen to twenty-two (both inclusive) of the first schedule to this Act, or any of them; or,

- (b) causes injury to any person in any one or more of the following ways, namely, by assaulting any one belonging to another sea-fishing boat, or by causing damage to another sea-fishing boat, or to any property on board thereof, or belonging thereto; or,
- (c) fishes for oysters or has on board his boat any oyster dredge within any seas and during any time within and during which, oyster fishing is prohibited by law, or by any convention, treaty, or arrangement to which this Act may be hereafter applied;

such person shall be liable, on summary conviction, to a fine not exceeding fifty pounds, or, in the discretion of the court, to imprisonment for a term not exceeding three months, with or without hard labour.

## **5 Punishment for violation of Article 23 of Convention**

If within the exclusive fishery limits of the British Islands, any person, or if outside those limits any person belonging to a British sea-fishing boat,

- (a) Uses any instrument for the purpose of damaging or destroying, by cutting or otherwise, any fishing implement belonging to another sea-fishing boat, except in the cases provided for by Articles twenty and twenty-one of, the first schedule to this Act; or,
- (b) Takes on board or has on board such boat any instrument' serving only or intended to damage or destroy fishing implements, by cutting or otherwise ;

such person shall be liable on summary conviction to a fine not exceeding fifty pounds, or in the discretion of the court to imprisonment for a term not exceeding three months, with or without hard labour, and the instrument shall be liable to be forfeited.

## **6 Regulations as to lights for sea-fishing boats**

The regulations respecting lights for the time being in force under the Acts relating to merchant shipping shall, so far as they relate to sea-fishing boats, be deemed to be provisions of this Act and may be enforced accordingly, and a sea-fishery officer shall for that purpose, in addition to his powers under this Act, have the same powers as are given to any officer by the said Acts relating to merchant shipping.

### *Exclusive Fishery Limits*

## **7 Regulations as to foreign sea-fishing boats within exclusive fishery limits**

- (1) A foreign sea-fishing boat shall not enter within the exclusive fishery limits of the British Islands, except for purposes recognised by international law, or by any convention, treaty, or arrangement for the time being in force between Her Majesty and any Foreign State, or for any lawful purpose.
- (2) If a foreign sea-fishing boat enters the exclusive fishery limits of the British Islands,
  - (a) The boat shall return outside of the said limits so soon as the purpose for which it entered has been answered ;
  - (b) No person on board the boat shall fish or attempt to fish while the boat remains within the said limits ;
  - (c) Such regulations as Her Majesty may from time to time prescribe by Order in Council shall be duly observed.

- (3) In the event of any contravention of this section on the part of any foreign sea-fishing boat, or of any person belonging thereto, the master, or person for the time being in charge of such boat shall be liable on summary conviction to a fine not exceeding, in the case of the first offence, ten pounds, and in the case of a second or any subsequent offence, twenty pounds.

#### *Registry of British Sea-fishing Boats*

### **8 Amendment of 31 & 32 Vict. c.45 ss.22-26**

- (1) Sections twenty-two, twenty-three, twenty-four, and twenty-six of the Sea Fisheries Act, 1868 (which relate to the registry of British sea-fishing boats), shall have effect as if Articles five to twelve (both inclusive) of the first schedule to this Act were therein referred to in addition to the Articles of the first schedule to that-Act in the said sections mentioned, and as if offences under this Act were offences in the said sections mentioned ; provided that nothing in the said sections shall be deemed to authorise any foreign sea-fishery officer to do anything which he is not, under the first schedule to this Act, authorised to do.
- (2) Section one hundred and seventy-six of the Customs Consolidation Act, 1876, shall not apply to any British sea-fishing boat entered or registered in pursuance of the said sections of the Sea Fisheries Act, 1868.

#### *Miscellaneous*

### **9 Prohibition of manufacture and sale of instruments for destroying fishing implements**

- (1) There shall not be manufactured or sold or exposed for sale at any place within the British Islands, any instrument serving only or intended to damage or destroy fishing implements, by cutting or otherwise.
- (2) In the event of any contravention of this section a person guilty thereof shall be liable, on summary conviction, to a fine not exceeding fifty pounds, or, in the discretion of the court, to imprisonment for a term not exceeding three months, with or without hard labour, and the instrument shall be liable to be forfeited.

### **10 Provision as to wreck (Article 25 of Convention)**

The boats and things specified in Article twenty-five of the first schedule to this Act shall be deemed to be " wreck " within the meaning of any Acts relating to merchant shipping, so however that the provisions of the said Article shall be duly observed.

