



**AN BILL IASCAIGH (LEASÚ), 1994
FISHERIES (AMENDMENT) BILL, 1994**

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

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY AND GENERAL

Section

1. Short title, commencement, construction and collective citation.
2. Interpretation.

PART II

PROVISIONS RELATING TO FISHING GENERALLY

3. Persons qualified to own registered sea fishing ships.
4. Amendment of section 373 of Act of 1894.
5. Amendment of section 222B (3) of Principal Act.
6. Amendment of section 222B (4) of Principal Act.
7. Amendment of section 222B (6) of Principal Act.
8. Amendment of section 231 (1) of Principal Act.
9. Provision of information relating to the catching or sale of fish.
10. Amendment of section 233 (1) (g) of Principal Act.
11. Detention of boats and persons on board when offence suspected.
12. Amendment of section 234 of Principal Act.
13. Amendment of section 302 of Principal Act.

[No. 14b of 1994]

Section

14. Forfeiture of boats used in the commission of certain offences.
15. Offences.
16. Amendment of Tables to section 2 of Act of 1978.
17. Repeal.

PART III

PROVISIONS RELATING TO EELS AND MOLLUSCAN SHELLFISH

18. Amendment of section 95 (1) of Principal Act.
19. Amendment of section 100 of Principal Act.
20. Application of Part X of Principal Act to eels and molluscan shellfish.
21. Penalties for purchasing, selling, etc., or being in possession of unseasonable or unlawfully captured salmon, trout, eels or molluscan shellfish.
22. Marking of packages containing salmon, trout, eels or molluscan shellfish.

ACTS REFERRED TO

| | |
|---|---------------------|
| Criminal Procedure Act, 1967 | 1967, No. 12 |
| Fisheries (Amendment) Act, 1962 | 1962, No. 31 |
| Fisheries (Amendment) Act, 1976 | 1976, No. 23 |
| Fisheries (Amendment) Act, 1978 | 1978, No. 18 |
| Fisheries (Amendment) Act, 1983 | 1983, No. 27 |
| Fisheries (Amendment) (No. 2) Act, 1987 | 1987, No. 32 |
| Fisheries (Consolidation) Act, 1959 | 1959, No. 14 |
| Fisheries Acts, 1959 to 1991 | |
| Foyle Fisheries Act, 1952 | 1952, No. 5 |
| Mercantile Marine Act, 1955 | 1955, No. 29 |
| Merchant Shipping Act, 1894 | 57 & 58 Vict. c. 60 |



AN BILL IASCAIGH (LEASÚ), 1994
FISHERIES (AMENDMENT) BILL, 1994

BILL

entitled

5 AN ACT TO MAKE FURTHER PROVISION FOR SEA AND
FRESHWATER FISHING AND FOR THAT PURPOSE TO
AMEND AND EXTEND THE FISHERIES ACTS, 1959 TO
1991, AND FOR REGISTERING AND LICENSING FISH-
ING VESSELS, AND FOR RELATED MATTERS.

10 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Fisheries (Amendment) Act, 1994.

Short title,
commencement,
construction and
collective citation.

15 (2) This Act shall come into operation on such day as the Minister
shall by order appoint.

(3) The Fisheries Acts, 1959 to 1991 and this Act may be cited
together as the Fisheries Acts, 1959 to 1994 and shall be construed
together as one.

20 (4) The Mercantile Marine Acts, 1955 to 1983 and *section 3* may
be cited together as one, and the Act of 1955 and *section 3* shall be
construed together as one.

(5) The Merchant Shipping Acts, 1894 to 1992 and *section 4* may
be cited as the Merchant Shipping Acts, 1894 to 1994.

25 2.—(1) In this Act—

Interpretation.

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

“the Act of 1955” means the Mercantile Marine Act, 1955;

“the Act of 1962” means the Fisheries (Amendment) Act, 1962;

“the Act of 1978” means the Fisheries (Amendment) Act, 1978;

30 “the Act of 1983” means the Fisheries (Amendment) Act, 1983;

“Member State” means a Member State of the European Com-
munities;

“undertaking” means the whole or any part of a business enterprise,
institution, association or public authority.

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

(3) In this Act, a reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended. 5

(4) In this Act, a reference to any enactment includes a reference to that enactment as amended by any other enactment including this Act. 10

PART II

PROVISIONS RELATING TO FISHING GENERALLY

Persons qualified to own registered sea fishing ships.

3.—(1) Section 16 of the Act of 1955 shall not apply to sea fishing ships.

(2) Subject to section 19 of the Act of 1955 respecting reciprocating states, the following shall alone be qualified to own a registered sea fishing ship or a share therein— 15

(a) the Government;

(b) a Minister of the Government;

(c) a national of a Member State; or 20

(d) a body corporate established under and subject to the law of a Member State and having its principal place of business in a Member State.

(3) Every ship to which the provisions of subsection (2) apply, shall be registered under the Act of 1955 unless the ship is exempt under section 18 (2) of that Act from the obligation to register under that Act. 25

Amendment of section 373 of Act of 1894.

