

Fisheries Prohibition and Declaration 2013 (No 1)

Disallowable Instrument DI2013–248

This explanatory statement relates to the *Fisheries Prohibition and Declaration 2013 (No 1)* (This instrument). It has been prepared in order to assist the reader of this instrument and to help inform debate on it. It does not form part of this instrument and has not been endorsed by the Assembly.

The Statement should be read in conjunction with the prohibition and declaration made under the

***Fisheries Act 2000*, section 13 (Fishing closures), section 15 (Declaration of fish of prohibited size or weight), section 16 (Declaration of fish quantity) and section 17 (Declaration of fishing gear)**

EXPLANATORY STATEMENT

Background

The *Fisheries Act 2000* provides for the protection and conservation of native fish species and their habitats and provides for the sustainable management of the fisheries to ensure high quality and viable recreational fishing.

In addition, the Act enables management of commercial fish production and fishing enterprises and live fish transport to ensure the sustainable management of the fisheries consistency with other Australian jurisdictions.

Part 3 of the Fisheries Act enables the Minister to set restrictions on recreational fishing in public waters in several ways. Section 13 permits the Minister, by way of a disallowable instrument, to prohibit the taking of fish absolutely or conditionally from public waters.

Section 15 permits the Minister, by way of a disallowable instrument, to prohibit the taking of fish of certain length or weight from public waters. Section 16 permits the Minister, by way of a disallowable instrument, to declare the quantity of a species of fish

Section 17 permits the Minister, by way of a disallowable instrument, to declare fishing gear that may be used for taking fish.

Overview

This instrument establishes the designations of public waters, fishing closures for public water, prohibits taking of certain sizes and species of fish either entirely or for closed seasons, prescribes quantity of fish for certain species that may be taken, and prescribes use of fishing gear.

This instrument revokes the DI 2000–290, which was the previous instrument dealing with restrictions and requirements on fishing and commences on the day after its notification on the ACT Legislation Register.

Costs and benefits statement

This instrument is structured differently to the previous instrument, for reasons of clarity and simplicity. This revised structure is intended to make the instrument easier for the community to understand.

This instrument makes one substantive legal change from the former instrument DI 2000–290 to extend the prohibited waters within the Cotter River to account for the construction and backed up waters of the Enlarged Cotter Dam. This instrument declares Prohibited Waters to include the Cotter River water upstream of the new Cotter Dam Wall to the Junction of Condor Creek. This change has been made to accommodate the new Cotter Dam boundaries.

This change assists conservation of the fish populations including threatened species within the Enlarged Cotter Dam and Cotter River. This change does not impose any appreciable costs on the community. Fishing in the Cotter Dam has always been prohibited. This instrument simply incorporates the new boundaries of the enlarged Cotter Dam in its definition of prohibited waters. This incorporation does not remove any existing rights.

No other substantive legal changes have been made to fishing restrictions or requirements in the ACT.

Outline of provisions

Clause 1 – Name of instrument

This clause names the instrument as the *Fisheries (Fishing closures, fish of prohibited size or weight, fish quantity, fishing gear) Prohibition and Declaration 2013 (No 1)*.

Clause 2 – Commencement

This clause provides for the instrument's commencement. The instrument commences the day after notification.

Clause 3 – Dictionary

This clause defines a number of terms used in the instrument, including 'baited line', 'hoop net', 'landing net', 'nature reserves in the Murrumbidgee River corridor', 'open waters', 'prohibited waters' and trout waters'.

Clause 4 – Map

This clause provides that the map at the end of the Schedule is part of the instrument.

Clause 5 – Fishing closures – Act, s13

This clause provides that the Minister prohibits the following for the purposes of section 13 of the *Fisheries Act 2000*: the taking of fish from prohibited waters at all times, the taking of fish from trout waters for the period stated in section 1.1 of the Schedule, the taking of Murray Cod from public waters for the period stated in the Schedule, the taking of Rainbow Trout and Brown Trout from public waters for the period stated in section 1.3 of the Schedule and the taking of fish as described in section 1.4 of the Schedule from public waters at all times.

