



Fisheries Legislation (Management Plans) Amendment 2011 (No. 1)

Fisheries Management Act 1991

The AUSTRALIAN FISHERIES MANAGEMENT AUTHORITY determines this Management Plans Amendment under subsection 20 (1) of the *Fisheries Management Act 1991*.

Dated: 19 December 2011

Common seal of the
Australian Fisheries
Management Authority

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1 Name of Plan

This Plan is the *Fisheries Legislation (Management Plans) Amendment 2011 (No. 1)*.

2 Commencement

This Management Plans Amendment commences on the day after it is registered.

3 Amendment of *Northern Prawn Fishery Management Plan 1995*

Schedule 1 amends the *Northern Prawn Fishery Management Plan 1995*.

4 Amendment of *Southern Bluefin Tuna Fishery Management Plan 1995*

Schedule 2 amends the *Southern Bluefin Tuna Fishery Management Plan 1995*.

5 Amendment of *Bass Strait Central Zone Scallop Fishery Management Plan 2002*

Schedule 3 amends the *Bass Strait Central Zone Scallop Fishery Management Plan 2002*.

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

Schedule 4 amends the *Heard Island and McDonald Islands Fishery Management Plan 2002*.

7 Amendment of *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003*

Schedule 5 amends the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003*.

8 Amendment of *Southern Squid Jig Fishery Management Plan 2005*

Schedule 6 amends the *Southern Squid Jig Fishery Management Plan 2005*.

- 9** **Amendment of *Western Tuna and Billfish Fishery Management Plan 2005***
Schedule 7 amends the *Western Tuna and Billfish Fishery Management Plan 2005*.
- 10** **Amendment of *Macquarie Island Toothfish Fishery Management Plan 2006***
Schedule 8 amends the *Macquarie Island Toothfish Fishery Management Plan 2006*.
- 11** **Amendment of *Small Pelagic Fishery Management Plan 2009***
Schedule 9 amends the *Small Pelagic Fishery Management Plan 2009*.
- 12** **Amendment of *Eastern Tuna and Billfish Fishery Management Plan 2010***
Schedule 10 amends the *Eastern Tuna and Billfish Fishery Management Plan 2010*.

Schedule 1 **Amendments of *Northern Prawn Fishery Management Plan 1995***

(section 3)

- [1] **Section 3, definitions of *nominated boat* and *VMS***
omit
- [2] **Subsection 14 (4)**
omit
Subject to any relevant direction under section 25, the person
insert
The person
- [3] **Paragraph 14 (6) (a) (second occurring)**
renumber as paragraph 14 (6) (b)
- [4] **Section 14A**
omit
Subject to any relevant direction under section 25, a person
insert
A person
- [5] **Subsections 16B (2) and 17B (3)**
omit
, under paragraph 19 (2) (a),
- [6] **Subsection 17B (3)**
omit
, under paragraph 19 (2) (a)
- [7] **Sections 19, 19A and 21**
omit
- [8] **Paragraph 22 (1) (d)**
omit

[9] Subparagraph 22 (1) (h) (iii)*omit*

boat; and

insert

boat.

[10] Paragraphs 22 (1) (i) and 23A (1) (a)*omit***[11] Subparagraph 23A (1) (b) (iii)***omit*

boat; and

insert

boat.

[12] Paragraphs 23A (1) (c) and (2) (a) and (d)*omit***[13] Sections 25 to 27 and 28***omit***[14] Section 29***omit*

(except its powers under section 25)

[15] Section 30*substitute***30 Reconsideration of decisions by AFMA and Administrative Appeals Tribunal**

The provisions of section 165 of the Act apply to a decision under subsection 17 (5) to cancel a person's registration as an eligible person for the grant of a statutory fishing right as if the decision were a relevant decision within the meaning of that section.

