

FISHERIES (CONSOLIDATION) ACT 1959

LONG TITLE

An Act to consolidate the Fisheries Acts, 1842 to 1958, and certain other enactments relating to fisheries.
[8th July, 1959.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:— -

PART I - PRELIMINARY AND GENERAL

1 Short title.

SECT 1.—This Act may be cited as the Fisheries (Consolidation) Act, 1959.

2 Commencement.

SECT 2.—(1) This Act (except the postponed provisions) shall come into operation on the 1st day of October, 1959. (2) The postponed provisions shall come into operation on such day (not being earlier than the 1st day of October, 1959) as shall be fixed for that purpose by order of the Minister either generally or with reference to any particular provision, and different days may be so fixed for different such provisions. (3) In this section the expression "the postponed provisions" means the following provisions of this Act, namely section 16, subsection (3) of section 24, section 39, section 61, section 72, sections 79 to 84, sections 185 to 191, subsection (1) of section 192, subsection (2) of section 194, sections 195 and 196, sections 198 to 209, sections 216, 218 and 305.

3 Interpretation generally.

SECT 3.—(1) In this Act— references to angling for salmon or trout shall be construed as references to angling for salmon or trout with rod and line; annual close season for angling for salmon. the expression "the annual close season for angling for salmon" has the meaning assigned to it by subsection (1) of section 137; annual close season for angling for trout. the expression "the annual close season for angling for trout" has the meaning assigned to it by subsection (1) of section 138; annual close season for eels. the expression "the annual close season for eels" has the meaning assigned to it by section 151; annual close season for pollen. the expression "the annual close season for pollen" has the meaning assigned to it by section 148; annual close season for salmon and trout. the expression "the annual close season for salmon and trout" has the meaning assigned to it by section 126; bag net. the expression "bag net" includes a fixed engine of similar construction to a bag net; bay. the word "bay" includes any harbour or roadstead; boat. the word "boat" includes barge, cot, curragh or other vessel; box. the word "box", in relation to a fishing weir or a fishing mill dam, includes a crib or cruive; close season for oysters. the expression "close season for oysters" has the meaning assigned to it by subsection (1) of section 271; dam. the word "dam" means (except in section 115) dam, weir, dyke, sluice, embankment or other structure built or placed in or in connection with any river for or in connection with the sustaining of water for any purpose; day-time. the word "day-time" means the period between sunrise and sunset; deleterious matter. the expression "deleterious matter" means any substance (including an explosive) which, on entry or discharge into any waters, is liable to render the waters poisonous or injurious to fish, spawning grounds or the food of any fish; District Justice. the expression "District Justice" means a Justice of the District Court; draft net. the expression "draft net" includes a seine; eel. the word "eel" includes the fry and young of eels, commonly called elvers; election year. the expression "election year" means the year 1961 and every third successive year thereafter; electoral division. the expression

"electoral division" means waters declared by subsection (2) of section 19 to be an electoral division for the purposes of this Act; estuary. the word "estuary" includes any harbour or roadstead; fish. the word "fish" includes all crustaceans and molluscs found in the sea, and brood and spawn of fish, and references to a fish shall be construed as including references to part of that fish; fish pass. the expression "fish pass" means a channel for the free run or migration of fish in, over or in connection with an obstruction in a river, lake or watercourse and includes a fish ladder or any other contrivance which facilitates the passage of fish; fishery district. the expression "fishery district" means an area declared by subsection (1) of section 19 to be a fishery district for the purposes of this Act; fishery rate. the expression "fishery rate" means a rate— (a) struck by a board of conservators and confirmed by the Minister under section 55, or (b) struck by the Minister under the said section; fishery year. the expression "fishery year" means the period of twelve months commencing on the 1st day of October in any year; fishing engine. the expression "fishing engine" means any engine, net or other instrument whatsoever capable of being used for the taking of fish; fishing licence. the expression "fishing licence", when used without qualification, means a licence being either— (a) an ordinary fishing licence, or (b) a special local licence; fishing mill dam. the expression "fishing mill dam" means a dam used or intended to be used partly for the purpose of taking or facilitating the taking of fish and partly for the purpose of sustaining water for milling or other purposes; fishing weir. the expression "fishing weir", means any erection, structure or obstruction, which— (a) is fixed to the soil across or partly across a river, (b) is used solely for the purpose of taking or facilitating the taking of fish, (c) incorporates one or more openings wherein fish may be taken, and (d) is not a head weir; fixed engine. the expression "fixed engine" means any engine, being— (a) a stake net, or (b) a bag net, or (c) a fixed draft net, or (d) a head weir, or (e) any net, implement, engine or device, fixed to the soil or secured by anchors or held by hand or made stationary in any other way and used solely for the purpose of taking or facilitating the taking of fish, not being a fishing weir or a fishing mill dam; free gap. the expression "free gap" means a free gap in a fishing weir in accordance with section 107; head weir. the expression "head weir" means the fixed engine commonly called a head weir or an ebb and flow weir; heck. the word "heck" means a grating mounted at the upstream end of a box in a fishing weir or fishing mill dam and so constructed as to prevent the passage of fish without obstructing the flow of water; inscales. the word "inscales" means a pair of gratings mounted at the downstream end of a box in a fishing weir or fishing mill dam and converging towards the centre in the upstream direction to form between the upstream ends a vertical gap, the effect of the arrangement being to permit the passage of fish into the box and hinder their escape therefrom; lawful fishing engine. the expression "lawful fishing engine" means any fishing engine the use of which (except during particular times, in particular places or in a particular manner) is not prohibited by this Act or any bye-law made thereunder; licence duty. the expression "licence duty" means— (a) in relation to an ordinary fishing licence, the licence duty payable for such licence, (b) in relation to a special local licence, in respect of special tidal waters, the special local licence duty payable for such licence; Minister. the expression "the Minister" means the Minister for Lands; mouth of a river. references to the mouth of a river shall be construed as references to the mouth of that river as defined by an order under section 10; non-scheduled engine. the expression "non-scheduled engine" means an engine of a not specified in the Fourth Schedule to this Act; October close period for angling. the expression "the October close period for angling" means the period commencing on the 13th day of October and ending on the 31st day of that month; offence under any provision of this Act. the expression "offence under any provision of this Act" means an any section or subsection of this Act or any instrument made thereunder; offence under the repealed enactments. the expression "offence under the repealed enactments" includes an offence against any instrument made under the repealed enactments; officer of the Minister. the expression "officer of the Minister" includes a servant of the Minister; operative date. the expression "the operative date" means the 1st day of October 1959; ordinary fishing licence. the expression "ordinary fishing licence" means the duty payable under Chapter I of Part VI; ordinary licence duty. the expression "ordinary licence duty" means the duty payable under Chapter I of Part VI for an ordinary fishing licence; owner. the word "owner" means any person who is in the actual possession or use and enjoyment of any land or fishery (as the case may be); oyster fishing licence. the expression "oyster fishing licence" means a fishing licence granted under Chapter VI of Part XIV; prescribed. the word "prescribed" means prescribed by regulations made by the Minister under this Act; repealed enactments. the expression "the repealed enactments" means the enactments repealed by this Act; rivers. the word "rivers" includes tributaries of rivers and all other streams and watercourses; rod and line. the expression "rod and line" means a single rod and line; salmon. the word "salmon" includes all fish of the salmon species, sea trout and the spawn and fry

thereof; salmon river. the expression "salmon river" means any river frequented by salmon; salmon rod licence. the expression "salmon rod licence" means a licence to fish with rod and line for salmon; salmon rod ordinary licence. the expression "salmon rod ordinary licence" means an ordinary fishing licence to fish with rod and line for salmon; salmon rod (annual) (district) ordinary licence. the expression "salmon rod (annual) (district) ordinary licence" means a salmon rod ordinary licence which is valid for a period of one year and is available for use in every fishery district; salmon rod (Foyle Area) licence. the expression "salmon rod (Foyle Area) licence" means a salmon rod licence issued in pursuance of regulations made under the Foyle Fisheries Act, 1952 (No. 5 of 1952), which is valid for a year; salmon rod (late season) ordinary licence. the expression "salmon rod ordinary licence which is valid for a period of six months commencing on a first day of July and is available for use in every fishery district; salmon rod (late season) (district) ordinary licence. the expression "salmon rod (late season) (district) ordinary licence" means a salmon rod ordinary licence which is valid for a period of six months commencing on a first day of July and is available for use in the fishery district of the board of conservators by which it was issued and in no other fishery district; salmon rod (twenty-one day) ordinary licence. the expression "salmon rod (seven day) ordinary licence" means a salmon rod ordinary licence which is valid for a period of seven days; salmon rod (twenty-one day) ordinary licence. the expression "salmon rod (twenty-one day) ordinary licence" means a salmon rod ordinary licence which is valid for a period of twenty-one days; scheduled engine. the expression "scheduled engine" means any engine of a kind specified in the Fourth Schedule to this Act; scheduled trout waters. the expression "scheduled trout waters" means any river or lake or portion thereof declared by an order, made under section 79 and for the time being in force, to be scheduled trout waters for the purposes of this Act; sea fisheries protection officer. the expression "sea fisheries protection officer" means a person declared by section 220 to be a sea fisheries protection officer; several fishery. the expression "several fishery" means any fishery lawfully enjoyed as such under any title whatsoever, being a good and valid title at law, exclusively of the public by any person, whether in navigable waters or in waters not navigable, and whether the soil covered by such waters be vested in such person or in any other person; special local licence. the expression "special local licence" means a licence granted under section 74 in respect of special tidal waters; special local licence duty. the expression "special local licence duty" means the duty payable under section 74 for a special local licence granted in respect of special tidal waters; special tidal waters. the expression "special tidal waters" means any tidal waters in respect of which an order, made under section 7, is for the time being in force; stake net. the expression "stake net" includes a stake weir and any fixed engine of similar construction to a stake net; trout. trout the word "trout", when used without any qualification includes— (a) all fish of the brown trout kind, (b) save in Part IX pollen or freshwater herring, and (c) any spawn or fry of a trout, but does not include sea trout; trout rod (general) licence. the expression "trout rod (general) licence" means a licence to fish for trout with a rod and line issued under subsection (1) of section 83; trout rod (juvenile) licence. the expression "trout rod (juvenile) licence" means a licence to fish for trout with a rod and line issued under subsection (3) of licence section 83; trout rod licence. the expression "trout rod licence" means a licence being— (a) a trout rod (general) licence, or (b) a trout rod (riparian owner) licence, or (c) a trout rod (juvenile) licence; trout rod (riparian owner) licence. the expression "trout rod (riparian owner) licence" means a licence issued under subsection (2) of section 83; unlawful fishing engine. the expression "unlawful fishing engine" means a fishing engine which is not a lawful fishing engine; unseasonable salmon or trout. the expression "unseasonable salmon or trout" means any salmon or trout which is about to spawn, or which has spawned and has not recovered from spawning; vested (Part XII) fishery. the expression "vested (Part XII) fishery" means a fishery which is either— (a) vested in the Minister under Chapter II of Part XII, or (b) transferred to the Minister under Chapter III of Part XII; waste. the word "waste" includes all uncultivated or unprofitable lands; waters. the word "waters" means any river, lake, watercourse, estuary or any part of the sea; weekly close time. the expression "weekly close time" has the meaning assigned to it by section 139. (2) In this Act— (a) a reference by number to a Part or section is to the Part or section of this Act bearing that number unless it is indicated that reference to some other Act is intended, (b) references to any bye-law, order or regulation made under this Act shall be construed as including references to any bye-law, order or regulation deemed by section 10 or section 334 to have been made under this Act. (3) In this Act references to any enactment shall be construed as references to that enactment as amended by any subsequent enactment.

4 Regulations.

SECT 4.—(1) The Minister may make regulations in relation to any matter referred to in this Act as prescribed. (2) Every regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling such regulation is passed by either such House within the next subsequent twenty-one days on which such House has sat after such regulation is so laid before it, such regulation shall be annulled accordingly but without prejudice to the validity of anything previously done under such regulation.

5 Repeals.

SECT 5.—The enactments specified in the First Schedule to this Act are hereby repealed to the extent specified in the third column of the said Schedule.

6 Expenses.

SECT 6.—All expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART II - MISCELLANEOUS POWERS AND DUTIES OF THE MINISTER

7 Special tidal waters.

SECT 7.—(1) The Minister may, with the concurrence of the Minister for Finance, from time to time by order declare that any particular tidal waters to which this section applies shall be special tidal waters for the purposes of this Act. (2) Every order made under this section shall specify and define the tidal waters to which it purports to relate and shall be final and conclusive as to the area of such tidal waters notwithstanding any discrepancy between the extent of the tidal waters as so defined and the extent of the tidal waters in which a several fishery was previously enjoyed. (3) The Minister may, with the concurrence of the Minister for Finance, at any time by order revoke or amend any order previously made under this section. (4) This section applies to the tidal waters of any particular river or estuary in which, for not less than twenty years before the 1st day of January, 1933, a several fishery was believed to exist and was enjoyed as of right, but in respect of which either— (a) it was, after the 1st day of January, 1933 (whether before or after the passing of this Act), judicially determined in a court of competent jurisdiction that no several fishery existed in such tidal waters, or (b) the person, who on the 1st day of January, 1933, exercised as of right the said several fishery in such tidal waters does not nor does any other person claim to have or enjoy as of right a several fishery in such tidal waters.

8 Power of Minister to hold inquiries into fisheries.

SECT 8.—(1) The Minister may from time to time cause an inquiry to be held in any fishery district in relation to the fisheries therein or any of them and the best means to be adopted for the regulation, improvement or protection thereof, and for this purpose may appoint an officer of the Minister to hold such inquiry. (2) The Minister shall cause to be given, in accordance with section 322, notice of the holding of an inquiry under this section.

9 Power of Minister to make bye-laws for the government, management, protection and improvement of fisheries.

SECT 9.—(1) In addition to the power of making bye-laws conferred on him by any other section of this Act, the Minister may, subject to the provisions of this Act, make such bye-laws as are in his opinion

expedient for the more effectual government, management, protection and improvement of the fisheries of the State and, without prejudice to the generality of the foregoing, may make bye-laws in relation to all or any of the following matters— (a) the regulation of the fisheries of the State and the preservation of good order amongst the persons engaged therein, (b) the times and seasons at which the taking of the several species of fish shall commence and cease, (c) the times and places or the manner at and in which any fishing engine to be employed in the said fisheries may be used, (d) the description and form of nets to be used in the said fisheries and the size of the meshes thereof, (e) the prohibition of the use of nets, (f) the prohibition of the use at any time of any fishing engine which is in the opinion of the Minister injurious to the fisheries, (g) the prohibition of any practice whatsoever tending in the opinion of the Minister to impede the lawful capture of fish or to be in any manner detrimental to the said fisheries, (h) any other matter or thing relating in any manner to the government and protection of the said fisheries. (2) Where no other penalty is provided by any provision of that Act for the contravention of a bye-law, the Minister may by such bye-law provide that any person who contravenes it shall be guilty of an offence against such bye-law and shall be liable on summary conviction thereof to a fine not exceeding five pounds and that all fishing engines used in the commission of the offence shall as a statutory consequence of conviction stand forfeited. (3) No bye-law shall be made under this Act which is repugnant to any law in force in the State or which would tend to injure the effective working power of any mill or factory.

10 Definitions of mouths of rivers boundaries between tidal and freshwater portions of rivers, points of mouths of rivers from which distances are to be measured, etc.

SECT 10.—(1) The Minister may from time to time by order— (a) define, by reference to a map or otherwise, what is to be the boundary of the mouth of any river, (b) define, by reference to a map or otherwise what is to be the boundary of the mouth of any tributary river at its entrance into any other river, (c) define, by reference to a map or otherwise, what is to be the boundary between the tidal and freshwater portions of any river, (d) define the points of termination of the distances referred to in sections 94 and 103 and illustrate, by map or otherwise, the said points of termination and the space within which it is prohibited by the said section to use or practise certain modes of fishing, (e) define, by reference to a map or otherwise, the point or points of the mouth of any river from which distances are to be measured under this Act. (2) Where several streams flow into a common mouth or estuary the Minister may by order declare that the outlets of such streams shall form separate mouths. (3) The Minister may by order revoke or amend any order made under subsection (1) or (2) of this section. (4) Every definition made under any repealed enactment and which is in force immediately before the operative date shall continue in force on and after the operative date and the instrument whereby such definition was made shall be deemed to be an order made under subsection (1) or subsection (2) (whichever is appropriate) of this section.

11 Provisions in relation to publication and deposit of bye-laws, etc., and appeal against a bye-laws, etc.

SECT 11.—(1) The following provisions shall apply in relation to any instrument to which this section applies:— (a) notwithstanding any appeal which may be pending, but without prejudice to any order which may be made on such appeal, such instrument shall come into operation on the day specified in that behalf therein, or, if no such day is so specified, on the twenty-eighth day after the day on which it is made; (b) such instrument shall, as soon as may be after it is made, be published in the *Iris Oifigiúil* and in one or more newspapers circulating in the district affected thereby; (c) a copy of such instrument shall, within one month after it comes into operation, be deposited— (i) with the county registrar for every county or county borough which or part of which is affected thereby, and (ii) with the District Court Clerk of every Court District which or part of which is affected thereby, and (iii) in every station of the Garda Síochána within the area affected thereby; (d) any person aggrieved by such instrument may, within twenty-eight days after the publication in the *Iris Oifigiúil*, appeal against such instrument to the High Court, and the following provisions shall apply in relation to any such appeal— (i) the appeal may be heard by one or more judges of the High Court as may be convenient. (ii) the High Court may on the appeal confirm or annul such instrument, but if such instrument is annulled such annulment shall be without prejudice to the validity of anything done under or in pursuance of such instrument before such annulment, (iii) the decision of the High Court on the appeal shall be final and conclusive, (iv) the order made by the High Court on such appeal shall be published in like manner as such instrument is required

by paragraph (b) of this subsection to be published and shall be deposited in like manner as such instrument is required by paragraph (c) of this subsection to be deposited. (2) This section applies to any instrument being— (a) a bye-law made under this Act, or (b) an order made under section 10, or (c) a licence granted under section 245 or 281, or (d) an order made under section 251, 256, 266 or 275.

12 Regulations for fishing by holders of special local licences.

SECT 12.—(1) The Minister may make regulations in relation to all or any of the following matters:— (a) the times and the places respectively at which holders of special local licences may fish under such licences; (b) the keeping of order among holders of special local licences at or on the particular tidal waters to which such licences relate. (2) Every person who does any act (whether of omission or commission) which is a contravention of a regulation made under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds.

13 Returns by holders of local licences.

SECT 13.—(1) The Minister may make regulations in relation to all or any of the following matters:— (a) the returns to be made by holders of special local licences; (b) the persons to whom such returns are to be made; (c) the times at which such returns are to be made; (d) the forms in which such returns are to be made; (2) Every person, required by regulations made under this section to make any return, who fails or refuses to make such return in accordance in all respects with such regulations or who makes in any such return any statement which is false or misleading in any material respect shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds.

14 Power of Minister to grant exemption permits for the purposes of artificial propagation, etc.

SECT 14.—(1) The Minister may, whenever and so often as he thinks fit, by permit in writing and subject to such conditions as he may specify in the permit authorise any named person to do at any season of the year all or any of the following things— (a) to catch or attempt to catch and to have in his possession any specified kind of fish for the purpose of artificial propagation, transplantation, the stocking, restocking or improvement of any fishery or for any scientific purpose and for the purpose of so catching to have in his possession, erect and use any fishing engine of a specified kind, (b) to buy or sell ova and fry of any specified kind of fish for the purpose of stocking or restocking or any scientific purpose. (2) A permit under subsection (1) of this section shall not authorise anything to be done in relation to a several fishery otherwise than with the consent of the owner thereof. (3) Notwithstanding anything contained in this Act a person to whom a permit is granted under subsection (1) of this section and any other person acting under the directions of such first-mentioned person may, subject to the conditions specified in the permit, do any of the things authorised by the permit.

15 Power of Minister to grant fish culture licences.

SECT 15.—(1) The Minister may, whenever and so often as he thinks fit, by licence (in this section referred to as a fish culture licence) authorise, subject to such conditions as he thinks fit and specifies in the licence, a named person to carry on at a specified place such operations, in relation to the culture of fish of a specified kind, as may be specified in the licence. (2) Notwithstanding anything contained in this Act or any instrument made thereunder, a person to whom a fish culture licence is granted and any person acting under the directions of such first-mentioned person may, subject to the conditions specified in the licence, do any of the things authorised by the licence. (3) The Minister, if he so thinks fit, may amend a fish culture licence within ten years from the date on which the licence was granted. (4) The Minister may revoke a fish culture licence— (a) if the licensee is convicted of an offence under the repealed enactments or an offence under any provision of this Act, or (b) if he is satisfied that there has been a breach of any condition specified in the licence. (5) The following provisions shall apply in relation to the amendment or revocation of a fish culture licence under this section— (a) the Minister shall not amend or revoke the licence unless and until he has given by post to the licensee at least one fortnight's notice in writing stating that the Minister has under consideration, as the case may be, the amendment or revocation

of the licence, (b) the notice shall also state— (i) in case it states that the Minister has under consideration the amendment of the licence—the specific amendment under consideration and the grounds on which it is so under consideration, or (ii) in case it states that the Minister has under consideration the revocation of the licence—the grounds on which such revocation is so under consideration, (c) the Minister shall consider any representations in relation to such amendment or revocation, as the case may be, made to him by the licensee before the expiration of the notice.

16 Power of Minister to take on lease fisheries for research purposes.

SECT 16.—(1) The Minister, with the consent of the Minister for Finance, may, for the purposes of any scheme of research into the life-history and habits of salmon or any freshwater fish and the economic conditions affecting the commercial development of fisheries, take on lease any fishery. (2) The provisions of Chapter V of Part XII relating to the operation of vested fisheries shall apply in respect of any fishery leased by the Minister under this section. (3) Where a fishery which is a transferable fishery, within the meaning of Part XII, has for the time being been leased under this section, the provisions of Part XII shall, notwithstanding such lease, apply in respect of such fishery.

17 Power of Minister to restrict importation of live fish, etc.

SECT 17.—(1) The Minister may, whenever and so often as he thinks fit, by order (in this section referred to as a restriction on import (fish) order) prohibit the import of any specified kind of article to which this section applies otherwise than under and in accordance with a licence in that behalf issued under this section. (2) The Minister may by order under this subsection revoke or amend any order made by him under this section. (3) If any person imports or attempts to import any article, the importation of which is prohibited by a restriction on import (fish) order such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds. (4) On the application of any person the Minister may, if he thinks fit, issue to such person a licence to import a specified number of any article of any kind the importation of which is prohibited by a restriction on import (fish) order, and may attach to such licence such conditions as he may think proper and specify in such licence. (5) This section applies to the following articles, live fish or other aquatic animals, and the eggs or young of fish or other aquatic animals.

18 Annual report by the Minister.

SECT 18.—The Minister shall as soon as may be after the expiration of each year lay before each House of the Oireachtas a report containing for such year— (a) particulars of his proceedings under this Act, and, (b) so far as practicable, a statistical account of the fisheries in the State, arranged and classified under such different heads as appears to the Minister to be most suited for the purpose.

PART III - FISHERY DISTRICTS AND ELECTORAL DIVISIONS

19 Fishery districts and electoral divisions.

SECT 19.—(1) Subject to an order under section 20, each area mentioned in column (4) of the Second Schedule to this Act at any reference number shall be a fishery district for the purposes of this Act and shall be known by the number and name mentioned in columns (2) and (3) respectively of the said Schedule at that reference number. (2) Subject to an order under section 20, each of the several waters mentioned in column (6) of the Second Schedule to this Act at any reference number shall for the purposes of this Act, be an electoral division of the fishery district, the name whereof is mentioned in column (3) of the said Schedule at that reference number, and each such electoral division shall be known by the name mentioned opposite it in column (5) of the said Schedule. (3) (a) The Minister shall cause to

be prepared maps (in this subsection referred to as the official maps) showing, in such manner as the Minister thinks fit and indicates thereon, the boundaries of each of the several fishery districts. (b) The Official maps shall be sealed with the official seal of the Minister. (c) The official maps shall, for the Purposes of any Proceedings under this Act, be conclusive evidence of the boundaries (as shown thereon) of each fishery district. (d) The Official maps shall be deposited at the office of the Minister in Dublin and shall be there open to inspection by any interested person free of charge at such times as the Minister may direct. (e) In any proceedings under this Act, a map certified by an Officer of the Minister to be a true copy of the official maps or any Portion thereof shall be prima facie evidence of the official maps or such portion thereof (as the case may be) and it shall not be necessary to prove the signature of the person certifying such map or that he was an officer of the Minister.

20 Creation of new fishery districts and electoral divisions.

SECT 20.—(1) The Minister may from time to time by order do any one or more of the following things— (a) create (by union, subdivision or otherwise) new fishery districts, (b) create (by union, subdivision or otherwise) new electoral divisions, (c) appoint the number of conservators (which shall not be more than nine or less than three) to be elected for any new electoral division created under this section. (2) Whenever the Minister creates a new electoral division by an order under this section he may either— (a) provide by the order for the election of persons to act as conservators for such electoral division until the next triennial election, or (b) nominate persons to act as conservators for such electoral division until the next triennial election— (3) Whenever the Minister by an order made under this section creates a new fishery district, he shall by such order appoint the boundaries of such fishery district and shall annex to such order a suitable map showing such boundaries. (4) Whenever the Minister by an order made under this section creates a new fishery district, he may, by the same order or by a subsequent order, direct that all or any specified part of the moneys and other assets which at the date of the order belong to the board of conservators of any fishery district affected by the order shall, subject to the liabilities of such board, be disposed of in such manner as the Minister thinks proper to direct and specify in such order, and when any such order is made the moneys and other assets to which it relates shall, subject to the said liabilities, be disposed of accordingly. (5) Whenever the Minister by order made under this section creates a new fishery district, he may by the same order or a subsequent order provide for the holding of the first meeting of the board of conservators for such new fishery district. (6) Every order made by the Minister under this section shall, as soon as may be after it is made, be published (without the map (if any) annexed thereto but with a statement of where such map (if any) may be inspected) in the *Iris Oifigiúil* and in one or more newspapers circulating in the fishery districts affected by the order, and a copy of such order and of the map (if any) annexed thereto shall be deposited with the County Registrar for every county and the District Court Clerk of every district which, or any part of which is affected, by the order, and in every station of the Garda Síochána within the fishery districts affected by the order.

PART IV - BOARDS OF CONSERVATORS

21 Construction of boards of conservators.

SECT 21.—(1) There shall be a board of conservators for each fishery district to fulfil the functions assigned to it by this Act. (2) The board of conservators for a fishery district shall consist of— (a) elected members, that is conservators for the time being of each of the electoral divisions forming the fishery district, (b) ex officio conservators of that fishery district, (c) ex officio members (if any) appointed under sections 36, 37 or 38, and (d) such number (if any) of representatives of holders of trout rod licences as is mentioned in section 39. Conservators for electoral divisions.

22 Elections of conservators for electoral divisions to be held in each election year.

SECT 22.—In each election year an election of conservators for each electoral division shall be held in accordance with this Act.

23 Number of conservators for electoral divisions.

SECT 23.—(1) Subject to an order under subsection (2) of this section, the number of conservators for each electoral division, the name whereof is mentioned in column (5) of the Second Schedule to this Act shall be the number set out in column (7) of the said Schedule opposite the mention of that electoral division. (2) (a) The Minister may, whenever and so often as he thinks proper, by order alter the number of conservators for any electoral division, but the number of such conservators shall not by any such order be increased to more than nine or reduced to less than three. (b) Every order made under this subsection in respect of an electoral division shall come into operation at the triennial election of conservators for that electoral division held next after the date of the order. (c) This subsection shall not apply to the two tidal electoral divisions of the No. 8 or Limerick District.

24 Electorate for election of conservators for an electoral division and scale of votes.

SECT 24.—(1) In this section— the expression "excepted licence" means any licence being— (a) a fishing licence issued in an election year, but after the 31st day of July in that year, or (b) a salmon rod licence which is valid for a period of less than one year, or (c) a salmon rod ordinary licence valid for a particular year which is issued to a person who is the holder of a salmon rod (Foyle Area) licence valid for that year, or (d) a salmon rod licence in respect of which a reduced rate of licence duty is payable under subsection (5) of section 74, or (e) a trout rod licence; the expression "hypothetical licence duty" means, in relation to a special local licence authorising the use of a fishing engine of a particular kind, the sum which would be payable as licence duty in respect of such licence if it were an ordinary fishing licence authorising the use of a fishing engine of the same kind. (2) Every person (other than the Minister), who is the holder of one or more ordinary fishing licences or oyster fishing licences (not being excepted licences) which or each of which is valid for a particular election year and is issued in a particular electoral division, shall be entitled to vote in person at the election of conservators to be held in that year for that electoral division and shall have thereat a vote or votes according to the following scale— if the licence duty in respect of such licence (in case one only is held by him) or the sum of the licence duties in respect of all such licences (in case more than one is held by him) is less than three pounds, one vote, if the licence duty in respect of such licence (in case one only is held by him) or the sum of the licence duties in respect of all such licences (in case more than one is held by him) is less than six pounds but not less than three pounds, two votes, if the licence duty in respect of such licence (in case one only is held by him) or the sum of the licence duties in respect of all such licences (in case more than one is held by him) is less than ten pounds but not less than six pounds, three votes, if the licence duty in respect of such licence (in case one only is held by him) or the sum of the licence duties in respect of all such licences (in case more than one is held by him) is not less than ten pounds four votes. (3) (a) Where the Minister is the holder of one or more ordinary fishing licences which or each of which is valid for a particular election year and is issued in a particular electoral division, he shall be entitled to vote, by proxy appointed by him, at the election of conservators to be held in that year for that electoral division and shall, in respect of each such licence, have thereat a vote or votes according to the following scale— if the licence duty in respect thereof is less than three pounds, one vote, if the licence duty in respect thereof is less than six pounds but not less than three pounds, two votes, if the licence duty in respect thereof is less than ten pounds but not less than six pounds, three votes, if the licence duty in respect thereof is not less than ten pounds, four votes. (b) An instrument appointing a proxy under paragraph (a) of this subsection shall not require a stamp. (4) Every person, who is the holder of one or more special local licences (not being excepted licences) which or each of which is valid for a particular election year in respect of special tidal waters which are situate in a particular electoral division, shall be entitled to vote in person at the election of conservators to be held in that election year for that electoral division and shall have thereat a vote or votes according to the following scale— if the hypothetical licence duty in respect of such licence (in case one only is held by him) or the sum of the hypothetical licence duties in respect of all such licences (in case more than one is held by him) is less than three pounds, one vote, if the hypothetical licence duty in respect of such licence (in case one only is held by him) or the sum of the hypothetical licence duties in respect of all such licences (if more than one is held by him) is less than six pounds but not less than three pounds, two votes, if the hypothetical licence duty in respect of such licence (if one only is held by him) or the sum of the hypothetical licence duties in respect of all such

licences (if more than one is held by him) is less than ten pounds but not less than six pounds, three votes, if the hypothetical licence duty in respect of such licence (if one only is held by him) or the sum of the hypothetical licence duties in respect of all such licences (if more than one is held by him) is not less than ten pounds, four votes. (5) Where a person who is the rated occupier of a fishery (the rateable valuation of which is less than fifty pounds) situate in a particular electoral division has paid the fishery rate on such fishery for the fishery year next preceding an election year and the amount of such fishery rate is one pound or more, the following provisions shall have effect— (a) such person or his agent duly appointed under section 328 shall be entitled to vote at the election of conservators to be held in that election year for that electoral division and shall be entitled to have thereat, in addition to the vote or votes (if any) to which he may be entitled under subsection (2) of this section, a vote or votes according to the following scale— if the amount of such fishery rate is less than three pounds, one vote, if the said amount is less than six pounds but not less than three pounds, two votes, if the said amount is less than ten pounds but not less than six pounds, three votes, if the said amount is not less than ten pounds, four votes, (b) the production of the receipt for the second moiety of such fishery rate shall be sufficient evidence of the right of such person or his attorney or agent to vote at such election. (6) No person shall be entitled to vote at an election of conservators to be held in a particular election year for a particular electoral division, other than a person who is entitled to vote at such election by virtue of this section. (7) In this Act, references to the electorate of an electoral division for an election year shall be construed as references to the persons who are, by virtue of this section, entitled to vote at the election of conservators for that electoral division to be held in that year.

25 Residential or property qualification of conservators.

SECT 25.—No person shall be eligible for the office of conservator for an electoral division if he does not reside or possess real property in the fishery district which includes that electoral division.

26 Disqualification from election as a conservator.

SECT 26.—Where a person is convicted of an offence under the repealed enactments or an offence under any provision of this Act, he shall upon such conviction be disqualified from being elected to be a member of a board of conservators for a period of seven years from the date of the conviction.

27 Triennial elections of conservators.

SECT 27.—(1) Each board of conservators shall, in each election year, appoint, in respect of each electoral division forming part of its fishery district, such day in the month of October in that election year and such time and place as it thinks fit for the holding of a meeting of the electorate of that electoral division for that election year, and shall publish fourteen days' notice in two or more newspapers circulating in its fishery district of the day, time and place so appointed by it. (2) If a board of conservators fails to appoint, in accordance with subsection (1) of this section, a day, time and place for the holding of a meeting of the electorate of an electoral division for any election year, the Minister may appoint the said day, time and place. (3) On the day and at the time and place appointed under subsection (1) or subsection (2) of this section for the holding of a meeting of the electorate of an electoral division for any election year, such meeting shall be held and there shall be elected thereat the appropriate number of conservators for that electoral division. (4) The following provisions shall have effect in relation to every election of conservators for an electoral division to be held in pursuance of this Act in an election year at a meeting of the electorate of that electoral division for that election year:— (a) in this subsection the word "elector" means a person who is one of the said electorate and includes, where the Minister is an elector, a proxy of the Minister, (b) no person other than the Minister, shall be entitled to vote by proxy, (c) the electors present at the meeting shall elect from their number a chairman of the meeting, (d) every elector present shall be entitled to vote thereat, in accordance with the provisions of section 24, (e) as soon as may be after the close of the election the chairman shall count the votes received and declare the result of the election, (f) the chairman shall thereupon certify under his hand the election of each conservator and furnish him with a certificate which shall be sufficient evidence of his election, (g) the chairman shall within four days after the meeting send to the Minister a return showing the name, residence and post town of each conservator elected, (h) if the electors neglect to attend such meeting or

fail to elect conservators, the conservators of any other one or more electoral division or divisions of the same fishery district for which conservators are elected in that election year may nevertheless act in all matters and things relating to such district. (5) The Minister may make regulations containing such provisions, not inconsistent with this Act, as he thinks proper in relation to elections of the conservators for an electoral division and every such election shall be carried out in accordance with such regulations.

28 On failure of election former conservators to act.

SECT 28.—If the electorate for all electoral divisions of a fishery district fail in any election year to elect conservators under section 27, the previously existing elected members of the board of conservators for that fishery district shall continue in office and be deemed to have been elected as such elected members in that election year.

29 Term of office of conservators.

SECT 29.—Every elected conservator for an electoral division shall, unless he sooner dies, resigns or becomes disqualified, hold office, from the day next following the date of his election until midnight on the day on which the next election for conservators of the appropriate electoral division is held in pursuance of section 27.

30 Disqualification of elected member of board of conservators on conviction of offence.

SECT 30.—Where a person who is an elected member of a board of conservators is convicted of an offence under the repealed enactments or an offence under any provision of this Act, he shall, upon such conviction, cease to be a member of that board.

31 Disqualification of conservator by non-attendance at meetings.

SECT 31.—(1) A conservator for an electoral division who absents himself during a period of six consecutive months from all meetings of the board for the fishery district which includes that electoral division and all meetings of the conservators for that electoral division shall be disqualified from continuing to be a member of such board and one fortnight after the expiration of each period his seat on such board shall, subject to this section, become and be vacant. (2) Whenever a member of a board of conservators is about to become or has been disqualified under subsection (1) of this section from continuing to be a member of such board, the Minister may, not later than one fortnight after the expiration of the period mentioned, in the said subsection (1) and if in his opinion the special circumstances of the case justify him in so doing, extend the said period by such further period as he thinks proper, and thereupon the said subsection (1) shall have effect in that particular case as if such extended period were substituted for the said period of six consecutive months, but no such period of six consecutive months shall be extended under this subsection more than once.

32 Resignation of conservator for an electoral division.

SECT 32.—(1) A conservator for an electoral division may at any time resign office by notice in writing delivered to the clerk of the board of conservators for the fishery district which includes such electoral division and in that case his resignation shall (unless the notice is previously withdrawn) be deemed to take effect on the commencement of the meeting of the said board held next after the delivery of the said notice. (2) A notice of resignation under this section may be withdrawn by notice in writing delivered to the clerk of the board of conservators of which the conservator giving the notice is a member before the commencement of the meeting of the said board held next after the delivery of the notice of resignation. (3) A notice under this section may be delivered to the clerk of the board of conservators of which the conservator giving the notice is a member by leaving it for him at his office or by sending the same by prepaid letter post in an envelope addressed to the clerk at his office.

33 Casual vacancies amongst elected members.

SECT 33.—(1) Whenever during the term of office of any board of conservators the seat of any elected member of the board becomes vacant by death, resignation, incapacity, or disqualification, it shall be lawful for the other members of the board or such of them as shall be present by resolution duly passed at a meeting of the board to elect a person to be a member of the board during the residue of the term of office of the board in place of the member whose seat is so vacant, and any such casual vacancy shall be filled at or before the second meeting of the board after such vacancy occurs. (2) When the seat of any member of a board of conservators becomes vacant as aforesaid the other members of the board may until the vacancy is filled under this section continue to act notwithstanding such vacancy. Ex officio Conservators.

34 Certain rated occupiers to be ex officio conservators.

SECT 34.—Subject to section 35, every person shall be an ex officio conservator for a fishery district who is the rated occupier of one or more several fisheries (the rateable valuation or the total rateable valuations whereof is or are fifty pounds or more) in that fishery district, but if there are two or more such rated occupiers not more than one of them shall be entitled to act at a particular time as an ex officio conservator in respect of such fishery or fisheries.

35 Disqualification for acting as an ex officio conservator.

SECT 35.—(1) No person shall be deemed an ex officio member of a board of conservators under section 34 while any liability of such person in respect of fishery rate payable by him to such board remains undischarged for a period of more than fourteen days from the date on which such fishery rate became payable. (2) Where— (a) a person is convicted of an offence under the repealed enactments or an offence under any provision of this Act, and (b) such person is at the date of such conviction possessed of or subsequently becomes the rated occupier (either alone or with other persons) of a several or exclusive fishery or fisheries the rateable valuation or the total rateable valuations whereof is or are fifty pounds or more, such person shall be disqualified from acting as an ex officio conservator under section 34 for a period of seven years from the date of such conviction. Ex officio Members.

36 Appointment of ex officio members in respect of the Shannon fisheries.

SECT 36.—(1) Section 34 shall not apply in respect of any fishery for the time being included in the Shannon fisheries (within the meaning of the Shannon Fisheries Act, 1935 (No. 4 of 1935)) and in lieu thereof it is hereby enacted that— (a) if and so long as the Electricity Supply Board is the owner, lessee or occupier of any such fishery which was on the 1st day of January, 1931, a several fishery and was on that date valued under the Valuation Acts at not less than fifty pounds, the said Board shall be entitled to nominate one person to be an ex officio member in respect of that fishery of the board of conservators for the fishery district in which such fishery is situate, (b) if and so long as the said Board is the owner, lessee or occupier of a number of such fisheries situate in the same fishery district which were, on the 1st day of January, 1931, several fisheries and were on that date owned, held or occupied by the same person and were on that date valued under the Valuation Acts at valuations amounting in the aggregate to not less than fifty pounds, the said Board shall be entitled to nominate one person to be an ex officio member in respect of such fisheries of the board of conservators of such fishery district. (2) Where the Electricity Supply Board is entitled under subsection (1) of this section to nominate two or more ex officio members of a board of conservators, the said Board may, in lieu of nominating such two or more members, nominate one person only to be an ex officio member of such board of conservators, and in such cases such one person shall have and may exercise at meetings of such board of conservators a number of votes equal to the number of ex officio members of such board of conservators which the said Board is for the time being entitled to nominate under the said subsection.

37 Appointment of ex officio members in respect of other fisheries acquired by the Electricity Supply Board.

SECT 37.—(1) Section 34 shall not apply in respect of any fishery acquired by the Electricity Supply Board under Part III of the Electricity (Supply) (Amendment) Act, 1945 (No. 12 of 1945) and in lieu thereof it is hereby enacted that— (a) if and so long as the said Board is the owner, lessee, or occupier of any such fishery which was, on the 1st day of January, 1931, a several fishery, the following provision shall apply and have effect, that is to say, whenever, on the date on which the fishery rate for any fishery year is struck by the board of conservators for the fishery district in which such fishery is situate, such fishery is valued under the Valuation Acts at not less than fifty pounds, the said Board shall be entitled to nominate one person to be, until the next fishery rate is so struck, an ex officio member, in respect of such fishery of the board of conservators of the district in which such fishery is situate, and (b) if and so long as the said Board is the owner, lessee, or occupier of two or more such fisheries situate in the same fishery district each of which was, on the 1st day of January, 1931, a several fishery, the following provisions shall apply and have effect, that is to say, whenever on the date on which the fishery rate for any fishery year is struck by the board of conservators for the said fishery district, such fisheries are valued under the Valuation Acts at valuations amounting in the aggregate to not less than fifty pounds, the said Board shall be entitled to nominate one person to be, until the next fishery rate is so struck an ex officio member, in respect of such fisheries, of the board of conservators of the district in which such fisheries are situate. (2) Where the Electricity Supply Board is entitled under subsection (1) of this section to nominate two or more ex officio members of a board of conservators, the following provisions shall have effect:— (a) the said Board shall be entitled to nominate such number (whether one or more than one) of ex officio members of such board of conservators as the said Board shall think proper, but not exceeding the total number of such members which the said Board is entitled under the said subsection to nominate; (b) every ex officio member of such board of conservators so nominated by the said Board shall be nominated to represent one or more specified fisheries or groups of fisheries in respect of which the said Board is entitled under the said subsection to nominate ex officio members of such board of conservators, but so that the said ex officio members so nominated shall between them represent all the fisheries or groups of fisheries in respect of which the said Board is entitled as aforesaid to nominate ex officio members of such board of conservators; (c) every ex officio member of such board of conservators so nominated by the said Board shall have and may exercise at meetings of such board of conservators a number of votes equal to the number (whether one or more than one) of fisheries or groups of fisheries which he is nominated under paragraph (b) of this subsection to represent.

