



Australian Capital Territory

Fisheries Act 2000

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(republication for expiry of transitional provisions (pt 13))

About this republication

The republished law

This is a republication of the *Fisheries Act 2000* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 19 November 2023. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 19 November 2023.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Fisheries Act 2000

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Australian Capital Territory

Fisheries Act 2000

An Act about the management of fisheries

Part 1 Preliminary

1 Name of Act

This Act is the *Fisheries Act 2000*.

3 Objects

- (1) The objects of this Act are—
 - (a) to conserve native fish species and their habitats; and
 - (b) to manage sustainably the fisheries of the ACT by applying the principles of ecologically sustainable development; and
 - (c) to provide high quality and viable recreational fishing; and
 - (d) to cooperate with other Australian jurisdictions in sustaining fisheries and protecting native fish species.

- (2) In this section:

ecologically sustainable development—see the [Nature Conservation Act 2014](#), section 6 (4).

4 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary defines certain terms, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*fishing closure*—see section 13.’ means the term ‘fishing closure’ is defined in section 13.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

4A Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

4B Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Part 2 Fisheries management plan

5 Meaning of *fisheries management plan*

In this Act:

fisheries management plan—

- (a) means a plan for the ACT detailing how fish and fisheries may be appropriately managed; and

Examples

- 1 conservation of fish in certain areas
- 2 stocking fish into waters

- (b) includes anything required to be included by a conservator guideline; and

- (c) may apply, adopt or incorporate an instrument as in force from time to time.

Note The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the [Legislation Act](#), s 47 (5) or (6) is not disapplied (see s 47 (7)).

6 Preparation and public consultation

- (1) The conservator may prepare a draft fisheries management plan.
- (2) If the conservator prepares a draft fisheries management plan, the conservator must also prepare a notice about the draft fisheries management plan (a *public consultation notice*).
- (3) A public consultation notice must—
 - (a) state that—
 - (i) anyone may give a written submission to the conservator about the draft fisheries management plan; and

- (ii) submissions may be given to the conservator only during the period starting on the day the public consultation notice is notified under the [Legislation Act](#) and ending on a stated day, being a day at least 6 weeks after the day it is notified (the *public consultation period*); and
 - (b) include the draft fisheries management plan.
- (4) A public consultation notice is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).
- (5) If the conservator notifies a public consultation notice for a draft fisheries management plan—
 - (a) anyone may give a written submission to the conservator about the draft fisheries management plan; and
 - (b) the submission may be given to the conservator only during the public consultation period; and
 - (c) the person making the submission may, in writing, withdraw the submission at any time.
- (6) At the end of the public consultation period, the conservator must—
 - (a) consider any submissions received during the consultation period; and
 - (b) make any revision to the draft fisheries management plan that the conservator considers appropriate; and
 - (c) state in the draft fisheries management plan a date on which the plan will be reviewed.

7 Approval of plan

- (1) If the conservator has prepared a fisheries management plan under section 6, the conservator—
 - (a) if the plan involves a significant activity—must give the plan to the Minister for approval; or
 - (b) in any other case—may approve the plan.
- (2) A fisheries management plan approved by the conservator is a disallowable instrument.

Note 1 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

Note 2 The power to make a fisheries management plan includes the power to amend or repeal the plan. The power to amend or repeal the plan is exercisable in the same way, and subject to the same conditions, as the power to make the plan (see [Legislation Act](#), s 46).

Note 3 Minor amendments may be made to the plan under s 10.

- (3) In this section:

significant activity, for a fisheries management plan, means—

- (a) commercial fishing; or
- (b) commercial trade of fish; or
- (c) any other activity prescribed by regulation.

8 Minister to approve plan

- (1) If the conservator gives a fisheries management plan to the Minister for approval, the Minister must—
 - (a) approve the plan; or
 - (b) direct the conservator to revise the plan under section 9.

- (2) A fisheries management plan approved by the Minister is a disallowable instrument.

Note 1 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

Note 2 The power to make a fisheries management plan includes the power to amend or repeal the plan. The power to amend or repeal the plan is exercisable in the same way, and subject to the same conditions, as the power to make the plan (see [Legislation Act](#), s 46).

Note 3 Minor amendments may be made to the plan under s 10.

9 Minister's direction to revise plan

- (1) This section applies if the conservator gives a fisheries management plan to the Minister for approval under section 8 or review under section 11.
- (2) The Minister may direct the conservator to take 1 or more of the following actions in relation to the plan:
- (a) carry out further stated consultation;
 - (b) consider a relevant report;
 - (c) revise the plan in a stated way.
- (3) The conservator must—
- (a) give effect to the direction; and
 - (b) resubmit the fisheries management plan to the Minister for approval.
- (4) Section 8 applies to a fisheries management plan resubmitted by the conservator.

10 Minor amendments to plan

- (1) This section applies if—
 - (a) a fisheries management plan is in force (the *existing plan*); and
 - (b) the conservator considers that minor amendments to the existing plan are appropriate.
- (2) The conservator—
 - (a) may prepare an amended fisheries management plan, incorporating the minor amendments; and
 - (b) need not comply with section 7 (1) (a); and
 - (c) may make the fisheries management plan, as amended.

Note A fisheries management plan approved by the conservator is a disallowable instrument (see s 7 (2)).

- (3) In this section:

minor amendment, of a fisheries management plan, means an amendment that will improve the effectiveness or technical efficiency of the plan without changing the substance of the plan.

Examples

- 1 minor correction to improve effectiveness
- 2 omission of something redundant
- 3 technical adjustment to improve efficiency

11 Review of plan

- (1) The conservator must review a fisheries management plan—
 - (a) on the date stated in the plan; or
 - (b) at request of the Minister.
- (2) If the fisheries management plan involves a significant activity, the conservator must prepare a notice about the review (a *public consultation notice*).

- (3) A public consultation notice must state—
- (a) that the conservator is reviewing the fisheries management plan; and
 - (b) that anyone may give a written submission to the conservator about the fisheries management plan; and
 - (c) that submissions must be given to the conservator only during the period starting on the day the public consultation notice is notified under the [Legislation Act](#) and ending on a stated day, being a day at least 6 weeks after the day it is notified (the ***public consultation period***); and
 - (d) where the fisheries management plan is available for inspection.
- (4) A public consultation notice is a notifiable instrument.
- Note* A notifiable instrument must be notified under the [Legislation Act](#).
- (5) If the conservator notifies a public consultation notice about the review of the fisheries management plan—
- (a) anyone may give a written submission to the conservator about the plan; and
 - (b) the submission may be given to the conservator only during the public consultation period; and
 - (c) the person making the submission may, in writing, withdraw the submission at any time.
- (6) At the end of the review, the conservator—
- (a) may make minor amendments to the plan; or
 - (b) may prepare a new fisheries management plan; or

- (c) if the conservator reasonably believes the plan is no longer needed—
 - (i) if the plan involves a significant activity—must give the plan to the Minister for review; or
 - (ii) in any other case—may revoke the plan.
- (7) If the conservator gives a plan to the Minister under subsection (6), the Minister may direct the conservator to revise the plan under section 9.

12 Fisheries management plan—conservator to implement

If a fisheries management plan is in force, the conservator must—

- (a) take reasonable steps to implement the plan; and
- (b) consider the plan when making decisions under this Act.

Part 3 Fishing closures and declarations

13 Fishing closures

- (1) The conservator may prohibit the taking of fish from, or the introduction of fish into, public waters for a stated period (a *fishing closure*).

- (2) A fishing closure is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (3) If the conservator reasonably believes that a fishing closure is required urgently, the conservator may commence the fishing closure on a day or at a time earlier than its notification day.

Examples—when fishing closure required urgently

- 1 to contain an outbreak of disease
- 2 to protect a species of fish that has been significantly impacted by unusual environmental conditions in certain waters

- (4) If a fishing closure commences on a day or at a time earlier than its notification day, the conservator must—

- (a) give additional public notice about the closure; and
- (b) display a notice about the closure in a conspicuous place at or near the public waters.

Note **Public notice** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see [Legislation Act](#), dict, pt 1). The requirement in s (4) is in addition to the requirement for notification on the legislation register as a disallowable instrument.

14 Declaration of noxious fish

- (1) The Minister may declare a species of fish to be noxious.
- (2) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

15 Declaration of fish of prohibited size or weight

- (1) The Minister may declare that fish of stated sizes or weights are fish of prohibited sizes or weights.
- (2) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

16 Declaration of fish quantity

- (1) The Minister may declare the quantity of a species of fish that a person may take in a day.
- (2) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

16A Declaration of possession limit

- (1) The Minister may declare the maximum amount of a species of fish that a person may possess.

Example

The Minister declares a possession limit of 2 Murray Cod, within 100m of public waters. Claire goes fishing and catches 2 Murray Cod, taking them home and freezing them for later consumption. The next day, Claire catches another 2 Murray Cod. Because Claire is not in possession of more than 2 Murray Cod within 100m of the public waters, there is no breach of the possession limit.

- (2) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

17 Declaration of fishing gear

- (1) The Minister may declare fishing gear—
- (a) that may be used for taking fish; or
 - (b) that is prohibited for taking fish.

- (2) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

18 Declaration of exempt species

- (1) The conservator may declare a species of fish to be an exempt species (an *exempt species declaration*).
- (2) In making an exempt species declaration, the conservator must consider—
- (a) the need to protect native species in the ACT; and
 - (b) the need to conserve the significant ecosystems of the ACT, NSW and Australia.
- (3) An exempt species declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

18A Declaration of critical habitat

- (1) The conservator may declare aquatic habitat, or a part of aquatic habitat to be critical habitat (a *critical habitat declaration*).
- (2) In making a critical habitat declaration, the conservator must consider—
 - (a) the need to protect native species in the ACT; and
 - (b) the need to conserve the significant ecosystems of the ACT, NSW and Australia.
- (3) A critical habitat declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

Part 4 Fisheries licences

Division 4.1 Licences—preliminary

19 Meaning of *fisheries licence*

In this Act:

fisheries licence means a licence that authorises the licensee to carry out 1 or more activities (the *licensed activity*) that would otherwise be an offence under this Act.

Note 1 Some activities are unsuitable for a fisheries licence (see s 26 (1), def *suitable activity*, par (b)).

Note 2 A fisheries licence is not required for recreational fishing that does not involve an activity that is an offence under this Act.

20 Meaning of *recreational group licence*

In this Act:

recreational group licence means a licence that authorises a group of people to take fish in circumstances that would otherwise be an offence under this Act.

Division 4.2 Licences—application and suitability

21 Application

- (1) A person may apply to the conservator for a fisheries licence.
- (2) The application must—
 - (a) be in writing; and
 - (b) state the activity for the licence; and

- (c) include complete details of suitability information about—
- (i) the applicant; and
 - (ii) if the applicant is a corporation—each influential person for the applicant; and
 - (iii) if someone other than the applicant is to have management or control of the activity for the licence—each person who is to have management or control; and
 - (iv) the activity for the licence.

Note 1 **Suitability information**, about a person—see s 24.
Suitability information, about an activity—see s 27.

Note 2 Giving false or misleading information is an offence against the [Criminal Code](#), s 338.

Note 3 A fee may be determined under s 114 for this provision.

- (3) In this section:

influential person, for a corporation, means—

- (a) an executive officer of the corporation; or
- (b) a person who may exercise a relevant power in relation to the corporation.

Examples—par (a)

director, secretary

Example—par (b)

an influential shareholder

relevant power, for a corporation, means a power to—

- (a) take part in a directorial, managerial or executive decision for the corporation; or
- (b) elect or appoint a person as an executive officer in the corporation; or
- (c) exercise a significant influence in relation to the conduct of the corporation.

22 Recreational group licence application

- (1) A person may apply to the conservator for a recreational group licence for a group of people.
 - (2) The application must—
 - (a) be in writing; and
 - (b) state the activity for the licence; and
 - (c) state the period for which the activity will be undertaken.
 - (3) The conservator may issue the licence to the applicant only if reasonably satisfied that—
 - (a) the applicant, and each member of the group for the licence, is a suitable person to hold a fisheries licence; and
 - (b) the activity is a suitable activity for a fisheries licence; and
 - (c) issuing the licence is not inconsistent with a conservator guideline.
- Note* *Suitable activity*, for a fisheries licence—see s 26.
- (4) The conservator must, as soon as practicable—
 - (a) decide the application; and
 - (b) tell the applicant about the decision.

- (5) The conservator may issue the licence subject to any condition the conservator reasonably believes is necessary to meet the objects of this Act.
- (6) A person commits an offence if—
- (a) the person holds a recreational group licence; and
 - (b) the licence is subject to a condition; and
 - (c) the person fails to comply with the condition.
- Maximum penalty: 50 penalty units.
- (7) An offence against subsection (6) is a strict liability offence.

23 Who is a *suitable person* to hold a fisheries licence—pt 4

- (1) In this part:
- suitable person*, to hold a fisheries licence, means a person who the conservator is satisfied is a suitable person to hold the licence.
- (2) In deciding whether a person is a suitable person to hold a fisheries licence, the conservator must consider each of the following:
- (a) suitability information about the person;
 - (b) any information given to the conservator under section 25 (Suitability of people—further information about people).

