



ANNO VICESIMO

ELIZABETHAE II REGINAE

A.D. 1971

No. 29 of 1971

An Act to repeal the Fisheries Act, 1917-1969, and to enact other provisions relating to the management, and conservation of fisheries and the regulation of fishing, and to matters incidental thereto.

[Assented to 22nd April, 1971]

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

PART I

PART I

PRELIMINARY

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| 1. This Act may be cited as the "Fisheries Act, 1971". | Short title. |
| 2. This Act shall come into operation on a day to be fixed by proclamation. | Commencement. |
| 3. This Act is divided as follows:— | Arrangement of Act. |
- PART I—PRELIMINARY.
- PART II—ADMINISTRATION—
- DIVISION I—GENERAL:
- DIVISION II—REGISTRATION OF BOATS:
- DIVISION III—FACILITIES, RESEARCH AND AIDS FOR FISHING:
- DIVISION IV—FISH DEALERS, ETC.

PART I

PART III—REGULATION OF FISHING—

DIVISION I—FISHING LICENCES AND PERMITS:

DIVISION II—FRANCHISES, LEASES AND LICENCES, ETC.:

DIVISION III—TAKING OF FISH.

PART IV—REGULATIONS—LEGAL PROCEDURE,
FINANCE AND SUPPLEMENTARY
PROVISIONS.Repeal and
savings
schedule.

4. (1) The Acts and portions of Acts specified in the schedule to this Act are hereby repealed.

(2) Notwithstanding such repeal—

(a) all regulations made under the repealed Act and in force immediately before the commencement of this Act shall be deemed to have been made under this Act and to have effect as if the necessary power to make them had been enacted by this Act;

and

(b) such regulations may be amended or revoked by regulations made under this Act.

(3) Where in any other Act, or in any document, rule or regulation a reference is made to the repealed Act or any provision thereof, that reference shall, so far as it is applicable, be read as a reference to this Act or to the corresponding provisions, if any, of this Act.

(4) Subject to this section, a person who was, immediately before the commencement of this Act—

(a) the holder of a licence under section 13 of the repealed Act together with a permit in the form of schedule three to The Control of Crayfishing Regulations, 1968, as amended, shall on and after that commencement be deemed to be the holder of a class A fishing licence together with a permit to take crayfish under the regulation referred to in section 36 of this Act;

(b) the holder of an Authorization Certificate under The Control of Crayfishing Regulations, 1968, as amended, in respect of a boat shall on and after that commencement be deemed to be the holder of an authorization certificate in respect of that boat for the taking of crayfish under the regulation referred to in section 36 of this Act;

(c) the holder of a licence under section 13 of the repealed Act together with an abalone permit under regulation 7 of the Preservation of Abalone Resources Regulations,

1968, as amended, shall on and after that commencement be deemed to be the holder of a class A fishing licence together with a permit to take abalone under the regulations referred to in section 36 of this Act;

- (d) the holder of a licence under section 13 of the repealed Act together with an Authorization Certificate under regulation 8 of The Preservation of Prawn Resources Regulations, 1969, shall on and after that commencement be deemed to be the holder of a class A fishing licence together with an authorization certificate for the taking of prawns under the regulations referred to in section 36 of this Act;
 - (e) the holder of a lease under section 24 of the repealed Act shall on and after that commencement be deemed to be the holder of a lease under section 44 of this Act;
 - (f) the holder of a licence under section 13 of the repealed Act together with one or more employee's licences under section 14a of that Act, shall on and after that commencement be deemed to be the holder of a class A fishing licence together with a licence to employ under section 32 of this Act specifying a number of persons equal to the number of employee's licences held under section 14a of the repealed Act immediately before the commencement of this Act;
 - (g) the holder of a certificate of registration of a boat under section 16 of the repealed Act shall on and after that commencement be deemed to be the holder of a certificate of registration of that boat under section 17 of this Act;
 - (h) the holder of a licence under section 13 of the repealed Act together with a permit under regulation 16 of the Regulations under the Fisheries Act, 1917-1962, made the sixth day of December, 1962, in respect of a part of the River Murray shall on and after that commencement be deemed to be the holder of a class A fishing licence together with an exclusive franchise under section 43 of this Act in respect of that part of the River Murray;
- and
- (i) the holder of a licence under section 13 of the repealed Act without and who was not at that time the holder of any other authority under that Act shall on and after that commencement be deemed to be the holder of a class B fishing licence.

(5) Notwithstanding anything in this Act, a person deemed to be the holder of an authority under this Act pursuant to subsection (4) of this section—

PART I

(a) shall hold that authority subject to the same limitations, conditions and restrictions as he would have held the authority under the repealed Act, if this Act had not been enacted and without limiting the generality of the foregoing, the authority under this Act shall expire or cease to have effect in the same time or in the same circumstances as that authority under the repealed Act would have expired or ceased to have effect had this Act not been enacted.

and

(b) shall not be entitled to the grant or renewal of an authority under this Act on the ground that by virtue of this section he was deemed to be the holder of such an authority under this Act.

(6) In this section "authority" means a licence, lease, certificate or permit.

Interpretation.

5. (1) In this Act, unless the context otherwise requires—

"aquatic reserve" means—

(a) lands which have been reserved by proclamation under the Crown Lands Act, 1929-1969, for the purposes of an aquatic reserve;

and

(b) waters declared by proclamation pursuant to section 24 of this Act to be—

(i) included in an aquatic reserve;

or

(ii) an aquatic reserve:

"boat" includes ship, vessel and marine craft of any description, whether floating, hovering or submersible:

"Crown lands" means Crown lands as defined in the Crown Lands Act, 1929-1969:

"dab net" means a device for scooping fish from the water by means of netting attached to a hoop fastened to and operated by means of a rigid handle held in the hands:

"declared device" means any device or any device of a class or kind for the time being declared by regulation to be a declared device:

"device" means line, net, trap, spear or other implement or equipment for taking fish:

"fish" means—

(a) fish, mollusc, crustacean and aquatic animal of any species;

and

(b) spat, spawn, fry and young of any fish, mollusc, crustacean or aquatic animal:

“fishing licence” means a class A fishing licence or a class B fishing licence referred to in section 28 of this Act:

“fresh fish” means fish which has not been canned, smoked, cooked or preserved by any method other than freezing or chilling:

“hand fish spear” means fish spear propelled by human power without the use of any explosive, spring, elastic material or mechanism:

“hand line” means fishing line used without a rod and to which not more than three fishing hooks are attached (for the purpose of this definition not more than five hooks joined by threading the point of one through the eye of another, or by fastening their shanks together shall be deemed to be one hook):

“hatchery” means an area used for the spawning, propagation or culture of fish:

“honorary warden” means a person holding the position of honorary warden pursuant to an appointment under this Act:

“hoop net” means net consisting of one hoop of a diameter not exceeding three feet six inches to which netting is attached in the form of a cone or bag which does not extend more than three feet from the hoop:

“identity card” means an identity card issued to an inspector or honorary warden under section 10 of this Act:

“inspector” means an inspector of fisheries appointed pursuant to section 8 of this Act and in office and includes a person who is by virtue of his office an inspector of fisheries for the purposes of this Act:

“mark” means one or more numerals or letters or a combination of one or more numerals with one or more letters:

“oysters” includes the brood, spat and spawn of oysters:

“permit” means permit provided for in this Act:

“processing” in relation to fish means filleting or otherwise cutting or breaking up, freezing, chilling, preserving, treating, canning, packing or otherwise preparing for sale or manufacture and “process” has a corresponding meaning:

“purchase” means purchase, agree to purchase, or receive, accept or take delivery under an agreement to purchase:

“register” means to register under this Act and “registration” has a corresponding meaning:

“River Murray” includes every affluent, effluent, anabranch or extension of the River Murray and every lake or lagoon connected with the River Murray:

“rod and line” means a rod to which is attached a fishing line having not more than three fishing hooks attached thereto (for the purpose of this definition not more than five hooks joined by threading the point of one through the eye of another, or by fastening their shanks to each other shall be deemed to be one hook):

“sale” means—

- (a) sale, barter or exchange;
- (b) agreement to sell, barter or exchange;
- (c) exposing, storing, possessing, sending, consigning or delivering for or on sale, barter or exchange:

“sell” means—

- (a) sell, barter or exchange;
- (b) agree or offer to sell, barter or exchange;
- (c) receive, expose, store, have in possession, send, consign or deliver for or on sale, barter or exchange:

“spear gun” means a device for spearing fish consisting of a spear and an apparatus for discharging the spear by means of explosives, springs, elastic material or other mechanical means:

“species” includes sub-species and variety:

“specified” means specified, defined, described or indicated in any way in the document in relation to which the expression is used:

“take” in relation to fish means to fish for, catch, take or obtain fish from any waters by any means whatever, and includes to kill or destroy fish in any waters:

“the Director” means the person for the time being holding or acting in the office of Director of Fauna Conservation and Director and Chief Inspector of Fisheries under the Public Service Act, 1967, as amended:

“the repealed Act” means the Fisheries Act, 1917-1969:

“undersize fish” means a fish which in any particular does not comply with a proclamation under this Act setting out the minimum dimensions or weight of fish or any part of fish; and “undersize” has a corresponding meaning.

“waters” includes the sea and every bay, gulf, and inlet of the sea and every river, rivulet, stream, creek, lake or lagoon:

(2) Subject to any limitations expressly prescribed in this Act or in any regulation, proclamation or other instrument having effect pursuant to this Act, this Act shall be in force within lands and waters (either inside or beyond the boundaries of the State) to the full extent of the legislative power of the State.

6. (1) The Governor may by proclamation—

- (a) revoke or vary any proclamation made by him under this Act other than a proclamation referred to in section 2 of this Act;
- (b) make another proclamation in substitution for any proclamation so revoked.

Revocation and
operation of
proclamations.

(2) Except as otherwise declared in the proclamation, every proclamation made under this Act shall come into operation on the day following the day on which it is published in the *Gazette* and shall remain in force until revoked by a proclamation or law.

PART II

PART II

ADMINISTRATION

DIVISION I

DIVISION I—GENERAL

Delegation by
Minister or
Director.

7. (1) The Minister and the Director shall each have power to delegate by writing to any person any of his powers or functions under this Act (except this power of delegation), so that the delegated powers or functions may be exercised by the delegate with respect to the matters specified in the instrument of delegation.

(2) A delegation under this section—

(a) may be revoked at will by the Minister or the Director who made it or by any subsequent holder of the office of the Minister or the Director;

(b) if it specified the title of the office held by the delegate, it shall (unless revoked) operate as a delegation to each subsequent holder of that office;

(c) shall (unless revoked) remain in force after the Minister or the Director who made it ceases to hold the office of the Minister or the Director, as if made by the subsequent holder for the time being of that office;

and

(d) shall not limit or restrict the exercise by the Minister or Director, as the case may be, of any of his powers or functions under this Act.

(3) The exercise by a delegate of any power or function pursuant to a delegation made under this section shall have the same effect as the exercise of that power or function by the Minister or the Director, as the case may be.

Inspectors of
fisheries.

8. (1) The Governor may appoint any Officer and temporary Officer as defined in the Public Service Act, 1967, as amended, to be an inspector of fisheries for the purposes of this Act.

(2) The Director shall, by virtue of his office, be an inspector of fisheries for the purposes of this Act.

(3) Every member of the police force shall, by virtue of his office, be an inspector of fisheries for the purposes of this Act.

Honorary
warden.

9. (1) The Governor may appoint any person to be an honorary warden for the purposes of this Act.

(2) The instrument of appointment of an honorary warden may prescribe limitations on his powers, duties or functions by reference to any or all of the following things namely, the term of the appointment, the nature of the powers, duties or functions which he may exercise or perform, and the time, place and circumstances in which he may exercise or perform them or any of them.

(3) An honorary warden shall hold office until—

(a) his appointment terminates by effluxion of time or is terminated by the Governor;

or

(b) a written resignation signed by him is received by the Minister.

10. (1) The Minister shall, subject to subsection (2) of this section issue to every inspector, other than a member of the police force, and to every honorary warden an identity card, stating the name of that person and the fact that he is an inspector or honorary warden as the case may be.

Identity cards of inspectors and wardens.

(2) A person in possession of an identity card issued to an honorary warden appointed under this Act shall on demand made by or on behalf of the Director after that person has ceased to be such an honorary warden, forthwith return the identity card to the Director.

Penalty: Twenty dollars.

11. (1) An inspector, appointed under subsection (1) of section 8 of this Act, shall not, without the consent of the Minister—

Restriction on interests of inspectors.

(a) have any proprietary or financial interest in any commercial fishing carried on in the State, or in any boat used in any such fishing;

or

(b) act as agent for any person who carries on such fishing in any matter connected with such fishing.

(2) If an inspector contravenes subsection (1) of this section the Governor may revoke his appointment as an inspector.

12. (1) Subject to subsection (6) of this section any inspector, for the purpose of the administration or enforcement of this Act, may—

Powers of inspectors.

(a) enter upon or into any waters, land, building, structure, boat, vehicle or place in which he suspects on reasonable grounds that there is any fish, device, equipment, receptacle, substance, document, record or any other

thing likely to afford evidence of an offence against this Act or which it is necessary or expedient to search and examine in order to ascertain whether this Act has been or is being complied with;

(b) search for and inspect any such fish, device, equipment, receptacle, substance, document, record or other thing and for that purpose open any room, container or other receptacle, or any latch, door, gate or cover;

(c) take possession of and examine any such fish, device, equipment, receptacle, substance, document, record or other thing and retain it for investigation and use in legal proceedings;

(d) make copies of any such document or record;

and

(e) take control and possession of any boat or vehicle for the purpose of making any such search, inspection or examination, and retain such control and possession for so long as is necessary for that purpose.

