



Australian Capital Territory

# **Fisheries Act 2000**

**A2000-38**

**Republication No 16**

**Effective: 14 October 2015**

Republication date: 14 October 2015

Last amendment made by [A2015-33](#)

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 14 October 2015. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 14 October 2015.

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](http://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, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### 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 the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$150 for an individual and \$750 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Fisheries Act 2000

## Contents

---

	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Name of Act 2
3	Objects 2
4	Dictionary 2
4A	Notes 2
4B	Offences against Act—application of Criminal Code etc 3
<b>Part 2</b>	<b>Fisheries management plan</b>
5	Content of fisheries management plan 4
6	Preparation of fisheries management plan 4
7	Consultation on draft plan 4
8	Consideration of suggestions etc and revision of draft plan 5
8A	Formal changes to draft plan 5
9	Submission of draft plan to Minister 6
10	Minister's powers about draft plan 6

---

R16  
14/10/15

Fisheries Act 2000  
Effective: 14/10/15

contents 1

## Contents

---

	Page
11 Referral back of draft plan to conservator	6
12 Fisheries management plan disallowable instrument etc	7
<b>Part 3 Fishing closures and declarations</b>	
13 Fishing closures	8
14 Declaration of noxious fish	8
15 Declaration of fish of prohibited size or weight	8
16 Declaration of fish quantity	9
17 Declaration of fishing gear	9
<b>Part 4 Licences</b>	
<b>Division 4.1 Kinds of licences</b>	
19 Kinds of licences	10
20 Commercial fishing licences	10
21 Scientific licences	10
22 Import and export licences	10
22A Priority species licences	11
<b>Division 4.2 Issue of licences</b>	
23 Applications for licences	11
24 Additional information may be required	11
25 Decision on application	12
26 Issue of commercial fishing licences—relevant considerations	12
27 Issue of scientific licences—relevant considerations	13
28 Import and export licences—relevant considerations	13
28A Issue of priority species licences—relevant considerations	15
29 Terms of licences	15
30 Licence conditions and exemptions	16
31 Licence changes	16
32 Rights given by licences	17
33 Surrender of licences	17
34 Cancellation of licences	18
35 Register of licences	19
36 Inspection of register	19

	Page
<b>Part 5</b>	<b>Commercial dealing</b>
<b>Division 5.1</b>	<b>Fish dealers</b>
37	Fish dealers to be registered 20
38	Application for registration 20
39	Decision on application 21
40	Term of registration 21
41	Suspension of registration 21
42	Cancellation of registration 21
43	Register of dealers 22
44	Inspection of register 22
<b>Division 5.2</b>	<b>Commercial fishers</b>
45	Sale of fish by commercial fishers 22
<b>Part 6</b>	<b>Records and information</b>
<b>Division 6.1</b>	<b>Keeping records and giving information</b>
46	Commercial fishers, priority species licence holders and fish dealers to make records 24
47	Keeping of records by commercial fishers, priority species licence holders and fish dealers 25
48	Production of records to conservation officers 25
49	Commercial fishers, priority species licence holders and fish dealers to supply information 26
<b>Division 6.2</b>	<b>Powers in relation to records</b>
51	Possession of records 27
52	Copying and keeping records etc 27
<b>Part 7</b>	<b>Conservation officer's powers</b>
<b>Division 7.1</b>	<b>Powers for places</b>
53	Meaning of <i>occupier</i> for div 7.1 28
54	Entry to places 28
55	Consent to entry 28
56	Routine inspection of business premises 29
57	Warrants to enter 30
58	Warrants—application made other than in person 31
59	Powers on entry with consent 32

## Contents

---

	Page
60 Powers on entry for routine inspection of business premises	32
61 Powers on entry under a warrant	33
62 Identity cards must be produced	33
63 Entry into waters, and along banks etc	34
<b>Division 7.2 Other powers</b>	
64 Power to require name and address	34
65 Power to require gear to be removed from water	35
66 Seizure of fish etc	35
67 Seizure and destruction of noxious fish	35
<b>Division 7.3 Other enforcement matters</b>	
68 Procedure after thing seized	36
69 Compensation	37
<b>Part 8 Offences</b>	
<b>Division 8.1 Unauthorised activities</b>	
74 Taking fish for sale without licence etc	38
75 Taking fish contrary to scientific licence	38
76 Importing or exporting live fish without authority	39
76A Trafficking in commercial quantity of fish of priority species	40
76B Taking commercial quantity of fish of priority species	40
76C Possessing commercial quantity of fish of a priority species	41
77 Possessing fish obtained illegally	41
78 Noxious fish	42
79 Release of fish	42
<b>Division 8.2 General offences</b>	
80 Fishing closure offences	42
81 Prohibited size and weight offences	43
82 Quantity of fish offences	44
83 Beheading or filleting fish	44
84 Use of live fin fish as bait etc	44
<b>Division 8.3 Offences in relation to fishing gear</b>	
85 Use of fishing gear generally	45
86 Non-permitted fishing gear	45
87 Use and possession of commercial fishing gear	46

