

NORTHERN TERRITORY OF AUSTRALIA
AMENDMENTS OF FISHERIES REGULATIONS

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SCHEDULE

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1995, No. 3*

Regulations under the *Fisheries Act*

I, KEITH JOHN AUSTIN ASCHE, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the *Fisheries Act*.

Dated 31 January 1995.

K.J.A. ASCHE
Administrator

AMENDMENTS OF FISHERIES REGULATIONS

1. PRINCIPAL REGULATIONS

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

2. COMMENCEMENT

These Regulations shall come into operation on 3 February 1995.

3. INTERPRETATION

Regulation 3(1) of the Principal Regulations is amended by omitting the definition of "Australian Fishing Zone".

4. DEFINITIONS RELATING TO GEAR

Regulation 4 of the Principal Regulations is amended -

- (a) by inserting after the definition of "drop line" the following:

"'finfish trawl gear' means a net -

* Notified in the *Northern Territory Government Gazette* on 31 January 1995.

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

- (b) by inserting after the definition of "hand spear" the following:

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

- (c) by inserting after the definition of "net" the following:

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

5. INTERPRETATION

Regulation 5 of the Principal Regulations is amended -

- (a) by omitting "Division 10" and substituting "Division 5, 6, 15 or 16";
- (b) by omitting "the Pearl Oyster Fishery" and substituting "each Joint Authority fishery"; and
- (c) by adding at the end the following:

"(2) These Regulations are, to the extent that they apply to a Joint Authority fishery, made pursuant to section 70 of the Act."

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6. REPEAL AND SUBSTITUTION

Regulation 50 of the Principal Regulations is repealed and the following substituted:

"50. APPROVAL OF PERSONS TO CONDUCT OPERATIONS

"The Director shall not approve a nominated person under section 11 of the Act or a person under section 14 of the Act, unless satisfied that the person is competent to carry out operations under the licence in respect of which he or she was nominated and will exercise independent judgment and control over operations under the licence."

7. SALE OF FISH

Regulation 71 of the Principal Regulations is amended -

(a) by omitting from subregulation (1)(g) "to a" and substituting "to"; and

(b) by adding at the end the following:

"(3) A person who holds a permit granted under the Commonwealth Act or a licence granted under a law of a State or another Territory of the Commonwealth permitting the taking and sale of fish may sell in the Territory fish taken in accordance with the permit or licence."

8. REPEAL AND SUBSTITUTION

Division 1 of Part 8 of the Principal Regulations is repealed and the following substituted:

"Division 1 - Coastal Line Fishery

"73. DEFINITIONS

"In this Division -

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

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

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"74. DECLARATION OF COASTAL LINE FISHERY

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

"75. RESTRICTED LICENCES

"(1) Except in accordance with this Division, the Director shall not grant a licence in respect of the Coastal Line Fishery, other than a restricted Coastal Line Fishery licence.

"(2) Where, immediately before 3 February 1995, a person held a Coastal Line Fishery licence, the licence becomes a restricted Coastal Line Fishery licence on and from 3 February 1995.

"(3) The Director shall not grant a restricted Coastal Line Fishery licence other than to a person who, immediately before 3 February 1995 -

- (a) held a Demersal Fishery licence; and
- (b) did not hold a Coastal Line Fishery licence.

"76. TRANSFER OF RESTRICTED LICENCE

"(1) The holder of a restricted Coastal Line Fishery licence may transfer the licence under section 12B, but not 12A, of the Act.

"(2) Subject to subregulation (3), a person to whom a restricted Coastal Line Fishery licence is transferred shall not take fish under the licence.

"(3) Where -

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

that person may take fish under the licence.

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

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"76A. UNRESTRICTED LICENCES

"(1) Where 2 licences are transferred in accordance with regulation 76(4), the Director shall grant to the licensee one unrestricted Coastal Line Fishery licence.

"(2) The holder of an unrestricted Coastal Line Fishery licence may transfer the licence.

"(3) If the total number of Coastal Line Fishery licences becomes 65 or less, all such licences shall become unrestricted Coastal Line Fishery licences and the Director shall notify all holders of such licences accordingly.

