



Department

Statutory Rules 1994 No. L1 345

Antarctic Marine Living Resources Conservation Regulations

I, THE ADMINISTRATOR of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Antarctic Marine Living Resources Conservation Act 1981*.

Dated L 1994.

11 October

L P. BENNETT
Administrator

By His Excellency's Command,

L JOHN FAULKNER

Minister for the Environment, Sport and Territories

PART 1—PRELIMINARY

Citation

1. These Regulations may be cited as the Antarctic Marine Living Resources Conservation Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

Object of the Regulations

2. The object of these Regulations is to implement obligations to which Australia is subject under the Convention.

[NOTE: The Convention is the Convention on the Conservation of Antarctic Marine Living Resources: see subsection 3 (1) of the Act.]

Interpretation

3. In these Regulations, unless the contrary intention appears:

“**CCAMLR**” means the Commission for the Conservation of Antarctic Marine Living Resources;

“**CCAMLR Convention Area**” means the Convention area;

“**CEMP site**” means a monitoring site:

- (a) established for the purposes of the Ecosystem Monitoring Program conducted by the parties to the Convention; and
- (b) the management plan for which has been adopted by the Commission for the Conservation of Antarctic Marine Living Resources in accordance with Conservation Measure 18/IX:
 - (i) that was adopted by the Commission; and
 - (ii) that became binding on Australia on 7 May 1991; and
 - (iii) as in force on the day on which these Regulations commence;

“**entry permit**” means a permit given under subregulation 6 (1);

“**foreign permit**” means a permit issued to a person, by another Contracting Party, that allows the person to enter the site;

“**permit holder**” means a person to whom an entry permit is given;

“**the Act**” means the *Antarctic Marine Living Resources Conservation Act 1981*.

[NOTE: The initials “CEMP” refer to the Convention on the Conservation of Antarctic Marine Living Resources Ecosystem Monitoring Program.]

**PART 2—PERMITS UNDER SUBSECTION 9 (1) OF THE
ACT**

Acts not authorised by a permit

4. For the purposes of subsection 9 (2) of the Act, an act that would contravene a conservation measure set out in the Schedule must not be authorised in a permit issued under subsection 9 (1) of the Act.

PART 3—ENTRY TO CEMP SITES

Application for an entry permit

5. (1) A person may apply in writing to the Minister for an entry permit relating to 1 or more CEMP sites referred to in the application.

(2) If the applicant wishes to enter a CEMP site, he or she must identify in the application:

- (a) the CEMP site; and
- (b) the individuals under the applicant's control whom the applicant expects to enter the CEMP site.

(3) If the applicant wishes to carry out an activity at a CEMP site, he or she must identify in the application:

- (a) the activity; and
- (b) the CEMP site; and
- (c) the individuals under the applicant's control whom the applicant expects to enter the CEMP site to carry out the activity.

Issue of an entry permit

6. (1) The Minister may give an entry permit to the applicant under subregulation 5 (1).

(2) Before the Minister gives an entry permit, he or she must have regard to:

- (a) the objectives of the Act; and
- (b) the objective and principles of the Convention; and
- (c) the objectives of the conservation measures; and
- (d) the requirements of the management plan in force in relation to each CEMP site named in the application.

(3) An entry permit must:

- (a) be in writing; and
- (b) identify each CEMP site to which it applies; and
- (c) identify, for each CEMP site, the activities (if any) that the permit holder is authorised to carry out at the site; and
- (d) identify, for each CEMP site, the individuals (if any) under the permit holder's control who are authorised to enter the site; and
- (e) state the period for which it is in force.

(4) An entry permit remains in force for the period stated in the permit.

(5) The Minister must enter details of an entry permit, and any conditions to which the permit is subject under subregulation 7 (2), in the register of permits kept under subsection 9 (7) of the Act.

