

NORTHERN TERRITORY OF AUSTRALIA

FISHERIES AMENDMENT (DEMERSAL FISHERY) REGULATIONS 2012

Subordinate Legislation No. 5 of 2012

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 5 of 2012*

Fisheries Amendment (Demersal Fishery) Regulations 2012

I, Sally Gordon Thomas, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Fisheries Act*.

Dated 31 January 2012

S. G. THOMAS
Administrator

By Her Honour's Command

K. VATSKALIS
Minister for Primary Industry, Fisheries and Resources

* Notified in the *Northern Territory Government Gazette* on 31 January 2012.

Part 1 Preliminary matters

1 Citation

These Regulations may be cited as the *Fisheries Amendment (Demersal Fishery) Regulations 2012*.

2 Commencement

- (1) Part 3 commences on 1 June 2012.
- (2) The remaining provisions of these Regulations commence on 1 February 2012.

3 Regulations amended

These Regulations amend the *Fisheries Regulations*.

Part 2 General amendments

4 Regulation 3 amended

Regulation 3(1)

insert (in alphabetical order)

approved monitoring equipment means fishing monitoring equipment approved in writing by the Joint Authority.

Darwin port means the Port as defined in section 5(1) of the *Darwin Port Corporation Act*.

fishing monitoring equipment means equipment that is fitted to a vessel:

- (a) to detect when and where fishing from the vessel occurs; and
- (b) to record catch information.

Note

The equipment may include, for example, sensors, a digital video camera and a computer system.

goldband snapper means fish of the genus *Pristipomoides* (commonly known as goldband snapper).

grouped fish means fish other than barramundi, goldband snapper, king threadfin, red snapper, Spanish mackerel, shark and mud crab.

red snapper means fish of the species *Lutjanus malabaricus* or *Lutjanus erythropterus* (commonly known as red snapper).

species group means any of the following:

- (a) goldband snapper;
- (b) red snapper;
- (c) grouped fish.

vessel monitoring system means an electronic device that is fitted to a vessel to give information about the vessel's course or position, or similar information.

5 Regulation 4 amended

Regulation 4

insert (in alphabetical order)

finfish long-line means a main line that:

- (a) is weighted to the seabed at both ends; and
- (b) has finfish snoods, or branch lines with finfish snoods, attached to it.

finfish snood means a short length of unsheathed monofilament nylon or fluorocarbon material that:

- (a) has a diameter of not more than 2 mm; and
- (b) has a fish hook attached to it.

6 Regulation 38A inserted

After regulation 38

insert

38A Fish-trap

A person must not use a fish-trap that is attached in any way to another fish-trap to take fish.

Maximum penalty: 170 penalty units.

7 Part 8, Division 6 replaced

Part 8, Division 6

repeal, insert

Division 6 Demersal Fishery**Subdivision 1 Preliminary matters****101 Definitions**

In this Division:

Demersal Fishery area, see regulation 103(1).

DF licence means a Demersal Fishery licence.

fishery unit, see regulation 106(1).

Gove port means the port at Gove Harbour bounded by an imaginary line extending between the co-ordinates 6820 E 86520 N, 6820 E 86470 N, 6860 E 86470 N and 6860 E 86520 N on Map Sheet Gove 6273.

quota unit, see regulation 107B(1).

register means the register maintained under section 9(1) of the Act in relation to the Demersal Fishery.

total allowable catch, see regulation 107A.

trawl zones, see regulation 103(2).

102 Declaration of Demersal Fishery

The industry of taking fish (other than barramundi, king threadfin, shark and mud crab) by vertical line, drop line, finfish long-line, fish-trap, scoop net, gaff or finfish trawl gear in the Demersal Fishery area is declared to be the Demersal Fishery.

103 Area of fishery

- (1) The ***Demersal Fishery area*** is the area extending seaward from an imaginary line that is 15 nautical miles from the low water mark and that follows the coastline to the outer boundary of the Australian fishing zone, insofar as the waters are relevant waters, but excluding the Timor Reef Fishery area.

- (2) Within the Demersal Fishery area there are two zones, Zones A and B (the **trawl zones**), in which finfish trawl gear can be used.
- (3) Zone A is the area bounded by a line:
- (a) commencing at the intersection by the parallel of latitude 11° 00' south and the meridian of longitude 133° 16' east; and
 - (b) from there south-easterly along the geodesic to the point of latitude 11° 25' south, longitude 134° 15' east; and
 - (c) from there easterly along the parallel of latitude 11° 25' south to its intersection by the meridian of longitude 135° 35' east; and
 - (d) from there north-easterly along the geodesic to the point of latitude 11° 05' south, longitude 136° 10' east; and
 - (e) from there north-easterly along the geodesic to the point of latitude 10° 30' south, longitude 136° 40' east; and
 - (f) from there south-easterly along the geodesic to the point of latitude 11° 00' south, longitude 137° 05' east; and
 - (g) from there south along the meridian of longitude 137° 05' east to its intersection by the parallel of latitude 11° 47' south; and
 - (h) from there 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° 30' east; and
 - (i) from there south along that meridian to its intersection by the parallel of latitude 15° 00' south; and
 - (j) from there east along that parallel to its intersection by the boundary between the Territory and Queensland as specified in the *Petroleum (Submerged Lands) Act 1967* (Cth) as in force immediately before its repeal; and
 - (k) from there north along that boundary to its intersection by the outer boundary of the Australian fishing zone; and
 - (l) from there generally westerly along that outer boundary to its intersection by the meridian of longitude 133° 16' east; and
 - (m) from there south along that meridian to the point of commencement.

