The Whaling Industry (Ship) Regulations, 1951

1951 No. 2171

Made - - - - 6th December, 1951
Coming into Operation 19th December, 1951

The Minister of Transport in exercise of his powers under Sections 3, 5, 6, 8 and 18 of the Whaling Industry (Regulation) Act, 1934(a) (hereinafter referred to as " the principal Act ") as amended by Part III of the Sea Fish Industry Act, 1938(b) (which part together with the principal Act are hereinafter referred to as " the Acts ") and under the Whaling Industry (Sperm Whales) Order, 1937(c) (hereinafter referred to as " the Order ") and of all other powers him enabling in that behalf and after consultation with the Minister of Agriculture and Fisheries and the Secretary of State for Scotland and with the approval of the Treasury, hereby makes in relation to ships the following Regulations:—

1.—(1) These Regulations shall come into operation on the nineteenth day of December, 1951, and may be cited as the Whaling Industry (Ship) Regulations, 1951.

(2) In these Regulations, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:—

" Blue Whale " (Balaenoptera or Sibbaldus musculus) means a whale known by any of the names set out in Part II of the Schedule to the principal Act;

" Dauhval " means any unclaimed dead whale found floating;

" Fin Whale " (Balaenoptera physalus) means a whale known by any of the names set out in Part III of the Schedule to the principal Act;

" Grey Whale " (Rhachianectes glaucus) means a whale known by any of the names set out in Part IV of the Schedule to the principal Act, as amended by section 43 of the Sea Fish Industry Act, 1938;

" Humpback Whale " (Megaptera nodosa or novaeangliae) means any whale known by any of the names, bunch, humpback, humpback whale, humpbacked whale, hump whale or hunchbacked whale;

" Land Station " means a factory on the land;

" Minke Whale " (Balaenoptera acutorostrata, B. davidsoni, B. Huttoni) means a whale known by the name of lesser rorqual, little piked whale, minke whale, pike-headed whale or sharp headed finner;

" Right Whale " (Balaena mysticetus; Eubalaena glacialis, E. australis etc.; Neobalaena marginata) means a whale known by any of the names set out in Part I of the Schedule to the principal Act;

" Sei Whale " (Balaenoptera borealis) means any whale known by the name of Sei whale, Rudolphi's rorqual, pollack whale, or coalfish whale, and shall be taken to include Bryde's whale (Balaenoptera brydei);

(a) 24 & 25 Geo. 5. c. 49. (b) 1 & 2 Geo. 6. c. 30.
(c) S.R. & O. 1937 (No. 628) p. 747.

" Sperm whale " (Physeter catodon) means a whale known by any of the names set out in Article 2 of the Order.

(3) The Interpretation Act, 1889(a), shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

(4) The Whaling Industry (Ship) Regulations, 1950(b), are hereby revoked.

2.—(1) For the purpose of section 3 of the principal Act, whales of the undermentioned species shall be deemed to be immature if they are of less than the lengths set out below in relation to each species, that is to say:—

(*a*) Blue Whale, 70 feet;

(*b*) Fin Whale, 55 feet in the Northern Hemisphere and 60 feet in the Southern Hemisphere;

(*c*) Sei Whale, 40 feet;

(*d*) Humpback Whale, 35 feet;

(*e*) Sperm Whale, 38 feet;

Provided that where Blue Whales, Fin Whales or Sei Whales are taken for delivery to a land station and the meat of such whales is intended to be used for local consumption as human or animal food, the lengths shall be respectively as follows, that is to say:—

(*a*) Blue Whale, 65 feet;

(*b*) Fin Whale, 50 feet in the Northern Hemisphere and 55 feet in the Southern Hemisphere;

(*c*) Sei Whale, 35 feet.

Provided also that where sperm whales are taken for delivery to a land station, the length shall be 35 feet.

(2) Whales shall be measured when at rest on the deck or platform, as accurately as possible by means of a steel tape measure fitted at the zero end with a spiked handle which can be inserted into the planking abreast of one end of the whale. The tape measure shall be stretched in a straight line parallel with the body of the whale and read abreast the other end of the whale. The ends of the whale for the purposes of measurement shall in each case be the point of the upper jaw and the notch between the flukes of the tail. Measurements, after being accurately read on the tape measure, shall be recorded to the nearest foot, that is to say, any whale measuring between 75 feet 6 inches and 76 feet 6 inches shall be recorded as 76 feet, between 76 feet 6 inches and 77 feet 6 inches shall be recorded as 77 feet, and so on. Provided that the measurement of any whale which falls exactly on a half foot shall be recorded at the next highest foot, that is to say a measurement of 76 feet 6 inches precisely shall be recorded as 77 feet.

