



Australian Capital Territory

Fisheries Act 2000 No 38

Republication No 7

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Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Fisheries Act 2000* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 10 December 2003. It also includes any amendment, repeal or expiry affecting the republished law to 10 December 2003.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Fisheries Act 2000

Contents

	Page	
Part 1	Preliminary	
1	Name of Act	2
3	Objects	2
4	Dictionary	2
Part 2	Fisheries management plan	
5	Content of fisheries management plan	3
6	Preparation of fisheries management plan	3
7	Consultation on draft plan	3
8	Consideration of suggestions etc and revision of draft plan	4
8A	Formal changes to draft plan	4
9	Submission of draft plan to Minister	5
10	Minister's powers about draft plan	5

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contents 1

Contents

	Page
11 Referral back of draft plan to conservator	5
12 Fisheries management plan disallowable instrument etc	6
Part 3 Fishing closures and declarations	
13 Fishing closures	7
14 Declaration of noxious fish	7
15 Declaration of fish of prohibited size or weight	7
16 Declaration of fish quantity	7
17 Declaration of fishing gear	8
Part 4 Licences	
Division 4.1 Kinds of licences	
19 Kinds of licences	9
20 Commercial fishing licences	9
21 Scientific licences	9
22 Import and export licences	9
Division 4.2 Issue of licences	
23 Applications for licences	10
24 Additional information may be required	10
25 Decision on application	10
26 Issue of commercial fishing licences—relevant considerations	10
27 Issue of scientific licences—relevant considerations	11
28 Import and export licences—relevant considerations	12
29 Terms of licences	13
30 Licence conditions and exemptions	13
31 Licence changes	13
32 Rights given by licences	14
33 Surrender of licences	14
34 Cancellation of licences	15
35 Register of licences	16
36 Inspection of register	16

	Page
Part 5	Commercial dealing
Division 5.1	Fish dealers
37	Fish dealers to be registered 17
38	Application for registration 17
39	Decision on application 17
40	Term of registration 18
41	Suspension of registration 18
42	Cancellation of registration 18
43	Register of dealers 18
44	Inspection of register 19
Division 5.2	Commercial fishers
45	Sale of fish by commercial fishers 19
Part 6	Records and information
Division 6.1	Keeping records and giving information
46	Commercial fishers and fish dealers to make records 20
47	Keeping of records 20
48	Production of records 21
49	Commercial fishers and fish dealers to supply information 21
50	False records etc 21
Division 6.2	Powers in relation to records
51	Possession of records 22
52	Copying and keeping records etc 22
Part 7	Conservation officer's powers
Division 7.1	Powers for places
53	Meaning of <i>occupier</i> for div 7.1 24
54	Entry to places 24
55	Consent to entry 24
56	Routine inspection of business premises 25
57	Warrants to enter 26
58	Warrants—application made other than in person 27
59	Powers on entry with consent 28

Contents

	Page
60 Powers on entry for routine inspection of business premises	28
61 Powers on entry under a warrant	29
62 Identity cards must be produced	29
63 Entry into waters, and along banks etc	29
Division 7.2 Other powers	
64 Requirement to give name etc	30
65 Power to require gear to be removed from water	31
66 Seizure of fish etc	31
67 Seizure and destruction of noxious fish	31
Division 7.3 Other enforcement matters	
68 Procedure after thing seized	32
69 Compensation	33
70 Obstruction of investigation	33
71 False or misleading information	34
72 False or misleading or incomplete documents	34
Part 8 Offences	
Division 8.1 Offences, licences and approvals	
74 Taking fish for sale without a licence	35
75 Taking fish contrary to scientific licence	35
76 Importing or exporting live fish without a licence	35
77 Possessing etc fish obtained illegally	36
78 Noxious fish	36
79 Release of fish	36
Division 8.2 General offences	
80 Fishing closure	37
81 Prohibited size or weight of fish	37
82 Quantity of fish	38
83 Unintentionally taking fish	38
84 Beheading or filleting fish	38
85 Use of live bait	38
Division 8.3 Offences in relation to fishing gear	
86 Set lines	39

	Page
87 Fishing gear	39
88 Possession of commercial fishing gear	39
Division 8.4 Protection of aquatic habitats	
89 Spawning areas	40
Part 10 Review of decisions	
107 Review of decisions	41
108 Notification of decisions	41
Part 11 Miscellaneous	
109 Delegation	42
110 Acts and omissions of representatives	42
111 Criminal liability of officers of corporation	43
112 Production of licences	44
113 Guidelines	44
114 Determination of fees	45
115 Approved forms	45
116 Regulation-making power	45
Dictionary	47
Endnotes	
1 About the endnotes	51
2 Abbreviation key	51
3 Legislation history	52
4 Amendment history	52
5 Earlier republications	57



Australian Capital Territory

Fisheries Act 2000

An Act about the management of fisheries

Part 1 Preliminary

1 Name of Act

This Act is the *Fisheries Act 2000*.

3 Objects

The objects of this Act are—

- (a) to conserve native fish species and their habitats; and
- (b) to manage sustainably the fisheries of the ACT by applying the principles of ecologically sustainable development mentioned in the *Environment Protection Act 1997*, section 3 (2); and
- (c) to provide high quality and viable recreational fishing; and
- (d) to cooperate with other Australian jurisdictions in sustaining fisheries and protecting native fish species.

4 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary defines certain terms, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*fishing closure*—see section 13' means the term 'fishing closure' is defined in section 13.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

Part 2 Fisheries management plan

5 Content of fisheries management plan

A fisheries management plan must include—

- (a) a description of fish species and their habitats in the ACT; and
- (b) a description of current and potential threats to fish species and their habitats; and
- (c) measures to be taken to achieve the objects of this Act, including performance indicators and monitoring methods; and
- (d) guidelines to which the conservator must have regard in exercising functions under this Act.

6 Preparation of fisheries management plan

The conservator must prepare a draft management plan for management of fish species and their habitats in the ACT.

Note A power given under an Act to make a statutory instrument (including a management plan) includes power to amend or repeal the instrument (see Legislation Act, s 46 (1)).

7 Consultation on draft plan

- (1) If the conservator prepares a draft fisheries management plan, the conservator must prepare a written notice—
 - (a) containing a brief description of the draft plan; and
 - (b) stating where copies of the draft plan may be obtained; and

- (c) inviting written suggestions or comments about the draft plan to be given to the conservator, at the place stated in the notice, within 60 working days after the day the notice is notified under the Legislation Act (the *consultation period*).

Note For how documents may be given, see Legislation Act, pt 19.5.

- (2) The notice is a notifiable instrument.

Note 1 A notifiable instrument must be notified under the Legislation Act.

