

NORTHERN TERRITORY OF AUSTRALIA

FISHERIES LEGISLATION AMENDMENT ACT 2016

Act No. 23 of 2016

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- Schedule 1 Fisheries Act further amended**
- Schedule 2 Fisheries Regulations further amended**
- Schedule 3 Other Acts amended**



NORTHERN TERRITORY OF AUSTRALIA

Act No. 23 of 2016

An Act to amend the *Fisheries Act* and *Fisheries Regulations*, and for related purposes

[Assented to 9 June 2016]
[Second reading 20 April 2016]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Fisheries Legislation Amendment Act 2016*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Fisheries Act

3 Act amended

This Part amends the *Fisheries Act*.

4 Section 2A amended

(1) Section 2A(a)

omit

all words from "development," to "habitats;"

insert

development; and

(2) After section 2A(a)

insert

(ab) to protect the environment, people and economy of the Territory from the introduction and spread of aquatic noxious species and diseases; and

(3) Section 2A(b)(i), at the end

insert

and

(4) Section 2A(b)(ii)

omit, insert

(ii) the commercial fishing, aquaculture and fishing tourism industries; and

(5) Section 2A(c)

omit

by means of a flexible approach to the management of aquatic resources and their habitats,

5 Section 4 amended

(1) Section 4(1)

omit

, unless the contrary intention appears

- (2) Section 4(1), definitions **assistant**, **nominated person**, **noxious aquatic life**, **noxious fish**, **operative management plan**, **short term operator**, **State**, **temporary transferee** and **Territory of the Commonwealth**

omit

- (3) Section 4(1)

insert (in alphabetical order)

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.

approved operator means a person approved under section 17A.

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

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.

delegate decision, see section 50(1).

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

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.

infringement notice, see section 46B.

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

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.

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

prescribed amount, see section 46A(2).

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

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

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.

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.

(4) Section 4(1), definition **arrangement**

omit

VI

insert

6

- (5) Section 4(1), definition **Commonwealth Act**
omit
of the Commonwealth
insert
(Cth)
- (6) Section 4(1), definition **fishery management plan** or **management plan**
omit
management plan approved under Part III for a
insert
plan approved under Part 3, or Part 6, Division 2, Subdivision 2, for a management area or managed
- (7) Section 4(1), definition **permit**, after "Act"
insert
or, as the context requires, a permit document issued as a consequence of the grant of a permit
- (8) Section 4(1), definition **possession**
omit
package,
- (9) Section 4(1), definition **prescribed decision**
omit
fishery
- (10) Section 4(1), definition **trans-ship at sea**, paragraph (b)
omit (all references)
boat
insert
vessel

- (11) Section 4(1), at the end

insert

Note for subsection (1)

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

- (12) Section 4(3)

omit

6 Section 4A inserted

After section 4, in Part I

insert

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.

7 Section 6 replaced

Section 6

repeal, insert

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.

8 Section 8 replaced

Section 8

repeal, insert

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 Section 9 amended

- (1) Section 9(1)

omit, insert

- (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) Section 9(2)(a), (b) and (c)

omit, insert

- (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;
- (3) Section 9(2)(d)
- omit*
- notice in the *Gazette*
- insert*
- Gazette* notice

10 Section 9A amended

- (1) Section 9A(1) and (2)
- omit, insert*
- (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.

- (2) Section 9A(3) and (4)(a) and (b), after "subsection (2)(b)"
insert
(ii)
- (3) Section 9A(5)
omit, insert
- (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.
- (4) Section 9A(6)
omit
maintained
insert
kept
- (5) Section 9A(6)(b), after "licence"
insert
or quota

11 Part II, Divisions 2 to 5 replaced

Part II, Divisions 2 to 5

*repeal, insert***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.

12 Section 23 replaced

Section 23

repeal, insert

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.

13 Section 25 replaced

Section 25

repeal, insert

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.

14 Section 25A amended

- (1) Section 25A, heading, after "**to**"

insert

management

- (2) Section 25A(1)
omit
fishery management plan
insert
management plan made under this Part
- (3) Section 25A(1)(b)
omit, insert
- (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.
- (4) Section 25A(3)
omit, insert
- (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.

15 Section 26 replaced

Section 26

repeal, insert

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).

16 Section 29 amended

- (1) Section 29(1)

omit

all words from "operative" to "of them"

insert

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

- (2) Section 29(1)(a) and (b), at the end

insert

or

(3) Section 29(2)

omit

all words from "Any" to "shall be"

insert

A notice under this section must contain brief reasons for the restrictions and be

(4) Section 29(3) and (4)

omit, insert

- (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.

17 Section 30 replaced

Section 30

repeal, insert

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.

