

# **Aquatic Resources Management Act 2016**

Compare between:

[27 Feb 2018, 00-c0-00] and [02 May 2018, 00-d0-04]



# Western Australia

# **Aquatic Resources Management Act 2016**

An Act to provide for —

- the ecologically sustainable development and management of the State's aquatic resources; and
- the development of strategies and plans for the conservation of aquatic resources and the protection of aquatic ecosystems; and
- the development and management of aquaculture that is compatible with the protection of aquatic ecosystems; and
- the management of aquatic biosecurity; and
- the repeal of the Fish Resources Management Act 1994 and the Pearling Act 1990; and
- consequential amendments to various other written laws, and for incidental and related purposes.

The Parliament of Western Australia enacts as follows:

# Part 1 — Preliminary

#### 1. **Short title**

This is the *Aquatic Resources Management Act 2016*.

#### 2. Commencement

This Act comes into operation as follows —

- sections 1 and 2 on the day on which this Act receives the Royal Assent;
- the rest of the Act on a day fixed by proclamation, and different days may be fixed for different provisions.

Have not yet come into operation <sup>2</sup>.]

# Notes

This is a compilation of the *Aquatic Resources Management Act 2016* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>:

# **Compilation table**

Short title	Number and year	Assent	Commencement
Aquatic Resources Management Act 2016 s. 1 and 2	<del>53 of 2016</del>	<del>29 Nov 2016</del>	29 Nov 2016 (see s. 2(a))

On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

# **Provisions that have not come into operation**

Short title	Number and year	Assent	Commencement
Aquatic Resources Management Act 2016 s. 3-8, Pt. 2-19 <sup>2</sup>	53 of 2016 (as amended by No. 8 of 2017 s. 8)	<del>29 Nov 2016</del>	To be proclaimed (see s. 2(b))
Aquatic Resources Legislation Amendment Act 2016 Pt. 2 <sup>3</sup>	40 of 2016	<del>29 Nov 2016</del>	Operative on commencement of the Aquatic Resources Management Act 2016 s. 263 (see s. 2(b))

On the date as at which this compilation was prepared the *Aquatic Resources Management Act 2016* s. 3-8 and Pt. 2-19 (as amended by No. 8 of 2017 s. 8) had not come into operation. They read as follows:

# 3. Terms used

(1) In this Act, unless the contrary intention appears — *Aboriginal body corporate* means —

- a corporation registered under the Corporations (a) (Aboriginal and Torres Strait Islander) Act 2006 (Commonwealth); or
- an incorporated association under the Associations (b) *Incorporation Act 2015* the membership of which is wholly or principally composed of Aboriginal persons;

Aboriginal person means a person who is wholly or partly descended from the original inhabitants of Australia;

Abrolhos Islands reserve means Reserve No. 20253 being a class A reserve for the purposes of the *Land Administration* Act 1997;

approved means approved by the CEO;

# aquaculture means —

- the keeping, breeding, hatching, culturing or harvesting of aquatic organisms; or
- the culturing or harvesting of pearls; (b)

aquaculture gear means any vessel, equipment, implement, device, apparatus or other thing used or designed for use for, or in connection with, aquaculture and includes —

- (a) gear used for navigational lighting or marking as a part of aquaculture safety; and
- gear used to delineate the area of an aquaculture licence, (b) temporary aquaculture permit or aquaculture lease;

aquaculture lease means a lease granted under section 88; aquaculture licence means an aquaculture licence granted under section 77;

aquatic eco-tourism means tourism relating to aquatic organisms in their natural environment and includes the viewing and feeding of aquatic organisms but does not include the taking of aquatic organisms;

aquatic environment, subject to subsection (2), means organisms living in or adjacent to waters, their physical,

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biological and social surroundings, and interactions between all of those;

aquatic habitat protection area means an area set aside under section 117(1) as an aquatic habitat protection area;

aquatic organism means an organism of any species that lives in or adjacent to waters and —

- includes (a)
  - the eggs, spat, spawn, seeds, spores, fry, larva and other source of reproduction or offspring of an aquatic organism; and
  - (ii) a dead aquatic organism; and
  - a part only of an aquatic organism including the (iii) shell or tail; and
  - live rock and live sand; (iv)

but

- does not include (b)
  - an aquatic mammal; or
  - (ii) an aquatic reptile; or
  - (iii) an aquatic bird; or
  - (iv) an amphibian;

aquatic resource has the meaning given in section 4;

aquatic resource management strategy (ARMS), in relation to a managed aquatic resource, means a strategy approved for the aquatic resource under section 20(1) as in force from time to time;

aquatic resource use plan (ARUP), in relation to a managed aquatic resource, means a resource use plan made in respect of the aquatic resource under section 24(1) as in force from time to time:

## authorisation means —

- an aquaculture licence; or
- (b) a managed fishery licence; or

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any other licence provided for in the regulations;

**bed**, in relation to any waters, means the land permanently or intermittently covered by the waters or the land over which the waters permanently or intermittently flow;

**boat** means a vessel, craft or floating platform of any description that is capable of use in or on water, whether floating or submersible;

**broodstock** means aquatic organisms taken or kept for breeding; *CALM Act* means the *Conservation and Land Management* Act 1984:

CALM Minister means the Minister who administers the CALM Act:

catch entitlement means an entitlement registered under section 37(3), 38(3) or 47(4)(b);

**CEO** means the Chief Executive Officer of the Department; commercial fishing means fishing for a commercial purpose and includes taking aquatic organisms for broodstock or other aquaculture purposes;

commercial purpose means the purpose of sale or any other purpose that is directed to gain or reward;

Commonwealth Act means the Fisheries Management Act 1991 (Commonwealth);

compliance officer means a person designated as a compliance officer under section 159(1);

customary fishing means fishing by an Aboriginal person that —

- is in accordance with the Aboriginal customary law and (a) tradition of the area being fished; and
- is for the purpose of satisfying personal, domestic, (b) ceremonial, educational or other non-commercial communal needs;

declared organism has the meaning given in section 98;

**Department** means the department of the Public Service principally assisting the Minister in the administration of this Act:

# disease means —

- a disease that is capable of having a detrimental effect on an animal or a plant and includes
  - a micro-organism; and
  - (ii) a disease agent; and
  - an infectious agent; and (iii)
  - a parasite at any stage of its life cycle; (iv)

or

a genetic disorder of an animal or plant; (b)

document includes a tape, a disk and any other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

# engage in conduct means —

- (a) do an act; or
- (b) omit to do an act;

entitlement means an entitlement that a person has from time to time under a managed fishery licence;

exemption means an exemption granted under section 7;

export means to take out of, or cause to be taken out of, Western Australia for any purpose;

### *fishery* means —

- one or more stocks or parts of stocks of aquatic organisms that can be treated as a unit for the purposes of conservation or management; or
- a class of fishing activities in respect of those stocks or (b) parts of stocks of aquatic organisms;

# fishing or fishing activity means —

taking an aquatic organism in any way; or

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- searching for an aquatic organism, or any other activity (b) that can reasonably be expected to result in taking the organism; or
- any activity in support of, or in preparation for, any (c) activity described in this definition;

fishing boat means a boat that is used for commercial fishing;

fishing gear means any equipment, implement, device, apparatus or other thing used or designed for use for, or in connection with, fishing;

*fishing period* has the meaning given in section 16(1)(e);

fishing tour means a tour that has a central purpose of providing an opportunity for recreational fishing and may include the provision of fishing guidance, fishing gear, accommodation or transport;

*foreign boat* has the same meaning as in the Commonwealth Act section 4(1):

honorary compliance officer means an honorary compliance officer appointed under section 160(1);

managed aquatic resource means an aquatic resource that has been declared to be a managed aquatic resource under section 14;

managed fishery means a fishery declared by a management plan to be a managed fishery;

managed fishery licence, in relation to a managed fishery, means a licence granted under section 54 or renewed under section 58 in respect of that fishery;

management plan means a management plan continued under section 273(2) as in force from time to time;

marine management area has the meaning given in the CALM Act section 3;

marine nature reserve has the meaning given in the CALM Act section 3;

*marine park* has the meaning given in the CALM Act section 3;

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*noxious substance* means any substance that may be harmful to aquatic organisms;

# organism means —

- a living thing, except a human being or part of a human
- a prion or other prescribed organic agent that can cause (b) disease; or
- a disease; (c)

*pearl* includes natural or cultured, whole, half, baroque, seedless and blister pearl;

*place* means any land, waters, building, structure (whether permanent or temporary), tent or vehicle or any part of any land, waters, building, structure, tent or vehicle;

possession includes having under control in any place, whether for the use or benefit of the person in relation to whom the term is used or another person, and whether or not another person has the actual possession or custody of the thing in question;

*prescribed* means prescribed by regulation;

*private land* means any land that —

- is alienated from the Crown for any estate of freehold; or
- is the subject of a conditional purchase agreement, or of (b) any lease or concession with or without a right of acquiring the fee simple in that land;

process means cut up, break up, shell, skin, shuck, fillet, cook, void, purge, pack, chill, freeze, can, preserve or otherwise treat any aquatic organism and, in relation to aquatic organisms of a prescribed class, includes hold the aquatic organisms live for export and consign the aquatic organisms live for export;

protected aquatic organism has the meaning given in section 125(1);

*purchase* includes —

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- to take in exchange; and (a)
- (b) to agree or offer to take in exchange; and
- (c) to receive, accept or take delivery under an agreement to take in exchange; and
- (d) to attempt to purchase,

but does not include to conduct a transaction of a prescribed type if the transaction is conducted by an Aboriginal person;

quantity, in relation to the taking of an aquatic resource, means a quantity of aquatic organisms that comprise the resource that is, or may be, taken by reference to one or more of the following —

- the weight or volume of aquatic organisms; (a)
- the number of aquatic organisms by reference to sex, (b) size, weight, reproductive cycle or any other characteristic;
- the time spent fishing for the aquatic organisms; (c)
- (d) the quantity and type of fishing gear used in fishing for the aquatic organisms;

record includes any document, whether or not it has been completed;

recreational fishing means fishing other than commercial fishing;

recreational fishing licence means a licence granted under the regulations authorising an individual to undertake recreational fishing;

*register* means the register kept under section 150(1);

registrable interest means any of the following —

- (a) an authorisation;
- a temporary aquaculture permit; (b)
- an aquaculture lease; (c)
- an exemption; (d)
- (e) a resource share;

- catch entitlement; (f)
- a share option; (g)

regulate includes prohibit;

resource share means a share in respect of a managed aquatic resource that is made available under the ARMS for the resource:

security holder means a person noted on the register as having a security interest in a registrable interest;

security interest, in relation to a registrable interest referred to in section 153, means an interest in the registrable interest (however arising) which secures payment of a debt or other pecuniary obligation or the performance of any other obligation;

sell includes each of the following —

- (a) to auction;
- to put out to tender; (b)
- to barter or exchange; (c)
- (d) to supply for profit;
- (e) to offer for sale;
- (f) to receive or possess for sale;
- to expose for sale; (g)
- to consign or deliver for sale; (h)
- to dispose of by way of raffle, lottery or other game of (i) chance.

but does not include to conduct a transaction of a prescribed type if the transaction is conducted by an Aboriginal person;

share option means an option granted under section 42(2);

species includes subspecies, hybrid and variant;

specified means specified in the regulation, ARMS, ARUP, management plan, authorisation, order, notice or other instrument in relation to which the term is used;

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surety, in relation to an authorisation, means surety for the authorisation required or provided under section 39 and includes a substituted surety provided with the approval of the CEO under section 41(4);

take includes each of the following —

- (a) to catch;
- (b) to capture;
- (c) to entrap;
- (d) to enclose;
- to gather; (e)
- (f) to remove;
- to poison; (g)
- (h) to stun;
- (i) to kill;
- (i) to destroy;

temporary aquaculture permit means a temporary aquaculture permit granted under section 87;

total allowable catch (TAC) means the quantity of a managed aquatic resource that may be taken by the commercial and recreational fishing sectors in a fishing period for the resource;

vary, in relation to an authorisation, means to vary anything in the authorisation and includes to substitute any boat, place or other thing in respect of which the authorisation is granted;

vehicle includes a train, a boat, an aircraft and any other thing used as a means of transport;

WA waters has the meaning given in section 5;

waters includes —

- the bed or subsoil (if any) under any waters; and (a)
- the airspace above any waters. (b)
- For the purposes of the definition of *aquatic environment* in (2) subsection (1), the social surroundings of human beings are the

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- aesthetic, cultural, economic and social surroundings to the extent that those surroundings directly affect or are affected by physical or biological surroundings.
- (3) For the purposes of this Act a class of fishing activity may be defined by reference to one or more of the following –
  - a species or type of aquatic organism; (a)
  - a description of aquatic organisms by reference to sex, (b) weight, size, reproductive cycle or any other characteristic;
  - (c) an area of land or waters;
  - (d) a method of fishing;
  - a type of fishing gear; (e)
  - a class of boat or other vehicle; (f)
  - a class of persons; (g)
  - (h) a purpose of activities.

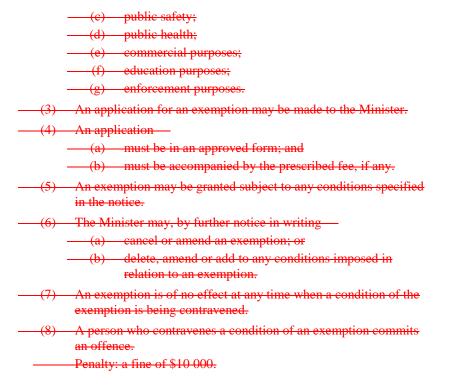
#### 4. Meaning of aquatic resource

- (1) In this Act, a reference to an aquatic resource is a reference to —
  - (c) a population of one or more identifiable groups of aquatic organisms; or
  - (d) one or more identifiable groups of aquatic organisms in a bioregion, area, habitat or ecosystem.
- Without limiting subsection (1), an identifiable group of aquatic (2) organisms includes
  - a species of aquatic organisms; and
  - a species of aquatic organisms limited by reference to (b) sex, weight, size, reproductive cycle or any other characteristic.

#### 5. Meaning of WA waters

(1) In this Act, a reference to WA waters is a reference to —

- all waters within the limits of the State; and (a)
- (b) except as provided in subsection (2), any waters not within the limits of the State that are on the landward side of waters adjacent to the State that are within the Australian fishing zone; and
- (c) any waters to which the legislative powers of the State extend for purposes relating to
  - fishing activities that are to be managed in accordance with the laws of the State under an arrangement made under Part 15; and
  - the management of recreational fishing, within (ii) the meaning of the Commonwealth Act, other than recreational fishing carried on by the use of a foreign boat or recreational fishing prohibited or regulated by a plan of management determined under the Commonwealth Act section 17.
- For purposes relating to a fishing activity that is to be managed (2) in accordance with a law of the Commonwealth under Part 15, WA waters does not include waters not within the limits of the State that are on the landward side of waters adjacent to the State that are within the Australian fishing zone.
  - Aboriginal persons not required to hold authorisation in certain circumstances An Aboriginal person is not required to hold an authorisation to take aquatic organisms if the organisms are taken for the purpo of the person or the person's family and not for a commercial <del>purpose.</del> **Exemptions from Act**
  - The Minister may, by notice in writing, exempt a specified person or specified class of persons from all or any of the provisions of
  - The Minister may only grant an exemption under subsection (1) for one or more of these purposes
    - (a) research;
    - (b) environmental protection;



# [6, 7. Have not come into operation.]

#### 8. **Crown bound**

- (1) This Act binds the State and, so far as the legislative power of the State permits, the Crown in all its other capacities.
- (2) Nothing in this Act makes the State, or the Crown in any of its other capacities, liable to be prosecuted for an offence.

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#### 9. **Objects of Act**

The objects of this Act are —

- to ensure the ecological sustainability of the State's aquatic resources and aquatic ecosystems for the benefit of present and future generations; and
- to ensure that the State's aquatic resources are managed, (b) developed and used having regard to the economic, social and other benefits that the aquatic resources may provide.

#### 10. Means of achieving objects of Act

The objects of this Act are to be achieved in particular by —

- conserving and protecting aquatic resources and aquatic ecosystems and where necessary, restoring aquatic ecosystems; and
- (b) managing aquatic resources and aquatic ecosystems on the basis of relevant scientific data and principles; and
- encouraging the sustainable development of fishing, (c) aquaculture and other activities reliant on aquatic resources; and
- encouraging members of the public to actively (d) participate in decisions about the management and conservation of aquatic resources and aquatic ecosystems; and
- ensuring that the interests of different sectors of the (e) community that use aquatic resources or aquatic ecosystems are identified and considered; and
- managing aquatic resources and aquatic ecosystems in a (f) manner that is as practical, efficient and cost effective as possible.

# 11. Regard to be had to objects of Act

A person or body performing or exercising a function or power under this Act must have regard to the objects set out in section 9 and the means of achieving them set out in section 10.

**Preliminary** 

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**Division 1** 

# Part 3 — Managed aquatic resources

# Division 1 — Preliminary

## 12. Terms used

In this Part —

**consultation period**, in relation to a draft strategy, means the period of 2 months commencing on the day on which notice required by section 17(1)(b) in respect of the draft strategy is published in the *Gazette*;

*draft strategy* means the draft of an ARMS prepared by the CEO under section 17(1)(a);

recreational fishing does not include customary fishing;

*risk assessment* means an assessment undertaken under section 13(b).

# Division 2 — Strategy and planning

# Subdivision 1 — Declaration of managed aquatic resources

# 13. Monitoring aquatic resources

The Minister must ensure that

- (a) the condition of aquatic resources and the aquatic environment is kept constantly under consideration; and
- (b) an assessment of the risk to the ecological sustainability of an aquatic resource is undertaken if the Minister is of the opinion that there is reason to do so.

# [13. Has not come into operation.]

# 14. Declaration of managed aquatic resources

- (1) The Minister may, by notice in writing, declare that a specified aquatic resource is a managed aquatic resource if the Minister is of the opinion that there is reason to do so.
  - (2) Subsection (1) applies whether or not a risk assessment in respect of the aquatic resource has been undertaken.

- The Minister must make a declaration under subsection (1) if a risk assessment in respect of an aquatic resource concludes that there is evidence that
  - (a) overexploitation of the resource is occurring or is likely to occur; or
  - the resource is so severely depleted, diminished, damaged or otherwise affected as to be considered at threat of being ecologically unsustainable.

# [(2), (3) have not come into operation.]

A notice under subsection (1) is subsidiary legislation for the (4) purposes of the Interpretation Act 1984.

# Subdivision 2 — Aquatic resource management strategies

#### 15. **Requirement for ARMS**

As soon as is practicable after an aquatic resource is declared to be a managed aquatic resource an aquatic resource management strategy (ARMS) must be approved under section 20 in respect of the aquatic resource.

#### 16. **Content of ARMS**

- (1) An ARMS for a managed aquatic resource must set out the following things —
  - (a) a description of the aquatic resource that is to be managed;
  - the main objective to be achieved by managing the (b) aquatic resource;
  - the minimum quantity of the aquatic resource that is (c) considered necessary to be maintained for the resource to be ecologically sustainable;
  - the activities that should be regulated in respect of the (d) aquatic resource;
  - the details of each period for which activities in respect of the aquatic resource are to be regulated (fishing period);

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- (f) the quantity of the aquatic resource that is to be available in a fishing period for customary fishing and public benefit uses;
- the method to be used in calculating the total allowable (g) catch (TAC) for the aquatic resource;
- (h) the proportion of the TAC that is to be available for recreational fishing for the resource;
- the proportion of the TAC that is to be available for (i) commercial purposes, including
  - the proportion of the TAC to be available for commercial fishing for the resource; and
  - the proportion of the TAC that is to be available (ii) for taking incidentally in the course of commercial fishing for other aquatic resources;
- the number of shares in the resource that are to be (i) available to the commercial sector:
- (k) the scientific parameters to be used to assess how effectively the aquatic resource is being managed;
- the consultation to be carried out in relation to the (1) making, amendment or revocation of an aquatic resource use plan (ARUP) to implement the ARMS.
- For the purposes of subsection (1)(d), the activities that should (2) be regulated in respect of the aquatic resource may include the taking of other aquatic resources incidentally in the course of commercial fishing for the aquatic resource.

#### **17. Draft ARMS**

- (1) As soon as is practicable after an aquatic resource is declared to be a managed aquatic resource the CEO must —
  - (a) prepare a draft of an ARMS for the resource; and
  - give public notice of the proposal for an ARMS. (b)

- (2)The public notice of the proposal for an ARMS must
  - contain information about the draft strategy; and (a)
  - (b) specify where copies of the draft strategy may be obtained without charge; and
  - invite interested persons to make submissions to the (c) CEO on the draft strategy within a specified period; and
  - specify how those submissions may be made. (d)
- (3)The public notice of the proposal for an ARMS
  - must be published in the Gazette; and (a)
  - may be published in any other manner that the CEO (b) considers appropriate to bring the proposal to the attention of persons who will, or may be, affected if the draft strategy becomes an ARMS, which may include the following
    - publishing the notice in a newspaper circulating (i) generally throughout the State;
    - (ii) posting the notice on a website maintained by the CEO.
- Subsection (3) does not prevent the CEO from adopting any (4) additional means of publicising the proposal for an ARMS.

#### 18. CEO to consult on proposal for ARMS

- (1) The CEO must, within the consultation period for a draft strategy, make reasonable efforts to consult any public authority, person or body that the CEO considers likely to be affected if the draft strategy becomes an ARMS.
- (2) Consultation under subsection (1) may be undertaken in any way that the CEO considers appropriate in the circumstances, having regard to the number of public authorities, persons or bodies considered likely to be affected as described in subsection (1).

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(3) If the description in the draft strategy of the aquatic resource to be managed does not describe the resource by reference to a particular area of the State, then consultation must be carried out under subsection (1) as if the draft strategy had relevance for the whole of the State.

# 19. Revision of draft strategy following consultation

- (1) A person may make submissions to the CEO in relation to a draft strategy in the manner and within the period specified in the relevant notice required by section 17(1)(b).
- (2) After the end of the consultation period for a draft strategy the CEO
  - (a) must consider
    - (i) any submissions made in accordance with subsection (1); and
    - (ii) any views expressed by a public authority, person or body consulted under section 18(1);

and

- (b) may revise the draft strategy to any extent the CEO considers appropriate.
- (3) The CEO must submit to the Minister not later than 2 months after the end of the consultation period for a draft strategy
  - (a) a copy of the draft strategy, including any revisions made under subsection (2)(b); and
  - (b) a report on the development of the draft strategy.
- (4) The CEO must include in a report under subsection (3)(b) the reasons for any revision of the draft strategy.

# 20. Approval of ARMS

(1) The Minister may, in writing, approve or refuse to approve a draft strategy submitted by the CEO under section 19(3) or subsection (4) as the ARMS for a managed aquatic resource.

- (2) The Minister is not to approve a draft strategy as the ARMS for a managed aquatic resource under subsection (1) unless the Minister is satisfied that the draft strategy is consistent with the objects of this Act.
- If the Minister refuses to approve a draft strategy submitted by (3) the CEO under section 19(3) or subsection (4) as the ARMS for a managed aquatic resource the Minister may request the CEO to revise the draft strategy taking into account any matters referred to in the request.
- (4) The CEO must, within 2 months of a request under subsection (3) or such longer period as the Minister allows, submit to the Minister
  - a copy of the draft strategy as revised taking into account the matters referred to in the request; and
  - a report on the revisions that have been made. (b)
- Notice of an approval under subsection (1) must be published in the Gazette.
- An ARMS comes into effect on the day after the day on which (6) the relevant notice is published in the Gazette or on a later day specified in the notice.

#### 21. Amendment and revocation of ARMS

- (1) The Minister may, in writing, approve an amendment to an ARMS for a managed aquatic resource.
- (2) This Subdivision applies in respect of an amendment to an ARMS as if a reference to an ARMS included a reference to an amended ARMS.
- An ARMS for a managed aquatic resource is revoked if the (3) declaration under section 14 in respect of the aquatic resource is revoked.
  - Regulations for ARMSs Regulations may be made for purposes relating to ARMSs.

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#### *[22.* Has not come into operation.]

# Subdivision 3 — Aquatic resource use plans

#### 23. Terms used

In this Subdivision —

**ARMS**, in relation to an ARUP, means the ARMS identified in the ARUP in accordance with section 25(1)(b);

resource means a managed aquatic resource, and in relation to an ARUP, means the managed aquatic resource to which the ARUP relates.

#### 24. Minister to make ARUP for managed aquatic resource

- (1) The Minister must make an ARUP, or more than one ARUP, to implement an ARMS that is in effect for a managed aquatic resource.
- The Minister is not to make an ARUP for a resource unless (2)
  - the consultation required in relation to the making of the ARUP set out in the ARMS for the resource has been carried out; and
  - in the opinion of the Minister, the plan is consistent (b) with
    - the ARMS for the resource; and (i)
    - (ii) all other ARUPs made for the resource, or that apply to or in relation to the resource; and
    - regulations made under section 22 in relation to (iii) the ARMS for the resource.
- (3) An ARUP is subsidiary legislation for the purposes of the Interpretation Act 1984, and section 42 of that Act applies to and in relation to a plan as if the plan were a regulation.

#### 25. **Content of ARUPs**

(1) An ARUP must —

- (a) identify the resource to which the ARUP relates; and
- (b) identify the ARMS that the ARUP is to implement; and
- (c) set out the objectives to be achieved by the ARUP; and
- (d) identify the activities regulated under the ARUP; and
- identify the class or classes of persons that may (e) undertake the activities regulated under the ARUP; and
- (f) specify the type of authorisation (if any) required to undertake activities regulated under the ARUP; and
- specify the form and the minimum and maximum (g) amounts of surety (if any) that may be required to be provided for an authorisation to undertake activities regulated under the ARUP; and
- specify the number of resource shares (if any) in the (h) aquatic resource available under the ARUP; and
- set out the method for allocating any resource shares (i) available under the ARUP at the commencement of the ARUP: and
- set out any restrictions in relation to persons who are (j) eligible to be holders of resource shares available under the ARUP; and
- (k) set out procedures for monitoring the quantity of the resource that is taken in a fishing period; and
- set out any conditions that are to apply in respect of the (1) transfer of catch entitlement for the resource; and
- set out any circumstances in which the CEO may, by (m) notice published in the Gazette, modify provisions in the ARUP in order to ensure that the objectives to be achieved by the ARUP are achieved.
- (2) An ARUP may include any provision that, in the Minister's opinion, is necessary for -
  - (a) the protection or management of the resource; or
  - (b) the protection of the aquatic environment, other aquatic resources, aquatic mammals, aquatic reptiles, aquatic

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birds and amphibians from activities related to the resource.

(3) The objectives to be achieved by an ARUP are to be consistent with, but not limited to, the main objective of the ARMS that the ARUP is to implement.

#### **26.** Method for allocating shares under ARUP

- (1) In making an ARUP that sets out a method for allocating resource shares the Minister must have regard to the following —
  - (a) the interests of persons who have a history of involvement in taking the resource;
  - (b) the interests of persons who have entitlements to take the resource under this Act immediately before the commencement of the ARUP;
  - any option granted under section 42(2) in respect of the (c) resource or a component of the resource.
- (2) A method for allocating resource shares set out in an ARUP may include, but is not limited to
  - allocation based on converting previous entitlement to (a) take the resource to a specified share entitlement; or
  - allocation based on converting options granted under (b) section 42(2) to a specified share entitlement; or
  - grant by the CEO on application, including payment of (c) an application fee if applicable, and on the basis of specified criteria; or
  - sale by public tender or auction. (d)
- An ARUP that sets out a method for allocating resource shares (3) other than by sale by public tender or auction must provide
  - that a decision not to allocate a resource share is a (a) reviewable decision for the purposes of sections 146 and 147; and

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(b) that a person who is affected by a decision about allocation of a resource share is an affected person for the purposes of those sections.

# 27. Form of surety

The form of surety for an authorisation specified in an ARUP may be one or more of the following —

- (a) a monetary bond to be paid to the CEO;
- (b) nomination of a number of resource shares in the resource to which the ARUP relates;
- (c) surety in a form prescribed for the purposes of this section.

# Effect of ARUP on management plans and regulations 28. The Minister may amend or revoke a management plan that applies in respect of all or part of an aquatic resource on the making of an ARUP for the resource. If a management plan is inconsistent with an ARUP then, to the extent of the inconsistency, the ARUP prevails. If an ARUP is inconsistent with the regulations then, to the extent of the inconsistency, the ARUP prevails. **Effect of revocation of ARMS** If an ARMS is revoked, each ARUP made to implement the ARMS is revoked. Regulations for ARUPs Regulations may be made for purposes relating to ARUPs. Contravening ARUP or regulations relating to ARUPs <u>-31.</u> commercial ARUP means an ARUP that specifies a number of resource shares that are available under the ARUP;

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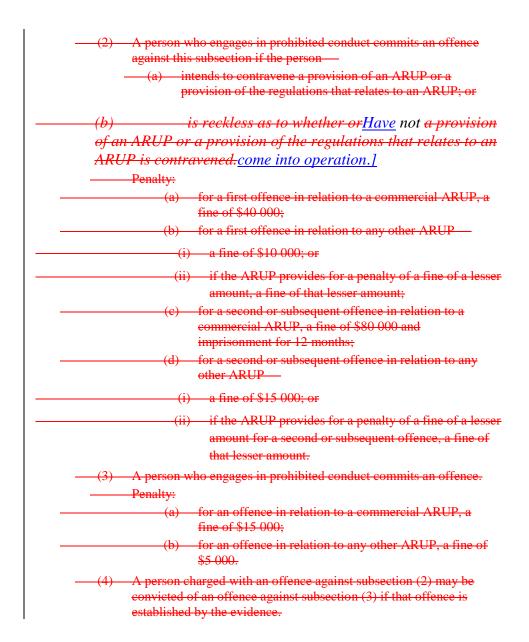
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conduct that contravenes a provision of an ARUP, the contravention of which is specified to be an offence; or conduct that contravenes a provision of the regulations that relates to an ARUP, the contravention of which is prescribed to be an offence to which this section applies.

prohibited conduct means

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# Division 3 — Administrative matters for managed aquatic resources

# **Subdivision 1 — Preliminary**

# 32. Terms used

In this Division —

**allocated catch**, in relation to a resource share, means the catch allocated for the resource share for a fishing period in accordance with a notice given under section 33(1);

catch means a quantity of aquatic organisms;

*relevant ARUP*, in relation to a resource share, means the ARUP under which the share is made available.

# 33. CEO to notify TAC and catch

- (1) At least 30 days before the commencement of each fishing period for a managed aquatic resource the CEO must publish in the *Gazette* a notice setting out the following in respect of the fishing period
  - (a) the TAC for the resource;
  - (b) the quantity of TAC available for commercial fishing for the resource;
  - (c) the quantity of TAC available for recreational fishing for the resource;
  - (d) the catch to be allocated for a resource share in the resource.
- (2) For the purposes of subsection (1), the TAC and the quantity of TAC available for commercial fishing and for recreational fishing are to be calculated in accordance with the ARMS for the resource.
- (3) For the purposes of subsection (1)(d), the catch to be allocated for a resource share for a fishing period is the quantity of TAC referred to in subsection (1)(b) divided by the number of shares in the resource.

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### Aquatic Resources Management Act 2016

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# Subdivision 2 — Commercial fishing

# **34.** Allocation of resource shares

- (1) When an ARUP comes into operation any resource shares in an aquatic resource available under the ARUP vest in the Minister.
- (2) The Minister must, as soon as is practicable after an ARUP comes into operation, allocate the resource shares in accordance with the method set out in the ARUP.
- (3) A person to whom a resource share is allocated may request the CEO to register the person as the holder of the resource share.
- (4) A request must
  - (a) be in an approved form; and
  - (b) be accompanied by the fee (if any) that is set out in the relevant ARUP or the regulations.
- (5) On receipt of a request under subsection (3) the CEO must register the person as the holder of the resource share.

### 35. Nature of resource shares

- (1) Subject to section 37, a person who is the holder of a resource share in an aquatic resource at the beginning of a fishing period for the aquatic resource is entitled to be registered as the holder of the allocated catch for the share for that fishing period.
- (2) A resource share
  - (a) is transferrable as provided by this Act; and
  - (b) is capable of devolution by will or by operation of law.
- (3) In accordance with the *Personal Property Securities Act 2009* (Commonwealth) section 10 in paragraph (b) of the definition of *personal property*, a resource share is declared not to be personal property for the purposes of that Act.

#### 36. Transfer of resource shares

- (1) The holder of a resource share in an aquatic resource may, in accordance with the relevant ARUP or the regulations, request the CEO to transfer the share to another person (the *recipient*).
- (2) On receipt of a request under subsection (1) the CEO must transfer the share by registering the recipient as the holder of the resource share unless subsection (3) applies.
- (3) The CEO must not transfer a resource share if
  - a fee or fine payable by the holder of the share under this Act is outstanding; or
  - the share is nominated as surety for an authorisation; or (b)
  - the recipient is a person who is not eligible under the (c) relevant ARUP to hold the share; or
  - (d) the CEO has, under section 156, given details of the request to a security holder unless —
    - 21 days has expired from the day on which the details were given; or
    - (ii) the CEO has the written consent of the holder of the share and the security holder to do so.

#### **37. Registration of catch entitlement**

- (1) The holder of a resource share in an aquatic resource may request the CEO to register the holder of the resource share as the holder of catch entitlement of an amount equal to the allocated catch for the share.
- (2) The request must
  - be in an approved form; and (a)
  - be accompanied by the fee that is set out in the relevant (b) ARUP or the regulations.
- Subject to subsections (4) and (5), the CEO must register the applicant as the holder of catch entitlement in accordance with the request.

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- (4) Before registering the holder of a resource share as the holder of the catch entitlement the CEO must reduce the amount of the allocated catch in accordance with section 41(7)(a) or 210(2)(b) if applicable.
- (5) The CEO must not register the holder of a resource share as the holder of catch entitlement for the share if
  - (a) a fee or fine payable by the holder of the share under this Act is outstanding; or
  - (b) the share is nominated as surety for an authorisation and the authorisation is suspended under section 209 at the beginning of the fishing period to which the catch relates.
- (6) If the holder of a resource share does not make a request under subsection (1) within 90 days of the commencement of the fishing period in respect of which the catch is allocated the CEO may, by notice in writing, require the holder to pay the fee referred to in subsection (2)(b) within the period specified in the notice.
- (7) In accordance with the *Personal Property Securities Act* 2009 (Commonwealth) section 10 in paragraph (b) of the definition of *personal property*, catch entitlement is declared not to be personal property for the purposes of that Act.

# 38. Transfer of catch entitlement

- (1) A person who is registered as the holder of catch entitlement may request the CEO to transfer to another person (the *recipient*) part or all of the catch entitlement.
- (2) The request must be made in an approved manner and form.
- (3) Following the receipt of a request, the CEO must register the recipient as the holder of catch entitlement up to the amount specified in the request
  - (a) in accordance with the regulations; and

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- subject to any conditions set out in the ARUP under (b) which the catch entitlement is allocated.
- (4) A person who makes a request referred to in subsection (1) may withdraw the request to the extent that the recipient has not been registered as the holder of an amount of catch entitlement specified in the request
  - in accordance with the regulations; and
  - subject to any conditions in respect of the withdrawal of (b) a request to transfer the catch entitlement set out in the ARUP under which catch entitlement is allocated.

#### **39.** Provision of surety for authorisation

- (1) In this section
  - notice means a notice given under subsection (2) and includes a notice amended under subsection (5).
- (2) The CEO may, by notice in writing, require a person who is the holder of an authorisation to undertake activities regulated under an ARUP to provide surety for the authorisation if the person is charged with, or convicted of, an offence against
  - this Act; or (a)
  - (b) a written law other than this Act if the offence relates to the fishing, aquaculture, fishing tour or aquatic eco-tourism industries; or
  - a law of the Commonwealth, or of another State or a (c) Territory, relating to the management or regulation of aquatic resources.
- A notice must specify (3)
  - the form and amount of the surety; and (a)
  - (b) the day on, or before which, the surety is to be provided.
- (4) For the purposes of subsection (3)(a)
  - the form of the surety must be a form specified in the (a) relevant ARUP; and

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- (b) the amount of surety must not be
  - less than the minimum amount specified in the relevant ARUP; or
  - (ii) more than the maximum amount specified in the relevant ARUP.
- (5) The CEO may, by notice in writing, amend or revoke a notice given under subsection (2).
- If a person required by a notice to provide surety for an (6)authorisation does not provide the surety on or before the specified day, the authorisation is suspended for the period
  - commencing on the day after the specified day; and (a)
  - (b) ending on
    - the day on which surety is provided; or (i)
    - if the notice is earlier revoked, on the day on which the notice is revoked.

#### 40. **Registration of surety**

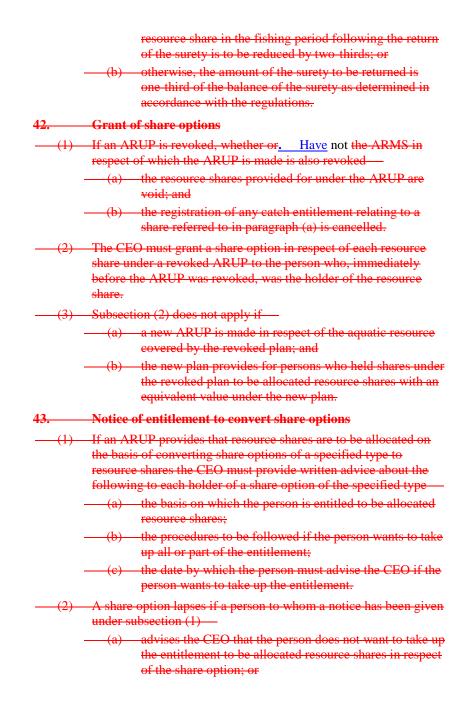
- (1) On receipt of surety for an authorisation the CEO must
  - record on the register the provision of the surety for the authorisation; and
  - if the surety is provided in the form of the nomination of (b) one or more resource shares, record on the register the nomination of each nominated share as surety for the authorisation.
- (2) If, under section 156, the CEO gives written details of the nomination of a resource share as surety for an authorisation to a security holder the CEO must not record the nomination of the resource share as surety for the authorisation unless -
  - 21 days has expired from the day on which the details were given; or
  - the CEO has the written consent of the holder of the (b) resource share and the security holder to do so.

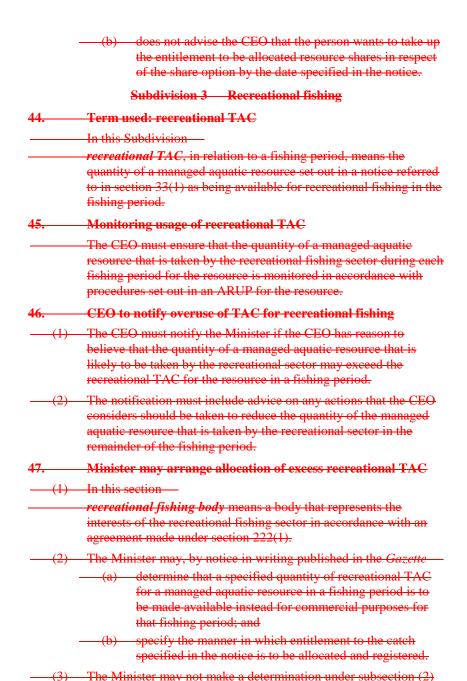
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	Return or substitution of surety for authorisation
(1)	In this section—
	<i>balance</i> , in relation to surety, means the surety that remains after any forfeiture ordered under section_50(2) has been effected;
	terminates, in relation to an authorisation, means
	(a) expires without being renewed; or
	(b) is cancelled under section 134(1) or 208(1); or
	(c) ceases to have effect in accordance with section 135(2).
(2)	A person who has provided surety for an authorisation may request the CEO to—
	(a) return the balance of the surety; or
	(b) return the balance of the surety on the provision of a substitute surety for the authorisation.
(3)	On a request made under subsection (2) the CEO may return the balance of the surety in accordance with the regulations.
	The CEO may agree to the provision of a substitute surety for an authorisation if the CEO is satisfied that the substituted surety is—
	in a form specified in the ARUP in respect of which the authorisation is granted; and
	(b) of an equivalent value to the original surety.
(5)	The CEO may refuse to return the balance of surety for an authorisation—
	(a) if in the CEO's opinion, the holder of the authorisation of a person acting for or on behalf of the holder of the authorisation may be liable to prosecution for an offence that is prescribed for the purposes of section 209; or
	<ul> <li>(b) until a conviction required to be recorded in respect of the surety under section 210(1) has been recorded.</li> </ul>
(6)	Subject to subsections (5) and (7), if an authorisation for which surety has been provided terminates, the CEO must return the balance of the surety to the holder of the authorisation in accordance with the regulations.
<del>(7)</del>	If the surety for an authorisation that terminates has one or 2 convictions recorded in respect of it under section 210(1) in the period of 10 years before the CEO returns the balance of the surety—

Part 3 Managed aquatic resources

**Division 3** Administrative matters for managed aquatic resources





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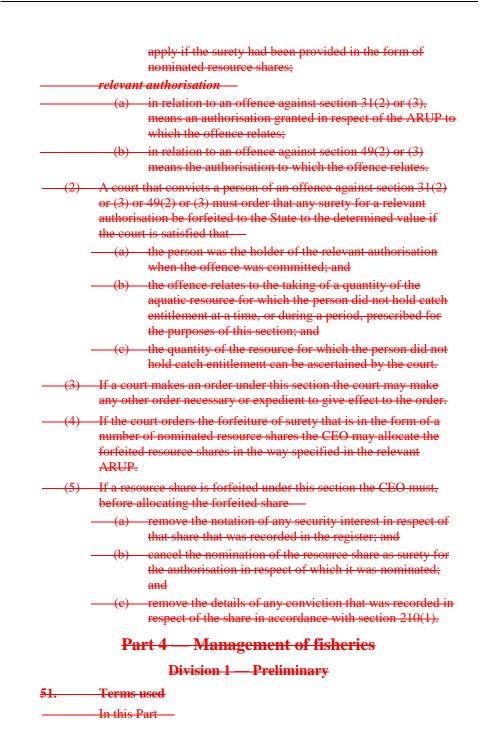
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	the Minister is satisfied on reasonable grounds that the quantity of catch specified in the notice is excess to the requirements of the recreational fishing sector for the fishing period; and
	(b) the Minister is requested by a recreational fishing body to make the quantity of catch specified in the notice available for commercial purposes for the fishing period.
<del>(4)</del>	If the Minister makes a determination under subsection (2) the CEO must—
	(a) arrange, in the manner specified in the notice, for the allocation of entitlement to the catch; and
	(b) register, as specified in the notice, a person who is allocated an entitlement as the holder of the entitlement.
<del>(5)</del>	The proceeds of the allocation of an entitlement under this section are to be paidcome into the Recreational Fishing Account.
48.	Increase of TAC for recreational fishing
	The recreational TAC for a managed aquatic resource in a fishing
	period is increased by the amount of any catch entitlement for the resource purchased in the fishing period by the application of money from the Recreational Fishing Account.
Divis	resource purchased in the fishing period by the application of
	resource purchased in the fishing period by the application of money from the Recreational Fishing Account.
49.	resource purchased in the fishing period by the application of money from the Recreational Fishing Account.  sion 4 Offences relating to managed aquatic resources  Contravening condition of authorisation relating to managed
49.	resource purchased in the fishing period by the application of money from the Recreational Fishing Account.  sion 4 Offences relating to managed aquatic resources  Contravening condition of authorisation relating to managed aquatic resources
49.	resource purchased in the fishing period by the application of money from the Recreational Fishing Account.  sion 4 Offences relating to managed aquatic resources  Contravening condition of authorisation relating to managed aquatic resources  In this section  commercial authorisation means a relevant authorisation that relates to an ARUP that specifies that a number of resource shares
49.	resource purchased in the fishing period by the application of money from the Recreational Fishing Account.  sion 4 — Offences relating to managed aquatic resources  — Contravening condition of authorisation relating to managed aquatic resources  — In this section —  — commercial authorisation means a relevant authorisation that relates to an ARUP that specifies that a number of resource shares are available under the plan;  — prohibited conduct means conduct that contravenes a condition of
(1)	resource purchased in the fishing period by the application of money from the Recreational Fishing Account.  sion 4 Offences relating to managed aquatic resources  Contravening condition of authorisation relating to managed aquatic resources  In this section  commercial authorisation means a relevant authorisation that relates to an ARUP that specifies that a number of resource shares are available under the plan;  prohibited conduct means conduct that contravenes a condition of a relevant authorisation;  relevant authorisation  relevant authorisation means an authorisation to undertake an activity in respect of a managed aquatic resource specified in an
(1)	resource purchased in the fishing period by the application of money from the Recreational Fishing Account.  sion 4 — Offences relating to managed aquatic resources  — Contravening condition of authorisation relating to managed aquatic resources  — In this section— — commercial authorisation means a relevant authorisation that relates to an ARUP that specifies that a number of resource shares are available under the plan; — prohibited conduct means conduct that contravenes a condition of a relevant authorisation; — relevant authorisation means an authorisation to undertake an activity in respect of a managed aquatic resource specified in an ARUP for the aquatic resource.  A person who engages in prohibited conduct commits an offence
(1)	resource purchased in the fishing period by the application of money from the Recreational Fishing Account.  Sion 4 Offences relating to managed aquatic resources  Contravening condition of authorisation relating to managed aquatic resources  In this section  commercial authorisation means a relevant authorisation that relates to an ARUP that specifies that a number of resource shares are available under the plan;  prohibited conduct means conduct that contravenes a condition of a relevant authorisation;  relevant authorisation means an authorisation to undertake an activity in respect of a managed aquatic resource specified in an ARUP for the aquatic resource.  A person who engages in prohibited conduct commits an offence against this subsection if the person  (a) intends to contravene a condition of a relevant

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	(a) for a first offence in relation to a commercial authorisation, a fine of \$40 000;
	(b) for a first offence in relation to any other relevant authorisation
	(i) a fine of \$10 000; or
	(ii) if the ARUP in respect of which the
	authorisation is granted provides for a penalty
	of a fine of a lesser amount, a fine of that
	<del>lesser amount;</del>
	(c) for a second or subsequent offence in relation to a commercial authorisation, a fine of \$80 000 and imprisonment for 12 months;
	(d) for a second or subsequent offence in relation to any other relevant authorisation—
	(i) a fine of \$20 000; or
	(ii) if the ARUP in respect of which the authorisation is
	granted provides for a penalty of a fine of a lesser
	amount for a second or subsequent offence, a fine of
	that lesser amount.
<del>(3)</del>	A person who engages in prohibited conduct commits an offence.
	Penalty:
	(a) for an offence in relation to a commercial authorisation, a fine of \$15 000;
	(b) for an offence in relation to any other relevant authorisation, a fine of \$5 000.
<del>(4)</del>	A person charged with an offence against subsection (2) may be convicted of an offence against subsection (3) if that offence is established by the evidence.
<del>50.</del>	Court to order forfeiture of surety for authorisation
<del>(1)</del>	In this section—
-	determined value, in relation to surety, means
	(a) if the surety is in the form of nominated resource shares, the number of resource shares in a managed aquatic resource that corresponds to the quantity of the resource for which the person did not hold catch entitlement calculated in accordance with the regulations; or  (b) if the surety is in any other form, an amount that is
	equivalent to the value, at the time the offence was committed, of the number of resource shares that would

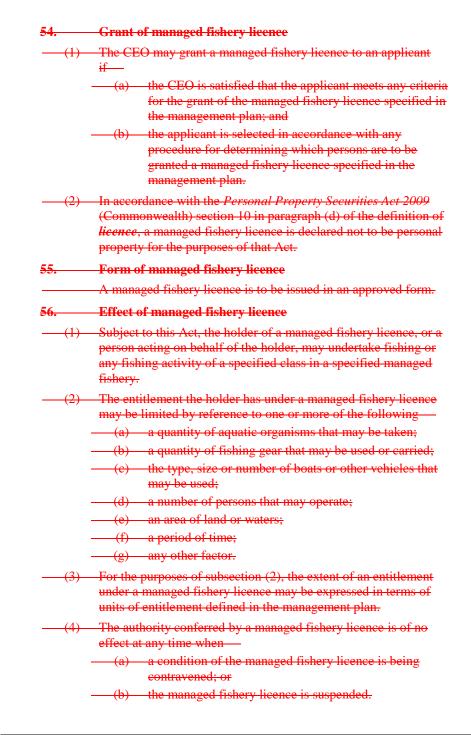
Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 37 Extract from www.slp.wa.gov.au, see that website for further information

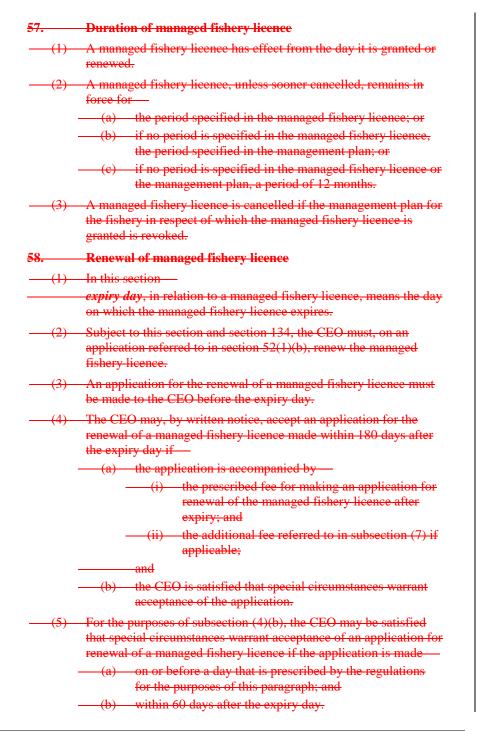


	management plan, in relation to a managed fishery licence, means the management plan in respect of which the managed fishery		
	licence is granted;		
	unit, in relation to an entitlement, means a unit as defined from		
	time to time in the relevant management plan.		
Division 2 Administrative matters relating to management of fisheries			
52.	Application for grant, renewal, variation or transfer of managed fishery licence or entitlement		
(1)	A person may apply to the CEO for—		
<b>\</b> /	(a) a managed fishery licence to undertake a fishing activity in a managed fishery; or		
	— (b)— the renewal of a managed fishery licence; or		
	(c) the variation of a managed fishery licence; or		
	— (d) the transfer of a managed fishery licence to another person; or		
	(e) the transfer of part of the entitlement under a managed fishery licence to another managed fishery licence; or		
	(f) the transfer of the whole or part of an entitlement under a managed fishery licence to another managed fishery licence for a limited period.		
<del>(2)</del>	— An application must —		
	— (a) be made in an approved form; and		
	(b) be accompanied by the fee (if any) prescribed or		
	specified in the management plan; and		
	(c) be accompanied by any information that the CEO		
	reasonably requires for a proper consideration of the application.		
53.	Further information		
<del>(1)</del>	The CEO may, in writing, require an applicant to		
	(a) provide the CEO with such further information relevant to the application as the CEO requires; and		
	— (b) verify any information by statutory declaration.		
<del>(2)</del>	The CEO may specify in the requirement a reasonable time within which the applicant must comply with the requirement.		
(3)	The CEO may refuse to consider an application if the applicant does not comply with a requirement under subsection (1) within the time specified in the requirement, or if no time is so specified, within a reasonable time.		

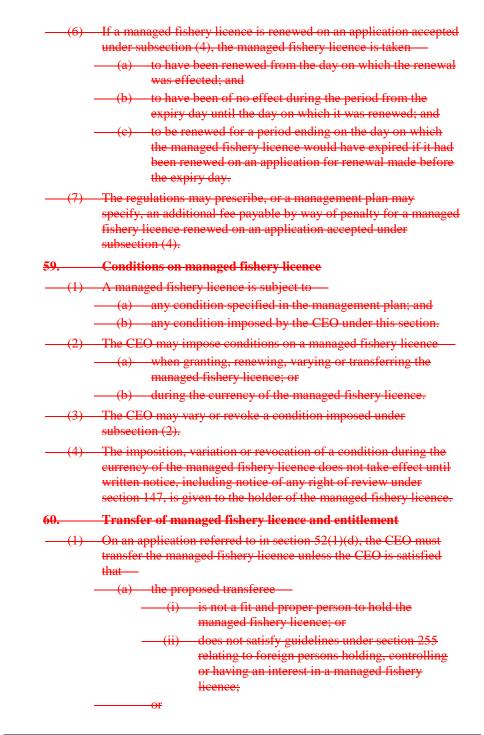
Part 4 Management of fisheries

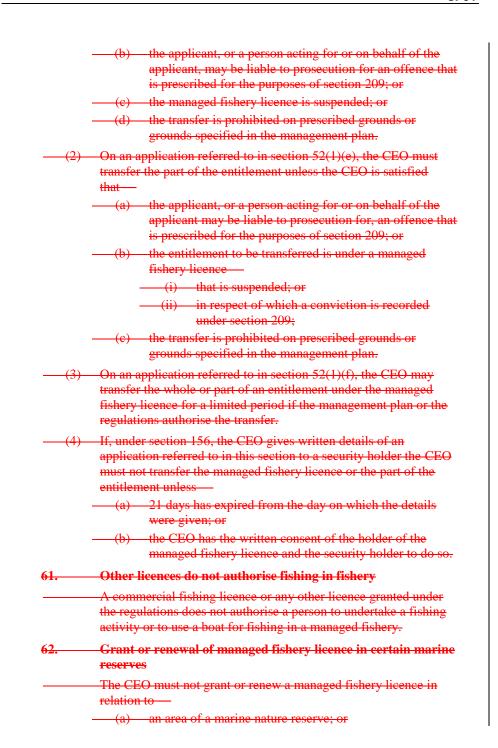
**Division 2** Administrative matters relating to management of fisheries



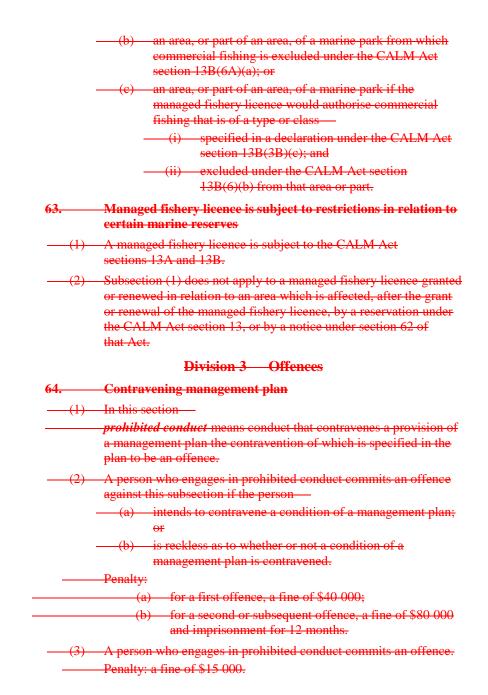


Part 4 Management of fisheries **Division 2** Administrative matters relating to management of fisheries s. 59

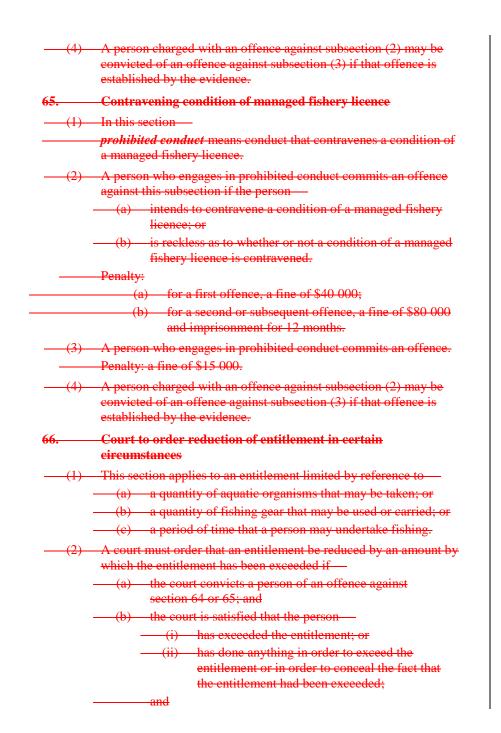




Part 4 Management of fisheries **Division 3** Offences

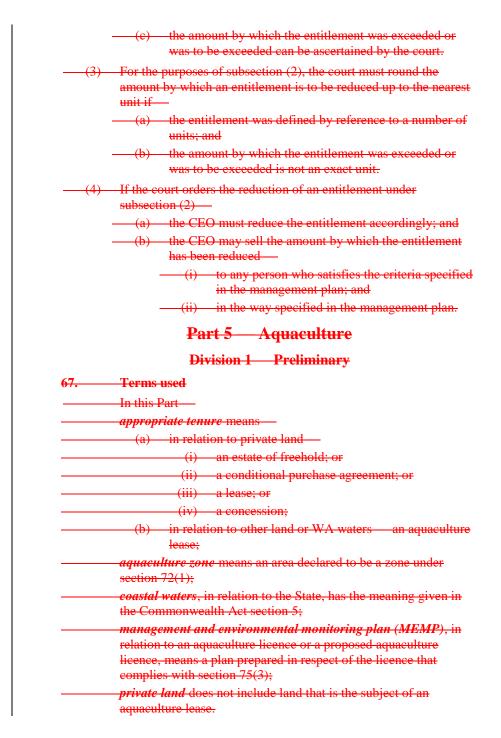


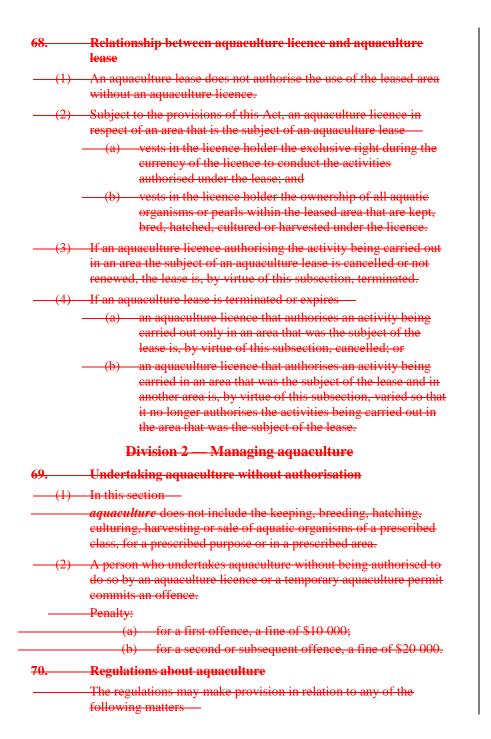
Offences



Part 5 Aquaculture **Division 1 Preliminary** 

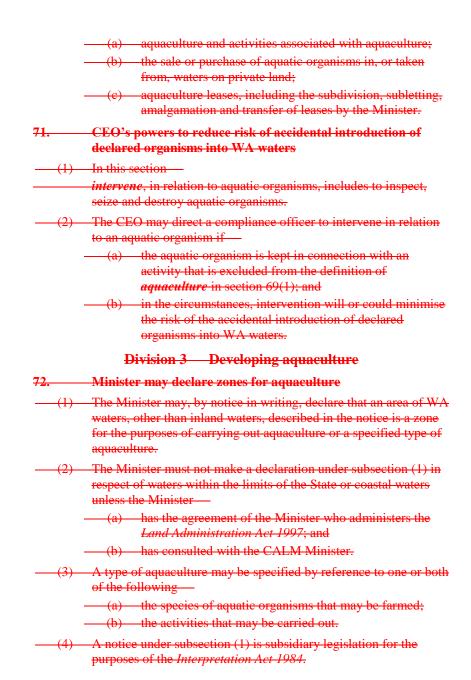
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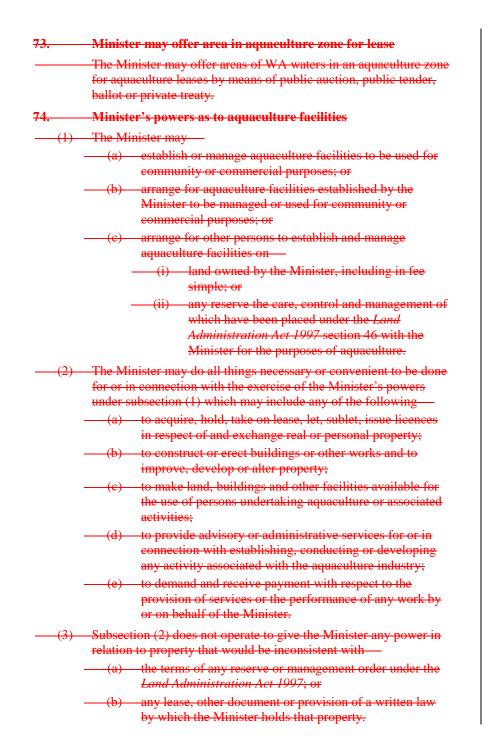