Note 2 An amendment or repeal of a management plan is also a notifiable instrument (see Legislation Act, s 46 (2)).

- (3) The conservator must also publish the notice in a newspaper.

8 Consideration of suggestions etc and revision of draft plan

- (1) The conservator must consider the suggestions and comments given to the conservator during the consultation period about the draft plan.
- (2) The conservator may, in writing, revise the draft plan in accordance with any of the suggestions or comments.

8A Formal changes to draft plan

- (1) Sections 7 (Consultation on draft plan) and 8 (Consideration of suggestions etc and revision of draft plan) do not apply to an amendment of a management plan that only makes changes of a formal nature.
- (2) If the conservator makes an amendment of a management plan that only makes changes of a formal nature, the conservator must prepare a written notice containing a brief description of the changes.
- (3) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

- (4) The conservator must also publish the notice in a newspaper.

9 Submission of draft plan to Minister

The conservator must give a draft management plan (as revised under section 8 (2)) to the Minister for approval, together with—

- (a) a written report setting out the issues raised in any written comments given to the conservator about the draft; and
- (b) a written report about the conservator's consultation with the public and with any particular entity about the draft.

10 Minister's powers about draft plan

On receiving a draft fisheries management plan, the Minister may—

- (a) make a fisheries management plan in the form of the draft plan; or
- (b) refer the draft plan to the conservator together with any of the following written directions:
 - (i) to conduct further stated consultations;
 - (ii) to consider any stated revision suggested by the Minister;
 - (iii) to revise the draft plan in a stated way.

11 Referral back of draft plan to conservator

- (1) If the Minister refers the draft fisheries management plan to the conservator, the conservator—
- (a) must comply with the Minister's directions; and
 - (b) if the Minister directs the conservator to conduct further consultations or consider suggested revisions—may revise the draft plan in the way the conservator considers appropriate; and
 - (c) may revise the plan to make changes of a formal nature; and

- (d) must give the draft plan (as revised) to the Minister together with a written report about the conservator's compliance with the Minister's directions and any revision of the draft plan under paragraph (b) or (c).
- (2) The Minister must deal with the draft fisheries management plan (as revised) under section 10 (Minister's powers about draft plan).

12 Fisheries management plan disallowable instrument etc

- (1) A fisheries management plan is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) Unless a fisheries management plan is disallowed by the Legislative Assembly, the plan commences—
 - (a) on the day after the last day when it could have been disallowed; or
 - (b) if the determination provides for a later date or time of commencement—on that date or at that time.

Part 3 Fishing closures and declarations

13 Fishing closures

- (1) The Minister may, in writing, prohibit absolutely or conditionally, the taking of fish from public waters for a stated period.
- (2) A prohibition under subsection (1) is a *fishing closure*.
- (3) A prohibition under subsection (1) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

14 Declaration of noxious fish

- (1) The Minister may, in writing, declare a species of fish to be noxious.
- (2) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

15 Declaration of fish of prohibited size or weight

- (1) The Minister may, in writing, declare that fish of stated sizes or weights are fish of prohibited sizes or weights.
- (2) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

16 Declaration of fish quantity

- (1) The Minister may, in writing, declare the quantity of a species of fish that a person may take in a day.

Part 3 Fishing closures and declarations

Section 17

- (2) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

17 Declaration of fishing gear

- (1) The Minister may, in writing, declare fishing gear that may be used for taking fish.

- (2) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Part 4 Licences

Division 4.1 Kinds of licences

19 Kinds of licences

The conservator may issue the following kinds of licences:

- (a) commercial fishing licences;
- (b) scientific licences;
- (c) import and export licences.

20 Commercial fishing licences

A commercial fishing licence authorises the licensee to take fish for sale.

21 Scientific licences

A scientific licence authorises the licensee to take fish for purposes stated in the licence that are—

- (a) scientific purposes; or
- (b) teaching purposes; or
- (c) museum or aquarium purposes.

22 Import and export licences

An import and export licence authorises the licensee to import live fish into and export live fish from the ACT.

Division 4.2 Issue of licences

23 Applications for licences

An application for a licence must be given to the conservator.

Note 1 A fee may be determined under s 114 for this section.

Note 2 If a form is approved under s 115 for an application, the form must be used.

Note 3 For how documents may be given, see Legislation Act, pt 19.5.

24 Additional information may be required

- (1) The conservator may, by written notice given to the applicant, require the applicant to give the conservator additional stated information or documents that the conservator reasonably needs to decide the application.

Note For how documents may be given, see Legislation Act, pt 19.5.

- (2) The conservator is not required to decide an application until the applicant complies with the requirement.

25 Decision on application

The conservator must, on application being made under section 23—

- (a) issue a licence; or
- (b) refuse to issue a licence.

26 Issue of commercial fishing licences—relevant considerations

- (1) In deciding whether to issue a commercial fishing licence, the conservator must consider—
 - (a) whether the applicant has been convicted, or found guilty, of an offence against this Act, the *Nature Conservation Act 1980*,

part 4, or a law of a State corresponding to this Act or that part;
and

- (b) the methods and fishing gear the applicant proposes to use to take fish; and
 - (c) the catch limit proposed by the applicant; and
 - (d) the waters where the applicant proposes to take fish; and
 - (e) the periods when the licence is proposed to be in force; and
 - (f) the potential effect on the relevant fisheries and the environment of issuing the licence.
- (2) Subsection (1) does not limit the matters the conservator may consider in deciding whether to issue a commercial fishing licence.

27 Issue of scientific licences—relevant considerations

- (1) In deciding whether to issue a scientific licence, the conservator must consider—
- (a) if the application is for a licence for research purposes—whether the *Animal Welfare Act 1992*, part 4 would apply to the activity proposed to be undertaken under the licence and, if so, whether the activity has been authorised under that part; and
 - (b) if the application is for a licence for collection purposes—the methods and fishing gear proposed to be used by the applicant for taking fish and the species and number of fish proposed to be taken; and
 - (c) the potential effect on the relevant fisheries and the environment of issuing the licence.
- (2) Subsection (1) does not limit the matters the conservator may consider in deciding whether to issue a scientific licence.

28 Import and export licences—relevant considerations

- (1) In deciding whether to issue an import and export licence, the conservator must consider—
 - (a) whether the applicant has been convicted, or found guilty, of an offence against this Act, the *Nature Conservation Act 1980*, part 4, or a law of a State corresponding to this Act or that part; and
 - (b) if the licence is to authorise the applicant to import fish—
 - (i) the qualifications and experience of the applicant in relation to handling and keeping fish; and
 - (ii) the suitability of the place where the applicant intends to keep fish; and
 - (iii) the suitability of the applicant’s facilities for keeping fish; and
 - (iv) the likelihood that the fish could be a threat to fish in waters of the ACT or be otherwise harmful; and
 - (c) if the licence is to authorise the applicant to export fish—the extent to which export of the fish under the licence may affect the viability of any fish species in the ACT; and
 - (d) whether fish that may be imported or exported under the licence are subject to a declaration under the *Nature Conservation Act 1980*, section 16, 17 or 21; and
 - (e) how fish to be imported or exported under the licence would be transported.
- (2) Subsection (1) does not limit the matters the conservator may consider in deciding whether to issue an import and export licence.

