

Western Australia

Fish Resources Management Amendment Bill 2006

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Western Australia

LEGISLATIVE ASSEMBLY

**Fish Resources Management Amendment
Bill 2006**

A Bill for

An Act to amend the *Fish Resources Management Act 1994*.

The Parliament of Western Australia enacts as follows:

s. 1

1. Short title

This is the *Fish Resources Management Amendment Act 2006*.

2. Commencement

5 This Act comes into operation on the day on which it receives the Royal Assent.

3. The Act amended

The amendments in this Act are to the *Fish Resources Management Act 1994**.

10 [* Reprint 2 as at 11 March 2005.
For subsequent amendments see Acts Nos. 59 and 84 of 2004.]

4. Section 174 amended

Section 174(1) is amended by deleting the penalty provision at the foot of the subsection and inserting instead —

15 “
Penalty: In the case of an individual, \$150 000 and imprisonment for 4 years or, in the case of a body corporate, \$300 000.
”.

20 **5. Section 175 amended**

Section 175(1) is amended by deleting the penalty provision at the foot of the subsection and inserting instead —

25 “
Penalty: In the case of an individual, \$150 000 and imprisonment for 4 years or, in the case of a body corporate, \$300 000.
”.

6. **Section 175A inserted**

After section 175 the following section is inserted —

“

5 **175A. Mandatory maximum sentences for individuals convicted of third or subsequent offences**

- (1) If an individual is convicted of —
- (a) a third or subsequent offence against section 174(1); or
 - (b) a third or subsequent offence against section 175(1),

10 the court sentencing the offender must, despite any other written law but subject to the *Young Offenders Act 1994* section 46(5a), impose both —

- (c) the maximum fine; and
- (d) the maximum term of imprisonment,

15 that may be imposed by a court under section 174(1) or 175(1), as the case requires.

- (2) For the purpose of determining whether an individual has been convicted of —

- 20 (a) a third or subsequent offence against section 174(1), a conviction of an offence against section 175(1) is taken to be a conviction of an offence against section 174(1); or
- 25 (b) a third or subsequent offence against section 175(1), a conviction of an offence against section 174(1) is taken to be a conviction of an offence against section 175(1).

”.

s. 7

7. Section 193 amended and section 220 consequentially amended

(1) Section 193 is amended as follows:

- 5 (a) before “A fisheries” by inserting the subsection designation “(1)”;
- (b) at the end of the section by inserting the following subsection —

“

10 (2) Without limiting subsection (1), a fisheries officer who has reasonable grounds to suspect that an offence against section 174(1) or 175(1) has been committed may seize any boat, fish or other animal, fishing gear, money, cheque or other thing that the fisheries officer believes may become liable to forfeiture under

15 section 218(1a) as a result of the offence.

”.

(2) Section 220 is amended as follows:

- (a) in paragraph (b), by deleting “section 193(h);” and inserting instead —
- 20 “ section 193(1)(h); ”;
- (b) in paragraph (c), by deleting “section 193(g);” and inserting instead —
- “ section 193(1)(g); ”.

8. Section 218 amended

25 (1) Section 218(1) is amended by deleting “If” and inserting instead —

“ Subject to subsection (1a), if ”.

(2) After section 218(1) the following subsection is inserted —

“

30 (1a) If a court convicts a person of an offence against section 174(1) or 175(1) in relation to a foreign boat,

the court must, in addition to any other penalty imposed under this Act, order the forfeiture to the Crown of —

- 5 (a) the foreign boat and any fish, fishing gear or other thing that, if subsection (1) applied to the offence, could be forfeited to the Crown under that subsection; and
- 10 (b) any fish or other animal or any fishing gear, money, cheque or other thing that, at the time of the offence, was on or attached to the foreign boat; and
- (c) any fish, fishing gear, money or cheque that, at the time of the offence, was in the possession of any person on board the foreign boat; and
- 15 (d) any fish or other animal on or attached to any fishing gear used, or intended to be used, in the commission of the offence.

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