

# FISHERIES ACT 1975

## No. 3 of 1975

An Act to amend the *Fisheries Act 1952-1973*.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

1. (1) This Act may be cited as the *Fisheries Act 1975*.<sup>1</sup> Short title  
and citation.
- (2) The *Fisheries Act 1952-1973*<sup>2</sup> is in this Act referred to as the Principal Act.
- (3) The Principal Act, as amended by this Act, may be cited as the *Fisheries Act 1952-1975*.
2. This Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup> Commence-  
ment.
3. Section 4 of the Principal Act is amended by inserting after the definition of “officer” the following definition:— Definitions.
- “ ‘private purposes’ means purposes other than trading or manufacturing purposes; ”.
4. Section 10 of the Principal Act is amended— Powers of  
officers.
- (a) by inserting after paragraph (a) the following paragraph:—
- “(aa) board or enter upon a boat that he has reason to believe—
- (i) is a foreign boat; and
  - (ii) has been used, is being used or is intended to be used for taking, catching or capturing fish for private purposes in the declared fishing zone or for carrying or processing fish in that zone,
- and may search the boat for fish and for equipment for taking, catching, capturing, processing or carrying fish; ”;
- (b) by inserting after paragraph (b) the following paragraph:—
- “(ba) examine any equipment found in or on a foreign boat, being equipment that he has reason to believe has been used, is being used or is intended to be used for taking, catching or capturing fish for private purposes in the declared fishing zone or for processing or carrying fish in that zone; ”; and

(c) by omitting paragraph (c) and substituting the following paragraph:—

“(c) seize, detain, remove or secure—

- (i) any fish that the officer has reason to believe has been taken, caught or captured in contravention of this Act; or
- (ii) any boat, net, trap or other equipment that the officer has reason to believe has been used, is being used or is intended to be used in contravention of this Act;”.

5. The Principal Act is amended by inserting after section 13A the following sections:—

Using  
foreign boat  
for fishing  
for private  
purposes.

“13AA. A person shall not, in the declared fishing zone—

- (a) use a foreign boat for taking, catching or capturing fish for private purposes; or
- (b) use a foreign boat for processing or carrying fish that have been taken, caught or captured for private purposes with the use of that boat or another boat.

Penalty: \$1,000 or imprisonment for 6 months, or both.

Having  
charge of  
foreign boat  
equipped  
with nets,  
&c.

“13AB. (1) A person shall not, in the declared fishing zone, have in his possession or in his charge a foreign boat equipped with nets, traps or other equipment for taking, catching or capturing fish.

Penalty: \$1,000 or imprisonment for 6 months, or both.

“(2) It is a defence to a prosecution for an offence against sub-section (1) if the person charged satisfies the court—

- (a) that there was in force, at the time of the alleged offence, a licence under sub-section (2) of section 9 authorizing the use of the boat in the area where the boat was at that time; or
- (b) that, at the time of the alleged offence, he had the boat in his possession or charge for the purposes of traditional fishing.

“(3) It is a defence to a prosecution for an offence against sub-section (1) if the person charged satisfies the court that, at the time of the alleged offence—

- (a) the nets, traps or other equipment for taking, catching or capturing fish were stowed and secured; and
- (b) the boat was travelling through the declared fishing zone—
  - (i) from a point outside the declared fishing zone to a port in Australia or in a Territory;
  - (ii) from a port in Australia or in a Territory to a point outside the declared fishing zone; or

(iii) from a point outside the declared fishing zone to another point outside the declared fishing zone, by the shortest practicable route.”.

**6. Section 13B of the Principal Act is amended—**

- (a) by adding at the end of paragraph (a) of sub-section (1) the word “or”;
- (b) by omitting from paragraph (b) of sub-section (1) the word “or”;
- (c) by omitting paragraph (c) of sub-section (1);
- (d) by omitting sub-section (3); and
- (e) by omitting from sub-section (4) the words “or of his having a boat in his possession or charge for the purposes of traditional fishing”.

Using foreign boat for fishing in declared fishing zone.

**7. Section 13C of the Principal Act is amended—**

- (a) by omitting the words “section 13 or section 13B” and substituting the words “section 13 (not being an offence against that section referred to in sub-section (2) of this section), 13AA or 13B”; and
- (b) by adding at the end thereof the following sub-section:—

Forfeiture.

“(2) Where a Court convicts a person of an offence against section 13, being an offence arising out of his having in his possession or in his charge a boat for taking fish, or of an offence against section 13AB, the Court may order the forfeiture of—

- (a) the boat in relation to which the offence is committed;
- (b) a net, trap or equipment on board that boat at the time of the offence;
- (c) fish on board that boat at that time; or
- (d) the proceeds of the sale of any such fish.”.

**8. Section 14A of the Principal Act is amended by omitting from sub-section (3) the words “of section 13 relating to forfeiture and”.**

Liability of master or person in charge of boat.

**9. Section 16 of the Principal Act is amended—**

- (a) by omitting from sub-section (1) the words “or in proceedings for the condemnation or recovery of a boat seized under this Act”; and
- (b) by inserting after sub-section (1) the following sub-section:—

Evidence.

“(1A) Where in proceedings for an offence against this Act or the regulations—

- (a) an officer gives evidence that he suspects that fish to which the charge relates were taken, caught or captured

in the declared fishing zone or were taken, caught or captured for private purposes, together with evidence of the grounds on which he so suspects; and

(b) the court considers that, having regard to that evidence, the suspicion is reasonable,

the fish shall, in the absence of proof to the contrary, be deemed to have been so taken, caught or captured.”.

Repeal. **10.** Section 16A of the Principal Act is repealed.

Regulations. **11.** Section 17 of the Principal Act is amended by omitting paragraph (ca) of sub-section (1).

Additional amend-  
ments. **12.** The Principal Act is amended as set out in the Schedule.

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## SCHEDULE

Section 12

### ADDITIONAL AMENDMENTS

Provision	Amendment
Section 4 (definition of “officer”)	(a) Omit “Primary Industry” (wherever occurring), substitute “Agriculture”. (b) Omit “External Territories”, substitute “the Special Minister of State”.
Section 4 (definition of “the Minister”)	(a) Omit “Primary Industry”, substitute “Agriculture”. (b) Omit “Papua New Guinea”. (c) Omit “Minister of State for External Territories”, substitute “Special Minister of State”.
Section 4 (definition of “the Secretary”)	Omit “Primary Industry”, substitute “Agriculture”.
Section 6	Omit “, other than a delegate who is a Minister of the House of Assembly for Papua New Guinea,”.
Section 6A (2)	Omit.
Section 6A (4)	Omit “Primary Industry” (wherever occurring), substitute “Agriculture”.
Section 6A (5)	Omit “Primary Industry”, substitute “Agriculture”.
Section 9 (9)	Omit “Primary Industry”, substitute “Agriculture”.
Section 10	(a) Omit from paragraph (e) “Territory”, substitute “Territory other than Papua New Guinea”. (b) Omit from paragraph (f) “Territory”, substitute “Territory other than Papua New Guinea”.
Section 17 (2)	Omit “Primary Industry”, substitute “Agriculture”.

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## NOTES

1. Act No. 3, 1975; assented to 4 March 1975.
2. Act No. 7, 1952, as amended by No. 3, 1953; No. 4, 1956; No. 48, 1959; No. 93, 1966; No. 116, 1967; No. 150, 1968; No. 93, 1970; and No. 218, 1973 (as amended by No. 7, 1974).