#### *Enforcement of Act*

### **11 Who are to be British and foreign sea-fishery officers**

- (1) The provisions of this Act and of any Order in Council under this Act or under the sections of the Sea Fisheries Act, 1868, amended by this Act shall be enforced by sea-fishery officers, either British or foreign.

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

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- (2) The following persons shall be British sea-fishery officers ; that is to say, every officer of or appointed by the Board of Trade, every commissioned officer of any of Her Majesty's ships on full pay, every officer authorised in that behalf by the Admiralty, every British Consular Officer, every collector and principal officer of customs in any place in the British Islands, and- every officer of Customs in the British Islands authorised in that behalf by the Commissioners of Customs, every divisional officer of the coast guard, and every principal officer of a coastguard station.
- (3) The following persons shall be foreign sea-fishery officers, that is to say, the commander of any vessel belonging to the Government of any Foreign State bound by the Convention, and any officer appointed by a Foreign State for the purpose of enforcing the Convention, or otherwise recognised by Her Majesty as a sea-fishery officer of a Foreign State

## **12 Powers of British sea-fishery officers**

For the purpose of enforcing the provisions of this Act and of any Order in Council under this Act or under the Sea Fisheries Act, 1868, as amended by this Act, a British sea-fishery officer may with respect to any sea-fishing boat within the exclusive limits of the British Islands and with respect to any British sea-fishing boat outside of those limits, exercise the following powers :

- (1) He may go on board it;
- (2) He may require the owner, master, and crew, or any of them, to produce any certificates of registry, licences, official logbooks, official papers, articles of agreement, muster rolls, and other documents relating to the boat or to the crew, or to any member thereof, or to any person on board the boat, which are in their respective possession or control on board the boat, and may take copies thereof or of any part thereof;
- (3) He may muster the crew of the boat;
- (4) He may require the master to appear and give any explanation concerning his boat and her crew, and any person on board his boat, and the said certificates of registry, licences, official logbooks, official papers, articles of agreement, muster rolls, and other documents, or any of them ;
- (5) He may examine all sails, lights, small boats, anchors, grapnels, and fishing implements belonging to the boat;
- (6) He may seize any instrument serving only or intended to damage or destroy fishing implements, by cutting or otherwise, which is found on board the boat or in the possession of any person belonging to the boat;
- (7) He may make any examination or inquiry which he deems necessary to ascertain whether any contravention of the provisions of this Act, or of any such Order of Council as aforesaid has been committed, or to fix the amount of compensation due for any damage done to another sea-fishing boat, or to any person or property on board thereof or belonging thereto, and may administer an oath for such purpose ; and
- (8) In the case of any person who appears to him to have committed any such contravention he may, without summons, warrant, or other process, both take the offender and the boat to which he belongs and the crew thereof to the nearest or most convenient port, and bring him or them before a competent court, and detain him, it, and them in the port until the alleged contravention has been adjudicated upon.

### **13 Powers of British and foreign sea-fishery officers**

For the purpose of carrying into effect the Convention, and of exercising and performing the powers and duties thereby vested in and imposed on cruisers and commanders of cruisers, a foreign sea-fishery officer may, with respect to any British sea-fishing boat, and any sea-fishery officer, whether British or foreign, may, with respect to any foreign sea-fishing boat to which this Act for the time being applies, exercise any of the powers conferred by this Act on British sea-fishery officers.

Provided that—

- (a) Nothing in this section shall authorise a sea-fishery officer to do anything not authorised by the Convention ; and
- (b) The port to which any sea-fishing boat or any person belonging thereto is taken shall, except where the nationality of such boat is not evidenced by official papers, be a port of the state to which such boat belongs.

### **14 Protection of and punishment for obstructing sea-fishery officers**

- (1) A sea-fishery officer shall be entitled to the same protection in respect of any action or suit brought against him for any act done or omitted to be done in the execution of his duty under this Act, as is given to any officer of customs by the Customs Consolidation Act, 1876, or any Act amending the same, and (with reference to the seizure or detention of any ship) by any Act relating to the registry of British ships.
- (2) If any person obstructs any sea-fishery officer in acting under the powers conferred, by this Act, or refuses or neglects to comply with any requisition or direction lawfully made or given by, or to answer any question lawfully asked by, any sea-fishery officer in pursuance of this Act, such person shall be liable, on summary conviction, to a fine not exceeding fifty pounds, or to be imprisoned for a term not exceeding three months, with or without hard labour.

