



Heard Island and McDonald Islands Fishery Management Plan Amendment 2006 (No. 1)

The AUSTRALIAN FISHERIES MANAGEMENT AUTHORITY determines this amendment to the *Heard Island and McDonald Islands Fishery Management Plan 2002* under sections 17 and 20 of the *Fisheries Management Act 1991*.

Dated 10 May 2006

PETER WITHERIDGE
Common seal of the
Australian Fisheries
Management Authority

Accepted on 23 May 2006

ERIC ABETZ
Minister for Fisheries, Forestry and Conservation

1 Name of Plan Amendment

This Plan Amendment is the *Heard Island and McDonald Islands Fishery Management Plan Amendment 2006 (No. 1)*.

2 Commencement

This Plan Amendment commences on the day after it is registered.

3 Amendment of *Heard Island and McDonald Islands Fishery Management Plan 2002*

Schedule 1 amends the *Heard Island and McDonald Islands Fishery Management Plan 2002*.

Schedule 1 Amendments

(section 3)

[1] Paragraph 9 (2) (c)

omit

before the beginning of each fishing year,

insert

by 1 March of each fishing year,

[2] Subsections 11 (2) and (3)

substitute

- (2) Before the beginning of each fishing year, AFMA may determine a limit to the amount of any other species (including a limit that is a total for a number of species) that may be taken from the fishery in the fishing year.
- (3) Before deciding the total allowable catch and any other catch limits for a fishing year, AFMA:
 - (a) must take into account:
 - (i) the total allowable catch (if any) set by CCAMLR; and
 - (ii) the reference points determined under section 10; and
 - (b) must consult, and consider the views of:
 - (i) SouthMAC; and
 - (ii) SAFAG.

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- (4) Before the beginning of each fishing year, AFMA must give to the holder of each statutory fishing right a notice stating:
- (a) the total allowable catch for the species to which the right relates for the fishing year; and
 - (b) the quota allocated to the right for the fishing year; and
 - (c) any catch limits for other species that may be taken from the fishery in that fishing year.

[3] Subsection 14 (1)

omit

- (1) This section applies

insert

- (1) This subsection applies

[4] Paragraph 14 (1) (a)

omit

by up to 20 tonnes,

insert

by no more than 10 tonnes,

[5] Paragraph 14 (1) (b)

omit

twice

[6] Subsection 14 (2)

substitute

- (2) If subsection (1) applies to a person, the person is considered, for section 13, to have taken:
- (a) during the first year, an amount of fish equal to the quota allocated to the statutory fishing rights held by the person in the first year; and
 - (b) during the second year, an amount of fish, in tonnes, according to the formula:

$$\text{amount} = (\text{1st year take} - \text{1st year quota}) + \text{2nd year take}$$

where:

amount is the amount of fish, in tonnes, the person is considered to have taken in the second year.

1st year take is the amount of fish, in tonnes, actually taken in the first year.

1st year quota is the quota, in tonnes, allocated to the statutory fishing rights held by the person in the first year.

2nd year take is the amount of fish, in tonnes, actually taken in the second year.

- (3) This subsection applies to a person if:
- (a) the person exceeds the person's quota, in the manner described in subsection (1), by more than 10 tonnes but not more than 20 tonnes; and
 - (b) at the beginning of the following fishing year (the **second year**), the person holds statutory fishing rights that would, in the absence of this section, enable the person to take an amount of fish, in tonnes, at least equal to the amount computed according to the formula:

$$\text{amount} = [3 \times (\text{1st year take} - 10 - \text{1st year quota})] + 10$$

where:

amount is the amount computed according to the formula.

1st year take has the same meaning as in subsection (2).

1st year quota has the same meaning as in subsection (2).

2nd year take has the same meaning as in subsection (2).

- (4) A person to whom subsection (3) applies is considered, for section 13, to have taken:
- (a) during the first year, an amount of fish equal to the quota allocated to the statutory fishing rights held by the person in the first year; and
 - (b) during the second year, an amount of fish, in tonnes, according to the formula:

$$\text{amount} = [3 \times (\text{1st year take} - 10 - \text{1st year quota})] + 10 + \text{2nd year take}$$

where:

amount has the same meaning as in subsection (2).

1st year take has the same meaning as in subsection (2).

1st year quota has the same meaning as in subsection (2).

2nd year take has the same meaning as in subsection (2).

- (5) This subsection applies to a person if the person exceeds the person's quota, in the manner described in subsection (1), by more than 20 tonnes.
- (6) A person to whom subsection (5) applies is considered, for section 13, during the second year, to have taken an amount of fish according to the formula set out in paragraph (4) (b).

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- (7) To avoid any doubt, in a case to which subsection (5) applies the person is still considered to have taken, in the first year, the amount of fish actually taken in that year, as well as being considered to have taken an additional amount in the second year.

[7] Section 19, note

substitute

Note 1 Section 45 of the Act provides that AFMA must enter certain information in the Register for each statutory fishing right that it grants, including such particulars as are prescribed. The *Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002* prescribe details that must be entered in the Register in relation to a nominated boat.

Note 2 Divisions 4.1 and 4.2 provided for the registration of eligible persons and the grant to them of statutory fishing rights in the fishery. That process is now complete. AFMA has granted 30 000 statutory fishing rights for the taking of each quota species mentioned in Schedule 2 and does not intend to grant any further statutory fishing rights for the taking of those species in the fishery.

[8] Subsection 31 (1), after the note

insert

- (1A) In particular, AFMA may issue a direction to restrict or prohibit further fishing in a fishing year if the total allowable catch of a species of fish, or a catch limit for any other species, of which holders of statutory fishing rights were given notice under paragraph 11 (4) (a) or (c) in that fishing year, is reached.