

# NORTHERN TERRITORY OF AUSTRALIA

## FISHERIES REGULATIONS

As in force at 12 November 1997

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 12 November 1997

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## FISHERIES REGULATIONS

### Regulations under the *Fisheries Act*

#### Part 1 Preliminary

##### 1 Citation

These Regulations may be cited as the *Fisheries Regulations*.

##### 2 Commencement

These Regulations shall come into operation on 1 January 1993.

#### Part 2 Interpretation

##### 3 Interpretation

(1) In these Regulations, unless the contrary intention appears:

***Aboriginal Coastal licence*** means a licence granted in accordance with Division 2 of Part 11.

***Aboriginal Coastal licensee*** means the holder of an Aboriginal Coastal licence.

***aquaculture facility*** means a lease or parcel of land or leases or parcels of adjacent land (whether or not covered by water) upon which an aquaculture operation is carried out.

***Aquaculture licence*** means a licence granted for the purposes of Division 2 of Part 10.

***Aquaculture licensee*** means the holder of an Aquaculture licence.

***aquarium*** means a pond, tank or other container with a surface area not exceeding 10 m<sup>2</sup> used for keeping live fish or aquatic life, and used otherwise than for the purposes of aquaculture.

***Aquarium Trader licence*** means a licence granted for the purposes of Division 4 of Part 11.

***Aquarium Trader licensee*** means the holder of an Aquarium Trader licence.

***bait*** means fish, aquatic life, meat or other organic substance capable of being used, or intended to be used, to entice fish or aquatic life.

***barramundi*** means fish of the species *Lates calcarifer*.

***baseline*** means the territorial sea baseline of the Territory declared under the *Seas and Submerged Lands Act 1973* of the Commonwealth by Proclamation published in Commonwealth Gazette No. S29 on 9 February 1983 (as amended).

***broodstock*** means adult fish or aquatic life taken or used for breeding in an aquaculture facility.

***coastline*** means:

- (a) except in relation to the mouth of a river, an imaginary line drawn along the coast at the Highest Astronomical Tide; or
- (b) in relation to the mouth of a river, an imaginary line, contiguous with the adjacent coastline, drawn across the mouth of the river.

***commercial fishing licence*** means a licence relating to a fishery specified in or referred to in Part 8.

***commercial fishing licensee*** means a person who holds a commercial fishing licence.

***Committee*** means the Disease Control Committee established under regulation 19.

***exotic*** means, in relation to fish or aquatic life, fish or aquatic life that is not indigenous to the Territory.

***fin fish*** means fish of the Class Teleostei.

***fin fish length*** means the length of a fin fish from the tip of the snout to the tip of the middle ray of the caudal fin while the fish is lying flat.

***Fish Broker licence*** means a licence for the purposes of Division 4 of Part 9.

***Fish Retailer licence*** means a licence for the purposes of Division 3 of Part 9.

**Fish Trader/Processor licence** means a licence for the purposes of Division 2 of Part 9.

**Fishing Tour Operator licence** means a licence for the purposes of Division 3 of Part 11.

**Fishing Tour Operator licensee** means the holder of a Fishing Tour Operator licence.

**fishing tour operation** means an expedition organised for reward, fee or other valuable consideration, enabling people to engage in amateur fishing.

**Food Standards Code** means the Code adopted as a law of the Territory by the *Food Standards Regulations*.

**high water mark** means Highest Astronomical Tide.

**Joint Authority** means the Northern Territory Fisheries Joint Authority established under section 12D(1) of the *Fisheries Management Act 1991* of the Commonwealth.

**licensing year** means the year commencing on 1 July in a year and expiring with 30 June in the following year.

**low water mark** means Lowest Astronomical Tide.

**mackerel** means fish of the genus *Scomberomorus*.

**making way** means, in relation to a vessel, moving through water by the use of sails, motors, oars or other means of propulsion, including being towed by another vessel, but does not include movement through water by the action of waves or tides alone.

**mollusc** means fish of the Phylum Mollusca.

**mother boat** means the registered vessel nominated under regulation 53.

**mud crab** means crabs, or parts of crabs, of the genus *Scylla*.

**Net licence** means a licence granted for the purposes of Division 5 of Part 11.

**Net licensee** means the holder of a Net licence.

**notifiable disease** means a disease causing significant mortality or poor health in fish or aquatic life.

**noxious fish** means fish or aquatic life specified in Schedule 1.

**pearl oyster** means molluscs of the genus *Pinctada*.

**Pearl Oyster Culture Industry licence** means a licence granted for the purposes of Division 3 of Part 10.

**Pearl Oyster Fishery licence** means a licence granted for the purposes of Division 10 of Part 8.

**place** includes land, waters, buildings, vehicles and vessels.

**repealed Regulations** means the Regulations repealed by regulation 210.

**river closure line**, in relation to a river specified in Schedule 5 of the *Barramundi Fishery Management Plan* as in force from time to time, means a straight line drawn between the co-ordinates specified in that Schedule for that river.

**shark** means fish of the Class Chondrichthyes.

**spanish mackerel** means fish of the species *Scomberomorus commerson*.

**threadfin salmon** means fish of the species *Polynemus sheridani*.

**trepan** means fish of the Class Holothuroidea.

**trunk** means a fish from which the head has been removed.

**under way** means, in relation to a vessel, a vessel which is not:

- (a) aground;
- (b) anchored (whether directly or indirectly); or
- (c) made fast to the shore.

**vessel length** means the length of a vessel measured in accordance with the Uniform Code within the meaning of the *Marine Act*.

**voyage** means the period between a vessel leaving a port, permanent camp site or approved anchorage and returning to a port, permanent camp site or approved anchorage, during which time fishing under a licence has taken place.

- (2) In these Regulations, a licence name specified by reference to a fishery means a licence granted in respect of the fishery to which the licence name refers and a reference to a licensee specified by reference to a fishery means a person holding a licence in respect of the fishery referred to.

- (3) Where, in pursuance of these Regulations, a point, line, area or relative position is to be calculated by reference to the coastline or an imaginary line along the coastline (whether or not along a particular water line on the coast) the coastline or imaginary line along the coastline shall be deemed to include:
- (a) in relation to a river specified in Schedule 5 of the *Barramundi Fishery Management Plan* as in force from time to time, the river closure line specified in that Schedule for that river; and
  - (b) in relation to any other river, an imaginary straight line across the mouth of the river calculated in the same manner as for the calculation of the baseline for the purposes of the *Seas and Submerged Lands Act 1973* of the Commonwealth had all off-lying islands and historical bays and waters been ignored.

#### 4 Definitions relating to gear

In these Regulations, unless the contrary intention appears:

***amateur fishing gear*** means gear specified in regulation 46.

***amateur drag net*** means a net which:

- (a) is not longer than 40 m, excluding the length of any attached haul lines;
- (b) has both pocket, if any, and net made of mesh not larger than 65 mm; and
- (c) has a drop of not more than 2 m.

***bait net*** means a net which:

- (a) is not longer than 300 m, excluding the length of any attached haul lines;
- (b) has both pocket, if any, and net made of mesh not larger than 65 mm; and
- (c) has a drop of not more than 5 m.

***cast net*** means a net which:

- (a) has a diameter not more than 6 m;
- (b) is made of mesh not larger than 25 mm; and
- (c) has a drop of not more than 3 m when suspended from the centre.

**coastal net** means a net which:

- (a) is not longer than 300 m, excluding the length of any attached haul lines;
- (b) has both the pocket, if any, and net made of mesh not larger than 65 mm; and
- (c) has a drop of not more than 5 m.

**demersal** means on or near the sea bed.

**demersal long-line** means a main line anchored to the seabed at both ends and at intervals along its length, to which hooks or branch lines with hooks are attached.

**drop**, in relation to a net, means the distance between the head and foot ropes where the net is in normal operation or, if ropes are not present, the positions in which they would be located if present.

**drop line** means a weighted line which has not less than 6 and not more than 40 hooks attached.

**finfish trawl gear** means a net:

- (a) which has a mesh size of more than 110 mm;
- (b) the cod end of which is not covered by a double cod end liner;
- (c) the total weight on the footline (including bobbin lines, chains, bridles and any other device weighing on the footline) of which does not exceed 4 kilograms wet weight in the air per linear metre; and
- (d) the twine size in the forward half (including wing and belly sections) of which does not exceed 90 ply by 400 denier or the equivalent in other material types.

**fishing gear** includes a net, line, apparatus, device or thing capable of being used in fishing.

**fish-trap** means a portable cage or part of a cage designed or intended to catch fish or which is capable of catching fish, that:

- (a) has a volume greater than 0.5 m<sup>3</sup>; and
- (b) has an external structure made of wire, steel or other rigid material or other approved material.



**fixed fish-trap** means a permanently positioned structure made of wire, steel or other rigid material which has a door at least 1 m<sup>2</sup> in the seaward part of the lower third of the trap through which fish may escape when the structure is not in use.

**floating handline** means a line to which is attached:

- (a) one hook; or
- (b) one set of hooks.

**freshwater pot** means a portable device designed to act as, or used as, a trap for fish or aquatic life and which:

- (a) is less than 0.3 m<sup>3</sup> in volume;
- (b) has not more than 2 entrances; and
- (c) has no material placed in the pot which is likely to entangle fish or aquatic life.

**gill net** means a net or part of a net (including any warp, rope, chain, material, device or thing used in conjunction with or attached to the net or part of the net) that:

- (a) has a mesh size greater than 65 mm; and
- (b) is used or is capable of being used to catch fish or aquatic life.

**hand spear** means a spear propelled by human power without the use of a device.

**jigging gear** means a line to which is attached one or more hooked rippers, being a device the stem of which is fitted with at least one, but not more than 3, circles of upturned, barbless hooks.

**line** includes a mono-filament, multi-filament, synthetic or natural fibre twine, material, wire, rope or chain.

**mesh** means one of the open spaces of a net.

**mesh size**, in relation to a net, means the distance between the inner edges of the knots of opposite corners of the mesh or, where the mesh does not have knots, the inner edges of opposite corners of the mesh, measured with the mesh closed, as determined in accordance with regulation 6.

**mono-filament twine** means one continuous length of fibre of synthetic material that is not twisted but is suitable for use as a twine.

**multi-filament twine** means:

- (a) fibres, made of synthetic or natural material, that are twisted together to form a filament, then twisted to form a strand; or
- (b) a combination of mono-filament twines twisted or knotted to form a continuous twine.

**net** means a device made of twine forming a number of meshes used or designed to be used to catch or hold fish, whether or not lead ropes, floats, lead lines, anchors or leads are attached, but does not include a scoop net which is hand held and attached to a rigid hoop.

**pelagic long-line** means a main line that can be anchored and to which hooks or branchlines with hooks are attached.

**pelagic net** means a net:

- (a) constructed of twine not less than 0.9 mm diameter; and
- (b) with a mesh size of:
  - (i) during 1993: not less than 135 mm and not greater than 250 mm; or
  - (ii) during any other year: not less than 150 mm and not greater than 250 mm.

**pocket** means a structure, made of net and attached to or forming part of a net, in which fish may be collected.

**pot** means a portable device designed to take or which may be used to take fish or aquatic life, which:

- (a) has a volume of 0.5 m<sup>3</sup> or less;
- (b) does not exceed 1 m in length, height or diameter;
- (c) has 1 or 2 openings into any enclosure (excluding an opening for emptying fish or aquatic life from, or for placing bait or other material used to entice fish into, the pot); and
- (d) has no material placed in the pot which is likely to entangle fish or aquatic life,

and includes a dilly pot and a crab pot but does not include a fish trap, freshwater pot or a fixed fish trap.

**restricted bait net** means a net which:

- (a) is not longer than 100 m, excluding the length of any attached haul lines;
- (b) has both pocket, if any, and net made with a mesh 65 mm or less; and
- (c) has a drop of not more than 5 m.

**scoop net** means a net, a landing net, a basket or other similar device with an attached handle, made of mesh attached to a frame and designed to be held in the hand at all times when in use for scooping fish from water.

**spear-gun** means a device used in underwater fishing to propel spears, arrows or other projectiles and includes propulsion by means of rubber (commonly known as an Hawaiian sling), bows, compressed gas or explosive charges.

**trammel net** means a configuration of multi-panelled nets set one behind the other, all or some or part of which are attached to the same section of a headrope.

**troll line** means a line to which is attached:

- (a) one hook;
- (b) one set of hooks attached to the one piece of bait or other material used to entice fish; or
- (c) one lure, to which hooks may be attached.

**twine** means mono-filament or multi-filament twine.

**vertical line** means a weighted line to which no more than 5 hooks are attached.

## **5 Application**

- (1) These Regulations (including those regulations not contained in Division 5, 6, 15 or 16 of Part 8), to the extent that they can apply, extend to and shall be deemed to apply to each Joint Authority fishery to be managed in accordance with the law of the Territory by the Joint Authority.
- (2) These Regulations are, to the extent that they apply to a Joint Authority fishery, made pursuant to section 70 of the Act.

## **6            Determination of mesh size**

To determine a distance referred to in the definition of ***mesh size*** in regulation 4:

- (a) immediately before the measurement is taken, the part of the net to be measured shall be soaked in fresh or salt water for not less than 5 minutes;
- (b) the part of the net to be measured shall be suspended vertically;
- (c) the distance between the surface of a knot and the surface of the knot diagonally opposite the first mentioned knot in the same mesh shall be measured by means of a device designed for measuring the mesh of nets by means of 2 arms, the upper of which, when the device is in use, shall be fixed to the body of the device and the lower of which, when the device is in use, shall:
  - (i) be directly below the upper;
  - (ii) move freely in relation to the upper; and
  - (iii) have a weight of 3170 grams acting on it;
- (d) the device shall be suspended in such a manner as to ensure that the upper edge shall remain in a fixed position and that the lower edge may move freely in relation to the upper edge, within the confines of the mesh to be measured;
- (e) the device shall be equipped with a scale by which the distance between the upper edge of the upper arm and the lower edge of the lower arm can be ascertained to the nearest millimetre; and
- (f) the measurement of the mesh shall be taken to be the average measurement of 10 adjacent meshes at any place on the net.

## **Part 3            General matters**

### **Division 1        General**

## **7            Interference with fishing operation**

A person shall not, without lawful authority:

- (a) interfere with a vessel or fishing gear being used for fishing; or

(b) hinder or obstruct a person fishing.

**8            No tethering of live fish**

A person shall not, after a fish has been taken, place or retain it on a tether line.

**9            Certain fish not to be taken**

A person shall not take cod, groper or any other fish of the genus *Epinephelus* if the cod, groper or other fish is more than 1.2 m long.

**10          Protected species not to be taken**

A person shall not take, whether as by-catch or otherwise, fish or aquatic life which is a protected species under the *Territory Parks and Wildlife Conservation Act*.

**11          Defence to taking of fish or aquatic life**

It is a defence to a charge of taking fish or aquatic life which the defendant is not permitted to take if the defendant proves that the fish or aquatic life was, immediately after being taken, returned, with as little injury to it as possible, to the water.

**12          Release of fish or aquatic life**

A person may release live fish or aquatic life into a body of water which is not an aquarium only:

- (a) to return the fish or aquatic life to the water catchment from which it came;
- (b) in accordance with a permit; or
- (c) in accordance with a licence granted for the purposes of Part 10.

**13          Movement of fish or aquatic life**

A person (other than the holder of a licence granted for the purposes of Part 10 moving live fish or aquatic life in accordance with a licence) shall not, without a permit under these Regulations, move live fish or aquatic life from a place within a water catchment area and place them into a body of water (other than an aquarium) within a different catchment area from which it is possible that water, live fish or aquatic life may escape into a natural waterway.

**14                      Impeding passage of fish or aquatic life**

A person who constructs a dam or any other structure which may impede the natural movement of fish or aquatic life downstream or upstream shall, where directed to do so by the Director, provide a device or a facility to permit the passage of fish or aquatic life through, over, under or around the dam or structure.

**15                      No mono- or multi-filament net in traps**

A person shall not use a pot, fish-trap or freshwater pot constructed in whole or in part of mono- or multi-filament net, unless permitted to do so by the Director.

**Division 2                      Diseased and contaminated fish**

**16                      Prohibition on taking of diseased, &c., fish**

The Director may, by notice in the *Gazette*, declare areas in which the taking of fish or aquatic life of a particular species is prohibited because of:

- (a) the risk the species may pose, if consumed, to human health;  
or
- (b) the risk of the spread of contamination or disease to other fish or aquatic life in other areas.

**17                      Movement and sale of diseased, &c., fish**

A person shall not:

- (a) move diseased or contaminated fish or aquatic life from one place, water catchment or storage unit to another place, water catchment or storage unit; or
- (b) sell diseased or contaminated fish or aquatic life.

**18                      Destruction of diseased, &c., fish**

The Director may destroy fish or aquatic life that he or she believes, on reasonable grounds, to be diseased or contaminated, if he or she considers it necessary in order to prevent the spread of disease or contamination.

