

NORTHERN TERRITORY OF AUSTRALIA

FISHERIES REGULATIONS

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 1992, No. 72*

Regulations under the *Fisheries Act*

I, KEITH JOHN AUSTIN ASCHE, the Acting Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the *Fisheries Act*, including, in relation to regulation 5 and Division 10 of Part 8 of these Regulations, under section 70(1)(a) and (b) of the Act.

Dated 18 December 1992.

K.J.A. ASCHE
Acting Administrator

FISHERIES REGULATIONS

PART 1 - PRELIMINARY

1. CITATION

These Regulations may be cited as the Fisheries Regulations.

2. COMMENCEMENT

These Regulations shall come into operation on 1 January 1993.

PART 2 - INTERPRETATION

3. INTERPRETATION

(1) In these Regulations, unless the contrary intention appears -

"Aboriginal Coastal licence" means a licence granted in accordance with Division 2 of Part 11;

* Notified in the *Northern Territory Government Gazette* on 24 December 1992.

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- "Aboriginal Coastal licensee" means the holder of an Aboriginal Coastal licence;
- "aquaculture facility" means a lease or parcel of land or leases or parcels of adjacent land (whether or not covered by water) upon which an aquaculture operation is carried out;
- "Aquaculture licence" means a licence granted for the purposes of Division 2 of Part 10;
- "Aquaculture licensee" means the holder of an Aquaculture licence;
- "aquarium" means a pond, tank or other container with a surface area not exceeding 10 m² used for keeping live fish or aquatic life, and used otherwise than for the purposes of aquaculture;
- "Aquarium Trader licence" means a licence granted for the purposes of Division 4 of Part 11;
- "Aquarium Trader licensee" means the holder of an Aquarium Trader licence;
- "assistant" means a person who assists a licensee by taking an action which the licensee may take under his or her licence;
- "Australian Fishing Zone" means the area extending to the outer limit of the Australian Fishing Zone within the meaning of the *Fisheries Management Act 1991* of the Commonwealth;
- "bait" means fish or aquatic life used to entice fish;
- "barramundi" means fish of the species *Lates calcarifer*;
- "baseline" means the territorial sea baseline of the Territory declared under the *Seas and Submerged Lands Act 1973* of the Commonwealth by Proclamation published in *Commonwealth Gazette* No. S29 on 9 February 1983 (as amended);
- "broodstock" means adult fish or aquatic life taken or used for breeding in an aquaculture facility;
- "commercial fishing licence" means a licence relating to a fishery specified in or referred to in Part 8;
- "commercial fishing licensee" means a person who holds a commercial fishing licence;

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"Committee" means the Disease Control Committee established under regulation 19;

"exotic" means, in relation to fish or aquatic life, fish or aquatic life that is not indigenous to the Territory;

"fin fish" means fish of the Class Teleostei;

"fin fish length" means the length of a fin fish from the tip of the snout to the tip of the middle ray of the caudal fin while the fish is lying flat;

"Fish Broker licence" means a licence for the purposes of Division 4 of Part 9;

"Fish Retailer licence" means a licence for the purposes of Division 3 of Part 9;

"Fish Trader/Processor licence" means a licence for the purposes of Division 2 of Part 9;

"Fishing Tour Operator licence" means a licence for the purposes of Division 3 of Part 11;

"Fishing Tour Operator licensee" means the holder of a Fishing Tour Operator licence;

"fishing tour operation" means an expedition organised for reward, fee or other valuable consideration, enabling people to engage in amateur fishing;

"Food Standards Code" means the Code adopted as a law of the Territory by the Food Standards Regulations;

"high water mark" means Highest Astronomical Tide;

"Joint Authority" means the Northern Territory Fisheries Joint Authority established under section 12D(1) of the *Fisheries Management Act 1991* of the Commonwealth;

"licensee's record book" means a record of information required by the Director to be kept by a licensee under section 34 of the Act;

"licensing year" means -

- (a) in respect of a Pearl Oyster Fishery licence or Pearl Oyster Culture Industry licence, the year commencing on 1 July and expiring with 30 June in the following year; or

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- (b) in respect of any other licence, the year commencing on 1 January and expiring with 31 December in that year or the last year in respect of which it was granted;
- "limited entry fishery" means a fishery in respect of which the number of licences that may be granted is restricted under these Regulations or a fishery management plan;
- "low water mark" means Lowest Astronomical Tide;
- "mackerel" means fish of the genus *Scomberomorus*;
- "making way" means, in relation to a vessel, moving through water by the use of sails, motors, oars or other means of propulsion, including being towed by another vessel, but does not include movement through water by the action of waves or tides alone;
- "mollusc" means fish of the Phylum Mollusca;
- "mother boat" means the registered vessel nominated under regulation 53;
- "mud crab" means crabs, or parts of crabs, of the genus *Scylla*;
- "Net licence" means a licence granted for the purposes of Division 5 of Part 11;
- "Net licensee" means the holder of a Net licence;
- "notifiable disease" means a disease causing significant mortality or poor health in fish or aquatic life;
- "noxious fish" means fish or aquatic life specified in Schedule 1;
- "pearl oyster" means molluscs of the genus *Pinctada*;
- "Pearl Oyster Culture Industry licence" means a licence granted for the purposes of Division 3 of Part 10;
- "Pearl Oyster Fishery licence" means a licence granted for the purposes of Division 10 of Part 8;
- "place" includes land, waters, buildings, vehicles and vessels;

Fisheries Regulations

"repealed Regulations" means the Regulations repealed by regulation 210;

"river closure line", in relation to a river specified in Schedule 5 of the Barramundi Fishery Management Plan as in force from time to time, means a straight line drawn between the co-ordinates specified in that Schedule for that river;

"shark" means fish of the Class Chondrichthyes;

"spanish mackerel" means fish of the species *Scomberomorus commerson*;

"threadfin salmon" means fish of the species *Polynemus sheridani*;

"trepan" means fish of the Class Holothuroidea;

"trunk" means a fish from which the head has been removed;

"under way" means, in relation to a vessel, a vessel which is not -

- (a) aground;
- (b) anchored (whether directly or indirectly);
or
- (c) made fast to the shore;

"vessel length" means the length of a vessel measured in accordance with the Uniform Code within the meaning of the *Marine Act*;

"voyage" means the period between a vessel leaving a port, permanent camp site or approved anchorage and returning to a port, permanent camp site or approved anchorage, during which time fishing under a licence has taken place.

(2) In these Regulations, a licence name specified by reference to a fishery means a licence granted in respect of the fishery to which the licence name refers and a reference to a licensee specified by reference to a fishery means a person holding a licence in respect of the fishery referred to.

(3) Where, in pursuance of these Regulations, a point, line, area or relative position is to be calculated by reference to the coastline or an imaginary line along the coastline (whether or not along a particular water line on the coast) the coastline or imaginary line along the coastline shall be deemed to include -

Fisheries Regulations

- (a) in relation to a river specified in Schedule 5 of the Barramundi Fishery Management Plan as in force from time to time, the river closure line specified in that Schedule for that river; and
- (b) in relation to any other river, an imaginary straight line across the mouth of the river calculated in the same manner as for the calculation of the baseline for the purposes of the *Seas and Submerged Lands Act 1973* of the Commonwealth had all off-lying islands and historical bays and waters been ignored.

4. DEFINITIONS RELATING TO GEAR

In these Regulations, unless the contrary intention appears -

"amateur fishing gear" means gear specified in regulation 46;

"amateur drag net" means a net which -

- (a) is not longer than 40 m, excluding the length of any attached haul lines;
- (b) has both pocket, if any, and net made of mesh not larger than 65 mm; and
- (c) has a drop of not more than 2 m;

"bait net" means a net which -

- (a) is not longer than 300 m, excluding the length of any attached haul lines;
- (b) has both pocket, if any, and net made of mesh not larger than 65 mm; and
- (c) has a drop of not more than 5 m;

"cast net" means a net which -

- (a) has a diameter not more than 6 m;
- (b) is made of mesh not larger than 25 mm; and
- (c) has a drop of not more than 3 m when suspended from the centre;

"coastal net" means a net which -

- (a) is not longer than 300 m, excluding the length of any attached haul lines;

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(b) has both the pocket, if any, and net made of mesh not larger than 65 mm; and

(c) has a drop of not more than 5 m;

"demersal" means on or near the sea bed;

"demersal long-line" means a main line anchored to the seabed at both ends and at intervals along its length, to which hooks or branch lines with hooks are attached;

"drop", in relation to a net, means the distance between the head and foot ropes where the net is in normal operation or, if ropes are not present, the positions in which they would be located if present;

"drop line" means a weighted line which has not less than 6 and not more than 40 hooks attached;

"fishing gear" includes a net, line, apparatus, device or thing capable of being used in fishing;

"fish-trap" means a portable cage or part of a cage designed or intended to catch fish or which is capable of catching fish, that -

(a) has a volume greater than 0.5 m³; and

(b) has an external structure made of wire, steel or other rigid material or other approved material;

"fixed fish-trap" means a permanently positioned structure made of wire, steel or other rigid material which has a door at least 1 m² in the seaward part of the lower third of the trap through which fish may escape when the structure is not in use;

"floating handline" means a line to which is attached -

(a) one hook; or

(b) one set of hooks;

"freshwater pot" means a portable device designed to act as, or used as, a trap for fish or aquatic life and which -

(a) is less than 0.3 m³ in volume;

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- (b) has not more than 2 entrances; and
- (c) has no material placed in the pot which is likely to entangle fish or aquatic life;

