

Authorised Version No. 003
Victorian Fisheries Authority Act 2016

No. 68 of 2016

Authorised Version incorporating amendments as at
2 July 2018

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The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The main purposes of this Act are—

- (a) to establish the Victorian Fisheries Authority; and
- (b) to make amendments to the **Fisheries Act 1995** to enable the Victorian Fisheries Authority and its chief executive officer to perform or exercise regulatory and other functions or powers under that Act; and
- (c) to make further consequential amendments to the **Conservation, Forests and Lands Act 1987**, the **Fisheries Act 1995** and other Acts.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation by 1 July 2017, it comes into operation on that day.

3 Definitions

In this Act—

aquaculture licence has the same meaning as it has in the **Fisheries Act 1995**;

- associated* has the meaning given in section 4;
- authorised officer* means a person appointed under Part 3;
- Authority* means the Victorian Fisheries Authority established under Part 2;
- Board* means the Victorian Fisheries Authority Board established under section 21;
- Chairperson* means the Chairperson of the Board;
- chief executive officer* means the chief executive officer of the Authority;
- commercial fishery licence* means a licence issued under section 38(2) or 41(2) or a permit issued under section 49(2)(g) of the **Fisheries Act 1995**;
- Commercial Fisheries Licensing Panel* has the same meaning as it has in the **Fisheries Act 1995**;
- Council* has the same meaning as it has in the **Fisheries Act 1995**;
- discontinued*, in respect of a licence, means the licence no longer has effect by operation of Division 5 of Part 8 of the **Fisheries Act 1995**;
- emergency* has the same meaning as it has in the **Emergency Management Act 2013**;
- financial year* has the same meaning as it has in the **Financial Management Act 1994**;
- fisheries sectors* means all of the following, taken collectively—
- (a) the recreational fishing sector;
 - (b) the commercial fishing sector;

(c) the Aboriginal fishing sector;

(d) the aquaculture sector;

guiding principles means the principles set out in Division 2 of Part 2;

licence has the same meaning as it has in the **Fisheries Act 1995**;

Licensing Appeals Tribunal has the same meaning as it has in the **Fisheries Act 1995**;

public sector body has the same meaning as it has in the **Public Administration Act 2004**;

recreational fishery licence has the same meaning as it has in the **Fisheries Act 1995**;

relevant law has the same meaning as it has in the **Conservation, Forests and Lands Act 1987**;

representative body has the same meaning as it has in the **Fisheries Act 1995**;

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

4 Definition of *associated*

(1) In this Act, a person is *associated* with another person or entity who is the holder of a commercial fishery licence or aquaculture licence if the person—

- (a) holds any relevant financial interest in the business of the other person or entity to which the commercial fishery licence or aquaculture licence relates, or is entitled to exercise any relevant power (including on behalf of anyone else) in the business and, because of that interest or power, is able to exercise significant influence over or with

respect to the management or operation of the business; or

- (b) holds any relevant position (including on behalf of anyone else) in the business; or
- (c) is the other person's spouse, domestic partner, parent, step-parent, sibling, step-sibling, child, step-child or adopted child.

(2) In subsection (1)—

domestic partner of a person means—

- (a) a person who is in a registered domestic relationship within the meaning of the **Relationships Act 2008** with the person; or
- (b) a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender);

relevant financial interest in the business means—

- (a) any share in the capital of the business; or
- (b) any entitlement to receive any income derived from the business;

relevant position in a business means the position (however described) of director, partner, trustee, manager or other executive position or secretary;

relevant power means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others—

- (a) to participate in any directorial, managerial or executive decision; or
 - (b) to elect or appoint any person to any relevant position.
- (3) For the purposes of the definition of *domestic partner* in subsection (2), in determining whether persons who are not in a registered relationship are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the **Relationships Act 2008** as may be relevant in a particular case.

5 Intent of Parliament regarding Divisions 2 and 3 of Part 2

The Parliament does not intend by Divisions 2 or 3 of Part 2 to create in any person any legal right or to give rise to any civil cause of action.

