

FISHERIES.

13° Geo. VI., No. CXXXIV.

No. 48 of 1949.

AN ACT to amend the Fisheries Act, 1905-1948.

[Assented to 26th October, 1949.]

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, 1949*, and shall be read as one with the Fisheries Act, 1905-1948 (Act No. 18 of 1905, reprinted with amendments to and including No. 35 of 1940, incorporated pursuant to the Amendments Incorporation Act, 1938, in Volume 2 of the Reprinted Acts of the Parliament of Western Australia, and further amended by Acts Nos. 22 of 1946, 39 of 1947 and 10 of 1948), hereinafter referred to as the principal Act. Short title.

2. The principal Act, as amended by this Act, may be cited as the Fisheries Act, 1905-1949. Citation of principal Act as amended by this Act.

3. Section six of the principal Act is amended by— Amendment of s. 6.

- (a) adding after the word "fishing" in paragraph (g), line one, the words "and the taking of crustacea";
- (b) adding after the word "prescribing" in paragraph (h), line one, the words "licenses required under and for the purposes of the provisions of this Act and the regulations, the maximum fees payable for any license, enabling the differentiation of fees payable in respect of any particular kind of license, having regard to the conditions of the licenses concerned, and prescribing";

- (c) adding after the word "and" in paragraph (h), line one, the words "subject to the provisions of section seventeen of this Act,";
- (d) deleting from the second sentence commencing with the words "Such regulation may provide" all words after the word "regulations" in line five to and including the word "session" in line eleven.

Repeal of
s. 13.

4. Section thirteen of the principal Act is repealed.

Repeal of
s. 14.

5. Section fourteen of the principal Act is repealed.

Repeal of
s. 15.

6. Section fifteen of the principal Act is repealed.

Repeal of
s. 16.

7. Section sixteen of the principal Act is repealed.

Amendment
of s. 17.

8. Section seventeen of the principal Act is amended by substituting for the words "a boat license or of a fisherman's license" in lines three and four of subsection (1), the words "any license".

Repeal and
re-enactment
of s. 18.

9. The principal Act is amended by repealing section eighteen and substituting the following:—

Returns.
Of. 58 of
1935, s. 42,
N.S.W.

18. (1) The Chief Inspector of Fisheries, if so directed by the Minister, shall require, by notice in writing specifying the person to whom the return shall be furnished, persons engaged in the operations referred to in the next succeeding subsection, to furnish returns in or to the effect of the prescribed form, as to the catch, sales, output, or business of such persons.

(2) The operations in respect of which a return may be required under this section are—

- (a) the taking of fish for sale;

- (b) the sale of fish at any market or at any establishment at which fish is sold which has not passed through a market;
- (c) the preserving, curing, smoking, drying, or salting of fish;
- (d) the canning, packing, or bottling of fish, parts of fish, or of any fish product intended for human consumption;
- (e) the preparation of fertilisers from fish, or of any fish produce or by-product not intended for human consumption;
- (f) the carriage of fish, parts of fish, or fish product;
- (g) the furnishing of accurate information as to locality from which different varieties are taken.

(3) The notice may require returns to be furnished at such times and in respect of such periods as may be specified therein, and may require that separate particulars shall be furnished as to the weight, quantity, value, or price of any one or more varieties or species of fish or parts of fish or fish product, specified in the notice or as to the locality in which any fish or any one or more varieties or species of fish specified in the notice were taken.

(4) Any person who neglects or fails to furnish a return in accordance with this section, or who furnishes any false information in any such return, shall be guilty of an offence.

10. Section twenty-four of the principal Act is amended by adding after subsection (3) the following subsections:—

**Amendment
of s. 24.**

(4) In any prosecution of any person for an alleged offence against the provisions of this section, it shall be no defence to him to prove that he

is only the servant or agent of the owner of the fish concerned or is only entrusted for the time being with the fish by such owner, but the servant or agent and the owner shall each be liable.

(5) If the person charged, being a servant or agent, proves that at the material time, the fish were in the same state as that in which he received them from his employer or principal, and at the material time he had no knowledge that the fish were of a less length than that referred to in subsection (1) of this section, he may, notwithstanding that his employer or principal has himself been convicted and fined, recover from the employer or principal the amount of any penalty for which he may have been convicted in respect of the charge, together with the costs paid or to be paid by him upon the conviction and those incurred by him in and about his defence thereto.

(6) Where a servant or agent is so convicted, the court of summary jurisdiction may suspend the operation of the conviction for any period not exceeding three months so as to enable the defendant to recover the amount of the fine and costs from the employer or principal.

**Amendment
of s. 31.**

11. Section thirty-one of the principal Act is amended by adding after subsection (7) the following subsection:—

(8) (a) Subject to this Act, a trout acclimatisation society may, with the consent of the Minister, make by-laws to have effect within the area in which the society is registered for—

(i) prescribing the limits in or about the mouth of, or within any river, creek, stream, estuary, or other inlet of the sea, within which it shall not be lawful for any person to fish by means of any net or fixed engine;

(ii) determining the times and seasons at which the taking of any species of fish shall commence and cease or be permitted or prohibited;

- (iii) prohibiting all persons from taking any fish of any specific species by means of any specified capture or by any means of capture whatsoever;
 - (iv) providing that under license from the society, fish may be taken from waters to which by-laws under this paragraph apply;
 - (v) fixing the fees payable for and the duration of a license;
 - (vi) prescribing the conditions on which any license shall be granted and providing that on the breach of any condition, a license shall be cancelled by the society;
 - (vii) providing for all matters which are necessary or convenient to be prescribed for the purposes of carrying out or giving effect to by-laws as fully as if they were regulations or proclamations under this Act;
 - (viii) the detention, punishment, and apprehension of offenders and the prevention of offences;
 - (ix) the forfeiture to His Majesty of property or articles used or intended to be used and fish taken in breach of any by-law;
 - (x) imposing a penalty not exceeding five pounds for the breach of any by-law.
- (b) Where the provisions of any by-law made under this section relate to the same subject matter as or are in conflict with the provisions of this Act, or of the regulations or of any by-law made under the Road Districts Act, 1919-1948, the latter provisions shall prevail.

12. Section thirty-four of the principal Act is amended by— Amendment
of s. 34.

- (a) substituting for the word "January" in line two, the word "July";
- (b) substituting for the words "Thirty-first day of December" in line five, the words "Thirtieth day of June".

Repeal and
re-enactment
of Second
Schedule.
Ss. 24, 25
and 38.

13. The Second Schedule to the principal Act is repealed and substituted by the following:—

SECOND SCHEDULE.

(a)—FISH, MARINE OR FLUVIO-MARINE SPECIES.

Common Name.	Scientific Name.	Length. (Inches.)
Bream (or Black Bream)	<i>Acanthopagrus</i> (new species near <i>australis</i>)	9½
Bream, Pig-faced (or North-West Snapper)	<i>Lethrinus</i> spp.	9
Bream, Yellow-fin	<i>Acanthopagrus latus</i>	10
Flathead, Dusky	<i>Planipora fusca</i>	12
Flathead, Marbled	<i>Laevipora laevigata</i>	11
Flathead, Sand	<i>Planipora melsomi</i>	11
Flounder ..	<i>Pseudorhombus jenynsii</i>	9
Garfish, River	<i>Reporhamphus regularis</i>	9
Garfish, Sea ..	<i>Reporhamphus melanochir</i>	9
Groper	<i>Achoerodus gouldii</i>	12
Herring, Perth (or Giz zard Shad)	<i>Nematalosa come</i>	5
Jewfish, Westralian	<i>Glaucosoma hebraicum</i>	13
Leather Jacket	Family <i>Aluteridae</i> (many species)	9
Longtom (or Gar-pike)	<i>Lhotskia gavioloides</i>	13
Mackerel, Spanish	<i>Cybium commerson</i>	15
Mackerel, Common	<i>Scomber australasicus</i>	6
M o r w o n g (or Queen Fish)	<i>Nemadactylus</i> spp.	12
Mullet, Sand	<i>Moolgarda pura</i>	9
Mullet, Sea ..	<i>Mugil dobula</i>	9½
Mullet, Yellow-eye	<i>Aldrichetta forsteri</i>	9
M u l l o w a y (or River Kingfish)	<i>Sciaena antarctica</i>	18
N a n n y g a i (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>Ruboralga sumptuosa</i>	9
Ruff (or Sea Her-ring)	<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

Common Name.	Scientific Name.	Length. (Inches.)
Snapper ..	<i>Chrysophrys unicolor</i>	11
Snook	<i>Australuzza novae-hollandiae</i>	13
Sole	Family <i>Soleidae</i> (several species) ..	8
Sweep	<i>Scorpiis georgianus</i>	8
Tailor	<i>Pomatomus pedica</i>	9
Tarwhine (or Silver Bream)	<i>Austrosparus tarwhine</i>	8
Trevally, Silver (or Skipjack)	<i>Usacaranx georgianus</i>	8
Whiting, Sand or Silver	<i>Sillago bostockii</i> and <i>allies</i>	8½
Whiting, Spotted or King George	<i>Sillaginodes punctatus</i>	10
Whiting, Transparent (or School Whiting)	<i>Sillago bassensis</i> and <i>Sillago fraseri</i> ..	8½
Whiting, Trumpeter	<i>Sillago maculata</i>	7
Yellowtail (or Perch)	<i>Amphitherapon caudavittatus</i>	7

(b)—FISH, FRESHWATER SPECIES.

Common Name.	Scientific Name.	Length. (Inches.)
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 eriox</i>	12
Trout, Rainbow	<i>Salmo iridea</i>	12

(c)—CRUSTACEANS.

Common Name.	Scientific Name.	Length. (Inches.)
Crayfish ..	<i>Panulirus longpipes</i>	2¾
Crabs, Manna	<i>Portunus pelagicus</i>	5½
Prawns, King	<i>Penaeus plebejus</i>	3
Prawns, School	<i>Penaeopsis macleayi</i>	2

Note as to 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 from the rear end of the horns to the end of the carapace (or body); crabs are measured from tip to tip of the posterior carapace spikes; all other fish are measured from the point of the snout to the end of the tail.