

NORTHERN TERRITORY OF AUSTRALIA

FISHERIES ACT 1988

As in force at 20 June 2018

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 20 June 2018

FISHERIES ACT 1988

An Act to provide for the regulation, conservation and management of fisheries and fishery resources so as to maintain their sustainable utilisation, to regulate the sale and processing of fish and aquatic life, and for related purposes

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Fisheries Act 1988*.

2 Commencement

This Act shall come into operation on 14 December 1988.

2A Objects

The objects of this Act are:

- (a) to manage the aquatic resources of the Territory in accordance with the principles of ecologically sustainable development; and
- (ab) to protect the environment, people and economy of the Territory from the introduction and spread of aquatic noxious species and diseases; and
- (b) to maintain a stewardship of aquatic resources that promotes fairness, equity and access to aquatic resources by all stakeholder groups, including:
 - (i) indigenous people; and
 - (ii) the commercial fishing, aquaculture and fishing tourism industries; and
 - (iii) amateur fishers; and
 - (iv) others with an interest in the aquatic resources of the Territory; and

- (c) to promote the optimum utilisation of aquatic resources to the benefit of the community.

3 Repeals

The Acts listed in Schedule 1 are repealed.

4 Interpretation

- (1) In this Act:

acting in an official capacity, in relation to an authorised officer, means the officer is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

alleged offender, see section 46H.

amateur fishing means fishing for fish or aquatic life otherwise than for sale.

approved means approved by the Director.

approved operator means a person approved under section 17A.

aquaculture includes the farming, culturing, or breeding of fish or aquatic life for the purposes of trade, business, or research.

aquatic life means any species of plant or animal life (except species of birds) which, at any time of the life history of the species, must inhabit water, and includes the plant or animal at any stage of its life history, and also includes any part of such plant or animal, but does not include fish, or aquatic life declared by the Minister by notice in the *Gazette* to be aquatic life to which this Act does not apply.

arrangement means an arrangement made under Part 6 by the Territory with the Commonwealth whether or not it is also made with a State.

Australian fishing zone means the Australian fishing zone as defined by the Commonwealth Act.

authorised officer means the Director, a Fisheries Officer or a Fisheries Inspector.

coastal waters, in relation to the Territory, has the same meaning as it has in the Commonwealth Act.

Commonwealth Act means the *Fisheries Management Act 1991* (Cth) or any Act in substitution for that Act.

Commonwealth Minister means the Minister for the time being administering the Commonwealth Act or other Minister exercising powers and performing functions pursuant to section 60 of the Commonwealth Act.

confiscation offence means an offence prescribed by regulation for Part 4, Division 4B.

container includes a cupboard, drawer, chest, trunk, box, cage, package or other receptacle.

contravention notice, see section 46H.

corporation has the same meaning as in the Corporations Act 2001.

Crown lands has the same meaning as in the *Crown Lands Act 1992*.

delegate decision, see section 50(1).

Director means the Director of Fisheries appointed under section 5, and includes a person who is acting in or performing the duties of the office of Director of Fisheries.

ecologically sustainable development means using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained and the total quality of life, now and in the future, can be increased.

electric fishing device means a device, engine, or machine designed or used for the taking or killing by means of electric current of any species of fish or aquatic life or for the production of electronarcosis of any species of fish or aquatic life.

fish means any species or class of fish including crustaceans, echinoderms, and molluscs, and includes an aquatic animal (except a species of bird) declared by the Minister by notice in the *Gazette* to be a fish for the purposes of this Act, and also includes:

- (a) an egg, fry, spat, or larva of a fish;
- (b) the dead body, or a part of the dead body, of a fish; and
- (c) the shell or exoskeleton, or a part of the shell or exoskeleton, of a crustacean, echinoderm, or mollusc.

Fisheries Inspector means a person appointed to be a Fisheries Inspector under section 7A.

Fisheries Officer means a person appointed or declared to be a Fisheries Officer under section 7.

fishery means one or more stocks or parts of stocks or one or more species, habitats, or locations of fish or aquatic life that can be treated as a unit for the purposes of conservation or management, and includes a fishery referred to by the identifiers specified in subsection (2).

fishery management area or **management area** means an area so declared pursuant to section 22.

fishery management plan or **management plan** means a management plan under Part III for a fishery.

fishing means the catching, taking, or harvesting of fish or aquatic life and includes any other activity which may reasonably be expected to result in the catching, taking, or harvesting of fish or aquatic life and also includes any action taken in support of or in preparation for an activity specified in this definition.

fishing gear includes a net, line, pot, apparatus, device or thing capable of being used in fishing.

fishing monitoring means the monitoring of fishing, including by the use of fishing monitoring equipment.

fishing monitoring equipment means equipment, including electronic equipment, whether or not fitted to a vessel:

- (a) to detect when and where fishing from a vessel occurs; and
- (b) to record catch information.

Examples for definition fishing monitoring equipment

- 1 Sensors.
- 2 A digital video camera.
- 3 A computer system.

fishing operations means any operations that are authorised to be conducted, or any other thing that is authorised to be done, under a licence or permit.

fit and proper person, see section 17B.

foreign boat means a vessel that is not an Australian boat within the meaning of the Commonwealth Act.

indigenous does not include the progeny of an introduced species.

infringement notice, see section 46B.

infringement notice offence, see section 46A(1).

Joint Authority means a Joint Authority in existence for the purposes of Part 5 of the Commonwealth Act that includes the Minister as a member.

Joint Authority fishery means a fishery in respect of which there is in force an arrangement under which the fishery is to be under the management of a Joint Authority.

landed means:

- (a) if the fish have been taken without the use of a vessel – taken; and
- (b) if the fish have been taken with the use of a vessel – put ashore at or trans-shipped at a wharf, jetty, pontoon or place, as may be prescribed or as may be specified in a management plan.

licence means an approved licence currently in force granted under this Act or, as the context requires, a licence document issued as a consequence of the grant of a licence.

licensee means the holder of a licence and includes a person who holds a permit.

licensee's record book means a record of information required by the Director to be kept by a licensee under section 34.

managed fishery means a fishery declared to be a managed fishery under section 22.

management area, see **fishery management area**.

management plan, see **fishery management plan**.

Ministerial guidelines means guidelines made by the Minister under section 20D.

noxious species means fish or aquatic life that is prescribed by regulation to be a noxious species.

owner, in relation to a vessel, vehicle, gear, or equipment, means a person who has a right to the possession of that vessel, vehicle, gear, or equipment, whether or not that right is subject to the right of another person, but a person shall not be held to be the owner of a vessel, vehicle, gear, or equipment by reason only that the person

was in command or charge of it.

permit means an approved permit currently in force granted under this Act or, as the context requires, a permit document issued as a consequence of the grant of a permit.

permit offence means:

- (a) an offence against section 11(2), (3), (4), (5), (6) or (7); or
- (b) an offence against section 14(7) for contravention of a condition of a permit.

person includes a partnership.

person in charge, of fishing operations under a licence or permit, means a person appointed under section 17E in relation to those fishing operations.

plant, in relation to aquatic life, includes seaweeds, sea-grasses, and algae.

possession means possession of or control over any fish or aquatic life or possession of or control over a vessel, vehicle or other conveyance, fishing gear, container, thing, or place in or on which the fish or aquatic life is found, and includes joint possession or control.

prescribed amount, see section 46A(2).

prescribed decision means a decision of the Director under a prescribed provision of the Regulations or a management plan.

processing includes cutting, shelling, and the use of all methods of manufacture and preservation.

quota, allocated to a licence, means any entitlement, however described, under a quota system, allocated or attached to the licence.

Examples for definition quota

- 1 A unit entitling a licensee to take fish in a fishery for a specified period of time during a licensing year.
- 2 A unit entitling a licensee to be allocated a share of total allowable catch for a certain species group.

quota system means a system for managing a fishery, or a designated part of a fishery, determined by reference to one or more of the following:

- (a) the quantity of fish or aquatic life, or a designated species or type of fish or aquatic life, that may be taken;
- (b) the amount of fishing gear that may be used;
- (c) the amount of time that may be spent fishing;
- (d) the number of vessels that may be used for fishing;
- (e) the number of persons that may engage in fishing;
- (f) any other matter.

registered, in relation to the registration of vessels, means registered under this Act.

registered third party interest means a third party interest registered under section 9A.

relevant instrument, for Part 6, Division 2, see section 63A.

sale includes every method of disposition for valuable consideration, including barter, and includes the disposition to an agent for sale on consignment, and also includes offering or attempting to sell, or receiving or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or permitting to be sold, offered, or exposed for sale, and also includes disposal by way of raffle, lottery, or other game of chance.

taking means fishing.

tender vessel means a vessel that is carried by, or attached to, another vessel for the purpose of supporting fishing.

third party interest means an interest held in a licence, or quota allocated to a licence, as security for the payment or repayment of money.

trans-ship at sea does not include:

- (a) trans-ship at a wharf, jetty, pontoon or prescribed place; or
- (b) trans-ship from a tender vessel to the vessel to which it is a tender vessel.

UTM position means a position determined by using Universal Transverse Mercator (UTM) grid co-ordinates, which are grid co-ordinates determined by projecting global sections onto a flat surface to measure the position of specific zones or areas.

vessel includes every description of craft, vessel, hovercraft, aircraft, or other thing, of whatever size, that is capable of being used in fishing.

vessel monitoring means the monitoring of vessels, including by the use of a vessel monitoring system.

vessel monitoring system means an electronic device that is fitted to a vessel to give information about the vessel's course or position, or similar information.

Note for subsection (1)

The Interpretation Act contains definitions and other provisions that may be relevant to this Act.

- (2) Without limiting the matters by reference to which a fishery (including a fishery subject to an arrangement) may be identified, those matters may include:
- (a) a description of fish or aquatic life by reference to sex, size, age, or another characteristic;
 - (b) an area of waters or seabed;
 - (c) a method of fishing;
 - (d) a kind or class of vessel;
 - (e) a class of persons; or
 - (f) a purpose of activities,
- or all or a combination of those matters.

4A Application of Criminal Code

- (1) Part IIAA of the Criminal Code applies to an offence against this Act.

Note for subsection (1)

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

- (2) However, Part IIAA of the Criminal Code does not apply to an offence against the Regulations or a management plan unless the Regulations or plan state otherwise.

Part 2 Administration

5 Director of Fisheries

- (1) The Minister may appoint a person to be the Director of Fisheries.
- (2) The Minister shall cause notice of an appointment made under subsection (1) to be published in the *Gazette*.
- (3) Subject to the directions of the Minister, the Director is responsible for the general administration of this Act.

6 Delegation

- (1) The Minister may delegate any of the Minister's powers or functions under this Act (other than a power under section 26, 28 or 29) to a person.
- (2) The Director may delegate any of the Director's powers or functions under this Act to a person.

7 Fisheries Officers

- (1) The Minister may appoint such persons as the Minister thinks fit to be Fisheries Officers.
- (2) The Director is a Fisheries Officer.
- (3) Every police officer is a Fisheries Officer.
- (4) A Fisheries Officer who is carrying out functions and duties under this Act has, in addition to the other powers conferred on a Fisheries Officer under this Act, all the powers and protection of a police officer with the rank of constable.
- (5) A reference in any law in force in the Territory to a police officer with the rank of constable, or a reference that includes such a reference, includes a reference to a Fisheries Officer acting in the execution of the Officer's duty.

Note for section 7

*A Fisheries Officer is an authorised officer for this Act – see section 4(1), definition **authorised officer**.*

7A Fisheries Inspectors

- (1) The Minister may appoint a person to be a Fisheries Inspector.
- (2) A Fisheries Inspector has:
 - (a) the powers and functions prescribed by regulation; and
 - (b) any powers and functions conferred on the Fisheries Inspector under subsection (3).
- (3) The Minister may, by *Gazette* notice, confer additional powers or functions on a specified Fisheries Inspector or class of Fisheries Inspector.

Note for section 7A

*A Fisheries Inspector is an authorised officer for this Act – see section 4(1) definition **authorised officer**.*

8 Identity cards

- (1) The Director must give a Fisheries Officer appointed under section 7(1), or a Fisheries Inspector, an identity card stating the person's name and that the person is a Fisheries Officer or Fisheries Inspector.
- (2) The identity card must:
 - (a) show a recent photograph of the Fisheries Officer or Fisheries Inspector; and
 - (b) show the card's date of issue and expiry; and
 - (c) be signed by the Officer or Inspector.
- (3) This section does not prevent the issue of a single identity card to a person for this and another Act.
- (4) The production by a Fisheries Officer or Fisheries Inspector of a current identity card, or evidence that a Fisheries Officer is a police officer, is, until the contrary is proved, sufficient authority to do anything that the Officer or Inspector is authorised by or under this Act to do.

8A Return of identity card

- (1) A person who ceases to be a Fisheries Officer or Fisheries Inspector must return the person's identity card to the Director within 21 days after the cessation.

Maximum penalty: 20 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

9 Registers

- (1) The Director must keep a register or registers that contain particulars of the following:
- (a) the holders of licences and permits;
 - (b) the grant, renewal, variation, transfer, expiry, suspension or cancellation of rights, licences, registrations, permits, quotas or other authorities required or granted under this Act;
 - (c) approved operators and the period for which they have been approved;
 - (d) the appointment of an approved operator to be the person in charge of fishing operations under a licence or permit and, if the appointment is for part of the operations only, the part for which they are appointed;
 - (e) the name or identifying number of each registered vessel and the owners of those vessels;
 - (f) any registered third party interests.
- (2) A person may, on payment of the prescribed fee, if any, examine or obtain a copy of so much of a register kept under subsection (1) as contains the following information:
- (a) the names and business addresses of:
 - (i) the holders of licences and permits; or
 - (ii) approved operators; or
 - (iii) persons who hold a registered third party interest;
 - (b) the type of licence or permit:
 - (i) held by a person; or
 - (ii) in relation to which an approved operator is appointed to be the person in charge of fishing operations; or
 - (iii) in the case of a licence, in relation to which there is any registered third party interest;
 - (c) the name or identifying number of each registered vessel and the name and business address of its owner;

(d) other information prescribed by the Director by *Gazette* notice.

9A Registration of third party interests

- (1) A person who holds a third party interest in a licence, or quota allocated to a licence, may apply, in the approved form accompanied by the prescribed fee, to the Director to register the third party interest.
- (2) Within 28 days after receiving the application, the Director must:
- (a) give the applicant written notice that the application has been received; and
 - (b) give the licensee written notice that:
 - (i) the application has been received; and
 - (ii) the licensee may, within 28 days after the date of the notice, lodge with the Director a written objection to the registration of the third party interest.
- (3) If the Director receives an objection in accordance with subsection (2)(b)(ii), the Director must not register the third party interest unless the objection is subsequently withdrawn in writing by the licensee.
- (4) If the Director:
- (a) does not receive an objection in accordance with subsection (2)(b)(ii); or
 - (b) receives an objection in accordance with subsection (2)(b)(ii) that is subsequently withdrawn in accordance with subsection (3),
- the Director must register the third party interest.
- (4A) A third party interest is registered by entering the particulars of the interest in the appropriate register kept under section 9(1).
- (5) If an application is made under this section, the Director must not approve the transfer of the licence under section 16A, or the transfer of the quota, until the Director has registered or refused to register the third party interest, even if the application for approval was received before the application for registration was received.

- (6) The Director must remove from a register kept under section 9(1) particulars of a third party interest:
- (a) if requested to do so in writing by the person who holds the third party interest; or
 - (b) if requested to do so in writing by the licensee in whose licence or quota the third party interest is held and the person who holds the third party interest has consented in writing to the removal.

9B Notice to registered third party interest holder

- (1) This section applies if:
- (a) a third party interest in a licence, or quota allocated to a licence, has been registered; and
 - (b) the Director:
 - (i) receives an application relating to the transfer of the licence or quota; or
 - (ii) proposes to suspend or cancel the licence or quota.
- (2) The Director must notify the holder of the registered third party interest before processing the application or suspending or cancelling the licence or quota.

Part 2A Licences, permits and vessel registration

Division 1 Requirement for licence or permit

10 Requirement for licence

- (1) A licence may authorise a person to do one or more of the following things:
- (a) take fish or aquatic life:
 - (i) for sale; or
 - (ii) for the purpose of aquaculture; or
 - (iii) for the purpose of exhibiting them for profit;
 - (b) undertake aquaculture;
 - (c) sell live fish or aquatic life;

- (d) process for sale or sell dead fish or aquatic life;
- (e) exhibit fish or aquatic life for profit;
- (f) any other thing prescribed by regulation or a management plan as being able to be done only under a licence.