Part 2—Victorian Fisheries Authority

Division 1—Establishment, powers and functions

6 Establishment of the Authority

- (1) There is established a body called the Victorian Fisheries Authority.
- (2) The Authority—
 - (a) is a body corporate with perpetual succession; and
 - (b) has an official seal; and
 - (c) may sue and be sued; and
 - (d) may acquire, hold and dispose of real and personal property; and
 - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) All courts must take judicial notice of the seal of the Authority affixed to a document and, until the contrary is proved, must presume that it was duly affixed.
- (4) The official seal of the Authority must be kept in custody as directed by the Authority and must not be used except as authorised by the Authority.

7 Objectives of the Authority

The objectives of the Authority are—

- (a) to promote sustainability and responsibility in fishing and fishing-related activities in Victoria; and
- (b) to optimise the social, cultural and economic benefits of the fisheries sectors; and
- (c) to support the development of recreational fishing; and

- (d) to support the development of commercial fishing and aquaculture; and
- (e) to work cooperatively with fisheries management bodies in other States, in Territories and the Commonwealth; and
- (f) to perform its functions and exercise its powers in any manner it considers best achieves its objectives.

8 Functions of the Authority

The functions of the Authority are—

- (a) to administer schemes for issuing licences and permits and allocating quotas under the **Fisheries Act 1995**; and
- (b) to inform and educate the fisheries sectors and the public about rights and obligations in relation to fishing; and
- (c) to monitor, investigate, enforce and promote compliance with this Act, the **Fisheries Act 1995** and other Acts and the regulations made under them in so far as they relate to fishing and fishing activities; and
- (d) to support the development of sustainability and responsibility in relation to—
 - (i) recreational fishing activities; and
 - (ii) commercial fishing and aquaculture activities; and
- (e) to develop operational plans and procedures regarding any duty, function or power conferred on the Authority, the chief executive officer or authorised officers under this Act, the **Fisheries Act 1995** or any other Act; and

- (f) to conduct, coordinate and encourage research activities, including fisheries monitoring and assessment, for the achievement of the objectives of the Authority or the **Fisheries Act 1995**; and
- (g) to develop management plans in accordance with the **Fisheries Act 1995**; and
- (h) to provide advice to the Minister or Secretary to assist in the development of strategic policy or legislation in relation to the development, use or management of fisheries in Victoria; and
- (i) to make recommendations to the Minister in relation to the exercise of the Minister's powers, duties and functions under the **Fisheries Act 1995**; and
- (j) to administer grants approved by the Minister in relation to fishing and fisheries; and
- (k) to work with land, water, waterway and coastal managers and public sector bodies to improve fisheries, respond to any emergency or undertake compliance and enforcement activities; and
- (l) to perform any functions conferred on it by or under any other Act, including acts of another State, a Territory or the Commonwealth.

9 Powers of the Authority

For the purpose of performing its functions, the Authority—

- (a) has the powers conferred on it by or under this Act, the **Fisheries Act 1995** and regulations made under that Act, or any other Act; and

- (b) may do all other things required or necessary to be done for or in connection with, or as incidental to, the achievement of its objectives or the performance of its functions.

10 Delegation

The Authority, by instrument under its official seal, may delegate any power, function or duty of the Authority, other than this power of delegation, to—

- (a) an employee of the Authority; or
- (b) any person employed under Part 3 of the **Public Administration Act 2004**.

11 Exercise of powers

- (1) The Authority must exercise its powers and perform its functions under this Act or any other Act subject to any written directions given by the Minister.
- (2) If the Authority is given a written direction under subsection (1), the Authority must publish the direction—
 - (a) in the Government Gazette within 14 days of receiving the direction; and
 - (b) in its annual report; and
 - (c) on its Internet site.

Division 2—Guiding principles

12 Principle of integrated decision-making

The principle of integrated decision-making means seeking to achieve government policy objectives through coordination between all levels of government and government agencies.

13 Principle of triple bottom-line assessment

The principle of triple bottom-line assessment means an assessment of all the economic, social and environmental costs and benefits taking into account externalities.

14 Principle of equity

The principle of equity means—

- (a) equity between persons irrespective of their—
 - (i) personal attributes, including age, physical ability, ethnicity, culture, gender and financial situation; or
 - (ii) location, including whether in a growth, urban, regional, rural or remote area;
- (b) equity between generations by not compromising the ability of future generations to meet their needs.