29 Terms of licences

- (1) A commercial fishing licence and an import and export licence are issued for a term of 1 year.
- (2) A scientific licence is issued for the term of not longer than 3 years stated in the licence.

30 Licence conditions and exemptions

- (1) A licence is subject to any conditions stated in the licence.
- (2) Without limiting subsection (1), a licence may be issued subject to conditions about—
 - (a) the number of fish that may be taken; or
 - (b) the waters where the fish may be taken; or
 - (c) the times or periods when the licence is to have effect; or
 - (d) the ways in which fish may be taken under the licence; or
 - (e) the species of fish that may be taken.
- (3) A scientific licence may, either absolutely or conditionally, exempt the licensee from the application of a declaration under part 3.

Note A reference to a statutory instrument (including a declaration) includes a reference to a provision of a statutory instrument (see Legislation Act, s 13 (3)).

31 Licence changes

- (1) On application by the holder of a licence, the conservator may change the licence.
- (2) If the conservator changes a licence under subsection (1), the conservator must give written notice of the change to the licensee.

Note For how documents may be given, see Legislation Act, pt 19.5.

- (3) The conservator may change a licence on his or her own initiative if the conservator is satisfied that it is in the public interest to do so.

- (4) Before changing a licence on his or her own initiative, the conservator must give the licensee a written notice—
- (a) stating how the conservator proposes to change the licence; and
 - (b) stating the reasons why the conservator proposes to change the licence; and
 - (c) telling the licensee that the licensee may, within 14 days beginning on the day after receiving the notice, give a written response to the conservator about the matters stated in the notice.
- (5) In deciding whether to change the licence as proposed, the conservator must consider any response given to him or her in accordance with subsection (4) (c).
- (6) The conservator must give the licensee written notice of his or her decision.
- (7) A change of licence takes effect on the day when the notice is served on the licence holder or, if the notice states a later date of effect, that date.

32 Rights given by licences

A licence does not authorise the licensee to enter on—

- (a) land held under a lease; or
- (b) land occupied by a person under a licence from the Territory or the Commonwealth.

33 Surrender of licences

- (1) A licensee may surrender his or her licence by written notice to the conservator.

Note For how documents may be given, see Legislation Act, pt 19.5.

- (2) The surrender of a licence takes effect from the day the notice of surrender is given to the conservator or, if the notice states a later date of effect, that date.

34 Cancellation of licences

- (1) The conservator may cancel a licence if—
- (a) the conservator becomes aware of circumstances that, if the conservator had been aware of them at the time of the application for the licence, would have resulted in the application being refused; or
 - (b) the licensee is convicted, or found guilty, of an offence against this Act, the *Nature Conservation Act 1980*, part 4, or a law of a State corresponding to this Act or that part; or
 - (c) the licensee contravenes a condition of the licence; or
 - (d) the licence was obtained by fraud or misrepresentation.
- (2) Before cancelling a licence, the conservator must give the licensee a written notice—
- (a) stating the grounds on which the conservator proposes to cancel the licence; and
 - (b) stating the facts that, in the conservator's opinion, establish the grounds; and
 - (c) telling the licensee that the licensee may, within 14 days beginning the day after receiving the notice, give a written response to the conservator about the matters in the notice.

Note For how documents may be given, see Legislation Act, pt 19.5.

- (3) In deciding whether to cancel the licence, the conservator must consider any response given to him or her in accordance with subsection (2) (c).

- (4) The conservator must give the licensee written notice of the conservator's decision.
- (5) Cancellation of a licence takes effect on the day when notice of the cancellation is served on the licence holder or, if the notice states a later date of effect, that date.

35 Register of licences

- (1) The conservator must prepare and keep a register of licences.
- (2) The conservator must include in the register the name of each person to whom a licence is issued, the kind of licence issued to the person, any conditions to which the licence is subject and any exemption from the application of a declaration under part 3 given to the licensee.

36 Inspection of register

- (1) A person may, without charge, inspect the register during the office hours of the office of the conservator.
- (2) A person may, on payment of the reasonable copying costs, obtain a copy of all or part of the register.

Part 5 **Commercial dealing**

Division 5.1 **Fish dealers**

37 **Fish dealers to be registered**

- (1) A person must not receive more than the number of fish prescribed under the regulations within the prescribed period unless—
- (a) the person is registered as a fish dealer under this Act; or
 - (b) the fish are received for retail sale; or
 - (c) the person receives the fish from a person who is registered or licensed as a fish dealer under this Act or a corresponding law; or
 - (d) the person receives fish for purposes other than sale.

Maximum penalty: 50 penalty units.

- (2) In subsection (1):

fish does not include oysters.

38 **Application for registration**

An application for registration as a fish dealer must be given to the conservator.

Note 1 A fee may be determined under s 114 for this section.

Note 2 If a form is approved under s 115 for an application, the form must be used.

Note 3 For how documents may be given, see Legislation Act, pt 19.5.

39 **Decision on application**

- (1) The conservator must, on application being made under section 38—

- (a) register the applicant as a fish dealer; or
 - (b) refuse to register the applicant.
- (2) In deciding whether to register an applicant, the conservator must consider whether the applicant has been convicted, or found guilty, of an offence against this Act or a law of a State corresponding to this Act.
- (3) Subsection (2) does not limit the matters the conservator may consider in deciding whether to register an applicant.

40 Term of registration

The registration of a person as a fish dealer is for the term of not longer than 7 years stated in the register in relation to the person.

41 Suspension of registration

If a registered fish dealer fails to give information in accordance with a notice under section 49 (2), the conservator may, by notice in writing given to the dealer, suspend the dealer's registration.

Note For how documents may be given, see Legislation Act, pt 19.5.

42 Cancellation of registration

The conservator may cancel a fish dealer's registration if—

- (a) the dealer is convicted, or found guilty, of an offence against this Act, or a law of a State corresponding to this Act; or
- (b) the dealer's registration has been suspended for failure to give information in accordance with a notice under section 49 (2) and the dealer has failed to give that information within 14 days after the day of suspension.

43 Register of dealers

- (1) The conservator must prepare and keep a register of fish dealers.

