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Statutory Rules 1992 No. <sup>1</sup>

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## Fisheries Management Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 4 of the *Acts Interpretation Act 1901*, make the following Regulations under the *Fisheries Management Act 1991*.

Dated 31 JANUARY 1992.

**BILL HAYDEN**

Governor-General

By His Excellency's Command,

SIMON CREAN

Minister of State for Primary Industries and Energy

### PART 1—PRELIMINARY

#### Citation

1. These Regulations may be cited as the Fisheries Management Regulations.

#### Commencement

2. These Regulations commence when section 168 of the *Fisheries Management Act 1991* commences.

**Interpretation**

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

“**Act**” means the *Fisheries Management Act 1991*;

“**approved logbook**” means a logbook of a kind that is referred to in a determination under subregulation 32 (1);

“**Australian port**” means a port in Australia or an external Territory;

“**authorised area**”, in relation to a foreign boat, means an area in the AFZ in which the boat may be used to take, process or carry fish under a foreign fishing licence;

“**Chairperson**” means the Chairperson of AFMA;

“**coast radio station**” means an Australian coast radio station operated by the Overseas Telecommunications Corporation or the Australia and Overseas Telecommunications Corporation;

“**free area**”, in relation to an applicant for, or the holder of, a fishing permit, means a part of a fishery:

(a) to which the permit applies; and

(b) in relation to which section 7 of the *Fisheries Legislation (Consequential Provisions) Act 1991* does not apply;

“**infringement notice**” means a notice issued under regulation 38;

“**Managing Director**” means the Managing Director of AFMA;

“**Register of Tenders**” means the Register maintained by the Managing Director under paragraph 7 (a);

“**relevant offence**” means an offence against:

(a) section 93 of the Act; or

(b) an offence against a provision of Part 9 of these Regulations;

“**relevant penalty**”, in relation to a relevant offence, means the penalty prescribed in regulation 46;

“**representative**” means a representative appointed by the Minister under regulation 5;

“**Subsidiary Agreement**” means the Subsidiary Agreement between the Government of Australia and the Government of Japan concerning Japanese Tuna Long-line Fishing signed on 10 December 1991 and published by the Department;

“**tender**” means a tender for the grant of a fishing right.

## **PART 2—APPLICATION OF THE ACT**

### **Application of the Act to areas outside the AFZ**

4. For the purposes of subsection 8 (1) of the Act, the Act applies to all waters within 200 nautical miles outwards of the baselines by reference to which the territorial limits of the Australian Antarctic Territory are defined for the purposes of international law.

## **PART 3—ADMINISTRATION OF FISHING CONCESSIONS**

### **Representative of the Minister**

5. For the purposes of this Part, the Minister must appoint a person as his or her representative.

### **Auction for the grant of a fishing right**

6. (1) For the purposes of subsection 28 (1) of the Act, if a grant of a fishing right is to be made by auction, the Managing Director may set a reserve price for the grant before the day on which the auction is to be held.

(2) If the person who made the highest bid at the auction is unable to pay the charge applicable in relation to the grant, the Managing Director must offer the grant to the person who made the second-highest bid.

(3) If the person who made the second-highest bid at the auction is unable to pay the charge applicable in relation to the grant, the Managing Director must offer the grant at a new auction.

### **Tender for the grant of a fishing right**

7. For the purposes of subsection 28 (1) of the Act, if a grant of a fishing right is to be made by tender, the following procedures are prescribed to select the person to whom the grant will be made:

- (a) the Managing Director must maintain a Register of Tenders for the purposes of this regulation;
- (b) the Managing Director must, in writing, nominate a place at

- which AFMA will keep envelopes containing tenders until they are opened;
- (c) AFMA must keep the envelopes at the place nominated under paragraph (b);
  - (d) the Managing Director must ensure that a representative is present when the envelopes are opened;
  - (e) the Managing Director must open the envelopes as soon as practicable after the period for lodging them ends;
  - (f) the Managing Director must record the name of each tenderer and the amount of the tender in the Register of Tenders when the envelope is opened;
  - (g) the Managing Director must rank the persons making the tenders in the order of the person making the highest tender first, followed by the remaining persons in descending order of the amounts of their tenders;
  - (h) if more than 1 person makes a tender of the same amount, the Managing Director must rank those persons in the order in which their envelopes are opened.

**Ballot for the grant of a fishing right**

8. For the purposes of subsection 28 (1) of the Act, if a grant of a fishing right is to be made by ballot, the following procedures are prescribed to select the person to whom the grant will be made:

- (a) the Managing Director must write the name of each eligible person on a separate piece of paper (in this regulation referred to as the “ballot paper”) that is the same size as the other ballot papers;
- (b) the Managing Director must ensure that a representative is present when the ballot is conducted;
- (c) the Managing Director must show the ballot papers to all persons who are present before the ballot is conducted;
- (d) the Managing Director must place the ballot papers in a container within which the papers cannot become snagged or trapped;
- (e) the Managing Director must shake or turn the container to mix the ballot papers;
- (f) the representative must draw 1 ballot paper at a time from the container until it is empty;
- (g) the Managing Director must record the names of the eligible persons in the order in which the names were drawn.