(2) A person commits an offence if the person:

- (a) takes fish or aquatic life with the intention of using it for a purpose mentioned in subsection (1)(a); and
- (b) is not authorised by a licence to take the fish or aquatic life for that purpose.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(3) A person commits an offence if the person:

- (a) intentionally undertakes aquaculture; and
- (b) is not authorised by a licence to do so.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(4) A person commits an offence if:

- (a) the person intentionally sells a thing; and
- (b) the thing is live fish or aquatic life and the person is reckless in relation to that circumstance; and
- (c) the person is not authorised by a licence to sell the thing.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(5) A person commits an offence if:

- (a) the person intentionally processes for sale or sells a thing; and
- (b) the thing is dead fish or aquatic life and the person is reckless in relation to that circumstance; and
- (c) the person is not authorised by a licence to process for sale or sell the thing.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (6) A person commits an offence if:
- (a) the person intentionally exhibits a thing for profit; and
 - (b) the thing is fish or aquatic life and the person is reckless in relation to that circumstance; and
 - (c) the person is not authorised by a licence to exhibit the fish or aquatic life for profit.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (7) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct is prescribed by regulation or a management plan as being able to be done only under a licence and the person is reckless in relation to that circumstance; and
 - (c) the person is not authorised by a licence to engage in the conduct.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

- (8) Strict liability applies to subsections (2)(b), (3)(b), (4)(c), (5)(c), (6)(c) and (7)(c).
- (9) This section does not apply to a person who does a thing of a kind prescribed by a regulation or management plan for this subsection.

11 Requirement for permit

- (1) A permit may authorise a person to do one or more of the following things:
- (a) bring into or release in, or cause to be brought into or released in, the Territory live fish or aquatic life;
 - (b) possess or sell noxious species;
 - (c) cause or permit a shock, sound or other vibration, whether by percussion, the use of an explosive or otherwise;
 - (d) use an electric fishing device;
 - (e) introduce a dangerous substance into waters of the Territory;

(f) any other thing prescribed by regulation or a management plan as being able to be done only under a permit.

(2) A person commits an offence if:

- (a) the person intentionally engages in conduct; and
- (b) the conduct results in live fish or aquatic life being brought into or released in the Territory and the person is reckless in relation to the result; and
- (c) the person is not authorised by a permit to bring into or release in, or cause to be brought into or released in, the Territory the fish or aquatic life.

Maximum penalty: 500 penalty units or imprisonment for 2 years.

(3) A person commits an offence if:

- (a) the person intentionally possesses or sells a thing; and
- (b) the thing is a noxious species and the person is reckless in relation to that circumstance; and
- (c) the person is not authorised by a permit to possess or sell the thing.

Maximum penalty: 500 penalty units or imprisonment for 2 years.

(4) A person commits an offence if:

- (a) the person intentionally causes or permits a shock, sound or other vibration, whether by percussion, the use of an explosive or otherwise; and
- (b) a result of the shock, sound or vibration is, or may be, that fish or aquatic life is stunned, injured, killed or detrimentally affected and the person is reckless in relation to the result; and
- (c) the person is not authorised by a permit to cause or permit the shock, sound or vibration.

Maximum penalty: 500 penalty units or imprisonment for 2 years.

(5) A person commits an offence if the person:

- (a) intentionally uses an electric fishing device; and

(b) is not authorised by a permit to do so.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

(6) A person commits an offence if:

(a) the person intentionally introduces directly or indirectly a substance into waters of the Territory; and

(b) the substance is a dangerous substance and the person is reckless as to that circumstance; and

(c) a result of the conduct mentioned in paragraph (a) is, or may be, that:

(i) fish or aquatic life are stunned, injured, killed or detrimentally affected; or

(ii) the habitats, food or spawning grounds of fish or aquatic life are detrimentally affected; and

(d) the person is reckless in relation to the result; and

(e) the person is not authorised by a permit to introduce the substance into waters of the Territory.

Maximum penalty: 500 penalty units or imprisonment for 2 years.

Note for subsection (6)

Section 37 provides for an additional penalty for a continuing offence against this subsection.

(7) A person commits an offence if:

(a) the person intentionally engages in conduct; and

(b) the conduct is prescribed by regulation or a management plan as being able to be done only under a permit and the person is reckless as to that circumstance; and

(c) the person is not authorised by a permit to engage in the conduct.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

(8) Strict liability applies to subsections (2)(c), (3)(c), (4)(c), (5)(b), (6)(e) and (7)(c).

(9) In this section:

dangerous substance means:

- (a) a substance that is poisonous, toxic, narcotic or noxious; or
- (b) any other substance that, if introduced into waters of the Territory, may have a result mentioned in subsection (6)(c).

introduce includes cast, place, discharge or allow to fall, flow or percolate or be carried by wind, tide or current.

substance includes heavy metal and solid debris.

Division 2 Licences and permits

12 Licence allocation for new fishery

The Director must determine an open and public process for:

- (a) the allocation of licences for a new fishery; and
- (b) if an existing fishery is expanded – the allocation of additional licences and the review of the conditions of existing licences, for the fishery.

13 Applying for and granting licence or permit

- (1) A person may apply to the Director for a licence or permit.
- (2) After considering the application, the Director may grant a licence or permit to the applicant if satisfied that:
 - (a) the sustainability of the fisheries would not be jeopardised by the grant; and
 - (b) any requirements or matters prescribed by regulation as being relevant to an application for the type of licence or permit to which the application relates have been satisfied; and
 - (c) it is otherwise appropriate to do so, taking into consideration any Ministerial guidelines and any other matters the Director considers relevant.
- (3) If the Director is not satisfied as mentioned in subsection (2), the Director must refuse to grant the licence or permit.

14 Conditions of licence or permit

- (1) A licence or permit may be granted subject to conditions imposed by the Director relating to any of the following:
 - (a) areas;
 - (b) species;
 - (c) quantities;
 - (d) methods;
 - (e) the use or non-use of vessels and the specific vessel or types of vessels that may be used;
 - (f) types and amounts of fishing gear;
 - (g) harvesting or handling;
 - (h) specific ports or places where fish or aquatic life may be landed;
 - (i) periods of time;
 - (j) fishing monitoring and vessel monitoring;
 - (k) any other matter the Director considers appropriate.
- (2) However, the conditions to which a licence is subject must be substantially the same for all licences for any management area or Joint Authority fishery or in respect of the same class or species of fish or aquatic life unless the Director is satisfied, on specified grounds, that different conditions are reasonable.
- (3) A condition imposed under subsection (1) must be stated on the licence or permit.
- (4) A licence or permit is also subject to any conditions prescribed by regulation.
- (5) The Director may from time to time, by written notice to a licensee, vary or revoke the conditions of the licence or permit or impose new conditions.
- (6) The Director may require a licensee to return the licence or permit and, if so, the Director must issue a substitute licence or permit containing the conditions as varied or imposed.

- (7) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct results in a contravention of a condition of a licence or permit.

Maximum penalty: 200 penalty units.

- (8) Strict liability applies to subsection (7)(b).

15 Term of licence or permit

- (1) A licence may be granted for a period of not more than 10 years.
- (2) However, a licence relating to aquaculture may be granted for the period the Director thinks fit, including a period related to the term of a lease.
- (3) A permit may be granted for a period of not more than 5 years.
- (4) The fee payable in respect of a licence or permit granted for more than 1 year may be paid in annual instalments, each instalment being paid before each anniversary of the date it was granted.

16 Expiry and renewals

- (1) Subject to this Act, the Regulations and any relevant management plan, a licence or permit expires:
 - (a) at the end of the period for which it was granted; or
 - (b) if an annual instalment of the licence or permit fee is not paid, at the end of the last year in respect of which instalments have been paid.
- (2) A person may apply to the Director for renewal of a licence or permit before the expiry of the licence or permit or, subject to subsection (3), after the expiry.
- (3) The Director may receive and process an application for the renewal of a licence or permit at any time within 6 months after the expiry of the licence or permit.
- (4) If subsection (3) applies, the licence or permit is taken not to have expired until the expiration of the 6 month period or until a decision is made on the renewal application, whichever is sooner:
 - (a) for the following:
 - (i) receiving and processing the renewal application;

- (ii) preventing the applicant from committing an offence by being in possession of any proscribed fishing gear without a licence or permit;
 - (iii) the calculation of any fees payable; but
 - (b) not for operating the licence or permit.
- (5) The Director must renew the licence or permit if satisfied that:
 - (a) the applicant has satisfied any requirements or matters prescribed by regulation as being relevant to an application for the type of licence or permit being renewed; and
 - (b) it is otherwise appropriate to do so, taking into consideration any Ministerial guidelines and any other matter the Director considers relevant; and
 - (c) the licence or permit is not suspended.
- (6) If the Director is not satisfied as mentioned in subsection (5), the Director must refuse to renew the licence or permit.

16A Transfer of licence

- (1) Subject to the Regulations, a relevant management plan or a condition of a licence, a licensee may, with the approval of the Director, transfer the licence to another person.
- (2) A licensee may apply to the Director for approval to transfer the licence.
- (3) The Director may approve the transfer of the licence if satisfied that:
 - (a) the sustainability of the fisheries would not be jeopardised by the transfer; and
 - (b) it is otherwise appropriate to do so, taking into consideration any Ministerial guidelines and any other matter the Director considers relevant.
- (4) If the Director is not satisfied as mentioned in subsection (3), the Director must refuse to approve the transfer.
- (5) A transfer under this section may be permanent or for a fixed period.
- (6) On the transfer of a licence, the person from whom it is transferred ceases to be the licensee and the person to whom it is transferred becomes the licensee for this Act.

- (7) If a transfer is for a fixed period, then at the expiry of that period the person to whom the licence was transferred ceases to be the licensee and the person from whom it was transferred becomes the licensee for this Act.

16B Restriction on licensee performing fishing operations

- (1) Despite section 10 or 11, a licence or permit does not authorise the licensee to perform personally any of the fishing operations authorised by the licence or permit unless:
- (a) the licensee is an approved operator; or
 - (b) the licensee has the approval of the Director; or
 - (c) the licence or permit is of a class prescribed by regulation for this paragraph.
- (2) The Director may give approval under subsection (1)(b):
- (a) subject to any conditions specified by the Director; and
 - (b) for the period specified by the Director; and
 - (c) in any manner the Director considers appropriate.
- (3) The Director may revoke an approval under subsection (1)(b) at any time by giving written notice to the licensee.

16C Licence not personal property

For section 8(1)(k) of the *Personal Property Securities Act 2009* (Cth), a licence is not personal property for that Act.

Note for section 16C

A law of the Commonwealth, a State or a Territory may declare a right, licence or authority granted by or under that law not to be personal property for the Personal Property Securities Act 2009 (Cth).

17 Special permits

- (1) A person may apply to the Director for a special permit to do one or more of the following things for a purpose mentioned in subsection (2):
- (a) take fish or aquatic life:
 - (i) of all species or a species specified in the permit; or

- (ii) from any waters (including waters where fishing may for the time being be prohibited or restricted) specified in the permit; or
 - (iii) during a time specified in the permit; or
 - (iv) using such fishing gear as may be specified in the permit (whether or not the use of the fishing gear is otherwise prohibited or restricted);
 - (b) possess fishing gear that the person is otherwise not permitted to possess by or under this Act.
- (2) For subsection (1), the purposes are:
- (a) education, research or the carrying out of trials and experiments with fishing vessels or fishing gear or any other apparatus or technique that is capable of being used in connection with the taking of fish or aquatic life; or
 - (b) sport or recreation in the case of a disabled person who, in the opinion of the Director, would otherwise be unable, by reason of the person's disability, to fish by the methods permitted by this Act; or
 - (c) any other purpose approved by the Minister.
- (3) After considering the application, the Director may grant a special permit subject to any conditions the Director may, from time to time, impose.
- (4) All fish or aquatic life taken under a special permit must be disposed of as the Director directs, or as may be specified in the permit.
- (5) A special permit granted for a purpose mentioned in subsection (2)(a) may specify that fish taken under it may be sold.
- (6) The Director may at any time revoke a special permit by giving written notice to the holder.
- (7) A person does not commit an offence against this Act if the person does a thing in accordance with a special permit.

Division 3 Approved operators and persons in charge

17A Approved operators

- (1) An individual may apply to the Director to be an approved operator.

- (2) After considering the application, the Director, if satisfied the applicant is a fit and proper person, may approve the applicant to be an approved operator for a period of not more than 5 years.
- (3) If the Director is not satisfied as mentioned in subsection (2), the Director must refuse to approve the applicant.
- (4) To avoid doubt, a licensee who is an individual may:
 - (a) apply to be an approved operator; and
 - (b) if approved, may be appointed under section 17E to be the person in charge of fishing operations under the licence or permit.

17B Fit and proper person test

An individual is a ***fit and proper person*** if the individual:

- (a) is an adult; and
- (b) does not hold a licence or permit, or a licence or other authority relating to fishing under an Act of the Commonwealth, a State or another Territory, that is currently suspended; and
- (c) has not been found guilty of an offence against this Act, or any other Act that the Director considers relevant, in the previous 5 years; and
- (d) has otherwise complied with this Act; and
- (e) is otherwise a fit and proper person to be an approved operator taking into account any matters specified in the Ministerial guidelines.

17C Identity card

- (1) The Director must give an approved operator an identity card stating the person's name and that the person is an approved operator.
- (2) The identity card must:
 - (a) show a recent photograph of the approved operator; and
 - (b) show the card's date of issue and expiry; and
 - (c) be signed by the operator.

- (3) A person who ceases to be an approved operator must return their identity card to the Director within 21 days after the cessation.

Maximum penalty: 20 penalty units.

- (4) An offence against subsection (3) is an offence of strict liability.

17D Revocation of approval

The Director may revoke a person's approval to be an approved operator if the Director considers that the person is no longer a fit and proper person.

17E Appointment of approved operator to be person in charge of fishing operations

- (1) Subject to subsection (2), a licensee must appoint an approved operator to be the person in charge of fishing operations under the licence or permit.

- (2) A licensee to whom section 16B(1)(b) or (c) applies is not required to appoint an approved operator to be the person in charge of fishing operations under the licence or permit.

- (3) A licensee may cancel or vary an appointment of an approved operator under subsection (1) at any time.

- (4) Within 24 hours after appointing an approved operator or cancelling or varying an appointment, the licensee must give the Director notice in the approved form setting out:

(a) for an appointment:

- (i) the approved operator's full name; and
- (ii) the start and end date of the period for which the operator is appointed; and
- (iii) if the operator is appointed to be the person in charge of part of fishing operations only, the part of fishing operations in relation to which the operator is appointed; and

(b) for a cancellation or variation, details of the cancellation or variation.

- (5) A licensee must not contravene subsection (4).

Maximum penalty: 100 penalty units.

- (6) An offence against subsection (5) is an offence of strict liability.

- (7) An appointment under this section may be in relation to all of the fishing operations authorised by the licence or permit or a specified part of those fishing operations.

17F Production of identity card

- (1) A Fisheries Officer may require a person in charge of fishing operations under a licence or permit to produce for inspection a current identity card issued to the person under section 17C as an approved operator.
- (2) A person commits an offence if the person:
- (a) is in charge of fishing operations under a licence or permit; and
 - (b) fails to comply with a requirement under subsection (1) immediately after the requirement is made.

Maximum penalty: 50 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

17G Offence if person in charge not appointed

- (1) A licensee commits an offence if:
- (a) the licensee is required under section 17E to appoint a person in charge of fishing operations under the licence or permit; and
 - (b) a person engages in fishing operations under the licence or permit and the licensee is reckless in relation to that circumstance; and
 - (c) at the time the fishing operations are engaged in, there is no person in charge of those fishing operations appointed under section 17E.

Maximum penalty: 100 penalty units.

- (2) A person commits an offence if:
- (a) a licensee is required under section 17E to appoint a person in charge of fishing operations under the licence or permit; and
 - (b) the person is in charge of fishing operations under the licence or permit; and

- (c) at the time the person is in charge of fishing operations, the person is not appointed under section 17E to be the person in charge of those fishing operations and the person is reckless in relation to that circumstance.

Maximum penalty: 100 penalty units.

- (3) Strict liability applies to subsections (1)(a) and (c) and (2)(a) and (b).

17H Liability of person in charge for offences by others

- (1) A person in charge of fishing operations under a licence or permit commits an offence if:

- (a) during the conduct of fishing operations under the licence or permit, a person (the **primary offender**) commits an offence against this Act (**relevant offence**) and the person in charge is reckless in relation to that circumstance; and
- (b) the person in charge failed to take reasonable steps to prevent the commission of the relevant offence.

Maximum penalty: The maximum penalty that may be imposed on an individual for the relevant offence.

