

LEGISLATIVE COUNCIL

Read 1° 13 October 1987

(Brought in by the Honourable J. E. Kirner)

A BILL

to amend the *Fisheries Act* 1968 to improve the management of the abalone fishery and for other purposes.

Fisheries (Abalone) Act 1987

The Parliament of Victoria enacts as follows:

Purpose.

1. The purpose of this Act is to amend the *Fisheries Act* 1968 to—
 - (a) alter the abalone licence transfer provisions; and
 - 5 (b) introduce catch quotas for abalone; and
 - (c) implement a prescribed abalone docket system for all abalone landed by the holder of an abalone licence.

Act No. 7780.
Reprinted to Act
No 10006.
Subsequently
amended by Nos.
10035, 10129,
79/1986,
121/1986 and
41/1987.

Commencement.

2. This Act comes into operation on a day to be proclaimed.

10 **Transfer of abalone licences.**

3. Section 13A of the *Fisheries Act* 1968 is amended as follows:

- (a) In sub-section (1)—
 - (i) before the definition of “consolidated abalone licence”
insert:

- 15 * “central zone” means all of the Victorian waters
 between longitude 143 degrees 58 minutes 30

- seconds east and longitude 147 degrees 58 minutes 30 seconds east.'; and
- (ii) in the definition of "current abalone licence" after "1984" insert "but does not include a declared abalone licence"; and 5
- (iii) after the definition of "current abalone licence" insert:
 * "declared abalone licence" means an abalone licence—
 (a) endorsed for the western zone; or
 (b) in respect of which a declaration has been made under sub-section (1A). 10
- "eastern zone" means all of the Victorian waters east of longitude 147 degrees 58 minutes 30 seconds east.'; and
- (iv) after the definition of "new abalone licence" insert:
 * "western zone" means all of the Victorian waters west of longitude 143 degrees 58 minutes 30 seconds east.'; 15
- (b) After sub-section (1) insert:
 "(1A) The Governor in Council may by Order in Council declare that abalone licences endorsed for the central zone or the eastern zone or both are declared abalone licences."; 20
- (c) In sub-section (4) after "of a" insert "declared abalone licence or a";
- (d) In sub-sections (5) and (9) after "consolidated abalone licence" insert ", a declared abalone licence". 25

New provisions for abalone management.

4. After section 13B of the *Fisheries Act* 1968 insert:

Abalone catch quota.

- *13C. (1) In this section—
- "central zone" has the same meaning as in section 13A (1). 30
- "declared zone" means—
 (a) the western zone; and
 (b) if a declaration is made under sub-section (2), the central zone or the eastern zone or both as the case may be.
- "eastern zone" has the same meaning as in section 13A (1). 35
- "individual catch quota" means the total allowable catch divided by the number of abalone licences that are in force for that declared zone expressed as a number of units for each abalone licence.
- "total allowable catch" means the annual quota for abalone which may be taken within a declared zone determined under sub-section (3) expressed as a total number of units. 40

“unit” means two tonnes of unshucked abalone or such other weight of unshucked abalone as the Governor in Council may by Order in Council declare for the purposes of this section.

5 (2) The Governor in Council may by Order in Council declare that the central zone or the eastern zone or both are declared zones.

(3) Before 1 April in each year, the Minister may after having regard to the recommendation of the Fisheries Management Committee by notice published in the *Government Gazette* fix the total allowable catch for each declared zone for the next 12 months.

10 (4) The Director-General must upon the issue, transfer or renewal of an abalone licence send a notice to the holder of the abalone licence specifying the individual catch quota which applies, subject to any endorsement under sub-section (7) (a), in respect of that abalone licence until it is next renewed.

15 (5) Subject to sub-section (6), the holder of an abalone licence for a declared zone may—

(a) transfer up to 50% of the number of units comprising the initial individual catch quota for that abalone licence in parcels of one or more units to any other holder of an abalone licence endorsed for the same declared zone; or

20 (b) acquire additional units not exceeding 50% of the number of units comprising the initial individual catch quota for that abalone licence in parcels of one or more units from any other holder of an abalone licence endorsed for the same declared zone.

25 (6) An application for the transfer of individual catch quota units must be—

(a) made in the prescribed form to the Director-General; and

30 (b) accompanied by the prescribed transfer fee (not exceeding \$500 as may be prescribed from time to time); and

(c) accompanied by the notices issued under sub-section (4) to both the holder of the abalone licence transferring the units and the holder of the abalone licence acquiring the units.

35 (7) The Director-General may—

(a) grant an application under sub-section (6) and endorse the amended individual catch quota on the notices received under sub-section (6); or

(b) refuse the application.

40 (8) The holder of an abalone licence who exceeds the individual catch quota applicable to that abalone licence in accordance with this section is guilty of an offence and liable to the following penalties:

(a) For a first offence—10 penalty units and the forfeiture of one individual catch quota unit;

- (b) For a second offence—20 penalty units and the forfeiture of three individual catch quota units;
 - (c) For a third or subsequent offence—50 penalty units and the forfeiture of five individual catch quota units;
- (9) If the holder of an abalone licence has been convicted of an offence under sub-section (8) the individual catch quota applicable to that abalone licence for the following year is to be reduced by—
- (a) the number of units forfeited under sub-section (8); and
 - (b) the number of units by which the holder of the abalone licence exceeded the individual catch quota.’

Sale of abalone.

“13D. (1) An abalone licence entitles the holder of the abalone licence to take abalone for sale only to the holder of a processor’s licence endorsed for the processing of abalone.

(2) The holder of an abalone licence must when landing abalone and forwarding the abalone to the holder of a processor’s licence endorsed for the processing of abalone specify the prescribed details on the prescribed abalone docket and deal with the prescribed abalone docket in accordance with the regulations.

(3) The holder of a processor’s licence endorsed for the processing of abalone must upon receiving the abalone from the holder of the abalone licence specify the prescribed details on the prescribed abalone docket and deal with the prescribed abalone docket in accordance with the regulations.

(4) The holder of an abalone licence who is found in possession of abalone on land without the prescribed abalone docket in accordance with this section is guilty of an offence and liable to the following penalties:

- (a) For a first offence—10 penalty units;
- (b) For a second offence—20 penalty units;
- (c) For a third or subsequent offence—50 penalty units;
- (d) In any case an authorised officer or member of the police force may seize the abalone;
- (e) If an individual catch quota is in force in respect of the abalone licence under section 13C—
 - (i) if paragraph (a) applies—the forfeiture of one individual catch quota unit; or
 - (ii) if paragraph (b) applies—the forfeiture of three individual catch quota units; or
 - (iii) if paragraph (c) applies—the forfeiture of five individual catch quota units.

(5) If sub-section (4) (e) applies and the holder of the abalone licence has already filled the individual catch quota for the year in

which the penalty is imposed the individual catch quota applicable to that licence for the following year is to be reduced by the number of units forfeited.

- 5 (6) The holder of a processor's licence who is found in possession of abalone without the prescribed abalone docket in accordance with this section is guilty of an offence and liable to the following penalties:
- 10 (a) For a first offence—10 penalty units and suspension of the processor's licence for one month;
- (b) For a second offence—20 penalty units and suspension of the processor's licence for three months;
- (c) For a third or subsequent offence—50 penalty units and cancellation of the processor's licence;
- (d) In any case an authorized officer or member of the police force may seize the abalone.
- 15 (7) If a Court cancels the processor's licence it must specify the period within which the holder of the processor's licence is ineligible to apply for the re-issue of the processor's licence."

