

TASMANIA.

THE FISHERIES ACT, 1925.

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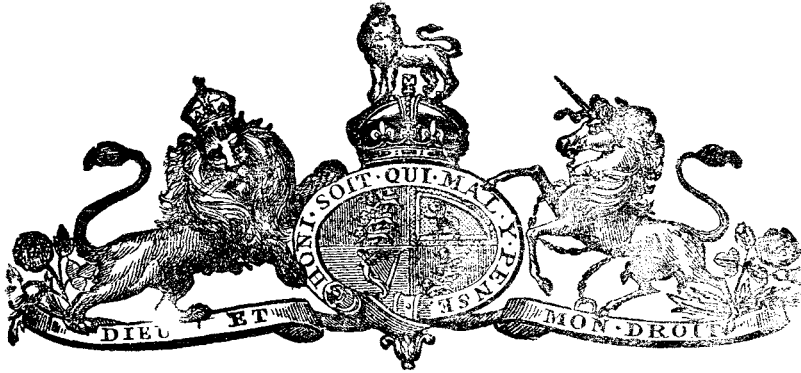
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TASMANIA.



1925.

ANNO SEXTO DECIMO

GEORGII V. REGIS.

No. 42.



AN ACT to consolidate and amend the Law ^{A.D.} **1925.**
 relating to the Fisheries of the State.
 [11 *December*, 1925.]

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:—

PART I.

PRELIMINARY.

1 This Act may be cited as “The Fisheries Act, 1925,” and shall come into operation on a day to be fixed by proclamation. Short title and commencement

2 The Acts mentioned in the Schedule to this Act are hereby **Repeal.**
 repealed.

Fisheries.

A.D. 1925.

Interpretation.

3 In this Act, unless the context otherwise indicates or requires—

“Boat” means any ship, vessel, or boat of any description whatsoever:

“Chairman” includes an acting-chairman:

“Inland waters” means all waters that are not tidal waters:

“Part” means Part of this Act:

“Section” means Section of this Act:

“Take” includes catch, dredge for, raise, kill, and attempt to take, and “taking” has a corresponding meaning:

“Tidal waters” means such part of the sea or of a river as is within the ebb and flow of the tide at ordinary spring tides:

“Unclean,” in relation to any fish, means that the fish is about to spawn, or has recently spawned, and has not recovered from spawning:

“Use” includes attempt to use, and assist in the use of.

PART II.

SEA FISHERIES.

Interpretation.

4 In this Part, unless the context otherwise indicates or requires—

“Board” means the Sea Fisheries Board constituted under this Part:

“Commissioner of Police” includes an Acting-Commissioner of Police:

“Cured” means preserved by salting, smoking, drying, canning, or by any other means whatsoever:

“Engine” includes any net, implement, apparatus, or device for taking or facilitating the taking of fish:

“Fish” means any description of marine fish, or crustacea, or marine animal life, and their young, or fry, or spawn, and seals of every description and their young, but does not include salmon:

“Fishing” means taking any fish:

“Fishing-boat” means a boat which is used in fishing for purposes of sale or business, or for collecting or carrying to land the fish caught by other boats:

“Licence” means a licence under this Part:

“Licensed” means licensed under this Part:

“Officer” means an officer appointed by the Board for the purposes of this Part:

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- “Oyster” includes scallop and the brood, ware, half-ware, spat, and spawn of oysters and scallops, and “oyster-bed” includes scallop-bed: — A.D. 1925.
- “Regulations” means regulations under this Part:
- “River” includes stream and creek:
- “Salmon” means all fish of the salmon species:
- “Take” includes catch, dredge for, raise, kill, and attempt to take:
- “The fishing industry” means all matters relating to the carrying on of fishing for the purposes of sale or business:
- “Undersized,” in relation to fish, means that the fish is of a less size than the minimum size which may be lawfully taken under the regulations:
- “Waters” means any part of the sea within a distance of three miles from any part of the coast of Tasmania, and any estuary, port, harbour, or other inlet of the sea, and all tidal waters.

The Sea Fisheries Board, Constitution, Procedure, &c.

5—(1) For the purposes of this Part there shall be constituted a Board of five members, to be called “The Sea Fisheries Board,” which shall under that name be a body corporate, with perpetual succession and a common seal, and may hold land, and may sue and be sued in its corporate name. Constitution and incorporation of the Sea Fisheries Board.

(2) The Commissioner of Police shall, *ex officio*, be a member of the Board and the Chairman thereof. Commissioner of Police to be a member and Chairman.

(3) Each of the four other members of the Board shall be appointed by the Governor, and shall hold office for a period of two years from the date of his appointment, unless he dies, resigns, or is removed from office, or is declared by the Governor to be disqualified for continuing to hold office, in any of which events a successor shall be appointed by the Governor, who shall hold office for the unexpired period of his predecessor's term of office. Four members to be appointed by Governor.

(4) Without prejudice to the power of the Governor to remove any appointed member of the Board from office, the Governor may declare any such member to be disqualified from continuing to hold office if he— Disqualifications.

- I. In any way participates, or claims to be entitled to participate, in the profit of, or in any benefit or emolument arising from, any contract or agreement made by or on behalf of the Board: or
- II. He votes at any meeting of the Board in respect of any recommendation in which he is (otherwise than as a member of the general public, or as a shareholder in, but not being a director of, any incorporated company, in which there are more

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than twenty members) directly or indirectly interested, or if he remains at any meeting of the Board while the subject matter of any such recommendation is under discussion: or

III. He is absent without leave of the Board from three consecutive meetings of the Board.

IV. He is or becomes beneficially interested in the sale of fish either through or by a shop, boat, or company, whether incorporated or otherwise.

Deputy members
may be appointed.

6—(1) In case of the illness or absence of an appointed member of the Board the Governor may appoint some person to act as his deputy during such illness or absence, and until such appointment is terminated by notice in the Gazette.

(2) Every person so appointed shall, while so acting, have all the powers and perform all the duties of the person for whom he was appointed deputy.

Judicial notice
to be taken of
common seal,
&c, of the
Board.

7 All courts and persons acting judicially shall take judicial notice of the common seal of the Board, and of the signatures of the Chairman and the appointed members thereof, and their deputies, and of the fact of their respective appointments.

Expenses of
members of
Board.

8—(1) Each member of the Board shall be entitled to be paid, out of the funds at the disposal of the Board, all such travelling and other out-of-pocket expenses as shall have been reasonably incurred by him in the performance of his duties as such member.

Remuneration.

(2) The Governor may by order-in-council direct that each or any of the members of the Board shall be paid, out of such funds as aforesaid, such yearly sum, by way of remuneration for his services, as the Governor shall think fit, but in no case shall the yearly sum to be paid to any member of the Board exceed Fifty Pounds.

Chairman's
voting power.

9—(1) The Chairman of the Board shall have a deliberative vote only.

Board may act
notwithstanding
vacancy.

(2) The Board may act notwithstanding a vacancy in its membership.

Quorum.

(3) Any three members of the Board shall form a quorum for the transaction of business.

Equality of
votes.

(4) When there is an equal division of votes upon any question it shall pass in the negative.

Absence of
Chairman from
meeting.

(5) If the Chairman is absent from any meeting of the Board at the time appointed for the holding thereof, one of the members present shall preside, and shall have a deliberative vote only.

Procedure of
Board.

(6) Subject to this Part the Board may regulate its own procedure.

*Fisheries.**Contracts of the Board.*

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10 Contracts on behalf of the Board may be made, varied, or discharged as follows:—

How contracts
to be entered
into.

- I. Any contract which, if made between private persons, would by law be required to be in writing under seal, may be made, varied, or discharged in the name and on behalf of the Board in writing under its common seal:
- II. Any contract which, if made between private persons, would by law be required to be in writing, and signed by the parties to be charged therewith, may be made, varied, or discharged in the name and on behalf of the Board in writing, signed by any person acting under its express or implied authority:
- III. Any contract which, if made between private persons, would by law be valid, although made by parol only and not reduced into writing, may be made, varied, or discharged by parol, in the name and on behalf of the Board, by any person acting under its express or implied authority.