- (2) A person is registered as a fish dealer if the conservator enters in the register—
- (a) the person's name; and
 - (b) if the person carries on business in the ACT as a fish dealer under a name other than his or her own name—the name under which he or she so carries on business; and
 - (c) each place in the ACT where the person carries on business as a fish dealer.

44 Inspection of register

- (1) A person may, without charge, inspect the register during the office hours of the office of the conservator.
- (2) A person may, on payment of the reasonable copying costs, obtain a copy of all or part of the register.

Division 5.2 Commercial fishers

45 Sale of fish by commercial fishers

- (1) A person who holds a commercial fishing licence under this Act or a corresponding law must not, without reasonable excuse, sell more than the prescribed quantity of fish in a day to a person unless the person is registered or licensed as a fish dealer under this Act or a corresponding law.

Maximum penalty: 100 penalty units.

- (2) In subsection (1):
fish does not include oysters.

Part 6 Records and information

Division 6.1 Keeping records and giving information

46 Commercial fishers and fish dealers to make records

- (1) The holder of a commercial fishing licence must make a record, in accordance with the directions under subsection (3), of all fish taken or sold by him or her.

Maximum penalty: 10 penalty units.

- (2) A fish dealer must make a record, in accordance with the directions under subsection (3), of all fish received, processed or sold by him or her.

Maximum penalty: 10 penalty units.

- (3) The conservator may, in writing, give directions about how records under subsection (1) or (2) must be made.
- (4) An instrument under subsection (3) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

47 Keeping of records

- (1) The holder of a commercial fishing licence must keep a record made under section 46 (1) for at least 5 years after it is made.

Maximum penalty: 10 penalty units.

- (2) A fish dealer must keep a record made under section 46 (2) for at least 5 years after it is made.

Maximum penalty: 50 penalty units.

48 Production of records

The holder of a commercial fishing licence or a fish dealer must, on being asked to do so by a conservation officer, produce a record that he or she is required to keep under section 47.

Maximum penalty: 50 penalty units.

49 Commercial fishers and fish dealers to supply information

- (1) The conservator may, by written notice to the holder of a commercial fishing licence, require the licence holder to give the conservator, within a reasonable time stated in the notice, the information about the fish taken or sold by him or her stated in the notice.

Note For how documents may be given, see Legislation Act, pt 19.5.

- (2) The conservator may, by written notice to a fish dealer, require the dealer to give the conservator, within a reasonable time stated in the notice, the information about the fish received, processed or sold by him or her stated in the notice.
- (3) A person who is given a notice under subsection (1) or (2) must not, without reasonable excuse, fail to give the conservator the information stated in the notice within the time stated in the notice.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

50 False records etc

- (1) A person must not make a record for this division, or produce a record to a conservation officer, that the person knows is false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person must not give the conservator a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Division 6.2 Powers in relation to records

51 Possession of records

- (1) If records are produced to a conservation officer by a person under section 48, the officer may take possession of the records.
- (2) If the conservation officer takes possession of the records, the officer must—
- (a) offer the person a receipt for the records; and
 - (b) allow a person who would be entitled to inspect the records if they were not in the possession of the officer, at any reasonable time, to inspect them.

52 Copying and keeping records etc

- (1) If a conservation officer takes possession of records under section 51, the officer may—
- (a) make copies of, or take extracts from, the records; and
 - (b) if the officer has reason to believe the records are evidence of an offence against this Act—keep the records until proceedings for the offence have been dealt with.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

- (2) A conservation officer who takes possession of records under section 51 must, unless subsection (1) (b) applies, return the records to the person from whom they were taken within a reasonable time.

Part 7 Conservation officer's powers

Note for pt 7

The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

Division 7.1 Powers for places

53 Meaning of *occupier* for div 7.1

In this division:

occupier, of a place, includes—

- (a) a person believed on reasonable grounds to be an occupier of the place; and
- (b) a person apparently in charge of the place.

54 Entry to places

- (1) A conservation officer may enter a place if—
 - (a) its occupier consents to the entry; or
 - (b) the entry is for a routine inspection under section 56; or
 - (c) the entry is authorised by a warrant.
- (2) An authorised officer may, without the occupier's consent or a warrant, enter the land around premises to ask its occupier for consent to enter the premises.

55 Consent to entry

- (1) This section applies if a conservation officer intends to ask an occupier of a place to consent to the officer or another conservation officer entering the place.
- (2) Before asking for the consent, the officer must tell the occupier—

- (a) of the purpose of the entry; and
 - (b) that the occupier is not required to consent.
- (3) If the consent is given, the officer may ask the occupier to sign an acknowledgment of the consent.
- (4) The acknowledgment must state that—
- (a) the occupier was told—
 - (i) of the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the occupier gives a conservation officer consent to enter the place and exercise powers under this Act; and
 - (c) the time and date the consent was given.
- (5) If the occupier signs an acknowledgment of consent, the officer must immediately give a copy to the occupier.
- (6) Subsection (7) applies to a court if—
- (a) a question arises, in a proceeding in the court, whether the occupier of a place consented to a conservation officer entering the place under this Act; and
 - (b) an acknowledgment under this section is not produced in evidence for the entry; and
 - (c) it is not proved that the occupier consented to the entry.
- (7) The court may presume that the occupier did not consent.

56 Routine inspection of business premises

- (1) To find out whether this Act is being complied with, a conservation officer may enter business premises of a fish dealer or the holder of a commercial fishing licence at any time the premises are being used.

(2) In this section:

business premises includes residential premises used for business purposes.

57 Warrants to enter

- (1) A conservation officer may apply to a magistrate for a warrant to enter a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.
- (4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing or activity (the evidence) that may provide evidence of an offence against this Act; and
 - (b) the evidence is, or may be within the next 14 days, at the place.
- (5) The warrant must state—
 - (a) that a conservation officer may, with necessary help and force, enter the place and exercise the officer's powers under this Act; and
 - (b) the offence for which the warrant is sought; and
 - (c) the evidence that may be seized under the warrant; and
 - (d) the hours when the place may be entered; and
 - (e) the date, within 14 days after the warrant's issue, the warrant ends.

