

Fisheries (Amendment) Act, 1999

Number 35 of 1999

FISHERIES (AMENDMENT) ACT, 1999

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Acts Referred to

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Number 35 of 1999

FISHERIES (AMENDMENT) ACT, 1999

AN ACT TO AMEND THE FISHERIES ACT, 1980, IN RELATION TO THE COMPOSITION AND FUNCTIONS OF THE CENTRAL FISHERIES BOARD AND REGIONAL FISHERIES BOARDS, TO MAKE CERTAIN CHANGES TO THEIR PROCEDURES, TO PROVIDE FOR THE ESTABLISHMENT OF THEIR COMMITTEES, TO PROVIDE FOR THE TRANSFER OF ASSETS BETWEEN THE BOARDS, TO PROVIDE FOR THE ESTABLISHMENT OF A NATIONAL

SALMON COMMISSION TO ADVISE THE MINISTER ON MATTERS RELATING TO THE NATIONAL SALMON RESOURCE, TO PROVIDE FOR A SCHEME FOR THE TAGGING OF WILD SALMON AND SEA TROUT, TO AMEND THE FISHERIES (AMENDMENT) ACT, 1991, TO PROVIDE FOR THE APPOINTMENT OF MANAGEMENT COMMITTEES OF FISHERIES CO-OPERATIVE SOCIETIES AND FOR RELATED PURPOSES, TO MAKE CONSEQUENTIAL AMENDMENTS TO THE FISHERIES (CONSOLIDATION) ACT, 1959, TO AMEND THE MARINE INSTITUTE ACT, 1991, TO WAIVE THE PAYMENT OF ACCRUED INTEREST ON CERTAIN WAIVED ADVANCES OF AN BORD IASCAIGH MHARA, AND TO PROVIDE FOR RELATED MATTERS. [17th December, 1999]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Preliminary and General

Short title,
commencement,
construction and
collective citation.

1.—(1) This Act may be cited as the Fisheries (Amendment) Act, 1999 .

(2) 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 for it to come into operation, either generally or with reference to a particular purpose or provision, and different days may be so fixed for different purposes and different provisions.

(3) The Fisheries Acts 1959 to 1998, and this Act shall be construed together as one and may be cited together as the Fisheries Acts, 1959 to 1999.

Interpretation.

2.—(1) In this Act—

“Act of 1980” means Fisheries Act, 1980;

“functions” includes powers and duties;

“Minister” means Minister for the Marine and Natural Resources.

(2) In this Act—

(a) a reference to any other enactment shall, except to the extent that the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act,

(b) a reference to a section or Part is a reference to a section or Part of this Act, unless it is indicated that reference to some other enactment is intended, and

- (c) a reference to a subsection, paragraph or subparagraph is a reference to a 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.

PART 2

Amendment of Act of 1980

Amendment of
section 2(2) of Act
of 1980.

3.—Section 2(2) of the Act of 1980 is hereby amended by the substitution for all words before “nothing in this Act” of “(2) Apart from section 18A(1) of this Act, in so far as it enables the Minister to give directions for the protection of molluscs, and paragraph (e) of section 11(1),”.

Amendment of
section 5(1) of Act
of 1980.

4.—Section 5(1) of the Act of 1980 is hereby amended by the substitution for “54,55” of “55A,55C,55D”.

Functions of
Central Board.

5.—The Act of 1980 is hereby amended by the substitution of the following for section 8:

“8.—(1) The general functions of the Central Board are to promote, support, facilitate, and co-ordinate where necessary, and to advise the Minister on policy relating to, the conservation, protection, management, development and improvement of inland fisheries and the efficient and effective performance by the regional boards of their functions under this Act.

(2) Without prejudice to the generally of subsection (1), the Central Board shall—

- (a) provide and undertake such co-ordination, specialist and support services to or for regional boards as are necessary for the efficient performance by the regional boards of their functions,
- (b) co-ordinate and consult with the regional boards on the preparation and regular review of national inland fisheries development plans, incorporating regional inland fisheries development plans, and submit such plans to the Minister for the Minister's consideration in such form and at such intervals as the Minister may require,
- (c) administer such schemes, grants and other financial facilities requiring the disbursement of European Union and such other funds as may from time to time be authorised by the Minister with the consent of the Minister for Finance,
- (d) support, and co-ordinate where necessary, the angling promotion and marketing activities of the regional boards in respect of their fishery regions, and co-operate and co-ordinate with Bord Fáilte in developing international promotion and marketing strategies and

activities in relation to game, coarse and sea tourism angling,

- (e) undertake the efficient and effective management, conservation, protection, development and improvement of any fishery, hatchery or fish farm in its possession or occupation in accordance with the directions, if any, of the Minister, and
- (f) in the performance of its functions, have regard to the need for the sustainable development of the inland fisheries resource (including the conservation of fish and other species of fauna and flora habitats and the biodiversity of inland water ecosystems) and as far as possible ensure that its activities are carried out so as to protect the national heritage, within the meaning of the Heritage Act, 1995 .

(3) The Central Board may provide education courses or facilities for training or otherwise instructing persons in matters relating to the management, conservation, protection, development or improvement of fisheries and charge such fees for the provision of those courses or facilities as it thinks fit.