## **19            Disease Control Committee**

- (1) The Director may establish a Disease Control Committee to advise the Director on such issues, related to the prevention or control of disease or the prevention of the spread of disease, as the Director thinks fit.
- (2) The Committee established under subregulation (1) shall consist of:
  - (a) the Director, who shall be the Chairman;
  - (b) an employee in the department primarily responsible to the Minister for the administration of the *Fisheries Act* nominated by the Director;
  - (c) the Chief Inspector of Stock within the meaning of the *Stock Diseases Act* or a person nominated by him or her; and
  - (d) 3 persons appointed by the Director for such period, not exceeding 3 years, as is specified in the instrument of appointment.

## **20            Procedure of Committee**

- (1) The Chairman shall convene such meetings of the Committee as he or she thinks fit.
- (2) The Committee shall determine the procedure to be adopted at or in connection with a meeting of the Committee.
- (3) At a meeting of the Committee, 4 members, one of whom shall be:
  - (a) the Chairman; or
  - (b) the Chief Inspector of Stock or his or her nominee,constitute a quorum.

## **21            Declaration of disease control area**

- (1) The Director may, by notice in the *Gazette*, declare:
  - (a) an area containing fish or aquatic life which have contracted a notifiable disease to be a quarantine area; and
  - (b) an area containing fish or aquatic life considered by the Committee to be at risk of contracting a notifiable disease to be a protected area.

## **22                      Regulation of disease control area**

Where an area has been declared to be a quarantine area or a protected area under regulation 21, the Director may:

- (a) regulate or prohibit all transportation of fish or aquatic life into, within or out of the area;
- (b) regulate or prohibit the movement into, within or out of the area by people, vehicles, vessels or aircraft;
- (c) nominate particular species of fish or aquatic life to which the notice applies;
- (d) where the area has been declared a quarantine area, prohibit the release of water from an aquaculture facility other than with the permission of the Director; and
- (e) order the treatment or destruction of diseased fish, aquatic life, feed, contaminated equipment, water or other things which, in the opinion of the Director, may transmit disease to areas outside the declared area.

## **23                      Notification of disease**

The holder of a licence in respect of Part 10 shall, as soon as practicable after he or she observes symptoms of a notifiable disease in an aquaculture facility operated under the licence, advise the Director of the presence of the disease.

## **Division 3                      Exotic fish, noxious fish and import permits**

### **24                      Noxious fish**

A person shall not import or have possession of a noxious fish.

### **25                      Trade in or release of live exotic fish and aquatic life**

- (1) A person shall not, except in accordance with a permit, trade in live exotic fish or exotic aquatic life.
- (2) A person shall not, except in accordance with a permit, release an exotic fish or exotic aquatic life into a body of water other than an aquarium.

### **26                      Permit to import fish or aquatic life**

- (1) The Director may, in accordance with this Division, grant to an applicant a permit to import live fish or live aquatic life into the Territory.



- (2) The Director shall not grant a permit to import fish or aquatic life:
- (a) unless that species of fish or aquatic life:
    - (i) is indigenous to the Territory;
    - (ii) is listed under a Schedule of the *Wildlife Protection (Regulation of Exports and Imports) Act 1982* of the Commonwealth; or
    - (iii) is prescribed for the purposes of this regulation; and
  - (b) if, in his or her opinion:
    - (i) there may be a risk of disease to people, fish or aquatic life by the importation;
    - (ii) there may be a risk of variation of the genetic composition or genetic material of Territory fish or aquatic life by the importation;
    - (iii) the fish or aquatic life to be imported may adversely affect the diversity of genetic material within the Territory; or
    - (iv) the fish or aquatic life may present an unacceptable risk of detriment to other fish or aquatic life in the Territory.

## **27                      Application for permit**

An application for a permit to import fish or aquatic life shall contain:

- (a) a declaration of the species of fish or aquatic life to which the application relates;
  - (b) at the written request of the Director, a certificate attesting to:
    - (i) the disease status of the fish or aquatic life to which the application refers; and
    - (ii) the treatment, if any, given to the fish or aquatic life;
- which is issued:
- (iii) in the case of fish or aquatic life (other than plant life) – by a veterinary surgeon registered under the *Veterinarians Act* or a similar Act of a State or another Territory of the Commonwealth; or
  - (iv) in the case of aquatic life (other than animal life): by an approved person;

who has inspected the fish or aquatic life to which the certificate refers;

- (c) a statement of the proposed method of treatment and disposal of the water in which the fish or aquatic life is to be imported; and
- (d) such other information as the Director requires.

## **28 Permit to state certain matters**

A permit granted under regulation 26 shall have endorsed on it:

- (a) the species of fish or aquatic life which may be imported; and
- (b) where the Director has requested a certificate under regulation 27(b):
  - (i) the disease status of the fish or aquatic life, as evidenced by the certificate;
  - (ii) the approved treatment, prior to import, of the fish or aquatic life;
  - (iii) the treatment and disposal of water used in the importation of the fish or aquatic life;
  - (iv) if the Director thinks fit, details enabling the identification of the particular stock of fish or aquatic life and the facility from which export of fish or aquatic life is to occur;
  - (v) the permitted method of transport;
  - (vi) the period during which the permit is valid; and
  - (vii) such conditions as the Director thinks fit.

## **Part 4 Possession and use of fishing gear**

### **29 No gear to be used unless permitted**

- (1) A person engaged in amateur fishing shall not have in his or her possession fishing gear other than amateur fishing gear, and shall not use that gear except in the manner permitted by or under the Act.
- (2) A person shall not engage in amateur fishing on a registered vessel.

(3) A person taking fish for sale shall not:

- (a) have in his or her possession fishing gear other than fishing gear permitted by or under the Act for use by the person when taking fish for sale; and
- (b) use that gear other than in accordance with the methods permitted by or under the Act.

**30 Gill net**

A person shall not have possession of or use a gill net unless the person does so under and in accordance with a licence, permit or authority granted or given by or under the Act.

**31 Abandoned or unattended gear**

- (1) A person shall not abandon nets, fish traps, pots, freshwater pots, fixed fish traps or line.
- (2) A person shall be taken not to have abandoned gear that is left unattended if:
  - (a) in the case of gear which may be used for the purposes of amateur fishing, it is left in a place where it is not capable or will not become capable of taking fish or aquatic life; or
  - (b) in the case of gear which may be used only under a licence, it is secured at an approved location or, if it is net, in accordance with regulation 33.

**32 Marking of gear**

- (1) A person using a fish trap, pot, freshwater pot and, when it is unattached to a vessel, a drop line or a demersal longline, shall, when it is in use under a licence, attach to it a float marked in accordance with subregulation (3).
- (2) A person shall use a net, other than a cast net, only if a float marked in accordance with subregulation (3) is attached to the middle of and at each end of the headrope.
- (3) A float attached to gear in accordance with subregulation (1) or (2) shall be marked legibly and indelibly:
  - (a) where the gear is used under a licence, with the licence number in arabic numerals and no other number; or
  - (b) where the gear is amateur fishing gear, with the name of the person using the gear.

**33 Storage and disposal of net**

- (1) A person licensed to use net may transport net to and from places where it may lawfully be used or kept and shall, when the net is not being used under the licence, keep it:
  - (a) on a registered vessel used for the purposes of the licence;
  - (b) securely stored, without anchors attached, at an approved camp site;
  - (c) secured at an approved location; or
  - (d) secured at the licensee's permanent residence.
- (2) A person shall, within 6 months after ceasing to hold a licence permitting possession of a bait net, a coastal net, a gill net, a restricted bait net or a pelagic net, satisfy the Director as to:
  - (a) its disposal to a person licensed to have possession of such net; or
  - (b) its destruction.

**34 Amateur drag net**

A person permitted to use an amateur drag net shall not:

- (a) haul the net except by hand;
- (b) stake or otherwise fix the net;
- (c) use the net otherwise than seaward of the coastline; or
- (d) use the net, while catch is being cleared, in less than 30 cm of water.

**35 Bait net**

A person licensed to use a bait net shall not use the net if:

- (a) the total length of bait net used by the person is longer than 300 m, excluding the length of any attached haul lines; or
- (b) the net is, while catch is being cleared, in less than 30 cm of water.

**36 Cast net**

- (1) A person permitted to use a cast net shall not use the net unless it is attended at all times when in use.

- (2) A person permitted to use a cast net shall not use the net otherwise than by casting, throwing or dropping it.

**37 Coastal net**

- (1) A person licensed to use a coastal net shall not use the net if the total length of net used by the person is longer than 300 m, excluding the length of any attached haul lines.
- (2) A person permitted to use a coastal net shall not use the net unless it is attended at all times when in use.

**38 Drop line**

A person permitted to use a drop line shall not use it unless a weight is attached to the line and the line does not extend from a vessel under way and making way.

**39 Pots and freshwater pots**

- (1) A person permitted to use a freshwater pot shall not use it otherwise than in freshwater.
- (2) A person, other than an Aquarium Fishing/Display Fishery licensee permitted to use freshwater pots, shall not have possession of or use more than 5 pots or 5 freshwater pots.

**40 Pelagic net**

A person licensed to use a pelagic net shall not use the net unless:

- (a) it is set in such a way that no part of the net is on or within 2 m of the sea bed; and
- (b) not more than a total of 2.5 km of pelagic net is used at any one time.

**41 Restricted bait net**

A person licensed to use a restricted bait net:

- (a) shall not use the net if the total length of the net is longer than 100 m, excluding the length of any attached haul lines;
- (b) shall not haul the net other than by hand;
- (c) shall not stake or otherwise fix the net at more than one end;
- (d) shall not use the net other than seaward of the coastline from high water mark to an imaginary line, following the coastline, 3 nautical miles from the low water mark;

- (e) shall not use the net, while catch is being cleared, in less than 30 cm of water;
- (f) shall not use the net in the Mary River Management Zone as described in Schedule 3 of the *Barramundi Fishery Management Plan*; and
- (g) shall not use bait taken with the net other than as bait for the purposes of the licence under which the net is used.

**42 Scoop net**

A person permitted to use a scoop net shall not use the net other than by hand.

**43 Speargun**

- (1) A person using any kind of artificial breathing apparatus designed for use underwater, other than a snorkel, shall not have possession of a spear gun.
- (2) A person shall not have possession of a loaded speargun:
  - (a) other than in the open sea; or
  - (b) where the person is within 150 m of another person who is not part of his or her group.

**44 Trammel net**

A person shall not use or have possession of a trammel net unless authorised to do so by the Director.

**45 Vertical line**

A person permitted to use vertical line shall not use it from a vessel under way and making way.

## **Part 5 Amateur fishing**

**46 Amateur fishing gear**

- (1) A person engaged in amateur fishing shall not use or have possession of fishing gear other than the following items or an item ancillary to the use of the gear:
  - (a) amateur drag net;
  - (b) cast net;

- (c) float line;
  - (d) freshwater pot;
  - (e) gaff;
  - (f) hand spear;
  - (g) knife;
  - (h) long bow;
  - (j) pots;
  - (k) scoop net;
  - (m) spear gun;
  - (n) vertical line, as hand line or rod and reel;
  - (p) troll line.
- (2) A person shall not engage in amateur fishing on a registered vessel, other than a vessel registered for the purposes of a Fishing Tour Operator licence or an Aboriginal Coastal licence.
- (3) A person engaged in amateur fishing shall not take fish when using underwater breathing apparatus.

**46A Amateur possession limit – jewfish**

- (1) A person shall not have in his or her possession more than 5 fish that are members of the species *Protonibea diacanthus*, commonly known as jewfish.
- (2) It is a defence to a charge under subregulation (1) if the defendant proves that:
- (a) the fish were taken under a licence; or
  - (b) the fish were at his or her place of permanent residence.

Penalty: Possession of 6 to 14 fish – \$1,000; or

Possession of more than 14 fish – \$10,000,

and, in addition, \$50 for each fish in excess of 5.

**46B Amateur possession limit**

- (1) In this regulation:

**fillet** means a part of a fish comprised of part or all of the body musculature of the fish extending from the base of its head to its tail and includes any skin, scales, bone or cartilage of the fish attached to the fillet.

**fish** does not include:

- (a) a crustacean;
- (b) an echinoderm;
- (c) a mollusc; and
- (d) a fish prescribed for the purposes of this paragraph.

**managed species** means a barramundi, mud crab, Spanish mackerel or jewfish.

**trunked fish** means a fish from which the head or tail or both are removed and includes such a fish from which all or part of the internal organs are removed.

- (2) The Minister may, by notice in the *Gazette*, prescribe a fish for the purposes of paragraph (d) of the definition of **fish** in subregulation (1).
- (3) A person must not have possession of more than 30 fish.

Penalty: Possession of 31 to 40 fish – \$2,000;

Possession of more than 40 fish – \$10,000,

and, in addition, \$50 for each fish in excess of 30.

- (4) For the purposes of subregulation (3), a piece of fish, other than a fillet, is to be counted as one fish, unless the defendant establishes that 2 or more pieces of a fish were obtained from one fish only.
- (5) For the purposes of subregulation (3), 2 fillets together comprise only one fish.
- (6) A person must not have possession of a trunked fish or a fillet unless the skin is retained on it.

Penalty: \$1,000.



- (7) It is a defence to a charge of an offence against subregulation (6) if the defendant proves that the fish was processed for immediate consumption by the defendant or another person in the company of the defendant.
- (8) It is a defence to a charge of an offence against subregulation (3) or (6) if the defendant proves that:
- (a) the fish were taken under a licence or permit entitling the person to take the fish;
  - (b) the fish were at his or her place of permanent residence;
  - (c) the fish were obtained from licensee, or the holder of a permit, permitted to sell the fish;
  - (d) the fish were purchased from a retail or wholesale outlet; or
  - (e) the fish were processed fish imported into the Territory packaged for sale to a final consumer and marked with the State or Territory from which the fish were imported or, where the fish were imported from a country other than Australia, the country from which they were imported.
- (9) Where a person is not alone and it is not readily ascertainable who has possession of the fish, subregulation (3) applies to each person as though each person has possession of all the fish.
- (10) Notwithstanding subregulation (9), where a person establishes that:
- (a) he or she is a member of a fishing party;
  - (b) the fish will be shared equally amongst the members of the fishing party; and
  - (c) if the sharing was to take place amongst those persons in the party who are present or able to be assembled in a short period of time, no person in the party would be guilty by reason of this subregulation or otherwise of contravening this regulation,
- then each person is deemed to have possession of his or her equal share only of the fish.
- (11) A person must not have possession of a container that contains:
- (a) a fillet from a fish that is a managed species; and
  - (b) a fillet from a fish that is not a managed species,

unless the fillets are separated from each other by packaging.

Penalty:        \$1,000.

## **Part 6            Licensing generally**

### **Division 1        Licensing**

#### **47            Compliance with Act, &c., condition of every licence or permit**

It is a condition of every licence or permit granted or issued under the Act that its holder will comply with and not contravene each provision of or under the Act (including a provision of a fisheries management plan) applicable to him or her.

#### **48            Time for application for renewal**

A licensee may apply for renewal of his or her licence not earlier than 6 weeks before the expiration of the licence.

#### **49            Replacement licence, &c.**

Where a licence or certificate of vessel registration is lost or destroyed the licensee may apply to the Director on the approved form, accompanied by:

- (a) a signed statutory declaration declaring that the licence or certificate of vessel registration for which a replacement is sought has been lost or destroyed; and
- (b) the fee prescribed under regulation 206,

for the issue of a replacement licence or another certificate of registration under the Act.

#### **50            Approval of persons to conduct operations**

The Director shall not approve a nominated person or short term operator, unless satisfied that the person is an appropriate person to carry out operations under the licence in respect of which he or she was nominated and will exercise independent judgment and control over operations under the licence.

#### **52            Taking fish for sale prohibited in Kakadu National Park**

A person shall not take, for sale, fish in the area known as Kakadu National Park, being the area declared by an instrument dated 5 April 1979 and published on the same day in Commonwealth Gazette No. S61 at page 397, as amended by an instrument dated

19 December 1985 and published in *Commonwealth Gazette* No. S52 on 20 December 1985 at page 1.

## **Division 2            Vessels**

### **53            Nomination of mother boat**

A licensee shall ensure that one vessel to be used by the licensee under a licence shall be, when registration of that vessel is sought under section 18 of the Act, nominated as the mother boat in respect of the licence.

### **54            Marking of vessel**

- (1) A licensee shall cause a vessel registered in respect of his or her licence, other than a vessel referred to in subregulation (2), to be marked in the following manner:
  - (a) the registration number shall be painted, on a yellow background in black arabic numerals of the size and height listed in the Table to this regulation, on both sides of the bow of the vessel as high as practicable above the waterline, and, where a vessel has a wheelhouse or foredeck, on top of the wheelhouse or foredeck, so as to enable the unobscured view of the number from the sea and the air; and
  - (b) if the vessel has a superstructure or deck, the registration number shall be painted on a yellow background in lettering of a size enabling recognition, without the aid of optical equipment, on a horizontal plane from a distance of 250 m.
- (2) Where a vessel has an international radio call-sign, the licensee shall cause the call sign number to be painted on the vessel in black on a white back-ground, or white on a black background, in numbers of the size and height listed in the Table to this regulation.
- (3) A person shall not make or retain on a vessel a marking which impedes the accurate recognition of the correct registration number or call sign number.

