



Australian Capital Territory

Fisheries Amendment Act 2006

A2006-48

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J2005-1056

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Australian Capital Territory

Fisheries Amendment Act 2006

A2006-48

An Act to amend the *Fisheries Act 2000*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2005-1056

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

This Act is the *Fisheries Amendment Act 2006*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Fisheries Act 2000*.

Note This Act also amends the *Fisheries Regulation 2001* (see s 24).

**4 Kinds of licences
New section 19 (d)**

in division 4.1, insert

(d) priority species licences.

5 New section 22A

in division 4.1, insert

22A Priority species licences

A priority species licence authorises the licensee to do 1 or more of the following in relation to a commercial quantity of fish of a priority species:

- (a) sell the fish;
- (b) possess or gain possession or control of the fish for sale;
- (c) receive the fish;
- (d) process the fish.

**6 Import and export licences—relevant considerations
Section 28 (1) (d)**

omit

section 16, 17 or 21

substitute

section 33, section 34 or section 38

7 New section 28A

insert

28A Issue of priority species licences—relevant considerations

- (1) In deciding whether to issue a priority species 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) how fish of a priority species would be stored and transported; and
 - (c) the impact of issuing the licence on the availability of fish of a priority species.
- (2) Subsection (1) does not limit the matters the conservator may consider in deciding whether to issue a priority species licence.

**8 Terms of licences
Section 29 (2)**

substitute

- (2) A scientific licence and a priority species licence are issued for the term of not longer than 3 years stated in the licence.

9 Section 46 heading

substitute

46 Commercial fishers, priority species licence holders and fish dealers to make records

10 New section 46 (1A)

insert

- (1A) The holder of a priority species licence must—
- (a) make a record of all fish of a priority species the holder receives or sells; and
 - (b) if a direction is in force under subsection (4) in relation to the record—make the record in accordance with the direction.

Maximum penalty: 50 penalty units.

11 New section 46 (2A)

insert

- (2A) Subsections (1), (1A) and (2) apply whether or not—
- (a) the fish were sold to a purchaser within the ACT; or
 - (b) the fish were taken from waters in the ACT.

12 Section 46 (4)

omit

under subsection (1) or (2)

substitute

under subsection (1), (1A) or (2)

13 Section 47 heading

substitute

47 Keeping of records by commercial fishers, priority species licence holders and fish dealers**14 New section 47 (1A)**

insert

- (1A) If a person makes a record as required under section 46 (1A), the person must keep the record for at least 5 years.

Maximum penalty: 50 penalty units.

15 Section 49 heading

substitute

49 Commercial fishers, priority species licence holders and fish dealers to supply information**16 Section 49 (1), note**

substitute

Note 1 For how documents may be given, see the Legislation Act, pt 19.5.

Note 2 For offences in relation to giving false or misleading information to a person exercising a function under a Territory law etc, see the Criminal Code, pt 3.4 (False or misleading statements, information and documents).

17 New section 49 (1A)

insert

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

18 Section 49 (3)

omit

under subsection (1) or (2)

substitute

under subsection (1), (1A) or (2)

19 New sections 76A to 76C

insert

76A Trafficking in commercial quantity of fish of priority species

- (1) A person commits an offence if—
- (a) the person traffics in a commercial quantity of fish of a priority species; and
 - (b) the person does not hold a priority species licence authorising the trafficking.

Maximum penalty: 1000 penalty units, imprisonment for 10 years or both.

- (2) This section does not apply if the person receives or processes the fish for personal or domestic consumption.

- (3) In this section:

traffic in fish includes—

- (a) sell fish; and
- (b) possess or gain possession or control of fish with the intention of selling any of it; and
- (c) receive fish; and
- (d) process fish.

76B Taking commercial quantity of fish of priority species

- (1) A person commits an offence if—
 - (a) the person takes a commercial quantity of fish of a priority species in a 24-hour period; and
 - (b) the person does not hold a priority species licence authorising the taking.

Maximum penalty: 1000 penalty units, imprisonment for 10 years or both.

- (2) This section does not apply if the person takes the fish for personal or domestic consumption.

- (3) In this section:

take means gain possession or control by any means.

76C Possessing commercial quantity of fish of a priority species

- (1) A person commits an offence if—
 - (a) the person possesses a commercial quantity of fish of a priority species; and
 - (b) the person does not hold a priority species licence authorising the possession.

Maximum penalty: 500 penalty units, imprisonment for 5 years or both.

- (2) This section does not apply if the person possesses the fish for personal or domestic consumption.

**20 Guidelines
New section 113 (1) (ca)**

insert

(ca) section 28A (Issue of priority species licences—relevant considerations);

21 Dictionary, new definitions

insert

abalone means blacklip and greenlip abalone and includes all other species of abalone.

commercial quantity of fish of a priority species means the quantity prescribed by regulation as a commercial quantity of the fish.

fish of a priority species means—

- (a) abalone; and
- (b) rock lobster; and
- (c) fish of any other species prescribed by regulation as a priority species.

22 Dictionary, definition of *licence*, new paragraph (d)

insert

(d) a priority species licence.

23 Dictionary, new definitions

insert

priority species licence means a licence mentioned in section 22A.

rock lobster means an animal of the genus *Jasus*.

24 Fisheries Regulation 2001, new section 4A

insert

4A Commercial quantity—Act, dictionary

The quantity of fish of a priority species that is a commercial quantity is as follows:

- (a) for abalone—100 or more;
- (b) for rock lobster—20 or more.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 21 September 2006.

2 Notification

Notified under the Legislation Act on 28 November 2006.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Fisheries Amendment Bill 2006, which was passed by the Legislative Assembly on 16 November 2006.

Clerk of the Legislative Assembly

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