

NORTHERN TERRITORY OF AUSTRALIA

**FISHERIES AMENDMENT (OFF-SHORE NET AND LINE FISHERY)
REGULATIONS 2018**

Subordinate Legislation No. 25 of 2018

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NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 25 of 2018*

Fisheries Amendment (Off-shore Net and Line Fishery) Regulations 2018

I, Vicki Susan O'Halloran, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Fisheries Act 1988*.

Dated 12 December 2018

V. S. O'HALLORAN
Administrator

By Her Honour's Command

N. S. MANISON
Treasurer
acting for
Minister for Primary Industry and Resources

* Notified in the *Northern Territory Government Gazette* on 14 December 2018.

1 Citation

These Regulations may be cited as the *Fisheries Amendment (Off-shore Net and Line Fishery) Regulations 2018*.

2 Commencement

These Regulations commence on 17 December 2018.

3 Regulations amended

These Regulations amend the *Fisheries Regulations*.

4 Regulation 3 amended (Interpretation)

Regulation 3(1)

insert (in alphabetical order)

combined Blacktip Shark, for Part 8, Division 5, see regulation 96.

combined fin fish group (by-product) species, for Part 8, Division 5, see regulation 96.

combined other Shark group species, for Part 8, Division 5, see regulation 96.

combined Shark group, for Part 8, Division 5, see regulation 96.

Eastern Grey Mackerel Management Zone, for Part 8, Division 5, see regulation 96C(2).

fishery unit, for Part 8, Division 5, see regulation 96CC(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.

Grey Mackerel, for Part 8, Division 5, see regulation 96.

no-take species, for Part 8, Division 5, see regulation 96D(3).

Off-shore Net and Line Fishery area, for Part 8, Division 5, see regulation 96B(1).

ONLF licence, for Part 8, Division 5, see regulation 96.

quota unit, for Part 8, Division 5, see regulation 96CF(1).

register, for Part 8, Division 5, see regulation 96.

Spot-tail Shark, for Part 8, Division 5, see regulation 96.

total allowable catch, for Part 8, Division 5, see regulation 96CE.

Western Grey Mackerel Management Zone, for Part 8, Division 5, see regulation 96C.

5 Regulation 53 amended (Nomination of mother boat)

Regulation 53(2)

omit

a Demersal

insert

an ONLF licence, Demersal

6 Regulation 96 replaced

Regulation 96

repeal, insert

Subdivision 1 Preliminary matters

96 Definitions

In this Division:

combined Blacktip Shark means fish of the following species:

- (a) *Carcharhinus limbatus*;
- (b) *Carcharhinus tilstoni*.

combined fin fish group (by-product) species means all retained fin fish species other than Grey Mackerel and no-take species.

combined other Shark group species means all retained shark species other than combined Blacktip Shark, Spot-tail Shark or combined Shark group.

combined Shark group means fish of the following species:

- (a) *Carcharhinus amblyrhynchos*;
- (b) *Carcharhinus amboinensis*;
- (c) *Carcharhinus brevipinna*;

-
- (d) *Carcharhinus leucas*;
 - (e) *Carcharhinus obscurus*;
 - (f) *Carcharhinus plumbeus*;
 - (g) *Galeocerdo cuvier*;
 - (h) *Eusphyra blochii*;
 - (i) *Negaprion acutidens*;
 - (j) *Sphyrna lewini*;
 - (k) *Sphyrna mokarran*.

Eastern Grey Mackerel Management Zone, see regulation 96C(3).

fishery unit, see regulation 96CC(1).

Grey Mackerel means fish of the species *Scomberomorus semifasciatus*.

no-take species, see regulation 96D(3).

Off-shore Net and Line Fishery area, see regulation 96B(1).

ONLF licence means an Off-Shore Net and Line Fishery licence.

quota unit, see regulation 96CF(1).

register means the register maintained under section 9(1) of the Act in relation to the Off-shore Net and Line Fishery.

Spot-tail Shark means fish of the species *Carcharhinus sorrah*.

total allowable catch, see regulation 96CE.

Western Grey Mackerel Management Zone, see regulation 96C(2).

