

PEARLING.

13° GEO. V., No. XIV.

No. 32 of 1922.**AN ACT to further amend the Pearling Act, 1912.**

[Assented to 21st December, 1922.]

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, 1922*, and shall be read as one with the *Pearling Act, 1912*, hereinafter referred to as the principal Act.

Definition of
"Diver's tender."

2. The following definition is hereby inserted in its appropriate place in section five of the principal Act, that is to say—

"Diver's tender" means the person attending on a diver and in charge of the diving operations when the diver is below.

Amendment of
Section 10.

3. The enumeration of licenses contained in section ten of the principal Act is hereby repealed, and an enumeration is substituted therefor, as follows:—

- (a) Ship licenses:
- (b) Exclusive licenses:
- (c) General licenses:
- (d) Beach comber's licenses:
- (e) Divers' licenses:
- (f) Divers' tenders' licenses:
- (g) Shell buyers' licenses.
- (h) Pearl dealers' licenses:
- (i) Pearl cleaner's licenses.

4. Section eleven of the principal Act is hereby amended by the insertion of the words "diver's tender's" after the word "diver's" therein.

Amendment of
Section 11.

5. Section twelve of the principal Act is hereby amended by the insertion of the words "shell buyer's" after the word "general" therein.

Amendment of
Section 12.

6. Section sixteen of the principal Act is hereby repealed, and a section is substituted therefor, as follows:—

Substitution of
new section for
Section 16.

16. (1.) Every application for any ship, beach comber's, shell buyer's pearl dealer's or pearl cleaner's license shall be made during the currency of the calendar year in which the license is to have effect or in the month of December preceding that year, and every such license which shall be granted shall, subject to this Act, have effect for and during that year or the unexpired portion thereof and no longer.

Duration of ship,
beach comber's,
diver's, diver's
tender's, shell
buyer's, pearl
dealer's, and pearl
cleaner's license.

(2.) Every application for any diver's or diver's tender's license shall be made during the currency of the term in which it is to have effect, and every such license which shall be granted shall, subject to this Act, have effect for and during that term or the unexpired portion thereof and no longer.

(3.) "Term" means the period from the 1st day of January to the 30th day of April or from the 1st day of May to the 31st day of August or from the 1st day of September to the 31st day of December (all days inclusive) in any year.

7. (1.) The words "and the ship shall be forfeited to His Majesty, and may on such complaint as aforesaid be condemned by any two justices accordingly" are hereby added to subsection (1) of section thirty-one of the principal Act.

Amendment of
Section 31.

(2.) Subsection (2) of the said section thirty-one is hereby repealed, and a subsection is hereby substituted therefor, as follows:—

(2.) The summons issued on any such complaint may, if a declaratory order regarding the license is sought, be addressed to the master or, if a condemnation of the ship is sought, it may be addressed to the owner, and, in either case, it shall be deemed to have been duly served if de-

livered personally to the person to whom it is addressed, or if it is served in the manner in which a writ of summons issued in an action *in rem* in the Admiralty Jurisdiction of the Supreme Court may be served.

(3.) A subsection is hereby added to section thirty-one of the principal Act, as follows:—

(3.) If any unqualified person shall have or acquire, by contract or arrangement with any owner of any ship or with any servant or agent of such owner, the right to share in the results or proceeds of any pearling in which the ship is or shall be used or employed, such and the like consequences shall ensue, and such and the like proceedings may be taken as if such person had acquired an interest in the ship.

Amendment of heading of Division 4, Part II.

8. The heading of Division 4 of Part II. of the principal Act is hereby amended by the insertion of the words “and divers’ tenders” between the words “divers’ ” and “licenses.”

Amendment of Section 52.

9. Section fifty-two of the principal Act is hereby amended by the insertion after the word “Act,” in the sixth line, of the words “or employ or authorise or permit the employment of any person as a diver’s tender unless such person is the holder of a diver’s tender’s license under this Act.”

Amendment of Section 53.

10. Section fifty-three of the principal Act is hereby amended by the insertion of a subsection, as follows:—

(2.) No person shall act as a diver’s tender unless he is the holder of a diver’s tender license under this Act.

