

PEARLING.

15° GEO. V., No. XXVIII.

No. 28 of 1924.

AN ACT to amend the Pearling Act, 1912.

[Assented to 31st December, 1924.]

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:—

Short title.

1. This Act may be cited as the *Pearling Act Amendment Act, 1924.*

Amendment of
sec. 5.

2. Section five of the Pearling Act, 1912 (hereinafter called "the principal Act") is hereby amended by the insertion, after the definition of "ship," of a definition as follows:—

" 'Special Inspector' means the Chief Pearling Inspector or any person appointed by the Governor to be a special inspector for the purposes of this Act."

Amendment of
sec. 31.

3. Section thirty-one of the principal Act is hereby amended—

I. By the excision of the word "acquires" in the first line, and the substitution of the words "shall have or acquire";

II. By the addition to the section of six subsections, as follows:—

"(4) If any unqualified person shall acquire or hold any interest in any such ship as aforesaid or the right to share in the results or proceeds of any such pearling as aforesaid, or if any person shall be party or privy to the acquisition or holding by any unqualified person of any such interest or share as aforesaid, he shall be guilty of an offence.

Penalty: Five hundred pounds, or a daily penalty of ten pounds, or imprisonment for three months."

- "(5) When the remuneration to which a diver or other pearl-fisher employed in pearling in connection with any ship consists wholly or in part of an allowance or lay calculated with reference to the quantity of pearl shell or pearls fished by him or with his assistance, then the right to such allowance or lay shall be deemed to be a right to share in the results or proceeds of the pearling, within the meaning of this section, unless the allowance or lay is calculated on such basis as shall be prescribed and at a percentage not exceeding the prescribed percentage."
- "(6) Any agreement, arrangement, or disposition which purports to vest or confer any such interest or right as aforesaid in or on any person shall (even though not legally enforceable or valid) be deemed to vest or confer an interest or right for the purposes of this section."
- "(7) For the purposes of this section, it shall be immaterial whether the interest or right is acquired or held as a partner or by way of mortgage or as security or otherwise howsoever."
- "(8) If any unqualified person shall—
- (a) lend to the holder of any ship license under this Act any money at a rate of interest exceeding twelve and a-half per centum per annum, or
 - (b) be entitled to the benefit of any contract with any person who is such a licensee (whether he was such when the contract was made or not) whereby provision is made for the payment of interest at a rate exceeding twelve and a-half per centum per annum,
- then such unqualified person shall, for the purposes of this section, be deemed to have acquired or to hold, as the case may be, a right to share in the results or proceeds of any pearling in which the ship is or shall be used or employed, and where the borrower or the person under an obligation to pay such interest as aforesaid

holds licenses in respect of two or more ships, the right shall for the purposes aforesaid be deemed to extend to every such ship; provided that this subsection shall not apply if the lender or person entitled to the benefit of such contract as aforesaid shall prove that provision has been made for the payment of the interest from some source other than pearling, and that none of it has been paid or will be paid out of the proceeds or results of pearling.”

“(9) The expression ‘unqualified person’ means any person who is not qualified to hold a ship license under this Act.”

Addition of new
section.
Part II., Div. 2.
Proceedings in case
of suspected
breaches of
sec. 31.

4. A section is hereby added to Division 2 of Part II. of the principal Act, as follows:—

31a. (1.) If any special inspector shall have reason to suspect that a breach of section thirty-one of this Act has been or is being committed, he may give information thereof to a magistrate in the prescribed manner;

(2.) The magistrate, on being satisfied by oral or written evidence that there are substantial grounds for such suspicion, may make an order authorising the special inspector to hold an inquiry touching the matter of the suspected offence;

(3.) The special inspector shall by virtue of such order have and may exercise, for the purposes of the inquiry thereby authorised, the powers of a Royal Commission and of the chairman thereof under the Royal Commissioners’ Powers Act, 1902, and the Royal Commissioners’ Powers Act Amendment Act, 1914, and the provisions of those Acts (including the penal provisions) shall apply to and in respect of the special inspector and the said inquiry as if such inquiry were in fact authorised by a Royal Commission;

(4.) The result of the inquiry shall be reported to the Minister by the special inspector;

(5.) Whenever it shall appear to the special inspector that it is necessary that he should inspect any document for the purposes of the inquiry, and he is unable to obtain such inspection without assistance, he may apply to a magistrate for the issue of a warrant according to the form in the Eighth Schedule, and the magistrate may

issue such warrant on being satisfied of the necessity therefor. Every such warrant shall have effect according to its tenor;

(6.) No person shall be entitled to refuse to answer any question lawfully put to him at any such inquiry as aforesaid, or to produce any document required to be produced thereat, on the ground that the answer to the question or the production of the document may or may tend to criminate him or expose him or any other person to any criminal charge or to any penalty or forfeiture;

(7.) Every application to a magistrate hereunder may be made *ex parte* by the special inspector or by a solicitor acting in his behalf.

5. There is hereby added to the principal Act a schedule, as follows:— Addition of schedule.

EIGHTH SCHEDULE.

.....

To wit.

To.....(an officer of Police).

WHEREAS it has been made to appear to me, A.B., a Resident (or Police) Magistrate assigned to keep the peace in and for the State of Western Australia that it is necessary that X.Y., a Special Inspector conducting an inquiry under Section 31A of the Pearling Act, 1912, by virtue of an order made by me (or by C.D., P.M., or R.M.) on the.....day of.....192 , should inspect, for the purposes of the said inquiry, certain documents, namely (*here describe documents*) believed to be (*state place where documents are believed to be*), and that such Inspector is unable to obtain such inspection without assistance. This, therefore, is to require you, in the name of His Majesty, to enter, with such assistants as you think necessary, into (*here specify the place*), and if necessary to use force for making such entry, whether by breaking open doors or otherwise, and there diligently to search for and seize the documents aforesaid, and to produce the same before the said Inspector in order that he may inspect, copy, and take extracts therefrom in such manner as he shall judge necessary for the purposes of the said inquiry.

Given under my hand at.....this.....day of.....192 .

A.B.,
Resident (or Police) Magistrate

6. The principal Act and all amendments thereof, including this Act, may be cited as the Pearling Act, 1912-1924. Citation.

7. In any reprint made by the Government Printer of the principal Act and its amendments, the sections may be re-numbered so as to run in arithmetical order, and all cross-references shall be adjusted so far as necessary. Reprint.