4.—Section 373 of the Merchant Shipping Act, 1894, is hereby amended by the substitution of the following subsection for subsection (5) thereof: 30

“(5) The Minister for the Marine may make regulations for carrying into effect and enforcing the entry of fishing boats in the fishing boat register, and any convention with a foreign country relative to the registry, lettering and numbering of fishing boats, which is for the time being in force by virtue of any statute, and 35 may by such regulations—

(a) adopt any existing system of registry or lettering and numbering of boats, and provide for bringing any such system into conformity with the requirements of this Act and of any such convention, and the 40 regulations; and

(b) define the boats or classes of boats to which the regulations or any of them are to apply, and provide for the exemption of any boats or classes of boats from the provisions of this section, and from the regulations 45 or any of them; and

- (c) apply to the entry of fishing boats in the fishing boat register and their removal therefrom and to all matters incidental thereto, such (if any) of the enactments contained in this or any other Act relating to the registry of Irish ships, and with such modifications and alterations as may be found desirable; and
 - (d) impose a fine not exceeding one thousand pounds for a breach of any such regulations which cannot be punished by the application of any of those enactments.”.

5.—Section 222B of the Principal Act (inserted by section 2 of the Act of 1983) is hereby amended by the substitution of the following subsection for subsection (3) thereof:

Amendment of section 222B (3) of Principal Act.

- 15 “(3) (a) The Minister may grant licences for the purposes of this section.

20 (b) An application for a licence shall be made to the Minister and shall be in such form and contain such particulars as the Minister may prescribe, and be made by or on behalf of the owner of the boat in respect of which the application is made.

25 (c) Where an application is made for a licence, the Minister may, subject to subsection (4) (a) of this section, allow or refuse the application.

30 (d) In deciding on the grant or refusal of a licence or the attachment of conditions to licences the Minister may take account of economic benefits which the operation of a boat would be likely to contribute to the coastal communities and regions which the quotas within the meaning of Council Regulation No. 3760/92 (EEC) of 20 December, 1992⁽¹⁾ are designed to benefit, including—

35 (i) the projected annual number of landings at Irish ports;

 (ii) the projected annual tonnage and value of fish landed in the State;

 (iii) the projected annual level of expenditure in the State on wages, fuel, supplies, equipment and services; and

40 (iv) the projected annual level of social security and tax payments in the State in respect of employees and the operation of the boat;

and the general sea-worthiness of the boat, the protection, conservation and rational exploitation of fish stocks, and requirements of the common fisheries policy of the European Union.

- (e) Licences may, subject to paragraph (f) of this subsection, be granted by an officer of the Minister authorised for that purpose by the Minister and references to the Minister in paragraphs (a), (c) and (d) of this subsection and subsections (2), (4) (a) and

⁽¹⁾O.J. No. L.389, 31.12.92, p.1.

(5) of this section shall be construed as including references to such officer.

(f) Where an officer is authorised in accordance with paragraph (e) of this subsection to grant a licence the officer shall, in the discharge of this function, have regard to such considerations of policy as the Minister may direct.”.

Amendment of
section 222B (4) of
Principal Act.

6.—Section 222B (4) of the Principal Act (inserted by section 2 of the Act of 1983) is hereby amended by the substitution of the following paragraph for paragraph (a) thereof:

“(a) the Minister shall not grant a licence for the purposes of this section unless the sea fishing boat in relation to which the licence is granted is wholly owned by a national of a Member State or a body corporate established under and subject to the law of a Member State and having its principal place of business in a Member State.”.

Amendment of
section 222B (6) of
Principal Act.

7.—Section 222B of the Principal Act (inserted by section 2 of the Act of 1983) is hereby amended by the substitution of the following subsection for subsection (6) thereof:

“(6) Without prejudice to the generality of subsection (3) (c) of this section, where the Minister receives an application for a licence for the purposes of this section and—

(a) the application relates to a sea-fishing boat which is owned by a body corporate and the Minister (or an officer authorised in accordance with subsection (3) (e) of this section) is not satisfied that the body corporate is under the control of, beneficially owned by or under the control of and beneficially owned by a person or persons who, or, as may be appropriate, each of whom, is either a qualified individual or a qualified body, or

(b) the Minister (or an officer authorised in accordance with subsection (3) (e) of this section) is satisfied that the applicant has previously used or attempted to use a sea-fishing boat for sea-fishing in contravention of, or that he has fished for sea-fish or has attempted so to fish contrary to subsection (2) of this section,

he may refuse the application.”.

Amendment of
section 231 (1) of
Principal Act.

8.—Section 231 (1) of the Principal Act is hereby amended by the substitution of the following paragraphs for paragraphs (e) and (f) thereof:

“(e) to take, remove, detain in his custody any sea-fish (either together with or without any package in which the same may be contained) found in the course of the exercise of any of the powers conferred by this section in respect of which an offence under this Act is being or is suspected of being committed;

(f) to take, remove and detain in his custody any net or other instrument used in fishing or any article which is liable or is believed to be liable to forfeiture under this Act;”.

9.—Section 231 (1) of the Principal Act is hereby amended by the insertion of the following paragraphs after paragraph (g) thereof:

Provision of information relating to the catching or sale of fish.

