FISHERIES AND OYSTER FARMS (AMENDMENT) BILL, 1974

EXPLANATORY NOTE

- 1. Clause 1 specifies the short title of the Bill.
- 2. Clause 2 provides for some provisions of the Bill to commence on the day of assent and for others to commence on a proclaimed day or proclaimed days. As different provisions will commence on different days, clause 2 enables the Governor, when commencing a particular provision, to make any necessary consequential amendment to section 3 of the Principal Act which is, in effect, the "Table of Contents".
 - 3. Clause 3 is an interpretation provision.
 - 4. Clause 4 amends the Principal Act and-
 - (a) by clause 4 (a) makes a consequential amendment;
 - (b) by clause 4 (b) makes a consequential amendment;
 - (c) by clause 4 (c) provides for clarification of the interpretation of the Principal Act.
 - 5. Clause 5 amends the Principal Act and-
 - (a) by clause 5 (a) specifies the over-all duty of the Minister;
 - (b) by clause 5 (b) disbands honorary vigilance committees, provides for the appointment of honorary fisheries rangers and requires the Minister to submit an annual report to Parliament;
 - (c) by clause 5 (c) extends in certain respects the powers of entry of inspectors and other authorised persons;
 - (d) by clause 5 (d) extends the powers of an inspector to search shops, vehicles and receptacles for prohibited size fish;
 - (e) by clause 5 (e) extends in certain respects the powers of inspectors;
 - (f) in clause 5 (f) deals with the duration of, and fee payable for, a permit to take fish for scientific purposes;
 - (g) by clause 5 (g) clarifies the powers of the Minister to institute scientific experiments and requires him, before exercising those powers in certain waters, to obtain the consent of certain authorities;
 - (h) in clause 5 (h) deals with the establishment of aquatic reserves from which fish may be taken only as provided by regulations;
 - (i) by clause 5 (i) empowers the Minister to construct and operate fishery improvement works, hatcheries and certain other establishments and to authorise other persons to carry out certain operations dealing with the propagation of fish;
 - (j) by clause 5 (j) provides for the acquisition and leasing of land for purposes referred to in paragraph (i) above.

6. Clause 6 amends the Principal Act and provides for the appointment by the Minister of an Amateur Fishermen's Advisory Council.

7. Clause 7 amends the Principal Act and—

- (a) by clause 7 (a) simplifies provisions relating to the closing of waters for fishing and extends the circumstances in which offences are committed in closed waters;
- (b) by clause 7 (b) strengthens the provisions relating to the closing to net fishing of Brisbane Water, Port Hacking, the Wagonga River, Narrabeen Lake, Wallis Lake, Tuggerah Lake and Lake Illawarra;
- (c) by clause 7 (c) makes a consequential amendment;
- (d) by clause 7 (d) enables the Governor to act in certain cases by means of an order (which may be amended or rescinded by another order) rather than by means of a proclamation (which cannot be amended or rescinded by another proclamation);
- (e) by clause 7 (e) provides for the licensing of importers of live fish and for the destruction of fish declared by the Governor to be noxious fish;
- (f) by clause 7 (f) enables close seasons to be prescribed for fish taken for sale other than those already prescribed by the Act;
- (g) by clause 7 (g) repeals section 22 of the Principal Act which has been rendered unnecessary by the last preceding amendment;
- (h) by clause 7 (h) enables the Minister to limit the commercial exploitation of fish in certain circumstances;
- (i) by clause 7 (i) enables exemptions to be made from provisions relating to the licensing of fishing boats and fishermen;
- (j) by clause 7 (j) makes consequential amendments;
- (k) by clause 7 (k) makes consequential amendments;
- (1) by clause 7 (1) rearranges and amplifies the provisions relating to fishing boat licenses;
- (m) by clause 7 (m) rearranges and amplifies the provisions relating to the licensing of professional fishermen;
- (n) by clause 7 (n) makes consequential amendments;
- (o) by clause 7 (o) rearranges and amplifies the provisions relating to inland angling licenses;
- (p) by clause 7 (p) specifies the moneys that are required to be paid to the credit of the Inland Fisheries Fund and provides for additional expenditure from that Fund;
- (q) by clause 7 (q) provides for the establishment of a Tidal Angling Fund and a Commercial Fisheries Exploration and Development Fund;
- (r) by clause 7 (r) makes a consequential amendment;
- (s) by clause 7 (s) authorises the making of regulations with respect to the registration of nets and other prescribed fishing gear;

- (t) by clause 7 (t) authorises the making of regulations with respect to the nets and other prescribed fishing gear that may lawfully be used;
- (u) by clause 7 (u) makes a consequential amendment;
- (v) by clause 7 (v) enables a court to make an order for the removal of any illegal dam or other obstruction in waters;
- (w) by clause 7 (w) penalises wilful or negligent damage to a fishing net by the use of a surf board, water ski, aquaplane or similar equipment;
- (x) by clause 7 (x) makes consequential amendments;
- (y) by clause 7 (y) enables a court to make an order for the removal of an obstruction from a recognised fishing ground;
- (z) by clause 7 (z) enables an inspector to prevent disturbance to schooling fish or lawful fishing operations by the use of a boat, surf board, water ski, aquaplane or similar equipment;
- (aa) by clause 7 (aa) makes consequential amendments;
- (ab) by clause 7 (ab) makes consequential amendments;
- (ac) by clause 7 (ac) makes a consequential amendment;
- (ad) by clause 7 (ad) authorises the making of regulations with respect to the manner in which fish are to be treated before being offered for sale or placed in cold storage;
- (ae) by clause 7 (ae) makes a consequential amendment;
- (af) by clause 7 (af) makes provision for the manner in which containers of fish consigned for sale are to be marked and facilitates proof of the consignment and ownership of fish;
- (ag) by clause 7 (ag) makes a consequential amendment;
- (ah) by clause 7 (ah) removes some unnecessary words from the Principal Act;
- (ai) by clause 7 (ai), with some exceptions, requires all fish to be sold in a fish market before they are sold elsewhere;
- (aj) by clause 7 (aj) re-arranges and amplifies the provisions whereby fish may, in certain cases, be first sold otherwise than in a fish market and provides for the establishment of fish markets operated by trading societies;
- (ak) by clause 7 (ak) modernises the wording of the Principal Act;
- (al) by clause 7 (al) modernises the wording of the Principal Act;
- (am) by clause 7 (am) makes consequential amendments;
- (an) by clause 7 (an) makes consequential amendments;
- (ao) by clause 7 (ao) provides for additional expenditure from the Fish Marketing Authority Fund;
- (ap) by clause 7 (ap) provides for the retention of certain returns and for their inspection.
- 8. Clause 8 amends the Principal Act and—
 - (a) by clause 8 (a) alters the objects of acclimatisation societies;
 - (b) by clause 8 (b) makes a consequential amendment;

- (c) by clause 8 (c) enables the Minister to authorise certain expenditure instead of the Governor;
- (d) by clause 8 (d) makes certain machinery amendments;
- (e) by clause 8 (e) makes certain consequential and machinery amendments with respect to cancellation of the registration of an acclimatisation society;
- (f) by clause 8 (f) makes a consequential amendment;
- (g) by clause 8 (g) makes a consequential amendment;
- (h) by clause 8 (h) makes a consequential amendment;
- (i) by clause 8 (i) makes consequential amendments;
- (j) by clause 8 (j) makes it an offence to sell trout without being the holder of a fish farm permit or a permit under section 55A;
- (k) by clause 8 (k) abolishes certain offences relating to salmon and trout and makes consequential amendments;
- (1) by clause 8 (1) makes consequential amendments;
- (m) by clause 8 (m) extends the power to make regulations with respect to salmon and trout.

9. Clause 9 amends the Principal Act and-

- (a) by clause 9 (a) makes a machinery amendment;
- (b) by clause 9 (b) re-arranges and amplifies the provisions relating to the grant of leases for the purpose of oyster farming;
- (c) by clause 9 (c) makes provision with respect to the rentals to be charged for leases for the purposes of oyster farming;
- (d) by clause 9 (d) makes provision for the renewal of leases for the purpose of oyster farming;
- (e) by clause 9 (e) makes a consequential amendment;
- (f) by clause 9 (f) makes a consequential amendment;
- (g) by clause 9 (g) makes a consequential amendment;
- (h) by clause 9 (h) abolishes the prior right to a lease formerly conferred on the discoverer of a natural oyster bed;
- (i) by clause 9 (i) deals with preferent rights to leases for the purpose of oyster farming;
- (j) by clause 9 (j) makes provision for the maintenance in a tidy condition of areas leased for the purpose of oyster farming;
- (k) by clause 9 (k) makes consequential amendments;
- (1) by clause 9 (1) makes a consequential amendment;
- (m) by clause 9 (m) makes a consequential amendment;
- (n) by clause 9 (n) requires a fee to be paid for the subletting of areas leased for the purpose of oyster farming;
- (o) by clause 9 (o) makes a machinery amendment;

- (p) by clause 9 (p) makes machinery amendments;
- (q) by clause 9 (q) deals with the surrender of a lease for the purpose of oyster farming;
- (r) by clause 9 (r) makes further provision with respect to the determination of a way of access over an area leased for the purpose of oyster farming;
- (s) by clause 9 (s) removes the prohibition on the payment of compensation in certain cases;
- (t) by clause 9 (t) makes a machinery amendment;
- (u) by clause 9 (u) consolidates the provisions with respect to the cancellation of leases;
- (v) by clause 9 (v) makes a consequential amendment;
- (w) by clause 9 (w) consolidates the provisions with respect to prohibiting in certain circumstances the taking of oysters from an area leased for oyster farming or from Crown lands or from a public oyster reserve;
- (x) by clause 9 (x) makes a machinery amendment;
- (y) by clause 9 (y) makes a consequential amendment;
- (z) by clause 9 (z) enables a public authority or trustees for public recreation or other public purpose to prevent the declaration of a public oyster reserve in respect of any land under its or their control;
- (aa) by clause 9 (aa) makes further provision with respect to the protection of areas leased for the purpose of oyster farming;
- (ab) by clause 9 (ab) makes further provision with respect to the cutting of mangroves;
- (ac) by clause 9 (ac) makes a consequential amendment.
- 10. Clause 10 amends the Principal Act and makes provision for the establishment and operation of fish farms. It also makes provision for the insertion in the Principal Act of a new Part governing works of dredging or reclamation.
 - 11. Clause 11 amends the Principal Act and-
 - (a) by clause 11 (a) enables certain costs and charges to be sued for;
 - (b) by clause 11 (b) authorises in respect of certain offences the service of infringement notices having the same effect as like notices under the Motor Traffic Act, 1909;
 - (c) by clause 11 (c) requires an offence in relation to which a boat is seized to be prosecuted before the Supreme Court in its summary jurisdiction if forfeiture of the boat is sought;
 - (d) by clause 11 (d) makes further provision with respect to the seizure of boats, nets, other fishing gear and articles or fish;
 - (e) by clause 11 (e) makes provision for the forfeiture of boats, fishing gear and other articles or fish that have been seized;

- (f) by clause 11 (f) makes further provision with respect to forfeiture where there has been a seizure;
- (g) by clause 11 (g) makes consequential amendments;
- (h) by clause 11 (h) makes consequential amendments;
- (i) by clause 11 (i) makes a consequential amendment;
- (j) by clause 11 (j) makes a consequential amendment;
- (k) by clause 11 (k) makes a machinery amendment;
- (1) by clause 11 (1) introduces new offences in connection with the actions of inspectors in the course of their duty;
- (m) by clause 11 (m) makes a consequential amendment;
- (n) by clause 11 (n) makes a consequential amendment;
- (o) by clause 11 (o) introduces an evidentiary provision relating to certain boundaries and instruments;
- (p) by clause 11 (p) makes a consequential amendment;
- (q) by clause 11 (q) makes a consequential amendment;
- (r) by clause 11 (r) authorises the making of regulations to prevent the selling of fish in an inferior condition;
- (s) by clause 11 (s) makes a consequential amendment;
- (t) by clause 11 (t) makes a machinery amendment;
- (u) by clause 11 (u) repeals the provision penalising the burning of live oysters for lime;
- (v) by clause 11 (v) makes further provision with respect to the possession or sale of prohibited size fish and introduces a new offence relating to official notice boards;
- (w) by clause 11 (w) enables the Minister to require repairs to be made to a fishway or a fish by-pass and to require the inclusion of a suitable fish ladder or fish by-pass in a dam constructed by a public authority;
- (x) by clause 11 (x) makes further provision with respect to the removal of posts and cultivation from areas leased for oyster farming or fish farming.
- 12. Clause 12 amends the Principal Act and-
 - (a) by clause 12 (a) enlarges the powers of the Governor to make regulations;
 - (b) by clause 12 (b) increases the penalty that may be imposed for a breach of the regulations from \$100 to \$500 and the daily penalty for a continuing offence against the regulations from \$10 to \$50.
- 13. Clause 13 amends certain descriptions relating to the prohibitions on net fishing in certain waters.

- 14. Clause 14 is the operative provision for Schedule 1 to the Bill and provides for increases in penalties.
- 15. Clause 15 makes a consequential amendment to the Co-operation Act, 1923.
- 16. Clause 16 gives effect to Schedule 2 to the Bill which contains the savings and transitional provisions consequent upon the amendments to the Principal Act.

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A BILL

To make further provisions with respect to fisheries and fishing and oyster farms; to create certain offences; to increase certain penalties; to establish an Amateur Fishermen's Advisory Council; for these and other purposes to amend the Fisheries and Oyster Farms Act, 1935, and the Co-operation Act, 1923; and for purposes connected therewith.

[MR GRIFFITH—30 October, 1974.]

 \mathbf{BE}

BE it enacted by the Queen'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 the same, as follows:—

- 1. This Act may be cited as the "Fisheries and Oyster Short title. Farms (Amendment) Act, 1974".
- 2. (1) This section and sections 1, 3, 4 (a) and (b), Commence-14 and 16 commence on the date of assent to this Act.
- (2) Subject to subsection (1), the several provisions of this Act shall commence upon such day or days (being a day that is, or days that are, later than the date of assent to this Act) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in 15 the Gazette.
- (3) The Governor may, by a proclamation under subsection (2) or by another proclamation, make any necessary amendment of section 3 of the Principal Act consequential upon the commencement of a provision of this 20 Act.
 - 3. The Fisheries and Oyster Farms Act, 1935, is in this Principal Act referred to as the Principal Act.
 - 4. The Principal Act is amended—

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Amendment of Act No. 58, 1935.

- (a) by omitting from section 2 (5) the words "Inter- Sec. 2.

 pretation Act of 1897" and by inserting instead the (Savings.)
 words "Interpretation Act, 1897";
 - (b) (i) by omitting from the matter relating to Sec. 3.

 Division 6 of Part III in section 3 the matter (Division "41" and by inserting instead the matter "40c";
 - (ii) by omitting from section 3 the matter relating to Division 5 of Part IV;

(iii)

(III)	by omitting from the matter relating to	
	Division 6 of Part IV in section 3 the matter	
	"56" and by inserting instead the matter "56A";	
(;)	by amitting the definition of "Crown lands" in S	20

5 (c) (i) by omitting the definition of "Crown lands" in Sec. 4. section 4 (1) and by inserting instead the (Interpretation.)

"Crown lands" means-

- (a) land submerged by territorial
 waters, not being land vested in
 a person other than the Crown
 or a public authority or trustees
 for public recreation or for any
 other public purpose;
 - (b) the foreshore; and
 - (c) a training wall, breakwater, retaining wall or guide-bank the property in which is vested in the Crown or in such an authority or such trustees,

but does not include land the subject of a lease under this Act.

- (ii) by omitting the definition of "Engine" in section 4 (1);
- (iii) by inserting in the definition of "Fish" in section 4 (1) after the word "fishes," the words "(whether indigenous or not) their young, fry and spawn";
- (iv) by omitting the definitions of "Fixed engine",

 "Gaff" and "Hand-line" in section 4 (1)

 and by inserting instead the following definitions:—

"Fish farm" means lands or waters to which a permit under section 90c relates.

"Fishing gear" includes any implement, apparatus or device for taking or facilitating the taking of fish.

