

FISHERIES.

No. 7 of 1952.

An Act relating to Fisheries in certain Australian Waters.

[Assented to 13th March, 1952.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

PART I.—PRELIMINARY.

- Short title.** 1. This Act may be cited as the *Fisheries Act* 1952.
- Commencement.** 2. This Act shall come into operation on a date to be fixed by Proclamation.
- Parts.** 3. This Act is divided into Parts, as follows :—
Part I.—Preliminary.
Part II.—Administration.
Part III.—Regulation of Fisheries.
Part IV.—Research and Development.
Part V.—Miscellaneous.
- Definitions.** 4. In this Act, unless the contrary intention appears—
“ Australian waters ” means—
(a) Australian waters beyond territorial limits ; and
(b) the waters adjacent to a Territory and within territorial limits ;

- “boat” means steamer, launch, vessel or floating craft of any description ;
- “fish” includes turtles, dugong, crustacea, oysters and other shellfish but does not include any species of whales, pearl shell, trochus, bêche-de-mer or green snail ;
- “fisherman” means a person licensed under this Act to take fish ;
- “net” means a fabric of rope, cord, twine or other material knotted or woven into meshes and designed or fitted to catch fish ;
- “officer” means—
- (a) a person permanently or temporarily employed in the Public Service of the Commonwealth or of a Territory or by an authority of the Commonwealth and authorized to perform duties under this Act ;
 - (b) a person permanently or temporarily employed in the Public Service of a State and authorized to perform duties under this Act in pursuance of an arrangement between the Commonwealth and the State ;
 - (c) a member of the police force of a State or Territory ;
 - (d) a Peace Officer appointed under the *Peace Officers Act* 1925 ; and
 - (e) a member of the Defence Force ;
- “proclaimed waters” means Australian waters specified by Proclamation in force under section seven of this Act ;
- “take”, in relation to fish, means take, catch or capture for trading or manufacturing purposes and “taking” has a corresponding meaning ;
- “Territory” means Territory of the Commonwealth ;
- “the Secretary” means the Secretary to the Department of Commerce and Agriculture ;
- “trap” means an enclosure (not being a net) designed to catch fish, whether fixed to the shore or not.

5. This Act extends to all the Territories and to all Australian waters. Application.

PART II.—ADMINISTRATION.

6.—(1.) The Minister or the Secretary may, by instrument in writing, delegate to a person or authority all or any of his powers, functions and authorities under this Act (except this power of delegation) in relation to a matter or class of matters, or to a State, part of the Commonwealth or Territory, or in relation to an area of Australian waters, so that the delegated powers, functions and authorities may be exercised by the delegate with respect to the matter or class of matters, or with respect to the State, part of the Commonwealth, Territory or area of Australian waters specified in the instrument of delegation. Delegation.

(2.) A delegation under the last preceding sub-section is revocable in writing at will and does not prevent the exercise of a power, function or authority by the Minister or the Secretary.

PART III.—REGULATION OF FISHERIES.

Proclaimed
waters.

7. The Governor-General may, by Proclamation, declare any Australian waters to be proclaimed waters for the purposes of this Act.

Regulation of
fishing.

8.—(1.) The Minister may, by notice published in the *Gazette*—

- (a) prohibit, either at all times or during a period specified in the notice, the taking, from proclaimed waters or from an area of proclaimed waters, of fish or of fish of a species specified in the notice;
- (b) prohibit the taking, from proclaimed waters or from an area of proclaimed waters, of fish of a species specified in the notice not exceeding a size so specified; and
- (c) prohibit the taking, from proclaimed waters or from an area of proclaimed waters, of fish, or fish of a species specified in the notice, by a method or equipment specified in the notice.

(2.) A notice under this section may provide for exemptions from the prohibition contained in the notice.

Licences and
registration.

9.—(1.) The Secretary or a prescribed authority may grant to a person a licence to take fish in proclaimed waters or in an area of proclaimed waters.

(2.) The Secretary or a prescribed authority may grant to a person a licence in respect of a boat authorizing the use of the boat in the taking of fish in proclaimed waters or in an area of proclaimed waters.

(3.) The Secretary or a prescribed authority may grant to a person registration of nets, traps and other equipment for use in the taking of fish in proclaimed waters or in an area of proclaimed waters and may issue certificates of registration accordingly.

(4.) The Secretary or a prescribed authority may, in his discretion, grant or refuse an application for a licence or registration under this section.

(5.) A licence granted, or registration effected, under this section—

- (a) is subject to such conditions as are specified in the licence or certificate of registration; and
- (b) remains in force until the succeeding thirty-first day of December.

(6.) The Secretary or a prescribed authority may, in his discretion, on the application of the holder of a licence in respect of a boat, and of another person as proposed transferee, transfer the licence to that other person.

(7.) Such fees (if any) as are prescribed are payable in respect of the grant of an application for a licence or registration, or the transfer of a licence, under this section.

(8.) Where the Secretary or a prescribed authority is satisfied that there has been a contravention of, or failure to comply with, a condition of a licence granted, or certificate of registration issued, under this section, the Secretary or prescribed authority may cancel the licence or registration.

(9.) Registers showing the licences granted and registrations effected under this section and in force from time to time shall be kept at such places as the Minister directs.