TABLE  
SIZE OF REGISTRATION MARKS

Column 1	Column 2			
Length of vessel	Specification of marks			
	Vertical height (metres)	Width (metres)	Stoke width (metres)	Distance between figures (metres)
Not less than 20 m	0.8	0.4	0.13	0.12
More than 15 m but less than 20 m	0.6	0.3	0.1	0.15
More than 12 m but less than 15 m	0.4	0.2	0.06	0.1
More than 5 m but less than 12 m	0.3	0.15	0.05	0.05
Less than 5 m	0.1	0.05	0.01	0.02

**55            Marks to be removed from vessel which ceases to be registered**

- (1) A person who ceases to hold a licence:
  - (a) shall, within 6 months after the day he or she ceased to hold the licence, remove from all vessels used for the purposes of the licence the marks indicating the registration number; and
  - (b) shall not use the vessel in water while the vessel is marked with a registration number.
- (2) A person shall not sell, lease or otherwise dispose of an unregistered vessel which is marked with a registration number, other than to a licensee.
- (3) A person other than a licensee shall not purchase or lease an unregistered vessel marked with a registration number or use such a vessel in water whilst it is so marked.

**56            Vessels used for commercial fishing and fishing tour operations**

- (1) Where it is intended that a vessel be used alternatively for the purposes of a commercial fishing licence and a Fishing Tour Operator licence, the licensee shall, on his or her application for each licence, note the predominant use to be made of the vessel.

- (2) Where a vessel referred to in subsection (1) is to be used for a purpose other than the predominant use of the vessel the licensee shall, before engaging in the use of the vessel for that purpose:
  - (a) advise the Director in writing of that purpose and of the period during which the vessel will be used for that purpose, and make a note contemporaneously of that information in the licensee's record book; and
  - (b) unload all fish from the vessel.
- (3) Where a vessel referred to in subsection (1) has ceased, including temporarily ceased, to be used for a purpose other than the predominant use of the vessel, the licensee shall:
  - (a) advise the Director in writing that the licensee has ceased to use the vessel for a purpose other than its predominant use and shall make a note contemporaneously of that information in the licensee's record book; and
  - (b) unload all fish from the vessel.

**57                      Registration fees where more than one licence**

Where a vessel is to be used for the purposes of more than one licence, a registration fee shall be payable only in respect of one licence.

**Division 3                      Processing, sale and handling of fish**

**58                      Sale and processing of fish**

For the purposes of section 10(1)(e) of the Act:

- (a) the purchase of fish or aquatic life for processing and resale;
- (c) the possession for sale of processed fish or aquatic life, is prescribed.

**59                      No processing for sale, &c., without licence**

- (1) The holder of:
  - (a) a commercial fishing licence;
  - (b) a licence granted for the purposes of Part 10;
  - (c) a Fish Trader/Processor licence;

- (d) a Fish Retailer licence; or
- (e) an Aboriginal Coastal licence,

may process fish or aquatic life for sale, sell fish or aquatic life so processed and sell fish or aquatic life under and in accordance with the Act and these Regulations.

- (2) A person shall not sell fish or aquatic life obtained from an Aboriginal Coastal licensee.
- (3) A person shall not sell fish or aquatic life obtained from a Bait Net Fishery licensee unless it is labelled with the expression "not for human consumption".
- (4) An assistant shall not transport fish for sale or sell fish except where the licensee which he or she assists has advised the Director in writing that the assistant is permitted to do so.

#### **60                      Processing surfaces, &c.**

- (1) Surfaces used for the processing of fish or aquatic life, walls abutting a work surface and adjacent floor, deck and wall surfaces shall be:
  - (a) constructed of smooth light-coloured material that is easily cleaned and free from cracks; and
  - (b) resistant to wear and corrosion and impervious to water.
- (2) Areas where fish or aquatic life are processed, packed, stored or frozen for sale shall be kept in a clean and hygienic condition free from contamination.
- (3) It is a condition of the registration of a vessel to be used for the purposes of a commercial fishing licence that the licensee shall maintain the vessel in accordance with this regulation.

#### **61                      Packaging of fish**

- (1) A person shall not pack fish or aquatic life processed under a licence or a permit other than in a plastic wrapping permitted for use with food under the Food Standards Code and of sufficient thickness or quality to be reasonably proof against accidental tearing.
- (2) A person processing fish under a licence or a permit shall not freeze fillets of fish otherwise than in a regularly shaped block of which the least dimension does not exceed 80 mm.

## **62                      Labelling of fish**

- (1) The holder of a licence shall ensure that a label or tag is placed on a fish processed for sale under the licence, or, where processed fish or aquatic life is packaged for sale under the licence, placed on or inside that package, containing particulars, clearly printed in letters of uniform size, including:
  - (a) the number of the person's licence;
  - (b) the accepted common name of the contents; and
  - (c) in the case of fish, other than fish processed to become a trunk, a description of the type of fish and the method used to process and preserve it.
- (2) Where a fish has been processed for sale to become a trunk and the trunk is not in a package, a tag shall be attached to that trunk displaying the number of the licence under which the fish was processed and a description by the accepted common name of the type of the fish.
- (3) Subregulations (1) and (2) do not apply to the sale of fish or aquatic life as a prepared meal.
- (4) A Bait Net Fishery licensee shall label all fish or aquatic life in his or her possession, other than fish or aquatic life to be used by the licensee as bait for the purposes of amateur fishing by the licensee, with the words "not for human consumption".
- (5) A licensee shall not affix a label or tape over another label or tape.

## **63                      Incorrect description**

Where fish or aquatic life is in a package or fish is labelled or tagged and:

- (a) the package, label or tag attached to it bears a statement, word, brand, mark, design or device regarding the contents that is false or misleading in a material particular;
- (b) the package, label or tag is marked so as to mislead or deceive, or is likely to mislead or deceive, a purchaser;
- (c) the package or fish labelled or tagged is sold under a name that conveys or is likely to convey a false indication of the type or species of the contents, or to lead a purchaser to suppose that it is fish other than that which it is; or

- (d) the package, label or tag is not marked in accordance with this Part,

the holder of the licence under which the label or tag was affixed is guilty of an offence.

#### **64                Freezing**

- (1) The licensee shall ensure that a freezer in a registered vessel or at a camp site used for freezing and storing fish shall, when being used for those purposes, be maintained at -18°C or below.
- (2) A compartment of a freezer referred to in subregulation (1) shall be fitted with a thermometer mounted externally to indicate the internal temperature of the freezing compartment.
- (3) A thermometer referred to in subregulation (2) shall be capable of accurate measurement and shall be clearly marked with 1.0°C graduations.
- (4) It is a condition of the registration of a vessel to be used for the purposes of a licence that the licensee shall maintain the vessel in accordance with this regulation.

#### **65                Transport of frozen fish**

A licensee shall not transport frozen fish other than in hygienic, insulated compartments or containers and shall ensure that they remain at 18°C or below while being transported.

#### **66                Fish processing in Frances Bay Mooring Basin**

A person who processes fish within the area known as the Frances Bay Mooring Basin in Darwin shall not take or release water from or into that body of water for a purpose related to the processing of fish or aquatic life.

## **Part 7                      Commercial fishing licences**

### **Division 1                Licensing**

#### **67                Definition**

In this Part, ***licensee*** means the holder of a commercial fishing licence.



**68                Criteria for grant or renewal of licence**

The matters to which the Director may have regard in considering an application for the grant or renewal of a commercial fishing licence include:

- (a) the applicant's qualifications or experience;
- (b) whether the applicant's financial resources are sufficient, in the opinion of the Director, to enable commercial use of the licence;
- (c) whether the applicant has attained the age of 18 years;
- (d) whether the applicant has all approvals required under any other Act of the Territory to conduct the fishing operation;
- (e) where the applicant has previously held a licence under this Act, whether the applicant has supplied all accounts, records, returns and information in the approved manner and form and within the time prescribed or specified by the Director; and
- (f) the criteria set out in the Division of Part 8 in respect of which the particular licence is sought.

**69                Assistants and nominees**

- (1) A licensee shall, before engaging in fishing under a licence, supply to the Director a written list of the names and dates of birth of persons who are, at the time of application, likely to be assistants of the licensee in the conduct of fishing operations during that year.
- (2) Where a person commences or ceases to be an assistant of the licensee after the provision of the list required under subregulation (1), the licensee shall immediately note that fact in the licensee's record book and within 7 days after the day the person commenced or ceased to be an assistant of the licensee, supply to the Director in writing the name and date of birth of the person and a statement as to whether the person commenced or ceased to be an assistant to the licensee.

**Division 2                General restrictions**

**70                Use of licensee's fishing gear by assistant**

An assistant shall not use fishing gear other than that permitted by the licence and shall not use that gear other than in accordance with the instructions of the licensee and under and in accordance with the Act.

## **71                Sale of fish**

- (1) Subject to subregulation (2), a licensee may sell fish to:
  - (a) a member of the public not purchasing fish for resale;
  - (b) a Fish Retailer licensee;
  - (c) a Fish Trader/Processor licensee;
  - (d) a Fish Broker licensee;
  - (e) a person holding a licence granted for the purposes of Part 10;
  - (f) to a commercial fishing licensee, other than an Aquarium Fishery/Display licensee or an Aquarium Trader licensee; and
  - (g) to an interstate or overseas purchaser.
- (2) An Aquarium Fishery/Display licensee may sell fish to an Aquarium Trader licensee, to an Aquaculture licensee, to an interstate or overseas purchaser or to a member of the public not purchasing fish for resale.
- (3) A person who holds a permit granted under the Commonwealth Act or a licence granted under a law of a State or another Territory of the Commonwealth permitting the taking and sale of fish may sell in the Territory fish taken in accordance with the permit or licence.

## **72                No fishing for sale in vicinity of artificial reefs**

A licensee must not take fish under his or her licence or permit fishing under his or her licence or from a vessel used for the purposes of a licence, within a radius of:

- (a) 2 nautical miles from the Marchart 3, which is located at latitude 12°10.6'S longitude 130°40.6'E;
- (b) one nautical mile from the East Point Darwin Sub-Aqua Club Barge, which is located at latitude 12°24.8'S longitude 130°48.1'E;
- (c) half a nautical mile from the T & W reef, which is located at latitude 12°18.9'S longitude 130°53.2'E; or
- (d) one nautical mile from Song Saigon Complex, which is located at latitude 12°28.6'S longitude 130°47.9'E.

## **Part 8                Commercial fisheries**

### **Division 1           Coastal Line Fishery**

#### **73                Definitions**

In this Division:

***restricted Coastal Line Fishery licence*** means a licence granted in accordance with regulation 75 or which becomes a restricted Coastal Line Fishery licence in accordance with regulation 75(2).

***unrestricted Coastal Line Fishery licence*** means a licence granted in accordance with regulation 76A(1) or which becomes an unrestricted Coastal Line Fishery licence by virtue of regulation 76A(3).

#### **74                Declaration of Coastal Line Fishery**

The industry of taking fish (other than barramundi, threadfin salmon, spanish mackerel or mud crab) by the use of vertical line, drop line or fish trap in the fishery area specified in regulation 77 is hereby declared to be the Coastal Line Fishery.

#### **75                Restricted licences**

- (1) Except in accordance with this Division, the Director shall not grant a licence in respect of the Coastal Line Fishery, other than a restricted Coastal Line Fishery licence.
- (2) Where, immediately before 3 February 1995, a person held a Coastal Line Fishery licence, the licence becomes a restricted Coastal Line Fishery licence on and from 3 February 1995.
- (3) The Director shall not grant a restricted Coastal Line Fishery licence other than to a person who, immediately before 3 February 1995:
  - (a) held a Demersal Fishery licence; and
  - (b) did not hold a Coastal Line Fishery licence.

#### **76                Transfer of restricted licence**

- (1) The holder of a restricted Coastal Line Fishery licence may transfer the licence under section 12B, but not 12A, of the Act.
- (2) Subject to subregulation (3), a person to whom a restricted Coastal Line Fishery licence is transferred shall not take fish under the licence.

(3) Where:

- (a) immediately before 3 February 1995, the Director permitted, under section 14(1) of the Act, a person to carry out fishing operations under a Coastal Line Fishery licence; and
- (b) on or after 3 February 1995, the restricted Coastal Line Fishery licence which the licence referred to in paragraph (a) has become by virtue of regulation 75(2) is transferred by the holder of the licence to that person,

that person may take fish under the licence.

- (4) The holder of 2 restricted Coastal Line Fishery licences may transfer the licences to the Territory under section 12B of the Act and the Director shall approve such a transfer.

**76A        Unrestricted licences**

- (1) Where 2 licences are transferred in accordance with regulation 76(4), the Director shall grant to the licensee one unrestricted Coastal Line Fishery licence.
- (2) The holder of an unrestricted Coastal Line Fishery licence may transfer the licence.
- (3) If the total number of Coastal Line Fishery licences becomes 65 or less, all such licences shall become unrestricted Coastal Line Fishery licences and the Director shall notify all holders of such licences accordingly.

**77        Area of Fishery**

The Coastal Line Fishery area is the area extending seaward from the high water mark to an imaginary line following the coastline 15 nautical miles from the low water mark.

**78        Fishing gear**

- (1) A Coastal Line Fishery licensee shall not, in the area extending seaward from the high water mark to an imaginary line following the coastline 2 nautical miles from the low water mark, use under the licence fishing gear other than:
  - (a) a vertical line;
  - (b) a cast net; and
  - (c) a scoop net and gaff.

- (2) A Coastal Line Fishery licensee shall not, in the area extending seaward from an imaginary line following the coastline 2 nautical miles seaward from the low water mark to an imaginary line following the coastline 15 nautical miles from the low water mark, use under the licence fishing gear other than:
- (a) a vertical line;
  - (b) a drop line;
  - (c) a fish trap;
  - (d) a scoop net and gaff; and
  - (e) a cast net.
- (3) A Coastal Line Fishery licensee shall not, under the licence, use a cast net to take fish or aquatic life unless the fish or aquatic life are to be used under the licence as bait.
- (4) A Coastal Line Fishery licensee shall not use more than 5 fish traps under the licence.

**78A        Certain fish not to be taken**

A Coastal Line Fishery licensee shall not take barramundi, threadfin salmon, spanish mackerel or mud crab under the licence.

**Division 2           Coastal Net Fishery**

**79           Declaration of Coastal Net Fishery**

The industry of taking fish (other than barramundi, threadfin salmon, spanish mackerel or mud crab) by coastal net, is hereby declared to be the Coastal Net Fishery.

**80           Licence regions**

The Director may grant a Coastal Net Fishery licence in respect of one of the following regions:

- (a) the Darwin Region, extending from Cape Hotham to Native Point and from Cape Ford to Dooley Point;
- (b) the Gove Region, extending from Cape Arnhem to Cape Wilberforce;
- (c) the Borroloola Region, extending from the mouth of Bing Bong Creek to Pelican Spit; or

- (d) other areas approved by the Director.

**81            Entry criteria**

- (1) The Director shall not grant a Coastal Net Fishery licence other than to a person:
  - (a) who was licensed under the repealed Regulations to engage in the Bait Fishery and to catch bait in that fishery during 1992 or who was licensed under the repealed Regulations to engage in the Special Purpose Fishery during 1992 and to use haul net in that fishery; and
  - (b) who, subject to subregulation (2), owns or leases a vessel of not less than 5 m in length for use in the fishery.
- (2) Subregulation (1)(b) does not apply in respect of an applicant who was licenced under the repealed Regulations to engage in the Bait Fishery during 1992.

**82            No transfer of licence**

A Coastal Net Fishery licensee shall not transfer his or her licence.

**83            Area of fishery**

The Coastal Net Fishery area is that area extending seaward from the coastline from the high water mark to an imaginary line following the coastline 3 nautical miles from the low water mark.

**84            Fishing gear**

- (1) Subject to subregulation (2), a Coastal Net Fishery licensee shall not use under the licence fishing gear other than:
  - (a) coastal net, where not more than 300 m of coastal net, excluding the length of any attached haul-lines, is used and the net:
    - (i) where it is anchored or staked, is anchored or staked at one end only;
    - (ii) while catch is being cleared, is in not less than 30 cm of water; or
    - (iii) is used in the region in which its use is permitted by the licence; and
  - (b) a cast net.

- (2) A person who was licensed under the repealed Regulations to engage in the Special Purpose Fishery during 1992 and to use haul net in that fishery may, in addition to the gear referred to in subregulation (1), use the gear approved in the endorsement on that licence in the manner permitted by the endorsement or, where a different manner of use is approved, that manner.