"gill net" means a net or part of a net (including any warp, rope, chain, material, device or thing used in conjunction with or attached to the net or part of the net) that -

- (a) has a mesh size greater than 65 mm; and
- (b) is used or is capable of being used to catch fish or aquatic life;

"hand spear" means a spear propelled by human power without the use of a device;

"line" includes a mono-filament, multi-filament, synthetic or natural fibre twine, material, wire, rope or chain;

"mesh" means one of the open spaces of a net;

"mesh size", in relation to a net, means the distance between the inner edges of the knots of opposite corners of the mesh or, where the mesh does not have knots, the inner edges of opposite corners of the mesh, measured with the mesh closed, as determined in accordance with regulation 6;

"mono-filament twine" means one continuous length of fibre of synthetic material that is not twisted but is suitable for use as a twine;

"multi-filament twine" means -

- (a) fibres, made of synthetic or natural material, that are twisted together to form a filament, then twisted to form a strand; or
- (b) a combination of mono-filament twines twisted or knotted to form a continuous twine;

"net" means a device made of twine forming a number of meshes used or designed to be used to catch or hold fish, whether or not lead ropes, floats, lead lines, anchors or leads are attached, but does not include a scoop net which is hand held and attached to a rigid hoop;

"pelagic net" means a net -

- (a) constructed of twine not less than 0.9 mm diameter; and

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- (b) with a mesh size of -
 - (i) during 1993 - not less than 135 mm and not greater than 250 mm; or
 - (ii) during any other year - not less than 150 mm and not greater than 250 mm;

"pocket" means a structure, made of net and attached to or forming part of a net, in which fish may be collected;

"pot" means a portable device designed to take or which may be used to take fish or aquatic life, which -

- (a) has a volume of 0.5 m³ or less;
- (b) does not exceed 1 m in length, height or diameter;
- (c) has 1 or 2 openings into any enclosure (excluding an opening for emptying fish or aquatic life from, or for placing bait or other material used to entice fish into, the pot); and
- (d) has no material placed in the pot which is likely to entangle fish or aquatic life,

and includes a dilly pot and a crab pot but does not include a fish trap, freshwater pot or a fixed fish trap;

"restricted bait net" means a net which -

- (a) is not longer than 100 m, excluding the length of any attached haul lines;
- (b) has both pocket, if any, and net made with a mesh 65 mm or less; and
- (c) has a drop of not more than 5 m;

"scoop net" means a net, a landing net, a basket or other similar device with an attached handle, made of mesh attached to a frame and designed to be held in the hand at all times when in use for scooping fish from water;

"spear-gun" means a device used in underwater fishing to propel spears, arrows or other projectiles and includes propulsion by means of rubber (commonly known as an hawaiian sling), bows, compressed gas or explosive charges;

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"trammel net" means a configuration of multi-panelled nets set one behind the other, all or some or part of which are attached to the same section of a headrope;

"troll line" means a line to which is attached -

- (a) one hook;
- (b) one set of hooks attached to the one piece of bait or other material used to entice fish; or
- (c) one lure, to which hooks may be attached;

"twine" means mono-filament or multi-filament twine;

"vertical line" means a weighted line to which no more than 5 hooks are attached.

5. APPLICATION

These Regulations (including those regulations not contained in Division 10 of Part 8), to the extent that they can apply, extend to and shall be deemed to apply to the Pearl Oyster Fishery to be managed in accordance with the law of the Territory by the Joint Authority.

6. DETERMINATION OF MESH SIZE

To determine a distance referred to in the definition of "mesh size" in regulation 4 -

- (a) immediately before the measurement is taken, the part of the net to be measured shall be soaked in fresh or salt water for not less than 5 minutes;
- (b) the part of the net to be measured shall be suspended vertically;
- (c) the distance between the surface of a knot and the surface of the knot diagonally opposite the first mentioned knot in the same mesh shall be measured by means of a device designed for measuring the mesh of nets by means of 2 arms, the upper of which, when the device is in use, shall be fixed to the body of the device and the lower of which, when the device is in use, shall -
 - (i) be directly below the upper;
 - (ii) move freely in relation to the upper; and
 - (iii) have a weight of 3170 grams acting on it;

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- (d) the device shall be suspended in such a manner as to ensure that the upper edge shall remain in a fixed position and that the lower edge may move freely in relation to the upper edge, within the confines of the mesh to be measured;
- (e) the device shall be equipped with a scale by which the distance between the upper edge of the upper arm and the lower edge of the lower arm can be ascertained to the nearest millimetre; and
- (f) the measurement of the mesh shall be taken to be the average measurement of 10 adjacent meshes at any place on the net.

PART 3 - GENERAL MATTERS

Division 1 - General

7. INTERFERENCE WITH FISHING OPERATION

A person shall not, without lawful authority -

- (a) interfere with a vessel or fishing gear being used for fishing; or
- (b) hinder or obstruct a person fishing.

8. NO TETHERING OF LIVE FISH

A person shall not, after a fish has been taken, place or retain it on a tether line.

9. LARGE COD AND GROPER NOT TO BE TAKEN

A person shall not take Groper (*Promicrops lanceolatus*, also known as *Epinephelus lanceolatus* Block 1790) or Estuary Cod (*Epinephelus tauvina*) of a fin fish length greater than 1.2 m.

10. PROTECTED SPECIES NOT TO BE TAKEN

A person shall not take, whether as by-catch or otherwise, fish or aquatic life which is a protected species under the *Territory Parks and Wildlife Conservation Act*.

11. DEFENCE TO TAKING OF FISH OR AQUATIC LIFE

It is a defence to a charge of taking fish or aquatic life which the defendant is not permitted to take if the defendant proves that the fish or aquatic life was, immediately after being taken, returned, with as little injury to it as possible, to the water.

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12. RELEASE OF FISH OR AQUATIC LIFE

A person may release live fish or aquatic life into a body of water which is not an aquarium only -

- (a) to return the fish or aquatic life to the water catchment from which it came;
- (b) in accordance with a permit; or
- (c) in accordance with a licence granted for the purposes of Part 10.

13. MOVEMENT OF FISH OR AQUATIC LIFE

A person (other than the holder of a licence granted for the purposes of Part 10 moving live fish or aquatic life in accordance with a licence) shall not, without a permit under these Regulations, move live fish or aquatic life from a place within a water catchment area and place them into a body of water (other than an aquarium) within a different catchment area from which it is possible that water, live fish or aquatic life may escape into a natural waterway.

14. IMPEDING PASSAGE OF FISH OR AQUATIC LIFE

A person who constructs a dam or any other structure which may impede the natural movement of fish or aquatic life downstream or upstream shall, where directed to do so by the Director, provide a device or a facility to permit the passage of fish or aquatic life through, over, under or around the dam or structure.

15. NO MONO- OR MULTI-FILAMENT NET IN TRAPS

A person shall not use a pot, fish-trap or freshwater pot constructed in whole or in part of mono- or multi-filament net, unless permitted to do so by the Director.

Division 2 - Diseased and Contaminated Fish

16. PROHIBITION ON TAKING OF DISEASED, &c., FISH

The Director may, by notice in the *Gazette*, declare areas in which the taking of fish or aquatic life of a particular species is prohibited because of -

- (a) the risk the species may pose, if consumed, to human health; or
- (b) the risk of the spread of contamination or disease to other fish or aquatic life in other areas.

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17. MOVEMENT AND SALE OF DISEASED, &c., FISH

A person shall not -

- (a) move diseased or contaminated fish or aquatic life from one place, water catchment or storage unit to another place, water catchment or storage unit; or
- (b) sell diseased or contaminated fish or aquatic life.

18. DESTRUCTION OF DISEASED, &c., FISH

The Director may destroy fish or aquatic life that he or she believes, on reasonable grounds, to be diseased or contaminated, if he or she considers it necessary in order to prevent the spread of disease or contamination.

19. DISEASE CONTROL COMMITTEE

(1) The Director may establish a Disease Control Committee to advise the Director on such issues, related to the prevention or control of disease or the prevention of the spread of disease, as the Director thinks fit.

(2) The Committee established under subregulation (1) shall consist of -

- (a) the Director, who shall be the Chairman;
- (b) an employee in the department primarily responsible to the Minister for the administration of the *Fisheries Act* nominated by the Director;
- (c) the Chief Inspector of Stock within the meaning of the *Veterinary Surgeons Act* or a person nominated by him or her; and
- (d) 3 persons appointed by the Director for such period, not exceeding 3 years, as is specified in the instrument of appointment.

20. PROCEDURE OF COMMITTEE

(1) The Chairman shall convene such meetings of the Committee as he or she thinks fit.

(2) The Committee shall determine the procedure to be adopted at or in connection with a meeting of the Committee.

(3) At a meeting of the Committee, 4 members, one of whom shall be -

- (a) the Chairman; or

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- (b) the Chief Inspector of Stock or his or her nominee,

constitute a quorum.

21. DECLARATION OF DISEASE CONTROL AREA

(1) The Director may, by notice in the *Gazette*, declare -

- (a) an area containing fish or aquatic life which have contracted a notifiable disease to be a quarantine area; and
- (b) an area containing fish or aquatic life considered by the Committee to be at risk of contracting a notifiable disease to be a protected area.