10. An officer may—

- (a) board or enter upon a boat in proclaimed waters or a boat which he has reason to believe has been used, is being used, or is intended to be used, for the taking of fish in proclaimed waters and may search the boat for fish, nets, traps and other equipment used or capable of being used for taking fish ;
- (b) examine any nets, traps or other equipment found in any place, being nets, traps or equipment which he has reason to believe have been used, are being used, or are intended to be used, for the taking of fish in proclaimed waters ;
- (c) seize, take, detain, remove and secure any fish, boat, net, trap or equipment which the officer has reason to believe has been taken or used, is being used, or is intended to be used, in contravention of this Act ;
- (d) without warrant, arrest a person whom the officer has reason to believe has committed an offence against this Act ;
- (e) require the master or other person in charge of a boat which the officer has reason to believe has been used, is being used or is intended to be used in contravention of this Act to bring the boat to a place in Australia or a Territory specified by the officer and to remain in control of the boat at that place until an officer permits him to depart from that place ;
- (f) bring a boat which the officer has reason to believe has been used, is being used or is intended to be used in contravention of this Act to a place in Australia or a Territory and may remain in control of that boat pending the taking of proceedings in respect of that contravention ;
- (g) require the master or other person in charge of a boat required to be licensed under this Act to produce the licence for the boat and take copies of, or extracts from, the licence ;
- (h) require the master or other person in charge of a boat required to be licensed under this Act to give information concerning the boat and her crew and any person on board the boat ;
- (i) require a person who is on board a boat required to be licensed under this Act, or is engaged in fishing in proclaimed waters, or whom he reasonably suspects of having committed an offence against this Act, to state his name and place of abode ;

Powers of
officers.

- (j) require a person engaged in fishing in proclaimed waters to state whether he is the holder of a licence under sub-section (1.) of section nine of this Act and, if so, to produce the licence ; and
- (k) sell any fish seized by him under this Act.

PART IV.—RESEARCH AND DEVELOPMENT.

Exploratory
operations.

11. The Secretary may, subject to the directions of the Minister, carry out operations—

- (a) for ascertaining whether fishing in an area of Australian waters can be engaged in on a commercial basis ; and
- (b) for the development of fisheries in Australian waters.

Investigations.

12. The Secretary shall, subject to the directions of the Minister, cause investigations to be made into economic matters relating to fisheries in Australian waters.

PART V.—MISCELLANEOUS.

Offences.

13. A person shall not—

- (a) in an area of proclaimed waters, engage in the taking of fish unless he is the holder of a licence in force under section nine of this Act authorizing him to do so ;
- (b) in an area of proclaimed waters, use a boat, net, trap or other equipment for the taking of fish, or have a boat, net, trap or other equipment for the taking of fish in his possession or in his charge, unless that boat, net, trap or equipment is licensed or registered under this Act, in his name or in the name of a person on whose behalf he is acting, for use in the taking of fish in that area ;
- (c) being the holder of a licence under this Act, contravene a condition of the licence ;
- (d) being a person in whose name a net, trap or other equipment is registered under this Act, contravene a condition of the registration ; or
- (e) do an act prohibited by a notice for the time being in force under section eight of this Act.

Penalty : Five hundred pounds and, if the court so orders, the forfeiture of any boat, net, trap or equipment used in the commission of the offence or any fish taken in contravention of this Act or the proceeds of the sale of any such fish.

Obstruction of
officers, &c.

14. A person shall not—

- (a) fail to facilitate by all reasonable means the boarding of a boat by an officer ;
- (b) refuse to allow a search to be made which is authorized by or under this Act ;
- (c) refuse or neglect to comply with a requirement made by an officer under section ten of this Act ;

- (d) when lawfully required to state his name and place of abode to an officer, state a false name or place of abode to the officer ;
- (e) when lawfully required by an officer to give information, give false or misleading information to the officer ;
- (f) use abusive language to an officer ;
- (g) assault, resist or obstruct an officer in the exercise of his powers under this Act ;
- (h) impersonate an officer ; or
- (i) in an application under this Act, make a statement or furnish information which is false or misleading in any particular.

Penalty : Five hundred pounds.

15.—(1.) Subject to the next succeeding sub-section—

Jurisdiction of courts.

- (a) the several courts of summary jurisdiction of the States are invested with federal jurisdiction ; and
- (b) jurisdiction is conferred on the several courts of summary jurisdiction of the Territories,

with respect to offences against this Act or the regulations.

(2.) The jurisdiction invested in or conferred on courts of summary jurisdiction by the last preceding sub-section is invested or conferred within the limits (other than limits arising by reason of the place at which an offence was committed) of their several jurisdictions, whether those limits are as to subject-matter or otherwise.

(3.) The jurisdiction vested in, or conferred on, a court by this section shall not be judicially exercised except by a Judge, a Chief, Police, Stipendiary or Special Magistrate, or a District Officer or Assistant District Officer of a Territory.

(4.) Nothing in this section affects jurisdiction vested in courts other than courts of summary jurisdiction by the *Judiciary Act* 1903–1950 or by or under any other Act.

(5.) For the purposes of this section, “ court of summary jurisdiction ” includes a court of a Territory sitting as a court for the making of summary orders or the summary punishment of offences under the law of the Territory.

16. In proceedings for an offence against this Act or the regulations, the averment of the prosecutor that an act was done for trading or manufacturing purposes is *prima facie* evidence of the matter so averred.

Evidence.

17. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and in particular—

Regulations.

- (a) for prescribing penalties not exceeding One hundred pounds for offences against the regulations ;

- (b) for prescribing signals and rules of navigation to be observed by fishermen in proclaimed waters ;
 - (c) for prescribing the method of marking of boats licensed under this Act ;
 - (d) for providing for the sale or disposal of unclaimed nets, traps or other fishing equipment found in proclaimed waters ;
 - (e) for regulating the rights of priority as between fishermen in proclaimed waters and for prescribing the rules of fishing in proclaimed waters ; and
 - (f) for providing for the furnishing of statistics in relation to the taking of fish in proclaimed waters and to the sale or disposal of fish taken in proclaimed waters.
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