

Penalty. 4. Any person acting in contravention of the provisions of this Law shall be guilty of an offence under this Law and shall be liable upon summary conviction before a Court of Magisterial jurisdiction to a fine not exceeding one pound or in default of payment thereof to a period of imprisonment not exceeding one week.

## 9 OF 1922.

### TO PROVIDE FOR THE REGULATION OF OYSTER FISHERIES.

MALCOLM STEVENSON.]

[March 13, 1922.]

Short title.

1. This Law may be cited as the Oyster Fisheries Law, 1922.

Interpretation.

2. In this Law:—

“Oysters” include the brood, ware, half-ware, spat, and spawn of oysters.

Power to High Commissioner in Council on memorial to make order for oyster fishery.

3. An order for the establishment or improvement, and for the maintenance and regulation, of an oyster fishery on the shore and bed of the sea, above or below, or partly above and partly below, low-water mark (which shore and bed are in this Law referred to as the sea-shore), may be made by the High Commissioner in Council under this Law, on an application by a memorial in that behalf presented to the Commissioner by any persons desirous of obtaining such an order (which persons are in this Law referred to as the promoters).

Publication of draft order and notice to owners of adjoining lands, etc.

4. If on consideration of the memorial the High Commissioner in Council thinks fit to proceed in the case, the promoters shall cause copies of the draft of the order as proposed by them (with such modifications, if any, as the High Commissioner in Council requires) to be published and circulated in such manner as the High Commissioner in Council thinks sufficient and proper for giving information to all parties interested, and shall give notice of the application, in such manner as the High Commissioner in Council directs or approves, to the owners or reputed owners, lessees or reputed lessees, and occupiers (if any) of the portion of the sea-shore to which the proposed order relates, and of the lands adjoining thereto.

Objections and representations respecting order.

5. During one month after the first publication of the draft order the Commissioner shall receive any objections or representations made to him in writing respecting the proposed order.

Inquiry into proposed order by public sittings.

6. The Commissioner shall as soon as conveniently may be after the expiration of the said month proceed to make an inquiry concerning the subject matter of the proposed order, and for that purpose

hold a sitting or sittings in some convenient place in the neighbourhood of the portion of the sea-shore to which the proposed order relates, and thereat to take and receive any evidence and information offered, and hear and inquire into any objections or representations made respecting the proposed order, with power from time to time to adjourn any sitting; and the Commissioner may, for the purpose of such inquiry, take evidence, and by summons under his hand require the attendance of any person, and examine him and any person who attends before him, on oath or otherwise, as he thinks expedient, and may administer an oath or take any affidavit for the purpose of the inquiry; and any person so summoned who, after tender to him of his reasonable expenses, refuses or neglects to obey such summons, and any person who refuses or neglects to answer any question which the Commissioner is authorized to ask, shall be liable to a penalty not exceeding ten pounds for each offence; and any person who wilfully gives false evidence in any examination on oath in any such inquiry, or in an affidavit to be used in any such inquiry, shall be deemed guilty of perjury.

Notice shall be published in such manner as the Commissioner directs of every such sitting (except an adjourned sitting) fourteen days at least before the holding thereof.

7. The Commissioner shall make a report in writing to the High Commissioner setting forth the result of the inquiry, and stating whether in his opinion the proposed order should be approved, with or without alteration, and if with any, then with what alteration, and his reasons for the same, and the objections and representations, if any, made on the inquiry, and his opinion thereon.

Report of  
Commis-  
sioner as to  
proposed  
order.

8. As soon as conveniently may be after the receipt by the High Commissioner of the report of the Commissioner, the High Commissioner in Council shall proceed to consider the objections or representations that have been made respecting the proposed order and also the report of the Commissioner, and thereupon he shall either refuse the application or settle and make an order in such form and containing such provisions as he thinks expedient.

Settlement  
and making  
of order.

9. Where the High Commissioner in Council makes an order, the promoters shall cause it to be published and circulated in such manner as the High Commissioner in Council thinks sufficient for giving information to all parties interested, and shall give notice of it, in such manner as the High Commissioner in Council directs or approves, to the owners or reputed owners, lessees, or reputed lessees, and occupiers (if any) of the portion of the sea-shore to which the order relates, and of the lands adjoining thereto.

Publication  
of order.