---

	Page
<b>Division 8.4</b>	<b>Protection of aquatic habitats</b>
88	Spawning areas 47
<b>Part 10</b>	<b>Notification and review of decisions</b>
107	Meaning of <i>reviewable decision</i> —pt 10 48
108	Reviewable decision notices 48
108A	Applications for review 48
<b>Part 11</b>	<b>Miscellaneous</b>
109	Delegation 49
110	Acts and omissions of representatives 49
111	Criminal liability of executive officers 50
112	Production of licences 52
113	Guidelines 52
114	Determination of fees 53
115	Approved forms 53
116	Regulation-making power 54
<b>Schedule 1</b>	<b>Reviewable decisions</b> 55
<b>Dictionary</b>	56
<b>Endnotes</b>	
1	About the endnotes 61
2	Abbreviation key 61
3	Legislation history 62
4	Amendment history 64
5	Earlier republications 72







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 2 (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)).

### 4A Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the *Legislation Act*, s 127 (1), (4) and (5) for the legal status of notes.

**4B Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## 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 give additional public notice of the notice.

*Note* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1). The requirement in s (3) is in addition to the requirement for notification on the legislation register as a notifiable instrument.

## **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 give additional public notice of the notice.

*Note* **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1). The requirement in s (4) is in addition to the requirement for notification on the legislation register as a notifiable instrument.

## 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.
- (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;
- (d) priority species 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.

## **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.

## **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—
    - (i) this Act; or
    - (ii) the *Nature Conservation Act 2014*, division 6.1.2 (Native animals); or
    - (iii) a law of another jurisdiction corresponding, or substantially corresponding, to this Act or that division; 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—
    - (i) this Act; or
    - (ii) the *Nature Conservation Act 2014*, division 6.1.2 (Native animals); or
    - (iii) a law of another jurisdiction corresponding, or substantially corresponding, to this Act or that division; 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—
- (i) are an endangered species; or
  - (ii) are a vulnerable species; or
  - (iii) have special protection status; or
  - (iv) are a protected native species; or
  - (v) are exempt animals; 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.
- (3) In this section:
- endangered species***—see the [Nature Conservation Act 2014](#), dictionary.
- exempt animal***—see the [Nature Conservation Act 2014](#), section 154.

*protected native species*—see the [Nature Conservation Act 2014](#), section 110.

*special protection status*—see the [Nature Conservation Act 2014](#), section 109.

*vulnerable species*—see the [Nature Conservation Act 2014](#), dictionary.

## **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—
    - (i) this Act; or
    - (ii) the [Nature Conservation Act 2014](#), division 6.1.2 (Native animals); or
    - (iii) a law of another jurisdiction corresponding, or substantially corresponding, to this Act or that division; 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.

## **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.
- (2) A scientific licence and a priority species licence are 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—
    - (i) this Act; or
    - (ii) the *Nature Conservation Act 2014*, division 6.1.2 (Native animals); or
    - (iii) a law of another jurisdiction corresponding, or substantially corresponding, to this Act or that division; 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 commits an offence if—
- (a) the person receives, within the period prescribed by regulation, more than the prescribed number of fish; and
  - (b) the person is not registered as a fish dealer under this Act; and
  - (c) the person does not receive the fish from a person who is—
    - (i) registered as a fish dealer under this Act; or
    - (ii) registered or licensed as a fish dealer under a corresponding law.

Maximum penalty: 50 penalty units.

- (2) This section does not apply to the person if—
- (a) the fish are received for retail sale; or
  - (b) the fish are received for purposes other than sale.
- (3) An offence against this section is a strict liability offence.
- (4) In this section:  
*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 (3), 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 (3)

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) The holder of a commercial fishing licence under this Act or a corresponding law must not sell in a day more than the quantity of fish prescribed by regulation.

Maximum penalty: 100 penalty units.

- (2) Subsection (1) does not apply in relation to any quantity of fish sold to a person who is registered or licensed as a fish dealer under this Act or a corresponding law.

- (3) In this section:  
*fish* does not include oysters.

## **Part 6** Records and information

### **Division 6.1** Keeping records and giving information

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

- (1) The holder of a commercial fishing licence must—
- (a) make a record of all fish the holder takes or sells; and
  - (b) if a direction is in force under subsection (6) in relation to the record—make the record in accordance with the direction.

Maximum penalty: 10 penalty units.

- (2) 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 (6) in relation to the record—make the record in accordance with the direction.

Maximum penalty: 50 penalty units.

