

FISHING

No. 7 of 1967

An Ordinance relating to Fishing.

PART I.—PRELIMINARY.

- Short title.** 1. This Ordinance may be cited as the *Fishing Ordinance* 1967.*
- Repeal.** 2. The Ordinances specified in the First Schedule are repealed.
- State Acts to cease to apply.** 3. Sections 1 to 27 (both inclusive), 33 to 49 (both inclusive) and 51 to 64 (both inclusive) of, and the Schedules to, the Fisheries Act, 1902 and the Fisheries (Amendment) Act, 1910 of the State of New South Wales shall cease to apply in the Territory as laws of the Territory.
- Parts.** 4. This Ordinance is divided into Parts, as follows:—
 Part I.—Preliminary (Sections 1-5).
 Part II.—Administration (Sections 6-8).
 Part III.—Fresh Water Fishing (Sections 9-20).
 Part IV.—Sea Fishing (Sections 21-29).
 Part V.—Miscellaneous (Sections 30-40).
- Interpretation.** 5.—(1.) In this Ordinance, unless the contrary intention appears—
 “certificate of appointment” means a certificate of appointment issued under section 6 of this Ordinance;
 “dam” includes any fixed obstruction used for the purpose of damming up water;
 “equipment” includes net, implement, apparatus or device for taking or facilitating the taking of fish;
 “fish” includes the young, fry or spawn of fish;
 “fishing” means taking fish;
 “fresh water fish” means fish that live in fresh water;
 “gaff” means a gaff consisting of a plain metal hook without a barb;
 “Jervis Bay” means that portion of Jervis Bay included in Jervis Bay Territory;

* Made on 20 April 1967; notified in the *Commonwealth Gazette* and commenced on 27 April 1967.

- “Jervis Bay Territory” means the Territory accepted by the Commonwealth in pursuance of the *Jervis Bay Territory Acceptance Act 1915*;
- “licence” means a professional fisherman’s licence granted under this Ordinance;
- “officer” means an officer appointed under this Ordinance;
- “river” includes stream, creek and watercourse;
- “rod and line” means a single rod of at least three feet in length with a line affixed;
- “take” includes catch, dredge for, raise, kill and attempt to take, and “taking” has a corresponding meaning;
- “the Secretary” means the Secretary to the Department of the Interior;
- “trawler” means any vessel employed in fishing with a trawl-net;
- “unclean fish” means a fish that is about to spawn or has recently spawned and has not recovered from spawning;
- “undersized fish” means fish of a kind specified in the Second Schedule having less length, measured in accordance with that Schedule, than the length so specified opposite the name of the fish;
- “waters” means waters in the Territory or Jervis Bay Territory other than waters the property of a private person.

(2.) In this Ordinance, a reference to a Schedule by number shall be read as a reference to the Schedule to this Ordinance so numbered.

PART II.—ADMINISTRATION.

6.—(1.) The Minister may, by writing under his hand, appoint such persons as he thinks necessary to be officers for the purposes of this Ordinance. Appointment of officers.

(2.) The Minister shall issue to a person so appointed a certificate stating that he is an officer appointed under this Ordinance.

(3.) An officer shall, for the enforcement of the provisions of this Ordinance, have the powers and authorities of a member of the Police Force.

(4.) Where a provision of this Ordinance requires an officer to produce his certificate of appointment before exercising a power, that provision does not apply to or in relation to a member of the Police Force.

(5.) The production by an officer of his certificate of appointment is sufficient evidence of his authority to perform an act that, by this Ordinance, he is authorized to perform.

General powers
of officers.

7.—(1.) An officer may, on producing his certificate of appointment, for the purpose of searching for fish taken or equipment or other articles used contrary to this Ordinance—

- (a) at all reasonable times enter a shop, tent or other premises or a place where fish are kept for sale or kept or treated for business purposes;
- (b) examine parcels, baskets, bags, boxes or receptacles or vehicles in the possession or under the control of an angler, fisherman, itinerant vendor of fish or other person whom the officer believes to have in his possession or under his control any fish taken contrary to this Ordinance;
- (c) board and enter upon a boat and search it for fish, equipment or other articles intended or adapted for fishing;
- (d) examine equipment or other articles in use for fishing or in the possession or under the control of a person and intended or adapted for fishing; and
- (e) seize, detain or remove a boat, fish, equipment or other articles that the officer reasonably believes to be liable to be forfeited under this Ordinance.