22. REGULATION OF DISEASE CONTROL AREA

Where an area has been declared to be a quarantine area or a protected area under regulation 21, the Director may -

- (a) regulate or prohibit all transportation of fish or aquatic life into, within or out of the area;
- (b) regulate or prohibit the movement into, within or out of the area by people, vehicles, vessels or aircraft;
- (c) nominate particular species of fish or aquatic life to which the notice applies;
- (d) where the area has been declared a quarantine area, prohibit the release of water from an aquaculture facility other than with the permission of the Director; and
- (e) order the treatment or destruction of diseased fish, aquatic life, feed, contaminated equipment, water or other things which, in the opinion of the Director, may transmit disease to areas outside the declared area.

23. NOTIFICATION OF DISEASE

The holder of a licence in respect of Part 10 shall, as soon as practicable after he or she observes symptoms of a notifiable disease in an aquaculture facility operated under the licence, advise the Director of the presence of the disease.

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*Division 3 - Exotic Fish, Noxious Fish
and Import Permits*

24. NOXIOUS FISH

A person shall not import or have possession of a noxious fish.

25. TRADE IN OR RELEASE OF LIVE EXOTIC FISH AND AQUATIC LIFE

(1) A person shall not, except in accordance with a permit, trade in live exotic fish or exotic aquatic life.

(2) A person shall not, except in accordance with a permit, release an exotic fish or exotic aquatic life into a body of water other than an aquarium.

26. PERMIT TO IMPORT FISH OR AQUATIC LIFE

(1) The Director may, in accordance with this Division, grant to an applicant a permit to import live fish or live aquatic life into the Territory.

(2) The Director shall not grant a permit to import fish or aquatic life -

(a) unless that species of fish or aquatic life -

(i) is indigenous to the Territory;

(ii) is listed under Schedule 6 of the *Wildlife Protection (Regulation of Exports and Imports) Act 1982* of the Commonwealth; or

(iii) is prescribed for the purposes of this regulation; and

(b) if, in his or her opinion -

(i) there may be a risk of disease to people, fish or aquatic life by the importation;

(ii) there may be a risk of variation of the genetic composition or genetic material of Territory fish or aquatic life by the importation;

(iii) the fish or aquatic life to be imported may adversely affect the diversity of genetic material within the Territory; or

(iv) the fish or aquatic life may present an unacceptable risk of detriment to other fish or aquatic life in the Territory.

Fisheries Regulations

27. APPLICATION FOR PERMIT

An application for a permit to import fish or aquatic life shall contain -

- (a) a declaration of the species of fish or aquatic life to which the application relates;
- (b) at the written request of the Director, a certificate attesting to -
 - (i) the disease status of the fish or aquatic life to which the application refers; and
 - (ii) the treatment, if any, given to the fish or aquatic life;

which is issued -

- (iii) in the case of fish or aquatic life (other than plant life) - by a veterinary surgeon registered under the *Veterinary Surgeons Act* or a similar Act of a State or another Territory of the Commonwealth; or
- (iv) in the case of aquatic life (other than animal life) - by an approved person;

who has inspected the fish or aquatic life to which the certificate refers;

- (c) a statement of the proposed method of treatment and disposal of the water in which the fish or aquatic life is to be imported; and
- (d) such other information as the Director requires.

28. PERMIT TO STATE CERTAIN MATTERS

A permit granted under regulation 26 shall have endorsed on it -

- (a) the species of fish or aquatic life which may be imported; and
- (b) where the Director has requested a certificate under regulation 27(b) -
 - (i) the disease status of the fish or aquatic life, as evidenced by the certificate;
 - (ii) the approved treatment, prior to import, of the fish or aquatic life;

Fisheries Regulations

- (iii) the treatment and disposal of water used in the importation of the fish or aquatic life;
- (iv) if the Director thinks fit, details enabling the identification of the particular stock of fish or aquatic life and the facility from which export of fish or aquatic life is to occur;
- (v) the permitted method of transport;
- (vi) the period during which the permit is valid; and
- (vii) such conditions as the Director thinks fit.

PART 4 - POSSESSION AND USE OF FISHING GEAR

29. NO GEAR TO BE USED UNLESS PERMITTED

(1) A person engaged in amateur fishing shall not have in his or her possession fishing gear other than amateur fishing gear, and shall not use that gear except in the manner permitted by or under the Act.

(2) A person shall not engage in amateur fishing on a registered vessel.

(3) A person taking fish for sale shall not -

- (a) have in his or her possession fishing gear other than fishing gear permitted by or under the Act for use by the person when taking fish for sale; and
- (b) use that gear other than in accordance with the methods permitted by or under the Act.

30. GILL NET

A person shall not have possession of or use a gill net unless the person does so under and in accordance with a licence, permit or authority granted or given by or under the Act.

31. ABANDONED OR UNATTENDED GEAR

(1) A person shall not abandon nets, fish traps, pots, freshwater pots, fixed fish traps or line.

(2) A person shall be taken not to have abandoned gear that is left unattended if -

- (a) in the case of gear which may be used for the purposes of amateur fishing, it is left in a place where it is not capable or will

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not become capable of taking fish or aquatic life; or

- (b) in the case of gear which may be used only under a licence, it is secured at an approved location or, if it is net, in accordance with regulation 33.

32. MARKING OF GEAR

(1) A person using a fish trap, pot, freshwater pot and, when it is unattached to a vessel, a drop line or a demersal longline, shall, when it is in use under a licence, attach to it a float marked in accordance with subregulation (3).

(2) A person shall use a net, other than a cast net, only if a float marked in accordance with subregulation (3) is attached to the middle of and at each end of the headrope.

(3) A float attached to gear in accordance with subregulation (1) or (2) shall be marked legibly and indelibly -

- (a) where the gear is used under a licence, with the licence number in arabic numerals and no other number; or
- (b) where the gear is amateur fishing gear, with the name of the person using the gear.

33. STORAGE AND DISPOSAL OF NET

(1) A person licensed to use net may transport net to and from places where it may lawfully be used or kept and shall, when the net is not being used under the licence, keep it -

- (a) on a registered vessel used for the purposes of the licence;
- (b) securely stored, without anchors attached, at an approved camp site;
- (c) secured at an approved location; or
- (d) secured at the licensee's permanent residence.

(2) A person shall, within 6 months after ceasing to hold a licence permitting possession of a bait net, a coastal net, a gill net, a restricted bait net or a pelagic net, satisfy the Director as to -

- (a) its disposal to a person licensed to have possession of such net; or
- (b) its destruction.

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34. AMATEUR DRAG NET

A person permitted to use an amateur drag net shall not -

- (a) haul the net except by hand;
- (b) stake or otherwise fix the net;
- (c) use the net otherwise than seaward of the coastline; or
- (d) use the net, while catch is being cleared, in less than 30 cm of water.

35. BAIT NET

A person licensed to use a bait net shall not use the net if -

- (a) the total length of bait net used by the person is longer than 300 m, excluding the length of any attached haul lines; or
- (b) the net is, while catch is being cleared, in less than 30 cm of water.

36. CAST NET

(1) A person permitted to use a cast net shall not use the net unless it is attended at all times when in use.

(2) A person permitted to use a cast net shall not use the net otherwise than by casting, throwing or dropping it.

37. COASTAL NET

(1) A person licensed to use a coastal net shall not use the net if the total length of net used by the person is longer than 300 m, excluding the length of any attached haul lines.

(2) A person permitted to use a coastal net shall not use the net unless it is attended at all times when in use.

38. DROP LINE

A person permitted to use a drop line shall not use it unless a weight is attached to the line and the line does not extend from a vessel under way and making way.

Fisheries Regulations

39. POTS AND FRESHWATER POTS

(1) A person permitted to use a freshwater pot shall not use it otherwise than in freshwater.

(2) A person, other than an Aquarium Fishing/Display Fishery licensee permitted to use freshwater pots, shall not have possession of or use more than 5 pots or 5 freshwater pots.

40. PELAGIC NET

A person licensed to use a pelagic net shall not use the net unless -

- (a) it is set in such a way that no part of the net is on or within 2 m of the sea bed; and
- (b) not more than a total of 2.5 km of pelagic net is used at any one time.

41. RESTRICTED BAIT NET

A person licensed to use a restricted bait net -

- (a) shall not use the net if the total length of the net is longer than 100 m, excluding the length of any attached haul lines;
- (b) shall not haul the net other than by hand;
- (c) shall not stake or otherwise fix the net at more than one end;
- (d) shall not use the net other than seaward of the coastline from high water mark to an imaginary line, following the coastline, 3 nautical miles from the low water mark;
- (e) shall not use the net, while catch is being cleared, in less than 30 cm of water;
- (f) shall not use the net in the Mary River Management Zone as described in Schedule 3 of the Barramundi Fishery Management Plan; and
- (g) shall not use bait taken with the net other than as bait for the purposes of the licence under which the net is used.

42. SCOOP NET

A person permitted to use a scoop net shall not use the net other than by hand.

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43. SPEARGUN

(1) A person using any kind of artificial breathing apparatus designed for use underwater, other than a snorkel, shall not have possession of a spear gun.

(2) A person shall not have possession of a loaded speargun -

(a) other than in the open sea; or

(b) where the person is within 150 m of another person who is not part of his or her group.

44. TRAMMEL NET

A person shall not use or have possession of a trammel net unless authorised to do so by the Director.

45. VERTICAL LINE

A person permitted to use vertical line shall not use it from a vessel under way and making way.

PART 5 - AMATEUR FISHING

46. AMATEUR FISHING GEAR

(1) A person engaged in amateur fishing shall not use or have possession of fishing gear other than the following items or an item ancillary to the use of the gear:

(a) amateur drag net;

(b) cast net;

(c) float line;

(d) freshwater pot;

(e) gaff;

(f) hand spear;

(g) knife;

(h) long bow;

(j) pots;

(k) scoop net;

(m) spear gun;

Fisheries Regulations

- (n) vertical line, as hand line or rod and reel;
- (p) troll line.