#### *Legal Proceedings*

### **15 Compensation for damage caused by offence**

- (1) Where on the conviction of any person under this Act. for an offence it appears to the court that any injury to person or property has been caused by the offence, the court may by such conviction adjudge the person convicted to pay in addition to any fine a reasonable sum as compensation for such injury, and such sum may be recovered as a fine under this Act and when recovered shall be paid to the person injured.
- (2) Any compensation specified in a document signed in accordance with Article thirty-three of the first schedule to this Act or fixed by a sea-fishery officer in accordance with any submission to arbitration may be recovered as a simple contract debt, and in England may also be recovered as a civil debt before a court of summary jurisdiction.
- (3) In a proceeding against any person for the recovery of such last-mentioned compensation, the formal document referred to in the said Article, or an award of a sea-fishery officer in pursuance of a submission to arbitration signed by the person liable to pay such compensation, shall be sufficient evidence that such person is liable to pay the compensation specified in such document or award.

## 16 Summary prosecution of offences and recovery of fines

- (1) Offences under this Act may (save as otherwise provided) be prosecuted, and fines under this Act may be recovered in a summary manner ; that is to say,—
  - (a) In England before a justice or justices, in manner provided by the Summary Jurisdiction (English) Acts ;
  - (b) In Scotland in manner provided by the Summary Jurisdiction (Scotland) Acts, 1864 and 1881;
  - (c) In Ireland within the police district of Dublin metropolis in manner provided by the Acts regulating the powers and duties of the justices of the peace of such district, or of the police of such district, and elsewhere in Ireland in manner provided by the Petty Sessions (Ireland) Act, 1851, and the Acts amending the same ;
  - (d) In the Isle of Man, and the Islands of Guernsey, Jersey, Alderney, and Sark respectively, before any court, governor, deputy governor, deemster, jurat, or other magistrate, in the manner in which the like offences and fines are by law prosecuted and recovered, or as near thereto as circumstances admit.
- (2) If any person feels aggrieved by any conviction under this Act by a court of summary jurisdiction, or by any determination or adjudication of such court with respect to any compensation under this Act, he may, where imprisonment is awarded without the option of a fine, or the sum adjudged to be paid exceeds five pounds, appeal therefrom as follows :—
  - (a) In England the appeal shall be to quarter sessions in manner provided by the Summary Jurisdiction (English) Acts;
  - (b) In Ireland the appeal shall be to the court of quarter sessions in manner directed by the Petty Sessions (Ireland) Act, 1851, and the Acts amending the same.
  - (c) In Scotland, the Isle of Man, and the Islands of Guernsey, Jersey, Alderney, and Sark, the appeal shall be to the court and in the manner in which appeals from the like convictions and determinations and adjudications are made.

## 17 Evidence

- (1) Any document drawn up in pursuance of the first schedule to this Act shall be admissible in any proceeding, civil or criminal, as evidence of the facts or matters therein stated.
- (2) If evidence contained in any such document was taken on oath in the presence of the person charged in such evidence, and such person had an opportunity of cross-examining the person giving such evidence and of making his reply to such evidence, the sea-fishery officer drawing up such document may certify the said facts, or any of them.'
- (3) Any document or certificate in this section mentioned purporting to be signed by a sea-fishery officer shall be admissible in evidence without proof of such signature, and, if purporting to be signed by any other person, shall, if certified by a sea-fishery officer to have been so signed, be deemed until the contrary is proved to have been signed by such other person.
- (4) If any person forges the signature of a sea-fishery officer to any such document as above mentioned, or makes use of any such document knowing the signature thereto to be forged, such person shall be liable on summary conviction to imprisonment for a term not exceeding three months with or without hard labour, and on conviction on

indictment to be imprisoned with or without hard labour for a term not exceeding two years, and the cost of the prosecution of any such person on indictment may be paid as in cases of felony.

## **18 Jurisdiction of courts**

For the purpose of giving jurisdiction to courts under this Act, a sea-fishing boat shall be deemed to be a ship within the meaning of any Act relating to offences committed on board a ship, and every court shall have the same jurisdiction over a foreign sea fishing boat within the exclusive fishery limits of the British Islands, and persons belonging thereto, as such court would have if such boat were a British sea fishing boat.

## **19 Service to be good if made personally or on board ship**

Service of any summons or other matter in any legal proceeding under this Act shall be good service if made personally on the person to be served, or at his last place of abode, or if made by leaving such summons for him on board any sea-fishing boat to which he may belong, with the person being or appearing to be in command or charge of such boat.