38 Nomination of ex officio members by the Minister.

SECT 38.—(1) Where on the date on which the fishery rate for any fishery year is struck by a board of conservators any vested fishery situate in the fishery district of such board is valued under the Valuation Acts at not less than fifty pounds, the Minister may nominate one person as his representative to be, until the next fishery rate is struck by such board, an ex officio member in respect of such fishery of such board. (2) Where— (a) two or more vested fisheries in the same fishery district were vested in the Minister on the same date, and (b) such fisheries were immediately before being so vested in the ownership or occupation of the same person, then such fisheries shall for the purposes of subsection (1) of this section be deemed to be one fishery the rateable valuation of which is the aggregate rateable valuation of all such fisheries. (3) Where any vested fishery is for the time being leased or is for the time being an unused fishery, the rateable valuation of such fishery shall for the purposes of subsections (1) and of this section be deemed to be nil. (4) Where the Minister is entitled under subsection (1) of this section to nominate ex officio members of two or more boards of conservators he may nominate the same person to be an ex officio member of each of such boards. (5) Where the Minister is entitled under subsection (1) of this section to nominate two or more ex officio members of a board of conservators, he may nominate one person only, and in that case such one person shall have and may exercise at meetings of such board a number of votes equal to the number of ex officio members of such board which the Minister is for the time being entitled to nominate. (6) In this section the expressions "vested fishery" and "unused fishery" have the same meanings as they respectively have in Part XII. Representation of trout anglers on board of conservators.

39 Representation of trout anglers on board of conservators.

SECT 39.—(1) Where in any fishery district the number of trout rod licences issued during any year in which an election of a board of conservators for such district takes place amounts to at least fifty per cent of the number of salmon rod licences which have been issued in such district during such year and for which the licence duty of two pounds has been paid, the following provisions shall have effect:— (a) in case the number of such trout rod licences is not more than seventy-five per cent of the number of such salmon rod licences, the holders of such trout rod licences may elect one of their number as a representative to sit on such board of conservators; (b) in any other case, such holders may elect two of their number as representatives to sit on such board of conservators. (2) The following provisions shall have effect in relation to any person elected under subsection (1) of this section in any year as a representative to sit on a board of conservators for a district:— (a) such person shall, subject to the provisions of this Act, sit and act as a conservator on such board and shall be additional to the number of conservators to be elected for such district under this Act; (b) such person shall, unless he sooner dies, resigns or becomes incapable or disqualified, hold office during the period of office of the ordinary conservators elected for such district in the year in which such person is elected; (c) if such person during his period of office dies, resigns or becomes incapable or disqualified from acting as a conservator, such board may at or before the second meeting after such death, resignation, incapacity or disqualification co-opt in his place another person, who is the holder of a trout rod licence issued by such board, to fill during the residue of the term of office of such board, the vacancy created by such death, resignation, incapacity or disqualification. (3) The Minister may by regulations make such provisions as he thinks proper in relation to elections under subsection (1) of this section, and every such election shall be carried out in accordance with such regulations. (4) At any election under subsection (1) of this section a person who is the holder of a trout rod licence shall be entitled to one vote and no more, whether he is or is not the holder of more than one trout rod licence. (5) In this section the expression "trout rod licences" shall not include trout rod (juvenile) licences. Officers and Servants.

40 Officers of board of conservators.

SECT 40.—(1) Subject to the provisions of this section a board of conservators may appoint a clerk or clerks and such number of inspectors and water keepers as the board may consider necessary but only to the extent which the funds at the board's disposal permit for the protection of the fisheries in their district and for generally enforcing this Act therein. (2) Every appointment of a clerk or other officer or servant made by a board of conservators and the salary, allowances and tenure of office of every person so appointed shall be subject to the approval of the Minister, and no such appointment shall take effect unless and until the approval of the Minister thereto is communicated in writing to the board. (3) A board of conservators shall take sufficient security from any clerk and any other officer or person receiving money for the board for the due performance of his duties and the duly accounting for such money. (4) The period of office of a clerk or any other officer or servant of a board of conservators shall not be terminated by reason only of the retirement or removal from office of the members of such board. (5) A board of conservators may from time to time remove from office any officer or servant. (6) The Minister may at any time by notice in writing require any board of conservators to suspend from duty or dismiss any clerk or other officer or servant of the board, and in the event of a board of conservators failing for a period of one month to comply with a notice under this section the Minister may himself by order suspend from duty or dismiss the clerk or other officer or servant mentioned in the notice. (7) Every instrument of appointment by a board of conservators of any treasurer, clerk, inspector, water keeper or other officer shall— (a) be prepared and printed in the prescribed form, (b) be sealed with the seal of the board, and (c) be signed by not less than three members of the Board. (8) Every instrument of appointment by a board of conservators purporting to be sealed with the seal of the board shall be sufficient evidence of such appointment. (9) An instrument of appointment by a board of conservators shall not be subject to any stamp duty. (10) No member of a board of conservators shall be eligible for any paid office under the board.

41 Duties of clerk of a board of conservators.

SECT 41.—(1) The clerk of a board of conservators shall— (a) attend all meetings of the board, (b) in a proper book or books to be provided for the purpose, enter and keep a true account of moneys received by the board and of the application thereof, and of all acts, proceedings and transactions of the board, (c) perform such other duties as the board may direct, (d) furnish to the Minister annually or as often as the Minister may require an account of all moneys received and disbursed relating to the fishery district of the board. (2) Whenever a proposal is made at a meeting of a board of conservators to do any act, matter or thing in consequence of which an illegal payment is to be made out of the funds of such board or a deficiency or loss is likely to result in or to such funds, it shall be the duty of the clerk of such board to make objection to the doing of such act, matter or thing and to state the grounds of such objection, which objection and the grounds thereof and, if a decision is taken on such proposal, the names of the members of such board present and voting for or against such decision and abstaining from voting on such decision, shall be recorded on the minutes of such meeting. Financial Provisions.

42 Treasurer of the board.

SECT 42.—A board of conservators may appoint a bank to act as its treasurer.

43 Payments of licence duties, etc. to treasurer.

SECT 43.—All moneys received by or on behalf of a board of conservators under this Act shall be paid to the treasurer of the board.

44 Payments by treasurer.

SECT 44.—The treasurer of a board of conservators shall out of the moneys for the time being standing to the credit of the board pay all such sum as the treasurer may be required to pay upon a draft or order signed by the chairman at any ordinary meeting of the board and by two other members of the board.

45 Payments in respect of special local licences to Minister by boards of conservators.

SECT 45.—(1) Where a board of conservators issues in any month any special local licences, such board shall, not later than thirty days after the expiration of such month, pay to the Minister, in respect of every special local licence issued by such board in such month a sum equal to the difference between— (a) the licence duty which would have been paid in respect thereof if it had been an ordinary licence authorising the use of the same kind of fishing engine as that to which such special local licence relates, and (b) the special local licence duty paid in respect of such licence. (2) All moneys received by the Minister under this section shall, be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

46 Board of conservators to furnish annual estimate.

SECT 46.—(1) It shall be the duty of every board of conservators to furnish to the Minister on or before the 30th day of November in every fishery year an estimate of all the moneys to be received by it in that fishery year and of the proposed application of such moneys and other proposed expenditure for that fishery year. (2) The Minister may approve either without amendment or with such amendments (whether by way of alteration, addition or omission) as he may think fit, any estimate of proposed expenditure furnished to him pursuant to subsection (1) of this section.

47 Restriction on expenditure by boards of conservators.

SECT 47.—A board of conservators shall not in any fishery year incur any expenditure save only such expenditure as is mentioned in the estimate of expenditure for that fishery year as approved of by the Minister under section 46 and such further expenditure (if any) as may be specially sanctioned by the Minister.

48 Accounts of boards of conservators.

SECT 48.—The provisions set out in the Third Schedule to this Act shall apply in relation to the accounts of boards of conservators and the audit and auditor thereof.

49 The Salmon Conservancy Fund.

SECT 49.—(1) In this section— "the Act of 1954" means the Salmon Conservancy Fund Act, 1954 (No. 4 of 1954) (repealed by the Act of 1958); "the Act of 1958" means the Fisheries (Amendment) Act, 1958 (No. 15 of 1958) (repealed by this Act); "the Fund" means the Salmon Conservancy Fund established by section 5 of the Act of 1954 and continued in existence by subsection (2) of section 8 of the Act of 1958; "salmon" does not include salmon preserved and contained in tins, bottles, jars or similar containers holding only portions of fish or products of fish. (2) The Minister shall continue to maintain the Fund. (3) (a) The Minister may from time to time by order provide that no person shall export salmon unless there is produced at the time of exportation evidence in such form as may be prescribed of the payment at the prescribed rate of levy on such salmon. (b) The Minister may, after consultation with the Minister for Finance, by order revoke an order under paragraph (a) of this subsection. (4) (a) The Minister may, from time to time, after consultation with the Minister for Finance, by regulations prescribe the rate of levy to be paid on salmon for export and the manner of payment. (b) Different rates of levy may be prescribed for different periods. (c) Subject to paragraph (d) of this subsection the rate of levy shall not exceed two pence per lb. (d) The Minister may from time to time by order provide that the levy may be prescribed at a specified rate exceeding two pence per lb but no such order shall have effect unless and until it is confirmed by resolution of each House of the Oireachtas. (5) Every board of conservators and every other person collecting levy under this section shall as soon as may be pay to the Minister all sums so collected. (6) (a) Whenever, by virtue of an order made under paragraph (b) of subsection (1) of section 68, the ordinary licence duty for the time being payable in respect of a salmon rod (annual) ordinary licence which is to be valid for a particular year exceeds two pounds, each board of conservators shall, in respect of each such licence issued by it which is valid for that year, pay to the Minister, before the expiration of that year, a sum equal to the excess. (b) Whenever, by virtue of an order made under paragraph (b) of subsection (1) of section 68, the ordinary licence duty for the time being payable, in respect of a salmon rod (seven day) ordinary licence which is to be valid for a particular period of seven days exceeds one pound, each board of conservators shall, in respect of each such licence issued by it which is valid for that period, pay to the Minister, before the expiration of the year in which that period falls, a sum equal to the excess. (c) Whenever, by virtue of an order made under paragraph (b) of subsection (1) of section 68, the ordinary licence duty for the time being payable in respect of a salmon rod (twenty-one day) ordinary licence which is to be valid for a particular period of twenty-one days exceeds one pound and ten shillings, each board of conservators shall, in respect of each such licence issued by it which is valid for that period, pay to the Minister, before the expiration of the year in which that period falls, a sum equal to the excess. (d) Whenever, by virtue of an order made under paragraph (b) of subsection (1) of section 68, the ordinary licence duty for the time being payable in respect of a salmon rod (late season) ordinary licence which is to be valid for a particular period of six months commencing on a first day of July exceeds one pound and ten shillings, each board of conservators shall, in respect of each such licence issued by it which is valid for that period, pay to the Minister, before the expiration of the year in which that period falls, a sum equal to the excess. (e) Whenever, by virtue of an order made under paragraph (c) of subsection (2) of section 68, the ordinary licence duty for the time being payable in respect of a salmon rod (annual) ordinary licence (being a licence which is to be valid for a particular year and is issued to a person who is the holder of a salmon rod (Foyle Area) licence which is valid for that year) exceeds ten shillings, each board of conservators shall, in respect of each such licence issued by it which is valid for that year, pay to the Minister, before the expiration of that year, a sum equal to the excess. (7) Any moneys received by the Minister under subsection (5) or (6) of this section shall be paid into the Fund. (8) (a) The Minister may from time to time, with the consent of the Minister for Finance, pay into the Fund out of moneys provided by the Oireachtas such sums as may be required to enable payments to be made under paragraph (a) of subsection (9) of this section. (b) Payments into the Fund under this subsection may be made either by way of grant or of advances repayable on such terms as may be approved by the Minister for Finance. (9) (a) The Minister may pay out of the Fund— (i) such sums as

he thinks proper to supplement the income of any board of conservators whose income in any year appears to him to be insufficient to defray the expenses of such board of conservators in the performance of its duties, (ii) such sums towards the expenses incurred in connection with any scheme for the improvement of the inland fisheries as the Minister thinks proper. (b) The Minister shall pay out of the Fund the costs of the administration of the Fund. (c) The Minister shall pay out of the Fund all payments due in respect of advances to the Fund under subsection (8) of this section. (10) An account of the Fund shall be prepared for each financial year in a form approved of by the Minister for Finance and the account shall be audited by the Comptroller and Auditor General and, together with the report of the Comptroller and Auditor General thereon, shall be laid before each House of the Oireachtas. (11) (a) The Minister may make regulations requiring persons by whom levy is payable under this section or any class of such persons to be registered in the prescribed manner, to keep such records and afford such facilities for their inspection and to furnish such returns as may be prescribed. (b) Any person who contravenes, whether by action or omission, any regulation made under this subsection shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds. (12) The expenses incurred by the Minister in the administration of this section and not elsewhere provided for shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. (13) Any order or regulation made under the Act of 1954 which, by virtue of subsection (14) of section 8 of the Act of 1958, is in force immediately before the operative date, shall, notwithstanding the repeal of the Act of 1958, continue in force and be deemed to have been made under this section. Inquiries in respect of, and dissolution of boards of conservators.

50 Inquiries in respect of boards of conservators.

SECT 50.—(1) The Minister may at any time, if he thinks fit, order an inquiry into the performance of its duties by any board of conservators and may appoint any person to hold such inquiry. (2) Where a person (not being an officer of the Minister) is appointed to hold an inquiry under this section, such person shall be paid such remuneration and such allowances for expenses as the Minister may with the consent of the Minister for Finance determine. (3) Where an inquiry in relation to a board of conservators has been held under this section, the Minister shall certify the amount of the expenses incurred by the Minister in relation to such inquiry, and the amount so certified shall be recovered by the Minister from the revenue of such board. (4) Any sum recovered by the Minister under subsection (3) of this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

51 Power to dissolve boards of conservators.

SECT 51.—(1) If and whenever— (a) the Minister is satisfied after holding under this Act an inquiry into the performance of its duties by a board of conservators that the duties of such board are not being duly and effectually discharged by such board, or (b) a board of conservators wilfully neglects to comply with any lawful order, direction, or regulation of the Minister, or fails to comply with any judgment, order or decree of any court, the Minister may by order dissolve such board of conservators and either order (under the power hereinafter conferred on him) a new election of members of such board or transfer the funds, books and other property and the several powers, duties and liabilities of such board to any body or person he shall think fit. (2) Whenever the Minister makes an order under this section dissolving a board of conservators he may appoint such and so many persons as he shall think fit to perform the duties of such board of conservators and may from time to time remove all or any such persons and appoint others in their place, and may fix the tenure of office, duties and remuneration of and the security (if any) to be given by all such persons. (3) The remuneration of all persons appointed under subsection (2) of this section to perform the duties of a board of conservators shall be paid out of the revenue of such board of conservators as part of the expenses of performing its duties. (4) Where a person serving in the Civil Service is appointed under subsection (2) of this section to perform the duties of a board of conservators, there shall be recouped from the revenue of such board of conservators to the Exchequer in such manner as the Minister for Finance may direct, the salary of such person and also such charges in respect of superannuation and other allowances and gratuities payable under the Superannuation Acts for the time being in force to or in respect of such person as the said Minister shall determine to be proper. (5) At any time after a board of conservators has been dissolved under this section the Minister may, if and when he

so thinks fit, by order cause a new election of members of such board to be held, and upon the completion of such new election all the property, powers, and duties of the dissolved board of conservators shall vest in the body so elected, notwithstanding that the same may have been transferred by the Minister under this section to any other body or person. (6) Whether or not a new election of members of a board of conservators has been held in pursuance of an order made under subsection (5) of this section, the next subsequent election of members of such board of conservators shall be held on the next occasion on which an election of such members would have been required by law to be held if such board had not been dissolved, and thereupon all the property, powers and duties of the dissolved board of conservators shall vest in the body so elected. (7) The Minister may from time to time by order do all such things and make all such regulations as in his opinion shall be necessary for giving full effect to any order made by him under this section. Miscellaneous provisions in relation to boards of conservators.

52 Seal of board of conservators.

SECT 52.—The board of conservators for a fishery district shall provide itself with a seal.

53 Proceedings of board of conservators.

SECT 53.—(1) The board of conservators for a fishery district shall from time to time fix and determine and duly publish notice of the times and places for the ordinary meetings of the board. (2) The board of conservators for a fishery district may at any ordinary meeting fix the time and place for holding an ordinary meeting of the board and may hold adjourned meetings. (3) Any three members of the board of conservators for a fishery district may from time to time call a special meeting of the board provided— (a) that notice of the place and time of each such special meeting, subscribed by three or more members or by the clerk of the board on their requisition on him, shall be inserted at least twice in some two newspapers circulating in the county or counties in which such fishery district is situate, at least ten days before such meeting shall be held, or (b) that the clerk of the board shall, on such requisition as aforesaid, give ten days' notice in writing of such meeting to each member of the board. (4) At all meetings of a board of conservators three members present shall form a quorum. (5) All questions arising at a meeting of a board of conservators shall be decided by a majority of the members present and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote. (6) The Minister or an officer of the Minister authorised by him may attend any meeting of a board of conservators and advise, consult and confer with the board upon the regulation, management and improvement of the fisheries, and may at all convenient times have access to and peruse, when he shall think fit, the books and accounts kept for the purposes of any fishery district.

54 Protection of salmon spawning in Northern Ireland.

SECT 54.—Where part of a river consists of special tidal waters and another part (being a part in which salmon spawn) of such river is situate in Northern Ireland, the board of conservators within whose district such tidal waters are situate may, with the approval of the Minister, enter into such arrangements or agreements as it considers expedient for ensuring the protection of salmon and trout, and their eggs and fry in the part of such river which is situate in Northern Ireland and for the purpose of such arrangements or agreements make payments out of its funds.

PART V - RATES ON FISHERIES

55 Rates on fisheries.

SECT 55.—(1) Every board of conservators shall on or before the 31st day of December in every fishery year to which this section applies strike on all fisheries within its fishery district (which appear in the revised Valuation Lists required under the Valuation Acts to be issued by the Commissioner of Valuation by the 1st day of March immediately preceding the commencement of that fishery year and are not distinguished therein by the Commissioner of Valuation pursuant to section 2 of the Valuation (Ireland)

Act, 1854) a rate of such amount per cent of their valuations as will, with the estimated amount of other income, be sufficient to meet the estimated amount of the board's expenditure for that fishery year. (2) Every rate struck by a board of conservators under this section shall be subject to confirmation by the Minister who may confirm the same either without modification or with such modification (whether by way of increase or reduction) as he shall think proper. (3) If a board of conservators fails to strike on or before the 31st day of December in any fishery year to which this section applies a rate for that fishery year the Minister may, if he thinks fit so to do, strike a rate for the district of such board of conservators for such fishery year and in such case the rate so struck by the Minister shall be levied, collected, and recovered by such board of conservators in like manner in all respects as if such rate had been struck by the board and confirmed by the Minister under this section. (4) Where in any fishery year a board of conservators strike a rate under subsection (1) of this section or the Minister, by reason of the failure of the board of conservators to strike the rate, strikes a rate under subsection (3) of this section for the fishery district of the board of conservators, the board of conservators or the Minister may make such departure, not affecting value, from the particulars, relating to a fishery in that fishery district, contained in the revised Valuation Lists required under the Valuation Acts to be issued by the Commissioner of Valuation by the 1st day of March immediately preceding the commencement of that fishery year, as may be necessary, at the time of making the rate, to enable the board of conservators or the Minister to make a valid rating. (5) Every rate struck under this section shall be paid by the several persons rated for the same in two moieties on the 1st day of April and the 1st day of August in the fishery year for which the rate is struck, and shall be so paid over and above an or any licence duties paid by such persons under this Act for that or any other fishery year. (6) Every person who is liable to be rated under this Act in respect of a fishery shall be exempt from liability for any rate leviable by the council of any county, county borough, or urban district in respect of that fishery for any local financial year commencing before 1st day of April, 1965, and no such council shall levy or collect any rate in respect of such fishery for any such local financial year. (7) If the Minister for Local Government certifies that by reason of the exemption conferred by subsection (6) of this section from liability for rates in respect of fisheries, the amount of the rate which but for this subsection would require to be made and levied upon and in any area for the service of a local financial year commencing before the 1st day of April, 1965, by the council of a county, county borough, or urban district has been increased by an amount greater than one penny in the pound, the Minister shall out of moneys to be from time to time provided by the Oireachtas pay to such council before the end of such local financial year an amount equal to the sum which would be produced by a rate upon and in such area equivalent to the amount in the pound by which such increase exceeds one penny in the pound. (8) This section applies to every fishery year commencing before the 1st day of October, 1964.

56 Valuations by reference to which fishery rates are to be struck, and provisions in relation to appeals against valuations of fisheries.

SECT 56.—Where in any fishery year a board of conservators strike a rate under section 55 or the Minister, by reason of the failure of the board of conservators to strike the rate, strikes a rate under that section for the fishery district of the board of conservators, the board of conservators or the Minister shall make the rate according to the valuations appearing in the revised Valuation List required under the Valuation Acts to be issued by the Commissioner of Valuation by the 1st day of March immediately preceding the commencement of that fishery year, and the board of conservators may levy, collect and recover any sum due on account of any rate so made, notwithstanding any pending appeal or notice of appeal under the Valuation Acts with respect to valuation but where the valuation of any fishery is altered on appeal, the board of conservators— (a) shall, if the valuation is decreased, repay any sum paid in respect of the rate in excess of the sum which would have been payable if the valuation had originally stood as altered on appeal, and (b) may, if the valuation is increased, recover as arrears of the rate, an amount equal to the difference, between the sum payable in respect of the rate as made and the sum which would have been payable in respect of the rate if the valuation had originally stood as altered on appeal.

57 Amendment of fishery rates.

SECT 57.—(1) Where a fishery rate on a fishery has been struck under section 55 in a particular fishery year, the board of conservators in whose fishery district the fishery is situate may, but not later than the expiration of the next following fishery year, make such amendments in the rate as are necessary to

correct occupiers names, misdescriptions and clerical, arithmetical and other errors therein, (2) Whenever a board of conservators propose to make an amendment of a rate on a fishery under this section— (a) the board of conservators shall serve by post notice of the proposed amendment on any person who is the occupier of the fishery, (b) the notice shall contain an intimation that written objections to the proposed amendment may be sent to the board of conservators within seven days after the posting of the notice, (c) before making the proposed amendment, the board of conservators shall consider the objections (if any) received as the result of the notice. (3) A board of conservators shall make such refunds or give such credits (as the case may require) in respect of fishery rate and shall be entitled to make such recoveries of fishery rates as may be from time to time appropriate in consequence of any amendment under this section.

58 Liability for fishery rate.

SECT 58.—The person liable to pay a fishery rate in respect of a fishery shall be the occupier thereof.

59 Collection and recovery of fishery rate.

SECT 59.—(1) Fishery rate payable to a board of conservators shall be collected by such persons as the board may from time to time appoint, adequate security being taken by the board from the persons so appointed for the duly accounting for the rate collected, and the costs of the collection of the rate shall be part of the expenses of the board. (2) Fishery rate payable to a board of conservators may be recovered at the suit of the clerk of the board of conservators as a simple contract debt in any court of competent jurisdiction. (3) Where any person (in this subsection referred to as the rated person) rated in respect of a fishery for fishery rate fails to pay any moiety of such fishery rate within one month after the date on which such moiety is required by subsection (5) of section 55 to be paid, such moiety shall be recoverable (at the option of the person entitled by law to collect and recover it) from the rated person or from any person who, when such fishery rate was made or at any subsequent time, held, used or occupied the said fishery, and, if such last-mentioned person is a tenant of the rated person, he may, unless the contract of tenancy provides for the payment of fishery rate by the tenant, deduct the amount of any fishery rate so recovered from him from any rent payable to the rated person.

60 Payments by Minister in lieu of fishery rate.

SECT 60.—(1) No fishery rate shall be payable by the Minister in respect of any vested (Part XII) fishery. (2) Subject to the provisions of this section the Minister may, if he so thinks fit, in respect of each vested (Part XII) fishery, on and from the payment day next following the date of vesting, pay in any fishery year to the board of conservators for the fishery district in which such fishery is situate in lieu of fishery rate, a half-yearly sum calculated as a moiety of the fishery rate for the current fishery year on the rateable valuation existing at the date when the fishery rate is made. (3) Where a vested (Part XII) fishery is for the time being an unused fishery (within the meaning of Part XII) no payment in lieu of fishery rate shall be made by the Minister in respect of such fishery after the commencement of the fishery year next after the date on which the Minister gives notice to the board of conservators within whose fishery district such fishery is situate of his intention to refrain from using such fishery. (4) Where a vested (Part XII) fishery which has ceased to be worked by the Minister is subsequently worked by the Minister, payment in lieu of fishery rate may be made on and from the payment day next following the date on which such fishery is subsequently worked. (5) Where a vested (Part XII) fishery is leased by the Minister under Part XII, no payment in lieu of fishery rate shall be made by the Minister in respect of such fishery for any period during which any person is under an obligation to pay fishery rate in respect of such fishery. (6) For the purposes of this section each of the following dates in each year shall be a payment day— (a) the 1st day of April; (b) the 1st day of August.

61 Fishery rates on leased fisheries.

SECT 61.—(1) Whenever the Minister grants a lease of a fishery under Part XII he may, if he so thinks fit, cause to be inserted in such lease a covenant by the Minister to the following effect, namely, that, if the amount paid by the lessee as fishery rate in respect of such fishery for any fishery year falling within

the term granted by such lease exceeds the appointed amount, the Minister will pay to the lessee a sum equal to the excess. (2) In this section the expression "the appointed amount" means, in relation to a fishery which is the subject of a lease under Part XII, the sum of the following:— (a) the amount (hereinafter referred to as the standard amount) payable by the occupier as fishery rate or by the Minister in lieu of fishery rate in respect of such fishery for the fishery year current at the date on which such lease is granted or, if the fishery rate for that fishery year for the fishery district in which such fishery is situate has not been made before the said date, the immediately preceding fishery year, and (b) one-twentieth of the standard amount. (3) Where— (a) a judgment of a competent court has been obtained by a board of conservators against the lessee of a fishery, the subject of a lease under Part XII, for any fishery rate due in respect of such fishery, and (b) the Minister is satisfied that such lessee has no goods which could be taken in execution under any process of such court, the following provisions shall have effect:— (i) the Minister may, if he so think fit, pay to such board of conservators a sum not exceeding the amount of such fishery rate and any costs and expenses incurred by such board of conservators in relation to the obtaining and attempted enforcement of such judgment, (ii) any sum so paid shall be a debt due by such lessee to the Minister and may be recovered as a simple contract debt in a court of competent jurisdiction.

62 Grants to certain boards of conservators.

SECT 62.—(1) In every fishery year, the Minister shall, out of moneys provided by the Oireachtas, pay to every board of conservators within whose district there are during that year or part thereof any special tidal waters an amount equal to such percentage of the sum which was on the 1st day of January, 1933, the total rateable valuation of the fisheries in such tidal waters as was fixed for the purpose of the rate leviable for such year on the other fisheries in such district under section 55. (2) If the Minister is satisfied that in any fishery year the receipts (including the moneys payable in such year under subsection (1) of this section) of any board of conservators within whose district there are during that year or part thereof any special tidal waters will be insufficient to defray the expenditure to be incurred by such board in such year, he may, with the consent of the Minister for Finance, pay to such board out of moneys provided by the Oireachtas a grant not exceeding the estimated deficit.

63 Suspended provisions as to rates on fisheries.

SECT 63.—(1) Subsections (2), (3), (4) and (5) of this section shall not have effect during any fishery year to which section 55 applies by virtue of subsection (8) thereof. (2) The occupier of every fishery in a fishery district, which is entered on the Valuation List prepared under the Valuation Acts as a rateable hereditament, shall in each year pay to the board of conservators for that fishery district as an annual rate, in two equal half yearly gales, on the 1st day of February and the 1st day of July in that year, such sum, in addition to the licence duties to be paid for fishing engines used in fishing that fishery, as shall be equal to the amount of the difference between the sums paid by him for such licence duties and the annual sum of ten per cent. on the rateable valuation of that fishery, subject to such reduction of that percentage as may, from time to time, be made by that board of conservators under subsection (3) of this section. (3) The board of conservators of a fishery district may, with the approval of the Minister, reduce in respect of that fishery district the percentage specified in subsection (2) of this section, and any such reduction shall have effect on and from the 1st day of January in the then succeeding year. (4) A rate payable to a board of conservators under this section may be recovered at the suit of the clerk of the board of conservators as a simple contract debt in any court of competent jurisdiction. (5) A rate payable to a board of conservators under this section shall be collected by such persons as the board may from time to time appoint, adequate security being taken by the board from the persons so appointed for the duly accounting for the rate collected, and the costs of the collection of the rate shall be part of the expenses of the board.

PART VI - LICENCES FOR FISHING FOR SALMON, TROUT AND EELS

CHAPTER I

Ordinary Fishing Licences

64 Non-application of this Chapter to special tidal waters.

SECT 64.—This Chapter shall not apply to the use in any special tidal waters of a fishing engine for the taking of salmon or trout.

65 Penalty for using unlicensed scheduled engine, other than rod and line.

SECT 65.—(1) If any person uses or erects in any fishery district any scheduled engine, for the taking of salmon, trout or eels, in respect of which there is not for the time being in force an ordinary fishing licence authorising the use of that engine in that fishery district, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than double and not more than treble the ordinary licence duty for the time being payable in respect of an ordinary fishing licence to use that engine. (2) Where a person is convicted of an offence under this section the engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (3) This section does not apply to the use of rod and line.

66 Penalty for fishing for or taking salmon with rod and line by unlicensed person.

SECT 66.—(1) If— (a) any person fishes for or takes or kills salmon with rod and line in a fishery district and (b) such person is not the holder of a salmon rod ordinary licence which is for the time being in force and is available for use in that fishery district, such person shall be guilty of an offence under this section and shall be liable on summary conviction to a fine of not less than double and not more than treble the ordinary licence duty for the time being payable in respect of a salmon rod (annual) ordinary licence, other than a salmon rod (annual) ordinary licence to which subsection (2) of section 68 applies. (2) Where a person is convicted of an offence under this section, the rod and line in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

67 Provisions in relation to ordinary fishing licences.

SECT 67.—(1) Every board of conservators shall, in accordance with this section, issue fishing licences (in this Act referred to as ordinary fishing licences) in respect of scheduled engines. (2) (a) A board of conservators shall not issue salmon rod (late season) (district) ordinary licences unless there is for the time being in force an order under paragraph (b) of this subsection authorising that board of conservators to issue licences of that class. (b) The Minister may by order (either on his own motion or on the application of the board of conservators) authorise a board of conservators to issue salmon rod (late season) (district) ordinary licences. (c) The Minister may at any time by order revoke an order made under paragraph (b) of this subsection. (3) (a) The periods for which ordinary fishing licences are to be issued shall be— (i) in the case of salmon rod ordinary licences — seven days, twenty-one days, one year and a period of six months commencing on a first day of July, (ii) in the case of other ordinary fishing licences one year. (b) Salmon rod ordinary licences issuable for seven days shall be called, and are in this Act referred to as, salmon rod (seven day) ordinary licences. (c) Salmon rod ordinary licences issuable for twenty-one days shall be called, and are in this Act referred to as, salmon rod (twenty-one day) ordinary licences. (d) Salmon rod ordinary licences issuable for a year and available for use in every fishery district shall be called, and are in this Act referred to as, salmon rod (annual) ordinary licences. (e) Salmon rod ordinary licences issuable for a year and available for use in the fishery district of the board of conservators by which they were issued and in no other fishery district shall be called, and are in this Act referred to as, salmon rod (annual) (district) ordinary licences. (f) Salmon rod ordinary licences issuable for a period of six months commencing on a first day of July and available for use in every fishery district shall be called, and are in this Act referred to as, salmon rod (late season) ordinary

licences. (g) Salmon rod ordinary licences issuable for a period of six months commencing on a first day of July and available for use in the fishery district of the board of conservators by which they were issued and in no other fishery district shall be called, and are in this Act referred to as, salmon rod (late season) (district) ordinary licences. (4) (a) A salmon rod (seven day) ordinary licence shall be valid and in force for the period of seven days commencing on the date specified in that behalf in the licence. (b) A salmon rod (twenty-one day) ordinary licence shall be valid and in force for the period of twenty-one days commencing on the date specified in that behalf in the licence. (c) A salmon rod (late season) ordinary licence or a salmon rod (late season) (district) ordinary licence shall be valid and in force for the period of six months commencing on the date (being a first day of July) specified in that behalf in the licence. (d) An ordinary fishing licence (other than a salmon rod (seven day) ordinary licence, a salmon rod (twenty-one day) ordinary licence, a salmon rod (late season) ordinary licence or a salmon rod (late season) (district) ordinary licence) shall be valid and in force for the year specified in that behalf in the licence. (5) A separate ordinary fishing licence shall, be issued for each separate fishing engine. (6) Every ordinary fishing licence issued by the board of conservators for a fishery district shall— (a) be in such form as the Minister may from time to time direct, (b) state thereon— (i) the period for which it is to be valid and in force. (ii) the number or name of that fishery district, (iii) unless it is a salmon rod (seven day) ordinary licence, or a salmon rod (twenty-one day) ordinary licence, or a salmon rod (late season) ordinary licence, or a salmon rod (late season) (district) ordinary licence or a salmon rod (annual) ordinary licence to which subsection (2) of section 68 applies or a salmon rod (annual) (district) ordinary licence to which subsection (3) of the said section 68 applies the name of the electoral division (being an electoral division of such fishery district) in which it is issued, (iv) the kind of fishing engine to which it relates. (7) Where an application for a salmon rod licence is made to the board of conservators for a fishery district, such licence shall be issued— (a) in case the applicant is the owner or occupier of a red fishery for salmon in such fishery district, in the electoral division of such fishery district in which such fishery is situate, or (b) in any other case— (i) if there is only one freshwater electoral division of such fishery district, in such freshwater electoral division, or (ii) if there are two or more freshwater electoral divisions of such fishery district, in such one of the said divisions as the applicant may request. (8) Where an application is made to a board of conservators for a licence for a fishing engine (being a fixed engine, a box in a fishing weir or a fishing mill dam or an eye, gap or basket for taking eels in or on a fishing weir or a fishing mill dam), such licence shall be issued in the electoral division in which such engine is situate. (9) Every ordinary licence issued in respect of an engine for fishing (other than rod and line) shall contain on the face thereof— (a) in the case of an engine to be used in a several fishery, the name of the person (in this section referred to as the owner) who is for the time being entitled to use such engine for his own benefit or, if the owner so requests by notice in writing to the board of conservators concerned, such other person as the owner specifies in the notice, or (b) in every other case, the name and address of the person paying the licence duty on such engine. (10) Every ordinary fishing licence shall be sealed with the seal of the board of conservators by which it is issued. (11) Each of the following ordinary fishing licences shall be available for use in the fishery district of the board of conservators by which it was issued and in no other fishery district— (a) an ordinary fishing licence (not being a salmon rod ordinary licence), (b) a salmon rod (annual) (district) ordinary licence, (c) a salmon rod (late season) (district) ordinary licence. (12) A salmon rod ordinary licence (not being a salmon rod (annual) (district) ordinary licence or a salmon rod late season) (district) ordinary licence) shall be available for use in every fishery district. (13) Every salmon rod ordinary licence shall specify the name and address of the person to whom it is issued and such licence shall not be available for use by any person except the person named therein or be transferred to any other person. (14) Every ordinary fishing licence (other than a salmon rod ordinary licence) shall operate to authorise the use, during the period specified therein and in the fishery district specified therein, of a fishing engine of the kind specified therein, but subject to the provisions of this Act and any instrument made thereunder. (15) Every salmon rod ordinary licence (not being a salmon rod (annual) (district) ordinary licence or a salmon rod (late season) (district) ordinary licence) shall operate to authorise the person named therein, but no other person, to use, during the period specified therein and in every fishery district, a salmon rod, but subject to the provisions of this Act and any instrument made thereunder. (16) Every salmon rod ordinary licence (being a salmon rod (annual) (district) ordinary licence or a salmon rod (late season) (district) ordinary licence) shall operate to authorise the person named therein, but no other person, to use, during the, period specified therein and in the fishery district of the board of conservators by which it was issued, a salmon rod, but subject to the provisions of this Act and any instrument made thereunder. (17) An ordinary fishing licence shall not be

construed as giving or conferring any right of fishing or of using any engine for taking fish by any means or in any place which the person having or using the licence would not have possessed if this Act had not been passed or as altering or affecting the rights of any other person.

68 Duties on ordinary fishing licences.

SECT 68.—(1) (a) Subject to paragraphs (b) and (c) of this subsection, the ordinary licence duty in respect of a salmon rod ordinary licence of the class specified in column (2), (3), (4), (5), (6) or (7) of Part I of the Fourth Schedule to this Act shall be the sum set out in whichever of those columns relates to a salmon rod ordinary licence of that class. (b) The Minister may, from time to time, by order alter the ordinary licence duty in respect of a salmon rod ordinary licence of a particular clan specified in Part I of the Fourth Schedule to this Act, so however that the ordinary licence duty in respect of such a licence shall not be so altered that it exceeds twice the sum fixed in respect thereof by paragraph (a) of this subsection. (c) This subsection does not apply to the ordinary licence duty payable in respect of— (i) a salmon rod (annual) ordinary licence to which subsection (2) of this section applies, or (ii) a salmon rod (annual) (district) ordinary licence to which subsection (3) of this section applies. (2) (a) This subsection applies to a salmon rod (annual) ordinary licence which is valid for a particular year and is issued to a person who is the holder of a salmon rod (Foyle Area) licence which is valid for that year. (b) Subject to paragraph (c) of this subsection the ordinary licence duty payable in respect of a salmon rod (annual) ordinary licence to which this subsection applies shall be ten shillings. (c) Wherever the Minister makes, under paragraph (b) of subsection (1) of this section, an order altering the ordinary licence duty in respect of a salmon rod (annual) ordinary licence, he may by order alter the annual licence duty payable in respect of a salmon rod (annual) ordinary licence to which this subsection applies. (3) (a) This subsection applies to a salmon rod (annual) (district) ordinary licence which is valid for a particular year and is issued to a person who is the holder of a salmon rod (Foyle Area) licence which is valid for that year. (b) Subject to paragraph (c) of this subsection the ordinary licence duty payable in respect of a salmon rod (annual) (district) ordinary licence to which this subsection applies shall be ten shillings. (c) Whenever the Minister makes, under paragraph (b) of subsection (1) of this section, an order altering the ordinary licence duty in respect of a salmon rod (annual) (district) ordinary licence, he may by order alter the annual licence duty payable in respect of a salmon rod (annual) (district) ordinary licence to which this subsection applies. (4) (a) Subject to paragraph (b) of this subsection, the ordinary licence duty in respect of an ordinary fishing licence authorising the use of a fishing engine of a kind specified in column (2) of Part II of the Fourth Schedule to this Act at any reference number shall be the sum set out in column (3) of the said Part II at that reference number. (b) The Minister may, from time to time, by order alter the ordinary licence duty in respect of an ordinary fishing licence authorising the use of a fishing engine of a kind specified in column (2) of Part II of the Fourth Schedule to this Act at any reference number, so however that the said ordinary licence duty shall not be so altered that it exceeds twice the sum specified in column (3) of the said Part II at that reference number. (5) Where the licence duty in respect of a licence to use an engine (not being a scheduled engine) has been fixed under section 69 in respect of a particular fishery district, then, as respects such fishery district, the following provisions shall have effect— (a) such engine shall for the purposes of this Act become and be a scheduled engine, (b) the ordinary licence duty payable in respect of a licence to use such engine shall, subject to paragraph (c) of this subsection, be that so fixed under the said section 69, (c) the Minister may, from time to time, by order alter the ordinary licence duty in respect of a licence to use such engine, so however that the ordinary licence duty in respect of such a licence shall not be so altered that it exceeds twice the sum fixed in respect thereof under the said section 69. (6) Where the ordinary licence duty in respect of an ordinary fishing licence is altered under any of the following provisions of this section, namely, paragraph (b) of subsection (1), paragraph (c) of subsection (2), paragraph (c) of subsection (3), paragraph (b) of subsection (4) and paragraph (c) of subsection (5), the duty as so altered shall be payable in respect of any such ordinary fishing licence which is to be valid for a period commencing on or after the 1st day of January next following the making of the order which effected the alteration.