- (3) A fish dealer must—
- (a) make a record of all fish the dealer receives, processes or sells; and
  - (b) if a direction is in force under subsection (6) in relation to the record—make the record in accordance with the direction.

Maximum penalty: 10 penalty units.

- (4) Subsections (1), (2) and (3) 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.



- (5) An offence against this section is a strict liability offence.
- (6) The conservator may, in writing, give directions about how records under subsection (1), (2) or (3) must be made.
- (7) An instrument under subsection (6) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

#### **47 Keeping of records by commercial fishers, priority species licence holders and fish dealers**

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

Maximum penalty: 10 penalty units.

- (2) If a person makes a record as required under section 46 (2), the person must keep the record for at least 5 years.

Maximum penalty: 50 penalty units.

- (3) If a person makes a record as required under section 46 (3), the person must keep the record for at least 5 years.

Maximum penalty: 50 penalty units.

- (4) An offence against this section is a strict liability offence.

#### **48 Production of records to conservation officers**

- (1) If a person who is required under section 47 to keep a record is asked to produce the record by a conservation officer, the person must produce the record to the conservation officer.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

#### **49 Commercial fishers, priority species licence holders 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 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).

- (2) 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.
- (3) 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.
- (4) If a person is given a notice under subsection (1), (2) or (3), the person must 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.

*Note* The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

- (5) Subsection (4) does not apply if the person has a reasonable excuse.
- (6) An offence against this section is a strict liability offence.

## **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 self-incrimination 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 take all reasonable steps to comply with a requirement made of the person under subsection (1) (f).

Maximum penalty: 50 penalty units.

*Note* The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

**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 Power to require name and address**

- (1) A conservation officer may require a person to state the person's name and home or business address if the conservation officer believes, on reasonable grounds, that the person is committing or has just committed an offence against this Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (2) The conservation officer must tell the person the reason for the requirement and, as soon as practicable, record the reason.
- (3) The person may ask the conservation officer to produce his or her identity card for inspection by the person.
- (4) A person must comply with a requirement made of the person under subsection (1) if the conservation officer—
  - (a) tells the person the reason for the requirement; and
  - (b) complies with any request made by the person under subsection (3).

Maximum penalty: 10 penalty units.

- (5) An offence against this section is a strict liability offence.

**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 comply with a requirement made of the person by a conservation officer under subsection (1) if the conservation officer complies with any request made by the person under subsection (4).

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) 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).

## Part 8                    Offences

### Division 8.1            Unauthorised activities

#### 74                    Taking fish for sale without licence etc

- (1) A person who does not hold a commercial fishing licence commits an offence if the person takes fish from public waters with the intention of—
- (a) selling the fish; or
  - (b) processing the fish for sale.

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

- (2) The holder of a commercial fishing licence commits an offence if—
- (a) the holder takes fish for processing or sale; and
  - (b) taking the fish is not permitted by the licence.

Maximum penalty: 50 penalty units.

- (3) Subsection (2) does not apply if—
- (a) the licence holder unintentionally takes the fish; and
  - (b) except for taking the fish, the licence holder's conduct does not contravene this Act; and
  - (c) the licence holder immediately returns the fish to the waters from which it was taken with the least possible injury.
- (4) An offence against subsection (2) is a strict liability offence.

#### 75                    Taking fish contrary to scientific licence

- (1) The holder of a scientific licence commits an offence if—
- (a) the holder takes fish for the scientific or other purposes stated in the licence; and

(b) taking the fish is not authorised by the licence.

Maximum penalty: 10 penalty units.

- (2) Subsection (1) does not apply if—
- (a) the licence holder unintentionally takes the fish; and
  - (b) except for taking the fish, the licence holder's conduct does not contravene this Act; and
  - (c) the licence holder immediately returns the fish to the waters from which it was taken with the least possible injury.
- (3) An offence against this section is a strict liability offence.

## **76 Importing or exporting live fish without authority**

- (1) A person commits an offence if—
- (a) the person imports a live fish into, or exports a live fish from, the ACT; and
  - (b) the person does not—
    - (i) hold an import and export licence authorising the import or export ; or
    - (ii) have the conservator's written approval for the import or export.

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

- (2) A person commits an offence if—
- (a) the person is the holder of an import and export licence; and
  - (b) the person imports a live fish into, or exports a live fish from, the ACT; and
  - (c) the import or export is not authorised by the licence.

Maximum penalty: 100 penalty units.

- (3) This section does not apply to fish bought from a registered fish dealer for human consumption.
- (4) An offence against subsection (2) is a strict liability offence.

**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.

## **77 Possessing fish obtained illegally**

A person commits an offence if—

- (a) the person possesses a fish; and
- (b) the fish was—
  - (i) imported into the ACT in contravention of section 76; or

- (ii) taken in contravention of a law of the Commonwealth, a State or another Territory.