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(v)

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	(v)	by omitting the definitions of "Market" and "Original owner" in section 4 (1) and by inserting instead the following definitions:— "Market" means any fish market established,
5 (100)		controlled or operated by a trading society in accordance with section 40G or conducted and managed pursuant to section 41D (1) (a) or established and maintained pursuant to section 41D
10		(1) (b) (i) and any other fish market established by the council of a city, municipality or shire under the Local Government Act, 1919, and the lands,
15		improvements and works provided or used for or in connection with such a fish market.
20		"Master" in relation to a boat includes a person who for the time being has the command, charge or management of the boat.
25		"Net" includes a cod end, bag, wing or any other portion of a net, irrespective of how it may be attached to the net, and all ropes, boards or other articles attached thereto.
	(vi)	by omitting the definition of "Oyster farm" in section 4 (1) and by inserting instead the following definition:—
30	."puien	"Oyster farm" means an area leased under Part V for the purpose of laying or planting oysters on, and of dredging or taking oysters from, that area.
	(vii)	by inserting after the definition of "Prescribed" in section 4 (1) the following definitions:—
35		"Prohibited size fish" means a fish (other than an oyster) prescribed by the regulations as a prohibited size fish.
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	"Prohibited size eveter" manns
	"Prohibited size oyster" means— (a) spat; or
5	(b) an oyster the measurement or weight of which is less than the prescribed minimum measurement or weight for marketable oysters.
	"Public authority" means—
10	 (a) a body, corporate or unincorporate, established by or under an Act for a public purpose; or
	(b) a corporation sole so constituted for such a purpose.
15	(viii) by omitting from the expression "Recognised hauling ground" in section 4 (1), and from the definition of that expression in that section, the word "hauling" wherever occurring and by inserting instead the word "fishing";
20	(ix) by omitting from the definition of "Recognised hauling ground" in section 4 (1) the words "haul and land" and by inserting instead the words "use or operate";
25	(x) by inserting after the definition of "Salmon" in section 4 (1) the following definition:—"Sell" includes—
	(a) sell by wholesale or by retail or by auction or by tender;
	(b) barter or exchange;
	(b) barter or exchange;(c) supply for profit;
30	나는 항문 이번 그렇게 마른 사람이 가는 전에 다른 나는 사람들이 가장 하게 되었다면 하는 것이 되었다면 하게 되었다면 하는데 이번 없다면 하는데

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	(f) cause, suffer or allow to be done anything referred to in paragraph (a), (b), (c), (d) or (e).
5	(xi) by omitting from the definition of "Set line" in section 4 (1) the words "any unattended line" and by inserting instead the words "any line not held in the hand, or not attached to fishing gear held in the hand, which is";
10	(xii) by omitting the definition of "Spat" or "Undersize oysters" in section 4 (1);
	(xiii) by omitting the definition of "Take" in section 4 (1) and by inserting instead the following definition:—
15	"Take" in relation to fish includes catch, capture, kill or enclose the fish or remove, extract or separate the fish from rocks or any material or structure or from the bed of any waters.
20	(xiv) by omitting the definition of "Tidal waters" in section 4 (1);
	(xv) by omitting the definition of "To sell" in section 4 (1);
25	(xvi) by omitting the definition of "Trading society" in section 4 (1) and by inserting instead the following definition:—
30	"Trading society" means a trading society registered under the Co-operation Act, 1923, the objects of which include, expressly or impliedly, the marketing of fish.
	(xvii) by omitting section 4 (2) and by inserting instead the following subsection:—
35	(2) Where, in a provision of this Act, there is a reference to territorial waters, or to waters generally, the reference is to all waters, wherever
	(0)

wherever situated, in relation to which the provision, or another provision dependent thereon, may lawfully operate.

5. The Principal Act is further amended—

Further amendment of Act No. 58, 1935.

- 5 (a) by omitting section 5 and by inserting instead the Sec. 5. following section:—
 - 5. Subject to this Act, it is the duty of the Duties of Minister to protect, develop and regulate the fisheries of New South Wales.
- (b) by omitting sections 7 and 8 and by inserting instead Secs. 7, 8. the following sections:—
 - 7. (1) The Minister may appoint honorary fisheries rangers for the purposes of this Act. Honorary fisheries rangers.
 - (2) An honorary fisheries ranger—
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 (a) may exercise and perform such of the powers, authorities, duties and functions of an inspector of fisheries as are prescribed for the purposes of this section and as are specified in the instrument of his appointment;

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- (b) may operate in respect of the whole of the State or such part or parts thereof as is or are specified in the instrument of his appointment; and
- (c) shall be appointed for the term of office specified in the instrument of his appointment.
 - (3) The Minister may extend the term of appointment of an honorary fisheries ranger.

(4)

- (4) The Minister may, for any cause which to him seems sufficient, remove from office an honorary fisheries ranger.
- (5) An honorary fisheries ranger shall be deemed to have vacated his office if he—
 - (a) dies;

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- (b) resigns his office by letter addressed to the Minister;
- (c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- (d) is removed from office by the Minister.
- 15 (6) A warrant of appointment under this section issued to an honorary fisheries ranger and purporting to be signed by the Under Secretary or by a prescribed officer is, after the appointee has signed it, evidence of his appointment.
- 20 (7) A person appointed under this section as an honorary fisheries ranger is guilty of an offence and liable to a penalty not exceeding \$50 unless, not later than thirty days after he resigns his office or is removed from office, he surrenders to the Under Secretary his warrant of appointment.
 - 8. The Minister shall, as soon as practicable after Annual the thirtieth day of June in each year, cause to be report. prepared a report on the fisheries and shall cause a copy thereof to be laid before each House of Parliament.
 - (c) (i) by omitting from section 12 the words "leased Sec. 12.

 area" and by inserting instead the words (Inspector
 may enter
 certain
 lands.)

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Fisheries and Oyster Farms (Amendment).

Act No.

- (ii) by inserting at the end of section 12 the following subsections:—
 - (2) Upon complaint on oath by an inspector that he has reason to suspect than an offence against this Act is being committed, or is about to be committed, on any land or waters, a justice may issue a warrant authorising any inspector, for the purpose of gaining access to that land or those waters to enter, with or without vehicles and equipment, upon land that is not land used solely for residential purposes.
 - (3) Nothing in subsection (2) affects the operation of subsection (1).
 - (4) A person authorised by the Under Secretary for the purposes of this subsection has, in relation to an oyster farm or a fish farm, the powers conferred on an inspector by subsection (1).
- 20 (d) (i) by omitting from section 13 the word "under-Sec. 13.

 size" wherever occurring and by inserting (Power to search shops.)
 - (ii) by inserting in section 13 after the word "taken" where firstly occurring the words ", or in the possession of a person,";
 - (iii) by inserting in section 13 (b) after the word "taken" the words ", or in the possession of a person,";
- (iv) by omitting from section 13 (c) the words "of fish taken" and by inserting instead the words "of fish and oysters taken, or in the possession of a person,";

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- (e) (i) by omitting from section 14 (a) the words Sec. 14.

 "engines, nets" and by inserting instead the words "nets or other fishing gear";

 (Further powers of inspectors.)
 - (ii) by omitting section 14 (b) and by inserting instead the following paragraph:—
 - (b) examine any nets or other fishing gear found in any place whatsoever;
 - (iii) by omitting from section 14 (c) the words "engine, net, or" and by inserting instead the words "or any net or other fishing gear, or any";
 - (iv) by omitting from section 14 (d) and (e) the words "or other person in charge of any boat" wherever occurring and by inserting instead the words "of any boat which the inspector has reasonable grounds to suspect is";
 - (v) by omitting section 14 (f) and by inserting instead the following paragraph:—
 - (f) require a person who is on a boat which the inspector has reasonable grounds to suspect is required to be licensed under this Act, or who is engaged in fishing, or whom the inspector may reasonably suspect of having offended against this Act, to state his full name and address;
 - (vi) by omitting section 14 (g) and by inserting instead the following paragraphs:—
 - (g) require a person found in circumstances in which he is guilty of an offence unless he is the holder of, or in possession of, a license, permit,

consent,

consent, certificate of registration or other authority under this Act to produce the license, permit, consent, certificate of registration or other authority;

- (h) require the master of a boat which-
 - (i) he has reasonable grounds to suspect is being used for doing anything in contravention of this Act; or
 - (ii) has on board any fish that he has reasonable grounds to suspect have been taken in contravention of this Act,

to take the boat forthwith to a specified port or landing place;

- (i) require a person taking fish by means of a net or other fishing gear to lift the net or other fishing gear from the water.
- (vii) by inserting at the end of section 14 the following subsection:—
 - (2) Where an inspector has reasonable grounds to doubt the identity of a person who, pursuant to a requirement under subsection (1), produces a license or permit required to be signed by the holder, he may require that person to sign his name in the presence of the inspector for comparison with the signature on the license or permit.

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(f)

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(f) by inserting after section 15 (3) the following Sec. 15. subsections :fish for (4) A permit issued under this section after the scientific purposes.) commencement of section 5 (f) of the Fisheries and Oyster Farms (Amendment) Act, 1974, remains in force for such period, not exceeding twelve months, as is specified therein. (5) The regulations may prescribe a fee for the issue of a permit under this section to a class 10 of persons specified in the regulations and may prescribe different fees for different classes of persons. (i) by omitting from section 16 (1) (c) the words Sec. 16. "ocean and estuarine" and by inserting instead (Minister may institute 15 the word "any"; experiments.) (ii) by omitting from section 16 (1) (d) the word "biological" and by inserting instead the word "scientific"; (iii) by inserting in section 16 (2) after the word "Gazette" the words "with the prescribed 20 consent"; (iv) by inserting in section 16 (2) after the word "lands" where firstly occurring the words "(not being lands dedicated for any public 25 purpose) specified in the notification"; (v) by omitting from section 16 (2) the words "shall have and may" and by inserting instead the words "may, subject to any conditions imposed under subsection (5),"; (vi) by inserting in section 16 (3) after the word 30 "Minister" the words ", subject to any conditions imposed under subsection (5),"; (vii)

- (vii) by inserting after section 16 (3) the following subsections:—
 - (4) For the purposes of this section, the prescribed consent is—
- (a) where the Crown lands are within the impounded waters of a dam or reservoir used primarily for domestic water supply—the consent of—
 - (i) the authority controlling the dam or reservoir;
 - (ii) the Minister administering the Public Health Act, 1902; and
 - (iii) the Minister administering the Public Works Act, 1912;
 - (b) where the Crown lands are Crown lands within the meaning of the Crown Lands Consolidation Act, 1913—the consent of the Minister administering that Act; and
 - (c) where the Crown lands are not Crown lands referred to in paragraph (a) and are vested in or under the control of a public authority or of trustees for public recreation or for any other public purpose—the consent of that authority or those trustees.
 - (5) An authority or person entitled to give the prescribed consent for the purposes of this section may give the consent subject to conditions.

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(h)	by	inserting	after	section	16	the	following Sec. 16A.
	sect	tion:—					

- 16A. (1) The Minister may, by notification Aquatic published in the Gazette with the prescribed reserves. consent, declare Crown lands (not being lands dedicated for any public purpose) specified in the notification to be an aquatic reserve.
- (2) For the purposes of subsection (1), the prescribed consent is—
- (a) where the Crown lands are within the impounded waters of a dam or reservoir used primarily for domestic water supply—the consent of—
 - (i) the authority controlling the dam or reservoir;
 - (ii) the Minister administering the Public Health Act, 1902; and
 - (iii) the Minister administering the Public Works Act, 1912;
- (b) where the Crown lands are Crown lands within the meaning of the Crown Lands Consolidation Act, 1913—the consent of the Minister administering that Act; and
- (c) where the Crown lands are not Crown lands referred to in paragraph (a) and are vested in or under the control of a public authority or of trustees for public recreation or for any other public purpose—the consent of that authority or those trustees.
- 30 (3) An authority or person entitled to give the prescribed consent for the purposes of this section may give the consent subject to conditions.

(4)

(4) Publication of a notification under this
section operates to prohibit, except as provided by
the regulations, the taking of any fish from waters
on the land specified in the notification.

- (i) (i) by omitting section 17 (1) and (2) and by Sec. 17. inserting instead the following subsections:— (Works relating to fisheries,
 - (1) In this section "Crown lands" means—etc
 - (a) Crown lands within the meaning of this Act, other than lands dedicated for a public purpose; and
 - (b) Crown lands within the meaning of the Crown Lands Consolidation Act, 1913.
 - (2) The Minister may cause to be constructed, or constructed and operated, or enter into an agreement with any person for the construction and operation of—
 - (a) fishery improvement works;
 - (b) a hatchery, a research station, a laboratory, a fishery field station, an experimental fish farm or any other establishment for the investigation, development and management of the fisheries of New South Wales; or
 - (c) any other prescribed work,

if, in the case of any such construction or operation on Crown lands, he first obtains the prescribed consent.

- (2A) Notwithstanding any other provision of this Act, the Minister may authorise a person, or a body of persons corporate or unincorporate, to—
 - (a) control and manage any fish hatchery, race or spawning ponds;

(b)

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5	(b) carry out practical operations in connection with the hatching and rearing of a specified species of fish and do and perform all things necessary for the successful propagation of that species of fish;
	(c) capture and strip any specified species of fish at any time during spawning or close seasons,
10	on such terms, and subject to such conditions, as he specifies when giving his authority.
	(2B) For the purposes of subsection (2), the prescribed consent in relation to the doing of anything on any Crown lands is—
15	(a) where the Crown lands are within the impounded waters of a dam or reservoir used primarily for domestic water supply—the consent of—
20	(i) the authority controlling the dam or reservoir;(ii) the Minister administering the Public Health Act, 1902; and
	(iii) the Minister administering the Public Works Act, 1912;
25	(b) where the Crown lands are Crown lands within the meaning of the Crown Lands Consolidation Act, 1913—the consent of the Minister administering that Act; and
30 35	(c) where the Crown lands are not Crown lands referred to in paragraph (a) and are vested in or under the control of a public authority or of trustees for public recreation or for any other public purpose, the consent of that
<i>33</i>	public purpose—the consent of that authority or those trustees.

- (2c) An authority or person entitled to give the prescribed consent for the purposes of this section may give the consent subject to conditions.
- (2D) A person to whom authority is given under subsection (2A) or a member of an unincorporated body to which any such authority is given, is guilty of an offence if he contravenes the terms upon which, or the conditions subject to which, the authority was granted.
 - (ii) by omitting from section 17 (3) the word "section" and by inserting instead the word "Act";
- (iii) by omitting section 17 (4), (5) and (6);
 - (j) by inserting after section 17 the following Sec. 17A. section:—
- 17A. (1) Any land required for the purposes Acquisition of section 17 (2) may, with the prescribed consent of land for certain in the case of Crown lands that are not vested in purposes. the Minister, be acquired by purchase, resumption or appropriation under the Public Works Act, 1912.
 - (2) An acquisition under subsection (1) is for an authorised work within the meaning of the Public Works Act, 1912, and the Minister is the Constructing Authority within the meaning of that Act.
 - (3) For the purposes of this section—
 - (a) the prescribed consent is the same consent as would be required for the doing of anything on the land under section 17 (2);
 - (b) section 17 (2c) applies in respect of any such consent.

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- (4) The Minister may, for the purposes of section 17 (2), grant a lease of land acquired under this section.
- 6. The Principal Act is further amended by inserting Further amendment of Act No.

 5 after Part II the following Part:—

 8 amendment of Act No.

 58, 1935.

 Part IIA.

PART IIA.

AMATEUR FISHERMEN'S ADVISORY COUNCIL.

- 17B. (1) The Minister may constitute an Amateur Amateur Fishermen's Advisory Council which shall have and may Fishermen's Advisory exercise and discharge the powers, authorities, duties Council and functions conferred and imposed on the Council by this Act.
- (2) The Council shall consist of not less than six, and not more than ten, persons appointed by the Minister from prescribed organisations.
 - (3) The Minister shall appoint a member of the Council to be Chairman of the Council.
- (4) Subject to this section, a member of the Council holds office for such period, not exceeding five years, as is specified in the instrument of his appointment and shall be eligible for re-appointment.
 - (5) A member of the Council vacates his office if he—
 - (a) dies;
- 25 (b) resigns his office by writing under his hand addressed to the Minister;

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Fisheries and Oyster Farms (Amendment).

- (c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- (d) is removed from office by the Minister.
- (6) On the occurrence of a vacancy in the office of a member the Minister may appoint an eligible person to fill the vacant office and a person so appointed shall, subject to this section, hold office for the residue of the term of office of his predecessor.
 - (7) In the absence of the Chairman at any meeting the members shall elect one of their number to preside as Chairman.
- 15 (8) A majority of members shall form a quorum for the purposes of any meeting of the Council and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Council.
- 20 (9) A member of the Council is entitled to receive remuneration for his services, and travelling expenses, at such rate as may be fixed from time to time by the Minister.
- of the Council and for the conduct of business at those meetings, shall, subject to any regulations made in relation thereto, be as determined by the Council.

17c. The Council-

Duties of Council.

(a) shall act as a liaison body between the Minister and amateur fishermen;

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- (b) shall advise the Minister on matters referred to it by him in relation to amateur fishing; and
- (c) may advise the Minister on other matters relating to amateur fishing and make such representations as it thinks fit in relation thereto.

17D. The Council shall furnish to the Minister such Furnishing reports and statements of account arising out of the of reports, etc., by Council's activities as the Minister may require.

7. The Principal Act is further amended—

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Further amendment of Act No. 58, 1935.

- 10 (a) (i) by omitting from section 18 (1) (a) the Sec. 18.

 words "prohibit the taking of fish from tidal (Prohibition or restriction of instead the words "absolutely or conditionally certain prohibit the taking of fish, or a specified class waters.)