18 Section 31 amended

- (1) Section 31(1)(a) to (e), at the end
insert
and
- (2) Section 31(1)(c)
omit
cupboard, drawer, chest, trunk, box, cage, package or other receptacle,
- (3) Section 31(1)(d), after "equipment"
insert
(including fishing monitoring equipment and vessel monitoring systems)
- (4) Section 31(1)(f)
omit, insert
(f) require a person to open a locked, barred or otherwise secured gate, door or container; and
- (5) Section 31(2)
omit, insert
- (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.

19 Section 32 amended

- (1) Section 32(2)

omit

- (2) Section 32(3)(a) and (b)

omit

order

insert

require

- (3) Section 32(4)

omit, insert

- (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.

- (4) Section 32(6)

omit

shall

insert

must

- (5) Section 32(6), at the end

insert

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.

- (6) Section 32(7)

omit

- (7) Section 32(9)

omit

shall have

insert

has

20 Section 33 replaced

Section 33

repeal, insert

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* 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.

21 Section 34 amended

(1) Section 34(1)

omit

In this section, **person** means

insert

This section applies to

(2) Section 34(1)(a) and (b), at the end

insert

or

(3) Section 34(1)(c)

omit

, or a nominated person or short term operator in respect of,

(4) Section 34(1)(d), after "retail"

insert

under a licence or permit

(5) Section 34(2)(a)

omit

notice in writing

insert

written notice

(6) Section 34(2)(b)

omit

notice in the *Gazette*

insert

Gazette notice

22 Sections 34A to 36 replaced

Sections 34A to 36

repeal, insert

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).

23 Sections 37 to 37B replaced

Sections 37 to 37B

repeal, insert

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.

24 Section 38 amended

- (1) Section 38(1)

omit

this Act

insert

the Regulations or a management plan

- (2) After section 38(3)

insert

- (4) Subsection (1) does not apply to an offence against the Regulations or a management plan to which Part IIAA of the Criminal Code applies.

25 Sections 39 to 43A replaced

Sections 39 to 43A

repeal, insert

39 Obstruction of authorised officers

- (1) A person commits an offence if:
- (a) the person intentionally obstructs another person; and
 - (b) the other person is an authorised officer; and
 - (c) the authorised officer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 50 penalty units or imprisonment for 6 months.

- (2) Strict liability applies to subsection (1)(b).
- (3) For subsection (1), a person who refuses to allow an authorised officer, or any person lawfully assisting the authorised officer, to exercise any of the powers conferred on the authorised officer by or under this Act is taken to be obstructing the authorised officer.
- (4) In this section:

obstruct includes hinder and resist.

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
- (c) the person is not authorised under this Act to take fish or aquatic life in the licensed area and is reckless in relation to that circumstance.

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

- (2) A person commits an offence if:

- (a) the person intentionally removes diseased or contaminated fish or aquatic life from an area; and
- (b) the area is a licensed area and the person is reckless in relation to that circumstance; and
- (c) the person is not authorised under this Act to remove diseased or contaminated fish or aquatic life from the licensed area and is reckless in relation to that circumstance.

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

- (3) A person commits an offence if:

- (a) the person intentionally enters an area; and

- (b) the area is a licensed area that has been marked out under section 55(4) and the person is reckless in relation to that circumstance; and
- (c) the person is not authorised to enter the area by the holder of the aquaculture licence and is reckless in relation to that circumstance.

Maximum penalty: 50 penalty units.

(4) A person commits an offence if:

- (a) the person intentionally engages in conduct; and
- (b) the conduct results in the removal of, or interference with, a beacon, buoy, mark, light, signal, raft, structure or implement used in relation to 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.

(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.

26 Sections 45A and 45B inserted

After section 45

insert

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.

27 Section 46 amended

- (1) Section 46, heading

omit, insert

46 Court may order forfeiture

- (2) Section 46(1)

omit, insert

- (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.
- (3) Section 46(2)
- omit (all references)*
- Crown
- insert*
- Territory
- (4) Section 46(3)
- omit, insert*
- (3) Any forfeiture ordered or payment imposed under this section is in addition to the penalty imposed for the offence.

28 Part IV, Divisions 4A and 4B inserted

After section 46

insert

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*, 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* 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*, 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.

29 Section 47 amended

- (1) Section 47(1)

omit, insert

- (1) The Administrator may make regulations under this Act.

(2) Section 47(2)

omit

all words from "Without" to "to"

insert

A regulation may make provision for or in relation to the following

(3) After section 47(2)(a)

insert

(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;

(4) Section 47(2)(d)

omit

, package,

(5) Section 47(2)(h)

omit

tenders

insert

tender vessels

(6) Section 47(2)(k)

omit

fish, noxious aquatic life

insert

species

- (7) Section 47(2)(p)
omit
Territory of the Commonwealth
insert
Territory
- (8) After section 47(2)(q)
insert
(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;
- (9) Section 47(2)(t) and (w)
omit
authorizing
insert
authorising
- (10) Section 47(2)(w)
omit
fish; and
insert
fish.
- (11) Section 47(2)(y)
omit
- (12) Section 47(2), at the end
insert
Examples for subsection (2)(ac)
1 *Total allowable catch.*
2 *The allocation of total allowable catch between licensees.*

(13) Section 47(5)

omit

moneys

insert

money

(14) After section 47(5)

insert

(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.

