



Number 54 of 1998

FISHERIES AND FORESHORE (AMENDMENT) ACT 1998

REVISED

Updated to 1 January 2019

This Revised Act is an administrative consolidation of the *Fisheries and Foreshore (Amendment) Act 1998*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Central Bank (National Claims Information Database) Act 2018* (42/2018), enacted 28 December 2018, and all statutory instruments up to and including *Criminal Justice (Suspended Sentences of Imprisonment) Act 2017 (Commencement) Order 2019* (S.I. No. 1 of 2019), made 3 January 2019, were considered in the preparation of this Revised Act.

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ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Applications for certain aquaculture licences.
3. Provisions relating to certain aquaculture licences.
4. Persons not to engage in aquaculture in anticipation of grant of licence.
5. Amendment of Act of 1933.
6. Amendment of Fishery Harbour Centres Act, 1968.
7. Short title, collective citation and construction.

ACTS REFERRED TO

Fisheries Act, 1980	1980, No. 1
Fisheries Acts, 1959 to 1997	
Fisheries (Amendment) Act, 1997	1997, No. 23
Fisheries (Consolidation) Act, 1959	1959, No. 14
Fishery Harbour Centres Act, 1968	1968, No. 18
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Foreshore Act, 1933	1933, No. 12
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AN ACT TO AMEND AND EXTEND THE FISHERIES ACTS, 1959 TO 1997, THE FORESHORE ACT, 1933, AND THE FISHERY HARBOUR CENTRES ACT, 1968, AND TO PROVIDE FOR CONNECTED MATTERS. [23rd December, 1998]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—(1) In this Act—

“the Act of 1933” means the *Foreshore Act, 1933*;

“the Act of 1980” means the *Fisheries Act, 1980*;

“the Act of 1997” means the *Fisheries (Amendment) Act, 1997*;

F1[“ Minister ” means the Minister for Agriculture, Fisheries and Food;]

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

(2) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment including this Act.

Applications for certain aquaculture licences.

2.—(1) Where before the commencement of *section 74* of the Act of 1997 an application was made for a fish culture licence under *section 15* of the Principal Act such application shall—

(a) be deemed always to have been capable of being so made under the said *section 15* notwithstanding the enactment of *section 54* of the Act of 1980, and

(b) be determined in accordance with the said *section 74*.

(2) Where pursuant to *section 19* of the Act of 1933 the Minister has caused notice of an application for a licence for the purposes of aquaculture to be published in accordance with the said section 19, then such notice shall be deemed to be a public notice for the purposes of subsection (3) of *section 74* of the Act of 1997.

Provisions relating to certain aquaculture licences.

3.—(1) Subject to *subsection (2)* of this section, where before the commencement of *section 75* of the Act of 1997 there was purported to be granted—

(a) a foreshore licence for aquaculture purposes under the Act of 1933, or

(b) a fish culture licence under *section 15* of the Principal Act,

then such purported grant of the licence concerned shall be deemed to have been duly made and, accordingly, shall be deemed by virtue of the said **section 75** to be an aquaculture licence granted under the Act of 1997.

(2) Where a foreshore licence is deemed to be an aquaculture licence under *subsection (1)* of this section then the following shall apply:

- (a) the Minister shall, as soon as practicable, issue a draft aquaculture licence to the licensee concerned and shall give by post to the licensee not less than 28 days notice in writing stating that the Minister proposes to grant the licence subject to such terms and conditions as are contained in the draft licence;
- (b) the Minister shall consider any representations in relation to the draft licence made to the Minister by the licensee before the expiration of the notice;
- (c) the Minister shall notify the licensee in writing of his or her decision in respect of the draft licence and shall publish notice of the decision—
 - (i) as soon as practicable after making the decision in a newspaper circulating in the vicinity of the aquaculture, and
 - (ii) in addition, in the *Iris Oifigiúil* if an environmental impact statement was required;
- (d) **section 14** and Chapter II of the Act of 1997 shall apply to the decision of the Minister in respect of the draft licence as if it was a determination or a decision in respect of an application for an aquaculture licence.