3. Any application for a licence in respect of a ship shall be made in writing by the owners or charterers of the ship, and shall be sent with the amount of the licence fee to the Ministry of Agriculture and Fisheries, St. Stephen's House, Victoria Embankment, London, S.W.1, or to the Scottish Home Department, Edinburgh.

4. The fees to be paid in respect of the granting of licences for the use of ships shall be—

(*a*) in the case of a licence authorising the use of a ship for treating whales the sum of £200; and

(a) 52 & 53 Vict. c. 63. (b) S.I. 1950 (No. 1834) I, p. 746.

(*b*) in the case of a licence authorising the use of a ship for taking whales the sum of £75.

Provided that—

(i) where in addition to the licence granted under the Acts a licence for the same whaling season has been or shall be granted in respect of any ship for taking whales in the coastal waters of Newfoundland or any colony there shall be refunded from the sum specified in paragraph (*b*) either one-half thereof or one-half of the sum paid in respect of the licence for coastal waters whichever is the lesser ; and

(ii) where the right to use any ship or ships for taking whales in such coastal waters without licence fee is embodied in the terms of the lease of a land station a refund of one-half of the sum specified in paragraph (*b*) or one-half of the sum ordinarily charged in respect of a licence for such coastal waters whichever is the lesser shall be made in respect of each such ship the use of which is authorised by the lease.

5.—(1) Every licence shall be in such one of the forms set out in the First Schedule to these Regulations as is appropriate in the case and shall be granted subject to such conditions as may be specified in the said licence.

(2) Notwithstanding anything to the contrary in these Regulations, every licence issued in accordance with the Whaling Industry (Ship) Regulations, 1950, or any regulations revoked by those Regulations which is in force immediately before the coming into operation of these Regulations, shall be treated for the purposes of these Regulations as if it had been issued in accordance with these Regulations and in such one of the forms set out in the First Schedule to these Regulations as is appropriate in the case and subject to the conditions set out in Part I or as the case may be Part II of the Second Schedule to these Regulations.

6. For the purpose of section 6, subsection (2) of the principal Act, the master or person in charge of every ship used for treating whales shall keep a record, on forms to be provided by the Minister of Transport, of the following particulars regarding each whale treated in the ship, that is to say—

(*a*) the date and time when and the approximate latitude and longitude where the whale was taken ;

(*b*) the marking of the whale, as effected by the ship used in taking it :

(*c*) the species and sex of the whale ;

(*d*) the time of hauling up the whale for treatment ;

(*e*) the length measured in accordance with paragraph (2) of Regulation 2 hereof ;

(*f*) whether the whale contained a foetus or foetuses ;

(*g*) the length and sex, if ascertainable, of foetus or foetuses (if any) found in the whale ;

(*h*) whether the whale was producing milk ;

(*i*) any explanation of circumstances in which any whale was taken or treated contrary to the provisions of the Acts, the Order, or these Regulations.

Such record shall be arranged so far as possible in the chronological order of the taking of the whales.

7. The master or person in charge of every ship used for treating whales shall also keep a record on forms to be provided by the Minister of Transport containing the following particulars of operations carried on in, or in connection with, the ship, that is to say:—

(*a*) for each day—

the number of whales of each species taken by ships attached thereto;

the number of whales lost;

the number of whales fully treated;

the number of whales partially treated; and

the yield of oil of each grade produced; and

(*b*) for each week—

the quantity produced (if any) of meal, fertiliser (guano) or other products specified separately.

8.—(1) The official measurements of the length of all whales treated on a ship used for treating whales, made as prescribed by paragraph (2) of Regulation 2 hereof, shall be taken by a Whale Fishery Inspector.

(2) All other particulars required to be kept under Regulations 6 and 7 hereof shall be verified by a Whale Fishery Inspector at the time of tally.

9. The master or person in charge of every ship used for treating whales shall at the earliest possible opportunity after the conclusion of the whaling operations of each season send the said records either directly or through the owners or charterers of the ship to the Ministry of Agriculture and Fisheries, St. Stephen's House, Victoria Embankment, London, S.W.1, or to the Scottish Home Department, Edinburgh, for transmission to the Minister of Transport.

