



**AN BILLE IASCAIGH (LEASU), 1962.
FISHERIES (AMENDMENT) BILL, 1962.**

EXPLANATORY MEMORANDUM.

*Mar a ritheadh ag Dáil Éireann.
As passed by Dáil Éireann.*

Section 1 contains definitions.

Section 2 (1) redefines "deleterious matter" and *section 18* makes consequential amendments.

Sections 2 (2), 5, 6 and 7 relate to membership of Boards of Conservators and—

- (a) provide that Boards shall be elected for a five-year term instead of a three-year term as at present;
- (b) tighten up the qualification for the office of Conservator by requiring that a candidate shall be either a licence holder or a ratepayer for the district;
- (c) enable regulations to be made governing procedure at elections for Boards including the nomination of candidates and postal voting;
- (d) provide that a member of a Board who is disqualified for non-attendance shall not be eligible for co-option to any Board for the remainder of the five-year term.

Sections 3, 13 and 33 enable bye-laws to be made—

- (a) varying the statutory weekly close time, i.e., the period from 6 a.m. on Saturday to 6 a.m. on Monday during which fishing, otherwise than by rod and line, for salmon or trout is prohibited; there has heretofore been no power to vary this save for E.S.B. fisheries,
- (b) imposing restrictions of an emergency character (e.g. where low water conditions so require) for a period not exceeding one year, and
- (c) without holding a public inquiry; this could be important to save time when making an emergency bye-law but, should experience show that the restrictions so imposed would need to be continued for an extended term, an inquiry could be ordered giving all parties concerned an opportunity to be heard.

Section 4 redrafts in a wider form provisions under which things otherwise prohibited by law may be done for scientific purposes or for the improvement or development of fisheries.

Sections 5, 6 and 7 are explained in conjunction with *section 2 (2)*.

Section 8 enables contributions to be made from the Salmon Conservancy Fund towards the expenses of the Council of Boards of Fishery Conservators, a non-statutory body set up in 1958 to provide a liaison between Boards of Conservators and to discharge consultative and advisory functions.

Section 9 provides that, in addition to directing forfeiture of a fishing licence, the Court may declare a convicted person to be disqualified for holding a licence for a period not exceeding one year and precludes a person so disqualified from obtaining a licence.

Section 10 clarifies circumstances in which a person charged with an offence shall be deemed to have a net etc. in his possession or control.

Sections 11 and 12 modify provisions relating to fixed nets and guiding walls—which are intended for the protection of salmon fisheries—so as to give greater freedom for the exploitation of eel fisheries subject to safeguards.

Section 13 is explained in conjunction with *section 3*.

Sections 14, 15 and 28 relate to control over dealings in salmon and trout and—

(a) require a person applying to the Court for a certificate of fitness (i.e. to hold a salmon dealer's or salmon exporter's licence) to notify the local Board of Conservators which shall be entitled to give evidence ;

(b) require salmon dealers and salmon exporters to retain each register showing purchases and disposals of salmon or trout for six months after the end of the latest year in which an entry was made in it ;

(c) prohibit the buying of salmon or trout unless the purchaser is—

(i) the holder of a salmon dealer's or exporter's licence or his duly authorised agent, or

(ii) buying for use in his own home, or

(iii) buying, for use in his catering premises, from the holder of a salmon dealer's licence or from a fisherman who gives a written statement containing his name etc.

Section 16 relates to the use and possession of deleterious matter, including poison or explosives, increases the maximum penalties for such offences to

(a) a fine of £100 or six months' imprisonment or both on summary conviction and

(b) a fine of £500 or two years' imprisonment or both on conviction on indictment and

excludes the application of the Probation of Offenders Act to the offences.

Section 17 includes "snare" and "tailer" among instruments which it is illegal to use for taking fish but provides a saver for the legitimate use of a tailer as an aid to angling.

Section 18 is explained in conjunction with *section 2 (1)*.

Section 19 revises the definition of "Irish sea-fishing boat" and, while retaining the requirement "registered in the State", eliminates the existing alternative of "a boat the owner or, if there is more than one owner the managing owner of which resides or has his principal place of business in the State". For boats exempted from registration, however, the requirement of Irish ownership remains. Fishing boats exceeding 35' over all in length becoming registered in future under Part IV of the Merchant Shipping Act, 1894, will also have to be registered under the Mercantile Marine Act, 1955. The section provides that certificates by registrars of ships that a boat is not registered in accordance with the definition shall be conclusive evidence that it is not so registered.