- (2) Strict liability applies to subsection (1)(b).
- (3) This section does not affect the liability of the primary offender for the relevant offence.
- (4) This section applies whether or not the primary offender is prosecuted for, or found guilty of, the relevant offence.
- (5) This section does not apply if the primary offender would have a defence to a prosecution for the relevant offence.
- (6) A person is not liable to imprisonment if found guilty of an offence because of subsection (1) if the person would not have been found guilty of the offence if subsection (1) had not been enacted.
- (7) In determining whether a person in charge failed to take reasonable steps as mentioned in subsection (1)(b), regard must be had to any matters set out in the Ministerial Guidelines.

17J Liability of licensee for offences by approved operator and others

- (1) A licensee commits an offence if:
- (a) an approved operator, or another person engaged in fishing operations under the licence or permit, commits an offence against this Act (the **relevant offence**) and the licensee is reckless in relation to that circumstance; and
 - (b) the licensee failed to take reasonable steps to prevent the commission of the relevant offence.

Maximum penalty: The maximum penalty that may be imposed for the relevant offence.

- (2) Strict liability applies to subsection (1)(b).
- (3) This section does not affect the liability of the approved operator or other person for the relevant offence.
- (4) This section applies whether or not the approved operator or other person is prosecuted for, or found guilty of, the relevant offence.
- (5) This section does not apply if the approved operator or other person would have a defence to a prosecution for the relevant offence.
- (6) A licensee is not liable to imprisonment if found guilty of an offence because of subsection (1) if the licensee would not have been found guilty of the offence if subsection (1) had not been enacted.
- (7) In determining whether a licensee failed to take reasonable steps as mentioned in subsection (1)(b), regard must be had to any matters set out in the Ministerial Guidelines.

Division 4 Registration of vessels

17K Requirement for registration of fishing vessels

- (1) Subject to this Act, a person commits an offence if:
- (a) the person intentionally uses a vessel, other than a foreign boat, for any purpose in relation to which a licence or permit is required under this Act; and

- (b) the vessel is not registered and the person is reckless in relation to that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Subject to this Act, a person commits an offence if:

- (a) the person intentionally uses a vessel for any purpose in relation to which a licence or permit is required under this Act; and

- (b) the vessel is not registered and the person is reckless in relation to that circumstance; and

- (c) the vessel is a foreign boat.

Maximum penalty: 500 penalty units or imprisonment for 2 years.

- (3) Strict liability applies to subsection (2)(c).

- (4) The Director may, by *Gazette* notice, direct that subsection (1) or (2) does not apply to a vessel used for the purposes of a licence or permit of a type specified in the notice.

- (5) A registered vessel is taken not to be registered during any period it, or a tender vessel that is not required under section 19(2) to be registered, is not marked in the manner prescribed by regulation.

- (6) A registered vessel marked in the manner prescribed by regulation is exempt from any other requirement of a law of the Territory to mark the vessel.

18 Registration of fishing vessels

- (1) The owner of a vessel may apply to the Director to have the vessel registered.

- (2) After considering the application, the Director may register the vessel for a period of not more than 10 years if satisfied that:

- (a) the sustainability of the fisheries would not be jeopardised by the registration; and

- (b) any requirements or matters prescribed by regulation as being relevant to an application for registration have been satisfied; and

- (c) it is otherwise appropriate to do so, taking into consideration any Ministerial Guidelines and any matter the Director considers relevant.
- (3) If the Director is not satisfied as mentioned in subsection (2), the Director must refuse to register the vessel.

19 Tender vessels

- (1) A tender vessel that is used, or intended to be used, for any purpose in relation to which a licence or permit is required, either separately or in conjunction with the vessel to which it is a tender vessel, is a separate vessel for the purposes of registration.
- (2) However, a tender vessel is taken to form part of the vessel to which it is a tender vessel if:
 - (a) the tender vessel is used, or intended to be used, solely for purposes other than the taking, except by trolling, of fish or aquatic life; or
 - (b) for a vessel that is used for net fishing:
 - (i) the tender vessel is used, or intended to be used, solely for transporting, setting, clearing and lifting nets that form part of the gear of the vessel; and
 - (ii) the vessel remains, or will remain, close to where the tender vessel is being used in that manner.
- (3) The Ministerial Guidelines may specify circumstances (including distances) in which a vessel is close to a tender vessel for subsection (2)(b)(ii).

Division 5 Cancellation or suspension of licence, permit or registration

20 Cancellation or suspension by court order

- (1) This section applies if a court finds a licensee guilty of an offence relating to the licence or permit or an application relating to the licence or permit.
- (2) In addition to imposing a penalty or making an order for forfeiture, the court may do any of the following:
 - (a) for a licence – order the Director to:
 - (i) cancel the licence or any quota allocated to it; or

- (ii) suspend the licence or quota for a period of up to 1 year;
- (b) for a permit – order the Director to:
 - (i) cancel the permit; or
 - (ii) suspend the permit for a period of up to 1 year.

20A Cancellation or suspension by Director

- (1) If a licensee is charged with an offence relating to the licence or permit, or to an application relating to the licence or permit, the Director may suspend the licence or permit, or processing the application, for a period or until the determination or withdrawal of the charge.
- (2) If a licensee is the holder of a licence or other authority relating to fishing under an Act of the Commonwealth, a State, or another Territory and that licence or other authority is cancelled or suspended, the Director may cancel or suspend:
 - (a) a licence or permit granted to the licensee under this Act; or
 - (b) any quota allocated to a licence mentioned in paragraph (a).

20B Cancellation of vessel registration if licence or permit cancelled

- (1) If a licence or permit is cancelled, the registration of each vessel used under the licence or permit is also cancelled.
- (2) However, the Director must re-register each vessel if the cancellation of the licence or permit is revoked.
- (3) In addition, subsection (1) does not prevent the vessel being registered in relation to a licence or permit held by a person other than:
 - (a) the holder of the cancelled licence or permit; or
 - (b) a partnership or company in which the holder of the cancelled licence or permit is a partner or has an interest.

20C Surrender of licence or permit

A licensee may surrender the licence or permit by:

- (a) giving the Director written notice in the approved form; and
- (b) returning the licence or permit to the Director.

Division 6 Administrative provisions**20D Ministerial guidelines**

- (1) The Minister may make guidelines for this Part.
- (2) The guidelines may apply, adopt or incorporate (with or without changes) a matter contained in another document or instrument as in force or existing at a particular time or from time to time.
- (3) The guidelines must be published in the *Gazette* as soon as practicable after they are made.

20E Form of application

- (1) This section applies in relation to an application made under this Part.
- (2) The application must be made in the approved form and be accompanied by the prescribed fee.
- (3) The Director may require the applicant to give the Director any additional information or material that the Director considers necessary to make a proper assessment of the application.

20F Notice of decision

- (1) As soon as practicable after making a decision under this Part, the Director must give written notice of the decision to the applicant or person to whom the decision relates.
- (2) The notice must state the following:
 - (a) the decision and the reasons for it;
 - (b) any right the person to whom the notice is to be given has to apply for a review of, or to appeal, the decision.

20G Grant of licence may be noted on existing licence

If an applicant for a licence already holds a licence, any further grant of a licence during the term of that licence may be made by noting the grant on the original licence.

Part 3 Fishery management plans

Note for Part 3

Part 6, Division 2, Subdivision 2 provides for the making of a management plan by a Joint Authority.

21 Purposes of Part

- (1) The purpose of this Part is to conserve, enhance, protect, utilise, and manage the fish and aquatic life resources of the Territory to:
- (a) promote, develop and maintain commercial and amateur fishing; and
 - (b) provide for optimum yields from a fishery and maintain the quality of the yield; and
 - (c) ensure that the fisheries of the Territory are not endangered or overexploited; and
 - (ca) encourage tourist and scientific interest in fish and aquatic life; and
 - (d) ensure that the habitats of fish or aquatic life and the general environment are not detrimentally affected.
- (2) For the avoidance of doubt, **manage** in subsection (1) includes, and must be taken always to have included, a total prohibition against the taking of fish or aquatic life in all or part of a management area or in a fishery.

22 Management areas and managed fisheries

The Minister may, by *Gazette* notice, declare:

- (a) an area, place, or any waters to be a fishery management area; or
- (b) a fishery to be a managed fishery.

23 Director to prepare proposed management plans

- (1) This section applies if a management area or managed fishery that is not a Joint Authority fishery is declared under section 22.

Note for subsection (1)

For a management area or managed fishery that is a Joint Authority fishery, see section 70A.

- (2) The Director must, as soon as practicable after the declaration, prepare a proposed plan for the whole or part of the management area or managed fishery for the purposes specified in section 21 and having regard to the need for coordination between management areas or between managed fisheries or among any of them.

24 Fisheries management advisory committees

- (1) For the purposes of assisting the Director in preparing proposed plans and giving advice in relation to management plans, the Minister may, as the Minister thinks fit, from time to time establish and, after having due regard to the users of an area or fishery, appoint members to an advisory committee for each management area or managed fishery.
- (2) Each such committee must be chaired by a person nominated by the Minister and may include members representing commercial, processing, wholesaling, retailing, recreational, consumer, or other interests in the area relating to fishing, fish, or aquatic life.

25 Procedure in relation to management plans

- (1) A proposed plan being prepared under section 23 must contain a description of the management area or managed fishery and make provision in relation to the managed area or managed fishery with respect to any of the matters specified in Schedule 2 that the Director considers applicable.
- (2) A proposed plan prepared under section 23 must be submitted to the Minister and, if the Minister agrees in principle with it, the Minister may give notice of the proposed plan, and the place where a copy of it may be inspected, in:
 - (a) the *Gazette*; or
 - (b) a newspaper circulating throughout the Territory.
- (3) There may be included with each proposed plan prepared under section 23, but so as not to form part of the plan:
 - (a) an outline of the history and status of the fishery; and
 - (b) the policy and objectives of the plan; and
 - (c) any other information relating to the fishery that the Director thinks fit.
- (4) Not less than 1 month after the date of notification under subsection (2), and after considering any submissions made in respect of the proposed plan, the Minister may:
 - (a) make any amendments to the plan that the Minister thinks fit; and
 - (b) approve the plan, after advising the relevant advisory committee of any amendments and the reasons for them.

25A Amendments to management plans

- (1) Where the Director is of the opinion that an amendment to a management plan made under this Part is required, the Director may submit the proposed amendment to the Minister and, if the Minister agrees in principle with the proposed amendment, the Minister may:
 - (a) where the proposed amendment is accompanied by a statement signed by the Director stating that the proposed amendment is, in the Director's opinion, a minor amendment – approve the amendment with such amendment to it as the Minister thinks fit; or
 - (b) where the proposed amendment is not accompanied by a statement mentioned in paragraph (a) – give notice of the proposed amendment to the plan, and the place where a copy of it may be inspected, in:
 - (i) the *Gazette*; or
 - (ii) a newspaper circulating throughout the Territory.
- (2) There may be included with a proposed amendment under subsection (1) such explanatory notes as the Director thinks fit, but such notes do not form part of the proposed amendment or an amendment to the plan.
- (3) Not less than 1 month after the date of notification under subsection (1)(b), and after considering any submissions made in respect of the proposed amendment, the Minister may:
 - (a) make any amendments to the proposed amendment that the Minister thinks fit; and
 - (b) approve the amendment, after advising the relevant advisory committee of any amendments and the reasons for them.

26 Minister may make emergency amendments to management plans

- (1) This section applies if, at any time, an emergency occurs that, in the opinion of the Minister after consultation with the appropriate advisory committee (if any), endangers or may endanger stocks of fish or aquatic life, or any species or class of fish or aquatic life, in any management area or managed fishery in respect of which there is a management plan made under this Part.

- (2) Despite any provision to the contrary in this Act or the management plan, the Minister may, by *Gazette* notice, amend the plan to the extent required by the emergency.
- (3) Subject to this section, an amendment made under subsection (2):
 - (a) takes effect on the date the notice is published in the *Gazette* or any later date specified in the notice; and
 - (b) remains in effect for the period not exceeding 90 days specified in the notice.
- (4) A period specified under subsection (3) may be extended for one further period not exceeding 90 days by a subsequent *Gazette* notice given before the expiry of the original period.
- (5) The particulars of a *Gazette* notice published under this section must be advertised twice in at least one newspaper circulating generally in the area concerned.
- (6) An amendment made under subsection (2):
 - (a) may be revoked by the Minister at any time; and
 - (b) is taken to be revoked on the expiry of the period as specified in the *Gazette* notice published under subsection (2) or a subsequent *Gazette* notice published under subsection (4).

27 Management plans enforceable as regulations

- (1) Every provision of a management plan has the force and effect of a regulation in force under this Act.
- (2) In the event of an inconsistency between a provision of a management plan and the Regulations or a notice given under section 28, the provision of the plan prevails to the extent of the inconsistency.
- (3) Where a word or phrase used in a management plan or a notice under section 28 is not defined by this Act or the plan but is defined by the Regulations, it has the meaning it has under the Regulations in relation to the management plan or the notice, as the case may be.

Part 4 Control and enforcement

Division 1 Powers of Minister

28 General power of Minister

(1) Despite anything in this Act or the Regulations, the Minister may, in relation to any matter or thing not dealt with in a management plan, by *Gazette* notice:

(a) declare a period to be a period during which the taking of fish or aquatic life or fish or aquatic life of a particular species, sex, size, age, or other characteristic specified in the notice, is prohibited or allowed; or

(ab) declare that the taking of fish or aquatic life or fish or aquatic life of a specified species, sex, size, age or other characteristic is prohibited or allowed; or

(b) declare an item of fishing gear to be an item to be used or not to be used in a fishery specified in the notice; or

(c) declare restrictions relating to:

(i) the size; or

(ii) the design; or

(iii) the construction materials; or

(iv) the quantity; or

(v) such other specifications as the Minister thinks fit,

of fishing gear to be used in or in connection with the taking of fish or aquatic life, or fish or aquatic life of a particular species, specified in the notice; or

(d) vary the prescribed closure lines delineating the mouth of a river within the meaning of the Regulations; or

(e) vary the boundaries of any area prescribed for the taking of fish or aquatic life or as waters from which fish may not be taken either generally or in a particular manner, however those areas are described, in relation to a fishery; or

(f) establish a licence buy-back scheme for a prescribed fishery.

- (2) A declaration under subsection (1)(a), (b) or (c) may be expressed to apply generally or in relation to a particular area or fishery specified in the notice.
- (3) On the publishing of a *Gazette* notice varying a closure line referred to in subsection (1)(d) or the boundaries of an area referred to in subsection (1)(e), that line or those boundaries as so varied are the line and boundaries in relation to the river or area specified in the notice and this Act and the Regulations apply accordingly.

29 Minister may impose emergency restrictions

- (1) If at any time an emergency occurs that, in the opinion of the Minister, endangers or may endanger stocks of fish or aquatic life, or any species or class of fish or aquatic life, in any fishery or part of a fishery where there is no management plan, the Minister may, by *Gazette* notice, after consultation with the appropriate advisory committee (if any) and despite anything to the contrary in this Act, or in any licence or permit:
 - (a) halt all or any fishing in that fishery or any specified part of the fishery; or
 - (b) restrict the number of vessels used in relation to fishing in the fishery; or
 - (c) restrict the amount of fish or aquatic life which may be taken from that fishery; or
 - (d) restrict the quantity or nature of fishing gear that may be used in the fishery.
- (2) A notice under this section must contain brief reasons for the restrictions and be given for a period of not more than 28 days but may from time to time be amended, revoked, or renewed by the Minister by a subsequent notice.
- (3) The particulars of a notice under this section must be advertised twice in at least one newspaper circulating generally in the area concerned.
- (4) A notice under this section takes effect on the date the particulars of the notice are advertised under subsection (3) for the second time or any later date specified in the notice.

Division 2 Powers of Fisheries Officers

30 Powers of entry and examination

- (1) This section applies if:
- (a) a Fisheries Officer believes on reasonable grounds that a person is or has been engaged in:
 - (i) taking, processing for sale, selling or buying fish or aquatic life; or
 - (ii) aquaculture; and
 - (b) the Fisheries Officer believes it is necessary to exercise a power under subsection (2):
 - (i) to assist in the conservation or management of a fishery; or
 - (ii) for the enforcement of this Act.
- (2) Subject to section 32, the Fisheries Officer may at all reasonable times without warrant:
- (a) do any of the following:
 - (i) stop, enter and examine a vehicle or vessel;
 - (ii) enter and examine premises or a place;
 - (iii) detain and examine a record, document, article, fishing gear, container, apparatus or device;
 - (iv) open and examine the contents of a container; and
 - (b) require a person to unlock a vehicle, vessel, premises, place or container, if the person:
 - (i) is the owner of, is in possession of, or is the person who locked the item or place required to be unlocked; and
 - (ii) is in the immediate vicinity; and
 - (c) take samples and conduct tests; and
 - (d) require:
 - (i) a person to answer a question; and

- (ii) the master of a vessel, or any other person, to give an explanation or information about the vessel or a vehicle, place, fish, aquatic life, fishing method, fishing gear, container, apparatus, record, document, article, device or other thing; and
- (e) require a person mentioned in paragraph (d):
 - (i) to produce within 7 days a licence, permit, special permit or other authority or certificate issued in relation to the vessel, vehicle, person or thing; and
 - (ii) to produce immediately evidence of the person's identity.
- (3) A person commits an offence if:
 - (a) the person intentionally engages in conduct; and
 - (b) the conduct results in a contravention of a requirement made under subsection (2)(b), (d) or (e) and the person is reckless in relation to the result.

Maximum penalty: 100 penalty units.

- (4) A person is not excused from answering a question or giving an explanation or information if required to do so under subsection (2)(d), on the ground that the answer, explanation or information might tend to incriminate the person or make the person liable to a penalty.
- (5) However, the answer, explanation or information is not admissible in evidence against the person in a civil or criminal proceeding except a proceeding for an offence against section 35A in relation to the answer, explanation or information.

31 Search

- (1) Subject to section 32, where a Fisheries Officer is satisfied that there are reasonable grounds for suspecting that an offence against this Act has been, is being, or is about to be committed and whether after an examination under section 30 or otherwise, the officer may, without warrant:
 - (a) enter, with such force as is reasonably necessary, at any time, any vehicle, vessel, premises or place and, for that purpose, stop and detain any vehicle or vessel; and

- (b) search the vehicle, vessel, premises, or place and stop and detain any person found in or on them or it and any person whom the officer reasonably believes to be about to enter or to have recently left the vehicle, vessel, premises, or place; and
 - (c) break open and search any container, whether a fixture or not, in or on the vehicle, vessel, premises, or place; and
 - (d) detain, remove, and secure any vehicle, vessel, or fishing gear, or any plant, motor, appliance, fitting, or equipment (including fishing monitoring equipment and vessel monitoring systems) in, on, or attached to any vehicle, vessel, premises, or place, or any fish or aquatic life or other thing that is found on any vehicle, vessel, premises, or place if the officer has reasonable grounds for believing that it is evidence of or otherwise relates to an offence that has been, is being, or is about to be committed against this Act; and
 - (e) require the master or other person in charge of a vehicle or vessel to cause it to stop or to bring it to a place in the Territory and to remain in control of it at that place until a Fisheries Officer permits the master or other person to depart from that place; and
 - (f) require a person to open a locked, barred or otherwise secured gate, door or container; and
 - (g) take such action as is reasonably necessary to prevent the commission of an offence against this Act.
- (2) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct results in a contravention of a requirement made under subsection (1)(e) or (f) and the person is reckless in relation to the result.

Maximum penalty: 100 penalty units.

32 General matters relating to powers of Fisheries Officers

- (1) The power conferred by sections 30 and 31 to enter any premises or place without a warrant does not include power to enter a room that is used solely for domestic purposes.

- (3) For the purpose of exercising a power of examination or search under section 30 or 31 a Fisheries Officer may:
- (a) require a person who is, or in the opinion of the Fisheries Officer appears to be, the master or other person in control of a vessel or vehicle to take an action, or to desist from an action, to facilitate the entering or boarding of the vessel or vehicle by the Fisheries Officer; or
 - (b) require a person who is, or in the opinion of the Fisheries Officer appears to be, in possession of fishing gear to remove the gear from the water so that the Fisheries Officer can inspect it.
- (4) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct results in a contravention of a requirement made under subsection (3) and the person is reckless in relation to the result.

Maximum penalty: 100 penalty units.

- (5) A Fisheries Officer lawfully exercising powers under section 30 or 31 may make or take copies of any relevant record or document, and for this purpose may take possession of and remove from the place where it is kept, for such period of time as is reasonable in the circumstances, any such record or document.
- (6) Every person exercising a power conferred by section 30 or 31 must produce evidence that the person is a Fisheries Officer to any person on or in the vehicle, vessel, premises, or place or claiming an interest in the things on or in or in respect of which the power is exercised, who questions the right of the Fisheries Officer to exercise that power.

Note for subsection (6)

Section 8(4) provides that the production of an identity card is sufficient authority for a Fisheries Officer to exercise powers.

- (8) A Fisheries Officer may, while exercising a power under this Act, be accompanied by any person, and may, if the officer reasonably believes that it is necessary in the circumstances, request any suitable person to assist the officer in exercising that power.
- (9) A person, while assisting a Fisheries Officer in response to a request for assistance under subsection (8), has and may exercise all such powers of a Fisheries Officer as are reasonably necessary for the purpose.

33 Powers of seizure

- (1) A Fisheries Officer may seize:
 - (a) any vessel, vehicle or other conveyance, fishing gear, implement, appliance, material, container, goods or equipment (including fishing monitoring equipment and vessel monitoring systems) that the Officer believes on reasonable grounds:
 - (i) is being or has been used, or is intended to be used, in the commission of an offence against this Act; or
 - (ii) may disclose evidence of an offence against this Act; or
 - (b) any fish or aquatic life that the Officer believes on reasonable grounds:
 - (i) is being or has been taken, killed, transported, bought or sold, or is found in the possession of any person, in contravention of this Act; or
 - (ii) is fish or aquatic life with which fish or aquatic life mentioned in subparagraph (i) has been intermixed.
- (2) A thing seized must be delivered into the custody of the Director or a person authorised by the Director for this subsection (an **authorised person**) unless it is released under subsection (3).
- (3) A thing seized may, on application, be released to the person from whom it was seized or, if that person is not the owner of the thing, to the owner, under any sureties and conditions, including the entering into of a bond or other financial security to secure the payment of money, that the Director specifies.
- (4) If, in the Director's opinion, a thing seized may rot, spoil, or otherwise perish, it may be sold or otherwise disposed of by the Director.
- (5) Subject to subsection (3), a thing seized and the proceeds from the sale of a thing under subsection (4), must be held in the custody of the Director or an authorised person until:
 - (a) a decision is made not to charge a person with an offence in relation to which the thing was seized; or
 - (b) if a person is charged, the completion of the proceeding in respect of the offence or any sooner time that the court determines.

- (6) A decision whether to charge a person with an offence in relation to which a thing was seized must be made no later than 30 days after the day on which the thing was seized.
- (7) Subsections (2) to (6) do not apply to a thing seized if a contravention notice is given in relation to the thing.

33A Release or forfeiture of things seized or proceeds of sale

- (1) Subject to subsection (2), a thing, or proceeds from the sale of a thing, held in the custody of the Director or an authorised person under section 33(5) must be released to the person from whom the thing was seized or, if that person is not the owner of the thing, to the owner:
 - (a) on a decision being made not to charge a person with an offence in relation to which the thing was seized; or
 - (b) on the acquittal of a person charged with an offence mentioned in paragraph (a).
- (2) If a thing is seized under section 33(1) other than from a person and, despite reasonable enquiry, it is not possible to establish the ownership of the thing within 30 days after the seizure, the thing is forfeit to the Territory at the end of that period and may be sold or otherwise disposed of by the Director.

Note for section 33A

See section 46 for the court's power to order forfeiture of things seized, or proceeds from the sale of things seized, on a finding of guilt for an offence.

33B Protection from liability

- (1) The Director and the Territory are not liable to any person for any spoilage or deterioration in the quality of any fish or aquatic life or, subject to reasonable care being taken, any deterioration in any other thing seized under section 33(1).
- (2) A Fisheries Officer who, at the time of seizure, returns to the water any fish or aquatic life seized under section 33(1) that the Officer believes to be alive, is not liable to the person from whom the fish or aquatic life was seized if:
 - (a) a decision is made not to charge a person with an offence in relation to which the fish or aquatic life was seized; or
 - (b) a person is acquitted of the charge.

- (3) Subsection (2) has effect subject to Part VIIA of the *Police Administration Act 1978* to the extent it relates to the civil liability of a Fisheries Officer who is a police officer.

33C Powers of Fisheries Officers in relation to permit offences

- (1) If the Director is satisfied that there are reasonable grounds for suspecting that a permit offence has been committed, a Fisheries Officer may:
- (a) search for and destroy any relevant fish or aquatic life or noxious species and for that purpose may take whatever action is, in the opinion of the Director, necessary or desirable; and
 - (b) seize an electric fishing device; and
 - (c) take whatever action is, in the opinion of the Director, necessary or desirable to limit the consequences of the offence or to ameliorate the damage caused by the offence.
- (2) Subsection (1) applies even if the action taken by a Fisheries Officer may constitute a trespass or may cause loss or damage to property.

Division 3 Records and returns

34 Records and returns

- (1) This section applies to a person who is:
- (a) the holder of a permit, licence, authority or approval granted under this Act; or
 - (b) the master of a vessel registered under this Act; or
 - (c) the holder of a licence or permit in relation to premises where fish or aquatic life are bred, received, bought, processed, stored, sold by wholesale or retail or are otherwise disposed of; or
 - (d) a person who transports or is otherwise in possession of fish or aquatic life that is intended for sale by wholesale or retail under a licence or permit.

- (2) The Director may do any of the following to assist the management and conservation of any fish or aquatic life or the development of the fishing industry:
- (a) by written notice to a person:
 - (i) require the person to keep accounts, records, returns and information (including records of returns and information to be supplied or that have been supplied under subparagraph (ii));
 - (ii) require the person to supply to the Director accounts, records, returns and information within the time specified in the notice;
 - (iii) specify the manner and form in which the person is to keep the accounts, records, returns and information;
 - (b) by *Gazette* notice:
 - (i) require a person to keep accounts, records, returns and information (including records of returns and information to be supplied or that have been supplied under subparagraph (ii));
 - (ii) require a person to supply to the Director accounts, records, returns and information within the time specified in the notice;
 - (iii) specify the manner and form in which a person is to keep the accounts, records, returns and information.
- (3) A return, record, account or information supplied under subsection (2) is not to be:
- (a) disclosed in proceedings other than a prosecution against this Act; or
 - (b) released to a person, except if the person releasing it is authorised to do so under this Act or by the Director.
- (4) A return, record, account or information supplied under subsection (2), is not, except with the written permission of the person making the return, record or account, or supplying the information, to be published in any form unless aggregated so that specific identities of persons or businesses are not revealed.

34A Movement of fish without proper documents prohibited

- (1) A relevant person commits an offence if the relevant person:
- (a) moves, from one place to another place, fish or aquatic life of a class prescribed for this section; and
 - (b) does not, at the time the fish or aquatic life are moved, have possession of a document in the approved form specifying:
 - (i) the species of fish or aquatic life being moved; and
 - (ii) the place where the fish or aquatic life was caught, taken or harvested.

Maximum penalty: 100 penalty units.

- (2) A relevant person commits an offence if the relevant person:
- (a) receives from another person fish or aquatic life of a class prescribed for this section; and
 - (b) does not, at the time the fish or aquatic life are received, receive from that other person a document in the approved form specifying:
 - (i) the species of fish or aquatic life being received; and
 - (ii) the place where the fish or aquatic life was caught, taken or harvested.

Maximum penalty: 100 penalty units.

- (3) An offence against subsection (1) or (2) is an offence of strict liability.
- (4) The Director may, by *Gazette* notice, prescribe a class of fish or aquatic life for this section.

Examples for subsection (4)

- 1 *Species of fish or aquatic life.*
- 2 *Number of fish or aquatic life.*
- 3 *Weight of fish or aquatic life.*
- 4 *Place where fish or aquatic life was caught, taken or harvested.*

- (5) In this section:

relevant person means a person to whom section 34 applies.

35 Offence not to keep or supply records

- (1) A person commits an offence if the person contravenes a requirement of the Director under section 34 to keep or supply an account, record, return or information.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the person has a reasonable excuse.

35A Misleading information

- (1) A person commits an offence if:

- (a) the person intentionally gives information to another person; and
- (b) the other person is an authorised officer; and
- (c) the information is misleading and the person has knowledge of that circumstance; and
- (d) the authorised officer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

- (2) A person commits an offence if:

- (a) the person intentionally gives a document to another person; and
- (b) the other person is an authorised officer; and
- (c) the document contains misleading information and the person has knowledge of that circumstance; and
- (d) the authorised officer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

- (3) Strict liability applies to subsections (1)(b) and (2)(b).

- (4) Subsection (2) does not apply if the person, when giving the document:
- (a) draws the misleading aspect of the document to the authorised officer's attention; and
 - (b) to the extent to which the person can reasonably do so – gives the authorised officer the information necessary to remedy the misleading aspect of the document.

- (5) In this section:

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

36 Unauthorised disclosure of confidential information

- (1) A person commits an offence if:
- (a) the person obtains information in the course of performing functions connected with the administration of this Act; and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in the disclosure of the information and the person is reckless in relation to the result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).

- (3) Subsection (1) does not apply if:

- (a) the person discloses the information:
 - (i) for the administration of this Act; or
 - (ii) with the consent of the person to whom the information relates; or
 - (iii) for legal proceedings arising out of the operation of this Act; or
 - (iv) in a statistical form that does not identify the person to whom the information relates; or

- (b) the information is otherwise available to the public.

Note for subsection (3)

In addition to the circumstances mentioned in subsection (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

Division 4 Offences

37 Continuing offence

- (1) This section applies if a court finds a person guilty of an offence against section 11(6).
- (2) The court may, in addition to any penalty imposed for the offence, impose a penalty not exceeding 50 penalty units for each day during which the offence continues after the day the offence was committed.

38 Regulatory offences

- (1) An offence against the Regulations or a management plan is a regulatory offence.
- (1A) An offence against this Act that would otherwise be an indictable offence, is a summary offence.
- (2) It is a defence to a prosecution for an offence referred to in subsection (1) if the defendant proves on the balance of probabilities that:
- (a) any contravention or failure to comply constituting the offence occurred in an emergency and was necessary to preserve life or prevent injury or to protect property in the defendant's possession; or
 - (b) the defendant did not intend to commit the offence, and that:
 - (i) in any case where it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done; or
 - (ii) in any case where it is alleged that anything prohibited was done, that the defendant took all reasonable steps to ensure that it was not done; or

40 Liability of owner or person in control of registered vessel for illegal use of vessel, fishing gear or equipment

- (1) The owner, or a person who is in control, of a registered vessel commits an offence if:
- (a) the owner or person in control permits another person to use the vessel or an item of fishing gear or other equipment on or used with the vessel; and
 - (b) the other person uses the vessel, gear or equipment in the commission of an offence against this Act and the owner or person in control is reckless in relation to that circumstance; and
 - (c) the owner or person in control failed to take reasonable steps to prevent the commission of the offence by the other person.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

- (2) Strict liability applies to subsection (1)(a) and (c).

40A Failure of licensee or vessel owner to notify change of address for service

- (1) A licensee or the owner of a registered vessel commits an offence if:
- (a) the address for service of the licensee or owner changes; and
 - (b) the licensee or owner fails to give the Director written notice of the new address within 28 days after the change.

Maximum penalty: 20 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

40B Unauthorised trafficking in or possession of fish of priority species

- (1) A person commits an offence if:
- (a) the person intentionally traffics in fish; and
 - (b) the fish is fish of a priority species; and
 - (c) the number of fish trafficked is equal to or greater than a commercial quantity of that species; and

- (d) the person is not authorised to traffic a commercial quantity of that fish under this Act and is reckless in relation to that circumstance.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

- (2) A person commits an offence if:

- (a) the person intentionally possesses or has control of fish; and
- (b) the fish is fish of a priority species; and
- (c) the number of fish possessed or controlled is equal to or greater than a commercial quantity of that species; and
- (d) the person is not authorised to possess or have control of a commercial quantity of that fish under this Act and is reckless in relation to that circumstance.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

- (3) Strict liability applies to subsections (1)(b) and (2)(b).

- (4) Absolute liability applies to subsections (1)(c) and (2)(c).

- (5) In this section:

commercial quantity means a quantity prescribed by regulation for this definition.

fish of a priority species means a species of fish prescribed by regulation for this definition.

traffic, in fish, includes the following:

- (a) sell fish;
- (b) take fish for sale;
- (c) receive fish;
- (d) process fish;
- (e) engage in any act preparatory to an act mentioned in paragraph (a), (b), (c) or (d).

41 Falsely identifying fish or aquatic life for sale

A person commits an offence if:

- (a) the person intentionally sells fish or aquatic life, or a product containing fish or aquatic life; and
- (b) the fish, aquatic life or product is labelled with the identity or origin of the fish or aquatic life and the person is reckless in relation to that circumstance; and
- (c) the identity or origin of the fish or aquatic life on the label is false and the person is reckless in relation to that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

42 Buying, selling or possessing fish or aquatic life taken illegally

(1) A person commits an offence if:

- (a) the person intentionally buys, sells or possesses fish or aquatic life; and
- (b) the fish or aquatic life was taken in contravention of this Act and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) For subsection (1), fish or aquatic life is taken to be sold if it forms part of a meal and either:

- (a) payment is made for the meal or any part of the meal; or
- (b) the meal is supplied to a person (whether in accordance with the terms of a contract of service or otherwise) who is employed by the person by whom the meal is supplied.