24 Meaning of *suitability information* about a person—pt 4

In this part:

suitability information, about a person, means information about—

- (a) any conviction of, or finding of guilt against, the person for an offence against the following:
 - (i) this Act;
 - (ii) the *Animal Welfare Act 1992*;

- (iii) the *Domestic Animals Act 2000*;
- (iv) the *Environment Protection Act 1997*;
- (v) the *Nature Conservation Act 2014*;
- (vi) the *Water Resources Act 2007*;
- (vii) a law of another jurisdiction corresponding, or substantially corresponding, to this Act or an Act mentioned in subparagraphs (ii) to (vi); and

Examples

- 1 *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth)
- 2 *National Parks and Wildlife Act 1974* (NSW)
- 3 *Threatened Species Conservation Act 1995* (NSW)

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (b) any noncompliance by the person with a requirement under an Act mentioned in paragraph (a); and
- (c) any refusal of an application by the person for a fisheries licence, permit or other authority (however described) under an Act mentioned in paragraph (a); and
- (d) any other matter relevant to the person's ability to appropriately carry on an activity in relation to an animal, plant or land; and
- (e) any other matter prescribed by regulation.

25 Suitability of people—further information about people

- (1) This section applies if the conservator is making a decision about whether a person is a suitable person to hold a fisheries licence.
- (2) The conservator may, by written notice given to the applicant (a *personal information notice*), require the applicant to give the conservator stated information about 1 or more of the following people, not later than a stated reasonable time:
 - (a) the applicant;
 - (b) if the applicant is applying for a recreational group licence for a group of people—any known member of the group;
 - (c) if the applicant is a corporation—an influential person for the corporation.
- (3) The conservator need not decide whether a person is a suitable person to hold a fisheries licence if—
 - (a) the conservator has given the person a personal information notice; and
 - (b) the person does not comply with the notice.

26 What is a *suitable activity* for a fisheries licence?

- (1) In this Act:

suitable activity, for a fisheries licence—

 - (a) means an activity that the conservator is satisfied is suitable for the licence; but
 - (b) does not include an activity prescribed by regulation as an unsuitable activity.

- (2) In deciding whether an activity is suitable for a fisheries licence, the conservator must consider each of the following:
- (a) suitability information about the activity;
 - (b) any information about the activity given to the conservator under section 28;
 - (c) any relevant consideration for suitability of an activity under the *Nature Conservation Act 2014*, section 268 (2) (e) to (g).

27 What is *suitability information* about an activity?

- (1) In this Act:

suitability information, about an activity, means information about—

- (a) the impact of the activity; and
- (b) the purpose of the activity; and

Examples

scientific research, education

- (c) the place where and time when the activity is to be carried out; and
- (d) if the activity involves a native species or species of animal that is a pest animal—the number of and species of each animal involved in the activity; and
- (e) any other matter prescribed by regulation.

Note The conservator must also consider suitability information for an activity when deciding to amend a fisheries licence (see s 34 and s 36).

- (2) In this section:

pest animal—see the *Pest Plants and Animals Act 2005*, dictionary.

28 Suitability of activities—further information about activity

- (1) This section applies if the conservator is making a decision about whether an activity is a suitable activity for a fisheries licence.
- (2) The conservator may, by written notice given to the applicant (an *activity information notice*), require the applicant to give the conservator stated information about the activity, not later than a stated reasonable time.
- (3) The conservator need not decide whether an activity is a suitable activity for a fisheries licence if—
 - (a) the conservator has given the applicant an activity information notice; and
 - (b) the applicant does not comply with the notice.

29 Suitability of activities—risk management plan

- (1) This section applies if the conservator is—
 - (a) making a decision about whether an activity is a suitable activity for a fisheries licence; and
 - (b) satisfied that carrying on the activity in accordance with the licence is likely to cause undue risk to people or property.
- (2) The conservator may, by written notice given to the applicant (a *risk management plan notice*), require the applicant to prepare a risk management plan for the licence.
- (3) The risk management plan must—
 - (a) identify the risks to people and property; and
 - (b) set out the procedures, practices and arrangements for eliminating or minimising the risks.

- (4) The conservator need not decide an application for a fisheries licence if—
- (a) the conservator has given the applicant a risk management plan notice; and
 - (b) the applicant does not comply with the notice.

Division 4.3 Licences—decision

30 Licence—decision on application

- (1) This section applies if the conservator receives an application for a fisheries licence.
- (2) The conservator may issue the licence to the applicant only if reasonably satisfied that—
- (a) the applicant is a suitable person to hold the licence; and
 - (b) if the applicant is a corporation—each influential person for the applicant is a suitable person to hold the licence; and
 - (c) if someone other than the applicant is to have management or control of the activity for the licence—each person who is to have management or control of the activity is a suitable person to hold the licence; and
 - (d) the activity is a suitable activity for the licence; and
 - (e) issuing the licence is not inconsistent with a conservator guideline; and
 - (f) if the conservator requires that the applicant prepare a risk management plan—the risk management plan will eliminate or minimise any identified risks.

Note **Suitable activity**, for a fisheries licence—see s 26.
 Suitable person, to hold a fisheries licence—see s 23.

- (3) The conservator must, not later than the required time—
- (a) decide the application; and
 - (b) tell the applicant about the decision on the application.
- (4) In this section:

required time means the latest of the following:

- (a) if the conservator gives the applicant a personal information notice under section 25—28 days after the day the conservator receives the stated information;
- (b) if the conservator gives the applicant an activity information notice under section 28—28 days after the day the conservator receives the information;
- (c) if the conservator gives the applicant a risk management plan notice under section 29—28 days after the day the conservator receives the risk management plan;
- (d) 28 days after the day the conservator receives the application.

Note Failure to issue a fisheries licence within the required time is taken to be a decision not to issue the licence (see *ACT Civil and Administrative Tribunal Act 2008*, s 12).

31 Licence—conditions

- (1) A fisheries licence is subject to—
- (a) any condition prescribed by regulation; and
 - (b) any other condition that the conservator reasonably believes is necessary to meet the objects of this Act.

Examples—par (b)

- 1 that the licensee may carry on the activity only during a stated season
- 2 that the licensee may carry on the activity only for non-commercial purposes

- (2) A person commits an offence if—
- (a) the person holds a fisheries licence; and
 - (b) the licence is subject to a condition; and
 - (c) the person fails to comply with the condition.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

32 Licence—term

- (1) A fisheries licence starts on the day stated in the licence.
- (2) The conservator must not issue a fisheries licence for longer than 5 years.
- (3) A fisheries licence expires on the day stated in the licence.

33 Licence—form

- (1) A fisheries licence must—
 - (a) be in writing; and
 - (b) include the following information:
 - (i) the name of the licensee;
 - (ii) a unique identifying number (the *licence number*);
 - (iii) the licensed activity;
 - (iv) the term of the licence;
 - (v) the conditions on the licence;
 - (vi) anything else prescribed by regulation.
- (2) A fisheries licence may include anything else the conservator considers relevant.

Division 4.4 Licences—amendment

34 Licence—amendment initiated by conservator

- (1) The conservator may, by written notice (an *amendment notice*) given to a licensee, amend a fisheries licence if satisfied that—
- (a) the licensee is a suitable person to hold the licence as amended; and
 - (b) if the licensee is a corporation—each influential person for the licensee is a suitable person to hold the licence as amended; and
 - (c) the licensed activity is a suitable activity for the licence as amended.

Note *Suitable activity*, for a fisheries licence—see s 26.
Suitable person, to hold a fisheries licence—see s 23.

- (2) However, the conservator may amend the licence only if—
- (a) the conservator has given the licensee written notice of the proposed amendment (a *proposal notice*); and
 - (b) the proposal notice states that written submissions about the proposal may be made to the conservator before the end of a stated period of at least 14 days after the day the proposal notice is given to the licensee; and
 - (c) after the end of the stated period, the conservator has considered any submissions made in accordance with the proposal notice.
- (3) Subsection (2) does not apply to a person if the licensee applied for, or agreed in writing to, the amendment.
- (4) The amendment takes effect on the day the amendment notice is given to the licensee or a later day stated in the notice.

35 Licence—application to amend licence

- (1) A licensee may apply to the conservator to amend a fisheries licence.
- (2) A licensee must apply to the conservator for amendment of a fisheries licence if someone else (the *new person*) is to—
 - (a) have management or control of the licensed activity; or
 - (b) if the licensee is a corporation—become an influential person for the licensee.
- (3) The application must—
 - (a) be in writing; and
 - (b) if the application is under subsection (2)—include complete details of suitability information about the new person.

Note 1 **Suitability information**, about a person—see s 24.

Note 2 Giving false or misleading information is an offence against the [Criminal Code](#), s 338.

Note 3 A fee may be determined under s 114 for this provision.

36 Licence—decision on application to amend licence

- (1) This section applies if the conservator receives an application to amend a fisheries licence under section 35.
- (2) The conservator may amend the licence only if satisfied that as amended—
 - (a) the licensee is a suitable person to hold the licence; and
 - (b) if the licensee is a corporation—each influential person for the licensee is a suitable person to hold the licence; and
 - (c) if someone other than the proposed new licensee is to have management or control of the activity for the licence—each person who is to have management or control of the activity is a suitable person to hold the licence; and

- (d) the licensed activity is a suitable activity for the licence; and
- (e) the licence is not inconsistent with any conservator guideline.

Note **Suitable activity**, for a fisheries licence—see s 26.
Suitable person, to hold a fisheries licence—see s 23.

- (3) If the conservator decides to amend the licence, the conservator may impose or amend a condition on the licence.
- (4) The conservator must, not later than the required time—
 - (a) decide the application for amendment; and
 - (b) tell the licensee about the decision.
- (5) In this section:

required time means the latest of the following:

- (a) if the conservator gives a person mentioned in section 35 (2) a personal information notice under section 25—28 days after the day the conservator receives the stated information;
- (b) if the conservator gives the applicant an activity information notice under section 28—28 days after the day the conservator receives the information;
- (c) if the conservator gives the applicant a risk management plan notice under section 29—28 days after the day the conservator receives the risk management plan;
- (d) 28 days after the day the conservator receives the application.

Note Failure to amend a fisheries licence within the required time is taken to be a decision not to amend the licence (see *ACT Civil and Administrative Tribunal Act 2008*, s 12).

36A Licence—replacing when lost, stolen or destroyed

- (1) The conservator may issue a replacement fisheries licence to a licensee if satisfied that the licensee's original licence has been lost, stolen or destroyed.
- (2) For subsection (1), the conservator may require the licensee to give the conservator a statement verifying that the original licence has been lost, stolen or destroyed.

Note 1 A fee may be determined under s 114 for this provision.

Note 2 It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

36B Licence—surrender

- (1) A licensee may surrender a fisheries licence by giving written notice of the surrender (a *surrender notice*) to the conservator.
- (2) The surrender notice must be accompanied by—
 - (a) the licence; or
 - (b) if the licence has been lost, stolen or destroyed—a statement by the licensee verifying that the licence has been lost, stolen or destroyed.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

36C Offence—fail to notify change of name or address

- (1) A person commits an offence if—
- (a) the person is a licensee for a fisheries licence; and
 - (b) the person’s name or address changes; and
 - (c) the person does not, within 30 days after the change, give the conservator—
 - (i) written notice of the change; and
 - (ii) the licence.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

36D Licence—conservator to change name and address

- (1) This section applies if a licensee for a fisheries licence gives the conservator—
- (a) written notice of a change to the person’s name or address; and
 - (b) the licence.
- (2) The conservator must enter the changed details on the licence and return it to the licensee.

Division 4.5 Licences—regulatory action

36E Application—div 4.5

This division also applies to the licensee of a recreational group licence as if a reference in this division to a fisheries licence were a reference to a recreational group licence.

36F Licence—grounds for regulatory action

- (1) Each of the following is a *ground for regulatory action* against a licensee for a fisheries licence:
- (a) the licensee has contravened, or is contravening, a provision of this Act;
 - (b) the licensee has contravened a condition of the licence.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (2) In this section:

licensee includes, if the person is a corporation, each executive officer of the corporation.

36G Licence—regulatory action

Each of the following is *regulatory action* when taken against a licensee for a fisheries licence:

- (a) imposing a condition on, or amending a condition on, the licence;
- (b) suspending the licence for a stated period or until a stated thing happens;
- (c) cancelling the licence;
- (d) cancelling the licence and disqualifying the person from applying for a fisheries licence for a stated period or until a stated thing happens.

36H Licence—taking regulatory action

- (1) If the conservator proposes to take regulatory action in relation to a licensee for a fisheries licence, the conservator must give the licensee a written notice (a *show cause notice*) stating—
 - (a) details of the proposed regulatory action; and
 - (b) the grounds for the proposed regulatory action; and
 - (c) that the licensee may, not later than 14 days after the day the licensee is given the notice, give a written submission to the conservator about the proposed regulatory action.
- (2) In deciding whether to take the proposed regulatory action, the conservator must consider any submission given to the conservator in accordance with the show cause notice.
- (3) If the conservator believes on reasonable grounds that a ground for regulatory action has been established in relation to the licensee, the conservator may—
 - (a) take the regulatory action stated in the show cause notice; or
 - (b) if the proposed regulatory action is cancelling the licence and disqualifying the person from applying for a fisheries licence—
 - (i) cancel the licence; or
 - (ii) suspend the licence; or
 - (iii) impose a condition on, or amend a condition on, the licence; or

- (c) if the proposed regulatory action is cancelling the licence—
 - (i) suspend the licence; or
 - (ii) impose a condition on, or amend a condition on, the licence; or
 - (d) if the proposed regulatory action is suspending the licence—
 - (i) suspend the licence for a shorter period; or
 - (ii) impose a condition on, or amend a condition on, the licence.
- (4) Regulatory action under this section takes effect on—
- (a) the day the licensee is given written notice of the decision; or
 - (b) if the written notice states a later date of effect—that date.

36l Licence—immediate suspension

- (1) This section applies if—
- (a) the conservator gives a show cause notice to a licensee for a fisheries licence; and
 - (b) having regard to the grounds stated in the notice, the conservator believes on reasonable grounds that the fisheries licence should be suspended immediately because of a risk to—
 - (i) public safety; or
 - (ii) sustainability of a species of fish or aquatic habitat; or
 - (iii) the safety of a fish.

