

FISHERIES ACT 1980

An Act to establish a body to be known as the Central Fisheries Board and to define its functions, to enable regional fisheries boards to be established and to define their functions, to dissolve Iontaobhas Iascaigh Intíre Ioncorportha (the Inland Fisheries Trust Incorporated) and certain boards of conservators established by the Fisheries (Consolidation) Act, 1959, to amend section 59 of the Foyle Fisheries Act, 1952, to provide for other matters connected with the foregoing and otherwise to amend and extend the Fisheries Acts, 1959 to 1978. [18th March, 1980]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

PART I - PRELIMINARY AND GENERAL

1 Short title, collective citation and construction.

SECT 1.—(1) This Act may be cited as the Fisheries Act, 1980. (2) The Fisheries Acts, 1959 to 1978 and this Act may be cited together as the Fisheries Acts, 1959 to 1980. (3) The Fisheries Acts, 1959 to 1976, the Fisheries (Amendment) Act, 1978, and this Act shall be construed together as one.

2 Interpretation.

SECT 2.—(1) in this Act— "the Act of 1962" means the Fisheries (Amendment) Act, 1962; "the Act of 1977" means the European Assembly Elections Act, 1977; "the appointed day" means the day appointed by the Minister under section 3; "the arbitrator" has the meaning assigned to it by section 44 (2); "board", except in Part II of the Second Schedule or where the context otherwise requires, means the Central Board or a regional board; "the Central Board" has the meaning assigned to it by section 7 (1); "the Central Board's transferred staff" has the meaning assigned to it by section 29 (1); "the Commissioners", except in sections 27 and 28, means the Commissioners of Public Works in Ireland; "easement" includes a profit á prendre and any right in or over water; "election year", subject to section 15 (2), means the year fixed by the Minister under section 12 (5) and every fifth successive year thereafter; "the European Communities" means the European Economic Community, the European Coal and Steel Community and the European Atomic Energy Community; "fisheries region" has the meaning assigned to it by section 10; "functions" includes powers and duties; "the Principal Act" means the Fisheries (Consolidation) Act, 1959; "the proposed servient tenement" means the land over which the route of a way-leave or right of way shown on a plan referred to in section 37 (3) or section 39 (2) passes; "Register of Trout, Coarse Fish and Sea Anglers" has the meaning assigned to it by section 58 (1); "the required right of way" has the meaning assigned to it by section 39 (1); "regional board" has the meaning assigned to it by section 10 (3); "the regional board's transferred staff" has the meaning assigned to it by section 30 (1); "the Salmon Conservancy Fund" means the fund described in section 49 of the Principal Act; "strokehaul" means any weighted instrument or device which may be used, whether with a rod and line or otherwise, to foul-hook fish; "the Trust" means Iontaobhas Iascaigh Intíre Ioncorportha (The Inland Fisheries Trust Incorporated). (2) Apart from section 8 (1) (b), insofar as it enables the Minister to give directions for the protection of molluscs, section 8 (1) (g) and subparagraphs (iii) and (iv) of section 11 (c) of this Act, nothing in this Act shall be construed as enabling the Minister to give directions in relation to sea-fish or stocks of sea-fish or as assigning to either the Central Board or a regional board any function in relation to sea-fish or stocks of sea-fish.

3 Appointed day.

SECT 3.—The Minister may by order appoint a day to be the appointed day for the purposes of this Act.

4 Fishery year.

SECT 4.—(1) The Minister may by order specify that any reference to a fishery year in The Principal Act shall on and after such 31st day of December as may be specified in the order be construed and have effect as a reference to a period which is co-extensive with the calendar year. (2) The Minister may as regards any provision contained in The Principal Act which relates to the determining, making, levying, collection or recovery of fishery rates and which is directly or indirectly related to or affected by the order described in subsection (1) of this section adapt, modify or otherwise amend the provision in such manner as he considers is appropriate having regard to the provision. (3) Where an order under this section is for the time being in force, The Principal Act shall be construed and have effect subject to and in accordance with the provisions of the order.

5 Orders.

SECT 5.—(1) Subject to sections 10 (1) (b) and 54 (6) of this Act and to subsection (5) of this section, the Minister may by order amend or revoke an order made under Section 8(3) (b), 10, 11, 15, 24 (6), 54, 55, 56 or 57 of this Act, this subsection or section 81 (3) or 159 (6) of The Principal Act (inserted by sections 68 and 69, respectively, of this Act). (2) (a) Subject to paragraph (b) of this subsection, the Minister may— (i) by order amend an order made under section 37, 38, 39 or 42 of this Act, (ii) by order amend an order made under subparagraph (i) of this paragraph. (b) In case the Minister proposes to amend an order under section 37, 38 or 39 of this Act or this subsection, the following provisions shall apply: (i) the Minister shall as soon as may be give notice in writing of his intention to amend the order to the Arbitrator who shall cause to be published a notice of the Minister's said intention in such newspapers and in such manner as the Arbitrator shall determine, (ii) the Minister shall give notice in writing of his said intention to any person by whom an appeal relating to the order proposed to be amended was brought under this Act, or, in case the order is an order under subparagraph (ii) of paragraph (a) of this subsection, to any person by whom an appeal relating either to the original order under section 37, 38 or 39 of this Act or to any order under the said paragraph (a) which relates to such original order was so brought, or, if in either case any such person is deceased, to his personal representative, (iii) the Minister shall not make the order unless a draft thereof has been submitted to and approved of under this paragraph by the Arbitrator, (iv) the Arbitrator shall not determine an application under this paragraph by the Minister before the expiration of the period of thirty days beginning on the day on which the relevant notice is published pursuant to this subparagraph, or in case such publication is made on different days the day of the first such publication, (v) any one or more of the following may, within such period of thirty days or such longer period as the Arbitrator may determine, serve on the Minister a notice of his intention to make an application to the Arbitrator in relation to the proposed order, namely: (I) any person by whom such an appeal was so brought, or, in case such person is deceased, his personal representative, or (II) the person who, immediately before the making of the order proposed to be amended, was the owner of the fishery or land acquired by that order or the successor in title of such person, or, if any right has been acquired by such order, the person who immediately prior to the making of the said order was entitled to the enjoyment of such right or the successor in title of such person, or, if such order was made under section 39 of this Act, the owner of the relevant servient tenement, (vi) in case a notice is served on the Minister pursuant to this paragraph the Arbitrator shall, before deciding whether or not to approve of the proposed order, give the person by whom the notice was served an opportunity of being heard (either in person or through counsel or a solicitor), and (vii) the Arbitrator may in determining the matter approve of the draft of the order in the form proposed by the Minister, approve of such draft subject to such amendments as the Arbitrator shall specify or refuse to give his approval. (3) (a) The Commissioners may by order under their seal amend an order made by them under section 40 of this Act. (b) The Irish Land Commission may by order under their seal amend an order made by them under section 41 of this Act. (4) If in relation to an application under subsection (2) (b) of this section the Arbitrator is satisfied that after diligent inquiry a person to whom notice is required by subsection (2) (b) (ii) of this section to be given by the Minister cannot be found or ascertained, the Arbitrator may determine the application,

notwithstanding the fact that such person cannot be found or ascertained. (5) Subsection (7) of section 68 of the Principal Act (inserted by section 3 of the Fisheries (Amendment) Act, 1976) shall apply as regards an order under this section by which it is proposed to amend an order made under section 81 (3) or 159 (6) of The Principal Act (inserted by sections 68 and 69, respectively, of this Act), as it applies as regards an order made under section 68 of the Principal Act.

6 Repeals.

SECT 6.—(1) The Principal Act is hereby repealed to the extent specified in column (2) of the First Schedule to this Act. (2) In subparagraph (i) of section 33 (b) of the Act of 1962 the words "(provided that it has been fixed not less than three years previously)" are hereby repealed. (3) Subsection (1) of this section, except in so far as it amends section 163 of the Principal Act and repeals clause (b) of paragraph 2 (1) of the Fifth Schedule to that Act, shall come into force on the appointed day.

PART II - CENTRAL FISHERIES BOARD AND REGIONAL FISHERIES BOARDS CHAPTER I CENTRAL FISHERIES BOARD

7 Central Fisheries Board.

SECT 7.—(1) On the appointed day there shall be established a body to be known as the Central Fisheries Board (which body is in this Act referred to as "the Central Board") to perform the functions assigned to it by this Act. (2) The provisions of Part I of the Second Schedule to this Act shall have effect with respect to the Central Board.

8 Functions of Central Board.

SECT 8.—(1) (a) The Central Board shall— (i) co-ordinate and, where it considers it necessary so to do, direct the performance by regional boards of the functions assigned to them under this Act, (ii) ensure that any fishery, hatchery or fish farm which is in its possession or occupation is managed, conserved, protected, developed and improved, or otherwise dealt with, both properly and in accordance with any direction given by the Minister under paragraph (b) of this subsection, (iii) ensure that directions given by the Minister under this section are carried into effect, and in performing the function mentioned in subparagraph (i) of this paragraph the Central Board shall ensure that regional boards in the performance of their functions have regard to such directions by the Minister under this section as are for the time being in force. (b) The Minister may from time to time give to the Central Board directions containing general policy for the management, conservation, protection, development and improvement of fisheries or for the protection of molluscs, and the Central Board shall, if so directed by the Minister, as soon as may be, communicate to every regional board any direction given by the Minister under this paragraph. (c) (i) The Central Board shall within the period of two years beginning on the appointed day (or such longer period as the Minister may allow) prepare and submit to the Minister for his consideration an inland fisheries development programme. (ii) Where the Central Board has prepared and submitted a development programme under this subsection, it shall from time to time as occasion may require, and at least once in every five years after the date of the submission to the Minister of the programme, review the programme and make in it any variations whether by way of alteration, addition or deletion which it considers proper and shall submit to the Minister for his consideration the results of the review. (iii) A programme under this subsection may contain recommendations regarding the conservation of inland fisheries and may have regard to any programme under section 11 of this Act. (d) The Central Board may make recommendations to the Minister as to the exercise by the Minister of the powers conferred on him by section 29 of the Act of 1962, the levels of fishery rates, fishery licence duties payable under the Fisheries Acts, 1959 to 1980, and levies payable under section 55 of this Act. (e) (i) The Central Board may with the approval of the Minister provide education courses or facilities for training or otherwise instructing persons in any matter relating to the management, conservation, protection, development or improvement of fisheries, (ii) subject to the approval of the Minister, the Central Board may as regards any course or facility provided in pursuance of this paragraph charge fees of such amount as may be so approved. (f) The Central Board may, subject to the payment to it of such fees as it shall determine,

provide such services regarding the management, conservation, protection, development or improvement of fisheries, or such other matter relating to fisheries, or the promotion of such other matter so relating, as it shall think fit. (g) Subject to section 2 (2) of this Act, the Central Board may as regards any 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 Central Board to carry out research or experimental work on, or in relation to, any species of fish which is sea-fish within the meaning of Part XIII of The Principal Act, other than research which is similar or analogous to research in relation to sea-fish which was being carried on by the Trust prior to its dissolution. (2) The Central Board may, for so long and subject to such conditions as it shall determine, place under the care and management of a regional board any fishery, hatchery or fish farm which is in its possession or occupation. (3) (a) The Minister may, if he thinks fit, authorise the Central Board to engage in the processing and marketing of such species of fish as are specified in the authorisation. (b) The Minister may by order assign to the Central Board such other functions relating to fisheries (being functions additional to the functions assigned to the Central Board by this Act) as he thinks fit.

9 Transfer of certain properties of boards of conservators to Central Board.

SECT 9.—(1) On the appointed day the following properties (including all easements, rights, powers and privileges relating to or connected with any such property), being properties occupied by or on behalf of boards of conservators, shall be transferred to the Central Board, namely, the properties known as— (a) Carrowmore Lake Hatchery, County Mayo, (b) Inistioge Hatchery, County Kilkenny, (c) Mallow Hatchery and Rosnalee Weir, County Cork, (d) Cong Hatchery, County Galway, (e) Virginia Hatchery and Eel Weir, County Cavan, and each of which is described in the Third Schedule to this Act, including the buildings, offices and out-offices thereon and any machinery, equipment or other moveable property which was on those properties immediately before the appointed day and was used for or in connection with the culture of fish. (2) The properties referred to in this section shall on the appointed day without any conveyance or assignment become and be vested in or the property of or held in trust or subject to conditions for (as the case may require) the Central Board for all the estate, term or interest by which they were held immediately before the appointed day but subject to all trusts, equities, interests, conditions, rights and statutory requirements affecting the properties and then subsisting and capable of being performed. (3) On and after the appointed day every debt and other liability (including any unliquidated liability) which, immediately before the appointed day, is owing and unpaid and has been incurred and is undischarged by a board of conservators in relation to any property transferred to the Central Board by this section shall, on such day, become and be the debt or liability of the Central Board and shall be paid or discharged by, and may be recovered from or enforced against, the Central Board accordingly. (4) Where by virtue of this section any easement or other right over land or any other estate or interest in land is vested in or becomes the property of or is held in trust or subject to a condition for the Central Board and immediately prior to the appointed day such right or other estate or interest was vested in or the property of or was held in trust or subject to a condition for a person other than a board of conservators, compensation shall be payable in respect of— (a) the right or other estate or interest acquired by the Central Board by virtue of this section, (b) any other diminution in the value of any right over land or other estate or interest of such person by reason of such acquisition, (c) any other loss incurred by such person by reason of such acquisition, and the compensation together with any interest payable thereon by virtue of this subsection shall be paid by the Central Board. (5) Subsections (2), (3), (6), (7) and (8) of section 43 of this Act shall apply as regards compensation payable under this section as they apply as regards compensation payable under that section. (6) References in this section to a board of conservators shall be construed as including a reference to a person who, immediately before the appointed day, stands appointed under section 51 of the Principal Act.

CHAPTER II FISHERIES REGIONS AND REGIONAL BOARDS

10 Fisheries regions and regional boards.

SECT 10.—(1) (a) Subject to paragraph (b) of this subsection and to compliance with the requirement of subsection (2) of this section, the Minister may by order create, either by union, sub-division or otherwise, such regions (each of which is in this Act referred to as a "fisheries region") as appear to him

to be appropriate having regard to the purposes of this Act and such order shall specify the name of each fisheries region so created. (b) An order under this section, other than the order referred to in subsection (2) of this section, shall not be made by the Minister without the consent of the Minister for the Public Service. (2) As soon as may be after the passing of this Act an order shall be made by the Minister under subsection (1) of this section creating seven, and only seven, fisheries regions in the State and such order shall be the first order to be made under this section and shall come into force on the appointed day. (3) Where an order is made under this section, there shall, by virtue of the order, be established in relation to any fisheries region created by the order a board (in this Act referred to as a "regional board") and such board shall be known as "The———Regional Fisheries Board" (the name of the fisheries region being inserted) and shall perform as regards the fisheries region in relation to which it is established the functions assigned to a regional board by this Act. (4) (a) A regional board shall be comprised of such number of members as shall be specified in the order establishing the relevant fisheries region and of whom— (i) such number as shall be so specified shall be elected in pursuance of section 12 of this Act of whom such member or members (if any) as may be so specified shall be elected by a class or by such classes of electorate as may be so specified, and (ii) subject to subsections (5) and (6) of this section, such number as shall be so specified shall be appointed by the Minister after such consultation as he considers appropriate. (b) (i) Subject to subsection (11) (b) of this section, section 24 of this Act and Article II of Part II of the Second Schedule to this Act, every elected member of a regional board shall, unless the sooner resigns or becomes disqualified, hold office from the day next following the date of his election until midnight on the day on which the result of the next election for elected members of the board held in pursuance of section 12 of this Act is declared. (ii) The term of office of a member of a regional board appointed under this subsection shall be fixed by the Minister at the time when the appointment is made and, subject to the said subsection (11) (b), section 24 and Article II, shall be for a period not exceeding five years. (c) A member of a regional board appointed or co-opted under subsection (4) or (5) of this section or Article 5 of Part II of the Second Schedule to this Act shall be eligible for nomination as a candidate and for election at an election held under this Act. (5) (a) Notwithstanding anything otherwise contained in this Act, as soon as may be after the making of an order under subsection (1) of this section, subject to subsection (6) of this section, the Minister, after such consultation as he considers appropriate, shall as regards the regional board, or as may be appropriate, each of the regional boards, established by the order appoint such number of persons to be members of the board as shall be specified in the order. (b) Subject to subsection (11) (b) of this section, section 24 of this Act and Article II of Part II of the Second Schedule to this Act, a person appointed to membership of a regional board under paragraph (a) of this subsection shall hold office during the period beginning on the date of his appointment and ending on the day immediately preceding the day on which the term of office of the members first elected under this Act to membership of the board commences. (6) A person who is entitled under the Standing Orders of either House of the Oireachtas to sit therein, or who is for the time being a representative in the Assembly of the European Communities, shall not be eligible for appointment under this section by the Minister to membership of a regional board. (7) The provisions contained in Part II of the Second Schedule to this Act shall apply to a regional board and for the purpose of applying the said provisions in relation to a particular regional board any reference in the said Schedule to "the Board" shall be construed as a reference to that particular regional board. (8) Whenever the Minister by an order under this section creates a fisheries region he shall by reference to a map specified in the order appoint the boundaries of such fisheries region. (9) (a) A fisheries region may include any of the following waters, namely, any waters situate in an area which immediately before the commencement of the order referred to in subsection (2) of this section comprised a fishery district and any other waters which are— (i) in any area of the sea to which the internal or inland waters of the State extend by virtue of section 5 of the Maritime Jurisdiction Act, 1959, (ii) in the portion of the sea which lies between the baseline for the purposes of the said Act and the line every point of which is on the seaward side and at a distance of twelve nautical miles from the nearest point of that baseline. (b) The Minister may by order substitute for the reference to twelve nautical miles in paragraph (a) (ii) of this subsection a reference to a number of nautical miles specified in the order. (c) In case an order under paragraph (b) of this subsection is for the time being in force, paragraph (a) (ii) of this subsection shall be construed and have effect as if for the reference therein to twelve nautical miles there were substituted a reference to the number of nautical miles specified in the order. (d) Where waters are included in a fisheries region created under this section and by reason of the making or revocation of an order under this subsection such waters cease to be waters described in subparagraph (ii) of subsection (9) (a) of this section, then for so long as the

aforesaid waters continue to be waters other than those so described the order creating the fisheries region shall have effect subject to the following modifications, namely, the waters so included shall be accordingly regarded as not being within the fisheries region and the relevant map prepared by the Minister in pursuance of subsection (8) of this section shall be regarded as having been modified to the extent necessary to place the waters so included outside the boundaries appointed by the order. (10) The Minister may by order alter the boundaries of a fisheries region and an order under this subsection shall, by reference to a map specified in the order, indicate the boundaries of the relevant fisheries region or regions as altered by the order. (11) (a) The Minister may by order alter the number of members of which a regional board is to be comprised, and in case the Minister makes such an order, the order shall specify the number of members of the regional board who are to be appointed by the Minister and the number of such members who are to be elected under this Act. (b) In case the Minister makes an order under subsection (1) of this section, he may by the order reduce the number of members of any regional board other than that established by the order, and notwithstanding subsection (4) (b) (i) of this section such an order may provide for the termination in a specified manner of the term of office of specified members (whether elected or appointed) of such other regional board. (12) (a) The Minister shall cause to be prepared maps showing, in such manner as the Minister thinks fit and indicates thereon, the boundaries of each of the several fisheries regions in existence for the time being. (b) Paragraphs (b) to (e) of section 19 (3) of the Principal Act shall apply in relation to maps prepared under this subsection as they apply to maps prepared under that section and for the purposes of the foregoing each of the references in those paragraphs to the official maps shall be construed as including a reference to a map prepared under this subsection. (13) The following provisions shall apply in relation to an order under this section creating a fisheries region (whether by union, subdivision or otherwise):— (a) the Minister may by the order provide that— (i) all or any specified part of the property (other than property referred to in section 9 (1) of this Act), whether real or personal (including any right to recover any rate and any other chose-in-action), which immediately before the commencement of the order was vested in or belonged to or was held in trust or subject to conditions for— (A) a board of conservators dissolved under section 34 of this Act and specified in the order, or (B) a person who by virtue of the said section 34 ceases to be appointed under section 51 of the Principal Act, and is so specified, or (C) a regional board for a fisheries region affected by the order and so specified, and that all rights, powers and privileges relating to or connected with any such property, shall on such commencement, without any conveyance or assignment, but subject where necessary to transfer in the books of any bank, corporation or company, become and be vested in or the property of or held in trust or subject to conditions for (as the case may require) such regional board as is specified in the order, (ii) every or any specified contract which was entered into and is in force immediately before the commencement of the order between such a board of conservators, person so appointed or regional board and any other person shall continue in force on and after such commencement, but shall be construed and have effect as if the board established by virtue of the order were substituted therein for the board or the person so appointed by whom the contract was entered into and that accordingly such contract shall be enforceable by or against the board so established, (iii) every or any specified debt or other liability (including any unliquidated liability arising from torts or breaches of contract but excluding any liability transferred to the Central Board by virtue of section 9 (3) of this Act), which immediately before such commencement is owing and unpaid or has been incurred and is undischarged by such a board of conservators, person so appointed or regional board shall, on such commencement, become and be the debt or liability of the board established by virtue of the order and shall be paid or discharged by and may be recovered from and enforced against such board accordingly, (iv) in case property transferred by the order was immediately before such commencement standing in the books of any bank or was registered in the books of any bank, corporation or company, such property shall, upon a request of the board established by virtue of the order being made any time after such commencement, be transferred by such bank, corporation or company into the name of such board. (v) after such commencement any chose-in-action transferred by the order may be sued upon, recovered or enforced by the board so established in its own name and that it shall not be necessary for such board to give notice to the person bound by such chose-in-action of the transfer effected by the order, (vi) where immediately before such commencement there are pending— (A) in case the order is that referred to in subsection (2) of this section, any legal proceedings instituted by virtue of section 309 of the Principal Act by an officer or employee of such a board of conservators or person so appointed, or any other legal proceedings instituted by a person on behalf of, or instituted against a person on behalf of, such a board or a person so appointed, (B) in the case of any other order under this section, any legal proceedings to

which a regional board affected by the order is a party, the name of the board so established shall be substituted for that of such board of conservators, person so appointed or regional board (as the case may require) and the proceedings shall not abate by reason of such substitution, (vii) the making of the order shall not invalidate or affect any payable order or cheque or any authority given for the payment of the amount of any payable order or cheque, and that a regional board specified in the order shall make arrangements for the payment of the amount of orders and cheques which are of a class or description so specified upon due presentation within a reasonable time after the establishment of such board, (b) the Minister may by the order modify a provision of this Act so far, but only so far, as is necessary for carrying the order into effect. (14) In case the Minister by an order under this section creates a fisheries region by the union of two or more fisheries regions, each of the regional boards for the fisheries regions so united shall on the commencement of the order stand dissolved. (15) Whenever the Minister makes an order under this section the following provisions shall apply, namely— (a) he shall, as soon as may be, (in addition to causing notice of the making of the order to be published in the *Iris Oifigiúil*) cause such a notice to be published in one or more of the newspapers circulating in any fisheries region created by the order or to which the order otherwise relates, and (b) he shall cause a copy of the order to be deposited with the County Registrar for every county and the District Court Clerk of every District Court District, within which the whole or any part of the fisheries region created by the order is situate.

11 Functions of and other provisions relating to regional boards.

SECT 11.—(1) (a) A regional board shall as regards its fisheries region— (i) subject to the provisions of this Act, protect the fisheries in such region and generally enforce the Fisheries Acts, 1959 to 1980, therein, (ii) within the period of two years beginning on the appointed day (or such longer period as the Minister may in any particular case allow) prepare and submit to the Central Board for its consideration an inland fisheries development programme. (b) Where a regional board has prepared and submitted a development programme under this subsection it shall from time to time as occasion may require, and at least once in every five years from the date of the submission to the Central Board of the programme, review the programme and make in it any variations whether by way of alteration, addition or deletion which it considers proper and shall submit to the Central Board for its consideration the results of the review. (c) A regional board shall— (i) ensure that any fishery which is 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 programme prepared under this section by the board and any direction given by the Minister under section 8 (b) of this Act and which is for the time being in force, (ii) promote and encourage the management, conservation, protection, development and improvement in accordance with such development programme of the fisheries in its fisheries region which are not in such possession or occupation, (iii) ensure that any oyster or other mollusc fishery situated in its fisheries region is protected in accordance with such of the provisions of any such direction as relate to a fishery of that kind, and (iv) encourage, promote 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 the regional board thinks fit. (2) A regional board may, subject to the payment to it of such fees as it shall determine, provide such services regarding the management, conservation, protection or improvement of fisheries, or such other matter relating to fisheries, as it shall think fit. (3) (a) Subject to Article 1 (b) of the Fourth Schedule to this Act, the power under Part V of The Principal Act of striking a rate on fisheries, in so far as before the commencement of this section it was exercisable by a board of conservators, and the powers under that Part to amend, collect and recover such a rate are, in so far as they apply to a fishery district, hereby assigned to the regional board concerned. (b) Where a regional board strikes a rate on fisheries, the Minister in considering whether to confirm the rate with or without modification or to exercise the power conferred on him by section 55 of the Principal Act to strike a rate shall have regard to any relevant recommendation made by the Central Board under section 8 (d) of this Act. (4) The powers under The Principal Act to issue licences, for fishing for salmon or eels (other than salmon rod (twenty-one day) ordinary licences) and to issue oyster fishing licences which, immediately before the passing of this Act, were exercisable by a board of conservators shall, on and from the appointed day, be exercisable by a regional board. (5) The amendments to The Principal Act or the Act of 1962 specified in the Fourth Schedule to this Act shall have effect as on and from the appointed day. (6) (a) The Minister may, if he thinks fit, authorise a

regional board to engage in the processing and marketing of such species of fish as are specified in the authorisation. (b) (i) The Minister may by order provide for the issue by any regional board, on payment of such duty (if any) as may be specified in the order, of licences for fishing of a class or description specified in the order. (ii) In case an order under this section provides for the issue of licences for fishing with engines which are not scheduled engines, then for so long as the order is in force the following provisions shall have effect, namely, any engine which is of a kind described in the order shall for the purposes of section 65 of the Principal Act be regarded as being a scheduled engine and any such licence shall for the said purposes be regarded as being an ordinary fishing licence. (iii) In case an order under this paragraph is for the time being in force, the powers conferred by the order on regional boards shall be in addition to and not in substitution for the powers conferred on such boards by subsection (4) of this section. (c) The Minister may by order assign to— (i) regional boards generally, (ii) regional boards of a particular class or description, (iii) one or more particular regional boards, such functions relating to fisheries (being functions additional to those assigned by this Act) as the Minister thinks fit. (d) Duties payable as regards licences issued by virtue of this section shall be paid to the regional board by whom the licence is issued. (e) In this Act "fishing licence", when used without qualification, shall include a licence issued pursuant to an order under paragraph (b) of this subsection.