(2.) A person shall not hinder or obstruct an officer in the exercise of his powers under this section.

Penalty: One hundred dollars.

Person to
state name
when so
required.

8.—(1.) An officer may, on producing his certificate of appointment, require a person engaged in fishing to state his name in full and place of abode.

(2.) A person shall not, after being so required, fail or refuse to state his name in full and his place of abode.

Penalty: Fifty dollars.

PART III.—FRESH WATER FISHING.

Definition of
waters for the
purposes of
Part III.

9. In this Part—

“open fishing waters” means the waters of the Murrumbidgee River and of that portion of the Molonglo River that lies below Coppin’s Crossing;

“trout fishing waters” means—

- (a) waters of the Territory other than open fishing waters; and
- (b) the fresh waters of Jervis Bay Territory.

Open seasons.

10. A person shall not take fish in trout fishing waters or trout or fresh water bass in any waters except during the period commencing on the Saturday nearest to the first day of September in any year and ending on the Sunday nearest to the

thirtieth day of April in the following year or during any other period specified by the Minister by notice in the *Gazette* in waters so specified.

Penalty: Fifty dollars.

11. A person shall not take fish in trout fishing waters otherwise than by means of a rod and line held in the hand or a rod and line so held together with a landing net or gaff.

Fishing in trout fishing waters.

Penalty: Fifty dollars.

12. A person shall not take from fresh waters a trout or bass that is less than ten inches long measured from the point of its snout to the end of its tail.

Size limit for trout and bass.

Penalty: Fifty dollars.

13.—(1.) A person is authorized to take fish in open fishing waters by means of not more than two set lines to each of which is affixed a tag measuring at least three inches by one inch and indicating the name and address of that person, whether or not he also takes fish in those waters by means of—

Fishing in open fishing waters.

- (a) a rod and line held in the hand; or
- (b) a line held in the hand.

(2.) A person shall not take fish in open fishing waters otherwise than as authorized by the last preceding sub-section.

Penalty: Fifty dollars.

(3.) Nothing in this section prevents a person from using a landing net or gaff with the rod and line, the line held in the hand or the set lines.

14. A person shall not, while fishing, use frogs in any waters or live or natural bait in waters other than open fishing waters and the waters of Lake Burley Griffin.

Live bait.

Penalty: Fifty dollars.

15. A person shall not, in respect of fresh waters—

- (a) throw or discharge a stone or missile for the purpose of fishing;
- (b) take into the waters a spear or spear gun;
- (c) use, buy, sell or have in his possession fish roe for the purpose of fishing;
- (d) without the permission in writing of the Minister, wilfully disturb spawn or spawning fish or a bed, bank or shallow on which there is spawn or spawning fish;
- (e) place or use a device for the purpose of obstructing or hindering the free passage of fish in the waters;
- (f) take more than ten fish on any one day; or
- (g) use more than two hooks on one line.

General offences in respect of fresh water fishing.

Penalty: Fifty dollars.

Removal or
liberation of
fish.

16. A person shall not, without the permission in writing of the Minister, remove fish from one water to another or liberate in waters of the Territory or Jervis Bay Territory fish obtained from outside either of those Territories.

Penalty: Fifty dollars.

Unclean fish,
&c.

17. A person shall not—

(a) wilfully take from any waters unclean fish, or the young of fish; or

(b) buy, sell, or offer or expose for sale, or have in his possession, or on his premises, or in his boat, unclean fish, or the young of fish, or fish or part of fish taken in contravention of this Ordinance.

Penalty: Fifty dollars.

Prohibition of
sale, &c., of
fresh water
fish.

18. A person shall not buy, sell or offer or expose for sale, fresh water fish taken from waters in the Territory or Jervis Bay Territory.

Penalty: Fifty dollars.

Destruction of
dams, &c.

19. A person shall not, with intent to destroy or take fish, unlawfully or maliciously cut through, break down or otherwise destroy a dam, floodgate or sluice.

Penalty: One hundred dollars.

Impurities not
to be placed in
waters.

