



Jersey

SEA FISHERIES ACT 1868 ORDER IN COUNCIL 1869

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APPENDIX



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SEA FISHERIES ACT 1868 ORDER IN COUNCIL 1869

Jersey Order in Council 1/1869

SEA FISHERIES ACT, 1868.

ACTE DE PARLEMENT

enregistré en vertu d'un Ordre de Sa Majesté en
Conseil en date du

4 FEVRIER 1869.

(Entériné le 6 mars 1869).

ANNO TRICESIMO PRIMO & TRICESIMO SECUNDO VICTORIÆ REGINÆ

CAP. XLV.

AN ACT to carry into effect a Convention between Her Majesty and the Emperor of the French concerning the Fisheries in the Seas adjoining the British Islands and France, and to amend the Laws relating to British Sea Fisheries.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: -

PART I

PRELIMINARY

DIVISION OF ACT

1. This Act shall be divided into parts, as follows:

Part I. Preliminary.

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Part II. Sea Fishery Convention.

Part III. Oyster Fisheries.

Part IV. Legal Proceedings.

Part V. Miscellaneous.

SHORT TITLE

2. This Act may be cited as the Sea Fisheries Act, 1868.

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INTERPRETATION

5. In this Act –

the term “sea-fish” does not include salmon, as defined by any Act relating to salmon, but, save as aforesaid, includes every description both of fish and of shell fish which is found in the seas to which this Act applies ; and “sea-fishing”, “sea-fisherman”, and other expressions referring to sea-fish, shall in this Act be construed to refer only to sea-fish as before defined;

the term “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 term “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 ; and the terms “Great Britain and Ireland” and “United Kingdom”, as used in the first schedule to this Act, shall be construed to mean the “British Islands” as herein defined ; the terms “exclusive fishery limits of the British Islands” and “exclusive fishery limits of France” mean the limits within which the exclusive right of fishing is by Article one of the first schedule to this Act reserved to British subjects and French subjects respectively ;

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the term “court” includes any tribunal or magistrate exercising jurisdiction under this Act ;

the term “person” includes a body corporate ;

the term “the Irish Fishery Commissioners” means the Commissioners acting in execution of the Fisheries (Ireland) Act, 1842, and the Acts amending the same.

PART II

CONVENTION AND FISHERIES

General Provisions

¹ Sections 3 and 4 repealed by the Fishery Limits Act, 1964.

² Definition of “consular officer” repealed by the Fishery Limits Act, 1964.

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SEA-FISHING BOATS WITHIN EXCLUSIVE LIMITS TO HAVE OFFICIAL PAPERS

26. Subject to any exemptions allowed by or in pursuance of such Order in Council, the master of every sea-fishing boat within the exclusive fishery limits of the British Islands, and of every British sea-fishing boat outside of those limits, shall have on board his boat, if it is a British sea-fishing boat required by this Part of this Act to be entered or registered, the certificate of registry or official papers issued to the boat in pursuance of any Act relating to the registry of British ships, or of this Part of this Act, and if it is not British, then official papers evidencing the nationality of such boat.

The master of any such boat who acts in contravention of this Section, unless there is a reasonable cause for not having such certificate or official papers (proof whereof shall lie on him), shall be liable, together with his boat and crew, to be taken by any sea-fishery officer, without warrant, summons or other process, into the nearest or most convenient port, and there to be ordered by the court, on any proceeding in a summary manner, to pay a penalty not exceeding twenty pounds ; and if such penalty is not paid, and the boat is not British, such boat may be detained in port for a period not exceeding three months from the date of the sentence.

PART III

OYSTER FISHERIES

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PART IV

LEGAL PROCEEDINGS

MODE OF RECOVERING PENALTIES

57. All penalties, offences and proceedings under this Act, or under any Order in Council made thereunder (except any felony, and except as otherwise provided), may be recovered, prosecuted and taken in a summary manner, and –

in England, before any justice, and

in Scotland, before any court or judge acting under the Summary Procedure Act, 1864, and any Act amending the same, in manner directed by those Acts, and

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 penalties, offences and proceedings are by law recovered, prosecuted, and taken, or as near thereto as circumstances admit.