**Period for payment in relation to a fishing concession**

9. For the purposes of paragraph 39 (c), the prescribed period is 21 days.

[NOTE: The effect of paragraph 39 (c) of the Act is that if a person who holds a fishing concession does not pay, or arrange to pay, any fee, levy, charge or other money relating to the concession within the prescribed period after the time at which it becomes due, AFMA may cancel the concession.]

**PART 4—SURVEILLANCE AND ENFORCEMENT****Form of warrant**

10. For the purposes of subsection 85 (1) of the Act, a form of search warrant that may be issued by a Magistrate is in Form 1 in Schedule 1.

**PART 5—OPERATION OF BOATS AND EQUIPMENT****Approval for the presence of a foreign boat in the AFZ**

11. For the purposes of paragraph 101 (1) (c) of the Act, the master of a foreign boat may apply to AFMA to approve the boat's being at a place in the AFZ:

- (a) if the boat is at sea at the time the approval is requested—by sending the application by radio through a coast radio station; or
- (b) in any other case—by sending the application to the Managing Director.

(2) The application must contain whichever of the following reference letters are relevant to the category of the boat:

Category of boat	Where is the boat?	What area is it passing through?	Where is it going?	What are the reference letters?
1	Outside the AFZ	Any area	An authorised area	AFZE
2	An Australian port	A part of the AFZ that is not an authorised area	An authorised area	AFZT

3	An authorised area	Any area	Another authorised area	AFZT
4	Outside the AFZ	A part of the AFZ that is not an authorised area	An Australian port	AFZH
5	An authorised area	A part of the AFZ that is not an authorised area	An Australian port	AFZH
6	An authorised area	The AFZ	Outside the AFZ	AFZX
7	An Australian port	The AFZ	Outside the AFZ	AFZX

**(3)** If the boat is in Category 1, the application must contain the following particulars:

- (a) the boat's international call-sign;
- (b) the geographical co-ordinates of the point at which the boat is expected to enter the AFZ;
- (c) the day and time (in Greenwich Mean Time) at which the boat is expected to enter the AFZ;
- (d) the geographical co-ordinates of the point in the authorised area to which the boat is to travel;
- (e) the day and time (in Greenwich Mean Time) at which the boat is expected to reach that point.

**(4)** If the boat is in Category 2, the application must contain the following particulars:

- (a) the boat's international call-sign;
- (b) the name of the Australian port from which it is leaving;
- (c) the day and time (in Greenwich Mean Time) at which the boat is expected to leave the port;
- (d) the proposed movements of the boat while it is in a part of the AFZ that is not an authorised area, including the geographical co-ordinates of any point in that part at which the boat is expected to change course and the day and time (in Greenwich Mean Time) at which the boat is expected to change course;
- (e) the geographical co-ordinates of the point in the authorised area to which the boat is to travel;

- (f) the day and time (in Greenwich Mean Time) at which the boat is expected to reach that point.

(5) If the boat is in Category 3, the application must contain the following particulars:

- (a) the boat's international call-sign;
- (b) the geographical co-ordinates of the point, in the authorised area, from which the boat will first enter a part of the AFZ that is not an authorised area;
- (c) the day and time (in Greenwich Mean Time) at which the boat is expected to reach that point;
- (d) the proposed movements of the boat while it is in a part of the AFZ that is not an authorised area, including the geographical co-ordinates of any point in that part at which the boat is expected to change course and the day and time (in Greenwich Mean Time) at which the boat is expected to change course;
- (e) the geographical co-ordinates of the point in the authorised area to which the boat is to travel;
- (f) the day and time (in Greenwich Mean Time) at which the boat is expected to reach that point.

(6) If the boat is in Category 4 or 5, the application must contain the following particulars:

- (a) the boat's international call-sign;
- (b) the geographical co-ordinates of the point, in the authorised area, from which the boat will first enter a part of the AFZ that is not an authorised area;
- (c) the day and time (in Greenwich Mean Time) at which the boat is expected to reach that point;
- (d) the proposed movements of the boat while it is in a part of the AFZ that is not an authorised area, including the geographical co-ordinates of any point in that part at which the boat is expected to change course and the day and time (in Greenwich Mean Time) at which the boat is expected to change course;
- (e) the name of the Australian port to which the boat is to travel;
- (f) the day and time (in Greenwich Mean Time) at which the boat is expected to reach the port.

(7) If the boat is in Category 6, the application must contain the following particulars:

- (a) the boat's international call-sign;
- (b) the geographical co-ordinates of the point, in the authorised area, at which the boat will first enter a part of the AFZ that is not an authorised area;
- (c) the day and time (in Greenwich Mean Time) at which the boat is expected to reach that point;
- (d) the proposed movements of the boat while it is in a part of the AFZ that is not an authorised area, including the geographical co-ordinates of any point in that part at which the boat is expected to change course and the day and time (in Greenwich Mean Time) at which the boat is expected to change course;
- (e) the geographical co-ordinates of the point in the authorised area at which the boat is expected to leave the AFZ;
- (f) the day and time (in Greenwich Mean Time) at which the boat is expected to reach that point.

