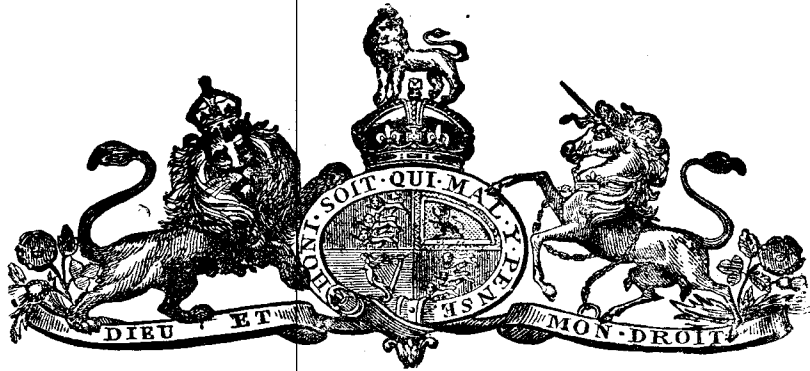


T A S M A N I A.



1910.

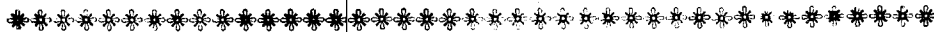
ANNO PRIMO

GEORGIUS V. REGIS,

No. 18.

ANALYSIS.

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| <ul style="list-style-type: none"> 1. Short title and incorporation with 53 Vict. No. 11. 2. Interpretation. 3. Amendment of Section 11 of the Principal Act. 4. Boats engaged in illegally fishing to be forfeited. 5. Officer may seize boats, &c., liable to be forfeited. 6. Power to search boats. 7. Penalty. 8. Police to aid and assist in execution of powers. 9. Notice to be given of seizure. 10. Seized boat or articles may be returned on security. | <ul style="list-style-type: none"> 1. Reasonable cause for seizure a bar to action. 12. Penalties in addition to forfeiture. 13. Repeal of Section 67 of Principal Act. 14. Prosecutions. 15. Justices may condemn goods liable to forfeiture. 16. Evidence of condemnation or forfeiture. 17. Governor may restore seizure and mitigate penalties. 18. Sales to be by public auction. 19. Burden of proof. |
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AN ACT to amend "The Fisheries Act, 1889." ^{A.D.} 1910.
 [30 September, 1910.]

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 This Act may be cited as "The Fisheries Act, 1910," and shall be deemed to be incorporated with, and be construed as one with, "The Fisheries Act, 1889" (in this Act referred to as the Principal Act), and every amendment thereof.

Short title and incorporation with 53 Vict. No. 11.

6d.]

Fisheries Amendment.

A.D. 1910.
—
Interpretation.

2 In this Act, and in the Principal Act and every amendment thereof, and in the regulations under the Principal Act—

“Boat” includes every ship, vessel, boat, or punt of any description whatsoever :

“Fish” means and includes all or any of the varieties of marine or fresh-water fishes and crustacea or marine animal life.

Amendment of
Section 11 of the
Principal Act.

3 Section Eleven of the Principal Act is hereby amended, as follows :—

i. As to Paragraph v., by repealing in line Four of that paragraph the word “of,” occurring between the words “or” and “any,” and substituting therefor the word “prohibiting,” and by inserting at the end of the paragraph the words “or prohibiting the use of any particular engines, tackle, or apparatus for taking any fish” :

ii. By repealing the last Four lines of the said Section Eleven, and substituting therefor the words “and any such regulation may impose a penalty for any breach thereof, and may also impose different penalties in case of successive breaches ; but no such penalty shall exceed Twenty Pounds, nor Five Pounds in case of a penalty for a continuing daily breach. In addition to any such penalty, all boats, engines, nets, or other instruments whatsoever used contrary to any such regulation shall be forfeited.”

Boats engaged in
illegally fishing to
be forfeited.

4 Any boat the crew of which, or any part of the crew of which, are found—

i. Fishing or taking fish : or

ii. Preparing to fish or take fish : or

iii. To have been fishing or taking fish—

anywhere within the jurisdiction of the Government of this State contrary to the provisions of the Principal Act or any amendment thereof, or any regulation, and any boat on board of which any fish illegally taken, or any part thereof, is found, shall, together with all other boats (if any) connected or used therewith, and the tackle, rigging, furniture, stores, and appurtenances, and also any engines, nets, or other instruments which are prohibited or unlawfully used, be forfeited and become the property of the Commissioners ; and the provisions of Section Sixty-six of the Principal Act shall apply thereto.

Officer may seize
boats, &c., liable
to be forfeited.

5 Every officer appointed by the Commissioners may, either with or without constables or such other persons as he may think fit to employ—

i. Board and enter upon any boat :

ii. Seize, take, detain, remove, and secure any boat :

Fisheries Amendment.

III. Seize, take, remove, and secure any fish, furniture, appurtenances, engines, nets, and other instruments or articles— A.D. 1910.

which he has reasonable cause to believe are liable to be forfeited under this or the Principal Act, if found within the jurisdiction of the Government of this State.

