

# FISHERIES (AMENDMENT) ACT 1962

## LONG TITLE

An Act to amend the law relating to fisheries and for that purpose to amend and extend the Fisheries (Consolidation) Act, 1959, and certain other enactments. [13th December, 1962.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

### 1 Interpretation.

SECT 1.—In this Act— "the Minister" means the Minister for Lands; "Moville Area" has' the meaning assigned to it by the Foyle Fisheries Act, 1952;1952, No. 5.\* "the Principal Act" means the Fisheries (Consolidation) Act, 1959.1959, No. 14.\*

### 2 Amendment of section 3 of Principal Act.

SECT 2.—(1) Subsection (1) of section 3 of the Principal Act is hereby amended by the substitution for the definition of "deleterious matter" of the following definition: "'deleterious matter' means any substance (including any explosive, liquid or gas) the entry or discharge of which into any waters is liable to render those or any other waters poisonous or injurious to fish, spawning grounds or the food of any fish or to injure fish in their value as human food or to impair the usefulness of the bed and soil of any waters as spawning grounds or their capacity to produce the food of fish;". (2) Subsection (1) of section 3 of the Principal Act is hereby amended by the substitution in the definition of "election year of "1964" for "1961" and of "fifth" for "third"

### 3 Amendment of section 9 of Principal Act.

SECT 3.—Section 9 (which empowers the Minister to make certain bye-laws) of the Principal Act is hereby amended by— ( a ) the insertion in paragraph (b) of subsection (1) after "cease" of "including bye-laws varying the weekly close time in relation to any river or the weekly close time in relation to any fishing weir which is the subject of an order under subsection (2) of section 107 (being bye-laws which do not reduce the weekly close time to less than forty-eight hours)" ( b ) the insertion in subsection (1) after paragraph (g) of the following paragraph: "(gg) the imposition of prohibitions or restrictions of an emergency character on the taking by any specified engine or engines of the several species of fish or of any of those species for a specified period not exceeding one year in duration where, in the opinion of the Minister, such prohibitions or restrictions are necessary", and ( c ) the insertion after subsection (3) of the following subsection: "(4) Subsection (2) of this section shall not apply in relation to bye-laws made under this Act after the commencement of section 3 of the Fisheries (Amendment) Act, 1962, and if any person contravenes (whether by act or omission) any such bye-law, he shall be guilty of an offence against this Act and shall, where no other penalty is provided under this Act, be liable on summary conviction to a fine not exceeding twenty-five pounds and any fish illegally taken by him or in his possession at the time of the offence and also any fishing engine or thing by means or in respect of which the offence is committed shall, as a statutory consequence of conviction, stand forfeited."

### 4 Saving for Acts done for artificial propagation, scientific purposes or improvement of fisheries.

SECT 4.—The following section is hereby substituted for section 14 of the Principal Act: "14. (1) Subject to subsection (2) of this section, nothing in this Act or in any instrument made thereunder shall prohibit anything done by the Minister or a person previously authorised in writing by the Minister in that behalf for the purpose of the artificial propagation of fish, for some scientific purpose or for the improvement or development of any fishery. (2) Nothing shall be done pursuant to subsection (1) of this section in relation to a several fishery without the consent of the owner thereof. (3) A person authorised by the Minister under this section to do anything shall be furnished by the Minister with a certificate of such authorisation

and when doing anything pursuant to the authorisation shall, if requested by any person affected, produce the certificate to that person."

#### 5 Qualification of conservators.

SECT 5.—The following section is hereby substituted for section 25 of the Principal Act: "25. A person shall not be eligible at any particular time for election to the office of conservator for any electoral division unless, either— ( a ) he would, if an election for that electoral division were held at that particular time, be entitled under subsection (2) or (4) of section 24 to vote at the election, or ( b ) (i) he is the rated occupier of a fishery of which the rateable value is less than fifty pounds and which is in the fishery district which includes that electoral division, and (ii) he has paid the fishery rate in respect thereof for the fishery year immediately preceding the year in which the election for such office takes place and the amount thereof is not less than one pound."