7 Regulation 96A amended (Declaration of Off-shore Net and Line Fishery)

Regulation 96A

omit

referred to in regulation 100(1)(a), (b), (c) or (d)

insert

mentioned in regulation 100(1)(a), (b) or (c)

8 Regulations 96B to 96CC replaced

Regulations 96B to 96CC

repeal, insert

96B Area of fishery

- (1) The **Off-shore Net and Line Fishery area** is the area extending seaward from the low water mark to the outer boundary of the Australian fishing zone to the extent the waters are waters relevant to the Northern Territory.
- (2) In this regulation:

waters relevant to the Northern Territory means the waters described in Schedule 1, item 7 (Scheduled area for the Northern Territory) to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth).

96C Mackerel Management zones

- (1) Within the Off-shore Net and Line Fishery area there are two management zones relating to Grey Mackerel, the Western Grey Mackerel Management Zone and the Eastern Grey Mackerel Management Zone, that make up the waters of the Fishery area.
- (2) The Western Grey Mackerel Management Zone lies west of a line, commencing at the low water mark at Cape Arnhem at the point where the meridian of longitude 136°58.767' East meets the coast and extending due north until it intersects with the outer boundary of the Australian Fishing Zone.

Note for subregulation (2)

Co-ordinates are shown in Geocentric Datum of Australia 1994 (GDA94) degrees decimal minutes (DD MM.MMM).

- (3) The Eastern Grey Mackerel Management Zone lies east of the line mentioned in subregulation (2).

Subdivision 2 Licences and fishery units

96CA ONLF licence

- (1) The holder of an ONLF licence may participate in the Off-shore Net and Line Fishery in accordance with this Division.

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- (2) An ONLF licence cannot be transferred.

96CB Grant of ONLF licence

The Joint Authority may grant an ONLF 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.

96CC Fishery units generally

- (1) A **fishery unit** is a unit that entitles the holder of the ONLF 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 96CG.

- (2) A fishery unit does not expire.
- (3) A fishery unit may be transferred under Subdivision 4.
- (4) A fishery unit attached to an ONLF licence that is cancelled is taken to be transferred to the Territory on the day of the cancellation.
- (5) A fishery unit attached to an ONLF licence that expires and is not renewed within the period permitted under section 16 of the Act is taken to be transferred to the Territory on the day after the period ends.

96CD Total number of fishery units

In the Off-shore Net and Line Fishery there are a total of:

- (a) 404 000 fishery units for grey mackerel species from the Western Grey Mackerel Management Zone; and
- (b) 131 000 fishery units for grey mackerel species from the Eastern Grey Mackerel Management Zone; and
- (c) 434 694 fishery units for combined Blacktip Shark; and
- (d) 121 446 fishery units for Spot-tail Shark; and

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- (e) 246 441 fishery units for combined Shark group; and
 - (f) 126 447 fishery units for combined other Shark group species; and
 - (g) 59 397 fishery units for combined fin fish group (by-product) species.

Subdivision 3 Total allowable catch and quota units

96CE Total allowable catch

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

- (a) 404 000 kg of grey mackerel species from the Western Grey Mackerel Management Zone; and
- (b) 131 000 kg of grey mackerel species from the Eastern Grey Mackerel Management Zone; and
- (c) 434 694 kg of combined Blacktip Shark; and
- (d) 121 446 kg of Spot-tail Shark; and
- (e) 246 441 kg of combined Shark group; and
- (e) 126 447 kg of combined other Shark group species; and
- (f) 59 397 kg of combined fin fish group (by-product) species, including 13 500 kg of Spanish Mackerel.

96CF Quota units generally

- (1) A ***quota unit*** is a unit that, until it is used or expires, entitles the holder of the ONLF licence to which the unit is attached to take 1 kg of the species group to which the quota unit relates from the Off-shore Net and Line Fishery area in accordance with this Division.
- (2) For Grey Mackerel, quota units relate to either the Eastern Grey Mackerel Management Zone or the Western Grey Mackerel Management Zone
- (3) A quota unit is used when the holder of the ONLF 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 Off-shore Net and Line Fishery area, or the relevant zone within the area.

