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## FISHERIES DEVELOPMENT ACT 1977

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## FISHERIES DEVELOPMENT

No. 61 of 1977

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**AN ACT for the promotion and development of the fishing industry of the State, and to amend the Fisheries Act 1959.**

**[21 September 1977]**

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1—**(1) This Act may be cited as the *Fisheries Development Act* Short title and commencement. 1977.

(2) This Act shall commence on a day to be fixed by proclamation.

## Interpretation.

- 2** In this Act, unless the contrary intention appears—
- “appointed member” has the meaning assigned to that expression in section 3 (2) (c);
  - “Authority” means the Fisheries Development Authority established under section 3;
  - “Bank” means the Board of Management of the Agricultural Bank of Tasmania;
  - “Chairman” means the Chairman of the Authority appointed under section 4;
  - “Chief Executive” means the Chief Executive appointed under section 8;
  - “fish” has the same meaning as it has for the purposes of the *Fisheries Act 1959*;
  - “fish product” includes any material prepared, produced, or extracted from the bodies, or any parts of the bodies, of fish;
  - “fishing industry” has the meaning assigned to that expression by section 9.

The Fisheries  
Development  
Authority.

**3—(1)** There shall be established an Authority to be known as the Fisheries Development Authority, which shall be a body corporate with perpetual succession and a common seal.

(2) The Authority shall consist of—

- (a) the Chairman of the Authority appointed under section 4;
- (b) the Manager of the Agricultural Bank of Tasmania; and
- (c) four other members appointed by the Governor (in this Act referred to as “the appointed members”).

(3) In making appointments of appointed members the Governor shall ensure that of the members of the Authority—

- (a) at least one has substantial knowledge of, and experience in, the management of fisheries;
- (b) at least one has substantial knowledge of, and experience in, the catching of fish;
- (c) at least one has substantial knowledge of, and experience in, the processing of fish; and
- (d) at least one has substantial knowledge of, and experience in, the marketing of products.

(4) The Manager of the Agricultural Bank of Tasmania may authorize any officer employed for the purposes of that bank to act in his stead as member of the Authority, and anything done in pursuance of that authority has the like effect as if it were done by the Manager.

(5) An appointed member of the Authority, unless he sooner resigns or otherwise ceases to hold office, continues in office as a member of the Authority for a period of 3 years, except that when an appointed member dies or ceases to hold office otherwise than by reason of the effluxion of time, the member appointed to fill the vacancy ceases to hold office at the expiration of the unexpired term of office of the member in whose place he is appointed.

(6) The Chairman and the other members of the Authority are not, as such, subject to the *Public Service Act 1973*, but an officer of the Public Service may hold office as, or act in the office of, a member of the Authority (other than the Chairman) in conjunction with his office as an officer of the Public Service.

(7) The Authority shall pay to the appointed members such remuneration and allowances as the Governor approves, except that, without the approval of the Public Service Board, no remuneration shall be paid under this subsection to an appointed member who is an officer of the Public Service.

(8) The Governor may appoint a person to act as a deputy of a member appointed under paragraph (b) or paragraph (c) of section 3 (3) and, subject to any directions given to him by that member, a deputy so appointed may act as that member during his absence or a vacancy in his office, and anything done by the deputy while so acting has the like effect as if it were done by the member.

(9) A deputy appointed under subsection (8) is not entitled to be paid remuneration except as reimbursement for the expenses incurred by him in the carrying out of his duties as deputy.

4—(1) The Governor shall appoint such person as he considers suitable to be the Chairman of the Authority.

The Chairman  
of the  
Authority.

(2) The Chairman shall hold office for such term, not exceeding 5 years, as may be specified in his instrument of appointment, but may resign his appointment by notice in writing to the Minister.

(3) No person shall be appointed as Chairman who has, directly or indirectly, a pecuniary interest in any business as is referred to in section 9 (2), and the Governor may remove from office a Chairman who has or acquires such an interest.

(4) The Chairman shall hold office on such conditions, and be paid by way of remuneration and allowances, such sums as the Governor determines.

(5) Without limiting the generality of subsection (4) the conditions referred to in that subsection may prohibit or restrict the Chairman from engaging in business or employment outside the duties of his office.

(6) The Governor may remove the Chairman from office if he is satisfied that he has failed to comply with the conditions of his appointment.

