

FISHERIES ORDINANCE 1974

485

No. 76 of 1974

An Ordinance to amend the *Fisheries Ordinance* 1965 as amended

[Assented to 24 October 1974]

BE it ordained by the Legislative Council for the Northern Territory of Australia as follows:

1. This Ordinance may be cited as the *Fisheries Ordinance* 1974. Short title

2. The *Fisheries Ordinance* 1965 as amended is in this Ordinance referred to as the Principal Ordinance. Principal Ordinance

3. Section 3 of the Principal Ordinance is repealed. Repeal of section 3

4. Section 6 of the Principal Ordinance is amended by adding at the end the following sub-sections: Appointment of Inspectors

“(4) The Chief Inspector shall issue to each person appointed as an inspector an identity card in accordance with the form contained in the Schedule.

“(5) When a person ceases to be an inspector, he shall return his identity card to the Chief Inspector.

Penalty for an offence against this sub-section:

5 dollars for each day on which the failure to comply continues.”.

5. Section 8 of the Principal Ordinance is repealed and the following sections substituted:

“8. In addition to any powers elsewhere conferred on an inspector by this Ordinance, an inspector in carrying out his functions and duties under this Ordinance, has all the powers and duties, and the same protection at law in relation to the exercise and performance of those powers and duties, as a member of the Police Force with the rank of constable under the *Police and Police Offences Ordinance*. Inspectors have powers of constables

“8A.(1) Where an inspector is satisfied that there is reasonable ground for suspecting that an offence against this Ordinance has been, is being or is about to be committed, he may, without warrant, and with such assistance as he thinks necessary—

- (a) enter, with such force as is reasonably necessary, at any time, any premises, vehicle, vessel, aircraft or place and, for that purpose, stop and detain any vehicle, vessel, or aircraft;
- (b) search the premises, vehicle, vessel, aircraft or place and any person found in or on them or it and any person whom he reasonably believes to be about to enter or to have recently left the premises, vehicle, vessel, aircraft or place;
- (c) break open and search any cupboard, drawer, chest, trunk, box, cage, package or other receptacle, whether a fixture or not, in or on the premises, vehicle, vessel, aircraft or place;
- (d) seize, take, detain, remove and secure any vehicle, vessel or aircraft or any net, trap or other device for the taking of fish, any plant, motor, appliance, fitting, gear or equipment whether in, on or attached to any premises, vehicle, vessel or aircraft or any fish or anything that he finds on any premises, vehicle, vessel, aircraft or place or on any person searched, if he has reasonable grounds to believe that it is evidence of or otherwise relates to any offence that has been, is being or is about to be committed against this Ordinance;
- (e) require the master or other person in charge of a vehicle, vessel or aircraft to cause it to stop or to bring it to a place in the Territory and to remain in control of it at that place until an inspector permits him to depart from that place;
- (f) stop, detain and search any person upon whom he believes, on reasonable grounds, that there is something that is evidence of or otherwise relates to an offence against this Ordinance; and
- (g) take such action as is reasonably necessary to prevent the commission of an offence against this Ordinance.

“(2) Before commencing a search under sub-section (1), if there is a person who is or appears to be in charge of the premises, vehicle, vessel, aircraft or place, an inspector who is not a member of the Police Force shall produce his identity card, issued under section 6(4), to that person and to any person he is about to search.

“(3) A person shall not refuse or fail to comply with a requirement made by an inspector under sub-section (1)(c).

Penalty: 500 dollars or imprisonment for 3 months or both.

“(4) Where an inspector has exercised a power conferred on him under sub-section (1), he shall, as soon as is reasonably possible, forward a report in writing to the Administrator of all the circumstances relating to the exercise of the power, including—

- (a) the date and time when and place where the power was exercised;
- (b) details of the grounds that he had for suspecting that an offence against this Ordinance had been, was being or was about to be committed;
- (c) a description of all actions taken;
- (d) in the case of the exercise of a power under paragraph (a), (d) or (e) of sub-section (1)—details of the grounds for the belief that he was required to have in the exercise of that power;
- (e) in the case of a search of premises or other place—the address of the premises or place;
- (f) in the case of a search of a vehicle, vessel or aircraft—a description of the vehicle, vessel or aircraft, including, if it was registered at the time under a law of the Territory, particulars of the registration and the name of the person in whose name it was so registered;
- (g) in the case of the stopping, detention or search of a person—the name and address, if known, of that person;
- (h) if anything was broken open—particulars of any damage that occurred in the breaking open; and
- (i) if a vehicle, vessel or thing was seized—a description of what was seized.

“(5) A female shall not be searched under this section except by a female.

“(6) Evidence obtained by an inspector or ranger in the exercise by him of a power under sub-section (1) is not admissible in a prosecution under this Ordinance unless the report referred to in sub-section (3) has been duly forwarded.

“(7) Notwithstanding section 8, an inspector or ranger does not have the protection referred to in that section in respect of the exercise by him of a power under sub-section (1) unless the report referred to in sub-section (4) has been duly forwarded.

“(8) In this section ‘enter’, in relation to a vehicle, vessel or aircraft, includes board.”.

Forfeiture

6. Sections 48 and 49 of the Principal Ordinance are repealed and the following section is substituted:

“48.(1) Anything seized under this Ordinance may, on conviction of a person for an offence in connexion with which that thing was seized, at the discretion of the court recording the conviction, be forfeited to Her Majesty.

“(2) The forfeiture shall be in addition to and not a part of a penalty imposed under this Ordinance.

“(3) Where a seized thing is not forfeited under sub-section (1), section 52 applies as if no prosecution had been instituted within the period referred to in that section.

“(4) Notwithstanding sub-section (3) if a person is convicted of an offence in connexion with which the thing was seized, that person is liable to pay to the Commonwealth the reasonable costs of handling and storing that thing from the time it was seized.”.

Repeal of section 50

7. Section 50 of the Principal Ordinance is repealed.

Delivery of things seized to Chief Inspector

8. Section 51 of the Principal Ordinance is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) Subject to sub-section (2), a thing seized under this Ordinance shall, as soon as practicable, be delivered to the Chief Inspector by the inspector who seized it.”.

Claim to be made to Chief Inspector

9. Section 52 of the Principal Ordinance is amended by omitting “as forfeited”.

Forfeited if no claim

10. Section 53 of the Principal Ordinance is amended by omitting “condemned” and substituting “forfeited”.

Claim to be dealt with summarily

11. Section 54 of the Principal Ordinance is amended by omitting “as forfeited” and substituting “under this Ordinance”.

Disposal of forfeited things

12. Section 55 of the Principal Ordinance is amended—

(a) by omitting “forfeited”; and

(b) by omitting “which are condemned” and substituting “forfeited under this Ordinance”.

13. Section 59 of the Principal Ordinance is amended by Regulations
omitting from paragraph (b) "and condemned".

14. The Schedule to the Principal Ordinance is amended— Schedule

(a) by omitting the heading and substituting "FIRST
SCHEDULE"; and

(b) by adding at the end the following Schedule:
"SECOND SCHEDULE Section 8A(2)

The bearer of this identity card, being the person whose
signature and photograph appear below, is
an inspector under the *Fisheries Ordinance*.

Dated this day of 19 .

Signature of Inspector

Chief Inspector."
