

## SEA FISHERIES PROTECTION ACT 1933

An Act to make further and better provision for the protection of the sea fisheries of Saorstát Eireann. [16th december, 1933.]

BE IT ENACTED BY THE OIREACHTAS OF SAORSTÁT EIREANN AS FOLLOWS:-

Definitions. 1.-(1) In this Act- the expression "the Minister" means the Minister for Lands and Fisheries; the word "fish" includes shell-fish but does not include salmon or fresh water eels; the word "sea-fishing" means fishing for or taking fish in tidal waters; the expression "sea-fishing boat" means any ship, boat or other vessel of whatsoever kind used for sea-fishing; the expression "the master" when used in relation to a sea-fishing boat means the master, skipper or other person for the time being in charge of such boat; the expression "fishing gear" includes any net, trap, line or other apparatus of whatsoever kind used or capable of being used for catching fish, and any rope, warp, pole or other thing of whatsoever kind fastened to or capable of being used with such net, trap, line or other apparatus. (2) Each of the following boats shall be a Saorstát Eireann sea-fishing boat for the purposes of this Act, that is to say:- ( a ) a sea-fishing boat registered in Saorstát Eireann under the Merchant Shipping Acts, 1894 to 1933, ( b ) any sea-fishing boat the owner or, if there is more than one owner, the managing owner of which resides or has his principal place of business in Saorstát Eireann.

Exclusive fishery limits of Saorstát Eireann. 2.-In this Act the expression "the exclusive fishery limits of Saorstát Eireann" means that portion of the seas within which citizens of Saorstát Eireann have, by international law, the exclusive right of fishing and where such portion is defined by the terms of any convention, treaty or arrangement for the time being in force made between Saorstát Eireann and any other State includes as regards the sea-fishing boats and subjects of such State the portion so defined.

Restriction on sea fishing boats entering exclusive fishery limits. 3.-(1) It shall not be lawful for any sea-fishing boat, which is not a Saorstát Eireann sea-fishing boat, to enter within the exclusive fishery limits of Saorstát Eireann except for- ( a ) a purpose recognised by international law; or ( b ) a purpose recognised by any convention, treaty, or arrangement for the time being in force between Saorstát Eireann and the country to which such boat belongs; or ( c ) any other lawful purpose. (2) If any sea-fishing boat, which is not a Saorstát Eireann sea-fishing boat, enters within the exclusive fishery limits of Saorstát Eireann for any purpose mentioned in the foregoing sub-section the following provisions shall have effect, that is to say:- ( a ) such boat shall return outside of the said limits so soon as such purpose has been answered; ( b ) no person on board such boat shall fish or attempt to fish while such boat remains within the said limits; ( c ) any regulations made under this section and for the time being in force shall be duly observed. (3) The Minister may by order make regulations in relation to the maintenance of good order amongst sea-fishing boats, which are not Saorstát Eireann sea-fishing boats, for the time being within the exclusive fishery limits of Saorstát Eireann, and the persons on board such boats. (4) If- ( a ) any sea-fishing boat, which is not a Saorstát Eireann sea-fishing, boat, enters within the exclusive fishery limits of Saorstát Eireann in contravention of sub-section (1) of this section, or ( b ) any such sea-fishing boat having lawfully entered within the exclusive fishery limits of Saorstát Eireann there, has been a contravention in relation to such boat (whether by commission or omission) of any of the provisions of sub-section (2) of this section, the master of such boat shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section to a fine not exceeding fifty pounds and, in the case of a second or any subsequent offence under this section, to a fine not exceeding one hundred pounds, and in either case the court may also forfeit any fish found on such boat and any fishing gear thereon.

Prohibition of certain methods of trawling. 4.-(1) The Minister may from time to time by bye-laws prohibit (at the option of the Minister either, as may be specified in such bye-laws, absolutely or unless such conditions as the Minister thinks fit to insert in such bye-laws are complied with) the use, within the waters of any specified area (being an area within the exclusive fishery limits of Saorstát Eireann), in or from either, as may be specified in such bye-laws, any boat or any boat of a specified class, of any method of trawling or seining (including fishing, by means of any kind of net hauled along the bottom of the sea

whether by a moving boat or by any mechanical appliance in an anchored boat), and different bye-laws may be made in respect of different classes of boats and different methods of fishing. (2) Every person who acts or attempts to act in contravention of any bye-law made under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof, in the case of a first offence under this section, to a fine not exceeding two hundred pounds, and, in the case of a second or any subsequent offence under this section to a fine not exceeding five hundred pounds. (3) Where a person is convicted of an offence under this section the court shall, in addition to any other penalty, order any fishing gear used or attempted to be used in contravention of the bye-law, the contravention of which constituted such offence, to be forfeited. (4) Where- ( a ) a third or any subsequent offence under this section has been committed on board the same boat, whether the person convicted is or is not the same person on each occasion, and ( b ) such boat is at the time of the commission of such offence owned or part owned by a person who was the owner or part owner of such boat on the occasion of the commission of the previous offences, the court may, in addition to any other penalty or penalties under this section, order such boat to be forfeited. (5) The provisions of sub-sections (3), (4) and (5) of section 28 of the Fisheries Act, 1925 (No. 32 of 1925), shall apply in respect of bye-laws made under this section. (6) Nothing in this section or in any bye-laws made thereunder shall be construed as affecting or limiting the operation of any bye-laws made under the Steam Trawling (Ireland) Act, 1889.

Other offences in relation to sea-fishing boats. 5.- (1) If- ( a ) any sea-fishing boat to which Part IV of the Merchant Shipping Act, 1894, applies is found within the exclusive fishery limits of Saorstát Eireann without having on board the official papers issued in pursuance of the said Act in respect of such boat, or ( b ) any other sea-fishing boat is found within the exclusive fishery limits of Saorstát Eireann without having on board official papers evidencing the nationality of such boat, the master of such boat shall be guilty of an offence under this section and shall be punishable accordingly. (2) If any sea-fishing boat to which Part IV of the Merchant Shipping Act, 1894, applies which is not lettered and numbered in accordance with regulations for lettering and numbering sea-fishing boats made under the said Act and applicable to such boat enters within the exclusive fishery limits of Saorstát Eireann, the master of such sea-fishing boat shall be guilty of an offence under this section and shall be punishable accordingly. (3) If any sea-fishing boat within the exclusive fishery limits of Saorstát Eireann fails to observe the provisions, relating to lights to be carried and exhibited, of the regulations for the prevention of collisions at sea made under section 418 of the Merchant Shipping Act, 1894, and applicable to such boat, the master of such boat shall be guilty of an offence under this section and shall be punishable accordingly. (4) Where an act or omission constitutes an offence under this section and also under the Merchant Shipping Act, 1894, the offender may be prosecuted and punished under this section or under the Merchant Shipping Act, 1894, but shall not be liable to be punished twice for the same offence. (5) Every person guilty of an offence under this section shall be liable on summary conviction thereof to a fine not exceeding one, hundred pounds.

Sea Fisheries Protection Officers. 6.- Each of the following persons shall, for the purposes of this Act, be a sea fisheries protection officer, that is to say:- ( a ) every officer of the Minister authorised in that behalf by the Minister; ( b ) every member of the Defence Forces of Saorstát Eireann authorised in that behalf by the Minister; ( c ) every member of the Gárda Síochána; ( d ) every officer of Customs and Excise authorised in that behalf by the Revenue Commissioners; ( e ) every officer of the Minister for Industry and Commerce authorised in that behalf by the Minister.

Powers of Sea Fisheries Protection Officers. 7.- (1) Every sea fisheries protection officer may, for the purpose of enforcing this Act, or any bye-laws or regulations made thereunder, do with respect to any sea-fishing boat within the exclusive fishery limits of Saorstát Eireann and (subject to the rules of International Law) outside those limits all or any of the following things, that is to say:- ( a ) he may order such boat to be stopped for the purpose of identification or of allowing him to go on board it; ( b ) he may board such boat; ( c ) he may require the owner, master, or crew of such boat, or any of them, to produce any certificates of registry, licences, log-books, papers, or other documents relating to such boat, or to the crew, or to any number thereof, which are in the respective possession or control of any of them, the said owner, master, and crew, and inspect and take extracts from or copies of any such certificates, licences, log-books, papers or other documents; ( d ) he may require the master of such boat to give an explanation concerning such boat, and the said certificates of registry, licences, log-books, papers or other documents; ( e ) he may search such

boat; ( f ) he may demand and take the name and the address of any person on board such boat; ( g ) if he suspects that there has been a contravention by any person on board such boat of the provisions of this Act he may without summons, warrant or other process take such boat and all persons on board such boat to the nearest or most convenient port and, pending the taking by him of the steps required by the next following section, detain such boat and such persons; ( h ) he may for the purpose of exercising any of the powers conferred on him by any of the foregoing paragraphs of this sub-section use such force as he may consider necessary and in particular, if an order given by him to such boat in the manner prescribed by regulations made by the Minister under this section to stop is disobeyed or disregarded, he may after first causing a gun to be fired as a signal, fire at or into such boat. (2) If any person obstructs or impedes any sea fisheries protection officer in the exercise of any of the powers conferred on such officer by this section, or refuses or neglects to comply with any requisition or direction lawfully made or given by such officer or to answer any question lawfully asked by such officer in pursuance of this section, such person shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or to imprisonment, with or without hard labour, for any term not exceeding three months. (3) No action or other legal proceedings whatsoever, whether civil or criminal, shall be instituted in any court in Saorstát Eireann in respect of the doing of anything authorised to be done by a sea fisheries protection officer under this section, whether such thing is done personally by a sea fisheries protection officer or by a person acting under the orders of a sea fisheries protection officer. (4) The Minister may by order make regulations in relation to any thing referred to in this section as prescribed by regulations made by the Minister under this section.

Detention of boat and persons pending prosecution. 8.-Where a sea fisheries protection officer has in exercise of the powers conferred on him by the immediately preceding section taken any boat and the persons on board such boat to a port he shall, as soon as may be, bring the master of such boat and any other person on board such boat against whom Proceedings for any offence under any section of this Act have been or are about to be instituted before a Justice of the District Court or, where no such Justice is immediately available, a Peace Commissioner, and thereupon such Justice or Peace Commissioner (as the case may be) shall, if he is satisfied that such proceedings have been or are about to be instituted against such master or other person, by order directed to a sea fisheries protection officer or officers require such officer or officers to detain at a specified port in Saorstát Eireann such boat and all persons on board such boat until such proceedings have been adjudicated upon by a Justice of the District Court, and such boat and persons shall be detained accordingly.

Costs of prosecution. 9.-Where a person is convicted of an offence under any section of this Act, the court by whom such person is convicted may order him to pay the costs of the prosecution.

Liability of master of boat. 10.-Where any offence under any section of this Act has been committed by any person on board a sea-fishing boat, the following provisions shall have effect, that is to say:- ( a ) the master of such boat shall, if not the actual offender, but without prejudice to the liability of such offender, be deemed to be guilty of such offence and may be proceeded against accordingly; ( b ) where the master of a boat is so charged with having committed such offence it shall be a good defence for him to prove- (i) that he used due diligence to prevent the commission of the acts alleged to constitute the offence; and (ii) that the acts alleged to constitute such offence were not done by him personally; and (iii) that the said acts were done without his consent, connivance, or wilful default; and (iv) that on being charged with the offence he gave to the person charging him all information in his power with respect to the person who did the said acts.

Jurisdiction of the District Court. 11.-Any offence under any section of this Act may be heard and determined by any Justice of the District Court.

Detention of boat pending appeal against conviction. 12.- (1) Where a person is convicted by a Justice of the District Court of an offence under any section of this Act and sentenced to pay any fine, and the boat to which such person belongs has been detained under the provisions of this Act relating to detention of boat and persons pending prosecution, such Justice shall, by order directed to a sea-fisheries protection officer or officers, require such officer or officers in the event of an appeal being lodged against such conviction, to detain further, pending the determination of such appeal, at a specified port in Saorstát Eireann such boat,

and such boat shall, subject to the provisions of the next following sub-section, be detained accordingly. (2) Where an order is made under the immediately preceding sub-section requiring any boat to be detained pending the determination of an appeal against a conviction a Justice of the District Court may, if security, which in the opinion of such Justice is satisfactory, is given for payment, in the event of such conviction being affirmed on such appeal, of a sum to be fixed by such Justice sufficient to cover the amount of the fine and costs (if any) awarded on such conviction and the costs of the prosecutor on such appeal, direct such boat to be released, and such boat shall be released accordingly.

Recovery of fines. 13.-The following provisions shall have effect in relation to the recovery of a fine for an offence under any section of this Act and the costs (if any) ordered to be paid by the person convicted of such offence, that is to say:- ( a ) the court shall fix a time within which such fine and costs (if any) are to be paid; ( b ) where the boat to which such person belongs is at the time of the hearing of the proceedings for such offence detained under this Act, the court shall by order directed to a sea fisheries protection officer or officers require such officer or officers to detain further, until such fine and costs (if any) are paid, at a specified port in Saorstát Eireann such boat, and such boat shall be detained accordingly; ( c ) in the event of such fine and costs (if any) not being paid within the said time, such fine and costs (if any) may be recovered by distress and the sale of such boat; ( d ) nothing in the foregoing paragraphs shall prevent such fine and costs (if any) being recovered from such person by ordinary process of law.

Disposal of forfeited boat, fishing gear, and fish. 14.- (1) Where any boat, fishing gear or fish is forfeited by a court under this Act, such boat, fishing gear, or fish shall be disposed of by the Minister in such manner as he thinks fit. (2) Any moneys arising on the disposal of any boat, fishing gear, or fish under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance shall direct.

Adaptation of Trawling in Prohibited Areas Prevention Act, 1909. 15.-References in the Trawling in Prohibited Areas Prevention Act, 1909, to the United Kingdom shall be construed as references to Saorstát Eireann and the said Act shall be construed and have effect accordingly.

Prosecution of offences. 16.-Any offence under any section of this Act may be prosecuted by or at the suit of the Minister as prosecutor.

Laying of regulations before Houses of Oireachtas. 17.-Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made, and if a resolution annulling such regulation is passed by either such House within the next subsequent twenty-one days on which such House has sat after such regulation is so laid before it, such regulation shall be annulled accordingly but without prejudice to the validity of anything previously done under such regulation.

Expenses. 18.-All expenses of carrying this Act into execution shall to such extent as shall be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Repeal of the Fishery (Ireland) Act, 1888. 19.-The Fishery (Ireland) Act, 1888 is hereby repealed.

Short title and citation. 20.- (1) This Act may be cited as the Sea Fisheries Protection Act, 1933. (2) This Act and the Fisheries Acts, 1842 to 1925, may be cited together as the Fisheries Acts, 1842 to 1933. 1933: Private Act 1 - 3