

No. , 1930.

A BILL

To remodel the law relating to fisheries and fishing ; to repeal the Fisheries Act, 1902, and the Fisheries (Amendment) Act, 1910 ; to amend the Net Fishing (Port Hacking) Act, 1901, the Sydney Corporation (Fish Markets) Act, 1922, and certain other Acts ; and for purposes connected therewith.

[CAPTAIN CHAFFEY ;—11 *April*, 1930.]

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 New South Wales in Parliament assembled, and by the authority of
5 the same, as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Fisheries Short title.
and Oyster Farms Act, 1930."

16621

199—A

(2)

Commence-
ment.

(2) This Act shall commence on a date to be appointed by the Governor and notified by proclamation published in the Gazette.

Repeal of
Acts No. 119,
1902, and No.
14, 1910.
Savings.

2. (1) The Fisheries Act, 1902, and the Fisheries (Amendment) Act, 1910, are hereby repealed.

5

(2) Such repeal shall not prejudice the past operation of, or any right lawfully acquired or penalty or forfeiture incurred under, either of the said Acts or the regulations made thereunder.

(3) Any proclamation, notice, notification, or regulation issued or made under the authority of any Act so repealed shall, unless inconsistent with this Act, remain in force until rescinded, cancelled, repealed, or amended under the authority of this Act.

(4) The repeal of the enactments hereby repealed shall not of itself operate to annul, prejudice, or affect any lease which before the commencement of this Act was made under or by virtue of or by any repealed enactment.

But all such leases (subject however to the express provisions, if any, of this Act in relation thereto respectively) shall remain as valid and shall continue to have force and effect as if the repeal hereby effected had not been effected.

And all the provisions in any repealed enactment respectively contained for the benefit or security either of the predecessors of His present Majesty, their heirs and successors, or of His present Majesty, his heirs and successors, or of any of the parties to or with whom or in whose favour any such lease was made shall, so far as regards His Majesty, his heirs and successors, and such parties respectively and all persons claiming under him or them respectively (but only to the extent to which such provisions are not replaced by analogous provisions in this Act) remain and be of full force as if the enactments hereby repealed had not been repealed :

Provided always that the foregoing provisions shall not be taken to have the effect of reinstating or reviving any lease which, having been cancelled, forfeited, made void, or otherwise determined by or under or by virtue of

40
of

of any repealed enactment, was not lawfully subsisting immediately before the commencement of this Act, or of reviving any other matter or thing not in force or existing immediately before such commencement.

5 **3.** This Act is divided into Parts as follows :—

Division into
Parts.

PART I.—PRELIMINARY.

PART II.—ADMINISTRATION.

PART III.—FISHING GENERALLY.

PART IV.—TROUT AND SALMON.

10 PART V.—OYSTERS AND OYSTER FARMS.

PART VI.—GENERAL AND SUPPLEMENTAL.

PART VII.—REGULATIONS.

4. (1) In this Act, unless the context or subject-matter otherwise indicates or requires,—

Interpreta-
tion.

15 “Board” means the Advisory Board on Fisheries appointed under this Act.

“Boat” includes every steamer, launch, vessel, punt, or boat of any description or dimensions whatsoever and howsoever navigated.

20 “Crown lands” means and includes any foreshore as well as any land under the sea, within territorial limits, or under any tidal or inland water, or under any river, lake, lagoon, or other water, or any training-wall, breakwater, or guide-bank, in New South Wales, the property in which is by law vested in the Crown, or in any trustees for the purpose of public recreation, or for any other public purpose, but does not include lands held under lease under this Act or any Act hereby repealed.

cf. Act No.
119, 1902,
s. 3.

30 “Director” means the Director of State Fisheries appointed under this Act.

35 “Engine” includes any implement, apparatus, or device for taking or facilitating the taking of fish.

“Fish”

"Fish" means and includes all or any of the varieties of marine or fresh-water fishes and crustacea, and also oysters, and all amphibious and marine animal and reptile life.

"Fisherman" means any person licensed under this Act to take fish for purposes of sale. 5

cf Act No.
119, 1902,
s. 3.

"Fixed engine" shall mean and include any stake-net, bag-net, putt, putcher, night-line, fish-trap, fish-pound, fish-cage, and any fixed implement or engine for taking or facilitating 10 the taking of fish.

Ibid.

"Gaff" means a metal hook fixed to the end of a rod or stake.

"Hand-line" means any line to which not more than six fishing-hooks are attached, and which 15 is held, or intended to be held, by a person for the taking of fish.

Ibid.

"Hauling" includes casting and shooting any net with or without hauling lines.

Ibid.

"High-water mark" means the mean line between 20 approximate high-water at spring tide and at neap tide.

"Inland waters" means and includes all rivers and creeks for that portion of their course which is beyond the influence of the tide; 25 also all fresh-water lakes, lagoons, and artificial dams, reservoirs, and ponds.

"Inspector" means any inspector of fisheries appointed under this Act, and includes a person who by this Act has the powers and 30 authorities of an inspector.

Ibid.

"Lease" means any lease issued under this Act or under any Act hereby repealed.

Ibid.

"Leased area" means any area of land leased under this Act or under any Act hereby repealed. 35

Ibid.

"Lessee" means any person holding a lease under this Act or under any Act hereby repealed.

"Market" means any place where fish is sold chiefly by wholesale and to which the public have

- have access for the purpose of purchasing fish ;
and includes any market established under the
Sydney Corporation (Fish Markets) Act, 1922.
- 5 "Original owner" in relation to fish means the
person by whom or on whose behalf any fish
are taken from any waters, and includes the
first owner of any imported fish after the
landing of such fish in New South Wales.
- 10 "Oyster" means any bivalve mollusc of the family
Ostreidæ, and includes an oyster without the
shell, but not a canned product.
- "Oyster farm" means any area leased under this
Act to any person for the purpose of oyster
culture.
- 15 "Prescribed" means prescribed by this Act or by
any regulation or in any lease made thereunder.
- "Recognised hauling ground" means any area of
Crown lands whereon fishermen haul and land
their fishing nets, daily or intermittently
20 throughout the year, but does not include an
area of Crown lands only occasionally used for
such purpose; nor any area which can be
staked or cultivated by lessees without pre-
judicing the hauling operations of fishermen.
- 25 "Regulations" means regulations made under the
authority of this Act.
- "Salmon" includes all migratory fish of the genus
Salmo, known by the name salmon, grilse, sea
trout, salmon trout, smolt, parr, or by any
30 other local name.
- "Spat" means and includes the spat, brood, or
ware of every kind of oyster below a size which
may from time to time by regulation be declared
to be marketable. cf. Act No.
119, 1902,
s. 3.
- 35 "Set line" means any unattended line used or
intended to be used for the purpose of taking
fish.
- "Set net" means any net set in any waters for
the purpose of taking fish and which is left
40 unattended.
- "Setting" includes fixing, placing, and staking.
"Take"

cf. Act No.
119, 1902,
s. 3.

“Take” in relation to fish means to catch, capture, or enclose fish by means of any net, engine, or other structure or thing whatsoever.

“This Act” includes any proclamation, regulation, or notification made or issued thereunder. 5

“Tidal waters” means all waters which ebb and flow over Crown lands or over lands in the possession or under the control of the Crown or the Minister, within the territorial jurisdiction of the Crown in New South Wales, 10 and every lake and lagoon in the said State ordinarily subject to the influence of the tides (although the communication with the sea may for the time be closed), the soil or bed whereof is the property of the Crown, or is in 15 the possession or under the control of the Crown or the Minister, together with, in each case, the soil of such Crown lands or lands under the possession or control of the Crown or the Minister. 20

Ibid.

“Trout” includes all non-indigenous fish of the family Salmonidæ.

“Wholesale fish dealers establishment” means any establishment other than a market where fish is received for the purpose of being sold by 25 wholesale, and includes an establishment where the original owner sells his fish by wholesale.

(2) In this Act the expression “undersize fish” means fish of any species mentioned in Schedule C to this Act which is of a less length than that set opposite 30 the name of such fish in that Schedule :

Provided that the regulations may amend Schedule C to this Act by omitting therefrom the name of any fish and by adding thereto the name of any fish, together with the length which is to be set opposite the name of 35 any fish so added.

PART II.

ADMINISTRATION.

5. The duty of protecting, developing, and regulating the fisheries of New South Wales and the general control of the administration of this Act shall be vested in the Minister, who shall have powers and authority extending to the territorial limits of the State.

Duties, powers, and authority of the Minister.

1902, No. 119,

s. 4.

1910, No. 14,

s. 2.

6. (1) The Governor may appoint a board of not more than five persons, to be known as the Advisory Board on Fisheries.

Advisory Board on Fisheries.

No. 14, 1910,

s. 3.

It shall be the duty of the Board to advise the Minister on any matter relating to fisheries upon which the Minister may desire their advice.

(2) The members of the Board shall be as follows:—

- (a) The Director, who shall be chairman and shall preside at meetings of the Board;
- (b) one member who shall be a licensed fisherman;
- (c) one member who shall be a lessee of an oyster lease or oyster farm and actually engaged in oyster culture;
- (d) one member to represent the interests of amateur line and rod anglers;
- (e) one member to represent the interests of consumers of fish and of fish products generally.

(3) Each person so appointed, other than the chairman, shall act for no longer period than five years from the date of this appointment, but may be re-appointed.

(4) Any member may resign his office in writing addressed to the Governor, or may be removed by the Governor for any cause.

(5) Any three members of the Board shall constitute a quorum.

(6) At all meetings of the Board the chairman shall have a vote, and in the event of an equality of votes a second or casting vote.

(7)

(7) The regulations may prescribe all matters relating to meetings of the Board and the procedure thereat.

(8) The members of the Board other than those employed in the Public Service shall be paid attendance fees of such amount as may be prescribed, but such fees shall not exceed two guineas per member per sitting. 5

Director and
other officers.

7. The Governor may appoint a Director of State Fisheries and such inspectors and other persons as the Governor may think necessary for the purposes of this Act. 10

The Director shall, subject to the control of the Minister, exercise such functions and perform such duties as are prescribed, and shall have the powers and authorities of an inspector. 15

Vigilance
committees.

8. The Governor may appoint honorary vigilance committees in places where constant supervision by inspectors of fisheries is considered to be unnecessary or impracticable.

Every member of such a committee may exercise such powers and authorities of an inspector relating to close fisheries generally and to public oyster reserves and relating to the prevention of the use of any unlawful engine, instrument, or method for the taking of fish as are prescribed by the regulations. 20 25

The term of office of any member of such a committee shall not exceed five years, but any member shall be eligible for reappointment.

Report by
Director.

9. The Minister shall as soon as practicable after the thirtieth day of June in each year, cause a report to be prepared by the Director for submission to the Governor as to the condition of the fisheries of the State. 30

POWERS OF INSPECTORS.

Inspectors to
have police
powers.

10. Every inspector is hereby empowered, for the enforcement of the provisions of this Act, to exercise the powers and authorities of a member of the police force. 35

11.

11. (1) For the purposes of this Act every member of the police force shall have, and may exercise, all or any of the powers and authorities conferred thereby on an inspector, and whenever reference is made to an inspector for such reference shall, unless the context otherwise requires, include a reference to a member of the police force.

Members of police force to have powers of inspectors.

(2) Any inspector exercising any power or authority, or carrying out any duty conferred or imposed on him by this Act, may employ such persons as he thinks fit to assist him in so doing, and no person so employed shall incur any liability by reason of his rendering any such assistance.

Inspectors may employ assistants.

12. The production by an inspector of a copy of the Gazette containing a notification of his appointment shall be sufficient authority for him to do all such acts and things as he is required or empowered to do under this Act; but it shall not be necessary for any member of the police force doing any such acts or things to produce any authority for so doing.

Production of authority.

13. An inspector may, at any time or season, for the purpose of ascertaining whether the provisions of this Act have been contravened or of securing the observance of the provisions of this Act or of doing any act or thing which he is required or empowered to do under this Act, enter into and pass through or along any leased area or the banks or borders of any waters, and with boats or otherwise enter upon such waters, and pass along the same.

Inspector may enter certain premises.

Nothing in this section shall be construed as authorising an inspector to enter any garden enclosed with a wall or fence, nor any dwelling-house, nor the curtilage thereof, except where the ordinary passage of any tidal or inland waters is through any such garden or curtilage as aforesaid, save where thereunto authorised by warrant of a justice issued upon complaint on oath that there is reasonable cause to suspect that a breach of this Act has been committed.