58 Warrants—application made other than in person

- (1) A conservation officer may apply for a warrant by phone, fax, radio or other form of communication if the officer considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances.
- (2) Before applying for the warrant, the officer must prepare an application stating the grounds on which the warrant is sought.
- (3) The officer may apply for the warrant before the application is sworn.
- (4) After issuing the warrant, the magistrate must immediately fax a copy to the officer if it is reasonably practicable to do so.
- (5) If it is not reasonably practicable to fax a copy to the officer—
 - (a) the magistrate must—
 - (i) tell the officer what the terms of the warrant are; and
 - (ii) tell the officer the date and time the warrant was issued; and
 - (b) the officer must complete a form of warrant (*warrant form*) and write on it—
 - (i) the magistrate's name; and
 - (ii) the date and time the magistrate issued the warrant; and
 - (iii) the warrant's terms.
- (6) The facsimile warrant, or the warrant form properly completed by the officer, has the same effect as a warrant issued under section 57.
- (7) The officer must, at the first reasonable opportunity, send the magistrate—
 - (a) the sworn application; and

- (b) if the officer completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.
- (9) Subsection (10) applies to a court if—
 - (a) a question arises, in a proceeding in or before the court, whether a power exercised by a conservation officer was not authorised by a warrant issued under this section; and
 - (b) the warrant is not produced in evidence.
- (10) The court must presume that the exercise of a power was not authorised by a warrant issued under this section, unless the contrary is proved.

59 Powers on entry with consent

A conservation officer who enters a place with the occupier's consent may inspect, measure, photograph or film the place or anything in it.

60 Powers on entry for routine inspection of business premises

A conservation officer who enters a place under section 56 (Routine inspection of business premises) may—

- (a) inspect, measure, photograph or film the place or anything in it; or
- (b) test or take samples of anything in the place; or
- (c) take the people, equipment and materials the officer reasonably needs for exercising a power under this Act into the place.

61 Powers on entry under a warrant

- (1) A conservation officer who enters a place under section 57 (Warrants to enter) or section 58 (Warrants—application made other than in person) may—
 - (a) search any part of the place; or
 - (b) inspect, measure, photograph or film the place or anything in it; or
 - (c) test or take samples of anything in the place; or
 - (d) copy a document in the place; or
 - (e) take the people, equipment and materials the officer reasonably needs for exercising a power under this Act into the place; or
 - (f) require a person in the place to give the officer reasonable help to exercise the powers mentioned in paragraphs (a) to (e).
- (2) A person must not, without reasonable excuse, fail to comply with a requirement under subsection (1) (f).

Maximum penalty: 50 penalty units.

62 Identity cards must be produced

A conservation officer who enters a place under section 55 (Consent to entry), section 56 (Routine inspection of business premises) or section 57 (Warrants to enter) is not authorised to remain in the place if, when asked by the occupier, the officer does not produce his or her identity card.

63 Entry into waters, and along banks etc

A conservation officer may for this Act, at any time, pass along (with a boat or otherwise) any public waters or the banks or borders of any public waters or on land beside any public waters within a reasonable distance of the waters.

Division 7.2 Other powers

64 Requirement to give name etc

- (1) If a conservation officer believes on reasonable grounds that a person has, or may have, committed an offence against this Act, the officer—
 - (a) may request the person to give his or her name or address (or both) to the officer; and
 - (b) if making a request of that kind—must tell the person of the reason for the request.
- (2) If a conservation officer—
 - (a) makes a request of a person under subsection (1); and
 - (b) tells the person of the reason for the request; and
 - (c) complies with subsection (3) if the person makes a request under that subsection;the person must not, without reasonable excuse—
 - (d) fail to comply with the request; or
 - (e) give a name or address that is false in a material particular.Maximum penalty: 5 penalty units.
- (3) If a conservation officer who makes a request of a person under subsection (1) is asked by the person to do so, the officer must produce his or her identity card.
- (4) As soon as possible after making a request under subsection (1), the conservation officer must make a written record of the grounds for his or her belief.

65 Power to require gear to be removed from water

- (1) A conservation officer may require a person to remove any fishing gear being used by the person from waters if the officer believes on reasonable grounds that the gear is being used in contravention of this Act.
- (2) A person must not, without reasonable excuse, fail to comply with a requirement made by a conservation officer under this section.

Maximum penalty: 50 penalty units.

- (3) If a conservation officer who requires a person to remove fishing gear from water under subsection (1) is asked by the person to produce his or her identity card, the conservation officer must do so.

66 Seizure of fish etc

In addition to the other powers given to a conservation officer by this part or a warrant, a conservation officer may seize anything if the officer believes on reasonable grounds—

- (a) the thing is evidence of the commission of an offence against this Act; and
- (b) the seizure is necessary to prevent—
 - (i) the concealment, loss, death or destruction of the thing; or
 - (ii) the use of the thing in committing, continuing or repeating the offence.

67 Seizure and destruction of noxious fish

A conservation officer may seize and destroy any noxious fish in a person's possession.

Division 7.3 Other enforcement matters

68 Procedure after thing seized

- (1) As soon as practicable after a thing is seized by a conservation officer under this part, the officer must give a receipt for it to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the conservation officer must—
 - (a) leave the receipt at the place where the thing was seized; and
 - (b) ensure the receipt is left—
 - (i) in a reasonably secure way; and
 - (ii) in a conspicuous position.
- (3) The conservation officer must allow a person who would be entitled to the seized thing if it were not in the officer's possession—
 - (a) to inspect it; and
 - (b) if it is a document—to take extracts from it or make copies of it.
- (4) The conservation officer must return the seized thing to the person at the end of—
 - (a) 6 months; or
 - (b) if a prosecution for an offence involving it is started within 6 months—the prosecution for the offence and any appeal from the prosecution.
- (5) Despite subsection (4), the conservation officer must return the seized thing to the person immediately the officer stops being satisfied its retention as evidence is necessary.
- (6) However, the conservation officer may retain the seized thing if the officer believes, on reasonable grounds, that its continued retention

is necessary to prevent its use in committing an offence against this Act.

- (7) This section does not apply to noxious fish seized under section 67 (Seizure and destruction of noxious fish).

69 Compensation

- (1) A person may claim reasonable compensation from the Territory if the person incurs loss or expense because of the exercise or purported exercise of a power under this part by a conservation officer or a person assisting a conservation officer.
- (2) Compensation may be claimed and ordered in a proceeding for—
- (a) compensation brought in a court of competent jurisdiction; or
 - (b) an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order the payment of reasonable compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) The regulations may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.
- (5) This section does not apply to noxious fish seized under section 67 (Seizure and destruction of noxious fish).

70 Obstruction of investigation

A person must not, without reasonable excuse, obstruct or hinder a conservation officer in the exercise of a power under this Act.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

71 False or misleading information

A person must not, in purported compliance with a requirement under this Act—

- (a) state anything to the conservator or a conservation officer that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to the conservator or a conservation officer anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty: 20 penalty units.

72 False or misleading or incomplete documents

- (1) A person must not give the conservator or a conservation officer a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) Subsection (1) does not apply to a person if the person, when giving the document to the conservator or conservation officer—
 - (a) tells the conservator or conservation officer, to the best of the person's ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information to the conservator or conservation officer.