(2) A person shall not engage in amateur fishing on a registered vessel, other than a vessel registered for the purposes of a Fishing Tour Operator licence or an Aboriginal Coastal licence.

(3) A person engaged in amateur fishing shall not take fish when using underwater breathing apparatus.

PART 6 - LICENSING GENERALLY

Division 1 - Licensing

47. COMPLIANCE WITH ACT, &c., CONDITION OF EVERY LICENCE OR PERMIT

It is a condition of every licence or permit granted or issued under the Act that its holder will comply with and not contravene each provision of or under the Act (including a provision of a fisheries management plan) applicable to him or her.

48. TIME FOR APPLICATION FOR RENEWAL

A licensee may apply for renewal of his or her licence not earlier than 6 weeks before the expiration of the licence.

49. REPLACEMENT LICENCE, &c.

Where a licence or certificate of vessel registration is lost or destroyed the licensee may apply to the Director on the approved form, accompanied by -

- (a) a signed statutory declaration declaring that the licence or certificate of vessel registration for which a replacement is sought has been lost or destroyed; and
- (b) the fee prescribed under regulation 206,

for the issue of a replacement licence or another certificate of registration under the Act.

50. NOMINEES UNDER SECTION 13 OF ACT

(1) The Director shall not approve a person nominated by a licensee under section 13 of the Act unless satisfied that the person is competent to do so and will exercise independent judgment and control over the operation of the licence.

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(2) Where the Director has approved a person under section 13 of the Act, the licensee shall, as soon as notified of the approval by the Director, enter the nominee's name and date of birth in the licensee's record book.

51. ASSISTANT

(1) A licensee is liable for an action taken by an assistant under the licence.

(2) An assistant may do anything that a licensee may lawfully do, but may only transport or sell fish in accordance with regulation 59.

(3) Evidence that a person was engaged at a place in an operation relating to fish or aquatic life -

(a) in the vicinity of a licensee; and

(b) using or having in possession gear or equipment that apparently could not conveniently have been transported to the place without the assistance of the licensee,

is evidence that the person was at that time an assistant of the licensee.

52. TAKING FISH FOR SALE PROHIBITED IN KAKADU NATIONAL PARK

A person shall not take, for sale, fish in the area known as Kakadu National Park, being the area declared by an instrument dated 5 April 1979 and published on the same day in Commonwealth Gazette No.S 61 at page 397, as amended by an instrument dated 19 December 1985 and published in Commonwealth Gazette No. S52 on 20 December 1985 at page 1.

Division 2 - Vessels

53. NOMINATION OF MOTHER BOAT

A licensee shall ensure that one vessel to be used by the licensee under a licence shall be, when registration of that vessel is sought under section 18 of the Act, nominated as the mother boat in respect of the licence.

54. MARKING OF VESSEL

(1) A licensee shall cause a vessel registered in respect of his or her licence, other than a vessel referred to in subregulation (2), to be marked in the following manner:

(a) the registration number shall be painted, on a yellow background in black arabic numerals of the size and height listed in the Table to this

Fisheries Regulations

regulation, on both sides of the bow of the vessel as high as practicable above the waterline, and, where a vessel has a wheelhouse or foredeck, on top of the wheelhouse or foredeck, so as to enable the unobscured view of the number from the sea and the air; and

(b) if the vessel has a superstructure or deck, the registration number shall be painted on a yellow background in lettering of a size enabling recognition, without the aid of optical equipment, on a horizontal plane from a distance of 250 m.

(2) Where a vessel has an international radio call-sign, the licensee shall cause the call sign number to be painted on the vessel in black on a white background, or white on a black background, in numbers of the size and height listed in the Table to this regulation.

(3) A person shall not make or retain on a vessel a marking which impedes the accurate recognition of the correct registration number or call sign number.

TABLE
SIZE OF REGISTRATION MARKS

Column 1	Column 2			
Length of vessel	Specification of marks			
	Vertical height (metres)	Width (metres)	Stroke width (metres)	Distance between figures (metres)
Not less than 20 m	0.8	0.4	0.13	0.12
More than 15 m but less than 20 m	0.6	0.3	0.1	0.15
More than 12 m but less than 15 m	0.4	0.2	0.06	0.1
More than 5 m but less than 12 m	0.3	0.15	0.05	0.05
Less than 5 m	0.1	0.05	0.01	0.02

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55. MARKS TO BE REMOVED FROM VESSEL WHICH CEASES TO BE REGISTERED

- (1) A person who ceases to hold a licence -
 - (a) shall, within 6 months after the day he or she ceased to hold the licence, remove from all vessels used for the purposes of the licence the marks indicating the registration number; and
 - (b) shall not use the vessel in water while the vessel is marked with a registration number.

(2) A person shall not sell, lease or otherwise dispose of an unregistered vessel which is marked with a registration number, other than to a licensee.

(3) A person other than a licensee shall not purchase or lease an unregistered vessel marked with a registration number or use such a vessel in water whilst it is so marked.

56. VESSELS USED FOR COMMERCIAL FISHING AND FISHING TOUR OPERATIONS

(1) Where it is intended that a vessel be used alternatively for the purposes of a commercial fishing licence and a Fishing Tour Operator licence, the licensee shall, on his or her application for each licence, note the predominant use to be made of the vessel.

(2) Where a vessel referred to in subsection (1) is to be used for a purpose other than the predominant use of the vessel the licensee shall, before engaging in the use of the vessel for that purpose -

- (a) advise the Director in writing of that purpose and of the period during which the vessel will be used for that purpose, and make a note contemporaneously of that information in the licensee's record book; and
- (b) unload all fish from the vessel.

(3) Where a vessel referred to in subsection (1) has ceased, including temporarily ceased, to be used for a purpose other than the predominant use of the vessel, the licensee shall -

- (a) advise the Director in writing that the licensee has ceased to use the vessel for a purpose other than its predominant use and shall make a note contemporaneously of that information in the licensee's record book; and
- (b) unload all fish from the vessel.

Fisheries Regulations

57. REGISTRATION FEES WHERE MORE THAN ONE LICENCE

Where a vessel is to be used for the purposes of more than one licence, a registration fee shall be payable only in respect of one licence.

Division 3 - Processing, Sale and Handling of Fish

58. SALE AND PROCESSING OF FISH

(1) For the purposes of section 10(1)(e) of the Act -

- (a) the purchase of fish or aquatic life for processing and resale;
- (b) the processing of fish or aquatic life for sale; and
- (c) the sale or possession for sale of processed fish or aquatic life,

is prescribed.

59. NO PROCESSING FOR SALE, &c., WITHOUT LICENCE

- (1) The holder of -
- (a) a commercial fishing licence;
 - (b) a licence granted for the purposes of Part 10;
 - (c) a Fish Trader/Processor licence;
 - (d) a Fish Retailer licence; or
 - (e) an Aboriginal Coastal licence,

may process fish or aquatic life for sale, sell fish or aquatic life so processed and sell fish or aquatic life under and in accordance with the Act and these Regulations.

(2) A person shall not sell fish or aquatic life obtained from an Aboriginal Coastal licensee.

(3) A person shall not sell fish or aquatic life obtained from a Bait Net Fishery licensee unless it is labelled with the expression "not for human consumption".

(4) An assistant shall not transport fish for sale or sell fish except where the licensee which he or she assists has advised the Director in writing that the assistant is permitted to do so.

Fisheries Regulations

60. PROCESSING SURFACES, &c.

(1) Surfaces used for the processing of fish or aquatic life, walls abutting a work surface and adjacent floor, deck and wall surfaces shall be -

- (a) constructed of smooth light-coloured material that is easily cleaned and free from cracks; and
- (b) resistant to wear and corrosion and impervious to water.

(2) Areas where fish or aquatic life are processed, packed, stored or frozen for sale shall be kept in a clean and hygienic condition free from contamination.

(3) It is a condition of the registration of a vessel to be used for the purposes of a commercial fishing licence that the licensee shall maintain the vessel in accordance with this regulation.

61. PACKAGING OF FISH

(1) A person shall not pack fish or aquatic life processed under a licence or a permit other than in a plastic wrapping permitted for use with food under the Food Standards Code and of sufficient thickness or quality to be reasonably proof against accidental tearing.

(2) A person processing fish under a licence or a permit shall not freeze fillets of fish otherwise than in a regularly shaped block of which the least dimension does not exceed 80 mm.

62. LABELLING OF FISH

(1) The holder of a licence shall ensure that a label or tag is placed on a fish processed for sale under the licence, or, where processed fish or aquatic life is packaged for sale under the licence, placed on or inside that package, containing particulars, clearly printed in letters of uniform size, including -

- (a) the number of the person's licence;
- (b) the accepted common name of the contents; and
- (c) in the case of fish, other than fish processed to become a trunk, a description of the type of fish and the method used to process and preserve it.

(2) Where a fish has been processed for sale to become a trunk and the trunk is not in a package, a tag shall be attached to that trunk displaying the number of the licence under which the fish was processed and a description by the accepted common name of the type of the fish.

Fisheries Regulations

(3) Subregulations (1) and (2) do not apply to the sale of fish or aquatic life as a prepared meal.

(4) A Bait Net Fishery licensee shall label all fish or aquatic life in his or her possession, other than fish or aquatic life to be used by the licensee as bait for the purposes of amateur fishing by the licensee, with the words "not for human consumption".