(4) The Central Board may provide such services for the management, conservation, protection, development, improvement or promotion of fisheries or matters relating to fisheries, and charge such fees in respect of the provision of those services (other than those provided for a regional board or the Minister), as it thinks fit.

(5) (a) The Central Board may, in relation to an inland fishery, carry out such research or experimental work as it considers necessary for the performance of its functions but this paragraph shall not be construed as enabling the Board to carry out research or experimental work on or in relation to any species of sea-fish, within the meaning of Part XIII of the Principal Act, other than research similar or analogous to research in relation to sea-fish being carried on by the Central Board immediately before the commencement of *section 5 of the Fisheries (Amendment) Act, 1999*.

(b) In the carrying out of work under paragraph (a) of this subsection the Central Board shall, as appropriate, co-operate with any regional board in whose region the fishery is situated and shall also co-operate and co-ordinate, as appropriate, with the Marine Institute.

(6) For the purposes of performing its functions under this Act, but subject to the directions, if any, of the Minister, the Central Board may enter into such partnership or other arrangements with such persons or bodies as it thinks fit.

(7) The Central Board may make recommendations to the Minister as to the exercise by the Minister of the powers conferred on the Minister by section 29 of the Fisheries (Amendment) Act, 1962 , the levels of fishery rates and fishery licence duties payable under the *Fisheries Acts, 1959 to 1999*.

(8) The Minister may, if he or she thinks fit, authorise the Central Board to engage in the processing and marketing of such species of fish as are specified in the authorisation.

(9) The Central Board shall have regard to the particular role and contribution of angling clubs and associations in the sustainable management and development to the public benefit of State, public and other inland fisheries.”.

Committees of
Central Board.

6.—The Act of 1980 is hereby amended by the insertion of the following after section 8:

“8A.—(1) The Central Board may establish committees to assist and advise it in relation to the performance of its functions.

(2) A committee may, if the Board thinks fit, include amongst its members persons who are not members of the Board.

(3) The Central Board shall appoint a member of the Board to be the chairperson of a committee.

(4) The Central Board may at any time dissolve a committee.

(5) The Central Board may regulate the procedure of its committees but, subject to any such regulation, a committee may regulate its own procedure.”.

Amendment of
section 10 of Act of
1980.

7.—(1) Section 10 of the Act of 1980 is hereby amended—

(a) in subsection (4)(a), by the substitution of the following for subparagraph (ii):

“(ii) subject to paragraph (ab) of this subsection and subsections (5) and (6) of this section, not more than 8 shall be appointed by the Minister after such consultation as the Minister considers appropriate, and

(iii) one shall be a member of the staff of the regional board nominated by the staff of the board.”,

(b) in subsection (4), by the insertion of the following before paragraph (b):

“(aa) (i) The Minister shall prescribe not less than 2 organisations which, in the Minister's opinion, are representative of each of the following classes of organisation:

(A) organisations which, in the Minister's opinion, are concerned with the promotion of the development of aquaculture or are representative of persons carrying on the business of developing aquaculture;

(B) organisations which, in the Minister's opinion, are representative of persons whose professions or occupations relate to agriculture;

- (C) organisations which, in the Minister's opinion, are representative of persons concerned with the protection and preservation of the environment;
 - (D) organisations which, in the Minister's opinion, are concerned with the promotion of regional tourism;
 - (E) organisations which, in the Minister's opinion, are concerned with the protection and preservation of the national heritage within the meaning of the Heritage Act, 1995 ; and
 - (F) organisations which, in the Minister's opinion, are concerned with the promotion of regional or local development.
- (ii) The Minister shall appoint as members of a regional board from amongst those persons nominated by each of the classes of organisations prescribed under subparagraph (i) one member to represent each class of organisation, or in default of such nominations after the Minister has given each a reasonable opportunity to do so, then from among such persons as the Minister thinks fit.
- (iii) An organisation prescribed under subparagraph (i) shall, whenever so requested by the Minister, select such number of candidates (not being less than 2, of whom one shall be a woman) as the Minister may specify for appointment as members of a regional board and shall inform the Minister of the names of the candidates selected and of the reasons why, in the opinion of the organisation, they are suitable for such appointment.
- (iv) The Minister shall not appoint a person to be a member unless the person was amongst those selected pursuant to a request under subparagraph (iii) in relation to that appointment, but—
- (A) if all of the appropriate organisations refuse or fail to select any candidate, or
 - (B) if the Minister decides not to appoint as a member any of the candidates selected by such organisations,
- pursuant to a particular request under subparagraph (iii), then either—
- (C) the Minister shall appoint as a member a person who was amongst those selected by such an organisation pursuant to a previous request (if any) under that subparagraph in relation to that appointment, or
 - (D) the Minister shall make a further such request and shall appoint as a member a person who was amongst those selected pursuant to that request made in relation to the appointment.

- (v) Where a request is made under subparagraph (iii) or (iv)(D), failure or refusal by the organisation of whom the request is made to select the number of candidates specified in the request shall not preclude the appointment as a member of a person who was selected in relation to that appointment either by the organisation or by any other organisation.

(ab) The Minister shall make his or her appointments under paragraph (a)(ii) of this subsection so that of the total membership of the regional board not less than 4 members are women and not less than 4 are men.”,

(c) by the substitution of the following for subsection (11):

“(11) The Minister may by order alter the number of elected members of a regional board.”.

