

EXPLANATORY STATEMENT

Issued by the Australian Fisheries Management Authority

Fisheries Management Act 1991

LOGBOOKS FOR FISHERIES AMENDMENT DETERMINATION 2018 (NO. 1)

The determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Subsection 42(1) of the *Fisheries Management Act 1991* (the Act) provides that:

“AFMA may, by a written determination, in relation to a particular fishery, provide for holders of fishing concessions in respect of that fishery to keep and maintain logbooks containing information in respect of their activities in that fishery.”

Subsection 42(1A) of the Act provides that:

“Without limiting the generality of subsection (1), a determination by AFMA in respect of a particular fishery may cover matters including:

- (a) the form and content of logbooks for that fishery to be kept by the concession holder; and...

Subsection 42(1B) of the Act provides that:

“The content of the logbook kept by the holder of a fishing concession in respect of a particular fishery, and of any return of information from such logbook, may extend to information in relation to:

- (a) the taking of fish under that concession and the sale or disposal of such fish; or
- (b) the carrying, landing, transshipping or transporting of fish taken under that fishing concession; or
- (c) the receipt or processing of fish taken under that fishing concession and the sale or disposal of fish so received or processed; or
- (d) the course, or position at regular intervals, inside or outside the outer limits of the AFZ, of boats to which the fishing concession relates; or
- (e) any other matter relevant to the fishing concession in that fishery that is specified in the determination.”

The Act does not specify any condition as needing to be met before the power to make the determination may be exercised. Although the Act does not provide a specific power to amend or otherwise vary a determination made under subsection 42(1), this amending determination can be made under subsection 42(1) of the Act through application of subsection 33(3) of the *Acts Interpretation Act 1901*.

This instrument amends the form and content of the logbook to be kept and maintained for concession holders in the Small Pelagic Fishery (SPF), the Bass Strait Central Zone Scallop Fishery (BSCZSF) and Western Deepwater Trawl Fishery (WDTF), updating the logbooks to the most recent version for the BSCZSF and WDTF and specifying the logbooks to be completed for the recently determined new fishing methods in the SPF. Other minor technical amendments are also being made.

Background

The completion of a logbook is a requirement for fishers operating in fisheries managed by the Australian Fisheries Management Authority (AFMA). Logbooks are the primary source of data

on fishing activity. They provide essential data for the management of fisheries and are the primary source of data on fishing effort and fish catches for stock assessments.

Section 42 of the Act requires that all logbooks are determined under subsection 42(1) of the Act.

Paper based logbooks have previously been determined for all fisheries.

Objectives

The instrument amends the form and content of the logbook to be kept and maintained for concession holders in the Small Pelagic Fishery (SPF), providing for the logbooks to be used by operators using minor line methods. Minor line methods were recently determined as permitted methods under the *Small Pelagic Fishery Management Plan 2009*. Other minor technical amendments are also being made.

Consultation with stakeholders

The Office of Best Practice Regulation advised that a Regulation Impact Statement was not required for this Determination consistent with providing exemptions for routine administrative, minor or machinery changes (OBPR ID 22663).

Regarding the SPF, consultation with the fishing industry and other relevant stakeholders on the determination of these fishing methods was undertaken between November 2017 and February 2018 through the SPF Scientific Panel, SPF Stakeholder Forum and South East Management Advisory Committee. No specific consultation was undertaken on regarding the logbooks to be completed for the new fishing methods in the SPF, as these are the same logbooks used in other Commonwealth fisheries using the same methods therefore the changes are minor and mechanical in nature.

Regarding the WDTF, no specific consultation was undertaken as the amendment is minor and mechanical in nature, updating the logbook for this fishery to the current version, gazetted on 1 April 2016.

Regarding the BSCZSF, the fishing industry was advised of the changes at the Resource Assessment Group meeting and Management Advisory Committee meetings on the 14 -15 June 2017. This Determination has changed; the scale of spatial data required; when the spatial data is required to be logged; and the inclusion of reporting any interactions with wildlife and other protected species form.

No consultation was undertaken in relation to the other minor technical amendments.

The instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment A.

Determination

The details of this amendment determination are set out below:

Clause 1 provides that the instrument may be cited as the *Logbooks for Fisheries Amendment Determination 2018 (No. 1)*.

- Clause 2** provides that the instrument commences on the 28th day after it is registered on the Federal Register of Legislative Instruments.
- Clause 3** provides the authority under which the Determination is made.
- Clause 4** provides that each instrument specified in the Schedule is amended or repealed as set out in the applicable items in the Schedule.

Schedule 1

- Item 1** updates the reference to the *Legislation Act 2003*.
- Item 2** removes an unnecessary abbreviation.
- Item 3** corrects the logbook reference for the WSDTF.
- Item 4** corrects the logbook reference for fishing by trawl methods in the SPF.
- Item 5** determines the logbooks for fishing by minor line methods in the SPF.
- Item 6** updates the reference to the current logbook for the BSCZSF.
- Item 7** makes technical amendments to clarify the relationship between the Determination and declarations made under subsection 91(1) of the Act.
- Item 8** provides the reference to the gazetted logbook for the BSCZSF.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Logbooks for Fisheries Amendment Determination 2018 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The instrument determines the form and content of the logbook to be kept and maintained for concession holders in Commonwealth managed fisheries. The determination provides for the submission of logbooks or the production of a receipt provided by AFMA evidencing the submission of the information contained in the logbook in an electronic format.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.