#### 6 Amendment of section 27 of Principal Act.

SECT 6.—Section 27 (which provides for elections to boards of conservators) of the Principal Act is hereby amended by the substitution for subsection (5) of the following subsection: "(5) ( a ) The Minister may make such regulations as he thinks proper in relation to elections of members of boards of conservators and every such election shall be carried out in accordance with the regulations (if any) made under this subsection. ( b ) Without prejudice to the generality of paragraph (a) of this subsection, regulations under this subsection may provide for— (i) nomination of candidates for election as members of boards of conservators, (ii) postal voting at elections of members of boards of conservators. ( c ) Regulations under this subsection may amend or repeal any provision of this section (other than this subsection) and, if regulations amending or repealing any provision of this section are made under this subsection, this section shall be construed and have effect subject to such amendment or repeal, as the case may be."

#### 7 Amendment of section 33 of Principal Act.

SECT 7.—Section 33 (which provides for the filling of casual vacancies in the membership of boards of conservators) of the Principal Act is hereby amended by the addition thereto of the following subsection: "(3) A member of a board of conservators who is disqualified under section 31 shall not be eligible for election to any board of conservators under this section before the date of the election of conservators under section 27 to the last mentioned board next following the date of the disqualification."

#### 8 Amendment of section 49 of Principal Act.

SECT 8.—Section 49 (which relates to the Salmon Conservancy Fund) of the Principal Act is hereby amended by the insertion in paragraph (a) of subsection (9) after subparagraph (i) of the following subparagraph: "(ia) such sums as he thinks proper towards the expenses of the inland fisheries consultative and advisory body known as the Council of Boards of Fishery Conservators,"

#### 9 Extension of powers of Court under sections 78 and 90 of Principal Act.

SECT 9.—(1) Where, pursuant to the powers conferred on it by section 78 or section 90 (Which sections provide for the forfeiture of certain fishing licences), as amended by subsection (2) of this section, of The Principal Act, a Court directs a fishing licence or an oyster fishing licence, as the case may be, to be forfeited, the Court 'may, in addition, declare that the holder of the licence directed to be forfeited shall be disqualified for holding- any such licence during such period not exceeding one year as the Court may specify and, where the Court declares that a person shall be disqualified for holding a licence of any particular kind, the holder shall be disqualified for holding a licence of that kind during the period specified by the Court and, notwithstanding anything contained in sections 71, 76 and 280 of The Principal Act, a licence of that kind shall not be issued to such holder in respect of the period specified by the Court. (2) section 90 of the Principal Act is hereby amended by— ( a ) the substitution in subsection (1) of "fishing licence or licences or an oyster fishing licence or licences" for "licence or licences to fish

for salmon or trout", and ( b ) the insertion after subsection (2) of the following subsection: "(3) Where a person who is not the holder of a fishing licence or an oyster fishing licence is convicted of an offence under any provision of this Act, the Court by whom the person is convicted may, in addition to any other penalty, declare that the person shall be disqualified for holding a fishing licence or an oyster fishing licence during such period not exceeding one year as the Court may specify and, where the Court declares that a person shall be disqualified for holding a licence of any particular kind, the person shall be disqualified for holding a licence of that kind during the period specified by the Court and, notwithstanding anything contained in sections 71, 76 and 280 of this Act, a licence of that kind shall not be issued to such person in respect of the period specified by the Court."

#### 10 Possession of nets, etc, for purposes of section 96 of Principal Act.

SECT 10.—Where a person is charged with an offence under section 96 (which restricts the possession of illegal nets and instruments) of the Principal Act in relation to a net, other instrument, lure or bait found on his person or in a boat or vehicle belonging to, or on any lands, tenements or hereditaments occupied by, him, he shall (unless he satisfies the Court that, without his knowledge or consent, another person put the net, other instrument, lure or bait, as the case may be, in the place where it was found) be deemed, for the purposes of the said section 96, to have in his possession or control the net, other instrument, lure or bait, as the case may be.

#### 11 Use of fixed engines for the capture of eels.

SECT 11.—The Minister may by bye-law authorise, subject to such conditions as he thinks proper, the placing, erection, fishing with and use of any fixed engine for the capture of eels, at any specified place in tidal waters and, where a bye-law under this section is in force, then, notwithstanding anything contained in sections 102 and 103 (which prohibit the placing or use of fixed engines in certain places) of The Principal Act, the placing, erection, fishing with or use, in accordance with the conditions (if any) specified in the bye-law, of any fixed engine for the capture of eels at the place, shall not be an offence under the said section 102 or 103.