(3) Where a licence is deemed to be an aquaculture licence under—

- (a) *subsection (1)* of this section, or
- (b) **section 75** of the Act of 1997,

then the licensee shall be liable for such fees as are prescribed by the Minister under the Act of 1997 including fees payable—

- (i) on each anniversary of the granting of the licence while the licence is in force,
- (ii) in respect of an application for the renewal of the licence, and
- (iii) in respect of an application under **section 70** of the Act of 1997 for a review of the licence.

(4) Notwithstanding *subsection (1)* of this section, in the case of a foreshore licence which is deemed to be an aquaculture licence under the said *subsection (1)*, the provisions of the Foreshore Acts, 1933 and 1992, shall apply to such foreshore licence.

(5) Where a licence is deemed under *subsection (1)* of this section to be an aquaculture licence and such deeming would, but for this subsection, conflict with a constitutional right of any person, then the licence concerned shall be subject to such limitation as is necessary to secure that it does not so conflict but shall be otherwise of full force and effect.

Persons not to engage in aquaculture in anticipation of grant of licence.

4.—(1) On and from the 10th day of December, 1998, an application for an aquaculture licence shall not be accepted, or if accepted shall not be determined, if the applicant or any person on behalf of the applicant commences to engage in aquaculture at the place or waters to which the application relates before a licence is granted under the Act of 1997.

(2) **Section 11** of the Act of 1997 is hereby repealed.

Amendment of
Act of 1933.

5.—(1) The Act of 1933 is hereby amended—

- (a) in **section 12**, by the deletion of paragraph (b) of subsection (2), and
- (b) in **section 14**, by the insertion after subsection (2) of the following subsections:
 - “(3) Whenever a person is convicted of an offence under subsection (2) of this section, the Court by whom such person is so convicted may, if appropriate in the circumstances and such Court so thinks proper, make an order requiring such person, within a specified time—
 - (a) to remove the article concerned from the place where it would or might cause injury to a person to whom subsection (1) of this section relates, or
 - (b) to remove such material or substance from a place where it would or might be injurious or offensive to a person to whom subsection (1) of this section relates.
 - (4) If any person in respect of whom an order has been made under subsection (3) of this section fails to comply with such order, such person shall be guilty of an offence under this subsection and shall be liable—
 - (a) on summary conviction, to a fine not exceeding £1,500, or to imprisonment for a term not exceeding 12 months, or to both, or
 - (b) on conviction on indictment, to a fine not exceeding £100,000, or to imprisonment for a term not exceeding two years, or to both.”.

(2) A person who is guilty of an offence under subsection (2) or (4) of **section 13**, or subsection (2) of **section 14** of the Act of 1933 shall, in lieu of the penalties provided under each of those subsections, be liable—

- (a) on summary conviction, to a fine not exceeding £1,500, or to imprisonment for a term not exceeding 12 months, or to both, or
- (b) on conviction on indictment, to a fine not exceeding £100,000, or to imprisonment for a term not exceeding two years, or to both.

Amendment of
**Fishery Harbour
Centres Act,
1968**,

6.—The **Fishery Harbour Centres Act, 1968**, is hereby amended by the substitution of the following for **section 5**:

“Use of property vested in Minister by this Act.

5.—The Minister shall have, and be deemed always to have had, power—

- (a) to use any property vested in the Minister by this Act for—
 - (i) (A) any purpose connected with the improvement and development of the fishing industry, or
 - (B) the provision, improvement and development of services and facilities ancillary to or connected with the fishing industry, which the Minister considers appropriate, and
 - (ii) any other purpose, including the provision, improvement and development of leisure or amenity facilities or for facilitating or amenity facilities or for facilitating or promoting the social or economic development of the area in which the fishery harbour centre is located, which the Minister considers advantageous and appropriate in respect of the operation or development of the fishery harbour centre,

and

(b) to sell, lease, let, exchange, grant easements over, *profits à prendre* in respect of or permit the use of any land so vested for any of those purposes which the Minister considers appropriate.”.

Short title,
collective citation
and construction.

7.—(1) This Act may be cited as the Fisheries and Foreshore (Amendment Act, 1998).

(2) The Fisheries Acts, 1959 to 1997, *sections 2 to 4* of this Act and, in so far as they relate to those sections, *section 1* of this Act and this section may be cited together as the Fisheries Acts, 1959 to 1998, and shall be construed together as one Act.

(3) The Foreshore Acts, 1933 and 1992, *section 5* of this Act and, in so far as they relate to that section, *section 1* of this Act and this section may be cited together as the Foreshore Acts, 1933 to 1998, and shall be construed together as one Act.

