



NORTHERN TERRITORY OF AUSTRALIA

No. 31 of 1985

AN ACT

To amend the *Fish and Fisheries Act*

[Assented to 27 June 1985]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Fish and Fisheries Amendment Act 1985*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

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

4. NEW DIVISION

The Principal Act is amended by inserting in Part III, before Division 1, the following:

"Division 1A - Declaration of Closed Seasons, &c.

"10A. GENERAL POWER OF MINISTER

"(1) Notwithstanding anything contained in this Act or the Regulations, the Minister may, by notice in the *Gazette* -

- (a) declare a period to be a period during which the taking of fish, or fish of a particular species specified in the notice, is prohibited;

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- (b) declare an item of fishing gear to be an item to be used in a fishery specified in the notice;
- (c) declare restrictions relating to -
 - (i) the size;
 - (ii) the design;
 - (iii) the construction materials;
 - (iv) the amount or number; or
 - (v) such other specifications as the Minister thinks fit,of fishing gear to be used in or in connection with the taking of fish, or fish of a particular species, specified in the notice;
- (d) vary the prescribed closure lines delineating the mouth of a river within the meaning of the Regulations; or
- (e) vary the boundaries of any area prescribed for the taking of fish or as waters from which fish may not be taken either generally or in a particular manner, however those areas are described, in relation to a fishery.

"(2) A declaration under sub-section (1)(a), (b) or (c) may be expressed to apply generally or in relation to a particular area or fishery specified in the notice.

"(3) On the publishing of a notice in the *Gazette* varying a closure line referred to in sub-section (1)(d) or the boundaries of an area referred to in sub-section (1)(e), that line or those boundaries as so varied shall be the line and boundaries in relation to the river or area specified in the notice and this Act and the Regulations shall apply accordingly.

"(4) Notwithstanding anything in this Act, the Regulations or a licence or permit granted under this Act, a person who -

- (a) during a period specified in a notice under sub-section (1)(a), takes fish, or fish of a species specified in the notice, in an area to which the notice relates in contravention of the notice;
- (b) where an item of fishing gear to be used in a fishery, or in a fishery in a particular area to which the notice relates, has been declared under sub-section (1)(b) - uses an item of fishing gear in that fishery, or that fishery in that area, other than an item so specified; or

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- (c) where a declaration imposing restrictions on fishing gear for the taking of fish, or fish of a species specified in the notice, in an area to which the notice relates has been made under sub-section (1)(c) - uses fishing gear for the taking of fish, or fish of that species, in the relevant area in contravention of that notice,

is guilty of an offence.

Penalty: For a first offence - \$2,000 or imprisonment for 6 months.

For a second or subsequent offence - \$5,000 or imprisonment for 12 months."

5. EFFECT OF REGISTRATION

Section 12 of the Principal Act is amended by adding at the end the following:

"(4) Where the registration of a boat is cancelled, suspended or otherwise ceases to have effect under this Act, the owner of the boat shall, as soon as practicable, remove or cause to be removed from the boat the markings referred to in sub-sections (2) and (3) and shall not use the boat or allow it to be used in or in connection with the taking of fish while it is so marked.

Penalty: \$2,000 or imprisonment for 12 months."

6. WHO MAY APPLY

Section 13 of the Principal Act is amended -

(a) by omitting from sub-section (1)(d) "Class A2 or"; and

(b) by omitting from sub-section (2) "Class A2 or".

7. LICENCES THAT MAY BE GRANTED

Section 15 of the Principal Act is amended by omitting from the table at the end of the section the following:

"Class A2 The assisting of a Class A1 licensee in the taking of fish under his licence."

8. REPEAL

Section 17 of the Principal Act is repealed.

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9. SALE OF FISH

Section 28 of the Principal Act is amended -

- (a) by omitting from sub-section (4) all words after and including "Penalty:"; and
- (b) by adding at the end the following:

"(5) A person who contravenes sub-section (1) or (2) is guilty of a regulatory offence.

Penalty: For a first offence - \$2,000 or imprisonment for 6 months.

For a second offence - \$5,000 or imprisonment for 12 months.

For a third or subsequent offence - \$10,000 or imprisonment for 2 years.

"(6) A person who contravenes sub-section (3) or (4) is guilty of an offence.