#### 12 Guiding walls.

SECT 12.—(1) The Minister may, if he so thinks fit and subject to such conditions (if any) as he may specify, grant exemption either for a limited time or without limitation as to time in relation to a specified fishing weir or fishing mill dam used solely for the capture of eels from the provisions of Section 114 (which relates to the construction of guiding walls appurtenant to fishing weirs and fishing mill dams) of The Principal Act. (2) The Minister may, at any time, revoke or amend an exemption given under this section.

#### 13 Amendment of section 139 of Principal Act.

SECT 13.—Section 139 (which defines "the weekly close time") of the Principal Act is hereby amended by the substitution for subsection (2) of the following subsection: "(2) Where bye-laws under section 9 are in force varying the weekly close time referred to in subsection (1) or (3) of this section, references in this Act to that weekly close time shall be construed as references to that weekly close time as so varied."

#### 14 Application for certificate of fitness to hold Part X licence.

SECT 14.—(1) A person making an application to a District Justice under section 158 (which provides for the granting by the District Court of a certificate of fitness to hold a Part X licence) of The Principal Act for a certificate under that section in relation to a salmon dealer's or salmon exporter's licence shall give notice in writing of the application to the board of conservators for each fishery district in which he carries on or proposes to carry on the business of selling or exporting (as the case may be) salmon and trout not less than fourteen days before the date of the hearing of the application and each such board shall, through its clerk or other officer nominated by the board for the purpose, be entitled to appear in Court and be heard on the hearing of the application. (2) For the purposes of subsection (1) of this section

the Moville Area shall be deemed to be a fishery district and the Foyle Fisheries Commission shall be deemed to be the board of conservators therefor.

15 Amendment of section 163 of Principal Act.

SECT 15.—Section 163 (which provides for the keeping of registers by dealers in and exporters of salmon and trout) of the Principal Act is hereby amended by— ( a ) the insertion after subsection (3) of the following subsection "(3A) It shall be the duty of every holder of a Part X licence to preserve and retain any register kept by him in pursuance of this section for a period of six months after the expiration of the latest year in which an entry was made in that register", and ( b ) the insertion in subsection (4) after paragraph (c) of the following paragraph: "( cc ) fails to comply with the provisions of subsection (3A) of this section, or".

16 Penalty for use or possession of deleterious matter.

SECT 16.—The following section is hereby substituted for section 164 of the Principal Act: "164. (1) If any person uses in any waters any deleterious matter for the capture, destruction or injury of fish he shall be guilty of an offence under this section. (2) If any person being on the bank of or near any waters has in his possession or under his control any deleterious matter he shall be guilty of an offence under this section. (3) It shall be a good defence to a charge under subsection (2) for the defendant to prove that the deleterious matter was in his possession or under his control for an innocent purpose. (4) Every person guilty of an offence under this section shall be liable— ( a ) on summary conviction, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment, ( b ) on conviction on indictment, to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment. (5) Subsection (1) of section 1 of the Probation of Offenders Act, 1907, shall not apply in relation to an offence under this section. 1907, c. 17.\* (6) 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."

17 Amendment of section 166 of Principal Act.

SECT 17.—(1) Section 166 (which provides a penalty for using certain instruments for taking fish) of the Principal Act is hereby amended by— ( a ) the insertion in subsection (1) after "strokehaul," of "snare, tailer," and ( b ) the insertion in paragraph (a) of subsection (3) before "gaff" of "tailer or". (2) Where a person is charged with an offence under the said section 166 in relation to an instrument to which that section applies found on his person, in a boat or vehicle belonging to, or on any lands, tenements or hereditaments occupied by, him, he shall (unless he satisfies the Court that, without his knowledge or consent, another person put the instrument in the place where it was found) be deemed, for the purposes of the said section 166, to have the instrument in his possession or control.

