

WESTERN AUSTRALIA

FISHERIES AMENDMENT ACT

No. 104 of 1986

AN ACT to amend the *Fisheries Act 1905*.

[Assented to 12 December 1986.]

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

Short title

1. This Act may be cited as the *Fisheries Amendment Act 1986*.

Commencement

2. (1) Subject to subsection (2), this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Sections 4 and 6 shall come into operation on such day as is fixed by proclamation.

Principal Act

3. In this Act the *Fisheries Act 1905** is referred to as the principal Act.

[*Reprinted as at 15 July 1986.]

Long title amended

4. The long title to the principal Act is amended by deleting “and aquatic animal and plant life” and substituting the following—

“ , aquatic animal and plant life and certain reserves ”.

Section 24B amended

5. Section 24B of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsections—

“ (1) Subject to subsection (4), a person who consigns to another person any fish, other than rock lobster, for the purposes of the sale or disposal of that fish, whether in the same or a different form, by that other person shall attach, or cause to be attached, securely to the bag, basket, box or other receptacle containing the fish a label in the form and of the type prescribed on which there is legibly endorsed the name and place of abode of the person so consigning the fish.

(1a) Subject to subsection (4), a person in charge or control of a boat used in the taking of any rock lobsters shall, before those rock lobsters are removed from the boat and consigned to another person for the purpose of the sale or disposal of the rock lobsters, whether in the same or a different form, by that other person—

(a) contain, or cause to be contained, the rock lobsters in the bag, basket, box or other receptacle in which they are to be consigned; and

- (b) attach, or cause to be attached, securely to the bag, basket, box or other receptacle containing the rock lobsters a label in the form and of the type prescribed on which there is legibly endorsed—
 - (i) the name and place of abode of the person consigning the rock lobsters; and
 - (ii) the registered number allotted under the regulations to the fishing boat used in the taking of the rock lobsters.

(1b) Any person who—

- (a) where a rock lobster is consigned for processing at a processing establishment licensed under Part IIIB, before the rock lobster is received at the processing establishment; or
- (b) where a rock lobster is not consigned for processing at a processing establishment licensed under Part IIIB, before the rock lobster is received by the purchaser of that rock lobster,

removes that rock lobster from the bag, basket, box or other receptacle in which it is contained in accordance with subsection (1a) commits an offence.

Penalty: A fine not less than \$100 nor more than \$750. ”;

- (b) in subsection (2) by inserting after “subsection (1)” the following—

“ or (1a), as the case may be, ”;

- (c) in subsection (3) by deleting “and (2)” and substituting the following—

“ , (1a) and (2) ”;

- (d) in subsection (4) by inserting after “subsection (1)” the following—

“ or (1a), as the case may be, ”; and

- (e) by repealing subsection (6) and substituting the following subsection—

“ (6) In—

- (a) subsections (2), (4), and (5) “fish” includes rock lobster tails;
- (b) subsections (1), (1a) and (1b) “rock lobster” includes rock lobster tails. ”.

Sections 31A and 31B inserted

6. After section 31 of the principal Act the following sections are inserted—

Reserves vested in Minister under *Land Act 1933*

“ 31A. (1) In this section and section 31B, unless the contrary intention appears, “reserve” means land reserved under section 29 of the *Land Act 1933* and vested in the Minister for purposes associated with fisheries.

(2) The Minister may make by-laws to provide for the protection, management and control of a reserve, including provision as to—

- (a) the use and the manner of use of land and facilities;
- (b) the protection and conservation of fauna and flora therein whether aquatic or not;
- (c) the removal of persons who have committed a breach of the by-laws;
- (d) the regulation, control or prohibition of entry to the reserve by persons, vehicles, aircraft, boats and animals;
- (e) the conduct of persons on the reserve;
- (f) the use of vehicles, including provisions as to speed, manner of driving, routes, entrances and exits, one-way traffic, noise, parking or standing, and for the control of traffic generally;
- (g) the use of boats and the foreshore, including provisions as to moorings and safety procedures;
- (h) camping and the use of caravans;

