

WESTERN AUSTRALIA

FISHERIES AMENDMENT ACT (No. 2)

No. 104 of 1987

AN ACT to amend the *Fisheries Act 1905*.

[Assented to 16 December 1987]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Fisheries Amendment Act (No. 2) 1987*.

Commencement

2. This Act shall come into operation on such day as is, or such days as are respectively, fixed by proclamation.

Principal Act

3. In this Act the *Fisheries Act 1905** is referred to as the principal Act.

[*Reprinted as at 15 July 1986 and amended by Acts Nos. 77 and 104 of 1986.]

Section 6 amended

4. Section 6 of the principal Act is amended in subsection (1) by inserting after paragraph (mn) the following paragraph—

“ (mna) providing for the replacement or transfer of boats referred to in paragraph (mn) and prescribing fees for any such replacement or transfer; ”.

Section 12 amended

5. Section 12 of the principal Act is amended—

(a) in subsection (2) (a) by deleting—

(i) “rock lobsters—” and substituting the following—

“ abalone, marron or rock lobsters— ”;

(ii) “\$200 nor more than \$750” in subparagraph (i) and substituting the following—

“ \$300 nor more than \$1 100 ”; and

(iii) “\$750 nor more than \$1 500” in subparagraph (ii) and substituting the following—

“ \$1 100 nor more than \$2 200 ”;

and

(b) in subsection (2) (b) by inserting before “rock lobsters” the following—

“ abalone, marron or ”.

Section 12A amended

6. Section 12A of the principal Act is amended in subsection (3) by inserting after—

- (a) “proclamation made” the following—
 - “ or notice published ”; and
- (b) “proclamation” where it occurs for the second, third, fourth and fifth times the following—
 - “ or notice ”.

Section 24 amended

7. Section 24 of the principal Act is amended—

- (a) in subsection (1a) by inserting before “rock lobsters” wherever it occurs in paragraphs (b) and (c) the following—

“ abalone, marron or ”;

- (b) in subsection (3) by—

- (i) inserting after “A person who” the following—

“ , otherwise than in accordance with a permit issued under section 29 or a licence granted, or permission given, under Part V, ”; and

- (ii) deleting the passage beginning with “any female of the fish known” and ending with “or elsewhere, commits an offence” and substituting the following—

“ any female—

- (c) marron which has, or has been captured with, eggs, spawn, larvae or young marron; or

- (d) rock lobster which has, or has been captured with, eggs or spawn,

attached beneath its body, whether that female marron or rock lobster was taken within Western Australian waters or elsewhere, commits an offence ”;

- (c) in subsection (3a) by—
- (i) deleting “rock lobsters specified” and substituting the following—
“ female marron or rock lobsters referred to ”;
 - (ii) inserting before “rock lobsters contained in any boat, vehicle or aircraft,” the following—
“ marron or ”;
 - (iii) deleting “such specified rock lobsters” and substituting the following—
“ those female marron or rock lobsters referred to in that subsection ”;
 - (iv) inserting after “in number of the whole number of” the following—
“ marron or ”;
 - (v) inserting before “rock lobsters so seized” the following—
“ marron or ”; and
 - (vi) inserting before “rock lobsters and receptacles seized” the following—
“ marron or ”;
- (d) by repealing subsection (3b) and substituting the following subsection—
- “ (3b) The court by which a person is convicted of an offence under—
- (a) subsection (1) shall, in addition to any penalty imposed for that offence, impose on the person a further penalty of—
 - (i) not less than \$5 nor more than \$25 in respect of every undersize abalone, marron or rock lobster; or
 - (ii) not less than 25 cents nor more than 50 cents in respect of every undersize fish (other than abalone, marron or rock lobster),
referred to in that subsection; or

- (b) subsection (3) shall, in addition to any penalty imposed for that offence, impose on the person a further penalty of not less than \$5 nor more than \$25 in respect of every female marron or rock lobster referred to in that subsection,

seized under this section, and shall—

- (c) if that offence is a second offence in respect of abalone, suspend from such date and for such period as that court thinks fit;
- (d) if that offence is a second offence in respect of rock lobsters, suspend from such date and for such period as that court thinks fit, not being any period between 1 June and the next following 15 November in any year; or
- (e) if that offence is a third or subsequent offence in respect of abalone or rock lobsters, as the case requires, cancel,

all licences held by the person under this Act. ”;

and

- (e) in subsection (5) by inserting after “a less length than that referred to in subsection (1)” the following—

“ or were female marron or rock lobsters referred to in subsection (3), as the case requires ”.

Section 24A amended

8. Section 24A of the principal Act is amended in subsections (4) and (5) by deleting “fish” wherever it occurs and substituting in each case the following—

“ rock lobster tails ”.

Section 25 repealed and a section substituted

9. Section 25 of the principal Act is repealed and the following section is substituted—

Minister may amend Second Schedule

“ 25. (1) The Minister may by notice published in the *Gazette* amend the Second Schedule by—

- (a) altering the length set out opposite the names of any species of fish;

- (b) defining or altering the method whereby fish are measured;
- (c) inserting the names of any other species of fish and setting out a length opposite those names; or
- (d) omitting the names and length of any species of fish.

(2) The Minister may under subsection (1) amend the Second Schedule so as to set out different lengths in respect of the same species of fish according to—

- (a) the different purposes for which that species is used;
- (b) the different areas in which that species is found; or
- (c) the different classes of persons taking, farming, processing, selling or exporting that species.

(3) In subsection (2)—

“farming” means farming within the meaning of Part V;

“processing” means cutting up, breaking up, filleting, preparing, packing, freezing, canning, preserving or otherwise processing or treating. ”.

Section 29 amended

10. Section 29 of the principal Act is amended in subsection (1) by deleting “issued pursuant to” and substituting the following—

“ granted, or permission given, under ”.

Section 32 amended

11. Section 32 of the principal Act is amended—

- (a) by repealing subsection (5) and substituting the following subsection—

“ (5) A person who is not the holder of a professional fisherman’s licence may, subject to this Act (except for this section and any notice made thereunder), take or keep any fish, aquatic organism or product, the subject of a limited entry fishery, for his own personal use or pleasure, but may not sell or otherwise dispose of that fish, aquatic organism or product for gain or reward. ”;

- (b) in subsection (6) (a) by deleting “, or who sells or deals in any such fish or other thing” and substituting the following—

“ for the purpose of sale or other disposal for gain or reward, or who sells any such fish or aquatic organism or product or otherwise disposes of it for gain or reward ”; and

- (c) in subsection (7) (b) by deleting subparagraph (iv) and substituting the following—

“ (iv) for—

(A) a second or subsequent offence in the commission of which a boat or boats authorized;

or

(B) every offence in the commission of which a boat or boats not authorized,

to operate in the limited entry fishery concerned is or are found to have been used or operated, every such boat, and all gear and equipment pertaining thereto at the time of that offence, may be ordered to be forfeited to Her Majesty. ”.