Conditions to which an entry permit is subject

7. (1) An entry permit is subject to the following conditions:

- (a) the activities that the permit holder and the individuals identified in the permit carry out at a CEMP site to which the permit applies must:
 - (i) comply with the management plan applicable to the CEMP site; and
 - (ii) avoid affecting adversely the effectiveness of the management plan;

- (b) if an activity identified in the permit relates to a matter to which a conservation measure set out in the Schedule relates, the permit holder and the individuals identified in the permit must comply with the conservation measure.
- (2) The Minister may make an entry permit subject to conditions in addition to those set out in subregulation (1), including conditions relating to:
- (a) the times and places at which the permit holder or an individual identified in the permit may enter a CEMP site; or
 - (b) the activities that the permit holder or an individual identified in the permit is authorised to carry out at a CEMP site; or
 - (c) the activities that the permit holder or an individual identified in the permit is not to carry out at a CEMP site; or
 - (d) giving the Minister information relating to:
 - (i) the permit holder's compliance with the permit; or
 - (ii) the condition of the CEMP site to which the permit relates; or
 - (iii) the work undertaken by the permit holder and the individuals identified in the permit at the CEMP site to which the permit relates.

Amendment of an entry permit

8. (1) The Minister may amend an entry permit:
- (a) by adding conditions to the permit; or
 - (b) by varying or revoking the conditions to which the permit is subject; or
 - (c) by varying the list of persons to whom the permit applies; or
 - (d) by varying the number of sites that an individual identified in the permit may enter; or

- (e) by varying the description of the activities to which the permit applies; or
- (f) by varying the period for which the permit is in force.

(2) Before the Minister acts under subregulation (1), he or she must have regard to:

- (a) the objectives of the Act; and
- (b) the objective and principles of the Convention; and
- (c) the objectives of the conservation measures; and
- (d) the requirements of the management plan in force in relation to each CEMP site to which the permit applies.

(3) The Minister may act under subregulation (1):

- (a) at any time; and
- (b) without the agreement of the permit holder; and
- (c) if he or she considers it necessary:
 - (i) to ensure the protection of a CEMP site; or
 - (ii) for a reason relating to a purpose for which the permit was given; or
 - (iii) to ensure that the objectives of the Act and the objective and principles of the Convention are met.

(4) If the Minister acts under subregulation (1), he or she must enter the details of the addition or variation in the register of permits kept under subsection 9 (7) of the Act.

Suspension or revocation of an entry permit

9. (1) The Minister may suspend or revoke an entry permit if he or she believes on reasonable grounds that the permit holder, or an individual identified in the permit, has contravened a condition to which the permit is subject.

(2) The Minister may suspend or revoke an entry permit if the permit holder, or an individual identified in the permit, is convicted of an offence against:

- (a) the Act; or
- (b) these Regulations; or
- (c) the *Antarctic Mining Prohibition Act 1991*; or
- (d) the *Antarctic Treaty (Environment Protection Act) 1980*; or
- (e) regulations made under the *Antarctic Treaty (Environment Protection Act) 1980*; or
- (f) the *Continental Shelf (Living Natural Resources) Act 1968*; or
- (g) the *Environment Protection and Management Ordinance 1987* of the Territory of Heard Island and McDonald Islands; or
- (h) the *Fisheries Management Act 1991*; or
- (i) the *Whale Protection Act 1980*.

(3) The Minister may suspend or revoke an entry permit if he or she believes on reasonable grounds that an act that the permit holder, or an individual identified in the permit, is likely to carry out at a CEMP site may:

- (a) conflict with the management plan applicable to the site; or
- (b) affect adversely the effectiveness of the management plan.

(4) Before the Minister takes action under this regulation, he or she must have regard to:

- (a) the objectives of the Act; and
- (b) the objective and principles of the Convention; and
- (c) the objectives of the conservation measures; and
- (d) the requirements of the management plan in force in relation to each CEMP site to which the permit applies.

(5) The Minister may:

- (a) revoke the suspension of the permit; or
- (b) revoke the permit while it is suspended.

(6) If the Minister suspends or revokes an entry permit, he or she must enter the details of the action in the register of permits kept under subsection 9 (7) of the Act.