-
- (4) A quota unit expires on 30 June of the licence year in which the unit was allocated.
 - (5) A quota unit may be transferred under Subdivision 4.
 - (6) The Joint Authority must, if satisfied the holder of an ONLF 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 96CH before cancelling any other quota units attached to the licence.
 - (7) A quota unit is taken to be cancelled if:
 - (a) it expires; or
 - (b) the ONLF licence to which it is attached is cancelled.

96CG 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 ONLF licence to which fishery units are attached.
- (2) If an ONLF 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 ONLF licence.

L is the number of fishery units for the relevant species group attached to the ONLF 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 96CD.

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

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- (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 an ONLF 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).

96CH Additional allocation of quota units for undercatch

- (1) This regulation applies if:
- (a) one or more eligible quota units attached to an ONLF licence expire at the end of a licence year (the **first year**); and
 - (b) the licence is renewed the following licence year.
- (2) The Joint Authority must allocate to the ONLF 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:

$$A = (AQ + BQ - TQ) \times 0.1$$

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 ONLF licence is made under regulation 96CG; 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) In this regulation:

eligible quota units means:

- (a) quota units allocated to the ONLF licence under regulation 96CG or 237; or
- (b) quota units allocated to another ONLF licence under regulation 96CG or 237 and subsequently transferred to the holder of the ONLF licence.

96CI Overcatch

- (1) An **overcatch** is when any of the following occurs:
 - (a) an ONLF licensee has taken more than 794 kg of Spanish mackerel during a licence year;
 - (b) an ONLF licensee has, within a licence year, taken more of a species group than the licensee is entitled to take under the quota units attached to the licence relevant to the species group.
- (2) The Joint Authority may, as soon as practicable after an overcatch occurs, give the ONLF licensee a notice (an **overcatch notice**) specifying the amount of the overcatch.

-
- (3) The overcatch notice, or a later notice, may impose an overcatch fee (if applicable) determined by the Joint Authority under subregulation (4).
 - (4) The Joint Authority may determine the amount of a fee (the **overcatch fee**) for each kilogram of overcatch of a species group taken by an ONLF licensee in a licence year.
 - (5) An overcatch fee is not applicable in the circumstance mentioned in subregulation (1)(a) unless the total amount of Spanish mackerel taken to date in the licence year in the Off-shore Net and Line Fishery area is in excess of 13 500 kg.
 - (6) After being given an overcatch notice, an ONLF licensee must do the following:
 - (a) for an overcatch that is not one mentioned in subregulation (1)(a) – within 7 days of being given the notice, arrange for the transfer to the licence of the number of quota units relevant to the species group equal to the overcatch amount specified in the notice;
 - (b) within 30 days of being given the notice – pay any overcatch fee imposed.

Subdivision 4 Transfer of fishery units and quota units

96CJ Application for transfer and approval by Joint Authority

- (1) The holder of an ONLF 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 an ONLF licence; or
 - (b) an applicant for, or person who intends to apply for, an ONLF 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 ONLF licence.

96CK 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 an ONLF 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, an ONLF licence:
 - (a) the approval is conditional on the applicant or person being granted an ONLF 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.

96CL Sale or transfer of fishery units by Territory

The Territory may sell or transfer to the holder of an ONLF licence fishery units transferred to the Territory.

Subdivision 5 Register

96CM Allocation of fishery units or quota units

- (1) An allocation of fishery units or quota units to an ONLF 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 an ONLF licence, the Joint Authority must give the holder of the licence written notice of the allocation.

96CN 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.

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- (2) As soon as practicable after a transfer of fishery units or quota units takes effect or is taken to have occurred under regulation 96CC, the Joint Authority must amend the register to record that the number of units transferred:
- (a) are no longer attached to the ONLF 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 ONLF licence or, if transferred to the Territory, are held by the Territory.

96CO 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 an ONLF 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 96CF, the Joint Authority must record the cancellation in the register as soon as practicable after the cancellation.

Subdivision 6 Fishing in Off-shore Net and Line Fishery

9 Regulation 96D amended (Taking of fish)

- (1) Regulation 96D(1)
omit
a restricted Off-shore Net and Line Fishery
insert
an ONLF
- (2) Regulation 96D(1B)
omit
an Off-shore Net and Line Fishery fishing unit
insert
a quota unit

-
- (3) Regulation 96D(1B), at the end

insert

Note for subregulation (1B)

Because of regulation 96CI(1)(b), regulation 96CI applies if a licensee contravenes this subregulation.