12 Election of members of regional boards.

SECT 12.—(1) Elections of members of a regional board, other than members appointed by the Minister under section 10 of this Act, shall in each election year be held in accordance with this Act as regards each fisheries region and each such election shall be conducted in accordance with this Act and regulations under this section. (2) (a) Where a person is for the time being the holder of two or more licences issued under this Act the holding of any of which would under this Act, apart from this subsection, entitle him to vote at an election of members of a particular regional board, notwithstanding the fact that he is such a holder he shall be entitled to vote once and once only at the election. (b) Where a person is for the time being a rate-payer who is entitled to vote at an election of members of a particular regional board and is either or both— (i) the holder of any licence issued under the Fisheries Acts, 1959 to 1980, the holding of which would under this Act, apart from this subsection, entitle him to vote at an election of members of that regional board, (ii) registered in a Register of Trout, Coarse Fish and Sea Anglers and thereby entitled so to vote, notwithstanding the fact that he is both such a rate-payer and such a holder, or as the case may be such a holder and so registered, he shall be entitled to vote once and once only at the election. (c) Where a person is for the time being registered in a Register of Trout, Coarse Fish and Sea Anglers and is the holder of any licence issued under the Fisheries Acts, 1959 to 1980, the holding of which would under this Act, apart from this subsection, entitle him to vote at an election of members of that regional board, notwithstanding the fact that he is so registered he shall be entitled to vote once and once only at the election. (3) (a) The Minister may make such regulations as he thinks proper in relation to elections under this section of members of regional boards. (b) Without prejudice to the generality of paragraph (a) of this subsection, regulations under this subsection may provide for— (i) the nomination of different classes of candidates for election as members of regional boards and for the election of such candidates by different classes of electors, (ii) postal voting at elections under this section of members of regional boards. (4) Where regulations under this section which are for the time being in force provide for the nomination of different classes of candidates for election as members of regional boards, subject to the provisions of this Act apart from this subsection, a person shall be entitled to be nominated as a candidate of one class, and one class only, at an election to which the regulations apply. (5) The Minister shall by order fix the year in which elections of members of regional boards are first to be held under this Act.

13 Electorate for election of elected members of regional boards.

SECT 13.—(1) (a) Subject to section 12 (2) of this Act, every person who is the holder of an ordinary fishing licence or an oyster fishing licence which is valid for a particular election year and who is ordinarily resident in the State on the date fixed under this Act for the receipt of nominations at an election to be held under this Act in that year shall be entitled to vote at the election to be held in that year as regards the regional board by which the licence is issued. (b) (i) Subject to section 12 (2) of this Act and to subparagraph (ii) of this paragraph, every person who for the time being is registered in a Register

of Trout, Coarse Fish and Sea Anglers (other than a person who is so registered as non-voting) and who is ordinarily resident in the State on the date fixed under this Act for the receipt of nominations at an election to be held under this Act as regards the regional board by which the register is maintained, shall be entitled to vote at the election. (ii) A person shall be entitled to vote pursuant to this paragraph at an election under this Act which is not the election first held as regards a regional board if, and only if, he has been registered in the register maintained by the board to which the election related for a continuous period of not less than three years ending on the day fixed under this Act for the receipt of nominations at the election. (2) Every person who is the holder of a special local licence which is valid for a particular election year and who is ordinarily resident in the State on the date fixed under this Act for the receipt of nominations at an election to be held under this Act in that year shall, subject to section 12 (2) of this Act, be entitled to vote at the election in that election year of elected members of the regional board within whose fisheries region the special tidal waters to which the licence relates are situate. (3) Where a person who is the rated occupier of a fishery has, as regards the fishery, for the time being complied with the requirements (if any) regarding the payment of fishery rates and contained in regulations made by the Minister for the purpose of this subsection, the following provisions shall have effect: (a) subject to section 12 (2) of this Act, such person or his agent duly appointed under section 328 of the Principal Act shall be entitled to vote at an election of elected members of the regional board within whose fisheries region the fishery is situate, and (b) in case regulations made for the purposes of this subsection are for the time being in force, the production of the receipt for the relevant fishery rate shall be sufficient evidence of the right of such person or his attorney or agent to vote at such election. (4) References in this Act to the electorate of a fisheries region for an election year shall be construed as references to the persons who are, by virtue of this section, entitled to vote at the election of elected members of the regional board for that region to be held in that year.

14 Qualification for elected members of regional boards.

SECT 14.—A person shall not be eligible for election under this Act to membership of a regional board if on the day fixed under this Act for the receipt of nominations at the election— (a) he is entitled under the Standing Orders of either House of the Oireachtas to sit therein, (b) he is a representative in the Assembly of the European Communities, (c) he is not entitled to vote at the election, (d) he is an undischarged bankrupt, (e) within the period of three years ending on such day he has made a composition with his creditors, (f) within the period of seven years ending on such day he has been convicted of an offence under the Fisheries Acts, 1959 to 1980.

15 Postponement of elections of members of regional boards.

SECT 15.—(1) Notwithstanding anything contained in this Act the elections pursuant to this Act of members of regional boards may be held in a year which is later than that in which the elections would, apart from this section, fall to be held and which the Minister, if he thinks fit, fixes by order. (2) In case the Minister makes an order under this section, the elections pursuant to this Act of members of regional boards, other than the elections to which the order relates, shall be held in each fifth successive year to that fixed by the order. (3) Where an order under this section is proposed to be made, the Minister shall cause a draft of the order to be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House. (4) Section 36 of the Act of 1962 shall not apply as regards an order made by the Minister under this section.

16 Failure to elect elected members of regional board.

SECT 16.—(1) If the electorate for a fisheries region in any election year elect no elected members under section 12 of this Act, the previously existing elected members of the regional board concerned shall continue in office and be deemed to have been elected as such elected members in that election year. (2) If at an election under this Act the electorate for a fisheries region elect fewer elected members than the number which could have been elected at the election, then there shall be deemed to have occurred immediately after the meeting of the regional board concerned first held after the election— (a) in case the number of members who could have been so elected exceeds by one the number of members who were so elected, a casual vacancy, (b) in case the number of members who could have been so elected

exceeds by two or more the number of members who were so elected, casual vacancies equal in number to the excess.

17 Disqualification of member of regional board by non-attendance at meetings.

SECT 17.—(1) A member of a regional board who absents himself during a period of six consecutive months from all meetings of the Board shall be disqualified from continuing to be a member of such board and one fortnight after the expiration of such period his seat on such board, shall, subject to subsection (2) of this section, become and be vacant. (2) (a) Whenever a member of a regional board is about to become or has been disqualified under subsection (1) of this section from continuing to be a member of such board, subject to paragraph (b) of this subsection, such board may, not later than one fortnight after the expiration of the period mentioned in the said subsection (1) and if the board is satisfied that the special circumstances of the case justify the board in so doing, extend the said period by such further period as the board thinks proper, and thereupon the said subsection (1) shall have effect in that particular case as if such extended period were substituted for the said period of six consecutive months, but no such period of six consecutive months shall be extended under this subsection more than once. (b) A period shall not be extended by a regional board under this subsection unless— (i) at least two-thirds of the members of the board are present at the relevant meeting of the board when the question is determined, and (ii) of such members so present, at least two-thirds vote in favour of the extension.

CHAPTER III FISHERY IMPROVEMENT

18 Powers of Central Board and regional boards in relation to improvement of fisheries.

SECT 18.—(1) Subject to the following subsections of this section, for the purpose of improving any fishery (whether or not the fishery is the property of the Central Board or the regional board concerned) the Central Board or a regional board may do all or any of the following, namely— (a) take fish from a fishery by any means whatsoever, (b) implement any other measure intended to alter or regulate the stock in a fishery of fish of one or more particular species, (c) keep under surveillance and from time to time ascertain by any means the quality of water in a fishery, (d) alter, repair, remove or demolish any fence, hedge, tree or wall, (e) dig, break or otherwise temporarily close, cross, extend, divert or otherwise interfere with or alter any navigable waterway, river, stream or other watercourse, bridge, tunnel, culvert, pipe, drain or other thing, (f) notwithstanding section 327 of the Principal Act, take materials from any river, stream or other watercourse, provided that a board shall only exercise a power under paragraph (e) or (f) of this subsection after consultation with the Commissioners and provided also that in relation to a fence, hedge, tree or wall which is adjacent to a public road or any property of a public authority, the board shall only exercise a power under this subsection with the consent of the authority concerned, and in case there is a dispute as to whether a particular fence, hedge, tree or wall is adjacent to a public road or any such property, the matter shall be referred by the board concerned to the Minister to determine, whose decision, after consultation with the Minister for the Environment or such other Minister of the Government as he considers appropriate, shall be final. (2) (a) Subject to paragraph (b) of this subsection, a board shall not, in relation to a several fishery or other thing exercise a power mentioned in subsection (1) of this section without the consent of the owner thereof, and for the avoidance of doubt it is hereby declared that in case the owner of the several fishery or other thing is a Minister of the Government, the Irish Land Commission, the Commissioners or a public authority, the said Minister, the said Commission, the Commissioners or the public authority in giving such consent may attach thereto such reasonable conditions as he or they think fit, and in addition to the foregoing, the board shall not enter on or take possession of any fishery or land without giving the occupier thereof one month's previous notice in writing of its intention so to do. (b) Where, on an application made to him by a board, the Minister is satisfied that the owner of a several fishery or other thing cannot by diligent inquiry be found or ascertained, he may issue an authorisation under this section as regards the several fishery or other thing and for so long as an authorisation under this section is in force paragraph (a) of this subsection shall not apply as regards the several fishery or other thing to which the authorisation relates. (c) The Minister may at any time withdraw an authorisation under this section either on his own motion or on the application of any other person. (3) Subject to section 43 of this Act, the Central Board or any regional board, or their servants or agents or any contractor employed by the board or any workman

employed by such contractor may, with or without vehicles, machinery or other apparatus (including boats or other vessels) or equipment, for the purpose of, (a) gaining access to the site of fishery improvement works which are completed or which are in the course of being carried out or are to be carried out by the board, (b) gaining access to a fishery (whether or not the fishery is the property of the board) in order to inspect or maintain it, enter on land at any reasonable time. (4) (a) Subject to paragraphs (b) and (c) of this subsection, to subsection (1) of this section and to section 43 of this Act, a board may for any purpose mentioned in subsection (3) of this section construct on or over any land a bridge, road or pathway of any description, and when constructed by the board, use and maintain such bridge, road or pathway. (b) Before exercising a power to construct under this subsection a board shall obtain the consent of the local authority within whose functional area the proposed bridge, road or pathway, or any part thereof, is proposed to be situate. (c) Where a board proposes to construct under this subsection a bridge, road or pathway on any land which is in the possession or occupation of the Minister, any other Minister of the Government, the Irish Land Commission, the Commissioners or a public authority, before exercising any of their powers in relation to the provision of the bridge, road or pathway, the board shall first obtain the consent of— (i) in case the land is in the possession or occupation of a Minister of the Government, that Minister, (ii) in case the land is in the occupation or possession of the Irish Land Commission or the Commissioners, the said Commission or the Commissioners, as may be appropriate, (iii) in case the land is in the occupation or possession of a public authority, that authority, and the requirements of this paragraph are in addition to and not in substitution for the requirements of paragraph (b) of this subsection. (5) A person entering on land under this section may do thereon all things ancillary to or reasonably necessary for the purpose for which the entry is made. (6) A person authorised under Article 20 of Part 1 of the Second Schedule to this Act or Article 18 of Part II of the said Second Schedule to exercise a power mentioned in subsection (1) of this section shall be furnished by the Central Board or the regional board concerned, as may be appropriate, with a certificate of such authorisation and when doing anything pursuant to the authorisation shall if requested by the person affected, produce the certificate to that person. (7) (a) Nothing in this section shall be construed as conferring on any person a power to enter a dwellinghouse, nor except where there is through the garden or curtilage of a dwellinghouse an ordinary road or passage to a fishery, shall it be construed as conferring on any person a power to enter such a garden or curtilage. (b) Nothing in this section shall be construed as enabling a regional board to exercise outside its fisheries region any of the powers conferred on it by this section. (c) Nothing in this section shall be construed as modifying or otherwise affecting the application of any requirement under the Local Government (Planning and Development) Acts, 1963 and 1976.

CHAPTER IV MISCELLANEOUS PROVISIONS RELATING TO CENTRAL BOARD AND REGIONAL BOARDS DIVISION I Reports, Finance, Etc.

19 Annual reports and information to Minister.

SECT 19.—(1) The Central Board shall, as soon as may be after the commencement of each year, make a report to the Minister of its proceedings in the preceding year and those of each regional board in such year, as reported to the Central Board under subsection (2) of this section, and the Minister shall cause copies of the report to be laid before each House of the Oireachtas. (2) A regional board shall, not later than the 1st day of April in each year, make a report to the Central Board of its proceedings during the year ended on the previous 31st day of December. (3) The Minister may from time to time require the Central Board or a regional board to furnish such information relating to its functions as he shall specify.

20 Estimates.

SECT 20.—(1) The Central Board and each regional board shall, as respects each year, prepare an estimate of its total expenditure and receipts, and such estimates shall be in such form as the Minister may require. (2) A copy of each estimate prepared by the Central Board in compliance with this section shall be sent by the Central Board to the Minister. (3) A copy of each estimate prepared by a regional board in compliance with this section shall be sent by that board to the Central Board who shall forward it, together with the Central Board's observations on the estimate, to the Minister. (4) (a) In case the Minister receives an estimate prepared for the purposes of this section he may confirm the estimate, with

or without modification, or refuse to confirm the estimate. (b) In case the Minister refuses to confirm an estimate so prepared, he may require the Central Board, or in case the estimate is prepared by a regional board, the regional board concerned, to prepare and submit for the purposes of this section a fresh estimate of its expenditure and receipts for the year to which the unconfirmed estimate related. (c) In case the Minister makes a requirement under this subsection, the requirement shall be complied with by the Central Board or the regional board concerned, as may be appropriate, as soon as may be, and subsection (2) or (3) of this section, as may be appropriate, shall apply as regards estimates prepared in pursuance of a requirement under this subsection as it applies to estimates prepared in pursuance of subsection (1) of this section. (5) (a) The Minister may, if he thinks fit, direct that, generally or as regards a particular year, estimates required by this section shall be prepared and sent to him under this section not later than a specified date in any year, or as may be appropriate, a particular specified date, and the same date may be so specified as regards all such estimates or different dates may be so specified in relation to two or more classes of such estimates. (b) In case a direction under this subsection is for the time being in force, the Central Board (if concerned) and any regional board concerned shall comply with the direction. (6) The Central Board or a regional board shall not, without the permission of the Minister, incur any expenditure other than expenditure included in an estimate under this section as confirmed under this section by the Minister.

21 Grants to Central Board and regional boards.

SECT 21.—(1) There may, subject to such conditions, if any, as the Minister thinks proper, be paid to the Central Board— (a) in each year out of moneys provided by the Oireachtas, (b) from time to time out of the Salmon Conservancy Fund, a grant or grants of such amount or amounts as the Minister, after consultation with the Central Board, may fix; provided that a grant under this section out of moneys provided by the Oireachtas shall be made by the Minister only with the consent of the Minister for Finance. (2) There may be paid by the Central Board to a regional board grants of such an amount as the Central Board with the approval of the Minister may fix. (3) Moneys granted to the Central Board under this section may only be used to defray expenses incurred by the Central Board or by a regional board.

22 Accounts and audits.

SECT 22.—(1) The Central Board and, subject to subsection (2) of this section, each regional board shall keep, in such form as may be approved of by the Minister with the consent of the Minister for Finance, all proper and usual accounts of all moneys received or expended by it, including in particular all such special accounts as the Minister may from time to time direct. (2) The amount received by a regional board on account of subscriptions payable under section 58 of this Act shall be shown as a separate item in the accounts kept by such board in pursuance of this section. (3) Accounts kept in pursuance of this section shall be submitted annually by the board by whom they are kept to the Comptroller and Auditor General for audit and, immediately after the audit, a copy of the accounts and any accounts kept pursuant to a direction of the Minister, together with the report of the Comptroller and Auditor General on the accounts, shall be sent by such board to— (a) in case the accounts are accounts kept by the Central Board, the Minister, (b) in case the accounts are accounts kept by a regional board, the Central Board. (4) As soon as may be after the accounts relating to a particular year have been received by the Central Board from all of the regional boards, the Central Board shall send a copy of the accounts to the Minister together with such observations thereon (if any) as the Central Board considers appropriate. (5) The Minister shall cause copies of accounts presented to him under this section by the Central Board, together with copies of the report of the Comptroller and Auditor General thereon, to be laid before each House of the Oireachtas.

23 Borrowings.

SECT 23.—(1) The Central Board and, subject to subsection (2) of this section, any regional board may, with the consent of the Minister given with the consent of the Minister for Finance and subject to any conditions imposed by the Minister, borrow money by means of bank overdraft or otherwise. (2) An application by a regional board for the consent of the Minister to borrowings by such board shall be made

through the Central Board (which may if it thinks fit make observations to the Minister on the application). DIVISION II Removal of Members

24 Removal of members of Central Board or a regional board.

SECT 24.—(1) If and whenever the Minister is satisfied that— (a) the Central Board or a regional board has not, in relation to a direction given by the Minister under section 8 (b) of this Act, complied with the requirements of section 8 or 11 (1) (c) of this Act, as the case may be, or (b) after holding under section 50 of the Principal Act, as amended by section 65 of this Act, an inquiry into the performance of the functions assigned to the Central Board or a regional board by or under this Act, the functions so assigned are not being duly and effectively performed by the Central Board or a regional board, or that the performance in general by any such board of the functions so assigned to it has been unsatisfactory, he may by order remove from office all the members (including the chairman) of the board. (2) In case the Minister makes an order under subsection (1) of this section, he shall appoint such person or persons as he thinks fit to perform the functions of the board to which the order relates and may from time to time remove a person or persons appointed under this subsection and appoint another or others in his or their place. (3) (a) An appointment under this section shall be in writing and shall specify the day on and from which and, subject to subsection (2) of this section, the period during which the appointment is to have effect, and for so long as the appointment remains in force it shall operate to enable the person or persons thereby appointed to perform the functions of the board in relation to which the appointment was made. (b) An appointment under this section may fix the duties and the remuneration of the person or persons to whom it relates. (4) The remuneration of all persons appointed under subsection (2) of this section to perform the functions of the Central Board or a regional board shall be paid out of the revenue of the board in relation to which the appointment was made as part of the expenses of performing its functions. (5) Where a person serving in the Civil Service is appointed under subsection (2) of this section to perform the duties of the Central Board or a regional board, there shall be recouped to the Exchequer from the moneys under the control of the board in relation to which the appointment was made, in such manner as the Minister for the Public Service may direct, the salary of such person and also such charges in respect of superannuation and other allowances and gratuities payable under the Superannuation and Pensions Act, 1976, to or in respect of such person as the Minister for the Public Service shall determine to be proper. (6) At any time after the members of a regional board have been removed from office by an order under this section the Minister may, if and when he so thinks fit, by order cause a new election of members of such board to be held. (7) Whether or not a new election of members of a regional board has been held in pursuance of an order made under subsection (6) of this section, the next subsequent election of members of such board shall be held on the next occasion on which an election of such members would have been required by law to be held if such board had not been dissolved. (8) The Minister may from time to time by order do all such things and make all such regulations as in his opinion shall be necessary for giving full effect to any order made by him under subsection (6) of this section. DIVISION III Staff

25 Staffs of Central Board and regional boards.

SECT 25.—(1) Subject to the provisions of this section and to sections 29 and 30 of this Act, the Central Board or a regional board may, subject to the approval of the Minister given with the concurrence of the Minister for the Public Service, from time to time appoint such and so many persons as it thinks proper to be its officers and servants. (2) (a) Subject to sections 27 and 28 of this Act, the chief officer of the Central Board or a regional board (whether that officer is described as the Chief Officer or otherwise) shall be appointed by such board with the concurrence of the Minister. (b) Subject to section 29 of this Act and subsection (4) of this section, such a chief officer shall be paid such remuneration and allowances for expenses and shall hold his employment on such other terms and conditions as the Minister with the concurrence of the Minister for the Public Service determines, and different terms and conditions may be determined under this paragraph in relation to the office of chief officer of the Central Board, the office of chief officer of any regional board, and the office of chief officer of any regional board which is of a particular class or description. (3) Subject to sections 29 and 30 of this Act, the officers, other than the chief officer, and the servants of the Central Board or a regional board shall be paid such remuneration and allowances and shall hold their employment on such terms and conditions as the board concerned

shall, with the approval of the Minister given with the concurrence of the Minister for the Public Service, determine. (4) Where a person who is an officer (including the chief officer) or servant of the Central Board, or of a regional board, is nominated as a member of Seanad Éireann or for election to either House of the Oireachtas or to the Assembly of the European Communities, or is appointed under section 15 of the Act of 1977 to fill a vacancy in the said Assembly, he shall stand seconded from his employment and shall not be paid, or be entitled to receive, any remuneration or allowances in respect of that employment— (a) in case he is nominated as a member of Seanad Éireann, in respect of the period commencing on the acceptance of the nomination and ending when he ceases to be a member of that House, (b) in case he is nominated for election to either such House or to the said Assembly, in respect of the period commencing on his nomination and ending when he ceases to be a member of that House, or a representative in the said Assembly or fails to be elected or withdraws his candidature, as may be appropriate, (c) in case he is so appointed to fill such a vacancy, in respect of the period commencing on the date of his appointment and ending when he ceases to be such a representative, and in addition to the foregoing he shall not be entitled to reckon the whole or any part of that period for any benefits payable under any scheme under section 33 of this Act. (5) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein, or who is for the time being a representative in the Assembly of the European Communities, shall, while so entitled, be disqualified from becoming an officer (including the chief officer) or servant of the Central Board, or of a regional board.

26 Instruments of appointment for purposes of Part XVIII of Principal Act.

SECT 26.—Every instrument of appointment by the Central Board or a regional board of an officer or other person to be an authorised person for the purposes of Part XVIII of The Principal Act shall be— (a) prepared and printed in the prescribed form, and (b) sealed with the seal of the board, and every document purporting to be such an instrument and to be sealed with the seal of such board as is appropriate in the circumstances shall be admissible in any legal proceedings as prima facie evidence of such appointment.

27 Certain offices etc. to be filled through Local Appointments Commission.

SECT 27.—(1) Subject to subsection (2) hereof, this section applies to the following offices and employments, namely: (a) the chief office under the Central Board, (b) the chief office under a regional board, (c) every office and every employment, other than a part-time or temporary employment, under the Central Board or a regional board the qualifications for which are wholly or in part professional, (d) any other office or employment under the Central Board or a regional board as the Minister shall from time to time, with the concurrence of the Minister for the Public Service and the Commissioners, declare to be an office or employment to which this section applies. (2) This section shall not be construed as applying to a transfer effected by section 29 or 30 of this Act or to a case in which— (a) a person is transferred— (i) from an office or employment under the Central Board to an office or employment under a regional board, or (ii) from an office or employment under a regional board to an office or employment under the Central Board, or (iii) from an office or employment under one regional board to an office or employment under another regional board, and, (b) the duties attached to the office or employment from which the person is so transferred are similar or analogous to the duties attached to the office or employment to which the person is so transferred. (3) Every question or dispute as to whether— (a) a particular office or employment is or is not an office or employment to which this section applies, or (b) whether a transfer is or is not one to which subsection (2) of this section relates, shall be determined by the Minister after consultation with the Commissioners. (4) Subject to subsection (2) of this section, in case the Central Board or a regional board proposes to make an appointment to an office or employment to which this section applies, the board shall first request the Commissioners to recommend to it a person for appointment to such office or employment and the Commissioners on receiving such request shall if they so think proper select and recommend under and in accordance with the Act of 1926 to the board a person for appointment to such situation, and the board on receiving from the Commissioners such recommendation shall, subject to the approval required by section 25 (1) of this Act, appoint to such office or employment the person so recommended by the Commissioners. (5) The Central Board or a regional board shall pay to the Commissioners out of the moneys at its disposal such expenses in respect

of the selection and recommendations by the Commissioners under this section to fill offices or employments under the board as shall be fixed by the Commissioners. (6) Every sum received by the Commissioners under this section shall be deemed for the purposes of section 12 (2) (b) of the Act of 1926 to be a fee paid to the Commissioners under that Act. (7) In this section and in section 28 of this Act "the Act of 1926" means the Local Authorities (Officers and Employees) Act, 1926; "the Commissioners" means the Local Appointments Commissioners.

