



ANNO TRICESIMO SECUNDO
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VICTORIA

Fisheries (Further Amendment) Act 1983

No. 10006

An Act to further amend the *Fisheries Act* 1968 and
for other purposes.

[Assented to 13 December 1983]

BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council and
the Legislative Assembly of Victoria in this present Parliament
assembled and by the authority of the same as follows (that is to
say) :

Short title.

1. This Act may be cited as the *Fisheries (Further Amendment)*
Act 1983.

Principal Act No.
7780.

Reprinted to
No. 9501 and
subsequently
amended by Nos.
9518, 9693, 9845,
9861, 9902 and
9946.

2. The *Fisheries Act* 1968 is in this Act referred to as the Principal
Act.

Commencement.

3. This Act shall come into operation on a day to be fixed by
proclamation of the Governor in Council published in the *Government*
Gazette.

Consequential
amendment of
No. 7780 ss. 6A,
6C and 6D.

4. (1) In section 6A of the Principal Act for the words "Commercial
Fisheries Section" (wherever occurring) there shall be substituted the
words "Commercial Fisheries Branch".

(2) In sections 6C (1) and 6D (4) of the Principal Act for the words "Commercial Fisheries Section" (where respectively occurring) there shall be substituted the words "Commercial Fisheries Branch".

(3) In section 6B (2) of the Principal Act for paragraphs (b) and (c) there shall be substituted the following paragraphs:

"(b) a senior officer of the Field Management Branch of the Division; Fisheries Management Committee.

(c) a senior officer of the Division;"

5. (1) In section 6B (9) of the Principal Act—

(a) after the word "licensed" there shall be inserted the words "or to hold endorsements"; and Amendment of No. 7780 s. 6ii. Functions of Fisheries Management Committee.

(b) the words "and as to the number of licences to be held in reserve against the allowing of appeals by the Licensing Appeals Tribunal" are repealed.

(2) In section 6C (6) of the Principal Act after the word "licences" (wherever occurring) there shall be inserted the expression "endorsements". Functions of Commercial Fisheries Licensing Panel.

(3) In section 6D (1) of the Principal Act after the word "licences" there shall be inserted the words "or endorsements".

(4) In section 6D (3) of the Principal Act after the word "licence" (where twice occurring) there shall be inserted the words "or endorsement". Functions of Licensing Appeals Tribunal.

6. In section 13 of the Principal Act—

(a) sub-section (2A) is repealed;

(b) sub-sections (1) (b) and (3) are repealed; and

(c) sub-section (7A) is repealed.

Amendment of No. 7780 s. 13. Repeal of requirement of experience for master fishermen. Repeal of provisions as to barracouta licences.

Repeal of provisions as to aquarium licences.

7. In section 14 of the Principal Act—

(a) in sub-section (9) for the expression "sub-section (10)" there shall be substituted the words "the following provisions of this section"; and Amendment of No. 7780 s. 14. Transfer of certain licences.

(b) after sub-section (10) there shall be inserted the following sub-sections:

"(11) Any person seeking the transfer from another person to himself of a licence issued under this section and the holder of that licence may make application in writing to the Director for approval to the transfer of the licence Application for transfer.

either in respect of the boat to which it previously related or another boat.

(12) Every such application shall be in the prescribed form signed by the applicants and shall be accompanied by the fees prescribed for the transfer of the subject licence or licence and boat, as the case requires.

Director to have regard to welfare of fishery.

(13) In considering whether to grant or refuse an application under sub-section (11) the Director shall have regard to—

- (a) the welfare of the fishery concerned and of the persons engaged in the industry; and
- (b) the recommendations of the Commercial Fisheries Licensing Panel and the Fisheries Management Committee.

(14) The Director may grant any application under sub-section (11) or may refuse the application and may grant any application subject to the observance of such conditions, limitations and restrictions (if any) as he thinks fit to impose.

Appeal.

(15) Any applicant for a transfer who is aggrieved by the refusal of the Director to approve the application may within one month after receiving notice of the refusal appeal to the Licensing Appeals Tribunal against the refusal.”

Amendment of No. 7780 s. 15.

8. (1) In section 15 (1) (a) of the Principal Act—

- (a) the word “and” between sub-paragraphs (ii) and (iii) is repealed;
- (b) in sub-paragraph (iii) for the expression “inlet—” there shall be substituted the expression “inlet; and”; and
- (c) after sub-paragraph (iii) there shall be inserted the following expression:

Fee for endorsement for eel fishing.

“(iv) \$70 or such greater amount not exceeding \$140 as is prescribed from time to time for an endorsement by the Director on the licence permitting the taking of eels in inland waters by the use of nets.”.

(2) In section 15 (1) of the Principal Act paragraphs (b) and (k) shall be repealed.

Amendment of No. 7780 s. 16. Limitation of exceptions to provisions to show cause.

9. (1) In section 16 (2A) of the Principal Act after the word “licence” (wherever occurring) there shall be inserted the words “or endorsement”.

(2) In section 16 (2B) of the Principal Act—

- (a) after the word “licence” (where twice occurring) there shall be inserted the words “or endorsement”; and

- (b) for the words "has been actively and regularly" there shall be substituted the words "satisfies the Director that he has been actively, regularly and substantially".

