

Queensland



ANNO VICESIMO QUINTO

ELIZABETHAE SECUNDAE REGINAE

No. 80 of 1976

An Act to consolidate and amend the law relating to pearling, oystering and fisheries generally, to promote the good order, management, development and welfare of the fishing industry, to provide for the protection, conservation and management of the fisheries resources of the State and for incidental purposes

[ASSENTED TO 16TH DECEMBER, 1976]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. **Short title.** This Act may be cited as the *Fisheries Act 1976*.
2. **Commencement.** This Act shall commence on a date appointed by Proclamation.
3. **Arrangement.** This Act is divided into Parts as follows:—
 - PART I—PRELIMINARY, SS. 1-6;
 - PART II—ADMINISTRATION, SS. 7-21;
 - PART III—COMMERCIAL FISHING, SS. 22-23;
 - PART IV—OYSTERING, SS. 24-29;
 - PART V—PEARLING, SS. 30-34;
 - PART VI—CORAL, CORAL LIMESTONE AND THE LIKE, SS. 35-36;

PART VII—PROCESSING OF FISH AND MARINE PRODUCTS, ss. 37–38;

PART VIII—MANAGEMENT AND PROTECTION OF FISHERIES RESOURCES,
ss. 39–73;

PART IX—MISCELLANEOUS PROVISIONS, ss. 74–93.

SCHEDULES

4. Repeals and savings. (1) The Acts set forth in the First Schedule (in this Act referred to as the “repealed Acts”) are repealed.

(2) (a) Every order, direction, licence, permit, certificate, approval, grant, determination, notice, delegation or other act of authority issued, given, granted or done under the repealed Acts and in force immediately prior to the commencement of this Act shall continue in force as if it were issued, given, granted or done under this Act until it expires by effluxion of time or is revoked, cancelled, suspended or surrendered under this Act.

(b) Every agreement, contract or arrangement entered into by any person under the repealed Acts and subsisting immediately prior to the commencement of this Act shall be deemed to be an agreement, contract or arrangement entered into under this Act and may be performed by or enforced against that person according to its terms as if this Act had not been passed.

(c) Every action or proceeding arising out of or taken with respect to any matter under the repealed Acts which action or proceeding was commenced prior to the commencement of this Act and is not completed at that date may be carried on and completed as if this Act had not been passed.

(d) Every person who at the commencement of this Act holds an office or position to which he was appointed under or for the purposes of the repealed Acts shall continue to hold that office or position or the corresponding office or position under and for the purposes of this Act until he vacates or is lawfully removed from that office or position and when such office or position has been held immediately prior to the commencement of this Act under, subject to and in accordance with the *Public Service Act 1922–1973*, the same or the corresponding office or position shall be and continue to be held under, subject to and in accordance with such lastmentioned Act.

(e) Any land and waters covering that land that immediately prior to the commencement of this Act are set apart and declared under the repealed Acts to be a reserve or under section 29 (3) of the *Forestry Act 1959–1976* to be a National Park for the purposes of the repealed Acts or, as the case may be, the *Forestry Act 1959–1976* shall on and from the commencement of this Act and without further authority than this provision be deemed to be a reserve, sanctuary, ground or, as the case requires, marine park set apart and declared under this Act and shall continue as such until it ceases to be such in accordance with this Act.

(f) Any part of Queensland waters that immediately prior to the commencement of this Act is declared under the repealed Acts to be a prohibited area with respect to the taking of fish or marine products shall without further authority than this provision be deemed to be a prohibited area declared under this Act and shall continue as such until it ceases to be such in accordance with this Act.

(g) All fees prescribed by or under the repealed Acts to be paid shall be deemed to have been prescribed by or, as the case may be, under this Act and shall be payable as prescribed from time to time.

(3) This Act shall not derogate from *The Criminal Code*, the *Fauna Conservation Act 1974*, the *Fish Supply Management Act 1972-1976*, the *Forestry Act 1959-1976*, the *National Parks and Wildlife Act 1975* or the *Pollution of Waters by Oil Act 1973* and nothing in this Act prejudices or otherwise affects the exercise and performance of the powers, authorities, functions, duties or jurisdiction conferred or imposed upon any person by or the enforcement and recovery of any penalty, fee, fine or forfeiture enforceable or recoverable under that Code or any of those Acts.

5. Non-application of Act. (1) This Act does not apply to—

- (a) the unintentional taking of fish or marine products of any species of a less size than that prescribed in respect of that species or of fish or marine products that are otherwise protected by or under this Act where fish or marine products so taken are returned immediately to the water by the person taking them without first wilfully subjecting them to injury;
- (b) the unintentional having in possession of fish or marine products of any species of a less size than that prescribed in respect of that species or of fish or marine products that are otherwise protected by or under this Act where the person having in possession such fish or marine products has been unable owing to circumstances beyond his control to return them to the water immediately after he first had them in possession and has not in the meantime wilfully subjected them to injury;
- (c) the use by a person of a landing net or gaff hook to secure fish taken otherwise than in contravention of this Act;
- (d) the taking, otherwise than by the use of any noxious substance or explosive and for purposes other than commercial purposes, of fish or marine products in Queensland waters (not being waters forming part of a wilderness area, scientific area or special feature area) by any Aborigine or Torres Strait Islander who at the material time is resident on a reserve being land reserved and set apart by the Governor in Council under the provisions of law relating to Crown lands for the benefit of Aborigines or Torres Strait Islanders.

(2) Where pursuant to the regulations, exemption or conditional exemption from compliance with all or any of the provisions of this Act is granted, the provisions in respect of which the exemption or provisional exemption is granted shall, while the exemption or conditional exemption remains in force, cease to apply to the extent provided by the regulations subject, in the case of a conditional exemption, to the conditions imposed.

6. Interpretation. (1) In this Act, save where a contrary intention appears—

“apparatus” means any net, dilly, crab pot, crayfish pot, dredge, implement, gear, equipment, contrivance, device, trap, spear or spear-gun used or capable of being used to take any fish or marine product or a part of any of those things, and any hook, rod, line or underwater breathing equipment whether or not self-contained;

“arrow-head trap” means a trap comprising a structure of wire netting or netting made from other material fixed to posts erected in such manner as to be capable of taking fish: the term includes the structure known as a spear-head trap;

-
- “assistant fisherman” means a person licensed under this Act as an assistant fisherman;
- “bring ashore” with respect to any fish or marine product includes transfer from a fishing vessel to another vessel in a port;
- “closed season” means, in relation to any fish or marine product and any Queensland waters, the period of time declared by or under this Act to be a closed season;
- “closed waters” means, in relation to any fish, marine product or apparatus those Queensland waters declared by or under this Act to be closed waters;
- “commercial fishing vessel” means a fishing vessel licensed under this Act as a commercial fishing vessel;
- “commercial purpose” in relation to fish or marine products means the purpose of sale, trade, processing or manufacture, pearl culture or other purpose of any kind directed to gain or reward;
- “coral” means coelenterate animals of the class Anthozoa: the term includes the uncompact skeletons of those animals;
- “coral limestone” means a calcareous deposit derived from coral or other marine product but does not include shell-grit or star sand;
- “crab pot” means a trap comprising a cage or portable enclosure constructed of material of any kind and in such manner as to be capable of taking crabs;
- “crayfish pot” means a trap comprising a cage or portable enclosure constructed of material of any kind and in such manner as to be capable of taking crayfish or rock lobsters;
- “cross-line” means a fishing line made fast at both ends and set across or in a river, creek or stream or fresh water;
- “Deputy Director” means the Deputy Director of the Queensland Fisheries Service and includes a person for the time being performing the duties of the Deputy Director;
- “dilly” means a contrivance consisting of a frame made from metal or like material on which a net is hung which contrivance is set in such manner as to position the net below the horizontal plane of the frame;
- “Director” means the Director of the Queensland Fisheries Service and includes a person for the time being performing the duties of Director;
- “diver” means a person employed in pearling who for that purpose uses underwater breathing apparatus other than a snorkel and mask or goggles;
- “diver’s tender” means the person attending a diver employed in pearling and in charge of diving operations while the diver is under water;

- “fish” means every species of animal that throughout its life usually lives in water, in or on the foreshores or in or on land under water and includes any part of such animal (whether raw, cooked or processed in any way) and the spat, spawn and eggs thereof: the term includes a fish of any description, crab, prawn, shrimp and other crustacean, turtle, mammal, mollusc, sponge, annelid worm, holothurian or bêche-de-mer but does not include a crocodile or green snail, trochus, oyster, pearl-oyster or coral, coral limestone, shell-grit or star sand;
- “fish habitat reserve” means land below high water and the waters covering that land set apart and declared under this Act to be a fish habitat reserve;
- “fish sanctuary” means land below high water and the waters covering that land set apart and declared under this Act to be a fish sanctuary;
- “fish-way” means a structure or contrivance that enables fish to pass through, by or over a weir, dam or other barrier across a river, creek or stream;
- “fishing vessel” means a vessel that is equipped for or used in taking fish for a commercial purpose;
- “fixed apparatus” includes a net or apparatus fixed in position or rendered stationary or partly stationary in any manner for taking fish;
- “foreshore” means those parts of the bed, banks, shore, shoals, reefs and other land of or in Queensland waters that lie between high water and low water;
- “fresh water” means all Queensland waters other than tidal waters;
- “gaff hook” means a barbless hook mounted on a handle of wood or other material;
- “have in possession” includes having under control in any place, whether for the use or benefit of the person of whom the term is used or of another person, and although another person has the actual possession or custody of the thing in question;
- “high tide” or “high water” means the mean height of the higher high water at spring tides;
- “historic area” means the whole or that part of a marine park declared under this Act to be an historic area;
- “holder” used in relation to a licence, permit, certificate or other authority granted and issued under this Act means a person who at the material time holds that licence, permit, certificate or other authority;
- “honorary ranger” means a person appointed under this Act as an honorary ranger and includes a person acting under the direction of or in aid of an honorary ranger;
- “indigenous” with respect to any fish or marine product and an area, means spawned or born within that area in addition to belonging to a species that is native to that area: where there is no specific reference to an area, that term means the whole State;

- “inspector” means an inspector appointed under this Act and includes a person who for the time being performs the duties of an inspector and a person acting under the direction or in aid of an inspector;
- “interfere with”, when used in relation to any fish or marine product, includes take, damage, mark or trample and also move, save where the movement is such as not to cause significant injury to the fish or marine product moved and that fish or marine product is replaced without undue delay;
- “jag” means take fish by means of a hook or an apparatus consisting of hooks operated in such manner as to foul-hook the fish;
- “jag-hook” means any hook or apparatus consisting of hooks used to take fish by jaggng;
- “keep” includes have in possession;
- “land” means land within the territorial limits of the State and includes foreshores, land covered by water including shoals, reefs and other land whether of coral, rock or other formation;
- “landing net” means a hand-net the frame of which is 60 centimetres or less in its largest dimension used solely for lifting fish from the water;
- “licence” means a licence granted and issued under this Act and in force at any material time;
- “low tide” or “low water” means the mean height of the lower low water at spring tides;
- “mammal” means a member of any species of the orders Mysticeti, Odontoceti and Sirenia;
- “mangrove” means a shrub, tree or other like plant that grows within tidal limits;
- “marine park” means land below high water and the waters covering that land set apart and declared under this Act to be a marine park;
- “marine plant” means a plant that grows below high water and includes eel-grass and dugong-grass;
- “marine product” includes oyster, pearl-oyster, trochus, green snail, coral, coral limestone, shell-grit and star sand and, when used in relation to a marine park, also includes—
- (a) all forms of indigenous plant life and animal life;
 - (b) Aboriginal remains, artifacts or handicraft of Aboriginal origin or traces thereof;
 - (c) wrecks and relics and traces thereof;
 - (d) all other material comprising the tidal land therein;
- “marine products factory” means an establishment or premises—
- (a) on land, wherein the work of processing prescribed fish or marine products (other than processing them solely for the purpose of preparing them for retail sale in that establishment or on those premises) is carried out for a commercial purpose;

- (b) on a vessel, wherein the work of processing prescribed fish or marine products taken by means of another vessel is carried out for a commercial purpose;
- “master fisherman” means a person licensed under this Act as a master fisherman;
- “master pearler” means a person licensed under this Act as a master pearler;
- “Minister” means the Minister for Aboriginal and Islanders Advancement and Fisheries or other Minister of the Crown who at the material time is charged with the administration of this Act and includes a Minister of the Crown who is temporarily performing the duties of the Minister;
- “mouth” in relation to a river, creek or stream that flows permanently or intermittently into the sea means the mouth thereof as prescribed or, where not so prescribed, the seaward limit thereof at its confluence with the trend-line of the general coast at low water;
- “natural environment area” means the whole or that part of a marine park declared under this Act to be a natural environment area;
- “net” means a fabric of rope, cord, twine, nylon or other material knotted, woven or joined into meshes and fitted in such manner as to be capable of being used to take fish and includes all tackle or equipment provided for use or used in connexion therewith;
- “noxious fish” means a species of fish specified in the Fourth Schedule and includes any sub-species, race, variety, hybrid or domesticated form of that species: the term includes also the eggs and larval and other juvenile forms of such fish;
- “noxious substance” means a substance—
- (a) that is harmful to any fish or marine product found in Queensland waters;
 - (b) that, if introduced into Queensland waters, is likely to produce conditions harmful to any fish or marine product therein; or
 - (c) that is prescribed by the regulations to be a noxious substance;
- “owner” used in relation to a vessel includes a part owner and a lessee or charterer thereof and, in the case of ownership by a body corporate, includes the managing director, manager, secretary or other governing officer by whatever name called, of that body corporate;
- “oyster” means a mollusc of the family Ostreidae and includes, an oyster without its shell;
- “oyster bank” means land, being part of an oyster ground, in respect of which a licence to occupy as an oyster bank has been granted and issued under this Act;
- “oyster culture” means oyster spat and juvenile oysters the shells of which are less in size than 50 millimetres measured as prescribed;