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

**78 Noxious fish**

A person commits an offence if—

- (a) the person possesses a noxious fish; and
- (b) the person does not have the conservator's written approval to possess the fish.

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

**79 Release of fish**

- (1) A person commits an offence if—

- (a) the person releases a live fish into public waters; and
- (b) the person does not have the conservator's written approval to release the fish.

Maximum penalty: 10 penalty units.

- (2) This section does not apply to the release if the fish was taken from the part of the public waters into which it is released.
- (3) An offence against this section is a strict liability offence.

**Division 8.2 General offences**

**80 Fishing closure offences**

- (1) A person commits an offence if the person takes fish in contravention of a fishing closure.

Maximum penalty: 50 penalty units.

- (2) Subsection (1) does not apply if—
- (a) the person unintentionally takes the fish; and
  - (b) except for taking the fish, the person's conduct does not contravene this Act; and
  - (c) the person immediately returns the fish to the waters from which it was taken with the least possible injury.
- (3) A person commits an offence if—
- (a) the person possesses fish; and
  - (b) the fish was taken in contravention of a fishing closure.
- Maximum penalty: 50 penalty units.
- (4) An offence against this section is a strict liability offence.

## **81 Prohibited size and weight offences**

- (1) A person commits an offence if—
- (a) the person takes a fish from public waters; and
  - (b) the fish is of size or weight that is prohibited under a declaration under section 15 (Declaration of fish of prohibited size and weight).
- Maximum penalty: 50 penalty units, imprisonment for 6 months or both.
- (2) Subsection (1) does not apply if—
- (a) except for taking the fish, the person's conduct does not contravene this Act; and
  - (b) the person immediately returns the fish to the waters from which it was taken with the least possible injury.
- (3) A person commits an offence if the person possesses a fish that—
- (a) was taken from public waters; and

- (b) is of size or weight that is prohibited under a declaration under section 15.

Maximum penalty: 30 penalty units.

- (4) An offence against subsection (3) is a strict liability offence.

## **82 Quantity of fish offences**

- (1) This section applies to a species of fish if a declaration under section 16 (Declaration of fish quantity) is in force in relation to the species.
- (2) A person commits an offence if the person takes, in a day, more fish of the species than the quantity allowed under the declaration.

Maximum penalty: 30 penalty units.

- (3) An offence against this section is a strict liability offence.

## **83 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) An offence against this section is a strict liability offence.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant beheaded or filleted the fish for immediate consumption.

## **84 Use of live fin fish as bait etc**

- (1) A person must not—
- (a) use live fin fish as bait; or
- (b) be in or beside public waters in possession of live fin fish for use as bait.

Maximum penalty: 30 penalty units.

- (2) An offence against this section is a strict liability offence.

## **Division 8.3                      Offences in relation to fishing gear**

### **85                      Use of fishing gear generally**

- (1) A person commits an offence if—
- (a) the person uses fishing gear to take fish from public waters; and
  - (b) any of the following applies:
    - (i) the person is not within 10m of the gear;
    - (ii) the person cannot see the gear at all times;
    - (iii) the person is not permitted to take fish under this Act from waters using the fishing gear.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

### **86                      Non-permitted fishing gear**

- (1) A person commits an offence if—
- (a) the person uses fishing gear in or beside public waters; and
  - (b) the use of the fishing gear is not permitted by a declaration under section 17 (Declaration of fishing gear).

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
- (a) the person is in or beside any public waters in possession of fishing gear; and

- (b) the use of the fishing gear is not permitted by a declaration under section 17.

Maximum penalty: 30 penalty units.

- (3) An offence against this section is a strict liability offence.

### **87 Use and possession of commercial fishing gear**

- (1) A person commits an offence if—

- (a) the person is not the holder of a commercial fishing licence; and
- (b) the person uses commercial fishing gear in or beside public waters.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—

- (a) the person is not the holder of a commercial fishing licence; and
- (b) the person is in possession of commercial fishing gear in or beside public waters.

Maximum penalty: 30 penalty units.

- (3) An offence against this section is a strict liability offence.

- (4) For this section, a person is taken to *use* or *be in possession* of commercial fishing gear if, but only if, the person uses or is in possession of—

- (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**

### **88                      Spawning areas**

A person commits an offence if—

- (a) the person does something that disturbs or damages spawn or spawning fish in public waters; and
- (b) the person is not authorised by a scientific licence to do the thing; and
- (c) the person does not have the conservator’s written approval to do the thing.

Maximum penalty: 30 penalty units.