Penalty: Ten pounds, or a daily penalty of one pound.

Amendment of Section 54.

11. Section fifty-four of the principal Act is hereby amended by the insertion after the word “divers’ ” of the words “and divers’ tenders.’ ”

Amendment of Section 56.

12. Section fifty-six of the principal Act is hereby amended by the insertion, in the first line, after the word diver’s,” of the words “or diver’s tender’s.”

Amendment of Section 57.

13. Section fifty-seven of the principal Act is hereby amended by the insertion after the word “diver’s,” wherever such word occurs therein, of the words “or diver’s tender’s.”

14. Section fifty-eight of the principal Act is hereby amended by the deletion of the word "Resident" and of the words "of any magisterial district lying wholly or partially to the north of the twenty-seventh parallel of South Latitude," and by the addition to the section of the words, "Pearl dealers' licenses shall be of two kinds—general and limited; but the effect of both kinds of license shall be the same save as in sections sixty-four and seventy-three (a) is otherwise provided."

Amendment of
Section 58.

15. Section fifty-nine of the principal Act is hereby amended by the deletion of the words "within that portion of the State lying to the north of the twenty-seventh parallel of South Latitude."

Amendment of
Section 59.

16. Section sixty of the principal Act is hereby amended by the insertion of the words "beach comber's" after the word "general," and by the deletion of the words "within the said portion of the State," and the substitution therefor of the words "within that portion of the State lying to the north of the twenty-seventh parallel of South Latitude."

Amendment of
Section 60.

17. Subsection five of section sixty-four of the principal Act is hereby repealed, and a new subsection is substituted, as follows:—

Amendment of
Section 64.

(5.) A licensed pearl dealer who is merely the holder of a limited license shall not have any registered place of business north of the twenty-seventh parallel of South Latitude.

18. Section seventy-one of the principal Act is amended by omitting the words "North of the twenty-seventh parallel of South Latitude," and the words "North of the said parallel"; and by adding to the said section a subsection, as follows:—

Amendment of
Section 71.

(2.) Within ten days after the expiry of a ship, exclusive, general, or beach comber's license, the person who was the holder thereof may deliver to the licensing officer or to the clerk of petty sessions stationed nearest to such person's residence or place of business, a true and complete return in the prescribed form (verified by statutory declaration) enumerating with the prescribed particulars

all pearls which were obtained by him under or in the exercise of his license, and which on the expiry of his license were in his possession or under his control, and such person shall by force of this subsection and without obtaining any license be authorised for a period of four months from the expiry of his license to sell or dispose of the pearls so enumerated as if the expired license were still in force.

Amendment of
Section 73 (a).

19. Section seventy-three (a) is hereby amended by the addition of a proviso, as follows:—

Provided that nothing in this section shall prevent a manager, general or local, of a corporation, which is the holder of a pearl dealer's license, from acting as the agent or deputy of such corporation under and by virtue of the license held by it, but so that no corporation which is the holder of a limited license only shall be entitled to be represented by any such manager outside the portion of the State to which its license extends.

Addition of new
section to
Part III.

20. The following section is hereby added to Part III. of the principal Act, that is to say—

Powers of superintendents regarding the employment of masters and pearl fishers.

93a. (1.) No person shall be engaged or employed as a pearl fisher or pearl fisher in charge on a pearling ship if a superintendent shall be of opinion that such person is of evil fame, and shall give notice of such opinion to the owner or an agent of the owner of the ship on which it is intended to employ such person.

(2.) A superintendent may refuse to endorse a pearling agreement under this Part if he is satisfied that any person named therein as pearl fisher is a person of evil fame.

(3.) It shall not be lawful for any pearling ship to proceed to or remain at sea unless notice of the name of the master has been given to and approved by a superintendent and such master goes and remains on board such ship.

(4.) Every person who commits or aids in or is party or privy to the commission of any breach of this section shall be guilty of an offence against this Act.

Penalty: Fifty pounds.

21. Section ninety-four of the principal Act is hereby amended by the addition to paragraph (e) of the following words, that is to say:—"or if in his opinion the ship is unseaworthy." Amendment of
Section 94.