“(h) to require the owner of or any person connected with—

- (i) any premises referred to in subparagraphs (i) and (ii) of paragraph (b);
- (ii) any pier, quay, wharf, jetty, dock or dock premises referred to in subparagraph (iii) of paragraph (b); or
- (iii) any ship, boat, railway wagon, lorry, cart or other vessel or vehicle referred to in subparagraph (iv) of paragraph (b),

to give to him such information and to produce to him such records including computer records and other documents within the power or procurement of that person as he may reasonably require relating to the catching or sale of fish;

15 (i) to examine and take copies of or extracts from, any records including computer records or other documents relating to the catching or sale of fish.”.

10 10.—Section 233 (1) (g) of the Principal Act (as inserted by section 11 of the Act of 1978) is hereby amended by the substitution of the 20 following subparagraph for subparagraph (i) thereof:

Amendment of section 233 (1) (g) of Principal Act.

25 “(i) if the boat is not in a port, take the boat and all persons on board to the nearest or most convenient port, and pending the taking of the steps required by section 233A or 234, as may be appropriate, detain the boat and the persons on board, and”.

11.—Section 233A of the Principal Act (inserted by section 12 of the Act of 1978) is hereby amended by the substitution of the following section for section 233A thereof:

Detention of boats and persons on board when offence suspected.

30 “233A.—(1) Where a sea fisheries protection officer has, in the exercise of the powers conferred on him by section 233, detained a boat and the persons on board the boat at a port, any sea fisheries protection officer who suspects that a person on board the boat has committed an offence under a provision of Chapter II or III of this Part shall (unless he is proceeding under section 234), as soon as may be, apply to a judge of the District Court for an order authorising the continued detention of the boat and those persons, and the said judge may grant an order authorising such detention for a period of 48 hours if he is satisfied that the applicant sea fisheries protection officer has such a suspicion as aforementioned.

35 (2) Upon the expiration of the period of 48 hours—

- 40 (a) the boat shall be released unless an order providing for its further detention has been made under section 234 before the expiration of the said period of 48 hours, and
- (b) each person on board the boat shall be released unless an order providing for his further detention has been made under the said section before the expiration of the said period.”.

12.—Section 234 of the Principal Act (inserted by the Act of 1978) is hereby amended by the substitution of the following subsection for subsection (1) thereof:

“234.—(1) Where a sea fisheries protection officer has in exercise of the powers conferred on him by section 233 detained a boat and the persons on board the boat at a port, any sea fisheries protection officer shall, as soon as may be, bring the master of the boat and any other persons on board the boat against whom proceedings for an offence under a provision of Chapter II or III of this Part have been or are about to be instituted before a judge of the District Court and thereupon the said judge shall, if he is satisfied that such proceedings have been or are about to be instituted against the master and those other persons or any one or more of them, by order directed to a sea fisheries protection officer require such officer to detain at a specified port in the State the boat and each person (including the master) aforesaid in respect of whom he is so satisfied until such proceedings have been adjudicated upon by a judge of the District Court under section 8 or 13 of the Criminal Procedure Act, 1967, or under section 2 (2) of the Fisheries (Amendment) Act, 1978, or otherwise in the exercise of his summary jurisdiction.”.

13.—Section 302 of the Principal Act (inserted by the Act of 1962) is hereby amended by the substitution of “Act” for “Part” in each place that it occurs therein.

14.—The Act of 1978 is hereby amended by the substitution of the following section for section 4 (as amended by section 7 of the Act of 1983) thereof:

“4.—(1) Where on conviction on indictment of a person for an offence under any of the following sections of the Principal Act, that is to say, sections 221, 222, 222A, 222B, 222C, 223, 223A, 224B, 226 and 227—

(a) that offence (or that offence when taken in conjunction with any other offence or offences, under any of those sections, of which that person has been so convicted) is considered by the Court to constitute a serious abuse of measures prescribed and adopted under section 223A (1) (inserted by section 4 of the Act of 1983), or

(b) (i) the conviction is a second or subsequent conviction on indictment for an offence under any of those sections committed on board the same boat within three years of the date of the commission of the previous offence and whether the person convicted is or is not the same person on each occasion, and

(ii) the boat is at the time of the commission of the offence owned or part owned by a person who was the owner or part owner of the boat on the occasion of the commission of any of the previous offences referred to in subparagraph (i),

the Court may, at its discretion, in addition to any other fines and forfeitures to which the person may be liable, order the boat to be forfeited.

(2) Where—

5 (a) the conviction is a second or subsequent conviction on indictment for an offence under one of the sections mentioned in subsection (1) committed on board the same boat and the date of the second or subsequent offence is within three years of the date of commission of the previous offence and whether the person convicted is or is not the same person on each occasion, and

10 (b) the ownership has changed between the commission of the first and second or subsequent offences, then if the Court is satisfied that there are reasonable grounds for believing that the change of ownership has been effected in order to evade a possible forfeiture of the boat upon a subsequent conviction the onus shall be on the owner to furnish to the Court sufficient evidence showing, to the satisfaction of the Court, that—

- 15 (i) neither the legal or beneficial ownership of nor any legal or beneficial interest in the boat remains with the owner or a part owner of the boat at the time of the previous offence, and
- 20 (ii) the sale, assignment or transfer of the boat was done in good faith and for valuable consideration reflecting the market price or worth of the boat for the period in which it was acquired,

25 and where such evidence fails to satisfy the Court,

the Court may, at its discretion, in addition to any other fines and forfeitures to which the person may be liable, order the boat to be forfeited.

