

**FISHERIES AND OYSTER FARMS (AMENDMENT)
ACT, 1979, No. 112**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 112, 1979.

An Act to amend the Fisheries and Oyster Farms Act, 1935, to make further provisions with respect to fisheries and fishing and to oyster farms and fish farms. [Assented to, 18th May, 1979.]

See also Co-operation (Fisheries and Oyster Farms) Amendment Act, 1979; Statutory and Other Offices Remuneration (Fish Marketing Authority) Amendment Act, 1979.

Fisheries and Oyster Farms (Amendment).

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 :—

Short title. **1.** This Act may be cited as the "Fisheries and Oyster Farms (Amendment) Act, 1979".

Commence-
ment. **2.** (1) Except as provided in subsections (2), (3) and (4), this Act shall commence on the date of assent to this Act.

(2) Section 5 shall, in its application to a provision of Schedules 1–12, commence on the day on which the provision commences.

(3) The provisions of this Act specified in any of the following paragraphs shall commence on such day as may be appointed by the Governor in respect of the provisions specified in that paragraph and as may be notified by proclamation published in the Gazette :—

- (a) Schedules 2 (2) and 10 (1) (r).
- (b) Schedules 1 (3) (m), 1 (3) (s), 1 (3) (y), 2 (7) (a), 2 (7) (e), 4 (22), 9 (22), 10 (1) (l), 10 (1) (m), 10 (1) (gg) and 11 (2).
- (c) Schedules 1 (2) (n), 4 (1) and 6 (8).
- (d) Schedule 4 (11) (b), (12) (b) and (13).
- (e) Schedule 4 (14).
- (f) Schedule 4 (16).
- (g) Schedules 1 (2) (i), 4 (19), 4 (20), 4 (21), 10 (1) (u) and 10 (1) (w).
- (h) Schedules 1 (2) (j), 4 (30), 4 (31) and 4 (32).

Fisheries and Oyster Farms (Amendment).

- (i) Schedule 4 (33).
- (j) Schedules 1 (2) (k), 1 (3) (h), 1 (3) (w), 4 (36), 4 (37) and 10 (1) (ff).
- (k) Schedule 5 (1) and (2).
- (l) Schedules 1 (2) (m), 1 (2) (o), 1 (3) (e), 1 (3) (k), 2 (6), 4 (15) (a), 4 (15) (b), 6 (7), 6 (10), 6 (11), 6 (13), 6 (14) (c), 7 and 8 (1).
- (m) Schedules 9 (4), 9 (5), 9 (6), 9 (7), 9 (9), 9 (10), 9 (11), 9 (16) and 10 (1) (d).
- (n) Schedule 9 (18).

(4) Schedules 1 (2) (p) and 8 (2) shall commence on the day that is 6 months after the date of assent to this Act.

(5) Notwithstanding subsection (3), for the purposes only of the appointment of a person as a member of the Fish Marketing Authority, as reconstituted under Schedule 5 (1), and of any matters necessary for or incidental to that appointment (including the making of regulations under section 41A (3) of the Principal Act, as proposed to be inserted by Schedule 5 (1) (a)), Schedule 5 (1) shall commence on the date of assent to this Act.

3. The Fisheries and Oyster Farms Act, 1935, is referred to in this Act as the Principal Act. Principal Act.

4. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

SCHEDULE 3.—INSERTION OF PART IIA INTO THE PRINCIPAL ACT.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4.—AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE PRINCIPAL ACT.

SCHEDULE 5.—AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT.

SCHEDULE 6.—AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

SCHEDULE 7.—AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

SCHEDULE 8.—INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL ACT.

SCHEDULE 9.—AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

SCHEDULE 10.—AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

SCHEDULE 11.—AMENDMENTS TO THE SCHEDULES TO THE PRINCIPAL ACT.

SCHEDULE 12.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES FOR OFFENCES.

SCHEDULE 13.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment
of Act No.
58, 1935.

5. The Principal Act is amended in the manner set forth in Schedules 1-12.

Savings,
transitional
and other
provisions.

6. Schedule 13 has effect.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

(1) Section 2 (5)—

Omit "Act of 1897", insert instead "Act, 1897".

(2) (a) Section 3—

From the matter relating to Part II, omit "17", insert instead "17B".

(b) Section 3—

After the matter relating to Part II, insert :—

PART IIA.—AMATEUR FISHERMEN'S ADVISORY
COUNCIL—ss. 17C-17E.

(c) Section 3—

From the matter relating to Division 1 of Part III,
omit "—20", insert instead " , 19".

(d) Section 3—

After the matter relating to Division 1 of Part III,
insert :—

DIVISION 1A.—*Importation of live fish*—ss. 20, 20A.

DIVISION 1B.—*Noxious fish*—ss. 20B-20G.

(e) Section 3—

From the matter relating to Division 2 of Part III,
omit "ss. 21, 22", insert instead "s. 21".

(f) Section 3—

After the matter relating to Division 2 of Part III,
insert :—

DIVISION 2A.—*Restricted fisheries*—s. 22A.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

(g) Section 3—

From the matter relating to Division 3 of Part III, omit “23”, insert instead “22B”.

(h) Section 3—

After the matter relating to Division 3A of Part III, insert :—

DIVISION 3B.—*Tidal Angling Fund*—s. 25D.

DIVISION 3C.—*Commercial Fisheries Exploration and Development Fund*—s. 25E.

(i) Section 3—

From the matter relating to Division 4 of Part III, omit “—ss. 26–32”, insert instead “*and other fishing gear*—ss. 26–32A”.

(j) Section 3—

From the matter relating to Division 6 of Part III, omit “35”, insert instead “36”.

(k) Section 3—

From the matter relating to Division 6 of Part III, omit “41”, insert instead “40”.

(l) Section 3—

Omit the matter relating to Division 3 of Part IV.

(m) Section 3—

Omit the matter relating to Division 3A of Part IV

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

(n) Section 3—

Omit the matter relating to Divisions 4 and 5 of Part IV.

(o) Section 3—

Omit the matter relating to Part V, insert instead :—

PART V.—OYSTER FARMING—ss. 58–90.

PART VA.—FISH FARMING—ss. 90A–90D.

(p) Section 3—

Before the matter relating to Part VI, insert :—

PART VB.—DREDGING AND RECLAMATION—ss.
90E–90L.

(3) (a) Section 4 (1), definition of “Crown lands”—

Omit the definition, insert instead :—

“Crown lands” means—

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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

authority or trustees for public
recreation or for any other public
purpose,

but does not include land the subject of a lease
under this Act and land of which a person has
exclusive possession under a lease under any
other Act.

(b) Section 4 (1), definition of "Director"—

Before the definition of "District", insert :—

"Director" means the Director, New South Wales
State Fisheries.

(c) Section 4 (1), definition of "Engine"—

Omit the definition.

(d) Section 4 (1), definition of "Fish"—

After "fishes", insert "(whether indigenous or not)
and their young, fry and spawn".

(e) Section 4 (1), definition of "Fish farm"—

After the definition of "Fish", insert :—

"Fish farm" means a place to which a permit under
section 90c relates.

(f) Section 4 (1), definition of "Fishing gear"—

After the definition of "Fisherman", insert :—

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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

- (g) Section 4 (1), definitions of “Fixed engine”, “Gaff”, “Hand-line”—

Omit the definitions.

- (h) Section 4 (1), definition of “Market”—

Omit the definition, insert instead :—

“Market” means any fish market—

- (a) established, controlled or operated by a trading society with the approval of the Minister under section 40E;
 - (b) conducted and managed pursuant to section 41D (1) (a);
 - (c) established and maintained pursuant to section 41D (1) (b) (i); or
 - (d) established by the council of a city, municipality or shire under the Local Government Act, 1919,
- and the lands, improvements and works provided or used for or in connection with such a fish market.

- (i) Section 4 (1), definitions of “Master”, “Net”—

After the definition of “Market”, insert :—

“Master”, in relation to a boat, includes a person who for the time being has the command, charge or management of the boat.

“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 to the net.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

- (j) Section 4 (1), definition of “Original owner”—

Omit the definition.

- (k) Section 4 (1), definition of “Oyster farm”—

Omit the definition, insert instead :—

“Oyster farm” means an area leased under Part V,
but does not include a fish farm.

- (l) Section 4 (1), definition of “Prescribed”—

Omit the definition.

- (m) Section 4 (1), definitions of “Prohibited size fish”,
-
- “Prohibited size oysters”—

After the definition of “Oyster farm”, insert :—

“Prohibited size fish” means a fish (other than an
oyster) prescribed by the regulations made
under section 120 (3) as a prohibited size
fish.

“Prohibited size oyster” means—

- (a) oyster spat; or
- (b) an oyster the measurement or weight
of which is less than the minimum
measurement or weight for marketable
oysters prescribed by the regulations
made under section 120 (2) (o).

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

(n) Section 4 (1), definition of “Public authority”—

Before the definition of “Recognised hauling ground”,
insert :—

“Public authority” means—

- (a) a body, corporate or unincorporate,
established by or under an Act for a
public purpose; or
- (b) a corporation sole so established for
such a purpose.

(o) Section 4 (1), definition of “Recognised hauling
ground”—

Omit “hauling” wherever occurring in the expression
“Recognised hauling ground” and in the definition of
that expression, insert instead “fishing”.

(p) Section 4 (1), definition of “Recognised hauling
ground”—

Omit “haul and land”, insert instead “use or operate”.

(q) Section 4 (1), definition of “Sell”—

After the definition of “Salmon”, insert :—

“Sell” includes—

- (a) sell by wholesale, retail, auction or
tender;
- (b) barter or exchange;
- (c) supply for profit;
- (d) offer for sale, receive for sale, have in
possession for sale or expose for sale;
- (e) consign or deliver for sale; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

- (f) cause, suffer or allow to be done anything referred to in paragraph (a), (b), (c), (d) or (e).
- (r) Section 4 (1) definition of “Set line”—
Omit “any unattended line”, insert instead “any line not held in the hand, or not attached to fishing gear held in the hand, which is”.
- (s) Section 4 (1), definition of “Spat” or “Undersize oysters”—
Omit the definition.
- (t) Section 4 (1), definition of “Take”—
Omit the definition, insert instead :—
“Take”, in relation to fish, includes catch, capture, kill and enclose the fish and, in relation to fish attached to any rocks or any material or structure, includes remove, extract and separate the fish or part of the fish from those rocks or that material or structure.
- (u) Section 4 (1), definition of “Tidal waters”—
Omit the definition.
- (v) Section 4 (1), definition of “To sell”—
Omit the definition.
- (w) Section 4 (1), definition of “Trading society”—
Omit the definition, insert instead :—
“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.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

- (x) Section 4 (1), definition of “Under Secretary”—

Omit the definition.

- (y) Section 4 (2)—

Omit the subsection.

- (z) Section 4 (3)—

At the end of section 4, insert :—

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

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

- (1) Section 5—

Omit the section, insert instead :—

5. Subject to this Act, it is the duty of the Minister to protect, develop and regulate the fisheries of the State.

Duties of
Minister.

- (2) Section 7—

Omit the section, insert instead :—

7. (1) The Minister may appoint honorary fisheries rangers for the purposes of this Act.

Honorary
fisheries
rangers.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(2) An honorary fisheries ranger—

- (a) may exercise such of the powers conferred on an inspector under section 12 (1), 13 (b) or 14 (a), (b) or (c) as are specified in the instrument of his appointment;
- (b) may exercise those powers, according to the authority expressed in the instrument of his appointment, in the whole of the State or such part or parts thereof specified in the instrument;
- (c) shall be appointed for the term of office specified in the instrument of his appointment; and
- (d) is eligible for reappointment from time to time.

(3) The Minister may, for any cause which to him seems sufficient, remove from office an honorary fisheries ranger.

(4) An honorary fisheries ranger shall be deemed to have vacated his office if he—

- (a) dies;
- (b) resigns his office by letter addressed to the Minister; or
- (c) is removed from office by the Minister.

(5) An instrument of appointment under this section issued to an honorary fisheries ranger and purporting to be signed by the Director or by a prescribed officer is, after the appointee has signed it, evidence of his appointment.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(6) A person appointed under this section as an honorary fisheries ranger who resigns or is removed from his office and who, without just cause, does not, within 30 days of so resigning or being so removed, as the case may be, deliver to the Director the instrument of his appointment is guilty of an offence and liable to a penalty not exceeding \$50.

(3) Section 8—

Omit the section, insert instead :—

8. The Minister shall, as soon as practicable after 30th June in each year, cause to be prepared a report on the fisheries of the State and shall cause a copy thereof to be laid before each House of Parliament. ^{Annual report.}

(4) (a) Section 8A—

Omit "Under Secretary" wherever occurring, insert instead "Director".

(b) Section 8A (1)—

Omit "Department responsible for the administration of this Act", insert instead "New South Wales State Fisheries".

(5) Section 11—

Omit "Under-Secretary", insert instead "Director".

(6) (a) Section 12—

Omit "leased area", insert instead "oyster farm or fish farm".

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(b) Section 12 (2)—

At the end of section 12, insert :—

(2) A person authorised by the Director for the purposes of this subsection has so much of the powers conferred on an inspector by subsection (1) as relates to an oyster farm or fish farm.

(7) (a) Section 13—

Omit “undersize” wherever occurring, insert instead “prohibited size”.

(b) Section 13—

After “taken” where firstly occurring, insert “, or in the possession of a person,”.

(c) Section 13 (b)—

Omit “or fish taken in contravention of this Act,”.

(d) Section 13 (b)—

After “oysters”, insert “or fish taken, or in the possession of a person, in contravention of this Act”.

(e) Section 13 (c)—

After “concealment of”, insert “prohibited size fish or prohibited size oysters or”.

(f) Section 13 (c)—

After “taken”, insert “, or in the possession of a person,”.

(8) (a) Section 14 (a)—

Omit “engines, nets”, insert instead “nets or other fishing gear”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(b) Section 14 (b)—

Omit the paragraph, insert instead :—

- (b) examine any nets or other fishing gear found in any place whatsoever;

(c) Section 14 (c)—

Omit “engine, net, or”, insert instead “or any net or other fishing gear, or any”.

(d) Section 14 (d), (e)—

Omit “or other person in charge of any boat” wherever occurring, insert instead “of any boat which the inspector has reasonable grounds to suspect is”.

(e) Section 14 (f)—

Omit the paragraph, insert instead :—

- (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 reasonably suspects of having offended against this Act, to state his full name and address;

(f) Section 14 (g), (h)—

Omit section 14 (g), insert instead :—

- (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, certificate of exemption or

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO PART II OF THE PRINCIPAL ACT—continued.**

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

- (h) require a person taking fish by means of a net or other fishing gear to lift the net or other gear from the water.

(9) Section 15 (4), (5)—

After section 15 (3), insert :—

(4) A permit under this section remains in force for such period, not exceeding 12 months, as is specified therein.

(5) The regulations may prescribe a fee for the issue under this section of any prescribed class of permits.

(10) (a) Section 16 (1) (c)—

Omit “ocean and estuarine”, insert instead “any”.

(b) Section 16 (1) (d)—

Omit “biological”, insert instead “scientific”.

(c) Section 16 (2)—

After “Minister” where firstly occurring, insert “, with the prescribed consent referred to in section 17B,”.

(d) Section 16 (2)—

After “lands” where firstly occurring, insert “(not being lands dedicated for any public purpose) specified in the notification”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(e) Section 16 (2)—

Omit “shall have and may”, insert instead “may, subject to any conditions imposed under section 17B (2),”.

(f) Section 16 (3)—

After “Minister”, insert “, subject to any conditions imposed under section 17B (2),”.

(11) Section 16A—

After section 16, insert :—

16A. (1) The Minister, with the prescribed consent referred to in section 17B, may, by notification in the Gazette, declare Crown lands (not being lands dedicated for any public purpose) specified in the notification to be an aquatic reserve. ^{Aquatic reserves.}

(2) The regulations may—

- (a) prohibit or regulate the taking of fish from waters on any aquatic reserve; and
- (b) provide for the management, protection and development of any aquatic reserve.

(12) (a) Section 17 (1), (2), (2A), (2B)—

Omit section 17 (1) and (2), insert instead :—

(1) In this section and section 17A, “Crown lands” means—

- (a) Crown lands within the meaning of this Act, other than lands dedicated for a public purpose; or

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO PART II OF THE PRINCIPAL ACT—continued.**

- (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, by agreement with any person or otherwise—

- (a) fishery improvement works;
- (b) a fish hatchery, research station, laboratory, fishery field station, experimental fish farm or any other establishment for the investigation, development and management of the fisheries of the State; 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 referred to in section 17B and complies with any conditions to which that consent is subject.

(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 pond;
- (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; or
- (c) capture and strip any specified species of fish at any time during spawning or close seasons,

on such terms, and subject to such conditions, as he specifies when giving his authority.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—continued.

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—continued.

(2B) 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 given.

(b) Section 17 (3)—

Omit “section”, insert instead “Act”.

(c) Section 17 (4), (5), (6)—

Omit the subsections.

(13) Sections 17A, 17B—

After section 17, insert :—

17A. (1) Any land required for the purposes of section 17 (2) may, with the prescribed consent referred to in section 17B in the case of Crown lands that are not vested in the Minister, be acquired by purchase, resumption or appropriation under the Public Works Act, 1912. Acquisition of land for certain purposes.

(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) Sections 34, 35, 36 and 37 of the Public Works Act, 1912, do not, but section 38 of that Act does, apply in relation to any works referred to in section 17 (2).

(4) The Minister may, for the purposes of section 17 (2), grant a lease of land acquired under this section.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO PART II OF THE PRINCIPAL ACT—continued.**

Prescribed
consent.

17B. (1) For the purposes of sections 16, 16A, 17 and 17A, 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 or within an area designated by or under an Act as a catchment area in respect of such a dam or reservoir—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 a public authority or trustees for public recreation or for any other public purpose—the consent of that authority or those trustees.

(2) An authority or person entitled to give the prescribed consent for the purposes of sections 16, 16A, 17 and 17A may give the consent subject to conditions.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 3.

Sec. 5.

INSERTION OF PART IIA INTO THE PRINCIPAL ACT.

Part IIA—

After Part II, insert :—

PART IIA.

AMATEUR FISHERMEN'S ADVISORY COUNCIL.

17C. (1) The Minister may constitute an Amateur Fishermen's Advisory Council which shall have and may exercise and discharge the powers, authorities, duties and functions conferred and imposed on the Council by this Act.

Amateur
Fishermen's
Advisory
Council.

(2) The Council shall consist of not less than 6, and not more than 10, members 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 5 years, as is specified in the instrument of his appointment and shall be eligible for reappointment from time to time.

(5) A member of the Council vacates his office if he—

- (a) dies;
- (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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 3—continued.**INSERTION OF PART IIA INTO THE PRINCIPAL ACT—continued.**

(d) is removed from office by the Minister.

(6) On the occurrence of a vacancy in the office of a member of the Council 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 from any meeting the members of the Council shall elect one of their number to preside at the meeting.

(8) A majority of members of the Council 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.

(9) A member of the Council is entitled to receive such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

(10) The procedure for the calling of meetings 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.

**Duties of
Council.****17D. The Council—**

- (a) shall act as a liaison body between the Minister and amateur fishermen;
- (b) shall advise the Minister on matters referred to it by him in relation to amateur fishing; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued.*

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

17E. The Council shall furnish to the Minister such reports and statements of account arising out of the Council's activities as the Minister may require.

Furnishing
of reports,
etc., by
Council.

SCHEDULE 4.

Sec. 5.

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT.

- (1) (a) Section 18 (1) (a)—

Omit “prohibit the taking of fish from tidal waters or inland waters”, insert instead “absolutely or conditionally prohibit the taking of fish, or a specified class of fish, from any waters or from specified waters”.

- (b) Section 18 (1) (b)—

Omit “, but no such period shall exceed twelve consecutive months”.

- (c) Section 18 (2)—

Omit the subsection.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—continued.**AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—continued.****(d) Section 18 (3)—**

Omit the subsection, insert instead :—

(3) A provision of a notification under subsection (1) may apply generally or may differ in its application according to different factors.

(e) Section 18 (4)—

Omit the subsection.

(f) Section 18 (4A)—

After section 18 (4), insert :—

(4A) Regulations may be made for giving effect to notifications under this section.

(g) Section 18 (5), (6)—

Omit “or proclamation” wherever occurring.

(h) Section 18 (7), (7A)—

Omit section 18 (7), insert instead :—

(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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- (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;

- (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 the person charged proves that, at the time of the commission of the alleged offence—

- (a) 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; or
- (b) the defendant had a lawful excuse for being in that boat or in possession of that fishing gear.

(2) (a) Section 19 (1)—

Omit “whatsoever for the purpose of taking, or which is adapted to take or capable of taking, fish”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(b) Section 19 (4) (a)—

Omit the paragraph, insert instead :—

- (a) that the net which is the subject of the charge is a dip, scoop or landing net of dimensions and mesh prescribed by the regulations and was used in the manner so prescribed; or

(c) Section 19 (5)—

Omit the subsection.

(3) Part III, Division 1A, heading—

Before section 20, insert :—

DIVISION 1A.—*Importation of live fish.*

(4) (a) Section 20 (1)—

Omit “by proclamation”, insert instead “, by order published in the Gazette,”.

(b) Section 20 (1)—

Omit “such proclamation”, insert instead “the order”.

(c) Section 20 (2)—

Omit “any such proclamation”, insert instead “an order under subsection (1)”.

(d) Section 20 (3)—

Omit “any proclamation made under this section”, insert instead “an order under subsection (1)”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(5) Section 20A—

After section 20, insert :—

20A. (1) A person who—

Importers
of live fish
to be
licensed.

(a) sells, gives, transports, disposes of or deals in any way with any live fish (not being prescribed fish) which have been, or the spawn of any such fish which has been, imported into the State;

(b) rears any such live fish; or

(c) hatches any such spawn,

is guilty of an offence 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.

(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 from being liberated in any waters in which they would be 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.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(6) Part III, Division 1B—

Before Division 2 of Part III, insert :—

DIVISION 1B.—*Noxious fish.*Interpreta-
tion.

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

Noxious
fish.

20C. (1) The Governor may, by order published in the Gazette, declare that fish of a specified species are noxious fish for the purposes of this Division if they are in—

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

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

Sale of
certain
fish pro-
hibited.

20D. A person is guilty of an offence if he sells a live fish of a species to which an order under section 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.

Destruction
of noxious
fish.

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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(2) The Minister may give notice to the owner or occupier of land on which noxious fish are located to take such measures as are specified in the notice to destroy the noxious fish within the period so specified.

(3) If a person to whom a notice is given under subsection (2) fails, within the period specified in the notice, to comply with any of the requirements of the notice, the Minister may, by his authorised agents, enter upon the land to which the notice relates (not being a dwelling-house) and take such measures to destroy noxious fish located on that land as the Minister thinks fit.

(4) Compensation is not payable in respect of the seizure or destruction of any noxious fish in the course of exercising the powers conferred by this section or in respect of the destruction of any other fish if, in the course of exercising those powers, the destruction of those other fish could not reasonably be avoided.

(5) Any costs and expenses incurred by the Minister in the exercise of his powers under subsection (3) upon non-compliance with a notice 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 with the owner or occupier of any land for the supply by the Minister of poison or appliances or services for destroying noxious fish on the land, either free of cost or otherwise.

Assistance
in destruction
of
noxious fish.

20G. (1) Upon complaint on oath by an inspector that he has reasonable cause to suspect that live noxious fish are located on specified land, a stipendiary magistrate may issue his warrant authorising the inspector to enter on that

Warrant
to enter
land.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

land at any time between 7 o'clock in the morning and 7 o'clock in the evening for the purpose of searching for and seizing and destroying any noxious fish on that land.

(2) Subsection (1) does not apply in respect of an entry on land made under section 20E (3).

(7) (a) Section 21 (1)—

After "lobster," insert "or any other species of fish prescribed for the purposes of this section,".

(b) Section 21 (1)—

Omit "The regulations may prescribe one period for all such species of fish or different periods for any specified species.

In respect of any species as to which a different period is not prescribed by the regulations, the prescribed period shall be the months of October and November in each year."

(c) Section 21 (1A)—

After section 21 (1), insert :—

(1A) For the purposes of subsection (1), the prescribed period for any species of fish referred to in that subsection is—

(a) except as provided in paragraph (b), the months of September, October and November in each year; or

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- (b) in the case of fresh-water crayfish known as or called the Murrumbidgee crayfish or Murray lobster, the months of February, March and April in each year,

or, if the regulations prescribe a different period for any such species of fish, the period prescribed by the regulations in respect of that species of fish.

- (d) Section 21 (2)—

Omit “during the prescribed period”.

- (e) Section 21 (2)—

Omit “any of the fish mentioned in subsection (1), or any of the fish of the specified species as the case may be”, insert instead “any fish of the species referred to in subsection (1) during the prescribed period for that species of fish”.

- (8) Section 22—

Omit the section.

- (9) Part III, Division 2A—

After Division 2 of Part III, insert :—

DIVISION 2A.—*Restricted fisheries.*

22A. (1) The Minister may, by order published in the ^{Restricted} Gazette, declare that fish of a specified class are, or that ^{fishery.} specified waters are, a restricted fishery.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(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 a restricted fishery permit; and
- (b) in taking or attempting to take the fish, he complies with the conditions subject to which the permit was issued.

(3) The Minister may, by an order under subsection (1) or by another order published in the Gazette—

- (a) specify the maximum number of restricted fishery permits that may be in force 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).

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(4) Regulations may be made for and with respect
to—

- (a) the issue (upon application or by public tender or by ballot), operation, suspension or cancellation of restricted fishery permits; and
- (b) giving effect to any matter referred to in subsection (3) (b) and specified in an order under subsection (3).

(5) A power conferred by regulations made pursuant to subsection (4) (a) on any person to issue restricted fishery permits in relation to a restricted fishery shall not be exercised if the number of those permits in force at any time would thereby exceed the maximum number specified in relation to the restricted fishery in an order under subsection (3).

(10) Section 22B—

Before section 23, insert :—

22B. A boat the use of which for taking fish for sale is authorised under the law of another State 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. Exemptions
from
licensing.

(11) (a) Section 23 (1)—

Omit “whether tidal waters or inland waters,”.

(b) Section 23 (2), (3), (4), (5), (6), (7)—

Omit the subsections.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(c) Section 23 (8)—

Omit “, whether tidal waters or inland waters,”.

(12) (a) Section 24 (1)—

Omit “outside but adjacent to the territorial waters of New South Wales”, insert instead “other than waters referred to in section 23”.

(b) Section 24 (2)—

Omit the subsection.

(c) Section 24 (3)—

Omit “of New South Wales”.

(13) Sections 24A, 24B—

After section 24, insert :—

Provisions
applicable
to certain
licenses.

24A. (1) In this section, “license” means a license under section 23 or 24.

(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.

(3) A license is subject to such conditions as may be prescribed from time to time and to such further conditions as may be specified in the license.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

**AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.***

(4) The Minister may, in prescribed circumstances, cancel or suspend a license.

(5) Licenses may be of such different classes as may be prescribed.

(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 remains in force for the period prescribed for the purposes of this subsection.

(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.

(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 or renewal of a license, and the manner of payment thereof, may be prescribed by the regulations.