- (4) Regulation 96D(2)(a) and (b)

omit, insert

(a) 30 Spanish mackerel, trunked or retained as whole fish; and

(b) for each tonne of grey mackerel taken by the licensee during the voyage – not more than an additional 10 Spanish mackerel, trunked or retained as whole fish; and

(ba) 5 black jewfish, trunked or retained as whole fish; and

- (5) Regulation 96D(2A), after "mackerel"

insert

, black jewfish

- (6) Regulation 96D(3), after "crab"

insert

(each a ***no-take species***)

10 Regulations 97 to 99 repealed

Regulations 97 to 99

repeal

11 Regulation 100 amended (Fishing gear)

- (1) Regulation 100(1)(a)

omit

coastline

insert

low water mark

-
- (2) Regulation 100(1)(c)
omit
zone; and
insert
zone.
- (3) Regulation 100(1)(d)
omit
- (4) Regulation 100(4) and (5)
omit
Off-shore Net and Line Fishery
insert
ONLF
- (5) Regulation 100(8)
omit

12 Regulation 100A replaced

Regulation 100A

repeal, insert

100A Maintenance and operation of vessel monitoring system

- (1) The holder of an ONLF 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.

Maximum penalty: 85 penalty units.

- (3) Subregulation (2) does not apply if the Joint Authority gives the holder written approval for the system not to be operating.

-
- (4) If the Joint Authority gives written approval under subregulation (3), the holder must comply with all conditions, restrictions or limitations specified in the approval.

Maximum penalty: 85 penalty units.

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

100B Navigating in Grey Mackerel Management Zones

- (1) The holder of an ONLF licence commits an offence if:
- (a) a vessel being used for fishing under the licence is navigated in a Grey Mackerel Management Zone; and
 - (b) there is pelagic net on the vessel; and
 - (c) the holder does not meet Grey Mackerel minimum quota units relevant to the zone; and
 - (d) information given by the vessel monitoring system fitted to the vessel shows that, at any time while moving in the management zone the vessel travelled at a speed of less than 5 nautical miles per hour as worked out under subregulation (3).

Maximum penalty: 85 penalty units.

- (2) Subregulation (1) does not apply if:
- (a) the vessel travels at a speed of less than 5 nautical miles per hour only immediately before and after being stationary; or
 - (b) the Joint Authority gives the holder approval for the vessel to be navigated in the management zone and the vessel is navigated in accordance with any instructions given by the Joint Authority.
- (3) For subregulation (1)(d), 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.

100C Minimum quota units to be held at start of voyage

- (1) The holder of an ONLF licence commits an offence if:
- (a) the holder takes fish under the licence using demersal long-line or pelagic long-line methods during a voyage; and
 - (b) at the start of the voyage the licence did not have attached to it at least:
 - (i) 5 000 quota units for combined Blacktip Shark; and
 - (ii) 1 600 quota units for Spot-tail Shark; and
 - (iii) 4 700 quota units for combined Shark group; and
 - (iv) 2 400 quota units for combined other Shark group species.

Maximum penalty: 170 penalty units.

- (2) The holder of an ONLF licence commits an offence if:
- (a) the holder takes fish under the licence using pelagic net methods during a voyage targeting Grey Mackerel; and
 - (b) at the start of the voyage the licence did not have attached to it at least:
 - (i) 2 700 quota units for Grey Mackerel, relevant to the management zone from which the fish are to be taken; and
 - (ii) 1 050 quota units for combined Blacktip Shark; and
 - (iii) 250 quota units for Spot-tail Shark; and
 - (iv) 150 quota units for combined Shark group; and
 - (v) 50 quota units for combined other Shark group species; and
 - (vi) 300 quota units for combined fin fish species.

Maximum penalty: 170 penalty units.