(2) A person driving or in charge of a boat or vehicle shall comply with any reasonable request made by an inspector as to moving, mooring, stopping, anchoring or securing the boat or moving or stopping the vehicle so as to enable the inspector to exercise any power conferred by this section.

Penalty: One hundred dollars.

(3) When any boat, vehicle, device, equipment, receptacle, substance, document, record or other thing of which possession has been taken under this section is no longer required for the purposes of this Act, the inspector shall restore it to the person from whom it was taken unless there is reasonable cause for otherwise disposing of it.

(4) If any fish are taken in contravention of this Act an inspector may take and retain possession of them and dispose of them by sale, destruction or otherwise as the Minister directs.

(5) If more than one-tenth of the fish in a receptacle are undersize an inspector may take and retain possession of all of the fish in the receptacle and dispose of them by sale, destruction or otherwise as the Minister directs.

(6) This section does not authorize an inspector to enter any residential premises or to exercise in residential premises any power conferred by subsection (1) of this section unless—

(a) the occupier of those premises consents to such entry and exercise of powers;

or

(b) the inspector has obtained from a justice a warrant under subsection (7) of this section.

(7) A justice, if satisfied by information given to him on oath or affidavit, that there is reasonable cause to suspect that—

(a) an offence against this Act has been committed;

and

(b) there is in any residential premises any substance or thing of any kind which is likely to afford evidence of such an offence,

may issue a search warrant to an inspector named therein authorizing the inspector with such assistants as he deems necessary to enter and search those premises and exercise in relation to those premises and any thing therein the powers conferred by the other provisions of this section such a warrant shall state the period during which it will be in force.

(8) In this section “residential premises” means those parts of a building which are used only for residential purposes.

13. (1) An inspector or honorary warden who, on reasonable grounds, suspects a person of having committed an offence against this Act, may request that person to state his full name and usual place of residence.

Duty to
state name
and address.

(2) When an inspector or honorary warden—

(a) informs a person that he suspects him of having committed an offence against this Act;

(b) identifies himself to that person as provided in subsection (5) of this section;

and

(c) requests that person to state his full name and usual place of residence,

that person shall forthwith inform the inspector or honorary warden of his full name and his usual place of residence.

Penalty: One hundred dollars.

(3) If a person on being requested by an inspector in accordance with this section to state his name and place of abode fails or refuses to comply with the request the inspector may arrest him.

PART II
DIVISION I

(4) Sections 78 and 80 of the Police Offences Act, 1953, as amended, shall respectively apply to and in relation to a person arrested pursuant to subsection (3) of this section as if that person had been—

(a) a person apprehended without a warrant and referred to in subsection (1) of section 78 of that Act;

or

(b) a person arrested without a warrant and referred to in subsection (1) of section 80 of that Act,

as the case requires.

(5) For the purposes of subsection (2) of this section, an inspector or honorary warden shall identify himself as follows:—

(a) if he is not a member of the police force, by showing his identity card;

(b) if he is a member of the police force and is wearing plain clothes, by showing the certificate of authority issued to him under the regulations governing the police force;

and

(c) if he is a member of the police force and is wearing police uniform, by stating that he is a member of the police force.

Offences in
connection with
inspectors.

14. (1) A person shall not assault an inspector or honorary warden while that inspector or honorary warden is engaged in the execution of any of his powers or duties under this Act.

Penalty: Two hundred dollars or imprisonment for six months or both.

(2) A person shall not—

(a) hinder;

(b) resist;

or

(c) use abusive, threatening or insulting language towards, an inspector or honorary warden while that inspector or honorary warden is engaged in the execution of any of his powers or duties under this Act.

Penalty: One hundred dollars.

False
representations.

15. A person shall not, by words or conduct, falsely represent that he is an inspector or an honorary warden.

Penalty: One hundred dollars.

DIVISION II—REGISTRATION OF BOATS

PART II
DIVISION II

16. (1) Subject to subsection (2) of this section a person shall not— Duty to register boats.

(a) use a boat for the purpose of taking fish for sale or processing;

or

(b) manage or take part in the management of a boat so used, unless the boat is registered under this Act.

Penalty: Two hundred dollars and in the case of a continuing offence twenty dollars for each day on which the offence continues.

(2) A dinghy which is used as a tender to a larger boat but is not otherwise used for the purpose of taking fish for sale or processing, need not be registered under this section, but shall carry the distinguishing mark of the larger boat as provided in subsection (2) of section 17 of this Act.

17. (1) Every application to register a fishing boat shall—

Applications to register boats.

(a) be made to the Director;

(b) be in a form fixed by the Minister or prescribed by regulations and contain the information indicated in the form;

and

(c) be dealt with by the Director.

(2) If the Director is satisfied that the application is properly made and the prescribed fee paid he shall register the boat, grant the applicant a certificate of registration in the form fixed by the Minister, and allot to the boat a distinguishing mark.

(3) The fee for registration shall be as prescribed by regulation or in accordance with a scale so prescribed.

18. (1) The registration of a boat shall come into force on the day of commencement specified in the certificate of registration, or if no such day is so specified, on the day on which the certificate is issued.

Duration of registration of boats.

(2) The registration of a boat shall expire on the day of expiry specified in the certificate of registration.

(3) The day of expiry specified in a certificate of registration shall not be more than one calendar year after the day on which it comes into force.

19. (1) If the ownership or the right to use a registered boat is transferred, the holder of the certificate of registration and the

Notice of transfer.

PART II
DIVISION II

transferee shall within one month after the transfer give notice of the transfer to the Director.

Penalty: One hundred dollars.

(2) Every notice under this section shall be in a form prescribed by regulations or fixed by the Minister.

Distinguishing marks.

20. (1) A person shall not—

(a) use a boat for the purpose of taking fish for sale or processing;

or

(b) manage or take part in the management of a boat so used, unless the boat has the distinguishing mark allotted to it under this Act painted or marked and displayed thereon in accordance with the regulations.

Penalty: One hundred dollars.

(2) A person shall not use an unregistered dinghy as a tender to a registered boat unless the dinghy is legibly marked with the same distinguishing mark as that boat.

Penalty: Fifty dollars.

(3) When the registration of a boat has expired and is not renewed, a person shall not after the expiration of one month from the day of expiration own or use the boat unless the distinguishing mark allotted to that boat has been completely removed or obliterated.

Penalty: One hundred dollars.

DIVISION III

Minister may provide reefs, etc.

DIVISION III—FACILITIES, RESEARCH AND AIDS FOR FISHING

21. The Minister may, subject to the approval of the Minister of Marine—

(a) construct artificial reefs for the improvement of any fishery or for the purposes of research;

or

(b) remove from any waters any natural or artificial obstruction which, without reasonable cause, prevents the free passage of fish.

Minister of Marine may construct facilities.

22. (1) The Minister of Marine may construct or provide any of the following facilities for fishing boats, namely boat harbours, jetties, wharves, mooring places, slipways, cranes or winches or other facilities of a like nature.

(2) The regulations may prescribe charges or fees or scales of charges or fees for the use of any of the facilities referred to in subsection (1) of this section.

