STATUTORY INSTRUMENTS

1985 No. 847

SEA FISHERIES

SHELLFISH

The Poole Fishery Order 1985

Made - - -	30*th May* 1985
Laid before Parliament	11*th June* 1985
Coming into Operation	2*nd July* 1985

Whereas an application for an order under section 1 of the Sea Fisheries (Shellfish) Act 1967(**a**) was made to the Minister of Agriculture, Fisheries and Food by the local fisheries committee for the Southern Sea Fisheries District;

And whereas the said Minister prepared a draft order and served a copy of it on the said committee in accordance with paragraph 1 of Schedule 1 to the said Act;

And whereas the committee caused printed copies of the draft order to be published and circulated, and gave notice of the application, in accordance with paragraph 2 of the said schedule;

And whereas the only objection that was made to the said Minister under paragraph 3 of the said schedule was subsequently withdrawn;

Now, therefore, the said Minister, in exercise of the powers conferred on him by the said section 1 and of all other powers enabling him in that behalf, and with the consent of the Crown Estate Commissioners, hereby makes the following order:—

Title, commencement, period of operation and interpretation

1.—(1) This order may be cited as the Poole Fishery Order 1985.

(2) This order shall come into operation on 2nd July 1985 and shall operate for 30 years.

(3) In this order —

"the Committee" means the local fisheries committee for the Southern Sea Fisheries District established under section 1(1) of the Sea Fisheries Regulation Act 1966(**b**);

(**a**) 1967 c.83; section 1 was amended by section 15(2) of the Sea Fisheries Act 1968 (c.77) and paragraph 15 of Schedule 2 to the Fishery Limits Act 1976 (c.86) and is to be read with section 15(3) to (5) of the Sea Fisheries Act 1968; Schedule 1 was amended by section 15(7) of the Sea Fisheries Act 1968.

(**b**) 1966 c.38; section 1(1) was amended by Schedule 30 to the Local Government Act 1972 (c.70).

"the definitive map" means the map sealed in duplicate by the Minister and marked "The Poole Fishery Order 1985—Definitive map showing the situation and extent of the area concerned", one copy of which is in the possession of the Committee and the other copy of which is in the possession of the Minister;

"the fishery" means that area of Poole Harbour in the county of Dorset and of the sea adjacent to Poole Harbour which lies below the line of mean high water springs and which is shown edged in black on the definitive map;

"the Minister" means the Minister of Agriculture, Fisheries and Food;

"the regulated fishery" has the meaning assigned to it by article 4(2);

"the several fishery" has the meaning assigned to it by article 3(3);

"vermin" means any organism injurious to oysters, mussels, cockles or clams.

(4) A reference in this order to a numbered article shall be construed as a reference to the article bearing that number in this order.

Constitution of Committee as body corporate

2. The Committee is hereby constituted a body corporate for the purposes of this order.

Right of several fishery

3.—(1) There is hereby conferred on the Committee for a period of 30 years the right of several fishery for oysters, mussels, cockles and clams with respect to such parts of the fishery as the Committee may from time to time, with the consent of the Minister, specify.

(2) The right of several fishery hereby conferred shall not be exercised by the Committee in its corporate capacity, but the Committee may grant to any of its members a lease under the provisions of article 6.

(3) In this order "the several fishery" means such parts of the fishery as are for the time being specified under paragraph (1) of this article.

Right of regulating a fishery

4.—(1) There is hereby conferred on the Committee for a period of 30 years the right of regulating a fishery for oysters, mussels, cockles and clams with respect to all parts of the fishery that are not for the time being specified under article 3(1).

(2) In this order "the regulated fishery" means all parts of the fishery that are not for the time being specified under article 3(1).

Taking of samples for the purpose of disease control

5. The Committee shall permit any person authorised in that behalf by the Minister to do the following things for any purpose connected with preventing the spreading of disease —

(*a*) at any reasonable time to obtain samples of any shellfish found within the several fishery, and to take them away provided that they have been marked, labelled or otherwise made capable of identification;

(*b*) when the purpose for which any such sample was taken has been satisfied, to dispose of it as he may determine.