## Part 10 Notification and review of decisions

### 107 Meaning of *reviewable decision*—pt 10

In this part:

*reviewable decision* means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

### 108 Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

*Note 1* The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

*Note 2* The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

### 108A Applications for review

The following may apply to the ACAT for review of a reviewable decision:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

*Note* If a form is approved under the [ACT Civil and Administrative Tribunal Act 2008](#) for the application, the form must be used.



## 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:

*person* means an individual.

*Note*        See the [Criminal Code](#), pt 2.5 for provisions about corporate criminal responsibility.

*representative*, of a person, means an employee or agent of the person.

*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 also taken to have been done or omitted to be done by the person.
- (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
- (6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

**111 Criminal liability of executive officers**

- (1) An executive officer of a corporation commits an offence if—
  - (a) the corporation commits a relevant offence; and
  - (b) the officer was reckless about whether the relevant offence would be committed; and
  - (c) the officer was in a position to influence the conduct of the corporation in relation to the commission of the relevant offence; and
  - (d) the officer failed to take reasonable steps to prevent the commission of the relevant offence.

Maximum penalty: The maximum penalty that may be imposed for the commission of the relevant offence by an individual.

- (2) In deciding whether the executive officer took (or failed to take) all reasonable steps to prevent the commission of the offence, a court must consider any action the officer took directed towards ensuring the following (to the extent that the action is relevant to the act or omission):

- (a) that the corporation arranges regular professional assessments of the corporation's compliance with the provision to which the relevant offence relates;
  - (b) that the corporation implements any appropriate recommendation arising from such an assessment;
  - (c) that the corporation's employees, agents and contractors have a reasonable knowledge and understanding of the requirement to comply with the provision to which the relevant offence relates;
  - (d) any action the officer took when the officer became aware that the relevant offence was, or might be, about to be committed.
- (3) Subsection (2) does not limit the matters the court may consider.
- (4) Subsection (1) does not apply if the corporation would have a defence to a prosecution for the relevant offence.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (4) (see [Criminal Code](#), s 58).

- (5) This section applies whether or not the corporation is prosecuted for, or convicted of, the relevant offence.
- (6) In this section:

***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.

***relevant offence*** means an offence against any of the following:

- (a) section 45 (Sale of fish by commercial fishers);
- (b) section 49 (Commercial fishers, priority species licence holders and fish dealers to supply information);
- (c) section 76 (2) (Importing or exporting live fish without authority);

- (d) section 76A (Trafficking in commercial quantity of fish of priority species);
- (e) section 76B (Taking commercial quantity of fish of priority species);
- (f) section 76C (Possessing commercial quantity of fish of a priority species);
- (g) section 77 (Possessing fish obtained illegally);
- (h) section 78 (Noxious fish);
- (i) section 80 (1) (Fishing closure offences);
- (j) section 81 (1) (Prohibited size and weight offences);
- (k) section 86 (1) (Non-permitted fishing gear);
- (l) section 87 (1) (Use and possession of commercial gear).

## **112 Production of licences**

- (1) If a conservation officer asks a licensee to produce his or her licence for inspection at the conservator's office, the licensee must comply with the request within 2 working days after the day the licensee is asked.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

## **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 28A (Issue of priority species licences—relevant considerations);
  - (e) section 30 (Licence conditions and exemptions);
  - (f) section 31 (Licence changes);
  - (g) 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.

## Schedule 1      Reviewable decisions

(see pt 10)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	25	refuse to issue licence	applicant for licence
2	30	issue licence with conditions	applicant for licence
3	31	change licence	licensee
4	34	cancel licence	entity that has licence cancelled
5	39	refuse to register fish dealer	applicant for registration
6	41	suspend fish dealer's registration	entity that has registration suspended
7	42	cancel fish dealer's registration	entity that has registration cancelled
8	68 (6)	retain seized thing	entity from whom thing seized

## 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:

- ACAT
- conservator of flora and fauna
- contravene
- disallowable instrument
- document
- function
- home address
- magistrate
- Magistrates Court
- penalty unit (see s 133)
- power
- reviewable decision notice.

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

*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.

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

**conservation officer**—see the [Nature Conservation Act 2014](#), dictionary.

**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](#), dictionary.

**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.

***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.

***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;
- (d) a priority species licence.

***licensee*** means the holder of a licence.

***net*** includes anything attached to a net.

***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.

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

***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.

**reviewable decision**, for part 10 (Notification and review of decisions)—see section 107.

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

**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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

---

### 3 Legislation history

#### **Fisheries Act 2000 A2000-38**

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 A2001-44 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 A2002-11 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 A2002-30 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))

#### **[Criminal Code \(Theft, Fraud, Bribery and Related Offences\) Amendment Act 2004 A2004-15 sch 1 pt 1.16, sch 2 pt 2.37](#)**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 1 pt 1.16, sch 2 pt 2.37 commenced 9 April 2004 (s 2 (1))

