

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2011 No. 204**

Issued by the Minister for Agriculture, Fisheries and Forestry

*Fisheries Levy Act 1984*

*Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2011 (No. 1)*

The *Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2011 (No. 1)* (the Regulations) are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Section 8 of the *Fisheries Levy Act 1984* (Levy Act) provides that the Governor-General may make regulations for the purposes of sections 5 and 6 of the Levy Act. Section 5 of the Levy Act imposes a levy on, amongst other things, the grant or renewal of a licence and of the allocation and renewal of units of fishing capacity issued under the *Torres Strait Fisheries Act 1984*. Section 6 of the Levy Act provides that the amount of levy imposed on the grant or renewal of a licence or on the allocation or renewal of units of fishing capacity is such an amount as is specified in the *Fisheries Levy (Torres Strait Prawn Fishery) Regulations 1998* (the principal Regulations). Section 7 of the Levy Act provides that the levy is payable at the time of the grant, renewal or variation of the licence, and at the time of the allocation or renewal of units of fishing capacity.

The attributable costs of managing the Torres Strait Prawn Fishery (the Fishery) are recovered from industry pursuant to a decision of the Protected Zone Joint Authority (PZJA). The PZJA agreed to split the costs to be recovered on the basis of fixed (per licence) and variable (per day – now per unit) components to provide an equitable division of expenses depending on operators' investment in the fishery. The Fishery is the only Torres Strait fishery currently subject to cost recovery arrangements.

The *Torres Strait Prawn Fishery Management Plan 2008* (the Plan) was determined on 6 February 2009. The Plan provides for the allocation of 'units of fishing capacity' to Torres Strait Prawn Fishery licence holders. The units of fishing capacity are then converted annually into a number of fishing days (annual use entitlement) depending on the total allowable effort for the fishery in a given season.

The levy costs for the Fishery are attributable to services provided by the Australian Fisheries Management Authority (AFMA) and Fisheries Queensland which sits within the Queensland Government Department of Employment, Economic Development and Innovation. Fisheries Queensland is responsible for administering the licensing and compliance component in management of the Fishery and distributing the annual levy invoices. AFMA is responsible for general management and consultation in relation to the fishery.

The Regulations amend the principal Regulations. The Regulations increase the 2012 levy for licences granted or renewed in the Fishery from \$2,895.59 to \$3,089.01 per licence (\$193.42 increase/ licence) and increased the levy for each individual allocated fishing unit from \$21.19 to \$21.50 per unit (31 cent increase/ unit).

The total cost recovered budget for the 2011–12 financial year is \$417,628 compared to \$448,817 for 2010–11 financial year. This is a decrease of \$31,189 or seven percent. Despite the decreased budget, there has been an overall increase in the amount recovered from industry (\$336,092) in the 2011–12 financial year of \$13,930 (4.3 percent) when compared to the 2010–11 financial year (\$322,162). This increase in the amount recovered is due to the reduced carry forward surplus from the 2010-11 budget (\$81,536) when compared to the amount carried forward for the 2009-10 (\$126,665) financial year.

For more detailed information on the basis of the 2011–12 financial year levy and comparisons between levies collected during 2010–11 and 2011–12 financial years see the Attachment.

### **Regulation Impact Statement**

The Office of Best Practice Regulation has determined that neither a Business Cost Calculator Report nor a Regulation Impact Statement is required for the Regulations (ID12659).

### **Consultation**

The budgets on which the rates for the levy are based were prepared in consultation with the Torres Strait Prawn Management Advisory Committee (TSPMAC). The TSPMAC, made up of representatives from industry and government noted the draft 2011–12 fishery budget at an out of session meeting in July 2011. The final budget and levy regulations will be provided to the TSPMAC and PZJA for noting following their determination. AFMA consulted with the Department of Agriculture, Fisheries and Forestry as well as Fisheries Queensland about the Regulations and associated explanatory documents.

### **The Regulations**

Details of the *Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2011 (No. 1)* are set out below:

**Regulation 1** provides for the instrument to be cited as the *Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2011 (No. 1)*.

**Regulation 2** provides that the instrument commences the day after it is registered.

**Regulation 3** provides that Schedule 1 amends the *Fisheries Levy (Torres Strait Prawn Fishery) Regulations 1998*.

**Schedule 1 Item 1** amends Subregulation 4(1) to provide for the 2012 fee for the granting of a licence, an amount of \$3,089.01.

**Schedule 1 Item 2** amends subregulation 4(1) to provide the additional fee payable on the grant of a licence, an amount of \$21.50 for each unit of fishing capacity allocated to the person.

