

## Fish Resources Management Amendment Bill 2009

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Western Australia

LEGISLATIVE COUNCIL

**Fish Resources Management Amendment  
Bill 2009**

**A Bill for**

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

The Parliament of Western Australia enacts as follows:

**s. 1**

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1     **1.       Short title**

2             This is the *Fish Resources Management Amendment Act 2009*.

3     **2.       Commencement**

4             This Act comes into operation as follows —

- 5               (a)   sections 1 and 2 — on the day on which this Act  
6                      receives the Royal Assent;
- 7               (b)   the rest of the Act — on a day fixed by proclamation,  
8                      and different days may be fixed for different provisions.

9     **3.       Act amended**

10            This Act amends the *Fish Resources Management Act 1994*.

11    **4.       Section 15 amended**

12            In section 15 insert in alphabetical order:

13

14                    *corresponding law* means a law of the Commonwealth  
15                    or another State or Territory of the Commonwealth  
16                    declared by the regulations to be a law corresponding  
17                    to this Act;

18

19    **5.       Section 23 amended**

20            (1)   In section 23(1) delete “State,” and insert:

21

22                    State (whether or not also in accordance with some other law),

23

24            (2)   In section 23(2) delete paragraph (a) and “or” after it.

1     **6.       Section 24A inserted**

2             After section 23 insert:

3  
4             **24A.     Application of Commonwealth law to limits of State**  
5             **in accordance with arrangements**

6                     If there is in force an arrangement that provides that a  
7                     particular fishery is to be managed in accordance with  
8                     the law of the Commonwealth (whether or not also in  
9                     accordance with some other law), the law of the  
10                    Commonwealth applies to the limits of the State as a  
11                    law of the State.  
12

13    **7.       Section 24 amended**

14       (1)   In section 24(1) delete “State,” and insert:

15  
16             State (whether or not also in accordance with some other law),  
17

18       (2)   In section 24(2):

19             (a)   in paragraph (b) delete “resources.” and insert:

20  
21                     resources; and  
22

23             (b)   after paragraph (b) insert:

24  
25                     (c)   generally acting consistently with, and in  
26                     furtherance of, the objects of this Act.  
27

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**8. Section 25 amended**

In section 25(2) delete “State — ” and insert:

State (whether or not also in accordance with some  
other law) —

**9. Part 3 Division 4 inserted**

At the end of Part 3 insert:

**Division 4 — Arrangements with other States and  
Territories**

**29A. Arrangements with other States and Territories**

The Minister may enter into an agreement with a  
Minister administering a corresponding law, or with an  
authority of another State or Territory concerned in the  
administration of that law, for the purpose of  
cooperation in furthering the objects of this Act  
(whether in this State or in that other State or  
Territory).

**29B. Functions**

- (1) For the purposes of this Division, the Minister may  
exercise any power and perform any function conferred  
on the Minister under Division 2 or 3 as if the  
Commonwealth Act applied under this Division.
- (2) Divisions 2 and 3 apply in respect of agreements under  
this Division, with such modifications as are necessary.

1    **10.     Part 4 Divisions 1 to 3 deleted**

2           Delete Part 4 Divisions 1 to 3.

3    **11.     Section 41 amended**

4       (1)   In section 41(2) —

5           (a)   after “committee” insert:

6

7                   established by the Minister

8

9           (b)   after “the Minister” insert:

10

11                   or the CEO

12

13       (2)   After section 41(2) insert:

14

15           (3A)   The CEO may, by instrument in writing, establish an  
16                   advisory committee for a fishery consisting of such  
17                   persons as the CEO thinks fit.

18           (3B)   The function of an advisory committee established by  
19                   the CEO is to provide information and advice to the  
20                   CEO on matters related to the protection and  
21                   management of the fishery.

22

23       (3)   In section 41(3)(b) delete “Minister’s opinion,” and insert:

24

25                   opinion of the person establishing the committee,

26

27       (4)   In section 41(4) delete “Minister” and insert:

28

29                   person establishing the committee

30

**s. 12**

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1     **12.     Section 42 amended**

2         (1)   In section 42(1) after “to the Minister” insert:

3

4             or the CEO

5

6         (2)   After section 42(1) insert:

7

8             (2A)   The CEO may, by instrument in writing, establish other  
9                     advisory committees, consisting of such persons as the  
10                    CEO thinks fit, to provide information and advice to  
11                    the CEO on matters related to the administration of this  
12                    Act.

13

14         (3)   In section 42(2)(b) delete “Minister’s opinion,” and insert:

15

16             opinion of the person establishing the committee,

17

18         (4)   In section 42(3) delete “Minister” and insert:

19

20             person establishing the committee

21

22     **13.     Part 4 Division 6 inserted**

23             At the end of Part 4 insert:

24

25                     **Division 6 — Operation of committees**

26             **43A.   Regulations relating to the operation of committees**

27                     The regulations may provide for any matter necessary  
28                    for the operation of —

29                    (a)   a Fishery Management Advisory Committee  
30                         established under Division 4; or



- (b) another committee established under Division 5.

**14. Section 62 amended**

In section 62(t) delete “a natural person,” and insert:

an individual,

**15. Section 78A inserted**

Before section 78 insert:

**78A. Regulations relating to cancellations under section 224**

- (1) In this section —

*section 224* means section 224 as it was immediately before the commencement of this section.

- (2) The regulations may —

- (a) provide for the granting of an authorisation to replace an authorisation that has been cancelled by the operation of section 224;
- (b) prescribe fees and charges payable in respect of the issue of replacement authorisations, including the payment of a fee equal to that which would have been payable if the authorisation had not been cancelled under section 224 and had been kept in force;
- (c) provide for an amendment to a management plan that is, in the Minister’s opinion, necessary in connection with the granting of a replacement authorisation.

**s. 16**

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1     **16.     Section 140 amended**

2             Before section 140(2)(b) insert:

3

4                     (ba)   if, in the CEO's opinion, the applicant, or a  
5                             person acting for or on behalf of the applicant,  
6                             may be liable to prosecution for an offence that  
7                             is prescribed for the purposes of section 224; or

8                     (bb)   if the authorisation is suspended under  
9                             section 224; or

10

11     **17.     Section 202A amended**

12             In section 202A(4) in the definition of *person in charge of a*  
13             *fishing tour* delete "natural person" and insert:

14

15             individual

16

17     **18.     Section 224 amended**

18             (1)   In section 224(2) delete "cancel the authorisation." and insert:

19

20                     suspend the authorisation for one year.

21

22             (2)   In section 224(3)(a) delete "cancelled" and insert:

23

24                     suspended

25

26             (3)   Delete section 224(4) and insert:

27

28                     (4)   Where an authorisation has been suspended under  
29                             subsection (2), the authorisation remains suspended