**85            Certain fish not to be taken**

A Coastal Net Fishery licensee shall not take barramundi, threadfin salmon, spanish mackerel or mud crab under the licence.

**Division 3            Bait Net Fishery**

**86            Declaration of bait net fishery**

The industry of taking fish (other than barramundi, threadfin salmon, spanish mackerel and mud crab) by bait net or cast net for sale as bait is hereby declared to be the Bait Net Fishery.

**87            Entry criteria and number of licences**

- (1) The Director shall not grant a Bait Fish Fishery licence other than to a person:
- (a) who was licensed under the repealed Regulations to engage in the Bait Net Fishery during 1992; and
  - (b) who does not hold a Coastal Net Licence.
- (2) Where a Bait Net Fishery licensee ceases to hold the licence, the number of those licences which the Director may grant is reduced by one.

**88            No transfer of licence**

A Bait Net Fishery licensee shall not transfer his or her licence.

**89            Area of Fishery**

The Bait Net Fishery area is the area extending seaward from the high water mark to an imaginary line following the coastline 3 nautical miles from the low water mark but does not include the Mary River Management Zone as described in Schedule 3 of the *Barramundi Fishery Management Plan*.

**90            Fishing gear**

A Bait Net Fishery licensee shall not use under the licence fishing gear other than:

- (a) bait net where it is:
  - (i) not anchored or staked;
  - (ii) hauled by hand;
  - (iii) attended at all times when in use; and
  - (iv) while catch is being cleared, in not less than 30 cm of water;
- (b) a cast net; and
- (c) a scoop net and gaff.

**91            Certain fish not to be taken**

A Bait Net Fishery licensee shall not take barramundi, threadfin salmon, spanish mackerel or mud crab under the licence.

**Division 4           Spanish Mackerel Fishery**

**92            Definitions**

In this Division:

***restricted licence*** means a restricted licence within the meaning of the *Spanish Mackerel Fishery Management Plan*.

***unrestricted licence*** means an unrestricted licence within the meaning of the *Spanish Mackerel Fishery Management Plan*.

**93            Surrender and transfer of licence**

- (1) Subject to subregulation (2), a person who is the holder of an unrestricted licence may take fish under the licence and may transfer the licence to another person.
- (2) A person to whom an unrestricted licence is transferred on or after 1 July 1994 may not take fish under the licence but may transfer the licence to another person.
- (3) A person who is the holder of a restricted licence may take fish under the licence but may not transfer the licence.



- (4) Notwithstanding subregulations (1), (2) and (3), where a person is the holder of 2 Spanish Mackerel Fishery licences, being:

- (a) 2 restricted licences;
- (b) 2 unrestricted licences; or
- (c) a restricted licence and an unrestricted licence,

the person may surrender both licences to the Territory and the Territory shall issue to the person another Spanish Mackerel Fishery licence (not being a restricted licence or an unrestricted licence) which shall as far as is practicable be subject to the same terms and conditions as the licences which the person surrendered to the Territory, except that the licence issued shall not be subject to a term or condition which prohibits the transfer of the licence.

- (5) A person who holds a Spanish Mackerel Fishery licence issued pursuant to subregulation (4) may:

- (a) take fish under the licence; and
- (b) transfer the licence.

#### **94                      Number of licences**

- (1) The Director shall not grant more Spanish Mackerel Fishery licences than the number of licences held in respect of the Spanish Mackerel Fishery immediately before the commencement of these Regulations.
- (2) Where a Spanish Mackerel Fishery licence is surrendered to the Territory, the number of licences which may be renewed by the Director is reduced by one.

#### **95                      Vessels**

- (1) Subject to subregulation (2), a vessel, other than a tender, used under the licence shall be at least 8 m in length.
- (2) Subregulation (1) does not apply where the vessel was, at 31 December 1992, registered for use under a licence under the repealed Regulations permitting the holder to engage in the Pelagic Fishery and endorsed for fishing with a troll line.
- (3) The holder of:
  - (a) an unrestricted licence may use only one vessel, not being a tender, together with one or 2 tenders; and

- (b) a restricted licence may use only one vessel, not being a tender,

to take fish under the licence.

## **Division 5            Shark Fishery**

### **96            Definitions**

In this Division:

***Arafura Region*** means the area extending seaward from an imaginary line following the coastline 3 nautical miles seaward from the low water mark to the outer boundary of the Australian fishing zone and to the west of the meridian of longitude 136 40' east.

***Coastal Region*** means the area extending seaward from the high water mark to an imaginary line following the coastline 12 nautical miles from the baseline.

***Commonwealth permit*** means a permit issued under the Commonwealth Act relating to the Northern Shark Fishery.

***Gulf of Carpentaria Region*** means the area extending seaward from an imaginary line following the coastline 3 nautical miles seaward from the low water mark to the outer boundary of the Australian fishing zone and to the east of the meridian of longitude 136 40' east.

***restricted Shark Fishery licence*** means a licence granted in accordance with regulation 96B.

***unrestricted Shark Fishery licence*** means a licence granted in accordance with regulation 98.

### **96A           Declaration of Shark Fishery**

The industry of taking fish of the Class Chondrichthyes is hereby declared to be the Shark Fishery.

### **96B           Entry criteria and number of licences**

- (1) Except in accordance with this Division, the Joint Authority shall not grant a licence in respect of the Shark Fishery, other than a restricted Shark Fishery licence.
- (2) The Joint Authority shall not grant more than 38 restricted Shark Fishery licences.

- (3) All Shark Fishery licences granted before 3 February 1995 are revoked.
- (4) The Joint Authority shall grant a restricted Shark Fishery licence to each person who held, immediately before 3 February 1995:
  - (a) a Shark Fishery licence; or
  - (b) a Commonwealth permit relating to the Northern Shark Fishery.
- (5) Where a Shark Fishery licence is surrendered to the Territory, cancelled or expires without being renewed, the number of licences which may be granted or renewed by the Joint Authority is reduced by one.
- (6) Where 3 Shark Fishery licences are transferred to the Territory in accordance with regulation 97(5), the number of licences which may be granted or renewed by the Joint Authority is reduced by 2.

**96C        Restricted Shark Fishery licences**

Where a person held, immediately before 3 February 1995:

- (a) a Commonwealth permit entitling the holder to take shark in waters in:
  - (i) the Arafura Zone as specified in the permit, the Joint Authority shall grant to him or her a restricted Shark Fishery licence endorsed for the Arafura Region only;
  - (ii) the Gulf of Carpentaria Zone as specified in the permit, the Joint Authority shall grant to him or her a restricted Shark Fishery licence endorsed for the Gulf of Carpentaria Region only; or
  - (iii) both the Arafura Zone and the Gulf of Carpentaria Zone, as specified in the permit, the Joint Authority shall grant to the applicant 2 restricted Shark Fishery licences, one endorsed for the Arafura Region only and one endorsed for the Gulf of Carpentaria Region only; or
- (b) a Shark Fishery licence, the Joint Authority shall grant to the applicant a restricted Shark Fishery licence endorsed for the Coastal Region only.

**96D        Taking of fish**

- (1) The holder of a restricted Shark Fishery licence shall not take fish under the licence except in the Region endorsed in accordance with regulation 96C on the licence.
- (2) A Shark Fishery licensee shall not, during a voyage, take more than 300 kgs green weight of spanish mackerel, or 30 trunks, retained as trunks, as by-catch.
- (3) A Shark Fishery licensee shall not take barramundi, threadfin salmon or mud crab under the licence.

**97            Transfer of licence**

- (1) Subject to this regulation, the holder of a restricted Shark Fishery licence may transfer the licence under section 12B, but not 12A, of the Act.
- (2) Subject to subregulations (3) and (4), the holder of a restricted Shark Fishery licence shall not transfer the licence except to the holder of another Shark Fishery licence.
- (3) Where immediately before 3 February 1995, the Director permitted, under section 14(1) of the Act, a person to carry out fishing operations under a Shark Fishery licence held by a licensee, the restricted Shark Fishery licence granted to that licensee under regulation 96B(4) may be transferred by him or her to that person, notwithstanding that the person is not, at the time of the transfer, the holder of a Shark Fishery licence.
- (4) A person who held, immediately before 3 February 1995, a Shark Fishery licence subject to the condition that the licence was permanently non-transferrable, shall not transfer (including to the Territory) the restricted Shark Fishery licence granted to him or her under regulation 96B(4).
- (5) Subject to subregulation (4), the holder of 3 restricted Shark Fishery licences, each endorsed for a different region under regulation 96C, may transfer the licences to the Territory and the Joint Authority shall approve such a transfer.

**98            Unrestricted licences**

- (1) Where 3 licences are transferred to the Territory in accordance with regulation 97(5), the Joint Authority shall grant to the person transferring the licences one unrestricted Shark Fishery licence permitting the taking of fish under the licence in all Regions specified in regulation 96C.

- (2) The holder of an unrestricted Shark Fishery licence may transfer the licence.

**99                Area of fishery**

The Shark Fishery area is the area extending seaward from the high water mark to the outer boundary of the Australian fishing zone insofar as the waters are waters relevant to the Northern Territory, within the meaning of clause 2 of the arrangement made under Part 5 of the Commonwealth Act in relation to the Northern Shark Fishery.

**100              Fishing gear**

- (1) The holder of a restricted Shark Fishery licence endorsed for the Coastal Region shall not use under the licence fishing gear other than:
- (a) demersal long-line and gaff in the area extending seaward from the high water mark to an imaginary line following the coastline 3 nautical miles from the baseline;
  - (b) pelagic net in the area extending seaward from an imaginary line following the coastline 2 nautical miles seaward from the low water mark to an imaginary line following the coastline 12 nautical miles from the baseline; and
  - (c) a restricted bait net:
    - (i) if the net:
      - (A) is not fixed, anchored or staked; or
      - (B) is fixed anchored or staked at one end only, whereupon it may be used by hauling the other end by hand, or by attaching the other end to a vessel which is not anchored or fixed, in which case the vessel may be used for hauling the net;
    - (ii) in the area extending seaward from the high water mark to an imaginary line following the coastline 3 nautical miles from the low water mark;
    - (iii) for the taking of fish to be used by the licensee as bait under the licence;
    - (iv) if it is, when catch is being cleared, in not less than 30 cm of water; and
    - (v) if it is not left unattended while in use.

- (2) The holder of a restricted Shark Fishery licence endorsed for the Arafura Region or the Gulf of Carpentaria Region shall not use under the licence fishing gear other than:
- (a) demersal long-line or pelagic long-line, and gaff, in the area extending seaward from an imaginary line following the coastline 3 nautical miles seaward from the baseline to the outer boundary of the Australian fishing zone; and
  - (b) pelagic net in the area extending seaward from an imaginary line following the coastline 12 nautical miles seaward from the baseline to the outer boundary of the Australian fishing zone.
- (3) The holder of an unrestricted Shark Fishery licence shall not use under the licence gear other than:
- (a) demersal long-line in the area extending seaward from the high water mark to the outer boundary of the Australian fishing zone;
  - (b) pelagic long-line in the area extending seaward from an imaginary line following the coastline 3 nautical miles seaward from the baseline to the outer boundary of the Australian fishing zone;
  - (c) pelagic net in the area extending seaward from an imaginary line following the coastline 2 nautical miles seaward from the low water mark to the outer boundary of the Australian fishing zone;
  - (d) a restricted bait net:
    - (i) if the net:
      - (A) is not fixed, anchored or staked; or
      - (B) is fixed anchored or staked at one end only, whereupon it may be used by hauling the other end by hand, or by attaching the other end to a vessel which is not anchored or fixed, in which case the vessel may be used for hauling the net;
    - (ii) in the area extending seaward from the high water mark to an imaginary line following the coastline 3 nautical miles from the low water mark;
    - (iii) for the taking of fish to be used by the licensee as bait under the licence;

- (iv) if it is, when catch is being cleared, in not less than 30 cm of water; and
  - (v) if it is not left unattended while in use; and
- (e) a scoop net.
- (4) The holder of a Shark Fishery licence may only use demersal long-line or pelagic long-line if the total length of all line used under the licence at the one time is not more than 20 nautical miles.
- (5) The holder of a Shark Fishery licence shall not use pelagic net within the Mary River Fish Management Zone described in Schedule 3 to the *Barramundi Fishery Management Plan*.

#### **100A       Vessels**

The holder of a Shark Fishery licence shall not use a vessel under the licence except if:

- (a) he or she was, immediately before 3 February 1995, permitted to use the vessel under:
  - (i) a Shark Fishery licence; or
  - (ii) a Commonwealth permit relating to the Northern Shark Fishery; or
- (b) he or she has the approval in writing of the Joint Authority to use the vessel under the licence.

### **Division 6            Demersal Fishery**

#### **101            Declaration of Demersal Fishery**

The industry of taking fish (other than barramundi, threadfin salmon, spanish mackerel, shark or mud crab) by drop line, vertical line and fish trap in the fishery area specified in regulation 104 is hereby declared to be the Demersal Fishery.

#### **102            Licences**

- (1) All Demersal Fishery licences granted before 3 February 1995 are revoked.
- (2) The Joint Authority shall grant a Demersal Fishery licence to each person who held, immediately before 3 February 1995, a Demersal Fishery licence.

**103            Transfer of licence**

A Demersal Fishery licensee may transfer his or her licence.

**104            Area of Fishery**

The Demersal Fishery area is the area extending seaward from an imaginary line following the coastline 15 nautical miles seaward from the low water mark to the outer boundary of the Australian fishing zone, insofar as the waters are waters relevant to the Northern Territory, within the meaning of clause 2 of the arrangement made under Part 5 of the Commonwealth Act in relation to the Demersal and Timor Reef Fishery, but does not include the area of the Timor Reef Fishery specified in regulation 141C.

**105            Fishing gear**

- (1) A Demersal Fishery licensee shall not use under the licence fishing gear other than:
  - (a) a vertical line;
  - (b) a drop line attached to or free from a vessel;
  - (c) a fish trap;
  - (d) a scoop net or gaff;
  - (e) a cast net; and
  - (f) a restricted bait net:
    - (i) if the net:
      - (A) is not fixed, anchored or staked; or
      - (B) is fixed anchored or staked at one end only, whereupon it may be used by hauling the other end by hand, or by attaching the other end to a vessel which is not anchored or fixed, in which case the vessel may be used for hauling the net;
    - (ii) in the area extending seaward from the high water mark to an imaginary line following the coastline 3 nautical miles from the low water mark;
    - (iii) for the taking of fish to be used by the licensee as bait under the licence;



(iv) if it is, when catch is being cleared, in not less than 30 cm of water; and

(v) if it is not left unattended while in use.

- (2) A Demersal Fishery licensee shall not, under the licence, use a cast net to take fish or aquatic life unless the fish or aquatic life are to be used as bait under the licence.

#### **106        Vessels**

- (1) Subject to this regulation, a Demersal Fishery licensee shall use a vessel not less than 8 m long nominated in respect of the licence.
- (2) Subregulation (1) does not apply where the vessel was, at 31 December 1992, used under a licence under the repealed Regulations permitting the holder to engage in the Offshore Reef Fishery.
- (3) A Demersal Fishery licensee may use a vessel other than a vessel referred to in subregulations (1) or (2) if he or she has the approval in writing of the Joint Authority to use the vessel under the licence.

#### **107        Certain fish not to be taken**

A Demersal Fishery licensee shall not take barramundi, threadfin salmon, spanish mackerel, shark or mud crab under the licence.

### **Division 7        Barramundi Fishery**

#### **109        Number of licences**

- (1) The Director must not grant a Barramundi Fishery licence.
- (2) The Director may renew a licence in accordance with the *Barramundi Fishery Management Plan* approved on 24 January 1991 and published in *Gazette* No. S5 on 31 January 1991, as amended from time to time.

#### **110        Transfer of licence**

- (1) A Barramundi Fishery licence may be transferred, with all units of gill net specified on the licence under the *Barramundi Fishery Management Plan*, to another person.
- (2) Subregulation (1) does not apply to the transfer of gill net to the Territory.

## **Division 8            Mud Crab Fishery**

### **112            Number of licences**

The Director shall not grant more than 49 Mud Crab Fishery licences.

### **113            Transfer of licence**

A Mud Crab Fishery licensee may transfer his or her licence.

### **114            Fishing gear**

A Mud Crab Fishery licensee shall not use under the licence fishing gear other than:

- (a) pots permitted under the licence; and
- (b) a restricted bait net:
  - (i) which is not staked or otherwise fixed at more than one end;
  - (ii) within the area extending seaward from the coast from the high water mark to an imaginary line following the coastline 3 nautical miles from the low water mark;
  - (iii) for the taking of fish to be used by the licensee as bait for use with pots in the fishery; and
  - (iv) which is, when catch is being cleared, in not less than 30 cm of water.

## **Division 9            Mollusc Fishery**

### **115            Declaration of Fishery**

The industry of taking fish of the Class Mollusca, other than cephalopods and bivalves of the Genus Pinctada, is hereby declared to be the Mollusc Fishery.

