

Fisheries (Shark Fishery) Bill

No.

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By Authority Jean Gordon Government Printer Melbourne

LEGISLATIVE ASSEMBLY

Read 1° 30 May 1990

(Brought in by Mr Crabb and Mr Cain)

A BILL

to amend the *Fisheries Act* 1968 to further regulate the Victorian shark fishery and for other purposes.

Fisheries (Shark Fishery) Act 1990

The Parliament of Victoria enacts as follows:

Purpose of Act

- 5 1. The purpose of this Act is to amend the *Fisheries Act* 1968 to enable the implementation of a management plan for the Victorian shark fishery.

Commencement

2. (1) This Act other than section 6 comes into operation on a day to be proclaimed.
10 (2) Section 6 is deemed to have come into operation on 28 November 1989.

Principal Act

3. In this Act the *Fisheries Act* 1968 is called the Principal Act.

Act No. 7789.
Reprinted to No.
10006.
Subsequently
amended by Nos
10035,
10129,
79/1986,
121/1986,
41/1987,
71/1987,
57/1989,
74/1989,
81/1989,
4/1990.

New Part 2 inserted

4. After Part 1A of the Principal Act insert—

“PART 2—SHARK FISHERY MANAGEMENT

Shark fishery management plan

- 10.** (1) The Minister may, by instrument in writing, determine a management plan for the shark fishery in Victorian waters. 5
- (2) A management plan must specify—
- (a) the objectives of the management plan; and
 - (b) the measures by which the objectives are to be achieved. 10
- (3) Without limiting the generality of sub-section (2), a management plan may include rules for or with respect to—
- (a) the criteria to be used in relation to the issue of shark licences; and
 - (b) the criteria to be used in relation to the issue of variable shark fishing gear entitlements to be endorsed on shark licences; and 15
 - (c) defining the kind or species of shark to which the management plan applies; and
 - (d) determining the manner in which the fishing capacity of the shark fishery is to be measured; and 20
 - (e) determining the fishing capacity, measured in that manner, permitted for the shark fishery; and
 - (f) the division of the fishing capacity permitted for the shark fishery into fishing gear units; and 25
 - (g) the allocation of fishing gear units to persons or in relation to boats; and
 - (h) determining the number of fish gear units which may be held by a person or in relation to a boat; and
 - (i) defining a fishing gear unit; and 30
 - (j) enabling the issue of different categories of shark licences endorsed for shark gill netting only or shark longlining only or with different fishing gear entitlements; and
 - (k) defining types of shark fishing gear; and
 - (l) the transfer, consolidation or variation of specified categories of shark licences; and 35
 - (m) prohibiting the transfer of specified categories of shark licences; and
 - (n) the forfeiture of fishing gear entitlements upon the transfer or consolidation of specified categories of shark licences; and 40

- (o) the variation of the type of shark fishing gear or the number of fishing gear units endorsed on a shark licence; and
- (p) prohibiting a boat in respect of which a current shark licence has been issued from engaging in other methods of fishing while engaged in shark gill netting or shark longlining in Victorian waters; and
- (q) prohibiting a boat which has specified fishing equipment on board from carrying shark gill nets or shark longlines; and
- (r) prohibiting a boat carrying shark gill nets or shark longlines without a shark licence under section 14 from entering Victorian waters; and
- (s) the records to be kept and returns to be submitted by the holder of a shark licence with respect to shark taken in Victorian waters or proclaimed waters under section 7 of the *Commonwealth Fisheries Act 1952* or shark landed in Victoria for sale; and
- (t) regulating or prohibiting the landing of shark in Victoria by the holders of commercial fishing licences other than shark licences.

(4) The Minister must cause a management plan to be published in the *Government Gazette*.

(5) A management plan is a subordinate instrument for the purposes of the *Interpretation of Legislation Act 1984*.

(6) A management plan comes into operation on the date it is published or any later date specified in the management plan.

(7) Rules contained in a management plan—

- (a) may be of general or limited application; and
- (b) may make different provision according to differences in times, places, circumstances, boats, persons or fish (whether by reference to kind or species or sex), whether or not any times, places, circumstances, boats, persons or fish are determined or ascertainable before, at or after the making of the management plan; and
- (c) may impose penalties not exceeding 20 penalty units for a contravention of or an offence under the rules; and
- (d) may apply, adopt or incorporate (with or without modification)—
 - (i) the provisions of any document, code, standard, rule, specification or method whether as formulated, issued prescribed or published at the time the management plan is made, or at any time before then; or

- (ii) the provisions of any Act of the Commonwealth or of another State or of a Territory or the provisions of any subordinate instrument under that Act; and
- (e) may confer powers or impose duties in connection with the management plan on any person or body. 5
- (8) Unless otherwise expressly provided in a management plan, the provisions of this Act, the regulations and any fisheries notices continue to apply in respect of the shark fishery to the same extent on and after as before the commencement of the management plan. 10
- (9) If a provision of a management plan is inconsistent with any provision of this Act (other than this section and section 11) or of the regulations or a fisheries notice, the provision of the management plan prevails. 15

Regulatory impact statement

11. (1) Before the Minister determines a management plan under section 10, the Minister must prepare a regulatory impact statement and comply with sub-section (2).
- (2) The Minister must ensure that— 20
 - (a) a notice is published in the *Government Gazette* and in a daily newspaper—
 - (i) specifying the reasons for the proposed management plan and the objectives to be achieved; and 25
 - (ii) summarizing the results of the regulatory impact statement; and
 - (iii) advising where a copy of the regulatory impact statement can be obtained; and
 - (iv) inviting public comments and submissions within such time being not less than 21 days from the publication of the notice as is specified in the notice; and 30
 - (b) all comments and submissions received are considered before the management plan is determined.”. 35

Consequential amendments

5. The Principal Act is amended as follows:
- (a) In section 15 (1) for paragraph (i) substitute—
 - “(i) for a shark licence—\$5 or such greater amount not exceeding \$20 as is prescribed from time to time for each fishing gear unit endorsed on the shark licence;”;
 - (b) Sections 15 (2) and 15 (3) are repealed. 40

Statute law revision

6. The *Fisheries (Amendment) Act* 1989 is amended as follows:

(a) In section 8 (3) for “1982” substitute “1981”;

(b) In section 9 after ““Part V.” ” insert “(where secondly occurring)”.

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