Penalty: For a first offence - \$1,000 or imprisonment for 6 months.

For a second or subsequent offence - \$2,000 or imprisonment for 12 months."

10. REPEAL AND SUBSTITUTION

Section 28A of the Principal Act is repealed and the following substituted:

"28A. GILL NETS

"(1) A person shall not have in his possession a gill net unless -

- (a) he has it in his possession under and in accordance with a Class A1 or a Class C licence or a Class D licence held by a member of an Aboriginal community;
- (b) he is a registered seller of nets of that kind;
- (c) he is a registered maker or repairer of nets of that kind;
- (d) he is the employee of a person referred to in paragraph (b) or (c) and he has it in his possession in the course of that employment; or

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- (e) he has it in his possession with and in accordance with the approval in writing of the Director of Fisheries.

Penalty: For a first offence - \$2,000 or imprisonment for 6 months.

For a second or subsequent offence - \$5,000 or imprisonment for 12 months.

"(2) A person shall not sell a gill net to, or make or repair a gill net for, a person who is not a Class A1 licensee or a Class C licensee.

Penalty: \$2,000 or imprisonment for 6 months.

"(3) An offence against sub-section (1) or (2) is a regulatory offence."

11. ASSISTING COMMERCIAL FISHING

Section 30 of the Principal Act is amended -

- (a) by omitting from sub-section (1) all words after "Class A1 licensee" and substituting "unless the Class A1 licensee has given prior notice in writing to the Director of Fisheries of his intention to employ that person to so assist him.";
- (b) by omitting from sub-section (2) all words after "to assist him" and substituting "unless he has given to the Director of Fisheries prior notice in writing of his intention to employ that person to so assist him."; and
- (c) by omitting sub-section (5) (including the penalty provision at the foot of that sub-section) and substituting the following:

"(5) A Class A1 licensee may employ another Class A1 licensee to assist him, and that second-mentioned licensee may so assist him, without the first-mentioned licensee having given to the Director of Fisheries notice in writing of his intention to do so.

Penalty for an offence against this section:

For a first offence - \$1,000 or imprisonment for 3 months.

For a second or subsequent offence - \$2,000 or imprisonment for 6 months."

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12. RECORDS OF ASSISTANCE

Section 31 of the Principal Act is amended -

- (a) by omitting "a person who is in command of a registered boat" and substituting "a Class A1 licensee"; and
- (b) by omitting "\$250" and substituting "\$1,000".

13. TRANS-SHIPPING FISH

Section 36 of the Principal Act is amended -

- (a) by omitting from sub-section (3) "Penalty: \$2,000 or imprisonment for 12 months."; and
- (b) by adding at the end the following:

"(4) A Class A1 licensee who contravenes sub-section (1), or a person who contravenes sub-section (2), is guilty of a regulatory offence.

Penalty: For a first offence - \$2,000 or imprisonment for 12 months.

For a second or subsequent offence - \$5,000 or imprisonment for 18 months."

14. COMMERCIAL PROCESSING

Section 37 of the Principal Act is amended by omitting "Penalty: \$1,000 or imprisonment for 6 months." and substituting the following:

"Penalty: For a first offence - \$2,000 or imprisonment for 6 months.

For a second or subsequent offence - \$5,000 or imprisonment for 12 months."

15. PROCESSOR TO VERIFY SOURCE OF SUPPLY

Section 38 of the Principal Act is amended by omitting "Penalty: \$1,000 or imprisonment for 6 months." and substituting the following:

"Penalty: For a first offence - \$2,000 or imprisonment for 6 months.

For a second or subsequent offence - \$5,000 or imprisonment for 12 months."

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16. EXPLOSIVES, &c.

Section 39(1) of the Principal Act is amended by omitting "Penalty: \$2,000 or imprisonment for 6 months." and substituting the following:

"Penalty: For a first offence - \$2,000 or imprisonment for 12 months.

For a second or subsequent offence - \$5,000 or imprisonment for 18 months."

17. COMPLIANCE WITH LICENCE OR REGISTRATION

Section 41(2) of the Principal Act is amended by omitting "Penalty: \$1,000 or imprisonment for 6 months." and substituting the following:

"Penalty for an offence against sub-section (1) or (2):

For a first offence against that sub-section - \$2,000 or imprisonment for 6 months.