30 Section 49, Part V heading and section 50 replaced

Section 49, Part V, heading and section 50

*repeal, insert***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*:

- (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 sets out the procedure for applying to the Tribunal for review and other relevant matters in relation to reviews.

Division 2 Other matters

31 Section 51 amended

- (1) Section 51, heading, after "**Development**"

insert

Trust

- (2) Section 51(1)

omit

within the meaning

insert

as defined in section 3(1)

- (3) Section 51(1)

omit

Agency Operating Account within the meaning

insert

Accountable Officer's Trust Account as defined in section 3(1)

(4) Section 51(1), after "Development"

insert

Trust

32 Section 52 replaced

Section 52

repeal, insert

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.

33 Section 57 replaced

Section 57

repeal, insert

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.

34 Part VI, Division 2, Subdivision 1 heading and section 63A inserted

Before section 64, in Part VI, Division 2

insert

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.

35 Section 64 amended

Section 64(2) to (6)

omit, insert

- (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*.

36 Section 65 replaced

Section 65

repeal, insert

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.

37 Section 66 amended

- (1) Section 66, heading
omit
and powers, &c.,
insert
, powers and objects
- (2) Section 66(2)
omit, insert
- (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.

38 Section 67 amended

- (1) Section 67(1), after "licence"
insert
, permit, approval

(2) Section 67(1)

omit

by virtue of this section, does not authorize

insert

because of this section or a management plan made under Subdivision 2, does not authorise

(3) Section 67(2)

omit, insert

(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.

(4) Section 67(3)(b)

omit

shall

insert

must

(5) Section 67(4)

omit

referred to in section 11

39 Part VI, Division 2, Subdivision 2 inserted

After section 70, in Part VI

insert

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).

40 Part 8 inserted

After section 71

insert

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.

41 Schedule 2 amended

- (1) Schedule 2, heading
omit
fishery
- (2) Schedule 2, heading
omit
section 25(1)
insert
sections 25(1) and 70C(1)
- (3) Schedule 2, clause 2 and 2(a)
omit
fishery
- (4) Schedule 2, clause 2(c) and (d)
omit, insert
(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;
- (5) Schedule 2, clause 2(f), after "Director"
insert
or Joint Authority
- (6) Schedule 2, clause 2(g)
omit, insert
(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;

(7) Schedule 2, after clause 2

insert

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.

(8) Schedule 2, clause 3

omit

fishery

(9) Schedule 2, clause 4

omit

fishery management

insert

management

(10) Schedule 2, clause 4, after "Director"

insert (all references)

or Joint Authority

(11) Schedule 2, clause 5

omit

all words from "a fishery" to "Director"

insert

a management plan made under clause 4 may authorise the Director or Joint Authority

(12) Schedule 2, clause 5(a)(ii)

omit

fishery

42 Schedule 3 inserted

After Schedule 2

insert

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

43 Act further amended

Schedule 1 has effect.

Part 3 Amendment of Fisheries Regulations

44 Regulations amended

This Part amends the *Fisheries Regulations*.

45 Regulation 3 amended

(1) Regulation 3(1), definitions ***aquatic pest***, ***fishing monitoring equipment*** and ***vessel monitoring system***

omit

(2) Regulation 3(1)

insert (in alphabetical order)

assistant means a person who assists a licensee or an approved operator in the conduct of fishing operations.

(3) Regulation 3(4)

omit

Schedule 1

insert

these Regulations

46 Regulation 15 inserted

Before regulation 16, in Part 3, Division 2

insert

15 What is a noxious species

For the definition ***noxious species*** in section 4(1) of the Act, each fish or aquatic life specified in Schedule 1 is a noxious species.

47 Regulations 23A, 24 and 25 replaced

Regulations 23A, 24 and 25

repeal, insert

25 Permit required to trade in or release live exotic fish and aquatic life

For section 11(1)(f) of the Act, the following things are able to be done only under a permit:

- (a) trade in live exotic fish or exotic aquatic life;
- (b) release an exotic fish or exotic aquatic life into a body of water other than an aquarium.

