



Torres Strait Fisheries (Pearl Shell) Management Instrument 2020

The Protected Zone Joint Authority makes this instrument under paragraph 35(1)(a) of the *Torres Strait Fisheries Act 1984*, in accordance with a decision of its members under section 40 of the *Torres Strait Fisheries Act 1984*.

Dated 27 August 2020

Senator the Hon Jonathon Duniam
Member of the Protected Zone Joint Authority
Assistant Minister for Forestry and Fisheries
Parliamentary Secretary to the Minister for Forestry and Fisheries
for and on behalf of the Protected Zone Joint Authority

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1 Name

This instrument is the *Torres Strait Fisheries (Pearl Shell) Instrument 2020*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. <i>The whole of this instrument</i>	<i>30 December 2020</i>	<i>30 December 2020</i>

Note 1: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

Note 2: A prohibition contained in this instrument comes into force on the day on which the instrument is published under subsection 16(9) of the Act or on such later day as is specified in the instrument (see subsection 16(4)) of the Act.

Note 3: The requirements of subsection 16(9) of the Act have been met prior to the registration of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 16 of the Act.

Note: The Authority may exercise the powers of the Minister under section 16 of the Act in respect of a Protected Zone Joint Authority fishery: see paragraph 35(1)(a) of the Act.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 3 of the Act, including the following:

- (a) boat;
- (b) community fishing;
- (c) fish;
- (d) traditional inhabitant.

In this instrument:

Act means the *Torres Strait Fisheries Act 1984*.

Authority means the Protected Zone Joint Authority.

pearl shell means molluscs of the genus *Pinctada* and *Pteria*;

pearl shell fishery means the area of the pearl shell fishery prescribed in item 5 of the table in Schedule 2 to the Regulations.

PZJA Arrangement means the document titled “*Arrangement between the Commonwealth and the State of Queensland under section 31 of the Torres Strait Fisheries Act 1984*” dated 17 March 1999 and published on the Federal Register of Legislation, as that document exists at the commencement of this instrument.

Note: The PZJA Arrangement could in 2020 be viewed on the website of the Federal Register of Legislation (<https://www.legislation.gov.au/Details/F2008B00750>).

Queensland Fisheries Act 1994 means the Queensland statute titled “*Fisheries Act 1994*” as in force from time to time pursuant to Section 10A of the *Acts Interpretation Act 1901* (as applied by paragraph 13(1)(a) of the *Legislation Act 2003*).

Note: The Queensland Fisheries Act could in 2020 be viewed on the website of the Office of the Queensland Government Queensland Office of the Queensland Parliamentary Counsel (<https://www.legislation.qld.gov.au/view/html/asmade/act-1994-037>).

Regulations means the *Torres Strait Fisheries Regulations 1985*.

5 Schedules

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.

6 Prohibition on taking, processing or carrying pearl shell

- (1) Pursuant to paragraph 16(1)(a) of the Act, the taking, processing or carrying of live pearl shell of the species *Pinctada maxima* or any other pearl shell species whether alive or dead, is prohibited in the area of the pearl shell fishery.
- (2) Pursuant to paragraph 16(1)(a) of the Act, the taking, processing or carrying of dead pearl shell of the species *Pinctada maxima* is prohibited in the area of the pearl shell fishery.

Note: This prohibition does not apply to traditional inhabitants engaged in traditional fishing due to the application of the PZJA Arrangement.

7 Exemptions from the prohibition

- (1) Pursuant to paragraph 16(1A)(d) of the Act, the following persons are exempt from the prohibitions in subsection 6(1):
 - (a) a person holding a licence granted under either subsections 19(2) or 19(3) of the Act that authorises the person to take, process or carry pearl shell; and
 - (i) if a person is engaged in community fishing, where that person uses a boat which does not exceed 6 metres in length; or

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- (ii) a person holding a licence granted under the *Queensland Fisheries Act 1994* that entitles that person to engage in pearl shell farming.

8 Treaty endorsements

- (1) A person is exempt from subsection 6(1) of this instrument where:
- (a) he or she takes, carries or processes pearl shell on boat for which a Treaty endorsement under section 20 of the Act is in force; and
 - (b) the pearl shell is taken, carried or processed in accordance with conditions specified by the PZJA on the Treaty endorsement under section 22 of the Act.

9 Prohibition on taking, processing or carrying undersize pearl shell

- (1) Pursuant to subparagraph 16(1)(b)(ii) of the Act, the taking of a pearl shell is prohibited if:
- (a) in the case of the species *Pinctada maxima* (commonly known as gold lip, silver lip or white shell) – the length is less than 130 millimetres or greater than 230 millimetres; and
 - (b) in the case of the species *Pinctada margaritifera* (commonly known as black lip pearl shell) – the length is less than 90 millimetres.
- (2) For the purposes of paragraphs (1)(a) and (1)(b) pearl shell is measured in its original form as fished, across the shell overall from the butt or hinge to the opposite edge of the lip.

Note: This prohibition does not apply to traditional inhabitants engaged in traditional fishing due to the application of the PZJA Arrangement.

10 Prohibition on the use of certain methods

- (1) Pursuant to paragraph 16(1)(c) of the Act, the taking of pearl shell is prohibited by any method other than:
- (a) diving; or
 - (b) collecting by hand.

Note: This prohibition does not apply to traditional inhabitants engaged in traditional fishing due to the application of the PZJA Arrangement.

Schedule 1—Repeals

Torres Strait Fisheries Management Instrument No. 7 (26/08/2011) ***F2011L01835***

1 The whole of the instrument

Repeal the instrument