

FISHERIES (AMENDMENT) ACT 1991

LONG TITLE

An Act to amend the law relating to fisheries and for that purpose to provide for the abolition of licences for angling for trout or coarse fish; to provide for the establishment of fisheries co-operative societies for the development and regulation of trout and coarse fishing in fisheries regions; to make further provision for the election of members of regional boards; to provide for the issue of further classes of salmon rod licences, and to provide for other matters connected with the matters aforesaid. [31st October, 1991]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1 Definitions.

SECT 1.—In this Act— "the Minister" means the Minister for the Marine; "the Principal Act" means the Fisheries (Consolidation) Act, 1959, as amended by any subsequent enactment; "elected", in relation to a member of the management committee of a society, means elected in accordance with the rules of the society; "functions" includes duties and liabilities; "share certificate" in relation to a society, means, in the case of an annual certificate, a certificate of ordinary membership of the society for a specified year and, in any other case, a certificate under section 10 (1) (b) or (c) of this Act.

2 Commencement.

SECT 2.—This Act shall come into operation on such day as the Minister by order appoints.

3 Exemption of trout and coarse fish angling.

SECT 3.—A licence under the Principal Act shall not be required for angling for trout or coarse fish.

4 Fisheries co-operative societies.

SECT 4.—(1) The Minister shall by order establish in each fisheries region one or more fisheries co-operative societies to raise and disburse for the public benefit funds for the development of trout or coarse fisheries or both in a specified area in the region. (2) The Minister may, after such investigation or enquiry as he thinks fit, by order revoke or amend an order made under this section. (3) A society established for the purposes set out in subsection (1) of this section shall be deemed to be established for charitable purposes only. (4) The order establishing a society shall designate the persons who shall be trustees of the society on its establishment. (5) The Minister may appoint persons to fill vacancies amongst the trustees so designated and may remove any such trustee from office.

5 Rules of societies.

SECT 5.—(1) The Minister may make rules for the regulation of societies and such rules shall constitute the rules of each society from its establishment. (2) Rules under this section shall, in relation to a society, provide, in particular, for— (a) the functions of the first trustees of the society; (b) the membership and functions of a management committee (including its

functions as trustees) and the appointment, or election, and terms and conditions of office, of its members or any of them; (c) the quorum for meetings of the trustees or management committee of the society; (d) membership and termination of ordinary and corporate membership of the society; (e) ballots for the purposes of this Act; (f) the establishment and management of a development fund for the receipt of payments to the society and the disbursement of moneys of the fund, including provision for payments to the appropriate regional board to promote the purposes of the society; (g) the provision of guidelines for the society in relation to the disbursement of its funds, having regard, in particular, to the development programmes and plans of the appropriate regional board; (h) accounts of the society and the audit of its accounts; (i) the grant of share certificates by the society. (3) The Minister, with the consent of a society, or a society, with the consent of the Minister, may amend or revoke the rules of the society. (4) The Minister may appoint not more than two persons to be members of the management committee of a society in addition to its elected members. (5) The liability of a member of a society being an ordinary member or a corporate member shall be limited to the fee (if any) fixed under this Act for a member of that class. (6) Any person shall be entitled to a copy of the rules of a society on payment to the society of such fee as may be specified by the Minister.

6 Trustees and management committee.

SECT 6.—(1) The trustees appointed for a society under section 4 of this Act shall be responsible for the management of the society and shall be appointed to hold office until the first election of a management committee in accordance with the rules of the society. (2) The management committee of a society shall take office on the day after the election of its elected members. The term of office of a member shall end on the day after the next such election. Every election of the management committee shall be held at the same time as the election of the regional board of the region of which the society's area consists or forms part. (3) The members of the management committee shall be the trustees of the society for so long as they hold office as such members. (4) Vacancies amongst the elected members shall be filled in accordance with the rules of the society. (5) The trustees of a society for the time being shall hold the assets of the society in trust for the purposes of the society.

7 Ordinary membership of co-operative society.

SECT 7.—(1) The first ordinary members of a society shall be— (a) the trustees appointed by the Minister under section 4 of this Act, and (b) holders of annual share certificates for the year of its establishment. (2) Any such trustee shall cease to be a member on ceasing to be a trustee. (3) The holder of an annual share certificate of a society for any year shall be an ordinary member of the society for that year on the grant of the certificate. (4) A person nominated by a corporate member of a society under section 8 of this Act shall on the grant to him of an annual share certificate for any year be an ordinary member of the society for that year.

8 Corporate membership of society.

SECT 8.—(1) Any angling club or other body may become a corporate member of a society in accordance with the rules of the society. (2) A corporate member being an angling club shall be entitled to nominate for ordinary membership of the society, without fee, such number of members of that club as may be fixed by the society in accordance with its rules. Any other corporate member shall be entitled to nominate, without fee, one ordinary member of the society. (3) In considering whether to grant recognition to an angling club or other body for the purpose of subsection (1) of this section or fixing the amount of a fee to be paid by a corporate member under that subsection particular regard shall be had to the outlay of the body concerned on fisheries development work of public benefit in the area in which the society operates.

