

## FISHERIES (COMMISSIONS) ACT 1997

### LONG TITLE

An Act to provide for certain validations, to amend The Fisheries (Amendment) Act, 1995, to provide for the indemnification of members of commissions under that Act, and for related purposes. [12th February, 1997]

### BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

#### 1 Interpretation.

1.—(1) In this Act— "the Act" means the Fisheries (Amendment) Act, 1995; "the Commission" means the Southern Regional Fisheries Commission established by the purported order; "the purported order" means the document titled Fisheries (Amendment) Act, 1995 (Southern Regional Fisheries Commission) Order, 1996, signed on the 21st day of February, 1996, by the Minister of State at the Department of the Marine, purportedly in exercise of powers conferred by section 3 (1) of the Act and the Marine (Delegation of Ministerial Functions) (No. 2) Order, 1995 (S.I. No. 199 of 1995), and published as Statutory Instrument No. 51 of 1996. (2) In this Act— ( a ) a reference to a section is a reference to a section of this Act, unless it is indicated that a reference to some other enactment is intended, and ( b ) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended.

#### 2 Validation of order.

2.—The purported order is hereby validated and shall be deemed always and for all purposes to have been as valid and effectual as if duly made by the Minister on the 21st day of February, 1996 (and all conditions precedent to the exercise of the power to make the order shall be deemed to have been satisfied) under and in accordance with the Act.

#### 3 Validation of actions.

3.—Without prejudice to the generality of section 2, everything done or purported to have been done during the period commencing on the 21st day of February, 1996, and ending on the 14th day of January, 1997, by, to or on behalf or in respect of the Commission or Seamus Keating while purporting to be a member of and to constitute the Commission shall be, and be deemed always to have been, as valid and effectual for all purposes as if— ( a ) the Minister of State at the Department of the Marine, at the time of signing the purported order, had the power to make the order and all conditions precedent to the exercise of that power had been satisfied, ( b ) the purported order had been validly made under the Act, ( c ) the Commission had been validly established under the Act with its functions as provided by the purported order, and ( d ) Seamus Keating had, under section 5 (2) of the Act, been validly appointed as a member of the Commission, and the terms and conditions (including terms and conditions relating to remuneration and allowances) of Seamus Keating as a member of the Commission shall be, and shall be deemed always and for all purposes to have been, as if he had been duly appointed as a member with effect from the 26th day of February, 1996.

#### 4 Validation to be subject to constitutional limitations.

4.—If, because of any validation expressed to be effected by section 2 or 3, those sections or either of them would, but for this section, conflict with a constitutional right of any person,

the validation shall be subject to such limitation as is necessary to secure that it does not so conflict, but shall be otherwise of full force and effect.

#### 5 Extension of order.

5.—The purported order is hereby extended until the expiration of the 22nd day of February, 1998, or such earlier date as the Minister may, by notice published in the *Iris Oifigiúil*, specify, and as so extended shall have full force and effect for all purposes as if duly extended under section 9 (1) of the Act.

#### 6 Member of Commission to continue in office.

6.—Seamus Keating is, shall be deemed always to have been, and subject to the Act shall continue in office as, a member of the Commission as if duly appointed as a member by the Minister with effect from the 26th day of February, 1996, for the life of the Commission.

#### 7 Amendment of section 5 of Fisheries (Amendment) Act, 1995 and application of amendment.

7.—(1) Section 5 of the Act is hereby amended by inserting the following subsection after subsection (3): "(3A) The Minister shall indemnify each member of a commission against all and any actions, expenses, costs, claims, demands and other liabilities in respect of any action by or omission of the commission or member in the performance or exercise (or purported performance or exercise) of the commission's or member's functions or powers under or in pursuance of this Act." (2) The amendment effected by subsection (1) shall extend to and in relation to actions and omissions of the Commission or Seamus Keating occurring before the commencement of this Act.

#### 8 Name in which prosecutions to be deemed to be brought or continued.

8.—(1) All prosecutions to enforce any provision of the Fisheries Acts, 1959 to 1995, brought before the commencement of this Act by, in the name of or upon the complaint of the Commission shall be deemed to have been brought by, in the name of or upon the complaint of the Southern Regional Fisheries Board established under the Fisheries Act, 1980, and the name of the Board shall be substituted in the proceedings for that of the Commission, and the proceedings shall not abate or be taken to have abated by reason of such substitution. (2) Any prosecution to enforce any provision of the Fisheries Acts, 1959 to 1995, brought, but not concluded, before the commencement of this Act by, in the name of or upon the complaint of the Southern Regional Fisheries Board (including any prosecution which, pursuant to subsection (1), shall be deemed to have been brought by, in the name of or upon the complaint of the Board) may be continued after that commencement as if it had been brought by, in the name of or upon the complaint of the Commission, and the name of the Commission shall be substituted in the proceedings for that of the Board, and the proceedings shall not abate or be taken to have abated by reason of such substitution.

#### 9 Short title, collective citation and construction.

9.—(1) This Act may be cited as the Fisheries (Commissions) Act, 1997. (2) The Fisheries Acts, 1959 to 1995, and this Act may be cited together as the Fisheries Acts, 1959 to 1997, and shall be construed together as one.