



# Torres Strait Fisheries Act 1984

No. 23 of 1984

## TABLE OF PROVISIONS

### PART I—PRELIMINARY

Section

1. Short title
2. Commencement
3. Interpretation
4. Protected Zone coastal waters of Queensland
5. Application of Act in certain waters
6. Extra-territorial operation
7. Act not to apply to fishing for private purposes from Australian boats

### PART II—ADMINISTRATION

8. Objectives to be pursued
9. Delegation
10. Registers
11. Investigations
12. Issue of permits for scientific purposes
13. Minister to seek views of traditional inhabitants

### PART III—REGULATION OF FISHING

14. Minister may require information to be furnished
15. Proclamations in relation to fishing
16. Regulation of fishing

TABLE OF PROVISIONS—*continued*

Section

PART IV—LICENCES, ENDORSEMENTS AND ENTRIES

- 17. Licences may be required for taking fish in the course of community fishing
- 18. Licences, endorsements, renewals, transfers and entries
- 19. Commercial fishing licences
- 20. Endorsements of licences
- 21. Entries in licences and endorsements
- 22. Conditions of licences and endorsements
- 23. Term of licences
- 24. Renewal of licences
- 25. Transfer of licences
- 26. Suspension and cancellation of licences
- 27. Fees

PART V—ARRANGEMENTS WITH QUEENSLAND

- 28. Interpretation
- 29. Acting Ministers
- 30. Establishment of Protected Zone Joint Authority
- 31. Arrangements with Queensland
- 32. Procedure for making and termination of arrangements
- 33. Exclusion of this Act in accordance with arrangements
- 34. Functions of Joint Authority under this Act
- 35. Powers of Protected Zone Joint Authority to regulate fishing
- 36. Powers of Protected Zone Joint Authority with respect to licences, & c.
- 37. Application of provisions relating to offences
- 38. Delegation
- 39. Protected Zone Joint Authority to seek views of traditional inhabitants
- 40. Procedure of Protected Zone Joint Authority
- 41. Annual reports

PART VI—ENFORCEMENT

- 42. Powers of officers
- 43. Obstruction of officers, & c.
- 44. Contravention of notices under section 16
- 45. Offences relating to commercial fishing
- 46. Court may make certain orders
- 47. Removing fish from traps, & c.
- 48. Using foreign boat for fishing for private purposes
- 49. Certain boats not to be brought to certain places
- 50. Certain boats not to land fish at certain places
- 51. Having boat equipped with nets, & c.
- 52. Forfeiture
- 53. Liability of master of boat
- 54. Offences against Papua New Guinea law

PART VII—MISCELLANEOUS

- 55. Certain offences to be indictable offences
- 56. Certain prosecutions to require consent of Minister
- 57. Evidence
- 58. Evidence in proceedings for an offence against section 54
- 59. Service of notices
- 60. Regulations

SCHEDULE



# Torres Strait Fisheries Act 1984

No. 23 of 1984

---

## An Act relating to fisheries in certain waters between Australia and the Independent State of Papua New Guinea

[Assented to 26 April 1984]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### PART I—PRELIMINARY

#### Short title

1. This Act may be cited as the *Torres Strait Fisheries Act 1984*.

#### Commencement

2. This Act shall come into operation on a day to be fixed by Proclamation.

#### Interpretation

3. (1) In this Act, unless the contrary intention appears—

“area of Australian jurisdiction” means—

- (a) any area of waters in the Protected Zone (other than an area within the Protected Zone coastal waters of Queensland) to the south of the line described in Annex 8 to the Torres Strait Treaty;

- (b) if there is in force a Proclamation under sub-section 15 (1) or (2) in relation to an area of waters—so much of that area of waters as is not within the Protected Zone coastal waters of Queensland; and
- (c) if there is in force an arrangement under Part V that provides that a particular fishery, being a fishery that is so defined that it is or may be carried on wholly or partly within the Protected Zone coastal waters of Queensland, is to be managed in accordance with the law of the Commonwealth—that part of the Protected Zone coastal waters of Queensland to which the arrangement relates,

but does not, except to the extent necessary for the purposes of giving effect to an arrangement of the kind referred to in paragraph (c), include, in relation to any act or thing done for the purposes of fishing for sedentary organisms, any part of the Protected Zone to the north of the line described in Annex 5 to the Torres Strait Treaty;

“area of Papua New Guinea jurisdiction” means any area of waters in the Protected Zone (other than an area within the Protected Zone coastal waters of Queensland) to the north of the line described in Annex 5 to the Torres Strait Treaty, but does not include, in relation to any act or thing done for the purpose of fishing for fish other than sedentary organisms, any area to the south of the line described in Annex 8 to the Torres Strait Treaty;

“Australian boat” means a boat the operations of which are based on a place in Australia and which is wholly owned by a natural person who is a resident of, or by a company incorporated in, Australia, being a boat that—

- (a) was built in Australia;
- (b) has been lawfully imported into Australia, otherwise than for a limited period; or
- (c) has been sold, or otherwise disposed of, in Australia after having been forfeited or distrained under a law of the Commonwealth or of a State or Territory;

“boat” means any kind of vessel used in navigation by water, however propelled or moved, and includes—

- (a) a barge, lighter or other floating vessel; and
- (b) an air-cushion vehicle, or other similar craft, used wholly or primarily in navigation by water;

“carrying”, in relation to fish, includes preserving for the purpose of carriage or storing for that purpose;

“commercial fishing” means fishing for commercial purposes, but does not include traditional fishing;

“community fishing” means commercial fishing carried on by—

- (a) a person who is, or 2 or more persons each of whom is, both a traditional inhabitant and an Australian citizen (not being a

person who is, in the course of that fishing, under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of another person who is not both an Australian citizen and a traditional inhabitant); or

- (b) a person or persons of the kind referred to in paragraph (a) and another person or other persons employed by—
  - (i) the first-mentioned person or persons; or
  - (ii) the Commonwealth, Queensland, an authority of the Commonwealth or an authority of Queensland,

to provide the first-mentioned person or persons with training or advice in relation to fishing techniques;

“fish” means all the natural resources of the sea and seabed, including all swimming species and all sedentary organisms, but does not include cetaceans or minerals;

“fishing” means the taking of fish, and includes the processing of fish that have been taken or the carrying of fish that have been taken;

“foreign boat” means a boat other than an Australian boat or a Papua New Guinea boat;

“master”, in relation to a boat, means the person in charge or command of the boat;

“master fisherman’s licence” means a licence granted under sub-section 19 (1);

“officer” means—

- (a) a person, or a person included in a class of persons, authorized under sub-section (4) to perform duties under this Act;
- (b) a member of the Defence Force; or
- (c) a member or special member of the Australian Federal Police or a member of the Police Force of Queensland;

“Papua New Guinea boat” means—

- (a) a boat in respect of which a Papua New Guinea licence is in force; or
- (b) a boat that is being used by a traditional inhabitant who is a citizen of Papua New Guinea in the course of traditional fishing;

“Papua New Guinea licence” means a licence in force under the laws of Papua New Guinea in respect of a boat, being a licence granted pursuant to the Torres Strait Treaty that authorizes the use of the boat for commercial fishing in an area of Papua New Guinea jurisdiction (whether or not the licence also authorizes the use of the boat for fishing in any other area);

“Papua New Guinea Minister” means the Minister of the Government of Papua New Guinea for the time being administering the laws of Papua New Guinea relating to fishing in and in the vicinity of the Protected Zone, and includes a delegate of that Minister;

“private purposes” means purposes other than commercial purposes or scientific purposes;

“processing”, in relation to fish, includes the cutting up, dismembering, cleaning, sorting or packing of the fish;

“Protected Zone” means the area the boundaries of which are described in Annex 9 to the Torres Strait Treaty, and includes—

- (a) in relation to any act or thing done for the purposes of commercial fishing—any area adjacent to the first-mentioned area and to the north of the line described in Annex 5 to the Torres Strait Treaty, being an area that is, under the laws of Papua New Guinea, declared to be an area that is outside but near the Protected Zone for the purposes of commercial fishing; and
- (b) in relation to any act or thing done for the purposes of traditional fishing—any area adjacent to the first-mentioned area and to the north of the line described in Annex 5 to the Torres Strait Treaty, being an area that is, under the laws of Papua New Guinea, declared to be an area that is in the vicinity of the Protected Zone for the purposes of traditional fishing;

“Secretary” means the Secretary to the Department;

“sedentary organism” means any species of marine organism that, at the harvestable stage, is—

- (a) immobile on or under the seabed; or
- (b) unable to move except in constant physical contact with the seabed or the subsoil;

“take” includes catch or capture;

“Torres Strait Treaty” means the Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the two countries, including the area known as the Torres Strait, and related matters that was signed at Sydney on 18 December 1978, being the treaty a copy of which, apart from Annexes 2, 4, 6 and 7 to that treaty, is set out in the Schedule;

“traditional fishing” has the same meaning as in the Torres Strait Treaty, but does not include fishing by a method, or with the use of equipment or a boat, of a kind specified in a notice in force under sub-section (2);

“traditional inhabitants” has, subject to sub-section (3), the same meaning as in the Torres Strait Treaty;

“Treaty endorsement” means an endorsement of a Papua New Guinea licence made under sub-section 20 (1).

(2) The Minister may, by notice published in the *Gazette*, declare that the taking by traditional inhabitants of fish by a method, or with the use of equipment or a boat, of a kind specified in the notice is not traditional fishing.

(3) For the purposes of this Act—

- (a) the reference in the definition of “traditional inhabitants” in Article 1 of the Torres Strait Treaty to the adjacent coastal area of Australia shall be read as a reference to any area adjacent to the Protected Zone and to the south of the line described in Annex 5 to the Torres Strait Treaty that is declared by the Minister, by notice published in the *Gazette*, to be part of the adjacent coastal area of Australia; and
- (b) the reference in that definition in that Article to the adjacent coastal area of Papua New Guinea shall be read as a reference to any area adjacent to the Protected Zone and to the north of the line described in Annex 5 to the Torres Strait Treaty that is declared by the Minister, by notice published in the *Gazette*, to be part of the adjacent coastal area of Papua New Guinea.

(4) The Minister may, by writing under his hand—

- (a) authorize a person, or a person included in a specified class of persons, being a person who is—
  - (i) an officer or employee of the Commonwealth or an officer or employee of an authority of the Commonwealth or of a Territory; or
  - (ii) an officer or employee of Queensland or of an authority of Queensland,to perform duties under this Act; or
- (b) authorize a person nominated by the Papua New Guinea Minister to perform duties under this Act.

(5) References in this Act to activities carried on for private purposes or to fishing for private purposes shall be read as not including references to activities carried on in the course of traditional fishing.

(6) References in this Act to the holder of a Treaty endorsement shall be read as references to the holder of the Papua New Guinea licence in respect of which the Treaty endorsement was made.

#### **Protected Zone coastal waters of Queensland**

**4. (1)** For the purposes of this Act, the Protected Zone coastal waters of Queensland are—

- (a) the parts of the territorial sea of Australia that are adjacent to Queensland and are—
  - (i) in the Protected Zone; or
  - (ii) in an area in respect of which a Proclamation is in force under sub-section 15 (1) or (2),other than any part referred to in sub-section (2) of this section; and
- (b) any marine or tidal waters that are on the landward side of any part of the territorial sea of Australia referred to in paragraph (a) but are not within the limits of Queensland.

(2) If at any time the breadth of the territorial sea of Australia is determined or declared to be greater than 3 nautical miles, the Protected Zone coastal waters of Queensland do not include, for the purposes of this Act, any part of the territorial sea of Australia that would not be within the limits of that territorial sea if the breadth of that territorial sea had continued to be 3 nautical miles.

#### **Application of Act in certain waters**

5. (1) Subject to sub-section (2), nothing in this Act affects any activities by way of fishing within the Protected Zone coastal waters of Queensland.

(2) Where there is in force an arrangement under Part V that provides that a particular fishery, being a fishery that is so defined that it is or may be carried on wholly or partly within the Protected Zone coastal waters of Queensland, is to be managed in accordance with the law of the Commonwealth, this Act applies to and in relation to those waters to the extent necessary for the purposes of the management of that fishery.

(3) Where there is in force a Proclamation under sub-section 15 (1) in relation to an area (in this sub-section referred to as the “relevant area”) in relation to a class of activities by way of commercial fishing, this Act does not apply in relation to any activities carried on in the relevant area other than—

- (a) activities included in the class of activities specified in the Proclamation; or
- (b) if there is in force a Proclamation under sub-section 15 (2) in relation to an area, being an area that is the same as, or that is part of or includes part of, the relevant area—activities to which this Act applies by virtue of the last-mentioned Proclamation.

(4) Where there is in force a Proclamation under sub-section 15 (2) in relation to an area (in this sub-section referred to as the “relevant area”), this Act does not apply in relation to any activities carried on in the relevant area other than—

- (a) activities by way of traditional fishing; or
- (b) if there is in force a Proclamation under sub-section 15 (1) in relation to an area, being an area that is the same as, or that is part of or includes part of, the relevant area—activities to which this Act applies by virtue of the last-mentioned Proclamation.

#### **Extra-territorial operation**

6. This Act has extra-territorial operation according to its tenor.

#### **Act not to apply to fishing for private purposes from Australian boats**

7. Nothing in this Act applies in relation to activities carried on for private purposes with the use of an Australian boat.



## **PART II—ADMINISTRATION**

### **Objectives to be pursued**

**8.** In the administration of this Act, regard shall be had to the rights and obligations conferred on Australia by the Torres Strait Treaty and in particular to the traditional way of life and livelihood of traditional inhabitants, including their rights in relation to traditional fishing.

### **Delegation**

**9. (1)** Subject to this section, the Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person any of his powers or functions under this Act, other than this power of delegation or his powers under sub-section 3 (3) or section 14, 16 or 17.

**(2)** A power or function delegated under sub-section (1), when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister.

**(3)** A delegation under sub-section (1) may be expressed as a delegation to the person from time to time holding, or performing the duties of, a specified office in the Department or a specified office in the service of, in the service of an authority of, or under the law of, Queensland.

**(4)** A delegation under sub-section (1) does not prevent the exercise of a power or the performance of a function by the Minister.

**(5)** A delegate is, in the exercise of a power or performance of a function delegated to him, subject to the directions of the Minister.

**(6)** The Minister shall not delegate to a person other than the Secretary—

**(a)** any of his powers or functions relating to the suspension of licences granted under this Act;

**(b)** any of his powers or functions relating to the revocation or suspension of entries made in licences granted under this Act or in Treaty endorsements; or

**(c)** any of his powers or functions under sub-section 12 (4), 19 (4), 20 (3) or (4), 26 (4), 52 (3) or 56 (2).

**(7)** The Minister shall not delegate to a person other than a person holding, or performing the duties of, an office in the Department—

**(a)** any of his powers or functions relating to—

**(i)** the grant of a licence under this Act; or

**(ii)** the transfer or renewal of, or the making of an entry in, a licence granted under this Act,

in respect of a foreign boat or a person who is neither an Australian citizen nor a citizen of Papua New Guinea;

**(b)** his power to grant a Treaty endorsement or to make an entry in a Treaty endorsement;

- (c) his power to grant a licence under sub-section 19 (3) or to transfer, renew or make an entry in a licence so granted;
- (d) his power to vary an entry made in a licence granted under this Act in respect of a foreign boat or in a Treaty endorsement;
- (e) his power to authorize persons to perform duties under this Act in pursuance of sub-section 3 (4); or
- (f) his power to grant a permit under sub-section 12 (1).

### **Registers**

**10.** The Minister shall cause to be kept registers showing particulars of licences and Treaty endorsements in force from time to time under this Act at such place or places as the Minister thinks fit.

### **Investigations**

**11. (1)** The Minister may cause operations to be carried out—

- (a) for ascertaining whether fishing in an area of Australian jurisdiction can be engaged in on a commercial basis; or
- (b) for the development of any class of activities by way of fishing in areas of Australian jurisdiction.

**(2)** The Minister may cause investigations to be made—

- (a) into economic matters relating to any class of activities by way of fishing in an area of Australian jurisdiction; or
- (b) into the stocks of fish in an area of Australian jurisdiction.

### **Issue of permits for scientific purposes**

**12. (1)** The Minister may, in his discretion, grant a permit to a person authorizing that person to engage, for scientific purposes, in such activities by way of fishing in an area of Australian jurisdiction as are specified in the permit.

**(2)** The holder of a permit in force under sub-section (1) or a person acting on behalf of the holder of such a permit is not guilty of an offence against this Act by reason of anything done by him that is authorized by the permit to be done by the holder of the permit.

**(3)** A permit granted under sub-section (1) is subject to such conditions as are specified in the permit.

**(4)** The Minister may, in his discretion, by notice in writing given to the holder of a permit in force under this section—

- (a) revoke the permit; or
- (b) vary or revoke the conditions to which the permit is subject or specify further conditions to which the permit is to be subject.

### **Minister to seek views of traditional inhabitants**

**13.** The Minister shall, when he considers it appropriate to do so, seek the views of the members of the Joint Advisory Council established under Article 19 of the Torres Strait Treaty who are traditional inhabitants and Australian

citizens on any matter relating to the administration of this Act that may affect the interests of traditional inhabitants who are Australian citizens.

### **PART III—REGULATION OF FISHING**

#### **Minister may require information to be furnished**

**14. (1)** The Minister may, by notice published in the *Gazette*, require the master of any boat that is being used to take fish included in a class of fish specified in the notice in the course of commercial fishing (other than community fishing), in any area of Australian jurisdiction or in an area of Australian jurisdiction specified in the notice, to furnish to the Minister, at such times as are and in such manner as is specified in the notice, information relating to the taking, in the course of that fishing, of fish of that kind with the use of the boat.

**(2)** The Minister may, by notice published in the *Gazette*, require the master of—

- (a) any Australian boat; or
- (b) any foreign boat in respect of which a licence is in force under section 19,

that is being used to take fish included in a class of fish specified in the notice in the course of commercial fishing (other than community fishing), in any area of Papua New Guinea jurisdiction or in an area of Papua New Guinea jurisdiction specified in the notice, to furnish to the Minister, at such times as are and in such manner as is specified in the notice, information relating to the taking, in the course of that fishing, of fish of that kind with the use of the boat.

**(3)** The Minister may, by notice published in the *Gazette*, require a person who delivers to a relevant person fish included in a class of fish specified in the notice that have been taken by the first-mentioned person—

- (a) in the course of community fishing;
- (b) during any period during which the notice is in force; and
- (c) from—
  - (i) if an area of Australian jurisdiction is specified in the notice—that area of Australian jurisdiction; and
  - (ii) in any other case—any area of Australian jurisdiction,

to furnish to the relevant person, in such manner as is specified in the notice, information relating to the taking of the fish so delivered.

**(4)** The Minister may, by notice published in the *Gazette*, require a person who delivers to a relevant person fish included in a class of fish specified in the notice that have been taken by the first-mentioned person—

- (a) in the course of community fishing;
- (b) during any period during which the notice is in force; and
- (c) from—
  - (i) if an area of Papua New Guinea jurisdiction is specified in the notice—that area of Papua New Guinea jurisdiction; and

(ii) in any other case—any area of Papua New Guinea jurisdiction, to furnish to the relevant person, in such manner as is specified in the notice, information relating to the taking of the fish so delivered.

(5) In sub-sections (3) and (4), “relevant person” means—

- (a) the master of, or a person on board, a boat in respect of which a licence is in force under sub-section 19 (3); or
- (b) the operator of a fish processing facility that is in Australia.

(6) Where there is in force a notice under sub-section (1) in relation to any fish, the Minister may, by notice published in the *Gazette*, prohibit the taking, in the course of commercial fishing (other than community fishing), from the area in relation to which the first-mentioned notice has effect, of fish of that kind with the use of a boat of any one or more of the following kinds, namely, an Australian boat, a Papua New Guinea boat or a foreign boat.

(7) Where there is in force a notice under sub-section (2) in relation to any fish, the Minister may, by notice published in the *Gazette*, prohibit the taking, in the course of commercial fishing (other than community fishing), from the area in relation to which the first-mentioned notice has effect, of fish of that kind with the use of an Australian boat or with the use of a foreign boat in respect of which a licence is in force under section 19.

(8) Where there is in force a notice under sub-section (3) or (4) in relation to any fish, the Minister may, by notice published in the *Gazette*, prohibit the taking, in the course of community fishing, from the area in relation to which the first-mentioned notice has effect, of fish of that kind.

(9) A notice under sub-section (1), (2), (3) or (4) comes into force on the day specified for the purpose in the notice, being a day not earlier than one month after the publication of the notice in the *Gazette*.