(7) The Minister must not suspend the permit for a continuous period longer than 90 days.

(8) The period for which the permit is expressed to operate includes a period during which the permit is suspended.

Review of decisions

10. Application may be made to the Administrative Appeals Tribunal for the review of a decision of the Minister:

- (a) refusing to give an entry permit under subregulation 6 (1); or
- (b) relating to the number of CEMP sites identified under paragraph 6 (3) (b) in an entry permit; or
- (c) imposing conditions on an entry permit under subregulation 7 (2); or
- (d) adding conditions to an entry permit, or varying the conditions to which the permit is subject; or
- (e) varying a matter under paragraph 8 (1) (c), (d), (e) or (f); or
- (f) suspending or revoking an entry permit under regulation 9.

Offences

11. (1) A person must not knowingly or recklessly enter a CEMP site.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply if the person:
- (a) is a permit holder; or
 - (b) is identified in an entry permit as a person under the permit holder's control; or
 - (c) holds a foreign permit in relation to the site.

- (3) If an entry permit is issued in relation to a CEMP site:
- (a) the permit holder must not, without reasonable excuse, act in a manner that:
 - (i) is inconsistent with the requirements of the management plan in force in relation to the site; or
 - (ii) affects adversely the effectiveness of the management plan; and
 - (b) an individual identified in the permit as an individual under the permit holder's control must not, without reasonable excuse, act in a manner that:
 - (i) is inconsistent with the requirements of the management plan in force in relation to the site; or
 - (ii) affects adversely the effectiveness of the management plan; and
 - (c) the permit holder must not, without reasonable excuse, allow a person identified in the permit as a person under the permit holder's control to act in a manner described in paragraph (b).

Penalty: 10 penalty units.

(4) A permit holder, or an individual identified in the permit as an individual under the permit holder's control, must not knowingly or recklessly contravene a condition to which the permit is subject.

Penalty for a contravention of this subregulation: 10 penalty units.

Communications

12. For the purposes of these Regulations, a person may give a document, or a copy of a document, to another person by communications carried by means of guided or unguided electromagnetic energy or both.

SCHEDULE

Regulation 4
Paragraph 7 (1) (b)

CONSERVATION MEASURES

CONSERVATION MEASURE 2/III

**Mesh size (as amended in accordance with
Conservation Measure 19/IX)**

1. The use of pelagic and bottom trawls having the mesh-size in any part of a trawl less than indicated is prohibited for any directed fishery for:

Notothenia rossii, Dissostichus eleginoides - 120 mm

Notothenia gibberifrons, Notothenia kempfi,
Notothenia squamifrons - 80 mm

2. It is prohibited to use any means or device which would obstruct or diminish the size of the meshes.

3. This Conservation Measure does not apply to fishing conducted for scientific research purposes.

4. This Measure will apply as of 1 September 1985.

CONSERVATION MEASURE 19/IX

Mesh size for *Champscephalus gunnari*

1. The use of pelagic and bottom trawls having the mesh size in any part of a trawl less than 90 mm is prohibited for any directed fishery for *Champscephalus gunnari*.

2. The mesh size specified above is defined in accordance with the regulations on mesh size measurement, Conservation Measure 4/V.

3. It is prohibited to use any means or device which would obstruct or diminish the size of the meshes.

SCHEDULE—continued

4. This Conservation Measure does not apply to fishing conducted for scientific research purposes.
5. This Measure will apply as of 1 November 1991.
6. Conservation Measure 2/III is amended accordingly.

CONSERVATION MEASURE 30/X¹
Net Monitor Cables

The use of net monitor cables on harvesting vessels in the CCAMLR Convention Area is prohibited from the 1994/1995 fishing season.