18 Amendment of section 172 of Principal Act.

SECT 18.—Section 172 (which provides for the protection of water from pollution) of the Principal Act is hereby amended by— ( a ) the deletion of subsection (1), and ( b ) the substitution of "deleterious matter" for "deleterious liquid" in subsection (2).

19 Amendment of section 219 of Principal Act.

SECT 19.—(1) section 219 (which contains definitions for the purposes of Part XIII of the Principal Act) of The Principal Act is hereby amended by the substitution for the definition of "Irish sea-fishing boat" of the following definition: "'Irish sea-fishing boat' means a sea-fishing boat which either— ( a ) (i) is registered in the State under Part IV of the Merchant Shipping Act, 1894, and 1894, c. 60.\* (ii) in the case of a boat becoming registered under the said Part IV after the 1st day of July, 1962, and exceeding thirty-five feet over all in length, is registered under the Mercantile Marine Act, 1955, 1955 No. 29.\* or ( b ) (i) is exempted from registration under the said Part IV by regulations under section 373 of the Merchant

Shipping Act, 1894, and (ii) is wholly owned by an Irish citizen or a body corporate established under and subject to the law of the State and having its principal place of business in the State;" (2) There may be prescribed from time to time, if the Minister so thinks fit, a number of feet other than thirty-five for the purposes of the definition of "Irish sea-fishing boat" (inserted by this section) in section 219 of the Principal Act and, where a number of feet stands prescribed under this subsection, the reference in the said definition to thirty-five shall be deemed to be a reference to that number and the definition shall be construed and have effect accordingly. (3) A certificate under the hand of the registrar of ships for the purposes of the Merchant Shipping Act, 1894, and the Mercantile Marine Act, 1955, at any port of registry in the State that a boat specified in the certificate is not registered in accordance with paragraph (a) of the definition of "Irish sea-fishing boat" (inserted by this section) in section 219 of the Principal Act at that port of registry shall be conclusive evidence that the boat is not so registered and certificates as aforesaid in relation to every port of registry in the State shall be conclusive evidence that the boat is not so registered in the State and it shall not be necessary to prove the signature of a registrar or that he was in fact a registrar.

20 Restriction of section 10 of Petty Sessions (Ireland) Act, 1851.

SECT 20.—Paragraph 4 (which prescribes time limits for the making of complaints in cases of summary jurisdiction) of section 10 of the Petty Sessions (Ireland) Act, 1851, shall not apply to a complaint in respect of an offence under section 221, 222 or 223 of The Principal Act. 1851, c. 93.\*

21 Amendment of section 228 of Principal Act.

SECT 21.—Section 228 (which prohibits having undersized sea-fish in possession for sale on board a sea-fishing boat) of the Principal Act is hereby amended by the insertion in subsection (3) after "destroyed" in both places where it occurs of "or returned to the sea".

22 Amendment of section 229 of Principal Act.

SECT 22.—Section 229 (which prohibits the landing or selling of undersized sea-fish) of the Principal Act is hereby amended by— ( a ) the insertion in subsection (3) after "destroyed" in both places where it occurs of "or returned to the sea", and ( b ) the insertion in paragraph (a) of subsection (4) after "shop" of "or in any store, storage pond, container or other place or thing where fish are kept".

23 Amendment of section 231 of Principal Act.

SECT 23.—Section 231 (which confers powers of inspection and detention on sea fisheries protection officers) of the Principal Act is hereby amended by— ( a ) the insertion of the following subsection after subsection (3): "(3A) Where a sea fisheries protection officer detains in his custody under the authority of this section any live sea-fish, he may produce the sea-fish to a Peace Commissioner and, if authorised so to do by the Peace Commissioner, shall return the sea-fish to the sea.", and ( b ) the insertion in subsection (4) after "destroyed" of "or returned to the sea" and after "destroy the sea-fish" of "or return the sea-fish to the sea, as the case may be".