(10) A notice under sub-section (6), (7) or (8) comes into force on the day specified for the purpose in the notice, being a day not earlier than 7 days after the publication of the notice in the *Gazette*, and continues to be in force until the notice is revoked or until the next anniversary of the day on which the notice under sub-section (1), (2), (3) or (4) to which the first-mentioned notice relates came into force, whichever first occurs.

(11) The Minister shall cause the contents of a notice under this section to be published (otherwise than by publication of the notice in the *Gazette*) or broadcast in such manner as is prescribed.

(12) A person who refuses or fails to provide information required by a notice under sub-section (1), (2), (3) or (4) to be provided by that person in the manner that the information is required by the notice to be provided is guilty of an offence punishable, on conviction, by a fine not exceeding \$1,000.

(13) A person who, in purported compliance with a notice under sub-section (1), (2), (3) or (4), provides information that is, to his knowledge, false or misleading in a material particular, is guilty of an offence punishable, on conviction, by a fine not exceeding \$5,000 or imprisonment for 2 years, or both.

(14) A person who takes fish in contravention of a notice in force under sub-section (6), (7) or (8) is guilty of an offence punishable, on conviction, by a fine not exceeding \$5,000.

(15) Where a person furnishes information to another person pursuant to a notice under sub-section (3) or (4), that other person shall furnish that information to the Minister before the expiration of 5 days after the information is furnished to him.

Penalty: \$1,000.

(16) For the purposes of section 5 of the *Evidence Act* 1905, a notice under this section shall be deemed to be an order within the meaning of that Act.

### **Proclamations in relation to fishing**

15. (1) The Governor-General may, by Proclamation, declare an area of waters specified in the Proclamation that is adjacent to the Protected Zone and to the south of the line described in Annex 5 to the Torres Strait Treaty to be an area outside but near the Protected Zone for the purposes of the performance, in the course of commercial fishing, of any activity that is included in a class of activities by way of commercial fishing specified in the Proclamation.

(2) The Governor-General may, if he is satisfied that traditional inhabitants who are citizens of Papua New Guinea had, before the entry into force of the Torres Strait Treaty, customarily engaged in traditional fishing in an area of waters adjacent to the Protected Zone and to the south of the line described in Annex 5 to the Torres Strait Treaty, by Proclamation, declare that area to be an area in the vicinity of the Protected Zone for the purposes of this Act.

(3) The Governor-General shall not make a Proclamation under sub-section (1) or (2) in relation to an area that is wholly or partly within the coastal waters of Queensland unless the Governor-General is satisfied that the Minister and the Queensland Minister have agreed that the Proclamation be made in relation to that area.

(4) In sub-section (3)—

“coastal waters of Queensland” means—

- (a) the parts of the territorial sea of Australia that are adjacent to Queensland, other than any part referred to in sub-section 4 (2); and
- (b) any marine or tidal waters that are on the landward side of any part of the territorial sea of Australia referred to in paragraph (a) but are not within the limits of Queensland;

“Queensland Minister” has the same meaning as in Part V.

## **Regulation of fishing**

**16. (1)** Subject to this section, the Minister may, by notice published in the *Gazette*—

- (a) prohibit the taking, processing or carrying of fish, or fish included in a class of fish specified in the notice;
- (b) prohibit the taking, processing or carrying of fish included in a class of fish specified in the notice that—
  - (i) are less than a size or weight specified in the notice;
  - (ii) have a dimension less than a dimension specified in the notice;
  - (iii) have a part with a dimension or weight less than a dimension or weight specified in the notice in relation to that part;
  - (iv) are greater than a size or weight specified in the notice;
  - (v) have a dimension greater than a dimension specified in the notice; or
  - (vi) have a part with a dimension or weight greater than a dimension or weight specified in the notice in relation to that part;
- (c) prohibit the taking, processing or carrying of fish, or fish included in a class of fish specified in the notice, by a method, or with the use of equipment or a boat, of a kind specified in the notice;
- (d) prohibit the taking, processing, carrying or storage, in the course of community fishing, of fish, or fish included in a class of fish specified in the notice, with the use of equipment, a boat or land facilities owned by, or under the control of, persons other than persons who are included in a class of persons specified in the notice;
- (e) prohibit the taking, processing or carrying, in the course of commercial fishing, of fish, or fish included in a class of fish specified in the notice, with the use of an Australian boat, a Papua New Guinea boat or foreign boat;
- (f) prohibit a person from using or having in his possession or under his control, on a boat, a quantity of equipment, in the course of commercial fishing, of a specified kind that is in excess of a quantity specified in, or ascertainable as provided by, the notice;
- (g) prohibit a person from using, or having in his possession or under his control on a boat, in the course of commercial fishing, equipment of a kind specified in a notice in force under paragraph (f) unless that equipment is registered, or there is a licence in force in respect of that equipment, under the law of Queensland or of Papua New Guinea;
- (h) prohibit the taking of eggs of reptiles included in a class of reptiles specified in the notice;
- (j) prohibit the carrying away, from an area specified in the notice, of sedentary organisms included in a class of sedentary organisms specified in the notice unless those organisms are dead;
- (k) prohibit the master of a boat that is included in a class of boats specified in the notice from having on board the boat a number of

*Torres Strait Fisheries No. 23, 1984*

persons greater than a number specified in, or ascertainable as provided by, the notice for the purpose of engaging in specified activities by way of commercial fishing;

- (m) prohibit the taking of fish, or fish included in a class of fish specified in the notice, otherwise than in the course of community fishing or traditional fishing;
  - (n) where there is a notice in force under paragraph (m) in relation to fish of a certain kind, prohibit the processing of fish of that kind in an area of Australian jurisdiction or in an area declared under sub-section 3 (3) to be part of the adjacent coastal area of Australia otherwise than in the course of community fishing or traditional fishing; or
  - (o) prohibit a person from having in his possession or under his control on a boat, equipment of a kind specified in the notice for taking, processing or carrying fish unless that equipment is stowed and secured.
- (2) A notice under sub-section (1) (other than a notice under paragraph (1) (d) or (n)) has effect—
- (a) if an area of Australian jurisdiction is specified in the notice as being the area in respect of which the notice is to have effect—in that area; and
  - (b) in any other case—in any area of Australian jurisdiction.
- (3) A notice under paragraph (1) (d) or (n) has effect—
- (a) if an area of Australian jurisdiction is specified in the notice as being the area in respect of which the notice is to have effect—in that area; and
  - (b) if any area of land in Australia is specified in the notice as being an area in respect of which the notice is to have effect—in that area.
- (4) A notice under sub-section (1) comes into force on the day on which the notice is published or on such later day as is specified in the notice.
- (5) A prohibition contained in a notice under sub-section (1) has effect—
- (a) if a period is specified in the notice as being the period during which the prohibition is to have effect—during that period; or
  - (b) in any other case—at all times.
- (6) A notice under sub-section (1) may provide for exemptions from the prohibition contained in the notice.
- (7) A notice under sub-section (1) may provide that the activities prohibited by the notice are activities in respect of which an entry may be made under sub-section 21 (1).
- (8) Where—
- (a) a notice under sub-section (1) provides that the activities prohibited by the notice are activities in respect of which an entry may be made under sub-section 21 (1); and

- (b) an entry is made pursuant to sub-section 21 (1) in a licence granted under sub-section 19 (2) or (3) or in a Treaty endorsement in force in respect of a boat,

the prohibition contained in that notice under sub-section (1) does not apply in relation to the use of the boat during any period during which the entry has effect.

(9) The Minister shall cause the contents of a notice under sub-section (1) to be published (otherwise than by publication of the notice in the *Gazette*) or broadcast in such manner as is prescribed.

(10) For the purposes of section 5 of the *Evidence Act* 1905, a notice under this section shall be deemed to be an order within the meaning of that section of that Act.

#### **PART IV—LICENCES, ENDORSEMENTS AND ENTRIES**

##### **Licences may be required for taking fish in the course of community fishing**

17. (1) The Minister may, by notice published in the *Gazette*, declare that a licence under sub-section 19 (2) is required for the purpose of the taking, in the course of community fishing, of fish, or fish included in a class of fish specified in the notice, with the use of any boat or with the use of a boat included in a class of boats specified in the notice, from any area of Australian jurisdiction or from an area of Australian jurisdiction specified in the notice.

(2) A notice under sub-section (1) comes into force on the day specified for the purpose in the notice, being a day not earlier than one month after the publication of the notice in the *Gazette*.

(3) The Minister shall cause the contents of a notice under sub-section (1) to be published (otherwise than by publication of the notice in the *Gazette*) or broadcast in such manner as is prescribed.

(4) For the purposes of section 5 of the *Evidence Act* 1905 a notice under this section shall be deemed to be an order within the meaning of that section of that Act.

##### **Licences, endorsements, renewals, transfers and entries**

18. (1) An application for a licence under section 19 or for the renewal, transfer or the making of an entry in, such a licence shall be in accordance with the form approved by the Minister from time to time as the appropriate form for the making of the application.

(2) A licence under section 19, a renewal or transfer of such a licence, an entry in such a licence, a Treaty endorsement and an entry in a Treaty endorsement shall be in accordance with a form approved by the Minister from time to time.



### **Commercial fishing licences**

19. (1) The Minister may, in his discretion, upon application being made in accordance with the appropriate form, grant to a person a master fisherman's licence authorizing the person to be in charge of a boat that is being used for commercial fishing (other than community fishing) in areas of Australian jurisdiction.

(2) Subject to sub-section (4), the Minister may, in his discretion, upon application being made in accordance with the appropriate form, grant to a person a licence in respect of a boat authorizing the use of the boat for taking fish in the course of commercial fishing in areas of Australian jurisdiction and for carrying, or for processing and carrying, in areas of Australian jurisdiction, fish that have been taken with the use of the licensed boat.

(3) Subject to sub-section (4), the Minister may, in his discretion, upon application being made in accordance with the appropriate form, grant to a person a licence in respect of a boat authorizing the use of that boat for carrying, or for processing and carrying, in areas of Australian jurisdiction, fish that have been taken with the use of another boat.

(4) The Minister shall not grant a licence under sub-section (2) or (3) in respect of a foreign boat or in respect of a boat in respect of which such a licence should not, in the opinion of the Minister, be granted without consultation with Papua New Guinea in accordance with Article 27 of the Torres Strait Treaty, unless—

- (a) the Minister has notified the Papua New Guinea Minister that a licence is proposed to be granted under that sub-section in respect of that boat; and
- (b) the Papua New Guinea Minister has agreed to the granting of the licence.

### **Endorsements of licences**

20. (1) Where, pursuant to Article 26 of the Torres Strait Treaty, the Papua New Guinea Minister nominates a boat in respect of which a Papua New Guinea licence is in force as being a boat in respect of which an endorsement should be made under this sub-section, the Minister may, in his discretion, endorse the licence so as to authorize the use of the boat for—

- (a) taking fish in the course of commercial fishing in areas of Australian jurisdiction and carrying, or processing and carrying, in areas of Australian jurisdiction, fish that have been taken with the use of the licensed boat; or
- (b) carrying, or processing and carrying, in areas of Australian jurisdiction, fish that have been taken with the use of another boat.

(2) An endorsement of a Papua New Guinea licence made under this section comes into force on the day on which the endorsement is made and remains in force until the endorsement is revoked or until the Papua New Guinea licence ceases to be in force, whichever first occurs.

(3) The Minister may, in his discretion, by notice in writing served on the holder of a licence in respect of which a Treaty endorsement is in force, revoke the endorsement.

(4) The Minister may, in his discretion, upon application being made in accordance with the appropriate form by the holder of a licence in force under section 19 in respect of a boat, nominate, by writing given to the Papua New Guinea Minister, the boat as being a boat in respect of which an endorsement should be made pursuant to Article 26 of the Torres Strait Treaty.

### **Entries in licences and endorsements**

**21. (1)** The Minister may, in his discretion, upon application being made in accordance with the appropriate form, make an entry in a licence granted under sub-section 19 (2) or (3) or in a Treaty endorsement so as to extend the licence or endorsement, as the case may be, to authorize the use of the boat in respect of which the licence or endorsement, as the case may be, is in force for engaging, at any time or during a period specified in the entry, in activities in the course of commercial fishing that are prohibited by a notice in force under sub-section 16 (1) to which sub-section 16 (7) relates, being a notice identified in the entry.

(2) The Minister may, in his discretion, upon application being made in accordance with the appropriate form, make an entry in a licence granted under sub-section 19 (2) or (3) in respect of a foreign boat or in a Treaty endorsement so as to extend the licence or endorsement, as the case may be, to authorize the boat in respect of which the licence or endorsement, as the case may be, is in force—

- (a) to be brought, at any time or at a time specified in the entry, into a place specified in the entry, being a place in Australia that is within the Protected Zone; or
- (b) to be brought, at any time or at a time specified in the entry, into a place in Australia specified in the entry and to authorize the landing at that place of fish carried on board the boat at the time when the boat is brought into that place.

(3) An entry in a licence or in a Treaty endorsement may be made at the time when the licence is granted or the endorsement is made, as the case may be, or at any later time.

(4) An entry made in a licence or in a Treaty endorsement under this section comes into force on the day on which the entry is made and, subject to sub-sections (5) and (6), remains in force until the licence or endorsement, as the case may be, ceases to be in force.

(5) The Minister may, in his discretion, by notice in writing given to the holder of a licence or Treaty endorsement in which an entry has been made under this section, suspend the entry for a period specified in the notice or revoke the entry.

(6) The Minister may, by notice in writing given to the holder of a licence or Treaty endorsement in which an entry has been made under this section, vary the entry.

(7) An entry made in a licence or in a Treaty endorsement under this section ceases to be in force if the holder of the licence or endorsement, as the case may be, by notice in writing given to the Minister, surrenders the entry.

### **Conditions of licences and endorsements**

22. (1) A licence granted under section 19 or a Treaty endorsement is subject to such conditions as are specified in the licence or endorsement, as the case may be.

(2) The Minister may, by notice in writing given to the holder of a licence under section 19 or of a Treaty endorsement, vary or revoke a condition of the licence or endorsement, as the case may be, or specify further conditions to which the licence or endorsement, as the case may be, is to be subject.

(3) A variation or revocation of a condition of a licence or of a Treaty endorsement under sub-section (2) or an imposition of a further condition under that sub-section takes effect on the day on which the notice relating to that condition is given.

### **Term of licences**

23. (1) A licence granted under section 19 (other than a licence that has been renewed under section 24) comes into force on the day specified for the purpose in the licence or, if no day is specified, on the day on which the licence is granted and, subject to sub-section (3) and to section 26, remains in force until the day specified for the purpose in the licence, being a day in the period of 12 months commencing on the day on which the licence comes into force.

(2) Where a licence is renewed under section 24 (whether or not the licence has previously been renewed), the licence remains in force, subject to sub-section (3) and to section 26, until the day specified for the purpose in the renewal, being a day in the period of 12 months commencing on the day on which the licence or the last renewal of the licence, as the case requires, ceased to be in force.

(3) A licence granted under section 19 ceases to be in force if the holder of the licence, by notice in writing given to the Minister, surrenders the licence.

### **Renewal of licences**

24. The Minister may, in his discretion, upon application being made in accordance with the appropriate form by the holder of a licence granted under section 19 not earlier than 2 months or later than one month before the expiration of the period for which the licence was granted or renewed, as the case requires, renew the licence with effect from the expiration of the last-mentioned period.

### **Transfer of licences**

**25.** Subject to any condition of a licence relating to the transfer of the licence, the Minister may, in his discretion, upon application being made in accordance with the appropriate form by the holder of a licence granted under section 19 in respect of a boat and by another person as proposed transferee, transfer the licence in respect of the boat to the other person.

### **Suspension and cancellation of licences**

**26. (1)** The Minister may, in his discretion, by notice in writing given to the holder of a licence granted under section 19, suspend the licence if he has reasonable grounds to believe that—

- (a) there has been a contravention of, or a failure to comply with, a condition to which the licence is subject;
- (b) a person, being the holder of the licence or a person acting on behalf of the holder of the licence, has done an act that the person was prohibited from doing by a notice in force under sub-section 14 (6), (7) or (8) or 16 (1); or
- (c) in an application under this Act relating to the licence, the holder of the licence made a statement or furnished information that was, to his knowledge, false or misleading in a material particular,

not being an act or omission in relation to which he has previously exercised his powers under this sub-section.

**(2)** Where a licence is suspended under sub-section (1), the suspension, unless it is revoked, ceases—

- (a) if proceedings for an offence against this Act in relation to the alleged contravention or failure to comply with the conditions to which the licence was subject, in relation to the act allegedly done in contravention of the notice or the alleged supply of information that was false or misleading, as the case may be, are instituted against the holder of the licence or a person acting on his behalf within one month after the suspension—on completion of the proceedings; or
- (b) in any other case—on the expiration of one month after the suspension.

**(3)** The Minister may, at any time, by notice in writing given to the holder of a licence suspended under sub-section (1), revoke the suspension.

**(4)** The Minister may, in his discretion, by notice in writing given to the holder of a licence under section 19, cancel the licence if—

- (a) in the case of a master fisherman's licence—the holder of the licence is convicted of an offence against this Act, the regulations or any other law of the Commonwealth relating to fishing or against a law of Papua New Guinea or of a State or Territory relating to fishing; and
- (b) in the case of a licence in respect of a boat—

- (i) the holder of the licence is convicted of an offence of a kind referred to in paragraph (a); or

- (ii) during any period during which the holder of the licence held a licence in respect of that boat—another person is convicted of an offence of a kind referred to in paragraph (a) in relation to the use of the boat.

### **Fees**

**27. (1)** Such fees (if any) as are prescribed are payable in respect of the following:

- (a) the grant of a licence under section 19;
- (b) the making of an entry in a licence of that kind;
- (c) the transfer of a licence of that kind;
- (d) the renewal of a licence of that kind.

**(2)** Where—

- (a) a person has, in accordance with sub-section 23 (3), surrendered a licence granted under this Act in respect of a boat; and
- (b) the person had, at the time when he surrendered the licence, notified the Minister that he intended to apply for another licence under this Act in respect of another boat,

the Minister may direct that the fee that would be payable in respect of the grant of that other licence is to be reduced by an amount that, in the opinion of the Minister, is appropriate, and where the Minister gives such a direction, that fee shall be reduced by that amount.

**(3)** Regulations prescribing fees in respect of the grant of licences in respect of boats may prescribe different fees for licences granted in respect of boats included in different classes of boats or for licences granted subject to different conditions.

## **PART V—ARRANGEMENTS WITH QUEENSLAND**

### **Interpretation**

**28. (1)** In this Part, unless the contrary intention appears—

“Commonwealth Minister” means the Minister for the time being administering this Act;

“fishery” means a class of activities by way of fishing, being a class of activities that is identified in an arrangement under this Part as a fishery to which the arrangement applies;

“Protected Zone Joint Authority” means the Authority established by section 30;

“Protected Zone Joint Authority fishery” means a fishery in respect of which there is in force an arrangement under this Part under which the fishery is to be under the management of the Protected Zone Joint Authority;

“Queensland Minister” means—

- (a) in a case to which paragraph (b) does not apply—the Minister of the Crown of Queensland for the time being administering the laws of Queensland relating to marine fishing in the Protected Zone; and
- (b) in a case where there is in force an appointment made for the purposes of this Act by the Governor in Council of Queensland of another Minister of the Crown of Queensland—that other Minister.

(2) References in this Part to waters adjacent to Queensland shall be read as references to—

- (a) the Protected Zone coastal waters of Queensland;
- (b) waters (not being waters to the north of the line described in Annex 8 to the Torres Strait Treaty) within the Protected Zone that are adjacent to the Protected Zone coastal waters of Queensland; and
- (c) waters (other than the Protected Zone coastal waters of Queensland) within an area in respect of which a Proclamation under sub-section 15 (1) or (2) is in force.

(3) Without limiting the matters by reference to which a fishery may be identified in an arrangement under this Part, those matters include all or any of the following:

- (a) a species of fish;
- (b) a description of fish by reference to sex or any other characteristic;
- (c) an area of waters or of seabed;
- (d) a method of fishing;
- (e) a kind or class of vessels;
- (f) a class of persons;
- (g) a purpose for which activities are carried on.

(4) A power or function conferred by this Part on the Governor of Queensland shall be taken to be conferred on the Governor of Queensland acting by and with the advice of the Executive Council of Queensland.