-
- “oyster ground” includes an oyster-bank and a public oyster reserve and land below high water suitable for oystering operations or where oysters are found;
- “oystering operations” include the catching, cultivation, culling, maturing (whether on sticks, trays or other cultch) or taking of oysters for a commercial purpose from areas the subject of a licence granted under this Act;
- “pearl culturing” means the process of producing cultured pearls or half-pearls;
- “pearl dealer” means a person licensed under this Act as a dealer in pearls, pearl-shell, pearl-oysters, trochus and green snails;
- “pearl diver” means a diver engaged solely in pearling;
- “pearl diver’s tender” means a diver’s tender engaged solely as tender to a pearl diver;
- “pearling” includes searching for, taking, storing or transporting green snails, pearl oysters or trochus or parts thereof;
- “pearling vessel” means a vessel used in pearling or equipped for pearling or that is used as a place from which pearling is carried on;
- “pearl-oyster” means a mollusc taken or grown for the purpose of the production of pearls or half-pearls or for sale as mother of pearl shell;
- “permit” means a permit granted and issued under this Act and in force at any material time;
- “place” includes any land, adjacent waters, land covered by water, building or other structure (including a pier, wharf, jetty, quay or other like structure), tent, camping area, other premises of any kind, a vehicle or vessel;
- “port” includes any natural harbour, haven, channel or anchorage in or at which vessels can obtain shelter or ship and unship goods;
- “power-head” means a device by means of which a fish may be taken that may be attached to a spear and that consists of or contains an explosive charge;
- “processing” used in relation to fish includes the work of cutting up, cleaning, sorting, chilling, freezing, storing or packing;
- “processing vessel” means a vessel on which a marine products factory is established;
- “public oyster reserve” means land below high water and the waters covering that land set apart and declared under this Act to be a public oyster reserve;
- “Queensland waters” means all internal waters of the State that is to say waters on the landward side of the baseline of the territorial sea bordering the coast of the State and all waters from time to time declared by Order in Council;
- “recreation area” means the whole or that part of a marine park declared under this Act to be a recreation area;

- “ scientific area ” means the whole or that part of a marine park declared under this Act to be a scientific area;
- “ sell ” includes—
- (a) sell by wholesale, retail or auction;
 - (b) barter, exchange or supply for profit;
 - (c) assign or part with possession for valuable consideration;
 - (d) receive, offer, expose, keep or have in possession for sale;
 - (e) send, forward, consign or deliver for or on sale;
 - (f) authorize, cause, permit, suffer or attempt any of the acts or things specified in provisions (a) to (e), both inclusive, of this definition;
- “ set ” with respect to nets or apparatus includes place, put, drive, lay, fasten, stake, anchor or fix or attempt any of those acts;
- “ shell-grit ” means the broken remnants of sea-shells;
- “ size ” in relation to fish and marine products includes prescribed measurement of length or breadth or other prescribed linear measurement or of weight;
- “ special feature area ” means the whole or that part of a marine park declared under this Act to be a special feature area;
- “ star sand ” means a form of sand composed of the calcareous skeletons of the unicellular animals known as foraminifera;
- “ take ” in relation to fish or marine products includes fish for, remove, gather, catch, capture, kill, destroy, dredge for, raise, collect, carry away, bring ashore or obtain by any means from water, land under water or the foreshore or attempt or permit any of those acts;
- “ territorial limits ” means the limits that encompass land masses constituting the State together with Queensland waters;
- “ tidal land ” means land within the territorial limits of the State that is submerged at any time by tidal waters;
- “ tidal waters ” means all Queensland waters that are subjected to tidal influence;
- “ transporting vessel ” means a vessel used or intended for use in transporting to a marine products factory prescribed fish or marine products taken by another vessel;
- “ utter ” includes use, deal with or act upon, or attempt so to do, or attempt to induce any person to use, deal with or act upon the thing in question as if it were genuine;
- “ vehicle ” includes any aircraft, caravan or trailer;
- “ vessel ” includes a ship, boat, hovercraft or hulk and any vehicle that is capable of use on or in water whether floating or submersible and whether or not self-propelled;
- “ wilderness area ” means the whole or that part of a marine park declared under this Act to be a wilderness area.

(2) The Governor in Council may by Order in Council define Queensland waters by reference to such criteria and with such reservations as he thinks fit.

PART II—ADMINISTRATION

7. Fisheries Research Fund. (1) For the purposes of this Act there shall be established and kept in the Treasury a Fisheries Research Fund.

(2) There shall be paid into the Fund—

- (a) sums of money determined by the Governor in Council being a proportion of all fees and charges other than royalties payable under this Act that have been paid;
- (b) such moneys as may be appropriated by Parliament for the purposes of the Fund;
- (c) all other moneys received from whatever source for the purposes of any provision of this Act.

(3) The moneys in the Fund shall be applied for or towards the cost of scientific or other research with respect to fishing activities.

8. Power to carry out research. Subject to this Act, the Minister may cause research to be carried out with respect to fishing activities.

9. Power to amend schedules. (1) The Governor in Council, by Order in Council—

- (a) may amend the Second, Third or Fourth Schedule by adding thereto or omitting therefrom the name of any species of fish or marine product;
- (b) in the case of the Third Schedule—
 - (i) may vary the measurement of size set forth therein opposite the name of any species of fish or marine product and the method of measuring that size;
 - (ii) may vary, add thereto or omit therefrom methods of determination of the measurement of size of any species of fish or marine product.

(2) The power to amend a schedule conferred upon the Governor in Council by this section includes power to amend by revoking a schedule as it exists at the material time and substituting in its stead a new schedule.

(3) Any schedule as amended pursuant to subsection (1) is for the time being the schedule.

10. Power to restrict operation of Act. The Governor in Council may, by Order in Council, exempt from the operation of all or any of the provisions of this Act for a specified period a specified area of the State, and thereupon during that period the provisions set forth in the Order shall not apply or extend to the specified area.

11. Protected fish, marine products. Second Schedule. Fish and marine products of the species specified in the Second Schedule shall be throughout the State protected fish and marine products.

12. Fish and marine products protected on account of size. Third Schedule. Fish and marine products of the species specified in Part I of the Third Schedule shall be throughout the State protected fish and marine products until they have attained the size set forth in that Part opposite the name of each species of fish or marine product respectively.

The method of determination of the measurement of the size of any fish or marine product specified in Part I of the Third Schedule shall be that specified in Part II thereof.

13. Noxious fish. Fourth Schedule. Fish of the species specified in the Fourth Schedule shall be throughout the State noxious fish.

14. Power to declare non-indigenous fish. The Governor in Council, by Order in Council, may declare species of non-indigenous fish specified in the Order to be prescribed non-indigenous fish and during the period such an Order continues in operation species of fish so declared shall be throughout the State prescribed non-indigenous fish.

15. Appointment of officers and honorary rangers. (1) The Governor in Council may, by notification published in the Gazette, appoint a Director and a Deputy Director of the Queensland Fisheries Service and a Chief Inspector of Fisheries and so many other officers and inspectors as he considers necessary for the effectual administration of this Act.

(2) A person appointed under subsection (1) shall hold office under, subject to and in accordance with the *Public Service Act 1922-1973*.

(3) In addition to the powers, authorities, functions and duties conferred or imposed upon each of them by or under this Act, the Director and the Deputy Director shall have and may exercise or perform the powers, authorities, functions and duties of an inspector.

(4) For the purposes of this Act, the following persons shall, by virtue of their offices and without further or other appointment, be inspectors—

- (a) all members of the Police Force of the State;
- (b) all officers of the patrol presently called the Queensland Boating and Fisheries Patrol of the Department of Harbours and Marine, by whatever name subsequently called.

The Governor in Council may by Order in Council amend the list of persons specified in this subsection by adding to, deleting from, altering or varying that list and the list as so amended shall be for the time being the list of persons for the purposes of this subsection.

(5) (a) The Minister may, by notification published in the Gazette, appoint for the effectual administration of this Act such persons as he considers necessary to be honorary rangers.

(b) The procedure with respect to an application by a person for appointment as an honorary ranger shall be as prescribed.

(c) An appointment pursuant to this subsection shall be subject to such terms, conditions or restrictions as the Minister determines.

(d) An honorary ranger—

- (i) shall hold office during the pleasure of the Minister;
- (ii) may resign his office at any time by furnishing to the Director notice in writing signed by him accompanied by the certificate of authority issued to him.

16. Prohibition in respect of acquiring or holding interest. An inspector shall not acquire or hold an interest in a licence, permit, certificate or other authority granted and issued under this Act or a contract or agreement with respect to taking or farming any fish or marine product for a commercial purpose.

17. Power of delegation. (1) The Minister may, either generally or otherwise as provided by the instrument of delegation by writing signed by him, delegate—

(a) to any person;

(b) to the holder of an office specifying its title but not the name of the holder for the time being,

all or any of his powers, authorities, functions and duties under this Act except this power of delegation.

(2) A power, authority, function or duty so delegated, if exercised or performed by the delegate, shall be exercised or performed in accordance with the instrument of delegation.

(3) A delegation may be made subject to such terms or limitations as the Minister thinks fit including a requirement that the delegate shall report to him upon the exercise or performance of the delegated power, authority, function or duty.

(4) The Minister may make such and so many delegations of the same power, authority, function or duty and to such number of persons or holders of office as he considers necessary or desirable.

(5) A delegation is revocable at the will of the Minister and does not prevent the exercise of a power or authority or the performance of a function or duty by him.

18. Powers of inspector. (1) An inspector at any time—

(a) may, subject to subsection (3), enter any place;

(b) may make with respect to any place such examination, investigation or enquiry as is necessary to ascertain whether the provisions of this Act are being complied with;

(c) may question, for the purposes of this Act, a person found by him in any place or found by him in possession of any apparatus to ascertain whether this Act is being complied with and require a person so found to answer the questions put;

(d) may require a person found by him committing an offence against this Act or who he believes on reasonable grounds has committed an offence against this Act, or whose name and address are reasonably required for the purposes of this Act to state his full name and the address of his usual place of residence and, if he considers it necessary, the name and the address of the usual place of residence of any other person and if he suspects on reasonable grounds that a name or address so stated is false, may require evidence of the correctness thereof;

(e) may require a person to produce to him a licence, permit, certificate or other authority under this Act granted and issued to that person or alleged by that person to have been granted and issued to him, or any certificate, book, notice, record, list or writing that is required by this Act to be kept or exhibited by that person or that is, in the opinion of the inspector, material to any examination, investigation or enquiry under provision (b) and inspect, examine and take copies of or extracts therefrom:

-
- (f) may, for the purposes of this Act, stop any person, vessel, vehicle or other conveyance;
 - (g) may search any place if he suspects on reasonable grounds that an offence against this Act has been or is being committed or is likely to be committed or that there is or is likely to be in that place any fish or marine product or apparatus, explosive, noxious substance or other thing of any kind with respect to which that offence was or is being committed or is likely to be committed or that will afford evidence as to the commission of that offence, and may break open and search every bag, package, bottle or other receptacle of any kind in that place;
 - (h) may seize and detain any fish or marine product (and any bag, package, bottle or other receptacle containing it) in respect of which an offence against this Act has been or is being committed or in respect of which he suspects on reasonable grounds that such an offence has been or is being committed or that he believes will afford evidence as to the commission of that offence, or any vessel, vehicle or other conveyance, apparatus, explosive, explosive-propelled missile, firearm, noxious substance or other thing of any kind that has been or is being used or is being kept or prepared for use in contravention of this Act or that he believes on reasonable grounds will afford evidence as to that contravention;
 - (i) may remove any fish or marine product or any vessel, vehicle or other conveyance, apparatus, explosive, explosive-propelled missile, firearm, noxious substance or other thing of any kind seized by him under this Act from the place where it was seized to such place as he determines, or may allow that fish or marine product, vessel, vehicle or other conveyance, apparatus, explosive, explosive-propelled missile, firearm, noxious substance or other thing to remain at the place of seizure and in the latter case make such arrangements as he considers necessary to protect it;
 - (j) may enter upon and pass along the banks or borders of any river, creek, stream or fresh water with vessels or otherwise and enter upon, pass along and examine all tributaries, dams, weirs and watercourses communicating therewith;
 - (k) may call to his aid—
 - (i) another inspector or a member of the Police Force of the State in a case where he is obstructed or has reasonable grounds to believe that he will be obstructed in the exercise of his powers or the performance of his functions and duties;
 - (ii) a person who he thinks is competent to assist him in the exercise of his powers or the performance of his functions and duties;
 - (l) may use such force as is reasonably necessary in the exercise of the powers or the performance of the functions and duties conferred or imposed upon him by this Act;
 - (m) may arrest without warrant—
 - (i) any person found by him committing an offence against this Act whose name and address are unknown to him;

- (ii) any person found by him at any place in possession of any explosive, explosive-propelled missile, firearm or noxious substance for a purpose that he suspects on reasonable grounds is contrary to this Act, or any person found by him therein in occupation or apparently in charge thereof;
- (iii) any person stopped by him pursuant to subparagraph (f) who has in his possession any explosive, explosive-propelled missile, firearm or noxious substance;
- (n) may make with respect to an area to which a licence, permit, certificate or other authority granted and issued under this Act relates such examination, investigation or enquiry as he thinks necessary to ascertain the condition of that area or any fish or marine product therein and to secure the observance of the terms, conditions or restrictions contained in such licence, permit, certificate or other authority and for those purposes may test any part of that area and may seize, detain and remove any fish or marine product found therein;
- (o) may, by notice in writing, require—
 - (i) any person found by him in possession of a net or other apparatus or any fish or marine product that he is, by or under this Act, authorized to seize, to deliver the same to him or to a third person specified in the notice at the place and within the time specified therein;
 - (ii) the holder of a licence under this Act to notify him forthwith upon that holder's arrival in the port specified in the notice of all fish or marine products in his possession;
 - (iii) the holder of a licence under this Act, upon the notification referred to in provision (ii) of this subparagraph being given, to produce for inspection by him or a third person specified in the notice such fish or marine products notified as being in his possession as are specified in the notice;
 - (iv) a person in charge of a vessel to permit him to use that vessel and any engine, oar, paddle or rowlock therein or thereon for the purpose of exercising any power or performing any function or duty conferred or imposed upon him by or under this Act;
- (p) may exercise such other powers and perform such other functions and duties as are prescribed.