Clause 6 – Fish of prohibited size or weight – Act, s15

In this clause, the Minister declares the fish described in section 1.7 of the Schedule to be of a prohibited size for the purposes of section 15 of the *Fisheries Act 2000*.

Clause 7 – Fish quantity – Act, s16

In this clause, the Minister declares the quantity of a species of fish as described in section 1.8 of the Schedule to be the amount of fish permitted to be taken in a day for the purposes of section 16 of the *Fisheries Act 2000*.

Clause 8 – Fishing gear – Act, s17

In this clause, the Minister declares the fishing gear that may be used as described in section 1.9 for the purposes of section 17 of the *Fisheries Act 2000*.

Clause 9 – Revocation of previous instrument

In this clause, the previous instrument, Disallowable Instrument DI2010-285, is revoked.

Schedule**Section 1.1 – No fishing in trout waters at certain times – Act, s13**

This section of the Schedule provides that the taking of any fish from trout waters is prohibited from midnight Monday of the Queen’s birthday long weekend in June to midnight Friday before the Labour Day long weekend in October in any year. This section should be read in conjunction with the Minister’s prohibition in clause 5 of the instrument.

Section 1.2 – No taking of Murray Cod at certain times – Act, s13

This section of the Schedule provides that taking of Murray Cod from public waters is prohibited from midnight 31 August to midnight 30 November in any year. This section should be read in conjunction with the Minister’s prohibition in clause 5 of the instrument.

Section 1.3 – No taking of Rainbow Trout or Brown Trout at certain times – Act, s13

This section of the Schedule provides that the taking of Rainbow Trout or Brown Trout from public waters is prohibited from midnight Monday of the Queen’s birthday long weekend in June to midnight Friday before the Labour Day long weekend in October in

any year. This section should be read in conjunction with the Minister's prohibition in clause 5 of the instrument.

Section 1.4 – No taking of certain species of fish at any time – Act, s13

This section of the Schedule provides that the taking of Macquarie Perch, Murray River Crayfish, Silver Perch, Trout Cod and Two-spined Blackfish from public waters is prohibited at any time. This section should be read in conjunction with the Minister's prohibition in clause 5 of the instrument.

Section 1.5 – Fish of prohibited size – Act, s15

This section of the Schedule provides a list of fish of prohibited size. This section should be read in conjunction with the Minister's declaration in clause 6 of the instrument. The section provides that it is prohibited to catch Brown Trout less than 25 centimetres in length, Golden Perch less than 30 centimetres in length, Murray Cod less than 60 centimetres in length and Rainbow Trout less than 25 centimetres in length. The length of a fish is measured from the point of its snout to the tip of its tail.

Section 1.6 – Fish quantity – Act, s16

This section of the Schedule lists the number of fish a person may take in any one day. This section should be read in conjunction with the Minister's declaration in clause 7 of the instrument. The section provides that a person may take no more than 5 Golden Perch in any one day. A person may take no more than 2 Murray Cod in any one day. A person may take only one Murray Cod longer than 100 centimetres in length in a day. A person may take no more than 5 Rainbow Trout and Brown Trout in total in any one day.

Section 1.7 – Fishing gear – Act, s17

This section of the Schedule describes the fishing gear that may be used. This section should be read in conjunction with the Minister's declaration in clause 8.

This section provides that the following fishing gear may be used by a person in open waters: no more than ten baited lines with no hooks for taking yabbies, no more than two rods or handlines with no more than two hooks per rod or handline for any other fish, and no more than five hoop nets. A landing net may also be used.

This section provides that hoop nets are not permitted in the nature reserves in the Murrumbidgee River Corridor.

This section provides that the following fishing gear may be used by a person in trout waters: one rod with no more than two hooks for use with artificial flies or lures and a landing net in conjunction with a rod.