

Torres Strait Fisheries Amendment Regulation 1999 (No. 1) 1999 No. 51

EXPLANATORY STATEMENT

STATUTORY RULES 1999 No. 51

Issued by the authority of the Minister for Agriculture, Fisheries and Forestry

Torres Strait Fisheries Act 1984

Torres Strait Fisheries Amendment Regulation 1999 (No 1)

Section 19 of the *Torres Strait Fisheries Act 1984* (the Act) provides that the Minister may, in his discretion, grant to a person:

- * a master fisherman's licence authorising the person to be in charge of a boat that is being used for commercial fishing (other than community fishing);
- * a licence authorising the use of a specified boat for taking fish in the course of commercial fishing and for carrying, or processing and carrying, fish taken with the use of the licensed boat;
- * a licence authorising the use of a specified boat for carrying, or for processing and carrying, fish taken with the use of another boat;

in areas of Australian jurisdiction. The area of Australian jurisdiction is defined in section 3 of the Act to mean any area of waters in the Torres Strait Protected Zone south of the line defined in Annex 8 to the Torres Strait Treaty, declared by proclamation under subsection 15(1) or 15(2) to be an area outside but near the Protected Zone, or, where there is in force an arrangement under Part V of the Act, that Part of the Protected Zone coastal waters of Queensland which is to be managed in accordance with the law of the Commonwealth.

Section 23 of the Act provides, among other things, that a licence granted under section 19 (other than a licence renewed under section 24) remains in force until the day specified for the purpose in the licence, being a day not more than 12 months after the day on which the licence comes into force, or such longer period as may be specified in the regulations.

Subsection 27(1) of the Act provides that such fees (if any) as are prescribed are payable in respect of. .

- * the grant of a licence under section 19 of the Act;
- * the making of an entry in, the transfer of, the variation of and the renewal of, a licence granted under section 19.

Section 30 of the Act provides for the establishment of a Protected Zone Joint Authority consisting of the Commonwealth and Queensland Ministers (the PZJA), having such functions as are conferred on it by Part V of the Act in relation to fisheries in respect of which arrangements are made under section 3 1. Subsection 36(4) of the Act empowers the PZJA to make an entry in, among other things, a licence granted under section 19 of the Act so as to extend the operations of the licence to matters to which the licensing powers of the PZJA are applicable. Subsection 36(5) provides that such fee (if any) as is prescribed is payable in respect of the making of an entry in a licence under subsection 36(4).

Subsection 60(1) of the Act empowers the Governor-General to make regulations required or permitted by the Act to be prescribed and regulations necessary or convenient to be prescribed in carrying out or giving effect to the Act. Subparagraph 60(1)(o) provides that regulations may

be made prescribing, among other things, short methods of reference to areas of Australian jurisdiction specified in the regulations.

The Torres Strait Fisheries Regulations (the principal Regulations) prescribe matters in support of the Act, including fees and short methods of reference to areas of Australian jurisdiction. The Torres Strait Fisheries Amendment Regulations 1999 (No) have amended the principal Regulations:

- * by modifying the method of measuring the length of a boat for determination of fees;
- * by making provision for 5 year licences to provide operators longer term security and reduce costs involved in actioning applications which are passed on by the PZJA to operators through application fees;
- * by implementing a new schedule of licence fees which sets fees for five year licences and amends the fees charged in respect of one year licences. The fees set by the proposed Regulations have been determined following an internal review of application fees and consultation with operators in the fisheries and reflect the costs incurred by the PZJA in actioning each application;
- * by specifying the origin of the geographical coordinates used in the Regulations, to be the Australian Geodetic Datum 1966 (AGD66). AGD66 is the current datum by reference to which geographical coordinates are described, in accordance with the current standard practice of the National Mapping Council of Australia. The InterGovernment Commission on Survey and Mapping has resolved to implement a new datum, the World Geodetic System 1984 (WGS84). There is a small, but significant difference in the origins of geographical coordinates under AGD66 and WGS84. Stating the origin of the geographical coordinates currently used in the Regulations to be AGD66 will avoid confusion while WGS84 is being implemented; and
- * by implementing a new schedule of short methods of reference to certain Areas of Australian Jurisdiction which includes the new Finfish, Crab, Beche-de-Mer and Trochus fisheries. As a result of the Proclamation and Arrangement for single jurisdiction made under section 15 of the TSF Act on 17 March 1999 and that are to come into effect 1 April 1999, Torres Strait commercial fisheries formerly managed by Queensland will be managed under the TSF Act. These areas are not prescribed by short methods of reference under the principal Regulations. The proposed Regulations will specify the areas of these new fisheries so that Commonwealth licences can be granted with reference to those fisheries.

Details of the Regulations are set out below:

Regulation 1 provides that the Regulations are to be cited as the *Torres Strait Fisheries Amendment Regulations 1999 (M)*.

Regulation 2 provides that the regulations commence on gazettal.

Regulation 3 provides that Schedule 1 amends the principal Regulations.

Schedule 1 Item 1 inserts the name of the Regulations.

Schedule 1 Item 2 creates a subsection in Regulation 2 of the principal Regulations.

Schedule 1 Item 3 provides definitions for licences of 1 year and 5 year duration that are to be inserted into the principal Regulations.

Schedule 1 Item 4 states the origin of geographical coordinates used in the principal Regulations.

Schedule 1 Item 5 specifies terms of licences that are to apply to licences granted under the principal Regulations.

Schedule 1 Item 6 details a new subregulation 6(2), in relation to measuring boat lengths, that is. to be substituted for the existing subregulation 6(2) in the principal Regulations.

Schedule 1 Item 7 provides for the amendment of subregulation 14(1) of the principal Regulations by omitting reference to a part of the table in Schedule 2 of the principal Regulations.

Schedule 1 Item 8 provides for the amendment of subregulation 14(1) of the principal Regulations by omitting reference to a part of the table in Schedule 2 of the principal Regulations.

Schedule 1 Item 9 sets out a new Schedule 1 (Licence fees) to be substituted for the existing Schedule 1 of the principal Regulations.

Schedule 1 Item 10 sets out a new Schedule 2 (Short methods of reference to certain areas of Australian jurisdiction) to be substituted for the existing Schedule 2 of the principal Regulations.