### **Acting Ministers**

**29. (1)** The functions and powers of the Commonwealth Minister under this Part, including his functions and powers as a member of the Protected Zone Joint Authority, may be performed and exercised by another Minister of the Commonwealth acting for and on behalf of the Commonwealth Minister, and references in this Part to the Commonwealth Minister shall be read as including references to a Minister so acting.

(2) The functions and powers of the Queensland Minister under this Part as a member of the Protected Zone Joint Authority may be performed and exercised by a Minister of the Crown of Queensland acting for and on behalf of the Queensland Minister, and references in this Part to the Queensland Minister shall be read as including references to a Minister so acting.

**Establishment of Protected Zone Joint Authority**

**30. (1)** For the purposes of this Act there is established an Authority to be known as the Protected Zone Joint Authority.

**(2)** The Protected Zone Joint Authority consists of the Commonwealth Minister and the Queensland Minister.

**(3)** The Protected Zone Joint Authority has such functions in relation to fisheries in respect of which arrangements are made under section 31 as are conferred on it by this Part and by the law of Queensland.

**(4)** The Commonwealth Minister may, by writing under his hand, appoint a person or persons to be his deputy or deputies.

**(5)** The Minister of the Crown of Queensland for the time being administering the laws of Queensland relating to marine fishing in the Protected Zone may, by writing under his hand, appoint a person or persons to be the deputy or deputies of the Queensland Minister.

**(6)** A deputy of a member of the Protected Zone Joint Authority is entitled, in the absence from a meeting of the Protected Zone Joint Authority of the member and of the other deputy or deputies (if any) of the member, to attend that meeting and, when so attending, shall be deemed to be a member.

**(7)** All courts and persons acting judicially shall take judicial notice of the signature of a person who is or has been a member of the Protected Zone Joint Authority or a deputy of such a member and of the fact that he is, or was at a particular time, such a member or deputy.

**Arrangements with Queensland**

**31. (1)** Subject to this section, the Commonwealth may make an arrangement with Queensland that the Protected Zone Joint Authority is to have the management of a particular fishery in waters adjacent to Queensland.

**(2)** An arrangement under sub-section (1) shall provide either that—

- (a)** the fishery (being a fishery wholly or partly in the Protected Zone coastal waters of Queensland) is to be managed in accordance with the law of the Commonwealth; or
- (b)** the fishery (being a fishery wholly or partly in waters on the seaward side of the Protected Zone coastal waters of Queensland) is to be managed in accordance with the law of Queensland.

**(3)** Subject to this section, the Commonwealth may make an arrangement with Queensland with respect to a particular fishery in waters adjacent to Queensland, not being a fishery to which an arrangement under sub-section (1) applies—

- (a)** that the fishery (being a fishery wholly or partly in the Protected Zone coastal waters of Queensland) is to be managed by the Commonwealth in accordance with the law of the Commonwealth; or

(b) that the fishery (being a fishery wholly or partly in waters on the seaward side of the Protected Zone coastal waters of Queensland) is to be managed by Queensland in accordance with the law of Queensland.

(4) An arrangement made under this section in relation to fishing for sedentary organisms has no effect in waters (other than the Protected Zone coastal waters of Queensland) that are to the north of the line described in Annex 5 of the Torres Strait Treaty.

**Procedure for making and termination of arrangements**

32. (1) An arrangement under this Part shall be made by instrument in writing approved by the Governor-General and the Governor of Queensland.

(2) An arrangement under this Part may be terminated by instrument in writing approved by the Governor-General and the Governor of Queensland.

(3) The Commonwealth Minister shall cause a copy of every instrument approved in accordance with sub-section (1) or (2) to be published in the *Gazette*, and such an instrument takes effect on the date of publication or, if a later date is specified in the instrument, on that later date.

(4) A party to an arrangement under this Part may—

(a) in the case of the Commonwealth—with the approval of the Governor-General; or

(b) in the case of Queensland—with the approval of the Governor of Queensland,

give notice in writing to the other party that the party giving the notice desires the arrangement to terminate upon a date specified in the notice, not being earlier than 6 months after the day on which the notice is given.

(5) Where a party has duly given a notice in accordance with sub-section (4), the Commonwealth Minister shall, not less than 3 months before the date specified in the notice, cause to be published in the *Gazette* a notice stating that, by reason of notice of termination given by that party, the arrangement concerned will cease to have effect on that date and, where the Commonwealth Minister has caused a notice to be so published, the arrangement ceases to have effect on that date.

(6) An arrangement under this Part may provide that, for the purposes of the application of sub-section (4) in respect of the arrangement, a longer or shorter period is to be substituted for the period of 6 months referred to in that sub-section and may further provide that, for the purposes of the application of sub-section (5) in respect of the arrangement, a longer or shorter period is to be substituted for the period of 3 months referred to in that sub-section.

(7) After an arrangement under this Part has been made but before the arrangement takes effect, licences, entries, permits or other instruments may be granted or executed, and notices may be published, for the purposes of the operation of this Act as affected by the arrangement, as if the arrangement had taken effect, but such an instrument or notice does not have effect before the arrangement takes effect.



(8) Upon the termination of an arrangement under this Part, licences, entries, permits, notices and other instruments granted, executed or published for the purposes of the operation of this Act as affected by the arrangement cease to have effect.

(9) After action for the purpose of the termination of an arrangement under this Part has been taken, but before the termination takes effect, licences, entries, permits or other instruments may be granted or executed, and notices may be published, for the purposes of the operation of this Act as affected by the termination of the arrangement, as if the arrangement had been terminated, but such an instrument or notice does not have effect before the termination of the arrangement takes effect.

### **Exclusion of this Act in accordance with arrangement**

33. (1) Where there is in force an arrangement under this Part that provides that a particular fishery is to be managed in accordance with the law of Queensland, the provisions of this Act (other than this Part) do not apply to or in relation to that fishery except—

- (a) in the case of a fishery that is to be managed by the Protected Zone Joint Authority—in relation to foreign boats in relevant waters, operations on and from foreign boats in relevant waters and matters that occurred before the arrangement took effect; and
- (b) in the case of a fishery that is to be managed by Queensland—in relation to boats (other than Australian boats) in relevant waters, operations on and from boats of that kind in relevant waters and matters that occurred before the arrangement took effect.

(2) In sub-section (1), “relevant waters” means waters in the Protected Zone or in an area in respect of which a Proclamation is in force under sub-section 15 (1) or (2) that are beyond the outer limits of the Protected Zone coastal waters of Queensland.

### **Functions of Joint Authority under this Act**

34. Where there is in force an arrangement under this Part under which the Protected Zone Joint Authority has the management of a fishery and the fishery is to be managed in accordance with the law of the Commonwealth, the Protected Zone Joint Authority has the functions of—

- (a) keeping constantly under consideration the condition of the fishery;
- (b) formulating policies and plans for the good management of the fishery; and
- (c) for the purposes of the management of the fishery—
  - (i) exercising the powers conferred on it by this Part; and
  - (ii) co-operating and consulting with other authorities (including Joint Authorities established under the *Fisheries Act* 1952) in matters of common concern.

**Powers of Protected Zone Joint Authority**

**35. (1)** In respect of a Protected Zone Joint Authority fishery—

- (a) the powers of the Minister under sections 14, 16 and 17; and
- (b) the powers of the Minister under section 12 in respect of Australian boats or Papua New Guinea boats,

are exercisable under those provisions by the Protected Zone Joint Authority.

**(2)** Where a fishery becomes a Protected Zone Joint Authority fishery—

- (a) notices published by the Minister under sections 14, 16 and 17 cease to apply in relation to that fishery; and
- (b) permits granted by the Minister under section 12 in respect of Australian boats or Papua New Guinea boats have no application in relation to that fishery.

**Powers of Protected Zone Joint Authority with respect to licences, &c.**

**36. (1)** Subject to this section, a licence, Treaty endorsement or entry granted or made under this Act otherwise than by virtue of this section does not authorize the doing of any act or thing in or in relation to a Protected Zone Joint Authority fishery.

**(2)** In relation to a Protected Zone Joint Authority fishery that is to be managed in accordance with the law of the Commonwealth, the powers of the Minister under the provisions of Part IV are exercisable under those provisions by the Protected Zone Joint Authority as if references to the Minister in those provisions were references to the Protected Zone Joint Authority.

**(3)** A licence or Treaty endorsement granted under this Act by the Protected Zone Joint Authority shall contain such conditions or limitations as will ensure that it applies only in relation to a Protected Zone Joint Authority fishery or Protected Zone Joint Authority fisheries.

**(4)** The Protected Zone Joint Authority may make an entry in a licence or Treaty endorsement granted under this Act otherwise than by virtue of this section so as to extend the operation of the licence or endorsement, as the case may be, to matters to which the licensing powers of the Protected Zone Joint Authority under this Act are applicable and, where such an entry is made—

- (a) the entry ceases to have effect if the licence or endorsement, as the case may be, ceases to have effect; and
- (b) the Protected Zone Joint Authority may vary, suspend or revoke the entry as if it were an entry made by the Protected Zone Joint Authority under section 21.

**(5)** Such fee (if any) as is prescribed is payable in respect of the making of an entry in a licence under sub-section (4).

**(6)** This section does not—

- (a) empower the Protected Zone Joint Authority to grant, to make, or to take other action in respect of, a licence or entry in respect of a foreign boat; or

- (b) affect the operation of a licence or entry granted or made by the Minister in respect of a foreign boat or the power of the Minister to grant, or to take other action in respect of, such a licence or entry, as the case may be.

#### **Application of provisions relating to offences**

**37.** For the purposes of the prosecution of a person for an offence against a provision of this Act in respect of anything done in relation to fish to which a Protected Zone Joint Authority fishery relates or otherwise in relation to a Protected Zone Joint Authority fishery—

- (a) any reference in that provision to a licence, to a Treaty endorsement or to an entry made in a licence or in a Treaty endorsement shall be read as a reference to a licence or Treaty endorsement granted, or to an entry made, as the case may be, by the Protected Zone Joint Authority;
- (b) any reference in that provision to a notice shall be read as a reference to a notice made by the Protected Zone Joint Authority; and
- (c) any reference in that provision to fish shall be read as a reference to fish to which the Protected Zone Joint Authority fishery relates.

#### **Delegation**

**38. (1)** Subject to this section, the Protected Zone Joint Authority may, by instrument, either generally or as otherwise provided by the instrument, delegate to a person any of its powers under this Act, other than this power of delegation or the powers that it has by virtue of the operation of sub-section 35 (1).

**(2)** A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Protected Zone Joint Authority.

**(3)** A delegation under this section may be expressed as a delegation to the person from time to time holding, or performing the duties of, a specified office in the Department or a specified office in the service of Queensland or an authority of the State of Queensland or under the law of Queensland.

**(4)** A delegate of the Protected Zone Joint Authority is, in the exercise of his delegated powers, subject to the directions of the Protected Zone Joint Authority.

**(5)** A delegation of a power under this section—

- (a) may be revoked, by instrument, by the Protected Zone Joint Authority (whether or not constituted by the persons constituting the Protected Zone Joint Authority at the time at which the power was delegated); and
- (b) does not prevent the exercise of the power by the Protected Zone Joint Authority.

(6) Section 34A of the *Acts Interpretation Act 1901* applies in relation to a delegation under this section as if the Protected Zone Joint Authority were a person.

(7) A certificate signed by a member of the Protected Zone Joint Authority stating any matter with respect to a delegation of a power under this section by the Protected Zone Joint Authority is *prima facie* evidence of that matter.

(8) A document purporting to be a certificate mentioned in sub-section (7) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

(9) Nothing in this Part is intended to prevent the delegation by the Protected Zone Joint Authority, in accordance with the law of Queensland, of powers conferred on the Protected Zone Joint Authority by the law of Queensland.

#### **Protected Zone Joint Authority to seek views of traditional inhabitants**

39. The Protected Zone Joint Authority shall, where it considers it appropriate to do so, seek the views of members of the Joint Advisory Council established under Article 19 of the Torres Strait Treaty who are traditional inhabitants and Australian citizens on any matter relating to a Protected Zone Joint Authority fishery where that matter may affect the interests of traditional inhabitants who are Australian citizens.

#### **Procedure of Protected Zone Joint Authority**

40. (1) At a meeting of the Protected Zone Joint Authority—

- (a) the Commonwealth Minister shall preside, if he is present;
- (b) if deputies of members only are present, the deputy of the Commonwealth Minister shall preside; and
- (c) if neither paragraph (a) nor paragraph (b) is applicable, the Queensland Minister shall preside.

(2) Meetings of the Protected Zone Joint Authority shall be convened by the Commonwealth Minister, and he shall convene such a meeting if requested to do so by the other member.

(3) The quorum for a meeting of the Protected Zone Joint Authority is 2 members.

(4) If, at a meeting of the Protected Zone Joint Authority, the members are not agreed as to the decision to be made on a matter, the Commonwealth Minister may, subject to sub-section (5), decide that matter and his decision shall have effect as the decision of the Protected Zone Joint Authority.

(5) Where—

- (a) the Commonwealth Minister proposes to decide a matter in accordance with sub-section (4); and

(b) the Queensland Minister requests the Commonwealth Minister to delay the making of the decision to permit consultations to take place in relation to the proposed decision,  
the Commonwealth Minister shall delay the making of the decision for such period as he considers reasonable to permit those consultations to take place.

(6) A member of the Protected Zone Joint Authority may, by written or other communication, submit a matter within the functions of the Protected Zone Joint Authority for consideration by the other member of the Protected Zone Joint Authority and, if the members of the Protected Zone Joint Authority are agreed as to the decision to be made on the matter, the Protected Zone Joint Authority shall be taken to have made a decision accordingly and the Commonwealth Minister shall, upon being satisfied that the members are so agreed, record the decision as a decision of the Protected Zone Joint Authority.

(7) The Protected Zone Joint Authority may establish advisory committees, consisting of such persons as it thinks fit, to provide information and advice to the Protected Zone Joint Authority on scientific, economic and technical matters related to any fishery.

(8) Subject to this section, the Protected Zone Joint Authority may adopt its own rules of procedure.

(9) The Commonwealth Minister shall cause written records to be kept of the decisions of the Protected Zone Joint Authority and such a record, if signed by the Commonwealth Minister, or a deputy of the Commonwealth Minister, who took part in or made the decision, is *prima facie* evidence that the decision, as recorded, was duly made.

(10) In proceedings in any court, an instrument or other document signed on behalf of the Protected Zone Joint Authority by a member of the Protected Zone Joint Authority, shall be deemed to be duly executed by the Protected Zone Joint Authority and, unless the contrary is proved, shall be deemed to be in accordance with a decision of the Protected Zone Joint Authority.

### **Annual reports**

**41. (1)** The Protected Zone Joint Authority shall, as soon as practicable after 30 June in each year, prepare a report on the activities of the Protected Zone Joint Authority in the year ending on that date and on the condition during that year of the fisheries to which the functions of the Protected Zone Joint Authority applied in that year.

(2) The Commonwealth Minister shall cause a copy of every report under sub-section (1) to be laid before each House of the Parliament as soon as practicable after the preparation of the report.

(3) If the day on which this Act comes into operation (in this sub-section referred to as the "relevant day") is a day between any 1 July and the next 1 January, the first report of the Protected Zone Joint Authority shall relate to the period commencing on the relevant day and ending on the 30 June next succeeding the relevant day.

(4) If the day on which this Act comes into operation (in this sub-section referred to as the “relevant day”) is a day between any 31 December and the next 1 July—

- (a) the Protected Zone Joint Authority is not required to make a report on its activities in the period commencing on the relevant day and ending on the next 30 June; and
- (b) the Protected Zone Joint Authority shall, in its report on its activities in the year ending on the 30 June next succeeding the 30 June referred to in paragraph (a), include a report on its activities in the period referred to in paragraph (a).

## **PART VI—ENFORCEMENT**

### **Powers of officers**

**42. (1)** Subject to this section, an officer may—

- (a) board or enter a boat that he has reasonable grounds to believe has been used, is being used or is intended to be used for fishing in an area of Australian jurisdiction and may—
  - (i) search the boat for fish, for equipment that has been used, is being used, is intended to be used or is capable of being used for fishing or for any document relating to the operations of the boat; and
  - (ii) break open any hold, compartment, container or other receptacle on the boat that the officer has reasonable grounds to believe contains any document, equipment or thing that may afford evidence as to the commission of an offence against this Act;
- (b) where he has reasonable grounds to believe that there is on any land or premises any document, equipment or thing that may afford evidence as to the commission of an offence against this Act, with the consent of the owner or occupier of the land or premises or in pursuance of a warrant granted under sub-section (4)—
  - (i) enter the land or premises using such force as is necessary for the purpose;
  - (ii) search the land or premises and break open and search any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in which he has reasonable grounds to believe there is a document, equipment or thing of that kind; and
  - (iii) examine and take possession of, or secure against interference, any document, equipment or thing that he has reasonable grounds to believe may afford evidence as to the commission of an offence against this Act;
- (c) examine any fish, equipment or document found pursuant to powers exercised under paragraph (a);

- (d) seize, detain, remove or secure—
  - (i) any fish that the officer has reasonable grounds to believe have been taken, processed, carried or landed in contravention of this Act;
  - (ii) any boat (other than a Papua New Guinea boat) or equipment that the officer has reasonable grounds to believe has been used, is being used or is intended to be used in contravention of this Act; or
  - (iii) any document or other thing that he has reasonable grounds to believe may afford evidence as to the commission of an offence against this Act;
- (e) detain any Papua New Guinea boat that the officer has reasonable grounds to believe has been used, is being used or is intended to be used in contravention of this Act;
- (f) arrest, without warrant, a person if the officer has reasonable grounds to believe that—
  - (i) the person is committing or has committed an offence against this Act; and
  - (ii) proceedings against the person by summons would not be effective;
- (g) require the master of a boat that the officer has reasonable grounds to believe has been used, is being used or is intended to be used in contravention of this Act to bring the boat to a place in Australia, in an external Territory or to a place at sea specified by the officer (whether or not the boat has previously been brought to another place or other places in accordance with a requirement made by an officer under this paragraph) and to remain in charge of the boat at that place until an officer permits him to depart from that place;
- (h) bring a boat that the officer has reasonable grounds to believe has been used or, is being used in contravention of this Act to a place in Australia or in an external Territory or to a place at sea (whether or not the boat has previously been brought to another place or other places by an officer exercising powers under this paragraph) and may remain in control of the boat pending the taking and determination of proceedings in respect of that contravention;
- (j) require the master of a boat in respect of which a licence under section 19 or a Treaty endorsement is required to be in force under this Act to give information concerning the boat, the crew or any person on board the boat;
- (k) require a person who is on board a boat in respect of which a licence under section 19 or a Treaty endorsement is required to be in force under this Act to state his full name and usual place of residence;
- (m) require the master of a boat to state whether he is the holder of a master fisherman's licence and, if so, to produce the licence and permit the officer to make copies of, or take extracts from, the licence;

*Torres Strait Fisheries No. 23, 1984*

- (n) require the master of a boat in respect of which a licence under section 19 or a Treaty endorsement is required to be in force under this Act to produce the licence or endorsement, as the case may be, and permit the officer to make copies of, or take extracts from, the licence or endorsement, as the case may be;
  - (o) require the master of a boat to cause to be lifted from the sea any equipment that the officer has reason to believe is being used by a person on board the boat in contravention of this Act;
  - (p) require a person on board a boat at sea to state whether he has engaged in fishing on the boat during the current voyage of the boat; and
  - (q) sell any fish seized by him under this Act.
- (2) The powers of an officer under sub-section (1) may be exercised—
- (a) in the case of powers under that sub-section other than the power referred to in paragraph (1) (g)—in Australia, in an external Territory, in an area of Australian jurisdiction or in an area of waters in relation to which the *Fisheries Act 1952* applies; and
  - (b) in the case of the power referred to in paragraph (1) (g)—in a place referred to in paragraph (a) of this sub-section, in an area of Papua New Guinea jurisdiction, in Papua New Guinea or in the territorial sea of Papua New Guinea.
- (3) Where an officer has reasonable grounds to believe that there is on any land or in any premises any document, equipment or thing that may afford evidence as to the commission of an offence against this Act, the officer may make application to a Justice of the Peace for a warrant authorizing the officer to enter the land or premises for the purpose of ascertaining whether there is on that land or in those premises any such document, equipment or thing.
- (4) If, on an application by an officer under sub-section (3), the Justice of the Peace is satisfied, by information on oath or affirmation, that there are reasonable grounds for suspecting that there is, on the land or in the premises to which the application relates, any document, equipment or thing that may afford evidence as to the commission of an offence against this Act, the Justice of the Peace may issue a warrant authorizing the officer, together with any other person named in the warrant, to enter that land or those premises, during such hours of the day or night as the warrant specifies or, if the warrant so specifies, at any time, and to exercise any of his powers under paragraph (1) (b).
- (5) A warrant issued under sub-section (4) shall specify a day, being a day not later than 7 days after the day on which the warrant is issued, as being the day on which the warrant ceases to have effect, and the warrant shall cease to have effect on the day so specified.
- (6) A reference in this section to a document shall be read as including a reference to—
- (a) a disc, tape, paper, film or other device from which sounds or images are capable of being reproduced; and



- (b) any other record of information.