(5) A licensee shall not affix a label or tape over another label or tape.

63. INCORRECT DESCRIPTION

Where fish or aquatic life is in a package or fish is labelled or tagged and -

- (a) the package, label or tag attached to it bears a statement, word, brand, mark, design or device regarding the contents that is false or misleading in a material particular;
- (b) the package, label or tag is marked so as to mislead or deceive, or is likely to mislead or deceive, a purchaser;
- (c) the package or fish labelled or tagged is sold under a name that conveys or is likely to convey a false indication of the type or species of the contents, or to lead a purchaser to suppose that it is fish other than that which it is; or
- (d) the package, label or tag is not marked in accordance with this Part,

the holder of the licence under which the label or tag was affixed is guilty of an offence.

64. FREEZING

(1) The licensee shall ensure that a freezer in a registered vessel or at a camp site used for freezing and storing fish shall, when being used for those purposes, be maintained at -18°C or below.

(2) A compartment of a freezer referred to in subregulation (1) shall be fitted with a thermometer mounted externally to indicate the internal temperature of the freezing compartment.

(3) A thermometer referred to in subregulation (2) shall be capable of accurate measurement and shall be clearly marked with 1.0°C graduations.

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(4) It is a condition of the registration of a vessel to be used for the purposes of a licence that the licensee shall maintain the vessel in accordance with this regulation.

65. TRANSPORT OF FROZEN FISH

A licensee shall not transport frozen fish other than in hygienic, insulated compartments or containers and shall ensure that they remain at -18° C or below while being transported.

66. FISH PROCESSING IN FRANCES BAY MOORING BASIN

A person who processes fish within the area known as the Frances Bay Mooring Basin in Darwin shall not take or release water from or into that body of water for a purpose related to the processing of fish or aquatic life.

PART 7 - COMMERCIAL FISHING LICENCES

Division 1 - Licensing

67. DEFINITION

In this Division, "licensee" means the holder of a commercial fishing licence.

68. CRITERIA FOR GRANT OR RENEWAL OF LICENCE

The matters to which the Director may have regard in considering an application for the grant or renewal of a commercial fishing licence include -

- (a) the applicant's qualifications or experience;
- (b) whether the applicant's financial resources are sufficient, in the opinion of the Director, to enable commercial use of the licence;
- (c) whether the applicant has attained the age of 18 years;
- (d) whether the applicant has all approvals required under any other Act of the Territory to conduct the fishing operation;
- (e) where the applicant has previously held a licence under this Act, whether the applicant has supplied all accounts, records, returns and information in the approved manner and form and within the time prescribed or specified by the Director; and

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- (f) the criteria set out in the Division of Part 8 in respect of which the particular licence is sought.

69. ASSISTANTS AND NOMINEES

(1) A licensee shall, before engaging in fishing under a licence, supply to the Director a written list of the names and dates of birth of persons who are, at the time of application, likely to be assistants of the licensee in the conduct of fishing operations during that year.

(2) Where a person commences or ceases to be an assistant of the licensee after the provision of the list required under subregulation (1), the licensee shall immediately note that fact in the licensee's record book and within 7 days after the day the person commenced or ceased to be an assistant of the licensee, supply to the Director in writing the name and date of birth of the person and a statement as to whether the person commenced or ceased to be an assistant to the licensee.

(3) Where the Director has approved the carrying on of the fishing operations by a person under section 14 of the Act, the licensee shall, after receiving the Director's approval and before absenting him or herself from the fishing operation, note in English in the licensee's record book the period during which he or she intends to be absent, note the name and date of birth of the approved person, sign the note and ensure the placement in the book of the signature of the approved person.

Division 2 - General Restrictions

70. USE OF LICENSEE'S FISHING GEAR BY ASSISTANT

An assistant shall not use fishing gear other than that permitted by the licence and shall not use that gear other than in accordance with the instructions of the licensee and under and in accordance with the Act.

71. SALE OF FISH

(1) Subject to subregulation (2), a licensee may sell fish to -

- (a) a member of the public not purchasing fish for resale;
- (b) a Fish Retailer licensee;
- (c) a Fish Trader/Processor licensee;

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- (d) a Fish Broker licensee;
- (e) a person holding a licence granted for the purposes of Part 10;
- (f) to a commercial fishing licensee, other than an Aquarium Fishery/Display licensee or an Aquarium Trader licensee; and
- (g) to a an interstate or overseas purchaser.

(2) An Aquarium Fishery/Display licensee may sell fish to an Aquarium Trader licensee, to an Aquaculture licensee, to an interstate or overseas purchaser or to a member of the public not purchasing fish for resale.

72. NO FISHING FOR SALE IN VICINITY OF ARTIFICIAL REEFS

A holder of a licence shall not permit fishing from a vessel registered in respect of his or her licence within a radius of -

- (a) 2 nautical miles from the Marchart 3, which is located at latitude 12° 24.8'S longitude 130° 48.2'E;
- (b) one nautical mile from the East Point Darwin Sub-Aqua Club Barge, which is located at latitude 12° 28.6'S longitude 130° 47.9'E; or
- (c) one nautical mile from Song Saigon Complex, which is located at latitude 12° 28.6'S longitude 130° 47.9'E.

PART 8 - COMMERCIAL FISHERIES

Division 1 - Coastal Line Fishery

73. DECLARATION OF COASTAL LINE FISHERY

The industry of taking fish (other than barramundi, threadfin salmon, spanish mackerel or mud crab) by the use of a vertical line is hereby declared to be the Coastal Line Fishery.

74. ENTRY CRITERIA

The Director shall not grant a Coastal Line Fishery licence other than to a person who was licensed under the repealed Regulations to engage during 1992 in the Inshore Reef Fish Fishery.

75. NO TRANSFER OF LICENCE

A Coastal Line Fishery licensee shall not transfer his or her licence.

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76. AREA OF FISHERY

The Coastal Line Fishery area is the area extending seaward from the coastline from the high water mark to an imaginary line following the coastline 2 nautical miles from the low water mark.

77. FISHING GEAR

A Coastal Line Fishery licensee shall not use under the licence fishing gear other than -

- (a) a vertical line;
- (b) a cast net, but the net shall be used only to take fish to be used by the person as bait in the fishery; and
- (c) a scoop net and gaff.

78. 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.

Division 2 - Coastal Net Fishery

79. DECLARATION OF COASTAL NET FISHERY

The industry of taking fish (other than barramundi, threadfin salmon, spanish mackerel or mud crab) by coastal net, is hereby declared to be the Coastal Net Fishery.

80. LICENCE REGIONS

The Director may grant a Coastal Net Fishery licence in respect of one of the following regions:

- (a) the Darwin Region, extending from Cape Hotham to Native Point and from Cape Ford to Dooley Point;
- (b) the Gove Region, extending from Cape Arnhem to Cape Wilberforce;
- (c) the Borroloola Region, extending from the mouth of Bing Bong Creek to Pelican Spit; or
- (d) other areas approved by the Director.

81. ENTRY CRITERIA

(1) The Director shall not grant a Coastal Net Fishery licence other than to a person -

- (a) who was licensed under the repealed Regulations to engage in the Bait Fishery and to catch bait in that fishery during 1992 or who was licensed

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under the repealed Regulations to engage in the Special Purpose Fishery during 1992 and to use haul net in that fishery; and

- (b) who, subject to subregulation (2), owns or leases a vessel of not less than 5 m in length for use in the fishery.

(2) Subregulation (1)(b) does not apply in respect of an applicant who was licenced under the repealed Regulations to engage in the Bait Fishery during 1992.

82. NO TRANSFER OF LICENCE

A Coastal Net Fishery licensee shall not transfer his or her licence.

83. AREA OF FISHERY

The Coastal Net Fishery area is that area extending seaward from the coastline from the high water mark to an imaginary line following the coastline 3 nautical miles from the low water mark.

84. FISHING GEAR

(1) Subject to subregulation (2), a Coastal Net Fishery licensee shall not use under the licence fishing gear other than -

- (a) coastal net, where not more than 300 m of coastal net, excluding the length of any attached haul-lines, is used and the net -
 - (i) where it is anchored or staked, is anchored or staked at one end only;
 - (ii) while catch is being cleared, is in not less than 30 cm of water; or
 - (iii) is used in the region in which its use is permitted by the licence; and
- (b) a cast net.

(2) A person who was licensed under the repealed Regulations to engage in the Special Purpose Fishery during 1992 and to use haul net in that fishery may, in addition to the gear referred to in subregulation (1), use the gear approved in the endorsement on that licence in the manner permitted by the endorsement or, where a different manner of use is approved, that manner.

Fisheries Regulations

85. CERTAIN FISH NOT TO BE TAKEN

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

Division 3 - Bait Net Fishery

86. DECLARATION OF BAIT NET FISHERY

The industry of taking fish (other than barramundi, threadfin salmon, spanish mackerel and mud crab) by bait net or cast net for sale as bait is hereby declared to be the Bait Net Fishery.

87. ENTRY CRITERIA AND NUMBER OF LICENCES

(1) The Director shall not grant a Bait Fish Fishery licence other than to a person -

(a) who was licensed under the repealed Regulations to engage in the Bait Net Fishery during 1992; and

(b) who does not hold a Coastal Net Licence.

(2) Where a Bait Net Fishery licensee ceases to hold the licence, the number of those licences which the Director may grant is reduced by one.

88. NO TRANSFER OF LICENCE

A Bait Net Fishery licensee shall not transfer his or her licence.