**Schedule 1 Item 3** amends subregulation 4(2) to provide for the 2012 fee for the renewal of a licence, an amount of \$3,089.01.

**Schedule 1 Item 4** amends subregulations 4 (2) to (5), to provide for the additional fee payable, respectively: on the renewal of a licence for each unit of fishing capacity allocated to the person; on the variation of a licence; on the allocation of a unit of fishing capacity; and on the renewal of the allocation of a unit of fishing capacity. In each case the fee is \$21.50 for each unit of fishing capacity.

**Basis of the levy****Table 1.** Levy Calculation. This describes the basis for the levy for 2012 based on the 2011–12 financial year budget.

	Cost recovered budget 2010–11	Cost recovered budget 2011–12	Carry forward Surplus/ (deficit) from 2010–11 budget	Amount to be recovered via 2012 levy (levy base)
	a	b	C	b-c = d
AFMA logbook management	10,248	8,439	(-2,888)	<b>\$11,327</b>
Queensland Boating and Fisheries Patrol (surveillance)	56,960	64,292	0	<b>\$64,292</b>
Administration, data management, other & licensing	381,609	344,897	84,424	<b>\$260,473</b>
<b>TOTAL</b>	<b>448,817</b>	<b>417,628</b>	<b>81,536</b>	<b>\$336,092</b>

**Table 2.** The levy costs (Table 1) for 2012 season based on the 2011–12 budget, as split between licence and unit components.

	Licence component 2012	Unit component 2012	Amount to be recovered via 2012 levy
	a	b	a+b = c
AFMA logbook management	0	\$11,327	<b>\$11,327</b>
Queensland Boating and Fisheries Patrol (surveillance)	32,146	32,146	<b>\$64,292</b>
Administration, data management, other & licensing	156,283.80	104,189.20	<b>\$260,473</b>
<b>TOTAL</b>	<b>188,429.80</b>	<b>147,662.20</b>	<b>\$336,092</b>

The 2011–12 cost recovered budget is \$417,628 compared with \$448,817 for 2010–11, a decrease of \$31,189 (seven percent). This decrease is mainly due to a reduction in salaries and data management costs, which are charged on a user pay basis. As the 2011–12 budget was underspent by \$81,536 this is applied to the 2012 levy base as a credit. Consequently, the amount to be cost recovered from industry through the levy base for 2012 is \$336,092, which is calculated by subtracting the 2010–11 underspend from the 2011–12 cost recovered budget.

The \$336,092 levy amount comprises 188,429.80 in ‘fixed’ licensing costs and \$147,662.20 in ‘variable’ costs for the fishing unit component.

The levy cost per licence for 2012 is 3,089.01. This is derived by dividing the total ‘fixed’ licence component of \$188,429.80 by the total number of licences in the fishery (61).

The levy cost per unit allocated for 2012 is \$21.50. This is derived by dividing the total ‘variable’ unit component of \$147,662.20 by the total number of units allocated to Australian licence holders in the fishery (6,867).

**Decreases to the budget have occurred in the following areas:**

- *Australian Fisheries Management Authority (AFMA) – salaries*– A decrease in the salaries for AFMA of \$20,576 was attributed as a result of changes to staffing allocation in the fishery;
- *AFMA – data management* - the data management costs continue to be charged to fisheries as actual usage charges. Although a specific amount is budgeted for in each fishery’s budget, the data management team will log all work generated by a fishery regarding e-Logs and reporting requests and reconcile this every three months. Actual expenses will then be adjusted with the finance team. As such, there has been a \$6,363 decrease for the 2011-2012 budget;
- *AFMA - logbook data entry* – A \$1,809 decrease occurred due to using less of the data entry team’s time, largely due to reduced effort in the fishery;
- *AFMA – overheads* – Decreases to general overheads of \$3,361 occurred as overheads are largely linked to staff time, and there has been a decrease in staff time spent on the TPSF;
- *Fisheries Queensland – fisheries management costs* – this item has decreased by \$4,789 due to revised apportionment of actual staff costs to this budget item;

**Increases to the budget have occurred in the following areas:**

- *AFMA – travel costs* – There has been an increase in travel costs (\$1,696) associated with flights and meeting costs being budgeted for port meetings regarding future management arrangements for the Fishery in 2011-12.
- *Fisheries Queensland – surveillance and compliance* – A \$7,332 increase is a reflection of a more accurate calculation for the leave loading component being applied to the Fishery budget. In previous years a flat figure was used instead of the figure being calculated based on actual staffing costs.