**Obstruction of officers, &c.**

**43. (1) A person—**

- (a) shall facilitate by all reasonable means the boarding of a boat by an officer in the exercise of his powers under section 42;
- (b) shall not refuse to allow a search to be made that is authorized by or under this Act;
- (c) shall not refuse or neglect to comply with a requirement made by an officer under section 42;
- (d) shall not, when lawfully required to state his name and place of residence to an officer, state a false name or false place of residence to the officer;
- (e) shall not use abusive or threatening language to an officer;
- (f) shall not assault, resist or obstruct an officer in the exercise of the officer's powers under this Act; and
- (g) shall not impersonate an officer.

Penalty: \$1,000 or imprisonment for 6 months.

**(2) A person who—**

- (a) when lawfully required by an officer to give information, gives information to the officer that is, to the knowledge of the person, false or misleading in a material particular; or
- (b) in an application under this Act, makes a statement or furnishes information that is, to his knowledge, false or misleading in a material particular,

is guilty of an offence punishable, on conviction, by a fine not exceeding \$5,000 or imprisonment for 2 years, or both.

**Contravention of notices under section 16**

**44. (1) A person shall not—**

- (a) do an act in an area of Australian jurisdiction that the person is prohibited from doing by a notice in force under section 16;
- (b) have in his possession, or under his control, fish of a kind the taking of which is prohibited by a notice in force under section 16; or
- (c) use a boat to search for fish in an area of Australian jurisdiction for the purpose of engaging in commercial fishing, being fish the taking of which from that area is prohibited by a notice in force under section 16.

**(2) A person who contravenes sub-section (1) in circumstances in which he is not guilty of an offence by virtue of sub-section (3) is guilty of an offence punishable, on conviction, by a fine not exceeding \$1,000.**

**(3) A person who contravenes sub-section (1) with the use of a foreign boat is guilty of an offence punishable—**

- (a) where the person was, at the time when the offence was committed, the master of the boat—

- (i) on summary conviction—by a fine not exceeding \$5,000; and
- (ii) on conviction on indictment—by a fine not exceeding \$50,000; and
- (b) in any other case—
  - (i) on summary conviction—by a fine not exceeding \$2,000; and
  - (ii) on conviction on indictment—by a fine not exceeding \$10,000.
- (4) For the purposes of paragraph (1) (a), an act done by an employee or agent of a person shall be deemed to have also been done by the person.
- (5) It is a defence to a prosecution for an offence against paragraph (1) (b) in relation to a notice under section 16 if the person charged satisfies the court that—
  - (a) the taking of the fish was not in contravention of that notice; or
  - (b) the fish were taken in an area that is not an area of Australian jurisdiction.

#### **Offences relating to commercial fishing**

**45. (1)** A person shall not—

- (a) engage in taking fish in the course of commercial fishing (other than community fishing) on a boat in an area of Australian jurisdiction unless there is in force in respect of the boat a licence under sub-section 19 (2) or a Treaty endorsement;
- (b) being a traditional inhabitant, engage in activities by way of community fishing on a boat in an area of Australian jurisdiction, being activities in respect of which there is in force a declaration under sub-section 17 (1), unless there is in force in respect of the boat a licence under sub-section 19 (2);
- (c) be in charge of a boat (other than a boat in respect of which a Treaty endorsement is in force) that is being used for commercial fishing (other than community fishing) in an area of Australian jurisdiction unless the person is the holder of a master fisherman's licence that is in force;
- (d) being the holder of a licence in force under section 19, in an area of Australian jurisdiction contravene or fail to comply with a condition of the licence;
- (e) being the holder of a licence in force under section 19 in respect of a boat, cause or permit a person acting on his behalf in an area of Australian jurisdiction to contravene or fail to comply with a condition of the licence;
- (f) being a person acting on behalf of the holder of a licence in force under section 19 in respect of a boat, in an area of Australian jurisdiction contravene or fail to comply with a condition of the licence;
- (g) being the holder of a Treaty endorsement in force in respect of a boat, in an area of Australian jurisdiction contravene or fail to comply with a condition of the endorsement;

- (h) being the holder of a Treaty endorsement in force in respect of a boat, in an area of Australian jurisdiction cause or permit a person acting on his behalf to contravene or fail to comply with a condition of the endorsement;
  - (j) being a person acting on behalf of the holder of a Treaty endorsement in force in respect of a boat, in an area of Australian jurisdiction contravene or fail to comply with a condition of the endorsement;
  - (k) use a boat in an area of Australian jurisdiction for processing or carrying, in the course of commercial fishing, fish taken with the use of another boat unless there is in force in respect of the first-mentioned boat a licence under sub-section 19 (3) or a Treaty endorsement that authorizes that processing or carrying; or
  - (m) in an area of Australian jurisdiction, trans-ship fish to a boat other than—
    - (i) a boat in respect of which there is in force a licence under sub-section 19 (3); or
    - (ii) a boat in respect of which there is in force a Treaty endorsement that authorizes the carrying, or the processing and carrying, of fish taken with the use of another boat.
- (2) A person who contravenes paragraph (1) (a) with the use of a foreign boat is guilty of an offence punishable—
- (a) where the person was, at the time when the offence was committed, the master of the boat—
    - (i) on summary conviction—by a fine not exceeding \$5,000; and
    - (ii) on conviction on indictment—by a fine not exceeding \$250,000; and
  - (b) in any other case—
    - (i) on summary conviction—by a fine not exceeding \$2,000; and
    - (ii) on conviction on indictment—by a fine not exceeding \$10,000.
- (3) A person who contravenes paragraph (1) (c), (d), (e) or (f) with the use of, or in relation to, a foreign boat or who contravenes paragraph (1) (k) or (m) with the use of a foreign boat is guilty of an offence punishable—
- (a) where the person was, at the time when the offence was committed, the master of the boat—
    - (i) on summary conviction—by a fine not exceeding \$5,000; and
    - (ii) on conviction on indictment—by a fine not exceeding \$50,000; and
  - (b) in any other case—
    - (i) on summary conviction—by a fine not exceeding \$2,000; and
    - (ii) on conviction on indictment—by a fine not exceeding \$10,000.
- (4) A person who contravenes sub-section (1) in circumstances in which he is not guilty of an offence by virtue of sub-section (2) or (3) is guilty of an offence punishable, on conviction, by a fine not exceeding \$1,000.

**Court may make certain orders**

**46. (1)** Where a court convicts a person of an offence—

- (a) against paragraph 45 (1) (d), (e) or (f); or
- (b) against paragraph 44 (1) (a) (not being an offence to which section 56 applies),

the court may, in addition to imposing a penalty in respect of the offence, order that the person shall not, during such period as the court determines, be on a boat in an area of Australian jurisdiction for the purpose of engaging in commercial fishing.

(2) A person who contravenes an order of a court made pursuant to sub-section (1) is guilty of an offence punishable, on conviction, by a fine not exceeding \$2,000 or imprisonment for a period not exceeding 6 months, or both.

**Removing fish from traps, &c.**

**47.** A person shall not, in an area of Australian jurisdiction, remove fish from a net, trap or other equipment for the taking of fish unless he is the owner of the net, trap or other equipment or is acting with the authority of the owner.

Penalty: \$2,000 or imprisonment for a period not exceeding 6 months.

**Using foreign boat for fishing for private purposes**

**48.** A person shall not, in an area of Australian jurisdiction—

- (a) use a foreign boat for taking, catching or capturing, fish for private purposes; or
- (b) use a foreign boat for processing or carrying fish that have been taken, caught or captured for private purposes with the use of that boat or another boat.

Penalty: \$1,000.

**Certain boats not to be brought to certain places**

**49. (1)** The master of a foreign fishing boat, not being a boat that is being used in the course of traditional fishing, who, otherwise than in accordance with an entry made in a licence or in a Treaty endorsement under paragraph 21 (2) (a) or (b), causes the boat to be brought into a place in Australia that is within the Protected Zone, is guilty of an offence punishable—

- (a) on summary conviction—by a fine not exceeding \$5,000; and
- (b) on conviction on indictment—by a fine not exceeding \$10,000.

(2) It is a defence to a prosecution for an offence against sub-section (1) if the person charged satisfies the court that an unforeseen emergency rendered it necessary to bring the boat into that place in order to secure the safety of human life or of the boat.

(3) In sub-section (1), “foreign fishing boat” means a foreign boat or a Papua New Guinea boat that is designed and equipped for—

- (a) catching or capturing fish;

- (b) processing fish;
- (c) carrying fish;
- (d) 2 or more of the purposes mentioned in paragraphs (a), (b) and (c); or
- (e) supporting the operations of a boat that is, or boats that are, designed and equipped for any one or more of the purposes mentioned in paragraphs (a), (b) and (c).

**Certain boats not to land fish at certain places**

**50. (1)** The master of a foreign boat or of a Papua New Guinea boat who, otherwise than in accordance with an entry made in a licence or in a Treaty endorsement under paragraph 21 (2) (b) or in accordance with an endorsement under sub-section 9 (3A) of the *Fisheries Act 1952*, causes to be landed at a place in Australia any fish, not being fish that were taken in the course of traditional fishing and landed at that place for the purpose of the performance of traditional activities, that were brought to the place by the boat is guilty of an offence punishable—

- (a) on summary conviction—by a fine not exceeding \$5,000; and
- (b) on conviction on indictment—by a fine not exceeding \$10,000.

**(2)** It is a defence to a prosecution for an offence against sub-section (1) if the person charged satisfies the court that—

- (a) the fish were imported into Australia and were so imported in accordance with permission in writing granted for the purposes of regulations made under the *Customs Act 1901*;
- (b) by reason of the operation of section 131A of that Act, the fish were not subject to the control of the Customs;
- (c) the fish had previously been landed in another place in Australia, in an external Territory or in a country other than Australia; or
- (d) the fish were landed in pursuance of an order of a court.

**Having boat equipped with nets, &c.**

**51. (1)** A person shall not, in an area of Australian jurisdiction, have in his possession or under his control, an unlicensed boat equipped with nets, traps or other equipment for taking fish.

**(2)** A person who contravenes sub-section (1) with the use of an unlicensed boat that is a foreign boat is guilty of an offence punishable—

- (a) on summary conviction—by a fine not exceeding \$5,000; and
- (b) on conviction on indictment—by a fine not exceeding \$250,000.

**(3)** A person who contravenes sub-section (1) with the use of an unlicensed boat that is an Australian boat or a Papua New Guinea boat is guilty of an offence punishable, on conviction, by a fine not exceeding \$1,000.

**(4)** It is a defence to a prosecution for an offence against sub-section (1) if the person charged satisfies the court that, at the time of the alleged offence—

- (a) the nets, traps or other equipment for taking fish were stowed and secured; and

- (b) the boat was travelling through an area of Australian jurisdiction from a point outside an area of Australian jurisdiction to another point outside an area of Australian jurisdiction by the shortest practicable route.
- (5) In this section, “unlicensed boat” means a boat—
  - (a) that is being used otherwise than in the course of traditional fishing or community fishing; and
  - (b) in respect of which there is not in force a licence under section 19 or a Treaty endorsement.

### **Forfeiture**

**52. (1)** Subject to sub-section (2), where a court convicts a person of an offence against sub-section 14 (14) or against section 44, 45, 48, 49, 50 or 51, the court may, in addition to imposing a penalty in respect of the offence, order the forfeiture of—

- (a) if a boat was used in the commission of the offence—that boat;
- (b) a net, trap or equipment that was on board that boat at the time of the commission of the offence, or that was used in the commission of the offence;
- (c) fish on board that boat at that time, or in relation to which the offence was committed; or
- (d) the proceeds of the sale of fish of the kind referred to in paragraph (c).

**(2)** Where a court convicts a person of an offence referred to in sub-section (1), the court shall not order the forfeiture of—

- (a) a boat in respect of which a licence under section 19 or a Treaty endorsement was, at the time of the commission of the offence, in force; or
- (b) a boat that was, at the time of the commission of the offence, being used in the course of traditional fishing or community fishing.

**(3)** Any boat or other property ordered by a court to be forfeited under sub-section (1) becomes the property of the Commonwealth and shall be dealt with or disposed of in accordance with the directions of the Minister.

### **Liability of master of boat**

**53. (1)** The master of a boat on which, or by the use of which, an offence against this Act (in this section referred to as the “primary offence”) is committed is guilty of an offence against this section and is punishable, on conviction, as if it were the primary offence.

**(2)** A person may be convicted of an offence against this section whether or not the identity of the person who committed the primary offence appears, or has appeared, from the evidence in the proceedings in respect of the offence against this section or in any other proceedings, but a person shall not be convicted both of an offence against this section and of the primary offence.

(3) The provisions of section 52 apply where a person is convicted of an offence against this section in like manner as they would apply if that person had been convicted of the primary offence.

#### **Offences against Papua New Guinea law**

**54. (1)** In this section “Papua New Guinea law” means any written law relating to fishing in force in Papua New Guinea and having effect in any part of the Protected Zone.

(2) A person, being—

(a) an Australian citizen;

(b) a person (other than an Australian citizen) on an Australian boat; or

(c) a person on a foreign boat in respect of which a licence is in force under section 19,

who, in an area of Papua New Guinea jurisdiction, contravenes any Papua New Guinea law is guilty of an offence punishable, on conviction, by a fine not exceeding \$1,000.

(3) It is a defence to a prosecution for an offence against sub-section (2) in relation to a contravention of a Papua New Guinea law if the person charged satisfies the court that he has, in Papua New Guinea, been prosecuted for an offence against Papua New Guinea law in relation to that contravention.

(4) In determining whether or not a person is guilty of an offence against sub-section (2), the court shall have regard to so much of the laws of Papua New Guinea, whether written or unwritten, as, in the opinion of the court, is necessary to give effect to Article 28 of the Torres Strait Treaty.

### **PART VII—MISCELLANEOUS**

#### **Certain offences to be indictable offences**

**55. (1)** An offence against section 44, 45 or 51 committed with the use of a foreign boat or an offence against section 49 or 50 is an indictable offence.

(2) Notwithstanding that an offence referred to in sub-section (1) is an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

(3) An offence against this Act other than an offence referred to in sub-section (1) is punishable summarily.

#### **Certain prosecutions to require consent of Minister**

**56. (1)** This section applies to an offence against this Act (other than an offence against section 43)—

(a) that is alleged to have been committed with the use of, or in relation to, a boat in respect of which a Papua New Guinea licence is in force;

- (b) that is alleged to have been committed by a person who is licensed under the laws of Papua New Guinea to engage in commercial fishing in areas of Papua New Guinea jurisdiction; or
- (c) that is alleged to have been committed by a person who is a traditional inhabitant and a citizen of Papua New Guinea and that, in the opinion of the Minister, was committed in the course of traditional fishing.

(2) Proceedings for an offence to which this section applies shall not be heard or determined except with the consent in writing of—

- (a) in a case to which paragraph (b) does not apply—the Minister; and
- (b) in the case of an offence relating to a Protected Zone Joint Authority fishery—the Protected Zone Joint Authority.

(3) A person shall not be charged with an offence to which this section applies later than 14 days after the act or omission alleged to constitute the offence occurred.

(4) Notwithstanding that a decision under sub-section (2) has not been made in relation to an offence to which this section applies—

- (a) a person may be arrested for the offence, and a warrant for the arrest of a person for the offence may be issued and executed;
- (b) a person may, subject to sub-section (3), be charged with the offence; and
- (c) a person so charged may be remanded in custody or on bail.

(5) In determining whether or not to consent to the hearing or determination of proceedings for an offence to which this section applies, the Minister or the Protected Zone Joint Authority, as the case requires, shall have regard to the provisions of Article 28 of the Torres Strait Treaty.

(6) In this section, “Protected Zone Joint Authority fishery” has the same meaning as in Part V.

### **Evidence**

57. (1) Where, in proceedings for an offence against this Act or the regulations—

- (a) an officer gives evidence that he suspects that—
  - (i) fish to which the charge relates were taken in a particular part of the Protected Zone or in an area in respect of which a Proclamation is in force under sub-section 15 (1) or (2);
  - (ii) fish to which the charge relates were taken for private purposes; or
  - (iii) fish to which the charge relates were taken in the course of traditional fishing, community fishing or commercial fishing (other than community fishing),

together with evidence of the grounds on which he so suspects; and



- (b) the court considers that, having regard to that evidence, the suspicion is reasonable,

the fish shall, in the absence of evidence to the contrary, be deemed to have been taken in that area, for those purposes or in the course of traditional fishing, community fishing or commercial fishing (other than community fishing), as the case may be.

(2) The Minister or a person authorized in writing by him to give certificates under this section may give a certificate, for the purposes of proceedings for an offence against this Act or the regulations stating—

- (a) that, at a time or during a period specified in the certificate, a boat identified in the certificate was, or was not, an Australian boat, a Papua New Guinea boat or a foreign boat;
- (b) that, at a time or during a period specified in the certificate, a person specified in the certificate was, or was not, the holder of a licence in force under sub-section 19 (1);
- (c) that, at a time or during a period specified in the certificate, there was, or was not, in force in respect of a boat identified in the certificate, a licence under section 19 or a Treaty endorsement;
- (d) that, at a time or during a period specified in the certificate, there was in force in respect of a boat identified in the certificate a licence under section 19 or a Treaty endorsement, being a licence or endorsement, as the case may be, specified in the certificate to be one—
  - (i) that authorized or that did not authorize the use of the boat for activities specified in the certificate in an area specified in the certificate; or
  - (ii) in respect of which an entry under section 21 was or was not in force that authorized or that did not authorize the use of the boat for activities specified in the certificate;
- (e) that, at a time or during a period specified in the certificate, a person specified in the certificate was a person in relation to whom an authorization under sub-section 3 (4) was in force; or
- (f) that, at a time or during a period specified in the certificate, a person specified in the certificate was or was not the holder of a permit under section 12 authorizing the person to engage in activities specified in the certificate.

(3) Without limiting the operation of sub-section (2), the Minister or a person authorized in writing by him to give certificates under this section may give a certificate certifying as to any matter relating to the making of decisions by the Protected Zone Joint Authority established under Part V relating to instruments executed by the Protected Zone Joint Authority.

(4) A person giving a certificate under sub-section (2) in relation to a licence under section 19 or in relation to a Treaty endorsement may, in the certificate, certify that conditions specified in the certificate were the conditions to which the licence or endorsement, as the case may be, was, at a time or during a period specified in the certificate, subject.

(5) In proceedings for an offence against this Act or the regulations, a certificate given under sub-section (2) is *prima facie* evidence of the matters specified in the certificate.

(6) In proceedings for an offence against this Act or the regulations, a document purporting to be a certificate given under this section shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.

#### **Evidence in proceedings for an offence against section 54**

58. (1) In proceedings for an offence against section 54, evidence of any statute, code, regulation, proclamation or other written law of Papua New Guinea may be given by the production of—

- (a) a book or pamphlet purporting to be published by the authority of the government of Papua New Guinea containing the statute, code, regulation, proclamation or other written law, as the case may be; or
- (b) a photographic reproduction of such a book or pamphlet.

(2) In proceedings for an offence against section 54, evidence of the unwritten or common law of Papua New Guinea may be given by the production of a book of reports of cases adjudged in the courts of Papua New Guinea or of a photographic reproduction of such a book of reports of cases purporting, or proved to the satisfaction of the court, to be authorized reports.

(3) In proceedings for an offence against section 54, evidence of—

- (a) a judgment, decree, rule, conviction, acquittal, sentence or other order, process, act or decision of any court of Papua New Guinea; or
- (b) an affidavit, indictment or other legal document filed, deposited or presented in such a court,

may be given by the production of a document purporting to be a copy thereof and purporting—

- (c) to be sealed with the seal of that court; or
- (d) to be signed by a judge of that court with a statement in writing attached by the judge to his signature that that court has no seal.