(2) Notwithstanding anything in the Act of 1980, the date for the holding of the first election of members to a regional board after the commencement of this section shall be such date, not later than 3 months after that commencement, as the Minister may by order fix, and an election shall be held as soon as practicable after each fifth anniversary of that date.

(3) The Minister may, by order, revoke or vary an order made under this section, including an order made under this subsection.

(4) An order made 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 such House within the next 21 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 under it.

(5) Until the first election of members of a regional board after the commencement of this section, each member of a regional board (including appointed members) holding office immediately before that commencement shall, unless he or she sooner resigns or is removed from office in accordance with the Act of 1980 as then in force, continue in office notwithstanding that his or her term of office would, but for this subsection, have expired.

(6) If the first election of members to a regional board after the commencement of this section is to be held in the year 2000 but before 1 October of that year, then, subject to section 14 of the Fisheries Act, 1980, but notwithstanding any other provision of any enactment or instrument made under an enactment, the persons entitled to vote at that election, to nominate a candidate for election and to accept nomination and stand as a candidate for election, shall be determined as if the election date were the third Tuesday in December, 1999.

(a) by the substitution of the following for subsection (1):

“(1) A regional board shall—

- (a) subject to this Act, protect the fisheries in its fisheries region and generally enforce the *Fisheries Acts, 1959 to 1999*, in the region,
- (b) prepare and submit to the Central Board a plan for the development of inland fisheries in its fisheries region, in such form and at such intervals as the Minister may from time to time direct, for incorporation in any inland fisheries development plan to be submitted to the Minister under paragraph (b) of section 8(2) of this Act,
- (c) ensure that any fishery in the possession or occupation of the board, or any fishery, hatchery or fish farm which by virtue of section 8(2) of this Act is under the care and management of the board, is managed, conserved, protected, developed and improved, or otherwise dealt with, in accordance with both the current development plan prepared under this section by the board and any direction of the Minister referred to in paragraph (c) of section 8(2) of this Act and which is for the time being in force,
- (d) in accordance with such development plan, promote and encourage the management, conservation, protection, development and improvement of the fisheries which are not in its possession or occupation in its fisheries region,
- (e) ensure that any oyster or other mollusc fishery in its fisheries region is protected in accordance with such direction of the Minister as relates to a fishery of that kind,
- (f) encourage, promote, market and develop angling for salmon, trout, coarse fish and sea-fish and, for the purposes of any or all of those kinds of angling, provide such facilities and amenities, if any, as it thinks fit,
- (g) encourage, promote, organise and co-ordinate together with the inland fisheries owners, bodies and organisations in its fisheries region, the voluntary development of inland fisheries catchment management plans in its fisheries region and for that purpose have regard to the distinctive circumstances which pertain in each of the catchment systems in its region and consult with and involve local authorities and other interested bodies and organisations and comply with any directions the Minister may from time to time give to it,
- (h) co-operate and co-ordinate with the Central Board or any one or more of the regional boards where necessary to ensure the effective and efficient deployment of resources, performance of functions, drawing up of estimates and the provision of services within and between the fishery regions, and in this regard comply with any directions the Minister may from time to time give to it, and

(i) in the performance of its functions, have regard to the need for the sustainable development of the inland fisheries resource (including the conservation of fish and other species of fauna and flora habitats and the biodiversity of inland water ecosystems) and as far as possible ensure that its activities are carried out so as to protect the national heritage, within the meaning of the Heritage Act, 1995 .”,

and

(b) by substituting the following for subsection (2):

“(2) A regional board may provide such services (including education or training courses or facilities for training or instruction) for the management, conservation, protection, development and improvement of fisheries, or such other matters relating to fisheries, as it thinks fit and charge such fees in respect of those services (other than those provided for another board or the Minister) as it thinks fit.

(2A) For the purposes of performing its functions under this Act, but subject to the directions, if any, of the Minister, a regional board may enter into such partnership or other arrangements with such persons or bodies as it thinks fit.

(2B) A regional board shall have regard to the particular role and contribution of angling clubs and associations in the sustainable management and development to the public benefit of State, public and other inland fisheries in its fisheries region.”.

Committees of regional boards.

9.—The Act of 1980 is hereby amended by the insertion of the following in Chapter II of Part II, after section 17:

“17A.—(1) A regional board may establish committees to assist and advise it in relation to the performance of its functions.

(2) A committee may, if the regional board concerned thinks fit, include amongst its members persons who are not members of the board.

(3) The regional board concerned may appoint a member of the board to be the chairperson of a committee.

(4) The regional board concerned may at any time dissolve a committee.

(5) A regional board may regulate the procedures of its committees but, subject to any such regulation, a committee may regulate its own procedure.”.

Ministerial directions to boards.

10.—The Act of 1980 is hereby amended by the insertion of the following before Division I of Chapter IV of Part II:

“DIVISION IA

Ministerial Direction

18A.—(1) The Minister may, from time to time, give to the Central Board or a regional board policy directions for the management, conservation, protection, development or improvement of fisheries within a fisheries region or for the protection of molluscs, either in general terms or in relation to specific matters.