Section 20 makes it possible to institute proceedings for certain sea fisheries offences, such as fishing by foreign boats within the exclusive fishery limits, more than six months after commission of the offences.

Sections 21, 22 and 23 make minor amendments in provisions relating to undersized sea-fish by—

- (a) providing for release into the sea of live sea-fish seized as undersized, and
- (b) including store, storage pond etc. among places where possession of fish is *prima facie* evidence of possession for the purposes of sale.

Section 24 creates an offence of using a boat or vehicle as an aid to the commission of an offence and, in addition to a fine and imprisonment, provides for forfeiture of

- (a) a boat as a statutory consequence of conviction and
- (b) a vehicle by Court order on indictment.

Section 25 extends the powers of authorised officers by enabling them to—

- (a) enter hotels and catering establishments for the purpose of examining fish found there, and
- (b) seize any boat or vehicle liable to forfeiture.

Section 26 includes provision for disposal of a boat seized, e.g. where it was abandoned and no person is charged with an offence.

Section 27 requires a person producing a fishing licence to furnish evidence of his identity to an authorised person on demand.

Section 28 is explained in conjunction with *section 14*.

Section 29 gives power to prohibit, restrict or otherwise control fishing for salmon at sea and the landing of salmon caught at sea in case any excessive development of such fishing should endanger salmon stocks. The penalties include not only automatic forfeiture of all salmon caught or gear used in contravention of an order but also forfeiture, at the discretion of the Court, of any boat used and of any other fish and gear found on board the boat. To avoid interfering with traditional drift netting for salmon in certain areas, fishing in any particular place or by any particular method may be excepted from an order.

Section 30 extends provisions of the Fisheries (Consolidation) Act, 1959, relating to eels and sea fisheries to the Movable Area, that is, the part of the Foyle Area within the State, and provides that the corresponding provisions of the Fisheries Acts, 1842 to 1958 (which were repealed for the remainder of the State in 1959), shall cease to be in force in that Area. Other provisions of the 1959 Act were similarly extended to the Movable Area by the Foyle Fisheries (Amendment) Act, 1961. Sections of the present Bill which relate to provisions applicable to the Movable Area will also extend to that Area as will the new legislation in *section 35*. Under *section 30* (3), however, the new legislation in *section 29* will not extend to the Movable Area. The law for administration of the salmon fisheries of the entire Foyle Area is contained in the Foyle Fisheries Acts, 1952 and 1961, with their counterparts enacted by the Belfast Parliament.

Section 31 makes a coghill net for taking eels liable to an ordinary licence duty of £2. Such nets were formerly used only in conjunction with weirs to which a licence duty applies but, as they are increasingly used independently of weirs, it is necessary to specify them separately.

Section 32 provides for a general correlation and upward revision of penalties for fishery offences. The maximum fine on summary conviction is limited to £100.

Section 33 is explained in conjunction with section 3.

Section 34 deletes the limiting expression "for experimental purposes in connection with sea fishing" from a provision empowering the Minister, whenever he so thinks proper, to issue a permit authorising fishing by means of a specified foreign sea-fishing boat within the exclusive fishery limits of the State. It is considered that this power should not be limited to experimental purposes.

Section 35 enables measures of conservation of fish stocks and rational exploitation of fisheries agreed internationally to be prescribed and adopted by order. While there are specific provisions for declaring minimum sizes of sea-fish and of the meshes of fishing nets, it is not possible to foresee what further conservation measures might be recommended under the North-East Atlantic Fisheries Convention of 1959 which is to replace a Convention of 1946. An enabling provision in wide terms is therefore desirable.

Section 36 provides for laying orders under sections 29 and 35 before each House of the Oireachtas and for their annulment by resolution.

Section 37 repeals provisions—

- (a) relating to the use of a boat for illegal fishing during the annual close season and weekly close time; these will be superseded by section 24 of the Bill;
- (b) declaring the period 11th January to 30th June to be an annual close season for eels; as it is now recognised that eels do not spawn in Irish waters, the observance of a general close season for them is unnecessary: any restrictions on eel fishing which may be required in particular river systems can be imposed by bye-law;
- (c) requiring publication in full in *Iris Oifigiúil* of orders relating to undersized sea-fish, mesh of nets, etc.; such publication is superfluous as the orders must comply with the Statutory Instruments Acts.

Section 38 provides for short title, collective citation, construction and commencement.

Roinn Tailte,

Fo-Roinn Iascaigh.

Samhain, 1962.