

FISHERIES

10° and 11° GEO. VI., No. XXII.

No. 22 of 1946.

AN ACT to amend the **Fisheries Act, 1905-1940.**

[Assented to 14th January, 1947.]

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

1. This Act may be cited as the *Fisheries Act, Amendment Act, 1946*, and shall be read as one with the Fisheries Act, 1905-1940 (Act No. 18 of 1905 as reprinted with amendments in Volume 2 of the Reprinted Acts of the Parliament of Western Australia), hereinafter referred to as the principal Act.

Short title
cf. Act No.
35 of 1940,
s. 20.

2. New sections are inserted after section five of the principal Act as follows:—

5A. (1) For the purposes of this Act, there is hereby constituted a Committee, to be known as the "Fishermen's Advisory Committee" (hereinafter in this and the five next following sections referred to as "the Committee").

New
sections
5A to 5F.
Constitution
of
Fishermen's
Advisory
Committee.
cf. Tas. No.
22 of 1941,
s. 3.

(2) The Committee shall consist of four members at least and not more than five appointed by the Minister.

(3) Of the said members—

(a) one shall be the Chief Inspector of Fisheries, who shall be the Chairman of the Committee;

(b) one shall be appointed to represent fishermen who are commercially engaged in the fishing of crayfish;

- (c) one shall be appointed to represent fishermen who are commercially engaged in fishing in estuaries and on beaches;
- (d) one shall be appointed to represent fishermen who are commercially engaged in deep-sea fishing, other than the fishing of crayfish; and
- (e) one may be appointed to represent persons who are not commercially engaged in fishing or the fishing industry.

(4) The Committee shall meet at such times and places as it may decide, or as determined by the Chairman, and may regulate its own procedure.

(5) The Minister may, from time to time, appoint a secretary to assist the Committee in the discharge of its functions under this Act.

Functions of
Committee.
Ibid.

5B. The Committee shall—

- (a) inquire into and report to the Minister upon any matters referred to it by him or by the Chief Inspector of Fisheries in relation to the fisheries of the State; and
- (b) advise the Minister on questions relating to the management, control, protection, regulation and development of such fisheries, and may make such recommendations to the Minister as it thinks fit in relation thereto.

Term of
office of mem-
bers of the
committee.

5C. All members of the Committee shall hold office for a period of three years.

Remuneration
of members
of the Com-
mittee.

5D. The members of the Committee other than officers in the Public Service may be paid and may receive such fees and allowances in respect of their services as such members as the Minister may determine.

Committee
not to
represent the
Crown.

5E. The Committee shall not, except in relation to any matter in which it is specially authorised by the Minister to act on behalf of the Crown, be the agent or servant or the representative of the Crown.

Protection of
members of
the Com-
mittee.

5F. A member of the Committee shall not be personally liable for any act done in good faith by the Committee or by the member acting as such.

3. Section seventeen of the principal Act is repealed and a new section inserted in lieu thereof as follows:—

Amendment
of s. 17.
Repeal and
new section.

17. (1) The granting, renewal, removal or transfer, whether with or without conditions as hereafter in this section mentioned, of a boat license or of a fisherman's license shall not be deemed to be as of right, but shall, subject as hereinafter provided, be in the discretion of the officer appointed to issue licenses (hereinafter in this section referred to as "the Licensing Officer").

Granting of
licenses dis-
cretionary
and may be
upon condi-
tions.
cf. No. 45 of
1912 (Appen-
dix 1924),
s. 16.

(2) Every Licensing Officer, other than the Minister, shall obey and observe such directions, (including the imposition of conditions), as the Minister may give him regarding the granting, renewal, removal or transfer of licenses or of any particular license, and any grant, renewal, removal, or transfer of any license contrary to any such direction shall be null and void.

