

Fisheries Act 1995

FISHERIES NOTICE 2019

I, Travis Dowling, Chief Executive Officer of the Victorian Fisheries Authority, as delegate of the Minister for Fishing and Boating and having considered the outcome of consultation in accordance with section 3A of the **Fisheries Act 1995** (the Act), make the following Fisheries Notice under sections 67, 68A and 152 of the Act:

Dated: 19/09/19



Travis Dowling

Chief Executive Officer

Victorian Fisheries Authority

FISHERIES (RAY PROTECTION) NOTICE 2019

1. Title

This Notice may be cited as the Fisheries (Ray Protection) Notice 2019.

2. Objective

The objective of this Notice is to-

- (a) prohibit the take or possession of rays greater than 1.5 metres in width;
- (b) reduce the bag limit for rays to 1 per day; and
- (c) prohibit the take of rays from or within 400 metres of any pier, jetty, wharf or breakwater

by recreational fishers.

3. Authorising provision

This Notice is made under sections 67, 68A and 152 of the Act.

4. Commencement and superseding of previous Fisheries Notice

This Notice comes into operation on the day it is published in the *Victoria Government Gazette* and the Victorian Fisheries Authority website.

5. Definitions

In this Notice –

carcass (skates, rays and guitarfish) means the body of a skate, ray or guitarfish which is not cut or mutilated in any other manner than to remove the gut.

closed waters means any waters within 400 metres of any specified structure;

ray includes all species of ray, skate and guitarfish;

specified structure means any pier, jetty, wharf or breakwater;

the Act means the Fisheries Act 1995;

width in the case of a ray, is the maximum distance between the wing tips.

6. *Non-application of Notice to commercial fishing*

This Notice does not apply to a holder of a commercial fishery access licence, or a person acting under the licence, when acting in accordance with the provisions of the licence.

7. *Maximum size for rays*

For the purposes of the Act, the maximum size for any ray is 1.5 meters in width.

Notes: The offences in section 68A of the Act relating to taking or possessing fish that are more than the maximum size specified in a fisheries notice attract various penalties.

Under section 11(4) of the Act, a person does not commit an offence by unintentionally taking or possessing a fish (other than noxious species) if the fish is not killed or put into any container; and all reasonable steps are immediately taken to return the fish, to its natural habitat with the least possible injury or damage.

8. *Catch and possession limits for rays*

(1) For the purposes of section 68A of the Act, the daily catch limit with respect to the taking of any ray –

- (a) that is more than 1.5 metres in width ; or
- (b) from closed waters

is 0.

(2) For the purposes of section 68A of the Act, the daily catch limit with respect to the possession of any ray –

- (a) that is more than 1.5 metres in width ; or
- (b) in or on closed waters; or
- (c) on or next to any specified structure; or
- (d) in or on any Victorian waters in any form other than whole or in the form of a carcass –

is 0.

(3) For the purposes of section 68A of the Act, the daily catch limit with respect to the taking or possession of any ray in any circumstances other than as outlined in sub-clauses (1) or (2) is 1.

(4) Sub-clauses (2)(b) or (c) do not apply to a person possessing a ray taken from waters other than closed waters while in the course of landing and transporting that fish.

Note: The offences in section 68A of the Act relating to taking or possessing more fish of a species than the catch limit specified in a fisheries notice attract various penalties.

9. *Prohibition on take or possession of rays from closed waters*

- (1) For the purposes of section 67 of the Act –
 - (a) the taking of any ray from closed waters; or
 - (b) the possession of any ray -
 - (i) in or on closed waters; or
 - (ii) on or next to any specified structure –is prohibited.

Note: A failure to comply with this prohibition is an offence under section 67(3) of the Act. A maximum penalty of 100 penalty units or 6 months imprisonment or both applies.

- (2) Sub-clause (1)(b) does not apply to a person possessing a ray taken from waters other than closed waters while in the course of landing and transporting that fish.

10. *Offence to possess rays, skates and guitarfish other than whole or in the form of a carcass*

A person must not in or on Victorian waters possess any ray, in any form other than whole or in the form of a carcass.

Penalty: 20 penalty units.

11. *Application to fisheries reserves*

This Notice applies to a fisheries reserve, as declared under section 88 of the Act, to the extent that fishing is permitted in that reserve.

12. *Revocation*

- (1) The Fisheries (Ray Protection) Notice 2018 is revoked.
- (2) Unless sooner revoked, this Notice will be automatically revoked 12 months after the day on which it comes into operation.

Note: Section 152(3) of the Act provides that if a Fisheries Notice is inconsistent with any regulations, management plan, Ministerial direction, licence or permit, the Fisheries Notice prevails to the extent of the inconsistency.

Note: Penalties under this notice are set in accordance with section 152(7)(c) of the Fisheries Act which allow the imposition of penalties not exceeding 50 penalty units for a contravention of an offence under a fisheries notice.