48 Regulation 26 amended

- (1) Regulation 26, heading, after "**import**"

insert

live

- (2) Regulation 26(1)

omit, insert

- (1) An application for a permit to import live fish or aquatic life must be accompanied by a statement of the proposed method of treatment and disposal of the water in which the fish or aquatic life is imported.
- (1A) The Director may require an applicant for a permit to import live fish or aquatic life to be supported by a certificate attesting to:
 - (a) the disease status of the fish or aquatic life; and
 - (b) any treatment given to the fish or aquatic life.

-
- (1B) The certificate must be issued by one of the following persons, who must have inspected the fish or aquatic life to which the certificate refers:
- (a) for fish or aquatic life other than plant life – a veterinarian, however described, registered under the *Veterinarians Act* or a similar Act of a State or another Territory;
 - (b) for aquatic life that is plant life – an approved person.
- (3) Regulation 26(2)
- omit*
- all words from "must" to "unless"
- insert*
- may only grant a permit to import live fish or aquatic life if
- (4) Regulation 26(2)(a)
- omit*
- that species of fish or aquatic life
- insert*
- the fish or aquatic life is of a species that
- (5) Regulation 26(2)(b)
- omit*
- his or her
- insert*
- the Director's

49 Regulations 27 and 28 replaced

Regulations 27 and 28

repeal, insert

28 Permit to import live fish or aquatic life to state certain matters

A permit to import live fish or aquatic life must state:

- (a) the species of fish or aquatic life that may be imported; and

- (b) if the Director has required a certificate under regulation 26(1A):
 - (i) the disease status of the fish or aquatic life, as evidenced by the certificate; and
 - (ii) the approved treatment, prior to import, of the fish or aquatic life; and
- (c) the permitted method of treatment and disposal of water used in the importation of the fish or aquatic life; and
- (d) if the Director thinks fit, details enabling the identification of the particular stock of fish or aquatic life and the facility from which export of fish or aquatic life is to occur; and
- (e) the permitted method of transport; and
- (f) the period during which the permit is valid.

Note for regulation 28

Section 14(3) of the Act requires the permit to state any conditions imposed by the Director under section 14(1) of the Act.

50 Regulations 47 and 50 repealed

Regulations 47 and 50

repeal

51 Regulation 96CB amended

Regulation 96CB(3A)

omit, insert

- (3A) However, the fee is not payable if the temporary unit transferor is the holder of the licence for which the units to be transferred were issued under regulation 96CA.

52 Regulation 96CC amended

Regulation 96CC(6)

omit

53 Regulation 97 amended

- (1) Regulation 97, heading

omit

licence

insert

restricted licences to the Territory

- (2) Regulation 97(1)

omit

- (3) Regulation 97(5)

omit

(5)

54 Regulation 98 amended

- (1) Regulation 98, heading, after "**licence**"

insert

granted on transfer

- (2) Regulation 98(1)

omit

(1)

- (3) Regulation 98(1)

omit

(5)

- (4) Regulation 98(2)

omit

55 Regulation 138 replaced

Regulation 138

repeal, insert

138 Licence required to trial gear or fishing methods

For section 10(1)(f) of the Act, the carrying out of trials and experiments with fishing gear or new methods of fishing is able to be done only under a licence.

56 Regulation 159 repealed

Regulation 159

repeal

57 Regulation 192 replaced

Regulation 192

repeal, insert

192 Licence required for tour operator

For section 10(1)(f) of the Act, the conduct of a business that provides the services of a person to conduct a fishing tour is able to be done only under a licence.

58 Regulations 196A and 197 replaced

Regulations 196A and 197

repeal, insert

196A Licence does not authorise taking fish for sale

A Fishing Tour Operator licence does not authorise its holder to take fish for sale.

59 Regulation 199 amended

Regulation 199(1) and (1A)

omit, insert

- (1) An Aquarium Trader licence authorises the holder to:
- (a) sell fish or aquatic life for use in an aquarium; and

- (b) purchase and keep live fish and aquatic life for the purpose of exhibiting them for profit in the Territory.

60 Regulation 202 amended

Regulation 202(1)

omit, insert

- (1) Subject to this Division, a Public Aquarium licence authorises the holder to take, purchase and keep live fish and aquatic life for the purpose of exhibiting them for profit in the Territory.

61 Regulation 203 replaced

Regulation 203

repeal, insert

203 Licence required for selling or repairing nets

For section 10(1)(f) of the Act, the selling or repairing of nets, other than nets that may be used in amateur fishing, is able to be done only under a licence.

62 Regulation 205A replaced

Regulation 205A

omit, insert

205A Infringement notice offences

- (1) For section 46A(1) of the Act, definition ***infringement notice offence***, an offence against a provision of the Act, these Regulations or a fishery management plan specified in Schedule 6 is an infringement notice offence.
- (2) For section 46A(2) of the Act, definition ***prescribed amount***, the number of penalty units specified for an infringement notice offence is the amount specified opposite the offence in Schedule 6.

