



ANNO SECUNDO

GEORGI VI REGIS.

A.D. 1938.

No. 2391.

An Act to Amend the Fisheries Act, 1917-1935.

[Assented to 22nd September, 1938.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited as the " Fisheries Act Short titles. Amendment Act, 1938 ".

(2) The Fisheries Act, 1917-1935, as amended by this Act, may be cited as the " Fisheries Act, 1917-1938 ".

(3) The Fisheries Act, 1917-1935, is hereinafter referred to as " the principal Act ".

2. Section 4 of the principal Act is amended—

(a) by striking out the definition of " fish " and by inserting in lieu thereof the following definition :—

Amendment of
principal Act,
s. 4—
Interpretation.

" fish " means—

- (a) every species of fish :
- (b) shellfish (other than oysters) and other molluscs :
- (c) crayfish, crabs, prawns, shrimps, and other crustaceans :
- (d) mammals :
- (e) the spat, spawn, fry and young of anything hereinbefore defined as fish :

(b) by inserting after the definition of "fish" the following definition:—

"hand crab-net" means a hoop or ring not exceeding three feet six inches in diameter to which netting is attached in the form of a cone and which is hauled by means of a line:

(c) by striking out the words "ware, half-ware," in the definition of "oysters."

Amendment of
principal Act,
s. 6—

3. Subsection (1) of section 6 of the principal Act is amended by inserting therein after paragraph vi. thereof the following paragraph:—

Powers of
Governor.

via. prescribe species of fish which may not be taken pursuant to section 47 unless of or over the prescribed weight and prescribe areas in which such fish may during any one day be taken up to the number fixed in the proclamation.

Amendment of
principal Act,
s. 7—

4. (1) Section 7 of the principal Act is amended by inserting therein after paragraph (f) thereof the following paragraph:—

Powers of
Minister.

(f1) upon the application of any person holding any licence or certificate under this Act revoke the licence or certificate and refund to that person such portion of the licence or certificate fee as the Minister thinks fit but not exceeding such proportion of the fee as the unexpired portion of the term of the licence or certificate bears to the full term of the licence or certificate:

(2) Section 7 of the principal Act is further amended by adding at the end thereof the following subsection (the preceding portion of the said section being read as subsection (1) thereof):—

(2) The Minister may, upon the recommendation of the chief inspector, direct that a licence to take fish or oysters be issued without fee to any person who the Minister is satisfied is over the age of sixty years and is a fisherman of long standing. Any such licence may thereupon be issued without fee.

Amendment of
principal Act,
s. 10—
Inspection of
premises.

5. Section 10 of the principal Act is amended—

(a) by inserting after the word "are" second occurring in the fourth line thereof the word "reasonably"; and

(b) by inserting after the word "found" in the eleventh line thereof the words "and may examine and make copies of any records, books, or documents relating to any fish or oysters".

6. The principal Act is amended by inserting therein after section 10 the following section :—

Amendment of principal Act—

10a. (1) Any inspector may require any person in charge of any boat registered under section 16 to permit the inspector to use the boat for the purpose of enforcing the provisions of this Act.

Power to requisition fishing boat.

(2) Any person who refuses to permit an inspector to use any such boat shall be guilty of an offence against this Act.

(3) The Minister shall pay such amount as is reasonable for the use of the boat by the inspector. The said amount shall not exceed five pounds per day during the time the boat is used plus an amount equal to any damage caused to the boat during the time it is used. The said amount shall be paid to the person who by reason of the use of the boat by the inspector is deprived of the use of the boat.

7. Section 13 of the principal Act is amended—

Amendment of principal Act, s. 13—

(a) by striking out the words “and upon payment of the prescribed fee” in subsection (1) thereof and by inserting in lieu thereof the words “to applicants who make application therefor in the prescribed form and pay the prescribed fee”; and

Fishermen's licences.

(b) by inserting after subsection (2) thereof the following subsection :—

(2a) If application is made by any person who is the holder of a current licence issued under this section, a licence under this section may be issued to that person at any time within fourteen days before the expiry of the current licence. In such case the licence so issued shall commence from the expiry of the current licence and shall, for the purpose of subsection (2), be deemed to be issued upon the date of the expiry of the current licence.