Aquaculture Part 5

**Division 3** Developing aquaculture





Part 5 Aquaculture

**Division 4** Aquaculture licences

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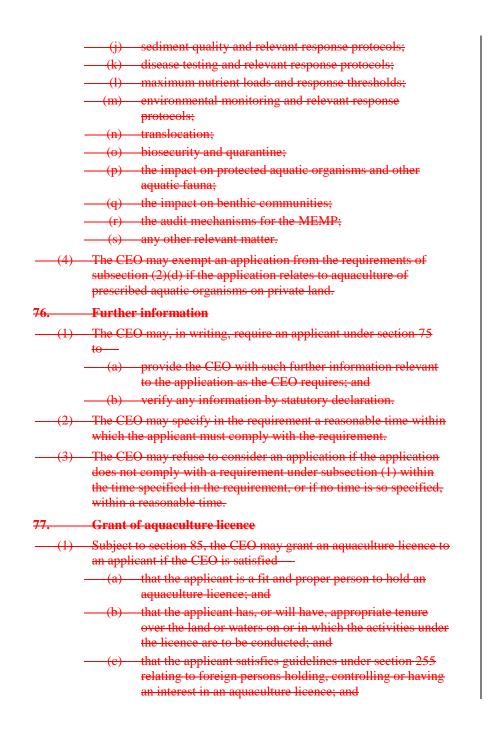
# **Division 4** Aquaculture licences Application for grant or renewal of aquaculture licence (1) A person may apply to the CEO for (a) an aquaculture licence to undertake aquaculture; or (b) the renewal of an aquaculture licence; or the variation of an aquaculture licence; or (d) the transfer of an aquaculture licence. An application must be made in an approved form; and be accompanied by the prescribed fee for the application; if the application is for the renewal of a licence, be accompanied by the fee for the renewal of the licence; unless the applicant is exempt under subsection (4), be accompanied by a management and environmental monitoring plan (MEMP) for the licence or proposed licence identifying how the applicant will manage any risks to the environment and public safety in relation to the activity to which the licence applies or will apply; and be accompanied by any information that the CEO reasonably requires for a proper consideration of the application. A MEMP for an aquaculture licence must deal with the following matters to the extent that is relevant to the application in accordance with guidelines issued under section 254 the species of aquatic organism to be farmed; the quantity of aquatic organisms to be farmed; the area of land or waters on or in which the aquatic organisms are to be farmed; the class of land or waters on or in which the aquatic organisms are to be farmed; the method of farming the aquatic organisms; (f) the aquaculture gear to be used; (g) proposed stocking densities; the carrying capacity of the area to be used for farming the aquatic organisms; water quality (including discharged water quality) and relevant response protocols;

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Aquaculture Aquaculture licences Part 5

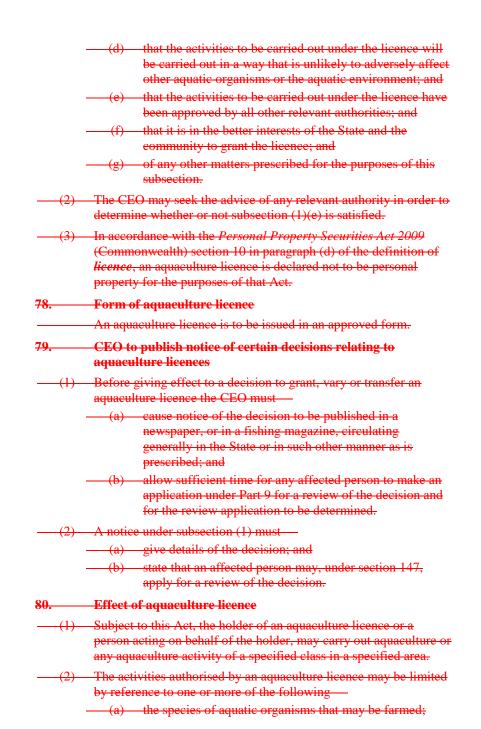
**Division 4** 

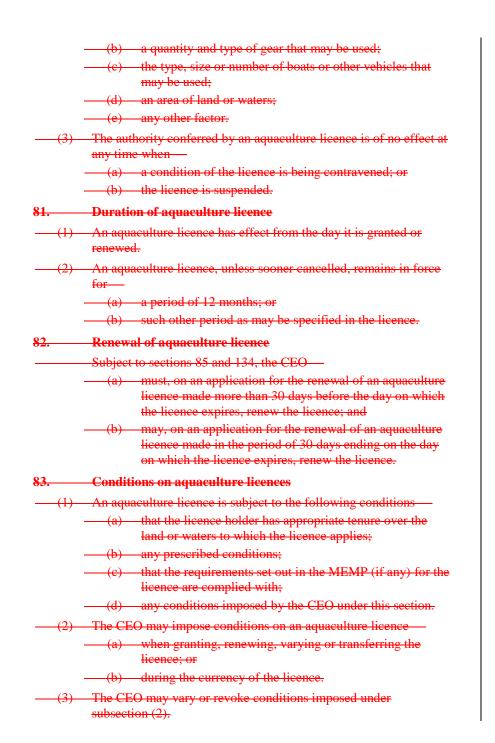
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Aquaculture Part 5 **Division 4** Aquaculture licences

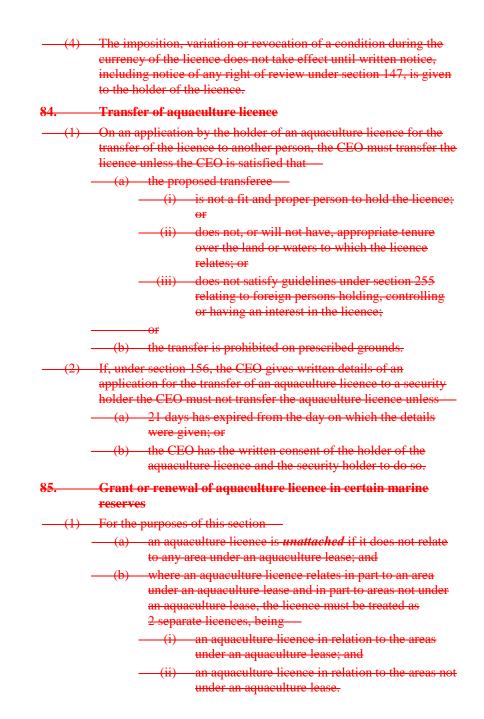




Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 53 Extract from www.slp.wa.gov.au, see that website for further information

Part 5 Aquaculture

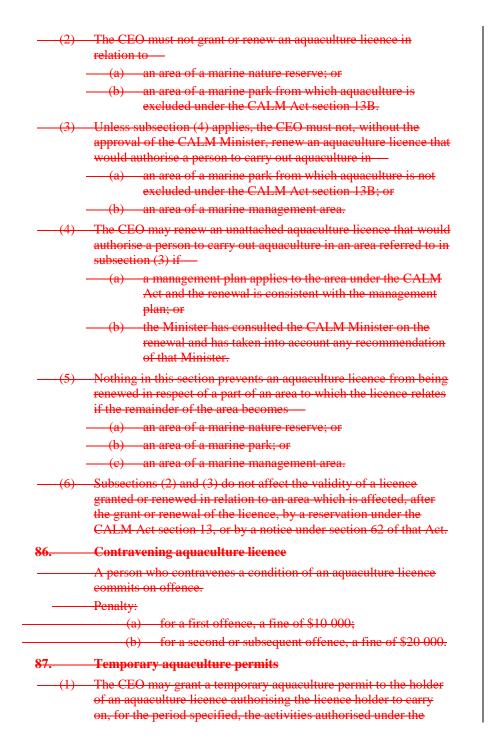
**Division 4** Aquaculture licences



Aquaculture Aquaculture licences Part 5

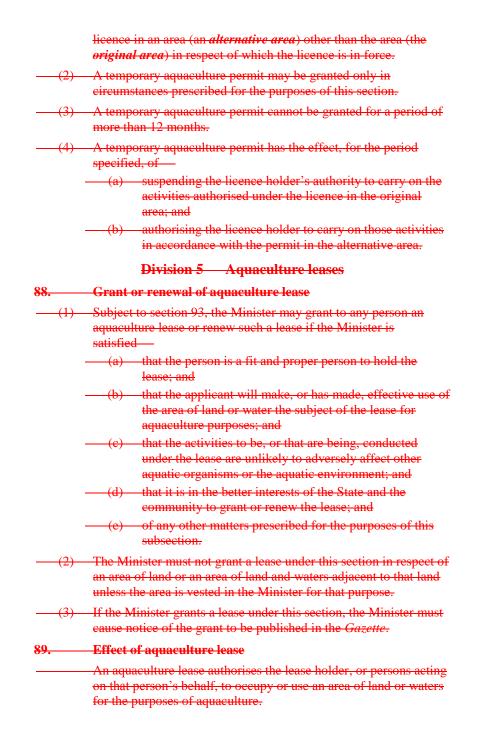
**Division 4** 

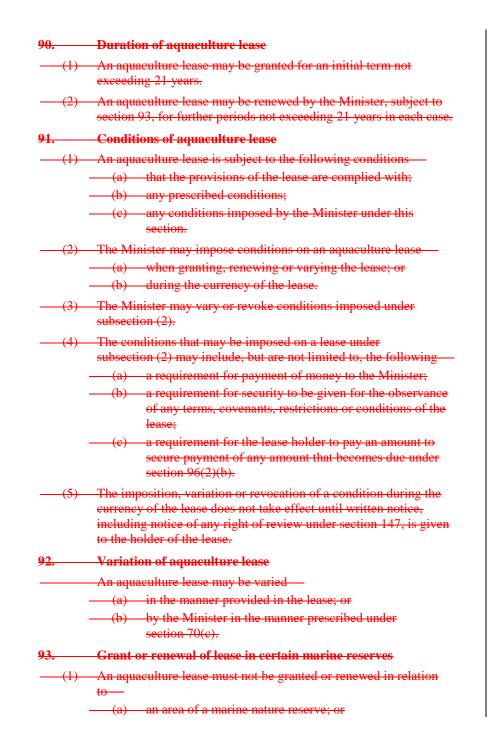
s. 86



Part 5 Aquaculture

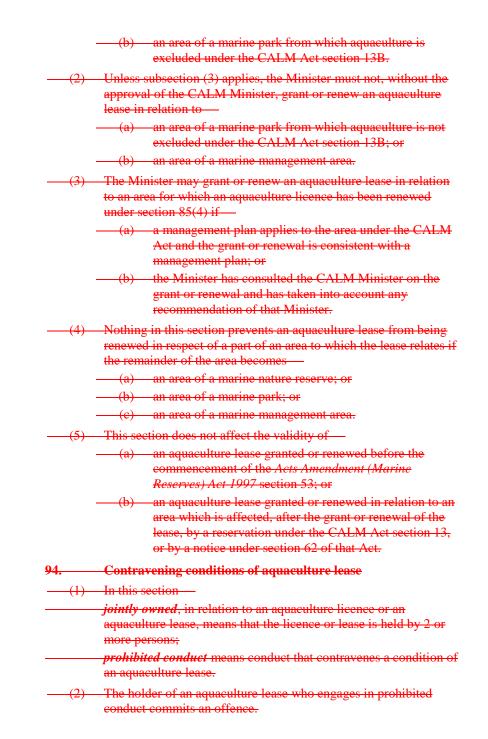
**Division 5** Aquaculture leases

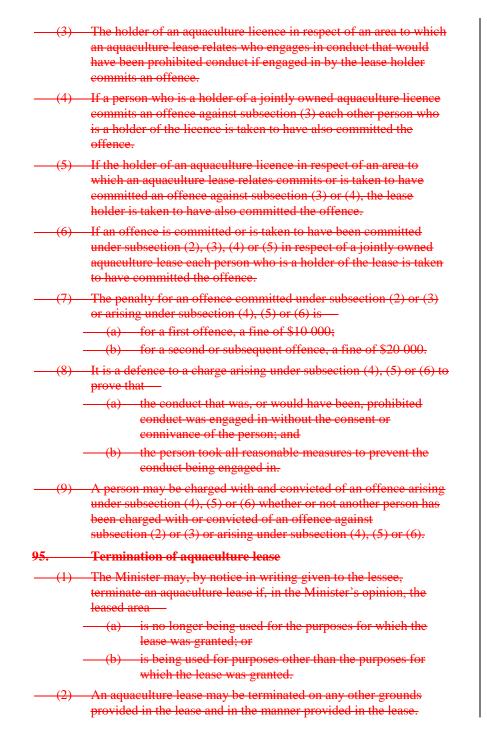




Part 5 Aquaculture

**Division 5** Aquaculture leases

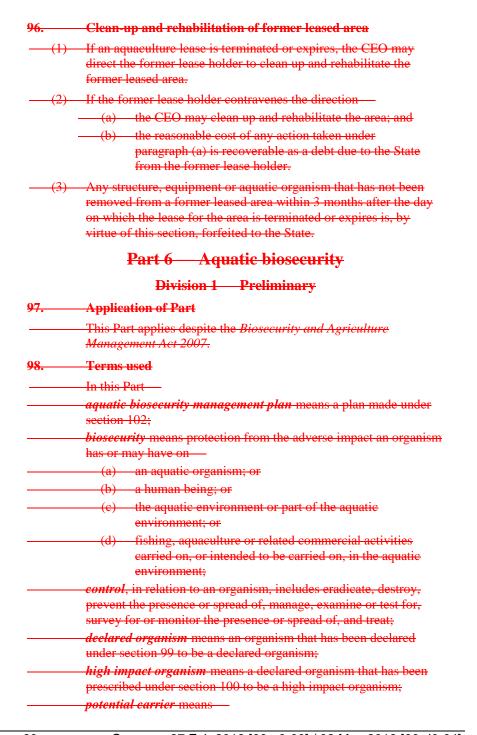




Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 59 Extract from www.slp.wa.gov.au, see that website for further information

Part 6 Aquatic biosecurity

Division 1 Preliminary



Aquatic biosecurity Regulations relating to biosecurity

Part 6 Division 2

s. 99

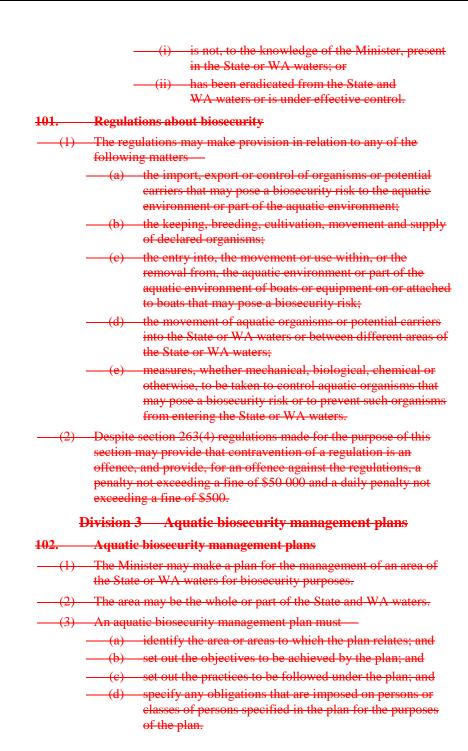
	(a) anything that is capable of carrying an organism; or
	(b) anything that is capable of carrying anything else that is capable of carrying an organism;
	prescribed potential carrier means a potential carrier that has been prescribed for the purposes of this Part;
	supply includes to offer to supply.
	Division 2 Regulations relating to biosecurity
99.	Declared organisms
	The Minister may declare that an organism of a kind specified or described in the declaration is a declared organism for an area if there are reasonable grounds for believing that the organism
	— (a) has or may have an adverse impact on
	— (i) an aquatic organism in the area; or
	— (ii) a human being in the aquatic environment in the area; or
	— (iii) the aquatic environment or part of the aquatic environment in the area; or
	<ul> <li>(iv) fishing, aquaculture or related commercial activities carried out, or intended to be carried out, in the aquatic environment in the area;</li> </ul>
	——————————————————————————————————————
<del>(2)</del>	A declaration under this section may assign the declared organism to a category designated by the regulations.
<del>(3)</del>	A declaration under this section may state that the declared organism is a reportable declared organism for the purposes of section 105.
<del>(4)</del>	The area for which an organism may be declared to be a declared organism may be the whole or part of the State or WA waters.
100.	High impact organisms
	The regulations may prescribe a declared organism to be a high impact organism if—
	(a) the Minister is satisfied that the organism has the potential to cause severe damage to the aquatic environment; and
	— (b) the organism

Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04]
Extract from www.slp.wa.gov.au, see that website for further information page 61

Part 6 Aquatic biosecurity

**Division 3** Aquatic biosecurity management plans

s. 101



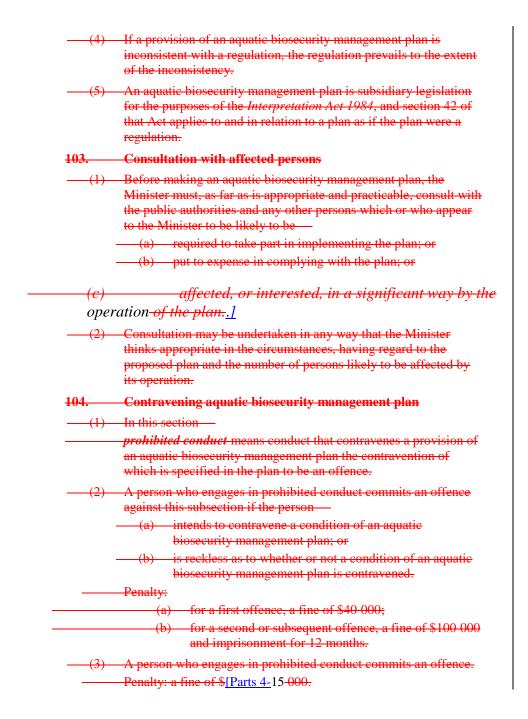
Aquatic biosecurity

Part 6

Aquatic biosecurity management plans

s. 103

**Division 3** 

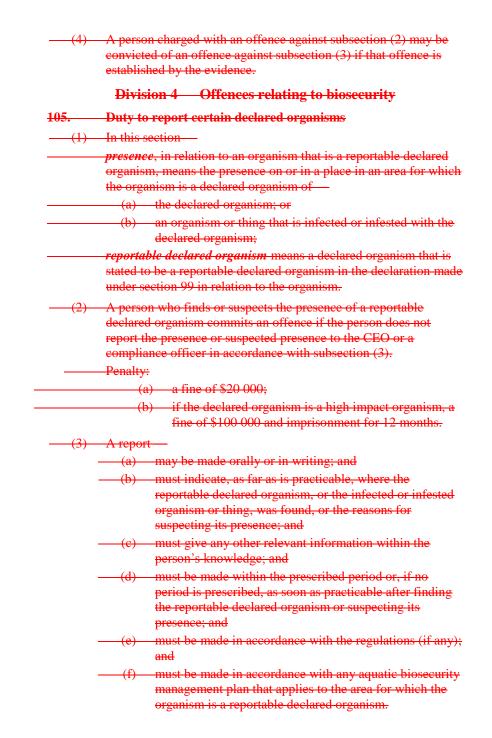


Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 63 Extract from www.slp.wa.gov.au, see that website for further information

Part 6 Aquatic biosecurity

**Division 4** Offences relating to biosecurity

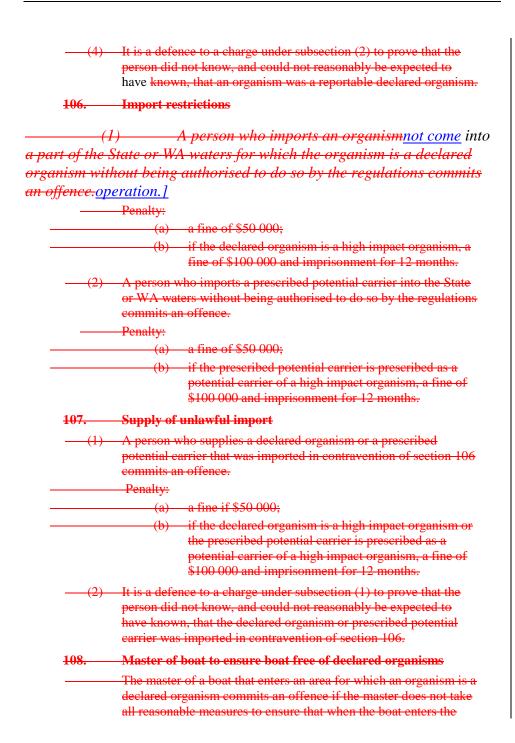
s. 105



Aquatic biosecurity Offences relating to biosecurity

Part 6 **Division 4** 

s. 106

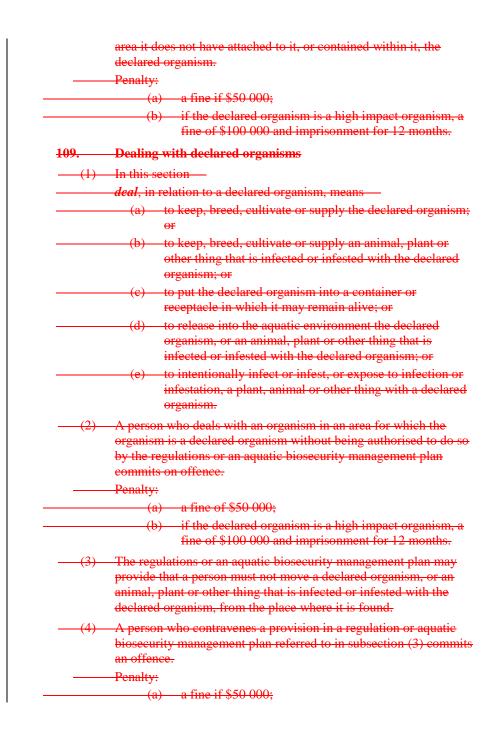


Part 6 Aquatic biosecurity

**Division 4** 

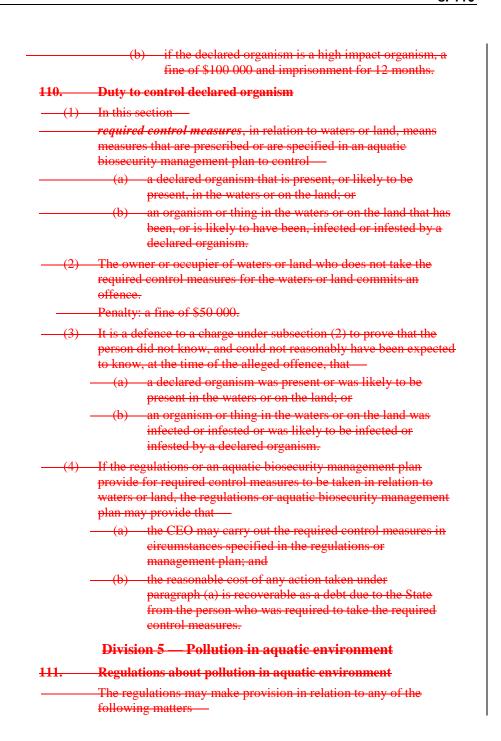
Offences relating to biosecurity

s. 109

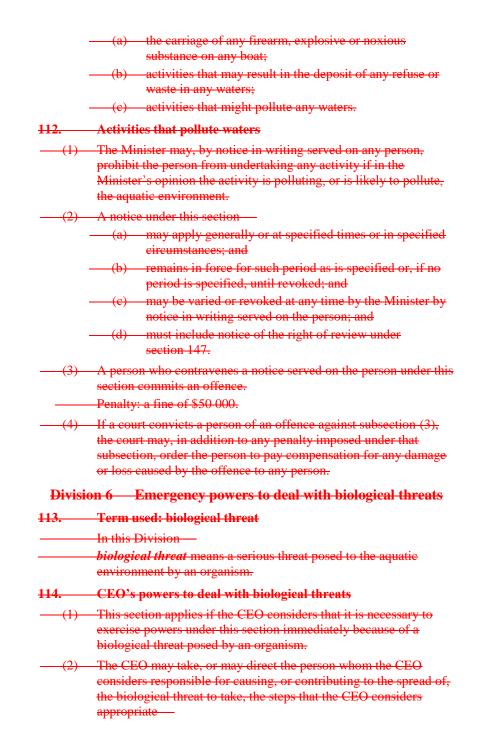


Aquatic biosecurity Pollution in aquatic environment

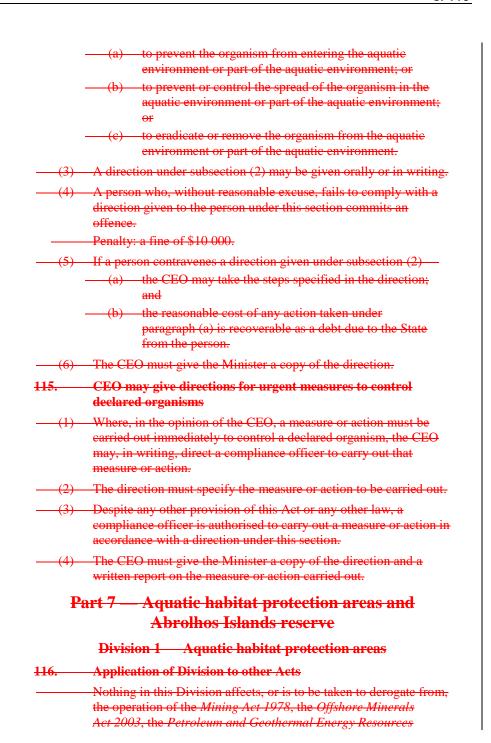
Part 6 **Division 5** 



Part 6 Aquatic biosecurity **Division 6** Emergency powers to deal with biological threats s. 112



Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 68 Extract from www.slp.wa.gov.au, see that website for further information

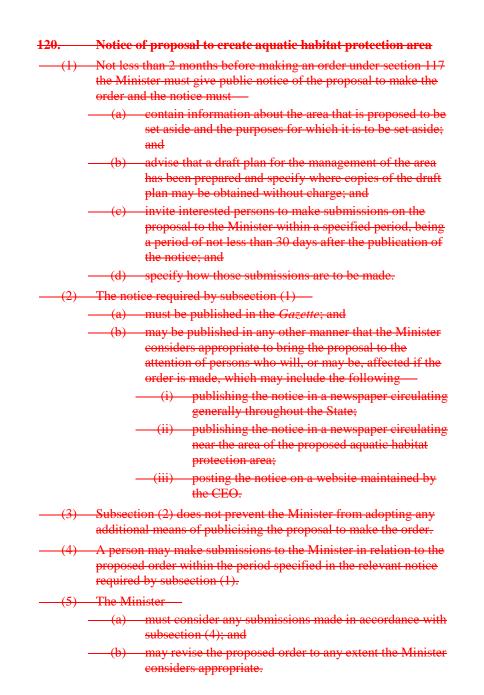


s. 117

Part 7 Aquatic habitat protection areas and Abrolhos Islands reserve **Division 1** Aquatic habitat protection areas

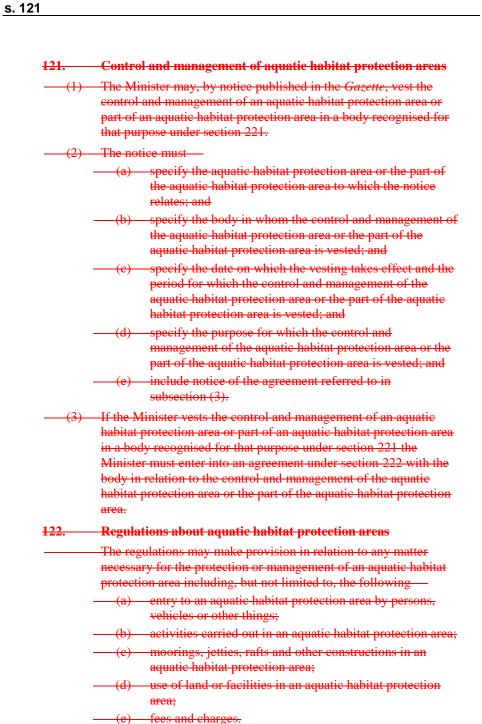
Act 1967, the Petroleum (Submerged Lands) Act 1982, any other Act relating to minerals or petroleum, or any Government agreement as defined in the Government Agreements Act 1979 section 2. - Creating aquatic habitat protection areas The Minister may, by order published in the Gazette, set aside an area of WA waters as an aquatic habitat protection area. An area may be set aside as an aquatic habitat protection area for one or more of the following purposes the conservation and protection of aquatic organisms, aquatic organism breeding areas, fossils of aquatic organisms or the aquatic ecosystem; the culture and propagation of aquatic organisms and related experimental purposes; the management of aquatic organisms and activities relating to the appreciation or observation of aquatic (3) An order must identify the area of waters that constitutes the aquatic habitat protection area; and <del>(b)</del> specify the purpose or purposes for which the area is set Aquatic habitat protection area not permitted in certain <del>118.</del> marine reserves An area in a marine nature reserve, a marine park or a marine management area must not be set aside under section 117 as an aquatic habitat protection area. (2) An area ceases to be an aquatic habitat protection area or part of an aquatic habitat protection area if a marine nature reserve, marine park or marine management area is established in respect of the area; and (b) a management plan for the reserve, park or management area (as the case may be) comes into operation. Determination of plan for aquatic habitat protection area Before setting aside an area as an aquatic habitat protection area under section 117 the Minister must approve a plan for the

management of the area.



Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 71

Part 7 Aquatic habitat protection areas and Abrolhos Islands reserve **Division 1** Aquatic habitat protection areas



Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 72

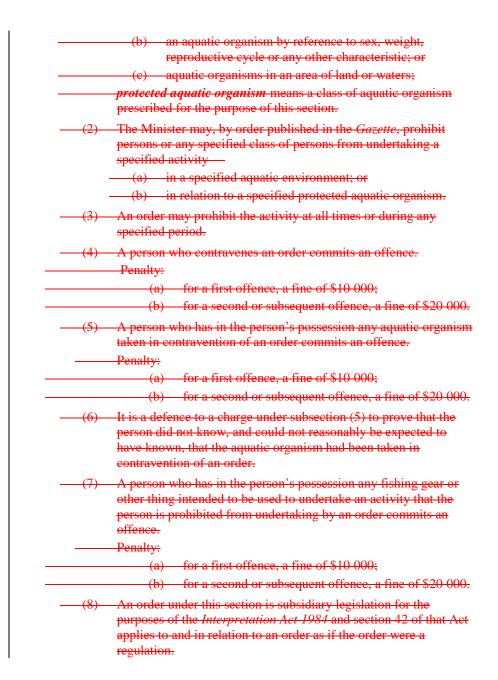
# Division 2 Abrolhos Islands reserve Application of Parks and Reserves Act 1895 to reserve For the purposes of this Act, the Parks and Reserves Act 1895 sections 7A(2) and (3), 7C, 12A and 12B apply to and in relation to the Abrolhos Islands reserve as if a reference in those sections (a) an authorised person were a reference to a compliance officer; and (b) a by law were a reference to a regulation referred to in section 124; and a Board were a reference to the Governor, the Minister, the CEO or a compliance officer (as the context requires). Regulations about reserve The regulations may make provision in relation to any matter necessary for the protection or management of the Abrolhos Islands reserve including, but not limited to, the following (a) entry to the reserve by persons, vehicles or other things; (b) activities carried out in or on the reserve or in waters adjacent to the reserve; the protection and conservation of fauna and flora (whether aquatic or otherwise) in the reserve; (d) use of any land or facilities in the reserve; the use, safety and preservation of buildings, structures, fixtures, fittings and chattels in the reserve; the collection and use of potable water and the disposal of waste water: the collection, removal, disposal or incineration of any rubbish, sewage, litter, building or structure in the reserve and for the recovery of the cost of that collection, removal, disposal or incineration; (h) fees and charges. Part 8 — Regulation of various activities

#### **Division 1 — General regulation of activities**

# **Minister may prohibit activities** (1) In this section class, in relation to aquatic organisms, means (a) a species or type of aquatic organism; or

page 73

Part 8 Regulation of various activities **Division 1** General regulation of activities s. 126



<del>126.          </del>	Regulations restricting take or possession of aquatic organisms
	The regulations may make provision in relation to the quantity of an aquatic organism that a person may take or have in the person's possession.
	Division 2 Trafficking in aquatic organisms
<del>127.</del>	Terms used
	— In this Division—
	commercial quantity, of an aquatic organism, means
	(a) a quantity of the aquatic organism that exceeds the quantity prescribed by or determined under the regulations; or
	(b) a quantity of the aquatic organism the value of which exceeds the value prescribed by or determined under the regulations;
	priority aquatic organisms means
	(a) aquatic organisms of a species that is declared by the regulations to be a priority species; or
	<ul> <li>(b) aquatic organisms belonging to a group of 2 or more species that is declared by the regulations to be a priority group of species;</li> </ul>
	traffie, in an aquatic organism, has the meaning given in section 128.
<del>128.</del>	Trafficking in aquatic organisms defined
<del>(1)</del>	A person traffics in aquatic organisms if the person deals with aquatic organisms in any of the following ways—
	— (a) takes aquatic organisms;
	(b) is in possession or control of aquatic organisms;
	(c) sells or purchases aquatic organisms;
	<ul> <li>(d) delivers aquatic organisms to, or receives aquatic organisms from, another person;</li> </ul>
	— (e) processes aquatic organisms;
	— (f) transports aquatic organisms;
	(g) conceals aquatic organisms or any dealing with aquatic organisms referred to in paragraphs (a) to (f);
	(h) engages in conduct preparatory to any dealing with aquatic organisms referred to in paragraphs (a) to (g).
<del>(2)</del>	A person traffics in aquatic organisms if the person does any of the following things in relation to any dealing with aquatic organisms referred to in subsection (1)

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Extract from www.slp.wa.gov.au, see that website for further information

Part 8 Regulation of various activities Division 3 Licensing of activities and equipment

	— (a) — controls, directs or supervises the dealing;
	(b) provides facilities, finance or any other thing for the
	purpose of enabling or facilitating the dealing;
	(c) enters into an agreement in relation to the dealing;
	(d) is knowingly concerned otherwise in the dealing.
<del>129.</del>	Trafficking in commercial quantity of priority aquatic
	organisms
	A person who traffics in a commercial quantity of priority aquatic
	organisms without being authorised under this Act to do so
	commits a crime.
	— Penalty:
	(a) for a first offence, a fine of \$400 000 and
	imprisonment for 4 years;
	(b) for a second or subsequent offence, a fine of \$600 000
	and imprisonment for 10 years.
	Summary conviction penalty:
	(a) for a first offence, a fine of \$200 000 and imprisonment for 2 years;
	(b) for a second or subsequent offence, a fine of \$400 000
	and imprisonment for 4 years.
<del>130.</del>	and imprisonment for 4 years.  Regulations about trafficking in aquatic organisms
<del>130.</del>	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to
<del>130.</del>	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of
<del>130.</del>	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of priority aquatic organisms; or
<del>130.</del>	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of
<del>130.</del>	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of priority aquatic organisms; or  (b) the exemption of persons from the application of
130.	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of priority aquatic organisms; or  (b) the exemption of persons from the application of section 129.
	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of priority aquatic organisms; or  (b) the exemption of persons from the application of section 129.  Division 3 Licensing of activities and equipment  Regulations about licensing  The regulations may make provision in relation to the licensing of
	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of priority aquatic organisms; or  (b) the exemption of persons from the application of section 129.  Division 3 Licensing of activities and equipment  Regulations about licensing
	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of priority aquatic organisms; or  (b) the exemption of persons from the application of section 129.  Division 3 Licensing of activities and equipment  Regulations about licensing  The regulations may make provision in relation to the licensing of any of the following  (a) persons undertaking commercial fishing;
	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of priority aquatic organisms; or  (b) the exemption of persons from the application of section 129.  Division 3 Licensing of activities and equipment  Regulations about licensing  The regulations may make provision in relation to the licensing of any of the following  (a) persons undertaking commercial fishing;  (b) Aboriginal bodies corporate undertaking commercial
	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of priority aquatic organisms; or  (b) the exemption of persons from the application of section 129.  Division 3 Licensing of activities and equipment  Regulations about licensing  The regulations may make provision in relation to the licensing of any of the following  (a) persons undertaking commercial fishing;  (b) Aboriginal bodies corporate undertaking commercial fishing, but a licence granted or renewed under this
	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of priority aquatic organisms; or  (b) the exemption of persons from the application of section 129.  Division 3 Licensing of activities and equipment  Regulations about licensing  The regulations may make provision in relation to the licensing of any of the following  (a) persons undertaking commercial fishing;  (b) Aboriginal bodies corporate undertaking commercial fishing, but a licence granted or renewed under this provision cannot be transferred despite any other
	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of priority aquatic organisms; or  (b) the exemption of persons from the application of section 129.  Division 3 Licensing of activities and equipment  Regulations about licensing  The regulations may make provision in relation to the licensing of any of the following  (a) persons undertaking commercial fishing;  (b) Aboriginal bodies corporate undertaking commercial fishing, but a licence granted or renewed under this provision cannot be transferred despite any other provision of this Act;
	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of priority aquatic organisms; or  (b) the exemption of persons from the application of section 129.  Division 3 Licensing of activities and equipment  Regulations about licensing  The regulations may make provision in relation to the licensing of any of the following  (a) persons undertaking commercial fishing;  (b) Aboriginal bodies corporate undertaking commercial fishing, but a licence granted or renewed under this provision cannot be transferred despite any other provision of this Act;  (c) masters of boats used for purposes relating to commercial
	Regulations about trafficking in aquatic organisms  The regulations may make provision in relation to  (a) methods for determining commercial quantities of priority aquatic organisms; or  (b) the exemption of persons from the application of section 129.  Division 3 Licensing of activities and equipment  Regulations about licensing  The regulations may make provision in relation to the licensing of any of the following  (a) persons undertaking commercial fishing;  (b) Aboriginal bodies corporate undertaking commercial fishing, but a licence granted or renewed under this provision cannot be transferred despite any other provision of this Act;

Regulation of various activities Licensing of activities and equipment

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	e) persons taking aquatic organisms (including protected aquatic organisms) for broodstock and other aquaculture purposes;
	— (f) individuals undertaking recreational fishing;
	— (g) boats (including foreign boats) used for purposes relating
	to recreational fishing;
	— (h) fishing boats;
	— (i) boats used for transporting or trans shipping aquatic
	organisms for a commercial purpose;
	— (j) boats used in connection with aquaculture;
	— (k) charter boats;
	(1) persons providing aquatic eco tourism or fishing tours for
	a commercial purpose;
	(m) persons who possess, unload, transport, consign, process,
	handle, label, deliver, receive, store, package, purchase or
	sell aquatic organisms.
132.	Licensing of activities in certain marine reserves
	In this section—
× /	fishing activity means
	(a) commercial fishing; or
	(b) recreational fishing; or
	(c) a type or class of commercial or recreational fishing.
<del>(2)</del> -	The regulations may not make provision for licensing that would
	authorise a person to undertake a fishing activity in
	(a) an area of a marine nature reserve; or
	(b) an area of a marine park from which the fishing activity is excluded under the CALM Act section 13B.
<del>(3)</del>	Despite subsection (2), the validity of a licence issued or renewed
	in accordance with the regulations in relation to an area which is
	affected, after the issue or renewal of the licence, by a reservation under the CALM Act section 13, or by a notice under section 62 of
	that Act is not affected by the reservation or notice.
(4)	Subsection (2) does not prevent the regulations from making
(4)	provision for the renewal of a licence in respect of part of an area
	to which the licence relates if the remainder of the area
	<del>becomes</del>
	— (a) an area of a marine nature reserve; or
	(b) an area of a marine park from which the fishing activity
	authorised by the licence is excluded under the CALM
	Act section 13B.

Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04]
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Part 8 Regulation of various activities

**Division 4** Variation, suspension, non-renewal, cancellation and

surrender of authorisations

	surrender of authorisations
<del>133.</del>	- Varying authorisations
<del>(1)</del>	The CEO may vary an authorisation if
	— (a) the holder of the authorisation applies to the CEO for the variation; or
	(b) it is necessary to correct any error in the authorisation; or
	<ul> <li>(c) it is necessary to give effect to the provisions of this Act or</li> </ul>
	<ul> <li>(d) it is necessary to give effect to a decision of the State Administrative Tribunal.</li> </ul>
<del>(2)</del>	Subject to subsection (3), if a person applies to the CEO for the variation of an authorisation the person is not entitled to the variation as of right.
<del>(3)</del>	The CEO must vary an authorisation if
	— (a) a person applies to the CEO for the variation of the authorisation; and
	(b) a management plan or an ARUP specifies criteria for the
	variation of an authorisation of that type; and
	(c) the CEO is satisfied that the criteria have been satisfied.
<del>(4)</del>	If, under section 156, the CEO gives written details of an application to vary an authorisation to a security holder the CEO must not vary the authorisation unless—
	— (a) 21 days has expired from the day on which the details were given; or
	(b) the CEO has the written consent of the holder of the
	registrable interest and the security holder to do so.
<del>134.</del>	Suspension, non-renewal and cancellation of authorisations
<del>(1)</del>	The CEO may, by notice in writing given to the holder of an
` ,	authorisation, suspend for any period, refuse to renew or cancel the authorisation—
	(a) if the holder, or a person acting for or on behalf of the holder, has been convicted of an offence against
	— (i) this Act; or
	— (ii) a written law other than this Act if the offence relates to the fishing, aquaculture, fishing tour of aquatic eco-tourism industries; or
	<ul> <li>(iii) a law of the Commonwealth, or of another State or a Territory, relating to the management or regulation of aquatic resources;</li> </ul>

Regulation of various activities

Part 8

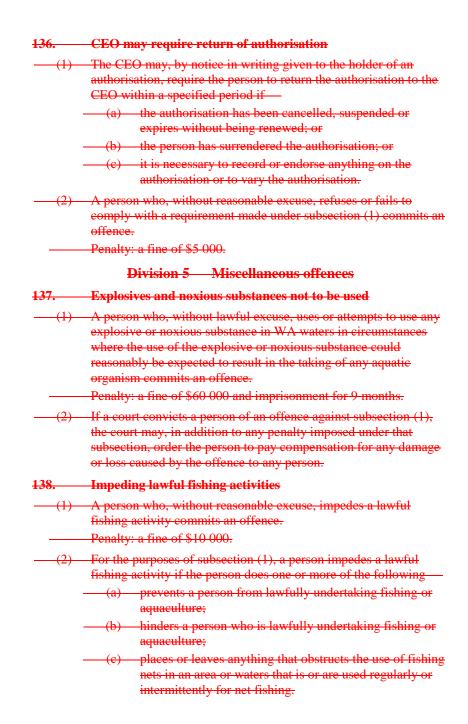
Variation, suspension, non-renewal, cancellation and surrender of authorisations

Division 4

	<del></del>
	(b) if a condition of the authorisation has been or is being contravened; or
	(c) if the CEO is satisfied that the holder is no longer a fit and proper person to hold the authorisation; or
	(d) if the authorisation was obtained by fraud or misrepresentation; or
	(e) if the holder has
	(i) failed to keep any record, or to submit or lodge any return, that is required to be kept or submitted or lodged under this Act; or
	— (ii) — made an entry or statement in such a record or return that is false or misleading in a material particular;
	<del></del>
	(f) if the holder does not satisfy guidelines under section 255 relating to foreign persons holding, controlling or having an interest in an authorisation; or
	(g) if any fee, charge or levy payable in respect of the authorisation, or any other amount payable under this Act by the holder, has not been paid when it becomes due; or
	(h) on any other ground specified in a relevant management plan or ARUP.
(2)	The fact that an authorisation has not been cancelled or suspended under section 208 or 209 is not to be taken to prevent the CEO
	from cancelling, suspending or refusing to renew the authorisation under this section.
35.	Voluntary surrender of authorisation
(1)	The holder of an authorisation may at any time, by notice in writing given to the CEO, give notice of the holder's intention to surrender the authorisation.
(2)	The authorisation ceases to have effect 28 days after the day on which notice is given to the CEO under subsection (1).
(3)	Subsection (2) does not apply if, within the period referred to in that subsection, the holder, by further notice in writing given to the CEO, withdraws the notice referred to in subsection (1).

Part 8 Regulation of various activities **Division 5** 

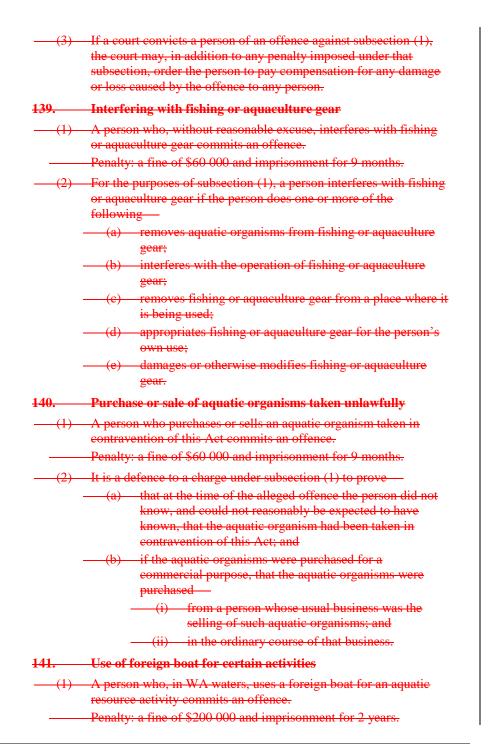
Miscellaneous offences



Regulation of various activities Miscellaneous offences

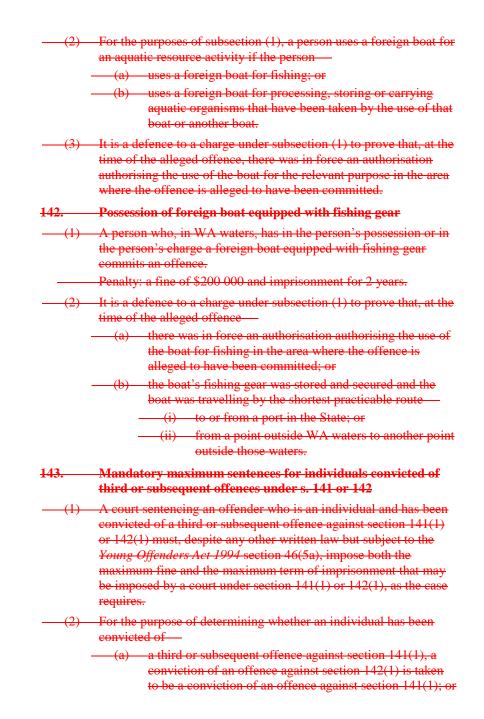
Part 8 **Division 5** 

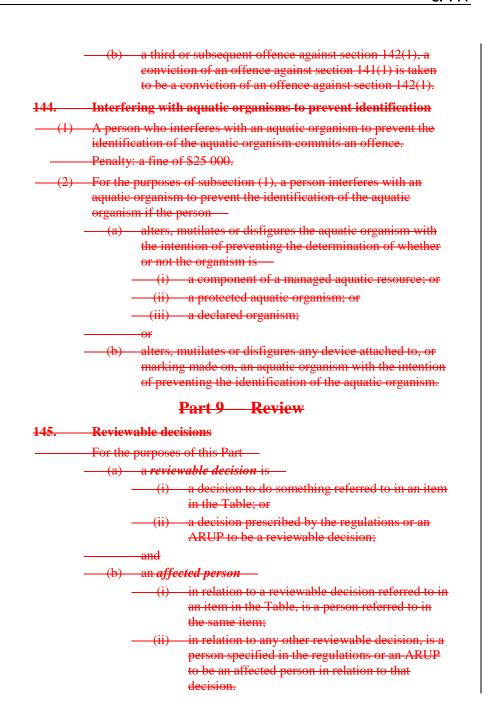
s. 139



Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04]

Part 8 Regulation of various activities **Division 5** Miscellaneous offences





# **Table**

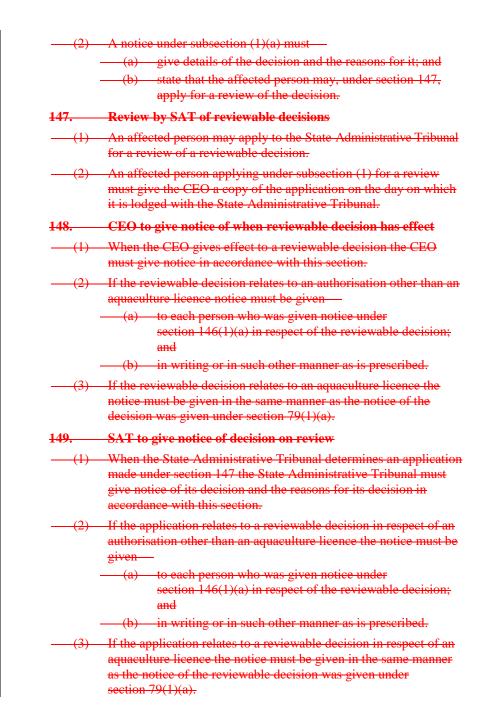
Item	Reviewable decision	Affected person
1.	Refuse to grant an authorisation other than an aquaculture licence	The person who applied for the authorisation
<del>2.</del>	Give a notice varying any conditions of, or imposing new conditions on, an authorisation	The holder of the authorisation
3.	Give notice under section 39(2) requiring the provision of an amount of surety for an authorisation that is more than the minimum amount set out in the relevant ARUP	The holder of the authorisation
4.	Refuse to accept an application for renewal of an authorisation under section 58(4)	The holder of the authorisation
<del>5.</del>	To grant, vary or transfer an aquaculture licence	A person who holds an aquaculture licence and is likely to be significantly affected by the decision
<del>6.</del>	Refuse to grant, vary or transfer an aquaculture licence	The applicant for the grant, variation or transfer of the licence

<b>Item</b>	Reviewable decision	Affected person
7.	Refuse to renew an aquaculture licence on an application made in the period referred to in section 82(b)	The holder of the licence
<del>8.</del>	Give a notice under section 112(1)	A person who is served with the notice
9.	Cancel, suspend or refuse to renew, an authorisation under section 134(1)	The holder of the authorisation
<del>10.</del>	Refuse to vary an authorisation after a person has applied for the variation	The holder of the authorisation
11.	Refuse to transfer an authorisation, or the whole or part of an entitlement under an authorisation, after a person has applied for the transfer	The holder of the authorisation and the proposed transferee

#### 146. CEO to notify persons of reviewable decisions

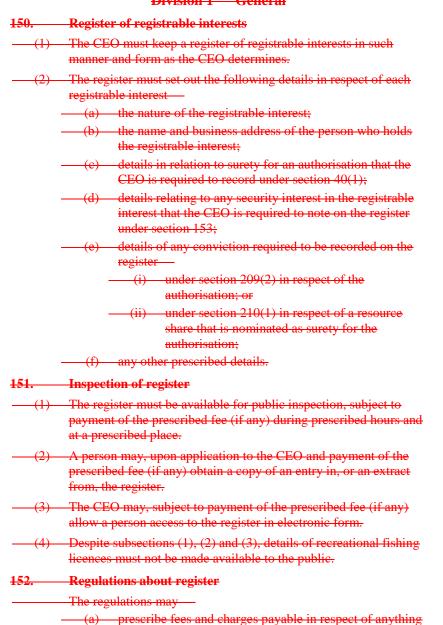
- (1) Before giving effect to a reviewable decision, other than a decision referred to in item 5 or 8 of the Table to section 145, the CEO
  - give to each affected person notice in writing, or in such <del>(a)</del> other manner as is prescribed, of the decision; and
  - allow sufficient time for the person to make an application under this Part for a review of the decision and for the application for review to be determined.

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## Part 10 Register

#### **Division 1** General



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done under this Part; and

Part 10 Register

**Division 2** Security interest in registrable interest

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### **Division 2** Security interest in registrable interest

### Application to have security interest in certain registrable interests noted

(1) The holder of registrable interest of a type set out in the Table may apply to the CEO to have noted on the register that a specified person has a security interest in the registrable interest.

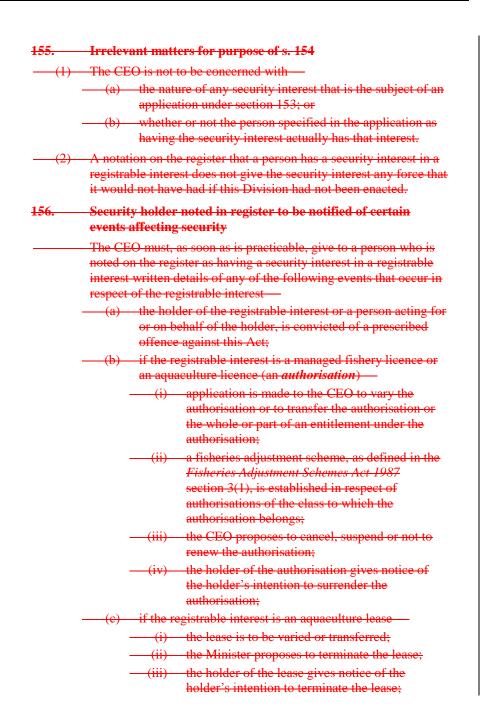
#### **Table**

Item	Type of interest
1.	Aquaculture lease
<del>2.</del>	Aquaculture licence
3.	Licence granted under the regulations authorising a person to operate fishing tours
4.	Managed fishery licence
<del>5.</del>	Resource share

- An application must
  - be made in an approved form; and
  - be accompanied by the prescribed fee (if any) for the application.

## **Notation of security interest**

- (1) The CEO must, on an application made under section 153, make a notation in accordance with the application.
- The notation must set out the following details in respect of the security interest
  - (a) a general description of the nature of the security interest;
  - the name and business address of the person who has the security interest;
  - any other prescribed details.



