

EXPLANATORY STATEMENT

STATUTORY RULES 1985 No. 9

Issued by the Authority of the Minister for Primary Industry

Torres Strait Fisheries Regulations

The Torres Strait Fisheries Act 1984 provides for the management of fisheries in the Torres Strait Protected Zone established under the Torres Strait Treaty and for co-operation between the Commonwealth and Queensland in that management.

The Act has the practical effect in the Protected Zone of replacing the Fisheries Act 1952 and the Continental Shelf (Living Natural Resources) Act 1968 with similar provisions consistent with the Treaty. The Torres Strait Fisheries Regulations prescribe similar matters to those in the Fisheries Regulations, together with other matters required by the Torres Strait Fisheries Act.

Regulation 1 provides for the citation of the Regulations.

Regulation 2 defines -

- "licensing authority" as the Minister or the Protected Zone

Joint Authority or a person to whom either has delegated powers and functions under sub-sections 9(1) or 38(1) respectively of the Act;

- "the Act" as the Torres Strait Fisheries Act 1984;
- "Protected Zone Joint Authority" as having the same meaning as in Part V of the Act.

Regulation 3 prescribes the manner of publication of notices under sections 14, 16 and 17 of the Act, in a newspaper that the Minister or the Protected Zone Joint Authority considers appropriate, having regard to the contents of the notice.

Regulation 4 prescribes the manner of broadcasting the contents of notices under sections 14, 16 and 17 of the Act by transmission on a frequency to which fishermen in the Torres Strait commonly listen.

Regulation 5 requires a licensing authority to refuse to grant, renew or transfer a licence unless the prescribed fee has been tendered.

Regulation 6 prescribes that the fees in column 3 of Schedule 1 are payable in respect of the matters against each item in that Schedule specified in column 2. For purposes of Schedule 1, the overall length of a boat is measured along the centreline of the main deck from outside the stem to outside the stern.

Regulation 7 requires a licensing authority granting a licence for a boat to assign to the boat a distinguishing number consisting of letters, numerals or letters and numerals, followed by the letter "T". (In practice, a distinguishing number assigned to a boat under any another law relating to fisheries will be the number assigned for purposes of these regulations and the letter "T" will identify the boat as one authorised under the Act to fish in the Protected Zone.) In the case of a licensed foreign boat, the distinguishing number is the radio call sign for the boat followed by the letter "T". The master and owner of a boat are each guilty of an offence if the boat is -

- (a) a licensed boat that was used or is being used for fishing in the area of Australian jurisdiction in the Protected Zone and that does not display the assigned distinguishing number so that it is clearly visible from aircraft and surface vessels, in letters or numbers on contrasting backgrounds, measuring not less than 50 centimetres high, in strokes from 6 to 7 centimetres wide;
- b) a Papua New Guinea boat, the Papua New Guinea licence for which bears a Treaty endorsement, used for fishing in the area of Australian jurisdiction and that does not bear the distinguishing number assigned to it under a law of Papua New Guinea, displayed in accordance with such a law applicable to fishing in the Protected Zone; or

(c) one that has ceased to be licensed under the Act and from which the letter "T" has not completely been obliterated or removed.

Penalty -\$500.

Regulation 8 requires the master of a boat in the area of Australian jurisdiction in the Protected Zone to comply with Marine Orders, Part 30 (Prevention of Collisions) in force under the Navigation (Orders) Regulations at the commencement of these regulations. Penalty - \$500. The imposition of a penalty under this regulation does not relieve the person from civil liability for damage resulting from failure to comply with Marine Orders.

Regulation 9 authorises the Secretary to issue identity cards to officers under the Act other than members of the Defence Force, the Australian Federal Police or the Queensland Police and requires a person to whom an identity card has been issued to return it to the Secretary if the person ceases to be an officer. Penalty - \$100.

Regulation 10 requires the Minister to cause forms of log books to be published where he is satisfied that information about the taking or processing and the sale or disposal of fish taken in the area of Australian jurisdiction in the Protected Zone or with the use of licensed boats in areas of Papua New Guinea jurisdiction is required to pursue the objectives of the Act. The form of each log book is to be appropriate to the kind of

fish, the kind of fishing activity and the area of waters in respect of which the master of a boat is to enter information in the log book and is to be appropriately identified to distinguish it from other forms of log book. A log book may provide for the recording of information about the person in charge of the boat, the number of the crew, the physical characteristics of the boat, the boat's catch and the circumstances of the catching, and the sale or disposal of the catch.