(4) In proceedings for an offence against section 54, an averment of the prosecutor, contained in the information or complaint, that—

- (a) the conduct alleged to constitute the offence took place in an area of waters specified in the averment;
- (b) at a time or during a period specified in the averment, a person specified in the averment was, or was not, the holder of a licence granted under this Act in respect of a boat, being a licence in respect of which an endorsement granted under the law of Papua New Guinea pursuant to Article 26 of the Torres Strait Treaty was in force; or
- (c) at a time or during a period specified in the averment, conditions specified in the averment were the conditions to which an endorsement of a kind referred to in paragraph (b) was subject under the law of Papua New Guinea,

is *prima facie* evidence of the matter averred.

(5) Subject to sub-section (6), a court may, at any time in proceedings for an offence against section 54, order that facts—

- (a) that are within the knowledge of a person who is a resident of Papua New Guinea; and
- (b) direct oral evidence of which would be admissible in the proceedings, may be proved by affidavit, including an affidavit sworn before a person authorized under the law of Papua New Guinea to administer affidavits.

(6) A court shall not, in proceedings for an offence against section 54, make an order under sub-section (5) if a party to the proceedings desires in good faith that the maker of an affidavit that is proposed to be used in the proceedings be cross-examined with respect to the matters contained in the affidavit.

### **Service of notices**

59. A notice that is required by this Act to be given to a person may be given to the person—

- (a) in the case of a natural person—by delivering it to the person personally, or by leaving it at, or by sending it by post to, the last known address of the place of residence or business of the person; and
- (b) in the case of a body corporate—by leaving it at, or by sending it by post to, the registered office of the body corporate.

### **Regulations**

60. (1) The Governor-General may make regulations, not inconsistent with this Act—

- (a) prescribing matters required or permitted by this Act to be prescribed; or
- (b) prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular—
  - (c) prescribing penalties, not exceeding \$500, for offences against the regulations;
  - (d) prescribing conditions or classes of conditions to which licences or Treaty endorsements may be subject;
  - (e) prescribing signals and rules of navigation to be observed by fishermen in areas of Australian jurisdiction;
  - (f) for providing for the marking of boats licensed under this Act and of nets, traps, containers and other equipment used for taking or storing fish;
  - (g) for regulating the rights of priority as between fishermen or boats in areas of Australian jurisdiction and prescribing the rules of fishing in those areas;
  - (h) prescribing rules to be observed in trans-shipping fish in areas of Australian jurisdiction;

- (j) for facilitating the exercise by officers of their powers under section 42;
- (k) for providing for the reporting of the positions of foreign boats licensed under this Act at times when those boats are in areas of Australian jurisdiction;
- (m) for requiring the master of a boat that is being used for commercial fishing in an area of Australian jurisdiction to permit a person nominated by the Secretary to go on board the boat and for requiring the master to provide accommodation and facilities for that person while the person remains on board the boat;
- (n) for providing for the furnishing of returns containing information in relation to—
  - (i) the taking of fish in areas of Australian jurisdiction and the sale or disposal of those fish;
  - (ii) the processing of fish taken in areas of Australian jurisdiction and the sale or disposal of fish so processed;
  - (iii) the taking of fish with the use of Australian boats in areas of Papua New Guinea jurisdiction and the sale or disposal of those fish; or
  - (iv) the processing of fish taken with the use of Australian boats in areas of Papua New Guinea jurisdiction and the sale or disposal of fish so processed;
- (o) prescribing short methods of reference to areas of Australian jurisdiction specified in the regulations or to classes of activities by way of fishing specified in the regulations and the purposes for which those methods of reference may be used; and
- (p) for providing for the furnishing of information relating to the persons on board a boat licensed under this Act that is in the Protected Zone.

(2) The Minister shall cause to be compiled from the returns furnished under regulations made under sub-section (1) and from any other source, statistics in relation to matters referred to in paragraph (1) (n) and shall publish or make available, in such manner as he thinks fit, so many of those statistics as he thinks fit.

(3) Subject to sub-section (4), information derived from returns furnished under regulations made under paragraph (1) (n) is not to be used for purposes other than statistical purposes.

(4) A person is not excused from furnishing a return required by regulations made under this section, or including information in such a return, on the ground that the return or information might tend to incriminate him, but his return is not admissible in evidence against him in any proceedings, other than proceedings in respect of false information contained in the return or in respect of a refusal or failure to include information in the return.

**SCHEDULE**

Section 3

**TREATY BETWEEN AUSTRALIA AND THE INDEPENDENT STATE OF PAPUA  
NEW GUINEA CONCERNING SOVEREIGNTY AND MARITIME BOUNDARIES IN  
THE AREA BETWEEN THE TWO COUNTRIES, INCLUDING THE AREA KNOWN  
AS TORRES STRAIT, AND RELATED MATTERS**

AUSTRALIA and PAPUA NEW GUINEA,

DESIRING to set down their agreed position as to their respective sovereignty over certain islands, to establish maritime boundaries and to provide for certain other related matters, in the area between the two countries including the area known as Torres Strait;

RECOGNISING the importance of protecting the traditional way of life and livelihood of Australians who are Torres Strait Islanders and of Papua New Guineans who live in the coastal area of Papua New Guinea in and adjacent to the Torres Strait;

RECOGNISING ALSO the importance of protecting the marine environment and ensuring freedom of navigation and overflight for each other's vessels and aircraft in the Torres Strait area;

DESIRING ALSO to cooperate with one another in that area in the conservation, management and sharing of fisheries resources and in regulating the exploration and exploitation of seabed mineral resources;

AS good neighbours and in a spirit of cooperation, friendship and goodwill;

HAVE AGREED as follows:

PART 1

DEFINITIONS

ARTICLE 1

Definitions

1. In this Treaty—

- (a) "adjacent coastal area" means, in relation to Australia, the coastal area of the Australian mainland, and the Australian islands, near the Protected Zone; and, in relation to Papua New Guinea, the coastal area of the Papua New Guinea mainland, and the Papua New Guinea islands, near the Protected Zone;
- (b) "fisheries jurisdiction" means sovereign rights for the purpose of exploring and exploiting, conserving and managing fisheries resources other than sedentary species;
- (c) "fisheries resources" means all living natural resources of the sea and seabed, including all swimming and sedentary species;
- (d) "free movement" means movement by the traditional inhabitants for or in the course of traditional activities;
- (e) "indigenous fauna and flora" includes migratory fauna;
- (f) "mile" means an international nautical mile being 1,852 metres in length;
- (g) "Protected Zone" means the zone established under Article 10;
- (h) "Protected Zone commercial fisheries" means the fisheries resources of present or potential commercial significance within the Protected Zone and, where a stock of such resources belongs substantially to the Protected Zone but extends into an area outside but near it, the part of that stock found in that area within such limits as are agreed from time to time by the responsible authorities of the Parties;
- (i) "seabed jurisdiction" means sovereign rights over the continental shelf in accordance with international law, and includes jurisdiction over low-tide elevations, and the right to exercise such jurisdiction in respect of those elevations, in accordance with international law;
- (j) "sedentary species" means living organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil;

SCHEDULE—continued

- (k) "traditional activities" means activities performed by the traditional inhabitants in accordance with local tradition, and includes, when so performed—
- (i) activities on land, including gardening, collection of food and hunting;
  - (ii) activities on water, including traditional fishing;
  - (iii) religious and secular ceremonies or gatherings for social purposes, for example, marriage celebrations and settlement of disputes; and
  - (iv) barter and market trade.

In the application of this definition, except in relation to activities of a commercial nature, "traditional" shall be interpreted liberally and in the light of prevailing custom;

- (l) "traditional fishing" means the taking, by traditional inhabitants for their own or their dependants' consumption or for use in the course of other traditional activities, of the living natural resources of the sea, seabed, estuaries and coastal tidal areas, including dugong and turtle;
- (m) "traditional inhabitants" means, in relation to Australia, persons who—
- (i) are Torres Strait Islanders who live in the Protected Zone or the adjacent coastal area of Australia,
  - (ii) are citizens of Australia, and
  - (iii) maintain traditional customary associations with areas or features in or in the vicinity of the Protected Zone in relation to their subsistence or livelihood or social, cultural or religious activities; and

in relation to Papua New Guinea, persons who—

- (i) live in the Protected Zone or the adjacent coastal area of Papua New Guinea,
- (ii) are citizens of Papua New Guinea, and
- (iii) maintain traditional customary associations with areas or features in or in the vicinity of the Protected Zone in relation to their subsistence or livelihood or social, cultural or religious activities.

2. Where for the purposes of this Treaty it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to the Australian Geodetic Datum, that is to say, by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6,378,160 metres and a flattening of  $\frac{100}{29825}$  and by reference to the position of the Johnston Geodetic Station in the Northern Territory of Australia. That station shall be taken to be situated at Latitude 25° 56' 54.5515" South and at Longitude 133° 12' 30.0771" East and to have a ground level of 571.2 metres above the spheroid referred to above.

3. In this Treaty, the expression "in and in the vicinity of the Protected Zone" describes an area the outer limits of which might vary according to the context in which the expression is used.

PART 2

SOVEREIGNTY AND JURISDICTION

ARTICLE 2

Sovereignty Over Islands

1. Papua New Guinea recognises the sovereignty of Australia over—
- (a) the islands known as Anchor Cay, Aubusi Island, Black Rocks, Boigu Island, Bramble Cay, Dauan Island, Deliverance Island, East Cay, Kaumag Island, Kerr Islet, Moimi Island, Pearce Cay, Saibai Island, Turnagain Island and Turu Cay; and
  - (b) all islands that lie between the mainlands of the two countries and south of the line referred to in paragraph 1 of Article 4 of this Treaty.
2. No island over which Australia has sovereignty, other than those specified in sub-paragraph 1 (a) of this Article, lies north of the line referred to in paragraph 1 of Article 4 of this Treaty.

**SCHEDULE—continued**

3. Australia recognises the sovereignty of Papua New Guinea over—
  - (a) the islands known as Kawa Island, Mata Kawa Island and Kussa Island; and
  - (b) all the other islands that lie between the mainlands of the two countries and north of the line referred to in paragraph 1 of Article 4 of this Treaty, other than the islands specified in sub-paragraph 1 (a) of this Article.
4. In this Treaty, sovereignty over an island shall include sovereignty over—
  - (a) its territorial sea;
  - (b) the airspace above the island and its territorial sea;
  - (c) the seabed beneath its territorial sea and the subsoil thereof; and
  - (d) any island, rock or low-tide elevation that may lie within its territorial sea.

ARTICLE 3

Territorial Seas

1. The territorial sea boundaries between the islands of Aubusi, Boigu and Moimi and Papua New Guinea and the islands of Dauan, Kaumag and Saibai and Papua New Guinea shall be the lines described in Annex 1 to this Treaty, which are shown on the map annexed to this Treaty as Annex 2, together with such other portion of the outer limit of the territorial sea of Saibai described in Annex 3 to this Treaty that may abut the territorial sea of Papua New Guinea.

2. The territorial seas of the islands specified in sub-paragraph 1 (a) of Article 2 of this Treaty shall not extend beyond three miles from the baselines from which the breadth of the territorial sea around each island is measured. Those territorial seas shall not be enlarged or reduced, even if there were to be any change in the configuration of a coastline or a different result from any further survey.

3. The provisions of paragraph 2 of this Article shall not apply to that part of the territorial sea of Pearce Cay which lies south of the line referred to in paragraph 1 of Article 4 of this Treaty.

4. The outer limits of the territorial seas of the islands specified in sub-paragraph 1 (a) of Article 2 of this Treaty, except in respect of that part of the territorial sea of Pearce Cay which lies south of the line referred to in paragraph 1 of Article 4 of this Treaty, shall be as described in Annex 3 to this Treaty. The limits so described are shown on the maps annexed to this Treaty as Annexes 2 and 4.

5. Australia shall not extend its territorial sea northwards across the line referred to in paragraph 1 of Article 4 of this Treaty.

6. Papua New Guinea shall not—

- (a) extend its territorial sea off its southern coastline between the meridians of Longitude 142° 03' 30" East and of Longitude 142° 51' 00" East, beyond three miles from the baselines from which the breadth of the territorial sea is measured;
- (b) extend its territorial sea or archipelagic waters into the area bounded by that portion of the line referred to in paragraph 2 of Article 4 of this Treaty running from the point of Latitude 9° 45' 24" South, Longitude 142° 03' 30" East to the point of Latitude 9° 40' 30" South, Longitude 142° 51' 00" East and that portion of the line referred to in paragraph 1 of Article 4 of this Treaty which runs between those two points;
- (c) establish an archipelagic baseline running in or through the area referred to in sub-paragraph (b) of this paragraph; or
- (d) extend its territorial sea southwards across the line referred to in paragraph 1 of Article 4 of this Treaty.

ARTICLE 4

Maritime Jurisdiction

1. Subject to the provisions of Article 2 of this Treaty, the boundary between the area of seabed and subsoil that is adjacent to and appertains to Australia and the area of seabed and subsoil that is adjacent to and appertains to Papua New Guinea, and over which Australia and Papua New Guinea respectively shall have seabed jurisdiction, shall be the line described in Annex 5 to this Treaty. The

**SCHEDULE—continued**

line so described is shown on the map annexed to this Treaty as Annex 6 and, in part, on the map annexed to this Treaty as Annex 7.

2. Subject to the provisions of Article 2 of this Treaty, the boundary between the area of sea that is adjacent to and appertains to Australia and the area of sea that is adjacent to and appertains to Papua New Guinea, and in which Australia and Papua New Guinea respectively shall have fisheries jurisdiction, shall be the line described in Annex 8 to this Treaty. The line so described is shown on the map annexed to this Treaty as Annex 6 and, in part, on the maps annexed to this Treaty as Annexes 2 and 7.

3. In relation to the area bounded by the portion of the line referred to in paragraph 2 of this Article running from the point of Latitude 9° 45' 24" South, Longitude 142° 03' 30" East to the point of Latitude 9° 40' 30" South, Longitude 142° 51' 00" East and that portion of the line referred to in paragraph 1 of this Article which runs between those two points, exclusive of the territorial seas of the islands of Aubusi, Boigu, Dauan, Kaumag, Moimi, Saibai and Turnagain—

- (a) neither party shall exercise residual jurisdiction without the concurrence of the other Party; and
- (b) the Parties shall consult with a view to reaching agreement on the most effective method of application of measures involving the exercise of residual jurisdiction.

4. In paragraph 3 of this Article, "residual jurisdiction" means—

- (a) jurisdiction over the area other than seabed jurisdiction or fisheries jurisdiction, including jurisdiction other than seabed jurisdiction or fisheries jurisdiction insofar as it relates to *inter alia*:
  - (i) the preservation of the marine environment;
  - (ii) marine scientific research; and
  - (iii) the production of energy from the water, currents and winds; and
- (b) seabed and fisheries jurisdiction to the extent that the exercise of such jurisdiction is not directly related to the exploration or exploitation of resources or to the prohibition of, or refusal to authorise, activities subject to that jurisdiction.

**PART 3**

**SOVEREIGNTY AND JURISDICTION—RELATED MATTERS**

**ARTICLE 5**

**Existing Petroleum Permit**

1. Where prior to 16 September 1975 Australia has granted an exploration permit for petroleum under Australian law in respect of a part of the seabed over which it ceases by virtue of this Treaty to exercise sovereign rights, and a permittee retains rights in respect of that permit immediately prior to the entry into force of this Treaty, Papua New Guinea, upon application by that permittee, shall offer to that permittee a petroleum prospecting licence or licences under Papua New Guinea law in respect of the same part of the seabed on terms that are not less favourable than those provided under Papua New Guinea law to any other holder of a seabed petroleum prospecting licence.

2. An application for a licence under paragraph 1 of this Article shall be made—

- (a) in respect of a part of the seabed lying outside the Protected Zone, within six months after the date of entry into force of this Treaty;
- (b) in respect of a part of the seabed lying within the Protected Zone, during the period referred to in Article 15 and any extension of that period to which the Parties may agree.

**ARTICLE 6**

**Exploitation of Certain Seabed Deposits**

If any single accumulation of liquid hydrocarbons or natural gas, or if any other mineral deposit beneath the seabed, extends across any line defining the limits of seabed jurisdiction of the Parties, and



**SCHEDULE—continued**

if the part of such accumulation or deposit that is situated on one side of such a line is recoverable in fluid form wholly or in part from the other side, the Parties shall consult with a view to reaching agreement on the manner in which the accumulation or deposit may be most effectively exploited and on the equitable sharing of the benefits from such exploitation.

ARTICLE 7

Freedoms of Navigation and Overflight

1. On and over the waters of the Protected Zone that lie—

- (a) north of the line referred to in paragraph 1 of Article 4 of this Treaty and seaward of the low water lines of the land territory of either Party, and
- (b) south of that line and beyond the outer limits of the territorial sea,

each Party shall accord to the vessels and aircraft of the other Party, subject to paragraphs 2 and 3 of this Article, the freedoms of navigation and overflight associated with the operation of vessels and aircraft on or over the high seas.

2. Each Party shall take all necessary measures to ensure that, in the exercise of the freedoms of navigation and overflight accorded to its vessels and aircraft under paragraph 1 of this Article—

- (a) those vessels observe generally accepted international regulations, procedures and practices for safety at sea and for the prevention, reduction and control of pollution from ships;
- (b) those civil aircraft observe the Rules of the Air established by the International Civil Aviation Organization as they apply to civil aircraft, and State aircraft normally comply with such of those rules as relate to safety and at all times operate with due regard for the safety of navigation;
- (c) those vessels and aircraft north of the line referred to in paragraph 1 of Article 4 of this Treaty do not engage in the embarking or disembarking of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the other Party, provided that the relevant laws and regulations of that Party do not have the practical effect of denying, hampering or impairing the freedoms of navigation and overflight accorded under paragraph 1 of this Article; and
- (d) those vessels and aircraft, north of the line referred to in paragraph 1 of Article 4 of this Treaty, do not act in a manner prejudicial to the peace, good order or security of the other Party.

3. Vessels of a Party engaged in the exploration or exploitation of resources in an area of jurisdiction of the other Party shall remain subject to the laws and regulations of the other Party made in the exercise of its resources jurisdiction consistently with this Treaty and with international law, including the provisions of those laws and regulations concerning the boarding, inspection and apprehension of vessels.

4. In those areas of the Protected Zone north of the line referred to in paragraph 1 of Article 4 of this Treaty to which paragraph 1 of this Article does not apply, civil aircraft of a Party engaged in scheduled or non-scheduled air services shall have the right of overflight, and the right to make stops for non-traffic purposes, without the need to obtain prior permission from the other Party, subject to compliance with any applicable laws or regulations made for the safety of air navigation.

5. In areas of the Protected Zone to which paragraph 1 of this Article does not apply, the vessels of a Party shall enjoy the right of innocent passage. There shall be no suspension of that right, and neither Party shall adopt laws or regulations applying to those areas that might impede or hamper the normal passage of vessels between two points both of which are in the territory of one Party.

6. In cases where the provisions of neither paragraph 1 nor paragraph 5 of this Article apply, a regime of passage over routes used for international navigation in the area between the two countries, including the area known as Torres Strait, shall apply in respect of vessels that is no more restrictive of passage than the regime of transit passage through straits used for international navigation described in Articles 34 to 44 inclusive of Document A/Conf. 62/WP.10 of the Third United Nations Conference on the Law of the Sea, provided that, before a Party adopts a law or regulation that might impede or hamper the passage over those routes of vessels proceeding to or from the territory of the other Party, it shall consult with the other Party. If the provisions of those Articles are revised, are not included in any Law of the Sea Convention or fail to become generally accepted principles of international law, the

**SCHEDULE—continued**

Parties shall consult with a view to agreeing upon another regime of passage that is in accordance with international practice to replace the regime of passage applying under this paragraph.

7. The rights of navigation and overflight provided for in this Article are in addition to, and not in derogation of, rights of navigation and overflight in the area concerned under other treaties or general principles of international law.

ARTICLE 8

Navigational Aids

With a view to maintaining and improving the safety of navigation through the waters in the area between the two countries, the Parties shall co-operate and, with due regard to the technical and other means available to each of them, shall, where appropriate and as may be agreed between them, provide mutual assistance in the provision and maintenance of navigational aids and in the preparation of charts and maps.

ARTICLE 9

Wrecks

1. Wrecks of vessels and aircraft which lie on, in or under the seabed in an area of seabed jurisdiction of a Party shall be subject to the jurisdiction of that Party.

2. If a wreck of historical or special significance to a Party is located or found in an area between the two countries under the jurisdiction of the other Party, the Parties shall consult with a view to reaching agreement on the action, if any, to be taken with respect to that wreck.

3. The provisions of this Article shall be without prejudice to the competence of the courts of a Party, for the purposes of the laws of that Party, in relation to maritime causes of action in respect of wrecks coming within the provisions of this Article.

4. This Article shall not apply to any military vessel or aircraft of either Party wrecked after the date of entry into force of this Treaty.

PART 4

THE PROTECTED ZONE

ARTICLE 10

Establishment and Purposes of the Protected Zone

1. A Protected Zone in the Torres Strait is hereby established comprising all the land, sea, airspace, seabed and subsoil within the area bounded by the line described in Annex 9 to this Treaty. The line so described is shown on the maps annexed to this Treaty as Annexes 6 and 7 and, in part, on the map annexed to this Treaty as Annex 2.

2. The Parties shall adopt and apply measures in relation to the Protected Zone in accordance with the provisions of this Treaty.

3. The principal purpose of the Parties in establishing the Protected Zone, and in determining its northern, southern, eastern and western boundaries, is to acknowledge and protect the traditional way of life and livelihood of the traditional inhabitants including their traditional fishing and free movement.

4. A further purpose of the Parties in establishing the Protected Zone is to protect and preserve the marine environment and indigenous fauna and flora in and in the vicinity of the Protected Zone.

**SCHEDULE—continued**

ARTICLE 11

Free Movement and Traditional Activities Including Traditional Fishing

1. Subject to the other provisions of this Treaty, each Party shall continue to permit free movement and the performance of lawful traditional activities in and in the vicinity of the Protected Zone by the traditional inhabitants of the other Party.

2. Paragraph 1 of this Article shall not be interpreted as sanctioning the expansion of traditional fishing by the traditional inhabitants of one Party into areas outside the Protected Zone under the jurisdiction of the other Party not traditionally fished by them prior to the date of entry into force of this Treaty.

3. The provisions of this Article and the other provisions of this Treaty concerning traditional fishing are subject to Article 14 and paragraph 2 of Article 20 of this Treaty.

ARTICLE 12

Traditional Customary Rights

Where the traditional inhabitants of one Party enjoy traditional customary rights of access to and usage of areas of land, seabed, seas, estuaries and coastal tidal areas that are in or in the vicinity of the Protected Zone and that are under the jurisdiction of the other Party, and those rights are acknowledged by the traditional inhabitants living in or in proximity to those areas to be in accordance with local tradition, the other Party shall permit the continued exercise of those rights on conditions not less favourable than those applying to like rights of its own traditional inhabitants.

ARTICLE 13

Protection of the Marine Environment

1. Each Party shall take legislative and other measures necessary to protect and preserve the marine environment in and in the vicinity of the Protected Zone. In formulating those measures each Party shall take into account internationally agreed rules, standards and recommended practices which have been adopted by diplomatic conferences or by relevant international organisations.

2. The measures that each Party shall take in accordance with paragraph 1 of this Article shall include measures for the prevention and control of pollution or other damage to the marine environment from all sources and activities under its jurisdiction or control and shall include, in particular, measures to minimise to the fullest practicable extent—

- (a) the release of toxic, harmful or noxious substances from land-based sources, from rivers, from or through the atmosphere, or by dumping at sea;
- (b) pollution or other damage from vessels; and
- (c) pollution or other damage from installations and devices used in the exploration and exploitation of the natural resources of the seabed and subsoil thereof.

3. The measures taken by each Party in accordance with paragraph 1 of this Article shall be consistent with its obligations under international law, including obligations not to prejudice the rights of foreign ships and aircraft, and shall be subject to the provisions of Article 7 of this Treaty.

4. The Parties shall consult, at the request of either, for the purpose of—

- (a) harmonising their policies with respect to the measures that each shall take pursuant to this Article; and
- (b) ensuring the effective and coordinated implementation of those measures.

5. If either Party has reasonable grounds for believing that any planned activity under its jurisdiction or control may cause pollution or other damage to the marine environment in or in the vicinity of the Protected Zone, that Party shall, after due investigation, communicate to the other Party its assessment of the potential impact of that activity on the marine environment.

6. If either Party has reasonable grounds for believing that any existing or planned activity under the jurisdiction or control of the other Party is causing or may cause pollution or other damage to the

**SCHEDULE—continued**

marine environment in or in the vicinity of the Protected Zone, it may request consultations with the other Party, and the Parties shall then consult as soon as possible with a view to adopting measures to prevent or control any pollution or other damage to that environment from that activity.

ARTICLE 14

Protection of Fauna and Flora

1. Each Party shall, in and in the vicinity of the Protected Zone, use its best endeavours to—
  - (a) identify and protect species of indigenous fauna and flora that are or may become threatened with extinction;
  - (b) prevent the introduction of species of fauna and flora that may be harmful to indigenous fauna and flora; and
  - (c) control noxious species of fauna and flora.

2. Notwithstanding any other provision of this Treaty except paragraph 4 of this Article, a Party may implement within its area of jurisdiction measures to protect species of indigenous fauna and flora which are or may become threatened with extinction or which either Party has an obligation to protect under international law.

3. The Parties shall as appropriate and necessary exchange information concerning species of indigenous fauna and flora that are or may become threatened with extinction and shall consult, at the request of either of them, for the purpose of—

- (a) harmonising their policies with respect to the measures that each may take to give effect to paragraphs 1 and 2 of this Article; and
- (b) ensuring the effective and coordinated implementation of those measures.

4. In giving effect to the provisions of this Article, each Party shall use its best endeavours to minimise any restrictive effects on the traditional activities of the traditional inhabitants.

ARTICLE 15

Prohibition of Mining and Drilling of the Seabed

Neither Party shall undertake or permit within the Protected Zone mining or drilling of the seabed or the subsoil thereof for the purpose of exploration for or exploitation of liquid hydrocarbons, natural gas or other mineral resources during a period of ten years from the date of entry into force of this Treaty. The Parties may agree to extend that period.

ARTICLE 16

Immigration, Customs, Quarantine and Health

1. Except as otherwise provided in this Treaty, each Party shall apply immigration, customs, quarantine and health procedures in such a way as not to prevent or hinder free movement or the performance of traditional activities in and in the vicinity of the Protected Zone by the traditional inhabitants of the other Party.

2. Each Party, in administering its laws and policies relating to the entry and departure of persons and the importation and exportation of goods into and from areas under its jurisdiction in and in the vicinity of the Protected Zone, shall act in a spirit of mutual friendship and good neighbourliness, bearing in mind relevant principles of international law and established international practices and the importance of discouraging the occurrence, under the guise of free movement or performance of traditional activities, of illegal entry, evasion of justice and practices prejudicial to effective immigration, customs, health and quarantine protection and control.

3. Notwithstanding the provisions of paragraph 1 of this Article—
  - (a) traditional inhabitants of one Party who wish to enter the other country, except for temporary stay for the performance of traditional activities, shall be subject to the same immigration,

**SCHEDULE—continued**

customs, health and quarantine requirements and procedures as citizens of that Party who are not traditional inhabitants;

- (b) each Party reserves its right to limit free movement to the extent necessary to control abuses involving illegal entry or evasion of justice; and
- (c) each Party reserves its right to apply such immigration, customs, health and quarantine measures, temporary or otherwise, as it considers necessary to meet problems which may arise. In particular each Party may apply measures to limit or prevent free movement, or the carriage of goods, plants or animals in the course thereof, in the case of an outbreak or spread of an epidemic, epizootic or epiphytotic in or in the vicinity of the Protected Zone.

ARTICLE 17

Implementation and Coordination

In order to facilitate the implementation of the provisions of this Treaty relating to the Protected Zone, the authorities of each Party shall, at the request of the authorities of the other Party, as may be appropriate and necessary

- (a) make available to the authorities of the other Party information on the relevant provisions of its laws, regulations and procedures relating to immigration, citizenship, customs, health, quarantine, fisheries, the protection of the environment and other matters; and
- (b) consult with the authorities of the other Party with a view to making appropriate administrative or other arrangements to resolve any problems arising in the implementation of those provisions.

ARTICLE 18

Liaison Arrangements

1. Each Party shall designate a representative who shall facilitate the implementation at the local level of the provisions of this Treaty.
2. The two designated representatives shall
  - (a) exchange information on relevant developments in and in the vicinity of the Protected Zone;
  - (b) consult together and take such action as is appropriate to their respective functions to facilitate the practical operation at the local level of the provisions of this Treaty and to resolve any problems arising therefrom;
  - (c) keep under review free movement by the traditional inhabitants of one Party into areas under the jurisdiction of the other Party and the local arrangements applying in respect of such free movement; and
  - (d) draw to the attention of their Governments, and make recommendations as appropriate on, any matters affecting the implementation of the provisions of this Treaty or arising therefrom which are not capable of resolution at the local level or which may otherwise require consideration by both Parties.
3. In the exercise of his functions, each representative shall—
  - (a) consult closely with representatives of the traditional inhabitants of his country, particularly in relation to any problems which may arise in respect of free movement, traditional activities and the exercise of traditional customary rights as provided for in this Treaty, and convey their views to his Government; and
  - (b) maintain close liaison with national, State, Provincial and local authorities of his country on all matters falling within their respective responsibilities.
4. Unless a different location is required by the circumstances, the representative of Australia shall be based at Thursday Island and the representative of Papua New Guinea shall be based at Daru.

**SCHEDULE—continued**

**ARTICLE 19**

**Torres Strait Joint Advisory Council**

1. The Parties shall jointly establish and maintain an advisory and consultative body which shall be known as the Torres Strait Joint Advisory Council (called in this Article “the Advisory Council”).
2. The functions of the Advisory Council shall be—
  - (a) to seek solutions to problems arising at the local level and not resolved pursuant to Article 18 of this Treaty;
  - (b) to consider and to make recommendations to the Parties on any developments or proposals which might affect the protection of the traditional way of life and livelihood of the traditional inhabitants, their free movement, performance of traditional activities and exercise of traditional customary rights as provided for in this Treaty; and
  - (c) to review from time to time as necessary, and to report and to make recommendations to the Parties on, any matters relevant to the effective implementation of this Treaty, including the provisions relating to the protection and preservation of the marine environment, and fauna and flora, in and in the vicinity of the Protected Zone.
3. The Advisory Council shall not have or assume responsibilities for management or administration. These responsibilities shall, within the respective areas of jurisdiction of each Party, continue to lie with the relevant national, State, Provincial and local authorities.
4. In the exercise of its functions, the Advisory Council shall ensure that the traditional inhabitants are consulted, that they are given full and timely opportunity to comment on matters of concern to them and that their views are conveyed to the Parties in any reports and recommendations made by the Advisory Council to the Parties.
5. The Advisory Council shall transmit its reports and recommendations to the Foreign Ministers of the Parties. After consideration by appropriate authorities of the Parties, consultations may be arranged with a view to the resolution of matters to which the Advisory Council has invited attention.
6. Unless otherwise agreed by the Parties, the Advisory Council shall consist of eighteen members, that is nine members from each Party who shall include—
  - (a) at least two national representatives;
  - (b) at least one member representing the Government of Queensland in the case of Australia and one representing the Fly River Provincial Government in the case of Papua New Guinea; and
  - (c) at least three members representing the traditional inhabitants,with each Party being free to decide from time to time from which of the aforementioned categories any other of its members will be drawn.
7. The Advisory Council shall meet when necessary at the request of either Party. Consecutive meetings of the Advisory Council shall be chaired alternately by a representative of Australia and a representative of Papua New Guinea. Meetings shall be held alternately in Australia and Papua New Guinea or as may from time to time be otherwise arranged.

**PART 5**

**PROTECTED ZONE COMMERCIAL FISHERIES**

**ARTICLE 20**

**Priority of Traditional Fishing and Application of Measures to Traditional Fishing**

1. The provisions of this Part shall be administered so as not to prejudice the achievement of the purposes of Part 4 of this Treaty in regard to traditional fishing.
2. A Party may adopt a conservation measure consistent with the provision of this Part which, if necessary for the conservation of a species, may be applied to traditional fishing, provided that that Party shall use its best endeavours to minimise any restrictive effects of that measure on traditional fishing.

**SCHEDULE—continued**

ARTICLE 21

Conservation, Management and Optimum Utilisation

The Parties shall co-operate in the conservation management and optimum utilisation of Protected Zone commercial fisheries. To this end, the Parties shall consult at the request of either and shall enter into arrangements for the effective implementation of the provisions of this Part.

ARTICLE 22

Conservation and Management of Individual Fisheries

1. The Parties shall, where appropriate, negotiate subsidiary conservation and management arrangements in respect of any individual Protected Zone commercial fishery.

2. If either Party notifies the other in writing that it regards one of the Protected Zone commercial fisheries as one to which common conservation and management arrangements should apply, the Parties shall within ninety days from the date of the notification enter into consultations with a view to concluding arrangements specifying the measures to be applied by them with respect to that fishery.

3. The Parties shall, where appropriate, also negotiate supplementary conservation and management arrangements in respect of resources directly related to a fishery referred to in paragraph 1 of this Article, including resources involving stocks occurring in the Protected Zone where such stocks are not otherwise subject to the provisions of this Treaty.

ARTICLE 23

Sharing of the Catch of the Protected Zone Commercial Fisheries

1. The Parties shall share the allowable catch of the Protected Zone commercial fisheries in accordance with the provisions of this Article and of Articles 24 and 25 of this Treaty.

2. The allowable catch, that is to say the optimum sustainable yield, of a Protected Zone commercial fishery shall be determined jointly by the Parties as part of the subsidiary conservation and management arrangements referred to in paragraph 1 of Article 22 of this Treaty.

3. If either Party has reasonable grounds for believing that the commercial exploitation of a species of Protected Zone commercial fisheries would, or has the potential to, cause serious damage to the marine environment, or might endanger another species, that Party may request consultations with the other Party and the Parties shall then consult as soon as possible with a view to reaching agreement on whether such commercial exploitation could be undertaken in a manner which would not result in such damage or endanger another species.

4. In respect of any relevant period where the full allowable catch of a particular Protected Zone commercial fishery might be taken, each Party shall be entitled to a share of the allowable catch apportioned, subject to paragraphs 5, 6 and 8 of this Article and to Articles 24 and 25 of this Treaty, as follows:

(a) in areas under Australian jurisdiction, except as provided in (b) below:

Australia 75%  
Papua New Guinea --25%

(b) within the territorial seas of Anchor Cay, Black Rocks, Bramble Cay, Deliverance Island, East Cay, Kerr Islet, Pearce Cay and Turu Cay:

Australia 50%  
Papua New Guinea 50%

(c) in areas under Papua New Guinea jurisdiction:

Australia 25%  
Papua New Guinea 75%

5. Papua New Guinea shall have the sole entitlement to the allowable catch of the commercial baramundi fishery near the Papua New Guinea coast, except within the territorial seas of the islands of

**SCHEDULE—continued**

Aubusi, Boigu, Dauan, Kaumag, Moimi and Saibai where, in respect of that fishery, the provisions of paragraph 4 (a) of this Article shall not apply.

6. In apportioning the allowable catch in relation to an individual fishery, the Parties shall normally consider the allowable catch expressed in terms of weight or volume. In calculating the apportionment of the total allowable catch of the Protected Zone commercial fisheries, the Parties shall have regard to the relative value of individual fisheries and shall, for this purpose, agree on a common value for production from each individual fishery for the period in question, such value being based on the value of the raw product at the processing facility or such other point as may be agreed, but prior to any enhancement of value through processing, including processing at a pearl culture farm, or further transportation or marketing.

7. The Parties may agree to vary the apportionment of the allowable catch determined for individual fisheries as part of the subsidiary conservation and management arrangements referred to in paragraph 1 of Article 22 of this Treaty but so as to maintain in respect of the total allowable catch of the Protected Zone commercial fisheries the apportionment specified in paragraph 4 of this Article for each Party.

8. In calculating the total allowable catch of the Protected Zone commercial fisheries, the allowable catch of the commercial barramundi fishery referred to in paragraph 5 of this Article shall be disregarded.

**ARTICLE 24**

Transitional Entitlement

1. As part of the subsidiary conservation and management arrangements referred to in paragraph 1 of Article 22 of this Treaty, the level of the catch of each Protected Zone commercial fishery to which each Party is entitled, provided it remains within the allowable catch—

- (a) shall not, during the period of five years immediately after the entry into force of this Treaty, be reduced below the level of catch of that Party before the entry into force of this Treaty; but
- (b) may, during the second period of five years after the entry into force of this Treaty, be adjusted progressively so that at the end of that second five-year period it reaches the level of catch apportioned in each case in Article 23 of this Treaty.

2. The entitlement of a Party under this Article shall, where the limitation of the allowable catch makes it necessary, take priority over the entitlement of the other Party under Article 23 of this Treaty, but shall be taken into account in calculating the entitlement of the first Party.

**ARTICLE 25**

Preferential Entitlement

If, in any relevant period, a Party does not itself propose to take all the allowable catch of a Protected Zone commercial fishery to which it is entitled, either in its own area of jurisdiction or that of the other Party, the other Party shall have a preferential entitlement to any of the allowable catch of that fishery not taken by the first Party.

**ARTICLE 26**

Licensing Arrangements

1. In the negotiation and implementation of the conservation and management arrangements referred to in paragraph 1 of Article 22 of this Treaty—

- (a) the Parties shall consult and co-operate in the issue and endorsement of licences to permit commercial fishing in Protected Zone commercial fisheries;
- (b) the responsible authorities of the Parties may issue licences to fish in any Protected Zone commercial fishery; and
- (c) persons or vessels which are licensed by the responsible authorities of one Party to fish in any relevant period in a Protected Zone commercial fishery shall, if nominated by the responsible



**SCHEDULE—continued**

authorities of that Party, be authorised by the responsible authorities of the other Party, wherever necessary, by the endorsement of licences or otherwise, to fish in those areas under the jurisdiction of the other Party in which the fishery concerned is located.

2. The persons or vessels licensed by one Party which have been authorised, or are to be authorised, under the provisions of paragraph 1 of this Article to fish in waters under the jurisdiction of the other Party shall comply with the relevant fisheries laws and regulations of the other Party except that they shall be exempt from licensing fees, levies and other charges imposed by the other Party in respect of such fishing activities.

3. In issuing licences in accordance with paragraph 1 of this Article, the responsible authorities of both Parties shall have regard to the desirability of promoting economic development in the Torres Strait area and employment opportunities for the traditional inhabitants.

4. The responsible authorities of both Parties shall ensure that the traditional inhabitants are consulted from time to time on the licensing arrangements in respect of Protected Zone commercial fisheries.

ARTICLE 27

Third State Fishing in Protected Zone Commercial Fisheries

1. The responsible authorities of the Parties shall inform one another and shall consult, at the request of either of them, concerning the proposed exploitation of the Protected Zone commercial fisheries—

- (a) by a joint venture in which there is third-State equity participation; or
- (b) by a vessel of third-State registration or with a crew substantially of the nationality of a third State.

2. Vessels the operations of which are under the control of nationals of a third State shall not be licensed to exploit the Protected Zone commercial fisheries without the concurrence of the responsible authorities of both Parties in the particular case or class of cases.

ARTICLE 28

Inspection and Enforcement

1. The Parties shall co-operate, including by exchange of personnel, in inspection and enforcement to prevent violations of the Protected Zone commercial fisheries arrangements and in taking appropriate enforcement measures in the event of such violations.

2. The Parties shall consult from time to time, as necessary, so as to ensure that legislation and regulations adopted by each Party pursuant to paragraph 1 of this Article are, as far as practicable, consistent with the legislation and regulations of the other Party.

3. Each Party shall make it an offence under its fisheries laws or regulations for a person to use a vessel of its nationality to fish in Protected Zone commercial fisheries for species of fisheries resources in areas over which the other Party has jurisdiction in respect of those species—

- (a) without being duly licensed or authorised by that other Party; or
- (b) in the case of a licensed or authorised vessel, in breach of the fisheries laws or regulations of the other Party applying within those areas.

4. Each Party will, in relation to species of fisheries resources in areas where it has jurisdiction in respect of those species—

- (a) investigate suspected offences against its fisheries laws and regulations; and
- (b) except as provided in or under this article, take corrective action when necessary against offenders against those laws or regulations.

5. In this article, “corrective action” means the action normally taken in respect of a suspected offence, after due investigation, and includes, where appropriate, the apprehension of a suspected

**SCHEDULE—continued**

offender, the prosecution of an alleged offender, or the execution of a penalty imposed by a court or the cancellation or suspension of the licence of an offender.

6. In accordance with the provisions of this Article, and in other appropriate cases as may be agreed between the Parties, corrective action in respect of offences or suspected offences against the fisheries laws or regulations of the Parties shall be taken by the authorities of the Party whose nationality is borne by the vessel or person concerned (called in this Article "the first Party") and not by the Party in whose area of jurisdiction the offence or suspected offence occurs (called in this Article "the second Party").

7. The Parties acknowledge that the principle stated in paragraph 6 of this Article should not be applied so as to frustrate the enforcement of fisheries laws or regulations or to enable offenders against those laws or regulations to go unpunished.

8. Where, in the case of a suspected offence alleged to have been committed in or in the vicinity of the Protected Zone, it appears that the offence was, or might reasonably be considered to have been, committed in the course of traditional fishing, corrective action or other measures shall be taken by the authorities of the first Party and not by the authorities of the second Party and, if being detained by the authorities of the second Party, the alleged offenders and their vessel shall be either released or handed over to the authorities of the first Party, in accordance with arrangements that will avoid undue expense or inconvenience to the authorities of the second Party.

9. Where paragraph 8 of this Article applies, the authorities of the second Party may require assurance in a particular case that corrective action or other measures will be taken by the authorities of the first Party that will adequately ensure that the activity complained of will not be repeated.

10. Where the provisions of paragraph 8 of this Article do not apply, and the person or vessel alleged to have been involved or used in the commission of a suspected offence in the Protected Zone is licensed to fish in the Protected Zone by the authorities of the first Party, corrective action shall be taken by the authorities of the first Party and not by the authorities of the second Party and, if being detained by the authorities of the second Party, the alleged offenders and their vessel shall be either released or handed over to the authorities of the first Party, in accordance with arrangements that will avoid undue expense or inconvenience to the authorities of the second Party, and the provisions of paragraphs 13 and 14 of this article shall apply.

11. The provisions of paragraph 10 of this Article shall also apply in respect of a suspected offence by a person or vessel of the first Party in an area of jurisdiction of the second Party outside the Protected Zone where—

- (a) that person or vessel was authorised by the authorities of the second Party to fish in the area where the suspected offence was committed under the arrangements referred to in paragraph 1 of Article 22 of this Treaty; and
- (b) the suspected offence was committed in relation to the fishery the subject of that authorisation and did not involve the taking of other species or potential injury to another fishery.

12. Persons or vessels of the first Party detained by the authorities of the Second Party in the circumstances described in paragraphs 8 and 10 of this Article may be detained for as long as necessary to enable those authorities to conduct an expeditious investigation into the offence and to obtain evidence. Thereafter, they shall not be detained other than for the purpose of the handing over of the persons or vessels in accordance with the provisions of those paragraphs unless they are lawfully detained on some other ground.

13. If an alleged offender referred to in paragraph 10 of this Article is, in respect of conduct in waters under the jurisdiction of the second party—

- (a) convicted of an offence against the fisheries laws or regulations of the first Party; or
- (b) found by the authorities of the first Party, on the basis of sufficient available evidence, to have contravened or failed to comply with a condition of his licence or authorisation or that of his vessel;

the authorities of the first Party shall, where appropriate and having regard to paragraph 7 of this Article, cancel or suspend the licence or authorisation of the person or his vessel so far as it relates to the Protected Zone commercial fisheries.

**SCHEDULE—continued**

14. Where a person or vessel involved or used in the commission of the alleged offence referred to in paragraph 10 of this Article is also currently licensed or authorised to fish in the area of the Protected Zone by the second Party, the authorities of the second Party may, after receiving a report and representations, if any, from the authorities of the first Party, cancel or suspend that licence or authorisation in accordance with its laws for such period as is warranted by the circumstances of the case.

15. Each Party shall provide the other Party with any evidence obtained during investigations carried out in accordance with this Article into a suspected offence involving a person or vessel of the other Party. Each Party shall take appropriate measures to facilitate the admission of such evidence in proceedings taken in respect of the suspected offence.

16. In this Article references to persons and vessels of, or of the nationality of, a Party include references to persons or vessels licensed by that Party under sub-paragraph 1 (b) of Article 26 of this Treaty, and the crews of vessels so licensed, except where such persons or vessels have a prior current licence from the other Party under that sub-paragraph.

PART 6

FINAL ARTICLES

ARTICLE 29

Settlement of Disputes

Any dispute between the Parties arising out of the interpretation or implementation of this Treaty shall be settled by consultation or negotiation.

ARTICLE 30

Consultations

The Parties shall consult, at the request of either, on any matters relating to this Treaty.

ARTICLE 31

Annexes

The Annexes to this Treaty shall have force and effect as integral parts of this Treaty.

ARTICLE 32

Ratification

This Treaty shall be subject to ratification and shall enter into force on the exchange of the instruments of ratification.

IN WITNESS WHEREOF the undersigned being duly authorised have signed the present Treaty and have affixed thereto their seals.

DONE in duplicate at Sydney on this eighteenth day of December, One thousand nine hundred and seventy-eight.

FOR AUSTRALIA

Signed MALCOLM FRASER

Prime Minister

Signed ANDREW PEACOCK

Minister for Foreign Affairs

FOR PAPUA NEW GUINEA

Signed MICHAEL SOMARE

Prime Minister

Signed N. EBIA OLEWALE

Deputy Prime Minister and Minister  
for Foreign Affairs and Trade

**SCHEDULE—continued**

**ANNEX I TO THE TREATY BETWEEN AUSTRALIA AND THE INDEPENDENT STATE OF PAPUA NEW GUINEA CONCERNING SOVEREIGNTY AND MARITIME BOUNDARIES IN THE AREA BETWEEN THE TWO COUNTRIES, INCLUDING THE AREA KNOWN AS TORRES STRAIT, AND RELATED MATTERS**

TERRITORIAL SEA BOUNDARIES BETWEEN THE ISLANDS OF AUBUSI, BOIGU AND MOIMI AND PAPUA NEW GUINEA AND BETWEEN THE ISLANDS OF DAUAN, KAUMAG AND SAIBAI AND PAPUA NEW GUINEA  
BETWEEN THE ISLANDS OF AUBUSI, BOIGU AND MOIMI AND PAPUA NEW GUINEA

A line

commencing at the point of Latitude 9° 15' 43" South, Longitude 142° 03' 30" East ("Point 1");  
running thence north-easterly along the geodesic to the point of Latitude 9° 12' 50" South, Longitude 142° 06' 25" East ("Point 2");  
thence north-easterly along the geodesic to the point of Latitude 9° 11' 51" South, Longitude 142° 08' 33" East ("Point 3");  
thence south-easterly along the geodesic to the point of Latitude 9° 11' 58" South, Longitude 142° 10' 18" East ("Point 4");  
thence north-easterly along the geodesic to the point of Latitude 9° 11' 22" South, Longitude 142° 12' 54" East ("Point 5");  
thence south-easterly along the geodesic to the point of Latitude 9° 11' 34" South, Longitude 142° 14' 08" East ("Point 6");  
thence south-easterly along the geodesic to the point of Latitude 9° 13' 53" South, Longitude 142° 16' 26" East ("Point 7"); and  
thence south-easterly along the geodesic to the point of Latitude 9° 16' 04" South, Longitude 142° 20' 41" East ("Point 8") where it terminates.

BETWEEN THE ISLANDS OF DAUAN, KAUMAG AND SAIBAI AND PAPUA NEW GUINEA

A line

commencing at the point of Latitude 9° 22' 04" South, Longitude 142° 29' 41" East ("Point 9");  
running thence north-easterly along the geodesic to the point of Latitude 9° 21' 48" South, Longitude 142° 31' 29" East ("Point 10");  
thence south-easterly along the geodesic to the point of Latitude 9° 22' 33" South, Longitude 142° 33' 28" East ("Point 11");  
thence north-easterly along the geodesic to the point of Latitude 9° 21' 25" South, Longitude 142° 35' 29" East ("Point 12");  
thence north-easterly along the geodesic to the point of Latitude 9° 20' 21" South, Longitude 142° 41' 43" East ("Point 13");  
thence north-easterly along the geodesic to the point of Latitude 9° 20' 16" South, Longitude 142° 43' 53" East ("Point 14"); and  
thence north-easterly along the geodesic to the point of Latitude 9° 19' 26" South, Longitude 142° 48' 18" East ("Point 15") where it terminates.

**SCHEDULE—continued**

**ANNEX 3 TO THE TREATY BETWEEN AUSTRALIA AND THE INDEPENDENT STATE OF PAPUA NEW GUINEA CONCERNING SOVEREIGNTY AND MARITIME BOUNDARIES IN THE AREA BETWEEN THE TWO COUNTRIES, INCLUDING THE AREA KNOWN AS TORRES STRAIT, AND RELATED MATTERS**

**OUTER LIMITS OF TERRITORIAL SEAS**

**TERRITORIAL SEA OF THE ISLANDS OF AUBUSI, BOIGU AND MOIMI**

The outer limit of the territorial sea of the islands of Aubusi, Boigu and Moimi shall be a continuous line—

- (a) commencing at the point specified as Point 1 in Annex 1 to this Treaty;
- (b) running thence along the geodesics successively joining the points specified as Points 1 to 8 in Annex 1 to this Treaty; and
- (c) thence along a series of intersecting arcs of circles having a radius of three miles and drawn successively from the following points—

	Latitude	Longitude
	(South)	(East)
(i)	9° 15' 53"	142° 17' 39"
(ii)	9° 16' 26"	142° 17' 36"
(iii)	9° 16' 28"	142° 17' 36"
(iv)	9° 16' 31"	142° 17' 30"
(v)	9° 17' 06"	142° 17' 30"
(vi)	9° 17' 15"	142° 17' 30"
(vii)	9° 17' 26"	142° 17' 15"
(viii)	9° 17' 50"	142° 16' 46"
(ix)	9° 17' 55"	142° 16' 39"
(x)	9° 17' 56"	142° 16' 30"
(xi)	9° 17' 53"	142° 16' 11"
(xii)	9° 17' 52"	142° 16' 07"
(xiii)	9° 17' 44"	142° 14' 52"
(xiv)	9° 17' 45"	142° 14' 49"
(xv)	9° 17' 44"	142° 14' 38"
(xvi)	9° 17' 44"	142° 14' 30"
(xvii)	9° 17' 38"	142° 14' 06"
(xviii)	9° 17' 38"	142° 13' 59"
(xix)	9° 17' 36"	142° 13' 47"
(xx)	9° 17' 34"	142° 13' 31"
(xxi)	9° 17' 33"	142° 13' 20"
(xxii)	9° 17' 32"	142° 12' 56"
(xxiii)	9° 17' 32"	142° 12' 46"
(xxiv)	9° 17' 33"	142° 12' 26"
(xxv)	9° 17' 38"	142° 11' 56"
(xxvi)	9° 17' 39"	142° 11' 51"
(xxvii)	9° 17' 38"	142° 11' 34"
(xxviii)	9° 17' 37"	142° 11' 30"
(xxix)	9° 17' 33"	142° 10' 20"
(xxx)	9° 17' 30"	142° 10' 13"
(xxxi)	9° 17' 15"	142° 09' 08"
(xxxii)	9° 17' 13"	142° 09' 00"
(xxxiii)	9° 17' 02"	142° 08' 35"
(xxxiv)	9° 16' 56"	142° 08' 23"
(xxxv)	9° 16' 52"	142° 08' 15"
(xxxvi)	9° 16' 47"	142° 08' 01"
(xxxvii)	9° 16' 46"	142° 07' 58"
(xxxviii)	9° 16' 21"	142° 06' 52"
(xxxix)	9° 16' 19"	142° 06' 51"
(xl)	9° 15' 08"	142° 06' 28"

to the point of commencement.

**SCHEDULE—continued**

**TERRITORIAL SEA OF THE ISLANDS OF DAUAN, KAUMAG AND SAIBAI**

The outer limit of the territorial sea of the islands of Dauan, Kaumag and Saibai shall be a continuous line

- (a) commencing at the point specified as Point 9 in Annex 1 to this Treaty;
- (b) running thence along the geodesics successively joining the points specified as Points 9 to 15 in Annex 1 to this Treaty; and
- (c) thence along a series of intersecting arcs of circles having a radius of three miles and drawn successively from the following points—

	<u>Latitude</u>	<u>Longitude</u>
	(South)	(East)
(i)	9° 22' 24"	142° 47' 49"
(ii)	9° 22' 28"	142° 47' 53"
(iii)	9° 22' 39"	142° 47' 57"
(iv)	9° 22' 48"	142° 48' 00"
(v)	9° 22' 58"	142° 48' 01"
(vi)	9° 23' 02"	142° 48' 01"
(vii)	9° 23' 06"	142° 47' 59"
(viii)	9° 23' 12"	142° 47' 55"
(ix)	9° 23' 28"	142° 47' 46"
(x)	9° 23' 44"	142° 47' 41"
(xi)	9° 25' 46"	142° 46' 36"
(xii)	9° 25' 48"	142° 46' 36"
(xiii)	9° 25' 53"	142° 46' 29"
(xiv)	9° 26' 05"	142° 46' 12"
(xv)	9° 26' 10"	142° 46' 03"
(xvi)	9° 26' 15"	142° 45' 47"
(xvii)	9° 26' 15"	142° 45' 34"
(xviii)	9° 26' 12"	142° 45' 25"
(xix)	9° 26' 09"	142° 45' 12"
(xx)	9° 26' 06"	142° 45' 07"
(xxi)	9° 25' 57"	142° 44' 39"
(xxii)	9° 25' 48"	142° 43' 07"
(xxiii)	9° 25' 54"	142° 42' 42"
(xxiv)	9° 25' 53"	142° 42' 13"
(xxv)	9° 25' 52"	142° 41' 59"
(xxvi)	9° 25' 51"	142° 41' 51"
(xxvii)	9° 25' 48"	142° 41' 15"
(xxviii)	9° 25' 47"	142° 41' 04"
(xxix)	9° 25' 46"	142° 40' 55"
(xxx)	9° 25' 43"	142° 40' 20"
(xxxi)	9° 25' 44"	142° 40' 04"
(xxxii)	9° 25' 50"	142° 39' 30"
(xxxiii)	9° 25' 51"	142° 39' 22"
(xxxiv)	9° 25' 50"	142° 39' 13"
(xxxv)	9° 25' 48"	142° 39' 03"
(xxxvi)	9° 25' 35"	142° 38' 05"
(xxxvii)	9° 25' 31"	142° 37' 46"
(xxxviii)	9° 25' 28"	142° 37' 36"
(xxxix)	9° 25' 23"	142° 37' 22"
(xl)	9° 25' 22"	142° 37' 19"
(xli)	9° 25' 04"	142° 36' 35"
(xlii)	9° 24' 50"	142° 36' 03"

SCHEDULE—continued

	Latitude	Longitude
	(South)	(East)
(xliii)	9° 25' 25"	142° 33' 03"
(xliv)	9° 25' 27"	142° 32' 58"
(xlv)	9° 25' 54"	142° 32' 17"
(xlvi)	9° 26' 11"	142° 33' 00"
(xlvii)	9° 26' 15"	142° 31' 55"
(xlviii)	9° 26' 17"	142° 31' 52"
(xlix)	9° 26' 17"	142° 31' 48"
(l)	9° 26' 15"	142° 31' 46"
(li)	9° 26' 06"	142° 31' 47"
(lii)	9° 25' 38"	142° 31' 35"
(liii)	9° 25' 28"	142° 31' 34"
(liv)	9° 25' 24"	142° 31' 33"
(lv)	9° 25' 05"	142° 31' 27"
(lvi)	9° 24' 39"	142° 31' 18"
(lvii)	9° 24' 37"	142° 31' 17"
(lviii)	9° 24' 32"	142° 31' 24"

to the point of commencement.

TERRITORIAL SEA OF ANCHOR CAY AND EAST CAY

The outer limit of the territorial sea of Anchor Cay and East Cay shall be a continuous line formed by a series of intersecting arcs of circles having a radius of three miles and drawn successively, so as to enclose the islands, from the following points—

	Latitude	Longitude
	(South)	(East)
(i)	9° 21' 27"	144° 07' 30"
(ii)	9° 21' 25"	144° 07' 28"
(iii)	9° 21' 25"	144° 07' 38"
(iv)	9° 21' 26"	144° 07' 44"
(v)	9° 21' 29"	144° 07' 50"
(vi)	9° 21' 31"	144° 07' 55"
(vii)	9° 21' 44"	144° 08' 24"
(viii)	9° 21' 45"	144° 08' 27"
(ix)	9° 21' 49"	144° 08' 33"
(x)	9° 21' 54"	144° 08' 37"
(xi)	9° 23' 09"	144° 12' 43"
(xii)	9° 23' 02"	144° 12' 55"
(xiii)	9° 23' 02"	144° 13' 23"
(xiv)	9° 23' 04"	144° 13' 29"
(xv)	9° 23' 06"	144° 13' 33"
(xvi)	9° 23' 09"	144° 13' 40"
(xvii)	9° 23' 13"	144° 13' 44"
(xviii)	9° 23' 30"	144° 13' 59"
(xix)	9° 23' 40"	144° 14' 11"
(xx)	9° 23' 44"	144° 14' 18"
(xxi)	9° 23' 50"	144° 14' 25"
(xxii)	9° 23' 59"	144° 14' 30"
(xxiii)	9° 24' 05"	144° 14' 31"
(xxiv)	9° 24' 19"	144° 14' 33"
(xxv)	9° 24' 29"	144° 14' 37"
(xxvi)	9° 24' 40"	144° 14' 40"
(xxvii)	9° 24' 44"	144° 14' 40"
(xxviii)	9° 24' 49"	144° 14' 35"
(xxix)	9° 24' 53"	144° 14' 33"
(xxx)	9° 24' 57"	144° 14' 27"
(xxxi)	9° 24' 57"	144° 14' 20"

**SCHEDULE—continued**

	<u>Latitude</u>	<u>Longitude</u>
	(South)	(East)
(xxxii)	9° 24' 56"	144° 14' 14"
(xxxiii)	9° 24' 44"	144° 13' 19"
(xxxiv)	9° 24' 40"	144° 13' 02"
(xxxv)	9° 24' 36"	144° 12' 58"
(xxxvi)	9° 24' 31"	144° 12' 56"
(xxxvii)	9° 23' 47"	144° 12' 34"
(xxxviii)	9° 22' 06"	144° 08' 38"
(xxxix)	9° 22' 07"	144° 08' 31"
(xl)	9° 21' 59"	144° 07' 57"
(xli)	9° 21' 47"	144° 07' 32"
(xlii)	9° 21' 44"	144° 07' 29"
(xliii)	9° 21' 40"	144° 07' 26"
(xliv)	9° 21' 35"	144° 07' 24"

**TERRITORIAL SEA OF BLACK ROCKS AND BRAMBLE CAY**

The outer limit of the territorial sea of Black Rocks and Bramble Cay shall be a continuous line formed by a series of intersecting arcs of circles having a radius of three miles and drawn successively, so as to enclose the islands, from the following points—

	<u>Latitude</u>	<u>Longitude</u>
	(South)	(East)
(i)	9° 10' 28"	143° 49' 59"
(ii)	9° 08' 40"	143° 52' 19"
(iii)	9° 08' 33"	143° 52' 22"
(iv)	9° 08' 26"	143° 52' 32"
(v)	9° 08' 24"	143° 52' 41"
(vi)	9° 08' 23"	143° 52' 48"
(vii)	9° 08' 24"	143° 53' 54"
(viii)	9° 08' 27"	143° 53' 06"
(ix)	9° 08' 32"	143° 53' 12"
(x)	9° 08' 43"	143° 53' 19"
(xi)	9° 08' 48"	143° 53' 19"
(xii)	9° 08' 52"	143° 53' 17"
(xiii)	9° 09' 00"	143° 53' 13"
(xiv)	9° 09' 04"	143° 53' 07"
(xv)	9° 09' 08"	143° 53' 00"
(xvi)	9° 09' 07"	143° 52' 49"

**TERRITORIAL SEA OF DELIVERANCE ISLAND AND KERR ISLET**

The outer limit of the territorial sea of Deliverance Island and Kerr Islet shall be a continuous line formed by a series of intersecting arcs of circles having a radius of three miles and drawn successively, so as to enclose the islands, from the following points—

	<u>Latitude</u>	<u>Longitude</u>
	(South)	(East)
(i)	9° 32' 39"	141° 32' 15"
(ii)	9° 32' 35"	141° 32' 11"
(iii)	9° 32' 07"	141° 31' 50"
(iv)	9° 32' 02"	141° 31' 54"
(v)	9° 31' 56"	141° 31' 58"
(vi)	9° 31' 51"	141° 32' 02"
(vii)	9° 31' 29"	141° 32' 17"
(viii)	9° 31' 27"	141° 32' 19"
(ix)	9° 31' 24"	141° 32' 21"
(x)	9° 30' 40"	141° 33' 32"



