



Number 40 of 2001

FISHERIES (AMENDMENT) ACT, 2001

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[No. 40.] *Fisheries (Amendment) Act, 2001.* [2001.]

ACTS REFERRED TO

European Parliament Elections Act, 1997	1997, No. 2
Fisheries Act, 1980	1980, No. 1
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Fisheries (Amendment) Act, 1997	1997, No. 23
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Number 40 of 2001

FISHERIES (AMENDMENT) ACT, 2001

AN ACT TO AMEND AND EXTEND THE FISHERIES (AMENDMENT) ACT, 1997, TO CONFIRM FEES PAYABLE TO THE MINISTER FOR THE MARINE AND NATURAL RESOURCES IN RESPECT OF CERTAIN FISH CULTURE AND AQUACULTURE LICENCES AND FOR RELATED PURPOSES. [27th November, 2001]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act “Act of 1997” means the Fisheries (Amendment) Act, 1997 (as amended and extended by the Fisheries and Foreshore (Amendment) Act, 1998). Definition.

2.—Section 3 of the Act of 1997 is amended by the insertion after the definition of “licensing authority” of the following definition: Amendment of section 3 of Act of 1997.

“‘local authority’ means a local authority for the purposes of the Local Government Act, 1941;”.

3.—Section 23 of the Act of 1997 is amended by the insertion after subsection (1) of the following subsection: Amendment of section 23 of Act of 1997.

“(1A) A person who is, for the time being—

- (a) entitled under the Standing Orders of either House of the Oireachtas to sit therein,
- (b) a member of the European Parliament, or
- (c) a member of a local authority,

shall be disqualified from being appointed as the Chairperson or member of the Board.”.

4.—Section 24(4) of the Act of 1997 is amended by the substitution of the following for paragraph (c): Amendment of section 24(4) of Act of 1997.

“(c) is regarded, pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act, 1997, as having been elected to that Parliament to fill a vacancy, or

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(d) becomes a member of a local authority.”.

New sections 35A to 35D of Act of 1997.

5.—The Act of 1997 is amended by the insertion of the following after section 35:

“Employees of Board.

35A.—(1) The Board shall appoint such and so many persons to be employees to the Board as the Board, subject to the approval of the Minister, given with the consent of the Minister for Finance, as to the number and kind of those employees, from time to time considers appropriate.

(2) The Board may employ a person in a part-time capacity to be remunerated by the payment of fees in such amounts as the Board may, with the approval of the Minister, given with the consent of the Minister for Finance, from time to time determine.

(3) An employee of the Board holds his or her employment on such terms and conditions as the Board, subject to the approval of the Minister, given with the consent of the Minister for Finance, from time to time determines.

(4) There shall be paid by the Board to its employees out of moneys at its disposal such remuneration and allowances as the Board, subject to the approval of the Minister, given with the consent of the Minister for Finance, from time to time determines.

Superannuation of employees of Board.

35B.—(1) The Board shall prepare and submit to the Minister for his or her approval, a scheme or schemes for the granting of pensions, gratuities and other allowances on retirement or death to or in respect of such whole-time employees of the Board as it considers appropriate.

(2) The Board may, at any time, prepare and submit to the Minister a scheme amending a scheme under this section.

(3) Where a scheme is submitted to the Minister pursuant to this section, the Minister may, with the consent of the Minister for Finance, approve the scheme without modification or with such modification (whether by way of addition, omission or variation) as the Minister, with such consent, thinks proper.

(4) A scheme submitted to the Minister under this section shall, if approved of by the Minister, with the consent of the Minister for Finance, be carried out by the Board in accordance with its terms.

(5) A scheme approved of under this section shall fix the time and conditions of retirement for all persons to or in respect of whom pensions, gratuities or other allowances are payable under

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the scheme, and different times and conditions S.5
may be fixed in respect of different classes of
persons.

(6) If a dispute arises as to the claim of a person to, or the amount of, a pension, gratuity or other allowance payable in pursuance of a scheme under this section, the dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final.

(7) Every scheme approved of under this section shall be laid before each House of the Oireachtas as soon as may be after it is approved of and if either House within the next 21 days on which that House has sat after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Provision of services by Minister to Board and Board to Minister.

35C.—(1) For the purpose of enabling the Board to perform its functions, the Minister may provide services (including services of staff) to the Board, on such terms and conditions (including payment for such services) as may be agreed, and the Board may avail itself of such services.

(2) The Board may provide services (including services of staff) to the Minister on such terms and conditions (including payment for such services) as may be agreed, and the Minister may avail himself or herself of such services.

Membership of either House of Oireachtas, etc.

35D.—(1) Where a person who is an employee of the Board is nominated as a member of Seanad Éireann or for election to either House of the Oireachtas or the European Parliament, or is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act, 1997, as having been elected to that Parliament to fill a vacancy, or becomes a member of a local authority, he or she shall stand seconded from employment by the Board and shall not be paid by, or be entitled to receive from, the Board any remuneration or allowances—

(a) in case he or she is nominated as a member of Seanad Éireann — in respect of the period commencing on his or her acceptance of the nomination and ending when he or she ceases to be a member of that House,

(b) in case he or she is nominated for election to either such House or to the European Parliament or is regarded as having been elected to the European Parliament — in respect of the period commencing on his or her nomination or appointment and ending when he or she ceases to be a

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member of that House or Parliament or fails to be elected or withdraws his or her candidature, as may be appropriate, or

(c) in case he or she becomes a member of a local authority — in respect of the period commencing on his or her becoming a member of the local authority and ending when he or she ceases to be a member of that authority.

