

## SPEAR-GUNS CONTROL ORDINANCE 1964.

No. 18 of 1964.

An Ordinance to Control the Use of Spear-Guns.

[Assented to 14th April, 1964.]

**B**E it ordained by the Legislative Council for the Northern Territory of Australia, in pursuance of the powers conferred by the *Northern Territory (Administration) Act 1910-1962*, as follows:—

Short title.

1. This Ordinance may be cited as the *Spear-Guns Control Ordinance 1964*.

Commencement.

2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.\*

Definitions.

3. In this Ordinance, unless the contrary intention appears—

“ inspector ” means a person who is—

(a) a member of the Police Force of the Northern Territory; or

(b) an Inspector of Fisheries appointed or holding office under the *Fisheries Ordinance 1949-1959*.

“ prohibited area ” means an area declared under section four of this Ordinance to be an area in which the use of spear-guns is prohibited;

“ spear ” means a spear or similar instrument or thing capable of being discharged or propelled from a spear-gun;

“ spear-gun ” means any mechanism or instrument designed or used to discharge or propel a spear under water and includes a spear discharged or propelled or capable of being discharged or propelled from such mechanism or instrument;

“ load ” means fit a spear to a spear-gun.

Power to declare areas to be prohibited areas.

4. The Administrator in Council may, by notice in the *Gazette*, declare an area specified in the notice to be a prohibited area.

\* The date fixed was 12th August, 1964 (see *Government Gazette* No. 32 of 12th August, 1964, p. 131).

**5.—(1.) A person shall not—**

Offences.

- (a) for the purpose of spear-fishing—
  - (i) use a spear-gun in a prohibited area;
  - (ii) use a spear-gun within fifty yards of another person who is swimming or bathing unless that other person is in his company for the purpose of spear-fishing with him or to enable the use of the spear-gun to be supervised; or
  - (iii) use a spear-gun within fifty feet of another person who is using a handline, rod or net for the purpose of fishing;
- (b) discharge a spear from a spear-gun above the surface of the water;
- (c) use a spear-gun for any purpose other than that of spear-fishing;
- (d) point a loaded spear-gun at any other person;
- (e) use a spear-gun in circumstances likely to result in injury to a person or to property; or
- (f) have in his possession, in any place, vehicle or vessel to which the public has access, a spear-gun which is loaded.

Penalty: Twenty-five pounds.

**(2.) A person shall not—**

- (a) before entering the water, load a spear-gun that he is carrying; or
- (b) before leaving the water, fail or omit to unload a spear-gun that he is carrying.

Penalty: Twenty pounds.

**(3.) A person shall not—**

- (a) if he is a person under the age of fourteen years, use a spear-gun otherwise than under the supervision of a person who is not under the age of twenty-one years;
- (b) have in his possession a spear-gun—
  - (i) which is capable of discharging or propelling a spear by a pressure of less than three pounds applied to its trigger;
  - (ii) which is capable of discharging or propelling a spear by any means other than the intentional application of pressure applied to its trigger; or

- (iii) the trigger of which is not protected by a trigger-guard so designed and fitted as to ensure that pressure cannot be applied to the trigger otherwise than intentionally;
- (c) refuse or fail without lawful excuse to answer a question that an inspector asks him in the exercise of a power conferred on the inspector by this Ordinance;
- (d) obstruct an inspector in the exercise of a power conferred on the inspector by this Ordinance;
- (e) use, or permit the use of, a spear-gun the use of which has been prohibited under section seven of this Ordinance; or
- (f) wilfully mislead an inspector in any particular likely to affect the exercise by the inspector of a power conferred on the inspector by this Ordinance.

Penalty: Ten pounds.

(4.) A court convicting a person for an offence against this section may, in addition to imposing the pecuniary penalty prescribed for the offence, make such order as it thinks fit as to the disposal of any spear-gun in relation to which the offence was committed.

Averments as to prohibited areas.

6.—(1.) In any prosecution for a contravention of, or failure to comply with, a provision of this Ordinance, an averment of the prosecutor contained in the information or complaint that an act or omission occurred within a prohibited area is, subject to this section, evidence of the matter averred.

(2.) The averment shall not be evidence as to the matter averred unless it is—

- (a) made in writing; and
- (b) served on the defendant in the same manner as the process requiring his attendance before the court.

(3.) Sub-section (1.) of this section applies to a matter averred although—

- (a) evidence in support or rebuttal of the matter averred or of any other matter is given; or
- (b) the matter averred is a mixed question of law and fact but in that case the averment is *prima facie* evidence of the fact only.

(4.) Evidence given in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of the evidence shall be neither increased nor diminished by reason of this section.

**7** An inspector may—

Powers of  
inspectors.

- (a) question a person whom he suspects on reasonable grounds of having information relating to an offence or suspected offence against this Ordinance;
- (b) arrest a person—
  - (i) whom he suspects on reasonable grounds of having committed an offence against this Ordinance; and
  - (ii) who refuses to state his correct name and address;
- (c) examine a spear-gun with a view to ascertaining whether it is safe;
- (d) seize and take possession of a spear-gun or spear which appears to him to be unsafe;
- (e) prohibit a person from using or permitting to be used a spear-gun or spear which appears to the inspector to be unsafe until the spear-gun or spear has been rendered safe; and
- (f) seize and take possession of a spear-gun or spear which he believes on reasonable grounds may be used as evidence that an offence against this Ordinance has been committed or to provide such evidence.

**8.** The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular prescribing penalties not exceeding a fine of Twenty pounds for offences against the regulations.

Regulations.