20. A person shall not cause or knowingly permit to flow, or put or knowingly permit to be put, into any waters containing fish, liquid or solid matter to such an extent as to cause the waters to be poisonous or injurious to fish or the spawning grounds, spawn or food of fish.

Penalty: One hundred dollars.

PART IV.—SEA FISHING.

Professional
fisherman's
licences.

21. A person whose income from personal exertion is substantially derived from the taking and sale of fish shall not take fish in the waters of Jervis Bay or the territorial waters of Jervis Bay Territory unless he is the holder of a professional fisherman's licence authorizing him to do so and that licence is in force.

Penalty: One hundred dollars.

Grant of
licences.

22.—(1.) Upon application by a person referred to in the last preceding section, the Secretary or a person authorized by the Secretary may, upon payment by the applicant of a fee of Two dollars, grant to him a professional fisherman's licence.

(2.) Subject to the next succeeding section, a licence remains in force for a period of twelve months and authorizes the holder to take fish in accordance with the provisions of this Ordinance.

23.—(1.) Where the holder of a licence is convicted of an offence against this Ordinance, the Court may, in addition to imposing a penalty, cancel the licence or suspend the licence for such period as it thinks fit.

Cancellation or suspension of licences.

(2.) A licence that is cancelled under this section ceases to have effect and a licence that is suspended under this section has no effect during the period of suspension.

24.—(1.) Where—

Inspection of licences.

(a) an officer finds a person fishing, or reasonably suspects that a person has been fishing, in the waters of Jervis Bay or the territorial waters of Jervis Bay Territory; and

(b) the officer, on producing his certificate of appointment, requires that person to state—

(i) his full name and place of abode; and

(ii) whether he is the holder of a licence,

that person shall not fail or refuse to state his name in full and his place of abode and whether he is the holder of a licence.

Penalty: Fifty dollars.

(2.) Where a person states that he is the holder of a licence and the officer requires him to produce the licence, that person shall not, without reasonable excuse, fail or refuse to produce forthwith his licence to the officer.

Penalty: Fifty dollars.

(3.) A person who, when required to produce his licence, satisfies the officer that he has a reasonable excuse for not then producing the licence shall not fail to produce the licence to the officer at a place within Jervis Bay Territory and at a time specified by the officer.

Penalty: Fifty dollars.

(4.) An officer may apprehend, without warrant, a person who fails or refuses to state his name in full and his place of abode when so required under this section and shall forthwith deliver him into the custody of the member of the Police Force who is in charge of the nearest police station and such a person may be dealt with in accordance with section 24 of the *Police Ordinance 1927-1966* as if he were a person apprehended under that Ordinance.

25. A person shall not, for the purpose of trawling fish, bring a trawler into the waters of Jervis Bay or the territorial waters of Jervis Bay Territory.

Trawlers entering the waters of the Territory of Jervis Bay.

Penalty: One hundred dollars.

Undersized sea fish.

- 26.—(1.)** A person who—
- (a) takes undersized fish;
 - (b) buys, sells or offers or exposes for sale undersized fish; or
 - (c) has in his possession, on his premises or in his boat undersized fish,

is guilty of an offence against this section and is punishable on conviction by a penalty not exceeding the prescribed amount.

(2.) For the purposes of the last preceding sub-section, the prescribed amount is—

- (a) in the case of a conviction for a first offence against this section—an amount calculated at the rate of Ten dollars for each fish proved to the Court to be an undersized fish in respect of which the offence was committed; or
- (b) in the case of a second or subsequent conviction for an offence—an amount calculated at the rate of Twenty dollars for each fish proved to the Court to be an undersized fish in respect of which the offence was committed.

Spear or spear gun fishing at Jervis Bay.

27. A person shall not, at Jervis Bay Territory—

- (a) spear fish off a beach;
- (b) enter the waters of Jervis Bay or the territorial waters of Jervis Bay Territory, with a spear or spear gun from a beach except from the portion of a beach extending for twenty yards from either end of the beach;
- (c) carry out of those waters a loaded spear gun;
- (d) spear crayfish; or
- (e) spear more than two groper on any one day.

Penalty: Fifty dollars.

Nets used for taking sea fish.