15 Principle of evidence-based approach

The principle of an evidence-based approach means considering the best available information when making decisions.

16 Principle of stakeholder engagement and community participation

The principle of stakeholder engagement and community participation means—

- (a) applying, to the extent that it is practicable, the consultation principles set out in section 3A of the **Fisheries Act 1995** to decisions; and
- (b) taking into account the interests of stakeholders and members of the local community in implementing appropriate processes for stakeholder engagement.

17 Principle of transparency

The principle of transparency means members of the public should have access to reliable and relevant information in appropriate forms to facilitate a good understanding of fisheries issues and the process by which decisions in relation to fisheries management are made.

Division 3—Interpretation and guidance

18 Application to Authority

The Authority must, when exercising its powers, performing its functions or making a decision under this Act or any other Act, have regard to—

- (a) the objectives of the Authority set out in section 7; and
- (b) the principles set out in Division 2; and
- (c) the objectives set out in section 3 of the **Fisheries Act 1995**; and
- (d) the consultation principles set out in section 3A of the **Fisheries Act 1995**.

Division 4—Administration

19 Role of the Minister

- (1) For the purposes of this Act and the **Fisheries Act 1995**, the role of the Minister is—
 - (a) to be responsible for key strategies and policy relating to fisheries; and
 - (b) to administer this Act and the **Fisheries Act 1995**; and
 - (c) to exercise the powers, functions and duties of the Minister under this Act and the **Fisheries Act 1995**.

- (2) Nothing in this section limits the roles, powers, functions or duties of the Minister under this Act or any other Act, at common law or under any convention or practice relating to roles, powers, functions or duties of Ministers generally.

20 Role of the Secretary

- (1) For the purposes of this Act and the **Fisheries Act 1995**, the role of the Secretary is—
- (a) to assist the Minister in the administration of this Act and the **Fisheries Act 1995**; and
 - (b) to exercise the powers of the Secretary under this Act and the **Fisheries Act 1995**; and
 - (c) to work with, and provide guidance to, the Authority to assist the Authority on matters relating to public administration and governance; and
 - (d) to provide advice to the Minister in relation to strategic policy relating to fisheries; and
 - (e) to coordinate the development of legislation relating to fisheries; and
 - (f) to coordinate any governance framework arrangement that may be agreed between the Minister, the Secretary and the Authority; and
 - (g) to perform any other functions conferred on the Secretary under any other Act.
- (2) Nothing in this section limits the roles, powers, functions or duties of the Secretary under this Act or any other Act, at common law or under any convention or practice relating to roles, powers, functions or duties of Secretaries generally.

Division 5—Victorian Fisheries Authority Board

21 Victorian Fisheries Authority Board

- (1) The Authority has a governing body known as the Victorian Fisheries Authority Board.
- (2) The Board consists of not less than 5 directors and not more than 8 directors.
- (3) The Minister must appoint by instrument, and in accordance with section 22, directors to the Board including—
 - (a) one director who is to be appointed as the Chairperson; and
 - (b) one director who is to be appointed as the deputy Chairperson.
- (4) The Board—
 - (a) is responsible for the governance, strategic planning and risk management of the Authority; and
 - (b) may carry out the functions and exercise the powers of the Authority; and
 - (c) must operate consistently with any governance framework requirements agreed by the Minister, the Secretary and the Board.
- (5) All acts and things done in the name of, or on behalf of, the Authority by or with the authority of the Board are taken to have been done by the Authority.

22 Appointment of directors to Board

- (1) In appointing a person under section 21, the Minister must, so far as is practicable, ensure that collectively the directors of the Board have skills, knowledge or experience in relation to—