(4) Zone B is the area bounded by a line:

- (a) commencing at the intersection by the parallel of latitude 13° 30' south and the meridian of longitude 128° 45' east; and
- (b) from there easterly along the geodesic to the point of latitude 13° 30' south, longitude 129° 11' east; and
- (c) from there north-easterly along the geodesic to the point of latitude 12° 30' south, longitude 130° 00' east; and
- (d) from there westerly along the geodesic to the point of latitude 12° 30' south, longitude 129° 00' east; and
- (e) from there northerly along the geodesic to the point of latitude 12° 00' south, longitude 129° 00' east; and
- (f) from there westerly along that parallel to its intersection by the boundary between the Territory and Western Australia as specified in the *Petroleum (Submerged Lands) Act 1967* (Cth) as in force immediately before its repeal; and
- (g) from there generally south-easterly along that boundary to its intersection by the parallel of latitude 12° 30' south; and
- (h) from there generally south-easterly along the geodesic to the point of latitude 13° 00' south and the meridian of longitude 128° 45' east; and
- (i) from there south along the geodesic to the point of commencement.

(5) In this regulation:

relevant waters means waters relevant to the Territory within the meaning of clause 2 of the arrangement made under Part 5 of the Commonwealth Act between the Commonwealth and the Territory in relation to the Demersal and Timor Reef Fishery on 19 December 1994.

Timor Reef Fishery area means the area specified in regulation 141C.

Subdivision 2 Licences and fishery units

104 DF licence

- (1) The holder of a DF licence may participate in the Demersal Fishery in accordance with this Division.

- (2) A DF licence cannot be transferred.

105 Grant of DF licence

The Joint Authority may grant a DF licence to a person if:

- (a) the person has applied for the licence; and
- (b) at least one of the following apply:
 - (i) the Joint Authority has approved the transfer of fishery units or quota units to the person;
 - (ii) the Territory proposes to transfer fishery units to the person.

Note for regulation 105

Regulation 224 also provides for the grant of DF licences.

106 Fishery units generally

- (1) A **fishery unit** is a unit that entitles the holder of the DF licence to which the unit is attached to be allocated a share of the total allowable catch for the species group to which the unit relates.

Note for subregulation (1)

The share is calculated under regulation 107C.

- (2) A fishery unit does not expire.
- (3) A fishery unit may be transferred under Subdivision 5.
- (4) A fishery unit attached to a DF licence that is cancelled is taken to be transferred to the Territory on the day of the cancellation.
- (5) A fishery unit attached to a DF licence that expires and is not renewed within the period permitted under section 12(2) of the Act is taken to be transferred to the Territory on the day after the period ends.

107 Total number of fishery units

In the Demersal Fishery there are a total of:

- (a) 400 000 fishery units for goldband snapper; and
- (b) 2 499 980 fishery units for red snapper; and
- (c) 914 960 fishery units for grouped fish.

Subdivision 3 Total allowable catch and quota units

107A Total allowable catch

The total amount of fish that may be taken under all DF licences during a licence year (the ***total allowable catch***) for the following species groups is:

- (a) 400 000 kg of goldband snapper;
- (b) 2 499 980 kg of red snapper;
- (c) 914 960 kg of grouped fish.

107B Quota units generally

- (1) A ***quota unit*** is a unit that, until it is used or expires, entitles the holder of the DF licence to which the unit is attached to take 1 kg of the species group to which the quota unit relates from the Demersal Fishery area in accordance with this Division.
- (2) A quota unit is used when the holder of the DF licence to which the unit is attached uses the entitlement under the quota unit to take 1 kg of the species group to which the quota unit relates from the Demersal Fishery area.
- (3) A quota unit expires on 30 June of the licence year in which the unit was allocated.
- (4) A quota unit may be transferred under Subdivision 5.
- (5) The Joint Authority must, if satisfied the holder of a DF licence has used one or more quota units attached to the licence:
 - (a) cancel the number of quota units attached to the licence that equals the number of units used; and
 - (b) in doing so – cancel quota units allocated under regulation 107D before cancelling any other quota units attached to the licence.
- (6) A quota unit is taken to be cancelled if:
 - (a) it expires; or
 - (b) the DF licence to which it is attached is cancelled.

107C Annual allocation of quota units

- (1) On 1 July in each licence year, the Joint Authority must allocate the number of quota units mentioned in subregulation (3) to each DF licence to which fishery units are attached.
- (2) If a DF licence to which fishery units are attached is renewed after 1 July in a licence year, on the date the licence is renewed, the Joint Authority must allocate the number of quota units mentioned in subregulation (3) to the licence.
- (3) The number of quota units for each species group to be allocated is the number calculated in accordance with the following formula:

$$A = L \div T \times TAC$$

where:

A is the number of quota units for the relevant species group to be allocated to the DF licence.

L is the number of fishery units for the relevant species group attached to the DF licence on the date of the allocation before any transfers of fishery units to or from the licence take effect.

T is the total number of fishery units for the relevant species group as mentioned in regulation 107.

TAC is the total allowable catch for the relevant species group.

- (4) However, if the number of quota units to be allocated is not a multiple of 1, the number must be:
 - (a) rounded to the nearest whole unit; or
 - (b) if the number is a multiple of 0.5 – rounded up to the nearest whole unit.
- (5) If, under subregulation (1) or (2), the Joint Authority is required to allocate quota units to a DF licence in relation to which any fees are due then, despite the subregulation:
 - (a) the Joint Authority must not allocate quota units to the licence until the fees are paid; and
 - (b) when the allocation is made, the number of quota units to be allocated must be calculated as if the allocation had been made on the date required under subregulation (1) or (2).