Such warrant may authorise and empower any inspector to enter such premises at such time in the day or night as in such warrant is mentioned.

No

No such warrant shall continue in force for more than fourteen days from the date thereof.

Power to
search shops.

14. An inspector may for the purpose of searching for undersize fish or for fish taken contrary to the provisions of this Act—

5

- (a) at all reasonable times enter any shop or the place of business of any person where fish are publicly exposed for sale, and any cool store, smoke-house, canning factory, or other place where fish are kept or treated for the purposes of business ;
- (b) examine the basket, tray, or other receptacle in the possession or under the control of any fisherman, angler, or itinerant vendor of fish ;
- (c) stop and search any vehicle, and at all reasonable times enter and search any premises, and search any bags, baskets, or other receptacles which in any of the said cases are suspected on reasonable grounds to contain or to be used for the concealment of fish taken in contravention of this Act.

10

15

20

Further
powers of
inspectors.

15. An inspector may—

- (a) board and enter upon any boat and search the same for any fish, engines, nets, or other articles ;
- (b) examine any nets, engines, or other articles found in any place whatsoever in use for fishing or in the possession or under the control of any person, and intended or adapted for fishing ;
- (c) seize, take, detain, remove, and secure any boat, fish, engine, net, or other article (wheresoever the same may be or be found) which such inspector has reason to believe is liable to be forfeited under this Act ;
- (d) require the master or other person in charge of any boat required to be licensed under this Act to produce the license for the boat, and may take copies thereof or of any part thereof ;
- (e)

25

30

35

- 5 (e) require the master or other person in charge of any boat required to be licensed under this Act to give any explanation concerning the boat and her crew, and any person on board such boat ;
- (f) require any person who is on any boat required to be licensed under this Act or who is engaged in fishing to state his name and place of abode ;
- 10 (g) require any person engaged in taking fish for the taking of which a license or other authority is required under this Act, or engaged in taking fish by a method in respect of which a license, registration, or other authority is required under this Act, to produce such
- 15 license, authority, or certificate of registration.

16. (1) The Minister, or any person authorised in that behalf by the regulations, may issue a permit to any person or body of persons, including an acclimatisation society registered under Part IV of this Act, authorising such person, body, or society to take, hold, or use under such conditions and at such times and in such manner in all respects as shall be stated in the permit fish of any kind or species for the purpose of artificial propagation, or for scientific purposes, or for transplanting or distribution, or for such other purposes as may be prescribed.

Permit to take fish for scientific purposes.
cf. Tasmanian Act, 1926, s. 18.

(2) A permit under this section may authorise the holder to take fish by any method or in any waters notwithstanding the provisions of this Act.

30 (3) The holder of a permit shall not be liable to any penalty under this Act by reason of anything done by him in compliance with such permit.

17. (1) It shall be lawful for the Minister from time to time—

Minister to institute experiments.

- 35 (a) to direct the institution and carrying out of experiments in methods of catching fish and in the culture and propagation of fish and oysters ;
- (b) to take steps for the study and investigation of the life history of fishes and crustaceans ;
- (c)

cf. Act No. 119, 1932, s. 63.

- (c) to cause investigations to be made to the prevalence of plankton in ocean and estuarine waters ;
- (d) to establish and maintain or to assist in establishing and maintaining biological stations 5 where such investigations and studies may be carried out.

(2) For the purposes of this section the Minister may by notification in the Gazette declare any Crown lands to be reserved for experiments in the culture and 10 propagation of fish and oysters.

Crown lands so reserved shall be vested in the Minister, who shall have and exercise over it all the powers and authorities which by this Act are conferred on an oyster farmer or a lessee. 15

(3) The publication of such notification as aforesaid shall have the effect—

- (a) of vesting in the Minister the exclusive right of stocking such area with fish, oysters, whelks, cockles, mussels, and any other varieties of 20 crustaceans or molluscs, and of taking therefrom any such fish and their shells ;
- (b) of vesting the property (at law or equity) in any such fish and molluscs, while the same are within the limits of such area, in the 25 Minister, any rule or law to the contrary notwithstanding ;
- (c) of vesting in the Minister the right to the influx and efflux of the tide into and over the aforesaid area by cutting a trench or 30 passage through, or laying one or more pipes under the shore ; also the right to construct a sluice so as to permit the tide to ebb and flow into and from such area ;
- (d) of vesting in the Minister the right to sell 35 or otherwise dispose of fish, oysters, or any molluscs from such area, provided that the proceeds of any sale of such fish, oysters, or other molluscs is paid into the Consolidated Revenue Fund. 40

18. (1) The Minister may approve of the erection of fish hatcheries, races, and spawning ponds, on any tidal or inland water, and may authorise any person, society, or association to carry out practical operations ^{Erection of fish hatcheries, races, and spawning ponds.} 5 in connection with the hatching of any named species of fish, and to do and perform all things necessary for the successful propagation of such fish.

(2) Notwithstanding anything in this Act the Minister may authorise the capture and stripping, by 10 such person, or any member of such society or association, of any named species of fish during spawning or close season.

After stripping the spent fish shall be dealt with in the manner prescribed in the authority granted by the 15 Minister or in the manner prescribed by regulations.

(3) Except in pursuance of this section no eggs nor fry of any species of fish whatsoever shall be artificially deposited or liberated in any waters unless with the consent or by the direction of the Minister.

20 (4) Any fry or fish the product of any such hatchery may be sold and the proceeds thereof retained by the person authorised in that behalf, subject to any regulations dealing with same.

(5) Any person who contravenes any provision 25 of this section shall be guilty of an offence and shall be liable to a penalty not exceeding *ten* pounds.

PART III.

FISHING GENERALLY.

DIVISION 1.—*Closing of waters.*

30 **19.** (1) (a) The Minister may from time to time by notification published in the Gazette close any tidal waters or inland waters and prohibit the taking of fish from any tidal waters or inland waters specified in the notification. ^{Closing of waters.}

(b)

(b) Any such notification shall remain in force for the period specified therein, but not exceeding twelve months.

(c) The Minister may from time to time rescind or alter such notification by further notification 5 published in the Gazette.

(2) (a) The Governor may by proclamation published in the Gazette prohibit the taking of fish from any tidal waters or inland waters specified in the proclamation. 10

(b) Any such proclamation shall remain in force for such period as the Governor thinks fit.

The period during which it is to remain in force shall be specified in the proclamation.

(c) The Governor may from time to time 15 rescind or alter any such proclamation by a further proclamation published in the Gazette.

(3) Any provision inserted in any such notification or proclamation may apply—

(a) to the whole of any specified waters, or to any 20 specified part thereof;

(b) to the taking of fish generally, or to the taking of fish of any specified species;

(c) to all methods of taking fish, or to any specified method of taking fish; 25

(d) to fish, or to methods of taking fish other than those specified.

(4) A notice setting out the date of the publication in the Gazette of any such notification or proclamation together with a summary of the contents 30 thereof shall be published in one or more newspapers circulating in the police district or districts in which the waters affected by the notification or proclamation are situated.

(5) If any person takes or attempts to take any 35 fish in contravention of any such notification or proclamation such person and every person aiding or assisting him or being in a boat with him during the commission of the offence shall be guilty of an offence against this section and shall be liable to a penalty not 40 exceeding *fifteen* pounds.

(6)

(6) Any person who is in possession of fish which to his knowledge was taken in contravention of any such notification or proclamation, shall be guilty of an offence against this section, and shall be liable to a penalty not exceeding *fifteen* pounds.

20. (1) No person shall haul or set any net of any kind whatsoever for the purpose of taking, or which is adapted to take or capable of taking, fish—

Closing
against net
fishing of
Brisbane
Waters and
certain lakes.

- 10 (a) in any of the waters of Brisbane Water or of its tributaries north of a line drawn from Box or Hawk Head to Green Point; or
- (b) in any of the waters more particularly described in Schedule A to this Act, or of the tributaries thereto.

15 (2) Any person who—

- (a) hauls or sets a net in contravention of any of the provisions of subsection one of this section; or
- 20 (b) is found in possession of or takes a net on any of the waters mentioned in subsection one of this section; or
- (c) is found in a boat which contains a net on any of the said waters,

shall for a first offence be liable to a penalty not exceeding *ten* pounds, and for a second or any subsequent offence to a penalty not exceeding *twenty* pounds.

30 (3) (a) It shall be a sufficient defence to a prosecution for an offence against paragraph (b) or paragraph (c) of subsection two of this section if the person charged proves—

- 35 (i) that a permit in or to the effect of the prescribed form to take the net through the waters referred to in subsection one of this section to other waters has been issued by an inspector; and
- (ii) that at the time of the commission of the alleged offence the net was on such waters solely for the purpose of being so taken.

(b)

(b) It shall be a sufficient defence to a prosecution for an offence against any of the provisions of subsection two of this section if the person charged proves—

- (i) that the net which is the subject of the charge 5
is a dip or scoop net of dimensions prescribed
by the regulations; and
- (ii) is used solely for the taking of prawns in the
waters described in Schedule A to this Act or
in the tributaries to such waters; and 10
- (iii) is so used only during such period as is specified
in the regulations.

(c) It shall be a sufficient defence to a prosecution for an offence against any of the provisions of subsection two of this section if the person charged 15
proves—

- (i) that the net which is the subject of the charge
is of a type or description prescribed by the
regulations; and
- (ii) is used solely for the taking of sea garfish 20
in the waters described in Schedule B to this
Act; and
- (iii) is so used only during the months of January,
February, or March in any year.

(4) In this section the word “waters” includes 25
all waters, whether the same are subject to or beyond
the influence of the tide.

Amendment
of Net Fishing
(Port
Hacking)
Act, 1901,
No. 18.

21. The Net Fishing (Port Hacking) Act, 1901, is amended—

- (a) by omitting from section four the words “of 30
the part commonly termed the ‘Spit’” and
by inserting in lieu thereof the words “of a
line drawn south-easterly from the easternmost
extremity of Burraneer Point to the north-
easternmost extremity of Cabbage Tree or 35
Pulpit Point”;
- (b) by omitting from section five the words “of
the said ‘Spit’ or in Burraneer Bay” and by
inserting

5 inserting in lieu thereof the words " of a line drawn south-easterly from the easternmost extremity of Burraneer Point to the north-easternmost extremity of Cabbage Tree or Pulpit Point " ;

(c) by omitting from section seven the words " any officer of the Commissioners of Fisheries " and by inserting in lieu thereof the words " an inspector appointed under the Fisheries and Oyster Farms Act, 1930."

15 **22.** (1) The Governor may by regulations prohibit or restrict either absolutely or during the period or periods specified in the regulations the bringing into the State or the landing from any boat at any port or place within the State of any fish, whether such fish were taken in territorial waters or elsewhere.

Regulations as to landing of certain fish in New South Wales.

(2) Any provision inserted in any such regulation may apply—

20 (a) to fish generally or to any specified species of fish or to fish other than fish of a specified species ;

(b) to fish taken from any waters whether territorial waters or otherwise, or to fish taken from any specified part of such waters, or to fish taken from any waters other than those specified.

DIVISION 2.—Close season for certain fish.

30 **23.** (1) Any person who takes from any waters for the purpose of sale during the month of October or November in any year, Murray cod, trout cod, golden perch (yellow belly), silver perch (grunter), Macquarie (mountain) perch, river black fish, fresh water catfish, or the fresh water crayfish known as or called the Murrumbidgee crayfish or Murray lobster, shall be guilty of an offence.

Taking of certain fish illegal during October and November.

(2) Any person who during the said months—

(a) sells or attempts to sell ; or
(b) offers or exposes for sale ; or

199—B

(c)

- (c) has in his possession for sale; or
- (d) consigns to any person for sale,

any of the fish mentioned in subsection one of this section, shall be guilty of an offence.

(3) Any person who at any time—

5

- (a) sells or attempts to sell; or
- (b) offers or exposes for sale; or
- (c) has in his possession for sale; or
- (d) consigns to any person for sale,

any fish taken from any waters in contravention of subsection one of this section, shall be guilty of an offence.

(4) Any person who commits an offence against this section shall be liable to a penalty not exceeding *fifteen* pounds.

(5) It shall be a sufficient defence to a prosecution for an offence against subsection two of this section if the person charged proves that the fish the subject matter of the charge were not taken during the said months.

15

Female
crayfish.

24. (1) Any person who during the month of September, October, November, or December in any year takes from any waters or has in his possession or on his premises or in a boat, or sells or attempts to sell, or offers or exposes or consigns for sale any female fish of the species known as or called "crayfish" shall for every such offence be liable to a penalty not exceeding *five* pounds.

25

(2) Any person who at any time has in his possession or in any pound or enclosure or sells or attempts to sell, or offers or exposes or consigns for sale any fish taken from any waters in contravention of subsection one of this section shall for every such offence be liable to a penalty not exceeding *five* pounds.

30

(3) It shall be a sufficient defence to a prosecution for an offence against subsection one of this section if the person charged proves that the fish the subject matter of the charge was not taken during the said months, or was taken elsewhere than in New South Wales.

35

DIVISION

DIVISION 3.—*Whale fishing.*

25. (1) No person shall at any time engage in the State in the manufacture of oil or other commercial product from whales, and no vessel or boat shall be employed in the whale fishery within the territorial waters of the State, except under license from the Minister.

Licenses for
whale fishery.
Canadian
Fisheries Act
1914, s. 9.
Conditions.

(2) The Minister may issue licenses to manufacture oil or other commercial product from whales in the State and to employ boats or vessels in whale fishery within such territorial waters, but no such license shall issue until—

(a) the Minister has approved of the site of the factory, which shall not be within one hundred miles of any other whaling factory, or in such proximity to any inhabited place or places as in the opinion of the Minister may cause danger or detriment to the public health;

Approval
of site of
factory.

(b) the applicant therefor has given assurance of a satisfactory nature to the Minister, that he is in a position to convert any captured whale into commercial products within twenty-four hours of the landing of such whale, and that he is also in a position to conduct his whaling factory in such a manner that no noxious or deleterious matter will be allowed to pass into any tidal or inland waters;

Utilizing
captured
whales.

(c) the applicant has filed with the Minister plans and specifications of the machinery to be installed in the proposed factory, and particulars of the reduction process;

Plans of
machinery,
&c., to be
filed.

(d) the applicant has satisfied the Minister that the machinery proposed to be used is of a kind efficient for such purposes.

Machinery
must be
efficient.

(3) No license shall be for a period exceeding nine years, but the Governor may renew a license for further terms of nine years each upon receipt of a written application, which application shall be made at least six months before the termination of the current

Term of
license.

40 term.

(4)

Time for
commencing
operations.

(4) A license shall become void and forfeited unless the factory named therein is erected, equipped, and working within two years from the date of the issue of the license.

License
fees.

(5) The annual fee payable for each such license shall be as prescribed by the regulations. Such regulations may prescribe a different fee in respect of the first year, the second year, the third and each ensuing year, and the annual fee on all subsequent licenses for the same factory. The annual fee shall not in any case exceed five hundred pounds.

Such fee shall be payable to the Minister annually in advance.

Forfeiture
of licenses.

(6) Every license upon cause shown, after one month's notice in writing to the licensee, shall be liable to forfeiture for any infraction of this Act, or for failure to fulfil and carry out the assurances required by this section to be given to the Minister previously to the issuing of the license; and in the case of forfeiture, the Minister may, without any suit or other proceedings at law, and without compensation, cancel the license.

Tow-boats
not to be
used.

(7) Boats known as tow-boats shall not be used by anyone in the prosecution of the whaling industry, and no vessel other than the vessel from which the whales have been captured or killed, shall, by any method or contrivance, bring into port any whale for manufacture or other purpose.

Nothing in this section shall prevent anyone, other than the holder of a license, or his employees, from towing any dead whale to land and having it manufactured or otherwise disposing of it in accordance with the provisions of this section.

Protection
of other
vessels.

(8) No person shall pursue, capture, shoot, or kill any whale within the distance of one-half nautical mile of any vessel or boat not at anchor or within one nautical mile of any vessel or boat at anchor or engaged in any kind of fishing.

Prohibited
contrivances.

(9) No person shall have in his possession for the purpose of catching or killing whales, or use in the catching or killing of whales any contrivance which does not

not include a harpoon, with a whaling line attached thereto, fixed or fastened to the boat or vessel from which the whale is captured or killed.

(10) No person shall kill or capture the calf of
5 any whale.

(11) Any person who except under license from the Minister—

(a) engages in the manufacture from whales of oil or other commercial products; or

10 (b) employs any vessel or boat in whale fishing within the territorial waters of the State,

shall be liable to a penalty of not less than *fifty* pounds and not more than *two hundred* pounds.

DIVISION 4.—*Licensing of fishing boats and fishermen.*

15 **26.** (1) Every boat used for or in connection with the taking of fish for sale from any territorial waters, whether tidal waters or inland waters, by any method,
shall be licensed. Boats used for capture of fish must be licensed.

(2) Such license shall be issued in the manner
20 prescribed, and shall be in or to the effect of the prescribed form.

(3) The annual fee for every such license and the manner of the payment shall be as prescribed by regulation.

25 In the regulations, provision may be made for a reduction of the fee in any case in which the license is to remain in force for a less period than one year.

(4) Every such license shall, unless sooner suspended or cancelled, be in force until the **thirty-first**
30 day of December next after its issue and no longer:

Provided that every such license which shall be issued in the month of December in any year shall be deemed to have been issued on the first day of January next ensuing.

35 (5) A license under this section may, subject to the regulations, be transferred.

(6)

(6) An application for any such license may be granted or refused, and the license may be suspended or cancelled in the circumstances prescribed by the regulations.

(7) Every boat licensed under this section shall have painted legibly thereon in the manner prescribed by regulations such particulars for identification as may be prescribed by regulation. 5

(8) Any person who uses a boat for or in connection with the taking of fish for sale from any territorial waters, whether tidal waters or inland waters, shall, unless the boat is licensed, be liable to a penalty not exceeding *two* pounds. 10

Fishing in
extra
territorial
waters.

27. (1) Every boat which is used for or in connection with the taking of fish by any method from waters outside but adjacent to the territorial waters of New South Wales for sale within New South Wales shall be licensed under this section. 15

(2) Any person who uses a boat for or in connection with the taking of fish by any method from waters outside but adjacent to the territorial waters of New South Wales for sale within New South Wales shall, unless the boat is licensed under this section, be liable to a penalty of not less than *ten* pounds and not exceeding *fifty* pounds. 25

(3) Any person who lands in New South Wales for sale therein any fish taken from waters outside but adjacent to the territorial waters of New South Wales shall, unless the boat used for or in connection with such taking is licensed under this section, be liable to a penalty of not less than *ten* pounds and not exceeding *fifty* pounds. 30

(4) The regulations may prescribe the form of the license and may make provisions relating to the issue, terms, conditions, duration, suspension, and cancellation thereof, and the fees to be paid (not exceeding twenty-five pounds in any case) in respect of various classes of such boats either in accordance with the tonnage or the method of fishing or otherwise. 35

28. (1) Every person who takes or attempts to take fish for sale by any method from any territorial waters, whether tidal waters or inland waters, shall hold a fisherman's license under this section. Fishermen to be licensed.

5 (2) Such license shall be issued in the manner prescribed, and shall be in or to the effect of the prescribed form.

(3) A license under this section shall not be transferable.

10 (4) The annual fee for every such license and the manner of its payment shall be as prescribed by regulation.

In the regulations provision may be made for a reduction of the fee in any case in which the license is to remain in force for a less period than one year.

(5) Every such license shall, unless sooner suspended or cancelled, be in force until the thirty-first day of December next after its issue and no longer :

15 Provided that every such license which shall be issued in the month of December in any year shall be deemed to have been issued on the first day of January next ensuing.

(6) An application for any such license may be granted or refused, and the license may be suspended or cancelled in the circumstances prescribed by the regulations.

(7) Any person who, without lawful authority, takes or attempts to take fish for sale by any method whatever from any territorial waters, whether tidal waters or inland waters, without first having obtained a fisherman's license, shall be liable to a penalty not exceeding *two* pounds.

DIVISION 5.—*Nets.*

29. (1) A person who is not the holder of a fisherman's license shall not use a net for the taking of fish from any waters. Certain nets to be registered.

Any person who contravenes the provisions of this subsection shall be guilty of an offence, and shall be liable to a penalty not exceeding *two* pounds.

(2)

(2) It shall be a sufficient defence to any prosecution for an offence against subsection one of this section if the person charged proves—

- (a) that the net in question is a dip or scoop net and was used solely for the taking of prawns; 5
or
- (b) that the net in question is a landing net of a prescribed type and was not used otherwise than in accordance with the regulations; or
- (c) that the net in question is registered in pursu- 10
ance of this section and was not used otherwise than in the manner and for the purposes prescribed by regulations.

(3) The regulations may prescribe the class or classes of nets which may be registered under this 15
section, the method of registration, the payment of a fee not exceeding ten shillings for any such registration, the conditions under which the registration may be transferred, the purposes for which and the manner in which a registered net shall be used. 20

Regulations
as to lawful
nets.

30. (1) The regulations may regulate or prohibit the taking of fish from any waters by means of a net.

(2) Any provision in any such regulation may apply—

- (a) to waters generally or to any specified waters 25
or part thereof, or to waters other than those specified;
- (b) to fish generally or to any specified species of fish, or to fish other than fish of a specified species; 30
- (c) to nets generally, or to nets of a specified type, form, dimensions, description, size of mesh, or length of hauling line, or to nets other than nets of a specified type, form, dimensions, description, size of mesh, or length of hauling 35
line;
- (d) to all methods of using a net for the taking of fish, or to any specified method, or to methods other than a specified method.

No

No restriction as to the length or depth of a net used for the taking of fish in territorial ocean waters or on sea beaches shall be prescribed by such regulations.

(3) If any person contravenes the provisions of any such regulation, he shall be deemed to be using an unlawful net, and shall for a first offence be liable to a penalty of not less than *one* pound and not exceeding *five* pounds, and for a subsequent offence to a penalty of not less than *five* pounds and not exceeding *twenty* pounds.

(4) Any person who aids or assists in the commission of any such offence, or is in the same boat as the offender at the time of the commission of any such offence, shall be liable to the like penalties.

(5) It shall be a sufficient defence to a prosecution under this section if the person charged proves—

(a) that the net which is the subject of the charge was, at the time of the commission of the alleged offence, being used solely for the purposes of investigation or experiment, or for taking specimens for scientific purposes; and

(b) that the net was being used in pursuance of a permit for such use issued by the Minister under this section and was used in the manner and in accordance with the conditions prescribed by the permit or by the regulations.

(6) The Minister may, upon application made in the manner prescribed, issue a permit—

(a) for the use of any net for the purpose of investigation and experiment; or

(b) for the use of a bona fide naturalist's net for the purpose of catching specimens for scientific purposes.

The permit may prescribe conditions as to the manner in which and the places at which such net may be used.

The permit shall remain in force for the period specified therein.

Method of
dragging or
drawing nets.
1902 No.
119, s. 21.

31. Any person who drags or draws ashore any net containing fish in such a way or to such a distance from the water as to prevent undersize fish from escaping through the meshes or by the wings of the net into the water, or to allow such undersize fish to remain on the shore, shall, for every such offence, be liable to a penalty of not less than *one* pound and not exceeding *five* pounds.

Waters not to
be stalled.

32. (1) Any person who sets any net, netting, brushwood, or other substance or material across or within any bay, inlet, river, or creek, or across or around any flat, in tidal or inland waters, in such manner that fish enclosed thereby are or may be blocked and left stranded, or that immature fish may be destroyed, shall, for every such offence, be liable to a penalty not exceeding *two* pounds.

(2) Any person who sets or uses in any inland waters any trap, structure, or device enclosed with netting or net of any description, and with wings so attached as to impede or prevent or block the free passage of fish on one or either side of the trap, structure, or device, shall for every such offence be liable to a penalty not exceeding *two* pounds.

Wilful
damage to
nets by
certain means.

33. (1) Any person who in any tidal water negligently, wilfully, or maliciously propels, steers, or drives any boat so as to damage a fishing net which is being used in such waters, shall for every such offence be liable to a penalty not exceeding *ten* pounds.

(2) Any person who in any tidal water wilfully or maliciously drives or places any stake, log, stone, or other thing whatsoever likely to damage a fishing net if dragged over or against it, shall for every such offence be liable to a penalty not exceeding *ten* pounds.

