

FISHERIES.

10° Elizabeth II., No. XX.

No. 20 of 1961.

AN ACT to amend the Fisheries Act, 1905-1960.

[Assented to 30th October, 1961.]

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, 1961*.

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Reprinted
Acts.
Approved for
reprint
13th Febru-
ary, 1950, and
amended by
Acts Nos. 55
of 1951,
64 of 1956,
and 46 of
1960.

(2) In this Act the Fisheries Act, 1905-1960, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Fisheries Act, 1905-1961.

2. Section three of the principal Act is amended ^{S. 3 amended.} by substituting for the interpretation, "Crayfish tail" the following interpretation—

"Crayfish tail" means the whole or part of the abdomen of a crayfish when that abdomen or part of the abdomen is severed from the carapace; .

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

(a) by deleting the words, "minimum length and" in lines one and two of paragraph (mi); and

(b) by adding after paragraph (mi) the following paragraph—

(mj) prescribing the form of returns required to be furnished under this Act, the particulars and information which those returns shall contain, and the times when, the periods in respect of which, and the persons to whom returns are to be furnished; .

4. Section eighteen of the principal Act is ^{S. 18 amended.} amended—

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

(1) Every person engaged in any of the operations referred to in subsection (2) of this section shall furnish a return in writing in or to the effect of the prescribed form as to the catch, sales, output, purchases, receipts, fishing gear used, time occupied in fishing, or business of that person. ;

(b) by substituting for the words, "may be required" in lines one and two of subsection (2), the words, "is required to be furnished";

- (c) by adding after paragraph (c) of subsection (2) the following paragraph—

(ca) the processing, filleting and packing of fish; ;

- (d) by adding after the word, “product”, being the last word in paragraph (f) of subsection (2) the passage, “, and the purchasing and receiving of fish”; and

- (e) by substituting for subsection (3) the following subsection—

(3) Any person required to furnish a return under this section shall furnish that return at such time, in respect of such period and to such person, as may be prescribed, and shall set out in the return such particulars as to the weight, quantity, value or price of any one or more varieties of fish or parts of fish or fish product and as to the locality in which any fish or any one or more varieties or species of fish were caught, as may be prescribed.

S. 24
amended.

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

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

(1a) Any inspector may seize 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, containing more of such specified fish than one-twentieth in number of the whole number of fish contained in that boat, vehicle or aircraft or in that receptacle, and all fish seized by the inspector pursuant to the provisions of this subsection shall be forfeited to the use of Her Majesty. ; and

- (b) by substituting for subsection (3a) the following subsection—

(3a) Any inspector may seize 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, containing more of such specified crayfish than one-twentieth in number of the whole number of crayfish contained in that boat, vehicle or aircraft or in that receptacle, and all crayfish seized by the inspector pursuant to the provisions of this subsection shall be forfeited to the use of Her Majesty. .

6. Section twenty-four A of the principal Act is ^{S. 24A} amended—

- (a) by substituting for the words, “length or weight less than the length and” in lines eight and nine of subsection (1) the words, “weight less than the”;
- (b) by substituting for subsection (2) the following subsection—

(2) Any inspector may seize all crayfish tails of a weight less than the weight prescribed, and all other crayfish tails contained in any boat, vehicle or aircraft or in any receptacle for fish, containing more of such crayfish tails of a weight less than the weight prescribed than one-twentieth in number of the whole number of crayfish tails contained in that boat, vehicle or aircraft or in that receptacle, and all crayfish tails seized by the inspector pursuant to the provisions of this subsection shall be forfeited to the use of Her Majesty. ; and

- (c) by inserting after the word, “tail” in line seven of subsection (3) the words, “of a weight less than the weight prescribed”

S. 24B
amended.

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

- (a) by substituting for the word, “A”, being the first word in subsection (1), the passage, “Subject to the provisions of subsection (4) of this section, a”;
- (b) by adding after the word, “section”, being the last word in subsection (2), the passage, “or is one which by virtue of the provisions of subsection (4) of this section is not required to be labelled”;
- (c) by substituting for subsection (4) the following subsection—

(4) In cases where he is of opinion that by reason of special circumstances labelling of any bag, basket, box or other receptacle containing fish pursuant to the provisions of subsection (1) of this section is not necessary, the Minister may by notice in writing exempt any person or class of persons from the provisions of that subsection, or may so exempt from those provisions any person consigning or delivering any bag, basket, box or other receptacle containing fish or a class of fish to be specified in the notice, and may at any time in like manner cancel any such exemption. ; and

- (d) by adding after subsection (4) the following subsection—

(4a) (a) The Minister may by writing signed by him delegate all or any of the powers conferred upon him by subsection (4) of this section, with the exception of this power of delegation, to the Chief Inspector of Fisheries, who may thereupon exercise the power so delegated in the same manner and with the same effect as if it were directly conferred upon him by that subsection and not by delegation, and where the exercise of the power is dependent upon the opinion of

the Minister in relation to any power, that power may be exercised by the Chief Inspector of Fisheries upon his opinion in relation to the matter.

(b) The Chief Inspector of Fisheries when purporting to exercise power pursuant to a delegation conferred under the provisions of this subsection is presumed to do so in accordance with the terms of the delegation in the absence of proof to the contrary.

(c) Every delegation of power pursuant to the provisions of this subsection may be revoked wholly or partly by the Minister at any time, and no delegation shall prevent the Minister from exercising the power.