[16] Section 31*omit*

[17] Subsection 33 (2)

omit

Managing Director of the Australian Fisheries Management Authority,
and

insert

Manager, Licensing and Quota Management, Australian Fisheries
Management Authority, and:

[18] Paragraph 33 (2) (a)

substitute

(a) delivered to the reception desk at:

Level 6

73 Northbourne Avenue

Canberra ACT; or

[19] Paragraph 33 (2) (c)

omit

the Managing Director of

[20] Subsection 34 (2)

omit

(02) 6272 4614

insert

(02) 6225 5426

Schedule 2 Amendments of *Southern Bluefin Tuna Fishery Management Plan 1995*

(section 4)

[1] Subclause 3.1, definitions of *holder* and *owner*

omit

[2] Subclause 3.1, definition of *transferee*

omit

, under clause 28,

[3] Subparagraph 4A.2 (e) (ii)

omit

(see subclauses 24.6, 25.2 and 26.2)

[4] Subclause 6.5, notes 1 and 2

substitute

Note Obligations have been placed on the holders of fishing concessions under subclauses 24.12, 25.6 and 26.5 to ensure that by-catch is kept to a minimum.

[5] Paragraph 9.1 (d)

omit

[6] Paragraph 10.1 (d)

omit

under clause 12A

[7] Clauses 12A to 12D

omit

[8] Subclause 24.6

omit

[9] Paragraphs 24.10 (a) and (b)

omit

-
- [10] **Paragraph 24.11 (e)**
omit
under clause 27
- [11] **Subclause 25.2**
omit
- [12] **Paragraph 25.4 (a)**
omit
- [13] **Subparagraph 25.4 (c) (iii)**
omit
boat; and.
insert
boat.
- [14] **Paragraph 25.4 (d)**
omit
- [15] **Paragraph 25.5 (d)**
omit
subject; and
insert
subject.
- [16] **Paragraph 25.5 (e)**
omit
- [17] **Subclause 26.2**
omit
- [18] **Paragraph 26.4 (d)**
omit
under clause 27
- [19] **Clauses 26A, 26B, 27, 28 and 30**
omit

[20] Clause 31*omit*

(except its powers under clause 27)

[21] Clause 31, note*omit***[22] Paragraph 32 (b)***omit*

paragraph 15.3 (b); and

insert

paragraph 15.3 (b);

[23] Paragraph 32 (c)*omit***[24] Clause 33***omit*

Schedule 3 Amendments of *Bass Strait Central Zone Scallop Fishery Management Plan 2002*

(section 5)

- [1] **Section 3, definitions of *holder, lease, owner and trip***
omit
- [2] **Section 11, note**
omit
- [3] **Sections 17 and 21**
omit
- [4] **Paragraphs 22 (2) (b), (d) and (e)**
omit
- [5] **Paragraph 22 (2) (h)**
substitute
(h) carry on board the nominated boat for the right a copy of the extract from the Register mentioned in subsection 19 (3) that states the name and identification code for the boat.
- [6] **Subsection 22 (3)**
omit
- [7] **Section 22, note 6**
omit
Subsections 19 (3) and 21 (4) require
insert
Subsection 19 (3) requires
- [8] **Section 22, note 6**
omit the last sentence
- [9] **Divisions 5 and 6**

omit

[10] Section 29

omit

[11] Section 30

omit

23,

[12] Section 30, note

omit

**Schedule 4 Amendments of Heard Island and
McDonald Islands Fishery
Management Plan 2002**

(section 6)

[1] Section 3, definitions of *eligible boat, holder, ICVMS, lease and owner*

omit

[2] Paragraph 6 (k)

omit

under subsection 31 (1)

[3] Subsection 8 (3), note

omit

[4] Section 24

substitute

24 Nomination of boat

AFMA must not register a boat as the nominated boat for a person if:

- (a) the person holds less than 51% of the statutory fishing rights, and another boat is registered as the nominated boat for the person; or
- (b) the person holds 51% or more, but less than 76.5%, of the statutory fishing rights, and 2 other boats are registered as nominated boats for the person; or
- (c) the person holds 76.5% or more of the statutory fishing rights, and 3 other boats are registered as nominated boats for the person; or
- (d) the boat does not meet the requirements for an Australian boat, within the meaning given by subsection 4 (1) of the Act; or
- (e) a nominated surveyor has not conducted a safety assessment of the boat and has not issued a statement of compliance indicating that the boat passed the safety assessment.