43 Offences relating to aquaculture

(1) A person commits an offence if:

- (a) the person intentionally takes fish or aquatic life; and
- (b) the area in which the fish or aquatic life is taken is a licensed area and the person is reckless in relation to that circumstance; and

- (5) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct results in damage to, or in, a licensed area and the person is reckless in relation to the result; and
 - (c) the person is not authorised to engage in the conduct by the holder of the aquaculture licence and is reckless in relation to that circumstance.

Maximum penalty: 100 penalty units.

- (6) If a court finds a person guilty of an offence against subsection (1), (2), (3), (4) or (5), it may award damages in respect of the offence.
- (7) In this section:

licensed area means land, premises or waters to which an aquaculture licence relates.

43A Time for commencing prosecution

A prosecution under this Act must be commenced within 2 years after the day on which the offence is alleged to have been committed.

44 Averments and evidence

- (1) In a prosecution for an offence against this Act or any other law of the Territory, an averment:
- (a) as to a matter specified in subsection (2);
 - (b) made by notice in writing and certified by the Director; and
 - (c) served on the defendant,
- shall, in the absence of proof to the contrary, be sufficient evidence of the matter averred.
- (2) An averment may be made under this section in relation to the following:
- (a) the latitude and longitude, or the UTM position, of a place;
 - (b) the distance of a place from another place;

- (c) that a person or thing was at a stated place, or within a stated area or at a stated latitude and longitude or a stated UTM position, at a stated time, or at the time of the taking of a stated action or the occurrence of a stated event;
 - (d) an entry in a register kept under section 9;
 - (e) that a place is within a management area, managed fishery, or an aquatic life reserve;
 - (f) that an act alleged to have been done was done within an area of waters which had been declared to be closed or restricted under this Act;
 - (g) that an area of water is water above or below the tidal limit; or
 - (h) the identity of fish or aquatic life or of a substance contained in a product made from or containing fish or aquatic life, or used in the processing of fish or aquatic life.
- (3) An averment shall not be evidence for the purposes of this section unless a copy of the averment has been served on the defendant or the defendant's agent or counsel not less than 7 days before the hearing at which the averment is to be tendered.
- (4) The court shall take judicial notice of the official signature of a person who holds or has held the office of Director and a certificate under subsection (1) purporting to be signed by the Director shall be prima facie evidence of that fact without proof of the signature of the person appearing to have signed it.
- (5) The court may, if the amendments can be made without hardship or injustice to the defendant, allow at the hearing of proceedings such amendments to be made to an averment under this section as appear to it to be desirable or to be necessary to enable the real question in dispute to be determined.
- (6) Evidence that fish or aquatic life (other than commercially processed fish or aquatic life) was under the control of a person:
- (a) in a vessel or in a vehicle that contained fishing gear; or
 - (b) in or in the vicinity of water or swamp,
- is evidence that the person took the fish or aquatic life.
- (7) Where evidence is given that a person had under the person's control:
- (a) in a vessel; or

(b) in or in the vicinity of water or swamp,

fishing gear that could not lawfully be used for fishing at that place at that time in a normal way in which the gear is commonly used and a Fisheries Officer satisfies the court that the officer reasonably suspected that the person used the gear at that place at that time for fishing, then the evidence is evidence that the person used the gear for fishing at that place at that time.

- (8) Evidence that fish or aquatic life was on display in a shop is evidence that the fish or aquatic life was offered for sale.
- (9) Evidence that a Global Positioning System (GPS) device gave a position in latitude and longitude, or as a UTM position, is evidence of that position.

45 Liability of directors

- (1) If a body corporate is found guilty of an offence against this Act, every director and every person concerned in the management of the body corporate is guilty of a like offence if it is proved that the act or omission that constituted the offence took place with the person's authority, permission, or consent, or that the person knew the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

45A Court may order payment for permit offences

- (1) If a court finds a person guilty of a permit offence, the court may order the person to pay to the Director, a person authorised by the Director or any other person, an amount that the court thinks fit in respect of:
- (a) action taken under section 33C(1); or
- (b) any other loss or damage.
- (2) An order under this section is in addition to the penalty imposed for the permit offence and any order for forfeiture under section 46.

45B Court may order payment of costs of storage of things seized

- (1) If a court finds a person guilty of an offence against this Act, the court may order the person to pay to the Director the reasonable costs of handling, securing, maintaining and storing anything seized under section 33(1) in relation to the offence.
- (2) An order under this section is in addition to the penalty imposed for the offence and any order for forfeiture under section 46.

46 Court may order forfeiture

- (1) If a court finds a person guilty of an offence against this Act, the court may order that any of the following is forfeit to the Territory:
 - (a) any vessel, vehicle or other conveyance, fishing gear, implement, appliance, material, container, goods or equipment used in respect of the commission of the offence;
 - (b) any fish or aquatic life in respect of which the offence has been committed;
 - (c) proceeds from the sale under section 33(4) of things mentioned in paragraph (a) or (b).
- (1A) A thing mentioned in subsection (1)(a) or (b) may be forfeited whether or not it has been seized, taken possession of, detained or released under a surety under section 33.
- (2) A person whose property has been forfeit to the Territory under subsection (1) or a person who, immediately before the forfeiture, had a legal or equitable interest in such property may apply to the Director within 30 days after a finding of guilt for the sale of the property so forfeited; and the Director may order the sale to the applicant of the property on payment to the Territory of such amount as the Director thinks appropriate, being an amount not exceeding the estimated market value of the property.
- (3) Any forfeiture ordered or payment imposed under this section is in addition to the penalty imposed for the offence.

Division 4A Infringement notice offences

46A Infringement notice offence and prescribed amount payable

- (1) An ***infringement notice offence*** is an offence against a provision of this Act, the Regulations or a management plan prescribed in the Regulations or a management plan to be an infringement notice offence.
- (2) The ***prescribed amount*** for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in the Regulations or management plan.

46B When infringement notice may be given

If a Fisheries Officer believes on reasonable grounds that a person has committed an infringement notice offence, the Officer may give a notice (an ***infringement notice***) to the person.

46C Contents of infringement notice

- (1) The infringement notice must specify the following:
 - (a) the name and address of the person, if known;
 - (b) the date the infringement notice is given to the person;
 - (c) the date, time and place of the infringement notice offence;
 - (d) a description of the offence;
 - (e) the prescribed amount payable for the offence;
 - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act 2001*, to which the prescribed amount is payable.

- (2) The infringement notice must include a statement to the effect of the following:
 - (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
 - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act 2001* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
 - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act 2001*, including (but not limited to) action for the following:
 - (i) suspending the person's licence to drive;
 - (ii) seizing personal property of the person;
 - (iii) deducting an amount from the person's wages or salary;
 - (iv) registering a statutory charge on land owned by the person;
 - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.

- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subsection (2)(b).

46D Payment by cheque

If the person tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

46E Withdrawal of infringement notice

- (1) The Director may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
 - (a) within 28 days after the infringement notice is given to the person; and
 - (b) before payment of the prescribed amount.

46F Application of Division

- (1) This Division does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, this Division does not:
 - (a) require an infringement notice to be given; or
 - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
 - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

Division 4B Confiscation offences

46G Application of Division

This Division applies if:

- (a) a Fisheries Officer seizes any of the following under section 33(1):
 - (i) fishing gear that the Officer believes on reasonable grounds is being or has been used in the commission of a confiscation offence;
 - (ii) fish or aquatic life that the Officer believes on reasonable grounds were taken during the commission of a confiscation offence; and
- (b) the Fisheries Officer does not intend to make a complaint or serve an infringement notice for the alleged offence.

46H Contravention notice

The Fisheries Officer may, at the time of the seizure, give the person from whom the fishing gear, fish or aquatic life was seized (the **alleged offender**) a notice (a **contravention notice**) containing the following information:

- (a) the name of the alleged offender;
- (b) the date, time and place of the alleged confiscation offence;
- (c) a description of the alleged confiscation offence and the circumstances causing the Fisheries Officer to believe the offence was being committed or had been committed;
- (d) a description of the fishing gear, fish or aquatic life seized by the Fisheries Officer including, if possible, the type and quantity;
- (e) the name of the Fisheries Officer;
- (f) a statement that the alleged offender may choose to have the matter dealt with by the Local Court by applying under section 46K(1);
- (g) a statement that, if the alleged offender does not apply under section 46K(1), the Local Court may make an order that the seized property or proceeds of the sale of the seized property is forfeit to the Territory.

46J Seized property to be held by Director

- (1) The Fisheries Officer must ensure that the fishing gear, fish or aquatic life seized is delivered into the custody of the Director or to a person authorised by the Director.
- (2) If, in the opinion of the Director, any fish or aquatic life seized may rot, spoil or otherwise perish, it may be sold or otherwise disposed of by the Director.
- (3) All seized property, and proceeds of sale of seized property under subsection (2), must be held in the custody of the Director or an authorised person until it is forfeit to the Territory or delivered to the alleged offender or owner.

46K Application by alleged offender or owner to Court in relation to contravention notice

- (1) The alleged offender served with a contravention notice or, if that person is not the owner of the seized property, the owner may apply to the Local Court to have the Court deal with the matter.
- (2) The application must be:
 - (a) made no later than 28 days after the date of the alleged confiscation offence; and
 - (b) in writing; and
 - (c) accompanied by a copy of the contravention notice.
- (3) If the application is made by the alleged offender, the alleged offender must give notice of the application:
 - (a) to the Director; and
 - (b) if the alleged offender is not the owner of the seized property – to the owner.
- (4) If the application is made by the owner of the seized property, the owner must give notice of the application:
 - (a) to the Director; and
 - (b) to the alleged offender.

46L Application by Director to Court in relation to contravention notice

- (1) If an application is not made under section 46K(1) within the time mentioned in section 46K(2)(a), the Director may apply to the Local Court to have the Court deal with the matter.
- (2) The application must be:
 - (a) in writing; and
 - (b) accompanied by a copy of the contravention notice.
- (3) The Director must give notice of the application to:
 - (a) the alleged offender; and
 - (b) if the Director knows that the alleged offender is not the owner of the seized property – to the owner (if known).

46M How Court deals with matter

- (1) On an application under section 46K(1) or 46L(1), the Local Court may order that the seized property or proceeds of sale is forfeit to the Territory, if the Court is satisfied, on the balance of probabilities, that the alleged offender committed the confiscation offence in relation to which the property was seized.
- (2) If the Local Court does not make an order under subsection (1), the Court must order that the seized property or proceeds of sale be delivered to the alleged offender or, if that person is not the owner of the seized property, the owner.
- (3) An order under subsection (1) does not constitute a finding of guilt for an offence.

46N Relationship with other seizure powers

This Division does not limit Division 2.

Division 5 Regulations

47 Regulations

- (1) The Administrator may make regulations under this Act.
- (2) A regulation may make provision for or in relation to the following:
 - (a) generally regulating fishing, the selling or trading of fish and aquaculture;

- (ab) managing a fishery, or a designated area within a fishery, through a quota system;
- (ac) authorising the Minister to determine, by *Gazette* notice, any matter required for the operation of a quota system;
- (b) prohibiting or regulating the taking (including declaring closed or open seasons), buying, selling, marketing, transporting, processing, preparing or offering for consumption in any public eating-house, acquiring, receiving, disposing of, or having in possession any fish;
- (c) regulating the provision and maintenance of facilities on vessels, vehicles or other conveyances, or in premises, for the handling, transportation, preservation, preservation alive, storage, or storage in transit of fish; and prescribing measures to protect from sun, weather, or contamination, any fish being handled or transported;
- (d) regulating the quantity of fish that may at any one time be on board a vessel or vehicle or other conveyance or be conveyed on any vessel or vehicle or other conveyance or animal, or kept in any container, or place, or in the possession of any person or of any prescribed number of persons;
- (e) empowering the Minister or Director to prescribe, by notice in the *Gazette*, fees or levies, and prescribing the method of assessing the fees or levies, the amounts payable, the person liable for payment, and the circumstances in which the Minister or the Director may remit or refund the whole or any part of such fees or levies;
- (f) defining or prescribing the specifications for the vessels or classes or types of vessels to which any regulations are to apply, and providing for the exemption of any vessels or classes or types of vessels from any such regulations;
- (g) regulating, prohibiting, or prescribing the use, size, design, construction materials, or quantity of fishing gear;
- (h) prescribing the method or methods of identifying vessels, specifying identification marks or symbols or distinguishing flags to be carried by vessels and by tender vessels and similar vessels carried by or attached to or used in conjunction with any vessels, and where any such identification marks shall be placed, and the identification marks on sails, nets or seines, or other fishing gear;
- (j) the conduct of licensees, persons working with or for licensees, lessees, persons who are carrying out amateur

fishing, and persons who process, carry, land, trans-ship (whether at sea or otherwise), sell, or buy fish, or make, repair, or sell gill net;

- (k) noxious species, exotic fish, and other fish;
- (m) hygiene on vessels and in the use of plant, fishing gear, containers, equipment, and vehicles;
- (n) diseases, disease prevention and control, quarantine and quarantine places;
- (p) the granting of permits for the landing or sale of fish lawfully taken in Territory waters or elsewhere under a law of the Commonwealth, a State or another Territory;
- (q) registering vessels, and specifying conditions subject to which a vessel may be registered;
- (qa) fishing monitoring and vessel monitoring, including authorising the Director to require all holders of a class of licence or permit, or all owners of a class of registered vessel, to install and operate fishing monitoring equipment or a vessel monitoring system or both on a vessel;
- (r) prohibiting or regulating the granting, renewal, or transfer of licences (in whole or in part), determining the number of licences that may be granted in respect of any fishery or the number of persons that may fish in a fishery, and specifying the conditions subject to which a licence may be granted, renewed, or transferred;
- (s) regulating, restricting, or imposing conditions on the canning, smoking, freezing, or other preserving of fish for sale and its possession for sale when canned, smoked, frozen, or otherwise preserved, and providing for the inspection of and imposing conditions of operation on canneries, smokehouses, freezing chambers, refrigerating works, and any premises (not being a dwelling-house) where fish are canned, smoked, frozen, preserved, treated, dressed, or stored, for sale;
- (t) requiring and authorising the provision of devices and facilities to permit or control the passage of fish through or around any dam or other structure that may impede the natural movement of fish upstream or downstream;
- (u) prohibiting or regulating the possession, the retention in captivity, or the transfer to or release into any waters, of any live fish;

- (w) authorising the Director, subject to such conditions as may be prescribed in the Regulations, to regulate the use of electric fishing devices for taking fish.

Examples for subsection (2)(ac)

1 Total allowable catch.

2 The allocation of total allowable catch between licensees.

- (3) Regulations under this section may be made with respect to aquatic life as regulations may be made with respect to fish.
- (4) Regulations under this section may apply special conditions or confer special rights in relation to fishing by or under the authority of specified communities, persons, or classes of persons (including tour operators).
- (5) Money payable by way of refund under regulations made under subsection (2)(e) is to be paid from the public money of the Territory and the appropriation for that purpose is established or increased to the extent necessary.
- (5A) The Regulations may deem a person to be in possession of fish in prescribed circumstances.
- (5B) The Regulations may:
- (a) subject to paragraph (b), for an offence against a regulation, prescribe a fine not exceeding 170 penalty units and, if the offence is a continuing one, prescribe a further fine not exceeding 4 penalty units for each day after the first day during which the offence has continued; and
 - (b) for an offence against a regulation that is an offence of strict liability, prescribe a penalty not exceeding 100 penalty units.
- (6) The Regulations may prescribe different penalties for different classes of offender for an offence against the Regulations.

48 Special Regulations relating to aquaculture

Regulations may be made under section 47:

- (a) providing for the issue, refusal, variation, suspension, sale, revocation (both with and without compensation), forfeiture, and renewal of licences to engage in aquaculture and for the conditions applicable to them including methods of farming or the restoration of Crown land;
- (b) regulating the stocking of fish or aquatic life farms and regulating the taking of live fish or aquatic life for that purpose;

- (c) providing for the Minister or Director to prescribe steps to be taken by any aquaculture licensee to keep the farm or premises free from disease, infection, contamination by sewage or other substance, and providing for the licensee to maintain the quality of water (including salinity) which must be used;
- (d) regulating the removal and disposal of waste matter from any area used for aquaculture;
- (e) regulating the types and quantities of food that may be fed;
- (f) authorising or requiring the taking of a specimen, the testing of anything, or the sampling of a substance present on any aquaculture premises and authorising or requiring the removal of any specimen or sample, or the destruction of diseased fish or aquatic life whether with or without payment of compensation; and
- (g) regulating or prohibiting the processing of any farmed fish or aquatic life or their sale or other disposal, or possession.

