

FISHERIES.

No. 4 of 1969.

AN ACT to amend the Fisheries Act, 1905-1967.

[Assented to 21st April, 1969.]

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, 1969*.

Reprinted as
approved for
reprint 10th
August, 1966
and
amended by
Acts Nos. 38
of 1966 and
73 of 1967.

(2) In this Act the Fisheries Act, 1905-1967 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Fisheries Act, 1905-1969.

2. Section three of the principal Act is amended by adding after the interpretation, "the Crayfish Committee", the following interpretation—

S. 3
amended.

"the Department" means the Government Department known as the Department of Fisheries and Fauna; .

3. Subsection (1) of section five B of the principal Act is amended by deleting paragraphs (a), (b), (c) and (d) and substituting the following paragraphs—

S. 5B
amended.

- (a) two shall be officers of the Department and one of those officers shall be appointed by the Minister to be the Chairman of the Committee;
- (b) two shall be members of the body known as the Rock Lobster-Crayfish Development Association of Australia, Incorporated, nominated by that body; and
- (c) two shall be fishermen, who for commercial purposes are actually engaged in the taking of crayfish, .

4. Subsection (1) of section five C of the principal Act is amended—

S. 5C
amended.

- (a) by deleting paragraph (a) and substituting the following paragraph—
 - (a) two shall be officers of the Department and one of those officers shall be appointed by the Minister to be the Chairman of the Committee; ;
- (b) by adding after the passage, "crayfish;" in the last line of paragraph (c), the word, "and";
- (c) by substituting for the passage, "fisherman; and" in line two of paragraph (d), the passage, "fisherman," ; and
- (d) by deleting paragraph (e).

S. 5D
amended.

5. Section five D of the principal Act is amended—

(a) by adding after subsection (1) the following subsections—

(1a) Where any member of a Committee ceases to hold any qualification required for his becoming a member, his office shall become vacant and shall be filled in accordance with subsection (2) of this section.

(1b) Every member of a Committee holding office at the date of the coming into operation of the Fisheries Act Amendment Act, 1969, continues, subject to this Act, to hold office for the unexpired portion of his term of office at that date. ;

(b) by adding after the word, "Committee" in line one of subsection (4), the passage, " , other than the Chairman," ;

(c) by adding after subsection (4) a subsection as follows—

(4a) The Minister may, from time to time, in relation to a Committee—

(a) appoint an officer of the Department, not being a member of the Committee, to act as a member and Chairman of any meeting of the Committee at which the Chairman is not present, and any officer so appointed has, at such a meeting, all the powers and functions of a member and the Chairman, and while so acting shall be a member for the purposes of subsection (3) of section five E of this Act; and

(b) revoke any appointment made under paragraph (a) of this subsection. ; and

(d) by deleting paragraph (b) of subsection (5).

6. Subsection (1) of section six of the principal Act is amended by adding after paragraph (ga) the following paragraph—

S. 6
amended.

- (gb) requiring any applicant for a permit under subsection (2a) of section thirty-five C of this Act to advertise the making of the application; .

7. Section twelve A of the principal Act is amended—

S. 12A
amended.

- (a) by adding after the word, "section" in line four of subsection (1), the passage, ", or the Minister by notice published in the *Government Gazette* pursuant to this section," ; and
- (b) by adding after subsection (3) the following subsection—

(4) On and after the date of the coming into operation of the Fisheries Act Amendment Act, 1969 the Minister may, by notice published in the *Government Gazette*, exercise all or any of the powers conferred by this section upon the Governor, and may, by such a notice, cancel or vary, or rectify an error in, any proclamation made before that date. .

8. Section twenty-five of the principal Act is amended by substituting for the word, "Governor" in line one, the word, "Minister".

S. 25
amended.

9. Subsection (2) of section twenty-nine of the principal Act is amended by substituting for the words, "The Governor may from time to time by proclamation" in lines one and two, the words, "The Minister may from time to time by notice" .

S. 29
amended.

S. 35C
amended.

10. Section thirty-five C of the principal Act is amended—

- (a) by deleting the words, “granted or” in line two of subsection (1);
- (b) by adding after the passage, “caught;” in line three of paragraph (b) of subsection (1), the word, “and”;
- (c) by substituting for the passage, “purchased; and” in line four of paragraph (c) of subsection (1), the passage, “purchased,” ;
- (d) by deleting paragraph (d) of subsection (1); and
- (e) by repealing subsection (2) and substituting the following subsections—

(2) The Director shall consider each application for the renewal of a processor’s license and where he is satisfied that the processing establishment the subject of the application is constructed, equipped and operated in a hygienic manner and in conformity with the provisions of this Act and the regulations he shall, subject to such conditions and restrictions as he thinks fit, grant the application, and where he is not so satisfied he shall refuse the application and, by notice in writing, advise the applicant of the grounds of his refusal.

(2a) Where a person proposes to construct or establish a processing establishment on any land, jetty, premises, vehicle, boat or other place not the subject of a processor’s license, he may apply to the Director for a permit to establish thereon a processing establishment, and shall—

- (a) set out in, or include with, his application the location of, and the plans, specifications and equipment of, the proposed processing establishment; and

- (b) furnish such other information with respect to his application, as the Director requires for the purpose of carrying out his functions under subsection (2b) of this section.

(2b) Where the Director has received an application for a permit duly made under subsection (2a) of this section, and he is satisfied that—

- (a) if constructed or established in the manner specified by the applicant, the proposed processing establishment would be constructed, equipped and capable of being operated in an efficient and hygienic manner, and in conformity with the provisions of this Act and the regulations; and
- (b) having regard to the number of processing establishments or proposed processing establishments in respect of which licenses or permits under this section are then in force, and to the sizes and natures of those establishments and proposed establishments, it is in the better interests of the fishing industry that the proposed processing establishment be constructed or erected, and a license under this section granted therefor,

he shall grant the application and issue a permit to establish the proposed processing establishment subject to such conditions and restrictions as are specified in the permit and cause notice of his decision to issue the permit to be advertised in the manner prescribed, and where he is not so satisfied he shall

refuse the application and, by notice in writing, advise the applicant of the grounds of his refusal.

(2c) Where—

(a) the Director has granted a person a permit to establish a processing establishment; and

(b) the person has constructed or established a processing establishment in the manner specified in his application for the permit, and in accordance with the conditions and restrictions, if any, specified in the permit,

the Director shall, upon application made by the person in the prescribed form for a processor's license in respect of that processing establishment, grant the application subject to such conditions and restrictions as he thinks fit. .

S. 35K
amended.

11. Section thirty-five K of the principal Act is amended by adding after subsection (1) the following subsection—

(1a) Without affecting the generality of subsection (1) of this section, "person aggrieved", in relation to a decision of the Director to grant an application for a permit under subsection (2b) of section thirty-five C of this Act, includes a licensee and a person to whom any other permit under that subsection has been granted. .

S. 37
amended.

12. Section thirty-seven of the principal Act is amended by substituting for the passage, "Game Act, 1892" in line two, the passage, "Fauna Conservation Act, 1950".

S. 39
amended.

13. Subsection (1) of section thirty-nine of the principal Act is amended by substituting for the passage, "Land Act, 1898" in line eight, the passage, "Land Act, 1933".