

Fisheries (Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 24 May 1989

(Brought in by Mrs Setches and Mr Roper)

A BILL

to make miscellaneous amendments to the *Fisheries Act 1968*, to repeal the *Victorian Fishing Industry Council Act 1979* and for other purposes.

Fisheries (Amendment) Act 1989

The Parliament of Victoria enacts as follows:

Purpose

1. The purpose of this Act is—

- 5 (a) to make miscellaneous amendments to the *Fisheries Act 1968*; and
 (b) to repeal the *Victorian Fishing Industry Council Act 1979*.

Commencement

2. (1) This Act other than section 8 comes into operation on a day or days to be proclaimed.
10 (2) Section 8 comes into operation on 29 November 1989.

Principal Act

3. In this Act the *Fisheries Act 1968* is called the Principal Act.

Act No. 7780.
Reprinted to
No. 10006.
Subsequently
amended by Nos.
*10035, 10129,
79/1986,
121/1986,
41/1987
and 71/1987.

Application of Act

4. For section 4 of the Principal Act substitute—

Application of Act

“4. (1) This Act does not apply to or in respect of any person who with the written permission of the Minister engages in a fishing activity for management, research, education or scientific purposes or to any boat or equipment used by that person in that fishing activity.” 5

(2) A person must comply with the terms and conditions of a written permission.

Penalty: 20 penalty units.”. 10

Repeal of fish traders licence

5. (1) Sections 13 (1) (g), 13 (13) and 15 (1) (l) of the Principal Act are repealed.

(2) In section 17 (1) of the Principal Act omit “or who sells raw fish for human consumption”. 15

(3) In section 17 (4) of the Principal Act omit “or to any person who for profit or reward supplies oysters as a meal or part of a meal”.

Special directions relating to master fisherman’s licence

6. After section 13 (2) of the Principal Act insert—

“(3) The Minister may issue special directions requiring that any class of applicant for a master fisherman’s licence— 20

(a) must be the holder of a certificate of competency or certificate of service issued or recognized by the Marine Board of Victoria; and

(b) must satisfy the Director-General that he or she proposes to operate a registered fishing boat licensed under section 14.”. 25

Prescribed financial interests to be registered

7. After section 14 of the Principal Act insert—

Prescribed financial interests to be registered

“14A. (1) This section applies to a prescribed financial interest in a licence under this Part. 30

(2) If a licence under this Part is at any time subject to a prescribed financial interest, the holder of the licence must give the Director-General the prescribed details of the prescribed financial interest.

(3) The Director-General must keep a register in the prescribed form of prescribed financial interests in licences under this Part. 35

(4) The holder of a licence under this Part must give 21 days notice to each holder of a prescribed financial interest in the licence of his or her intention to apply to the Director-General to transfer the licence.

(5) Each holder of a prescribed financial interest must within 21 days of receiving the notice advise the Director-General in writing of the holder's approval or disapproval of the proposed transfer.

5 (6) If all the holders of a prescribed financial interest in a licence under this Part have not approved of the proposed transfer, the Director-General must not approve the application by the holder of the licence.”.

Repeal of *Victorian Fishing Industry Council Act 1979*

8. (1) The *Victorian Fishing Industry Council Act 1979* is repealed.

(2) For section 15 (4) of the Principal Act substitute—

10 “(4) For use in promoting the commercial fishing industry there is to be paid from time to time as determined by the Minister from money appropriated by Parliament for the purpose to the fishing industry body which in the opinion of the Minister best represents all sections of the commercial fishing industry
15 an amount equivalent to the total amount of surcharges paid under sub-section (5).”.

Surcharge not to apply to certain fish culture permits

9. In section 15 (5) of the Principal Act after “Part V.” insert
20 “(except a fish culture permit which relates to the raising of prescribed types of aquarium fish)”.

Penalty for commercial fishing without a licence

10. In section 17 (1) of the Principal Act for “50 penalty units” substitute “100 penalty units”.

Authority to carry out research

25 11. For section 45 of the Principal Act substitute—

Authority to carry out research

“45. The Minister may issue an authority to any person—

- 30 (a) to carry out any research, exploitation, work or operation for the purpose of developing any fishing or aquaculture; or
(b) to investigate any species of fish or any fishery or any device.”.

Failure to provide information

12. After section 78 (3) of the Principal Act insert—

35 “(4) If a person who fails to comply with a notice under sub-section (1) is holder of a licence, permit or other authority under this Act, the Director-General may refuse to renew or transfer the licence, permit or other authority until the person has complied with the requirements of the notice.”.