### **116            No transfer of licence**

A Mollusc Fishery licensee shall not transfer his or her licence.

## **Division 10        Pearl Oyster Fishery**

### **Subdivision 1     Grant, renewal, transfer and conversion of licences**

#### **117        Interpretation**

In this Division, unless the contrary intention appears:

**allocation**, in relation to a licensing year, means the maximum number of pearl fishing units that the licensee may, under regulation 122B, take under the Pearl Oyster Fishery licence during the licensing year.

**Committee** means the Northern Territory Pearl Industry Advisory Committee established under section 24 of the Act.

**half pearl** means the concretion formed on the inner surface of either valve of a pearl oyster as a result of a person adhering an object permanently to that surface.

**jewellery quality pearl** means a pearl which is sold or capable of being sold in the marketplace for use in the manufacture of pearl jewellery.

**mother-of-pearl** means the smooth, shining, iridescent substance forming the inner layers of the shell of a pearl oyster.

**pearl** includes a natural or cultured, whole, half, baroque, seedless or blister pearl from a pearl oyster.

**pearl farm lease** means a lease granted to a licensee under section 55 of the Act for the purposes to which a Pearl Oyster Culture Industry licence relates.

**pearl fishing unit** means a number of pearl oysters, determined in accordance with regulation 122B, which a Pearl Oyster Fishery licensee may take in a licensing year under and in accordance with the licence.

**pearl oyster** means an oyster of the genus *Pinctada* and includes any part of a pearl oyster.

**Pearl Oyster Culture Industry** means the managed fishery relating to the holding, culturing and sale of production from wildstock or hatchery produced pearl oysters, and associated activities, declared by notice in *Gazette* No. G28 of 17 July 1991 at page 2.

***Pearl Oyster Culture Industry Management Plan*** means the fishery management plan approved in respect of the Pearl Oyster Culture Industry.

***pearl oyster dump site*** means a site where pearl oysters are placed and held, but does not include an area of land held under a pearl farm lease.

***restricted Pearl Oyster Fishery licence*** means a licence granted in accordance with regulation 118(3)(a).

***take*** includes sever, remove, damage, destroy or otherwise displace a pearl oyster from its natural habitat or a place where it is located under and in accordance with a Pearl Oyster Fishery licence.

***unrestricted Pearl Oyster Fishery licence*** means a licence granted in accordance with regulation 118(3)(b) or 120(4).

#### **117A      Declaration of Pearl Oyster Fishery**

The industry of taking, harvesting, transporting from the wild, holding or selling species of bivalves of the genus *Pinctada* (pearl oysters) is hereby declared to be the Pearl Oyster Fishery.

#### **118        Grant of licence**

- (1) The Director may grant not more than 5 Pearl Oyster Fishery licences.
- (2) All Pearl Oyster Fishery licences in force immediately before 3 February 1995 are revoked.
- (3) Where, immediately before 3 February 1995, a person held:
  - (a) a restricted licence within the meaning of these Regulations as then in force, the Director shall grant to him or her a restricted Pearl Oyster Fishery licence; or
  - (b) an unrestricted licence within the meaning of these Regulations as then in force, the Director shall grant to him or her an unrestricted Pearl Oyster Fishery licence.
- (4) A Pearl Oyster Fishery licence shall not be granted unless and until the person to whom it is to be granted holds a Pearl Oyster Culture Industry licence.

**118A        Renewal of licence**

- (1) Subject to this regulation, the Director may, in respect of a licensing year, renew a maximum of 5 Pearl Oyster Fishery licences.
- (2) Where a Pearl Oyster Fishery licence is cancelled or surrendered to the Director, the maximum number of Pearl Oyster Fishery licences which the Director may renew under subregulation (1) shall be reduced by the number of Pearl Oyster Fishery licences cancelled or surrendered.
- (3) The Director may renew a Pearl Oyster Fishery licence held in the previous licensing year only if:
  - (a) satisfied that the applicant has applied for renewal of a Pearl Oyster Culture Industry licence and if the Director intends to renew that licence; and
  - (b) the applicant has met the performance criteria specified in regulation 119A.

**119        Transfer of licence**

- (1) The holder of a restricted Pearl Oyster Fishery licence shall not transfer the licence except to the Territory in accordance with regulation 120.
- (2) The holder of an unrestricted Pearl Oyster Fishery licence may transfer the licence.
- (3) The Director shall not approve the transfer of an unrestricted Pearl Oyster Fishery licence unless:
  - (a) application has been made for the Director's approval of the transfer of the licensee's Pearl Oyster Culture Industry licence to the same person as the person to whom the licensee has applied to transfer the Pearl Oyster Fishery licence under subregulation (2) and the Director will approve the transfer of the Pearl Oyster Culture Industry licence; and
  - (b) the transfer will be in accordance with criteria determined by the Director from time to time.

**119A       Performance criteria**

The performance criteria for the purposes of this Division are:

- (a) the satisfactory completion of the Pearl Bed Survey conducted by the Commonwealth Bureau of Rural Resources;

- (b) the location by the Pearl Oyster Fishery licensee of a suitable site for a pearl oyster farm;
- (c) the establishment by the licensee of a pearl oyster farm capable of receiving live pearl oysters for culture; and
- (d) a proven record of production of half and/or whole pearls from pearl oysters taken in Territory waters.

## **120            Conversion of restricted licence**

- (1) The holder of a restricted Pearl Oyster Fishery licence may apply to the Director for approval to transfer the licence to the Territory in accordance with this Division.
- (2) An application under subregulation (1) shall be made on the approved form, accompanied by such records, accounts, returns or information as will assist the Director in deciding whether the performance criteria specified in regulation 119A have been met and all guidelines or conditions of the Pearl Oyster Fishery licence have been complied with.
- (3) The Director shall not approve the transfer of a licence to the Territory in accordance with this Division unless satisfied that the performance criteria specified in regulation 119A have been met.
- (4) Where a licence is transferred to the Territory in accordance with subregulation (1), the Director shall grant to the person who transferred the licence an unrestricted Pearl Oyster Fishery licence.
- (5) The rejection by the Director of an application shall be accompanied by the reasons for its rejection, but shall not prevent a further application being made under this Division.

## **120A          Time limits for applications**

- (1) If an application has not been made under regulation 120 by 31 July 1996, the holder of a restricted Pearl Oyster Fishery licence shall furnish to the Director within one month from that date a statement detailing:
  - (a) the progress of the licensee in establishing and maintaining an operational pearl farm;
  - (b) the number of pearl oysters used in culture operations since the original Pearl Oyster Fishery licence was granted in 1988;
  - (c) the volume and value of the licensee's pearl harvests from Territory pearl oysters to and including 30 June 1996;

- (d) factors influencing a harvest or the operation; and
  - (e) such other information, if any, as the Director requires.
- (2) After considering a statement under subregulation (1), the Director may, in his or her discretion, extend the effective period of the restricted Pearl Oyster Fishery licence until 31 December 1996 but no longer.
- (3) If an application under regulation 120 is not accepted by the Director at the end of a licence period extended under subregulation (2), the Director shall not renew the licence.

**120B        Procedures on cancellation or non-renewal of licence**

- (1) The holder of a Pearl Oyster Fishery licence cancelled or not renewed under this Division has the rights and shall follow the procedures specified in this regulation.
- (2) As soon as practicable after a Pearl Oyster Fishery licence is cancelled or not renewed, all pearl oysters held by the licensee on a pearl oyster dump site, holding area or pearl farm lease will be disposed of as follows:
- (a) the licensee is entitled to be granted a restricted Pearl Oyster Culture Industry licence, valid for 6 months only, to allow the licensee time to harvest the remaining pearl production;
  - (b) the licensee is entitled to be granted a restricted pearl farm lease, valid for 6 months only, to allow the licensee time to harvest any remaining production;
  - (c) all live oysters from the licensee's holding areas, pearl oyster dump sites and pearl farm leases may be sold to other licensees by the end of the 6 month period but any purchase of pearl oysters shall not be taken into account in determining the number of pearl oysters allocated each licensing year to the purchasers;
  - (d) details of sales must be provided by the licensee to the Director as soon as practicable after the end of the 6 month period; and
  - (e) where the licensee is unable to sell the pearl oysters by the end of the 6 month period, the licensee shall surrender any remaining pearl oysters to the Director for disposal.
- (3) Where the Director disposes of pearl oysters under subregulation (2)(e) by sale for money or other valuable consideration he or she shall, after subtracting an amount of money

from the proceeds of the sale sufficient to cover the cost of disposal of the pearl oysters, deliver the remainder of the proceeds of sale to the licensee.

## **Subdivision 2   Controls**

### **121        Method of taking pearl oysters**

A Pearl Oyster Fishery licensee may take pearl oysters from their natural habitat only by hand harvest or by such other method, if any, determined by the Director.

### **122        Number of pearl oysters which may be taken**

Subject to this Division, in each licensing year, a Pearl Oyster Fishery licensee may take only:

- (a) the licensee's allocation under regulation 122B less the number, if any, of pearl fishing units which have been permanently or temporarily transferred to another Pearl Oyster Fishery licensee during the licensing year; and
- (b) pearl fishing units which have been permanently or temporarily transferred to the licensee during the licensing year.

### **122A      Use and sale of pearl oysters**

A Pearl Oyster Fishery licensee may:

- (a) use, under and in accordance with a Pearl Oyster Culture Industry licence, pearl oysters taken under and in accordance with the Pearl Oyster Fishery licence;
- (b) sell pearls;
- (c) sell pearl meat;
- (d) sell pearl oysters for their mother-of-pearl content; and/or
- (e) subject to this Division, transfer pearl oysters to another Pearl Oyster Fishery licensee.

### **122B      Allocation**

- (1) The Director shall, before the commencement of each licensing year, determine the number, if any, of pearl oysters that may be taken in the Pearl Oyster Fishery (***the total allowable catch***).



- (2) A pearl fishing unit represents a one hundred and twentieth part of the total allowable catch for the licensing year for which it is issued.
- (3) On and from 3 February 1995, there shall be 120 pearl fishing units in the Pearl Oyster Fishery of which:
  - (a) 40 units shall be distributed to the Paspaley Pearling Company Pty Ltd.; and
  - (b) the remaining units shall be distributed, as far as is possible, equally between each of the licensees, other than the Paspaley Pearling Company Pty Ltd.
- (4) Subject to this Division, the Director shall, on the renewal of a Pearl Oyster Fishery licence, allocate to the licensee the number of pearl fishing units:
  - (a) (not including pearl fishing units temporarily transferred to the licensee) allocated under this regulation to the licensee during the previous licensing year as varied, if at all, under regulation 122C; or
  - (b) permanently transferred to the licensee under regulation 122D during the previous licensing year,less the number of pearl fishing units, if any, which the licensee has permanently transferred to another licensee.
- (5) Where a Pearl Oyster Fishery licensee does not intend to take during a licensing year the number of pearl oysters he or she is permitted to take under his or her allocation, the licensee may inform the Director of his or her intention, and the Director may offer some or all of those pearl fishing units to other Pearl Oyster Fishery licensees by ballot or by tender.
- (6) Money raised under subregulation (5) shall be:
  - (a) used for the purpose of fishing industry research and development; and
  - (b) placed in the Fishing Industry Research and Development Trust Fund continued under section 51(1) of the Act.

**122C        Variation of allocation**

- (1) The Director, may, at any time during a licensing year, where he or she is of the opinion that it is necessary for the management of the Pearl Oyster Fishery and after such consultation with the Committee as he or she thinks fit, vary:
  - (a) the total allowable catch for the licensing year; or
  - (b) the allocation of pearl fishing units to an individual Pearl Oyster Fishery licensee.
- (2) The possession of pearl oysters lawfully taken or in the possession of a Pearl Oyster Fishery licensee before notice of a variation is given under subregulation (1) is not a breach of regulation 122.

**122D        Transfer of pearl fishing unit**

- (1) A Pearl Oyster Fishery licensee shall not transfer pearl oysters to another person except under and in accordance with this Division or the Pearl Oyster Culture Industry Management Plan.
- (2) The holder of a restricted Pearl Oyster Fishery licence shall not transfer a pearl fishing unit held under the licence.
- (3) The holder of an unrestricted Pearl Oyster Fishery licence shall not transfer a pearl fishing unit held under the licence except to another Pearl Oyster Fishery licensee.
- (4) A transfer of a pearl fishing unit may:
  - (a) be permanent, in which case:
    - (i) the number of pearl fishing units which the transferee shall be allocated in the following licensing year shall increase by the number of pearl fishing units transferred; and
    - (ii) the number of pearl fishing units which the transferor may, subject to this Division, be allocated in the following licensing year shall be reduced by the number of pearl fishing units transferred to the transferee; or
  - (b) be temporary, in which case the transfer will, unless it is declared by the transferor to expire before the end of the licensing year, expire at the end of the licensing year and the transferor shall, subject to this Division, retain the units temporarily transferred, as part of the transferor's allocation for the following licensing year.

- (5) A licensee may apply to the Director, on a form approved by the Director, to transfer a pearl fishing unit to another Pearl Oyster Fishery licensee.
- (6) The Director may, upon receipt of an application under subregulation (5), permit or refuse to permit the transfer of a pearl fishing unit and shall inform the applicant in writing accordingly.
- (7) Where the Director approves:
  - (a) the temporary transfer of a pearl fishing unit, the Director shall note the transfer and the period of the transfer on the Pearl Oyster Fishery licences of both the transferor and the transferee; or
  - (b) the permanent transfer of a pearl fishing unit, the Director shall replace the Pearl Oyster Fishery licences of the transferor and the transferee with new Pearl Oyster Fishery licences which state the number of pearl fishing units allocated to the transferor or the transferee, as the case may be, upon the transfer of the pearl fishing unit.
- (8) The Director may approve a permanent transfer of a pearl fishing unit only if the transferor will retain, after the transfer, an allocation of pearl fishing units representing not less than 15,000 pearl oysters.

**122E        Dump sites and holding areas**

- (1) A Pearl Oyster Fishery licensee may place pearl oysters, taken under and in accordance with the Pearl Oyster Fishery licence, on pearl oyster dump sites or holding areas.
- (2) The licensee shall inform the Director, in writing, within 7 days after the establishment of a pearl oyster dump site or holding area by the licensee, of the location of the site or area.

**122F        Inspection**

A Pearl Oyster Fishery licensee shall permit the inspection, by a person authorised by the Director, of all pearl oysters taken or held on a pearl oyster dump site or holding area used under the licence or a vessel used by the licensee in the Pearl Oyster Fishery.

## **Division 11        Fixed Fish Trap Fishery**

### **123        Declaration of Fishery**

The industry of taking fish for sale (other than barramundi, threadfin salmon, spanish mackerel, or mud crab) by fixed fish trap is hereby declared to be the Fixed Fish Trap Fishery.

### **124        Director may grant one licence only**

The Director may grant one Fixed Fish Trap Fishery licence only and the licence may be granted only to the person who, during 1992, was licensed under the repealed Regulations to engage in the Fish Trap Fishery.

### **125        No transfer of licence**

The Fixed Fish Trap licensee shall not transfer the licence.

### **126        Area of Fishery**

The Fixed Fish Trap Fishery area is that area in which, immediately before the commencement of these Regulations, a fixed fish trap was operated under a licence granted under the repealed Regulations.

### **127        Fishing gear**

The Fixed Fish Trap licensee shall not use fishing gear under the licence other than one fixed fish trap and shall:

- (a) clear the trap, when in use, on each falling tide;
- (b) ensure that when the trap is not in use, the door of the trap is left open;
- (c) ensure that the trap displays the licence number so that it can be seen from the shore; and
- (d) as soon as reasonably practicable after the day the licence ceases to be valid make the trap incapable of taking fish and, within 1 month after the day the licence ceases to be valid, remove the trap from water or a place where it could take fish.

### **128        Certain fish not to be taken**

The Fixed Fish Trap licensee shall not take barramundi, threadfin salmon, spanish mackerel or mud crab under the licence.

## **Division 12      Aquarium Fishing/Display Fishery**

### **129      Declaration of Fishery**

The industry of collecting live fish and aquatic life for the purpose of sale and display in aquariums is hereby declared to be the Aquarium Fishing/Display Fishery.

### **130      No transfer of licence**

An Aquarium Fishing/Display Fishery licensee shall not transfer his or her licence.

### **131      Area of Fishery**

The Aquarium Fishing/Display Fishery area is all inland waters and waters seaward from the coastline to the outer boundary of the Australian fishing zone.

### **132      Purchase or sale of fish**

- (1) An Aquarium Fishing/Display Fishery licensee shall not under the licence:
  - (a) take other than live fish or aquatic life;
  - (b) except with the approval of the Director, take barramundi, spanish mackerel, mud crab or organisms of the species *Macro-brachium* or the species *Cherax*;
  - (c) buy fish or aquatic life other than from an Aquaculture or Aquarium Fishing/Display Fishery licensee; or
  - (d) take broodstock for sale to an Aquaculture licensee except with the approval of the Director.
- (2) An Aquarium Fishing/Display Fishery licensee may display and sell live fish or aquatic life taken in the Territory or imported into the Territory under a permit granted in accordance with the Act.
- (3) An Aquarium Fishing/Display Fishery licensee shall not sell fish for human consumption or for use as bait.