63 Regulation 209 amended

- (1) Regulation 209

omit

and section 37(2) of the Act applies

(2) Regulation 209, at the end

insert

Maximum penalty: 20 penalty units.

64 Regulation 209B replaced

Regulation 209B

repeal, insert

209B Review of decisions made in relation to Joint Authority fishery

- (1) Section 50 of the Act applies to a decision made by a person acting under the delegated authority of the Joint Authority as if:
- (a) a reference in that section to the Director were a reference to the Joint Authority; and
 - (b) a reference in that section to a decision made under this Act were a reference to a decision made under these Regulations in relation to a Joint Authority fishery.
- (2) For section 50A of the Act:
- (a) the following are reviewable decisions:
 - (i) a decision made under these Regulations in relation to a Joint Authority fishery, other than a decision made by a person acting under the delegated authority of the Joint Authority;
 - (ii) a decision made on a review under section 50 of the Act of a decision made under these Regulations in relation to a Joint Authority fishery by a person acting under the delegated authority of the Joint Authority; and
 - (b) a person affected by a decision mentioned in paragraph (a) is an affected person for the reviewable decision.

65 Schedule 1 replaced

Schedule 1

*repeal, insert***Schedule 1 Noxious species**

regulation 15

Family	Scientific name	Common name
Acestrorhynchidae	<i>Acestrorhynchus microlepis</i>	
Acipenseridae	<i>Acipenser baerii baerii</i>	Siberian sturgeon
	<i>Acipenser baerii baicalensis</i>	Baikal sturgeon
	<i>Acipenser brevirostrum</i>	Shortnose sturgeon
	<i>Acipenser dabryanus</i>	Yangtze sturgeon
	<i>Acipenser fulvescens</i>	Lake sturgeon
	<i>Acipenser gueldenstaedtii</i>	Russian sturgeon
	<i>Acipenser medirostris</i>	Green sturgeon
	<i>Acipenser mikadoi</i>	Sakhalin sturgeon
	<i>Acipenser multiscutatus</i>	Japanese sturgeon
	<i>Acipenser naccarii</i>	Adriatic sturgeon
	<i>Acipenser nudiiventris</i>	Fringebarbel sturgeon
	<i>Acipenser oxyrinchus destotoi</i>	Gulf sturgeon
	<i>Acipenser oxyrinchus oxyrinchus</i>	Atlantic sturgeon
	<i>Acipenser persicus</i>	Persian sturgeon
	<i>Acipenser ruthenus</i>	Sterlet
	<i>Acipenser schrenckii</i>	Amur sturgeon
	<i>Acipenser sinensis</i>	Chinese sturgeon
	<i>Acipenser stellatus</i>	Starry sturgeon
<i>Acipenser sturio</i>	European sturgeon	
<i>Acipenser transmontanus</i>	White sturgeon	
<i>Huso huso</i>	Beluga	

Algae	<i>Caulerpa taxifolia</i> (exotic strains only)	Green macroalga
	<i>Codium fragile fragile</i>	Green macroalga
	<i>Grateloupia turuturu</i>	Red macroalga
	<i>Sargassum muticum</i>	Asian seaweed
	<i>Undaria pinnatifida</i>	Japanese seaweed
Annelida	<i>Alitta succinea</i>	Pile worm
	<i>Boccardia proboscidea</i>	Spionid polychaete
	<i>Euchone limnicola</i>	Sabellid polychaete worm
	<i>Marenzelleria</i> spp	Red gilled mudworm
	<i>Polydora websteri</i>	Mudworm
	<i>Polydora cornuta</i>	Spionid polychaete
	<i>Sabella spallanzanii</i>	European fan worm
Alestiidae	<i>Hydrocynus</i> spp	Pike characin, giant tigerfish
Amiidae	<i>Amia calva</i>	Bowfin
Anabantidae	<i>Anabas testudineus</i>	Climbing perch
Ascideacea	<i>Ciona intestinalis</i>	Sea vase
	<i>Didemnum</i> spp (exotic invasive strains only)	Colonial sea squirt
	<i>Styela clava</i>	Clubbed tunicate
Bagridae	<i>Anaspidoglanis macrostoma</i>	Flatnose catfish
	<i>Bagrus ubangensis</i>	Ubangi shovelnose catfish
Cambaridae	<i>Procambarus clarkii</i>	Red swamp crayfish
Centrarchidae	entire family	Banded sunfish, spotted sunfish, largemouth bass, bluegill
Centropomidae	<i>Centropomus</i>	Snooks
	<i>Lates microlepis</i>	Forktail lates
	<i>Lates niloticus</i>	Nile perch

