

1973 No. 237

SEA FISHERIES

BOATS AND METHODS OF FISHING

The Sea Fish (Conservation) (Isle of Man) Order 1973

Made - - - - 16th February 1973

Coming into Operation 1st April 1973

At the Court at Buckingham Palace, the 16th day of February 1973

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 24(2) of the Sea Fish (Conservation) Act 1967(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Sea Fish (Conservation) (Isle of Man) Order 1973 and shall come into operation on 1st April 1973.

2. The following provisions of the Sea Fish (Conservation) Act 1967 shall extend to the Isle of Man subject to the exceptions, adaptations and modifications specified in the Schedule to this Order:—

- (a) section 1 (which relates to size limits, etc. for fish), (as amended by section 16 of the Sea Fisheries Act 1968(b) as extended to the Isle of Man by the Sea Fisheries (Isle of Man) Order 1973(c));
- (b) section 3 (which relates to the regulation of nets and other fishing gear);
- (c) section 5 (which confers power to restrict fishing for sea fish);
- (d) certain ancillary provisions, namely sections 9, 11, 14 and 15 (as amended by section 22(1) and paragraph 38 of Schedule 1 to the Sea Fisheries Act 1968, as extended to the Isle of Man by the Sea Fisheries (Isle of Man) Order 1971(d)).

W. G. Agnew.

(a) 1967 c. 84.

(c) S.I. 1973/236 (1973 I, p. 889).

(b) 1968 c. 77.

(d) S.I. 1971/1747 (1971 III, p. 4760).

SCHEDULE

EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS IN THE EXTENSION OF SECTIONS 1, 3 AND 5 AND ANCILLARY PROVISIONS TO THE ISLE OF MAN AND TO THE FISHERY LIMITS ADJACENT THERETO

1. In section 1, subsections (1), (2) and (5) shall be omitted.
2. In section 1(3)—
 - (a) for the words “subsection (1) above” there shall be substituted the words “section 1(1) of the Sea Fish (Conservation) Act 1967, as it applies in the United Kingdom, whether made before or after the coming into operation of the Sea Fish (Conservation) (Isle of Man) Order 1972”;
 - (b) after the words “British fishing boat” there shall be inserted the words “registered in the Isle of Man or, in the case of a British fishing boat not so registered, in waters adjacent to the Isle of Man and within such limits (but outside territorial waters)”.
3. For section 1(4) there shall be substituted the following subsection:—

“(4) Where an order referred to in subsection (3) above prohibits the carrying by any foreign fishing boat in waters adjacent to the United Kingdom and within the fishery limits of the British Islands of sea fish of any description prescribed by the order which are of less than the minimum size so prescribed in relation to sea fish of that description, such sea fish shall not be carried by such a fishing boat within the fishery limits of the British Islands adjacent to the Isle of Man (but outside territorial waters).
4. For section 1(6) there shall be substituted the following subsections:—

“(6) If subsection (3) or subsection (4) above are contravened, the master, the owner and the charterer (if any) of the British fishing boat or the foreign fishing boat, as the case may be, shall each be guilty of an offence.

(7) In this section—

“fishing boat” means a vessel of whatever size, and in whatever way propelled, which is for the time being employed in sea fishing or the sea fishing service;

“master” includes, in relation to any vessel, the person for the time being in command or charge of the vessel;

“migratory trout” means trout which migrate to or from the sea;

“salmon” includes fish of the salmon species;

“seafish” means fish, whether fresh or cured, of any kind found in the sea, including shellfish, and any parts of any such fish but does not include salmon or migratory trout;

“shellfish” includes crustaceans and molluscs of any kind and any spat or spawn of shellfish;

“vessel” includes any ship or boat or any other description of vessel used in navigation.”.
5. In section 3(1) for the words “United Kingdom” there shall be substituted the words “Isle of Man”.
6. In section 3(2)—
 - (a) for the words “United Kingdom” in the second place where they occur there shall be substituted the words “Isle of Man”;
 - (b) for the words from “adjacent” to “Islands” there shall be substituted the words “within the fishery limits of the British Islands adjacent to the Isle of Man (but outside territorial waters)”.
7. In section 3(6) at the end there shall be added the following sentence:—

“In this subsection “Act” includes “Act of Tynwald”.”.

