

# Fisheries (Shark Fishery) Bill

## EXPLANATORY MEMORANDUM

*Clause 1* cites the purpose of the Act and is self explanatory.

*Clause 2* (1) Provides that with the exception of section 6 the Act comes into operation on a day to be proclaimed.

(2) Section 6 which deals with some minor amendments to the *Fisheries (Amendment) Act 1989* will be deemed to have come into operation on 28 November 1989.

*Clause 3* indicates that the *Fisheries Act 1968* is the Principal Act.

*Clause 4* “Part 2—Shark Fishery Management” inserts a new part into the Principal Act.

*Section 10* (1) (2) These sub-sections provide that the Minister may by instrument in writing determine a management plan for the shark fishery in Victorian waters which must specify the objectives of the plan and the measures by which the objectives are to be achieved.

*Sub-section* (3) The management plan may include rules for or in respect of the following—

- (a) criteria to be used in determining the issue of shark licences; and
- (b) criteria to be used when determining the amount and type of shark fishing gear to be endorsed on shark licences; and
- (c) defining the kind or species of shark to which the management plan applies; and
- (d) determining the manner in which the fishing capacity (the total amount of fishing effort) to which the shark fishery will be subject; and
- (e) determine the total amount of fishing effort for the fishery; and
- (f) provide for the fishing capacity permitted for the shark fishery to be divided into fishing gear units; and
- (g) provide for the allocation of fishing gear units to persons or boats; and
- (h) determine the number of fishing gear units which may be held by a person or be attached to a boat; and
- (i) define a fishing gear unit, e.g. one unit equals one shark gill net of specified dimensions; and
- (j) provide that different categories of shark licences may be issued endorsed for shark gill netting or longlining only and allow fishing gear entitlements to be varied between shark licences; and
- (k) define the types of shark fishing gear; and
- (l) provide for the transfer, consolidation or variation of specified categories of shark licences; and
- (m) prohibit the transfer of specified categories of shark licences; and

- (n) provide for the forfeiture of fishing gear entitlements upon the transfer or consolidation of specified categories of shark licences; and
- (o) provide for the variation of the type of shark fishing gear or the number of fishing gear units endorsed on a shark licence; and
- (p) prohibit a boat licensed for shark fishing from engaging in other methods of fishing while engaged in shark gill netting or longlining; and
- (q) prohibit a boat which has specified fishing equipment on board from carrying shark gill nets or shark longlines; and
- (r) prohibit boats carrying shark gill nets or shark longlines without a shark licence from entering Victorian waters; and
- (s) provide for the holders of a shark licence to keep records and provide returns in relation to shark taken in Victorian or Commonwealth waters or shark landed in Victoria for sale; and
- (t) regulate or prohibit the landing of shark in Victoria by the holders of commercial fishing licences other than shark licences.

*Sub-section (4)* A shark management plan must be published in the *Government Gazette*.

*Sub-section (5)* A management plan is a subordinate instrument for the purposes of the *Interpretation of legislation Act 1984*.

*Sub-section (6)* A management plan comes into operation on the date it is published or any later date specified in the plan.

*Sub-section (7)* Provides that the Rules contained in a management plan—

- (a) may be of general or limited application; and
- (b) may make different provisions according to differences in time, places, circumstances, boats, persons or fish (whether by reference to kind or species or sex), whether or not any times, places, circumstances, boats, persons or fish are determined or ascertainable before, at or after the making of the management plan; and
- (c) may impose penalties not exceeding 20 penalty units; and
- (d) may apply adopt or incorporate (with or without modification) the provisions of any document, code, standard, etc or the provisions of any Act of the Commonwealth, another State or Territory or any subordinate instrument under that Act; and
- (e) may confer powers or confer duties in connection with the management plan or any person or body.

*Sub-section (8)* The provisions of the Fisheries Act, and Regulations and any Fisheries Notices continue to apply to the shark fishery after the commencement of the management plan unless otherwise expressly provided for in the management plan.

*Sub-section (9)* The management plan prevails over any other inconsistent requirements in the Fisheries Act.

*Clause 4 section 11 (1)* A management plan is to be subject to a regulatory impact statement procedure.

(2) The Minister must ensure that the management plan is subject to public comment and that all comments received are considered before the management plan is determined.

*Clause 5 (a)* Varies the fee structure for a shark licence to relate to the amount of fishing gear endorsed on the shark licence.

(b) Repeals sections 15 (2) and 15 (3) of the Principal Act.

*Clause 6 (a)* Amends an error in the *Fisheries (Amendment) Act 1989* which refers to the *Historic Shipwrecks Act 1982* instead of *Historic Shipwrecks Act 1981*.

(b) Is self explanatory.

