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FISHERIES (AMENDMENT) ACT, 2000

ARRANGEMENT OF SECTIONS

Section

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SCHEDULE

PART 1

PART 2

[No. 34.] *Fisheries (Amendment) Act, 2000.* [2000.]

ACTS REFERRED TO

Fisheries Act, 1980	1980, No. 1
Fisheries Acts, 1959 to 1999	
Fisheries (Amendment) Act, 1962	1962, No. 31
Fisheries (Amendment) Act, 1994	1994, No. 23
Fisheries (Amendment) Act, 1999	1999, No. 35
Fisheries (Consolidation) Act, 1959	1959, No. 14



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FISHERIES (AMENDMENT) ACT, 2000

AN ACT TO AMEND AND EXTEND THE FISHERIES ACTS,
1959 TO 1999. [15th December, 2000]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act—

Interpretation.

“Act of 1980” means the Fisheries Act, 1980;

“Act of 1994” means the Fisheries (Amendment) Act, 1994;

“Act of 1999” means the Fisheries (Amendment) Act, 1999;

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

“Principal Act” means the Fisheries (Consolidation) Act, 1959.

(2) In this Act—

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

(b) a reference to a subsection, paragraph or subparagraph is a reference to a subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended, and

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

2.—(1) Where an authorised officer has reasonable grounds for believing that a person is committing or has committed an offence— Provisions regarding certain offences.

(a) under a provision of the Principal Act mentioned in *column (2) of Part 1 of the Schedule* or such other provision of the Principal Act as may be prescribed,

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- (b) under section 9(4) (inserted by section 3 of the Fisheries (Amendment) Act, 1962 (No. 31 of 1962)) of the Principal Act in relation to such bye-laws as may be prescribed,
- (c) against such bye-laws made or deemed to have been made under section 9(1) of the Principal Act as may be prescribed, or
- (d) in relation to a contravention of bye-laws made or deemed to have been made under section 9(1) of the Principal Act of a type described in *column (2)* of *Part 2* of the *Schedule* or of such type as may be prescribed,

he or she may serve the person with a notice in the prescribed form stating that—

- (i) the person is alleged to have committed the offence,
- (ii) the person may, during the period of 21 days beginning on the date of the notice, make to the regional board concerned at the address specified in the notice a payment of £50 accompanied by the notice, and
- (iii) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where notice is given under *subsection (1)*—

- (a) a person to whom the notice applies may, during the period specified in the notice, make to the regional board concerned at the address specified in the notice the payment specified in the notice accompanied by the notice;
- (b) the regional board specified in the notice may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it;
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

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

(4) The Minister may by regulations vary the amount standing specified for the time being in *subsection (1)(ii)*.

(5) In this section “authorised officer” means a person who is an authorised officer (within the meaning of paragraphs (b) (inserted by paragraph 1(vv) of the Fourth Schedule to the Act of 1980) and (c) of section 301(1) of the Principal Act).

3.—The Act of 1999 is amended—

Amendment of Part
3 of Act of 1999.

(a) in section 24—

- (i) by the substitution for subsection (6) of the following subsections:

“(6) Subject to subsection (6A), a person (other than the Central Board or a regional board) who contravenes or fails to comply with any regulation made under this section is guilty of an offence and shall be liable on summary conviction—

(a) in the case of a first offence, to a fine not exceeding £500,

(b) in the case of a second or subsequent offence, other than an offence referred to in paragraph (c), to a fine not exceeding £750, and

(c) in the case of a third or subsequent offence which is the third or subsequent offence in any period of 12 consecutive months, to a fine not exceeding £1,000.

(6A) Subsection (6) does not apply to an authorised agent (within the meaning of section 70(1) of the Fisheries (Consolidation) Act, 1959), in respect of any requirement under any regulation made under this section to issue tags or logbooks.

(6B) A person shall not affix a tag to any wild salmon or sea trout, which he or she knows or in the circumstances ought to know, has been unlawfully caught.

(6C) A person shall not forge or fraudulently alter, or cause to have forged or fraudulently altered, any tag, logbook or document.

(6D) A person shall not have in his or her possession any tag, logbook or document which he or she knows, or in the circumstances ought to know, has been forged or fraudulently altered.

(6E) A person shall not give false information to obtain any tag, logbook or document.

(6F) A person who contravenes subsection (6B), (6C), (6D) or (6E) is guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 3 months, or to both.”

- (ii) in subsection (7), by the insertion after “regulations under this section” of “(other than any regulation altering the commencement of any regulations made under this section)”,
- (iii) in subsection (8), by the substitution for “In this section” of “In this Part”,

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- (iv) in subsection (8), by the substitution for the definition of “authorised officer” of the following definition:

“‘authorised officer’ means a person who is an authorised officer (within the meaning of paragraphs (b) (inserted by paragraph 1(vv) of the Fourth Schedule to the Act of 1980) and (c) of section 301(1) of the Fisheries (Consolidation) Act, 1959);”, and

- (v) by the insertion after subsection (8) of the following subsection:

“(9) A reference in this section to a tag, logbook or document is a reference to a tag, logbook or document provided for in regulations made under this section.”,

and

- (b) by the substitution for section 25 of the following section:

“25.—(1) This section applies to an offence under section 24(6), in respect of such contraventions of regulations made under section 24, as may be declared by the Minister by regulations to be contraventions to which this section applies.