### **133      Fishing gear**

An Aquarium Fishing/Display Fishery licensee shall not use gear other than gear, such as a cast net, a scoop net, a hand pump or a freshwater pot, approved by the Director for the purposes of the licence and where directions in respect of such implements are given by the Director, shall use them only in accordance with those

directions.

## **Division 13        Trepang Fishery**

### **134        Declaration of Fishery**

The industry of taking trepang is hereby declared to be the Trepang Fishery.

### **135        Number of licences**

The Director shall not grant more than 6 Trepang Fishery licences of which:

- (a) 3 shall be in relation to the coastline extending east from Cape Grey; and
- (b) 3 shall be in relation to the coastline extending west from Cape Grey.

### **135A      Transfer of licences**

A person who holds a Trepang Fishery licence may transfer the licence.

### **136        Area of Fishery**

The Trepang Fishery area is the area extending seaward from the high water mark of the coastline to an imaginary line 3 nautical miles seaward from the baseline.

### **137        Fishing gear**

A Trepang Fishery licensee shall not, under the licence, use fishing gear other than hand-held implements, and, where directions in respect of such implements are given by the Director, shall use them only in accordance with those directions.

## **Division 14        Development**

### **138        Licence required to trial gear or fishing methods**

For the purposes of section 10(1)(e) of the Act, the carrying out of trials and experiments with fishing gear or new methods of fishing are prescribed.

**139            Director may grant licence**

The Director may grant a Development Fishery licence to permit:

- (a) the carrying out of trials or experiments with fishing gear or new methods of using fishing gear;
- (b) the taking of a specific species of fish or aquatic life for sale; and
- (c) the taking, for sale, of fish or aquatic life from specific areas.

**140            Period of licence &c.**

A Development Fishery licence:

- (a) shall not be granted for a period of more than one year;
- (b) shall not be renewed more than twice; and
- (c) gives the holder of the licence no interest in, right to, or legitimate expectation of an interest in or a right to, the grant of another commercial fishing licence.

**141            No transfer of licence**

A Development Fishery licensee shall not transfer his or her licence.

**Division 15            Timor Reef Fishery**

**141A           Definitions**

In this Division:

***restricted Timor Reef Fishery licence*** means a licence granted in accordance with regulation 141D(2).

***unrestricted Timor Reef Fishery licence*** means a licence granted in accordance with regulation 141F(1).

**141B           Declaration of Timor Reef Fishery**

The industry of taking fin fish (other than barramundi, threadfin salmon, spanish mackerel, shark or mud crab) by drop line, vertical line and fish trap in the area specified in regulation 141C, is hereby declared to be the Timor Reef Fishery.

**141C      Area of Fishery**

The Timor Reef Fishery area is the area of the sea bounded by a line:

- (a) commencing at the point of intersection of the meridian of longitude 131° east and the parallel of latitude 10° 30' south;
- (b) from there west along the parallel 10° 30' south to its intersection by the meridian of longitude 129° 40' east;
- (c) from there south along that meridian to its intersection by the parallel of latitude 11° south;
- (d) from there west along the parallel of latitude 11° south to its intersection by the outer boundary of the Australian fishing zone;
- (e) from there generally north-easterly along the outer boundary of the Australian fishing zone to its intersection by the meridian of longitude 131° east;
- (f) from there south along that meridian to its intersection by the parallel of latitude 10° 30' south.

**141D      Restricted Timor Reef Fishery licences**

- (1) Except in accordance with this Division, the Joint Authority shall not grant a licence in respect of the Timor Reef Fishery.
- (2) Where, immediately before 3 February 1995, a person held a Demersal Fishery licence permitting the taking of fish in the Timor Box (Drop Line and Trap) Fishery declared in *Gazette* No. G18 of the Commonwealth published 9 May 1990, the Joint Authority shall grant to the person a restricted Timor Reef Fishery licence.
- (3) The holder of one or more restricted Timor Reef Fishery licences granted to him or her in accordance with subregulation (2) shall not take fish under such a licence, unless he or she holds one Demersal Fishery licence (other than such a licence temporarily transferred under section 12A of the Act to another) in respect of each restricted Timor Reef Fishery licence under which fish may be taken by him or her.

**141E      Transfer of restricted licence**

- (1) The holder of a restricted Timor Reef Fishery licence may transfer the licence under section 12B, but not section 12A, of the Act.



- (2) Subject to subregulation (3), a person to whom a restricted Timor Reef Fishery licence is transferred shall not take fish under the licence.

- (3) Where:

- (a) immediately before 3 February 1995, the Director permitted, under section 14(1) of the Act, a person to carry out fishing operations under a Demersal Fishery licence referred to in regulation 141D(2) held by a licensee; and
- (b) on or after 3 February 1995, the restricted Timor Reef Fishery licence granted to that licensee under that regulation is transferred by him or her to that person,

that person may take fish under the restricted Timor Reef Fishery licence if he or she holds one Demersal Fishery licence (other than such a licence temporarily transferred under section 12A of the Act to another) in respect of each restricted Timor Reef Fishery licence under which fish may be taken by him or her.

- (4) The holder of 2 restricted Timor Reef Fishery licences may transfer the licences under section 12B of the Act to the Territory and the Joint Authority shall approve such a transfer.

#### **141F      Unrestricted Timor Reef Fishery licences**

- (1) Where 2 licences are transferred in accordance with regulation 141E(4) by a licensee, the Joint Authority shall grant to him or her one unrestricted Timor Reef Fishery licence.
- (2) The holder of an unrestricted Timor Reef Fishery licence may transfer the licence.
- (3) The holder of one or more unrestricted Timor Reef Fishery licences shall not take fish under such a licence, unless he or she holds one Demersal Fishery licence in respect of each Timor Reef Fishery licence under which fish may be taken by him or her.

#### **141G      Fishing gear**

The holder of a Timor Reef Fishery licence shall not use under the licence fishing gear other than:

- (a) a vertical line;
- (b) a drop line attached to or free from a vessel;
- (c) a fish trap; and

- (d) a scoop net or gaff.

**141H      Vessels**

- (1) Subject to subregulation (3), the holder of:
- (a) a restricted Timor Reef Fishery licence granted to him or her in accordance with regulation 141D; or
  - (b) an unrestricted Timor Reef Fishery licence who held, immediately before 3 February 1995, a Demersal Fishery licence referred to in regulation 141D(2),

shall not, under the licence, use a vessel other than the vessel nominated in respect of the Demersal Fishery licence referred to in regulation 141D(2), except with the written permission of the Joint Authority.

- (2) Subject to subregulation (3), the holder of an unrestricted Timor Reef Fishery licence who did not hold, immediately before 3 February 1995, a Demersal Fishery licence referred to in regulation 141D(2), shall use a vessel not less than 8 m long in the fishery.
- (3) A Timor Reef Fishery licensee may use a vessel other than a vessel referred to in subregulation (1) or (2) if he or she has the approval in writing of the Joint Authority to use the vessel under the licence.

**141J      Certain fish not to be taken**

The holder of a Timor Reef Fishery licence shall not take barramundi, threadfin salmon, spanish mackerel, shark or mud crab under the licence.

**Division 16      Finfish Trawl Fishery**

**141K      Declaration of Finfish Trawl Fishery**

The industry of taking fin fish (other than barramundi, threadfin salmon, spanish mackerel, shark or mud crab) by finfish trawl gear is hereby declared to be the Finfish Trawl Fishery.

**141L      Entry criteria**

- (1) The Joint Authority shall not grant a Finfish Trawl Fishery licence other than to a person who held, immediately before 3 February 1995, a permit issued under the Commonwealth Act entitling him or her to trawl for fish other than penaid and carid prawns and scampi of the family Penaeidae, Caridae and

Metanephropidae.

- (2) The Joint Authority shall grant a Finfish Trawl Fishery licence to each person who held, immediately before 3 February 1995, a permit referred to in subregulation (1).

**141M      No transfer of licence**

A Finfish Trawl Fishery licensee shall not transfer his or her licence.

**141N      Area of Fishery**

The Finfish Trawl Fishery area is the area bounded by a line:

- (a) commencing at the point of latitude 10° 30' south, longitude 131° 00' east;
- (b) running thence east along the parallel of latitude 10° 30' south to its intersection by the meridian of longitude 133° 16' east;
- (c) thence south along that meridian to its intersection by the parallel of latitude 11° 00' south;
- (d) thence south-easterly along the geodesic to the point of latitude 11° 25' south, longitude 134° 15' east;
- (e) thence easterly along the parallel of latitude 11° 05' south to its intersection by the meridian of longitude 135° 35' east;
- (f) thence north-easterly along the geodesic to the point of latitude 11° 25' south, longitude 136° 10' east;
- (g) thence north-easterly along the geodesic to the point of latitude 10° 30' south, longitude 136° 40' east;
- (h) thence south-easterly along the geodesic to the point of latitude 11° 00' south, longitude 137° 05' east;
- (j) thence south along the meridian of longitude 137° 05' east to its intersection by the parallel of latitude 11° 47' south;
- (k) thence north-easterly along the geodesic between that point and the point of latitude 11° 10' south, longitude 141° 00' east, to the intersection of that geodesic by the meridian of longitude 137° 24' east;
- (m) thence south along that meridian to its intersection by the parallel of latitude 13° 30' south;

- (n) thence east along that parallel to its intersection by the boundary between the Territory and the State of Queensland as specified in the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth;
- (p) thence north along that boundary to its intersection by the outer boundary of the Australian fishing zone;
- (q) thence generally westerly along that outer boundary to its intersection by the meridian of longitude 131° 00' east; and
- (r) thence south along that meridian to the point of commencement.

**141P      Fishing gear**

A Finfish Trawl Fishery licensee shall not use under the licence fishing gear other than finfish trawl gear.

**141Q      Certain fish not to be taken**

A Finfish Trawl Fishery licensee shall not take barramundi, threadfin salmon, spanish mackerel, shark or mud crab under the licence.

**Division 17      Jigging Fishery**

**141R      Declaration of Jigging Fishery**

The industry of taking squid by jigging gear is hereby declared to be the Jigging Fishery.

**141S      Entry criteria**

- (1) The Director shall not grant a Jigging Fishery licence other than to a person who held, immediately before 3 February 1995, a permit issued under the Commonwealth Act entitling him or her to jig for squid.
- (2) The Director shall grant a Jigging Fishery licence to each person who held, immediately before 3 February 1995, a permit referred to in subregulation (1).

**141T      Transfer of licence**

- (1) A Jigging Fishery licensee shall not transfer his or her licence.
- (2) Subregulation (1) does not apply in relation to a Jigging Fishery licence in force immediately before 1 October 1997.

**141U        Area of Fishery**

The Jigging Fishery area is the area extending seaward from an imaginary line following the coastline 3 nautical miles seaward from the low water mark to the outer boundary of the Australian fishing zone.

**141W        Fishing gear**

A Jigging Fishery licensee shall not use under the licence fishing gear other than jigging gear.

**141Y        Certain fish not to be taken**

A Jigging Fishery licensee shall not take barramundi, threadfin salmon, spanish mackerel, shark, other fin fish or mud crab under the licence.

**Part 9                      Processing and sale of fish**

**Division 1                Licensing generally**

**142            Application of Part**

This Part does not apply in respect of processed fish imported into the Territory packaged for sale to a final consumer and marked with the State, Territory or country from which the fish originated.

**143            Criteria for grant or renewal**

The matters to which the Director may have regard in considering an application for the grant or renewal of a Fish Trader/Processor licence, a Fish Retailer licence or a Fish Broker licence include:

- (a) whether the applicant's financial resources are, in the opinion of the Director, sufficient to enable commercial use of the licence;
- (b) whether the applicant has attained the age of 18 years;
- (c) whether the applicant has all approvals required under any other Act of the Territory to conduct the operation; and
- (d) where an applicant has previously held a licence under this Act, whether the applicant has supplied all accounts, records, returns and information in the approved manner and form and within the time prescribed or specified by the Director.

**144            Application**

The Director shall not grant or renew a Fish Trader/Processor licence or a Fish Retailer licence unless the application:

- (a) indicates the address of; and
- (b) is accompanied by documentary evidence of all approvals required under any Act of the Territory in order to lawfully process fish at,

the place at which the processing is to occur.

**145            Place of processing**

- (1) The Director shall not grant a Fish Trader/Processor licence or Fish Retailer licence in respect of a domestic dwelling unless the dwelling:
  - (a) conforms with the requirements of or under the *Public Health Act* in respect of food processing; and
  - (b) shall not contravene control plans made under the *Planning Act*.
- (2) A Fish Trader/Processor licensee and a Fish Retailer licensee shall display, in a prominent position at each of the places specified on the licence, the number and expiry date of the licence.
- (3) A Fish Trader/Processor licensee and a Fish Retailer licensee shall not process fish for sale except at a place specified in the licence.

**147            Sale to Aquarium Fishing/Display Fishery licensee**

A person who holds a licence for the purposes of this Part and an assistant must not sell live fish to an Aquarium Fishing/Display Fishery licensee or an Aquarium Trader licensee purchasing fish for the purposes of that licence.

**148            Labelling of fish from aquaculture facility**

The holder of a licence for the purposes of this Part shall ensure that all fish for sale which the licensee purchases for sale from an aquaculture facility shall have attached to them or be accompanied by a statement indicating:

- (a) the number of the licence under which the fish were bred or held;

(b) that the fish is the product of an aquaculture facility situated in the Northern Territory; and

(c) such other information as required by the Director,

and shall not sell such fish, other than fish forming part of a meal or such fish sold for use as bait, unless the fish is labelled in accordance with this regulation.

**149        Fish on premises deemed to be for sale**

Fish at a place specified on a licence shall be deemed to be fish for sale.

**Division 2        Fish Trader/Processor**

**150        Fish Trader/Processor may process and resell**

Subject to this Division, a Fish Trader/Processor licensee may purchase fish or aquatic life for processing and resale.

**151        Purchase of fish**

- (1) A Fish Trader/Processor licensee shall not purchase fish or aquatic life for processing and resale except:
- (a) from a person who holds a commercial fishing licence permitting the taking of that fish or aquatic life;
  - (b) from a person who holds an appropriate licence under a law of the Commonwealth, a State or another Territory of the Commonwealth;
  - (c) from a Fish Trader/Processor licensee, a Fish Broker licensee or a person who holds a licence granted for the purposes of Part 10;
  - (d) where the fish is live fish and the Territory was not the first landing point of the fish or aquatic life, pursuant to a permit granted under the Act; or
  - (e) from an interstate or overseas supplier.

**152        Export of food**

If the place in respect of which a Fish Trader/ Processor licence is granted is permitted, licensed, registered, or otherwise certified under an Act of the Commonwealth as approved premises for the production of food for export, the terms of that Act shall, in relation to standards of health and hygiene on those premises, apply to the

exclusion of the *Fisheries Act*, these Regulations or an instrument of a legislative or administrative character made under the *Fisheries Act*, but shall not prevent the entry onto that place of officers appointed under the *Fisheries Act*.

**153            Freezer capacity**

A Fish Trader/Processor licensee who freezes fish under the licence shall, after the expiration of 12 months after the commencement of these Regulations, possess for the storage of fish a freezer which:

- (a) has not less than 10m<sup>3</sup> of freezer space; and
- (b) conforms with the standards of the *Food Act* and any other Act which applies to the storage of fish or frozen food in force in the Territory.

**Division 3            Fish retailer**

**154            Sale of fish**

A Fish Retailer licensee may process fish but shall not sell fish, whether or not processed, except to a person not purchasing them for the purpose of resale.

**155            Purchase of fish**

A Fish Retailer licensee shall not purchase fish or aquatic life for resale except:

- (a) from a person who holds a commercial fishing licence permitting the taking of that fish or aquatic life;
- (b) from a person who holds an appropriate licence under a law of the Commonwealth or a State or another Territory of the Commonwealth;
- (c) from a person who holds a Fish Trader/Processor licence, a Fish Broker licence or a licence granted for the purposes of Part 10 or;
- (d) where the fish is live fish and the Territory was not the first landing point of the fish or aquatic life, in pursuance of a permit granted under the Act; or
- (e) from an interstate or overseas supplier.



## **Division 4            Fish Broker**

### **156            Fish Broker licence**

- (1) A Fish Broker licensee may purchase fish for re-sale and sell fish.
- (2) A Fish Broker licensee shall not process fish for sale.

### **157            Sale of fish**

A Fish Broker licensee shall not sell fish except to:

- (a) the holder of a licence for the purposes of this Part;
- (b) a person who holds an appropriate licence under a law of the Commonwealth or a State or another Territory of the Commonwealth;
- (c) in accordance with an export permit granted under an Act of the Commonwealth; or
- (d) an interstate or overseas purchaser.