28 First appointment of chief officer of Central Board or regional board.

SECT 28.—(1) The person to be first appointed after the passing of this Act to be— (a) the chief officer under the Central Board, (b) the chief officer of a particular regional board, (whether that officer is described as the Chief Officer or otherwise) shall, subject to subsection (2) of this section, be appointed to that office by the Minister. (2) Subsections (4) and (5) of section 27 of this Act shall apply in relation to the exercise by the Minister of the power conferred on him by subsection (1) of this section as they apply in relation to the making by the Central Board or a regional board of appointments to offices or employments to which the said section 27 applies, and for the purpose of giving effect to the foregoing each of the references in the said subsections to the Central Board (or "the board") shall be construed both as including a reference to the Minister and subject to such other modifications as are necessary. (3) The sum received by the Commissioners under section 27 (5) of this Act, as applied by this section, shall be deemed for the purposes of section 12 (2) (b) of the Act of 1926 to be a fee paid to the Commissioners under that Act.

29 Transfer of staff to Central Board, etc.

SECT 29.—(1) Every person who, immediately before the appointed day, is in the whole-time employment of the Trust shall, on such day, be transferred to and become an officer or servant, as may be appropriate, of the Central Board, and all persons so transferred shall, for so long as they remain in the employment of the Central Board, be members of the transferred staff of the Central Board and are in this Act referred to as the "Central Board's transferred staff". (2) (a) Subject to subsection (3) of this section, a member of the Central Board's transferred staff shall not, while in the service of the Central Board, receive less remuneration or be subject to less beneficial conditions of service than the remuneration to which he was entitled and the conditions of service to which, immediately before his transfer by virtue of this section, he was subject in the service from which he was so transferred. (b) A member of a regional board's staff who transfers from the service of that board to the service of the Central Board and who immediately before such transfer was a member of the regional board's transferred staff shall not, while in the service of the Central Board, receive less remuneration or be subject to less beneficial conditions of service than the remuneration to which he was entitled and the conditions of service to which he was subject in the service of the regional board immediately before his transfer. (c) Until such time as a staff scheme applicable to a particular member of the Central Board's transferred staff and approved of by the Minister under section 32 of this Act comes into operation, the conditions of service, restrictions, requirements and obligations to which the member was subject immediately before his transfer to the service of the Central Board shall continue to apply to him and may be exercised or imposed by the Central Board or its chief officer, as may be appropriate, while he is in the service of the Central Board. (3) (a) The Central Board may, subject to subsection (2) of this section and section 31 (1) of this Act and following consultation with any recognised staff associations or trade unions concerned— (i) redistribute or rearrange the duties to be performed by members of the Central Board's transferred staff or persons to whom subsection (2) (b) of this section applies who are employed in a particular grade or class of employment and every such member or person shall be bound to perform the duties allotted to him in any such redistribution or rearrangement, (ii) require any such member or person to transfer, in such manner as is specified by the Central Board, to the service of a regional board so specified, and every such member or person shall be bound to transfer in accordance with the requirement. (b) A redistribution or rearrangement referred to in paragraph (a) of this subsection shall not be taken to, be a removal from or abolition of office for the purpose of any scheme or enactment relating to superannuation or compensation for loss of office.

30 Transfer of staff to regional boards etc.

SECT 30.—(1) Every person who, immediately before the appointed day, was in the whole-time employment either of a board of conservators or of a person appointed under section 51 of the Principal Act shall, on such day, be transferred to and become an officer or servant, as may be appropriate, of such regional board as the Minister shall determine, and all persons so transferred to a particular regional board shall be members of the transferred staff of that regional board and in relation to that board are in this Act referred to as "the regional board's transferred staff". (2) A person employed by a regional board who is a member of the regional board's transferred staff shall not, while in the service of the regional board, receive less remuneration or be subject to less beneficial conditions of service than the remuneration to which he was entitled and the conditions of service to which he was subject, immediately before being transferred by virtue of this section, in the service from which he was so transferred. (3) A member of a regional board's staff who, having been in the employment of the Central Board transfers (whether in pursuance of a requirement under section 29 (3) of this Act or otherwise) from the service of the Central Board to the service of a regional board and who immediately before the said transfer was a member of the Central Board's transferred staff shall not, while in the service of the regional board, receive less remuneration or be subject to less beneficial conditions of service than the remuneration to which he was entitled and the conditions of service to which he was subject in the service of the Central Board immediately before his transfer. (4) (a) A regional board may, subject to subsection (2) of this section and following consultation with any recognised staff associations or trade unions concerned, redistribute or rearrange the duties to be performed by members of the board's transferred staff or persons to whom subsection (3) of this section applies who are employed in a particular grade or class of employment and every such member or person shall be bound to perform the duties allocated to him in any such redistribution or rearrangement. (b) A redistribution or rearrangement referred to in paragraph (a) of this subsection shall not be taken to be removal from or abolition of office for the purpose of any scheme or enactment relating to superannuation or compensation for loss of office. (c) Until such time as a staff scheme applicable to a particular member of a regional board's transferred staff and approved of by the Minister under section 32 of this Act comes into operation, the conditions of service, restrictions, requirements and obligations to which the member was subject immediately before his transfer to the service of the regional board shall continue to apply to him and may be exercised or imposed by the regional board or its chief officer, as may be appropriate, while he is in the service of the regional board.

31 Superannuation of transferred staff.

SECT 31.—(1) A member of the Central Board's transferred staff or a person to whom section 29 (b) of this Act applies shall not, while in the service of the Central Board, be subject to less favourable conditions in relation to the grant of superannuation allowances (whether by way of lump sum, pension or gratuity or of compensation for loss of office) than the conditions (if any) which applied to him immediately before his transfer to the service of the Central Board. (2) A person transferred by virtue of section 29 of this Act or a person to whom section 30 of this Act applies shall not, while in the service of the regional board to which he is so transferred, be subject to less favourable conditions in relation to the grant of superannuation allowances (whether by way of lump sum, pension or gratuity or of compensation for loss of office) than the conditions (if any) which applied to him immediately before being so transferred.

32 Staff schemes.

SECT 32.—(1) As soon as conveniently may be after the commencement of this section, the Central Board shall, subject to sections 29 and 30 of this Act and following consultation with each of the regional boards and with any recognised staff associations or trade unions concerned, prepare and submit to the Minister a staff scheme or schemes providing for— (a) the regulation, control and management of— (i) the staff of the Central Board, (ii) the staffs of the regional boards, (b) the smooth interchange of staff as between any two of the aforesaid boards, and indicating in respect of the different grades of staff (either generally or severally, as may be appropriate) the remuneration, tenure of office, qualifications for appointment and conditions of service. (2) A scheme submitted to the Minister under this section shall, if

approved by the Minister with the concurrence of the Minister for the Public Service, be implemented by the board or boards to which it relates in accordance with its terms. (3) The Central Board may, after consultation with each of the regional boards and with any recognised staff associations or trade unions concerned, at any time, with the approval of the Minister given with the concurrence of the Minister for the Public Service, amend a scheme under this section.

33 Staff superannuation generally.

SECT 33.—(1) The Central Board shall, subject to section 31 of this Act, prepare and submit to the Minister a scheme or schemes for the granting of superannuation allowances by way of pension, lump sum or gratuity to, or in respect of, such whole-time employees of— (a) the Central Board, (b) any regional board, as the Central Board shall think fit; provided that a scheme under this section which relates to the staff of a regional board shall be so submitted by the Central Board only after consultation with that board and provided also that the Central Board shall, as soon as conveniently may be after the commencement of this section, prepare and submit such scheme or schemes under this section as is or are necessary to provide for the granting in accordance therewith of such allowances to or in respect of each person employed for the time being in a whole-time capacity by any regional board. (2) A scheme submitted to the Minister under this section shall, if approved of by the Minister with the concurrence of the Minister for the Public Service, be implemented by the board or boards to which it relates in accordance with its terms. (3) The Central Board may at any time, with the approval of the Minister given with the concurrence of the Minister for the Public Service, amend a scheme under this section; provided that in case such a scheme relates to any regional board the scheme shall only be amended under this subsection after consultation with the regional board or, as may be appropriate, each of the regional boards, concerned. (4) A scheme submitted and approved under this section shall fix the time and conditions of retirement for all persons to or in respect of whom pensions, gratuities or allowances are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons. (5) If any dispute arises as to the claim of any person to, or the amount of, any pension, gratuity or allowance payable in pursuance of a scheme under this section, it shall be submitted to the Minister for determination by him subject to the agreement of the Minister for the Public Service. (6) No pension, gratuity, allowance or other payment shall be granted by the Central Board or a regional board to or in respect of a member of its staff to whom a scheme under this section applies, nor shall any other arrangements be entered into by any such board for the provision of such pension, gratuity, allowance or other payment on the resignation, retirement or death of such a member of its staff, otherwise than in accordance with the scheme. (7) Every scheme submitted and approved of under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and if either House, within the next twenty-one days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

CHAPTER V DISSOLUTION OF BOARDS OF CONSERVATORS AND INLAND FISHERIES TRUST

34 Boards of conservators dissolved and certain appointments terminated.

SECT 34.—(1) Each of the boards of conservators established by section 21 of the Principal Act and which was in existence immediately before the commencement of this section is hereby dissolved. (2) Any appointment under section 51 of the Principal Act which was in force immediately before the commencement of this section is hereby terminated. (3) Nothing in this section shall be construed as affecting the validity of any licence or certificate in force immediately before the commencement of this section. (4) Any reference to a board of conservators in any enactment apart from the Fisheries Acts, 1959 to 1980, shall be construed as a reference to a regional board. (5) This section shall come into force on the appointed day.

35 Dissolution of Trust and transfer of its property, etc.

SECT 35.—(1) The Trust shall, on the appointed day, become dissolved by virtue of this section. (2) All property, whether real or personal (including choses-in-action), which immediately before the appointed day was vested in or belonged to or was held in trust or subject to conditions for the Trust and all rights, powers and privileges relating to or connected with any such property, shall on the appointed day, without any conveyance or assignment but subject where necessary to transfer in the books of any bank, corporation or company, become and be vested in or the property of or held in trust or subject to conditions for (as the case may require) the Central Board. (3) All property transferred by this section which immediately before the appointed day was standing in the books of any bank or was registered in the books of any bank, corporation or company in the name of the Trust shall, upon the request of the Central Board made at any time on or after the appointed day, be transferred in those books by the bank, corporation or company into the name of the Central Board. (4) Every chose-in-action transferred by this section may, on or after the appointed day, be sued upon, recovered, or enforced by the Central Board in its own name and it shall not be necessary for the Central Board to give notice to the person bound by any such chose-in-action of the transfer effected by this section. (5) Every debt and other liability (including any unliquidated liability arising from torts or breaches of contract) which immediately before the appointed day is owing and unpaid or has been incurred and is undischarged by the Trust shall, on the appointed day, become and be the debt or liability of the Central Board and shall be paid or discharged by and may be recovered from and enforced against the Central Board accordingly. (6) Every contract which was entered into and is in force immediately before the appointed day between the Trust and any person shall continue in force on and after the appointed day, but it shall be construed and have effect as if the Central Board were substituted therein for the Trust and shall be enforceable by or against the Central Board accordingly. (7) Where, immediately before the appointed day, any legal proceedings are pending to which the Trust is a party, the name of the Central Board shall be substituted for that of the Trust and the proceedings shall not abate by reason of such substitution. (8) The dissolution of the Trust by this section shall not invalidate or affect any payable order or cheque issued by the Trust and not presented for payment before the appointed day, or any authority given by the Trust for the payment of the amount of any payable order or cheque and the Central Board shall make arrangements for the payment of the amount of every such order or cheque upon due presentation within a reasonable time after such day. (9) Notwithstanding subsection (1) of this section each of the following, namely, the Inland Fisheries Trust Staff Superannuation Scheme, dated the 4th day of July, 1966, the Widows' and Children's Contributory Pensions Scheme for Permanent Officers of the Inland Fisheries Trust Incorporated, dated the 18th day of November, 1974, and the Inland Fisheries Trust Incorporated (Regular Wages Staff) Superannuation Scheme, 1975, shall continue in force, and, subject to section 31 of this Act, may be revoked or amended by the Central Board as if it had been made under section 33 of this Act.

36 Saver regarding certain rights of ordinary subscribing members of Trust.

SECT 36.—Nothing in this Act shall be construed as terminating or otherwise affecting any right to fish enjoyed by any person immediately before the dissolution of the Trust by virtue of the fact that he was then an ordinary subscribing member of the Trust, and such person shall be entitled to continue to enjoy and to exercise such right for the remainder of the period, but no longer, to which, but for such dissolution, the last annual subscription paid by him to the Trust would have related.

PART III - ACQUISITION AND TRANSFER OF FISHERIES ETC.

37 Acquisition of fisheries, etc.

SECT 37.—(1) Where on an application made to him by the Central Board the Minister is satisfied— (a) that, for the purpose of enabling a development programme prepared by either the Central Board or a regional board to be carried out, it is necessary that a particular fishery be acquired under this section, or (b) it is, for the purposes of managing, operating, protecting, conserving or developing any fishery in accordance with such a programme, expedient that the fishery should be acquired under this section, he may, with the consent of the Minister for Finance, authorise such acquisition by the Central Board. (2) (a) A fishery to which an authorisation under subsection (1) of this section relates may be acquired by the Central Board by agreement or, in default of agreement, by means of an order under this section made by the Minister. (b) Paragraph (a) of this subsection shall be construed as enabling the Central Board to

acquire, by agreement or by an order under this section, either or both of the following:— (i) the bed and soil of waters when they form part of a fishery, (ii) any estate or interest in land, or any way-leave, right of access or other easement or other right over, in or under land which in the opinion of the Central Board is required for or in connection with the preservation, conservation, operation, development or improvement of the fishery being acquired under the agreement or order. (3) (a) Every application for an authorisation under this section to acquire a way-leave or a right of way shall indicate, by reference to a plan sent with the application, the way-leave or right of way sought to be acquired. (b) In determining an application under this section to acquire a way-leave or a right of way, the Minister or the Arbitrator may, if he thinks fit, substitute a way-leave on, over or under the proposed servient tenement, or a right of way over such tenement, different from that specified in the application; provided that the Minister or the Arbitrator shall not exercise the power conferred on him by this paragraph without first affording to the person on whom, pursuant to Article 1 (c) (i) of the Fifth Schedule to this Act, notice has been served an opportunity of stating why the power should not be exercised. (4) Before giving an authorisation under subsection (1) of this section the Minister shall (in addition to consulting the Minister for Finance) consult such other Minister of the Government, if any, as appears to him to be concerned. (5) Where it is proposed that a fishery be acquired under this section by the Central Board and the Minister is satisfied that a public right to fish exists in relation to the fishery, the fishery shall be so acquired only if the Minister is satisfied that, notwithstanding the existence of such right, it is in the public interest that the fishery should be so acquired. (6) (a) Any person who is aggrieved by an authorisation of the Minister under subsection (1) of this section may, not later than thirty days after the day on which the authorisation is given, serve on the Minister a notice of appeal to the Arbitrator against the authorisation, and the Arbitrator may on such appeal either confirm or annul the authorisation. (b) Any person who is aggrieved by an order made by the Minister under subsection (2) of this section may, not later than thirty days after the day on which the order is made, serve on the Minister a notice of appeal to the Arbitrator against the order, and the Arbitrator may on such appeal either confirm the order as made by the Minister or confirm the order with such modifications as he considers appropriate. (7) Nothing in this section shall be construed as prohibiting or restricting the acquisition from the Minister by the Central Board, on such terms and conditions as may be agreed, of any fishery owned by the Minister. (8) Nothing in this section shall authorise the Central Board to acquire compulsorily— (a) any land vested in the State or any right over, in, under or in respect of such land; (b) any dwellinghouse or the curtilage thereof, or any enclosed premises, yard, garden or land appurtenant to a dwellinghouse or any right over, in, under or in respect of such premises, yard, garden or land. (9) Nothing in this section shall authorise the Central Board to acquire (either compulsorily or by agreement), save with the consent of the Irish Land Commission, any land which is subject to a land purchase annuity or any right over, in, under or in respect of such land. (10) Where a fishery is acquired by the Central Board under this section, then, notwithstanding the existence in relation to the fishery of any public right to fish, the Central Board shall have power to prohibit or control the taking of fish from the fishery. (11) The provisions contained in the Fifth Schedule to this Act shall, as the context requires, apply in relation to any or all of the following, namely, an application to the Minister under subsection (1) of this section, an authorisation or order under this section, an application for such an order, or a decision by the Minister or an appeal to the Arbitrator under this section.

38 Acquisition of portions of rivers or lakes contiguous to certain weir (freshwater) fisheries.

SECT 38.—(1) Where the bed and soil of any portion of a river or lake contiguous to a fishery to which this section applies, is not in the same ownership as such fishery, the Minister may, if to him it appears necessary or expedient for the maintenance, operation, improvement or development of such fishery, by order transfer to— (a) in case such bed and soil is contiguous to a fishery owned by the Minister, the Minister, (b) in case such bed and soil is contiguous to a fishery acquired by the Central Board under section 37 of this Act, the Central Board, so much of such bed and soil, not exceeding fifty yards (45.72 metres) either above or below, of fifty yards (45.72 metres) above and fifty yards (45.72 metres) below, such fishery, as the Minister shall specify in the order. (2) An order under this section shall be expressed and operate to transfer to the Minister or the Central Board, as the case may be, as on and from the date specified therein in that behalf the bed and soil of the portion of the river or lake to which the order relates, in fee simple, free from encumbrances and from all estates and interests therein (except such angling right, if any, as may be reserved by the order). (3) Section 37 (6) (b) of, and Articles 4, 5, 8 and 9

of the Fifth Schedule to, this Act shall, with the necessary modifications, apply to an order under this section. (4) Nothing in this section shall enable the Central Board to acquire compulsorily any land vested in the State. (5) Where the Minister makes an order under this section he shall cause a copy of such order to be served on the owner of the bed and soil of the river or lake to which such order relates. (6) This section applies to a fishery which is either owned by the Minister or acquired by the Central Board under section 37 of this Act and which, in either case, is a weir (freshwater) fishery. (7) In this section "weir (freshwater) fishery" means a fishery for salmon, trout or eels carried on in freshwater by means of a fishing weir, and the structure of such weir and the land on which such weir is erected and all other rights of fishing for salmon, trout and eels in or on the site of such fishery.

39 Right of way (acquisition).

SECT 39.—(1) The Central Board or a regional board may apply to the Minister for an order under this section effecting the compulsory acquisition of a right of way (in this Act referred to as "the required right of way") by a particular route over any land. (2) Every application for an order under this section shall indicate, by reference to a plan sent with the application, the right of way sought to be acquired. (3) Where an application for an order under this section is made, subject to subsection (4) of this section, the following provisions shall apply: (a) the Minister, after considering the application— (i) if he is satisfied that the right of way sought is either required to enable the applicant to perform a function assigned to the applicant under this Act or is necessary to enable fishermen to gain access to fishing waters for the purpose of lawfully fishing and, in either case, that, in the circumstances of the case, to make an order under this section would be reasonable, may make an order creating a right of way (being, as he thinks fit, either the required right of way or another right of way) over the proposed servient tenement, or (ii) refuse the application; (b) if the Minister makes an order under this section, the occupier or the owner of the proposed servient tenement may, within the period of two months beginning on the day on which the order is made, serve on the Minister a notice of appeal to the Arbitrator against the order, and the Arbitrator may, on such appeal— (i) if he is so satisfied, confirm the order, or confirm the order but alter the route over the proposed servient tenement of the right of way thereby created, or (ii) if he is not so satisfied, revoke the order; (c) if the Minister refuses to make an order under this section, the applicant may, within the period of two months beginning on the date of such refusal, serve on the Minister a notice of appeal to the Arbitrator against such refusal, and the Arbitrator may, on such appeal— (i) confirm the refusal, or (ii) if he is so satisfied, make an order under this section creating a right of way (being, as he shall think fit, either the required right of way or another right of way) over the proposed servient tenement, (d) if the Minister makes an order under this section but thereby creates a right of way other than the required right of way, the applicant may, within the period of two months beginning on the day on which the order is made, serve on the Minister a notice of appeal to the Arbitrator against the order, in so far as it creates a right of way other than the required right of way, and the Arbitrator may, on such appeal— (i) confirm the order as made by the Minister, or (ii) vary such order by substituting a right of way over the proposed servient tenement different from that specified in the order. (4) Where an application is made under this section, neither the Minister nor the Arbitrator shall exercise the power conferred on him by this section to create or substitute a right of way different from that indicated in accordance with subsection (2) of this section without first affording to the person on whom, pursuant to Article 1 (c) (i) of the Fifth Schedule to this Act, notice has been served an opportunity of stating why the power should not be exercised. (5) The provisions contained in the Fifth Schedule to this Act shall, as the context requires, apply in relation to either an order under this section or an application for such an order.

40 Transfer of fisheries to Minister or Central Board by Commissioners.

SECT 40.—(1) The Commissioners may by order under their seal transfer to the Minister or, with the consent of the Minister, to the Central Board, on such terms and conditions as, with the consent of the Minister for Finance, shall be agreed upon between the Commissioners and the Minister, all the estate and interest of the Commissioners in any fishery or fishing right which is in the possession or occupation of the Commissioners and also any land, way-leave, water-right, right of access or other easement or other right which is in the possession or occupation of the Commissioners and is ancillary to any such fishery or fishing right so transferred. (2) An order made under this section shall operate to vest in the Minister or the Central Board, as may be appropriate, without any further or other conveyance, all the estate and

interest of the Commissioners in every fishery and fishing right and in all lands, way leaves, water-rights, rights of access and other easements or other rights purported to be transferred to the Minister or the Central Board by the order.

41 Transfer of fisheries to Minister or Central Board by Irish Land Commission.

SECT 41.—(1) The Irish Land Commission may by order under their seal transfer to the Minister or, with the consent of the Minister to the Central Board, on such terms and conditions as, with the consent of the Minister for Finance, shall be agreed upon between the said Commission and the Minister, all the estate and interest of the said Commission in any fishery or fishing right which is in the possession or occupation of the said Commission and also any land, way-leave, water-right, right of access or other easement or other right in, over or under land which is in the possession or occupation of the said Commission and is ancillary to any such fishery or fishing right so transferred. (2) An order made under this section shall operate to vest in the Minister or the Central Board, as may be appropriate, without any further or other conveyance, all the estate and interest of the Irish Land Commission in every fishery and fishing right and in all lands, way-leaves, water-rights, rights of access and other easements or other rights purported to be transferred to the Minister or the Central Board by such order.

42 Transfer of certain fisheries to Central Board by Minister.

SECT 42.—(1) The Minister may, with the consent of the Minister for Finance, transfer to the Central Board by order any fishery or fishing right to which this section applies. (2) This section applies to— (a) any fishery or fishing right acquired by or vested in the Minister under the Forestry Acts, 1919 and 1928, or the Forestry Acts, 1946 to 1976, or so vested by virtue of the Forestry (Redistribution of Public Services) Order, 1933, (b) any fishery or fishing right transferred to the Minister under section 40 or 41 of this Act, (c) any fishery or fishing right otherwise acquired by the Minister. (3) An order under this section shall operate to vest in the Central Board without any further or other conveyance, all the estate and interest of the Minister in every fishery and fishing right and in all lands, way-leaves, water-rights, rights of access or other easements or rights purported to be transferred to the Central Board by such order.

43 Compensation.

SECT 43.—(1) Subject to subsection (3) of this section, the exercise of any power under section 18, 37, 38 or 39 of this Act shall be subject to payment of compensation in respect of— (a) any estate or interest in any fishery, or any other estate or interest in land, acquired under or by virtue of this Act, (b) any easement or other right in, over, under or in respect of land or any estate or interest in an easement or such another right, so acquired, (c) any diminution, by reason of the exercise of the power, in the value of any easement or other right in, over, under or in respect of land, or any other estate or interest in any land or in any easement or such right, and the compensation, together with any interest payable thereon by virtue of subsection (2) of this section, shall be paid by— (i) in case the power is exercised under the said section 37, the Central Board, and (ii) in any other case, the person in whose favour the power is exercised. (2) (a) Subject to paragraph (b) of this subsection, where compensation is payable to a person under this section in respect of the exercise of a power under this Act, there shall be paid in accordance with subsection (1) of this section interest on the amount of the compensation payable to the person, at such rate as shall be determined from time to time for the purposes of this section by the Minister for Finance, from the date on which the power is exercised until the payment of such compensation. (b) if— (i) the person by whom compensation under this section is payable makes an unconditional offer in writing of any sum as compensation to the person to whom the compensation is payable, and (ii) the offer is not accepted by the person to whom it is made, and (iii) the sum awarded as compensation by the official arbitrator does not exceed the sum so offered, no interest shall be payable on such compensation. (3) A claim under this section for payment of compensation shall, in default of agreement, be determined by arbitration under the Acquisition of Land (Assessment of Compensation) Act, 1919, as amended by any subsequent enactment, in like manner in all respects as if such claim arose in relation to compulsory acquisition of land, and for this purpose the Central Board or the regional board concerned, as may be appropriate, shall be deemed to be a public authority within the meaning of the said Act, and the reference

in section 69 (1) of the Local Government (Planning and Development) Act, 1963, to a planning authority shall be construed as including a reference to the Central Board or to such regional board, as may be appropriate. (4) The following provisions shall have effect in relation to the fixing of the compensation payable under this section in respect of a fishery to which an authorisation under section 37 of this Act relates, namely, the Central Board or the official arbitrator, as may be appropriate, may have regard to the following: (a) the current market value of the fishery, (b) evidence of profitability of the fishery by reference to both— (i) profits for a period ending prior to such authorisation, and (ii) a profit forecast regarding the fishery which is— (A) related to a period equal in length to the period referred to in subparagraph (i) of this paragraph but beginning on a day which is subsequent to such authorisation, and (B) estimated both on a reasonable basis and on the assumption that the fishery continued to be used by the occupier and had not been so acquired. (5) Sections 69 to 74 and 76 to 80 of the Lands Clauses Consolidation Act, 1845, shall apply to any compensation payable under this section, and for the purposes of such application the Central Board or the regional board concerned, as may be appropriate, shall be deemed to be the promoter of the undertaking. (6) A claim for compensation under this section shall be brought within— (a) in case the person entitled to the compensation is a minor or a person of unsound mind, a period of six years from the date when such person ceases to be under such disability or dies, whichever event first occurs, but not more than thirty years after the exercise of the relevant power under this Act, (b) in any other case, a period of six years from the date of the exercise of such power. (7) Subject to paragraphs (a) and (b) of subsection (6) of this section, compensation under this section may be paid to the personal representatives of a person entitled thereto. (8) In this section "the official arbitrator" means the official arbitrator under the Acquisition of Land (Assessment of Compensation) Act, 1919.