107D Additional allocation of quota units for undercatch

- (1) This regulation applies if:
- (a) one or more eligible quota units attached to a DF licence expire at the end of a licence year (the **first year**); and
 - (b) the licence is renewed the following licence year (the **second year**).
- (2) The Joint Authority must allocate to the DF licence the number of quota units for each species group that is equal to the lesser of:
- (a) the number of eligible quota units for the relevant species group that expired at the end of the first year; or
 - (b) the number of quota units for the relevant species group (the **relevant number**) calculated in accordance with the following formula:

$$A = (AQ + BQ - TQ) \times 0.2$$

where:

A is the relevant number.

AQ is the number of eligible quota units for the relevant species group that were allocated to the licence during the first year.

BQ is the number of eligible quota units for the relevant species group that were transferred to the holder of the licence during the first year.

TQ is the number of eligible quota units for the relevant species group that were transferred from the licence during the first year.

- (3) However, if the number of quota units to be allocated is not a multiple of 1, the number must be:
- (a) rounded to the nearest whole unit; or
 - (b) if the number is a multiple of 0.5 – rounded up to the nearest whole unit.
- (4) The allocation under subregulation (2) must be made:
- (a) immediately after an allocation to the DF licence is made under regulation 107C; or

- (b) if the information required to make the allocation is not available at that time – as soon as practicable after the information becomes available.
- (5) However, if under subregulation (4)(b) the Joint Authority is required to allocate quota units to a DF licence in relation to which any fees are due then, despite subregulation (4)(b), the Joint Authority must not allocate the quota units to the licence until the fees are paid.
- (6) In this regulation:
eligible quota units means:
 - (a) quota units allocated to the DF licence under regulation 107C or 227; or
 - (b) quota units allocated to another DF licence under regulation 107C or 227 and subsequently transferred to the holder of the DF licence.

Subdivision 4 Fishing in Demersal Fishery

107E Notice of intention to fish

- (1) This regulation applies to the holder of a DF licence who intends to take fish under the licence during a voyage.
- (2) Between 1 and 12 hours before starting the voyage, the holder must notify the Director of the following:
 - (a) the holder's intention to take fish under the licence during the voyage;
 - (b) the time the voyage will start;
 - (c) the estimated duration of the voyage;
 - (d) the type of fishing gear the holder intends to use during the voyage;
 - (e) any other information about the voyage required by the Director.

Maximum penalty: 85 penalty units.

- (3) The notice may be given orally.

107F Permitted fishing gear

The holder of a DF licence must not use fishing gear other than any of the following, or an item ancillary to any of the following, to take fish under the licence:

- (a) vertical lines;
- (b) drop lines;
- (c) finfish long-lines;
- (d) fish-traps;
- (e) cast nets;
- (f) restricted bait nets;
- (g) scoop nets;
- (h) gaffs;
- (i) if an approval under regulation 107J applies to the holder – finfish trawl gear.

Maximum penalty: 170 penalty units.

107G Use of cast net

The holder of a DF licence must not use a cast net to take fish or aquatic life under the licence unless the fish or aquatic life are to be used as bait under the licence.

Maximum penalty: 85 penalty units.

107H Use of restricted bait net

The holder of a DF licence must not leave a restricted bait net unattended while it is in use under the licence.

Maximum penalty: 85 penalty units.

107J Approval to use finfish trawl gear

- (1) The holder of a DF licence may apply to the Joint Authority for approval to use finfish trawl gear under the licence during a particular licence year.

- (2) The Joint Authority must not grant the approval unless the DF licence has attached to it at least:
 - (a) 20 000 quota units for goldband snapper; and
 - (b) 400 000 quota units for red snapper; and
 - (c) 100 000 quota units for grouped fish.
- (3) If the Joint Authority grants the approval, the approval applies to the holder in relation to the DF licence until the end of the licence year in relation to which the approval is granted, unless it is sooner revoked under subregulation (4).
- (4) The approval is revoked when quota units attached to the DF licence are transferred if, immediately after the transfer, the number of quota units for each species group attached to the licence is not equal to or greater than the number of quota units mentioned in subregulation (2).

107K Use of finfish trawl gear or vessel with finfish trawl gear on board

- (1) The holder of a DF licence must not do any of the following:
 - (a) take finfish trawl gear onto, or keep finfish trawl gear on, a vessel other than the mother boat for the licence;
 - (b) if the mother boat for the licence is not fitted with a vessel monitoring system – take finfish trawl gear onto, or keep finfish trawl gear on, the mother boat;
 - (c) use finfish trawl gear from the mother boat for the licence while the vessel monitoring system fitted to the boat is not operating.

Maximum penalty: 85 penalty units.

- (2) The holder of a DF licence must not use finfish trawl gear outside the trawl zones.

Maximum penalty: 170 penalty units.

- (3) The holder of a DF licence commits an offence if:
 - (a) a vessel is being used for fishing under the licence; and
 - (b) there is finfish trawl gear on the vessel; and

(c) any of the following are also on the vessel:

- (i) vertical lines;
- (ii) drop lines;
- (iii) finfish long-lines;
- (iv) fish-traps.

Maximum penalty: 85 penalty units.