49 Management plans and certain notices to have status of regulations

Each of the following is taken to be regulations for the purposes of sections 57 and 63 of the *Interpretation Act 1978*:

- (a) each management plan approved under section 25(4) or 70C(4);
- (b) each amendment to a management plan approved under section 25A or 70D;
- (c) each notice given under this Act and required to be published in the *Gazette*, other than a notice given under section 5(2), 25(2)(a), 25A(1)(b)(i), 47(2)(ac), 64(4), 64A(5), 70C(2)(a), 70D(1)(b)(i) or Schedule 2, clause 2(d).

Part 5 Miscellaneous matters

Division 1 Review of decisions

50 Review of decision made by delegate

- (1) This section applies in relation to a decision made under this Act by a delegate of the Director (each a ***delegate decision***) in relation to an application made by a person (the ***applicant***).

- (2) The applicant may apply for a review of the delegate decision.
- (3) The application for review must be made to the Director within 28 days after the day on which notice of the delegate decision was given to the applicant.
- (4) If an application for review is made under this section, the delegate decision must be reviewed by the Director or by a person designated by the Director who was not involved in the making of the decision (the **reviewer**).
- (5) After reviewing the delegate decision, the reviewer must decide to:
 - (a) affirm the delegate decision; or
 - (b) set aside the delegate decision and substitute a new decision.
- (6) As soon as practicable after deciding the application, the reviewer must give written notice of the decision to the applicant stating the following:
 - (a) the decision and the reasons for it;
 - (b) any right the applicant has to apply for a review of the decision.

50A Review by Tribunal

- (1) The Tribunal has jurisdiction to review a reviewable decision.
- (2) A **reviewable decision** is:
 - (a) a decision specified in Schedule 3, unless the decision was a delegate decision; or
 - (b) a decision made on the review under section 50 of a decision specified in Schedule 3 that was a delegate decision; or
 - (c) a decision prescribed by regulation or a management plan to be a reviewable decision.
- (3) A person is an **affected person** for a reviewable decision mentioned in:
 - (a) subsection (2)(a) or (b) – if the person is specified in Schedule 3 for the decision; or
 - (b) subsection (2)(c) – if the person is prescribed by regulation or a management plan to be an affected person for the reviewable decision.

(4) An affected person for a reviewable decision may apply to the Tribunal for a review of the decision.

(5) In this section:

Tribunal means the Civil and Administrative Tribunal.

Note for section 50A

The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to the Tribunal for review and other relevant matters in relation to reviews.

Division 2 Other matters

51 Fishing Industry Research and Development Trust Fund

(1) The Accountable Officer, as defined in section 3(1) of the *Financial Management Act 1995*, of the Agency to which the administration of this Act is allotted under an Administrative Arrangements Order may establish a fund, in the Accountable Officer's Trust Account as defined in section 3(1) of the *Financial Management Act 1995*, to be known as the Fishing Industry Research and Development Trust Fund, for the purpose of ensuring the development of the fishing industry or research into fish, aquatic life, fishing, fisheries, the fishing environment and other related matters.

(2) The Accountable Officer is to credit to the Fund established under subsection (1):

(a) the prescribed fees; and

(b) revenues from other sources provided for the purposes of the Fund.

52 Fishing Industry Research and Development Trust Fund advisory committee

(1) The Minister must establish a committee to advise the Minister on matters relating to the disbursement of money in the Fishing Industry Research and Development Trust Fund.

(2) The committee consists of:

(a) the Director as chairperson; and

(b) representatives of the fishing industry, and other persons, appointed by the Minister.

- (3) A person appointed under subsection (2)(b) holds office for the period determined by the Minister and may be removed from office by the Minister at any time.
- (4) The committee:
 - (a) meets at the intervals and times determined by the chairperson; and
 - (b) determines its own procedure.

53 Aboriginals

- (1) Unless and to the extent to which it is expressed to do so but without derogating from any other law in force in the Territory, nothing in a provision of this Act or an instrument of a judicial or administrative character made under it limits the right of Aboriginals who have traditionally used the resources of an area of land or water in a traditional manner from continuing to use those resources in that area in that manner.
- (2) Nothing in subsection (1) authorises a person to enter any area used for aquaculture, to interfere with or remove fish or aquatic life from fishing gear that is the property of another person, or to engage in a commercial activity.

54 Research and development of fisheries

- (1) The Minister may from time to time enter into agreements or arrangements with any person for the purposes of joint research or development work on fishery resources; and any such agreement or arrangement may include the use of facilities owned by that person or by the Territory.
- (2) An agreement or arrangement entered into under this section may permit any person to take fish or aquatic life that the person would not otherwise be entitled to take from any waters (including waters where fishing may for the time being be lawfully prohibited or restricted) and using fishing gear the use of which may otherwise be lawfully prohibited or restricted, and may permit the person to retain that fish or aquatic life or any other fish or aquatic life taken by the person under the agreement or arrangement.

55 Crown land leases for aquaculture

- (1) In this section ***Minister*** means the Minister administering the Department allotted the administration of the *Crown Lands Act 1992*.

- (2) A person may apply to the Minister for a lease of Crown land for the purposes of aquaculture, and the Minister may, if satisfied that a licence for those purposes will be granted under this Act, grant a lease under the *Crown Lands Act 1992* for the purposes to which the licence relates but subject to such terms, conditions, reservations, and covenants as the Minister thinks fit.
- (3) The Minister, in considering an application under subsection (2), may call for a report from the Director and for this purpose the Director may require the applicant to furnish such information as the Director thinks fit.
- (4) A lease does not of itself confer upon the lessee the right to exclude a person from passing over the surface of any water, but the conditions of the aquaculture licence may require or authorise the lessee to mark out a lease or part of a lease that indicates that passage through that area is restricted or prohibited.
- (5) The Minister shall not:
 - (a) refuse or fail to renew a lease; or
 - (b) forfeit or otherwise terminate a lease,unless he has given to the lessee reasonable notice of his intention to do so.
- (6) In subsection (5), **reasonable notice** is 2 years or such less notice as, in the opinion of the Minister, is fair to the lessee, having regard to what the lessee has on the leased area or elsewhere.
- (7) Notwithstanding subsection (5), the Minister may forfeit or otherwise terminate a lease forthwith if the aquaculture licence held by the lessee is cancelled or surrendered.
- (8) The Minister may, after receiving a report from the Director, offer a lease by auction or tender, or advertise that a lease is available.
- (9) A Fisheries Officer, in relation to a lease granted pursuant to this section, may, at any time, enter on the leased land for the purpose of giving effect to the *Crown Lands Act 1992*.

56 Conversion factors for greenweight of fish

- (1) Except where otherwise expressly provided, a reference in this Act or in an instrument of a legislative or administrative character made under it to the weight of fish or aquatic life shall be construed as a reference to the greenweight of the fish or aquatic life, being the weight of the fish or aquatic life before any processing (other than freezing) commences and before any part of the fish or aquatic life

is removed.

- (2) The Minister may, by notice in the *Gazette*, specify conversion factors which shall, for all purposes and in any proceedings for an offence against this Act, be used to determine the greenweight of fish or aquatic life.

57 Acquisition on just terms

If the operation of this Act would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:

- (a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and
- (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

Part 6 Fisheries arrangements

Division 1 Joint Authorities

58 Powers and functions of Minister

- (1) The Minister may exercise a power or perform a function conferred on the Minister by Part 5 of the Commonwealth Act, including a power or function of the Minister as a member of a Joint Authority.
- (2) Where, in the exercise of a power conferred by Part 5 of the Commonwealth Act, the Minister appoints a deputy, the deputy may exercise the powers and perform the functions conferred by that Act on a deputy of a member of a Joint Authority other than the Commonwealth Minister.

59 Judicial notice

All courts and persons acting judicially shall take judicial notice of the signature of a person who is or has been a member of a Joint Authority or a deputy of a member of a Joint Authority and of the fact that the person is, or was at a particular time, such a member or deputy.

60 Functions of Joint Authority

A Joint Authority has such functions in relation to a fishery in respect of which an arrangement is in force under Division 2 as are conferred on it by the law in accordance with which, pursuant to the arrangement, the fishery is to be managed.

61 Delegation

- (1) A Joint Authority may, by instrument in writing, either generally or as otherwise provided by the instrument, delegate to a person a power under this Act other than this power of delegation.
- (2) Where a power delegated by a Joint Authority under subsection (1) is exercised by a delegate, the power shall, for the purposes of this Act, be deemed to have been exercised by the Joint Authority.
- (3) A delegation under this section may be expressed as a delegation to the person from time to time holding, or performing the duties of, a specified office, including an office:
 - (a) in the service of;
 - (b) in the service of an authority of; or
 - (c) under a law of,the Commonwealth, the Territory, a State or another Territory.
- (4) A delegate of a Joint Authority is, when exercising delegated powers, subject to the directions of the Joint Authority.
- (5) A delegation under this section by a Joint Authority:
 - (a) may be revoked, by instrument in writing, by a Joint Authority (whether or not constituted by the persons constituting the Joint Authority at the time the power was delegated);
 - (b) does not prevent the exercise of the power by the Joint Authority; and
 - (c) continues in force notwithstanding a change in the membership of the Joint Authority.
- (6) Where, under this Act, the exercise of a power or performance of a function by a Joint Authority is dependent upon the opinion, belief or state of mind of the members of that Joint Authority in relation to a matter and that power or function has been delegated in pursuance of this section, that power may be exercised or that function may be performed by a delegate upon the opinion, belief or

state of mind of the delegate in relation to that matter.

- (7) A certificate signed by a member of a Joint Authority stating a matter with respect to a delegation under this section by the Joint Authority is prima facie evidence of that matter.
- (8) A document purporting to be a certificate referred to in subsection (7) shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly signed.
- (9) Nothing in this Part is intended to prevent a delegation by a Joint Authority, in accordance with the law of the Commonwealth, of powers conferred on the Joint Authority by that law of the Commonwealth.

62 Procedure of Joint Authority

- (1) The provisions of sections 66 to 68, both inclusive, of the Commonwealth Act apply to and in relation to the performance by a Joint Authority of its functions under this Act.
- (2) A written record of a decision of a Joint Authority, if signed by the Commonwealth Minister or the Minister's deputy, who took part in or made the decision, is prima facie evidence that the decision, as recorded, was duly made.
- (3) In proceedings in a court, an instrument or other document signed on behalf of a Joint Authority by a member of the Joint Authority shall be deemed to have been duly executed by the Joint Authority and is prima facie evidence that it was signed in accordance with a decision of the Joint Authority.

63 Report of Joint Authority

The Minister shall cause a copy of a report of a Joint Authority prepared under section 70 of the Commonwealth Act to be laid before the Legislative Assembly as soon as practicable after preparation of the report.

Division 2 Arrangements with respect to the management of fisheries

Subdivision 1 General matters

63A Definition

In this Division:

relevant instrument means:

- (a) a licence, endorsement or other instrument; or
- (b) a management plan or regulation.

64 Arrangements for management of fisheries

- (1) The Territory may, in accordance with section 74 of the Commonwealth Act, make an arrangement referred to in section 71 or 72 of that Act for the management of a fishery.
- (2) Subsection (3) applies after an arrangement has been made under subsection (1), but before the arrangement takes effect.
- (3) A relevant instrument may be granted, given or made for the purposes of the operation of this Act as affected by the arrangement, as if the arrangement had taken effect, but does not have effect before the arrangement takes effect.
- (4) Within 30 days after an arrangement is made under subsection (1), the Minister must give notice of its making in the *Gazette*.

64A Variation and termination of arrangements

- (1) An arrangement made under section 64 may be varied or terminated as provided by the Commonwealth Act.
- (2) Subsection (3) applies:
 - (a) after an instrument varying or terminating an arrangement has been made; but
 - (b) before the variation or termination takes effect.
- (3) A relevant instrument may be granted, given or made, for the purposes of the operation of this Act as affected by the variation or termination of the arrangement, as if the variation or termination had taken effect, but the relevant instrument does not have effect before the variation or termination takes effect.

- (4) On the variation or termination of an arrangement, a relevant instrument granted, given or made for the purposes of the operation of this Act as affected by the arrangement:
 - (a) in the case of a variation – ceases to have effect to the extent (if any) it is inconsistent with the arrangement as varied; or
 - (b) in the case of a termination – ceases to have effect.
- (5) Within 30 days after an instrument varying or terminating an arrangement is made, the Minister must give notice of its making in the *Gazette*.

65 Application of this Act to fisheries in accordance with arrangements

- (1) If there is in force an arrangement that provides that a fishery is to be managed in accordance with the law of the Territory, the provisions of this Act apply to and in relation to the fishery.
- (2) However, those provisions do not apply to or in relation to the fishery in respect of the following:
 - (a) foreign boats in the Australian fishing zone;
 - (b) operations on or from foreign boats, or persons on foreign boats, in the Australian fishing zone;
 - (c) matters that occurred in or in relation to the Australian fishing zone before the arrangement took effect.

66 Functions, powers and objects of Joint Authority

- (1) Where, in respect of a fishery, there is in force an arrangement under which a Joint Authority has the management of the fishery and that fishery is to be managed in accordance with the law of the Territory, the Joint Authority has the function of keeping constantly under consideration the condition of the fishery, formulating policies and plans for the good management of the fishery and, for the purposes of the management of the fishery, exercising the powers conferred on it by this Act and co-operating and consulting with the other authorities, including other Joint Authorities within the meaning of the Commonwealth Act, in matters of common concern.
- (2) A Joint Authority must, in the performance of its functions under this section, act consistently with, and seek to further, the objects of this Act.

67 Joint Authority to exercise certain powers instead of Director

- (1) Subject to this section, a licence, permit, approval or endorsement granted, given or made under this Act otherwise than because of this section or a management plan made under Subdivision 2, does not authorise the doing of an act or a thing by or in relation to a Joint Authority fishery.
- (2) In respect of a Joint Authority fishery that is to be managed in accordance with the law of the Territory, the Joint Authority may, to the exclusion of the Director, exercise the powers conferred on the Director by or under:
 - (a) this Act, other than Part 3 and this Part; or
 - (b) the Regulations.
- (2A) In subsection (2), a reference to the powers conferred on the Director includes:
 - (a) powers conferred before or after the commencement of this Part; and
 - (b) powers with respect to the issue, renewal, cancellation and suspension of licences.
- (3) In exercising a power referred to in subsection (2), a Joint Authority:
 - (a) is not subject to the direction of the Minister; and
 - (b) must not exercise a power so that a licence granted, given or made by the Joint Authority applies in relation to a Joint Authority fishery, or Joint Authority fisheries, not managed by that Joint Authority.
- (4) A Joint Authority may endorse a licence (including such a licence granted by that Joint Authority or another Joint Authority) so as to extend the operation of the licence to matters to which the licensing powers of the Joint Authority under this Act are applicable and, where such an endorsement is made:
 - (a) the endorsement ceases to have effect if the licence ceases to have effect; and
 - (b) the Joint Authority may suspend or cancel the endorsement as if it were a licence granted by that Joint Authority.

- (5) Subject to section 70(1)(b) and (c), where, at a time a fishery becomes a Joint Authority fishery, a regulation, notification or order under this Act would, but for this section, apply to the fishery, the regulation, notification or order, as the case may be, ceases so to apply.
- (6) This section does not empower a Joint Authority to grant, or to take other action in respect of, a licence in respect of a foreign boat or to endorse such a licence.

68 Application of provisions relating to offences

For the purposes of the prosecution of a person for an offence under this Act in respect of anything done to or in relation to fish to which a Joint Authority fishery relates or otherwise in relation to a Joint Authority fishery, any reference in the provision creating the offence to an authority of a particular kind shall be read as a reference to such an authority, or an endorsement of such an authority, granted, issued, renewed or made by the relevant Joint Authority.

69 Presumption relating to certain statements

A statement in an arrangement to the effect that specified waters:

- (a) in the case of an arrangement to which the Commonwealth and the Territory are the only parties – are waters adjacent to the Territory; and
- (b) in the case of another arrangement – are waters adjacent to the Territory and a State that is a party to the arrangement or are waters adjacent to the Territory, a specified State or Territory,

shall, for the purposes of this Act, be conclusive evidence of the fact so stated.

70 Regulations and notices

- (1) Where a Joint Authority is to manage a fishery in accordance with the law of the Territory, the Administrator may, for the purpose of giving effect to a decision of the Joint Authority:
 - (a) make regulations for the management of the fishery;
 - (b) deem a regulation made otherwise than pursuant to this section to be a regulation applying to the fishery; or

- (c) amend a regulation made otherwise than pursuant to this section so that it is expressed to apply to the fishery, whether or not it also applies to another fishery.
- (2) The power conferred on the Administrator to make regulations otherwise than under subsection (1) does not extend to the making of a regulation of a kind referred to in subsection (1)(a) or (b) or the amendment of a regulation in the manner referred to in subsection (1)(c).
- (3) Where a regulation affecting a fishery that is to be managed by a Joint Authority is expressed to be made pursuant to this section, it shall be conclusively presumed that it was made for the purpose of giving effect to a decision of the Joint Authority.