(3) Where a lawful fishing net is damaged by reason of any act done in contravention of this section, the person guilty of the contravention shall, in addition to the penalty prescribed therefor, pay such compensation to the owner of the net as the adjudicating justices may award.

34.

34. Any fisherman may for the purpose of hauling a net on to any recognised hauling ground, remove any unattended net which has been so set as to obstruct such hauling and such fisherman shall not if he exercises reasonable care in the removal of the net, be liable for any damage to the net occasioned by such removal.

Set or
unattended
nets obstruct-
ing hauling
ground may
be removed.

35. Any person who places or moors any boat or buoy, or places any stake, post, or thing on any recognised hauling ground so as to obstruct the hauling of a fishing net by any fisherman, and who on being requested by such fisherman to remove or discontinue such obstruction, refuses or neglects to do so without reasonable or lawful excuse, shall for every such offence be liable to a penalty not exceeding *ten* pounds.

Placing
obstruction
on recognised
hauling
ground.

15 **DIVISION 6.—*Prohibited methods of taking fish.***

36. (1) Any person who uses dynamite or other explosive substance with intent thereby to take or destroy fish in any tidal or inland waters, shall for every such offence be liable to a penalty of not less than *ten* pounds and not exceeding *fifty* pounds.

Dynamite
and
explosive
substances.

(2) Any person who explodes any dynamite or other explosive substance in any tidal or inland waters, shall for every such offence be liable to a penalty not exceeding *fifty* pounds.

25 (3) If any person is found in possession of or has in a boat any dynamite or other explosive substance immediately after an explosion has occurred, it shall be presumed in the absence of evidence to the contrary, that he caused the explosion.

30 (4) If any person is found in possession of or has in a boat fish injured or destroyed by or in consequence of an explosion of dynamite or other explosive substance, it shall be presumed in the absence of evidence to the contrary—

35 (a) that he caused the explosion; and
 (b) that he caused the explosion with intent to take or destroy fish.

(5)

(5) (a) It shall be a sufficient defence to any prosecution for an offence against subsection two of this section if the person charged proves that the acts constituting the alleged offence were done—

- (i) in pursuance of a permit issued by the Minister; and 5
- (ii) in the manner and in accordance with the terms and conditions prescribed by the permit or by the regulations.

(b) The regulations may prescribe the manner of issuing such permits, the form of the permit, the fee to be paid therefor, and the conditions to be observed by the holder of any permit, and may provide for the suspension and cancellation of permits. 10

(c) A permit may extend to— 15

- (i) explosives generally or to a particular explosive specified in the permit;
- (ii) tidal and inland waters generally or to the particular tidal or inland waters or part thereof specified in the permit. 20

(d) A permit shall, subject to cancellation or suspension, remain in force during the period specified therein and no longer.

Poisonous materials, chemicals, and waste products.

37. (1) Any person who puts any poison, lime, or noxious material in any tidal or inland waters with intent thereby to take or destroy any fish, shall for every such offence be liable to a penalty of not less than *ten* pounds and not exceeding *fifty* pounds. 25

(2) Any person who causes or knowingly permits to flow, or puts or knowingly permits to be put into any tidal or inland waters, any liquid or solid matter injurious to fish, or the spawning grounds, spawn, or food of fish, shall for every such offence be liable to a penalty not exceeding *fifty* pounds, and where the offence is a continuing one to a penalty not exceeding *five* pounds for each day during which the offence continues. 30 35

DIVISION

DIVISION 7.—*Consignment and sale of fish.*

38. Any person who consigns for the purpose of sale Murray cod, golden perch (yellow belly), or cat-fish, the gills and gut of which have not been previously removed, shall be guilty of an offence against this Act. Consignment of Murray cod, &c., ungutted and ungilled.

39. Any person who fails to comply with any regulations relating to the packing, icing, or handling of fish consigned or to be consigned for sale, shall be guilty of an offence against this Act. Packing of fish.

10 If a fisherman is convicted of an offence against this section, in addition to any penalty imposed upon him, his license as a fisherman may be suspended or cancelled, and such a conviction shall be a sufficient ground for the refusal of a license.

15 **40.** (1) Every person consigning fish for sale shall set out distinctly on labels securely attached to the container the christian name, surname, and address of the person by whom the fish were consigned for sale, together with the name of the place from which they are consigned. Containers shall be properly addressed.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding one pound.

25 (3) Where a licensed fisherman is convicted of a second or subsequent offence against this section his license may be suspended for a period not exceeding one month.

(4) Such suspension shall be in addition to any penalty imposed on him in respect of the offence.

30 **41.** (1) The Governor may by regulations require that any or all species of fish consigned for sale shall after a date to be specified in the regulations not earlier than three months after the publication thereof be packed in containers of the dimensions and description prescribed in such regulations. Standard containers.

(2) Any person who fails to comply with the requirements of any regulation made under this section shall be guilty of an offence against this Act.

(3)

- (3) No regulations shall be made under this section unless upon the recommendation of the Board.
- Amendment of Act No. 39, 1922. **42.** The Sydney Corporation (Fish Markets) Act, 1922, is amended—
- Sec. 2. (a) by omitting from section two the definition of the expression "The Fisheries Acts"; 5
- Sec. 5 (1). (b) by omitting from subsection one of section five the words "the Fisheries Acts and the regulations made" and by inserting in lieu thereof the words "the Fisheries and Oyster Farms Act, 1930, and the regulations for the time being in force"; 10
- Sec. 6. (c) (i) by omitting from subsection one of section six the words "No person shall sell fish by auction" and by inserting in lieu thereof the words "No person other than a person who is authorised so to do in pursuance of the provisions of the Fisheries and Oyster Farms Act, 1930, or the regulations for the time being in force thereunder, shall sell fish by wholesale"; 15 20
- (ii) by omitting subsections two and four of the same section;
- Sec. 8. (d) by omitting from section eight the words "under the regulations made under the Fisheries Acts, and for the time being in force to sell fish by auction" and by inserting in lieu thereof the words "under the Fisheries and Oyster Farms Act, 1930, or the regulations for the time being in force thereunder, to sell fish by wholesale"; 25 30
- Sec. 9 (1). (e) by omitting from subsection one of section nine the words "Fisheries Acts" and by inserting in lieu thereof the words "Fisheries and Oyster Farms Act, 1930." 35

PART IV.

TROUT AND SALMON.

DIVISION 1.—*Acclimatisation districts.*

- 43.** The Governor may, from time to time, by Acclimatisation districts.
 5 proclamation published in the Gazette, declare that any specified area within the boundaries of which trout fry, or young or mature trout, have been or are being liberated, placed, or transplanted, shall be an acclimatisation district for the purposes of this Part of this Act.
- 10 The boundaries of the acclimatisation district shall be specified in the proclamation.
- The Governor may from time to time, by a further proclamation published in the Gazette, revoke or amend any such proclamation.

15 DIVISION 2.—*Acclimatisation societies.*

- 44.** (1) Any society (in this Part of this Act Registration of acclimatisation societies cf. N.Z. Act, 1908, No. 6, s. 51. referred to as an acclimatisation society) the objects of which as set out in the rules are wholly or mainly the hatching, rearing, distribution, or protection of trout,
 20 may, subject to any regulations made under this Part of this Act, apply to the Governor for registration by depositing in the office of the Minister a copy of its rules signed by the chairman of the society and countersigned by three of the members thereof, together with a
 25 statement indicating the acclimatisation district in respect of which the society desires to be registered.
- (2) A new society shall not be registered in respect of any area within an acclimatisation district already assigned to an existing acclimatisation society,
 30 except on petition to the Governor, and after such notice to the existing society as may be prescribed by regulations made under this Part of this Act.
- (3) If the Governor is satisfied that the rules deposited are not repugnant to this Act or to any
 35 regulation made thereunder, and that the society is qualified to apply for registration under this section, he may by writing under his hand grant the application for registration. (4)

(4) As soon as is practicable after the grant of registration, a notification of the registration shall, together with the name or description of the acclimatisation district in respect of which the registration was granted, be published in the Gazette, and the date of such publication shall be deemed to be the date of registration. 5

(5) No amendment of the rules of the society shall have any force or effect unless application for the registration of the amendment has been made and granted in like manner. 10

(6) Upon registration under this section an acclimatisation society shall become a body corporate by the name or title stated in the rules, and shall have perpetual succession and a common seal, and in its corporate name may hold and dispose of real and personal property, and may sue and be sued, and may recover any moneys due to the body corporate, whether by a member thereof or not. 15

Accounts.
cf. N.Z. Act,
1908, No. 6,
ss 52, 53.

45. (1) Every duly registered acclimatisation society shall on or before the thirty-first day of May in each year furnish to the Colonial Treasurer a full statement of accounts, showing in detail the several receipts and items of expenditure of the society up to the thirtieth day of April preceding. 20

Such statement shall be accompanied by a balance-sheet duly audited, and shall be published once at least in a newspaper circulating within the acclimatisation district in respect of which the society is registered. 25

(2) If any society makes default for the space of three months in forwarding such statement and balance-sheet in manner aforesaid, or fails to publish the same as directed in subsection one of this section, such society shall not be entitled to receive, nor shall the Colonial Treasurer pay to such society during such default, any moneys received in respect of fees or fines under this Act; and the Colonial Treasurer shall be at liberty to pay to any other registered acclimatisation society or societies in the acclimatisation district all moneys which otherwise would be payable to the society so making default. 30 35 40

46.

46. For the purpose of this Part of this Act the property in all trout in the possession or under the control of any registered acclimatisation society shall be deemed to be absolutely vested in such society.

Property vested in society.
of N.Z. Act 1908, No. 65, s. 54.

- 47.** A registered acclimatisation society may, with the approval of the Governor, expend any moneys received under this Part of this Act or the regulations made thereunder in the purchase of land within its acclimatisation district for camping grounds for anglers and in the erection thereon or on any lands vested in the society of necessary buildings for the accommodation of anglers, and in otherwise providing for their convenience.

Society may provide camping grounds, &c.

DIVISION 3.—*Trout hatcheries.*

- 48.** (1) Where in the opinion of the Governor it is necessary or desirable in the public interest to acquire any land for the establishment of trout hatcheries or breeding ponds, he may authorise the appropriation or resumption of the land.

Fish hatcheries.
Ibid., s. 91.

- (2) Thereupon the Minister for Public Works may appropriate or resume the land by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, and compensation for such appropriation or resumption shall be ascertained and paid accordingly.

- (3) Not more than twenty acres of land shall be so appropriated or resumed for any one hatchery.

- (4) For the purposes of the Public Works Act, 1912, such appropriation or resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

- (5) Whenever land is appropriated or resumed under this section a copy of the Gazette notification declaring such land to be so appropriated or resumed, certified under the hand of the Minister for Public Works, shall in every case be lodged with the Registrar-General, and be registered by him in the general register of deeds, unless the land so resumed is wholly or in part comprised in a grant or a certificate of title under the Real Property Acts, in which case, upon production of such copy of the Gazette notification so certified as

aforesaid, it shall be the duty of the Registrar-General to deal with and give effect to such notification as if the same were a memorandum of transfer duly executed under the said Acts.

(6) The Governor may from time to time by notification published in the Gazette, set apart any streams, waters, or springs for the purpose of trout breeding or hatching.

The regulations made under this Part may make provision for the control and management and the regulation or prohibition of the use of any streams, waters, or springs so set apart.

(7) Nothing in this section shall apply to any navigable river.

(8) Where lands appropriated or resumed under this section are situated within an acclimatisation district, the control and management of such lands may, subject to the regulations, be transferred to a registered acclimatisation society approved by the Governor, upon such terms and conditions as the Governor may impose, or as may be prescribed.

DIVISION 4.—*Close season for trout.*

49. (1) Notwithstanding anything contained in this Act the close season for trout throughout the State of New South Wales shall commence on the fourteenth day of April, and shall end on the thirty-first day of October, both days inclusive, in every year.

Provided that in any year in which Easter Sunday shall fall on a day later than the thirteenth day of April, the close season shall commence from and including the Wednesday next following Easter Monday of that year.

(2) The Governor may by notification published in the Gazette extend the close season for trout, either generally or in any portion of New South Wales specified in the notification.

(3) Any person who takes or attempts to take trout from any waters by any means whatsoever during the close season shall be guilty of an offence against this Act, and shall be liable upon summary conviction to a penalty of not less than *two* pounds and not exceeding *forty* pounds.

DIVISION

DIVISION 5.—Offences.