44 Arbitrator.

SECT 44.—(1) A person appointed under this section by the Minister is in this Act, other than section 43, referred to as "the Arbitrator". (2) In case the Minister receives a notice of appeal under section 37, 39 or 54 of this Act, or by virtue of section 38 (3) of this Act, he shall as soon as may be appoint a person, who shall be a barrister of not less than seven years' standing, to hear the appeal (which person is hereby authorised to determine the appeal). (3) In case the Minister proposes to amend an order made under section 37, 38 or 39 of this Act, he shall as soon as may be appoint a person, who shall be a barrister described in subsection (2) of this section, to perform the functions assigned to the Arbitrator by subparagraphs (i), (iv), (v), (vi) and (vii) of section 5 (b) of this Act.

45 Sale by Minister of certain fisheries, fishing rights and business.

SECT 45.—(1) The Minister may, with the consent of the Minister for Finance, sell (otherwise than to the Central Board) any fishery or fishing right vested in him, whether in pursuance of section 40 or 41 of this Act or otherwise, and also the goodwill and stock in trade and other assets of any business (being a business ancillary or incidental to the operation of a fishery) carried on by him at such price as he may with the concurrence of the Minister for Finance think proper. (2) Any moneys received on a sale under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance may direct.

PART IV - LEGAL PROCEEDINGS, PENALTIES, ETC.

46 Certain offences may be tried on indictment.

SECT 46.—(1) A person charged with an offence under section 65, 66, 69, 73, 94, 95, 96, 97, 127, 128, 129, 130, 132, 134, 135, 137, 140, 145, 146, 156, 176, 177 or 182 of The Principal Act may be tried on indictment. (2) A person charged with an offence under section 28 (1) of the Act of 1962 may be tried on indictment and shall, on conviction on indictment, be liable to a fine of an amount not exceeding £2,000 together with an amount not exceeding £50 for each salmon and £5 for each trout in respect of which the offence is committed, or at the discretion of the court, to imprisonment for a term not exceeding two years or to both such fine and such imprisonment. (3) A person charged with an offence under section 29 of the Act of 1962 may be tried on indictment and shall, on conviction on indictment, be liable to a fine not exceeding £2,000, or at the discretion of the court, to imprisonment for a term not exceeding two years or

to both such fine and such imprisonment. (4) A person charged with contravening a bye-law made by the Minister under section 9 of the Principal Act, being a bye-law which— (a) prohibits the use, or attempt to use either generally or in a manner specified in the bye-law in fishing for salmon or trout, any drift net, or two or more drift nets joined together, or any drift net, or two or more drift nets so joined, which is of a specified class or description, (b) prohibits the having on board any boat, either generally or in an area which is specified in the bye-law, any such drift net or nets, (c) prohibits the use, or attempt to use, in fishing for salmon or trout, any net made wholly or partly from monofilament or multistrand monofilament, or (d) prohibits the having on board any boat, or the possession for the capture of fish on any quay, on or near any bank of a river or estuary, or on or near any sea coast or at sea, any net mounted or otherwise prepared for use in fishing and made wholly or partly of monofilament or multistrand monofilament, or of monofilament or multistrand monofilament with a mesh greater than a size specified in the bye-law, may be tried on indictment and shall, if convicted on indictment of an offence under the said section 9 be liable to a fine not exceeding £2,000, or at the discretion of the court, to imprisonment for a term not exceeding two years or to both such fine and such imprisonment. (5) Any reference to summary conviction in any section of The Principal Act which is mentioned in subsection (1) of this section, or in section 28 or 29 of the Act of 1962, shall be construed as including a reference to conviction on indictment. (6) Subsection (4) (inserted by section 3 of the Act of 1962) of section 9 of the Principal Act shall be construed and have effect in relation to bye-laws described in that subsection which are also bye-laws described in subsection (4) of this section as if the reference therein to summary conviction included a reference to conviction on indictment. (7) The provisions of subsections (1), (2), (3) and (4) of this section are in addition to and not in substitution for section 309 (1) of the Principal Act (inserted by section 49 of this Act).

47 Jurisdiction.

SECT 47.—(1) Proceedings for any offence under section 65, 69, 97, 127, 140, 176, 182 or 285A (inserted by section 24 of the Act of 1962) of The Principal Act or section 29 of the Act of 1962 or for any offence against a bye-law described in section 46 (4) of this Act may be taken in any District Court District, and in case such proceedings are taken and apart from this section the Justice before whom the proceedings are brought would not have jurisdiction to hear and determine the proceedings, then for the purpose of conferring such jurisdiction the offence may be treated as having been committed within the District Court District to which such Justice is assigned. (2) Where a person is sent forward for trial on indictment by the Circuit Court for an offence under section 65, 69, 97, 127, 140, 176, 182 or 285A (inserted by section 24 of the Act of 1962) of The Principal Act or section 29 of the Act of 1962 or for any offence against a bye-law described in section 46 (4) of this Act and apart from this subsection a judge of that court would, as regards the proceedings, not have power to exercise the jurisdiction vested in that court by section 25 (1) of the Courts (Supplemental Provisions) Act, 1961, then for the purpose of enabling that judge to exercise such jurisdiction the offence may be treated as having been committed in the circuit to which such judge is assigned.

48 Proof that boat is foreign sea-fishing boat.

SECT 48.—(1) Where in any proceedings for an offence under Chapter II of Part XIII of The Principal Act there is evidence from which it appears to the court that the sea-fishing boat to which the alleged offence relates, or on board which such offence is alleged to have been committed, is either of a foreign character or of foreign origin or that at or about the time of the alleged offence such boat— (a) wore no flag or wore a flag other than the national flag, or (b) had marked on her stern the name of any place other than a port mentioned in the Second Schedule to the Mercantile Marine Act, 1955, or (c) had on board any books, papers or other documents from which it so appears that the boat was not an Irish ship, then, until the contrary is shown, such evidence shall be sufficient to prove that such boat is a foreign sea-fishing boat. (2) Where in proceedings for an offence under Chapter II of Part XIII of The Principal Act it is proved that the sea-fishing boat to which the alleged offence relates, or on board which such offence is alleged to have been committed, wore at or about the time of the alleged offence a flag other than the national flag, the presumption raised by subsection (1) of this section, insofar as it depends on that proof, may be rebutted by the defendant proving that the flag so worn was not a flag distinctive of nationality.

(3) The provisions of this section are in addition to, and not in substitution for, those of section 19 (3) of the Act of 1962 (as amended by section 73 of this Act).

49 Trial of offences.

SECT 49.—The following subsection is hereby substituted for subsection (1) of section 309 of the Principal Act: "(1) Notwithstanding anything contained in any other enactment, an offence under any provision of the Fisheries Acts, 1959 to 1980, other than a section specified in Table 1 to section 2 of the Fisheries (Amendment) Act, 1978, may be heard and determined in a summary way by a District Justice upon the complaint, verbal or otherwise, of a member of the Garda Síochána, the Central Board, a regional board, an officer or servant of a board, a private waterkeeper within the meaning of Part XVIII of this Act or any other person."

50 Alteration of certain penalties under Principal Act or Act of 1962.

SECT 50.—(1) A person convicted by the District Court of an offence for which a penalty is provided in any section of the Principal Act specified in column (2) of Part I 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, a fine or imprisonment, or a fine and imprisonment, be liable to the appropriate penalty specified in column (3) of the said Part I at that reference number, and that section shall be construed and have effect accordingly. (2) (a) A person convicted of an offence under subsection (4) of section 9 of the Principal Act (inserted by section 3 of the Act of 1962, other than an offence against a bye-law described in section 46 (4) of this Act) shall, in lieu of so much of the penalty specified in that subsection as consists of a fine, be liable to a fine not exceeding £200, and the said subsection (4) shall be construed and have effect accordingly. (b) A person guilty of an offence against any bye-law, other than a bye-law described in section 46 (4) of this Act, in relation to which subsection (2) of section 9 of the Principal Act applies and which was made before the commencement of section 3 of the Act of 1962 shall, in lieu of so much of the penalty specified in section 32 (2) of the Act of 1962 as consists of a fine and notwithstanding anything contained in the said subsection (2), be liable to a fine not exceeding £200, and the said section 32 (2) shall be construed and have effect accordingly. (c) A person convicted of an offence under subsection (4) of section 9 of the Principal Act (inserted by section 3 of the Act of 1962), being an offence against a bye-law described in section 46 (4) of this Act, shall, in lieu of so much of the penalty specified in that section as consists of a fine, be liable to a fine not exceeding £500, and the said subsection (4) shall be construed and have effect accordingly. (3) (a) A person convicted on indictment of an offence under section 164 of the Principal Act (inserted by section 16 of the Act of 1962) shall, in lieu of the penalty specified in paragraph (b) of subsection (4) of that section, be liable to a fine not exceeding £2,000, or at the discretion of the court, to imprisonment for a term not exceeding two years or to both such fine and such imprisonment, and the said section 164 shall be construed and have effect accordingly. (b) A person convicted on indictment of an offence under section 285A (1) of the Principal Act (inserted by section 24 of the Act of 1962) shall, in lieu of the penalty specified in paragraph (b) of that section, be liable to a fine not exceeding £2,000, or at the discretion of the court, to imprisonment for a term not exceeding two years or to both such fine and such imprisonment, and the said section 285A (1) shall be construed and have effect accordingly. (c) A person convicted on indictment of an offence under section 65, 66, 73, 94, 95, 96, 97, 127, 130, 132, 134, 135, 137, 140, 145, 146, 156, 176, 177 or 182 of The Principal Act, as amended by section 46 (1) of this Act, shall be liable to a fine not exceeding £2,000, or at the discretion of the court, to imprisonment for a term not exceeding two years or to both such fine and such imprisonment. (d) A person convicted on indictment of an offence under section 69, 128 or 129 of The Principal Act, as amended by section 46 (1) of this Act, shall be liable to a fine not exceeding £2,000 and in the case of a continuing offence to a further fine not exceeding £100 for each day during which the offence is committed, or at the discretion of the court, to imprisonment for a term not exceeding two years or to both such fine and such imprisonment. (4) A person convicted by the District Court of an offence for which a penalty is provided in any section of the Act of 1962 specified in column (2) of Part II 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, a fine or imprisonment, or a fine and imprisonment, be liable to the appropriate penalty specified in column (3) of the said Part II at that reference number, and that section

shall be construed and have effect accordingly. (5) Where a person is convicted of an offence under section 69 of the Principal Act, the engine in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (6) Where a person is convicted of an offence under section 95 of the Principal Act, the net in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited. (7) Where a person is convicted of an offence under section 152 of the Principal Act, the engine or other thing used to commit the offence 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

PART I - Ref. No. Section of Principal Act Penalty (1)(2)(3) 1. 12, 13, 80, 289, 305. A fine not exceeding £50. 2. 49, 105, 106, 152, 153, 162, 240, 241, 242, 243, 255, 265, 286, 287, 288, 290, 294, 298, 303, 304, 306, 323. A fine not exceeding £200. 3. 17, 65, 66, 73, 91, 92, 93, 112, 113, 119, 120, 121, 122, 125, 130, 140, 141, 143, 144, 145, 146, 163, 167, 168, 169, 178, 179, 180, 181, 237, 238, 239, 253, 273, 274, 277, 285, 291. A fine not exceeding £500. 4. 69, 123, 128, 129. A fine not exceeding £500 and, in the case of a continuing offence, a further fine (not exceeding in all £600) not exceeding £50 for each day during which the offence is continued. 5. 100. A fine not exceeding £500 and, in the case of a continuing offence, a further fine (not exceeding in all £600) not exceeding £100 for each day during which the offence continues after conviction thereof. 6. 111. A fine not exceeding £500 and a further fine (not exceeding in all £600) not exceeding £10 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. 7. 124. A fine not exceeding £500 and a further fine (not exceeding in all £600) not exceeding £50 for each day during which the neglect referred to in the said section 124 continues. 8. 172. A fine not exceeding £500 and a further fine (not exceeding in all £600) not exceeding £50 for each day during which the failure referred to in the said section 172 continues. 9. 127, 134, 135, 136, 137, 138, 177. A fine (not exceeding in all £600) of an amount not exceeding £500 together with an amount not exceeding £50 for each salmon and £10 for each other fish in respect of which the offence under the section is committed. 10. 94. A fine (not exceeding in all £600) of an amount not exceeding £500 together with an amount not exceeding £50 for each salmon and £10 for each other fish caught by means of any net used in the commission of the offence under the said section 94. 11. 95, 96, 97, 99, 102, 103, 104, 107, 110, 114, 116, 131, 132, 164, 165, 166, 170, 171, 173, 174, 183, 285A, 301, 308. A fine not exceeding £500 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 in all £600) of an amount not exceeding £500 together with an amount not exceeding £50 for each salmon and £10 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. PART II Ref. No. Section of Act of 1962 Penalty (1)(2)(3) 1. 27. A fine not exceeding £100. 2. 28 (1). A fine (not exceeding in all £600) of an amount not exceeding £200 together with an amount not exceeding £50 for each salmon and £10 for each trout in respect of which the offence is committed. 3. 28 {3}, 28 (5). A fine not exceeding £200. 4. 29. A fine not exceeding £500 or, at the discretion of the Court, imprisonment for any term not exceeding six months or both such fine and such imprisonment.

51 Forfeiture of licences and consequential disqualification orders.

SECT 51.—The following is hereby substituted for section 90 of the Principal Act: "90. (1) (a) Where— (i) a person is convicted of any offence under this Act, other than an offence described in subsection (3) of this section, and (ii) such person is the holder of a fishing licence or licences or an oyster fishing licence or licences, the court by whom such person is convicted may, in addition to any other penalty, direct such licence or licences to be forfeited. (b) Where a licence is directed to be forfeited under this subsection, such licence shall thereupon cease to be in force. (2) (a) 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. (b) Where a declaration is made under this subsection, the declaration shall operate to disqualify the person to whom it relates for holding a licence of the kind specified in the declaration, and notwithstanding anything contained in this Act a licence of that kind shall not be issued to such person in respect of the period specified in the declaration. (3) (a) This subsection applies to the following offences, namely— (i) an offence under section 65, 69, 73, 94, 95, 96, 97, 127, 128, 129, 130, 132, 134, 140, 145, 146, 176, 182, 285A (inserted by section 24 of the Act of 1962) or 301 of this Act, (ii) an offence under section 29 of the Act of 1962, (iii) an offence under any bye-law described in subsection (4) (inserted by section 3 of the Act of 1962) of section 9 of this Act which is also a bye-law described in section 46 (4) of the Fisheries Act, 1980. (b) Where a person is convicted of an offence which is both an offence to which this subsection applies and a second or any subsequent such offence, the court by whom such person is convicted shall make an order (in this Act referred to as 'a consequential disqualification order') declaring him to be disqualified for holding an ordinary fishing licence in respect of any scheduled engine mentioned in Part II of the Fourth Schedule to this Act, and such order shall operate so to disqualify the person to whom it relates during the period of three years commencing on the date on which the order is made. (4) Subject to subsection (5) of this section, in every case in which an appeal may be brought in respect of a conviction of an offence to which subsection (3) of this section applies, jurisdiction to make, confirm or annul a consequential disqualification order is hereby conferred on the appellate court. (5) A consequential disqualification order shall not be annulled on appeal unless the conviction by reference to which it was made is reversed."

52 Payment of certain fines as compensation; delivery of oysters or other fish.

SECT 52.—(1) (a) Where a court imposes a fine or affirms or varies a fine imposed by another court for an offence mentioned in subsection (4) of this section of which a person was convicted, it may, at its discretion, on the application (made before the time of such imposition, affirmation or variation) of any person who was summoned as a witness on behalf of the prosecution in the proceedings in which the fine was imposed and who suffered loss or damage resulting, wholly or partly, from the offence, provide by order for the payment of the amount of the fine or of a specified part of it as compensation in respect of the loss or damage to the person making the application. (b) An application shall not lie under paragraph (a) of this subsection in respect of any loss or damage if proceedings claiming damages for the loss or damage have been instituted in any court. (2) If a person is convicted of an offence under section 54 (17) of this Act or section 253 of the Principal Act by reason of his having taken away oysters or other fish from an oyster bed or other place, if the oysters (or any of them) or the other fish in respect of which the offence was committed have or has not then been sold, they or it, as may be appropriate, shall, as a statutory consequence of conviction, stand forfeited, and the court may direct their or its delivery to the owner or occupier of the oyster bed or other place from which they or it were or was taken or the person to whom the relevant licence was granted or who is entitled to the benefit of such licence. (3) Where pursuant to this section the whole or part of a fine is paid to a person and the person is awarded damages by a court in respect of the loss or damage to which the payment relates, the payment shall be deemed to be in satisfaction of so much of the damages as is equal to the amount of the payment. (4) The offences referred to in subsection (1) of this section are offences under section 54 (17) of this Act or Section 253 or 265 of The Principal Act.

53 Power of authorised officer to take boat to port, etc.

SECT 53.—section 301 of the Principal Act is hereby amended by— (a) the insertion in subsection (2) of the following paragraphs after paragraph (d): "(da) if the boat contains or he believes or suspects that it contains fish unlawfully captured he may without summons, warrant or other process take the boat and all persons thereon to the nearest or most convenient port or other place, and if he decides to take the steps mentioned in subsection (2A) of this section, he may, pending the taking of those steps, detain the boat and the persons; (db) he may for the purpose of exercising the power conferred on him by paragraph (da) of this subsection use such force as he may consider necessary;" (b) the insertion of the following subsection after subsection (2): "(2A) Where an authorised officer has in exercise of the powers conferred on him by this section taken any boat and the persons thereon to a port or other place, he shall, as soon as may be, bring the person who at the time the boat was so taken was, or who appeared to him to be, in charge of the boat, and any other person who was then thereon, and against whom, in either case,

proceedings for an offence under section 65, 69, 73, 97, 127, 132, 140 or 182 of The Principal Act or section 29 of the Act of 1962 or for a contravention of a bye-law described in paragraph (a), (b), (c) or (d) of section 46 (4) of the Fisheries Act, 1980, are or are about to be instituted before a District Justice or, where no District Justice is immediately available, a Peace Commissioner, and thereupon the District Justice or Peace Commissioner (as the case may be) shall, if he is satisfied that the proceedings are or are about to be instituted against the person, by order directed to an authorised officer or officers require the authorised officer or officers to detain at a specified port or other place in the State either, as may be specified in the order, such boat and the person or persons brought before him or such boat only until the proceedings have been adjudicated Power of authorised officer to take boat to port, etc. upon by a District Justice, and the boat or the boat and such person or persons, as may be appropriate, shall be detained accordingly.", (c) the insertion of ",whether such loss or damage occurs by reason of something done personally by such officer or by a person acting under his orders," before "unless" in subsection (6), and the said subsection (6), as so amended, is set out in the Table to this section. TABLE (6) No authorised officer shall be liable for any loss or damage occasioned by or in the course of the exercise of any of the powers conferred on him by this section, whether such loss or damage occurs by reason of something done personally by such officer or by a person acting under his orders, unless such loss or damage was caused by him want only or maliciously.

PART V - AQUACULTURE AND SALMON LEVY

54 Aquaculture.

SECT 54.—(1) (a) It shall not be lawful for any person at any place to engage in aquaculture save under and in accordance with a fish culture licence, an oyster bed licence, a licence granted by the Minister under this section or an oyster fishery order. (b) Any person who engages in aquaculture in contravention of this subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500. (2) (a) Subject to the following provisions of this section, the Minister may by order designate an area specified in the order to be an area within which it shall be lawful to engage in aquaculture pursuant to and in accordance with a licence granted by the Minister under this section. (b) An order under this section which designates an area which is wholly or partly comprised of an area of the sea, or an order amending such an order under this section, shall not be made without the consent of the Minister for Tourism and Transport. (c) An area specified in an order under this subsection may be wholly or partly comprised of any waters which by virtue of section 10 (9) of this Act may be included in a fisheries region. (3) Whenever the Minister proposes to make an order under this section or to amend such an order the following provisions shall apply: (a) he shall deposit and keep deposited, at such place or each of the places as he shall determine for such period (being a period of not less than three weeks beginning on the date of publication of the notice referred to in paragraph (b) of this subsection) as he shall determine, such plan or plans or other documents as will show clearly both the area and the waters therein to which the proposed order is to apply; (b) he shall publish in the *Iris Oifigiúil* and in at least one daily newspaper published in the State notice of the nature of the intended order, and in addition to the foregoing such notice shall state that— (i) representations and objections as regards the proposed order may be made in writing to the Minister during the said period (which representations and objections are hereby authorised to be made), and (ii) copies of the documents deposited pursuant to this section may be inspected at any reasonable hour during the said period, and the place or places at which such documents may be so inspected. (4) (a) The Minister, having regard to any representations or objections made under subsection (3) of this section, may, if he thinks fit, appoint a person to hold an inquiry and report to him in writing in regard to the proposed order. (b) Where the Minister appoints under this subsection a person to hold an inquiry, every person by whom an objection to or representation as regards the proposed order is made shall be entitled to appear and be heard (either in person or through counsel or a solicitor) at the hearing. (5) (a) Where the Minister, having complied with the requirements of subsection (3) of this section and having considered any report made to him under subsection (4) of this section, or in case no such report is made, any representations made under the said subsection (3) and any objections so made which are not withdrawn, is of the opinion that, notwithstanding the existence of any public right to fish in the waters to which the proposed order if made would relate, it would be in the public interest were an order under this section to be made, he may make such an order in the form originally proposed or with such variation or amendment as in the

circumstances of the case he considers appropriate. (b) In case the Minister makes an order under this section he shall, as soon as may be, publish notice of the making thereof in the *Iris Oifigiúil* and in at least one daily newspaper published in the State. (6) The Minister shall not revoke an order made under this section unless he is satisfied that it is in the public interest so to do. (7) Any person who is aggrieved by the making of an order under this section may, within the period of twenty-eight days beginning on the day on which notice of the making of the order is published pursuant to this section in the *Iris Oifigiúil*, appeal to the High Court against the order and a decision of the High Court on such an appeal shall be final and not appealable. (8) An order under this section shall come into force— (a) in case no appeal in respect thereof is taken under this section, on the expiration of the period during which such an appeal may be taken, (b) in case such an appeal is taken, on the day next following the day on which the order is confirmed on appeal, or in case the appeal is withdrawn, on the expiration of the period mentioned in paragraph (a) of this subsection or on the day next following the day on which the appeal is withdrawn, whichever is the later. (9) (a) Subject to subsection (10) of this section the Minister may, whenever and so often as he thinks fit, on payment to him of the prescribed fee (if any), by licence (in this section referred to as an "aquaculture licence") authorise, subject to such conditions as he thinks fit and specifies in the licence, a person specified in the licence to carry on at a place or in waters so specified, being a place or waters situated within a designated area, such operations in relation to aquaculture as may be so specified, and in addition to the foregoing the Minister may, if he thinks fit, specify in an aquaculture licence, by means of a map or otherwise, the boundaries or limits of the place or waters in relation to which the licence is granted. (b) The Minister may, with the consent of the Minister for Finance, prescribe fees payable in respect of licences granted by the Minister under this section (other than licences under subsection (15)). (c) Every fee received by the Minister under this section shall be paid into, and be disposed of for the benefit of, the Exchequer in such manner as the Minister for Finance shall direct. (10) (a) An aquaculture licence shall not be granted to engage in aquaculture within the limits of any oyster bed or oyster fishery which is either an oyster bed or oyster fishery described in Section 245(2) (b) of The Principal Act or one to which an oyster bed licence or oyster fishery order relates, without the consent of the person who for the time being is beneficially entitled to the oyster bed or, as the case may be, oyster fishery. (b) An aquaculture licence to engage in aquaculture within the limits of a several fishery shall only be granted— (i) to the owner of such fishery, or (ii) with the consent in writing of such owner. (c) An aquaculture licence shall not be construed as taking away or abridging any right on, to or over any portion of the seashore which is enjoyed by any person in any manner described in section 267 of the Principal Act or any right of several fishery, without the consent of the person who is beneficially entitled to the right. (d) Where an aquaculture licence is granted with the consent of any owner and a period is specified in such consent, the licence shall remain in force only for that period. (e) Subject to paragraph (d) of this subsection, an aquaculture licence shall, as may be specified therein, be perpetual or terminable and shall be binding on the State and on all persons whatsoever and shall operate to enable the person to whom it is granted, his heirs, executors, administrators and assigns, to carry on, in accordance therewith, such operations as are therein specified, free from all prior or other rights, titles, estates or interests (if any), and in addition to the foregoing the person who is, for the time being, entitled to the benefit of the licence shall, by virtue of the licence, be entitled, within the boundaries or limits specified in the licence, to the exclusive right to conduct the operations so specified and in exercise of that right, may, subject to any condition specified in the licence in that regard— (i) at any season deposit, propagate, collect or take any thing, (ii) at any season take or remove any thing and deposit or place it where he thinks fit, and (iii) do, make or maintain any thing in connection with or for the purposes of any such operation. (f) The Minister may amend any aquaculture licence so as to give effect to any agreement or undertaking which, subsequent to the date of the licence, may have been given or entered into by or on behalf of any person entitled to the benefit of the licence with any other person. (g) Sections 263 and 264 of The Principal Act shall with the necessary modifications each apply to any operation carried on pursuant to a licence under this section as they apply to an oyster fishery granted under an oyster fishery order. (h) The Minister shall not after the commencement of this section either grant an oyster bed (1959 Act) licence or make an oyster fishery (1959 Act) order and sections 245 (1) and 256 of The Principal Act shall each be construed and have effect subject to the foregoing provisions of this paragraph. (11) Notwithstanding anything contained in The Principal Act or any instrument thereunder, a licensee and any person acting under the directions of a licensee may, subject to the conditions specified in the licence, do any of the things authorised by the licence. (12) (a) Subject to subsection (14) of this section, the Minister may revoke or amend an aquaculture licence if he considers that it is in the public interest so to