(4) The holder of a DF licence commits an offence if:

- (a) a vessel being used for fishing under the licence is navigated in the prohibited area; and
- (b) there is finfish trawl gear on the vessel; and
- (c) information given by the vessel monitoring system fitted to the vessel shows that, at any time while moving in the prohibited area the vessel travelled at a speed of less than 5 nautical miles per hour as worked out under subregulation (6).

Maximum penalty: 170 penalty units.

(5) Subregulation (4) does not apply if:

- (a) the vessel travels at a speed of less than 5 knots only immediately before and after being stationary; or
- (b) the Joint Authority gives the holder approval for the vessel to be navigated in the prohibited area and the vessel is navigated in accordance with any instructions given by the Joint Authority.

(6) For subregulation (4)(c), to work out a vessel's speed:

- (a) for each consecutive pair of points identified by the vessel monitoring system fitted to the vessel, identify the shortest distance between the pair of points in a straight line; and
- (b) divide the distance by the time taken by the vessel to travel between the two points.

(7) In this regulation:

prohibited area means anywhere outside the Darwin port, Gove port and trawl zones.

107L Minimum quota units to be held at start of voyage

- (1) The holder of a DF licence commits an offence if:
- (a) the holder takes fish under the licence during a voyage; and
 - (b) at the start of the voyage the licence did not have attached to it at least:
 - (i) 5 350 quota units for goldband snapper; and
 - (ii) 4 900 quota units for red snapper; and
 - (iii) 650 quota units for grouped fish.

Maximum penalty: 170 penalty units.

- (2) The holder of a DF licence commits an offence if:
- (a) the holder takes fish under the licence during a voyage; and
 - (b) at any time during the voyage there are finfish long-lines or fish-traps on the vessel used for the voyage; and
 - (c) at the start of the voyage the licence did not have attached to it at least:
 - (i) 10 700 quota units for goldband snapper; and
 - (ii) 9 800 quota units for red snapper; and
 - (iii) 1 300 quota units for grouped fish.

Maximum penalty: 170 penalty units.

- (3) The holder of a DF licence commits an offence if:
- (a) the holder takes fish under the licence during a voyage; and
 - (b) at any time during the voyage there is finfish trawl gear on the vessel used for the voyage; and
 - (c) at the start of the voyage the licence did not have attached to it at least:
 - (i) 2 100 quota units for goldband snapper; and
 - (ii) 39 150 quota units for red snapper; and

- (iii) 10 950 quota units for grouped fish.

Maximum penalty: 170 penalty units.

107M No fish on vessel at start of voyage

- (1) The holder of a DF licence must ensure none of the following are on board a vessel when a voyage is started if the holder intends to take fish under the licence from the vessel during the voyage:

- (a) fish that is intended for sale;
- (b) more than 100 kg of fish that is not intended for sale (excluding bait).

Maximum penalty: 85 penalty units.

- (2) Subregulation (1) does not apply if the Joint Authority gives the holder written approval to take the action mentioned in subregulation (1).

107N Fishing limited to entitlement under quota units

The holder of a DF licence must not, while fishing under the licence, take from the Demersal Fishery area an amount of a species group that exceeds the amount the holder is entitled to take under the quota units attached to the licence.

Maximum penalty: 170 penalty units.

107P Certain fish not to be taken

- (1) Except as provided in subregulation (2), the holder of a DF licence must not take barramundi, king threadfin, shark, Spanish mackerel or mud crab while fishing under the licence.

Maximum penalty: 170 penalty units.

- (2) The holder of a DF licence to whom an approval under regulation 107J applies may take 50 Spanish mackerel during each voyage undertaken under the licence in relation to which the approval was granted.

107Q No fishing under another licence during voyage

- (1) The holder of a DF licence must not, during one voyage, take a fish under the licence and take a fish under any other licence.

Maximum penalty: 170 penalty units.

- (2) Subregulation (1) does not apply if the Joint Authority gives the holder written approval to take the action mentioned in subregulation (1).

107R Fish not to be moved between vessels

- (1) The holder of a DF licence must ensure a fish taken under the licence is not moved from the vessel from which it was taken to another vessel.

Maximum penalty: 85 penalty units.

- (2) Subregulation (1) does not apply if the Joint Authority gives the holder written approval to move the fish to another vessel.

107S Fish not to be processed before unloading

- (1) The holder of a DF licence must ensure a fish taken under the licence is not processed before it is unloaded from the vessel from which it was taken.

Maximum penalty: 85 penalty units.

- (2) Despite subregulation (1), fish taken under the DF licence may be preserved by cooling.
- (3) Subregulation (1) does not apply if the Joint Authority gives the holder written approval to process the fish.

107T Prior landing notice

- (1) This regulation applies to the holder of a DF licence who:
- (a) during a voyage, has taken fish under the licence; or
 - (b) under regulation 107E(2) has notified the Director of an intention to take fish under the licence during a voyage.
- (2) Between 12 and 24 hours before the vessel used for the voyage is due to land, the holder must notify the Director of the following:
- (a) the time the vessel is estimated to land;
 - (b) the place the vessel will land;
 - (c) any other information required by the Director.

Maximum penalty: 85 penalty units.

- (3) The notice may be given orally.

107U Unloading fish

The holder of a DF licence must ensure that a fish taken under the licence is unloaded from the vessel from which it was taken (or from the vessel to which the fish was moved if regulation 107R(2) applies):

- (a) in the Darwin port; or
- (b) in the Gove port; or
- (c) if the Joint Authority has given the holder written approval for the fish to be unloaded in another place – in the other place.