9 Entitlement to fish for trout or coarse fish.

SECT 9.—(1) Where a society has so decided by vote of 60 per cent. of its ordinary members eligible to vote and voting, a person shall not be entitled to angle for trout or coarse fish in the area of that society unless he is— (a) the holder of a current share certificate of that or any other society established under this Act, (b) a person under the age of 18 years or of the age of 66 years or over, (c) an unemployed person in receipt of social welfare assistance, or (d) a person in receipt of an invalidity pension. (2) The society shall, upon making a decision under this section, notify the Minister who shall, as soon as may be, cause notice thereof to be published in *Iris Oifigiúil*. (3) Prima facie evidence of a decision of a society under subsection (1) of this section may be given in all legal proceedings by the production of a copy of *Iris Oifigiúil* purporting to contain a notice relating to the society under subsection (2) of this section.

10 Share certificates.

SECT 10.—(1) The categories of share certificates which may be granted by a society are— (a) an annual certificate, for which the fee shall be £12, (b) a twenty-one day certificate, for which the fee shall be £5, (c) a three-day certificate, for which the fee shall be £3. (2) The Minister may from time to time by order made with the consent of a majority of the societies and after consultation with the Minister for Finance, alter any fee under subsection (1) of this section either without limitation as to time or in respect of a specified year or years, and any such order shall take effect at the beginning of the year following that in which it is made.

11 Voting rights and ballots.

SECT 11.—(1) Only ordinary members of a society shall be entitled to vote in any ballot taken under this Act. (2) Voting for the purposes of this Act shall be by secret ballot. (3) A person, who is otherwise eligible, shall be entitled to vote if, but only if, he is ordinarily resident in Ireland. (4) (a) The first ballot for the purpose of section 9 of this Act shall be held at the same time as the first election of the society's management committee and the election of the regional board of the region of which the society's area forms part. (b) Every person holding a current annual share certificate of the society on the date specified in the rules of the society shall be entitled to vote in that ballot. (5) To be entitled to vote in any subsequent ballot a person must be the holder of a current annual share certificate of the society on the date specified in the rules of the society and be, or be deemed to be, the holder of such a certificate for any two other years since the previous ballot. (6) A decision of a society under section 9 of this Act shall have effect until the next election of its management committee and shall then cease unless at a ballot for the purposes of that section it is decided in accordance with subsection (1) of that section that the provisions of that subsection shall continue in force. (7) A ballot for the purposes of subsection (6) of this section or, if for the time being no decision is in force under section 9, a ballot for the purposes of subsection (1) of that section shall be held at the same time as an election of the society's management committee. (8) An ordinary member, whether he holds one or more than one current annual share certificate, shall be entitled to one vote only in any ballot.

12 Enforcement of regulation of fishing.

SECT 12.—(1) Where a society in whose area a decision under section 9 of this Act is in force requests the assistance of the regional board for the area in enforcing that section, it shall be a function of every authorised officer of the board to enforce the section and for that purpose he shall have all the powers conferred on authorised officers by The Principal Act and the powers conferred by subsection (3) of this section. (2) A regional board shall, as soon as may be, cause to be published in *Iris Oifigiúil* and in one or more newspapers circulating in

the area of the society, notice of the making and effect of the request made to the board under subsection (1) of this section. (3) Where a person is angling for trout or coarse fish in an area in which a decision under section 9 of this Act is in force or is in possession of a rod and line capable of being used for that purpose at a fishing place in that area or is going or returning from angling for trout or coarse fish at such a place, he shall, at the request of an authorised officer to whom subsection (1) of this section relates (on production, if demanded, of a certificate of his authority issued by the regional board of which he is such officer) give the officer his name and address and produce for his inspection, either then or at the office of the regional board within seven days of being requested to do so, a share certificate in his name current when the request was made. (4) Subsection (3) of this section shall not apply to a person to whom paragraph (b), (c) or (d) of section 9 (1) of this Act relates. (5) Where a person who was in possession of a rod and line is charged with an offence under this section consisting of a failure to produce a share certificate, it shall be a good defence to prove that he had the rod and line in his possession as a manufacturer or seller thereof and not for use. (6) A private water keeper appointed under section 294 of the Principal Act shall have no function under this section. (7) Prima facie evidence of a request made by a society under subsection (1) of this section may be given in all legal proceedings by the production of a copy of Iris Oifigiúil purporting to contain a notice under subsection (2) of this section relating to the society.

13 Grants to society.

SECT 13.—The Minister may, out of moneys provided by the Oireachtas, make payments to a society established under this Act for the purposes of the society.