 15 of fish, from any waters or from specified waters";
 - (ii) by omitting from section 18 (1) (b) the words ", but no such period shall exceed twelve consecutive months";
- 20 (iii) by omitting section 18 (2);
 - (iv) by omitting section 18 (3) and by inserting instead the following subsection:—
- (3) A provision of a notification under subsection (1) may vary in its application according to matters specified in the notification.
 - (v) by omitting section 18 (4);

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Fisheries and Oyster Farms (Amendment)	arms (Amendment).
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- (vi) by inserting after section 18 (4) the following subsection:—
 - (4A) Regulations may be made for giving effect to notifications under this section.
- 5 (vii) by omitting from section 18 (5) the words "or proclamation";
 - (viii) by omitting from section 18 (6) the words "or proclamation";
- (ix) by omitting section 18 (7) and by inserting instead the following subsections:—
 - (7) Subject to subsection (7A), a person is guilty of an offence if he is found in or on or adjacent to any waters and—
 - (a) he is in a boat that contains fishing gear and the taking of fish in those waters is, at that time, prohibited absolutely;
 - (b) he is in a boat that contains fishing gear and—
 - (i) the use of that boat;
 - (ii) the use of that quantity or class of fishing gear; or
 - (iii) the use of that boat with that quantity or class of fishing gear aboard,

for the taking of fish in those waters is, at that time, prohibited;

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- (c) he is in possession of fishing gear and the taking of fish in those waters is, at that time, prohibited absolutely; or
- (d) he is in possession of fishing gear and the use of that quantity or class of fishing gear (whether aboard a boat or not) in those waters is, at that time, prohibited.
- (7A) It is a defence to a prosecution for an offence referred to in subsection (7) if it is proved that, at the time of the commission of the alleged offence, the relevant boat or fishing gear was in or on or adjacent to the waters to which the charge relates in accordance with the terms of a permit, issued by an inspector in or to the effect of the prescribed form, to take the boat or fishing gear to other waters.
- (b) (i) by omitting from section 19 (1) the words Sec. 19.

 "whatsoever for the purpose of taking, or which is adapted to take or capable of taking, fishing of fish";

 "the words Sec. 19.

 (Closing against net fishing of Brisbane Water and part of Port Hacking and
 - (ii) by omitting section 19 (4) (a) and by waters.) inserting instead the following paragraph:—
 - (a) that the net which is the subject of the charge is a prescribed dip, scoop or landing net; or;
 - (iii) by omitting section 19 (5);

(c) by inserting before section 20 the following Part III, heading:—

DIVISION 1A.—Importation of live fish.

- (d) by omitting from section 20 the word "proclama- Sec. 20.
 tion" wherever occurring and by inserting instead or restriction of landing of certain fish in New South
 - (e) by inserting after section 20 the following matter: Sec. 20A.
- 20A. (1) A person who imports into New South Imported Wales live fish (not being fish of a class exempted live fish.

 10 by the regulations from the operation of this section) is guilty of an offence if he hatches, rears, sells, gives, transports, disposes of or deals in any way with the fish unless he is licensed under this section as an importer of live fish and has complied with the terms upon which, and the conditions subject to which, the license was issued.

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- (2) The Minister may cause a license to be issued under this section on such terms, and subject to such conditions, as the Minister thinks are necessary—
 - (a) to prevent the spread of disease among fish in territorial waters; and
 - (b) to prevent fish imported into New South Wales from being noxious fish within the meaning of Division 1B.
- (3) Where the holder of a license under this section is guilty of an offence under subsection (1), the Minister may cancel or suspend the license.

DIVISION

3

Fisheries and Oyster Farms (Amendment).

DIVISION 1B.—Noxious fish.

20B. For the purposes of this Division, a fish is Interpretaincluded in a species of fish notwithstanding that it is a race or variation or a domesticated form, or a hybrid, of that species.

20c. (1) Where, by order published in the Noxious Gazette, the Governor declares that a fish of a fish. species specified in the order is a noxious fish in—

(a) any waters;

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- (b) a specified class of waters; or
- (c) any waters other than waters of a specified class,

the fish is, for the purposes of this Division, a noxious fish if it is in those waters.

15 (2) An order under subsection (1) takes effect on the day of publication or on a later day specified in the order.

20D. A person is guilty of an offence if he sells a Sale of certain fish live fish of a species to which an order under section prohibited. 20c relates (whether or not the fish, before or after the sale, is in waters in which it is a noxious fish) unless the fish is sold with the consent of the Minister and in accordance with any terms and conditions imposed by the Minister when giving his consent.

20E. (1) An inspector, or a person authorised Destruction by the Under Secretary in writing for the purpose, of noxious may seize and destroy any live noxious fish.

- (2) The Minister may give notice to the owner or occupier of land on which noxious fish are located to destroy the noxious fish within the period specified in the notice.
- (3) If a person to whom a notice is given under subsection (2) does not, within the period specified in the notice, destroy the noxious fish to which the notice relates the Minister may, by his authorised agents, enter upon the land on which the 10 noxious fish are situated (not being a dwelling house) and take such measures to destroy the noxious fish as the Minister thinks fit.

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- (4) Compensation is not payable in respect of the seizure or destruction of any fish, noxious or otherwise, in the course of exercising the powers conferred by this section.
- (5) Any costs and expenses incurred by the Minister in the exercise of his powers under subsection (3) upon non-compliance with a notice 20 are recoverable in a court of competent jurisdiction as a debt to the Crown owed by the person to whom the notice was given.
 - 20F. The Minister may enter into an agreement Assistance with the owner or occupier of any land for the in destrucsupply of poison or appliances or services for noxious destroying noxious fish on the land, either free of fish. cost or otherwise.
- 20g. (1) Upon complaint on oath that an warrant inspector has reasonable cause to suspect that live to enter navious fish are leasted an area feed land. 30 noxious fish are located on specified land, a stipendiary magistrate may issue his warrant authorising the inspector to enter on that land for the purpose of searching for and seizing and destroying any noxious fish on the land.

- (2) Subsection (1) does not apply in respect of an entry on land made under section 20E (3).
- (f) by inserting in section 21 (1) after the word Sec. 21.

 "lobster," the words "or any other species of fish (Taking of certain fish illegal during prescribed periods.)
 - (g) by omitting section 22;

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Sec. 22. (Female crayfish.)

(h) by inserting after Division 2 of Part III the Part III, following Division:—

DIVISION 2A.—Restricted fisheries.

- 22A. (1) The Minister may, by order published Restricted in the Gazette, declare that fish of a specified class fishery. are, or that specified waters are, a restricted fishery.
- (2) A person who, for the purpose of sale, takes or attempts to take any fish of a class the subject of an order under subsection (1), or any fish in waters the subject of such an order, is guilty of an offence unless—
 - (a) he is the holder of a license under section 25 and of a permit under this section; and
 - (b) in taking or attempting to take the fish, he complies with the conditions subject to which the license and permit were issued.

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Fisheries and Oyster Farms (Amendment).

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- (3) The Minister may, by an order under subsection (1) or by another order published in the Gazette—
- (a) specify the maximum number of permits that may be in force under this section at any time in relation to a restricted fishery specified in the order;
 - (b) specify the maximum quantity of fish that may be taken during a specified period from a restricted fishery specified in the order, being—
 - (i) where the restricted fishery comprises a specified class of fish—fish of that class; or
 - (ii) where the restricted fishery comprises specified waters—any fish in those waters; or
 - (c) specify both matters referred to in paragraphs (a) and (b).
- 20 (4) Regulations may be made for and with respect to—
 - (a) the issue, operation, suspension or cancellation of permits under this section, the terms and conditions subject to which they have effect and the persons who may impose any such terms and conditions; and
 - (b) giving effect to an order under this section.

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- (i) by inserting before section 23 the following Sec. 22B. section:—
 - 22B. A boat the use of which for taking fish for Exemptions sale is authorised under the law of another State from licensing. or of the Commonwealth and a person so authorised to take fish for sale shall, to the extent, if any, prescribed by the regulations, be deemed to be licensed under section 24 or 25, as the case may require.
- (j) (i) by omitting from section 23 (1) the words Sec. 23.

 "whether tidal waters or inland waters,";

 (Boats used for taking
 - (ii) by omitting section 23 (2), (3), (4), (5), of fish must be licensed.)
- (iii) by omitting from section 23 (8) the words ", whether tidal waters or inland waters,";
 - (k) (i) by omitting from section 24 (1) the words Sec. 24.

 "outside but adjacent to the territorial waters (Fishing in of New South Wales" and by inserting instead territorial the words "other than waters referred to in waters.) section 23";
 - (ii) by omitting section 24 (2);
 - (iii) by omitting from section 24 (3) the words "of New South Wales";
- (1) by inserting after section 24 the following Secs. 24A, sections:—
 - 24A. (1) In this section "license" means a Provisions applicable to certain licenses.
 - (2) Where the prescribed application for, or for the renewal of, a license is made, the Minister or a prescribed officer may issue or renew, or refuse to issue or renew, the license.

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- (3) A license is issued subject to such conditions as may be prescribed and to such conditions as may be specified in the license.
- (4) The Minister may, in prescribed circumstances, cancel or suspend a license.
- (5) Different classes of licenses may be prescribed according to—
 - (a) the different classes of boats, as specified in the regulations, in respect of which the licenses are to be issued;
 - (b) the different periods, as so specified, for which the licenses are to be in force; or
- (c) such other matters as may be so specified, or according to more than one of the matters specified in paragraphs (a), (b) and (c).
- (6) Except to the extent that its duration is affected by subsection (7) or (8) or by suspension, or unless it is sooner cancelled, a license of a prescribed class remains in force for the period prescribed in respect of a license of that class.
- (7) Where application is duly made for the renewal of a license and the renewal is not granted before the expiration of the license—
 - (a) the license continues in force until the renewal is granted or refused; and
 - (b) the renewal may be granted notwithstanding that, but for this subsection, the license would have expired.

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- (8) Where a license is continued in force under subsection (7), it may not be renewed to expire on a date later than the date on which it would have expired had a renewal been granted on the date on which, but for being so continued in force, it would have expired.
- (9) The fee for the issue of a license and the manner of payment thereof may be prescribed by the regulations and different fees may be prescribed for different classes of licenses.
- (10) For the purposes of this Act, the fact that a boat is licensed is evidence that fish landed from the boat, or on or taken by use of the boat, are fish landed or taken for sale.
- 24B. A certificate purporting to be signed by the Evidence. Under Secretary or by a prescribed officer and certifying that, at a time, or during a period, specified in the certificate—
 - (a) a specified boat was or was not licensed under section 23 or 24; or
 - (b) a specified boat was or was not within a specified class of boats.

is evidence of the matters certified.

- (m) by omitting section 25 and by inserting instead the sec. 25. following section:—
 - 25. (1) A person who—

Fishermen to be

(a) takes fish, or attempts to take fish, from licensed. territorial waters; or

(b) lands fish in New South Wales,

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for the purpose of selling them is guilty of an offence unless he is the holder of a fisherman's license under this section or is otherwise authorised by or under this Act to take the fish, or to land the fish, for that purpose.

- (2) Where the prescribed application for, or for the renewal of, a fisherman's license is made, the Minister or a prescribed officer—
 - (a) may issue or renew the license if he is satisfied—
 - (i) in the case of an application for a renewal of a fisherman's license that the major portion of the income of the applicant from personal exertion is derived from the taking and sale of fish; or
 - (ii) in any other case—that the applicant has the necessary qualifications to engage successfully in commercial fishing operations and that he proposes, if issued with the license, to earn the major portion of his income from personal exertion from the taking and sale of fish; or
 - (b) may refuse to issue or renew the license.
- (3) A fisherman's license is issued subject to such conditions as may be prescribed and to such conditions as may be specified in the license.

- (4) The Minister may, in prescribed circumstances, cancel or suspend a fisherman's license.
- (5) Different classes of licenses under this section may be prescribed according to—

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- (a) the different classes of persons, as specified in the regulations, to whom they may be issued;
- (b) the different periods, as so specified, for which the licenses are to be in force; or
- (c) such other matters as may be so specified, or according to more than one of the matters specified in paragraphs (a), (b) and (c).
- (6) A fisherman's license is not transferable.
 - (7) Except to the extent that its duration is affected by subsection (8) or (9) or by suspension, or unless it is sooner cancelled, a fisherman's license of a prescribed class remains in force for the period prescribed in respect of a license of that class.
 - (8) Where application is duly made for the renewal of a fisherman's license and the renewal is not granted before the expiration of the license—
 - (a) the license continues in force until the renewal is granted or refused; and
 - (b) the renewal may be granted notwithstanding that, but for this subsection, the license would have expired.

- (9) Where a fisherman's license is continued in force under subsection (8), it may not be renewed to expire on a date later than the date on which it would have expired had a renewal been granted on the date on which, but for being so continued in force, it would have expired.
- (10) Except for the purpose of calculating the duration thereof, a fisherman's license has no force or effect until it is signed by the licensee.
- 10 (11) The fee for the issue or renewal of a fisherman's license, and the manner of payment thereof, may be prescribed by the regulations and different fees may be prescribed for different classes of licenses.
- 15 (12) The fact that a person is the holder of a fisherman's license is evidence that fish found in his possession—
 - (a) were taken from territorial waters; or
 - (b) were landed in New South Wales,
- for the purpose of selling them.
 - (13) The holder of a fisherman's license is guilty of an offence if he contravenes the conditions to which his license is subject.
- (n) (i) by omitting from section 25A (a) the words Sec. 25A.

 "sections fifteen, seventeen, and twenty-five (Application of this Act" and by inserting instead the matter sion.)

 "section 15, 17, 25 or 90c, and their employees, while engaging in the activity authorised by the permit, authority or license issued";

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(ii)

- (ii) by omitting from section 25A (b) the matter "Aborigines Protection Act, 1909–1943" and by inserting instead the matter "Aborigines Act, 1969";
- 5 (o) by omitting section 25B and by inserting instead Sec. 25B. the following section:—
 - 25B. (1) A person to whom this Division Persons applies is guilty of an offence and liable to a penalty fishing in inland waters to be licensed.
 - (a) he takes, or attempts to take, fish from any inland waters; or
 - (b) he has in his possession in or on or adjacent to any inland waters any fishing gear,
- unless he is the holder of an inland angling license under this section.

- (2) Where the prescribed application for an inland angling license is made, the Minister or a person authorised by him may issue the license.
- 20 (3) An inland angling license is issued subject to such conditions as may be prescribed and to such conditions as may be specified in the license.
- (4) The Minister may, in prescribed circumstances, cancel or suspend an inland angling license.

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Fisheries and Oyster Farms (Amendment).

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- (5) Different classes of inland angling licenses may be prescribed according to—
 - (a) the different classes of persons, as specified in the regulations, to whom the licenses are to be issued;
 - (b) the different periods, as so specified, for which the licenses are to be in force; or
- (c) such other matters as may be so specified; or according to more than one of the matters specified in paragraphs (a), (b) and (c).
 - (6) An inland angling license is not transferable.
 - (7) Except to the extent that its duration is affected by suspension or unless it is sooner cancelled, an inland angling license of a prescribed class remains in force for the period prescribed in respect of a license of that class.
 - (8) Except for the purpose of calculating the duration thereof, an inland angling license has no force or effect until it is signed by the licensee.
 - (9) The fee for the issue of an inland angling license, and the manner of payment thereof, may be prescribed by the regulations and different fees may be prescribed for different classes of licenses.
 - (10) An inland angling license expressed to be for the purpose of fishing in a specified place or a specified class of places or for the purpose of taking fish by a specified method is not an inland angling license in respect of anything done for any other purpose.

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Fisheries and Oyster Farms (Amendment).

(11) The holder of an inland angling license is guilty of an offence and liable to a penalty not exceeding \$100 if he contravenes the conditions to which his license is subject.

3	(p) (i)	by omitting from section 25c (1) the word Sec. 25c. "hereinafter" and by inserting instead the (Establishment of Inland Fisheries
	(ii)	by omitting section 25c (2) and by inserting Fund.) instead the following subsection:—

(2) There shall be paid to the credit of the Fund—

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- (a) all fees received for inland angling licenses reduced, where any person has been specially authorised by the Under Secretary to issue those licenses, by such commission in respect of each license issued by him as is specified in the authority under which he issues licenses;
- 20 (b) the proceeds of the sale of the produce of any operation under section 17 (2) in inland waters;
 - (c) such moneys as are appropriated by Parliament;
 - (d) moneys received from any person pursuant to section 8B; and
 - (e) all other moneys required by this Act to be paid to the credit of the Fund.
 - (iii) by omitting from section 25c (3) (e) the word "and" where secondly occurring;

(iv)

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Fisheries and Oyster Farms (Amendment).

- (iv) by omitting section 25c (3) (f) and by inserting instead the following paragraphs:—
 - (f) the payment of grants-

(i) to persons, institutions or organisations approved by the Minister, for the purpose of carrying out approved research or management projects relating to inland fisheries; and

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(ii) for the establishment of approved scholarships,

subject to such terms and conditions as may be determined by the Minister;

- (g) the costs and other expenses incurred for the purchase of land adjacent to inland waters or land giving access to those waters; and
- (h) the costs of such additional classes of works or services as may be prescribed.

20 (q) by inserting after Division 3A of Part III the Part III.

following Divisions:—

The Part III.

Divis.

3B and 3c.

DIVISION 3B.—Tidal Angling Fund.

25D. (1) An account shall be kept in the Special Tidal Deposits Account in the Treasury, to be called the Angling Fund. "Tidal Angling Fund", in this section referred to as the "Fund".

(2) There shall be paid to the credit of the Fund such moneys as are appropriated by Parliament or are received from any person for the purposes of the Fund pursuant to section 8B.

(3)

- (3) The Fund shall be used for the investigation, survey, management, development and protection of the sport and game fisheries in territorial waters other than inland waters including, in connection therewith—
 - (a) the payment of grants—

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- (i) to persons, institutions or organisations approved by the Minister, for the purpose of carrying out research or management projects into the sport or game fisheries in those waters; and
 - (ii) for the establishment of approved scholarships,
- subject to such terms and conditions as may be determined by the Minister;
- (b) the costs and other expenses incurred for the purchase of land adjacent to those waters or land giving access to those waters; and
- (c) the costs of such additional classes of works or services as may be prescribed.