8. Section forty-one of the principal Act is ^{S. 41} amended—

- (a) by inserting after the word, “boat” in line three the words, “or aircraft”; and
- (b) by adding after the word, “regulations”, being the last word in the section, the passage, “, or any explosive substance which the inspector or the police officer has reason to believe has been used or is intended to be used for the taking or attempted taking of fish”.

9. The principal Act is amended by adding after section forty-three the following section—

43A. When in any prosecution for an offence against this Act or the regulations it is material to show that the person charged delivered or consigned fish, proof that at the time of the delivery or consignment of the fish there was attached to the bag, basket, box or other receptacle containing such fish a label bearing the name of that person shall be *prima facie*

^{S. 43A}
added.

Burden of
proof where
label
attached to
receptacle
containing
fish.

evidence that he delivered or consigned such fish, and the burden of showing that such fish were not delivered or consigned by him shall rest on the person charged.

Second
Schedule
substituted.

10. The principal Act is amended by substituting for the Second Schedule the following Schedule—

SECOND SCHEDULE.

(a) Fish, Marine or Fluvio-Marine Species.

Common Name.	Scientific Name.	Length (Inches).
Bream (or Black Bream)	<i>Mylio butcheri</i>	9½
Bream, Pig-faced (or North-West Snap- per)	<i>Lethrinus</i> spp.	9
Bream, Yellow-fin	<i>Mylio latus</i>	10
Flathead, Dusky	<i>Planiprora fusca</i>	11
Flathead, Marbled	<i>Laeviprora laevigata</i>	11
Flathead, Sand	<i>Planiprora melsomi</i>	11
Flounder	<i>Pseudorhombus jenynsii</i>	9
Garfish, River	<i>Hemirhamphus regularis</i>	9
Garfish, Sea	<i>Hemirhamphus melanochir</i>	9
Groper	<i>Achoerodus gouldii</i>	12
Herring, Perth (or Giz- zard Shad)	<i>Fluviolosa vlaminghi</i>	5
Jewfish, Westralian	<i>Glaucosoma hebraicum</i>	13
Leather Jacket	Family <i>Aluteridae</i>	9
Longtom (or Garpike)	<i>Lhotskia gavialoides</i>	13
Mackerel, Spanish	<i>Cybium commerson</i>	15
Mackerel, Common	<i>Scomber australasicus</i>	6
Morwong (or Queen Fish)	<i>Nemadactylus</i> spp.	12
Mullet, Sand	<i>Myxus elongatus</i>	9
Mullet, Sea	<i>Mugil cephalus</i>	9½
Mullet, Yellow-eye	<i>Aldrichetta forsteri</i>	9
Mulloy (or River Kingfish)	<i>Sciaena antarctica</i>	13
Nannygai (or King Snapper)	<i>Trachichthodes lineatus</i>	9
Pike, Long-fin	<i>Dinolestes lewini</i>	13
Pilchard, Sea	<i>Sardinops neopilchardus</i>	5
Rock Cod, Red	<i>Rubralga sumptuosa</i>	9
Ruff (or Sea Herring) ..	<i>Arripis georgianus</i>	7
Salmon, Australian	<i>Arripis trutta</i>	9½
Samson Fish (or Sea Kingfish)	<i>Seriola hippos</i>	15
Sergeant Baker	<i>Latropiscis purpurissatus</i>	12
Snapper	<i>Chrysophrys unicolor</i>	11
Snook	<i>Australuzza novaehollandiae</i>	11
Sole	Family <i>Soleidae</i>	8

Common Name.	Scientific Name.	Length (Inches).
Sweep	<i>Scorpius georgianus</i>	8
Tailor	<i>Pomatomus saltator</i>	9
Tarwhine (or Silver Bream)	<i>Rhabdosargus sarba</i>	8
Trevally (Silver or Skip- jack)	<i>Usacaranx georgianus</i>	8
Whiting, Sand or Silver	<i>Sillago bostockii</i> and allies	8½
Whiting, Spotted or King George	<i>Sillaginodes punctatus</i>	10
Whiting, Transparent (or School Whiting)	<i>Sillago bassensis</i>	8½
Whiting, Trumpeter	<i>Sillago maculata</i>	7
Yellowtail (or Perch)	<i>Amphitherapon caudavittatus</i>	7

(b) Fish, Freshwater Species.

Callop (or Murray Perch)	<i>Plectroplites ambiguus</i>	9
Cod, Murray	<i>Maccullochella macquariensis</i> ..	15
Perch, English	<i>Perca fluviatilis</i>	9
Trout, Brown	<i>Salmo trutta</i>	12
Trout, Rainbow	<i>Salmo gairdneri</i>	12

(c) Crustaceans.

Crayfish	<i>Panulirus longipes</i>	3
Crabs, Manna	<i>Portunus pelagicus</i>	5½
Prawns, King	<i>Penaeus latisulcatus</i>	3
Prawns, School	<i>Metapenaeus dalli</i>	2
Marron	<i>Cheraps tenuimanus</i>	3

(d) Method of Measurement.

Garfish are measured from the tip of the upper jaw to the end of the upper half of the tail; prawns are measured along the body from the eye to the tip of the tail; crayfish are measured along the mid-dorsal line from the anterior edge of the pronounced ridge which joins the front edges of the rostral horns immediately posterior to the eyestalks, to the posterior margin of the carapace; crabs are measured from tip to tip of the posterior carapace spikes; marron are measured from the tip of the rostrum to the posterior margin of the carapace along the mid-dorsal line; all other fish are measured from the point of the snout to the end of the tail.