[5] Division 4.5

omit

[6] Section 29

omit

[7] Subsection 30 (1)

omit

(1) It is a condition

insert

It is a condition

[8] Paragraphs 30 (1) (b) and (e)

omit

[9] Paragraph 30 (1) (h)

omit

boat; and

insert

boat.

[10] Paragraph 30 (1) (i)

omit

[11] Subsections 30 (2) to (4), except the notes

omit

[12] Division 5.2

omit

[13] Section 33

omit

sections 11 and 31,

insert

section 11

[14] Section 33, note

omit

sections 11 and 31

insert

section 11

[15] Subsection 35 (3)

omit

Manager, Antarctic Fisheries,

insert

Manager, Licensing and Quota Management,

[16] Paragraph 35 (3) (a)

substitute

(a) delivered to the reception desk at:

Level 6

73 Northbourne Avenue

Canberra ACT; or

[17] Paragraph 35 (3) (c)

omit

(02) 6272 5167

insert

(02) 6225 5426

[18] Paragraph 35 (3) (d)

omit

612 6272 5167

insert

612 6225 5426

[19] Paragraph 35 (3) (e)

omit

himie@afma.gov.au

insert

licensing@afma.gov.au

[20] Schedule 1, note

omit

under section 31

Schedule 5 Amendments of *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003*

(section 7)

- [1] **Section 3, definitions of *fishing concession, holder, lease, owner, and trip***
omit
- [2] **Subsection 9 (4), note**
omit
 , section 47 (Obligations relating to interactions with certain species and communities) and Part 8 (Directions not to engage in fishing)
- [3] **Subsection 20 (8)**
omit
- [4] **Subsection 20 (9), notes 2 and 3**
substitute
Note 2 See the *Fisheries Management Regulations 1992* in relation to nomination of a boat for the purposes of a statutory fishing right.
Note 3 One boat only may be nominated for the purposes of a boat statutory fishing right at a particular time.
- [5] **Divisions 5.4 and 5.5**
omit
- [6] **Paragraphs 46 (2) (b) and (g)**
omit
- [7] **Subsection 46 (4), except the notes**
omit

[8] Subsection 46 (4), note 5

omit

[9] Section 47

omit

[10] Subsection 53 (1)

omit

[11] Subsection 53 (2)

omit

Also, the

insert

The

[12] Subsection 53 (2)

after

processed

insert

or the disposal is permitted by Division 10 of Part 3A of the *Fisheries Management Regulations 1992*

[13] Subsection 53 (4)

omit each mention of

(1) or

[14] Part 8

omit

[15] Section 57

omit

[16] Section 58

omit

and section 56

[17] Section 58, note

omit

and section 56

Schedule 6 Amendments of Southern Squid Jig Fishery Management Plan 2005

(section 8)

- [1] **Section 3, definitions of *holder, lease, owner* and *SquidFAG***
omit
- [2] **Section 3, after definition of *squid jigging machine***
insert
SquidRAG means the Squid Resource Assessment Group established by AFMA to advise on the status of squid stocks.
- [3] **Section 3, definition of *trip***
omit
- [4] **Paragraph 9 (5) (b)**
omit
under section 18
- [5] **Paragraph 11 (2) (a)**
omit
SquidFAG
insert
SquidRAG
- [6] **Subsection 15 (1), notes**
substitute
Note For the conditions to which an SFR is subject, see Part 6 of this Management Plan and subsections 22 (3), (4) and (5) of the Act.
- [7] **Section 18**
omit
- [8] **Divisions 5.3 and 5.4**
omit

[9] Paragraph 30 (b)*omit*

made under subsection 18 (1)

[10] Paragraphs 30 (c) and (d)*substitute*

- (c) if AFMA asks the holder to give AFMA biological, economic or technical information, or biological samples that are available to the holder — give AFMA the information and samples.