24 Use of boat or vehicle as aid to commission of offence.

SECT 24.—(1) The Principal Act is hereby amended by the insertion in Part XVII before section 286 of the following section: " 285A. (1) If any person uses a boat or vehicle as an aid to the commission of an offence under any provision of this Act or any Act amending this Act or of an instrument made under this Act or any Act amending this Act he shall be guilty of an offence under this section and shall be liable— ( a ) on summary conviction, to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment, ( b ) on conviction on indictment, to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment. (2) ( a ) Subject to paragraph (c) of this subsection, where a person is convicted of an offence under any provision of this Act or any Act amending this Act or of an instrument made under this Act or any Act amending this Act, any boat used in the commission or as an

aid to the commission of the offence shall, as a statutory consequence of conviction, stand forfeited. ( b ) Where a person is convicted on indictment of an offence under any provision of this Act that is triable on indictment, any vehicle used in the commission or as an aid to the commission of the offence may be forfeited by order of the Court. ( c ) Paragraph (a) of this subsection shall not apply in relation to a boat used by a person who is not the owner thereof if the owner proves that such use was without his knowledge or consent. (3) This section does not apply to offences under Part XIII of this Act or section 35 of the Fisheries (Amendment) Act, 1962." (2) Subsection (2) of Section 285A (inserted by this section) of The Principal Act shall have effect as respects offences committed after the commencement of this section.

#### 25 Amendment of section 301 of Principal Act.

SECT 25.—Section 301 (which confers powers of inspection and detention on authorised officers) of the Principal Act is hereby amended by— ( a ) the insertion in paragraph (b) of subsection (2) after subparagraph (iv) of the following subparagraph: "(iva) any hotel, guest house, restaurant, or other premises or place at which board and lodging or meals are provided for reward, or", and ( b ) the insertion in subsection (2) after paragraph of the following paragraph: "(ff) to take, remove and detain in his custody any boat or vehicle liable or believed to be liable to forfeiture under this Act,".

#### 26 Procedure for disposal of boat or fishing engine seized.

SECT 26.—The following section is hereby substituted for section 302 of the Principal Act: " 302. Where a person, in exercise of the powers conferred on him by this Part, seizes any boat or fishing engine, he shall, as soon as may be, apply to the District Justice in whose district it was seized for an order for its disposal under this section and thereupon the following provisions shall have effect: ( a ) if, in the case of a boat, the Justice finds that, at the time of its seizure, it had been, was being, or, was about to be, used for a purpose which under this Act is unlawful, he shall order it to be forfeited ; ( b ) if, in the case of a fishing engine, the Justice finds that it is one the use of which is prohibited by law, he shall order it to be forfeited and destroyed ; ( c ) if, in the case of a fishing engine, the Justice finds that it is- a lawful fishing engine which at the time of its seizure had been, was being, or was about to be, unlawfully used, he shall order it to be forfeited ( d ) in any other case, the Justice shall order the boat or fishing engine to be, returned to the person who appears to him to be the owner thereof."

#### 27 Evidence of identity of persons producing licences.

SECT 27.—Any person who produces to an authorised person a fishing licence or an oyster fishing licence, as the case may be, shall on demand furnish the authorised person then and there, or as soon as may be thereafter with evidence of his identity and, in default, the person shall be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding twenty-five pounds.

#### 28 Restriction on purchase of salmon and trout.

SECT 28.—(1) Subject to the provisions of subsection (2) of this section, a person who is not the holder, or the agent duly authorised in writing in that behalf of the holder, of a Part licence for the time being in force and who buys salmon or trout shall be guilty of an offence and shall be liable on summary conviction to a fine, not exceeding one hundred pounds in all, of an amount not exceeding fifty pounds together with an amount not exceeding five pounds, for each salmon and ten, shillings for each trout in respect of which the offence is committed and any fish in respect of which the offence is committed shall, as a statutory consequence of conviction, stand forfeited. (2) Subsection (1) of this section shall not apply in relation to— ( a ) the bona fide purchase by or on behalf of a person of salmon or trout for use by the person in his own home, or ( b ) the bona fide purchase of salmon or trout by or on behalf of any person for use for catering purposes in premises in which he carries on the business of a hotel, restaurant or guest house or of providing board and lodging or meals for reward if the purchase made from— (i) the holder of a salmon dealer's licence (within the meaning of the said Part X) for the time being in force, or (ii) a fisherman who is lawfully engaged in taking and killing salmon or trout, as the case may be, and who (where the purchase includes any salmon) is the holder of a fishing licence which is for the time being in

