

NORTHERN TERRITORY OF AUSTRALIA

FISHERIES AMENDMENT REGULATIONS 2016

Subordinate Legislation No. 44 of 2016

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Subordinate Legislation No. 44 of 2016*

Fisheries Amendment Regulations 2016

I, John Laurence Hardy, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Fisheries Act*.

Dated 19 December 2016

J. L. HARDY
Administrator

By His Honour's Command

L. J. MOSS
Minister for Environment and Natural Resources
acting for
Minister for Primary Industry and Resources

* Notified in the *Northern Territory Government Gazette* on 20 December 2016.

1 Citation

These Regulations may be cited as the *Fisheries Amendment Regulations 2016*.

2 Commencement

These Regulations commence on the commencement of the *Fisheries Legislation Amendment Act 2016*.

3 Regulations amended

These Regulations amend the *Fisheries Regulations*.

4 Regulation 9 amended

- (1) Regulation 9, heading, after "**taken**"

insert

or possessed

- (2) Regulation 9(1), after "take"

insert

or have possession of

- (3) Regulation 9(2)

omit, insert

- (2) It is a defence to a charge of an offence against subregulation (1) if the defendant proves the fish were taken or possessed under a licence or permit.

5 Regulation 135 replaced

Regulation 135

repeal, insert

135 Number of licences

The Director must not grant more than 6 Trepang Fishery licences.

6 Regulation 183 replaced

Regulation 183

repeal, insert

183 Application for licence

An Aboriginal person may apply to the Director for an Aboriginal Coastal licence if:

- (a) the person 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* (Cth); and
- (b) the person is permanently resident on the land; and
- (c) persons accepted by the majority of the community or group to be its leaders indicate their support for the application.

7 Regulation 187 replaced

Regulation 187

repeal, insert

187 Licensee restrictions in relation to commercial fishing

An Aboriginal Coastal licensee must not:

- (a) hold a commercial fishing licence; or
- (b) engage in fishing operations under the Aboriginal Coastal licence while being an assistant of the holder of a commercial fishing licence.

8 Regulation 191A amended

- (1) Regulation 191A, heading

omit, insert

191A Certain fish not to be taken or sold

- (2) Regulation 191A(a), after "mackerel"

insert

, trepang

9 Part 11A inserted

After regulation 205

insert

Part 11A Fisheries Inspectors

205AA Classes of Fisheries Inspectors

- (1) A Fisheries Inspector is to be appointed under section 7A of the Act as:
 - (a) a Fisheries Inspector (Class 1); or
 - (b) a Fisheries Inspector (Class 2).
- (2) The identity card issued to the Fisheries Inspector under section 8 of the Act must identify the Fisheries Inspector's class.

205AB Powers of Fisheries Inspectors

- (1) This regulation applies if a Fisheries Inspector believes it is necessary to exercise a power under subregulation (2):
 - (a) to assist in the conservation or management of a fishery; or
 - (b) for the enforcement of the Act, these Regulations or a management plan.
- (2) The Fisheries Inspector may:
 - (a) require a person the Fisheries Inspector believes on reasonable grounds is engaged in taking fish or aquatic life to give the Fishing Inspector:
 - (i) the person's name and address; and
 - (ii) the number of the licence or permit (if any) that authorises the taking of the fish or aquatic life; and
 - (b) examine any fishing gear the Fisheries Inspector believes on reasonable grounds is being used for taking fish or aquatic life.

205AC Additional powers of Fisheries Inspectors (Class 2)

- (1) This section applies if:
 - (a) a Fisheries Inspector (Class 2) believes on reasonable grounds that a person is or has been engaged in taking fish or aquatic life; and
 - (b) the Fisheries Inspector (Class 2) believes it is necessary to exercise a power under subregulation (2):
 - (i) to assist in the conservation or management of a fishery; or
 - (ii) for the enforcement of the Act, these Regulations or a management plan.
- (2) The Fisheries Inspector (Class 2) may at all reasonable times without warrant:
 - (a) do any of the following:
 - (i) stop, enter and examine a vehicle or vessel;
 - (ii) examine fishing gear, fish or aquatic life;
 - (iii) open and examine the contents of a container; and
 - (b) require a person to unlock a vehicle, vessel or container, if the person:
 - (i) is the owner of, is in possession of, or is the person who locked the thing required to be unlocked; and
 - (ii) is in the immediate vicinity; and
 - (c) require:
 - (i) a person to answer a question; and
 - (ii) the master of a vessel, or any other person, to give an explanation or information about the vessel or a vehicle, fishing gear, fish, aquatic life or container; and
 - (d) require a person mentioned in paragraph (c) to produce within 7 days a licence, permit, special permit or other authority or certificate issued in relation to the vessel, vehicle, person or thing.

(3) In this regulation:

Fisheries Inspector (Class 2) means a Fisheries Inspector mentioned in regulation 205AA(1)(b).

205AD Fisheries Inspector to produce evidence of identity

At the request of a person in relation to whom a Fisheries Inspector is exercising a power under regulation 205AB or 205AC, the Fisheries Inspector must produce evidence that they are a Fisheries Inspector authorised to exercise the power.

Notes for regulation 205AD

- 1 *Section 8(4) of the Act provides that the production of an identity card is sufficient authority for a Fisheries Inspector to exercise powers.*
- 2 *Section 39(1) of the Act makes it an offence to obstruct a Fisheries Inspector in the exercise of powers and section 35A makes it an offence to give misleading information or documents to a Fisheries Inspector.*

10 Regulations further amended

The Schedule has effect.

11 Expiry of Regulations

These Regulations expire on the day after they commence.

Schedule Regulations further amended

regulation 10

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
regulation 46AAC(2)(b)(iii) and (3)(b)(iii)	then	than
regulation 56(2) and (3)	subsection	subregulation
regulation 71(1)(a)	Fishery/Display	Fishing/Display
regulation 96B(5)	a Off-shore	an Off-shore
regulation 122K	tranferred	transferred
regulation 122L, heading	tranferred	transferred