DIVISION 3c.—Commercial Fisheries Exploration and Development Fund.

- 25 25E. (1) An account shall be kept in the Commercial Special Deposits Account in the Treasury, to be Fisheries called the "Commercial Fisheries Exploration and Develop Development Fund", in this section referred to as ment Fund. the "Fund".
- (2) There shall be paid to the credit of the Fund such moneys as are appropriated by Parliament or are received from any person for the purposes of the Fund pursuant to section 8B.

(8)

(3)

- (3) The Fund shall be applied towards such expenses as may be approved by the Minister in connection with any project of an exploratory or developmental nature associated with fisheries for the benefit of the commercial fishing and oyster farming industries.
- (r) by omitting from the heading to Division 4 of Part Part III, III the word "Nets" and by inserting instead the Div. 4. words "Nets and other fishing gear":
- 10 (s) by omitting section 26 and by inserting instead the Sec. 26. following section:—
 - 26. (1) The regulations may provide for the Registration registration of a specified class, or of specified of nets and classes, of nets or other fishing gear and may gear.
 - (a) the method of registration;
 - (b) the period for which the registration remains in force;
 - (c) the conditions under which the registration may be transferred; and
 - (d) the fee to be paid for registration or a transfer of registration.
 - (2) Where a class of nets or other fishing gear is registrable under the regulations, a person who uses an unregistered net or other fishing gear of that class is guilty of an offence and liable to a penalty not exceeding \$20.
 - (t) (i) by omitting section 27 (1) and by inserting Sec. 27.
 instead the following subsection:—

 (Regulations as to lawful nets and
 (1) The regulations may, for the purposes certain other

(1) The regulations may, for the purposes certain of subsection (3), prescribe that a specified fishing use is a lawful use for a specified class of net or other prescribed fishing gear.

(ii)

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	(ii) by omitting section 27 (2) and by inserting
	instead the following subsection:—
	(2) Nothing in the regulations affects any prohibition imposed by section 18.
	(iii) by omitting section 27 (3) and by inserting instead the following subsections:—
W.	(3) A person is guilty of an offence if he—
)	(a) uses a net or other prescribed fishing gear and—
	(i) that use is not a lawful use for that net or other fishing gear prescribed by or under this Act; or
5	(ii) that net or other fishing gear is not a net or fishing gear for which a lawful use has been prescribed by or under this Act; or
0	(b) is in or on or adjacent to any waters and is in possession of a net or other prescribed fishing gear for which a lawful use in those waters has not been prescribed.
5	(3A) A person who is guilty of an offence under subsection (3) is liable—
	(a) where he holds a license under section 25—to a penalty not exceeding \$500 or
0	(b) in any other case—to a penalty no exceeding \$100.
	(iv) by omitting section 27 (5) and (6);

(u) by omitting from section 28 the word "undersize" Sec. 28.

wherever occurring and by inserting instead the (Method of dragging or drawing or drawing nets.)

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- (v) (i) by inserting in section 29 (1) after the word Sec. 29.

 "who" the words ", except as permitted by or (Waters not to be under this or any other Act,"; stalled.)
 - (ii) by omitting from section 29 (1) the words "in tidal or inland waters, in such manner that fish enclosed thereby" and by inserting instead the words "in such a manner that fish";
 - (iii) by inserting in section 29 (1) after the word "destroyed" the words "or that the free passage of fish may be obstructed";
 - (iv) by inserting at the end of section 29 the following subsections:—
 - (3) A court that convicts a person of an offence referred to in subsection (1) or (2) may, by the conviction, order that person to remove, within a specified time, the obstruction to which the information for the offence relates.
- (4) Where an order made under subsection
 (3) is not complied with, the Minister may cause the obstruction to which the order relates to be removed and may recover the cost of the removal as a debt in a court of competent jurisdiction.
- 25 (w) (i) by omitting from section 30 (1) the words Sec. 30.

 "tidal or inland water" and by inserting instead (Wilful damage to nets by certain
 - (ii) by inserting in section 30 (1) after the word means.) "boat" the words ", surf board, water ski, aquaplane or similar equipment";
 - (iii) by omitting from section 30 (2) the words "tidal or inland water" and by inserting instead the word "waters";

Fisheries and Oy	yster Farms	(Amendment).	
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	Fisheries and Oyster Farms (Amendment).				
	(x)	(i)	by omitting from section 31 the words "hauling a net on to" and by inserting instead the words "operating a net on";	(Set or unattended nets	
5		(ii)	by omitting from section 31 the word "hauling" where secondly occurring and by inserting instead the word "fishing";	obstructing fishing ground may be removed.)	
		(iii)	by omitting from section 31 the words "such hauling" and by inserting instead the words "the operation of his net";		
10	(y)	(i)	by omitting from section 32 the word "hauling" where firstly occurring and by inserting instead the word "fishing";	(Placing obstruction on recog-	
15		(ii)	by omitting from section 32 the words "hauling and landing" and by inserting instead the word "operation";	nised fishing ground.)	
		(iii)	by inserting at the end of section 32 the following subsections:—	15	
20			(2) A court that convicts a person of an offence referred to in subsection (1) may, by the conviction, order that person to remove, within a specified time, the obstruction to which the information for the offence relates.	20	
25			(3) Where an order made under subsection (2) is not complied with, the Minister may cause the obstruction to which the order relates to be removed and may recover the cost of the removal as a debt in a court of competent jurisdiction.	25 (w	
30	(z)	by secti	inserting after section 32 the following on:—	Sec. 32A.	
			penalty not exceeding \$50 if ne	with fishing	
35		(a) uses a hoat surf hoard water ski aquanlane	operations, etc.	
			1000 girio cu		

recognised fishing ground in such a manner and in such proximity thereto as to disturb, or be likely to disturb, schooling fish, or fish travelling in a school or shoal; or

5 (b) uses a boat, surf board, water ski, aquaplane or similar equipment, in any waters in a manner that unreasonably interferes with the operations of a fisherman lawfully fishing in those waters or waiting to carry on lawful fishing in those waters,

and does not desist when requested so to do by an inspector.

- (aa) (i) by omitting from section 33 (1) the words Sec. 33. "tidal or inland"; (Dynamite and
 - (ii) by omitting from section 33 (2) the words explosive substances.)
 - (iii) by omitting from section 33 (5) (c) (ii) the words "tidal and inland";
 - (iv) by omitting from section 33 (5) (c) (ii) the words "tidal or inland";
- (ab) (i) by omitting from section 34 (1) the words Sec. 34. "tidal or inland"; (Poisonous materials,
 - (ii) by omitting from section 34 (2) the words chemicals and waste products.)
- 25 (ac) by omitting section 35;

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Sec. 35. (Consignment of Murray cod, etc., ungutted and ungilled.)

		Fisheries and Oyster Farms (Amendment).					
	(ad)	(i) by inserting in section 36 (1) after the word "gutted" the words "or have the gills removed or be treated or processed in any manner prescribed";	(Gutting,				
5		(ii) by omitting from section 36 (1) the words "from any boat engaged in fishing in ocean waters" and by inserting instead the words "or before being moved to an ice-house or refrigerated chamber or into cold storage";					
10		(iii) by omitting section 36 (2);					
		(iv) by omitting section 36 (3);					
		(v) by omitting section 36 (4);					
		(vi) by omitting section 36 (5);					
	(ae)	by omitting section 37;	Sec. 37. (Packing of fish.)				
15	(af)	by omitting section 38 and by inserting instead the following section:—					
		38. (1) A person is guilty of an offence and liable to a penalty not exceeding \$50 if he consigns fish in a container for sale—					
20		(a) without marking legibly on the outside of the container or on a label attached thereto—					
25		(i) his full name and address, specifying that it is the name and address of the consignor;					
		(ii) the name of the place from which the fish are consigned; and					
30		(iii) where he is not the owner of the fish and different fish in the con- tainer are not owned by different					
		persons, the full name and address of the owner of the fish, specifying that it is the name and address of					
		the owner of the fish; or					
		(b)					

- (b) where different fish in the container are owned by different persons and are not consigned by a trading society.
- (2) Where a trading society consigns fish in a container on behalf of a member for sale, the society sufficiently complies with subsection (1) (a) (iii) if, instead of the full name and address of the owner of the fish, it marks the outside of the container, or a label attached thereto, in a manner that, from records kept by the society at its registered office, would enable an inspector readily to identify the owner of the fish.

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- (3) An inspector may require an officer of a trading society that consigns fish to produce for his inspection the records of the society referred to in subsection (2).
 - (4) In any proceedings under this Act with respect to fish consigned in a container for sale—
 - (a) the fact that the container or a label attached thereto bears the name of only one person is evidence—
 - (i) that that person was the consignor of the fish; and
 - (ii) where that person receives and accepts payment for any fish in the container—that that person is the owner of all the fish in the container and was offering them for sale; or
 - (b) the fact that the container or a label attached thereto bears the name of a person as consignor and the name of another person as owner is evidence—
 - (i) that the person named as consignor was the consignor of the fish; and

(ii)

- (ii) where the person named as owner receives and accepts payment for any fish in the container—that that person is the owner of all the fish in the container and was offering them for sale.
- (ag) by omitting section 39 (2);

Sec. 39. (Standard containers.)

- (ah) by omitting from section 40 the words ", as Sec. 40. amended by subsequent Acts" wherever occurring; (Persons authorisecto sell fish.)
- 10 (ai) (i) by omitting section 40B (1) and by inserting Sec. 40B. instead the following subsection:— (Sale of fish.)
 - (1) A person who sells fish other than fish exempted by the regulations from the operation of this subsection is guilty of an offence unless—
 - (a) the sale of the fish is a sale because—
 - (i) they are sold in a market by wholesale or by retail or by auction or by tender;
 - (ii) they are bartered or exchanged in a market;
 - (iii) they are supplied in a market for profit;
 - (iv) they are offered in a market for sale, received in a market for sale or exposed in a market for sale;
 - (v) they are in the possession of a person for selling in a market; or

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(vi) they are consigned or delivered for selling in a market;

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- (b) the fish are sold in accordance with subsection (2); or
- (c) the fish have previously been disposed of through a market or in accordance with subsection (2).
- (ii) by omitting section 40B (2) and by inserting instead the following subsection:-
- (2) Fish are sold or disposed of in accord-10 ance with this subsection if the sale or disposal-

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- (a) is a sale or disposal by the holder of a permit issued under section 40c, is in accordance with the provisions of the permit and complies with any conditions applicable to the permit;
- (b) is a sale or disposal by a fisherman to the holder of a permit issued under section 40c;
- (c) is a sale or disposal by a fisherman who is the holder of a consent issued under section 40p and complies with any conditions specified in the consent; or
- (d) is a sale or disposal to the holder of a certificate of registration issued under section 40E.
- (iii) by omitting section 40B (4);

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- (aj) by omitting section 40c and by inserting instead the Secs. 40c-following sections:—
 - 40c. (1) Where application is made to the Permit Authority for a permit under this section in respect to sell of specified premises, the Authority may, after of market. taking into consideration—
 - (a) whether the premises in respect of which application is made are suitable for receiving, storing, selling and distributing fish;
 and
 - (b) such other matters as the Authority considers to be relevant,

issue, or refuse to issue, a permit authorising the holder of the permit to sell by wholesale at those premises fish that have been taken by him in accordance with this Act or purchased by him from a fisherman.

- (2) A permit under this section is issued subject to such conditions as may be prescribed and subject to such conditions as may be specified in the permit.
- (3) The Authority may, for any cause which to the Authority seems sufficient, cancel or suspend a permit issued under this section.
- (4) A permit issued under this section is not transferable.
- (5) Unless sooner cancelled or suspended, a permit issued under this section remains in force for such period as may be prescribed.

40p. (1) Upon payment of the prescribed fee, Consent to the Authority may issue to a fisherman a consent sales of in writing to sales of fish by the fisherman and may fish. cancel or suspend any such consent.

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- (2) A consent under subsection (1)—
- (a) is issued subject to such conditions as are specified therein;
- (b) shall specify as a condition that a sale made pursuant to the consent shall be made only in a specified area; and
- (c) remains in force for such period as may be prescribed.
- 40E. (1) For the purposes of this section Registration "canning" includes bottling, and "processing" means of canners of fish, etc.

 preserving, curing, smoking, drying, salting or subjecting to a prescribed process.
- (2) Upon payment of the prescribed fee, the Minister may issue to a person engaged in the business of canning or processing fish a certificate of registration as a canner or processor of fish and may cancel or suspend any such certificate.
 - (3) A certificate under subsection (2)—
 - (a) is issued subject to such conditions as are specified therein; and
- (b) remains in force for such period as may be prescribed.

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- 40F. An appeal lies, as prescribed, to the Appeals. Minister against—
 - (a) a refusal by the Authority to issue a permit under section 40c or a consent under section 40c; or
 - (b) the suspension or cancellation of such a permit or consent.
- 40G. (1) A trading society shall not establish, Trading control or operate a market unless—societies
 - (a) the Minister after a report and recommendation to him by the Authority so approves;
 - (b) the society complies with and observes the terms, conditions and stipulations to which the approval is subject.
- (2) The Minister may, after a report and recommendation to him by the Authority, by notice in writing to a trading society—
 - (a) suspend for a period specified in the notice, or revoke, any approval given to the society under subsection (1): or
 - (b) from time to time vary or amend the terms, conditions and stipulations subject to which he approved the establishment, control or operation of a market by the society.
- (3) A variation under subsection (2) (b) of a term, condition or stipulation does not take effect in relation to a trading society until fourteen days after notice thereof is given to the society.
- for the purpose by the Under Secretary in writing may, at a reasonable time and for the purpose of ascertaining whether the terms, conditions and stipulations

stipulations subject to which an approval under subsection (1) was given to a trading society are being complied with and observed—

- (a) examine the books, documents and records of the society;
- (b) enter and inspect any market established, controlled or operated by the society; and
- (c) require any member, officer or employee of the society to answer, either orally or in writing, such questions as are put to him with respect to the affairs of the society, or to produce any book, document or record of the society that is in his possession or under his control.
- 15 (5) An approval given by the Governor under section 10A of the Co-operation Act, 1923, and in force immediately before the commencement of this section continues in force after that commencement as if it had been granted by the Minister under this section at that commencement.
 - (ak) (i) by omitting section 41A (9) (c) and (d) Sec. 41A.

 and by inserting instead the following (Fish Marketing Authority.)
 - (c) becomes a bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment of his salary or allowances as a member, or of his estate, for their benefit;
 - (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;

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- (ii) by omitting from section 41A (17) the words "or any Act amending that Act,";
- (iii) by omitting from section 41A (17) the words "the provisions of any such Act" and by inserting instead the words "those provisions";
- (iv) by omitting from section 41A (18) (b) the words "or any Act amending such Acts,";
- (v) by omitting from section 41A (18) (b) the words ", or any amendment thereof";
- (vi) by omitting from section 41A (18) (c) the words "or any amendment thereof,";
 - (vii) by omitting from section 41A (18) (c) the words ", or any Act amending such Acts";
- (viii) by omitting from section 41A (18) (d) the words "or any amendment thereof," wherever occurring;
 - (al) (i) by omitting from section 41c (2) (f) (ii) the Sec. 41c. words ", as amended by subsequent Acts"; (Transfer of rights
- (ii) by omitting from section 41c (2) (f) (iii) (a) liabilities and the words "or any amendment thereof," property to wherever occurring;
 - (iii) by omitting from section 41c (2) (f) (iii) (a) the words ", as amended by subsequent Acts";
 - (iv) by omitting from section 41c (2) (f) (iv) the words ", as amended by subsequent Acts";
 - (am) (i) by omitting from section 41D (1) (b) (v) the Sec. 41D. word "boxes" and by inserting instead the (Powers of the word "containers";

 Authority.)
- 30 (ii) by omitting from section 41D (1) (b) (vi) the word "boxes" and by inserting instead the word "containers";

(iii)

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- (iii) by omitting from section 41D (1) (b) (vi) the words "as may be agreed upon" and by inserting instead the words "as may be determined by the Authority";
- (iv) by omitting section 41D (2);

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- (v) by omitting from section 41D (3) the words "as amended by subsequent Acts,";
- (an) (i) by inserting in section 41E (1) after the word Sec. 41E. "market" the words "conducted, managed, (Method of established or maintained by the Authority"; fish.)
 - (ii) by inserting in section 41E (2) (a) after the word "market" the words "referred to in subsection (1)";
- (ao) by omitting from section 411 (d) the word Sec. 411.

 "wharves." and by inserting instead the following (Expenditure from fund.)

wharves;

- (e) any expenditure that the Minister may approve for the purpose of research into the marketing of fish and oysters;
- (f) any advance made pursuant to section 41D(1) (b) (vii).
- (ap) (i) by omitting from section 42 (1) the words Sec. 42.

 "and in one or more newspapers circulating (Returns.)
 in the locality in which the operations are carried on";
 - (ii) by inserting after section 42 (4) the following subsections:—
- (4A) A person who, under subsection (1), is required to furnish a return shall keep a copy of the return for a period of one year after it has been furnished and shall deliver up the copy to an inspector on demand.

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(4B) A person authorised in writing by the Under Secretary may, and an inspector may, for the purpose of checking the information in a return under this section, at all times enter a market, shop, place of business, cool store, smokehouse, cannery or factory, or any other place, where any operation referred to in subsection (2) is carried on by a person who furnished the return and inspect any books of account, records or other documents relating to that operation.

