

FISHERIES.

No. 48 of 1959.

An Act to amend the *Fisheries Act* 1952-1956.

[Assented to 22nd May, 1959.]

[Date of commencement, 19th June, 1959.]

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

- 1.—(1.) This Act may be cited as the *Fisheries Act* 1959.
- (2.) The *Fisheries Act* 1952-1956* is in this Act referred to as the Principal Act.
- (3.) The Principal Act, as amended by this Act, may be cited as the *Fisheries Act* 1952-1959.

Short title
and citation.

* Act No. 7, 1952, as amended by No. 3, 1953; and No. 4, 1956.

2. Section three of the Principal Act is repealed and the following section inserted in its stead:—

Parts.

“ 3. This Act is divided into Parts, as follows:—

Part I.—Preliminary (Sections 1–5).

Part II.—Administration (Section 6).

Part III.—Regulation of Fisheries (Sections 7–10).

Part IV.—Research and Development (Sections 11–12).

Part V.—Miscellaneous (Sections 13–17).”.

Definitions.

3. Section four of the Principal Act is amended by omitting the definition of “ the Secretary ” and inserting in its stead the following definition:—

“ ‘ the Secretary ’ means the Secretary to the Department of Primary Industry; ”.

Regulation of fishing.

4. Section eight of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words “ of a species ” (wherever occurring) and inserting in their stead the words “ included in a class of fish ”; and

(b) by adding at the end thereof the following sub-sections:—

“ (3.) Without limiting the generality of the power conferred by sub-section (1.) of this section to prohibit the taking of fish included in a class of fish, that power extends to prohibiting, in the case of crayfish, the taking of female crayfish having eggs or spawn attached to them.

“ (4.) In a notice under paragraph (b) of sub-section (1.) of this section, the Minister may also prohibit the cutting up or dismembering, on a boat in proclaimed waters, or in the area of proclaimed waters, as the case may be, of the fish, or of the fish included in the class of fish, specified in the notice that are taken from proclaimed waters, or from the area of proclaimed waters, as the case may be.”.

Offences.

5. Section thirteen of the Principal Act is amended—

(a) by inserting in paragraph (a), after the word “ fish ”, the words “, whether on his own account or as the partner, agent or employee of another person,”;

(b) by inserting after paragraph (b) the following paragraph:—

“ (ba) in an area of proclaimed waters, have a fish in his possession or under his control in a boat at a time when the taking of the fish in that area is prohibited by a notice in force under section eight of this Act; ”;

(c) by inserting after the word “ taken ” the words “, cut up or dismembered ”; and

(d) by adding at the end thereof the following sub-section:—

“(2.) It is a defence to a prosecution for an offence against paragraph (ba) of the last preceding sub-section if the person charged satisfies the court—

- (a) that the fish was not taken, caught or captured for trading or manufacturing purposes;
- (b) that the fish was not taken, caught or captured in the area of proclaimed waters; or
- (c) that, if the fish was taken, caught or captured in the area of proclaimed waters, the taking, catching or capturing of the fish was not in contravention of this Act.”.

6. After section thirteen of the Principal Act the following section is inserted:—

“ 13A. A person shall not, in an area of proclaimed waters, remove a fish from a net, trap or other equipment registered under this Act for use in the taking of fish in that area unless he is the person to whom registration of the net, trap or other equipment was granted or is acting with the authority of that person.

Removing
fish from
traps, &c.

Penalty: One hundred pounds or imprisonment for six months.”.

7. Section sixteen of the Principal Act is repealed and the following section inserted in its stead:—

“ 16. Where, in proceedings for an offence against this Act or the regulations—

Evidence.

- (a) an officer gives evidence that he suspects that fish to which the charge relates were taken in proclaimed waters or in a particular area of proclaimed waters or were taken for trading or manufacturing purposes, together with evidence of the grounds on which he so suspects; and
- (b) the court considers that, having regard to that evidence, the suspicion is reasonable,

the fish shall, in the absence of proof to the contrary, be deemed to have been so taken.”.

8. Section seventeen of the Principal Act is amended by omitting paragraph (c) and inserting in its stead the following paragraph:—

Regulations.

- “(c) for providing for the marking of boats licensed under this Act and of nets, traps and other equipment registered under this Act;”.