



ANNO TRICESIMO QUINTO

# ELIZABETHAE II REGINAE

A.D. 1986

\*\*\*\*\*

No. 122 of 1986

An Act to amend the Fisheries Act, 1982.

[Assented to 18 December 1986]

The Parliament of South Australia enacts as follows:

1. (1) This Act may be cited as the "Fisheries Act Amendment Act, 1986". Short title.

(2) The Fisheries Act, 1982, is in this Act referred to as "the principal Act".

2. (1) This Act shall come into operation on a day to be fixed by proclamation. Commencement.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. Section 28 of the principal Act is amended—

(a) by striking out paragraph (b) of subsection (9) and substituting the following paragraph: Amendment of s. 28— Powers of fisheries officers.

(b) where proceedings for an offence against this Act related to the thing seized are instituted within 6 months of its seizure and the person charged is found guilty of the offence, the court must consider the question of forfeiture and—

(i) where the thing seized has not been forfeited by order of the Minister—

(A) order that it be forfeited to the Crown;

(B) where it has been released pursuant to paragraph (a) (i), order that it be forfeited to the Crown or order that the person to whom it was released pay to the Minister an amount equal

to its market value at the time of its seizure, as the court thinks fit;

or

(C) make no order for forfeiture;

or

(ii) where the thing seized has been forfeited by order of the Minister—

(A) confirm the order for forfeiture;

or

(B) quash the order for forfeiture,

as the court considers appropriate in the circumstances;;

and

(b) by striking out subparagraph (ii) of paragraph (c) of subsection (9) and substituting the following subparagraph:

(ii) proceedings for an offence against this Act related to the thing seized—

(A) are not instituted within 6 months of its seizure;

(B) are instituted within 6 months of its seizure and the person charged is not found guilty of the offence;

or

(C) are instituted within 6 months of its seizure and the person charged is found guilty of the offence but either no order for forfeiture is made under paragraph (b) (i) or an order is made under paragraph (b) (ii) quashing the order for forfeiture..

Amendment of  
s. 43—  
Temporary  
prohibition of  
certain fishing  
activities.

4. Section 43 of the principal Act is amended by striking out subsections (1), (2) and (2a) and substituting the following subsection:

(1) The Minister may, by notice published in the *Gazette*—

(a) declare that it is unlawful for a person to engage in a fishing activity of a specified class during a specified period;

and

(b) vary or revoke such a declaration.

Amendment of  
s. 48—  
Protection of  
aquatic habitat.

5. Section 48 of the principal Act is amended by striking out from subsection (6) “but does not include fish” and substituting “but does not include those species of fin fish, sharks, crustaceans, molluscs and annelids prescribed for the purposes of this section”.

Amendment of  
s. 49—  
Offence to  
import, sell, etc.,  
certain exotic  
fish.

6. Section 49 of the principal Act is amended—

(a) by striking out subsections (1), (2) and (3) and substituting the following subsections:

(1) A person shall not—

(a) bring, or cause to be brought, into the State;

or

(b) sell, purchase, deliver, possess or control,

any exotic fish to which this section applies except as authorized by a permit granted by the Director under this section.

Penalty: \$2 000.

(1a) The Director must, on application made by any person for a permit for the purposes of this section, determine the application in accordance with the regulations;

and

(b) by striking out from subsection (6) “subsection (3)” and substituting “this section”.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor