

Fishing Levy (Northern Shark Fishery) Regulations 1993 No. 293

EXPLANATORY STATEMENT

STATUTORY RULES 1993 No. 293

Issued by the authority of the Minister for Resources

Fishing Levy Act 1991

Fisheries Management Act 1991

Fishing Levy (Northern Shark Fishery) Regulations

Section 8 of the *Fishing Levy Act 1991* (the Levy Act) empowers the Governor-General to make regulations for the purposes of section 6 of the Levy Act.

Section 5 of the Levy Act imposes levy in respect of a fishing concession. Section 6 of the Levy Act provides that the amount of levy imposed on the fishing concession is the amount prescribed by the Regulations. Sections 5 and 6 of the Levy Act commenced prior to the issue of any of the fishing concessions, in respect of which the levy is imposed.

Section 168 of the *Fisheries Management Act 1991* (the Management Act) empowers the Governor-General to make regulations for the purposes of the Management Act. Section 110 of the Management Act provides that the levy imposed by the Levy Act is due and payable at a time or times ascertained as a consequence of regulations made under the Management Act.

"Fishing concession" is defined under the Levy Act and the Management Act to mean, among other things, a fishing permit.

The Regulations specify the amount of levy imposed in respect of fishing permits allowing the taking of fish by the longline and gillnet methods, within each of the 3 zones in the Northern Shark Fishery (the fishery). The Regulations replace equivalent Regulations made under the *Fisheries Levy Act 1984* (the 1984 Regulations), as a consequence of the transition to managing the fishery under the Management Act, now that the *Fisheries Act 1952* has ceased to have effect in relation to the fishery.

The Regulations would apply to fishing permits in force on or granted after the commencement of the Regulations. The effect of the Regulations is to require, for each zone in which fishing is authorised by the permit, the payment of levy in the amount of \$1371:

on or before 30 November 1993, for fishing permits in force on, and granted prior to the commencement of the Regulations; and

on the grant of a fishing permit, for fishing permits granted on or after the commencement of the Regulations.

Due to the low productivity in the fishery, the costs of management are subsidised by the Commonwealth. The amount of levy is calculated on the basis of recovering 86 per cent of the estimated costs of managing the fishery during the 1992-1993 financial year from the holders of fishing permits in the fishery.

The amount of levy of \$1,371 represents a \$129 decrease from the amount of levy previously payable under the 1984 Regulations. The decrease results from a fall in management costs for the fishery in the year, largely due to lower staffing in the fishery management area.

At present, Regulations made under the Levy Act are of two types:

in a class of its own, the Fishing Levy Regulations, which prescribe an amount of levy payable in respect of all fishing concessions; and

other Regulations, known as "fishery specific levy Regulations" (of which the Regulations are an example), which prescribe an amount of levy payable in respect of a fishing concession that authorises fishing in a particular area of waters (such as the area of the fishery).

Levy collected under the Fishing Levy Regulations is collected to recover a proportion of the costs of managing fisheries for which no fishery specific levy Regulations have been made. These fisheries are known as "informally managed fisheries". Levy collected under the fishery specific levy Regulations recover varying amounts of the costs of managing those particular fisheries, which are known as "formally managed fisheries".

The basis of collection of levy across all Commonwealth managed fisheries is currently under review, to ensure that levy payable by permit holders is charged on a "user-pays" basis. As a result of this review, amendments have been proposed to the Fishing Levy Regulations. The intended effect of those amendments is be that a distinction will be made between formally managed fisheries and informally managed fisheries when prescribing amounts of levy, so that the amount of levy prescribed by the Fishing Levy Regulations will only be prescribed in respect of fishing concessions for informally managed fisheries.

As a consequence of the amendments proposed for the Fishing Levy Regulations,

the amount of levy specified by the Regulations would be additional to the amount of levy prescribed for a fishing concession in the Fishing Levy Regulations for fishing permits for the fishery in force on and granted prior to the commencement of the amendments proposed for the Fishing Levy Regulations; however,

the amount of levy prescribed for a fishing concession in the Fishing Levy Regulations would not be payable for fishing permits for the fishery granted on or after the commencement of the amendments proposed for the Fishing Levy Regulations.

The Schedule to the Regulations specifies the area of each of the three zones which comprise the fishery.

Details of the Regulations, which commenced on gazettal, are set out below:

Regulation 1 provides for the citation of the Regulations.

Regulation 2 provides for the interpretation of defined terms in the Regulations.

Regulation 3 specifies the amount of levy prescribed for a fishing permit.

Regulation 4 specifies when the levy is due and payable.

The Schedule to the Regulations describes the area of the fishery.