(2) A board shall comply with the directions of the Minister and where necessary shall co-operate and co-ordinate with other boards in giving effect to them.”.

Annual report and
information to
Minister.

11.—The Act of 1980 is hereby amended by the substitution of the following for section 19:

“19.—(1) The Central Board shall, as soon as may be but not later than 4 months after the end of each year, prepare and submit to the Minister a written report of its activities during the year and those of each regional board and fisheries co-operative society whose area consists or forms part of the regional board's fisheries region.

(2) A regional board shall, as soon as may be but not later than 3 months after the end of each year, prepare and submit to the Central Board a written report of its activities during the year, and those of each fisheries co-operative society whose area consists or forms part of the board's fisheries region.

(3) The Minister shall, as soon as may be but not later than 6 months after the end of the year to which it relates, cause a copy of a report under subsection (1) of this section to be laid before each House of the Oireachtas.

(4) A report under this section shall include information in such form and about such matters (including the financial accounts of the board) as the Minister may direct.

(5) A board shall, whenever so requested by the Minister, furnish to the Minister information in relation to such matters as the Minister may specify concerning or relating to its activities, or in respect of any account kept by the board in pursuance of section 20 of this Act, or any report under subsection (1) or (2) of this section.”.

Estimates and
accounts.

12.—The Act of 1980 is hereby amended by the substitution of the following for section 20:

“20.—(1) A board shall submit estimates of its income and expenditure to the Minister in such form, in respect of such periods and at such times as may be required by the Minister and shall furnish to the Minister such other information in relation to the estimates as the Minister may require.

(2) A regional board shall send a copy of its estimates in compliance with this section to the Central Board which shall provide observations, if any, on the estimates to the Minister in such form as the Minister may require.

(3) A board shall cause to be kept on a continuous basis proper books of account of—

(a) all income and expenditure of the board,

(b) the sources of such income and the subject matter of such expenditure, and

(c) the property, assets and liabilities of the board,

and shall keep such other special accounts as the Minister may from time to time direct.

(4) A board and the officers of a board shall, whenever so required by the Minister, permit any person appointed by the Minister to examine the books and accounts of the board in respect of any year or other period and shall facilitate any such examination.

(5) The Board shall pay such fees in respect of an examination under subsection (4) of this section as may be fixed by the Minister.

(6) (a) Where the Minister receives an estimate prepared for the purposes of this section, the Minister may confirm the estimate, with or without modification, or refuse to confirm the estimate.

(b) Where the Minister refuses to confirm an estimate, the Minister may require the board which submitted it to prepare and submit for the purposes of this section a fresh estimate of its expenditure and receipts for the year or other period to which the unconfirmed estimate relates.

(c) A board shall, as soon as may be, comply with a requirement under this subsection, and subsection (1) of this section shall apply to estimates prepared in pursuance of a requirement under this subsection as it applies to estimates prepared in pursuance of that subsection.

(7) A board shall not, without the permission of the Minister, incur any expenditure other than expenditure included in an estimate as confirmed under this section by the Minister.”.

Grants to boards.

13.—The Act of 1980 is hereby amended by the substitution of the following for section 21:

“21.—(1) The Minister may in each year, having regard to the inland fisheries development plan and national policy priorities, and after consultation with the Central Board and the regional boards about their proposed activities

and expenditure for that year, make grants of such amounts to the Central Board and each regional board as may be sanctioned by the Minister for Finance, out of moneys provided by the Oireachtas, towards the expenditure incurred by them in the performance of their functions.

(2) Moneys granted under subsection (1) of this section may only be used to defray expenses incurred by the board to which they are granted.”.

Audit of accounts.

14.—The Act of 1980 is hereby amended by the substitution of the following for section 22:

“22.—(1) A board shall, as soon as may be but not later than 3 months after the end of each accounting period in a year, submit to the Comptroller and Auditor General for audit all accounts kept by the board in pursuance of section 20 of this Act.

(2) A board shall, as soon as may be but not later than one month after an audit referred to in subsection (1) of this section is carried out, present to the Minister a copy of its accounts, including any accounts kept pursuant to a direction of the Minister under section 20(3) of this Act, together with the report of the Comptroller and Auditor General on the accounts.

(3) The Minister shall, within 3 months after receiving them, cause copies of accounts presented to the Minister under this section, together with copies of the report of the Comptroller and Auditor General on the accounts, to be laid before each House of the Oireachtas.”.

Amendment of
section 25 of Act of
1980.

15.—Section 25 of the Act of 1980 is hereby amended—

(a) by the insertion of the following after subsection (1):

“(1A) (a) The chief officer of the Central Board shall be known as the Chief Executive Officer of the Board and, subject to any directions or guidelines of the Board, shall carry on, manage and control generally the administration and business of the Board and perform such other functions as the Board may require.”.

(b) The chief officer of a regional board shall be known as the Chief Executive Officer of the board and, subject to any directions or guidelines of the board, shall carry on, manage and control generally the administration and business of the board and perform such other functions as the board may require.”,

(b) in subsection (2)(a), by the deletion of “(whether that officer is described as the Chief Officer or otherwise)”, and

(c) by the substitution for “chief officer” (wherever occurring) of “Chief Executive Officer”.