force and is available for use for the taking and killing of salmon in the fishery district in which the salmon is taken or killed, and, in the case of a purchase from a fisherman, the purchaser-, (I) obtains from the fisherman a statement in Writing containing his name and address and (where the purchase includes any salmon) the number of his fishing licence and stating that the salmon or trout, as the case may be, is of his own, lawful capture, and (II) retains the statement and produces it to an inspector when requested by the inspector to do so. (3) A person who is buying salmon or trout and purports to be acting as an agent of the holder of a Part X licence shall produce on demand by the inspector his authorisation to act as such agent and if he refuses or fails to produce his authorisation or, on the production thereof, refuses or fails to permit the inspector to read the authorisation there and then, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds. (4) A person who when the production of his authorisation aforesaid is lawfully demanded of him under this section does not produce the authorisation because he is not the holder of an authorisation shall be deemed to refuse or fail to produce his authorisation within the meaning of this section. (5) Where, pursuant to subsection (2) of this section, a person (in this subsection referred to as the vendor) selling salmon or trout to another person gives to that other person a statement in writing which, or any part of which, is, to the knowledge of the vendor, false or misleading, the vendor shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds. (6) In this section— "inspector" — ( a ) in the case of the exercise by an inspector of powers under this section in the Moville Area, means an inspector appointed under section 55 of the Foyle Fisheries Act, 1952, and ( b ) in any other case, has the meaning assigned to it by Part X of the Principal Act; "Part X licence" has the meaning assigned to it by Part X of The Principal Act.

29 Powers in relation to fishing for salmon at sea and landing and possession of salmon caught at sea.

SECT 29.—(1) The Minister may by order— ( a ) prohibit, restrict or otherwise control— (i) fishing for salmon at sea, and (ii) the landing of salmon caught at sea, and ( b ) prohibit, restrict or otherwise 'control the having in possession of salmon caught or landed contrary to an order under this section. (2) An order under this section restricting or otherwise controlling fishing for salmon may, as respects any particular place to which the order applies, prescribe— ( a ) the classes of persons to whom there may be issued fishing licences within the' meaning of The Principal Act for fishing for salmon in that place, the classes of boats and the kind of fishing engines in respect of which such licences for fishing in that place may be issued, ( b ) the maximum number of such licences which may be issued in any year by the board or boards of conservators for that place, ( c ) the time and manner of application for such licences, and ( d ) the manner in which such licences shall be allocated in any case where the number of valid applications for licences to a board of conservators for that place in any year exceeds the number prescribed under paragraph (b) of this subsection in respect of that year in relation to that board, and, notwithstanding anything contained in The Principal Act, a fishing licence shall not be issued in contravention of a provision of an order under this section. (3) The Minister may except from the provisions of an order under this section fishing in any particular place or by any Particular method and the landing and having in possession of salmon caught in a place or by a method so excepted. (4) A person who contravenes a provision of an order under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment and any salmon caught or landed, and fishing gear used, in contravention of the provisions of the order shall, as a statutory consequence of conviction, stand forfeited and any boat used in contravention of the provisions of the order and any other fish and fishing gear found on board the boat shall, if the Court so orders, be forfeited. (5) The Minister may by order revoke or amend an order under this section, including an order under this subsection.

30 Provision in relation to Moville Area.

SECT 30.—(1) Sections 102, 103 and 114 and Parts XIII to XVI (which provisions relate to sea fisheries and certain other matters) of The Principal Act shall (notwithstanding section 325 of that Act) extend to the Moville Area and, for the purpose of giving full effect to the said provisions, every other provision of The Principal Act or of this Act which is applicable in relation to any of the said provisions shall also extend to that Area. (2) The provisions of the Fisheries Acts, 1842 to 1958, corresponding to the said extended provisions of The Principal Act shall, in so far as they continued to be in force in the Moville

Area by reason of the operation of section 325 of that Act, cease to be in force. (3) Section 29 of this Act shall not extend to the Merville Area.