(10) For the purposes of this Act, the fact that a boat is licensed is evidence that fish landed from the boat or taken by use of the boat are fish landed or taken for sale.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—continued.**AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—continued.****Evidence.**

24B. A certificate purporting to be signed by the Director 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.

(14) Section 25—

Omit the section, insert instead :—

**Fishermen
to be
licensed.**

25. (1) A person who—

- (a) takes fish, or attempts to take fish, from territorial waters; or
- (b) lands fish in New South Wales,

for the purpose of selling them is guilty of an offence unless he is authorised to do so by a fisherman's license under this section or is otherwise authorised to do so by or under this Act.

(2) Where the prescribed application for, or for the renewal of, a fisherman's license is made, the Minister or a prescribed officer may—

- (a) subject to subsections (3) and (4), issue or renew the license; or
- (b) refuse to issue or renew the license.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(3) A fisherman's license shall not be issued to an individual unless he has the necessary qualifications or capacity to engage successfully in the fishing operations to be authorised by the license and unless he proposes, if issued with the license, to derive the major portion of his income from personal exertion from the taking and sale of fish and to spend the major portion of the time he spends in producing income by personal exertion in taking and selling fish.

(4) A fisherman's license issued to an individual shall not be renewed unless, during the period that the license was in force, the major portion of his income from personal exertion was derived from the taking and sale of fish and unless the major portion of the time he spent in producing income by personal exertion was spent in the taking and sale of fish.

(5) A fisherman's license is subject to such conditions as may be prescribed from time to time and to such further conditions as may be specified in the license.

(6) The Minister may, in prescribed circumstances, cancel or suspend a fisherman's license.

(7) Licenses under this section may be of such different classes as may be prescribed.

(8) A fisherman's license is not transferable.

(9) Except to the extent that its duration is affected by subsection (10) or (11) or by suspension, or unless it is sooner cancelled, a fisherman's license remains in force for the period prescribed for the purposes of this subsection.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(10) 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.

(11) Where a fisherman's license is continued in force under subsection (10), 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.

(12) 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.

(13) The fee for the issue or renewal of a fisherman's license, and the manner of payment thereof, may be prescribed by the regulations.

(14) 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.

(15) The holder of a fisherman's license is guilty of an offence if he contravenes the conditions to which his license is subject.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(15) (a) Section 25A (a)—

Omit “sections 15, 17, and 25”, insert instead “section 15, 17, 25 or 90c, and their employees, while engaging in the activity authorised by the permit, authority or license issued”.

(b) Section 25A (a1)—

After section 25A (a), insert :—

(a1) persons who take or attempt to take fish from, or who are in possession of fishing gear within, a fish farm of a kind referred to in section 90A (b);

(c) Section 25A (b)—

Omit “Aborigines Protection Act, 1909–1943”, insert instead “Aborigines Act, 1969”.

(16) Section 25B—

Omit the section, insert instead :—

25B. (1) A person to whom this Division applies who—

Persons
fishing
in inland
waters to
be licensed.

(a) takes fish, or attempts to take fish, from any inland waters; or

(b) has in his possession in or on or adjacent to any inland waters, without lawful excuse, any fishing gear,

is guilty of an offence and liable to a penalty not exceeding \$100 unless he is authorised to do so by an inland angling license under this section.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(2) Where the prescribed application for an inland angling license is made, the Minister or a person authorised by him may issue the license.

(3) An inland angling license is subject to such conditions as may be prescribed from time to time and to such further conditions as may be specified in the license.

(4) The Minister may, in prescribed circumstances, cancel or suspend an inland angling license.

(5) Inland angling licenses may be of such different classes as may be prescribed.

(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 remains in force for the period prescribed for the purposes of this subsection.

(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.

(10) 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.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(17) (a) Section 25C (1)—

Omit “hereinafter”, insert instead “, in this section”.

(b) Section 25C (2)—

Omit the subsection, insert instead :—

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

- (a) all fees received for inland angling licenses reduced, where a person has been specially authorised by the Minister to issue those licenses, by such commission in respect of each license issued by the person as is specified in the authority under which he issues those licenses;
- (b) the proceeds of the sale of the produce of any operation under section 17 (2) in inland waters;
- (c) such money as is appropriated to the Fund by Parliament;
- (d) except as provided in sections 25D (2) and 25E (2), money received from any person pursuant to section 8B; and
- (e) all other money required by this Act to be paid to the credit of the Fund.

(c) Section 25C (3) (e)—

Omit “and” where secondly occurring.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—continued.**AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—continued.****(d) Section 25C (3) (f), (g), (h)—**

Omit section 25C (3) (f), insert instead :—

(f) the payment of grants—

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

(ii) for the establishment of scholarships approved by the Minister,

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

(g) the costs and other expenses incurred in 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.

(18) Part III, Divisions 3B, 3C—

After Division 3A of Part III, insert :—

DIVISION 3B.—*Tidal Angling Fund.*

Tidal
Angling
Fund.

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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

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

(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—

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

(ii) for the establishment of scholarships approved by the Minister,

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

(b) the costs and other expenses incurred in 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.*

25E. (1) An account shall be kept in the Special Deposits Account in the Treasury, to be called the “Commercial Fisheries Exploration and Development Fund”, in this section referred to as the “Fund”.

Commercial
Fisheries
Exploration
and
Development
Fund.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

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

(3) The Fund shall be applied towards—

- (a) 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 industry or the commercial oyster farming industry; and
- (b) the payment of grants to institutions or organisations approved by the Minister representing the commercial fishing industry or the commercial oyster farming industry to assist in the administration of those institutions or organisations, subject to such terms and conditions, if any, as may be determined by the Minister.

(19) Part III, Division 4, heading—

Omit “Nets”, insert instead “Nets and other fishing gear”.

(20) Section 26—

Omit the section, insert instead :—

Registra-
tion of nets
and other
fishing gear.

26. (1) The regulations may provide for the registration of specified classes of nets or other fishing gear and may prescribe—

- (a) the method of registration;

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- (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 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.

(21) (a) Section 27 (1), (2), (3)—

Omit the subsections, insert instead :—

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

(2) Nothing in the regulations affects any prohibition imposed by section 18.

(3) A person is guilty of an offence and liable to a penalty not exceeding \$500 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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- (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
 - (b) is in or on or adjacent to any waters and is in possession, without lawful excuse, of a net or other prescribed fishing gear for which a lawful use in those waters has not been prescribed.
- (b) Section 27 (4)—
Omit “any such offence” where firstly occurring, insert instead “an offence under subsection (3)”.
- (c) Section 27 (5), (6)—
Omit the subsections.
- (22) Section 28—
Omit “undersize” wherever occurring, insert instead “prohibited size”.
- (23) (a) Section 29 (1)—
After “who”, insert “, except as permitted by or under this or any other Act,”.
- (b) Section 29 (1)—
Omit “in tidal or inland waters, in such manner that fish enclosed thereby”, insert instead “in such a manner that fish”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(c) Section 29 (1)—

After “destroyed”, insert “or that the free passage of fish may be obstructed”.

(d) Section 29 (3), (4)—

At the end of section 29, insert :—

(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 from the person against whom the order was made the cost of the removal as a debt in a court of competent jurisdiction.

(24) (a) Section 30—

Omit “tidal or inland water” wherever occurring, insert instead “waters”.

(b) Section 30 (1)—

Omit “or drives any boat”, insert instead “drives, rides or uses any boat, surfboard, water ski, aquaplane or similar equipment”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—continued.**AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—continued.****(25) (a) Section 31—**

Omit “hauling a net on to”, insert instead “using a net on”.

(b) Section 31—

Omit “hauling” where secondly occurring, insert instead “fishing”.

(c) Section 31—

Omit “such hauling”, insert instead “the use of his net”.

(26) (a) Section 32—

Omit “hauling” where firstly occurring, insert instead “fishing”.

(b) Section 32—

Omit “hauling and landing”, insert instead “use”.

(c) Section 32 (2), (3)—

At the end of section 32, insert :—

(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 offence relates.

(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 from the person against whom the order was made the cost of the removal as a debt in a court of competent jurisdiction.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(27) Section 32A—

After section 32, insert :—

32A. A person is guilty of an offence and liable to a penalty not exceeding \$50 if he—

Interference
with fishing
operations,
etc.

(a) drives, rides or uses a boat, surfboard, water ski, aquaplane or similar equipment in any waters on a recognised fishing ground in such a manner and in such proximity thereto as is likely to cause the dispersal of schooling fish, or fish travelling in a school or shoal; or

(b) drives, rides or uses a boat, surfboard, 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.

(28) Section 33—

Omit “tidal or inland” wherever occurring.

(29) Section 34—

Omit “tidal or inland” wherever occurring.

(30) Section 35—

Omit the section.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—continued.**AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—continued.****(31) (a) Section 36 (1)—**

After “gutted”, insert “or have the gills removed or be treated or processed in any manner prescribed”.

(b) Section 36 (1)—

Omit “from any boat engaged in fishing in ocean waters”, insert instead “or before being moved to an ice-house or refrigerated chamber or into cold storage”.

(c) Section 36 (2), (3), (4), (5)—

Omit the subsections.

(32) Section 37—

Omit the section.

(33) Section 38—

Omit the section, insert instead :—

38. (1) A person is guilty of an offence and liable to a penalty not exceeding \$50—

(a) if he consigns fish in a container for sale without marking legibly on the outside of the container or on a label attached thereto—

(i) his full name and address and a statement that they are the name and address of the consignor;

(ii) the name of the place from which the fish are consigned; and

Fish consignments
to be
labelled.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(iii) where all the fish are owned by one person (not being the consignor), the full name and address of the owner of the fish and a statement that they are the name and address of the owner of the fish; or

(b) if he consigns fish in a container for sale and 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 for sale on behalf of a member, the society sufficiently complies with subsection (1) (a) (iii) if, instead of the full name and address of the owner of the fish, the society marks the outside of the container, or a label attached thereto, in a manner that would enable an inspector readily to identify the owner of the fish from records kept by the society at its registered office.

(34) Section 39 (2)—

Omit the subsection.

(35) Section 40—

Omit “, as amended by subsequent Acts” wherever occurring.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(36) Section 40B—

Omit the section, insert instead :—

Sale of
fish.40B. (1) A person who sells fish (other than oysters
or any prescribed fish) is guilty of an offence unless—

(a) the fish—

- (i) are sold in a market by wholesale, retail,
auction or tender;
- (ii) are bartered or exchanged in a market;
- (iii) are supplied in a market for profit;
- (iv) are offered in a market for sale, received
in a market for sale or exposed in a
market for sale;
- (v) are in the possession of a person for
selling in a market; or
- (vi) are consigned or delivered for selling in a
market;

(b) the fish are sold in accordance with subsection
(2); or(c) the fish have previously been sold or disposed of
through a market or in accordance with
subsection (2).(2) Fish are sold or disposed of in accordance
with this subsection if the sale or disposal—

- (a) is a sale or disposal by the holder of a certificate
of exemption issued under section 40c and com-
plies with any conditions specified in the
certificate;

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- (b) is a sale or disposal by a fisherman to the holder of a certificate of exemption issued under section 40C; or
- (c) is a sale or disposal by a fisherman who is the holder of a consent issued under section 40D and complies with any conditions specified in the consent.

(37) Section 40C, 40D, 40E, 40F—

Omit section 40C, insert instead :—

40C. (1) Upon payment of the prescribed fee, the Minister may, on the recommendation of the Authority and for the purposes of section 40B, issue to any person a certificate exempting him from selling his fish in a market and may cancel or suspend any such certificate. Exemption
from
selling
fish in a
market.

(2) A certificate of exemption issued under subsection (1) is subject to such conditions as are specified therein.

(3) Without affecting the generality of subsection (2), a certificate of exemption may be issued under subsection (1) subject to the condition that the exemption applies only to—

- (a) specified species of fish;
- (b) the sale of fish by wholesale, retail or any other specified method of sale;
- (c) the sale of fish that have been canned, bottled, preserved, cured, smoked, dried, salted or subjected to any other specified process; or
- (d) the sale of fish from specified premises.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(4) A certificate of exemption issued under subsection (1) remains in force for such period as may be prescribed unless sooner cancelled or suspended.

Consent to
certain
sales of
fish.

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

(2) A consent issued under subsection (1)—

- (a) is 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 unless sooner cancelled or suspended.

(3) An appeal lies, as prescribed, to the Minister against—

- (a) a refusal by the Authority to issue a consent under subsection (1);
- (b) a condition of any such consent; or
- (c) the suspension or cancellation of any such consent.

Trading
societies.

40E. (1) A trading society shall not establish, control or operate a market unless—

- (a) the Minister after a report and recommendation to him by the Authority so approves and that approval is not suspended or revoked under subsection (2) (a); and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- (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 the terms, conditions and stipulations subject to which he approved the establishment, control or operation of a market by the society.

(3) The suspension or revocation of an approval under subsection (2) (a) or a variation of a term, condition or stipulation under subsection (2) (b) does not take effect in relation to a trading society until 14 days after notice thereof is given to the society.

(4) An inspector or a person authorised for the purpose by the Director or the Authority in writing may, at any reasonable time and for the purpose of ascertaining whether the provisions of this Act and the terms, conditions and stipulations to which an approval under subsection (1) is subject 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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- (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.

Marketing
and distri-
bution of
fish under
control of
Authority
in certain
cases.

40F. (1) The Minister may, by order published in the Gazette, direct that the marketing and distribution of fish or any specified species of fish landed in any district or part thereof for sale shall be subject to the control of the Authority during the period specified in the order.

(2) Where the marketing and distribution of any fish are subject to the control of the Authority pursuant to subsection (1), the Authority may, if in its opinion it is necessary to do so for the orderly marketing and distribution of those fish, prohibit any trading society or fisherman from consigning or delivering more than a specified quantity of any of those fish in its or his possession to any specified market or to the holder of any specified certificate of exemption under section 40c.

(3) For the purposes of exercising the powers conferred on it under subsection (2), the Authority may, either generally or in respect of any particular case, require a trading society or fisherman to furnish the Authority with information in the possession of that society or fisherman, as the case may be, relating to the quantity of any species of fish that has been or is to be landed in any district or any part thereof for sale.

- (4) A trading society that, or a fisherman who—
 - (a) does anything it or he is prohibited from doing under subsection (2); or

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(b) fails to do anything it or he is required to do
under subsection (3),

after being notified, either orally or in writing, of the
prohibition or requirement, as the case may be, is guilty
of an offence.

(38) (a) Section 42 (1)—

Omit “and in one or more newspapers circulating in
the locality in which the operations are carried on”.

(b) Section 42 (4A), (4B), (4C)—

After section 42 (4), insert :—

(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 make the copy available for
inspection by an inspector on demand.

(4B) A person authorised in writing by the
Director may, or 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 the person who
furnished the return and inspect any books of
account, records or other documents relating to that
operation.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(4c) A person who carries on any operation referred to in subsection (2) shall, where the Director 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 which are in the possession or under the control of the person who carries on that operation and which relate to that operation.

(c) Section 42 (5)—

After “such return”, insert “, or otherwise fails to comply with any provision of this section,”.

Sec. 5.

SCHEDULE 5.

AMENDMENTS TO DIVISION 6A OF PART III OF THE
PRINCIPAL ACT.

(1) (a) Section 41A (2), (3), (3A), (4), (5), (6), (6A)—

Omit section 41A (2)–(6), insert instead :—

(2) The Authority shall consist of—

(a) six members appointed by the Governor, of whom—

(i) two shall be appointed to represent fishermen and shall be nominated by the Minister;

(ii) three shall be fishermen elected in accordance with the regulations; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT
—*continued.*

- (iii) one shall be appointed to represent consumers of fish; and
 - (b) the Director.
- (3) Regulations made for the purposes of subsection (2) (a) (ii) shall make provision—
- (a) for the division of the State into 3 zones and for one fisherman to be elected from each zone by the fishermen who reside in that zone and who possess such other qualifications as may be prescribed;
 - (b) for the voting at the election to be by postal ballot; and
 - (c) for the preferential system of voting at the election.
- (3A) The Deputy Director, New South Wales State Fisheries, may attend any meeting of the Authority that the Director is unable for any reason to attend and at that meeting—
- (a) shall have and may exercise and perform the powers, authorities, duties and functions of the Director; and
 - (b) shall be deemed to be a member of the Authority.
- (4) On the occurrence of a vacancy in the office of an appointed member of the Authority otherwise than by the expiration of the term for which he was appointed, the Governor may appoint a person to fill the vacant office so that the Authority is constituted as required by subsection (2).

Fisheries and Oyster Farms (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT
—*continued.*

(5) Where the Governor is unable to appoint a member of the Authority under subsection (2) (a) (ii) or (4) because of the failure of any election, the Minister may nominate any fisherman for that appointment, and he shall be deemed to have been elected in accordance with the regulations.

(6) An appointed member of the Authority shall, subject to this Act, hold office for such term not exceeding 5 years as may be specified in the instrument of his appointment and is, if otherwise qualified, eligible for reappointment from time to time.

(6A) One of the appointed members of the Authority referred to in subsection (2) (a) (ii) shall, in and by the instrument of his appointment or a subsequent instrument, be appointed by the Governor as chairman of the Authority.

(b) Section 41A (7A)—

Omit the subsection.

(c) Section 41A (8)—

Omit “member (other than the chairman)”, insert instead “appointed member”.

(d) Section 41A (9)—

Omit “A member”, insert instead “An appointed member”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT
—*continued.*

(e) Section 41A (9) (d)—

Omit the paragraph, insert instead :—

(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;

(f) Section 41A (9) (f)—

Omit “or” where secondly occurring.

(g) Section 41A (9) (g), (h)—

Omit section 41A (9) (g), insert instead :—

(g) being a member referred to in subsection (2)

(a) (ii), ceases to be a fisherman; or

(h) attains the age of 70 years.

(h) Section 41A (10)—

Omit “the chairman or any member”, insert instead
“any appointed member of the Authority”.

(i) Section 41A (11)—

Omit the subsection, insert instead :—

(11) A person who is of or above the age of 70 years is not eligible for appointment as a member of the Authority.

(j) Section 41A (12)—

Omit “two”, insert instead “3”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 5—continued.**AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT**
*—continued.***(k) Section 41A (17)—**

Omit “or any Act amending that Act,”.

(l) Section 41A (17)—

Omit “any such Act”, insert instead “that Act”.

(m) Section 41A (18)—

Omit the subsection.

(2) Section 41B (3)—

Omit “the chairman or, during his absence from duty, of the deputy chairman and the chairman or deputy chairman, as the case may be, shall attest by his signature”, insert instead “at least 1 member of the Authority and that member shall attest by his signature”.

(3) (a) Section 41C (2) (f) (ii), (iii) (a), (iv)—

Omit “, as amended by subsequent Acts” wherever occurring.

(b) Section 41C (2) (f) (iii) (a)—

Omit “or any amendment thereof,” wherever occurring.

(4) (a) Section 41D (1) (b) (v), (vi)—

Omit “boxes” wherever occurring, insert instead “containers”.

(b) Section 41D (1) (b) (vi)—

Omit “as may be agreed upon”, insert instead “as may be determined by the Authority”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT
—*continued.*

(c) Section 41D (1) (b) (vii)—

Omit “or any part thereof”.

(d) Section 41D (2)—

Omit the subsection.

(e) Section 41D (3)—

Omit “as amended by subsequent Acts,”.

(5) (a) Section 41E (1)—

After “market”, insert “, being a market conducted, managed, established or maintained by the Authority,”.

(b) Section 41E (2) (a)—

After “market”, insert “referred to in subsection (1)”.

(6) (a) Section 41I (c)—

Omit “chairman and”.

(b) Section 41I (d)—

Omit “wharves.”, insert instead “wharves;”.

(c) Section 41I (e), (f)—

After section 41I (d), insert :—

(e) any expenditure that the Authority may approve for the purpose of research into the marketing of fish; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT
—*continued.*

- (f) any advance made pursuant to section 41D
(1) (b) (vii).
 - (7) (a) Section 41s—
Omit “or the Under Secretary”.
 - (b) Section 41s—
Omit “or such Under Secretary, as the case may be,”.
-

Sec. 5.

SCHEDULE 6.

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

- (1) Section 44 (1)—
Omit “hatching, rearing, distribution,” insert instead
“distribution”.
- (2) Section 45—
Omit the section.
- (3) (a) Section 46—
Omit “Governor”, insert instead “Minister”.
- (b) Section 46—
Omit “this Part or the regulations made in relation to
any of the matters referred to therein”, insert instead
“this Act”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(4) (a) Section 47 (1)—

Omit “Colonial Treasurer”, insert instead “Minister”.

(b) Section 47 (1)—

Omit “, and shall be published once at least in a newspaper circulating within the area in respect of which the society is registered”.

(c) Section 47 (2)—

Omit “the space of three months”, insert instead “a period of 3 months, or such longer period as the Minister may determine in a particular case,”.

(d) Section 47 (2)—

Omit “, or fails to publish the same as directed in subsection (1)”.

(e) Section 47 (2)—

Omit “Colonial Treasurer”, insert instead “Minister”.

(f) Section 47 (2)—

Omit “received in respect of fees or fines”.

(5) (a) Section 48 (2) (a)—

Omit “hatching, rearing,”.

(b) Section 48 (2) (a)—

Omit “by post”.

(c) Section 48 (2) (b), (c)—

Omit the paragraphs.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(d) Section 48 (2A)—

After section 48 (2), insert :—

(2A) If no representations are made by a registered acclimatisation society within 1 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 3 months or upwards failed to take proper steps to carry out the objects referred to in subsection (2) (a), the Governor may, on the recommendation of the Minister, by notification published in the Gazette, cancel the registration of the society.

(e) Section 48 (3) (a), (b)—

Omit the paragraphs.

(f) Section 48 (3) (c), (d)—

Omit “this Part” wherever occurring, insert instead “this Act”.

(g) Section 48 (3) (f)—

Omit “1899, or any Act replacing the same”, insert instead “1961”.

(6) Division 3—

Omit the Division.

(7) Division 3A—

Omit the Division.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(8) Division 4—

Omit the Division.

(9) (a) Section 53 (1)—

Omit “Any”, insert instead “Subject to subsections (2) and (3), any”.

(b) Section 53 (3)—

After section 53 (2), insert :—

(3) The regulations may authorise a person who is taking or attempting to take salmon or trout by a rod held in the hand and line to leave his rod and line unattended if he complies with such requirements as may be prescribed by the regulations.

(10) (a) Section 55—

Omit “buys, sells or exposes or consigns for sale any trout, or who”.

(b) Section 55—

Omit “buys, sells or exposes or consigns for sale, or”, insert instead “sells or”.

(11) Section 55A—

After section 55, insert :—

55A. (1) A person who sells trout is guilty of an offence unless— Sale of trout.

- (a) he is authorised to do so by a permit under section 90C or a permit issued by the Minister under the regulations; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 6—*continued.*AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

- (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 the regulations.

- (12) Section 56 (a), (b), (c)—

- Omit the paragraphs.

- (13) Section 56A—

- Omit the section.

- (14) (a) Section 57 (b)—

- Omit the paragraph.

- (b) Section 57 (c)—

- Omit the paragraph.

- (c) Section 57 (c1)—

- Before section 57 (d), insert :—

- (c1) for and with respect to permits under section 55A and the issue thereof;

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7.

Sec. 5.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

(1) Part V, heading—

Omit "OYSTERS, OYSTER FARMS, AND LEASED AREAS",
insert instead "OYSTER FARMING".

(2) Section 58—

Omit the section, insert instead :—

58. (1) Subject to this Part, the Minister may, upon application or by auction or by public tender or by ballot, lease Crown lands for the purpose of oyster farming whether or not the Crown lands are vested in Her Majesty. ^{Grant of oyster lease.}

(2) The regulations may prescribe the form of a lease granted or renewed under this Part 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 15 years.

(4) An application for a lease of land under this section does not operate to prevent the Minister 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) Where application is made to the Minister for a lease under this section of land that appears to the Minister to be available for lease, the Minister—

- (a) 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

Fisheries and Oyster Farms (Amendment).

*SCHEDULE 7—continued.**AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.*

objections to the granting of the lease may be lodged with the Director before the expiration of a period specified in the notice; and

- (b) shall not make a decision in respect of the application to which the notice relates until—
 - (i) the time limited for lodging objections to the granting of the lease has expired; and
 - (ii) he has considered any objections duly lodged.

(3) Section 59—

Omit the section, insert instead :—

Rentals.

59. (1) The rental of any lease granted under section 58 (other than a lease let by auction or public tender) and of any lease renewed under section 60 shall, subject to this section, be determined by the Minister.

(2) The rental of any lease (including a lease let by auction or public tender) granted or renewed after the commencement of Schedule 7 (3) to the Fisheries and Oyster Farms (Amendment) Act, 1979, may, subject to this section, be redetermined by the Minister at such periodic intervals, being not less than 5 years, as the Minister thinks fit.

(3) The value of improvements shall not be taken into account when determining the rental of a renewed lease under subsection (1) or when redetermining the rental of an existing lease under subsection (2).

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(4) When the Minister determines the rental of any lease or renewed lease under subsection (1) or redetermines the rental of any existing lease under subsection (2), he shall notify the applicant for the lease or renewed lease of his determination or, as the case may be, the lessee of the existing lease of his redetermination and the date on which the redetermination takes effect.

(5) The date upon which a redetermination of the rental of an existing lease under subsection (2) takes effect shall not be earlier than 30 days after the Minister notifies the lessee of the redetermination.

(6) If—

- (a) the applicant for a lease or renewed lease is dissatisfied with a determination of the Minister notified to him under subsection (4); or
- (b) the lessee of an existing lease is dissatisfied with a redetermination of the Minister notified to him under subsection (4),

he may, within 30 days of being so notified, apply to the Minister to refer the matter to the local land board.

(7) The Minister shall, upon receipt of an application made under subsection (6) or may, upon his own motion, refer to the local land board the determination of the rental of any lease or, as the case may be, the redetermination of the rental of any existing lease, including the date on which the redetermination is to take effect.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(8) A local land board shall have jurisdiction to hear and determine any reference under subsection (7) and, for that purpose, shall have and may exercise the same powers and authorities as it has or may exercise in any matter arising under the Crown Lands Consolidation Act, 1913.

(9) A determination of a local land board under subsection (8) shall be final and conclusive.

(10) Notwithstanding anything in subsection (1), (2) or (8), the rental of a lease to a prescribed person or to a person belonging to a prescribed class of persons shall not be less than the rental prescribed in respect of that person.

(4) Sections 59A, 59B—

After section 59, insert :—

Overdue
rental—
extra
charge.

59A. (1) If the rental of any lease is unpaid at the expiration of 3 months from the due date for payment, the amount due shall be increased by a sum calculated at the rate of 10 per cent per annum simple interest or, where some other rate is prescribed, at that prescribed rate.

(2) Any calculation made under subsection (1) shall be made in respect of each day that has elapsed between the due date for payment and the date of payment.

(3) Any increase of the rental of any lease under subsection (1) shall be deemed to be part of the rental.