[11] Sections 31, 32 and 33*omit***[12] Section 34***omit*

sections 11 and 18

insert

section 11

[13] Section 34, note*omit*

sections 11 and 18

insert

section 11

[14] Paragraph 36 (3) (a)*substitute*

- (a) delivered to the reception desk at:
Level 6
73 Northbourne Avenue
Canberra ACT; or

[15] Paragraph 36 (3) (c)*omit*

(02) 6272 5426

insert

(02) 6225 5426

[16] Paragraph 36 (3) (d)*omit*

612 6272 5426

insert

612 6225 5426

Schedule 7 Amendments of *Western Tuna and Billfish Fishery Management Plan 2005*

(section 9)

- [1] **Section 3, definition of *fishing season***
substitute
fishing season means the period determined by AFMA.
- [2] **Section 3, definitions of *holder, lease, owner* and *WTBF Regulations***
omit
- [3] **Subsection 10 (5), note 2**
omit
and section 39 (Obligations relating to interactions with certain species and communities)
- [4] **Section 14**
omit
- [5] **Subsections 15 (3) and (4)**
substitute
- (3) Unless, under subsection 30 (1), all boat SFRs have ceased to have effect, the person must be the holder of a boat SFR that authorises the use of the boat in the fishery.
- (4) If the person takes a quota species:
- (a) the person must be the holder of a quota SFR for that species; and
- (b) the SFR must have unused quota for that species for the season.
- Note* To take southern bluefin tuna in the area of the fishery, the holder must also hold statutory fishing rights granted under the *Southern Bluefin Tuna Fishery Management Plan 1995*.

-
- [6] **Subsection 29 (3), note**
omit the last sentence
- [7] **Parts 5 and 6**
omit
- [8] **Subsection 38 (1)**
omit
(1) The holder
insert
The holder
- [9] **Subparagraph 38 (1) (a) (iv)**
substitute
(iv) any relevant direction; and
- [10] **Paragraph 38 (1) (c)**
omit
- [11] **Subsections 38 (2) to (5)**
omit
- [12] **Subsection 38 (5), note 2**
omit
, the WTBF Regulations
- [13] **Section 39**
omit
- [14] **Subsection 40 (2)**
omit
the obligation imposed by subsection 38 (4)
insert
an obligation relating to the disposal of fish

[15] Section 41

omit

[16] Section 42

omit

14,

[17] Section 42, note

omit

14,

[18] Subsection 44 (4)

omit

Manager, Business and Licensing,

insert

Manager, Licensing and Quota Management,

[19] Paragraph 44 (4) (a)

substitute

(a) delivered to the reception desk at:

Level 6

73 Northbourne Avenue

Canberra ACT; or

[20] Paragraph 44 (4) (c)

omit

(02) 6272 4614

insert

(02) 6225 5426

[21] Paragraph 44 (4) (d)

omit

612 6272 4614

insert

612 6225 5426

[22] Subsection 45 (6)

omit

Schedule 8 Amendments of *Macquarie Island Toothfish Fishery Management Plan 2006*

(section 10)

[1] Section 3, definitions of *holder*, *ICVMS* and *owner*

omit

[2] Subsection 8 (3), note

omit

[3] Divisions 4.3 and 4.4

substitute

Division 4.3 Nomination of boat

21 Nomination of boat

AFMA must not register a boat as the nominated boat for a person if:

- (a) the person holds less than 51% of the statutory fishing rights in the fishery, and another boat is registered as the nominated boat for the person; or
- (b) the person holds 51% or more, but less than 76.5%, of the statutory fishing rights in the fishery, and 2 other boats are registered as nominated boats for the person; or
- (c) the person holds 76.5% or more of the statutory fishing rights in the fishery, and 3 other boats are registered as nominated boats for the person.

[4] Sections 28 and 29

substitute

29 Other obligations of holders of statutory fishing rights

It is a condition of a statutory fishing right that the holder must:

- (a) comply with this Management Plan, and any Regulations made for the purposes of this Management Plan; and
- (b) take reasonable measures to ensure that the following are kept to a minimum:
 - (i) the catch of Patagonian toothfish not taken in accordance with this Management Plan;

-
- (ii) the incidental catch of species other than Patagonian toothfish;
 - (iii) the impact of fishing operations on the marine environment; and
 - (c) comply with the fishery assessment plan developed under section 9; and
 - (d) if AFMA asks the holder to give AFMA reasonable access to biological, economic or technical information, or biological samples that are available to the holder — give AFMA reasonable access to the information or samples; and
 - (e) carry on board the nominated boat a copy of the extract from the Register showing the name of the boat and, if the boat is registered under a law of the Commonwealth or of a State or Territory, its identification code.