Power to grant leases

6.—(1) The Committee may lease to any person the right of several fishery for oysters, mussels, cockles or clams with respect to such part of the several fishery (hereinafter referred to as a "laying") as they may think fit and upon such terms and for such period as may be agreed with that person, provided —

(*a*) that no lease shall be granted for any period terminating after the expiry of this order;

(*b*) that without the written consent of the Minister there shall not be leased to any one person other than a body corporate the right of several fishery with respect to a total area more than $2\frac{1}{2}$ hectares in extent; and

(*c*) that any lease shall require the lessee to permit any person authorised in that behalf by the Minister to do the things mentioned in article 5 for a purpose of the kind mentioned in that article.

(2) The Committee shall mark, or cause to be marked, all layings in the several fishery in such manner as the Minister may from time to time approve.

(3) Upon the execution of a lease of the right of several fishery within a laying the lessee shall have that right within that laying as if the right had been conferred on him by an order under section 1 of the Sea Fisheries (Shellfish) Act 1967, and as if any terms and conditions contained in the lease were contained in such order.

(4) The marks defining the limits of each laying to which paragraph (3) of this article applies shall be maintained in position and in good repair by the Committee or, if so stipulated in the lease, by the lessee.

(5) The execution of any such lease shall, except as may otherwise be provided thereby, be taken as a consent by the lessee to the making of all byelaws made by the Committee under the Sea Fisheries Regulation Act 1966.

Power to impose restrictions and make regulations

7.—(1) The Committee may, with the consent of the Minister, from time to time impose restrictions on, and make regulations respecting, the dredging, fishing for and taking of oysters, mussels, cockles or clams within the whole or any specified part of the regulated fishery.

(2) Without prejudice to the generality of paragraph (1) of this article, regulations may be made under that paragraph for the purpose of —

(*a*) determining the size below which or above which it shall be unlawful to take oysters, mussels, cockles or clams from the regulated fishery;

(*b*) determining the size or description of vessels, dredges and fishing instruments to be used in dredging, fishing for or taking oysters, mussels, cockles or clams; and

(*c*) regulating the disposal of such vermin as may be dredged or otherwise taken in dredging, fishing for or taking oysters, mussels, cockles or clams.

(3) The production of a copy of any regulation purporting to be certified by an officer of the Ministry of Agriculture, Fisheries and Food of Grade 5 or above shall be conclusive evidence of the existence of the regulation and of the due making of it.

Licensing of fishing

8.—(1) No person shall dredge, fish for or take oysters, mussels or clams within the regulated fishery except under the authority, and in accordance with the conditions, of a licence issued in that behalf by the Committee.

(2) Subject to any directions given by the Minister, licences may be issued by the Committee in such numbers and to such persons, and may authorise the dredging, fishing for or taking of oysters, mussels or clams at such times, in such manner, in such parts of the regulated fishery and to such extent as the Committee may determine.

(3) No person shall use a vessel for dredging, fishing for or taking oysters, mussels or clams within the regulated fishery except under the authority, and in accordance with the conditions, of a licence issued under paragraph (1) of this article in which the vessel is named.

(4) A licence shall be used only by the person named therein or, with the approval of the Committee, by a person nominated by him therein as his deputy.

(5) A licence shall be valid for the period not exceeding 12 months specified therein.

(6) Any person dredging, fishing for or taking oysters, mussels or clams under the authority of a licence issued under paragraph (1) of this article shall, when so requested by any officer authorised by the Committee and after production by that officer of written evidence of his authority if so required, produce the licence and shall desist from dredging, fishing for or taking oysters, mussels or clams until it is produced.

Tolls payable for fishing

9.—(1) Every person to whom a licence is issued under article 8 shall pay to the Committee on or before receipt of his licence a toll of £20.

(2) The Committee may from time to time with the consent of the Minister vary the tolls leviable under paragraph (1) of this article.