28.—(1.) A person shall not use—

- (a) a hauling net or meshing net for taking sea fish other than garfish; or
- (b) a garfish net for taking garfish,

unless the dimensions of the hauling net, meshing net or garfish net, as the case may be, comply with such of the provisions of of the Third Schedule that are applicable to the net.

(2.) A person shall not—

- (a) in the waters of Jervis Bay—take garfish by means of a hauling net; or
- (b) in or adjacent to those waters—have in his possession a hauling net capable of being used for the taking of garfish.

Penalty: Fifty dollars.

29. A person shall not drag or draw ashore a net containing fish in such a way or to such distance from the water as to prevent undersize fish from escaping through the mesh or by the wings of the net into the water or to allow undersize fish to remain on the shore.

Method of dragging or drawing nets.

Penalty: Fifty dollars.

PART V.—MISCELLANEOUS.

30.—(1.) Notwithstanding anything contained in this Ordinance, the Minister may, by notice in the *Gazette*, prohibit the taking of fish in waters specified in the notice.

Prohibition of fishing in specified waters.

(2.) A person shall not take fish in waters specified in a notice in pursuance of the last preceding sub-section.

Penalty: Fifty dollars.

31.—(1.) The Secretary may, by notice in writing, require a person who takes or receives sea fish for sale to furnish to the Secretary a return showing the quantity of fish of each species so taken or received during each period specified in the notice and the person from whom or the waters from which the fish were received or taken.

Returns of fish.

(2.) A person, upon whom such a notice is served, shall not fail to furnish a return within fourteen days after the end of each period specified in the notice.

Penalty: Fifty dollars.

32. A person shall not throw, place or leave dead fish, debris, litter, glass, filth or refuse on a beach or on the banks of a river or near to a river or other waters.

Leaving of dead fish, &c., on beaches.

Penalty: Fifty dollars.

33.—(1.) A person shall not, for the purpose of taking or destroying fish in any waters—

Use of explosives and other noxious substances prohibited.

(a) use an explosive substance; or

(b) put into the waters poison, lime or noxious material.

Penalty: One hundred dollars.

(2.) Where, immediately after an explosion in any waters, a person is found in possession of an explosive substance, that person shall, in the absence of proof to the contrary, be deemed to have used an explosive substance for the purpose of taking or destroying fish.

34. Where a person, whilst lawfully fishing, accidentally takes a fish the taking of which is prohibited by or under this Ordinance, he is not guilty of an offence if he immediately returns the fish to the water with the least possible injury.

Fish taken accidentally.

Forfeiture of fish, &c.

35. Boats, equipment and other articles used, or in the possession of a person, and fish taken, contrary to this Ordinance are forfeited to the Commonwealth.

Seizure of forfeited fish, &c.

36.—(1.) An officer may, without a warrant, seize fish, boats, equipment or other articles which are or which he has reasonable grounds to believe are forfeited under the last preceding section and, subject to the next succeeding sub-section, take them before the Court of Petty Sessions.

(2.) Where fish or other perishable articles have been seized, an officer may, instead of taking them before the Court, dispose of them to a hospital or other institution, whether within or outside the Territory, or otherwise as he thinks fit.

(3.) Where fish, equipment or other articles are taken before the Court, the Court shall inquire into the matter and—

(a) if satisfied that they are forfeited—shall order that they be condemned as forfeited; or

(b) if not so satisfied—shall order that they be delivered to such person as the Court is satisfied is entitled to them.

(4.) The Court may, before inquiring into the matter, require notice of the inquiry to be given to such persons as the Court thinks fit.

(5.) Where a prosecution is pending, an order for the condemnation, forfeiture or return of fish, equipment or other articles, shall not be made until the prosecution is determined.

(6.) Fish, equipment or articles that have been condemned as forfeited shall be dealt with as the Minister directs and, pending his direction, shall be kept in such custody as the Court directs.

Evidence as to licences.

37. A certificate in writing, purporting to be signed by the Secretary or a person authorized by the Secretary, that, at the time specified in the certificate, a person was not the holder of a professional fisherman's licence is evidence that the person was not the holder of such a licence at that time.

Fish for scientific purposes.

38.—(1.) The Minister, or a person authorized in writing by the Minister, may, subject to such conditions and restrictions relating to the taking of fish as the Minister thinks fit, grant a permit in writing to a person to take fish for scientific purposes or for a museum or for a purpose specified in the permit.