- (3) The holder of an ONLF licence commits an offence if:
- (a) the holder takes fish under the licence using pelagic net methods during a voyage targeting sharks; and

(b) at the start of the voyage the licence did not have attached to it at least:

- (i) 1 100 quota units for Grey Mackerel species relevant to the management zone from which the fish are to be taken; and
- (ii) 3 700 quota units for combined Blacktip Shark; and
- (iii) 800 quota units for Spot-tail Shark; and
- (iv) 600 quota units for combined Shark group; and
- (v) 150 quota units for combined other Shark group species; and
- (vi) 150 quota units for combined fin fish species.

Maximum penalty: 170 penalty units.

100D No fishing under another licence during voyage

- (1) The holder of an ONLF 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).

100E Fish not to be moved between vessels

- (1) The holder of an ONLF 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.

100F Processing at sea

- (1) The holder of an ONLF licence must ensure that all sharks are landed with fins naturally attached.

Maximum penalty: 85 penalty units.

- (2) Subregulation (1) does not prevent trunking of sharks.

-
- (3) However, for Hammerhead sharks the heads must remain attached to the body for accurate species identification when:
- (a) no fishing monitoring equipment is in place; and
 - (b) 37 tonnes of Scalloped Hammerhead sharks have been taken in a licence year.

Maximum penalty: 85 penalty units.

- (4) Subregulation (1) does not apply if the Joint Authority gives the holder written approval to land sharks without fins attached.
- (5) In this regulation:

Hammerhead sharks means fish of the following species:

- (a) *Sphyrna lewini*;
- (b) *Sphyrna mokarran*.

Scalloped Hammerhead sharks means fish of the species *Sphyrna lewini*.

100G Unloading fish

The holder of an ONLF 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 100E(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.

100H Weighing fish

- (1) The holder of an ONLF licence must ensure that fish taken under the licence 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 regulation 100J(1) immediately before being used to weigh the fish.

Maximum penalty: 85 penalty units.

- (2) If fish taken under an ONLF licence are not weighed at sea, they must be weighed as soon as practicable after unloading.
- (3) If fish taken under an ONLF licence are weighed at sea:
- (a) the scales used must be certified motion compensated marine scales; and
- (b) the container into which the fish are placed must display a label showing the following information:
- (i) the date of packaging;
- (ii) the fish species;
- (iii) the nature of the product (for example, whether whole fish or trunked);
- (iv) the weight in kilograms;
- (v) the number of the licence under which the fish were taken;
- (vi) any other information specified by the Joint Authority.
- (4) The holder of an ONLF licence who contravenes subregulation (3)(a) or (b) commits an offence.

Maximum penalty: 85 penalty units.

100J Calibration of scales

- (1) The scales used under regulation 100H 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.

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- (2) Within 7 days after a request by a Fisheries Officer, the holder of an ONLF licence must produce to the Fisheries Officer the certificate of verification for a weight used by the holder to calibrate scales used under regulation 100H.

Maximum penalty: 85 penalty units.

100K Compulsory monitoring when certain gear on vessel

- (1) This regulation applies to the holder of an ONLF licence if:
- (a) the holder intends to take fish under the licence during a voyage; and
 - (b) demersal long-line or pelagic 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 demersal long-line or pelagic 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 that the observer is on board the vessel.

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- (5) Subregulation (2) does not apply if the Joint Authority exempts the holder from that subregulation.
 - (6) The exemption mentioned in subregulation (5) must be in writing and relate to a specified period or voyage.

100L Compulsory monitoring in other circumstances

- (1) This regulation applies to the holder of an ONLF licence if the holder has taken fish under the licence during a voyage and either:
 - (a) intends to unload the fish in a port other than Darwin port or Gove port; or
 - (b) has on the vessel a fin that is not naturally attached to the body of a shark.

- (2) The holder must do the following, as appropriate:
 - (a) give the Joint Authority at least 3 days notice of the holder's intention to unload at the other port;
 - (b) notify the Joint Authority of the presence on board the vessel of the unattached fin.

Maximum penalty: 85 penalty units.

- (3) Section 38(2)(b) of the Act applies to an offence against subregulation (2).
- (4) If notice is received under subregulation (2), 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 remainder of the voyage; and
 - (ii) if the remainder of the voyage lasts less than 7 days – for subsequent voyages 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 that the observer is on board the vessel.