22. A subsection is hereby added to section ninety-five of the principal Act, as follows:— Amendment of
Section 95.

(2.) An owner or master of any ship which an inspector has by order forbidden to be employed in pearling or taken to sea in order to be employed in pearling, or any pearl fisher or pearl fisher in charge on a pearling ship is refused by the superintendent to be engaged or employed, may, in the prescribed manner, appeal against such order to a magistrate, who may reverse, confirm, or vary such order, and the order, if varied, shall be enforceable as an order of the inspector.

23. Subsection five of section one hundred and one (a) of the principal Act is hereby repealed. Amendment of
Section 101 (a).

24. Subsection eight of section one hundred and one (b) of the principal Act is hereby amended by the excision of the word "sixteen." Amendment of
Section 101 (b)

25. (1.) Subsection one of section one hundred and one (c) of the principal Act is hereby amended by the deletion of the words "not exceeding three pounds." Amendment of
Section 101 (c).

(2.) Subsection six of section one hundred and one (c) of the principal Act is hereby repealed.

26. The following section is hereby inserted in Part V. of the principal Act, that is to say— Insertion of new
section in Part V.

101a. (1.) It shall be unlawful for any person to produce or attempt to produce, or to sell or offer for sale, or otherwise deal in culture pearls, or to have any culture pearls in his possession, custody, or control for the purpose of selling or otherwise dealing in the same. Cultivation or sale
of culture pearls
prohibited.

Penalty: Five hundred pounds, or imprisonment for not exceeding six months.

(2.) The words "culture pearls" mean and include any pearl, baroque pearl or blister pearl not being the natural production of the pearl oyster, but produced by any means of artificial cultivation.

(3.) The words "artificial cultivation" mean and include any process, either by the insertion within the shell of the pearl oyster of some foreign substance, or any other artificial treatment of the pearl oyster, whereby the production of a pearl or baroque pearl or blister pearl is, or may be, or is intended to be incited.

(4.) Any inspector may enter upon any place within the territorial waters of the State, whether the subject of an exclusive license under this Act or not, and search therein by divers dredging or other means for pearl oysters treated for the cultivation of culture pearls; and may enter into and upon and search any ship or boat or any building or premises within the State used or reasonably suspected of being used for or in connection with the production or cultivation of culture pearls; and if any pearl oysters apparently so treated, or any culture pearls or any plant, apparatus, or instruments used, or apparently intended to be used for or in connection with the artificial cultivation of pearls are found they shall be forfeited to the Crown, and it shall be lawful for the inspector to cause all pearl oysters to be removed from the place in which the cultivation of culture pearls has apparently been carried on, and destroyed or otherwise disposed of.

Addition of new section.

27. A section is hereby added to the principal Act, as follows:—

Procedure of justices.

108. All proceedings before justices under this Act shall be regulated by the provisions of the Justices Act, 1902-1920, and any decision given in any such proceeding shall be subject to appeal as provided in that Act.

Amendment of Third Schedule.

28. The third schedule to the principal Act is hereby repealed, and an amended schedule is hereby substituted therefor, as follows:—

THIRD SCHEDULE.

	£	s.	d.
The fee for a Ship License is	10	0	0
" " General License	4	0	0
The fee for an Exclusive License	1	0	0
The fee for a Beach Comber's License	4	0	0
" " Diver's License	0	6	8
" " Diver's Tender's License	0	6	8
" " Pearl Dealer's License (General)	50	0	0
" " Pearl Dealer's License (Shark Bay General)	20	0	0
" " Pearl Dealer's License (Limited)	5	0	0
" " Shell Buyer's License	3	0	0
" " Pearl Cleaner's License	5	0	0
" " Transfer of any License	0	10	0
" " Renewal of an Exclusive License	0	10	0

29. All copies of the Pearling Act, 1912, hereafter printed by the Government Printer shall be printed as altered by the existing amendments thereof, including this Act, under the supervision of the Clerk of Parliaments, and all necessary references to the amending Acts shall be made in the margin. In any such reprint the short title shall be altered to the Pearling Act, 1912-1922, by which title the Pearling Act, 1912, and the said amendments may be cited together.

Citation and
reprint of principal
Act and
amendments.