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**FISHERIES AMENDMENT (INLAND FISHERIES) ACT 1988**


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**No. 19 of 1988**


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**SCHEDULE 1**
**FURTHER AMENDMENTS**





**FISHERIES AMENDMENT (INLAND FISHERIES)  
ACT 1988**

**No. 19 of 1988**

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

**[Royal Assent 8 September 1988]**

**B**E 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**—This Act may be cited as the *Fisheries Amendment (Inland Fisheries) Act 1988*. Short title.

**2**—(1) This section and section 1 shall commence on the day on which this Act receives the Royal assent. Commencement.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be fixed by proclamation.

**3**—In this Act, the *Fisheries Act 1959*\* is referred to as the *Principal Act*. Principal Act.

\* No. 16 of 1959. For this Act, as amended up to and including 1st February 1987, see the continuing Reprint of Statutes. Subsequently amended by No. 10 of 1988.

Amendment of  
section 3 of  
Principal Act  
(Interpretation).

**4**—Section 3 (1) of the Principal Act is amended by inserting the following definition after the definition of “salmon”:—

“Secretary”, in relation to Part III, means the Secretary of the Inland Fisheries Commission;

Amendment of  
section 4 of  
Principal Act  
(Application of  
Act to private  
fisheries).

**5**—Section 4 of the Principal Act is amended as follows:—

(a) by omitting subsection (1) (b);

(b) by omitting from subsection (2) “or (h)” and substituting “(h) or (ha)”;

(c) by omitting subsections (3), (4), (5), (6), and (7);

(d) by omitting from subsection (8) “or to which an agreement under this section relates,”.

Amendment of  
section 26 of  
Principal Act  
(Incorporation of  
the Commission).

**6**—Section 26 (2) of the Principal Act is amended by omitting “secretary to the Commission” and substituting “Secretary”.

Amendment of  
section 36 of  
Principal Act  
(Regulations).

**7**—Section 36 (1) of the Principal Act is amended by inserting the following paragraph after paragraph (h):—

(ha) prohibiting the stripping, fertilizing, hatching, rearing, or propagating of trout or salmon, or the being in possession of fertilized eggs of trout or salmon, without the written consent of the Commission;

Amendment of  
section 37 of  
Principal Act  
(Regulations for  
wholly private  
fisheries).

**8**—Section 37 (1) of the Principal Act is amended as follows:—

(a) by inserting “and renewal of registration” in paragraph (a) after “registration”;

(b) by omitting “or (b)” from paragraph (a) (i);

(c) by inserting “transfer of the registration and” in paragraph (ab) before “cancellation”;

(d) by inserting “, transfer of registration, and renewal of registration,” in paragraph (ac) after “registration”;

9—Section 42D (1) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:—

Amendment of section 42D of Principal Act (Regulations as to sale, &c, of fish).

(a) prescribed fish produced or taken at a licensed fish farm that—

(i) are of the kind or species in respect of which that fish farm is licensed; and

(ii) have not been removed or escaped from the licensed fish farm and liberated or escaped into any water other than another licensed fish farm; or

10—After section 46 of the Principal Act, the following Division is inserted:—

Insertion in Principal Act of new Division 4A of Part III.

*Division 4A—Inland fisheries infringement notices.*

47—In this Division, unless the contrary intention appears—

Interpretation: Division 4A.

“inland fisheries infringement notice” means a notice served on a person under section 48;

“withdrawal notice” means a notice served on a person under section 48A.

48—(1) Where an officer or a police officer is satisfied that a person has committed a prescribed offence or offences, he may serve on that person an inland fisheries infringement notice in respect of that offence or those offences.

Service and acceptance of inland fisheries infringement notice.

(2) An inland fisheries infringement notice shall—

(a) indicate the offence or offences in respect of which it is served; and

(b) specify the penalty or penalties for the offence, or the offences and shall be in such form, or contain such information, or other matter, as may be prescribed.

(3) An inland fisheries infringement notice served on any person shall clearly indicate to that person that he may disregard the notice, but if he does so he may be prosecuted before a court for the offence to which it relates.

(4) Unless it has been withdrawn, an inland fisheries infringement notice served on a person in respect of any offence may, subject to subsection (5), be accepted by that person either—

(a) by the payment, within 21 days of the service of the notice, of the penalty specified in the notice to the clerk of petty sessions at the place specified in the notice; or

(b) by lodging with that clerk of petty sessions, within 21 days of the service of the notice, a written undertaking by that person to pay that penalty by such instalments or within such time as the clerk may direct.

(5) Where an inland fisheries infringement notice served on a person has not been accepted by that person in either of the ways prescribed in subsection (4) at the expiry of the appropriate period prescribed in that subsection, the clerk of petty sessions at the place specified in the notice may, by written notification to that person, allow that person an additional period of 14 days commencing on the expiry of the first-mentioned period in which to accept the inland fisheries infringement notice.

(6) Where an inland fisheries infringement notice in respect of a prescribed offence has been served on a person, no proceedings shall be brought against that person for that offence if the notice has been accepted and has not been withdrawn, and (whether or not the notice is accepted) no such proceedings shall be brought within the period of—

(a) 28 days following the service of the notice, if the person has not been allowed an additional period pursuant to subsection (5); or

(b) 42 days following the service of the notice, if the person has been allowed such an additional period,

unless the notice has been withdrawn.

(7) Where an inland fisheries infringement notice in respect of an offence has been accepted by a person and has not been withdrawn, that acceptance shall, in relation to proceedings for any other offence, be treated as a conviction for the offence in respect of which the notice was served unless the court before which those proceedings are taken is satisfied that it is unjust that it should be so treated.