- (5) Subregulation (2) does not apply if the Joint Authority exempts the holder from that subregulation.
- (6) The exemption mentioned in subregulation (5) must be in writing and relate to a specified period or voyage.

100M Compulsory monitoring after offence committed or infringement notice served

- (1) This regulation applies if the holder of an ONLF licence:
 - (a) is found guilty 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 100N, within 3 months after the date of the finding of guilt 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 found guilty 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 ONLF licence a vessel fitted with approved monitoring equipment;

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- (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 found guilty of the offence for which this infringement notice is given, the Joint Authority may give you a notice under regulation 100M(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).

100N Compulsory monitoring on notice

- (1) The Joint Authority may at any time, by written notice, require the holder of an ONLF 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.

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- (2) If a notice is given under subregulation (1), 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).

100P Approved monitoring equipment

- (1) The holder of an ONLF licence who is required to have approved monitoring equipment on board a vessel must ensure that video footage and other data is:

- (a) complete (no missing, edited or corrupt data); and
- (b) stamped with the date and time the footage or data is taken; and
- (c) stored on an appropriate data storage device on board the vessel; and
- (d) held for a minimum of 6 months; and
- (e) provided to the Joint Authority within 10 business days after receiving a written request from the Joint Authority for the footage and data to be provided.

- (2) The holder of an ONLF licence who contravenes subregulation (1) commits an offence.

Maximum penalty: 85 penalty units.

13 Regulation 208CA inserted

After regulation 208C

insert

208CA Off-shore Net and Line Fishery licence levy

- (1) The Joint Authority may, by *Gazette* notice, prescribe a levy for each fishery unit attached to an Off-shore Net and Line Fishery licence to be paid by the holder, or prospective holder, of the licence on application for grant or renewal of the licence.
- (2) The levy is payable in addition to any fees or levies otherwise payable under the Act or these Regulations.

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- (3) If the Joint Authority refuses to grant or renew an Off-shore Net and Line Fishery licence, the Joint Authority must refund to the applicant for the grant or renewal the levy paid for the application.

14 Part 19 inserted

After regulation 232

insert

**Part 19 Transitional matters for Fisheries Amendment
(Off-shore Net and Line Fishery)
Regulations 2018**

233 Interpretation

- (1) In this Part:

commencement means the commencement of the *Fisheries Amendment (Off-shore Net and Line Fishery) Regulations 2018*.

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

restricted licence means a licence granted under regulation 96B of the former regulations.

unrestricted licence means a licence granted under regulation 98 of the former regulations.

- (2) A word or phrase used in this Part that is defined in regulation 96 has the meaning given in that regulation.

234 Revocation of old licences

All licences granted in relation to the Off-shore Net and Line Fishery under the former regulations are revoked on the commencement.

235 Grant of ONLF licences

- (1) A person who, immediately before the commencement, held one or more unrestricted licences may apply to the Joint Authority for the grant to the person of the same number of ONLF licences.
- (2) A person who, immediately before the commencement, held one or more restricted licences may apply to the Joint Authority for the grant to the person of the same number of ONLF licences.

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- (3) An application under this regulation must be made on or before 30 June 2019.
 - (4) The Joint Authority must grant the application.
 - (5) If, immediately before the commencement, a restricted or unrestricted licence held by a person was suspended:
 - (a) the person may still make an application under subregulation (1) or (2); but
 - (b) the ONLF licence granted to the person on account of the suspended licence must be granted subject to the same period of suspension.

236 Allocation of fishery units to eligible licences

- (1) Subregulation (2) applies immediately after the grant of an ONLF licence to a person who applied for the licence under regulation 235(1).
- (2) The Joint Authority must allocate to the licence the following number of fishery units for each Off-shore Net and Line Fishery fishing unit for taking fish using demersal long-lines and pelagic long-lines issued to the person in accordance with regulation 96CA of the former regulations:
 - (a) 983 fishery units for combined Blacktip Shark;
 - (b) 314 fishery units for Spot-tail Shark;
 - (c) 937 fishery units for combined Shark group;
 - (d) 69 fishery units for combined other Shark group species;
 - (e) 1 fishery unit for combined fin fish group (by-product) species.
- (3) Subregulation (4) applies immediately after the grant of an ONLF licence to a person who applied for the licence under regulation 235(2).
- (4) The Joint Authority must allocate to the licence the following number of fishery units for each Off-shore Net and Line Fishery fishing unit for taking fish using pelagic nets issued to the person in accordance with regulation 96CA of the former regulations:
 - (a) 167.29 fishery units for Grey Mackerel species;
 - (b) 128 fishery units for combined Blacktip Shark;
 - (c) 30 fishery units for Spot-tail Shark;

