



Victoria

No. 79 of 1986

Fisheries (Master Fisherman's Licences) Act 1986

[Assented to 25 November 1986]

The Parliament of Victoria enacts as follows:

Purpose.

1. The main purpose of this Act is to provide for the transfer of certain master fisherman's licences.

Commencement.

2. (1) This Act except section 5 comes into operation on a day to be proclaimed.

(2) Section 5 comes into operation on the day on which this Act receives the Royal Assent.

Principal Act.

3. In this Act, the *Fisheries Act 1968* is called the Principal Act.

No. 7780.
Reprinted to
No. 10006 and
amended by
Nos. 10035,
10129.

Sections 13AA 13AB inserted.

4. After section 13 of the Principal Act, insert—

Transfer of certain master fisherman's licences.

13AA. (1) In this section—

“**consolidated master fisherman's licence**” means a master fisherman's licence issued by transfer upon application under sub-section (2);

“**current master fisherman's licence**” means a master fisherman's licence which is in force at the commencement of section 4 of the *Fisheries (Master Fisherman's Licences) Act 1986*;

“**holder**” means the holder of a master fisherman's licence;

“**new master fisherman's licence**” means a master fisherman's licence which is issued under section 13AB after the commencement of section 4 of the *Fisheries (Master Fisherman's Licences) Act 1986*.

(2) Any two holders of a current master fisherman's licence endorsed for the same locality and endorsed to permit the taking of fish in any prescribed bay, estuary or inlet and a person seeking the transfer from them of their licences may apply in the prescribed form to the Director for approval to the transfer by the issue of a consolidated master fisherman's licence endorsed for the same locality to that person.

(3) The holder of a consolidated master fisherman's licence and a person seeking the transfer of that licence may apply in the prescribed form to the Director for approval to the transfer of that licence.

(4) The holder of a new master fisherman's licence endorsed to permit the taking of fish in any prescribed bay, estuary or inlet and a person seeking the transfer of that licence may apply in the prescribed form to the Director for approval to the transfer of that licence.

(5) The Director may issue a consolidated master fisherman's licence with an endorsement permitting the use of a longline in the waters of Port Phillip Bay, if one or both of the current master fisherman's licences transferred to the holder of the consolidated licence carried that same endorsement at the time of its transfer.

(6) Each holder of a current master fisherman's licence which is transferred to a consolidated master fisherman's licence is entitled to a refund of half of the amount of the fees last paid by that person for the issue or renewal of the current licence in respect of the remaining months for which the licence is valid.

(7) In considering whether to grant or refuse an application under this section the Director must have regard to—

- (a) the welfare of the bay, estuary and inlet fishery and in particular the level of fishing activity in any particular bay, estuary or inlet; and

- (b) the welfare of the persons engaged in the industry; and
- (c) the recommendations of the Commercial Fisheries Licensing Panel; and
- (d) the recommendations of the Fisheries Management Committee.

(8) The Director must not consider any application under this section unless the applicant—

- (a) has the prescribed experience in commercial fishing which is relevant to the particular bay, estuary or inlet for which the applicant wishes the licence to be endorsed; and
- (b) satisfies the Director, by examination or otherwise, that the applicant has a competent knowledge of the provisions of—
 - (i) this Act; and
 - (ii) the regulations made under this Act—
which are relevant to that bay, estuary or inlet.

(9) The Director must not grant an application under this section if it is—

- (a) an application seeking a licence which is to be endorsed for a particular bay, estuary or inlet which has been proclaimed by Order of the Governor in Council published in the *Government Gazette* as an area to which this section does not apply; or
- (b) an application involving the transfer of a licence held by a person—
 - (i) who is an old age or invalid pensioner entitled to a reduced fee under section 15 (1) (a); and
 - (ii) who pays the reduced fee for the first renewal of the licence which occurs after the coming into operation of section 4 of the *Fisheries (Master Fisherman's Licences) Act 1986*.

(10) The Director may—

- (a) refuse an application under this section; or
- (b) grant an application under this section subject to the observance of such conditions, limitations and restrictions (if any) as the Director considers appropriate to impose; or
- (c) vary an endorsement on a licence issued under this section to give effect to an Order in Council referred to in sub-section (9).

(11) Any applicant under this section who is aggrieved by the refusal of the Director to approve the application may within one month after receiving notice of the refusal appeal to the Licensing Appeals Tribunal against the refusal.

(12) Any person who provides false or misleading information in or in connexion with any application under this section is guilty of an offence against this Act.

Penalty: 10 penalty units.

(13) Upon conviction for an offence against sub-section (12) the Minister may—

- (a) cancel the licence issued or transferred upon the information provided and disqualify the person from holding such a licence for such period as the Minister considers appropriate; or
- (b) suspend the licence for such period as the Minister considers appropriate.

(14) Except as provided in sub-section (16), if—

- (a) the holder of a master fisherman's licence dies; and
- (b) the licence bears an endorsement permitting the taking of fish in any prescribed bay, estuary or inlet (except an endorsement for a bay, estuary or inlet which has been proclaimed as an area to which this section does not apply)—

the provisions in sub-section (15) apply.

(15) The provisions are as follows:

- (a) Notwithstanding anything to the contrary in this Act, the benefit of the licence is deemed to be an asset of the estate of the deceased;
- (b) The personal representative is deemed to be the holder of the licence and may renew the licence;
- (c) The personal representative is entitled to transfer the licence in accordance with this section;
- (d) The personal representative is not entitled to use commercial fishing equipment or to take fish for sale (including fishing bait and barracouta but not abalone) or to be in charge of a crew specified in the licence in relation thereto.