- (a) legal practice; and
 - (b) finance or accounting; and
 - (c) public administration or governance; and
 - (d) natural resource management; and
 - (e) fisheries management; and
 - (f) Aboriginal culture and identity as it relates to fishing and fisheries; and
 - (g) stakeholder engagement; and
 - (h) leadership and business management, including human resources; and
 - (i) communications; and
 - (j) marine or freshwater science; and
 - (k) fishing industry operations; and
 - (l) recreational fishing.
- (2) The Minister must not appoint a person to the Board unless the Minister is satisfied that the person—
- (a) is not, at the time of appointment, a member of the Council, Licensing Appeals Tribunal or Commercial Fisheries Licensing Panel; and
 - (b) is not, at the time of appointment—
 - (i) the holder of a current commercial fishery licence or aquaculture licence; or
 - (ii) associated with a person or entity who is the holder of a current commercial fishery licence or aquaculture licence; and
 - (c) is not, at the time of appointment, a senior or executive officer of a representative body; and

- (d) has not, within the period of 2 years before the appointment, been the holder of a cancelled, suspended or discontinued commercial fishery licence or aquaculture licence.

23 Conditions of appointment of directors

- (1) A director—
 - (a) holds office for the period specified in the instrument of appointment, being a period of not more than 3 years; and
 - (b) holds office on the terms and conditions (including remuneration and allowances) specified in the instrument of appointment; and
 - (c) may be reappointed; and
 - (d) in respect of the office of director, is subject to the **Public Administration Act 2004** (other than Part 3 of that Act).
- (2) An instrument of appointment may specify other terms and conditions of appointment not inconsistent with this Act.

24 Vacancies, resignations, removal from office

- (1) The office of a director becomes vacant if the director—
 - (a) becomes an insolvent under administration; or
 - (b) is convicted or found guilty of—
 - (i) an indictable offence; or
 - (ii) an offence that, if committed in Victoria, would be an indictable offence; or
 - (c) is absent from 2 consecutive meetings of the Board without the approval of the Board; or

- (d) is removed from office; or
 - (e) retires or resigns.
- (2) If the office of a director becomes vacant before the end of the term of office, the Minister may appoint a person in accordance with sections 22 and 23 to fill the vacancy and to hold office, subject to this Act, for the remainder of the term.
- (3) If the office of a director becomes vacant within 6 months before the end of the term of the office, the office may be left vacant for the remainder of the term.
- (4) A director may resign from office by delivering a signed letter of resignation to the Minister.
- (5) The Minister may remove a director from office—
- (a) if the director becomes incapable of performing the director's duties; or
 - (b) if the director is negligent in the performance of those duties; or
 - (c) if the director engages in improper conduct; or
 - (d) if the director fails to declare a pecuniary interest as required by section 29; or
 - (e) if the director is convicted or found guilty of—
 - (i) an offence against this Act; or
 - (ii) an offence against the **Fisheries Act 1995** or regulations made under that Act; or
 - (iii) an offence against a relevant law; or
 - (iv) an offence against a corresponding law of another State or a Territory or the Commonwealth; or

- (f) if the Minister considers that the person is no longer suitable to hold office as director.

25 Acting appointments

- (1) The deputy Chairperson must act as Chairperson—
- (a) if the office of Chairperson is vacant; or
 - (b) during any period when the Chairperson is absent; or
 - (c) if the Chairperson is, for any other reason, unable to attend meetings of the Board or otherwise unable to perform the duties of the office.
- (2) While the deputy Chairperson is acting as Chairperson, the deputy Chairperson—
- (a) has and may exercise all the powers, and must perform all the functions and duties, of the Chairperson; and
 - (b) is entitled to be paid the remuneration and allowances to which the Chairperson would have been entitled.
- (3) The Minister may appoint a director to act as deputy Chairperson—
- (a) during a vacancy in the office of deputy Chairperson; or
 - (b) during any period when the deputy Chairperson is absent; or
 - (c) during any period when the deputy Chairperson is acting as Chairperson; or
 - (d) if the deputy Chairperson is, for any other reason, unable to attend meetings of the Board or otherwise unable to perform the duties of the office.