(7) Except where subsection (8) applies, the Chairman shall be deemed to be an employee within the meaning of the *Retirement Benefits Act 1970* unless, within one month from the date of his appointment, he notifies the Retirement Benefits Fund Board that he does not want the provisions of that Act to apply to him.

(8) Where a contributor under the *Superannuation Act 1938* is appointed Chairman he shall be deemed to be an employee within the meaning of that Act unless, within one month from the date of his appointment, he notifies the Superannuation Fund Board that he does not want the provisions of that Act to continue to apply to him.

(9) The Chairman shall be deemed to be employed by the State for the purposes of the *State Employees (Long-Service Leave) Act 1950*.

Removal of  
Chairman and  
appointed  
members in  
certain cases.

**5—**(1) The Governor may remove the Chairman or any appointed member of the Authority from office if the Governor is satisfied that he—

- (a) has become permanently incapable of carrying out the duties of his office;
- (b) has misconducted himself in the performance of the duties of his office;
- (c) has applied to take, or takes, advantage of any law relating to bankruptcy, or has compounded, or entered into an arrangement, with his creditors; or
- (d) has been convicted (whether in this State or elsewhere) of an offence of such a nature that renders it improper for him to continue to hold his office.

(2) Without prejudice to the generality of the provisions of subsection (1) (b), the Chairman or any other member of the Authority shall be deemed to have misconducted himself in the performance of his duties if—

- (a) he votes on any matter before the Authority in which he has, directly or indirectly, a pecuniary interest; or
- (b) he takes part in, or is present at, the discussion of any such matter before the Authority without disclosing his pecuniary interest to the members of the Authority present.

(3) In the case of married persons living together a pecuniary interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also a pecuniary interest of that other spouse.

(4) The Governor may remove an appointed member from office if that member, without leave of the Authority, is absent from 3 consecutive meetings of the Authority.

**6—**(1) The Chairman, or, if he is absent or there is no Chairman, such one of the other members present as they may choose, shall preside at each meeting of the Authority. Proceedings of the Authority.

(2) The Chairman or other person presiding at a meeting of the Authority has a deliberative vote, but in the event of an equality of votes on any matter before a meeting of the Authority, the Chairman, if he is present, may exercise a second or casting vote and, if that right is not exercised, the matter stands adjourned to the next meeting of the Authority.

(3) Four members of the Authority constitute a quorum at any meeting of the Authority.

(4) Subject to this Act the Authority may regulate its own proceedings.

**7—**(1) The Chairman shall ensure, as far as it seems to him practicable, that the objects for which the Authority is established are fulfilled in accordance with the decisions of the Authority. Functions of Chairman.

(2) For the more convenient discharge of his duties, the Authority may delegate to the Chairman, with or without restrictions, the exercise of any of its functions.

Appointment  
and removal of  
Chief  
Executive.

**8—**(1) The Governor may appoint a person whom he considers suitable to be the Chief Executive of the Authority.

(2) The Chief Executive shall hold office for such term, not exceeding 5 years, as may be specified in his instrument of appointment, but may resign his office by notice in writing to the Minister.

(3) The Chief Executive shall hold office on such conditions, and be paid, by way of remuneration and allowances, such sums as the Governor determines.

(4) The Governor may remove the Chief Executive from office if he is satisfied that—

- (a) without the consent of the Governor, he has engaged in any business or paid employment outside the duties of his office;
- (b) he has been absent from duty without the consent of the Minister otherwise than during periods of leave of absence authorized by the Governor;
- (c) he has become permanently incapable of carrying out the duties of his office;
- (d) he has misconducted himself in the performance of the duties of his office;
- (e) he has applied to take, or takes, advantage of any law relating to bankruptcy, or has compounded, or entered into an arrangement, with his creditors; or
- (f) he has been convicted (whether in this State or elsewhere) of an offence of such a nature that renders it improper for him to continue to hold office.

(5) The Chief Executive shall be deemed to be an employee within the meaning and for the purposes of the *Superannuation Act 1938* and the *Retirement Benefits Act 1970*, and shall be deemed to be employed by the State for the purposes of the *State Employees (Long-Service Leave) Act 1950*.

Functions of  
the Authority.