Chacidae	<i>Chaca bankanensis</i>	Angler catfish
	<i>Chaca burmensis</i>	Burmensis frogmouth catfish
	<i>Chaca chaca</i>	Angler catfish, frogmouth catfish, squarehead catfish
Channidae	<i>Channa</i> spp	Snake head
Characidae	<i>Colossoma</i> spp	
	<i>Pygocentrus</i> spp	Red piranha
	<i>Pygopristis</i> spp	Piranha
	<i>Serrasalmus</i> spp	Redeye piranha
Cichlidae	<i>Boulengerochromis microlepis</i>	Giant cichlid, yellow belly cichlid
	<i>Hemichromis fasciatus</i>	Banded jewelfish
	<i>Hypselecara</i> spp	Chocolate cichlid
	<i>Melanotheron melanotheron</i>	Blackchin tilapia
	<i>Oreochromis</i> spp	Tilapia
	<i>Sargochromis</i> spp	Pink, slender, greenwoods, mortimers, cunear, green happy
	<i>Sarotherodon</i> spp	Tilapia
	<i>Serranochromis</i> spp	
Citharinidae	<i>Ichthyborinae</i> (syn. <i>Distichodontinae</i>) entire subfamily	African pike-characin, tubenose poacher, fin eater
	entire family	Snake catfish, walking catfish
Clariidae	entire family	Snake catfish, walking catfish
Cnidaria	<i>Mnemiopsis leidyi</i>	Comb jelly
Cobitidae	<i>Misgurnus anguillicaudatus</i>	Weatherloach

Crustacea	<i>Balanus improvisus</i>	Barnacle
	<i>Eriocheir</i> spp	Chinese mitten crab
	<i>Hemigrapsus sanguineus</i>	Japanese/Asian shore crab
	<i>Petrolisthes elongatus</i>	New Zealand half shell crab
	<i>Hemigrapsus takanoi/penicillatus</i>	Pacific crab
	<i>Charybdis japonica</i>	Lady crab
	<i>Carcinus maenas</i>	European green crab
Cyprinidae	<i>Aristichthys nobilis</i>	Bighead carp
	<i>Barbodes hexagonolepis</i>	Copper mahseer
	<i>Barbonymus schwanenfeldii</i>	Tinfoil barb
	<i>Catla catla</i>	Catla
	<i>Catlocarpio siamensis</i>	Giant barb
	<i>Cirrhinus cirrhosus</i>	Mrigal
	<i>Ctenopharyngodon idella</i>	Grass carp
	<i>Cyprinus carpio</i>	European carp
	<i>Hypophthalmichthys molitrix</i>	Silver carp
	<i>Labeo calbasu</i>	Orange fin labeo
	<i>Labeo rohita</i>	Rohu
	<i>Notropis</i> spp	Shiners
	<i>Phoxinus erythrogaster</i>	Southern redbelly dace
<i>Tor</i> spp	River carp, Deccan, high backed, jungha, putitor, Thai mahseer	
	<i>Zacco platypus</i>	Freshwater minnow
Doradidae	<i>Oxydoras</i> spp	Ripsaw catfish, black doras, black shielded catfish
Echinoderm	<i>Asterias amurensis</i>	Northern Pacific seastar
Elassomatidae	<i>Elassoma</i> spp	Pygmy sunfish
Eleotridae	<i>Allomogurnda nesolepis</i>	Yellowbelly gudgeon
	<i>Dormitator latifrons</i>	Pacific fat sleeper

	<i>Dormitator maculatus</i>	Fat sleeper
	<i>Gobiomorphus gobioides</i>	Giant bully
	<i>Gobiomorphus huttoni</i>	Redfin bully
	<i>Gobiomorus dormitor</i>	Bigmouth sleeper
	<i>Gobiomorus maculatus</i>	Pacific sleeper
	<i>Hypseleotris cyprinoides</i>	Tropical carp-gudgeon
	<i>Hypseleotris tohizonae</i>	
	<i>Oxyeleotris heterodon</i>	Sentani gudgeon
	<i>Oxyeleotris marmorata</i>	Marble goby
	<i>Oxyeleotris siamensis</i>	
	<i>Oxyeleotris urophthalmoides</i>	
	<i>Oxyeleotris urophthalmus</i>	
Erythrinidae	<i>Erythrinus</i> spp	Trahiras
	<i>Hoplerythrinus</i> spp	
	<i>Hoplias</i> spp	
Esocidae	<i>Esox</i> spp	Pikes
Fish	<i>Neogobius melanostomus</i>	Round goby
	<i>Siganus rivulatus</i>	Marbled spinefoot, rabbit fish
Gasterosteidae	<i>Apeltes quadracus</i>	Four spined stickleback
	<i>Culaea inconstans</i>	
	<i>Pungitius pungitius</i>	Ninespine stickleback
Gobiidae	<i>Acanthogobius flavimanus</i>	Yellow fin goby
	<i>Tridentiger trignocephalus</i>	Trident goby
Gymnarchidae	<i>Gymnarchus niloticus</i>	Aba aba
Gymnotidae	<i>Electrophorus electricus</i>	Electric eel
Hepsetidae	<i>Hepsetus odoe</i>	African pike
Heteropneustidae	<i>Heteropneustes fossilis</i>	Stinging catfish