(2.) Subject to the conditions and restrictions contained in the permit being complied with, the provisions of this Ordinance do not apply to the taking of fish by the person named in the permit.

Control or eradication measures.

39. This Ordinance does not prevent a person authorized in writing by the Minister from carrying out measures designed to control or eradicate animal or plant life in any waters.

40. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and, in particular, for prescribing penalties not exceeding Fifty dollars for offences against the regulations.

Regulations.

THE SCHEDULES.

FIRST SCHEDULE

Section 2.

ORDINANCES REPEALED

Fish Protection Ordinance 1929.
Fish Protection Ordinance 1931. ✓
Fish Protection Ordinance (No. 2) 1931. ✓
Fish Protection Ordinance 1935. ✓
Fish Protection Ordinance 1936. ✓
Fish Protection Ordinance 1949. ✓
Fish Protection Ordinance 1964. ✓

SECOND SCHEDULE

Section 26.

MINIMUM LENGTH OF SEA FISH

Common name of fish	Length in inches
Bass (Estuary Perch)	11
Blackfish, Rock	9
Bream	10
Cod, Black Rock	13
Cod, Red Rock	9
Flathead, Common or Dusky	14
Flathead, Long Spined or Spiky	9
Flathead, Sand	13
Flathead, Tiger	13
Flounder, Large-toothed	9
Flounder, Small-toothed	9
Flounder, Long-snouted	8
Garfish, River	8½
Garfish, Sea	10
Garfish, Short-beaked	9
Groper, Blue	12
Groper, Red or Brown	12
Gurnard, Kumu or Red	8
Gurnard, Sharp-beaked	9
King-fish, Yellow-tail (Kingfish)	14
Leatherjacket (Butterfish)	7
Long Tom, Slender	12
Long Tom, Stout	12
Luderick (Blackfish)	10
Mackerel, Common	6
Mackerel, Horse	9
Morwong	11
Morwong, Red or Sea Carp	9
Mullet, Flat-tail or Fantail	9
Mullet, Sand (Tallegalane or Lano)	9
Mullet, Sea (including Hard-gut and Bully)	12½
Mullet, Silver or Silver Flat	8
Mullet, Yellow-eye	9
Mulloway (Jewfish)	18

SECOND SCHEDULE—continued

Common name of fish	Length in inches
Pike, Long-finned	9
Pike, Short-finned or Snook	9
Pike, Striped	9
Redfish (Nannygai)	11
Shark, School	36
Sergeant Baker	10
Salmon, Australian (including Buck, Salmon-trout, Newfish or Black Backs)	9
Snapper (including Cockneys, Red Bream and Squire)	11
Sole, Black	8
Tailor	12
Tarwhine	8½
Teraglin	15
Trevally	9½
Whiting, Sand or Silver	10½
Whiting, School or Red Spotted	8
Whiting, Spotted	9½
Whiting, Trumpeter	8
Crayfish, Common	10
Crayfish, Southern	10

For the purposes of this Schedule—

- (a) the length of a fish other than a garfish or a crayfish shall be deemed to be the measurement from the point of the snout to the end of the tail;
- (b) the length of a garfish shall be deemed to be the measurement from the tip of the upper jaw to the end of the upper half of the tail; and
- (c) the length of a crayfish shall be deemed to be the measurement along the body from the rostrum or beak to the tip of the tail.

THIRD SCHEDULE

Section 28.

DIMENSIONS OF NETS

(a) *Hauling Nets:*

Length of net—not exceeding two hundred fathoms.

Bunt—length not exceeding fifty fathoms or one-quarter of the length of the net, whichever is the less, made up as follows:—

Centre piece not exceeding twenty-five fathoms in length and not less than twelve fathoms in length, of mesh not less than one and one-quarter inches and not exceeding two inches; the remainder of the bunt not exceeding twenty-five fathoms in length, of mesh not less than two inches; and the mesh of the wings not less than three and one-eighth inches.

(b) *Garfish nets:*

Size of mesh—not less than one and one-eighth inches.

(c) *Meshing nets:*

Length of net—not exceeding four hundred fathoms.

Size of mesh—not less than three and one-eighth inches throughout.