"77. AREA OF FISHERY

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

"78. FISHING GEAR

"(1) A Coastal Line Fishery licensee shall not, in the area extending seaward from the high water mark to an imaginary line following the coastline 2 nautical miles from the low water mark, use under the licence fishing gear other than -

- (a) a vertical line;
- (b) a cast net; and
- (c) a scoop net and gaff.

"(2) A Coastal Line Fishery licensee shall not, in the area extending seaward from an imaginary line following the coastline 2 nautical miles seaward from the low water mark to an imaginary line following the coastline 15 nautical miles from the low water mark, use under the licence fishing gear other than -

- (a) a vertical line;
- (b) a drop line;
- (c) a fish trap;
- (d) a scoop net and gaff; and
- (e) a cast net.

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

"(4) A Coastal Line Fishery licensee shall not use more than 5 fish traps under the licence.

"78A. CERTAIN FISH NOT TO BE TAKEN

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

9. REPEAL AND SUBSTITUTION

Division 5 of Part 8 of the Principal Regulations is repealed and the following substituted:

"Division 5 - Shark Fishery

"96. DEFINITIONS

"In this Division -

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

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

'Commonwealth permit' means a permit issued under the Commonwealth Act relating to the Northern Shark Fishery;

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

'restricted Shark Fishery licence' means a licence granted in accordance with regulation 96B;

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

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"96A. DECLARATION OF SHARK FISHERY

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

"96B. ENTRY CRITERIA AND NUMBER OF LICENCES

"(1) Except in accordance with this Division, the Joint Authority shall not grant a licence in respect of the Shark Fishery, other than a restricted Shark Fishery licence.

"(2) The Joint Authority shall not grant more than 38 restricted Shark Fishery licences.

"(3) All Shark Fishery licences granted before 3 February 1995 are revoked.

"(4) The Joint Authority shall grant a restricted Shark Fishery licence to each person who held, immediately before 3 February 1995 -

(a) a Shark Fishery licence; or

(b) a Commonwealth permit relating to the Northern Shark Fishery.

"(5) Where a Shark Fishery licence is surrendered to the Territory; cancelled or expires without being renewed, the number of licences which may be granted or renewed by the Joint Authority is reduced by one.

"(6) Where 3 Shark Fishery licences are transferred to the Territory in accordance with regulation 97(5), the number of licences which may be granted or renewed by the Joint Authority is reduced by 2.

"96C. RESTRICTED SHARK FISHERY LICENCES

"Where a person held, immediately before 3 February 1995 -

(a) a Commonwealth permit entitling the holder to take shark in waters in -

(i) the Arafura Zone as specified in the permit, the Joint Authority shall grant to him or her a restricted Shark Fishery licence endorsed for the Arafura Region only;

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

"96D. TAKING OF FISH

"(1) The holder of a restricted Shark Fishery licence shall not take fish under the licence except in the Region endorsed in accordance with regulation 96C on the licence.

"(2) A Shark Fishery licensee shall not, during a voyage, take more than 300 kgs green weight of spanish mackerel, or 30 trunks, retained as trunks, as by-catch.

"(3) A Shark Fishery licensee shall not take barramundi, threadfin salmon or mud crab under the licence.

"97. TRANSFER OF LICENCE

"(1) Subject to this regulation, the holder of a restricted Shark Fishery licence may transfer the licence under section 12B, but not 12A, of the Act.

"(2) Subject to subregulations (3) and (4), the holder of a restricted Shark Fishery licence shall not transfer the licence except to the holder of another Shark Fishery licence.

"(3) Where immediately before 3 February 1995, the Director permitted, under section 14(1) of the Act, a person to carry out fishing operations under a Shark Fishery licence held by a licensee, the restricted Shark Fishery licence granted to that licensee under regulation 96B(4) may be transferred by him or her to that person, notwithstanding that the person is not, at the time of the transfer, the holder of a Shark Fishery licence.

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- (c) pelagic net in the area extending seaward from an imaginary line following the coastline 2 nautical miles seaward from the low water mark to the outer boundary of the Australian fishing zone;
- (d) a restricted bait net -
 - (i) if the net -
 - (A) is not fixed, anchored or staked; or
 - (B) is fixed anchored or staked at one end only, whereupon it may be used by hauling the other end by hand, or by attaching the other end to a vessel which is not anchored or fixed, in which case the vessel may be used for hauling the net;
 - (ii) in the area extending seaward from the high water mark to an imaginary line following the coastline 3 nautical miles from the low water mark;
 - (iii) for the taking of fish to be used by the licensee as bait under the licence;
 - (iv) if it is, when catch is being cleared, in not less than 30 cm of water; and
 - (v) if it is not left unattended while in use; and
- (e) a scoop net.