23. The Minister, or the Director with the approval of the Minister, may conduct research, exploration and experiments relating to fish and fisheries and the processing and marketing of fish and for the conduct of such research, exploration and experiments may establish biological stations and other necessary establishments and make and carry out arrangements with other authorities and persons.

Research
experiments
etc.

24. (1) The Governor may by proclamation declare any waters—

Aquatic
reserves.

(a) to be included in an aquatic reserve which consists of lands which have been reserved by proclamation under the Crown Lands Act, 1929-1969, for the purposes of an aquatic reserve;

or

(b) to be an aquatic reserve,

and may by proclamation amend or revoke any such declaration.

(2) In this section—

“aquatic reserve” includes a controlled aquatic reserve:

“controlled aquatic reserve” means an aquatic reserve for the time being declared by notice pursuant to subsection (9) of this section to be a controlled aquatic reserve.

(3) A person shall not enter or remain on a controlled aquatic reserve except as authorized by a permit granted under this section.

Penalty: One hundred dollars.

(4) A person shall not—

(a) take or remove from an aquatic reserve any fish, sand, soil, shell, coral, rock, seaweed, plant or other benthic or aquatic substance, except as authorized by a permit granted under this section;

or

(b) deposit any substance, matter or thing upon, or dredge or otherwise disturb the seabed of, an aquatic reserve.

(5) The Minister may grant to any person—

(a) a permit to enter a controlled aquatic reserve;

or

(b) a permit to take from an aquatic reserve any fish, sand, shell, coral, rock, seaweed, plant or other benthic or aquatic substance.

PART II
DIVISION III.

(6) A permit to enter a controlled aquatic reserve may be granted for any purpose approved of by the Minister.

(7) A permit granted under this section may, without prejudice to any other mode of publication, be published in the *Gazette* and shall take effect according to its tenor.

(8) Every permit granted under this section shall—

(a) be sufficient authority for the person named therein and any other persons or classes of persons specified therein to do the acts specified in the permit;

and

(b) contain such terms and conditions as to its duration, cancellation, limitations and other matters as the person granting it deems necessary.

(9) The Minister may by notice published in the *Gazette* declare an aquatic reserve to be a controlled aquatic reserve and may by a notice published in a like manner revoke any such declaration.

Disturbing seabed under declared waters.

25. (1) The Governor may by proclamation declare any waters to be declared waters for the purposes of this section and may by proclamation vary or revoke any such proclamation.

(2) A person shall not—

(a) deposit any substance, matter or thing upon;

or

(b) dredge or otherwise disturb,

the seabed under any waters for the time being declared pursuant to subsection (1) of this section.

Penalty: Two hundred dollars.

DIVISION IV

DIVISION IV—FISH DEALERS, ETC.

Marking of packages.

26. (1) In this section “receptacle” includes any box, basket, crate, bag or other package.

(2) A person engaged in a business of fishing or dealing in fish shall not transport or consign for or on sale any fresh fish in a receptacle unless there is legibly marked on the outside of the receptacle or on a label attached thereto—

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

and

- (b) if he is the holder of a certificate of registration of a boat, the registered mark of the boat.

Penalty: One hundred dollars.

(3) If two or more persons transport or consign the same receptacle it shall be sufficient compliance with this section if the particulars mentioned in subsection (2) of this section relating to one of those persons are marked on the receptacle or label.

(4) In any proceedings under this Act the fact that a receptacle containing fish in the course of transport or consignment bore the name of a person shall be *prima facie* evidence that those fish were the property of that person and were being transported or consigned for or on sale.

27. (1) For the purposes of this section a person shall be deemed to carry on the business of a fish dealer if— Licensing of fish dealers.

- (a) for the purpose of trade or business he purchases fish from the person who caught them;
- (b) for the purpose of trade or business he processes fish caught by himself or by any person employed by him;
- (c) being the holder of a fishing licence he sells fish caught by himself or by any person employed by him to a person other than a fish dealer licensed under this section.

(2) A person shall not carry on the business of a fish dealer—

- (a) unless he is licensed as a fish dealer under this section;
- or
- (b) at any premises or place not specified in a licence under this section.

Penalty: Two hundred dollars and in the case of a continuing offence twenty dollars for each day during which the offence continues.

(3) An application for a fish dealer's licence shall be made to the Director on the prescribed form and shall contain all the information indicated in the form.

(4) The fee for a fish dealer's licence shall be as prescribed by regulation or in accordance with a scale of fees so prescribed and the Director shall issue a certificate of registration to every person whose application is granted and who pays the prescribed fee.

(5) A fish dealer's licence shall come into operation on the day specified in the licence and shall remain in force for twelve months.

PART II
DIVISION IV

(6) Every fish dealer's licence shall state the address of every place of business where the licensed fish dealer carries on business as such.

(7) If a licensed fish dealer ceases to carry on business as a fish dealer at any place of business mentioned in his licence, he shall, within fourteen days after such cessation give the Director written notice of such cessation.

Penalty: One hundred dollars.

(8) The Director shall at the request of the holder of a fish dealer's licence and on production of that licence insert therein the address or description of any premises or place not specified in the licence at which the holder intends to carry on the business of a fish dealer.

PART III

PART III

REGULATION OF FISHING

DIVISION I—FISHING LICENCES AND PERMITS

DIVISION I

Fishing licences

28. (1) There shall be two classes of fishing licences—

(a) a class A fishing licence;

and

(b) a class B fishing licence.

(2) A fishing licence shall authorize the taking of fish for sale subject to the other provisions of this Act, by lawful devices of every kind or, if the licence so provides, only by devices specified or described in the licence, and the sale of fish so taken.

(3) A fishing licence of either class may contain conditions as to the total number of devices, or the number of devices of any one kind or the type or specifications of devices which may be used for fishing pursuant to the licence.

29. (1) Except as is provided in this Act, a person shall not take fish unless he hold a fishing licence.

Duty to hold fishing licence.

Penalty: Two hundred dollars for a first offence and five hundred dollars for a second or subsequent offence.

(2) A person may without holding a licence, but subject to the other sections of this Act—

(a) take fish otherwise than for the purpose of sale by means of a rod and line, hand line, hand fish spear or declared device;

(b) take crabs otherwise than for the purpose of sale, by a hoop net;

or

(c) take garfish, otherwise than for the purpose of sale, by a dab net.

30. (1) A person shall not be granted—

(a) a class A fishing licence unless he satisfies the Director that he intends to carry on the business of fishing for profit as his principal business;

or

Qualification for fishing licence.

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(b) a class B fishing licence unless he satisfies the Director that he intends to carry on the business of fishing for profit regularly as a seasonal or part time business,

and unless he also satisfies the Director that he has the equipment, experience and resources, sufficient to enable him to carry on the business of fishing efficiently and profitably.

(2) Where a class A licence relates to fishing that is subject to regulations made under section 36 of this Act, it shall be sufficient compliance with paragraph (a) of subsection (1) of this section if the person applying for that licence satisfies the Director that he intends to carry on the business of fishing for profit as his principal business during any period during which, pursuant to those regulations, he may engage in that fishing.

