

South Australia



FISHERIES (PROTECTION OF FISH FARMS) AMENDMENT ACT 1996

No. 97 of 1996

SUMMARY OF PROVISIONS

1. Short title
2. Insertion of s. 53A
53A. Protection of fish farms from unauthorised entry, interference, etc.



ANNO QUADRAGESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1996

No. 97 of 1996

An Act to amend the Fisheries Act 1982.

[Assented to 19 December 1996]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Fisheries (Protection of Fish Farms) Amendment Act 1996*.

(2) The *Fisheries Act 1982* is referred to in this Act as "the principal Act".

Insertion of s. 53A

2. The following section is inserted after section 53 of the principal Act:

Protection of fish farms from unauthorised entry, interference, etc.

53A. (1) In this section—

"authorised person", in relation to a fish farm, means an operator, or a person acting on the authority of an operator, of the fish farm;

"fish farm" means the land and waters within the area subject to a lease or licence under this Division;

"marked-off area" of a fish farm means an area comprised of or within the fish farm the boundaries of which are marked off or indicated in the manner required under the terms of the lease or licence in respect of the fish farm;

"offensive" includes threatening, abusive or insulting;

"operator" of a fish farm means a holder of the lease or licence under this Division in respect of the fish farm.

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(2) The operator of a fish farm has a right of exclusive occupation of the marked-off area of the fish farm subject to the terms, covenants, conditions, limitations, reservations and restrictions in the lease or licence under this Division in respect of the fish farm.

(3) If a person who has entered the marked-off area of a fish farm is asked by an authorised person to leave the area, the person—

- (a) must not fail, without reasonable excuse, to leave the area immediately; and
- (b) must not enter the area again without the express permission of an authorised person or a reasonable excuse.

Penalty: Division 7 fine or division 7 imprisonment.

(4) A person who, while present in the marked-off area of a fish farm contrary to subsection (3), uses offensive language or behaves in an offensive manner is guilty of an offence.

Penalty: Division 8 fine.

(5) A person who is present in the marked-off area of a fish farm must, if asked to do so by an authorised person, give his or her name and address to the authorised person.

Penalty: Division 8 fine.

(6) An authorised person, on asking another person to leave the marked-off area of a fish farm or to give a name and address, must, if the other person so requests, inform the other person of—

- (a) the authorised person's name and address; and
- (b) the capacity in which the person is an authorised person under this section.

Penalty: Division 9 fine.

(7) An authorised person must not address offensive language to, or behave offensively towards, a person in relation to whom the authorised person is exercising a power conferred by this section.

Penalty: Division 8 fine.

(8) A person must not, without lawful excuse—

- (a) take or interfere with fish within the marked-off area of a fish farm; or
- (b) interfere with equipment that is being used in fish farming, including equipment that is being used to mark off or indicate the marked-off area of a fish farm.

Penalty: Division 5 imprisonment.

(9) A person must not enter the marked-off area of a fish farm intending to commit an offence against subsection (8) in the area.

Penalty: Division 6 imprisonment.

(10) A court convicting a person of an offence against subsection (8) may, whether or not a penalty is imposed, order the person convicted to pay to any person affected by the commission of the offence such compensation as the court considers proper for loss or damage suffered by that person as a result of the commission of the offence.

(11) A person must not falsely pretend, by words or conduct, to have the powers of an authorised person under this section.

Penalty: Division 9 fine.

(12) In proceedings for an offence against this section, an allegation in the complaint that a person named in the complaint was on a specified date an authorised person in relation to a specified fish farm will be accepted as proved in the absence of proof to the contrary.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

B. S. HETZEL Governor's Deputy