

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]
House of Representatives, 10 November 1964

Words struck out by the Committee of the Whole are shown in italics within bold round brackets; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line of new matter.

Hon. Mr Scott

ROCK OYSTER FARMING

ANALYSIS

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A BILL INTITULED

An Act to provide for the establishment and carrying on in New Zealand waters of a rock oyster farming industry

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 Rock Oyster Farming Act 1964.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Harbour Board” means any Harbour Board within the meaning of the Harbours Act 1950:

“Lease” means any lease granted to any person under this Act:

No. 107—2

Price 6d.

“Lease-land” means any part of the bed of the sea or of a river, whether within the ebb and flow of the tide at ordinary spring tides or not:

“Local authority” means a local authority within the meaning of the Harbours Act 1950: 5

“Minister” means the Minister of Marine:

“Prescribed” means prescribed by any regulations made under this Act:

“Oyster farm” means any lease-land and any erection or structure thereon or therein used for or in connection with the propagation or cultivation of rock oysters: 10

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

3. Act to apply notwithstanding Harbours Act 1950 and other enactments—Notwithstanding the provisions of the Harbours Act 1950 or of any other enactment, it shall be lawful.— 15

(a) Where any lease-land is the property of the Crown, for the Minister to grant leases of such lease-land for oyster farms under this Act; and 20

(b) Where any lease-land is vested in a Harbour Board or local authority, for that Harbour Board or local authority, with the consent of the Minister, to grant leases of such lease-land for oyster farms under this Act. 25

4. Applications for leases and objections—(1) Every application for a lease under this Act shall be made in the prescribed form to the Secretary where the lease-land is the property of the Crown, or to the Harbour Board or local authority in whom such land is vested. 30

(2) Notice in the prescribed form of every application for a lease shall be published by the applicant twice at least at intervals of not more than seven days in some newspaper circulating in the district in which the lease-land is situated and every such notice shall state the date of the first publication of that notice. 35

(3) A copy of the notice referred to in subsection (2) of this section shall, not later than the date of first publication of the same, be sent by registered post by the applicant to the registered proprietors of any land adjoining the foreshore or the foreshore reserve contiguous with the lease-land that is the subject of the application or, where the adjoining land is a domain or a national park or a public reserve, to the Domain Board or, as the case may be, the National Park Board or the administering body of the reserve. 40 45

(4) The locality or area within which the lease-land is situated shall be sufficiently described or referred to in the notice to enable it to be readily identified without the necessity of reference to the plans or records of any office.

5 (5) Any person who objects to the granting of a lease under this Act may, within fourteen days after the first publication of the notice of application pursuant to subsection (2) of this section, file with the Secretary a notice of his objection to the application **(and to)** stating the grounds
10 thereof. A copy of the notice of objection shall be sent by the Secretary to the applicant.

(6) The Minister shall not grant or consent to the granting of any lease before the expiry of one month after the first publication of the notice of application.

15 (7) The Minister shall have regard to any objections filed under subsection (5) of this section and to any representations made by the applicant in respect thereof, and, if satisfied that the grant of a lease would interfere with any existing right of navigation or would not be in the public interest,
20 shall refuse to grant or consent to the granting of the lease.

5. General conditions relating to leases—(1) Any lease granted under this Act shall be in such form and contain such terms and conditions as may be prescribed and be at such rent and subject to such other conditions, and for such
25 term of years not exceeding fourteen years, as the Minister thinks fit.

(2) Any lease may contain provisions for the renewal thereof at the expiration of the term at a rental to be determined in such manner as may be prescribed in respect of renewal
30 of such leases.

6. Power to cancel leases—(1) The Minister may, if satisfied that a lessee has not made reasonable attempts to establish an oyster farm on lease-land or on any part thereof within two years after the date of the grant of the lease, cancel the
35 lease as to the whole of the lease-land or that part, as the case may be, without payment of compensation, and thereupon the lessee's rights to the lease-land or, as the case may be, to that part, shall cease absolutely.