#### **[Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.21](#)**

notified LR 27 October 2005  
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))  
sch 1 pt 1.21 commenced 24 November 2005 (s 2)

**Fisheries Amendment Act 2006 A2006-48**

notified LR 28 November 2006  
s 1, s 2 commenced 28 November 2006 (LA s 75 (1))  
remainder commenced 29 November 2006 (s 2)

**Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.46**

notified LR 22 March 2007  
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))  
sch 3 pt 3.46 commenced 12 April 2007 (s 2 (1))

**ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.43**

notified LR 4 September 2008  
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))  
sch 1 pt 1.43 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008](#) A2008-35, s 2 (1) and [CN2009-2](#))

**Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.32**

notified LR 26 November 2009  
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))  
sch 3 pt 3.32 commenced 17 December 2009 (s 2)

**Directors Liability Legislation Amendment Act 2013 A2013-4 sch 1 pt 1.3**

notified LR 21 February 2013  
s 1, s 2 commenced 21 February 2013 (LA s 75 (1))  
pt 1.3 commenced 22 February 2013 (s 2)

**Nature Conservation Act 2014 A2014-59 sch 2 pt 2.7**

notified LR 11 December 2014  
s 1, s 2 commenced 11 December 2014 (LA s 75 (1))  
sch 2 pt 2.7 commenced 11 June 2015 (s 2 (1) and LA s 79)

**Red Tape Reduction Legislation Amendment Act 2015 A2015-33 sch 1 pt 1.28**

notified LR 30 September 2015  
s 1, s 2 commenced 30 September 2015 (LA s 75 (1))  
sch 1 pt 1.28 commenced 14 October 2015 (s 2)

## Endnotes

4 Amendment history

---

### 4 Amendment history

#### Commencement

s 2 om R1 LRA

#### Objects

s 3 am [A2007-3](#) amdt 3.244

#### Notes

s 4A ins [A2005-54](#) amdt 1.143

#### Offences against Act—application of Criminal Code etc

s 4B ins [A2005-54](#) amdt 1.143

#### Preparation of fisheries management plan

s 6 sub [A2001-44](#) amdt 1.1746

#### Consultation on draft plan

s 7 sub [A2001-44](#) amdt 1.1746  
am [A2003-41](#) amdt 3.260; [A2015-33](#) amdt 1.87

#### Consideration of suggestions etc and revision of draft plan

s 8 sub [A2001-44](#) amdt 1.1746

#### Formal changes to draft plan

s 8A ins [A2001-44](#) amdt 1.1746  
am [A2015-33](#) amdt 1.88

#### Submission of draft plan to Minister

s 9 am [A2001-44](#) amdt 1.1747

#### Fisheries management plan disallowable instrument etc

s 12 am [A2001-44](#) amdt 1.1748, amdt 1.1749

#### Fishing closures and declarations

pt 3 hdg sub [A2001-44](#) amdt 1.1750

#### Fishing closures

s 13 am [A2001-44](#) amdt 1.1751, amdt 1.1752

#### Declaration of noxious fish

s 14 am [A2001-44](#) amdt 1.1753, amdt 1.1754

#### Declaration of fish of a prohibited size or weight

s 15 am [A2001-44](#) amdt 1.1755, amdt 1.1756

#### Declaration of fish quantity

s 16 am [A2001-44](#) amdt 1.1757, amdt 1.1758

#### Declaration of fishing gear

s 17 am [A2001-44](#) amdt 1.1759, amdt 1.1760

#### Disallowable instruments

s 18 om [A2001-44](#) amdt 1.1761



**Kinds of licences**

s 19 am [A2006-48](#) s 4

**Priority species licences**

s 22A ins [A2006-48](#) s 5

**Applications for licences**

s 23 sub [A2001-44](#) 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 [A2002-30](#) amdt 3.373; [A2014-59](#) amdt 2.22

**Import and export licences—relevant considerations**

s 28 am [A2002-30](#) amdt 3.373; [A2006-48](#) s 6; [A2014-59](#)  
amds 2.23-2.25

**Issue of priority species licences—relevant considerations**

s 28A ins [A2006-48](#) s 7  
am [A2014-59](#) amdt 2.26

**Terms of licences**

s 29 am [A2006-48](#) s 8

**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 [A2002-30](#) amdt 3.373; [A2003-41](#) amdt 3.262; [A2014-59](#)  
amdt 2.27

**Fish dealers to be registered**

s 37 sub [A2005-54](#) amdt 1.144

**Applications for registration**

s 38 sub [A2001-44](#) amdt 1.1763  
am [A2003-41](#) amdt 3.263

**Suspension of registration**

s 41 am [A2003-41](#) amdt 3.264

**Sale of fish by commercial fishers**

s 45 sub [A2005-54](#) amdt 1.145

## Endnotes

4 Amendment history

---

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

s 46 hdg sub [A2006-48](#) s 9  
s 46 am [A2001-44](#) amdt 1.1764, amdt 1.1765  
sub [A2005-54](#) amdt 1.146  
am [A2006-48](#) ss 10-12; ss renum R10 LA

