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1959, No. 8

An Act to amend the Fisheries Act 1908

[24 September 1959]

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

1. Short Title—This Act may be cited as the Fisheries Amendment Act 1959, and shall be read together with and deemed part of the Fisheries Act 1908 (hereinafter referred to as the principal Act).

2. Interpretation—(1) Section two of the principal Act is hereby amended by repealing the definition of the term “fish”, and substituting the following definition:

“‘Fish’ includes every description of fish and of shellfish found in New Zealand waters, and their young or fry or spawn; but does not include salmon or trout or oysters:”.

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(2) Section two of the principal Act is hereby further amended by inserting, after the definition of the term "seals", the following definitions:

"Secretary for Marine" means the Secretary for Marine appointed under the Shipping and Seamen Act 1952; and includes his deputy:

"Shellfish" includes every description of molluscs, crustaceans, and echinoderms found in New Zealand waters, and their young or spawn; but does not include oysters:"

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(3) Section two of the principal Act is hereby further amended by repealing the definition of the term "take", and substituting the following definition:

"Take" and all references thereto—

"(a) Include taking, catching, killing, or pursuing by any means or device; and

"(b) In relation to shellfish or oysters, also include their removal or extraction or separation from the bed of any tidal waters; and

"(c) Also include the attempt to take:"

(4) Section two of the principal Act is hereby further amended by adding to the definition of the term "waters" or "New Zealand waters" the words "and also includes the waters of any lake, river, or stream where fish indigenous to New Zealand are found".

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(5) Section two of the principal Act is hereby further amended by adding the following subsection as subsection two thereof:

"(2) For the purposes of this Part of this Act and of any regulations under this Part of this Act, fish or oysters or marine mammals (including seals), or any parts thereof, shall be deemed to be in the possession of any person when that person has, alone or jointly with any other person, possession of or control over the fish or oysters or marine mammals, or the parts thereof, or possession of or control over any vessel, vehicle, container, package, thing, or place in or on which are the fish or oysters or marine mammals, or the parts thereof:

"Provided that, in any proceedings for an offence against this Part of this Act or any regulations under this Part of this Act, being an offence relating to the possession of any fish or oysters or marine mammals, or any parts thereof, found in or on any vessel, vehicle, container, package, thing, or

place in the possession or under the control of the defendant, alone or jointly with any other person, it shall be a good defence if the defendant satisfies the Court that he had no knowledge that they were in or on that vessel, vehicle, container, package, thing, or place.”

(6) Section seventy-eight of the principal Act is hereby amended by inserting, after the definition of the term “private waters”, the following definition:

“ ‘Secretary for Marine’ means the Secretary for Marine appointed under the Shipping and Seamen Act 1952; and includes his deputy:”.

(7) Section seventy-eight of the principal Act is hereby further amended by adding the following subsection as subsection two thereof:

“(2) For the purposes of this Part of this Act and of any regulations under this Part of this Act, fish shall be deemed to be in the possession of any person when that person has, alone or jointly with any other person, possession of or control over the fish, or possession of or control over any vessel, vehicle, container, package, thing, or place in or on which the fish is:

“Provided that, in any proceedings for an offence against any regulations under this Part of this Act, being an offence relating to the possession of any fish found in or on any vessel, vehicle, container, package, thing, or place in the possession or under the control of the defendant, alone or jointly with any other person, it shall be a good defence if the defendant satisfies the Court that he had no knowledge that the fish was in or on that vessel, vehicle, container, package, thing, or place.”

3. Regulations—(1) Section five of the principal Act is hereby amended by inserting in subsection one, after paragraph (d), the following paragraphs:

“(dd) Regulating the places at which shellfish taken may be opened:

“(ddd) Prohibiting or regulating the removal or disposal on or from boats of any fish taken or any part thereof and the removal or disposal, whether on or from boats or otherwise, of female crayfish taken or any part thereof, and regulating the condition or state in which any fish taken may be brought ashore from any boat:”.

(2) Section five of the principal Act is hereby further amended by repealing paragraph (j) of subsection one, as amended by paragraph (b) of section two of the Fisheries Amendment Act 1956, and substituting the following paragraphs:

“(j) Prohibiting or regulating the buying, selling, exposing for sale, consigning for sale, acquiring, receiving, or having in possession any fish, oyster, or marine mammal (including any seal), or any part of any fish or oyster or of any such marine mammal, or any oil or blubber from any such marine mammal:

“(jj) Regulating the quantity of fish or oysters that may at any one time be kept or conveyed on any vehicle or vessel or animal or kept in any container, package, or place:”.