10. The sum to be paid pursuant to section 8, subsection (2) of the principal Act by a Whale Fishery Inspector to the master of a ship in respect of each day on which he is provided with subsistence and accommodation on board the said ship shall be five shillings.

Given under the Official Seal of the Minister of Transport this sixth day of December, 1951.

(L.S.)

G. I. Morris,
An Under Secretary of the Ministry of Transport.

We approve the making of Regulation 10 of these Regulations.

Dated this 30th day of November, 1951.

Herbert Butcher,
H. R. Mackeson,
Two of the Lords Commissioners of His Majesty's Treasury.

FIRST SCHEDULE

WHALING INDUSTRY (REGULATION) ACTS, 1934 AND 1938, AND WHALING INDUSTRY (SPERM WHALES) ORDER, 1937

Licence of the Minister of Transport for ship used in taking Whales

Issued on behalf of the Minister of Transport by officers of the Ministry of Agriculture and Fisheries or the Scottish Home Department

Pursuant to the provisions of the Whaling Industry (Regulation) Acts, 1934 and 1938 (hereinafter referred to as "the Acts"), and the Whaling Industry (Sperm Whales) Order, 1937 (hereinafter referred to as "the Order"), authority is hereby given to Messrs.
owners-charterers of the ship for use of the said ship during the currency of this licence for the purpose of taking whales outside the coastal waters of the United Kingdom, except minke whales other than during the period beginning on the and terminating on the following, both days inclusive, subject to the provisions of the Acts and the Order and to the Regulations made thereunder and for the time being in force during the currency of this licence and to *[all the conditions set out in Part I of the Second Schedule to the Whaling Industry (Ship) Regulations, 1951] [the conditions set out hereunder].

* delete whichever is inapplicable.

This licence shall take effect from the day of , and unless previously cancelled shall continue until the day of .

Conditions

WHALING INDUSTRY (REGULATION) ACTS, 1934 AND 1938, AND WHALING INDUSTRY (SPERM WHALES) ORDER, 1937

Licence of the Minister of Transport for ship engaged in treating Whales

Issued on behalf of the Minister of Transport by officers of the Ministry of Agriculture and Fisheries or the Scottish Home Department

Pursuant to the provisions of the Whaling Industry (Regulation) Acts, 1934 and 1938 (hereinafter referred to as "the Acts"), and the Whaling Industry (Sperm Whales) Order, 1937 (hereinafter referred to as "the Order"), authority is hereby granted to Messrs.
owners-charterers of ship for the use of the said ship (wherein the plant for the extraction of oil from the blubber, flesh and bones of whales is of a type hereby approved) for the purpose of treating whales outside the coastal waters of the United Kingdom, except sperm whales taken other than during the period beginning on the and terminating on the following, both days inclusive, subject to the provisions of the Acts and the Order and to the Regulations made thereunder and for the time being in force during the currency of this licence and to *[all the conditions set out in Part II of the Second Schedule to the Whaling Industry (Ship) Regulations, 1951] [the conditions set out hereunder].

* delete whichever is inapplicable.

This licence shall take effect from the day of , and unless previously cancelled shall continue until the day of .

SECOND SCHEDULE

PART I

Conditions appropriate to ships used in taking Whales

1. There shall not be taken by the ship

(*a*) any baleen whale in any of the following areas:—

(i) in the waters north of 66° north latitude other than the waters which are both eastwards of 150° east longitude as far as 140° west longitude and between 66° north latitude and 72° north latitude;

(ii) in the Atlantic Ocean and its dependent waters north of 40° south latitude;

(iii) in the Pacific Ocean and its dependent waters east of 150° west longitude between 40° south latitude and 35° north latitude;

(iv) in the Pacific Ocean and its dependent waters west of 150° west longitude between 40° south latitude and 20° north latitude;

(v) in the Indian Ocean and its dependent waters north of 40° south latitude;

(vi) in the waters south of 40° south latitude from 70° west longitude westward as far as 160° west longitude;

(*b*) any baleen whales in any waters, being waters other than those specified in paragraph (*a*) of this Condition, south of 40° south latitude at any time other than during a period beginning on the 2nd January in any year and terminating on the 7th April in the same year, both days inclusive;

Provided that if the International Bureau for Whaling Statistics, Sandefjord, Norway, shall determine an earlier date on which the quota of 16,000 blue whale units shall be deemed to have been reached in accordance with paragraph 8 of the Schedule to the International Convention of the 2nd December, 1946 (amending the International Agreement of the 8th June, 1937, the Protocol of 24th June, 1938, and the Protocol of the 26th November, 1945, for the Regulation of Whaling), no baleen whale shall be taken after that date;