Part 11 Compliance **Division 1** Preliminary

s. 157

if the registrable interest is a resource share a request is made to the CEO for the share to be transferred: the holder of the share gives notice of the holder's intention to nominate the share as surety for an authorisation; the Minister proposes to revoke an ARMS or ARUP under which the resource share is held. Removing or varying notation of security interest (1) If the register contains a notation that a person has a security interest in a registrable interest, the holder of the registrable interest may apply to the CEO in an approved form to (a) remove the notation from the register; or (b) vary any details relating to the security interest. The CEO must give notice of an application made under subsection (1) to the security holder. Subject to subsection (4), the CEO must, on an application made under subsection (1), remove the notation of the security interest from the register or vary the details relating to the security interest in accordance with the application. The CEO must not remove the notation of the security interest from the register or vary the details of the security interest in the register (as the case requires) unless (a) 21 days has expired from the day on which notice is given under subsection (2); or the CEO has the written consent of the holder of the registrable interest and the security holder to do so. The CEO is not to be concerned with the reasons for the application. Part 11 Compliance **Division 1** Preliminary <del>158.</del> Terms used In this Part compliance purposes means the purposes of monitoring whether this Act has been, or is being, complied with; or

page 90 Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] Extract from www.slp.wa.gov.au, see that website for further information

entry warrant means a warrant issued under Division 4;

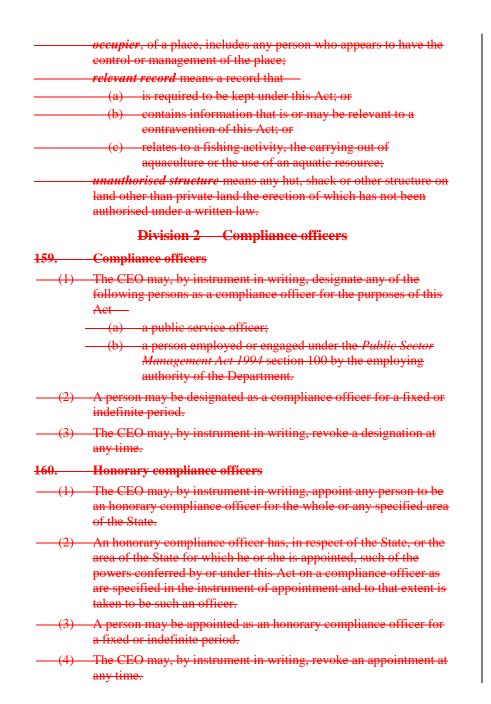
investigating a suspected contravention of this Act;

Compliance

Part 11

Compliance officers Division 2

s. 159

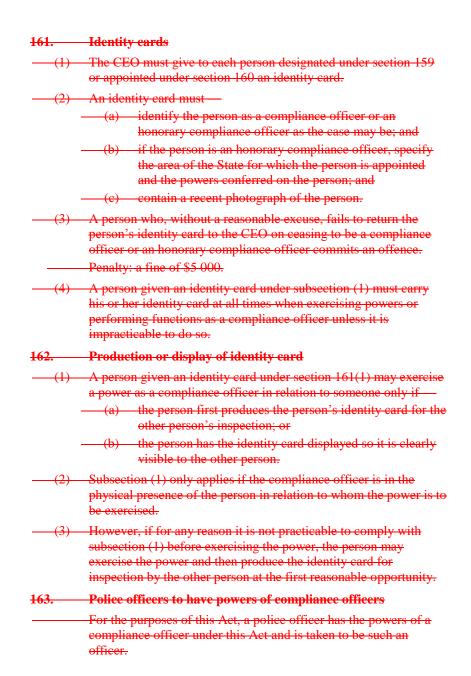


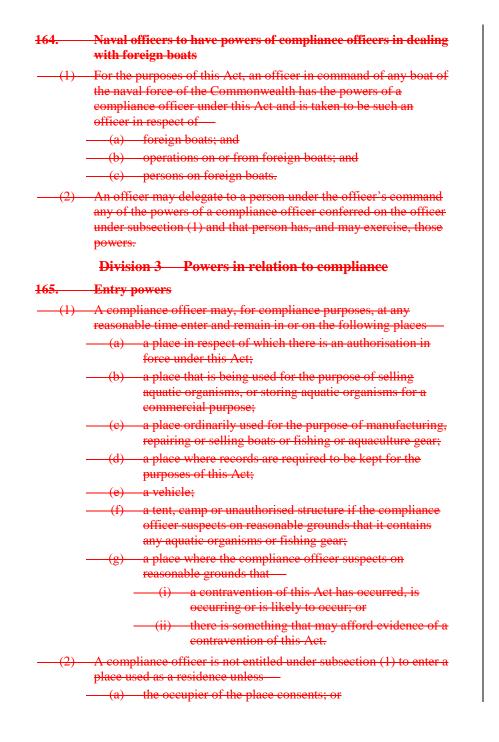
Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 91

Extract from www.slp.wa.gov.au, see that website for further information

Part 11 Compliance

**Division 2** Compliance officers

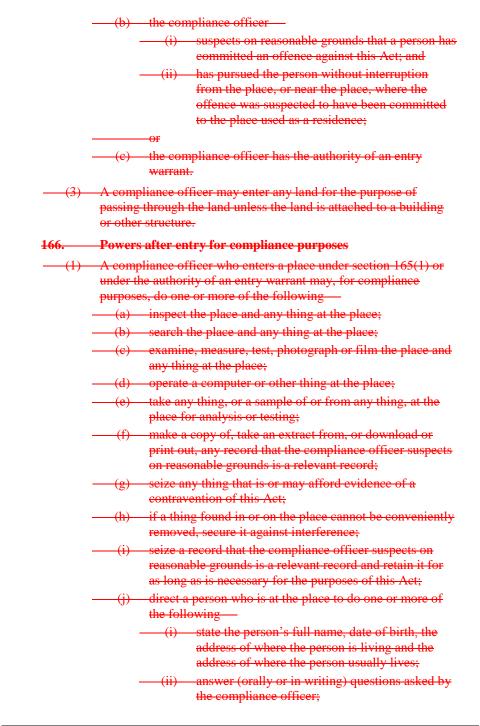




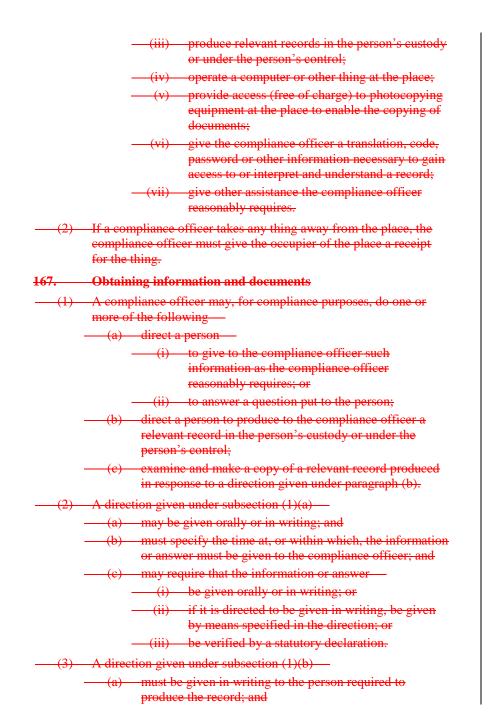
Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] Extract from www.slp.wa.gov.au, see that website for further information Part 11 Compliance

**Division 3** Powers in relation to compliance

s. 166

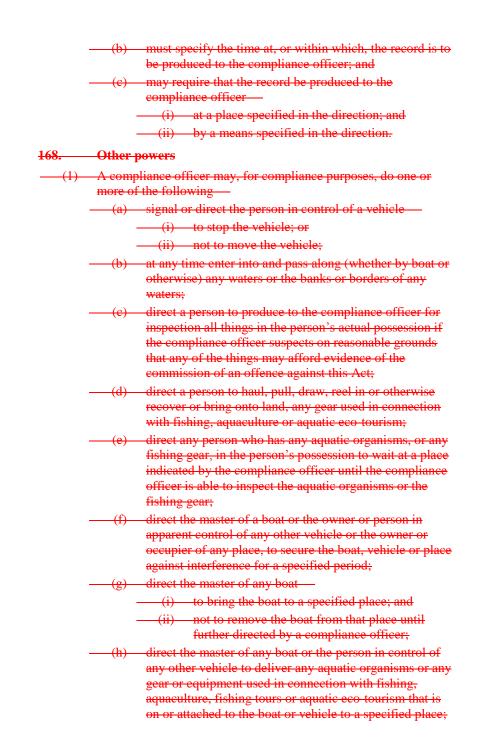


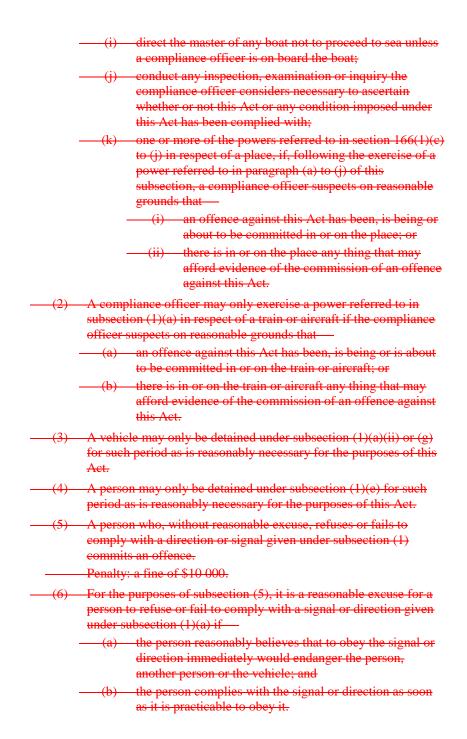
Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04]



Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 95 Part 11 Compliance

**Division 3** Powers in relation to compliance

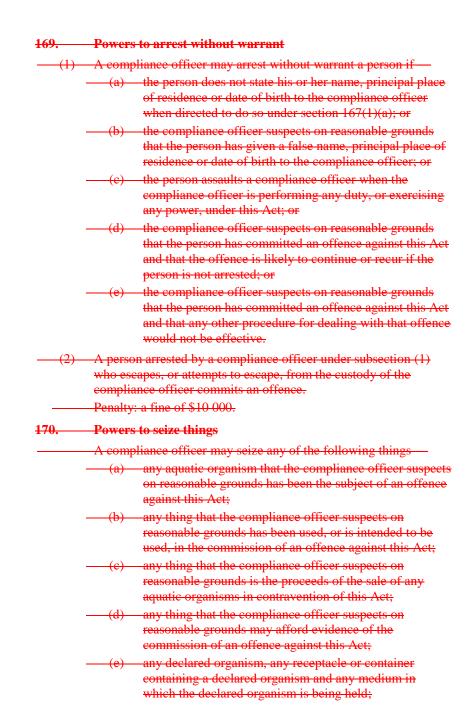




Part 11 Compliance

**Division 3** Powers in relation to compliance

s. 169



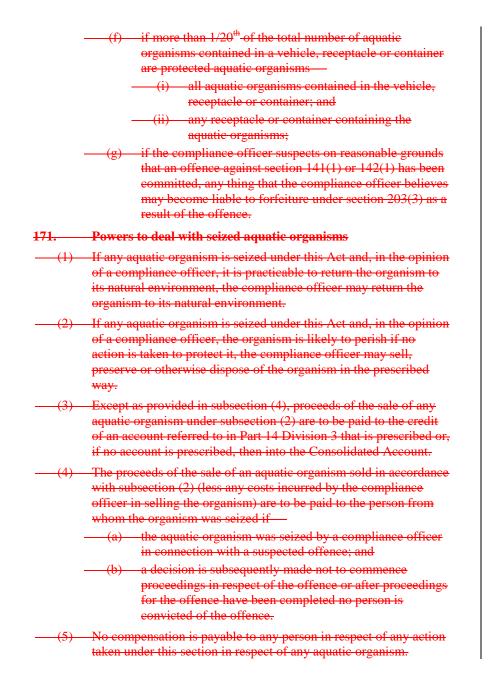
Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04]

Compliance

Part 11

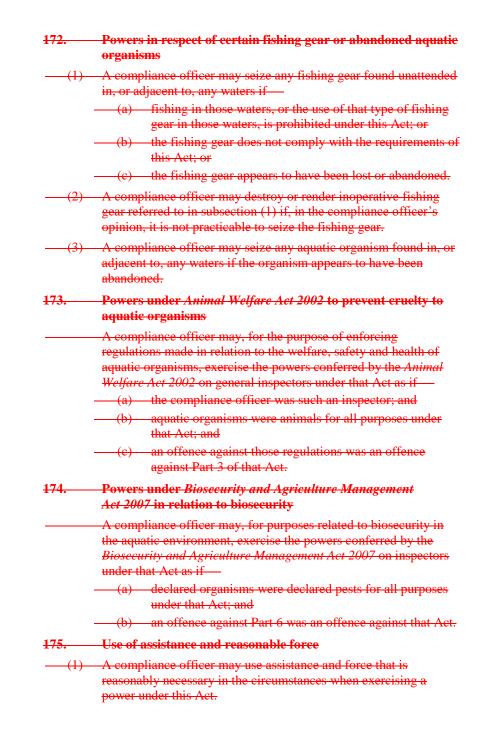
Powers in relation to compliance

Division 3



Part 11 Compliance

**Division 3** Powers in relation to compliance



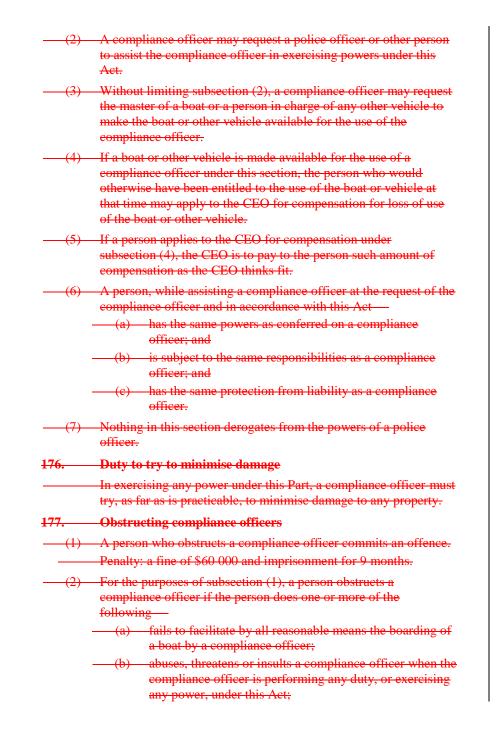
Compliance

Part 11

Powers in relation to compliance

**Division 3** 

s. 176

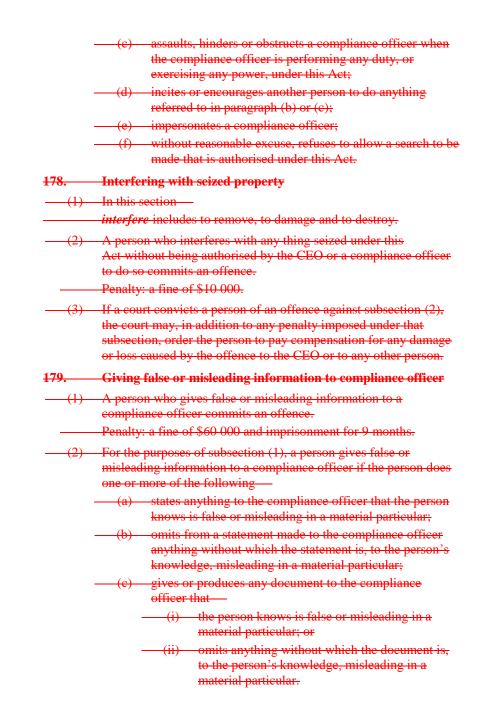


Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 101

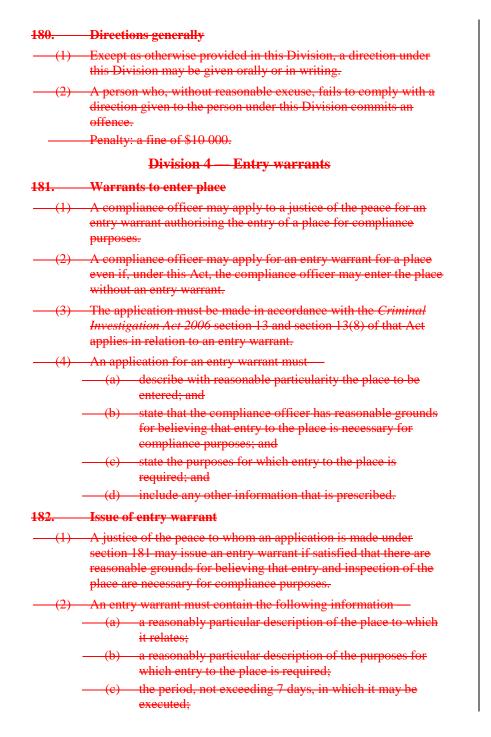
Part 11 Compliance

**Division 3** Powers in relation to compliance

s. 178



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Part 12 Legal proceedings

**Division 1** Proceedings and infringement notices

s. 183

- the name of the justice of the peace who issued it;
- (e) the date and time when it was issued.

### Effect of entry warrant

- (1) An entry warrant has effect according to its content and this section.
- An entry warrant comes into force when it is issued by a justice of the peace.
- An entry warrant authorises the compliance officer executing the warrant to, during the period of the warrant
  - (a) enter the place described in the warrant; and
  - (b) exercise the powers referred to in section 166(1).

### **Execution of entry warrant**

- (1) An entry warrant may be executed by a compliance officer to whom it is issued or by any other compliance officer.
- A compliance officer executing an entry warrant must, at the reasonable request of a person apparently in charge of the place, produce the warrant.

# Part 12 Legal proceedings

### **Division 1** Proceedings and infringement notices

### -Prosecutions

- Proceedings for an offence against this Act may be instituted by the CEO, a police officer, a compliance officer or any other person authorised in writing to do so by the CEO.
- Proceedings for an offence against a provision listed in the Table must be commenced within 5 years after the offence was allegedly committed.

### **Table**

s. 31(2) and (3)	s. 49(2) and (3)
s. 64(2) and (3)	s. 65(2) and (3)
s. 104(2) and (3)	s. 105(2)
s. 106(1) and (2)	s. 107(1)
s. 108	s. 109(2)

Proceedings for an offence against a provision listed in the Table or a provision of the regulations that is prescribed for the purposes of this subsection must be commenced within 2 years after the offence was allegedly committed.

### **Table**

s. 110(2)	s. 112(3)
s. 125(4)	s. 137(1)
s. 140(1)	s. 141(1)
s. 142(1)	s. 211(4) and (5)
s. 260(1) and (2)	

- In any proceedings for an offence against this Act, unless evidence is given to the contrary, proof is not required
  - of the authority of a person to institute proceedings for an offence against this Act; or
  - that a signature on a prosecution notice is the signature of a person authorised to institute proceedings for an offence against this Act.
- A compliance officer authorised for the purpose by the CEO may appear on behalf of the CEO or any other officer of the Department in any proceedings under this Act in a court of summary jurisdiction.

### Infringement notices and the Criminal Procedure Act 2004

- (1) If this Act is a prescribed Act for the purposes of the Criminal Procedure Act 2004 Part 2, this section applies in relation to the service of an infringement notice under that Part by an authorised officer in relation to an alleged offence under this Act.
- The infringement notice must be served within 45 days after the day on which the alleged offence is believed to have been committed.
- The Criminal Procedure Act 2004 Part 2 is modified to the extent necessary to give effect to this section.

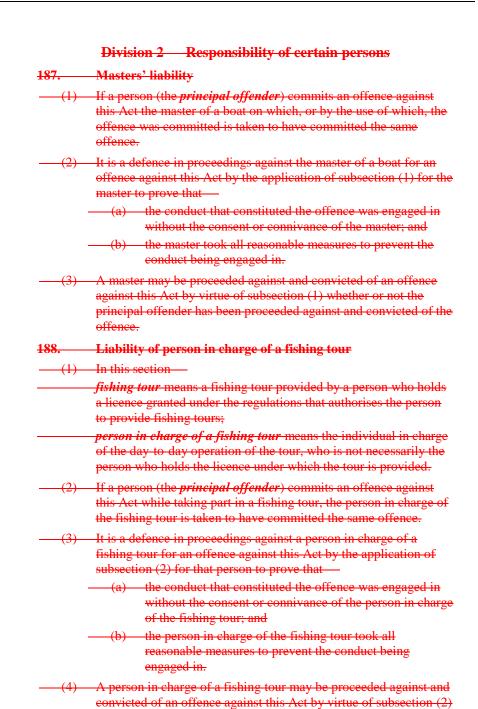
Part 12

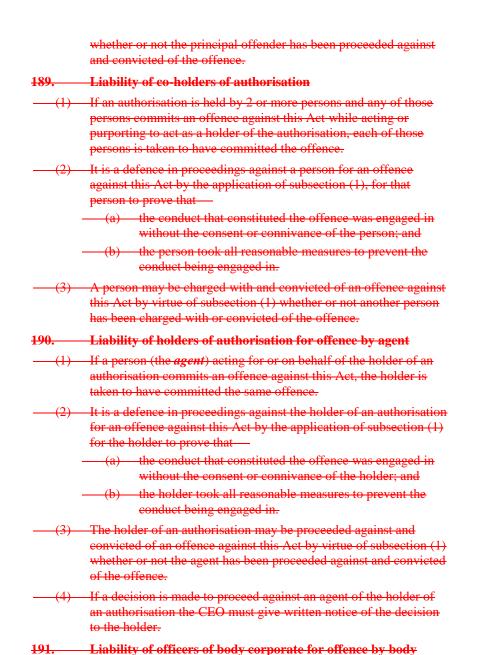
Legal proceedings

**Division 2** 

Responsibility of certain persons

s. 187





page 107 Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] Extract from www.slp.wa.gov.au, see that website for further information

the Corporations Act 2001 (Commonwealth) section 9.

officer, in relation to a body corporate, has the meaning given in

(1) In this section

Part 12 Legal proceedings

**Division 2** Responsibility of certain persons

s. 192

<del>(2)</del>	This see	ction applies to—
	<del>(a)</del>	a provision listed in the Table; or
	<del>(b)</del>	a provision of the regulations that is prescribed for the
		nurnoses of this section

### **Table**

s. 7(8)	s. 31(2) and (3)
s. 49(2) and (3)	s. 64(2) and (3)
s. 65(2) and (3)	s. 69(2)
s. 86	s. 94(2), (3), (4), (5) and (6)
s. 104(2) and (3)	s. 106(1) and (2)
s. 107(1)	s. 109(2) and (4)
s. 110(2)	s. 112(3)
s. 114(4)	s. 125(4)
s. 129	s. 138(1)
s. 140(1)	s. 141(1)
s. 211(4)	s. 260(1) and (2)

- (3) If a body corporate is guilty of an offence to which this section applies, an officer of the body corporate is also guilty of the offence if the officer failed to take all reasonable steps to prevent the commission of the offence by the body corporate.
- (4) In determining whether things done or omitted to be done by the officer constitute reasonable steps, a court must have regard to
  - (a) what the officer knew, or ought to have known, about the commission of the offence by the body corporate; and
  - (b) whether the officer was in a position to influence the conduct of the body corporate in relation to the commission of the offence; and
  - (c) any other relevant matter.

page 108



- (1) Section 191 does not affect the liability of a body corporate for any offence.
- (2) Section 191 does not affect the liability of an officer, or any other person, under Chapters II, LVII, LVIII and LIX of *The Criminal Code*.
- (3) An officer of a body corporate may be charged with, and convicted of, an offence in accordance with section 191 whether or not the body corporate is charged with, or convicted of, the principal offence committed by the body corporate.
- (4) If an officer of a body corporate who is charged with an offence in accordance with section 191 claims that the body corporate would have a defence if it were charged with the offence—
  - (a) the onus of proving the defence is on the officer; and
  - (b) the standard of proof required is the standard that would apply to the body corporate in relation to the defence.
- (5) Subsection (4) does not limit any other defence available to the officer.

### **Division 3** Evidentiary provisions

# 193. Certain matters taken to be proved if alleged in prosecution notice

In proceedings for an offence against this Act an allegation in the prosecution notice of any matter listed in the Table is, in the absence of evidence to the contrary, taken to be proved.

### **Table**

<del>Item</del>	Matter	
1.	That a person, boat, vehicle or other thing referred to in the charge was in a particular area of land or waters	
2.	That aquatic organisms were taken from a particular area of land or waters	
<del>3.</del>	That an act occurred in a particular area of land or waters	
4.	That a boat was, at the time of the alleged offence, a foreign boat	

Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 109

Extract from www.slp.wa.gov.au, see that website for further information

Part 12 Legal proceedings

Division 3 Evidentiary provisions

s. 194

Item	<del>Matter</del>	
<del>5.</del>	That an act occurred for a particular purpose	
<del>6.</del>	That something was done with a particular intent	

### 194. Certain matters taken to be proved if stated in certificate

- (1) In this section
  - authorised person means a person designated under subsection (2) to be an authorised person.
- (2) The Minister may by notice published in the *Gazette* designate a person to be an authorised person for the purposes of this section.
- (3) In proceedings for an offence against this Act, production of a certificate purporting to be signed by the CEO and stating any of the matters listed in the Table is, without proof of the CEO's signature, evidence of the facts stated in the certificate.

### **Table**

Item	<del>Matter</del>
1.	That on any date or during any period a person was or was not authorised to do any thing under an authorisation, temporary aquaculture permit or aquaculture lease
<del>2.</del>	That on any date or during any period a person was or was not exempted from this Act or specified provisions of this Act by an exemption
3.	That on any date or during any period any boat, place or other thing was or was not the subject of an authorisation, temporary aquaculture permit or exemption
4.	That on any date or during any period an authorisation or temporary aquaculture permit was cancelled, suspended or for any other reason of no effect
<del>5.</del>	That on any date or during any period an aquaculture lease was terminated or for any other reason of no effect

Item	Matter
<del>6.</del>	That on any date or during any period an authorisation, temporary aquaculture permit, aquaculture lease or exemption was subject to any specified condition or conditions
7.	That on any date or during any period surety was required or provided for an authorisation
8.	That on any date or during any period a person was or was not registered as the holder of a resource share
9.	That on any date or during any period a person was or was not registered as the holder of catch entitlement of a specified quantity
<del>10.</del>	That on any date or during any period a person was a compliance officer

In proceedings for an offence against this Act, production of a certificate purporting to be signed by an authorised person and stating any of the matters listed in the Table is, without proof of the authorised person's signature, evidence of the facts stated in the certificate.

### **Table**

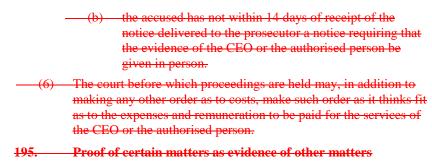
Item	Matter
1.	That an aquatic organism was of a particular species or type or had a particular characteristic
2.	That a species or type of aquatic organism is or is not found in a particular area
3.	That any fishing gear is of a particular type or is designed, used or capable of being used for a particular purpose or for taking a particular species of aquatic organism

Subsections (3) and (4) only apply if

at least 28 days before the hearing, notice in writing has been given to the accused of the prosecutor's intention to produce the certificate; and

Part 12 Legal proceedings **Division 3 Evidentiary provisions** 

s. 195



- (1) In this section
- container includes a package and any other receptacle;
  - label, in relation to a container, means a mark or label on, in or attached to the inside or outside of the container;
    - restricted-access electronic reporting system means a system operated by or on behalf of the Department that
  - allows for information or data to be recorded, submitted or lodged electronically; and
    - (b) is accessed using a personal identification number, a password, an access code, an encryption key or any other information or device.
- In any proceedings for an offence against this Act, proof of a matter listed in the second column of an item in the Table is evidence of the matter listed in the third column of that item, unless the contrary is proved.

## **Table**

<b>Item</b>	Matter proved	Evidence of
4.	That a container had a label indicating that the container contained an aquatic organism or a particular class of aquatic organism	That the container contained the organism or the class of organism
<del>2.</del>	That a container had a label indicating that the container contained a specified quantity of an aquatic organism	That the container contained that quantity of the organism

Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 112 Extract from www.slp.wa.gov.au, see that website for further information

Item	Matter proved	Evidence of
<del>3.</del>	That a container had a label indicating that the container was packed or consigned by or for a particular person	That the container was packed or consigned by or for that person
4.	That aquatic organisms  (a) were on a fishing boat; and  (b) were taken by, or were in the possession of, a person on that boat	That the organisms were taken by, or in the possession of, the person for the purpose of sale
5.	That aquatic organisms  (a) were at a place in, or from which, aquatic organisms were ordinarily sold (whether for meals or otherwise); and  (b) were in the possession of a person at the place (other than a customer)	That the aquatic organisms were in the possession of the person for the purpose of sale
<del>6.</del>	That aquatic organisms  (a) were at a place in which aquatic organisms were ordinarily commercially processed; and  (b) were in the possession of a person at the place	That the aquatic organisms were in the possession of the person for the purpose of sale
7.	That aquatic organisms  (a) were at a place in which aquatic organisms were ordinarily received for commercial purposes; and  (b) were in the possession of a person at the place	That the aquatic organisms were in the possession of the person for the purpose of sale

Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 113

Extract from www.slp.wa.gov.au, see that website for further information

Part 12 Legal proceedings **Division 3 Evidentiary provisions** 

s. 196

Item	Matter proved	Evidence of
<del>8.</del>	That a record or return was recorded, submitted or lodged for the purposes of this Act using a restricted access electronic reporting system	That the record or return was recorded, submitted or lodged by the person whose personal identification number, password, access code, encryption key or other information or device was used to access the system for the purpose of recording, submitting or lodging the record or return

#### <del>196.</del> **Onus of proving certain matters**

In any proceedings for an offence against this Act, the onus of proving a matter listed in the Table lies with the person asserting the matter.

## **Table**

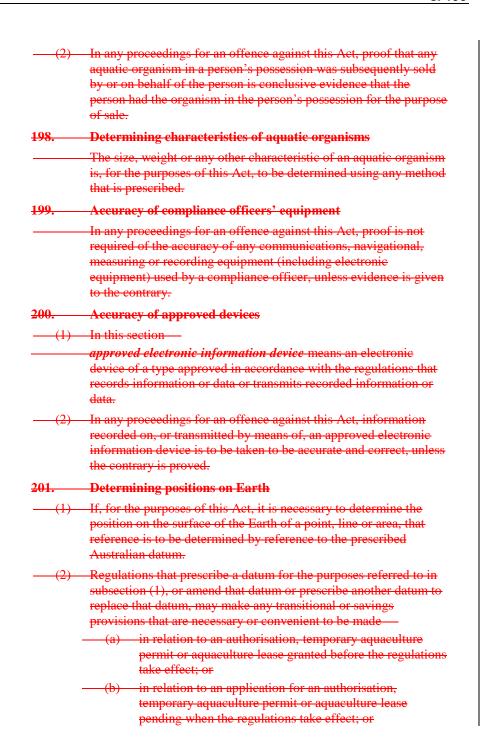
<b>Item</b>	Matter
1.	That at the time of the alleged offence a person was not required in accordance with section 6 to hold an authorisation
2.	That conduct was engaged in with lawful excuse or reasonable excuse
3.	That a person, boat or thing referred to in the charge was not in WA waters
4.	That an aquatic organism was taken from waters other than WA waters
<del>5.</del>	That conduct was engaged in in waters other than WA waters

# Proof as to aquatic organisms taken for sale

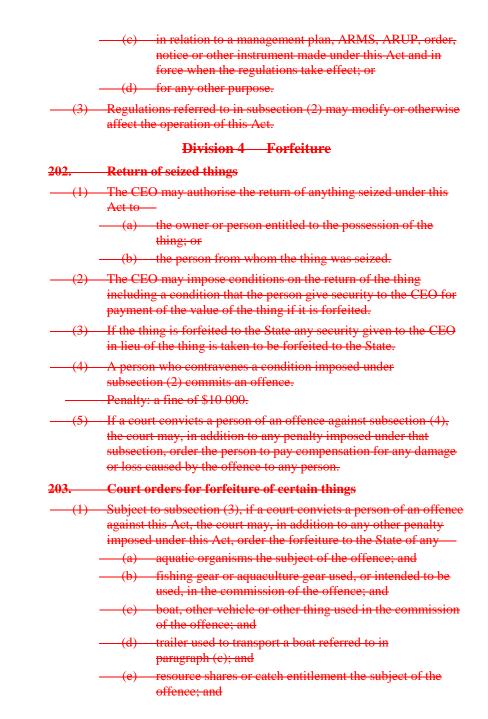
In any proceedings for an offence against this Act, proof that any aquatic organism taken by a person was subsequently sold by or on behalf of the person is conclusive evidence that the aquatic organism was taken by the person for the purpose of sale.

Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 114 Extract from www.slp.wa.gov.au, see that website for further information

Legal proceedings Evidentiary provisions Part 12 Division 3

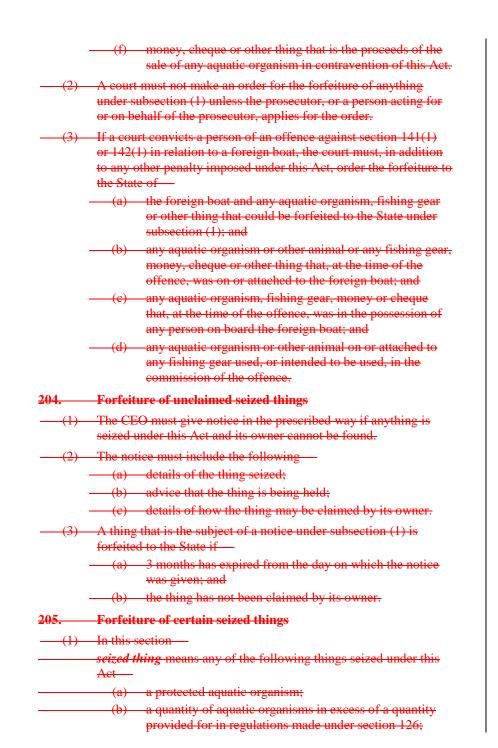


Forfeiture



Legal proceedings Forfeiture

Part 12 **Division 4** 



Part 12 Legal proceedings

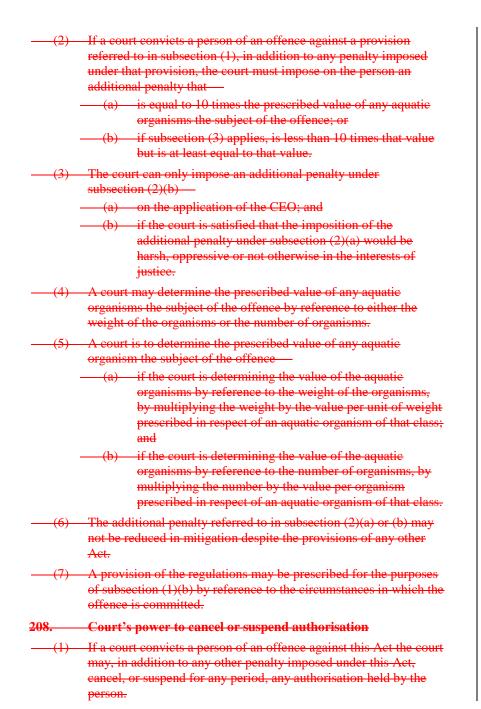
Division 5 Additional provisions about penalties

s. 206

	(c) a quantity of aquatic organisms in excess of a quantity or value that is prescribed for the purposes of the definition
	of commercial quantity in section 127;
	(d) a declared organism;
	(e) an aquatic organism other than a protected aquatic organism if the aquatic organism is seized under section 170(f);
	(f) a receptacle, container or medium containing an aquatic organism referred to in this section.
N /	seized thing is, on seizure, taken to have been forfeited to the ate.
<del>206.</del> Di	<del>sposal of forfeited things</del>
	ry thing forfeited to the State under this Act may be sold, stroyed or otherwise disposed of in the prescribed way.
	occeeds of the sale of any thing forfeited to the State under this et are to be paid into—
	(a) an account referred to in Part 14 Division 3 that is prescribed; or
	(b) if no account is prescribed, the Consolidated Account.
Div	ision 5 Additional provisions about penalties
207. Ad	lditional penalty based on value of aquatic organisms
<del>(1) Th</del>	is section applies to an offence against—
	(a) a provision listed in the Table; or
	(b) a provision of the regulations that is prescribed for the purposes of this section.

# **Table**

s. 31(2) and (3)	s. 49(2) and (3)
s. 64(2) and (3)	s. 65(2) and (3)
s. 125(4)	s. 129
s. 140(1)	



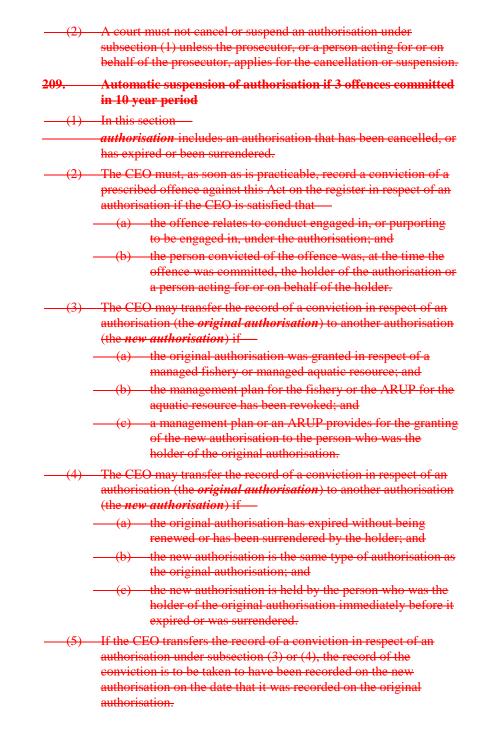
Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 119

Extract from www.slp.wa.gov.au, see that website for further information

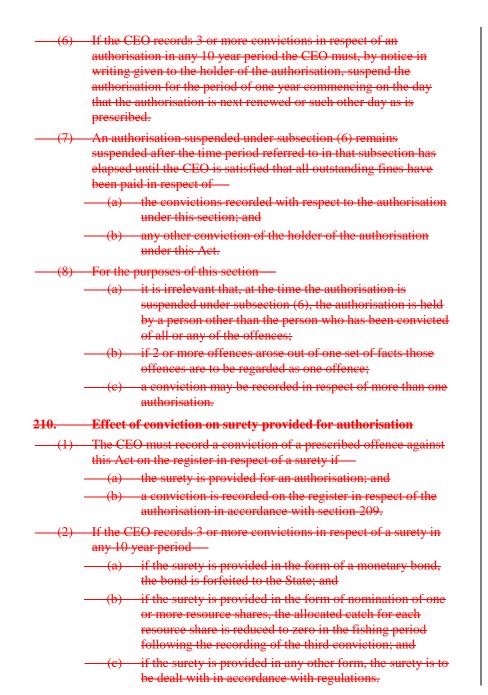
Part 12 Legal proceedings

**Division 5** Additional provisions about penalties

s. 209



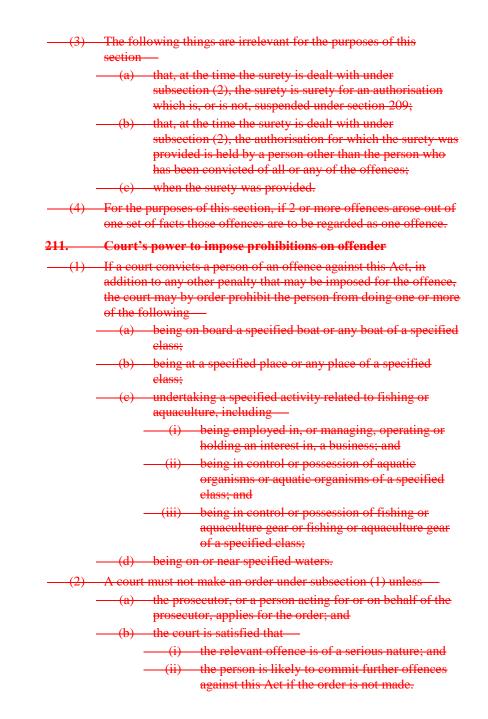
page 120 Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] Extract from www.slp.wa.gov.au, see that website for further information

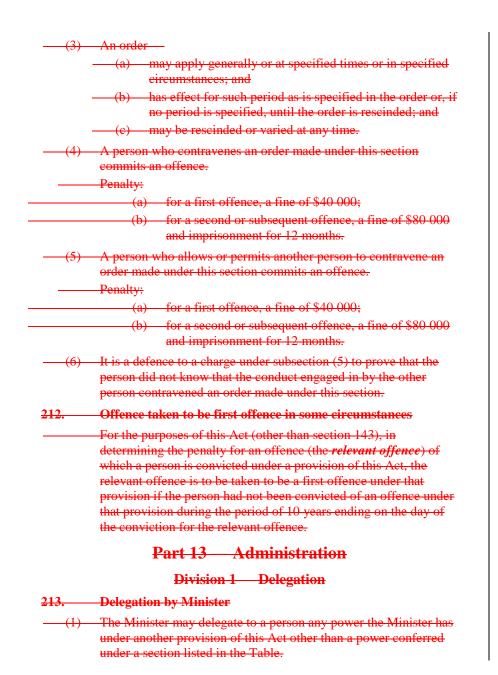


Part 12 Legal proceedings

**Division 5** Additional provisions about penalties

s. 211





Part 13 Administration **Division 2** AR Ministerial body

s. 214

### **Table**

s. 14	s. 20
s. 72	s. 112
s. 117	s. 120
s. 254	s. 255
s. 273	

- (2) The delegation must be in writing signed by the Minister.
- (3) A person to whom a power is delegated under this section cannot delegate that power.
- A person exercising a power that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- This section does not limit the ability of the Minister to exercise a power through an officer or agent.

### **Delegation by CEO**

- The CEO may delegate to a person any power the CEO has under another provision of this Act.
- The delegation must be in writing signed by the CEO.
- A person to whom a power is delegated under this section cannot delegate that power.
- A person exercising a power that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- This section does not limit the ability of the CEO to exercise a power through an officer or agent.

## Minister may carry out research and other activities

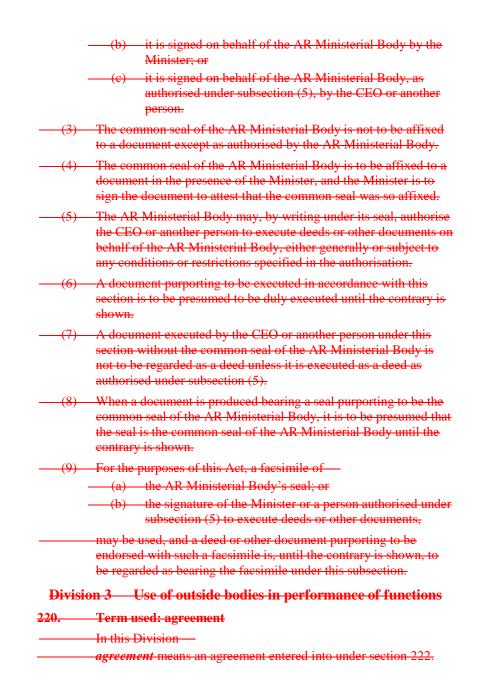
The Minister may cause to be carried out any research, exploration, experiments, works or operations of any kind for the purposes of this Act.

## **Division 2** AR Ministerial body

Division 2 AR Willisterial body
Term used: AR Ministerial body
In this Division—
AR Ministerial Body means the body corporate of that name established by section 217.
AR Ministerial Body
The AR Ministerial Body is established.
The AR Ministerial Body is a body corporate with perpetual succession.
Proceedings may be taken by or against the AR Ministerial Body in its corporate name.
The AR Ministerial Body is to be governed by the Minister.
The AR Ministerial Body has the status, immunities and privileges of the Crown.
Purpose and nature of AR Ministerial Body
The AR Ministerial Body is established to provide a body corporate through which the Minister can perform any of the Minister's functions under this Act that can more conveniently be performed by a body corporate than an individual.
Any acts or things done through the AR Ministerial Body as described in subsection (1) are to be regarded as
<ul> <li>(a) services under the control of the Department for the purposes of the Financial Management Act 2006 section 52; and</li> <li>(b) operations of the Department for the purposes of Part 5</li> </ul>
of that Act.
Despite the employment under the <i>Public Sector Management Act 1994</i> of ministerial officers for the purpose of assisting the Minister to perform functions that the Minister performs through the AR Ministerial Body, the AR Ministerial Body and those officers are not an organisation for the purposes of that Act.
Execution of documents by AR Ministerial Body
The AR Ministerial Body is to have a common seal.
A document is duly executed by the AR Ministerial Body if  (a) the common seal of the AR Ministerial Body is affixed to

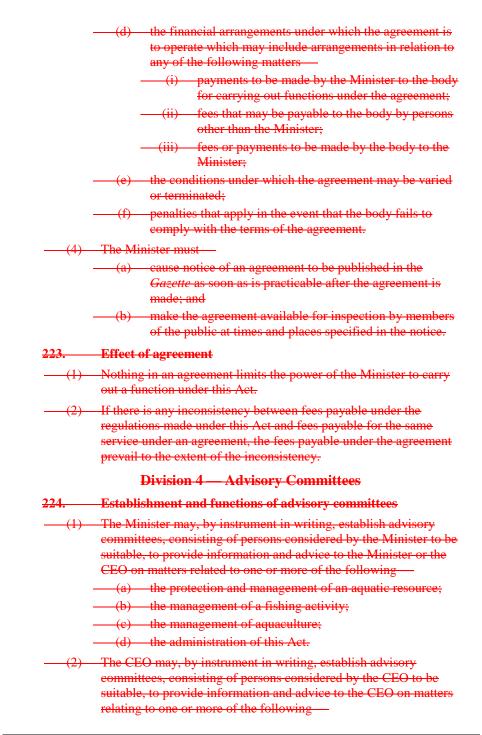
it in accordance with subsections (3) and (4); or

Part 13 Administration **Division 3** Use of outside bodies in performance of functions



<del>21</del>	Minister may recognise body
	The Minister may, by instrument in writing
	(a) formally recognise a body corporate as suitable to carry
	out a function referred to in section 222(2); or
	(b) vary or revoke an instrument referred to in paragraph (a).
22.	Minister may enter agreement with recognised body
(1)	The Minister may enter into a written agreement with a body to
	carry out a function for the purposes of this Act if the Minister has
	recognised the body as suitable to carry out that function.
(2)	The agreement may relate to any of the following functions
	— (a) collection and analysis of data relevant to an aquatic
	resource;
	(b) advising the Minister about the management of an
	aquatic resource;
	(c) developing plans for the management of an aquatic
	resource;
	— (d) the management of specified aspects of an aquatic
	resource;
	(e) restricting access to an aquatic resource on a specified
	basis, including for a specified period;
	— (f) the conduct of trading resource shares in an aquatic
	resource;
	(g) representing the interests of the commercial fishing
	sector;
	(h) representing the interests of the recreational fishing
	sector;
	(i) providing education and training about the management of an aquatic resource to persons who have, or want to
	have, access to the aquatic resource;
	— (j) the control and management of an aquatic habitat
	protection area or part of an aquatic habitat protection
	area;
	(k) the control and management of a declared organism;
	(l) any other prescribed functions.
(3)	An agreement must include the following
	— (a) details of the parties to the agreement;
	(b) details of the function or functions to be carried out under
	the agreement;
	— (c) the term of the agreement;

Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04]
Extract from www.slp.wa.gov.au, see that website for further information page 127



Financial provisions Preliminary

Part 14 Division 1

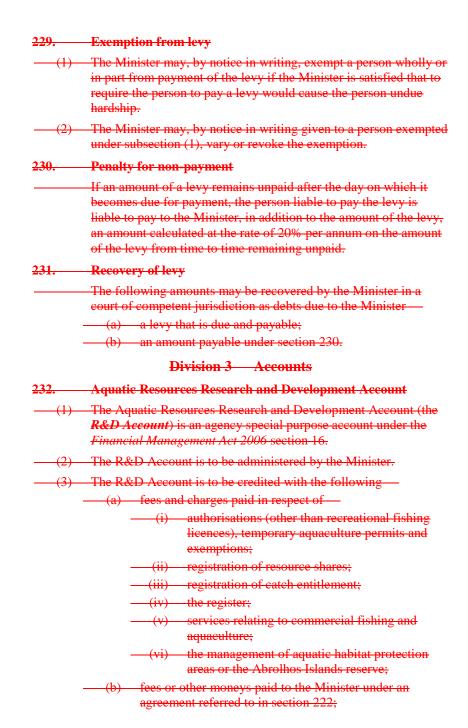
s. 225

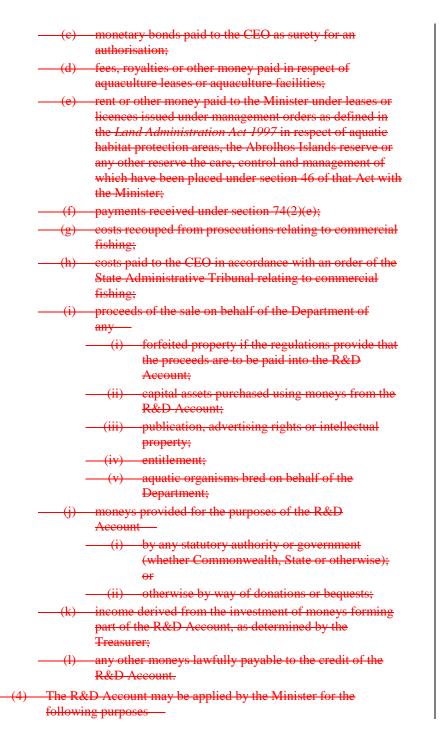
	— (a) the protection and management of an aquatic resource;
	(b) the management of a fishing activity;
	(c) the management of aquaculture;
	(d) the administration of this Act.
(2)	
(3)	The instrument establishing an advisory committee
	(a) must specify the functions, and identify the members, of the committee; and
	(b) may provide for any other matter that, in the opinion of the person establishing the committee, is necessary for the operation of the committee.
<del>(4)</del>	The person establishing the committee may, by further instrument in writing, amend or revoke an instrument made under this section.
<del>225.</del>	Regulations about operation of committees
	The regulations may provide for any matter necessary for the operation of a committee established under this Division.
	Part 14 Financial provisions
	Division 1 Preliminary
<del>226.</del>	Term used: levy
	In this Part
	levy means a levy imposed under the Fishing Industry Promotion Training and Management Levy Act 1994.
	on 2 Collection of levy imposed under Fishing Industry Promotion Training and Management Levy Act 1994
<del>227.</del>	When and to whom levy is payable
<del>(1)</del>	A levy is due and payable at a time or times ascertained in accordance with the regulations.
<del>(2)</del>	A levy is payable to the Minister.
228.	Payment by instalments
<del>(1)</del>	The regulations may provide for the payment of a levy by instalments.
<del>(2)</del>	If the regulations provide for the payment of a levy by instalment—
	— (a) each instalment is due and payable at a time ascertained
	in accordance with the regulations; and

Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04]
Extract from www.slp.wa.gov.au, see that website for further information page 129

Part 14 Financial provisions

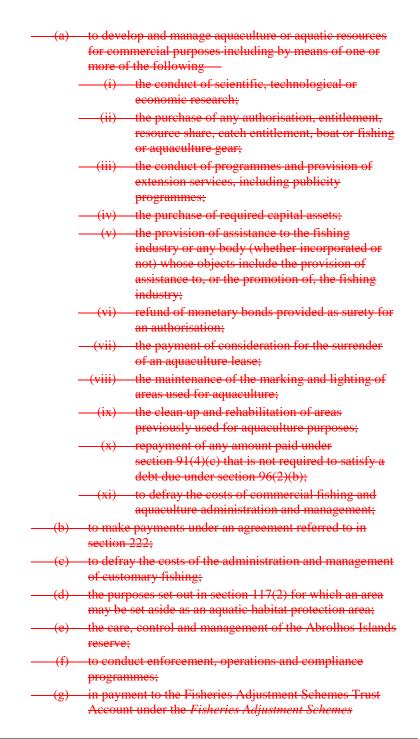
**Division 3** Accounts

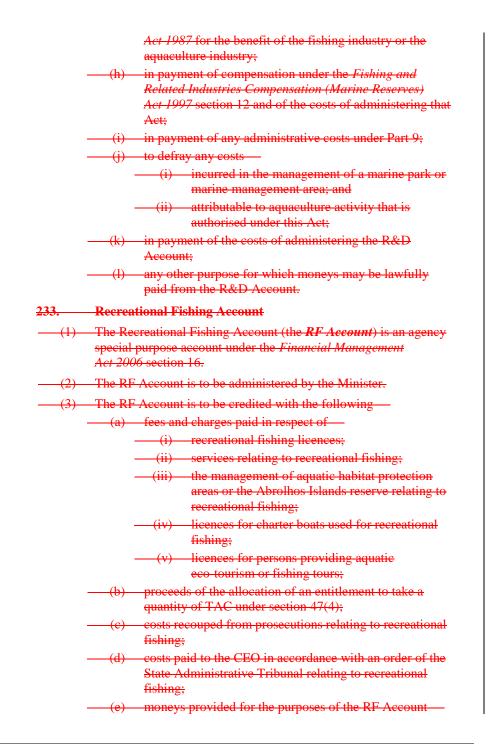




**Division 3** 

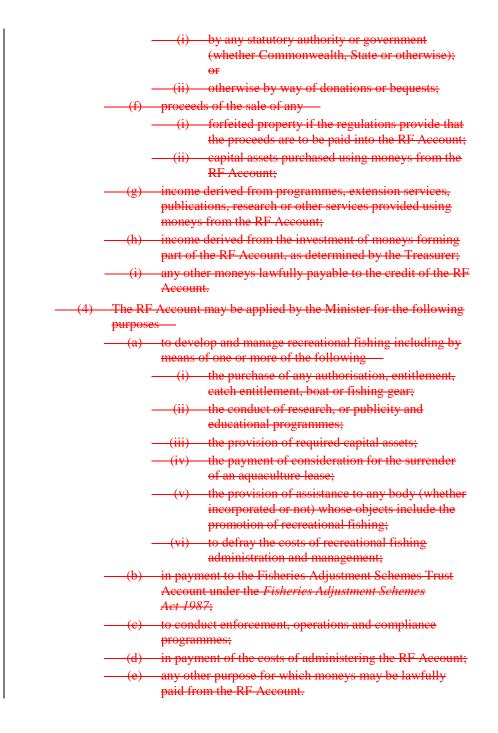
Accounts

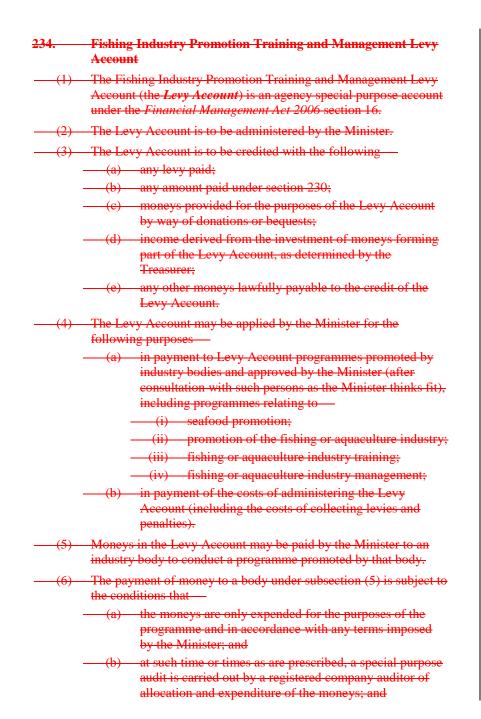




**Division 3** 

Accounts

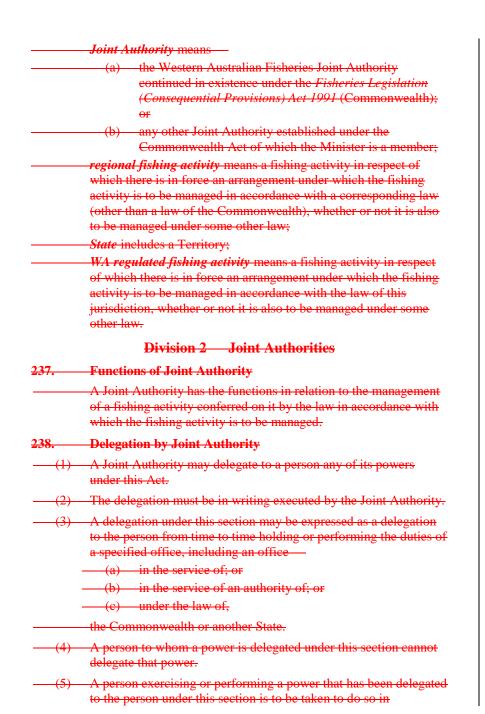




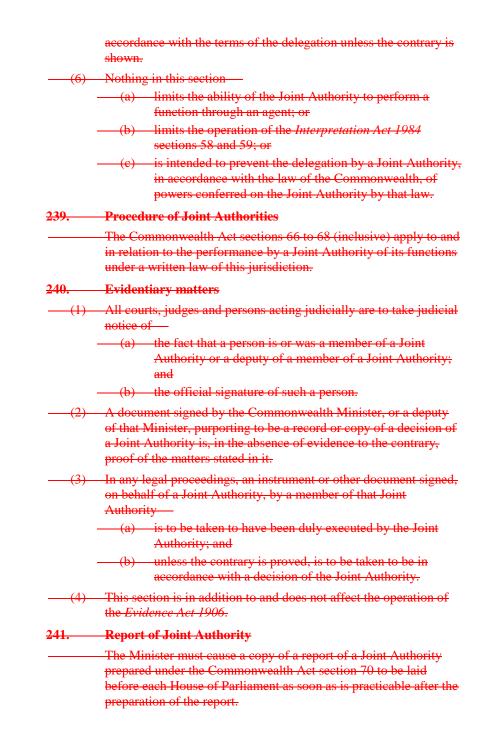
Part 15 Arrangements with other jurisdictions **Division 1** Preliminary s. 235

	(c) a report on the audit is prepared by the auditor and a copy of the report is provided to the Minister as soon as is practicable after it is prepared.
<del>(7)</del>	A body to which money is paid under subsection (5) that fails to ensure that a condition referred to in subsection (6) is complied with commits an offence.
	Penalty: a fine of \$10 000.
235.	Application of Financial Management Act 2006 and Auditor General Act 2006
<del>(1)</del>	The provisions of the <i>Financial Management Act</i> 2006 and the <i>Auditor General Act</i> 2006 regulating the financial administration, audit and reporting of departments apply to and in relation to each account referred to in this Division.
<del>(2)</del>	The administration of each account referred to in this Division is for the purposes of the <i>Financial Management Act 2006</i> section 52 to be regarded as a service of the Department.
Pa	rt 15 Arrangements with other jurisdictions
	Dill 1 D II i
	Division 1 — Preliminary
<del>236.</del>	— Terms used
<del>236.</del>	•
<del>236.</del>	Terms used  In this Part  arrangement means an arrangement for the management of a fishing activity or a class of fishing activities made by the State under this Part with one or more of the following
236.	Terms used  In this Part  arrangement means an arrangement for the management of a fishing activity or a class of fishing activities made by the State under this Part with one or more of the following  (a) the Commonwealth;
236.	Terms used  In this Part  arrangement means an arrangement for the management of a fishing activity or a class of fishing activities made by the State under this Part with one or more of the following
236.	Terms used  In this Part  arrangement means an arrangement for the management of a fishing activity or a class of fishing activities made by the State under this Part with one or more of the following  (a) the Commonwealth; (b) another State or other States;  Commonwealth Minister means the Minister for the time being administering the Commonwealth Act and any other Minister exercising powers and performing functions under the
236.	Terms used  In this Part  arrangement means an arrangement for the management of a fishing activity or a class of fishing activities made by the State under this Part with one or more of the following  (a) the Commonwealth;  (b) another State or other States;  Commonwealth Minister means the Minister for the time being administering the Commonwealth Act and any other Minister exercising powers and performing functions under the Commonwealth Act section 60;
236.	Terms used  In this Part  arrangement means an arrangement for the management of a fishing activity or a class of fishing activities made by the State under this Part with one or more of the following  (a) the Commonwealth; (b) another State or other States;  Commonwealth Minister means the Minister for the time being administering the Commonwealth Act and any other Minister exercising powers and performing functions under the Commonwealth Act section 60;  Commonwealth regulated fishing activity means a fishing activity in respect of which there is in force an arrangement under which the fishing activity is to be managed in accordance with the law of the Commonwealth, whether or not it is also to be managed under

Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] Extract from www.slp.wa.gov.au, see that website for further information page 136



Part 15 Arrangements with other jurisdictions **Division 2** Joint Authorities s. 239



# Division 3 Arrangements for management of particular fishing activities

# activities **Arrangement for management under Commonwealth Act** (1) The State may, in accordance with the Commonwealth Act section 74, make an arrangement referred to in section 71 or 72 of that Act for the management of a particular fishing activity or class of fishing activity. An arrangement may be terminated as provided by the Commonwealth Act. After an arrangement has been made but before the arrangement takes effect authorisations, regulations, orders and instruments may be granted, renewed, made or determined for the purposes of the operation of this Act as affected by the arrangement as if the arrangement had taken effect. An authorisation, regulation, order or instrument referred to in subsection (3) does not have effect before the arrangement takes Any authorisation, regulation, order and instrument granted, renewed, made or determined, for the purposes of the operation of this Act as affected by an arrangement ceases to have effect on the termination of the arrangement. After action for the purpose of the termination of an arrangement has been taken, but before the termination takes effect authorisations, regulations, orders and instruments may be granted, renewed, made or determined for the purposes of the operation of this Act as affected by the termination of the arrangement, as if the arrangement had been terminated. An authorisation, regulation, order or instrument referred to in subsection (6) does not have effect before the termination of the arrangement takes effect. Minister may enter into arrangements with other States The Minister may enter into an arrangement with a Minister administering a corresponding law, or with an authority of another State concerned in the administration of that law, for the purpose of cooperation in furthering the objects of this Act (whether in this State or in that other State). **Application of Act to fishing activities under arrangements**

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Extract from www.slp.wa.gov.au, see that website for further information

The provisions of this Act apply to and in relation to a

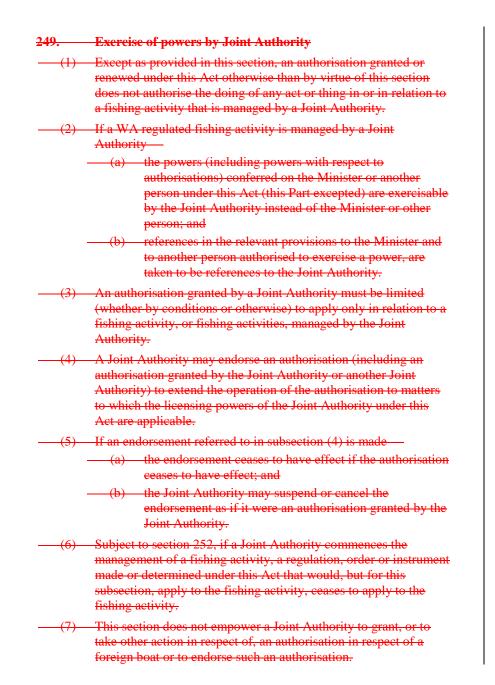
WA regulated fishing activity.