APPEAL

³ Sections 6 to 21 repealed by the Fishery Limits Act, 1964 ; sections 22 to 24 repealed by the Merchant Shipping Act, 1894 and section 25 repealed by the Sea Fisheries Act, 1883.

⁴ Part III not applicable to Jersey.

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58. If any person feels aggrieved by any conviction under this Act, or by any determination or adjudication of the court with respect to any compensation under this Act, where the sum adjudged to be paid exceeds five pounds, or the period of imprisonment adjudged exceeds one month, he may appeal therefrom in manner following ; (that is to say,)

in England ... to some court of general or quarter sessions ... ;

in Ireland, in manner directed by the Petty Sessions, Ireland, Act, 1851, and any Act amending the same ;

in Scotland, the Isle of Man, and the Islands of Guernsey, Jersey, Alderney, and Sark, in manner in which appeals from the like convictions and determinations and adjudications are made.

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JURISDICTION OF COURTS

60. For the purpose of giving jurisdiction to courts under this Act, the following provisions shall have effect : -

- (1) the sea-fishing boat shall be deemed to be a ship within the meaning of any Act relating to offences committed on board a ship ;
- (2) the same court shall have power to exercise the jurisdiction conferred by this Act with respect to an offence committed by a foreign subject as would have jurisdiction to try such offence if it had been committed by a British subject.

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SERVICE TO BE GOOD IF MADE PERSONALLY OR ON BOARD SHIP

62. 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.

MASTERS OF BOATS LIABLE TO PENALTIES IMPOSED

63. * * * * *

Any penalty under this Act, except a penalty for the non-payment of which detention in a port is specially provided as the remedy, may be recovered in the ordinary way, or, if the court think fit so to order, by distress or pounding 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.

APPLICATION OF PENALTIES

⁵ Section 59 repealed by the Fishery Limits Act, 1964.

⁶ Section 61 repealed by the Fishery Limits Act, 1964.

⁷ Paragraph repealed by the Fishery Limits Act, 1964.

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64. The court imposing any penalty or enforcing any 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, and to any direction given under any express provision in this Act, all penalties and forfeitures recovered under this Act shall be paid into the receipt of Her Majesty's Exchequer in such manner as * * * * the Treasury may direct, and shall be carried to the Consolidated Fund.

SAVING OF LIABILITY UNDER OTHER ACTS, ETC

65. 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.

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.

PART V

MISCELLANEOUS

POWER TO PROVIDE, BY ORDER IN COUNCIL, FOR GIVING EFFECT TO
CONVENTIONS OR TREATIES EXEMPTING FROM DUES FOREIGN SEA-FISHING
BOATS ENTERING BRITISH PORTS FROM STRESS OF WEATHER

66. Whereas by a convention concluded between the United Kingdom and France on the twenty-sixth day of January one thousand eight-hundred and twenty-six it was, amongst other matters, agreed that sea-fishing boats of either country, when forced by stress of weather to seek shelter in the ports or on the coasts of the other country, should on certain conditions be exempted from all dues to which they would otherwise be liable ; and doubts have arisen whether that part of the said convention has ever been confirmed by the authority of Parliament ; and it is expedient to remove such doubts, and to enable Her Majesty to provide for the due execution of the said convention, and of any other like convention or treaty which may be made by Her Majesty : Be it enacted, that where any such convention or treaty as mentioned in this section has been or may hereafter be concluded with any foreign country, Her Majesty may by Order in Council direct that every sea-fishing boat belonging to such foreign country, when forced by stress of weather to seek shelter in any port or place in the British Islands, shall, if it does not discharge or receive on board any cargo, and complies with the other conditions, if any, specified in such Order, be exempt from all dues, tolls, rates, taxes, duties, imposts, and other charges to which it would otherwise be liable in such port or place, and every such boat shall be exempt accordingly.

