

3. Victorian Relief Committee Act 1958
4. Hairdressers Registration (Repeal) Act 1985
5. State Relief Committee Act 1986
6. Food (Amendment) Act 1991
7. Health and Community Services (Further Amendment) Act 1993
8. Food (Amendment) Act 1994
9. Children and Young Persons (Miscellaneous Amendments) Act 1994
10. Local government (Amendment) Act 1994
11. Health Acts (Amendment) Act 1995
12. Housing (Amendment) Act 1996
13. Children and Young Persons (Miscellaneous Amendments) Act 1996
14. Local government (Darebin City Council) Act 1998
15. Local government (Nillumbik Shire Council) Act 1998

Each of these acts is described in the schedule to the bill.

I commend the bill to the house.

**Debate adjourned on motion of Mr CLARK (Box Hill).**

**Debate adjourned until Wednesday, 5 September.**

### Overview of bill

The purpose of the Fisheries Amendment Bill 2007 is to amend the Fisheries Act 1993 ('the act') to give effect to a key initiative in the government's 2006 recreational fishing and boating policy statement. In particular, the bill will further enhance recreational fishing opportunities and encourage participation in Western Port bay by removing the entitlement from Westernport/Port Phillip Bay fishery access licence-holders to undertake commercial net fishing in Western Port bay and provide for a compensation scheme for affected fishers.

The Fisheries Amendment Bill 2007 also clarifies and improves some matters in the act that have been identified in the preparation of new regulations to replace the Fisheries Regulations 1998, which are due to sunset on 1 April 2008.

### Human rights issues

#### *1. Human rights protected by the charter that are relevant to the bill*

The Fisheries Bill 2007 ('the bill') has been assessed against the Charter of Human Rights and Responsibilities ('the charter'). The right that has been identified as being impacted on by the bill is:

#### *Section 20: property rights*

Section 20 establishes a right for an individual not to be deprived of his or her property other than in accordance with law. This right ensures that the institution of property is recognised and acknowledges that the state of Victoria is a market economy that depends on the institution of private property.

The bill engages this right because it removes the entitlement for Westernport/Port Phillip Bay access licence-holders to net fish in Western Port bay.

The removal of this entitlement will be in accordance with law as set out in the bill. The bill specifically provides that a holder of a Westernport/Port Phillip Bay fishery access licence is not authorised to use fishing nets in Western Port bay on and from 1 December 2007. The removal of this entitlement is clear and applies equally to each licence-holder.

There is an implied limitation on the power to make laws depriving persons of property that the laws must not do so in an arbitrary manner. 'Arbitrary' in this context may mean 'capriciously', 'unpredictably' or 'inconsistently'; in other words, lacking in reason or proper policy justification. In this case, the purpose of prohibiting commercial net fishing in Western Port bay (and thereby removing the entitlement of current licence holders to net fish) is to enhance recreational fishing opportunities and encourage participation in Western Port bay. The bill specifically provides that a holder of a Westernport/Port Phillip Bay fishery access licence is not authorised to use fishing nets in Western Port bay on and from 1 December 2007. The removal of this entitlement is clear and applies equally to each licence-holder. In this sense, the amendments cannot be said to be arbitrary.

Further, given the potential impact on fishing businesses, compensation may be made available to affected fishers, in accordance with criteria developed for that purpose. The criteria will be made available to affected licence holders through the peak industry body.

## FISHERIES AMENDMENT BILL

### *Statement of compatibility*

#### **Mr HELPER (Minister for Agriculture) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:**

In accordance with section 28 of the Charter of Human Rights and Responsibilities, I make this statement of compatibility with respect to the Fisheries Amendment Bill 2007.

In my opinion, the Fisheries Amendment Bill 2007, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

**Conclusion**

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities.

JOE HELPER, MP  
Minister for Agriculture

*Second reading*

**Mr HELPER** (Minister for Agriculture) — I move:

That this bill be now read a second time.

The Fisheries Act 1995 is the principal legislation for management, development and conservation of Victorian fisheries.

Recreational fishing is one of Victoria's most popular recreational pursuits. It is estimated that over 500 000 people recreationally fish every year in the wonderful fresh, estuarine and marine waters of Victoria. It is recognised that recreational fishing is a valuable contributor to Victoria's economic and social wellbeing, particularly in rural Victoria.

The government's vision for developing our recreational fisheries resources can be simply described as 'family-friendly fishing' — encouraging increased participation in fishing by women and children as well as traditional male anglers, young and old, and improving the recreational fishing experience through improved skills and better fishing opportunities.

Our marine and estuarine recreational fisheries provide quality experiences. The Port Phillip Bay snapper fishery is currently booming and is recognised as Australia's best snapper fishery. King George whiting are also abundant, as are calamari, garfish and gummy sharks.

I will now turn to the particulars of the Fisheries Amendment Bill 2007.

The proposed bill will give effect to a key initiative in the government's 2006 recreational fishing and boating policy statement. The bill will further enhance recreational fishing opportunities and encourage participation in Western Port bay following the removal of commercial netting in the bay.

In particular, the bill removes the entitlement from Westernport/Port Phillip Bay fishery access licence-holders to undertake commercial net fishing in Western Port bay and provides for a compensation scheme for affected fishers. Consequential amendments to the Fisheries Regulations 1998 will be introduced to remove the entitlement to use commercial fishing nets in Western Port bay.

The Victorian government has allocated \$5 million to fund an adjustment package to compensate affected commercial fishers. The bill specifically provides that a holder of a Westernport/ Port Phillip Bay fishery access licence may be entitled to compensation. Compensation will only be paid to a licence-holder who has actively fished in Western Port bay in the last seven years.

The compensation scheme features either financial adjustment assistance or voluntary licence buybacks. Financial adjustment assistance will be offered to all licence-holders who have actively fished in Western Port bay over the last seven years. The compensation paid to licence-holders, by way of financial adjustment assistance, will be in the form of an income support payment and will assist the licence-holder to relocate their fishing activity. The amount of financial adjustment assistance offered will be calculated in accordance with developed criteria.

Licence-holders assessed under the developed criteria as being substantially impacted by the closure of Western Port bay can seek, instead of the financial adjustment assistance, assistance to leave the fishery in the form of a voluntary licence buyback package. The amount of compensation that they will be offered, by way of a voluntary buyback package, will again be calculated in accordance with criteria developed for that purpose. It will include consideration of the value of surrendering the fishery licence, a fishing equipment allowance, an income support payment, and reflect the costs of retraining for the licence-holder.

The proposed legislative changes will allow timely implementation of this policy commitment on 1 December 2007.

Key stakeholders, such as Western Port commercial fishers and the commercial fishing peak body, Seafood Industry Victoria, have been consulted on the adjustment package. Other stakeholders, such as the Victorian Recreational Fishing Peak Body, support the commitment as it will further enhance recreational fishing opportunities in Western Port bay.

Other minor amendments proposed in the Fisheries Amendment bill 2007 will clarify and improve some matters in the act that have been identified in the conduct of a review of the Fisheries Regulations 1998, which are due to sunset on 1 April 2008. Amendments include clarification of certain offences that relate to commercial aquaculture; clarification of the power to prescribe levies on the basis of areas specified in aquaculture licences; clarification of the power to make regulations authorising the selling of priority species of fish under an access licence; and expanding the kind of