

**SPEAR-GUNS CONTROL.**

4° Elizabeth II., No. V.

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**No. 5 of 1955.**

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**AN ACT to Control the Use of Spear Guns.***[Assented to 19th October, 1955.]*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Spear-guns Control Act, 1955.* Short title.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. In this Act unless the context requires otherwise— Interpretation.

“Inspector” means any member of the Police

Force of the State and includes inspectors under the Fisheries Act, 1905;

“prohibited area” means an area proclaimed as an area in which the use of spear-guns is prohibited;

“spear” means a spear or similar instrument or thing capable of being discharged or propelled from a spear-gun;

“spear-gun” means any mechanism or instrument from which a spear can be discharged or propelled and includes the spear;

“to load” means to fit a spear to a spear-gun, and inflections and derivatives of the verb, to load, have correlative meanings.

## Offences.

4. (1) Each of the matters stated in the first column of the following table is an offence against this Act and is punishable on conviction of the offender by a penalty not exceeding that set out in the second column of the table opposite the statement of the offence.

TABLE.

First Column. Offences.	Second Column. Punishment.
(a) In a prohibited area, using a spear-gun for the purpose of spear fishing.	Twenty-five pounds.
(b) Using a spear-gun for the purpose of spear fishing within fifty yards of any other person swimming or bathing.	Twenty-five pounds.
(c) Using a spear-gun for the purpose of spear fishing within fifty yards of any other person fishing by means of a fishing line.	Ten pounds.
(d) Having possession in any place, or vehicle, or vessel, to which the public has access, of (i) a spear-gun which is loaded; or (ii) a spear, the point of which is not covered by a protector cap so designed and fitted as to ensure the prevention of injury to any person or property.	Twenty-five pounds.
(e) Loading a spear-gun prior to entering the water.	Twenty pounds.
(f) Failing to unload a spear-gun before leaving the water.	Twenty pounds.
(g) Discharging a spear from a spear-gun above the surface of the water.	Twenty-five pounds.
(h) Using a spear-gun for any purpose other than that of spear fishing.	Twenty-five pounds.

First Column. Offences.	Second Column. Punishment.
(i) Pointing a loaded spear-gun at any other person.	Twenty-five pounds.
(j) Using a spear-gun in circumstances likely to result in injury to any person or property.	Twenty-five pounds.
(k) Being a person under fourteen years of age, using a spear-gun otherwise than under the supervision of a person who has attained the age of twenty-one years.	Ten pounds.
(l) Having possession except for the express purpose of repair or adjustment of a spear-gun (i) which discharges by a pressure of less than three pounds on the trigger; (ii) which discharges otherwise than as a result of pressure intentionally applied to the trigger; or (iii) the trigger of which is not protected by a trigger-guard so designed and fitted as to ensure that pressure cannot be applied to the trigger otherwise than intentionally.	Ten pounds.
(m) Refusing or failing without lawful excuse to answer any question put by an inspector.	Ten pounds.
(n) Wilfully misleading an inspector in any particular likely to affect the discharge of his duty.	Ten pounds.
(o) By act or omission committing any breach of this Act, for which no penalty is expressly provided.	Ten pounds.

Cf. No. 30 of 1918; "This Act" includes regulations.

(2) The Court may, in addition to inflicting a penalty for an offence against this Act, make such order as to the disposal of any spear-gun to which the offence is related, as the Court thinks fit.

5. From time to time the Governor may by proclamation declare areas to be prohibited areas and may from time to time by subsequent proclamation cancel in whole or part absolutely a declaration so made or substitute another declaration for the whole or part cancelled.

Power to proclaim prohibited areas.

6. Where in a complaint of an offence against this Act there is an averment that an act or omission occurred, within a prohibited area, courts and persons acting judicially shall, on the act or omission being proved, presume, in absence of proof to the contrary, that it occurred within the prohibited area as averred.

Presumption of proof of prohibited area.

Powers of  
inspectors.

7. Any inspector may, without the necessity of any warrant other than this section,

- (a) question any person whom he suspects on reasonable grounds of having information relating to any offence or suspected offence against this Act;
- (b) arrest any person whom he suspects on reasonable grounds of having committed an offence against this Act, and who refuses to state his correct name and address and take him before any two justices to be dealt with according to law;
- (c) examine any spear-gun with a view to ascertaining whether it is safe or fit for use;
- (d) seize and take possession of any spear-gun or spear which appears to the inspector to be unsafe and prohibit its further use until it has been rendered safe; and
- (e) seize any spear-gun or spear as to which there are reasonable grounds for believing that it will afford evidence as to the commission of an offence against this Act and take it before any two justices to be dealt with according to law.

## Regulations.

8. (1) The Governor may make regulations which appear to him to be necessary or convenient for effecting the operation and purposes of this Act.

(2) The regulations may prescribe a penalty not exceeding twenty pounds for a breach of the regulations.

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