(4c) A person who carries on any operation referred to in subsection (2) shall, where the Under Secretary gives him notice in writing so to do, produce for inspection by a person specified in the notice all books of account, records and other documents that are in the possession or under the control of that person and relate to that operation.

(iii) by inserting in section 42 (5) after the words "such return" the words ", or who fails otherwise to comply with any provision of this section,";

The Principal Act is further amended—

Further amendment of Act No. 58, 1935.

25 (a) by omitting from section 44 (1) the words "hatch-Sec. 44. ing, rearing, distribution," and by inserting instead (Registrathe word "distribution";

acclimatisation societies.)

(b) by omitting section 45;

Sec. 45. (Property in certain trout.)

- (c) (i) by omitting from section 46 the word sec. 46. "Governor" and by inserting instead the word (Acclimatisa-"Minister"; (ii) by omitting from section 46 the words "this grounds, Part of this Act or the regulations made in etc.) 5 relation to any of the matters referred to therein" and by inserting instead the words "this Act"; (i) by omitting from section 47 (1) the words Sec. 47. 10 "Colonial Treasurer" and by inserting instead (Accounts.) the word "Minister"; (ii) by omitting from section 47 (1) the words ", and shall be published once at least in a newspaper circulating within the area in 15 respect of which the society is registered"; (iii) by inserting in section 47 (2) after the word "months" the words "or such other period as the Minister may determine in a particular case"; 20 (iv) by omitting from section 47 (2) the words ", or fails to publish the same as directed in subsection one of this section"; (v) by omitting from section 47 (2) the words "Colonial Treasurer" and by inserting instead the word "Minister"; 25 (vi) by omitting from section 47 (2) the words "received in respect of fees or fines";
 - (e) (i) by omitting from section 48 (2) (a) the words Sec. 48.

 "hatching, rearing,";

 (Cancella tion of
- 30 (ii) by omitting from section 48 (2) (a) the words registration.)
 "by post";

- (iii) by omitting section 48 (2) (b) and (c);
- (iv) by inserting after section 48 (2) the following subsection:—
- (2A) If no representations are made by a society within one month after the service on the society of a notice under subsection (2)

 (a) or, if after consideration of any such representations made by a society the Minister is satisfied that the society has for a period of three months or upwards failed to take proper steps to carry out the objects referred to in subsection (2) (a) the Governor may, by notification published in the Gazette on the recommendation of the Minister, cancel the registration of the society.
 - (v) by omitting section 48 (3) (a) and (b);
 - (vi) by omitting from section 48 (3) (c) the words "this Part of";
 - (vii) by omitting from section 48 (3) (d) the words "this Part of";
 - (viii) by omitting from section 48 (3) (f) the matter "1899, or any Act replacing the same" and by inserting instead the matter "1961";
 - (f) by omitting section 49;

Sec. 49. (Trout hatcheries.)

25 (g) by omitting section 49A;

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Sec. 49A. (Trout farms.)

(h) by omitting section 50;

Sec. 50. (Close season for trout.)

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- (i) (i) by omitting from section 55 the words "buys, Sec. 55. sells or exposes or consigns for sale any trout, (Salmon or trout or who"; (Salmon or trout roe.)
 - (ii) by omitting from section 55 the words "buys, sells or exposes or consigns for sale, or" and by inserting instead the words "sells or";
- (j) by inserting after section 55 the following Sec. 55A. section:—
- 55A. (1) A person who sells trout is guilty of Sale of an offence unless—
 - (a) he is the holder of a permit under section 90c or a permit issued by the Minister under this section; and
- (b) he complies with the terms and conditions subject to which the permit was issued.
 - (2) The Minister may impose terms and conditions when issuing a permit under this section.
 - (k) by omitting section 56 (a), (b) and (c);

Sec. 56. (Penalty for doing certain things.)

(1) by omitting section 56A;

Sec. 56A. (Exemptions.)

- 20 (m) (i) by omitting section 57 (b) and by inserting Sec. 57. (Regulations.)
 - (b) providing for the variation of the objects of any acclimatisation society;

- (ii) by omitting section 57 (c) and by inserting instead the following paragraph: -
 - (c) for and with respect to permits under section 55A and the issue thereof.
- 5 The Principal Act is further amended—

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Further amendment of Act No. 58, 1935.

- (a) by omitting from the heading to Part V the words Part V. "OYSTERS, OYSTER FARMS, AND LEASED AREAS" and by inserting instead the words "OYSTER FARMING";
- (b) by omitting section 58 and by inserting instead the Sec. 58. 10 following section:-
 - 58. (1) Subject to this Part, the Minister may, Grant of upon application or by auction or by public tender oyster lease. or by ballot, lease Crown lands for the purpose of oyster farming whether or not the Crown lands are vested in Her Majesty.

- (2) The regulations may prescribe the form of a lease under subsection (1) and may provide in the form for the inclusion of such additional covenants and conditions as the Minister may determine.
 - (3) The initial term of any lease granted under this section shall not exceed fifteen years.
- (4) An application for a lease of land under this section does not operate to prevent the Minister 25 from leasing the land by auction or by public tender or by ballot.
 - (5) The Minister may not grant a lease under this section of a recognised fishing ground or any part thereof.

(6)

- (6) The Minister may, as a convenant or condition of a lease under this section, require the lessee to pay, in addition to the rent under the lease, a prescribed annual contribution towards the cost of carrying out, under the direction of the Minister, scientific investigations into oyster farming, the amount of the contribution being based on the extent of the area leased.
- Minister for a lease under this section of land that appears to the Minister to be available for lease, the Minister shall cause to be published in the Gazette and in a newspaper circulating in the area in which the land is situated, a notice of receipt of the application, specifying in the notice that written objections to the granting of the lease may be lodged with the Under Secretary before the expiration of a period specified in the notice.
- (8) Where a notice is published under subsection (7), the Minister shall not make a decision in respect of the application to which the notice relates until—
 - (a) the time limited for lodging objections to the granting of the lease has expired; and
 - (b) he has considered any objections duly lodged.
 - (c) (i) by omitting section 59 (1);

Sec. 59. (Rentals.)

(ii) by inserting in section 59 (2) after the word "lease" the words "(other than a lease let by auction or tender)";

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Fisheries and Oyster Farms (Amendment).

- (iii) by inserting in section 59 (2) after the word "Minister" the words "but, where a lessee is granted a renewal or further renewal of his lease, the value of improvements shall not be taken into account when assessing the rental under the renewed lease";
- (iv) by inserting in section 59 (3) after the word "lease" the words "(other than a lease let by auction or tender)";
- (v) by inserting after section 59 (5) the following subsection:—

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- (5A) Notwithstanding anything in subsection (2) or (5), the rent for a lease to a prescribed person or a person included in a prescribed class of persons shall not be less than the rent prescribed in respect of such a person.
- (d) by omitting section 60 and by inserting instead the Sec. 60. following section:—
- 60. (1) Subject to this section, the Minister Renewal of may, upon application being made not earlier than lease. the commencement of the prescribed period before expiration of a lease under this Part, renew and from time to time further renew, the lease for a term not exceeding fifteen years for the renewal and for each further renewal.
- (2) Subject to this Part, the covenants and conditions upon which a renewal or further renewal of a lease may be granted under subsection (1) are the same as the covenants and conditions upon which the Minister could, at the time of the renewal or further renewal, grant a lease.

- (3) Where application is duly made for the renewal or further renewal of a lease under this Part and the renewal or further renewal is not granted before the expiration of the lease—
 - (a) the lease continues in force until the renewal or further renewal is granted or refused; and
- (b) the renewal or further renewal may be granted notwithstanding that, but for this subsection, the lease would have expired.

(e) by omitting section 61;

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Sec. 61. (Leases of special lands.)

(f) by omitting section 62;

Sec. 62. (Leases of average lands.)

(g) by omitting section 63;

Sec. 63. (Leases of inferior lands.)

(h) by omitting section 64;

- Sec. 64. (Natural oysterbeds.)
- (i) by omitting from section 65 (1) the words Sec. 65. 15 "which is classified as special lands" and by (Preferent inserting instead the words "which the Minister rights.) has decided to lease by auction or by public tender or by ballot";
- (ii) by omitting section 65 (2) and by inserting 20 instead the following subsection:—
 - (2) Where—
 - (a) a lease of an area under this Part expires;

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- (b) the former lessee did not duly apply for renewal or further renewal of the lease;
- (c) in the opinion of the Minister the former lessee has substantially observed and performed the covenants and conditions of the lease; and
- (d) the former lessee applies, within thirty days after the expiration of the lease, for a lease of the area,

the former lessee has a preferent right, as against any other applicant, to a lease of the area.

- (iii) by inserting in section 65 (3) (a) after the word "right" the words "as against any other applicant";
- (iv) by omitting section 65 (3) (b) and (c);
- (v) by omitting from section 65 (3) (d) the words "and to the rights conferred by subsection two of section sixty-two and subsection four of section sixty-three of this Act";
- (vi) by omitting section 65 (4);
- (vii) by inserting in section 65 (5) after the word "area" the words "and any preferent right arising under this section ceases upon the Minister refusing to lease the area to which the right relates";
- (j) by inserting after section 65 the following Sec. 65A. section:—
- 65A. (1) It is a condition of a lease that the area Lease to be leased be maintained in a tidy condition.

 Lease to be maintained in a tidy condition.

- (2) The Minister may, by notice in writing served on a lessee, require the lessee, within the period specified in the notice, to carry out such work (including the removal of posts, oyster cultivation or any other thing from the area leased) as the Minister considers to be necessary to achieve compliance with the condition referred to in subsection (1).
- (3) Where a lessee fails to comply with the requirements of a notice served on him under subsection (2)—
 - (a) he shall be deemed to be in breach of the condition of his lease referred to in subsection (1);
 - (b) he is guilty of an offence; and
 - (c) the Minister may, by his authorised agents, enter the area leased and cause to be done therein such things as are necessary to achieve compliance with those requirements (other than a requirement as to time).
- (4) Where the Minister causes any work to be done under subsection (3) (c) within the area of a lease, he may sell or otherwise dispose of anything removed from that area and shall apply the proceeds of any such sale towards the costs and expenses of—
 - (a) the sale;

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- (b) the disposal of anything not sold; and
- (c) the carrying out of the work,
- and, where those proceeds are insufficient to recoup those costs and expenses, the balance may be recovered in a court of competent jurisdiction as a debt to the Crown owed by the lessee.

- (5) Compensation is not payable to a lessee in respect of anything done under this section.
- (k) (i) by omitting section 66 (2) and by inserting Sec. 66.
 instead the following subsection:

 (Improvements on expired leases.)
 - (2) Where a lessee has duly applied for a renewal or further renewal of his lease, he shall not be required, as a condition of the granting of the renewal or further renewal, to pay for any improvements.
- (ii) by omitting from section 66 (3) the words "classified as special lands" and by inserting instead the words "to be leased by auction or by public tender";

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- (1) by omitting from section 67 the words "and the Sec. 67.

 right of any inspector to enter upon such area"; (Property and rights conferred by lease.)
 - (m) by omitting from section 68 (2) the words "tidal Sec. 68. water" and by inserting instead the words "waters (Oysters not to be taken between sunset and
- (n) (i) by omitting from section 69 the words "an Sec. 69.

 oyster farm" and by inserting instead the words (Subletting prohibited.)
 - (ii) by inserting in section 69 after the word "Minister" the words "and any such consent may be given subject to the payment of such fees as may be prescribed";

sunrise.)

(iv)

Fisheries and Oyster Farms (Amendment). (o) by omitting section 70; Sec. 70. (Abutting Crown lands not included in lease.) (p) (i) by omitting from section 72 the words "in the Sec. 72. (Leased area lease"; -how described.) (ii) by omitting from section 72 the words "or oyster farm in a manner sufficient to allow of 5 their identification"; (q) by omitting section 73 and by inserting instead the Sec. 73. following section:-73. A lessee under this Part may, with the con-Surrender sent of the Minister and on payment of the pre- of leases. 10 scribed fee, surrender the whole or part of his lease by an instrument in the prescribed form. (i) by omitting from section 74 (1) the words "to Sec. 74. determine a way of access to such adjoining (Way of land over a part of the foreshore comprised in be deter-15 such area" and by inserting instead the words mined by "for the determination of a way of access over a part of the leased area"; (ii) by omitting from section 74 (1) the words "notice of any such application on the owner 20 or occupier, or on the lessee, as the case may be, may, if he thinks fit," and by inserting instead the words "on the lessee notice of any such application made by the owner or occupier, may"; 25 (iii) by omitting from section 74 (2) the words "and the owner of the adjoining land";

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- (iv) by inserting after section 74 (2) the following subsection :-
 - (2A) The Minister may vary or rescind any determination, condition or direction made or given by him under this section.
- (v) by omitting section 74 (3) and by inserting instead the following subsections:-
 - (3) A failure to comply with a condition imposed upon, or a direction given to, a lessee under subsection (1) or (2) shall be deemed to be a breach of a condition of the lease of the area to which the condition or direction relates.
 - (4) The Minister may, by notification in the Gazette, withdraw from a lease any part thereof determined under this section to be a way of access.
 - (5) No compensation is payable in respect of any withdrawal referred to in subsection
- (6) In the application of subsection (1) or (2) to the determination of a way of access over land vested in or under the control of The Maritime Services Board of New South Wales, a reference to the Minister shall be construed as a reference to that Board.
 - (s) by omitting section 75 and by inserting instead Sec. 75. the following section:—
- 75. Subject to Part VB, an area leased under Reclamathis Part is so leased subject to the reclamation tion rights under rights conferred by the Crown Lands Consolidation Crown Act, 1913.

Consolidation Act, 1913.

(t)

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- (t) (i) by inserting in section 76 (1) after the word Sec. 76.

 "any" where fourthly occurring the word (Power to withdraw.)
 - (ii) by inserting in section 76 (8) after the word "Parliament" the words "or, where the land is withdrawn at the request of a public authority, by that public authority";
- (u) (i) by omitting section 78 (1) and by inserting Sec. 78.
 instead the following subsection:—
 (Power of Minister)
 - (1) Without prejudice to any other powers to cancel of the Minister with respect to the cancellation certain of a lease, the Minister may, by notice served cases.) on a lessee, call on the lessee to show cause why the lease should not be cancelled on the ground that—
 - (a) an inspector has, not earlier than one year after the commencement of the lease, reported that the leased area is not being used for the purposes for which the lease was granted;
 - (b) that the leased area is being so overstocked or otherwise mismanaged by the lessee that the production of oysters thereon has been prejudicially affected or so reduced as to threaten its partial or total destruction as an oyster bearing area; or
 - (c) that the lessee has failed to comply with a requirement in a notice under section 65A.
 - (ii) by omitting section 78 (2);
 - (iii) by omitting from section 78 (3) the words "or of the last publication thereof as the case may be";

(iv)

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- (iv) by omitting section 78 (4) and by inserting instead the following subsections:—
 - (4) Where the Minister is satisfied—
 - (a) that a leased area is so polluted by sewage matter or other contamination that oysters on the leased area are unfit for human consumption; and
 - (b) that the pollution is likely to continue indefinitely,

he may, by notification in the Gazette, cancel the lease.

(5) Where a lessee under this Part is convicted of an offence involving stealing or unlawfully receiving oysters, the Minister may, by notification in the Gazette, cancel the lease.

(v) by omitting section 79;

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Sec. 79. (Cancellation for mismanagement.)

- (w) by omitting section 80 and by inserting instead the Sec. 80. following section:—
- whole or any part of a leased area or Crown lands areas may or a public oyster reserve is from any cause reduced to such a condition that the taking of oysters therefrom ought to be suspended, or that the oysters thereon are in such a condition as to be not fit for consumption as food, he may by notification published in the Gazette prohibit the taking of oysters from that area or the Crown lands or the public oyster reserve and may rescind the notification, wholly or in part, by another notification so published.

(2)

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Fisheries and Oyster Farms (Amendment).

- (2) A person who, while a prohibition under subsection (1) is in force, takes, or attempts to take, oysters in contravention of the notification that imposed the prohibition is guilty of an offence.
- 5 (3) Where, in the opinion of the Minister the condition of a leased area to which a notification under subsection (1) relates resulted from flood, disease or other natural cause and not from mismanagement of the area by the lessee, the Minister 10 may release the lessee from payment of rent for the period for which the notification is in force, or for the period of three years that next succeeds publication of the notification, whichever is the shorter period.
- 15 (x) by omitting from section 81 (4) the words ", and Sec. 81. includes infestation with marine worms, borers or (Leased areas to other pests"; be kept free from disease.)
 - (y) by omitting section 82;

Sec. 82. (When Crown lands or public oyster reserves may be closed.)

(z) by inserting at the end of section 83 the following Sec. 83. 20 (Portions of subsection :-

Crown land may be

(2) A public oyster reserve shall not be declared leasing and in respect of any land vested in or under the con-be declared public oyster trol of a public authority or trustees for public reserves.) recreation or for any other public purpose except with the consent of that authority or those trustees.

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Fisheries and Oyster Farms (Amendment).