(8) If the boat is in Category 7, the application must contain the following particulars:

- (a) the boat's international call-sign;
- (b) the name of the Australian port from which it is leaving;
- (c) the day and time (in Greenwich Mean Time) at which the boat is expected to leave the port;
- (d) the proposed movements of the boat while it is in a part of the AFZ that is not an authorised area, including the geographical co-ordinates of any point in that part at which the boat is expected to change course and the day and time (in Greenwich Mean Time) at which the boat is expected to change course;
- (e) the geographical co-ordinates of the point in the authorised area to which the boat is to travel;
- (f) the day and time (in Greenwich Mean Time) at which the boat is expected to reach that point.

#### **Identification code for a boat**

**12. (1)** If AFMA grants a statutory fishing right or a fishing permit in relation to a boat, it must allocate an identification code to the



boat in the form of a letter or letters followed by a number.

- (2) The boat's identification code must be shown on the boat:
  - (a) above its water line; and
  - (b) on each bow; and
  - (c) in a reasonably legible form; and
  - (d) in paint that contrasts with the colour of the bow; and
  - (e) in letters and figures at least 300 millimetres in depth.

(3) If:

- (a) the boat is being used in accordance with the right or permit; and
- (b) the boat does not display its identification code in accordance with subregulation (2);

the master and the owner of the boat are, unless they have a reasonable excuse, guilty of an offence.

Maximum penalty: \$1,000.

(4) If:

- (a) the right or permit ceases to apply in relation to the boat; and
- (b) the boat's identification code is not removed or obliterated as soon as practicable;

the master and the owner of the boat are guilty of an offence.

Maximum penalty: \$1,000.

(5) If:

- (a) the boat is being used in accordance with the right or permit; and
- (b) the boat's bow shows a letter or letters and a number that are not:
  - (i) the boat's name or identification code; or
  - (ii) an identification marking allocated to the boat under a law of a State or Territory;

the master and the owner of the boat are, unless they have a reasonable excuse, guilty of an offence.

Maximum penalty: \$1,000.

- (6) Subregulations (3) and (4) do not apply in relation to a boat that:
- (a) is licensed to be used to take fish under a law of a State or Territory; and
  - (b) displays an identifying marking under that law.

**Production of documents on a foreign boat**

13. (1) This regulation applies in relation to a foreign boat that is being used under a foreign fishing licence or a Treaty licence.

(2) For the purposes of subsection 84 (1) of the Act, if a document in a foreign language is given to an officer, the officer may ask the master to give the officer a written translation of the document into English.

(3) The officer may nominate a person who is to make the translation.

(4) If the officer asks the master for a translation, the master must give the officer the translation as soon as practicable.

Maximum penalty: \$1,000.

(5) The owner of the boat is liable for the cost (if any) of the translation.

(6) For the purposes of subsection 84 (1) of the Act, if an officer removes a document from the boat to make a copy of, or take an extract from, the document, the officer must:

- (a) keep the document for no longer than is reasonably necessary to make the copy or take the extract; and
- (b) allow the master, or a person nominated by the master, to accompany the officer while he or she has the document away from the boat.

**Reporting of a boat's position**

14. (1) The master of a boat that is being used in the AFZ under a fishing concession must, unless he or she has a reasonable excuse, make position reports in accordance with this regulation.

Maximum penalty: \$1,000.

- (2) A report must be made:
  - (a) by radio through a coast radio station; and
  - (b) to the Federal SeaSafety Centre of the Department of Transport and Communications; and
  - (c) within 12 hours after the time set out in the concession for making the report.
  
- (3) A report:
  - (a) must commence with the letters AFZP; and
  - (b) must include:
    - (i) the boat's international radio call-sign; and
    - (ii) the time referred to in paragraph (2) (c) for making the report; and
    - (iii) the geographical co-ordinates of the boat at the time for making the report.

**Identification of the call-sign of a foreign boat**

15. (1) The master of a foreign boat that is being used in the AFZ under a foreign fishing licence must, unless he or she has a reasonable excuse, show the boat's international radio call-sign on the boat in accordance with this regulation.

Maximum penalty: \$1,000.

- (2) The call-sign must be shown in a position or positions on the boat that makes each sign clearly visible from an aircraft or a boat.
  
- (3) The call-sign must be shown:
  - (i) by white characters on a black background; or
  - (ii) by black characters on a white background; or
  - (iii) by black characters on a background of international safety yellow.

(4) The characters must be Roman capital letters, or Arabic numerals, without ornamentation.

(5) If the boat is less than 20 metres long, the characters:

- (a) must be at least 50 centimetres high; and
- (b) must consist of strokes at least 6.25 centimetres wide.

(6) If the boat is at least 20 metres long, the characters:

- (a) must be at least 1 metre high; and
- (b) must consist of strokes at least 12.5 centimetres wide.

#### **Identification of the name of a foreign boat**

16. (1) The master of a foreign boat that is being used in the AFZ under a foreign fishing licence must, unless he or she has a reasonable excuse, show the boat's name on the boat in accordance with this regulation.

Maximum penalty: \$1,000.

(2) The name must be shown:

- (a) on both sides of the boat's bow; and
- (b) on the boat's stern.