"(4) The holder of a Shark Fishery licence may only use demersal long-line or pelagic long-line if the total length of all line used under the licence at the one time is not more than 20 nautical miles.

"(5) The holder of a Shark Fishery licence shall not use pelagic net within the Mary River Fish Management Zone described in Schedule 3 to the Barramundi Fishery Management Plan.

"100A. VESSELS

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

- (a) he or she was, immediately before 3 February 1995, permitted to use the vessel under -
 - (i) a Shark Fishery licence; or

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- (ii) a Commonwealth permit relating to the Northern Shark Fishery; or
- (b) he or she has the approval in writing of the Joint Authority to use the vessel under the licence."

10. REPEAL AND SUBSTITUTION

Division 6 of Part 8 of the Principal Regulations is repealed and the following substituted:

"Division 6 - Demersal Fishery

"101. DECLARATION OF DEMERSAL FISHERY

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

"102. LICENCES

"(1) All Demersal Fishery licences granted before 3 February 1995 are revoked.

"(2) The Joint Authority shall grant a Demersal Fishery licence to each person who held, immediately before 3 February 1995, a Demersal Fishery licence.

"103. TRANSFER OF LICENCE

"A Demersal Fishery licensee may transfer his or her licence.

"104. AREA OF FISHERY

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

"105. FISHING GEAR

"(1) A Demersal Fishery licensee shall not use under the licence fishing gear other than -

- (a) a vertical line;
- (b) a drop line attached to or free from a vessel;

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- (c) a fish trap;
- (d) a scoop net or gaff;
- (e) a cast net; and
- (f) a restricted bait net -
 - (i) if the net -
 - (A) is not fixed, anchored or staked; or
 - (B) is fixed anchored or staked at one end only, whereupon it may be used by hauling the other end by hand, or by attaching the other end to a vessel which is not anchored or fixed, in which case the vessel may be used for hauling the net;
 - (ii) in the area extending seaward from the high water mark to an imaginary line following the coastline 3 nautical miles from the low water mark;
 - (iii) for the taking of fish to be used by the licensee as bait under the licence;
 - (iv) if it is, when catch is being cleared, in not less than 30 cm of water; and
 - (v) if it is not left unattended while in use.

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

"106. VESSELS

"(1) Subject to this regulation, a Demersal Fishery licensee shall use a vessel not less than 8 m long nominated in respect of the licence.

"(2) Subregulation (1) does not apply where the vessel was, at 31 December 1992, used under a licence under the repealed Regulations permitting the holder to engage in the Offshore Reef Fishery.

"(3) A Demersal Fishery licensee may use a vessel other than a vessel referred to in subregulations (1) or (2) if he or she has the approval in writing of the Joint Authority to use the vessel under the licence."

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"107. CERTAIN FISH NOT TO BE TAKEN

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

11. REPEAL AND SUBSTITUTION

Division 10 of Part 8 of the Principal Regulations is repealed and the following substituted:

"Division 10 - Pearl Oyster Fishery

*"Subdivision 1 - Grant, Renewal, Transfer
and Conversion of Licences*

"117. INTERPRETATION

"In this Division, unless the contrary intention appears -

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

'Committee' means the Northern Territory Pearl Industry Advisory Committee established under section 24 of the Act;

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

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

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

'pearl' includes a natural or cultured, whole, half, baroque, seedless or blister pearl from a pearl oyster;

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

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

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

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

'Pearl Oyster Culture Industry Management Plan' means the fishery management plan approved in respect of the Pearl Oyster Culture Industry;

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

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

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

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

"117A. DECLARATION OF PEARL OYSTER FISHERY

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

"118. GRANT OF LICENCE

"(1) The Director may grant not more than 5 Pearl Oyster Fishery licences.

"(2) All Pearl Oyster Fishery licences in force immediately before 3 February 1995 are revoked.

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"(3) Where, immediately before 3 February 1995, a person held -

- (a) a restricted licence within the meaning of these Regulations as then in force, the Director shall grant to him or her a restricted Pearl Oyster Fishery licence; or
- (b) an unrestricted licence within the meaning of these Regulations as then in force, the Director shall grant to him or her an unrestricted Pearl Oyster Fishery licence.