**9—**(1) The Authority is established with the following objects, namely:—

- (a) The promotion and development of the fishing industry that is carried on in, or from, the State;
- (b) The maintenance of proper standards with respect to fish and fish products intended for consumption in, or export from, the State, both as to quality and as to the methods of handling, processing, storage, packaging, and transport;



(c) The undertaking of research, exploratory, and experimental work related to the management of the living resources in the waters in or around the State or to the fishing industry of the State.

(2) For the purposes of this Act the fishing industry shall be taken to include any business for the taking or landing of fish, for the carrying out of any operation for the processing of fish, or obtaining or manufacturing fish products, or for the transport or sale of fish or fish products.

(3) Subject to subsection (5), the Authority is charged with the duty of making such arrangements, carrying on such businesses, carrying out such activities, and taking such other steps, as in all the circumstances seem to it best suited for the attainment of the objects for which it is established.

(4) Without prejudice to the generality of the provisions of this section the powers of the Authority thereunder shall be deemed to include the giving, or the arranging for the giving, of financial assistance to persons engaging in the fishing industry of the State, but no such assistance shall be given by the Authority to any person without the approval of the Minister.

(5) The Minister may give directions to the Authority in relation to the attainment of the objects of this Act or otherwise in relation to the functions exercisable by the Authority and the Authority shall comply with those directions.

**10—**(1) For the purposes of the exercise of its functions the Authority may employ such staff as it considers necessary. Staff of the Authority.

(2) Subject to this section, the Authority shall be deemed to be a State authority within the meaning of Part V of the *Public Service Act 1973* and the controlling authority for the purposes of that Part in relation to its employees.

(3) Notwithstanding anything in subsection (2) it may, with the approval of the Minister, be a term of employment of a person by the Authority that he is not in that employment to be subject to the provisions of Part V of the *Public Service Act 1973*, and any person so employed shall be deemed not to be an employee within the meaning of that Part.

(4) For the purposes of the *Superannuation Act 1938* and the *Retirement Benefits Act 1970* an employee of the Authority shall be regarded as being employed in an undertaking carried on on behalf of the State, and the Authority shall be deemed a State authority for the purposes of the *State Employees (Long-Service Leave) Act 1950*.

(5) In accordance with the *Public Service Act 1973* persons may be appointed to, and employed in, the Public Service for the purpose of assisting the Authority in the exercise of its functions, and a separate department may be set up under that Act for that purpose.

(6) For the purposes of the *Public Service Act 1973* the Chairman shall be deemed to be the permanent head of the department established pursuant to subsection (5), and shall have the same powers and authority in relation thereto as if he were an officer under that Act.

(7) The secretary of the Authority shall be a person appointed pursuant to subsection (5).

Finances of  
the Authority.

**11**—(1) The funds of the Authority shall comprise the funds received by it in the course of the exercise of its functions or otherwise under this Act and such other moneys as may be provided by Parliament for the purposes of the Authority.

(2) Subject to the terms or conditions on which they are received the Authority may apply its funds for the purposes of the exercise of its functions under this Act.

(3) The Authority may invest any of its funds not for the time being required to be expended in any investment in which trustees are authorized to invest trust funds or in such other manner as the Treasurer may approve.

(4) The Authority shall keep such accounts and prepare such annual financial statements in relation thereto in such form and containing such particulars as the Treasurer may approve.

(5) The accounts of the Authority are subject to the *Audit Act 1918*.

Loans by  
Agricultural  
Bank.

**12**—(1) On the recommendation of the Authority, and with the approval of the Minister, the Bank may, from the funds available to it for the purposes of the *State Advances Act 1935*, make loans for the purpose of enabling projects to be carried out for the development

or diversification of a business forming part, or carried on for the benefit, of the fishing industry carried on in or from the State.

(2) The Bank may take and require such security for the repayment of loans under this section as it considers necessary in the circumstances.

(3) The rate of interest at which a loan is made under this section shall be determined by the Bank, but in fixing the rate of interest for any such loan the Bank shall endeavour to ensure that the weighted average of the rates of interest on all money lent under this section during any financial year is not more than 2 per cent below the average normal rate prevailing during that financial year.

(4) Where the amount of interest payable in respect of a loan made under this section is less than that which it would have been if it had been payable at the normal rate prevailing at the time the loan was made, the Authority shall pay to the Bank the amount of the difference.