69 Licence duties on engines not specified in Fourth Schedule, and restrictions on user of such engines.

SECT 69.—(1) Where a person proposes to use in any fishery district an engine (not being a scheduled engine), for fishing for salmon, trout, or eels, in respect of which no ordinary licence duty has been fixed under this section by the board of conservators for such fishery district, such person may apply in accordance with this section, to the said board of conservators to fix the ordinary licence duty in respect of an ordinary fishing licence to use such engine, and upon receipt of such application the said board of conservators may, with the approval of the Minister, fix such licence duty, regard being had as far as practicable to the estimated catching power of such engine as compared with scheduled engines. (2) Every application under this section in relation to an engine shall contain a description of the engine, its estimated catching power as compared with scheduled engines, and the name by which it is to be designated. (3) Where the board of conservators for a fishery district fixes, under subsection (1) of this section, the ordinary licence duty in respect of an ordinary fishing licence to use in that fishery district a non-scheduled engine, it shall cause to be published in some newspaper circulating in such fishery district notice of the fixing of such licence duty. (4) Where the board of conservators for a fishery district fixes, in pursuance of an application under subsection (1) of this section, the licence duty in respect of a licence to use in that fishery district a non-scheduled engine, the following provisions shall have effect:— (a) the applicant or any other person aggrieved by the amount of the licence duty so fixed, may, upon giving, within ten days after publication of notice of the fixing of the licence duty, to the county registrar for the county or county borough wherein the said engine is proposed to be used and to the said board of conservators notice of intention to do so, appeal against the said amount, (b) the said appeal shall be heard by the Judge of the Circuit Court, assigned to the Circuit which includes such county or county borough, (c) the said Judge, after hearing the appellant and the said board of conservators, may, as he thinks fit, reduce, confirm or increase the amount of such duty and his decision shall be final (d) the decision on the said appeal shall relate back to the date on which such duty was fixed by the said board of conservators and accordingly— (i) if the amount of such duty is reduced on the said appeal, the excess paid shall be refunded by the said board of conservators, (ii) if the amount of such duty is increased on the said appeal, the payment already made shall operate by way of discharge pro tanto, (5) If any person (other than the Minister) uses in any fishery district any non-scheduled engine, without previously having complied with subsections (1) and (2) of this section and without having deposited with the board of conservators of such fishery district such sum as the board may demand on account of the licence duty thereafter to be fixed in respect of such engine, then such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than five pounds and, in the case of a continuing offence, a further fine of not less than fifty pounds for each day on which such person has so used such engine.

70 Agents for issue of ordinary fishing licences.

SECT 70.—(1) The board of conservators for a fishery district may appoint such and so many persons as it thinks fit to be agents of the board for the issue of ordinary fishing licences, and every person so appointed by a board of conservators shall be an authorised agent of that board for that purpose. (2) The board of conservators shall take from every person who is an authorised agent of such board adequate security for duly accounting for any licence duty paid to him and for the due performance of his duty, and the cost of any allowance to be made for the issue of licences shall be part of the expenses of such board of conservators. (3) Every authorised agent of a board of conservators shall furnish to such board of conservators an account of all licence duties received by him monthly or as often as it may require and shall set out in such account— (a) the sums received by him for licences for each particular engine for taking fish, and (b) the names and residences of the persons to whom licences were issued, and (c) the electoral division for which each such licence was issued.

71 Right to issue of ordinary fishing licences.

SECT 71.—Where— (a) a person applies to a board of conservators for a fishery district or to an authorised agent of such board of conservators for the issue to him of an ordinary fishing licence to use a specified engine for taking fish, and (b) such person tenders to such board of conservators or authorised

agent the ordinary licence duty payable in respect of such licence, such board of conservators or authorised agent shall, subject to the provisions of this Act, issue such licence to that person.

72 Payment by instalments of ordinary licence duties on draft nets and drift nets.

SECT 72.—Where— (a) not later than the first day of the open season for fishing with engines other than rod and line in any year for a fishery district, an application is made to the board of conservators for such fishery district for a licence to fish for salmon with a draft net or a drift net, and (b) the applicant tenders with his application one moiety of the licence duty payable in respect of such licence, the following provisions shall have effect— (i) such board of conservators shall issue such licence to the applicant subject however to the condition (which shall be endorsed on such licence) that file balance of the said licence duty shall be paid not later than the thirtieth day after the first day of such open season, (ii) if such condition is not complied with such licence shall on and after the expiration of the said thirtieth day cease to be in force.

CHAPTER II Licences for Fishing in Special Tidal Waters

73 Penalty for fishing in special tidal waters by unlicensed person.

SECT 73.—(1) It shall not be lawful for any person to use in any special tidal waters any kind of fishing engine for the taking of salmon or trout, unless such person is the holder of a special local licence for the time being in force authorising such person to use in such tidal waters a fishing engine of that particular kind. (2) If any person uses in contravention of this section in any special tidal waters any fishing engine for the taking of salmon or trout, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to, in case the Minister has authorised the issue of special local licences to use in such tidal waters a fishing engine for the taking of salmon or trout of the kind so used by such persons, a fine not exceeding three times the appropriate special local licence duty in respect of such special local licences and, in any other case, a fine not exceeding fifty pounds. (3) Where a person is convicted of an offence under this section the fishing engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

74 Special local licences and licence duty thereon.

SECT 74.—(1) The Minister may from time to time by order authorise the board of conservators within whose district special tidal waters are situate to issue licences (in this Act referred to as special local licences) to use in such tidal waters any specific kind of fishing engine (being a fishing engine of a kind in respect of which ordinary licences are issuable) for the taking of salmon or trout, and no special local licence to use in special tidal waters any kind of fishing engine for the taking of salmon or trout shall be issued unless an order has been made under this section authorising the board of conservators within whose district such tidal waters are situate to issue special local licences to use in such tidal waters such kind of fishing engine. (2) Whenever the Minister makes an order authorising the issue of special local licences to use in special tidal waters any particular kind of fishing engine for the taking of salmon or trout, he shall by the same order, with the consent of the Minister for Finance, fix the licence duty to be paid in respect of such licences. (3) Different licence duties may be fixed under this section in respect of special local licences to use in special tidal waters different kinds of fishing engines for the taking of salmon or trout, and different licence duties may be fixed under this section in respect of different special tidal waters. (4) The licence duty to be fixed under this section in respect of special local licences to use a particular kind of fishing engine for taking salmon or trout shall not in any case be less than the licence duty payable under this Act in respect of ordinary licences to use a similar kind of fishing engine. (5) Any order under this section may provide that where a special local licence to fish for salmon with rod and line is granted for any year to a person to whom an ordinary licence of a similar kind has been granted for such year, the licence duty payable in respect of such special local licence shall be reduced by such sum as may with the consent of the Minister for Finance be specified in the order. (6) The Minister may with the consent of the Minister for Finance make an order under this subsection amending any order previously made by him under this section (including this subsection) so far as such order relates to licence duties.

75 Form and effect of special local licences.

SECT 75.—(1) Every special local licence in respect of special tidal waters shall— (a) be in such form and contain such particulars as the Minister may direct; (b) be sealed with the seal of the board of conservators of the district within which such tidal waters are situate; (c) specify the year for which such licence is issued. (2) A separate special local licence shall be issued for each separate fishing engine for the taking of salmon or trout. (3) Every special local licence in respect of special tidal waters shall be expressed and operate to authorise the person to whom such licence is issued to use in such tidal waters during the year for which such licence is issued a fishing engine of the particular kind specified therein for the taking of salmon or trout, but subject to the provisions of this Act and any instrument made thereunder.

76 Issue of special local licences.

SECT 76.—Where a board of conservators is authorised by order of the Minister under this Act to issue special local licences to use in special tidal waters situate in the fishery district of the board any particular kind of fishing engine for the taking of salmon or trout, the board shall, subject to the provisions of this Act, upon application being made to it by any person for the issue of a special local licence to use in such tidal waters a fishing engine of such kind for the taking of salmon or trout and upon payment to it by such person of the appropriate special local licence duty, issue through their clerk to such person such special local licence.

77 Payment of special local licence duty by instalments.

SECT 77.—(1) Where a board of conservators is authorised by order of the Minister under this Act to issue special local licences to use, in special tidal waters situate in the fishery district of the board, any particular kind of fishing engine for the taking of salmon or trout, the Minister may, whenever and as often as he thinks fit, by order do the following things:— (a) declare that such three periods in each year as the Minister thinks proper and specifies in such order shall be issue periods for the purposes of such order; (b) authorise such board to issue during the first issue period in any year special local licences to use in such tidal waters a fishing engine of such kind for the taking of salmon or trout on payment of a specified proportion of the appropriate special local licence duty, subject however to the following condition (which shall be endorsed on each such licence), that the balance of such duty shall be paid in three equal instalments, and that each such instalment shall be paid not later than the date specified in such order as the date for the payment thereof; (c) authorise such board to issue during the second issue period in any year special local licences to use in such tidal waters a fishing engine of such kind for the taking of salmon or trout on payment of a specified proportion of the appropriate special local licence duty, subject however to the following condition (which shall be endorsed on each such licence), that the balance of such duty shall be paid in two equal instalments, and that each such instalment shall be paid not later than the date specified in such order as the date for the payment thereof; (d) authorise such board to issue during the third issue period in any year special local licences to use in such tidal waters a fishing engine of such kind for the taking of salmon or trout on payment of a specified proportion of the appropriate special local licence duty, subject however to the following condition (which shall be endorsed on each such licence), that the balance of such duty shall be paid not later than the date specified in such order as the date for the payment thereof. (2) An order under this section may relate to different kinds of fishing engine for the taking of salmon or trout, and in that case may contain different provisions in relation to each kind of fishing engine for the taking of salmon or trout to which the order relates. (3) The Minister may by order revoke or amend any order made under this section (including this subsection). (4) Where a special local licence is issued by a board of conservators in exercise of the powers conferred on such board by an order under this section, the following provisions shall have effect:— (a) if there is a breach of the condition endorsed on such licence in accordance with such order, such licence shall cease to be in force immediately upon such breach, and (b) upon payment of any instalment, or, in the case of a special local licence issued during a third issue period under such order, the

balance, of the appropriate special local licence duty in accordance with such condition, the clerk of such board shall, upon production of such licence, endorse thereon a certificate of such payment.

78 Forfeiture of special local licences.

SECT 78.—(1) Where the holder of a special local licence is convicted of an offence under the repealed enactments or an offence under any provision of this Act, the Court by whom such person is convicted may, in addition to any other penalty, direct such licence to be forfeited. (2) Where a special local licence is directed to be forfeited under this section, such licence shall thereupon cease to be in force.

CHAPTER III Licences for fishing for trout with Rod and Line in Certain Waters

79 Scheduled trout waters.

SECT 79.—(1) A board of conservators may from time to time by order declare that any river or lake or portion thereof situate in the fishery district of such board shall be scheduled trout waters for the purposes of this Act. (2) A board of conservators may by order revoke any order made by it under subsection (1) of this section. (3) Every order made under this section shall be in such form and shall be published in such manner as the Minister may direct—

80 Penalty for fishing in scheduled trout waters for trout with rod and line by unlicensed person.

SECT 80.—(1) It shall not be lawful for any person to fish for trout with rod and line in any scheduled trout waters situate in a fishery district unless— (a) such person is the holder of a trout rod (general) licence for the time being in force, or (b) such person is the occupier of land contiguous to the portion of such scheduled trout waters in which he is found fishing and is entitled to fishing rights in that portion and is the holder of a trout rod (riparian owner) licence for the time being in force issued by the board of conservators for such fishery district and valid for that portion, or (c) such person is a member of the family of the occupier of land contiguous to the portion of such scheduled trout waters in which such person is found fishing and such occupier is entitled to fishing rights in that portion and is the holder of a trout rod (riparian owner) licence for the time being in force issued by the board of conservators for such fishery district and valid for that portion, or (d) such person is the holder of a trout rod (juvenile) licence for the time being in force issued by such board of conservators, or (e) such person is the holder of a salmon rod licence for the time being in force issued by such board of conservators. (2) If any person acts in contravention of subsection (1) of this section such person shall, be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding one pound.

81 Kinds of trout rod licences and licence duties thereon.

SECT 81.—(1) Trout rod licences shall be of three kinds, namely— (a) trout rod (general) licences, (b) trout rod (riparian owner) licences, and (c) trout rod (juvenile) licences. (2) There shall be payable on— (a) a trout rod (general) licence, a licence duty of five shillings. (b) a trout rod (riparian owner) licence, a licence duty of sixpence, (c) a trout rod (juvenile) licence, a licence duty of sixpence.

82 Area of validity of trout rod licences.

SECT 82.—(1) A trout rod (general) licence shall be valid throughout the State. (2) A trout rod (riparian owner) licence shall be valid only in that portion of scheduled trout waters— (a) in which the holder of the licence is entitled to fishing rights, and (b) which is contiguous to land occupied by the holder. (3) A trout rod (juvenile) licence shall be valid only in the fishery district of the board of conservators by whom it is issued.

83 Right to issue of trout rod licences.

SECT 83.—(1) Where— (a) a person applies to a board of conservators for a fishery district or to an authorised agent of such board for the issue to him of a trout rod (general) licence and (b) such person

tenders the sum of five shillings, such board or agent shall, subject to the provisions of this Act, issue a trout rod (general) licence to that person. (2) Where— (a) a person applies to a board of conservators within whose fishery district any scheduled trout waters are situate or to an authorised agent for such board for the issue to him of a trout rod (riparian owner) licence, and (b) such person satisfies such board or agent that he is the occupier of land contiguous to any portion of such scheduled trout waters and that he is entitled to fishing rights in such scheduled trout waters, and (c) such person tenders the sum of sixpence, such board or agent shall, subject to the provisions of this Act, issue a trout rod (riparian owner) licence to such person. (3) Where— (a) a person applies to a board of conservators within whose fishery district any particular scheduled trout waters are Situate or to an authorised agent for such board for the issue to him of a trout rod (juvenile) licence, and (b) such person satisfies such board or agent that he is for the time being under the age of seventeen years, and (c) such person tenders the sum of sixpence, such board or agent shall, Subject to the provisions of this Act, issue a trout rod (juvenile) licence to such person.

84 Provisions in relation to trout rod licences.

SECT 84.—(1) The following provisions shall apply in respect of trout rod licences:— (a) a separate trout rod licence shall be issued for each rod, (b) each trout rod licence shall be valid for one year only and that year shall be the year in which it is issued (c) every trout rod licence shall— (i) be prepared and printed in such form as the water may direct, (ii) have printed thereon the period for which it is available and such other particulars as the Minister may direct, (iii) be sealed with the seal of the board of conservators within whose fishery district it is issued, (d) each trout rod licence shall specify the name and address of the person to whom it is issued and shall not be transferred to any other person. (2) A trout rod licence shall not be construed as giving or conferring on the holder thereof any right of fishing in any place which the person holding or using the licence would not have possessed if this Act had not been passed or as altering or affecting the rights of any other person.

CHAPTER IV Restrictions on Issue of Fishing Licences

85 Prohibition of issue of ordinary licences in respect of special tidal waters.

SECT 85.—No ordinary fishing licence shall be issued in respect of any special tidal waters.

86 Prohibition of issue of licences for map nets in the tidal portion of the River Shannon.

SECT 86.—No ordinary licence shall be issued for fishing with a snap net in the tidal portion of the River Shannon.

87 Prohibition of issue of licences for snap nets in tidal portion of rivers (other than the River Shannon) in which the Electricity Supply Board has acquired a fishery or fishing right.

SECT 87.—(1) The Minister, if he so thinks fit on the application of the Electricity Supply Board, may by order prohibit the issue of ordinary licences for fishing with a snap net in the tidal portion of any river in which the Said Board has acquired a fishery or fishing right under Part III of the Electricity (Supply) (Amendment) Act, 1945 (No. 12 of 1945). (2) Whenever the Minister has made an order under subsection (1) of this section, no ordinary licence shall be issued in contravention of such order.

88 Restrictions on issue of drift net and draft net licences in tidal portions of rivers in which the Electricity Supply Board has a fishery or fishing right.

SECT 88.—(1) In this section, the expression "tidal portion of a river to which this section applies" means— (a) the tidal portion of the River Shannon, (b) the tidal portion of any river in which the Electricity Supply Board has acquired a fishery or a fishing right under Part III of the Act of 1945 (No. 12 of 1945). (2) The Minister may, if he so think proper, do, in respect of the tidal portion of a river to which this section applies, the following things— (a) make regulations prescribing the maximum number (which shall not, in case that river is the River Shannon, exceed seventy) of licences for fishing with drift

nets therein which may be issued in any year in which the open season for such fishing begins after the date of such regulations; (b) make regulations prescribing the maximum number (which shall not, in case that river is the River Shannon, exceed twenty-five) of licences for fishing with draft nets therein which may be issued in any year in which the open season for such fishing begins after the date of such regulations; (c) make regulations in relation to the issue of such licences as are mentioned in either paragraph (a) or (b) of this subsection with a view to securing to persons who held such drift net licences or draft net licences (as the case may be) in the year before the date of the regulations under paragraph (a) or (b) of this subsection a preferential right to purchase such drift net licences or draft net licences (as the case may be) before the commencement of any open season for fishing under such licences in respect of which the number of such licences is limited by the last-mentioned regulations. (3) Whenever the Minister makes under this section regulations prescribing the maximum number of licences of any particular kind which may be issued in respect of the tidal portion of any particular river in any particular open season, the number of such licences issued in respect of such tidal portion in any such open season shall not exceed the maximum number so prescribed. (4) Where a person is convicted of an offence under the repealed enactments or an offence under any provision of this Act, such person shall not be entitled to any preferential right to obtain a licence under this section. (5) (a) In this subsection— the expression "the Act of 1935" means the Shannon Fisheries Act, 1935 (No. 4 of 1935); the expression "the Act of 1956" means the Fisheries (Statute Law Revision) Act, 1956 (No. 28 of 1956). (b) If immediately before the operative date, the provisions of subsection (1) of section 23 of the Act of 1935 (repealed by the Act of 1956) are, by virtue of subsection (5) of section 11 of the Act of 1956 (repealed by this Act), in force, then, those provisions shall, notwithstanding such repeals, continue in force and shall, for the purposes of this section, be deemed to have been made by regulations under paragraphs (a) and (b) of subsection (2) of this section. (c) If, immediately before the operative date, the River Shannon Tidal Waters (Issue of Fishing Licences) Regulations, 1935 (S. R. & O. No. 664 of 1935), made under subsection (2) of section 23 of the Act of 1935 (repealed by the Act of 1956) are, by virtue of subsection (6) of section 11 of the Act of 1956 (repealed by this Act) in force then, those Regulations shall, notwithstanding such repeals, continue in force and shall, for the purposes of this section, be deemed to have been made under paragraph (c) of subsection (2) of this section.

89 Restrictions on issue of licences for nets for fishing in certain fisheries.

SECT 89.—(1) The Minister may, in respect of any public fishery, do by order the following things:— (a) declare that such period (being not less than three years and not more than ten years) as the Minister thinks proper and specifies in such order shall be the appointed period for the purposes of such order; (b) prohibit the issue of licences for any kind of nets for fishing in such fishery other than nets of a kind lawfully used for fishing in such fishery during the standard year; (c) in respect of nets of each kind lawfully used for fishing in such fishery during the standard year— (i) fix the maximum number of licences for nets of that kind which may be issued for fishing in such fishery during each of the years (other than the last year) falling within the appointed period, and may so fix different numbers in respect of all or any one or more of such years, subject however to the limitation that the number so fixed shall be not more than one hundred per cent and not less than fifty per cent of the number of licences for nets of that kind issued for fishing in such fishery during the standard year. (ii) fix the maximum number of licences for nets of that kind which may be issued for fishing in such fishery during the last year of the appointed period and each year commencing after the expiration of the appointed period, and may fix different numbers in respect of all or any one or more of such years, subject however to the limitation that the number so fixed shall be not more than eighty per cent and not less than fifty per cent of the number of licences for nets of that kind issued for fishing in such fishery during the standard year, (iii) prohibit the issue of a number of licences for nets of that kind for any year in excess of the maximum number so fixed for that year, (iv) prohibit the issue to any one person of more than one licence for a net of that kind for any year; (d) appoint a day preceding each year which is to be the last day for making applications for licences for nets for fishing in such fishery during such year. (2) Where an order has been made by the Minister under subsection (1) of this section in relation to any public fishery, the following provisions shall have effect in relation to the issue of licences for each kind of net (being nets of a kind the issue of licences in respect of which is not prohibited by such order) for fishing in such fishery for each year to which such order relates:— (a) no licence for a net of that kind for fishing in such fishery during such year shall be issued to any person unless an application has been made therefor not later than the date (in

this subsection referred to as the last day for making applications) fixed by such order as the last day for making applications for licences for nets for fishing in such fishery during that year; (b) no person shall be entitled to apply for more than one licence for that kind of net for fishing in such fishery during that year, and if any person applies for more than one such licence, such application shall be treated as an application for one such licence only; (c) if the number of applications for licences for that kind of net for fishing in such fishery during such year duly made by persons (in this subsection referred to as preferred persons) who either— (i) held licences for nets of that kind for fishing in such fishery during the standard year and were actually engaged in fishing under such licences in the standard year, or (ii) were, during the whole or substantially the whole of each of the three fishing seasons immediately preceding the last day for making applications, constantly and regularly employed in fishing in such fishery, equals the maximum number of licences of that land specified in such order for such year, then no such licences shall be granted to any persons other than preferred persons; (d) if the number of applications duly made by preferred persons for licences for that kind of net for fishing in such fishery during that year exceeds the said maximum number— (i) no such licences shall be granted to any persons other than preferred persons; (ii) such licences shall be issued amongst the said preferred persons in such manner as may be determined by lot; (e) if the number of applications duly made by preferred persons for licences for that kind of net for fishing in such fishery during that year is less than the said maximum number— (i) a licence for that kind of net shall be issued to each of such preferred persons, (ii) if the number of such licences remaining over after the issue to preferred persons equals or exceeds the number of applications duly made by persons (in this subsection referred to as non-preferred persons) who are not preferred persons, one licence of that kind shall be issued to each of such non-preferred persons, (iii) if the number of such licences so remaining over is less than the number of applications duly made by non-preferred persons, such licences shall be issued amongst such non-preferred persons in such manner as may be determined by lot. (3) In this section— the expression "public fishery" means the tidal portion of any river in which a right of public fishing exists and the estuary thereof and the sea within three miles of the mouth of such estuary or, in case the seaward boundary of the estuary has been defined, the seaward boundary of such estuary, but does not include the tidal portions of the River Shannon or its tributaries above the mouth or mouths thereof; the expression "the standard year" means— (a) in relation to the Rivers Erne and Owenea and the estuaries thereof, the year 1934, (b) in relation to any other public fishery, the year 1935. (4) Where a person is convicted of an offence under the repealed enactments or an offence under any provision of this Act such person shall not be entitled to any preferential right to obtain a licence under this section.

CHAPTER V Forfeiture of Licences

90 Forfeiture of licences.

SECT 90.—(1) Where— (a) a person is convicted of an offence under the repealed enactments or an offence under any provision of this Act, and (b) such person is the holder of a licence or licences to fish for salmon or trout, the Court by whom such person is convicted may, in addition to any other penalty, direct such licence or licences to be forfeited (2) Where a licence is directed to be forfeited under this section, such licence shall thereupon cease to be in force.

PART VII - REGULATIONS AS TO NETS

91 Restrictions on use of nets.

SECT 91.—(1) If any person— (a) makes use of or fishes with any net formed with a false bottom (except nets for the taking of eels), or (b) places two or more nets one behind the other, or (c) uses any nets covered with canvas, hide, or other substance for the purpose of taking undersized fish, or (d) affixes or keeps up continued nets stretched across any river, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

(2) Where a person is convicted of an offence under this section, the net in respect of which the offence was committed shall as a statutory consequence of conviction, stand forfeited.

92 Mesh of nets, made of non-rigid material for the taking of salmon in the sea or tideways.

SECT 92.—(1) In this section, the expression "net to which this section applies" means any net or other engine which is not formed of a rigid material and which is used for the taking of salmon. (2) If, on any part of the coast or within any bay, estuary or tideway thereof, any person (other than the proprietor of the whole of the fishery of the river flowing into such bay, estuary or tideway, from the mouth to the source thereof, including its tributary streams) uses any net to which this section applies with a mesh of less size than one and three quarter inches from knot to knot, to be measured along the side of the square, or seven inches to be measured all round each such mesh, such measurement being taken in the clear when the net is wet, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. (3) Where a person is convicted of an offence under this section, the net in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (4) The Minister may by bye-law, alter, in respect of any particular district or locality, the size, specified in subsection (2) of this section, of the mesh of any net to which this section applies and permit the use, in that district or locality, of nets to which this section applies having meshes of a less size than that specified in the said subsection (2). (5) Where a bye-law made under subsection (4) of this section alters, in respect of any district or locality, the size, specified in subsection (2) of this section, of the mesh of any net to which this section applies and permits the use, in that district or locality, of a net to which this section applies having a mesh of a less size, subsection (2) of this section shall, in its application to that district or locality, have effect as if, for the reference to a mesh of the size specified in the said subsection (2), there were substituted a reference to a mesh of the size permitted to be used by such bye-law.

93 Meshes or openings of engines made rigid material for the taking of salmon in the sea and tideways.

SECT 93.—(1) In this section the expression "engine to which this section applies" in any engine which is formed of a rigid material and used for the taking of salmon. (2) If, on any part of the coast or within any bay, estuary or tideway thereof, any person (other than the proprietor of the whole of the fishery of the river flowing into such bay, estuary or tideway from the mouth to the source thereof, including its tributary streams) uses any engine to which this section applies with meshes or openings of less width than three inches on each side of the square, and, where no meshes or openings of the nature of reticulations are used, of less width between the bars than two inches, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. (3) Where a person is convicted of an offence under this section, the engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

94 Salmon nets no to be used at, mouths of rivers or within half a mile seaward of inwards of mouths of rivers.

SECT 94.—(1) It shall not be lawful for any person (other than the owner of a several fishery within the limits thereof) to shoot, draw, or use any net for taking salmon at the mouth of any river or within half a mile seaward or half a mile inwards or along the coast from the mouth of any river. (2) It shall not be lawful for any person (other than the owner of a several fishery in the whole of a river and its tributaries within the limits of such several fishery) to shoot, draw, or stretch any net entirely across the mouth or across any other part of a river. (3) If any person contravenes any of the preceding subsections of this section, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than one pound and not more than ten pounds and a further fine of five shillings for every fish taken by means of any net used in the commission of the offence. (4) Where a person is convicted of an offence under this section every net in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (5) Where an order under this Act defines the mouth of any tributary river, references in the preceding subsections of this section to the mouth of any river shall be construed as including references to the mouth of such tributary river.

95 Restriction on use of nets in freshwater.

SECT 95.—(1) It shall not be lawful for any person to use any net for the capture of fish in the freshwater portion of any river or in any freshwater lake, unless— (a) such net is used under and in accordance with bye-laws made under this section, or (b) such net is a landing net and is used solely as auxiliary to lawful fishing with rod and line, or (c) such net is used solely for the purpose of removing fish from traps in a weir, or (d) such net is constructed for the capture of eels. (2) If any person uses any net in contravention of this section such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds. (3) The Minister may by bye-law authorise the use, subject to such conditions as he thinks proper, in any specified area in the freshwater portion of any river or in any freshwater lake of any kind or kinds of net which may be lawfully used for the capture of fish, other than salmon, trout or eels, under this Act. (4) (a) Where— (i) an application is made to the Minister to permit the use of draft nets for the capture of trout in a specified freshwater lake exceeding thirty square miles in area, and (ii) the applicant furnishes the Minister with the consent in writing of every owner of a several fishery in the lake, and (iii) the applicant satisfies the Minister that within twenty years before the 1st day of January, 1948, nets were used as of right in the lake for the capture of trout by members of the public who depended on such netting as a means of livelihood, the Minister, if he thinks fit, may make bye-laws permitting the use of draft nets for such capture, subject to such conditions as he thinks proper. (b) Where bye-laws under this subsection are for the time being in force in relation to waters vested in the Electricity Supply Board, nothing in any enactment shall be construed as prohibiting the Board from permitting the use of draft nets in such waters in accordance with the bye-laws. (c) The Minister may, if he thinks fit, cause a public inquiry to be held into the desirability of making a particular bye-law under this subsection and for this purpose may appoint an officer of the Minister to hold such inquiry. (d) The Minister shall cause to be given, in accordance with section 322, notice of the holding of an inquiry under this subsection.

96 Restriction on possession of nets, etc.

SECT 96.—(1) If any person has in his possession or control in any waters or on or near the bank of any waters— (a) any net, the use of which in such waters for the purpose of taking fish is prohibited by any provision (other than section 95) of this Act or have any bye-law made there, under, or (b) any instrument (other than a net) or lure or bait, the use of which in such waters for the purpose of taking fish is prohibited by any provision of this Act or by any bye-law made thereunder, such person shall be guilty of an offence under this subsection. (2) If any person has in his possession or control in, or in the vicinity of, a freshwater lake or the freshwater portion of any river any net constructed or mounted so as to be capable of being used for the capture of fish with intent to use it in contravention of section 95, such person shall be guilty of an offence under this subsection. (3) Any person guilty of an offence under subsection (1) or (2) of this section shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds or, at the discretion of the Court, to imprisonment for any term not exceeding six months. (4) Where a person is convicted of an offence under subsection (1) or (2) of this section, the net, other instrument, lure or bait in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (5) Where— (a) a person is charged with an offence under subsection (2) of this section in relation to the possession or control of a net, and (b) it is proved that he was found in possession or control of such net in, or in the vicinity of, a freshwater lake or the freshwater portion of any river, it shall be presumed that he had the possession or control of such net with intent to use it in such freshwater lake or the freshwater portion of such river in contravention of section 95, unless and until he satisfies the Court that, at the time the offence is alleged to have been committed,- (i) he intended and was entitled to use such net in a manner which comes within one of the matters of exception mentioned, in relation to a net of a similar kind, in subsection (1) of section 95 or, if such net is a draft net, in a manner which is permitted by bye-laws made under subsection (4) of section 95, or (ii) if he was found in possession or control of such net in the vicinity of the boundary between the tidal and freshwater portions of such river, he was the holder of a licence to use such net in the fishery district in which such river is situate and intended and was entitled to use such net in the tidal portion of such river

PART VIII - FIXED ENGINES, FISHING WEIRS, FISHING MILL DAMS AND OTHER OBSTRUCTIONS TO THE PASSAGE OF FISH

CHAPTER I Prohibition of fixed Engines, Fishing Weirs and Fishing Mill Dams with certain Expectations

97 Penalty for using, etc fixed engine for the capture of salmon not certificated under the salmon Fishery (Ireland) Act, 1863.

SECT 97.—(1) No person shall fish with, make use of, or erect any fixed engine for the capture of salmon unless a certificate in regard to such fixed engine was granted under the Salmon Fishery (Ireland) Act, 1863, before the 31st day of December, 1923, and was subsisting unrevoked on that day. (2) Every person who fishes with, makes use of, or erects any fixed engine for the capture of salmon in contravention of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds and a further fine not exceeding twenty pounds for every day during which such fixed engine is fished with, made use of, or erected. (3) Where a person is convicted of an offence under this section, the fixed engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

98 Effect of certificates under section 6 of the Salmon Fishery (Ireland) Act, 1863.

SECT 98.—A certificate under section 6 of the Salmon Fishery (Ireland) Act, 1863, Shall, be conclusive evidence that the person named therein is the person entitled to exercise the right therein given, but it shall not render any fixed engine lawful which would otherwise be unlawful by reason of its being injurious to navigation, a common nuisance to the public right of fishing or otherwise in violation of the common law or any enactment.

99 Restriction on erection of fishing weirs, fishing mill dams or fixed engines in fresh water portion of rivers.

SECT 99.—(1) It shall not be lawful for any person to erect in the freshwater portion of any river or lake any fishing weir, fishing mill dam or fixed engine. (2) if any person erects a fishing weir, fishing mill dam or fixed engine in contravention of this section such person shall, be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds. (3) Where any fishing weir, fishing mill dam or fixed engine is erected in contravention of this section the Minister may cause such fishing weir, fishing mill dam or fixed engine to be demolished, and any expenses incurred by the Minister under this subsection shall be a debt due to the Minister by the occupier of such fishing weir, fishing mill dam or fixed engine and may be recovered as a simple contract debt in any court of competent jurisdiction. (4) The provisions of this section shall not apply to long lines used solely for the capture of eels or to engines used for the capture of fish other than salmon, trout or eels. (5) The Minister may, if he thinks fit, by order authorise a named person to erect, in accordance with plans approved by the Minister, at a specified place in the freshwater portion of a specified river or lake, a specified land of fishing engine (being a fishing weir, fishing mill dam or fixed engine) for the capture of eels. (6) Nothing in this section shall apply to— (a) the erection by the Electricity Supply Board of— (i) a fishing weir for the capture of eels, or (ii) a fishing weir in exercise of the powers conferred on the said Board by section 101, or (b) the erection, by a person authorised by an order made under subsection (5) of this section to erect a specified kind of fishing engine (being a fishing weir, a fishing mill dam or fixed engine) for the capture of eels, of that kind of fishing engine under and in accordance with such order.

100 Restriction on use of fishing weirs, fishing mill dams or fixed engines in freshwater.

SECT 100.—(1) it shall, not be lawful for any person to use in the freshwater portion of any river or in any lake any fishing weir, fishing mill dam or fixed engine for the capture of fish unless such fishing weir, fishing mill dam or fixed engine was in existence and was lawfully used during the open fishing season of one or more of the three years 1936, 1937 and 1938. (2) Where one or more boxes in a fishing

weir or fishing mill dam was lawfully used during the open fishing season of one or more of the three years 1936, 1937 and 1938, such fishing weir or fishing mill dam shall, for the purposes of subsection (1) of this section, be deemed to have been lawfully used during such open fishing season. (3) If any person uses any fishing weir, fishing mill dam or fixed engine in contravention of this section, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds and in the case of a continuing offence a further fine not exceeding fifty pounds for every day during which such offence continues after conviction thereof. (4) The provisions of this section shall not apply to long lines used solely for the capture of eels or to engines used for the capture of fish other than salmon, trout or eels. (5) (a) The Minister may, if he thinks fit, grant to the occupier of a fishing engine (being a fishing weir, fishing mill dam or fixed engine) for the capture of eels, an authorisation (in this section referred to as an eel fishery authorisation) to use such fishing engine for the capture of eels. (b) The Minister may attach to an eel fishery authorisation such conditions (including a condition limiting the period during which the authorisation is to remain in force) as he thinks fit. (c) The Minister, if he so thinks fit, may amend an eel fishery authorisation within ten years from the date on which the authorisation was granted. (d) The Minister may revoke an eel fishery authorisation— (i) if the holder thereof is convicted of an offence under the repealed enactments or an offence under any provision of this Act, or (ii) if he is unsatisfied that there has been a breach of any condition attached to the authorisation. (6) The following provisions shall apply in relation to the amendment or revocation of an eel fishery authorisation under this section— (a) the Minister shall not amend or revoke the authorisation unless and until he has given by post to the holder thereof at least one fortnight's notice in writing stating that the Minister has under consideration, as the case may be, the amendment or revocation of the authorisation, (b) the notice shall also state— (i) in case it states that the Minister has under consideration the amendment of the authorisation—the specific amendment under consideration and the grounds on which it is so under consideration, or (ii) in case it states that the Minister has under consideration the revocation of the authorisation—the grounds on which such revocation is so under consideration, (c) the Minister shall consider any representations in relation to such amendment or revocation, as the case may be, made to him by the holder of the authorisation before the expiration of the notice. (7) Nothing in this section shall apply to— (a) the use by the Electricity Supply Board of— (i) a fishing weir for the capture of eels erected by the said Board, or (ii) a fishing weir erected by the said Board in exercise of the powers conferred on the said Board by section 101, or (b) the use of a fishing engine (being a fishing weir, fishing mill dam or fixed engine) in respect of which there is for the time being in force an eel fishery authorisation, so long as it is used in accordance with such authorisation.

101 Construction of fishing weirs by the Electricity Supply Board.

SECT 101.—(1) Whenever the Electricity Supply Board acquires under Part III of the Electricity (Supply) (Amendment) Act, 1945 (No. 12 of 1945) every fishery (if any) and every fishing right (if any) in a river, the said Board may, with the consent of the Minister and notwithstanding anything contained in this Act, construct in such river a fishing weir for the purposes of all or any of the fisheries (if any) and fishing rights (if any) so acquired, and may thereafter maintain the fishing weir so constructed. (2) Whenever the Electricity Supply Board acquires under or by virtue of the Electricity Supply (Amendment) Act, 1945, a fishing weir, the said Board may, with the consent of the Minister and notwithstanding anything contained in this Act, do either of the following things:— (a) maintain such fishing weir and, for the purpose of such maintenance, reconstruct or repair such fishing weir, or (b) construct on the site of such fishing weir or on a different site a new fishing weir in lieu of the fishing weir so acquired and thereafter maintain such new fishing weir.

CHAPTER II Restrictions on Sites of Fixed Engines

102 Prohibition of placing or using fixed engines, etc. in narrow part of estuaries.

SECT 102.—(1) If in any part of the estuary or the tidal portion of any river where the breadth of the channel at low water of ordinary spring tides is less than three-quarters of a mile any person other than the proprietor of a several fishery in the whole of such estuary and river places, erects, fishes with or uses any, fixed engine, then— (a) such person shall be guilty of an offence under this section and shall be

liable on summary conviction thereof to a fine not exceeding thirty pounds, and (b) the Court shall order the stakes thereof to be pulled down or destroyed at the expense of such person. (2) Where a person is convicted of an offence under this section the fixed engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (3) Subsection (1) of this section shall not apply in respect of— (a) any stake nets, and other contrivances for placing nets which had been established for twenty years or upwards before the 10th day of August, 1842, or (b) any stake nets, head weirs and other contrivances for placing or erecting nets which had been established for ten years or upwards before the 10th day of August, 1842, within the limits of a several fishery by any person lawfully entitled to such several fishery by charter, grant, patent, prescription, or Act, by which such limits are accurately defined, or (c) any head weir not fished by means of a fixed net.

103 Prohibition of placing or using fixed engines, etc. at mouths of rivers less than one half mile in breadth.

SECT 103.—(1) If within one mile seaward, coastward or inward from or on either side of the mouth of any river (being a river the inland portion of which is frequented by salmon and the mouth whereof is at low water of ordinary spring tides less in breadth than half a mile) any person other than the proprietor of a several fishery within the limits thereof, places, erects, fishes with or uses any fixed engine, then— (a) such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding thirty pounds, and (b) the Court shall order the stakes thereof to be pulled down or destroyed at the expense of such person. (2) Where a person is convicted of an offence under this section, the fixed engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (3) Where an order made under this Act defines the mouth of any tributary river, the reference in subsection (1) of this section to the mouth of any river shall be construed as including a reference to the mouth of such tributary river.

104 Prohibition of bag nets in certain places.

SECT 104.—(1) No bag net shall be placed or allowed to continue in any river or estuary or within a distance of three miles from the mouth of any river. (2) If any bag net is placed or continued in contravention of this section— (a) it shall be deemed a common nuisance and may be taken possession of or destroyed, (b) the owner of such bag net shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not less than five pounds and not more than twenty pounds for each day during which the bag net is so placed or continued. (3) Where a person is convicted of an offence under this section, the bag net in respect of which the offence was committed and any salmon taken thereby shall, as a statutory consequence of conviction, stand forfeited. (4) The provisions of this section shall not apply to the placing or continuance, within three miles of the mouth of a river, of a bag net lawfully existing on the 28th day of July, 1863, if the owner of such bag net has the exclusive right of catching salmon in the whole of that river including all tributary rivers and lakes upon the course of that river.

105 Stake nets not to extend further than from high to low water mark.

SECT 105.—(1) If any person— (a) places or erects any stake net or any leader, outrigger or other work of any kind or description whatsoever connected therewith or adjacent thereto in such a manner that it will extend to a greater distance than from high water mark to low water mark of ordinary spring tides, or (b) maintains or uses any stake net or any such leader, outrigger or other work so placed or erected, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than one pound and not more than ten pounds. (2) This section shall not apply in respect of any head weir not fished by means of a fixed net.

CHAPTER III Regulations as to the Construction and User of Fixed Engines

106 Regulations as to construction and user of stake nets and bag nets.

SECT 106.—If any person— (a) constructs, maintains or uses a stake net which is capable of taking undersized fish or the fry of salmon or of any other fish, or (b) maintains or uses any stake net, the meshes of the nets whereof are not stretched to their full opening, or (c) maintains or uses a stake net which is so constructed that a clear opening of at least four feet in width cannot be made in the pouches, traps and chambers of such stake net, from the top to the bottom thereof, or (d) maintains or uses any bag net, the meshes of the nets of any leader whereof are not stretched to their full opening, or (e) maintains or uses any bag net which is so constructed that the leaders thereof cannot be raised and kept out of the water, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than one pound and not more than ten pounds.

CHAPTER IV Regulation as to Fishing Weirs and Fishing Mill Dams

107 Free gaps in fishing weirs.

SECT 107.—(1) In every fishing weir there shall be a free gap or opening in accordance with the following provisions:— (a) the free gap shall be situate in the deepest part of the stream, (b) the sides of the free gap shall be in line with and parallel to the direction of the stream at the weir, (c) the bottom of the free gap shall be level with the natural bed of the stream above and below the gap, (d) the width of the free gap in its narrowest part shall not in any case be narrower than three feet, and, subject to that limitation, shall not be narrower than one-tenth part of the width of the stream or fifty feet whichever is the less, (e) no existing free gap in any fishing weir shall be reduced in width or a gap of less width substituted therefor or any alteration made therein so as to reduce the flow of water through such gap. (2) (a) Subsection (1) of this section shall not apply to any fishing weir in respect of which an order has been made under paragraph (b) of this subsection. (b) Where the breadth of the river, where there is a chartered or patent fishing weir (being a fishing weir existing on the 28th day of July, 1863), does not exceed forty feet and it might be inexpedient to require a free gap to be made therein, the Minister may, if he thinks fit, instead thereof, direct by his order the extension of the weekly close time for a period of twenty-four hours. (3) Where a free gap has been made in a fishing weir but is not maintained in accordance with subsection (1) of this section, the owner of the fishing weir shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds for each day he is in default.

108 Operation of fishing weir by Minister or the Electricity Supply Board without free gap.

SECT 108.—(1) The Minister may by order authorise the operation of a specified fishing weir belonging to the Minister or the Electricity Supply Board without a free gap, subject to such conditions as to the release upstream of a sufficient number of fish entering the weir as he thinks proper to impose for the purpose of adequately maintaining stocks of such fish, and may by order amend or revoke any order made by him under this section. (2) Before making an order under this section, the Minister shall cause notice of his intention, containing a draft of the proposed order, to be published and circulated in the locality to be addicted by the order and shall consider any objections thereto made to him during one month after the publication of the notice. (3) For the purposes of this section any contrivance for taking or facilitating the taking of fish associated with hydro-electric works constructed by the Electricity Supply Board shall be deemed to be a fishing weir. (4) An order under this section shall have effect notwithstanding anything to the contrary in this Act. (5) Every order under this section shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling the order is passed by either House within the next twenty-one days on which that House has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. (6) Notice of the making of every order under this section shall, as soon as may be, be published in the *Iris Oifigiúil* and in one or more newspapers circulating in the area affected by the order, and a copy of the order shall be deposited with the Country Registrar for every county and the District

Court Clerk of every district which, or any part of which, is affected thereby, and in every station of the Garda Síochána within the area affected thereby. (7) The Minister may, if he thinks fit, cause a public inquiry to be held into the desirability of making a particular order under this section and for this purpose may appoint an officer of the Minister to hold such inquiry. (8) The Minister shall cause to be given in accordance with section 322, notice of the holding of an inquiry under this section.

109 Operation of eel fishing weirs without free gap.

SECT 109.—(1) The Minister, if he thinks fit, may by order authorise the operation of a specified eel fishing weir without a free gap, subject to such conditions (if any) as the Minister thinks fit and specifies in the order. (2) (a) The Minister may at any time by order revoke an order under subsection (1) of this section authorising the operation, subject to conditions, of an eel fishing weir without a free gap, if the occupier of such weir— (i) is convicted of an offence under the repealed enactments or an offence under any provision of this Act, or (ii) has failed to comply with those conditions. (b) The following provisions shall apply in relation to the revocation under paragraph (a) of this subsection of an order made under subsection (1) of this section authorising the operation of an eel fishing weir without a free gap— (i) the Minister shall not revoke the order unless and until he has given by post to the occupier of such weir at least one fortnight's notice in writing stating that the Minister has under his consideration the revocation of the order and stating the grounds on which the revocation is so under consideration (ii) the Minister shall consider any representations in relation to such revocation made to him by the occupier before the expiration of the said notice. (3) Where an order is made under subsection (1) of this section authorising the operation of an eel fishing weir without a free gap, then, so long as the order remains in force, none of the provisions of this Act relating to free gaps in fishing weirs shall apply in respect of such weir in so far as it is used for the capture of eels only.

110 Construction of free gaps in fishing weirs.

SECT 110.—(1) Whenever, notwithstanding any decision made by the Special Commissioners under the provisions of the Salmon Fishery (Ireland) Act, 1863, or any court of competent jurisdiction prior to the 14th day of July, 1939, the Minister is satisfied that there is not in a fishing weir a gap in accordance with section 107, the Minister may cause to be served on the occupier of such fishing weir a notice requiring such occupier to construct, in accordance with the said section 107 and within the time (not being less than one month from the service of such notice) specified in such notice, a free gap in such fishing weir. (2) Where a notice has been served under subsection (1) of this section on the occupier of a fishing weir, such occupier may, within one month after the service of such notice, apply to the Judge of the Circuit Court within whose jurisdiction such fishing weir is situate for an order quashing such notice on the ground that there is already in such fishing weir a free gap in accordance with section 107, and thereupon the following provisions shall have effect:— (a) such occupier shall give notice to the Minister of the application; (b) such occupier and the Minister shall be entitled to appear on the hearing of the application and to adduce evidence; (c) if such Judge is satisfied that there is already in such fishing weir a free gap in accordance with section 107 he shall quash such notice and direct the Minister to pay to such occupier the costs of the occupier of and incidental to the application, and such notice shall be deemed not to have been served; (d) if such Judge is not so satisfied he shall refuse the application and direct such occupier to pay to the Minister the costs of the Minister of and incidental to the application, and may also amend such notice by extending the time specified in such notice for compliance therewith; (e) the decision of such Judge on the application shall be final and conclusive and not appealable. (3) Where— (a) a notice has been served under subsection (1) of this section on the occupier of a fishing weir, and (b) either— (i) such occupier has not duly made, in relation to the notice, an application under subsection (2) of this section, or (ii) such occupier has duly made, in relation to the notice, an application under the said subsection, but the application has been refused, and (c) the occupier has not complied with the requirements of the notice, the following provisions shall have effect:— (I) such occupier shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than fifty pounds and not more than one hundred pounds, (II) the Minister may (whether proceedings have or have not been taken against such occupier under paragraph (1) of this subsection) enter on such fishing weir and any land adjoining such fishing weir and construct a free gap in such weir. (4) Where the Minister constructs under this section a free gap in a fishing weir he shall be entitled to recover as a

simple contract debt in any court of competent jurisdiction from the occupier of such fishing weir the expenses incurred by the Minister in constructing such free gap. (5) Where any consequential damages arise out of the construction by the Minister of a free gap in a fishing weir, the occupier of such fishing weir shall be liable for such damages. (6) This section shall not apply in respect of any fishing weir which is the subject of an order under subsection (2) of section 107.

111 Penalty for affecting flow of water through free gap by alteration of bed of river.

SECT 111.—If any alteration is made in the bed of a river in such manner as to reduce the flow of water through a free gap in a fishing weir, the person making the alteration shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than five pounds and not more than fifty pounds and a further fine of one pound a day until he restores the bed of the river to its original state.

112 Penalties for fishing in or near gaps in fishing weirs and obstructing free gaps.

SECT 112.—(1) If any person— (a) uses any fishing engine in a free gap, or (b) uses any fishing engine (not being a rod and line) within fifty yards above or below any part of a fishing weir, or (c) places, any obstruction in the free gap of fishing weir, or (d) uses any contrivance or does any act whereby fish may be scared, deterred or in any way prevented from freely entering and passing up and down a free gap at all periods of the year, or (e) places any bridge, board, cloth or any other thing whatsoever in, over or across a free gap in a fishing weir, except temporary bridge or board during the time only when the persons engaged in the fishing of the said weir are passing over the free gap, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to— (i) in the case of a first offence under this section, a fine of not less than five pounds and not more than twenty pounds, and, (ii) in the case of a second or any subsequent offence under this section a fine of not less than ten pounds and not more than fifty pounds. (2) Where— (a) the owner or occupier of a fishing weir is charged under subsection (1) of this section with the offence of placing an obstruction in the free gap in such fishing weir, and (b) it is proved that such obstruction was placed in such free gap, it shall be presumed, until the contrary is shown, that such obstruction was placed in such free gap by him. (3) Where a person is convicted of the offence of placing an obstruction in the free gap in a fishing weir, the Minister may cause such obstruction to be removed and any expenses incurred by the Minister under this subsection shall be a debt due by such person to the Minister and may be recovered as a simple contract debt in any court of competent jurisdiction.

113 Rules as to boxes in salmon fishing mill dams.

SECT 113.—(1) In this section the expression "salmon weir" means any weir being— (a) a fishing weir used for taking salmon, or (b) a fishing mill dam used for taking salmon. (2) The following rules shall be observed in relation to the construction and use of boxes in salmon weirs— (a) the surface of the floor of the box shall be level with the natural bed of the river, (b) the inscales and the heck of the box shall be capable of being removed and opened up, (c) the bars of the heck of the box shall be placed perpendicularly, (d) the inscales and the heck of the box shall be so constructed that no bar or part of a bar is nearer to any other bar or part of a bar than two inches, (e) the box shall not be built over or in any other manner hidden from public inspection. (3) Where the Minister is satisfied that sea trout form the principal part of the fish caught in a salmon weir, he may, if he thinks fit, by order declare that paragraph (d) of subsection (2) of this section shall, in relation to such salmon weir, have effect as if the words "one and a quarter inches" were substituted for "two inches". (4) If any person uses or constructs any box in a salmon weir in contravention of subsection (2) of this section, such person shall be guilty of an offence under this section and shall be liable on summary Conviction thereof to a fine not exceeding twenty pounds. (5) Where a person is convicted of an offence under this section in relation to any box in a salmon weir, the Minister may cause the parts of the said box in respect of which the offence was committed to be removed and may recover the expenses incurred in such removal from such person as a simple contract debt in any court of competent jurisdiction.

114 Construction of guiding walls appurtenant to fishing weirs and fishing mill dams .

SECT 114.—(1) In this section, the expression "guiding wall" means any spur or tail wall, leader or outrigger. (2) (a) There shall not be attached to any fishing weir or fishing mill dam in a river any guiding wall (other than one connecting the boxes of such fishing weir or fishing mill dam with the bank of the river) of greater length than twenty feet measured from the upstream or downstream face of such fishing weir or fishing mill dam along the centre line of such guiding wall. (b) There shall not be attached to any fishing weir any guiding wall which has the effect of narrowing up or preventing the ingress and discharge of water through or from the free gap in such fishing weir. (c) If any fishing weir or fishing mill dam has any guiding wall in contravention of paragraph (a) of this subsection or any fishing weir has any guiding wall in contravention of paragraph (b) of this subsection, the following provisions shall apply— (i) the occupier thereof shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds and also a further fine not exceeding five pounds for every day during which such guiding wall is allowed to remain; (ii) the Minister may cause such guiding wall to be altered or removed and, if he does so, the expenses incurred by him in so doing shall be recoverable from such occupier as a simple contract debt in any court of competent jurisdiction. (3) If the occupier of a fishing weir or fishing mill dam in a river makes such use of any island or natural obstruction in the river as secures to him the advantage he would have obtained by attaching to such fishing weir or fishing mill dam a guiding wall contravening paragraph (a) of subsection (2) of this section, he shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds and a further fine not exceeding five pounds for every day on which he makes use of such island or natural obstruction. (4) If any fishing mill dam is used partly for the purpose of sustaining water for a mill or factory or for navigation, nothing contained in this section shall be construed to extend to such fishing mill dam so as to affect injuriously the necessary supply of water to such mill, factory or navigation.

CHAPTER V Dams and Natural Obstructions

115 Construction of fish passages in dams for sustaining water for mill power, navigation, etc. on salmon rivers.

SECT 115.—(1) In this section, the word "dam" means any dam, weir, dyke or other erection placed in or across a salmon river for sustaining the water of such river for mill power, navigation, irrigation or other purposes. (2) Every dam constructed on or after the 10th day of August, 1842, in or across any salmon river shall be so built or constructed as to permit and allow, in one or more parts thereof, the free run or migration of all fish at all periods of the year and such provision for the free passage of fish through such dam shall be made at the expense of the person constructing such dam and in such manner as the Minister may approve. (3) With respect to any dam erected before the 10th day of August, 1842, in or across any salmon river, the Minister, if he thinks it necessary for the benefit of the fisheries thereof, on the application of one or more of the persons interested in the fishery of such river and at the proper costs and charges of the persons interested in such fishery, may cause a survey of the said dam to be made and direct such alterations to be made therein or such additional work to be added thereto as shall in the opinion of the Minister be necessary and desirable for the purpose of affording a free and uninterrupted passage to the fish frequenting such river, without impairing the navigation or lessening or impairing the effective working power of the mill or factory to which such dam belongs. (4) The board of conservators of a fishery district may from time to time apply any portion of its funds which it think fit for the purpose of making passes in or over dams in any river of its fishery district subject to the sanction of the Minister, under subsection (3) of this section, and upon obtaining such sanction the said board may place to the credit of the Minister such sum of money as has been for that purpose approved and sanctioned by him and thereupon it shall be lawful for the Minister to direct and cause such alterations to be made in any dam erected in or across any salmon river for affording a free and uninterrupted passage for fish, pursuant to powers and provisions of subsection (3) of this section.

116 Fish passes in dams and repair of dams.

SECT 116.—(1) Whenever the Minister is satisfied that any dam constructed or placed (whether before, on or after the operative date) in or across any salmon river is so constructed or maintained as not to permit and allow of, in one or more parts thereof, the free run or migration of all fish at all periods of the year, the Minister may cause to be served on the occupier of such dam, a notice requiring such occupier to execute within the time (not being less than one month from the service of such notice) specified in such notice such repairs (including alterations or additions) to such dam as shall appear to the Minister to be necessary or desirable for the purpose of affording a free and uninterrupted passage to the fish frequenting such river. (2) Where a notice has been served under subsection (1) of this section on the occupier of a dam used in connection with a mill or factory and such occupier, within one month after such service, represents in writing to the Minister that compliance with such notice would adversely affect the operation of such mill or factory, the Minister shall cause a fit and proper person to inquire into and report to him upon such representation and upon the making of the report the following provisions shall apply:— (a) if the report discloses that the execution of the repairs specified in such notice would involve a reduction of more than five per cent in the working horsepower which was available to such mill or factory up to the date of the service of such notice (as measured when the level of the water at such dam is at the average level of the crest of such dam), the Minister shall withdraw such notice and inform such occupier accordingly, (b) if the report discloses that the execution of the said repairs would not involve such a reduction, the following provisions shall have effect:— (i) the Minister shall serve a copy of such report on such occupier, (ii) such occupier may, within fourteen days after the service of such copy, send to the Minister a statement in writing objecting to the report and specifying the grounds of his objection, (iii) if an objection is so sent to the Minister, then— (I) the Minister shall refer the matter to the President of the Institute of Civil Engineers in Ireland or some person appointed by the said President who may, after investigating the matter, either, as he thinks fit, agree or disagree with the report, (II) if the person investigating the matter agrees with the report, the Minister shall serve on such occupier a statement informing him accordingly, and such notice shall have effect as if, for the period specified therein for compliance therewith, there were substituted a period of one month, commencing on the day on which such statement was served, (III) if the person investigating the matter disagrees with the report, the Minister shall withdraw such notice, (IV) there shall be paid to the person investigating the matter such fee as the Minister, with the consent of the Minister for Finance, may fix, and there shall, in case such person agrees with the report, be paid to the Minister by such occupier a sum equal to the said fee and such sum shall be recoverable by the Minister as a simple contract debt in a court of competent jurisdiction, and when so paid to, or recovered by, the Minister shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct, (iv) if an objection is not so sent to the Minister, such notice shall have effect as if, for the period specified therein for compliance therewith, there were substituted a period of six weeks commencing on the date on which a copy of the report was served on such occupier. (3) Whenever the Minister is satisfied that any dam constructed or placed (whether before, on or after the operative date) in any river is so constructed or is so maintained that water which would otherwise be available for the free passage and migration of fish over or past such dam leaks or escapes through or past such dam (otherwise than by being used for the purpose for which it is sustained by such dam) and is thereby not available for such free passage and migration, the Minister may cause to be served on the occupier of such dam a notice requiring such occupier to execute within the time (not being less than one month from the service of such notice) specified in such notice such repairs (including renewals and reconstruction) to such dam as shall appear to the Minister to be requisite and shall be specified in such notice. (4) Where a notice served under subsection (1) of this section has been withdrawn under subsection (2) of this section such notice shall be deemed not to have been served. (5) Where a notice has been served under either subsection (1) or subsection (3) of this section on the occupier of a dam, and such occupier has not complied with the requirements of such notice, the following provisions shall have effect, that is to say:— (a) such occupier shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than fifty pounds and not more than one hundred pounds, (b) the Minister may (whether proceedings have or have not been taken against such occupier under paragraph (a) of this subsection) enter on such dam and any land adjoining such dam and execute on such dam the repairs specified in such notice. (6) Where the Minister executes under this section any repairs to a dam he shall be entitled to recover as a simple contract debt in any court of competent jurisdiction from the occupier of such dam the expenses incurred by the Minister in the execution of such repairs. (7) The Minister shall not be liable for any consequential damages to any property or person arising out of the execution by him of any repairs to a dam under this section. (8)

Whenever the he is entitled under this section to serve a notice requiring repairs to a dam to be executed, the Minister may, before serving such notice, cause such dam to be inspected and examined, and any officer of the Minister or any other person appointed by the Minister to make such inspection and examination shall be entitled to enter for that purpose at all reasonable times on such dam and any land adjoining thereto. (9) The powers conferred on the Minister by this section shall be in addition to and not in substitution for the powers of the Minister under section 115.

117 Alteration of abandoned and disused dams.

SECT 117.—(1) Whenever the Minister is satisfied that any dam constructed or placed in any river has been abandoned or disused for not less than five years or has not during that period effectively been used for the purpose for which it was constructed and directly or indirectly obstructs or contributes to the obstruction of the free passage and migration of fish or affords facilities for the unlawful destruction of fish, the Minister may cause to be served on any person who appears to him to be the owner or the occupier of such dam a notice requiring such person to execute within the time (not being less than one month from the service of such notice) specified in such notice such alterations (including additions and complete or partial removal) of such dam as shall appear to the Minister to be requisite for securing the free passage and migration of ah or removing the facilities for the unlawful destruction of fish (as the case may be) and shall be specified in such notice. (2) Where a notice has been served under subsection (1) of this section and the alterations specified in such notice are not executed within the time specified in that behalf in such notice, the Minister may enter on the dam to which such notice relates and any land adjoining such dam and execute the sad alterations of such dam. (3) Where the Minister executes under this section any alterations of a dam and is satisfied that such alterations became necessary by reason of the wilful neglect of the owner or the occupier of such dam, the Minister may recover as a simple contract debt in any court of competent jurisdiction from such owner or occupier the expenses incurred by the Minister in the execution of such alterations. (4) Whenever the Minister may, before serving such notice, cause such dam to be inspected and examined, and any officer of the Minister or other person appointed by the Minister to make such inspection and examination shall be entitled for that purpose to enter at all reasonable times on such dam and any land adjoining thereto. (5) The Minister shall not be liable for any charges for the maintenance of any dam required by him to be altered or altered by him under this section, or for any consequential damages to any property or person arising out of such alteration or the carrying out thereof. (6) Whenever the Minister proposes, in relation to any abandoned or disused dam which was constructed or placed in a river for or in connection with the sustaining of water for navigation, to serve a notice or execute any alterations under this section, he shall consult with the Minister for Industry and Commerce before serving such notice or executing such alterations.

118 Alteration or removal of natural obstructions in rivers to allow free migration of fish.

SECT 118.—(1) If in any river, reefs or ledges of rocks, shoals or other natural obstructions prevent or impede the free passage and migration of fish, and hinder the approach of fish to the upper parts of the said river or any lakes communicating therewith and depositing their spawn therein, the Minister, if he so think fit, may, upon the application of any person who is interested in the fishery of such river or lake and who deposits or secures a sum of money sufficient for the purpose, construct, authorise or contract with any person interested in the fisheries in the said river to construct such works and make such alterations in the bed of such river as shall effectually secure a free and uninterrupted passage at all seasons of the year for fish. (2) The plans, sections, specifications and contracts for all works or alterations authorised under this section shall be subject to the previous sanction of the Minister. (3) For the purpose of executing any work under this section and ascertaining all compensation for damage and other matters in relation thereto, the Minister and his officers and servants shall have the powers and authorities vested in the Commissioners of Public Works in Ireland under and by virtue of the statutes in that behalf made and provided. (4) No work or alteration under this section in the bed of any river shall be made in such a manner as to injure the effective power of any mill or factory or in any way to impede or interrupt the drainage of lands adjoining such river. (5) Reasonable compensation shall be made by the parties on whose application any works are authorised under this section for any damage or injury done or to be done or suffered consequently or otherwise in the execution of such works. (6) The board of conservators of a fishery district may from time to time apply any portion of its funds which it think fit for the purpose

of removing or making passes in or over natural obstructions in any river in its fishery district, subject to the sanction of the Minister, under the preceding subsections of this section, and upon obtaining the sanction of the Minister the said board may place to the credit of the Minister such sum of money as has been for that purpose approved and sanctioned by him and thereupon it shall be lawful for the Minister to construct such works and make such alterations in the bed of any river as shall effectually secure a free and uninterrupted passage for fish, pursuant to the powers and provisions of the preceding subsections of this section.

119 Offences in relation to fish passes made under section 62 or 63 of the Fisheries (Ireland) Act, 1842, or section 115 or 118.

SECT 119.—(1) In this section "fish pass" means a fish pass made under section 62 or 63 of the Fisheries (Ireland) Act, 1842 or section 115 or 118. (2) If any person— (a) takes, kills or destroys any fish in a fish pass, or (b) hangs, fixes, uses or sets in a fish pass, (c) places any obstruction, uses any contrivance or does any act whereby fish may be scared, deterred or in any way prevented from freely passing up and down through a fish pass at all periods of the year, or (d) fails to preserve a fish pass free from every obstruction, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds, and, if the offence is that of placing any obstruction or contrivance in a fish pass, the Court shall order the removal thereof at the expense of the offender. (3) Where— (a) it is alleged in a complaint and proved that an offence under this section was committed in such circumstances as to afford reasonable grounds for believing that the offence was committed— (i) by some person in the employment or under the control of the owner or occupier of a mill or factory, or (ii) with the knowledge or connivance of such owner or occupier or of the person in charge of such mill or factory, or (iii) through the default of reasonable precaution on the part of such owner or occupier to prevent such offence, and (b) it is alleged in the complaint and proved that the offence was committed, but that the person who committed the offence is unknown or cannot be found, and (c) the owner or occupier of the mill or factory is charged with such offence, such owner or occupier shall be deemed to be guilty of such offence and shall be punishable accordingly.

120 Penalty for using fishing engine within hundred yards of certain dams.

SECT 120.—(1) If any person uses any fishing engine (except rod and line) for taking fish within two hundred yards above or below any dam used for supplying water to mills or factories or for navigation, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than two pounds and not more than ten pounds. (2) Where a person is convicted of an offence under this section, the fishing engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (3) Subsection (1) of this section shall not apply in respect of the use of any fishing engine in any place within two hundred yards of any such dam as is mentioned in the said subsection where the right to use such fishing engine was exercised in that place by any person lawfully possessed of a several fishery therein for twenty years next before the 14th day of August, 1850.

121 Penalty for using fishing engine at or within fifty yard of a mill dam to which there is no fish pass.

SECT 121.—(1) Notwithstanding anything contained in section 120 it shall not be lawful for any person, though possessed of a several fishery in respect of which a right to use a fishing engine at any place within two hundred yards of a mill dam was exercised for twenty years next before the 14th day of August, 1850, to use any fishing engine (except rod and line) at or within fifty yards above or below such mill dam unless— (a) there is attached to such mill dam a fish pass of such form and dimensions as may be approved of by the Minister, and (b) such fish pass has constantly running through it such flow of water as will enable salmon to pass up and down it. (2) If any person contravenes subsection (1) of this section, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than five pounds and not more than twenty pounds.

122 Provisions in relation to wheel sluices, etc., of mills, etc. deriving water from salmon rivers.

SECT 122.—(1) In this section— the word "mill" includes any factory, machine, building or other work by or for which water is taken or used for any purpose, but does not include any work for the generation, by means of hydraulic power, of electricity, for distribution and supply to the public; the expression "wheel sluices", in relation to a mill, means the sluices which admit water to the wheels of such mill. (2) The following provisions shall apply in relation to every mill which derives its supply of water from a salmon river— (a) in case there is a fish pass in the dam belonging to the mill, the wheel sluices and the waste gates or over-falls shall be kept shut,- (i) for twenty-four consecutive hours in each week between the hour of 6 o'clock p.m. on Saturday and the hour of 6 o'clock a.m. on the next following Monday, and (ii) during any other period when the mill is not being worked; (b) in case there is no fish pass in the dam belonging to the mill and the waste gate on the upstream side of the wheel sluices is erected in a channel suitable for the passage of fish, the wheel sluices shall be kept shut and the said waste gate kept open— (i) for twenty-four consecutive hours in each week between the hour of 6 o'clock p.m. on Saturday and the hour of 6 o'clock a.m. on the next following Monday, and (ii) during any other period when the mill is not being worked; (c) if the provisions of paragraph (a) or paragraph (b) of the subsection are not complied with, the occupier of the mill shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than three pounds and not more than ten pounds. (3) Where the occupier of a mill is charged with an offence under this section, it shall be a good defence to prove that compliance with paragraph (a) or paragraph (b) (whichever is applicable) of subsection (2) of this section would in any way have injuriously interfered with the machinery or water power of the mill.

123 Gratings in watercourses diverted from rivers to prevent entry therein of salmon or trout.

SECT 123.—(1) The following provisions shall apply in respect of every watercourse, cut, channel or sluice constructed, for the purpose of conveying water from any salmon river, for the supply of towns or the irrigation of land or as moving power for machinery or for any other purpose, other than the supply of water for navigation or for fish ponds:— (a) there shall be placed at the points of divergence from and return to such river, of such watercourse, cut, channel or sluice and above and below such sluice a grating (the space between the bars whereof shall not exceed two inches in any place) extending across the whole width of such watercourse, cut, channel or sluice and from the bottom of the bed or sill thereof to the level of the highest winter or flood waters, (b) during the months of March, April and May and such other periods of the year as the brood of salmon or trout shall be descending such river, there shall be placed or stretched over the entire surface of each such grating a wire lattice or network of such dimensions as will effectually prevent the admission of salmon fry or other small fish into such watercourse, cut, channel or sluice, (c) each such grating, lattice or network shall be secured and fixed in such a manner as to prevent its being removed or opened and shall be kept in constant repair. (2) If, in respect of any watercourse, cut, channel or sluice to which subsection (1) of this section applies, the provisions of the said subsection are not complied with, the owner, lessee or occupier of any premises to which such watercourse, cut, channel or sluice leads or other person making or using or having the care and maintenance of such watercourse, cut, channel or sluice, shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. (3) If, in respect of any watercourse, cut, channel or sluice to which subsection (1) of this section applies and which was constructed for the purpose of conveying water as a moving power for machinery, it is proved to the satisfaction of the Minister that exemption during any period from the obligations imposed in respect thereof by the said subsection (1) is necessary for the effective, working of such machinery, the Minister may grant such exemption. (4) The Minister may revoke the grant of an exemption made under section 4 of the Salmon Fishery (Ireland) Act, 1869, or under subsection (3) of this section.

124 Obligations of owners of hydraulic machines supplied from salmon rivers.

SECT 124.—(1) Where a turbine or similar hydraulic machine, which may be injurious to salmon in their descent to the sea, is supplied from a salmon river, it shall be the duty of the person owning or using such machine to provide, during the time in which such descent to the sea takes place, a grating or other efficient means to prevent such salmon from passing into such machine. (2) If any person upon whom a duty is imposed by subsection (1) of this section neglects to perform that duty, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding

fifty pounds and to a further fine not exceeding five pounds for each day during which such neglect continues.

125 Penalty for taking fish, etc. in works or watercourses appurtenant to mills or factories.

SECT 125.—(1) If any person, in any season of the year, in any mill pool or mill dam or in any works appurtenant to any mill or factory or in any of the watercourses leading the water to or from any mill or factory, uses any fishing engine (except rod and line being lawfully used) or uses any means whatsoever for the purpose of taking, destroying or obstructing any salmon or other fish, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. (2) When a person is convicted of an offence under this section the fishing engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (3) Where— (a) it is alleged in a complaint and proved that an offence under this section was committed by means of shutting down or closing any sluice gate which is under the exclusive power of the occupier of a mill or factory, and (b) it is alleged in the complaint and proved that the offence was committed but that the person who committed the offence is unknown or cannot be found, and (c) the occupier of that mill or factory is charged with such offence, such occupier shall be deemed to be guilty of such offence and shall be punishable accordingly. (4) Where— (a) it is alleged in a complaint and proved that an offence under this section was committed in such circumstances as to afford reasonable grounds for believing that the offence was committed— (i) by some person in the employment or under the control of the owner or occupier of a mill or factory, or (ii) with the knowledge or connivance of such owner or occupier or of the person in charge of such mill or factory, or (iii) through the default of reasonable precaution on the part of such owner or occupier to prevent such offence, and (b) it is alleged in the complaint and proved that the offence was committed, but that the person who committed the offence is unknown and cannot be found, and (c) the owner or occupier of the mill or factory is charged with such offence under this section, such owner or occupier shall be deemed to be guilty of such offence and shall be punishable accordingly.

PART IX - RESTRICTIONS AS TO TIMES OF FISHING FOR SALMON, TROUT, POLLEN, AND EELS, AND ANCILLARY PROVISIONS

CHAPTER I Salmon and Trout Division I Annual close season for salmon and trout

126 Annual close season for salmon and trout.

SECT 126.—(1) In this Act, the expression "the annual close season for salmon and trout" means, in relation to any locality, the period during which it is declared by a bye-law, for the time being in force and applicable to that locality, made under this Act, to be unlawful to take or fish for salmon or trout with engines other than rod and line. (2) The provisions set out in the Fifth Schedule to this Act shall apply in relation to bye-laws altering the annual close season for salmon and trout.

127 Penalties for fishing, otherwise than by rod and line, for salmon or trout during annual close season for salmon and trout.

SECT 127.—(1) If any person wilfully fishes or takes or aids or assists in taking or fishing for salmon or trout during the annual close season for salmon and trout, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than two pounds and not more than twenty-five pounds, together with a further fine of two pounds for every salmon or trout so taken by him. (2) Where a person is convicted of an offence under this section, every salmon and trout taken by him and every fishing engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (3) This section shall not apply to the lawful fishing for or taking of salmon or trout by rod and line.

128 Dismantlement of fixed engines during the annual close season for salmon and trout.

SECT 128.—(1) During the annual close season for salmon and trout— (a) every bag net and stake net shall be removed from the poles or fixtures to which it is attached and carried away, (b) there shall be made and maintained in every fixed engine (other than a bag net or a stake net) a clear of four feet in width in the heads, traps, eyes or gaps from the top to the bottom thereof so as to allow the free passage of all fish through them and effectually to prevent the taking of fish therein. (2) If in respect of any fixed engine the provisions of subsection (1) of this section are not complied with, the occupier there shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds and, in the case of a continuing offence, a further fine not exceeding five pounds for every day during which the offence is continued. (3) Where a person is convicted of an offence under this section, the fixed engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (4) Nothing in subsection (2) of this section shall be construed as rendering liable to any penalty any person who was prevented by floods, storm or stress of weather from removing the things mentioned in paragraph (a) of subsection (1) of this section during the continuance of such prevention. (5) Where the predecessor in title of any person was on the 10th day of August, 1842, lawfully entitled by charter or prescriptive right to use any fixed engine in the tideway of a river for the purpose of catching white sea fish, the provisions of subsection (1) of this section shall not apply in respect of such fixed engine if it is used for the said purpose and no other.

129 Dismantlement of salmon fishing mill dams during the annual close season for salmon and trout.

SECT 129.—(1) In this section— the expression "salmon weir" means any weir being— (a) a fishing weir for taking salmon, or (b) a fishing mill dam for taking salmon; the expression "moveable parts" means, in relation to a salmon weir,— (a) the inscales and heck of every box in such salmon weir, and (b) all other fittings and articles used in connection with the boxes in such salmon weir which are capable of removal; the expression "the annual close season" means the annual close season for salmon and trout. (2) Within thirty-six hours of the commencement of the annual close season, all the moveable parts of a salmon weir shall be removed and carried away therefrom. (3) The moveable parts of a salmon weir shall not be placed therein or thereon earlier than thirty-six hours before the expiration of the annual close season. (4) During the annual close season (except the first and the last thirty-six hours thereof) the moveable parts of a salmon weir shall not be allowed to remain therein or thereon. (5) If in respect of any salmon weir the provisions of subsection (2), (3) or (4) of this section are contravened (by act or omission) the occupier thereof shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds and, in the case of a continuing offence, a further fine not exceeding five pounds for every day during which the offence is continued. (6) Where the occupier of a salmon weir is convicted of an offence under this section, every moveable part in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (7) Nothing in subsection (5) of this section shall be construed as rendering liable to any penalty any occupier of a salmon weir who was prevented by floods, storm or stress of weather from complying with subsection (2) of this section during the continuance of such prevention. (8) Where the occupier of a salmon weir is convicted of an offence under this section— (a) the Minister may cause to be removed from such salmon weir the moveable parts in respect of which such offence was committed, (b) where the Minister removes the said moveable parts he shall be entitled to recover as a simple contract debt in any court of competent jurisdiction from the said occupier the expenses incurred in so doing. (9) Where— (a) the predecessor in title of an owner of a salmon weir was, on the 10th day of August, 1842, entitled by patent charter or otherwise to a right of fishing for eels therein, and (b) the said predecessor exercised such right before the said date, the owner of such salmon weir shall not be liable to any penalty under subsection (5) of this section by reason of his placing, hanging or using eel nets or other engines for taking eels in the eyes or gaps of such salmon weir, if such eel nets or engines are used only in conformity with the Acts and are hung only in four-fifths in number of the eyes or gaps of such salmon weir, and the other one fifth of such eyes or gaps, in addition to the free gap (if any) therein, are kept free and unobstructed for the free passage of fish, but this provision shall not exempt such owner from liability under section 127 if any salmon or trout are taken in such salmon weir during the annual close season.

130 Removal of nets from banks of rivers during the annual close season for salmon and trout.

SECT 130.—(1) If any person engaged in fishing for salmon by means of nets of any kind or description omits or neglects to remove and carry away from any strand or from the banks of any river or from the vicinity thereof such nets during the annual close season for salmon and trout such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than two pounds and not more than ten pounds. (2) Where a person is convicted of an offence under this section, the nets in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

131 Penalty for obstructing or disturbing salmon or trout during the annual close season for salmon and trout.

SECT 131.—Every person who, during the annual close season for salmon and trout wilfully obstructs the passage of salmon or trout or the smolts or fry thereof or injures or disturbs any salmon or trout, or any spawn, fry or smolts thereof or injures or disturbs any spawning bed, bank or shallow where such spawn, fry or smelts may be, shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than two pounds and not more than twenty-five pounds, or, at the discretion of the Court, to imprisonment for any period not less than one month and not more than twelve months.

132 Penalty for use of nets during annual close season for salmon and trout.

SECT 132.—(1) If any person, during the annual close season for salmon and trout, does any of the following things— (a) places, affixes or attaches any net to any stake, bridge, sluice or lock gates of a canal or other such fixed erections, or (b) lays, draws or fishes with any net whatsoever, except a net being lawfully used for the taking of eels, such person shall be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding ten pounds. (2) Where a person is convicted of an offence under this section, the net in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

133 Penalty for using boat for capture of salmon or trout during the annual close season for salmon and trout.

SECT 133.—(1) If any person uses any boat for the capture of salmon or trout during the annual close season for salmon and trout— (a) such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds, (b) if the offence is a second or any subsequent offence committed by such person, then, unless— (i) such person is not the owner of the boat, and (ii) the owner proves that the boat was used without his knowledge or consent, the Court may order the boat to be forfeited. (2) This section shall, not apply to the use of a boat by any person lawfully angling by rod and line.

134 Penalties for buying, etc., salmon or trout during the annual close season for salmon and trout.

SECT 134.—(1) If any person buys, sells, exposes for sale, or has in his custody or possession any salmon or trout taken from any waters, during the period which is, in relation to those waters, the annual close season for salmon and trout, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than two pounds and not more than twenty-five pounds, together with a further fine of two pounds for every such salmon or trout so bought, sold or exposed for sale by him or so in his custody or possession. (2) Where a person is convicted of an offence under this section, every salmon or trout in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (3) In any proceedings under subsection (1) of this section, proof that a person bought, sold or exposed for sale or had in his custody or possession any salmon or trout during the period which is, in relation to any waters, the annual close season for salmon and trout, shall be prima facie evidence that such salmon or trout was taken during the period which is the annual close season for salmon and trout in the waters from or in which such salmon or trout may have

been taken. (4) Where— (a) a person is charged with an offence under this section in relation to a salmon or trout, and (b) such person proves that the salmon or trout was caught by rod and line in a particular place and at a particular time, and (c) the capture of salmon or trout by rod and line in that place and at that time was lawful, the charge against such person shall be dismissed. Division II Prohibition of export of salmon caught at certain times

135 Prohibition of export of salmon caught at certain times.

SECT 135.—(1) If any person exports or attempts to export any salmon caught during the time at which the capture of salmon is prohibited by law in the waters where such first-mentioned salmon was caught, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds for each salmon so exported or attempted to be exported. (2) Where a person is convicted of an offence under this section, any salmon in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. Division III Prohibition of capture of trout in January and part of February

136 Prohibition of capture, sale, etc., of trout in January and part of February.

SECT 136.—(1) It shall not be lawful for any person to take, kill, destroy, buy, sell, expose for sale or have in his possession any trout during the period commencing on the 1st day of January and ending on the 14th day of February in any year. (2) If any person takes, kills, destroys, buys, sells, exposes for sale or has in his possession any trout in contravention of this section, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than two pounds and not more than twenty-five pounds, together with a further fine not exceeding two pounds for each trout so taken, killed, destroyed, bought, sold, exposed for sale or found in his possession. Division IV Annual close season for angling for salmon

137 Annual close season for angling for salmon and penalties for angling for salmon therein.

SECT 137.—(1) (a) Subject to paragraphs (b)and (c)of this subsection, the annual close season for angling for salmon shall, for the purposes of this Act, be the period commencing on the 13th day of October in each year and ending on the 31st day of January in the next following year. (b) Where— (i) there is in relation to any locality a bye-law (whether applicable to angling for both salmon and trout or to angling for salmon only) in force, deemed to have been made under this Act, fixing a period during which it is declared by that bye-law to be unlawful to angle for salmon, and (ii) such bye-law includes as part of the said period the October close period for angling, then, for the purposes of this Act, the annual close season for angling for salmon in that locality shall, so long as that bye-law is in force, be the period fixed by that bye-law. (c) Where— (i) there is in relation to any locality a bye-law (whether applicable to angling for both salmon and trout or to angling for salmon only) in force, deemed to have been made under this Act, fixing a period during which it is declared by that bye-law to be unlawful to angle for salmon, and (ii) such bye-law does not include as part of the said period the October close period for angling, then, for the purposes of this Act, the annual close season for angling for salmon in that locality shall, so long as that bye-law remains in force, be— (I) the October close period for angling, and (II) the period fixed by that bye-law. (d) The provisions set out in the Fifth Schedule to this Act shall apply in relation to bye-laws altering the annual close season for angling for salmon. (2) (a) If, during the annual close season for angling for salmon, any person wilfully fishes for or takes salmon with rod and line or aids or assists in taking or fishing for salmon with rod and line, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than two pounds and not more than twenty-five pounds, together with a further fine of two pounds for every salmon so taken by him. (b) Where a person is convicted of an offence under this section, every salmon taken by him and the rod and line used in the commission of the offence shall, as a statutory consequence of conviction, stand forfeited. Division V Annual close season for angling for trout

138 Annual close season for angling for trout and penalties for angling for trout therein.

SECT 138.—(1) (a) Subject to paragraphs (b) and (c) of this subsection, the annual close season for angling for trout in a particular locality shall, for the purposes of this Act, be the period during which it is declared, by a bye-law (whether applicable to angling for both salmon and trout or to angling for trout only), for the time being in force and applicable to that locality, made under this Act, to be unlawful to angle for trout. (b) Where— (i) there is in relation to any locality a bye-law (whether applicable to angling for both trout and salmon or to angling for trout only), in force, deemed to have been made under this Act, fixing a period during which it is declared by that bye-law to be unlawful to angle for trout, and (ii) such bye-law includes as part of the said period the October close period for angling, then, for the purposes of this Act, the annual close season for angling for trout in that locality shall, so long as that bye-law is in force, be the period fixed by that bye-law. (c) Where— (i) there is in relation to any locality a bye-law (whether applicable to angling for both trout and salmon or to angling for trout only) in force, deemed to have been made under this Act, fixing a period during which it is declared by that bye-law to be unlawful to angle for trout, and (ii) such bye-law does not include as part of the said period the October close period for angling, then, for the purposes of this Act, the annual close season for angling for trout in that locality shall, so long as that bye-law remains in force, be— (I) the October close period for angling, and (II) the period fixed by that bye-law. (d) The provisions set out in the Fifth Schedule to this Act shall apply in relation to bye-laws altering the annual close season for angling for trout. (2) (a) If, during the annual close season for angling for trout, any person wilfully fishes for or takes trout with rod and line or aids or assists in taking or fishing for trout with rod and line, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than, two pounds and not more than twenty-five pounds, together with a further fine of two pounds for every trout so taken by him. (b) Where a person is convicted of an offence under this section, every trout taken by him and the rod and line used in the commission of the offence shall, as a statutory consequence of conviction, stand forfeited. Division VI Weekly close time

139 Weekly close time.

SECT 139.—(1) Subject to subsections (2) and (3) of this section, in this Act, the expression "the weekly close time" means the period commencing at 6 o'clock a.m. on Saturday and ending at 6 o'clock a.m. on the next following Monday. (2) (a) This subsection applies to any river in which the Electricity Supply Board owns a fishery or a fishing right. (b) In this Act, the expression "the weekly close time" in relation to any river to which this subsection applies means, subject to paragraph (c) of this subsection, the period commencing at 6 o'clock a.m. on Saturday and ending at 6 o'clock a.m. on the next following Monday. (c) The Minister may by regulations vary as he thinks proper the weekly close time fixed by paragraph (b) of this subsection in respect of any river to which this subsection applies, but shall not by any such regulations increase the said weekly close time to more than seventy-two hours or reduce it to less than forty-eight hours. (3) In this Act, the expression "the weekly close time" means, in relation to any fishing weir which is the subject of an order under subsection (2) of section 107, the period commencing at 6 o'clock a.m. on Saturday and ending at 6 o'clock a.m. on the next following Monday with the extension of a period of twenty-four hours as directed by the order.

140 Penalties for fishing, otherwise than by rod and line, for salmon or trout during the weekly close time.

SECT 140.—(1) If any person fishes for or takes any salmon or trout during the weekly close time, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than ten pounds and not more than fifty pounds. (2) Where a person is convicted of an offence under this section, the fishing engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (3) This section shall not apply to lawful fishing for or taking salmon or trout by rod and line.

141 Penalty for preventing fish from passing through boxes during weekly close time.

SECT 141.—If any person, during the weekly close time,— (a) uses any means or contrivance to prevent the free passage of fish through any box, gap or sluice gate in a fishing weir or fishing mill dam or through any fixed engine, or (b) in any way wilfully frightens or scares or attempts to frighten or scare any fish from passing through such box, gap or sluice gate, or through the traps or eyes of such fixed engine, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than ten pounds and not more than fifty pounds.

142 Provisions in relation to offences under sections 140 and 141.

SECT 142.—(1) Where an offence under section 140 or 141 has been committed in relation to any fishery, then if— (a) such offence was committed by a person in the employment or under the control of the owner or occupier of such fishery, or (b) such offence was committed by a person (other than such owner or occupier or a person in the employment or under the control of such owner or occupier) and was facilitated by the failure of such owner or occupier to take reasonable precautions against the commission of such offence, such owner or occupier shall also be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly. (2) Where— (a) an offence under section 140 or 141 has been committed in relation to any fishery by a person in the employment or under the control of the owner or occupier of such fishery, and (b) such owner or occupier is, by virtue of subsection (1) of this section, charged with such offence, it shall be a good defence for such owner or occupier to prove— (i) that he used due diligence to prevent such commission, and that the offence was committed without his consent, connivance or wilful default, and (ii) that on being charged with the offence he gave to the person charging him all information in his power with respect to the person who committed the offence.

143 Provisions to be observed in relation to certain fixed engines during the weekly close time.

SECT 143.—(1) During the weekly close time— (a) a clear opening of at least four feet in width shall be made and kept free from obstruction in the traps or heads of each stake net used for catching salmon and in the eyes or gaps of each head weir used for catching salmon from the top to the bottom thereof, so as to allow the free passage of fish through them and effectually to prevent the taking of fish therein, (b) the netting of the leader of every bag net used for catching salmon shall be raised and kept out of the water. (2) If, in respect of any stake net, head weir or bag net the provisions of subsection (1) of this section are not complied with, the occupier thereof shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than ten pounds and not more than fifty pounds. (3) Where a person is convicted of an offence under this section, the fixed engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (4) Nothing in this section shall be construed as rendering liable to any penalty any person who was prevented by floods, storm or stress of weather from complying with subsection (1) of this section during the continuance of such prevention.

144 Provisions to be observed in relation to salmon fishing weirs and fishing mill dam during weekly close time.

SECT 144.—(1) In this section, the expression "salmon weir" means any weir being— (a) a fishing weir for taking salmon, or (b) a fishing mill dam for taking salmon. (2) During the weekly close time the inscales and the heck of each box in a salmon weir shall either— (a) be removed, or (b) be opened out in such manner that a clear opening of not less than four feet in width is left open therein from the top to the bottom of the box and a free, direct and uninterrupted space of the said width is effectually secured for the passage of all fish, both up and down, through the box. (3) If in respect of any salmon weir the provisions of subsection (2) of this section are not complied with, the occupier thereof shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than ten pounds and not more than fifty pounds in respect of each box in such salmon weir the inscales and heck whereof are not removed or opened out as required by the said subsection (2). (4) Where the occupier of a salmon weir is convicted of an offence under this section, the inscales and heck of each box in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (5) Nothing in subsection (4) of this section shall be construed as rendering liable to any penalty

any person who was prevented by floods, storm or stress of weather from complying with subsection (2) of this section during the continuance of such prevention.

145 Penalty for scaring or obstructing free passage of salmon or trout during the weekly close time.

SECT 145.—(1) If any person scares, impedes or obstructs the free passage of salmon or trout during the weekly close time, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than two pounds and not more than ten pounds. (2) Where a person is convicted of an offence under this section any net or instrument used by him in the commission of the offence and any fish taken by him thereby shall, as a statutory consequence of conviction, stand forfeited. (3) This section shall not apply to any person who takes fish lawfully by rod and line during the weekly close time.

146 Penalty for use of nets during weekly close time.

SECT 146.—(1) If any person, during the weekly close time, does any of the following things— (a) places, affixes or attaches any net to any stake, bridge sluice or lock gates of a canal or other such fixed erections, or (b) lays, draws or fishes with any net whatsoever, except a net being lawfully used for the taking of eels, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. (2) Where a person is convicted of an offence under this section, the net in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

147 Penalty for using boat for capture of salmon or trout during the weekly close time.

SECT 147.—(1) If any person uses any boat for the capture of salmon or trout during the weekly close time— (a) such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds, (b) if the offence is a second or any subsequent offence committed by such person, then, unless— (i) such person is not the owner of the boat, and (ii) the owner proves that the boat was used without his knowledge or consent, the Court may order the boat to be forfeited. (2) This section shall not apply to the use of a boat by any person lawfully angling by rod and line.

CHAPTER II Pollen

148 Annual close season for pollen.

SECT 148.—(1) In this Act, the expression "the annual close season for pollen" means, in relation to any locality, (a) in case any bye-law under this Act is for the time being in force, fixing the -period during which it is unlawful to take pollen in that locality, the period so fixed, (b) in any other case, the period commencing on the 1st day of November in any year and ending on the 31st day of January in the next following year. (2) The provisions set out in the Fifth Schedule to this Act shall apply in relation to bye-laws altering the annual close season for pollen.

149 Penalties for fishing for, etc. pollen during the annual close season for pollen.

SECT 149.—(1) If any person wilfully fishes for or takes or aids or assists in taking or fishing for pollen during the annual close season for pollen, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than two pounds and not more than twenty-five pounds, together with a further fine of two pounds for every pollen so taken by him. (2) Where a person is convicted of an offence under this section, every pollen taken by him and the fishing engine used in the commission of the offence shall, as a statutory consequence of conviction stand forfeited.

150 Penalties for buying, etc., pollen during the annual close season for pollen.

SECT 150.—(1) If any person buys, sells, exposes for sale, or has in his custody or possession any pollen taken from any waters, during the period which is, in relation to those waters, the annual close season for pollen, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than two pounds and not more than twenty-five pounds, together with a further fine of two pounds for every such pollen so bought, sold or exposed for sale by him or so in his custody or possession. (2) Where a person is convicted of an offence under this section, every pollen in respect of which the offence, was committed shall, as a statutory consequence of conviction, stand forfeited. (3) In any proceedings under subsection (1) of this section, proof that a person bought, sold or exposed for sale or had in his custody or possession any pollen during the period which is, in relation to any waters, the annual close season for pollen shall be prima facie evidence that such pollen was taken during the period which is the annual close season for pollen in the waters from or in which such pollen may have been taken. (4) In this section the word "waters" includes any river, lake, estuary or any part of the sea adjacent to the coast.

CHAPTER III Eels

151 Annual close season for eels.

SECT 151.—(1) In this Act, the expression "the annual close season for eels" means, in relation to any locality, (a) in case any bye-law under this Act is for the time being in force fixing the period during which it is unlawful to fish for eels in that locality, other than by rod and line, the period so fixed, (b) in any other case, the period commencing on the 11th day of January in any year and ending on the 30th day of June next following. (2) The provisions set out in the Fifth Schedule to this Act shall apply in relation to bye-laws altering the annual close season for eels.

152 Restrictions on fishing for eels during annual close season for eels.

SECT 152.—(1) Every person who, during the annual close season for eels, wilfully takes or fishes for or aids or assists in taking or fishing for eels otherwise than with rod and line shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds. (2) Where a person is convicted of an offence under this section any eel taken by him shall, as a statutory consequence of conviction, stand forfeited.

153 Penalty for placing, etc., fishing engines for taking eels in eyes, etc., of fishing weir or fishing mill dam during annual close season for eels or during daytime.

SECT 153.—(1) If any person places or hangs any fishing engine for taking eels in the eye, gap or sluice gate of any fishing weir or fishing mill dam during— (a) the annual close season for eels, or (b) the day-time within any period which is not the annual close season for eels, then, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than ten shillings and not more than five pounds for each such engine so placed or hung. (2) Where a person is convicted of an offence under this section, the fishing engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (3) Where— (a) a person is charged with an offence under this section, and (b) it is proved that at a particular time a fishing engine for taking eels was placed or was hanging in the eye, gap or sluice gate of a fishing weir or fishing mill dam, and (c) it is proved that such person was at that time the occupier of the fishing weir or fishing mill dam, it shall, until the contrary is proved, be presumed that the fishing engine was so placed or hung by him.

PART X - RESTRICTIONS ON SALE AND EXPORT FOR SALE OF SALMON AND TROUT

154 Definitions for purposes of Part X.

SECT 154.—In this Part— certificate of fitness. the expression "certificate of fitness" means a certificate granted under section 158; inspector. the word "inspector" means any person, being— (a) a person appointed by the Minister to be an inspector for the purposes of this Part, or (b) a member of the Garda Síochána, or (c) any person authorised by the Minister under section 22 of the Fisheries Act, 1925 (No. 32 of 1925) or section 44 of the Fisheries Act, 1939 (No. 17 of 1939); Part X licence. the expression "Part X licence" means a licence being— (a) a salmon dealer's licence, or (b) a salmon exporters licence; salmon dealer's licence. the expression "salmon dealer's licence" means a licence issued under subsection (1) of section 159; salmon exporter's licence. the expression "salmon exporter's licence" means a licence issued under subsection (2) of section 159. trout. the word "trout" includes fish commonly called or known as rainbow trout.

155 Exemption of preserved salmon and trout.

SECT 155.—This Part shall not apply in respect of salmon or trout preserved and sold in tins, bottles, jars or similar containers holding only portions of fish or products of fish.

156 Restrictions on sale, etc. of salmon and trout.

SECT 156.—(1) It shall not be lawful for any person (other than the Minister or the Electricity Supply Board) to sell, expose for sale or keep for sale at any place salmon or trout unless— (a) such person is the holder of a salmon dealer's licence for the time being in force, and (b) such place is a place at which he is authorised by that licence to sell salmon and trout. (2) If any person contravenes subsection (1) of this section, such person shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding ten pounds and, in the case of a second or any subsequent offence, to a fine not exceeding twenty-five pounds or at the discretion of the Court, to imprisonment for any term not exceeding three months or to both such fine and imprisonment. (3) If any person buys any salmon or trout from a person whom he knows or has reason to believe is selling it in contravention of subsection (1) of this section, such first-mentioned person shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. (4) This section shall not apply to a fisherman selling fish of his own lawful capture.

157 Restrictions on export for sale of salmon and trout.

SECT 157.—(1) It shall not be lawful for any person (other than the Minister or the Electricity Supply Board) to export for sale or attempt to export for sale from any place salmon or trout unless— (a) (i) such person is the holder of a salmon dealer's licence for the time being in force, and (ii) such place is a place at which he is authorised by such licence to sell salmon and trout, or (b) (i) such person is the holder of a salmon exporter's licence for the time being in force, and (ii) such place is a place from which he is authorised by such licence to export salmon and trout. (2) If any person contravenes subsection (1) of this section, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds and, in the case of a second or any subsequent offence, to a fine not exceeding twenty-five pounds or, at the discretion of the Court, to imprisonment for any term not exceeding three months or to both such fine and imprisonment. (3) This section shall not apply to the holder of a rod licence exporting fish of his own lawful capture.

158 Certificate of fitness to hold a Part X licence.

SECT 158.—Where a person who carries on or proposes to carry on the business of selling salmon and trout or of exporting for sale salmon and trout in a particular Court District applies to a District Justice for the time being assigned to that Court District for a certificate under this section, such District Justice, if satisfied that such person is a fit and proper person to hold a Part X licence, shall grant him a certificate in writing to that effect.

159 Salmon dealers licences and salmon exporter's licences.

SECT 159.—(1) Where— (a) a person to whom a certificate of fitness has been granted applies, within twenty-eight days after such grant, to the board of conservators for a fishery district for the issue to him of a licence authorising him to carry on the business of selling salmon and trout at any specified place or places within such fishery district, and (b) there is sent with the application— (i) such certificate of fitness, and (ii) the sum of one pound, being the excise duty imposed by section 42 of the Finance Act, 1925 (No. 28 of 1925), on a salmon dealer's licence, then, subject to section 43 of the said Act, such board of conservators may, through its clerk, issue to such person such licence. (2) Where— (a) a person to whom a certificate of fitness has been granted applies, within twenty-eight days after such grant, to the board of conservators for a fishery district for the issue to him of a licence authorising him to carry on the business of exporting for sale salmon and trout from any specified place or places within such fishery district, (b) there is sent with the application— (i) such certificate, of fitness, and (ii) the sum of one pound, being the excise duty imposed by subsection (1) of section 12 of the Finance Act, 1940 (No. 14 of 1940) on a salmon exporter's licence, then, subject to subsection (4) of the said section 12, such board of conservators may, through its clerk, issue to such person such licence. (3) Every application for a Part X licence to a board of conservators shall— (a) be made in writing to the clerk of such board, (b) be in the prescribed form and contain the prescribed particulars. (4) Every Part X licence shall be in the prescribed form. (5) Every Part X licence shall, unless it is previously terminated, continue in force until the 31st day of December of the year in which it was issued and shall then expire.

160 Renewal of Part X licences.

SECT 160.—(1) Where (a) either— (i) the holder of a Part X licence which is for the time being in force (either by virtue of the original issue or a renewal thereof) applies, within fourteen days before its expiration, to the board of conservators by whom the licence was issued for a renewal of the licence, or (ii) the holder of a Part X licence which was in force (either by virtue of the original issue or a renewal thereof) on the 31st day of December in any year applies within one month after its expiration to the board of conservators by whom the licence was issued for a renewal of the licence, and (b) there is sent with the application the sum of one pound (being the excise duty imposed, in case the licence is a salmon dealer's licence, by section 42 of the Finance Act, 1925, or, in case the licence is a salmon exporter's licence, by section 12 of the Finance Act, 1940), then, subject to section 43 of the Finance Act, 1925, or to section 12 of the Finance Act, 1940 (whichever of those sections is applicable), such board of conservators may renew such licence. (2) Every application for the renewal of a Part X licence to a board of conservators shall— (a) be made in writing to the clerk of such board, (b) be in the prescribed form and contain the prescribed particulars. (3) Every renewal of a Part X licence shall be in the prescribed form. (4) Every renewal of a Part X licence shall (unless the licence is previously terminated) continue in force until the expiration of the calendar year for which the licence was last renewed and shall then expire.

161 Termination of Part X licences.

SECT 161.—(1) Every Part X licence shall terminate on the death of the holder thereof and on revocation by the Minister and may be terminated by surrender by the holder thereof. (2) (a) If the holder of a Part X licence is convicted of an offence under the repealed enactments or an offence under any provision of this Act, the Minister may, within three months after such conviction, revoke the licence. (b) Before revoking a Part X licence under paragraph (a) of this subsection the Minister shall send by registered post to the holder thereof and to the board of conservators by whom it was issued fourteen days' notice of his intention to consider the revocation of the licence and shall consider any representations which may be made to him by such holder or board before the expiration of the notice. (3) References in this section to a Part X licence shall be construed as including references to a renewal thereof.

162 Publication of Part X licences.

SECT 162.—(1) (a) Every holder of a Part X licence and any renewal thereof shall cause such licence or renewal to be displayed prominently in the place or one of the places to which such licence relates during business hours, and if such licence or renewal relates to more than one place shall cause a copy of such licence or renewal to be so displayed in all such places other than the place in which such licence or renewal is so displayed. (b) If the holder of a Part X licence fails to comply with paragraph (a) of this subsection, such holder shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding five pounds. (2) Lists of persons holding Part X licences shall be published at such times and places and in such manner and form as the Minister may from time to time direct.

163 Registers to be kept by holders of Part X licences.

SECT 163.—(1) It shall be the duty of every holder of a salmon dealer's licence— (a) to keep or cause to be kept at each place to which the licence relates a register in the prescribed form of all purchases and receipts of salmon or trout at or for sale at such place and of all sales, exportations, disposals and removals of salmon or trout made at or from such Place, and (b) within six hours after any such purchase or receipt and within three hours after any such sale, exportation, disposal or removal, to enter in such register the prescribed particulars (which shall not include the price paid by such holder for any salmon or trout purchased, received or sold by him) of such purchase, receipt, sale, exportation, disposal or removal (as the case may be) and of the person from whom such salmon or trout were purchased or received or to whom such salmon or trout were sold, exported or disposed of, or the place to which such salmon or trout were removed (as the case may require). (2) It shall be the duty of every holder of a salmon exporter's licence— (a) to keep or cause to be kept at each place to which the licence relates a register in the prescribed form of all exportations of salmon and trout from such place; and (b) within three hours after every such exportation, to enter in such register the prescribed particulars (which shall not include the price paid by him for any salmon or trout exported by him) of such exportation and of the name of the person to whom the same was made. (3) Every register kept in pursuance of this section may at any time during which the premises to which the register relates are open for the carrying on of business be inspected by any inspector, and it shall be the duty of the licence holder and of every person keeping such register to produce for the inspection of such inspector on demand such register and also all invoices, consignment notes, receipts and other documents (including copies thereof where the originals are not available) reasonably demanded by such inspector for the purpose of verifying any entry in or explaining any omission from such register. (4) If any holder of a Part X licence— (a) fails to keep or cause to be kept such register as is required by this section, or (b) fails to make or cause to be made in such register within the time hereinbefore mentioned any entry required by this section to be made therein, or (c) fails to produce or cause to be produced on demand for the inspection of any inspector, any register, document, or copy of a document which he is required by this section so to produce, or obstructs any inspector in the making of such inspection, or (d) wilfully or negligently makes or causes to be made in such register any entry which is false or misleading in any material particular, he shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section, to a fine not exceeding ten pounds or, in the case of a second or any subsequent offence under this section, to a fine not exceeding twenty-five pounds. (5) For the purposes of this section— (a) inspection of a register or document shall include taking copies thereof or extracts therefrom, and (b) a demand for inspection of a register or other document shall be deemed to have been duly made to the licence holder if such demand is made verbally on the premises of the licence holder to any person in his employment, and, (c) a refusal or failure to produce a register or other document for inspection if made or committed on the premises of the licence holder by a person in his employment shall be deemed to have been made or committed by the licence holder, (d) references to a salmon dealer's licence, a salmon exporter's licence or a Part X licence shall be construed as including references to any renewal thereof

PART XI - MISCELLANEOUS PROVISIONS IN RELATION TO SALMON AND FRESH WATER FISHERIES

CHAPTER I Prohibition of Certain Methods of fishing for, and of Practices Liable to Destroy Salmon and Other Fish

164 Penalty for using, deleterious matter for capture, etc., of fish or having possession of deleterious matter with intent to use it in capture etc., of fish.

SECT 164.—(1) Any person who— (a) uses in any waters any deleterious matter for the capture, destruction or injury of fish, or (b) has in his possession or control on the bank of or near any waters any deleterious matter with intent to use it in the capture, destruction or injury of fish, shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds or at the discretion of the court to imprisonment for a term not exceeding six months or to both such fine and such imprisonment. (2) Where a person is convicted of an offence under this section any deleterious matter found in his possession or control in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

165 Penalties for using, etc. light or fire for purpose of taking fish.

SECT 165.—(1) if, for the purpose of taking any fish, any person uses or has in his possession or control in any lake, river or estuary or on or near the banks thereof any light or fire of any kind, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds or at the discretion of the court to imprisonment for any term not exceeding twelve months. (2) Where a person is convicted of an offence under this section, the means or materials by which there was produced the light or fire in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

166 Penalty for using etc. certain instruments for purpose of taking fish.

SECT 166.—(1) In this section the expression "instrument to which this section applies" means any other, spear, strokehaul, gaff or other instrument of a similar kind. (2) If, for the purpose of taking any fish, any person uses or has in his possession or control in any lake, river, or estuary or on or near the banks thereof any instrument to which this section applies, such person shall, subject to subsection (3) of this section, be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds or, at the discretion of the court, to imprisonment for any term not exceeding twelve months. (3) Subsection (2) of this section shall not apply to the use, possession or control of— (a) a gaff used or to be used solely as an auxiliary to lawful angling between sunrise and one hour after sunset, or (b) a gaff used or to be used by the holder of a fishing licence in respect of any box in a fishing weir or fishing mill dam solely for the purpose of lawfully removing fish therefrom, or (c) an eel spear used for taking eels. (4) Where a person is convicted of an offence under this section any instrument (being an instrument to which this section applies) in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

167 Penalty for fishing for salmon or trout in a river by Cross lines.

SECT 167.—If any person takes, catches or fishes for any salmon or trout by means of cross lines in any river, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds.

168 Penalty for taking salmon or trout in eel weir.

SECT 168.—If the owner or occupier of any eel weir takes or suffers to be taken therein any salmon or trout, such owner or occupier shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

169 Penalty for damming, etc. river or mill race for purpose of taking salmon or trout.

SECT 169.—If any person dams, teems or empties any river or mill race for the purpose of taking or destroying any salmon or trout, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

170 Penalties for taking fish unlawfully killed or found dead.

SECT 170.—(1) Every person who by any means removes or causes to be removed from any river or lake— (a) any salmon or trout which shall not have been killed by lawful means, or (b) any salmon or trout which shall have been found dead, from any cause whatever, by such person, shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than ten pounds and not more than twenty-five pounds, or, at the discretion of the Court, to imprisonment for any term not less than six months and not more than twelve months. (2) This section shall not apply to— (a) any person acting under the authority of the Minister, or (b) any officer of a board of conservators acting under the instructions of that board, or (c) any owner of a fishery or his agent acting under the written authority of a board of conservators, or (d) so far as respects the removal or causing to be removed of any diseased salmon or trout, or any salmon or trout found dead from any cause, any member of the Garda Síochána or any Sanitary Officer.

CHAPTER II Protection of Fishing Waters from Poisoning and Pollution

171 Penalty for steeping flax or hemp in waters or throwing, etc. deleterious matter into Waters.

SECT 171.—(1) Any person who— (a) steeps in any waters any flax or hemp, or (b) throws, empties, permits or causes to fall into any waters any deleterious matter, shall, unless such act is done under and in accordance with a licence granted by the Minister under this section, be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds or at the discretion of the court to imprisonment for a term not exceeding six months or to both such fine and such imprisonment. (2) Where a person is convicted of an offence under this section any flax or hemp found in waters in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (3) The Minister, after consultation with the Minister for Industry and Commerce or (in the case of a licence to be granted to a sanitary authority in relation to a sewerage scheme) with the Minister for Local Government, may grant licences for the purposes of this section, may attach conditions to any licence, and may after like consultation revoke any licence.

172 Protection of waters from pollution.

SECT 172.—(1) In this section, the expression "deleterious liquid" means any deleterious or poisonous liquid or washings or drainage from any deleterious matter. (2) Where any receptacle used for containing or conveying any deleterious matter is within thirty yards of any waters— (a) the owner of that receptacle shall provide and maintain such means (in this subsection referred to as suitable means) as will effectively prevent the passage of any deleterious liquid from that receptacle into such waters, (b) if the owner thereof fails to carry out the duty imposed on him by paragraph (a) of this subsection, he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds for each day during which such failure continues, (c) where the Minister is satisfied that suitable means have been provided in relation to that receptacle, he may, on the application of the owner thereof, issue to him a certificate (which shall remain in force for such period as may be specified therein) and such certificate shall specify the suitable means and the manner in which they are to

be used, (d) if— (i) the owner thereof is charged with an offence under this section in relation to that receptacle, and (ii) he proves that a certificate in respect of that receptacle was issued under paragraph (c) of this subsection and that since the issue of the certificate the suitable means specified therein remained available and had been used in the manner specified therein, and (iii) the certificate was in force on the date on which the offence is alleged to have been committed, then the charge shall be dismissed.

CHAPTER III Protection of Young and Breeding Fish

173 Penalty for taking, etc., spawn, smolts or fry of salmon, trout or eels.

SECT 173.—(1) If any person— (a) wilfully takes, sells, purchases, or has in his possession the spawn, smolts or fry of salmon, trout, or eels, or (b) wilfully obstructs the passage of the smolts or fry of salmon, trout or eels, or (c) injures or disturbs the spawn or fry of salmon, trout or eels, or (d) injures or disturbs any spawning bed, bank or shallow where the spawn or fry of salmon, trout or eels may be, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. (2) Where a person is convicted of an offence under this section any fishing engine or device used in the commission of the offence shall, as a statutory consequence of conviction, stand forfeited.

174 Penalty for chasing, etc., spawning fish.

SECT 174.—(1) If any person chases, injures or disturbs spawning fish or fish on the spawning beds or attempts (except by means of lawful angling with rod and line) to catch fish thereon, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. (2) Where a person is convicted of an offence under this section, any engine used in the commission of the offence shall, as a statutory consequence of conviction, stand forfeited.

175 Penalty for taking, etc., undersized pollen.

SECT 175.—(1) In this section, the expression "undersized pollen" means pollen of less size than eight inches in length, measured from the nose to the utmost extent of the tail. (2) If any person wilfully takes, kills, destroys, buys, sells, exposes for sale, sends or has in his custody or possession any undersized pollen, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding one shilling for each undersized pollen in relation to which the offence is committed. (3) Where a person is convicted of an offence under this section, each undersized pollen in relation to which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

176 Penalties for taking, etc., unseasonable salmon or trout.

SECT 176.—(1) If any person takes, kills or destroys any unseasonable salmon or trout, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds and an additional fine not exceeding two pounds for each such salmon or trout taken, killed or destroyed by him or, at the discretion of the Court, to imprisonment for any term not exceeding six months. (2) Where a person is convicted of an offence under this section, any salmon or trout in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (3) Where a person is charged with taking a salmon or trout in contravention of this section it shall be a good defence to prove that such salmon or trout was taken accidentally, and was returned without avoidable injury to the water immediately upon being taken.

177 Prohibition of export of unseasonable salmon.

SECT 177.—(1) If any person exports or attempts to export any unseasonable salmon, such person shall be guilty of an offence under this section and be liable on summary conviction thereof to a fine not exceeding five pounds for each salmon so exported or attempted to be exported. (2) Where a person is

convicted of an offence under this section, any salmon in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

CHAPTER IV Protection of Private Fisheries

178 Penalty for unauthorised entry on several.

SECT 178.—If any person (not being authorised by the owner or occupier of a several fishery) enters into or upon such several fishery for the purpose or under the pretence of killing fish therein or taking fish therefrom or kills any fish therein or takes any fish therefrom, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than ten shillings and not more than five pounds.

179 Penalty for fishing with nets in a several fishery without licence of owner.

SECT 179.—(1) If any person uses or fishes with any net within the limits of a several fishery without authority in writing from the owner or occupier of such fishery, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. (2) Where a person is convicted of an offence under this section, any net in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

180 Penalty for unauthorised fishing in private ponds.

SECT 180.—If any person kills, takes or destroys any fish in any pond, private canal or reservoir wherein he has no property without the authority of the owner of such pond, private canal or reservoir, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

181 Penalty for entering without permission lands for purposes of fishing.

SECT 181.—If any person enters on any land for the purpose or under the pretence of fishing in any water without authority in writing from the owner or occupier of such land, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding two pounds.

CHAPTER V Other Provisions

182 Penalties for purchasing, selling etc., or having in our possession salmon or trout which are unseasonable or unlawfully captured.

SECT 182.—(1) (a) If any person purchases, sells, exposes for sale, keeps for sale or has in his possession or control any unseasonable salmon or trout, such person shall be guilty of an offence under this subsection. (b) Where a person, being a common carrier, is charged under this subsection with the offence of having in his possession or control any unseasonable salmon or trout, it shall be a good defence to such charge to prove that he had such salmon or trout in his possession as a common carrier and not otherwise. (2) (a) If any Person Purchases, sells, exposes for sale, keeps for sale or has in his possession or control any salmon or trout unlawfully captured, such person shall be guilty of an offence under this subsection. (b) In any proceedings under this subsection against a person, the onus of proving that the salmon or trout, the subject of such proceedings, was lawfully captured shall lie on such person. (c) Where a person being a common carrier, is charged under this subsection with the offence of having in his possession or control any salmon or trout unlawfully captured, it shall be a good defence to such charge for such person to prove— (i) that he had such salmon or trout in his possession or control as a common carrier and not otherwise, and (ii) that at the time when such salmon or trout was accepted by him for carriage, the consignor thereof delivered to him a certificate in such form as the Minister may from time to time direct signed by such consignor or by a person authorised by him in that behalf to the

effect that such salmon or trout was lawfully captured. (d) where— (i) a person is charged with an offence under this subsection in relation to a salmon, and (ii) he proves that the salmon was captured by rod and line at a particular place during a period other than the annual close season for angling for salmon at that place, and (iii) he proves that the salmon was captured by the holder of a licence to fish with rod and line for salmon, and (iv) he proves that otherwise the salmon was lawfully captured, the charge against that person shall be dismissed. (e) Where— (i) a person is charged with an offence under this subsection in relation to a trout, and (ii) he proves that the trout was captured by rod and line at a particular place during a period other than the annual close season for angling for trout at that place, and (iii) if the capture of the trout was prohibited save in accordance with a licence to fish with rod and line for trout, he proves that the trout was captured by the holder of such a licence, and (iv) he proves that otherwise the trout was lawfully captured, the charge against him shall be dismissed. (f) Where— (i) a person is charged with the offence under this subsection of purchasing or having in his possession or control any salmon or trout unlawfully captured, and (ii) he proves that the salmon or trout was purchased by him from the holder of a licence (whether original or renewed) for the sale of salmon and trout issued under subsection (1) of section 159 and in force at the date of purchase and was so purchased at a place specified in the licence, the charge against that person shall be dismissed. (3) If any person in a certificate signed by him and delivered to a common carrier under subparagraph (ii) of paragraph (c) of subsection (2) of this section makes any statement which is false, he shall be guilty of an offence under this subsection. (4) Every person guilty of an offence under subsection (1), (2) or (3) of this section shall be liable on summary conviction thereof to a fine not exceeding twenty five pounds, together with an additional fine not exceeding two pounds for each salmon or trout in respect of which the offence was committed or, at the discretion of the Court, to imprisonment for any term not exceeding six months. (5) Where a person is convicted of an offence under subsection (1) or (2) of this section, any salmon or trout in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

183 Marking of packages containing salmon or trout.

SECT 183.—(1) Every package containing salmon or trout in course of transit in the State shall be marked conspicuously on the outside with the words "salmon and trout", or the word "salmon" or the word "trout" as the case may require, and shall also have marked thereon or on a label affixed thereto the name and address of the consignor. (2) Every person who sends or consigns for transit in the State any package containing salmon or trout which is not marked in the manner required by this section shall be guilty of an offence under this section. (3) Every person who carries for reward by land in the State or by sea from any port in the State any package containing salmon or trout which is not marked in the manner required by this section shall be guilty of an offence under this section unless he proves that he did not know and could not reasonably have known that such package contained salmon or trout. (4) Every person guilty of an offence under this section shall be liable on summary conviction thereof in the case of a first offence to a fine not exceeding ten pounds and in the case of a second or any subsequent offence to a fine not exceeding twenty-five pounds or, at the discretion of the Court, to imprisonment for any term not exceeding three months or to both such fine and such imprisonment. (5) For the purpose of this section a package shall be deemed to be in course of transit in the State when the same is being carried by any means whatsoever from any premises or place in the State to any other premises or place within or outside the State or is in any place, public or private, in the course of or for the purpose of such carriage.

PART XII - TRANSFERS TO THE MINISTER OF CERTAIN FISHERIES AND PROVISIONS IN RELATION TO FISHERIES SO TRANSFERRED

CHAPTER I Definitions and Evidence of Existence of Several Fisheries in Tidal Waters

184 Definitions for purposes of Part XII.

SECT 184.—(1) In this Part— the expression "fixed engine (tidal waters) fishery" means a fishery for salmon, trout or eels carried on in tidal waters by means of a fixed engine in respect of which a certificate

has been issued under section 6 of the Salmon Fishery (Ireland) Act, 1863, and all other rights of fishing for salmon, trout and eels in or on the site of such fishery; the expression "weir (tidal waters) fishery" means a fishery for salmon, trout or eels carried on in tidal waters by means of a fishing weir, and the structure of such weir and all other rights of fishing for salmon, trout and eels in or on the site of such fishery; the expression "weir (fresh water) fishery" means a fishery for salmon, trout or eels carried on in fresh water by means of a fishing weir, and the structure of such weir and the land on which such weir is erected and all other rights of fishing for salmon, trout and eels in or on the site of such fishery; the expression "mill-dam fishery" means a fishery Carried on by means of so much of a fishing mill-dam as is used for the purpose of catching or facilitating the catching of fish and so much of the structure of such fishing mill-dam as is used for that purpose, and all other rights of fishing for salmon, trout and eels in or on the site of such fishery; the expression "transferable fishery" means any fishery which is— (a) a several fishery in tidal waters (other than a fixed engine (tidal waters) fishery or a weir (tidal waters) fishery), and all rights of fishing for salmon, trout and eels in or at the site of such fishery, or (b) a fixed engine (tidal waters) fishery, or (c) a weir (tidal waters) fishery, or (d) a weir (fresh water) fishery, or (e) a mill-dam, fishery, but does not include— (i) any fishery vested in the Minister, or (ii) any fishery vested in the Electricity Supply Board, or (iii) any fishery vested in the Irish Land Commission, or (iv) any fishery vested in the Commissioners of Public Works in Ireland; the expression "vested fishery" means a fishery which is either— (a) vested in the Minister under Chapter II of this Part, or (b) transferred to the Minister under Chapter III of this Part. (2) Where the right to fish with rod and line or by any other means in any portion of a river or lake contiguous to a transferable fishery, which is a weir (fresh water) fishery or a mill-dam fishery, is in the same ownership as such transferable fishery, such transferable fishery shall for the purposes of this Part, be deemed to include such right and also, in case such right exists by virtue of the ownership of the bed and soil of such portion of such river or lake, the bed and soil of such portion of such river or lake.

185 Evidence of existence of several fisheries in tidal waters.

SECT 185.—(1) Where— (a) a fishery in the tidal waters or part of the tidal waters of any river or estuary was, for a period of not less than sixty years ending on the 31st day of December, 1932, included as a rateable hereditament in the Valuation List prepared pursuant to the Valuation Acts, and (b) an order is made, under subsection (1) of section 186 appointing a day to be the appointed day in respect of the fishery district in which the tidal waters of such river or estuary or such part of the tidal waters of such river or estuary are situate, then, unless it had been judicially determined before the 1st day of January, 1939, by a court of competent jurisdiction that a several or exclusive fishery did not exist in the tidal waters of such river or estuary or such part of the tidal waters of such river or estuary, it shall, as on and from the day so appointed, by virtue of this subsection be deemed for all purposes that a several or exclusive fishery exists in the tidal waters of such river or estuary or in such part of the tidal waters of such river or estuary. (2) Where a fishery in the tidal waters or part of the tidal waters of any river or estuary was, for not less than sixty years ending on the 31st day of December, 1932, included as a rateable hereditament in the Valuation List prepared pursuant to the Valuation Acts, the Commissioner of Valuation may, upon the application of any person and upon payment of such fee as may be fixed by the Minister for Finance, issue to such person a certificate under his hand certifying that such fishery was so included, and any certificate issued under this subsection shall be conclusive evidence for all purposes of the matters certified therein. (3) The following provisions shall have effect in relation to all fees payable under this section:— (a) such fees shall be collected and taken in such manner as the Minister for Finance shall from time to time direct and shall be paid into or disposed of for the benefit of the Exchequer in accordance with the directions of the said Minister; (b) the Public Offices, Fees Act, 1879, shall not apply in respect of such fees. CHAPTER II Transfer to the Minister of Transferable Fisheries

186 Transition period in respect of transferable fisheries.

SECT 186.—(1) The Minister may by order appoint a day to be the appointed day in respect of any fishery district for the purpose of this Part, and in this Part the expression "the appointed day," means in relation to a fishery district the day so appointed to be the appointed day in respect of such district. (2) Where an order has been made, under subsection (1) of this section, appointing a day to be the appointed day in respect of a fishery district, then for the purposes of this Part, the transition period for each

transferable fishery situate in such district shall be the period commencing on the appointed day in respect of such district and ending on the day immediately preceding the tenth anniversary of the appointed day or, if an order in relation to such fishery has been made under subsection (3) or subsection (4) or subsection (5) of this section, the day appointed by such last-mentioned order as the day on which the transition period in respect of such fishery is to end, and the expression "the transition period" when used in this Part in relation to any transferable fishery shall be construed and have effect accordingly. (3) Where at any time after the completion of the survey record of a transferable fishery but not earlier than thirty-six months after the commencement of the transition period in respect of such fishery, the owner of such fishery makes to the Minister, not less than six months before the last day of the next ensuing annual close season for angling for salmon and trout in the river or the portion thereof in which such fishery is situate or the last day of the next ensuing annual close season for salmon and trout in such river or portion thereof, whichever of the said days is the earlier, an application for an order under this subsection, the following provisions shall have effect:— (a) the Minister shall, subject to the provisions of this subsection, make in relation to such fishery an order appointing such day (being earlier than the day immediately preceding the tenth anniversary of the appointed day in respect of the fishery district in which such fishery is situate, but not being earlier than three months after the making of such application) as the Minister thin proper as the day on which the transition period in respect of such fishery shall end, (b) the Minister may refuse to make such order if such owner is in his opinion in default in any matter under this Part, (c) where such fishery is in the occupation of any person under a lease and such lease will not expire before the tenth anniversary of the date of the commencement of such transition period or has still not less than two years unexpired at the date of the application, the Minister shall not make such order unless such person consents to the making thereof. (4) At any time after the completion of the survey record of a transferable fishery, but not earlier than thirty-six months after the commencement of the transition period in respect of such fishery, the Minister it he thinks fit may, not less than six months before the last day of the next ensuing annual close season for angling for salmon and trout in the river or portion thereof in which such fishery is situate or the last day of the next ensuing annual close season for salmon and trout in such river or portion, whichever of the said days is the earlier, make in relation to such fishery an order appointing such day (being earlier than the day immediately preceding the tenth anniversary of the appointed day in respect of the fishery district in which such fishery is situate, but not being earlier than three months after the making of such order) as the Minister thinks proper as the day on which the transition period in respect of such fishery shall end. (5) At any time after the commencement of the transition period in respect of a transferable fishery, the Minister may make in relation to such fishery an order appointing such day (being later than the day immediately preceding the tenth anniversary of the appointed day in respect of the fishery district in which such fishery is situate) as he thinks proper as the day on which the transition period in respect of such fishery shall end. (6) Every order made under this section shall be published in the Iris Oifigiúil as soon as may be after it is made. (7) A copy of every order made under subsection (1) of this section in relation to any fishery district shall be served on the owner of every transferable fishery situate in such district. (8) A copy of every order made in relation to a transferable fishery under subsection (3), subsection (4) or subsection (5) of this section shall be served on the owner of such fishery.