### 31 Amendment of Fourth Schedule to Principal Act.

SECT 31.—The Fourth Schedule (which relates to the duties on fishing licences) to the Principal Act is hereby amended by the insertion in Part II of that Schedule of "13 Coghill net for eels 2 0 0"

### 32 Alteration of certain penalties under Principal Act.

SECT 32.—(1) A person convicted of an offence for which a penalty is provided in any section of the Principal Act specified in column (2) of the Table to this section at any reference number shall, in lieu of so much of the penalty so provided as consists of a fine, imprisonment (whether with or without hard labour), a fine or imprisonment (whether with or without hard labour), or a fine and imprisonment (whether with or without hard labour), be liable to the appropriate penalty specified in column (3) of the Table to this section at that reference number and that section shall be construed and have effect accordingly. (2) Any person guilty of an offence against a bye-law in relation to which subsection (2) of section 9 of the Principal Act applies and which is made before the commencement of this section shall (notwithstanding anything contained in the said subsection (2)) be liable on summary conviction, in lieu of any fine provided for by the bye-law but in addition to any forfeiture provided for therein, to a fine not exceeding twenty-five pounds, and any fish illegally taken by him or in his possession at the time of the offence, shall, as a statutory consequence of conviction, stand forfeited. (3) section 221 of the Principal Act is hereby amended by the deletion in subsection (2) of " , 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," and of "(whether the offence is a first offence or not)". (4) section 222 of the Principal Act is hereby amended by the deletion in subsection (3) of " , 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" and of "(whether the offence is a first offence or not)". (5) section 223 of the Principal Act is hereby amended by— ( a ) the substitution in subsection (2) of "to a fine not exceeding one hundred pounds" for " , 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", ( b ) the substitution in subsection (3) of "or fish by means of or in relation to" for "by means of", and ( c ) the substitution of "second" for "third" in paragraph (a) of subsection (4), and of "any previous offence" for "the previous offences" in paragraph (b) of that subsection. (6) The Third Schedule to The Principal Act shall have effect as if— ( a ) "twenty-five pounds" were substituted for "twenty pounds" in clause (d) of subparagraph (3) of paragraph 11, and ( b ) "twenty-five pounds" were substituted for "five pounds" in subparagraph (3) of paragraph 13. (7) Where a person is convicted of an offence under The Principal Act or any Act amending The Principal Act in relation to which provision is not made (apart from this section) for the forfeiture on conviction of any fish in respect of which the offence is committed, any fish in respect of which the offence is committed shall, as a statutory consequence of conviction, stand forfeited. (8) This section shall have effect as respects offences committed after the commencement of this section. TABLE. Ref. No. Section Penalty (1) (2) (3) 1. 12, 13, 153, 162, 178, 179, 180, 181, 237, 238, 239, 240, 241, 242, 243, 253, 255, 265, 273, 274, 285, 286, 287, 288, 289, 290, 291, 308, 304, 306. A fine not exceeding twenty-five pounds. 2. 17, 91, 92, 93, 105, 106, 112, 113, 119, 120, 121, 122, 125, 130, 140, 141, 143, 144, 145, 146, 152, 163, 167, 168, 169, 294, 298. A fine not exceeding fifty pounds. 3. 69, 123, 128, 129. A fine not exceeding fifty pounds and in the case of a continuing offence, a further fine (not exceeding fifty pounds in all) not exceeding ten pounds for each day during which the offence is continued. 4. 100. A fine not exceeding one hundred pounds and, in the case of a continuing offence, a further fine (not exceeding one hundred pounds in all) not exceeding ten pounds for each day during which the offence continues after conviction thereof. 5. 111. A fine not exceeding fifty pounds and a further fine (not exceeding fifty pounds in all) not exceeding one pound per day until the defendant restores the bed of the river in respect of which the offence under the said section 111 is committed to its original state. 6. 124. A fine not exceeding fifty pounds and a further fine (not exceeding fifty pounds in all) not exceeding ten pounds for each day during which the neglect referred to in the said section 124 continues. 7. 172. A fine not exceeding fifty pounds and a farther fine (not exceeding fifty pounds in all) not exceeding ten pounds for each day during which the failure referred to in the said



