



NEW ZEALAND

ANALYSIS

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1948, No. 11

AN ACT to amend the Fisheries Act, 1908.

Title.

[26th August, 1948

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Fisheries Amendment Act, 1948, and shall be read together with and deemed part of the Fisheries Act, 1908 (hereinafter referred to as the principal Act).

Short Title.

See Reprint
of Statutes,
Vol. III, p. 344

PART I

SEA-FISHERIES

Increasing maximum penalty for offences and making provision as to evidence of boundaries.

2. Section five of the principal Act is hereby amended as follows:—

(a) By omitting from paragraph (t) the words “if the breach is of any regulation respecting seals, and not exceeding one hundred pounds in other cases,”:

(b) By adding the following new subsection as subsection two thereof:—

“(2) Where in any regulation made under this section a boundary is fixed by reference to the site of any post or landmark, proof that the approximate site set out in the regulation was at the coming into force of the regulation or at any time thereafter marked by a post or landmark, as the case may be, of the kind set out in the regulation shall be sufficient evidence for the purpose of any proceedings for a breach of that regulation that at all relevant times the boundary was so marked in accordance with the regulation.”

Extending powers to prohibit export of fish.

3. Section twelve of the principal Act is hereby amended by adding to subsection one the words “or caught outside New Zealand waters from any fishing-boat licensed under this Act and landed at any place in New Zealand”.

Amending provisions as to killing of fish by explosives.

4. Section fifty of the principal Act is hereby amended as follows:—

(a) By omitting from subsection one and also from subsection two the words “or whales”:

(b) By omitting from subsection one the words “twenty pounds”, and substituting the words “one hundred pounds”.

Amending provisions as to apprehension of offenders.

5. Section fifty-two of the principal Act is hereby amended by adding the following new subsections:—

“(3) Where any person is found offending against this Part of this Act or against any regulation made thereunder it shall be lawful for any fishery officer or

constable to require the offender forthwith to desist from that offence, and also to tell his Christian name, surname, and place of abode.

“(4) If the offender, after being so required, refuses to tell his real Christian name, surname, or place of abode, or gives such a general description of his place of abode as is illusory for the purposes of discovery, or wilfully continues the offence, the fishery officer or constable making the request and any person acting by his order and in his aid may apprehend the offender and seize any boat, net, gear, tackle, or apparatus that is being used by the offender, and convey him or cause him to be conveyed, as soon as conveniently may be, before a Justice to be dealt with according to law.

“(5) No person apprehended pursuant to the last preceding subsection shall on any pretence be detained for a longer period than twenty-four hours from the time of his apprehension before he is brought before some Justice; and if he cannot, by reason that any such Justice is absent or lives at a distance or for any other reason, be brought before a Justice within twenty-four hours as aforesaid, then the person apprehended shall be released, but may nevertheless be proceeded against for his offence.

“(6) Every person who after being required pursuant to subsection three of this section to tell his Christian name, surname, and place of abode, refuses to tell his real Christian name, surname, or place of abode, or gives such a general description of his place of abode as is illusory for the purposes of discovery, commits an offence against this Act.”

6. (1) Section fifty-three of the principal Act is hereby amended by omitting the words “shall be forfeited”, and substituting the words “shall on the conviction of the offender be deemed to be forfeited to His Majesty”.

Amending provisions as to forfeiture.

(2) Section fifty-seven of the principal Act is hereby amended as follows:—

(a) By inserting, before the words “be forfeited”, the words “on the conviction of the offender be deemed to”:

(b) By inserting, before the words “disposed of”, the words “shall be”.

(3) Section seventy-one of the principal Act is hereby amended by omitting the words “ and all nets, engines, instruments, and devices there directed to be forfeited shall be adjudged forfeited ”.

Amending provisions as to destroying fresh fish.

7. Section fifty-four of the principal Act is hereby amended as follows:—

(a) By omitting the words “ employed upon any licensed boat or any fish-salesman ”, and substituting the words “ being the owner of any boat used in fishing (whether for the purposes of sale or not), or being in any such boat, and every fish-salesman, fish-dealer, or fish-merchant, ”:

(b) By omitting the words “ ten pounds ”, and substituting the words “ fifty pounds ”.