30 (3) For the purposes of this section owner and part owner shall include a person who, although no longer the legal owner or part owner, handles, manages or carries on the operation of the boat.

35 (4) The Court shall not order any boat to be forfeited pursuant to subsection (1) or (2) if a person claiming to be the owner of or otherwise interested in it applies to be heard before the Court to show cause why the order should not be made.

40 (5) The Court in ordering the forfeiture of a boat under this section may, if a mortgagee or chargeholder satisfies the Court that he granted a mortgage or charge in respect of the boat to its owner or owners in good faith, order that the boat be sold and that some or all of the proceeds be paid to the mortgagee or chargeholder to meet the outstanding mortgage or charge.”.

45 15.—(1) In this section “officer to whom this section applies” means an officer of the Minister, a sea fisheries protection officer, an authorised person or an authorised officer as defined for the purposes of any section of the Principal Act.

50 (2) Any person who assaults an officer to whom this section applies in the exercise of any power conferred on that officer by any provision of the Principal Act shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months, or to both;

(b) on conviction on indictment, to a fine of such amount as the Court may impose or to imprisonment for a term not exceeding 5 years, or to both.

(3) Any person who, contrary to any provision of this Act, obstructs or impedes an officer to whom this section applies in the exercise of any power conferred on that officer by any provision of the Principal Act or refuses or neglects to comply with any requisition or direction lawfully made or given by that officer in pursuance of any such provision shall, in lieu of the punishment applied in respect of that contravention by any such provision, be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months, or to both.

Amendment of
Tables to section 2
of Act of 1978.

16.—Section 2 of the Act of 1978 is hereby amended by—

(a) the substitution of the following for the matter set out at reference number 4 of Table I thereto:

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| Reference Number (1) | Section of Principal Act (2) | Fine (3) | Forfeiture (4) | |
|-------------------------|---|------------------------------|--|----------------------|
| 4 | Section 223A of the Principal Act (conservation of fish stocks and rational exploitation of fisheries). | | | 20 |
| (a) | Orders under the section relating to capacity plans. | Fine not exceeding £200,000. | Forfeiture, as a statutory consequence of conviction of the offence under the said section, of— (a) any fish, (b) any fishing gear, found either— (i) on the boat to which the said offence relates, or (ii) in any other place where they may be. | 25 30 35 40 |
| (b) | Orders under the section relating to undersized nets. | Fine not exceeding £50,000. | Forfeiture, as a statutory consequence of conviction of the offence under the said section, of— (a) any fish, (b) any fishing gear, found either— (i) on the boat to which the said offence relates, or (ii) in any other place where they may be. | 45 50 55 |
| (c) | All other orders under the section. | Fine not exceeding £20,000. | Forfeiture, as a statutory consequence of conviction of the offence under the said section, of— | 60 |

| Reference Number (1) | Section of Principal Act (2) | Fine (3) | Forfeiture (4) |
|-------------------------|---------------------------------|-------------|---|
| 5 | | | (a) any fish, (b) any fishing gear, found either— (i) on the boat to which the said offence relates, or (ii) in any other place where they may be. |
| 10 | | | "; |

15 and

(b) the substitution of the following for the matter set out at reference number 4 of Table II thereto:

| Reference Number (1) | Section of Principal Act (2) | Fine (3) | Forfeiture (4) |
|-------------------------|--|---------------------------------|---|
| 20 | 4 | Fine not exceeding £1,000 | Forfeiture, as a statutory consequence of conviction of the offence under the said section, of— (a) any fish unlawfully caught, (b) any fishing gear used in the commission of the offence or to which the said offence relates, found either— (i) on the boat to which the said offence relates, or (ii) in any other place where they may be. |
| 25 | Section 223A of the Principal Act (conservation of fish stocks and rational exploitation of fisheries). | | |
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17.—Section 55 (7) of the Principal Act is hereby repealed.

Repeal.

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PART III

PROVISIONS RELATING TO EELS AND MOLLUSCAN SHELLFISH

18.—Section 95 (1) of the Principal Act is hereby amended by the substitution of the following paragraph for paragraph (d) thereof:

Amendment of
section 95 (1) of
Principal Act.

50 "(d) such net is constructed for the capture of eels and is operated in accordance with the conditions set out in an authorisation issued under section 100 of this Act.".

19.—(1) Section 100 of the Principal Act is hereby amended by—

(a) the substitution of the following subsection for subsection (3) thereof:

Amendment of
section 100 of
Principal Act.

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“(3) If any person uses any fishing weir, fishing mill dam or fixed engine in contravention of this section, such person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000, and if after conviction the contravention is continued, that person shall be guilty of a further offence on each day during which the contravention continues and shall be liable on summary conviction to a fine not exceeding £500.”;

(b) the substitution of the following subsection for subsection 10
(4) thereof:

“(4) The provisions of this section shall not apply to engines used for the capture of fish other than salmon, trout or eels.”;

and 15

(c) the insertion of the following two paragraphs after paragraph
(d) of subsection (5) thereof:

“(e) If the holder of an eel fishery authorisation fails to comply with the conditions attached to that authorisation he shall be guilty of an offence under this 20 subsection and shall be liable on summary conviction to a fine not exceeding £1,000.

