

Fisheries Management Regulations 1992 No. 20

EXPLANATORY STATEMENT

STATUTORY RULES 1992 No. 20

Issued by the authority of the Minister of State for Primary Industries and Energy

FISHERIES MANAGEMENT ACT 1991

FISHERIES MANAGEMENT REGULATIONS

The Fisheries Management Act 1991 (the Management Act) received Royal Assent on 10 November 1991 and came into effect by Proclamation on 3 February 1992.

Section 168 of the Management Act provides that the Governor-General may make regulations for the purposes of the Act.

Details of the proposed regulations, which commenced on the commencement of the Act, are attached.

Details of Fisheries Management Regulations

Regulation 1 provides for the citation of the Regulations.

Regulation 2 provides that the Regulations will commence on the day that section 168 of the Act commences. That section commences on 3 February 1992.

Regulation 3 is definitional.

Regulation 4 applies the Act to waters off the Australian Antarctic Territory. For policy reasons, waters off the AAT will be excepted from the Australian Fishing Zone and the regulation will ensure that the Act applies to the activities of Australian boats and persons on Australian boats operating in that area.

Regulation 5 provides for the appointment of a representative of the Minister. This person has a role under proposed regulation 8 in the conducting of ballots for the granting of a fishing right.

Regulation 6 provides that the Managing Director of AFMA may set a reserve price if the grant of a fishing right is made by auction.

Regulation 7 sets out the procedures to be followed if a fishing right is granted by tender.

Regulation 8 sets out the procedures for the granting of a fishing right by ballot.

Regulation 9 allows a period of 21 days for payment of outstanding amounts before a fishing concession may be cancelled under the Act.

Regulation 10 provides for a form of warrant that may be used for the purposes of the Act.

Regulation 11 prescribes the procedures by which a foreign fishing boat may obtain approval to be at a certain place within the AFZ.

Regulation 12 provides for the issue and display of identification codes by boats in relation to which fishing rights or permits are granted.

Regulation 13 relates to procedures for the production of documents by the master of a foreign boat.

Regulation 14 prescribes the reporting procedures to be used by boats being used in the AFZ under a fishing concession.

Regulation 15 sets out the requirements for the display by the master of a foreign boat operating in the AFZ of that boat's international radio call-sign.

Regulation 16 sets out the requirements for the display of the name of a foreign boat operating in the AFZ.

Regulation 17 requires the master of a boat operating in the AFZ or an Australian boat operating outside the AFZ to provide information about the persons on board if requested to do so by AFMA.

Regulation 18 provides that the Chairman or Managing Director of AFMA may nominate persons to be carried on board any boat operating under a fishing concession and sets out the procedures to be followed and the treatment to be accorded to such persons.

Regulation 19 sets out the procedures which apply to the sale or disposal of unclaimed fishing equipment found in the AFZ.

Regulation 20 sets out the procedures for the payment by instalments of the highest qualifying bid for the grant of a fishing right at auction.

Regulation 21 prescribes by reference to a schedule the fees to be paid for the provision of services by AFMA.

Regulation 22 prescribes the times during which a Registry of the Statutory Fishing Rights Allocation Review Panel shall be open.

Regulation 23 provides for the dating and acknowledgement of applications made to the Panel.

Regulation 24 prescribes by reference to a schedule a form which may be used for applications to the Panel.

Regulation 25 prescribes by reference to a schedule a form which may be used by the Principal Member of the Panel to notify persons of an application.

Regulation 26 prescribes by reference to a schedule a form which may be used to notify parties of the date, time and place of hearings.

Regulation 27 prescribes by reference to a schedule a form of summons which may be used for the purposes of the Act.

Regulation 28 provides for witness expenses to be paid to persons appearing before the Panel at the same rate as that allowed to witnesses appearing before the AAT.

Regulation 29 provides the procedures by which AFMA may replace lost documents.

Regulation 30 provides that in the event of cancellation, the holder of a fishing concession or a scientific permit must return the document evidencing that holding to AFMA.

Regulation 31 provides for the publication by AFMA of logbooks and the information to be included in these books.

Regulation 32 provides for the Chairman of AFMA to require a form of logbook to be used and the periods over which it be used.

Regulation 33 refers to offences by the master of an Australian boat in failing to keep a logbook in the required manner.

Regulation 34 refers to offences by the master of a foreign boat in failing to keep a logbook in the required manner.

Regulation 35 refers to offences of general application in relation to the keeping of logbooks.

Regulation 36 imposes a duty of secrecy, subject to certain exceptions, on those persons having access to logbooks.

Regulation 37 provides for a short form of reference to certain areas in the AFZ.

Regulation 38 provides for the circumstances in which an infringement notice can be served.

Regulation 39 provides a procedure for the serving of infringement notices.

Regulation 40 sets out the information that must be included in an infringement notice.

Regulation 41 provides that in the event that a person pays the penalty set out in an infringement notice any liability in respect of the matters giving rise to the issue of the notice is discharged and the person is not regarded as having been convicted of an offence.

Regulation 42 provides that in the event that an infringement notice is not complied with, a certificate signed by an officer as to whether time to comply with the notice was allowed shall be accepted as evidence of those matters.

Regulation 43 provides that more than one infringement notice can be issued in respect of the same offence but in such circumstances the person's liability is discharged on payment in accordance with one notice.

Regulation 44 provides that payment of the amount of a relevant penalty by cheque shall not be taken to have been made if that cheque is subsequently dishonoured.

Regulation 45 provides that there is no requirement for the infringement procedure to be used in instead of prosecution.

Regulation 46 prescribes the relevant penalty in relation to an infringement notice as being \$200.