Powers and Functions of the Board.

11 The Board shall have the management, control, protection, and regulation, subject to this Part, of the fisheries of the State, other than the salmon and freshwater fisheries referred to in Section Seventy-seven.

Board to have
control of the
fisheries of the
State other than
the salmon and
freshwater
fisheries.

12 The Board may, with the consent in writing of the Minister, appoint a Secretary to the Board, and all such inspectors, clerks, bailiffs, and other officers as may be necessary for the purposes of this Part, and may pay to such Secretary and other officers, out of any funds at the disposal of the Board, such remuneration, by way of salary or otherwise, as may be approved by the Minister.

Board may
appoint secretary
and other officers.

13 The Board shall cause minutes to be kept, in a book to be provided for that purpose, of the proceedings at meetings of the Board, and of the attendance of members thereat. Minutes of the proceedings at any meeting of the Board shall be signed by the Chairman at the next ordinary meeting, and such minutes, so signed as aforesaid, shall be *prima facie* evidence in all judicial proceedings of the matters therein recorded.

Board to cause
minutes to be
kept.

14—(1) The Board may make regulations—

Regulations.

- I. Providing generally the conditions under which fishing may be carried on:

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- II. Providing that all fishing boats, or any specified class or classes of fishing-boats, shall be licensed; regulating the issue, form, terms and conditions, duration, suspension, and cancellation of such licences; and prescribing the fees to be paid for such licences, either in accordance with the tonnage of such boats or otherwise:
- III. Providing that any specified class or classes of engines used for the capture of fish shall be licensed; regulating the issue, form, terms and conditions, duration, suspension, and cancellation of such licences; and prescribing the fees to be paid for any such licences:
- IV. Providing that all licensed fishing-boats, and all or any licensed engines, shall have distinguishing marks placed thereon or affixed thereto; regulating the shape, size, and character of such marks, and the placing or affixing the same on or to such boats and engines; providing for the issue and return of such marks; and prescribing the charges to be made therefor:
- V. Prohibiting the use of fishing-boats and engines which are required to be licensed and are not licensed, and of fishing-boats and engines which do not have the prescribed marks placed thereon or affixed thereto:
- VI. Providing for the licensing of persons using, or engaged or employed in, fishing-boats; regulating the issue, form, terms and conditions, duration, suspension, and cancellation of such licences; prescribing the fees to be paid for such licences; and prohibiting unlicensed persons from using, or being engaged or employed in, such boats:
- VII. Providing for the issue of licences to take fish of any particular kind or species; regulating the issue, form, terms, and conditions, duration, suspension, cancellation, and return of such licences, and the fees to be paid in respect thereof; and prohibiting persons required to be licensed from fishing without licences, and from fishing in any manner not authorised by such licences:
- VIII. Prescribing the times, seasons, and places, at which the taking of the several kinds or species of fish shall commence and cease, or be prohibited or permitted:
- IX. Prohibiting the taking of any particular kind or species of fish, or the female of such kind or species, either generally or for any prescribed period;

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- X. Prohibiting in prescribed places the taking of fish or any particular kind or species of fish: A.D. 1925.
- XI. Prescribing the minimum size of fish of any particular kind or species that may be taken:
- XII. Prohibiting the taking of any undersized, unclean, or unseasonable fish:
- XIII. Prohibiting the buying, selling, or offering or exposing for sale, or the having possession of, any undersized, unclean, or unseasonable fish, or of any fish the taking of which is contrary to the regulations:
- XIV. Prescribing the description, form, and size of nets, and other engines that may be used in fishing, or any kind of fishing, or in any place for fishing, and the sizes of the meshes of such nets; and prohibiting or regulating the use, or the use in any place, or the possession, of any particular kind of net, or other engine for taking fish, or any kind or species of fish:
- XV. Prescribing generally the conditions under which fish, or any particular kind or species of fish, may be taken, and prohibiting the taking of fish except under the prescribed conditions:
- XVI. Prescribing royalties to be paid in respect of the taking of any particular kind or species of fish:
- XVII. Prescribing that security be given by any licensee for the due observance and performance of the terms and conditions of his licence:
- XVIII. Prohibiting the doing of any matter or thing whatsoever tending in the opinion of the Board to be detrimental to fish or the fishing industry:
- XIX. For the preservation of good order among persons engaged in fishing:
- XX. Providing for the sale or other disposal of anything forfeited to the use of the Board:
- XXI. Providing that all or any fish intended for export from the State shall, before exportation, be inspected by an officer; prescribing places where such inspection shall take place, and the fees to be paid for such inspection; and prohibiting the exportation of fish which have not been so inspected:
- XXII. Providing for the custody of the common seal of the Board, and prescribing the manner of affixing the same to all documents executed by the Board:

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XXIII. Providing for or prescribing any other matter or thing for which regulations are contemplated or required by this Part, or which shall in any manner relate to fishing or the fishing industry:

XXIV. Imposing penalties for breaches of the regulations, with power to impose a minimum penalty for the breach of any regulation, and different penalties for successive breaches, and daily penalties for continuing breaches, but so that no penalty for the breach of any regulation shall exceed Fifty Pounds, nor in the case of a continuing breach, Five Pounds in respect of any day during which the breach is continued, and with power also to impose a special penalty not exceeding Five Pounds in respect of each and every fish, or fish of any kind, or species, taken, bought, sold, offered, or exposed for sale, or in the possession of any person in breach of the regulations, and a special penalty of a like amount in respect of each and every net, engine, or other article of any kind whatsoever used or in the possession of any person in breach of the regulations; and such special penalties may be in addition to any other penalties imposed for such breaches.

Approval by Governor.

(2) All regulations made by the Board under this Part, and all amendments thereof, shall be approved, and may from time to time be amended or rescinded, by the Governor.

Board may make inquiries and experiments.

15—(1) The Board may from time to time—

I. Make inquiries and investigations as to fishing and the fishing industry, and the best means to be adopted for the regulation, improvement, and protection thereof:

II. Make inquiries, investigations, and experiments for ascertaining the best methods of taking, handling, preserving, or disposing of fish, or any kind of fish, for commercial purposes.

Board may acquire land.

16—(1) The Board may, with the consent of the Governor, purchase, acquire, or take on lease any land for the purposes of this Part, and may with the like consent sell any land so purchased or acquired, and which is no longer required for such purposes, and may surrender the lease of any land taken on lease and which is no longer so required.

Application of Lands Clauses Act.

21 Vict. No. 11.

(2) All the provisions of the Lands Clauses Act, except Sections Eight and Nine thereof, shall be incorporated with this Part, and in the construction of the said incorporated Act and this Part, this Part shall be deemed to be the Special Act, and the Board shall be deemed to be the promoters of the undertaking.

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17—(1) The Governor may, on the certificate of the Board that the use of any Crown land is required by the Board for the purposes of this Part, and on the recommendation of the Minister, by proclamation except such land from the provisions of the Crown Lands Act, 1911* (hereinafter in this section called "the said Act"), and declare that the same shall be a reserve for the purposes of this Part, and thereupon the possession, management, and control of such land shall vest in the Board for the purposes of this Part.

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—
Governor may reserve Crown land for the purposes of this Part.

2 Geo. V. No. 11.

(2) On the certificate of the Board that the use of any land included in any such proclamation as aforesaid is no longer required by the Board for the purposes of this Part, the Governor may, by a subsequent proclamation, revoke such first-mentioned proclamation so far as it relates to the land referred to in such certificate, and thereupon such lastmentioned land shall be again subject to the provisions of the said Act.

Governor may revoke proclamation.

18 The Board may issue a permit to any person authorising such person to take, under such conditions, and at such times, and in such manner, in all respects as shall be stated in such permit, fish of any kind, or species for artificial propagation, or for scientific purposes, or for such other purposes as shall be approved by the Board; and such person shall not be liable to any penalty under this Part by reason of anything done by him in compliance with such permit.

