



Fisheries Management Amendment (2014 Measures No. 1) Regulation 2014

Select Legislative Instrument No. 141, 2014

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd),
Governor-General of the Commonwealth of Australia, acting with the
advice of the Federal Executive Council, make the following regulation.

Dated 02 October 2014

Peter Cosgrove
Governor-General

By His Excellency's Command

Richard Colbeck
Parliamentary Secretary to the Minister for Agriculture

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1 Name of regulation

This regulation is the *Fisheries Management Amendment (2014 Measures No. 1) Regulation 2014*.

2 Commencement

This regulation commences on the day after it is registered.

3 Authority

This regulation is made under the *Fisheries Management Act 1991*.

4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1—Amendments

Fisheries Management Regulations 1992

1 Subregulation 3(1)

Insert:

boat statutory fishing right means a statutory fishing right to use a boat in a managed fishery granted under any of the following:

- (a) the *Eastern Tuna and Billfish Fishery Management Plan 2010*;
- (b) the *Northern Prawn Fishery Management Plan 1995*;
- (c) the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003*;
- (d) the *Western Tuna and Billfish Fishery Management Plan 2005*.

designated quota statutory fishing right means a quota statutory fishing right granted under any of the following:

- (a) the *Bass Strait Central Zone Scallop Fishery Management Plan 2002*;
- (b) the *Heard Island and McDonald Islands Fishery Management Plan 2002*;
- (c) the *Macquarie Island Toothfish Fishery Management Plan 2006*;
- (d) the *Small Pelagic Fishery Management Plan 2009*;
- (e) the *Southern Bluefin Tuna Fishery Management Plan 1995*.

gear statutory fishing right means a statutory fishing right to use particular fishing equipment in a managed fishery granted under any of the following:

- (a) the *Northern Prawn Fishery Management Plan 1995*;
- (b) the *Southern Squid Jig Fishery Management Plan 2005*.

quota statutory fishing right means a right described in paragraph 21(1)(a) of the Act.

2 Subdivision 1 of Division 1 of Part 3A (heading)

Repeal the heading.

3 Subdivision 2 of Division 1 of Part 3A

Repeal the Subdivision, substitute:

Division 1A—Nominated boats**9AA Conditions**

For section 42B of the Act, this Division prescribes conditions that apply to certain fishing concessions.

9AB Nominated boat must be used on trip*Fishing permits*

- (1) A boat must not be used on a trip for the purpose of exercising a right under a fishing permit unless:
 - (a) the boat is:
 - (i) specified in the permit; or
 - (ii) nominated to the permit under subsection 32(1A) or (1B) of the Act and in accordance with regulation 9B; and
 - (b) the boat meets the requirements mentioned in subparagraph 9B(3)(f)(i) and the safety standards mentioned in subparagraph 9B(3)(f)(ii).

Statutory fishing rights

- (2) A boat must not be used on a trip for the purpose of exercising a right under a statutory fishing right mentioned in subregulation (3) unless:
 - (a) the boat is nominated to the statutory fishing right in accordance with regulation 9B; and
 - (b) the boat meets the requirements mentioned in subparagraph 9B(3)(f)(i) and the safety standards mentioned in subparagraph 9B(3)(f)(ii).

Note: It is not necessary to nominate a boat to a quota statutory fishing right granted under any of the following:

- (a) the *Eastern Tuna and Billfish Fishery Management Plan 2010*;
- (b) the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003*;
- (c) the *Western Tuna and Billfish Fishery Management Plan 2005*.

These quota statutory fishing rights are not designated quota statutory fishing rights.

- (3) For subregulation (2), the fishing concessions are the following:
- (a) a boat statutory fishing right;
 - (b) a gear statutory fishing right;
 - (c) a designated quota statutory fishing right.

9B Nomination of boats to certain fishing concessions

- (1) The holder of a fishing concession that is:
- (a) a boat statutory fishing right; or
 - (b) a gear statutory fishing right; or
 - (c) a fishing permit;
- may nominate a single boat to the fishing concession.

Note: See also subsections 32(1A) and (1B) of the Act in relation to the nomination of a boat for the purposes of a fishing permit.

- (2) The holder of a fishing concession that is a designated quota statutory fishing right granted under a particular management plan may nominate one or more boats to all the designated quota statutory fishing rights held by that holder under that management plan.
- (3) The holder of a fishing concession may nominate a boat to a fishing concession under subregulation (1) or (2) only if:
- (a) the owner of the boat has consented to its nomination; and
 - (b) the boat has not been nominated by another person for another fishing concession; and
 - (c) for a fishing concession that is not a designated quota statutory fishing right—another boat has not been nominated to the fishing concession; and
 - (d) the boat is able to carry safely an observer, the observer's safety equipment and the observer's monitoring equipment for the duration of a trip; and
 - (e) the boat has a vessel monitoring system that is capable of being operational at all times; and
 - (f) the boat meets:
 - (i) any requirements of the Act and these Regulations that apply to the boat; and
 - (ii) any safety standards required by AFMA.

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- (4) The nomination of a boat to a fishing concession:
- (a) must be made using the approved form, and must be lodged with AFMA; and
 - (b) takes effect on:
 - (i) the day on which AFMA enters the name of the boat on the register or record applicable to the fishing concession; or
 - (ii) a later day specified in the nomination.
- (5) The holder of a fishing concession may nominate another boat to a fishing concession (the *other boat*), to replace a nominated boat for that fishing concession, if:
- (a) the fishing concession is not suspended under section 38 of the Act; and
 - (b) the requirements of subregulation (3) are met for the other boat.
- Note: For the nomination of another boat under a fishing permit, see also paragraph 32(1A)(b) and subsection 32(1B) of the Act.
- (6) A nomination of another boat to a fishing concession under subregulation (5):
- (a) must be made using the approved form, and must be lodged with AFMA; and
 - (b) takes effect on:
 - (i) the day on which AFMA enters the name of the other boat on the register or record applicable to the fishing concession; or
 - (ii) a later day specified in the new nomination.

