CHAPTER 33.

An Act to prevent the spreading of disease among salmon and freshwater fish in Great Britain. A.D. 1937.

[10th June 1937.]

BE it enacted by the King'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:—

Restriction on importation of live fish and eggs of fish.

1.—(1) It shall not be lawful to import or bring into Great Britain any live fish of the salmon family.

(2) It shall not be lawful to import or bring into Great Britain any live freshwater fish or live eggs of fish of the salmon family, or of freshwater fish, unless the fish or eggs are consigned to a person licensed under this section and the licence is produced at the time of the delivery under the Customs Acts of the entry of the consignment.

(3) The Minister of Agriculture and Fisheries (in this Act referred to as "the Minister") may grant a licence to any person to have consigned to him such fish or eggs as are mentioned in the last foregoing subsection, and the following provisions shall have effect in relation to such licences, that is to say:—

(*a*) a licence may be granted subject to such conditions as the Minister thinks fit as to the quantities or kinds of fish or eggs which may be imported or brought in under the licence,

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as to the disposal, transport, inspection, cleansing and disinfection of the fish or eggs and of the containers or other vessels in which they are to be transported or kept and otherwise as to the precautions which are to be taken for avoiding the spreading of disease among salmon and freshwater fish;

(*b*) a licence may be granted for any period not exceeding twelve months but may be suspended or revoked by the Minister at any time during the currency thereof;

(*c*) there shall on the grant of a licence be paid by the person applying therefor to the Minister such fee not exceeding five shillings as the Minister may, with the consent of the Treasury, determine.

(4) If any person in contravention of the provisions of this section imports or brings or procures to be imported or brought into Great Britain any live fish or eggs of fish or, being the holder of a licence under this Act, contravenes any condition subject to which the licence was granted, he shall be guilty of an offence; and any officer of police, officer of Customs and Excise, or inspector may seize any fish or eggs with respect to which he has reason to believe that such an offence has been committed and may detain them pending the determination of any proceedings instituted under this Act in respect of that offence or until the Minister is satisfied that no such proceedings are likely to be instituted.

(5) Notwithstanding the foregoing provisions of this section, where it is shown to the satisfaction of the Commissioners of Customs and Excise that any live fish or eggs of fish, of which the importation or bringing into Great Britain is prohibited or restricted by this section, are being imported or brought solely with a view to the re-exportation thereof after transit through Great Britain or by way of transhipment, the Commissioners may, subject to such conditions as they think fit to impose for securing the re-exportation of the goods, allow the fish or eggs of fish to be imported or brought as if the prohibition or restriction did not apply thereto.

Provisions as to infected areas.

2.—(1) If, at any time, the Minister is satisfied as respects any area that any waters therein are infected waters, he may by order declare the area to be an infected

area and may, to such extent as he considers necessary for the purpose of preventing the spreading of infection, by the same or a subsequent order prohibit or regulate the transport of live fish, or of eggs of fish or of foodstuff for fish, from that area.

Any order made under this subsection shall be published in the prescribed manner and may be varied or revoked by a subsequent order made under this subsection, and if any person contravenes any provision of such an order, he shall be guilty of an offence.

(2) During a period of three months next after the commencement of this Act the powers of the Minister under the last foregoing subsection may be exercised with respect to any area as to which the Minister is satisfied that any waters therein have within the previous twelve months been infected waters.

(3) The occupier of any waters in an area declared by an order made under this section to be an infected area shall be entitled, on application, to be supplied by the Minister free of charge with a report of the evidence on which the order was made.

(4) Where an order is in force under this section declaring an area to be an infected area, the Minister may by notice in writing served on any occupier of any waters in that area give directions requiring him to take all practicable steps to secure the removal of dead or dying fish from the waters and regulating the manner in which any fish removed from the waters are to be disposed of:

Provided that no notice shall be served under this subsection in respect of waters in the district of a fishery board, not being a fish farm.

(5) If the Minister is satisfied that any direction contained in a notice served under this section has not been complied with within the time limited by the notice, he may authorise an inspector to carry out the direction, and any expenses reasonably incurred by the inspector in so doing shall be recoverable summarily as a civil debt by the Minister from the person upon whom the notice was served; and if any person does any act which is prohibited by such a notice, he shall be guilty of an offence unless he shows that he did not know that the act was so prohibited.