Regulation 11 provides that a form of log book becomes the appropriate form of log book in relation to a boat when the Minister publishes a notice in the Gazette and in a newspaper circulating in Queensland that the Minister determines having regard to the area of waters in which a log book is to be used, that the log book concerned is appropriate to the kind of fish and to the kind of fishing activity in relation to, and the area of waters in, which the boat operates. When the Minister makes such a determination, he is also to publish, in the same way, a notice specifying the dates of the beginning (not sooner than 14 days after publication of the notice) and the end (not later than 3 years after publication of the notice) of the period during which the log book is to be kept by masters of boats to which it is appropriate. The notice is also to specify the places from which supplies of the log book are obtainable during business hours. In a notice, sufficient reference is made to a log book by reference to the identifying number assigned to that form of log book under regulation 10. The

Minister may by notice published in the manner described above exempt the masters of specified classes of boat from the requirements of regulation 12 to hold, complete and submit log books. A notice may be published combining one or more matters required by this regulation to be published.

Regulation 12 requires the master of a boat licensed under the Act or a Papua New Guinea boat for which the licence bears a Treaty endorsement, being in either case a boat in relation to which a form of log book is the appropriate form, by not later than the day after each day on which he uses the boat to take or process the relevant fish in the area of Australian jurisdiction, to record information of the taking, processing, sale or disposal of the fish in the log book in respect of that period. The master of a boat licensed under the Act is required to complete the log book in the same manner, in relation to fishing in any area of Papua New Guinea jurisdiction to which the log book refers. Any master who causes information to be entered into a log book is then required to send the folios of the log book containing the information to an officer or to the Department of Primary Industry in the manner specified in the log book. It is an offence to fail, without reasonable excuse, to comply with a requirement under Regulation 12. Penalty - \$500

Regulation 13 creates the offence of a person recording or communicating to another person, information of a person's affairs contained in a log book or producing to a person any

part of a log book containing information, except in the performance of a duty under or in relation to the Act or these regulations or on the order of a court, including any tribunal or person authorised under law or by the consent of parties to receive evidence. Penalty - \$500.

Regulation 14 authorises, for purposes of a notice under section 14, 16 or 17 of the Act or any other instrument made by or under the authority of the Act, the use of the short methods, set out in column 2 of Schedule 2, of reference to areas of Australian jurisdiction described by metes and bounds or otherwise in column 3 of that Schedule. For purposes of that Schedule, "Fisheries Jurisdiction Line" has the same meaning as in paragraph (a) of the definition of "area of Australian jurisdiction" in sub-section 3(1) of the Act and "Seabed Jurisdiction Line" means the line described in Annex 5 to the Torres Strait Treaty.

Schedule 1 sets out, pursuant to regulation 6, the fees for -

- . grant or renewal of a master fisherman's licence - \$20
- . grant or renewal of a licence authorising the use of a boat to take fish and carry, or process and carry, its own catch :
 - .. being an Australian boat of overall length less than 15 metres - \$40

- .. being an Australian boat of overall length not less than 15 metres but less than 20 metres - \$50
- .. being an Australian boat of overall length not less than 20 metres - \$60
- .. being a foreign boat - \$35 per metre of overall length
- . grant or renewal of a licence to use a boat for community fishing - \$30
- . grant or renewal of a licence authorising the use of -
 - .. an Australian boat to carry the catch of another boat - \$80
 - .. an Australian boat to process and carry the catch of another boat - \$100
 - .. a foreign boat to carry the catch of another boat - \$80 plus \$35 per metre of overall length
 - .. a foreign boat to process and carry the catch of another boat - \$100 plus \$35 per metre of overall length
- . transfer of a boat licence - \$10

- . making an entry in a boat licence to authorise the use of the boat in a Protected Zone Joint Authority fishery specified in the entry - \$10.

Schedule 2 sets out, pursuant to regulation 14, short methods of reference to the areas of the prawn, tropical rock lobster, Spanish mackerel, dugong, turtle and pearl shell fisheries respectively, by reference to the area of waters in the Protected Zone south of the Fisheries Jurisdiction Line, the territorial sea of Australia north of the Fisheries Jurisdiction Line in the cases of the prawn, tropical rock lobster, Spanish mackerel, dugong and turtle fisheries or of the Seabed Jurisdiction Line in the case of the pearl shell fishery, and the areas, outside but near the Protected Zone, declared in Proclamations under sub-section 15(1) of the Act in relation to each of those fisheries.

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