Board may issue permits to take fish for scientific purposes.

Finance.

19 The revenue of the Board shall consist of—

Revenue of the Board.

- I. All licence and other fees and all royalties payable under this Part: and
- II. The proceeds arising from the sale of all boats and other articles forfeited to and sold by the Board, or which shall accrue to the Board in respect of the seizure, forfeiture, or disposal thereof: and
- III. All other moneys received by the Board under this Part.

20 All moneys received by the Board under this Part shall be paid into the Commonwealth Bank to the credit of an account in the name of the Board, and such account shall be operated on only by cheque signed by a member of the Board, and countersigned by the Secretary of the Board, or some other officer thereof authorised in that behalf by the Minister.

Bank account to be opened.

21 The revenue of the Board shall be applied and disposed of as follows:—

Application of revenue.

I. One-half part of—

- (a) The proceeds arising from the sale of all boats and other articles forfeited to and

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sold by the Board, or which shall accrue to the Board in respect of the seizure, forfeiture, or disposal thereof, after deducting from such proceeds the amount of any special expenses incurred by the Board in connection with the seizure, sale, disposal, or keeping possession of such boats and other articles: and

(b) All fees and other moneys received by the Board under this Part—

shall be paid by the Board to the Treasurer on account of the Consolidated Revenue in manner hereinafter mentioned:

II. The remaining revenue of the Board shall be retained and applied by it for the purpose of administering and carrying out the provisions of this Part.

Provided, however, that for the period of Twelve months immediately following the commencement of this Act, the whole of the revenue of the Board shall be retained and applied by it for the purpose of administering and carrying out the provisions of this Act.

Payments to
Treasurer.

22 The Board shall, on or before the thirty-first day of January and the thirty-first day of July in each year, cause to be prepared and delivered to the Treasurer an account of all revenue received by it during the period of six months immediately preceding the month in which such account is required to be so delivered, and of the amount payable by the Board to the Treasurer in respect of such period; and the Board shall, at the time of the delivery of such account, pay to the Treasurer such lastmentioned amount.

Audit Act to
apply to accounts
of Board.
9 Geo. V. No. 3.

23 The provisions of the Audit Act, 1918, with respect to the moneys and accounts of local authorities, except Section **32a** of the lastmentioned Act, shall apply to the moneys and accounts of the Board as if the Board were a local authority within the meaning of those provisions.

Oyster Leases.

Governor may
lease any portion
of the seashore
and bed of the
sea for an oyster-
bed.

24 It shall be lawful for the Governor, on the recommendation of the Board, and on such terms and conditions as the Governor thinks fit, to lease to any person for any term not exceeding twenty years, any portion of the shore and bed of the sea, or of an estuary or tidal water, above or below, or partly above and partly below, low-water mark (which shore and bed are hereinafter referred to as "the sea-shore"), for the purpose of the forming, laying, maintaining, and working of an oyster-bed, and for all other purposes incidental thereto,

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Provided, however, that nothing herein contained shall be held to authorise the Governor to grant any lease of any portion of the sea-shore which is not the property of the Crown, or whereby the rights of any person in such portion of the sea-shore, or in any land thereto adjoining, shall be interfered with without the consent in writing of such lastnamed person.

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Proviso.

25 It shall be lawful for the Governor, upon the recommendation of the Board, to lease any natural oyster-bed to any person upon such terms and conditions, and for any term not exceeding ten years, as the Governor thinks fit.

Governor may lease natural oyster-bed.

26 Every such lease as aforesaid shall be under the hand and seal of the Governor, and shall by reference to a map or otherwise, as to the Governor seems best, define the position and limits of the oyster-bed or area comprised therein.

Lease to be under hand and seal of Governor.

27—(1) Public notification of an application for any such lease as aforesaid shall be given in such manner as shall be prescribed.

Application for lease to be advertised.

(2) In considering applications for the lease of a natural oyster-bed preference shall be given to the applicant (if any) who in the opinion of the Board was the discoverer of such oyster-bed.

Preference to be given to discoverer of natural oyster-bed.

28 A copy of every lease issued by the Governor under this Part shall be forwarded to the Board, who shall cause the same to be recorded in a book to be kept for that purpose.

Copy of lease to be forwarded to Board.

29 The production of a copy of any such lease as aforesaid certified under the hand of the Chairman or Secretary of the Board shall be evidence in all courts that the lease of which the same purports to be a copy was duly granted by the Governor, and that all matters and things by this Part required to be done previously to the granting of such lease have been duly done and performed.

A copy of lease certified to be evidence.

30 The holder of any lease granted under this Part, and his agents, servants, and workmen, may at any season, with the consent of the Board, and under and subject to such conditions as the Board may prescribe, dredge for and take oysters from any unleased natural oyster-bed for the purpose of supplying or replenishing therewith any oyster-bed held or made, or in course of being made, under any such lease, and may apply the oysters so taken accordingly; but if any person applies or uses, or if any lessee authorises or permits to be applied or used otherwise than in manner authorised by this section, any oysters so taken, such person or lessee shall be

Power to lessee to remove oysters from public beds at all seasons.

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liable to all the like penalties and consequences to which he would have been liable if this section had not been inserted in this Part.

Effect of lease.

31—(1) Every lessee under this Part shall have the exclusive right, subject to the regulations, of taking oysters within the limits of his lease.

(2) Every such lessee shall also, for the purpose of making and maintaining oyster-beds, have the right, within such limits as aforesaid, at any season to collect oysters of any size or description, and remove the same from place to place, and deposit them where he thinks fit, and do all things necessary for making and maintaining such oyster-beds; and nothing lawfully done by him in pursuance of this subsection shall render such lessee liable as for a breach of this Part.

Property in
oysters in beds
held under lease.

32 All oysters being in or on any oyster-bed held under any such lease as aforesaid shall be the absolute property of the lessee; and in all courts of law and equity and elsewhere, and for all purposes, civil, criminal, or other, shall be deemed to be in the actual possession of the lessee.

Limits of sea-
shore leased to be
marked.

33 Every lessee shall mark out, and keep marked by clear and distinct marks, the limits of any portion of the sea-shore comprised in any such lease; and no person shall be liable to any civil proceedings at the suit of the lessee, or any person claiming through him, for taking any oysters within such limits, unless the same have been marked and kept marked as required by this section.

Power to the
Governor to
revoke leases in
certain cases.

34 In any case where any such lease is granted by the Governor, if it appears to the Board that the lessee under such lease, or his assigns, within the period of three years from the date of such lease, has not taken steps proper in their opinion to form or lay the oyster-bed, for the forming or laying whereof such lease was granted, then and in such case it shall be lawful for the Governor, by an order in writing under his hand, to revoke such lease, and thereupon all the rights and privileges created by such lease shall cease and determine: Provided always that previously to the making of such order the Governor shall cause a notice in writing, stating his intention to make such order, to be served upon the person for the time being entitled to such lease, or in case such person cannot be found the Governor shall cause such notice to be inserted twice in the Gazette; and no such order shall be made until after the expiration of one month from the service of such notice, or from the date of the last of such notices in the "Gazette."

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35 Notwithstanding anything in any lease heretofore granted or hereafter to be granted by the Governor, the same shall be determinable by a proclamation by the Governor in the Gazette (which proclamation he is hereby empowered to make), declaring that the Board is not satisfied that the lessee is properly cultivating the oyster-ground within the limits of such lease; and on any such proclamation being made, the right by such lease conferred shall, by virtue of this Part and of the proclamation as aforesaid, be absolutely determined, and all the provisions of this Part shall cease to operate in relation to such lease as an oyster-fishery or otherwise; and for the purposes of this provision the Board may from time to time, with respect to such lease or oyster-fishery, make such inquiries and examinations by an officer or otherwise, and require from such lessee such information, as the Board may think necessary or proper; and the lessee shall afford all facilities for such inquiries and examinations, and give such information accordingly.

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—
Lease may be determinable by proclamation by the Governor.