89. AREA OF FISHERY

The Bait Net Fishery area is the area extending seaward from the high water mark to an imaginary line following the coastline 3 nautical miles from the low water mark but does not include the Mary River Management Zone as described in Schedule 3 of the Barramundi Fishery Management Plan.

90. FISHING GEAR

A Bait Net Fishery licensee shall not use under the licence fishing gear other than -

(a) bait net where it is -

(i) not anchored or staked;

(ii) hauled by hand;

Fisheries Regulations

- (iii) attended at all times when in use; and
- (iv) while catch is being cleared, in not less than 30 cm of water;

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

91. CERTAIN FISH NOT TO BE TAKEN

A Bait Net Fishery licensee shall not take barramundi, threadfin salmon, spanish mackerel or mud crab under the licence.

Division 4 - Spanish Mackerel Fishery

92. DEFINITIONS

In this Division -

"restricted licence" means a restricted licence within the meaning of the Spanish Mackerel Fishery Management Plan;

"unrestricted licence" means an unrestricted licence within the meaning of the Spanish Mackerel Fishery Management Plan.

93. TRANSFER OF LICENCE

(1) The holder of an unrestricted licence may transfer the licence -

- (a) to his or her spouse (including de facto partner within the meaning of the *DeFacto Relationships Act*) or child; or
- (b) to another person, but that person may not take fish under the licence unless and until another Spanish mackerel licence transferred to him or her is surrendered to the Territory.

(2) The holder of a restricted licence shall not transfer the licence to another person.

94. NUMBER OF LICENCES

(1) The Director shall not grant more Spanish Mackerel licences than the number of licences held in respect of the Spanish Mackerel Fishery immediately before the commencement of these Regulations.

(2) Where a Spanish Mackerel licence is surrendered to the Territory, the number of licences which may be renewed by the Director is reduced by one.

Fisheries Regulations

95. VESSELS

(1) Subject to subregulation (2), a vessel, other than a tender, used under the licence shall be at least 8 m in length.

(2) Subregulation (1) does not apply where the vessel was, at 31 December 1992, registered for use under a licence under the repealed Regulations permitting the holder to engage in the Pelagic Fishery and endorsed for fishing with a troll line.

(3) The holder of -

(a) an unrestricted licence may use only one vessel, not being a tender, together with one or 2 tenders; and

(b) a restricted licence may use only one vessel, not being a tender,

to take fish under the licence.

Division 5 - Shark Fishery

96. ENTRY CRITERIA AND NUMBER OF LICENCES

(1) The Director shall not grant more than 18 Shark Fishery licences.

(2) The Director shall not grant, in respect of 1993, a Shark Fishery licence other than to a person who was, during 1992, licensed to engage -

(a) in the Pelagic Fish Fishery and to use pelagic net in that fishery; or

(b) in the Inshore Reef Fish Fishery on condition that only demersal long-line be used to take fish under that licence.

(3) Where a Shark Fishery licence is surrendered to the Territory, the number of licences which may be renewed by the Director is reduced by one.

97. NO TRANSFER OF LICENCE

A Shark Fishery licensee shall not transfer his or her licence.

98. FISHING GEAR

A Shark Fishery licensee shall not use under the licence fishing gear other than -

Fisheries Regulations

- (a) demersal long-line and gaff -
 - (i) within the area extending seaward from the high water mark at the coastline to an imaginary line following the coastline 3 nautical miles seaward from the baseline; and
 - (ii) if the total length of all demersal line used in respect of the fishery is not more than 20 nautical miles;
- (b) pelagic net within the area extending seaward from an imaginary line following the coastline 2 nautical miles from the low water mark to an imaginary line following the coastline 12 nautical miles seaward of the baseline, not being an area within the Mary River Fish Management Zone described in Schedule 3 of the Barramundi Fishery Management Plan;
- (c) a restricted bait net -
 - (i) which is not staked or otherwise fixed at more than one end;
 - (ii) within the area extending seaward from the coast 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 for use with demersal longline in the fishery; and
 - (iv) which is, when catch is being cleared, in not less than 30 cm of water; and
- (d) a scoop net.

99. VESSELS

(1) A Shark Fishery licensee shall use a mother boat at least 8 m long registered for use in the fishery.

(2) Subsection (1) does not apply to a licensee who, immediately before the commencement of these Regulations, held a licence under the repealed Regulations to engage in the Pelagic Fishery and was permitted, in accordance with that licence, to use net.

100. CERTAIN FISH NOT TO BE TAKEN

(1) 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.

Fisheries Regulations

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

Division 6 - Demersal Fishery

101. DECLARATION OF DEMERSAL 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, is hereby declared to be the Demersal Fishery.

102. ENTRY CRITERIA

The Director shall not grant a Demersal Fishery licence other than to a person who was licensed under the repealed Regulations to engage in the Offshore Reef Fish Fishery during 1992.

103. NO TRANSFER OF LICENCE

A Demersal Fishery licensee shall not transfer his or her licence.

104. AREA OF FISHERY

The Demersal Fishery area is the area extending seawards from an imaginary line following the coastline, 2 nautical miles from the low water mark to the outer boundary of the Australian Fishing Zone.

105. FISHING GEAR

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;
- (c) a fish trap;
- (d) a scoop net or gaff; and
- (e) restricted bait net -
 - (i) which is not staked or otherwise fixed at more than one end;
 - (ii) within the area extending seaward from the coastline from the high water mark to an imaginary line following the coastline 3 nautical miles from the low water mark;

Fisheries Regulations

- (iii) for the taking of fish to be used by the licensee as bait in the fishery; and
- (iv) which is, whilst catch is being cleared, in not less than 30 cm of water.

106. VESSELS

(1) A Demersal Fishery licensee shall use a mother boat not less than 8 m long registered for use in the fishery.

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

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.

Division 7 - Barramundi Fishery

108. DECLARATION OF LIMITED ENTRY FISHERY

The Barramundi Fishery declared on 6 December 1989 in *Gazette* No. G48 is hereby declared to be a limited entry fishery.

109. NUMBER OF LICENCES

(1) The Director shall not renew more than 28 Barramundi Fishery licences.

(2) The Director may renew a licence in accordance with the Barramundi Fishery Management Plan approved on 24 January 1991 and published in *Gazette* No. S5 on 31 January 1991, as amended from time to time.

110. TRANSFER OF LICENCE

(1) A Barramundi Fishery licence may be transferred, with all units of gill net specified on the licence under the Barramundi Fishery Management Plan, to another person.

(2) Subregulation (1) does not apply to the transfer of gill net to the Territory.

Division 8 - Mud Crab Fishery

111. DECLARATION OF LIMITED ENTRY FISHERY

The Mud Crab Fishery declared on 28 March 1990 in *Gazette* No. G12 is hereby declared to be a limited entry fishery.

Fisheries Regulations

112. NUMBER OF LICENCES

The Director shall not grant more than 49 Mud Crab Fishery licences.

113. TRANSFER OF LICENCE

A Mud Crab Fishery licensee may transfer his or her licence.

114. FISHING GEAR

A Mud Crab Fishery licensee shall not use under the licence fishing gear other than -

- (a) pots permitted under the licence; and
- (b) a restricted bait net -
 - (i) which is not staked or otherwise fixed at more than one end;
 - (ii) within the area extending seaward from the coast 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 for use with pots in the fishery; and
 - (iv) which is, when catch is being cleared, in not less than 30 cm of water.

Division 9 - Mollusc Fishery

115. DECLARATION OF FISHERY

The industry of taking fish of the Class Mollusca, other than cephalopods and bivalves of the Genus *Pinctada*, is hereby declared to be the Mollusc Fishery.

116. NO TRANSFER OF LICENCE

A Mollusc Fishery licensee shall not transfer his or her licence.

Division 10 - Pearl Oyster Fishery

117. DEFINITIONS

In this Division, unless the contrary intention appears -

"licence" means a licence granted or renewed in respect of the Pearl Oyster Fishery;

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"licensee" means the holder of a Pearl Oyster Fishery licence;

"restricted licence" means a restricted licence within the meaning of the Pearl Oyster Fishery Management Plan;

"unrestricted licence" means an unrestricted licence within the meaning of the Pearl Oyster Fishery Management Plan.

118. JOINT AUTHORITY MAY GRANT LICENCES

The Joint Authority may grant not more than 6 Pearl Oyster Fishery licences in respect of the Pearl Oyster Fishery declared on 25 November 1991 and published in Gazette No. 2 on 15 January 1992.

119. ENTRY CRITERIA

(1) Subject to subregulation (2), the Joint Authority shall grant a restricted licence to each person who, immediately before the commencement of these Regulations, held a Class A1 licence under the repealed Regulations to engage in the Pearl Oyster Fishery.

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

120. RENEWAL OF LICENCE

(1) Subject to this regulation, the Joint Authority may, in respect of a licensing year, renew a maximum of 6 licences.

(2) Where a licence is cancelled or surrendered pursuant to the Act, the maximum number of licences which the Joint Authority may renew under subregulation (1) shall be reduced by the number of licences cancelled or surrendered.

(3) The Joint Authority may renew a 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 that the Director intends to renew it; and
- (b) the applicant -
 - (i) meets the requirements of regulation 121;

Fisheries Regulations

- (ii) has complied with the Act, the Regulations, the Pearl Oyster Fishery Management Plan, a licence, and any other instrument of a legislative or administrative character applicable to the Pearl Oyster Fishery; and
- (iii) has met the performance criteria specified in Appendix A of the Schedule to the Pearl Oyster Fishery Management Plan.