Holoplankton	<i>Alexandrium monilatum</i>	Toxic dinoflagellate
	<i>Dinophysis norvegica</i>	Toxic dinoflagellate
	<i>Pfiesteria piscicida</i>	Toxic dinoflagellate
	<i>Chaetoceros concavicornis</i>	Centric diatom
	<i>Chaetoceros convolutus</i>	Centric diatom
	<i>Pseudo-nitzschia seriata</i>	Pennate diatom
Ictaluridae	<i>Ictalurus punctatus</i>	Channel catfish
Lebiasinidae	<i>Lebiasina bimaculata</i>	Twospot lebiasina
Lepidosirenidae	<i>Lepidosiren paradoxa</i>	South American lungfish
Lepisosteidae	<i>Atractosteus</i> spp	Alligator gar, tropical gar, Cuban gar
	<i>Lepisosteus</i> spp	Spotted gar, longnose gar, shortnose gar, Florida gar
Malapteruridae	<i>Malapterurus</i> spp	Electric catfish
Mollusca	<i>Musculista senhousia</i>	Asian bag mussel
	<i>Mytilopsis sallei</i>	Black striped mussel
	<i>Perna perna</i>	Brown mussel
	<i>Perna viridis</i>	Asian green mussel
	<i>Corbula (Potamocorbula) amurensis</i>	Asian clam, brackish-water corbula
	<i>Ensis directus</i>	Jack-knife clam
	<i>Mya arenaria</i>	Soft shell clam
	<i>Theora lubrica</i>	Asian semelid bivalve
	<i>Varicorbula gibba</i>	European clam
	<i>Crepidula fornicata</i>	American slipper limpet
	<i>Rapana venosa</i> (syn <i>Rapana thomasi</i>)	Rapa whelk
	<i>Maoricolpus roseus</i>	New Zealand screwshell
Mormyridae	<i>Mormyrops anguilloides</i>	Bottlenose, Cornish jack

Pangasiidae	<i>Pangasianodon hypophthalmus</i>	Sutchi catfish
	<i>Pangasius conchophilus</i>	
	<i>Pangasius elongatus</i>	
	<i>Pangasius gigas</i>	Mekong giant catfish
	<i>Pangasius krempfi</i>	
	<i>Pangasius kunyit</i>	
	<i>Pangasius larnaudii</i>	Spot pangasius
	<i>Pangasius macronema</i>	
	<i>Pangasius nasutus</i>	
	<i>Pangasius nieuwenhuisii</i>	
Poeciliidae	<i>Alfaro cultratus</i>	Knife-edged livebearer
	<i>Alfaro huberi</i>	
	<i>Belonesox belizanus</i>	Pike minnow, pike killifish
	<i>Gambusia</i> spp	Gambusia, mosquito fish
	<i>Heterandria bimaculata</i>	Twospot livebearer
	<i>Tomeurus gracilis</i>	
Polyodontidae	<i>Polyodon spathula</i>	Mississippi paddlefish
	<i>Psephurus gladius</i>	Chinese swordfish
Polypteridae	<i>Erpetoichthys calabaricus</i>	Reedfish
Potamotrygonidae	<i>Paratrygon aiereba</i>	Discus ray
Protopteridae	<i>Protopterus aethiopicus</i>	Marbled lungfish
	<i>Protopterus amphibius</i>	Gilled lungfish
	<i>Protopterus annectens</i>	African lungfish
	<i>Protopterus dolloi</i>	Slender lungfish
Rivulidae	<i>Leptolebias aureoguttatus</i>	
	<i>Leptolebias marmoratus</i>	Marbled pearlfish
	<i>Leptolebias minimus</i>	Barred tail pearlfish
	<i>Leptolebias opalescens</i>	Opal pearlfish

Schilbeidae	<i>Schilbe intermedius</i>	Silver catfish
	<i>Schilbe marmoratus</i>	Shoulderspot catfish
	<i>Schilbe mystus</i>	African butter catfish
Siluridae	<i>Silurus</i> spp	European catfish, wels catfish
Trichomycteridae	<i>Paravandellia oxyptera</i>	Parasitic catfish
Valenciidae	<i>Valencia hispanica</i>	Valencia toothcarp

66 Schedule 1A repealed

Schedule 1A

repeal

67 Schedule 6 amended

(1) Schedule 6, heading, after "**Infringement**"

insert

notice

(2) Schedule 6, entry for section 35(1), column 2

omit, insert

Contravening requirement to
keep or supply accounts,
records, returns or information

68 Regulations further amended

Schedule 2 has effect.