- (2) The conservator must give the licensee a written notice (an *immediate suspension notice*) suspending the person's licence.
- (3) The suspension of a fisheries licence under this section takes effect when the immediate suspension notice is given to the licensee.
- (4) The suspension of a fisheries licence under this section ends—
 - (a) if regulatory action is taken against the person—at the earlier of the following times:
 - (i) when the regulatory action takes effect;
 - (ii) 30 days after the day the immediate suspension notice is given to the person; or
 - (b) if regulatory action is not taken against the person—at the earlier of the following times:
 - (i) when the person is given written notice of the conservator's decision not to take regulatory action;
 - (ii) 30 days after the day the immediate suspension notice is given to the person.

36J Licence—effect of suspension

- (1) If the conservator suspends a fisheries licence, the licensee is, during the suspension—
 - (a) taken not to hold the licence; and
 - (b) disqualified from applying for a fisheries licence.
- (2) A suspended fisheries licence does not authorise the carrying on of any licensed activity under the licence during the suspension.

36K Offence—fail to return amended, suspended or cancelled licences

- (1) A person commits an offence if—
 - (a) the person is a licensee for a fisheries licence; and
 - (b) the licence is amended, suspended or cancelled under this division; and
 - (c) the person fails to return the licence to the conservator as soon as practicable (but not later than 7 days) after the day the person is given a reviewable decision notice under section 108.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

36L Action by conservator in relation to amended or suspended licence

- (1) This section applies if—
 - (a) a fisheries licence is amended or suspended under this part; and
 - (b) the licence is returned to the conservator.
- (2) For an amended fisheries licence, the conservator must—
 - (a) return the amended licence to the licensee; or
 - (b) give the licensee a replacement licence that includes the amendment.
- (3) If a fisheries licence is suspended under this part and the suspension ends before the end of the term of the licence, the conservator must return the licence to the licensee when the suspension ends.

Division 4.6 Licence—register

36M Fisheries licence register

- (1) The conservator must keep a register of fisheries licences and recreational group licences (the *fisheries licence register*).
- (2) The fisheries licence register must include the following details for each licence:
 - (a) the name of the licensee;
 - (b) the licence number;
 - (c) the licensed activity;
 - (d) the term of the licence;
 - (e) the conditions on the licence;
 - (f) anything else prescribed by regulation.

Note **Licence number**—see s 33.

- (3) The fisheries licence register may include anything else the conservator considers relevant.
- (4) The fisheries licence register may be kept in any form, including electronically, that the conservator decides.

36N Licence register—correction and keeping up-to-date

- (1) The conservator may correct a mistake, error or omission in the licence register.
- (2) The conservator may change a detail included in the register to keep the register up-to-date.

360 Offence—fail to keep records

- (1) A person commits an offence if—
- (a) the person is a licensee; and
 - (b) the person does not keep the records required by regulation for the licence.

Maximum penalty: 10 penalty units.

- (2) A person commits an offence if—
- (a) the person is a licensee for an activity involving a priority species; and
 - (b) the person does not keep the records required by regulation for the licence.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

Part 5 Commercial dealing

Division 5.1 Fish dealers

37 Fish dealers to be registered

- (1) A person commits an offence if—
- (a) the person receives, within the period prescribed by regulation, more than the prescribed number of fish; and
 - (b) the person is not registered as a fish dealer under this Act; and
 - (c) the person does not receive the fish from a person who is—
 - (i) registered as a fish dealer under this Act; or
 - (ii) registered or licensed as a fish dealer under a corresponding law.

Maximum penalty: 50 penalty units.

- (2) This section does not apply to the person if—
- (a) the fish are received for retail sale; or
 - (b) the fish are received for purposes other than sale.
- (3) An offence against this section is a strict liability offence.
- (4) In this section:

fish does not include oysters.

38 Application for registration

An application for registration as a fish dealer must be given to the conservator.

Note 1 A fee may be determined under s 114 for this section.

Note 2 For how documents may be given, see [Legislation Act](#), pt 19.5.

39 Decision on application

- (1) The conservator must, on application being made under section 38—
 - (a) register the applicant as a fish dealer; or
 - (b) refuse to register the applicant.
- (2) In deciding whether to register an applicant, the conservator must consider whether the applicant has been convicted, or found guilty, of an offence against this Act or a law of a State corresponding to this Act.
- (3) Subsection (2) does not limit the matters the conservator may consider in deciding whether to register an applicant.

40 Term of registration

The registration of a person as a fish dealer is for the term of not longer than 7 years stated in the register in relation to the person.

41 Suspension of registration

If a registered fish dealer fails to give information in accordance with a direction under section 64 (2), the conservator may, by notice in writing given to the dealer, suspend the dealer's registration.

Note For how documents may be given, see [Legislation Act](#), pt 19.5.

42 Cancellation of registration

The conservator may cancel a fish dealer's registration if—

- (a) the dealer is convicted, or found guilty, of an offence against this Act, or a law of a State corresponding to this Act; or
- (b) the dealer's registration has been suspended for failure to give information in accordance with a direction under section 64 (2) and the dealer has failed to give that information within 14 days after the day of suspension.

43 Register of dealers

- (1) The conservator must prepare and keep a register of fish dealers.
- (2) A person is registered as a fish dealer if the conservator enters in the register—
 - (a) the person’s name; and
 - (b) if the person carries on business in the ACT as a fish dealer under a name other than the person’s own name—the name under which the person carries on business; and
 - (c) each place in the ACT where the person carries on business as a fish dealer.

44 Inspection of register

- (1) A person may, without charge, inspect the register during the office hours of the office of the conservator.
- (2) A person may, on payment of the reasonable copying costs, obtain a copy of all or part of the register.

Division 5.2 Commercial fishers

45 Sale of fish by commercial fishers

- (1) The holder of a commercial fishing licence under this Act or a corresponding law must not sell in a day more than the quantity of fish prescribed by regulation.

Maximum penalty: 100 penalty units.

- (2) Subsection (1) does not apply in relation to any quantity of fish sold to a person who is registered or licensed as a fish dealer under this Act or a corresponding law.

- (3) In this section:

fish does not include oysters.

Part 6 Aquaculture

46 Meaning of *aquaculture*

In this Act:

aquaculture—

- (a) means the farming of fish or aquatic vegetation for trade, business or research; but
- (b) does not include—
 - (i) keeping anything in a pet shop for sale or in an aquarium for exhibition (including an aquarium operated commercially); or
 - (ii) anything done in maintaining a collection of fish or aquatic vegetation that is not used for a commercial purpose; or
 - (iii) an activity prescribed by regulation.

47 Aquaculture guidelines

- (1) The conservator may make guidelines about how aquaculture may be undertaken in the Territory (the *aquaculture guidelines*).
- (2) In preparing aquaculture guidelines, the conservator must consider the following:
 - (a) any possible biosecurity risks;
 - (b) the species and numbers of fish suitable for aquaculture.
- (3) An aquaculture guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

48 Aquaculture limit

A regulation may prescribe a threshold capacity over which a licence authorising aquaculture is required (an *aquaculture capacity limit*).

49 Aquaculture offences

- (1) A person commits an offence if—
- (a) the person undertakes aquaculture; and
 - (b) the person does not comply with the aquaculture guidelines.
- Maximum penalty: 50 penalty units.
- (2) A person commits an offence if—
- (a) the person undertakes aquaculture; and
 - (b) the capacity of the structure used to contain fish for the aquaculture is more than the aquaculture capacity limit; and
 - (c) the person does not hold a licence authorising the person to undertake the aquaculture.
- Maximum penalty: 100 penalty units.
- (3) In this section:
- aquaculture capacity limit***—see section 48.

Part 7 **Enforcement**

Note for pt 7

The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

Division 7.1A **Fisheries officers**

50 **Appointment**

The director-general may appoint a person as a fisheries officer for this Act.

Note 1 For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

51 **Identity cards**

- (1) The director-general must give each fisheries officer an identity card that states the person's name and appointment as a fisheries officer, and shows—
 - (a) a recent photograph of the person; and
 - (b) the date of issue of the card; and
 - (c) the date of expiry of the card; and
 - (d) anything else prescribed by regulation.

- (2) A person commits an offence if the person—
- (a) stops being a fisheries officer; and
 - (b) does not return the person’s identity card to the director-general as soon as practicable (but within 7 days) after the day the person stops being a fisheries officer.

Maximum penalty: 5 penalty units.

- (3) Subsection (2) does not apply to a person if the person’s identity card is—
- (a) lost or stolen; or
 - (b) destroyed by someone else.
- (4) An offence against this section is a strict liability offence.

52 Fisheries officer must show identity card on exercising power

- (1) If a fisheries officer exercises a power under this part that affects an individual, the fisheries officer must first show the fisheries officer’s identity card to the individual.
- (2) If a fisheries officer exercises a power under this part that affects an entity, other than an individual, the fisheries officer must first show the fisheries officer’s identity card to an individual the fisheries officer believes on reasonable grounds is an employee, officer or agent of the entity.

Examples—person other than an individual
corporation, partnership

Division 7.1 Powers for places

53 Meaning of *occupier* for div 7.1

In this division:

occupier, of a place, includes—

- (a) a person believed on reasonable grounds to be an occupier of the place; and
- (b) a person apparently in charge of the place.

54 Power to enter premises

(1) For this Act, an authorised person may—

- (a) at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment of money); or

Note **Premises** includes land (whether vacant or occupied), a vehicle or a vessel (see dict).

- (b) at any time, enter premises with the occupier's consent; or
- (c) at any reasonable time, enter premises—
 - (i) where a thing is kept under a fisheries licence; or
 - (ii) if the authorised person suspects that a fish that is not an exempt species, or a part of critical habitat, is on the premises; or
- (d) enter premises in accordance with a search warrant; or
- (e) at any time, enter premises if the authorised person believes on reasonable grounds that the circumstances are so serious and urgent that immediate entry to the premises without the authority of a search warrant is necessary; or
- (f) if a vehicle is stopped under section 67—enter the vehicle.

- (2) However, subsection (1) (a) and (c) do not authorise entry into a part of premises that is being used only for residential purposes.
- (3) For subsection (1) (e), the authorised person may enter the premises with any necessary and reasonable assistance and force.
- (4) An authorised person may, without the consent of the occupier of premises—
 - (a) if the premises are land—enter the land to ask for consent to remain at the premises; or
 - (b) in any other case—enter land around the premises to ask for consent to enter the premises.
- (5) To remove any doubt, an authorised person may enter premises under subsection (1) without payment of an entry fee or other charge.
- (6) In this section:

at any reasonable time includes at any time when the public is entitled to use the premises or when the premises are open to or used by the public (whether or not on payment of money).

54A Production of identity card

An authorised person must not remain at premises entered under this part if the authorised person does not produce their identity card when asked by the occupier.

55 Consent to entry

- (1) This section applies if an authorised person intends to ask an occupier of a place to consent to the authorised person or another authorised person entering the place.
- (2) Before asking for the consent, the authorised person must tell the occupier—
 - (a) of the purpose of the entry; and
 - (b) that the occupier is not required to consent.
- (3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgment of the consent.
- (4) The acknowledgment must state that—
 - (a) the occupier was told—
 - (i) of the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the occupier gives an authorised person consent to enter the place and exercise powers under this Act; and
 - (c) the time and date the consent was given.
- (5) If the occupier signs an acknowledgment of consent, the authorised person must immediately give a copy to the occupier.
- (6) Subsection (7) applies to a court if—
 - (a) a question arises, in a proceeding in the court, whether the occupier of a place consented to an authorised person entering the place under this Act; and
 - (b) an acknowledgment under this section is not produced in evidence for the entry; and
 - (c) it is not proved that the occupier consented to the entry.
- (7) The court may presume that the occupier did not consent.

56 Routine inspection of business premises

- (1) To find out whether this Act is being complied with, a fisheries officer may enter business premises of a fish dealer or the holder of a commercial fishing licence at any time the premises are being used.
- (2) In this section:
business premises includes residential premises used for business purposes.

57 Warrants to enter

- (1) A fisheries officer may apply to a magistrate for a warrant to enter a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.
- (4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—
 - (a) there is a particular thing or activity (the evidence) that may provide evidence of an offence against this Act; and
 - (b) the evidence is, or may be within the next 14 days, at the place.
- (5) The warrant must state—
 - (a) that a fisheries officer may, with necessary help and force, enter the place and exercise the officer's powers under this Act; and
 - (b) the offence for which the warrant is sought; and

- (c) the evidence that may be seized under the warrant; and
- (d) the hours when the place may be entered; and
- (e) the date, within 14 days after the warrant's issue, the warrant ends.

58 Warrants—application made other than in person

- (1) A fisheries officer may apply for a warrant by phone, fax, radio or other form of communication if the officer considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances.
- (2) Before applying for the warrant, the officer must prepare an application stating the grounds on which the warrant is sought.
- (3) The officer may apply for the warrant before the application is sworn.
- (4) After issuing the warrant, the magistrate must immediately provide a written copy to the officer if it is reasonably practicable to do so.
- (5) If it is not reasonably practicable to provide a written copy to the officer—
 - (a) the magistrate must—
 - (i) tell the officer what the terms of the warrant are; and
 - (ii) tell the officer the date and time the warrant was issued; and
 - (b) the officer must complete a form of warrant (*warrant form*) and write on it—
 - (i) the magistrate's name; and
 - (ii) the date and time the magistrate issued the warrant; and
 - (iii) the warrant's terms.