36—(1) It shall not be lawful for any person other than the lessee, or his assigns, their agents, servants, and workmen, within the limits of any oyster-bed comprised in the lease, knowingly to do any of the following things:—

Penalties for injuring oyster-beds.

- I. To use any implement of fishing except a line and hook:
- II. To dredge for any ballast, or other substance, except under a lawful authority for improving the navigation:
- III. To deposit any stone, ballast, rubbish, or other substance:
- IV. To place any implement, apparatus, or thing prejudicial or likely to be prejudicial to any oyster-bed or oysters, or brood or spawn thereof, or to the oyster-fishery, except for a lawful purpose of navigation or anchorage:
- V. To disturb or injure in any manner, except as last aforesaid, any oyster-bed or oysters, or brood or spawn thereof, or the oyster-fishery.
- VI. To interfere with or take away any of the oysters from such bed without the consent of the lessee or his assigns.

(2) If any person does any act in contravention of this section he shall, on conviction, be liable to the following penalty; namely, to a penalty not exceeding Two Pounds for the first offence, and not exceeding Five Pounds for the second offence, and not exceeding Ten Pounds for the third and every subsequent offence; and also such further sum of money as appears to the court adjudicating to be a reasonable compensation for

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the damage sustained, not exceeding the sum of Ten Pounds, which lastmentioned sum of money shall be paid to the party aggrieved.

Existing leases to
continue under
this Part.

53 Vict. No. 11.

37 Every lease granted by the Governor under Section Thirty-nine or Section Forty of the Fisheries Act, 1889, shall be deemed to have been granted under this Part, and shall continue in force until the expiry thereof, or until it is sooner revoked or determined under this Part, and the obligation for the payment of the rent reserved by, and for the performance by the lessee of the covenants and conditions contained in, such lease, shall constitute an obligation to, and may be enforced by, the Board, and any reference in such lease to the Commissioners of Fisheries shall be deemed to be a reference to the Board.

Oyster Fisheries Generally.

Conditions to be
observed by per-
sons fishing for
oysters

38 Except as in this Part otherwise provided or authorised all persons engaged in fishing for or taking oysters shall cull all such oysters as may be taken or caught, and shall not remove from any fishing-ground or oyster-bed any oyster of less dimensions than the Board shall prescribe, and shall immediately throw back into the water all oysters of less dimensions than prescribed, as well as all gravel and fragments of shells as shall be raised or taken while engaged in such fishing; and any person acting in contravention of this section, and any person buying, selling, or having in his possession any oysters of less dimensions than prescribed, shall be liable to a penalty not exceeding Five Pounds for each and every such offence.

Seals.

Governor may
define limits of
seal fishery.

39 The Governor may from time to time, on the recommendation of the Board, by proclamation define the limits or parts of the State, being lands of the Crown not otherwise alienated or disposed of, including any lands below high-water mark, in respect of which licences may be issued under this Part conferring the right of taking seals.

Licensee may use
certain Crown
lands for works.

40 Every licence granted for the taking of seals shall empower the licensee to hold, use, and occupy such land of the Crown available for occupation as may from time to time be authorised by the Minister for the erection of dwelling-houses and other buildings and works necessary to carry on the taking of seals. Every person who without the authority of the holder of a licence for the taking of seals shall take any seal within the limits of such licence, shall be liable to a penalty not exceeding Five Pounds for every seal taken, and to such further sum as appears to the court adjudicating to be a

Penalty for
taking of seals by
unauthorised
persons.

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reasonable compensation for the damage sustained by the licensee in respect of such taking, which lastmentioned sum shall be paid to such licensee. A.D. 1925.

Powers of Officers.

41 Every officer is hereby empowered, for the enforcement of the provisions of this Part, to exercise the powers and authorities of a member of the Police Force. Officers to have police powers.

42—(1) For the purposes of this Part every member of the Police Force shall have, and may exercise, all or any of the powers and authorities conferred by such Part on an officer; and whenever in such Part reference is made to an officer, such reference shall, unless the context otherwise requires, include a reference to a member of the Police Force. Members of Police Force to have powers of officers.

(2) Any officer exercising any power or authority, or carrying out any duty, conferred or imposed on him by this Part, may employ such persons as he thinks fit to assist him in so doing, and no person so employed shall incur any liability by reason of his rendering any such assistance. Officers may employ assistants.

43 The production by any officer appointed by the Board of his appointment in writing, or of a copy of the Gazette containing a notification of such appointment, shall be sufficient authority for such officer to do all such acts and things as he is required or empowered to do under this Part; but it shall not be necessary for any member of the Police Force doing any such acts or things to produce any authority for so doing. Production of authority.

44 It shall be lawful for any officer at any time or season, for the purpose of doing any act or thing which he is required or empowered to do under this Part, to enter into and pass through, or along the banks or borders of, any waters, and with boats or otherwise to enter upon such waters, and to pass along the same. Officer may enter certain premises.

Provided that nothing in this section contained shall be construed as authorising any officer to enter any garden enclosed with a wall or fence, nor any dwelling-house, or the curtilage thereof, except where the ordinary passage of any tidal waters is through any such garden or curtilage as aforesaid, save when thereunto authorised by warrant of a justice as hereinafter provided. Proviso.

45 It shall be lawful for any justice, upon complaint on oath that there is reasonable cause to suspect that a breach of this Part has been committed within any of the hereinbefore excepted grounds and premises, by warrant under his hand, Justice may issue warrant to enter suspected premises.

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to authorise and empower any officer to enter the excepted premises for the purpose of detecting such offence, at such time or times in the day or night, as in such warrant is mentioned: Provided that no such warrant shall continue in force for more than fourteen days from the date thereof.

Power to search shops, &c., for fish unlawfully taken.

46 It shall be lawful for any officer or for any member of the Police Force, for the purpose of searching for fish of a less size than may be lawfully taken, or for fish taken contrary to the provisions of this Part—

- I. At all reasonable times to enter any shop, or the place of business of any dealer where fish are publicly exposed for sale, and any cool-store, smoke-house, canning factory, or other place where fish are kept or treated for the purposes of business:
- II. To examine the basket, tray, or other receptacle in the possession, or under the control of, any fisherman, angler, or itinerant vendor of fish.

Further powers of officers.

47 It shall be lawful for any officer—

- I. To board and enter upon any boat, and to search the same for any fish, engines, nets, or other articles:
- II. To examine any nets, engines, or other articles found in any place whatsoever in use for fishing, or in the possession or under the control of any person, and intended or adapted for fishing:
- III. To seize, take, detain, remove, and secure any boat, fish, engines, nets, or other articles (wheresoever the same may be or be found) which such officer has reason to believe are liable to be forfeited under this Part:
- IV. To require the master or other person in charge of any fishing-boat to produce the licence for the boat and to take copies thereof or of any part thereof:
- V. To require the master or other person in charge of any fishing-boat to give any explanation concerning the boat and her crew, and any person on board such boat:
- VI. To require any person on any fishing-boat, or engaged in fishing, to state his name and place of abode.

Forfeitures, Offences, &c.

Certain boats, fish, &c., to be forfeited.

48 All boats, engines, nets, and other articles used, or in the possession of any person, and all fish taken, bought, sold, offered, or exposed for sale, or in the possession of any person, contrary to the provisions of this Part or the regulations, shall be forfeited to the use of the Board.

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49 Any boat the crew of which, or any part of the crew of which, are found— A.D. 1925.

- I. Fishing or taking fish: or
- II. Preparing to fish or take fish: or
- III. To have been fishing or taking fish—

Forfeiture of
boats unlawfully
used.

anywhere within the jurisdiction of the Government of the State contrary to the provisions of this Part, or the regulations, and any boat on board of which any fish unlawfully taken, or any part thereof, or any engine or apparatus for fishing, the use of which is prohibited by this Part, is found, shall, together with all other boats (if any) connected or used therewith, and the tackle, rigging, furniture, stores, and appurtenances, engines, nets, and other apparatus, belonging thereto or being thereon, shall be forfeited to and become the property of the Board.