Part 8 Offences

Division 8.1 Offences, licences and approvals

74 Taking fish for sale without a licence

- (1) A person must not take fish from public waters for sale or processing for sale unless authorised to do so by a commercial fishing licence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) The holder of a commercial fishing licence must not take fish for processing or sale other than as permitted by the licence.

Maximum penalty: 50 penalty units.

75 Taking fish contrary to scientific licence

The holder of a scientific licence must not, without reasonable excuse, take fish other than as permitted by the licence.

Maximum penalty: 10 penalty units.

76 Importing or exporting live fish without a licence

- (1) A person must not, without reasonable excuse, import a live fish into, or export a live fish from, the ACT unless the person—

(a) is the holder of an import and export licence authorising the person to do so; or

(b) has the written approval of the conservator.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) The holder of an import and export licence must not, without reasonable excuse, import a live fish into, or export a live fish from the ACT other than as permitted by the licence.

Maximum penalty: 100 penalty units.

- (3) Subsections (1) and (2) do not apply to fish bought from a registered fish dealer for human consumption.

77 Possessing etc fish obtained illegally

- (1) A person must not, without reasonable excuse, have in his or her possession a fish that has been imported into the Territory in contravention of section 76.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person must not, without reasonable excuse, be in possession of fish taken in contravention of a law of a State.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

78 Noxious fish

A person must not, without reasonable excuse, have in his or her possession a noxious fish except with the written approval of the conservator.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

79 Release of fish

A person must not, without reasonable excuse, release a live fish into public waters—

- (a) except with the written approval of the conservator; or
- (b) unless the fish was taken from the part of the public waters into which it is released.

Maximum penalty: 10 penalty units.

Division 8.2 General offences

80 Fishing closure

- (1) A person who, without reasonable excuse, takes fish in contravention of a fishing closure commits an offence.

Maximum penalty: 50 penalty units.

- (2) A person who, without reasonable excuse, is in possession of fish taken in contravention of a fishing closure commits an offence.

Maximum penalty: 50 penalty units.

81 Prohibited size or weight of fish

- (1) A person must not, without reasonable excuse, take fish of a prohibited size or weight from public waters.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person must not, without reasonable excuse, have in his or her possession fish of a prohibited size or weight that have been taken from public waters.

Maximum penalty: 30 penalty units.

- (3) A reference in subsection (1) or (2) to fish of a prohibited size or weight is a reference to fish declared under section 15 (Declaration of fish of a prohibited size or weight) to be of a prohibited size or weight.

82 Quantity of fish

A person must not, without reasonable excuse, take from public waters in a day a quantity of a species of fish more than the quantity declared under section 16 (Declaration of fish quantity) to be the quantity of fish of that species that may be taken in a day.

Maximum penalty: 30 penalty units.

83 Unintentionally taking fish

A person who unintentionally takes a fish in contravention of this Act does not commit an offence if the person—

- (a) is otherwise complying with this Act at the time of the offence; and
- (b) immediately returns the fish to the waters from which it was taken with the least possible injury.

84 Beheading or filleting fish

- (1) A person must not behead or fillet a fish in or beside public waters.

Maximum penalty: 10 penalty units.

- (2) It is a defence to a prosecution under subsection (1) if it is shown that the defendant beheaded or filleted the fish for immediate consumption.

85 Use of live bait

- (1) A person must not use live fin fish as bait.

Maximum penalty: 30 penalty units.

- (2) A person must not have in his or her possession live fin fish for use as bait while beside public waters.

Maximum penalty: 30 penalty units.

Division 8.3 Offences in relation to fishing gear

86 Set lines

A person may only use fishing gear to take fish from public waters if the person—

- (a) is within 10m of the gear; and
- (b) can see the gear at all times; and
- (c) is permitted to take fish under this Act.

Maximum penalty: 10 penalty units.

87 Fishing gear

- (1) A person must not, without reasonable excuse, use in or beside any public waters fishing gear other than fishing gear permitted to be used in those waters by a declaration under section 17 (Declaration of fishing gear).

Maximum penalty: 50 penalty units.

- (2) A person must not, without reasonable excuse, while in or beside any public waters, have in his or her possession fishing gear other than fishing gear permitted to be used in those waters by a declaration under section 17.

Maximum penalty: 30 penalty units.

88 Possession of commercial fishing gear

- (1) A person must not, without reasonable excuse, use commercial fishing gear in or beside public waters.

Maximum penalty: 50 penalty units.

- (2) A person must not, without reasonable excuse, be in possession of commercial fishing gear in or beside public waters.

Maximum penalty: 30 penalty units.

- (3) Subsections (1) and (2) do not apply to the holder of a commercial fishing licence.
- (4) For this section, a person is taken to use or be in possession of commercial fishing gear only if the person uses or has in his or her possession—
 - (a) a number of lines more than the number determined by the Minister in writing; or
 - (b) a number of nets more than the number determined by the Minister in writing; or
 - (c) a net larger than the size determined by the Minister in writing; or
 - (d) other equipment determined by the Minister in writing.
- (5) A determination under subsection (4) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Division 8.4 Protection of aquatic habitats

89 Spawning areas

- (1) A person must not, knowingly, disturb or damage spawn or spawning fish in public waters.

Maximum penalty: 30 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) that the act constituting the offence—
 - (a) was authorised by a scientific licence; or
 - (b) was done with the written approval of the conservator.

Part 10 Review of decisions

107 Review of decisions

- (1) Application may be made to the administrative appeals tribunal for review of a decision of the conservator—
 - (a) under section 25, refusing to issue a licence; or
 - (b) under section 30, issuing a licence with conditions; or
 - (c) under section 31, changing a licence; or
 - (d) under section 34, cancelling a licence; or
 - (e) under section 39, refusing to register a fish dealer; or
 - (f) under section 41 or 42, suspending or cancelling a fish dealer's registration.
- (2) Application may be made to the administrative appeals tribunal for review of a decision of a conservation officer under section 68 (6) to retain a seized thing.

108 Notification of decisions

- (1) If the conservator or a conservation officer makes a decision mentioned in section 107, he or she must give written notice of the decision to the person affected by the decision.
- (2) A notice under subsection (1) must be in accordance with the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

Part 11 Miscellaneous

109 Delegation

The conservator may delegate the conservator's functions under this Act to a conservation officer.

Note For the making of delegations and the exercise of delegated functions, see Legislation Act, pt 19.4.

110 Acts and omissions of representatives

(1) In this section:

representative means—

- (a) for a corporation—an executive officer, employee or agent of the corporation; or
- (b) for an individual—an employee or agent of the individual.

state of mind, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

(2) This section applies to a prosecution for any offence against this Act.

(3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—

- (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
- (b) the representative had the state of mind.

- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.
- (5) An individual who is convicted of an offence cannot be punished by imprisonment for the offence if the individual would not have been convicted of the offence without subsection (3) or (4).

111 Criminal liability of officers of corporation

- (1) If a corporation commits an offence against this Act, an executive officer of the corporation—
 - (a) commits the offence; and
 - (b) is liable, on conviction, to a penalty not exceeding the maximum penalty that may be imposed for the commission of the offence by an individual.
- (2) It is a defence to a prosecution for an offence against subsection (1) that—
 - (a) the defendant exercised due diligence to prevent the corporation from doing the act or making the omission alleged to constitute the offence or an element of the offence committed by the corporation; or
 - (b) an officer or employee of the corporation occupying the defendant's position could not reasonably have been expected to know of the contravention; or
 - (c) the corporation would not have been found guilty of the offence because of its being able to establish a defence available to it under this Act.

- (3) An executive officer may, under subsection (1), be prosecuted for and convicted of an offence whether or not the corporation has been prosecuted for or convicted of the offence.

112 Production of licences

A licensee must, unless the licensee has a reasonable excuse, within 2 working days of being asked to do so by a conservation officer, produce his or her licence at the office of the conservator.

Maximum penalty: 5 penalty units.

113 Guidelines

- (1) The Minister may, in writing, issue guidelines about the exercise of the conservator's functions under the following sections:
- (a) section 26 (Issue of commercial fishing licences—relevant considerations);
 - (b) section 27 (Issue of scientific licences—relevant considerations);
 - (c) section 28 (Import and export licences—relevant considerations);
 - (d) section 30 (Licence conditions and exemptions);
 - (e) section 31 (Licence changes);
 - (f) section 39 (Decision on application).
- (2) The conservator must comply with guidelines issued under this section.
- (3) A guideline under this section is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

114 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

Note The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

115 Approved forms

- (1) The conservator may, in writing, approve forms for this Act.

Note For other provisions about forms, see Legislation Act, s 255.

- (2) If the conservator approves a form for a particular purpose, the approved form must be used for that purpose.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

116 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) The regulations may make provision in relation to—

- (a) the sale, transport, storage, processing and handling of fish;
and
- (b) the keeping of records for activities mentioned in paragraph (a); and
- (c) the prevention of damage to a place where fish spawn or are likely to spawn.

- (3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

Dictionary

(see s 4)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- administrative appeals tribunal
- conservator of flora and fauna
- contravene
- disallowable instrument
- document
- function
- magistrate
- Magistrates Court
- penalty unit (see s 133)
- power.

aquaculture means—

- (a) cultivating fish or marine vegetation for harvesting the fish or vegetation or their progeny for sale; or
- (b) keeping fish or marine vegetation in a confined area for a commercial purpose;

but does not include—

- (c) keeping anything in a pet shop for sale or in an aquarium for exhibition (including an aquarium operated commercially); or
- (d) anything done in maintaining a collection of fish or marine vegetation that is not used for a commercial purpose; or
- (e) an activity prescribed by the regulations.

boat means any kind of vessel, however navigated.

commercial fishing licence means a licence mentioned in section 20.

conservation officer means a conservation officer under the *Nature Conservation Act 1980*.

conservator means the conservator of flora and fauna.

corresponding law means a law of a State that regulates fisheries.

environment—see the *Environment Protection Act 1997*, section 4.

executive officer, of a corporation, means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

fin fish means a marine, estuarine or freshwater fish of the class pisces.

fish means marine, estuarine or freshwater fish or other aquatic animal life, or any of their parts, at any stage of their history (whether alive or dead), and includes—

- (a) abalone, oysters and other aquatic molluscs; and
- (b) crustaceans; and
- (c) echinoderms; and
- (d) beachworms and other aquatic polychaetes;

but does not include—

- (e) reptiles; and
- (f) birds; and
- (g) amphibians.

fish dealer means a person who receives fish, for resale or other commercial use, from a person whom he or she knows or suspects or ought to know or suspect to be a commercial fisher, but does not

include a person who receives fish only for the purpose of transporting them on behalf of the owner of the fish.

fishing closure—see section 13.

fishing gear means equipment, other than a vehicle or boat, used for taking fish.

import and export licence means a licence mentioned in section 22.

licence means any of the following licences issued under section 25:

- (a) a commercial fishing licence;
- (b) a scientific licence;
- (c) an import and export licence.

licensee means the holder of a licence.

net includes anything attached to a net.

newspaper means a newspaper published and circulating daily in the ACT.

noxious fish means a species of fish declared to be noxious under section 14.

occupier, of a place, for division 7.1 (Powers for places)—see section 53.

possession includes having a thing in the custody of someone else.

private waters means—

- (a) waters of a dam, water storage or other water control structure that is not situated on a waterway; and
- (b) waters used for aquaculture.

processing means break up, can, chill, cook, cut up, freeze, pack, preserve, purge, shell, shuck, skin or otherwise treat or process fish.

public waters means all waters other than private waters.

receive fish, means receive fish from someone else, whether by purchase or otherwise, for any purpose other than—

- (a) personal or domestic consumption; or
- (b) transportation.

register means the register kept under section 35.

registered means registered under this Act.

scientific licence means a licence mentioned in section 21.

sell includes—

- (a) sell by wholesale, retail, auction or tender; and
- (b) barter or exchange; and
- (c) supply for profit; and
- (d) offer for sale, receive for sale or expose for sale; and
- (e) consign or deliver for sale; and
- (f) have in possession for sale; and
- (g) cause or allow anything mentioned in paragraphs (a) to (f) to be done.

species, of fish, includes a subspecies, domesticated forms or hybrids of a species.

take means to gather, catch, kill or remove fish from an aquatic habitat.

vehicle—see the *Road Transport (General) Act 1999*, dictionary.

waters means public waters and private waters.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	RI = reissue
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

Fisheries Act 2000 No 38

notified 20 July 2000 (Gaz 2000 No 29)
s 1, s 2 commenced 20 July 2000 (IA s 10B)
remainder commenced 13 September 2000 (Gaz 2000 No 35)

as amended by

Legislation (Consequential Amendments) Act 2001 No 44 pt 155

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 155 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Legislation Amendment Act 2002 No 11 pt 2.22

notified LR 27 May 2002
s 1, s 2 commenced 27 May 2002 (LA s 75)
pt 2.22 commenced 28 May 2002 (s 2 (1))

Statute Law Amendment Act 2002 No 30 pt 3.29

notified LR 16 September 2002
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))
pt 3.29 commenced 17 September 2002 (s 2 (1))