- ¹ except for waters adjacent to the Kerguelen and Crozet Islands

CONSERVATION MEASURE 40/X
Monthly Catch and Effort Reporting System

This Conservation Measure is adopted in accordance with Conservation Measure 7/V where appropriate:

1. For the purposes of this Catch and Effort Reporting System the reporting period shall be defined as one calendar month.
2. At the end of each reporting period, each Contracting Party shall obtain from each of its vessels its total catch and total days and hours fished for that period and shall, by cable or telex, transmit the aggregated catch and days and hours fished for its vessels so as to reach the Executive Secretary not later than the end of the next reporting period.
3. Such reports shall specify the month to which each report refers.

SCHEDULE—continued

4. Immediately after the deadline has passed for receipt of the reports for each period, the Executive Secretary shall notify all Contracting Parties of the total catch taken during the reporting period, the total aggregate catch for the season to date together with an estimate of the date upon which the total allowable catch is likely to be reached for that season. The estimate shall be based on a projection forward of the trend in daily catch rates, obtained using linear regression techniques from a number of the most recent catch reports.

5. In the case of finfish, if the estimated date of completion of the TAC is within one reporting period of the date on which the Secretariat received the report of the catches, the Executive Secretary shall inform all Contracting Parties that the fishery will close on that estimated day or on the day on which the report was received, whichever is the later.

[NOTE: The initials "TAC" refer to a Total Allowable Catch.]

SCHEDULE—continued

CONSERVATION MEASURE 29/XII
Minimisation of the Incidental Mortality of Seabirds
in the Course of Longline Fishing or Longline Fishing
Research in the Convention Area

The Commission:

Noting the need to reduce the incidental mortality of seabirds during longline fishing by minimising their attraction to the fishing vessels and by preventing them from attempting to seize baited hooks, particularly during the period when the lines are set.

Recognizing that successful techniques for reducing the mortality of albatrosses have been employed in the longline fishery for tuna immediately to the north of the Convention Area.

Agrees to the following measures to reduce the possibility of incidental mortality of seabirds during longline fishing.

1. Fishing operations shall be conducted in such a way that the baited hooks sink as soon as possible after they are put in the water. Only thawed bait shall be used.
2. During the setting of longlines at night, only the minimum ship's lights necessary for safety shall be used.
3. Trash and offal are not to be dumped while longline operations are in progress.
4. A streamer line designed to discourage birds from settling on baits during deployment of longlines shall be towed. Specification of the streamer line and its method of deployment is given in the Appendix to this Measure. Details of the construction relating to the number and placement of swivels may be varied so long as the effective sea surface covered by the streamers is no less than that covered by the currently specified design.

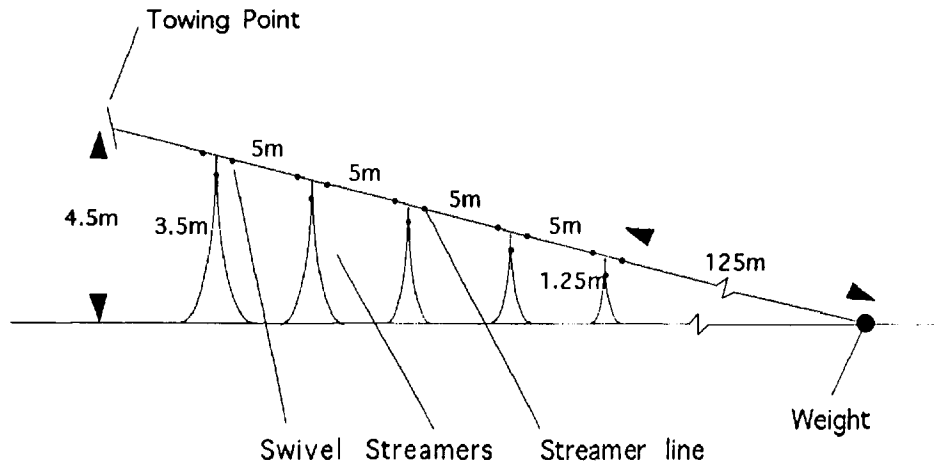
SCHEDULE—continued

5. This Measure shall not apply to designated research vessels investigating better methods for reducing incidental mortality of seabirds.