50 Where any boat or article has been seized as forfeited, and no proceedings have been taken within fourteen days after such seizure against any person for the offence in respect of which such forfeiture was incurred, the officer seizing shall, forthwith after the expiration of such fourteen days, give notice in writing of such seizure to the owner of such boat or article (unless such owner was present at the seizure, or is not known, or is not in the State, in any of which cases 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 lastnamed place of abode or business; and such boat or article shall be deemed to be condemned, and may be sold or otherwise disposed of by the Board, unless such owner shall, within one month from the date of the seizure, give notice in writing to the Board that he disputes the forfeiture, whereupon proceedings shall be taken against such owner for the forfeiture and condemnation of such boat or article. Procedure where
no prosecution
for offence.

51 If any article, seized under this Part as forfeited, shall be fish, or shall be of a perishable nature, the same may be forthwith sold by the Board, and the proceeds thereof retained to abide the result of any proceedings that may be taken in respect of such forfeiture. Disposal of
perishable
articles.

52 The Minister may authorise any boat or articles seized to be delivered to the person disputing the forfeiture thereof on his giving security to the Board to pay their value in case of their condemnation. Seized boat or
articles may be
delivered on
security.

53 Notwithstanding anything to the contrary in this Part contained, when the commission of any offence against this Part, or the regulations, involves a forfeiture of any boat or Conviction to
operate as a
condemnation.

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articles, the conviction of any person for such offence shall have effect as a condemnation of such boat or articles, without the necessity of any complaint being laid for such condemnation.

Reasonable cause
for seizure a bar
to action.

54 No person shall be liable for any seizure under this Part for which there shall have been reasonable cause.

Penalties in
addition to
forfeiture.
Prosecutions.

55 All penalties shall be in addition to any forfeiture.

10 Geo. V. No.
55.

56 All offences against this Part, 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 Part otherwise provided) be prosecuted, determined, recovered, and enforced, before and by a police magistrate, or any two or more justices, in the mode prescribed by the Justices' Procedure Act, 1919, the provisions whereof shall apply, save so far as may be otherwise provided by this Part.

Justices may
condemn goods
liable to
forfeiture.

57 When any complaint shall have been laid against any person for the forfeiture of any boat or articles seized under this Part, such justice is hereby required to summon such person to appear before a police magistrate or any two or more justices; and upon his 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.

Evidence of
condemnation or
forfeiture.

58 Condemnation under this Part of any boat or articles by any magistrate or justices, or as the result of any conviction by such magistrate or justices, 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.

Governor may
restore seizure
and mitigate
penalty.

59—(1) It shall be lawful for the Governor—

- I. To direct that any boat, articles, or things whatsoever seized under this Part be delivered to the owner thereof, whether condemnation shall have taken place or not: and
- II. To relieve from any penalty, in whole or in part—on such terms and conditions (if any) as the Governor shall think fit.

(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.

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(3) If such owner 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, if such condemnation has already not taken place.

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60 Subject to this Part, all fish, boats, nets, engines, and other articles forfeited or liable to be sold under the provisions of this Part shall become the property of the Board, and may be sold or disposed of in such manner as the Board may from time to time prescribe, and the proceeds of such sale and disposal shall form part of the revenue of the Board.

All boats, &c.,
condemned to
become the
property of the
Board.

61 Any person who—

Penalties for
certain offences.

- I. Fails to facilitate by all reasonable means the boarding of any boat by any officer or other person authorised under this Part to so board: or
- II. Refuses to allow any search to be made which is authorised under this Part: or
- III. Refuses to give to any officer any information lawfully demanded of him by such officer, or refuses to state his name or place of abode to any officer when lawfully required by such officer so to do, or states a false name or place of abode to such officer: or
- IV. Assaults, resists, or obstructs any officer or other person in the execution of the powers or authorities conferred on him by this Part—

shall be guilty of an offence against this Part.

Penalty: Fifty Pounds..

62 The master or person in charge of every fishing-boat shall have on board such boat the licence issued under this Part in respect of such boat; and if he makes default therein without reasonable cause (the proof thereof shall lie on him) he shall be guilty of an offence against this Part.

Master of fishing-
boat to have
licence on board.

Penalty: Fifty Pounds.

63 No person shall cause or knowingly permit to flow, or put or knowingly permit to be put, into any waters containing fish, any liquid or solid matter to such an extent as to cause the waters to be poisonous or injurious to fish or the spawning grounds, spawn, or food of fish.

Prohibition
against poisoning
waters containing
fish.

Penalty: Fifty Pounds.

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Prohibition of
use of dynamite
and other noxious
substances for
destruction of
fish.

64 No person shall—

- I. Use dynamite or other explosive substance with intent thereby to take or destroy fish in any waters: or
- II. Put any poison, lime, or noxious material in any waters with intent thereby to take or destroy any of the fish that may then be, or may thereafter be put, therein.

Penalty: Fifty Pounds.

Apprehension of
offenders.

65 When any person is found offending against this Part it shall be lawful for any person to require the person so found offending forthwith to desist from such offence, and also to state his name and place of abode; and in case such person wilfully continues such offence, it shall be lawful for the person so requiring as aforesaid, and also for any person acting by his order and in his aid, to apprehend such offender, and to seize any net or other engine or instrument unlawfully used by such offender, and to convey him, or cause him to be conveyed, as soon as conveniently may be before a justice to be dealt with according to law: Provided always that no person so apprehended shall, on any pretence whatsoever, be detained for a longer period than twenty-four hours from the time of his apprehension before he is brought before a justice; and that if he cannot, on account of the absence, or distance of the residence or place of business, of any such justice, or owing to any other reasonable cause, be brought before a justice within such twenty-four hours as aforesaid, then the person so apprehended shall be discharged, but may, nevertheless, be proceeded against for his offence by summons or warrant as if no such apprehension had taken place.

No penalty to be
incurred in
respect of
accidental taking
of fish.

66 When any person is lawfully fishing, and accidentally takes any fish which is unclean or unseasonable, or the taking of which is prohibited by this Part, he shall not be liable to any penalty thereunder in respect of such taking if he immediately returns the fish to the water with the least possible injury.

Application of
penalties.

67 One moiety of every penalty recovered under this Part shall be paid into the Reward Branch of the Police Provident Fund, and the remaining moiety of every such penalty shall be paid into and form part of the Consolidated Revenue.

Licensees of
fishing-boats
and fish-curers
to make returns.

68—(1) All licensees of fishing-boats and all fish-curers shall make returns to the Board, in such form and at such periods as may be prescribed by the Board, of all fish taken and cured by them respectively.

(2) Any licensee who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

Penalty: Twenty Pounds.

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69—(1) In all judicial proceedings the onus of proving the illegality of any seizure, or that the officer or person seizing was not authorised to seize, shall lie upon the person setting up such illegality. A.D. 1925.
Onus of proof.

(2) In any proceedings taken against any person for any contravention of this Part, or the regulations, the onus of proving the existence of any licence required to be held by such person, or that such person was exempted from any penalty or forfeiture, shall lie upon the defendant.

70 No action shall be brought against any person for anything done in pursuance of this Part unless notice in writing of such action, and the cause thereof, is given to the defendant one month at least before the commencement of the action. Notice of action.

PART III.

SALMON AND FRESHWATER FISHERIES.

71 In this Part, unless the context otherwise indicates or requires— Interpretation.

“Anglers’ Association” means the Southern Tasmanian Licensed Anglers’ Association and the Northern Tasmanian Fisheries Association:

“Commissioners” means the salmon and freshwater Fisheries Commissioners appointed under this Part:

“Dam” includes any fixed obstruction used for the purpose of damming up water:

“Engine” includes any net, implement, apparatus, or device for taking or facilitating the taking of fish:

“Fish” means salmon and freshwater fish, and their young, or fry, or spawn:

“Fishing” means taking any fish:

“Freshwater fish” means any description of fish living in fresh water, exclusive of salmon and of any kinds of fish which migrate to and from tidal waters:

“Licence” means a licence under this Part:

“Licenced” means licenced under this Part:

“Officer” means an officer appointed by the Commissioners for the purposes of this Part:

“Regulations” means regulations under this Part:

“Retiring Commissioners” means the Commissioners of Fisheries appointed under the Fisheries Act, 1889: 53 Vict. No. 11.