(2) The Minister shall pay to a person deprived of any vessel by reason of the use thereof by an inspector after notice given pursuant to subsection (1) (o) (iv) by way of compensation such sum of money as he considers reasonable together with a sum of money equal to the cost of repairing the damage, if any, caused to the vessel while it was being so used by the inspector.

(3) (a) Before an inspector enters any part of premises which part is being used exclusively as a dwelling-house he shall, save where he has the permission of the occupier of that part to his entry, obtain from a justice a warrant to enter.

(b) A justice who is satisfied upon the complaint of an inspector that there is reasonable cause to suspect—

- (i) that there is in any place any fish or marine product, apparatus, explosive, explosive-propelled missile, firearm or noxious substance; and

(ii) that in respect thereof an offence against this Act has been, is being or is likely to be committed,
 may issue his warrant directed to the inspector to enter the place specified in the warrant for the purpose of exercising therein the powers conferred upon an inspector under this Act.

(c) A warrant shall be, for the period of one month from the date of its issue, sufficient authority for the inspector and all persons acting in aid of him—

(i) to enter the place specified in the warrant; and

(ii) to exercise therein the powers conferred upon an inspector by or under this Act.

(d) In this subsection premises that are used as a dwelling-house do not include the curtilage of those premises.

(4) For the purposes of gaining entry to any place an inspector may call to his aid such persons as he thinks necessary and those persons, while acting in aid of an inspector in the lawful exercise by him of his power of entry, shall have a like power of entry.

(5) A person is not obliged under this Act to answer any question or give any information or evidence tending to criminate him.

19. Powers of honorary rangers. Subject to the terms, conditions or restrictions imposed by the Minister upon his appointment. an honorary ranger at any time—

(a) may require a person found by him committing or suspected on reasonable grounds to have committed an offence against this Act—

(i) to state his full name and the address of his usual place of residence and, if he considers it necessary, the full name and the address of the usual place of residence of any other person;

(ii) to produce evidence of the correctness of a name or address given, if he suspects on reasonable grounds that it is false;

(iii) to deliver up the fish or marine product, if any, in respect of which the offence is being or is suspected to have been committed, and any apparatus, explosive, explosive-propelled missile, firearm, noxious substance or other thing of any kind that is being or is suspected on reasonable grounds to have been used in the commission of the offence;

(b) may exercise such other powers and discharge such other functions and duties as are prescribed.

20. Offences with respect to inspectors and honorary rangers. A person—

(a) shall not assault, obstruct, threaten, abuse, insult or intimidate an inspector or honorary ranger in the exercise of his powers or the performance of his functions and duties under this Act, or attempt so to do;

- (b) shall not prevent a person from appearing before or being questioned by an inspector or attempt so to do;
- (c) shall not fail to facilitate by all reasonable means the boarding or searching of a vessel, vehicle or other conveyance by an inspector;
- (d) shall not fail to comply with a lawful requirement or order of an inspector or honorary ranger, or any part thereof;
- (e) shall not fail without reasonable excuse to produce a licence, permit, certificate, authority, book, record, list, document or writing that he is required by this Act to produce or fail to allow an inspector to make a copy of or an extract from such licence, permit, certificate, authority, book, notice, record, list, document or writing;
- (f) shall not take or retake possession of, remove or otherwise deal with any fish, marine product, apparatus, explosive, explosive-propelled missile, firearm, noxious substance or other thing seized or delivered up under this Act or attempt so to do.

21. Queensland Commercial Fishermen's State Council, commercial fishermen's district councils and local branches. (1) There is established and there shall at all times hereafter be constituted a body called the "Queensland Commercial Fishermen's State Council".

(2) Queensland Commercial Fishermen's State Council constituted under the *Primary Producers' Organisation and Marketing Act 1926-1973* is preserved, continued in existence and constituted under this Act.

(3) Queensland Commercial Fishermen's State Council shall consist of the aggregate of the number of representatives that each commercial fishermen's district council is entitled under the regulations to appoint to the State Council from the members of the district council.

(4) Queensland Commercial Fishermen's State Council by that name shall be a body corporate with perpetual succession and a common seal and shall be capable in law of suing and being sued, of compounding or proving in any court of competent jurisdiction all debts and sums of money due to it and of acquiring, holding, demising and alienating property and of doing and suffering all such acts and things as bodies corporate may in law do or suffer.

All courts and persons acting judicially shall take judicial notice of the common seal and until the contrary is proved shall presume that it was duly affixed to any document on which it appears.

The acquisition and holding of land by Queensland Commercial Fishermen's State Council may be as trustee for any commercial fishermen's district council or commercial fishermen's local branch upon such trusts and with such powers as the Governor in Council by Order in Council determines.

(5) There shall be constituted—

- (a) in respect of every prescribed district of the State, a commercial fishermen's district council consisting of the prescribed number of representatives appointed by each commercial fishermen's local branch prescribed in respect of that district;
- (b) in respect of every prescribed area within a prescribed district of the State, a commercial fishermen's local branch consisting of those fishermen who are qualified as prescribed.

(6) (a) The functions of Queensland Commercial Fishermen's State Council are:—

- (i) to promote and develop the fishing industry;
- (ii) to organize fishermen with a view to fostering, protecting and advancing their interests;
- (iii) to encourage and assist co-operation between fishermen and departments of the Government of the State and of the Commonwealth, Queensland Fish Board and other bodies with a view to improving methods and efficiency within the fishing industry by means of surveys and research, promulgation of technical and scientific knowledge, the conservation of fish and fishing grounds and any other means that may from time to time be desirable;
- (iv) to take such action as may be necessary to achieve affiliation with like associations in other States and in Territories of the Commonwealth;
- (v) to establish and maintain publications for the purpose of furnishing to fishermen information relating to the fishing industry or the advancement or interests of fishermen;
- (vi) generally to do all such things and take all such steps as are necessary for the protection, advancement and furtherance of the fishing industry.

(b) In addition to or in modification of the functions set out in paragraph (a) Queensland Commercial Fishermen's State Council shall have and may exercise or perform such powers, authorities, functions and duties as the Governor in Council by Order in Council from time to time determines.

PART III—COMMERCIAL FISHING

22. Licensing of persons and vessels for fishing. (!) The Minister may grant and issue licences of the several descriptions following:—

- (a) master fisherman's licence;
- (b) assistant fisherman's licence.

(2) The Minister may grant and issue in respect of any fishing vessel a commercial fishing vessel licence.

(3) (a) An application for a licence under this Part shall be made to the Director in the prescribed form and the applicant shall comply with all conditions prescribed by the regulations.

(b) The Minister shall consider each application and may grant or refuse it.

(c) When an application is granted the Minister shall cause to be issued the licence in respect of which the application is made.

- (4) A licence under this Part—
- (a) shall be in the prescribed form;
 - (b) shall contain the prescribed particulars;
 - (c) shall be in force for a period not exceeding 12 months;
 - (d) shall be subject to such terms, conditions or restrictions as are prescribed and such further terms, conditions or restrictions as the Minister in a particular case thinks fit, inserted therein or endorsed thereon;
 - (e) shall, in the case of a licence referred to in subsection (1), authorize the holder to do such acts and things as are prescribed with respect thereto;
 - (f) shall, in the case of a licence referred to in subsection (2), authorize the owner for the time being to employ the fishing vessel in respect of which the licence is granted to take fish for a commercial purpose and to do such other acts and things as are prescribed with respect thereto;
 - (g) may, in the case of a licence referred to in subsection (2), be transferred.

23. Offences. A person—

- (a) shall not take fish for a commercial purpose unless he is the holder of a master fisherman's licence or, while in the company and under the direction of a master fisherman, he is the holder of an assistant fisherman's licence;
- (b) shall not sell fish taken by him unless he is the holder of a master fisherman's licence;
- (c) shall not use, employ or have in charge a fishing vessel to take fish for a commercial purpose unless that vessel is licensed as a commercial fishing vessel and the fish are taken by a master fisherman or assistant fisherman in the company and under the direction of a master fisherman;
- (d) being the owner or master fisherman in charge of a commercial fishing vessel, shall not permit on board that vessel while it is being used to take fish for a commercial purpose any person who is not the holder of a master fisherman's licence or an assistant fisherman's licence, save a person authorized by the Minister or the spouse or a child of the owner or master fisherman in charge where that spouse or child does not while on board that vessel take or assist in taking fish for a commercial purpose;
- (e) shall not have in possession in or on Queensland waters a fishing vessel unless that vessel is licensed as a commercial fishing vessel.

Penalty: \$1 000 and, if the court so orders, forfeiture to the Crown of the vessel and any apparatus used or employed in the commission of the offence and any fish taken in contravention of this Act or the proceeds of sale of fish so taken.

A reference in this section to a fishing vessel shall be read and construed so as not to include a reference to a fishing vessel that is lawfully passing through Queensland waters if during such passage all apparatus belonging to the vessel for the taking of fish is stowed and secured.

This section does not apply to the sale of fish or marine products by a person under the authority and in compliance in every respect with the terms, conditions or restrictions of a permit granted and issued under section 58.

PART IV—OYSTERING

24. Property in oysters. (1) All oysters in Queensland waters are the property of the Crown and remain the property of the Crown until taken or kept in accordance with this Act.

(2) Liability at law shall not attach to the Crown by reason only of the vesting of oysters in the Crown pursuant to this section.

25. Licensing of persons and vessels for oystering. (1) The Minister may grant and issue licences of the several descriptions following:—

- (a) licence to conduct oystering operations;
- (b) licence to use or employ a vessel (not being a dinghy the overall length of which is less than 4 metres) for or in connexion with oystering operations;
- (c) licence to occupy as an oyster bank an oyster ground.

(2) (a) An application for a licence under this Part shall be made to the Director in the prescribed form and the applicant shall comply with all conditions prescribed by the regulations.

(b) The Minister shall consider each application and may grant or refuse it.

(c) When an application is granted the Minister shall cause to be issued the licence in respect of which the application is made.

(3) A licence under this Part—

- (a) shall be in the prescribed form;
- (b) shall contain the prescribed particulars;
- (c) shall be in force for a period not exceeding 12 months or, in the case of a licence to occupy as an oyster bank an oyster ground for such longer period not exceeding 5 years as the Minister in a particular case determines;
- (d) shall be subject to such terms, conditions or restrictions as are prescribed and to such further terms, conditions or restrictions as the Minister in a particular case thinks fit, inserted therein or endorsed thereon;
- (e) shall authorize the holder to do such acts and things as are prescribed with respect thereto;
- (f) may be renewed;
- (g) may be transferred.

(4) All oysters growing in an area the subject of a licence pursuant to this Part shall, while that licence is in force, be the property of the licensee.

(5) A person who takes from a public oyster reserve or other Crown land not comprised in a licence under this Part oysters for his own consumption on the spot does not render himself liable to punishment as for an offence.

26. Preferential right of owner to licence to occupy oyster ground.

(1) Subject to this section, the Minister shall give to the owner or lessee of land abutting on the foreshore preference over other persons to obtain

a licence to occupy such part of an oyster ground adjacent to that land as is not already the subject of a licence to occupy an oyster ground under section 25.

(2) Where an application is made by any person other than the owner or lessee of land referred to in subsection (1) for a licence to occupy a part of an oyster ground adjacent to that land, the Minister shall give written notice thereof as prescribed to that owner or, as the case requires, lessee and at the same time notify that owner or lessee that preference will be given to him as against the applicant or any other person for a licence to occupy the part of the oyster ground in respect of which the application is made.

(3) An owner or lessee to whom notice is given pursuant to subsection (2) shall, within the prescribed time or where no time is prescribed within such time as the Minister determines, advise the Minister whether he desires to apply for a licence to occupy the part of the oyster ground in respect of which the application is made.

(4) An owner or lessee who advises the Minister that he desires to apply for the licence to occupy shall, within the prescribed time or where no time is prescribed within such time as the Minister determines, apply as prescribed for the licence.

(5) Where the owner or lessee fails to apply for the licence to occupy, the Minister may grant and issue a licence to occupy to the original applicant or any other person who applies for such licence.

(6) A licence to occupy given pursuant to this section shall be subject to such terms, conditions or restrictions as the Minister determines.

27. Offences. (1) A person—

- (a) shall not conduct oystering operations;
 - (b) shall not use or employ a vessel (not being a dinghy the overall length of which is less than 4 metres) for or in connexion with oystering operations;
 - (c) shall not occupy an oyster ground,
- unless he is the holder of a licence pursuant to this Part.