(16) Sub-section (14) does not apply to a master fisherman's licence held by an old age or invalid pensioner who—

- (a) is entitled to a reduced fee under section 15 (1) (a); and
- (b) if the licence has been renewed since the coming into operation of section 4 of the *Fisheries (Master Fisherman's Licences) Act 1986*, has paid that reduced fee.

(17) For the purposes of sub-section (15) "personal representative" has the same meaning as in section 5 (1) of the *Administration and Probate Act 1958*.

(18) The Director must not approve a transfer of a licence or issue a consolidated master fisherman's licence under this section unless

there is paid by the applicant to the Director the prescribed transfer fee.'

Issue of Master Fisherman's Licences by public tender.

"13AB. (1) The Director may at such intervals as the Director considers appropriate having regard to the matters specified in sub-section (4) invite by public tender applications for the issue by the Director of one or more master fisherman's licences which are endorsed to permit the taking of fish in a particular prescribed bay, estuary or inlet.

(2) This section does not apply to an application for a licence which is to be endorsed to permit the taking of fish in relation to a bay, estuary or inlet which has been proclaimed by Order of the Governor in Council as an area to which section 13AA does not apply.

(3) Notice of the public tender containing the prescribed particulars must be published on at least two separate occasions in a daily newspaper generally circulating in Victoria.

(4) In considering whether to invite by public tender applications for the issue of any master fisherman's licences the Director must have regard to—

- (a) the welfare of the bay, estuary or inlet fishery and in particular the level of fishing activity in any particular bay, estuary or inlet; and
- (b) the welfare of the persons engaged in the industry; and
- (c) the recommendations of the Fisheries Management Committee.

(5) The Director must not consider any application under this section unless the applicant—

- (a) has the prescribed experience in commercial fishing which is relevant to the particular bay, estuary or inlet for which the licence is to be endorsed; and
- (b) satisfies the Director, by examination or otherwise, that the applicant has a competent knowledge of the provisions of—
 - (i) this Act; and
 - (ii) the regulations made under this Act—
which are relevant to that bay, estuary or inlet.

(6) The Director must except as otherwise provided in sub-section (7) accept the application which in each case contains the highest bid.

(7) If the Director considers that, having regard to the recommendations of the Commercial Fisheries Licensing Panel, the person who has made the application containing the highest bid is not a fit and proper person, the Director may accept the application which is the next highest bid and is made by a person whom having regard to

the recommendations of the Commercial Fisheries Licensing Panel the Director considers is a fit and proper person.

(8) If the Director receives two or more applications which contain the same bid and that bid is the highest, the Director may invite each of those applicants to submit further bids until one bid is higher than the others.

(9) The Director may issue a master fisherman's licence under this section subject to the observance of such conditions, limitations and restrictions (if any) as the Director considers appropriate to impose.

(10) The Director must not issue a master fisherman's licence under this section unless the fee prescribed under section 15 (1) (a) has been paid by the applicant.

(11) An applicant under this section who is aggrieved by the refusal of the Director to issue a master fisherman's licence on the ground that the applicant is not a fit and proper person may within one month after receiving notice of the refusal appeal to the Licensing Appeals Tribunal against the refusal.

(12) If the Director refuses an application on the ground that the applicant is not a fit and proper person, the Director must not issue a master fisherman's licence—

- (a) until the expiry of one month from the day on which the applicant is notified of the refusal; and
- (b) if an appeal against the decision is made under sub-section (11), until the appeal has been determined.

(13) Any person who provides false or misleading information in or in connexion with any application under this section is guilty of an offence against this Act.

Penalty: 10 penalty units.

(14) Upon conviction for an offence against sub-section (13) the Minister may—

- (a) cancel the licence issued upon the information provided and disqualify the person from holding such a licence for such period as the Minister considers appropriate; or
- (b) suspend the licence for such period as the Minister considers appropriate.”.

Abalone licences.

5. After section 13A (7) of the Principal Act, insert—

“(7A) Each holder of a current abalone licence which is transferred to a consolidated abalone licence is entitled to a refund of half of the amount of the fees last paid by that person for the issue or renewal of the current licence in respect of the remaining months for which the licence is valid.”.

Regulations.**6.** Section 81 of the Principal Act is amended as follows:**(a)** After sub-section (1) (*ag*), insert—

“(*aga*) prescribing the experience in commercial fishing which an applicant must have before being considered for a master fisherman’s licence under section 13AA or 13AB;”;

(b) After sub-section (2), insert—

“(2A) Any such regulation may apply, adopt or incorporate (with or without modification)—

(a) the provisions of any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether as formulated, issued, prescribed or published at the time the regulation is made, or at any time before then; or

(b) the provisions of any Act of the Commonwealth or of another State or of a Territory or the provisions of any subordinate instrument under any such Act, whether as in force at a particular time or from time to time.”.

NOTES**1.** *Minister's second reading speech—*

Legislative Assembly: 2 October 1986

Legislative Council: 18 November 1986

2. The long title for the Bill for this Act was “A Bill to provide for the transfer of certain master fisherman’s licences, to amend the *Fisheries Act 1968* and for other purposes.”.