Amendment of
section 27 of Act of
1980.

16.—Section 27 of the Act of 1980 is hereby amended by the substitution of the following for subsection (1):

“(1) Subject to subsection (2) of this section, this section applies to the Chief Executive Officer of the Central Board or a regional board.”.

Amendment of
section 37 of Act of
1980.

17.—Section 37 of the Act of 1980 is hereby amended—

(a) in subsection (1)—

(i) by the substitution for “the Central Board” (first occurring) of “a board”,

(ii) in paragraph (a), by the substitution for “a development programme prepared by either the Central Board or a regional board” of “a development plan prepared by the board”,

(iii) in paragraph (b), by the substitution for “such a programme” of “such a plan”, and

(iv) by the substitution of the following for all the words after paragraph (b):

“the Minister may, with the consent of the Minister for Finance and in accordance with such guidelines and procedures, if any, as the Minister, with the approval of the Minister for Finance, specifies, authorise such acquisition by the board.”,

(b) in subsection (2)(a), by the substitution for “the Central Board” of “a board”,

(c) in subsection (2)(b), by the substitution for “the Central Board to acquire” and “the Central Board is required” of “a board to acquire” and “the board is required”, respectively,

(d) in subsection (5), by the substitution for “the Central Board” of “a board”,

(e) in subsection (7), by the substitution for all words after “Central Board,” of “or from the Minister or the Central Board by a regional board, on such terms as may be agreed and in accordance with any directions or guidelines given or issued by the Minister, of any fishery in the possession or occupation of the Minister or the Central Board or regional board”,

(f) in subsections (8) and (9), by the substitution for “the Central Board”, wherever occurring, of “a board”, and

(g) in subsection (10), by the substitution for “the Central Board under” and “the Central Board shall” of “a board under” and “the board shall”, respectively.

Amendment of
section 38 of Act of
1980.

18.—Section 38 (1)(b), (2), (4) and (6) of the Act of 1980 is hereby amended, by the substitution for “the Central Board”, wherever occurring, of “a board”.

Transfer of certain
fisheries to boards.

19.—The Act of 1980 is hereby amended by the substitution of the following for section 42:

“42.—(1) The Minister may, with the consent of the Minister for Finance, by order, transfer to a board any fishery or fishing right—

(a) acquired by or vested in the Minister under the Forestry Acts, 1919 and 1928, or the Forestry Acts, 1946 to 1988, or so vested by virtue of the Forestry (Redistribution of Public Services) Order, 1933,

(b) transferred to the Minister under section 40 or 41 of this Act, or

(c) otherwise acquired by the Minister.

(2) The Central Board or a regional board may (and shall if so directed by the Minister), with the consent of the Minister, transfer to a board any fishery or fishing right—

(a) transferred to the board under section 40 or 41 of this Act, or

(b) otherwise acquired by the board,

on such terms and conditions as may be determined by the Minister with the consent of the Minister for Finance.

(3) An order under subsection (1) or transfer (whether or not by direction of the Minister) under subsection (2) shall operate to vest in the board to which it is purported to be transferred, without any further or other conveyance, all the estate and interest of the Minister or the board in every fishery and fishing right and in all lands, way-leaves, waterrights, rights of access or other easements or rights, purported to be transferred to the board by such order or transfer.”.

Amendment of
section 43 of Act of
1980.

20.—Section 43 of the Act of 1980 is hereby amended—

(a) in subsection (1)(i), by the substitution for “Central Board” of “board concerned”,

(b) in subsection (3)—

(i) by the substitution for “the Central Board or the regional board concerned” of “the board concerned”, and

(ii) by the substitution for “the Central Board or to such regional boards, as may be appropriate” of “the board”,

(c) in subsection (4), by the substitution for “the Central Board” of “the board”,
and

(d) in subsection (5), by the substitution for “the Central Board or the regional board concerned, as may be appropriate” of “the board concerned”.

Amendment of
section 45(1) of
Act of 1980.

21.—Section 45(1) of the Act of 1980 is hereby amended by the substitution for “the Central Board” of “a board”.

National Salmon
Commission.

22.—(1) The Act of 1980 is hereby amended by the substitution of the following for Part V:

“PART V

National Salmon Commission

National
Salmon
Commission.

55A.—(1) The Minister may by order establish a committee (the ‘Commission’) to be known as the National Salmon Commission.

(2) The Commission shall consist of the following members appointed by the Minister:

- (a) a person appointed as its chairperson;
- (b) not more than 16 members appointed from among those nominated by such bodies and organisations as the Minister may by order prescribe; and
- (c) not more than 4 other members as the Minister thinks fit.

(3) A member (including the chairperson) of the Commission shall hold office for such period not exceeding 5 years, and on such other terms and conditions, as the Minister may determine and specifies at the time of the member's appointment, but is eligible for reappointment as a member or the chairperson.

Functions of
Commission.

55B.—The functions of the Commission shall be to assist and advise the Minister in relation to the conservation, management, protection and development of the national salmon resource and, in particular, to make recommendations to the Minister on any scheme in relation to the management, development and conservation of stocks of wild salmon or sea trout (within the meaning of *section 24* of the *Fisheries (Amendment) Act, 1999*) and in particular the tagging of such fish, and on the setting of a

national total allowable catch and quotas for the taking of salmon, in consultation with the boards and the Marine Institute and such other bodies as the Minister directs.