(4) This section shall continue to apply to unpaid rentals notwithstanding that judgment for those unpaid rentals may have been obtained in any court.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(5) The Minister may, if he considers that the circumstances of the case warrant it, do any one or more of the following things :—

- (a) he may exempt a lessee from the payment of the whole or any part of an increase of the rental of his lease under subsection (1);
- (b) he may grant an extension of time for the payment of the whole or any part of that increase;
- (c) he may remit the payment of the whole or any part of that increase.

(6) This section applies to the rental of any lease, whether granted before or after the commencement of this section, which has become due and payable after that commencement.

59B. (1) In addition to the rental payable under a lease, the lessee shall, if the regulations so provide, pay to the Minister a prescribed annual contribution towards the cost of the general administration of oyster leases and of matters affecting the oyster farming industry and the cost of carrying out scientific investigations into oyster farming, the amount of the contribution being based on the area leased.

(2) The payment required by subsection (1) shall be deemed to be a condition of every lease, whether granted before or after the commencement of this section.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—continued.**AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.****(5) Section 60—**

Omit the section, insert instead :—

Renewal
of lease.

60. (1) Subject to this section, the Minister may, upon application being made not earlier than the commencement of the prescribed period before the expiration of a lease granted or renewed under this Part, renew the lease for a term not exceeding 15 years for any such renewal.

(2) Subject to this Part, the covenants and conditions upon which a 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, grant a lease.

(3) Where application is duly made for the renewal of a lease under this Part and the renewal is not granted before the expiration of the lease—

- (a) the lease continues in force until the renewal is granted or refused; and
- (b) the renewal may be granted notwithstanding that, but for this subsection, the lease would have expired.

(6) Sections 61, 62, 63, 64—

Omit the sections.

(7) (a) Section 65 (1)—

Omit “which is classified as special lands”, insert instead “which the Minister has decided to lease by auction or by public tender or by ballot”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(b) Section 65 (2)—

Omit the subsection, insert instead :—

(2) Where—

- (a) a lease of an area under this Part expires;
- (b) the former lessee did not duly apply for 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 30 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.

(c) Section 65 (3) (a)—

After “right”, insert “as against any other applicant”.

(d) Section 65 (3) (b), (c)—

Omit the paragraphs.

(e) Section 65 (3) (d)—

Omit “and to the rights conferred by subsection (2) of section 62 and subsection (4) of section 63”.

(f) Section 65 (4)—

Omit the subsection.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—continued.**AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.****(g) Section 65 (5)—**

After “area”, insert “and any preferent right arising under this section ceases upon the Minister’s refusal to lease the area to which the right relates”.

(8) Sections 65A, 65B—

After section 65, insert :—

Lease to be
maintained
in a tidy
condition.

65A. (1) It is a condition of a lease that the leased area 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 leased area) 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 leased area and cause to be done thereon such work as is necessary to achieve compliance with those requirements (other than a requirement as to time).

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(4) Where the Minister causes any work to be done under subsection (3) (c) within the leased area, 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;
- (b) the disposal of anything so removed and 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.

(6) This section applies to every lease, whether granted before or after the commencement of this section.

65B. (1) The Minister may, upon application being made by the lessee of a leased area, grant the lessee an authority to erect and maintain a fence on the leased area subject to such conditions as may be specified in the authority.

Lessee may fence oyster leases in certain cases.

(2) The Minister shall not grant an authority under subsection (1) unless—

- (a) The Maritime Services Board of New South Wales, having regard to any interference to navigation that may be caused by the erection of the fence, approves of the authority being granted; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—continued.**AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.**

- (b) the authority is subject to the conditions (if any) required by that Board.

(3) Where a lessee of any leased area erects a fence, or causes or permits a fence to be erected, on the leased area except in pursuance of an authority granted to him under subsection (1) or breaches any condition to which an authority granted to him under subsection (1) is subject—

- (a) he shall be deemed to be in breach of a condition of his lease;
- (b) he is guilty of an offence; and
- (c) the Minister may, by his authorised agents, enter the leased area and cause to be done thereon such work as is necessary to remove the fence or to achieve compliance with the condition, as the case may be.

(4) Where the Minister causes any work to be done under subsection (3) (c) within the leased area, 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;
- (b) the disposal of anything so removed and 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.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(5) Compensation is not payable to a lessee in respect of anything done under this section.

(9) (a) Section 66 (2)—

Omit the subsection, insert instead :—

(2) Where a lessee has duly applied for a renewal of his lease, he shall not be required, as a condition of the granting of the renewal, to pay for any improvements.

(b) Section 66 (3)—

Omit “classified as special lands”, insert instead “to be leased by auction or by public tender”.

(10) Section 67—

Omit “and the right of any inspector to enter upon such area”.

(11) Section 68 (2)—

Omit “tidal water”, insert instead “waters other than inland waters”.

(12) (a) Section 69—

Omit “an oyster farm”, insert instead “an area leased under this Part”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—continued.**AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.****(b) Section 69—**

After “Minister”, insert “and any such consent may be given subject to the payment of such fee as may be prescribed”.

(13) Section 70—

Omit the section.

(14) (a) Section 72—

Omit “in the lease”.

(b) Section 72—

Omit “or oyster farm in a manner sufficient to allow of their identification”.

(15) Section 73—

Omit the section, insert instead :—

**Surrender
of leases.**

73. A lessee under this Part may, with the consent of the Minister and on payment of the prescribed fee, surrender the whole or part of his lease by an instrument in the prescribed form.

(16) (a) Section 74 (1)—

Omit “to determine a way of access to such adjoining land over a part of the foreshore comprised in such area”, insert instead “for the determination of a way of access over a part of the leased area”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(b) Section 74 (1)—

Omit "notice of any such application on the owner or occupier, or on the lessee, as the case may be, may, if he thinks fit," insert instead "on the lessee notice of any such application made by the owner or occupier, may".

(c) Section 74 (2)—

Omit "and the owner of the adjoining land".

(d) Section 74 (2A)—

After section 74 (2), insert :—

(2A) The Minister may vary or rescind any determination, condition or direction made, imposed or given by him under this section.

(e) Section 74 (3), (4), (5), (6)—

Omit section 74 (3), insert instead :—

(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 (4).

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(6) In the application of subsection (1) or (2) to the determination of a way of access over land vested in The Maritime Services Board of New South Wales, a reference to the Minister shall be construed as a reference to that Board.

(17) Section 75—

Omit the section, insert instead :—

75. Subject to Part VB, an area leased under this Part is leased subject to the reclamation rights conferred by the Crown Lands Consolidation Act, 1913.

Reclama-
tion rights
under
Crown
Lands
Consolida-
tion Act,
1913.

(18) (a) Section 76 (1)—

After “any” where fourthly occurring, insert “prescribed”.

(b) Section 76 (8)—

After “Parliament”, insert “or, where the land is withdrawn at the request of a public authority, by that public authority”.

(19) (a) Section 78 (1)—

Omit the subsection, insert instead :—

(1) Without prejudice to any other powers of the Minister with respect to the cancellation of a lease, the Minister may, by notice served on a

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

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) 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) the lessee has failed to comply with a requirement in a notice served on him under section 65A.

(b) Section 78 (2)—

Omit the subsection.

(c) Section 78 (3)—

Omit “or of the last publication thereof as the case may be”.

(d) Section 78 (4), (5)—

Omit section 78 (4), insert instead :—

(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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—continued.**AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.**

(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 oysters or unlawfully receiving oysters, the Minister may, by notification in the Gazette, cancel his lease.

(20) Section 79—

Omit the section.

(21) Section 80—

Omit the section, insert instead :—

When
leased
areas
may be
closed.

80. (1) Where the Minister is satisfied that the whole or any part of a leased area or Crown lands or a public oyster reserve is from any cause in such a condition that the taking of oysters therefrom ought to be suspended, or that the oysters thereon are, or are likely to be, unfit for human consumption, he may, by order published in the Gazette, prohibit during the period specified in the order the taking of oysters from that area or the Crown lands or the public oyster reserve.

(2) An order under subsection (1) may describe the leased areas, the Crown lands and the public oyster reserves to which it applies by reference to the part of the State in which they are situated.

(3) A person who, while an order under subsection (1) is in force, takes, or attempts to take, oysters in contravention of the prohibition imposed by the order is guilty of an offence unless the oysters—

(a) are taken for the purpose of depuration, and are depurated, in accordance with such conditions as may be prescribed; or

(b) are taken for any other prescribed purpose.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(4) Where, in the opinion of the Minister, the condition of a leased area to which an order under subsection (1) relates resulted from flood, disease or other natural cause and not from mismanagement of the area by the lessee, the Minister may release the lessee from payment of rent for the period for which the order is in force, or for the period of 3 years that next succeeds publication of the order, whichever is the shorter period.

(22) Section 81 (4)—

Omit “, and includes infestation with marine worms, borers or other pests”.

(23) Section 82—

Omit the section.

(24) Section 83 (2)—

At the end of section 83, insert :—

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

(25) (a) Section 86 (c)—

Omit “by direction or authority of the lessee, or the Minister or some duly authorised officer in the service or employment of the State”, insert instead :—

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

(i) the lessee or the Minister;

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—continued.**AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.**

- (ii) where the lease is over land vested in 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;

(b) Section 86 (d)—

Omit the paragraph, insert instead :—

- (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.

(26) Section 88 (a)—

Omit “for the purpose of oyster culture”, insert instead “(not being lands vested in The Maritime Services Board of New South Wales)”.

(27) Section 89—

Omit the section.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8.

Sec. 5.

INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT.

(1) Part VA—

After Part V, insert :—

PART VA.

FISH FARMING.

90A. For the purposes of this Part, a person operates a fish farm— **Interpreta-
tion.**

- (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.

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

is guilty of an offence.

(2) Subsection (1) does not apply to a person who belongs to a class of persons exempted by the Minister from the operation of that subsection by order published in the Gazette.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8—*continued.*INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT—*continued.*

Permit to
operate
fish farm.

90C. (1) The Minister may, upon payment of the prescribed fee, issue a permit to a person to operate a fish farm, specifying in the permit—

- (a) the terms and conditions to which the permit is subject as determined by the Minister; and
- (b) the place in respect of which the permit is issued.

(2) The Minister may cancel a permit for any reason which to him seems sufficient.

(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.

Lease for
fish
farming.

90D. (1) Subject to this section, the Minister may lease Crown lands (not being lands dedicated for any public purpose) for the purpose of fish farming whether or not the Crown lands are vested in Her Majesty.

(2) Sections 58, 59, 59A, 60, 65, 65A, 65B, 66, 69, 71–78, 80, 81, 86 and 87 apply to leases under this Part in the same way as they apply to leases for the purpose of oyster farming under Part V and, for the purpose of the application of those sections, a reference in those sections to oysters shall be construed as a reference to fish.

(3) The Minister shall not lease an area under this Part without the consent of the Minister or trustees in whom, or the authority in which, control of the area is vested.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8—*continued.*

**INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT—*continued.***

(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 leased area; and
- (b) a right to use, for the purposes of operating a fish farm, the waters over any part of the leased area.

(2) Part VB—

Before Part VI, insert :—

PART VB.

DREDGING AND RECLAMATION.

90E. In this Part—

- (a) “person” does not include a public authority or a local government authority; and
- (b) “public authority” does not include a local government authority.

Interpre-
tation.

90F. This Part applies to and in respect of all works of dredging and reclamation other than a work of dredging or reclamation carried out—

Application
of Part.

- (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; or

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8—continued.

**INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT—continued.**

(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 sea-going vessels; or
- (ii) the removal of accumulated silt from a stormwater channel or the abatement of any nuisance.

Notification
of dredging
or reclama-
tion by a
public
authority.

90G. (1) In this section, “public authority” includes the Minister administering the Crown Lands Consolidation Act, 1913.

(2) Before a public authority carries out, or authorises the carrying out of, a work of dredging or reclamation it shall notify the Minister of its intention to carry out, or to authorise the carrying out of, the work.

Dredging
or reclama-
tion by
local
government
authority.

90H. Notwithstanding anything in any Act, a local government authority may not carry out a work of dredging or reclamation except with the consent of the Minister and subject to any conditions imposed by him when giving his consent.

Dredging
or reclama-
tion by
person
other than
public or
local
government
authority.

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

- (a) is authorised—
 - (i) pursuant to the Crown Lands Consolidation Act, 1913; or
 - (ii) by a public authority; or

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8—*continued.*

INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT—*continued.*

- (b) is carried out with the consent of the Minister and in accordance with any conditions imposed by him when he gives his consent.

90J. (1) A local government authority, or a person, dissatisfied with a decision of the Minister (not being a decision made after considering a report, or a report and recommendation, by a local land board under this section) with respect to the carrying out of a work of dredging or reclamation, or with a condition imposed by the Minister when giving his consent to such a work, may apply to the Minister to refer the matter to the local land board.

Reference
to local
land board
of proposal
for work of
dredging or
reclamation.

(2) The Minister may, of his own motion, and shall, upon an application made 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), the 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) 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;
- (b) report generally on the merits of the proposal;
- (c) if it thinks fit, recommend the giving or refusal of consent to the proposal; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8—continued.**INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT—continued.**

- (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 Consolidation 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.

Repre-
sentation
before
local land
board.

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

Minister
may order
carrying
out of
certain
work.

90L. (1) Where section 90H is contravened by a local government authority or a person is convicted of an offence under section 90I, the Minister may, by order in writing given to the authority or person concerned, 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.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8—*continued.*

INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT—*continued.*

(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 person to whom the order was given.

SCHEDULE 9.

Sec. 5.

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

(1) Section 91—

After “rents”, insert “, costs, charges”.

(2) Section 91A—

After section 91, insert :—

91A. (1) Where it appears to a member of the police force or a prescribed officer that any person has committed any prescribed offence under this 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 the place and within the time so specified an amount of penalty prescribed for the offence if dealt with under this section.

Payment
of fines
where
notice
has been
served.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—continued.

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—continued.

(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
- (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 by the Director.

(4) Where the amount of penalty prescribed 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;

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

- (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; and
- (d) prescribe the persons or classes of persons who are prescribed officers for the purposes of this section.

(7) No amount of 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) 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.

(3) Section 92—

Omit “or police”.

(4) Section 94—

Omit the section, insert instead :—

94. Where, contrary to the provisions of this Act or the **Forfeitures.** 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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

- (b) fish are taken, sold or in the possession of any person,

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

(5) Section 95—

Omit the section, insert instead :—

Conviction,
etc., to
operate as
forfeiture.

95. (1) Where an article is seized in connection with an alleged offence under this Act—

- (a) the conviction of a person of the offence; or
(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,

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.

(6) (a) Section 96—

Omit “as forfeited, and no proceedings”, insert instead “and no proceedings”.

(b) Section 96—

Omit “such forfeiture was incurred”, insert instead “the article was seized”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(c) Section 96—

Omit “condemned”, insert instead “forfeited”.

(d) Section 96—

Omit “forfeiture” where secondly occurring, insert instead “seizure”.

(e) Section 96—

Omit “condemnation”, insert instead “forfeiture”.

(7) (a) Section 97—

Omit “or police”.

(b) Section 97—

Omit “, and on proof that the articles are liable to forfeiture may condemn the same”, insert instead “and may order that the articles be forfeited”.

(8) (a) Section 98—

Omit “as forfeited”.

(b) Section 98—

Omit “in respect of such forfeiture”, insert instead “for forfeiture of the article”.

(9) (a) Section 99—

Omit “forfeiture”, insert instead “seizure”.

(b) Section 99—

Omit “condemnation”, insert instead “forfeiture”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(10) Section 100—

Omit the section.

(11) Section 101—

Omit “all fish, nets, engines, and other articles condemned”, insert instead “any article forfeited or ordered by a court to be forfeited”.

(12) Section 103 (1) (c), (d), (e)—

Omit section 103 (1) (c) and (d), insert instead :—

(c) refuses or neglects to comply with a lawful requirement of an inspector; or

(d) falsely states his name or address when required, pursuant to this Act, to state his full name and address; or

(e) abuses, threatens or insults an inspector acting under this Act.

(13) Section 104—

Omit “or person in charge of every”, insert instead “of a”.

(14) Section 107 (2)—

Omit “license, permit, registration, or authority”, insert instead “license, permit, consent, certificate of exemption or other authority”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(15) Section 107A—

After section 107, insert :—

107A. Where, in a provision of this Act or an 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 landmark of the kind specified in the provision at the approximate site so specified is evidence that, at the specified time, the boundary was marked as specified in the provision. Evidence of boundaries.

(16) Section 109 (1)—

Omit “condemnation”, insert instead “forfeiture”.

(17) Section 110—

Omit “stipendiary or police magistrate, or for any justices before whom”, insert instead “court before which”.

(18) Section 112—

Omit the section, insert instead :—

112. The Governor may make regulations prohibiting the sale of any class of fish which in his opinion are in an inferior or unsound condition for the purposes of human consumption by reason of— Inferior or unsound fish.

(a) their condition at the time they were taken; or

(b) their measurement or weight.

(19) Section 113—

Omit the section.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(20) Section 114—

After “taken”, insert “, or of being in his possession,”.

(21) Section 115—

Omit the section.

(22) Section 116—

Omit the section, insert instead :—

Possession
of pro-
hibited
size fish.

116. (1) A person who, except as provided by subsection (2), has any prohibited size fish in his 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 to a penalty not exceeding \$500.

(2) Subsection (1) 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.

(23) Sections 116A, 116B—

After section 116, insert :—

Right to
fish in
certain
inland
waters.

116A. Subject to this Act, a person may take, or attempt to take, fish from inland waters in a river or creek notwithstanding that the bed of those waters is not Crown lands if, for the purpose of taking those fish, he is in a boat on those waters or is on the bed of those waters.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

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

Damage,
etc., to
official
notice
board.

(a) purports to have been erected under the authority, or by the order, of the Minister or the Director; and

(b) displays information regarding the operation of this Act,

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

(24) (a) Section 117—

Omit “upward”.

(b) Section 117—

After “reservoir” where secondly occurring, insert “and may, by a like order, require a person who has the management or control of a dam, weir or reservoir to carry out repairs to a fishway or fish by-pass”.

(c) Section 117 (2)—

At the end of section 117, insert :—

(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.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—continued.**AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—continued.****(25) (a) Section 118 (2)—**

Omit “three”, insert instead “12”.

(b) Section 118 (5), (6)—

After section 118 (4), insert :—

(5) A person who fails to comply with the requirements of a notice given to him under subsection (1) is guilty of an offence.

(6) Where posts and cultivation referred to in subsection (1) are on an area vested in a public authority and that public authority considers that the posts and cultivation should be removed, the Minister shall—

- (a) by a notice under subsection (1) require the person who was the last lessee of that area to remove the posts and cultivation; and
- (b) if that person fails to comply with the requirements of the notice, exercise the powers conferred on him under subsection (3).

(26) (a) Section 119—

After “issue”, insert “or renew”.

(b) Section 119—

Omit “a court of quarter sessions” wherever occurring, insert instead “the District Court”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10.

Sec. 5.

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

(1) (a) Section 120 (2) (b)—

Omit the paragraph, insert instead :—

(b) prescribing the forms or other documents required for the purposes of this Act;

(b) Section 120 (2) (c)—

After “nets” where secondly occurring, insert “, and other matters relating to nets”.

(c) Section 120 (2) (d)—

Omit the paragraph, insert instead :—

(d) prescribing the fee or deposit to be paid for or with respect to any lease, license, permit, consent, certificate of exemption or other authority made, issued or given, or for any service rendered, under this Act;

(d) Section 120 (2) (e)—

Omit the paragraph, insert instead :—

(e) providing for the sale or disposal of anything forfeited under this Act;

(e) Section 120 (2) (f)—

Omit the paragraph, insert instead :—

(f) prohibiting or regulating methods of operating nets or other fishing gear;

(f) Section 120 (2) (g)—

Omit “regulating”, insert instead “prohibiting or regulating”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10—*continued.*AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(g) Section 120 (2) (g)—

Omit “and line fishing”, insert instead “fishing and other methods of fishing”.

(h) Section 120 (2) (h)—

Omit “regulating and controlling”, insert instead “prohibiting or regulating”.

(i) Section 120 (2) (l)—

After “removal”, insert “and sale”.

(j) Section 120 (2) (l)—

Omit “, whelks, or mussels” wherever occurring, insert instead “or other shell fish”.

(k) Section 120 (2) (n)—

Omit the paragraph.

(l) Section 120 (2) (o)—

Omit the paragraph, insert instead :—

- (o) prescribing the minimum measurement or weight of marketable oysters and preventing the sale of unmarketable oysters or oysters not fit for human consumption;

(m) Section 120 (2) (q)—

Omit “spat and undersize”, insert instead “prohibited size”.

(n) Section 120 (2) (t)—

Omit “tidal or inland”, insert instead “any”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(o) Section 120 (2) (u)—

Omit “cultch or any dredged refuse”, insert instead
“any material on to those areas”.

(p) Section 120 (2) (v)—

Omit the paragraph, insert instead :—

(v) prescribing the identification particulars to be
displayed on licensed fishing boats and the
manner in which those particulars are to be
displayed and prohibiting the display of those
particulars on boats that are not licensed
fishing boats;

(q) Section 120 (2) (x)—

Omit “by the Municipal Council of Sydney under
Part XIII of the Sydney Corporation Act, 1932–1934,
as amended by subsequent Acts,”.

(r) Section 120 (2) (z)—

Omit the paragraph.

(s) Section 120 (2) (aa)—

Omit “private fresh-water”.

(t) Section 120 (2) (aa)—

After “hatcheries”, insert “or fish farms”.

(u) Section 120 (2) (dd)—

Omit the paragraph.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10—*continued.*AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(v) Section 120 (2) (kk)—

Omit the paragraph, insert instead :—

(kk) prohibiting the gathering of seaweeds for commercial purposes without a permit, providing for the issue of those permits, for the conditions subject to which those permits are issued, for the enforcement of observance of those conditions and for the suspension or cancellation of those permits, and regulating the gathering of seaweeds;

(w) Section 120 (2) (nn)—

Omit the paragraph.

(x) Section 120 (2) (pp)—

Omit “tidal waters”, insert instead “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”.

(y) Section 120 (2) (qq)—

Omit “salmon or trout or any other”, insert instead “any”.

(z) Section 120 (2) (xx)—

Omit “the disposal”, insert instead “the seizure and disposal”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(aa) Section 120 (2) (eee)—

Omit the paragraph, insert instead :—

(eee) regulating the number of any species of fish or number of any species of fish of any prescribed measurement or weight any person may take or have in his possession in any one day;

(bb) Section 120 (2) (hhh)—

Omit the paragraph.

(cc) Section 120 (2) (jjj), (kkk)—

Omit “boxes” wherever occurring, insert instead “containers”.

(dd) Section 120 (2) (ppp)—

Omit “scheme.”, insert instead “scheme;”.

(ee) Section 120 (2) (qqq), (rrr), (sss), (ttt)—

After section 120 (2) (ppp), insert :—

(qqq) regulating, restricting or imposing conditions on canning, smoking, freezing or otherwise preserving, processing or storing fish and providing for the inspection of any premises where fish are canned, smoked, frozen or otherwise preserved or processed 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;

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10—*continued.*AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

- (sss) prescribing the places at which a person may shuck abalone and prohibiting the shucking of abalone at places other than those that are so prescribed;
 - (ttt) prohibiting the use of electrical fishing devices without a permit, providing for the issue of those permits, for the conditions subject to which those permits are issued, for the enforcement of observance of those conditions and for the suspension or cancellation of those permits, and regulating the use of electrical fishing devices.
- (ff) Section 120 (2A) (a) (iii)—
- Omit “consent or license granted or issued under section 40B or 40C”, insert instead “certificate of exemption under section 40C or consent under section 40D”.
- (gg) Section 120 (3), (4)—
- Omit section 120 (3), insert instead :—
- (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.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(2) (a) Section 121 (1), (2)—

Omit the subsections, insert instead :—

(1) A regulation may impose a penalty not exceeding \$500 for any breach thereof.

(2) The regulations may apply generally or may differ in their application according to different factors.

(b) Section 121 (4)—

Omit the subsection, insert instead :—

(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.

(c) Section 121 (5)—

Omit the subsection.

Fisheries and Oyster Farms (Amendment).

Sec. 5.

SCHEDULE 11.

AMENDMENTS TO THE SCHEDULES TO THE PRINCIPAL ACT.

(1) Schedules A, B—

Omit the Schedules, insert instead :—

Sec. 19 (1)
(d).

SCHEDULE A.

NARRABEEN LAKE

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

WALLIS LAKE

County of Gloucester, parishes of Tuncurry and Forster at Wallis Lake. The whole of the waters within the following boundaries: Commencing at the entrance to Wallis Lake at the eastern extremity of the northern breakwater and bounded thence by that breakwater 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-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 57.295 on Godwin Island; thence by the northern foreshore of that island north-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 waters of that part of Tuggerah Lake, its channel entrance and the adjacent ocean waters included within the following boundaries: Commencing on the line of high water mark at the southern extremity of Karagi, the headland on the northern side of that channel entrance, and bounded

Fisheries and Oyster Farms (Amendment).

SCHEDULE 11—*continued.***AMENDMENTS TO THE SCHEDULES TO THE PRINCIPAL ACT—
*continued.***

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 generally northerly and north-easterly to a point distant 201 metres south-westerly from the north-western corner of portion 39 in the parish of Wallarah; thence by lines bearing 282 degrees 887 metres and 325 degrees 814 metres, respectively, into the waters of that lake; thence by a line bearing 210 degrees 2,743 metres; 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 that lake distant 805 metres southerly from the northern extremity of Picnic Point; thence by the high water mark of part of the eastern shore of that lake to that extremity of that point; thence by the high water mark of the south-western shore of that channel entrance 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 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 comprised within the following boundaries: Commencing at the north-western corner of portion 44 in the parish of Wollongong; thence by lines bearing 291 degrees 30 minutes 444 metres 228 degrees 57 minutes 175 metres and 191 degrees 30 minutes 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-westerly, in all about 233 metres to a point marked broad-arrow over FD at the westernmost extremity of that island, and thence by a line bearing approximately 205 degrees 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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 11—*continued.***AMENDMENTS TO THE SCHEDULES TO THE PRINCIPAL ACT—
*continued.***

that 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, bearing 237 degrees from the Trigonometrical Station on Windang Island, being the intersection of a line drawn from that Trigonometrical Station to the junction of Lake Entrance 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 that lake at its intersection with a line drawn from that Trigonometrical Station to the southern corner of portion 44 in the parish of Wollongong; thence by the north-eastern shore of that entrance and the eastern shore of that lake to the point of commencement.

Sec. 19 (4)
(b).

SCHEDULE B.**TUGGERAH LAKE AND OCEAN WATERS ADJOINING**

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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 11—*continued.*

**AMENDMENTS TO THE SCHEDULES TO THE PRINCIPAL ACT—
*continued.***

entrance from the ocean to that channel entrance and also the whole of the waters of that channel entrance lying on the ocean side of that line and the whole of the ocean waters adjacent to the entrance of Lake Illawarra described in Schedule A.

(2) Schedule C—

Omit the Schedule.

Fisheries and Oyster Farms (Amendment).

Sec. 5.

SCHEDULE 12.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES.

(1) (a) Section 18 (5)—

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 instead “are guilty of an offence”.

(b) Section 18 (6)—

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 instead “is guilty of an offence”.