section 172 continues.8.127, 134, 135, 136, 137, 138, 177.A fine, not exceeding one hundred pounds in all, of an amount not exceeding fifty pounds together with an amount not exceeding five pounds for each salmon and ten shillings for each other fish in respect of which the offence under the section is committed.9.94.A fine, not exceeding one hundred pounds in all, of an amount not exceeding fifty pounds together with an amount not exceeding five pounds for each salmon and ten shillings for each other fish caught by means of any net used in the commission of the offence under the said section 94.10.95, 96, 131, 132, 165, 166, 170, 173, 174, 183, 231, 233, 236, 301, 308.A fine not exceeding fifty pounds or, at the discretion of the Court, imprisonment for any term not exceeding six months or both such fine and such imprisonment.11.97, 99, 102, 103, 104, 107, 110, 114, 116, 171.A fine not exceeding one hundred pounds or, at the discretion of the Court, imprisonment for any term not exceeding six months or both such fine and such imprisonment.12.156, 157, 176, 182.A fine, not exceeding one hundred pounds in all, of an amount not exceeding fifty pounds together with an amount not exceeding five pounds for each salmon and ten shillings for each other fish in respect of which the offence under the section is committed or, at the discretion of the Court, imprisonment for a term not exceeding six months or both such fine and such imprisonment.

### 33 Bye-Laws under Principal Act.

SECT 33.—Notwithstanding anything contained in the Principal Act, the Minister may, if he so thinks fit— ( a ) make a bye-law, without previously having held an inquiry into the feasibility of making the bye-law, under any provision of The Principal Act empowering him to make a bye-law, and ( b ) make a bye-law, without an application having been made to the Minister to have an inquiry held into the feasibility of making the bye-law— (i) altering the period (provided that it has been fixed not less than three years previously) 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, or (ii) under section 272 of the.

### 34 Amendment of section 8 of the Maritime Jurisdiction Act 1959.

SECT 34.—Section 8 (which empowers the Minister to authorise fishing by foreign boats within the exclusive fishery limits of the State) of the Maritime Jurisdiction Act, 1959, is hereby amended by the deletion in subsection (1) of "for experimental purposes in connection with sea-fishing,".

### 35 Conservation of fish stocks and rational exploitation of fisheries.

SECT 35.—(1) Where the Minister, having regard to any international agreement to which the State is a party, is satisfied that it is necessary so to do, the Minister may by order prescribe and adopt such measures of conservation of fish stocks and rational exploitation of fisheries as the Minister thinks proper. (2) Every person who contravenes or attempts to contravene any provision of an order under this section shall be guilty of an offence and shall on summary conviction be liable to a fine not exceeding one hundred pounds and the provisions of Chapter IV of Part XIII of The Principal Act shall apply to any such offence as if, for references therein to an offence under that Part, there were substituted references to an offence under this section. (3) Where a person is convicted of an offence under this section, any fishing gear or fish by means of or in relation to which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (4) Where a second 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 the boat is at the time of the commission of the offence owned or part owned by a person who was the owner or part owner of the boat on the occasion of the commission of any previous offence, the Court may, in addition to any other penalty or penalties under this section, order the boat to be forfeited. (5) A sea fisheries protection officer shall, for the purpose of enforcing an order under this section, have in relation to any sea-fishing boat and the owner, master or crew thereof the like powers as are conferred upon a sea fisheries protection officer by subsection (1) of section 233 of the Principal Act and the provisions of that section and of section 234 of that Act shall apply accordingly. (6) The Minister may by order revoke or amend an order under this section, including an order under this

subsection. (7) In this section "master", "sea-fishing boat" and "sea fisheries protection officer" have the meanings assigned to them by Part XIII of The Principal Act.

36 Laying of orders before Houses of Oireachtas.

SECT 36.—Every order made by the Minister 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 the order is passed either such House within the next subsequent 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 anything previously done thereunder.

37 Repeals.

SECT 37.—Sections 133, 147, paragraph (b) of subsection (1) of section 151 and subsection (2) of section 230 of the Principal Act are hereby repealed.

38 Short title, collective citation, construction and commencement.

SECT 38.—(1) This-Act may be cited as the Fisheries'(Amendment) Act, 1962. (2) The Principal Act and this Act may be cited together as the Fisheries Acts, 1959 and 1962. (3) The Principal Act and this Act shall be construed together as one. (4) This Act shall come into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions.