

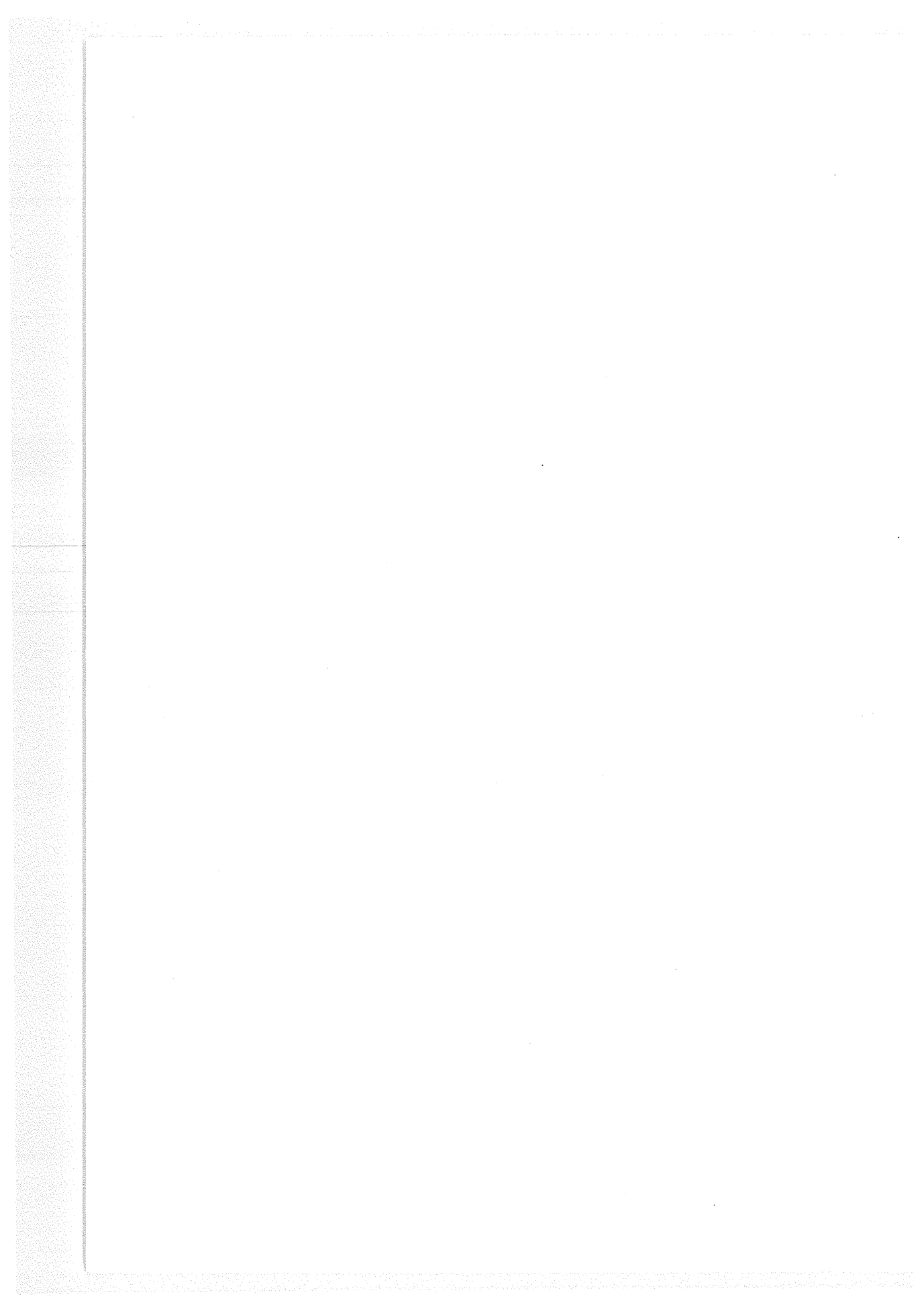
NORTHERN TERRITORY OF AUSTRALIA
AMENDMENTS OF FISHERIES REGULATIONS

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 1997, No. 31*

Regulations under the *Fisheries Act*

I, NEIL RAYMOND CONN, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Fisheries Act*.

Dated 30 October 1997.

N R CONN
Administrator

AMENDMENTS OF FISHERIES REGULATIONS

1. PRINCIPAL REGULATIONS

The Fisheries Regulations are in these Regulations referred to as the Principal Regulations.

2. INTERPRETATION

Regulation 3 of the Principal Regulations is amended -

- (a) by omitting from subregulation (1) the definition of "assistant";
- (b) by omitting from subregulation (1) the definition of "bait" and substituting the following:

"'bait' means fish, aquatic life, meat or other organic substance capable of being used, or intended to be used, to entice fish or aquatic life;"; and

* Notified in the *Northern Territory Government Gazette* on 12 November 1997.

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(c) by omitting from subregulation (1) the definitions of "licensee's record book", "licensing year" and "limited entry fishery" and substituting the following:

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

3. NEW REGULATION

The Principal Regulations are amended by inserting after regulation 46A the following:

"46B. AMATEUR POSSESSION LIMIT

"(1) In this regulation -

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

'fish' does not include -

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

'managed species' means a barramundi, mud crab, Spanish mackerel or jewfish;

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

"(2) The Minister may, by notice in the *Gazette*, prescribe a fish for the purposes of paragraph (d) of the definition of 'fish' in subregulation (1).

"(3) A person must not have possession of more than 30 fish.

Penalty: Possession of 31 to 40 fish - \$2,000;
Possession of more than 40 fish - \$10,000,
and, in addition, \$50 for each fish in excess of 30.

"(4) For the purposes of subregulation (3), a piece of fish, other than a fillet, is to be counted as one

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fish, unless the defendant establishes that 2 or more pieces of a fish were obtained from one fish only.

"(5) For the purposes of subregulation (3), 2 fillets together comprise only one fish.

"(6) A person must not have possession of a trunked fish or a fillet unless the skin is retained on it.

Penalty: \$1,000.

"(7) It is a defence to a charge of an offence against subregulation (6) if the defendant proves that the fish was processed for immediate consumption by the defendant or another person in the company of the defendant.

"(8) It is a defence to a charge of an offence against subregulation (3) or (6) if the defendant proves that —

- (a) the fish were taken under a licence or permit entitling the person to take the fish;
- (b) the fish were at his or her place of permanent residence;
- (c) the fish were obtained from a licensee, or the holder of a permit, permitted to sell the fish;
- (d) the fish were purchased from a retail or wholesale outlet; or
- (e) the fish were processed fish imported into the Territory packaged for sale to a final consumer and marked with the State or Territory from which the fish were imported or, where the fish were imported from a country other than Australia, the country from which they were imported.

"(9) Where a person is not alone and it is not readily ascertainable who has possession of the fish, subregulation (3) applies to each person as though each person has possession of all the fish.

"(10) Notwithstanding subregulation (9), where a person establishes that —

- (a) he or she is a member of a fishing party;
- (b) the fish will be shared equally amongst the members of the fishing party; and
- (c) if the sharing was to take place amongst those persons in the party who are present or able to be assembled in a short period of time, no person in the party would be guilty by reason of this

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subregulation or otherwise of contravening this regulation,

then each person is deemed to have possession of his or her equal share only of the fish.

"(11) A person must not have possession of a container that contains -

(a) a fillet from a fish that is a managed species; and

(b) a fillet from a fish that is not a managed species,

unless the fillets are separated from each other by packaging.

Penalty: \$1,000."

4. APPROVAL OF PERSONS TO CONDUCT OPERATIONS

Regulation 50 of the Principal Regulations is amended -

(a) by omitting "under section 11 of the Act or a person under section 14 of the Act" and substituting "or short term operator"; and

(b) by omitting "competent" and substituting "an appropriate person".

5. REPEAL

Regulation 51 of the Principal Regulations is repealed.

