



## FISHERIES (No. 2)

No. 105 of 1974

### ANALYSIS

1. Short title and citation.
2. Interpretation.
  - Keeping, &c., of certain fish prohibited.
  - Commissioner to be notified of the existence, &c., of fish.
  - Power of inspector to seize fish.
  - Power of Minister to order destruction of fish.
  - No compensation for loss arising from destruction of fish.
  - Expenses of Division.
3. Entry on lands.
4. Expiry of Act.

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**AN ACT to amend the Fisheries Act 1959.**

[19 December 1974]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1—**(1) This Act may be cited as the *Fisheries Act (No. 2) 1974*. Short title and citation.

(2) The *Fisheries Act 1959*, as subsequently amended, is in this Act referred to as the Principal Act.

**2** After section 42F of the Principal Act the following Division is inserted:—

*“ Division III B—Control of certain fish*

Interpretation.

“ 42G—(1) This Division applies to fish which the Governor by order declares to be fish to which this Division applies.

“(2) For the purposes of this Division the occupier of the land on or in which any inland waters are situated shall be deemed to have possession of any fish that are in those waters.

Keeping, &c., of certain fish prohibited.

“ 42H—(1) No person shall—

(a) keep or have in his possession or control;

(b) consign or convey; or

(c) release into any inland waters including water holes, dams, aquariums, hatcheries, or any containers whatsoever,

any fish to which this Division applies.

Penalty: \$1 000.

“(2) Any person who causes or permits to be done any of the things referred to in subsection (1) is guilty of an offence and liable to a penalty of \$1 000.

Commissioner to be notified of the existence, &c., of fish.

“ 42J A person who owns or has in his possession or control fish knowing it to be fish to which this Division applies shall, forthwith upon obtaining such knowledge, give or cause to be given information in writing to the Commissioner as to the existence and location of those fish.

Penalty: \$1 000.

Power of inspector to seize fish.

“ 42K An officer may at any time seize and remove from any place fish to which this Division applies.

Power of Minister to order destruction of fish.

“ 42L—(1) Where the Minister is satisfied, whether on the report of an officer or otherwise, of the existence at any place of fish to which this Division applies, he may by order—

(a) where, in his opinion, it is not practicable to seize and remove those fish, authorize, notwithstanding any other provision of the Act, the fish to be destroyed in such manner as is specified in the order; or

(b) where he is satisfied there are no practical means of killing or removing those fish, authorize the Commissioner to take such action as he thinks fit to delay or prevent the spreading of the fish to other waters or places.

“(2) An order under this section is sufficient authority for a person acting under the direction of the Commissioner to take such action as the Commissioner considers necessary or desirable to exercise the authority given by the order.

“(3) Where the Minister orders the destruction of fish in accordance with subsection (1) the order shall be carried out notwithstanding that the carrying out of the order may involve the destruction of other fish.

“42M The Minister or any person carrying out an order of the Minister under section 42L is not liable for any loss or damage suffered by any person arising out of the exercise of the authority under subsection (1) of that section. No compensation for loss arising from destruction of fish.

“42N Without prejudice to any other provisions of this Act any expenses incurred in exercising any authority conferred by section 42L or otherwise in the administration of this Division may be defrayed out of moneys provided by Parliament for the purpose.” Expenses of Division.

**3** Section 54 of the Principal Act is amended— Entry on lands.

- (a) by inserting in subsection (3) after the word “officer” first occurring the words “or that there are on or in that land any fish to which Division III B applies”; and
- (b) by adding at the end of that subsection the words “or seizing and removing those fish”.

**4** This Act expires at the expiration of the period of 24 months after the date of commencement thereof and thereafter the Principal Act has effect as if this Act had not been enacted. Expiry of Act.