(3) The name must be shown by characters of a colour that contrasts with the colour of the characters' background.

(4) The characters must be:

- (a) Roman capital letters, or Arabic numerals, without ornamentation; and
- (b) at least 45 centimetres high.

#### **Information relating to persons on board a boat**

17. (1) This regulation applies in relation to:

- (a) a boat that is used in the AFZ under a fishing concession; and
- (b) an Australian boat engaged in fishing outside the AFZ.

(2) AFMA may, at any time, ask the master of the boat to give it the names and positions of persons on board the boat.

(3) The master must give the information to AFMA as soon as practicable.

Maximum penalty: \$500.

(4) AFMA must not ask the master under subregulation (2) more than once in a period of 48 hours.

**Boats may carry nominated persons**

18. (1) For the purposes of this regulation, the Chairperson or the Managing Director may nominate:

- (a) an officer; or
- (b) a person who is engaged in marine research; or
- (c) a person who is interested in methods of catching or processing fish.

(2) The Chairperson or the Managing Director may, in writing or by radio message, ask the master of a boat that is being used in the AFZ under a fishing concession to carry a nominated person on the boat.

(3) The request must be delivered, or made by radio, to the master at least 14 days before the day on which the nominated person is to board the boat.

- (4) The request must include:
- (a) the nominated person's name and residential address; and
  - (b) if he or she is not self-employed:
    - (i) the name and business address of his or her employer; and
    - (ii) the nature of his or her employment; and
  - (c) if he or she is self-employed:
    - (i) a statement to that effect; and
    - (ii) his or her occupation; and
  - (d) the day, time and place at which he or she is to board the boat; and
  - (e) the reason for carrying him or her on the boat; and
  - (f) the equipment (if any) that he or she will take on board the boat in relation to that reason; and
  - (g) the day, time and place at which he or she will leave the boat.

(5) The places referred to in paragraphs (4) (d) and (4) (g) must be places that are reasonable having regard to the proposed fishing operations of the boat.

(6) If a request is made to the master, the master must, unless he or she has a reasonable excuse:

- (a) make the boat available to receive the nominated person in accordance with the request; and
- (b) carry the person on the boat; and
- (c) provide the person with food and accommodation at at least the standard that is appropriate for a junior officer serving on the boat; and
- (d) allow the person to have access to the parts of the boat to which the person reasonably requires access; and
- (e) allow the person to use facilities and equipment that he or she reasonably requires to operate equipment taken on board the boat in accordance with the request; and
- (f) give the person the information that he or she reasonably asks for in relation to:
  - (i) the boat; or
  - (ii) its equipment; or
  - (iii) fish taken using the boat; and
- (g) allow the person to leave the boat in accordance with the request.

Maximum penalty: \$1,000.

(7) If the nominated person asks the master to send a radio message, the master must send the message as soon as practicable.

Maximum penalty: \$1,000.

(8) The master may recover from the nominated person the costs incurred in sending a message under subregulation (7).

(9) If the master receives a radio message for the nominated person, the master must give the message to the person as soon as practicable.

Maximum penalty: \$1,000.

(10) The holder of the fishing concession in relation to which the boat is used must not obstruct the master in carrying out the master's obligations under this regulation.

Maximum penalty for a contravention of this subregulation: \$1,000.

**Sale or disposal of unclaimed equipment**

19. (1) This regulation applies to equipment used for fishing if:

- (a) an officer finds the equipment in the AFZ; and
- (b) the identity of the owner of the equipment is unknown.

(2) The officer must keep the equipment in safe custody for a period of 30 days after the day on which it was found.

(3) If the owner of the equipment has not been identified by the end of the period, AFMA must place a notice in:

- (a) 1 or more newspapers circulating in the Australian port nearest to the place where the equipment was found; or
- (b) if there is no newspaper circulating in the port—1 or more newspapers nominated by the Managing Director.

(4) The notice must:

- (a) describe the equipment; and
- (b) identify the place, or approximate place, where it was found; and
- (c) state that unless the owner of the equipment is not identified within 14 days after the date of publication of the newspaper, the equipment will be sold by public auction.

(5) AFMA may attempt to sell the equipment by public auction if:

- (a) the owner of the equipment is not identified at the end of 14 days after the date on which the latest of the notice is published; and
- (b) the equipment is in saleable condition.

(6) For the purposes of the auction:

- (a) the Commonwealth is taken to be the absolute owner of the equipment; and

- (b) an officer may conduct it without holding an auctioneer's licence under the law of the State or Territory in which the auction is held; and
- (c) the proceeds of the sale of the equipment must be paid to AFMA.

(7) The Chairperson may direct how the equipment is to be disposed of if:

- (a) it is not in saleable condition; or
- (b) it is offered, but not sold, at the auction.

(8) No action lies against the Commonwealth or a person as a result of the sale or disposal of the equipment.