Statute Law Amendment Act 2003 A2003-41 sch 3 pt 3.12

notified LR 11 September 2003
s 1, s 2 commenced 11 September 2003 (LA s 75 (1))
amdt 3.266, amdt 3.269 commenced 10 December 2003 (s 2 (3))
sch 3 pt 3.12 remainder commenced 9 October 2003 (s 2 (1))

4 Amendment history

Commencement

s 2 om R1 LRA

Preparation of fisheries management plan

s 6 sub 2001 No 44 amdt 1.1746

Consultation on draft plan

s 7 sub 2001 No 44 amdt 1.1746
am A2003-41 amdt 3.260

Consideration of suggestions etc and revision of draft plan

s 8 sub 2001 No 44 amdt 1.1746

Formal changes to draft plan

s 8A ins 2001 No 44 amdt 1.1746

Submission of draft plan to Minister

s 9 am 2001 No 44 amdt 1.1747

Fisheries management plan disallowable instrument etc

s 12 am 2001 No 44 amdt 1.1748, amdt 1.1749

Fishing closures and declarations

pt 3 hdg sub 2001 No 44 amdt 1.1750

Fishing closures

s 13 am 2001 No 44 amdt 1.1751, amdt 1.1752

Declaration of noxious fish

s 14 am 2001 No 44 amdt 1.1753, amdt 1.1754

Declaration of fish of a prohibited size or weight

s 15 am 2001 No 44 amdt 1.1755, amdt 1.1756

Declaration of fish quantity

s 16 am 2001 No 44 amdt 1.1757, amdt 1.1758

Declaration of fishing gear

s 17 am 2001 No 44 amdt 1.1759, amdt 1.1760

Disallowable instruments

s 18 om 2001 No 44 amdt 1.1761

Applications for licences

s 23 sub 2001 No 44 amdt 1.1762
am A2003-41 amdt 3.261

Additional information may be required

s 24 am A2003-41 amdt 3.262

Issue of commercial fishing licences—relevant considerations

s 26 am 2002 No 30 amdt 3.373

Import and export licences—relevant considerations

s 28 am 2002 No 30 amdt 3.373

Licence changes

s 31 am A2003-41 amdt 3.262

Surrender of licences

s 33 am A2003-41 amdt 3.262

Cancellation of licences

s 34 am 2002 No 30 amdt 3.373; A2003-41 amdt 3.262

Endnotes

4 Amendment history

Applications for registration

s 38 sub 2001 No 44 amdt 1.1763
am A2003-41 amdt 3.263

Suspension of registration

s 41 am A2003-41 amdt 3.264

Commercial fishers and fish dealers to make records

s 46 am 2001 No 44 amdt 1.1764, amdt 1.1765

Commercial fishers and fish dealers to supply information

s 49 am A2003-41 amdt 3.264

Copying and keeping records etc

s 52 am 2001 No 44 amdt 1.1766, amdt 1.1767

Conservation officer's powers

pt 7 note ins 2002 No 11 amdt 2.44

Powers on entry for routine inspection of business premises

s 60 am A2003-41 amdt 3.265

Powers on entry under a warrant

s 61 am A2003-41 amdt 3.265

Legal professional privilege

s 73 om 2002 No 11 amdt 2.45

Possession of commercial fishing gear

s 88 am 2001 No 44 amdt 1.1768, amdt 1.1769

Infringement notices for certain offences

pt 9 hdg om A2003-41 amdt 3.266

Interpretation

div 9.1 hdg om A2003-41 amdt 3.266

Definitions for pt 9

s 90 om A2003-41 amdt 3.266

Infringement and reminder notices

div 9.2 hdg om A2003-41 amdt 3.266

Purpose and effect of div 9.2

s 91 om A2003-41 amdt 3.266

Service of infringement notices

s 92 om A2003-41 amdt 3.266

Contents of infringement notices

s 93 om A2003-41 amdt 3.266

Additional information in infringement notices

s 94 om A2003-41 amdt 3.266

Time for payment of infringement notice penalty	
s 95	om A2003-41 amdt 3.266
Extension of time to pay penalty	
s 96	om A2003-41 amdt 3.266
Effect of payment of infringement notice penalty	
s 97	om A2003-41 amdt 3.266
Application for withdrawal of infringement notice	
s 98	om A2003-41 amdt 3.266
Withdrawal of infringement notice	
s 99	om A2003-41 amdt 3.266
Reminder notices	
s 100	om A2003-41 amdt 3.266
Contents of reminder notices	
s 101	om A2003-41 amdt 3.266
Additional information in reminder notices	
s 102	om A2003-41 amdt 3.266
Disputing liability	
div 9.3 hdg	om A2003-41 amdt 3.266
Disputing liability for an infringement notice offence	
s 103	om A2003-41 amdt 3.266
Extension of time to dispute liability	
s 104	om A2003-41 amdt 3.266
Procedure if liability disputed	
s 105	om A2003-41 amdt 3.266
Miscellaneous	
div 9.4 hdg	om A2003-41 amdt 3.266
Evidentiary certificates	
s 106	om A2003-41 amdt 3.266
Delegation	
s 109	sub A2003-41 amdt 3.267
Guidelines	
s 113	sub 2001 No 44 amdt 1.1770
Determination of fees	
s 114	sub 2001 No 44 amdt 1.1770
Approved forms	
s 115	am 2001 No 44 amdt 1.1771, amdt 1.1772; A2003-41 amdt 3.268

Endnotes

4 Amendment history

Regulation-making power

s 116 sub 2001 No 44 amdt 1.1773

Regulations prescribing infringement notice penalties

s 117 om A2003-41 amdt 3.269

Repeal

s 118 om R1 LRA

Meaning of commencement day for pt 12

s 119 exp 31 December 2001 (s 120 (3))

Transitional provisions and consequential amendments

pt 12 hdg om R3 LA

Permits to take fish for scientific purposes

s 120 exp 31 December 2001 (s 120 (3))

Amendments of Nature Conservation Act

s 121 om R1 LRA

Amendments of the Nature Conservation Act 1980

sch om R1 LRA

Dictionary

dict am A2003-41 amdt 3.270
def **commercial fishing licence** ins A2003-41 amdt 3.271
def **conservator** sub A2003-41 amdt 3.272
def **determined fee** om 2001 No 44 amdt 1.1774
def **import and export licence** ins A2003-41 amdt 3.273
def **licence** sub A2003-41 amdt 3.274
def **occupier** ins A2003-41 amdt 3.275
def **scientific licence** ins A2003-41 amdt 3.276

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	30 September 2000
2	Act 2001 No 44	30 November 2001
3	Act 2001 No 44	10 January 2002
4	Act 2002 No 11	30 May 2002
5	A2002-30	23 September 2002
6	<u>A2003-41</u>	9 October 2003

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