Rights of
corporations,
etc., to
fishing licences.

31. (1) A body corporate shall not, without the consent of the Minister, be granted a fishing licence unless that body corporate is incorporated under the law of—

(a) a State or Territory of the Commonwealth;

or

(b) a country for the time being declared by proclamation to be a declared country for the purposes of this section.

(2) The Governor may by proclamation declare any country to be a declared country for the purposes of this section and may by proclamation vary or revoke any such declaration.

Licences to
employ.

32. (1) The holder of a fishing licence shall not—

(a) employ any other person to take fish unless he (the holder of the licence) also holds a licence authorizing him to employ persons to take fish;

or

(b) employ more persons to take fish than the number stated in such a licence held by him.

Penalty: One hundred dollars.

(2) Every licence to employ persons to take fish shall contain a statement of the maximum number of persons who may be employed pursuant to the licence.

(3) The holder of a fishing licence shall not be required to hold a licence to employ by reason only of the fact that he employs a person who holds a fishing licence and in computing the number of persons employed, an employee who holds a fishing licence shall not be taken into account.

(4) On the application of the holder of a licence to employ and payment of the prescribed fee the Director may increase the number of employees stated in the licence and amend the licence accordingly.

33. (1) Every application for a fishing licence or a licence to employ shall—

(a) be made to the Director;

(b) be in a form fixed by the Minister or prescribed by regulations and contain the information indicated in the form;

and

(c) be dealt with and decided by the Director.

(2) Except as provided by subsections (3) and (4) of this section the fee for each type of licence shall be as prescribed by regulation and a licence shall not be issued until the prescribed fee is paid but if the period of operation specified in a licence is three months or less the Director with the approval of the Minister may reduce the amount of the fee payable for that licence.

(3) The Minister, upon the recommendation of the Director, may direct that a fishing licence shall be issued without fee to any person who has attained the age of sixty-five years or being an exserviceman or Australian seaman has attained the age of sixty years, and who in the Minister's opinion is a commercial fisherman of long standing, and is in necessitous circumstances.

(4) If an applicant for a fishing licence holds a fishing licence or permit granted under the laws of the Commonwealth or a Territory of the Commonwealth or a State other than South Australia and the Director is satisfied that the licence or permit so held confers rights similar or substantially similar to the fishing licence applied for, the Director may issue the licence applied for without payment of a fee or upon payment of such reduced fee as the Director deems just.

(5) If not later than six months after a licence or permit comes into operation that licence or permit is surrendered or is revoked by the

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Minister, the Minister may refund to the holder one-half of the fee paid for the licence or permit.

(6) In this section—

“Australian seaman” means a person who, during any war in which the Commonwealth has been engaged was, while domiciled in a State of the Commonwealth, employed in any capacity in seagoing service on a ship:

“exserviceman” means a person who has been a member of the naval, military or airforce of the Commonwealth, the United Kingdom or any part of the British Commonwealth, during any war in which the Commonwealth has been engaged.

Decision of
applications
for licences.

34. (1) A person who applies for a fishing licence or a licence to employ and complies with the provisions of this Act applicable to his application, shall be entitled to be granted such a licence unless there are grounds for refusing it in accordance with this Act.

(2) The Director may refuse an application for a licence—

(a) if the applicant does not comply with any relevant requirement of this Act or is not a fit and proper person to exercise the rights which would be granted by the licence;

or

(b) if the refusal is necessary for the purpose of giving effect to any administrative policy approved by the Minister for the conservation of any species of fish or the proper management of any fishery.

(3) If the Director refuses an application for a licence he shall give written notice of the refusal to the applicant.

(4) A person whose application for a licence is refused may by writing delivered to the Minister within one month after receiving notice of the refusal request the Minister to have the Director's decision reviewed and shall state the grounds for the request.

(5) The Minister shall thereupon appoint a competent person to review the Director's decision and make a recommendation in respect thereto.

(6) Upon a recommendation being made pursuant to subsection (5) of this section the Director shall take such steps, if any, as are necessary to give effect to that recommendation.

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Duration of
licences.

- 35. (1) Every fishing licence and licence to employ shall—**
- (a) come into force on the day specified therein, or if no day is so specified, on the day when the licence is issued;
 - and
 - (b) remain in force until the day of expiry specified therein.
- (2) The period of operation specified in a licence shall not be more than twelve months.
- (3) An application for a licence may be made at any time not earlier than two months before the day when the licence is to come into force.

36. (1) The Governor may make regulations for the purpose of regulating, managing and restricting the taking of any species of fish prescribed in the regulations.

Managed
fisheries.

- (2) Such regulations may—
- (a) require any person taking any such fish or specified quantities thereof, or using boats or any specified devices or any specified number of devices for taking such fish, to hold a permit in addition to a fishing licence;
 - (b) regulate the use of boats for taking such fish and require persons using boats for that purpose to hold authorization certificates in respect of boats so used;
 - (c) prescribe the terms and conditions of such permits and certificates and provide for the issue, expiration, surrender and cancellation of such permits and certificates, and the fees payable for such permits and refunds of such fees when permits or certificates are granted for a part only of the normal period of operation or cease to be in force before the normal expiration thereof;
 - (d) prescribe any other matters necessary or convenient to be prescribed for carrying out a scheme of management of any specified fishery;
 - (e) prescribe penalties recoverable summarily and not exceeding four hundred dollars for breach of any of the regulations, and additional penalties for continuing breaches of not more than fifty dollars for each day on which such a breach continues;
 - and
 - (f) prescribe any other matters incidental to matters prescribed by regulations under the foregoing paragraphs of this subsection, or necessary or convenient for facilitating the administration of these regulations.

37. (1) The holder of a fishing licence or permit to take fish may surrender the licence or permit at any time.

Surrender and
revocation of
licences and
permits.

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(2) The Minister may revoke any fishing licence or permit to take fish.

Misuse of
licences or
permits.

38. A person shall not—

- (a) lend or hire out any licence or permit issued to him;
- (b) without reasonable excuse have in his possession or under his control any licence or permit not issued to him;
- or
- (c) falsely represent himself to be the person named in any licence or permit.

Penalty: One hundred dollars.

Licences not to
authorize
trespass.

39. A fishing licence or permit to take fish shall not authorize any person to enter on private land or take fish from waters on or over private land, without the consent of the owner or occupier of that land.

Production of
licences or
permits.

40. (1) When an inspector or honorary warden—

- (a) requests a person holding a fishing licence or permit to take fish to produce it;
- and
- (b) identifies himself to that person as provided in subsection (2) of this section,

that person shall produce his licence or permit to the honorary warden or inspector forthwith upon the making of the request, or within forty-eight hours thereafter at a police station or some public office indicated by the inspector or warden.

Penalty: Fifty dollars.

(2) For the purpose of subsection (1) of this section an inspector or honorary warden shall identify himself to a person as follows:—

- (a) if he is not a member of the police force, by showing his identity card;
- (b) if he is a member of the police force and is wearing plain clothes, by showing the certificate of authority issued to him under the regulations governing the police force;
- (c) if he is a member of the police force and is wearing police uniform, by stating that he is a member of the police force.