Power to create reserves

10. The Committee may from time to time designate and mark out as reserves such parts of the regulated fishery as they think necessary for —

(*a*) experimental or scientific purposes, including the control of pests or diseases of oysters, mussels, cockles or clams;

(*b*) cleansing and subsequent restocking with oysters, mussels, cockles or clams and the protection of stock introduced, or

(*c*) the collection of spat of oysters, mussels, cockles or clams;

and may use such reserves for their designated purposes and prohibit their use for any other purpose connected with or ancillary to fishing for oysters, mussels, cockles or clams.

Restriction on removal of culch

11.—(1) Except with the prior consent in writing of the Committee, no person shall remove any culch or other material for the reception of spat from the regulated fishery.

(2) Any person lifting any culch or other such material within the regulated fishery, whether in the course of fishing or dredging or otherwise, shall replace it forthwith as nearly as possible in the place from which it was lifted.

(3) Paragraphs (1) and (2) of this article shall not apply to a removal or lifting effected by raising an anchor or other mooring device for the purpose of navigation.

Power to remove brood of oysters, mussels, cockles or clams

12. For the purpose only of better cultivating the regulated fishery any person authorised by the Committee may remove any spat or small oysters, mussels, cockles or clams from any part to any other part of the regulated fishery at such times as the Committee may direct.

Exemptions for scientific purposes

13. The Committee may, by authority given in writing, exempt any person who is dredging, fishing for or taking oysters, mussels, cockles or clams for scientific purposes from any provision of this order or from any restriction imposed or regulation made under this order.

Accounts of income and expenditure and other information

14. The Committee shall render to the Minister annual accounts of its income and expenditure under this order, and shall furnish to the Minister all other information required by him with reference to this order and to the fishery in such form and at such times as he may require, and shall allow any person authorised by the Minister in that behalf to inspect the fishery and all books of account and other documents in the possession of the Committee relating to this order and to the fishery, and shall give to such person any information relating thereto as he may require.

Rights of Crown

15. Nothing in this order or in any restriction imposed or regulation made by the Committee shall affect prejudicially any estate, right, power, privilege or exemption of the Crown, and in particular nothing herein contained shall authorise the Committee to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditament, subject or right of whatever description belonging to Her Majesty in right of the Crown and under the management of the Crown Estate Commissioners.

Rights of various persons and bodies

16. Nothing in this order shall affect prejudicially —

(*a*) any right conferred on the operator of a telecommunications system by, or in accordance with, the telecommunications code contained in Schedule 2 to the Telecommunications Act 1984(**a**);

(**a**) 1984 c.12.

(*b*) the powers of the Central Electricity Generating Board, the Southern Electricity Board, the Wessex Water Authority or the Poole Harbour Commissioners in respect of any operation carried out by them in the exercise of their statutory functions; or

(*c*) the powers of any person or body to carry out coast protection work within the meaning of the Coast Protection Act 1949(**a**) in accordance with any approval or consent given under that Act.

Regulations made under 1915 order

17. Notwithstanding the expiry of the Poole Fishery Order 1915(**b**), any regulation made under that order and in force on 1st July 1985 shall continue to have effect as if made under this order.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 30th May 1985.

L.S.

Michael Jopling,
Minister of Agriculture, Fisheries and Food.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This order confers on the Southern Sea Fisheries Committee rights of several fishery and regulating a fishery for oysters, mussels, cockles and clams in Poole Harbour, Dorset, for a period of 30 years from the expiry of the Poole Fishery Order 1915, which conferred similar rights on the Committee.

The situation and extent of the area within which the rights are conferred are shown on the definitive map which is described in article 1(3) of the order. The definitive map is available for inspection by prior appointment during office hours at the offices of the Committee at 3 Park Road, Parkstone, Poole, Dorset BH15 2SH and at the offices of the Minister at Great Westminster House, Horseferry Road, London SW1P 2AE.

(**a**) 1949 c.74.
(**b**) Confirmed by 1915 c.xl, varied by S.I. 1970/1532 and 1979/38 and extended by S.I. 1973/11.

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