## **PART 6—PAYMENTS AND FEES**

### **Payment by instalments**

20. For the purposes of subsection 121 (1) of the Act, a person who makes the highest qualifying bid for a grant of a fishing right at an auction:

- (a) must pay 10 percent of the amount of charge payable in relation to the grant to AFMA immediately after the person's bid is accepted; and
- (b) must pay the remainder of the amount to AFMA:
  - (i) in the period ending 30 days after the day on which the person's bid is accepted; or
  - (ii) if the person makes an agreement with AFMA to pay the amount at a different time—at that time; or
  - (iii) if the person makes an agreement with AFMA to pay the amount by instalments—when the instalments are due and payable.

### **Fees**

21. (1) The fee in relation to a matter referred to in Column 2 of an item in Schedule 2 is set out in Column 3 of the item.



(2) AFMA must not deal with a matter referred to in Column 2 of an item in Schedule 2 until the person to whom the matter relates pays the fee.

**PART 7—ADMINISTRATION OF THE  
STATUTORY FISHING RIGHTS ALLOCATION  
REVIEW PANEL**

**Hours of operation of Registries of the Panel**

22. For the purposes of section 136 of the Act, a Registry of the Panel must be open for business from 9.30am to 1.00pm, and from 2.00pm to 4.00pm, on each day other than:

- (a) a Saturday or Sunday; or
- (b) a day that is observed as a holiday in the Australian Public Service in the place where the Registry is located.

**Registrar must date and acknowledge documents**

23. For the purposes of paragraph 137 (3) (c) of the Act, the Registrar of the Panel must:

- (a) date documents received by the Panel; and
- (b) acknowledge in writing an application for review of a decision to grant a fishing right.

**Application to the Panel for review of a decision to grant a fishing right**

24. An application to the Panel under subsection 143 (1) of the Act for review of a decision to grant a fishing right may be made using Form 2 in Schedule 1.

**Notification by Principal Member that an application for review has been made**

25. For the purposes of subsection 144 (1) of the Act, if an application is made to the Panel for review of a decision to grant a fishing right, the Principal Member may notify the persons referred to in that subsection of the application using Form 3 in Schedule 1.

**Notice of date, time and place of a hearing**

26. For the purposes of subsection 145 (2) of the Act, the Principal Member may give each party to a proceeding notice of the date, time and place fixed for a hearing in relation to the proceeding using Form 4 in Schedule 1.

**Summons**

27. A form of summons under paragraph 146 (2) (a) or 146 (2) (b) of the Act is in Form 5 in Schedule 1.

**Witness expenses**

28. If a person is summoned under paragraph 146 (2) (a) of the Act to appear as a witness before the Panel, he or she is entitled to be paid fees and allowances for expenses in relation to the appearance at the same rate that is applicable under the Administrative Appeals Tribunal Regulations in relation to an appearance under the *Administrative Appeals Tribunal Act 1975*.

**PART 8—DOCUMENTS RELATING TO  
FISHING CONCESSIONS****Replacement of documents**

29. (1) AFMA may give a person a copy of a document issued by it, certifying that the person is the holder of a fishing concession or a scientific permit, if:

- (a) the person applies to AFMA; and
- (b) AFMA is satisfied that:
  - (i) the person was granted the concession or permit; and
  - (ii) the person has lost the original document; and
  - (iii) the original document is not being used improperly.

(2) AFMA may give a person a copy of a document issued by it, certifying that the person is the holder of a fishing concession or a scientific permit if:

- (a) the original document is damaged; and
- (b) the person applies to AFMA; and

- (c) AFMA is satisfied that the person was granted the concession or permit; and
- (d) the person gives the damaged document to AFMA.

(3) A person must not make an application that is false or misleading in a material particular.

Maximum penalty: \$1,000.

(4) The copy of the document has the same force as the original document.

### **Return of documents**

30. If AFMA cancels a fishing concession or a scientific permit, the holder of the concession or permit must, unless the holder has a reasonable excuse, return the document certifying that the person is the holder not later than 14 days after the person is notified that the concession or permit is cancelled.

Maximum penalty: \$100.

## **PART 9—LOGBOOKS AND REFERENCES TO AREAS**

### **Logbooks**

31. (1) AFMA must publish a form of logbook if the Chairperson believes that information should be recorded in the logbook for the purposes of the Act in relation to:

- (a) the taking of fish in Australian waters; or
- (b) the sale of fish taken in Australian waters; or
- (c) the carrying or transshipping of fish taken in Australian waters; or
- (d) the use in the AFZ of a boat operating under a foreign fishing licence; or
- (e) the use of an Australian boat in a managed fishery.

(2) A form of logbook must be appropriate to:

- (a) the kind of fish; and

- (b) the kind of fishing activity; and
  - (c) the area of waters;
- in relation to which information is to be recorded.

(3) A form of logbook must have a marking by which it can be distinguished from AFMA's other forms of logbook.

(4) The information to be included in a form of logbook may include:

- (a) in relation to the boat being used to take fish:
  - (i) the physical characteristics of the boat and its equipment; and
  - (ii) its means of identification; and
- (b) if the master of the boat has a certificate of competency:
  - (i) the number of the certificate; and
  - (ii) the name of the authority that issued it; and
- (c) in relation to the person on the boat who is in charge of taking fish:
  - (i) the person's name; and
  - (ii) the duration of the person's experience in the method of fishing being used; and
- (d) in relation to the crew of the boat:
  - (i) the number of crew members; and
  - (ii) the number of crew members who are normally directly engaged in taking fish; and
- (e) in relation to fish taken using the boat:
  - (i) details of the fish; and
  - (ii) circumstances related to the taking of the fish; and
  - (iii) details of the sale or disposal of the fish.