**SCHEDULE—continued**

	<u>Latitude</u>	<u>Longitude</u>
	(South)	(East)
(xi)	9° 30' 08"	141° 34' 01"
(xii)	9° 30' 01"	141° 34' 05"
(xiii)	9° 29' 57"	141° 34' 08"
(xiv)	9° 29' 51"	141° 34' 14"
(xv)	9° 29' 51"	141° 34' 19"
(xvi)	9° 29' 58"	141° 36' 13"
(xvii)	9° 30' 04"	141° 36' 16"
(xviii)	9° 30' 12"	141° 36' 16"
(xix)	9° 30' 28"	141° 36' 18"
(xx)	9° 30' 47"	141° 36' 18"
(xxi)	9° 31' 00"	141° 36' 15"
(xxii)	9° 31' 11"	141° 36' 10"
(xxiii)	9° 31' 29"	141° 36' 02"
(xxiv)	9° 31' 38"	141° 35' 55"
(xxv)	9° 31' 47"	141° 35' 46"
(xxvi)	9° 31' 50"	141° 35' 42"
(xxvii)	9° 32' 02"	141° 35' 21"
(xxviii)	9° 36' 21"	141° 34' 33"
(xxix)	9° 36' 24"	141° 34' 34"
(xxx)	9° 36' 35"	141° 34' 33"
(xxxi)	9° 36' 49"	141° 34' 26"
(xxxii)	9° 36' 56"	141° 34' 21"
(xxxiii)	9° 37' 05"	141° 34' 02"
(xxxiv)	9° 37' 14"	141° 33' 47"
(xxxv)	9° 37' 15"	141° 33' 28"
(xxxvi)	9° 37' 13"	141° 33' 25"
(xxxvii)	9° 37' 09"	141° 33' 22"
(xxxviii)	9° 37' 03"	141° 33' 21"
(xxxix)	9° 36' 58"	141° 33' 22"
(xl)	9° 36' 52"	141° 33' 27"

TERRITORIAL SEA OF PEARCE CAY

The outer limit of that part of the territorial sea of Pearce Cay which lies north of the line referred to in paragraph 1 of Article 4 of this Treaty shall be a continuous line—

- (a) commencing at the point of Latitude 9° 33' 00" South, Longitude 143° 14' 51" East;
- (b) thence along a series of intersecting arcs of circles having a radius of three miles and drawn successively from the following points—

	<u>Latitude</u>	<u>Longitude</u>
	(South)	(East)
(i)	9° 30' 56"	143° 17' 03"
(ii)	9° 30' 53"	143° 17' 03"
(iii)	9° 30' 50"	143° 17' 08"
(iv)	9° 30' 46"	143° 17' 19"
(v)	9° 30' 43"	143° 17' 26"
(vi)	9° 30' 42"	143° 17' 34"
(vii)	9° 30' 41"	143° 17' 43"
(viii)	9° 30' 48"	143° 17' 42"
(ix)	9° 30' 50"	143° 17' 40"

to the point of Latitude 9° 33' 00" South, Longitude 143° 19' 46" East; and

- (c) thence along the parallel of Latitude 9° 33' 00" South to the point of commencement.

SCHEDULE—continued

TERRITORIAL SEA OF TURNAGAIN ISLAND

The outer limit of the territorial sea of Turnagain Island shall be a continuous line formed by a series of intersecting arcs of circles having a radius of three miles, and drawn successively, so as to enclose the island, from the following points—

	<u>Latitude</u>	<u>Longitude</u>
	(South)	(East)
(i)	9° 32' 54"	142° 10' 47"
(ii)	9° 32' 54"	142° 10' 44"
(iii)	9° 32' 54"	142° 10' 40"
(iv)	9° 32' 52"	142° 10' 36"
(v)	9° 32' 49"	142° 10' 35"
(vi)	9° 32' 44"	142° 10' 36"
(vii)	9° 32' 23"	142° 10' 54"
(viii)	9° 32' 11"	142° 11' 39"
(ix)	9° 32' 10"	142° 11' 45"
(x)	9° 32' 15"	142° 11' 54"
(xi)	9° 32' 37"	142° 14' 59"
(xii)	9° 32' 36"	142° 15' 08"
(xiii)	9° 32' 37"	142° 15' 14"
(xiv)	9° 32' 40"	142° 15' 24"
(xv)	9° 32' 44"	142° 15' 40"
(xvi)	9° 32' 44"	142° 15' 47"
(xvii)	9° 32' 45"	142° 15' 53"
(xviii)	9° 32' 48"	142° 16' 04"
(xix)	9° 32' 51"	142° 16' 16"
(xx)	9° 32' 53"	142° 16' 28"
(xxi)	9° 32' 54"	142° 16' 34"
(xxii)	9° 32' 56"	142° 16' 39"
(xxiii)	9° 32' 58"	142° 16' 49"
(xxiv)	9° 33' 02"	142° 17' 01"
(xxv)	9° 33' 03"	142° 17' 12"
(xxvi)	9° 33' 05"	142° 17' 18"
(xxvii)	9° 33' 11"	142° 17' 30"
(xxviii)	9° 33' 14"	142° 17' 40"
(xxix)	9° 33' 16"	142° 17' 50"
(xxx)	9° 33' 18"	142° 18' 00"
(xxxi)	9° 33' 21"	142° 18' 09"
(xxxii)	9° 33' 23"	142° 18' 16"
(xxxiii)	9° 33' 28"	142° 18' 27"
(xxxiv)	9° 33' 33"	142° 18' 42"
(xxxv)	9° 33' 35"	142° 18' 51"
(xxxvi)	9° 33' 38"	142° 19' 03"
(xxxvii)	9° 33' 41"	142° 19' 12"
(xxxviii)	9° 33' 42"	142° 19' 19"
(xxxix)	9° 33' 44"	142° 19' 25"
(xl)	9° 33' 47"	142° 19' 38"
(xli)	9° 33' 49"	142° 19' 40"
(xlii)	9° 34' 15"	142° 20' 11"
(xliiii)	9° 34' 19"	142° 20' 16"
(xliv)	9° 34' 23"	142° 20' 17"
(xlv)	9° 34' 29"	142° 20' 14"
(xlvi)	9° 34' 34"	142° 20' 10"
(xlvii)	9° 34' 42"	142° 20' 03"
(xlviii)	9° 34' 46"	142° 19' 58"
(xlix)	9° 34' 49"	142° 19' 52"
(l)	9° 34' 52"	142° 19' 32"
(li)	9° 34' 52"	142° 19' 24"
(lii)	9° 34' 52"	142° 19' 15"

**SCHEDULE—continued**

	<u>Latitude</u> (South)	<u>Longitude</u> (East)
(liii)	9° 34' 50"	142° 19' 05"
(liv)	9° 34' 48"	142° 18' 54"
(lv)	9° 34' 46"	142° 18' 39"
(lvi)	9° 34' 43"	142° 18' 28"
(lvii)	9° 34' 40"	142° 18' 11"
(lviii)	9° 34' 38"	142° 18' 05"
(lix)	9° 34' 35"	142° 17' 56"
(lx)	9° 34' 30"	142° 17' 39"
(lxi)	9° 34' 23"	142° 17' 09"
(lxii)	9° 34' 21"	142° 16' 55"
(lxiii)	9° 34' 19"	142° 16' 39"
(lxiv)	9° 34' 16"	142° 16' 29"
(lxv)	9° 34' 07"	142° 15' 58"
(lxvi)	9° 34' 05"	142° 15' 49"
(lxvii)	9° 34' 01"	142° 15' 41"
(lxviii)	9° 33' 50"	142° 15' 17"
(lxix)	9° 33' 48"	142° 15' 10"
(lxx)	9° 33' 44"	142° 15' 00"
(lxxi)	9° 33' 35"	142° 14' 48"
(lxxii)	9° 33' 24"	142° 14' 31"
(lxxiii)	9° 33' 09"	142° 13' 59"
(lxxiv)	9° 33' 08"	142° 13' 53"

**TERRITORIAL SEA OF TURU CAY**

The outer limit of the territorial sea of Turu Cay shall be a continuous line formed by a series of intersecting arcs of circles having a radius of three miles and drawn successively, so as to enclose the island, from the following points

	<u>Latitude</u> (South)	<u>Longitude</u> (East)
(i)	9° 49' 53"	141° 24' 42"
(ii)	9° 49' 39"	141° 24' 44"
(iii)	9° 49' 31"	141° 24' 52"
(iv)	9° 49' 25"	141° 25' 02"
(v)	9° 49' 23"	141° 25' 13"
(vi)	9° 49' 20"	141° 25' 25"
(vii)	9° 49' 19"	141° 25' 36"
(viii)	9° 49' 18"	141° 25' 43"
(ix)	9° 49' 18"	141° 25' 53"
(x)	9° 49' 17"	141° 26' 07"
(xi)	9° 49' 23"	141° 26' 09"
(xii)	9° 49' 26"	141° 26' 06"
(xiii)	9° 49' 32"	141° 25' 58"
(xiv)	9° 49' 38"	141° 25' 49"
(xv)	9° 49' 44"	141° 25' 38"
(xvi)	9° 49' 47"	141° 25' 31"
(xvii)	9° 49' 53"	141° 25' 19"
(xviii)	9° 49' 56"	141° 25' 09"
(xix)	9° 49' 57"	141° 24' 54"
(xx)	9° 49' 56"	141° 24' 45"

**SCHEDULE—continued**

**ANNEX 5 TO THE TREATY BETWEEN AUSTRALIA AND THE INDEPENDENT STATE OF PAPUA NEW GUINEA CONCERNING SOVEREIGNTY AND MARITIME BOUNDARIES IN THE AREA BETWEEN THE TWO COUNTRIES INCLUDING THE AREA KNOWN AS TORRES STRAIT, AND RELATED MATTERS**

**SEABED JURISDICTION LINE**

A line —

- (a) commencing at the point of Latitude 10° 50' 00" South, Longitude 139° 12' 00" East;
- (b) running thence south-easterly along the geodesic to the point of Latitude 11° 09' 00" South, Longitude 139° 23' 00" East;
- (c) thence north-easterly along the geodesic to the point of Latitude 10° 59' 00" South, Longitude 140° 00' 00" East;
- (d) thence north-easterly along the geodesic to the point of Latitude 9° 46' 00" South, Longitude 142° 00' 00" East;
- (e) thence north-easterly along the geodesic to the point of Latitude 9° 45' 24" South, Longitude 142° 03' 30" East;
- (f) thence north-easterly along the geodesic to the point of Latitude 9° 42' 00" South, Longitude 142° 23' 00" East;
- (g) thence north-easterly along the geodesic to the point of Latitude 9° 40' 30" South, Longitude 142° 51' 00" East;
- (h) thence north-easterly along the geodesic to the point of Latitude 9° 40' 00" South, Longitude 143° 00' 00" East;
- (i) thence north-easterly along the geodesic to the point of Latitude 9° 33' 00" South, Longitude 143° 05' 00" East;
- (j) thence east along the parallel of Latitude 9° 33' 00" South to its intersection by the meridian of Longitude 143° 20' 00" East;
- (k) thence north-easterly along the geodesic to the point of Latitude 9° 24' 00" South, Longitude 143° 30' 00" East;
- (l) thence north-easterly along the geodesic to the point of Latitude 9° 22' 00" South, Longitude 143° 48' 00" East;
- (m) thence south-easterly along the geodesic to the point of Latitude 9° 30' 00" South, Longitude 144° 15' 00" East;
- (n) thence south-easterly along the geodesic to the point of Latitude 9° 51' 00" South, Longitude 144° 44' 00" East;
- (o) thence south-easterly along the geodesic to the point of Latitude 12° 20' 00" South, Longitude 146° 30' 00" East;
- (p) thence south-easterly along the geodesic to the point of Latitude 12° 38' 30" South, Longitude 147° 08' 30" East;
- (q) thence south-easterly along the geodesic to the point of Latitude 13° 10' 30" South, Longitude 148° 05' 00" East;
- (r) thence south-easterly along the geodesic to the point of Latitude 14° 38' 00" South, Longitude 152° 07' 00" East;
- (s) thence south-easterly along the geodesic to the point of Latitude 14° 45' 00" South, Longitude 154° 15' 00" East;
- (t) thence north-easterly along the geodesic to the point of Latitude 14° 05' 00" South, Longitude 156° 37' 00" East; and
- (u) thence north-easterly along the geodesic to the point of Latitude 14° 04' 00" South, Longitude 157° 00' 00" East where it terminates.

**ANNEX 8 TO THE TREATY BETWEEN AUSTRALIA AND THE INDEPENDENT STATE OF PAPUA NEW GUINEA CONCERNING SOVEREIGNTY AND MARITIME BOUNDARIES IN THE AREA BETWEEN THE TWO COUNTRIES INCLUDING THE AREA KNOWN AS TORRES STRAIT, AND RELATED MATTERS**

**FISHERIES JURISDICTION LINE**

A line —

- (a) commencing at the point of Latitude 10° 50' 00" South, Longitude 139° 12' 00" East;
- (b) running thence south-easterly along the geodesic to the point of Latitude 11° 09' 00" South, Longitude 139° 23' 00" East;

**SCHEDULE—continued**

- (c) thence north-easterly along the geodesic to the point of Latitude 10° 59' 00" South, Longitude 140° 00' 00" East;
- (d) thence north-easterly along the geodesic to the point of Latitude 9° 46' 00" South, Longitude 142° 00' 00" East;
- (e) thence north-easterly along the geodesic to the point of Latitude 9° 45' 24" South, Longitude 142° 03' 30" East;
- (f) thence north along the meridian of Longitude 142° 03' 30" East to its intersection by the parallel of Latitude 9° 15' 43" South;
- (g) thence north-easterly along the geodesic to the point of Latitude 9° 12' 50" South, Longitude 142° 06' 25" East;
- (h) thence north-easterly along the geodesic to the point of Latitude 9° 11' 51" South, Longitude 142° 08' 33" East;
- (i) thence south-easterly along the geodesic to the point of Latitude 9° 11' 58" South, Longitude 142° 10' 18" East;
- (j) thence north-easterly along the geodesic to the point of Latitude 9° 11' 22" South, Longitude 142° 12' 54" East;
- (k) thence south-easterly along the geodesic to the point of Latitude 9° 11' 34" South, Longitude 142° 14' 08" East;
- (l) thence south-easterly along the geodesic to the point of Latitude 9° 13' 53" South, Longitude 142° 16' 26" East;
- (m) thence south-easterly along the geodesic to the point of Latitude 9° 16' 04" South, Longitude 142° 20' 41" East;
- (n) thence south-easterly along the geodesic to the point of Latitude 9° 22' 04" South, Longitude 142° 29' 41" East;
- (o) thence north-easterly along the geodesic to the point of Latitude 9° 21' 48" South, Longitude 142° 31' 29" East;
- (p) thence south-easterly along the geodesic to the point of Latitude 9° 22' 33" South, Longitude 142° 33' 28" East;
- (q) thence north-easterly along the geodesic to the point of Latitude 9° 21' 25" South, Longitude 142° 35' 29" East;
- (r) thence north-easterly along the geodesic to the point of Latitude 9° 20' 21" South, Longitude 142° 41' 43" East;
- (s) thence north-easterly along the geodesic to the point of Latitude 9° 20' 16" South, Longitude 142° 43' 53" East;
- (t) thence north-easterly along the geodesic to the point of Latitude 9° 19' 26" South, Longitude 142° 48' 18" East where it joins the outer limit of the three mile territorial sea of Saibai Island;
- (u) thence along that outer limit so as to pass to the east of Saibai Island to the point of Latitude 9° 23' 40" South, Longitude 142° 51' 00" East;
- (v) thence south along the meridian of Longitude 142° 51' 00" East to its intersection by the parallel of Latitude 9° 40' 30" South;
- (w) thence north-easterly along the geodesic to the point of Latitude 9° 40' 00" South, Longitude 143° 00' 00" East;
- (x) thence north-easterly along the geodesic to the point of Latitude 9° 33' 00" South, Longitude 143° 05' 00" East;
- (y) thence east along the parallel of Latitude 9° 33' 00" South to its intersection by the meridian of Longitude 143° 20' 00" East;
- (z) thence north-easterly along the geodesic to the point of Latitude 9° 24' 00" South, Longitude 143° 30' 00" East;
- (za) thence north-easterly along the geodesic to the point of Latitude 9° 22' 00" South, Longitude 143° 48' 00" East;
- (zb) thence south-easterly along the geodesic to the point of Latitude 9° 30' 00" South, Longitude 144° 15' 00" East;
- (zc) thence south-easterly along the geodesic to the point of Latitude 9° 51' 00" South, Longitude 144° 44' 00" East;
- (zd) thence south-easterly along the geodesic to the point of Latitude 12° 20' 00" South, Longitude 146° 30' 00" East;

**SCHEDULE—continued**

- (ze) thence south-easterly along the geodesic to the point of Latitude 12° 38' 30" South, Longitude 147° 08' 30" East;
- (zf) thence south-easterly along the geodesic to the point of Latitude 13° 10' 30" South, Longitude 148° 05' 00" East;
- (zg) thence south-easterly along the geodesic to the point of Latitude 14° 38' 00" South, Longitude 152° 07' 00" East;
- (zh) thence south-easterly along the geodesic to the point of Latitude 14° 45' 00" South, Longitude 154° 15' 00" East; and
- (zi) thence north-easterly along the geodesic to the point of Latitude 14° 05' 00" South, Longitude 156° 37' 00" East where it terminates.

**ANNEX 9 TO THE TREATY BETWEEN AUSTRALIA AND THE INDEPENDENT STATE OF PAPUA NEW GUINEA CONCERNING SOVEREIGNTY AND MARITIME BOUNDARIES IN THE AREA BETWEEN THE TWO COUNTRIES, INCLUDING THE AREA KNOWN AS TORRES STRAIT, AND RELATED MATTERS**

PROTECTED ZONE

A line

- (a) commencing at the point of Latitude 10° 28' 00" South, Longitude 144° 10' 00" East;
- (b) running thence west along the parallel of Latitude 10° 28' 00" South to its intersection by the meridian of Longitude 141° 20' 00" East;
- (c) thence north along that meridian to its intersection by the parallel of Latitude 9° 33' 00" South;
- (d) thence north-easterly along the geodesic to the point of Latitude 9° 13' 00" South, Longitude 141° 57' 00" East;
- (e) thence north along the meridian of Longitude 141° 57' 00" East to its intersection by the southern coastline of the island of New Guinea at low water;
- (f) thence generally easterly along the southern coastline of the island of New Guinea, that is along the low water line on that coast and across any river mouth and in the case of the mouth of the Mai Kussa River along the parallel of Latitude 9° 09' 00" South, thence along the southern coastline of the island of New Guinea, that is along the low water line on that coast and across any river mouth to its intersection by the meridian of Longitude 142° 36' 00" East;
- (g) thence south along that meridian to its intersection by the parallel of Latitude 9° 21' 00" South;
- (h) thence north-easterly along the geodesic between that point of intersection and the point of Latitude 9° 09' 00" South, Longitude 143° 47' 20" East;
- (i) thence along the outer limit of the three-mile territorial sea of Black Rocks, so as to pass to the north-west of Black Rocks, to the point of intersection of that limit by the outer limit of the three-mile territorial sea of Bramble Cay;
- (j) thence along that outer limit, so as to pass successively to the north and east of Bramble Cay, to the point of Latitude 9° 10' 50" South, Longitude 143° 55' 40" East;
- (k) thence south-easterly along the geodesic to the point of Latitude 9° 18' 40" South, Longitude 144° 06' 10" East;
- (l) thence along the outer limit of the three-mile territorial sea of Anchor Cay, so as to pass to the north of Anchor Cay, to the point of intersection of that limit by the outer limit of the three-mile territorial sea of East Cay;
- (m) thence along that outer limit, so as to pass successively to the north and east of East Cay, to the point of Latitude 9° 26' 50" South, Longitude 144° 16' 50" East;
- (n) thence south-easterly along the geodesic to the point of Latitude 9° 35' 15" South, Longitude 144° 28' 00" East;
- (o) thence south along the meridian of Longitude 144° 28' 00" East to its intersection by the parallel of Latitude 9° 54' 00" South;

**SCHEDULE—continued**

- (p) thence south-westerly along the geodesic to the point of Latitude 10° 15' 00" South, Longitude 144° 12' 00" East; and
- (q) thence south-westerly along the geodesic to the point of commencement.