# Aquatic Resources Management Act 2016

Part 15 Arrangements with other jurisdictions Division 3 Arrangements for management of particular fishing activities s. 245

<del>245.</del>	Application of Commonwealth law to fishing activities under arrangements
	Within the limits of the State, the law of the Commonwealth applies as a law of the State to and in relation to a Commonwealth regulated fishing activity.
<del>246.</del>	Application of corresponding laws to fishing activities under arrangements
	Within the limits of the State, a corresponding law applies as a law of the State to and in relation to a regional fishing activity that is regulated under the corresponding law.
<del>247</del>	Minister's powers and functions under Commonwealth Act or corresponding law
<del>(1)</del>	The Minister may exercise any power and perform any function conferred on the Minister by the Commonwealth Act or a corresponding law, including any power or function conferred on the Minister as a member of a Joint Authority.
<del>(2)</del>	If the Minister, acting in his or her capacity as a member of a Joint Authority, appoints a person to be his or her deputy, the deputy may exercise the powers and perform the functions conferred by that Act on the deputy of a member of a Joint Authority other than the Commonwealth Minister.
<del>248.</del>	Functions of Joint Authority
<del>(1)</del>	If a WA regulated fishing activity is managed by a Joint Authority the Joint Authority has the functions of
	(a) keeping constantly under consideration the condition of     the aquatic resource in respect of which the fishing     activity is managed; and
	<ul> <li>(b) formulating policies and plans for the good management of the aquatic resource; and</li> </ul>
	— (c) for the purposes of the management of the fishing activity—
	(i) exercising the powers conferred on it by this     Act; and
	— (ii) cooperating and consulting with other authorities (including other Joint Authorities within the meaning of the Commonwealth Act) in matters of common concern.
<del>(2)</del>	In the performance of its functions in relation to a WA regulated fishing activity, a Joint Authority must have regard to the objects of this Act and the means of carrying them out in accordance with

Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] Extract from www.slp.wa.gov.au, see that website for further information page 140



Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04] page 141

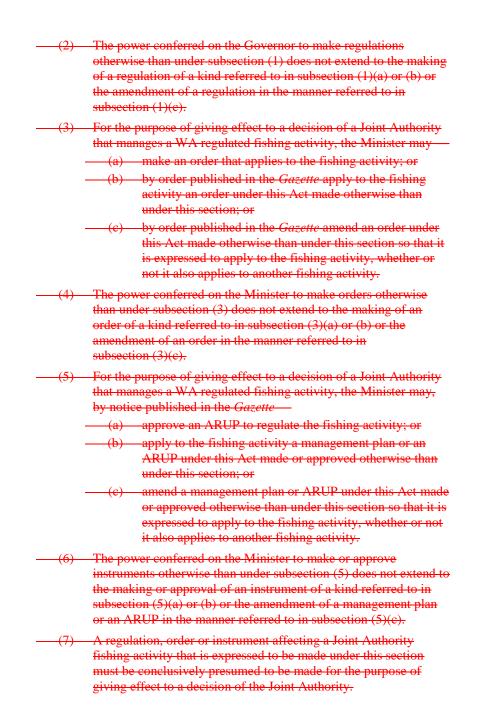
Extract from www.slp.wa.gov.au, see that website for further information

# Aquatic Resources Management Act 2016

Part 15 Arrangements with other jurisdictions Division 3 Arrangements for management of particular fishing activities s. 250

<del>250.</del>	Application of offence provision in Act to fishing activity managed by Joint Authority
	Provisions of this Act that relate to offences, enforcement and
	legal proceedings apply in relation to a fishing activity managed
	by a Joint Authority and in respect of anything done to, or in
	relation to, aquatic resources in respect of which the fishing
	activity is managed and the provisions are to be read—
	— (a) as if any reference in the provisions to an authorisation
	were a reference to an authorisation or an endorsement of
	an authorisation, as the case may be, granted, renewed or
	made by the relevant Joint Authority, in relation to the person alleged to have committed the offence or the boat
	alleged to have been used in the commission of the offence; and
	(b) as if any reference in the provisions to aquatic resources
	were a reference to aquatic resources to which the fishing activity relates.
251.	Presumptions in relation to certain statements in arrangements
	A statement in an arrangement must be conclusively presumed to
	be correct if it is to the effect that specified waters—
	(a) in the case of an arrangement to which the
	Commonwealth and the State are the only parties, are
	waters adjacent to the State; and
	(b) in the case of any other arrangement, are waters adjacent
	to the States that are parties to the arrangement or are waters adjacent to a specified State or States.
<del>252.</del>	Regulations, orders and instruments in respect of fishing
	activities under arrangements
<del>(1)</del>	If a WA regulated fishing activity is managed by a Joint Authority
	the Governor may, for the purpose of giving effect to a decision of
	the Joint Authority—
	(a) make regulations for the management of the fishing activity; or
	(b) make a regulation applying to the fishing activity a
	regulation made otherwise than under this section; or
	(c) amend a regulation made otherwise than under this
	section so that it is expressed to apply to the fishing
	activity, whether or not it also applies to another fishing activity.

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# Part 16 — Miscellaneous

#### 253. Protection from liability

- (1) An action in tort does not lie against a person for anything that the person has done, in good faith, in the performance or purported performance of a function under this Act.
- (2) The protection given by this section applies even though the thing done as described in subsection (1) may have been capable of being done whether or not this Act had been enacted.
- (3) Despite subsection (1), the State is not relieved of any liability that it might have for another person having done anything as described in that subsection.
- (4) In this section, a reference to the doing of anything includes a reference to an omission to do anything.

## 254. Administrative guidelines

- (1) This section relates to guidelines for any of the following purposes
  - (a) providing practical guidance to persons who have duties or obligations under this Act or any other Act administered by the Minister;
  - (b) providing information to industry and the public.
- (2) The Minister may issue, amend or revoke guidelines.
- (3) The Minister must ensure that guidelines are published in the prescribed way.

# 255. Guidelines about foreign interests

(1) This section relates to guidelines about foreign persons holding, controlling or having an interest in resource shares, catch entitlement or authorisations.

- (2) The Minister may issue, amend or revoke guidelines.
- (3) The Minister must ensure that guidelines are published in the prescribed way.

#### 256. **Consultation in relation to guidelines**

Before issuing, amending or revoking a guideline referred to in section 254 or 255 the Minister must consult with any industry body the Minister thinks appropriate and may consult with any other person the Minister thinks appropriate.

#### 257. Guidelines to be taken into account

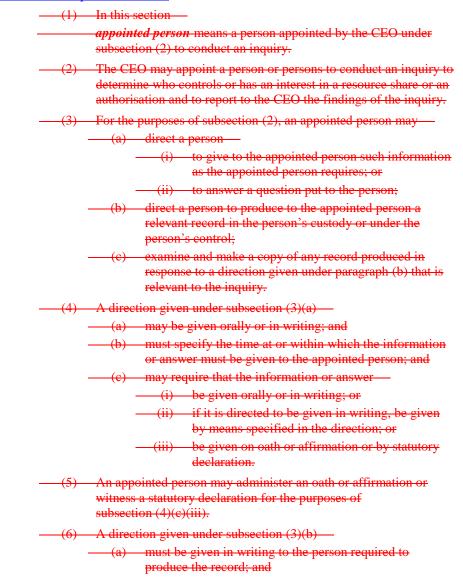
- (1) In performing a function under this Act or another Act administered by the Minister, a person must take into account any guidelines referred to in section 254 or 255 that are relevant to the performance of the function.
- Nothing in subsection (1) (2)
  - derogates from the duty of a person to exercise a discretion in a particular case; or
  - precludes a person from taking into account matters not (b) set out in guidelines; or
  - requires a person to take into account a guideline if the (c) guideline is inconsistent with a provision of the Act under which the function is conferred.

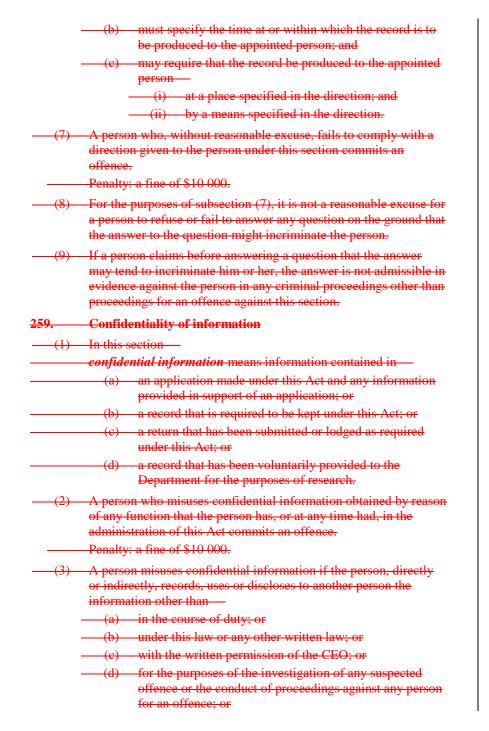
[258. Inquiry-266. Have not come into holder operation.]

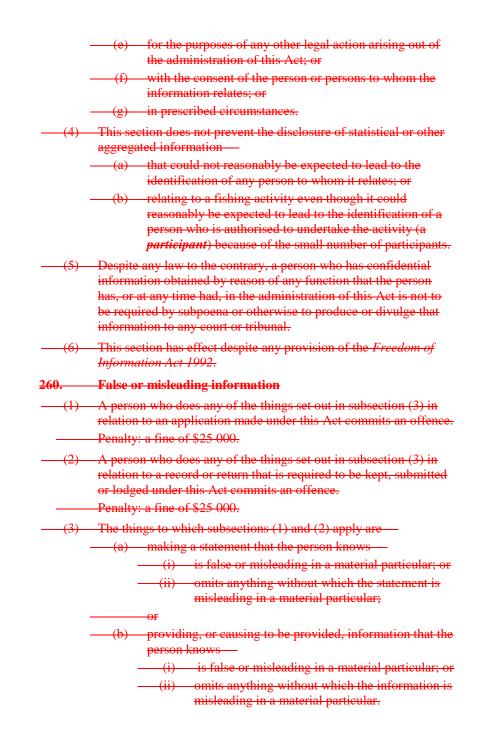
[Parts 17-19 have not come into operation.]

# Notes

This is a compilation of resource shares or authorisation the Aquatic Resources Management Act 2016. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

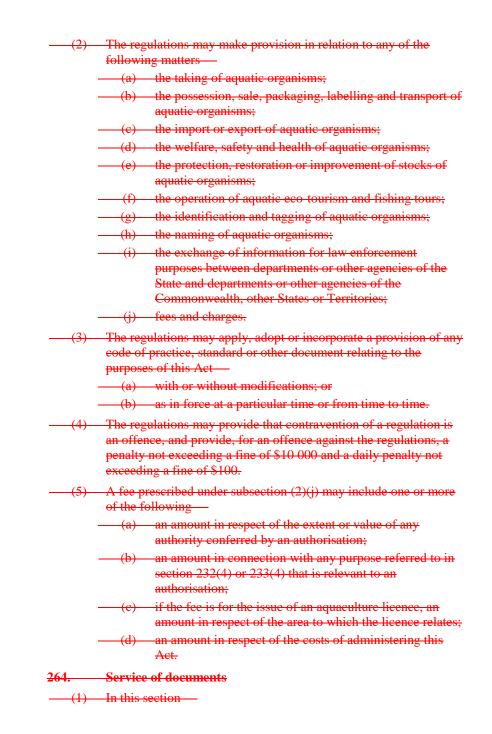


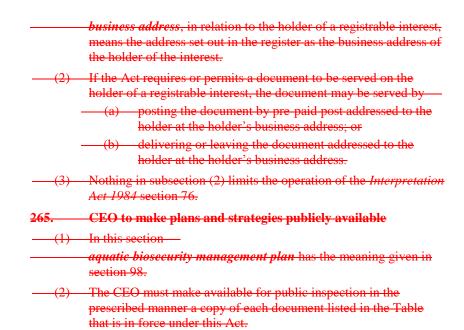




Minister to be notified of waterway works
In this section—
fish way means a structure or device that enables aquatic
organisms to pass through, by or over a dam, weir or reservoir;
<del>public authority</del> means
(a) a Minister of the State; or
(b) an agency or an organisation as those terms are defined in the <i>Public Sector Management Act 1994</i> ; or
(c) a body, corporate or unincorporate, that is established or continued for a public purpose by the State, regardless of the way it is established; or
(d) a local government or a regional local government;
waterway means a river, creek or other naturally flowing stream of water.
If a public authority proposes to construct, alter or modify a dam, weir or reservoir on a waterway, the public authority must—
(a) notify the Minister of the proposal; and
(b) if the Minister so requests, include as part of the works
for the dam, weir or reservoir, or for its alteration or
modification, a suitable fish way.
Death of individual who holds authorisation
This section applies in relation to
— (a) an aquaculture licence;
(b) a managed fishery licence;
— (c) a licence of a type prescribed for the purposes of this section.
On the death of an individual who, immediately before death, held an authorisation exclusively or as a tenant in common, the authorisation or the deceased's share in the authorisation (as the ease requires) is taken to be held by the deceased's personal representative.
On the death of an individual who, immediately before death, held an authorisation as a joint tenant, the authorisation is taken to be held by the surviving joint tenants.
- Regulations
The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to the

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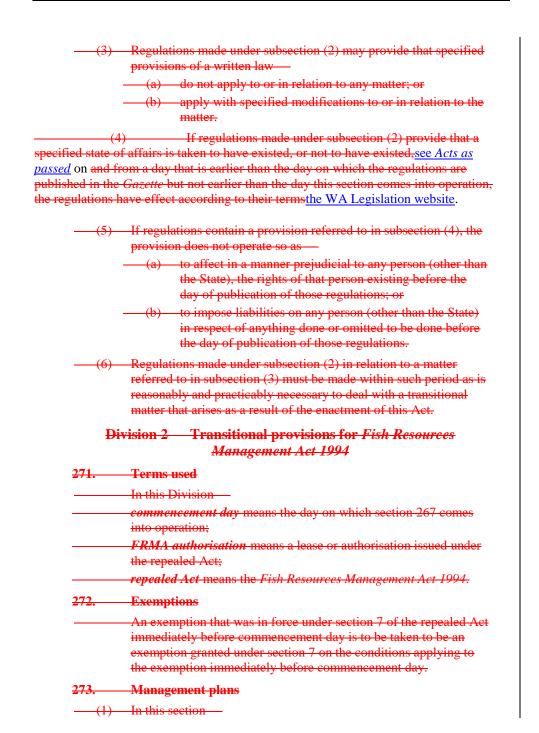


#### **Table**

# **Compilation table**

Document Short title	Number and year	Assent	Commencement
ARMS			
ARUP			
Aquatic biosecurity manag	gement plan		
Management planAquatic Resources Management Act 2016 Pt. 1 (s. 1-5 and 8), Pt. 2, Pt. 3 (s. 12, 14(1) and (4), 15-21, 23-27 and 32-40) and Pt. 16 (s. 253-257)	53 of 2016	29 Nov 2016	Pt. 1 (s. 1 and 2): 29 Nov 2016 (see s. 2(a)); Pt. 1 (s. 3-5 and 8), Pt. 2, Pt. 3 (s. 12, 14(1) and (4), 15-21, 23-27 and 32-40) and Pt. 16 (s. 253-257): 2 May 2018 (see s. 2(b) and <i>Gazette</i> 1 May 2018 p. 1431)
Order			

	and year
egulation	
<del>(3)</del>	The regulations may prescribe a fee for obtaining a copy of a document listed in the Table.
<del>266.</del>	Annual report of Department
	The annual report of the Department prepared for the purposes of the <i>Financial Management Act 2006</i> Part 5 is to include a report on the state of fisheries and aquatic resources managed under this Act.
	Part 17 Repeals
<del>267.</del>	Fish Resources Management Act 1994 repealed
	The Fish Resources Management Act 1994 is repealed.
<del>268.</del>	<i>Pearling Act 1990</i> repealed
	The Pearling Act 1990 is repealed.
	<del>3 Transitional <u>Uncommenced</u> provisions <u>table</u></del>
<del>269.</del>	Division 1 Preliminary  Interpretation Act not affected
<del>269.</del>	Division 1 Preliminary
<del>269.</del>	Division 1 Preliminary  Interpretation Act not affected  This Part does not affect To view the operationtext of the Interpretation Act 1984 in relation to the repeals effected by
270.	Division 1 Preliminary  Interpretation Act not affected  This Part does not affect To view the operation text of the Interpretation Act 1984 in relation to the repeals effected by sections 267 and 268.
<del>270.</del>	Division 1 Preliminary  Interpretation Act not affected  This Part does not affect To view the operationtext of the Interpretation Act 1984 in relation to the repeals effected by sections 267 and 268.  Transitional regulations In this section  transitional matter
<del>270.</del>	Division 1 Preliminary  Interpretation Act not affected  This Part does not affect To view the operation text of the Interpretation Act 1984 in relation to the repeals effected by sections 267 and 268.  Transitional regulations In this section
<del>270.</del>	Division 1 Preliminary  Interpretation Act not affected  This Part does not affect To view the operationtext of the Interpretation Act 1984 in relation to the repeals effected by sections 267 and 268.  Transitional regulations  In this section transitional matter  (a) means a matter that needs to be dealt with for the purpose of effecting the transitions from the uncommenced provisions of the Fish Resources Management Act 1994 or the Pearling Act 1990 to the provisions of this Act;



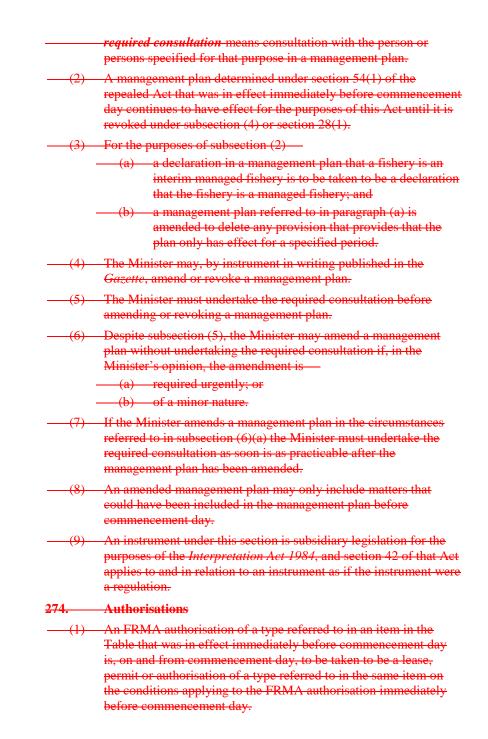


Table	1	
Short title	Number Assent and year	Commencement
Htem Aquatic Resources Management Act 2016 Pt. 1 (s. 6 and 7), Pt. 3 (s. 13 and 14(2) and (3), 22, 28-31 and 41-50), Pt. 4-15, Pt. 16 (s. 258-266) and Pt. 17-19	Type of lease or authorisati on 53 of 2016 (as amended by No. 8 of 2017 s. 8)	To be proclaimed (see s. 2(l
<del>1.</del>	Managed fishery licence	Managed fishery licence
<del>2.</del>	Interim managed fishery permit	Managed fishery licence
<del>3.</del>	Aquaculture licence	Aquaculture licence
4.	Aquaculture lease	Aquaculture lease
<del>5.</del>	Temporary aquaculture permit	Temporary aquaculture po
6-Aquatic Resources Legislation Amendment Act 2016 Pt. 2	Authorisatio 29 Nov 2016 n granted under the regulations4 0 of 2016	Authorisation of a type prescribed for the purpose this itemOperative on commencement of the Aqua Resources Management Act s. 263 (see s. 2(b))
(2) An application that was made under the redecided before commencement day, for the authorisation of a type referred to in an its subsection (1), is to be taken to be an applease, permit or authorisation of a type referred to that Table.	he grant of an FRMA tem in the Table to Dication for the grant of a	
(3) An application that was made under the r decided before commencement day, for the same referred to subsection (1), is to be taken to be a lease, permit or authorized to in the same item of that Table.	he renewal or transfer of I to in an item in the be an application for the horisation of a type	

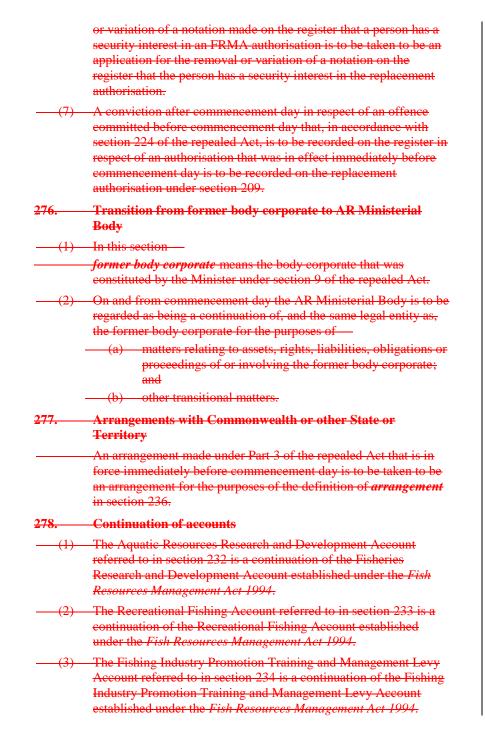
Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04]
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- An application that was made under the repealed Act, but not decided before commencement day, for the temporary transfer of the whole or part of an entitlement under an FRMA authorisation of a type referred to in an item in the Table to subsection (1), is to be taken to be an application for the temporary transfer of the whole or part of the entitlement under an authorisation of a type referred to in the same item of that Table.
- A review under section 149 of the repealed Act that was started, but not finalised, before commencement day must be dealt with as if the repealed Act had not been repealed, and an FRMA authorisation of a type referred to in an item in the Table to subsection (1) that is issued or varied as a result of such a review is to be taken to be a lease, permit or authorisation of a type referred to in the same item of that Table on the conditions applying to the FRMA authorisation on its issue or variation.

#### <del>275.</del> **Matters relating to replacement authorisations**

- (1) In this section
  - replacement authorisation, in relation to an FRMA authorisation, means the lease, permit or authorisation that the FRMA authorisation is taken to be in accordance with section 274(1).
- A conviction recorded in respect of an FRMA authorisation under section 224 of the repealed Act is to be recorded on the register in respect of the replacement authorisation.
- If, immediately before commencement day, there was a notation on the register that a person has a security interest in an FRMA authorisation the CEO must note on the register that the person has a security interest in the replacement authorisation.
- An application that was made under the repealed Act, but not decided before commencement day, for the renewal or transfer of, or the temporary transfer of the whole or part of an entitlement under an FRMA authorisation, is to be taken to be an application for the renewal or transfer of, or the temporary transfer of the whole or part of an entitlement under, the replacement authorisation.
- An application that was made under the repealed Act, but not decided before commencement day, for a notation to be made on the register that a person has a security interest in an FRMA authorisation is to be taken to be an application for a notation to be made on the register that the person has a security interest in the replacement authorisation.
- An application that was made under section 131(1) of the repealed Act, but not decided before commencement day, for the removal

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On and from commencement day, any reference in an agreement or other document to an account established under the repealed Act and referred to in an item in the Table is, unless the context otherwise requires, to be read and have effect as if it were a reference to an account referred to in the same item.

#### **Table**

Item	Account established under repealed Act	Account continued under this Act
<del>1.</del>	Fisheries Research and Development Account	Aquatic Resources Research and Development Account
2.	Recreational Fishing Account	Recreational Fishing Account
3.	Fishing Industry Promotion Training and Management Levy Account	Fishing Industry Promotion Training and Management Levy Account

#### Register

All the information that was, immediately before commencement day, included on the register kept under section 125 of the repealed Act is to be transferred to and included on the register kept under section 150.

#### Fish habitat protection areas

- If, immediately before commencement day, an area was set aside under section 115 of the repealed Act as a fish habitat protection area then on and from commencement day
  - (a) the area is to be taken to be an aquatic habitat protection area; and
  - the area is to be taken to have been set aside as an aquatic habitat protection area for the purpose or purposes for which it was set aside as a fish habitat protection area;
  - a plan approved for the management of the area under section 117 of the repealed Act is to be taken to be a plan for the management of the area approved under section 119.
- If, immediately before commencement day, the control and management of a fish habitat protection area that is to be taken to

page 158 Extract from www.slp.wa.gov.au, see that website for further information be an aquatic habitat protection area under subsection (1) was vested under section 119 of the repealed Act in a body corporate, the control and management of the aquatic habitat protection area is to be taken to have been vested under section 121 in the body corporate on the conditions applying to the vesting of the control and management of the fish habitat protection area.

#### Seized and forfeited things

- (1) A thing seized under the repealed Act before commencement day is to be taken to have been seized under this Act.
- If, under section 217 of the repealed Act, the CEO authorised the return of a thing seized under the repealed Act the CEO is to be taken to have authorised the return of the thing under section 202 subject to the conditions that applied to the return of the thing under the repealed Act.
- A thing forfeited under the repealed Act before commencement day is to be taken to have been forfeited under this Act and may be disposed of as provided for in this Act.

#### **Prohibitions on offenders**

An order made by a court under section 225 of the repealed Act prohibiting an offender from doing something is to be taken to be an order made by the court under section 211 with modifications as necessary to describe the prohibition in terms that are consistent with section 211.

#### **Division 3** Transitional provisions for *Pearling Act 1990*

# Terms used In this Division commencement day means the day on which section 268 comes into operation; repealed Act means the Pearling Act 1990. Arrangements with Commonwealth or other State or **Territory** An arrangement made under Part 7 of the repealed Act that is in force immediately before commencement day is to be taken to be an arrangement for the purposes of the definition of arrangement in section 236. 285. Licences, leases and permits In this section Pearling Act authorisation means a lease, licence or permit issued under the repealed Act.

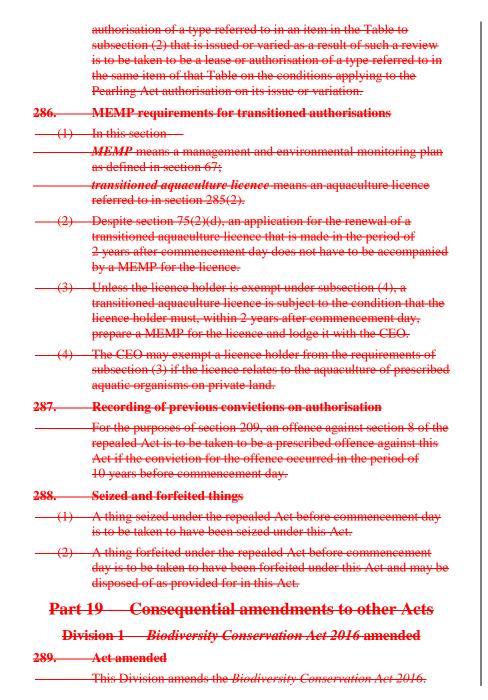
A Pearling Act authorisation of a type referred to in an item in the Table that was in effect immediately before commencement day is, on and from commencement day, to be taken to be a lease or authorisation of a type referred to in the same item on the conditions applying to the Pearling Act authorisation immediately before commencement day.