APPENDIX TO CONSERVATION MEASURE 29/XII

1. The streamer line is to be suspended at the stern from a point approximately 4.5 m above the water and such that the line is directly above the point where the baits hit the water.
2. The streamer line is to be approximately 3 mm diameter, have a minimum length of 150 m and be weighted at the end so that it streams directly behind the ship even in cross winds.
3. At 5 m intervals commencing from the point of attachment to the ship five branch streamers each comprising two strands of approximately 3 mm diameter cord should be attached. The length of the streamer should range between approximately 3.5 m nearest the ship to approximately 1.25 m for the fifth streamer. When the streamer line is deployed the branch streamers should reach the sea surface and periodically dip into it as the ship heaves. Swivels should be placed in the streamer line at the towing point, before and after the point of attachment of each branch streamer and immediately before any weight placed on the end of the streamer line. Each branch streamer should also have a swivel at its attachment to the streamer line.

SCHEDULE—continued



CONSERVATION MEASURE 63/XII
Reduction in Use of Plastic Packaging Bands

The Commission:

Recollecting that for many years it has received evidence from the Scientific Committee that substantial numbers of Antarctic fur seals have been entangled and killed in plastic packaging bands in the Convention Area.

Noting that, despite the recommendations of CCAMLR and the provisions of the MARPOL Convention and its Annexes which prohibit the jettisoning of all plastics at sea, substantial entanglement of fur seals is still continuing.

Recognising that the bait boxes used on fishing vessels in particular and other packages in general need not be secured by plastic packaging bands because suitable alternatives exist.

Agrees to adopt the following Conservation Measure, to reduce the incidental mortality of seals due to entanglement, in accordance with Article IX of the Convention.

SCHEDULE—continued

1. As a general practice all packaging bands, once removed from packages, shall be cut, so that they do not form a continuous loop.
2. The use on fishing vessels of plastic packaging bands to secure bait boxes shall be prohibited from the 1995/96 season.
3. The use of such packaging bands for other purposes on fishing vessels which do not use on-board incinerators shall be prohibited from the 1996/97 season.

CONSERVATION MEASURE 64/XII^{1,2}
The Application of Conservation Measures to
Scientific Research

This Conservation Measure governs the application of conservation measures to scientific research and is adopted in accordance with Article IX of the Convention.

1. General application.
 - (a) Catches taken by any vessel for research purposes will be considered as part of any catch limits in force for each species taken, and shall be reported to CCAMLR as part of the annual STATLANT returns.
 - (b) The CCAMLR within season catch and effort reporting systems shall apply whenever the catch within a specified reporting period exceeds five tonnes, unless more specific regulations apply to the particular species.

SCHEDULE—continued

2. Application to vessels taking less than 50 tonnes of catch for any purpose.
 - (a) Any Member planning to use a vessel for research purposes when the estimated catch is expected to be less than a total of 50 tonnes shall notify the Secretariat of the Commission which in turn will notify all Members immediately, according to the format provided in Annex 64/A. This notification shall be included in the Members' Activities Reports.
 - (b) Vessels to which the provisions of paragraph 2 (a) above apply, shall be exempt from conservation measures relating to mesh size regulations, prohibition of types of gear, closed areas, fishing seasons and size limits, and reporting system requirements other than those specified in paragraphs 1 (a) and (b) above.
3. Application to vessels taking more than 50 tonnes of finfish.
 - (a) Any Member planning to use any type of vessel to conduct fishing for research purposes when the estimated catch is expected to be more than 50 tonnes, shall notify the Commission and provide the opportunity for other Members to review and comment on its research plan. The plan shall be provided to the Secretariat for distribution to Members at least six months in advance of the planned starting date for the research. In the event of any request for a review of such plan being lodged within two months of its circulation, the Executive Secretary shall notify all Members and submit the plan to the Scientific Committee for review. Based on the submitted research plan and any advice provided by the appropriate Working Group, the Scientific Committee will provide advice to the Commission where the review process will be concluded. Until the review process is complete the planned fishing for research purposes shall not proceed.