8. Section 3(7) shall be omitted.
9. After section 3(6) there shall be inserted the following subsections:—
- “(7) The definitions set out in section 1(7) of this Act shall have effect for the purposes of this section.
- (8) In this section “the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with the sea fishing industry in Scotland and Northern Ireland.”.
10. In section 5(2)(b) for the words “Great Britain” there shall be substituted the words “the Isle of Man” and after the words “those limits” there shall be inserted the words “(but outside territorial waters)”.
11. In section 5(8) for the words “United Kingdom” in both places where they occur there shall be substituted the words “the Isle of Man”; and after the words “British Island” there shall be inserted the words “(but outside territorial waters)”.
12. After section 5(8) there shall be inserted the following subsections:—
- “(9) The definitions set out in sections 1(7) (as modified by the next following subsection) and 3(8) of this Act shall have effect for the purposes of this section and in this section—
- “British-owned”, in relation to a fishing boat means owned by a person who is (within the meaning of the Merchant Shipping Act 1894(a)) a person qualified to own a British ship or owned by two or more persons any one of whom is (within the meaning of that Act) a person so qualified.
- (10) In the definition of “fishing boat” the reference to the sea fishing service and in the definition of “sea fish” the words following “any such fish” shall be omitted.”.
13. In section 9 subsection (1) shall be omitted.
14. In section 9(2), (3) and (4) (exemption for operations for scientific or other purposes), for the words “one of the Ministers” there shall be substituted the words “the Isle of Man Board of Agriculture and Fisheries”.
15. In section 9(5) for the words “sections 4, 5, 6 and 8” there shall be substituted the words “section 5” and after the word “enactment” there shall be inserted the words “including an Act of Tynwald”.
16. In section 9(6) the reference to subsection (1) shall be omitted.
17. After section 9(7) there shall be inserted the following subsection:—
- “(8) The definitions of “salmon” and “migratory trout” set out in section 1(7) of this Act and the definition of “sea fish” as set out in section 1(7) and modified in section 5(10) shall have effect for the purposes of this section.”.
18. For section 11 (penalties for offences) there shall be substituted the following section:—
- “11.—(1) Any person guilty of an offence under section 1, 3 or 5 of this Act shall be liable on summary conviction in the case of a first offence to a fine not exceeding £100 and in the case of a second or subsequent offence to imprisonment for a term not exceeding three months or a fine not exceeding £200 or both.
- (2) The court by which a person is convicted of an offence under section 1, 3 or 5 may order the forfeiture of the net or other fishing gear in respect of which the contravention constituting the offence occurred.”.
19. In section 14 (jurisdiction of court to try offences) for the words “sections 3, 4 and 5” there shall be substituted the words “sections 3 and 5”.
- 20 In section 15(2)—
- (a) for paragraph (b) there shall be substituted the following paragraph:—
- “(b) any fish caught in contravention of a prohibition imposed by an order under section 5 of this Act, where the fish are on a fishing boat used in

contravention of such a prohibition or are in the ownership or custody, or under the control of the owner or master or charterer, if any, of the fishing boat;”;

(b) in paragraph (c) the words “contravening the said section 4(1) or used in” shall be omitted.

(c) paragraph (d) shall be omitted.

21. In section 15(3)—

(a) for the words “United Kingdom” in both places where they occur there shall be substituted the words “Isle of Man”;

(b) after the words “British Islands” there shall be substituted the words “(but outside territorial waters)”;

(c) for the words after “the enforcement of” there shall be substituted the words “section 1, 3 or 5 of this Act or any order made thereunder.”.

22. After section 15(5) there shall be inserted the following subsections:—

“(6) The definitions of “master”, “the Ministers” and “British-owned” set out in sections 1(7), 3(8) and 5(9) of this Act shall have effect for the purposes of this section and in this section—

“British sea-fishery officer” means any person who by virtue of section 7 of the Sea Fisheries Act 1968 as extended to the Isle of Man is a British sea-fishery officer.

(7) The definition of “fishing boat” set out in section 1(7) of this Act shall have effect for the purposes of this section except that, insofar as this section applies to section 5 of this Act and orders made under that section, the reference to the sea fishing service shall be omitted from the definition.”.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order extends sections 1, 3 and 5 of the Sea Fish (Conservation) Act 1967 and certain ancillary provisions to the Isle of Man with exceptions, adaptations and modifications.

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