

**FISHERIES AND OYSTER FARMS (AMENDMENT) ACT  
1987 No. 67**

**NEW SOUTH WALES**



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Act No. 58, 1935

**SCHEDULE 1—AMENDMENTS TO THE FISHERIES AND OYSTER FARMS ACT  
1935**

---

**FISHERIES AND OYSTER FARMS (AMENDMENT) ACT 1987**  
**No. 67**

NEW SOUTH WALES



**Act No. 67, 1987**

An Act to amend the Fisheries and Oyster Farms Act 1935 to increase a fishing area, to require the keeping of records concerning dealings in fish and to make further provision for the forfeiture of articles used in the commission of offences. [Assented to 3 June 1987]

*Fisheries and Oyster Farms (Amendment) 1987*

---

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

**Short title**

1. This Act may be cited as the "Fisheries and Oyster Farms (Amendment) Act 1987".

**Commencement**

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Schedule 1 (2), and section 3 in its application to that provision, shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

**Amendment of Act No. 58, 1935**

3. The Fisheries and Oyster Farms Act 1935 is amended in the manner set forth in Schedule 1.

---

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE FISHERIES AND OYSTER FARMS ACT  
1935

(1) Section 19 (**Closing against net fishing of Brisbane Water and part of Port Hacking and certain waters**)—

Section 19 (1) (a)—

Omit "Box or Hawk Head", insert instead "Little Box Head".

*Fisheries and Oyster Farms (Amendment) 1987*

---

SCHEDULE 1—*continued*

AMENDMENTS TO THE FISHERIES AND OYSTER FARMS ACT  
1935—*continued*

(2) Section 40DA—

After section 40D, insert:

**Records concerning acquisition, sale and possession of fish**

40DA. (1) A person who sells a quantity of fish (other than oysters or any prescribed fish) which is not less than the prescribed quantity and—

- (a) who fails to make and deliver to the purchaser, on or before the sale, a prescribed record concerning the sale by the person of the fish;
- (b) who fails to retain a copy of the record for not less than 12 months after the fish are sold; or
- (c) who fails, during the 12-month period, to produce the copy of the record when requested to do so by an inspector,

is guilty of an offence.

(2) A person who sells a quantity of fish (other than oysters or any prescribed fish) which is not less than the prescribed quantity and—

- (a) who fails—
  - (i) to make, before the sale; or
  - (ii) to obtain, on or before the sale, from any other person from whom the person acquired the fish, a prescribed record concerning the possession by the person of the fish;
- (b) who fails to retain the record for not less than 12 months after the fish are sold; or
- (c) who fails, during the 12-month period, to produce the record when requested to do so by an inspector,

is guilty of an offence.

*Fisheries and Oyster Farms (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE FISHERIES AND OYSTER FARMS ACT  
1935—*continued*

(3) A person who has possession of a quantity of fish (other than oysters or any prescribed fish) which is not less than the prescribed quantity and who fails to produce a prescribed record concerning the possession by the person of the fish when requested to do so by an inspector is guilty of an offence.

(4) It is a defence to a prosecution for an offence under subsection (3) if the defendant (not being a person who carries on the business of selling or processing fish or fish products) proves that the fish were in the defendant's possession otherwise than for the purpose of sale or storage for reward.

(5) A person who makes an entry in a record, or copy, kept for the purposes of this section knowing that the entry is false or misleading in a material particular is guilty of an offence.

(6) An inspector may, for the purposes of this section, at all reasonable times enter and search any market or any shop or the place of business of any person where fish are publicly exposed for sale, and any cool store, smoke-house, canning factory or other place (not being a dwelling-house) where fish are kept or treated for the purposes of business.

**(3) Section 95 (Conviction etc. to operate as forfeiture)—****(a) Section 95 (1) (a)—**

Omit "or".

**(b) Section 95 (1) (b)—**

Omit "that offence," insert instead "the offence;"

**(c) Section 95 (1) (c)–(e)—**

After section 95 (1) (b), insert:

(c) the payment, under section 91A, of a penalty in respect of the offence;

(d) the making of an order under section 100L of the Justices Act 1902 in respect of the offence; or

*Fisheries and Oyster Farms (Amendment) 1987*

---

SCHEDULE 1—*continued*

AMENDMENTS TO THE FISHERIES AND OYSTER FARMS ACT  
1935—*continued*

- (e) the making of an order under section 556A of the Crimes Act 1900 in respect of the offence,
- (d) Section 95 (2)—  
Omit the subsection.