do. (b) Without prejudice to the generality of paragraph (a) of this subsection (but subject to subsection (14) of this section), the Minister may revoke an aquaculture licence if he is satisfied that there has been a breach of any condition specified in the licence or that the aquaculture fishery to which the licence relates is not being properly maintained. (13) Where the Minister proposes to make an order under this section, a person may during the period specified in a notice published pursuant to subsection (3) of this section inspect at any reasonable hour any document deposited pursuant to the said subsection (3) in relation to the proposed order. (14) The following provisions shall apply in relation to the amendment or revocation of an aquaculture licence— (a) the Minister shall not amend or revoke the licence unless and until he has given by post to the licensee at least twenty-eight days notice in writing stating that the Minister has under consideration the amendment or revocation, as the case may be, of the licence, (b) the notice shall also state— (i) in case it states that the Minister has under consideration the amendment of the licence, the specified amendment under consideration and the grounds on which it is so under consideration, or (ii) in case it states that the Minister has under consideration the revocation of the licence, the grounds on which such revocation is so under consideration, (c) the Minister shall consider any representation in relation to such amendment or revocation, as the case may be, made to him by the licensee before the expiration of the notice, (d) where pursuant to subsection (12) (a) of this section the Minister revokes an aquaculture licence, the licensee shall be entitled to be paid by the Minister compensation for any loss suffered by him by reason of the revocation, and in default of agreement the amount of such compensation shall be determined under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919. (15) (a) A person who immediately before the passing of this Act was engaged in aquaculture may apply to the Minister for a licence under this subsection and the Minister shall if he is satisfied that the person was lawfully so engaged authorise, subject to such conditions as the Minister considers appropriate and specifies in the licence, the person to carry on at the place or in waters at or in which the aquaculture was so carried on (which place or waters shall be specified in the licence) the operations in relation to aquaculture in which the Minister is satisfied that the person was so engaged (which operations shall be so specified). (b) (i) Subsection (10) (a) of this section shall apply to a licence under this subsection as it applies to an aquaculture licence. (ii) Subsection (10) (e) of this section shall apply to a licence under this subsection but for the purposes of the foregoing shall be construed as if for "Subject to paragraph (d) of this subsection, an aquaculture licence shall, as may be specified therein be perpetual or terminable" there were substituted "a licence under subsection (15) of this section shall be perpetual". (c) Any person who is aggrieved by a decision of the Minister for a licence under this section may, not later than thirty days after the day on which the decision is given, serve on the Minister a notice of appeal to the Arbitrator against the decision, and the Arbitrator may on such appeal confirm the decision with or without modification or reverse the decision. (16) In case the Minister makes an order under this section, then for so long as the order remains in force the Minister shall not grant any fish culture licence as regards any place situated within the area specified in the order. (17) Where— (a) a person by trespass, fishing or otherwise interferes with anything done pursuant to an aquaculture licence, and (b) such interference is carried on without the permission of the licensee, notwithstanding the existence of any public right to fish the person so interfering shall be guilty of an offence and shall be liable— (c) on summary conviction thereof, to a fine not exceeding £500, or at the discretion of the court, imprisonment for any term not exceeding six months or both such fine and such imprisonment, (d) on conviction thereof on indictment, to a fine not exceeding £2,000, or at the discretion of the court, imprisonment for any term not exceeding two years or both such fine and such imprisonment. (18) This section shall come into force on such day as the Minister shall therefor fix by order. (19) In this section— "aquaculture", except in "aquaculture licence", means the culture of any species of fish, aquatic invertebrate animal of whatever habitat or aquatic form of any food which is suitable for the nutrition of fish; "aquaculture licence" means a licence granted by the Minister under this section; "designated area" means an area standing designated for the time being by an order under this section; "fish culture licence" means a licence granted under section 15 of the Principal Act; "licensee" means the person to whom a licence under this section is granted or the person who by virtue of subsection (10) (e) of this section is for the time being entitled to the benefit of the licence; "oyster bed licence" means an oyster bed licence within the meaning of Part XIV of the Principal Act; "oyster fishery (1959 Act) order", "oyster bed (1959 Act) licence" and "oyster fishery order" have the meanings assigned to them, respectively, by Part XIV of The Principal Act.

SECT 55.—(1) In this section— "first or only sale" does not include a first or only sale by the licensee under a fishing licence which is made bona fide to a person for his personal use; "the Moville Area" has the meaning assigned to it by the Foyle Fisheries Act, 1952; "salmon" does not include salmon preserved and contained in tins, bottles, jars or similar containers holding portions of fish or products of fish. (2) (a) Subject to subsection (5) of this section, the Minister may from time to time by order provide for the payment to the Minister of a levy at the prescribed rate on every first or only sale of salmon. (b) The said levy shall be calculated at the prescribed rate and be assessed either on the price fetched on the first or only sale or in such other manner as may be prescribed. (c) In the foregoing paragraph of this subsection the reference to the price on the first or only sale shall, where the purchaser is a purchaser outside the State, be construed as a reference to the price which, in accordance with the regulations under subsection (3) of this section, is to be attributed to such sale. (d) Subject to subsection (5) of this section, the levy under this section shall be paid— (i) in case the first or only sale is by the licensee under a fishing licence to a licensed salmon dealer or to the proprietor of any hotel, guest house, restaurant or other premises or place in the State at which board and lodging or meals are provided for reward, by such dealer or proprietor, and (ii) in any other case, by the person who is the seller on the first or only sale. (3) (a) The Minister may from time to time, after consultation with the Minister for Finance, by regulations prescribe the rate to be paid under this section on every first or only sale of salmon and the manner of payment and, in the case of sales where the purchaser is a purchaser outside the State, the prices to be attributed to such sales. (b) Different rates of levy under this section may be prescribed for different periods and, in the case of sales where the purchaser is a purchaser outside the State, for different classes of sales. (c) Different manners of assessment under this section may be prescribed for different classes of sales where the purchaser is not a purchaser outside the State. (d) When preparing regulations to be made under this section prescribing prices to be attributed to sales the Minister shall take into account the market prices then current in the State for first or only sales of salmon. (4) Any moneys received by the Minister under subsection (2) of this section shall be paid into the Salmon Conservancy Fund. (5) (a) Unless an order under this section expressly states that it applies to first or only sales in the Moville area of salmon, the order shall not be construed as so applying. (b) An order under this section which contains the provision referred to in paragraph (a) of this subsection may, if the Minister thinks fit, also provide for either or both of the following:— (i) that moneys payable on foot of levy under this section and which relate to first or only sales in the Moville area of salmon shall be paid to a prescribed person, (ii) that such moneys when duly received shall be disposed of in a prescribed manner. (c) Where an order under this section which applies to first or only sales in the Moville area of salmon is for the time being in force, the provisions of this section, in so far as they apply to that area, shall be construed and have effect subject to such modifications (if any) as are necessary having regard to the terms of the order. (6) The Minister may make regulations requiring any person by whom levy under this section is payable, or any person who is of a prescribed class or description, to— (a) keep in the prescribed manner records of the weight of salmon handled in the course of his business together with— (i) in case such salmon is purchased by him, records of the price paid by him therefor, and (ii) in case such salmon is not so purchased, records of the price received by him therefor, and (iii) in either such case, such other particulars (if any) as may be prescribed, (b) afford such facilities for the inspection of such records and to furnish to the Minister or other person as may be prescribed such returns as may be prescribed. (7) Where— (a) the Minister is not satisfied that a price recorded in relation to particular salmon in purported compliance with regulations under this section is the price fetched on the first or only sale of the salmon, and (b) he reasonably believes that a price higher than that so recorded would have been obtainable on such sale, he may determine in writing such higher price, and in case such a higher price is so determined, then for the purposes of this section the higher price so determined shall be taken to be the price fetched on the first or only sale of the salmon to which the determination relates. (8) Any person who contravenes, whether by act or omission, any regulation under this section shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding £500. (9) Every sum payable by a person for or on account of levy under this section shall be a simple contract debt due by that person to the person to whom it is payable under this section or under regulations made under this section and shall be recoverable accordingly in any court of competent jurisdiction. (10) In any legal proceedings against a person for any money claimed to be due by the person in respect of levy under this section a certificate under the seal of the Minister or, in case the levy is payable in respect of salmon sold in the Moville area, under the hand or seal of the person prescribed by the Minister pursuant to subsection (5) (b) (i) of this

section, certifying that the person was liable to pay levy under this section of a specified amount and that a specified sum is due and unpaid by the person on foot of the levy, together with a certificate under the said hand or seal certifying that the sum has not been paid by the person, shall be prima facie evidence as to the liability for and amount of levy and as to the sum which is due and unpaid by the person in respect thereof. (11) The provisions of subsection (6) of this section are in addition to and are not in substitution for the provisions of section 163 of the Principal Act.

PART VI - MISCELLANEOUS

56 Prohibition of sale of certain fish.

SECT 56.—(1) The Minister may by order prohibit the sale and offering for sale at any time during a prescribed period in any year (which period is in this section subsequently referred to as an "annual period") of any fish which— (a) is of a species specified in the order, or (b) is— (i) caught by rod and line, and (ii) of a species so specified. (2) An order under this section may— (a) apply throughout the State or in a particular area or in particular areas thereof and so specified, (b) specify a particular annual period in relation to the whole of the State or specify different such periods in relation to different such areas. (3) An order under this section shall apply to any fish— (a) in case the order is made pursuant to paragraph (a) of subsection (1) of this section, of the species specified in the order, and (b) in case the order is made pursuant to paragraph (b) of the said subsection (1), caught by rod and line and of a species specified in the order. (4) In case an order under this section is for the time being in force, a person shall not sell or offer for sale any fish to which the order applies— (a) in case the order applies throughout the State or to a particular area or to particular areas thereof and specifies only one annual period, at any place in either the State, such area or any such area, as may be appropriate, at any time during that period, (b) in case the order specifies different annual periods in relation to different areas of the State, at any place in such an area at any time during the annual period so specified in relation to the area. (5) A person who contravenes subsection (4) of this section shall be guilty of an offence and shall on summary conviction thereof be liable to a fine (not exceeding in all £600) of an amount not exceeding £500 together with an amount not exceeding £50 for each salmon and £10 for each other fish in respect of which the offence is committed.

57 Prohibition of sale of certain nets or netting.

SECT 57.—(1) The Minister may by order prohibit the sale of nets or, netting of a prescribed class or description. (2) A person who sells a net or netting in contravention of an order under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500. (3) Where in any proceedings for an offence under this section— (a) the defendant proves— (i) that prior to the sale to which the alleged offence relates he had given to the Minister notice in writing of his intention to sell nets or netting of the relevant prescribed class or description, and (ii) that prior to such sale he had made of the purchaser inquiries as to the purposes for which the relevant net or netting was to be used, and (iii) that he had kept a record in the manner directed under subsection (4) of this section by the Minister of the result of his inquiries, and (b) the defendant produces to the court such record, and, in case the defendant was requested by or on behalf of the Minister so to do, he proves that within a reasonable time he produced to an officer of the Minister such record and allowed such officer to inspect it, and (c) the court is satisfied— (i) that the inquiries were made in good faith, and (ii) that in the circumstances of the case it would have been reasonable for the defendant, having regard to the results of the inquiries, to have believed that such net or netting was not to be used for or in relation to fishing he shall be acquitted of the offence. (4) In case the Minister receives a notification in writing by a person of his intention to sell net or netting of a class or description specified in an order under this section, the Minister shall as soon as may be give to the person directions as to the manner in which a record of the results of inquiries made by him for the purposes of subsection (3) of this section is to be kept.

58 Register of Trout, Coarse Fish and Sea Anglers.

SECT 58.—(1) Each regional board shall establish and maintain a register to be known, and which is in this Act referred to, as a "Register of Trout, Coarse Fish and Sea Anglers". (2) (a) On payment of the

appropriate annual subscription to a regional board a person shall be registered in accordance with paragraph (b) of this subsection in the register maintained by that board, and when applying for registration under this subsection the applicant shall, when making the application, specify in which of the following categories he wishes to be registered, namely, as a trout angler, or as a coarse fish angler or as a sea angler. (b) On receipt of an application for registration in the register, accompanied by the appropriate annual subscription, the regional board concerned shall— (i) in case the applicant specifies that he wishes to be registered as a trout angler, register him as such in the register, (ii) in case the applicant specifies that he wishes to be registered as a coarse fish angler, register him as such in the register, (iii) in case the applicant specifies that he wishes to be registered as a sea angler, register him as such in the register, and (iv) in case the applicant fails to comply with the requirement of paragraph (a) of this subsection to specify the category in which he wishes to be registered, register him in the register as non-voting. (c) Where on the 31st day of December in any year a person, other than a person entitled under subsection (4) of this section, is registered in a register he shall be entitled to remain so registered for the duration of the next following year if, but only if, before the day in that next following year which is the day for the time being fixed by the Minister under subsection (5) of this section he pays to the regional board by whom the register is maintained the appropriate annual subscription. (d) Where in any year a person who on the last preceding 31st day of December was registered in a register fails before the day in that year which is the day so fixed for the time being to pay the appropriate annual subscription, the regional board by whom the register is maintained shall forthwith remove his name from the register. (3) Any person who is registered in a register may, by an application in writing to and made so that it is received by the regional board concerned on a day in the month of January in any year, apply to such board to amend the register by changing him from the category in which he is then registered to another category to be specified in the application, and on duly receiving an application under this subsection a regional board shall allow the application and amend the register maintained by them accordingly. (4) (a) Subject to paragraph (d) of this subsection, a person who immediately before the dissolution thereof was a life member of the Trust shall on application to a regional board, and on making a declaration in a form approved of for the purposes of this subsection by the Minister, be registered by the board in the Register of Trout, Coarse Fish and Sea Anglers maintained by the board. (b) A person who is registered in a register under paragraph (a) of this subsection may apply in writing to have his name removed from the register and on receipt of such an application the regional board concerned shall allow the application. (c) Paragraphs (a) and (b) of subsection (2) of this section shall apply to applications under this subsection as they apply to applications under that subsection but subject to the following modification, namely, the requirements of those paragraphs relating to annual subscriptions shall be disregarded. (d) A person referred to in paragraph (a) of this subsection shall not be entitled to be registered by virtue of this subsection at any particular time in more than one Register of Trout, Coarse Fish and Sea Anglers maintained under this Act. (5) The Minister may by regulations fix a day or days for the purposes of subsection (2) of this section and any such day may be so fixed in relation to— (a) one or more particular years, or (b) a particular year and the subsequent year thereafter, or (c) any year. (6) (a) References in this section to the appropriate annual subscription are references to an annual subscription of such amount as shall be fixed for the time being for the purposes of this section by the Minister, with the consent of the Minister for Finance. (b) In this section— "register", except where the context otherwise requires, means the Register of Trout, Coarse Fish and Sea Anglers maintained by a regional board; "registered" means registered in the register. (c) In this section and in the next following section of this Act "life member of the Trust" includes any person who the council of the Trust, pursuant to the Articles of Association of the Trust, distinguished as a donor member.

59 Certain rights to fish given to former life members of Trust and to persons on Register of Trout, Coarse Fish and Sea Anglers.

SECT 59.—(1) A person who immediately before the dissolution of the Trust was a life member thereof shall, subject to such restrictions or other requirements, if any, as the Minister considers appropriate for the proper management of the fishery concerned and which are for the time being prescribed for the purposes of this section, be permitted— (a) to fish in accordance with law for trout or coarse fish in the waters of any fishery transferred to the Central Board by section 35 of this Act for so long as the interest therein so transferred to the Central Board subsists, and (b) in case the person is for the time being by virtue of section 58 (4) of this Act registered in a Register of Trout, Coarse Fish and Sea Anglers, for so

long as he is so registered, to fish in accordance with law for trout and coarse fish in the waters of any fishery— (i) owned or occupied by the regional board by whom the register is maintained, (ii) owned or occupied by the Central Board (whether such fishery was transferred to the Central Board by the said section 35 or was otherwise acquired by the Central Board). (2) In case a person is registered other than by virtue of section 58 (4) of this Act in a Register of Trout, Coarse Fish and Sea Anglers, then for so long as he is so registered, he shall, subject to such restrictions or other requirements, if any, as the Minister considers appropriate for the proper management of the fishery concerned and which are for the time being prescribed for the purposes of this section, be permitted to fish for trout and coarse fish in accordance with law in the waters of— (a) any fishery owned or occupied by the regional board by whom the register is maintained, and (b) any fishery which is owned or occupied by the Central Board. (3) (a) An order under section 37, 40, 41 or 42 of this Act may provide that the foregoing provisions of this section shall not apply in relation to the fishery acquired or transferred by the order, or, in case two or more fisheries are so transferred, shall apply in relation to no such fishery, or, as may be so provided, shall apply only to such of those fisheries as the order specifies. (b) The Minister may by order provide that the foregoing provisions of this section, other than paragraph (a) of this subsection, shall not apply in relation to a fishery acquired by the Central Board by agreement under section 37 of this Act and specified in the order. (4) In case a fishery is by an order, either made under this section or described in subsection (3) (a) of this section, excluded from the application of subsections (1) and (2) of this section, this section shall be construed and have effect subject to the terms of the order.

60 Powers of Minister in operating a fishery.

SECT 60.—(1) The Minister may, for the purpose of operating a fishery owned by him, do all such things as he may consider necessary for carrying on such fishery as a commercial undertaking and which he could do if he were a private individual and the owner of such fishery, and without prejudice to the generality of the foregoing provision may do all or any of the following: (a) buy and sell fish anywhere; (b) buy or manufacture any article required in connection with the capture, storage, transport, treatment, purchase or sale of fish; (c) carry on any business which is ancillary or incidental to the operation of such fishery; (d) enter into contracts; (e) employ such and so many persons as he thinks fit; (f) purchase fishing licences. (2) The remuneration of all persons employed in connection with the operation by the Minister of any fishery owned by him shall be determined with the consent of the Minister for the Public Service. (3) Neither the Civil Service Commissioners Act, 1956, nor the Civil Service Regulation Acts, 1956 and 1958, shall apply to any person employed or appointed by the Minister under this section.

61 Liability of Minister or Central Board for damage by flooding.

SECT 61.—No claim shall lie against the Minister or the Central Board for flooding or other consequential damage due to the continued existence of any structure (including a fishing weir or a fishing mill dam which, on the date of vesting in or acquisition by the Minister or the Central Board of a fishery, formed part of or existed in such fishery) unless the Minister or the Central Board, as may be appropriate, shall have increased the height of such structure or shall have closed any openings or gaps therein to an extent to which they could not have been lawfully closed on the said date.

62 Section 12 of Finance Act, 1895, restricted.

SECT 62.—Section 12 of the Finance Act, 1895, (which requires delivery to the Revenue Commissioners of certain instruments and the payment of certain stamp duties), shall not apply to the vesting in the Central Board or a regional board of property transferred by section 9 or 35 of this Act or an order under section 10 of this Act.

63 Amendment of section 15 of Principal Act.

SECT 63.—section 15 of the Principal Act is hereby amended by— (a) the insertion of "on payment to him of the prescribed fee (if any)" before "by licence" in subsection (1); (b) the addition of the following subsections: "(6) (a) The Minister may, with the consent of the Minister for Finance, prescribe fees payable in respect of licences granted by the Minister under this section. (b) Every fee received by the

Minister under this section shall be paid into, or disposed of for the benefit of, the Exchequer in such manner as the Minister for Finance shall direct. (7) Any person who engages in the culture of fish otherwise than under and in accordance with a licence under this section or section 54 of the Fisheries Act, 1980, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500. (8) Where— (a) a person by fishing or otherwise interferes with anything done pursuant to a licence granted by the Minister under this section, and (b) such interference is carried on without the permission of the person to whom the licence is granted, the person so interfering shall be guilty of an offence under this section and shall be liable— (c) on summary conviction thereof, to a fine not exceeding £500, (d) on conviction thereof on indictment, to a fine not exceeding £2,000."

64 Amendment of section 20 of Principal Act.

SECT 64.—section 20 of the Principal Act is hereby amended by the substitution of the following subsection for subsection (4): "(4) The Minister may by regulations alter the boundaries of a fishery district by the inclusion therein of any specified waters which are in an area or portion of the sea described in subparagraph (i) or (ii) of section 10 (9) (a) of the Fisheries Act, 1980, and regulations under this subsection shall, by reference to a map specified in the regulations, indicate the boundaries of the relevant fishery district or districts as altered by the regulations."

65 Amendment of section 50 of Principal Act.

SECT 65.—(1) section 50 of the Principal Act is hereby amended by— (a) the substitution in subsection (1) of "the Central Board or any regional board" for "any board of conservators", and (b) the substitution in subsection (3) of "the Central Board or a regional board" for "a board of conservators", and the said subsections (1) and (3), as so amended, are set out in paragraphs 1 and 2; respectively, of the Table to this section. (2) Subsection (1) of this section shall come into operation on the appointed day. TABLE 1.—(1) The Minister may at any time, if he thinks fit, order an inquiry into the performance of its duties by the Central Board or any regional board and may appoint any person to hold such inquiry. 2. (3) Where an inquiry in relation to the Central Board or a regional board has been held under this section, the Minister shall certify the amount of the expenses incurred by the Minister in relation to such inquiry, and the amount so certified shall be recoverable by the Minister from the revenue of such board.

66 Amendment of section 65 of Principal Act.

SECT 66.—Subsection (1) of section 65 of the Principal Act is hereby amended by the insertion of "by that person" before "in that fishery district", and the said subsection (1), as amended by this section and by section 46 (1) of this Act and as modified by section 50 (1) of this Act, is set out in the Table to this section. TABLE (1)—If any person uses or erects in any fishery district any scheduled engine, for the taking of salmon, trout or eels, in respect of which there is not for the time being in force an ordinary fishing licence authorising the use of that engine by that person in that fishery district, such person shall be guilty of an offence under this section and shall be liable— (a) on summary conviction thereof to a fine not exceeding £500, (b) on conviction on indictment to a fine not exceeding £2,000 or at the discretion of the court, to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

67 Amendment of section 67 of Principal Act.

SECT 67.—section 67 of the Principal Act is hereby amended by the substitution of the following for subsection (9): "(9) Every ordinary licence issued in respect of an engine for fishing (other than rod and line) shall contain on the face thereof— (a) in the case of an engine to be used in a several fishery, the name of the person (in this section referred to as 'the owner') who is for the time being entitled so to use such engine for his own benefit, or (b) in every other case, the name and address of the person paying the licence duty on such engine, together with, if such person, or in case the licence relates to an engine so to be used, the owner, makes a request in writing in that behalf to the regional board concerned, the name of not more than one other person specified in the request, and every ordinary licence which is so issued shall operate to authorise the use of the engine to which it relates by any person named in the licence."

68 Amendment of Chapter III of Part VI of Principal Act.

SECT 68.—(1) section 81 of the Principal Act is hereby amended by: (a) the substitution of "three pounds" for "five shillings" in paragraph (a) of subsection (2); (b) the substitution of "one pound" for "sixpence" in both paragraph (b) and paragraph (c) of subsection (2); and (c) the addition to the section of the following subsection: "(3) (a) The Minister may, from time to time, by order alter the licence duty payable as regards all or any of the kinds of trout rod licences specified in subsection (1) of this section, and in case an order under this subsection is for the time being in force, subsection (2) of this section, as amended by section 68 of the Fisheries Act, 1980, shall be construed and have effect in accordance with the terms of the order. (b) Subsection (7) of section 68 of this Act (inserted by section 3 of the Fisheries (Amendment) Act, 1976) shall apply as regards an order under this subsection as it applies as regards an order under that section."; and the said subsection (2), as so amended, is set out in paragraph 1 of the Table to this section. (2) section 83 of the Principal Act is hereby amended by the substitution of "amount of the duty which is for the time being payable under section 81 of this Act in respect of the licence" for "sum of five shillings" in paragraph (b) of subsection (1) and "sum of sixpence" in paragraph (c) of both subsection (2) and subsection (3), and the said paragraph (b), paragraph (c) of the said subsection (2) and paragraph (c) of the said subsection (3), as so amended, are set out in paragraphs 2, 3 and 4, respectively, of the Table to this section. TABLE 1. (2) There shall be payable on— (a) a trout rod (general) licence, a licence duty of three pounds, (b) a trout rod (riparian owner) licence, a licence duty of one pound, (c) a trout rod (juvenile) licence, a licence duty of one pound. 2. (b) such person tenders the amount of the duty which is for the time being payable under section 81 of this Act in respect of the licence, 3. (c) such person tenders the amount of the duty which is for the time being payable under section 81 of this Act in respect of the licence, 4. (c) such person tenders the amount of the duty which is for the time being payable under section 81 of this Act in respect of the licence,

69 Amendment of sections 159 and 160 of Principal Act, section 42 of Finance Act, 1925, and section 12 of Finance Act, 1940.