#### **Requirement to use a logbook**

32. (1) The Chairperson may determine that a form of logbook must be used in relation to:

- (a) a kind of fish; and
- (b) a kind of fishing activity; and
- (c) an area of waters.

(2) For the purposes of this Part, if the Chairperson makes a determination, the form of the logbook must be used in relation to a boat that is:

- (a) taking the kind of fish in the area; or
- (b) engaging in the activity to take the kind of fish in the area.

(3) The Chairperson may determine, in relation to a form of logbook:

- (a) the beginning and the end of the period during which subregulation 33 (2), (3) or (4) applies in relation to the form of logbook; and
- (b) the places where copies of the form of logbook can be obtained during ordinary business hours.

(4) The Chairperson may determine that subregulation 32 (2), (3) or (4) does not apply in relation to:

- (a) the master of a boat that is in a class referred to in the determination; and
- (b) the form of logbook referred to in the determination.

(5) The Chairperson must publish a determination under subregulation (1), (3) or (4):

- (a) in the *Gazette*; and
- (b) in accordance with subregulation (6).

(6) If the Chairperson makes a determination, he or she must:

- (a) identify a newspaper circulating in a State or the Northern Territory in which the determination is to be published, having regard to the location of the area of waters to which the relevant form of logbook will apply; and
- (b) publish the determination in that newspaper.

(7) The determination may refer to the form of logbook by referring to the marking required under subregulation 31 (3).

(8) The period referred to in paragraph (3) (a) must begin on a day at least 14 days after:

- (a) the day on which the determination is published; or
- (b) if the determination is published on more than 1 day—the later or latest of the days.

(9) The period referred to in paragraph (3) (a) must end on a day at most 3 years after:

- (a) the day on which the determination is published; or
- (b) if the determination is published on more than 1 day—the later or latest of the days.

(10) Determinations made under subregulations (1), (3) and (4) may be published in one notice.

**Offences in relation to logbooks: Australian boats**

33. (1) This regulation applies to the master of an Australian boat in relation to which a fishing concession applies.

(2) For each day that the master:

- (a) uses the boat in an area of waters to which an approved logbook relates; and
- (b) takes fish in the area;

the master must, unless he or she has a reasonable excuse, record in the approved logbook for the area information about the taking of the fish.

Maximum penalty: \$1,000.

(3) For each day that the master sells or otherwise disposes of fish taken in an area of waters to which an approved logbook relates, the master must, unless he or she has a reasonable excuse, record in the approved logbook for the area information about the sale or disposal of the fish.

Maximum penalty: \$1,000.

(4) The master must, unless he or she has a reasonable excuse, record information under subregulation (2) or (3) not later than the end of the day after the day on which the fish are taken, sold or disposed of.

Maximum penalty: \$1,000.

(5) It is a defence to a prosecution under this regulation that the master made reasonable, but unsuccessful, efforts to obtain a copy of the appropriate logbook.

**Offences in relation to logbooks: foreign boats**

**34. (1)** This regulation applies to the master of a foreign boat in relation to which a fishing concession applies.

(2) For each day that the master uses the boat in the AFZ, the master must, unless he or she has a reasonable excuse, record in the approved logbook for the AFZ information about the use of the boat.

Maximum penalty: \$1,000.

(3) The master must, unless he or she has a reasonable excuse, record the information:

- (a) within the time set out in the logbook; or
- (b) if no time is set out in the logbook—within 24 hours after the end of the day on which the boat is used.

Maximum penalty: \$1,000.

(4) It is a defence to a prosecution under this regulation that the master made reasonable, but unsuccessful, efforts to obtain a copy of the appropriate logbook.

**Offences in relation to logbooks: general**

**35. (1)** A person must not record in a logbook information that, to his or her knowledge, is false or misleading in a material particular.

Maximum penalty: \$1,000.

(2) A person who arranges for information to be recorded in a logbook must give the relevant pages of the logbook, or the logbook, to AFMA in the manner set out in the logbook.

Maximum penalty for a contravention of this subregulation: \$1,000.

**Secrecy**

**36. (1)** Subject to this regulation, a person must not:

- (a) make a record of information that is in a logbook concerning the affairs of another person; or

- (b) communicate to a person information that is in a logbook concerning the affairs of another person; or
- (c) give a person a part of a logbook in which information is recorded.

Maximum penalty: \$500.

- (2) Subregulation (1) does not apply to anything done:
  - (a) in accordance with the Act or these Regulations; or
  - (b) under an order of:
    - (i) a court; or
    - (ii) a tribunal; or
    - (iii) a person having authority, under a law or with the consent of parties, to receive evidence.
- (3) Subregulation (1) does not apply to information concerning the affairs of a person:
  - (a) that is compiled for statistical purposes with other information of the same kind; and
  - (b) that does not set out the name of the person who provided the information or to whom it relates.