- (6) The written copy of the warrant, or the warrant form properly completed by the officer, has the same effect as a warrant issued under section 57.
- (7) The officer must, at the first reasonable opportunity, send the magistrate—
 - (a) the sworn application; and
 - (b) if the officer completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.
- (9) Subsection (10) applies to a court if—
 - (a) a question arises, in a proceeding in or before the court, whether a power exercised by a fisheries officer was not authorised by a warrant issued under this section; and
 - (b) the warrant is not produced in evidence.
- (10) The court must presume that the exercise of a power was not authorised by a warrant issued under this section, unless the contrary is proved.

59 General powers on entry to premises

- (1) An authorised person who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises or anything on the premises:
 - (a) inspect or examine;
 - (b) take measurements or conduct tests;
 - (c) take samples;
 - (d) take photographs, films or audio, video or other recordings;

- (e) require the occupier, or anyone at the premises, to give the authorised person reasonable help to exercise a power under this part.

Note 1 **Premises** includes land (whether vacant or occupied), a vehicle or a vessel (see dict).

Note 2 The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

- (2) A person must take reasonable steps to comply with a requirement made of the person under subsection (1) (e).

Maximum penalty: 20 penalty units.

60 Powers on entry for routine inspection of business premises

A fisheries officer who enters a place under section 56 (Routine inspection of business premises) may—

- (a) inspect, measure, photograph or film the place or anything in it;
or
- (b) test or take samples of anything in the place; or
- (c) take the people, equipment and materials the officer reasonably needs for exercising a power under this Act into the place.

61 Powers on entry under a warrant

- (1) A fisheries officer who enters a place under section 57 (Warrants to enter) or section 58 (Warrants—application made other than in person) may—
 - (a) search any part of the place; or
 - (b) inspect, measure, photograph or film the place or anything in it;
or
 - (c) test or take samples of anything in the place; or
 - (d) copy a document in the place; or

- (e) take the people, equipment and materials the officer reasonably needs for exercising a power under this Act into the place; or
 - (f) require a person in the place to give the officer reasonable help to exercise the powers mentioned in paragraphs (a) to (e).
- (2) A person must take all reasonable steps to comply with a requirement made of the person under subsection (1) (f).

Maximum penalty: 50 penalty units.

Note The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

63 Entry into waters, and along banks etc

An authorised person may for this Act, at any time, pass along the banks or borders of any public waters or on land beside any public waters within a reasonable distance of the waters.

Division 7.2 Other powers

64 Direction to provide information

- (1) This section applies if an authorised person suspects on reasonable grounds that a person has information or documents reasonably required by the authorised person for the administration or enforcement of this Act.
- (2) The authorised person may direct the person to provide the information or documents to the authorised person (an *information direction*).
- (3) The direction must be in writing and state—
 - (a) the name of the person to whom it is directed; and
 - (b) the information or documents required to be provided; and
 - (c) why the information or documents are required; and

- (d) when the direction must be complied with (the *due date*), being a day at least 2 days after the day the direction is given to the person; and
- (e) that if the information is not provided by the due date the person may be committing an offence under section 65.

Note The power to make a direction includes the power to amend or repeal the direction. The power to amend or repeal the direction is exercisable in the same way, and subject to the same conditions, as the power to make the direction (see [Legislation Act](#), s 46).

65 Offence—fail to comply with information direction

- (1) A person commits an offence if the person—
 - (a) is subject to an information direction; and
 - (b) fails to comply with the direction.

Maximum penalty: 50 penalty units.

Note It is an offence to make a false or misleading statement or give false or misleading information (see [Criminal Code](#), pt 3.4).

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply if—
 - (a) the person did not know, and could not reasonably be expected to know or find out, the information required under the direction; or
 - (b) the person did not have reasonable access to the documents required under the direction; or
 - (c) the authorised person did not produce the authorised person's identity card for inspection by the person as soon as practicable after giving the direction.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

66 Immediate information direction

- (1) An authorised person may require a person to state the person's name and home or business address (a *name and address direction*) if the authorised person believes, on reasonable grounds, that the person is committing or has just committed an offence against this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (2) The authorised person must tell the person the reason for the requirement and, as soon as practicable, record the reason.
- (3) If the authorised person believes on reasonable grounds that the person's response to a name and address direction is false or misleading, the authorised person may direct the person to produce evidence (an *evidence direction*)—
- (a) as soon as practicable; or
 - (b) if the person does not have evidence reasonably available—to the authorised person's office within 2 business days after the day the direction is given.
- (4) A person commits an offence if the person—
- (a) is subject to—
 - (i) a name and address direction; or
 - (ii) an evidence direction; and
 - (b) fails to comply with the direction.

Maximum penalty: 10 penalty units.

- (5) An offence against this section is a strict liability offence.

67 Direction to stop vehicle containing fish etc

- (1) This section applies if an authorised person believes on reasonable grounds that a person has committed, is committing or is about to commit an offence against this Act.
- (2) The authorised person may, to exercise a function under part 7 (Enforcement), direct the driver of the vehicle to stop the vehicle (a *stop vehicle direction*)—
 - (a) without delay; or
 - (b) at the nearest place that the vehicle can be safely stopped as indicated by the authorised person.

Note An authorised person can enter a vehicle stopped under this section (see s 54 (1) (f)) and inspect or examine, etc anything in the vehicle (see s 59).

- (3) A direction may be given to a driver orally or by means of a sign or signal (electronic or otherwise) or in any other way.
- (4) A direction to a driver ceases to be operative to the extent that an authorised person—
 - (a) gives the driver or other person a later inconsistent direction; or
 - (b) indicates to the driver that the direction is no longer operative.
- (5) However, an authorised person may direct a vehicle to be stopped only for the amount of time necessary for the authorised person to exercise the function.

Note The power to make a direction includes the power to amend or repeal the direction. The power to amend or repeal the direction is exercisable in the same way, and subject to the same conditions, as the power to make the direction (see [Legislation Act](#), s 46).

- (6) In this section:
in, a vehicle, includes on the vehicle.
vehicle includes vessel.

68 Offence—fail to comply with stop vehicle direction

- (1) A person commits an offence if the person—
- (a) is subject to a stop vehicle direction under section 67; and
 - (b) fails to comply with the direction.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to a person if the authorised person did not produce the authorised person's identity card for inspection by the person as soon as practicable after giving the direction.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

69 Direction to remove gear from water

- (1) This section applies if an authorised person believes on reasonable grounds that a person is using fishing gear in contravention of this Act.
- (2) An authorised person may direct a person to remove from waters any fishing gear being used by the person.
- (3) If an authorised person gives a direction to a person, the authorised person must—
- (a) tell the person that it is an offence if the person fails to comply with the direction; and
 - (b) give the direction in a language, or way of communicating that the person is likely to understand.
- (4) A person commits an offence if the person—
- (a) is subject to a direction under subsection (2); and
 - (b) fails to comply with the direction.

Maximum penalty: 50 penalty units.

- (5) An offence against this section is a strict liability offence.
- (6) This section does not apply to a person if—
 - (a) the person has a reasonable excuse for failing to comply with the direction; or
 - (b) the authorised person did not produce the authorised person's identity card for inspection by the person as soon as practicable after giving the direction.

Note The defendant has an evidential burden in relation to the matters mentioned in s (6) (see [Criminal Code](#), s 58).

70 Urgent directions

- (1) This section applies if an authorised person reasonably believes that a person—
 - (a) has breached, is breaching or is about to breach a fisheries licence; or
 - (b) has contravened, is contravening or is about to contravene a provision of this Act; or
 - (c) has engaged in, is engaging in or is about to engage in conduct that may threaten the management of fisheries.
- (2) The authorised person may direct (an *urgent direction*) the person to—
 - (a) take action to stop the breach, contravention or threat; or
 - (b) cease conduct causing the breach, contravention or threat.

- (3) An urgent direction must either—
- (a) state—
 - (i) the action to be taken; and
 - (ii) when the direction must be complied with; or
 - (b) state—
 - (i) the conduct not to be undertaken; and
 - (ii) how long the direction is in force.

71 Offence—fail to comply with urgent direction

- (1) A person commits an offence if the person—
- (a) is subject to an urgent direction; and
 - (b) fails to take reasonable steps to comply with the direction.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to a person if the authorised person did not produce the authorised person's identity card for inspection by the person as soon as practicable after giving the direction.

72 Authorised person's directions

- (1) This section applies if—
- (a) 1 or more of the following is in waters:
 - (i) a native fish species;
 - (ii) critical habitat; and
 - (b) the authorised person reasonably believes that the occupier of the waters may engage in conduct that may threaten native fish species or critical habitat.

- (2) The authorised person may give the occupier a direction about the protection or conservation of the species, community or habitat (an *authorised person's direction*).
- (3) An authorised person's direction must not be inconsistent with a fisheries management plan.
- (4) An authorised person's direction must—
 - (a) be in writing; and
 - (b) state when the direction must be complied with, being a day at least 14 days after the day the direction is given to the occupier.

Note The power to make a direction includes the power to amend or repeal the direction. The power to amend or repeal the direction is exercisable in the same way, and subject to the same conditions, as the power to make the direction (see [Legislation Act](#), s 46).

72A Offence—fail to comply with authorised person's direction

- (1) A person commits an offence if the person—
 - (a) is subject to an authorised person's direction; and
 - (b) fails to comply with the direction.

Maximum penalty: 50 penalty units.
- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to a person if the person took reasonable steps to comply with the authorised person's direction.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see [Criminal Code](#), s 58).

72B Treatment directions

- (1) This section applies if an authorised person reasonably believes that a person—
 - (a) is keeping a fish and—
 - (i) the fish is carrying a disease or suffers from a condition; and
 - (ii) it is necessary or desirable for a particular kind of treatment to be carried out in connection with the disease or condition; or
 - (b) is the occupier of land that—
 - (i) has waters containing an aquatic habitat; and
 - (ii) it is necessary or desirable for a particular treatment to be carried out in connection with the habitat.
- (2) The authorised person may direct the keeper of the fish or the occupier of the land to carry out a stated treatment on the fish or aquatic habitat (a *treatment direction*).

Examples—treatment direction of aquatic habitat

- 1 removing fallen timber
- 2 removing an invasive plant species
- 3 draining a dam

- (3) In deciding whether to make a treatment direction, the authorised person must consider—
 - (a) if the treatment direction is in relation to a fish—the following:
 - (i) the likelihood of the disease infecting other fish;
 - (ii) the impact of the disease if it were to infect other fish;
 - (iii) any matter prescribed by regulation; or

- (b) if the treatment direction is in relation to an aquatic habitat—
the following:
 - (i) the impact if the direction were not followed;
 - (ii) any matter prescribed by regulation.
- (4) A treatment direction must be in writing and state the following:
 - (a) the fish or aquatic habitat to which it relates;
 - (b) if the direction is made in relation to a fish—the disease or
condition to which it relates;
 - (c) the treatment to be carried out;
 - (d) when the direction must be complied with.

Note The power to make a direction includes the power to amend or repeal the direction. The power to amend or repeal the direction is exercisable in the same way, and subject to the same conditions, as the power to make the direction (see [Legislation Act](#), s 46).

72C Offence—fail to comply with treatment direction

A person commits an offence if the person—

- (a) is subject to a treatment direction; and
- (b) fails to comply with the direction.

Maximum penalty: 50 penalty units.

72D Power to seize things

- (1) An authorised person who enters premises under this part with the occupier’s consent may seize anything at the premises if—
 - (a) the authorised person is satisfied on reasonable grounds that the thing is connected with an offence against this Act; and
 - (b) seizure of the thing is consistent with the purpose of the entry told to the occupier when seeking the occupier’s consent.

- (2) An authorised person who enters premises under a warrant under this part may seize anything at the premises that the authorised person is authorised to seize under the warrant.
- (3) An authorised person who enters premises under this part (whether with the occupier's consent, under a warrant or otherwise) may seize anything at the premises if satisfied on reasonable grounds that—
 - (a) the thing is connected with an offence against this Act; and
 - (b) the seizure is necessary to prevent the thing from being—
 - (i) concealed, lost or destroyed; or
 - (ii) used to commit, continue or repeat the offence.
- (4) Also, an authorised person who enters premises under this part (whether with the occupier's consent, under a warrant or otherwise) may seize anything at the premises if satisfied on reasonable grounds that the thing poses a risk to the health or safety of people or of damage to property or the environment.
- (5) The powers of an authorised person under subsections (3) and (4) are additional to any powers of the authorised person under subsection (1) or (2) or any other territory law.
- (6) Having seized a thing, an authorised person may—
 - (a) remove the thing from the premises where it was seized (the *place of seizure*) to another place; or
 - (b) leave the thing at the place of seizure but restrict access to it.
- (7) A person commits an offence if—
 - (a) the person interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (6); and

- (b) the person does not have an authorised person's approval to interfere with the thing.

Maximum penalty: 20 penalty units.

- (8) An offence against subsection (7) is a strict liability offence.

72E Receipt for things seized

- (1) As soon as practicable after a thing is seized by an authorised person under this part, the authorised person must give a receipt for it to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must leave the receipt, secured conspicuously at the place of seizure under section 72D (Power to seize things).
- (3) A receipt under this section must include the following:
 - (a) a description of the thing seized;
 - (b) an explanation of why the thing was seized;
 - (c) the authorised person's name, and how to contact the authorised person;
 - (d) if the thing is moved from the premises where it is seized—where the thing is to be taken.