9BA Revocation of nomination of boats to fishing concessions

- (1) The holder of a fishing concession may revoke a nomination of a boat to the fishing concession.
- (2) A revocation of a nomination of a boat:
- (a) must be made using the approved form, and must be lodged with AFMA; and
 - (b) takes effect on:
 - (i) the day on which AFMA removes the name of the boat on the register or record applicable to the fishing concession; or

- (ii) a later day specified in the revocation.

4 Division 12 of Part 3A

Repeal the Division.

5 After Part 13

Insert:

Part 14—Transitional provisions

79 Amendments made by the *Fisheries Management Amendment (2014 Measures No. 1) Regulation 2014*

- (1) This regulation applies in relation to a nomination of a boat to a relevant fishing concession in accordance with regulation 9B, as in force immediately before the commencement of this regulation (the *commencement day*), if the nomination was in effect immediately before the commencement day.
- (2) For subregulation (1), each of the following is a relevant fishing concession:
 - (a) a boat statutory fishing right;
 - (b) a gear statutory fishing right;
 - (c) a designated quota statutory fishing right;
 - (d) a fishing permit.
- (3) The nomination of the boat to the fishing concession continues in effect on and after the commencement day as if it had been made in accordance with regulation 9B, as in force on the commencement day.
- (4) If the boat had been nominated, before the commencement day, to a fishing concession that is a designated quota statutory fishing right granted under a particular management plan, the boat is taken, on and after the commencement day, to have been nominated to all the designated quota statutory fishing rights held by the holder of the fishing concession under that management plan.

80 Expiry of this Part

This Part expires on the day after this Part commences as if it had been repealed by another regulation.

6 Part 2 of Schedule 2 (table items 1 to 17, including the subheadings)

Repeal the items and subheadings, substitute:

Permits			
1	Application under section 32 of the Act for the grant of a fishing permit that gives access to the AFZ:		
	(a) for a new fishing permit on the expiry of an existing fishing permit; or	\$160	Nil
	(b) for a new fishing permit that is not on the expiry of an existing fishing permit that authorises the carrying or transhipping of fish	\$160	Nil
2	Application for the grant of a new fishing permit outside the AFZ that is not in an area of waters south of the Antarctic Convergence (known as a High Seas Permit):		
	(a) on the expiry of an existing fishing permit; or	\$160	Nil
	(b) not on the expiry of an existing fishing permit	\$160	\$160
3	Application for the variation, revocation or specification, under section 32 of the Act, of a condition or conditions of:		
	(a) an application for a variation of a concession under subsection 32(8) of the Act if the variation is to take account of the transfer of quota units of a scheduled species of fish:		

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Schedule 1 Amendments

	(i) to that concession from another concession in the same fishery; or	\$115	Nil
	(ii) from that concession to another concession for the same fishery; or	\$115	Nil
	(b) an application for a variation of a concession under subsection 32(8) of the Act if the variation is not to take account of the transfer of quota units of a scheduled species of fish	\$300	\$300
4	Notice under paragraph 32(1A)(b) of the Act of the nomination of another Australian boat in lieu of the boat specified in:		
	(a) a permit; or	\$115	Nil
	(b) if the notice relates to more than one permit—the permits	\$115	Nil
5	Notice under subsection 32(1B) of the Act of the nomination of an Australian boat to:		
	(a) a permit; or	\$115	Nil
	(b) if the notice relates to more than one permit—the permits	\$115	Nil
6	Notice under subsection 32(1B) of the Act of the nomination of an Australian boat if the notice is given at the same time as a nomination of the boat to a statutory fishing right	Nil	Nil
7	Revocation of a nomination of a boat to a permit under subregulation 9BA(1)	\$115	Nil
8	Application under subsection 32A(2) of the Act for the transfer of:		
	(a) a permit; or	\$115	Nil
	(b) if the one application relates to more than one permit—the permits	\$115	Nil

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9	Application under subsection 94(1) of the Act for a port permit	\$860	Not available
10	Application under subsection 94(5) of the Act for the variation of a condition of a port permit	\$400	Not available
11	Application for a permit under the <i>Customs Regulations 1926</i> to import or export	\$165	Not available
12	Application under subsection 91(2) of the Act for:		
	(a) a new fish receiver permit on the expiry of an existing fish receiver permit; or	\$245	Nil
	(b) a new fish receiver permit that is not on the expiry of an existing fish receiver permit	\$245	\$245
13	Application under subsection 91(6) of the Act for the variation of a condition of a fish receiver permit	\$160	\$160
14	Inspection of the High Seas Register under subsection 57D(1) of the Act	\$30	Nil
15	Inspection of the Fishing Permits Register under subsection 57J(1) of the Act	\$30	Nil
Statutory fishing rights			
16	Application under subsection 46(3) of the Act to register the transfer or lease of a statutory fishing right	\$115	Nil
17	Nomination of a boat for a statutory fishing right under subregulation 9B(1), (2) or (5)	\$115	Nil
17A	Revocation of a nomination of a boat for a statutory fishing right under subregulation 9BA(1)	\$115	Nil

7 Part 2 of Schedule 2 (table items 20 to 40, 45 and 46)

Omit “No fee”, substitute “Nil”.

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