8. Section 14 of the principal Act is amended—

Amendment of principal Act, s. 14—

(a) by inserting after the word “for” in the third line thereof the words “his wife or for”; and

Licences.

(b) by inserting after the word “whilst” in the fourth line thereof the words “his wife or”.

9. The principal Act is amended by inserting therein after section 14 thereof the following section :—

Amendment of principal Act—

14a. (1) If the chief inspector is satisfied that any person who is licensed under section 14 employs another person to take fish or oysters he may, upon application in

Employee's licences.

the prescribed form and upon payment of the prescribed fee, issue to the first mentioned person in the prescribed form an employee's licence to take fish and oysters.

(2) Every employee's licence shall be a yearly licence which shall, subject to subsection (3), expire on the last day of December next after the same is issued.

(3) If any person who is the holder of current licences under section 14 and this section makes application pursuant to subsection (2a) of section 13 for the issue of a licence under section 14 and also makes application for the issue of an employee's licence, an employee's licence may be issued to that person at any time within fourteen days before the expiry of the current licence. In such case the licence so issued shall commence from the expiry of the current licence and shall expire on the last day of December next after the expiry of the current licence.

(4) Subject as hereinafter provided, every employee's licence shall be deemed a sufficient licence to take fish and oysters for any one person employed as aforesaid by the person to whom the licence is issued. A licence issued under this section shall apply only to any person employed as aforesaid who is a natural born British subject or a naturalized British subject: Provided that, with the consent of the Minister, an employee's licence may apply to an unnaturalized person who has not qualified for naturalization by the length of his residence in Australia or to an unnaturalized person who has made application for a certificate of naturalization.

Amendment of
principal Act,
ss. 7 and 15—

10. (1) Section 15 of the principal Act is repealed and the following section is enacted in lieu thereof:—

Issue of
licences.

15. Every licence under section 13 or section 14a shall be issued by the chief inspector or by some person authorised by him in writing to issue such licences.

(2) Paragraph (a) of section 7 of the principal Act is repealed.

Amendment of
principal Act,
s. 15a—
Exclusive
licences.

11. Section 15a of the principal Act is amended—

(a) by inserting after the word "licence" wherever it occurs in the said section in every case the words "or certificate";

(b) by inserting after the word "State" in the eighth line thereof the words "or within such area of any river in the State"; and

(c) by striking out the word "licensee" wherever occurring in subsections (2) and (5) thereof and by inserting in lieu thereof in each case the words "holder thereof".

12. Section 15b is amended by inserting after the word "licence" in the first and last lines thereof in each case the words "or certificate".

Amendment of principal Act, s. 15b—
Duties of licensee.

13. Section 16 of the principal Act is amended by adding at the end thereof the following subsection :—

Amendment of principal Act, s. 16—

(4) If the ownership of any registered boat is transferred, the transferee shall within one month of the transfer, give notice in writing to the chief inspector of the transfer.

Registration of boats.

14. Section 47 of the principal Act is amended—

Amendment of principal Act, s. 47—
Exemptions.

(a) by striking out the passage "section 39, or" in the first and second lines thereof ;

(b) by striking out paragraph (a) of subsection (1) thereof and by inserting in lieu thereof the following paragraph :—

(a) except from stocked waters wherein fishing is prohibited by proclamation any person may, without any licence, take fish with a rod and line, or a hand line, or a hand crab net, or a fish spear, and—

(i.) any such person may, in manner aforesaid, when fishing from any wharf or jetty (other than a wharf or jetty constructed in or adjacent to the River Murray), take any fish whether under the prescribed weight or not :

(ii.) any such person may, in manner aforesaid, when fishing from other than a jetty or wharf, or when fishing from a wharf or jetty constructed in or adjacent to the River Murray, take any fish, whether under the prescribed weight or not, except such fish as are prescribed, in which case the fish so taken shall be of or over the prescribed weight :

(iii.) any such person may, in manner aforesaid, when fishing from other than a jetty or wharf and when fishing in a prescribed area, take during any one day, up to the prescribed number, any such prescribed fish, whether under the prescribed weight or not :

(c) by inserting after the word "sold" in the last line of subsection (1) thereof the words "or are not taken for the purpose of sale"; and

(d) by adding at the end thereof the following subsection:—

(3) In any proceedings where any person is charged with having in his possession any fish under the prescribed weight, the onus shall be upon the defendant to prove that the fish was taken whilst fishing from a wharf or jetty other than a wharf or jetty constructed in or adjacent to the River Murray.