187 Right of access to transferable fisheries.

SECT 187.—(1) At any time after the appointed day in respect of a fishery district, any authorised person shall have a right of free access at all times to any transferable fishery situate in such district for the purpose of examining any structures connected therewith or of viewing the operation of such fishery or the disposal of fish. (2) If any person obstructs any authorised person in the exercise of the powers conferred on such authorised person by this section, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds. (3) In this section the expression "authorised person" means a person authorised by the Minister to exercise the powers conferred on an authorised person by this section,

188 Survey record of transferable fisheries.

SECT 188.—(1) At any time after the commencement of the transition period in respect of a transferable fishery, the Minister may, in accordance with this section, cause a survey to be made of such fishery, and

a record to be prepared of the following matters in relation to such fishery:— (a) the situation thereof; (b) the condition thereof; (c) all weirs or other structures existing thereon; (d) all lands and premises lawfully used in connection therewith; (e) all means of access thereto; (f) all means and methods of operating it; (g) all fishing gear used in connection therewith. (2) The following provisions shall have effect in relation to the survey and record of a transferable fishery:— (a) the Minister shall appoint a fit and proper person (in this subsection referred to as the engineer) to make a survey of such fishery, and such survey may, in case such fishery is a mill-dam fishery, include a survey of the whole dam and any adjoining structures, so far as may be necessary for determining the condition of the dam, and the measurement of the flow of water in any river, lake or watercourse connected with such dam; (b) upon completion of such survey the engineer shall prepare and sign a report of such survey in the form of plans (including sections where necessary) and descriptive schedules and submit such report to the Minister; (c) the Minister shall cause a copy of such report to be served on the owner and on the occupier of such fishery; (d) such owner or occupier may, within forty-eight days after the service of such copy, send to the Minister a statement in writing objecting to such report and specifying the grounds of his objection; (e) if no objection is sent to the Minister within the said forty-eight days or if any such objection is so sent but is subsequently withdrawn, the Minister shall cause an instrument to be prepared in the terms of such report and cause such instrument to be sealed with his official seal and such instrument shall, for the purposes of this Part, be the survey record of such fishery; (f) if an objection is sent to the Minister within the said forty-eight days and such objection is not subsequently withdrawn, the following provisions shall have effect:— (i) the Minister may, with the consent of the person making the objection, amend such report, and in that case, the Minister shall cause an instrument to be prepared in the terms of such report, as so amended, and shall cause such instrument to be sealed with his official seal and such instrument shall, for the purposes of this Part, be the survey record of such fishery; (ii) if the Minister does not, with the consent of the person making the objection, amend such report, then— (I) the Minister shall refer the matter to the President of the Institute of Civil Engineers in Ireland or some person appointed by the said President, who may, after investigating the matter, either as he thinks fit, confirm or amend such report, and thereupon the Minister shall cause an instrument to be prepared in the terms of such report with such amendments (if any) thereon as may have been made thereon under this clause and cause such instrument to be sealed with his official seal, and such instrument shall, for the purposes of this Part, be the survey record of such fishery, and (II) there shall be paid to the person investigating the matter such fee as the Minister, with the consent of the Minister for Finance, may fix, and there shall, in case such report is wholly or mainly confirmed, be paid to the Minister by the person making the objection a sum equal to the said fee, and such sum shall be recoverable by the Minister as a simple contract debt in any court of competent jurisdiction and when paid to, or recovered by, the Minister shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct. (3) Where, during the transition period in respect of any transferable fishery, any alteration is made, with the consent of the Minister, in the situation, construction or condition of such fishery, after the making of the survey record of such fishery, the Minister shall cause particulars of such alteration to be entered in such survey record and such survey record shall have effect subject to such alteration as so entered. (4) For the purpose of this Act the survey record of any transferable fishery shall be conclusive evidence in any proceedings of the situation, construction and condition of such fishery. (5) For the purpose of making a survey of a transferable fishery under this section, the person (in this subsection referred to as the engineer) appointed by the Minister under this section to make such survey and any persons acting under the directions of the engineer may do all or any of the following things:— (a) enter on such fishery and any land which it may be necessary to survey or which it may be necessary to pass through for the purposes of such survey; (b) cut or cause to be cut any bushes or other vegetation and remove or cause to be removed any other obstructions (except permanent buildings) which may interfere with such survey; (c) erect or construct or make any permanent or temporary marks which may be required to enable such survey to be checked or compared with the site at a later date; (d) require any person (being the owner or occupier of such fishery or an employee of such owner or occupier) to supply any information which the engineer or the persons so acting under his directions may reasonably require for the purposes of such survey; (e) do any other act or thing which may be necessary for or incidental to the doing of anything which the engineer or the said persons so acting under his directions are authorised by the foregoing provisions of this subsection to do. (6) If any person interferes with a person appointed by the Minister to make a survey under this section or any persons acting under the directions of such last-mentioned person in exercise of the powers conferred on him or them by this section, such first

mentioned person shall be guilty of an offence under this section. (7) If any person (being the owner or occupier of a transferable fishery or an employee of such owner or occupier) refuses to give to any person appointed by the Minister to make a survey under this section or any persons acting under the direction of such last mentioned person, any information which he or they may lawfully demand under this section, the following provisions shall have effect:— (a) if such first-mentioned person is the owner or owners of such fishery, such person shall be guilty of an offence under this section, (b) if such first-mentioned person is an employee of the occupier of such fishery, such person and such occupier shall each be guilty of an offence, under this section. (8) Every person guilty of an offence under this section shall be liable on summary conviction thereof to a fine not exceeding fifty pounds. (9) There shall be paid to any person (not being an officer of the Minister) who is appointed either to make a survey under this section or to act under the direction of the person making any such survey such remuneration and such allowances for expenses as the Minister may with the consent of the Minister for Finance determine.

189 Obligation of owners of transferable fisheries to furnish amounts to the Minister.

SECT 189.—(1) At any time after the commencement of the transition period in respect of a transferable fishery the Minister may serve on the occupier of such fishery a notice requiring such occupier to do the following things:— (a) to keep in such form as may be specified in such notice and furnish to the Minister at such times and for such periods falling within the said transition period as may be specified in such notice an account of— (i) the costs of operating such fishery (including wages, insurance and marketing costs), (ii) all moneys received from the sale of fish taken in such fishery (iii) all moneys received from the letting of fishing rights to anglers and other persons, (iv) such other particulars (if any) relevant to the matters mentioned in the preceding paragraphs of this subsection, as the Minister may from time to time direct; (b) furnish to the Minister such explanations of any matter contained in any such account as the Minister may from time to time require. (2) Where a notice has been served under this section on the occupier of a transferable fishery and such occupier fails or neglects to comply with the requirements of such notice such occupier shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds.

190 Acquisition of portions of rivers or lakes contiguous to certain weir (fresh water) fisheries.

SECT 190.—(1) Where the bed and soil of any portion of a river or lake contiguous to a transferable fishery, which is a weir (freshwater) fishery, is not in the same ownership as such fishery, the Minister may, if it appears necessary for the maintenance or operation of such fishery, by order made during the transition Period but not later than three months before the expiration of the transition period declare that so much of such bed and soil, not exceeding fifty yards above or below or both above and below such fishery, as the Minister shall specify in such order shall be deemed for the purpose of this Part to be part of such fishery, and upon the taking of such order such part of the bed and soil of such river or lake and all right of fishing in such part shall be deemed to form part of such fishery. (2) Where the Minister makes an order under this section he shall cause a copy of such order to be served on the owner of the bed and soil of the river or lake to which such order relates.

191 Reservation of angling rights in transferable fisheries.

SECT 191.—(1) The owner of the exclusive angling rights in a transferable fishery may, at any time not less than three months before the expiration of the transition period in respect of such fishery, apply to the Minister to make in respect of such fishery an order (in this Part referred to as an angling rights (reservation) order) reserving to him the exclusive angling rights in such fishery and in that case the Minister may make such order and such order shall operate and have it to reserve such angling rights to such owner. (2) Where the Minister makes an angling rights (reservation) order, he shall publish notice of the making of such order in the *Iris Oifigiúil*.

192 Vesting orders.

SECT 192.—(1) Not less than two months before the end of the transition period in respect of a transferable fishery the Minister shall, unless he has already made in respect of such fishery an order

under subsection (2) of this section, make an order (in this Part referred to as an vesting order) vesting as on and from the day next following the expiration of such transition period such fishery in the Minister. (2) (a) The Minister may, with the consent of the owner of a transferable fishery to which this subsection applies, and whether an appointed day has or has not been fixed in relation to the fishery district in which such fishery is situate, make an order (in this Part referred to as a special vesting order) vesting as on and from a day specified in such order such fishery in the Minister. (b) This subsection applies to every transferable fishery in respect of which the person who was the owner thereof on the 1st day of January, 1933, or the successor in title of such person did not, in each fishery year between the said in day of January, 1933, and the 31st day of December, 1938, use such fishery. (3) An order made under this section in relation to any transferable fishery shall state therein the nature and the area and situation of such fishery and shall have attached thereto a map showing the area and situation of such fishery. (4) An order made under this section in relation to a transferable fishery shall operate to transfer to the Minister, as on and from the date specified therein in that behalf, such fishery in fee simple free from incumbrances and from all estates and interests therein, except, in case an angling rights (reservation) order has been made in relation to such fishery, the angling rights reserved thereby, and such first mentioned order shall be conclusive evidence as to the nature and the area of such fishery as stated therein. (5) Whenever the Minister makes an order under this section in relation to any fishery, he shall cause notice of the making of such order to be published in the *Iris Oifigiúil* and shall serve on the owner of such fishery a copy of such notice.

193 Registration of title of the Minister to vested fisheries.

SECT 193.—Where any transferable fishery has become vested in the Minister under this Chapter of this Part, the Minister shall, as soon as may be after such vesting, send to the registering authority under the Local Registration of Title (Ireland) Act, 1891, the vesting order made in relation to such fishery and on receipt thereof the said registering authority shall cause the title of the Minister to the ownership of such fishery in fee simple to be registered under the last-mentioned Act.

194 Compensation in respect of transferable fisheries.

SECT 194.—(1) Compensation shall be paid by the Minister for every transferable fishery vested in the Minister under this Chapter of this Part to the several persons entitled thereto or having estates or interests therein, and such compensation shall, in default of agreement, be fixed by an official arbitrator under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919. (2) The following provisions shall have effect in relation to the fixing of the compensation under this section in respect of a transferable fishery vested in the Minister by the operation of an ordinary vesting order:— (a) the arbitrator shall have regard primarily to— (i) in case such fishery was used during the transition period, the profits of such fishery during the transition period, (ii) in case such fishery was not used during the transition period, the sum which in the opinion of the arbitrator would have been the profits of such fishery if such fishery had been used during the transition period; (b) such arbitrator shall also take into account (in addition to evidence submitted by other persons) any evidence submitted by the owner or occupier of the fishery of— (i) the profits of such fishery before the commencement of the transition period, or (ii) exceptional weather or other conditions affecting the average catch during the transition period, or (iii) the extent to which the owner or occupier has been permitted peaceful occupation during the transition period, or (iv) any circumstances antecedent to the transition period which may have effected the earning power of the fishery during the transition period; (c) such arbitrator may take into account any depreciation of such fishery during the transition period or of the structures or buildings used in connection therewith and described in the survey record of such fishery in so far as the same may be due to causes other than fair wear and tear. (3) In assessing the compensation in respect of a transferable fishery vested in the Minister by the operation of a special vesting order, the value of such fishery shall be calculated as at the date on which it was last used (4) Where— (a) a transferable fishery which has become vested in the Minister under this Chapter consisted of the exclusive right of catching salmon in the whole of the tidal waters of any river, and (b) the proprietor of such fishery had at the vesting date the exclusive right of catching salmon in the whole of such river including all tributary rivers and lakes upon its course, and (c) such proprietor was lawfully entitled by virtue of the proviso to section 3 of the Salmon Fishery (Ireland) Act, 1863, to place any bag nets within three miles from the mouth of such

river, the right so to place such bag nets shall be deemed for the purposes of this section to form part of such fishery and shall be taken into account in determining compensation in respect of such fishery under this section. (5) Sections 69 to 74 and 76 to 80 of the Lands Clauses Consolidation Act 1845, shall apply to any compensation payable by the Minister under this section, and for the purposes of such application the Minister shall be deemed to be the promoter of the undertaking. (6) No claim for compensation under this section in respect of a transferable fishery shall be considered unless made within twenty-four months after the date on which such fishery was vested in the Minister.

195 Compensation to employees on transferable fisheries.

SECT 195.—(1) Whenever a transferable fishery becomes vested in the Minister under this Chapter, every person who proves to the satisfaction of the Minister or the arbitrator appointed to fix compensation in respect of such fishery all the following matters:— (a) that, during the whole or substantially the whole of each of the three open fishing seasons (in this subsection referred to as the appointed seasons) next before the date on which such fishery became so vested, he was constantly and regularly employed by the occupier of such fishery in or about the operation or protection of such fishery at a fixed weekly wage or at a wage calculated by, reference to the value of the catch, and compensation to employees on transferable fisheries. (b) that the remuneration received by him in respect of such employment formed the whole or a substantial part of his livelihood while he was so employed, and (c) that his said employment related exclusively to the operation or protection of such fishery, and (d) that his said employment has been terminated as the result of the vesting of such fishery, and (e) that equivalent alternative occupation is not open to him during the open fishing season, shall be entitled to be paid by the Minister, in respect of his loss of employment during the open fishing season, compensation of an amount calculated as follows:— (i) for each of the appointed seasons, a sum (in this section referred to as the appointed sum) equal to four times the average weekly amount received by such person in respect of such employment during the third of the appointed seasons, and (ii) for each open fishing season (if any) previous to the appointed seasons during which all the following conditions were complied with in respect of such person:— (I) that during the whole or substantially the whole of such season, he was constantly and regularly employed by such occupier in or about the operation or protection of such fishery at a fixed weekly wage or at a wage calculated by reference to the value of the catch, and (II) that the remuneration received by him in respect of such employment formed the whole or a substantial part of his livelihood while he was so employed, and (III) that his said employment related exclusively to the operation or protection of such fishery and a sum equal to the appointed sum, but subject to the overriding limitation that the amount of such compensation shall not in any case exceed thirteen times the appointed period. (2) Whenever a transferable fishery becomes vested in the Minister under this Chapter, every person who proves to the satisfaction of the Minister or the arbitrator appointed to fix compensation in respect of such fishery all the following matters:— (a) that, during the whole of the period (in this subsection referred to as the appointed period) of five years ending on the day next preceding the date on which such fishery became so vested, he was employed on a whole-time or substantially whole-time basis by the occupier of such fishery in a managerial or supervising capacity in connection with the operation of such fishery, and was so employed at a fixed monthly salary, with or without additional remuneration calculated by reference to the value of the catch, and (b) that his said employment has been terminated as the result of the vesting of such fishery, and (c) that equivalent alternative occupation is not open to him, shall be entitled to be paid by the Minister, in respect of his loss of employment, compensation of an amount equivalent to whichever is the less of the following:— (i) a sum equivalent to the total amount (in this subsection referred to as his annual salary) paid to such person by way of fixed monthly salary during the fifth year of the appointed period, together with one-fifth of the amount (in this subsection referred to as his additional remuneration for the appointed period) paid to him as such additional remuneration (if any) during the appointed period; (ii) an amount calculated as follows, namely, for each year of the appointed period and each previous year (if any) during the whole of which he was similarly so employed, a sum equal to one-twelfth of his annual salary, together with one-sixtieth of his additional remuneration (if any) for the appointed period.

196 Apportionments of valuations of transferable fisheries.

SECT 196.—(1) Where a transferable fishery forms part of a fishery or right of fishery which is valued as a whole under the Valuation Acts and an appointed day has been fixed in respect of the fishery district in which such transferable fishery is situate, the Minister shall as soon as conveniently may be furnish the appropriate rating authority with particulars of such transferable fishery, and request that separate valuations be made (either by apportionment or revaluation) in respect of such transferable fishery and the residue of the fishery or right of fishery so valued as a whole, and such valuations shall have effect as on and from the date on which such transferable fishery is vested in the Minister. (2) Where any transferable fishery forms portion of a connected body of fishing rights or is appurtenant or adjacent to a demesne or private grounds or a private residence and is owned by the person who owns such connected body of fishing rights or such demesne, private grounds or private residence, and an appointed day has been fixed in respect of the fishery district in which such transferable fishery is situate, such person may apply to the appropriate rating authority for such district to have the remaining fishing rights, demesne, private grounds or residence revalued, but such revaluation shall not take effect until the date on which such transferable fishery is vested in the Minister.

197 Provisions in relation to orders.

SECT 197.—The validity or effect of any order made by the Minister under this Chapter shall not be affected by any non-compliance with any provision contained in the said Chapter relating to the service of a copy of such order on a particular person or to the publication of such order or notice of the making thereof in the Iris Oifigiúil. CHAPTER III Transfer to the Minister of certain State Fisheries

198 Transfer of fisheries to the Minister by the Commissioners of Public Works.

SECT 198.—(1) The Commissioners of Public Works in Ireland may by order under their seal transfer to the Minister, on such terms and conditions as shall be agreed upon between the said Commissioners and the Minister with the consent of the Minister for Finance, all the estate and interest of the said Commissioners in any fishery or fishing right which is in the possession or occupation of the said Commissioners and also any land, easement, way-leave, water-right or other right which is in the possession or occupation of the said Commissioners and is ancillary to any such fishery or fishing right so transferred. (2) An order made under this section shall operate to vest in the Minister, without any further or other conveyance, every fishery and fishing right and all lands, easements, way-leaves, water-rights and other rights purported to be transferred to the Minister by such order.

199 Transfer of fisheries to the Minister by the Irish Land Commission.

SECT 199.—(1) The Irish Land Commission may by order under their seal transfer to the Minister, on such terms and conditions as shall be agreed upon between the said Commission and the Minister with the consent of the Minister for Finance, all the estate and interest of the said Commission in any fishery or fishing right which is in the possession or occupation of the said Commission and also any land, easement, way-leave, water-right or other right which is in the possession or occupation of the said Commission and is ancillary to any such fishery or fishing right so transferred. (2) An order made under this section shall, operate to vest in the Minister without any further or other conveyance, every fishery and fishing right and all lands, easements, way-leaves, water-rights and other rights purported to be transferred to the Minister by such order. CHAPTER IV Acquisition of Land, etc. by the Minister for Purposes of the Management, Operation and Protection of Vested Fisheries

200 Acquisition of land, etc. by the Minister.

SECT 200.—(1) The Minister may, for the purposes of the management, operation or protection of a vested fishery, do all or any of the following things:— (a) acquire (either compulsorily or by agreement) any land or premises (including in case such fishery is a milldam fishery, the fishing mill-dam by means of part whereof such fishery is carried on and any mill or other premises connected with or depending on such dam for a supply of water); (b) acquire (either compulsorily or by agreement) any easement way-

leave or other right whatsoever over or in respect of any land or premises; (c) terminate, restrict or otherwise interfere with (either compulsorily or by agreement) any easement, way leave or other right whatsoever existing over or in respect of any land or premises. (2) Nothing in subsection (1) of this section shall authorise the Minister to acquire compulsorily— (a) any land vested in the State or any right over or in respect of such land; (b) any enclosed premises, yard, garden or land surrounding a dwellinghouse or any right over or in respect of such premises, yard, garden or land. (3) Nothing in subsection (1) of this section shall authorise the Minister to acquire (either compulsorily or by agreement), save with the consent of the Irish Land Commission, any land which is subject to a land purchase annuity or any right over or in respect of such land. (4) Where the Minister proposes to acquire (either compulsorily or by agreement) any land or premises held or occupied by a local authority or any body corporate for the purposes of any railway, tramway, dock, canal, water, gas, electricity or other public undertaking, or to acquire or terminate, restrict or otherwise interfere with (either compulsorily or by agreement) any easement, way leave or other right whatsoever existing over or in respect of any such land or premises, he shall before so doing consult with the Minister for Industry and Commerce. (5) The Minister, before conveyance or ascertainment of price or compensation, but subject to serving not less than one month's previous notice in writing on the occupier of the land or premises or the owner of the easement or other property or right affected, may enter on and take possession of any land or premises or exercise any right which the Minister is authorised by this section to acquire compulsorily or may terminate, restrict or otherwise interfere with any easement or other property or right which the Minister is authorised by this section compulsorily to, restrict or interfere with. (6) Whenever the Minister under this section enters on and takes possession of any land or premises or exercises any right (as the case may be) before payment of the price or compensation, the Minister shall pay to the occupier of the land or premises or owner of the easement or other right affected (as the case may be) interest, on the amount of such price or compensation when fixed, at the rate of four pounds per cent. per annum, from the date of such entry and taking possession or the exercise of such right (as the case may be) until the date of the conveyance from such occupier or owner to the Minister. (7) Whenever the Minister acquires under this section any land which is subject, either alone or in conjunction with other land, to a purchase annuity, payment in lieu of rent or other annual payment (not being merely rent under a contract of tenancy) payable to the Irish Land Commission, the Minister shall become and be liable, as from the date on which the Minister enters on and takes possession of the land so acquired, for the payment to the Irish Land Commission of such purchase annuity, payment in lieu of rent or other annual payment (not being merely rent under a contract of tenancy) or such portion thereof as shall be apportioned by the Irish Land Commission on such land as if such land had been transferred to the Minister by the proprietor thereof on that date. (8) A notice under this section may be served on any person by sending such notice by registered post addressed to such person at his usual or last known address or, in the case of a notice to the occupier of any land or premises, at such land or premises. (9) A notice under this section to the occupier of any land or premises may be addressed to such occupier by the description "the occupier" without stating his name.

201 Payment and ascertainment of compensation in respect of land etc.

SECT 201.—(1) Compensation shall be paid by the Minister— (a) for land and premises compulsorily acquired by the Minister under this Chapter to the several persons entitled thereto or having estates or interests therein, and (b) for or in respect of easements, way-leaves and other rights acquired by the Minister under the said Chapter, to the owner thereof or the several persons entitled- to or having estates or interests in the land and premises over or in respect of which such rights are-so acquired, and such compensation shall, in default of agreement, be fixed under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919. (2) Compensation shall be paid by the Minister, on account of the termination, restriction or other interference under this Chapter of or with any easement, way leave or other right over or in respect of any land or premises, to the-owner of such easement, way-leave or other right, and such compensation shall, in default of agreement, be fixed under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, in like manner as if such compensation were the price of land compulsorily acquired. (3) Sections 69 to 83 of the Lands Clauses Consolidation Act, 1845, shall apply to any compensation payable by the Minister under this section and to the conveyance to the Minister of property, corporeal or incorporeal, acquired by the Minister under this Act, and for the purpose of such application the Minister shall be deemed to be the

promoter of the undertaking. (4) No claim for compensation under this section in respect of any land, premises or right compulsorily acquired or any right terminated, restricted or otherwise interfered with shall be considered unless made within twenty-four months after the date of such acquisition or termination, restriction or interference. CHAPTER V Operation and Disposal of Vested Fisheries
Operation of Vested Fisheries by the Minister.

202 Operation of vested fisheries by the Minister.

SECT 202.—The Minister may with the consent of the Minister for Finance from time to time operate any vested fishery or part of a vested fishery.

203 Powers of the Minister in operating a vested fishery.

SECT 203.—(1) The Minister may, for the purpose of operating a vested fishery, do all such things as he may consider necessary for carrying on such fishery as a commercial undertaking and which he could do if he were a private individual and the owner of such fishery, and without prejudice to the generality of the foregoing provision may do all or any of the following things (a) buy and sell fish anywhere; (b) buy or manufacture any article required in connection with the capture, storage, transport, treatment, purchase or sale of fish; (c) carry on any business which is ancillary or incidental to the operation of such fishery; (d) enter into contracts; (e) employ such and so many persons as he thinks fit; (f) purchase fishing licences. (2) The remuneration of all persons employed in connection with the operation by the Minister of any vested fishery shall be determined with the consent of the Minister for Finance. (3) Neither the Civil Service Commissioners Act, 1956 (No. 45 of 1956), nor the Civil Service Regulation Act, 1956 (No. 46 of 1956) shall apply to any person employed or appointed by the Minister under this section.

204 Sale of land and business.

SECT 204.—(1) The Minister may, with the consent of the Minister for Finance, sell any land or premises acquired by him under this Part and also the goodwill and stock in trade and other assets of any business (being a business ancillary or incidental to the operation of a vested fishery) carried on by him under this Chapter at such price as he may think proper. (2) Any moneys received on a sale under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

205 Financial provisions.

SECT 205.—All moneys received by the Minister in respect of the operation of a vested fishery or of any business carried on by him under this Chapter shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

206 Accounts, audit and report of proceedings.

SECT 206.—(1) The Minister shall cause to be kept, in respect of every vested fishery operated by him, a set of accounts in such form, for such periods and including such particulars as the Minister for Finance may direct. (2) The accounts to be kept by the Minister in accordance with the provisions of subsection (1) of this section shall, at the end of every accounting period, be transmitted to the Comptroller and Auditor General, who shall audit, certify and report upon such accounts. (3) Upon the completion of an audit under the provisions of this section, the Minister shall cause to be laid before each House of the Oireachtas a copy of the report of the Comptroller and Auditor General upon the accounts as passed by him, together with a general report by the Minister of his proceedings under this Chapter in relation to the operation of vested fisheries. Leases of Vested Fisheries.

207 Leases of vested fisheries.

SECT 207.—(1) If, in the opinion of the Minister, it is in the public interest that a vested fishery or part of a vested fishery should be granted by way of lease to any person, the Minister may, in accordance with this section, demise such fishery or such part of such fishery to such person by way of lease for such term not exceeding twenty years as the Minister shall think proper. (2) Every lease made under this section shall be made subject to the payment to the Minister of such moneys, whether by way of fine or other preliminary payment or by way of rent or by both such ways, as the Minister with the consent of the Minister for Finance shall agree upon with the person to whom such lease is made, and all such moneys when received by the Minister shall be paid into or disposed of for the benefit of the Exchequer by the Minister in such manner as the Minister for Finance shall direct. (3) Every lease made under this section shall be made subject to and shall contain such covenants, conditions and agreements as the Minister shall think proper and shall agree upon with the person to whom such lease is granted.

208 Returns by lessees.

SECT 208.—(1) The person for the time being entitled to the lessee's interest under a lease granted under this Chapter shall furnish to the Minister, in such form as the Minister may direct within twenty-eight days after being required by the Minister so to do, such information as the Minister may require in relation to the fishery the subject of such lease and the working of such fishery. (2) If any person, on being required under this section by the Minister to furnish to him any information, fails or refuses to furnish such information or furnishes information which is false or misleading in any material respect or otherwise makes default in complying with this section he shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds and in the case of a continuing offence a further fine not exceeding ten pounds for every day during which the offence is continued.

209 Reports by the Minister in relation to lessees.

SECT 209.—The Minister shall, as soon as may be after every 30th day of June and 31st day of December, after the commencement of this section cause to be laid before each House of the Oireachtas a report containing particulars of every lease for a term exceeding two years made under this Chapter during the six months ending on such 30th day of June and 31st day of December respectively. Non-user of Vested Fisheries.

210 Non-user of vested fisheries.

SECT 210.—(1) The Minister may, subject to the consent of the Minister for Finance, from time to time refrain from using any vested fishery which is not for the time being the subject of a lease under this Chapter. (2) Where the Minister proposes to refrain from using any vested fishery he shall give notice to the board of conservators within whose fishery district such fishery is situate of his intention to refrain from using such fishery and thereupon such fishery shall, unless and until the Minister makes a lease of such fishery or operates such fishery, be an unused fishery for the purposes of this Part.

211 Provisions in relation to unused fisheries.

SECT 211.—The following provisions shall have effect in relation to any unused fishery:— (a) in case such fishery is a weir (tidal waters) fishery or a weir (fresh water) fishery— (i) the Minister may demolish the weir forming part of such fishery, and thereafter shall not be liable for any effects due to changes in the flow or level of the water to whomsoever caused, save only that any obstruction to the migration of fish which may be caused by the demolition of such weir shall be remedied by him, (ii) if the weir is not demolished the Minister shall remain liable for its maintenance in such condition that it does not obstruct the migration of fish or cause any damage or loss of water beyond what was normal while it was being used for the purposes of the fishery; (b) in case such fishery is a mill-dam fishery— (i) the Minister may demolish or remove any structures incidental to the use of the fishery, but in doing so he shall leave the mill-dam in such a condition that the water supply to the mill shall not be prejudiced and the cost of the

maintenance of the mill-dam shall not be increased. (ii) if the structures incidental to the use of the fishery are not demolished the Minister shall remain liable for their maintenance in such condition that they do not obstruct the migration of fish or cause any damage or loss of water beyond what was normal while they were being used for the purposes of the fishery; (c) in case such fishery is a fixed engine (tidal waters) fishery, the Minister shall remove all stakes or other structures which may constitute a danger to navigation or to the use of lawful nets under common law rights.

212 Re-erection or re-equipment of unused fisheries.

SECT 212.—(1) Where a vested fishery which is a weir (tidal waters) fishery or a weir (fresh water) fishery or a mill-dam fishery has become an unused fishery and the Minister has demolished the structure by means of which such fishery was carried on, the Minister may, within five years after the date on which such fishery became an unused fishery, but not later, re-erect it on the same site for fishing in the same place and with the same dimensions and, in the case of a weir (tidal waters) fishery or a weir (fresh water) fishery, the same provision for a free gap (if any) as is shown in the survey record of the fishery. (2) Where a vested fishery which is a fixed engine (tidal waters) fishery has become an unused fishery, the Minister may at any time re-erect or re-equip it in accordance with the certificate issued in respect thereof under section 6 of the Salmon Fishery (Ireland) Act, 1863.

CHAPTER VI Supplementary Provisions

213 Right of access to vested fisheries.

SECT 213.—(1) Any authorised person shall at all times have a right of free access to any vested fishery and shall be entitled, subject to the provisions of this Act, with boats or vehicles to enter on any watercourse or land for the purpose of operating the fishery, and may remove (subject in the case of the foreshore to the consent of the Minister for Industry and Commerce) any obstruction, natural or otherwise, to his passage. (2) If any person obstructs any authorised person in the exercise of the powers conferred on such authorised person by this section, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds. (3) In this section the expression "authorised person" means a person authorised by the Minister to exercise the powers conferred, on an authorised person by this section. (4) Where the normal access to a transferable fishery vested in the Minister was before such vesting through any enclosed premises, yard, garden or land surrounding or adjacent to a dwelling house, the right of free access conferred by subsection (1) of this section shall not be exercisable by way of such premises, yard, garden or land, save where the same are separate from such dwelling house, and were before such vesting used solely in connection with such fishery.

214 Right of access for exercise of angling rights.

SECT 214.—(1) Where a transferable fishery in any water flowing through land surrounding or adjacent to a dwelling house has become vested in the Minister and the angling rights in such water have not been reserved under an angling rights (reservation) order, any person lawfully entitled to fish with rod and line on such water and his paid servants or attendants shall be entitled to pass along the banks of such water for the purpose of such fishing or of going to or returning from such fishing, but for no other purpose. (2) This section shall not entitle any person to enter any enclosed yard or garden or any buildings.

215 Liability of Minister for damage by flooding.

SECT 215.—No claim shall lie against the Minister for flooding of lands or other consequential damage due to the continued existence of any structure (including a fishing weir and a fishing mill-dam which on the date of vesting formed part of or existed in a fishery vested in the Minister under Chapter II of this Part) unless the Minister shall have increased the height of such structure or shall have closed the openings or gaps therein to an extent to which they could not have been lawfully closed on the said date.

216 Provisions in relation to Mill-dam fisheries.

SECT 216.—(1) The following provisions shall have effect in relation to any mill-dam fishery vested in the Minister under Chapter II of this Part, and to the fishing mill-dam by means of part of which such fishery is carried on: (a) so long as the Minister makes no alteration, other than repairs to casual defects in those parts of the structure of such dam essential to the carrying on of such fishery, he shall not be liable for any part of the cost of the mill-dam; (b) any authorised person shall have a right of free access to such fishery and such right shall extend if necessary to the mill, power-house or other premises adjacent to or connected with such mill-dam, but if the owner or occupier of such mill, power-house or premises offers to the Minister facilities for other reasonable means of access, the Minister shall accept such facilities in lieu of such first mentioned right of access, and shall carry out such works as may be necessary to render the same effective; (c) the Minister may erect such walls, fences or other structures as he thinks necessary for the protection of such fishery against trespass in such situation as he may require, but where any such walls, fences or other structures may interfere with the access of the owner or occupier to such mill-dam the Minister shall provide such owner or occupier with the necessary means of getting through or over them; (d) if the mill, power-house or premises which such mill dam is intended to serve becomes vacant, or if the water impounded by such mill-dam ceases to be used for power purposes, either partly or wholly, the Minister shall nevertheless continue to be entitled to use such fishery, and the provisions of section 117 shall apply. (2) If any person obstructs any authorised person in the exercise of the powers conferred on such authorised person by this section such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds. (3) In this section the expression "authorised person" means a person authorised by the Minister to exercise the powers conferred on an authorised person by this section.

217 Restrictions on Minister's powers.

SECT 217.—Nothing in this Act shall operate to authorise the Minister— (a) to construct or erect on tidal lands (within the meaning of the Foreshore Act, 1933 (No. 12 of 1933)), any work or structure, other than a fixed engine for the capture of salmon, trout or eels lawfully existing, or for which a certificate granted under section 6 of the Salmon Fishery (Ireland) Act, 1863, existed, in the year 1939, without the consent of the Minister for Industry and Commerce or otherwise than in accordance with the terms and conditions of such consent; (b) to erect any buildings or structures which may interfere with the amenities of the residence or pleasure grounds of a person who was the owner or occupier of a fishery vested in the Minister under Chapter II of this Part or operate such fishery in such a way as to interfere with such amenities.

218 Fishing licences in vested fisheries operated by the Minister.

SECT 218.—Where any vested fishery is being operated by the Minister under this Part all licences for fishing engines used in such fishery shall be taken out in the name of the Minister.

PART XIII - SEA FISHERIES

CHAPTER I Preliminary

219 Definitions of purposes of Part XIII.

SECT 219.—In this Part— the exclusive fishery limits of the State. the expression "the exclusive fishery limits of the State" means that portion of the seas within which Irish citizens have, by international law, the exclusive right of fishing and, where such portion is defined by the terms of any convention, treaty or arrangement for the time being in force between the State and any other State, includes, as regards the ships and subjects of that other State, the portion so defined; fishing gear. the expression "fishing gear" includes any net, trap, line or other apparatus of whatsoever kind used or capable of being used for

catching fish, and any rope, warp, pole or other thing of whatsoever kind fastened to or capable of being used with such net, trap, line or other apparatus; foreign sea-fishing boat. the expression "foreign sea-fishing boat" means a sea-fishing boat which is not an Irish sea-fishing boat; Irish sea-fishing boat. the expression "Irish sea-fishing boat" means a sea-fishing boat which is either— (a) a boat registered in the State under the Merchant Shipping Acts, 1894 to 1947, or (b) a boat the owner or, if there is more than one owner the managing owner of which resides or has his principal place of business in the State; master. the word "master" when used in relation to a sea-fishing boat, means the master, skipper or other person for the time being in charge of such boat; net. the word "net" means any trawl, seine or other net towed or hauled or intended to be towed or hauled, on or near the bottom of the sea; sea fish. the word "sea-fish" means fish of any kind (except salmon and fresh water eels) found in the sea and whether fresh or in other condition and includes crustaceans and molluscs found in the sea; sea-fishing. the expression "sea-fishing" means fishing for or taking sea-fish in tidal waters; sea fishing boat. the expression "sea fishing boat" means— (a) where it occurs in Chapter II of this Part or in section 232 or in section 233 (so far as that section confers powers on a sea fisheries protection officer for the purposes of enforcing the said Chapter II or any instrument made thereunder)-any ship, boat or other vessel of whatsoever kind used for sea-fishing, (b) where it occurs in Chapter III of this Part or in section 233 (so far as that section confers powers on a sea fisheries protection officer for the purposes of enforcing the said Chapter III or any order made thereunder)-any ship, boat or other vessel of whatsoever kind used for sea-fishing, and includes any vessel or boat used for the treatment of fish or partly or wholly for the transport of fish.

220 Sea Fisheries Protection Officers.

SECT 220.—Each of the following persons shall, for the purposes of this Act, be a sea fisheries protection officer:— (a) every officer of the Minister authorised in that behalf by the Minister; (b) every member of the Defence Forces (not below the rank of sergeant or the rating of petty officer) for the time being serving on board any ship or vessel belonging to or employed in the service of the State; (c) every member of the Garda Síochána; (d) every officer of Customs and Excise authorised in that behalf by the Revenue Commissioners; (e) every officer of the Minister for Industry and Commerce authorised in that behalf by the Minister. CHAPTER II Provisions applicable to exclusive fishery limits of the State

221 Restriction on foreign sea fishing boats entering the exclusive fishery limits of the State.

SECT 221.—(1) It shall not be lawful for any foreign sea-fishing boat to enter within the exclusive fishery limits of the State except for— (a) a purpose recognised by international law, or (b) a purpose recognised by any convention, treaty or arrangement for the time being in force between the State and the country to which such boat belongs, or (c) any other lawful purpose. (2) If any foreign sea-fishing boat enters within the exclusive fishery limits of the State in contravention of subsection (1) of this section, the master of such boat shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section, to a fine not exceeding fifty pounds and, in the case of a second or any subsequent offence under this section, to a fine not exceeding one hundred pounds and (whether the offence is a first offence or not) the Court shall, in case any person on board such boat had fished or attempted to fish while such boat was within such exclusive fishery limits, and may, in any other case, order any fish and fishing gear found on such boat to be forfeited.

222 Provisions in relation to foreign sea-fishing boats lawfully entering the exclusive fishery limits of the State.

SECT 222.—(1) If any foreign sea-fishing boat enters within the exclusive fishery limits of the State for— (a) a purpose recognised by international law, or (b) a purpose recognised by any convention, treaty or arrangement for the time being in force between the State and the country to which such boat belongs, or (c) any other lawful purpose, then— (i) such boat shall leave the exclusive fishery limits of the State as soon as the purpose for which such boat so entered has been answered, (ii) no person on board such boat shall fish or attempt to fish while such boat is within the exclusive fishery limits of the State, (iii) any regulations made under subsection (2) of this section and for the time being in force shall be duly observed. (2) The Minister may make regulations in relation to the maintenance of good order amongst foreign sea-fishing boats for the time being within the exclusive fishery limits of the State and

the persons on board such boats. (3) If there has been, in relation to any foreign sea-fishing boat which has lawfully entered within the exclusive fishery limits of the State or in relation to the persons on board her, a contravention (whether by commission or omission) of subsection (1) of this section, then, the master of such boat shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section to a fine not exceeding fifty pounds and, in the case of a second or any subsequent offence under this section to a fine not exceeding one hundred pounds and (whether the offence is a first offence or not) the Court shall, in case any person on board such boat had fished or attempted to fish while such boat was within such exclusive fishery limits, and may, in any other case, order any fish and fishing gear found on such boat to be forfeited.

223 Prohibition of certain methods of trawling within the exclusive fishery limits of the State.

SECT 223.—(1) The Minister may from time to time by bye-law prohibit (at the option of the Minister either, as may be specified in such bye-law, absolutely or unless such conditions as the Minister thinks fit to insert in such bye-law are complied with) the use, within the waters of any specified area (being an area within the exclusive fishery limits of the State), in or from either, as may be specified in such bye-law, any boat or any boat of a specified class, of any method of trawling or seining (including fishing by means of any kind of net hauled along the bottom of the sea whether by a moving boat or by any mechanical appliance in an anchored boat), and different bye-laws may be made in respect of different classes of boats and different methods of fishing. (2) Every person who acts or attempts to act in contravention of any bye-law made under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section, to a fine not exceeding two hundred pounds, and in the case of a second or any subsequent offence under this section to a fine not exceeding five hundred pounds. (3) Where a person is convicted of an offence under this section, any fishing gear by means of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (4) Where— (a) a third or any subsequent offence under this section has been committed on board the same boat, whether the person convicted is or is not the same person on each occasion, and (b) such boat is at the time of the commission of such offence owned or part owned by a person who was the owner or part owner of such boat on the occasion of the commission of the previous offences, the Court may, in addition to any other penalty or penalties under this section, order such boat to be forfeited. (5) Any bye-law made under the Steam Trawling (Ireland) Act, 1889, which by virtue of section 46 of the Fisheries (Statute Law Revision) Act, 1949 (No. 27 of 1949), is in force immediately before the operative date, shall, notwithstanding the repeal of the last mentioned Act, continue in force and be deemed to be a bye-law made under this section.

224 Other offences in relation to sea-fishing boats within the exclusive fishery limits of the State.

SECT 224.—(1) If— (a) any sea-fishing boat to which Part IV of the Merchant Shipping Act 1894, applies is found within the exclusive fishery limits of the State without having on board the official papers issued in pursuance of the said Act in respect of such boat, or (b) any other sea-fishing boat is found within the exclusive fishery limits of the State without having on board official papers evidencing the nationality of such boat, the master of such boat shall be guilty of an offence under this section and shall be punishable accordingly. (2) If any sea-fishing boat to which Part IV of the Merchant Shipping Act, 1894, applies which is not lettered and numbered in accordance with regulations for lettering and numbering sea-fishing boats made under the said Act and applicable to such boat enters within the exclusive fishery limits of the State, the master of such sea-fishing boat shall be guilty of an offence under this section and shall be punishable accordingly. (3) If any sea-fishing boat within the exclusive fishery limits of the State fails to observe the provisions, relating to lights to be carried and exhibited, of the regulations for the prevention of collisions at sea made under section 418 of the Merchant Shipping Act, 1894, and applicable to such boat, the master of such boat shall be guilty of an offence under this section and shall be punishable accordingly. (4) Where an act or omission constitutes an offence under this section and also under the Merchant Shipping Act, 1894, the offender may be prosecuted and punished under this section or under the Merchant Shipping Act, 1894. (5) Every person guilty of an offence under this section shall be liable on summary conviction thereof to a fine not exceeding one hundred pounds.

CHAPTER III Provisions Applicable to Undersized Sea-Fish

225 Undersized sea-fish.

SECT 225.—(1) The Minister may, whenever and so often as he thinks fit, by order declare that any specified kind of sea-fish which, when measured in the manner directed by such order, is less in dimension than the specified measurements, shall be, for the purposes of this Chapter, undersized, and whenever any order is made under this section in relation to any particular kind of sea-fish, then, so long as such order is in force, every sea-fish of that of that kind which is less in dimension than the specified measurements shall be, for the purposes of this Chapter, undersized. (2) An order under this section in relation to sea-fish of a particular kind may specify different lengths in relation to such sea-fish which are either whole or have any parts removed. (3) An order under this section may relate to different lengths of sea-fish and in that case may contain different provisions in relation to each kind of sea-fish to which the order relates.