(*c*) any humpback whale in any waters south of 40° south latitude other than during a period beginning on the 1st February in any year and terminating on the 7th April in the same year, both days inclusive;

Provided that if the International Bureau for Whaling Statistics, Sandefjord, Norway, shall determine an earlier date on which the quota of 1,250 humpback whales shall be deemed to have been reached in accordance with paragraph 6 of the Schedule to the International Convention of the 2nd December, 1946, as subsequently amended in accordance with resolutions adopted at meetings held by the International Whaling Commission in June, 1949, July, 1950, and July, 1951, no humpback whale shall be taken after that date;

(*d*) any calves or suckling whales or female whales which are accompanied by calves or suckling whales;

(*e*) any minke whales other than during the period during which the taking of such whales is permitted under the terms of the ship's licence, and any sperm whales other than during the period during which the treatment of such

whales may be carried on by the factory ship to which the ship is for the time being attached;

(*f*) any grey whales or right whales, except when the meat and products of such whales are to be used for local consumption by the aborigines;

Provided that if at any time during the currency of this licence the ship shall be attached to a land station and used for the purpose of taking whales for treatment by that land station, the conditions (*a*), (*b*), (*c*) and (*e*) above shall not apply to such ship during the period in which it is so attached and used, but the following condition shall apply thereto:—

The taking of baleen, minke and sperm whales by the ship at any time while the ship is attached to a land station shall be limited to the period during which the treatment of any such whales may be carried on at the land station to which the ship is for the time being attached.

2.—(*a*) All whales taken shall be clearly marked so as to identify the catcher and to indicate the order of catching.

(*b*) If and so long as the ship is attached to a factory ship, there shall be reported by wireless to the factory ship the time when each whale is taken, its species and its marking effected pursuant to paragraph (*a*) of this condition.

(*c*) All whales (except minke whales) taken shall be delivered to the factory ship or land station.

3. The remuneration of the gunners and crew of the ship shall, so far as it is calculated by reference to the results of their work, be calculated by reference to the size, species, oil and other yield and value of the whales taken and in such manner as to exclude remuneration in respect of whales the taking of which is prohibited by the Acts and the Order, and in respect of the taking of milk-filled or lactating whales.

4. The owners and/or charterers shall furnish to the Minister of Agriculture and Fisheries or (as the case may require) to the Scottish Home Department on or before the 30th November in each year an account showing the remuneration of each gunner and member of the crew employed during the period of twelve months prior to 1st November in each year and the manner in which the remuneration of each of them is calculated.

PART II

Conditions appropriate to ships engaged in treating whales

1. There shall not be treated by the ship

(*a*) any baleen whale in any of the following areas:—

(i) in the waters north of 66° north latitude other than the waters which are both eastwards of 150° east longitude as far as 140° west longitude and between 66° north latitude and 72° north latitude;

(ii) in the Atlantic Ocean and its dependent waters north of 40° south latitude;

(iii) in the Pacific Ocean and its dependent waters east of 150° west longitude between 40° south latitude and 35° north latitude;

(iv) in the Pacific Ocean and its dependent waters west of 150° west longitude between 40° south latitude and 20° north latitude;

(v) in the Indian Ocean and its dependent waters north of 40° south latitude;

(vi) in the waters south of 40° south latitude from 70° west longitude westward as far as 160° west longitude;

(*b*) any baleen whales in any waters, being waters other than those specified in paragraph (*a*) of this condition, south of 40° south latitude at any time other than during a period beginning on the 2nd January in any year and terminating on the 7th April in the same year, both days inclusive, provided that the treatment of baleen whales which have been taken during such period may be completed after the end of it:

Provided also that if the International Bureau for Whaling Statistics, Sandefjord, Norway, shall determine an earlier date on which the quota of 16,000 blue whale units shall be deemed to have been reached in accordance with paragraph 8 of the Schedule to the International Convention of the 2nd December, 1946 (amending the international Agreement of the 8th June, 1937, the Protocol of 24th June, 1938, and the Protocol of the 26th November, 1945, for the Regulation of Whaling), no baleen whale taken after that date, shall be treated;

(*c*) any humpback whale in any waters south of 40° south latitude other than during a period beginning on the 1st February in any year and terminating on the 7th April in the same year, both days inclusive, provided that the treatment of humpback whales which have been taken during such period may be completed after the end of it;

Provided also that if the International Bureau for Whaling Statistics, Sandefjord, Norway, shall determine an earlier date on which the quota of 1,250 humpback whales shall be deemed to have been reached in accordance with paragraph 6 of the Schedule to the International Convention of the 2nd December, 1946, as subsequently amended in accordance with resolutions adopted at meetings held by the International Whaling Commission in June, 1949, July, 1950, and July, 1951, no humpback whale taken after that date shall be treated;

(*d*) any sperm whales taken other than during the period specified for that purpose in the ship's licence.