(3) Section two of the Fisheries Amendment Act 1956 is hereby consequentially amended by repealing paragraph (b).

4. Validation of regulations—Any regulations made under the principal Act before the passing of this Act which would have been valid if sections two and three of this Act had been in force when the regulations were made are hereby validated and declared to have been lawfully made:

Provided that any proceedings commenced (whether before or after the passing of this Act) for an offence against any such regulations arising out of any act done or omitted before the passing of this Act shall be heard and determined as if those sections had not been passed.

5. Destruction of aged, sick, or troublesome seals—The principal Act is hereby amended by inserting, after section forty-five, the following section:

“45A. Notwithstanding anything in this Act, the Secretary for Marine may from time to time in his discretion authorise any person, on such conditions as the Secretary thinks fit, to destroy aged or sick or troublesome seals.”

6. Actions against officers—(1) Section seventy-five of the principal Act is hereby amended by inserting in subsection two, before the words “a verdict is given for the defendant”, the words “in any action brought against any fishery officer or other officer or person for anything done in pursuance of this Part of this Act or any regulations thereunder”.

(2) Section ninety-seven of the principal Act is hereby amended by inserting in subsection two, before the words “a verdict is given for the defendant”, the words “in any action brought against any person for anything done in pursuance of this Part of this Act or any regulations thereunder”.

7. Payment of part of licence fees to Island Councils—Section eighty-three of the principal Act, as substituted by section eleven of the Fisheries Amendment Act 1948, is hereby amended by inserting in subsection two, after paragraph (b), the following paragraph:

“(bb) Providing for the payment by any acclimatisation society in the North Island to the Council of North Island Acclimatisation Societies, and by any acclimatisation society in the South Island to the Council of South Island Acclimatisation Societies, of a prescribed portion of the aggregate fees charged for licences issued by them:”.

8. Licensing of fishermen—The Fisheries Amendment Act^{REP. 1961} 1945 is hereby amended by repealing section four, and sub-^{NO. 1961}stituting the following section:^{s.}

“4. No person, not being a person employed on a fishing boat in respect of which a licence under section three of this Act is for the time being in force, shall engage in fishing (not being the taking of whitebait) for purposes of sale, unless he is the holder of a licence under this Act and the principal Act authorising him to engage in fishing.”

9. Honorary fishery officers and honorary officers—(1) The Secretary for Marine may from time to time appoint suitable persons to be honorary fishery officers for the purposes of Part I of the principal Act, and every person so appointed shall be deemed to be a fishery officer for the purposes of that Part.

(2) The Secretary for Marine may from time to time appoint suitable persons to be honorary officers for the purposes of Part II of the principal Act, and every person so appointed shall be deemed to be an officer for the purposes of that Part.

(3) Every person appointed under this section shall be appointed for such term, not exceeding three years, as the Secretary for Marine thinks fit, and may be reappointed.

(4) Any person appointed under this section may at any time be removed from office by the Secretary for Marine for incapacity, neglect of duty, or misconduct, or may at any time resign his office by writing addressed to the Secretary.

(5) Any person appointed under this section shall, on the expiration of the term of his appointment, or on the sooner expiry of his appointment by removal from office or resignation, surrender to the Secretary for Marine his warrant of appointment.

(6) No person appointed under this section shall by virtue of that appointment be deemed to be employed in the service of Her Majesty for the purposes of the Public Service Act 1912 or the Superannuation Act 1956.

(7) Every warrant of appointment under this section purporting to bear the signature of the Secretary for Marine shall be deemed, until the contrary is proved, to have been duly issued by him. In this subsection the term "signature" includes a facsimile of a signature, by whatever process it is reproduced.

(8) Every person who on the passing of this Act holds an appointment as an honorary fishery officer or an honorary officer made by the Minister of Marine under section twenty-nine of the Statutes Amendment Act 1946 shall continue to hold that office as if he had been appointed by the Secretary for Marine under this section, and the provisions of this section shall accordingly apply to him as if he had been so appointed.

(9) Section twenty-nine of the Statutes Amendment Act 1946 is hereby repealed.