For a second offence against that sub-section - \$5,000 or imprisonment for 12 months.

For a third or subsequent offence against that sub-section - \$10,000 or imprisonment for 2 years."

18. FALSELY IDENTIFYING FISH FOR SALE

Section 44 of the Principal Act is amended by omitting "Penalty: \$2,000 or imprisonment for 12 months." and substituting the following:

"Penalty: For a first offence - \$2,000 or imprisonment for 6 months.

For a second offence - \$5,000 or imprisonment for 12 months.

For a third or subsequent offence - \$10,000 or imprisonment for 2 years."

19. TRANSPORTING FISH

Section 46 of the Principal Act is amended by omitting "Penalty: \$1,000." and substituting the following:

"Penalty: For a first offence - \$1,000.

For a second or subsequent offence - \$2,000."

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20. COMMERCIAL CULTURING, KEEPING AND SALE OF LIVE FISH

Section 48 of the Principal Act is amended by inserting at the foot of sub-section (1) the following:

"Penalty: For a first offence - \$2,000 or imprisonment for 6 months.

For a second or subsequent offence - \$5,000 or imprisonment for 12 months."

21. SELLING NON-INDIGENOUS FISH

Section 49 of the Principal Act is amended by omitting "Penalty: \$1,000 or imprisonment for 6 months." and substituting the following:

"Penalty: For a first offence - \$2,000 or imprisonment for 6 months.

For a second offence - \$5,000 or imprisonment for 12 months.

For a third or subsequent offence - \$10,000 or imprisonment for 2 years."

22. REPEAL

Section 54A of the Principal Act is repealed.

23. ASSISTING FISHERMEN

Section 76 of the Principal Act is amended by omitting sub-section (1).

24. REGULATORY OFFENCES

Section 89A of the Principal Act is amended by omitting "27(1) or (2), 28(1) or (2)" and "36,".

25. NEW SECTION

The Principal Act is amended by inserting after section 89A the following:

"89B. SUBSEQUENT OFFENCES AGAINST SAME SECTION, &c.

"Where at the foot of a section or sub-section -

(a) there is set out a penalty provision which provides for a higher penalty, pecuniary or otherwise, for an offence, other than the first, against that section or sub-section; and

(b) the section or sub-section creates more than one separate offence,

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a conviction in respect of any one of those separate offences shall be taken as a conviction against that section or sub-section, as the case may be, for the purpose of imposing a penalty in respect of any other one of those offences committed at a later time."

26. REGULATIONS

Section 95(2) of the Principal Act is amended -

(a) by inserting after paragraph (e) the following:

"(ea) the registering of sellers, makers and repairers of gill nets;" and

(b) by omitting from paragraph (u) "\$1,000" and substituting "\$10,000".

27. FURTHER AMENDMENTS

The Principal Act is further amended as set out in the Schedule.

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SCHEDULE

Section 27

Provision	Amendment	
	omit	substitute
Section 27(3)(c)	"\$200"	"\$500"
Section 27(3)(d)	"\$500"	"\$1,000"
Section 29(1)	"\$1,000"	"\$2,000"
Section 32	"\$1,000"	"\$5,000"
Section 33	"\$500 or imprisonment for 3 months"	"\$2,000 or imprisonment for 6 months"
Section 34	"\$500 or imprisonment for 3 months"	"\$1,000 or imprisonment for 6 months"
Section 35(1)	"\$1,000"	"\$2,000"
Section 40	"\$500"	"\$2,000 or imprisonment for 6 months"
Section 43	"\$1,000 or imprisonment for 6 months"	"\$2,000"
Section 45(1)	"\$1,000"	"\$2,000"
Section 56(2)	"\$1,000 or imprisonment for 6 months"	"\$2,000 or imprisonment for 12 months"
Section 67(4)	"\$1,000 or imprisonment for 6 months"	"\$5,000 or imprisonment for 12 months"
Section 78(1A)	"\$2,000"	"\$5,000 or imprisonment for 12 months"
Section 80(3)	"\$2,000"	"\$5,000 or imprisonment for 12 months"
Section 82(2)	"\$2,000"	"\$5,000 or imprisonment for 12 months"