Standing Scientific Committee. 55C.—(1) The Commission shall establish a standing committee, to be known as the Standing Scientific Committee, to advise and assist the Commission on all technical and scientific matters in relation to the performance of the Commission's functions.

(2) Subject to subsection (3) of this section, the Standing Scientific Committee shall consist of such number of members as the Commission thinks fit and may include amongst its members persons who are not members of the Commission.

(3) The Minister may, by order, fix or limit the number of members and composition of membership of the Standing Scientific Committee.

(4) The Commission shall appoint a member of the Standing Scientific Committee to be the chairperson of the Committee.

Regulation of procedure of Commission and Committee. 55D.—The Minister may, by order, regulate the terms of reference and procedure of the Commission and the Standing Scientific Committee but, subject to any such order, the Commission may regulate those terms of reference and procedures.”.

(2) All moneys standing to the credit of the Salmon Conservancy Fund immediately before the commencement 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, and the Fund shall thereon, be closed.

Amendment of Second Schedule to Act of 1980.

23.—Part I of the Second Schedule to the Act of 1980 is hereby amended—

(a) by the substitution of the following for Article 3:

“3. (1) The Central Board shall consist of 9 members appointed by the Minister of whom—

(a) one shall be appointed by the Minister as its chairperson,

(b) one shall be a person holding the office of chairperson of a regional board,

(c) one shall be a Chief Executive Officer of a regional board,

(d) one shall be appointed on the nomination of the Minister for the Environment and Local Government,

(e) one shall be appointed on the nomination of the Minister for Arts, Heritage, Gaeltacht and the Islands, and

(f) one shall be a member of the staff of the Central Board appointed on the nomination of the staff of the Board.

(2) In appointing the members of the Board, other than those referred to in paragraphs (a) to (f) of clause (1) of this Article, the Minister shall appoint persons having knowledge or experience of management, administration, the public service, industrial relations, marketing or any other relevant competency which would assist the Board in the performance of its functions.

(3) Of the total membership of the Board, not less than 2 members shall be women and not less than 2 shall be men.

(4) A person appointed as a member referred to in paragraph (1)(b) or (c) of this Article who ceases to be the chairperson or Chief Executive Officer, as the case may be, of a regional board shall at the same time cease to be a member of the Central Board.”,

(b) by the substitution of the following for Article 5:

“5. A member of the Central Board and the chairperson shall hold office as a member or the chairperson (or both in the case of the chairperson) for 5 years from the date of his or her appointment but is eligible for reappointment as a member or the chairperson.”.

PART 3

Wild Salmon and Sea Trout Tagging Scheme

Management of
wild salmon and
sea trout.

24.—(1) The Minister may, after consultation with the National Salmon Commission, make regulations to provide for a scheme for the management, development and conservation of stocks of wild salmon and sea trout and in particular to provide for the gathering of information by the tagging of such fish.

(2) Without prejudice to the generality of *subsection (1)*, regulations under that subsection may provide for all or any of the following:

(a) the manner, type, size and colour of tags which are to be affixed to wild salmon and sea trout,

(b) the information to be contained on such tags,

(c) the issue and distribution by persons of tags and log books to persons fishing for wild salmon or sea trout,

- (d) matters relating to the sale, display, import, export and transhipment of wild salmon and sea trout or farmed salmon.
- (e) log books to be kept and the manner of their keeping by persons fishing for wild salmon or sea trout,
- (f) records to be kept by persons selling or dealing in salmon,
- (g) registers to be kept by persons providing such tags or log books,
- (h) the inspection by authorised officers of such tags, log books, registers and records,
- (i) the furnishing of such information on tags, log books, registers and records as may be requested by an authorised officer,
- (j) fees to be charged in respect of the issue of any such tag or log book,
- (k) information in relation to any scheme under this section to be provided by the Central Board or a regional board to the Minister.

(3) The powers conferred by *subsection (1)* are in addition to and not in substitution for the powers conferred by section 9 of the Fisheries (Consolidation) Act, 1959 .

(4) For the purpose of enforcing any regulations made under this section, an authorised officer may—

- (a) stop and question any person who has or is suspected of having in his or her possession any tag or log book issued, or record kept, under regulations made under this section or any salmon and request the production of and examine such tag, log book, record or salmon and search any person whom he or she has reason to believe has contravened any regulations made under this section,
- (b) at all reasonable times, enter and search any place or premises or boat or vehicle in which the officer believes there is any tag or log book issued, or a register maintained, or record kept, under regulations made under this section or any salmon and there examine any such tag, log book, register, record or salmon and take copies of or extracts from any log book, register or record, found therein,
- (c) where he or she finds any wild salmon or sea trout which has not been tagged in accordance with regulations made under this section, the officer may in accordance with such regulations tag the fish or remove any tags affixed to it which do not comply with such regulations or require the person found in possession of the fish or in charge of the place, premises, boat or vehicle where it is found to tag, or cause it to be tagged, in accordance with such regulations or to remove or cause to be removed any tags affixed to it which do not comply with any such regulations,

- (d) take, remove and detain in his or her custody any tag, log book, register or record found in the course of the exercise of any of the powers conferred by this section in respect of which a contravention of any regulation made under this section is being or is suspected of having been committed,
- (e) request and take the name and address of the person having custody of any tag, log book, register, record or salmon which the officer is authorised under this section to examine.