- (4) While a director is acting as deputy Chairperson, the director has and may exercise all the powers, and must perform all the functions and duties, of the deputy Chairperson.
- (5) The Minister may appoint a person to act as a director (other than the Chairperson or deputy Chairperson)—
 - (a) during a vacancy in the office of a director; or
 - (b) during any period when a director is absent; or
 - (c) during any period when a director is acting as deputy Chairperson; or
 - (d) if a director is, for any other reason, unable to attend meetings of the Board or otherwise unable to perform the duties of the office.
- (6) While a person is acting as a director, the person—
 - (a) has and may exercise all the powers, and must perform all the functions and duties, of a director; and
 - (b) is entitled to be paid the remuneration and allowances to which the director would have been entitled.
- (7) The Minister must not appoint a person to act as a director unless the Minister is satisfied that the person—
 - (a) is not, at the time of appointment, a member of the Council, Licensing Appeals Tribunal or Commercial Fisheries Licensing Panel; and

- (b) is not, at the time of appointment—
 - (i) the holder of a current commercial fishery licence or aquaculture licence; or
 - (ii) associated with a person or entity who is the holder of a current commercial fishery licence or aquaculture licence; and
 - (c) is not, at the time of appointment, a senior or executive officer of a representative body; and
 - (d) has not, within the period of 2 years before the appointment, been the holder of a cancelled, suspended or discontinued commercial fishery licence or aquaculture licence.
- (8) When making an appointment under subsection (5), the Minister must, so far as is practicable, ensure that collectively the directors of the Board have skills, knowledge or experience in relation to—
- (a) legal practice; and
 - (b) finance or accounting; and
 - (c) public administration or governance; and
 - (d) natural resource management; and
 - (e) fisheries management; and
 - (f) Aboriginal culture and identity as it relates to fishing and fisheries; and
 - (g) stakeholder engagement; and
 - (h) leadership and business management, including human resources; and

- (i) communications; and
- (j) marine or freshwater science; and
- (k) fishing industry operations; and
- (l) recreational fishing.

26 Validity of acts or decisions

An act or decision of the Board is not invalid by reason only of—

- (a) any vacancy in the office of a director; or
- (b) any defect or irregularity in or in connection with the appointment of a director.

27 Proceedings of the Board

- (1) Meetings of the Board must be held at the times and places determined by the Board.
- (2) A majority of the directors for the time being, of whom one director must be the Chairperson or deputy Chairperson, constitutes a quorum of the Board.
- (3) A question arising at a meeting of the Board must be determined by a majority of votes of directors present and voting on the question.
- (4) If the voting is equal, the person presiding has a casting, as well as a deliberative vote.
- (5) A meeting of the Board may be conducted by telephone, closed-circuit television or other means of communication that does not require the physical presence of each director in the same room.
- (6) The person presiding at a meeting must ensure that minutes of the meeting are kept.
- (7) Subject to this Act, the Board may regulate its own proceedings.

28 Resolutions without meetings

- (1) The Board may—
 - (a) determine that it may make a proposed resolution without a meeting; and
 - (b) determine a method by which directors are to indicate agreement with any proposed resolution.
- (2) The Board is taken to have made a resolution at a meeting if—
 - (a) without meeting, a majority of the directors entitled to vote on the proposed resolution indicate agreement with the resolution; and
 - (b) that agreement is indicated in accordance with the method determined by the Board under subsection (1); and
 - (c) all the directors were informed of the proposed resolution, or reasonable efforts were made to inform the directors of the proposed resolution.
- (3) For the purposes of subsection (2)(a), a director is not entitled to vote on a proposed resolution if the director would not have been entitled to vote on that resolution if the matter had been considered at a meeting of the Board.
- (4) The Board must keep a record of the resolutions made in accordance with this section.

29 Pecuniary interests of directors

- (1) Subject to subsection (2), a director who has a pecuniary interest in a matter being considered or about to be considered by the Board, as soon as practicable after the relevant facts have come to the director's knowledge, must declare the nature of that interest at a meeting of the Board.

- (2) Subsection (1) does not apply if the interest is no greater than that of a member of the public engaged in relevant fishing activities.
- (3) A person to whom subsection (1) applies must not fail to make a declaration in accordance with that subsection.

Penalty: 60 penalty units.

- (4) The person presiding at a meeting at which a declaration is made under this section must cause a record of the declaration to be made in the minutes of the meeting.
- (5) Subject to subsection (6), a director who has made a declaration under subsection (1) must not be present during any deliberation with respect to, or vote on, the matter in respect of which the declaration is made.

Penalty: 60 penalty units.