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- (d) 17 fishery units for combined Shark group;
 - (e) 69 fishery units for combined other Shark group species;
 - (f) 37 fishery units for combined fin fish group (by-product) species.
- (5) Additional fishery units for Grey Mackerel species are allocated to an eligible ONLF licence in accordance with the following formula:

$$A = 267\,500 \times (ABC \div AC)$$

where:

A is the number of additional fishery units for Grey Mackerel species to be allocated to the eligible ONLF licence.

ABC is the average best catch for the eligible ONLF licence.

AC is the aggregated average best catch for Grey Mackerel species.

- (6) If, under subregulation (2) or (4), the Joint Authority is required to allocate quota units to an ONLF 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 (2) or (4).
- (7) In this regulation:

aggregated average best catch means the total of the average best catch for all eligible ONLF licences.

average best catch, for an ONLF licence, means the average of the 3 largest annual amounts of Grey Mackerel species recorded by the Joint Authority as sold from the Off-shore Net and Line Fishery under the relevant licence in the period from 1 July 2007 to 30 June 2012.

eligible ONLF licence means an ONLF licence for which the average best catch is at least 1 kg.

relevant licence, in relation to an ONLF licence, means the restricted licence or unrestricted licence in place of which the ONLF licence was granted under regulation 235.

237 Allocation of quota units to ONLF licences

Immediately after the allocation of fishery units under regulation 236, the Joint Authority must allocate to each ONLF licence granted under regulation 235 the number of quota units for each species group calculated in accordance with the following formula:

$$A = (L \div T \times TAC) \times 0.583$$

where:

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

L is the number of fishery units for the relevant species group attached to the ONLF 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 96CD.

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

238 Transfer of fishery units if ONLF licence not granted

- (1) This regulation applies if a person who is entitled to apply for a ONLF licence does not apply for the licence under regulation 235.
- (2) On 1 July 2019, the Joint Authority must transfer to the Territory all the fishery units that would have been allocated to the ONLF licence under regulation 236 if it had been granted.

15 Schedule 6 amended

Schedule 6, **Fisheries Regulations**, after entry for Regulation 54(1), (2) and (3)

insert

Regulation 100A(1), (2) and (4)	Failing to maintain or operate vessel monitoring system or noncompliance with conditions	4 penalty units
Regulation 100B(1)	Navigating slowly in Eastern or Western Grey Mackerel Management Zone	8 penalty units
Regulation 100F(1)	Fins not naturally attached	4 penalty units

Regulation 100F(3)	Hammerhead shark head not attached	4 penalty units
Regulation 100H(1)	Failing to weigh fish properly	4 penalty units
Regulation 100H(4)	Use of incorrect scales or failure to label packaging correctly	4 penalty units
Regulation 100J(2)	Failing to produce certificate of verification	4 penalty units
Regulation 100P(2)	Failure to comply with requirements for approved monitoring equipment	4 penalty units

16 Regulations further amended

The Schedule has effect.

Part 3 Repeal of Regulations

17 Repeal of Regulations

These Regulations are repealed on the day after they commence.

Schedule Regulations further amended

regulation 16

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
regulation 101, definition Gove port	whole definition	
regulation 106(5)	12(2)	16
regulation 107Y(1)(a)	convicted	found guilty
regulation 107Y(2)	conviction	finding of guilt
regulations 107Y(3)(b) and (8), definition relevant infringement notice	convicted	found guilty
regulation 141F(5)	12(2)	16
regulation 141JQ(1)(a)	convicted	found guilty
regulation 141JQ(2)	conviction	finding of guilt
regulation 141JQ(3)(b) and (7), definition relevant infringement notice	convicted	found guilty
regulation 208D(1)(b)	a	an ONLF licence,