(c) Section 18 (7) (a)—

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 instead “is guilty of an offence”.

(d) Section 18 (8)—

At the end of section 18, insert :—

(8) A person who is guilty of an offence under this section is liable to a penalty not exceeding \$500.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(2) Section 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 instead “is guilty of an offence”.

(3) Section 20 (3)—

Omit “shall be liable to a penalty not exceeding forty dollars”, insert instead “is guilty of an offence”.

(4) Section 21 (4)—

Omit the subsection.

(5) Section 23 (8)—

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 instead “is guilty of an offence unless the boat is licensed”.

(6) (a) Section 24 (1)—

Omit “shall”, insert instead “is”.

(b) Section 24 (1)—

Omit “be liable to a penalty of not less than two dollars and not exceeding fifty dollars for a first

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

offence and not less than ten dollars nor more than one hundred dollars for a second or subsequent offence", insert instead "guilty of an offence".

(7) Section 25 (7)—

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 instead "is guilty of an offence".

(8) Section 25B (7)—

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 instead "\$100".

(9) Section 26 (1)—

Omit "four dollars", insert instead "\$20".

(10) Section 27 (3)—

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 instead "is guilty of an offence and liable to a penalty not exceeding \$500".

(11) Section 28—

Omit "shall for a first offence be liable to a penalty not exceeding ten dollars and for a second or subsequent

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

offence shall be liable to a penalty of not less than ten dollars and not exceeding forty dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$500”.

(12) (a) Section 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 instead “is guilty of an offence and liable to a penalty not exceeding \$200”.

(b) Section 29 (2)—

Omit “, shall for every such offence be liable to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$200”.

(13) (a) Section 30 (1)—

Omit “shall for every such offence be liable to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$200”.

(b) Section 30 (2)—

Omit “, shall for every such offence be liable to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$200”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(14) Section 32—

Omit “shall for every such offence be liable to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence”.

(15) (a) Section 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 instead “is guilty of an offence”.

(b) Section 33 (2)—

Omit “, shall for every such offence be liable to a penalty not exceeding one hundred dollars”, insert instead “is guilty of an offence”.

(16) (a) Section 34 (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 instead “is guilty of an offence”.

(b) Section 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 for each day during which the offence continues”, insert instead “is guilty of an offence”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(17) Section 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 instead “is guilty of an offence and liable to a penalty not exceeding \$100”.

(18) Section 37—

After “offence” where firstly occurring, insert “and liable to a penalty not exceeding \$100”.

(19) Section 38 (2)—

Omit “shall be guilty of an offence, and shall be liable to a penalty not exceeding two dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$50”.

(20) Section 40B (4)—

Omit “shall, upon conviction before a police or stipendiary magistrate or any two justices, be liable to a penalty not exceeding one hundred dollars”, insert instead “is guilty of an offence”.

(21) Section 40c (4) (a)—

Omit “shall be liable to a penalty not exceeding one hundred dollars”, insert instead “is guilty of an offence”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(22) Section 41E (3)—

Omit “shall be liable to a penalty not exceeding one hundred dollars”, insert instead “is guilty of an offence”.

(23) Section 42 (5)—

Omit “shall be guilty of an offence”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$100”.

(24) Section 54—

Omit “shall be guilty of an offence”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$100”.

(25) Section 56—

Omit “shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred dollars”, insert instead “is guilty of an offence”.

(26) Section 68 (1)—

Omit “shall be guilty of an offence and shall be liable to a penalty of not less than twenty dollars”, insert instead “is guilty of an offence”.

(27) Section 80—

Omit “incur a penalty not exceeding forty dollars”, insert instead “be guilty of an offence”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(28) Section 81 (3)—

Omit “, shall be guilty of an offence and shall be liable to a penalty of not less than twenty dollars”, insert instead “is guilty of an offence”.

(29) Section 82 (3)—

Omit “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 instead “guilty of an offence”.

(30) Section 84—

Omit “liable to a penalty not exceeding forty dollars”, insert instead “guilty of an offence”.

(31) (a) Section 85 (2)—

Omit “shall take”, insert instead “takes”.

(b) Section 85 (2)—

Omit “shall be liable to a penalty of not more than ten dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$50”.

(32) Section 86—

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 instead “is guilty of an offence”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(33) Section 87 (4)—

Omit “shall be liable to a penalty of not less than four dollars nor more than forty dollars, and shall be”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$200 and is”.

(34) (a) Section 90(4)—

Omit “shall be liable upon conviction to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$100”.

(b) Section 90 (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.”.

(35) (a) Section 103 (1)—

Omit “shall for every such offence be liable to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence”.

(b) Section 103 (2)—

Omit “shall for every such offence be liable to a penalty of not less than twenty dollars and not exceeding one hundred dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$500”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(c) Section 103 (3)—

Omit “shall impersonate an inspector shall be guilty of an offence and shall be liable to a penalty not exceeding forty dollars”, insert instead “impersonates an inspector is guilty of an offence”.

(36) Section 104—

Omit “he shall for every such offence be liable to a penalty not exceeding ten dollars”, insert instead “he is guilty of an offence and liable to a penalty not exceeding \$50”.

(37) (a) Section 106 (1)—

Omit the subsection, insert instead :—

(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.

(b) Section 106 (2)—

Omit “any act which by this Act is declared to be an offence and which is”, insert instead “an offence under this Act”.

(38) Section 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 instead “is guilty of an offence”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(39) Section 114—

Omit "shall be liable to a penalty of not less than ten dollars and not exceeding forty dollars", insert instead "is guilty of an offence and liable to a penalty not exceeding \$500".

(40) Section 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 instead "is guilty of an offence and liable to a penalty not exceeding \$500".

(41) Section 117—

Omit "shall be guilty of an offence and shall be liable to a penalty not exceeding forty dollars", insert instead "is guilty of an offence".

Fisheries and Oyster Farms (Amendment).

SCHEDULE 13.

Sec. 6.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

1. A person who, immediately before the commencement of Schedule 2 (2), holds office— Vacation
of certain
offices.

(a) under section 6 of the Principal Act as an honorary inspector of fisheries; 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. (1) A delegation made by the Minister to the Under Secretary under section 8A of the Principal Act and in force immediately before the commencement of Schedule 2 (4) shall, on and from that commencement and until revoked by the Minister, be deemed to have been made by the Minister to the Director pursuant to section 8A of the Principal Act, as amended by this Act. Delegations.

(2) A delegation made by the Under Secretary under section 8A of the Principal Act and in force immediately before the commencement of Schedule 2 (4) shall, on and from that commencement and until revoked by the Director, be deemed to have been made by the Director pursuant to section 8A of the Principal Act, as amended by this Act.

3. An approval or authorisation under section 17 (1) or (2) of the Principal Act in force immediately before the commencement of Schedule 2 (12) shall, on and from that commencement, be deemed to be an authorisation under section 17 (2A) of the Principal Act, as amended by this Act, of the activity previously approved or authorised. Authorisation
of certain
activities.

4. A notification or proclamation under section 18 of the Principal Act in force immediately before the commencement of Schedule 4 (1) shall, on and from that commencement, be deemed to be a notification 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 amended, remains in force until it would have expired had that section of the Principal Act not been amended by this Act. Closing
of certain
waters.

5. A proclamation under section 20 of the Principal Act in force immediately before the commencement of Schedule 4 (4) shall, on and from that commencement, be deemed to be an order taking effect at that commencement under section 20 of the Principal Act, as amended by this Act. Landing
of certain
fish in
the State.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 13—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Importers
of live
fish.

6. (1) Notwithstanding anything in section 20A of the Principal Act, as amended by this Act, a person is not guilty of an offence under that section in respect of anything done before the prescribed day for that person.

(2) For the purposes of subclause (1) of this clause, the prescribed day for a person referred to in that subclause is the later, or latest, of—

- (a) the day that is 3 months after the day on which Schedule 4 (5) commences;
 - (b) where that person duly applies, on or after the day on which Schedule 4 (5) commences and before the day that is 3 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;
- (c) where a person referred to in paragraph (b) is notified as referred to in paragraph (b) (ii)—the day after the last day on 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.

Boat
licenses,
fishermen's
licenses
and inland
angling
licenses.

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

- (a) in the case of a license under section 23 of the Principal Act—of Schedule 4 (11) (b);
- (b) in the case of a license under section 24 of the Principal Act—of Schedule 4 (12) (b);
- (c) in the case of a license under section 25 of the Principal Act—of Schedule 4 (14); or

Fisheries and Oyster Farms (Amendment).

SCHEDULE 13—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (d) in the case of a license under section 25B of the Principal Act—
of Schedule 4 (16),

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 it had been issued under the corresponding provision of the Principal Act, as amended by this Act.

8. Where—

Registered
nets.

- (a) a net is, immediately before the commencement of Schedule 4 (20), 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 regulations.

9. Where a consent under section 40B of the Principal Act is in force immediately before the commencement of Schedule 4 (36), the consent shall be deemed to be a consent issued at that commencement under section 40D of the Principal Act, as amended by this Act, for the residue of the term for which it was issued under the Principal Act.

Consent
to sell
out of
market.

10. (1) Where a certificate of registration under section 40B of the Principal Act is in force immediately before the commencement of Schedule 4 (36), the certificate shall be deemed to be a certificate of exemption issued at that commencement under section 40C of the Principal Act, as amended by this Act.

Registration
as fish
canner.

(2) Where, by the operation of subclause (1) of this clause, a certificate of registration is deemed to be a certificate of exemption—

- (a) the certificate of exemption shall be subject to the condition that the exemption applies only to the sale of canned fish;
- (b) the same conditions shall be deemed to have been specified in the certificate of exemption as were specified in the certificate of registration; and
- (c) the certificate of exemption continues in force, unless sooner cancelled, for the residue of the term for which the certificate of registration was issued.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 13—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

License to
sell out
of market.

11. (1) Where a license under section 40c of the Principal Act is in force immediately before the commencement of Schedule 4 (37), the license shall be deemed to be a certificate of exemption issued at that commencement under section 40c of the Principal Act, as amended by this Act.

(2) Where, by the operation of subclause (1) of this clause, a license is deemed to be a certificate of exemption—

- (a) the certificate of exemption shall be subject to the condition that the exemption applies only to the sale by wholesale at the premises specified in the license of fish which have been taken by the person to whom the license was issued or which have been purchased from a fisherman;
- (b) the same conditions shall be deemed to have been specified in the certificate of exemption as were specified in the license; and
- (c) the certificate of exemption continues in force, unless sooner cancelled, for the residue of the term for which the license was issued.

Trading
societies.

12. An approval given by the Governor under section 10A of the Co-operation Act, 1923, and in force immediately before the commencement of Schedule 4 (37) shall be deemed to be an approval given by the Minister under section 40E of the Principal Act, as amended by this Act, at that commencement.

Reconstitu-
tion of
Fish
Marketing
Authority.

13. (1) On the day appointed and notified under section 2 (3) for the commencement of Schedule 5 (1) the Fish Marketing Authority shall be reconstituted in accordance with the Principal Act, as amended by this Act.

(2) A person who, immediately before the day referred to in subclause (1) of this clause, holds office as a member of the Fish Marketing Authority ceases on that day to hold that office.

(3) Nothing in this Act prejudices or affects in any way the continuity of the body corporate constituted under section 41A of the Principal Act.

Lands
controlled
by acclima-
tisation
society.

14. Where, immediately before the commencement of Schedule 6 (6), any lands are, pursuant to section 49 of the Principal Act, under the control and management of an acclimatisation society, the lands continue under that control and management after that commencement as if that section had not been repealed.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 13—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

15. Where, immediately before the commencement of Schedule 6 (7), Trout farms.
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 that section had not been repealed; 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.

16. Where—

- (a) before the commencement of Schedule 7 (2), land was the subject of a lease purporting to have been granted under Part V of the Principal Act; and
- (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,

Certain
leases
validated.

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.

17. In Part V of the Principal Act, "Crown lands" and "recognised hauling ground" have, until the commencement of Schedule 7, the meanings respectively ascribed thereto in section 4 (1) of the Principal Act, as in force immediately before the date of assent to this Act.

Meanings
of "Crown
lands" and
"recognised
hauling
ground".

18. Where an application under section 58 of the Principal Act has not, before the commencement of Schedule 7 (2), been granted or refused, the application may be dealt with as if it were an application referred to in section 58 of the Principal Act, as amended by this Act, and shall be so dealt with as if Schedule 7 (2) had commenced immediately before the making of the application.

Application
for lease
of oyster
farm.

19. A lease under Part V of the Principal Act that is in force immediately before the commencement of Schedule 7 (2) shall be 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, 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.

Leases
under
Part V of
Principal
Act.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 13—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

Rental
of oyster
lease.

20. Where the rental of a lease was determined pursuant to section 59 of the Principal Act, as in force immediately before the commencement of Schedule 7 (3), the rental of that lease shall, on and after that commencement, be deemed to have been determined pursuant to that section, as amended by this Act.

Closing
of leased
area or
oyster
reserve.

21. The prohibition in a notification in force under section 80 or 82 of the Principal Act immediately before the commencement of Schedule 7 shall be deemed on and after that commencement to be a prohibition imposed by an order in force under section 80 of the Principal Act, as amended by this Act.

Fish
farms.

22. Notwithstanding anything in Part VA of the Principal Act, as amended by this Act, a person is not guilty of an offence under section 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; or
- (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,

whichever is the later.

Dredgings
and
reclama-
tions.

23. Part VB of the Principal Act, as amended by this Act, does not apply to works of dredging or reclamation authorised or undertaken before the commencement of that Part.

Condemn-
ation of
certain
articles.

24. Sections 92 to 102, both inclusive, and section 109, of the Principal Act continue to apply on and after the commencement of Schedule 9 (4) to and in respect of all fish, engines, nets and other articles seized before that commencement, and the corresponding sections of the Principal Act, as amended by this Act, do not apply in respect thereof.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 13—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

25. Nothing in this Schedule affects any saving in the Interpretation Act, 1897. Interpretation Act, 1897.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 18th May, 1979.*





FISHERIES AND OYSTER FARMS (AMENDMENT) BILL, 1979

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

THE following Bills are cognate with this Bill :—

Co-operation (Fisheries and Oyster Farms) Amendment Bill, 1979;

Statutory and Other Offices Remuneration (Fish Marketing Authority) Amendment Bill, 1979.

The objects of this Bill are—

- (a) to ensure that the Fisheries and Oyster Farms Act, 1935, ("the Principal Act") operates in relation to any waters to the full extent of New South Wales legislative competence (Schedules 1 (3) (u) and (z) and 2 (1));
- (b) to include in the definition of "Crown lands" in the Principal Act land, submerged by water, that is vested in trustees for any public purpose or in any public authority (instead of only land vested in the Maritime Services Board of New South Wales) (Schedule 1 (3) (a));
- (c) to provide a definition of "fishing gear" to replace the definitions of "engine", "fixed engine", "gaff" and "hand-line" (Schedule 1 (3) (c), (f) and (g));
- (d) to clarify the meanings of "fish", "master", "net", "set line" and "take" in the Principal Act (Schedule 1 (3) (d), (i), (r) and (t));
- (e) to disband honorary vigilance committees and to provide instead for the appointment of honorary fisheries rangers (Schedules 2 (2) and 10 (1) (r));
- (f) to remove the requirement that the Minister's report as to the state of fisheries in New South Wales be submitted to the Governor prior to tabling in Parliament (Schedule 2 (3));
- (g) to extend and clarify the powers of inspectors, and, in particular—
 - (i) to empower an inspector to search shops, receptacles, vehicles, etc., for fish in the possession of a person contrary to the Principal Act in addition to the existing power of search in relation to fish taken in contravention of the Principal Act (Schedule 2 (7)); and
 - (ii) to empower an inspector to require a fisherman to lift his net or other fishing gear from the water (Schedule 2 (8) (f));

- (h) to provide that permits to take fish for scientific purposes, etc., remain in force for a period, not exceeding 12 months, specified in the permit and to enable a fee to be prescribed for the issue of such a permit (Schedule 2 (9));
- (i) to require the Minister to obtain the consent of certain Ministers and public authorities whenever certain Crown lands are reserved for experiments in the culture and propagation of fish (Schedule 2 (10));
- (j) to empower the Minister to declare certain Crown lands, submerged by water, to be aquatic reserves (Schedule 2 (11));
- (k) to authorise the Minister to construct and operate on any Crown lands, or to enter into agreements with any person for the construction and operation of, fishery improvement works, hatcheries, research stations, etc., and to authorise the acquisition of land in accordance with the Public Works Act, 1912, for those purposes (Schedules 2 (12) and (13) and 6 (6));
- (l) to constitute an Amateur Fishermen's Advisory Council (Schedule 3);
- (m) to simplify provisions relating to the closing of waters for fishing and to enable restrictions on specified types and numbers of boats and fishing gear to be imposed in closed waters (Schedules 4 (1) and 6 (8));
- (n) to strengthen the provisions relating to the closing to net fishing of Brisbane Water, Port Hacking, Wagonga River, Narrabeen Lake, Wallis Lake, Tuggerah Lake and Lake Illawarra and to permit a landing net to be used in those waters as an auxiliary to a rod held in the hand (Schedule 4 (2));
- (o) to enable the Governor to act in relation to the importation of live fish into New South Wales 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) (Schedule 4 (4));
- (p) to provide for the licensing of importers of live fish (Schedule 4 (5));
- (q) to prohibit the sale, and to provide for the destruction in inland waters, of fish declared by the Governor to be noxious fish (Schedule 4 (6));
- (r) to enable close seasons to be prescribed for fish taken for sale other than those already prescribed by the Principal Act and to bring the provisions relating to the existing close seasons up to date (Schedule 4 (7));
- (s) to repeal section 22 of the Principal Act which has been rendered unnecessary by other amendments to that Act (Schedule 4 (8));
- (t) to enable the Minister to limit the commercial exploitation of certain fish or of fish in certain waters (Schedule 4 (9));
- (u) to enable fishing boats and fishermen from other States to be exempted from the licensing provisions of the Principal Act (Schedule 4 (10));

- (v) to rearrange and amplify the provisions relating to fishing boat licenses (Schedule 4 (11), (12) and (13));
- (w) to rearrange and amplify the provisions relating to the licensing of commercial fishermen and, in particular, to provide that in order to obtain a license a fisherman is required to spend a major portion of his working time in the taking and sale of fish (Schedule 4 (14));
- (x) to rearrange and amplify the provisions relating to inland angling licenses and, in particular, to extend the application of those provisions to all fishing gear (Schedule 4 (16));
- (y) to specify the money that is required to be paid to the credit of the Inland Fisheries Fund and to provide for additional expenditure from that Fund (Schedule 4 (17));
- (z) to establish a Tidal Angling Fund and a Commercial Fisheries Exploration and Development Fund (Schedule 4 (18));
- (aa) to require a registration of only those classes of nets or other fishing gear that are required to be registered by the regulations and to enable a fee for, and period of, registration to be prescribed (Schedule 4 (20));
- (ab) to extend and clarify the power to make regulations with respect to the nets and other prescribed fishing gear that may lawfully be used (Schedules 4 (21) and 10 (1) (u) and (w));
- (ac) to clarify the prohibition on stalling waters and to enable a court on the conviction of any person for that offence to make an order for the removal of the obstruction (Schedule 4 (23));
- (ad) to penalise wilful or negligent damage to a fishing net by the use of a surfboard, water ski, aquaplane or similar equipment (Schedule 4 (24));
- (ae) to enable a court to make an order against a person convicted of placing an obstruction on a recognised fishing ground to remove that obstruction (Schedule 4 (26));
- (af) to empower an inspector to prevent disturbance to schooling fish or unreasonable interference with lawful fishing operations caused by the use of a boat, surfboard, water ski, aquaplane or similar equipment (Schedule 4 (27));
- (ag) to rearrange and amplify the provisions which authorise regulations to be made with respect to the manner in which fish are to be treated before they are offered for sale or placed in cold storage (Schedule 4 (30), (31), (32) and (34));
- (ah) to make more detailed provision for the manner in which containers of fish consigned for sale are to be marked (Schedule 4 (33));
- (ai) to make it clear that a person contravenes section 40B of the Principal Act (which requires that, with some exceptions, all fish must be sold in a fish market before they are sold elsewhere) if the fish are offered or exposed for sale, or in possession for sale, etc., contrary to that requirement (Schedule 4 (36));

- (aj) to rearrange and amplify the provisions whereby fish may, in certain cases, be first sold otherwise than in a fish market and, in particular, to provide for the issue by the Minister on the recommendation of the Fish Marketing Authority of certificates of exemption from selling fish in a market instead of wholesalers' licenses and certificates of registration of canners (Schedule 4 (36) and (37));
- (ak) to provide for the establishment (under the Principal Act instead of the Co-operation Act, 1923) of fish markets operated by trading societies (Schedule 4 (37));
- (al) to enable the Minister, in the event of an oversupply of fish, to bring under the control of the Fish Marketing Authority the marketing and distribution of specified species of fish landed in a part of New South Wales for sale during any specified period (Schedule 4 (37));
- (am) to require fishermen and certain other persons to retain certain returns made by them and to make them available for inspection (Schedule 4 (38));
- (an) to reconstitute the Fish Marketing Authority so that it consists of the Director, New South Wales State Fisheries, 3 commercial fishermen elected by commercial fishermen, 2 persons nominated by the Minister to represent commercial fishermen and a representative of the consumers of fish (Schedule 5 (1));
- (ao) to provide for additional expenditure from the Fish Marketing Authority Fund (Schedule 5 (6));
- (ap) to authorise the registration of acclimatisation societies which do not have the hatching and rearing of trout or salmon among their objects (Schedule 6 (1), (2), (5) (a) and (14));
- (aq) to make some machinery amendments to the provisions relating to the control of acclimatisation societies (Schedule 6 (3), (4) and (5));
- (ar) to repeal certain provisions in Part IV of the Principal Act relating to permits for the sale of trout and offences relating to the buying and selling of trout as a consequence of the enactment of new provisions relating to fish farms (Schedule 6 (7), (10), (11), (13) and (14) (c));
- (as) to repeal section 50 of the Principal Act because the imposition of a close season for trout is now regulated by notifications under section 18 of that Act (Schedule 6 (8));
- (at) to rearrange and simplify the provisions relating to the granting of oyster leases (Schedule 7 (2) and (6));
- (au) to authorise the Minister to redetermine the rental of oyster leases at periodic intervals of not less than 5 years (Schedule 7 (3));
- (av) to provide for the payment of interest on overdue rents of oyster leases (Schedule 7 (4));

- (aw) to authorise regulations to be made requiring the lessees of oyster farms to pay a prescribed annual contribution towards the administration of oyster leases, scientific investigation into oyster farming, etc. (Schedule 7 (4));
- (ax) to enable leases of oyster farms to be renewed or further renewed for periods not exceeding 15 years instead of only for one further term of 15 years (Schedule 7 (5));
- (ay) to abolish the prior right to a lease of an oyster farm formerly conferred on the discoverer of a natural oyster bed (Schedule 7 (6));
- (az) to make further provision with respect to the preferent rights to leases of oyster farms (Schedule 7 (7));
- (aaa) to make provision for the maintenance in a tidy condition of areas leased for oyster farming (Schedule 7 (8));
- (aab) to authorise lessees of oyster farms, with the approval of the Minister and of the Maritime Services Board of New South Wales, to erect and maintain fences (Schedule 7 (8));
- (aac) to require a fee to be paid for the sub-letting of areas leased for oyster farming (Schedule 7 (12) (b));
- (aad) to repeal section 70 of the Principal Act because it is no longer necessary (Schedule 7 (13));
- (aae) to make further provision with respect to the surrender of a lease for oyster farming (Schedule 7 (15));
- (aaf) to make further provisions with respect to the determination of a way of access over an area leased for oyster farming (Schedule 7 (16));
- (aag) to remove the prohibition on the payment of compensation to the lessees of oyster farms in certain cases (Schedule 7 (17));
- (aah) to provide that leases for oyster farms may only be withdrawn for prescribed public purposes and where they are withdrawn at the request of a public authority to require that public authority to pay compensation (Schedule 7 (18));
- (aai) to consolidate and extend the provisions with respect to the cancellation of leases for oyster farms (Schedule 7 (19) and (20));
- (aaj) to consolidate the provisions with respect to the prohibition in certain circumstances of the taking of oysters from an area leased for oyster farming or from Crown lands or from a public oyster reserve (Schedule 7 (21) and (23));
- (aak) to enable 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 (Schedule 7 (24));

- (aal) to enable a dispute between the Minister and a public authority or trustees for public recreation or other public purpose in respect of land over which a lease for oyster farming is granted, as to whether material may be deposited on or removed from the area leased, to be determined by the Governor (Schedule 7 (25));
- (aam) to extend the restriction on the cutting of mangroves or other timber growing below high-water mark on any Crown lands and to exclude lands vested in the Maritime Services Board of New South Wales from the operation of that restriction (Schedule 7 (26));
- (aan) to make provision for the establishment and operation of fish farms and, in particular, to enable the Minister to grant leases of Crown lands for the purpose of fish farming (Schedules 1 (3) (e), 2 (6), 4 (15), 6 (7), (10), (11), (13) and (14) (c) and 8 (1));
- (aao) to make provisions governing works of dredging or reclamation (Schedule 8 (2));
- (aap) to enable certain costs and charges to be sued for (Schedule 9 (1));
- (aaq) to authorise in respect of certain offences the service of infringement notices having the same effect as like notices under the Motor Traffic Act, 1909 (Schedule 9 (2));
- (aar) to clarify the provisions relating to the seizure and forfeiture of fish, nets and other articles (Schedules 9 (4)–(11) and (16) and 10 (1) (d));
- (aas) to empower a court which makes an order under section 556A of the Crimes Act, 1900 to order, if it thinks fit, the forfeiture of any articles seized in connection with the offence (Schedule 9 (5));
- (aat) to penalise persons who abuse, threaten or insult an inspector in the course of his duty (Schedule 9 (12));
- (aau) to make an evidentiary provision relating to certain boundaries (Schedule 9 (15));
- (aav) to repeal the provision prohibiting the capture or sale of soft-shelled crayfish and to provide instead for a prohibition on the sale of fish which are in a condition or are of a size prescribed by the regulations as inferior or unsound fish for the purposes of human consumption (Schedule 9 (18));
- (aaw) to repeal section 113 of the Principal Act which is unnecessary because of the enactment of section 40 of the Summary Offences Act, 1970 (Schedule 9 (19));
- (aax) to repeal the provision penalising the burning of live oysters for lime (Schedule 9 (21));
- (aay) to make further provision with respect to the possession or sale of prohibited size fish (Schedules 1 (3) (m), (s) and (y), 2 (7) (a), 4 (22), 9 (22), 10 (1) (l), (m) and (gg) and 11 (2));

- (aaz) to enable a person to take fish from a bed of a river or creek notwithstanding that the bed of the river or creek is vested in the owners of the adjoining land (Schedule 9 (23));
 - (aaaa) to penalise damage, etc., to official notice boards under the Principal Act (Schedule 9 (23));
 - (aaab) to enable the Minister to require repairs to be made to a fishway or a fish by-pass and to require the inclusion of a suitable fishway or fish by-pass in a dam constructed by a public authority (Schedule 9 (24));
 - (aaac) to make further provision with respect to the removal of posts and cultivation from areas which were leased for oyster farming (Schedule 9 (25));
 - (aaad) to enlarge the powers of the Governor to make regulations (Schedule 10 (1));
 - (aaae) to increase the penalty that may be imposed for a breach of the regulations from \$100 to \$500 and to remove the power to impose daily or minimum penalties for offences against the regulations (Schedule 10 (2));
 - (aaaf) to amend certain descriptions relating to the prohibitions on net fishing in certain waters referred to in paragraph (n) above (Schedule 11);
 - (aaag) to increase penalties for offences against the Act, the increases being generally to \$500 (Schedule 12);
 - (aaah) to enact certain savings and transitional provisions (Schedule 13); and
 - (aaai) to make further provisions of a minor, consequential or ancillary nature.
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**FISHERIES AND OYSTER FARMS (AMENDMENT)
BILL, 1979**

No. , 1979.