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“River” includes stream, creek, and watercourse:

“Rod and line” means a single rod and line:

“Salmon” means all fish of the salmon species:

“Undersized” in relation to fish means that the fish is of a less size than the minimum size which may be lawfully taken under the regulations:

“Waters” means any salt, brackish, or fresh waters in Tasmania, and any part of the sea within a distance of three miles of any part of the coast of Tasmania, and also all reservoirs, dams, channels, or works for water storage or distribution vested in, or under the control of, the Crown, or any statutory authority, but not any waters the property of any private person.

*The Salmon and Freshwater Fisheries Commissioners,
Constitution, Procedure, &c.*Appointment of
Commissioners.

72—(1) The Governor may appoint any number of persons not exceeding Fifteen as and to be Commissioners for the purposes of this Part, to be called “The Salmon and Freshwater Fisheries Commissioners,” and who shall under that name be a body corporate with perpetual succession and a common seal, and may hold land, and may sue and be sued in their corporate name.

Term of office.

(2) Each Commissioner shall hold office for a term of two years, unless he dies, resigns, or is removed from office, or is declared by the Governor to be disqualified for continuing to hold office, in any of which events a successor shall be appointed by the Governor, who shall hold office for the unexpired period of his predecessor's term of office.

Disqualifications.

(3) Without prejudice to the power of the Governor to remove any Commissioner from office, the Governor may declare any such Commissioner to be disqualified from continuing to hold office if he—

I. In any way participates, or claims to be entitled to participate, in the profit of, or in any benefit or emolument arising from, any contract or agreement made by or on behalf of the Commissioners; or

II. He votes at any meeting of the Commissioners in respect of any recommendation in which he is (otherwise than as a member of the general public, or as a shareholder in, but not being a director of, any incorporated company, in which there are more than twenty members) directly or indirectly interested, or if he remains at any meeting of the Commissioners while the subject matter of any such recommendation is under discussion.

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73—(1) The Commissioners shall from time to time as they shall think fit, appoint one of their number to act as chairman at all meetings of the Commissioners, and he shall have a deliberative as well as a casting vote. A.D. 1925.

Chairman to be appointed.

(2) If the chairman is absent from any meeting of the Commissioners at the time appointed for the holding thereof, the Commissioners present shall appoint one of their number to act as chairman at such meeting, and the Commissioner appointed to so act shall have a deliberative as well as a casting vote. Absence of
Chairman from
meeting.

(3) The Commissioners may act notwithstanding a vacancy in their numbers. Commissioners
may act notwith-
standing vacancy.

(4) Any five Commissioners shall form a quorum for the transaction of business. Quorum.

(5) Subject to this Part the Commissioners may regulate their own procedure. Procedure.

Contracts of the Commissioners.

74 Contracts on behalf of the Commissioners may be made, varied, or discharged as follows:— How contracts
to be entered into.

- I. Any contract which, if made between private persons, would by law be required to be in writing under seal, may be made, varied, or discharged in the name and on behalf of the Commissioners in writing under their common seal:
- II. Any contract which, if made between private persons, would by law be required to be in writing, and signed by the parties to be charged therewith, may be made, varied, or discharged in the name and on behalf of the Commissioners in writing, signed by any person acting under their express or implied authority:
- III. Any contract which, if made between private persons, would by law be valid, although made by parol only and not reduced into writing, may be made, varied, or discharged by parol, in the name and on behalf of the Commissioners, by any person acting under their express or implied authority.

Vesting of Property.

75 All real and personal property which was, immediately before the commencement of this Act, vested in or held by the retiring Commissioners, shall, from and after such commencement, be vested in the Commissioners for all the estate and interest therein of the retiring Commissioners. Vesting of
property.

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Continuance
of existing
obligations and
rights.*Continuance of Existing Obligations and Rights.***76** From and after the commencement of this Act—

- I. Subject to the provisions of Section Thirty-seven all contracts and obligations of the retiring Commissioners shall be enforceable by and against the Commissioners:
- II. All penalties and forfeitures incurred prior to the commencement of this Act, and which, but for such commencement, would have been recoverable and enforceable by the retiring Commissioners, shall be recoverable and enforceable by the Commissioners:
- III. All suits and proceedings pending at the commencement of this Act, by and against the retiring Commissioners may be continued by and against the Commissioners:
- IV. Every licence issued by the retiring Commissioners shall continue in force until it expires, or until the same is sooner cancelled under this Part, and in the meantime shall be deemed to have been granted under, and shall be subject to the provisions of, this Part.

*Powers and Functions of the Commissioners.*Commissioners to
have control of
salmon and fresh-
water fisheries.**77** The Commissioners shall, subject to this Part, have the management, control, protection, and regulation of the salmon and freshwater fisheries of the State.Commissioners
may appoint
secretary and
other officers.**78** The Commissioners may, with the consent in writing of the Minister, appoint a Secretary to the Commissioners, and all such inspectors, clerks, bailiffs, and other officers as may be necessary for the purposes of this Part, and may pay to such Secretary and other officers, out of any funds at the disposal of the Commissioners, such remuneration, by way of salary or otherwise, as may be approved by the Minister.Commissioners to
cause minutes to
be kept.**79** The Commissioners shall cause minutes to be kept, in a book to be provided for that purpose, of the proceedings at meetings of the Commissioners, and of the attendance of members thereat. Minutes of the proceedings at any meeting of the Commissioners shall be signed by the Chairman at the next ordinary meeting, and such minutes, so signed as aforesaid, shall be *prima facie* evidence in all judicial proceedings of the matters therein recorded.

Regulations.

80—(1) The Commissioners may make regulations—

- I. Providing generally the conditions under which fishing may be carried on;

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- II. Providing for the issue of licences to take fish of any particular kind, or species; regulating the issue, form, terms, and conditions, duration, suspension, cancellation, and return of such licences, and the fees to be paid in respect thereof; and prohibiting persons required to be licensed from fishing without licences, and from fishing in any manner not authorised by such licences: A.D. 1925.
- III. Prescribing the times, seasons, and places, at which the taking of the several kinds or species of fish shall commence and cease, or be prohibited or permitted:
- IV. Prohibiting the taking of any particular kind or species of fish, or the female of such kind or species, either generally or for any prescribed period:
- V. Prohibiting in prescribed places the taking of fish or any particular kind or species of fish:
- VI. Prescribing the minimum size of fish of any particular kind or species that may be taken:
- VII. Prohibiting the taking of any undersized, unclean, or unseasonable fish:
- VIII. Prohibiting the buying, selling, or offering or exposing for sale, or the having possession of, any undersized, unclean, or unseasonable fish, or of any fish the taking of which is contrary to the regulations:
- IX. Prescribing the description, form, and size of nets, and other engines that may be used in fishing, or any kind of fishing, or in any place for fishing, and the sizes of the meshes of such nets; and prohibiting or regulating the use, or the use in any place, or the possession of, any particular kind of net, or other engine for taking fish or any kind or species of fish:
- X. Prescribing generally the conditions under which fish, or any particular kind or species of fish, may be taken, and prohibiting the taking of such fish except under the prescribed conditions:
- XI. Prohibiting the doing of any matter or thing whatsoever tending in the opinion of the Commissioners to be detrimental to the salmon or freshwater fisheries or to fishing:
- XII. Providing for the sale or other disposal of anything forfeited to the use of the Commissioners:
- XIII. Providing for the custody of the common seal of the Commissioners, and prescribing the manner of affixing the same to all documents executed by the Commissioners:

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XIV. Providing for or prescribing any other matter or thing for which regulations are contemplated or required by this Part, or which shall in any manner relate to the salmon or freshwater fisheries or to fishing:

XV. Imposing penalties for breaches of the regulations, with power to impose a minimum penalty for the breach of any regulation, and different penalties for successive breaches, and daily penalties for continuing breaches, but so that no penalty for the breach of any regulation shall exceed Fifty Pounds, nor in the case of a continuing breach, Five Pounds in respect of any day during which the breach is continued, and with power also to impose a special penalty not exceeding Five Pounds in respect of each and every fish, or fish of any kind or species, taken, bought, sold, offered, or exposed for sale, or in the possession of any person in breach of the regulations, and a special penalty of a like amount in respect of each and every net, engine, or other article of any kind whatsoever used or in the possession of any person in breach of the regulations; and such special penalties may be in addition to any other penalties imposed for such breaches.