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(6) Where an order is in force under this section declaring an area to be an infected area, the Minister, if he is satisfied that for the protection against disease of the stock of fish in any waters it is necessary so to do, may, by such a notice as aforesaid or otherwise in writing, authorise any occupier of any waters in that area to remove, notwithstanding anything in any agreement to the contrary, any fish from the waters and to do so by such agents and by such methods (including methods otherwise illegal) as the Minister considers to be most expedient for the purpose :

Provided that the powers conferred by this subsection shall not be exercised in respect of waters in the district of a fishery board, not being a fish farm.

(7) Where an occupier of any waters has in pursuance of an authority conferred under the last foregoing subsection removed any fish from any waters, he shall comply with any directions given to him by the Minister as to the manner in which those fish are to be disposed of, and, if he fails to comply with any such directions, he shall be guilty of an offence.

(8) Where any occupier of any waters in an area which is declared by an order in force under this section to be an infected area—

(*a*) has removed any dead or dying fish from those waters; or

(*b*) has removed any fish from those waters after a notice or authority has been served on or given to him under subsection (6) of this section,

he shall, within seven days or such longer time as the Minister may allow, notify the number of the fish so removed to the Minister, or, if the waters are in the district of a fishery board and are not a fish farm, to the fishery board.

Powers and duties of fishery boards.

3.—(1) Any fishery board who have reasonable ground for suspecting that any waters, not being a fish farm, are infected waters, shall forthwith report the facts to the Minister, and may take any practicable steps for securing the removal of dead or dying fish from the waters.

The Minister on receiving any such report as aforesaid with respect to any waters, shall forthwith cause an investigation to be made as to whether they are infected waters.

(2) Where any area is declared by an order in force under the last foregoing section to be an infected area, the Minister may authorise any fishery board to remove any fish from any waters in that area (not being a fish farm) and to do so by such agents and by such methods (including methods otherwise illegal) as he considers to be most expedient for the purpose.

(3) Every fishery board—

(*a*) shall destroy or otherwise properly dispose of all fish removed under any powers conferred on them by or under this section; and

(*b*) shall at such times as the Minister may direct send to him a return stating the number of fish so removed and the number of fish notified to them by any occupier in accordance with the provisions of the last foregoing section as having been removed by him from any waters.

Preliminary precautions in suspected places.

4.—(1) If an inspector has reasonable grounds for suspecting that the waters of any fish farm are infected waters, he shall forthwith serve the prescribed notice upon the occupier of the fish farm and report the facts to the Minister, and no live fish, no eggs of fish, and no foodstuff for fish shall, without the permission of the Minister, be transported from the fish farm until after the expiration of sixteen days from the service of the notice unless before the expiration of that period the occupier receives from the Minister a written intimation that such permission is no longer required.

(2) In the event of any live fish, eggs of fish, or foodstuff for fish being transported from any fish farm while the transport thereof is prohibited by this section, every person who is privy to the transporting shall be guilty of an offence, unless he shows that he did not know that the transporting was prohibited.

(3) If any person entitled to take fish from any waters, or employed for the purpose of having the care of any waters, has reasonable grounds for suspecting that those waters are infected waters, it shall be his duty forthwith to report the facts by letter or telegram addressed to the Minister, or, if the waters are situate in the district of a fishery board and are not a fish farm, to the board, and if without reasonable excuse he fails to do so, he shall be guilty of an offence.

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Duty of Minister to examine waters on demand of a fishery board or occupier.

5. It shall be the duty of the Minister, on the demand of any fishery board, or of an occupier of any waters, to cause an inspector to make an examination of any waters within their district, or in his occupation, as the case may be, with a view to discovering whether or not they are infected waters, and to cause a report of the result of the examination to be furnished to the said fishery board or occupier free of charge; and if at any such examination the waters are found to be infected waters, the Minister shall cause an inspector to make a further examination thereof when required so to do by the fishery board or occupier, as the case may be:

Provided that the Minister shall not be bound to cause an examination to be made of any waters if the period which has elapsed since the conclusion of any previous examination of those waters undertaken in accordance with a demand made under this section is so short that in his opinion a further examination is not yet necessary.

Powers of entry on land and inspection.