SCHEDULE—continued

- (b) Research plans shall be reported in accordance with the standardised guidelines and formats adopted by the Scientific Committee, given in Annex 64/A.
- (c) A summary of the results of any research subject to these provisions shall be provided to the Secretariat within 180 days of the completion of the research fishing. A full report shall be provided within 12 months.
- (d) Catch and effort data resulting from the research fishing in accordance with paragraph (a) above, should be reported to the Secretariat according to the haul-by-haul reporting format for research vessels (C4).

¹ except for waters adjacent to the Kerguelen and Crozet Islands

² except for waters adjacent to the Prince Edward Islands

ANNEX 64/A

**FORMATS FOR NOTIFICATION OF RESEARCH VESSEL
ACTIVITY**

Format 1

**NOTIFICATION OF RESEARCH VESSEL ACTIVITY WHEN THE
TOTAL CATCH IS EXPECTED TO BE LESS THAN 50 TONNES**

Name and registration number of vessel _____

Division and subarea in which research is to be carried out _____

Estimated dates of entering and leaving CCAMLR Convention Area _____

Purpose of research _____

SCHEDULE—continued

Fishing equipment likely to be used:

Bottom trawl _____
Midwater trawl _____
Longline _____
Crab pots _____
Other fishing gear (specify) _____

Format 2

**FORMAT FOR REPORTING PLANS FOR FINFISH SURVEYS IN THE
CONVENTION AREA WHEN THE TOTAL CATCH IS EXPECTED TO
BE MORE THAN 50 TONNES**

CCAMLR MEMBER _____

SURVEY DETAILS

A statement of the planned research objectives _____

Survey Area/Subarea/Division _____

Geographical Boundaries: Latitude from ____ to _____
Longitude from ____ to _____

Is a map of area surveyed (preferably including bathymetry and positions of
sampling stations / hauls) appended to the format: _____

Proposed dates of survey: from ____ / ____ / ____ (Y/M/D)
to ____ / ____ / ____ (Y/M/D)

SCHEDULE—continued

The name(s) and address of the chief scientist(s) responsible for planning and coordinating the research _____

Number of scientists _____ and crew _____ to be aboard the vessel.

Is there opportunity for inviting scientists from other Members: _____

If so, indicate a number of such scientists _____

DESCRIPTION OF VESSEL

Name of vessel _____

Name and address of vessel owner _____

Vessel type (dedicated research or chartered commercial vessel) _____

Port of registration _____ Registration number _____

Radio call sign _____ Overall length _____ (m)

Tonnage _____

Equipment used for determining position _____

Fishing capacity (limited to scientific sampling activities only or commercial capacity) _____ (tonnes/day)

Fish processing capacity (if vessel type is commercial) _____ (tonnes/day)

Fish storage capacity (if vessel type is commercial) _____ (m³)

DESCRIPTION OF FISHING GEAR TO BE USED:

Trawl type (i.e. bottom, midwater) _____

Mesh shape (i.e. diamond, square) and mesh size in codend (mm) _____

SCHEDULE—continued

Longline _____

Other sampling gear as plankton nets, CTD probes,
water samplers, etc. (specify) _____

DESCRIPTION OF ACOUSTIC GEAR TO BE USED

Type _____ Frequency _____

SURVEY DESIGN AND METHODS OF DATA ANALYSES

Survey design (random, semi-random) _____

Target species _____

Stratification (if any) according to—

Depth zones (list) _____

Fish density (list) _____

Other (specify) _____

Duration of standard sampling stations/hauls (preferably 30 min) __ (min)

Proposed number of hauls _____

Proposed sample size (total): _____ (number) _____ (kg)

Proposed methods of survey data analyses
(i.e. swept area method, acoustic survey) _____

DATA TO BE COLLECTED

Haul-by-haul catch and effort data in accordance with CCAMLR Form C4
for reporting results of fishing for research purposes: _____

SCHEDULE—continued

Fine-scale biological data in accordance with CCAMLR Forms B1, B2 and B3:

Other data (as applicable)

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

L

1994.

18 October