



Victoria Government Gazette

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Fisheries Act 1995

FISHERIES (COMMERCIAL FISHERIES – TAKE OF PROTECTED AQUATIC BIOTA) ORDER NO. 1/2015

Order in Council

The Administrator, as the Governor's Deputy, with the advice of the Executive Council, under section 73(1) of the **Fisheries Act 1995**, makes this Order authorising the taking of protected aquatic biota subject to the conditions specified in this Order.

1. Title

This Order may be cited as the Fisheries (Commercial Fisheries – Take of Protected Aquatic Biota) Order No. 1/2015.

2. Objective

The objective of this Order is to authorise the taking of protected aquatic biota under the **Fisheries Act 1995** incidental to commercial fishing operations, subject to certain conditions.

3. Authorising provision

This Order is made under section 73(1) of the **Fisheries Act 1995**.

4. Revocation

The Order under section 73 of the **Fisheries Act 1995** made on 8 November 2011 and published in Government Gazette G 45 on 10 November 2011 is revoked.

5. Commencement

This Order comes into operation on the day that it is published in the Government Gazette.

6. Definitions

In this Order –

‘Access Licence’ means any of the following licences issued under the **Fisheries Act 1995**: Corner Inlet Fishery Access Licence; Eel Fishery Access Licence; Giant Crab Fishery (Western Zone) Access Licence; Gippsland Lakes Fishery Access Licence; Ocean Fishery Access Licence; Purse Seine (Ocean) Fishery Access Licence; Purse Seine (Port Phillip Bay) Access Licence; Rock Lobster Fishery (Western Zone) Access Licence; Rock Lobster Fishery (Eastern Zone) Access Licence; Scallop (Ocean) Fishery; Trawl (Inshore) Fishery Access Licence; and Western Port/Port Phillip Bay Fishery Access Licence;

‘Aquaculture Licence’ means the Aquaculture (Crown Land-Eels) Licence and Aquaculture (Private Land-Eels) Licence, issued under the **Fisheries Act 1995**;

‘holder’ means:

- a) a person who is the holder of an Access Licence; or
- b) a person who is the holder of an Aquaculture Licence; or
- c) a person listed as an Operator on an Access Licence or an Aquaculture Licence; or
- d) a person employed by the holder of, or any person acting on behalf of, an Access Licence or Aquaculture Licence;

‘protected aquatic biota’ has the same meaning as in the **Fisheries Act 1995**;

‘Secretary’ means the Secretary of the Department of Economic Development, Job, Transport and Resources.

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7. Authority to take protected aquatic biota while conducting commercial fishing operations

A holder is authorised to take protected aquatic biota subject to the following conditions:

- a) the fishing activities being undertaken at the time of the taking are in accordance with the Access Licence or Aquaculture Licence; and
- b) the holder did not intentionally seek to take the protected aquatic biota; and
- c) a record of relevant details of any taking of protected aquatic biota is recorded in the manner specified by the Secretary; and
- d) all reasonable steps are taken to release any protected aquatic biota into the waters from which it was taken without delay and with minimum injury or in the manner specified by the Executive Director, Environment Policy, Department of Environment, Land, Water and Planning.

Notes

The **Fisheries Act 1995** defines ‘take’ to mean gain possession or control by any means.

A person who is authorised to take and release protected aquatic biota under this Order is not in breach of section 71 of the **Fisheries Act 1995**.

Dated 31 March 2015

Responsible Minister:
JAALA PULFORD
Minister for Agriculture

YVETTE CARISBROOKE
Clerk of the Executive Council

Flora and Fauna Guarantee Act 1988FLORA AND FAUNA GUARANTEE (COMMERCIAL FISHERIES –
TAKE OF LISTED FISH) ORDER NO. 1/2015

Order in Council

The Administrator, as the Governor's Deputy, with the advice of the Executive Council, under section 53(2) of the **Flora and Fauna Guarantee Act 1988**, makes this Order authorising the taking of listed fish subject to the terms and conditions in this Order.

1. Title

This Order may be cited as the Flora and Fauna Guarantee (Commercial Fisheries – Take of Listed fish) Order No. 1/2015.

2. Objective

The objective of this Order is to authorise the unintentional taking of listed fish under the **Flora and Fauna Guarantee Act 1988** incidental to commercial fishing operations, subject to certain terms and conditions.

3. Authorising provision

This Order is made under section 53(2) of the **Flora and Fauna Guarantee Act 1988**.

4. Revocation

The Order under section 53(2) of the **Flora and Fauna Guarantee Act 1988** made on 18 June 2012 and published in Government Gazette G 25 on 21 June 2012 is revoked.

5. Commencement

This Order comes into operation on the day that it is published in the Government Gazette.

