

**FISHERIES AND OYSTER FARMS  
(AMENDMENT) ACT.**

**New South Wales**



ANNO UNDEVICESIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 69, 1970.**

An Act to make further provisions relating to fisheries and fishing; for this and other purposes to amend the Fisheries and Oyster Farms Act, 1935; and for purposes connected therewith. [Assented to, 27th November, 1970.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

**Short title.**      **1.** This Act may be cited as the "Fisheries and Oyster Farms (Amendment) Act, 1970".

**2.**

*Fisheries and Oyster Farms (Amendment).*

2. (1) The Fisheries and Oyster Farms Act, 1935, is No. 69, 1970 amended—

Amendment  
of Act No.  
58, 1935.

- (a) by inserting in subsection one of section four next after the definition of "Trout" the following new definition :—

Sec. 4.  
(Interpreta-  
tion.)

"Under Secretary" means the Permanent Head of the Department responsible for the administration of this Act.

- (b) by inserting next after section eight the following new sections :—

New secs.  
8A and 8B.

8A. (1) The Minister may, by writing under his hand, delegate to the Under Secretary or to any officer or employee of the Department responsible for the administration of this Act, and the Under Secretary, with the approval of the Minister, may by writing under his hand delegate to any such officer or employee, the exercise or performance of such of the powers (other than this power of delegation), authorities, duties or functions conferred or imposed on him under this Act as may be specified in the instrument of delegation. The Minister and Under Secretary may in like manner revoke wholly or in part any delegation made by him.

Delegation  
of powers,  
etc., by  
Minister and  
Under  
Secretary.

(2) Any power, authority, duty or function the exercise or performance of which has been delegated under this section may, while the delegation remains unrevoked, be exercised or performed from time to time in accordance with the terms of the delegation by the Under Secretary, officer or employee to whom the exercise or performance thereof has been delegated.

(3) A delegation made under this section may be made subject to such conditions or such limitations as to the exercise or performance of

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any of the powers, authorities, duties or functions delegated, or as to time or circumstances, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section the Minister or Under Secretary, as the case may be, may continue to exercise or perform all or any of the powers, authorities, duties or functions delegated.

(5) Any act or thing done or suffered by a delegate when acting in the exercise of a delegation and within the terms of the delegation shall have the like force or effect as if the act or thing had been done or suffered by the Minister or Under Secretary, as the case may be.

Minister to  
have power  
to accept  
gifts, etc.

8B. (1) The Minister shall have power to acquire by gift inter vivos, devise or bequest, any property for the purposes of this Act.

(2) The Minister may agree to the condition of any gift, devise or bequest to him, and the rule of law relating to perpetuities shall not apply to any condition to which the Minister has agreed under this subsection.

(3) Any property acquired pursuant to subsection one of this section shall to the extent to which it has not been applied in conformity with the gift, devise or bequest pass to and devolve upon the successors in office of the Minister.

(4) Where the Minister has agreed to the condition of any such gift, devise or bequest, that condition shall bind the property in the hands of any successor in office of the Minister in whom the property may, for the time being, be vested.

(c)

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- (c) by omitting from section eleven the words “of the Department by which this Act is administered” and by inserting in lieu thereof the words “or by the prescribed officer”; No. 69, 1970  
Sec. 11.  
(Production of authority.)
- (d) (i) by omitting from subsection three of section twenty-three the words “In the regulations, provision may be made for reduction of the fee in any case in which the license is to remain in force for a less period than one year.”; Sec. 23.  
(Boats used for capture of fish must be licensed.)
- (ii) by omitting subsection four of the same section and by inserting in lieu thereof the following subsection :—
- (4) Every such license shall, unless sooner suspended or cancelled, remain in force for a period of twelve months, or such lesser period as may be specified therein, from the date of issue thereof.
- (e) (i) by omitting from subsection four of section twenty-five the words “In the regulations provision may be made for a reduction of the fee in any case in which the license is to remain in force for a less period than one year.”; Sec. 25.  
(Fishermen to be licensed.)
- (ii) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection :—
- (5) Every such license shall, unless sooner suspended or cancelled, remain in force for a period of twelve months, or such lesser period as may be specified therein, from the date of issue thereof.
- (f) by omitting from section 41s the words “, Chief Secretary’s Department,”; Sec. 41s.  
(Authority to furnish report if required.)
- (g)

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Sec. 42.  
(Returns.)

- (g) (i) by inserting in subsection one of section forty-two after the word "section," the words "to keep records as prescribed and";
- (ii) by inserting in the same subsection after the word "output," the words "gear used in connection with the operations,";
- (iii) by omitting from paragraph (g) of subsection two of the same section the words "sea or land." and by inserting in lieu thereof the words "sea, land or air,";
- (iv) by inserting next after the same paragraph the following new paragraph :—
- (h) any other operations relating to the fishing and oyster farming industries as may be prescribed.

Sec. 60.  
(Leases.)

- (h) by inserting in subsection one of section sixty after the word "Minister" the words "and it shall be lawful for the Minister to execute such leases on behalf of Her Majesty";

New sec.  
108A.Service of  
notices, etc.

- (i) by inserting next after section one hundred and eight the following new section :—

108A. Any notice or other document, other than a summons, to be given or served on any person for the purposes of this Act or the regulations may, unless otherwise specially provided, be given or served—

- (a) by delivering it personally to the person to whom it is addressed;
- (b) by posting it by certified mail in an envelope duly stamped and addressed to the person to whom it is addressed at the place last known as his place of abode or business;
- or

(c)

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- (c) by delivering it to the place last known as No. 69, 1970 the place of abode or business of the person to whom it is addressed and by leaving it there with some person for him.

(2) The amendments made by subparagraph (ii) of paragraph (d) and subparagraph (ii) of paragraph (e) of subsection one of this section shall not affect the continuity of a license in force immediately before the commencement of this Act and any such license shall have the like force as it would have had had such amendments not been made.

3. The Fisheries and Oyster Farms Act, 1935, is further amended— Further amendment of Act No. 58, 1935.

- (a) by inserting in section three next after the matter relating to Division 3 of Part IV the following new matter :— Sec. 3. (Division into Parts.)

DIVISION 3A.—*Trout farms*—s. 49A.

- (b) by inserting next after Division 3 of Part IV the following new Division :— New Division 3A of Part IV. New sec. 49A.

DIVISION 3A.—*Trout farms*.

49A. (1) The Minister may issue a permit to any person, who in waters under his control propagates, hatches or rears trout, authorising him to sell or offer or expose or consign for sale trout so propagated, hatched or reared. Trout farms.

(2) A permit under this section may—

- (a) be issued subject to such terms and conditions as the Minister thinks fit including terms and conditions subject to which the holder

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holder may propagate, hatch or rear trout or sell or offer or expose or consign for sale trout so propagated, hatched or reared;

- (b) specify the waters in respect of which the permit is to apply; and
- (c) be issued upon payment of such fees in such manner and at such times as may be prescribed.

Such fees shall be paid to the Inland Fisheries Fund established under section 25c of this Act.

(3) Any person who fails to comply with any such terms and conditions shall be guilty of an offence and shall be liable to a penalty not exceeding one hundred dollars.

The Minister may for any reason which appears to him to be sufficient cancel a permit issued under this section.

Sec. 50.  
(Close season for trout.)

- (c) by inserting at the end of subsection three of section fifty the following new paragraph :—

This subsection shall not apply to the holder of a permit under section 49A of this Act who takes or attempts to take trout or sells or offers or exposes or consigns for sale trout in accordance with the terms and conditions of the permit.

New sec.  
56A.

- (d) by inserting next after section fifty-six the following new section :—

Exemptions.

56A. Such of the provisions of this Division as would, but for this section—

- (a) prohibit a holder of a permit under section 49A of this Act taking or attempting to take or selling or exposing or consigning for sale  
trout

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trout propagated, hatched or reared in any waters specified in such permit or having in his possession trout roe, shall not apply to the holder of the permit who so takes or attempts to take or sells or exposes or consigns for sale trout in accordance with the terms and conditions of the permit or has in his possession trout roe for purposes connected with the authority conferred on him by such permit, or

- (b) prohibit a person from buying trout propagated, hatched or reared as aforesaid shall not apply to such buyer.

4. (1) The Fisheries and Oyster Farms Act, 1935, is further amended—

Further amendment of Act No. 58, 1935.

- (a) by omitting from the matter relating to Division 6A of Part III in section three the words "*The New South Wales Fish Authority*" and by inserting in lieu thereof the words "*Fish Marketing Authority*";
- (b) by omitting from the definition of "Authority" in subsection one of section four the words "The New South Wales Fish Authority established under" and by inserting in lieu thereof the words "the Fish Marketing Authority referred to in";
- (c) by omitting from the heading to Division 6A of Part III the words "*The New South Wales Fish Authority*" and by inserting in lieu thereof the words "*Fish Marketing Authority*";

(d)



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Sec. 41A.  
(Fish  
Marketing  
Authority.)

(d) (i) by inserting next after subsection one of section 41A the following new subsections :—

(1A) As from the commencement of section four of the Fisheries and Oyster Farms (Amendment) Act, 1970—

- (a) the name of the Authority established under subsection one of this section and the body corporate constituted in respect thereof shall be the Fish Marketing Authority;
- (b) a reference in this or any other Act or any by-law, regulation, ordinance or any other instrument or document whatsoever, of the same or a different kind or nature, to The New South Wales Fish Authority shall be read and construed as a reference to the Fish Marketing Authority.

(1B) Nothing contained in subsection (1A) of this section shall prejudice or affect in any way the continuity of the body corporate constituted under subsection one of section 41B of this Act but the same shall continue notwithstanding the provisions of the said subsection.

(1C) The alteration of name effected by subsection (1A) of this section shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of the said body corporate, or render defective any legal or other proceedings instituted by or against the said body corporate.

Any legal or other proceedings may be continued or commenced against the said body corporate by the name of the Fish  
**Marketing**

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Marketing Authority that might have been No. 69, 1970  
continued or commenced by or against the  
said body corporate by the name of The New  
South Wales Fish Authority.

(1D) For the purposes of any Act the  
Authority shall be deemed to be a statutory  
body representing the Crown.

- (ii) by omitting from subsection eight of the same  
section the words "and travelling expenses as  
may be prescribed" and by inserting in lieu  
thereof the words "travelling and other  
expenses and allowances as may be determined  
from time to time by the Governor";

- (e) by omitting subsection two of section 41B;

Sec. 41B.  
(Authority  
to be a  
body corpor-  
ate.)

- (f) by omitting from subparagraph (vii) of paragraph  
(b) of subsection one of section 41D the words  
"out of the New South Wales Fish Authority  
Reserve Fund, established under section 41J of this  
Act,";

Sec. 41D.  
(Powers of  
the  
Authority.)

- (g) (i) by omitting subsection two of section 41E and  
by inserting in lieu thereof the following  
subsection :—

Sec. 41E.  
(Method of  
selling  
fish.)

(2) (a) Fish shall not be sold in a market  
otherwise than by public auction by a person  
appointed for the purpose by the Authority.

(b) Paragraph (a) of this subsection  
shall not apply to fish which the Minister has  
exempted from the operation of this  
subsection.

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(c) Without limiting the generality of paragraph (b) of this subsection exemption may be granted in respect of fish—

- (i) forwarded to the Authority for sale on a consignment basis;
- (ii) sold by private treaty where such fish have previously been submitted for sale by public auction; or
- (iii) sold to specified persons or bodies or classes of persons or bodies at agreed prices.

(d) Any such exemption may be subject to such terms and conditions as may be specified therein and may apply to fish generally, or to fish of any specified species, or to fish other than those specified, or to certain times, circumstances, cases or classes of cases specified therein.

- (ii) by omitting from subsection three of the same section the word “consent” and by inserting in lieu thereof the word “exemption”;

**Sec. 41F.**  
(Fish Marketing Authority Fund.)

- (h) by omitting from subsection one of section 41F the words “The New South Wales Fish Authority Fund’ ” and by inserting in lieu thereof the words “the ‘Fish Marketing Authority Fund’ ”;

**Sec. 41G.**  
(Separate bank account for fund.)

- (i) by omitting from section 41G the words “The New South Wales Fish Authority Account’ ” and by inserting in lieu thereof the words “the ‘Fish Marketing Authority Account’ ”;

(j)

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- (j) by omitting section 41H and by inserting in lieu No. 69, 1970 thereof the following section :—

41H. The fund shall consist of—

Subst.  
sec. 41H.  
Moneys in  
fund.

- (a) all moneys which immediately before the commencement of the Fisheries and Oyster Farms (Amendment) Act, 1970, were held in The New South Wales Fish Authority Fund established under subsection one of section 41F of this Act, as enacted immediately before such commencement;
- (b) all sums of money received by the Authority under this Division;
- (c) all moneys which immediately before the commencement of the Fisheries and Oyster Farms (Amendment) Act, 1970, were held in The New South Wales Fish Authority Reserve Fund established under the provisions of section 41J of this Act as enacted immediately before such commencement; and
- (d) all repayments of principal, and interest thereon, received in respect of advances made by the Minister, pursuant to the former Division 6A, as defined in subsection one of section 41C of this Act or by the Authority whether before or after such commencement pursuant to subparagraph (vii) of paragraph (b) of subsection one of section 41D of this Act.
- (k) by inserting in paragraph (c) of section 41I after the word "travelling" the words "and other";
- (l) by omitting section 41J;

Sec. 41I.  
(Expendi-  
ture from  
fund.)

Sec. 41J.  
(The New  
South Wales  
Fish Autho-  
rity Reserve  
Fund.)

(m)

CONTINUED

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No. 69, 1970 (m) by omitting section 41K;

Sec. 41K.  
(Separate  
bank account  
for reserve  
fund.)

Sec. 41L. (n) by omitting section 41L;  
(Moneys in  
reserve  
fund.)

Sec. 41M. (o) by omitting section 41M;  
(Expendi-  
ture from  
reserve  
fund.)

Sec. 41R. (p) by omitting from section 41R the words "or the  
(Investment  
of funds.) reserve fund".

(2) This section shall commence upon a day to be  
appointed by the Governor and notified by proclamation  
published in the Gazette.