## **20 Masters of boats liable to fines imposed**

- (1) Where any offence against this Act has been committed by some person belonging to a sea-fishing boat, the master or person for the time being in charge of such boat shall in every case be liable to be deemed guilty of such offence; provided that if he proves that he issued proper orders for the observance, and used due diligence to enforce the observance, of this Act, and that the offence in question was actually committed by some other person without his connivance, and that the actual offender has been convicted, or that he has taken all practicable means in his power to prosecute such offender (if alive) to conviction, he shall not be liable to any further punishment than payment of compensation for any injury caused by the offence.
- (2) Any fine or compensation adjudged under this Act may be recovered in the ordinary way, or, if the court think fit so to order, by distress or poinding and sale of the sea-fishing boat to which the offender belongs, and her tackle, apparel, and furniture and any property on board thereof or belonging thereto, or any part thereof; provided that, where the boat is a foreign sea-fishing boat, the court may order that in lieu of any such distress the boat may be detained in some port in the British Islands for a period not exceeding three months from the date of the conviction, and the boat may be detained accordingly, and in such case shall not be distrained.

## **21 Application of fines**

- (1) The court adjudging any fine or forfeiture under this Act may, if it think fit, direct the whole or any part thereof to be applied in or towards payment of the expenses of the proceedings; and, subject to such direction, all fines and the proceeds of all forfeitures recovered under this Act shall, notwithstanding anything in any Act relating to municipal corporations or otherwise, be paid into the Exchequer, in such manner as the Commissioners of the Treasury may direct.
- (2) Forfeitures may be destroyed, sold, and disposed of as the court adjudging the forfeiture may direct.

## **22 Saving of liability and rights**

- (1) Nothing in this Act shall prevent any person being liable under any other Act or otherwise to any indictment, proceeding, punishment, or penalty, other than is provided for any offence by this Act, so that no person be punished twice for the same offence.
- (2) Nothing in this Act, or in any Order in Council made thereunder, nor any proceedings under such Act or Order "with respect to any matter, shall alter the liability of any person in any action or suit with reference to the same matter, so that no person shall be required to pay compensation twice in respect of the same injury.

### *Application of Act*

## **23 Extension of Act by Order in Council**

If at any time after the commencement of this Act any convention, treaty, or arrangement respecting sea fisheries is made between Her Majesty and any Foreign State, it shall be lawful -for Her Majesty by Order in Council, to direct that all or any of the provisions of this Act shall, and the same shall accordingly (subject to the exceptions, restrictions, and conditions, if any, in the Order mentioned) apply to the said convention, treaty, or arrangement, and have effect in like manner as if the said convention, treaty, or arrangement were set forth in-the first schedule' to this Act, and were part of that schedule and were the Convention referred to in this Act. .

## **24 Application of Act to seas between British Islands and France, and continuance of 6 & 7 Vict. c.79 as to French Convention**

If the provisions of this Act are applied by Order in Council to any convention, treaty, or arrangement made in substitution for the Convention set forth in the first schedule to the Sea Fisheries Act, 1868, or for the Convention and Articles set forth in the schedule to the Act of the sixth and seventh years of the reign of Her present Majesty, chapter seventy-nine, intituled " An Act to carry " into effect the Convention between Her Majesty and the King " of the French, concerning the fisheries in the seas between the " British Islands and France," that last-mentioned Act shall, after the date fixed by the said Order for the application of this Act be repealed, but such last-mentioned Act shall, until the said date or any earlier date at which the Convention set forth in the first schedule to the Sea Fisheries Act, 1868, comes into operation, continue in force so far as regards French sea-fishing boats and persons belonging thereto within the seas to which the said Convention and Articles set forth in the schedule thereto apply, so far as those seas are outside the exclusive fishery limits of the British Islands, and are not within the North Sea as defined in the first schedule to this Act.

## **25 General application of Act**

This Act, so far as it applies to foreign sea-fishing boats outside of the. exclusive fishery limits of the British Islands, and persons belonging thereto, and to foreign sea-fishery officers, shall apply only within the North Sea as denned by Article four of the first schedule to this Act, or within the seas specified in any convention, treaty, or arrangement to which this Act may be applied by Order in Council made in pursuance of this Act, and to the boats and officers of a Foreign State bound by the Convention in the first schedule to this Act or by any convention, treaty, or arrangement to which

this Act may be applied, but save as aforesaid this Act shall apply to the whole of the British Islands as defined by this Act, and to the seas surrounding the same, whether within or without the exclusive fishery limits of the British Islands, and the Royal Courts of Guernsey and Jersey shall register this Act in their respective Courts.

### *Supplemental*

#### **26 Publication of Orders in Council**

Orders in Council made in pursuance of this Act shall be published in the London Gazette, or otherwise published in such manner as the Board of Trade may direct for such sufficient time before they come into force as to prevent inconvenience.