A BILL FOR

An Act to amend the Fisheries and Oyster Farms Act, 1935, to make further provisions with respect to fisheries and fishing and to oyster farms and fish farms.

[MR GORDON—21 *February*, 1979.]

See also Co-operation (Fisheries and Oyster Farms) Amendment Bill, 1979; Statutory and Other Offices Remuneration (Fish Marketing Authority) Amendment Bill, 1979.

Fisheries and Oyster Farms (Amendment).

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 :—

5 1. This Act may be cited as the "Fisheries and Oyster Farms Short title. (Amendment) Act, 1979".

2. (1) Except as provided in subsections (2), (3) and (4), **Commence-**
~~this~~ Act shall commence on the date of assent to this Act. **ment.**

(2) Section 5 shall, in its application to a provision of
10 Schedules 1–12, commence on the day on which the provision commences.

(3) The provisions of this Act specified in any of the fol-
lowing paragraphs shall commence on such day as may be
appointed by the Governor in respect of the provisions specified in
15 that paragraph and as may be notified by proclamation published in the Gazette :—

(a) Schedules 2 (2) and 10 (1) (r).

20 (b) Schedules 1 (3) (m), 1 (3) (s), 1 (3) (y), 2 (7) (a), 2 (7) (e), 4 (22), 9 (22), 10 (1) (l), 10 (1) (m), 10 (1) (gg) and 11 (2).

(c) Schedules 1 (2) (n), 4 (1) and 6 (8).

(d) Schedule 4 (11) (b), (12) (b) and (13).

(e) Schedule 4 (14).

(f) Schedule 4 (16).

25 (g) Schedules 1 (2) (i), 4 (19), 4 (20), 4 (21), 10 (1) (u) and 10 (1) (w).

(h) Schedules 1 (2) (j), 4 (30), 4 (31) and 4 (32).

Fisheries and Oyster Farms (Amendment).

(i) Schedule 4 (33).

(j) Schedules 1 (2) (k), 1 (3) (h), 1 (3) (w), 4 (36), 4 (37) and 10 (1) (f f).

(k) Schedule 5 (1) and (2).

5 (l) Schedules 1 (2) (m), 1 (2) (o), 1 (3) (e), 1 (3) (k), 2 (6), 4 (15) (a), 4 (15) (b), 6 (7), 6 (10), 6 (11), 6 (13), 6 (14) (c), 7 and 8 (1).

(m) Schedules 9 (4), 9 (5), 9 (6), 9 (7), 9 (9), 9 (10), 9 (11), 9 (16) and 10 (1) (d).

10 (n) Schedule 9 (18).

(4) Schedules 1 (2) (p) and 8 (2) shall commence on the day that is 6 months after the date of assent to this Act.

(5) Notwithstanding subsection (3), for the purposes only of the appointment of a person as a member of the Fish Marketing
15 Authority, as reconstituted under Schedule 5 (1), and of any matters necessary for or incidental to that appointment (including the making of regulations under section 41A (3) of the Principal Act, as proposed to be inserted by Schedule 5 (1) (a)), Schedule 5 (1) shall commence on the date of assent to this Act.

20 3. The Fisheries and Oyster Farms Act, 1935, is referred to
in this Act as the Principal Act. Principal Act.

4. This Act contains the following Schedules :—

Schedules.

SCHEDULE 1.—AMENDMENTS TO PART I OF THE
PRINCIPAL ACT.

25 SCHEDULE 2.—AMENDMENTS TO PART II OF THE
PRINCIPAL ACT.

SCHEDULE 3.—INSERTION OF PART IIA INTO THE
PRINCIPAL ACT.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4.—AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE PRINCIPAL ACT.

SCHEDULE 5.—AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT.

5 SCHEDULE 6.—AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

SCHEDULE 7.—AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

10 SCHEDULE 8.—INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL ACT.

SCHEDULE 9.—AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

SCHEDULE 10.—AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

15 SCHEDULE 11.—AMENDMENTS TO THE SCHEDULES TO THE PRINCIPAL ACT.

SCHEDULE 12.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES FOR OFFENCES.

20 SCHEDULE 13.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

5. The Principal Act is amended in the manner set forth in Schedules 1-12.

Amendment
of Act No.
58, 1935.

6. Schedule 13 has effect.

Savings,
transitional
and other
provisions.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

(1) Section 2 (5)—

Omit "Act of 1897", insert instead "Act, 1897".

5 (2) (a) Section 3—

From the matter relating to Part II, omit "17", insert instead "17B".

(b) Section 3—

After the matter relating to Part II, insert :—

10

PART IIA.—AMATEUR FISHERMEN'S ADVISORY
COUNCIL—ss. 17C–17E.

(c) Section 3—

From the matter relating to Division 1 of Part III,
omit "—20", insert instead " , 19".

15

(d) Section 3—

After the matter relating to Division 1 of Part III,
insert :—

DIVISION 1A.—*Importation of live fish*—ss. 20, 20A.

DIVISION 1B.—*Noxious fish*—ss. 20B–20G.

20

(e) Section 3—

From the matter relating to Division 2 of Part III,
omit "ss. 21, 22", insert instead "s. 21".

(f) Section 3—

25

After the matter relating to Division 2 of Part III,
insert :—

DIVISION 2A.—*Restricted fisheries*—s. 22A.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

(g) Section 3—

5 From the matter relating to Division 3 of Part III,
omit “23”, insert instead “22B”.

(h) Section 3—

After the matter relating to Division 3A of Part III,
insert :—

DIVISION 3B.—*Tidal Angling Fund*—s. 25D.

10 DIVISION 3C.—*Commercial Fisheries Exploration
and Development Fund*—s. 25E.

(i) Section 3—

15 From the matter relating to Division 4 of Part III,
omit “—ss. 26–32”, insert instead “*and other fishing
gear*—ss. 26–32A”.

(j) Section 3—

From the matter relating to Division 6 of Part III,
omit “35”, insert instead “36”.

(k) Section 3—

20 From the matter relating to Division 6 of Part III,
omit “41”, insert instead “40”.

(l) Section 3—

Omit the matter relating to Division 3 of Part IV.

(m) Section 3—

25 Omit the matter relating to Division 3A of Part IV.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

(n) Section 3—

5 Omit the matter relating to Divisions 4 and 5 of Part
 IV.

(o) Section 3—

Omit the matter relating to Part V, insert instead :—

PART V.—OYSTER FARMING—ss. 58–90.

PART VA.—FISH FARMING—ss. 90A–90D.

10 (p) Section 3—

Before the matter relating to Part VI, insert :—

PART VB.—DREDGING AND RECLAMATION—ss.
90E–90L.

(3) (a) Section 4 (1), definition of “Crown lands”—

15 Omit the definition, insert instead :—

“Crown lands” means—

20 (a) land submerged by water, not being
 land vested in a person other than the
 Crown, a public authority or trustees
 for public recreation or for any other
 public purpose;

(b) any foreshore; and

25 (c) a training wall, breakwater, retaining
 wall or guide-bank the property in
 which is vested in the Crown, a public

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

5 authority or trustees for public recreation or for any other public purpose,

but does not include land the subject of a lease under this Act and land of which a person has exclusive possession under a lease under any other Act.

10 (b) Section 4 (1), definition of "Director"—

Before the definition of "District", insert :—

"Director" means the Director, New South Wales State Fisheries.

(c) Section 4 (1), definition of "Engine"—

15 Omit the definition.

(d) Section 4 (1), definition of "Fish"—

After "fishes", insert "(whether indigenous or not) and their young, fry and spawn".

(e) Section 4 (1), definition of "Fish farm"—

20 After the definition of "Fish", insert :—

"Fish farm" means a place to which a permit under section 90c relates.

(f) Section 4 (1), definition of "Fishing gear"—

After the definition of "Fisherman", insert :—

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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

- (g) Section 4 (1), definitions of “Fixed engine”, “Gaff”,
“Hand-line”—

5 Omit the definitions.

- (h) Section 4 (1), definition of “Market”—

Omit the definition, insert instead :—

“Market” means any fish market—

- 10 (a) established, controlled or operated by
a trading society with the approval of
the Minister under section 40E;
- (b) conducted and managed pursuant to
section 41D (1) (a);
- 15 (c) established and maintained pursuant
to section 41D (1) (b) (i); or
- (d) established by the council of a city,
municipality or shire under the Local
Government Act, 1919,
- 20 and the lands, improvements and works
provided or used for or in connection with
such a fish market.

- (i) Section 4 (1), definitions of “Master”, “Net”—

After the definition of “Market”, insert :—

25 “Master”, in relation to a boat, includes a person
who for the time being has the command,
charge or management of the boat.

30 “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 to the net.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

(j) Section 4 (1), definition of “Original owner”—

Omit the definition.

5 (k) Section 4 (1), definition of “Oyster farm”—

Omit the definition, insert instead :—

“Oyster farm” means an area leased under Part V,
but does not include a fish farm.

(l) Section 4 (1), definition of “Prescribed”—

10 Omit the definition.

(m) Section 4 (1), definitions of “Prohibited size fish”,
“Prohibited size oysters”—

After the definition of “Oyster farm”, insert :—

15 “Prohibited size fish” means a fish (other than an
oyster) prescribed by the regulations made
under section 120 (3) as a prohibited size
fish.

“Prohibited size oyster” means—

(a) oyster spat; or

20 (b) an oyster the measurement or weight
of which is less than the minimum
measurement or weight for marketable
oysters prescribed by the regulations
made under section 120 (2) (o).

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

(n) Section 4 (1), definition of “Public authority”—

5 Before the definition of “Recognised hauling ground”,
insert :—

“Public authority” means—

- (a) a body, corporate or unincorporate,
established by or under an Act for a
public purpose; or
- 10 (b) a corporation sole so established for
such a purpose.

(o) Section 4 (1), definition of “Recognised hauling
ground”—

15 Omit “hauling” wherever occurring in the expression
“Recognised hauling ground” and in the definition of
that expression, insert instead “fishing”.

(p) Section 4 (1), definition of “Recognised hauling
ground”—

Omit “haul and land”, insert instead “use or operate”.

20 (q) Section 4 (1), definition of “Sell”—

After the definition of “Salmon”, insert :—

“Sell” includes—

- (a) sell by wholesale, retail, auction or
tender;
- 25 (b) barter or exchange;
- (c) supply for profit;
- (d) offer for sale, receive for sale, have in
possession for sale or expose for sale;
- (e) consign or deliver for sale; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

- 5 (f) cause, suffer or allow to be done anything referred to in paragraph (a), (b), (c), (d) or (e).
- (r) Section 4 (1) definition of "Set line"—
Omit "any unattended line", insert instead "any line not held in the hand, or not attached to fishing gear held in the hand, which is".
- 10 (s) Section 4 (1), definition of "Spat" or "Undersize oysters"—
Omit the definition.
- (t) Section 4 (1), definition of "Take"—
Omit the definition, insert instead :—
- 15 "Take", in relation to fish, includes catch, capture, kill and enclose the fish and, in relation to fish attached to any rocks or any material or structure, includes remove, extract and separate the fish or part of the fish from those
- 20 rocks or that material or structure.
- (u) Section 4 (1), definition of "Tidal waters"—
Omit the definition.
- (v) Section 4 (1), definition of "To sell"—
Omit the definition.
- 25 (w) Section 4 (1), definition of "Trading society"—
Omit the definition, insert instead :—
- "Trading society" means a trading society registered under the Co-operation Act, 1923, the objects of which include, expressly or
- 30 impliedly, the marketing of fish.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

- (x) Section 4 (1), definition of "Under Secretary"—
Omit the definition.

- 5 (y) Section 4 (2)—
Omit the subsection.

- (z) Section 4 (3)—

At the end of section 4, insert :—

- 10 (3) 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 situated, in relation to which the provision, or another provision dependent thereon, may lawfully operate.

SCHEDULE 2.

Sec. 5.

15 AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

- (1) Section 5—

Omit the section, insert instead :—

5. Subject to this Act, it is the duty of the Minister to protect, develop and regulate the fisheries of the State. Duties of Minister.

- 20 (2) Section 7—

Omit the section, insert instead :—

7. (1) The Minister may appoint honorary fisheries rangers for the purposes of this Act. Honorary fisheries rangers.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

- (2) An honorary fisheries ranger—
- 5 (a) may exercise such of the powers conferred on an inspector under section 12 (1), 13 (b) or 14 (a), (b) or (c) as are specified in the instrument of his appointment;
- 10 (b) may exercise those powers, according to the authority expressed in the instrument of his appointment, in the whole of the State or such part or parts thereof specified in the instrument;
- (c) shall be appointed for the term of office specified in the instrument of his appointment; and
- (d) is eligible for reappointment from time to time.
- 15 (3) The Minister may, for any cause which to him seems sufficient, remove from office an honorary fisheries ranger.
- (4) An honorary fisheries ranger shall be deemed to have vacated his office if he—
- 20 (a) dies;
- (b) resigns his office by letter addressed to the Minister; or
- (c) is removed from office by the Minister.
- 25 (5) An instrument of appointment under this section issued to an honorary fisheries ranger and purporting to be signed by the Director or by a prescribed officer is, after the appointee has signed it, evidence of his appointment.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

5 (6) A person appointed under this section as an honorary fisheries ranger who resigns or is removed from his office and who, without just cause, does not, within 30 days of so resigning or being so removed, as the case may be, deliver to the Director the instrument of his appointment is guilty of an offence and liable to a penalty not exceeding \$50.

10 (3) Section 8—

Omit the section, insert instead :—

15 8. The Minister shall, as soon as practicable after 30th Annual June in each year, cause to be prepared a report on the fisheries of the State and shall cause a copy thereof to be laid before each House of Parliament.

(4) (a) Section 8A—

Omit "Under Secretary" wherever occurring, insert instead "Director".

(b) Section 8A (1)—

20 Omit "Department responsible for the administration of this Act", insert instead "New South Wales State Fisheries".

(5) Section 11—

Omit "Under-Secretary", insert instead "Director".

25 (6) (a) Section 12—

Omit "leased area", insert instead "oyster farm or fish farm".

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(b) Section 12 (2)—

At the end of section 12, insert :—

- 5 (2) A person authorised by the Director for the purposes of this subsection has so much of the powers conferred on an inspector by subsection (1) as relates to an oyster farm or fish farm.

(7) (a) Section 13—

- 10 Omit “undersize” wherever occurring, insert instead “prohibited size”.

(b) Section 13—

After “taken” where firstly occurring, insert “, or in the possession of a person,”.

15 (c) Section 13 (b)—

Omit “or fish taken in contravention of this Act,”.

(d) Section 13 (b)—

After “oysters”, insert “or fish taken, or in the possession of a person, in contravention of this Act”.

20 (e) Section 13 (c)—

After “concealment of”, insert “prohibited size fish or prohibited size oysters or”.

(f) Section 13 (c)—

- 25 After “taken”, insert “, or in the possession of a person,”.

(8) (a) Section 14 (a)—

Omit “engines, nets”, insert instead “nets or other fishing gear”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(b) Section 14 (b)—

Omit the paragraph, insert instead :—

- 5 (b) examine any nets or other fishing gear found
 in any place whatsoever;

(c) Section 14 (c)—

Omit “engine, net, or”, insert instead “or any net or
other fishing gear, or any”.

10 (d) Section 14 (d), (e)—

Omit “or other person in charge of any boat” wherever
occurring, insert instead “of any boat which the
inspector has reasonable grounds to suspect is”.

(e) Section 14 (f)—

15 Omit the paragraph, insert instead :—

- (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
20 who is engaged in fishing, or whom the
 inspector reasonably suspects of having
 offended against this Act, to state his full name
 and address;

(f) Section 14 (g), (h)—

Omit section 14 (g), insert instead :—

- 25 (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, certificate of exemption or

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

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

(h) require a person taking fish by means of a net or other fishing gear to lift the net or other gear from the water.

(9) Section 15 (4), (5)—

10 After section 15 (3), insert :—

(4) A permit under this section remains in force for such period, not exceeding 12 months, as is specified therein.

15 (5) The regulations may prescribe a fee for the issue under this section of any prescribed class of permits.

(10) (a) Section 16 (1) (c)—

Omit “ocean and estuarine”, insert instead “any”.

(b) Section 16 (1) (d)—

Omit “biological”, insert instead “scientific”.

20 (c) Section 16 (2)—

After “Minister” where firstly occurring, insert “, with the prescribed consent referred to in section 17B,”.

(d) Section 16 (2)—

25 After “lands” where firstly occurring, insert “(not being lands dedicated for any public purpose) specified in the notification”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—continued.

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—continued.

(e) Section 16 (2)—

- 5 Omit “shall have and may”, insert instead “may, subject to any conditions imposed under section 17B (2),”.

(f) Section 16 (3)—

After “Minister”, insert “, subject to any conditions imposed under section 17B (2),”.

10 (11) Section 16A—

After section 16, insert :—

- 15 16A. (1) The Minister, with the prescribed consent referred to in section 17B, may, by notification in the Gazette, declare Crown lands (not being lands dedicated for any public purpose) specified in the notification to be an aquatic reserve. Aquatic reserves.

(2) The regulations may—

- 20 (a) prohibit or regulate the taking of fish from waters on any aquatic reserve; and
 (b) provide for the management, protection and development of any aquatic reserve.

(12) (a) Section 17 (1), (2), (2A), (2B)—

Omit section 17 (1) and (2), insert instead :—

- 25 (1) In this section and section 17A, “Crown lands” means—

- (a) Crown lands within the meaning of this Act, other than lands dedicated for a public purpose; or

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO PART II OF THE PRINCIPAL ACT—continued.**

- (b) Crown lands within the meaning of the Crown Lands Consolidation Act, 1913.

5 (2) The Minister may cause to be constructed, or constructed and operated, by agreement with any person or otherwise—

(a) fishery improvement works;

10 (b) a fish hatchery, research station, laboratory, fishery field station, experimental fish farm or any other establishment for the investigation, development and management of the fisheries of the State; or

15 (c) any other prescribed work,
if, in the case of any such construction or operation on Crown lands, he first obtains the prescribed consent referred to in section 17B and complies with any conditions to which that consent is subject.

20 (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 pond;

25 (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; or

30 (c) capture and strip any specified species of fish at any time during spawning or close seasons,

on such terms, and subject to such conditions, as he specifies when giving his authority.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

5 (2B) 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 given.

10 (b) Section 17 (3)—
Omit “section”, insert instead “Act”.

(c) Section 17 (4), (5), (6)—
Omit the subsections.

(13) Sections 17A, 17B—

After section 17, insert :—

15 17A. (1) Any land required for the purposes of section 17 (2) may, with the prescribed consent referred to in section 17B in the case of Crown lands that are not vested in the Minister, be acquired by purchase, resumption or appropriation under the Public Works Act, 1912. Acquisition of land for certain purposes.

20 (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.

25 (3) Sections 34, 35, 36 and 37 of the Public Works Act, 1912, do not, but section 38 of that Act does, apply in relation to any works referred to in section 17 (2).

(4) The Minister may, for the purposes of section 17 (2), grant a lease of land acquired under this section.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 2—continued.**AMENDMENTS TO PART II OF THE PRINCIPAL ACT—continued.**

17B. (1) For the purposes of sections 16, 16A, 17 and 17A, the prescribed consent is—

Prescribed
consent.

- 5 (a) where the Crown lands are within the impounded waters of a dam or reservoir used primarily for domestic water supply or within an area designated by or under an Act as a catchment area in respect of such a dam or reservoir—the
- 10 consent of—
- (i) the authority controlling the dam or reservoir;
- (ii) the Minister administering the Public Health Act, 1902; and
- 15 (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
- 20 administering that Act; and
- (c) where the Crown lands are not Crown lands referred to in paragraph (a) and are vested in a public authority or trustees for public recreation or for any other public purpose—the consent of
- 25 that authority or those trustees.

(2) An authority or person entitled to give the prescribed consent for the purposes of sections 16, 16A, 17 and 17A may give the consent subject to conditions.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 3.

Sec. 5.

INSERTION OF PART IIA INTO THE PRINCIPAL ACT.

Part IIA—

After Part II, insert :—

5

PART IIA.

AMATEUR FISHERMEN'S ADVISORY COUNCIL.

17c. (1) The Minister may constitute an Amateur
Fishermen's Advisory Council which shall have and may
exercise and discharge the powers, authorities, duties and
functions conferred and imposed on the Council by this
Act.

Amateur
Fishermen's
Advisory
Council.

(2) The Council shall consist of not less than 6,
and not more than 10, members 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 5 years,
as is specified in the instrument of his appointment and
shall be eligible for reappointment from time to time.

(5) A member of the Council vacates his office
if he—

- (a) dies;
- (b) resigns his office by letter addressed to the
Minister;
- (c) becomes a temporary patient, a continued treat-
ment 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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued.*

(d) is removed from office by the Minister.

5 (6) On the occurrence of a vacancy in the office of a member of the Council 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.

10 (7) In the absence of the Chairman from any meeting the members of the Council shall elect one of their number to preside at the meeting.

15 (8) A majority of members of the Council 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 such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of him.

(10) The procedure for the calling of meetings 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.

25 17D. The Council—

Duties of Council.

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

(b) shall advise the Minister on matters referred to it by him in relation to amateur fishing; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 3—*continued.*

INSERTION OF PART IIA INTO THE PRINCIPAL ACT—*continued.*

- 5 (c) may advise the Minister on other matters relating to amateur fishing and make such representations as it thinks fit in relation thereto.

17E. The Council shall furnish to the Minister such reports and statements of account arising out of the Council's activities as the Minister may require.

Furnishing
of reports,
etc., by
Council.

SCHEDULE 4.

Sec. 5.

10 AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT.

(1) (a) Section 18 (1) (a)—

15 Omit “prohibit the taking of fish from tidal waters or inland waters”, insert instead “absolutely or conditionally prohibit the taking of fish, or a specified class of fish, from any waters or from specified waters”.

(b) Section 18 (1) (b)—

20 Omit “, but no such period shall exceed twelve consecutive months”.

(c) Section 18 (2)—

Omit the subsection.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(d) Section 18 (3)—

5 Omit the subsection, insert instead :—

(3) A provision of a notification under subsection
(1) may apply generally or may differ in its
application according to different factors.

(e) Section 18 (4)—

10 Omit the subsection.

(f) Section 18 (4A)—

After section 18 (4), insert :—

(4A) Regulations may be made for giving effect to
notifications under this section.

15 (g) Section 18 (5), (6)—

Omit “or proclamation” wherever occurring.

(h) Section 18 (7), (7A)—

Omit section 18 (7), insert instead :—

20 (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;

25 (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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

5 (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;

10 (c) he is in possession of fishing gear and the
taking of fish in those waters is, at that
time, prohibited absolutely; or

15 (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 the person
charged proves that, at the time of the commission of
the alleged offence—

20 (a) 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
25 boat or fishing gear to other waters; or

(b) the defendant had a lawful excuse for being
in that boat or in possession of that fishing
gear.

(2) (a) Section 19 (1)—

30 Omit “whatsoever for the purpose of taking, or which
is adapted to take or capable of taking, fish”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(b) Section 19 (4) (a)—

5 Omit the paragraph, insert instead :—

- (a) that the net which is the subject of the charge is a dip, scoop or landing net of dimensions and mesh prescribed by the regulations and was used in the manner so prescribed; or

10 (c) Section 19 (5)—

Omit the subsection.

(3) Part III, Division 1A, heading—

Before section 20, insert :—

DIVISION 1A.—*Importation of live fish.*

15 (4) (a) Section 20 (1)—

Omit “by proclamation”, insert instead “, by order published in the Gazette,”.

(b) Section 20 (1)—

Omit “such proclamation”, insert instead “the order”.

20 (c) Section 20 (2)—

Omit “any such proclamation”, insert instead “an order under subsection (1)”.

(d) Section 20 (3)—

25 Omit “any proclamation made under this section”, insert instead “an order under subsection (1)”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(5) Section 20A—

5 After section 20, insert :—

20A. (1) A person who—

Importers
of live fish
to be
licensed.10 (a) sells, gives, transports, disposes of or deals in any
way with any live fish (not being prescribed fish)
which have been, or the spawn of any such fish
which has been, imported into the State;

(b) rears any such live fish; or

(c) hatches any such spawn,

15 is guilty of an offence 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.(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—20 (a) to prevent the spread of disease among fish in
territorial waters; and(b) to prevent fish from being liberated in any waters
in which they would be noxious fish within the
meaning of Division 1B.25 (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.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(6) Part III, Division 1B—

5 Before Division 2 of Part III, insert :—

DIVISION 1B.—*Noxious fish.*

10 20B. For the purposes of this Division, a fish is included Interpretation.
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) The Governor may, by order published in the Noxious
Gazette, declare that fish of a specified species are fish.
fish for the purposes of this Division if they are in—

- 15 (a) any inland waters;
(b) a specified class of inland waters; or
(c) any inland waters other than inland waters of a
specified class.

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

25 20D. A person is guilty of an offence if he sells a live Sale of
fish of a species to which an order under section 20C certain
relates (whether or not the fish, before or after the sale, is fish pro-
hibited.
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.

30 20E. (1) An inspector, or a person authorised by the Destruction
Director in writing for the purpose, may seize and destroy of noxious
any live noxious fish.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

5 (2) The Minister may give notice to the owner or occupier of land on which noxious fish are located to take such measures as are specified in the notice to destroy the noxious fish within the period so specified.

10 (3) If a person to whom a notice is given under subsection (2) fails, within the period specified in the notice, to comply with any of the requirements of the notice, the Minister may, by his authorised agents, enter upon the land to which the notice relates (not being a dwelling-house) and take such measures to destroy noxious fish located on that land as the Minister thinks fit.

15 (4) Compensation is not payable in respect of the seizure or destruction of any noxious fish in the course of exercising the powers conferred by this section or in respect of the destruction of any other fish if, in the course of exercising those powers, the destruction of those other
20 fish could not reasonably be avoided.

(5) Any costs and expenses incurred by the Minister in the exercise of his powers under subsection (3) upon non-compliance with a notice are recoverable in a court of competent jurisdiction as a debt to the Crown
25 owed by the person to whom the notice was given.

20F. The Minister may enter into an agreement with the owner or occupier of any land for the supply by the Minister of poison or appliances or services for destroying noxious fish on the land, either free of cost or otherwise. Assistance in destruction of noxious fish.