Approval by Governor.

(2) All regulations made by the Commissioners under this Part, and all amendments thereof, shall be approved, and may from time to time be amended or rescinded, by the Governor.

Commissioners may acquire land.

81—(1) The Commissioners may, with the consent of the Governor, purchase, acquire, or take on lease any land for the purposes of this Part, and may with the like consent sell any land so purchased or acquired, and which is no longer required for such purposes, and may surrender the lease of any land taken on lease and which is no longer so required.

Application of Lands Clauses Act.

(2) All the provisions of the Lands Clauses Act, except Sections Eight and Nine thereof, shall be incorporated with this Part, and in the construction of the said incorporated Act and this Part, this Part shall be deemed to be the Special Act, and the Commissioners shall be deemed to be the promoters of the undertaking.

21 Viet. No. 11.

Governor may reserve Crown land for the purposes of this Part.

2 Geo. V. No. 11.

82—(1) The Governor may, on the certificate of the Commissioners that the use of any Crown land is required by the Commissioners for the purposes of this Part, and on the recommendation of the Minister, by proclamation except such land from the provisions of the Crown Lands Act, 1911 (hereinafter in this section called "the said Act"), and declare that the

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same shall be a reserve for the purposes of this Part, and thereupon the possession, management, and control of such land shall vest in the Commissioners for the purposes of this Part.

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(2) On the certificate of the Commissioners that the use of any land included in any such proclamation as aforesaid is no longer required by the Commissioners for the purposes of this Part, the Governor may, by a subsequent proclamation, revoke such firstmentioned proclamation so far as it relates to the land referred to in such certificate, and thereupon such lastmentioned land shall be again subject to the provisions of the said Act.

Governor may
revoke
proclamation.

83 The Commissioners may issue a permit to any person authorising such person to take, under such conditions, and at such times, and in such manner, in all respects as shall be stated in such permit, fish of any kind or species for artificial propagation, or for scientific purposes, or for such other purposes as shall be approved by the Commissioners; and such person shall not be liable to any penalty under this Part by reason of anything done by him in compliance with such permit.

Commissioners
may issue permits
to take fish for
scientific pur-
poses.*Finance.*

84 The revenue of the Commissioners shall consist of—

Revenue of the
Commissioners.

- I. All licence and other fees payable under this Part: and
- II. The proceeds arising from the sale of all boats and other articles forfeited to and sold by the Commissioners, or which shall accrue to the Commissioners in respect of the seizure, forfeiture, or disposal thereof: and
- III. All penalties and other moneys received by the Commissioners under this Part.

85 All moneys received by the Commissioners under this Part shall be paid into the Commonwealth Bank to the credit of an account in the name of the Commissioners, and such account shall be operated on only by cheque signed by a Commissioner, and counter-signed by the Secretary of the Commissioners, or some other officer thereof authorised in that behalf by the Minister.

Bank account
to be opened.

86 The revenue of the Commissioners shall be applied for the purpose of administering and carrying out the provisions of this Part.

Application of
revenue.

87 The provisions of the Audit Act, 1918, with respect to the moneys and accounts of local authorities, except Section **32a** of the lastmentioned Act, shall apply to the moneys and accounts of the Commissioners as if the Commissioners were a local authority within the meaning of those provisions.

Audit Act to
apply to accounts
of Commissioners.
9 Geo. V. No. 3.

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Commissioners
may make grants
to anglers'
associations.

88 The Commissioners may, out of any funds at their disposal, from time to time grant and pay to any anglers' association such sum or sums of money as shall be approved by the Minister, to be expended by such association for any one or more of the following purposes:—

- I. The stocking with fish of any rivers or other waters:
- II. The artificial propagation of fish for stocking any such rivers or waters:
- III. The maintenance of any fish-hatchery belonging to or controlled by any such association:
- IV. Any other purpose of a similar nature.

Offences, &c.

Prohibition of
fishing with
lights, spears, &c.

89—(1) No person shall—

- I. Use any light for the purpose of catching fish: or
- II. Use any otter lath or jack, wire or snare, spear, gaff. (except as hereinafter provided), strokehaul, snatch, or other like instrument for taking or killing fish: or
- III. Have in his possession a light or any of the foregoing instruments, in such circumstances as to satisfy the court before which he is charged that he intended at the time to take or kill fish by means thereof: or
- IV. Throw or discharge any stone or other missile into any water for the purpose of taking or killing, or facilitate the taking or killing, of any fish.

Penalty: Twenty Pounds.

(2) For the purposes of this section—

- I. The expression "otter lath or jack" includes any small boat or vessel, board, stick, or other instrument, whether used with a hand line, or auxiliary to a rod and line, or otherwise for the purpose of running out lures, artificial or otherwise:
- II. The expression "strokehaul or snatch" includes any instrument or device, whether used with a rod and line or otherwise, for the purpose of foul-hooking any fish.

(3) This section shall not apply to any person using a gaff (consisting of a plain metal hook without a barb) or tailer as auxiliary to angling with a rod and line.

Prohibition of
use of roe.

90 No person shall, for the purpose of fishing—

- I. Use any fish roe: or
- II. Buy, sell, or expose for sale, or have in his possession, any roe of salmon.

Penalty: Twenty Pounds.

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91—(1) No person shall wilfully disturb any spawn or spawning fish, or any bed, bank, or shallow on which any spawn or spawning fish may be.

Penalty: Twenty Pounds.

(2) This section shall not prejudice the legal right (if any) of any person to take materials from any waters.

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Prohibition of disturbing fish spawning.

92 A person shall not be liable to any penalty under any of the provisions of the two last foregoing sections in respect of any act, if he does the act for the purpose of the artificial propagation of fish, or for some scientific or other purpose approved by the Commissioners, and has obtained the previous permission in writing of the Commissioners.

Saving of acts done for artificial propagation or scientific purposes.

93 No person shall place or use in any inland or tidal waters any engine, instrument, or device for the purpose of obstructing or hindering the free passage of fish in such waters.

Penalty: Twenty Pounds.

Prohibition of obstructing passage of fish.

94 No person shall, in any river, lake, or stream above the flow of the salt water, lay, draw, make use of, or fish with any kind of net or other engine, instrument, or device, excepting rod and line, and a landing net or a gaff (consisting of a plain metal hook without a barb) used in connection therewith, for the purpose of taking any fish.

Penalty: Twenty Pounds.

Nets not to be used in fresh waters.

95—(1) Where any water is diverted from waters frequented by salmon by means of any conduit or artificial channel used for the purpose of supplying towns, factories, dwelling-houses, or other places with water, or for working any mill or turbine, or for the purposes of irrigation, or for any other purpose, whether of a similar nature to any of the above purposes or not, the person having the control over such conduit or artificial channel shall, unless an exemption in writing from the obligation is granted by the Commissioners or Minister, place and maintain at his own expense and cost a grating or gratings across the conduit or channel for the purpose of preventing the descent of the salmon.

Erection of gratings to prevent ingress of salmon into artificial channels.

(2) In the case of any such conduit or artificial channel the person having the control thereof shall also, unless an exemption is granted as aforesaid, place and maintain at his own cost a grating or gratings across the outfall (if any) of the conduit or channel for the purpose of preventing salmon entering the outfall.

(3) A grating shall be constructed and placed in such manner and position as shall be approved by the Commissioners.

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(4) If any person without lawful excuse fails to place or maintain a grating in accordance with this section, such person shall be liable to a penalty not exceeding Five Pounds for every day during which such person shall fail to comply with the provisions of this section.