72F Moving things to another place for examination or processing under search warrant

- (1) A thing found at premises entered under a search warrant may be moved to another place for examination or processing to decide whether it may be seized under the warrant if—
 - (a) both of the following apply:
 - (i) there are reasonable grounds for believing that the thing is or contains something to which the warrant relates;

- (ii) it is significantly more practicable to do so having regard to the timeliness and cost of examining or processing the thing at another place and the availability of expert assistance; or
 - (b) the occupier of the premises agrees in writing.
- (2) The thing may be moved to another place for examination or processing for not longer than 72 hours.
- (3) An authorised person may apply to a magistrate for an extension of time if the authorised person believes on reasonable grounds that the thing cannot be examined or processed within 72 hours.
- (4) The authorised person must give notice of the application to the occupier of the premises, and the occupier is entitled to be heard on the application.
- (5) If a thing is moved to another place under this section, the authorised person must, if practicable—
 - (a) tell the occupier of the premises the address of the place where, and time when, the examination or processing will be carried out; and
 - (b) allow the occupier or the occupier's representative to be present during the examination or processing.
- (6) The provisions of this part relating to the issue of search warrants apply, with any necessary changes, to the giving of an extension under this section.

72G Access to things seized

A person who would, apart from the seizure, be entitled to inspect a thing seized under this part may—

- (a) inspect the thing; and
- (b) photograph the thing; and
- (c) if the thing is a document—take extracts from, or make copies of, the thing.

72H Return of things seized

(1) A thing seized under this part must be returned to its owner, or reasonable compensation must be paid to the owner by the Territory for the loss of the thing, if—

- (a) an infringement notice for an offence connected with the thing is not served on the owner within 1 year after the day of the seizure and either—
 - (i) a prosecution for an offence connected with the thing is not begun within the 1-year period; or
 - (ii) a prosecution for an offence connected with the thing is begun within the 1-year period but the court does not find the offence proved; or
- (b) an infringement notice for an offence connected with the thing is served on the owner within 1 year after the day of the seizure, the infringement notice is withdrawn and—
 - (i) a prosecution for an offence connected with the thing is not begun within 1 year after the day of the seizure; or
 - (ii) a prosecution for an offence connected with the thing is begun within 1 year after the day of the seizure but the court does not find the offence proved; or

- (c) an infringement notice for an offence connected with the thing is served on the owner within 1 year after the day of the seizure, liability for the offence is disputed in accordance with the *Magistrates Court Act 1930*, section 132 (Disputing liability for infringement notice offence) and—
 - (i) an information is not laid in the Magistrates Court against the person for the offence within 60 days after the day notice is given under that section; or
 - (ii) the Magistrates Court does not find the offence proved.
- (2) If anything seized under this part is not required to be returned or reasonable compensation is not required to be paid under subsection (1), the thing—
 - (a) is forfeited to the Territory; and
 - (b) may be sold, destroyed or otherwise disposed of as the waste manager directs.

Division 7.3 Miscellaneous

72I Damage etc to be minimised

- (1) In the exercise, or purported exercise, of a function under this part, an authorised person must take all reasonable steps to ensure that the authorised person, and any person assisting the authorised person, causes as little inconvenience, detriment and damage as is practicable.
- (2) If an authorised person, or a person assisting an authorised person, damages anything in the exercise or purported exercise of a function under this part, the authorised person must give written notice of the particulars of the damage to the person whom the authorised person believes on reasonable grounds is the owner of the thing.
- (3) If the damage happens at premises entered under this part in the absence of the occupier, the notice may be given by leaving it secured in a conspicuous place at the premises.

72J Compensation for exercise of enforcement powers

- (1) A person may claim compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this part by—
 - (a) an authorised person; or
 - (b) a person assisting an authorised person.
- (2) Compensation may be claimed and ordered in a proceeding for—
 - (a) compensation brought in a court of competent jurisdiction; or
 - (b) an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order the payment of reasonable compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) A regulation may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

Part 8 Offences

Division 8.1A Preliminary

73 Exempt conduct—pt 8

For an offence under this part, a person's conduct is *exempt conduct* if—

- (a) the person's conduct is undertaken in accordance with 1 of the following:
 - (i) a fisheries licence;
 - (ii) a fisheries management plan;
 - (iii) a cultural resource management plan;
 - (iv) a native species conservation plan; or
- (b) the person is an authorised person exercising a function under this Act.

Note The defendant has an evidential burden in relation to the matters mentioned in this section (see [Criminal Code](#), s 58).

Division 8.1 Unauthorised activities

74 Taking fish for sale without licence etc

- (1) A person commits an offence if the person takes fish from public waters with the intention of—
 - (a) selling the fish; or
 - (b) processing the fish for sale.

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

- (2) This section does not apply to a person if the person's conduct is exempt conduct.

75 Taking fish contrary to licence

- (1) The holder of a fisheries licence commits an offence if—
- (a) the licence holder takes a fish; and
 - (b) the fisheries licence does not permit the holder to take the fish.

Maximum penalty: 10 penalty units.

- (2) Subsection (1) does not apply if—
- (a) the licence holder unintentionally takes the fish; and
 - (b) the licence holder immediately returns the fish to the waters from which it was taken with the least possible injury.

76 Importing or exporting live fish without authority

- (1) A person commits an offence if—
- (a) the person imports a live fish into, or exports a live fish from, the ACT; and
 - (b) the person does not—
 - (i) hold a licence authorising the import or export; or
 - (ii) have the conservator's written approval for the import or export.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if—
- (a) the person is the holder of a licence authorising the import of live fish into, or the export of live fish from, the ACT; and

(b) the person imports a live fish into, or exports a live fish from, the ACT; and

(c) the import or export is not authorised by the licence.

Maximum penalty: 50 penalty units.

(3) This section does not apply to—

(a) fish bought from a registered fish dealer for human consumption; or

(b) fish of an exempt species; or

(c) a person if the person's conduct is exempt conduct.

(4) An offence against subsection (2) is a strict liability offence.

76A Trafficking in commercial quantity of fish of priority species

(1) A person commits an offence if the person—

(a) traffics in a commercial quantity of fish of a priority species; and

(b) does not hold a licence authorising the trafficking.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

(2) This section does not apply if—

(a) the person receives or processes the fish for personal or domestic consumption; and

(b) the fish was received from a licensed supplier.

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

76B Taking commercial quantity of fish of priority species

A person commits an offence if the person—

- (a) takes a commercial quantity of fish of a priority species; and
- (b) does not hold a licence authorising the taking.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

76C Possessing commercial quantity of fish of priority species

(1) A person commits an offence if the person—

- (a) possesses a commercial quantity of fish of a priority species; and
- (b) does not hold a licence authorising the possession.

Maximum penalty: 1 000 penalty units, imprisonment for 10 years or both.

(2) This section does not apply if—

- (a) the person received the fish for personal or domestic consumption; and
- (b) the fish was received from a licensed supplier.

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

77 Possessing fish obtained illegally

A person commits an offence if—

- (a) the person possesses a fish; and
- (b) the fish was—
 - (i) imported into the ACT in contravention of section 76; or
 - (ii) taken in contravention of a law of the Commonwealth, a State or another Territory.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

78 Noxious fish

- (1) A person commits an offence if the person possesses noxious fish.

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

- (2) A person commits an offence if the person traffics noxious fish.

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

- (3) Subsection (1) does not apply if the person holds a permit under the *Pest Plants and Animals Act 2005* authorising the possession.

- (4) This section does not apply if the person's conduct is exempt conduct.

79 Release of fish

- (1) A person commits an offence if—

- (a) the person releases a live fish into public waters; and
- (b) the person does not hold a licence authorising the release of the fish.

Maximum penalty: 50 penalty units.

- (2) This section does not apply if—
 - (a) the fish was taken from public waters; and
 - (b) the fish is released to the waters from which it was taken; and
 - (c) releasing the fish does not contravene a fishing closure.
- (3) An offence against this section is a strict liability offence.

Division 8.2 General offences

80 Fishing closure offences

- (1) A person commits an offence if—
 - (a) a fishing closure is in force for waters; and
 - (b) the person contravenes the fishing closure.Maximum penalty: 50 penalty units.
- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply if the person's conduct is exempt conduct.

81 Prohibited size and weight offences

- (1) A person commits an offence if—
 - (a) the person takes a fish from public waters; and
 - (b) the fish is of size or weight that is prohibited under a declaration under section 15 (Declaration of fish of prohibited size and weight).Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) Subsection (1) does not apply if—
- (a) except for taking the fish, the person's conduct does not contravene this Act; and
 - (b) the person immediately returns the fish to the waters from which it was taken with the least possible injury.
- (3) A person commits an offence if the person possesses a fish that—
- (a) was taken from public waters; and
 - (b) is of size or weight that is prohibited under a declaration under section 15.

Maximum penalty: 50 penalty units.

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

82 Offence—exceed quantity limit

- (1) This section applies to a species of fish if a declaration under section 16 (Declaration of fish quantity) is in force in relation to the species.
- (2) A person commits an offence if the person takes, in a day, more fish of the species than the quantity allowed under the declaration.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) This section does not apply if the person's conduct is exempt conduct.

82A Offence—exceed possession limit

- (1) A person commits an offence—
 - (a) if the person possesses an amount of fish of a particular species;
and
 - (b) the amount of fish is more than the possession limit.Maximum penalty: 50 penalty units.
- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply if the person's conduct is exempt conduct.

83 Beheading or filleting fish

- (1) A person must not behead or fillet a fish in or beside public waters.
Maximum penalty: 10 penalty units.
- (2) An offence against this section is a strict liability offence.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant beheaded or filleted the fish for immediate consumption.

84 Use of live fin fish as bait etc

- (1) A person must not—
 - (a) use live fin fish as bait; or
 - (b) be in or beside public waters in possession of live fin fish for use as bait.Maximum penalty: 30 penalty units.
- (2) An offence against this section is a strict liability offence.

Division 8.3 Offences in relation to fishing gear

85 Use of fishing gear generally

- (1) A person commits an offence if—
- (a) the person uses fishing gear to take fish from public waters; and
 - (b) any of the following applies:
 - (i) the person is not within 10m of the gear;
 - (ii) the person cannot see the gear at all times;
 - (iii) the person is not permitted to take fish under this Act from waters using the fishing gear.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

86 Non-permitted fishing gear

- (1) A person commits an offence if—
- (a) the person uses fishing gear in or beside public waters; and
 - (b) the use of the fishing gear is not permitted by a declaration under section 17 (Declaration of fishing gear).

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
- (a) the person is—
 - (i) in or beside public waters; and
 - (ii) in possession of fishing gear; and
 - (b) the use of the fishing gear is not permitted by a declaration under section 17.

Maximum penalty: 30 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) This section does not apply if the person's conduct is exempt conduct.

86A Offence—use prohibited gear

- (1) A person commits an offence if—
 - (a) the person uses fishing gear in waters; and
 - (b) the gear is prohibited fishing gear.

Maximum penalty: 100 penalty units.

- (2) A person commits an offence if—
 - (a) the person is—
 - (i) in or beside waters; and
 - (ii) in possession of fishing gear; and
 - (b) the gear is prohibited fishing gear.

Maximum penalty: 50 penalty units.

- (3) An offence against subsection (2) is a strict liability offence.
- (4) This section does not apply if the person's conduct is exempt conduct.

86B Offence—prohibited gear retail display

- (1) A person commits an offence if—
 - (a) the person displays fishing gear for sale by retail; and
 - (b) the gear is prohibited fishing gear; and
 - (c) the person does not display a retail display sign.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

(3) In this section:

retail display sign means a sign—

- (a) containing the following statement:
‘Use of this fishing gear is restricted/prohibited in the ACT.’; and
- (b) placed prominently so that it can be seen and read easily by a person at or near the display; and
- (c) with the statement on the sign printed in—
 - (i) a colour that contrasts with the background colour of the sign; and
 - (ii) Arial bold typeface in a size not less than 50 point.

87 Use and possession of commercial fishing gear

- (1) A person commits an offence if the person—
 - (a) uses commercial fishing gear in or beside public waters; and
 - (b) does not hold a licence authorising the use of the gear.

Maximum penalty: 100 penalty units.

- (2) A person commits an offence if the person—
 - (a) the person is—
 - (i) in or beside public waters; and
 - (ii) in possession of commercial fishing gear; and
 - (b) does not hold a licence authorising the use of the gear.

Maximum penalty: 50 penalty units.

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

- (4) For this section, a person is taken to *use* or *be in possession* of commercial fishing gear if, but only if, the person uses or is in possession of—
- (a) a number of lines more than the number determined by the Minister in writing; or
 - (b) a number of nets more than the number determined by the Minister in writing; or
 - (c) a net larger than the size determined by the Minister in writing; or
 - (d) other equipment determined by the Minister in writing.
- (5) A determination under subsection (4) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

Division 8.4 Protection of aquatic habitats

88 Meaning of *aquatic habitat*

- (1) In this Act:
- aquatic habitat*—
- (a) means a habitat in public waters; and
 - (b) includes—
 - (i) water, soil, stones, fallen timber and vegetation; and
 - (ii) anything else prescribed by regulation.
- (2) In this section:
- habitat*—see the [Nature Conservation Act 2014](#), dictionary.

88A Spawning areas and aquatic habitat

- (1) A person commits an offence if the person—
 - (a) does something that disturbs or damages spawn or spawning fish in public waters; and
 - (b) does not have the conservator's written approval to do the thing.Maximum penalty: 30 penalty units.
- (2) A person commits an offence if the person—
 - (a) damages or disturbs part of an aquatic habitat; and
 - (b) does not have the conservator's written approval.Maximum penalty: 30 penalty units.
- (3) A person commits an offence if the person—
 - (a) damages or disturbs critical habitat; and
 - (b) does not have the conservator's written approval.Maximum penalty: 100 penalty units.
- (4) This section does not apply if the person's conduct is exempt conduct.