6 In addition to the powers conferred by Section Sixty of the Principal Act, every officer appointed by the Commissioners may, with or without constables or such other persons as he may think fit to employ, at any time and from time to time— Power to search boats.

I. Board and enter upon any boat :

II. Search any boat—

within the jurisdiction of the Government of this State for any fish, engines, nets, and other instruments or articles.

7 Every person who—

I. Fails by all reasonable means to facilitate boarding by any such officer, constables, or other persons as aforesaid : or Penalty.

II. Refuses to allow search to be made : or

III. Obstructs or impedes search—

shall be liable for every such offence, on summary conviction, to a penalty not exceeding Fifty Pounds.

8 All members of the police force of *Tasmania*, if called upon to aid and assist any officer appointed by the Commissioners in the execution of any of the powers vested in him by the Principal Act or this Act, or any regulation, are hereby authorised and required to aid and assist such officer in the lawful exercise of such powers. Police to aid and assist in execution of powers.

9 When any boat or articles have been seized as liable to be forfeited the officer seizing shall give notice in writing of such seizure and the cause thereof to the person in charge or the owner of the boat or articles (unless such person or owner be present at the seizure, in which case no notice shall be necessary), either by delivering the notice to him personally or by letter addressed to him and transmitted by post to or delivered at his last known place of abode or business; and all boats or articles seized shall be deemed to be condemned, and may be sold or otherwise disposed of by the Commissioners unless the person from whom such boat or articles shall have been seized or the owner shall within One month from the date of seizure give notice in writing to the Commissioners that he claims them; but if any articles so seized shall be fish, or shall be of a perishable nature, the same may be forthwith sold or otherwise disposed of by the Commissioners. Notice to be given of seizure.

10 The Minister may authorise any boat or articles seized to be delivered to the claimant on his giving security to pay their value in case of their condemnation. Seized boat or articles may be returned on security.

Fisheries Amendment.

A.D. 1910.

Reasonable cause
for seizure a bar
to action.Penalties in
addition to
forfeiture.Repeal of Section
67 of Principal
Act.
Prosecutions.

19 Vict. No. 8.

Justices may
condemn goods
liable to forfeiture.Evidence of con-
demnation or
forfeiture.Governor may
restore seizure
and mitigate
penalties.

11 No person shall be liable for any seizure under the Principal Act or this Act for which there shall have been reasonable cause.

12 All penalties shall be in addition to any forfeiture

13 Section Sixty-seven of the Principal Act is hereby repealed.

14 All offences against the provisions of the Principal Act or this Act, or the regulations, and all penalties and forfeitures incurred thereunder or imposed thereby, and the liability to forfeiture of any boat, article, or thing, may (except as in this Act otherwise provided) be prosecuted, determined, recovered, and enforced in a summary way before and by a police magistrate, or any Two or more justices, in the mode prescribed by "The Magistrates Summary Procedure Act," the provisions whereof shall apply save so far as may be otherwise provided by this Act.

15 When any information shall have been laid before any justice for the forfeiture of any boat or articles seized under the Principal Act or this Act, such justice is hereby required to summon the owner of such boat or articles, or the person from whom they were seized, to appear before a police magistrate or any Two or more justices; and upon his or their appearance or default to appear, due service of such summons being proved, such magistrate or justices may proceed to the examination of the matter, and on proof that the boat or articles are liable to forfeiture may condemn the same.

16 Condemnation by any magistrate or justices under this Act may be proved in any court of justice, or before any competent tribunal, by production of a certificate of such condemnation purporting to be signed by the magistrate or justices, or an examined copy of the record of such condemnation, certified by the clerk of petty sessions.

17—(1.) It shall be lawful for the Governor, on the recommendation of the Commissioners, to direct any boat, articles, or things whatsoever seized under the Principal Act or this Act to be delivered to the proprietor thereof, whether condemnation shall have taken place or not, and also to relieve from any penalty, in whole or in part, and on such terms and conditions (if any) as to the Governor shall appear to be proper.

(2.) No person shall be entitled to the benefit of any order for such delivery or relief unless such terms and conditions (if any) are fully and effectually complied with.

(3.) If such proprietor accepts the terms and conditions prescribed by the Governor, or accepts the benefit of any such order under this section, he shall not have or maintain any action for recompense or damage on account of any seizure, detention of, or interference with, any such boat, articles, or things, and the person making the seizure shall not proceed in any manner for condemnation.

Fisheries Amendment.

18—(1.) Sales of boats, articles, or things forfeited, or otherwise liable to be sold under the Principal Act or this Act, shall be by public auction or by tender, and after such notice as may in any case be specified by the Minister, and where not specified, after reasonable public notice. A.D. 1910.
Sales to be by public auction.

(2.) No bidding or tender shall be necessarily accepted.

19 The burden of proving the illegality of any seizure made for alleged violation of any of the provisions of the Principal Act or this Act, or any regulation, or that the officer or person seizing was not by the said Acts or regulation authorised to seize, shall lie upon the owner or claimant. Burden of proof.