10. In section 21 of the Principal Act for sub-sections (1), (2) and (3) there shall be substituted the following sub-sections:

Amendment of
No. 7780 s. 21.

"(1) Any inspector or any person or class or classes of persons thereunto authorized in writing by the Director may upon payment of the appropriate fee or fees issue to any person an amateur fishing licence or an amateur netting licence or both.

Issue of amateur
licences.

(2) Subject to this Act and the regulations an amateur fishing licence shall entitle the holder—

- (a) to angle in any inland waters and by that means to take fish of any species in open season for the time being;
- (b) to take for his own consumption crayfish in marine waters either without the use of any fishing equipment or by the use of not more than two hoop-nets at any particular time; and
- (c) to take for his own use by means of equipment prescribed for the purpose prawns, fishing bait and freshwater crayfish.

(3) A licence under this section shall not be construed as or taken to be an authority or consent to enter upon any lands or to angle or net in any inland waters the property of or vested in a water authority without the express consent of the water authority."

11. Section 21B of the Principal Act is repealed.

Amendment of
No. 7780 s. 21a
repealed.
Recognition of
interstate
licences.

12. In section 23 of the Principal Act for sub-section (1) there shall be substituted the following sub-section:

Amendment of
No. 7780.

"(1) Any person who—

- (a) angles in inland waters;
- (b) takes prawns, fishing bait or freshwater crayfish in Victorian waters; or
- (c) takes crayfish in marine waters—

Offence to angle,
net, &c., without
licence.

without holding a current amateur fishing licence shall be guilty of an offence against this Part.

Penalty: 2 penalty units."

13. In section 23 of the Principal Act after sub-section (5) there shall be inserted the following sub-section:

Amendment of
No. 7780 s. 23.

Evidentiary.

"(5A) The statement on oath of an inspector or a member of the police force that a person failed to produce on demand on a specified day a licence issued to him under this Part and, having been directed under sub-section (4) to produce the licence to the inspector or member within seven days thereafter, failed to produce as required by sub-section (4) or to send by post as permitted by sub-section (5) the licence, shall be *prima facie* evidence that the person was not the holder of a licence under this Part on that specified day."

Amendment of
No. 7780 s. 39.
Keeping noxious
fish.

14. In section 39 of the Principal Act after the word "shall" there shall be inserted the expression "unless he holds the written permission of the Minister given under section 4,".

Amendment of
No. 7780 s. 79A.

15. In section 79A of the Principal Act after sub-section (4) there shall be inserted the following sub-section:

"(5) Unless otherwise expressly provided by rules made under this section in relation to a marine reserve, the provisions of this Act and the regulations made thereunder shall continue to apply to the marine reserve to the same extent on and after as before the making of the proclamation referred to in sub-section (1)."

Amendment of
No. 7780 s. 81.

16. In section 81 (1) of the Principal Act for paragraph (ag) there shall be substituted the following paragraph:

"(ag) regulating the transfer or assignment of licences or other authorities under this Act or the regulations and where no other provision is made in this Act prescribing a fee not exceeding \$5000 in respect of any transfer or assignment;"

Amendment of
No. 7780.
Increases in
penalties.

17. (1) The Principal Act shall be amended as follows:

- (a) In section 23 (4) for the expression "\$100" there shall be substituted the expression "2 penalty units";
- (b) In sections 23 (2), 23 (3), 30 (3), 50 (3), 53, 55, 61 (5), 78 (3) and 79 (3) for the expression "\$200" (where respectively occurring) there shall be substituted the expression "4 penalty units";
- (c) In section 62 (1) for the expression "\$250" there shall be substituted the expression "5 penalty units";
- (d) In sections 13 (11), 17 (2), 17 (3), 25 (7), 31 (1), 43D (4), 51, 58 (1) and 63 (1) for the expression "\$500" (where respectively occurring) there shall be substituted the expression "10 penalty units";
- (e) In sections 17 (1), 35 (6), 37, 43B (2), 51A, 52, 54, 54A (4), 56, 57 (1), 57 (2), 60, 61 (1), 61 (4), 61A, 79A (3) and 81 (1) (ao) for the expression "\$1,000" (where respectively occurring) there shall be substituted the expression "20 penalty units"; and

- (f) In sections 39, 40, 59 and 68 (3) for the expression "\$2,000" (where respectively occurring) there shall be substituted the expression "40 penalty units".
- (2) Section 61 of the Principal Act shall be amended as follows:
- (a) In sub-section (2) (a)—
- (i) for the expression "\$500" there shall be substituted the expression "10 penalty units"; and
 - (ii) for the expression "\$2" there shall be substituted the expression "\$4";
- (b) In sub-section (2) (b)—
- (i) for the expression "\$750" there shall be substituted the expression "15 penalty units"; and
 - (ii) for the expression "\$3" there shall be substituted the expression "\$6";
- (c) In sub-section (2) (c)—
- (i) for the expression "\$1,000" there shall be substituted the expression "20 penalty units"; and
 - (ii) for the expression "\$5" there shall be substituted the expression "\$10"; and
- (d) In sub-section (3)—
- (i) for the expression "\$500" there shall be substituted the expression "10 penalty units";
 - (ii) for the expression "\$1,000" there shall be substituted the expression "20 penalty units"; and
 - (iii) for the expression "\$2" there shall be substituted the expression "\$4".