50. Any person who sells or lets the right to fish for trout in any waters shall be guilty of an offence. Letting right to fish.

51. (1) Any person who takes or attempts to take salmon or trout from any inland waters otherwise than by means of a rod and line shall be guilty of an offence. Taking of salmon and trout.

(2) It shall not be an offence against this section for a person to use a gaff or hand net as an auxiliary to the taking of trout by means of a rod and line.

52. Any person who uses any light for the purpose of taking salmon or trout shall be guilty of an offence. Use of light prohibited.

53. Any person who without reasonable excuse (the proof of which shall lie upon him) exposes for sale or has in his possession any salmon or trout roe shall be guilty of an offence. Salmon or trout roe. cf. Act No. 119, 1902, s. 31.

54. Any person who —

(a) wilfully takes or attempts to take from any waters any unclean salmon or trout, or the young of salmon or trout; Penalty for doing certain things. cf. *Ibid.* s. 32.

(b) buys, sells, or exposes, or consigns for sale, or has in his possession any unclean salmon or trout, or the young of salmon or trout, or any salmon or trout taken in contravention of this Act;

(c) places any engine, device, or implement in any river for the purpose of obstructing the passage of salmon or trout;

(d) wilfully destroys any spawning bed, or any bank or shallow on which the spawn of salmon or trout may be deposited;

(e) wilfully disturbs or attempts to take salmon or trout when spawning, or when on or near their spawning beds,

shall be guilty of an offence and shall be liable to a penalty not exceeding *fifty* pounds.

DIVISION

DIVISION 6.—*Regulations.*

Regulations.

55. (1) The Governor may make regulations not inconsistent with this Part of this Act prescribing all matters which by this Part of this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying this Part of this Act into effect; and in particular, but without limiting the generality of the foregoing power, the Governor may make regulations—

- (a) prohibiting persons from taking trout from any waters unless such persons are licensed so to do under this Act; 10
- (b) providing for the manner in which applications for such licenses shall be made, and the form and manner of issue of the licenses; 15
- (c) providing for the duration of any such license, and the method of renewal; 15
- (d) providing for the payment of a fee in respect of the issue or renewal of a license and prescribing the amount of such fee; 20
- (e) prescribing the places at which and the persons by whom such licenses may be issued; 20
- (f) providing for the payment to any registered acclimatisation society of any penalties or license fees to be used for the purpose of the hatching, rearing, distribution, or protection of trout; 25
- (g) providing for the establishment, management, and control of trout hatcheries and breeding ponds; 30
- (h) providing for the preservation and propagation of young trout, trout fry, and spawn; 30
- (i) prescribing and imposing conditions and restrictions upon the taking of trout; 30
- (j) prescribing the maximum catch or bag limit of trout which may be taken by any one person on any one day; 35
- (k) prohibiting the doing of any act which is likely to be detrimental to trout or trout fishing or likely to pollute any waters. 40

(2)

(2) Notwithstanding any regulations made under subsection one of this section a person who is in lawful occupation of any land may fish for trout without license or payment of fee in any waters flowing through, 5 past, or over such land within such period and upon such conditions as may be prescribed by the regulations without being liable to any penalty for so doing.

cf. N.Z. Act,
1908, No. 65,
s. 90.

(3) The regulations may provide—

- 10 (a) that a license may remain in force for the whole of the open season or for a specified portion thereof ;
- (b) that the license may authorise the licensee to take trout in all waters or only in such waters as are specified ;
- 15 (c) that different licenses may be issued according as the licensee is a man, youth, or woman.

The license fee may vary according to the character of the license issued.

PART V.

20 OYSTERS AND OYSTER FARMS.

56. (1) The Minister may lease for oyster farming Crown lands with outer boundaries extending from an approximate high-water mark into the water for a distance to be approved by him.

Oyster
culture farms.
cf. Act No.
119, 1902,
s. 33.

25 The boundaries shall in no case extend beyond midstream, nor shall they include any recognised hauling ground.

(2) The yearly rentals payable thereon shall be determined by the Minister for every hundred yards of 30 frontage along an approximate high-water mark.

(3) The term of such leases shall not exceed fifteen years ; but on the application of the lessee during the last year but one of the currency of any such lease, the Minister, if he is satisfied that the lessee has during the

the term of his lease fulfilled all the conditions and covenants therein, shall renew the term for a like period at the same rental and with such limitations in other respects as he may approve.

(4) Leases under this section shall be classified 5
as "oyster farms of average lands."

(5) No area upon which an aggregate rental of less than five pounds a year is payable shall be leased under this section to any person unless—

(a) he is already an oyster lessee or the holder of a 10
permit or license under the Fisheries Act,
1902; or

(b) he is the lessee of an oyster farm under this
Act.

Special lands
farms.
cf. Act No.
119, 1902,
s. 33A.

57. (1) The Minister may lease for oyster farming 15
any specified area or areas of Crown lands, which may
be determined as of special value, after such land has
been offered by auction or tender.

(2) Such leases shall be subject to the same
conditions as a lease of an oyster farm of average lands 20
under this Act, provided that they need not necessarily
be measured with a frontage along the approximate
high-water mark.

(3) Leases under this section shall be classified
as "oyster farms of special lands." 25

The boundaries of an oyster farm leased under this
section shall not include any recognised hauling ground.

Inferior lands
farms.
cf. *Ibid.*
s. 33B.

58. (1) The Minister may lease for oyster farming 30
inferior Crown lands at rentals to be determined by him
for a term or terms not exceeding ten years.

The Minister may revalue such lands during the
ninth year of occupation, and if he is satisfied that the
lessee has during the term of his lease fulfilled the
conditions and covenants therein set out shall renew such
lease or leases for a further period of five years, after the 35
tenth year of currency of the lease, at any rental
approved by him for such extended term of five years.

Such leases shall not necessarily be measured with a
frontage along the approximate high-water mark.

No

No oysters shall be removed from any land leased under this section during the first year of the term of the lease without the written authority of the Minister, who may grant or refuse any request for such authority.

5 The boundaries of an oyster farm leased under this section shall not include any recognised hauling ground.

(2) No area upon which an aggregate rental of less than five pounds a year is payable shall be leased under this section to any person unless—

10 (a) he is already an oyster lessee or the holder of a permit or license under the Fisheries Act, 1902; or

(b) he is the lessee of an oyster farm under this Act.

15 **59.** Any person who proves to the satisfaction of the Minister that he has discovered a natural oyster bed shall have a prior right to a lease under section fifty-six or section fifty-eight of the land upon which the oyster bed is situated. Natural oyster bed. cf. Act No. 119, 1902, s. 33c.

20 **60.** Every lease of an oyster farm shall vest in the lessee, his executors, administrators, and assigns all oysters within the area leased, and the exclusive right during the currency of the lease or any renewal thereof of laying and planting oysters on and of dredging and Property and rights conferred by lease. Ibid. s. 35.

25 taking oysters from the area leased, but subject always to the several provisions of this Act and of any regulations and the right of any inspector to enter upon such area.

61. No person shall sublet the whole or any portion of an oyster farm without the consent in writing of the Minister. Subletting prohibited.

62. Occupation under a lease of an oyster farm shall not give any right to the lessee to occupy or to use any portion of Crown lands abutting on but not included in lease. Abutting Crown lands not included in lease. cf. Ibid. s. 36.

35 in his lease, except for such purposes and during such times as may be prescribed.

63. No person shall erect or cause to be erected on any leased area any bathing enclosure, boatshed, slip, jetty, staging, pontoon, or other structure except under the conditions and in the manner prescribed. Erection of structures.

40

64.

Leased area
or farm—how
described.
cf. Act No.
119, 1962,
s. 37.

64. Any leased area may be described in the lease by reference to posts, stakes, buoys, marks, connections, or natural features showing the limits of such leased area or oyster farm in a manner sufficient to allow of their identification.

5

Surrender
of leases.
cf. *Ibid.* s. 38.

65. The Minister may accept a surrender of any lease after the first year of its currency in any case where it shall appear to him that oyster culture cannot be carried on upon the leased area with any reasonable hope of success, or where for any other reason he considers 19 such surrender may be accepted.

Way of access
may be deter-
mined by
Minister.
cf. *Ibid.*
s. 33A.

66. (1) The lessee of a leased area or the owner or occupier of any land adjoining such area may apply in the prescribed manner to the Minister to determine a way of access to such adjoining land over a part of the 15 foreshore comprised in such area.

The Minister, on serving notice of any such applica-
tion on the owner or occupier, or on the lessee, as the
case may be, may, if he thinks fit, determine a way of
access as aforesaid, and may, in such determination, 20
prescribe what notice thereof shall be given; and may
further impose such conditions on the lessee, and direct
him to do such work for facilitating access by such way
as he thinks reasonable.

(2) The Minister may also, without any such 25
application, on giving notice to the lessee and the owner
of the adjoining land, make any determination and
impose any conditions and give any directions as
aforesaid.

(3) On such way being so determined, it may 30
be used as a way of access to the land adjoining such
area, and any person who uses the foreshore for access
as aforesaid otherwise than by the said way shall be
liable to a penalty not exceeding *ten* pounds:

Provided that it shall be a defence to any proceeding 35
for such penalty if it is proved that notice has not been
given by the Minister as prescribed, or that the condi-
tions imposed on or directions given to the lessee under
this section have not been complied with.

67.

67. Every leased area shall be subject to all reclamation rights conferred by the Crown Lands Consolidation Act, 1913, or any Act amending the same, and to such conditions, provisions, and limitations as may from time to time be prescribed by the regulations or approved by the Minister, and subject to the right of the Crown to carry out public works upon the leased area or its immediate vicinity without being liable to pay or the lessee being entitled to claim any compensation therefor.

Reclamation rights under Crown Lands Acts preserved.

cf. Act No. 119, 1902, s. 39.

68. The Minister may withdraw from lease the whole or any part of the land comprised in any oyster farm in any case in which in his opinion such land is required for any public purpose.

Power to withdraw.

Upon publication in the Gazette of such withdrawal, the lessee shall be entitled as compensation to the market value of his interest in the lease of the land so withdrawn.

In determining the market value of the interest in a lease such value shall be based entirely upon the market value of the land for purposes of oyster culture.

Where part only of the land comprised in a lease of an oyster farm is withdrawn, the lessee shall be further entitled to compensation for damage caused to the residue of the oyster farm by severance.

Unless otherwise agreed to the lessee shall be allowed not less than six months from the date of the publication in the Gazette of the withdrawal within which to remove oysters and improvements from the land so withdrawn, and shall pay rent during such period at the rate fixed by the lease.

The amount of compensation payable under this section shall be determined by the local land board.

Any person aggrieved by a determination of the local land board under this section may appeal therefrom to the Land and Valuation Court in the manner prescribed by rules of that court, and the decision of that court shall be final.

Lessees in arrear with rent not to take oysters or be granted further areas.

cf. Act No. 119, 1902, s. 41.

Minister may recommend cancellation of leases in certain cases granted under repealed Acts or this Act.
cf. *Ibid.* s. 42.

69. Any lessee who shall at any time be in arrear with the rent on any one or more leased areas shall not take oysters from any such area, nor shall he be entitled to lease a further area until such overdue rent shall have been paid, and such lease shall be liable to forfeiture if the rent is not paid within the time prescribed. 5

70. (1) If it shall appear to the Minister that any lessee of an oyster farm has not within a period of one year from the date of his lease taken proper measures to carry out the conditions of his lease and cultivate the oyster farm leased, the Minister shall have power to cancel the lease by notification in the Government Gazette. 10

(2) Upon the publication of such notification all rights and privileges granted by such lease and the unexpired term thereof shall cease and determine. 15

(3) Before publication of any such notification the Minister shall cause a notice in writing, stating the intention to make such recommendation, to be served on the lessee, or in case the lessee cannot be found, shall cause such notice to be inserted at least three times in a newspaper circulating in the police district nearest to the area leased, and also to be published once in the Gazette. 20

(4) A notification of cancellation shall not be published under this section until after the expiration of one month from the service or publication of such notice as aforesaid. 25

Cancellation for mismanagement.
cf. *Ibid.* s. 43.