(5) In making a loan under this section the Bank may reserve to itself the right to alter the terms on which the loan is to be repaid, and the rate of interest payable in respect of that loan, and, where such a right is so reserved, the Bank shall exercise it in such manner as it considers reasonable in order to ensure that, having regard to the purposes for which the loan was made, arrangements are made for its repayment as soon as practicable, whether by way of borrowing of money from other sources or otherwise.

(6) For the purposes of this section, the "normal rate" prevailing at any time is the rate of interest generally required to be paid on loans made by the Bank under Part III of the *State Advances Act 1935* at that time.

**13**—(1) There shall be a trust account under section 9 of the *Public Account Act 1957* to be known as the "Sea Fisheries Research Account", into which shall be paid such moneys as Parliament may provide for the purpose.

Sea Fisheries  
Research  
Account.

(2) The Minister may, at his discretion, draw out moneys standing to the credit of the Sea Fisheries Research Account and cause them to be expended on—

- (a) research into matters connected with sea fisheries, including the processing and use of their produce;
- (b) the education of persons connected with sea fisheries, including processing of their produce; and

(c) publicizing such research and advising such persons in respect of knowledge relevant to sea fisheries and processing their produce, gained by such research or otherwise.

(3) Any money required under this section to be expended for any purpose may be paid to the Authority to be so expended.

Funds from private sources.

**14** The Authority may accept funds from any source, and may accept any such funds on terms and conditions defining or limiting the purpose for which they may be applied.

Annual report.

**15** As soon as practicable after 30th June in each year the Authority shall submit to the Minister a report on its operations during the period of 12 months ending on that day, and, on receiving the report, the Minister shall cause a copy thereof to be laid before each House of Parliament.

Protection of members and officers.

**16** A member of the Authority, the secretary, or any employee of, or any officer acting on behalf of, the Authority is not personally liable in respect of anything done in good faith for the purposes of this Act.

Regulations.

**17**—(1) The Governor may make regulations—

- (a) prescribing standards with respect to fish and fish products;
- (b) prohibiting or restricting, or placing conditions on, the sale of fish or fish products in relation to their standard or quality;
- (c) requiring the licensing of persons engaged in, or premises used for, the cleaning, processing, manufacture, packaging, or transport of fish or fish products; and
- (d) requiring the making of returns and the giving of information with regard to matters arising in the fishing industry.

(2) Regulations under this section with respect to the licensing of persons or premises may, in connection with the licences issued for the purpose of those regulations, make provision with respect to all or any of the following matters:—

- (a) The extent and nature of the authorities granted by the licences, and the prohibition on the carrying out of operations or activities except under the authority of such a licence;
- (b) The circumstances in which licences may or may not be granted or renewed and the imposition of limitations or restrictions on the grant or renewal of the licences;

(c) The cancellation or suspension of the licences and the imposition and removal of disqualifications for obtaining or holding of a licence;

(d) The payment of fees on an application for, or in respect of, the grant or renewal of a licence.

(3) Regulations under this section may in connection with the matters to which they relate authorize and regulate—

(a) the entry and inspection of premises or conveyances used for the purposes of the fishing industry; and

(b) the inspection and testing of fish and fish products, and the seizure and disposal of fish so inspected or tested.

(4) Fees paid under regulations made under this section shall be paid into the Consolidated Revenue.

(5) Regulations under this section may provide for the imposition of penalties, not exceeding \$1 000, for contraventions of the provisions of the regulations.

**18**—(1) The *Fisheries Act* 1959 is amended in the manner set forth in the Schedule. Amendments of *Fisheries Act* 1959.

(2) The Sea Fisheries Research Account referred to in section 11 of the *Fisheries Act* 1959 is continued as the Sea Fisheries Research Account under section 13 of this Act.

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## SCHEDULE

(Section 18)

### Amendments to *Fisheries Act* 1959

1. Section 8 is amended by inserting in subsection (1), after the word “Act”, the words “and the *Fisheries Development Act* 1977”.

2. Section 9 is amended by inserting after subsection (1A) the following subsection:—

“(1B) Without prejudice to the generality of the provisions of subsection (1), regulations under this section may confer functions on the Chairman of the Fisheries Development Authority, and may provide for the delegation to the Chairman of the exercise of any functions of the Minister under the regulations.”.

3. Section 11 is repealed.