(2) Where an authorised officer has reasonable grounds for believing that a person is contravening or has contravened a regulation made under section 24, being a contravention to which this section applies, he or she may serve the person with a notice in the prescribed form stating that—

- (a) the person is alleged to have so contravened,
- (b) the person may, during the period of 21 days beginning on the date of the notice, make to the regional board concerned at the address specified in the notice a payment of £50 accompanied by the notice, and
- (c) a prosecution in respect of the alleged contravention will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged contravention will be instituted.
- (3) Where notice is given under subsection (2)—
- (a) a person to whom the notice applies may, during the period specified in the notice, make to the regional board concerned at the address specified in the notice the payment specified in the notice accompanied by the notice;
- (b) the regional board specified in the notice may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it;

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(c) a prosecution in respect of the alleged contra- S.3
vention shall not be instituted in the period
specified in the notice, and if the payment so
specified is made during that period, no pros-
ecution in respect of the alleged contra-
vention shall be instituted.

(4) In a prosecution for an offence under section 24(6)
the onus of proving that a payment pursuant to a notice
under this section has been made shall lie on the
defendant.

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

(6) In this section a reference to a contravention of a
regulation made under section 24 includes a reference to
a failure to comply with such a regulation.”.

4.—Section 90(3)(a) (inserted by section 51 of the Act of 1980) of Amendment of
the Principal Act is amended by the substitution for subparagraph section 90 of
(iv) (inserted by section 26(a) of the Act of 1999) of the following Principal Act.
subparagraphs:

“(iv) an offence under section 24(6B), (6C), (6D) or (6E) of the
Fisheries (Amendment) Act, 1999,

(v) an offence under section 24(6) of the Fisheries
(Amendment) Act, 1999, in respect of a contravention of
or a failure to comply with a regulation made under that
section which is a contravention of or a failure to comply
with the regulation declared by the Minister by regu-
lations to be an offence to which this subsection applies.”.

5.—(1) Section 2(1) of the Act of 1980 is amended by the substi- Election of
tution for the definition of “election year” of the following members to
definition: regional boards.

“‘election year’, subject to section 15(2), means in the case of
the next elections held of members of regional boards, the year
2005 and every fifth successive year thereafter;”.

(2) Section 7(2) of the Act of 1999 is amended by the deletion of
“, and an election shall be held as soon as practicable after each fifth
anniversary of that date”.

6.—Notwithstanding section 10(4)(b)(ii) of the Act of 1980, the Extension of terms
Minister may extend the term of office of an appointed member of of office of
a regional board beyond the period of 5 years mentioned therein appointed members
until midnight on the day on which the result of the next election for of regional boards.
elected members of the board held in pursuance of section 12 of that
Act is declared.

7.—Section 40 of the Principal Act is amended by the substitution Matters relating to
for subsection (10) of the following subsection: staff members of
regional boards who
are board members.

“(10) No member of a regional board (other than a member
who is a member of the staff of the regional board) shall be
eligible for any paid office under the regional board.”.

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Miscellaneous
amendment to Act
of 1980.

8.—The Act of 1980 is amended—

(a) in section 8 (inserted by section 5 of the Act of 1999) by the insertion after subsection (9) of the following subsections:

“(10) 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.

(11) 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 or she thinks fit.”,

and

(b) in section 11(1)(c) (inserted by section 8(a) of the Act of 1999) by the substitution—

(i) for “by virtue of section 8(2) of this Act” of “by virtue of section 8(10) of this Act”, and

(ii) for “referred to in paragraph (c) of section 8(2) of this Act” of “referred to in section 18A of this Act”.

Short title,
construction and
collective citation.

9.—(1) This Act may be cited as the Fisheries (Amendment) Act, 2000.

(2) The Fisheries Acts, 1959 to 1999, and this Act may be cited together as the Fisheries Acts, 1959 to 2000, and shall be construed together as one.

SCHEDULE

Section 2.

PART 1

Provision of Fisheries (Consolidation) Act, 1959		
Reference Number (1)	Provision (2)	Description (3)
1.	Section 137(2)(a)	Angling for salmon during annual close season.
2.	Section 138(2)(a)	Angling for trout during annual close season.
3.	Section 162(1)(b) (inserted by section 20 of the Act of 1994)	Holder of Part X licence failing to display licence.
4.	Section 163(4) (inserted by section 20 of the Act of 1994)	Holder of Part X licence failing to keep or to make an entry in a register or failing to produce for inspection a register or documents.
5.	Section 178	Unauthorised entry on several fishery.
6.	Section 287	Obstructing persons lawfully fishing.
7.	Section 291	Giving warning to person unlawfully fishing.
8.	Section 303(2)	Failing to produce licence on demand.

PART 2

Reference Number (1)	Description of type of bye-laws made or deemed to have been made under section 9(1) of Fisheries (Consolidation) Act, 1959 (2)
1.	Contravention of a bye-law prohibiting the having on board any boat a drift net, draft net, snap net or other fishing engine other than rod and line.
2.	Contravention of a bye-law prohibiting the use of any lure other than artificial fly in angling for any kind of fish with rod and line.
3.	Contravention of a bye-law prohibiting the use of prawn, shrimp, any other crustacean or artificial forms thereof as bait in angling.
4.	Contravention of a bye-law prohibiting the taking, killing or having in possession a fish of any kind which is less than a specified length.
5.	Contravention of a bye-law prohibiting the taking or having in possession more than a specified number of any kind of fish.
6.	Contravention of a bye-law prohibiting the taking, having in possession or control, selling or offering for sale any sea trout.
7.	Contravention of a bye-law prohibiting the fishing, or attempting to fish, for bass.