2. Where the ship has been used for treating baleen whales south of 40° south latitude, it shall not be used for that purpose elsewhere within a period of twelve months from the end of the season during which the ship last treated whales south of 40° south latitude.

3. The remuneration of persons employed in treating whales on board the ship shall, so far as it is calculated by reference to the results of their work, be calculated by reference to the size species, oil and other yield and value of the whales treated and not merely on the number of whales taken by the ships attached thereto.

4. The owners and/or charterers of the ship shall furnish to the Minister of Agriculture and Fisheries or (as the case may require) to the Scottish Home Department on or before the 30th November in each year an account showing the remuneration of each person employed in the ship during the period of twelve months prior to 1st November in each year and the manner in which the remuneration of each of them is calculated.

5. The master or person in charge of the ship shall keep the records prescribed in Regulations 6 and 7 of the Whaling Industry (Ship) Regulations, 1951.

6. The master or person in charge of the ship shall transmit the said records in accordance with Regulation 9 of the said Regulations.

7. The master or person in charge of the ship shall:—

(*a*) within two days of the end of each calendar week cause to be transmitted by wireless messages to the International Bureau for Whaling Statistics, Sandefjord, Norway, details of the number of blue whale units caught by the ships attached thereto in waters south of 40° south latitude, calculated on the basis that one blue whale equals two fin whales, or two and a half humpback whales or six sei whales;

(*b*) at the end of each day cause to be transmitted by wireless messages to the International Bureau for Whaling Statistics, Sandefjord, Norway, details of the number of humpback whales caught in waters south of 40° south latitude by the ships attached thereto, including nil returns on days when no humpback whales are taken; and

(*c*) on the conclusion of each season's operations forward to the Ministry of Agriculture and Fisheries, St. Stephen's House, Victoria Embankment, London, S.W.1, or the Scottish Home Department, Edinburgh, for transmission to the International Whaling Commission, London—

(i) Details of the particulars entered in the records required to be kept under Regulation 7 of the said Regulations;

(ii) the name and gross tonnage of the ship;

(iii) the number and aggregate gross tonnage of the ships used for taking whales attached thereto;

(iv) any information collected or obtained concerning the calving grounds and migration routes of whales.

8. The plant in the ship for the extraction of oil from the blubber, flesh and bones of whales shall be kept in good order and operated efficiently.

9.—(1) All parts of whales delivered to the ship by the ships attached thereto shall be processed by boiling or otherwise, except the internal organs, whale bone and flippers of all whales, the meat of sperm whales and of parts of whales intended for human food and for feeding animals.

(2) Notwithstanding anything in the foregoing provisions of this Condition, the complete treatment of carcasses of Dauhval and of whales used as fenders shall not be required in cases where the meat or bone of such whales is in bad condition.

10. The taking of whales for delivery to the ship shall be so regulated or restricted by the master or person in charge of the ship that no whale carcase (except that of a whale used as a fender which shall be processed as soon as is reasonably practicable) shall remain in the sea for a longer period than thirty-three hours from the time of killing to the time when it is hauled up for treatment.

11. There shall be maintained on each ship engaged in treating whales at least two inspectors of whaling for the purposes of maintaining continuous inspection while the ship is so engaged.

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

These Regulations re-enact with amendments the Whaling Industry (Ship) Regulations, 1950, and give effect to certain resolutions of the International Whaling Commission which came into force after the Whaling Industry (Ship) Regulations, 1950, were made.

The principal amendments provide for:—

(1) The alteration of the date of commencement of the Antarctic whaling season;

(2) the prohibition of the taking and treating of sperm whales, except during an eight months season, and the taking of minke whales, except during a six months season;

(3) the amendment of the minimum size limits for fin whales and sperm whales;

(4) the marking of whales by catchers, and slight variations in the records to be kept by factory ships.