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41. (1) A person holding a fishing licence or a permit to take fish shall not take fish or use any device or do any other act or make any omission in contravention of any term or condition contained in the licence or permit.

Breach of conditions of licence or permit.

Penalty: Two hundred dollars. Additional penalty as provided in section 60 of this Act.

(2) A person who is not the holder of a fishing licence shall not sell any fish caught by him.

Penalty: Two hundred dollars.

42. (1) Notwithstanding any other provision of this Act, the Minister may grant to any person a special permit to take fish during such period and in such waters and subject to such terms and conditions as are specified in the permit and any such permit may also confer rights to sell fish taken pursuant thereto.

Special permits to take and sell fish.

(2) The Minister may charge a reasonable fee of such amount as he deems just for any such permit.

(3) Any such permit shall render lawful any act done in accordance with its terms and conditions.

DIVISION II—FRANCHISES, LEASES AND LICENCES, ETC.

DIVISION II

43. (1) The Minister may grant to any person an exclusive franchise to take fish of specified species from specified waters.

Exclusive franchises.

(2) Every such franchise shall be for such period and shall be subject to such terms and conditions (including conditions as to payments to be made to the Minister by the holder of the franchise) as the Minister determines.

(3) A franchise granted under this section shall not be transferred except with the consent of the Minister.

(4) Upon breach of or failure to comply with any condition of a franchise granted under this section, the Minister may revoke the franchise.

(5) The Director shall cause notice of the granting of a franchise under this section to be published in the *Gazette*.

(6) On and after the publication of a notice referred to in subsection (5) of this section in respect of a franchise under this section, a person shall not take fish to which the franchise relates unless—

(a) he is the holder of the franchise;

or

(b) he is authorized so to do by the holder of the franchise.

44. (1) Subject to subsection (2) of this section the Minister may—

(a) grant to any person a lease of, or a licence to use and occupy for any term not exceeding ten years, any area consisting of lands or of waters, or of lands and adjacent waters for fish culture;

and

(b) renew any such lease or licence for any term not exceeding ten years, or grant to the lessee on the expiration of his lease or licence a further lease or licence for any term not exceeding ten years.

(2) Lands shall not be included in a lease or licence granted under this section unless those lands were Crown Lands reserved by proclamation under the Crown Lands Act, 1929-1969, as amended, for the purpose of fish culture.

(3) Land within the limits of the jurisdiction of the Minister of Marine, being sea, beach, foreshore or land overflowed by the sea shall not be included in a lease or licence granted under this section without the consent of the Minister of Marine given pursuant to section 76 of the Harbors Act, 1936-1969.

(4) The terms, covenants, conditions, limitations, rights of renewal and cancellation, reservations and restrictions in any lease or licence granted under this section (whether by way of renewal or otherwise) shall be such as are determined by the Minister.

45. (1) A person shall not without the consent of the lessee or licensee holding a lease or licence granted under section 44 of this Act—

(a) enter the area comprised in the lease or licence;

(b) take, disturb or interfere with any fish on the said area;

(c) cut, lop, remove or interfere with any of the following things on the said area namely, trees, timber, stakes, shells, tiles, slates, shingles, stones, or other substance;

(d) dredge or otherwise disturb the bed or soil of the said area;

or

(e) drag or place on the said area any implement or thing likely to injure fish unless the implement or thing is required for lawful navigation or anchorage.

Penalty: Two hundred dollars.

(2) The Court which convicts a person for an offence against this section may order him to pay compensation to the lessee or licensee for any damage caused by the act for which he was convicted.

DIVISION III—TAKING OF FISH

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46. (1) The Governor may by proclamation—

Proclamation
as to places
and seasons
for fishing.

(a) declare that it shall not be lawful to take any fish, or fish of a specified species, from any specified waters, or from any waters other than those specified;

(b) declare that it shall not be lawful to take fish except fish of a specified species from any specified waters or from any waters other than those specified;

and

(c) declare that it shall not be lawful to take any fish or fish of a specified species from any waters or from specified waters at any time during any specified period.

(2) A person shall not take fish in contravention of a proclamation under this section.

Penalty:

For a first offence—One hundred dollars.

For a subsequent offence—Two hundred dollars.

In either case—Additional penalty as provided in section 60 of this Act.

47. (1) The Governor may by proclamation declare that fish of any specified species which do not comply with any minimum dimension or weight specified for fish of that species (whether such dimension or weight is a dimension or weight of the whole fish or any part of the fish) shall be undersize fish within the meaning of this Act. ^{Undersize fish.}

(2) A person shall not—

(a) except as allowed by proclamation under subsection (4) of this section take any undersize fish;

(b) drag or draw a net into a boat or onto the shore or to such a distance from the water as to prevent undersize fish from escaping alive into the water;

or

(c) sell any undersize fish.

Penalty:

For a first offence—One hundred dollars.

For a subsequent offence—Two hundred dollars.

In either case—Additional penalty as provided in section 60 of this Act.

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(3) If a person takes any undersize fish and returns them to the water forthwith unencumbered in any way and with as little injury as possible he shall not be deemed to have taken those fish in contravention of a proclamation under this section.

(4) The Governor may by proclamation declare that it shall be lawful for any person or any person of a specified class of persons to take undersize fish in accordance with such limitations or conditions as are set out in the proclamation and such limitations or conditions may relate to the waters or place where undersize fish may be taken, the devices which may be used to take such fish, or the number of such fish which may be taken by any person during any period.

Mutilation of
fish subject to
size limits.

48. (1) Where fish of a species referred to in a proclamation specifying minimum dimensions or weight of fish which may be taken are taken in the course of fishing from a boat, a person shall not mutilate those fish before they are brought ashore or landed on a jetty or other landing place.

Penalty: One hundred dollars.

(2) In this section "mutilate" means to divide, cut up, mangle or dismember in any way except by scaling and gutting.

(3) Any mutilated fish on a boat shall be deemed to have been mutilated by the person in charge of the boat unless he proves that some other person mutilated them and that he made reasonable efforts to prevent the mutilation.

(4) Notwithstanding the other provisions of this section a person shall not be guilty of an offence against this section by reason only of the mutilation of fish on a boat if the fish are mutilated in the course of preparing them to be cooked on that boat as food for persons thereon or for the purposes of being used for bait in the course of lawful commercial fishing operations.

Use of devices.