#### **References to areas of the AFZ**

37. For the purposes of the Act and these Regulations, an area of the AFZ referred to in Column 2 of an item in Schedule 3 may be described using the short method of reference set out in Column 3 of the item.

### **PART 10—INFRINGEMENT NOTICES**

#### **When can an infringement notice be served?**

38. If an officer has reason to believe that a person has committed a relevant offence, the officer may serve an infringement notice on the person.



**How is an infringement notice to be served?**

**39. (1)** An officer may serve an infringement notice on an individual:

- (a) by giving it to the individual personally; or
- (b) by leaving it at, or sending it by post to, the residential or business address of the individual that is last known to the officer; or
- (c) by giving it, at the residence or place of business that is last known to the officer, to a person who is, or whom the officer reasonably believes is:
  - (i) above the age of 16 years; and
  - (ii) an occupant of, or employed at, the residence or place.

**(2)** An officer may serve an infringement notice on a body corporate:

- (a) by sending it by post to the head office, registered office, principal office or other postal address of the body corporate; or
- (b) by giving it, at the head office, registered office, principal office or other place of business of the body corporate, to a person who is, or whom the officer reasonably believes is:
  - (i) above the age of 16 years; and
  - (ii) an officer of, or in the service of, the body corporate.

**What must be included in an infringement notice?**

**40. (1)** An infringement notice must state:

- (a) the name of the officer by whom, or on whose behalf, it is served; and
- (b) the nature of the relevant offence that is alleged to have been committed; and
- (c) when and where the offence is alleged to have been committed; and
- (d) if the person on whom it is served does not wish the matter to be dealt with by a court, the person may pay the amount of the relevant penalty referred to in the notice within:
  - (i) 28 days after the date of service of service of the notice; or

- (ii) any further period (not being more than 28 days) that an officer allows (whether before or after the end of the first 28 day period); and
- (e) where and how the person may pay the relevant penalty.

(2) An infringement notice may contain any other matters that AFMA considers relevant.

**What happens if the person pays the relevant penalty?**

41. (1) This regulation applies to a person if:

- (a) an infringement notice is served on the person; and
- (b) the person pays the relevant penalty within the period referred to in the notice or any further period (not being more than 28 days) that an officer allows (whether before or after the end of the first 28 day period).

(2) The person's liability in relation to the offence referred to in the notice is taken to be discharged.

(3) Further proceedings cannot be taken against the person for the offence.

(4) The person is not to be regarded as having been convicted of the offence.

**Evidentiary matters**

42. (1) At the hearing of a prosecution for an offence referred to in an infringement notice, a certificate signed by an officer that states that:

- (a) under paragraph 41 (1) (b), the officer did not allow further time for payment of the relevant penalty; and
- (b) the relevant penalty was not paid in accordance with the notice within 28 days after the date of service of the notice;

is evidence of those matters.

(2) At the hearing of a prosecution for an offence referred to in an infringement notice, a certificate signed by an officer that states that:

- (a) under paragraph 41 (1) (b), the officer allowed the further time set out in the certificate for payment of the relevant penalty; and
- (b) the relevant penalty was not paid in accordance with the notice within the further time allowed;

is evidence of those matters.

(3) A certificate that purports to have been signed by an officer is taken to have been signed by the officer unless the contrary is proved.

**Can there be more than 1 infringement notice for the same offence?**

43. (1) This Part does not prevent the service of more than 1 infringement notice on a person for the same offence.

(2) Regulation 41 applies to the person if the person pays the relevant penalty in accordance with 1 of the infringement notices.

**What if the relevant penalty is paid by cheque?**

44. If a cheque is offered as payment of all or part of the amount of a relevant penalty, payment is taken not to have been made unless the cheque is honoured on presentation.

**This Part does not prevent a matter being prosecuted in a court and do not mean that an infringement notice must be served in all cases**

45. Nothing in this Part:

- (a) requires an infringement notice to be served in relation to a relevant offence; or
- (b) affects the liability of a person to be prosecuted for a relevant offence if the person does not comply with an infringement notice; or
- (c) affects the liability of a person to be prosecuted for a relevant offence if an infringement notice is not served on the person in relation to the offence; or
- (d) limits the amount of the fine that may be imposed by a court in a person convicted of a prescribed offence.

**What is the relevant penalty?**

46. For the purposes of these Regulations, the relevant penalty is \$200.

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**SCHEDULE 1**

Regulations 12, 24, 25, 26 and 27

## FORM 1

**COMMONWEALTH OF AUSTRALIA***Fisheries Management Act 1991*

## SEARCH WARRANT UNDER SUBSECTION 85 (1)

TO: *(name of officer)*, an officer within the meaning of subsection 4 (1) of the *Fisheries Management Act 1991*.

I, *(full name and designation of Magistrate)*, authorise you, with the assistance, and by the force, that is necessary and reasonable, \* at any time of the day or night / \* between the hours of *(time)* and *(time)*:

- \* (a) to enter the premises at *(address)*; and
- \* (a) to board the boat identified as *(manner of identification)* located at *(place)*; and
- \* (a) to enter the vehicle identified as *(manner of identification)* located at *(place)*; and
- \* (a) to board the aircraft identified as *(manner of identification)* located at *(place)*; and
- (b) to search the \* premises / \* boat / \* vehicle / \* aircraft for *(description of thing)*; and
- (c) *(describe any other power to be exercised by the officer)*.