226 Restriction on carriage of Certain fishing nets on board sea fishing boats.

SECT 226.—(1) The Minister may, whenever and so often as he thin fit, by order declare it to be unlawful to carry, on board any Irish sea-fishing boat in a specified area or on board any other sea-fishing boat in so much (if any) of that area as is within the exclusive fishery limits of the State, any net for sea-fishing which is not constructed in such manner and has not a mesh of at least such size as may be specified in such order. (2) An order under this section— (a) may relate to more than one arm, and in that one may contain different provisions in respect of each area to which it relates; (b) may specify different modes of construction and different minimum sizes of mesh for fishing for different kinds of sea-fish, for different methods of fishing, for fishing in different areas and for fishing during different periods; (c) may direct the manner in which the minimum sizes of mesh specified in such order are to be measured for the purposes of such order; (d) may, in the case of any clam of nets, specify different minimum sizes for the mesh of the nets when dry or wet and before or after treatment with preservatives. (3) If, whenever an order under this section is in force, any net is carried on board any sea-fishing boat in contravention of such order, each of the following persons, namely, the master, the owner and the charterer (if any) of such boat, shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds. (4) Where a person is convicted of an offence under this section, any net by means of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

227 Restriction on carriage of devices for obstructing meshes of net.

SECT 227.—(1) It shall not be lawful to carry, on board any Irish sea-fishing boat anywhere or on board any other sea-fishing boat within the exclusive fishery limits of the State, any device by means of which the mesh of any part of a net then carried on board such boat could be obstructed or otherwise in effect diminished (2) If any device is carried on board a sea-fishing boat in contravention of this section, each of the following persons, namely, the master, the owner and the charterer (if any) of such boat, shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds. (3) Where a person is convicted of an offence under this section, any device by means of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

228 Prohibition on having in possession for sale on board sea-fishing boats under sized sea-fish.

SECT 228.—(1) It shall not be lawful to have in possession for the purposes of sale, on board any Irish sea-fishing boat anywhere or on board any other sea-fishing boat within the exclusive fishery Limits of the State, any undersized sea-fish (2) If there is a contravention on board any sea-fishing boat of this section, each of the following persons, namely, the master, the owner and the charterer (if any) of such boat shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds. (3) Where a person is convicted of an offence under this section the Court shall order the sea-fish, the possession whereof constituted such offence, to be destroyed unless

such sea-fish have been previously destroyed. (4) In any proceedings under this section the possession of any sea-fish on board a sea-fishing boat shall be prima facie evidence of possession of such sea-fish for the purposes of sale.

229 Prohibition on landing selling, etc undersized sea-fish.

SECT 229.—(1) It shall not be lawful for any person to land, sell, expose for sale or have in possession for the purposes of sale any undersized sea-fish. (2) If any person acts in contravention of this section such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds. (3) Where a person is convicted of an offence under this section, the Court shall order the sea-fish, the possession whereof constituted such offence, to be destroyed unless such sea-fish have been previously destroyed. (4) For the purposes of any proceedings under this section— (a) the possession of sea-fish by any person in any market or shop or by any licensed hawkers anywhere shall be prima facie evidence of possession for the purposes of sale; (b) any sea-fish found in the possession of any person on or near the sea coast shall, in the absence of evidence to the contrary, be deemed to have been landed by such person

230 Provisions in relation to orders.

SECT 230.—(1) The Minister may by order revoke or amend any order made by him under this Chapter. (2) Every order made by the Minister under this Chapter shall— (a) be published in the Iris Oifigiúil as soon as may be after it is made, and (b) specify the date (not being earlier than fourteen days after the publication thereof in the Iris Oifigiúil) on which such order is to come into force.

231 Powers of inspection, examination and detention of sea-fish, etc.

SECT 231.—(1) Every sea fisheries protection officer is hereby authorised and empowered to do all or any of the following things, that is to say:— (a) to stop and search any person conveying or believed to be conveying sea-fish of any kind and to inspect any sea-fish which such person is found to be conveying and for that purpose to open and search any vehicle or package in which such sea-fish is or may be or is believed to be conveyed; (b) at all reasonable times to enter upon and have free access to the interior of— (i) any premises in which fish is or is believed to be sold, or kept, exposed or stored for sale, or (ii) the premises of any person engaged in the business of carrying goods for reward, or (iii) any pier, quay, wharf, jetty, dock or dock premises, or (iv) any ship, boat, railway wagon, lorry, cart, or other vessel or vehicle used for the conveyance of goods; (c) to examine all sea-fish found in any place which he is authorised by this section to enter and for that purpose to open any package found in such place and containing or believed to contain sea-fish; (d) to stop, enter, and search, on any part of the sea or the shores thereof, any boat used or believed to be used for fishing or containing or suspected of containing undersized sea-fish, and to examine all fish and all nets and other instruments used in fishing found therein, and for that purpose to open any package which contains or is suspected of containing any fish, nets, or other instruments as aforesaid; (e) to take, remove, and detain in his custody any sea-fish (either together with or without any package in which the same may be contained) found in the course of the exercise of any of the powers conferred by this section in respect of which an offence under this Chapter is being or is suspected of being committed; (f) to take, remove, and detain in his custody any net or other instrument used in fishing or any article which is liable or is believed to be liable to forfeiture under this Chapter; (g) to demand and take the name and address of the person having custody of any sea-fish or other article which he is authorised under this section to examine, and also to demand and take from such person the name and address of the owner of such sea-fish or other (2) When a sea fisheries protection officer detains in his custody under the authority of this section any sea-fish or other article, he shall, as soon as conveniently may be take such steps as may be proper to have the person guilty or believed to be guilty of the offence committed or believed to have been committed in relation to such sea-fish or other article dealt with according to law. (3) Where a sea fisheries protection officer detains in his custody under the authority of this section any sea-fish and such sea-fish is likely to become unfit for human food before the matter can conveniently be dealt with by any court, he shall produce such sea-fish to a Peace Commissioner, and if authorised so to do by such Peace Commissioner shall destroy such sea-fish. (4) A Peace Commissioner to whom any sea-fish is produced in pursuance of this section shall, if he

is of opinion that the sea-fish ought in the circumstances to be destroyed, give to the sea fisheries protection officer producing the sea-fish a certificate in writing describing the sea-fish and any marks, peculiarities, or other particulars thereof pointed out to him by such officer and authorising such officer to destroy the sea-fish, which certificate shall, he conclusive evidence in every court of all such matters of fact as aforesaid stated therein. (5) No person shall be liable for any loss or damage occasioned by or in the course of the exercise of any of the powers conferred on him by this section unless such loss or damage was caused by such person wantonly or maliciously. (6) Every person— (a) who obstructs or impedes any sea fisheries protection officer in the exercise of any of the powers conferred on such officer by this section, or (b) who, when his name and address is lawfully demanded of him by a sea fisheries protection officer under this section, refuses or fails to give his name and address or gives a name or address which is false or misleading, or (c) who, when the name and address of any other person is lawfully demanded of him by a sea fisheries protection officer under this section, refuses or fails, knowing such name and address, to give such name or address or gives a name or address which is false or misleading shall be guilty of an offence under this section and shall be liable on summary conviction thereof, to a fine not exceeding ten pounds, or at the discretion of the court, to imprisonment for any term not exceeding two months. (7) If any person whose name and address is lawfully demanded by a sea fisheries protection officer under this section refuses to give his name and address or gives, as his name or address, a name or address which is reasonably believed by such officer to be false or misleading, such officer may, without warrant, arrest such person and, in that case, shall as soon as may be bring him before a District Justice or, where no such Justice is immediately available, a Peace Commissioner, and thereupon such District Justice or Peace Commissioner shall deal with such person according to law.

CHAPTER IV Ancillary Provisions Relating to Chapters II and III of Part XIII

232 Liability of master of boat for offences under Chapter II of Part XIII.

SECT 232.—Where any offence under any section contained in Chapter II of this Part has been committed by any person on board a sea-fishing boat, the following provisions shall have effect— (a) the master of such boat shall, if not the actual offender, but without prejudice to the liability of such offender, be deemed to be guilty of such offence and may be proceeded against accordingly; (b) where the master of a boat is so charged with having committed such offence it shall be a good defence for him to prove— (i) that he used due diligence to prevent the commission of the acts alleged to constitute the offence, and (ii) that the acts alleged to constitute such offence were not done by him personally, and (iii) that the said acts were done without his consent, connivance or wilful default, and (iv) that on being charged with the offence he gave to the person charging him all information in his power with respect to the person who did the said acts.

233 Special powers of sea fisheries protection officers for enforcing Chapter II and III of Part XIII.

SECT 233.—(1) Every sea fisheries protection officer may, for the purpose of enforcing Chapter II of this Part or any instrument made thereunder or for the purpose of enforcing Chapter III of this Part or any order made thereunder, do with respect to any sea-fishing boat within the exclusive fishery limits of the State and (subject to the rules of International Law) outside those limits all or any of the following things:— (a) he may order such boat to be stopped for the purpose of identification or of allowing him to go on board it; (b) he may board such boat; (c) he may require the owner, master or crew of such boat, or any of them, to produce any certificates of registry, licences, log-books, papers or other documents relating to such boat, or to the crew, or to any member thereof which are in the respective possession or control of any of them, the said owner, master and crew, and inspect and take extracts from or copies of any such certificates, licences, log-books, papers or other documents; (d) he may require the master of such boat to give an explanation concerning such boat, and the said certificates of registry, licences, log-books, papers or other documents; (e) he may search such boat; (f) he may demand and take the name and the address of any person on board such boat; (g) if he suspects that there has been a contravention by any person on board such boat of the provisions of Chapter II or III of this Part he may without summons, warrant or other process take such boat and all persons on board such boat to the nearest or most convenient port and, pending the taking by him of the steps required by section 234, detain such

boat and such persons; (h) he may for the purpose of exercising any of the powers conferred on him by any of the foregoing paragraphs of this subsection use such force as he may consider necessary and in particular, if an order given by him to such boat in the manner prescribed by regulations made by the Minister under this section to stop is disobeyed or disregarded, he may, after first causing a gun to be fired as a signal, fire at or into such boat. (2) If any person obstructs or impedes any sea fisheries protection officer in the exercise of any of the powers conferred on such officer by this section, or refuses or neglects to comply with any requisition or direction lawfully made or given by such officer or to answer any question lawfully asked by such officer in pursuance of this section, such person shall be guilty of an offence under this section, and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or to imprisonment, with or without hard labour, for any term not exceeding three months. (3) No action or other legal proceedings whatsoever, whether civil or criminal shall be instituted in any Court in respect of the doing of anything authorised to be done by a sea fisheries protection officer under this section, whether such thing is done personally by a sea fisheries protection officer or by a person acting under the orders of a sea fisheries protection officer. (4) The Minister may make regulations in relation to any thing referred to in this section as prescribed by regulations made by the Minister under this section.

234 Detention of boat and persons pending prosecution.

SECT 234.—Where a sea fisheries protection officer has in exercise of the powers conferred on him by section 233 taken any boat and the persons on board such boat to a port he shall as soon as may be, bring the master of such boat and any other person on board such boat against whom proceedings for any offence under any section contained in Chapter II or III of this Part have been or are about to be instituted before a District Justice or, where no District Justice is immediately available, a Peace Commissioner, and thereupon such District Justice or Peace Commissioner (as the case may be) shall, if he is satisfied that such proceedings have been or are about to be instituted against such master or other person, by order directed to a sea fisheries protection officer or officers require such officer or officers to detain at a specified port in the State such boat and all persons on board such boat until such proceedings have been adjudicated upon by a District Justice, and such boat and persons shall be detained accordingly.

235 Detention of boat pending appeal against conviction of offence under Chapter II or III of Part XIII.

SECT 235.—(1) Where a person is convicted by a District Justice of an offence under any section contained in Chapter II or III of this Part and sentenced to pay any fine, and the boat to which such person belongs has been detained under section 234, such District Justice shall, by order directed to a sea fisheries protection officer or officers, require such officer or officers in the event of an appeal being lodged against such conviction, to detain further, pending the determination of such appeal, at a specified port in the State such boat, and such boat shall, subject to the provisions of subsection (2) of this section, be detained accordingly. (2) Where an order is made under subsection (1) of this section requiring any boat to be detained pending the determination of an appeal against a conviction a District Justice may, if security, which in the opinion of such District Justice is satisfactory, is given for payment, in the event of such conviction being affirmed on such appeal, of a sum to be fixed by such District Justice sufficient to cover the amount of the fine and costs (if any) awarded on such conviction, the estimated value of forfeitures (if any) and the costs of the prosecutor on such appeal, direct such boat to be released, and such boat shall be released accordingly.

236 Recovery of fine for offence under Chapter II or III of Part XIII and of Possession of articles forfeited under the said Chapter II or III.

SECT 236.—(1) The following provisions shall have effect in relation to the recovery of a fine for an offence under any section contained in Chapter II or III of this Part and the costs (if any) ordered to be paid by the person convicted of such offence:— (a) the Court shall fix a time within which such costs and fine (if any) are to be paid; (b) where the boat to which such person belongs is, at the time of the hearing of the proceedings for such offence, detained under this Chapter, the Court shall by order directed to a sea fisheries protection officer or officers require such officer or officers to detain further, until such fine and costs (if any) are paid, at a specified port in the State such boat, and such boat shall be detained

accordingly; (c) in the event of such fine and costs (if any) not being paid within the said time, such fine and costs (if any) may be recovered by distress and the sale of such boat; (d) nothing in the foregoing paragraphs of this subsection shall prevent such fine and costs (if any) being recovered from such person by ordinary process of law. (2) Where— (a) any article on board a boat is ordered, under Chapter II of this Part, by a court to be forfeited or, as a statutory consequence of conviction by a court, stands, under Chapter II or III of this Part, forfeited, and (b) the boat is detained under this Chapter, the Court may, on the application of the prosecutor by order directed to a sea fisheries protection officer, authorise such officer to detain such boat until possession has been taken of the article forfeited, and such boat may be detained accordingly. (3) (a) Where an article on board a boat is forfeited under Chapter II or III of this Part, a sea fisheries protection officer may request the master of such boat to make available such facilities (including the moving of the boat from place to place and the doing of things upon, to or with such boat, its equipment or machinery) as such sea fisheries protection officer may reasonably require for the purpose of enabling him to take possession of the article. (b) Where the master of a boat fails or refuses to comply with a request made to him under paragraph (a) of this subsection, he shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds (4) If any person wilfully impedes or obstructs a sea fisheries protection officer while the latter is engaged in taking possession of any article forfeited under Chapter II or III of this Part, that person shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or, at the discretion of the Court, to imprisonment for any term not exceeding three months.

CHAPTER V Other Provisions relating to Sea Fisheries

237 Penalty for use on the sea coast or within estuary of nets covered with canvas, etc.

SECT 237.—(1) If, on the sea coast or within any estuary, any person, except for the purpose of dredging for shell fish, uses any fishing engine, covered with canvas hide or other material, by which undersized fish may be taken or destroyed, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. (2) Where a person is convicted of an offence under this section, any fishing engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

238 Provisions in relation to herring and other nets.

SECT 238.—(1) If, during the daytime, any person— (a) sets, either in the sea or in the tideway of any estuary, any net for the catching of herrings or any trammel net, or (b) leaves any drag or other net in the water, such person shall, be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding ten pounds. (2) (a) If any person who has during the period between gun et and sunrise set, either in the sea or in the tideway of any estuary, any such net as is mentioned in subsection (1) of this section does not before sunrise haul up and remove such net, such person be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding five pounds. (b) Where a person is charged with an offence under this subsection, it shall be a good defence to prove that he was prevented by sudden storm or stress of weather from hauling up and removing the net in relation to which the offence is charged. (3) Where a person is convicted of an offence under subsection (1) or (2) of this section, any net in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (4) Neither subsection (1) nor subsection (2) of this section shall apply to— (a) any fixed engine for the catching of salmon, or (b) any seine net, or (c) any drift net for the catching of pilchards or fish other than herrings, or (d) any net, if and in so far as the use thereof is authorised by bye-laws made under subsection (5) of this section. (5) The Minister may make bye-laws authorising the use during the daytime of any net on any part of the coast or the islands lying off such part, where such nets may, in the opinion of the Minister, be used during the daytime without injury to the fisheries.

239 Penalty for use of trawl or trammel nets in contravention of bye-laws.

SECT 239.—(1) If any person uses any trawl or trammel net at any season or any place, either in the sea or within the tideway of any estuary, when or where the use of it is prohibited by any bye-law made under this Act, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds. (2) Where a person is convicted of an offence under this section, any net in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

240 Use of beaches etc by fishermen for purposes of sea fishing.

SECT 240.—(1) All fishermen and persons employed by them may— (a) enter upon all such beaches, strands and wastes on or adjoining the seashore or any estuary as may be necessary for the purpose of sea fishing, and (b) draw up and spread their nets and land their fish upon such beach, strand or waste. (2) If any person resists or forcibly obstructs any other person exercising any right conferred by subsection (1) of this section, such first-mentioned person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds. (3) Subsection (1) of this section shall not be construed as authorising the erection of any fixtures or fixed engines on any beach, strand or waste on or adjoining the seashore, or any estuary.

241 Use by fishermen of land adjoining fishing places.

SECT 241.—(1) All watchmen, directors and guiders of fishermen, and all such fishermen themselves, and all such other persons as shall necessarily attend the nets or fishings at the times of fishing for sea-fish may enter any lands (not being an enclosed garden or any tillage land with a crop growing thereon) which lie near or adjoin any fishing place, fit, convenient and necessary to watch and to draw or carry fish on shore and there watch for the said fish and direct and guide the said fishermen who shall be upon the sea and sea coasts for the taking of the said fish (2) If any person resists or forcibly obstructs any other person exercising any right conferred by subsection (1) of this section, such first-mentioned person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds.

242 Bait beds.

SECT 242.—(1) It shall be lawful for the owner or occupier of any land bordering on the sea or any estuary, with the permission of the Minister, or for any person, with the consent of such owner or occupier and with the permission of the Minister, to form a bait bed on the seashore (except on a part thereof which is the site of a public bank or bed resorted to for bait) adjacent to such land. (2) Where a bait bed is, in exercise of the power conferred by this section, planted adjacent to any land, then so long as such land remains in the ownership or occupation of the person in whose ownership or occupation it was at the time of such planting, the following provisions shall have effect:— (a) the bait bed shall be the private property of the person by whom it was planted (in this subsection referred to as the proprietor), and the proprietor shall have exclusive control over it, (b) the planting of the bait bed shall not give any exclusive right or title to the occupancy of the shore except for the purposes of the bait bed, (c) subject to paragraph (a) of this subsection the planting of the bait bed shall not affect the free and full exercise of any public rights of fishing or other public rights whatsoever on or along the shore, (d) if any person, without the consent of the proprietor interferes with the bait bed, or takes away from the bait bed any bait, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds.

243 Fishing boats and gear, etc. picked up at sea to be delivered at nearest Garda Síochána station.

SECT 243.—(1) Any person who finds or picks up at sea any fishing boat, rigging, gear or other appurtenance of fishing boats or any net, buoy, float or fishing implement, shall as soon as possible deliver it up to the member of the Garda Síochána in charge of the nearest Garda Síochána station and such member shall be considered as agent of the receiver of wreck, and shall place it in the custody of the receiver. (2) If any person wilfully contravenes subsection (1) of this section, he shall be guilty of an

offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

PART XIV - OYSTERS

CHAPTER I Definitions

244 Definitions for purposes of Part X IV.

SECT 244.—In this Part— licensee. the word "licensee" in relation to any oyster bed licence, means the person for the time being entitled to such licence; licensed oyster bed. the expression "licensed oyster bed" means an oyster bed in respect of which an oyster bed licence is in force; owner. the word "owner", in relation to any land, means any person entitled to the possession or receipt of the rents and profits of land for an estate for his own life or for years determinable on his own life or for any greater estate, exclusive of any person entitled to such land by virtue of any lease for lives or years at a rackrent; oyster bed licence. the expression "oyster bed licence" means a licence being— (a) an oyster bed (1845 Act) licence, or (b) an oyster bed (1850 Act) licence, or (c) an oyster bed (1866 Act) licence, or (d) an oyster bed (1869 Act) licence, or (e) an oyster bed (1959 Act) licence; oyster bed (1845 Act) licence. the expression "oyster bed (1845 Act) licence" means a licence granted under section 17 of the Fisheries (Ireland) Act, 1845; oyster bed (1850 Act) licence. the expression "oyster bed (1850 Act) licence" means a licence granted under section 41 of the Fisheries (Ireland) Act, 1850; oyster bed (1866 Act) licence. the expression "oyster bed (1866 Act) licence" means a licence granted under section 4 of the Oyster Fishery (Ireland) Amendment Act, 1866; oyster bed (1869 Act) licence. the expression "oyster bed (1869 Act) licence" means a licence granted under section 14 of the Fisheries (Ireland) Act, 1869; oyster bed (1959 Act) licence. the expression "oyster bed (1959 Act) licence" means a licence granted under section 245; oyster fishery order. the expression "oyster fishery order" means an order being— (a) an oyster fishery (1884 Act) order, or (b) an oyster fishery (1959 Act) order; oyster fishery (1884 Act) order. the expression "oyster fishery (1884 Act) order" means an order made under the Oyster Cultivation (Ireland) Act, 1884; oyster fishery (1959 Act) order. the expression "oyster fishery (1959 Act) order" means an order made under Chapter III of this Part.

CHAPTER II Oyster Bed Licences

245 Oyster bed licences.

SECT 245.—(1) The Minister may, subject to section 11 and to the provisions of this Chapter— (a) grant to the owner of any several fishery or the owner of the bed and soil of any estuary, a licence to form or plant an oyster bed within the limits of such several fishery or over such bed and soil above or below the lowest water mark of spring tides, (b) grant to the owner or occupier of any land bordering on the sea or any estuary or, with the consent of such occupier, to any person, a licence to form or plant an oyster bed on the shore adjacent to such land above or below the lowest water mark of spring tides, (c) grant to any person a licence to form or plant an oyster bed below the lowest water mark of spring tides. (2) No oyster bed licence shall be granted to lay or plant an oyster bed— (a) in any place where the Minister is of opinion that the public exercise and enjoy bona fide a substantially profitable fishing for oysters, or (b) within the limits of any oyster bed or oyster fishery the property of any private person, or (c) within the limits of any several fishery without the consent in writing of the owner of such fishery. (3) Where an oyster bed licence is granted to any occupier of land bordering on the an or any estuary or to any person with the consent of such occupier, such licence shall remain in force only during the continuance in occupation of the person who was in occupation at the time of granting such licence. (4) Where a licence is granted to any person with the consent of any owner, such licence shall remain in force only for such period as may be named in such consent. (5) An oyster bed licence shall not, except for the purpose of forming or planting oyster beds or layings, affect any rights in or over the shore or bed of the sea.

246 Form of oyster bed licences.

SECT 246.—Every oyster bed licence shall, by reference to a map or otherwise as to the Minister seems best, define the position and limits of the oyster bed to which it relates and may be made subject to such conditions and limitations and, subject to the provisions of subsections (3) and (4) of section 245, may be perpetual or terminable as to the Minister shall seem proper.

247 Inquiry into application for an oyster bed licence.

SECT 247.—Where an application is made to the Minister for an oyster bed licence authorising the planting or laying of an oyster bed in a particular site— (a) the Minister shall cause a public inquiry to be held as to the expediency of granting the application and so fix the time as to permit of notice being given of the inquiry and the place in the locality of the said site for holding the said inquiry, (b) the Minister shall cause to be given, in accordance with section 322, notice (which shall specify the reception by him of the application) of the time and place of such inquiry, (c) the Minister shall appoint an officer of the Minister to hold such inquiry, (d) the Minister shall take no decision on the application until he has considered the report of the said officer.

248 Notice of granting of licence, etc.

SECT 248.—Where an oyster bed (1959 Act) licence is granted— (a) notice of the grant shall be published in some newspaper circulating in the district in which the licence is to operate, (b) a true copy of the licence shall be lodged with the county registrar for the county in which the licence is to operate, (c) a copy of the licence certified under the hand of that county registrar shall be evidence of the licence.

249 Effect of oyster bed licence.

SECT 249.—Every oyster bed (1959 Act) licence, if unappealed from under section 11 or if it confirmed on such appeal, shall be binding on the State and on all persons whatsoever and shall operate to vest in the licensee, his heirs, executors, administrators and assigns, such rights and privileges as shall be thereby given, according to the tenor thereof, free from all prior or other rights, titles, estates or interests whatsoever.

250 Determination of licences by certificate of the Minister.

SECT 250.—(1) Notwithstanding anything in any oyster bed licence such licence shall be determinable by a certificate of the Minister certifying that he is not satisfied that the licensee is properly cultivating the oyster ground within the limits of such licence, and, on any such certificate being made, the right conferred by the licence shall absolutely determine. (2) For the purposes of this section the Minister may from time to time with respect to any oyster bed licence or any licensed oyster fishery make such inquiries and examinations and require the licensee to furnish such information as the Minister thinks necessary, and the licensee shall afford all facilities for such inquiries and examinations and give such information accordingly.

251 Revocation of oyster bed licences.

SECT 251.—(1) If it appears to the Minister that the licensee under any oyster bed licence or his assigns within the period of three years from the date of the licence has not taken steps proper in the opinion of the Minister to form the oyster bed in such licence mentioned, the Minister may by order revoke such licence. (2) The Minister shall, before making an order under this section revoking an oyster bed licence, cause notice in writing of his intention to make such order to be served on the person for the time being entitled to such licence or, if such person cannot be found, shall cause such notice to be inserted as an advertisement three times at least in some newspaper circulating in the district in which the oyster bed mentioned in such licence is situate, and no such order shall be made until after the expiration of one month from the service of such notice or from the date of the last of such advertisements.

252 Alteration of oyster bed licenses to give effect to any agreement.

SECT 252.—The Minister may alter any oyster bed (1845 Act) licence or oyster bed (1850 Act) licence or grant any oyster bed (1959 Act) licence in lieu thereof to the licensee or his representative so as to give effect to any agreement or undertaking which may have been given or entered into by or on behalf of any such licensee with any person subsequent to the date of such licence.

253 Penalty for injuring licensed oyster beds.

SECT 253.—If any person (other than the licensee or his assigns, his agents, servants and workmen) knowingly does, within the limits of a licensed oyster bed, any of the following things:— (a) uses any implement of fishing, except a line and hook or net adapted solely for catching free swimming fish and so used as not to disturb or injure in any manner any oyster bed or oysters or the oyster fishery, (b) dredges for any ballast or other substance except under lawful authority for improving the navigation, (c) deposits any ballast, rubbish or other substance, (d) places any implement, apparatus or thing prejudicial or likely to be prejudicial to any oyster bed or oysters or brood or spawn thereof, or to the oyster fishery, except for a lawful purpose of navigation or anchorage, (e) disturbs or injures in any manner, except as mentioned in paragraph (d) of this section, any oyster bed or oysters or brood or spawn thereof or the oyster fishery, (f) interferes with or takes away any of the oysters from such bed without the consent of the licensee or owner or occupier of such bed, the following provisions shall have effect:— (1) such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof— (i) in the case of a first offence, to a fine not exceeding two pounds, (ii) in the case of a second offence, to a fine not exceeding five pounds, (iii) in the case of a third or any subsequent offence, to a fine not exceeding ten pounds; (2) such person, whether he has or has not been prosecuted for or convicted of such offence, shall be liable to make compensation to the licensee for all damage sustained by the licensee by reason of such person's unlawful act, and such compensation shall be recoverable in any court of competent jurisdiction.

254 Effect of oyster bed (1845 Act) and oyster bed (1850 Act) licences.

SECT 254.—Every oyster bed (1845 Act) licence or oyster bed (1850 Act) licence in force at the date of the passing of this Act shall be deemed to have been effectual to vest in the licensee, his heirs and assigns the exclusive right of laying and planting oysters and fishing for oysters in the oyster bed or laying by such licence authorised to be formed, according to the tenor and effect of such licence free from all prior or other rights, titles, estates or interests whatsoever.

255 Penalty for trespass on licensed oyster bed.

SECT 255.—If any person wilfully trespasses on any licensed oyster bed or oyster layings, (the licence in respect whereof was granted before the 7th day of August, 1884) such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds.

CHAPTER III Oyster Fishery Orders

256 Power of Minister to make oyster fishery orders.

SECT 256.—Subject to section 11 and to the provisions of this Chapter the Minister may make orders for the establishment or improvement and for the maintenance and regulation of an oyster fishery on the shore and bed of the sea or of an estuary or tidal river above or below or partly above and partly below low-water mark (which said shore and bed are in this Chapter referred to as the seashore), and including, if desirable, provisions for the constitution of a board or body corporate for the purpose of such order, on an application to the Minister by any person desirous of obtaining such an order.

257 Publication of notices of application.

SECT 257.—If, on consideration of an application for an oyster fishery (1959 Act) order, the Minister think fit to proceed with the case the Minister shall cause notices to that effect to be published and circulated in the district to be affected by the order and shall give notice of the application in such manner as he thinks proper for giving information to all parties interested and to the owners or reputed owners, lessees or reputed lessees and occupiers or reputed occupiers, so far as they may be known or ascertained, of the portion of the seashore to which the proposed order relates or of the lands adjoining thereto.

258 Objection and representation respecting proposed oyster fishery (1959 Act) order.

SECT 258.—During one month after the publication of the notices mentioned in section 257, the Minister shall receive any objections or representations made to him in writing respecting the proposed oyster fishery (1959 Act) order to which the said notices relate.

259 Inquiry into proposed oyster fishery (1959 Act) order.

SECT 259.—After the expiration of one month after the publication of the notices mentioned in section 257, in relation to an application for an oyster fishery (1959 Act) order, the Minister shall appoint an officer of the Minister to hold an inquiry (of which due notice shall be given) into the subject matter of the proposed order and for that purpose to hold a sitting or sittings in the neighbourhood of the portion of the seashore to which the proposed order relates and thereat to take and receive any evidence and information offered and inquire into any objections or representations made respecting the proposed order, with power from time to time to adjourn any sitting.

260 Making of oyster fishery (1959 Act) order.

SECT 260.—As soon as conveniently may be after the holding of an inquiry into an application for an oyster fishery (1959 Act) order, the Minister shall proceed to consider the objections or representations that have been made respecting the proposed order and thereupon shall, either refuse the application or make an order in such form and containing such provisions as he thinks expedient.

261 Amendment of oyster fishery order.

SECT 261.—The Minister may from time to time by order amend an oyster fishery order, and all the provisions relative to an original fishery order shall apply also to an amending order with the necessary modifications,

262 Effect of oyster fishery (1959 Act) order.

SECT 262.—When an oyster fishery (1959, Act) order has been made, the grantee shall, by virtue of the order, have, within the limits of the oyster fishery named therein, the exclusive right of depositing, propagating, dredging and fishing for and taking oysters, and in exercise of that right, may, within the limits of the fishery, make and maintain oyster beds, and at any season collect oysters and remove them from place to place and deposit them as and where he thinks fit, and do all other things which he thinks proper for obtaining, storing and disposing of the produce of the fishery or for the regulation of the fishery.

263 Powers of grantees under oyster fishery order to make regulations for management of oyster fishery.

SECT 263.—For the purpose of protecting an oyster fishery granted under an oyster Fishery order, the grantee or grantees, under the hands of any two of them, where more than two, may, subject to the approval of the Minister make such regulations for the management of such fishery as they consider necessary.

264 Appointment of keepers by grantees under oyster fishery orders.

SECT 264.—For the purpose of protecting an oyster fishery granted under an oyster fishery order, the grantee or grantees, under the hands of any two of them, where more than two, may, subject to the approval of the Minister, appoint at the cost and expense of the grantees, any keeper they consider necessary for the protection of the fishery, and any keeper so appointed may enforce any regulations made under section 263 in respect of such oyster fishery and shall have all the powers conferred on water keepers by this Act.

265 Penalty for trespass on or breach of regulations of oyster fishery.

SECT 265.—(1) If, in respect of any oyster fishery granted under an oyster fishery order, any person— (a) wilfully trespasses on such fishery, or (b) not being a grantee or not having the written permission of the grantee or grantees, or, where more than two, of at least two-thirds of the grantees, dredges, fishes for or takes any oysters, or (c) being a grantee or duly authorised person as aforesaid, dredges, fishes for or takes any oysters in contravention of any regulation made under section 263 in relation to such fishery, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty pounds. (2) Where a person is convicted of an offence under this section— (a) if the oysters in respect of which the offence was committed have not been sold, those oysters shall, as a statutory consequence of conviction, stand forfeited, and the Court may direct their delivery to the grantees of the fishery from which they were taken, (b) if those oysters have been sold, the Court may order such person to pay to the said grantees a sum equal to the value thereof.

266 Determination of oyster fishery orders.

SECT 266.—(1) If it appears to the Minister that the grantee in any oyster fishery order is not maintaining the oyster fishery granted therein, the Minister, if he so thinks fit, may by order determine such oyster fishery order and thereupon all the rights and privileges thereunder shall be absolutely determined and shall be null and void. (2) For the purposes of subsection (1) of this section the Minister may from time to time make such inquiries and examination and require from the grantee such information as the Minister thinks necessary or proper, and the grantee shall afford all facilities for such inquiries and examination and give such information accordingly.

267 Oyster fishery order not to abridge right of several fishery.

SECT 267.—Subject to section 270 no oyster fishery order shall take away or abridge any right of several fishery or any right on, to or over any portion of the seashore, which right is enjoyed by any person under any local or special Act, or any charter, letters patent, prescription or immemorial usage, without the consent of such person.

268 Copies of oyster fishery orders to be kept.

SECT 268.—The grantee under an oyster fishery order shall at all times keep, at some convenient place in the neighbourhood of that portion of the sea shore to which the order relates, copies of the order and shall sell such copies to all persons desiring to buy them at a price not exceeding one shilling for each copy.

269 Saving for rights of the State.

SECT 269.—Where any portion of the seashore proposed to be comprised in an oyster fishery (1959 Act) order belongs to the State, the Minister shall not make the order without the consent of the Minister for Industry and Commerce.

270 Adaptation of section 9 of the Shannon Fisheries Act, 1938.

SECT 270.—In section 9 of the Shannon Fisheries Act, 1938 (No. 7 of 1938)- (a) the references, in subsections (2) and (4), to the Oyster Cultivation (Ireland) Act, 1884, shall be construed as including references to this Chapter, (b) the references, in subsection (3), to section 17 of the Oyster Cultivation (Ireland) Act, 1884, shall be construed as including references to section 267 of this Act.

CHAPTER IV Close Season for Oysters

271 Close season for oysters.

SECT 271.—(1) In this Act, the expression— "the close season for oysters" means, in relation to any locality,- (a) in case a bye-law under this Act is for the time being in force fixing the period during which it is unlawful to dredge for, take, catch or destroy any oysters in that locality, the period so fixed, (b) in any other case, the period commencing on the 1st day of May in any year and ending on the 31st day of August in that year. (2) The provisions set out in the fifth Schedule to this Act shall apply in relation to bye-laws altering the close season for oysters.

272 Bye-laws prohibiting the dredging for, etc., oysters during particular period.

SECT 272.—(1) The Minister may, on the application of any person interested in an oyster fishery in a particular locality, make, subject to this Act, a bye-law prohibiting, during such period (not exceeding three years) as he thinks proper, the dredging for, or the taking, catching or destroying of, oysters or oyster brood in that locality. (2) The provisions set out in the fifth Schedule to this Act shall apply in relation to the making of bye-laws under this section.

273 Penalty for dredging, etc during the close season for oysters or during period specified in bye-laws made under section 272.

SECT 273.—(1) If any person in any locality dredges for, takes, catches, destroys, has in his possession or custody, sells or buys any oyster or oyster brood during the period which is in relation to that locality the close season for oysters or during any period specified, in a bye-law relating to that locality made under section 272 such person shall be guilty of an offence under this section and shall, be liable on summary conviction thereof to a fine of not less than ten shillings and not more than five pounds. (2) Where a person is convicted of an offence under this section, any oysters or oyster brood in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (3) Nothing in subsection (1) of this section shall be construed as rendering unlawful— (a) the removing, during the close season for oysters, of oyster brood from any oyster bed by the proprietor thereof or any person deriving under him, or (b) the laying down, during the close season for oysters, of oyster brood in any oyster bed by the proprietor thereof or any person deriving under him.

274 Authority to dredge for oysters during close season for oysters.

SECT 274.—(1) The Minister may, for the purpose of replenishing and supplying any oyster bed the exclusive property of any person, authorise the dredging for and taking of oysters from any natural public bed lying below the level of the lowest water of spring tides during such part of the close season for oysters as the Minister thinks proper and specifies in the authorisation. (2) If any oysters dredged or taken during any part, specified in any authorisation under subsection (1) of this section, of the close season for oysters are brought to shore by any person or sold or offered for sale by any person or are found in the possession of any person on land or are used by any person for any purpose other than replenishing or supplying any such artificial or other bed as is mentioned in the said subsection (1), such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pound. (3) Where a person is convicted of an offence under this section, any oysters in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

275 Order permitting taking etc., foreign oysters during part of close season for oysters.

SECT 275.—(1) The Minister may, upon the application of any person possessed of or interested in any oyster fishery, make an order permitting the taking or having in possession of any foreign oysters during

such part of the close season for oysters as the Minister may think fit to appoint for such purpose in any district or place. (2) Where an application is made for an order under this section— (a) the Minister shall cause a public inquiry into such application to be held, (b) the Minister shall cause to be given, in accordance with section 322, notice of the time and place of such inquiry, (c) the Minister shall appoint an officer to hold such inquiry, (d) the Minister shall take no decision on the application until he has considered the report of the said officer.

CHAPTER V Protection of Oyster Fishery

276 Power of persons interested in oyster beds to appoint water keepers.

SECT 276.—(1) Any proprietor of an oyster bed or an associated body of persons interested in the protection or improvement of an oyster fishery may, for the protection of such oyster fishery and for the due enforcement of the provisions of this Act and any bye-laws made thereunder, appoint any person to be a water keeper. (2) The provisions of section 294 in relation to the appointment of water keepers shall apply in respect of the appointment of water keepers under this section. (3) Every water keeper appointed under this section may, in relation to the oyster fishery for which he is appointed, exercise, so far as may be necessary for the protection of such oyster fishery and for the due enforcement of the provisions of this Act and any bye-laws made thereunder in relation to oyster fishery, any of the powers conferred by this Act on a water keeper appointed under section 294.

CHAPTER VI Licences for Fishing for Oysters

277 Restrictions on taking oysters.

SECT 277.—(1) If any person takes in a fishery district any oysters from an oyster fishery otherwise than by means of an oyster fishing engine in respect of which there is for the time being in force an oyster fishing licence authorising the use of such oyster fishing engine in that fishery district, such person be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than double and not more than treble the licence duty for the time being payable in respect of an oyster fishing licence. (2) Where a person is convicted of an offence under this section and an oyster fishing engine was used in the commission of such offence, such oyster fishing engine shall, as a statutory consequence of conviction, stand forfeited.

278 Provisions in relation to oyster fishing licenses.

SECT 278.—(1) Boards of conservators shall, in accordance with this section, issue licences (in this Act referred to as oyster fishing licences) in respect of oyster fishing engines. (2) The period for which fishing licences are to be issued shall be one year. (3) An oyster fishing licence shall be valid and in force for the year specified in that behalf in the licence. (4) A separate oyster fishing licence shall be issued for each separate oyster fishing engine. (5) Every oyster fishing licence issued by the board of conservators for a fishery district shall— (a) be in such form as the Minister may direct, (b) state thereon— (i) the year for which it is to be valid and in force, (ii) the number or name of that fishery district, (iii) the electoral division (being an electoral division of such fishery district) in which it is issued, (iv) the oyster fishing engine to which it relates, (v) the name of the person to whom it is issued, (c) be sealed with the seal of such board of conservators. (6) An oyster fishing licence shall be available for use in the fishery district, of the board of conservators by which it was issued and in no other fishery district. (7) Every oyster fishing licence shall operate to authorise, during the year specified therein and in the fishery district specified therein, the use of the oyster fishing engine specified therein, but subject to the provisions of the Acts and any instrument made thereunder.

279 Licence duty on oyster fishing licences.

SECT 279.—(1) Subject to subsection (2) of this section, the licence duty on each oyster fishing licence shall be two pounds, (2) The Minister may, from time to time, by order, alter the licence duty in respect of an oyster fishing licence, so however that the licence duty in respect of such a licence shall not be so

altered that it exceeds four pounds. (3) Where the licence duty in respect of an oyster fishing licence is altered under subsection (2) of this section, the duty as so altered shall be payable in respect of any such oyster fishing licence which is to be valid for a period commencing on or after the 1st day of January next following the making of the order which effected the alteration.

280 Right to issue of oyster fishing licences.

SECT 280.—Where a person applies to a board of conservators for an oyster fishing licence and tenders the licence duty for the time being payable in respect thereof such board shall issue such licence to such person.

PART XV - MOLLUSCS (OTHER THAN OYSTERS)

281 Extension of sections 245 to 253 to mussel beds, periwinkle beds and cockle beds.

SECT 281.—(1) Section 245 shall extend to and include mussel beds, periwinkle beds, and cockle beds, and the Minister is hereby empowered to grant in respect of the said beds the licences mentioned in the said section 245. (2) Sections 246 to 253 shall extend to and include mussel beds and mussel fisheries, periwinkle beds and periwinkle fisheries, and cockle beds and cockle fisheries.

282 Extension of sections 256 to 269 to mussels.

SECT 282.—Sections 256 to 269 shall apply to mussels, mussel beds and mussel fisheries in the same way as they respectively apply to oysters and to oyster beds and oyster fisheries.

283 Close season for molluscs (other than oysters).

SECT 283.—(1) The Minister, if he thinks fit, may make a bye-law fixing a period or periods in each year within which it shall not be lawful to take or attempt to take molluscs (other than oysters) of the kind specified in the bye-law from any locality specified in the bye-law or to have in possession or custody or sell or attempt to sell molluscs (other than oysters) of that kind taken from the said locality, and the period or periods so fixed in relation to any locality by any such bye-law shall, so long as such bye-law remains in force, be the close season for molluscs (other than oysters) of the kind specified in the bye-law in that locality. (2) The provisions set out in the fifth Schedule to this Act shall apply in relation to the making or alteration of any bye-law made under this section.

284 Bye-laws prohibiting the taking of molluscs (other than oysters) during a specified period.

SECT 284.—(1) The Minister may, on the application of any person interested or on his own motion, make a bye-law fixing a period (not exceeding three years) during which it shall not be lawful to take or attempt to take molluscs (other than oysters) of the kind specified in the bye-law from any locality specified in the bye-law. (2) The provisions set out in the fifth Schedule to this Act shall apply in relation to the making of any bye-law under this section.

