

FISHERIES.

9° Elizabeth II., No. XLVI.

No. 46 of 1960.

AN ACT to amend the Fisheries Act, 1905-1956.*[Assented to 15th November, 1960.]*

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Fisheries Act Amendment Act, 1960.*

(2) In this Act the Fisheries Act, 1905-1956, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Fisheries Act, 1905-1960.

2. Section three of the principal Act is amended— S. 3 amended.

(a) by adding after the interpretation, "Close waters" the following interpretation:—

"Crayfish tail" means the abdomen of a crayfish when severed from the carapace;

(b) by adding after the interpretation, "Regulations" the following interpretation:—

"Vehicle" includes any vehicle included in that term within the meaning of the Traffic Act, 1919, and includes also any railway locomotive and any railway carriage or wagon; .

3. Section six of the principal Act is amended— S. 6 amended.

(a) by adding after paragraph (mf) the following paragraphs—

(mg) prescribing the form and type of label to be used by a person delivering or consigning fish, and the manner in which the label shall be attached to any receptacle containing fish;

(mh) regulating the manner in which and the means whereby fish shall be delivered, consigned and transported;

(mi) prescribing the minimum length and minimum weight of crayfish tails which any person may lawfully sell, give, consign, or have in his possession under this Act; ; and

(b) by substituting for the word, "taken" in line four of the second paragraph the passage, "brought into Western Australian waters, taken, consigned, or in the possession of any person."

S. 24
amended.

4. Section twenty-four of the principal Act is amended—

(a) by substituting for subsection (1) the following subsection:—

(1) A person who without lawful authority—

(a) has in his possession or control, or on his premises, or in any boat, vehicle, or aircraft, any fish (whether taken within Western Australian waters or elsewhere);

(b) sells or causes to be sold, offers or exposes for sale, gives, or consigns any fish (whether taken within Western Australian waters or elsewhere); or

(c) brings into Western Australian waters or into the State any fish,

of any of the species mentioned in the Second Schedule to this Act, of a less length than that set opposite to the name of that fish in that Schedule, commits an offence.

Penalty: For a first offence, a fine of not less than ten pounds nor more than fifty pounds, and for a second or any subsequent offence, a fine of not less than twenty-five pounds nor more than one hundred pounds. ;

(b) by adding after subsection (1) the following subsections:—

(1a) All fish specified in subsection (1) of this section, and all other fish, contained in any boat, vehicle or aircraft, or in any receptacle for fish, shall be forfeited if the number of fish so specified and so contained exceeds one-twentieth of the whole number of fish in that boat, vehicle or aircraft, or in that receptacle, and any inspector may seize the same.

(1b) The court by which a person is convicted of an offence under subsection (1) of this section shall, in addition to any penalty inflicted under that subsection, impose on that person a further penalty of not less than one shilling nor more than five shillings in respect of every undersize fish seized pursuant to subsection (1a) of this section. ;

(c) by substituting for subsection (3) the following subsection:—

(3) A person who at any time—

(a) has in his possession or control, or on his premises, or in any boat, vehicle, or aircraft; or

(b) sells or causes to be sold, offers or exposes for sale, gives, or consigns,

any female of the fish known as or called "Crayfish" having eggs or spawn attached beneath its body, or which has been captured with eggs or spawn so attached, whether that fish was taken within Western Australian waters or elsewhere, commits an offence.

Penalty: A fine of not less than twenty-five pounds nor more than one hundred pounds. ;

(d) by adding after subsection (3) the following subsections:—

(3a) All crayfish specified in subsection (3) of this section, and all other crayfish, contained in any boat, vehicle or aircraft, or in any receptacle for fish, shall be forfeited if the number of crayfish so specified and so contained exceeds one-twentieth of the whole number of crayfish in that boat, vehicle or aircraft, or in that receptacle, and any inspector may seize the same.

(3b) The court by which a person is convicted of an offence under subsection

(3) of this section shall, in addition to any penalty inflicted under that subsection, suspend any license issued to that person under this Act—

- (a) in the case of a first offence, for a period of three months, or for a period expiring on the thirty-first day of December next following the conviction, whichever period is the shorter; and
- (b) in the case of a second or any subsequent offence, for a period of six months, or for a period expiring on the thirty-first day of December next following the conviction, whichever period is the shorter,

and where in any case the period of suspension is less than three months, or, as the case may be, six months, the court shall in addition to suspending his license disqualify that person from obtaining a license under this Act for a period equal to that by which the period of suspension is less than three months, or, as the case may be, six months. ; and

(e) by adding after subsection (6) the following subsection:—

(7) Wherever it is provided by this section that a person who commits an offence is liable to a penalty not less than an amount specified, that amount so specified is a minimum penalty irreducible in mitigation notwithstanding the provisions of any Act.