14 Election of members of regional boards.

SECT 14.—(1) (a) Every ordinary member of a society for a particular year shall, if ordinarily resident in Ireland, be entitled to vote at an election held in that year for members of the regional board for the region which includes the society's area but, in the case of the election for any year subsequent to the first election after the commencement of this Act, only if he had also been an ordinary member for any two other years since the previous election. (b) Every former life member of Iontaobhas Iascaigh Intire Incorportha (The Inland Fisheries Trust Incorporated) who registered under section 58 (4) of the Fisheries Act, 1980, in the register of a regional board and who is ordinarily resident in Ireland on the date fixed under the Fisheries Act, 1980, for the receipt of nominations at an election held for members of the regional board by which the register is maintained, shall be entitled to vote at that election. (c) This subsection shall not prejudice the operation of section 13 of the Fisheries Act, 1980. (2) A person entitled to vote by virtue of this section shall be entitled to vote once and once only at an election notwithstanding the fact that he may also be a rate-payer, a member of another society in the same region, or be entitled to vote under section 12 (2) of the Fisheries Act, 1980, as amended by section 20 of the Fisheries (Amendment) (No. 2) Act, 1987. (3) For the purposes of section 12 (3) (b) (i) of the Fisheries Act, 1980 (providing for elections to regional boards), all persons who are members of a society in a particular region as trout anglers shall constitute one class and all persons who are members of any such society as coarse fish anglers shall constitute one class. (4) Section 13 of the Fisheries Act, 1980, is hereby amended by the substitution of "Ireland" for "the State" wherever that expression occurs.

15 Offences.

SECT 15.—A person who contravenes section 9 or 12 (3) of this Act shall be guilty of an offence and shall, on summary conviction, be liable to a fine not exceeding ten times the fee for an annual share certificate in force at the time of the commission of the offence.

16 Salmon rod (annual) district licences, juvenile licences and one-day licences.

SECT 16.—(1) A salmon rod ordinary licence (to be known as a salmon rod (annual) district licence) shall on payment of the licence duty provided therefor in Part I of the Fourth Schedule to The Principal Act (as inserted by the Schedule to this Act) be made available for use in the fishery district in respect of which application for the licence is made and which is specified in the licence and being a fishery district in the fisheries region of the regional board by which it was issued. (2) A salmon rod (annual) district licence shall operate to authorise the person named therein, but no other person, to use, during the period and in the fishery district specified therein, a salmon rod, subject to the provisions of The Principal Act and any instrument made thereunder. (3) Where a person applies to a regional board for the issue to him of a salmon rod (annual) ordinary licence and satisfies the board that he is for the time being under the age of 18 years and pays the licence duty provided therefor in Part 1 of the said Fourth Schedule, the board shall issue such licence (to be known as a salmon rod (annual) juvenile licence) to him. (4) Each regional board shall also make available a salmon rod (one-day) ordinary licence on payment of the licence duty provided therefor in Part 1 of the said Fourth Schedule. (5) The holder of a salmon rod (annual) ordinary licence or a composite freshwater angling ordinary licence for the year 1990 shall be entitled on application to be issued, subject to the provisions of this section, with a licence to which this section, other than subsection (4), applies free of charge for the year 1991. (6) The holder of a salmon rod (annual) ordinary licence or a composite freshwater angling ordinary licence for the years 1990 and 1991 who is issued with a licence free of charge under subsection (5) for the year 1991 shall, if the Minister in his discretion so prescribes, be refunded the duty paid for the former licence for 1991, subject to such conditions as he may prescribe. (7) The holder of a salmon rod (annual) ordinary licence or a composite freshwater angling ordinary licence for the year 1991, but not for the previous year, shall be entitled, on surrendering that licence, to be issued, subject to the provisions of this section, with a licence to which this section, other than subsection (4), applies for the year 1991 and shall, if the Minister in his discretion so prescribes, be refunded the difference between the duty for that licence and the duty for the surrendered licence, subject to such conditions as he may prescribe.

17 Amendment of section 294 of Principal Act.

SECT 17.—Section 294 of the Principal Act is hereby amended by the insertion of a new subsection as follows: "(2A) (a) An appointment shall not be confirmed unless the person concerned has been issued by the appropriate regional board with a certificate of suitability for appointment. (b) An appointment shall be for a period not exceeding five years. (c) Every appointment made before the commencement of the Fisheries (Amendment) Act, 1991, and in force at the date of the commencement thereof shall expire not later than five years after that date. (d) The form of instrument of appointment set out in the Sixth Schedule to this Act may be modified in conformity with the provisions of this subsection."

18 Amendment of Fourth Schedule to Principal Act.

SECT 18.—The Principal Act is hereby amended by the substitution for Part 1 of the Fourth Schedule thereto (inserted by section 18 of the Fisheries (Amendment) (No. 2) Act, 1987), of the Part set out in the Schedule to this Act.

19 Short title, collective citation and construction.

SECT 19.—(1) This Act may be cited as the Fisheries (Amendment) Act, 1991. (2) The Fisheries Acts, 1959 to 1987, and this Act may be cited together as the Fisheries Acts, 1959 to 1991, and shall be construed together as one Act. Section 18. SCHEDULE Amendment of Part 1 of Fourth Schedule to Principal Act "PART I Classes of Salmon Rod Ordinary Licences Kind of Engine Salmon rod (annual) ordinary licences Salmon rod (annual) district licences Salmon rod (twenty-one day) licences Salmon rod (annual) juvenile licences Salmon rod (one-day) ordinary licences (1)(2)(3)(4)(5)(6) Salmon Rod £25 £12 £10 £8 £3".