SECT 69.—(1) section 159 of the Principal Act is hereby amended by— (a) the substitution of "twenty-five pounds" for "one pound" in both subparagraph (ii) of subsection (1) (b) and subparagraph (ii) of subsection (2) (b); and (b) the addition to the section of the following subsection: "(6) (a) The Minister may, from time to time, by order amend subsection (1) or subsection (2) of this section so as to alter the sum specified therein, and in case an order under this subsection is for the time being in force, the said subsection (1) and the said subsection (2), or both of the said subsections, as may be appropriate, as amended by section 69 of the Fisheries Act, 1980, shall be construed and have effect in accordance with the terms of the order. (b) Subsection (7) of section 68 of this Act (inserted by section 3 of the Fisheries (Amendment) Act, 1976) shall apply as regards an order under this subsection as it applies as regards an order under that section."; and the said subparagraph (ii) of the said subsection (1) (b) and the said subparagraph (ii) of the said subsection (2) (b), as so amended, are set out in paragraphs 1 and 2, respectively, of the Table to this section. (2) section 160 of the Principal Act is hereby amended by— (a) the substitution of the following for all the words in subsection (1) between the end of paragraph (a) and the end of the subsection: "(b) there is sent with the application the sum of twenty-five pounds, such board may renew such licence."; and (b) the addition to the section of the following subsection: "(5) (a) The Minister may, from time to time, by order amend subsection (1) of this section so as to alter the sum specified therein, and in case an order under this subsection is for the time being in force, the said subsection (1), as amended by section 69 of the Fisheries Act, 1980, shall be construed and have effect in accordance with the terms of the order. (b) Subsection (7) of section 68 of this Act (inserted by section 3 of the Fisheries (Amendment) Act, 1976) shall apply as regards an order under this subsection as it applies as regards an order under that section.". (3) On and from the commencement of this section both section 42 of the Finance Act, 1925, and section 12 of the Finance Act, 1940, shall cease to have effect. (4) This section shall come into force on such day as the Minister shall therefor fix by order. TABLE 1. (ii) the sum of twenty-five pounds, 2. (ii) the sum of twenty-five pounds,

70 Amendment of Part XIV of Principal Act.

SECT 70.—(1) The placing in or on, or in or on the water above, an oyster bed of any device or other thing which is used, or is intended for use, in the cultivation of oysters shall, for the purposes of section 245 of the Principal Act, be regarded as planting an oyster bed in a manner described in that section, and any licence under that section, whether granted before or after the passing of this Act, shall be construed and have effect in accordance with the foregoing. (2) Subsection (1) of this section shall not be construed as affecting the power conferred on the Minister for Tourism and Transport by section 10 of the Foreshore Act, 1933. (3) section 253 of the Principal Act is hereby amended by the insertion of the following paragraph after paragraph (f): "(g) without such consent removes, damages or otherwise interferes with any device or other thing which is placed in or on, or in or on the water above, such bed and is used in the cultivation of oysters." (4) section 256 of the Principal Act is hereby amended by the insertion of "or above" before "the shore", and the said section 256, as so amended, is set out in paragraph 1 of the Table to this section. (5) section 261 of the Principal Act is hereby amended by the substitution of "in such manner as he shall consider appropriate having regard to the circumstances by reason of which the order's amendment is necessitated" for all the words from ", and all" to the end of the section, and the said section 261, as so amended, is set out in paragraph 2 of the Table to this section. (6) section 265 (1) of the Principal Act is hereby amended by the insertion of the following paragraph after paragraph (b): "(bb) not being a grantee, the servant or agent of the grantee or grantees or being duly authorised as aforesaid, removes, damages or otherwise interferes with any device or other thing which is placed in, on or over such fishery and is used in the cultivation of oysters, or".

TABLE 1. 256.—Subject to section 11 and to the provisions of this Chapter the Minister may make orders for the establishment or improvement and for the maintenance and regulation of an oyster fishery on or above the shore and bed of the sea or of an estuary or tidal river above or below or partly above and partly below low-water mark (which said shore and bed are in this Chapter referred to as the seashore), and including, if desirable, provisions for the constitution of a board or body corporate for the purpose of such order, on an application to the Minister by any person desirous of obtaining such an order.

2. 261.—The Minister may from time to time by order amend an oyster fishery order in such manner as he shall consider appropriate having regard to the circumstances by reason of which the order's amendment is necessitated.

71 Amendment of section 297 of Principal Act.

SECT 71.—Section 297 is hereby amended by— (a) the substitution of "authorised person" for "water keeper or any officer appointed by the Minister" in subsection (1); and (b) the substitution of the following for subsection (2): "(2) (a) Subject to subsection (3) of this section, a warrant issued under this section shall operate to authorise the person to whom it is issued (and named therein) at any reasonable time or times within seven days of the issue of the warrant to— (i) enter and search, if need be by force, the garden, dwellinghouse or curtilage thereof named in the warrant or any structure or building in such garden or curtilage, (ii) require any person found on such land to furnish to him his name and address, (iii) require a person who is in occupation or is in control or is concerned in the management of such land to furnish to him his name and address, and if the person so named has reasonable grounds for suspecting that an offence has been or is being committed under this Act with or in relation to anything found in the course of the search, the person may seize and detain that thing or anything else so found which appears to him to be something which might be required as evidence in proceedings for an offence under this Act. (b) Subject to subsection (3) of this section, a warrant issued under this section shall operate to enable any one or more of the following, namely, any member of the Garda Síochána, any officer of the Minister and, in case the warrant is issued to an officer of a regional Board, any other person employed by that board to accompany and assist the person to whom the warrant is issued in the exercise of the powers, thereby conferred on him. (3) The powers conferred on a person named in a warrant issued under this section shall be exercisable by the person as regards a dwellinghouse only if, and only for so long as, he is accompanied by a member of the Garda Síochána." and the said subsection (1), as so amended, is set out in the Table to this section.

TABLE (1) Where upon an information on oath it appears to any District Justice or Peace Commissioner that there are reasonable grounds for believing that a breach of the provisions of this Act or any instrument made thereunder has been committed within any enclosed garden or any dwellinghouse or the curtilage thereof, he may by warrant under his hand authorise any authorised person to enter the said garden or dwellinghouse or the curtilage thereof, at such times in the day or night as may be mentioned in the warrant.

72 Amendment of section 312 of Principal Act.

SECT 72.—section 312 of the Principal Act is hereby amended by the insertion of ",if prosecuted summarily," before "be prosecuted", and the said section 312, as so amended, is set out in the Table to this section. TABLE 312. An offence under any provision of this Act may, if prosecuted summarily, be prosecuted by the Minister.

73 Amendment of section 19 of Act of 1962.

SECT 73.—Subsection (3) of section 19 of the Act of 1962 is hereby amended by the substitution of "sufficient" for "conclusive" in both places where it occurs, and the said subsection (3), as so amended, is set out in the Table to this section. TABLE (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 sufficient evidence that the boat is not so registered and certificates as aforesaid in relation to every port of registry in the State shall be sufficient 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.

74 Amendment of section 59 of Foyle Fisheries Act, 1952,.

SECT 74.—Paragraph (a) of section 59 (1) of the Foyle Fisheries Act, 1952, is hereby amended by the insertion of "or remain on" before "the banks" in paragraph (a), and the said paragraph (a), as so amended, is set out in the Table to this section. TABLE (a) enter into and pass through or along or remain on the banks or borders of any rivers frequented by salmon or trout or of the tributaries thereof,

75 Amendment of sections 2 of Fisheries (Amendment) Act, 1978.

SECT 75.—The Fisheries (Amendment) Act, 1978, is hereby amended by— (a) the substitution of the following for paragraph (a) of section 2 (2): "(a) the Justice is of opinion that the facts proved or alleged against a defendant charged with such an offence constitute a minor offence fit to be tried summarily,"; (b) the substitution of the following for subsection (4) of section 2: "(4) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to an offence referred to in subsection (1) of this section as if, in lieu of the penalties specified in subsection (3) of that section, there were therein specified the penalty and the forfeiture (if any) provided for, in relation to that offence when tried summarily, by subsection (2) of and Table II to this section, and the reference in subsection (2) (a) of that section to the penalty provided for in subsection (3) of that section shall be construed accordingly."; and (c) the substitution of "Chapter II or III of Part" for "Part II or III of Chapter" in subsection (1) of section 19, and the said subsection (1), as so amended, is set out in the Table to this section. TABLE (1) Where a District Justice proposes to make an order for the release on bail of a defendant before him charged with an offence under a provision of Chapter II or III of Part XIII of The Principal Act who is ordinarily resident outside the State, he shall (unless he is satisfied that all documents (including an indictment) required by law to be served on the defendant in connection with or for the purpose of the charge or of any proceedings arising out of or connected with the charge can be duly served on the defendant in the State) direct that those documents may, in lieu of being served on the defendant, be served on a person specified in the direction who is ordinarily resident in the State.

76 Section 278 of Principal Act, in so far as it applies to Merville Area, and section 10 (1) of Foyle Fisheries (Amendment) Act, 1961, saved.

SECT 76.—Nothing in this Act shall be construed as affecting the operation of— (a) section 278 of the Principal Act in so far as it applies to the Merville Area within the meaning of the Foyle Fisheries Act, 1952, (b) section 10 (1) of the Foyle Fisheries (Amendment) Act, 1961, and the said section 278, together with the provisions of The Principal Act which are extended to the said Merville Area by the said

section 10 (1), as amended by this Act, shall apply to that area, but subject to the same modifications as those with which they applied thereto immediately before the commencement of this section. Section 6

FIRST SCHEDULE REPEALS

(1)(2) Fisheries (Consolidation) Act, 1959. Sections 16 (3) and 19 (2); subsections (1) (2) and (5) of section 20; sections 21 to 39; subsections (1) to (9) of section 40; sections 41 to 44; sections 46 to 48; subsection (6) and subsection (9) (a) (ia) (inserted by section 8 of the Act of 1962) of section 49; sections 51 to 53, 60 and 61; in subparagraph (i) of section 67 (3) (a) the words ", twenty-one days,"; sections 67 (3) (c) and 67 (4) (b) in section 67 (4) (d) the words ", a salmon rod 21 days ordinary licence,"; section 67 (6) (b) (iii); 5 in section 68 (1) (a); paragraph (c) of section 70 (3) section 71, 76 and 89; in both sections 156 (1) and 157 (1) the words "(other than the Minister or the Electricity Supply Board)"; in both section 159 (3) (a) and section 160 (2) (a) the words "to the clerk of such board"; in section 163 (1) (b) the words "(which shall not include the price paid by such holder for any salmon or trout purchased, received or sold by him)"; in section 163 (2) (b) the words "(which shall not include the price paid by him or any salmon or trout exported by him)"; sections 184 to 216, 218, 278 (5) (b) (iii) and 280; in both sections 315 (2) (b) and 319 {1 (c) (5) the words "of conservators"; the entries in columns 5 (6) and (7) of the entry in the Second Schedule; the Third Schedule; the entries in column (5) of the entry in the Fourth Schedule; and clause (b) of paragraph 2 (1) of the Fifth Schedule. Section 7 (2) and 10 (7)

SECOND SCHEDULE

PART I

CENTRAL FISHERIES BOARD

1. The Central Board shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold and dispose of land or rights in, over or under land or water. 2. A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein, or who is for the time being a representative in the Assembly of the European Communities, shall be disqualified for being appointed to membership of the Central Board under Article 5 of this Part. 3. (1) The Central Board shall consist of not less than four or more than six members appointed under Article 5 of this Part and such other persons as are members thereof by virtue of paragraph (2) of this Article. (2) A person holding the office of chairman of a regional board shall be a member of the Central Board. (3) When a person ceases to hold the office of chairman of a regional board he shall at the same time cease to be a member of the Central Board. 4. (1) The Minister shall from time to time as occasion requires appoint a member of the Central Board to be chairman thereof. (2) Subject to paragraphs (4) and (5) of this Article, the chairman of the Central Board shall hold office until the expiration of his period of office as a member of the Central Board. (3) The chairman of the Central Board shall be paid such remuneration (if any) as the Minister, with the consent of the Minister for the Public Service, determines. (4) The chairman of the Central Board may at any time resign his, office as chairman by letter sent to the Minister, and the resignation shall, unless it is previously withdrawn in writing, take effect at the commencement of the meeting of the Central Board held next after the Central Board has been informed by the Minister of the resignation. (5) The Minister may at any time remove a member of the Central Board from the office of chairman of the Central Board if his removal from such office appears to the Minister to be necessary for the effective performance by the Central Board of its functions. (6) Where the chairman of the Central Board ceases during his term of office as chairman to be a member of the Central Board, he shall also then cease to be chairman of the Central Board. 5. Each member of the Central Board, other than a person who is such a member by virtue of Article 3 (2) of this Part, shall be appointed by the Minister and when making the appointment the Minister shall fix such member's term of office which shall not exceed five years and, subject to the foregoing and to Article 7 of this Part, such member shall hold his office on such terms and conditions as the Minister determines. 6. A member of the Central Board shall be paid by the Central Board out of moneys at its disposal such travelling expenses and subsistence allowances as the Minister, with the consent of the Minister for the Public Service, determines. 7. The Minister may remove from office any member of the Central Board, other than a person who is such a member by virtue of Article 3 (2) of this Part, who has become incapable through

ill-health of effectively performing his duties, or who has committed stated misbehaviour, or whose removal appears to the Minister to be necessary for the effective performance by the Central Board of its functions. 8. A member of the Central Board, other than a person who is such a member by virtue of Article 3 (2) of this Part, may resign his office as such member by letter addressed to the Minister and the resignation shall, unless it is previously withdrawn in writing, take effect at the commencement of the meeting of the Central Board held next after the Central Board has been informed of the resignation by the Minister. 9. (1) Where a member of the Central Board appointed by the Minister under Article 5 of this Part is nominated as a member of Seanad Éireann or for election to either House of the Oireachtas, or to the Assembly of the European Communities, or is appointed under section 15 of the Act of 1977 to fill a vacancy in the said Assembly, he shall upon accepting nomination as such a member or upon nomination for such election, as the case may be, cease to be a member of the Central Board. (2) Where a person appointed by the Minister to be a member of the Central Board— (a) is adjudged bankrupt or makes a composition or arrangement with his creditors, or (b) does not pay any fishery rate payable by him for the service of a local financial year before the expiration of that year, or (c) is convicted of an offence under the Fisheries Acts or under any instrument made under those Acts, or (d) under provisions made under Article 19 of this Part he becomes disqualified for membership of the Central Board, he shall thereupon cease to be such a member. 10. A chairman or a member of the Central Board appointed by the Minister under this Part whose term of office expires otherwise than by reason of his removal from office shall be eligible for reappointment. 11. Where a casual vacancy occurs among the members of the Central Board appointed by the Minister, the Minister may, if he thinks fit, take such steps as are necessary to fill the vacancy; provided that where as a result of the vacancy there are for the time being less than four such members of the Central Board, the vacancy shall be filled under this Article and as soon as possible. 12. The Central Board shall hold not less than four meetings in every year which commences after the appointed day. 13. The Minister shall fix the date, time and place of the first meeting of the Central Board. 14. At a meeting of the Central Board the chairman of the Central Board shall, if present, be chairman of the meeting, but if the chairman of the Central Board is not present at a meeting or if the office of such chairman is vacant, then the members of the Central Board present at the meeting shall choose one of their number to be chairman of the meeting. 15. The quorum for a meeting of the Central Board shall be four. 16. Each member of the Central Board at a meeting thereof shall have a vote. 17. Every question at a meeting of the Central Board shall be determined by a majority of votes of the members present and voting and, in the event that voting is equally divided, the chairman shall have a casting vote. 18. Subject to having a quorum, the Central Board may act notwithstanding a vacancy among its members. 19. Subject to the provisions of this Act, the Central Board shall regulate its procedure and business, and without prejudice to the generality of the foregoing, provide, by standing orders or otherwise, that if and whenever members of the Central Board appointed by the Minister fail to attend either a specified number of consecutive meetings of the Central Board or all of such meetings held during a specified period, they shall be disqualified for continuing to be a member of the Central Board. 20. The Central Board may perform any of its functions through or by any of its officers or servants or any other person duly authorised by the Central Board in that behalf, but nothing in this Article shall be construed as enabling any person to execute on behalf of the Central Board any document under seal. 21. The Central Board shall, as soon as may be after its establishment, provide itself with a seal. 22. The seal of the Central Board shall be authenticated by the signature of the chairman of the Central Board or some other member thereof authorised by the Central Board to act in that behalf, and by the signature of an officer of the Central Board authorised by the Central Board to act in that behalf. 23. Judicial notice shall be taken of the seal of the Central Board and every document purporting to be an instrument made by the Central Board and to be sealed with the seal (purporting to be authenticated in accordance with Article 22 of this Part) of the Central Board shall be received in evidence and be deemed to be such instrument without proof, unless the contrary is shown. 24. (1) The Central Board may accept gifts of money, land or other property upon such terms and conditions (if any) as shall be specified by the donor. (2) The Central Board shall not accept a gift if the conditions attached by the donor to the acceptance are inconsistent with the functions of the Central Board. 25. The headquarters of the Central Board shall be located at such place as shall stand specified for the time being by the Minister.

PART II

REGIONAL FISHERIES BOARDS

1. The Board shall be a body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold and dispose of land and to acquire and exercise rights in, over or under land or water. 2. Where a member of the Board is nominated as a member of Seanad Éireann or for election to either House of the Oireachtas or to the Assembly of the European Communities, or is appointed under section 15 of the Act of 1977 to fill a vacancy in the said Assembly, he shall upon accepting nomination as such a member or upon nomination for such election, as the case may be, cease to be a member of the Board. 3. (a) A member of the Board may at any time resign his office by letter addressed to the chairman of the Board and the resignation shall, unless it is previously withdrawn, take effect on the commencement of the meeting of the Board held next after the receipt by such chairman of such letter. (b) A resignation under this Article may be withdrawn by a letter addressed to and received by the chairman of the Board before the meeting of the Board held next after the resignation was received by such chairman. 4. A member of the Board whose term of office expires otherwise than by reason of his being removed from office shall be eligible for election, re-election, appointment or re-appointment. 5. (1) Subject to paragraph (3) of this Article, where a casual vacancy occurs, whether by virtue of Article 7 or 11 of this Part or otherwise, among the elected members of the Board, the Board may co-opt a person to fill the vacancy. (2) Where such a casual vacancy occurs among the appointed members of the Board, the Minister shall take such steps as are necessary to fill the vacancy as soon as possible. (3) (a) Where a casual vacancy occurs by virtue of Article 11 of this Part among the elected members of the Board, the Board shall not during the remainder of the period for which the member occasioning the vacancy, if he had continued to be a member, would have held office, co-opt that person to the Board. (b) Where a casual vacancy occurs amongst the elected members of the Board and the member occasioning the vacancy was elected at a poll of an electorate of a particular class specified in regulations under section 12 of this Act, the following provisions shall apply as regards the filling of the vacancy: (i) in case there was only one unsuccessful candidate at the relevant election, the Board shall, subject to his agreement, co-opt the person who was such candidate, (ii) in case there were two or more such candidates at such election, the board shall, subject to his agreement, co-opt the person who as such a candidate got the more or the most, as may be appropriate, votes at such election (and in case there is an equality of votes the matter shall be determined by lot), and (iii) in case the requirements of the foregoing provisions of this subparagraph cannot be complied with the Board shall, subject to his agreement, co-opt either any other such candidate or a member of such electorate. (4) A person co-opted or appointed under this Article to fill a casual vacancy shall, subject to Articles 7 and 11 of this Part, hold office for the remainder of the period for which the member occasioning the vacancy, had he continued to be a member, would have held office. 6. (1) Where the Board is satisfied that the person who for the time being is chairman of the Board is incapable through ill-health of effectively performing his duties as a member of the Central Board, the Board may, subject to the provisions of this Article, by resolution nominate a member of the Board to act in such chairman's stead as a member of the Central Board. (2) (a) A resolution under this Article shall only be passed if not less than such number of members present at the meeting as shall be fixed for the time being for the purposes of this Article by the Minister, at which meeting there shall be present not less than a number of members so fixed for the time being, vote in favour of the resolution. (b) The Minister may for the purposes of this Article fix the number of members in relation to— (i) regional boards generally, (ii) regional boards of a particular class or description, (iii) a particular regional board. (3) A resolution under this Article shall specify— (i) both the person by reason of whose illness the resolution is passed and the person nominated by the resolution, and (ii) the period (being a period not exceeding six months beginning on the date on which the resolution is passed) during which the resolution is to remain in force. (4) For so long as a resolution under this Article remains in force the following provisions shall have effect: (i) the person by reason of whose ill-health the resolution was passed shall not be a member of the Central Board, (ii) the person nominated by the resolution shall be a member of the Central Board, (iii) Article 3 (2) of Part I of this Schedule shall in relation to the Board be construed and have effect as if in lieu of the reference therein to a person holding the office of chairman of a regional board there were substituted a reference to the person nominated by the resolution. 7. Where a member of the Board— (a) is adjudged bankrupt or makes a composition or arrangement with his creditors, or (b) does not pay any fishery rate payable by him for the service of a local financial year before the expiration of that year, or (c) is convicted of an offence under the Fisheries Acts or under any instrument made under those Acts, or (d) under provisions made under Article 17 of this Part becomes disqualified for membership of the Board, he shall thereupon cease to be such a member. 8. (1) The Board

shall hold such and so many meetings as may be necessary for the performance of its functions. (2) The Minister may fix the date, time and place of the first meeting of the Board. 9. Any three or more members of the Board may call a special meeting of the Board provided— (a) notice of the place, date and hour of the meeting subscribed by three or more such members shall have been published at least ten days prior to the date fixed for the meeting in two newspapers circulating in the Board's fisheries region, or, (b) not less than ten days notice so subscribed of the place, date and hour of the meeting shall have been given in writing to each member of the Board. 10. A member of the Board shall be paid by the Board out of moneys at its disposal such travelling expenses and subsistence allowances as the Minister, with the consent of the Minister for the Public Service, determines. 11. The Minister may remove from office any member of the Board who has become incapable through ill-health of effectively performing his duties, or who has committed stated misbehaviour, or whose removal appears to the Minister to be necessary for the effective performance by the Board of its functions. 12. The quorum for a meeting of the Board shall be such number as shall for the time being be specified in writing by the Minister. 13. Each member of the Board at a meeting thereof shall have a vote. 14. (1) (a) The Board shall from time to time elect one of its members to be chairman of the Board and shall when electing a chairman fix his term of office. (b) At a meeting of the Board the chairman of the Board shall, if present, be chairman of the meeting, but if the chairman of the Board is not present at a meeting or if the office of such chairman is vacant, then the members of the Board present at the meeting shall choose one of their number to be chairman of the meeting. (c) The chairman of the Board may at any time resign his office of chairman by letter addressed to the Board and the resignation shall, unless it is previously withdrawn, take effect on the commencement of the meeting of the Board held next after the receipt by the Board of such letter. (d) A resignation under this Article may be withdrawn by a letter addressed to and received by the Board before the meeting of the Board held next after the letter of resignation was received by the Board. (2) The chairman of the Board shall be paid such remuneration (if any) as the Minister, with the consent of the Minister for the Public Service, determines. 15. Subject to section 17 (b) of this Act and Article 6 (2) (a) of this Part, every question at a meeting of the Board shall be determined by a majority of votes of the members present and voting and in the event that voting is equally divided, the chairman shall have a casting vote. 16. Subject to having a quorum, the Board may act notwithstanding a vacancy among its members. 17. Subject to the provisions of this Act, the Board shall regulate its procedure and business. 18. The Board may perform any of its functions through or by any of its officers or servants or any other person duly authorised by the Board in that behalf, but nothing in this Article shall be construed as enabling any person to execute on behalf of the Board any document under seal. 19. The Board shall, as soon as may be after its establishment, provide itself with a seal. 20. The seal of the Board shall be authenticated by the signature of the chairman of the Board or by some other member thereof authorised by the Board to act in that behalf, and by the signature of an officer of the Board authorised by the Board to act in that behalf. 21. Judicial notice shall be taken of the seal of the Board and every document purporting to be an instrument made by the Board and to be sealed with the seal (purporting to be authenticated in accordance with Article 20 of this Part) of the Board shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown. 22. (1) The Board may accept gifts of money, land or other property upon such terms and conditions (if any) as may be specified by the donor. (2) The Board shall not accept a gift if the conditions attached by the donor to the acceptance are inconsistent with the functions of the Board. 23. The headquarters of the Board shall be located at such place as shall stand specified for the time being by the Minister.

PART III

INTERPRETATION (SECOND SCHEDULE)

In this Schedule "the Fisheries Acts" means the Fisheries Acts, 1959 to 1980, as amended or extended by or under any enactment other than this Act. Section 9.

THIRD SCHEDULE

PROPERTIES TRANSFERRED TO THE CENTRAL BOARD BY SECTION 9.