(2) The Minister may, at any time after the expiration of two years from the date of the grant of the lease, if of the opinion that the whole or any part of the lease-land is not being utilised for the cultivation of rock oysters, serve a notice upon the lessee requiring him within three months to take such steps as may be specified therein to utilise the area of lease-land (being the whole or part of the lease-land comprised in the lease) referred to in the notice. 5

(3) After the expiration of the period of three months from the date of the notice referred to in subsection (2) of this section, the Minister may, if satisfied that the lessee has not made substantial compliance with the terms of the notice, cancel the lease as to the area of lease-land referred to in the said notice, without payment of compensation, and thereupon the lessee's rights to such area shall cease absolutely. 10 15

7. Registration of leases—(1) Where any lease is presented to the District Land Registrar for registration, and because of the lack of an adequate description, or of survey definition of the area leased, or for any other reason such lease is not capable of being registered under the Land Transfer Act 1952, the District Land Registrar may enter it in the register of leases kept in the Land Registry Office under the provisions of subsection (1) of section 83 of the Land Act 1948. 20

(2) Every transfer, sublease, mortgage, transmission, or other disposition of or dealing with any such lease shall be registered in the Land Registry Office, and the District Land Registrar on presentation to him of the instrument of disposition or dealing, and also of the outstanding copy of the lease, shall endorse an appropriate memorial on the register copy of the lease and also on the outstanding copy thereof, as evidence of the disposition or dealing. Every instrument of transfer, sublease, mortgage, or other dealing registered under this subsection shall have the effect of a deed duly executed by the parties signing the same. 25 30

(3) Every instrument of disposition or dealing referred to in subsection (2) of this section shall comply as to form with the provisions of the Land Transfer Act 1952 relating to corresponding instruments registered under that Act. 35

(4) There shall be paid to the District Land Registrar for the registration of any lease or other instrument pursuant to this section the same fee as that prescribed by regulations in force under the Land Transfer Act 1952 in respect of the corresponding instrument under that Act. 40

(5) All dealings with or under any such lease in contravention of the provisions of this section shall be void and the District Land Registrar shall not register any dealing with or under a lease until he is satisfied that the said provisions
5 have been complied with.

(6) Where the Minister acting under the provisions of section 6 of this Act has cancelled any lease or part of any lease which has been registered under the provisions of the Land Transfer Act 1952 or of this section, the District Land
10 Registrar shall, on presentation of a certificate to that effect under the hand of the Secretary, register the same, without fee against the register copy of the relative certificate of title (if any) and of the lease, and against the outstanding copies of the said title and lease if they are produced to him for
15 that purpose.

8. Regulations—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes—

- 20 (a) Prescribing the forms of application and notices, made or issued under or for the purposes of this Act:
- (b) Prescribing the terms and conditions to be contained in leases granted pursuant to this Act and the form thereof:
- 25 (c) Prescribing methods of assessing the rental payable in respect of lease-lands or royalties payable to the Crown or the body by whom the lease was granted in respect of rock oysters harvested therefrom:
- (d) Prohibiting, regulating, or controlling the picking of oysters from natural oyster beds in any lease-lands:
- 30 (e) Regulating the right of access of persons authorised by the Secretary to pick oysters from natural oyster beds in any lease-land and of inspectors of fisheries or fishery officers:
- (f) Prescribing terms for the renewal of leases and for the
35 determination of renewal rentals:
- (g) Providing for the marking of boundaries, accessways, and navigational hazards on any lease-land:
- (h) Providing for the management and control of any lease-land or of any structures erected in or on any
40 lease-land:
- (i) Declaring any area of lease-land to be affected by disease or marine pests and prescribing steps to be taken by the lessee to rid such area of disease or marine pests:

- (j) Declaring any area of lease-land to be contaminated or likely to become contaminated by sewage or by any other cause, and prescribing steps to be taken by the lessee to rid such area of contamination or to prevent the arising of contamination in such area or for the purification of oysters taken from any such area: 5
- (k) Prohibiting the taking of oysters from any area of lease-land declared to be affected by disease, or marine pests, or to be contaminated, or likely to become contaminated, and requiring the destruction or removal of any structures erected in such area and of any oysters growing thereon or harvested therefrom: 10
- (l) Regulating and fostering the artificial culture of rock oysters: 15
- (m) Imposing fines, not exceeding five hundred pounds, for breaches of any such regulations:
- (n) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof. 20

9. Application of certain provisions of Fisheries Act and Crimes Act—(1) In sections 29 to 33, 37 and 41 of the Fisheries Act 1908, the term “exclusive or permissive licence” shall be deemed to include a lease granted under this Act and “licensee” shall have a corresponding meaning, and the term “oyster-bed” shall be deemed to include an oyster farm under this Act. 25

(2) Section 219 of the Crimes Act 1961 is hereby amended by inserting in subsection (5), after the term “oyster-beds”, the words “oyster farms,”. 30

10. Lease not to grant right to take oysters from natural beds—Nothing in this Act, or in section 29 of the Fisheries Act 1908, shall be construed as authorising any lessee, or any servant or agent of such lessee, to take oysters growing on any natural or artificial oyster-bed (not being an oyster-bed *(made by that lessee)* of which he is the lessee) unless he is otherwise authorised to do so by regulations made under this Act. 35