- (6) Subsection (5) does not apply if a director has made a declaration to the Board and the Board resolves that the director may be present during any deliberation with respect to, or vote on, the matter in respect of which the declaration is made.
- (7) In this section—

general permit means a general permit issued under section 49 of the **Fisheries Act 1995**;

relevant fishing activities means fishing activities permitted by—

- (a) a recreational fishery licence; or
- (b) a general permit (but not including an authorisation for activities referred to in a permit issued for the purposes of section 49(2)(g) of the **Fisheries Act 1995**); or

- (c) the **Traditional Owner Settlement Act 2010**, other than taking fish for financial gain.

30 Disclosure of interests

- (1) If a director has an interest in a matter being considered, or about to be considered, by the Board, the director, as soon as practicable after the relevant facts come to the director's knowledge, must disclose the nature of the interest to the Chairperson.
- (2) If the Chairperson has an interest in a matter being considered, or about to be considered, by the Board, the Chairperson, as soon as practicable after the relevant facts come to the Chairperson's knowledge, must disclose the nature of the interest to the Minister.
- (3) The Board must make guidelines specifying the types of interests that a director must disclose for the purposes of this section.
- (4) The Board must cause guidelines made under this section to be published on the Internet site of the Authority.

31 Improper use of information

A person who is, or has been, a director, chief executive officer, authorised officer or employee of the Authority must not make improper use of any information acquired in the course of the person's duties to obtain, directly or indirectly, any pecuniary or other advantage for that person or for any other person.

Penalty: 60 penalty units.

32 Disclosure of information

- (1) A person who is, or has been, a director, chief executive officer, authorised officer or employee of the Authority must not disclose any information

obtained during the course of the person's duties except as authorised under this section.

Penalty: 50 penalty units.

- (2) A person referred to in subsection (1) is authorised and may disclose information obtained in the course of the person's duties—
- (a) if the person reasonably believes that the disclosure is necessary—
 - (i) for or in connection with the administration of this Act, the regulations or any other Act; or
 - (ii) to assist a relevant person or an authorised officer to exercise a power or perform a duty or function, under this Act or any other Act; or
 - (b) in the following circumstances—
 - (i) for the purposes of any legal proceeding arising out of this Act, the regulations, or any other Act, or of any report of those proceedings;
 - (ii) for the purposes of any other legal proceeding;
 - (iii) to a court or tribunal in the course of a proceeding;
 - (iv) pursuant to an order of a court or tribunal;
 - (v) to the extent reasonably required for any other law enforcement purposes;
 - (vi) with the written authority of the Board or, where related to compliance and enforcement matters, with the written authority of the chief executive officer;

(vii) with the written authority of the person to whom the information relates.

(3) In this section—

relevant person means—

- (a) the Director of Public Prosecutions; or
- (b) a police officer; or
- (c) a person authorised by the Authority to take proceedings under section 96(1) of the **Conservation, Forests and Lands Act 1987**; or
- (d) a person specified for the purposes of section 146 of the **Fisheries Act 1995**.

33 Conflict of interest and duty

A person who ceases to be a director of the Board must not, at any time during the next 2 years—

- (a) apply for or hold a commercial fishery licence or aquaculture licence; or
- (b) be appointed as a senior officer or executive officer of a representative body.

Penalty: 60 penalty units.

Division 6—Chief executive officer and staff of the Authority

34 Chief executive officer

- (1) The Board, in consultation with the Minister, must employ a chief executive officer of the Authority.
- (2) The chief executive officer is to be employed subject to terms and conditions that are specified in the instrument of appointment.
- (3) Subject to and in accordance with the policies and directions given to the chief executive officer by the Authority, the chief executive officer—

- (a) is responsible for the administration of the day to day management of the affairs of the Authority; and
- (b) is responsible for performing the functions and exercising the powers conferred on the chief executive officer under this Act and the **Fisheries Act 1995**; and
- (c) may perform any functions or exercise any powers conferred under any other Act.

35 Staff

- (1) There may be employed under Part 3 of the **Public Administration Act 2004** any persons that are necessary for the purposes of performing the functions of the Authority.
- (2) The Authority may enter into agreements or arrangements for the use of the services of any staff of a Department, statutory authority or other public body.