- (i) the use of aircraft, including provisions as to the construction and use of landing strips and helicopter pads;
- (j) the use of firearms and other devices or means for the taking of fauna;
- (k) the use, safety and preservation of buildings, structures, erections, fixtures, fittings and chattels;
- (l) the depositing of rubbish and the leaving of litter, the erection of any building or structure on any land or the depositing on the land of any property;
- (m) the removal and disposal of any rubbish, litter, building, structure or property and the payment and method of collection of charges in respect of the cost of the removal and disposal;
- (n) fees to be charged for admission to the reserve, or part thereof, and the use of facilities on the reserve; and the payment and method of collection of such fees.

(3) The by-laws may impose a penalty not exceeding \$1 000 for a breach of any by-law and, in the case of a continuing breach, not exceeding \$20 for each day that the breach has continued.

(4) The Minister may prescribe sums not exceeding \$200 payable by way of penalty by persons who proceed under section 31B in the manner described in section 14 (2) (d) of the *Parks and Reserves Act 1895*.

(5) Sections 51, 53 and 54 shall extend and apply in respect of the by-laws and for that purpose shall be read and construed as if a reference in those sections to regulations were a reference to the by-laws.

*Application of certain sections of
Parks and Reserves Act 1895*

31B. For the purposes of this Act, sections 7A, 7C, 12A, 12B and 14 of the *Parks and Reserves Act 1895* apply to and in relation to a reserve as if enacted by this Act and as if a reference in those sections to—

- (a) an authorized person were a reference to an inspector;
- (b) a by-law were a reference to a by-law made under section 31A of this Act;
- (c) a Board were a reference to the Minister; and
- (d) a park or reserve were a reference to a reserve referred to in section 31A of this Act. ”.

Section 32 amended**7. Section 32 of the principal Act is amended—**

- (a) in subsection (6) by deleting “get” in paragraph (c) and substituting the following—

“ set ”; and

- (b) by repealing subsection (7) and substituting the following subsections—

“ (7) A person who is convicted of an offence under this section is liable to the following penalties—

- (a) if the offence is that of failing to comply with a provision of a notice, or a condition of a licence, relating to the maximum number of rock lobster pots a boat may be used to carry, set, use or pull—

(i) for the first offence, a fine of not more than \$1 500 in respect of each rock lobster pot the subject of the offence of which the offender is convicted;

(ii) for a second or subsequent offence, a fine of not more than \$3 000 in respect of each rock lobster pot the subject of the offence of which the offender is convicted;

(iii) in relation to every offence, each rock lobster pot the subject of the offence of which the person is convicted shall be ordered to be forfeited to Her Majesty; and

(iv) for a second or subsequent offence, every boat found to have been used or operated in the commission of that offence, and all gear and equipment pertaining to the boat at the time of the offence, may be ordered to be forfeited to Her Majesty; and

- (b) if the offence is an offence other than an offence referred to in paragraph (a)—
 - (i) for the first offence, a fine of not more than \$1 500;
 - (ii) for a second or subsequent offence, a fine of not more than \$15 000;
 - (iii) in relation to every offence, a further penalty in respect of every kilogram of the fish or other thing taken calculated at the rate of 10 times the wholesale value at the time of the offence; and
 - (iv) for a second or subsequent offence, every boat found to have been used or operated in the commission of that offence, and all gear and equipment pertaining to the boat at the time of the offence, may be ordered to be forfeited to Her Majesty.

(7a) Where a person is convicted—

- (a) of an offence referred to in subsection (7) (a); or
- (b) under section 13 (1) (i) of the *Fisheries Act 1952* of the Commonwealth, of the offence of doing an act prohibited by a notice in force under section 8 (1) (f) of that Act in relation to the number of rock lobster pots a person may use or have in his possession or in his charge on a boat,

the Director shall, by notice in writing to the holder of the licence of that boat used to carry, set, use or pull the rock lobster pots the subject of the offence, vary the authorization granted in respect of that boat by reducing the number of rock lobster pots specified in the authorization by the number of rock lobster pots the subject of the offence. ”.