71. Upon receipt of a report from any inspector that any lease of an oyster farm granted under this Act is being so stripped of oysters or otherwise mismanaged by the lessee that the production of oysters thereon has been so reduced as to threaten its partial or total destruction as an oyster-bearing area, or that proper steps for cultivation have not, after the first year, been taken, the Minister may, by notice served or published, as provided in subsection three of section seventy, prohibit the further dredging of or removal of oysters from such oyster farm, and may, by the same or a like notice, call upon the lessee to show cause why the lease of such oyster farm should not be cancelled. 30 35 40

The

The Minister may by notification in the Gazette cancel the lease of such oyster farm.

Upon the publication of such notification all rights and privileges granted by such lease and the unexpired term thereof, shall cease and determine.

A notification of cancellation shall not be published under this section until the expiration of one month from the service or publication of such last-mentioned notice.

- 10 **72.** Whenever the Minister shall upon the report of any inspector, or by his own inspection, be satisfied that the whole or any part of any leased area has by over-dredging, or from any other cause been reduced to such a state that the taking of oysters therefrom ought to be
 15 suspended, or that the oysters are in such a condition as to be not fit for consumption as food, he may by notification in the Gazette prohibit for any term not exceeding three successive years the taking of oysters from such area.

When leased areas may be closed.
 cf. Act No. 119, 1902, s. 44.

- 20 If any person shall without lawful authority, at any time during the period mentioned in such notification, take or attempt to take oysters from any area described in such notification, such person shall incur a penalty not exceeding *twenty* pounds.

- 25 The Minister may, by a like notification, rescind, wholly or in part, any such notification.

- Where on any leased area such reduction has in the opinion of the Minister resulted from natural causes only, such as flood or disease, the Minister may release
 30 the lessee of such area from payment of rent for the period of such suspension.

- 73.** The Governor may upon the recommendation of the Minister declare by notification in the Gazette that any area of Crown lands or any public oyster reserve is
 35 infected or likely to be infected by sewage matter or other contamination, or from any other cause, to such an extent as to render the oysters thereon unfit for human consumption and dangerous to human life, and may by such notification prohibit the taking of oysters therefrom
 40 for any purpose whatsoever during the period specified in the notification.

When Crown lands or public oyster reserves may be closed.

If

If any person shall at any time during the period so specified take or attempt to take oysters from any area or public oyster reserve described in such notification, he shall be liable for the first offence to a penalty not exceeding *ten* pounds, and for a second or any subsequent offence to imprisonment for a term not exceeding *six* months. 5

Portions of Crown land may be exempt from leasing or be declared public oyster reserves.

74. The Governor may by notification in the Gazette declare any Crown land to be a public oyster reserve, and to be exempt from any power of leasing conferred by this Act, and on the recommendation of the Minister may in like manner cancel any such notification wholly or in part. 10

Oysters on certain lands to be property of Crown.

75. All oysters on a public oyster reserve, or on Crown lands, or on any area from which the taking of oysters shall be prohibited under this Act, and all oysters taken therefrom without lawful authority, shall be the property of His Majesty. 15

If any person without lawful authority shall dredge for or otherwise take any oysters from any such reserve, Crown lands, or area, or shall be found dredging for or taking or attempting to take oysters within the limits of any such reserve, Crown lands, or area, he shall be liable to a penalty not exceeding *twenty* pounds, and all oysters found in his possession shall be deemed to be oysters unlawfully taken by him. 20 25

Persons may take oysters from reserves and Crown lands for their own consumption. cf. Act No. 119, 1902, s. 47.

76. (1) Nothing in this Act shall render liable to a penalty any person who takes oysters from any public oyster reserve or any Crown land (other than an area or reserve from which the taking of oysters has been prohibited owing to their being unfit for human consumption or dangerous to human life) for his own personal consumption in the immediate vicinity of the place where they have been gathered. 30

(2) Any inspector may prohibit the taking of oysters from any such public oyster reserve or Crown land if such oysters shall be in a spawning condition or shall have spat attached to them. 35

Every person who shall take oysters therefrom shall be liable to a penalty of not more than *five* pounds. 40

77. It shall not be lawful for any person other than the lessee, his agents or servants, to do any of the following acts, namely:—

Protection of
leased areas.
cf. Act No.
119, 1902,
s. 48.

- 5 (a) to take, remove, or in any way disturb or interfere with any stone, stick, stake, or other material whatsoever used in the cultivation of oysters, or any oysters upon any leased area without the consent of the lessee;
- 10 (b) to cut or lop or remove mangroves or any timber from any leased area;
- (c) to deposit upon any leased area any stone, ballast, rubbish, or substance, or to dredge or drag upon any leased area with any implement, unless by direction or authority of the lessee, 15 or the Minister or some duly authorised officer in the service or employment of the State;
- (d) to place upon any leased area any implement or thing likely to injure oysters except for a lawful purpose of navigation or anchorage.

20 Every person who does any act in contravention of this section shall be liable for the first offence to a penalty not exceeding *five* pounds, and for the second offence to a penalty not exceeding *ten* pounds, and for the third and any subsequent offence to a penalty not 25 exceeding *twenty* pounds.

Every such person shall be liable to make compensation to the lessee for all damage sustained by such lessee by reason of the unlawful act of such person, and in default of payment the same may be recovered by 30 the lessee in any court of competent jurisdiction.

And in case of any lawful act under paragraph (c) reasonable compensation shall be made therefor, subject, however, to the provisions of section sixty-seven of this Act.

35 **78.** The regulations may—

- (a) regulate or prohibit the cutting of any mangrove or other timber growing below high-water mark on any Crown lands for the purpose of oyster culture, either generally or 40 in any specified area of Crown lands;

Persons may
cut mangrove
below high-
water mark
under
authority.

(b)

- (b) prescribe the persons who may cut such mangrove or other timber below high-water mark, the manner and times of cutting, and the form of permit authorising any person to cut and remove same, or any other matter or thing relating thereto. 5

Penalty for
oyster stealing
by lessee.

cf. Act No. 119,
1902, s. 42

Royalty on
oysters for
sale.

79. If any lessee shall be convicted of stealing oysters from any leased area the Governor may cancel any lease held by such lessee.

80. Every lessee shall, in the manner and at the 10 times prescribed, pay to the Crown in respect of oysters taken from his lease for the purposes of sale a royalty at the rate of one shilling for each standard three-bushel bag of oysters, and at the rate of sixpence per package for each receptacle (other than a standard bag) containing less than three bushels of oysters. 15

PART VI.

GENERAL AND SUPPLEMENTAL.

Recovery of
rents and fees.
cf. Act No. 119,
1902, s. 57.

81. All rents and fees due and payable under this Act may be sued for and recovered by and in the name 20 of the Minister on behalf of the Crown.

Certain
boats, fish,
&c., to be
forfeited.

82. All boats, engines, nets, and other articles used, or in possession of any person, and all fish taken, bought, sold, offered, consigned, or exposed for sale, or in the possession of any person contrary to the provisions of this Act, shall be forfeited to the use of His Majesty. 25

Forfeiture of
boats
unlawfully
used.

83. Any boat the crew of which, or any part of the crew of which, are found—

- (a) fishing or taking fish ; or 30
- (b) preparing to fish or take fish ; or
- (c) to have been fishing or taking fish

contrary to the provisions of this Act, and any boat on board of which any fish unlawfully taken, or any part thereof, or any net, engine, or apparatus for fishing, the 35 use

use of which is prohibited by this Act is found, shall together with all other boats (if any) connected or used therewith, and the tackle, rigging, furniture, stores and appurtenances, engines, nets, and other apparatus 5 belonging thereto or being thereon be forfeited to the use of His Majesty.

84. Where any boat or article has been seized as forfeited, and no proceedings have been taken within fourteen days after such seizure against any person for 10 the offence in respect of which such forfeiture was incurred, the inspector seizing shall forthwith after the expiration of such fourteen days give notice in writing of such seizure to the owner of such boat or article (unless such owner was present at the seizure, or is not 15 known, or is not in the State, in any of which cases no notice shall be necessary) either by delivering the notice to him personally, or by letter addressed to him and transmitted by post to, or delivered at, his lastnamed place of abode or business; and such boat or article 20 shall be deemed to be condemned, and may be sold or otherwise disposed of in the prescribed manner unless such owner shall, within one month from the date of the seizure, give notice in writing to the Director that he disputes the forfeiture, whereupon proceedings shall 25 be taken against such owner for the forfeiture and condemnation of such boat or article.

Procedure where no prosecution for offence.

85. If any article, seized under this Act as forfeited, shall be fish, or shall be of a perishable nature, the same may be forthwith sold by the inspector seizing the same, 30 and the proceeds thereof retained to abide the result of any proceedings that may be taken in respect of such forfeiture.

Disposal of perishable articles.

86. The Director may authorise any boat or articles seized to be delivered to the person disputing the 35 forfeiture thereof on his giving security to pay their value in case of their condemnation.

Seized boat or articles may be delivered on security.

87. Notwithstanding anything to the contrary in this Act, when the commission of any offence against this Act involves a forfeiture of any boat or articles, the 40 conviction of any person for such offence shall have effect

Conviction to operate as a condemnation.

effect as a condemnation of such boat or articles, without the necessity of any complaint being laid for such condemnation.

Reasonable
cause for
seizure a bar to
action.

88. No person shall be liable for any seizure under this Act for which there shall have been reasonable 5
cause.

Penalties in
addition to
forfeiture.

89. All penalties shall be in addition to any forfeiture.

Prosecutions.

90. All offences against this Act, and all penalties and forfeitures incurred thereunder or imposed thereby, 10
and the liability to forfeiture of any boat, article, or thing, may (except as in this Act otherwise provided) be prosecuted, determined, recovered, and enforced, before and by a stipendiary or police magistrate, or any two justices, in the mode prescribed by the Justices Act, 15
1902.

Justices may
condemn
goods liable
to forfeiture.

91. When any complaint shall have been laid before a justice against any person for the forfeiture of any boat or articles seized under this Act, such justice is hereby required to summon such person to appear before a 20
stipendiary or police magistrate or any two justices; and upon his appearance or default to appear, due service of such summons being proved, such magistrate or justices may proceed to the examination of the matter, and on proof that the boat or articles are liable to forfeiture 25
may condemn the same.

Evidence of
condemnation
or forfeiture.

92. Condemnation under this Act of any boat or articles by any magistrate or justices, or as the result of any conviction by such magistrate or justices, may be proved in any court of justice, or before any competent 30
tribunal, by production of a certificate of such condemnation purporting to be signed by the magistrate or justices, or an examined copy of the record of such condemnation, certified by the clerk of petty sessions.

All boats, &c.,
condemned to
become the
property of
His Majesty.

93. Subject to this Act, all fish, boats, nets, engines, 35
and other articles forfeited or liable to be sold under the provisions of this Act shall become the property of His Majesty, and shall be sold or disposed of by the Director of Fisheries in such manner as may be prescribed, and the proceeds of such sale and disposal shall be paid to 40
the Consolidated Revenue Fund.

94.

94. Any person who—

Penalties for
certain
offences.

- 5 (a) fails to facilitate by all reasonable means the
boarding of any boat by any inspector or
other person authorised under this Act to so
board; or
- (b) refuses to allow any search to be made which
is authorised under this Act; or
- 10 (c) refuses to give to any inspector any information
lawfully demanded of him by such inspector,
or refuses to state his name or place of abode
to any inspector when lawfully required by
such inspector so to do, or states a false name
or place of abode to such inspectors; or
- 15 (d) assaults, resists, or obstructs any inspector or
other person in the execution of the powers or
authorities conferred on him by this Act,

shall for every such offence be liable to a penalty not
exceeding *fifty* pounds.

- 20 **95.** The master or person in charge of every boat
required by this Act to be licensed shall have on board
such boat the license issued under this Part in respect
of such boat; and if he makes default therein without
reasonable cause (the proof thereof shall lie on him) he
shall for every such offence be liable to a penalty not
25 exceeding *fifty* pounds.

Master of
boat to have
license on
board.

- 96.** When any person is lawfully fishing, and
accidentally takes any fish the taking of which is
prohibited by or under this Act, he shall not be liable
to any penalty in respect of such taking if he immediately
30 returns the fish to the water with the least possible
injury.

Accidental
taking of fish.

- 97.** Every person committing any act which by
this Act is declared to be an offence, or committing a
breach of this Act, or of any regulation, proclamation,
35 notification, or prohibition made thereunder, whether by
wilful act or by refusal or neglect to act or otherwise,
shall, where no specific penalty has been provided for
such offence, be liable to a penalty not exceeding *ten*
pounds.

General
penalty.