Part 10 Notification and review of decisions

107 Meaning of *reviewable decision*—pt 10

In this part:

reviewable decision means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

108 Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

Note 1 The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

108A Applications for review

The following may apply to the ACAT for review of a reviewable decision:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

Part 11 Miscellaneous

109 Delegation

The conservator may delegate the conservator's functions under this Act to a conservation officer or authorised person.

Note For the making of delegations and the exercise of delegated functions, see [Legislation Act](#), pt 19.4.

110 Acts and omissions of representatives

- (1) In this section:

person means an individual.

Note See the [Criminal Code](#), pt 2.5 for provisions about corporate criminal responsibility.

representative, of a person, means an employee or agent of the person.

state of mind, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) This section applies to a prosecution for any offence against this Act.
- (3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
- (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.

- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.
- (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
- (6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

111 Criminal liability of executive officers

- (1) An executive officer of a corporation commits an offence if—
 - (a) the corporation commits a relevant offence; and
 - (b) the officer was reckless about whether the relevant offence would be committed; and
 - (c) the officer was in a position to influence the conduct of the corporation in relation to the commission of the relevant offence; and
 - (d) the officer failed to take reasonable steps to prevent the commission of the relevant offence.

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

- (2) In deciding whether the executive officer took (or failed to take) all reasonable steps to prevent the commission of the offence, a court must consider any action the officer took directed towards ensuring the following (to the extent that the action is relevant to the act or omission):
- (a) that the corporation arranges regular professional assessments of the corporation's compliance with the provision to which the relevant offence relates;
 - (b) that the corporation implements any appropriate recommendation arising from such an assessment;
 - (c) that the corporation's employees, agents and contractors have a reasonable knowledge and understanding of the requirement to comply with the provision to which the relevant offence relates;
 - (d) any action the officer took when the officer became aware that the relevant offence was, or might be, about to be committed.
- (3) Subsection (2) does not limit the matters the court may consider.
- (4) Subsection (1) does not apply if the corporation would have a defence to a prosecution for the relevant offence.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see [Criminal Code](#), s 58).

- (5) This section applies whether or not the corporation is prosecuted for, or convicted of, the relevant offence.
- (6) In this section:

executive officer, of a corporation, means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

relevant offence means an offence against any of the following:

- (a) section 36O (Offence—fail to keep records);
- (b) section 45 (Sale of fish by commercial fishers);
- (c) section 49 (2) (Aquaculture offences);
- (d) section 76 (2) (Importing or exporting live fish without authority);
- (e) section 76A (Trafficking in commercial quantity of fish of priority species);
- (f) section 76B (Taking commercial quantity of fish of priority species);
- (g) section 76C (Possessing commercial quantity of fish of a priority species);
- (h) section 77 (Possessing fish obtained illegally);
- (i) section 78 (Noxious fish);
- (j) section 80 (1) (Fishing closure offences);
- (k) section 81 (1) (Prohibited size and weight offences);
- (l) section 86 (1) (Non-permitted fishing gear);
- (m) section 87 (1) (Use and possession of commercial gear).

111A Evidentiary certificates

- (1) The conservator may give a signed certificate—
 - (a) stating that on a stated date, or during a stated period, a stated person was or was not a licensee; and
 - (b) if the person was a licensee—including details of the person’s fisheries licence.

- (2) A certificate under this section is evidence of the matters stated in it.
- (3) Unless the contrary is proved, a document that purports to be a certificate under this section is taken to be a certificate.

112 Production of licences

- (1) A licensee commits an offence if—
 - (a) a conservation officer or fisheries officer requests that the licensee produce their licence for inspection at the officer's office; and
 - (b) the licensee does not comply with the request within 2 working days after the day the request is made.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

113 Minister's guidelines

- (1) The Minister may make guidelines (the *Minister's guidelines*) about the exercise of the conservator's functions in relation to the following:
 - (a) the granting of a fisheries licence involving a significant activity;
 - (b) the conditions that the conservator may impose on a fisheries licence involving a significant activity;
 - (c) the considerations the conservator must have in deciding whether to register an applicant for a fish dealer's registration.
- (2) The conservator must comply with the Minister's guidelines.
- (3) A Minister's guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

(4) In this section:

significant activity, in relation to a fisheries licence, means—

- (a) commercial fishing; or
- (b) commercial trade of fish; or
- (c) any other activity prescribed by regulation.

113A Conservator guidelines

(1) The conservator may make guidelines (the ***conservator guidelines***) about the following:

- (a) the exercise of the conservator's functions under this Act;
- (b) matters relating to fisheries licences (except for fisheries licenses involving a significant activity);
- (c) the conservation and management of fisheries;
- (d) any other matters prescribed by regulation.

Note The power to make guidelines includes the power to amend or repeal the guidelines. The power to amend or repeal the guidelines is exercisable in the same way, and subject to the same conditions, as the power to make the guidelines (see [Legislation Act](#), s 46).

(2) The conservator guidelines may apply, adopt or incorporate an instrument as in force from time to time.

(3) A conservator guideline is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

(4) The [Legislation Act](#), section 47 (6) does not apply in relation to an instrument applied, adopted or incorporated as in force from time to time under this section.

Note An instrument applied, adopted or incorporated under this section does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see [Legislation Act](#) s 47 (7)).

(5) In this section:

significant activity, in relation to a fisheries licence, means—

- (a) commercial fishing; or
- (b) commercial trade of fish; or
- (c) any other activity prescribed by regulation.

114 Determination of fees

(1) The Minister may determine fees for this Act.

Note The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

(2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

116 Regulation-making power

(1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

(2) The regulations may make provision in relation to—

- (a) the sale, transport, storage, processing and handling of fish; and
- (b) the keeping of records for activities mentioned in paragraph (a); and
- (c) the prevention of damage to a place where fish spawn or are likely to spawn; and
- (d) the administration of licences.

(3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

Schedule 1 Reviewable decisions

(see pt 10)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	22	refuse to issue recreational group licence	applicant for licence
2	30	refuse to issue fisheries licence	applicant for licence
3	31	issue licence with conditions	applicant for licence
4	36 (2)	amend licence	licensee
5	36 (3)	issue amended licence with conditions	licensee
6	36A	refuse to issue replacement fisheries licence	licensee
7	36H (3)	take regulatory action	licensee
8	36I (2)	suspend licence	licensee
9	39	refuse to register fish dealer	applicant for registration
10	41	suspend fish dealer's licence	entity that has registration suspended
11	42	cancel fish dealer's licence	entity that has registration cancelled

Dictionary

(see s 4)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- conservator of flora and fauna
- contravene
- disallowable instrument
- document
- function
- home address
- magistrate
- Magistrates Court
- penalty unit (see s 133)
- power
- reviewable decision notice.

abalone means blacklip and greenlip abalone and includes all other species of abalone.

aquaculture—see section 46.

aquatic habitat—see section 88.

authorised person—

(a) means a fisheries officer; and

(b) includes—

(i) a conservation officer; and

(ii) a police officer.

authorised person's direction—see section 72.

boat means any kind of vessel, however navigated.

commercial quantity of fish of a priority species means the quantity prescribed by regulation as a commercial quantity of the fish.

conservation officer—see the [Nature Conservation Act 2014](#), dictionary.

conservator means the conservator of flora and fauna.

conservator guidelines means a guideline made under section 113A.

corresponding law means a law of a State that regulates fisheries.

critical habitat means aquatic habitat, or a part of aquatic habitat, declared as critical habitat under section 18A.

critical habitat declaration—see section 18A (1).

cultural resource management plan—see the [Nature Conservation Act 2014](#), dictionary.

custodian, for an area of land—see the [Planning and Development Act 2007](#), section 333.

environment—see the [Environment Protection Act 1997](#), dictionary.

exempt conduct, for part 8 (Offences)—see section 73.

exempt species means a species of fish declared to be an exempt species under section 18.

exempt species declaration—see section 18 (1).

fin fish means a marine, estuarine or freshwater fish of the class pisces.

fish means marine, estuarine or freshwater fish or other aquatic animal life, or any of their parts, at any stage of their history (whether alive or dead), and includes—

- (a) abalone, oysters and other aquatic molluscs; and
- (b) crustaceans; and

- (c) echinoderms; and
- (d) beachworms and other aquatic polychaetes;

but does not include—

- (e) reptiles; and
- (f) birds; and
- (g) amphibians.

fish dealer means a person who receives fish, for resale or other commercial use, from a person whom they know or suspect or ought to know or suspect to be a commercial fisher, but does not include a person who receives fish only for the purpose of transporting them on behalf of the owner of the fish.

fisheries licence—see section 19.

fisheries licence register—see section 36M.

fisheries management plan—see section 5.

fisheries officer means a person appointed under section 50.

fishing closure—see section 13.

fishing gear means equipment, other than a vehicle or boat, used for taking fish.

fish of a priority species means—

- (a) abalone; and
- (b) Murray Cod; and
- (c) rock lobster; and
- (d) fish of any other species prescribed by regulation as a priority species.

ground for regulatory action—see section 36F.

identity card means—

- (a) in relation to a fisheries officer—an identity card issued to the person under section 51; or
- (b) in relation to a conservation officer—an identity card issued to the person under the *Nature Conservation Act 2014*, section 29; or
- (c) in relation to a police officer—proof of identification of a type approved for general purposes by the chief police officer.

information direction—see section 64 (2).

lease—see the *Planning and Development Act 2007*, section 235.

licensee means the holder of—

- (a) a fisheries licence; or
- (b) a recreational group licence.

net includes anything attached to a net.

noxious fish means a species of fish declared to be noxious under section 14.

occupier, of a place, for division 7.1 (Powers for places)—see section 53.

possession includes having a thing in the custody of someone else.

possession limit—see section 16A.

premises includes—

- (a) land (whether vacant or occupied); and
- (b) a vehicle; and
- (c) a vessel.

private waters means—

- (a) waters on private land that are not public waters; and
- (b) waters under an aquaculture licence.

processing means break up, can, chill, cook, cut up, freeze, pack, preserve, purge, shell, shuck, skin or otherwise treat or process fish.

public waters—

- (a) means—
 - (i) waters on public land; and
 - (ii) a waterway; and
 - (iii) waters of a dam, water storage or other control structure situated on a waterway; but
- (b) does not include waters under an aquaculture licence.

receive fish, means receive fish from someone else, whether by purchase or otherwise, for any purpose other than—

- (a) personal or domestic consumption; or
- (b) transportation.

recreational group licence—see section 20.

registered means registered under this Act.

regulatory action—see section 36G.

reviewable decision, for part 10 (Notification and review of decisions)—see section 107.

rock lobster means an animal of the genus *Jasus*.

sell includes—

- (a) sell by wholesale, retail, auction or tender; and
- (b) barter or exchange; and
- (c) supply for profit; and

- (d) offer for sale, receive for sale or expose for sale; and
- (e) consign or deliver for sale; and
- (f) have in possession for sale; and
- (g) cause or allow anything mentioned in paragraphs (a) to (f) to be done.

species, of fish, includes a subspecies, domesticated forms or hybrids of a species.

stop vehicle direction—see section 67 (2).

suitability information—

- (a) about a person, for part 4 (Fisheries licences)—see section 24; or
- (b) about an activity, for part 4 (Fisheries licences)—see section 27.

suitable activity, for a fisheries licence, for part 4 (Fisheries licences)—see section 26.

suitable person, to hold a fisheries licence, for part 4 (Fisheries licences)—see section 23.

take means to gather, catch, kill or remove fish from an aquatic habitat.

traffic, in fish, includes the following:

- (a) sell the fish;
- (b) possess or gain possession or control of the fish with the intention of selling any of it;
- (c) receive the fish;
- (d) process the fish.

treatment direction—see section 72B.

urgent direction—see section 70 (2).

vehicle—see the [Road Transport \(General\) Act 1999](#), dictionary.

waters means public waters and private waters.

waterway—see the [Water Resources Act 2007](#), section 10.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

Fisheries Act 2000 A2000-38

notified 20 July 2000 (Gaz 2000 No 29)
s 1, s 2 commenced 20 July 2000 (IA s 10B)
remainder commenced 13 September 2000 (Gaz 2000 No 35)

as amended by

Legislation (Consequential Amendments) Act 2001 A2001-44 pt 155

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 155 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Legislation Amendment Act 2002 A2002-11 pt 2.22

notified LR 27 May 2002
s 1, s 2 commenced 27 May 2002 (LA s 75)
pt 2.22 commenced 28 May 2002 (s 2 (1))

Statute Law Amendment Act 2002 A2002-30 pt 3.29

notified LR 16 September 2002
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))
pt 3.29 commenced 17 September 2002 (s 2 (1))

Statute Law Amendment Act 2003 A2003-41 sch 3 pt 3.12

notified LR 11 September 2003
s 1, s 2 commenced 11 September 2003 (LA s 75 (1))
amdt 3.266, amdt 3.269 commenced 10 December 2003 (s 2 (3))
sch 3 pt 3.12 remainder commenced 9 October 2003 (s 2 (1))

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 1 pt 1.16, sch 2 pt 2.37

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 1 pt 1.16, sch 2 pt 2.37 commenced 9 April 2004 (s 2 (1))

Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.21

notified LR 27 October 2005
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))
sch 1 pt 1.21 commenced 24 November 2005 (s 2)

Fisheries Amendment Act 2006 A2006-48

notified LR 28 November 2006
s 1, s 2 commenced 28 November 2006 (LA s 75 (1))
remainder commenced 29 November 2006 (s 2)

Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.46

notified LR 22 March 2007
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))
sch 3 pt 3.46 commenced 12 April 2007 (s 2 (1))

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.43

notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.43 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008](#) A2008-35, s 2 (1) and [CN2009-2](#))

Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.32

notified LR 26 November 2009
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))
sch 3 pt 3.32 commenced 17 December 2009 (s 2)

Directors Liability Legislation Amendment Act 2013 A2013-4 sch 1 pt 1.3

notified LR 21 February 2013
s 1, s 2 commenced 21 February 2013 (LA s 75 (1))
pt 1.3 commenced 22 February 2013 (s 2)

Nature Conservation Act 2014 A2014-59 sch 2 pt 2.7

notified LR 11 December 2014
s 1, s 2 commenced 11 December 2014 (LA s 75 (1))
sch 2 pt 2.7 commenced 11 June 2015 (s 2 (1) and LA s 79)

Red Tape Reduction Legislation Amendment Act 2015 A2015-33 sch 1 pt 1.28

notified LR 30 September 2015
s 1, s 2 commenced 30 September 2015 (LA s 75 (1))
sch 1 pt 1.28 commenced 14 October 2015 (s 2)

Endnotes

3 Legislation history

Red Tape Reduction Legislation Amendment Act 2018 A2018-33

sch 1 pt 1.15

notified LR 25 September 2018

s 1, s 2 commenced 25 September 2018 (LA s 75 (1))

sch 1 pt 1.15 commenced 23 October 2018 (s 2 (4))

Fisheries Legislation Amendment Act 2019 A2019-27 pt 2

notified LR 2 October 2019

s 1, s 2 commenced 2 October 2019 (LA s 75 (1))

pt 2 commenced 18 November 2019 (s 2 and [CN2019-17](#))

Planning and Environment Legislation Amendment Act 2020

A2020-22 pt 5

notified LR 10 June 2020

s 1, s 2 commenced 10 June 2020 (LA s 75 (1))

pt 5 commenced 11 June 2020 (s 2)

Statute Law Amendment Act 2021 A2021-12 sch 3 pt 3.18

notified LR 9 June 2021

s 1, s 2 commenced 9 June 2021 (LA s 75 (1))

sch 3 pt 3.18 commenced 23 June 2021 (s 2 (1))

Statute Law Amendment Act 2022 A2022-14 sch 3 pt 3.16

notified LR 10 August 2022

s 1, s 2 commenced 10 August 2022 (LA s 75 (1))

sch 3 pt 3.16 commenced 24 August 2022 (s 2)

4 Amendment history

Commencement

s 2 om R1 LRA

Objects

s 3 am [A2007-3](#) amdt 3.244; [A2019-27](#) s 4, s 5

Notes

s 4A ins [A2005-54](#) amdt 1.143

Offences against Act—application of Criminal Code etc

s 4B ins [A2005-54](#) amdt 1.143

Fisheries management plan

pt 2 hdg sub [A2019-27](#) s 6

Meaning of *fisheries management plan*

s 5 sub [A2019-27](#) s 6

Preparation and public consultation

s 6 sub [A2001-44](#) amdt 1.1746; [A2019-27](#) s 6

Approval of plan

s 7 sub [A2001-44](#) amdt 1.1746
am [A2003-41](#) amdt 3.260; [A2015-33](#) amdt 1.87
sub [A2019-27](#) s 6

Minister to approve plan

s 8 sub [A2001-44](#) amdt 1.1746; [A2019-27](#) s 6

Formal changes to draft plan

s 8A ins [A2001-44](#) amdt 1.1746
am [A2015-33](#) amdt 1.88
om [A2019-27](#) s 6

Minister's direction to revise plan

s 9 am [A2001-44](#) amdt 1.1747
sub [A2019-27](#) s 6

Minor amendments to plan

s 10 sub [A2019-27](#) s 6

Review of plan

s 11 sub [A2019-27](#) s 6

Fisheries management plan—conservator to implement

s 12 am [A2001-44](#) amdt 1.1748, amdt 1.1749
sub [A2019-27](#) s 6

Fishing closures and declarations

pt 3 hdg sub [A2001-44](#) amdt 1.1750

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Fishing closures

s 13 am [A2001-44](#) amdt 1.1751, amdt 1.1752
sub [A2019-27](#) s 7

Declaration of noxious fish

s 14 am [A2001-44](#) amdt 1.1753, amdt 1.1754; [A2019-27](#) s 8

Declaration of fish of a prohibited size or weight

s 15 am [A2001-44](#) amdt 1.1755, amdt 1.1756; [A2019-27](#) s 8

Declaration of fish quantity

s 16 am [A2001-44](#) amdt 1.1757, amdt 1.1758; [A2019-27](#) s 8

Declaration of possession limit

s 16A ins [A2019-27](#) s 9
am [A2020-22](#) s 13

Declaration of fishing gear

s 17 am [A2001-44](#) amdt 1.1759, amdt 1.1760; [A2019-27](#) s 10

Declaration of exempt species

s 18 om [A2001-44](#) amdt 1.1761
ins [A2019-27](#) s 11

Declaration of critical habitat

s 18A ins [A2019-27](#) s 11

Fisheries licences

pt 4 hdg sub [A2019-27](#) s 12

Licences—preliminary

div 4.1 hdg sub [A2019-27](#) s 12

Meaning of *fisheries licence*

s 19 am [A2006-48](#) s 4
sub [A2019-27](#) s 12

Meaning of *recreational group licence*

s 20 sub [A2019-27](#) s 12

Licences—application and suitability

div 4.2 hdg sub [A2019-27](#) s 12

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s 21 sub [A2019-27](#) s 12

Recreational group licence application

s 22 sub [A2019-27](#) s 12

Priority species licences

s 22A ins [A2006-48](#) s 5
om [A2019-27](#) s 12

Who is a *suitable person* to hold a fisheries licence—pt 4

s 23 sub [A2001-44](#) amdt 1.1762
 am [A2003-41](#) amdt 3.261
 sub [A2019-27](#) s 12

Meaning of *suitability information* about a person—pt 4

s 24 am [A2003-41](#) amdt 3.262
 sub [A2019-27](#) s 12

Suitability of people—further information about people

s 25 sub [A2019-27](#) s 12

What is a *suitable activity* for a fisheries licence?

s 26 am [A2002-30](#) amdt 3.373; [A2014-59](#) amdt 2.22
 sub [A2019-27](#) s 12

What is *suitability information* about an activity?

s 27 sub [A2019-27](#) s 12

Suitability of activities—further information about activity

s 28 am [A2002-30](#) amdt 3.373; [A2006-48](#) s 6; [A2014-59](#)
 amdts 2.23-2.25
 sub [A2019-27](#) s 12

Issue of priority species licences—relevant considerations

s 28A ins [A2006-48](#) s 7
 am [A2014-59](#) amdt 2.26
 om [A2019-27](#) s 12

Suitability of activities—risk management plan

s 29 am [A2006-48](#) s 8
 sub [A2019-27](#) s 12

Licences—decision

div 4.3 hdg ins [A2019-27](#) s 12

Licence—decision on application

s 30 sub [A2019-27](#) s 12

Licence—conditions

s 31 am [A2003-41](#) amdt 3.262
 sub [A2019-27](#) s 12

Licence—term

s 32 sub [A2019-27](#) s 12

Licence—form

s 33 am [A2003-41](#) amdt 3.262
 sub [A2019-27](#) s 12

Licences—amendment

div 4.4 hdg ins [A2019-27](#) s 12

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Licence—amendment initiated by conservator

s 34 am [A2002-30](#) amdt 3.373; [A2003-41](#) amdt 3.262; [A2014-59](#)
amdt 2.27
sub [A2019-27](#) s 12

Licence—application to amend licence

s 35 sub [A2019-27](#) s 12

Licence—decision on application to amend licence

s 36 sub [A2019-27](#) s 12

Licence—replacing when lost, stolen or destroyed

s 36A ins [A2019-27](#) s 12

Licence—surrender

s 36B ins [A2019-27](#) s 12
am [A2021-12](#) amdt 3.39

Offence—fail to notify change of name or address

s 36C ins [A2019-27](#) s 12

Licence—conservator to change name and address

s 36D ins [A2019-27](#) s 12

Licences—regulatory action

div 4.5 hdg ins [A2019-27](#) s 12

Application—div 4.5

s 36E ins [A2019-27](#) s 12

Licence—grounds for regulatory action

s 36F ins [A2019-27](#) s 12

Licence—regulatory action

s 36G ins [A2019-27](#) s 12

Licence—taking regulatory action

s 36H ins [A2019-27](#) s 12

Licence—immediate suspension

s 36I ins [A2019-27](#) s 12

Licence—effect of suspension

s 36J ins [A2019-27](#) s 12

Offence—fail to return amended, suspended or cancelled licences

s 36K ins [A2019-27](#) s 12

Action by conservator in relation to amended or suspended licence

s 36L ins [A2019-27](#) s 12

Licence—register

div 4.6 hdg ins [A2019-27](#) s 12

Fisheries licence registers 36M ins [A2019-27](#) s 12**Licence register—correction and keeping up-to-date**s 36N ins [A2019-27](#) s 12**Offence—fail to keep records**s 36O ins [A2019-27](#) s 12**Fish dealers to be registered**s 37 sub [A2005-54](#) amdt 1.144**Applications for registration**s 38 sub [A2001-44](#) amdt 1.1763
am [A2003-41](#) amdt 3.263; [A2021-12](#) amdt 3.39**Suspension of registration**s 41 am [A2003-41](#) amdt 3.264; [A2019-27](#) s 13**Cancellation of registration**s 42 am [A2019-27](#) s 14**Register of dealers**s 43 am [A2022-14](#) amdt 3.94, amdt 3.95**Sale of fish by commercial fishers**s 45 sub [A2005-54](#) amdt 1.145**Aquaculture**pt 6 hdg sub [A2019-27](#) s 15**Keeping records and giving information**div 6.1 hdg om [A2019-27](#) s 15**Meaning of aquaculture**s 46 hdg sub [A2006-48](#) s 9
s 46 am [A2001-44](#) amdt 1.1764, amdt 1.1765
sub [A2005-54](#) amdt 1.146
am [A2006-48](#) ss 10-12; ss renum R10 LA
sub [A2019-27](#) s 15**Aquaculture guidelines**s 47 hdg sub [A2006-48](#) s 13
s 47 sub [A2005-54](#) amdt 1.146
am [A2006-48](#) s 14; ss renum R10 LA
sub [A2019-27](#) s 15**Aquaculture limit**s 48 sub [A2005-54](#) amdt 1.146; [A2019-27](#) s 15

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Aquaculture offences

s 49 hdg sub [A2006-48](#) s 15
s 49 am [A2003-41](#) amdt 3.264; [A2005-54](#) amdt 1.147; [A2006-48](#)
ss 16-18; ss renum R10 LA
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div 6.2 hdg om [A2019-27](#) s 15

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pt 7 hdg sub [A2019-27](#) s 16

Conservation officer's powers

pt 7 note ins [A2002-11](#) amdt 2.44

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div 7.1A hdg ins [A2019-27](#) s 17

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s 50 om [A2004-15](#) amdt 2.85
ins [A2019-27](#) s 17

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s 51 sub [A2019-27](#) s 17

Fisheries officer must show identity card on exercising power

s 52 am [A2001-44](#) amdt 1.1766, amdt 1.1767
sub [A2019-27](#) s 17

Power to enter premises

s 54 sub [A2019-27](#) s 18

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s 54A ins [A2019-27](#) s 18

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s 55 am [A2019-27](#) ss 19-21

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s 56 am [A2019-27](#) s 22

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s 57 am [A2019-27](#) s 22

Warrants—application made other than in person

s 58 am [A2018-33](#) amdt 1.27, amdt, 1.28; [A2019-27](#) s 22

General powers on entry to premises

s 59 sub [A2019-27](#) s 23

Powers on entry for routine inspection of business premises

s 60 am [A2003-41](#) amdt 3.265; [A2019-27](#) s 24

Powers on entry under a warrant

s 61 am [A2003-41](#) amdt 3.265; [A2005-54](#) amdt 1.148;
[A2019-27](#) s 24

Identity cards must be produced

s 62 om [A2019-27](#) s 25

Entry into waters, and along banks etc

s 63 am [A2019-27](#) s 26

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div 7.2 hdg sub [A2019-27](#) s 27

Direction to provide information

s 64 sub [A2005-54](#) amdt 1.149
am [A2009-49](#) amdt 3.73
sub [A2019-27](#) s 27

Offence—fail to comply with information direction

s 65 am [A2005-54](#) amdt 1.150; ss renum [A2005-54](#) amdt 1.151
sub [A2019-27](#) s 27

Immediate information direction

s 66 sub [A2019-27](#) s 27

Direction to stop vehicle containing fish etc

s 67 sub [A2019-27](#) s 27

Offence—fail to comply with stop vehicle direction

s 68 sub [A2019-27](#) s 27

Direction to remove gear from water

s 69 sub [A2019-27](#) s 27

Urgent directions

s 70 om [A2004-15](#) amdt 2.85
ins [A2019-27](#) s 27

Offence—fail to comply with urgent direction

s 71 om [A2004-15](#) amdt 2.85
ins [A2019-27](#) s 27

Authorised person's directions

s 72 om [A2004-15](#) amdt 2.85
ins [A2019-27](#) s 27

Offence—fail to comply with authorised person's direction

s 72A ins [A2019-27](#) s 27

Treatment directions

s 72B ins [A2019-27](#) s 27

Offence—fail to comply with treatment direction

s 72C ins [A2019-27](#) s 27

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Power to seize things

s 72D ins [A2019-27](#) s 27

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s 72E ins [A2019-27](#) s 27

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s 72F ins [A2019-27](#) s 27

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s 72G ins [A2019-27](#) s 27

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s 72H ins [A2019-27](#) s 27

