



Western Australia

## **Spear-guns Control Act 1955**

Compare between:

[02 May 2005, 04-b0-09] and [29 Nov 2016, 04-c0-00]



## 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*<sup>1</sup>.

2. **Commencement**

This Act shall come into operation on a day to be fixed by proclamation<sup>1</sup>.

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;

**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**

	<b>First Column Offences</b>	<b>Second Column Punishment</b>
(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	
	(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

First Column Offences	Second Column Punishment
(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	
(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 areas<sup>2</sup>**

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 charge 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.

*[Section 6 amended by No. 84 of 2004 s. 80.]*

**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 have him 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 deal with it according to law.

*[Section 7 amended by No. 59 of 2004 s. 141.]*

**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

- <sup>1</sup> This is a compilation 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))
<b>Reprint of the <i>Spear-guns Control Act 1955</i> approved 19 Aug 1969</b> (includes amendments listed above)			
<i>Metric Conversion Act 1972</i> s. 4	94 of 1972	4 Dec 1972	Relevant amendments (see First Sch. <sup>3</sup> ) took effect on 1 Jul 1973 (see s. 4(2) and <i>Gazette</i> 18 May 1973 p. 1261)
<b>Reprint of the <i>Spear-guns Control Act 1955</i> approved 25 Nov 1977</b> (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)
<b>Reprint of the <i>Spear-guns Control Act 1955</i> as at 21 Jan 1997</b> (includes amendments listed above)			
<b>Reprint 4: The <i>Spear-guns Control Act 1955</i> as at 21 Nov 2003</b> (includes amendments listed above)			
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>Criminal Procedure and Appeals (Consequential and</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129)



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<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Other Provisions) Act 2004</i> s. 80			(correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<b><u><a href="#">This Act was repealed by the Statutes (Repeals) Act 2016 (No. 50 of 2016) s. 20 as at 29 Nov 2016 (see s. 2(b))</a></u></b>			

<sup>2</sup> *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.

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