(5) The Commissioners may cause to be done any work by this section required to be done by any person and not so done by him, and for that purpose may enter into and upon any land or place, and may recover in a summary way the expenses of doing the work from any person in default.

Dams, &c., not
to obstruct free
passage of
salmon.

96—(1) When any dam is, or is placed, in or across any river, or any outlet of any lake frequented by salmon, or in or on the shores of any such lake, for sustaining the water of such lake for waterpower, navigation, irrigation, or other purposes whatsoever, and such dam in the opinion of the Commissioners does not permit, in one or more parts thereof, the free passage of salmon, the owner or occupier for the time being of such dam shall, at his own expense and cost, make and maintain in an efficient state a fish-pass for salmon, of such form and dimensions as the Commissioners shall approve as part of the structure of, and in connection with, the dam, if no such fish-pass already exists.

(2) If any such owner or occupier fails to comply with this section within a reasonable time after service by post of notice on him by the Commissioners requiring him to so comply, he shall be liable to a penalty not exceeding Five Pounds for every day after the expiration of such notice during which he shall fail to so comply.

(3) The Commissioners may cause to be done any work by this section required to be done by such owner or occupier and not so done by him, and for that purpose may enter into and upon the dam and any land adjoining thereto, and may recover in a summary way the expense of doing the work from any such owner or occupier as aforesaid.

Supply of water
to dams and fish-
passes.

97—(1) The sluices for drawing off the water which would otherwise flow over any dam in waters frequented by salmon shall, unless an exemption in writing from such obligation is granted by the Commissioners or the Minister, at all times when the water is not required for such water-power, navigation, irrigation, or other purposes as aforesaid, be kept shut in such manner as to cause such water to flow through the fish-pass (if any) in or connected with the dam, or if there is such a fish-pass, over the dam.

(2) If the owner or occupier of any such dam fails to comply with this section, he shall be liable to a penalty not exceeding Twenty Pounds for every such offence.

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(3) This section shall not prevent any person from opening a sluice for the purpose of letting off water in cases of flood or, subject to previous notice in writing to the Commissioners, for cleaning or repairing any dam or any works used in connection therewith or the appurtenances thereof.

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98 Where turbines or similar hydraulic machines are used, the person owning or using the same shall, during the descent of salmon to the sea, provide a grating, lattice, or other efficient means to prevent such fish passing into any such machine; and every person failing to comply with this section shall be liable to a penalty not exceeding Twenty Pounds for every such offence.

Gratings, &c., to be erected where turbines, &c., used.

99 No person shall wilfully injure a fish-pass, or do any act whereby a fish-pass is rendered less efficient.
Penalty: Twenty Pounds.

Penalty for injury to fish-passes.

100 No person shall unlawfully or maliciously cut through, break down, or otherwise destroy any dam, flood-gate, or sluice with intent to destroy or take fish.
Penalty: Fifty Pounds.

Penalty for injuring dams, &c.

101 If in any river, reefs, ledges of rocks, shoals, or other material obstructions prevent or impede the free passage of fish, and hinder the approach and access of the same to the upper parts of the river (or any lake or waters communicating therewith) and the depositing of their spawn therein, the Commissioners may, if they think fit, make such alterations in the bed of such river as shall effectually secure a free and uninterrupted passage at all seasons of the year for all fish.

Commissioners may alter bed of river.

Powers of Officers.

102 Every officer is hereby empowered, for the enforcement of the provisions of this Part, to exercise the powers and authorities of a member of the Police Force.

Officers to have police powers.

103—(1) For the purposes of this Part every member of the Police Force shall have, and may exercise, all or any of the powers and authorities conferred by such Part on an officer; and whenever in such part reference is made to an officer, such reference shall, unless the context otherwise requires, include a reference to a member of the Police Force.

Members of Police Force to have powers of officers.

(2) Any officer exercising any power or authority, or carrying out any duty, conferred or imposed on him by this Part, may employ such persons as he thinks fit to assist him in so doing, and no person so employed shall incur any liability by reason of his rendering any such assistance.

Officers may employ assistants.

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Production of
authority.

104. The production by any officer appointed by the Commissioners of his appointment in writing, or of a copy of the Gazette containing a notification of such appointment, shall be sufficient authority for such officer to do all such acts and things as he is required or empowered to do under this Part; but it shall not be necessary for any member of the Police Force doing any such acts or things to produce any authority for so doing.

Officer may enter
certain premises.

105 It shall be lawful for any officer at any time or season, for the purpose of doing any act or thing which he is required or empowered to do under this Part, to enter into and pass through, or along the banks or borders of, any waters, and with boats or otherwise to enter upon such waters, and to enter upon and examine all reservoirs, sluices, mill-pools, mill-races, dams, fish-passes, watercourses, and channels communicating therewith, and to pass along the same.

Proviso.

Provided that nothing in this section contained shall be construed as authorising any officer to enter any garden enclosed with a wall or fence, nor any dwelling-house, or the curtilage thereof, except where the ordinary passage of any inland or tidal waters, or to any reservoir, sluice, mill-pool, mill-race, dam, fish-pass, watercourse, or channel is through any such garden or curtilage as aforesaid, save when thereunto authorised by warrant of a justice as hereinafter provided.

Justice may
issue warrant to
enter suspected
premises.

106 It shall be lawful for any justice, upon complaint on oath that there is reasonable cause to suspect that a breach of this Part has been committed within any of the hereinbefore excepted grounds and premises by warrant under his hand, to authorise and empower any officer to enter the excepted premises for the purpose of detecting such offence, at such time or times in the day or night, as in such warrant is mentioned: Provided that no such warrant shall continue in force for more than fourteen days from the date thereof.

Power to search
shops, &c., for
fish unlawfully
taken.

107 It shall be lawful for any officer or for any member of the Police Force, for the purpose of searching for fish of a less size than may be lawfully taken, or for fish taken contrary to the provisions of this Part—

- I. At all reasonable times to enter any shop, or the place of business of any dealer where fish are publicly exposed for sale, and any cool-store, smoke-house, canning factory, or other place where fish are kept or treated for the purposes of business;
- II. To examine the basket, tray, or other receptacle in the possession, or under the control of, any fisherman, angler, or itinerant vendor of fish.

*Fisheries.***108** It shall be lawful for any officer—

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- I. To board and enter upon any boat, and to search the same for any fish, engines, nets, or other articles:
- II. To examine any nets, engines, or other articles found in any place whatsoever in use for fishing, or in the possession or under the control of any person, and intended or adapted for fishing:
- III. To seize, take, detain, remove, and secure any boat, fish, engines, nets, or other articles (wheresoever the same may be or be found) which such officer has reason to believe are liable to be forfeited under this Part:
- IV. To require any person engaged in fishing to state his name and place of abode.

Further powers
of officers.*Forfeitures, Offences, &c.*

109 Sections Forty-eight to Sixty-one inclusive, Sections Sixty-three to Sixty-six inclusive, and Sections Sixty-nine and Seventy are hereby incorporated in this Part, and for the purpose of such incorporation shall be read and construed in all respects as if they had been enacted in this Part, and in particular as subject to Section Seventy-one in this Part: Provided, however, that wherever in the said incorporated sections reference is made to "the Board" such reference shall be deemed to be a reference to the Commissioners.

Incorporation in
this Part of
certain sections
of Part II.

110 One moiety of every penalty recovered under this Part shall be paid to the Commissioners, and the remaining moiety shall be paid into and form part of the Consolidated Revenue.

Application of
penalties.**SCHEDULE.**

Section 2

Date and Number of Act.	Title of Act.	Extent of Repeal.
53 Vict. No. 11	The Fisheries Act, 1889	The whole Act
2 Ed. VII. No. 36	The Fisheries Amendment Act, 1902	The whole Act
1 Geo. V. No. 18	The Fisheries Act, 1910	The whole Act
15 Geo. V. No. 38	The Fisheries Regulations Validation Act, 1924	The whole Act