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s 72I ins [A2019-27](#) s 27

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s 72J ins [A2019-27](#) s 27

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pt 8 hdg sub [A2005-54](#) amdt 1.152

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div 8.1A ins [A2019-27](#) s 27

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s 73 om [A2002-11](#) amdt 2.45
ins [A2019-27](#) s 28

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div 8.1 hdg sub [A2005-54](#) amdt 1.152

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s 74 sub [A2005-54](#) amdt 1.152; [A2019-27](#) s 29

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s 75 sub [A2005-54](#) amdt 1.152; [A2019-27](#) s 29

Importing or exporting live fish without authority

s 76 sub [A2005-54](#) amdt 1.152
am [A2019-27](#) s 30, s 31

Trafficking in commercial quantity of fish of priority species

s 76A ins [A2006-48](#) s 19
sub [A2019-27](#) s 32

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s 76B ins [A2006-48](#) s 19
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Possessing commercial quantity of fish of a priority species

s 76C ins [A2006-48](#) s 19
sub [A2019-27](#) s 32

Possessing fish obtained illegally

s 77 sub [A2005-54](#) amdt 1.152

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s 78 sub [A2005-54](#) amdt 1.152; [A2019-27](#) s 33

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s 79 sub [A2005-54](#) amdt 1.152; [A2019-27](#) ss 34-36

General offences

div 8.2 hdg sub [A2005-54](#) amdt 1.152

Fishing closure offences

s 80 sub [A2005-54](#) amdt 1.152; [A2019-27](#) s 37

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s 81 sub [A2005-54](#) amdt 1.152
am [A2019-27](#) s 38

Offence—exceed quantity limit

s 82 hdg sub [A2019-27](#) s 39
s 82 sub [A2005-54](#) amdt 1.152
am [A2019-27](#) s 40, s 41

Offence—exceed possession limit

s 82A ins [A2019-27](#) s 42

Beheading or filleting fish

s 83 sub [A2005-54](#) amdt 1.152

Use of live fin fish as bait etc

s 84 sub [A2005-54](#) amdt 1.152

Offences in relation to fishing gear

div 8.3 hdg sub [A2005-54](#) amdt 1.152

Use of fishing gear generally

s 85 sub [A2005-54](#) amdt 1.152
am [A2019-27](#) s 43

Non-permitted fishing gear

s 86 sub [A2005-54](#) amdt 1.152
am [A2019-27](#) s 44, s 45

Offence—use prohibited gear

s 86A ins [A2019-27](#) s 46

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Offence—prohibited gear retail display

s 86B ins [A2019-27](#) s 46

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s 87 sub [A2005-54](#) amdt 1.152
am [A2019-27](#) s 47

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div 8.4 hdg sub [A2005-54](#) amdt 1.152

Meaning of *aquatic habitat*

s 88 am [A2001-44](#) amdt 1.1768, amdt 1.1769
sub [A2005-54](#) amdt 1.152; [A2019-27](#) s 48

Spawning areas and aquatic habitat

s 88A ins [A2019-27](#) s 48

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s 89 am [A2001-44](#) amdt 1.1768, amdt 1.1769
om [A2005-54](#) amdt 1.152

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pt 9 hdg om [A2003-41](#) amdt 3.266

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div 9.1 hdg om [A2003-41](#) amdt 3.266

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s 90 om [A2003-41](#) amdt 3.266

Infringement and reminder notices

div 9.2 hdg om [A2003-41](#) amdt 3.266

Purpose and effect of div 9.2

s 91 om [A2003-41](#) amdt 3.266

Service of infringement notices

s 92 om [A2003-41](#) amdt 3.266

Contents of infringement notices

s 93 om [A2003-41](#) amdt 3.266

Additional information in infringement notices

s 94 om [A2003-41](#) amdt 3.266

Time for payment of infringement notice penalty

s 95 om [A2003-41](#) amdt 3.266

Extension of time to pay penalty

s 96 om [A2003-41](#) amdt 3.266

Effect of payment of infringement notice penalty

s 97 om [A2003-41](#) amdt 3.266

Application for withdrawal of infringement notice

s 98 om [A2003-41](#) amdt 3.266

Withdrawal of infringement notice

s 99 om [A2003-41](#) amdt 3.266

Reminder notices

s 100 om [A2003-41](#) amdt 3.266

Contents of reminder notices

s 101 om [A2003-41](#) amdt 3.266

Additional information in reminder notices

s 102 om [A2003-41](#) amdt 3.266

Disputing liability

div 9.3 hdg om [A2003-41](#) amdt 3.266

Disputing liability for an infringement notice offence

s 103 om [A2003-41](#) amdt 3.266

Extension of time to dispute liability

s 104 om [A2003-41](#) amdt 3.266

Procedure if liability disputed

s 105 om [A2003-41](#) amdt 3.266

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div 9.4 hdg om [A2003-41](#) amdt 3.266

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s 106 om [A2003-41](#) amdt 3.266

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pt 10 hdg sub [A2008-37](#) amdt 1.180

Meaning of *reviewable decision*—pt 10

s 107 sub [A2008-37](#) amdt 1.180

Reviewable decision notices

s 108 sub [A2008-37](#) amdt 1.180

Applications for review

s 108A ins [A2008-37](#) amdt 1.180

Delegation

s 109 sub [A2003-41](#) amdt 3.267
am [A2019-27](#) s 49

Acts and omissions of representatives

s 110 sub [A2004-15](#) amdt 1.18

Criminal liability of executive officers

s 111 sub [A2013-4](#) amdt 1.3
am [A2019-27](#) s 50, s 51; pars renum R18 LA

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Evidentiary certificates

s 111A ins [A2019-27](#) s 52
am [A2022-14](#) amdt 3.96

Production of licences

s 112 sub [A2005-54](#) amdt 1.153
am [A2019-27](#) s 53

Minister's guidelines

s 113 sub [A2001-44](#) amdt 1.1770
am [A2006-48](#) s 20; pars renum R10 LA
sub [A2019-27](#) s 54

Conservator guidelines

s 113A ins [A2019-27](#) s 54

Determination of fees

s 114 sub [A2001-44](#) amdt 1.1770
am [A2019-27](#) s 55

Approved forms

s 115 am [A2001-44](#) amdt 1.1771, amdt 1.1772; [A2003-41](#)
amdt 3.268; [A2019-27](#) s 55
om [A2021-12](#) amdt 3.40

Regulation-making power

s 116 sub [A2001-44](#) amdt 1.1773
am [A2019-27](#) s 56

Regulations prescribing infringement notice penalties

s 117 om [A2003-41](#) amdt 3.269

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s 118 om R1 LRA

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s 119 exp 31 December 2001 (s 120 (3))

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pt 12 hdg om R3 LA

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s 120 exp 31 December 2001 (s 120 (3))

Amendments of Nature Conservation Act

s 121 om R1 LRA

Transitional—Fisheries Legislation Amendment Act 2019

pt 13 hdg ins [A2019-27](#) s 57
exp 18 November 2023 (s 125)

Definitions—pt 13

s 122 ins [A2019-27](#) s 57
exp 18 November 2023 (s 125)

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s 123 ins [A2019-27](#) s 57
exp 18 November 2023 (s 125)

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s 124 ins [A2019-27](#) s 57
exp 18 November 2023 (s 125)

Expiry—pt 13

s 125 ins [A2019-27](#) s 57
exp 18 November 2023 (s 125)

Amendments of the Nature Conservation Act 1980

sch om R1 LRA

Reviewable decisions

sch 1 ins [A2008-37](#) amdt 1.181
sub [A2019-27](#) s 58

Dictionary

dict am [A2003-41](#) amdt 3.270; [A2008-37](#) amdt 1.182, amdt 1.183;
[A2009-49](#) amdt 3.74
def **abalone** ins [A2006-48](#) s 21
def **aquaculture** ins [A2019-27](#) s 59
def **aquatic habitat** ins [A2019-27](#) s 60
def **authorised person** ins [A2019-27](#) s 60
def **authorised person's direction** ins [A2019-27](#) s 60
def **commercial fishing licence** ins [A2003-41](#) amdt 3.271
om [A2019-27](#) s 61
def **commercial quantity** ins [A2006-48](#) s 21
def **conservation officer** sub [A2014-59](#) amdt 2.28
def **conservator** sub [A2003-41](#) amdt 3.272
def **conservator guidelines** ins [A2019-27](#) s 62
def **critical habitat** ins [A2019-27](#) s 62
def **critical habitat declaration** ins [A2019-27](#) s 62
def **cultural resource management plan** ins [A2019-27](#) s 62
def **custodian** ins [A2019-27](#) s 62
def **determined fee** om [A2001-44](#) amdt 1.1774
def **environment** sub [A2007-3](#) amdt 3.245
def **executive officer** om [A2013-4](#) amdt 1.4
def **exempt conduct** ins [A2019-27](#) s 62
def **exempt species** ins [A2019-27](#) s 62
def **exempt species declaration** ins [A2019-27](#) s 62
def **fish dealer** am [A2022-14](#) amdt 3.97
def **fisheries licence** ins [A2019-27](#) s 62
def **fisheries licence register** ins [A2019-27](#) s 62

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def **fisheries management plan** ins [A2019-27](#) s 62
def **fisheries officer** ins [A2019-27](#) s 62
def **fish of a priority species** ins [A2006-48](#) s 21
am [A2019-27](#) s 63; pars renum R18 LA
def **ground for regulatory action** ins [A2019-27](#) s 64
def **identity card** ins [A2019-27](#) s 64
def **import and export licence** ins [A2003-41](#) amdt 3.273
om [A2019-27](#) s 65
def **information direction** ins [A2019-27](#) s 66
def **lease** ins [A2019-27](#) s 66
def **licence** sub [A2003-41](#) amdt 3.274
am [A2006-48](#) s 22
om [A2019-27](#) s 67
def **licensee** sub [A2019-27](#) s 68
def **newspaper** om [A2015-33](#) amdt 1.89
def **occupier** ins [A2003-41](#) amdt 3.275
def **possession limit** ins [A2019-27](#) s 69
def **premises** ins [A2019-27](#) s 69
def **priority species licence** ins [A2006-48](#) s 23
om [A2019-27](#) s 70
def **private waters** sub [A2019-27](#) s 71
def **public waters** sub [A2019-27](#) s 71
def **recreational group licence** ins [A2019-27](#) s 72
def **register** om [A2019-27](#) s 73
def **regulatory action** ins [A2019-27](#) s 74
def **reviewable decision** ins [A2008-37](#) amdt 1.184
def **rock lobster** ins [A2006-48](#) s 23
def **scientific licence** ins [A2003-41](#) amdt 3.276
om [A2019-27](#) s 75
def **stop vehicle direction** ins [A2019-27](#) s 76
def **suitability information** ins [A2019-27](#) s 76
def **suitable activity** ins [A2019-27](#) s 76
def **suitable person** ins [A2019-27](#) s 76
def **traffic** ins [A2019-27](#) s 76
def **treatment direction** ins [A2019-27](#) s 76
def **urgent direction** ins [A2019-27](#) s 76
def **waterway** ins [A2019-27](#) s 76

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 30 Sept 2000	30 Sept 2000– 11 Sept 2001	not amended	new Act
R1 (RI) 26 May 2008	30 Sept 2000– 11 Sept 2001	not amended	reissue of printed version
R2 30 Nov 2001	12 Sept 2001– 30 Dec 2001	A2001-44	amendments by A2001-44
R3 10 Jan 2002	31 Dec 2001– 27 May 2002	A2001-44	commenced expiry
R4 30 May 2002	28 May 2002– 16 Sept 2002	A2002-11	amendments by A2002-11
R5 23 Sept 2002	17 Sept 2002– 8 Oct 2003	A2002-30	amendments by A2002-30
R6 9 Oct 2003	9 Oct 2003– 9 Dec 2003	A2003-41	amendments by A2003-41
R7 10 Dec 2003	10 Dec 2003– 8 Apr 2004	A2003-41	amendments by A2003-41
R8 9 Apr 2004	9 Apr 2004– 23 Nov 2005	A2004-15	amendments by A2004-15
R9 24 Nov 2005	24 Nov 2005– 28 Nov 2006	A2005-54	amendments by A2005-54
R10 29 Nov 2006	29 Nov 2006– 11 Apr 2007	A2006-48	amendments by A2006-48
R11 12 Apr 2007	12 Apr 2007– 1 Feb 2009	A2007-3	amendments by A2007-3

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Republication No and date	Effective	Last amendment made by	Republication for
R12* 2 Feb 2009	2 Feb 2009– 16 Dec 2009	A2008-37	amendments by A2008-37
R13 17 Dec 2009	17 Dec 2009– 21 Feb 2013	A2009-49	amendments by A2009-49
R14 22 Feb 2013	22 Feb 2013– 10 June 2015	A2013-4	amendments by A2013-4
R15 11 June 2015	11 June 2015– 13 Oct 2015	A2014-59	amendments by A2014-59
R16 14 Oct 2015	14 Oct 2015– 22 Oct 2018	A2015-33	amendments by A2015-33
R17 23 Oct 2018	23 Oct 2018– 17 Nov 2019	A2018-33	amendments by A2018-33
R18 18 Nov 2019	18 Nov 2019– 10 June 2020	A2019-27	amendments by A2019-27
R19 11 June 2020	11 June 2020– 22 June 2021	A2020-22	amendments by A2020-22
R20 23 June 2021	23 June 2021– 23 Aug 2022	A2021-12	amendments by A2021-12
R21 24 Aug 2022	24 Aug 2022– 18 Nov 2023	A2022-14	amendments by A2022-14

6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see [Legislation Act 2001](#), s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation ‘exp’ followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

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