

NORTHERN TERRITORY OF AUSTRALIA
FISHERIES AMENDMENT ACT 2003

Act No. 7 of 2004

TABLE OF PROVISIONS

Section

1. Short title
2. Principal Act
3. Interpretation
4. Review by Director
5. General offences and penalties
6. Infringement notices and offences
7. Withdrawal of infringement notice
8. Forfeiture of property on finding of guilt
9. Regulations
10. Review of decisions of Director
11. Schedule 2
12. Amendments of Fisheries Regulations



NORTHERN TERRITORY OF AUSTRALIA

Act No. 7 of 2004

AN ACT

to amend the *Fisheries Act* and for related purposes

[Assented to 7 January 2004]
[Second reading 8 October 2003]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Fisheries Amendment Act 2003*.

2. Principal Act

The *Fisheries Act* is in this Act referred to as the Principal Act.

3. Interpretation

Section 4 of the Principal Act is amended by inserting after the definition of "possession" in subsection (1) the following:

" 'prescribed decision' means a decision of the Director under a prescribed provision of the Regulations or a fishery management plan;".

4. Review by Director

Section 11A of the Principal Act is amended by omitting from subsection (1) "Where a decision is made under section 11, 12A, 12B, 14 or 14A" and substituting "If a decision under section 11, 12A, 12B, 14 or 14A or a prescribed decision is made".

5. General offences and penalties

Section 37 of the Principal Act is amended by omitting from subsection (2) "\$10,000" and substituting "\$20 000".

6. Infringement notices and offences

Section 37A of the Principal Act is amended by omitting subsections (2A) and (7).

7. Withdrawal of infringement notice

Section 37B of the Principal Act is amended by omitting from subsection (1) "a prescribed person who is an employee within the meaning of the *Public Sector Employment and Management Act*" and substituting "the Director or a Fisheries Officer".

8. Forfeiture of property on finding of guilt

Section 46 of the Principal Act is amended by omitting subsection (4).

9. Regulations

Section 47 of the Principal Act is amended –

- (a) by omitting from subsection (2)(y) "\$10,000" and substituting "\$20 000"; and
- (b) by adding at the end the following:

"(6) The Regulations may prescribe different penalties for different classes of offender for an offence against the Regulations."

10. Review of decisions of Director

Section 50 of the Principal Act is amended –

- (a) by inserting after subsection (1) the following:

"(1A) Also, a person aggrieved by a prescribed decision may apply to the Local Court for a review of the decision.";
- (b) by omitting from subsection (2) "section 11(13)" (all references) and "subsection (1)" and substituting "section 11A" and "subsection (1) or (1A)" respectively; and
- (c) by omitting from subsection (8) "of the Director cancelling or suspending a licence or permit under section 20(2) or (3)" and substituting "mentioned in subsection (1)(c) or (1A)".

11. Schedule 2

Schedule 2 to the Principal Act is amended –

(a) by omitting clause 2(g) and substituting the following:

"(g) provide for offences in respect of contravention of or non-compliance with a provision of the plan or a notice, requirement or direction given under the plan and provide for penalties as follows:

- (i) a penalty not exceeding \$20 000 for an offence;
- (ii) a penalty not exceeding \$50 for each fish or item of aquatic life in excess of a specified limit;
- (iii) a penalty not exceeding \$500 for each item of gear by which a specified limit in respect of the gear is exceeded;"

(b) by adding at the end the following:

"3. A fishery management plan may prescribe different penalties for different classes of offender for an offence against the plan.

"4. Subject to clause 5, a fishery management plan may provide for the Director 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 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 must approve.

"5. A provision of a fishery management plan made under clause 4 may authorise the Director 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 fishery management plan; and
- (b) the later offence was committed after the commencement of that clause."

12. Amendments of Fisheries Regulations

(1) The Fisheries Regulations are amended –

(a) by inserting before regulation 206 in Part 12 the following:

"205A. Infringement offences

"(1) For section 37A of the Act, an offence against a provision of the Act, these Regulations or a fishery management plan specified in column 1 of Schedule 6 and briefly described opposite in column 2 of that Schedule is an infringement offence.

"(2) The prescribed penalty for an infringement offence in column 1 of Schedule 6 is the amount specified opposite the offence in column 3 of that Schedule."; and

(b) by inserting after Schedule 5 the following:

"SCHEDULE 6

Regulation 206A

INFRINGEMENT OFFENCES AND PENALTIES

Column 1 Provision	Column 2 Brief description of offence	Column 3 Penalty
<i>Fisheries Act</i>		
Section 35(1)	Failing to provide record, information etc.	\$500
<i>Fisheries Regulations</i>		
Regulation 8	Tethering live fish	\$200
Regulation 9	Taking certain fish over 1.2 m	\$500
Regulation 31(1)	Abandoning gear	\$500
Regulation 32(1) and (2)	Using improperly marked gear	\$200
Regulation 34	Using amateur drag net improperly	\$200
Regulation 41	Using restricted bait net improperly	\$500

Fisheries Amendment Act 2003

Regulation 54(1), (2) and (3)	Using improperly marked fishing vessel	\$500
-------------------------------	--	-------

Barramundi Fishery Management Plan

Clause 12(1) and (3)	Using gillnet improperly	\$500
----------------------	--------------------------	-------

Clause 22(2)	Using improper amateur fishing gear	\$200
--------------	-------------------------------------	-------

Clause 23	Tethering barramundi	\$200
-----------	----------------------	-------

Clause 26(1)	Fishing using bait or improper gear – Shady Camp Billabong	\$200
--------------	--	-------

Clause 27(1)	Fishing or possessing improper gear – Mary River	\$200
--------------	--	-------

Clause 28(b) and (c)	Fishing in closed season in Mary or Daly River seasonally closed areas	\$200
----------------------	--	-------

Mud Crab Fishery Management Plan

Clause 12(2)(e)	Amateur – using improperly marked pots	\$200
-----------------	--	-------

Clause 13(1) and (2)	Amateur – using or possessing pots in excess of limit	\$200
----------------------	---	-------

(2) A regulation or schedule inserted by subsection (1) may be amended or repealed by a regulation as if the insertions had been made by a regulation.