"(4) A Pearl Oyster Fishery licence shall not be granted unless and until the person to whom it is to be granted holds a Pearl Oyster Culture Industry licence.

"118A. RENEWAL OF LICENCE

"(1) Subject to this regulation, the Director may, in respect of a licensing year, renew a maximum of 5 Pearl Oyster Fishery licences.

"(2) Where a Pearl Oyster Fishery licence is cancelled or surrendered to the Director, the maximum number of Pearl Oyster Fishery licences which the Director may renew under subregulation (1) shall be reduced by the number of Pearl Oyster Fishery licences cancelled or surrendered.

"(3) The Director may renew a Pearl Oyster Fishery licence held in the previous licensing year only if -

- (a) satisfied that the applicant has applied for renewal of a Pearl Oyster Culture Industry licence and if the Director intends to renew that licence; and
- (b) the applicant has met the performance criteria specified in regulation 119A.

"119. TRANSFER OF LICENCE

"(1) The holder of a restricted Pearl Oyster Fishery licence shall not transfer the licence except to the Territory in accordance with regulation 120.

"(2) The holder of an unrestricted Pearl Oyster Fishery licence may transfer the licence.

"(3) The Director shall not approve the transfer of an unrestricted Pearl Oyster Fishery licence unless -

- (a) application has been made for the Director's approval of the transfer of the licensee's Pearl Oyster Culture Industry licence to the same person as the person to whom the licensee

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has applied to transfer the Pearl Oyster Fishery licence under subregulation (2) and the Director will approve the transfer of the Pearl Oyster Culture Industry licence; and

- (b) the transfer will be in accordance with criteria determined by the Director from time to time.

"119A. PERFORMANCE CRITERIA

"The performance criteria for the purposes of this Division are -

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

"120. CONVERSION OF RESTRICTED LICENCE

"(1) The holder of a restricted Pearl Oyster Fishery licence may apply to the Director for approval to transfer the licence to the Territory in accordance with this Division.

"(2) An application under subregulation (1) shall be made on the approved form, accompanied by such records, accounts, returns or information as will assist the Director in deciding whether the performance criteria specified in regulation 119A have been met and all guidelines or conditions of the Pearl Oyster Fishery licence have been complied with.

"(3) The Director shall not approve the transfer of a licence to the Territory in accordance with this Division unless satisfied that the performance criteria specified in regulation 119A have been met.

"(4) Where a licence is transferred to the Territory in accordance with subregulation (1), the Director shall grant to the person who transferred the licence an unrestricted Pearl Oyster Fishery licence.

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"(5) The rejection by the Director of an application shall be accompanied by the reasons for its rejection, but shall not prevent a further application being made under this Division.

"120A. TIME LIMITS FOR APPLICATIONS

"(1) If an application has not been made under regulation 120 by 31 July 1996, the holder of a restricted Pearl Oyster Fishery licence shall furnish to the Director within one month from that date a statement detailing -

- (a) the progress of the licensee in establishing and maintaining an operational pearl farm;
- (b) the number of pearl oysters used in culture operations since the original Pearl Oyster Fishery licence was granted in 1988;
- (c) the volume and value of the licensee's pearl harvests from Territory pearl oysters to and including 30 June 1996;
- (d) factors influencing a harvest or the operation; and
- (e) such other information, if any, as the Director requires.

"(2) After considering a statement under subregulation (1), the Director may, in his or her discretion, extend the effective period of the restricted Pearl Oyster Fishery licence until 31 December 1996 but no longer.

"(3) If an application under subregulation 120 is not accepted by the Director at the end of a licence period extended under subregulation (2), the Director shall not renew the licence.

"120B. PROCEDURES ON CANCELLATION OR NON-RENEWAL OF LICENCE

"(1) The holder of a Pearl Oyster Fishery licence cancelled or not renewed under this Division has the rights and shall follow the procedures specified in this regulation.

"(2) As soon as practicable after a Pearl Oyster Fishery licence is cancelled or not renewed, all pearl oysters held by the licensee on a pearl oyster dump site, holding area or pearl farm lease will be disposed of as follows:

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- (b) permanently transferred to the licensee under regulation 122D during the previous licensing year,

less the number of pearl fishing units, if any, which the licensee has permanently transferred to another licensee.