### **158            Purchase of fish**

A Fish Broker licensee shall not purchase fish or aquatic life for resale except:

- (a) from a person who holds a commercial fishing licence permitting the taking of that fish or aquatic life;
- (b) from a person who holds an appropriate licence under a law of the Commonwealth, a State or another Territory of the Commonwealth;
- (c) from a Fish Trader/Processor licensee, a Fish Broker licensee or a person holding a licence granted for the purposes of Part 10;
- (d) where the fish is live fish and the Territory was not the first landing point of the fish or aquatic life, in pursuance of a permit granted under the Act; or
- (e) from an interstate or overseas purchaser.

## **Part 10                      Aquaculture**

### **Division 1                  Licensing generally**

#### **159                      No breeding for sale without licence**

A person shall not breed, farm or hold live fish for sale unless he or she holds a licence in respect of this Part.

#### **160                      Criteria for grant or renewal**

The matters to which the Director may have regard in considering an application for the grant or renewal of a licence under this Part include:

- (a) whether the applicant's financial resources are, in the opinion of the Director, sufficient to enable commercial use of the licence;
- (b) whether the applicant has attained the age of 18 years;
- (c) whether the applicant has all approvals required under any other Act of the Territory to conduct the operation;
- (d) where an applicant has previously held a licence under this Act, whether the applicant has supplied all accounts, records, returns and information in the approved manner and form and within the time prescribed or specified by the Director; and
- (e) any other criteria set out in these Regulations in respect of the licence.

#### **161                      Application for licence**

An application for a licence in respect of this Part shall contain:

- (a) details of the species, stage of life cycle and number of fish or aquatic life that the applicant intends to stock or culture or intends to take or retain as broodstock;
- (b) details of the gear that the applicant intends to use to take fish or aquatic life, other than gear used to take fish within the aquaculture facility to which the application relates;
- (c) plans relating to the construction, development or modification of an aquaculture facility to which the application relates;
- (d) a proposed plan of operation in respect of the aquaculture facility to which the application relates;

- (e) approvals required under any another Act of the Territory for the operation of the aquaculture facility to which the application relates;
- (f) details of the location of the aquaculture facility and of all places at which the applicant intends to breed, hold, rear, process or sell fish or aquatic life; and
- (g) such other information as the Director requires.

**162      Place of processing to be specified in licence**

- (1) The holder of a licence in respect of this Part shall not breed, hold, rear, process or transfer fish into the possession of a person other than an assistant of the licensee, except in or at a place specified in the licence.
- (2) The Director shall not grant a licence in respect of this Part in respect of a domestic dwelling unless the dwelling:
  - (a) conforms with the requirements of or under the *Public Health Act* in respect of food processing; and
  - (b) will not contravene control plans made under the *Planning Act*.

**163      Modification of aquaculture facility**

The holder of a licence in respect of this Part shall not modify an aquaculture facility to which the licence relates unless he or she has submitted specifications and plans relating to the proposed modification to the Director and the Director has, in writing, approved the modification.

**165      Licence details to be displayed**

The holder of a licence in respect of this Part shall display, in a prominent place in each of the places noted in the licence, the number and expiry date of the licence.

**166      Export of food**

If the place in respect of which a licence in respect of this Part is granted is licensed, registered or otherwise certified under an Act of the Commonwealth as approved premises for the production of food for export, the terms of that Act shall, in relation to standards of health and hygiene on those premises, apply to the exclusion of the *Fisheries Act*, these Regulations or an instrument of a legislative or administrative character made under the *Fisheries Act* but shall not prevent the entry onto that place of officers appointed under the *Fisheries Act*.

**167      Freezer capacity**

The holder of a licence in respect of this Part who freezes fish for sale shall, after the expiration of 12 months after the commencement of these Regulations, possess for the storage of fish a freezer which:

- (a) has not less than 10 m<sup>3</sup> of freezer space; and
- (b) conforms with the standards of the *Food Act* and any other Act which applies to the storage of fish or frozen food in force in the Territory.

**168      Broodstock**

- (1) The holder of a licence in respect of this Part shall, as soon as practicable after taking barramundi broodstock from waters outside an aquaculture facility, tag it in the approved manner.
- (2) For the purposes of section 10(1)(e) of the Act, the disposal otherwise than by sale of fish taken as broodstock is prescribed as being an action able to be taken only by a holder of a licence in respect of this Part.

**169      Labelling of fish, &c., from aquaculture facility**

The holder of a licence in respect of this Part shall ensure that fish or aquatic life leave the aquaculture facility with a statement indicating:

- (a) the number of the licence under which the fish or aquatic life were bred or held;
- (b) that the fish or aquatic life is the product of an aquaculture facility in the Northern Territory; and
- (c) such other information as required by the Director,

attached to or accompanying the fish or aquatic life and that the statement remains attached to or accompanies the fish at all times when the fish is in the possession or control of the holder of the licence outside the aquaculture facility.

## **Division 2      Aquaculture licence**

### **170      No aquaculture without licence**

A person may take fish as broodstock, purchase fish, breed fish or aquatic life, rear or hold such fish or aquatic life and process and sell such fish or aquatic life, under and in accordance with an Aquaculture licence.

### **171      Conditions of licence**

The conditions to which an Aquaculture licence may be subject include:

- (a) limitation of the species of fish which may be kept and the stages of the life cycle of a fish at which the fish may be kept;
- (b) limitation of the number of fish which may be kept or sold;
- (c) limitation of the use of chemicals or drugs, including the regulation or prohibition, for such period as the Director thinks fit, of the transport or release from the aquaculture facility of fish exposed to chemicals or drugs;
- (d) a requirement for the lodgement of a bank guarantee or securities to cover the cost of damage which may be caused by the operation of the aquaculture facility;
- (e) a condition that the licensee shall operate the aquaculture facility in accordance with the plan of operation submitted in accordance with regulation 161(d) and approved by the Director; and
- (f) the method of water discharge or other waste disposal.

### **172      Licence conditional on construction**

- (1) The Director may, on receipt of an application for an Aquaculture licence, grant the licence on condition that the aquaculture facility to which the licence relates is constructed or altered in accordance with the specifications or plans accompanying the application under regulation 161(c), as modified by the conditions or requirements, if any, imposed by the Director.
- (2) The conditions referred to in subregulation (1) may include a requirement that construction or alteration take place in stages and at times determined by the Director.
- (3) At the completion of a stage of construction or alteration determined by the Director under subregulation (2), the Director or a person

authorised by the Director for that purpose shall examine the aquaculture facility and, if satisfied that the construction or alteration complies with the specifications or plans referred to in subregulation (1) for that stage of construction as determined in accordance with subregulation (2), shall certify that construction or alteration may proceed to the next stage.

(4) Where:

- (a) the Director or a person authorised by the Director:
  - (i) has inspected the aquaculture facility at a stage of construction specified in the licence and cannot certify that construction or alteration may proceed to the next stage or that the facility, when completed, would be constructed or altered in accordance with the requirements of subregulation (1); or
  - (ii) at any time during the period in which the licence is valid has reasonable grounds for concluding that the aquaculture facility will not be constructed or altered in accordance with those requirements; or
- (b) the licensee has breached another condition of the licence or committed an offence under the Act,

the Director may, if he or she thinks fit, refuse to permit the construction or alteration of the aquaculture facility to continue to the next stage and the licensee shall, notwithstanding any other provision in these Regulations, cease to be permitted to take, purchase, breed, hold, process or sell fish or aquatic life under the licence.

### **173 Possession of broodstock**

An Aquaculture licensee shall not possess fish or aquatic life for breeding except those fish or aquatic life:

- (a) taken under and in accordance with the Act;
- (b) obtained from a person who holds a commercial fishing licence;
- (c) imported in accordance with a permit;
- (d) obtained from another Aquaculture licensee; or
- (e) obtained from an aquaculture facility operated by a statutory corporation.

**174      Sale of fish**

An Aquaculture licensee may sell fish or aquatic life to:

- (a) a Fish Retailer licensee;
- (aa) an Aquarium Fishing/Display licensee;
- (b) a Fish Broker licensee;
- (c) a Trader/Processor licensee;
- (d) an Aquaculture licensee; or
- (e) a member of the public not purchasing fish or aquatic life for resale.

**175      Disposal of broodstock**

An Aquaculture licensee shall not sell or otherwise dispose of fish or aquatic life taken as broodstock under this Part to another person except:

- (a) after 12 months after the date the fish or aquatic life was taken; and
- (b) with the prior approval of the Director.

**Division 3      Pearl Oyster Culture Industry licence**

**176      Definitions**

In this Division, unless the contrary intention appears:

***licence*** means a licence granted in respect of the Pearl Oyster Culture Industry Fishery.

***licensee*** means the holder of a Pearl Oyster Culture Industry licence.

***restricted licence*** means a restricted licence within the meaning of the *Pearl Oyster Culture Industry Fishery Management Plan*.

***unrestricted licence*** means an unrestricted licence within the meaning of the *Pearl Oyster Culture Industry Fishery Management Plan*.

**177      Director may grant licence**

The Director may grant a maximum of 6 licences in respect of the managed fishery known as the Pearl Oyster Culture Industry declared on 25 November 1991 and published in *Gazette* No. G28 on 17 July 1991.

**178      Renewal of licences**

- (1) Subject to this Division, the Director may, in respect of a licensing year, renew a maximum of 6 licences.
- (2) Where a licence is cancelled or surrendered pursuant to the Act, the maximum number of licences which the Director may renew under subregulation (1) shall be reduced by the number of licences cancelled or surrendered.

**179      Criteria for renewal of licence**

The Director shall not renew a licence held in the previous licensing year unless:

- (a) satisfied that the applicant has applied for renewal of a Pearl Oyster Fishery licence and that the Director intends to renew it; and
- (b) the applicant:
  - (i) meets the requirements of regulation 180;
  - (ii) has complied with the Act, and any other instrument of a legislative or administrative character applicable to the pearl oyster fishery; and
  - (iii) has met the performance criteria specified in Appendix A of the Schedule to the *Pearl Oyster Culture Industry Management Plan*.

**180      Company structure**

- (1) A natural person shall not hold a licence unless the person is an Australian citizen.
- (2) Subject to subregulation (6), a body corporate shall not hold a licence unless:
  - (a) no more than 49% of the shareholdings of the body corporate are held beneficially, entirely or in part (whether directly or indirectly, including through interposed corporations and/or trusts) by persons other than Australian citizens;



- (b) the Chairman and a majority of the committee of management, board of directors, or other governing authority of the body corporate are Australian citizens and are nominated by and represent Australian interests; and
  - (c) all office bearers are Australian citizens.
- (3) Where the holder of a restricted licence is a body corporate it shall, within 3 months after the commencement of the *Pearl Oyster Culture Industry Fishery Management Plan*, provide the Minister with a statement of the beneficial ownership of shareholdings in the company to which the licence has been granted.
- (4) Where a licensee, being a body corporate, proposes to alter the legal or beneficial ownership of a shareholding in the company which holds the licence, it shall submit to the Minister details of the proposed alteration before it takes place.
- (5) An alteration to the legal or beneficial ownership of a shareholding in a company to which a licence has been granted must be approved, in writing, by the Minister.
- (6) Notwithstanding regulation 181(1), where the Minister is of the opinion, after considering information provided to him or her under subregulation (3) or (4), that a licensee holds the licence in contravention of this regulation, the Minister shall give written notice to the licensee that the licensee shall, within 3 months after the date of the notice, transfer that licence to another person to whom that licence may be transferred under regulation 181, as if the licence were an unrestricted licence under that regulation.
- (7) A licensee to whom notice has been given under subregulation (6) who does not, within 3 months from the date of the notice, transfer the licence in accordance with that subregulation, is guilty of an offence.

Penalty: \$10,000.

## **181 Transfer of licence**

- (1) Subject to regulation 180(6), a licensee shall not transfer a restricted licence to another person.
- (2) A person may not transfer an unrestricted licence unless the Minister has given prior written notice of approval of the transfer to the transferor and the transferee.
- (3) A licensee may apply to the Minister, in the approved form, for approval to transfer an unrestricted licence.

- (4) The Minister shall not approve the transfer of a licence unless:
- (a) the transferee complies with the requirements of regulation 180;
  - (b) application has been made to the Director for the transfer of the licensee's Pearl Oyster Fishery licence to the same person as the person to whom the licensee has applied for approval to transfer the licence under subregulation (3) and the Minister is satisfied that the Joint Authority will approve the transfer of the Pearl Oyster Fishery licence; and
  - (c) the transfer will be in accordance with criteria laid down by the Minister from time to time.
- (5) Where the Minister approves the transfer of a licence and the licence is transferred, he or she shall direct the Director to remove the name of the transferor of the licence from the register of licences and vessels and replace the name with the name of the transferee.

## **Part 11            Special licences**

### **Division 1        Licensing generally**

#### **182            Criteria for grant or renewal**

The matters to which the Director may have regard in considering an application for the grant or renewal of a licence in respect of this Part include:

- (a) whether the applicant has all approvals required under any other Act of the Territory to operate the licence;
- (b) where an applicant has previously held a licence under this Act, whether the applicant has supplied all accounts, records, returns and information in the approved manner and form and within the time specified by the Director; and
- (c) any other criteria set out in these Regulations in respect of the licence type for which application for grant or renewal is made.

## **Division 2      Aboriginal Coastal licence**

### **183      Application for licence**

An Aboriginal person who:

- (a) is a member of a community or group in respect of which land has been granted to a trust for the benefit of Aboriginals entitled by Aboriginal tradition to the use or occupation of that land under the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth;
- (b) is permanently resident on the land; and
- (c) has:
  - (i) where there is a council within the meaning of the *Local Government Act*, the approval of that council; or
  - (ii) where there is no such council, the approval of persons accepted by the majority of the community or group to be its leaders,

may apply to the Director for an Aboriginal Coastal licence.

### **184      Director may grant licence**

- (1) The Director may, subject to this Division, grant an Aboriginal Coastal licence to an applicant.
- (2) An Aboriginal Coastal licence shall not be granted to a person other than a natural person.
- (3) Only one licence may be granted in respect of each community or group in respect of which land has been granted to a trust for the benefit of Aboriginals entitled by Aboriginal tradition to the use or occupation of that land under the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth.

### **185      No transfer of licence**

An Aboriginal Coastal licensee shall not transfer his or her licence.

### **186      Lapse of licence**

It shall be a condition of each Aboriginal Coastal licence that it lapses where the licensee ceases to be a permanent resident on the land granted for the benefit of the members of the community or group of which he or she is a member as referred to in regulation 183(a).

**187 Certain people not to hold licence**

An Aboriginal Coastal licensee shall not:

- (a) hold a commercial fishing licence; or
- (b) be an assistant of the holder of a commercial fishing licence.

**188 Area of licence**

An Aboriginal Coastal licensee shall not take fish for sale under the licence except from within the area specified on the licence as the area in which fish may be taken under the licence.

**189 Fishing gear**

An Aboriginal Coastal licensee shall not use gear under the licence other than amateur fishing gear and shall not use such gear other than under and in accordance with the provisions of these Regulations relating to amateur fishing.

**190 Conditions of licence**

- (1) The Director shall, in determining the conditions, if any, to be placed on an Aboriginal Coastal licence, take into consideration suggestions made by members of the community or group of Aboriginals of which the applicant is a member who are resident on the relevant land.
- (2) An Aboriginal Coastal licensee shall not sell barramundi, threadfin salmon, spanish mackerel or mud crab.

**191 To whom fish may be sold**

- (1) An Aboriginal Coastal licensee shall not sell fish or aquatic life to a person who intends to resell the fish.
- (2) An Aboriginal Coastal licensee shall only sell fish within the area of land granted for the benefit of the community or group of which he or she is a member as referred to in regulation 183(a).

**Division 3 Fishing Tour Operator Licence**

**192 Tour operator to be licensed**

For the purposes of section 10(1)(e) of the Act, the conduct of a business that provides the services of a person to conduct a fishing tour is prescribed as being able to be done only by the holder of a Fishing Tour Operator licence.

**193      Criteria for grant or renewal**

- (1) The matters to which the Director may have regard in considering an application for the grant or renewal of a Fishing Tour Operator licence include whether:
  - (a) the applicant has attained the age of 18 years;
  - (b) the applicant has all approvals required under this or any other Act of the Territory to conduct fishing tour operations; and
  - (c) where the applicant has previously been granted a licence under the Act, the applicant has supplied to the Director accounts and records in the approved manner and form within the time prescribed or specified by the Director.

**194      No transfer of licence**

A Fishing Tour Operator licensee shall not transfer his or her licence.

**195      Area of Fishery**

The holder of a Fishing Tour Operator licence, and a short term operator, nominated person and assistant, who is conducting or assisting the conduct of a fishing tour, must not take fish or act as a fishing guide, except in an area in which a person engaged in amateur fishing may take fish.