121. COMPANY STRUCTURE

(1) A natural person shall not hold a licence unless the person is an Australian citizen.

(2) Subject to subregulation (6), a body corporate shall not hold a licence unless -

- (a) no more than 49 % of the shares in the body corporate are held beneficially, entirely or in part, whether directly or indirectly, including through interposed corporations and/or by trusts, by persons other than Australian citizens;
- (b) the Chairman and a majority of the committee of management, board of directors, or other governing authority of the body corporate are Australian citizens and are nominated by and represent Australian interests; and
- (c) all office bearers are Australian citizens.

(3) Where the holder of a restricted licence is a body corporate it shall, within 3 months after the commencement of this Plan, provide the Joint Authority with a statement of the beneficial ownership of shareholdings in the company to which the licence has been granted.

(4) Where a licensee, being a body corporate, proposes to alter the beneficial ownership of a shareholding in the company which holds the licence, it shall submit to the Joint Authority details of the proposed alteration before it takes place.

(5) An alteration to the beneficial ownership of a shareholding in a company to which a licence has been granted must be approved, in writing, by the Joint Authority.

(6) Notwithstanding regulation 122(1), where the Joint Authority is of the opinion, after considering information provided to it under subregulation (3) or (4), that a licensee holds a licence in contravention of this regulation, the Joint Authority shall give written notice to the licensee that the licensee shall, within 3 months after the date of the notice, transfer that licence to

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another person to whom that licence may be transferred under regulation 122, as if the licence were an unrestricted licence under that regulation.

(7) A licensee to whom notice has been given under subregulation (6) who does not, within 3 months after the date of the notice, transfer the licence in accordance with that subregulation, is guilty of an offence.

Penalty: \$10,000.

122. TRANSFER OF LICENCE

(1) Subject to regulation 121, a licensee shall not transfer a restricted licence to another person.

(2) An unrestricted licence may, subject to the Pearl Oyster Fishery Management Plan and to guidelines, if any, issued by the Joint Authority, be transferred to a licensee together with its associated pearl oyster fishing units, as defined in the Pearl Oyster Fishery Management Plan, if the Joint Authority has given prior notice of approval of the proposed transfer, in writing, to the transferor and the transferee.

(3) A licensee may apply to the Joint Authority, in the form approved by the Joint Authority, for approval to transfer an unrestricted licence to another licensee.

(4) The Joint Authority shall not approve the transfer of a licence unless -

- (a) the transferee meets the requirements of regulation 121;
- (b) application has been made to the Minister for the approval of the transfer of the licensee's Pearl Oyster Culture Industry licence to the same person as the person to whom the licensee has applied to transfer the licence under subregulation (3) and the Joint Authority is satisfied that the Minister will approve the transfer of the Pearl Oyster Culture Industry licence; and
- (c) the transfer will be in accordance with criteria determined by the Joint Authority from time to time.

(5) Where the Joint Authority approves the transfer of a licence and the licence is transferred, it shall remove the name of the transferor of the licence from the register of licences and vessels, if any, and replace the name with the name of the transferee.

Fisheries Regulations

Division 11 - Fixed Fish Trap Fishery

123. DECLARATION OF FISHERY

The industry of taking fish for sale (other than barramundi, threadfin salmon, spanish mackerel, or mud crab) by fixed fish trap is hereby declared to be the Fixed Fish Trap Fishery.

124. DIRECTOR MAY GRANT ONE LICENCE ONLY

The Director may grant one Fixed Fish Trap Fishery licence only and the licence may be granted only to the person who, during 1992, was licensed under the repealed Regulations to engage in the Fish Trap Fishery.

125. NO TRANSFER OF LICENCE

The Fixed Fish Trap licensee shall not transfer the licence.

126. AREA OF FISHERY

The Fixed Fish Trap Fishery area is that area in which, immediately before the commencement of these Regulations, a fixed fish trap was operated under a licence granted under the repealed Regulations.

127. FISHING GEAR

The Fixed Fish Trap licensee shall not use fishing gear under the licence other than one fixed fish trap and shall -

- (a) clear the trap, when in use, on each falling tide;
- (b) ensure that when the trap is not in use, the door of the trap is left open;
- (c) ensure that the trap displays the licence number so that it can be seen from the shore; and
- (d) as soon as reasonably practicable after the day the licence ceases to be valid make the trap incapable of taking fish and, within 1 month after the day the licence ceases to be valid, remove the trap from water or a place where it could take fish.

128. CERTAIN FISH NOT TO BE TAKEN

The Fixed Fish Trap licensee shall not take barramundi, threadfin salmon, spanish mackerel or mud crab under the licence.

Fisheries Regulations

Division 12 - Aquarium Fishing/Display Fishery

129. DECLARATION OF FISHERY

The industry of collecting live fish and aquatic life for the purpose of sale and display in aquariums is hereby declared to be the Aquarium Fishing/Display Fishery.

130. NO TRANSFER OF LICENCE

An Aquarium Fishing/Display Fishery licensee shall not transfer his or her licence.

131. AREA OF FISHERY

The Aquarium Fishing/Display Fishery area is all inland waters and waters seaward from the coastline to the outer boundary of the Australian Fishing Zone.

132. PURCHASE OR SALE OF FISH

(1) An Aquarium Fishing/Display Fishery licensee shall not under the licence -

- (a) take other than live fish or aquatic life;
- (b) except with the approval of the Director, take barramundi, spanish mackerel, mud crab or organisms of the species *Macrobrachium* or the species *Cherax*;
- (c) buy fish or aquatic life other than from an Aquaculture or Aquarium Fishing/Display Fishery licensee; or
- (d) take broodstock for sale to an Aquaculture licensee except with the approval of the Director.

(2) An Aquarium Fishing/Display Fishery licensee may display and sell live fish or aquatic life taken in the Territory or imported into the Territory under a permit granted in accordance with the Act.

(3) An Aquarium Fishing/Display Fishery licensee shall not sell fish for human consumption or for use as bait.

133. FISHING GEAR

An Aquarium Fishing/Display Fishery licensee shall not use gear other than gear, such as a cast net, a scoop net, a hand pump or a freshwater pot, approved by the Director for the purposes of the licence and where directions in respect of such implements are given by the Director, shall use them only in accordance with those directions.

Fisheries Regulations

Division 13 - Trepang Fishery

134. DECLARATION OF FISHERY

The industry of taking trepang is hereby declared to be the Trepang Fishery.

135. NUMBER OF LICENCES

The Director shall not grant more than 6 Trepang Fishery licences of which -

- (a) 3 shall be in relation to the coastline extending east from Cape Grey; and
- (b) 3 shall be in relation to the coastline extending west from Cape Grey.

136. AREA OF FISHERY

The Trepang Fishery area is the area extending seaward from the high water mark of the coastline to an imaginary line 3 nautical miles seaward from the baseline.

137. FISHING GEAR

A Trepang Fishery licensee shall not, under the licence, use fishing gear other than hand-held implements, and, where directions in respect of such implements are given by the Director, shall use them only in accordance with those directions.

Division 14 - Development

138. LICENCE REQUIRED TO TRIAL GEAR OR FISHING METHODS

For the purposes of section 10(1)(e) of the Act, the carrying out of trials and experiments with fishing gear or new methods of fishing are prescribed.

139. DIRECTOR MAY GRANT LICENCE

The Director may grant a Development licence to permit -

- (a) the carrying out of trials or experiments with fishing gear or new methods of using fishing gear;
- (b) the taking of a specific species of fish or aquatic life for sale; and
- (c) the taking, for sale, of fish or aquatic life from specific areas.

Fisheries Regulations

140. PERIOD OF LICENCE &c.

A Development licence -

- (a) shall not be granted for a period of more than one year;
- (b) shall not be renewed more than twice; and
- (c) gives the holder of the licence no interest in, right to, or legitimate expectation of an interest in or a right to, the grant of another commercial fishing licence.

141. NO TRANSFER OF LICENCE

A Development licensee shall not transfer his or her licence.

PART 9 - PROCESSING AND SALE OF FISH

Division 1 - Licensing Generally

142. APPLICATION OF PART

This Part does not apply in respect of processed fish imported into the Territory packaged for sale to a final consumer and marked with the State, Territory or country from which the fish originated.

143. CRITERIA FOR GRANT OR RENEWAL

The matters to which the Director may have regard in considering an application for the grant or renewal of a Fish Trader/Processor licence, a Fish Retailer licence or a Fish Broker licence include -

- (a) whether the applicant's financial resources are, in the opinion of the Director, sufficient to enable commercial use of the licence;
- (b) whether the applicant has attained the age of 18 years;
- (c) whether the applicant has all approvals required under any other Act of the Territory to conduct the operation; and
- (d) where an applicant has previously held a licence under this Act, whether the applicant has supplied all accounts, records, returns and information in the approved manner and form and within the time prescribed or specified by the Director.

Fisheries Regulations

144. APPLICATION

The Director shall not grant or renew a Fish Trader/Processor licence or a Fish Retailer licence unless the application -

- (a) indicates the address of; and
- (b) is accompanied by documentary evidence of all approvals required under any Act of the Territory in order to lawfully process fish at,

the place at which the processing is to occur.

145. PLACE OF PROCESSING

(1) The Director shall not grant a Fish Trader/Processor licence or Fish Retailer licence in respect of a domestic dwelling unless the dwelling -

- (a) conforms with the requirements of or under the *Public Health Act* in respect of food processing; and
- (b) shall not contravene planning instruments made under the *Planning Act*.