6. SALE AND PROCESSING OF FISH

Regulation 58 of the Principal Regulations is amended -

(a) by omitting "(1) For the" and substituting "For the";

(b) by omitting paragraph (b); and

(c) by omitting "sale or" from paragraph (c).

7. ASSISTANTS AND NOMINEES

Regulation 69 of the Principal Regulations is amended by omitting subregulation (3).

8. REPEAL AND SUBSTITUTION

Regulation 72 of the Principal Regulations is repealed and the following substituted:

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"72. NO FISHING FOR SALE IN VICINITY OF ARTIFICIAL REEFS

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

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

9. REPEAL

Regulation 108 of the Principal Regulations is repealed.

10. NUMBER OF LICENCES

Regulation 109 of the Principal Regulations is amended by omitting subregulation (1) and substituting the following:

"(1) The Director must not grant a Barramundi Fishery licence."

11. REPEAL

Regulation 111 of the Principal Regulations is repealed.

12. TRANSFER OF LICENCE

Regulation 141T of the Principal Regulations is amended -

- (a) by omitting "A Jigging" and substituting "(1) A Jigging"; and
- (b) by adding at the end the following:

"(2) Subregulation (1) does not apply in relation to a Jigging Fishery licence in force immediately before 1 October 1997."

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13. REPEAL

Regulation 146 of the Principal Regulations is repealed.

14. SALE TO AQUARIUM FISHING/DISPLAY FISHERY LICENSEE

Regulation 147 of the Principal Regulations is amended by omitting "or is appointed under regulation 146 shall" and substituting "and an assistant must".

15. REPEAL

Regulation 164 of the Principal Regulations is repealed.

16. SALE OF FISH

Regulation 174 of the Principal Regulations is amended —

- (a) by omitting "sell fish" and substituting "sell fish or aquatic life";
- (b) by inserting after paragraph (a) the following:
"(aa) an Aquarium Fishing/Display licensee;"; and
- (c) by omitting from paragraph (e) "fish" and substituting "fish or aquatic life".

17. REPEAL AND SUBSTITUTION

Regulation 192 of the Principal Regulations is repealed and the following substituted:

"192. TOUR OPERATOR TO BE LICENSED

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

18. REPEAL AND SUBSTITUTION

Regulations 195 and 196 of the Principal Regulations are repealed and the following substituted:

"195. AREA OF FISHERY

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

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"196. FISHING GEAR

"(1) The holder of a Fishing Tour Operator licence, and a short term operator, nominated person and assistant, who is conducting or assisting the conduct of a fishing tour -

- (a) must not use fishing gear except amateur fishing gear; and
- (b) must not use such gear other than under and in accordance with the provisions of these Regulations relating to amateur fishing.

"(2) The holder of a Fishing Tour Operator licence, and a short term operator, nominated person and assistant, who is conducting or assisting the conduct of a fishing tour, must not take fish under another licence."

19. FISH NOT TO BE TRADED

Regulation 198 of the Principal Regulations is amended by omitting "A Fishing Tour Operator licensee" and substituting "The holder of a Fishing Tour Operator licence, and a short term operator, nominated person and assistant, who is conducting or assisting the conduct of a fishing tour".

20. REPEAL

Regulation 202 of the Principal Regulations is repealed.

21. HEADING TO PART 12

The heading to Part 12 of the Principal Regulations is amended by omitting "FEES AND LEVIES" and substituting "MISCELLANEOUS".

22. FURTHER AMENDMENTS

The Principal Regulations are further amended as specified in the Schedule.

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SCHEDULE

Regulation 22

Regulation	omit	substitute
Regulation 67	"Division"	"Part"
Regulation 173	"fish" (twice occurring)	"fish or aquatic life"
Regulation 175	"fish" (twice occurring)	"fish or aquatic life"
Regulation 179	"the Joint Authority"	"the Director"
Regulation 181(4)(b)	"the Joint Authority"	"the Director"
Regulation 204(1)	"(1) The holder"	"The holder"