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(aa) (i) by omitting from section 86 (c) the words "by Sec. 86. direction or authority of the lessee, or the (Protection Minister or some duly authorised officer in the of leased areas.) service or employment of the State" and by inserting instead the following words:-

> pursuant to Part VB or, if that Part does not apply, by direction or authority of-

- (i) the lessee or the Minister:
- (ii) where the lease is over land vested in or under the control of a public authority or trustees for public recreation or any other public purpose-that public authority or, as the case may be, those trustees, with the concurrence of the Minister; or
- (iii) the Governor, where the Minister fails to concur under subparagraph (ii) and the matter is referred to the Governor by the Minister administering the Act that constitutes the public authority or trustees;
- (ii) by omitting section 86 (d) and by inserting instead the following paragraph:-
 - (d) to place upon any leased area, except for the purposes of navigation, any implement or thing likely to injure oysters or the improvements, materials or structures used on the leased area for the cultivation of oysters.
- (ab) by omitting from section 88 (a) the words "for the Sec. 88. 30 purpose of oyster culture" and by inserting instead (Persons the words "(not being lands vested in or under the mangrove control of The Maritime Services Board of New below South Wales)";

high-water mark under authority.)

(ac) by omitting section 89.

Sec. 89. (Penalty for oyster stealing by lessee.)

10. The Principal Act is further amended by inserting Further after Part V the following Parts:—

Further amendment of Act No. 58, 1935. Parts VA, VB.

PART VA.

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FISH FARMING.

90A. For the purposes of this Part, a person operates Interpretation.

- (a) if he propagates, hatches or rears fish (other than oysters) for the purpose of selling them; or
- (b) if he keeps fish artificially confined in waters not under tidal influence and, for fee, gain or reward, permits or suffers the public to have access to those waters for the purpose of taking fish.

90B. (1) A person who operates a fish farm-

Offences.

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- 15 (a) without a permit under section 90c;
 - (b) otherwise than in accordance with the terms and conditions subject to which the permit is issued;
 or
 - (c) in waters other than waters in respect of which he is the holder of such a permit,

is guilty of an offence.

(2) The operator of a fish farm referred to in section 90A (b) is guilty of an offence if, on any day, a person other than the operator or an employee of the operator takes fish, or is in possession of fish or fishing gear, within the area of land or water to which the permit for the fish farm relates unless that person is the holder of an inland angling license in force on that day.

90c.

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- 90c. (1) The Minister may, upon payment of the Permit to prescribed fee, issue a permit to operate a fish farm, operate specifying in the permit—
 - (a) the terms and conditions to which the permit is subject as determined by the Minister; and
 - (b) the land and waters in respect of which the permit is issued.
- (2) The Minister may cancel a permit for any reason which to him seems sufficient.
- 10 (3) Except where a permit is issued in respect of waters under tidal influence, the fee paid for the permit shall be credited to the Inland Fisheries Fund established under section 25c.
- 90D. (1) Subject to this section, the Minister may Lease for grant for the purposes of fish farming a lease of Crown fish farming. lands (not being lands dedicated for any public purpose) whether or not the Crown lands are vested in Her Majesty.
- (2) Part V applies to leases under this Part inthe same way as it applies to leases for the purpose of oyster farming.
 - (3) The Minister shall not lease an area under this Part without the consent of the Minister in whom, or the authority in which, control of the area is vested.
- 25 (4) A lease under this Part operates, subject to this Act and the covenants and conditions of the lease, to vest in the lessee for the time being—
 - (a) the exclusive right to take, or to cause or permit to be taken, any fish in the area leased; and
- 30 (b) a right to use, for the purposes of operating a fish farm, the waters over the area leased.

PART

01

Interpreta-

Fisheries and Oyster Farms (Amendment).

PART VB.

DREDGING AND RECLAMATION.

90E. In this Part— (a) "parson" does not include a public authority of

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- (a) "person" does not include a public authority or a local government authority;
- (b) "public authority" does not include a local government authority.
- 90F. Except as provided in section 90G (2), this Part Application applies to and in respect of all works of dredging and of Part.

 10 reclamation other than a work of dredging or reclamation carried out—
 - (a) for the purpose of removing material under the laws relating to mining;
- (b) with the approval of the Minister administering the Public Works Act, 1912, for the restoration or maintenance of a navigation channel on land not vested in or under the control of The Maritime Services Board of New South Wales;
- (c) on land vested in or under the control of The
 Maritime Services Board of New South Wales,
 where the work is for—
 - (i) the passage or accommodation of seagoing vessels; or
 - (ii) the removal of accumulated silt from a storm-water channel or the abatement of any other nuisance; or
 - (d) pursuant to directions given by the Governor under this Part.

90g.

90g. (1) In this section "public authority" includes Restriction the Minister administering the Crown Lands Consolida- on dredging or tion Act, 1913.

reclamation by a public authority.

- (2) Before a public authority carries out, or authorises the carrying out of, a work of dredging or reclamation it shall, whether or not the work is a work to which this Part applies, notify the Minister of its intention to carry out, or to authorise the carrying out of, the work.
- 10 (3) A public authority shall not carry out, or authorise the carrying out of, a work of dredging or reclamation to which this Part applies unless-
 - (a) the Minister—

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- (i) agrees unconditionally to the carrying out or authorisation of the work; or
- (ii) agrees conditionally to the carrying out or authorisation of the work and the public authority carries out, or authorises the carrying out of, the work subject to compliance with the condition; or
- (b) the work is carried out in accordance with the directions of the Governor.

90н. Where-

Minister to be notified.

(a) the Minister decides not to agree to the carrying out or authorisation by a public authority of a work of dredging or reclamation but the public authority is of the opinion, notwithstanding that disagreement, that the work should be carried out or authorised; or

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(b) the Minister decides to agree conditionally to the carrying out or authorisation by a public authority of such a work but the public authority is of the opinion that the condition should be waived or modified,

the public authority shall notify the Minister of its opinion.

- 901. (1) Not earlier than fourteen days after a public Governor authority notifies the Minister under section 90H of may give directions.

 10 its opinion with respect to a work of dredging or reclamation—
 - (a) the Minister administering the Act that established the public authority; or
- (b) where the public authority is the Minister administering the Crown Lands Consolidation Act, 1913, that Minister,

may refer the opinion and the decision to which it relates to the Governor.

- (2) Upon a reference under subsection (1) the Governor may—
 - (a) confirm or revoke the decision to which the reference relates; or
 - (b) give such directions as he thinks fit with respect to the carrying out of the work to which the reference relates.
 - 90J. Notwithstanding anything in any Act, a local Dredging government authority may not carry out any work of or reclamation by dredging or reclamation except with the consent of the local Minister and subject to any conditions imposed when government giving his consent.

90k. A person who carries out a work of dredging or Dredging reclamation is guilty of an offence unless the work—

(a) is authorised—

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Dredging or reclamation by person other than public or local government authority.

- (i) pursuant to the Crown Lands Consolida-government tion Act, 1913; or authority.
- (ii) by a public authority; or
- (b) is carried out with the consent of the Minister and in accordance with any conditions imposed when he gives his consent.
- 10 90L. (1) A local government authority, or a person, Reference dissatisfied with a decision of the Minister (not being a to local land board decision made after considering a report, or a report and of proposal recommendation, by a local land board under this section) with respect to the carrying out of a work of or dredging or reclamation, or with a condition imposed by reclamation. the Minister when giving his consent to such a work, may apply to the Minister to refer the matter to the local land board.

(2) The Minister may, of his own motion, and shall, upon an application under subsection (1), refer to the local land board for inquiry and report any proposal for a work of dredging or reclamation.

(3) Subject to subsection (4), a local land board shall inquire into, and report to the Minister upon, a proposal referred to it under subsection (2) in the same way as it inquires into, and reports upon, a matter referred to it under the Crown Lands Consolidation Act, 1913, by the Minister administering that Act.

(4)

- (4) A local land board to which a proposal has been referred under subsection (2) shall—
 - (a) report whether, in its opinion, there is any objection to the proposal in the public interest;
- 5 (b) report generally on the merits of the proposal;

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- (c) if it thinks fit, recommend the giving or refusal of consent to the proposal; and
- (d) where it recommends consent to the proposal, specify any conditions subject to which it recommends consent to the proposal.
- (5) Where the Minister refers a proposal to a local land board under subsection (2), any decision made by him with respect to his consent to the proposal or a condition to which that consent is subject ceases to have effect and no further such decision shall be made by him until he has considered the report, or the report and recommendation, of the local land board with respect to the proposal.
- (6) Section 19 of the Crown Lands Consolida-tion Act, 1913, does not apply to or in respect of a report, or a report and recommendation, by a local land board under this section.
- (7) Section 654 of the Local Government Act, 1919, does not apply in respect of a proposal in respect of which this section applies.

90m. The Minister may, in any matter arising before Representaa local land board under this or any other Act, appear tion before and be represented by his counsel, solicitor or authorised board. agent.

90N. (1) Where section 90J is contravened by a local Minister government authority or a person is convicted of an may order carrying out offence under section 90K, the Minister may, by order in of certain writing given to the authority or person concerned, work. require that authority or person to carry out, within a time specified in the order, such work so specified as, in the opinion of the Minister, is necessary to offset any damage caused to the fisheries by the unlawful dredging or reclamation.

10 (2) Where an authority or person fails to comply with an order under subsection (1), the Minister may cause the work specified in the order to be carried out and may, in a court of competent jurisdiction, recover the cost of the work as a debt owed by the authority or 15 person to whom the order was given.

The Principal Act is further amended—

Further amendment of Act No. 58, 1935.

(a) by inserting in section 91 after the word "rents" the Sec. 91. words ", costs, charges";

(Recovery

(b) by inserting after section 91 the following Sec. 91A. section :-

91A. (1) Where it appears to a member of the Payment of police force or a prescribed officer that any person fines where has committed any prescribed offence under this been served. Act, the member of the police force or prescribed officer may serve a notice on that person to the effect that if that person does not desire to have the matter determined by a court, he may pay to an officer specified in the notice at a place and within the time so specified an amount of penalty prescribed for the offence if dealt with under this section.

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- (2) A notice under subsection (1) may be served personally or by post.
- (3) A person served with a notice under subsection (1)—
- (a) has the right to decline to be dealt with under this section; and

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- (b) shall be deemed to have declined to be so dealt with if he fails to pay the amount of penalty within the time specified in the notice or within such further time as may in any particular case be allowed.
- (4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section, no person shall be liable for any further proceedings for the alleged offence.
- (5) Payment of a penalty pursuant to this section is not an admission of liability for the purpose of any action or proceeding and does not in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

(6) The regulations may—

- (a) prescribe an offence as a prescribed offence for the purposes of this section by specifying the offence or by a reference to the provision creating the offence;
- (b) prescribe the amount (not exceeding \$50) of penalty payable under this section for each prescribed offence;

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- (c) for the purposes of this section, prescribe different amounts of penalties for different offences or classes of offences, or for offences or classes of offences having regard to the circumstances thereof;
- (d) prescribe the persons or classes of persons who are prescribed officers for the purposes of this section.
- (7) No penalty prescribed under this section for any prescribed offence shall exceed any maximum amount of penalty which could be imposed for the offence by a court.
- (8) Notwithstanding any other provision of this Act, where any article other than a boat has been seized in connection with any offence to which this section applies, any notice under subsection (1) shall specify that payment of the amount of penalty within the time specified in the notice has effect as a forfeiture of the article without the necessity of any complaint being laid for that forfeiture.
- (9) The provisions of this section are supplemental to, and do not derogate from any other provisions of this or any other Act in relation to proceedings that may be taken in respect of prescribed offences.
 - (c) (i) by omitting from section 92 the words "or Sec. 92.

 police";

 (Prosecutions.)

- (ii) by inserting at the end of section 92 the following subsections:—
 - (2) Where a boat is seized under this Act, proceedings for the offence in respect of which the boat was seized may be taken before the Supreme Court in its summary jurisdiction.
 - (3) Proceedings under subsection (2) may be remitted to a court of petty sessions—
 - (a) by consent; or

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- (b) where, before the hearing of the proceedings, the seizure of a boat liable to forfeiture in the proceedings ceases to have effect.
- (4) Subsection (3) (a) does not confer on a court of petty sessions jurisdiction to order forfeiture of a boat.
 - (d) by omitting section 94 and by inserting instead the Sec. 94. following section:—
- 94. (1) Where, contrary to the provisions of Forfeitures.
 this Act or the conditions of a license, permit,
 consent or other authority—
 - (a) a net or other fishing gear, or any other article, is used by, or is in the possession of, any person or is in or on or adjacent to any waters; or
 - (b) fish are taken, sold or in the possession of any person,

the net, fishing gear, article or fish is liable to be forfeited.

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- (2) Where a person commits on or in relation to a boat an offence under section 18, 19, 21, 22A, 23, 24, 25, 27 or 116, the boat may be seized as provided by subsection (3).
- 5 (3) A boat shall be deemed to have been seized when a notice of seizure in the prescribed form, signed by the Minister or a prescribed person, is served on the master of the boat and a copy thereof is affixed to a prominent part of the boat other than the hull.
 - (4) An inspector may board a boat and affix thereto a copy of a notice of seizure relating to the boat.
 - (5) Where—

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- (a) a boat is seized under this Act;
- (b) the Minister does not exercise his powers under section 99 or 109; and
- (c) the seizure does not cease to have effect under section 96 (2),
- the boat remains under seizure until the termination of the proceedings referred to in section 96 (2).
 - (6) A person who, while a boat is under seizure—
 - (a) removes the notice of seizure affixed to the boat; or
 - (b) sells or otherwise disposes of the boat, is guilty of an offence.

- (e) by omitting section 95 and by inserting instead the Sec. 95. following section:—
 - 95. (1) Where an offence under this Act results Forfeitures. in the seizure of an article other than a boat—
 - (a) the conviction of a person of the offence;
 - (b) the making, under section 75B of the Justices Act, 1902, of an order imposing on a person a penalty in respect of that offence; or
- 10 (c) the payment of the prescribed penalty for the offence by a person on whom a notice is served under section 91A,

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operates as a forfeiture of the article.

- (2) Where, in respect of an offence under this Act, an order is made under section 556A of the Crimes Act 1900 by a court of petty sessions, the court may, if it thinks fit, make an order for the forfeiture of any article seized in connection with the offence.
- 20 (3) Where an offence under this Act results in the seizure of a boat and the Supreme Court convicts a person of the offence, the Supreme Court may, by the conviction, order forfeiture of the boat.
- (f) (i) by omitting from section 96 the words Sec. 96.

 "article has been seized as forfeited, and no proceedings" and by inserting instead the words prosecution "article (other than a boat) has been seized for offence.) and no proceedings (including proceedings under section 91A)";
- (ii) by omitting from section 96 the words "such forfeiture was incurred" and by inserting instead the words "the article was seized";

(iii)

- (iii) by omitting from section 96 the word "condemned" and by inserting instead the word "forfeited";
- (iv) by omitting from section 96 the word "forfeiture" where secondly occurring and by inserting instead the word "seizure";
- (v) by omitting from section 96 the word "condemnation" and by inserting instead the word "forfeiture";
- (vi) by inserting at the end of section 96 the following subsection:—

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- (2) Where a boat has been seized under this Act and the Minister does not exercise his powers under section 99 or 109 within the period of fourteen days that next succeeds the giving of the notice of seizure to the owner of the boat, the seizure ceases to have effect unless, within that period of fourteen days, proceedings for the offence in respect of which the seizure was made are instituted in the Supreme Court in its summary jurisdiction.
- (g) (i) by omitting from section 97 the word "articles" Sec. 97.

 where firstly occurring and by inserting instead (Justices may order forfeiture of articles.)
 - (ii) by omitting from section 97 the words "or police";
 - (iii) by omitting from section 97 the words ", and on proof that the articles are liable to forfeiture may condemn the same" and by inserting instead the words "and may order that the article be forfeited";
- (h) (i) by omitting from section 98 the words "as Sec. 98. (Disposal of perishable articles.)

(ii)

- (ii) by omitting from section 98 the words "in respect of such forfeiture" and by inserting instead the words "for forfeiture of the article";
- (i) by omitting from section 99 the word "condemna- Sec. 99.
 tion" and by inserting instead the word "forfeiture"; (Seized articles may be delivered on security.)
 - (j) by omitting section 100;

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Sec. 100. (Evidence of condemnation or forfeiture.)

- (k) by omitting from section 101 the words "all fish, Sec. 101.

 nets, engines, and other articles condemned" and (Forfeited articles by inserting instead the words "any boat or other become the article forfeited or ordered by a court to be property of the forfeited";
 - (1) by omitting section 103 (1) (c) and (d) and by Sec. 103. inserting instead the following paragraphs:—

 (c) refuses or reglects to the second of the seco
 - (c) refuses or neglects to comply with a lawful requirement of an inspector;
 - (d) falsely states his name or address when required, pursuant to this Act, to state his name and address; or
- (e) abuses, threatens or insults an inspector acting under this Act,
 - (m) by omitting from section 104 the words "or person Sec. 104. in charge of every" and by inserting instead the (Master of boat to have license on board.)

- (n) by omitting from section 107 (2) the words Sec. 107. "license, permit, registration, or authority required proof.) to be held by such person" and by inserting instead the words "license, permit, consent, certificate of registration or other authority which that person is required by this Act to have in his possession";
- (o) by inserting after section 107 the following Sec. 107A. section:—
- instrument made under this Act, a boundary is fixed by reference to the site of a post or landmark, evidence that, at a specified time not earlier than the time the provision took effect, there was a post or land mark of the kind specified in the provision at the approximate site so specified is evidence that, at that time, the boundary was marked as specified in the provision.
- (p) by omitting from section 109 (1) the word Sec. 109.

