

TASMANIA



1878.

ANNO QUADRAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 4.



AN ACT to make provision for the Preservation of Trout in this Colony, and to regulate the Fishing for the same.

A.D. 1878.

[10 September, 1878.]

WHEREAS it is expedient to consolidate and amend the Trout Acts: PREAMBLE.

Be it therefore 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:—

*Preliminary.*

1 This Act may be cited for all purposes as "The Trout Act, 1878." Short title.

2 "The Trout Act, 1870," "The Trout Act, 1873," and "The Trout Act, 1876," are hereby repealed; but such repeal shall not affect anything duly done or any offence committed before the commencement of this Act, which shall be dealt with as if this Act had not been passed. Repeal.

3 In this Act, unless there is something inconsistent in the context, the words and expressions hereinafter mentioned shall have respectively the meanings hereby assigned to them; that is to say,— Definition of terms.

"Person" shall include any body of persons, corporate or unincorporate: "Person."

*Trout.*

A.D. 1878.	“Trout” shall include all non-migratory fish of the genus <i>Salmo</i> .
“Trout.”	“Young of Trout” shall include all fry of Trout which measure less than Six inches from the eye to the fork of the tail :
“Young of Trout.”	“Waters” shall include all the fresh waters of the Colony :
“Waters.”	“Fixed engine” shall include stake nets, bag nets, putts, putchers, traps, night lines, and all fixed implements or engines for catching or for facilitating the catching of fish.
“Fixed engine.”	

*Prohibition of certain Modes of taking Trout.*

Penalty for taking Trout except by rod and line. **4** No person shall take or attempt to take Trout in any other manner than by angling with a rod and line ; and any person acting in contravention of this Section shall forfeit all nets and tackle used by him in so doing, and shall for each offence incur a penalty not exceeding Two Pounds.

No engines to be used for catching Trout. **5** No fixed engine of any description shall be placed or used for catching Trout in any waters ; and any engine placed or used in contravention of this Section, and any Trout taken by such engine, shall be forfeited ; and, in addition thereto, the owner of any engine placed or used in contravention of this Section shall, for each day of placing or using the same, incur a penalty not exceeding Two Pounds.

*Prohibition of the Destruction of young Fish.*

Penalty on taking young of Trout. **6** No person shall do any of the following things ; that is to say,—

- (1.) Wilfully take or destroy the young of Trout :
- (2.) Buy, sell or expose for sale, or have in his possession the young of Trout :
- (3.) Wilfully disturb any spawning bed or any bank or shallow on which the spawn of Trout may be :

And any person acting in contravention of this Section shall incur the following penalties ; that is to say,—

- (1.) He shall forfeit all the young of Trout found in his possession :
- (2.) He shall forfeit all rods, lines, and instruments used in committing any of the above offences :
- (3.) He shall for each offence pay a penalty not exceeding Two Pounds :

But nothing herein contained shall apply to any person who may have obtained such young of Trout for artificial propagation or other scientific purposes ; and nothing herein contained shall prejudice the legal right of any owner to take materials from any stream.

*Restrictions as to Times of Fishing.*

Close time. **7** No person shall in any year fish for, catch, or attempt to catch or kill Trout between the days hereinafter mentioned (which interval is herein referred to as “the close season”) ; that is to say, between the Second day of *May* and the First day of *September* following, both days inclusive ; and any person acting in contravention of this Section shall forfeit any Trout caught by him, and shall, in addition thereto, incur a penalty not exceeding Two Pounds.

*Trout.*

**8** No person shall in any year buy, sell or expose for sale, or have in his possession any Trout between the Third day of *May* and the Second day of *September* following; and any person acting in contravention of this Section shall forfeit any fish so bought, sold or exposed for sale, or in his possession, and shall incur a penalty not exceeding Two Pounds for each such fish; but nothing herein contained shall prevent the sale of Trout or the ova or young of Trout during the close season, by any person or body of persons appointed by the Governor in Council, for the purpose of stocking any *Australian* or *New Zealand* waters.

A.D. 1878.

Penalty on selling fish during close time.

*Licences to fish.*

**9** It shall not be lawful for any person to fish for, catch, or kill Trout who is not the holder of a Licence issued under the provisions of this Act.

No person to fish for Trout unless licensed.

**10** Every person who may desire to fish for Trout may apply in writing to any such person as may be appointed by the Governor in Council to issue Licences under this Act; and, upon payment to any such person of the fee fixed by the Governor in Council from time to time, a Licence may issue to the applicant authorising him to fish for Trout with rod and line until the Second day of *May* then next following the date of such Licence; but no such Licence shall entitle any person to enter upon the land of any private owner or owners adjoining waters for the purpose of catching Trout without the consent of such owner or owners.

Persons licensed may fish for Trout.

**11** If any person fishes for, catches, or kills Trout without being duly licensed under this Act, he shall for every such offence forfeit and pay a penalty not exceeding Two Pounds: he shall forfeit all rods, tackle or other instruments used by him in fishing for, catching, or killing Trout as aforesaid, and shall also be liable to pay the full Licence fee payable by such person over and above the said penalty.

Persons not licensed liable to penalty for fishing, &amp;c.

*Miscellaneous.*

**12** If Trout or the young of Trout are led aside out of a main stream by means of any artificial channel used for the purpose of supplying towns with water, or for working any mill, or for the purposes of irrigation, or for any other purpose, the person having the control over such artificial channel shall, within two months after written notice shall have been given to him by any Superintendent of Police or Chief District Constable, put up and maintain at his own costs and charges a grating or gratings across such channel, and such grating or gratings shall be of such gauge and placed in such form and manner as may be approved by the Governor in Council; and any person failing to put a grating or gratings in cases where he is required to do so by this Clause, shall incur a penalty not exceeding Two Pounds for every day after the expiration of such period of Two months during which such person shall fail to comply with the provisions of this Clause, and any such person failing so to maintain the same shall incur a penalty not exceeding Ten Shillings for every day during which such failure continues.

Penalty on person not erecting gratings to prevent the descent of Trout into artificial streams.

**13** No person shall use any fish-roe for the purpose of fishing for Trout; and any person acting in contravention of this Section shall for each offence pay a penalty not exceeding Two Pounds, and shall forfeit all Trout found in his possession.

Penalty for using roe as bait.

*Trout.*

A.D. 1878.

*Onus of proof.*

**14** In all legal proceedings taken against any person for any breach of, or non-compliance with, the provisions of this Act, the *onus* of proving that such person was duly licensed or was otherwise exempted from any penalty imposed by this Act shall in all such cases rest upon the defendant, who shall in all such proceedings be competent, but not compellable, to give evidence, anything contained in any law or practice to the contrary notwithstanding.

One moiety of  
penalty to in-  
former.

**15** One moiety of every penalty imposed under this Act shall go to the informer or person suing for the same.

Appropriation.

**16** All sums of money received for the sale of the ova or young of Trout as aforesaid, all fees received by any person for licences under this Act, and one moiety of all penalties imposed by virtue of this Act shall be paid into the Colonial Treasury and form part of the Consolidated Revenue Fund.

Procedure in  
respect of offences.

**17** All offences against this Act shall be heard and determined, and all nets or other engines, instruments, or devices directed to be forfeited by this Act shall be adjudged forfeited, and all penalties shall be recovered in a summary way by and before any two or more Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*; and any person who thinks himself aggrieved by any summary conviction may appeal against the same in the mode prescribed by *The Appeals Regulation Act*.