- PART XVI - CRABS

285 Penalty for taking, etc. certain edible crabs.

SECT 285.—(1) If any person takes, has in his possession, sells, exposes for sale, consigns for sale or buys for sale— (a) any edible crab by whatever name known, carrying any spawn attached to the tail or other exterior part of the crab, or (b) any edible crab by whatever name known which has recently cast

its shell, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to, in the case of a first offence under this section, a fine not exceeding two pounds and, in the case of a second or any subsequent offence under this section, a fine not exceeding ten pounds. (2) Where a person is convicted of an offence under this section, any crab in respect of which the offence was committed shall as a statutory consequence of conviction, stand forfeited. (3) Where a person is charged with an offence under this section in relation to any edible crab, it shall be a good defence to prove that the crab was intended for bait for fishing.

PART XVII - PENALTIES FOR MISCELLANEOUS OFFENCES

286 Penalty for three or more persons using violence, etc towards persons lawfully prosecuting a fishery.

SECT 286.—If three or more persons, by violence, intimidation or menace, impede or obstruct or attempt to impede or obstruct any person in the lawful prosecution of a fishery the offenders and every person then and there aiding or abetting them shall each be guilty of an offence under this section and shall each be liable on summary conviction thereof to a fine not exceeding twenty pounds.

287 Penalty for obstructing persons lawfully prosecuting a fishery.

SECT 287.—If any person obstructs any person lawfully engaged in fishing or in proceeding to or in returning from lawful fishing, such first-mentioned person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds.

288 Penalty for placing fishing engine with intent to prevent fish entering nets lawfully set.

SECT 288.—(1) If any person wilfully and maliciously places any fishing engine with intent to prevent fish from entering the nets of any other person set and placed in a lawful manner, such first mentioned person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds. (2) Where a person is convicted of an offence under this section, any fishing engine by means of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.

289 Penalty for not having names of owners painted on fishing boats.

SECT 289.—(1) Every fishing boat shall have upon some conspicuous part thereof the name of the owner, or of one of the owners where more than one, and of his place of residence, painted in clear legible characters or letters of not less than two inches in length. (2) If, in respect of any fishing boat the provisions of subsection (1) of this section are not complied with, the owner or any person using it shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding two pounds.

290 Penalty on persons discharging ballast in improper places.

SECT 290.—If any person throws out or unloads from any vessel the ballast thereof or any part of the said ballast, within any estuary, harbour or place then, unless such throwing out or unloading is allowed by the Minister or by the local regulations of such harbour or place, each of the following persons, namely, such person, the master of such vessel and the owner of such vessel shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

291 Penalty on giving warning to persons unlawfully fishing.

SECT 291.—Every person who makes or causes to be made or aids or assists in making any signal or warning to any person engaged in fishing unlawfully of the approach of any water keeper, officer of a

board of conservators, or member of the Garda Síochána shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding five pounds.

PART XVIII - POWERS OF WATER KEEPERS, OFFICERS AND SERVANTS OF BOARDS OF CONSERVATORS, GARDA SÍOCHÁNA AND OTHER PERSONS FOR THE ENFORCEMENT OF THIS ACT

292 Interpretation of Part XVIII.

SECT 292.—In this Part— the expression "authorised person" means any person being (a) a member of the Garda Síochána, or (b) a private water keeper, or (c) an inspector of a board of conservators, or (d) a conservators' water keeper, or (e) an officer appointed by the Minister; the expression "conservator's water keeper" means a water keeper appointed by a board of conservators; the expression "private water keeper" means a water keeper appointed under section 294; the expression "water keeper" means a person being (a) a conservators' water keeper, or (b) a private water keeper.

293 Limitations on exercise of powers conferred on members and officers of boards of conservators.

SECT 293.—(1) The powers conferred by this Part on a private water keeper shall be exercisable only for the protection of the fisheries specified in his instrument of appointment. (2) The powers conferred by this Part on a member of a board of conservators, or an inspector or water keeper appointed by a board of conservators for a fishery district shall be exercised only for the protection of the fisheries in the fishery district of that board, and for the enforcement therein of this Act and any instrument made thereunder.

294 Appointment of water keepers by persons interested in fisheries.

SECT 294.—(1) Each of the following persons— (a) any person interested in the preservation of the fish of any river or lake (b) any persons who have united themselves into a society for the preservation of any Fishery in any river or lake, (c) the owner of any fishery in any river or lake, (d) the owner of any salmon fishery on the sea coast, may, from time to time, by instrument in writing in the form set out in the Sixth Schedule to this Act, appoint any person to be a water keeper for the protection of the fisheries on such part of the sea coast or in any such lake or river or the tributaries thereof. (2) A person appointed to be a water keeper under this section shall not act in that capacity until his appointment is confirmed (which confirmation shall be effected by endorsing the instrument of appointment) by any District Justice within whose district such water keeper is appointed to act. (3) A District Justice may upon complaint made to him revoke the appointment of a person appointed under this section as a water keeper to act within the district of such Justice, and thereupon the appointment of such person as a water keeper shall be determined. (4) An instrument appointing a person to be a water keeper under this section shall be subject to a stamp duty of five shillings. (5) If any person acts as a private water keeper without having his appointment confirmed under subsection (2) of this section or after his appointment has been revoked under subsection (3) of this section, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

295 Water keeper's instrument of appointment sufficient warrant for exercise of powers.

SECT 295.—(1) The production by a conservators' water keeper or other officer of a board of conservators of his instrument of appointment shall be a sufficient warrant for his exercising the powers conferred on an authorised person by this Act, but the production of such instrument by him shall not be necessary in exercising those powers unless he has been first required to produce it. (2) The production by a private water keeper of the instrument of his appointment endorsed in the manner provided by section 294 shall be sufficient warrant for his exercising the powers conferred, on a private water keeper by this Act.

296 General powers of authorised persons.

SECT 296.—(1) Any authorised person may, for the purposes of the protection of the fisheries, do all or any of the following things:— (a) enter into and pass through or along the banks or borders of any lakes or rivers frequented by salmon or trout or of the tributaries thereof, (b) with boats or otherwise enter upon any such lakes or rivers, (c) enter upon and examine all weirs, sluices, mill dams, mill races and watercourses communicating with such lakes or rivers (d) enter any boat engaged or about to engage in fishing, (e) examine all standing, floating or other nets whatsoever, (f) seize any unlawful fishing engine or any lawful fishing engine which is being unlawfully used, (g) do all such other acts and things as he is authorised to do by or under this Act. (2) Nothing in this section shall be construed as authorising any authorised person to enter any enclosed garden or any dwellinghouse or the curtilage thereof except where the ordinary road or passage to any weir, dam or dyke is through such garden or curtilage.

297 Power of District Justice to grant warrant to enter certain places.

SECT 297.—(1) Where upon an information on oath it appears to any District Justice or Peace Commissioner that there are reasonable grounds for believing that a breach of the provisions of this Act or any instrument made thereunder has been committed within any enclosed garden or any dwellinghouse or the curtilage thereof, he may by warrant under his hand authorise any water keeper or any officer appointed by the Minister to enter the said garden or dwellinghouse or the curtilage thereof, at such times in the day or night as may be mentioned in the warrant. (2) A warrant under this section shall not continue in force for more than seven days from the date thereof.

298 Boarding and examination of fishing vessels.

SECT 298.—(1) Any officer appointed by the board of conservators may, subject to any directions and regulations given or made by the Revenue Commissioners, do with respect to any vessel employed in fishing all or any of the following things:— (a) board such vessel, (b) examine the certificate of registry and the fishing engines of such vessel, and ascertain whether the provisions of this Act have been complied with and whether the master and other persons on board are carrying on fishing in the manner required by this Act, (c) seize any unlawful fishing engine or any lawful fishing engine unlawfully used. (2) If the master of any fishing vessel refuses to produce the certificate of registry of such vessel when required to do so by an officer of the Minister, a conservators' water keeper or an inspector appointed by a board of conservators, he shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

299 Apprehension of offenders.

SECT 299.—(1) In this section the expression "authorised person" includes any person interested in the fishery in which the relevant offence is committed. (2) If any person (in this section referred to as the offender) is found using any unlawful fishing engine or unlawfully using any lawful fishing engine or otherwise offending against the provisions of this Act or any instrument made thereunder, the following provisions shall have effect:— (a) any authorised person may require the offender to do the following things— (i) desist from such offence, and (ii) tell his name and his address, (b) if the offender, after being so required, wilfully continues such offence or refuses to tell his name and address, the authorised person and any other persons acting under his directions may apprehend the offender, (c) where the offender is apprehended under this section, the authorised person shall forthwith deliver him into the custody of a member of the Garda Síochána to be dealt with according to law.

300 Powers in relation to weirs, fixed engines, etc.

SECT 300.—Where any authorised person finds— (a) during the annual close season for salmon and trout or the weekly close time— (i) any passage in any fishing weir, fishing mill dam, fixed engine, net or contrivance closed or obstructed, or (ii) any net or other contrivance whatsoever placed or used in contravention of this Act or any instrument made thereunder, or (b) at any time, any obstruction in the free gap of a fishing weir or in a fish pass or, (c) at any time, any obstruction in the waste gate

appurtenant to any mill or factory when such waste gate is required by section 122, to be open, he may open such passages and remove such obstructions, doing no unnecessary damage, and seize and remove all things so found or used contrary to the provisions of this Act or any instrument made thereunder.

301 Powers of inspection, examination and detention.

SECT 301.—(1) In this section the expression "authorised officer" means any person being— (a) a member of the Garda Síochána, or (b) an officer or servant of a board of conservators authorised in writing by that board to exercise the powers conferred by this section, or (c) an officer of the Minister, authorised in writing by the Minister to exercise the powers conferred by this section, or (d) an officer or servant of the Electricity Supply Board authorised in writing by the Minister to exercise the powers conferred by this section, or (2) Every authorised officer is hereby authorised to do all or any of the following things:— (a) to stop and search any person conveying or suspected to be conveying fish of any kind or any instrument or substance used or adapted for taking fish unlawfully and to inspect any fish, instrument or substance which such person is found to be conveying and, for that purpose to open and search any vehicle or package in which such fish, instrument or substance is or may be or is believed to be conveyed; (b) at all reasonable times to enter upon and have free access to the interior of— (i) any premises in which fish is or is believed to be sold, or kept, exposed or stored for sale, or (ii) any premises in which poison or explosive intended for the destruction of fish is or is believed to be kept, or (iii) the premises of any person engaged in the business of carrying goods for reward, or (iv) any aerodrome, pier, quay, wharf, jetty, dock or dock premises or (v) any ship, boat, aircraft, railway wagon, motor lorry, cart, or other vessel or vehicle used for the conveyance of goods; (c) to examine all fish found in any place which he is authorised by this section to enter and for that purpose to open any package found in such place and containing or believed to contain fish; (d) to stop, enter and search on any river, lake or estuary, or the shores thereof or any part of the sea or the shores thereof any boat used or believed to be used for fishing or containing or suspected of containing fish unlawfully captured and to examine all fish and all fishing engines found therein and for that purpose to open any package which contains or is suspected of containing any fish or fishing engine; (e) to take, remove and detain in his custody any fish (either together with or without any package in which the same may be contained) found in the course of the exercise of any of the powers conferred by this section in respect of which an offence under this Act is being or is suspected of being committed or which have been or are suspected of having been unlawfully captured; (f) to take, remove and detain in his custody any fishing engine or any article liable or believed to be liable to forfeiture under this Act; (g) to demand and take the name and address of the persons having custody of any fish or other article which the authorised officer is authorised under this section to examine and also demand and take from such person the name and address of the owner of such fish or other article. (3) Where an authorised officer detains in his custody under the authority of this section any fish or other article he shall, as soon as may be, take such steps as may be proper to have the person guilty or believed to be guilty of the offence committed or believed to have been committed in relation to such fish or other article dealt with according to law. (4) Where— (a) an authorised officer detains in his custody under this section any fish, and (b) such fish is likely to become unfit for human food before the matter can conveniently be dealt with by any Court, he shall produce such fish to a Peace Commissioner and thereupon the following provisions shall apply— (i) if the Peace Commissioner is of opinion that such fish ought to be destroyed, he shall direct such authorised officer to destroy such fish, and such fish shall be destroyed accordingly; (ii) if the Peace Commissioner is not of that opinion he shall direct such authorised officer to sell such fish, and such fish shall be sold accordingly. (5) A direction by a Peace Commissioner under subsection (4) of this section directing an authorised officer to destroy or sell fish shall— (a) be in writing, (b) be in such form as the Minister may direct, (c) describe such fish and any marks, peculiarities or other particulars thereof pointed out to that Peace Commissioner by such authorised officer, (d) be conclusive evidence in every Court of the matters of fact stated therein. (6) No authorised officer shall be liable for any loss or damage occasioned by or in the course of the exercise of any of the powers conferred on him by this section unless such loss or damage was caused by him wantonly or maliciously. (7) Every person who obstructs or impedes an authorised officer in the exercise of any of the powers conferred on him by this section or refuses to give his own name and address or the name and address of any other person (so far as known to him) when lawfully demanded under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof

to a fine not exceeding ten pounds or, at the discretion of the Court, to imprisonment for any term not exceeding two months.

302 Procedure consequent upon seizure of unlawful fishing engines and lawful fishing engines unlawfully used.

SECT 302.—Where any person in exercise of the powers conferred on him by this Part, seizes any fishing engine, he shall, as soon as may be, bring it before the District Justice in whose district it was seized, and thereupon the following provisions shall have effect— (a) if the District Justice finds that the fishing engine is an unlawful fishing engine, he shall order it to be forfeited and destroyed, (b) if the District Justice finds that the fishing engine is a lawful fishing engine but at the time of its seizure had been, was being, or was about to be, unlawfully used, he shall order it to be forfeited, (c) if the District Justice finds that the fishing engine is a lawful fishing engine but at the time of its seizure had not been, was not being or was not about to be, unlawfully used, he shall order it to be returned to the person who appears to him to be the owner thereof.

303 Persons using fishing engines to produce licence therefor on demand.

SECT 303.—(1) In this section the expression "authorised person" includes a member of a board of conservators. (2) Any person using any scheduled engine or having any scheduled engine erected or found with a scheduled engine in his possession in or near any fishing place, or going or returning from fishing shall on demand produce, to any authorised person the ordinary licence for such engine, and, in default, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than the ordinary licence duty payable in respect of an ordinary fishing licence to use such engine and not more than double such ordinary licence duty. (3) A person who when the production of his ordinary licence is lawfully demanded of him under this section, does not produce such licence because he is not the holder of an ordinary licence, shall be deemed to fail to produce such licence within the meaning of this section. (4) Where a person is charged, with an offence under this section consisting of a failure to produce an ordinary licence for a scheduled engine in his possession, it shall be a good defence to prove that he had the scheduled engine in his possession as a manufacturer or seller thereof and not for the purpose of using it. (5) This section shall not apply in respect of the use of scheduled engines in special tidal waters or in scheduled trout waters.

304 Production of special local licences.

SECT 304.—(1) In this section, the expression "authorised person" does not include a private water keeper. (2) Any authorised person may demand of any person fishing in special tidal waters or having in his possession in or near such special tidal waters any fishing engine for the taking of salmon or trout the production of his special local licence, and if such person refuses or fails to produce such licence there and then, he shall be guilty of an offence under this section. (3) Where any person of whom the production of his special local licence is lawfully demanded under this section produces such licence but refuses or fails to permit the authorised person making such demand to read such licence, he shall be guilty of an offence under this section. (4) Whenever any person of whom the production of his special local licence is lawfully demanded under this section refuses or fails to produce such licence or produces such licence but fails to permit the authorised person making the demand to read such licence, such authorised person may demand of such person his name and address, and if such person refuses or fails to give his name or address or gives a name or address which is false or misleading he shall be guilty of an offence under this section. (5) Any person guilty of an offence under this section shall be liable on summary conviction thereof to a fine not exceeding fifty pounds. (6) A person who, when the production of his special local licence is lawfully demanded of him under this section, does not produce such licence because he is not the holder of a special local licence shall be deemed to fail to produce his special local licence within the meaning of this section.

305 Persons using trout rods in scheduled trout waters to produce licence on demand.

SECT 305.—(1) In this section, the expression "authorised person" includes a member of a board of conservators. (2) Any person using a trout rod in any scheduled waters shall on demand produce to any authorised person his trout rod licence, or if he is the holder of a salmon rod licence, such salmon rod licence, and in default such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to— (a) in case— (i) such person is the occupier of land contiguous to the portion of such scheduled trout waters in which he is found fishing and is entitled to fishing rights in that portion, or (ii) such person is a member of the family of the occupier of land contiguous to the portion of such scheduled trout waters in which he is found fishing and such occupier is entitled to fishing rights in that portion, or (iii) such person is under the age of seventeen years, a fine of not less than sixpence and not more than one shilling, or (b) in any other case, a fine of not less than five shillings and not more than ten shillings. (3) Where a person using a trout rod in scheduled trout waters situate in a particular fishery district is charged with an offence under this section, it shall be a good defence to prove that— (a) he is a member of the family of the occupier of land contiguous to the portion of such scheduled trout waters in which he is found using such trout rod, and (b) such occupier is entitled to fishing rights in that portion and is the holder of a trout rod (riparian owner) licence for the time being in force issued by the board of conservators for such fishery district and valid for such portion.

306 Persons using oyster fishing engines to produce licence therefor on demand.

SECT 306.—(1) In this section, the expression "authorised person" includes a member of a board of conservators. (2) Any person using or having in his possession an oyster fishing engine in or near an oyster fishery, or going or returning from fishing shall on demand produce to any authorised person the oyster fishing licence for such engine and, in default, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine of not less than the licence duty for the time being payable in respect of such licence and not more than double such licence duty. (3) Any person who when the production of an oyster fishing licence is lawfully demanded of him under this section does not produce such licence because there is no such licence shall be deemed to fail to produce such licence within the meaning of this section.

307 Inspection of fish passes.

SECT 307.—All fish passes be at all times open to inspection by an authorised person.

308 Penalty for assaulting or obstructing persons exercising powers under this Part.

SECT 308.—If any person assaults or obstructs any person exercising any power conferred on him by this Part, such first-mentioned person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

PART XIX - LEGAL PROCEEDINGS, FINES, FORFEITURES, EVIDENCE, INQUIRIES AND SERVICE OF DOCUMENTS

Legal Proceedings.

309 Trial of offences.

SECT 309.—(1) Notwithstanding anything contained in any other enactment, an offence under any provision of this Act may be heard and determined in a summary way by a District Justice upon the complaint, verbal or otherwise, of a member of the Garda Síochána, an officer or employee of a board of conservators or any other person. (2) (a) Where— (i) a sea fisheries protection officer has in exercise of the powers conferred on him by section 233 taken a boat and the persons on board it to a port in the State, and (ii) any person (being one of the said persons) is alleged to have committed an offence under any

section contained in Chapter II or II of Part XIII, such offence may be brought before and heard and determined by a District Justice for the time being assigned to the District in which such port is situate. (b) Paragraph (a) of this subsection shall not be construed as affecting section 79 of the Courts of Justice Act, 1924 (No. 10 of 1924). (3) Where an offence under the repealed enactments or an offence under any provision of this Act has been, or is alleged to have been committed in or upon any waters forming the boundary between two or more Districts established for the purposes of the District Court, then, notwithstanding section 79 of the Courts of Justice Act, 1924 (No. 10 of 1924), proceedings in respect of the offence may be brought, heard and determined before and by a District Justice for the time being assigned to any one of the said of Districts and such offence may be alleged and stated in an information or summons to have been committed in the District where it is proposed to bring the proceedings.

310 Appeals from the District Court.

SECT 310.—(1) Where any proceedings in the District Court for an offence under any provision of this Act are dismissed, whether on the merits or without prejudice, the prosecutor may appeal against the order of dismissal to the Judge of the Circuit Court within whose Circuit the Courthouse in which such order was made is situate. (2) Where by virtue of subsection (1) of this section a right of appeal against an order of the District Court in any proceedings under this Act lies to a Judge of the Circuit Court, such Judge on such appeal may vary, confirm or reverse such order, and the decision of such Judge on such appeal shall be final and conclusive and not appealable.

311 Offences by bodies corporate.

SECT 311.—Where an offence under any provision of this Act was committed by a body corporate and is proved to have been so committed with the consent or approval of, or to have been facilitated by any neglect on the part of, any director, manager, secretary or other officer of such body corporate, such director, manager, secretary or other officer shall also be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly.

312 Prosecution by Minister of offences under this Act.

SECT 312.—An offence under any provision of this Act may be prosecuted by the Minister.

313 Bounds need not be set out in indictments, etc.

SECT 313.—In any action or prosecution for or in respect of any trespass or nuisance in respect of a fishery it shall not be necessary to set out in the declaration or indictment the bounds of the place in which the trespass or nuisance complained of was committed, but it shall be sufficient to state generally that the same was committed within the fishery district in which the fishery in question is situate. Fines.

314 Disposal of fines.

SECT 314.—(1) This section applies to every fine imposed for any offence under any provision of this Act. (2) Section 51 of the Court Officers Act, 1926 (No. 27 of 1926), shall cease to apply to any fine to which this section applies. (3) Every fine to which this section applies shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance shall direct. (4) Where a fine to which this section applies is remitted in whole or in part after it has been paid into or disposed of for the benefit of the Exchequer under subsection (3) of this section, such fine or the portion thereof so remitted (as the case may be) shall be repaid out of the Exchequer in such manner as the Minister for Finance shall direct.

315 Payments to boards of conservators and (in certain cases) Garda Síochána.

SECT 315.—(1) This section applies to— (a) an offence under any section of this Act (other than a section contained in Part XII, XIII, XV or XVI or section 290 or 323), or (b) an offence against any by-law made under section 9 and relating to salmon, trout or eels. (2) Where a fine imposed for an offence to

which this section applies has been paid or levied, then, unless the fine has been wholly remitted, the following provisions shall, apply— (a) in case it appears to the Minister that a member of the Garda Síochána was the means of bringing to justice the person by whom the offence was committed, there shall be paid— (i) to the board of conservators of the fishery district in which the offence was committed a sum equal to two-thirds of the fine, or, if the fine was remitted in part, of so much thereof as was not remitted, and (ii) into the Garda Síochána Reward Fund, a sum equal to one-third of the fine or, if the fine was remitted in part, of so much thereof as was not remitted. (b) In any other case, there shall, be paid to the said board of conservators a sum equal to the fine or, if the fine was remitted in part, so much thereof as was not remitted. (3) All moneys payable under subsection (2) of this section shall be paid by the Minister out of moneys provided by the Oireachtas at such times as he thinks fit. Forfeitures.

316 Non-obligation of Court to pronounce or record forfeiture where forfeiture fell as a statutory consequence of conviction.

SECT 316.—Where— (a) a person is convicted by a District justice of an offence under any provision of this Act, and (b) the said provision provides that a particular thing shall as a statutory consequence of conviction, stand forfeited, then, notwithstanding any rule of law, it shall not be necessary for the said Justice— (i) to pronounce the fact of such forfeiture at the time of adjudication, or (ii) to record the fact of such forfeiture in the Justice's Minute Book or the Charge Sheet or in the order of conviction.

317 Disposal of forfeitures.

SECT 317.—(1) Where— (a) any thing, which, either as a statutory consequence of conviction or by an order of a District Court, is forfeited under this Act or any instrument made thereunder, is lawfully seized, or (b) any thing is ordered by a District Justice under paragraph (b) of section 302 to be forfeited, the Minister may direct that such thing shall— (i) be returned to the person who appears to him to be the owner thereof, or (ii) be sold or otherwise disposed of in such manner as he thinks fit. (2) Where the Minister, in pursuance of subsection (1) of this section, directs a thing to be sold the net proceeds of the sale shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance shall direct. (3) Subsection (1) of this section shall not apply to any thing forfeited under section 265, where the Court gives a direction under the said section 265 in relation to such thing.

318 Payments to boards of conservators and (in certain cases) Garda Síochána Reward Fund in respect of proceeds of certain forfeitures.

SECT 318.—(1) Where— (a) any thing is forfeited under any section of this Act (other than one contained in Part XII, XV or XVI or under any by-law made under section 9 and relating to salmon, trout or eels, or any thing (being a fishing engine for the capture of salmon, trout or eels) is forfeited under paragraph (b) of section 302, and (b) such thing is sold by direction of the Minister under section 317, the following provisions shall apply— (i) in case it appears to the Minister that a member of the Garda Síochána seized such thing or was the means of bringing to justice the person committing the offence which resulted in such forfeiture, there he paid— (I) to the board of conservators of the fishery district in which the offence was committed a sum equal to two-thirds of the net proceeds of such sale, and (II) into the Garda Síochána Reward Fund a sum equal to one-third of the said net proceeds, (ii) in any other case there shall be paid to the said board of conservators a sum equal to the said net proceeds. (2) All moneys payable under subsection (1) of this section shall be paid by the Minister out of moneys provided by the Oireachtas at such times as he thinks fit.

319 Disposal of proceeds of sale of fish in pursuance of a direction under section 301 (4).

SECT 319.—(1) Where any fish are sold in pursuance of a direction under subsection (4) of section 301, the following provisions shall have effect— (a) in case— (i) proceedings are duly instituted against any person charging him with an offence under any provision of this Act in relation to such fish, and (ii) such person is convicted of the offence, and (iii) such fish would, but for the sale thereof, as a statutory consequence of such conviction stand forfeited, the net proceeds of such sale shall be paid into, or disposed of for, the benefit of the Exchequer in such manner as the Minister for Finance shall direct; (b)

in any other case, the said net proceeds shall on demand be paid to the owner of such fish; (c) where the said net proceeds are to be dealt with in accordance with paragraph (a) of this subsection— (i) in case it appears to the Minister that a member of the Garda Síochána detained such fish under section 301, there shall be paid— (I) to the board of conservators of the fishery district in which the offence was committed a sum equal to two-thirds of the said net proceeds, and (II) into the Garda Síochána Reward Fund a sum equal to one-third of the said net proceeds, (ii) in any other case, there shall be paid to the said board of conservators a sum equal to the said net proceeds. (2) All moneys payable under paragraph (c) of subsection (1) of this section shall be paid by the Minister out of moneys provided by the Oireachtas at such times as he thinks fit. Evidence.

320 Evidence of amount of expenses incurred by the Minister.

SECT 320.—Where the Minister is entitled under section 99, 110, 112, 113, 114, 116, 117 or 129 to recover any expenses a certificate sealed with the official seal of the Minister and certifying the amount of those expenses shall be prima facie evidence of the amount of those expenses.

321 Proof of bye-laws, etc.

SECT 321.—(1) In any proceedings under the repealed enactments or this Act, a document purporting to be a copy of any instrument in writing made or issued under the repealed enactments or this Act shall, if it is certified by an officer of the Minister to be a true copy of such instrument, be prima facie evidence of such instrument, and it shall not be necessary to prove the signature of the person so certifying such document or that he is an officer of the Minister. (2) Nothing in this section shall be construed as limiting or affecting the operation of section 4 of the Documentary Evidence Act, 1925 (No. 24 of 1925).

322 Notice of holding of inquiries.

SECT 322.—Where notice of the holding of an inquiry is required by this Act to be given that requirement shall be complied with if not less than fourteen days before the holding of such inquiry, the following things are done— (a) there are distributed, in such manner as the Minister may direct, printed notices announcing the time and place at which the inquiry is to be held and the matters to be inquired into there at, and (b) there is published in one or more newspapers circulating in the fishery district in which the inquiry is to be held an advertisement stating the time and place at which the inquiry is to be held and the matters to be inquired into there at.

323 Powers of persons appointed by the Minister to hold inquiries.

SECT 323.—(1) Any person (in this section referred to as an authorised person) appointed by the Minister to hold an inquiry under this Act, may do all or any of the following things— (a) summon witnesses to attend before him at such inquiry, (b) examine on oath (which such authorised person is hereby authorised to administer) witnesses attending before him at such inquiry, (c) require any such witnesses to produce any documents in their power or control the production of which such authorised person considers necessary for the purposes of such inquiry. (2) A witness before an authorised person holding an inquiry under this Act shall be entitled to the same immunities and privileges as if he were a witness before the High Court. (3) If any person— (a) on being duly summoned to attend as a witness before an authorised person holding an inquiry under this Act makes default in attending, or (b) so being in attendance as a witness, refuses to take an oath lawfully required by such authorised person to be taken, or to produce any document in his power or control lawfully required by such authorised person to be produced by him, or to answer any question to which such authorised person may require an answer, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding twenty-five pounds. Service of Documents.

324 Service of documents.

SECT 324.—(1) (a) Where any document is required or permitted by this Act (including subsection (2) of this section) to be served on any person such document shall be addressed to such person and be served

on such person in some one of the following ways:— (i) by delivering it to such person; (ii) by leaving it at the address at which such person ordinarily resides; (iii) by sending it by post in a prepaid registered letter addressed to such person at the address at which he ordinarily resides. (b) For the purposes of this subsection a company registered under the Companies Acts, 1908 to 1924, shall be deemed to be ordinarily resident at its registered office, and every body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business in the State. (2) Where any document is required or permitted by this Act to be served on the owner of a fishery and either such owner cannot be found in the State or the name or address of such owner cannot after reasonable inquiry be ascertained, such document shall be deemed to have been duly served on such owner if it is served on the occupier of such fishery.

PART XX - MISCELLANEOUS PROVISIONS

325 Provisions in relation to Movable Areas.

SECT 325.—(1) In this section— "the Act of 1952" means the Foyle Fisheries Act, 1952 (No. 5 of 1952); "the Movable Area" means the Movable Area as defined by subsection (1) of section 2 of the Act of 1952. (2) Save as provided by subsection (3) of this section, this Act shall not extend to the Movable Area. (3) For the avoidance of doubts it is hereby declared that any fishery within the Movable Area which under section 8 of the Act of 1952 became vested in the Minister and the Ministry of Commerce for Northern Ireland shall be deemed not to be State land for the purposes of Part 11 of the State Property Act, 1954 (No. 25 of 1954).

326 Saving for certain enactments.

SECT 326.—(1) Nothing in this Act shall be construed as affecting the operation of section 8 of the Shannon Fisheries Act, 1938 (No. 7 of 1938). (2) Nothing in this Act shall be construed as affecting the operation of the British statute (1 Vic. c. lxxxix) passed in the year 1837 and entitled "An Act to enable Edward Joshua Cooper Enquire to establish and protect a Salmon Fishery upon the Lakes and Rivers of Owenmore and Arrow and also within the Bay of Ballisodare in the County of Sligo in Ireland", in so far as that British statute is in force immediately before the operative date.

327 Right of owner to take materials from streams.

SECT 327.—Nothing in this Act shall prejudice the right of any owner thereof to take materials from any stream.

328 Agents for fishery owners.

SECT 328.—(1) Any fishery owner may by power of attorney under his hand appoint an agent to act for him in carrying into execution the provisions of this Act. (2) All things which by this Act are directed to be done by or with relation to any person may be lawfully done by or with relation to an agent appointed by him under this section and such agent may be dealt with in all respects as such person himself might have been dealt with under this Act. (3) Every agent appointed under this section shall have full power, in the name and on behalf of his principal, to take part in or act upon any inquiry, or prosecute, oppose or defend any complaint, appeal, action, writ, suit or other proceeding or to attend, vote at and take part in any meeting or do or suffer any other act for the purposes of this Act. (4) Every person who appoints an agent under this section shall be bound by the acts of such agent, according to the authority committed to him, as fully as if such person had so acted. (5) Every power of attorney under this section shall be produced inspected or registered and copies and extracts thereof made at such times and places and in such manner as the Minister may direct. (6) A power of attorney under this section may be in the following form— "I, A. B. of _____ hereby appoint C. D. of _____ to be my lawful attorney

to act for me in all respects as if I myself were present and acting, and I make this appointment under the Fisheries (Consolidation) Act, 1959. Dated this _____ day of _____, 19_____

(Signed) A B." (7) Where a person is convicted of an offence under the repealed enactments or an offence, under any provision of this Act, then— (a) if such person is an agent for another person who is an ex officio conservator under section 34, he shall thereafter cease to be qualified to act as an agent for such other person in that other persons capacity as such ex officio conservator for a period of seven years from the date of such conviction, (b) such person shall thereafter be disqualified from being appointed an agent under this section for a period of seven years from the date of such conviction,

PART XXI - TRANSITORY PROVISIONS

329 Continuance in office of existing conservators for electoral division.

SECT 329.—Every person who holds office as a conservator for an electoral division immediately before the operative date shall be deemed to have been elected under this Act and shall, unless he sooner dies, resigns or becomes disqualified, hold office until midnight on the day on which the next election for conservators of that electoral division is held in pursuance of section 27.

330 Continuance of existing officers and servants.

SECT 330.—Every person who immediately before the operative date holds any office or employment to which he was appointed under any provision of any repealed enactment shall on and after the operative date continue in such office or employment and be deemed to have been appointed thereto under the corresponding provision of this Act

331 Continuance of existing authorisations.

SECT 331.—Any authority granted under any provision of any repealed enactment and not withdrawn before the operative date shall on and after the operative date continue in force and have effect as if granted under the corresponding provision of this Act.

332 Fishery rates struck under repealed enactments.

SECT 332.—(1) Every fishery rate struck before the operative date by a board of conservators under section 13 of the Fisheries Act, 1925 (No. 32 of 1925) shall he deemed to have been struck under section 55. (2) Every fishery rate confirmed before the operative date by the Minister under section 13 of the Fisheries Act, 1925, shall he deemed to have been confirmed by the Minister under section 55. (3) Every fishery rate struck, before the operative date, by the Minister under section 13 of the Fisheries Act, 1925, shall be deemed to have been struck by the Minister under section 55.

333 Continuance of existing licences and certificates.

SECT 333.—Every licence issued and every certificate granted under any provision of any repealed enactment and in force immediately before the operative date shall, on and after the operative date, continue in force and be deemed to have been granted under the corresponding provision of this Act.

334 Continuance of existing by-laws, orders and regulations.

SECT 334.—Each of the following instruments which was in force immediately before the operative date: (a) any bye-law made under any repealed enactment, (b) any order or regulation made under any repealed enactment, shall, on and after the operative date, continue in force and be deemed to have been made under the corresponding provision of this Act.

335 Amendment of certain bye-laws made under repealed enactments providing for forfeiture.

SECT 335.—Where any bye-law (being a bye-law creating an offence) made under any repealed enactment and continued in force by section 334 provides as part of the punishment for the offence and as a statutory consequence of conviction thereof that the person convicted of that offence shall forfeit a particular thing or that a particular thing shall be forfeited, the said bye-law shall be construed as if in lieu of that provision, it provided that, where a person is convicted of that offence, the thing specified in the said bye-law as the thing to be forfeited shall as a statutory consequence of conviction stand forfeited.

Section 5

(Schedules 1 to 4 omitted)

FIFTH SCHEDULE BYE-LAWS FIXING CLOSE SEASON FOR MOLLUSCS (OTHER THAN OYSTERS) BYE-LAWS ALTERING ANNUAL CLOSE SEASONS FOR SALMON AND TROUT, POLLEN AND EELS, CLOSE SEASON FOR OYSTERS, AND MOLLUSCS (OTHER THAN OYSTERS), AND BYE-LAWS UNDER SECTIONS 272 AND 284

Sections 126 137 (1) (d), 138 (1) (d), 148 (2) 151 (2), 271 (2), 272 (2), 283 (2), 284 (2). Bye-laws fixing close season for molluscs (other than oysters). 1. Where the Minister proposes to make a bye-law under section 283 in relation to a particular locality prohibiting during a specified period or periods in each year the taking or attempting to take molluscs (other than oysters) of a particular kind from that locality or the having possession or custody of or the sale or attempted sale of molluscs (other than oysters) of that kind taken from that locality— (a) the Minister shall appoint an officer of the Minister to hold an inquiry (notice of the holding whereof shall be given in accordance with section 322) into, and to report to him on, the feasibility of making the bye-law, (b) after consideration of such report, the Minister may, subject to the provisions of this Act, make, in respect of molluscs (other than oysters) of that kind, a bye-law under section 283 in relation to that locality. Bye-laws altering annual close seasons for salmon, trout, pollen and eels and close seasons for oysters and mollusc (other than oysters). 2. (1) Where— (a) an application is made by any interested person to the Minister to have an inquiry held into the feasibility of altering the period which is in any locality the annual close season for salmon and trout, the annual close season for angling for salmon, the annual close season for angling for trout, the annual close season for pollen, the annual close season for eels, the close season for oysters, or the close season for molluscs (other than oysters) of a particular kind, and (b) such period (unless it is the annual close season for pollen) was fixed not less than three years previously, and (c) the applicant, if so required by the Minister, deposits with the Minister such sum as will in the opinion of the Minister, be sufficient to defray the expenses incurred by the Minister in relation to the inquiry and proceedings consequent thereon, the following provisions shall have effect— (i) the Minister shall appoint an officer of the Minister to hold an inquiry (notice of the holding whereof shall be given in accordance with section 322) and to report to him on the application, (ii) after consideration of the report, the Minister, if he thinks fit, may, subject to the provisions of this Act, make a bye-law fixing a new period in lieu of the existing period. (2) The period to be fixed by any bye-law made under subparagraph (1) of this paragraph fixing the annual close season for salmon and trout shall not in any case be less than one hundred and sixty-eight days. (3) The period to be fixed by any bye-law made under subparagraph (1) of this paragraph fixing the annual close season for angling for salmon shall not in any case be less than ninety-two days and shall include the October close period for angling. (4) The period to be fixed by any bye-law made under subparagraph (1) of this paragraph fixing the annual close season for angling for trout shall include the October close period for angling. (5) The period to be fixed by any bye-law under subparagraph (1) of this paragraph fixing the annual close season for pollen shall include the period commencing on the 1st day of November in any year and ending on the next following 31st day of January. Bye-laws under section 272 3. Where— (a) an application is made by any person interested in an oyster fishery in a particular locality to the Minister to have an inquiry held into the feasibility of making a bye-law under section 272 in relation to that locality prohibiting during a period the dredging for, or the taking, catching or destroying of any oysters or oyster brood in that locality, and (b) the applicant, if so required by the Minister, deposits with the

Minister such sum as will in the opinion of the Minister be sufficient to defray the expenses to be incurred by the Minister in relation to the inquiry and proceedings consequent thereon, the following provisions shall have effect— (i) the Minister shall appoint an officer of the Minister to hold such inquiry (notice of the holding whereof shall be given in accordance with section 322) and to report to him on the application, (ii) after consideration of such report, the Minister may, subject to the provisions of this Act make a bye-law under section 272 in relation to that locality, Bye-laws under section 284. 4. (1) Where— (a) an application is made by any interested person to the Minister to have an inquiry held into the feasibility of making a bye-law under section 284 in relation to a particular locality, prohibiting during a specified period the taking or attempted taking of molluscs (other than oysters) of a particular kind from that locality, and (b) the applicant, if so required by the Minister, deposits with the Minister such sum as will in the opinion of the Minister be sufficient to defray the expenses to be incurred by the Minister in relation to the inquiry and proceedings consequent thereon. the following provisions shall have effect— (i) the Minister shall appoint an officer of the Minister to hold such inquiry (notice of the holding whereof shall be given in accordance with section 322) and to report to him on the application, (ii) after consideration of such report, the Minister may, subject to the provisions of this Act, make, in respect of molluscs (other than oysters) of that kind, a bye-law under section 284 in relation to that locality. (2) Where the Minister proposes to make on his own motion a bye-law under section 284 in relation to a particular locality prohibiting during a specified period the taking or attempted taking of molluscs (other than oyster) of a particular kind from that locality— (a) the Minister shall appoint an officer of the Minister to hold an inquiry (notice of the holding whereof shall be given) in accordance with section 322) into, and to report to him on, the feasibility of making the bye-law, (b) after consideration of such report, the Minister may, subject to the provisions of this Act, make, in respect of molluscs (other than oysters) of that kind, a bye-law under section 284 in relation to that locality. Expenses of inquiries under paragraphs 2, 3, and 4 (1). 5. (1) The following provisions shall apply in relation to the expenses incurred by the Minister in relation to an inquiry held under paragraph 2, or 3 or subparagraph (1) of paragraph 4 of this Schedule, or proceedings consequent thereon— (a) subject to this subparagraph, the said expenses shall be paid out of moneys provided by the Oireachtas, (b) if, after the holding of the inquiry, the Minister is of opinion that the application therefor ought not to have been made, he may order that the said expenses or such part thereof as he may determine shall be defrayed by the applicant and in such case any money lodged under paragraph 2 or 3 or subparagraph (1) of paragraph 4 of this Schedule by the applicant shall be applied for the purpose of defraying the same, and, if the sum so deposited is not sufficient or if no money has been lodged under the said paragraph 2 or 3 or subparagraph (1) of paragraph 4 then the balance or the full amount as the case may be of the expenses ordered to be defrayed by the applicant shall be paid by him and may be recovered from him as a simple contract debt in any court of competent jurisdiction. (2) Any moneys deposited under paragraph 2 or 3 or subparagraph (1) of paragraph 4 of this Schedule which has not been applied in accordance with subparagraph (1) of this paragraph shall be paid to the person by whom it was deposited. Section 294.

SIXTH SCHEDULE FORM OF APPOINTMENT OF WATER KEEPER UNDER SECTION 294. I, A. B. (or we, A. B. and C. D., as the case may be) of (name the place or places of residence), do hereby appoint E. F, of (name the place of his residence), a Water keeper to protect the fishery of (name the fishery, river, or sea coast, as the case may be), pursuant to the Fisheries (Consolidation) Act, 1959; and the said E. F, of (name the place of his residence), is hereby authorised to do all lawful acts as such Water keeper according to the provisions of the said Act. (Signed) To all whom it may concern. I, the undersigned justice of the District Court do, hereby approve of the above appointment.