1. All that and those that part of the lands contained in folio 24832 of the register maintained under the Registration of Title Act, 1964, as regards the County of Mayo situate at Glencullin Lower, in the Barony of Erris and said County, and which is referred to in, and delineated on the map annexed to, an indenture dated the 20th day of July, 1972, and made between Kate McManamon of the one part and Joseph Sweeney, Maurice Horan and Eamonn Munnelly of the other part. 2. All that and those the land situate at Hatchery Lane, Inistioge in the Barony of Gowran and County of Kilkenny and which is referred to in and leased for a term of thirty-five years by an indenture dated the 8th day of December, 1978, and made between Peter Goodman and Lawrence Justin Guyer of the one part and James Doherty, Matthew Collins and Michael Haley of the other part. 3. All that and those that part of the lands of Bearsforest Lower and Carhookeal situate in the Parish of Mallow, Barony of Fermoy and County of Cork which part is delineated on a map dated the 30th day of May, 1979, sealed with the official seal of the Minister and deposited in the Department of Fisheries and Forestry. 4. All that and those that part of the lands of Gurteen situate in the parish of Dromtariff, Barony of Duhallow and County of Cork which part is described in an indenture dated the 22nd day of February, 1977, and made between Edward P. Maxwell of the one part and James Villiers Stuart, Stuart Geoffrey Martin and Richard Willis of the other part. 5. All that and those the part of the lands of Ashford or Cappacorcoge situate in the Barony of Ross and County of Galway which part is referred to in, and delineated on the map annexed to, an indenture dated the 7th day of October, 1964, and made between the Minister for Lands of the one part and the Conservators of Fisheries of the Galway District of the other part. 6. All that and those— (a) that part of the lands of Virginia situate in the Barony of Castlerahan and County of Cavan which part is referred to in, and delineated on the map annexed to, an indenture dated the 3rd day of November, 1970, and made between William George Elliott of the one part and the Drogheda Board of Conservators of the other part, and (b) that part of the said lands of Virginia Which part is referred to in, and delineated on the map annexed to, an indenture dated the 8th day of June, 1977, and made between the said William George Elliott of the one part and Noreen O'Keefe of the other part. Section 11 (5).

FOURTH SCHEDULE AMENDMENT OF ENACTMENTS

PART I FISHERIES (CONSOLIDATION) ACT, 1959

1. The Principal Act is hereby amended by— (a) by the insertion before the definition of "dam" contained in section 3 (1) of the following new definitions: "the expression 'coarse fish' means any freshwater fish or the spawn or fry thereof other than salmon, trout, rainbow trout, char or eels or their spawn or fry;"; "the expression 'consequential disqualification order' has the meaning assigned to it by subsection (2) (b) of section 90, as amended by section 51 of the Fisheries Act, 1980;"; (b) the substitution in both the definition of "salmon rod (annual) (district) ordinary licence" and the definition of "salmon rod (late season) (district) ordinary licence" contained in section 3 (1) of "specified in the licence" for "of the board of conservators by which it was issued", and each of the said definitions as so amended is set out in paragraph 1 of the Table to this Schedule; (c) the substitution in section 54 of "regional board within whose fisheries region" for "board of conservators within whose district", and the said section 54, as so amended, is set out in paragraph 2 of the said Table; (d) the substitution of the following for subsection (1) of section 55: "(1) Every regional board shall as regards every fishery year and not later than the 31st day of December immediately preceding the commencement of that fishery year strike on all fisheries within its fisheries region (which appear in the revised valuation lists required under the Valuation Acts to be issued by the Commissioner for Valuation by the 1st day of October immediately preceding such commencement and are not distinguished therein by the said Commissioner pursuant to section 2 of the Valuation (Ireland) Act, 1854) a rate of such amount per cent. of their valuations as will, with the estimated amount of other income, be sufficient to meet the estimated amount of the regional board's expenditure for that fishery year."; (e) the substitution in subsection (1) of section 57 of "regional board within whose fisheries region" for "board of conservators in whose fishery district", and the said subsection (1), as so amended, is set out in paragraph 3 of the said Table; (f) the substitution in subsection (2) of section 59 of "regional board may be recovered at the suit of the board" for "board of conservators may be recovered at the suit of the clerk of the board of conservators", and the said subsection (2), as so amended, is set out in paragraph 4 of the said Table; (g) the substitution both in subsection (1) and in subsection (2) of section 62 of "regional board within whose fisheries region" for "board of conservators within whose district", and the said section 62, as so amended, is set out in

paragraph 5 of the said Table;. (h) the substitution in both paragraph (e) and paragraph (g) of section 67 (3) of "a particular fishery district within the fisheries region of the regional board" for "the fishery district of the board of conservators", and the said paragraphs (e) and (g), as so amended, are set out in subparagraph (1) and subparagraph (2), respectively, of paragraph 6 of the said Table;. (i) the substitution in subsection (6) of section 67 of "by a regional board and "the fishery district to which it relates" for "by the board of conservators for a fishery district, and "that fishery district", respectively, and the said subsection (6), as amended by this paragraph and by section 6 of this Act, is set out in paragraph 7 of the said Table;. (j) the substitution of the following for subsection (7) of section 67: "(7) Where an application for a salmon rod licence for a fishery district is made to a regional board, such licence shall be issued in that district."; (k) the substitution in subsection (8) of section 67 of "area which immediately before the passing of this Act comprised the electoral division which included the place at" for "electoral division in", and the said subsection (8), as so amended, is set out in paragraph 8 of the said Table;. (l) the substitution in subsection (11) of section 67 of "as regards which the application for the licence was made and which is specified in the licence and being a fishery district in the fisheries region of the regional board" for "of the board of conservators", and the said subsection (11), as so amended, is set out in paragraph 9 of the said Table;. (m) the substitution in subsection (16) of section 67 of "specified in the licence" for "of the board of conservators by which it was issued", and the said subsection (16), as so amended, is set out in paragraph 10 of the said Table;. (n) the substitution in subsection (1) of section 69 of "regional board within whose fisheries region the fishery district is situate" for "board of conservators for such fishery district" and by the substitution of "such board" for "the said board of conservators", in both places where it occurs, and the said subsection (1), as so amended, is set out in paragraph 11 of the said Table;. (o) the substitution in subsection (3) of section 69 of "a regional board" and "a" for "the board of conservators for a fishery district and "that", respectively, and the said subsection (3), as so amended, is set out in paragraph 12 of the said Table;. (p) the substitution in subsection (4) of section 69 of "a regional board" and "a" for "the board of conservators for a fishery district" and "that", respectively, and by the substitution of "the said regional board" for "the said board of conservators" in each place where it occurs, and the said subsection (4), as so amended, is set out in paragraph 13 of the said Table;. (q) the substitution in subsection (5) of section 69 of "regional board within whose fisheries region the fishery district is situate" for "board of conservators of such fishery district", and the said subsection (5), as amended by this paragraph and by section 46 (1) of this Act and as modified by section 50 (1) of this Act, is set out in paragraph 14 of the said Table;. (r) the substitution in subsection (1) of section 70 of "A regional board" and "a regional board" for "The board of conservators for a fishery district" and "a board of conservators", respectively, and the said subsection (1), as so amended, is set out in paragraph 15 of the said Table;. (s) the substitution in section 72 of "regional board within whose fisheries region such fishery district is situate" and "such regional board" for "board of conservators for such fishery district" and "such board of conservators", respectively, and the said section 72, as so amended, is set out in paragraph 16 of the said Table;. (t) the substitution in subsection (1) of section 74 of "regional board within whose fisheries region" for "board of conservators within whose district" in both places where it occurs, and the said subsection (1), as so amended, is set out in paragraph 17 of the said Table;. (u) the substitution in paragraph (b) of section 75 (1) of "regional board within whose fisheries region" for "board of conservators of the district within which", and the said paragraph (b), as so amended, is set out in paragraph 18 of the said Table;. (v) the substitution in subsection (1) of section 77 of "regional board" and "fisheries region" for "board of conservators" and "fishery district", respectively, and the said subsection (1), as so amended, is set out in paragraph 19 of the said Table;. (w) the substitution in subsection (1) of section 79 of "regional board" and "fisheries region" for "board of conservators" and "fishery district", respectively, and the said subsection (1), as so amended, is set out in paragraph 20 of the said Table;. (x) the substitution in both paragraph (b) and paragraph (c) of subsection (1) of section 80 of "regional board within whose fisheries region such fishery district is situate" for "board of conservators for such fishery district", and by the substitution in both paragraph (d) and paragraph (e) of the said subsection (1) of "board" for "board of conservators", and the said subsection (1), as so amended, is set out in paragraph 21 of the said Table;. (y) the substitution in subsection (3) of section 82 of "specified therein, being a fishery district situated within the fisheries region of the regional board" for "of the board of conservators", and the said subsection (3), as so amended, is set out in paragraph 22 of the said Table;. (z) the substitution in subsection (1) of section 83 of "regional board" for "board of conservators for a fishery district", and the said subsection (1), as amended by this paragraph and by section 68 of this Act, is set out in paragraph 23 of the said Table;. (aa) the substitution in both, paragraph

(a) of subsection (2) and paragraph (a) of subsection (3) of section 83 of "regional board within whose fisheries region" for "board of conservators within whose fishery district", and the said paragraph (a) of the said subsection (2) and the said paragraph (a) of the said subsection (3) are set out in subparagraphs (a) and (b), respectively, of paragraph 24 of the said Table;. (bb) the substitution in subsection (4) of section 115 of "A regional board" and "in its fisheries region" for "The board of conservators of a fishery district" and "of its fishery district", respectively, and the said subsection (4), as so amended, is set out in paragraph 25 of the said Table;. (cc) the substitution in subsection (6) of section 118 of "A regional board" and "its fisheries region" for "The board of conservators of a fishery district" and "its fishery district", respectively, and the said subsection (6), as so amended, is set out in paragraph 26 of the said Table;. (dd) the insertion, after "the Minister" in paragraph (a) of the definition of "inspector" in section 154 of "or a regional board", and the said definition, as so amended, is set out in paragraph 27 of the said Table;. (ee) the substitution in subsection (1) of section 159 of "regional board, "such board's fisheries region" and "board may" for "board of conservators for a fishery district", "such fishery district" and "board of conservators may, through its clerk," respectively, and the said subsection (1), as amended by this paragraph and by section 69 of this Act, is set out in paragraph 28 of the said Table;. (ff) the substitution in subsection (2) of section 159 of "regional board", "such board's fisheries region" and "board may" for "board of conservators for a fishery district, "such fishery district" and "board of conservators may, through its clerk," respectively, and the said subsection (2), as amended by this paragraph and by section 69 of this Act, is set out in paragraph 29 of the said Table;. (gg) the substitution in subsection (1) of section 160 of "relevant regional board" for "board of conservators by whom the licence was issued" in both places where it occurs, and by the substitution of "such board" for "such board of conservators," and the said subsection (1), as amended by this paragraph and by section 69 of this Act, is set out in paragraph 30 of the said Table;. (hh) the insertion in section 160 after subsection (5) (inserted by section 69 (2) of this Act) of the following new subsection: "(6) In this section and in the next following section 'the relevant regional board' means, in relation to a Part X licence, the regional board by which the licence was issued or, in case the licence was issued by a board of conservators, the regional board within whose fisheries region is situate the fishery district which was formerly the fishery district of such board of conservators."; (ii) the substitution in paragraph (b) of section 161 (2) of "relevant regional board for "board of conservators by whom it was issued", and the said paragraph (b), as so amended, is set out in paragraph 31 of the said Table;. (jj) the substitution of "the fishery district to which it relates" for "that fishery district" in subparagraph (ii) of section 278 (5) (b), and the said subparagraph (ii), as so amended, is set out in paragraph 32 of the said Table;. (kk) the substitution of the following for section 292: "292. In this Part— 'authorised person' means, except where the context otherwise requires, any person being— (a) an officer of the Minister or other person appointed in writing by the Minister to be an authorised person for the purposes of this Part, (b) an officer of the Central Board appointed in writing by that board to be an authorised person for the said purposes, (c) an officer of a regional board or other person appointed in writing by that board to be an authorised person for the said purposes, or. (d) a private water keeper; 'private water keeper' means a water keeper appointed under section 294."; (ll) the substitution of the following for subsection (2) of section 293: "(2) (a) Subject to paragraph (b) of this subsection, the powers conferred by this Part on a member of a regional board or an officer of such a board or other person appointed under this Part by such a board to be an authorised person for the purposes of this Part shall be exercised only for the protection of the fisheries in the fisheries region of the board by whom the appointment is made or of which the person is a member, and for the enforcement in such region of the Fisheries Acts, 1959 to 1980, and any instrument made thereunder. (b) Two or more regional boards may enter into an agreement for the exercise in each of the fisheries regions of those boards by an officer or other person appointed under this Part by any board which is a party to the agreement to be an authorised person for the purposes of this Part of the powers conferred by this Part on such officer or person and for the enforcement by such officer or person in each such region of the Fisheries Acts, 1959 to 1980, and any instrument thereunder, and in case an agreement under this paragraph is for the time being in force, paragraph (a) of this subsection shall be construed and have effect subject to the agreement. (c) A document purporting to be an appointment under this section and to be signed by the chief officer of a regional board shall be receivable as prima facie evidence in any legal proceedings without proof either of any signature thereon or that a person whose signature is thereon was the chief officer of the regional board concerned, and in case such a document states that an agreement under this subsection has been made between two or more regional boards specified in the document, then, until the contrary is shown, such an agreement shall be regarded as having been made

and being in force."; (mm) the substitution in subsection (1) of section 295 of "an authorised person (other than a private water keeper)" for "a conservators' water keeper or other officer of a board of conservators", and the said subsection (1), as so amended, is set out in paragraph 33 of the said Table; (nn) (i) the insertion of "member of the Garda Síochána or" and "or remain on" before "authorised person" and "the banks", respectively, in subsection (1) of section 296, and (ii) the substitution of "trout, char or their spawn or fry, eels or coarse fish" for "or trout" in the said subsection (1), and the said subsection (1), as so amended, is set out in paragraph 34 of the said Table; (oo) the insertion in section 296 after subsection (1) of the following new subsection: "(1A) Any member of the Garda Síochána or authorised person may enter any land for the purpose of enabling him to exercise elsewhere a power conferred on him by subsection (1) of this section."., (pp) the insertion of "member of the Garda Síochána or" before "authorised person" in subsection (2) of section 296, and the said subsection (2), as so amended, is set out in paragraph 35 of the said Table; (qq) the substitution in subsection (1) of section 298 of "Any member of the Garda Síochána or officer appointed by the Minister or by a regional board" for "Any officer appointed by the Minister or any inspector or water keeper appointed by a board of conservators", and the said subsection (1), as so amended, is set out in paragraph 36 of the said Table; (rr) the substitution in subsection (2) of section 298 of "a member of the Garda Síochána, an officer of the Minister or an officer of a regional board" for "an officer of the Minister, a conservators' water keeper or an inspector appointed by a board of conservators", and the said subsection (2), as amended by this paragraph and modified by section 50 (1) of this Act, is set out in paragraph 37 of the said Table; (ss) the insertion of "member of the Garda Síochána or" before "authorised person" in paragraph (a) of section 299 (2), and the said paragraph (a), as so amended, is set out in paragraph 38 of the said Table; (tt) the insertion of "by a person who is not a member of the Garda Síochána" after "under this section" in paragraph (c) of section 299 (2), and the said paragraph (c), as so amended, is set out in paragraph 39 of the said Table; (uu) the insertion of "member of the Garda Síochána or" before "authorised person" in section 300, and the said section 300, as so amended, is set out in paragraph 40 of the said Table; (vv) the substitution in section 301 (1) of the following for paragraph (b): "(b) any person, whether or not he 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,"; (ww) the substitution in paragraph (b) of section 301 (2) of "search" for "the interior of", and the said paragraph (b) as so amended, is set out in paragraph 41 of the said Table; (xx) the insertion of "member of the Garda Síochána or" before "authorised person" in subsection (2) of section 303, and the said subsection (2), as amended by this paragraph and modified by section 50 (1) of this Act, is set out in paragraph 42 of the said Table; (yy) the insertion of "member of the Garda Síochána or" before "authorised person" in subsection (2) of section 304, and the said subsection (2), as so amended, is set out in paragraph 43 of the said Table; (zz) the insertion of "member of the Garda Síochána or" before "authorised person" in subsection (3) of section 304, and the said subsection (3), as so amended, is set out in paragraph 44 of the said Table; (aaa)the insertion of "member of the Garda Síochána or" before "authorised person" in both places where it occurs in subsection (4) of section 304, and the said subsection (4), as so amended, is set out in paragraph 45 of the said Table; (bbb)the insertion of "member of the Garda Síochána or" before "authorised person" in subsection (2) of section 305, and the said subsection (2), as amended by this paragraph and modified by section 50 (1) of this Act, is set out in paragraph 46 of the said Table; (ccc) the substitution in paragraph (b) of section 305 (3) of "regional board within whose fisheries region such fishery district is situate" for "board of conservators for such fishery district", and the said paragraph (b), as so amended, is set out in paragraph 47 of the said Table; (ddd)the insertion of "member of the Garda Síochána or" before "authorised person" in subsection (2) of section 306, and the said subsection (2), as amended by this paragraph and modified by section 50 (1) of this Act, is set out in paragraph 48 of the said Table; (eee) the insertion of "a member of the Garda Síochána or" before "an authorised person" in section 307, and the said section 307, as so amended, is set out in paragraph 49 of the said Table; (fff) the substitution in subparagraph (i) of section 315 (2) (a) of regional board within whose fisheries region is situate" for "board of conservators of", and the said subparagraph (i), as so amended, is set out in paragraph 50 of the said Table; (ggg)the substitution in subparagraph (i) of section 318 (1) (b) of "regional board within whose fisheries region is situate" for "board of conservators of", and the said subparagraph (i), as so amended, is set out in paragraph 51 of the said Table; (hhh)the substitution in subparagraph (ii) of section 318 (1) (b) of "regional board" for "board of conservators", and the said subparagraph (ii), as so amended, is set out in paragraph 52 of the said Table; (iii) the substitution in subparagraph (i) of section 319 (1) (c) of "regional board within whose fisheries region is situate" for "board of conservators of", and the said subparagraph (i), as so amended, is

set out in paragraph 53 of the said Table; and (jjj) the insertion in Part II of the Fourth Schedule, as amended by section 31 of the Act of 1962, of: " 14Fyke nets for eels£10 for a train of twenty nets or less together with, in case the train is one of more than twenty nets, 50 new pence for each net in excess of twenty." 2. (a) References to boards of conservators in the provisions of The Principal Act specified in subparagraph (b) of this paragraph shall each be construed and have effect as if they were references to regional boards. (b) The provisions of The Principal Act referred to in subparagraph (a) of this paragraph are the definition of "fishery rate" in section 3 (1), sections 40 (10), 45 (1), 49 (5), 49 (9), 55 (2), 55 (3), 55 (4), 56, 57 (2), 57 (3), 59 (1), 67 (1) (as amended by section 11 (4) of this Act), 67 (2), 67 (8) (as so amended), 67 (10), 70 (2), 70 (3), 77 (4), 79, paragraphs (d) and (em) of section 80 (1), sections 84 (1), 159 (3) (as amended by section 6 of this Act), 160 (2), 170 (2), 278 (as amended by the said section 11 (4)), 291, 303 (1), 305 (1) and 306 (1).

PART II FISHERIES (AMENDMENT) ACT, 1962

3. Subsection (1) of section 14 of the Act of 1962 is hereby amended by the substitution of "regional board in whose fisheries region is situate any" and "such of its officers as it shall nominate" for "board of conservators for each" and "its clerk or other officer nominated by the board", respectively, and the said subsection (1), as so amended, is set out in paragraph 54 of the Table to this Schedule. 4. Sections 14 (2) and 29 (2) of the Act of 1962 shall each be construed and have effect as if the references therein to boards of conservators were references to regional boards. TABLE 1. the expression "salmon rod (annual) (district) ordinary licence" means a salmon rod ordinary licence which is valid for a period of one year and is available for use in the fishery district specified in the licence and in no other fishery district; the expression "salmon rod (late season) (district) ordinary licence" means a salmon rod ordinary licence which is valid for a period of six months commencing on a first day of July and is available for use in the fishery district specified in the licence and in no other fishery district; 2. 54.—Where part of a river consists of special tidal waters and another part (being a part in which salmon spawn) of such river is situate in Northern Ireland, the regional board within whose fisheries region such tidal waters are situate may, with the approval of the Minister, enter into such arrangements or agreements as it considers expedient for ensuring the protection of salmon and trout, and their eggs and fry in the part of such river which is situate in Northern Ireland and for the purpose of such arrangements or agreements make payments out of its funds. 3. (1) Where a fishery rate on a fishery has been struck under section 55 in a particular fishery year, the regional board within whose fisheries region the fishery is situate may, but not later than the expiration of the next following fishery year, make such amendments in the rate as are necessary to correct occupiers' names, misdescriptions and clerical, arithmetical and other errors therein. 4. (2) Fishery rate payable to a regional board may be recovered at the suit of the board as a simple contract debt in any court of competent jurisdiction. 5. 62.—(1) In every fishery year, the Minister shall, out of moneys provided by the Oireachtas, pay to every regional board within whose fisheries region there are during that year or part thereof any special tidal waters an amount equal to such percentage of the sum which was on the 1st day of January, 1933, the total rateable valuation of the fisheries in such tidal waters as was fixed for the purpose of the rate leviable for such year on the other fisheries in such district under section 55. (2) If the Minister is satisfied that in any fishery year the receipts (including the moneys payable in such year under subsection (1) of this section) of any regional board within whose fisheries region there are during that year or part thereof any special tidal waters will be insufficient to defray the expenditure to be incurred by such board in such year, he may, with the consent of the Minister for Finance, pay to such board out of moneys provided by the Oireachtas a grant not exceeding the estimated deficit. 6. (1) (e) Salmon rod ordinary licences issuable for a year and available for use in a fishery district within the fisheries region of the regional board by which they were issued and in no other fishery district shall be called, and are in this Act referred to as, salmon rod (annual) (district) ordinary licences. (2) (g) Salmon rod ordinary licences issuable for a period of six months commencing on a first day of July and available for use in a fishery district within the fisheries region of the regional board by which they were issued and in no other fishery district shall be called, and are in this Act referred to as, salmon rod (late season) (district) ordinary licences. 7. (6) Every ordinary fishing licence issued by a regional board shall— (a) be in such form as the Minister may from time to time direct, (b) state thereon— (i) the period for which it is to be valid and in force, (ii) the number or name of the fishery district to which it relates, ((iii)-repealed), (iv) the kind of fishing engine to which it relates. 8. (8) Where an application is made to a regional board for a licence for a fishing engine (being a fixed engine, a box in

a fishing weir or a fishing mill dam or an eye, gap or basket for taking eels in or on a fishing weir or a fishing mill dam), such licence shall be issued in the area which immediately before the passing of this Act comprised the electoral division which included the place at which such engine is situate. 9. (11) Each of the following ordinary fishing licences shall be available for use in the fishery district as regards which the application for the licence was made and which is specified in the licence and being a fishery district in the fisheries region of the regional board by which it was issued and in no other fishery district— (a) an ordinary fishing licence (not being a salmon rod ordinary licence), (b) a salmon rod (annual) (district) ordinary licence, (c) a salmon rod (late season) (district) ordinary licence. 10. (16) Every salmon rod ordinary licence (being a salmon rod (annual) (district) ordinary licence or a salmon rod (late season) (district) ordinary licence) shall operate to authorise the person named therein, but no other person, to use, during the period specified therein and in the fishery district specified in the licence, a salmon rod, but subject to the provisions of this Act and any instrument made thereunder. 11. (1) Where a person proposes to use in any fishery district an engine (not being a scheduled engine), for fishing for salmon, trout, or eels, in respect of which no ordinary licence duty has been fixed under this section by the regional board within whose fisheries region the fishery district is situate, such person may apply in accordance with this section, to such board to fix the ordinary licence duty in respect of an ordinary fishing licence to use such engine and upon receipt of such application such board may with the approval of the Minister, fix such licence duty, regard being had as far as practicable to the estimated catching power of such engine as compared with scheduled engines. 12. (3) Where a regional board fixes, under subsection (1) of this section, the ordinary licence duty in respect of an ordinary fishing licence to use in a fishery district a non-scheduled engine, it shall cause to be published in some newspaper circulating in such fishery district notice of the fixing of such licence duty. 13. (4) Where a regional board fixes, in pursuance of an application under subsection (1) of this section, the licence duty in respect of a licence to use in a fishery district a non-scheduled engine, the following provisions shall have effect:— (a) the applicant or any other person aggrieved by the amount of the licence duty so fixed, may, upon giving, within ten days after publication of notice of the fixing of the licence duty, to the county registrar for the county or county borough wherein the said engine is proposed to be used, and to the said regional board notice of intention to do so, appeal against the said amount, (b) the said appeal shall be heard by the Judge of the Circuit Court, assigned to the Circuit which includes such county or county borough, (c) the said Judge, after hearing the appellant and the said regional board may, as he thinks fit, reduce, confirm or increase the amount of such duty and his decision shall be final, (d) the decision on the said appeal shall relate back to the date on which such duty was fixed by the said regional board and accordingly— (i) if the amount of such duty is reduced on the said appeal, the excess paid shall be refunded by the said regional board, (ii) if the amount of such duty is increased on the said appeal, the payment already made shall operate by way of discharge pro tanto. 14. (5) If any person (other than the Minister) uses in any fishery district any non-scheduled engine, without previously having complied with subsections (1) and (2) of this section and without having deposited with the regional board within whose fisheries region the fishery district is situate such sum as the board may demand on account of the licence duty thereafter to be fixed in respect of such engine, then such person shall be guilty of an offence under this section and shall be liable— (a) on summary conviction thereof to a fine not exceeding £500 and, in the case of a continuing offence, a further fine (not exceeding in all £600) not exceeding £50 for each day during which the offence is continued, (b) on conviction on indictment to a fine not exceeding £2,000 and, in the case of a continuing offence, a further fine not exceeding £100 for each day during which the offence is committed, or at the discretion of the court, to imprisonment for a term not exceeding two years or to both such fine and such imprisonment. 15. (1) A regional board may appoint such and so many persons as it thinks fit to be agents of the board for the issue of ordinary fishing licences, and every person so appointed by a regional board shall be an authorised agent of that board for that purpose. 16. 72.— Where— (a) not later than the first day of the open season for fishing with engines other than rod and line in any year for a fishery district, an application is made to the regional board within whose fisheries region such fishery district is situate for a licence to fish for salmon with a draft net or a drift net, and (b) the applicant tenders with his application one moiety of the licence duty payable in respect of such licence, the following provisions shall have effect— (i) such regional board shall issue such licence to the applicant subject however to the condition (which shall be endorsed on such licence) that the balance of the said licence duty shall be paid not later than the thirtieth day after the first day of such open season, (ii) if such condition is not complied with such licence shall on and after the expiration of the said thirtieth day cease to be in force. 17. (1) The Minister may from time to time by order authorise the