Maximum penalty: 85 penalty units.

107V Weighing fish

- (1) The holder of a DF licence must ensure that, immediately after fish taken under the licence are unloaded, the fish are weighed using scales that:

- (a) are an appropriate size, taking into account the amount of fish to be weighed; and
- (b) have been calibrated in accordance with subregulation (2) immediately before being used to weigh the fish.

Maximum penalty: 85 penalty units.

- (2) The scales must be calibrated using a weight:

- (a) that is an appropriate size, taking into account the size of the scales; and
- (b) that has been verified under the *National Measurement Act 1960* (Cth); and
- (c) for which the holder has a certificate of verification given under the *National Measurement Act 1960* (Cth) that has not expired.

- (3) Within 7 days after a request by a Fisheries Officer, the holder of a DF licence must produce to the Fisheries Officer the certificate of verification for a weight used by the holder to calibrate scales used under subregulation (1).

Maximum penalty: 85 penalty units.

107W Unload notice

- (1) The holder of a DF licence must, within 1 hour of unloading fish taken under the licence, notify the Director of the following:
- (a) the time the fish were unloaded;
 - (b) the place the fish were unloaded;
 - (c) the amount in kilograms of each species group unloaded, as determined under regulation 107V(1);
 - (d) the place to which the fish will be moved;
 - (e) the name of the person who will move the fish;
 - (f) the name of the licensee who has purchased the fish;
 - (g) any other information required by the Director.

Maximum penalty: 85 penalty units.

- (2) The notice may be given orally.

107X Compulsory monitoring when certain gear on vessel

- (1) This regulation applies to the holder of a DF licence if:
- (a) the holder intends to take fish under the licence during a voyage; and
 - (b) a finfish long-line or finfish trawl gear will be on board the vessel used for the voyage.
- (2) The holder must:
- (a) ensure approved monitoring equipment is fitted to the vessel and operating at all times during the voyage; or
 - (b) advise the Joint Authority of the holder's intention to take fish under the licence during the voyage at least 14 days before the start of the voyage, and, if the holder receives a notice mentioned in subregulation (4), the holder must not contravene the notice.

Maximum penalty: 170 penalty units.

- (3) Section 38(2)(b) of the Act applies to an offence against subregulation (2).

- (4) If advice is received under subregulation (2)(b), the Joint Authority may give the holder a notice requiring the holder to:
 - (a) permit a specified person to travel as a fishery observer on board the vessel:
 - (i) for the voyage; and
 - (ii) if the voyage lasts less than 7 days – for subsequent voyages during which a finfish long-line or finfish trawl gear will be on board until the observer has been on board for at least 7 days; and
 - (b) within 14 days of the end of each voyage, pay an observer fee of 700 revenue units per day of the voyage.
- (5) Subregulation (2) does not apply if the Joint Authority exempts the holder from the subregulation.
- (6) The exemption must be in writing and relate to a specified period or voyage.

107Y Compulsory monitoring after offence committed or infringement notice served

- (1) This regulation applies if the holder of a DF licence:
 - (a) is convicted of an offence against this Division; or
 - (b) is served with a relevant infringement notice for an offence against this Division and pays the penalty amount indicated in the notice.
- (2) Without limiting regulation 107Z, within 3 months after the date of the conviction or service of the infringement notice, the Joint Authority may give the holder one of the following:
 - (a) a monitoring equipment notice mentioned in subregulation (6);
 - (b) an observer notice mentioned in subregulation (7).
- (3) In deciding whether to give the holder a notice under subregulation (2), the Joint Authority must take into account the following:
 - (a) the nature and seriousness of the offence committed or alleged to have been committed;

- (b) whether the holder has previously been convicted of, or served with an infringement notice for, an offence against this Division;
 - (c) any other matter the Joint Authority considers relevant.
- (4) If a notice is given under subregulation (2), the holder must not contravene the notice.

Maximum penalty: 170 penalty units.

- (5) Section 38(2)(b) of the Act applies to an offence against subregulation (4).
- (6) A monitoring equipment notice is a notice requiring the holder to do the following:
- (a) on or before the date (the **compliance date**) which is 60 days after the date of the notice – nominate as the mother boat for the DF licence a vessel fitted with approved monitoring equipment;
 - (b) during the period of 10 months from the compliance date (the **monitoring period**) – ensure the equipment is operating at all times unless the Joint Authority has given the holder written approval for the equipment not to be operating;
 - (c) within 14 days of the end of each relevant voyage – pay a data analysis fee of 10 revenue units for each day of the relevant voyage that falls within the monitoring period.
- (7) An observer notice is a notice requiring the holder:
- (a) to permit a specified person to travel as a fishery observer on board the vessel used for one or more voyages during which the holder intends to take fish under the licence until the observer has been on board for at least 7 days during those voyages; and
 - (b) within 14 days of the end of each voyage, to pay an observer fee of 700 revenue units per day of the voyage.
- (8) In this regulation:

relevant infringement notice means an infringement notice that includes, or has attached to it, a statement that says (or in effect says), "WARNING: If you pay the penalty amount, or are convicted of the offence for which this infringement notice is given, the Joint Authority may give you a notice under regulation 107Y(2) of the *Fisheries Regulations*".

relevant voyage means a voyage:

- (a) during which a fish is taken under the licence; and
- (b) that starts or ends during the monitoring period mentioned in subregulation (6)(b).