(f) Where a person is convicted of an offence under this subsection, any fish and any fixed engine in respect of which the offence was committed shall, as a statutory 25 consequence of conviction, stand forfeited.”.

(2) Subsection (1) of section 100 of the Principal Act shall not apply, and shall be deemed never to have applied, to a fishing engine used in accordance with an authorisation purporting to have been issued by the Minister under the section. 30

Application of Part X of Principal Act to cels and molluscan shellfish.

20.—The Principal Act is hereby amended by the substitution of the following Part for Part X thereof:

“PART X

RESTRICTIONS ON SALE AND EXPORT FOR SALE OF SALMON, TROUT, MOLLUSCAN SHELLFISH AND EELS 35

Definition.

154.—In this Part—

the expression ‘certificate of fitness’ means a certificate granted under section 158;

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, 40

(b) a member of the Garda Síochána, or

(c) in the case of the exercise by an inspector

- 0780
- of powers under this section in the Moville Area, an inspector appointed under section 55 of the Foyle Fisheries Act, 1952;
- 5 the expression 'Part X licence' means a licence being—

 (a) a salmon dealer's licence, or

 (b) an eel dealer's licence, or

 (c) a molluscan shellfish dealer's licence;
- 10 the expression 'salmon dealer's licence' means a licence issued under subsection (1) of section 159 to deal in salmon and trout;
- 15 the expression 'eel dealer's licence' means a licence issued under subsection (1) of section 159 to deal in eels;
- 20 the expression 'molluscan shellfish dealer's licence' means a licence issued under subsection (1) of section 159 to deal in molluscan shellfish;.
- 25 the word 'trout' includes fish commonly called or known as rainbow trout.
- Exemption of preserved salmon, trout, eels and molluscan shellfish.
- 30 155.—This Part shall not apply in respect of salmon, trout, eels or molluscan shellfish preserved and sold in tins, bottles, jars or other sealed packaging holding only portions of salmon, trout, eels or molluscan shellfish or products thereof.
- Restrictions on sale, etc. of salmon, trout, eels and molluscan shellfish.
- 35 156.—(1) It shall not be lawful for any person to sell, expose for sale or keep for sale at any place salmon, trout, eels or molluscan shellfish unless—

 (a) such person is the holder of a salmon, eel or molluscan shellfish dealer's licence as appropriate, for the time being in force, and

 (b) such place is a place at which he is authorised by that licence to sell salmon and trout, eels or molluscan shellfish as appropriate.

 (2) If any person contravenes subsection (1) of this section, such person shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding £500 together with an amount not exceeding £50 for each salmon, £50 for each kilogram of eels or molluscan shellfish and £10 for each other fish in respect of which the offence under this section is committed provided that the total amount of the said fine shall not exceed £1,000 or, at the discretion of the court, imprisonment for a term not exceeding 6 months or both such fine and such imprisonment.

 (3) If any person buys any salmon, trout, eels or molluscan shellfish from a person whom he

knows or has reason to believe is selling it in contravention of subsection (1) of this section, such first-mentioned person shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding £500. 5

(4) This section shall not apply to a fisherman selling salmon, trout, eels or molluscan shellfish of his own lawful capture.

Restrictions on
export for sale of
salmon, trout, eels
or molluscan
shellfish.

157.—(1) It shall not be lawful for any person 10 to export for sale or attempt to export for sale from any place salmon, trout, eels or molluscan shellfish unless—

(a) such person is the holder of a salmon 15 dealer's licence, eel dealer's licence or molluscan shellfish dealer's licence as appropriate, for the time being in force, and

(b) such place is a place at which he is authorised by such licence to sell salmon and trout, eels or molluscan shellfish as appropriate. 20

(2) If any person contravenes subsection (1) of this section, such person shall be guilty of an 25 offence under this section and shall be liable on summary conviction thereof to a fine not exceeding £500 together with an amount not exceeding £50 for each salmon, £50 for each kilogram of eels or molluscan shellfish and £10 for each other fish 30 in respect of which the offence under this section is committed, provided that the total amount of the said fine shall not exceed £1,000 or, at the discretion of the Court, imprisonment for a term not exceeding 6 months or both such fine and such 35 imprisonment. 35

(3) This section shall not apply to a fisherman exporting salmon, trout, eels or molluscan shellfish of his own lawful capture.

Certificate of
fitness to hold a
Part X licence.

158.—(1) Where a person who carries on or proposes to carry on the business of selling salmon, trout, eels or molluscan shellfish, or of exporting for sale salmon, trout, eels or molluscan shellfish in a particular Court District applies to a judge of the District Court for the time being assigned to 45 that Court District for a certificate under this section, such judge shall, if satisfied that such person is a fit and proper person to hold a Part X licence, grant him a certificate in writing to that effect. 50

(2) A person making an application to a judge of the District Court for the grant by the District Court of a certificate under this section in relation to a salmon dealer's licence, eel dealer's licence or molluscan shellfish dealer's licence shall give 55 notice in writing of the application to the regional

board in whose fisheries region is situate any fisheries district in which he carries on or proposes to carry on the business of selling, or exporting for sale, salmon and trout, eels or molluscan shellfish, as the case may be, 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.