30 20G. (1) Upon complaint on oath by an inspector that he has reasonable cause to suspect that live noxious fish are located on specified land, a stipendiary magistrate may issue his warrant authorising the inspector to enter on that Warrant to enter land.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

5 land at any time between 7 o'clock in the morning and
7 o'clock in the evening for the purpose of searching for
and seizing and destroying any noxious fish on that land.

(2) Subsection (1) does not apply in respect of
an entry on land made under section 20E (3).

(7) (a) Section 21 (1)—

10 After "lobster," insert "or any other species of fish
prescribed for the purposes of this section,".

(b) Section 21 (1)—

15 Omit "The regulations may prescribe one period for
all such species of fish or different periods for any
specified species.

In respect of any species as to which a different
period is not prescribed by the regulations, the
prescribed period shall be the months of October and
November in each year."

20 (c) Section 21 (1A)—

After section 21 (1), insert :—

(1A) For the purposes of subsection (1),
the prescribed period for any species of fish referred
to in that subsection is—

25 (a) except as provided in paragraph (b), the
months of September, October and
November in each year; or

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- 5 (b) in the case of fresh-water crayfish known as
or called the Murrumbidgee crayfish or
Murray lobster, the months of February,
March and April in each year,

10 or, if the regulations prescribe a different period for
any such species of fish, the period prescribed by the
regulations in respect of that species of fish.

(d) Section 21 (2)—

Omit “during the prescribed period”.

(e) Section 21 (2)—

15 Omit “any of the fish mentioned in subsection (1),
or any of the fish of the specified species as the case
may be”, insert instead “any fish of the species
referred to in subsection (1) during the prescribed
period for that species of fish”.

(8) Section 22—

20 Omit the section.

(9) Part III, Division 2A—

After Division 2 of Part III, insert :—

DIVISION 2A.—*Restricted fisheries.*

25 22A. (1) The Minister may, by order published in the ~~Restricted~~
Gazette, declare that fish of a specified class are, or that fishery.
specified waters are, a restricted fishery.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

5 (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
a restricted fishery permit; and

10 (b) in taking or attempting to take the fish, he com-
plies with the conditions subject to which the
permit was issued.

(3) The Minister may, by an order under sub-
section (1) or by another order published in the Gazette—

15 (a) specify the maximum number of restricted
fishery permits that may be in force at any time
in relation to a restricted fishery specified in the
order;

20 (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

25 (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).

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- 5 to— (4) Regulations may be made for and with respect
- (a) the issue (upon application or by public tender
 or by ballot), operation, suspension or cancel-
 lation of restricted fishery permits; and
- 10 (b) giving effect to any matter referred to in sub-
 section (3) (b) and specified in an order under
 subsection (3).

- 15 (5) A power conferred by regulations made pur-
 suant to subsection (4) (a) on any person to issue
 restricted fishery permits in relation to a restricted fishery
 shall not be exercised if the number of those permits in
 force at any time would thereby exceed the maximum num-
 ber specified in relation to the restricted fishery in an order
 under subsection (3).

- (10) Section 22B—
- 20 Before section 23, insert :—

- 25 22B. A boat the use of which for taking fish for sale is
 authorised under the law of another State or of the Com-
 monwealth 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.
- Exemptions
from
licensing.

- (11) (a) Section 23 (1)—
- Omit “whether tidal waters or inland waters.”.
- (b) Section 23 (2), (3), (4), (5), (6), (7)—
- 30 Omit the subsections.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(c) Section 23 (8)—

5 Omit “, whether tidal waters or inland waters,”.

(12) (a) Section 24 (1)—

Omit “outside but adjacent to the territorial waters of New South Wales”, insert instead “other than waters referred to in section 23”.

10 (b) Section 24 (2)—

Omit the subsection.

(c) Section 24 (3)—

Omit “of New South Wales”.

(13) Sections 24A, 24B—

15 After section 24, insert :—

24A. (1) In this section, “license” means a license under section 23 or 24.

Provisions
applicable
to certain
licenses.

20 (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.

(3) A license is subject to such conditions as may be prescribed from time to time and to such further conditions as may be specified in the license.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—continued.**AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—continued.**

5 (4) The Minister may, in prescribed
circumstances, cancel or suspend a license.

(5) Licenses may be of such different classes as
may be prescribed.

10 (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 remains in force for
the period prescribed for the purposes of this subsection.

(7) Where application is duly made for the
renewal of a license and the renewal is not granted before
the expiration of the license—

15 (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.

20 (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.

25 (9) The fee for the issue or renewal of a license,
and the manner of payment thereof, may be prescribed by
the regulations.

30 (10) For the purposes of this Act, the fact that a
boat is licensed is evidence that fish landed from the boat
or taken by use of the boat are fish landed or taken for
sale.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- 5 24B. A certificate purporting to be signed by the Director Evidence,
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
- 10 (b) a specified boat was or was not within a specified
 class of boats,
- is evidence of the matters certified.
- (14) Section 25—
- Omit the section, insert instead :—
- 15 25. (1) A person who—
- (a) takes fish, or attempts to take fish, from territorial waters; or
- (b) lands fish in New South Wales,
- 20 for the purpose of selling them is guilty of an offence unless
 he is authorised to do so by a fisherman's license under this
 section or is otherwise authorised to do so by or under this
 Act.
- (2) Where the prescribed application for, or for
 the renewal of, a fisherman's license is made, the Minister
 or a prescribed officer may—
- 25 (a) subject to subsections (3) and (4), issue or
 renew the license; or
- (b) refuse to issue or renew the license.

Fishermen
to be
licensed.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

5 (3) A fisherman's license shall not be issued to an
individual unless he has the necessary qualifications or
capacity to engage successfully in the fishing operations to
be authorised by the license and unless he proposes, if
10 issued with the license, to derive the major portion of his
income from personal exertion from the taking and sale of
fish and to spend the major portion of the time he spends
in producing income by personal exertion in taking and
selling fish.

15 (4) A fisherman's license issued to an individual
shall not be renewed unless, during the period that the
license was in force, the major portion of his income from
personal exertion was derived from the taking and sale of
fish and unless the major portion of the time he spent in
producing income by personal exertion was spent in the
taking and sale of fish.

20 (5) A fisherman's license is subject to such
conditions as may be prescribed from time to time and to
such further conditions as may be specified in the license.

(6) The Minister may, in prescribed circumstances,
cancel or suspend a fisherman's license.

25 (7) Licenses under this section may be of such
different classes as may be prescribed.

(8) A fisherman's license is not transferable.

30 (9) Except to the extent that its duration is affected
by subsection (10) or (11) or by suspension, or unless it
is sooner cancelled, a fisherman's license remains in force
for the period prescribed for the purposes of this subsection.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

5 (10) 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

10 (b) the renewal may be granted notwithstanding that,
but for this subsection, the license would have
expired.

15 (11) Where a fisherman's license is continued in
force under subsection (10), 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.

(12) 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.

20 (13) The fee for the issue or renewal of a fisher-
man's license, and the manner of payment thereof, may be
prescribed by the regulations.

25 (14) 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.

30 (15) The holder of a fisherman's license is guilty
of an offence if he contravenes the conditions to which his
license is subject.

SCHEDULE 4—*continued.*

(15) (a) Section 25A (a)—

- (b) Section 25A (a1)—

- (a1) persons who take or attempt to take fish from, or who are in possession of fishing gear within, a fish farm of a kind referred to in section 90A (b);

- 15 (c) Section 25A (b)—

(16) Section 25B—

Omit the section, insert instead :—

- 20 25B. (1) A person to whom this Division applies who—
- (a) takes fish, or attempts to take fish, from any inland waters; or
- Persons fishing in inland waters to be licensed.

- 25 (b) has in his possession in or on or adjacent to any inland waters, without lawful excuse, any fishing gear,

is guilty of an offence and liable to a penalty not exceeding \$100 unless he is authorised to do so by an inland angling license under this section.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- 5 (2) Where the prescribed application for an inland angling license is made, the Minister or a person authorised by him may issue the license.
- (3) An inland angling license is subject to such conditions as may be prescribed from time to time and to such further conditions as may be specified in the license.
- 10 (4) The Minister may, in prescribed circumstances, cancel or suspend an inland angling license.
- (5) Inland angling licenses may be of such different classes as may be prescribed.
- (6) An inland angling license is not transferable.
- 15 (7) Except to the extent that its duration is affected by suspension or unless it is sooner cancelled, an inland angling license remains in force for the period prescribed for the purposes of this subsection.
- 20 (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.
- 25 (10) 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.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(17) (a) Section 25C (1)—

5 Omit “hereinafter”, insert instead “, in this section”.

(b) Section 25C (2)—

Omit the subsection, insert instead :—

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

- 10 (a) all fees received for inland angling licenses
 reduced, where a person has been
 specially authorised by the Minister to issue
 those licenses, by such commission in
15 respect of each license issued by the person
 as is specified in the authority under which
 he issues those licenses;
- (b) the proceeds of the sale of the produce of
 any operation under section 17 (2) in
 inland waters;
- 20 (c) such money as is appropriated to the Fund
 by Parliament;
- (d) except as provided in sections 25D (2) and
 25E (2), money received from any person
 pursuant to section 8B; and
- 25 (e) all other money required by this Act to be
 paid to the credit of the Fund.

(c) Section 25C (3) (e)—

Omit “and” where secondly occurring.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(d) Section 25C (3) (f), (g), (h)—

5 Omit section 25C (3) (f), insert instead :—

(f) the payment of grants—

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

15 (ii) for the establishment of scholarships approved by the Minister,
subject to such terms and conditions, if any, as may be determined by the Minister;

(g) the costs and other expenses incurred in the purchase of land adjacent to inland waters or land giving access to those waters; and

20 (h) the costs of such additional classes of works or services as may be prescribed.

(18) Part III, Divisions 3B, 3C—

After Division 3A of Part III, insert :—

DIVISION 3B.—*Tidal Angling Fund.*

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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

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

10 (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—

15 (i) to persons, institutions or organisations approved by the Minister, for the purpose of carrying out research or management projects relating to the sport or game fisheries in those waters; and

20 (ii) for the establishment of scholarships approved by the Minister, subject to such terms and conditions, if any, as may be determined by the Minister;

(b) the costs and other expenses incurred in the purchase of land adjacent to those waters or land giving access to those waters; and

25 (c) the costs of such additional classes of works or services as may be prescribed.

DIVISION 3C.—*Commercial Fisheries Exploration and Development Fund.*

30 25E. (1) An account shall be kept in the Special Deposits Account in the Treasury, to be called the “Commercial Fisheries Exploration and Development Fund”, in this section referred to as the “Fund”. Commercial Fisheries Exploration and Development Fund.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

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

(3) The Fund shall be applied towards—

10 (a) 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 industry or the commercial oyster farming
industry; and

15 (b) the payment of grants to institutions or organisa-
tions approved by the Minister representing the
commercial fishing industry or the commercial
oyster farming industry to assist in the adminis-
tration of those institutions or organisations,
20 subject to such terms and conditions, if any, as
may be determined by the Minister.

(19) Part III, Division 4, heading—

Omit “Nets”, insert instead “Nets and other fishing gear”.

(20) Section 26—

25 Omit the section, insert instead :—

26. (1) The regulations may provide for the registra-
tion of specified classes of nets or other fishing gear and
may prescribe—

Registra-
tion of nets
and other
fishing gear.

(a) the method of registration;

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- 5 (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 transfer of registration.
- 10 (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.
- (21) (a) Section 27 (1), (2), (3)—
- 15 Omit the subsections, insert instead :—
- (1) The regulations may, for the purposes of subsection (3), prescribe a specified use to be a lawful use for a specified class of net or other prescribed fishing gear.
- 20 (2) Nothing in the regulations affects any prohibition imposed by section 18.
- (3) A person is guilty of an offence and liable to a penalty not exceeding \$500 if he—
- 25 (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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

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

10 (b) is in or on or adjacent to any waters and is
in possession, without lawful excuse, of a
net or other prescribed fishing gear for
which a lawful use in those waters has not
been prescribed.

(b) Section 27 (4)—

15 Omit “any such offence” where firstly occurring, insert
instead “an offence under subsection (3)”.

(c) Section 27 (5), (6)—

Omit the subsections.

(22) Section 28—

20 Omit “undersize” wherever occurring, insert instead
“prohibited size”.

(23) (a) Section 29 (1)—

After “who”, insert “, except as permitted by or under
this or any other Act,”.

(b) Section 29 (1)—

25 Omit “in tidal or inland waters, in such manner that
fish enclosed thereby”, insert instead “in such a
manner that fish”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(c) Section 29 (1)—

5 After “destroyed”, insert “or that the free passage of
fish may be obstructed”.

(d) Section 29 (3), (4)—

At the end of section 29, insert :—

10 (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.

15 (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 from the person against whom the
order was made the cost of the removal as a debt in
a court of competent jurisdiction.

20 (24) (a) Section 30—

Omit “tidal or inland water” wherever occurring, insert
instead “waters”.

(b) Section 30 (1)—

25 Omit “or drives any boat”, insert instead “drives,
rides or uses any boat, surfboard, water ski, aquaplane
or similar equipment”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(25) (a) Section 31—

5 Omit “hauling a net on to”, insert instead “using a net
 on”.

(b) Section 31—

 Omit “hauling” where secondly occurring, insert
 instead “fishing”.

10 (c) Section 31—

 Omit “such hauling”, insert instead “the use of his
 net”.

(26) (a) Section 32—

15 Omit “hauling” where firstly occurring, insert instead
 “fishing”.

(b) Section 32—

 Omit “hauling and landing”, insert instead “use”.

(c) Section 32 (2), (3)—

 At the end of section 32, insert :—

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 offence relates.

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 from the person against whom the
 order was made the cost of the removal as a debt in a
 court of competent jurisdiction.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(27) Section 32A—

5 After section 32, insert :—

32A. A person is guilty of an offence and liable to a penalty not exceeding \$50 if he—

Interference
with fishing
operations,
etc.

10 (a) drives, rides or uses a boat, surfboard, water ski,
aquaplane or similar equipment in any waters on
a recognised fishing ground in such a manner
and in such proximity thereto as is likely to cause
the dispersal of schooling fish, or fish travelling
in a school or shoal; or

15 (b) drives, rides or uses a boat, surfboard, 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,

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

(28) Section 33—

Omit “tidal or inland” wherever occurring.

(29) Section 34—

Omit “tidal or inland” wherever occurring.

25 (30) Section 35—

Omit the section.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(31) (a) Section 36 (1)—

5 After “gutted”, insert “or have the gills removed or be
treated or processed in any manner prescribed”.

(b) Section 36 (1)—

10 Omit “from any boat engaged in fishing in ocean
waters”, insert instead “or before being moved to an
ice-house or refrigerated chamber or into cold
storage”.

(c) Section 36 (2), (3), (4), (5)—

Omit the subsections.

(32) Section 37—

15 Omit the section.

(33) Section 38—

Omit the section, insert instead :—

38. (1) A person is guilty of an offence and liable to a penalty not exceeding \$50—

Fish con-
signments
to be
labelled.

20 (a) if he consigns fish in a container for sale without
marking legibly on the outside of the container
or on a label attached thereto—

(i) his full name and address and a state-
ment that they are the name and address
of the consignor;

25 (ii) the name of the place from which the
fish are consigned; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

5 (iii) where all the fish are owned by one person (not being the consignor), the full name and address of the owner of the fish and a statement that they are the name and address of the owner of the fish; or

10 (b) if he consigns fish in a container for sale and different fish in the container are owned by different persons and are not consigned by a trading society.

15 (2) Where a trading society consigns fish in a container for sale on behalf of a member, the society sufficiently complies with subsection (1) (a) (iii) if, instead of the full name and address of the owner of the fish, the society marks the outside of the container, or a label attached thereto, in a manner that would enable an
20 inspector readily to identify the owner of the fish from records kept by the society at its registered office.

(34) Section 39 (2)—

Omit the subsection.

(35) Section 40—

25 Omit “, as amended by subsequent Acts” wherever occurring.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

(36) Section 40B—

5 Omit the section, insert instead :—

40B. (1) A person who sells fish (other than oysters ^{Sale of} or any prescribed fish) is guilty of an offence unless— ^{fish.}

(a) the fish—

10 (i) are sold in a market by wholesale, retail,
auction or tender;

(ii) are bartered or exchanged in a market;

(iii) are supplied in a market for profit;

15 (iv) are offered in a market for sale, received
in a market for sale or exposed in a
market for sale;

(v) are in the possession of a person for
selling in a market; or

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

20 (b) the fish are sold in accordance with subsection
(2); or

(c) the fish have previously been sold or disposed of
through a market or in accordance with
subsection (2).

25 (2) Fish are sold or disposed of in accordance
with this subsection if the sale or disposal—

(a) is a sale or disposal by the holder of a certificate
of exemption issued under section 40C and com-
plies with any conditions specified in the
30 certificate;

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- 5 (b) is a sale or disposal by a fisherman to the holder
of a certificate of exemption issued under section
40C; or
- 10 (c) is a sale or disposal by a fisherman who is the
holder of a consent issued under section 40D and
complies with any conditions specified in the
consent.

(37) Section 40C, 40D, 40E, 40F—

Omit section 40C, insert instead :—

- 15 40C. (1) Upon payment of the prescribed fee, the Minister may, on the recommendation of the Authority and
for the purposes of section 40B, issue to any person a certificate exempting him from selling his fish in a market
and may cancel or suspend any such certificate.

- 20 (2) A certificate of exemption issued under sub-
section (1) is subject to such conditions as are specified
therein.

- (3) Without affecting the generality of subsection
(2), a certificate of exemption may be issued under sub-
section (1) subject to the condition that the exemption
applies only to—

- 25 (a) specified species of fish;
- (b) the sale of fish by wholesale, retail or any other
specified method of sale;
- 30 (c) the sale of fish that have been canned, bottled,
preserved, cured, smoked, dried, salted or
subjected to any other specified process; or
- (d) the sale of fish from specified premises.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

5 (4) A certificate of exemption issued under sub-
section (1) remains in force for such period as may be
prescribed unless sooner cancelled or suspended.

10 40D. (1) Upon payment of the prescribed fee, the Authority may, for the purposes of section 40B, issue to a fisherman a consent in writing to sales of fish by the fisherman and may cancel or suspend any such consent.

(2) A consent issued under subsection (1)—

(a) is subject to such conditions as are specified therein;

15 (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 unless sooner cancelled or suspended.

20 (3) An appeal lies, as prescribed, to the Minister against—

(a) a refusal by the Authority to issue a consent under subsection (1);

(b) a condition of any such consent; or

25 (c) the suspension or cancellation of any such consent.

40E. (1) A trading society shall not establish, control or operate a market unless— Trading societies.

30 (a) the Minister after a report and recommendation to him by the Authority so approves and that approval is not suspended or revoked under subsection (2) (a); and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

- 5 (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 recom-
mendation to him by the Authority, by notice in writing to
a trading society—
- 10 (a) suspend for a period specified in the notice, or
revoke, any approval given to the society under
subsection (1); or
- 15 (b) from time to time vary the terms, conditions and
stipulations subject to which he approved the
establishment, control or operation of a market
by the society.
- (3) The suspension or revocation of an approval
under subsection (2) (a) or a variation of a term, con-
dition or stipulation under subsection (2) (b) does not
20 take effect in relation to a trading society until 14 days
after notice thereof is given to the society.
- (4) An inspector or a person authorised for the
purpose by the Director or the Authority in writing may,
at any reasonable time and for the purpose of ascertaining
25 whether the provisions of this Act and the terms, condi-
tions and stipulations to which an approval under
subsection (1) is subject are being complied with and
observed—
- 30 (a) examine the books, documents and records of
the society;
- (b) enter and inspect any market established,
controlled or operated by the society; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—continued.**AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—continued.**

5 (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.

10 40F. (1) The Minister may, by order published in the
Gazette, direct that the marketing and distribution of fish
or any specified species of fish landed in any district or
part thereof for sale shall be subject to the control of the
Authority during the period specified in the order.

Marketing
and distri-
bution of
fish under
control of
Authority
in certain
cases.

15 (2) Where the marketing and distribution of any
fish are subject to the control of the Authority pursuant to
subsection (1), the Authority may, if in its opinion it is
necessary to do so for the orderly marketing and distribu-
tion of those fish, prohibit any trading society or fisherman
20 from consigning or delivering more than a specified quan-
tity of any of those fish in its or his possession to any
specified market or to the holder of any specified certificate
of exemption under section 40C.

25 (3) For the purposes of exercising the powers
conferred on it under subsection (2), the Authority may,
either generally or in respect of any particular case, require
a trading society or fisherman to furnish the Authority with
information in the possession of that society or fisherman,
as the case may be, relating to the quantity of any species
30 of fish that has been or is to be landed in any district or any
part thereof for sale.

(4) A trading society that, or a fisherman who—

(a) does anything it or he is prohibited from doing
under subsection (2); or

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

5 (b) fails to do anything it or he is required to do
under subsection (3),

after being notified, either orally or in writing, of the
prohibition or requirement, as the case may be, is guilty
of an offence.

(38) (a) Section 42 (1)—

10 Omit “and in one or more newspapers circulating in
the locality in which the operations are carried on”.

(b) Section 42 (4A), (4B), (4C)—

After section 42 (4), insert :—

15 (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 make the copy available for
inspection by an inspector on demand.

20 (4B) A person authorised in writing by the
Director may, or 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,
25 or any other place, where any operation referred to
in subsection (2) is carried on by the person who
furnished the return and inspect any books of
account, records or other documents relating to that
operation.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO PART III (DIVISION 6A EXCEPTED) OF THE
PRINCIPAL ACT—*continued.*

5 (4C) A person who carries on any operation
referred to in subsection (2) shall, where the Director
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 which are
10 in the possession or under the control of the person
who carries on that operation and which relate to that
operation.

(c) Section 42 (5)—

After “such return”, insert “, or otherwise fails to
comply with any provision of this section,”.

15

SCHEDULE 5.

Sec. 5.

AMENDMENTS TO DIVISION 6A OF PART III OF THE
PRINCIPAL ACT.

(1) (a) Section 41A (2), (3), (3A), (4), (5), (6), (6A)—

Omit section 41A (2)–(6), insert instead :—

20

(2) The Authority shall consist of—

(a) six members appointed by the Governor, of
whom—

25

(i) two shall be appointed to represent
fishermen and shall be nominated
by the Minister;

(ii) three shall be fishermen elected in
accordance with the regulations; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT
—*continued.*

5 (iii) one shall be appointed to represent
consumers of fish; and

(b) the Director.

(3) Regulations made for the purposes of
subsection (2) (a) (ii) shall make provision—

10 (a) for the division of the State into 3 zones
and for one fisherman to be elected from
each zone by the fishermen who reside in
that zone and who possess such other
qualifications as may be prescribed;

15 (b) for the voting at the election to be by postal
ballot; and

(c) for the preferential system of voting at the
election.

20 (3A) The Deputy Director, New South
Wales State Fisheries, may attend any meeting of the
Authority that the Director is unable for any reason
to attend and at that meeting—

(a) shall have and may exercise and perform the
powers, authorities, duties and functions of
the Director; and

25 (b) shall be deemed to be a member of the
Authority.

30 (4) On the occurrence of a vacancy in the
office of an appointed member of the Authority other-
wise than by the expiration of the term for which he
was appointed, the Governor may appoint a person to
fill the vacant office so that the Authority is
constituted as required by subsection (2).

Fisheries and Oyster Farms (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT
—*continued.*

5 (5) Where the Governor is unable to
appoint a member of the Authority under subsection
(2) (a) (ii) or (4) because of the failure of any
election, the Minister may nominate any fisherman
for that appointment, and he shall be deemed to have
been elected in accordance with the regulations.

10 (6) An appointed member of the Author-
ity shall, subject to this Act, hold office for such term
not exceeding 5 years as may be specified in the
instrument of his appointment and is, if otherwise
15 qualified, eligible for reappointment from time to
time.

 (6A) One of the appointed members of the
Authority referred to in subsection (2) (a) (ii) shall,
in and by the instrument of his appointment or a
subsequent instrument, be appointed by the Governor
20 as chairman of the Authority.

(b) Section 41A (7A)—

Omit the subsection.

(c) Section 41A (8)—

25 Omit “member (other than the chairman)”, insert
instead “appointed member”.

(d) Section 41A (9)—

Omit “A member”, insert instead “An appointed
member”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT
—*continued.*

(e) Section 41A (9) (d)—

5 Omit the paragraph, insert instead :—

(d) becomes a temporary patient, a continued
treatment patient, a protected person or an
incapable person within the meaning of the
10 Mental Health Act, 1958, or a person under
detention under Part VII of that Act;

(f) Section 41A (9) (f)—

Omit “or” where secondly occurring.

(g) Section 41A (9) (g), (h)—

Omit section 41A (9) (g), insert instead :—

15 (g) being a member referred to in subsection (2)
(a) (ii), ceases to be a fisherman; or
(h) attains the age of 70 years.

(h) Section 41A (10)—

20 Omit “the chairman or any member”, insert instead
“any appointed member of the Authority”.

(i) Section 41A (11)—

Omit the subsection, insert instead :—

25 (11) A person who is of or above the age of 70
years is not eligible for appointment as a member of
the Authority.

(j) Section 41A (12)—

Omit “two”, insert instead “3”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT
—*continued.*

- (k) Section 41A (17)—
5 Omit “or any Act amending that Act,”.
- (l) Section 41A (17)—
Omit “any such Act”, insert instead “that Act”.
- (m) Section 41A (18)—
Omit the subsection.
- 10 (2) Section 41B (3)—
Omit “the chairman or, during his absence from duty, of
the deputy chairman and the chairman or deputy chairman,
as the case may be, shall attest by his signature”, insert
15 instead “at least 1 member of the Authority and that
member shall attest by his signature”.
- (3) (a) Section 41c (2) (f) (ii), (iii) (a), (iv)—
Omit “, as amended by subsequent Acts” wherever
occurring.
- (b) Section 41c (2) (f) (iii) (a)—
20 Omit “or any amendment thereof,” wherever
occurring.
- (4) (a) Section 41D (1) (b) (v), (vi)—
Omit “boxes” wherever occurring, insert instead
“containers”.
- 25 (b) Section 41D (1) (b) (vi)—
Omit “as may be agreed upon”, insert instead “as
may be determined by the Authority”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT
—*continued.*

- (c) Section 41D (1) (b) (vii)—

5 Omit “or any part thereof”.
- (d) Section 41D (2)—

 Omit the subsection.
- (e) Section 41D (3)—

 Omit “as amended by subsequent Acts,”.
- 10 (5) (a) Section 41E (1)—

 After “market”, insert “, being a market conducted, managed, established or maintained by the Authority,”.
- (b) Section 41E (2) (a)—

15 After “market”, insert “referred to in subsection (1)”.
- (6) (a) Section 41I (c)—

 Omit “chairman and”.
- (b) Section 41I (d)—

20 Omit “wharves.”, insert instead “wharves;”.
- (c) Section 41I (e), (f)—

 After section 41I (d), insert :—
- (e) any expenditure that the Authority may

25 approve for the purpose of research into the marketing of fish; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO DIVISION 6A OF PART III OF THE PRINCIPAL ACT
—*continued.*

- 5 (f) any advance made pursuant to section 41D
(1) (b) (vii).