POWER, BY ORDER IN COUNCIL, TO GIVE EFFECT TO BYELAWS OF IRISH
FISHERY COMMISSIONERS RESTRICTING OR REGULATING THE DREDGING FOR
OYSTERS ON THE IRISH COAST, OUTSIDE THE EXCLUSIVE FISHERY LIMITS OF
THE BRITISH ISLANDS – LENGTH OF CLOSE TIME

67. The Irish Fishery Commissioners may from time to time lay before Her Majesty in Council byelaws for the purpose of restricting or regulating the dredging for oysters on any

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Words repealed by the Statute Law Revision Act, 1893.

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oyster beds or banks situate within the distance of twenty miles measured from a straight line drawn from the eastern point of Lambay Island to Carnsore Point on the coast of Ireland, outside of the exclusive fishery limits of the British Islands, and all such byelaws shall apply equally to all boats and persons on whom they may be binding.

It shall be lawful for Her Majesty, by Order in Council, to do all or any of the following things; namely,

- (a) to direct that such byelaws shall be observed;
- (b) to impose penalties not exceeding twenty pounds for the breach of such byelaws;
- (c) to apply to the breach of such byelaws such (if any) of the enactments in force respecting the breach of the regulations respecting Irish oyster fisheries within the exclusive fishery limits of the British Islands, and with such modifications and alterations as may be found desirable ;
- (d) to revoke or alter any Order so made :

Provided that the length of close time prescribed by any such Order shall not be shorter than that prescribed for the time being by the Irish Fishery Commissioners in respect of beds or banks within the exclusive fishery limits of the British Islands.

Every such Order shall be binding on all British sea-fishing boats, and on any other sea-fishing boats in that behalf specified in the Order, and on the crews of such boats.

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PUBLICATION AND EVIDENCE OF ORDERS IN COUNCIL

69. With respect to any Orders in Council made in pursuance of this Act, the following provisions shall have effect –

- (1) they 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 ;
- (2) they may be proved in any legal proceeding by the production of a copy of the Gazette containing the said advertisement, or of a copy of the orders or regulations purporting to be printed by the printer to Her Majesty.

APPLICATION OF ACT – SAVING OF JURISDICTION OF IRISH FISHERY COMMISSIONERS AS TO OYSTER FISHERIES

70. the enactments in this Act which are restricted in terms to the seas outside the exclusive fishery limits of the British Islands, or to any particular part of the British Islands and the seas adjoining the same shall apply only to those seas and such part ; but, save as aforesaid, this Act shall apply to the seas adjoining the coasts of France specified in Article three of the First Schedule to this Act outside of the exclusive fishing limits of France, and 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 :

⁹

Section 68 repealed by the Sea Fisheries (Shellfish) Act, 1967.

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Provided that nothing in this Act relating to oyster or mussel fisheries, or to oysters or mussels, shall in any way whatever alter, interfere with, or affect the jurisdiction which the Irish Fishery Commissioners would have power to exercise over the seas surrounding Ireland and over the oyster fisheries and oyster beds in those seas if this Act had not passed.

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¹⁰

Section 71 repealed by the Sea Fisheries Act, 1883.

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SCHEDULES

REFERRED TO IN THE FOREGOING ACT

FIRST SCHEDULE

**CONVENTION BETWEEN HER MAJESTY AND THE EMPEROR OF THE FRENCH, RELATIVE TO
FISHERIES IN THE SEAS BETWEEN GREAT BRITAIN AND FRANCE.**

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¹¹ First Schedule repealed by the Fishery Limits Act, 1964.

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SECOND SCHEDULE

DATES OF ACTS

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¹² Second Schedule repealed by the Sea Fisheries Act, 1883.