Returns of fish taken or cured and of oysters taken.

8. Section sixty-six of the principal Act is hereby amended as follows:—

(a) By repealing subsection one, and substituting the following new subsection:—

“ (1) Owners of licensed fishing-boats, fish-curers, and persons licensed to take oysters shall make returns to the Marine Department in such form and at such periods as may be prescribed by the Governor-General in Council of all fish caught or cured by them or of all oysters taken by them, as the case may be. ”:

(b) By omitting from subsection two the words “ ten pounds ”, and substituting the words “ fifty pounds ”.

PART II

FRESH-WATER FISHERIES

Interpretation.

9. Section seventy-eight of the principal Act is hereby amended as follows:—

(a) By inserting, before the definition of the term “ fish ”, the following new definition:—

“ ‘ Acclimatization society ’ or ‘ registered acclimatization society ’ means an acclimatization society registered under the Animals Protection and Game Act, 1921-22; and, in relation

See Reprint of Statutes, Vol. I, p. 183

to an acclimatization district where there is for the time being no acclimatization society, means the Department of Internal Affairs:”:

- (b) By omitting from the definition of the term “fish” the words “inhabiting waters as defined by this Part of this Act”:
- (c) By inserting, after the definition of the term “fish”, the following new definition: “‘Minister’ means the Minister of Marine:”:

10. Section eighty-two of the principal Act is hereby amended by omitting the words “ten pounds”, and substituting the words “fifty pounds”. Increasing penalty for obstructing officers.

11. (1) The principal Act is hereby amended by repealing section eighty-three, and substituting the following new section:— Regulations.

“ 83. (1) The Governor-General may from time to time, by Order in Council, make such regulations (to have force and effect throughout New Zealand, or only in such waters, or in such districts, or in such part or parts of any district, as are specified in the regulations) as may in his opinion be necessary or expedient for the protection, preservation, or development of the fresh-water fisheries of New Zealand, or for giving full effect to the provisions of this Part of this Act, and for the due administration thereof.

“ (2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:—

- “ (a) Providing for the issue by acclimatization societies of licences to fish for trout or other acclimatized fish, for the payment to those societies of the prescribed fees payable in respect of those licences, and requiring those societies to pay into the Consolidated Fund, at such times and in such manner as may be prescribed, a prescribed proportion of the aggregate fees charged for licences issued by them:

- “(b) Providing for the payment to any acclimatization society of any fines or licence fees for the purpose of the distribution, rearing, cultivation, or protection of fish in the district of that society, or, with the approval of the Minister given upon or subject to such conditions as he thinks fit, for the purpose of applying the same or any part thereof either alone or jointly with any other society for any such purpose in the district of any society, or for any other fresh-water fishery purpose approved by the Minister:
- “(c) Prohibiting or imposing restrictions and conditions on fishing in any waters or in any specified part or parts thereof, or the taking of any species of fish therein, and, in the case of indigenous fish, exempting Maoris either wholly, partially, or conditionally, or in respect of any specified waters, from the operation of any such prohibition, condition, or restriction:
- “(d) Authorizing the Minister, by notice in writing published in the *Gazette* and operating in the Minister’s discretion in any acclimatization district or districts, or in any defined part or parts thereof, to modify any regulations made under this section for all or any of the following purposes:—
- “(i) Extending the duration of the close season or shortening the duration of the open season for the taking of any species of fish as fixed by regulations under this section:
- “(ii) Reducing the maximum number or maximum aggregate weight of any species of fish which may be taken in any one day as fixed by regulations under this section:
- “(iii) Increasing the minimum size of any species of fish that may be taken as fixed by regulations under this section:
- “(iv) Prohibiting or restricting the taking of any species of fish by any method or at any time or in any waters which would otherwise be lawful:

“(e) Prohibiting or imposing conditions and restrictions on the possession, or the retention in captivity, or the transfer to or release into any waters or into any private waters, of any live fish, or any form of live aquatic mollusca, crustacea, protozoa, insecta, or worms:

“(f) Regulating, restricting, or imposing conditions on the canning, smoking, freezing, or otherwise preserving of trout or other specified acclimatized fish and the possession thereof when canned, smoked, frozen, or otherwise preserved; and providing for the inspection of canneries, smoke-houses, freezing-chambers, refrigerating-works, and any premises (not being a dwellinghouse) where fish are canned, smoked, frozen, preserved, treated, dressed, or stored:

“(g) Prohibiting the casting of any rubbish or refuse or material of any kind into any waters or on to any river-bed:

“(h) For preventing the pollution of any river, stream, or waters by casting or allowing to flow into or placing on or near the bank or margin of any such river, stream, or waters sawdust or sawmill refuse, lime, sheep-dip, flax-mill refuse, or any other matter or liquid poisonous or harmful to fish:

“ Provided that the depositing of debris from any mining claim shall not be held to be pollution under any such regulations:

“(i) Imposing fines not exceeding fifty pounds for the breach of any such regulations.

“(3) For the purpose of ensuring compliance with the requirements of any regulations made under paragraph (a) of the last preceding subsection, any person authorized in that behalf by the Controller and Auditor-General may enter upon the premises of any acclimatization society and there inspect any books or papers belonging to or in the possession of the society.

“(4) All moneys paid into the Consolidated Fund pursuant to regulations made under paragraph (a) of subsection two of this section shall be applied in

defraying expenses incurred by the Minister for research in relation to fresh-water fisheries, and expenditure incidental to that research.

“(5) Nothing contained in this section or in any regulation made thereunder shall in any way affect the operation of section fourteen of the Maori Land Amendment and Maori Land Claims Adjustment Act, 1926, or of section twenty-two of the Maori Purposes Act, 1938.

“(6) All regulations made under this section shall be laid before Parliament within twenty-eight days after the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session.”

See Reprint
of Statutes,
Vol. VI, p. 405
1938, No. 23

Repeals.

See Reprint
of Statutes,
Vol. III, p. 386
Ibid., p. 387
Ibid., p. 388
1936, No. 32

(2) Section ninety-four of the principal Act, section three of the Fisheries Amendment Act, 1914, section seven of the Fisheries Amendment Act, 1923, the Fisheries Amendment Act, 1926, and the Fisheries Amendment Act, 1936, are hereby consequentially repealed. ~~And. 19~~

~~No. 19~~

Amending
provisions as to
forfeiture.

12. (1) Section eighty-four of the principal Act is hereby amended by omitting the words “shall be forfeited”, and substituting the words “shall, on the conviction of the offender, be deemed to be forfeited to His Majesty”.

(2) Section ninety-nine of the principal Act is hereby amended by omitting from subsection one the words “and all nets, engines, instruments, and devices thereby directed to be forfeited shall be adjudged forfeited.”

Amending
provisions as
to use of
explosives to
catch or
destroy fish.

13. Section eighty-five of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:—

“(1) Every person, other than an officer appointed under this Part of this Act acting in the course of his official duties, who uses dynamite or other explosive substance, or any toxic, poisonous, or narcotic substance or gas, or any electric device to catch or destroy fish in any waters, shall be liable on summary conviction to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding two months.”

14. Section eighty-eight of the principal Act is hereby further amended by inserting in paragraph (b), after the words "taking fish or ova", the words "for the purpose of scientific investigation, or".

Amending provisions as to exemptions from the principal Act.

15. (1) Section ninety-three of the principal Act, as amended by section two of the Fisheries Amendment Act, 1914, is hereby further amended as follows:—

Amending provisions as to close season for trout-fishing.

(a) By inserting in subsection one, after the word "trout", the words "and salmon":

(b) By omitting from the proviso to subsection one the words "Governor-General may", and substituting the words "Minister may in respect of the district of that society":

Stat. 19
27.

(c) By repealing subsection two.

(2) Paragraph (b) of section two of the Fisheries Amendment Act, 1914, is hereby consequentially repealed.

Repeal.
See Reprint of Statutes, Vol. III, p. 386