This warrant is issued on the basis:

- (a) of information on oath laid before me alleging that there are reasonable grounds for suspecting that the thing is \* at the premises / \* in the boat / \* in the vehicle / \* in the aircraft; and
- (b) that the grounds were set out in the information; and
- (c) that the thing may afford evidence as to the commission of *(description of alleged offence)*; and

**SCHEDULE 1—continued**

(d) that I am satisfied that this warrant is reasonably required to ascertain whether a person has contravened a provision of the *Fisheries Management Act 1991* or the Fisheries Management Regulations.

THIS WARRANT CEASES TO HAVE EFFECT ON *(date)*.

Issued on *(date)*.

*(signature of Magistrate)*

\* Omit if inapplicable

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**FORM 2**

**COMMONWEALTH OF AUSTRALIA**

*Fisheries Management Act 1991*

**APPLICATION FOR REVIEW OF DECISION TO GRANT A FISHING RIGHT**

To the Registrar of the Statutory Fishing Rights Allocation Review Panel, *(address of the Registry)*.

I apply under subsection 143 (1) of the *Fisheries Management Act 1991* for review by the Panel of a decision.

My name is:

My address is:

My postal address is:

The decision that I want reviewed is:

The name of the person who made the decision is:

The office or title of that person is:

The reasons for my application are:

*(signature of applicant)*  
*(date)*

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## SCHEDULE 1—continued

## FORM 3

## COMMONWEALTH OF AUSTRALIA

*Fisheries Management Act 1991*NOTIFICATION UNDER SUBSECTION 144 (1) OF AN APPLICATION FOR  
REVIEW OF A DECISION TO GRANT A FISHING RIGHT

To: \* The Australian Fisheries Management Authority  
 \* The Joint Authority  
 \* *(name of a person who is registered in relation to the grant of a fishing right to which the application for review relates)*

I have received the attached application for review of a decision to grant a fishing right.

*(signature)*

Principal Member

Statutory Fishing Rights Review Panel

*(date)*

\* Omit if inapplicable.

## FORM 4

## COMMONWEALTH OF AUSTRALIA

*Fisheries Management Act 1991*NOTIFICATION UNDER SUBSECTION 145 (2) OF THE DATE, TIME AND PLACE  
OF A HEARING OF AN APPLICATION FOR REVIEW OF A DECISION TO  
GRANT A FISHING RIGHT

To: *(name of party to the application)*

Applicant:

Decision being reviewed:

**SCHEDULE 1—continued**

A hearing in relation to the review of this decision will be held:

- (a) on *(date)*;
- (b) at *(time)*;
- (c) at *(place)*.

*(signature)*

Principal Member  
Statutory Fishing Rights Review Panel  
*(date)*

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FORM 5

**COMMONWEALTH OF AUSTRALIA**

*Fisheries Management Act 1991*

**SUMMONS UNDER SUBSECTION 146 (2) TO APPEAR BEFORE THE  
STATUTORY FISHING RIGHTS REVIEW PANEL**

To: *(name)*

Applicant:

Decision being reviewed:

You are summoned to appear before the Statutory Fishing Rights Review Panel:

- (a) on *(date)*; and
- (b) at *(time)*; and
- (c) at *(place)*;

and on each subsequent day of the hearing of the application for review of the decision until you are excused or released from further attendance.

You are summoned:

- (a) to give evidence; \* and
- \* (b) to produce the following documents:

*(signature)*

\* Registrar

\* Deputy Registrar

Statutory Fishing Rights Review Panel  
*(date)*

\* Omit if inapplicable.

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**SCHEDULE 2**  
FEES

Regulation 21

Column 1 Item	Column 2 Section of the Act	Column 3 Description of activity	Column 4 Fee
1	32 (1)	Application for the grant of a fishing permit, other than a permit in relation to a free area	\$50
2	32 (1)	Grant of a fishing permit, other than a permit in relation to a free area	\$100
3	32 (8)	Variation of a condition of a fishing permit on the application of the holder of the permit	\$250
4	32 (10)	Transfer of a fishing permit other than a permit in relation to a free area	\$250
5	34 (1)	Issue of a foreign fishing licence	\$300
6	40 (1)	Issue of a foreign master fishing licence	\$100
7	46 (4)	Registration of an interest in a statutory fishing right	\$50
8	52 (1)	Inspection of the Register	\$50

**SCHEDULE 3**

Regulation 37

SHORT METHODS OF REFERENCE TO AREAS OF THE AFZ

Column 1 Item	Column 2 Area of the AFZ	Column 3 Short method of reference
1	The area described in paragraph A of Appendix II to the Subsidiary Agreement	Area A
2	The area described in paragraph B of Appendix II to the Subsidiary Agreement	Area B
3	The area described in paragraph C of Appendix II to the Subsidiary Agreement	Area C
4	The area described in paragraph D of Appendix II to the Subsidiary Agreement	Area D

**NOTE**

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

1992. 31 January!