**196      Fishing gear**

- (1) The holder of a Fishing Tour Operator licence, and a short term operator, nominated person and assistant, who is conducting or assisting the conduct of a fishing tour:
  - (a) must not use fishing gear except amateur fishing gear; and
  - (b) must not use such gear other than under and in accordance with the provisions of these Regulations relating to amateur fishing.
- (2) The holder of a Fishing Tour Operator licence, and a short term operator, nominated person and assistant, who is conducting or assisting the conduct of a fishing tour, must not take fish under another licence.

**197 Licensee's liability**

A Fishing Tour Operator licensee shall be deemed liable for an offence against the Act committed by a person on and during a fishing tour conducted under the licence.

**198 Fish not to be traded**

The holder of a Fishing Tour Operator licence, and a short term operator, nominated person and assistant, who is conducting or assisting the conduct of a fishing tour shall not accept, take or agree to take, whether by way of payment or as barter, a fish taken by a person in the course of a fishing tour conducted under the licence.

**Division 4 Aquarium Trader licence**

**199 Sale and purchase of fish**

- (1) A person may sell fish or aquatic life for use in an aquarium if he or she holds an Aquarium Trader licence.
- (2) An Aquarium Trader licensee shall not purchase fish or aquatic life except:
  - (a) from an Aquarium Fishing/Display Fishery licensee;
  - (b) from an Aquarium Trader licensee;
  - (c) from an Aquaculture licensee;
  - (d) under and in accordance with a permit; or
  - (e) from an interstate or overseas supplier.

**200 Place of trade to be set out in licence**

- (1) An Aquarium Trader licensee shall not hold fish for sale or sell fish except at a place specified in the licence.
- (2) The Director shall not grant an Aquarium Trader licence in respect of a domestic dwelling unless the dwelling will not contravene control plans made under the *Planning Act*.

**201 Licence to be displayed**

An Aquarium Trader licensee shall display, in a prominent position at each of the places specified on the licence, the number and expiry date of the licence.

## **Division 5      Net licence**

### **203      Sale of net**

- (1) For the purposes of section 10(1)(e) of the Act, the selling or repair of nets, other than nets which may be used in amateur fishing, is prescribed.
- (2) Subject to subregulation (3), a person shall not sell net, make or repair net or be in possession of net material from which fishing nets may be, but have not been made, unless he or she:
  - (a) holds a Net licence granted in accordance with this Division;  
or
  - (b) is permitted to use the net under and in accordance with another licence or permit.
- (3) Subregulation (2) does not apply to net which a person is permitted to use whilst engaged in amateur fishing.

### **204      Places where net may be kept**

The holder of a Net licence shall not have possession of net or net material under the licence except:

- (a) at approved premises; or
- (b) in a vehicle or vessel transporting them by the most direct route practicable to or from persons who may lawfully possess them or to other approved premises.

### **205      Restrictions on sale and repair**

The holder of a Net licence shall not make, repair or sell net which a person shall not have possession of except under a licence or a permit except for or to a person who, under the Act, may lawfully have possession of the net under a licence or permit.

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## **Part 12                    Miscellaneous**

### **206                    Minister may prescribe fees**

- (1) The Minister may, by notice in the *Gazette*, prescribe the fee payable for:
  - (a) the grant or renewal of a licence or permit specified in Schedule 2 other than such a licence granted in accordance with regulation 76A(1), 96B(4), 98(1), 102(2), 118(3), 120(4), 141D(2), 141F(1), 141L(2) or 141S(2);
  - (b) the registration of a vessel;
  - (c) the transfer of a licence from a licensee to an approved person, but not a transfer of a licence to the Territory;
  - (d) a replacement of a licence, permit or certificate of registration of a vessel;
  - (e) the approval by the Director of a person to carry on the licensee's fishing operations under section 14 of the Act; and
  - (f) the issue of a logbook or document, or its replacement, in the approved form in respect of information required by the Director under section 34 of the Act.
- (2) The Treasurer may:
  - (a) prescribe an amount, not exceeding 10% of the licence fees paid, to be credited to Consolidated Revenue for the purpose of funding the administration of this licensing or permit scheme; and
  - (b) distribute the remainder of the fees as he or she sees fit to the Fishing Industry Research and Development Trust Fund continued under section 51 of the Act.
- (3) Where the Director refuses to grant, renew or approve the transfer of a licence specified in Schedule 2, he or she shall refund to the applicant for such a grant, renewal or approval the fee paid by the applicant in respect of the application.

### **207                    NTFIC levy payable**

- (1) Subject to subregulation (1A), the Minister may, by notice in the *Gazette*, prescribe a levy to be paid (for the purpose of assisting the Northern Territory Fishing Industry Council) by an applicant for the grant, renewal or transfer of a licence listed in Schedule 3, other



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than a licence granted in accordance with regulation 76A(1), 96B(4), 98(1), 102(2), 118(3), 120(4), 141D(2), 141F(1), 141L(2) or 141S(2) or a transfer of a licence to the Territory.

- (1A) The Minister shall not prescribe a levy pursuant to subregulation (1) unless he has consulted with the Northern Territory Fishing Industry Council for the purpose of determining the amount of the levy.
- (2) Subregulation (1) does not apply to an applicant for an Aquarium Fishing/Display Fishery licence, an Aquarium Trader licence, a Fish Retailer licence, an Aboriginal Coastal licence, a Fish Broker licence, a Fishing Tour Operator licence or a Net licence.
- (3) Where the Director refuses to grant, renew or approve the transfer of a licence specified in Schedule 3, he or she shall refund to the applicant for such a grant, renewal or approval the levy paid by the applicant in respect of the application.
- (4) The Minister may prescribe, by notice in the *Gazette*, an amount, not exceeding 10% of any levy collected, to be credited to the Consolidated Fund.
- (5) Subject to an amount prescribed under subregulation (4) as being payable to the Consolidated Fund, all levies collected under this regulation shall be credited to a trust account established by the Treasurer under the *Financial Administration and Audit Act* as an account forming part of the Trust Fund, within the meaning of that Act, for the purpose for which the levy is prescribed.
- (6) Levies credited to a trust account in accordance with subregulation (5) shall from time to time be disbursed by the Treasurer from that account to the Northern Territory Fishing Industry Council Inc. from which a receipt, given by the Secretary or other principal officer of the Council, shall be a sufficient discharge to the Treasurer.

## **208 Barramundi levy**

- (1) In this regulation, ***unit of net*** means a length of 100 m of gillnetting, measured along so much of the headrope as has gill net attached to it.
- (2) A Barramundi Fishery licensee shall pay a levy of \$100 on each unit of net endorsed on a Barramundi Fishery licence and is payable each time the licence or endorsement is renewed until the Minister declares, by notice in the *Gazette*, that 50% of the original cost of the buy-back scheme has been met.
- (3) The levy referred to in subregulation (2) is in addition to any fees or levies otherwise payable under the Act or these Regulations.

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**209 General offences**

A person who contravenes or fails to comply with:

- (a) a provision of these Regulations; or
- (b) a direction, restriction, requirement or condition given, made or imposed under these Regulations,

commits an offence and section 37(2) of the Act applies.

**209A Application of Act to holders of certain permits under Commonwealth Act**

- (1) The holder from time to time of a permit or licence issued under the Commonwealth Act in respect of an arrangement made under Part 5 of that Act in relation to the Northern Prawn Fishery or a fishery in respect of tuna or tuna like species, is deemed to hold a licence of the same kind under the *Fisheries Act* in respect of the internal waters of the Territory contiguous to the area of that fishery (**a deemed licence**).
- (2) Subject to subregulation (3), a deemed licence is deemed, for the purposes of the Act, to have been granted subject to:
  - (a) the conditions specified on the permit or licence issued under the Commonwealth Act; and
  - (b) the condition that the holder of the deemed licence will comply with the Commonwealth Act and any instrument of a legislative or administrative character made under that Act applicable to the holder of such a licence or permit issued under that Act, as if the relevant internal waters were included in the fishery under the Commonwealth permit or licence.
- (3) The holder of a deemed licence is permitted to take fish for sale in the relevant internal waters of the Territory, to sell such fish in the Territory and to take any action that is expressly permitted by or under the Commonwealth Act in respect of the fishery under the Commonwealth Act, notwithstanding that the action would, but for this regulation, not be permitted by or under the *Fisheries Act*.
- (4) The holder of a deemed licence:
  - (a) may not transfer the licence under section 12A or 12B of the Act; and
  - (b) is not, in relation to the licence, subject to the requirements of section 12 or 13 of the Act.

**210      Repeal and savings**

- (1) The *Fish and Fisheries Regulations*, as amended by Act No. 49 of 1985, and Regulations 1980 No. 5; 1980, No. 12; 1980, No. 29; 1980, No. 44; 1980, No. 48; 1981, No. 33; 1982, No. 3(a); 1982, No. 48; 1983, No. 1; 1983, No. 2; 1984, No. 17; 1984, No. 18; 1985, No. 8; 1985, No. 39; 1986, No. 19; 1988, No. 16; 1988, No. 43; 1988, No. 52; 1989, No. 3; 1990, No. 1; 1991, No. 11, are repealed.
- (2) Where a licence was held immediately before the commencement of these Regulations, the licence continues until 31 January 1993, notwithstanding that it might have expired under the repealed Regulations before that date, as if the repealed Regulations had not been repealed under these Regulations.

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**Schedule 1 Noxious fish**

regulation 3(1)

Common Name	Scientific Name
Tinfoil Barb	Barbus schwanenfeldi
Snakehead	Channa (all species)
Chocolate Cichlid	Cichlasoma coryphaenoides
European Carp	Cyprinus carpio
Walking Catfish	Family Clariidae (all species)
Mosquito fish	Gambusia (all species)
Piranha	Serrasalmus, Pygopristis, Pygocentrus (all species)
Mouthbreeder	Tilapia (all species)

## **Schedule 2      Licence or permit for which fees are payable**

regulation 206

Aboriginal Coastal licence  
Aquaculture licence  
Aquarium Fishing/Display Fishery licence  
Aquarium Trader licence  
Bait Net Fishery licence  
Barramundi Fishery licence  
Coastal Line Fishery licence  
Coastal Net Fishery licence  
Demersal Fishery licence  
Development Fishery licence  
Finfish Trawl Fishery  
Fish Broker licence  
Fixed Fish Trap Fishery licence  
Fish Trader/Processor licence  
Jigging Fishery licence  
Mud Crab Fishery licence  
Mollusc Fishery licence  
Pearl Oyster Culture Industry licence  
Pearl Oyster Fishery licence  
Spanish Mackerel Fishery licence  
Shark Fishery licence  
Timor Reef Fishery licence  
Trepang Fishery licence

## **Schedule 3      Licence or permit for which levies are payable**

regulation 207

Aquaculture licence  
Bait Net Fishery licence  
Barramundi Fishery licence  
Coastal Line Fishery licence  
Coastal Net Fishery licence  
Demersal Fishery licence  
Development Fishery licence  
Finfish Trawl Fishery  
Fixed Fish Trap Fishery licence  
Jigging Fishery licence  
Mud Crab Fishery licence  
Mollusc Fishery licence  
Pearl Oyster Fishery licence  
Spanish Mackerel Fishery licence  
Shark Fishery licence  
Timor Reef Fishery licence  
Trepang Fishery licence

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## ENDNOTES

### 1 KEY

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

### 2 LIST OF LEGISLATION

***Fisheries Regulations (SL No. 72, 1992)***

Notified	24 December 1992
Commenced	1 January 1993 (r 2)

***Planning (Consequential Amendments) Act 1993 (Act No. 86, 1993)***

Assent date	31 December 1993
Commenced	18 April 1994 (s 2, s 2 <i>Planning Act 1993</i> (Act No. 85, 1993) and Gaz S28, 18 April 1994)

***Amendments of Fisheries Regulations (SL No. 19, 1994)***

Notified	1 July 1994
Commenced	1 July 1994

***Amendments of Fisheries Regulations (SL No. 3, 1995)***

Notified	31 January 1995
Commenced	3 February 1995 (r 2)

***Amendment of Fisheries Regulations (SL No. 40, 1996)***

Notified	7 August 1996
Commenced	7 August 1996

***Amendment of Fisheries Regulations (SL No. 31, 1997)***

Notified	12 November 1997
Commenced	12 November 1997

### 3 SAVINGS AND TRANSITIONAL PROVISIONS

r 12 *Amendments of Fisheries Regulations* (SL No. 19, 1994)

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## 4 LIST OF AMENDMENTS

r 3	amd No. 19, 1994, r 2; No. 3, 1995, r 3; No. 31, 1997, r 2
r 4	amd No. 3, 1995, r 4
r 5	amd No. 3, 1995, r 5
r 9	sub No. 19, 1994, r 3
r 19	amd No. 3, 1995, r 18
r 26	amd No. 19, 1994, r 4
r 27	amd No. 3, 1995, r 18
r 46A	ins No. 40, 1996
r 46B	ins No. 31, 1997, r 3
r 50	sub No. 3, 1995, r 6
	amd No. 31, 1997, r 4
r 51	rep No. 31, 1997, r 5
r 58	amd No. 31, 1997, r 6
r 67	amd No. 31, 1997, r 22
r 69	amd No. 31, 1997, r 7
r 71	amd No. 3, 1995, r 7
r 72	sub No. 31, 1997, r 8
pt 8	
div 1 hdg	sub No. 3, 1995, r 8
rr 73 – 76	sub No. 3, 1995, r 8
r 76A	ins No. 3, 1995, r 8
rr 77 – 78	sub No. 3, 1995, r 8
r 78A	ins No. 3, 1995, r 8
r 93	sub No. 19, 1994, r 5
	amd No. 3, 1995, r 18
r 94	amd No. 3, 1995, r 18
pt 8	
div 5 hdg	sub No. 3, 1995, r 9
r 96	sub No. 3, 1995, r 9
rr 96A – 96D	ins No. 3, 1995, r 9
rr 97 – 100	sub No. 3, 1995, r 9
r 100A	ins No. 3, 1995, r 9
pt 8	
div 6 hdg	sub No. 3, 1995, r 10
rr 101 – 107	sub No. 3, 1995, r 10
r 108	rep No. 31, 1997, r 9
r 109	amd No. 31, 1997, r 10
r 111	rep No. 31, 1997, r 11
pt 8	
div 10 hdg	sub No. 3, 1995, r 11
pt 8	
div 10	
sdiv 1 hdg	ins No. 3, 1995, r 11
r 117	sub No. 3, 1995, r 11
r 117A	ins No. 3, 1995, r 11
r 118	sub No. 3, 1995, r 11
r 118A	ins No. 3, 1995, r 11
r 119	sub No. 3, 1995, r 11
r 119A	ins No. 3, 1995, r 11
pt 8	
div 10	
sdiv 2 hdg	ins No. 3, 1995, r 11
r 120	sub No. 3, 1995, r 11



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rr 120A –	
120B	ins No. 3, 1995, r 11
r 121	amd No. 19, 1994, r 6
	sub No. 3, 1995, r 11
r 122	sub No. 3, 1995, r 11
rr 122A –	
122F	ins No. 3, 1995, r 11
r 131	amd No. 3, 1995, r 18
r 135A	ins No. 19, 1994, r 7
rr 139 – 141	amd No. 3, 1995, r 18
pt 8	
div 15 hdg	ins No. 3, 1995, r 12
rr 141A –	ins No. 3, 1995, r 12
141J	ins No. 3, 1995, r 12
pt 8	
div 16 hdg	ins No. 3, 1995, r 12
rr 141K –	
141Q	ins No. 3, 1995, r 12
pt 8	
div 17 hdg	ins No. 3, 1995, r 12
rr 141R –	
141S	ins No. 3, 1995, r 12
r 141T	ins No. 3, 1995, r 12
	amd No. 31, 1997, r 12
rr 141U –	
141Y	ins No. 3, 1995, r 12
r 145	amd Act No. 86, 1993, s 3(2)
r 146	rep No. 31, 1997, r 13
r 147	amd No. 31, 1997, r 14
r 162	amd Act No. 86, 1993, s 3(2)
r 164	rep No. 31, 1997, r 15
r 173	amd No. 31, 1997, r 22
r 174	amd No. 31, 1997, r 16
r 175	amd No. 31, 1997, r 22
r 179	amd No. 31, 1997, r 22
r 180	amd No. 19, 1994, r 8
r 181	amd No. 31, 1997, r 22
r 192	sub No. 31, 1997, r 17
rr 195 – 196	sub No. 31, 1997, r 18
r 198	amd No. 31, 1997, r 19
r 200	amd Act No. 86, 1993, s 3(2)
r 202	rep No. 31, 1997, r 20
r 204	amd No. 31, 1997, r 22
pt 12 hdg	amd No. 31, 1997, r 21
r 206	amd No. 3, 1995, r 13
r 207	amd No. 19, 1994, r 9; No. 3, 1995, r 14
r 209A	ins No. 3, 1995, r 15
sch 2	amd No. 19, 1994, r 10
	sub No. 3, 1995, r 16
sch 3	amd No. 19, 1994, r 11
	sub No. 3, 1995, r 17