(8) Acceptance of an inland fisheries infringement notice shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action, or proceeding.

48A—(1) An inland fisheries infringement notice that has been served on any person may, whether or not it has been accepted, be withdrawn as provided in subsection (2) at any time within the period of—

Withdrawal of inland fisheries infringement notice.

(a) 28 days following the service of the notice, if the person has not been allowed an additional period pursuant to section 48 (5); or

(b) 42 days following the service of the notice, if the person has been allowed such an additional period.

(2) For the purposes of subsection (1), an inland fisheries infringement notice served on a person shall be withdrawn by the service on that person of a withdrawal notice in the prescribed form signed by the Commissioner or some officer authorized by him stating that the infringement notice has been withdrawn.

(3) Where an inland fisheries infringement notice has been withdrawn under this section and any sum has been paid to a clerk of petty sessions by way of penalty in pursuance of that notice, that clerk shall repay the sum so paid to the person on whom the notice was served.

(4) Where an inland fisheries infringement notice has been served in respect of an offence and has been withdrawn, no evidence of the service, acceptance, or withdrawal of the notice is admissible in any proceedings for that offence.

(5) References in this Act to the withdrawal of an inland fisheries infringement notice shall be construed as references to the withdrawal of that notice under this section.

48B—(1) Where such an undertaking as is referred to in section 48 (4) (b) is lodged with a clerk of petty sessions, the clerk shall give directions to the person by whom the undertaking is given requiring that person to pay the penalty to which the undertaking relates in such instalments or within such time as may be specified in the directions.

Effect of undertaking to pay a prescribed penalty.

(2) No directions shall be given under subsection (1) that would have the effect of allowing any part of the penalty to which they relate being paid after the expiration of 63 days from the date on which the infringement notice was served.

(3) Before giving directions under subsection (1) with respect to any person, a clerk of petty sessions shall consider any representations made to him by or on behalf of that person, whether at the time the undertaking is lodged or otherwise, with respect to his financial circumstances, and shall give such directions as, having regard to those representations and all the circumstances of the case, he considers just and reasonable.

(4) Where a person fails to comply with any directions given to him under subsection (1), the like proceedings may be had in respect of so much of the penalty to which the directions relate as remains unpaid as if the penalty were a penalty imposed on him on his summary conviction for an offence.

Service of notices.

48C—(1) An inland fisheries infringement notice shall be served on a person by an officer or a police officer delivering it to him in person at or as near as practicable to the place of the commission of the offence.

(2) A withdrawal notice shall be served on a person by delivering it to him in person.

(3) A notification under section 48 (5) by a clerk of petty sessions shall be served on a person by sending it by post addressed to that person at the place shown as the address of that person in the relevant infringement notice.

Prescribed offences and penalties for Division IVA.

48D—(1) The Governor may make regulations prescribing offences for the purposes of this Division and the penalty applicable to each such offence.

(2) Offences may be prescribed under subsection (1) that are offences under regulations made under this Act and in force for the time being.



**11**—The Principal Act is further amended by omitting from the provisions of the Principal Act specified in column 1 of Schedule 1 the penalties specified in column 2 of that Schedule and substituting the penalties specified in column 3.

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Further  
amendments of  
Principal Act.

SCHEDULE 1  
FURTHER AMENDMENTS

Section 11

COLUMN 1 Section of Principal Act	COLUMN 2 Penalty to be omitted	COLUMN 3 Penalty to be substituted
9 (1) (y) (i) (B)	(a) \$2 000 (b) \$100	(a) 20 penalty units (b) 1 penalty unit
9 (1AAA)	“\$100 and shall not be less than \$10”	“1 penalty unit and shall not be less than 0.1 penalty unit”
13	“\$2 000”	“20 penalty units”
20 (2)	(a) \$1 000 (b) \$100	(a) 10 penalty units (b) 1 penalty unit
23D (3)	\$200	2 penalty units
23H (3)	(a) \$1 000 (b) \$100	(a) 10 penalty units (b) 1 penalty unit
23O (3)	\$200	2 penalty units
23R	\$200	2 penalty units
23T (1)	\$2 000	20 penalty units
(2)	\$500	5 penalty units
23U	\$500	5 penalty units
23V	\$500	5 penalty units
23W (3)	\$300	3 penalty units
23X (2)	\$300	3 penalty units
23Y (4)	\$1 000	10 penalty units
23ZA (4)	(a) \$500 (b) \$50	(a) 5 penalty units (b) 0.5 penalty unit
24 (1)	\$300	3 penalty units
24 (2)	\$300	3 penalty units
36 (1) (p) (i)	(a) \$2 000 (b) \$100	(a) 20 penalty units (b) 1 penalty unit
36 (1) (p) (iii)	\$100	1 penalty unit
41 (1)	\$30	1 penalty unit
(3)	\$30	1 penalty unit
(5)	\$120	5 penalty units
42 (1)	\$120	5 penalty units
42H (1)	\$1 000	10 penalty units
(2)	\$1 000	10 penalty units
42J	\$1 000	10 penalty units
43 (2) (a)	“not less than \$60 or more than \$120”	10 penalty units
(b)	\$120	10 penalty units
44 (1)	\$120	5 penalty units
44 (2)	\$120	10 penalty units
44 (2A)	\$120	10 penalty units
45	\$120	5 penalty units
45A (1)	\$200	5 penalty units
(2)	\$200	5 penalty units
52A (1)	\$200	10 penalty units
(2)	\$200	10 penalty units
52B (2)	\$2 000	20 penalty units