Subdivision 2 Joint Authority fishery management plans

70A Joint Authority to prepare management plans

- (1) This section applies if a management area or managed fishery that is a Joint Authority fishery is declared under section 22.
- (2) The Joint Authority must, as soon as practicable after the declaration, prepare a proposed plan for the whole or part of the management area or managed fishery for the purposes specified in section 21 and having regard to the need for coordination between management areas or between managed fisheries or among any of them.

70B Fisheries management advisory committees

- (1) For the purposes of assisting the Joint Authority in preparing proposed plans and giving advice in relation to management plans, the Joint Authority may, as the Joint Authority thinks fit, from time to time establish and, after having due regard to the users of an area or fishery, appoint members to an advisory committee for each management area or managed fishery.
- (2) Each such committee must be chaired by a person nominated by the Joint Authority and may include members representing commercial, processing, wholesaling, retailing, recreational, consumer or other interests in the area relating to fishing, fish or aquatic life.

70C Procedure in relation to management plans

- (1) A proposed plan being prepared under section 70A must:
 - (a) contain a description of the management area or managed fishery; and
 - (b) make provision in relation to the managed area or managed fishery with respect to any of the matters specified in Schedule 2 that the Joint Authority considers applicable.
- (2) After preparing a proposed plan under section 70A, the Joint Authority must give notice of the proposed plan, and the place where a copy of it may be inspected, in:
 - (a) the *Gazette*; or
 - (b) a newspaper circulating throughout the Territory.
- (3) There may be included with each proposed plan prepared under section 70A, but so as not to form part of the plan:
 - (a) an outline of the history and status of the fishery; and
 - (b) the policy and objectives of the plan; and
 - (c) any other information relating to the fishery that the Joint Authority thinks fit.
- (4) Not less than 1 month after the date of notification under subsection (2), and after considering any submissions made in respect of the proposed plan, the Joint Authority may:
 - (a) make any amendments to the plan that the Joint Authority thinks fit; and
 - (b) approve the plan, after advising the relevant advisory committee of any amendments and the reasons for them.

70D Amendments to management plans

- (1) If a Joint Authority is of the opinion that an amendment to a management plan that it has made is required, the Joint Authority may:
 - (a) if the proposed amendment is, in the Joint Authority's opinion, a minor amendment – approve the amendment; or

- (b) if the proposed amendment is not, in the Joint Authority's opinion, a minor amendment – give notice of the proposed amendment to the plan, and the place or places where a copy of it may be inspected, in:
 - (i) the *Gazette*; or
 - (ii) a newspaper circulating throughout the Territory.
- (2) There may be included with a proposed amendment under subsection (1) any explanatory notes that the Joint Authority thinks fit, but those notes do not form part of the proposed amendment or an amendment to the plan.
- (3) Not less than 1 month after the date of notification under subsection (1)(b), and after considering any submissions made in respect of the proposed amendment, the Joint Authority may:
 - (a) make any amendments to the proposed amendment that the Joint Authority thinks fit; and
 - (b) approve the amendment, after advising the relevant advisory committee of any amendments and the reasons for them.

70E Joint Authority may make emergency amendments to management plans

- (1) This section applies if, at any time, an emergency occurs that, in the opinion of the Joint Authority after consultation with the appropriate advisory committee (if any), endangers or may endanger stocks of fish or aquatic life, or any species or class of fish or aquatic life, in any management area or managed fishery in respect of which there is a management plan made by the Joint Authority.
- (2) Despite any provision to the contrary in this Act or the management plan, the Joint Authority may, by *Gazette* notice, amend the plan to the extent required by the emergency.
- (3) Subject to this section, an amendment made under subsection (2):
 - (a) takes effect on the date it is published in the *Gazette* or any later date specified in the notice; and
 - (b) remains in effect for the period not exceeding 90 days specified in the notice.
- (4) A period specified under subsection (3) may be extended for one further period not exceeding 90 days by a subsequent *Gazette* notice published before the expiry of the original period.

- (5) The particulars of a *Gazette* notice published under this section must be advertised twice in at least one newspaper circulating generally in the area concerned.
- (6) An amendment made under subsection (2):
 - (a) may be revoked by the Joint Authority at any time; and
 - (b) is taken to be revoked on the expiry of the period specified in the *Gazette* notice published under subsection (2) or a subsequent *Gazette* notice published under subsection (4).

Part 7 Transitional matters for Fisheries Act 1988

71 Savings and transitional

- (1) In this section, ***Repealed Acts*** are the Acts repealed by section 3.
- (2) The person appointed Director of Fisheries pursuant to the Repealed Acts is deemed to have been appointed Director of Fisheries pursuant to this Act.
- (3) A licence, permit, lease, or other authority issued under the *Fish and Fisheries Act 1979* and in force as at the commencement of this Act shall remain in force as if this Act had not been passed until such time as the licence, permit, or other authority would have otherwise expired, but an application for renewal shall be made pursuant to this Act.
- (4) An action, prosecution, or other proceeding begun under the *Fish and Fisheries Act 1979* as then in force before the commencement of this Act may be continued as if this Act had never commenced.
- (5) An action, prosecution or other proceeding in respect of a thing done or omitted to be done under the *Fish and Fisheries Act 1979* as then in force before the commencement of this Act may be brought, taken, and prosecuted in the same manner as if this Act had never commenced.
- (6) Regulations made under the Repealed Acts and in force as at the commencement of this Act shall continue to remain in force as if they had been made under this Act.
- (7) An arrangement made, a Joint Authority established, or other thing done under Part IIIA of the *Fish and Fisheries Act 1979* and in existence or having effect as at the commencement of this Act shall be deemed to have been made, established, or done under Part VI of this Act, and shall exist and have effect accordingly.

- (8) Leases granted under the *Pearling and Pearl Culture Ordinance 1964* and saved under section 4(1) of the *Fish and Fisheries Act 1979* and in force as at the commencement of this Act shall remain in force until they would otherwise expire.
- (9) Notices made under the Repealed Acts and in force as at the commencement of this Act shall remain in force according to their tenor or until repealed under this Act.
- (10) Where regulations or notices made under the Repealed Acts continue to exist as regulations or notices under this section and a reference is made in them to a section of the Repealed Acts, that reference shall be construed, where possible, as a reference to an appropriate or relevant provision in this Act.

Part 8 Transitional matters for Fisheries Legislation Amendment Act 2016

72 Definitions

In this Part:

amending Act means the *Fisheries Legislation Amendment Act 2016*.

commencement means the commencement of the amending Act.

new Act means this Act as amended by the amending Act.

old Act means this Act as in force immediately before the commencement.

73 Offence provisions – before and after commencement

- (1) The offence provisions, as amended by the amending Act, apply only in relation to offences committed after the commencement.
- (2) The offence provisions, as in force before the commencement, continue to apply in relation to offences committed before the commencement.
- (3) For this section, if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.

- (4) In this section:

offence provisions means the provisions of this Act that create or relate to offences (including in relation to criminal responsibility, defences and penalties).

74 Licences, permits and vessel registration

- (1) A licence in effect under section 11 of the old Act continues after the commencement in accordance with its terms and conditions as if it had been granted under section 13 of the new Act.
- (2) Section 16(3) of the new Act applies to a licence under section 11 of the old Act that had expired but could be renewed under section 12(2) of the old Act.
- (3) A permit in effect under section 16 of the old Act continues after the commencement in accordance with its terms and conditions as if it had been granted under section 13 of the new Act.
- (4) A special permit in effect under section 17 of the old Act continues after the commencement in accordance with its terms and conditions as if it had been granted under section 17 of the new Act.
- (5) A vessel registered under section 18 of the old Act is taken after the commencement to be registered under section 18 of the new Act for the remainder of the period for which it was registered under the old Act.

75 Pending applications

- (1) This section applies if, before the commencement:
- (a) an application was made for a licence, permit, special permit or registration of a vessel; and
- (b) the application had not been determined by the Director.
- (2) The Director must determine the application under the new Act as if it were an application for a licence, permit, special permit or registration of a vessel under the new Act.

76 Pending reviews by Director

- (1) This section applies if, before the commencement:
- (a) an application was made under section 11A of the old Act for the review of a decision; and

- (b) the review was not finally determined by the Director or person designated by the Director (***designated person***).
- (2) The Director or designated person must complete the review under the old Act as if the amending Act had not commenced.
- (3) If the Director or designated person grants a licence or permit on a review, the licence or permit is taken to have been granted under the new Act.
- (4) Section 50 of the old Act applies in respect of the decision made on the review as if a reference in that section to the Local Court were a reference to the Civil and Administrative Tribunal.
- (5) If the Civil and Administrative Tribunal grants a licence or permit on a review of a decision to which this section applies, the licence or permit is taken to have been granted under the new Act.

77 Pending reviews by Local Court

- (1) This section applies if, before the commencement:
 - (a) an application was made under section 50 of the old Act for the review of a decision; and
 - (b) the review was not finally determined by the Local Court.
- (2) The Local Court must complete the review and make any orders it considers appropriate under the old Act as if the amending Act had not commenced.
- (3) If the Local Court grants a licence or permit on a review, the licence or permit is taken to have been granted under the new Act.

78 Identity cards

An identity card issued to a Fisheries Officer under section 8 of the old Act continues in effect after the commencement as if it had been issued under section 8 of the new Act, if:

- (a) the card was in effect immediately before the commencement; and
- (b) the card complies with section 8(2) of the new Act.

79 Register

Information that was on a register under section 9 of the old Act immediately before the commencement is taken, after the commencement, to be information on a register under section 9 of the new Act.

80 Pending applications for registration of third party interests

- (1) This section applies if, before the commencement:
 - (a) an application was made for registration of a third party interest under section 9A of the old Act; and
 - (b) the application was not decided by the Director.
- (2) The Director must complete the application process under section 9A of the new Act as if the application had been made under that section on the date that it was made under the old Act.

81 Management plans

A management plan made under Part III of the old Act that was in effect immediately before the commencement continues in effect after the commencement as if it had been made under Part 3 of the new Act.

82 Fishing Industry Research and Development Fund

On the commencement, all money standing to the credit of the Fishing Industry Research and Development Fund under section 51 of the old Act immediately before the commencement must be credited to the Fishing Industry Research and Development Trust Fund established under section 51 of the new Act.

83 Fishing Industry Research and Development Fund advisory committee

- (1) On the commencement:
 - (a) the Fishing Industry Research and Development Fund advisory committee is taken to be reconstituted as the Fishing Industry Research and Development Trust Fund advisory committee; and
 - (b) the appointed members of the Fishing Industry Research and Development Fund advisory committee holding office immediately before the commencement become members of the Fishing Industry Research and Development Trust Fund advisory committee as if they had been appointed under

section 52(2)(b) of the new Act.

(2) In this section:

appointed member, of the Fishing Industry Research and Development Fund advisory committee, means a person appointed under section 52(2)(b) of the old Act.

Fishing Industry Research and Development Fund advisory committee means the committee established under section 52 of the old Act.

Fishing Industry Research and Development Trust Fund advisory committee means the committee established under section 52 of the new Act.

Schedule 1 Acts repealed

section 3

Act	Number and year
<i>Fish and Fisheries Act 1979</i>	No. 4, 1980
<i>Fish and Fisheries Amendment Act 1981</i>	No. 38, 1981
<i>Fish and Fisheries Amendment Act (No. 2) 1981</i>	No. 114, 1981
<i>Fish and Fisheries Amendment Act 1982</i>	No. 56, 1982
<i>Fish and Fisheries Amendment Act (No. 2) 1982</i>	No. 74, 1982
<i>Fish and Fisheries Amendment Act 1984</i>	No. 31, 1984
<i>Fish and Fisheries Amendment Act 1985</i>	No. 31, 1985

Schedule 2 Matters that may be provided for in a management plan

sections 25(1) and 70C(1)

2. A management plan may:
 - (a) designate areas, within the management area where, and the periods when, fishing for certain species of fish or aquatic life shall be prohibited or restricted, or permitted only by specified types of vessels or by specified methods or persons, or with specified types or quantities of fishing gear, or subject to such other conditions as may be specified;
 - (aa) specify the methods or practices to be used by a class of persons in the supervision of operations conducted for the purposes of a licence or permit;
 - (ba) specify the species of fish that may or shall not be taken and/or the restrictions (if any) that apply in relation to the taking of any species of fish;
 - (bb) specify the number of licences that may be issued in relation to an area or a fishery, as the case requires, and prohibit or regulate the transfer of licences in respect of a fishery;
 - (b) specify ports or places or circumstances where fish or aquatic life may be landed or trans-shipped at sea;
 - (c) provide for the management of a fishery, or a designated area within a fishery, through a quota system;
 - (d) authorise the Minister or Joint Authority to determine, by *Gazette* notice, any matter required for the operation of a quota system;
 - (e) set limits as to size, number, weight, sex, or other factor, on a catch of fish or aquatic life, or any species or class of fish or aquatic life, from any specified area which are considered necessary or desirable for the conservation and management of the fishery;
 - (f) establish a system for limiting access to the fishery to persons who can satisfy the Director or Joint Authority of their eligibility having regard to, but not limited to, the following criteria or such criteria as may be specified in the plan:
 - (i) present participation in the fishery;

- (ii) historical fishing patterns and dependence on the fishery; or
- (iii) the capability of fishing vessels being used, or intended to be used, in the fishery, to operate in other fisheries;
- (g) provide for fishing monitoring and vessel monitoring, including authorising the Director to require all holders of a class of licence or permit, or all owners of a class of registered vessel, to install and operate fishing monitoring equipment or a vessel monitoring system or both on a vessel;
- (h) contain any other measures considered necessary or desirable for the conservation, management or control of the fishery; or
- (j) provide for the establishment and administration of a scheme for the rationalisation of the fishery and for those purposes may provide for:
 - (i) a limitation or reduction in an equitable manner of the number of fishing units licensed to operate in a fishery;
 - (ii) the surrender and purchase of licences relating to that fishery on payment of agreed compensation;
 - (iii) the establishment by the Accountable Officer of a fund within the Agency Operating Account within the meaning of the *Financial Management Act 1995*;
 - (iv) the imposition of levies or other payments for the purposes of funding any compensation to be paid; and
 - (v) the repayment of surplus amounts, after payment of any outstanding amounts due, to persons who, on conclusion of a scheme, are holders of licences in respect of fishing units to which the scheme relates.

Examples for clause 2(d)

1 *Total allowable catch.*

2 *The allocation of total allowable catch between licensees.*

2A. A management plan may deem a person to be in possession of fish in circumstances prescribed by the plan.

2B. A management plan may:

- (a) subject to paragraph (b), for an offence against the management plan, prescribe a fine not exceeding 170 penalty units and, if the offence is a continuing one, prescribe a further

- fine not exceeding 4 penalty units for each day after the first day during which the offence has continued; and
- (b) for an offence against the management plan that is an offence of strict liability, prescribe a penalty not exceeding 100 penalty units.
3. A management plan may prescribe different penalties for different classes of offender for an offence against the plan.
4. Subject to clause 5, a management plan may provide for the Director or Joint Authority to do either or both of the following:
- (a) revoke an approval for a person to engage in a fishery in a capacity that the Director or Joint Authority must approve;
- (b) refuse, for a specified period not exceeding 5 years, to approve a person to engage in a fishery in a capacity that the Director or Joint Authority must approve.
5. A provision of a management plan made under clause 4 may authorise the Director or Joint Authority to act under the provision only if:
- (a) the person has been found guilty:
- (i) on more than one occasion of a prescribed offence under the plan (whether the same type of offence or not); or
- (ii) of a prescribed offence under the plan and has also been found guilty of a prescribed offence under another management plan; and
- (b) the later offence was committed after the commencement of that clause.