"(5) Where a Pearl Oyster Fishery licensee does not intend to take during a licensing year the number of pearl oysters he or she is permitted to take under his or her allocation, the licensee may inform the Director of his or her intention, and the Director may offer some or all of those pearl fishing units to other Pearl Oyster Fishery licensees by ballot or by tender.

"(6) Money raised under subregulation (5) shall be -

- (a) used for the purpose of fishing industry research and development; and
- (b) placed in the Fishing Industry Research and Development Trust Fund continued under section 51(1) of the Act.

"122C. VARIATION OF ALLOCATION

"(1) The Director, may, at any time during a licensing year, where he or she is of the opinion that it is necessary for the management of the Pearl Oyster Fishery and after such consultation with the Committee as he or she thinks fit, vary -

- (a) the total allowable catch for the licensing year; or
- (b) the allocation of pearl fishing units to an individual Pearl Oyster Fishery licensee.

"(2) The possession of pearl oysters lawfully taken or in the possession of a Pearl Oyster Fishery licensee before notice of a variation is given under subregulation (1) is not a breach of regulation 122.

"122D. TRANSFER OF PEARL FISHING UNIT

"(1) A Pearl Oyster Fishery licensee shall not transfer pearl oysters to another person except under and in accordance with this Division or the Pearl Oyster Culture Industry Management Plan.

"(2) The holder of a restricted Pearl Oyster Fishery licence shall not transfer a pearl fishing unit held under the licence.

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"(3) The holder of an unrestricted Pearl Oyster Fishery licence shall not transfer a pearl fishing unit held under the licence except to another Pearl Oyster Fishery licensee.

"(4) A transfer of a pearl fishing unit may -

(a) be permanent, in which case -

(i) the number of pearl fishing units which the transferee shall be allocated in the following licensing year shall increase by the number of pearl fishing units transferred; and

(ii) the number of pearl fishing units which the transferor may, subject to this Division, be allocated in the following licensing year shall be reduced by the number of pearl fishing units transferred to the transferee; or

(b) be temporary, in which case the transfer will, unless it is declared by the transferor to expire before the end of the licensing year, expire at the end of the licensing year and the transferor shall, subject to this Division, retain the units temporarily transferred, as part of the transferor's allocation for the following licensing year.

"(5) A licensee may apply to the Director, on a form approved by the Director, to transfer a pearl fishing unit to another Pearl Oyster Fishery licensee.

"(6) The Director may, upon receipt of an application under subclause (5), permit or refuse to permit the transfer of a pearl fishing unit and shall inform the applicant in writing accordingly.

"(7) Where the Director approves -

(a) the temporary transfer of a pearl fishing unit, the Director shall note the transfer and the period of the transfer on the Pearl Oyster Fishery licences of both the transferor and the transferee; or

(b) the permanent transfer of a pearl fishing unit, the Director shall replace the Pearl Oyster Fishery licences of the transferor and the transferee with new Pearl Oyster Fishery licences which state the number of pearl fishing units allocated to the transferor or the transferee, as the case may be, upon the transfer of the pearl fishing unit.

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"(8) The Director may approve a permanent transfer of a pearl fishing unit only if the transferor will retain, after the transfer, an allocation of pearl fishing units representing not less than 15,000 pearl oysters.

"122E. DUMP SITES AND HOLDING AREAS

"(1) A Pearl Oyster Fishery licensee may place pearl oysters, taken under and in accordance with the Pearl Oyster Fishery licence, on pearl oyster dump sites or holding areas.

"(2) The licensee shall inform the Director, in writing, within 7 days after the establishment of a pearl oyster dump site or holding area by the licensee, of the location of the site or area.

"122F. INSPECTION

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

12. NEW DIVISIONS

The Principal Regulations are amended by inserting after regulation 141 the following:

"Division 15 - Timor Reef Fishery

"141A. DEFINITIONS

"In this Division -

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

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

"141B. DECLARATION OF TIMOR REEF FISHERY

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

"141C. AREA OF FISHERY

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

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

"141D. RESTRICTED TIMOR REEF FISHERY LICENCES

"(1) Except in accordance with this Division, the Joint Authority shall not grant a licence in respect of the Timor Reef Fishery.