6.—(1) Any justice of the peace, upon an information on oath that there is reasonable cause to suspect an offence under this Act to have been committed, may, by warrant under his hand authorise any person named in the warrant to enter on any land mentioned in the warrant at such times as are so mentioned and to seize any fish, eggs of fish, or foodstuff or article which that person suspects to have been imported or brought into Great Britain, removed or otherwise dealt with, or to be about to be removed or otherwise dealt with, in contravention of this Act or of any licence granted, order made, or notice served thereunder:

Provided that a warrant under this subsection shall not continue in force for more than one week from the date of the granting thereof.

(2) Any inspector shall have power—

(*a*) to inspect any waters in which fish of the salmon family or freshwater fish or the eggs of such fish or foodstuff for fish are likely to be found, and to take therefrom samples of any such fish, eggs, or foodstuff, or of water, mud, vegetation or other matter;

(*b*) for the purpose of exercising any powers or performing any duties under this Act, to enter, upon production on demand of his authority, on any land;

and any person who refuses to admit or obstructs an inspector in the exercise or performance of any of the said powers and duties shall be guilty of an offence.

(3) If in any sample of fish taken from any waters by an inspector under the powers conferred by the last foregoing subsection none is found to be infected, the Minister shall pay to the occupier of the waters, or where there is more than one occupier of the waters, to such of the occupiers as he considers equitable, a sum equal to the market value of the fish taken in that sample.

(4) Any person authorised in writing in that behalf by a fishery board may, for the purpose of performing any duties imposed on him by the board in exercise of their functions under this Act, enter, upon production on demand of his authority, on any land situate within the district of the board not being part of a fish farm, and any person who refuses to admit him or obstructs him in the carrying out of any of those duties shall be guilty of an offence.

(5) Any person exercising powers conferred on him by or under this section on land owned or used for the purposes of any railway or canal undertaking shall conform to such reasonable requirements of the undertakers as are necessary to prevent obstruction to, or interference with, the working of the traffic on their railway or canal, as the case may be, and the undertakers shall not be liable for any accident or injury happening to any person while exercising such powers—

(*a*) in the case of a railway undertaking, upon any railway or land carrying a railway belonging to them; and

(*b*) in the case of a canal undertaking, upon any canal or reservoir or the banks of any canal or reservoir belonging to them.

Service of notices, and authority of agents.

7.—(1) Any notice required or authorised to be served for the purposes of this Act upon an occupier of any waters may be served by delivering it to him, or to any servant or agent employed by him for the purpose

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of having the care of any of the waters, or by sending it by registered post to the usual or last-known address of the occupier, or, if his address is not known and cannot reasonably be ascertained, by exhibiting the notice addressed to him in some conspicuous place at or near the waters, and, where the identity of the occupier of the waters cannot reasonably be ascertained, the notice, if so exhibited as aforesaid, shall be deemed to be addressed to every person who is an occupier of the waters if it is addressed "The Occupier" without further name or description.

(2) Where a notice requiring anything to be done by an occupier of any waters has been served under this section by delivering it to a servant or agent having the care of any of the waters, that servant or agent shall be deemed to have authority from that occupier to do on his behalf and at his expense whatever is required by the notice to be done in relation to any of the waters.

Penalties and legal proceedings.

8.—(1) Any person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding twenty pounds, or, in the case of a second or subsequent conviction of such an offence, to a fine not exceeding one hundred pounds; and the court by whom any person is convicted of an offence under this Act may order to be forfeited any fish, eggs of fish, foodstuff or article in respect of which the offence was committed.

(2) In England, any fishery board shall have power to take legal proceedings to enforce the provisions of this Act as respects waters in their district.

Power to make regulations.

9. The Minister may make regulations for giving effect to the provisions of this Act and in particular for prescribing—

(*a*) the form of licences to be granted under this Act and the manner in which application is to be made for such licences;

(*b*) the manner in which orders made under this Act are to be published;

(*c*) the form of notice to be served by an inspector upon the occupier of any waters where the inspector has reasonable grounds for suspecting that the waters are infected waters;

(*d*) the manner in which any fish, eggs of fish, foodstuff or articles seized or forfeited under this Act are to be dealt with.

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Interpretation.