(3) Subject to any direction of the Minister, the Licensing Officer may in his discretion grant, renew, remove or transfer any license, upon conditions which shall be reduced to writing and may be endorsed on the license. Such conditions may be added to, varied, cancelled or suspended at any time and from time to time during the currency of the license, and may include conditions relating to any one or more of the following:—

- (a) restricting the presence and use of any boat licensed pursuant to section thirteen of this Act to such waters as he shall think fit;
- (b) limiting and defining the days upon and the period during which any such boat may be used for catching fish for sale;
- (c) limiting and defining the port, harbour, wharf, jetty, beach or portion of coast-line or any two or more of them which any such boat may enter or use during the currency of the license;
- (d) limiting and defining the species and quantities of fish which any such boat may

hold or carry during any period of the year specified by the Licensing Officer; and

- (e) such other conditions as the Minister may consider shall be in the interests generally of the fishing industry or of the State.

(4) Any person who considers himself aggrieved by the refusal of a license or of the renewal, removal or transfer of a license, or by the imposition of any one or more conditions, may appeal to the Minister, who may if he thinks fit direct the license to be issued, renewed, removed or transferred, as the case may be, either without conditions or subject to the same or other conditions, as he shall think fit.

(5) Any person who uses a boat, or permits or suffers his boat to be used, for catching fish for sale, contrary to any condition upon which the license for such boat shall be granted, renewed, removed or transferred, shall commit an offence against this Act and shall be liable for every such offence to a penalty not exceeding Fifty pounds.

(6) This section shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative powers of the Parliament of this State, to the intent that, where any provision herein would, but for this subsection, be construed as being in excess of those powers, it shall nevertheless be deemed to be validly enacted to the extent to which it is not in excess of those powers, and to the extent to which it is so in excess, or is repugnant to a law of the Commonwealth, be deemed to be severable from the other provisions of this section and of this Act, and not to affect the validity or operation thereof.

4. Section twenty-one of the principal Act is amended by adding thereto a subsection as follows:—

(3) When any unlawful net shall be found by any inspector in any water or waters specified in a proclamation issued under section nineteen of this Act, without any person in actual possession thereof, or on a boat in such water or waters, the inspector may seize such net, and such inspector, or another

Amendment
of s. 21.

Power to
seize unlaw-
ful nets,
cf. s. 49.

inspector shall give the prescribed notice and take the action mentioned in section forty-nine of this Act in the case of a net seized in closed waters, and the provisions of that section shall, *mutatis mutandis*, apply in respect of any unlawful net seized under this subsection.

5. A section is inserted after section thirty-six of the principal Act as follows:—

New section
36A.

36A. (1) The Minister may from time to time, by notice in the *Gazette*, regulate, restrict or prohibit the purchase, sale or disposal of any fishing gear, either absolutely, or upon and subject to such conditions, restrictions and regulations as may be specified in such notice.

Minister may
control pur-
chase and sale
of fishing
gear.

(2) The Minister may, by notice in writing under his hand, require any person having the right of disposal of any fishing gear to supply to such other person as is named in the notice, in priority to all other persons, such quantity of that fishing gear, and within such reasonable time, as may be specified in the notice, and effect shall be given to such notice according to its tenor.

(3) The Minister may, by writing under his hand, from time to time delegate to any person the whole or portion of his powers under this section, except this present power of delegation, and may from time to time revoke such delegation.

(4) In this section, the expression "fishing gear" includes any fishing nets and netting, and hanging and mending cotton, but does not include any secondhand goods.

(5) This section shall have effect only until the thirty-first day of December, one thousand nine hundred and forty-seven, and no longer.

Duration of
section.

6. A new section is inserted after section forty-eight of the principal Act as follows:—

New section
48A.

48A. No inspector shall be liable for anything done or seizure made under this Act for which there shall have been reasonable cause.

Protection of
inspectors.
cf. N.S.W.
No. 58 of
1935, s. 102.

7. The principal Act as amended by this Act may be cited as the Fisheries Act, 1905-1946.

Citation of
principal Act
as amended.