 "condemnation" and by inserting instead the word (Minister may restore seizure.)
 - (q) by omitting from section 110 the words "stipendiary Sec. 110. or police magistrate, or for any justices before (Imprisonment whom" and by inserting instead the words "court instead of before which";
- or exposes or consigns for sale any soft shelled (Inferior crayfish" and by inserting instead the words "any fish in a condition prescribed as an inferior condition":
- 30 (s) by omitting section 113;

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Sec. 113. (Persons unlawfully in possession of oysters.)

8 B.

Fisheries and Oyster Farms (Amendment).

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- (t) by inserting in section 114 after the word "taken" Sec. 114.

 the words "or of being in his possession";

 (Suspected unlawful taking or possession of fish.)

 (u) by omitting section 115;

 Sec. 115.

 (Penalty for burning live oysters for lime.)

 (v) by omitting section 116 and by inserting instead the Secs. 116.
- (v) by omitting section 116 and by inserting instead the Secs. 116, following sections:—
 - 116. (1) A person who, except as provided by Possession subsection (3), has any prohibited size fish in his size fish. possession or on his premises or in his boat, or who sells or attempts to sell any prohibited size fish is guilty of an offence and liable—
 - (a) where he holds a license under section 25—to a penalty not exceeding \$500; or
 - (b) in any other case—to a penalty not exceeding \$100.
 - (2) Where a court imposes a penalty on an offender under subsection (1) who holds a license under section 25, the court may impose a further penalty—
 - (a) in respect of each crayfish to which the offence relates—of not more than \$10; and
 - (b) in respect of each other fish to which the offence relates—of not more than 50 cents.
 - (3) This section does not apply where the prohibited size fish—
 - (a) are bait and do not exceed in number the prescribed number; or
 - (b) are fish propagated, hatched, reared or taken pursuant to a permit or approval under this Act.

116A.

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116A. A person who, without the authority of Damage, the Minister or the Under Secretary, damages, etc., to defaces or in any way interferes with or removes or notice pulls down any notice or sign, or any notice board or similar display boarding that—

- (a) purports to have been erected under the authority, or by the order, of the Minister or the Under Secretary; and
- (b) displays information regarding the operation of this Act,

is guilty of an offence and liable to a penalty not exceeding \$100.

- (w) (i) by omitting from section 117 the word Sec. 117.

 "upward";

 (Fishways to be provided in the
- (ii) by inserting in section 117 after the word construction "reservoir" where secondly occurring the of dams, words "and may, by a like order, require a etc.)

 person who has the management or control of a dam, weir or reservoir to carry out repairs to a fishway or fish by-pass";
 - (iii) by inserting at the end of section 117 the following subsection:—
- (2) Where a public authority proposes to construct a dam, weir or reservoir, it shall notify the Minister accordingly and shall, at the request of the Minister, include as part of the works for the dam, weir or reservoir, a suitable fishway or fish by-pass.

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Fisheries and Oyster Farms (Amendment).

- (x) (i) by omitting from section 118 (2) the word Sec. 118.

 "three" and by inserting instead the word (Power to require removal of posts

 (ii) by inserting in section 118 (3) after the word and cultivation.)

 "Minister" the words "or, where the leased area is vested in or under the control of a
 - area is vested in, or under the control of, a public authority, the Minister or the public authority";
- (iii) by inserting in section 118 (4) after the word "Minister" the words "or the public authority that incurred those costs and expenses";
 - (iv) by inserting after section 118 (4) the following subsection:—
- (5) A person who fails to comply with a requirement of a notice given to him under subsection (1) is guilty of an offence.
 - (y) by omitting from section 119 the words "a court of Sec. 119.

 quarter sessions" wherever occurring and by (Appeals in relation to licenses.)
- 20 12. The Principal Act is further amended—

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Further amendment of Act No. 58, 1935.

- (a) (i) by omitting section 120 (2) (b) and by Sec. 120. inserting instead the following paragraph:— (Regulations.)
 - (b) prescribing the forms or other documents required for the purposes of this Act;
 - (ii) by inserting in section 120 (2) (c) after the word "nets" where secondly occurring the words "and other matters relating to nets";

(iii)

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- (iii) by omitting section 120 (2) (d) and by inserting instead the following paragraph:—
 - (d) prescribing the fee or deposit to be paid for or with respect to any lease, license, permit, consent, certificate of registration or other authority made, issued or given, or for any service rendered, under this Act;
- (iv) by omitting section 120 (2) (e) and by inserting instead the following paragraph:—
 - (e) providing for the sale or disposal of anything forfeited under this Act;
 - (v) by omitting section 120 (2) (f) and by inserting instead the following paragraph:—
 - (f) prohibiting or regulating methods of operating nets or other fishing gear;
 - (vi) by omitting from section 120 (2) (g) the word "regulating" and by inserting instead the words "prohibiting or regulating";
- (vii) by omitting from section 120 (2) (g) the words "and line fishing" and by inserting instead the words "fishing and other methods of fishing";
- (viii) by omitting from section 120 (2) (h) the words "regulating and controlling" and by inserting instead the words "prohibiting or regulating";
 - (ix) by inserting in section 120 (2) (1) after the word "removal" the words "and sale";
- 30 (x) by omitting from section 120 (2) (1) the words ", whelks, or mussels" wherever occurring and by inserting instead the words "or other shell fish";

- (xi) by omitting section 120 (2) (n) and (o) and by inserting instead the following paragraph:—
- (o) prescribing the minimum measurement or weight of marketable oysters and for preventing the sale of unmarketable oysters or oysters not in a fit condition for food;
- (xii) by omitting from section 120 (2) (q) the words "spat and undersize" and by inserting instead the words "prohibited size";

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- (xiii) by omitting from section 120 (2) (t) the words "tidal or inland" and by inserting instead the word "any";
- (xiv) by omitting from section 120 (2) (u) the words "cultch or any dredged refuse" and by inserting instead the words " any material on to such areas";
- (xv) by omitting section 120 (2) (v) and by inserting instead the following paragraph:—
 - (v) with respect to the identification particulars to be displayed on licensed fishing boats and the manner in which those particulars are to be displayed;
- 25 (xvi) by omitting from section 120 (2) (x) the words "by the Municipal Council of Sydney under Part XIII of the Sydney Corporation Act, 1932–1934, as amended by subsequent Acts,";
- 30 (xvii) by omitting from section 120 (2) (z) the words "members of vigilance committees" and by inserting instead the words "honorary fisheries rangers";

(xviii)

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Fisheries and Oyster Farms (Amendment).

- (xviii) by omitting from section 120 (2) (aa) the words "private fresh-water";
- (xix) by inserting in section 120 (2) (aa) after the word "hatcheries" the words "or fish farms";
- 5 (xx) by omitting section 120 (2) (dd);
 - (xxi) by omitting section 120 (2) (kk) and by inserting instead the following paragraph:—
- (kk) for or with respect to prohibiting the gathering of seaweeds for commercial purposes without a permit, the issue of those permits, the conditions subject to which the permits are issued and the enforcement of observance of those conditions, the persons who may impose the conditions, the suspension or cancellation of permits and the regulation of the gathering of seaweeds;
 - (xxii) by omitting section 120 (2) (nn);
- 20 (xxiii) by omitting from section 120 (2) (pp) the words "tidal waters" and by inserting instead the words "waters other than inland waters, their control and use and the payment of annual fees in respect thereof, the cancellation of any occupancy granted and the refusal of any application for the grant of an occupancy";
 - (xxiv) by omitting from section 120 (2) (qq) the words "salmon or trout or any other" and by inserting instead the word "any";
- 30 (xxv) by omitting from section 120 (2) (xx) the words "the disposal" and by inserting instead the words "the seizure and disposal";

(xxvi)

Fisheries	and (Oyster	Farms	(Amend	ment).
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- (xxvi) by omitting section 120 (2) (eee) and by inserting instead the following paragraph:—
 - (eee) regulating the number of any species of fish or number of fish of any prescribed measurement or weight any person other than the holder of a license under section 25 may take or have in his possession in any one day;
- (xxvii) by omitting from section 120 (2) (jjj) the word "boxes" wherever occurring and by inserting instead the word "containers";

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- (xxviii) by omitting from section 120 (2) (kkk) the word "boxes" and by inserting instead the word "containers";
- 15 (xxix) by omitting from section 120 (2) (ppp) the word "scheme." and by inserting instead the following word and paragraphs:—

scheme;

- (qqq) regulating, restricting or imposing conditions on canning, smoking, freezing or otherwise preserving, processing or storing fish and providing for the inspection of canneries, smokehouses, freezing chambers, refrigeration works and any premises where fish are canned, smoked, frozen, preserved, processed, treated, dressed or stored;
 - (rrr) prohibiting the disposal outside a nature reserve under the care, control and management of the Director of National Parks and Wildlife of fish taken in waters within the reserve;

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Fisheries and Oyster Farms (Amendment)	Fisheries	and o	Ovster	Farms	(Amendment)	١.
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- (sss) providing for the management, protection and development of aquatic reserves.
- (xxx) by omitting from section 120 (2A) (a) (iii) the words "consent or license granted or issued under section 40B or 40c of this Act" and by inserting instead the words "permit or consent under section 40c or 40p";
- (xxxi) by omitting section 120 (3) and by inserting instead the following subsections:-10
 - (3) The regulations may provide that fish of a specified class which do not comply with a minimum, or maximum, or range, of measurement or weight, or measurement and weight, specified for fish of that class are prohibited size fish.
 - (4) The regulations may prescribe the method of measuring, or determining the measurement or weight, of any class of fish.
- (i) by omitting from section 121 (1) (a) the Sec. 121. (b) 20 words "one hundred dollars" and by inserting (Penalties instead the matter "\$500";

and application of

- (ii) by omitting from section 121 (1) (b) the regulations.) words "ten dollars" and by inserting instead the matter "\$50";
- (iii) by omitting section 121 (2) and by inserting instead the following subsection:-
 - (2) The regulations may be made to vary in their application according to matters specified in the regulations.

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Fisheries and Oyster Farms (Amendment).

- (iv) by omitting section 121 (4) and by inserting instead the following subsection:—
 - (4) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.
- (v) by omitting section 121 (5).
- 13. The Principal Act is further amended—

Further amendment of Act No. 58, 1935.

10 (a) by omitting Schedule A and by inserting instead the Schedule A following Schedule:—

SCHEDULE A.

Sec. 19 (1) (d).

NARRABEEN LAKE

County of Cumberland. The whole of the waters of Narrabeen 15 Lake and its tributaries including Deep Creek, Middle Creek, South Creek, and Mullet Creek together with their affluents and tributaries.

WALLIS LAKE

County of Gloucester, parishes of Tuncurry and Forster at Wallis Lake. The whole of the tidal waters within the following boundaries:

- 20 Commencing at the entrance to Wallis Lake at the eastern extremity of the northern breakwater and bounded thence by that breakwater 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 approximately 239 degrees to the north-
- 25 eastern corner of Oyster Lease 71.295; thence by a line bearing approximately 168 degrees to the north-western corner of Oyster Lease 70.434 and by a line bearing approximately 155 degrees across the water to the south-western corner of Oyster Lease No. 57.295 on Godwin Island; thence by the northern foreshore of that island north-

30 easterly to its most northern point; thence by a line bearing 60 degrees

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 the entrance to the point of commencement.

TUGGERAH LAKE AND OCEAN WATERS ADJOINING

County of Northumberland. The tidal waters of that part of Tuggerah Lake, its channel entrance and the adjacent ocean waters included within the following boundaries: Commencing on the line 10 of high-water mark at the southern extremity of Karagai, the headland on the northern side of the aforesaid channel entrance, and bounded thence by the high-water mark of the eastern shore of that channel entrance bearing generally northerly to Tuggerah Lake and by the high-water mark of part of the eastern shore of that Lake bearing 15 generally northerly and north-easterly to a point distant 201 metres south-westerly from the north-west corner of portion No. 39 in the parish of Wallarah; thence by lines bearing 282 degrees 887 metres and 325 degrees 814 metres, respectively, into the waters of Tuggerah Lake aforesaid; thence by a line bearing 210 degrees about 2,743 metres; 20 thence by lines bearing 91 degrees 631 metres and 136 degrees 1,102 metres, respectively, to a point on the high-water mark of the eastern shore of the aforesaid lake distant 805 metres southerly from the northern extremity of Taylor's Point; thence by the high-water mark of part of the eastern shore of the aforesaid lake to that extremity of 25 that point; thence by the high-water mark of the south-western shore of the channel entrance aforesaid bearing generally south-easterly to the junction of that shore with the shore of the South Pacific Ocean; thence by a line bearing 135 degrees 443 metres into the waters of that ocean; thence by a line bearing northerly to a point due east of 30 and distant 443 metres from the point of commencement; and thence by a line to that point.

LAKE ILLAWARRA AND OCEAN WATERS ADJOINING

County of Camden. The whole of the waters of that part of Lake Illawarra, the entrance thereto and the adjacent ocean waters com35 prised within the following boundaries: Commencing at the northwestern corner of portion 44; thence by lines bearing north 291 degrees
30 minutes west 444 metres south 228 degrees 57 minutes west 175
metres and south 191 degrees 30 minutes west 718 metres, respectively,
to a post marked broad-arrow over FD on the north-western shore of
Bevan's Island; thence by that shore of that island bearing generally
south south-westerly, in all about 233 metres to a point marked
broad-arrow over FD at the westernmost extremity of the said island,
and thence by a line bearing approximately south 205 degrees west

about 565 metres to a peg marked broad-arrow over E on the southern shore of Lake Illawarra, and bounded thence by the southern shore of the said lake, by the south-western shore of the entrance thereto and by the line of mean high-water mark of the ocean beach to a point being the intersection of a line drawn from the Trigonometrical Station on Windang Island to the junction of the Oak Flats and Shellharbour roads; thence by a line to that Trigonometrical Station; and thence by a line to the sand spit at the northern point of entrance to the aforesaid lake at its intersection with a line drawn from the 10 Trigonometrical Station aforesaid to the southern corner of portion 44 in the parish of Wollongong; thence by the north-eastern shore of the said entrance and the eastern shore of the said lake to the point of commencement.

(b) by omitting Schedule B and by inserting instead Schedule B. the following Schedule:—

SCHEDULE B.

Sec. 19 (4) (b).

TUGGERAH LAKE AND OCEAN WATERS ADJOINING

County of Northumberland. The whole of the tidal waters of the channel entrance to Tuggerah Lake within a distance of approximately 20 46 metres measured rectangularly on the lake side of a line drawn across the said channel entrance and being the prolongation of the outer shore of the (for the time being) more westerly point of entrance from the ocean to the said channel entrance and also the whole of the ocean waters adjacent to the entrance to Tuggerah Lake described in 25 Schedule A.

LAKE ILLAWARRA AND OCEAN WATERS ADJOINING

County of Camden. The whole of the waters of that part of the channel entrance to Lake Illawarra within a distance of 46 metres measured rectangularly on the lake side of a line drawn across the 30 said channel entrance and being the prolongation of the outer shore of the (for the time being) more westerly point of entrance from the ocean to the said channel entrance and also the whole of the waters of the said channel entrance lying on the ocean side of such line and the whole of the ocean waters adjacent to the entrance of the said 35 Lake described in Schedule A.

(c) by omitting Schedule C.

Schedule C.

14. A provision of the Principal Act specified in Column Further amendment of Schedule 1 is amended in the manner specified opposite of Act No. that provision in Column 2 of that Schedule.

58, 1935.

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15. The Co-operation Act, 1923, is amended by omitting Amendment section 10A and by inserting instead the following section:— of Act No. 1, 1924.

Sec. 10A.

10a. A trading society shall not establish, control or Trading operate a market for the sale of fish except in accordance society—with the provisions of the Fisheries and Oyster Farms market. Act, 1935.

16. Schedule 2 has effect.

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Savings and transitional provisions.

SCHEDULE 1.

Sec. 14.

	Col	umn 1.	Column 2. Amendment.		
10		tion of ipal Act.			
15	17 (5)	y ea canida de drawath a raig tino	Omit "shall be guilty of an offence and shall be liable to a penalty not exceeding twenty dollars"; insert "is guilty of an offence".		
20	18 (5)	surgitino situ to M ni Lodiss	Omit "shall be guilty of an offence against this section and shall be liable to a penalty of not more than ten dollars for a first offence, to a penalty of not less than twenty dollars and not exceeding forty dollars for a second offence and to a penalty of not less than forty dollars or to imprisonment for a term of not less than one month for a third or subsequent offence"; insert "is guilty of an offence".		
2 5	18 (6)	all addition the control of the cont	Omit ", shall be guilty of an offence against this section, and shall be liable to a penalty of not more than ten dollars for a first offence, to a penalty of not less than twenty dollars and not exceeding forty dollars for a second offence and to a penalty of not less than forty dollars or to imprisonment for a term of not less than one month for a third or subsequent offence"; insert "is guilty of an offence".		
35	18 (7)	bike sau	Omit "shall be guilty of an offence and shall be liable to a penalty of not more than ten dollars for a first offence, to a penalty of not less than twenty dollars and not exceeding forty dollars for a second offence and to a penalty of not less than forty dollars or to imprisonment for a term of not less than one month for a third or subsequent offence"; insert "is guilty of an offence".		