- (7) (a) Section 41s—
Omit “or the Under Secretary”.

- (b) Section 41s—
Omit “or such Under Secretary, as the case may be,”.

10

SCHEDULE 6.

Sec. 5.

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT.

- (1) Section 44 (1)—
Omit “hatching, rearing, distribution,”, insert instead
“distribution”.
- 15 (2) Section 45—
Omit the section.
- (3) (a) Section 46—
Omit “Governor”, insert instead “Minister”.
- (b) Section 46—
- 20 Omit “this Part or the regulations made in relation to
any of the matters referred to therein”, insert instead
“this Act”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(4) (a) Section 47 (1)—

Omit “Colonial Treasurer”, insert instead “Minister”.

5 (b) Section 47 (1)—

Omit “, and shall be published once at least in a newspaper circulating within the area in respect of which the society is registered”.

(c) Section 47 (2)—

10 Omit “the space of three months”, insert instead “a period of 3 months, or such longer period as the Minister may determine in a particular case,”.

(d) Section 47 (2)—

15 Omit “, or fails to publish the same as directed in subsection (1)”.

(e) Section 47 (2)—

Omit “Colonial Treasurer”, insert instead “Minister”.

(f) Section 47 (2)—

Omit “received in respect of fees or fines”.

20 (5) (a) Section 48 (2) (a)—

Omit “hatching, rearing,”.

(b) Section 48 (2) (a)—

Omit “by post”.

(c) Section 48 (2) (b), (c)—

25 Omit the paragraphs.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(d) Section 48 (2A)—

After section 48 (2), insert :—

5 (2A) If no representations are made by a registered
acclimatisation society within 1 month after the
service on the society of a notice under subsection
10 (2) (a) or, if after consideration of any such repre-
sentations made by a society the Minister is satisfied
that the society has for a period of 3 months or up-
wards failed to take proper steps to carry out the
objects referred to in subsection (2) (a), the
Governor may, on the recommendation of the
Minister, by notification published in the Gazette,
15 cancel the registration of the society.

(e) Section 48 (3) (a), (b)—

Omit the paragraphs.

(f) Section 48 (3) (c), (d)—

20 Omit “this Part” wherever occurring, insert instead
“this Act”.

(g) Section 48 (3) (f)—

Omit “1899, or any Act replacing the same”, insert
instead “1961”.

(6) Division 3—

25 Omit the Division.

(7) Division 3A—

Omit the Division.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(8) Division 4—

Omit the Division.

5 (9) (a) Section 53 (1)—

Omit “Any”, insert instead “Subject to subsections (2) and (3), any”.

(b) Section 53 (3)—

After section 53 (2), insert :—

10 (3) The regulations may authorise a person who is taking or attempting to take salmon or trout by a rod held in the hand and line to leave his rod and line unattended if he complies with such requirements as may be prescribed by the regulations.

15 (10) (a) Section 55—

Omit “buys, sells or exposes or consigns for sale any trout, or who”.

(b) Section 55—

20 Omit “buys, sells or exposes or consigns for sale, or”, insert instead “sells or”.

(11) Section 55A—

After section 55, insert :—

55A. (1) A person who sells trout is guilty of an offence unless— Sale of trout.

25 (a) he is authorised to do so by a permit under section 90C or a permit issued by the Minister under the regulations; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 6—*continued.*

AMENDMENTS TO PART IV OF THE PRINCIPAL ACT—*continued.*

(b) he complies with the terms and conditions subject to which the permit was issued.

5 (2) The Minister may impose terms and conditions when issuing a permit under the regulations.

(12) Section 56 (a), (b), (c)—
Omit the paragraphs.

(13) Section 56A—
10 Omit the section.

(14) (a) Section 57 (b)—
Omit the paragraph.

(b) Section 57 (c)—
Omit the paragraph.

15 (c) Section 57 (c1)—
Before section 57 (d), insert :—

(c1) for and with respect to permits under section 55A and the issue thereof;

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7.

Sec. 5.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

(1) Part V, heading—

5 Omit "OYSTERS, OYSTER FARMS, AND LEASED AREAS",
insert instead "OYSTER FARMING".

(2) Section 58—

Omit the section, insert instead :—

10 58. (1) Subject to this Part, the Minister may, upon application or by auction or by public tender or by ballot, lease Crown lands for the purpose of oyster farming whether or not the Crown lands are vested in Her Majesty. Grant of oyster lease.

15 (2) The regulations may prescribe the form of a lease granted or renewed under this Part 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 15 years.

20 (4) An application for a lease of land under this section does not operate to prevent the Minister 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.

25 (6) Where application is made to the Minister for a lease under this section of land that appears to the Minister to be available for lease, the Minister—

(a) 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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

objections to the granting of the lease may be lodged with the Director before the expiration of a period specified in the notice; and

5

(b) shall not make a decision in respect of the application to which the notice relates until—

(i) the time limited for lodging objections to the granting of the lease has expired; and

10

(ii) he has considered any objections duly lodged.

(3) Section 59—

Omit the section, insert instead :—

15

59. (1) The rental of any lease granted under section 58 (other than a lease let by auction or public tender) and of any lease renewed under section 60 shall, subject to this section, be determined by the Minister. Rentals.

20

(2) The rental of any lease (including a lease let by auction or public tender) granted or renewed after the commencement of Schedule 7 (3) to the Fisheries and Oyster Farms (Amendment) Act, 1979, may, subject to this section, be redetermined by the Minister at such periodic intervals, being not less than 5 years, as the Minister thinks fit.

25

(3) The value of improvements shall not be taken into account when determining the rental of a renewed lease under subsection (1) or when redetermining the rental of an existing lease under subsection (2).

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

5 (4) When the Minister determines the rental of any lease or renewed lease under subsection (1) or redetermines the rental of any existing lease under subsection (2), he shall notify the applicant for the lease or renewed lease of his determination or, as the case may be, the lessee of the existing lease of his redetermination and the date on which the redetermination takes effect.

10 (5) The date upon which a redetermination of the rental of an existing lease under subsection (2) takes effect shall not be earlier than 30 days after the Minister notifies the lessee of the redetermination.

(6) If—

15 (a) the applicant for a lease or renewed lease is dissatisfied with a determination of the Minister notified to him under subsection (4); or

20 (b) the lessee of an existing lease is dissatisfied with a redetermination of the Minister notified to him under subsection (4),

he may, within 30 days of being so notified, apply to the Minister to refer the matter to the local land board.

25 (7) The Minister shall, upon receipt of an application made under subsection (6) or may, upon his own motion, refer to the local land board the determination of the rental of any lease or, as the case may be, the redetermination of the rental of any existing lease, including the date on which the redetermination is to take effect.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—continued.**AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.**

5 (8) A local land board shall have jurisdiction to hear and determine any reference under subsection (7) and, for that purpose, shall have and may exercise the same powers and authorities as it has or may exercise in any matter arising under the Crown Lands Consolidation Act, 1913.

10 (9) A determination of a local land board under subsection (8) shall be final and conclusive.

15 (10) Notwithstanding anything in subsection (1), (2) or (8), the rental of a lease to a prescribed person or to a person belonging to a prescribed class of persons shall not be less than the rental prescribed in respect of that person.

(4) Sections 59A, 59B—

After section 59, insert :—

20 59A. (1) If the rental of any lease is unpaid at the expiration of 3 months from the due date for payment, the amount due shall be increased by a sum calculated at the rate of 10 per cent per annum simple interest or, where some other rate is prescribed, at that prescribed rate. Overdue rental—extra charge.

25 (2) Any calculation made under subsection (1) shall be made in respect of each day that has elapsed between the due date for payment and the date of payment.

(3) Any increase of the rental of any lease under subsection (1) shall be deemed to be part of the rental.

30 (4) This section shall continue to apply to unpaid rentals notwithstanding that judgment for those unpaid rentals may have been obtained in any court.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—continued.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.

5 (5) The Minister may, if he considers that the circumstances of the case warrant it, do any one or more of the following things :—

- (a) he may exempt a lessee from the payment of the whole or any part of an increase of the rental of his lease under subsection (1);
- 10 (b) he may grant an extension of time for the payment of the whole or any part of that increase;
- (c) he may remit the payment of the whole or any part of that increase.

15 (6) This section applies to the rental of any lease, whether granted before or after the commencement of this section, which has become due and payable after that commencement.

20 59B. (1) In addition to the rental payable under a lease, the lessee shall, if the regulations so provide, pay to the Minister a prescribed annual contribution towards the cost of the general administration of oyster leases and of matters affecting the oyster farming industry and the cost of carrying out scientific investigations into oyster farming, the amount of the contribution being based on the area leased.

25

(2) The payment required by subsection (1) shall be deemed to be a condition of every lease, whether granted before or after the commencement of this section.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—continued.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.

(5) Section 60—

Omit the section, insert instead :—

5 60. (1) Subject to this section, the Minister may, upon application being made not earlier than the commencement of the prescribed period before the expiration of a lease granted or renewed under this Part, renew the lease for a term not exceeding 15 years for any such renewal. Renewal of lease.

10 (2) Subject to this Part, the covenants and conditions upon which a 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, grant a lease.

15 (3) Where application is duly made for the renewal of a lease under this Part and the renewal is not granted before the expiration of the lease—

(a) the lease continues in force until the renewal is granted or refused; and

20 (b) the renewal may be granted notwithstanding that, but for this subsection, the lease would have expired.

(6) Sections 61, 62, 63, 64—

Omit the sections.

25 (7) (a) Section 65 (1)—

Omit “which is classified as special lands”, insert instead “which the Minister has decided to lease by auction or by public tender or by ballot”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(b) Section 65 (2)—

Omit the subsection, insert instead :—

5

(2) Where—

(a) a lease of an area under this Part expires;

(b) the former lessee did not duly apply for renewal of the lease;

10

(c) in the opinion of the Minister, the former lessee has substantially observed and performed the covenants and conditions of the lease; and

15

(d) the former lessee applies, within 30 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.

(c) Section 65 (3) (a)—

After “right”, insert “as against any other applicant”.

20

(d) Section 65 (3) (b), (c)—

Omit the paragraphs.

(e) Section 65 (3) (d)—

Omit “and to the rights conferred by subsection (2) of section 62 and subsection (4) of section 63”.

25

(f) Section 65 (4)—

Omit the subsection.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(g) Section 65 (5)—

5 After “area”, insert “and any preferent right arising under this section ceases upon the Minister’s refusal to lease the area to which the right relates”.

(8) Sections 65A, 65B—

After section 65, insert :—

10 65A. (1) It is a condition of a lease that the leased area be maintained in a tidy condition. Lease to be maintained in a tidy condition.

15 (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 leased area) as the Minister considers to be necessary to achieve compliance with the condition referred to in subsection (1).

20 (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

25 (c) the Minister may, by his authorised agents, enter the leased area and cause to be done thereon such work as is necessary to achieve compliance with those requirements (other than a requirement as to time).

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

5 (4) Where the Minister causes any work to be done under subsection (3) (c) within the leased area, 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;
- 10 (b) the disposal of anything so removed and 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
15 owed by the lessee.

(5) Compensation is not payable to a lessee in respect of anything done under this section.

(6) This section applies to every lease, whether granted before or after the commencement of this section.

20 65B. (1) The Minister may, upon application being made by the lessee of a leased area, grant the lessee an authority to erect and maintain a fence on the leased area subject to such conditions as may be specified in the authority. Lessee may fence oyster leases in certain cases.

25 (2) The Minister shall not grant an authority under subsection (1) unless—

- 30 (a) The Maritime Services Board of New South Wales, having regard to any interference to navigation that may be caused by the erection of the fence, approves of the authority being granted; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

- (b) the authority is subject to the conditions (if any) required by that Board.

5 (3) Where a lessee of any leased area erects a fence, or causes or permits a fence to be erected, on the leased area except in pursuance of an authority granted to him under subsection (1) or breaches any condition to which an authority granted to him under subsection (1)
10 is subject—

- (a) he shall be deemed to be in breach of a condition of his lease;

- (b) he is guilty of an offence; and

- 15 (c) the Minister may, by his authorised agents, enter the leased area and cause to be done thereon such work as is necessary to remove the fence or to achieve compliance with the condition, as the case may be.

20 (4) Where the Minister causes any work to be done under subsection (3) (c) within the leased area, 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;

- 25 (b) the disposal of anything so removed and not sold; and

- (c) the carrying out of the work,

30 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.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(5) Compensation is not payable to a lessee in respect of anything done under this section.

5 (9) (a) Section 66 (2)—

Omit the subsection, insert instead :—

10 (2) Where a lessee has duly applied for a renewal of his lease, he shall not be required, as a condition of the granting of the renewal, to pay for any improvements.

(b) Section 66 (3)—

Omit “classified as special lands”, insert instead “to be leased by auction or by public tender”.

(10) Section 67—

15 Omit “and the right of any inspector to enter upon such area”.

(11) Section 68 (2)—

Omit “tidal water”, insert instead “waters other than inland waters”.

20 (12) (a) Section 69—

Omit “an oyster farm”, insert instead “an area leased under this Part”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

(b) Section 69—

- 5 After “Minister”, insert “and any such consent may be given subject to the payment of such fee as may be prescribed”.

(13) Section 70—

Omit the section.

(14) (a) Section 72—

- 10 Omit “in the lease”.

(b) Section 72—

Omit “or oyster farm in a manner sufficient to allow of their identification”.

(15) Section 73—

- 15 Omit the section, insert instead :—

73. A lessee under this Part may, with the consent of the Minister and on payment of the prescribed fee, Surrender of leases. surrender the whole or part of his lease by an instrument in the prescribed form.

20 (16) (a) Section 74 (1)—

Omit “to determine a way of access to such adjoining land over a part of the foreshore comprised in such area”, insert instead “for the determination of a way of access over a part of the leased area”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—continued.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.

(b) Section 74 (1)—

5 Omit “notice of any such application on the owner or occupier, or on the lessee, as the case may be, may, if he thinks fit,”, insert instead “on the lessee notice of any such application made by the owner or occupier, may”.

(c) Section 74 (2)—

10 Omit “and the owner of the adjoining land”.

(d) Section 74 (2A)—

After section 74 (2), insert :—

15 (2A) The Minister may vary or rescind any determination, condition or direction made, imposed or given by him under this section.

(e) Section 74 (3), (4), (5), (6)—

Omit section 74 (3), insert instead :—

20 (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.

25 (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 (4).

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

- 5 (6) In the application of subsection (1) or (2) to the determination of a way of access over land vested in The Maritime Services Board of New South Wales, a reference to the Minister shall be construed as a reference to that Board.

(17) Section 75—

Omit the section, insert instead :—

- 10 75. Subject to Part VB, an area leased under this Part is leased subject to the reclamation rights conferred by the Crown Lands Consolidation Act, 1913.
- Reclamation rights under Crown Lands Consolidation Act, 1913.

(18) (a) Section 76 (1)—

- 15 After “any” where fourthly occurring, insert “prescribed”.

(b) Section 76 (8)—

After “Parliament”, insert “or, where the land is withdrawn at the request of a public authority, by that public authority”.

20 (19) (a) Section 78 (1)—

Omit the subsection, insert instead :—

(1) Without prejudice to any other powers of the Minister with respect to the cancellation of a lease, the Minister may, by notice served on a

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

lessee, call on the lessee to show cause why the lease should not be cancelled on the ground that—

- 5 (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;
- 10 (b) 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
- 16 (c) the lessee has failed to comply with a requirement in a notice served on him under section 65A.
- (b) Section 78 (2)—
- 20 Omit the subsection.
- (c) Section 78 (3)—
- Omit “or of the last publication thereof as the case may be”.
- (d) Section 78 (4), (5)—
- 25 Omit section 78 (4), insert instead :—
- (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
- 30

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—continued.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.

(b) that the pollution is likely to continue indefinitely,

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

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

(20) Section 79—

Omit the section.

(21) Section 80—

Omit the section, insert instead :—

15 80. (1) Where the Minister is satisfied that the whole or any part of a leased area or Crown lands or a public oyster reserve is from any cause in such a condition that the taking of oysters therefrom ought to be suspended, or that the oysters thereon are, or are likely to be, unfit for
20 human consumption, he may, by order published in the Gazette, prohibit during the period specified in the order the taking of oysters from that area or the Crown lands or the public oyster reserve.

25 (2) An order under subsection (1) may describe the leased areas, the Crown lands and the public oyster reserves to which it applies by reference to the part of the State in which they are situated.

30 (3) A person who, while an order under subsection (1) is in force, takes, or attempts to take, oysters in contravention of the prohibition imposed by the order is guilty of an offence unless the oysters—

(a) are taken for the purpose of depuration, and are depurated, in accordance with such conditions as may be prescribed; or

35 (b) are taken for any other prescribed purpose.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—continued.

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—continued.

- 5 (4) Where, in the opinion of the Minister, the condition of a leased area to which an order under subsection (1) relates resulted from flood, disease or other natural cause and not from mismanagement of the area by the lessee, the Minister may release the lessee from payment of rent for the period for which the order is in force, or for
10 the period of 3 years that next succeeds publication of the order, whichever is the shorter period.

(22) Section 81 (4)—

Omit “, and includes infestation with marine worms, borers or other pests”.

(23) Section 82—

- 15 Omit the section.

(24) Section 83 (2)—

At the end of section 83, insert :—

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

(25) (a) Section 86 (c)—

- 25 Omit “by direction or authority of the lessee, or the Minister or some duly authorised officer in the service or employment of the State”, insert instead :—

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

- (i) the lessee or the Minister;

Fisheries and Oyster Farms (Amendment).

SCHEDULE 7—*continued.*

AMENDMENTS TO PART V OF THE PRINCIPAL ACT—*continued.*

- 5 (ii) where the lease is over land vested in 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
- 10 (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;

(b) Section 86 (d)—

15 Omit the paragraph, insert instead :—

- 20 (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.

(26) Section 88 (a)—

Omit “for the purpose of oyster culture”, insert instead “(not being lands vested in The Maritime Services Board of New South Wales)”.

25 (27) Section 89—

Omit the section.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8.

Sec. 5.

INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT.

(1) Part VA—

5 After Part V, insert :—

PART VA.

FISH FARMING.

90A. For the purposes of this Part, a person operates a fish farm— Interpreta-
tion.

- 10 (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
15 those waters for the purpose of taking fish.

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

Offences.

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

is guilty of an offence.

25 (2) Subsection (1) does not apply to a person
who belongs to a class of persons exempted by the Minister
from the operation of that subsection by order published
in the Gazette.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8—*continued.*

INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT—*continued.*

5 90c. (1) The Minister may, upon payment of the ^{Permit to} prescribed fee, issue a permit to a person to operate a fish ^{operate} farm, specifying in the permit— ^{fish farm.}

 (a) the terms and conditions to which the permit is
 subject as determined by the Minister; and

 (b) the place in respect of which the permit is issued.

10 (2) The Minister may cancel a permit for any
reason which to him seems sufficient.

 (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
15 under section 25c.

 90d. (1) Subject to this section, the Minister may lease ^{Lease for} Crown lands (not being lands dedicated for any public ^{fish} purpose) for the purpose of fish farming whether or not the ^{farming.} Crown lands are vested in Her Majesty.

20 (2) Sections 58, 59, 59A, 60, 65, 65A, 65B, 66,
69, 71–78, 80, 81, 86 and 87 apply to leases under this
Part in the same way as they apply to leases for the purpose
of oyster farming under Part V and, for the purpose of the
application of those sections, a reference in those sections
25 to oysters shall be construed as a reference to fish.

 (3) The Minister shall not lease an area under
this Part without the consent of the Minister or trustees in
whom, or the authority in which, control of the area is
vested.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8—*continued.*

INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT—*continued.*

5 (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 leased area; and
- 10 (b) a right to use, for the purposes of operating a
fish farm, the waters over any part of the leased
area.

(2) Part VB—

Before Part VI, insert :—

PART VB.

15 DREDGING AND RECLAMATION.

90E. In this Part—

- (a) “person” does not include a public authority or
a local government authority; and
- 20 (b) “public authority” does not include a local gov-
ernment authority.

Interpre-
tation.

90F. This Part applies to and in respect of all works of dredging and reclamation other than a work of dredging or reclamation carried out—

- 25 (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: or

Application
of Part.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8—*continued.*

INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT—*continued.*

5 (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 sea-
going vessels; or
- 10 (ii) the removal of accumulated silt from a
stormwater channel or the abatement of
any nuisance.

90G. (1) In this section, “public authority” includes the
Minister administering the Crown Lands Consolidation Act,
1913.

Notification
of dredging
or reclama-
tion by a
public
authority.

15 (2) Before a public authority carries out, or
authorises the carrying out of, a work of dredging or re-
clamation it shall notify the Minister of its intention to
carry out, or to authorise the carrying out of, the work.

20 90H. Notwithstanding anything in any Act, a local gov-
ernment authority may not carry out a work of dredging
or reclamation except with the consent of the Minister and
subject to any conditions imposed by him when giving his
consent.

Dredging
or reclama-
tion by
local
government
authority.

25 90I. A person who carries out a work of dredging or
reclamation is guilty of an offence unless the work—

(a) is authorised—

(i) pursuant to the Crown Lands Consolida-
tion Act, 1913; or

(ii) by a public authority; or

Dredging
or reclama-
tion by
person
other than
public or
local
government
authority.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8—*continued.*

INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT—*continued.*

- 5 (b) is carried out with the consent of the Minister
and in accordance with any conditions imposed
by him when he gives his consent.

10 90J. (1) A local government authority, or a person, dissatisfied with a decision of the Minister (not being a
decision made after considering a report, or a report and
recommendation, by a local land board under this section) with respect to the carrying out of a work of dredging or
reclamation, or with a condition imposed by the Minister
when giving his consent to such a work, may apply to the
Minister to refer the matter to the local land board.

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

20 (3) Subject to subsection (4), the 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.

25 (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;
(b) report generally on the merits of the proposal;
30 (c) if it thinks fit, recommend the giving or refusal of
consent to the proposal; and

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8—continued.

**INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT—continued.**

5 (d) where it recommends consent to the proposal,
specify any conditions subject to which it
recommends consent to the proposal.

10 (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.

15 (6) Section 19 of the Crown Lands Consolidation
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.

20 (7) Section 654 of the Local Government Act,
1919, does not apply in respect of a proposal in respect of
which this section applies.

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

Repre-
sentation
before
local land
board.

25 90L. (1) Where section 90H is contravened by a local
government authority or a person is convicted of an offence
under section 90I, the Minister may, by order in writing
given to the authority or person concerned, 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.

Minister
may order
carrying
out of
certain
work.

30

Fisheries and Oyster Farms (Amendment).

SCHEDULE 8—*continued.*

INSERTION OF PARTS VA AND VB INTO THE PRINCIPAL
ACT—*continued.*

- 5 (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 person to whom the order was given.

10

SCHEDULE 9.

Sec. 5.

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT.

- (1) Section 91—

After “rents”, insert “, costs, charges”.

- (2) Section 91A—

15 After section 91, insert :—

- 20 91A. (1) Where it appears to a member of the police force or a prescribed officer that any person has committed any prescribed offence under this 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 the place and within the time so specified an amount of penalty prescribed for the offence if dealt with under this section.

Payment
of fines
where
notice
has been
served.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(2) A notice under subsection (1) may be served personally or by post.

5 (3) A person served with a notice under subsection (1)—

(a) has the right to decline to be dealt with under this section; and

10 (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 by the Director.

15 (4) Where the amount of penalty prescribed for an alleged offence is paid pursuant to this section, no person shall be liable for any further proceedings for the alleged offence.

20 (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—

25 (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;

30 (b) prescribe the amount (not exceeding \$50) of penalty payable under this section for each prescribed offence;

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

5 (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; and

10 (d) prescribe the persons or classes of persons who are prescribed officers for the purposes of this section.

(7) No amount of 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.

15 (8) 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.

(3) Section 92—
20 Omit “or police”.

(4) Section 94—

Omit the section, insert instead :—

94. Where, contrary to the provisions of this Act or the Forfeitures. conditions of a license, permit, consent or other authority—

25 (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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(b) fish are taken, sold or in the possession of any person,

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

(5) Section 95—

Omit the section, insert instead :—

95. (1) Where an article is seized in connection with an alleged offence under this Act—

Conviction,
etc., to
operate as
forfeiture.

10 (a) the conviction of a person of the offence; or

(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,

operates as a forfeiture of the article.

15 (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 (6) (a) Section 96—

Omit “as forfeited, and no proceedings”, insert instead “and no proceedings”.

(b) Section 96—

25 Omit “such forfeiture was incurred”, insert instead “the article was seized”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

- (c) Section 96—
Omit “condemned”, insert instead “forfeited”.
- 5 (d) Section 96—
Omit “forfeiture” where secondly occurring, insert
instead “seizure”.
- (e) Section 96—
Omit “condemnation”, insert instead “forfeiture”.
- 10 (7) (a) Section 97—
Omit “or police”.
- (b) Section 97—
Omit “, and on proof that the articles are liable to
forfeiture may condemn the same”, insert instead
15 “and may order that the articles be forfeited”.
- (8) (a) Section 98—
Omit “as forfeited”.
- (b) Section 98—
Omit “in respect of such forfeiture”, insert instead “for
20 forfeiture of the article”.
- (9) (a) Section 99—
Omit “forfeiture”, insert instead “seizure”.
- (b) Section 99—
Omit “condemnation”, insert instead “forfeiture”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(10) Section 100—

Omit the section.

5 (11) Section 101—

Omit “all fish, nets, engines, and other articles condemned”, insert instead “any article forfeited or ordered by a court to be forfeited”.

(12) Section 103 (1) (c), (d), (e)—

10 Omit section 103 (1) (c) and (d), insert instead :—

(c) refuses or neglects to comply with a lawful requirement of an inspector; or

15 (d) falsely states his name or address when required, pursuant to this Act, to state his full name and address; or

(e) abuses, threatens or insults an inspector acting under this Act,

(13) Section 104—

Omit “or person in charge of every”, insert instead “of a”.

20 (14) Section 107 (2)—

Omit “license, permit, registration, or authority”, insert instead “license, permit, consent, certificate of exemption or other authority”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—continued.**AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—continued.****(15) Section 107A—**

After section 107, insert :—

- 5 107A. Where, in a provision of this Act or an 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 landmark of the kind specified in the provision at the approximate site so specified is evidence that, at the specified time, the boundary was marked as specified in the provision. Evidence of boundaries.
- 10

(16) Section 109 (1)—

Omit “condemnation”, insert instead “forfeiture”.

15 (17) Section 110—

Omit “stipendiary or police magistrate, or for any justices before whom”, insert instead “court before which”.

(18) Section 112—

Omit the section, insert instead :—

- 20 112. The Governor may make regulations prohibiting the sale of any class of fish which in his opinion are in an inferior or unsound condition for the purposes of human consumption by reason of— Inferior or unsound fish.

- (a) their condition at the time they were taken; or
- 25 (b) their measurement or weight.

(19) Section 113—

Omit the section.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(20) Section 114—

After “taken”, insert “, or of being in his possession,”.

5 (21) Section 115—

Omit the section.

(22) Section 116—

Omit the section, insert instead :—

10 116. (1) A person who, except as provided by sub-
section (2), has any prohibited size fish in his 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 to a penalty not exceeding \$500.

