



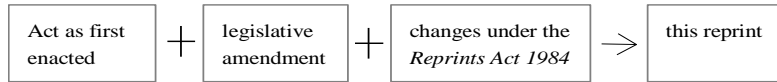
Western Australia

Spear-guns Control Act 1955

Reprint 4: The Act as at 21 November 2003

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Reprint numbering and date

1. The reprint number (in the footer of each page of the document) shows how many times the Act has been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3rd reprint since the Act was passed. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the Act is reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Reprinted under the
Reprints Act 1984 as
at 21 November 2003

Western Australia

Spear-guns Control Act 1955

CONTENTS

1.	Short title	1
2.	Commencement	1
3.	Interpretation	1
4.	Offences	2
5.	Power to proclaim prohibited areas ²	4
6.	Presumption of proof of prohibited area	4
7.	Powers of inspectors	5
8.	Regulations	5
	Notes	
	Compilation table	6



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Spear-guns Control Act 1955

An Act to control the use of spear guns.

1. Short title

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

2. Commencement

This Act shall come into operation on a day to be fixed by proclamation¹.

3. Interpretation

In this Act unless the context requires otherwise —

“**Inspector**” means any member of the Police Force of the State and any fisheries officer referred to in the *Fish Resources Management Act 1994*, and in the application of this Act in a prohibited area that comprises an area vested in or under the care, control and management of a local government, includes any person appointed by that local government as an inspector;

“**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;

s. 4

“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.

[Section 3 amended by No. 11 of 1965 s. 2; No. 53 of 1994 s. 264; No. 14 of 1996 s. 4.]

4. Offences

- (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.	\$50
(b)	Using a spear-gun for the purpose of spear fishing within 45 metres of any other person swimming or bathing.	\$50
(c)	Using a spear-gun for the purpose of spear fishing within 45 metres of any other person fishing by means of a fishing line.	\$20
(d)	Having possession in any place, or vehicle, or vessel, to which the public has access, of	\$50
	(i) a spear-gun which is loaded; or	

First Column Offences	Second Column Punishment
(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.	
(e) Loading a spear-gun prior to entering the water.	\$40
(f) Failing to unload a spear-gun before leaving the water.	\$40
(g) Discharging a spear from a spear-gun above the surface of the water.	\$50
(h) Using a spear-gun for any purpose other than that of spear fishing.	\$50
(i) Pointing a loaded spear-gun at any other person.	\$50
(j) Using a spear-gun in circumstances likely to result in injury to any person or property.	\$50
(k) Being a person under 14 years of age, using a spear-gun otherwise than under the supervision of a person who has attained the age of 21 years.	\$20
(l) Having possession except for the express purpose of repair or adjustment of a spear-gun	\$20
(i) which discharges by a pressure of less than 1.5 kilograms on the trigger;	
(ii) which discharges otherwise than as a result of pressure intentionally applied to the trigger; or	

s. 5

	First Column Offences	Second Column Punishment
	(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.	
(m)	Refusing or failing without lawful excuse to answer any question put by an inspector.	\$20
(n)	Wilfully misleading an inspector in any particular likely to affect the discharge of his duty.	\$20
(o)	By act or omission committing any breach of this Act, for which no penalty is expressly provided.	\$20

- (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.

[Section 4 amended by No. 113 of 1965 s. 8; No. 94 of 1972 s. 4.]

5. Power to proclaim prohibited areas²

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.

6. Presumption of proof of prohibited area

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.

7. Powers of inspectors

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 2 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 2 justices to be dealt with according to law.

8. Regulations

- (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 \$40 for a breach of the regulations.

[Section 8 amended by No. 113 of 1965 s. 8.]

Notes

- ¹ This reprint is a compilation as at 21 November 2003 of the *Spear-guns Control Act 1955* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Spear-guns Control Act 1955</i>	5 of 1955	19 Oct 1955	23 Dec 1955 (see s. 2 and <i>Gazette</i> 23 Dec 1955 p. 3043)
<i>Spear-guns Control Act Amendment Act 1965</i>	11 of 1965	15 Sep 1965	15 Sep 1965
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965 (see s. 2(1))
Reprint of the <i>Spear-guns Control Act 1955</i> approved 19 Aug 1969 (includes amendments listed above)			
<i>Metric Conversion Act 1972</i> s. 4	94 of 1972	4 Dec 1972	Relevant amendments (see First Sch. ³) took effect on 1 Jul 1973 (see s. 4(2) and <i>Gazette</i> 18 May 1973 p. 1261)
Reprint of the <i>Spear-guns Control Act 1955</i> approved 25 Nov 1977 (includes amendments listed above)			
<i>Fish Resources Management Act 1994</i> s. 264	53 of 1994	2 Nov 1994	1 Oct 1995 (see s. 2 and <i>Gazette</i> 29 Sep 1995 p. 4649)
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
Reprint of the <i>Spear-guns Control Act 1955</i> as at 21 Jan 1997 (includes amendments listed above)			
Reprint 4: The <i>Spear-guns Control Act 1955</i> as at 21 Nov 2003 (includes amendments listed above)			

² *Spear-guns Control Act 1955* s. 5. See *Gazette* 23 Dec 1955 p. 3044; 13 Jul 1956 p. 1719; 17 Oct 1958 p. 2620; 6 Nov 1959 p. 2746; 14 Jul 1961 p. 2163; 13 Oct 1961 p. 2911-12; 2 Jul 1965 p. 1935-6; 23 Jan 1970 p. 137; 26 May 1978 p. 1597.

³ The Schedule to the *Metric Conversion Act 1972* was redesignated as the First Schedule by the *Metric Conversion Amendment Act 1973*.