regional board within whose fisheries region special tidal waters are situate to issue licences (in this Act referred to as special local licences) to use in such tidal waters any specific kind of fishing engine (being a fishing engine of a kind in respect of which ordinary licences are issuable) for the taking of salmon or trout, and no special local licence to use in special tidal waters any kind of fishing engine for the taking of salmon or trout shall be issued unless an order has been made under this section authorising the regional board within whose fisheries region such tidal waters are situate to issue special local licences to use in such tidal waters such kind of fishing engine. 18. (b) be sealed with the seal of the regional board within whose fisheries region such tidal waters are situate; 19. (1) Where a regional board is authorised by order of the Minister under this Act to issue special local licences to use, in special tidal waters situate in the fisheries region of the board, any particular kind of fishing engine for the taking of salmon or trout, the Minister may, whenever and as often as he thinks fit, by order do the following things:— (a) declare that such three periods in each year as the Minister thinks proper and specifies in such order shall be issue periods for the purposes of such order; (b) authorise such board to issue during the first issue period in any year special local licences to use in such tidal waters a fishing engine of such kind for the taking of salmon or trout on payment of a specified proportion of the appropriate special local licence duty, subject however to the following condition (which shall be endorsed on each such licence), that the balance of such duty shall be paid in three equal instalments, and that each such instalment shall be paid not later than the date specified in such order as the date for the payment thereof; (c) authorise such board to issue during the second issue period in any year special local licences to use in such tidal waters a fishing engine of such kind for the taking of salmon or trout on payment of a specified proportion of the appropriate special local licence duty, subject however to the following condition (which shall be endorsed on each such licence), that the balance of such duty shall be paid in two equal instalments, and that each such instalment shall be paid not later than the date specified in such order as the date for the payment thereof; (d) authorise such board to issue during the third issue period in any year special local licences to use in such tidal waters a fishing engine of such kind for the taking of salmon or trout on payment of a specified proportion of the appropriate special local licence duty, subject however to the following condition (which shall be endorsed on each such licence), that the balance of such duty shall be paid not later than the date specified in such order as the date for the payment thereof. 20. (1) A regional board may from time to time by order declare that any river or lake or portion thereof situate in the fisheries region of such board shall be scheduled trout waters for the purposes of this Act. 21. (1) It shall not be lawful for any person to fish for trout with rod and line in any scheduled trout waters situate in a fishery district unless— (a) such person is the holder of a trout rod (general) licence for the time being in force, or (b) such person is the occupier of land contiguous to the portion of such scheduled trout waters in which he is found fishing and is entitled to fishing rights in that portion and is the holder of a trout rod (riparian owner) licence for the time being in force issued by the regional board within whose fisheries region such fishery district is situate and valid for that portion, or (c) such person is a member of the family of the occupier of land contiguous to the portion of such scheduled trout waters in which such person is found fishing and such occupier is entitled to fishing rights in that portion and is the holder of a trout rod (riparian owner) licence for the time being in force issued by the regional board within whose fisheries region such fishery district is situate and valid for that portion, or (d) such person is the holder of a trout rod (juvenile) licence for the time being in force issued by such board, or (e) such person is the holder of a salmon rod licence for the time being in force issued by such board. 22. (3) A trout rod (juvenile) licence shall be valid only in the fishery district specified therein, being a fishery district situated within the fisheries region of the regional board by whom it is issued. 23. (1) Where— (a) a person applies to a regional board or to an authorised agent of such board for the issue to him of a trout rod (general) licence and (b) such person tenders the amount of the duty which is for the time being payable under section 81 of this Act in respect of the licence, such board or agent shall, subject to the provisions of this Act, issue a trout rod (general) licence to that person. 24. (a) (a) a person applies to a regional board within whose fisheries region any scheduled trout waters are situate or to an authorised agent for such board for the issue to him of a trout rod (riparian owner) licence, and (b) (a) a person applies to a regional board within whose fisheries region any particular scheduled trout waters are situate or to an authorised agent for such board for the issue to him of a trout rod (juvenile) licence, and 25. (4) A regional board may from time to time apply any portion of its funds which it thinks fit for the purpose of making passes in or over dams in any river in its fisheries region subject to the sanction of the Minister, under subsection (3) of this section, and upon obtaining such sanction the said board may place to the credit of the Minister such sum of money as has been for that purpose approved and sanctioned by him

and thereupon it shall be lawful for the Minister to direct and cause such alterations to be made in any dam erected in or across any salmon river for affording a free and uninterrupted passage for fish, pursuant to powers and provisions of subsection (3) of this section. 26. (6) A regional board may from time to time apply any portion of its funds which it thinks fit for the purpose of removing or making passes in or over natural obstructions in any river in its fisheries region, subject to the sanction of the Minister, under the preceding subsections of this section, and upon obtaining the sanction of the Minister the said board may place to the credit of the Minister such sum of money as has been for that purpose approved and sanctioned by him and thereupon it shall be lawful for the Minister to construct such works and make such alterations in the bed of any river as shall effectually secure a free and uninterrupted passage for fish, pursuant to the powers and provisions of the preceding subsections of this section. 27. the word "inspector" means any person, being— (a) a person appointed by the Minister or a regional board to be an inspector for the purposes of this Part, or (b) a member of the Garda Síochána, or (c) any person authorised by the Minister under section 22 of the Fisheries Act, 1925 (No. 32 of 1925) or section 44 of the Fisheries Act, 1939 (No. 17 of 1939); 28. (1) Where— (a) a person to whom a certificate of fitness has been granted applies, within twenty-eight days after such grant, to the regional board for the issue to him of a licence authorising him to carry on the business of selling salmon and trout at any specified place or places within such board's fisheries region and (b) there is sent with the application— (i) such certificate of fitness, and (ii) the sum of twenty-five pounds, then, such board may issue to such person such licence. 29. (2) Where— (a) a person to whom a certificate of fitness has been granted applies, within twenty-eight days after such grant, to the regional board for the issue to him of a licence authorising him to carry on the business of exporting for sale salmon and trout from any specified place or places within such board's fisheries region, (b) there is sent with the application— (i) such certificate of fitness, and (ii) the sum of twenty-five pounds, then, such board may issue to such person such licence. 30. (1) Where— (a) either— (i) the holder of a Part X licence which is for the time being in force (either by virtue of the original issue or a renewal thereof) applies, within fourteen days before its expiration to the relevant regional board for a renewal of the licence, or (ii) the holder of a Part X licence which was in force (either by virtue of the original issue or a renewal thereof) on the 31st day of December in any year applies within one month after its expiration to the relevant regional board for a renewal of the licence, and (b) there is sent with the application the sum of twenty-five pounds, then, such board may renew such licence. 31. (b) Before revoking a Part X licence under paragraph (a) of this subsection the Minister shall send by registered post to the holder thereof and to the relevant regional board fourteen days' notice of his intention to consider the revocation of the licence and shall consider any representations which may be made to him by such holder or board before the expiration of the notice. 32. (ii) the number or name of the fishery district to which it relates, 33. (1) The production by an authorised person (other than a private water keeper) of his instrument of appointment shall be a sufficient warrant for his exercising the powers conferred on an authorised person by this Act, but the production of such instrument by him shall not be necessary in exercising those powers unless he has been first required to produce it. 34. (1) Any member of the Garda Síochána or authorised person may, for the purposes of the protection of the fisheries, do all or any of the following things:— (a) enter into and pass through or along or remain on the banks or borders of any lakes or rivers frequented by salmon, trout, char or their spawn or fry, eels or coarse fish or of the tributaries thereof, (b) with boats or otherwise enter upon any such lakes or rivers, (c) enter upon and examine all weirs, sluices, mill dams, mill races and watercourses communicating with such lakes or rivers, (d) enter any boat engaged or about to engage in fishing, (e) examine all standing, floating or other nets whatsoever, (f) seize any unlawful fishing engine or any lawful fishing engine which is being unlawfully used, (g) do all such other acts and things as he is authorised to do by or under this Act. 35. (2) Nothing in this section shall be construed as authorising any member of the Garda Síochána or authorised person to enter any enclosed garden or any dwellinghouse or the curtilage thereof except where the ordinary road or passage to any weir, dam or dyke is through such garden or curtilage. 36. (1) Any member of the Garda Síochána or officer appointed by the Minister or by a regional board may, subject to any directions and regulations given or made by the Revenue Commissioners, do with respect to any vessel employed in fishing, all or any of the following things:— (a) board such vessel, (b) examine the certificate of registry and the fishing engines of such vessel, and ascertain whether the provisions of this Act have been complied with and whether the master and any other persons on board are carrying on fishing in the manner required by this Act, (c) seize any unlawful fishing engine or any lawful fishing engine unlawfully used. 37. (2) If the master of any fishing vessel refuses to produce the certificate of registry of such vessel when required to do so by a member of the Garda Síochána, an

officer of the Minister or an officer of a regional board he shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding two hundred pounds.

38. (a) any member of the Garda Síochána or authorised person may require the offender to do the following things— (i) desist from such offence, and (ii) tell his name and his address, 39. (c) where the offender is apprehended under this section by a person who is not a member of the Garda Síochána, the authorised person shall forthwith deliver him into the custody of a member of the Garda Síochána to be dealt with according to law. 40. 300.—Where any member of the Garda Síochána or authorised person finds— (a) during the annual close season for salmon and trout or the weekly close time— (i) any passage in any fishing weir, fishing mill dam, fixed engine, net or contrivance closed or obstructed, or (ii) any net or other contrivance whatsoever placed or used in contravention of this Act or any instrument made thereunder, or (b) at any time, any obstruction in the free gap of a fishing weir or in a fish pass or, (c) at any time, any obstruction in the waste gate appurtenant to any mill or factory when such waste gate is required, by section 122, to be open, he may open such passages and remove such obstructions, doing no unnecessary damage, and seize and remove all things so found or used contrary to the provisions of this Act or any instrument made thereunder. 41. (b) at all reasonable times to enter upon and have free access to search— (i) any premises in which fish is or is believed to be sold, or kept, exposed or stored for sale, or (ii) any premises in which poison or explosive intended for the destruction of fish is or is believed to be kept, or (iii) the premises of any person engaged in the business of carrying goods for reward, or (iv) any aerodrome, pier, quay, wharf, jetty, dock or dock premises, or (v) any ship, boat, aircraft, railway wagon, motor lorry, cart, or other vessel or vehicle used for the conveyance of goods; 42. (2) Any person using any scheduled engine or having any scheduled engine erected or found with a scheduled engine in his possession in or near any fishing place or going or returning from fishing shall on demand produce, to any member of the Garda Síochána or authorised person the ordinary licence for such engine, and, in default, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding two hundred pounds. 43. (2) Any member of the Garda Síochána or authorised person may demand of any person fishing in special tidal waters or having in his possession in or near such special tidal waters any fishing engine for the taking of salmon or trout the production of his special local licence and if such person refuses or fails to produce such licence there and then, he shall be guilty of an offence under this section. 44. (3) Where any person of whom the production of his special local licence is lawfully demanded under this section produces such licence but refuses or fails to permit the member of the Garda Síochána or authorised person making such demand to read such licence, he shall be guilty of an offence under this section. 45. (4) Whenever any person of whom the production of his special local licence is lawfully demanded under this section refuses or fails to produce such licence or produces such licence but fails to permit the member of the Garda Síochána or authorised person making the demand to read such licence, such member of the Garda Síochána or authorised person may demand of such person his name and address, and if such person refuses or fails to give his name or address or gives a name or address which is false or misleading he shall be guilty of an offence under this section. 46. (2) Any person using a trout rod in any scheduled waters shall on demand produce to any member of the Garda Síochána or authorised person his trout rod licence, or if he is the holder of a salmon rod licence, such salmon rod licence, and in default such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to— (a) in case— (i) such person is the occupier of land contiguous to the portion of such scheduled trout waters in which he is found fishing and is entitled to fishing rights in that portion, or (ii) such person is a member of the family of the occupier of land contiguous to the portion of such scheduled trout waters in which he is found fishing and such occupier is entitled to fishing rights in that portion, or (iii) such person is under the age of seventeen years, a fine not exceeding £50, or (b) in any other case, a fine not exceeding £50. 47. (b) such occupier is entitled to fishing rights in that portion and is the holder of a trout rod (riparian owner) licence for the time being in force issued by the regional board within whose fisheries region such fishery district is situate and valid for such portion. 48. (2) Any person using or having in his possession an oyster fishing engine in or near an oyster fishery, or going or returning from fishing shall on demand produce to any member of the Garda Síochána or authorised person the oyster fishing licence for such engine and, in default, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding £200. 49. 307.—All fish passes shall be at all times open to inspection by a member of the Garda Síochána or an authorised person. 50. (i) to the regional board within whose fisheries region is situate the fishery district in which the offence was committed a sum equal to two-thirds of the fine, or, if the fine was remitted in part, of so much thereof as was not remitted,

and 51. (i) in case it appears to the Minister that a member of the Garda Síochána seized such thing or was the means of bringing to justice the person committing the offence which resulted in such forfeiture, there shall be paid— (I) to the regional board within whose fisheries region is situate the fishery district in which the offence was committed a sum equal to two-thirds of the net proceeds of such sale, and (II) into the Garda Síochána Reward Fund a sum equal to one-third of the said net proceeds, 52. (ii) in any other case there shall be paid to the said regional board a sum equal to the said net proceeds. 53. (i) in case it appears to the Minister that a member of the Garda Síochána detained such fish under section 301, there shall be paid— (I) to the regional board within whose fisheries region is situate the fishery district in which the offence was committed a sum equal to two-thirds of the said net proceeds, and (II) into the Garda Síochána Reward Fund a sum equal to one-third of the said net proceeds, 54. (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 regional board in whose fisheries region is situate any 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 such of its officers as it shall nominate for the purpose, be entitled to appear in Court and be heard on the hearing of the application. Sections 37, 38 and 39

FIFTH SCHEDULE

PROVISIONS REFERRED TO IN SECTIONS 37, 38 AND 39

1. Where an application to which this Schedule applies is made, the applicant shall: (a) deposit and keep deposited, at the place or each of the places appointed by the Minister, for such period (being a period of not less than three weeks) as the Minister shall direct, a copy of the application and of any plan which accompanied it, (b) publish in such newspapers as the Minister shall direct notice of the making of the application stating the place or places at which the application and any accompanying plan may be inspected pursuant to Article 3 of this Schedule during a period specified in the notice (which period shall be the period so directed) and also stating that notice of representations or objections as regards the proposed authorisation or acquisition order, as the case may be, may be given in writing to the Minister during the said period (which notices are hereby authorised to be so given), (c) not later than two weeks before the expiration of the period so directed, serve a notice in writing containing the particulars mentioned in and complying with the requirements of Article 2 of this Schedule on the owner, and if the owner is not in occupation thereof, such one or more of the following as are in the circumstances appropriate, namely: (i) the owner of the fishery, premises or other land proposed to be acquired if such owner can be so ascertained, and, if such owner is not in occupation thereof, the occupier of such fishery, premises or other land, (ii) the owner of the land comprising the proposed servient tenement if such owner can by reasonable enquiry be ascertained and, if such owner is not in occupation thereof, the occupier of such land, (iii) the person entitled to enjoy any right proposed to be acquired, if such person can be so ascertained, (d) in case the application is an application under section 39 of this Act, not later than the expiration of the period so directed, serve a notice in writing of the making of the application on— (i) the Commission and the Commissioners, and (ii) any planning authority within whose functional area the servient tenement to which the application relates (or any part thereof) is situate. 2. A notice referred to in Article 1 of this Schedule shall indicate the situation of the servient tenement or other land to which the application, if granted, would relate and with which the person on whom the notice is served is concerned. 3. Where an application to which this Schedule applies is made, any person may during the period specified in a notice published pursuant to Article 1 of this Schedule inspect at a place specified in the notice at any reasonable hour any application and any document deposited therewith. 4. A dispute or difference as to the amount of compensation payable under this Act shall not be a ground for objection to the making of an acquisition order. 5. The following shall be entitled to be heard (either in person or through counsel or a solicitor) on the hearing, whether by the Minister or on appeal, of an application to which this Schedule applies, namely: (a) the applicant, (b) the owner of the fishery or land proposed to be acquired or, where appropriate, the owner of the proposed servient tenement, (c) any person entitled to the enjoyment of any right proposed to be acquired, (d) any person by whom a notice has been duly given in relation to the application pursuant to Article 1 (b) of this Schedule, (e) in case the application is

an application under section 39 of this Act— (i) the Commission and the Commissioners, and (ii) the planning authority on which notice relating to the application has been served in pursuance of Article 1 (d) of this Schedule. 6. Where an application is made for an order under section 37 or 39 of this Act the following provisions shall apply: (a) the Minister may, for the purpose of enabling the ownership of a proposed servient tenement to be ascertained, direct the applicant to give to any person who is the occupier of the land or who, either directly or indirectly, receives rent in respect of the land, a notice in writing requiring him to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as owner in fee simple, mortgagee, lessee or otherwise, (b) if the Minister or the Arbitrator, as the case may be, is satisfied that after diligent inquiry the owner of the fishery proposed to be acquired, or, in case the application is either for an order under the said section 39 or for an order under the said section 37 providing for the acquisition of a way-leave, right of access or other right over, in or under land, the owner of the proposed servient tenement, cannot be found or ascertained, the application or an appeal under the said section 37 or 39 may be heard and determined, notwithstanding the fact that such owner has not been found or ascertained. 7. Every acquisition order shall— (a) in case the order is an order under section 39 of this Act or an order under section 37 of this Act which provides for the acquisition of a right of access,— (i) have attached thereto a map showing the route of the right of way or right of access thereby created or acquired and its extent, (ii) subject to such restrictions and provisions (if any) as may be specified therein, operate to grant to the applicant the right of way or access free from all claims and all other rights of any other person, (iii) in case the order is made under section 39 of this Act, be expressed and operate to confer, as may be provided for by the order, either or both of the following, namely: (A) on the members, officers, servants, agents and licensees of the Central Board or the regional board within whose fisheries region the relevant servient tenement is wholly or partly situate, for the purpose of enabling surveys to be made or improvement or other works connected with a fishery to be carried out, a right to pass and repass at all reasonable times with or without vehicles (whether laden or unladen) or other machinery or equipment or animals along such route over the land over which such right of way is exercisable, (B) on any person a right to pass and repass for the purpose of gaining access to fishing waters and lawfully fishing therein (whether from the banks thereof or otherwise), together with a right to make reasonable use for fishing of any bank or other part of the servient tenement forming part of or immediately adjacent to a fishery, (b) in case the order is an order under section 37 of this Act— (i) be expressed and operate to transfer to the Central Board, on and from the date specified therein in that behalf, all the estate, right, title and interest in the relevant fishery of the person from whom it was acquired, free from encumbrances and from all estates and interests therein (except such angling right, if any, as may be reserved by the order) together with such of the following (if any) as the order may specify, namely, any other estate or interest in land or any estate or interest in any way-leave, right of access, or other easement or other right over, in or under land or water, and in case the order so specifies, operate to transfer the bed and soil of the waters comprising the fishery in fee simple free from encumbrances and from all such estates and interests therein, (ii) describe the fishery thereby acquired, specify the means of access thereto and so acquired (if any) and have attached thereto a map showing the area and situation of such fishery and any such means of access, (iii) be admissible in any legal proceedings as evidence as to the kind and the area of the relevant fishery as stated therein. 8. (1) Where a decision is made by the Minister under section 37 of this Act or an order is made under section 37, 38 or 39 of this Act, the decision or order shall come into force— (a) in case no appeal in respect thereof is taken under this Act, upon the expiration of the period during which such an appeal may be taken, (b) in case such an appeal is taken and the appeal is withdrawn, on the expiration of the period mentioned in subparagraph (a) of this paragraph or on the day next following the day on which the appeal is withdrawn, whichever is the later. (2) Where an order to which this Schedule applies is made by the Minister and is confirmed or varied by the Arbitrator on an appeal under this Act, or where a refusal by the Minister is so affirmed or any other decision is made by the Arbitrator on an appeal under this Act, then unless the Arbitrator otherwise directs, the decision on the appeal shall come into force on the day immediately following the day on which it is made, and, in case the Arbitrator gives a direction under this subparagraph, the decision to which the direction relates shall come into force on the day specified in that direction. 9. An order to which this Schedule applies may contain provisions authorising the person in whose favour it is made at any time before ascertainment of the compensation payable under this Act as regards the fishery or other land or a right over, in or under land or water, being acquired under the order to enter and take possession and to use such land or to exercise such right in exercise of the powers conferred by the order, and, in case the order contains such

provisions, it shall also contain provisions— (a) requiring such person, if the person so enters and takes possession of the land or exercises such right, to pay interest on the amount of the compensation so payable at such rate as shall be determined from time to time by the Minister for Finance, from the date on which such power was exercised until payment, (b) requiring the person in whose favour the order is made, if the person so enters and takes possession of the land or so exercises any right over, in or under land or water, to give to the occupier of the land at least one month's previous notice in writing of the intention so to exercise such right, (c) authorising such person to serve the notice aforesaid on a person by sending it by prepaid post in an envelope addressed to the person at his usual or last known address and deeming the notice to have been served on the person at the time at which the envelope would be delivered in the ordinary course of post and, when the address of the person cannot be ascertained by reasonable inquiry, authorising the person in whose favour the order is made to serve the notice by affixing it in a conspicuous position on or near the land to which it relates and authorising the addressing of the envelope to the person for whom it is intended, in case his name cannot be ascertained by reasonable inquiry, by addressing it to "the owner" or "the occupier"(as the case may require) without naming him. 10. Where an order under section 37 or 38 of this Act is made, the following provisions shall apply: (a) the order shall operate, on and from the commencement thereof, to transfer and attach to the relevant amount paid under this Act to a person as compensation all estates, trusts and encumbrances existing in respect of the interest of the person in the fishery or other land or water immediately before the date of the order, and (b) the said amount shall as respects any rights or claims existing immediately before the date of the order, to or against the said interest, represent that interest for all purposes. 11. (1) Whenever the Minister gives an authorisation under section 37 (1) of this Act, he shall, as soon as may be after the authorisation is given, serve on the owner of the fishery to which the authorisation relates, and on any person (other than such owner) by whom a notice in relation to the authorisation has been duly given pursuant to Article 1 (b) of this Schedule as regards the authorisation, a copy of the authorisation. (2) Whenever the Minister makes an order under section 37, 38 or 39 of this Act, he shall, as soon as may be after the order is made, cause notice of the making of such order to be published in the *Iris Oifigiúil*, which notice shall state the period within which an appeal may be taken under the said section 37, 38 or 39, and shall, as soon as may be, serve on the owner of the fishery to which the order relates a copy of the order. 12. (1) Where a fishery or any land is transferred to the Central Board by virtue of an order under this Act, the registering authority under the Registration of Title Act, 1964, shall upon production of a copy of the order under the official seal of the Minister register the Central Board in the appropriate register maintained under that Act as owner (within the meaning of that Act) of the fishery or other land and the authority shall, in addition, cause such other alterations (if any) to be made in such register as are appropriate having regard to the terms of the order. (2) Where land over which a right of way is created by an order under section 39 of this Act is or is deemed to be registered under the Registration of Title Act, 1964, the registering authority under that Act shall on production of a copy of the order under the official seal of the Minister register the said right of way as a burden affecting the said land. (3) No fee shall be payable in respect of any proceedings in the Land Registry under this Article. 13. The validity or effect of an order to which this Schedule applies shall not be affected by any non-compliance with any provision contained in this Schedule relating to the service of a copy of such order on a particular person or the publication of notice of the making thereof in the *Iris Oifigiúil*. 14. In this Schedule— "the Commission" means the Irish Land Commission; "acquisition order" means an order made by the Minister under section 37, 38 or 39 of this Act.

ACTS REFERRED TO

Acquisition of Land (Assessment of Compensation) Act, 1919 1919, c. 57 Civil Service Commissioners Act, 1956 1956, No. 45 Civil Service Regulation Acts, 1956 and 1958 Courts (Supplemental Provisions) Act, 1961 1961, No. 39 Criminal Procedure Act, 1967 1967, No. 12 European Assembly Elections Act, 1977 1977, No. 30 Finance Act, 1895 1895, c. 16 Finance Act, 1925 1925, No. 28 Finance Act, 1940 1940, No. 14 Fisheries Acts, 1959 to 1976 Fisheries Acts, 1959 to 1978 Fisheries Acts, 1959 to 1980 Fisheries (Consolidation) Act, 1959 1959, No. 14 Fisheries (Amendment) Act, 1962 1962, No. 31 Fisheries (Amendment) Act, 1978 1978, No. 18 Foreshore Act, 1933 1933, No. 12 Forestry Acts, 1919 and 1928 Forestry Acts, 1946 to 1976 Foyle Fisheries Act, 1952 1952, No. 5 Lands Clauses Consolidation Act, 1845 1845, c. 18 Local Authorities (Officers and Employees) Act, 1926 1926, No. 39 Local Government (Planning and Development) Act, 1963 1963, No. 28 Local Government (Planning and Development)

Acts, 1963 and 1976 Maritime Jurisdiction Act, 1959 1959 No. 22 Mercantile Marine Act, 1955 1955, No.
29 Merchant Shipping Act, 1894 1894, c. 60 Registration of Title Act, 1964 1964, No. 16 Superannuation
and Pensions Act, 1976 1976. No. 22 Valuation (Ireland) Act, 1854 1854. c. 8