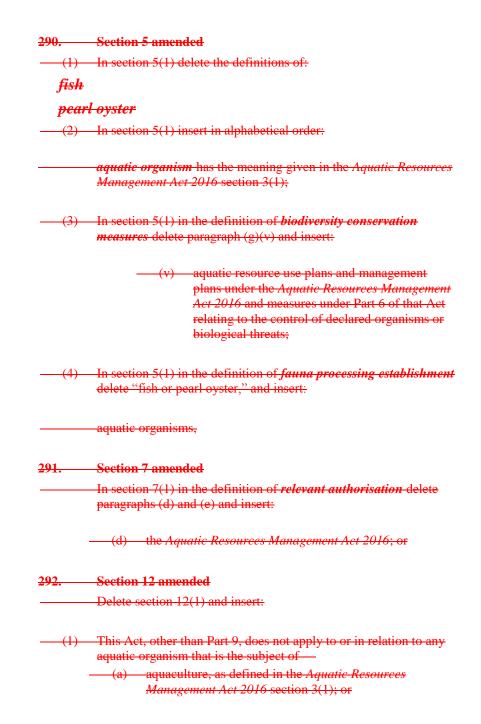
#### **Table**

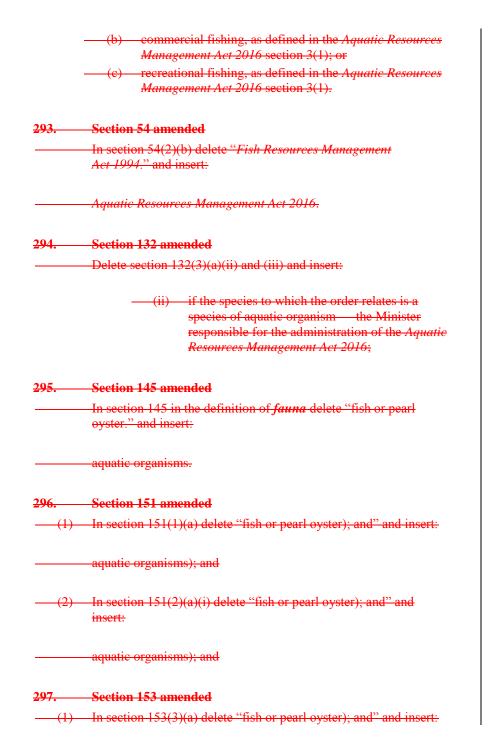
Item	Pearling Act authorisation	Type of lease or authorisation
4.	Pearl oyster farm lease	Aquaculture lease
<del>2.</del>	Pearling licence	Aquaculture licence
3.	Pearl oyster hatchery licence	Aquaculture licence
4.	Pearl diver's licence	Authorisation of a type prescribed for the purposes of this item
<del>5.</del>	Pearl boat licence	Authorisation of a type prescribed for the purposes of this item
<del>6.</del>	Pearl boat master's licence	Authorisation of a type prescribed for the purposes of this item
7.	Pearling permit	Authorisation of a type prescribed for the purposes of this item
<del>8.</del>	Pearl oyster hatchery permit	Aquaculture licence

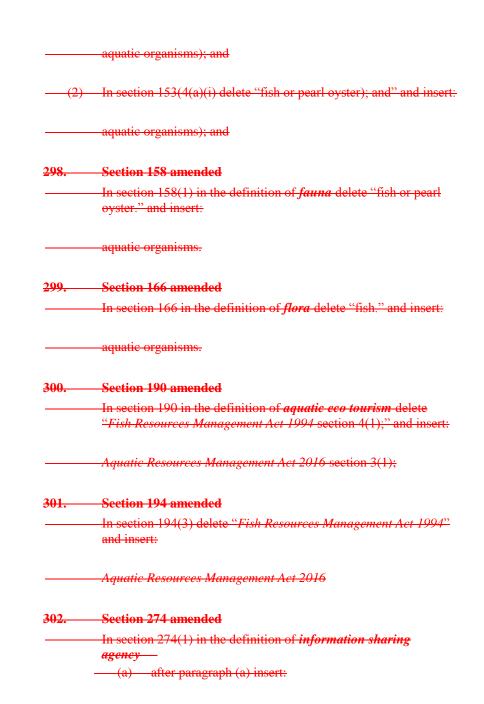
- An application that was made under the repealed Act, but not decided before commencement day, for the grant of a Pearling Act authorisation referred to in an item in the Table to subsection (2), is to be taken to be an application for the grant of a lease or authorisation of a type referred to in the same item of that Table.
- A review under section 33 of the repealed Act that was started, but not finalised, before commencement day must be dealt with as if the repealed Act had not been repealed, and a Pearling Act

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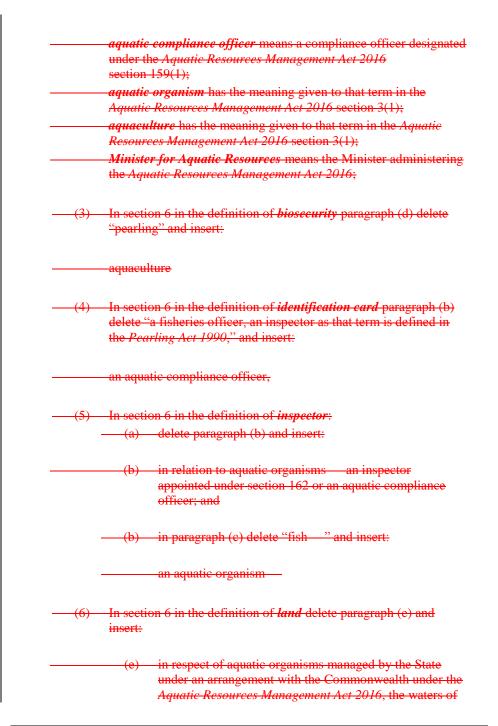








	— (aa) — the department of the Public Service principally assisting
	in the administration of the Aquatic Resources
	<del>Management Act 2016;</del>
	(b) delete paragraphs (e) and (h).
303.	Schedule 1 amended
	In Schedule 1 item 2 delete "fish or pearl oyster)," and insert:
	<del>- aquatic organisms),</del>
Đ	ivision 2 Biosecurity and Agriculture Management Act 2007 amended
304.	- Act amended
	This Division amends the <i>Biosecurity and Agriculture Management Act</i> 2007.
305.	Section 3 amended
	In section 3(1)(a)(iv) delete "pearling" and insert:
	<del>aquaculture</del>
306.	Section 4 amended
	After section 4(2)(b) insert:
	— (ca) the Aquatic Resources Management Act 2016;
307.	Section 6 amended
<del>(1)</del>	In section 6 delete the definitions of:
<i>fish</i>	
<del>fish c</del>	<del>rries officer</del>
Min	ister for Fisheries
<del>pear</del>	<del>l oyster</del>
(2)	To provide a Charactic studential and an



the Australian fishing zone as defined by the Fisheries Management Act 1991 (Commonwealth);

<del>308.</del> —	— Section 9 amended
	In section 9(2) in the definition of <i>basic animal feed</i> delete "fish" and insert:
	<del>aquatic organisms</del>
<del>309.</del>	Section 12 amended
	In section 12(1)(a)(iv) delete "pearling" and insert:
	— aquaculture
<del>310.</del>	Section 22 amended
	In section 22(2)(a)(iv) delete "pearling" and insert:
	<del>aquaculture</del>
311.	Section 45 amended
	<u>In section 45(5):</u>
	(a) in paragraph (a) delete "fish," and insert:
	——————————————————————————————————————
	(b) in paragraph (a) delete "Fisheries Minister; or" and insert:
	Minister for Aquatic Resources; or
	(c) in paragraph (b) delete "a fish," and insert:
	an aquatic organism,

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	In section 184 in the definition of information sharing agency
	paragraph (e) delete "Fish Resources Management Act 1994;" and insert:
	- Aquatic Resources Management Act 2016;
	Division 3 Conservation and Land Management  Act 1984 amended
313.	Act amended
	This Division amends the <i>Conservation and Land Management</i> Act 1984.
314.	Section 3 amended
<del>(1)</del>	In section 3 delete the definitions of:
aau	<del>aculture</del>
_	mercial fishing
	·
	<del>reries Department</del>
Min	ister for Fisheries
<del>pear</del>	<del>'ling activity</del>
recr	<del>eational fishing</del>
<del>(2)</del>	In section 3 insert in alphabetical order:
	aquaculture has the meaning given in the Aquatic Resources  Management Act 2016 section 3(1);
	aquatic authorisation means an authorisation as defined in the
	Aquatic Resources Management Act 2016 section 3(1);
	Aquatic Resources Department means the Department as defined in the Aquatic Resources Management Act 2016 section 3(1);
	commercial fishing has the meaning given in the Aquatic Resources Management Act 2016 section 3(1);
	Minister for Aquatic Resources means the Minister to whom the administration of the Aquatic Resources Management Act 2016 is committed;
	recreational fishing has the meaning given in the Aquatic

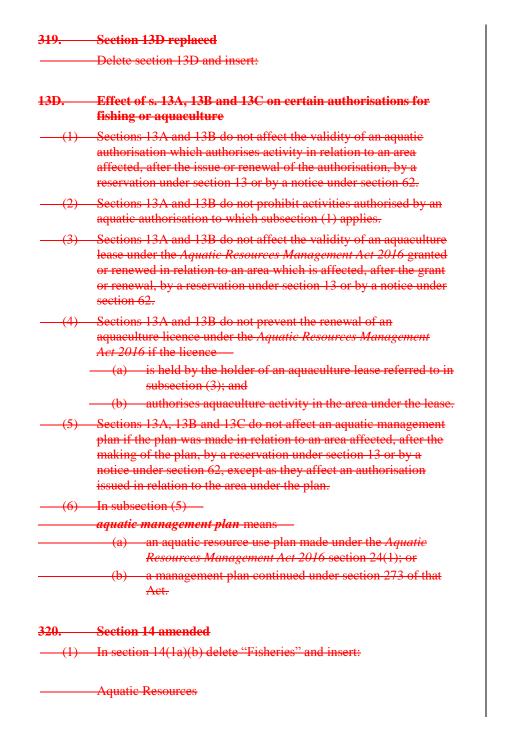
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<del>(3)</del>	In section 3 in the definition of <i>forest products</i> delete "same meaning as it has" and insert:
	meaning given
	Section 8A amended
<del>- (1)</del>	— In section 8A(9) delete "Fisheries," and insert:
	Aquatic Resources,
<del>(2)</del>	In section 8A(12) delete "Fisheries" (each occurrence) and insert:
	Aquatic Resources
316.	Section 13A amended
	Delete section 13A(2) and insert:
<del>(2)</del>	Subject to section 13D, aquaculture, commercial fishing and recreational fishing shall not be carried out in a marine nature reserve.
317.	Section 13B amended
<del>(1)</del>	—In section 13B(3):
	(a) delete "Fish Resources Management Act 1994," and insert:
	Aquatic Resources Management Act 2016,
	(b) delete "Fish Resources Management Act 1994" and insert:
	Aquatic Resources Management Act 2016
<del>(2)</del>	Delete section 13B(4).
<del>(3)</del>	In section 13B(5) delete "authorisation issued under the Fish

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	aquatic authorisation,
<del>(4)</del>	In section 13B(6) delete "authorisation issued under the Fish Resources Management Act 1994," and insert:
	aquatic authorisation,
(5)	In section 13B(7) delete "Fish Resources Management Act 1994," and insert:
	Aquatic Resources Management Act 2016,
<del>(6)</del>	— Delete section 13B(8).
318.	Section 13C amended
<del>(1)</del>	In section 13C(2) in the definition of <i>commercial purposes</i> delete paragraph (a) and insert:
	(a) aquaculture and commercial fishing; and
<del>(2)</del>	In section 13C(3) delete "Fish Resources Management Act 1994," and insert:
	Aquatic Resources Management Act 2016,
<del>(3)</del>	In section 13C(4) delete "Fish Resources Management Act 1994" and insert:
	Aquatic Resources Management Act 2016
(4)	— Delete section 13C(5) and (6).

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<del>(2)</del>	In section 14(6)(b) delete "Fisheries" and insert:
	Aquatic Resources
	Section 17 amended
	In section 17(6) delete "Fisheries" and insert:
	Aquatic Resources
	Section 26H amended
	In section 26H(1)(b) delete "Fisheries" and insert:
	Aquatic Resources
	Section 49 amended
	Delete section 49(c) and (d) and insert:
	— (c) the CEO as defined in the <i>Aquatic Resources Management Act 2016</i> section 3(1); and
	(d) a compliance officer as defined in the Aquatic Resources  Management Act 2016 section 3(1).
324.	— Section 59 amended
<del>(1)</del>	In section 59(3)(b) delete "Fisheries; and" and insert:
	Aquatic Resources; and
	In section 59(5) delete "Fisheries" and insert:
	Aguatic Resources

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325.	Section 60 amended
	In section 60(2a):
	— (a) delete "Fisheries" and insert:
	Aquatic Resources
	— (b) in paragraph (a) delete "aquaculture," and insert:
	————aquaculture or
	(c) in paragraph (a) delete "or pearling activity";
	(d) in paragraph (b) delete "Fish Resources Management Act 1994 or the Pearling Act 1990." and insert:
	Aquatic Resources Management Act 2016.
<del>326.</del>	Section 62 amended
	In section 62(3)(e) delete "Fisheries" and insert:
	Aquatic Resources
327.	— Section 101B amended
	In section 101B(2a) delete "fish and pearl oyster)" and insert:
	aquatic resources as defined in the Aquatic Resources
	Management Act 2016 section 3(1))
<del>(2)</del>	Delete section 101B(3)(a) and (b) and insert:
	(a) the Aquatic Resources Management Act 2016,
328.	Section 130 amended
	Delete section 130(2a) and insert:
<del>(2A)</del>	The Governor must not make regulations under subsection (1) that impose any restriction on the taking, in a marine park or marine management area, of an aquatic resource as defined in the <i>Aquatic</i>

Compare 27 Feb 2018 [00-c0-00] / 02 May 2018 [00-d0-04]
Extract from www.slp.wa.gov.au, see that website for further information page 173 Resources Management Act 2016 section 3(1) in accordance with the provisions of that Act relating to aquaculture or commercial or recreational fishing.

# **Division 4** Criminal Investigation (Covert Powers) Act 2012 amended 329. Act amended This Division amends the Criminal Investigation (Covert Powers) Act 2012.

**330.** Section 3 amended

(1) In section 3 delete the definitions of:

(2) In section 3 insert in alphabetical order:

fisheries department

fisheries officer

aquatic resources department means the department principally

assisting in the administration of the Aquatic Resources Management Act 2016;

compliance officer has the meaning given in the Aquatic Resources Management Act 2016 section 3(1);

In section 3 in the definition of authorising officer paragraph (a) delete "fisheries" and insert:

aquatic resources

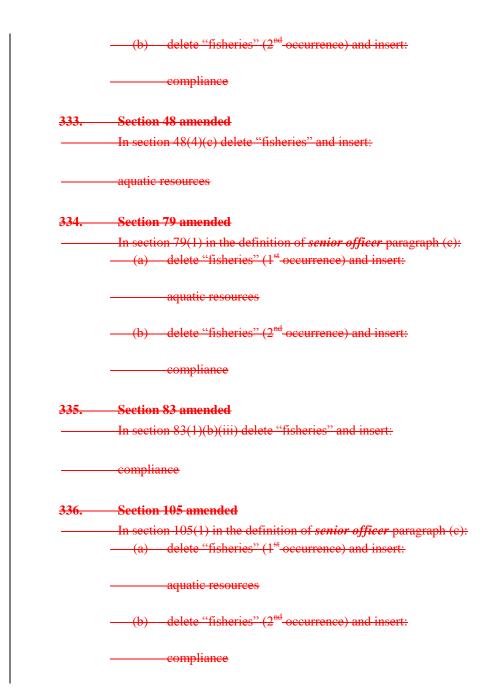
In section 3 in the definition of chief officer paragraph (c) delete "fisheries" and insert:

aquatic resources

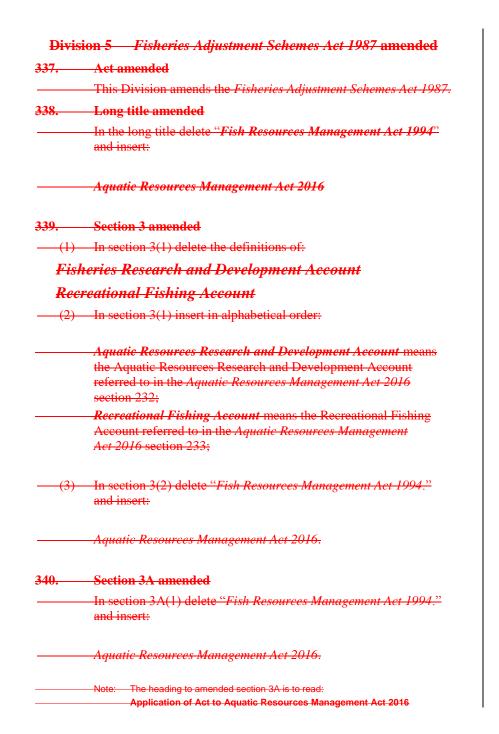
- In section 3 in the definition of law enforcement agency delete paragraph (c) and insert:
  - the aquatic resources department;

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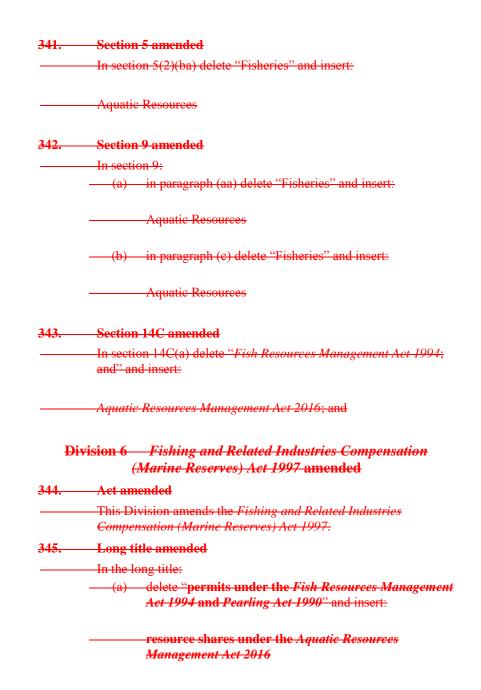
<del>(6)</del>	In section 3 in the definition of <i>law enforcement officer</i> delete paragraph (d) and insert:	
	(d) a compliance officer holding a prescribed office in the aquatic resources department;	
<del>(7)</del>	— In section 3 in the definition of <i>Minister</i> delete paragraph (c) and insert:	
	(c) in relation to the aquatic resources department, means the Minister administering the Aquatic Resources  Management Act 2016;	
<del>(8)</del>	— In section 3 in the definition of <i>this jurisdiction</i> paragraph (b): ——(a) ——delete "fisheries" and insert:	
	aquatic resources	
	(b) delete "Fish Resources Management Act 1994 section 5(b) to (d)." and insert:	
	Aquatic Resources Management Act 2016 section 5(1)(b) and (c).	
331.	Section 5 amended	
	In section 5 in the definition of relevant offence:	
	(a) before paragraph (b)(i) insert:	
	(ia) the Aquatic Resources Management Act 2016;	
	— (b) delete paragraph (b)(iv).	
332.	Section 43 amended	
	In section 43(1) in the definition of senior officer paragraph (e):  (a) delete "fisheries" (1 <sup>st</sup> occurrence) and insert:	
	aquatic resources	



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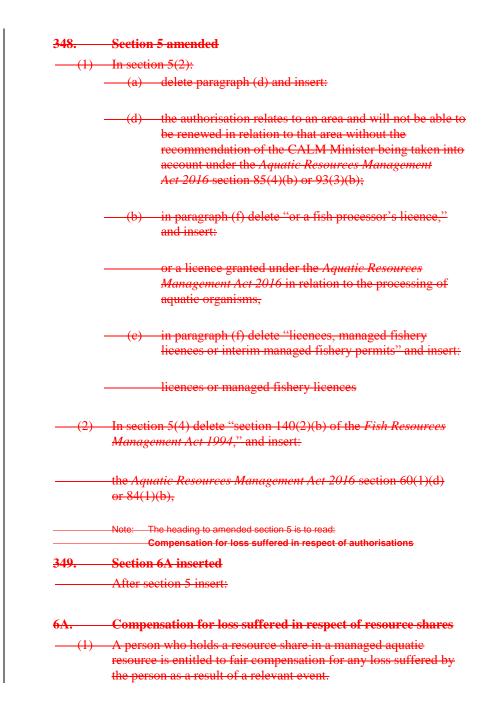


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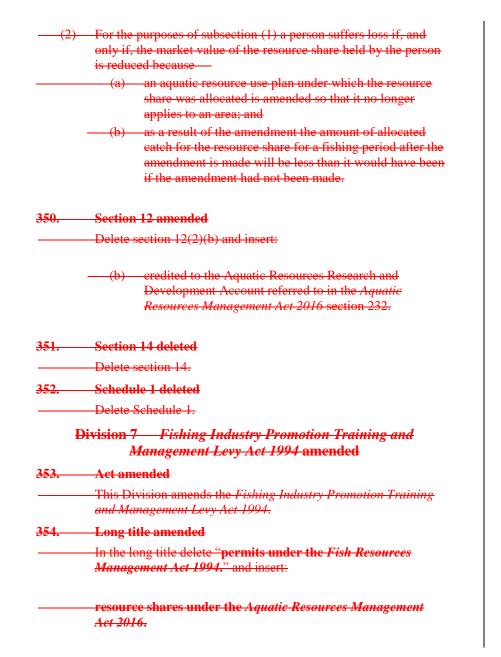


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	(b) delete the passage that begins with "matters," and ends with "Act 1987." and insert:
	<del>matters.</del>
346.	Section 3 amended
<del>(1)</del>	In section 3(1) in the definition of <i>authorisation</i> :
	(a) delete paragraph (e) and insert:
	(e) a licence granted under the <i>Aquatic Resources Management Act 2016</i> in relation to the processing of aquatic organisms; or
	— (b) delete paragraphs (g) to (l).
<del>(2)</del>	In section 3(1) in the definition of <i>commercial activity</i> delete paragraphs (c) and (d).
<del>(3)</del>	In section 3(1) in the definition of <i>Minister</i> delete "Fish Resources Management Act 1994;" and insert:
	— Aquatic Resources Management Act 2016;
<del>(4)</del>	In section 3(2) delete "Fish Resources Management Act 1994 or the Pearling Act 1990" and insert:
	— Aquatic Resources Management Act 2016
(5)	In section 3(1) in the definition of <i>authorisation</i> after each of paragraphs (a) to (d) insert:
	<del>- or</del>
347.	Section 4 amended
	Delete section 4(a).

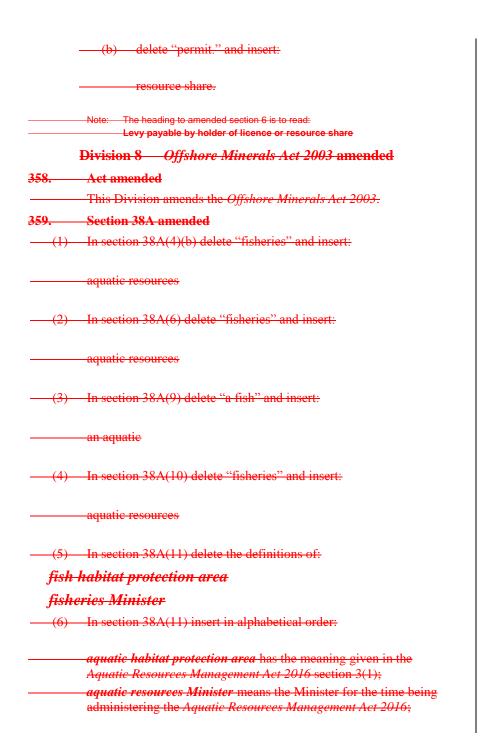


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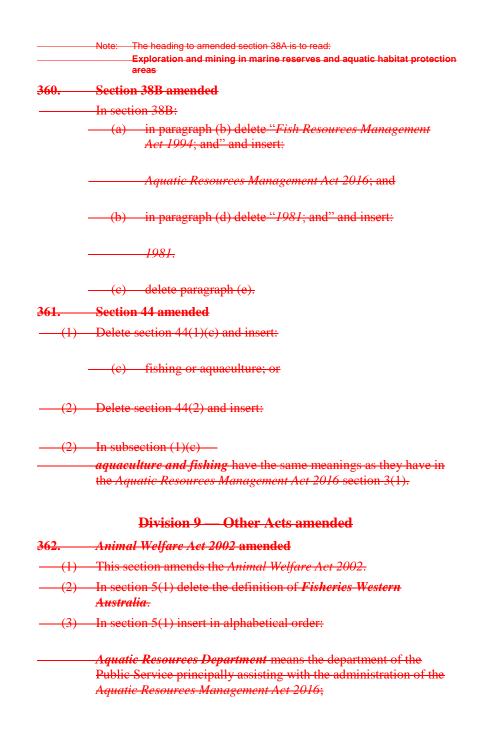
<del>355.</del>	Section 3 amended  Delete section 3(1) and insert:		
	— In this Act — principal Act means the Aquatic Resources Management Act 2016.		
<del>356.</del>	Section 4 amended		
<del>(1)</del>	In section 4(1):		
	(a) delete "section 240" and insert:		
	section 232		
	——————————————————————————————————————		
	(c) licences granted under the principal Act in relation to to processing of aquatic organisms;		
	— (c) in paragraph (e) delete "licences." and insert:		
	licences;		
	— (d) after paragraph (e) insert:		
	— (f) resource shares.		
<del>(2)</del>	In section 4(2) delete "or permits".		
<del>357.</del>	Section 6 amended		
	In section 6:		
	(a) delete "permit" and insert:		
	resource share		

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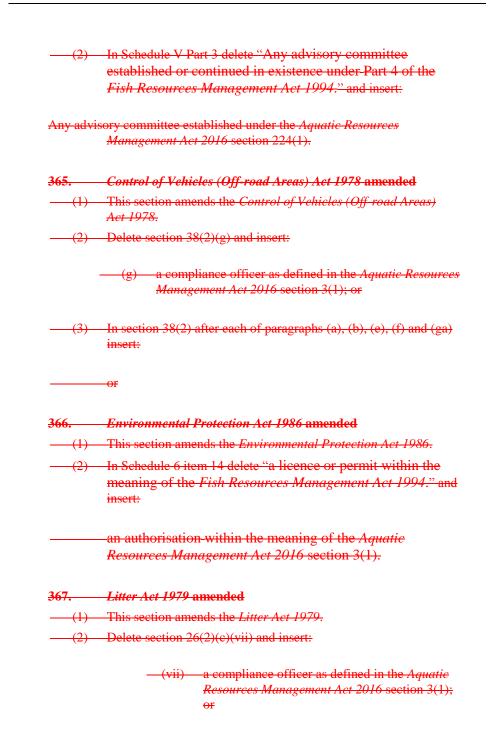
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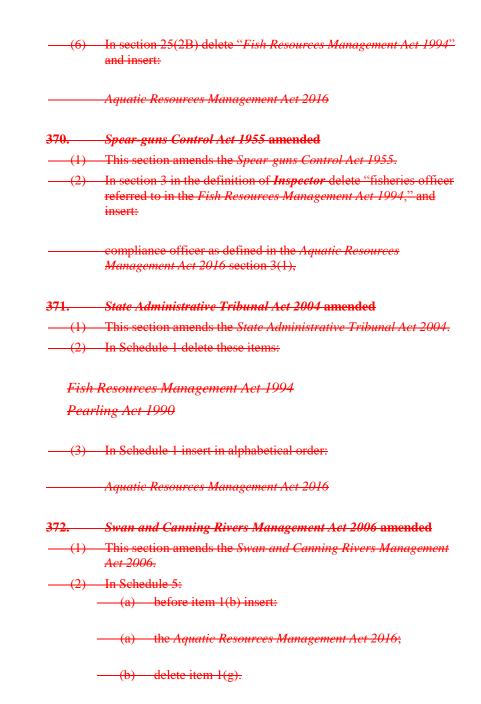
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<del>(4)</del>	In section 5(1) in the definition of <i>animal</i> delete "a fish (as defined in the <i>Fish Resources Management Act 1994</i> );" and insert:	
	an aquatic organism (as defined in the <i>Aquatic Resources Management Act 2016</i> );	
<del>(5)</del>	Delete section 5(2).	
<del>(6)</del>	In section 33(2):	
	(a) after paragraph (a)(ii) insert:	
	—(iiia) — the Aquatic Resources Department; or	
	— (b) — delete paragraph (a)(iv).	
<del>(7)</del>	In section 64(1):	
	(a) after paragraph (b) insert:	
	— (ca) the Aquatic Resources Department; and	
	— (b) delete paragraph (d).	
<del>(8)</del>	In section 33(2) after each of paragraph (a)(i), (ii) and (iii) insert:	
	<del>- or</del>	
<del>(9)</del>	In section 64(1) after each of paragraphs (a), (b) and (c) insert:	
	<del>- and</del>	
363.	Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007 amended	
<del>(1)</del>	This section amends the <i>Biosecurity and Agriculture Management</i> (Repeal and Consequential Provisions) Act 2007.	
<del>(2)</del>	Delete section 89.	
364.	Constitution Acts Amendment Act 1899 amended	
	The state of the s	

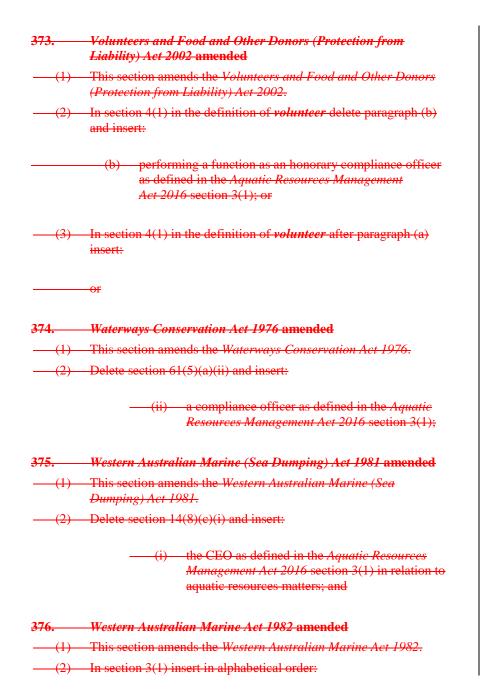


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— (3) In the Third Schedule delete the item relating to Fisheries officers and insert:				
Aqua	pliance officers as defined in the utic Resources Management Act 2016 on 3(1)	The CEO as defined in the Aquatic Resources Management Act 2016 section 3(1)		
368.	<i>- Marine Navigational Aids Act 1973</i> am	<del>ended</del>		
<del>(1)</del>	This section amends the Marine Navigational Aids Act 1973.			
<del>(2)</del>	(2) In section 3A(3) in the definition of <i>fishing boat</i> delete "Fish Resources Management Act 1994 or the Pearling Act 1990." a insert:			
	- Aquatic Resources Management Act 201	<del>6.</del>		
<del>369.</del>	Mining Act 1978 amended			
<del>(1)</del>	This section amends the Mining Act 1978.			
<del>(2)</del>	In section 24A(3)(b) delete "fisheries" and insert:			
	aquatic resources			
<del>(3)</del>	In section 24A(6) delete "fisheries" and	<del>insert:</del>		
	<del>aquatic resources</del>			
<del>(4)</del>	In section 24A(9) delete the definition of fisheries Minister.			
<del>(5)</del>	In section 24A(9) insert in alphabetical order:			
	aquatic resources Minister means the Meharged with the administration of the Amanagement Act 2016;			



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## **Table**

Duties Act 2008	s. 136
Planning and Development Act 2005	Sch. 2 cl. 7(2)(e)
Wildlife Conservation Act 1950	s. 17(2)(e) and (g) and s. 17A(d)

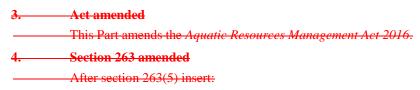
Note: In the Duties Act 2008, the heading to amended section 136 is to read: Business licences held under Aquatic Resources Management Act 2016

[Section 377 amended by No. 8 of 2017 s. 8.]

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On the date as at which this compilation was prepared the Aquatic Resources Legislation Amendment Act 2016 Pt. 2 had not come into operation. It reads as follows:

## Part 2 Aquatic Resources Management Act 2016 amended



(6) To the extent that the regulations prescribe under subsection (2)(j) a fee that includes an amount referred to in subsection (5) that is a tax, the regulations may impose the tax.

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