6. Definitions

In this Order –

‘Access Licence’ means any of the following licences issued under the **Fisheries Act 1995**: Corner Inlet Fishery Access Licence; Eel Fishery Access Licence; Giant Crab Fishery (Western Zone) Access Licence; Gippsland Lakes Fishery Access Licence; Ocean Fishery Access Licence; Purse Seine (Ocean) Fishery Access Licence; Purse Seine (Port Phillip Bay) Access Licence; Rock Lobster Fishery (Western Zone) Access Licence; Rock Lobster Fishery (Eastern Zone) Access Licence; Scallop (Ocean) Fishery; Trawl (Inshore) Fishery Access Licence; and Western Port/Port Phillip Bay Fishery Access Licence;

‘Aquaculture Licence’ means the Aquaculture (Crown Land-Eels) Licence and Aquaculture (Private Land-Eels) Licence, issued under the **Fisheries Act 1995**;

‘holder’ means:

- a) a person who is the holder of an Access Licence; or
- b) a person who is the holder of an Aquaculture Licence; or
- c) a person listed as an Operator on an Access Licence or an Aquaculture Licence; or
- d) a person employed by the holder of, or any person acting on behalf of, an Access Licence or Aquaculture Licence;

‘listed fish’ means any fish listed under section 10 or Schedule 2 of the **Flora and Fauna Guarantee Act 1988**;

‘Secretary’ means the Secretary of the Department of Economic Development, Job, Transport and Resources;

‘take’ has the same meaning as in the **Flora and Fauna Guarantee Act 1988**.

7. Authority to take listed fish while conducting commercial fishing operations

A holder is authorised to take listed fish subject to the following conditions:

- a) the fishing activities being undertaken at the time of the taking are in accordance with the Access Licence or Aquaculture Licence; and
- b) the holder did not intentionally seek to take the listed fish; and
- c) a record of relevant details of any taking of a listed fish is recorded in the manner specified by the Secretary; and
- d) all reasonable steps are taken to release any listed fish into the waters from which it was taken without delay and with minimum injury or in the manner specified by the Executive Director, Environment Policy, Department of Environment, Land, Water and Planning.

Note

The **Flora and Fauna Guarantee Act 1988** defines ‘take’ to mean kill, injure, disturb or collect.

Dated 31 March 2015

Responsible Ministers:

JAALA PULFORD

Minister for Agriculture

LISA NEVILLE

Minister for Environment, Climate Change and Water

YVETTE CARISBROOKE
Clerk of the Executive Council

Wildlife Act 1975**WILDLIFE ACT (COMMERCIAL FISHERIES – INTERACTION WITH
PROTECTED WILDLIFE) ORDER NO. 1/2015****Order in Council**

The Administrator, as the Governor's Deputy, with the advice of the Executive Council, under section 28G of the **Wildlife Act 1975**, makes this Order authorising interaction with protected wildlife subject to the conditions contained in this Order.

1. Title

This Order may be cited as the Wildlife Act (Commercial Fisheries – Interaction with Protected Wildlife) Order No. 1/2015.

2. Objective

The objective of this Order is to authorise the unintentional interaction with protected wildlife under the **Wildlife Act 1975** incidental to commercial fishing operations, subject to certain conditions.

3. Authorising provision

This Order is made under section 28G of the **Wildlife Act 1975**.

4. Revocation

The Order under section 28G of the **Wildlife Act 1975** made on 18 June 2012 and published in Government Gazette G 25 on 21 June 2012 is revoked.

5. Commencement

This Order comes into operation on the day that it is published in the Government Gazette and remains in operation for three years unless sooner revoked.

6. Definitions

In this Order –

‘Access Licence’ means any of the following licences issued under the **Fisheries Act 1995**: Corner Inlet Fishery Access Licence; Eel Fishery Access Licence; Giant Crab Fishery (Western Zone) Access Licence; Gippsland Lakes Fishery Access Licence; Ocean Fishery Access Licence; Purse Seine (Ocean) Fishery Access Licence; Purse Seine (Port Phillip Bay) Access Licence; Rock Lobster Fishery (Western Zone) Access Licence; Rock Lobster Fishery (Eastern Zone) Access Licence; Scallop (Ocean) Fishery; Trawl (Inshore) Fishery Access Licence; and Western Port/Port Phillip Bay Fishery Access Licence;

‘Aquaculture Licence’ means the Aquaculture (Crown Land-Eels) Licence and Aquaculture (Private Land-Eels) Licence, issued under the **Fisheries Act 1995**;

‘holder’ means:

- a) a person who is the holder of an Access Licence; or
- b) a person who is the holder of an Aquaculture Licence; or
- c) a person listed as an Operator on an Access Licence or an Aquaculture Licence; or
- d) a person employed by the holder of, or any person acting on behalf of, an Access Licence or Aquaculture Licence;

‘interact’ or ‘interaction’ means to take, destroy, dispose of and possess;

‘protected wildlife’ has the same meaning as in the **Wildlife Act 1975**;

‘Secretary’ means the Secretary of the Department of Economic Development, Jobs, Transport and Resources.

7. Authority to interact with protected wildlife while conducting commercial fishing operations

A holder is authorised to interact with protected wildlife, subject to the following conditions:

- a) the fishing activities being undertaken at the time of the interaction are in accordance with the Access Licence or Aquaculture Licence; and
- b) the holder did not intentionally seek to interact with the protected wildlife; and
- c) a record of relevant details of any interaction with protected wildlife is recorded in the manner specified by the Secretary; and
- d) all reasonable steps are taken to release any protected wildlife to its natural environment without delay and with minimum injury or in the manner approved by the Executive Director, Environment Policy, Department of Environment, Land, Water and Planning.

Dated 31 March 2015

Responsible Minister:

LISA NEVILLE

Minister for Environment, Climate Change and Water

YVETTE CARISBROOKE
Clerk of the Executive Council

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