Possession
of pro-
hibited
size fish.

15 (2) Subsection (1) 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.

20 (23) Sections 116A, 116B—

After section 116, insert :—

25 116A. Subject to this Act, a person may take, or attempt
to take, fish from inland waters in a river or creek not-
withstanding that the bed of those waters is not Crown
lands if, for the purpose of taking those fish, he is in a
boat on those waters or is on the bed of those waters.

Right to
fish in
certain
inland
waters.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

5 116B. A person who, without the authority of the Minister or the Director, damages, defaces or in any way interferes with or removes or pulls down any notice or sign, or any notice board or similar display boarding that—

Damage,
etc., to
official
notice
board.

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

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

(24) (a) Section 117—
15 Omit “upward”.

(b) Section 117—
After “reservoir” where secondly occurring, insert
“and may, by a like order, require a person who has
the management or control of a dam, weir or reservoir
20 to carry out repairs to a fishway or fish by-pass”.

(c) Section 117 (2)—
At the end of section 117, insert :—

(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
25 reservoir, a suitable fishway or fish by-pass.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 9—*continued.*

AMENDMENTS TO PART VI OF THE PRINCIPAL ACT—*continued.*

(25) (a) Section 118 (2)—

Omit “three”, insert instead “12”.

5 (b) Section 118 (5), (6)—

After section 118 (4), insert :—

(5) A person who fails to comply with the requirements of a notice given to him under subsection (1) is guilty of an offence.

10 (6) Where posts and cultivation referred to in subsection (1) are on an area vested in a public authority and that public authority considers that the posts and cultivation should be removed, the Minister shall—

15 (a) by a notice under subsection (1) require the person who was the last lessee of that area to remove the posts and cultivation; and

20 (b) if that person fails to comply with the requirements of the notice, exercise the powers conferred on him under subsection (3).

(26) (a) Section 119—

After “issue”, insert “or renew”.

25 (b) Section 119—

Omit “a court of quarter sessions” wherever occurring, insert instead “the District Court”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10.

Sec. 5.

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

(1) (a) Section 120 (2) (b)—

Omit the paragraph, insert instead :—

5 (b) prescribing the forms or other documents required for the purposes of this Act;

(b) Section 120 (2) (c)—

After “nets” where secondly occurring, insert “, and other matters relating to nets”.

10 (c) Section 120 (2) (d)—

Omit the paragraph, insert instead :—

15 (d) prescribing the fee or deposit to be paid for or with respect to any lease, license, permit, consent, certificate of exemption or other authority made, issued or given, or for any service rendered, under this Act;

(d) Section 120 (2) (e)—

Omit the paragraph, insert instead :—

20 (e) providing for the sale or disposal of anything forfeited under this Act;

(e) Section 120 (2) (f)—

Omit the paragraph, insert instead :—

(f) prohibiting or regulating methods of operating nets or other fishing gear;

25 (f) Section 120 (2) (g)—

Omit “regulating”, insert instead “prohibiting or regulating”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

- (g) Section 120 (2) (g)—
5 Omit “and line fishing”, insert instead “fishing and
 other methods of fishing”.
- (h) Section 120 (2) (h)—
 Omit “regulating and controlling”, insert instead “pro-
 hibiting or regulating”.
- (i) Section 120 (2) (1)—
10 After “removal”, insert “and sale”.
- (j) Section 120 (2) (1)—
 Omit “, whelks, or mussels” wherever occurring, in-
 sert instead “or other shell fish”.
- (k) Section 120 (2) (n)—
15 Omit the paragraph.
- (l) Section 120 (2) (o)—
 Omit the paragraph, insert instead :—
 (o) prescribing the minimum measurement or
20 weight of marketable oysters and preventing
 the sale of unmarketable oysters or oysters
 not fit for human consumption;
- (m) Section 120 (2) (q)—
 Omit “spat and undersize”, insert instead “prohibited
 size”.
- 25 (n) Section 120 (2) (t)—
 Omit “tidal or inland”, insert instead “any”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10—continued.

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—continued.

- (o) Section 120 (2) (u)—
- 5 Omit “cultch or any dredged refuse”, insert instead
 “any material on to those areas”.
- (p) Section 120 (2) (v)—
- Omit the paragraph, insert instead :—
- 10 (v) prescribing the identification particulars to be
 displayed on licensed fishing boats and the
 manner in which those particulars are to be
 displayed and prohibiting the display of those
 particulars on boats that are not licensed
 fishing boats;
- 15 (q) Section 120 (2) (x)—
- Omit “by the Municipal Council of Sydney under
 Part XIII of the Sydney Corporation Act, 1932–1934,
 as amended by subsequent Acts,”.
- (r) Section 120 (2) (z)—
- Omit the paragraph.
- 20 (s) Section 120 (2) (aa)—
- Omit “private fresh-water”.
- (t) Section 120 (2) (aa)—
- After “hatcheries”, insert “or fish farms”.
- 25 (u) Section 120 (2) (dd)—
- Omit the paragraph.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(v) Section 120 (2) (kk)—

Omit the paragraph, insert instead :—

5 (kk) prohibiting the gathering of seaweeds for
commercial purposes without a permit, pro-
viding for the issue of those permits, for the
conditions subject to which those permits are
10 issued, for the enforcement of observance of
those conditions and for the suspension or
cancellation of those permits, and regulating
the gathering of seaweeds;

(w) Section 120 (2) (nn)—

Omit the paragraph.

15 (x) Section 120 (2) (pp)—

Omit “tidal waters”, insert instead “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
20 application for the grant of an occupancy”.

(y) Section 120 (2) (qq)—

Omit “salmon or trout or any other”, insert instead
“any”.

(z) Section 120 (2) (xx)—

25 Omit “the disposal”, insert instead “the seizure and
disposal”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10—continued.

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—continued.

(aa) Section 120 (2) (eee)—

Omit the paragraph, insert instead :—

5 (eee) regulating the number of any species of fish or number of any species of fish of any prescribed measurement or weight any person may take or have in his possession in any one day;

10 (bb) Section 120 (2) (hhh)—

Omit the paragraph.

(cc) Section 120 (2) (jjj), (kkk)—

Omit “boxes” wherever occurring, insert instead “containers”.

15 (dd) Section 120 (2) (ppp)—

Omit “scheme.”, insert instead “scheme;”.

(ee) Section 120 (2) (qqq), (rrr), (sss), (ttt)—

After section 120 (2) (ppp), insert :—

20 (qqq) regulating, restricting or imposing conditions on canning, smoking, freezing or otherwise preserving, processing or storing fish and providing for the inspection of any premises where fish are canned, smoked, frozen or otherwise preserved or processed or stored;

25 (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;

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

5 (sss) prescribing the places at which a person may
 shuck abalone and prohibiting the shucking of
 abalone at places other than those that are
 so prescribed;

10 (ttt) prohibiting the use of electrical fishing devices
 without a permit, providing for the issue of
 those permits, for the conditions subject to
 which those permits are issued, for the
 enforcement of observance of those conditions
 and for the suspension or cancellation of those
 permits, and regulating the use of electrical
 fishing devices.

15 (ff) Section 120 (2A) (a) (iii)—

Omit “consent or license granted or issued under
section 40B or 40C”, insert instead “certificate of
exemption under section 40C or consent under section
40D”.

20 (gg) Section 120 (3), (4)—

Omit section 120 (3), insert instead :—

25 (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.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 10—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(2) (a) Section 121 (1), (2)—

Omit the subsections, insert instead :—

5 (1) A regulation may impose a penalty not exceeding \$500 for any breach thereof.

 (2) The regulations may apply generally or may differ in their application according to different factors.

10 (b) Section 121 (4)—

Omit the subsection, insert instead :—

 (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
15 Interpretation (Amendment) Act, 1969.

(c) Section 121 (5)—

Omit the subsection.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 11.

Sec. 5.

AMENDMENTS TO THE SCHEDULES TO THE PRINCIPAL ACT.

(1) Schedules A, B—

Omit the Schedules, insert instead :—

5

SCHEDULE A.

Sec. 19 (1)
(d).

NARRABEEN LAKE

10

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

WALLIS LAKE

15

20

25

30

County of Gloucester, parishes of Tuncurry and Forster at Wallis Lake. The whole of the waters within the following boundaries: Commencing at the entrance to Wallis Lake at the eastern extremity of the northern breakwater and bounded thence by that breakwater 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-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 57.295 on Godwin Island; thence by the northern foreshore of that island north-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

35

County of Northumberland. The waters of that part of Tuggerah Lake, its channel entrance and the adjacent ocean waters included within the following boundaries: Commencing on the line of high water mark at the southern extremity of Karagi, the headland on the northern side of that channel entrance, and bounded

*Fisheries and Oyster Farms (Amendment).*SCHEDULE 11—*continued.*AMENDMENTS TO THE SCHEDULES TO THE PRINCIPAL ACT—
continued.

- 5 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 generally northerly and north-easterly to a point
distant 201 metres south-westerly from the north-western corner
10 of portion 39 in the parish of Wallarah; thence by lines bearing
282 degrees 887 metres and 325 degrees 814 metres, respectively,
into the waters of that lake; thence by a line bearing 210
degrees 2,743 metres; thence by lines bearing 91 degrees 631
metres and 136 degrees 1,102 metres, respectively, to a point
15 on the high water mark of the eastern shore of that lake distant
805 metres southerly from the northern extremity of Picnic
Point; thence by the high water mark of part of the eastern
shore of that lake to that extremity of that point; thence by the
high water mark of the south-western shore of that channel
20 entrance 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
and distant 443 metres from the point of commencement; and
thence by a line to that point.

25 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 comprised within the following boundaries: Commencing
at the north-western corner of portion 44 in the parish of Wol-
30 longong; thence by lines bearing 291 degrees 30 minutes 444
metres 228 degrees 57 minutes 175 metres and 191 degrees
30 minutes 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-
westerly, in all about 233 metres to a point marked broad-arrow
35 over FD at the westernmost extremity of that island, and thence
by a line bearing approximately 205 degrees 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

Fisheries and Oyster Farms (Amendment).

SCHEDULE 11—continued.**AMENDMENTS TO THE SCHEDULES TO THE PRINCIPAL ACT—
continued.**

- 5 that 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, bearing 237 degrees from the Trigonometrical Station on
Windang Island, being the intersection of a line drawn from that
Trigonometrical Station to the junction of Lake Entrance and
10 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 that lake at its intersection with a line drawn
from that Trigonometrical Station to the southern corner of
portion 44 in the parish of Wollongong; thence by the north-
15 eastern shore of that entrance and the eastern shore of that lake
to the point of commencement.

SCHEDULE B.Sec. 19 (4)
(b).**TUGGERAH LAKE AND OCEAN WATERS ADJOINING**

- 20 County of Northumberland. The whole of the waters of the
channel entrance to Tuggerah Lake within a distance of 46
metres measured rectangularly on the lake side of a line drawn
across that 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 channel entrance and also the
25 whole of the ocean waters adjacent to the entrance to Tuggerah
Lake described in Schedule A.

LAKE ILLAWARRA AND OCEAN WATERS ADJOINING

- 30 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 that channel entrance and being the prolongation of the
outer shore of the (for the time being) more westerly point of

Fisheries and Oyster Farms (Amendment).

SCHEDULE 11—*continued.*

AMENDMENTS TO THE SCHEDULES TO THE PRINCIPAL ACT—
continued.

- 5 entrance from the ocean to that channel entrance and also the whole of the waters of that channel entrance lying on the ocean side of that line and the whole of the ocean waters adjacent to the entrance of Lake Illawarra described in Schedule A.

(2) Schedule C—

Omit the Schedule.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES.

(1) (a) Section 18 (5)—

5 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
20 twenty dollars and not exceeding forty dollars for a
10 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
instead “are guilty of an offence”.

(b) Section 18 (6)—

15 Omit “, shall be guilty of an offence against this sec-
tion, 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
20 dollars or to imprisonment for a term of not less than
one month for a third or subsequent offence”, insert
instead “is guilty of an offence”.

(c) Section 18 (7) (a)—

25 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 instead “is
30 guilty of an offence”.

(d) Section 18 (8)—

At the end of section 18, insert :—

(8) A person who is guilty of an offence under this
section is liable to a penalty not exceeding \$500,

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(2) Section 19 (2)—

- 5 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
10 offence to a penalty of not less than forty dollars or to
imprisonment for a term of not less than one month”, in-
sert instead “is guilty of an offence”.

(3) Section 20 (3)—

Omit “shall be liable to a penalty not exceeding forty
dollars”, insert instead “is guilty of an offence”.

15 (4) Section 21 (4)—

Omit the subsection.

(5) Section 23 (8)—

- 20 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 instead “is guilty of an offence unless the
boat is licensed”.

(6) (a) Section 24 (1)—

Omit “shall”, insert instead “is”.

25 (b) Section 24 (1)—

Omit “be liable to a penalty of not less than two
dollars and not exceeding fifty dollars for a first

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

5 offence and not less than ten dollars nor more than
 one hundred dollars for a second or subsequent
 offence", insert instead "guilty of an offence".

(7) Section 25 (7)—

10 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 instead "is guilty of
 an offence".

(8) Section 25B (7)—

15 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 instead "\$100".

(9) Section 26 (1)—

 Omit "four dollars", insert instead "\$20".

(10) Section 27 (3)—

20 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 instead "is guilty of an offence and liable to
 a penalty not exceeding \$500".

(11) Section 28—

25 Omit "shall for a first offence be liable to a penalty not
 exceeding ten dollars and for a second or subsequent

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

- 5 offence shall be liable to a penalty of not less than ten dollars and not exceeding forty dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$500”.
- (12) (a) Section 29 (1)—
- 10 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 instead “is guilty of an offence and liable to a penalty not exceeding \$200”.
- 15 (b) Section 29 (2)—
- Omit “, shall for every such offence be liable to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$200”.
- 20 (13) (a) Section 30 (1)—
- Omit “shall for every such offence be liable to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$200”.
- 25 (b) Section 30 (2)—
- Omit “, shall for every such offence be liable to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$200”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(14) Section 32—

- 5 Omit “shall for every such offence be liable to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence”.

(15) (a) Section 33 (1)—

- 10 Omit “, shall for every such offence be liable to a penalty of not less than twenty dollars and not exceeding one hundred dollars”, insert instead “is guilty of an offence”.

(b) Section 33 (2)—

- 15 Omit “, shall for every such offence be liable to a penalty not exceeding one hundred dollars”, insert instead “is guilty of an offence”.

(16) (a) Section 34 (1)—

- 20 Omit “, shall for every such offence be liable to a penalty of not less than twenty dollars and not exceeding one hundred dollars”, insert instead “is guilty of an offence”.

(b) Section 34 (2)—

- 25 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 for each day during which the offence continues”, insert instead “is guilty of an offence”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(17) Section 36 (4) (b)—

- 5 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 instead “is guilty of an offence and liable to a penalty not exceeding \$100”.

10 (18) Section 37—

After “offence” where firstly occurring, insert “and liable to a penalty not exceeding \$100”.

(19) Section 38 (2)—

- 15 Omit “shall be guilty of an offence, and shall be liable to a penalty not exceeding two dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$50”.

(20) Section 40B (4)—

- 20 Omit “shall, upon conviction before a police or stipendiary magistrate or any two justices, be liable to a penalty not exceeding one hundred dollars”, insert instead “is guilty of an offence”.

(21) Section 40c (4) (a)—

Omit “shall be liable to a penalty not exceeding one hundred dollars”, insert instead “is guilty of an offence”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(22) Section 41E (3)—

- 5 Omit “shall be liable to a penalty not exceeding one hundred dollars”, insert instead “is guilty of an offence”.

(23) Section 42 (5)—

- 10 Omit “shall be guilty of an offence”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$100”.

(24) Section 54—

Omit “shall be guilty of an offence”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$100”.

15 (25) Section 56—

Omit “shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred dollars”, insert instead “is guilty of an offence”.

(26) Section 68 (1)—

- 20 Omit “shall be guilty of an offence and shall be liable to a penalty of not less than twenty dollars”, insert instead “is guilty of an offence”.

(27) Section 80—

- 25 Omit “incur a penalty not exceeding forty dollars”, insert instead “be guilty of an offence”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—continued.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—continued.**

(28) Section 81 (3)—

- 5 Omit “, shall be guilty of an offence and shall be liable to a penalty of not less than twenty dollars”, insert instead “is guilty of an offence”.

(29) Section 82 (3)—

- 10 Omit “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 instead “guilty of an offence”.

(30) Section 84—

- 15 Omit “liable to a penalty not exceeding forty dollars”, insert instead “guilty of an offence”.

(31) (a) Section 85 (2)—

Omit “shall take”, insert instead “takes”.

(b) Section 85 (2)—

- 20 Omit “shall be liable to a penalty of not more than ten dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$50”.

(32) Section 86—

- 25 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 instead “is guilty of an offence”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(33) Section 87 (4)—

- 5 Omit “shall be liable to a penalty of not less than four dollars nor more than forty dollars, and shall be”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$200 and is”.

(34) (a) Section 90(4)—

- 10 Omit “shall be liable upon conviction to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$100”.

(b) Section 90 (5)—

- 15 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.”.

(35) (a) Section 103 (1)—

- 20 Omit “shall for every such offence be liable to a penalty not exceeding twenty dollars”, insert instead “is guilty of an offence”.

(b) Section 103 (2)—

- 25 Omit “shall for every such offence be liable to a penalty of not less than twenty dollars and not exceeding one hundred dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$500”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(c) Section 103 (3)—

- 5 Omit “shall impersonate an inspector shall be guilty of an offence and shall be liable to a penalty not exceeding forty dollars”, insert instead “impersonates an inspector is guilty of an offence”.

(36) Section 104—

- 10 Omit “he shall for every such offence be liable to a penalty not exceeding ten dollars”, insert instead “he is guilty of an offence and liable to a penalty not exceeding \$50”.

(37) (a) Section 106 (1)—

Omit the subsection, insert instead :—

- 15 (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.

(b) Section 106 (2)—

- 20 Omit “any act which by this Act is declared to be an offence and which is”, insert instead “an offence under this Act”.

(38) Section 109 (2)—

- 25 Omit “shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding one hundred dollars”, insert instead “is guilty of an offence”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 12—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES
FOR OFFENCES—*continued.*

(39) Section 114—

- 5 Omit “shall be liable to a penalty of not less than ten dollars and not exceeding forty dollars”, insert instead “is guilty of an offence and liable to a penalty not exceeding \$500”.

(40) Section 116—

- 10 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 instead “is guilty of an offence and liable to a penalty not exceeding \$500”.

15 (41) Section 117—

Omit “shall be guilty of an offence and shall be liable to a penalty not exceeding forty dollars”, insert instead “is guilty of an offence”.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 13.

Sec. 6.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

1. A person who, immediately before the commencement of Schedule 2 (2), holds office— Vacation of certain offices.
- 5 (a) under section 6 of the Principal Act as an honorary inspector of fisheries; 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.
- 10 2. (1) A delegation made by the Minister to the Under Secretary under section 8A of the Principal Act and in force immediately before the commencement of Schedule 2 (4) shall, on and from that commencement and until revoked by the Minister, be deemed to have been made by the Minister to the Director pursuant to section 8A of the Principal Act, as amended by Delegations.
- 15 this Act.
- (2) A delegation made by the Under Secretary under section 8A of the Principal Act and in force immediately before the commencement of Schedule 2 (4) shall, on and from that commencement and until revoked by the Director, be deemed to have been made by the Director pursuant to section 8A of the Principal Act, as amended by this Act.
- 20
3. An approval or authorisation under section 17 (1) or (2) of the Principal Act in force immediately before the commencement of Schedule 2 (12) shall, on and from that commencement, be deemed to be an authorisation under section 17 (2A) of the Principal Act, as amended by Authorisation of certain activities.
- 25 this Act, of the activity previously approved or authorised.
4. A notification or proclamation under section 18 of the Principal Act in force immediately before the commencement of Schedule 4 (1) shall, on and from that commencement, be deemed to be a notification 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 amended, remains in force until it would have expired had that section of the Principal Act not been amended by this Act. Closing of certain waters.
- 30
5. A proclamation under section 20 of the Principal Act in force immediately before the commencement of Schedule 4 (4) shall, on and from that commencement, be deemed to be an order taking effect at that commencement under section 20 of the Principal Act, as amended by this Act. Landing of certain fish in the State.
- 35

Fisheries and Oyster Farms (Amendment).

SCHEDULE 13—continued.

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—continued.

6. (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 fish.
5 section in respect of anything done before the prescribed day for that person.

(2) For the purposes of subclause (1) of this clause, the prescribed day for a person referred to in that subclause is the later, or latest, of—

10 (a) the day that is 3 months after the day on which Schedule 4 (5) commences;

(b) where that person duly applies, on or after the day on which Schedule 4 (5) commences and before the day that is 3 months after that day, for a license under section 20A of the Principal Act, as amended by this Act—

15 (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;

20 (c) where a person referred to in paragraph (b) is notified as referred to in paragraph (b) (ii)—the day after the last day on 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

25 (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.

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

(a) in the case of a license under section 23 of the Principal Act—of Boat licenses, fishermen's licenses and inland angling licenses.
35 Schedule 4 (11) (b);

(b) in the case of a license under section 24 of the Principal Act—of licenses.
Schedule 4 (12) (b);

(c) in the case of a license under section 25 of the Principal Act—of Schedule 4 (14); or

Fisheries and Oyster Farms (Amendment).

SCHEDULE 13—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(d) in the case of a license under section 25B of the Principal Act—
of Schedule 4 (16),

5 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 it had
been issued under the corresponding provision of the Principal Act, as
amended by this Act.

8. Where—

10 (a) a net is, immediately before the commencement of Schedule 4
(20), 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
15 Act, as amended by this Act,

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

Registered
nets.

9. Where a consent under section 40B of the Principal Act is in force
immediately before the commencement of Schedule 4 (36), the consent
20 shall be deemed to be a consent issued at that commencement under section
40D of the Principal Act, as amended by this Act, for the residue of the
term for which it was issued under the Principal Act.

Consent
to sell
out of
market.

10. (1) Where a certificate of registration under section 40B of the
Principal Act is in force immediately before the commencement of Schedule
25 4 (36), the certificate shall be deemed to be a certificate of exemption
issued at that commencement under section 40C of the Principal Act, as
amended by this Act.

Registration
as fish
canner.

(2) Where, by the operation of subclause (1) of this clause, a
certificate of registration is deemed to be a certificate of exemption—

30 (a) the certificate of exemption shall be subject to the condition that
the exemption applies only to the sale of canned fish;

(b) the same conditions shall be deemed to have been specified in the
certificate of exemption as were specified in the certificate of
registration; and

35 (c) the certificate of exemption continues in force, unless sooner
cancelled, for the residue of the term for which the certificate of
registration was issued.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 13—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

11. (1) Where a license under section 40c of the Principal Act is in force immediately before the commencement of Schedule 4 (37), the license shall be deemed to be a certificate of exemption issued at that commencement under section 40c of the Principal Act, as amended by this Act. License to sell out of market.
- (2) Where, by the operation of subclause (1) of this clause, a license is deemed to be a certificate of exemption—
 - 10 (a) the certificate of exemption shall be subject to the condition that the exemption applies only to the sale by wholesale at the premises specified in the license of fish which have been taken by the person to whom the license was issued or which have been purchased from a fisherman;
 - 15 (b) the same conditions shall be deemed to have been specified in the certificate of exemption as were specified in the license; and
 - (c) the certificate of exemption continues in force, unless sooner cancelled, for the residue of the term for which the license was issued.
- 20 12. An approval given by the Governor under section 10A of the Co-operation Act, 1923, and in force immediately before the commencement of Schedule 4 (37) shall be deemed to be an approval given by the Minister under section 40E of the Principal Act, as amended by this Act, at that commencement. Trading societies.
- 25 13. (1) On the day appointed and notified under section 2 (3) for the commencement of Schedule 5 (1) the Fish Marketing Authority shall be reconstituted in accordance with the Principal Act, as amended by this Act. Reconstitution of Fish Marketing Authority.
- (2) A person who, immediately before the day referred to in subclause (1) of this clause, holds office as a member of the Fish Marketing Authority ceases on that day to hold that office.
- 30 (3) Nothing in this Act prejudices or affects in any way the continuity of the body corporate constituted under section 41A of the Principal Act.
- 35 14. Where, immediately before the commencement of Schedule 6 (6), any lands are, pursuant to section 49 of the Principal Act, under the control and management of an acclimatisation society, the lands continue under that control and management after that commencement as if that section had not been repealed. Lands controlled by acclimatisation society.

*Fisheries and Oyster Farms (Amendment).*SCHEDULE 13—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

15. Where, immediately before the commencement of Schedule 6 (7), Trout farms.
a permit is in force under section 49A of the Principal Act—
- 5 (a) the permit continues in force after that commencement until its expiry date as if that section had not been repealed; 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.
- 10 16. Where—
- (a) before the commencement of Schedule 7 (2), land was the subject of a lease purporting to have been granted under Part V of the Principal Act; and
- 15 (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.
- 20 17. In Part V of the Principal Act, "Crown lands" and "recognised hauling ground" have, until the commencement of Schedule 7, the meanings respectively ascribed thereto in section 4 (1) of the Principal Act, as in force immediately before the date of assent to this Act. Meanings of "Crown lands" and "recognised hauling ground".
- 25 18. Where an application under section 58 of the Principal Act has not, before the commencement of Schedule 7 (2), been granted or refused, the application may be dealt with as if it were an application referred to in section 58 of the Principal Act, as amended by this Act, and shall be so dealt with as if Schedule 7 (2) had commenced immediately before the making of the application. Application for lease of oyster farm.
- 30 19. A lease under Part V of the Principal Act that is in force immediately before the commencement of Schedule 7 (2) shall be 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, 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. Leases under Part V of Principal Act.
- 35

Fisheries and Oyster Farms (Amendment).

SCHEDULE 13—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

20. Where the rental of a lease was determined pursuant to section 59 of the Principal Act, as in force immediately before the commencement of Schedule 7 (3), the rental of that lease shall, on and after that commencement, be deemed to have been determined pursuant to that section, as amended by this Act.

21. The prohibition in a notification in force under section 80 or 82 of the Principal Act immediately before the commencement of Schedule 7 shall be deemed on and after that commencement to be a prohibition imposed by an order in force under section 80 of the Principal Act, as amended by this Act.

22. Notwithstanding anything in Part VA of the Principal Act, as amended by this Act, a person is not guilty of an offence under section 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; or

(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,

whichever is the later.

23. Part VB of the Principal Act, as amended by this Act, does not apply to works of dredging or reclamation authorised or undertaken before the commencement of that Part.

24. Sections 92 to 102, both inclusive, and section 109, of the Principal Act continue to apply on and after the commencement of Schedule 9 (4) to and in respect of all fish, engines, nets and other articles seized before that commencement, and the corresponding sections of the Principal Act, as amended by this Act, do not apply in respect thereof.

Fisheries and Oyster Farms (Amendment).

SCHEDULE 13—*continued.*

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

25. Nothing in this Schedule affects any saving in the Interpretation Act, 1897.
- Interpreta-
tion Act,
1897.

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