Amendment of
principal Act,
s. 49—
Taking fish
for bait.

15. Section 49 of the principal Act is amended—

(a) by striking out the word "any" in the second line thereof; and

(b) by adding at the end of the proviso thereto the following passage:—

"and

III. such fish are not of the species known as whiting (*Sillaginodes punctatus*) or of any other prescribed species."

Amendment of
principal Act,
s. 53—
Penalties.

16. Paragraph (h) of section 53 of the principal Act is repealed.

Amendment of
principal Act—

17. The principal Act is amended by inserting therein after section 53 thereof the following section:—

Provision of
fish screens.

53a. (1) There shall be provided to every pump pipe-line whereby water is drawn from the sea or any river a fish protection screen of a pattern approved by the chief inspector.

(2) If any water is drawn as aforesaid by means of any such pump pipe-line which is not provided with a screen as aforesaid, the owner of the pump pipe-line shall be guilty of an offence against this Act.

Amendment of
principal Act—

18. The principal Act is amended by inserting therein after section 55 thereof the following section:—

Marking of
packages.

55a. (1) There shall be legibly marked on the outside of or on a label attached to the outside of any box, basket, bag, or other receptacle containing fish or oysters consigned for sale by any person who follows the trade or calling of a fisherman or who deals in fish—

(a) the full name or the initials and surname of the person consigning the fish, and, in either case, his address; and

- (b) if the person consigning the fish is the holder of a certificate of registration of a boat under section 16, the registered number of the boat.

If more than one person consigns fish as aforesaid, in the same box, basket, bag, or other receptacle, it shall be sufficient compliance with this subsection if the particulars required by this subsection and relating to one of such persons are given as aforesaid.

- (2) Any person who fails to comply with subsection (1) shall be guilty of an offence against this Act.

- (3) The provisions of subsection (1) shall not apply to any fish or oysters whilst in any boat registered under section 16.

- (4) In any proceedings under this Act, evidence that any box, basket, bag or other receptacle containing fish or oysters in the course of consignment, bore the name of any person, shall, in the absence of evidence to the contrary, be sufficient proof that the fish or oysters were the property of the person so named on the box, basket, bag or receptacle, or on the label attached thereto, and that the fish or oysters were being consigned for or on sale.

19. Section 59 of the principal Act is amended by inserting therein after paragraph (c) thereof the following paragraphs :—

Amendment of
principal Act,
s. 59—

- (c1) for the issue and revocation of licences for amateur fishermen; prescribing fees therefor; and fixing periods during which only persons licensed as amateur fishermen may take fish from any stocked waters : Regulations.
- (c2) prohibiting the sale of fish or oysters of any kind during a close season for fish or oysters of that kind :
- (c3) requiring any persons licensed under this Act to supply for statistical purposes to the chief inspector returns of fish and oysters taken :
- (c4) requiring persons who are engaged in—
- (i.) the selling of fish or oysters at any market ; or
 - (ii.) the selling of fish or oysters which have not been sold at a market ; or
 - (iii.) the preserving, curing, smoking, drying, or salting of fish or oysters ; or
 - (iv.) the bottling or canning of fish or oysters or of any fish or oyster product intended for human consumption ; or

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- (v.) the preparation of fish by-products intended for human consumption ; or
 - (vi.) the preparation of fertilisers from fish or any fish products or by-products not intended for human consumption ; or
 - (vii.) the carriage of fish or oysters by sea or land, to supply for statistical purposes to the chief inspector returns of the sales, output, or businesses of such persons :
- (c5) prescribing the method whereby licences or certificates shall be granted under section 15a :

In the name and on behalf of His Majesty, I hereby assent to this Bill.

W. DUGAN, Governor.