

Queensland



ANNO UNDECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 39 of 1962

An Act to Amend "The Fish Supply Management Acts,
1935 to 1959," in certain particulars

[ASSENTED TO 21ST DECEMBER, 1962]

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:—

1. (1) This Act may be cited as "*The Fish Supply* Short title
Management Acts Amendment Act of 1962."

(2) "*The Fish Supply Management Acts, 1935 to* Principal Act
1959," are in this Act referred to as the Principal Act.

(3) The Principal Act and this Act may be Collective
collectively cited as "*The Fish Supply Management* title
Acts, 1935 to 1962."

Amendment
of s. 8

2. Section eight of the Principal Act is amended by adding the following paragraph:—

“ The Board may, with the approval of the Minister, at any time and from time to time distribute among persons who have brought fish to a market for sale to or by the Board in accordance with this Act any moneys contained in such reserve fund according to such basis or bases of distribution as the Board, with the approval of the Minister, may determine.”

New ss. 12A,
12B

3. The Principal Act is amended by inserting after section twelve the following sections:—

Power to
borrow from
Treasurer

“ [12A.] (1) For the purpose of enabling the Board to exercise and perform its functions, the Board may, and it is hereby declared always was empowered to, borrow money from the Treasurer.

(2) The Board shall not borrow any moneys unless the authority of the Governor in Council thereto is first obtained.

All moneys borrowed from the Treasurer by the Board shall be expended for the purpose for which the Board was authorised to borrow the same and not otherwise.

(3) Before proceeding to borrow money the Board shall—

- (i) pass a resolution to borrow the money;
- (ii) cause to be prepared—
 - (a) plans and specifications of the projects or full details of such other purpose for which the money is required to be raised;
 - (b) an estimate of the cost thereof;
 - (c) a statement showing the proposed expenditure of the money to be borrowed.

(4) (a) In the months of February and August, respectively, in every year, the Treasurer shall cause to be published in the *Gazette* a statement showing, with

respect to every loan advanced to the Board by the Treasurer, the amount of money which is then overdue and in arrear and also the total of the principal sum then remaining unpaid.

(b) Every loan advanced by the Treasurer under this Act shall be liquidated by the payment to the Treasurer by the Board in the first days of January and July respectively, in every calendar year, of such instalments of principal and interest at the prescribed rates as will permit the said loan to be wholly redeemed within the prescribed period of the said loan, and such sums shall continue to be payable until all the moneys advanced from time to time by the Treasurer, together with the interest accruing thereupon, have been so paid.

The Treasurer may at any time make any adjustment which he considers necessary to be made with respect to the period of the loan or the calculation of interest thereupon or with respect to any other matter requiring adjustment.

(5) (a) Where and so often as all or any part of the amount of money from time to time due and payable by the Board to the Treasurer in respect of any loan pursuant to this Act remains unpaid on the thirtieth day of April or the thirty-first day of October, respectively, next following the publication in the *Gazette* pursuant to paragraph (a) of subsection (4) of this section of the statement showing that such amount of money was in the last previous month of February, or August, as the case may be, overdue and in arrear, the Treasurer may make and levy such fees as he considers needful (for which purpose he shall have all the powers, authorities, jurisdiction and remedies of the Board in that behalf) and may, whether he exercises his remedy as aforesaid or not, appoint, by notification in the *Gazette*, a receiver to collect on his behalf and pay to him all or any moneys chargeable or receivable by or due to the Board, to the amount stated in such notification.

(b) Where a receiver is so appointed the Treasurer may from time to time make all such orders and give all such directions with respect to the powers and duties

of such receiver and the management by him of the business of the Board as the Treasurer thinks proper; and judicial notice shall be taken of all such orders and directions.

(c) Upon the appointment as aforesaid of a receiver, the receiver shall, from the date stated in the notification of his appointment and until the amount stated in the notification of his appointment is collected by him, be the only person legally entitled to receive the revenues of the Board, and shall be deemed to that extent and for that purpose to be a public accountant within the meaning of "*The Audit Acts, 1874 to 1960.*"

(d) A receiver may be appointed under this subsection in respect of the income of the Board either generally or as regards specific income.

(6) A receiver appointed under subsection (5) of this section—

- (a) shall be entitled to such commission or remuneration for his services as the Treasurer may order, and such commission or remuneration shall be payable out of the income for and in respect of which he has been appointed receiver;
- (b) shall have power to collect all the income payable to the Board, which he has been authorised to collect, and for the purposes of this subsection shall be deemed to be the Board and may exercise all the powers of the Board; and
- (c) shall pay and apply all the moneys received by him in the following order, that is to say:—
 - (i) firstly, in payment of the costs, charges and expenses of collection and of his commission or remuneration;
 - (ii) secondly, in payment of the amount due and payable to the Treasurer, together with interest at such rate as may be specified by the Treasurer;
 - (iii) thirdly, in payment of all the residue of the moneys to the Board.

[12B.] The Board may, at any time, with the approval of the Minister, guarantee any loan made by any person to a fisherman or any other person engaged in or in connection with the fishing industry, or to any agent or employee of any fisherman or other person so engaged, for any purpose of or connected with the engagement of such fisherman, or other person, agent, or employee in or in connection with the fishing industry.” Loans for fishermen

4. Section thirteen of the Principal Act is amended by in subsection (4) omitting the words “The Board shall not ” and inserting in their stead the words “Except as provided in section eight of this Act, the Board shall not ”. Amendment of s. 13

5. (1) Section 27A of the Principal Act is amended by— Amendments of s. 27A

(a) omitting subsections (1), (2), (3), (4), (5), (6) and (7) and inserting in their stead the following subsections:—

“(1) The Board may, from time to time, in its discretion, issue and renew buyers’ licenses under this Act. Licenses

(2) A buyer’s license shall authorise the holder thereof to purchase fish at the market specified therein in accordance with the terms and conditions set out in the license, but no such license shall authorise the holder thereof to purchase less than one tray of fish at any one time. Buyers licenses

(3) Subject to this Act each and every buyer’s license and every renewal thereof shall take effect from the date of issue or, as the case may be, renewal of that license, and shall, unless the license is sooner cancelled or surrendered, expire on the seventh day of May next following the date of issue or, as the case may be, renewal of that license. Term of buyer’s license

(4) The Board may from time to time, in its discretion, by endorsement on any buyer’s license— Transfer &c., of buyers’ licenses

(a) upon application by the holder of that license—

- (i) transfer that license to any other person; or
- (ii) authorise any other person to act as substitute for that holder for such period as it thinks fit; or

- (b) upon the death or bankruptcy of the holder of that license, transfer that license to any person shown to be entitled thereto; and
- (c) do any other prescribed thing.

Fees for
buyers'
licenses

(5) (a) There shall be payable in respect of each and every buyer's license, and in respect of each and every renewal thereof, such fees as are from time to time determined by the Governor in Council by Order in Council.

(b) The Governor in Council may from time to time by Order in Council determine the amount of fees payable under this subsection:

Provided that, until such fees are first determined by Order in Council under this subsection, the following fees shall be payable, that is to say:—

Where the holder of a buyer's license is authorised to purchase fish—

of a quantity of 1,250 lbs. or more per week, £10;

of a quantity of 500 lbs. or more (but less than 1,250 lbs.) per week, £6;

of a quantity of 150 lbs. or more (but less than 500 lbs.) per week, £3;

of a quantity less than 150 lbs. per week, 10s.

Provided further that if on the issue of any buyer's license the term of that license will only extend for a period of six months or less then only half the fee shall be payable in respect of the issue of that license.

Fees for
endorsements
on buyers'
licenses

(6) (a) There shall be payable in respect of each and every endorsement on any buyer's license such fees as are from time to time determined by the Governor in Council by Order in Council.

(b) The Governor in Council may, from time to time, by Order in Council, determine the amount of the fees payable under this subsection:

Provided that, until such fees are first determined by Order in Council under this subsection, there shall be payable in respect of each and every endorsement on any buyer's license the fee of ten shillings.”;

(b) renumbering subsections (8), (9) and (10) as subsections (7), (8) and (9) respectively;

(c) in subsection (11)—

(i) omitting the first paragraph (being the paragraph ending with the words “ contained in such distributor’s license ”) and inserting in its stead the following paragraph:—

“ Except under the authority of and in compliance in every respect with the requirements of a permit granted under section 27C of this Act, the onus of proof whereof shall rest upon the defendant, no person shall at any time after the commencement of “ *The Fish Supply Management Acts Amendment Act of 1962,*” purchase fish in any market unless he is the holder of a buyer’s license issued under this section authorising him to purchase that fish in that market and unless he complies in every respect with the terms and conditions of that buyer’s license.”; and

(ii) renumbering that subsection (as amended by subparagraph (i) of this paragraph (c)) as subsection (10);

(d) omitting subsection (12); and

(e) in subsection (13)—

(i) omitting the figures “ 1951 ” and inserting in their stead the figures “ 1962 ”; and

(ii) renumbering that subsection (as amended by subparagraph (i) of this paragraph (e)) as subsection (11).

(2) Subsection (1) of this section shall come into force on the first day of January, one thousand nine hundred and sixty-three:

Provided that—

(a) every license issued under the provisions of section 27A of the Principal Act and in force immediately prior to the coming into force of subsection (1) of this section shall continue and remain in force under and subject to the provisions of the Principal Act (which provisions shall for this purpose and to this extent be read and construed as if subsection

- (1) of this section had not come into force) until it expires by effluxion of time or is cancelled or otherwise terminated but no such license shall be capable of being renewed;
- (b) every action or proceeding of whatever nature under any provision of section 27A of the Principal Act commenced or pending at the coming into force of subsection (1) of this section may be carried on and prosecuted and any penalties may be imposed and enforced with respect thereto as if that subsection had not come into force and no such action shall abate or be discontinued by virtue of the coming into force of that subsection; and
- (c) every investigation and inquiry commenced with respect to any provision of section 27A of the Principal Act prior to the coming into force of subsection (1) of this section may be continued and concluded as if that subsection had not come into force, and any offence against any provision of section 27A of the Principal Act committed prior to the coming into force of subsection (1) of this section may be investigated and prosecuted and any penalties may be imposed and enforced with respect thereto as if that subsection had not come into force.

Amendments
of s. 37

6. (1) Subsection (1) of section thirty-seven of the Principal Act is amended—

(a) by omitting from the second paragraph subparagraph (1A) and inserting, in its stead, the following subparagraph:—

“(1A.) Regulating and controlling the guarantee by the Board under this Act of loans to fishermen and other persons engaged in the fishing industry and agents and employees of such fishermen or other persons.”; and

(b) by inserting in the second paragraph after subparagraph (1B), the following subparagraph:—

“(1c.) Regulating the cancellation of licenses.”

(2) Any loan made prior to the commencement of this Act by the Board to any fisherman or other person engaged in the fishing industry or any agent or employee of such fisherman or other person is hereby declared to be a valid and binding contract between the parties thereto, enforceable as such in all respects according to the terms thereof.