

2006

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Territory and Municipal Services)

Fisheries Amendment Bill 2006

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(Minister for the Territory and Municipal Services)

Fisheries Amendment Bill 2006

A Bill for

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

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

1 **1 Name of Act**

2 This Act is the *Fisheries Amendment Act 2006*.

3 **2 Commencement**

4 This Act commences on the day after its notification day.

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

7 **3 Legislation amended**

8 This Act amends the *Fisheries Act 2000*.

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

10 **4 Kinds of licences**
11 **New section 19 (d)**

12 *in division 4.1, insert*

13 (d) priority species licences.

14 **5 New section 22A**

15 *in division 4.1, insert*

16 **22A Priority species licences**

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

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

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

3 *omit*

4 section 16, 17 or 21

5 *substitute*

6 section 33, section 34 or section 38

7 **7 New section 28A**

8 *insert*

9 **28A Issue of priority species licences—relevant**
 10 **considerations**

11 (1) In deciding whether to issue a priority species licence, the
 12 conservator must consider—

13 (a) whether the applicant has been convicted, or found guilty, of
 14 an offence against this Act, the *Nature Conservation Act 1980*,
 15 part 4, or a law of a State corresponding to this Act or that part;
 16 and

17 (b) how fish of a priority species would be stored and transported;
 18 and

19 (c) the impact of issuing the licence on the availability of fish of a
 20 priority species.

21 (2) Subsection (1) does not limit the matters the conservator may
 22 consider in deciding whether to issue a priority species licence.

23 **8 Terms of licences**
 24 **Section 29 (2)**

25 *substitute*

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

1 **9 Section 46 heading**

2 *substitute*

3 **46 Commercial fishers, priority species licence holders and**
4 **fish dealers to make records**

5 **10 New section 46 (1A)**

6 *insert*

7 (1A) The holder of a priority species licence must—

8 (a) make a record of all fish of a priority species the holder
9 receives or sells; and

10 (b) if a direction is in force under subsection (4) in relation to the
11 record—make the record in accordance with the direction.

12 Maximum penalty: 50 penalty units.

13 **11 New section 46 (2A)**

14 *insert*

15 (2A) Subsections (1), (1A) and (2) apply whether or not—

16 (a) the fish were sold to a purchaser within the ACT; or

17 (b) the fish were taken from waters in the ACT.

18 **12 Section 46 (4)**

19 *omit*

20 under subsection (1) or (2)

21 *substitute*

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

- 1 **13 Section 47 heading**
- 2 *substitute*
- 3 **47 Keeping of records by commercial fishers, priority**
4 **species licence holders and fish dealers**
- 5 **14 New section 47 (1A)**
- 6 *insert*
- 7 (1A) If a person makes a record as required under section 46 (1A), the
8 person must keep the record for at least 5 years.
- 9 Maximum penalty: 50 penalty units.
- 10 **15 Section 49 heading**
- 11 *substitute*
- 12 **49 Commercial fishers, priority species licence holders and**
13 **fish dealers to supply information**
- 14 **16 Section 49 (1), note**
- 15 *substitute*
- 16 *Note 1* For how documents may be given, see the Legislation Act, pt 19.5.
- 17 *Note 2* For offences in relation to giving false or misleading information to a
18 person exercising a function under a Territory law etc, see the Criminal
19 Code, pt 3.4 (False or misleading statements, information and
20 documents).
- 21 **17 New section 49 (1A)**
- 22 *insert*
- 23 (1A) The conservator may, by written notice to the holder of a priority
24 species licence, require the licence holder to give the conservator,
25 within a reasonable time stated in the notice, the information about
26 the fish received or sold by him or her stated in the notice.

1 **18 Section 49 (3)**

2 *omit*

3 under subsection (1) or (2)

4 *substitute*

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

6 **19 New sections 76A to 76C**

7 *insert*

8 **76A Trafficking in commercial quantity of fish of priority**
9 **species**

10 (1) A person commits an offence if—

11 (a) the person traffics in a commercial quantity of fish of a priority
12 species; and

13 (b) the person does not hold a priority species licence authorising
14 the trafficking.

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

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

19 (3) In this section:

20 *traffic* in fish includes—

21 (a) sell fish; and

22 (b) possess or gain possession or control of fish with the intention
23 of selling any of it; and

24 (c) receive fish; and

25 (d) process fish.

-
- 1 **76B Taking commercial quantity of fish of priority species**
- 2 (1) A person commits an offence if—
- 3 (a) the person takes a commercial quantity of fish of a priority
- 4 species in a 24-hour period; and
- 5 (b) the person does not hold a priority species licence authorising
- 6 the taking.
- 7 Maximum penalty: 1000 penalty units, imprisonment for 10 years
- 8 or both.
- 9 (2) This section does not apply if the person takes the fish for personal
- 10 or domestic consumption.
- 11 (3) In this section:
- 12 *take* means gain possession or control by any means.
- 13 **76C Possessing commercial quantity of fish of a priority**
- 14 **species**
- 15 (1) A person commits an offence if—
- 16 (a) the person possesses a commercial quantity of fish of a priority
- 17 species; and
- 18 (b) the person does not hold a priority species licence authorising
- 19 the possession.
- 20 Maximum penalty: 500 penalty units, imprisonment for 5 years or
- 21 both.
- 22 (2) This section does not apply if the person possesses the fish for
- 23 personal or domestic consumption.

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

3 *insert*

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

6 **21 Dictionary, new definitions**

7 *insert*

8 ***abalone*** means blacklip and greenlip abalone and includes all other
9 species of abalone.

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

12 ***fish of a priority species*** means—

13 (a) abalone; and

14 (b) rock lobster; and

15 (c) fish of any other species prescribed by regulation as a priority
16 species.

17 **22 Dictionary, definition of *licence*, new paragraph (d)**

18 *insert*

19 (d) a priority species licence.

20 **23 Dictionary, new definitions**

21 *insert*

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

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

1 **24 Fisheries Regulation 2001, new section 4A**

2 *insert*

3 **4A Commercial quantity—Act, dictionary**

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

6 (a) for abalone—100 or more;

7 (b) for rock lobster—20 or more.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2006.

2 Notification

Notified under the Legislation Act on 2006.

3 Republications of amended laws

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