107Z Compulsory monitoring on notice

- (1) The Joint Authority may at any time, by written notice, require the holder of a DF licence to do one of the following in relation to the next voyage undertaken by the holder during which the holder intends to take fish under the licence:
 - (a) ensure approved monitoring equipment is fitted to the vessel used for the voyage and is operating at all times during the voyage;
 - (b) permit a specified person to travel as a fishery observer on board the vessel for the voyage.
- (2) The holder must not contravene the notice.

Maximum penalty: 85 penalty units.

- (3) Section 38(2)(b) of the Act applies to an offence against subregulation (2).

Subdivision 5 Transfer of fishery units and quota units

108 Application for transfer and approval by Joint Authority

- (1) The holder of a DF licence may apply to the Joint Authority for approval to transfer one or more fishery units or quota units attached to the licence to:
 - (a) the holder of a DF licence; or
 - (b) an applicant for, or person who intends to apply for, a DF licence.
- (2) The application must be made in the approved form.
- (3) The Joint Authority must approve or refuse to approve the application and give the applicant written notice of the decision.
- (4) To avoid doubt, an application under subregulation (1) cannot be made in relation to fishery units or quota units attached to a suspended DF licence.

108A Effective date of transfer

- (1) If the Joint Authority approves an application for the transfer of fishery units or quota units to the holder of a DF licence, the transfer takes effect on the later of:
 - (a) the day after the date the approval is given; or
 - (b) the date of transfer specified in the application.
- (2) If the Joint Authority approves an application for the transfer of fishery units or quota units to an applicant for, or person who intends to apply for, a DF licence:
 - (a) the approval is conditional on the applicant or person being granted a DF licence within 14 days after the date the approval is given; and
 - (b) the transfer takes effect on the later of:
 - (i) the date the licence is granted to the person; or
 - (ii) the date of transfer specified in the application.

108B Sale or transfer of fishery units by Territory

The Territory may sell or transfer to the holder of a DF licence fishery units transferred to the Territory.

Subdivision 6 Register**108C Allocation of fishery units or quota units**

- (1) An allocation of fishery units or quota units to a DF licence is made by the Joint Authority entering in the register the number of fishery units or quota units that are allocated to the licence.
- (2) Within 7 days after making an allocation to a DF licence, the Joint Authority must give the holder of the licence written notice of the allocation.

108D Transfer of fishery units or quota units

- (1) As soon as practicable after an application for the transfer of fishery units or quota units has been approved, the Joint Authority must enter in the register the details of the transfer including the date on which the transfer takes effect.

-
- (2) As soon as practicable after a transfer of fishery units or quota units takes effect or is taken to have occurred under regulation 106, the Joint Authority must amend the register to record that the number of units transferred:
- (a) are no longer attached to the DF licence from which they were transferred or, if transferred by the Territory, are no longer held by the Territory; and
 - (b) are attached to the transferee's DF licence or, if transferred to the Territory, are held by the Territory.

108E Cancellation of quota units

- (1) The Joint Authority cancels a quota unit by recording the cancellation in the register.
- (2) Within 7 days after cancelling a quota unit attached to a DF licence, the Joint Authority must give the holder of the licence written notice of the cancellation.
- (3) If a quota unit is taken to be cancelled under regulation 107B, the Joint Authority must record the cancellation in the register as soon as practicable after the cancellation.

8 Regulation 141JB amended

- (1) Regulation 141JB(2)
omit
all words from "On" to "allocate to the"
insert
The Joint Authority must allocate to the TRF
- (2) Regulation 141JB(2)(b)
omit
 $20 \div 100$
insert
0.2

- (3) Regulation 141JB(4) and (5)
omit, insert
- (4) The allocation under subregulation (2) must be made:
- (a) immediately after an allocation to the TRF licence is made under regulation 141JA; or
 - (b) if the information required to make the allocation is not available at that time – as soon as practicable after the information becomes available.
- (5) However, if under subregulation (4)(b) the Joint Authority is required to allocate quota units to a TRF licence in relation to which any fees are due then, despite subregulation (4)(b), the Joint Authority must not allocate the quota units to the licence until the fees are paid.

9 Regulation 141JE replaced

Regulation 141JE

repeal, insert

141JE Minimum quota units to be held at start of voyage

- (1) The holder of a TRF licence commits an offence if:
- (a) the holder takes fish under the licence during a voyage; and
 - (b) at the start of the voyage the licence did not have attached to it at least:
 - (i) 6 200 quota units for goldband snapper; and
 - (ii) 3 800 quota units for red snapper; and
 - (iii) 1 000 quota units for grouped fish.

Maximum penalty: 170 penalty units.

- (2) The holder of a TRF licence commits an offence if:
- (a) the holder takes fish under the licence during a voyage; and
 - (b) at any time during the voyage there are finfish long-lines or fish-traps on the vessel used for the voyage; and

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- (c) at the start of the voyage the licence did not have attached to it at least:
- (i) 12 450 quota units for goldband snapper; and
 - (ii) 7 650 quota units for red snapper; and
 - (iii) 1 950 quota units for grouped fish.

Maximum penalty: 170 penalty units.

10 Regulation 141JP replaced

Regulation 141JP

repeal, insert

141JP Compulsory monitoring when finfish long-line on vessel

- (1) This regulation applies to the holder of a TRF licence if:
- (a) the holder intends to take fish under the licence during a voyage; and
 - (b) a finfish long-line will be on board the vessel used for the voyage.
- (2) The holder must:
- (a) ensure approved monitoring equipment is fitted to the vessel and operating at all times during the voyage; or
 - (b) advise the Joint Authority of the holder's intention to take fish under the licence during the voyage at least 14 days before the start of the voyage, and, if the holder receives a notice mentioned in subregulation (4), the holder must not contravene the notice.