Ss. 24A and
24B added.

5. The principal Act is amended by adding after section twenty-four the following sections:—

24A. (1) A person who without lawful authority—

- (a) has in his possession or control, or on his premises, or in any boat, vehicle, or aircraft; or

Penalty for
having
undersize
crayfish tails
in possession.

- (b) sells or causes to be sold, offers or exposes for sale, gives or consigns,

any crayfish tail of a length or weight less than the length and weight prescribed, whether the crayfish was taken within Western Australian waters or elsewhere, commits an offence.

Penalty: For a first offence, a fine of not less than ten pounds nor more than fifty pounds, and for a second or any subsequent offence, a fine of not less than twenty-five pounds nor more than one hundred pounds.

(2) All crayfish tails of a length or weight less than the length and weight prescribed, and all other crayfish tails, contained in any boat, vehicle, or aircraft, or in any receptacle for fish, shall be forfeited if the number of crayfish tails of a less length or weight than that prescribed and so contained exceeds one-twentieth of the whole number of crayfish tails in that boat, vehicle or aircraft, or in that receptacle, and any inspector may seize the same.

(3) The court by which a person is convicted of an offence under subsection (1) of this section shall, in addition to any penalty inflicted under that subsection, impose on that person a further penalty of not less than one shilling nor more than five shillings in respect of every crayfish tail seized pursuant to subsection (2) of this section.

(4) Wherever it is provided by this section that a person who commits an offence is liable to a penalty not less than an amount specified, that amount so specified is a minimum penalty irreducible in mitigation notwithstanding the provisions of any Act.

24B. (1) A person who delivers or consigns to another person any fish for the purpose of the sale or disposal of such fish, whether in

Receptacles
containing
fish to be
labelled.

the same or a different form, by that other person shall attach, or cause to be attached, securely to the bag, basket, box or other receptacle containing the fish a label in the form and of the type prescribed bearing the name and place of abode legibly endorsed thereon of the person so delivering or consigning the fish.

(2) A person shall not take delivery of, accept for consignment, or carry or transport in any boat, vehicle or aircraft, any bag, basket, box or other receptacle containing fish unless that bag, basket, box or receptacle has attached securely to it the prescribed label as required by subsection (1) of this section.

(3) A person who fails to comply with any of the provisions of subsections (1) and (2) of this section commits an offence.

Penalty: A fine of not less than ten pounds nor more than fifty pounds, which minimum penalty of ten pounds is irreducible in mitigation notwithstanding the provisions of any Act.

(4) In any prosecution for an offence under this section in which it is material to show that the person charged is the person who delivered or consigned fish, proof that a label bearing the name of that person was attached to a bag, basket, box or other receptacle containing fish shall be *prima facie* evidence that such person delivered, or, as the case may be, consigned such fish, and the burden of showing that the fish were not delivered or consigned by him shall rest on the person charged.

(5) All fish delivered, consigned, carried or transported in any bag, basket, box or other receptacle not bearing the prescribed label in accordance with the provisions of this section shall be forfeited, and any inspector may seize the same.

(6) In this section the term, "fish" includes crayfish tails.

6. Section twenty-five of the principal Act is amended— S. 25
amended.

(a) by adding after paragraph (1) the following paragraph—

(1a) by defining or altering the method whereby fish are measured for the purposes of this Act; ; and

(b) by substituting for the passage commencing with the word, "Such" in line fourteen and ending with the word, "time", being the last word in the section, the following passage—

Notice of every amendment made under this section shall be published in the *Gazette*, and thereupon the Second Schedule, as so amended, shall have full force and effect as if the amendment had been enacted in this Act.

7. The Second Schedule to the principal Act is amended— Second
Schedule
amended.

(a) by adding after and immediately below the passage, "Prawns, *Squilla penaeopsis macleayi* 2" in line seven of paragraph (c) the following heading—

(d) METHOD OF MEASURING FISH. ;

and

(b) by deleting the passage, "Note as to Measurement.—" in line eight of paragraph (c).