49. (1) The Governor may by proclamation---

- (a) declare that any specified device is not to be used unless it complies with dimensions, mode or materials of construction or other specifications set out in the proclamation;
- (b) declare that any specified device, or any device other than a specified device is not to be used;
- (c) declare that any specified device is not to be used in a specified manner, or in a manner other than that specified, or for any specified purpose, or for a purpose other than that specified, or at a greater or lower depth than that specified;
- (d) declare the maximum number of devices which may be attached to each other when in use;

- (e) declare the maximum number of devices which any person, or any person of a specified class may use at any one time;
 - (f) declare that a specified device is not to be used if hauling lines attached thereto exceed a specified length;
 - (g) declare the maximum number of devices of a specified kind which may be carried or placed on a boat or vehicle or boat and vehicle combined, at any one time, and declare different maxima for boats of different types or sizes, and different maxima for different areas of the sea;
 - (h) prohibit the carrying of specified devices on boats;
 - (i) prohibit the carrying or possession of specified devices within any area of land or water or land and water;
 - (j) make any other provision for regulating or prohibiting the use or possession of devices;
- and
- (k) declare that any proclamation under this section shall be limited in its operation by reference to time, place or circumstances.

(2) A person shall not—

- (a) use, carry or have in possession a device in contravention of a proclamation under this section, or a device which in any particular does not comply with any such proclamation;
- or
- (b) carry or place on a boat, vehicle or boat and vehicle, any device in contravention of a proclamation under this section.

Penalty: One hundred dollars. Additional penalty as provided in section 60 of this Act.

50. (1) A person who does not hold a fishing licence shall not fish at the same time with a number of devices more than—

Limit on
devices used
without licence.

- (a) in the case of a device of any particular kind of device, the number prescribed in relation to that kind of device;
- or
- (b) in any case, the number prescribed in relation to devices generally.

Penalty: Fifty dollars.

(2) This section does not apply to a person who is employed by the holder of a fishing licence and is fishing lawfully in the course of such employment.

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DIVISION III
Bag limits.

51. (1) The Governor may by proclamation prescribe the maximum number of fish, or the maximum number of fish of any prescribed species which may be taken in any day by a person fishing by means of a specified device.

(2) A proclamation under subsection (1) of this section may be expressed to apply generally or to specified waters.

(3) A person shall not take fish in contravention of a proclamation made under this section.

Penalty: One hundred dollars.

**Hindering use
of and
damaging
devices.**

52. (1) A person shall not place any boat, post, stake, mooring or other object or material in any position where it is likely to prevent or hinder the lawful use of any device or to damage any device being lawfully used.

(2) A person who has placed a boat, post, stake, mooring or other object or material in such a position as mentioned in subsection (1) of this section and is requested to remove the boat, post, stake, mooring, object or material by a person who is or will be thereby prevented from or hindered in lawfully using a device, shall forthwith remove the boat, post, stake, mooring, object or material so that it will not hinder or prevent such lawful use.

(3) A person shall not, without lawful excuse, prevent a person from lawfully fishing, or hinder a person in the conduct of lawful fishing or interfere with or take fish from a device set by another person for taking fish or interfere with or take fish from any receptacle containing fish.

(4) Penalty for any offence against this section—One hundred dollars.

**Explosives and
poisons.**

53. (1) A person shall not without the prior written consent of the Director destroy or take fish by the explosion of any substance, or by the use of any poisonous substance.

Penalty: One hundred dollars.

(2) A person shall not be guilty of an offence against this section by reason only of the use of a spear gun in a manner permitted by a fishing licence.

Fish screens.

54. A person shall not construct, use, or own a pipeline through which water is pumped from the sea or a river unless the orifice of the pipeline through which the water enters is fitted with a sieve of a pattern approved by the Director.

Penalty: One hundred dollars.

55. (1) The Governor may by proclamation declare fish of any species, race, variety, or domesticated form and the eggs of any such fish to be noxious fish.

(2) A person shall not, without the prior written consent of the Director—

(a) keep, hatch, rear, consign or convey any noxious fish;

(b) release noxious fish into any waters;

or

(c) put noxious fish into any container in which the fish or the eggs of the fish will remain alive.

Penalty: One hundred dollars.

PART IV

PART IV

REGULATIONS—LEGAL PROCEDURE, FINANCE AND
SUPPLEMENTARY PROVISIONS

Regulations.

56. The Governor may make regulations—

- (a) prescribing fees payable under this Act and other matters which this Act requires or permits to be prescribed;
- (b) prescribing provisions (in addition to any such provisions in this Act) for the investigation, exploration, conservation and improvement of fisheries and the prevention of harm to fisheries and for regulating the selling, disposal and processing of fish;
- (c) for regulating or prohibiting the discharge, placing or flow into waters of any matter (whether solid, liquid or gaseous) declared by the regulations to be poisonous or injurious to fish or the spawn thereof, and generally for protecting fish and the spawn thereof against destruction or injury by the discharge, placing or flow of any such matter into waters;
- (d) declaring that the operation of any regulations under this section shall be limited as to time or place;
- (e) requiring any specified devices when being used for fishing to have names or other marks for identifying the ownership thereof inscribed or marked on such devices or on floats, buoys, labels or tags attached thereto;
- (f) providing for the annual registration of any device or any device of a class or kind of device for the prohibition or limitation of the use of such devices unless they are so registered and prescribing fees or scales of fees for that registration;
- (g) regulating, restricting or prohibiting the use of any device, or any device of a class or kind of devices, by the holder of a class B fishing licence;
- (h) prohibiting or regulating the removal from the sea-bed or the bed of a river, of soil, sand, shells, coral, rock, seaweed, plants, mangroves, trees or other substance or thing;
- (i) requiring such classes of persons as are specified in the regulations (being persons who take, sell, process, transport or otherwise deal with fish or fish products) to furnish the Director with statistical returns in the prescribed forms or in forms fixed by the Minister relating to fish or fish products taken, sold, processed, transported or otherwise dealt with or relating to any other matters incidental or connected with such sale, processing, transporting or dealing;

- (j) prescribing penalties recoverable summarily and not exceeding four hundred dollars for breach of any regulation made under this Act;
- or
- (k) prescribing any other matters incidental to matters prescribed under the foregoing paragraphs of this section or which it is necessary or convenient to prescribe for facilitating the administration and enforcement of this Act.

57. (1) This section shall apply in legal proceedings for any offence against this Act (including offences against any regulation under this Act) and in legal proceedings relating to other matters arising under this Act. Evidence.

(2) In this section "Director's certificate" means a certificate signed by the Director or a person authorized by him to sign and issue certificates under this Act.

(3) An apparently genuine document produced to the Court on behalf of a party to the proceedings and purporting to be a Director's certificate shall be accepted as such without proof and shall be *prima facie* evidence of the facts certified therein.

(4) A Director's certificate may certify any of the following facts:—

- (a) that a specified boat was or was not registered under this Act at a time or during a period specified in the certificate;
- (b) that at a time or during a period specified in the certificate a named person did or did not hold a certificate of registration of a boat;
- (c) that at a time or during a period specified in the certificate a specified mark was or was not the distinguishing mark allotted under this Act to a specified boat;

or

- (d) that at a time or during a period specified in the certificate a person did or did not hold a licence, permit, special permit, consent, permission or other document provided for in this Act.

(5) Any register or record kept by the Minister or the Director for the purpose of recording any particulars relating to licences, permits, franchises, authorizations, registrations or distinguishing marks granted, issued or allotted under this Act shall be *prima facie* evidence of all matters therein registered or recorded.