Salmon dealer's
licence, eel
dealer's licence and
molluscan shellfish
dealer's licence.

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159.—(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, eels or molluscan shellfish as appropriate, at any specified place within such board's fisheries region, and
 - (b) there is sent with the application—
 - (i) such certificate of fitness, and
 - (ii) the sum of sixty pounds,

then, the board may issue to such person a salmon dealer's licence, eel dealer's licence or molluscan shellfish dealer's licence as may be appropriate.

(2) Every application for a Part X licence to a regional board shall—

- (a) be made in writing,

(b) be in the prescribed form and contain the prescribed particulars.

(4) Every Part X licence shall, unless it is previously terminated, continue in force until the 31st

(4) Every Part X licence shall, unless it is previously terminated, continue in force until the 31st day of December of the year in which it was issued and shall then expire.

- (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) 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.

Renewal of Part X licence.—(1) Where—

5

(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) 10 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 15 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

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(b) there is sent with the application the sum of twenty-five pounds,

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the board may renew such licence.

(2) Every application for the renewal of a Part X licence to a Regional Board shall—

(a) be made in writing, and

(b) be in the prescribed form and contain the 30 prescribed particulars.

(3) Every renewal of a Part X licence shall be in the prescribed form.

(4) Every renewal of a Part X licence shall (unless the licence is previously terminated) 35 continue in force until the expiration of the calendar year for which the licence was last renewed and shall then expire.

(5) (a) The Minister may, from time to time, 40 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) 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 45 as regards an order under this subsection as it applies as regards an order under that section.

5 (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, if the licence was issued by a board of conservators, the regional board within whose fishery region is situate the fishery district which was formerly the fishery district of such board of conservators.

10 Termination of
 Part X licence.

161.—(1) Every Part X licence shall terminate on the death of the holder thereof and on revocation by the Minister and may be terminated by surrender by the holder thereof.

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(2) (a) If the holder of a Part X licence is convicted of an offence under any provision of this Act, the Minister may, within three months after such conviction, revoke the licence.

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(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.

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(3) References in this section to a Part X licence shall be construed as including references to a renewal thereof.

30 Publication of
 Part X licences.

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162.—(1) (a) Every holder of a Part X licence, or renewal thereof, shall cause such licence or renewal to be displayed prominently in the place to which such licence relates during business hours.

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(b) If the holder of a Part X licence fails to comply with paragraph (a) of this subsection, such holder shall be guilty of an offence under this subsection and shall be liable on summary conviction thereof to a fine not exceeding £500.

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(2) Lists of persons holding Part X licences shall be published at such times and places and in such manner and form as the Minister may from time to time direct.

Registers to be kept by holders of Part X licences.

163.—(1) It shall be the duty of every holder of a salmon dealer's licence, eel dealer's licence or molluscan shellfish dealer's licence—

(a) to keep or cause to be kept at the place to which the licence relates a register in the prescribed form of all purchases and receipts of salmon, trout, eels or molluscan shellfish at or for sale at such place and of all sales, exportations, disposals and removals of salmon, trout, eels or molluscan shellfish made at or from such place, and 5

(b) within six hours after any such purchase or receipt and within three hours after any such sale, exportation, disposal or removal, to enter in such register the prescribed particulars of such purchase, receipt, sale, exportation, disposal or removal (as the case may be) 10 and of the person from whom such salmon, trout, eels or molluscan shellfish were purchased or received or to whom such salmon, trout, eels or molluscan shellfish were sold, exported or 15 disposed of, or the place to which such salmon, trout, eels or molluscan shellfish were removed (as the case may require). 20

(2) Every register kept in pursuance of this section may at any time during which the premises to which the register relates are open for the carrying on of business be inspected by any inspector, and it shall be the duty of the licence holder and of every person keeping such register to 35 produce for the inspection of such inspector on demand such register and also all invoices, consignment notes, receipts and other documents (including copies thereof where the originals are not available) reasonably demanded by such 40 inspector for the purpose of verifying any entry in or explaining any omission from such register. 45

(3) It shall be the duty of every holder of a Part X licence to preserve and retain any register kept by him in pursuance of this section for a period of 45 six months after the expiration of the latest year in which an entry was made in that register. 45

(4) If any holder of a Part X licence—

(a) fails to keep or cause to be kept such register as is required by this section, 50 or

(b) fails to make or cause to be made in such register within the time hereinbefore mentioned any entry required by this 55 section to be made therein, or

- (c) fails to produce or cause to be produced on demand for the inspection of any inspector, any register, document, or copy of a document which he is required by this section so to produce, or obstructs any inspector in the making of such inspection, or
- (d) fails to comply with the provisions of subsection (3) of this section, or
- (e) wilfully or negligently makes or causes to be made in such register any entry which is false or misleading in any material particular,
- he shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section, to a fine not exceeding £500 or, in the case of a second or any subsequent offence under this section, to a fine not exceeding £1,000.
- (5) For the purposes of this section—
- (a) inspection of a register or document shall include taking copies thereof or extracts therefrom, and
- (b) a demand for inspection of a register or other document shall be deemed to have been duly made to the licence holder if such demand is made verbally on the premises of the licence holder to any person in his employment, and
- (c) a refusal or failure to produce a register or other document for inspection if made or committed on the premises of the licence holder by a person in his employment shall be deemed to have been made or committed by the licence holder, and
- (d) references to a salmon dealer's licence, an eel dealer's licence, a molluscan shellfish dealer's licence or a Part X licence shall be construed as including references to any renewal thereof.