36 Advisory committees

- (1) The Board may appoint advisory committees for the purpose of providing advice and information to assist the Board in the performance of its functions.
- (2) A member of an advisory committee must be paid any allowances and expenses that are determined by the Board.

37 Delegation

- (1) The chief executive officer, with the prior approval of the Board, may delegate to a person specified in subsection (2) any power, duty or function of the chief executive officer under this Act or the regulations, the **Fisheries Act 1995** or regulations made under that Act, or any other Act, other than—

- (a) the powers, duties and functions set out in Part 7A of the **Fisheries Act 1995**; and
 - (b) this power of delegation.
- (2) For the purposes of subsection (1), the chief executive officer may delegate to—
- (a) an employee of the Authority; or
 - (b) any person employed under Part 3 of the **Public Administration Act 2004**.

Division 7—Financial and administrative

38 Financial

- (1) The Authority must establish and keep a Victorian Fisheries Authority Account.
- (2) The Authority must pay all money received by it into the account, including income from the investments of the account.
- (3) Out of the account, the Authority must pay—
 - (a) the expenses incurred by it in carrying out its functions and powers; and
 - (b) any other expenses incurred in the administration of this Act.

39 Quarterly performance report

- (1) The Authority must prepare a quarterly performance report for each quarter of each financial year.
- (2) The quarterly performance report must be prepared in accordance with any guidelines agreed by the Authority, the Secretary and the Minister.
- (3) The quarterly performance report must include—
 - (a) financial statements; and

(b) any other matter set out in guidelines agreed under subsection (2).

(4) The Authority must submit a quarterly report to the Secretary within 30 days of the report being prepared.

40 Annual report

- (1) On or before 30 September each year the Authority must submit to the Minister a report of its operations for the financial year ending on 30 June that year.
- (2) The report must be prepared in accordance with Part 7 of the **Financial Management Act 1994**.
- (3) The Minister must cause each annual report that the Minister receives under this section to be laid before each House of Parliament within 7 sitting days after receiving it.

41 Reporting to the fisheries sectors

- (1) Within one month after an annual report is tabled by the Minister under section 40(3), the Authority must ensure that a copy of the report is published on its Internet site.
- (2) The Authority must present its annual report to the fisheries sectors.
- (3) For the purposes of subsection (2), the Authority may present its annual report in any form or forum it considers appropriate.

42 Annual business plan

- (1) Each year the Authority must submit to the Minister for approval, on or before the date required by the Minister, a draft business plan that sets out—
 - (a) its objectives and priorities for the next 3 financial years; and

- (b) financial projections for that period; and
 - (c) its budget for the next financial year; and
 - (d) what it intends to do over the next financial year; and
 - (e) any other matters that the Minister requires in writing.
- (2) After amending its draft business plan in any way required by the Minister, the Authority must submit a final business plan to the Minister for approval on or before the date required by the Minister.
- (3) The Authority must not depart significantly from its budget without first obtaining the approval of the Minister.
- (4) The Minister may issue guidelines as to what is a significant departure for the purposes of subsection (3).
- (5) The Authority must have regard to its current business plan in carrying out its functions.
- (6) The Authority must ensure that a copy of its current business plan is—
- (a) available for inspection by members of the public at its principal place of business whenever that place is open to the public; and
 - (b) published on the Authority's Internet site.

Part 3—Enforcement and proceedings

43 Appointment of authorised officers

- (1) The Authority may appoint as an authorised officer—
 - (a) any specified employee or a specified class of employees employed by the Authority; or
 - (b) any person employed under Part 3 of the **Public Administration Act 2004**; or
 - (c) any specified person or a member of any specified class of persons.
- (2) The Authority may appoint a person or a class of persons referred to in subsection (1) to perform any of the powers, functions or duties of an authorised officer that are specified by the Authority.
- (3) An appointment may be made under subsection (2) for the whole or any part of Victoria.
- (4) An authorised officer may be appointed under subsection (1)—
 - (a) for the purposes of this Act, the regulations, and all or any relevant laws; and
 - (b) as a litter enforcement officer for the purposes of the **Environment Protection Act 1970**; and
 - (c) for the whole or any part of Victoria.
- (5) The Authority must give to each authorised officer a certificate of appointment stating—
 - (a) the relevant law for the purposes of which the person is appointed as an authorised officer; and

- (b) whether the person is appointed for the whole or any part of Victoria and, if for a part of Victoria, specifying the part of Victoria for which the person is appointed.

