



New South Wales

Rock Fishing Safety Bill 2016

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to require persons to wear appropriate lifejackets when fishing at certain declared high risk rock fishing locations.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 sets out certain definitions used in the proposed Act.

The clause provides definitions for **fish** and **taking fish** and also provides that **appropriate lifejackets** are lifejackets of a kind prescribed by the regulations.

The clause also provides that **authorised officers** for the proposed Act are fisheries officers under the *Fisheries Management Act 1994*, certain local council officers under the *Local Government Act 1993*, National Parks and Wildlife officers and police officers.

Clause 4 provides that **high risk rock fishing locations** are naturally occurring rock platforms or other rock formations exposed to ocean swell within specified areas declared by the Minister administering the proposed Act, by an order published in the Gazette. The Secretary of the Department of Justice is required to cause the location of declared areas to be published on the www.watersafety.nsw.gov.au website and any other website that the Secretary considers appropriate.

Clause 5 creates an offence that prohibits a person from taking fish by means of a rod and line or handline, or assisting a person to take fish in that manner (for example, by using a handheld net to assist the person to land fish), at a high risk rock fishing location unless the person is wearing an appropriate lifejacket (being a kind of lifejacket prescribed by the regulations under the proposed Act). The provision also creates an offence that prohibits a person permitting a child under the age of 12 years, who is under the person's care or supervision at a high risk rock fishing location, to take fish in that manner unless the child is wearing an appropriate lifejacket. The offences are to carry a maximum penalty of 50 penalty units (currently \$5,500).

Clause 6 provides that an authorised officer may require a person that the authorised officer suspects on reasonable grounds to have committed, or to be committing, an offence against the proposed Act to state the person's name and address. Failure to comply with such a requirement is to be an offence carrying a maximum penalty of 50 penalty units (currently \$5,500).

Clause 7 provides that proceedings for offences under the proposed Act may be dealt with summarily before the Local Court.

Clause 8 provides for the issue of penalty notices for offences under the proposed Act.

Clause 9 provides that court fines and penalty notice amounts for contraventions of the proposed Act are to be paid into the Recreational Fishing (Saltwater) Trust Fund established under the *Fisheries Management Act 1994*.

Clause 10 provides for the making of regulations under the proposed Act.

Schedule 1 Savings, transitional and other provisions

Schedule 1 contains provisions of a savings or transitional nature.

Clause 1 provides for the making of regulations of a savings or transitional nature consequent on the enactment of the proposed Act or any Act that amends the proposed Act.

Clause 2 provides for a moratorium from prosecutions for a period of 12 months after the commencement of the proposed Act or after the declaration of new places as high risk rock fishing locations. The clause provides that a person may not be convicted of an offence against proposed section 5 (or issued with a penalty notice for such an offence) in relation to an activity that occurred within 12 months after the commencement of that proposed section. The clause also provides that the regulations may provide for a similar moratorium in relation to an activity at a place that occurred within 12 months after the declaration of the place as a high risk rock fishing location.

Clause 3 sets out, until the regulations otherwise provide, the kinds of lifejackets that constitute *appropriate lifejackets* for the purpose of the offences in the proposed Act.

Clause 4 provides that, until the regulations otherwise provide, offences under proposed section 5 (Rock fishing without lifejacket at high risk locations) are taken to be penalty notice offences that carry a prescribed penalty of \$100.