(6) A statement made in evidence by an inspector that a place or area described or indicated by him was within waters specified in a proclamation under this Act shall be *prima facie* evidence of that fact.

(7) The Court shall take judicial notice of the making and contents of any proclamation under this Act.

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(8) Any fish taken by the defendant shall be deemed to have been taken for sale unless it is proved that they were not so taken.

(9) The fact that on a particular day there were fish in a boat shall be *prima facie* evidence that that boat was used on that day for taking those fish for sale and that the person in charge of the boat on that day took those fish for sale.

(10) The Court may accept evidence of a measurement made by the use of an electronic, sonic or mechanical device by an inspector or any other person deemed by the Court to be competent to use it, as *prima facie* proof of any distance, height or depth so measured.

False statements.

58. (1) A person shall not make a false or misleading statement—

(a) in or in connection with any application made under this Act;

or

(b) in any statistical return or other information supplied under this Act.

Penalty: Two hundred dollars.

(2) It shall be a defence to a charge for an offence against subsection (1) of this section to prove that the defendant believed on reasonable grounds that the statement made was true.

Procedure for offences.

59. (1) Proceedings in respect of offences against this Act shall be disposed of summarily.

(2) Notwithstanding any other Act, a complaint for an offence against this Act may be laid at any time within twelve months after the offence was committed.

Additional penalty for certain offences.

60. (1) The Governor may by proclamation declare that any species of fish shall be a proclaimed species for purposes of this section.

(2) When a person is convicted of any offence mentioned in subsection (3) of this section and in the course of committing the offence the offender took, sold or had in his possession or under his control fish of a proclaimed species declared pursuant to subsection (1) of this section, the Court shall, in addition to imposing a penalty as provided in the relevant section of this Act, impose an additional fine of not less than one dollar and not more than two dollars for every fish of a proclaimed species so taken, sold, or had in possession or under control.

(3) The offences to which this section applies are as follows:—

Section 29 (1)	Duty to hold licence.
Section 41 (1)	Breach of conditions of licence.
Section 46 (2)	Fishing contrary to proclamation as to place or seasons.
Section 47 (2)	Offences relating to undersize fish.
Section 49 (2)	Illegal use of devices.

61. If a person holding a fishing licence or permit to take fish is convicted of a second or subsequent offence against this Act the Court may in addition to imposing any other penalty make either or both of the following orders namely—

Forfeiture of licence and disqualification.

- (a) that the licence or permit so held be cancelled forthwith or as from a day fixed by the Court, or suspended during a period fixed by the Court;
- (b) that the offender be disqualified for a period fixed by the Court and not exceeding three years from holding and obtaining a licence or permit of a class specified by the Court.

62. (1) Upon convicting a person of an offence against this Act in the commission of which a device was used in contravention of any provision of this Act, the Court may in addition to imposing any other penalty order that the device shall be forfeited to the Crown and delivered to the Director or an inspector.

Forfeiture of illegal devices.

(2) The Director or any inspector may take possession of any device forfeited under this section and dispose of it by sale or otherwise as the Minister directs.

(3) The proceeds of any such sale shall be paid into The Fisheries Research and Development Fund established under section 67 of this Act.

63. (1) When fish are taken in contravention of this Act—

Fish illegally taken.

- (a) they shall be the property of the Crown;
- and
- (b) an inspector may take possession of them and dispose of them by sale, destruction or otherwise as the Minister directs.

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(2) If more than one-tenth of the fish in a receptacle are undersize an inspector may take possession of the receptacle with all the fish therein and may retain all the fish and dispose of them as the Minister directs but the receptacle shall be returned to the person entitled to possession thereof.

Duty to deliver fish and devices.

64. A person having in his possession or under his control any fish the property of the Crown or any device ordered to be forfeited to the Crown shall on the request of an inspector forthwith deliver the fish or device to the inspector.

Penalty: Fifty dollars.

Liability for offences in boats.

65. When an offence against this Act has been committed on a boat the master or other person for the time being in charge of that boat shall be deemed to be guilty of the offence unless it is proved that—

(a) he issued proper orders and used all other reasonable means to enforce the observance of this Act by persons on the boat;

and

(b) that the offence was committed by some other person without his connivance.

Recovery of money payable under this Act.

66. (1) The Director, by action in any Court having jurisdiction in common law actions up to the amount claimed, may recover on behalf of the Crown any rent, fees or other money payable under this Act to the Minister or any officer or authority of the Crown.

(2) In any such action the plaintiff may be described as "the Director of Fisheries of South Australia" without mention of his individual name, and such an action shall not abate or be affected in any way by any change of the person holding the position of Director.

Fisheries Research and Development Fund.

67. (1) There shall be established and kept in the Treasury a Fund to be called "The Fisheries Research and Development Fund" (in this section referred to as "the Fund").

(2) There shall be paid into the Fund—

(a) an amount equal to one-half of the amount of all charges or fees payable under this Act not being charges or fees prescribed by the regulations referred to in subsection (2) of section 22 of this Act;

and

(b) such other moneys as may be appropriated by Parliament for the purposes.

(3) The Minister may expend any money in the Fund—

- (a) on research into problems relating to fish and fisheries in waters which the Minister deems to be South Australian waters;
 - (b) on taking measures for the conservation or development of fisheries in the said waters;
- or
- (c) for any other purpose beneficial to the fishing industry.

(4) This section without further appropriation shall be sufficient authority—

- (a) for the Minister and the Director to pay into the Fund any money directed by this section to be so paid;
- (b) for the Treasurer to pay from the Fund any money required by the Minister for any of the purposes mentioned in subsection (3) of this section;
- (c) for the Minister to expend any money from the Fund for any of the purposes mentioned in subsection (3) of this section;
- (d) for the Minister to expend for any of the purposes mentioned in subsection (3) of this section any money made available to him by the Commonwealth for such expenditure.

68. All money received by the Minister, the Director or any officer pursuant to this Act, except money payable into The Fisheries Research and Development Fund, shall be paid to the Treasurer in aid of the General Revenue of the State.

Disposal of other money.

69. The money required for the purposes of this Act other than money payable out of The Fisheries Research and Development Fund shall be paid out of money provided by Parliament for those purposes.

General financial provision.

THE SCHEDULE**ACTS OR PORTIONS OF ACTS REPEALED**

Fisheries Act, 1917

Fisheries Act Amendment Act, 1922

Fisheries Act Amendment Act, 1930

So much of the second schedule to the State Law Revision Act, 1934, as relates to the amendment of the Fisheries Act Amendment Act, 1922

So much of section 4 of the Criminal Law Consolidation Act, 1935-1969, as relates to the repeal of section 58 of the Fisheries Act, 1917

Fisheries Act Amendment Act, 1938

Fisheries Act Amendment Act (No. 2), 1938

Fisheries Act Amendment Act, 1946

Fisheries Act Amendment Act, 1956

Fisheries Act Amendment Act, 1962

Fisheries Act Amendment Act, 1969

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

J. W. HARRISON, Governor.