44 Application of Conservation, Forests and Lands Act 1987 to authorised officers

For the purposes of this Act, Part 9 (except sections 83 and 84) of the **Conservation, Forests and Lands Act 1987** applies to an authorised officer as if the authorised officer were appointed as an authorised officer under the **Conservation, Forests and Lands Act 1987**.

45 Application of Conservation, Forests and Lands Act 1987 to the Authority

- (1) For the purposes of this Part, sections 87, 89, 96, 97 (except section 97(3)(b)) and 98 (except section 98(3)(b), (c), (d), (e), (f), 98(8)(a) and (b) and 98(12)) of the **Conservation, Forests and Lands Act 1987** apply as if a reference to the Secretary is a reference to the Authority.
- (2) For the purposes of this Part, sections 88 (except sections 88(1)(c) and (7)), 88A, 97(3)(b) and 98(8)(b) of the **Conservation, Forests and Lands Act 1987** apply as if a reference to the Secretary is a reference to the chief executive officer.
- (3) For the purposes of this Part, section 88 of the **Conservation, Forests and Lands Act 1987** applies as if a reference to a certificate under the seal of the Secretary is a reference to a certificate signed by the chief executive officer.

Part 4—General

Division 1—Regulations

46 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations may—
 - (a) be of general or limited application; and
 - (b) differ according to differences in time, place or circumstances; and
 - (c) provide in a specified case or class of cases for the exemption of persons or things from any of the provisions of the regulations—
 - (i) whether unconditionally or on specified conditions; and
 - (ii) either wholly or to any extent that is specified.

S. 47 expired
by force of
No. 68/2016
s. 47(4).

* * * * *

Division 2—Transitional provisions

48 Authorised officers appointed under the Conservation, Forests and Lands Act 1987 employed by the Authority

- (1) This section applies to a person who—
 - (a) immediately before the commencement day, is an authorised officer appointed under section 83 of the **Conservation, Forests and Lands Act 1987**; and

- (b) on the commencement day, is employed by the Authority.
- (2) For a period of 28 days commencing on and including the commencement day, the person continues to be an authorised officer appointed under section 83 of the **Conservation, Forests and Lands Act 1987** unless the Authority appoints the person as an authorised officer under this Act within that period.
- (3) In this section—

commencement day means the day on which section 3 comes into operation.

* * * * *

Pts 5, 6
(Headings
and ss 49–
177)
repealed by
No. 68/2016
s. 177.

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 15 September 2016

Legislative Council: 13 October 2016

The long title for the Bill for this Act was "A Bill for an Act to establish the Victorian Fisheries Authority, to make amendments to the **Fisheries Act 1995** to enable the Victorian Fisheries Authority and its chief executive officer to perform or exercise regulatory functions or powers under that Act, to make further consequential amendments to the **Conservation, Forests and Lands Act 1987**, the **Fisheries Act 1995** and other Acts and for other purposes."

The **Victorian Fisheries Authority Act 2016** was assented to on 15 November 2016 and came into operation on 1 July 2017: section 2(2).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

Victorian Fisheries Authority Act 2016
No. 68 of 2016
Endnotes

2 Table of Amendments

This publication incorporates amendments made to the **Victorian Fisheries Authority Act 2016** by Acts and subordinate instruments.

Victorian Fisheries Authority Act 2016, No. 68/2016

| | |
|---------------------------|--|
| <i>Assent Date:</i> | 15.11.16 |
| <i>Commencement Date:</i> | Ss 47(4), 177 on 1.7.17: s. 2(2) |
| <i>Note:</i> | S. 177 repealed Pts 5, 6 (ss 49–177) on 1.7.18; s. 47(4) provided that s. 47 expired on 1.7.18 |
| <i>Current State:</i> | This information relates only to the provision/s amending the Victorian Fisheries Authority Act 2016 |

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

No entries at date of publication.