



Queensland

Fisheries Amendment Act 2008

Act No. 41 of 2008



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Act No. 41 of 2008

An Act to amend the Fisheries Act 1994 for particular purposes

[Assented to 8 September 2008]

The Parliament of Queensland enacts—**1 Short title**

This Act may be cited as the *Fisheries Amendment Act 2008*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Act amended

This Act amends the *Fisheries Act 1994*.

4 Amendment of s 14 (Aborigines' and Torres Strait Islanders' rights to take fisheries resources etc.)

(1) Section 14, heading—

omit, insert—

'14 Defence for Aborigines and Torres Strait Islanders for particular offences'

(2) Section 14(1)—

omit, insert—

'(1) It is a defence in a proceeding against a person for an offence against this Act relating to the taking, using or keeping of fisheries resources, or the using of fish habitats, for the person to prove—

(a) the person is an Aborigine, who at the time of the offence was acting under Aboriginal tradition, or the person is a Torres Strait Islander, who at the time of the offence was acting under Island custom; and

(b) the taking, using or keeping of the fisheries resources, or the using of the fish habitats, was for the purpose of satisfying a personal, domestic or non-commercial

communal need of the Aborigine or Torres Strait Islander; and

- (c) depending on whichever of the following applies—
 - (i) for an offence relating to the taking or using of fisheries resources, or the using of fish habitats—the taking or using of the fisheries resources, or using of the fish habitats, was carried out using prescribed fishing apparatus in waters other than prescribed waters; or
 - (ii) for an offence relating to the keeping of fisheries resources—
 - (A) the fisheries resources kept were taken using prescribed fishing apparatus in waters other than prescribed waters; and
 - (B) at the time of the offence, the fisheries resources were not in prescribed waters.’.

- (3) Section 14(2), ‘or management plan’—

omit.

- (4) Section 14(3)—

omit, insert—

- ‘(3) In this section—

prescribed fishing apparatus means—

- (a) fishing apparatus that is recreational fishing apparatus under a regulation under this Act; or
- (b) fishing apparatus that is used under Aboriginal tradition or Island custom, and prescribed specifically under a regulation for the purpose of this section.

prescribed waters means waters—

- (a) that are regulated waters under a regulation under this Act; and
- (b) that are prescribed specifically under a regulation for the purpose of this section; and

- (c) where the taking of any fish, or the possession of any fish taken, by any person is prohibited.’.

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