(2) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or is a member of the European Parliament is, while he or she is so entitled or is such a member, disqualified from being an employee of the Board.

(3) A person who is for the time being a member of a local authority is, while holding office as such member, disqualified from becoming an employee of the Board.”.

Amendment of section 30(1) of Act of 1997.

6.—Section 30(1) of the Act of 1997 is amended by the insertion after “adviser engaged by the Board” of “or an employee of the Board or a person of whose services the Board has availed itself pursuant to section 35C”.

Amendment of section 31 of Act of 1997.

7.—Section 31 of the Act of 1997 is amended by the insertion—

(a) in subsection (1), after “adviser engaged by the Board” of “or an employee of the Board or a person of whose services the Board has availed itself pursuant to section 35C”, and

(b) in subsection (2), after “adviser” of “or employee of the Board or a person of whose services the Board has availed itself pursuant to section 35C”.

Amendment of section 33(2) of Act of 1997.

8.—Section 33(2) of the Act of 1997 is amended by the substitution of the following for paragraphs (c) and (d):

“(c) the secretary of the Board,

(d) each consultant or adviser engaged by the Board, and

(e) each employee of the Board and each person of whose services the Board has availed itself pursuant to section 35C.”.

Amendment of section 34(1) of Act of 1997.

9.—Section 34(1) of the Act of 1997 is amended by the insertion after “adviser engaged by the Board” of “or an employee of the Board or a person of whose services the Board has availed itself pursuant to section 35C”.

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10.—Section 40 of the Act of 1997 is amended by the insertion of the following after subsection (7)—

Amendment of section 40 of Act of 1997.

“(8) (a) A determination of an appeal under this section (including an appeal to which section 52 refers) and the notification of that determination shall state the main reasons and considerations on which the determination is based.

(b) The Board shall, on request from any person, provide a summary of the main reasons and considerations on which the determination of an appeal before the commencement of the *Fisheries (Amendment) Act, 2001*, was based.”.

11.—Section 57 of the Act of 1997 is amended—

Amendment of section 57 of Act of 1997.

(a) by the deletion of subsections (2) and (3), and

(b) in subsection (7), by the substitution for “a person appointed” of “a consultant or adviser engaged under section 35(1) or an employee of the Board or a person of whose services the Board has availed itself pursuant to section 35C”.

12.—The Act of 1997 is amended by the insertion of the following after section 57—

New section 57A of Act of 1997.

“Board or consultant or adviser or employee or other person may inspect land, etc.

57A.—(1) The Board or a consultant or adviser engaged under section 35(1) or an employee of the Board or a person of whose services the Board has availed itself pursuant to section 35C to carry out an inspection on its behalf as referred to in section 59 may visit and inspect any land, foreshore or area or water to which an appeal under this Chapter relates, whether or not the appeal is the subject of an oral hearing.

(2) A person who obstructs the Board or a consultant or adviser engaged by the Board in the performance of the Board’s or that consultant’s or adviser’s or employee’s or person’s functions under subsection (1) shall be guilty of an offence.”.

13.—Section 59 of the Act of 1997 is amended by the substitution for “by a person appointed for the purpose by the Board, the person so appointed” of “by a consultant or adviser engaged under section 35(1) for the purpose of the inspection or oral hearing or an employee of the Board or a person of whose services the Board has availed itself pursuant to section 35C, the consultant, adviser, employee or person”.

Amendment of section 59 of Act of 1997.

14.—(1) In section 15 (repealed by section 5 of the Act of 1997) of the Principal Act—

Confirmation of fees payable to Minister in respect of certain fish culture and aquaculture licences.

(a) in subsection (1) (as amended by section 63(a) of the Act of 1980) reference to the prescribed fee shall be construed as reference to a fee determined by the Minister, and

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(b) in subsection (6)(a) (inserted by section 63(b) of the Act of 1980) reference to prescribe shall be construed as reference to determine,

in respect of any fee payable under that section in relation to fish culture licences granted under section 15 of the Principal Act before the repeal of that section.

(2) In section 54 (repealed by section 4 of the Act of 1997) of the Act of 1980—

(a) in subsection (9)(a), reference to the prescribed fee shall be construed as reference to a fee determined by the Minister, and

(b) in subsection (9)(b), reference to prescribe shall be construed as reference to determine,

in respect of any fee payable under that section in relation to aquaculture licences granted under section 54 of the Act of 1980 before the repeal of that section.

(3) Any fees payable to the Minister, in respect of fish culture licences under section 15 of the Principal Act and aquaculture licences under section 54 of the Act of 1980 before the repeal of those sections, are confirmed.

(4) In this section—

“Act of 1980” means Fisheries Act, 1980;

“Principal Act” means Fisheries (Consolidation) Act, 1959.

Short title,
collective citation
and construction.

15.—(1) This Act may be cited as the Fisheries (Amendment) Act, 2001.

(2) The Fisheries Acts, 1959 to 2000, and this Act may be cited together as the Fisheries Acts, 1959 to 2001, and shall be construed together as one.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
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4 - 5 BÓTHAR FHEARCHAIR, BAILE ÁTHA CLIATH 2,
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