Restriction on purchase of salmon and trout, eels or molluscan shellfish.

163A—(1) Subject to the provisions of subsection (2) of this section, a person who is not the holder, or the agent duly authorised in writing in that behalf of the holder, of a Part X licence for the time being in force and who buys salmon, trout, eels or molluscan shellfish shall be guilty of an offence and shall be liable on summary conviction to a fine, not exceeding £1,000 in all, of an amount not exceeding £500 together with an amount not exceeding £50 for each salmon, £50 for each kilogram of eels or molluscan shellfish and £10 for each other fish in respect of which the

offence is committed and any fish in respect of which the offence is committed shall, as a statutory consequence of conviction, stand forfeited.

(2) Subsection (1) of this section shall not apply in relation to—

(a) the *bona fide* purchase by or on behalf of a person of salmon, trout, eels or molluscan shellfish for use by the person in his own home, or

(b) the *bona fide* purchase of salmon, trout, eels or molluscan shellfish, by or on behalf of any person for use for catering purposes in premises in which he carries on the business of a hotel, restaurant or guest house or of providing board and lodging or meals for reward if the purchase is made from—

(i) the holder of a salmon dealer's licence, an eel dealer's licence or a molluscan shellfish dealer's licence, as appropriate, (within the meaning of the said Part X) for the time being in force, or

(ii) a fisherman who is lawfully engaged in taking and killing salmon, trout, eels or molluscan shellfish, as the case may be, and who (where the purchase includes any salmon or eels) is the holder of a fishing licence which is for the time being in force and is available for use for the taking and killing of salmon or eels, as the case may be, in the fishery district in which the salmon or eel, as the case may be, is taken or killed,

and, in the case of a purchase from a fisherman, the purchaser—

(I) obtains from the fisherman a statement in writing containing his name and address and (where the purchase includes any salmon or eels) the number of his fishing licence and stating that the salmon, trout, eel or molluscan shellfish, as the case may be, is of his own lawful capture, and

(II) retains the statement and produces it to an inspector when requested by the inspector to do so.

(3) A person who is buying salmon, trout, eels or molluscan shellfish and purports to be acting as an agent of the holder of a Part X licence shall produce on demand by the inspector his authorisation to act as such agent and if he refuses

5 or fails to produce his authorisation or, on the production thereof, refuses or fails to permit the inspector to read the authorisation there and then, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

10 (4) A person who when the production of his authorisation aforesaid is lawfully demanded of him under this section does not produce the authorisation shall be deemed to refuse or fail to produce his authorisation within the meaning of this section.

15 (5) Where, pursuant to subsection (2) of this section, a person (in this subsection referred to as the vendor) selling salmon, trout, eels or molluscan shellfish, to another person gives to that other person a statement in writing which, or any part of which, is, to the knowledge of the vendor, false or misleading, the vendor shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

20 (6) Section 28 of the Act of 1962 is hereby repealed.”.

21.—The Principal Act is hereby amended by the substitution of the following section for section 182 thereof:

25 “182—(1) (a) If any person purchases, sells, exposes for sale, keeps for sale or has in his possession or control any unseasonable salmon or trout such person shall be guilty of an offence under this subsection.

Penalties for purchasing, selling, etc., or being in possession of unseasonable or unlawfully captured salmon, trout, eels or molluscan shellfish.

30 (b) Where a person, being a common carrier, is charged under this subsection with the offence of having in his possession or control any unseasonable salmon or trout it shall be a good defence to such charge to prove that he had such salmon or trout in his possession as a common carrier and not otherwise.

35 (2) (a) If any person purchases, sells, exposes for sale, keeps for sale or has in his possession or control any salmon, trout, eel or molluscan shellfish unlawfully captured, such person shall be guilty of an offence under this subsection.

40 (b) In any proceedings under this subsection against a person, the onus of proving that the salmon, trout, eel or molluscan shellfish, the subject of such proceedings, was lawfully captured shall lie on such person.

45 (c) Where a person being a common carrier, is charged under this subsection with the offence of having in his possession or control any salmon, trout, eel or molluscan shellfish unlawfully captured, it shall be a good defence to such charge for such person to prove—

- (i) that he had such salmon, trout, eel or molluscan shellfish in his possession or control as a common carrier and not otherwise, and
- (ii) that at the time when such salmon, trout, eel or molluscan shellfish was accepted by him for carriage, the consignor thereof delivered to him a certificate, in such form as the Minister may from time to time direct, signed by such consignor or by a person authorised by him in that behalf to the effect that such salmon, trout, eel or molluscan shellfish was lawfully captured.