Note 1 Other conditions of a statutory fishing right are set out on the certificate for the right. These include bycatch limits, reporting requirements, and conditions regarding AFMA's vessel monitoring system. As new monitoring technologies are developed, the conditions may also include conditions regarding the use of those technologies.

Note 2 The holder of a statutory fishing right must also comply with relevant regulations, including the *Fisheries Management Regulations 1992* and the annual Levy Regulations.

Note 3 See section 42 of the Act and Part 9 of the *Fisheries Management Regulations 1992* about the requirement to keep a logbook. If the holder of a statutory fishing right does not keep a logbook under Part 9 of those Regulations, AFMA may issue an infringement notice under Part 10 of those Regulations or suspend the operation of the statutory fishing right.

Note 4 See also section 22 of the Act for other conditions to which a statutory fishing right is subject.

Note 5 See section 38 of the Act about AFMA's power to suspend a statutory fishing right if it has reasonable grounds to believe that there has been a contravention of a condition of the right.

[5] Division 5.2

omit

[6] Section 31

omit

[7] Section 32

omit

sections 11 and 30

insert

section 11

[8] Section 32, note

omit

sections 11 and 30

insert

section 11

[9] Subsection 34 (3)

omit

Manager, Antarctic Fisheries,

insert

Manager, Licensing and Quota Management,

[10] Paragraph 34 (3) (a)

substitute

(a) delivered to the reception desk at:

Level 6

73 Northbourne Avenue

Canberra ACT; or

[11] Paragraph 34 (3) (c)

omit

(02) 6272 5167

insert

(02) 6225 5426

[12] Paragraph 34 (3) (d)

omit

612 6272 5167

insert

612 6225 5426

[13] Paragraph 34 (3) (e)

omit

himie@afma.gov.au

insert

licensing@afma.gov.au

Schedule 9 Amendments of *Small Pelagic Fishery Management Plan 2009*

(section 11)

- [1] **Section 3, definitions of *holder, lease, listed marine species, listed migratory species, listed threatened ecological communities, listed threatened species, owner, protected species, SPF Regulations and transfer***
omit
- [2] **Subsection 15 (3), note**
omit
, section 53 (Directions not to engage in fishing) and section 52 (Obligations relating to interactions with certain species and communities)
- [3] **Paragraphs 25 (b) and 26 (1) (d)**
omit
- [4] **Subsection 26 (3)**
omit
or a direction made under section 53
- [5] **Sections 43 to 45**
omit
- [6] **Part 6**
omit
- [7] **Paragraphs 50 (1) (b), (f), (g), (i) and (j)**
omit
- [8] **Section 52**
omit
- [9] **Part 8**
omit
- [10] **Subsection 58 (6)**
omit

Schedule 10 Amendments of *Eastern Tuna and Billfish Fishery Management Plan 2010*

(section 12)

[1] Section 1.3, definitions of *holder* and *owner*

omit

[2] Section 3.1

omit

[3] Paragraph 4.1 (3) (d)

omit

under section 4.16

[4] Paragraph 4.1 (4) (e)

omit

under section 4.16

[5] Paragraph 4.1 (5) (d)

omit

under section 4.16

[6] Division 4.4

omit

[7] Part 5

substitute

Part 5 Obligations of SFR holders

5.1 Observers and other requirements

The holder of an SFR must:

(a) retain any by-catch if:

- (i) AFMA makes a reasonable request of the holder to do so; or
- (ii) a law of the Commonwealth obliges the holder to do so; and

- (b) if AFMA asks the holder to give AFMA reasonable access to biological, economic or technical information, or biological samples available to the holder — give AFMA reasonable access to the information or samples; and
- (c) carry on board the nominated boat for the SFR a copy of the extract from the Register that states the name of the boat.

[8] Section 6.1

omit

[9] Paragraph 6.3 (5) (c)

omit

(02) 6225 5500

insert

(02) 6225 5426

[10] Paragraph 6.3 (5) (d)

omit

612 6225 5500

insert

612 6225 5426

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.