	Col	umn	1.	Column 2.		
5	Sec Princ	tion ipal		Amendment.		
	18		g	Insert at the end of the section the following subsection:—		
				(8) A person who is guilty of an offence under this section is liable—		
10				(a) where he holds a license under section 25—to a penalty not exceeding \$500; or		
				(b) in any other case—to a penalty not exceeding \$100.		
15	19 (2)			Omit "shall for a first offence be liable to a penalty not exceeding twenty dollars and for a second offence shall be liable to a penalty of not less than twenty dollars and not exceeding forty dollars and for a third or any subsequent offence to a penalty of not less than forty dollars or to imprisonment for a term of not less than one month"; insert "is guilty of an offence".		
20	20 (3)	.,	• • •	Omit "shall be liable to a penalty not exceeding forty dollars"; insert "is guilty of an offence".		
	21 (4)			Omit the subsection.		
25	23 (8)	•	in pas a nati co s	Omit "shall, unless the boat is licensed, be liable to a penalty of not less than two dollars for a first offence and not less than ten dollars for a second or subsequent offence"; insert "is guilty of an offence unless the boat is licensed".		
30	24 (1)		in pa	Omit "liable to a penalty of not less than two dollars and not exceeding fifty dollars for a first offence and not less than ten dollars nor more than one hundred dollars for a		
90				second or subsequent offence"; insert "guilty of an offence".		
35	25 (7)		 140	Omit "shall be liable to a penalty of not less than two dollars for a first offence and not less than ten dollars for a second or subsequent offence"; insert "is guilty of an offence".		
	25в (7)	· ·	De siri	Omit "forty dollars for a first offence and to a penalty of not more than one hundred dollars for a second or subsequent offence"; insert "\$100".		
	26 (1)			Omit "four dollars"; insert "\$20".		

68

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—continued.

	Col	umn 1.		Column 2.			
5		tion of		Amendment.			
	27 (3)		nci :	Omit "shall for a first offence be liable to a penalty not exceeding ten dollars, and for a subsequent offence to a penalty of not less than ten dollars and not exceeding forty dollars"; insert the following:—			
10			2 0	is guilty of an offence and liable— (a) where he holds a license under section 25—to a penalty not exceeding \$500; or			
				(b) in any other case—to a penalty not exceeding \$100.			
15	28		24.	Omit "shall for a first offence be liable to a penalty not exceeding ten dollars and for a second or subsequent offence shall be liable to a penalty of not less than ten dollars and not exceeding forty dollars"; insert the following:—			
				is guilty of an offence and liable—			
20				(a) where he holds a license under section 25—to a penalty not exceeding \$500; or			
				(b) in any other case—to a penalty not exceeding \$100.			
25	29 (1)	••		Omit ", shall, for a first offence be liable to a penalty not exceeding ten dollars and for a second or subsequent offence shall be liable to a penalty of not less than ten dollars and not exceeding forty dollars"; insert "is guilty of an offence and liable to a penalty not exceeding \$200".			
30	29 (2)	••		Omit ", shall for every such offence be liable to a penalty not exceeding twenty dollars"; insert "is guilty of an offence and liable to a penalty not exceeding \$200".			
	30 (1)	••		Omit ", shall for every such offence be liable to a penalty not exceeding twenty dollars"; insert "is guilty of an offence and liable to a penalty not exceeding \$200".			
35	30 (2)	•		Omit ", shall for every such offence be liable to a penalty not exceeding twenty dollars"; insert "is guilty of an offence and liable to a penalty not exceeding \$200".			
	32	••	•••	Omit "shall for every such offence be liable to a penalty not exceeding twenty dollars" and by inserting instead the words "is guilty of an offence".			
40	33 (1)	• •		Omit ", shall for every such offence be liable to a penalty of not less than twenty dollars and not exceeding one hundred dollars"; insert "is guilty of an offence".			
45	33 (2)			Omit ", shall for every such offence be liable to a penalty not exceeding one hundred dollars"; insert "is guilty of an offence".			
	-			COURDINE			

	Colu	mn :	1.	Column 2.		
	Secti Princip			Amendment.		
	34 (1)		76 X	Omit ", shall for every such offence be liable to a penalty of not less than twenty dollars and not exceeding one hundred dollars"; insert "is guilty of an offence".		
0	34 (2)		•	Omit "shall for every such offence be liable to a penalty not exceeding one hundred dollars, and where the offence is a continuing one to a penalty not exceeding ten dollars"; insert "is guilty of an offence and, where the offence is a continuing one, is liable to an additional penalty not exceeding \$10".		
5	36 (4) (b))	••	Omit "shall be liable for a first offence to a penalty not exceeding ten dollars and for a second or any subsequent offence to a penalty of not less than ten dollars and not exceeding forty dollars"; insert "is guilty of an offence and liable to a penalty not exceeding \$100".		
0.0	37			After "offence" where firstly occurring insert "and liable to a penalty not exceeding \$100".		
	38 (2)			Omit "shall be guilty of an offence, and shall be liable to a penalty not exceeding two dollars"; insert "is guilty of an offence and liable to a penalty not exceeding \$50"		
2.5	39 (2)	••		After "offence" insert "and liable to a penalty not exceeding \$100".		
30	40в (4)			Omit "shall, upon conviction before a police or stipendiary magistrate or any two justices, be liable to a penalty no exceeding one hundred dollars"; insert "is guilty of an offence".		
	40c (4)	(a)		Omit "shall be liable to a penalty not exceeding on hundred dollars"; insert "is guilty of an offence".		
	41E (3)	••		Omit "shall be liable to a penalty not exceeding on hundred dollars"; insert "is guilty of an offence".		
35	42 (5)			Omit "shall be guilty of an offence"; insert "is guilt of an offence and liable to a penalty not exceeding \$100"		
	54	• •		After "offence" insert "and liable to a penalty not exceedin \$100".		
10	56	••	••	Omit "shall be guilty of an offence and shall be liable to penalty not exceeding one hundred dollars"; insert "iguilty of an offence".		
	68 (1)			Omit "and shall be liable to a penalty of not less that twenty dollars".		

	Column 1.			Column 2.		
5	Sec Princ	tion o		Amendment.		
7	74 (3)	· · ·		Omit "shall be liable to a penalty not exceeding twenty dollars"; insert "is guilty of an offence and liable to a penalty not exceeding \$50".		
10 8	80	• • ·		Omit "shall incur a penalty not exceeding forty dollars"; insert "is guilty of an offence".		
	31 (3)	••• ••• •••	••	Omit ", shall be guilty of an offence and shall be liable to a penalty of not less than twenty dollars"; insert "is guilty of an offence".		
15 8	32 (3)	Ton the	A ALIE	Omit "shall be liable for a first offence to a penalty of not less than ten dollars, nor more than one hundred dollars, and for a subsequent offence to imprisonment for a term not exceeding six months"; insert "is guilty of an offence".		
20 8	34		ir b	Omit "he shall be liable to a penalty not exceeding forty dollars"; insert "he is guilty of an offence".		
8	35 (2)	old old		Omit "shall be liable to a penalty of not more than ten dollars"; insert "is guilty of an offence and liable to a penalty not exceeding \$50".		
25 ⁸	6	•		Omit "shall be liable for the first offence to a penalty of not less than ten dollars and not exceeding forty dollars, and for the second and every subsequent offence to imprisonment for a term of not less than two months"; insert "is guilty of an offence".		
30 ⁸	7 (4)	••		Omit "shall be liable to a penalty of not less than four dollars nor more than forty dollars"; insert "is guilty of an offence and liable to a penalty not exceeding \$200".		
9	0 (4)		••	Omit "shall be liable upon conviction to a penalty not exceeding twenty dollars"; insert "is guilty of an offence and liable to a penalty not exceeding \$100".		
35 9	0 (5)	•		Omit "Any such person who, on the demand being made by an inspector, neglects or refuses to produce his license shall be liable upon conviction to a penalty not exceeding four dollars."		
40	03 (1)		••	Omit "shall for every such offence be liable to a penalty not exceeding twenty dollars"; insert "is guilty of an offence".		
10	03 (2)	•••	1 364	Omit "shall for every such offence be liable to a penalty of not less than twenty dollars and not exceeding one hundred dollars"; insert "is guilty of an offence".		
45	03 (3)			Omit "shall be guilty of an offence and shall be liable to a penalty not exceeding forty dollars"; insert "is guilty of an offence".		

	Column 1.			Column 2.		
5	Sec Princi			Amendment.		
	104		to	Omit "he shall for every such offence be liable to a penalty not exceeding ten dollars"; insert "he is guilty of an offence and liable to a penalty not exceeding \$50".		
10	106 (1)	·•		Omit the subsection; insert the following subsection:— (1) A person guilty of an offence under this Act is, where no specific penalty is provided for the offence, liable to a penalty not exceeding \$500.		
15	106 (2)		• • • • • • • • • • • • • • • • • • •	Omit "any act which by this Act is declared to be an offence and which is"; insert "an offence under this Act".		
	109 (2)	••		Omit "shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one hundred dollars"; insert "is guilty of an offence".		
20	112	bju	de d	Omit "shall for every such offence be liable to a penalty not exceeding twenty dollars"; insert "is guilty of an offence and liable to a penalty not exceeding \$50".		
	114	• •	••	Omit ", shall be liable to a penalty of not less than ten dollars and not exceeding forty dollars"; insert the following:—		
25				 is guilty of an offence and liable— (a) where he holds a license under section 25—to a penalty not exceeding \$500; or (b) in any other case—to a penalty not exceeding \$100. 		
30	116			Omit "shall be liable for a first offence to a penalty of not less than four dollars, and for any subsequent offence to a penalty of not less than ten dollars"; insert the following:—		
35				is guilty of an offence and liable - (a) where he holds a license under section 25—to a penalty not exceeding \$500; or (b) in any other case—to a penalty not exceeding \$100.		
	117	••		(b) in any other case—to a penalty not exceeding \$100 Omit "shall be guilty of an offence and shall be liable to a penalty not exceeding forty dollars"; insert "is guilty of an offence."		

SCHEDULE 2.

Sec. 16.

SAVINGS AND TRANSITIONAL PROVISIONS.

- 1. A person who, immediately before the commencement of Vacation of section 5 (b) holds office—

 Offices.
- 5 (a) under section 6 of the Principal Act as an honorary fisheries inspector; or
 - (b) under section 7 of the Principal Act as a member of an honorary vigilance committee,

ceases at that commencement to hold that office.

- 2. A notification or proclamation under section 18 of the Principal Closing Act in force immediately before the commencement of section 7 (a) of certain shall, on and from that commencement, be deemed to be a notification waters. under section 18 of the Principal Act, as amended by this Act, and, except in so far as it is rescinded or altered under that section, as so 15 amended, remains in force until it would have expired had that section of the Principal Act not been amended by this Act.
- A proclamation under section 20 of the Principal Act in force Landing of immediately before the commencement of section 7 (d) shall, on and certain from that commencement, be deemed to be an order taking effect at fish in
 that commencement under section 20 of the Principal Act, as amended the State. by this Act.
- 4. (1) Notwithstanding anything in section 20A of the Principal Act, Importers as amended by this Act, a person is not guilty of an offence under that of live section in respect of anything done before the prescribed day for that fish.
 25 person.
 - (2) For the purposes of subclause (1), the prescribed day for a person referred to in that subclause is the later, or latest, of—
 - (a) the day that is three months after the day on which section7 (e) commences;
- 30 (b) where that person duly applies, on or after the day on which section 7 (e) commences and before the day that is three months after that day, for a license under section 20A of the Principal Act, as amended by this Act—
 - (i) the day on which he is issued with a license under that section; or
 - (ii) the day on which he is notified that he will not be issued with such a license,

as the case may be;

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SCHEDULE 2-continued.

- (c) where a person referred to in paragraph (b) is notified as referred to in paragraph (b) (ii)—the day after the last day upon which he may appeal under section 119 of the Principal Act, as amended by this Act, against the refusal to grant him the license; and
 - (d) where a person referred to in paragraph (c) duly lodges an appeal so referred to—
 - (i) the day on which the appeal is dismissed; or
- (ii) where the appeal is upheld, the day on which he is issued with the license,

as the case may be.

5. Where a license under section 23, 24, 25 or 25B of the Principal Boat Act is in force immediately before the commencement—

Boat licenses, fishermen's licenses

and

- (a) in the case of a license under section 23 of the Principal Act
 —of section 7 (j);
 - (b) in the case of a license under section 24 of the Principal licenses.

 Act—of section 7 (k);
- (c) in the case of a license under section 25 of the Principal Act
 —of section 7 (m); or
 - (d) in the case of a license under section 25B of the Principal Act—of section 7 (o),

the license continues in force on and after that commencement for the residue of the term for which it was issued and so continues as if 25 it had been issued under the corresponding provision of the Principal Act, as amended by this Act.

6. Where-

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Registered

- (a) a net is, immediately before the commencement of section7 (s), registered in pursuance of section 26 of the Principal Act; and
- (b) the net is a net that, immediately after that commencement, is registrable in accordance with the regulations under the Principal Act, as amended by this Act,

the net shall be deemed to be a net registered in accordance with those 35 regulations.

131-н

SCHEDULE 2-continued.

7. Where a consent under section 40B of the Principal Act is in Consent force immediately before the commencement of section 7 (ai), the to sell consent shall be deemed to be a consent issued at that commencement out or market. under section 40p of the Principal Act, as amended by this Act, for the residue of the term for which it was issued under the Principal Act.

8. Where a certificate of registration under section 40B of the Registration Principal Act is in force immediately before the commencement of as fish section 7 (ai), the certificate shall be deemed to be a certificate of canner or 10 registration issued at that commencement under section 40E of the Principal Act, as amended by this Act, for the residue of the term for which it was issued under the Principal Act.

- 9. (1) Where a license under section 40c of the Principal Act is in Permit to force immediately before the commencement of section 7 (ai), the sell out 15 license shall be deemed to be a permit issued at that commencement of market. under section 40c of the Principal Act, as amended by this Act.
 - (2) Where, by the operation of subclause (1), a license becomes a permit-
- (a) the same conditions shall be deemed to have been specified 20 in the permit as were specified in the license; and
 - (b) the permit continues in force for the residue of the term for which the license was issued.
- 10. Where, immediately before the commencement of section 8 (f) Lands any lands are, pursuant to section 49 (6) of the Principal Act, under controlled by 25 the control and management of an acclimatisation society, the lands isation continue under that control and management after that commencement society. as if section 8 (f) had not been enacted.

- 11. Where, immediately before the commencement of section 8 (g), Trout a permit is in force under section 49A of the Principal Act—
- (a) the permit continues in force after that commencement until its expiry date as if section 8 (g) had not been enacted; and
 - (b) Part VA of the Principal Act, as amended by this Act, does not, while the permit continues in force, apply in respect of the waters in respect of which the permit applies.

35 12. WhereCertain leases

(a) before the commencement of section 9 (b), land was the validated. subject of a lease purporting to have been granted under Part V of the Principal Act; and

SCHEDULE 2—continued.

(b) the land could have been leased under Part V of the Principal Act, as amended by this Act, had that Part, as so amended, been in force at the time of the purported grant of the lease,

the lease is not, and shall be deemed never to have been, invalid by reason only of the fact that the land the subject of the lease was vested in a public authority or in trustees for public recreation or for any other public purpose.

13. Where an application under section 58 (1) of the Principal Act Application has not, before the commencement of section 9 (b), resulted in the for lease granting of a lease, the application may be dealt with as an application for oyster referred to in section 58 of the Principal Act, as amended by this Act, and shall be so dealt with as if section 9 (b) had commenced 15 immediately before the making of the application.

14. A lease under Part V of the Principal Act that is in force Leases immediately before the commencement of section 9 (b) shall be under deemed to have been duly granted under Part V of the Principal Act, as amended by this Act, notwithstanding that that Part, as so amended, Principal Act.

20 was not in force at the time the lease was granted and shall be deemed to have been so granted for a term equivalent to the residue of the term for which it was originally granted.

15. The prohibition in a notification in force under section 80 or Closing 82 of the Principal Act immediately before the commencement of of leased 25 section 9 (w) shall be deemed on and after that commencement to area or be a prohibition imposed by a notification in force under section 80 oyster of the Principal Act, as amended by this Act.

- 16. Notwithstanding anything in Part VA of the Principal Act, as Fish amended by this Act, a person is not guilty of an offence under section farms. 30 90B of that Act, as so amended, in respect of anything done before—
 - (a) the day that is one month after the commencement of that Part;
- (b) where that person duly applies after that commencement and before the day referred to in paragraph (a) for a permit under section 90c of the Principal Act, as so amended—
 - (i) the day on which he is issued with such a permit; or
 - (ii) the day on which he is notified that he will not be issued with such a permit,

as the case may be,

40 whichever is the later.

SCHEDULE 2 .- continued.

- 17. An approval or authorisation under section 17 (1) or (2) of Authorisathe Principal Act in force immediately before the commencement of tion of section 5 (i) shall, on and from that commencement, be deemed an certain authorisation under section 17 (2A) of the Principal Act, as amended by this Act, of the activity previously approved or authorised.
- 18. Part VB of the Principal Act, as amended by this Act, does Dredgings not apply to works of dredging or reclamation authorised or undertaken before the commencement of that Part.
- 19. Sections 92 to 102, both inclusive, and section 109, of the Condem-Principal Act continue to apply on and after the commencement of nation section 11 (d) to and in respect of all engines, nets and other articles of certain seized before that commencement, and the corresponding sections of the Principal Act, as amended by this Act, do not apply in respect 15 thereof.
 - 20. Nothing in this Schedule affects any saving in the Interpretation Interpretation Act, 1897.

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