Penalty: \$200.

(2) A person shall not, save as prescribed—

- (a) enter upon;
 - (b) anchor a vessel on;
 - (c) remove any oyster or other thing from;
 - (d) damage anything within;
 - (e) use a net on;
 - (f) disturb in any way,
- any area the subject of a licence pursuant to this Part.

This subsection does not apply to the holder of the licence issued in respect of the area in question or a person who enters that area with the consent in writing of the holder.

(3) A person shall not, save under the authority of the regulations or a permit granted and issued by the Minister upon application and subject to such terms, conditions or restrictions as he determines, put or assist in putting in Queensland waters oysters, oyster culture or shells of oysters that have been removed from another locality.

28. Registration of mark or brand. (1) A person who is the holder of a licence under this Part—

- (a) shall, as prescribed, register a mark or brand;
- (b) shall mark or brand the outside of every bag, package, bottle or other receptacle in which oysters the property of that person are packed with the mark or brand so registered.

(2) A person shall not consign or sell oysters contained in a bag, package, bottle or other receptacle that is not marked or branded in accordance with subsection (1).

Penalty: \$200.

(3) Oysters contained in a bag, package, bottle or other receptacle not marked or branded in accordance with subsection (1) that are seized by an inspector in the exercise of his powers under this Act shall thereupon be forfeited to the Crown.

Oysters so forfeited shall be disposed of in the manner directed by the Director who shall certify to such disposal and notify the person concerned accordingly.

29. Declaration of prohibited area. (1) The Governor in Council, if at any time he is satisfied that oysters in any area—

- (a) may be unfit for human consumption;
- (b) are carriers of a disease that may affect other fish or marine products,

may by Order in Council declare that area to be a prohibited area in respect of the taking of oysters or the conduct of oystering operations.

(2) Upon the coming into operation of an Order in Council made pursuant to subsection (1)—

- (a) a licence under this Part in force with respect to the prohibited area or part thereof shall, without any authority other than this provision, be suspended during the period the Order in Council continues in operation;
- (b) the Minister may, if he thinks fit, cause to be erected on suitable sites on or close to the boundary of the prohibited area notices in such form and of such construction as he considers necessary or desirable indicating—
 - (i) the existence and extent of the prohibited area;
 - (ii) the liability of a person contravening this Act with respect to the prohibited area.

(3) (a) A person shall not take or attempt to take or remove or attempt to remove oysters, oyster culture or oyster shells from a prohibited area declared under this section.

(b) A person shall not have in possession oysters, oyster culture or oyster shells that have been taken from a prohibited area declared under this section.

PART V—PEARLING

30. Licensing of persons and vessels for pearling. (1) The Minister may grant and issue licences of the several descriptions following:—

- (a) master pearler's licence;
- (b) pearl diver's licence;
- (c) pearl diver's tender's licence;
- (d) pearl dealer's licence.

(2) The Minister may grant and issue in respect of any pearling vessel a pearling vessel licence.

(3) (a) An application for a licence under this Part shall be made to the Director in the prescribed form and the applicant shall comply with all conditions prescribed by the regulations.

(b) The Minister shall consider each application and may grant or refuse it.

(c) When an application is granted the Minister shall cause to be issued the licence in respect of which the application is made.

(4) A licence under this Part—

- (a) shall be in the prescribed form;
- (b) shall contain the prescribed particulars;
- (c) shall be in force for a period not exceeding 12 months;
- (d) shall be subject to such terms, conditions or restrictions as are prescribed and such further terms, conditions or restrictions as the Minister in a particular case thinks fit, inserted therein or endorsed thereon;
- (e) shall, in the case of a licence referred to in subsection (1), authorize the holder to do such acts and things as are prescribed with respect thereto;
- (f) shall, in the case of a licence referred to in subsection (2), authorize the owner for the time being to employ the pearling vessel in respect of which the licence is granted in pearling and to do such other acts and things as are prescribed with respect thereto.

31. Engagement of persons employed in pearling. (1) The owner or person in charge of a pearling vessel shall enter into an agreement in accordance with the regulations with every person employed or to be employed on that vessel.

(2) An agreement pursuant to this section—

- (a) shall be in the prescribed form;
- (b) shall contain the prescribed particulars.

(3) An owner or person in charge of a pearling vessel shall not, save under an agreement made pursuant to this section, employ any person to work on that vessel.

(4) This section does not apply to a person engaged as a seaman or in any other capacity pursuant to the *Queensland Marine Act 1958-1975*.

32. Lien for wages. (1) A person in charge of a pearling vessel or a person employed on a pearling vessel pursuant to an agreement made under section 31 shall have a maritime lien upon the vessel for wages.

- (2) The lien for wages shall have priority over all other liens.
- (3) A person to whom this section applies, by any agreement—
- (a) shall not be deprived of any remedy for the recovery of wages;
 - (b) shall not forfeit his lien upon the ship for wages;
 - (c) shall not abandon his right to wages in case of the loss of the ship;
 - (d) shall not abandon any right that he may have or obtain in the nature of salvage.

An agreement containing provisions that contravene this subsection shall, to the extent of such contravention, be of no force or effect.

33. Offences. (1) A person—

- (a) shall not search for or take for a commercial purpose pearls, pearl-oysters, pearl-shells, green snails or trochus or have in possession at a place where pearling is carried on any of those things;
- (b) shall not employ in pearling or have in charge a pearling vessel, unless he is the holder of a master pearler's licence or, in the case of an offence of which possession is an element, a pearl dealer's licence.

Penalty: \$1 000.

(2) A person shall not perform, whether on his own account or as the servant or agent of another person, any operation in connexion with pearling as a pearl diver or a pearl diver's tender unless he is the holder of a pearl diver's licence or, as the case requires, a pearl diver's tender's licence.

(3) A person shall not use or employ a pearling vessel in pearling unless there subsists in respect of that vessel a pearling vessel licence.

Penalty: \$1 000 and, if the court so orders, forfeiture to the Crown of the vessel and any apparatus used or employed in the commission of the offence and fish or marine products taken in contravention of this Act or the proceeds of sales of fish or marine products so taken.

(4) A person, at a place where pearling is carried on—

- (a) shall not sell pearls, pearl-shells, trochus or green snails to a person other than a pearl dealer;
- (b) shall not purchase pearls, pearl-shells, trochus or green snails from a person other than a pearl dealer or master pearler.

Penalty: \$1 000.

(5) A person shall not, save under the authority of a permit granted and issued by the Minister upon application and subject to such terms, conditions or restrictions as the Minister determines, put or assist in putting in Queensland waters pearl-oysters, trochus or green snails that have been removed from another locality.

Penalty: \$1 000.

This subsection does not apply to the transfer, for the purposes of pearl-oyster farming or pearl culturing, of pearl-oysters from a pearling ground adjacent to the coast of the State to an area that is the subject of a permit under section 58. A transfer to which this paragraph refers shall be subject to the terms, conditions or restrictions with respect to that transfer endorsed upon the permit.

34. Declaration of prohibited area. (1) The Governor in Council, if at any time he has reason to believe that pearl-oysters, trochus or green snails in any area are affected with a disease, may by Order in Council declare that area to be, for such period as he thinks fit and specified therein, a prohibited area with respect to pearling.

Upon the coming into operation of an Order in Council made pursuant to this subsection, a licence under this Part in force with respect to the prohibited area or part thereof shall, without any authority other than this provision, be suspended during the period the Order in Council continues in operation.

(2) A person—

- (a) shall not in a prohibited area declared under this section conduct pearling;
- (b) shall not take from a prohibited area declared under this section pearl-oysters, trochus or green snails.

Penalty: \$1 000.

PART VI—CORAL, CORAL LIMESTONE AND THE LIKE

35. Licences to take coral and the like. (1) The Minister may grant and issue licences of the several descriptions following:—

- (a) licence to take coral, shell-grit or star sand;
- (b) exclusive licence to take coral, coral limestone, shell-grit or star sand;
- (c) licence to use or employ a vessel for the purpose of taking coral, coral limestone, shell-grit or star sand.

(2) (a) An application for a licence under this Part shall be made to the Director in the prescribed form and the applicant shall comply with all conditions prescribed by the regulations.

(b) The Minister shall consider each application and may grant or refuse it.

(c) When an application is granted the Minister shall cause to be issued the licence in respect of which the application is made.

(3) (a) A licence under this Part—

- (i) shall be in the prescribed form;
- (ii) shall contain the prescribed particulars;
- (iii) shall authorize the holder to do such acts and things as are prescribed with respect thereto;
- (iv) shall be in force for a period not exceeding 12 months or, with respect only to an exclusive licence, such longer period not exceeding 25 years as the Governor in Council in a particular case approves;
- (v) shall be subject to such terms, conditions or restrictions as are prescribed or so far as not prescribed as the Governor in Council or, as the case may be, Minister determines.

(b) In addition to any other authority conferred upon him thereby by or under this Act, an exclusive licence under this Part shall give to the holder the sole and exclusive right to take, in the area the subject of that licence, coral, coral limestone, shell-grit or star sand.

The Governor in Council may, if he thinks fit in any particular case, approve the grant of an exclusive licence for a period exceeding 12 months but not exceeding 25 years, and an exclusive licence so granted shall be subject to such further terms, conditions or restrictions as the Governor in Council determines.

36. Offences. (1) A person shall not take coral, coral limestone, shell-grit or star sand unless he is the holder of a licence under this Part.
Penalty: \$1 000.

(2) A person other than the holder of an exclusive licence under this Part shall not take coral, coral limestone, shell-grit or star sand in the area the subject of that exclusive licence.
Penalty: \$1 000.

(3) A person shall not use or employ a vessel for the purpose of taking coral, coral limestone, shell-grit or star sand unless he is the holder of a licence under this Part.
Penalty: \$200.

PART VII—PROCESSING OF FISH AND MARINE PRODUCTS

37. Licensing of establishments or premises and vessels for processing.

(1) The Minister may grant and issue—

- (a) in respect of any establishment or premises on land or on a vessel, a marine products factory licence;
- (b) in respect of any vessel, a transporting vessel licence.

(2) (a) An application for a licence under this Part shall be made to the Director in the prescribed form and the applicant shall comply with all conditions prescribed by the regulations.

(b) The Minister shall consider each application and may grant or refuse it.

(c) When an application is granted the Minister shall cause to be issued the licence in respect of which the application is made.

(3) A licence under this Part—

- (a) shall be in the prescribed form;
- (b) shall contain the prescribed particulars;
- (c) shall be in force for a period not exceeding 12 months or such longer period not exceeding 15 years as the Governor in Council in a particular case approves;
- (d) shall be subject to such terms, conditions or restrictions as are prescribed or such further terms, conditions or restrictions as the Governor in Council or, as the case may be, Minister determines;
- (e) shall authorize the holder to do in respect of the establishment or premises or, as the case may be, vessel the subject of the licence such acts and things as are prescribed with respect thereto;
- (f) may be transferred;
- (g) may be renewed.

The Governor in Council may, if he thinks fit in any particular case, approve the grant and issue of a licence under this Part for a period exceeding 12 months but not exceeding 15 years and a licence so granted and issued shall be subject to such further terms, conditions or restrictions as the Governor in Council determines.

38. Offences. (1) A person shall not operate as a marine products factory any establishment or premises on land or on a vessel unless such establishment or premises is or are licensed as a marine products factory.
Penalty: \$5 000.

(2) A person shall not use or employ a vessel as a transporting vessel unless that vessel is licensed as a transporting vessel.

Penalty: \$5 000.

PART VIII—MANAGEMENT AND PROTECTION OF FISHERIES RESOURCES

39. Classification of tidal land or waters. For the purpose of ascertaining whether any tidal land or tidal waters is or are suitable for setting apart and declaring under and for the purposes of this Act, the Director shall cause to be made inspections and surveys of tidal land and tidal waters within or adjacent to the State.

40. Procedure prior to setting apart and declaration of tidal land and waters. (1) A submission by the Minister to the Governor in Council for the setting apart and declaration of tidal land and tidal waters under and for the purposes of this Act shall not be made save in accordance with this section.

(2) (a) Where the Director considers that tidal land or tidal waters should be set apart and declared under and for the purposes of this Act, he shall before taking any other action refer the proposal to the permanent head of every department of the Government of the State the interests of which are affected thereby and, in addition, where the proposal is the setting apart and declaration of tidal land that is not Crown land to every owner or lessee of a holding whose interests may be affected thereby.

(b) The permanent head of each department referred to in paragraph (a) shall submit to the Director the views of his department, and every owner or lessee referred to in paragraph (a) shall submit to the Director his views, on the proposal.

(c) The Minister shall consider the views submitted by each permanent head and each owner or lessee and, where there is no objection thereto, may proceed to have the proposal presented to the Governor in Council.

(3) Where a permanent head or an owner or a lessee indicates to the Director that he does not agree with the proposal, negotiations shall be entered into between the Director and the permanent head, owner or lessee and, if necessary, a joint investigation of the matter shall be undertaken.

(4) Where there is no agreement on the proposal following negotiations and the joint investigation, if any, referred to in subsection (3), the Director may appoint a time within which submissions in writing may be made to him for reference to the Minister and the permanent head, owner or lessee, if he desires to make a submission, shall make it within that time.

(5) The Director shall refer to the Minister all submissions duly made and the Minister may in his discretion present those submissions and his recommendation thereon to the Governor in Council or may remit the submissions to the Director for further consideration.

(6) A person who fails to make a submission within the time appointed in accordance with subsection (4) shall, for the purpose of this Act, be deemed to agree with the proposal.

41. Power to set apart and declare marine parks. Subject to section 40, the Governor in Council may upon the recommendation of the Minister set apart and declare as a marine park—

(a) tidal land and the tidal waters above that land;

- (b) any part of Queensland waters comprising tidal waters that he considers to be of scenic, scientific or historic interest or to be required to be so set apart and declared in the interests of conservation or for the protection of fish or marine products therein.

42. Amalgamation and naming of marine parks. The Governor in Council—

- (a) by the Order in Council setting apart and declaring a marine park may amalgamate that marine park and any existing contiguous marine park;
- (b) by Order in Council—
- (i) may amalgamate contiguous marine parks;
 - (ii) may amalgamate marine parks that although not contiguous would, in the opinion of the Minister, be more conveniently administered as one marine park;
 - (iii) may assign to a marine park a name and may in like manner vary such name or assign to a marine park another name.

43. Restriction or revocation of declaration of marine park. (1) The declaration of a marine park shall not be revoked in whole or in part save in accordance with this section.

(2) (a) The Minister may cause to be laid before the Legislative Assembly a notice of a proposal that the declaration of a marine park be revoked in whole or in part.

(b) The notice shall specify the extent of the proposed revocation and the purpose or purposes to which the land and waters in question are to be put.

(c) If the Legislative Assembly approves of the proposal by resolution on a motion of which not less than 14 days' notice has been given, the Governor in Council may by Order in Council revoke the declaration to the extent specified in the proposal approved.

(d) The tidal land and tidal waters affected by the revocation shall become and be a reserve under the *Land Act* 1962-1975 for departmental purposes and may be dealt with as prescribed by law for the purpose or purposes specified in the proposal approved.

44. Principle of management of marine parks. The cardinal principle to be observed in the management of marine parks shall be the preservation to the greatest possible extent of their natural condition and the Director shall exercise the powers and perform the functions and duties conferred or imposed upon him by or under this Act with respect to marine parks in such manner as appears to him the most appropriate to achieve that purpose.

45. Specialized management within marine parks. (1) Where in the opinion of the Director sufficient information is available with respect to a marine park concerning—

- (a) the fish, marine products and natural features of that park; and
- (b) the potential value of that park in relation to the uses to which it may be lawfully applied,

he may, subject to this Act, recommend to the Minister that the whole or a part of that park be declared—

- (c) a wilderness area;

- (d) a natural environment area;
- (e) a recreation area;
- (f) a scientific area;
- (g) an historic area;
- (h) a special feature area.

In making a recommendation pursuant to this subsection, the Director shall ensure that the area to be recommended is of a size sufficient or appropriate to warrant its declaration for the purpose recommended.

(2) Upon the recommendation of the Minister, the Governor in Council may, by Order in Council, declare the whole of the marine park or the part thereof specified in the recommendation to be one of those areas specified in subsection (1) as recommended.

46. Objects sought to be achieved in the management of areas within marine parks. The different areas within marine parks declared under and for the purposes of this Act shall be managed to achieve the following objects:—

- (a) in the case of a wilderness area, the maintenance of the area to the greatest possible extent in its natural state;
- (b) in the case of a natural environment area, the maintenance of the area to the greatest possible extent in its natural state commensurate with a moderate degree of use of the area by members of the public;
- (c) in the case of a recreation area, the maintenance of the area in a generally natural state conducive to the enjoyment by members of the public of boating, fishing, swimming, underwater diving, foreshore exploration and other activities of a like nature;
- (d) in the case of a scientific area, the maintenance of the area to the greatest possible extent in its natural state commensurate with its use for study or scientific purposes;
- (e) in the case of an historic area, the preservation of its historic or cultural significance to the State;
- (f) in the case of a special feature area, the preservation of a particular feature of special aesthetic, scientific, cultural or historic interest where the area is so small that its declaration as another class or area in accordance with section 45 would be inappropriate.

47. Power of Minister to restrict use of areas within marine parks. Where the Minister is of opinion following consideration of the advice of the Director that any use or intended use of any wilderness area, natural environment area, recreation area, scientific area, historic area or special feature area will prevent or hinder in any way the achievement of any object sought to be achieved in the management of that area, he shall take such action in accordance with this Act as he considers necessary to restrict to the extent determined by him that use or to prevent that intended use.

48. Offences with respect to marine parks. Save under the authority and in compliance in every respect with the terms, conditions or restrictions of a permit under this Act a person shall not, in any marine park, interfere with or suffer, permit or allow to be interfered with any fish or marine product therein or thereon.

Penalty: \$1 000.

49. Fishing in marine parks. The Minister may by notification published in the Gazette permit, upon such terms, conditions or restrictions as he determines, the taking, in waters within the boundaries of a marine park other than waters declared as a wilderness area, scientific area or special feature area, of fish for recreational purposes by means of a fishing line with not more than 2 hooks or an artificial fly or lure attached and the collection in the manner prescribed of bait for that taking and may in like manner revoke any permission so notified.

50. Unlawful use of expression "marine park". (1) A person shall not—

- (a) publish a statement or advertisement, oral or in writing; or
- (b) in Queensland, do any act or take any step to cause the publication outside Queensland of a statement or advertisement,

which statement or advertisement—

- (c) is calculated to promote the use of any land or waters in Queensland or a transaction concerning any land or waters in Queensland; and
- (d) includes the expression "marine park", used in relation to such land or waters or part thereof either alone or in combination with any other word or words,

unless the land or waters or, as the case may be, part thereof in relation to which the expression is used is or are set apart and declared as a marine park under this Act.

(2) For the purposes of this section a statement or advertisement shall be taken to be published if—

- (a) it is printed in a newspaper, magazine or other publication;
- (b) it is publicly exhibited—
 - (i) in, on, over or under a vehicle, vessel, building or other place of any kind; or
 - (ii) in the air so as to be seen by any person who may be in or on any public place;
- (c) it is contained in a document gratuitously sent or given to any person or thrown into or left upon premises in the occupation of any person;
- (d) it is publicly announced or displayed by means of transmission of sound or light; or
- (e) being an oral statement, it is made by one person to another.

(3) Where a statement or advertisement purports to have been published by a particular person, that person shall be taken to have published the statement or advertisement until the contrary is proved.

(4) It is a defence to a charge of an offence that consists partly of an element specified in provision (b) of subsection (1) to prove that the statement or advertisement was not published.

51. Power to set apart and declare land and waters as a reserve, sanctuary or ground. (1) Subject to section 40, the Governor in Council, upon the recommendation of the Minister and for the purposes of the management and protection of fisheries resources, by Order in Council—

- (a) may set apart and declare tidal land that is Crown land and the waters covering that land to be—
 - (i) a fish habitat reserve;
 - (ii) a fish sanctuary;

- (iii) a public oyster reserve;
 - (iv) an oyster ground;
 - (v) a reserve, sanctuary or ground for any other purpose with respect to fisheries specified in the Order called by a description specified in the Order;
- (b) may assign to a reserve, sanctuary or ground so set apart and declared a name or other designation and may alter a name or designation so assigned.

(2) The Governor in Council, upon the recommendation of the Minister following consideration of a report in writing by the Director made after a proposal for the revocation of a declaration of a reserve, sanctuary or ground has been furnished to the Director and having regard to the objects and purposes of this Act, may, if he is satisfied that it is expedient to do so, by Order in Council, revoke in whole or in part an Order in Council made in accordance with subsection (1).

Upon the coming into operation of the revoking Order in Council, the land and waters so set apart and declared or, as the case may be, the part thereof to which the revocation applies shall cease to be so set apart and declared and shall become and be a reserve (or part thereof) for departmental purposes and may be dealt with as prescribed by law for the purposes of the proposal.

52. Power to undertake works. The Minister or person authorized in writing by him in that behalf may, within a marine park or a reserve, sanctuary or ground set apart and declared under and for the purposes of this Act, undertake and do such works and acts as he considers necessary or desirable for the preservation and proper management and, in an applicable case, the public enjoyment of that park, reserve, sanctuary or ground.

The Minister shall ensure that any works or acts undertaken and done in accordance with this section are undertaken and done in such a manner as will least disturb the natural condition of the park, reserve, sanctuary or ground.

53. Closed season. The Governor in Council may, by Order in Council for the purposes of this Act, declare, with respect to any species of fish or marine product or any Queensland waters specified in the Order, without limit of time or for the time specified therein, a closed season.

54. Closed waters. The Governor in Council may, by Order in Council for the purposes of this Act, declare any Queensland waters specified in the Order to be, without limit of time or for the time specified in the Order, closed waters.

55. Prohibition on taking fish or marine products in closed waters or closed seasons. Unless authorized by or under this Act, a person—

- (a) shall not in closed waters use or have in possession apparatus in respect of which those waters have been declared or in quantities greater than those prescribed with respect thereto;
- (b) shall not in closed waters take or have in possession any fish or marine product in respect of which those waters have been declared;
- (c) shall not, during a closed season in the area of the State to which that season applies, take or have in possession any fish or marine product in respect of which that season applies.

Penalty: \$400 and, if the court so orders, forfeiture to the Crown of the vessel and any apparatus used or employed in the commission of the offence and fish or marine products taken in contravention of this Act or the proceeds of sales of fish or marine products so taken.

56. Taking protected species. Unless authorized by or under this Act, a person shall not take, have in possession or sell—

- (a) any fish or marine product of a species specified in the Second Schedule;
- (b) any fish or marine product of a species specified in Part I of the Third Schedule that is of a measurement of size less than the measurement set forth opposite the name of that species.

Penalty:—

- (c) for an offence to which subparagraph (a) relates—
 - (i) in the case of all fish and marine products save turtles and mammals, \$400;
 - (ii) in the case of turtles and mammals, \$1 000 for each turtle or mammal in respect of which the offence is committed;
- (d) for an offence to which subparagraph (b) relates, \$400.

In a case where a vessel is used or employed in the commission of any offence defined in this section, the offender is liable to a penalty of \$1 000 and, if the court so orders, forfeiture to the Crown of the vessel and any apparatus used or employed in the commission of the offence and any fish or marine products taken in contravention of this Act or the proceeds of sale of fish or marine products so taken.

57. Forfeiture of certain fish or marine products. Fish or marine products contained in any heap or collection or any bag, package, bottle or other receptacle taken or had in possession or sold in contravention of section 56 that are seized by an inspector in the exercise of his powers under this Act shall thereupon be forfeited to the Crown and, where the weight or number of fish or marine products so taken or had in possession or sold exceeds 5 per centum of the total weight or number of fish or marine products contained in the heap or collection or, as the case may be, bag, package, bottle or other receptacle, the whole of such contents shall upon seizure be forfeited to the Crown.

Fish or marine products so forfeited shall be disposed of in the manner determined by the Director who shall certify to such disposal and notify the person concerned accordingly.

58. Power to permit taking or keeping of fish or marine products for particular purposes and the sale thereof. (1) The Minister may, by writing signed by him, permit—

- (a) the taking of fish or marine products;
- (b) the keeping of fish or marine products in or on any place, for the purpose of undertaking research thereon or removing them to stock other waters or for such other purposes as the Minister in any particular case specifies.

(2) (a) The Minister may, by writing signed by him, permit the taking of fish, turtles or pearl-oysters and the keeping thereof in or on any place for farming purposes.

(b) For the purposes of this subsection, the Minister may cause to be marked off in Queensland waters as many portions of land lying below high water as he thinks fit.

(c) Save for the purpose of carrying out works authorized by any Act or lawfully constituted authority or of navigation including anchorage, a person—

- (i) shall not interfere with or disturb in any way;
 - (ii) shall not take fish, turtles, pearl-oysters, pearl-shells or pearls from;
 - (iii) shall not dredge for or deposit ballast or other substance in;
 - (iv) shall not drag or set any apparatus in,
- an area the subject of a permit pursuant to this subsection.

(d) Fish, turtles or pearl-oysters taken or kept under the authority of a permit under this subsection and pearls the product of pearl-oysters so taken or kept are the property of the permittee.

(3) The Minister may by writing signed by him permit the sale of fish taken by a person otherwise than in contravention of this Act that are surplus to that person's requirements.

(4) (a) An application for a permit under this section shall be made to the Director in the prescribed form and the applicant shall comply with all conditions prescribed by the regulations.

(b) The Minister shall consider each application and may grant or refuse it.

(c) When an application is granted pursuant to this section the Minister shall cause to be issued in respect thereof a permit.

(5) A permit under this section—

- (a) shall be in the prescribed form;
- (b) shall contain the prescribed particulars;
- (c) shall authorize the holder to do such acts and things as are prescribed with respect thereto;
- (d) shall be subject to such terms, conditions or restrictions as are prescribed and to such further terms, conditions or restrictions as the Governor in Council or Minister in a particular case thinks fit, inserted therein or endorsed thereon;
- (e) shall be in force for a period not exceeding 12 months or in the case of a permit under subsection (2) such longer period not exceeding 7 years as the Governor in Council in a particular case approves;
- (f) may be revoked at any time;
- (g) may be renewed.

The Governor in Council may, if he thinks fit in the case of a permit under subsection (2), approve the grant thereof for a period exceeding 12 months but not exceeding 7 years and a permit so granted shall be subject to such further terms, conditions or restrictions as the Governor in Council determines.

(6) When a permit granted under this section is revoked, it shall thereupon cease to be of any force or effect and shall be treated as if the period for which it was granted had expired.

(7) Upon the revocation or expiry of a permit granted under this section, the Minister may give such directions as to the disposal of fish or marine products taken or kept thereunder as he thinks fit.

59. Prohibition as to apparatus. (1) A person shall not, save as prescribed—

- (a) have in possession any apparatus;
- (b) for the purpose of taking fish, use any apparatus.

Penalty: \$500 or, in the case of an offence by a master fisherman or an assistant fisherman involving the use of a net, \$1 000.

A net had in possession or used in contravention of this subsection that is the property of a person other than a master fisherman or assistant fisherman and that is seized by an inspector in the exercise of his powers under this Act shall, upon the conviction of that person, be forfeited to the Crown.

(2) Subject to this Act, subsection (1) does not apply to the use of a rod and line or hand-line—

- (a) in tidal waters, with not more than 6 hooks attached;
- (b) in fresh water, with not more than 1 hook attached.

60. Prohibition as to illegal apparatus. (1) A person—

- (a) shall not use or have in possession in Queensland waters illegal apparatus;
- (b) shall not use or have in possession in any area of Queensland waters any kind of apparatus the use of which is prohibited in that area.

Penalty: \$500 and, if the court so orders, forfeiture to the Crown of the apparatus used in the commission of the offence.

(2) This section does not apply in the case of a fishing vessel that is lawfully passing through Queensland waters wherein the use of any apparatus being carried on that vessel is prohibited if that apparatus is stowed and secured.

61. Prohibition on removing fish or marine products from apparatus.

A person other than an inspector or honorary ranger shall not in Queensland waters remove any fish or marine product from apparatus unless that person is the owner of that apparatus or is acting with the authority of the owner.

Penalty: \$500.

62. Prohibition of use of explosive, firearm, noxious substance, electrical device for taking fish or marine products. (1) A person shall not, save with the permission in writing of the Minister first had and obtained, in Queensland waters use or have on board a vessel any explosive, explosive-propelled missile, firearm or noxious substance with intent to take any fish or marine product or whereby any fish or marine product may be injured or destroyed.

Penalty: \$1 000.

(2) A person shall not, save with the permission in writing of the Minister first had and obtained or as prescribed by the regulations, use a firearm, power-head or like device to take any fish or marine product.

Penalty: \$1 000.

(3) Subsections (1) and (2) do not apply to a firearm carried on board a vessel for the purpose of killing sharks or to a power-head attached to a hand-propelled spear (other than a spear capable of being propelled by a spear-gun) that is used solely or intended for use solely in defence against an attack by a shark.

(4) A person shall not, save with the permission in writing of the Minister first had and obtained or as prescribed by the regulations, use, for the purpose of taking any fish or marine product, a device that creates an electric field in the water or on the foreshore.

(5) (a) An inspector may require a person found at any time by him keeping any explosive, explosive-propelled missile, firearm, noxious substance or power-head or device that creates an electric field in the water or on the foreshore to furnish to the Minister within such time as is prescribed proof that a thing specified in this subsection and being kept by him is being kept otherwise than in contravention of this Act.

63. Taking freshwater fish. (1) A person shall not in fresh water take fish by means other than a fishing line with one hook only or an artificial fly or lure attached.

(2) A person who takes fish in fresh water—

(a) shall not set at any one time more than the number of fishing lines prescribed by the regulations and until so prescribed more than 6 fishing lines;

(b) shall not set as a cross-line a fishing line.

64. Taking fish by jaggging. A person shall not take fish by means of jaggging.

65. Keeping noxious and non-indigenous fish. (1) A person—

(a) shall not keep, hatch, rear, sell, consign or convey;

(b) shall not put into a container of any kind, noxious fish.

(2) A person—

(a) shall not keep, hatch, rear, sell, consign or convey;

(b) shall not put into a container of any kind, non-indigenous fish save prescribed non-indigenous fish.

(3) A person who commits an offence against this section is liable upon conviction for a first offence to a penalty of \$1 000 and, for a second or subsequent offence, to a penalty of not less than \$500 and not more than \$2 000 and in any case, in addition, the cost of removal and destruction of the fish in respect of which the offence is committed.

66. Duty of person who takes or has in possession noxious and non-indigenous fish. (1) A person who takes or has in possession noxious fish or non-indigenous fish, save prescribed non-indigenous fish—

(a) shall destroy those fish forthwith and notify an inspector within 48 hours of the taking or, as the case may be, first having in possession and destruction; or

(b) shall deliver those fish forthwith to an inspector.

(2) The Minister shall, upon application made in that behalf, pay to a person who destroys fish in compliance with this section an amount determined by the Minister in recoupment of reasonable expenses incurred by that person with respect to such compliance.

67. Prohibition on release of noxious or non-indigenous fish. A person shall not release into Queensland waters—

(a) noxious fish;

(b) non-indigenous fish other than prescribed non-indigenous fish.

Penalty: \$5 000 and, in addition, the cost of removal and destruction of the fish in respect of which the offence is committed.

68. Restriction on release of certain non-indigenous fish. (1) A person shall not, save under the authority of a permit granted and issued by the Minister with the approval of the Governor in Council, upon application made as prescribed, release into prescribed Queensland waters prescribed non-indigenous fish.

Penalty: \$1 000 and, in addition, the cost of removal and destruction of the fish in respect of which the offence is committed.

(2) A permit granted and issued under subsection (1) may be in the prescribed form and shall contain such particulars and be subject to such terms, conditions or restrictions as are prescribed or so far as not prescribed as the Minister thinks fit.

69. Restriction on release of certain indigenous fish. (1) A person shall not, save under the authority of a permit granted and issued by the Minister upon application made as prescribed, release into Queensland waters any fish indigenous to the Commonwealth but non-indigenous to the area in question.

Penalty: \$1 000 and, in addition, the cost of removal and destruction of the fish in respect of which the offence is committed.

(2) A permit granted and issued under subsection (1) may be in the prescribed form and shall contain such particulars and be subject to such terms, conditions or restrictions as are prescribed or so far as not prescribed as the Minister thinks fit.

70. Power of Minister to issue order for destruction of noxious or non-indigenous fish. (1) Where the Minister is satisfied upon the report of an inspector or otherwise that noxious fish or non-indigenous fish are present in Queensland waters and it is not practicable for those fish to be seized and removed, he may, notwithstanding that other fish or property may be destroyed also, by order in writing signed by him, require an inspector to destroy those noxious fish or non-indigenous fish.

(2) An order made by the Minister pursuant to subsection (1) shall contain the prescribed particulars.

(3) Save where the Minister in a particular case otherwise determines, a person shall not be entitled to any payment by way of compensation for any loss of or damage to property suffered by that person in consequence of the destruction of fish duly carried out pursuant to an order made under subsection (1).

(4) Where noxious fish or non-indigenous fish have become established in any area, the Minister, if he is satisfied that there is no practical means of removing or destroying those fish, may by order in writing signed by him require an inspector to take any action necessary to prevent or delay the movement of those fish from the area in which they have become established and an order so given shall be complied with.

(5) Where a person is convicted of an offence against section 65, 66, 67 or 68 and action is taken to remove or destroy the fish in respect of which the offence is committed under an order made pursuant to subsection (1) or (4), the Director may recover the costs, charges and expenses incurred in removing or destroying or preventing the escape of those fish as a debt due to the Crown by action brought by him in a court of competent jurisdiction in the name of the office he occupies as Director.

71. Protection of mangroves and marine plants. (1) A person shall not, save in accordance with a permit granted and issued under this section, cut, lop, burn, remove or otherwise destroy or damage any mangrove or marine plant.

(2) (a) The Minister may upon application made as prescribed grant and issue to any person a permit in writing authorizing that person to cut, lop, burn or remove mangroves or marine plants within the area specified in the permit.

(b) A permit granted and issued under subsection (1) may be in the prescribed form and shall contain such particulars and be subject to such terms, conditions or restrictions as are prescribed or so far as not prescribed as the Minister thinks fit.

(3) This section shall not derogate from or otherwise affect in any way the *Queensland Marine Act* 1968-1975 or the *Harbours Act* 1955-1976.

72. Restrictions on taking fish with spear or spear-gun. A person shall not save as prescribed, while using or wearing underwater breathing apparatus other than a snorkel, take fish by means of a spear or spear-gun.

73. Fish-ways. (1) A person who desires to construct or erect a dam, weir or other barrier of any kind (in this section referred to as the proposed works) across a river, creek, stream, inlet of the sea or other water-way shall give to the Minister three months' notice in writing of his intention and shall submit to the Minister therewith the prescribed information or so far as not prescribed such information as the Minister determines.

(2) If in the opinion of the Minister it is desirable that there be constructed or erected on, over, through or across the proposed works a fish-way, the Minister may, by order in writing signed by him, direct the person concerned to construct or erect on, over, through or across the proposed works a fish-way in accordance with plans and specifications approved by the Minister and to the satisfaction of the Minister and within the time specified in the order or in a subsequent order.

(3) If in the construction or erection of the proposed works the person to whom an order is given pursuant to subsection (2) or any person on his behalf fails in any respect to carry out every direction given in the order, the Minister may take all such steps and do all such

acts and things as he thinks necessary for the construction or erection of the fish-way in accordance with the plans and specifications approved by him.

The Director may recover from the person to whom the order is given the costs, charges and expenses incurred in the exercise of the powers conferred by this subsection as a debt due to the Crown by action brought by him in a court of competent jurisdiction in the name of the office he occupies as Director.

(4) A person who—

- (a) fails to comply with any provision of this section;
- (b) fails to carry out a direction contained in an order given pursuant to this section commits an offence against this Act.

Penalty: \$1 000.

PART IX—MISCELLANEOUS PROVISIONS

74. Offence by holder. The holder of a licence, permit, certificate or other authority granted and issued under this Act who fails to comply with any term, condition or restriction to which that licence, permit, certificate or other authority is subject commits an offence against this Act.

75. Requirement as to carrying licence, permit, certificate or other authority. The holder of a licence, permit, certificate or other authority granted and issued under this Act shall, at all times while he is engaged in doing anything for the doing of which that licence, permit, certificate or other authority is required, carry it with him.

If the holder is not carrying with him the licence, permit, certificate or other authority in accordance with this section when called upon to produce it by a person acting under the authority of this Act, he shall produce it to that person or another person specified by that person within such time as is prescribed.

76. Proceedings for offences. (1) A prosecution for an offence against this Act shall be taken by way of summary proceedings under the *Justices Act 1886-1975* within 12 months after the offence is committed or within 6 months after the commission of the offence comes to the knowledge of the complainant, whichever period is the later to expire.

(2) (a) An offence against this Act may be prosecuted and amounts of fees and charges of any kind payable under this Act and not paid may be recovered in a summary way under the *Justices Act 1886-1975* on complaint—

- (i) by an inspector or by any other person who is authorized in writing in that behalf by the Minister;
- (ii) in a case where the offender is arrested under this Act, by the person who made the arrest.

(b) All amounts of fees and charges of any kind payable under this Act and not paid may be recovered as a debt due to the Crown in a court of competent jurisdiction by action brought by the Director in the name of the office he occupies as Director.

The remedy conferred by this paragraph (b) is in addition to the remedy conferred by paragraph (a).

(3) A complaint for an offence against this Act may be heard and determined at a place appointed for holding Magistrates Courts within the Magistrates Courts District within which or within 35 kilometres of which—

- (a) the offence was committed or the matter of complaint arose;
- (b) the offender was arrested or served with the summons;
- (c) a vessel or other thing connected with the offence is subsequently found;
- (d) the port, to which a vessel arrested at sea is brought, is situated.

It is immaterial for the purposes of this section that the person charged with the offence is not the person in whose keeping the vessel or other thing in connexion with the offence is found.

(4) Notwithstanding this Act or any other Act, in a proceeding on a complaint, the court may make an order on any matter within its jurisdiction though no application or complaint is made in respect thereof.

(5) Upon a conviction for an offence against this Act, the court may order such payment as it thinks fit by way of compensation for loss of time or in recoupment of expenses incurred in consequence of the offence of which the offender is convicted or in connexion with the proceedings to secure that conviction.

77. Offences generally and penalty. (1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(2) A person who—

- (a) fails to do that which he is directed or required to do;
- (b) does that which he is forbidden to do,

by a person acting under the authority of this Act commits an offence against this Act.

(3) (a) Save where a specific penalty is otherwise prescribed, a person who commits an offence against this Act is liable to a penalty of \$400.

(b) Notwithstanding any other Act, where a person is convicted of an offence against this Act the penalty to which he is liable is in addition to a forfeiture under this Act.

78. Right of entry upon land. Unless otherwise expressly provided by or under this Act, the granting or holding of a licence, permit, certificate or other authority under this Act shall not give to a person the right of entry upon land the property of another.

79. Identification of boundaries. Where, for the purposes of this Act, any place or area is prescribed in the regulations or specified in an Order in Council, licence, permit, certificate or other authority under this Act or in any other document, it shall be a sufficient description for all purposes if the boundaries thereof are described by reference to posts, stakes, buoys, marks or natural features or any other means whatever reasonably adequate for the identification of that place or area.

80. Cancellation, revocation or suspension of licence or other authority.

(1) The Minister at any time during the currency of a licence, permit, certificate or other authority granted and issued under this Act—

- (a) may cancel or revoke;

- (b) may suspend for such period as he thinks fit (not exceeding the balance of the term thereof),
 that licence, permit, certificate or other authority if—
- (c) it was issued in error or granted in consequence of a false or fraudulent document, statement or representation;
 - (d) the holder—
 - (i) is convicted of an offence against this Act, the *Fish Supply Management Act 1972-1976* or, in relation to any apparatus, fish, marine product or fishing vessel, *The Criminal Code*;
 - (ii) fails to comply with any term or condition thereof;
 - (e) there has been a substantial change of circumstances since the grant thereof; or
 - (f) for any other reason the Minister is of opinion that the holder is not a fit and proper person to hold it or that it is in the interests of the fishing industry to do so.

(2) A cancellation, revocation or suspension under this section—

- (a) shall not be questioned in any proceeding whatever;
- (b) does not confer upon the holder a right to compensation.

(3) Where a licence, permit, certificate or other authority under this Act is suspended, it shall be of no force or effect during the period of suspension and shall remain in force only for the period during which it would have remained in force but for the suspension.

(4) (a) Where a licence, permit, certificate or other authority under this Act is cancelled, revoked or suspended, the person to whom that licence, permit, certificate or other authority was issued shall within 7 days after demand made upon him deliver it up to the Director.

(b) If a person who is convicted of an offence that consists of a failure to comply with a demand made pursuant to this section fails to deliver up the licence, or, as the case requires, permit, certificate or other authority within 14 days after the date of that conviction, he commits a further offence and is liable to a penalty of \$10 for every day during which that offence continues.

81. Forgery and like offences with respect to a licence or other authority. A person—

- (a) shall not forge or counterfeit a licence, permit, certificate or other authority under this Act;
- (b) shall not utter a licence, permit, certificate or other authority so forged or counterfeited;
- (c) shall not personate any person named in a licence, permit, certificate or other authority under this Act;
- (d) shall not falsely represent himself to be an inspector;
- (e) shall not connive at any of the offences defined in subparagraphs (a), (b), (c) or (d);
- (f) shall not knowingly make a false statement in an application under this Act for a licence, permit, certificate or other authority.

Penalty: \$1 000 or imprisonment for 12 months.

82. Offence by body corporate. (1) Where a body corporate commits an offence against this Act, each of the following persons shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly:—

- (a) the chairman of directors, managing director, manager or other governing officer by whatever name called and every member of the governing body thereof by whatever name called; and
- (b) every person in the State who manages or acts or takes part in the management, administration or government of the business in the State of the body corporate.

(2) This section applies so as not to limit or affect in any way the liability of a body corporate to be proceeded against and punished for an offence against this Act committed by it.

(3) It is a defence to a charge of an offence against this Act brought against a person specified in subsection (1) to prove that the offence was committed without that person's consent or connivance and that he used due diligence to prevent the commission of the offence.

83. Detention, forfeiture, disposal of things seized. (1) Any vessel, vehicle or other conveyance, fish, marine product, apparatus, explosive, explosive-propelled missile, firearm, noxious substance or other thing of any kind seized under this Act may be detained for a period of 12 months, unless—

- (a) it is sooner established to the satisfaction of the Director that, at the time of seizure and detention, no offence against this Act in relation to the thing seized had been committed in which case the thing seized shall be returned in the manner prescribed to the person from whom it was taken; or
- (b) within that period proceedings for an offence against this Act in which the thing seized may be used as evidence have been instituted in which case the thing seized may be detained until the final determination of those proceedings if that period exceeds 12 months.

(2) Where a net the property of a master fisherman who has committed an offence against this Act arising out of the use of that net is seized by an inspector in the exercise of his powers under this Act, the Minister may, upon the application of the master fisherman and upon proof to the Minister's satisfaction that detention of the net would impose severe hardship upon the master fisherman, order that the net seized be returned forthwith to the master fisherman upon such terms or conditions as the Minister determines and the master fisherman shall comply with every term or condition so determined.

(3) Where a person is convicted of an offence against this Act, the court may order that any vessel, vehicle or other conveyance, fish, marine product, apparatus, explosive, explosive-propelled missile, firearm, noxious substance or other thing of any kind in respect of which the offence was committed be forfeited to the Crown and thereupon the thing so ordered to be forfeited shall be forfeited to the Crown.

(4) Notwithstanding this Act, the Minister may order that any thing seized under this Act be forfeited to the Crown though proceedings have not been taken for, nor any person convicted of, an offence against this Act in respect of that thing.

(5) Subject to this Act, any thing forfeited to the Crown under this Act shall be dealt with or disposed of in such manner as the Minister directs.

(6) A forfeiture, dealing with or disposal of any thing under this section shall not confer upon any person a right to compensation.

84. Appropriation of penalties and other moneys. Unless otherwise expressly provided, all penalties, costs, fees, compensation and other moneys recovered under this Act shall be paid into and form part of the Consolidated Revenue Fund.

85. Liability of master of vessel for offences committed by employees.

(1) Where a person employed in or in connexion with a vessel does an act or makes an omission that constitutes an offence against this Act for which he is criminally responsible, the master or person in charge of the vessel shall, subject to subsection (2), be taken to have done the act or made the omission and to be criminally responsible for the offence constituted by that act or omission to the same extent as such employee.

(2) A master or person in charge shall not be guilty of an offence pursuant to subsection (1) if—

- (a) he has issued proper instructions and used all reasonable means to secure the observance of this Act; and
- (b) the offence in question was committed without his knowledge and he could not by the exercise of reasonable diligence have prevented the commission of the offence.

(3) The provisions of this section do not affect the operation of section 7 of *The Criminal Code* in relation to a master or person in charge of a vessel.

86. Mode of service of documents. A notice, order, requirement or other writing authorized or required by this Act to be given to any person shall be duly given if—

- (a) it is served personally on the person to whom it is directed;
- (b) it is left at the place of residence or business of the person to whom it is directed last known to the person who gives it;
- (c) it is sent by post to the place of residence or business of the person to whom it is directed last known to the person who gives it;
- (d) where the person to whom it is directed is the master or other person in charge of a vessel or a person belonging to a vessel, it is left on board that vessel with the person who is or appears to be at the time in charge of the vessel.

87. Penalties exacted by way of notice to offender. (1) When an inspector finds a person committing an offence against this Act that is a prescribed offence for the purposes of this section, he may, upon ascertaining the offender's full name and the address of his usual place of residence, give him the notice specified in this section.

(2) The notice—

- (a) shall be identified by a serial number;
- (b) shall identify the person to whom it is given by his full name and the address of his usual place of residence;
- (c) shall state in general terms the offence that the person has been found committing;

- (d) shall inform the person in general terms that if he does not desire the matter to be determined in a court hearing he may complete the form attached to or appearing upon the notice and forward or deliver that form together with a prescribed sum by way of penalty to the person named therein within the time appointed in the notice (which shall not be less than 10 days from the date of the giving of the notice) whereupon he shall not be liable to a further penalty or costs in the matter;
- (e) shall inform the person in general terms that he has the right to decline to proceed in the manner described in subparagraph (d) and to allow the matter to be determined in a court hearing—
 - (i) if he desires to contest the question whether the offence alleged was in fact committed;
 - (ii) if he wishes to submit to the court matters in extenuation of penalty; or
 - (iii) for any other reason,
in which event he need not reply or take further action in respect of the notice and that in such case court process will issue against him in due course.

(3) Where a person to whom a notice is given pursuant to subsection (1) proceeds in the manner described in subsection (2) (d) within the time appointed in the notice, a proceeding against him by way of prosecution for the offence alleged in the notice shall not be competent but otherwise such a proceeding may be commenced as if the notice had not been given.

88. Evidentiary provisions. In a proceeding for the purposes of this Act—

- (a) it shall not be necessary to prove the appointment of an inspector or other officer or the authority of an inspector or other officer to do any act, take any proceeding or give any direction or order;
- (b) a signature purporting to be that of an inspector or other officer shall be taken to be the signature it purports to be until the contrary is proved;
- (c) an allegation or averment in a complaint that the act in respect of which the complaint is made was committed in Queensland waters shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of that allegation or averment;
- (d) an averment in a complaint of the date on which the commission of an offence against this Act came to the knowledge of the complainant shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of that averment;
- (e) a document purporting to be a copy of a licence, permit, certificate or other authority under this Act shall, upon its production in that proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of that licence, permit, certificate or other authority;
- (f) a document purporting to be signed by the Director stating that at a specified time or during a specified period there was or was not in force a licence, permit, certificate or other authority under this Act as described in the document issued to a specified person or in respect of a specified thing and that such licence, permit, certificate or other authority

was or was not subject to the terms, conditions or restrictions set out in the document shall upon its production in that proceeding be evidence, and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in that document;

- (g) a certificate purporting to be signed by the Director certifying as to the receipt or otherwise of a notice, application or payment or that an amount of fees or other moneys specified in the certificate is payable under this Act and has not been paid by a specified person shall, upon its production in evidence be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in that certificate;
- (h) evidence that fish or marine products were received at a fish market or other place of sale or at a railway station or an office of any person or body engaged in transporting goods or materials in the name of a person as consignor shall be evidence and, in the absence of evidence to the contrary, conclusive evidence that the fish or marine products were taken and consigned by that person;
- (i) in which it is material to prove that a person was engaged or employed or that a vessel was used in taking fish or marine products for a commercial purpose, evidence that the person was engaged or employed or that the vessel was used in taking fish or marine products shall be evidence and, in the absence of evidence to the contrary, conclusive evidence that the taking of those fish or marine products was for a commercial purpose;
- (j) evidence of the display, at the material time, of an illuminated sign with the words "Inspector" and "Stop" thereon in letters 10 centimetres at the least in height and of the use of a megaphone by an inspector to hail the person in charge of a vessel shall be evidence and, in the absence of evidence to the contrary, conclusive evidence that that person in charge has received a lawful requisition to stop his vessel.

89. Protection of Crown, Minister, officers and honorary rangers.

Liability at law shall not attach to the Crown, the Minister, Director, Deputy Director, any inspector or honorary ranger or person acting with the authority of the Minister, Director, Deputy Director, any inspector, officer or honorary ranger on account of anything done for the purposes of this Act or done in good faith and purporting to be done for the purposes of this Act.

90. Orders in Council. Section 28A of the *Acts Interpretation Act* 1954-1971 (Tabling of regulations) shall apply with respect to Orders in Council made for the purposes of this Act and, for the purposes of such application, that section shall be read and construed as if references to regulations were references to Orders in Council made for the purposes of this Act.

91. Regulations. (1) The Governor in Council may make regulations, not inconsistent with this Act, for or with respect to all or any of the purposes, matters or things set forth in the Fifth Schedule.

(2) The power to regulate includes the power to prohibit.

(3) Regulations may be made to apply generally throughout the State or within any locality in the State or, with respect to any purpose, matter or thing to be of such limited application as is indicated therein.

(4) The power to make regulations does not extend to the making of regulations to control traffic in or over the waters of a marine park, reserve, sanctuary or ground set apart and declared under this Act.

Such regulations may be made at the request of the Director of Fisheries or otherwise, pursuant to the power to make regulations conferred by the *Queensland Marine Act 1958-1975*.

Before a regulation is made under the *Queensland Marine Act 1958-1975*, that is directed to controlling traffic in and over the waters of a marine park, reserve, sanctuary or ground set apart and declared under this Act, the Director of Harbours and Marine and the Director of Fisheries or officers respectively delegated by them shall consult thereon.

(5) To the extent that there is any inconsistency between a regulation made under this Act with respect to a marine park, reserve, sanctuary or ground set apart and declared under this Act and the *Petroleum Submerged Lands Act 1967-1975*, the *Petroleum Submerged Lands Act 1967-1975* shall prevail.

92. Amendment of the Primary Producers' Organisation and Marketing Act 1926-1973. (1) The *Primary Producers' Organisation and Marketing Act 1926-1973* is amended by repealing section 30A.

(2) The *Primary Producers' Organisation and Marketing Act 1926-1973* as amended by this section may be cited as the *Primary Producers' Organisation and Marketing Act 1926-1976*.

93. Amendment of the Forestry Act 1959-1976. (1) The provisions of the *Forestry Act 1959-1976* set forth in the following table are amended to the extent in that table indicated.

TABLE

Number of Provision	Amendment
Section 29	Omit subsections (2) and (3);
Section 42	Omit subsection (3);
Section 43	(a) Omit from the first paragraph of subsection (1) all words commencing with the words " or, where " to the end of the paragraph; (b) Omit subsection (3); (c) Omit from the headnote appearing in and at the beginning of subsection (4) the words " existing mining rights and "; (d) Omit from subsection (4) paragraph (a);
Section 97	Omit subsection (3).

(2) The *Forestry Act 1959-1976* (being the *Forestry Act 1959-1975* as amended by the *Forestry Act Amendment Act 1976*) as amended by this section may be cited as the *Forestry Act 1959-1976*.

FIRST SCHEDULE

[s. 4]

Year and Number of Act	Short Title
6 Eliz. II No. 11	<i>The Fisheries Act of 1957</i>
8 Eliz. II No. 59	<i>The Fisheries Act Amendment Act of 1959</i>
1962 No. 10	<i>The Fisheries Acts Amendment Act of 1962</i>
1974 No. 85	<i>Fisheries Act Amendment Act 1974</i>

SECOND SCHEDULE
PROTECTED SPECIES

[s. 11]

Common Name	Scientific Name
Ceratodus or lung-fish	<i>Neoceratodus forsteri</i>
Clam	<i>Tridacna gigas</i>
Clam	<i>Tridacna derasa</i>
Crab, mud (female)	<i>Scylla serrata</i>
Crab, sand (female)	<i>Portunus pelagicus</i>
Mammal (whale, dolphin, porpoise, dugong)	All species of the orders Mysticeti, Odontoceti and Sirenia
Helmet shell	<i>Cassis cornuta</i>
Trumpet shell	<i>Charonia tritonis</i>
Turtle	All species of the families Chelonidae and Dermocholyidae

THIRD SCHEDULE

[s. 12]

PART I

SPECIES OF FISH AND MARINE PRODUCTS PROTECTED UNTIL
ATTAINING A PRESCRIBED SIZE AND PRESCRIBED SIZES

Common Name	Scientific Name	Size
Barramundi	<i>Lates calcarifer</i>	50 cm
Bass—Australian	<i>Percalates colonorum</i>	25 cm
Bream—		
Pikey	<i>Acanthopagrus berda</i>	23 cm
Yellow-finned	<i>Acanthopagrus australis</i>	23 cm
Cod—		
Estuary rock	<i>Epinephelus tauvina</i>	35 cm
Murray	<i>Maccullochella macquariensis</i>	50 cm
Crab—		
Mud	<i>Scylla serrata</i>	15 cm (carapace) 5 cm (body)
Sand	<i>Portunus pelagicus</i>	15 cm (carapace) 5 cm (body)

THIRD SCHEDULE—continued

PART I—continued

SPECIES OF FISH AND MARINE PRODUCTS PROTECTED UNTIL
ATTAINING A PRESCRIBED SIZE AND PRESCRIBED
SIZES—continued

Common Name	Scientific Name	Size
Emperor—		
Red	<i>Lutjanus sebae</i>	35 cm
Red-finned	<i>Lethrinus fletus</i>	30 cm
Sweetlip	<i>Lethrinus chryostomus</i>	30 cm
Flathead—		
Bar-tailed	<i>Platycephalus indicus</i>	30 cm
Mud	<i>Platycephalus fuscus</i>	30 cm
Sand	<i>Platycephalus arenarius</i>	30 cm
Green snail	<i>Turbo marmoratus</i>	280 g
Groper—Queensland	<i>Promicrops lanceolatus</i>	35 cm
Javelin-fish—		
Small-spotted	<i>Pomadasys opercularis</i>	30 cm
Spotted	<i>Pomadasys hasta</i>	30 cm
Jew-fish—		
Silver	<i>Johnius soldado</i>	30 cm
Spotted	<i>Johnius diacanthus</i>	30 cm
Luderick	<i>Girella tricuspidata</i>	23 cm
Mackerel—		
Broad-barred	<i>Indocybium semifasciatum</i>	45 cm
Narrow-barred	<i>Cybiium commersoni</i>	45 cm
Queensland school	<i>Cybiium queenslandicus</i>	45 cm
Spotted	<i>Sawara nipponia</i>	45 cm
Mullet—Sea	<i>Mugil cephalus</i>	30 cm
Mulloway	<i>Johnius antarctica</i>	30 cm
Oyster	<i>Crassostrea commercialis</i>	5 cm
Pearl-oyster—		
Gold-lip	<i>Pinctada maxima</i>	16 cm
		(overall)
		12.5 cm
		(nacre)
Perch—Golden	<i>Plectroplites ambiguus</i>	30 cm
Saratoga	<i>Scleropages leichardti leichardti</i>	35 cm
Snapper	<i>Chrysophrys auratus</i>	25 cm
Tarwhine	<i>Rhabdosargus sarba</i>	23 cm
Teraglin—		
Jew	<i>Atractoscion aequidens</i>	30 cm
Silver	<i>Otolithes argenteus</i>	30 cm
Trout—Coral	<i>Plectropomus maculatus</i>	35 cm
Salmon—		
Burnett	<i>Polydactylus sheridani</i>	40 cm
Cooktown	<i>Eleutheronema tetradactylum</i>	40 cm
Dawson River	<i>Scleropages leichardti guntheri</i>	35 cm
Trochus	<i>Trochus niloticus</i>	6 cm
Whiting—		
Golden-lined	<i>Sillago analis</i>	23 cm
Sand	<i>Sillago ciliata</i>	23 cm

PART II

MEASUREMENT OF SIZE

All fish specified in this schedule except crabs shall be measured overall—that is, from the point of the snout (or the tip of the lower jaw, if that tip protrudes beyond the snout) to the extremity of the tail.

Crabs shall be measured across the greatest dimension of the carapace, but in cases where the carapace is missing or damaged shall be measured from the anterior extremity of the first abdominal segment of the body to the posterior extremity of the fourth abdominal segment thereof.

Oysters shall be measured across the largest axis of the shell.

Trochus shall be measured across the largest diameter of the base.

Pearl-oysters shall be measured—

(a) across the shell overall from the butt or hinge to the opposite edge of the lip;

(b) across the shell from the butt or hinge to the edge of the nacre.

The measurement of green snails shall be the weight of the shells alone.

Linear measurements shall be measurements in the one plane.

FOURTH SCHEDULE

[s. 13]

NOXIOUS FISH

Common Name	Scientific Name
European carp	<i>Cyprinus carpio</i>
Piranhas	All species of the genera <i>Serrasalmus</i> , <i>Pygopristis</i> , <i>Pygocentrus</i>
Tilapia	All species of the genus <i>Tilapia</i>
Walking catfish	All species of the family Clariidae

FIFTH SCHEDULE

[s. 91]

SUBJECT MATTER FOR REGULATIONS

1. **Persons administering Act.** The powers, functions and duties of persons engaged in the administration of this Act.

2. **Licences and other authorities.** Applications for and the grant and issue of licences, permits, certificates or other authorities under this Act and duplicates thereof; eligibility of and the qualifications entitling persons to hold, and the prohibitions against persons not qualified or eligible as prescribed from obtaining or holding, such licences, permits, certificates or other authorities and the circumstances in which exemption

from such prohibitions may be granted; the terms, conditions or restrictions subject to which licences, permits, certificates or other authorities under this Act are granted and subject to which fish, marine products and other things may be taken or kept thereunder; the surrender, transfer, renewal, revocation, cancellation, suspension or endorsement of such licences, permits, certificates or other authorities; restrictions on the numbers of licences, permits, certificates or other authorities that may be granted and issued in the State or any area of the State or Queensland waters or to a particular person.

3. Records. The records to be kept and returns to be furnished by holders of licences, permits, certificates or other authorities under this Act; requirements as to keeping and inspection of those records.

4. Means of taking fish and other things. The means by which fish, marine products and other things may be taken pursuant to this Act; the size of vessels and apparatus; the manner, time and place of use of vessels and apparatus in such taking.

5. Diving. Regulation and control of underwater breathing apparatus with respect to the taking of fish; standard of health and requirements as to medical certification of pearl divers and pearl divers' tenders; inspection of diving apparatus.

6. Procedures and standards with respect to activities. The farming of fish and marine products, processing of fish and marine products and the operation of marine products factories, carrying on of oystering operations, recovery of coral, coral limestone, shell-grit, star sand or other marine products; disposal of discarded materials and removal or disposal of improvements and materials on termination of authority under this Act; marks or brands with respect to fish and marine products or any bag, package, bottle or other receptacle containing them or any article manufactured from them.

7. Pearling. The taking of pearl-oysters; the cultivation, nucleation and transport thereof; the sale of pearls; the engagement of persons employed in pearling.

8. Introduction into or removal from the State of fish and marine products. The prohibition or regulation and control of the introduction into or removal from the State or removal from one place in the State to another place therein of any fish or marine product.

9. Marine parks, reserves, sanctuaries, grounds, areas, closed seasons, closed waters. All matters and things relating to marine parks, fish habitat reserves, fish sanctuaries and other sanctuaries, public oyster reserves and other reserves, oyster grounds and other grounds, areas, closed waters, closed seasons, including but without limiting the generality of this provision the following:—control and management thereof and of the activities therein or thereon; prevention of interference with or injury to fish and marine products therein or thereon; prevention of contamination or pollution thereof; prohibition against or control of persons or classes of persons entering them or remaining in or on them; prescription of offences with respect thereto and all or any fish or marine products thereon or therein.

10. **Noxious and non-indigenous fish.** The eradication and control of noxious fish or non-indigenous fish, the use of apparatus or chemicals for those purposes and the recovery of costs, charges and expenses incurred in connexion therewith.

11. **Measurement of size of fish and marine products.** The methods to be used for and the manner of measuring the size of fish and oysters or parts thereof, and calculating the size of any fish or marine product from a part thereof.

12. **Forms.** The forms to be used for the purposes of this Act and the particular purposes for which those forms shall respectively be used.

13. **Fees.** Fees, charges, royalties and expenses payable or to be paid under this Act and the fixing thereof; matters and things in respect of which they are payable or to be paid; methods of collection thereof; manner, time and place of payment thereof; persons by whom and to whom they are payable; all matters with respect to the recovery thereof.

14. **Exemption.** The granting of exemption or conditional exemption from compliance with all or any of the provisions of this Act and the revocation of an exemption or conditional exemption so granted, and the entitlements under this Act of persons while so exempted.

15. **Vessels and apparatus.** The marking of licensed fishing vessels and apparatus for purposes of identification and control; prescription of types of vessels that may be used as marine products factories.

16. **Power-head or electrical devices.** The prohibition against or regulation and control of the use of a power-head or similar explosive-powered device or an electrical device of any kind for taking fish or marine products.

17. **Freshwater fishing.** The means by which fish may be taken in fresh water.

18. **Limit of tidal influence and mouth of river, creek or stream.** Prescription of the limit of tidal influence in any river, creek, stream, lake; watercourse or other waters. Prescription of the mouth of any river, creek or stream.

19. **Apparatus generally.** The prohibition against possession and use of apparatus or regulation and control thereof; provision for safe use and inspection thereof; materials to be used in the manufacture thereof; the construction, dimensions and description thereof having regard to the purpose for which it is intended to be used and the marking thereof for identification purposes; classification and registration thereof; the prescription of illegal apparatus, regulation and control thereof.

20. **Stocking of rivers and the like.** The regulation and control of the introduction into rivers, creeks, streams, dams and other water impoundments of fish.

21. Priorities. The prescription, regulation and control of rights of priority amongst applicants for and holders of licences, permits, certificates or other authorities under this Act, whether or not of the same description or class.

22. Fish-ways. The methods and standards of the construction of fish-ways; information to be furnished to the Minister.

23. Mangroves, marine plants. The prohibition against or regulation and control of cutting, lopping, burning or removal of mangroves and marine plants.

24. Noxious substances. The prescription of substances as noxious substances.

25. Scientific purposes. The regulation and control of the taking and keeping of fish and marine products for scientific purposes.

26. Queensland Commercial Fishermen's State Council, commercial fishermen's district councils and local branches. All matters and things relating to Queensland Commercial Fishermen's State Council, commercial fishermen's district councils and local branches and, without limiting the generality of this provision, for or with respect to—

- (a) the constitution and functions of commercial fishermen's district councils and commercial fishermen's local branches;
- (b) defining districts in respect of commercial fishermen's district councils and areas in respect of commercial fishermen's local branches;
- (c) meetings and the conduct of business at meetings of Queensland Commercial Fishermen's State Council, commercial fishermen's district councils and commercial fishermen's local branches;
- (d) nomination, election, appointment, qualifications, disqualifications, tenure of office, vacation of office, filling of casual vacancies in respect of members of Queensland Commercial Fishermen's State Council, commercial fishermen's district councils and commercial fishermen's local branches; eligibility of persons to become such members;
- (e) empowering Queensland Commercial Fishermen's State Council with the approval of the Minister, from time to time—
 - (i) to fix the fees, expenses and allowances that may be paid to members of Queensland Commercial Fishermen's State Council, commercial fishermen's district councils and commercial fishermen's local branches;
 - (ii) to make a general levy on commercial fishermen for the purpose of carrying out the functions of Queensland Commercial Fishermen's State Council, commercial fishermen's district councils and commercial fishermen's local branches;
- (f) the methods of collection and recovery of levies including collection and recovery thereof from persons holding moneys to the credit of persons liable to pay those levies; imposing

finances for non-payment of levies or non-payment of moneys by persons holding moneys to the credit of persons liable to pay levies;

- (g) defining for the purposes of this section marine products to which the fishing industry relates;
- (h) the common seal of Queensland Commercial Fishermen's State Council;
- (i) facilitating proof of any matter.

27. Taking and transport of fish or marine products. The prohibition against or regulation and control of the taking and transport of live fish or marine products.

28. Carriage of apparatus. The prohibition against or regulation and control of the carriage on a vessel or vehicle of apparatus in a specified locality of the State or during any season or other period of time.

29. Taking of certain fish or marine products. Restriction, regulation and control of the taking of specified fish or marine products; the methods by which, times when, places where they may be taken and the numbers thereof that may be taken; the apparatus that may be used with respect thereto and the manner of its construction and use.

30. Offences in respect of which notices may be given. The prescription of—

- (a) offences against this Act in respect of which a notice may be given to an offender advising that a prescribed penalty may be paid for those offences without involving court proceedings; making provision for those offences to be prescribed separately or by reference to a particular part of this Act or by a general statement incorporating reference to offences against any provision of this Act or any offence except specified offences against the provisions of this Act;
- (b) the sums of money that shall be payable as penalties in respect of offences prescribed under provision (a) of this clause 30; making provision for those sums to be prescribed differently in relation to different offences or differently in relation to any offence according to previous like offences or the time, place or circumstances related to the commission of the offence; the persons to whom those penalties shall be paid and the procedure with respect to payment generally;
- (c) all such other matters as shall be shown on a notice given to an offender.

31. Proof of documents. The manner in which an application, recommendation, report, order, notice, requisition or other document under this Act may be proved.

32. Matters prescribed. All matters required or permitted by this Act to be prescribed where the manner of prescription is not specified.

33. Penalties. The prescription of penalties for contravention of or failure to comply with the regulations, not exceeding \$400 in each case. In the case of a contravention or failure with respect to a marine park, prescription of penalty so that it may include the cost of rectifying damage caused thereto.

34. General power. All matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.