#### **27 Amendment of 31 & 32 Vict. c.45 s.18**

The reference in section eighteen of the Sea Fisheries Act, 1868, to section, two hundred of the Customs Consolidation Act, 1853, shall be construed to refer to section one hundred and seventy of the Customs Consolidation Act, 1876.

#### **28 Definitions**

In this Act,—

The expression " sea-fishing " shall not include fishing for salmon as denned by any Act relating to salmon, but save as aforesaid, means the fishing for every description both of fish, and shell fish, found in the seas to which this Act applies; and the expression " sea fisherman " and other expressions relating to sea-fishing shall be construed accordingly: ,

The expression " sea-fishing boat " includes every vessel of whatever size, and in whatever way propelled, which is used by any person in sea-fishing, or in carrying on the business of a sea fisherman :

The expression " fishing implement " means any net, line, float, barrel, buoy, or other instrument, engine, or implement used or intended to be used for the purpose of sea fishing:

The expression " British Islands " includes the United Kingdom of Great Britain and Ireland, the Isle of Man, the Islands of Guernsey Jersey, Alderney, and Sark, and their dependencies:

The expression " exclusive fishery limits of the British " Islands " means that portion of the seas surrounding the British Islands within which Her Majesty's subjects have, by international law, the exclusive right of fishing, and where such portion is defined by the terms of any convention, treaty, or arrangement for the time being in force between Her Majesty and any Foreign State, includes, as regards the sea-fishing boats and officers and subjects of that State, the portion so defined:

The expression " the Admiralty " means the Lord High Admiral for the time being of the United Kingdom of Great Britain and Ireland, or any two or more of the Commissioners for executing the office of Lord High Admiral of the United Kingdom :

The expression " Consular officer " includes Consul-General, Consul and Vice-Consul, and any person for the time being discharging the duties of Consul-General, Consul, or Vice-Consul:

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

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The expression " person " includes a body of persons corporate or unincorporate:

The expression " court " includes any tribunal or magistrate exercising jurisdiction under this Act.

## **29 Commencement of Act**

This Act shall come into force on such day as may be fixed by a notice in that behalf published in the London Gazette, which day is in this Act referred to as the commencement of this Act.

## **30 Repeals**

- (1) After the commencement of this Act the Acts specified in the first part of the second schedule to this Act shall be repealed to the extent specified in the third column of that schedule.
- (2) After the commencement of this Act, the Acts specified in the second part of the second schedule to this Act shall be repealed to the extent specified in the third column of that schedule:

Provided that, until the date herein-after mentioned at which such repeal takes full effect, the repeal of the enactments specified in the said second part shall, except within the North Sea as defined by the first schedule to this Act, be subject to the following limitations:

- (a) The repeal shall not extend to section twelve of the Sea Fisheries Act, 1868 (which section relates to oyster fishing), nor to the recovery of any penalty for a violation of that section.
- (b) The repeal shall extend only to officers and boats within the exclusive fishery limits of the British Islands and to British sea-fishing boats when outside the exclusive fishery limits of the British Islands;
- (c) The repeal shall not affect the power of French sea-fishery officers and French courts over British sea-fishing boats when outside the exclusive fishery limits of the British Islands, or the power of British and French sea-fishery officers and British courts over French sea-fishing boats brought within the exclusive fishery limits of the British Islands for offences committed outside those limits ;
- (d) The repeal shall not alter the power of receiving as evidence any depositions, minutes, and other documents which by the said Acts are made receivable as evidence ;
- (e) If the Convention set forth in the first schedule to the Sea Fisheries Act, 1868, comes into operation, then, upon notice thereof being given in the London Gazette, the said enactments shall, subject to the provisions of this section, be in force for the purposes of such Convention.

If this Act is applied by Order in Council to French sea-fishery officers and French sea-fishing boats within the seas to which the Convention set forth in the first schedule to the Sea Fisheries Act, 1868, applies, the said repeal of the enactments specified in the second part of the second schedule to this Act shall take full effect as from the date at which such application of this Act takes effect.

- (3) The repeal of any enactment by this Act shall not affect anything duly done or suffered, or any liability, penalty, forfeiture, or punishment incurred under any enactment hereby repealed, and any legal proceeding or remedy in respect of such liability, penalty, forfeiture, or punishment may be carried on as if this Act had not passed.

### **31 Continuance of Act**

So much of this Act as has effect outside of the exclusive fishery limits of the British Islands shall, if the Convention ceases to be binding on Her Majesty, cease to apply to the boats and officers of any Foreign State bound by the Convention, and if the Convention ceases to be binding on any Foreign State shall cease to apply to the boats and officers of such State, but subject "as aforesaid this Act shall continue in force notwithstanding the determination of the Convention.