- Onus of proof. **98.** (1) In all judicial proceedings the onus of proving the illegality of any seizure, or that the inspector or person seizing was not authorised to seize, shall lie upon the person setting up such illegality.
- (2) In any proceedings taken against any person for any contravention of this Act the onus of proving the existence of any license, permit, registration, or authority required to be held by such person, or that such person was exempted from any penalty or forfeiture, shall lie upon the defendant.
- Notice of action. **99.** No action shall be brought against any person for anything done in pursuance of this Act unless notice in writing of such action, and the cause thereof, is given to the defendant one month at least before the commencement of the action.
- Governor may restore seizure. **100.** (1) The Governor may direct that any boat, articles, or things whatsoever seized under this Act be delivered to the owner thereof, whether condemnation shall have taken place or not, on such terms and conditions (if any) as the Governor shall think fit.
- (2) Any person who contravenes or fails to comply with any such term or condition shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding *fifty* pounds.
- Imprisonment in lieu of penalty. **101.** It shall be lawful for any stipendiary or police magistrate, or for any justices before whom any proceedings may be taken in respect of any offence against the provisions of this Act for which a pecuniary penalty only is imposed, to impose in lieu of any such pecuniary penalty a term of imprisonment not exceeding *thirty* days.
- Sale of oysters to lessees or hospitals, &c. **102.** (1) The Minister may from time to time sell oysters or spat from Crown lands, training walls, or public oyster reserves to any lessee under such conditions as he may see fit.
- (2) The Minister may from time to time donate any oysters or fish, including oysters or fish seized or forfeited under this Act, and oysters taken from Crown lands, training walls, or public oyster reserve, to any hospital or public institution.
- Any

Any oysters or fish donated to a hospital or public institution under this subsection, and not required for consumption therein, may be sold by a responsible officer of such hospital or institution, and the proceeds thereof applied towards the maintenance of such hospital or institution.

103. Any person who takes from any waters or has in his possession or on his premises or in a boat, or sells or attempts to sell, or offers or exposes or consigns for sale any soft shelled crayfish, shall for every such offence be liable to a penalty not exceeding *ten* pounds.

104. Any person, who on being charged before a justice with having oysters in his possession which may reasonably be suspected of being stolen or unlawfully obtained, does not give an account to the satisfaction of such justice how he came by the same, shall be liable to a penalty not exceeding *ten* pounds.

105. Any person, who on being charged before a justice with having fish in his possession which may reasonably be suspected of being taken in contravention of this Act does not give an account to the satisfaction of such justice how he came to be in possession of the same, shall be liable to a penalty not exceeding *ten* pounds.

106. Any person who shall gather or burn live oysters for the purpose of converting their shells into lime, whether he be the holder of a leased area or not, shall for every such offence be liable to a penalty not exceeding *fifty* pounds.

107. Any person who has in his possession, or on his premises, or in his boat any undersize fish, or sells or offers, consigns, or exposes for sale, or attempts to sell any undersize fish, shall be liable for a first offence to a penalty not exceeding *two* pounds, and for any subsequent offence to a penalty not exceeding *five* pounds.

108. (1) Any person who constructs or erects or causes to be constructed or erected over or upon any tidal or inland river or creek, or over any flowing water, any dam, weir, or reservoir in which suitable provision is not made to enable the upward passage of fish, shall be

be guilty of an offence against this Act, and shall be liable to a penalty of not less than *ten* pounds and not exceeding *fifty* pounds.

(2) The Minister may by order in writing require any person who has been convicted of an offence 5 against this section to carry out within a time specified in the order such works as may be specified in the order to enable the upward passage of fish through or over the dam, weir, or reservoir.

Any person who fails to comply with an order under 10 this subsection shall be guilty of an offence against this Act, and shall be liable to a penalty of not less than *ten* pounds and not exceeding *fifty* pounds.

Where a person fails to comply with an order under this section the Minister may cause the work specified 15 to be carried out, and may recover the cost thereof from the person to whom the order was addressed.

PART VII.

REGULATIONS.

Regulations. **109.** (1) The Governor may make regulations not 20 inconsistent with this Act prescribing any matter which by this Act is required to be prescribed or which is necessary or convenient to be prescribed for carrying this Act into effect.

(2) Without limiting the generality of the 25 power conferred by subsection one of this section the Governor may make regulations—

- (a) defining the duties of inspectors and other persons upon whom any duty or authority is imposed or conferred under this Act; 30
- (b) prescribing the forms and conditions of all licenses, the persons by whom such licenses may be issued, the fees to be paid, and the mode of payment;

(c)

-
- 5 (c) prescribing the mode of testing or determining the length of nets and of hauling lines, and the dimensions of the meshes of nets, and providing for the disposal of seized and forfeited nets ;
- 10 (d) prescribing, notwithstanding anything contained in this Act, including Schedule C to this Act, the minimum lengths, weights, or sizes of any species of fish which may lawfully be taken, sold, consigned, or exposed for sale ;
- 15 (e) prescribing the fee to be paid for any permit, authority, consent, registration, or approval made, issued, or given under this Act or the regulations ;
- 20 (f) providing for the sale or other disposal of any fish, engine, or other thing seized or forfeited under this Act, and of nets found in any waters without an owner or unclaimed ;
- 25 (g) providing for the hauling, setting, or landing of any fishing nets, fish traps, or other implements or engines in such manner as to prevent as far as practicable the destruction of underweight or undersize fish ;
- 30 (h) regulating net and line fishing, as well in regard to modes, places, and times of usage as in all other respects ;
- 35 (i) regulating whale fishing ;
- 40 (j) regulating and controlling the propagation and collection of worm and other fish bait ;
- (k) regulating rights of priority in the hauling and setting of nets, or dredging for oysters, or cultivating, collecting, or gathering oysters as between fishermen, or fishermen and oyster farmers, or between oyster farmers only, netting or dredging, cultivating or gathering on the same ground, and for preserving good order amongst persons engaged in fishing or oystering, either between each other or in the public interests, or in any work in connection with the cultivation or the gathering of oysters or spat, or in any method of capture ;
- (l)

-
- (l) preventing fishermen from creating a nuisance by way of noise in any manner not essential to the effective conduct of their business as fishermen;
- (m) regulating and prohibiting fishing in the navigable part of any river, bay, harbour, or channel through which vessels enter or depart, or which require to be kept open or unobstructed for ferry or steamer traffic; 5
- (n) regulating the collection and removal of oysters, whelks, or mussels or the dead shell thereof, or the spat of oysters, from Crown lands and training-walls, limiting the number of authorised collectors or gatherers, either generally or in a particular case, prescribing the price per bag or other method of purchase, and providing for the seizure and disposal of oysters, whelks, or mussels, or the dead shell thereof unlawfully removed from Crown lands or public oyster reserves whether in the possession of any collector or not; 15 20
- (o) providing for the marking of the boundaries and the periodical inspection of public oyster reserves, leased areas, and oyster farms, for vesting the control and management of any such reserves in vigilance committees, and for the protection and regulation of all boundary pegs, posts, beacons, buoys, or other marks; 25
- (p) regulating the sale of young or foreshore oysters, whelks, or mussels or the dead shell thereof, or the spat of oysters on public oyster reserves and Crown lands to the holders of leased areas and oyster farms, and the donation of mature oysters from Crown lands and training-walls to public hospitals or other similar institutions; 30 35
- (q) prescribing the size of marketable oysters, and for preventing the taking, consigning, selling, or exposing or offering for sale of unmarketable oysters or oysters not in a condition fit for food; 40
- (r)

- (r) providing for the disposal or sale of oysters or spat seized and forfeited under this Act;
- 5 (s) providing for the protection and regulation of public oyster reserves and of oysters and spat on Crown lands, and for the limitation and regulation of collecting, gathering, and dredging for oysters by divers on such reserves and Crown lands;
- 10 (t) requiring the lessee of an oyster farm or oyster lease to place and maintain on his leased area stones, logs, sticks, stakes, and other material for catching spat, and providing for the cultivation of oysters on oyster leases and oyster farms and for the return to the place
- 15 of taking or other suitable spot, of all spat and undersize oysters, and oysters not in a fit condition for food, together with all dead shell, cultch, and substances collected, gathered, or dredged up from beds in such a manner as may
- 20 be most beneficial for the preservation of such beds;
- (u) enforcing payment of rent or moneys overdue in respect of oyster leases or oyster farms, or of areas in respect of which application for a
- 25 lease or an oyster farm has been made;
- (v) prescribing the terms and conditions under which leases for oyster culture, oyster farms, and transfers thereof may be granted;
- 30 (w) preventing the destruction of oysters or fish, and for preventing injury to fishing or oyster grounds by deposit of filth, refuse, or other deleterious matters, or by chemical or other discharges from mining works, sawmills, paper mills, gasworks, or other manufactories or
- 35 boiling-down or wool-washing establishments, and for prohibiting such matters from being deposited in tidal or inland waters or into any watercourse whether dry or not leading into the same;

(x)

-
- (x) preventing lessees of oyster leases or oyster farms and other persons from disposing of cultch or any dredged refuse so as to impede the access by water to Crown or private land abutting on leased areas; 5
- (y) requiring lessees and fishermen to mark their boats, and prescribing the manner in which they shall be marked;
- (z) providing for the manner in which close months and seasons, during which the taking of any fresh-water or salt-water fish is prohibited, shall be observed by fishermen and linesman; 10
- (aa) providing for the method and means of consigning or conveying any fish or oysters to any destination for the purpose of sale; 15
- (bb) providing for the method of sale of fish in any market or wholesale fish dealer's establishment, and the furnishing of returns setting out the particulars of such sales; 20
- (cc) providing for the prohibition of objectionable methods of buying or selling or attempting to buy or sell any fish in any market or wholesale fish dealer's establishment;
- (dd) providing for the constitution of vigilance committees, and the powers and functions of members; 25
- (ee) providing, subject to this Act, for the times, seasons, and places at which the taking of fish of any particular species shall commence and cease or be prohibited or permitted, also the limitation of the number of such fish which may be lawfully captured on any one day; 30
- (ff) providing for the conditions under which private fresh-water fish hatcheries may be established and maintained, and for the species of fish which may be propagated therein; 35
- (gg) regulating fisheries or any class group or portion thereof;
- (hh)

-
- (hh) regulating and prescribing the closure or opening of any tidal or inland fisheries and providing for the supervision and protection thereof ;
- 5 (ii) determining the weight or size of marketable fish, and the size of marketable oysters ;
- (jj) prescribing the dimensions, meshes, and modes of hauling nets, and regulating the use of any other implements or engines for the taking of fish ;
- 10 (kk) regulating the hatching and acclimatisation of fish, and the cultivation of fish and oysters ;
- (ll) providing for the development of the fishing industry ;
- 15 (mm) controlling and regulating methods of trawling within territorial waters ;
- (nn) controlling and regulating the sale and distribution of fish, whether produced in New South Wales or imported ;
- 20 (oo) regulating the icing, packing, handling, and storage of fish for sale, and regulating or prohibiting the repacking of fish intended for sale ;
- 25 (pp) providing for the licensing of fish agents, and for the registration of wholesale fish dealers' establishments ;
- (qq) providing for the inspection of fish intended for sale, and requiring the use of standard containers for fish intended for sale ;
- 30 (rr) providing for the protection of the interests of lessees and oyster farmers and of persons engaged in fishing ;
- (ss) providing for the licensing of persons engaged in gathering kelp and seaweeds for commercial purposes and regulating the times, manner, and places of such gathering ;
- 35 (tt) exempting specified persons from the observance of all or any of the provisions of this Act relating

relating to the taking of fish in cases where fish is required for hospital patients or sick persons, and a supply of fresh fish is not otherwise obtainable ;

(uu) requiring persons selling oysters by retail to be licensed annually ; prescribing the form of such licenses and the method by which they may be transferred ; prescribing the fee payable for such license for any year or portion of a year ; prescribing the conditions and restrictions which may be inserted in any such license, and providing for the observance of such conditions and restrictions ; providing for the circumstances under which any such license may be cancelled ;

15

(vv) providing generally for all matters pertaining to the development and regulation of fisheries and oyster farms ;

(ww) giving effect to the provisions of this Act in all details whatsoever.

20

Penalties and
application of
regulations.

110. (1) Any regulation made under this Act may—

- (a) impose a penalty for any breach thereof, and also distinct penalties in case of successive breaches thereof, but no such penalty shall exceed *fifty* pounds ;
- (b) impose also a daily penalty for any continuing breach thereof not exceeding *five* pounds per day ;
- (c) fix a minimum as well as a maximum penalty.