Fisheries notices

13. (1) After section 79A of the Principal Act insert—

Fisheries notices

- “80. (1) The Minister may by a fisheries notice published in the *Government Gazette* in relation to any commercial fishing activity— 5
- (a) fix and enforce bag limits and possession limits for any kind or species of fish specified in the notice; and
 - (b) fix the close season for any kind or species of fish specified in the notice and fix other periods during which any fishing activity in relation to fish of any kind or species specified in the notice is prohibited; and 10
 - (c) fix the open season for any kind or species of fish specified in the notice and fix other periods during which any fishing activity in relation to fish of any kind or species specified in the notice is allowed; and 15
 - (d) specify the criteria and circumstances which give priority as between commercial fishermen to fish or dredge in the same Victorian waters; and
 - (e) close to harvesting for the period of time specified in the notice any shellfish beds or shellfish farms, if environmental conditions make it likely that the shellfish in those beds or farms could be adversely affected; and 20
 - (f) specify the limits imposed by the Director-General for entry to any Victorian commercial fisheries specified in the notice; and 25
 - (g) provide for exemptions from anything referred to in paragraphs (a) to (e); and
 - (h) declare any other matter or thing which this Act requires or permits to be done by a fisheries notice.
- (2) The following provisions apply to a fisheries notice: 30
- (a) It is a subordinate instrument for the purposes of the *Interpretation of Legislation Act 1984*;
 - (b) It commences from the date of publication or from any later date specified in the notice;
 - (c) Unless sooner revoked, it is revoked by virtue of this section on the day which is 12 months after the day on which it came into operation. 35
- (3) A fisheries notice—
- (a) may be of general or limited application; and
 - (b) may make different provision according to differences in times, places, circumstances, boats, persons or fish (whether by reference to kind or species or sex), whether or not any times, places, circumstances, boats, persons or fish are 40

determined or ascertainable before, at or after the making of the notice; and

(c) may impose penalties not exceeding 20 penalty units for a contravention of or an offence under the notice; and

5 (d) may apply, adopt or incorporate (with or without modification)—

10 (i) the provisions of any document, code, standard, rule, specification or method whether as formulated, issued, prescribed or published at the time the notice is made, or at any time before then; or

(ii) the provisions of any Act of the Commonwealth or of another State or of a Territory or the provisions of any subordinate instrument under that Act; and

15 (e) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by any person or body; and

(f) may confer powers or impose duties in connection with the notice on any person or body.

20 (4) Unless otherwise expressly provided, fisheries notices with respect to fish or any specified kind or species of fish apply to both sexes of fish or to both sexes of that kind or species of fish.

25 (5) A fisheries notice may define the limits of Victorian waters for the purposes of this Act and for defining those limits may specify the boundaries of any river, creek, water-course, stream, bay, estuary or lake or the mouth of any inland waters.”.

(2) The Principal Act is amended as follows:

(a) In section 3 (1) in the definition of “**Close season**” after “regulations” insert “or by a fisheries notice”;

(b) In section 3 (1) after the definition of “**fish**” insert—

30 “**Fisheries notice**” means a fisheries notice made under section 80.”;

(c) In section 3 (1) in the definition of “**Open season**” after “regulations” insert “or by a fisheries notice or during which the taking of fish of that kind or species is allowed by a fisheries notice”;

(d) In section 3 (3) after “reference in” insert “or under”;

(e) In section 9 (1) after “regulations” (wherever occurring) insert “and any fisheries notice”;

(f) In section 9H (3)—

40 (i) after “and regulations” insert “and fisheries notices”; and

(ii) for “or regulation” substitute “, regulation or fisheries notice”;

- (g) In section 9H (4) after “regulations” insert “and fisheries notices”;
- (h) In section 9H (5)—
- (i) after “and regulations” insert “and fisheries notices”; and 5
 - (ii) for “or regulation” substitute “, regulation or fisheries notice”;
- (i) In section 9I after “regulations” insert “and any fisheries notices”;
- (j) In section 9K (5) after “regulation,” (wherever occurring) insert “fisheries notice,”; 10
- (k) After section 9N (1) insert—
- “(1A) The Minister may by a fisheries notice provide for any matter referred to in section 80 for the purpose of giving effect to a decision of the Joint Authority.”. 15
- (l) In section 9N (3) after “regulation” insert “or fisheries notice”;
- (m) In sections 13 (1), 13 (2) and 14 (1) after “regulations” insert “and any fisheries notice”;
- (n) In sections 42A (6), 47, 48 (1), 49, 50, 52, 72 (1), 73, 74, 75, 76, 76A (1) and 76B (1) after “regulations” (wherever occurring) insert “or a fisheries notice”;
- (o) In section 72 (2)—
- (i) after “regulations” (where first occurring) insert “or a fisheries notice”; 25
 - (ii) after “regulations made under this Act” insert “or in any fisheries notice”;
 - (iii) after “regulations” (where thirdly occurring) insert “or fisheries notice”;
- (p) In section 77 after “regulations” (where secondly occurring) insert “or a fisheries notice”. 30
- (3) Any regulation—
- (a) which was made under the Principal Act before the coming into operation of this section; and
 - (b) which relates to any of the matters set out in section 80 of the Principal Act; and 35
 - (c) which is in force immediately before the date of coming into operation of this section—
- continues in force until a fisheries notice is made under section 80 of the Principal Act which specifies that the fisheries notice is to replace that regulation. 40