10.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

"fish farm" means any pond, stew, fish hatchery or other place used for keeping, with a view to their sale or to their transfer to other waters (including any other fish farm), live fish of the salmon family, live freshwater fish, live eggs of fish, or foodstuff for fish, and includes any buildings used in connection therewith, and the banks and margins of any water therein;

"fish of the salmon family" includes all fish of whatever genus or species belonging to the family Salmonidæ;

"fishery board" has the same meaning as in the Salmon and Freshwater Fisheries Act, 1923, and, in relation to any waters, means the fishery board within whose district those waters are situated;

13 & 14 Geo. 5. c. 16.

"foodstuff for fish" means any substance used, or intended or likely to be used, as food for fish, including natural food;

"freshwater fish" does not include fish of the salmon family, or any kinds of fish which migrate to and from tidal waters, but save as aforesaid includes any fish living in fresh water;

"infected" means in relation to fish infected with the disease known as furunculosis;

"infected waters" means waters in which the disease known as furunculosis exists among fish, or in which the causative organisms of that disease are present;

"inspector" means a person authorised by the Minister to act as an inspector under this Act, either generally or for the particular purpose in question;

"land" includes land covered with water;

"occupier" means in relation to any waters a person entitled, without the permission of any other person, to take fish from the waters;

"prescribed" means prescribed by regulations made under this Act;

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"waters" means any waters (including any fish farm) which are frequented by, or used for keeping, live fish of the salmon family or live freshwater fish, live eggs of fish, or foodstuff for fish, and includes the banks and margins of any such waters and any buildings used in connection therewith.

(2) Notwithstanding anything in the foregoing definition of the expression "occupier," where the persons entitled without the permission of any other person to take fish from any waters are so entitled only by reason of their membership of a club or association, the person having the management of the waters on behalf of the club or association shall, to the exclusion of any members of the club or association (other than himself if a member), be deemed to be the occupier of the waters; and where a person is entitled, without the permission of any other person, to take fish from any waters only by virtue of a right acquired for a period not exceeding one year, not he, but the person from whom the right was acquired, shall be deemed to be the occupier of the waters.

20 & 21 Vict. c. cxlviii. 22 & 23 Vict. c. lxx.

(3) For the purposes of this Act, the Commissioners appointed under the Tweed Fisheries Act, 1857, shall be deemed to be a fishery board, and the river as defined by the Tweed Fisheries (Amendment) Act, 1859, and any byelaw amending that definition shall be deemed to be their district.

Application to Scotland.

11. This Act shall, in its application to Scotland, be subject to the following modifications:—

(*a*) for references to the Minister of Agriculture and Fisheries there shall be substituted references to the Secretary of State;

(*b*) for references to a fishery board there shall be substituted references to a district board within the meaning of the Salmon Fisheries (Scotland) Acts, 1828 to 1868;

(*c*) any report required by subsection (3) of section four of this Act, not being a report thereby required to be made to such a district board as aforesaid, shall be made by letter or telegram addressed to the Secretary of the Fishery Board for Scotland;

(*d*) the Secretary of State may delegate to the Fishery Board for Scotland all or any of the powers exercisable by him under this Act;

(*e*) any provision with regard to the recovery of expenses summarily as a civil debt shall have effect as if the word "summarily" were omitted therefrom.

Expenses of Minister.

12. Any expenses incurred by the Minister in connection with the execution of this Act, or in connection with any arrangements made by him with the consent of the Treasury for the carrying on of scientific investigation or laboratory diagnosis as to diseases affecting fish of the salmon family or freshwater fish, shall be defrayed out of moneys provided by Parliament.

Power to extend Act to diseases other than furunculosis.

13. His Majesty may by Order in Council direct that the provisions of this Act shall apply with respect to other diseases affecting fish of the salmon family or freshwater fish, as those provisions apply with respect to furunculosis, and may modify accordingly the definitions contained in this Act of the expressions "infected" and "infected waters":

Provided that, before a draft of any such Order is presented to His Majesty, a copy of the draft shall be laid before Parliament, and if either House of Parliament within the next subsequent twenty-one days on which that House has sat after such a copy is laid before it resolves that the draft shall not be presented to His Majesty, no further proceedings shall be taken thereon.

Short title, commencement and extent.

14.—(1) This Act may be cited as the Diseases of Fish Act, 1937.

(2) This Act shall come into operation on the first day of November, nineteen hundred and thirty-seven.

(3) This Act shall not extend to Northern Ireland.

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