(d) Where—

- (i) a person is charged with an offence under this subsection in relation to a salmon, and
- (ii) he proves that the salmon was captured by rod and line at a particular place during a period other than the annual close season for angling for salmon at that place, and
- (iii) he proves that the salmon was captured by the holder of a licence to fish with rod and line for salmon, and
- (iv) he proves that otherwise the salmon was lawfully captured,

the charge against that person shall be dismissed.

(e) Where—

- (i) a person is charged with an offence under this subsection in relation to a trout, and
- (ii) he proves that the trout was captured by rod and line at a particular place during a period other than the annual close season for angling for trout at that place, and
- (iii) he proves that otherwise the trout was lawfully captured,

the charge against him shall be dismissed.

(f) Where—

- (i) a person is charged with an offence under this subsection in relation to an eel, and
- (ii) he proves that the eel was captured by rod and line, and
- (iii) he proves that otherwise the eel was lawfully captured,

the charge against that person shall be dismissed.

(g) Where—

- (i) a person is charged with the offence under this subsection of purchasing or having in his possession or control any salmon, trout, eel or molluscan shellfish unlawfully captured, and

(ii)

(ii) he proves that the salmon, trout, eel or molluscan shellfish was purchased by him from the holder of a licence (whether original or renewed) for the sale of salmon and trout, eels or molluscan shellfish issued under subsection (1) of section 159 and in force at the date of purchase and was so purchased at the place specified in the licence,

the charge against that person shall be dismissed.

- (3) If any person in a certificate signed by him and delivered to a common carrier under subparagraph (ii) of paragraph (c) of subsection (2) of this section makes any statement which is false, he shall be guilty of an offence under this subsection.

- (4) Every person guilty of an offence under subsection (1), (2) or (3) of this section shall be liable on summary conviction thereof to a fine not exceeding £500 together with an amount not exceeding £50 for each salmon, £50 for each kilogram of eels or molluscan shellfish and £10 for each trout in respect of which the offence under the section is committed, provided that the total amount of the said fine shall not exceed £1,000 or, at the discretion of the Court, imprisonment for a term not exceeding 6 months or to both such fine and such imprisonment.

- (5) Where a person is convicted of an offence under subsection (1) or (2) of this section, any salmon, trout, eel or molluscan shellfish in respect of which the offence was committed shall, as a statutory consequence of conviction, stand forfeited.”.

22.—The Principal Act is hereby amended by the substitution of the following section for section 183 thereof:

Marking of packages containing salmon, trout, eels or molluscan shellfish.

- "183.—(1) Every package or container containing salmon, trout, eels or molluscan shellfish in course of transit in the State shall be marked conspicuously on the outside with the words 'salmon, trout, eels and molluscan shellfish' or the words 'salmon, trout and eels' or the words 'salmon, trout and molluscan shellfish' or the words 'salmon, eels and molluscan shellfish' or the words 'trout, eels and molluscan shellfish' or the words 'salmon and trout' or the words 'salmon and eels' or the words 'salmon and molluscan shellfish' or the words 'trout and eels' or the words 'trout and molluscan shellfish' or the words 'eels and molluscan shellfish' or the word 'salmon' or the word 'trout' or the word 'eels' or the words 'molluscan shellfish', as the case may require, and shall have marked thereon or on a label affixed thereto the name and address of the consignor.

- (2) Every person who sends or consigns for transit in the State any package or container containing salmon, trout, eels or molluscan shellfish which is not marked in the manner required by this section shall be guilty of an offence under this section.

- (3) Every person who carries for reward, by land in the State, by sea from any port in the State or by air from anywhere in the

State, any package or container containing salmon, trout, eels or molluscan shellfish which is not marked in the manner required by this section shall be guilty of an offence under this section unless he proves that he did not know and could not reasonably have known that such package or container contained salmon, trout, eels or molluscan shellfish. 5

(4) Every person guilty of an offence under this section shall be liable on summary conviction thereof in the case of a first offence to a fine not exceeding £500 and in the case of a second or any subsequent offence to a fine not exceeding £1,000 or at 10 the discretion of the Court, to imprisonment for any term not exceeding 6 months or to both such fine and such imprisonment.

(5) For the purpose of this section a package or container shall be deemed to be in course of transit in the State when the same is being carried by any means whatsoever from any premises or place in the State to any other premises or place within or outside the State or is in any place, public or private, in the course of or for the purpose of such carriage.".

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dá ngairtear

Acht do dhéanamh socrú breise le haghaidh iasc-airreachta farraige agus fionnuisce agus chun na críche sin do leasú agus do leathnú na nAchtanna Iascaigh, 1959 go 1991, agus le haghaidh clárú agus ceadúnú soithí iascair-eachta, agus le haghaidh nithe gaolmhara.

Aire na Mara a thíolaic

*Ritheadh ag Dáil Éireann,
28 Meitheamh, 1994*

BAILE ÁTHA CLIATH:
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entitled

An Act to make further provision for sea and
freshwater fishing and for that purpose to
amend and extend the Fisheries Acts, 1959
1991, and for registering and licensing fishing
vessels, and for related matters.

Presented by the Minister for the Marine

*Passed by Dáil Éireann,
28th June, 1994*

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