

Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002 No. 115

EXPLANATORY STATEMENT

STATUTORY RULES 2002 No. 115

Issued by the authority of the Minister for Forestry and Conservation

Fisheries Management Act 1991

Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002

Subsection 168(1) of the *Fisheries Management Act 1991* (the Act) provides that the Governor-General may make regulations required or permitted by the Act to be prescribed. Paragraph 168(2)(c) provides that regulations may be made to give effect to, and enforcing the observance of, plans of management.

Subsection 17(1) of the Act provides that the Australian Fisheries Management Authority (AFMA) may determine a plan of management for a fishery. Section 18 sets out the procedure for submitting the plan to the Minister and the criteria for acceptance of the plan by the Minister.

The Heard Island and McDonald Islands Fishery Management Plan 2002 (the Management Plan) was determined by AFMA on 8 May 2002 and was accepted by the Minister on 13 May 2002. The Management Plan provides that the fishery is to be managed by a system of statutory fishing rights (SFRs).

Section 44 of the Act provides that AFMA is to keep a register of SFRs. Subsection 45(1) of the Act sets out the particulars that are to be kept on that register, including such other particulars as are prescribed.

Paragraph 17(7)(a) of the Act provides that if a plan of management makes provision for management of the fishery by means of a system of SFRs, the plan must provide for registration of persons who are to be eligible for the grant of fishing rights and specify the conditions relevant to such registration. Sections 16 and 21 of the Management Plan set out the criteria to be eligible for the grant of SFRs in relation to target species and additional target species, as listed under Schedule 3 of the Management Plan, which may be declared by AFMA. Section 24 of the Management Plan sets out the procedure for registering a boat as the nominated boat for an SFR holder. Paragraph 24(2)(a) provides that the details to be registered are those prescribed by the *Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations* (the proposed Regulations).

The purpose of the Regulations is to set out the particulars that are to be prescribed in relation to the Register of Statutory Fishing Rights (SFRs) granted under the Heard Island and McDonald Islands Fishery Management Plan (the Management Plan). The Regulations also include the details to be entered onto that Register in relation to a boat against which SFRs are nominated in accordance with section 24 of the Management Plan. The Regulations also provide that a SFR holder may apply to AFMA to cancel an entry in the Register of a nominated boat, and that AFNIA must cancel the entry on receipt of the application.

Details of the Regulations, which commenced on gazettal, are set out below:

Regulation 1 provides for the Regulations to be cited as the *Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002*.

Regulation 2 provides that the Regulations commence on gazettal.

Regulation 3 defines terms used in the Regulations.

Regulation 4 sets out the details of each statutory fishing right holder to be included in the Register for the fishery.

Regulation 5 sets out the details to be entered in the Register for each boat that is nominated by a statutory fishing right holder.

Regulation 6 provides that the holder of a statutory fishing right may apply to AFMA to cancel an entry in the Register, and that AFMA must accept that cancellation.