Part 4 Consequential amendments

69 Other Acts amended

Schedule 3 has effect.

Part 5 Expiry of Act

70 Expiry of Act

This Act expires on the day after it commences.

Schedule 1 Fisheries Act further amended

section 43

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
Part I, heading	whole heading	Part 1 Preliminary matters
Part II, heading	II	2
Part II, Division 1, heading	whole heading	
section 7(3)	member of the Police Force of the Northern Territory is deemed to be	police officer is
section 7(4) and (5)	member of the Police Force	police officer
section 7, at the end		<i>Note for section 7</i> <i>A Fisheries Officer is an authorised officer for this Act – see section 4(1), definition authorised officer.</i>
Part III, heading	whole heading	Part 3 Fishery management plans
		<i>Note for Part 3</i> <i>Part 6, Division 2, Subdivision 2 provides for the making of a management plan by a Joint Authority.</i>
section 21(1)	utilize	utilise
section 21(1)(a), (b) and (c), at the end		and
section 21(1)(ca)	and/or	and
section 21(1)(d)	is	are

section 21(2)	shall fishery management	must management
section 22	notice in the <i>Gazette</i>	<i>Gazette</i> notice
section 24(1)	operative	management
section 24(2)	shall	must
section 27(1)	an operative management plan shall have	a management plan has
section 27(2)	an operative shall prevail	a prevails
section 27(3)	fishery shall have	has
Part IV, heading	IV	4
section 28(1)	Notwithstanding all words from "an" to " <i>Gazette</i> "	Despite a management plan, by <i>Gazette</i> notice
section 28(1)(a) to (b), (c)(i), (ii) and (iii), (c) and (d), at the end		or
section 28(3)	notice in the <i>Gazette</i> shall be shall apply	<i>Gazette</i> notice are apply
Part IV, Division 4, heading	and penalties	
section 44(2)(e)	fishery management	management
section 45, heading	, managers, and licensees	
section 45(1)	Where shall be	If is

section 48(f)	authorizing <i>(all references)</i>	authorising
section 53(1)	shall limit	limits
section 53(2)	shall authorize	authorises
section 55(4)	authorize	authorise
Part VI, heading	VI	6
section 58(1)	Division 1 of	
section 58(2)	Part 4A	Part 5
section 61(3)	Territory of the Commonwealth	Territory
section 69(b)	of the Commonwealth	
Part VII, heading	whole heading	Part 7 Transitional matters for Fisheries Act 1988

Schedule 2 Fisheries Regulations further amended

section 68

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
regulation 4, definition <i>fishing gear</i>	whole definition	
Part 3, Division 2, heading and regulation 16, heading	aquatic pests	noxious species
regulation 16(2)	an aquatic pest	a noxious species
regulation 17	shall	must
regulation 17(a)	an aquatic pest	a noxious species
regulation 18(1)	he or she <i>(all references)</i>	the Director
regulation 18(2)	he or she an aquatic pest	the Director a noxious species
regulation 19(1)	aquatic pests <i>(all references)</i>	noxious species
regulations 21(c) and 22(e)	an aquatic pest	a noxious species
Part 3, Division 3, heading	, noxious fish	
regulation 28A, heading	fish or aquatic pests	species
regulation 28A	fish or aquatic pest	species
regulation 58	all words from "10(1)(e)" to "holder of"	10(1)(f) of the Act, the following things are able to be done only under
regulation 69, heading	and nominees	
regulation 96B(6)	(5)	

regulation 168(2)	all words from "10(1)(e)" to "holder of"	10(1)(f) of the Act, the disposal, otherwise than by sale, of fish taken as broodstock is able to be done only under
regulation 181B(7)	referred to in section 12(2)	mentioned in section 16(4)
regulations 195 and 196(1) and (2)	a short term operator, nominated person	an approved operator
regulation 198	a short term operator, nominated person shall	an approved operator must
regulation 206(1)(aa)(i)	17(1)(c)	17(2)(a)
regulation 206(1)(aa)(ii)	17(2A)	17(5)
regulation 206(1)(e)	all words from "to" to "14"	as an approved operator under section 17A
regulation 209A(4)(a)	12A or 12B	16A
regulation 209A(4)(b)	12 or 13	16, 16B or 17E

Schedule 3 Other Acts amended

section 69

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<i>Marine Act</i>		
section 129	a commercial fishing licence within the meaning	fishing operations as defined in section 3(1)
<i>Stamp Duty Act</i>		
section 4(1), definition <i>agreement</i> , paragraph (c)	whole paragraph	(c) an application for approval to transfer a licence under the <i>Fisheries Act</i> .
Schedule 2, clause 11	Temporary transfer agreement under section 12A	Transfer of a licence for a fixed period under section 16A