Maximum penalty: 170 penalty units.

- (3) Section 38(2)(b) of the Act applies to an offence against subregulation (2).
- (4) If advice is received under subregulation (2)(b), the Joint Authority may give the holder a notice requiring the holder to:
- (a) permit a specified person to travel as a fishery observer on board the vessel:
 - (i) for the voyage; and

-
- (ii) if the voyage lasts less than 7 days – for subsequent voyages during which a finfish long-line will be on board until the observer has been on board for at least 7 days; and
 - (b) within 14 days of the end of each voyage, pay an observer fee of 700 revenue units per day of the voyage.
 - (5) Subregulation (2) does not apply if the Joint Authority exempts the holder from the subregulation.
 - (6) The exemption must be in writing and relate to a specified period or voyage.

11 Regulation 141JQ amended

- (1) After regulation 141JQ(4)
insert
 - (4A) Section 38(2)(b) of the Act applies to an offence against subregulation (4).
- (2) Regulation 141JQ(5)(a)
omit
on which approved monitoring equipment is installed
insert
fitted with approved monitoring equipment
- (3) Regulation 141JQ(6)
omit, insert
- (6) An observer notice is a notice requiring the holder:
 - (a) to permit a specified person to travel as a fishery observer on board the vessel used for one or more voyages during which the holder intends to take fish under the licence until the observer has been on board for at least 7 days during those voyages; and
 - (b) within 14 days of the end of each voyage, to pay an observer fee of 700 revenue units per day of the voyage.

12 Regulation 141JR amended**(1) Regulation 141JR(1)(a)**

omit

installed on

insert

fitted to

(2) After regulation 141JR(2)

insert

- (3) Section 38(2)(b) of the Act applies to an offence against subregulation (2).

13 Part 8, Division 16 repealed

Part 8, Division 16

repeal

14 Regulation 208B inserted

After regulation 208A

insert

208B Demersal Fishery licence levy

- (1) The Joint Authority may, by *Gazette* notice, prescribe a levy for each fishery unit attached to a Demersal Fishery licence to be paid by the holder of the licence on application for renewal of the licence.
- (2) The levy is payable in addition to any fees or levies otherwise payable under the Act or these Regulations.
- (3) If the Joint Authority refuses to renew a Demersal Fishery licence, the Joint Authority must refund to the applicant for the renewal the levy paid for the application.

15 New Part 17 inserted

After regulation 221

insert

Part 17 Transitional matters for *Fisheries Amendment (Demersal Fishery) Regulations 2012***222 Interpretation**

- (1) In this Part:

commencement date means 1 February 2012.

former demersal licence means a licence granted under regulation 102(2) of the former regulations.

former finfish trawl licence means a licence granted under regulation 141L(2) of the former regulations.

former regulations means these Regulations as in force immediately before the commencement date.

- (2) A word or phrase used in this Part that is defined in regulation 101 has the meaning given in that regulation.

223 Revocation of old licences and refund

- (1) All licences granted in relation to the Demersal Fishery and Finfish Trawl Fishery under the former regulations are revoked on the commencement date.
- (2) The Joint Authority must refund to each person who held a licence revoked under subregulation (1) the following portion of the fee paid for the renewal of the licence for the licensing year that commenced on 1 July 2011:
- (a) for a Demersal Fishery licence – \$433.33;
 - (b) for a Finfish Trawl Fishery licence – \$881.25.

224 Grant of DF licences

- (1) A person who, immediately before the commencement date, held one or more former demersal licences may apply to the Joint Authority for the grant to the person of the same number of DF licences.

- (2) A person who, immediately before the commencement date, held one or more former finfish trawl licences may apply to the Joint Authority for the grant to the person of the same number of DF licences.
- (3) An application under this regulation must be made on or before 31 May 2012.
- (4) The Joint Authority must grant the application.
- (5) If, immediately before the commencement date, a former demersal licence or former finfish trawl licence held by a person was suspended:
 - (a) the person may still make an application under subregulation (1) or (2); but
 - (b) the DF licence granted to the person on account of the suspended licence must be granted subject to the same period of suspension.

225 Allocation of fishery units

- (1) Immediately after the grant of a DF licence to a person who applied for the licence under regulation 224(1), the Joint Authority must allocate to the licence the following number of fishery units:
 - (a) 6 000 fishery units for goldband snapper;
 - (b) 28 333 fishery units for red snapper;
 - (c) 10 516 fishery units for grouped fish.
- (2) Immediately after the grant of a DF licence to a person who applied for the licence under regulation 224(2), the Joint Authority must allocate to the licence the following number of fishery units:
 - (a) 40 000 fishery units for goldband snapper;
 - (b) 800 000 fishery units for red snapper;
 - (c) 284 000 fishery units for grouped fish.

226 Transfer of fishery units if DF licence not granted

- (1) This regulation applies if a person who is entitled to apply for a DF licence does not apply for the licence under regulation 224.
- (2) On 1 June 2012, the Joint Authority must transfer to the Territory all the fishery units that would have been allocated to the DF licence under regulation 225 if it had been granted.