(5) A person who obstructs or interferes with, or fails to comply with a requirement of, an authorised officer in exercise of any power conferred on the officer under this section or refuses to give his or her name and address when required under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500.

(6) Regulations under this section may provide—

- (a) that a person who contravenes or fails to comply with any regulation or provision thereof made under this section shall be guilty of an offence, and
- (b) for penalties for such a contravention or failure to comply of, on summary conviction, a fine not exceeding £1,500 or imprisonment for a term not exceeding 6 months, or both.

(7) Whenever the Minister proposes to make regulations under this section, the following provisions shall have effect—

- (a) the Minister shall publish notice of his or her proposal at least once in such newspaper or newspapers published and circulating in the State as he or she may specify,
- (b) the notice shall include a statement of the purposes for which the regulations are proposed to be made and an intimation that a copy of the draft regulations is open for public inspection at a place specified in the notice and that any person may submit to the Minister objections to the draft regulations at any time during the period of 30 days commencing on the day of the first publication of the notice,
- (c) the Minister shall, during the said period of 30 days, keep a copy of the draft regulations open for public inspection at the place aforesaid,
- (d) any person who objects to the draft regulations may submit his or her objection to the Minister in writing at any time during the said period of 30 days and the Minister shall consider the objections, and
- (e) on the expiration of the said period of 30 days, the Minister shall, as he or she may think proper, refrain from making the regulations or make the regulations either without modifications or with such modifications therein as he or she may think proper.

(8) In this section—

“authorised officer” means—

- (a) an officer of the Minister, appointed in writing by the Minister to be an authorised officer for the purposes of this section, or
- (b) any person, whether or not he or she is an officer of a regional board, appointed in writing by a regional board to be an authorised officer for the purposes of this section;

“sea trout” means a wild sea trout *Salmo trutta*;

“wild salmon” means wild Atlantic salmon *Salmo salar*.

Provisions relating to certain offences under regulations made under *section 24*.

25.—(1) This section applies to such offences under regulations made under *section 24* as may be declared by the Minister by regulations to be offences to which this section applies.

(2) Where an authorised officer has reasonable grounds for believing that a person is committing or has committed an offence to which this section applies, he or she may serve the person with a notice in the prescribed form stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 21 days beginning on the date of the notice make to the regional board concerned at the address specified in the notice a payment of £100 accompanied by the notice, and
- (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(3) Where notice is given under *subsection (2)*—

- (a) a person to whom the notice applies may, during the period specified in the notice, make to the regional board concerned at the address specified in the notice the payment specified in the notice accompanied by the notice;
- (b) the regional board specified in the notice may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it;
- (c) a prosecution in respect of the alleged offence shall not be instituted in the

period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(4) In a prosecution for an offence under this section the onus of proving that a payment pursuant to a notice under this section has been made shall lie on the defendant.

(5) The Minister may by regulations vary the amount standing specified for the time being in *subsection (2) (b)*.

Amendment of
section 90 of
Fisheries
(Consolidation)
Act, 1959
(consequential
disqualification
orders).

26.—Section 90(3) (inserted by section 51 of the Act of 1980) of the Fisheries (Consolidation) Act, 1959 , is hereby amended—

(a) by the insertion in paragraph (a) after subparagraph (iii) of the following subparagraph:

“(iv) an offence under regulations made under *section 24* of the *Fisheries (Amendment) Act, 1999*, which is an offence declared by the Minister by regulations to be an offence to which this subsection applies.”,

and

(b) the insertion in paragraph (b) after “a second or any subsequent such offence” of “which is the second or subsequent such offence in any period of 12 consecutive months”.

PART 4

Miscellaneous

Amendment of
Fisheries
(Consolidation)
Act, 1959.

27.—The Fisheries (Consolidation) Act, 1959 , is hereby amended—

(a) in section 3(1), by the insertion of the following after paragraph (c) in the definition of “fixed engine”:

“(cc) a fixed long line, or.”,

(b) in section 11(1)(b), by the substitution for “and in one or more newspapers circulating in the district affected thereby” of “and a notice advising of the making of the instrument and its contents shall be published in one or more

newspapers circulating in the district affected by the instrument”,

(c) in section 100—

(i) in subsection (5), by the substitution of the following for paragraph (a):

“(a) A regional board may, if it thinks fit, grant to—

- (i) the occupier of a fishing engine (being a fishing weir, fishing mill dam or fixed engine) for the capture of eels, or
- (ii) any person in respect of a long line (whether fixed or otherwise),

an authorisation (in this section called an eel fishery authorisation) to use such fishing engine or long line for the capture of eels.”,

(ii) in subsection (5)(b), by the substitution for “The Minister” and “as he thinks fit” of “A regional board” and “as it thinks fit”, respectively,

(iii) in subsection (5)(c), by the substitution for “The Minister, if he so thinks fit” of “A regional board, if it so thinks fit”,

(iv) in subsection (5)(d), by the substitution for “The Minister” and “if he is satisfied” of “A regional board” and “if the board is satisfied”, respectively,