(4) The Fishery Harbour Centres Acts, 1968 to 1992, *section 6* of this Act and, in so far as they relate to that section, *section 1* of this Act and this section may be cited together as the Fishery Harbour Centres Acts, 1968 to 1998, and shall be construed together as one Act.



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About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Aquaculture Acts 1997 to 2006: this Act, ss. 2, 3 and 4, is one of a group of Acts included in this collective citation, to be construed together as one (*Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006), s. 1(3)). The Acts in this group are:

- *Fisheries (Amendment) Act 1997* (23/1997)
- *Fisheries and Foreshore (Amendment) Act 1998* (54/1998), ss. 2, 3 and 4
- *Fisheries (Amendment) Act 2001* (40/2001)
- *Sea-Fisheries and Maritime Jurisdiction Act 2000* (60/2006), s. 101

Fisheries Acts 1959 to 2007: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Water Services Act 2007* (21/2007), s. 1(5)). The Acts in this group are:

- *Fisheries (Consolidation) Act 1959* (14/1959)
- *Fisheries (Amendment) Act 1962* (31/1962)
- *Fisheries (Amendment) Act 1964* (23/1964)
- *Fisheries (Amendment) Act 1976* (23/1976)
- *Fisheries Act 1980* (1/1980)
- *Fisheries (Amendment) Act 1987* (14/1987)
- *Fisheries (Amendment) (No. 2) Act 1987* (32/1987)
- *Local Government (Water Pollution) (Amendment) Act 1990* (21/1990), ss. 23, 25 and 28 in so far as they relate to *Fisheries Acts 1959 to 1987*
- *Fisheries (Amendment) Act 1991* (26/1991)
- *Fisheries (Amendment) Act 1994* (23/1994)
- *Fisheries (Amendment) Act 1995* (27/1995)
- *Fisheries (Commissions) Act 1997* (1/1997)
- *Fisheries (Amendment) Act 1997* (23/1997)
- *Fisheries and Foreshore (Amendment) Act 1998* (54/1998), ss. 2-4 and, in so far as they relate to those sections, ss. 1 and 7(2)
- *Fisheries (Amendment) Act 1999* (35/1999)
- *Fisheries (Amendment) Act 2001* (40/2001)
- *Fisheries (Amendment) Act 2003* (21/2003), other than s. 32 and s. 2 in so far as it relates to s. 32
- *Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006), other than Part 3 and ss. 100, 102-104

- *Water Services Act 2007* (30/2007), ss. 1(5) and 111

Fishery Harbour Centres Acts 1968 to 2015: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Vehicle Clamping Act 2015* (13/2015), s. 1(4))). The Acts in this group are:

- *Fishery Harbour Centres Act 1968* (18/1968)
- *Fishery Harbour Centres Act 1980* (22/1980)
- *Fishery Harbour Centres (Amendment) Act 1992* (10/1992)
- *Fishery Harbour Centres (Amendment) Act 1998* (54/1988), s. 6 and, in so far as they relate to that section, ss. 1 and 7(4)
- *Maritime Safety Act 2005* (11/2005), s. 54
- *Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006), s. 102
- *Vehicle Clamping Act 2015* (13/2015), s. 35

Foreshore Acts 1933 to 2014: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Local Government Reform Act 2014* (1/2014), s. 1(13))). The Acts in this group are:

- *Foreshore Act 1933* (12/1933)
- *Foreshore (Amendment) Act 1992* (17/1992)
- *Fisheries and Foreshore (Amendment) Act 1998* (54/1998), ss. 1 and 7(3) insofar as they relate to s. 5
- *Fisheries (Amendment) Act 2003* (21/2003), s. 32 and s. 2 insofar as it relates to s. 32
- *Maritime Safety Act 2005* (11/2005), Part 6
- *Foyle and Carlingford Fisheries Act 2007* (17/2007), s. 35
- *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), other than ss. 1(3) and 1(5), Part 3 and Schedule 2
- *Foreshore (Amendment) Act 2011* (11/2011)
- *Local Government Reform Act 2014* (1/2014), s. 1(13) and the amendment to the *Foreshore (Amendment) Act 1992* provided for in s. 5(6) and Schedule 2, Part 6

Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1978, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.