"(2) Where, immediately before 3 February 1995, a person held a Demersal Fishery licence permitting the taking of fish in the Timor Box (Drop Line and Trap) Fishery declared in Gazette No. G18 of the Commonwealth published 9 May 1990, the Joint Authority shall grant to the person a restricted Timor Reef Fishery licence.

"(3) The holder of one or more restricted Timor Reef Fishery licences granted to him or her in accordance with subregulation (2) shall not take fish under such a licence, unless he or she holds one Demersal Fishery licence (other than such a licence temporarily transferred under section 12A of the Act to another) in respect of each restricted Timor Reef Fishery licence under which fish may be taken by him or her.

"141E. TRANSFER OF RESTRICTED LICENCE

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

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

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"(3) Where -

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

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

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

"141F. UNRESTRICTED TIMOR REEF FISHERY LICENCES

"(1) Where 2 licences are transferred in accordance with regulation 141E(4) by a licensee, the Joint Authority shall grant to him or her one unrestricted Timor Reef Fishery licence.

"(2) The holder of an unrestricted Timor Reef Fishery licence may transfer the licence.

"(3) The holder of one or more unrestricted Timor Reef Fishery licences shall not take fish under such a licence, unless he or she holds one Demersal Fishery licence in respect of each Timor Reef Fishery licence under which fish may be taken by him or her.

"141G. FISHING GEAR

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

- (a) a vertical line;
- (b) a drop line attached to or free from a vessel;
- (c) a fish trap; and
- (d) a scoop net or gaff.

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"141H. VESSELS

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

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

"(2) Subject to subregulation (3), the holder of an unrestricted Timor Reef Fishery licence who did not hold, immediately before 3 February 1995, a Demersal Fishery licence referred to in regulation 141D(2), shall use a vessel not less than 8 m long in the fishery.

"(3) A Timor Reef Fishery licensee may use a vessel other than a vessel referred to in subregulation (1) or (2) if he or she has the approval in writing of the Joint Authority to use the vessel under the licence."

"141J. CERTAIN FISH NOT TO BE TAKEN

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

"Division 16 - Finfish Trawl Fishery

"141K. DECLARATION OF FINFISH TRAWL FISHERY

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

"141L. ENTRY CRITERIA

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

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

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"141M. NO TRANSFER OF LICENCE

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

"141N. AREA OF FISHERY

"The Finfish Trawl Fishery area is the area bounded by a line -

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

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- (m) thence south along that meridian to its intersection by the parallel of latitude 13° 30' south;
- (n) thence east along that parallel to its intersection by the boundary between the Territory and the State of Queensland as specified in the *Petroleum (Submerged Lands) Act 1967* of the Commonwealth;
- (p) thence north along that boundary to its intersection by the outer boundary of the Australian fishing zone;
- (q) thence generally westerly along that outer boundary to its intersection by the meridian of longitude 131° 00' east; and
- (r) thence south along that meridian to the point of commencement.

"141P. FISHING GEAR

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

"141Q. CERTAIN FISH NOT TO BE TAKEN

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

"Division 17 - Jigging Fishery

"141R. DECLARATION OF JIGGING FISHERY

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

"141S. ENTRY CRITERIA

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

"(2) The Director shall grant a Jigging Fishery licence to each person who held, immediately before 3 February 1995, a permit referred to in subregulation (1).

"141T. NO TRANSFER OF LICENCE

"A Jigging Fishery licensee shall not transfer his or her licence.

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"141U. AREA OF FISHERY

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

"141W. FISHING GEAR

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

"141Y. CERTAIN FISH NOT TO BE TAKEN

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

13. MINISTER MAY PRESCRIBE FEES

Regulation 206 of the Principal Regulations is amended -

- (a) by inserting at the end of subregulation (1)(a) "other than such a licence granted in accordance with regulation 76A(1), 96B(4), 98(1), 102(2), 118(3), 120(4), 141D(2), 141F(1), 141L(2) or 141S(2)";
- (b) by inserting at the end of subregulation (1)(c) ", but not a transfer of a licence to the Territory"; and
- (c) by adding at the end the following:

"(3) Where the Director refuses to grant, renew or approve the transfer of a licence specified in Schedule 2, he or she shall refund to the applicant for such a grant, renewal or approval the fee paid by the applicant in respect of the application."