(v) in subsection (6), by the substitution of the following for paragraph (a):

“(a) a regional board shall not amend or revoke the authorisation unless and until it has given by post to the holder of the authorisation at least one fortnight's notice in writing stating that the board has under consideration, as the case may be, the amendment or revocation of the authorisation,”,

(vi) in subsection (6)(b)(i) and (ii), by the substitution for “the Minister” of “the regional board”,

(vii) in subsection (6)(c), by the substitution for “the Minister” and “to him” of “the regional board” and “to it”, respectively,

(viii) by the insertion of the following after subsection (6):

“(6A) A regional board shall not exercise a power under subsection (5) or (6) of this section except in relation to its own fisheries region and unless it has first consulted the Marine Institute, and in exercising the power it shall have regard to any scientific advice given to it by the Marine Institute and any policy guidelines or instructions the Minister may establish or give.”.

Amendment of
Fisheries
(Amendment) Act,
1991.

28.—(1) Section 5 of the Fisheries (Amendment) Act, 1991 , is hereby amended by the substitution of the following for subsection (4):

“(4) In addition to the elected members of the management committee of a society, the Minister may appoint not more than 2 persons to be members, of whom one shall be a member of the staff of the regional board of the fisheries region of which the society's area consists or forms part appointed on the nomination of that board.”.

(2) If the first election of members to a management committee of a fisheries co-operative society after the commencement of this section is to be held in the year 2000 but before 1 October of that year, then, subject to rule 9(4) of the Fisheries (Amendment) Act, 1991 (Fisheries Co-operative Societies) Rules, 1992, (S.I. No. 127 of 1992) but notwithstanding any other provision of any enactment or instrument made under an enactment, the persons entitled to vote at that election, to nominate a candidate for election and to accept nomination and stand as a candidate for election, shall be determined as if the election date were the third Tuesday in December, 1999.

(3) The Fisheries (Amendment) Act, 1991 , is hereby amended by the substitution of the following for section 13:

“13.—(1) The Minister may, out of moneys provided by the Oireachtas, make payments to the regional board of whose region a fisheries co-operative society's area consists or forms part to reimburse the board to such extent as the Minister, with the approval of the Minister for Finance, thinks fit, for any expenditure of the board in making payments to the society towards those funds disbursed by the society for the development in the public interest of trout or coarse fish fisheries in specified areas in the region.

(2) A regional board shall keep in its accounts a separate record of payments to a society and shall provide to the Minister such information relating to such records as and when the Minister may require it.”.

(4) A person holding office as an additional member of a society under section 5(4) of the Fisheries (Amendment) Act, 1991 , immediately before the commencement of this section shall continue to hold that office until the day after the election of the regional board of the fisheries region of which the society's area consists or forms part first held after that commencement, unless he or she sooner resigns that office or his or her membership is otherwise terminated in accordance with that Act as amended by this Act.

Waiver of payment
by An Bord
Iascaigh Mhara of
interest on waived
advances.

29.—(1) On the recommendation of the Minister, the Minister for Finance may waive the payment by An Bord Iascaigh Mhara of interest unpaid on advances under section 20(1) of the Sea Fisheries Act, 1952 , interest on interest so unpaid as provided for under section 20(2) of that Act and interest on unpaid advances as provided for under section 21(3) of that Act.

(2) An amount equal to the amount of interest, payment of which is waived under this section, shall be paid to the Minister for Finance out of moneys provided by the

Oireachtas.

(3) Where any payment is made under this section to the Minister for Finance, it shall be paid into the Exchequer.

Amendment of
Marine Institute
Act, 1991.

30.—The Marine Institute Act, 1991 , is hereby amended by—

- (a) the insertion in section 4(4) after “functions” of “relating to marine research and development or the shipping and shipping services sector”, and
- (b) the insertion after section 4 of the following section:

“Irish
Maritime
Development
Office.

4A.—(1) There shall be established within and as part of the Institute an office, to be known as the Irish Maritime Development Office, to perform the following functions, namely—

- (a) to promote and assist the development of Irish shipping and Irish shipping services and seafarer training,
- (b) to liaise with, support and market the shipping and shipping services sector,
- (c) to advise the Minister on the development and co-ordination of policy in the shipping and shipping services sector so as to protect and create employment,
- (d) to carry out policy as may be specified by the Minister relating to the shipping and shipping services sector and seafarer training,
- (e) to promote the registration of ships in the State by any person entitled to so register, and
- (f) any additional functions relating to the shipping and shipping services sector conferred on the Institute under section 4(4) of this Act.

(2) In this section ‘shipping services’ includes ship management, technical management, commercial management, crew management, ship finance and mortgages, marine insurance, maritime legal services, ship broking and ship chartering.”.

Exclusion of
Carlingford Area
from Dundalk
Fishery District.

31.—Notwithstanding anything in the Fisheries Acts, 1959 to 1998, the area comprising the Dundalk Fishery District does not include any part of the Carlingford Area within the meaning of paragraph 5 of Part 6 of Annex 2 to the Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing Implementation Bodies done at Dublin on the 8th day of March, 1999, the text of which is set out in the Schedule to the British-Irish Agreement Act, 1999 (No. 1 of 1999) .

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