Schedule 3 Reviewable decisions

section 50A(1)(a)

Reviewable decision	Affected person
Refusal of application for grant or renewal of licence or permit (section 13(3) or 16(6))	Applicant
Imposition or variation of condition of licence or permit (section 14(1) or (5))	Licensee
Refusal to approve licence transfer (section 16A(4))	Licensee
Refusal to grant special permit (section 17)	Applicant
Revocation of special permit (section (17(6))	Permit holder
Refusal of application to be an approved operator (section 17A(3))	Applicant
Revocation of approval of approved operator (section 17D)	Approved operator
Cancellation or suspension of licence or permit under section 20A	Licensee
Refusal of application under section 33(3) for release of property seized	Applicant

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Fisheries Act 1988 (Act No. 58, 1988)***

Assent date	14 December 1988
Commenced	14 December 1988

Statute Law Revision Act 1990 (Act No. 33, 1990)

Assent date	11 June 1990
Commenced	11 June 1990

Statute Law Revision Act 1991 (Act No. 31, 1991)

Assent date	25 June 1991
Commenced	25 June 1991

Pastoral Land (Consequential Amendments) Act 1992 (Act No. 39, 1992)

Assent date	25 June 1992
Commenced	26 June 1992 (s 2, s 2 <i>Pastoral Land Act 1992</i> (Act No. 17, 1992) and <i>Gaz S33</i> , 26 June 1992)

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date	30 June 1993
Commenced	1 July 1993 (s 2, s 2 <i>Public Sector Employment and Management Act 1993</i> (Act No. 11, 1993) and <i>Gaz S53</i> , 29 June 1993)

Fisheries Amendment Act 1994 (Act No. 65, 1994)

Assent date 3 November 1994
 Commenced ss 15, 43 and 44: 3 November 1994 (s 2(1)); ss 5(a), (b), (c) and (e), 34 – 37: 3 February 1995 (s 2(2) and s 2 *Fisheries Management Act 1991* (Cth) (Cth Act No. 162, 1991)); rem: 28 November 1994 (*Gaz* G47, 23 November 1994, p 4)

Amending Legislation**Fisheries Amendment Act 1994 Amendment Act 1994 (Act No. 74, 1994)**

Assent date 30 December 1994
 Commenced 30 December 1994

Financial Management (Consequential Amendments) Act 1995 (Act No. 5, 1995)

Assent date 21 March 1995
 Commenced 1 April 1995 (s 2, s 2 *Financial Management Act 1992* (Act No. 4, 1995) and *Gaz* S13, 31 March 1995)

Statute Law Revision Act (No. 2) 1995 (Act No. 42, 1995)

Assent date 13 October 1995
 Commenced 13 October 1995

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date 19 April 1996
 Commenced s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

Fisheries Amendment Act 1997 (Act No. 24, 1997)

Assent date 2 June 1997
 Commenced ss 7(a), 8(b), 9(b) and (c) and 10: 3 June 1998 (*Gaz* G21, 3 June 1998, p 7); rem: 9 July 1997 (*Gaz* G27, 9 July 1997, p 4)

Amending Legislation**Fisheries Amendment Act 1997 Amendment Act 1998 (Act No. 13, 1998)**

Assent date 30 March 1998
 Commenced 3 June 1998 (s 2, s 2 *Fisheries Amendment Act 1997* (Act No. 24, 1997) and *Gaz* G21, 3 June 1998, p 7)

Statute Law Revision Act 1999 (Act No. 27, 1999)

Assent date 18 June 1999
 Commenced 18 June 1999

Fisheries Amendment Act 2000 (Act No. 21, 2000)

Assent date 6 June 2000
 Commenced 20 December 2000 (s 2)

Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)

Assent date 29 June 2001
 Commenced 15 July 2001 (s 2, s 2 *Corporations Act 2001* (Cth Act No. 50, 2001) and *Cth Gaz* S285, 13 July 2001)

Fisheries Amendment Act 2001 (Act No. 41, 2001)

Assent date 19 July 2001
 Commenced 19 July 2001

Fines and Penalties (Recovery) (Consequential Amendments) Act 2001 (Act No. 60, 2001)

Assent date 11 December 2001
 Commenced 1 January 2002 (s 2, s 2 *Fines and Penalties (Recovery) Act 2001* (Act No. 60, 2002) and Gaz G50, 19 December 2001, p 3)

Statute Law Revision Act (No. 2) 2002 (Act No. 59, 2002)

Assent date 7 November 2002
 Commenced 7 November 2002

Fisheries Amendment Act 2003 (Act No. 7, 2004)

Assent date 7 January 2004
 Commenced 7 January 2004

Fisheries Amendment Act 2004 (Act No. 32, 2004)

Assent date 4 June 2004
 Commenced 22 September 2004 (Gaz G38, 22 September 2004, p 2)

Police Administration Amendment (Powers and Liability) Act 2005 (Act No. 11, 2005)

Assent date 17 March 2005
 Commenced 20 April 2005 (Gaz G16, 20 April 2005, p 5)

Financial Management Amendment Act 2009 (Act No. 15, 2009)

Assent date 18 June 2009
 Commenced 18 June 2009

Statute Law Revision Act 2009 (Act No. 25, 2009)

Assent date 1 September 2009
 Commenced 16 September 2009 (Gaz G37, 16 September 2009, p 3)

Personal Property Securities (National Uniform Legislation) Implementation Act 2010 (Act No. 30, 2010)

Assent date 9 September 2010
 Commenced ss 58 to 60: 30 January 2012 (Gaz, S2, 24 January 2012);
 rem: 25 November 2011 (Gaz, S68, 25 November 2011)

Penalties Amendment (Children and Families, Health and Primary Industry, Fisheries and Resources) Act 2011 (Act No. 28, 2011)

Assent date 31 August 2011
 Commenced 21 September 2011 (Gaz G38, 21 September 2011, p 4)

Local Court (Repeals and Related Amendments) Act 2016 (Act No. 9, 2016)

Assent date 6 April 2016
 Commenced 1 May 2016 (Gaz S34, 29 April 2016)

Fisheries Legislation Amendment Act 2016 (Act No. 23, 2016)

Assent date 9 June 2016
 Commenced 1 January 2017 (Gaz G51, 21 December 2016, p 12)

Statute Law Revision Act 2018 (Act No. 10, 2018)

Assent date 23 May 2018
 Commenced 20 June 2018 (Gaz S41, 20 June 2018)

3 SAVINGS AND TRANSITIONAL PROVISIONS

ss 42, 43 and 44 *Fisheries Amendment Act 1994* (Act No. 65, 1994)

4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 4, 33B, 46C, 49, 50A, 51, 55 and 71 and Sch 2.

5 LIST OF AMENDMENTS

It	amd No. 65, 1994, s 4
pt I hdg	sub No. 23, 2016, s 43
s 2A	ins No. 32, 2004, s 4 amd No. 23, 2016, s 4
s 4	amd No. 31, 1991, s 3; No. 65, 1994, s 5; No. 24, 1997, s 3; No. 21, 2000, s 4; No. 59, 2002, s 5; No. 7, 2004, s 3; No. 32, 2004, s 5; No. 23, 2016, s 5
s 4A	ins No. 23, 2016, s 6
pt II hdg	amd No. 23, 2016, s 43
pt II	
div 1 hdg	rep No. 23, 2016, s 43
s 6	sub No. 23, 2016, s 7
s 7	amd No. 23, 2016, s 43
s 7A	ins No. 23, 2016, s 8
s 8	sub No. 23, 2016, s 8
s 8A	ins No. 23, 2016, s 8
s 9	amd No. 24, 1997, s 4; No. 23, 2016, s 9
s 9A	ins No. 21, 2000, s 5 amd No. 23, 2016, s 10
s 9B	ins No. 23, 2016, s 11
pt 2A hdg	ins No. 23, 2016, s 11
pt 2A	
div 1 hdg	ins No. 23, 2016, s 11
pt 2	
div 2 hdg	rep No. 23, 2016, s 11
pt 2A	
div 2 hdg	ins No. 23, 2016, s 11
s 10	amd No. 65, 1994, s 6; No. 42, 1995, s 3; No. 28, 2011, s 5 sub No. 23, 2016, s 11
s 11	amd No. 65, 1994, s 7; No. 24, 1997, s 5; No. 32, 2004, s 6 sub No. 23, 2016, s 11
s 11A	ins No. 24, 1997, s 6 amd No. 7, 2004, s 4 rep No. 23, 2016, s 11
s 12	amd No. 65, 1994, s 8; No. 42, 1995, s 3; No. 24, 1997, s 7; No. 32, 2004, s 7 sub No. 23, 2016, s 11
s 12A	ins No. 65, 1994, s 9 amd No. 24, 1997, s 8; No. 32, 2004, s 8; No. 28, 2011, s 5 rep No. 23, 2016, s 11
s 12B	ins No. 65, 1994, s 9 amd No. 24, 1997, s 9; No. 32, 2004, s 9 rep No. 23, 2016, s 11
s 12C	ins No. 24, 1997, s 10 as amd No. 13, 1998, s 3 amd No. 21, 2000, s 6; No. 17, 2001, s 21 rep No. 32, 2004, s 10

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s 13	sub No. 65, 1994, s 10 amd No. 42, 1995, s 3 sub No. 24, 1997, s 11; No. 23, 2016, s 11
ss 13A – 13D	ins No. 24, 1997, s 11 amd No. 28, 2011, s 5 rep No. 23, 2016, s 11
s 13E	ins No. 24, 1997, s 11 rep No. 23, 2016, s 11
s 14	amd No. 65, 1994, s 11; No. 42, 1995, s 3 sub No. 24, 1997, s 11 amd No. 28, 2011, s 5 sub No. 23, 2016, s 11
s 14A	ins No. 24, 1997, s 11 amd No. 28, 2011, s 5 rep No. 23, 2016, s 11
s 14B	ins No. 30, 2010, s 35 rep No. 23, 2016, s 11
pt 2	
div 3 hdg	rep No. 23, 2016, s 11
s 15	amd No. 17, 1996, s 6; No. 28, 2011, s 5 sub No. 23, 2016, s 11
s 16	amd No. 25, 2009, s 10 sub No. 23, 2016, s 11
ss 16A – 16C	ins No. 23, 2016, s 11
s 17	amd No. 65, 1994, s 12; No. 24, 1997, s 12 sub No. 23, 2016, s 11
pt 2A	
div 3 hdg	ins No. 23, 2016, s 11
ss 17A – 17J	ins No. 23, 2016, s 11
pt 2A	
div 4 hdg	ins No. 23, 2016, s 11
s 17K	ins No. 23, 2016, s 11
pt 2	
div 4 hdg	rep No. 23, 2016, s 11
s 18	amd No. 65, 1994, s 13; No. 28, 2011, s 5 sub No. 23, 2016, s 11
s 19	amd No. 65, 1994, s 14 sub No. 23, 2016, s 11
pt 2	
div 5 hdg	rep No. 23, 2016, s 11
pt 2A	
div 5 hdg	ins No. 23, 2016, s 11
s 20	amd No. 17, 1996, s 6 sub No. 23, 2016, s 11
ss 20A – 20C	ins No. 23, 2016, s 11
pt 2A	
div 6 hdg	ins No. 23, 2016, s 11
ss 20D – 20G	ins No. 23, 2016, s 11
pt III hdg	sub No. 23, 2016, s 43
s 21	amd No. 65, 1994, s 15; No. 23, 2016, s 43
s 22	amd No. 23, 2016, s 43
s 23	sub No. 23, 2016, s 12
s 24	amd No. 23, 2016, s 43
s 25	amd No. 31, 1991, s 3; No. 65, 1994, s 16 sub No. 23, 2016, s 13
s 25A	ins No. 65, 1994, s 17 amd No. 23, 2016, s 14
s 23	sub No. 23, 2016, s 15

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s 27	amd No. 65, 1994, s 18; No. 23, 2016, s 43
pt IV hdg	amd No. 23, 2016, s 43
s 28	amd No. 65, 1994, s 19; No. 41, 2001, s 2; No. 23, 2016, s 43
s 29	amd No. 23, 2016, s 16
s 30	amd No. 65, 1994, s 20 sub No. 23, 2016, s 17
s 31	amd No. 23, 2016, s 18
s 32	amd No. 23, 2016, s 19
s 33	amd No. 17, 1996, s 6; No. 11, 2005, s 20 sub No. 23, 2016, s 20
ss 33A – 33C	ins No. 23, 2016, s 20
s 34	amd No. 65, 1994, s 21 sub No. 24, 1997, s 13 amd No. 21, 2000, s 7; No. 23, 2016, s 21
s 34A	ins No. 21, 2000, s 8 sub No. 23, 2016, s 22
s 35	sub No. 24, 1997, s 13; No. 23, 2016, s 22
s 35A	ins No. 23, 2016, s 22
s 36	amd No. 28, 1993, s 3; No. 24, 1997, s 14; No. 28, 2011, s 5 sub No. 23, 2016, s 22
pt IV	
div 4 hdg	amd No. 23, 2016, s 43
s 37	amd No. 65, 1994, s 22; No. 17, 1996, s 6; No. 7, 2004, s 5; No. 28, 2011, s 5 sub No. 23, 2016, s 23
s 37A	ins No. 65, 1994, s 23 amd No. 60, 2001, s 8; No. 7, 2004, s 6 rep No. 23, 2016, s 23
s 37B	ins No. 65, 1994, s 23 amd No. 7, 2004, s 7 rep No. 23, 2016, s 23
s 38	amd No. 65, 1994, s 24; No. 24, 1997, s 15; No. 9, 2016, s 109; No. 23, 2016, s 24; No. 10, 2018, s 6
s 39	sub No. 23, 2016, s 25
s 40	amd No. 65, 1994, s 25; No. 28, 2011, s 5 sub No. 23, 2016, s 25
ss 40A – 40B	ins No. 23, 2016, s 25
s 41	amd No. 65, 1994, s 26; No. 28, 2011, s 5 sub No. 23, 2016, s 25
s 42	sub No. 23, 2016, s 25
s 43	amd No. 17, 1996, s 6 sub No. 23, 2016, s 25
s 43A	ins No. 65, 1994, s 27 amd No. 9, 2016, s 110 sub No. 23, 2016, s 25
s 44	amd No. 21, 2000, s 9; No. 23, 2016, s 43
s 45	amd No. 65, 1994, s 28; No. 17, 1996, s 6; No. 23, 2016, s 43
s 45A	ins No. 65, 1994, s 29 rep No. 24, 1997, s 16 ins No. 23, 2016, s 26
s 45B	ins No. 23, 2016, s 26
s 46	amd No. 65, 1994, s 30; No. 17, 1996, s 6; No. 7, 2004, s 8; No. 23, 2016, s 27
pt 4	
div 4A hdg	ins No. 23, 2016, s 28
ss 46A – 46F	ins No. 23, 2016, s 28
pt 4	
div 4B hdg	ins No. 23, 2016, s 28
ss 46G – 46N	ins No. 23, 2016, s 28

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s 47	amd No. 65, 1994, s 31; No. 27, 1999, s 15; No. 7, 2004, s 9; No. 15, 2009, s 16; No. 28, 2011, s 5; No. 23, 2016, s 29
s 48	amd No. 23, 2016, s 43
s 49	amd No. 31, 1991, s 3; No. 65, 1994, s 32; No. 42, 1995, s 3 sub No. 23, 2016, s 30
pt 5 hdg	sub No. 23, 2016, s 30
pt 5	
div 1 hdg	ins No. 23, 2016, s 30
s 50	amd No. 65, 1994, s 33; No. 7, 2004, s 10 sub No. 23, 2016, s 30
s 50A	ins No. 23, 2016, s 30
pt 5	
div 2 hdg	ins No. 23, 2016, s 30
s 51	rep No. 5, 1995, s 19 ins No. 24, 1997, s 17 amd No. 27, 1999, s 15; No. 23, 2016, s 31
s 52	amd No. 24, 1997, s 18 sub No. 23, 2016, s 32
s 53	amd No. 23, 2016, s 43
s 55	amd No. 39, 1992, s 3; No. 23, 2016, s 43
s 57	sub No. 23, 2016, s 33
pt VI hdg	amd No. 23, 2016, s 43
s 58	amd No. 65, 1994, s 34; No. 59, 2002, s 5; No. 23, 2016, s 43
s 61	amd No. 23, 2016, s 43
s 62	amd No. 65, 1994, s 35
s 63	amd No. 65, 1994, s 36
pt 6	
div 2	
sdiv 1 hdg	ins No. 23, 2016, s 34
s 63A	ins No. 23, 2016, s 34
s 64	amd No. 65, 1994, s 37; No. 23, 2016, s 35
s 64A	ins No. 23, 2016, s 36
s 65	amd No. 65, 1994, s 38 sub No. 23, 2016, s 36
s 66	amd No. 65, 1994, s 39; No. 23, 2016, s 37
s 67	sub No. 23, 2016, s 38
s 69	amd No. 23, 2016, s 43
pt 6	
div 2	
sdiv 2 hdg	ins No. 23, 2016, s 39
ss 70A – 70E	ins No. 23, 2016, s 39
pt VII hdg	sub No. 23, 2016, s 43
pt 8 hdg	ins No. 23, 2016, s 40
ss 72 – 83	ins No. 23, 2016, s 40
sch 2	amd No. 31, 1991, s 3; No. 65, 1994, s 40; No. 24, 1997, s 19; No. 27, 1999, s 15; No. 7, 2004, s 11; No. 28, 2011, s 5; No. 23, 2016, s 41
sch 3	amd No. 33, 1990, s 9 rep No. 65, 1994, s 41 ins No. 23, 2016, s 42