30

(2) Any provision inserted in any regulation made under this Act may apply—

- (a) to all waters or to any specified part thereof, or to waters other than those specified ;
- (b) to fish generally, or to fish of any specified species, or to fish other than those specified ;
- (c) to the taking of fish generally, or to the taking of fish of any specified species, or of fish other than those specified ;

(d)

- (d) to all methods of taking fish or to specified methods only, or to methods other than those specified ;
- 5 (e) to the whole of the State, or to any specified portion thereof.

(3) A regulation may authorise any matter or thing to be from time to time determined, applied, or regulated, by the Governor or the Minister or the Director or by an inspector, either generally or for any class of
10 cases or in any particular case.

- (4) All regulations shall—
- (a) be published in the Gazette ;
 - (b) take effect from the date of publication, or from a later date to be specified in the regulations ;
 - 15 (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

20 (5) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House, disallowing such regulations or any part thereof, such regulations or part shall
25 thereupon cease to have effect.

SCHEDULES.

SCHEDULE A.

BRISBANE WATER.

County of Northumberland: The whole of the waters of that part of Brisbane Water and its inlets and tributaries north of a line drawn from Box or Hawk Head to Green Point. 5

NARRABEEN LAKE.

County of Cumberland: The whole of the waters of Narrabeen Lake and its tributaries including Deep Creek, Middle Creek, South Creek, and Mullet Creek together with their affluents and tributaries. 10

WALLIS LAKE.

County of Gloucester, parishes of Tuncurry and Forster at Wallis Lake. The whole of the tidal waters within the following boundaries: Commencing at the entrance to Wallis Lake at the eastern extremity of the northern breakwater and bounded thence by that breakwater 15 and a part of the foreshores of the village of Tuncurry generally southerly to the prolongation of the western side of Wharf-street; thence by a line bearing south 10 degrees east across the water to the south-western corner of Oyster Lease No. 9,545 on Godwin Island; thence by the northern foreshore of that island 20 north-easterly to its most northern point; thence by a line bearing north 60 degrees east to the foreshore of the village of Forster at the prolongation of the southern boundary of section 27; thence by that foreshore generally northerly to the southern breakwater, by that breakwater north-easterly to its eastern extremity and by a line across 25 the entrance to the point of commencement.

LAKE MACQUARIE (INCLUDING BLACK NED'S BAY).

County of Northumberland, parishes of Kahibah and Wallarah. The whole of the waters of that part of Lake Macquarie and the channel entrance included within the following boundaries: Commencing at the north-eastern extremity of the southern breakwater at the channel entrance to Lake Macquarie and bounded thence by the northern side of that breakwater and by the southern and western shores of the channel entrance aforesaid to the eastern shore of Lake Macquarie; thence by part of that shore bearing southerly 50 chains; 35 thence by a line bearing westerly into the waters of the aforesaid lake 40 chains; thence by a line bearing northerly to a point 40 chains west of Kahibah or Mark's Point; thence by a line east to that point and thence by part of the eastern shore of Lake Macquarie aforesaid, and by the eastern and northern shores of the channel entrance 40 abovementioned to the north-eastern extremity of the northern breakwater and thence by a line crossing the channel entrance to the point of commencement.

Also

Also county of Northumberland, parish of Wallarah at Lake Macquarie. The whole of the tidal waters of Black Ned's Bay, an inlet of the southern bank of the channel entrance to Lake Macquarie.

TUGGERAH LAKE AND OCEAN WATERS ADJOINING.

- 5 County of Northumberland. The tidal waters of that part of Tuggerah Lake, its channel entrance and ocean waters included within the following boundaries : Commencing on the shore of the South Pacific Ocean at high-water mark on the southern extremity of Karagai, the headland on the northern side of the channel entrance, and bounded
10 thence by high-water mark on the eastern shore of the channel entrance aforesaid north-westerly to Tuggerah Lake, and by the line of high-water mark of that lake north-easterly to a point distant about 10 chains south-westerly from the north-west corner of E. H. Hargraves' portion No. 39 of 22 acres, parish of Wallarah ; thence by a line bearing north
15 60 degrees west 80 chains into the waters of Tuggerah Lake aforesaid ; thence by a line bearing south 30 degrees west 160 chains ; thence by a line bearing south 60 degrees east 80 chains to a point at high-water mark on the eastern shore of the lake distant about 40 chains southerly from Taylor's Point ; thence along part of that shore to Taylor's Point,
20 by the south-western shore of the channel entrance south-easterly to the South Pacific Ocean ; thence by a line bearing south 45 degrees east 22 chains into the waters of the ocean ; thence by a line northerly to a point due east of and distant 22 chains from the point of commencement, and thence by a line bearing west 22 chains to that
25 point.

LAKE ILLAWARRA.

- County of Camden. That portion of the ocean and the whole of the tidal waters of the channel entrance into Lake Illawarra, and also that portion of the lake included within the following boundaries :
30 Commencing at a post on the ocean beach bearing north $62\frac{1}{4}$ degrees west from the Trigonometrical Station on Windang Island and running thence southerly to the lake entrance by the north eastern side of that entrance and part of the eastern shore of the lake to a point distant 10 chains north-easterly from the south-west corner of the Bank of
35 New South Wales' portion No. 42 of 48 acres in the parish of Wollongong ; thence by lines running into the lake waters and bearing respectively north 70 degrees west 15 chains south 57 degrees west 24 chains south 46 degrees west 48 chains and south 2 degrees east about 51 chains to the west point of entrance to Forster's Creek,
40 parish of Terragong ; thence by part of the southern shore of the lake and by the southern shore of the lake entrance to the ocean beach ; thence by part of that beach southerly to a post bearing south 80 degrees west from the Trigonometrical Station at Windang Island ; thence by a line bearing north 80 degrees east to the southern side of
45 that island by part of the southern side, the whole of the western and part of the northern side of that island to a point bearing south $62\frac{1}{4}$ degrees east from the point of commencement, and thence by a line to that point.

SCHEDULE

SCHEDULE B.

LAKE MACQUARIE ENTRANCE.

All that portion of the channel entrance to Lake Macquarie lying easterly of a line drawn approximately north 30 degrees west from the pilot boat-shed on the southern shore to a point on the northern shore 5 100 yards westerly of the first leading beacon.

SCHEDULE C.

SHOWING the lawful lengths for Fishes and Crustaceans.

(1) *Fishes—Marine or Fluvio-Marine.*

Common Name.	Species.	Length in Inches.	10
Common Eel ...	<i>Anguilla reinhardtii</i> ...	12	
Sergeant Baker ...	<i>Aulopus purpurissatus</i> ...	10	
Slender Long Tom ...	<i>Tylosurus ferox</i> ...	12	
Stout Long Tom ...	<i>Tylosurus macleayana</i> ...	12	
Sea Garfish ...	<i>Hemirhampus intermedius</i> ...	8½	15
River Garfish ...	<i>Hemirhampus regularis</i> ...	7½	
Short-beaked Garfish ...	<i>Arrhampus sclerolepis</i> ...	7½	
Sea Mullet (including Hardgut and "Bully").	<i>Mugil dobula</i> ...	10	
Flat-tail (or Fan-tail) Mullet...	<i>Mugil peronii</i> ...	9	20
Sand Mullet (Tallegalane or "Lano").	<i>Myxus elongatus</i> ...	9	
Silver Mullet (Silver Flat) ...	<i>Mugil georgii</i> ...	8	
Yellow-eye Mullet ...	<i>Agonostomus forsteri</i> ...	9	
Short-finned Pike ...	<i>Sphyræna novæ hollandiæ</i> ...	9	25
Striped Pike ...	<i>Sphyræna lineata</i> ...	9	
Blackfish ...	<i>Girella tricuspidata</i> ...	9	
Rock Blackfish ...	<i>Girella elevata</i> ...	9	
Estuary Perch ...	<i>Percalates colonorum</i> ...	9	
Black Rock Cod ...	<i>Epinephelus dæmelii</i> ...	13	30
Long-finned Pike ...	<i>Dinolestes lewini</i> ...	9	
Sand Whiting...	<i>Sillago ciliata</i> ...	9½	
Trumpeter Whiting ...	<i>Sillago maculata</i> ...	8	
School (Red Spotted) Whiting	<i>Sillago bassensis</i> ...	8	
Spotted Whiting ...	<i>Sillago punctata</i> ...	9½	35
Jewfish ...	<i>Sciaena antarctica</i> ...	15	
Teraglin ...	<i>Cynoscion atelodus</i> ...	13	
Australian Salmon ("Buck" (including so-called Salmon Trout) or "New Fish").	<i>Arripis trutta</i> ...	9	40

SCHEDULE

SCHEDULE C—continued.

(1) *Fishes—Marine or Fluvio-Marine—continued.*

Common Name.	Species.	Length in Inches.
Red Morwong or Sea Carp ...	Cheilodactylus fuscus ...	9
5 Snapper (including "Cockneys," Red Bream and Squire).	Pagrosomus auratus ...	10
Black Bream	Chrysophrys australis ...	9
Tarwhine	Chrysophrys sarba ...	8
Butterfish	Ephippus multifasciatus ...	7
10 Blue Groper	Achaerodus gouldii ...	12
Red or Brown Groper ...	Achaerodus badius ...	12
Kingfish	Seriola lalandii ...	14
Trevally	Caranx georgianus ...	9
Tailer	Pomatomus saltatrix ...	9
15 Common Mackerel ...	Scomber colias ...	6
Horse Mackerel	Sarda chilensis ...	9
Large-toothed Flounder ...	Paralichthys arsius ...	9
Small-toothed Flounder ...	Paralichthys novæ cambria	9
Long-snouted Flounder ...	Ammotretis rostratus ...	8
20 Black Sole	Synaptura nigra ...	8
Red Rock Cod	Scopæna cruenta ...	9
Common or Dusky Flathead...	Platycephalus fuscus ...	13
Sand Flathead	Platycephalus bassensis ...	13
Tiger Flathead	Platycephalus macrodon ...	13
25 Long-spined (Spikey) Flathead	Platycephalus longispinis	9
Kumu (Red) Gurnard ...	Chelidonichthys kumu ...	8
Sharp-beaked Gurnard ...	Pterygotrigla polyommata	9

(2) *Fishes—Fresh-water.*

Common Name.	Species.	Length in Inches.
30 Fresh-water Herring	Potamalosa novæ hollandiæ	5
Bony Bream or Hair-backed Herring.	Dorosoma erebi ...	6
Fresh-water Catfish	Copidoglanis tandanus ...	10
Australian Grayling	Prototroctes maræna ...	9
35 Fresh-water Mullet "Streamer" or "Pink-eye."	Trachystoma petardi ...	9
Australian Bass (Eastern "Fresh-water" Perch).	Percalates fluviatilis ...	11
Golden Perch or Yellow Belly	Plectroplites ambiguus ...	11
40 Macquarie (or Mountain) Perch	Macquaria australasica ...	10
Murray Cod	Oligorus macquariensis ...	18

SCHEDULE

SCHEDULE C—continued.

(2) *Fishes—Fresh-water.*

Common Name.	Species.	Length in Inches.	
Trout Cod	<i>Oligorus mitchelli</i> ...	13	5
Silver Perch ("Grunter") ...	<i>Terapon ellipticus</i> ...	10	
River Blackfish (Slippery) ...	<i>Gadopsis marmoratus</i> ...	9	
Brown Trout	<i>Salmo fario</i> ...	13	
Rainbow Trout	<i>Salmo irideus</i> ...	13	

(3) *Crustaceans.*

Common Name.	Species.	Length in Inches.	10
Marine—			
Common Crayfish	<i>Palinurus hugelii</i>	10	15
Southern Crayfish	<i>Palinurus edwardsii</i>	10	
School Prawn	<i>Penæus macleayi</i>	2½	
King Prawn	<i>Penæus canaliculatus</i>	2½	
Tiger Prawn	<i>Penæus monodon</i>	2½	
Fresh-water—			
Murrumbidgee Crayfish (Murray River Lobster, Fresh-water Crayfish).	<i>Astacopsis spinifera</i>	12	20

NOTE AS TO MEASUREMENT.—Marine and fresh-water crayfishes are measured along the body from the rostrum (or beak) to the tip of the tail. Prawns are measured along the body from the base of the eye to the tip of the tail.