Expenses  
connected  
with order.

10. All expenses incurred in relation to any memorial, or to any order consequent thereon, shall be defrayed by the promoters, and the Commissioner shall, if he thinks fit, on or at any time after the presentation of the memorial, require the promoters to pay to the Commissioner such sum as the Commissioner thinks requisite for or on account of those expenses, or to give security to the satisfaction of the Commissioner for the payment of those expenses on demand.

Effect of  
grant of  
oyster  
fishery.

11. Where an order of the High Commissioner in Council under this Law confers a right of oyster fishery, the persons obtaining the order, in this Law referred to as the grantees, shall, by virtue of the order and of this Law, but subject to any restrictions and exceptions contained in the order, have, within the limits of the fishery, the exclusive right of depositing, propagating, dredging, and fishing for, and taking oysters, and in the exercise of that right may, within the limits of the fishery, proceed as follows, namely, make and maintain oyster beds, and at any season collect oysters, and remove the same from place to place, and deposit the same as and where they think fit, and do all other things which they think proper for obtaining, storing, and depositing of the produce of their fishery.

Fishery to  
be within  
district for  
purposes of  
jurisdiction.

12. The portion of the sea-shore to which an order under this Law relates (as far as it is not by law within the body of any district) shall for all purposes of jurisdiction be deemed to be within the body of the adjoining district, or to be within the body of each of the adjoining districts, if more than one.

Limitation  
on term of  
fishery.

13. The High Commissioner in Council shall not in any case make an order conferring a right of oyster fishery for a longer period at once than twenty-five years.

Property in  
oysters  
within  
fishery.

14. All oysters being in or on an oyster bed within the limits of an oyster fishery granted under this Law shall be the absolute property of the grantees, and in all Courts of Law and elsewhere, and for all purposes, civil, criminal or other, shall be deemed to be in the actual possession of the grantees.

Property in  
oysters  
removed  
from fishery.

15. All oysters removed by any person from an oyster bed within the limits of any oyster fishery, and not disposed of by or under the authority of the grantees, shall be the absolute property of the grantees, and in all Courts of Law and elsewhere, and for all purposes, civil, criminal, or other, the absolute right to the possession thereof shall be deemed to be in the grantees.

Protection  
of fishery.

16. It shall not be lawful for any person other than the grantees, their agents, servants, and workmen, within the limits of any oyster

fishery, or in any part of the space within the same described in this behalf in the order, knowingly to do any of the following things:—

To use any implement of fishing, except a line and hook or a net adapted solely for catching floating fish, and so used as not to disturb or injure in any manner any oyster bed, or oysters, or the oyster fishery;

To dredge for any ballast or other substance except under a lawful authority for improving the navigation;

To deposit any ballast, rubbish, or other substance;

To place any implement, apparatus, or thing prejudicial or likely to be prejudicial to any oyster bed, or oysters, or to the oyster fishery, except for a lawful purpose of navigation or anchorage;

To disturb or injure in any manner, except as last aforesaid, any oyster bed, or oysters, or the oyster fishery;

and if any person does any act in contravention of this section he shall be liable to a penalty not exceeding two pounds for the first offence, and not exceeding five pounds for the second offence, and not exceeding ten pounds for the third and every subsequent offence; and every such person shall also be liable to make full compensation to the grantees for all damage sustained by them by reason of his unlawful act, and in default of payment the same may be recovered from him by the grantees by proceeding in any court of competent jurisdiction, whether he has been prosecuted for or convicted of an offence against this section or not.

17. Provided always, that nothing in the last foregoing section shall make it unlawful for any person to do any of the things therein mentioned, if at the time of his doing the same the limits of the oyster fishery or of the space within the same described in that behalf in the order are not sufficiently marked out in manner prescribed by or under the order, or if notice of those limits has not been given to him in manner so prescribed.

Limits of fishery to be kept marked out.

18. When two or more oyster fisheries held by different grantees are contiguous to each other, and any proceeding is taken against any person for stealing oysters from any bed formed under an order made in pursuance of this Law, it shall be sufficient, in alleging and proving the property and lawful possession of the oysters stolen, and the place from which they were stolen, to allege and prove that they were the property of and in the lawful possession of one or other of such grantees, and were stolen from one or other of such contiguous fisheries.

Contiguous fisheries.