### **Keeping of records by commercial fishers, priority species licence holders and fish dealers**

s 47 hdg sub [A2006-48](#) s 13  
s 47 sub [A2005-54](#) amdt 1.146  
am [A2006-48](#) s 14; ss renum R10 LA

### **Production of records to conservation officers**

s 48 sub [A2005-54](#) amdt 1.146

### **Commercial fishers, priority species licence holders and fish dealers to supply information**

s 49 hdg sub [A2006-48](#) s 15  
s 49 am [A2003-41](#) amdt 3.264; [A2005-54](#) amdt 1.147; [A2006-48](#)  
ss 16-18; ss renum R10 LA

### **False records etc**

s 50 om [A2004-15](#) amdt 2.85

### **Copying and keeping records etc**

s 52 am [A2001-44](#) amdt 1.1766, amdt 1.1767

### **Conservation officer's powers**

pt 7 note ins [A2002-11](#) 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; [A2005-54](#) amdt 1.148

### **Power to require name and address**

s 64 sub [A2005-54](#) amdt 1.149  
am [A2009-49](#) amdt 3.73

### **Power to require gear to be removed from water**

s 65 am [A2005-54](#) amdt 1.150; ss renum [A2005-54](#) amdt 1.151

### **Obstruction of investigation**

s 70 om [A2004-15](#) amdt 2.85

### **False or misleading information**

s 71 om [A2004-15](#) amdt 2.85

### **False or misleading or incomplete documents**

s 72 om [A2004-15](#) amdt 2.85

**Legal professional privilege**

s 73 om [A2002-11](#) amdt 2.45

**Offences**

pt 8 hdg sub [A2005-54](#) amdt 1.152

**Unauthorised activities**

div 8.1 hdg sub [A2005-54](#) amdt 1.152

**Taking fish for sale without licence etc**

s 74 sub [A2005-54](#) amdt 1.152

**Taking fish contrary to scientific licence**

s 75 sub [A2005-54](#) amdt 1.152

**Importing or exporting live fish without authority**

s 76 sub [A2005-54](#) amdt 1.152

**Trafficking in commercial quantity of fish of priority species**

s 76A ins [A2006-48](#) s 19

**Taking commercial quantity of fish of priority species**

s 76B ins [A2006-48](#) s 19

**Possessing commercial quantity of fish of a priority species**

s 76C ins [A2006-48](#) s 19

**Possessing fish obtained illegally**

s 77 sub [A2005-54](#) amdt 1.152

**Noxious fish**

s 78 sub [A2005-54](#) amdt 1.152

**Release of fish**

s 79 sub [A2005-54](#) amdt 1.152

**General offences**

div 8.2 hdg sub [A2005-54](#) amdt 1.152

**Fishing closure offences**

s 80 sub [A2005-54](#) amdt 1.152

**Prohibited size and weight offences**

s 81 sub [A2005-54](#) amdt 1.152

**Quantity of fish offences**

s 82 sub [A2005-54](#) amdt 1.152

**Beheading or filleting fish**

s 83 sub [A2005-54](#) amdt 1.152

**Use of live fin fish as bait etc**

s 84 sub [A2005-54](#) amdt 1.152

## Endnotes

4 Amendment history

---

### **Offences in relation to fishing gear**

div 8.3 hdg sub [A2005-54](#) amdt 1.152

### **Use of fishing gear generally**

s 85 sub [A2005-54](#) amdt 1.152

### **Non-permitted fishing gear**

s 86 sub [A2005-54](#) amdt 1.152

### **Use and possession of commercial fishing gear**

s 87 sub [A2005-54](#) amdt 1.152

### **Protection of aquatic habitats**

div 8.4 hdg sub [A2005-54](#) amdt 1.152

### **Spawning areas**

s 88 am [A2001-44](#) amdt 1.1768, amdt 1.1769  
sub [A2005-54](#) amdt 1.152

### **Spawning areas**

s 89 am [A2001-44](#) amdt 1.1768, amdt 1.1769  
om [A2005-54](#) amdt 1.152

### **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

**Notification and review of decisions**

pt 10 hdg sub [A2008-37](#) amdt 1.180

**Meaning of *reviewable decision*—pt 10**

s 107 sub [A2008-37](#) amdt 1.180

**Reviewable decision notices**

s 108 sub [A2008-37](#) amdt 1.180

**Applications for review**

s 108A ins [A2008-37](#) amdt 1.180

**Delegation**

s 109 sub [A2003-41](#) amdt 3.267