227 Allocation of quota units in first licence year

Immediately after the allocation of fishery units under regulation 225, the Joint Authority must allocate:

- (a) to each DF licence applied for under regulation 224(1) – the following number of quota units:
 - (i) 4 600 quota units for goldband snapper;
 - (ii) 22 970 quota units for red snapper;
 - (iii) 9 170 quota units for grouped fish; and
- (b) to each DF licence applied for under regulation 224(2) – the following number of quota units:
 - (i) 30 690 quota units for goldband snapper;
 - (ii) 648 490 quota units for red snapper;
 - (iii) 247 140 quota units for grouped fish.

16 Schedule 6 amended

- (1) Schedule 6, after entry for Regulation 54(1), (2) and (3)

insert

Regulation 107E(2)	Failing to give notice about intention to fish	4 penalty units
Regulation 107K(3)	Navigating slowly in prohibited area	8 penalty units
Regulation 107M(1)(b)	Having more than 100 kg of fish that is not intended for sale on board vessel	4 penalty units
Regulation 107N	Taking fish in excess of quota	If the excess is 50kg or less – 4 penalty units If the excess is more than 50 kg – 8 penalty units
Regulation 107T(2)	Failing to give prior landing notice	4 penalty units

Regulation 107V(1)	Failing to weigh fish properly	4 penalty units
Regulation 107V(3)	Failing to produce certificate of verification	4 penalty units
Regulation 107W(1)	Failing to give unload notice	4 penalty units

- (2) Schedule 6, entry for Regulation 141JC(2), column 2

omit

of

insert

about

- (3) Schedule 6, entry for Regulation 141JG, column 3

omit

50kg or under – 4 penalty units

51 kg to 100 kg – 8 penalty units

insert

If the excess is 50kg or less – 4 penalty units

If the excess is more than 50 kg – 8 penalty units

17 Regulations further amended

The Schedule has effect.

Part 3 Amendments relating to vessel monitoring systems

18 Regulation 53 amended

- (1) Regulation 53

omit

all words from "A" to "shall be"

insert

-
- (1) A licensee must ensure that one vessel to be used by the licensee under a licence is
- (2) After regulation 53(1)
- insert*
- (2) A vessel cannot be nominated as the mother boat for a Demersal Fishery licence or Timor Reef Fishery licence unless it is fitted with a vessel monitoring system approved in writing by the Joint Authority.

19 Regulation 107K amended

Regulation 107K(1)

omit, insert

- (1) The holder of a DF licence must not do any of the following:
- (a) take finfish trawl gear onto, or keep finfish trawl gear on, a vessel other than the mother boat for the licence;
 - (b) use finfish trawl gear from the mother boat for the licence while the vessel monitoring system fitted to the boat is not operating.

Maximum penalty: 85 penalty units.

20 Regulation 107KA inserted

After regulation 107K

insert

107KA Maintenance and operation of VMS

- (1) The holder of a DF licence must maintain the vessel monitoring system fitted to the mother boat for the licence in accordance with the manufacturer's instructions.

Maximum penalty: 85 penalty units.

- (2) In addition, the holder must ensure the vessel monitoring system is operating at all times unless the Joint Authority has given the holder written approval for the system not to be operating.

Maximum penalty: 85 penalty units.

- (3) Section 38(2)(b) of the Act applies to an offence against subregulation (2).

21 Regulation 141JDA inserted

After regulation 141JD

insert

141JDA Maintenance and operation of VMS

- (1) The holder of a TRF licence must maintain the vessel monitoring system fitted to the mother boat for the licence in accordance with the manufacturer's instructions.

Maximum penalty: 85 penalty units.

- (2) In addition, the holder must ensure the vessel monitoring system is operating at all times unless the Joint Authority has given the holder written approval for the system not to be operating.

Maximum penalty: 85 penalty units.

- (3) Section 38(2)(b) of the Act applies to an offence against subregulation (2).

Schedule Regulations further amended

regulation 17

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
regulation 141A, definitions <i>approved monitoring equipment, finfish long-line, finfish snood, goldband snapper, grouped fish, port, red snapper and species group</i>	whole definition	
regulation 141E, heading	licences	licence
regulation 141E(a) and (b)	whole paragraph	<p>(a) the person has applied for the licence; and</p> <p>(b) at least one of the following apply:</p> <p>(i) the Joint Authority has approved the transfer of fishery units or quota units to the person;</p> <p>(ii) the Territory proposes to transfer fishery units to the person.</p>
regulation 141J(5)(a)		(a) cancel the number of quota units attached to the licence that equals the number of units used; and

regulation 141JA(5)	due have not been paid	are due
regulation 141JA(5)(b)	the number	when the allocation is made, the number
	was being	had been
regulation 141JF	that the following are not	none of the following are
regulations 141JG and 141JH, before "under the licence"		while fishing
regulation 141JI, heading	outside TRF area or	
regulation 141JI(1)	all words from "fish:" to "area."	fish under any other licence.
regulation 141JI(3)	whole subregulation	
regulations 141JL(2) and (2)(a) and 141JM(a)	port	Darwin port
regulation 141JN, heading	of	
regulation 141JO(1)(f)	Fish Trader/Processor	
regulation 141JT(2)(a)	approval;	date the approval is given;
regulation 141JU heading, after " Sale "		or transfer
regulation 141JW(2), after "occurred"		under regulation 141F
regulation 141JX(3), after "cancelled"		under regulation 141J
Part 9, Division 5, heading, after " from "		Demersal Fishery or
regulation 158A, after "of a"		Demersal Fishery licence or

Schedules 2 and 3	Finfish Trawl Fishery licence
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