14. NTFIC LEVY PAYABLE

Regulation 207 of the Principal Regulations is amended -

- (a) by omitting from subregulation (1) "subregulation (1)" and by substituting "subregulation (1A)";
- (b) by adding at the end of subregulation (1) ", other than a licence granted in accordance with regulation 76A(1), 96B(4), 98(1), 102(2), 118(3), 120(4), 141D(2), 141F(1), 141L(2) or 141S(2) or a transfer of a licence to the Territory"; and

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- (c) by omitting subregulation (3) and substituting the following:

"(3) Where the Director refuses to grant, renew or approve the transfer of a licence specified in Schedule 3, he or she shall refund to the applicant for such a grant, renewal or approval the levy paid by the applicant in respect of the application."

15. NEW REGULATION

The Principal Regulations are amended by inserting after regulation 209 the following:

"209A. APPLICATION OF ACT TO HOLDERS OF CERTAIN PERMITS UNDER COMMONWEALTH ACT

"(1) The holder from time to time of a permit or licence issued under the Commonwealth Act in respect of an arrangement made under Part 5 of that Act in relation to the Northern Prawn Fishery or a fishery in respect of tuna or tuna like species, is deemed to hold a licence of the same kind under the Fisheries Act in respect of the internal waters of the Territory contiguous to the area of that fishery ("a deemed licence").

"(2) Subject to subregulation (3), a deemed licence is deemed, for the purposes of the Act, to have been granted subject to -

- (a) the conditions specified on the permit or licence issued under the Commonwealth Act; and
- (b) the condition that the holder of the deemed licence will comply with the Commonwealth Act and any instrument of a legislative or administrative character made under that Act applicable to the holder of such a licence or permit issued under that Act, as if the relevant internal waters were included in the fishery under the Commonwealth permit or licence.

"(3) The holder of a deemed licence is permitted to take fish for sale in the relevant internal waters of the Territory, to sell such fish in the Territory and to take any action that is expressly permitted by or under the Commonwealth Act in respect of the fishery under the Commonwealth Act, notwithstanding that the action would, but for this regulation, not be permitted by or under the Fisheries Act.

"(4) The holder of a deemed licence -

- (a) may not transfer the licence under section 12A or 12B of the Act; and

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(b) is not, in relation to the licence, subject to the requirements of section 12 or 13 of the Act."

16. REPEAL AND SUBSTITUTION

Schedule 2 to the Principal Regulations is repealed and the following substituted:

"SCHEDULE 2

Regulation 206

LICENCE OR PERMIT FOR WHICH FEES ARE PAYABLE

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

17. REPEAL AND SUBSTITUTION

Schedule 3 to the Principal Regulations is repealed and the following substituted:

"SCHEDULE 3

Regulation 207

LICENCE OR PERMIT FOR WHICH LEVIES ARE PAYABLE

Aquaculture licence
Bait Net Fishery licence
Barramundi Fishery licence
Coastal Line Fishery licence
Coastal Net Fishery licence
Demersal Fishery licence
Development Fishery licence
Finfish Trawl Fishery
Fixed Fish Trap Fishery licence

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Jigging Fishery licence
 Mud Crab Fishery licence
 Mollusc Fishery licence
 Pearl Oyster Fishery licence
 Spanish Mackerel Fishery licence
 Shark Fishery licence
 Timor Reef Fishery licence
 Trepang Fishery licence".

18. FURTHER AMENDMENTS

The Principal Regulations are further amended as set out in the Schedule.

SCHEDULE

Regulation 18

Provision	Amendment	
	omit	substitute
Regulation 19(2)(c)	"Veterinary Surgeons Act"	"Stock Diseases Act"
Regulation 27(b)(iii)	"Veterinary Surgeons Act"	"Veterinarians Act"
Regulations 93(4) and (5)	"Spanish Mackerel" (wherever occurring)	"Spanish Mackerel Fishery"
Regulation 94(1)	"Spanish Mackerel licences"	"Spanish Mackerel Fishery licences"
Regulation 94(2)	"Spanish Mackerel"	"Spanish Mackerel Fishery"
Regulation 131	"Australian Fishing Zone"	"Australian fishing zone"
Regulations 139, 140 and 141	"Development"	"Development Fishery"