**Acts and omissions of representatives**

s 110 sub [A2004-15](#) amdt 1.18

**Criminal liability of executive officers**

s 111 sub [A2013-4](#) amdt 1.3

## Endnotes

4 Amendment history

---

### Production of licences

s 112 sub [A2005-54](#) amdt 1.153

### Guidelines

s 113 sub [A2001-44](#) amdt 1.1770  
am [A2006-48](#) s 20; pars renum R10 LA

### Determination of fees

s 114 sub [A2001-44](#) amdt 1.1770

### Approved forms

s 115 am [A2001-44](#) amdt 1.1771, amdt 1.1772; [A2003-41](#)  
amdt 3.268

### Regulation-making power

s 116 sub [A2001-44](#) 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

### Reviewable decisions

sch 1 ins [A2008-37](#) amdt 1.181

### Dictionary

dict am [A2003-41](#) amdt 3.270; [A2008-37](#) amdt 1.182, amdt 1.183;  
[A2009-49](#) amdt 3.74  
def **abalone** ins [A2006-48](#) s 21  
def **commercial fishing licence** ins [A2003-41](#) amdt 3.271  
def **commercial quantity** ins [A2006-48](#) s 21  
def **conservation officer** sub [A2014-59](#) amdt 2.28  
def **conservator** sub [A2003-41](#) amdt 3.272  
def **determined fee** om [A2001-44](#) amdt 1.1774  
def **environment** sub [A2007-3](#) amdt 3.245  
def **executive officer** om [A2013-4](#) amdt 1.4  
def **fish of a priority species** ins [A2006-48](#) s 21

def **import and export licence** ins [A2003-41](#) amdt 3.273  
def **licence** sub [A2003-41](#) amdt 3.274  
    am [A2006-48](#) s 22  
def **newspaper** om [A2015-33](#) amdt 1.89  
def **occupier** ins [A2003-41](#) amdt 3.275  
def **priority species licence** ins [A2006-48](#) s 23  
def **reviewable decision** ins [A2008-37](#) amdt 1.184  
def **rock lobster** ins [A2006-48](#) s 23  
def **scientific licence** ins [A2003-41](#) amdt 3.276

## Endnotes

### 5 Earlier republications

---

#### 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. Electronic and printed versions of an authorised republication are identical.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 30 Sept 2000	30 Sept 2000– 11 Sept 2001	not amended	new Act
R1 (RI) 26 May 2008	30 Sept 2000– 11 Sept 2001	not amended	reissue of printed version
R2 30 Nov 2001	12 Sept 2001– 30 Dec 2001	<a href="#">A2001-44</a>	amendments by <a href="#">A2001-44</a>
R3 10 Jan 2002	31 Dec 2001– 27 May 2002	<a href="#">A2001-44</a>	commenced expiry
R4 30 May 2002	28 May 2002– 16 Sept 2002	<a href="#">A2002-11</a>	amendments by <a href="#">A2002-11</a>
R5 23 Sept 2002	17 Sept 2002– 8 Oct 2003	<a href="#">A2002-30</a>	amendments by <a href="#">A2002-30</a>
R6 9 Oct 2003	9 Oct 2003– 9 Dec 2003	<a href="#">A2003-41</a>	amendments by <a href="#">A2003-41</a>
R7 10 Dec 2003	10 Dec 2003– 8 Apr 2004	<a href="#">A2003-41</a>	amendments by <a href="#">A2003-41</a>
R8 9 Apr 2004	9 Apr 2004– 23 Nov 2005	<a href="#">A2004-15</a>	amendments by <a href="#">A2004-15</a>
R9 24 Nov 2005	24 Nov 2005– 28 Nov 2006	<a href="#">A2005-54</a>	amendments by <a href="#">A2005-54</a>
R10 29 Nov 2006	29 Nov 2006– 11 Apr 2007	<a href="#">A2006-48</a>	amendments by <a href="#">A2006-48</a>
R11 12 Apr 2007	12 Apr 2007– 1 Feb 2009	<a href="#">A2007-3</a>	amendments by <a href="#">A2007-3</a>



<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R12* 2 Feb 2009	2 Feb 2009– 16 Dec 2009	<a href="#">A2008-37</a>	amendments by <a href="#">A2008-37</a>
R13 17 Dec 2009	17 Dec 2009– 21 Feb 2013	<a href="#">A2009-49</a>	amendments by <a href="#">A2009-49</a>
R14 22 Feb 2013	22 Feb 2013– 10 June 2015	<a href="#">A2013-4</a>	amendments by <a href="#">A2013-4</a>
R15 11 June 2015	11 June 2015– 13 Oct 2015	<a href="#">A2014-59</a>	amendments by <a href="#">A2014-59</a>

© Australian Capital Territory 2015