(2) A Fish Trader/Processor licensee and a Fish Retailer licensee shall display, in a prominent position at each of the places specified on the licence, the number and expiry date of the licence.

(3) A Fish Trader/Processor licensee and a Fish Retailer licensee shall not process fish for sale except at a place specified in the licence.

146. APPOINTEE

Where a Fish Trader/Processor licensee or a Fish Retailer licensee processes or sells, or a Fish Broker sells, fish or aquatic life at more than one place, he or she shall appoint a person engaged at each of those places to be responsible for the activities under the licence at that place, and shall, as soon as practicable, advise the Director in writing of the name and date of birth of such persons.

147. SALE TO AQUARIUM FISHING/DISPLAY FISHERY LICENSEE

A person who holds a licence for the purposes of this Part or is appointed under regulation 146 shall not sell live fish to an Aquarium Fishing/Display Fishery licensee or an Aquarium Trader licensee purchasing fish for the purposes of that licence.

Fisheries Regulations

148. LABELLING OF FISH FROM AQUACULTURE FACILITY

The holder of a licence for the purposes of this Part shall ensure that all fish for sale which the licensee purchases for sale from an aquaculture facility shall have attached to them or be accompanied by a statement indicating -

- (a) the number of the licence under which the fish were bred or held;
- (b) that the fish is the product of an aquaculture facility situated in the Northern Territory; and
- (c) such other information as required by the Director,

and shall not sell such fish, other than fish forming part of a meal or such fish sold for use as bait, unless the fish is labelled in accordance with this regulation.

149. FISH ON PREMISES DEEMED TO BE FOR SALE

Fish at a place specified on a licence shall be deemed to be fish for sale.

Division 2 - Fish Trader/Processor

150. FISH TRADER/PROCESSOR MAY PROCESS AND RESELL

Subject to this Division, a Fish Trader/Processor licensee may purchase fish or aquatic life for processing and resale.

151. PURCHASE OF FISH

(1) A Fish Trader/Processor licensee shall not purchase fish or aquatic life for processing and resale except -

- (a) from a person who holds a commercial fishing licence permitting the taking of that fish or aquatic life;
- (b) from a person who holds an appropriate licence under a law of the Commonwealth, a State or another Territory of the Commonwealth;
- (c) from a Fish Trader/Processor licensee, a Fish Broker licensee or a person who holds a licence granted for the purposes of Part 10;
- (d) where the fish is live fish and the Territory was not the first landing point of the fish or aquatic life, pursuant to a permit granted under the Act; or

Fisheries Regulations

- (e) from an interstate or overseas supplier.

152. EXPORT OF FOOD

If the place in respect of which a Fish Trader/Processor licence is granted is permitted, licensed, registered, or otherwise certified under an Act of the Commonwealth as approved premises for the production of food for export, the terms of that Act shall, in relation to standards of health and hygiene on those premises, apply to the exclusion of the *Fisheries Act*, these Regulations or an instrument of a legislative or administrative character made under the *Fisheries Act*, but shall not prevent the entry onto that place of officers appointed under the *Fisheries Act*.

153. FREEZER CAPACITY

A Fish Trader/Processor licensee who freezes fish under the licence shall, after the expiration of 12 months after the commencement of these Regulations, possess for the storage of fish a freezer which -

- (a) has not less than 10m³ of freezer space; and
- (b) conforms with the standards of the *Food Act* and any other Act which applies to the storage of fish or frozen food in force in the Territory.

Division 3 - Fish Retailer

154. SALE OF FISH

A Fish Retailer licensee may process fish but shall not sell fish, whether or not processed, except to a person not purchasing them for the purpose of resale.

155. PURCHASE OF FISH

A Fish Retailer licensee shall not purchase fish or aquatic life for resale except -

- (a) from a person who holds a commercial fishing licence permitting the taking of that fish or aquatic life;
- (b) from a person who holds an appropriate licence under a law of the Commonwealth or a State or another Territory of the Commonwealth;
- (c) from a person who holds a Fish Trader/Processor licence, a Fish Broker licence or a licence granted for the purposes of Part 10 or;

Fisheries Regulations

- (d) where the fish is live fish and the Territory was not the first landing point of the fish or aquatic life, in pursuance of a permit granted under the Act; or
- (e) from an interstate or overseas supplier.

Division 4 - Fish Broker

156. FISH BROKER LICENCE

(1) A Fish Broker licensee may purchase fish for resale and sell fish.

(2) A Fish Broker licensee shall not process fish for sale.

157. SALE OF FISH

A Fish Broker licensee shall not sell fish except to -

- (a) the holder of a licence for the purposes of this Part;
- (b) a person who holds an appropriate licence under a law of the Commonwealth or a State or another Territory of the Commonwealth;
- (c) in accordance with an export permit granted under an Act of the Commonwealth; or
- (d) an interstate or overseas purchaser.

158. PURCHASE OF FISH

A Fish Broker licensee shall not purchase fish or aquatic life for resale except -

- (a) from a person who holds a commercial fishing licence permitting the taking of that fish or aquatic life;
- (b) from a person who holds an appropriate licence under a law of the Commonwealth, a State or another Territory of the Commonwealth;
- (c) from a Fish Trader/Processor licensee, a Fish Broker licensee or a person holding a licence granted for the purposes of Part 10;
- (d) where the fish is live fish and the Territory was not the first landing point of the fish or aquatic life, in pursuance of a permit granted under the Act; or

Fisheries Regulations

- (e) from an interstate or overseas purchaser.

PART 10 - AQUACULTURE

Division 1 - Licensing Generally

159. NO BREEDING FOR SALE WITHOUT LICENCE

A person shall not breed, farm or hold live fish for sale unless he or she holds a licence in respect of this Part.

160. CRITERIA FOR GRANT OR RENEWAL

The matters to which the Director may have regard in considering an application for the grant or renewal of a licence under this Part include -

- (a) whether the applicant's financial resources are, in the opinion of the Director, sufficient to enable commercial use of the licence;
- (b) whether the applicant has attained the age of 18 years;
- (c) whether the applicant has all approvals required under any other Act of the Territory to conduct the operation;
- (d) where an applicant has previously held a licence under this Act, whether the applicant has supplied all accounts, records, returns and information in the approved manner and form and within the time prescribed or specified by the Director; and
- (e) any other criteria set out in these Regulations in respect of the licence.

161. APPLICATION FOR LICENCE

An application for a licence in respect of this Part shall contain -

- (a) details of the species, stage of life cycle and number of fish or aquatic life that the applicant intends to stock or culture or intends to take or retain as broodstock;
- (b) details of the gear that the applicant intends to use to take fish or aquatic life, other than gear used to take fish within the aquaculture facility to which the application relates;

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- (c) plans relating to the construction, development or modification of an aquaculture facility to which the application relates;
- (d) a proposed plan of operation in respect of the aquaculture facility to which the application relates;
- (e) approvals required under any another Act of the Territory for the operation of the aquaculture facility to which the application relates;
- (f) details of the location of the aquaculture facility and of all places at which the applicant intends to breed, hold, rear, process or sell fish or aquatic life; and
- (g) such other information as the Director requires.

162. PLACE OF PROCESSING TO BE SPECIFIED IN LICENCE

(1) The holder of a licence in respect of this Part shall not breed, hold, rear, process or transfer fish into the possession of a person other than an assistant of the licensee, except in or at a place specified in the licence.

(2) The Director shall not grant a licence in respect of this Part in respect of a domestic dwelling unless the dwelling -

- (a) conforms with the requirements of or under the *Public Health Act* in respect of food processing; and
- (b) will not contravene planning instruments made under the *Planning Act*.

163. MODIFICATION OF AQUACULTURE FACILITY

The holder of a licence in respect of this Part shall not modify an aquaculture facility to which the licence relates unless he or she has submitted specifications and plans relating to the proposed modification to the Director and the Director has, in writing, approved the modification.

164. APPOINTEE

Where the holder of a licence in respect of this Part breeds, rears, holds, processes or sells fish or aquatic life at more than one place nominated in the licence, he or she shall appoint a person engaged at each aquaculture facility to be responsible for the activities at that facility, and shall, as soon as practicable, advise the Director in writing of the name and date of birth of such persons.

Fisheries Regulations

165. LICENCE DETAILS TO BE DISPLAYED

The holder of a licence in respect of this Part shall display, in a prominent place in each of the places noted in the licence, the number and expiry date of the licence.

166. EXPORT OF FOOD

If the place in respect of which a licence in respect of this Part is granted is licensed, registered or otherwise certified under an Act of the Commonwealth as approved premises for the production of food for export, the terms of that Act shall, in relation to standards of health and hygiene on those premises, apply to the exclusion of the *Fisheries Act*, these Regulations or an instrument of a legislative or administrative character made under the *Fisheries Act* but shall not prevent the entry onto that place of officers appointed under the *Fisheries Act*.

167. FREEZER CAPACITY

The holder of a licence in respect of this Part who freezes fish for sale shall, after the expiration of 12 months after the commencement of these Regulations, possess for the storage of fish a freezer which -

- (a) has not less than 10m³ of freezer space; and
- (b) conforms with the standards of the *Food Act* and any other Act which applies to the storage of fish or frozen food in force in the Territory.

168. BROODSTOCK

(1) The holder of a licence in respect of this Part shall, as soon as practicable after taking barramundi broodstock from waters outside an aquaculture facility, tag it in the approved manner.

(2) For the purposes of section 10(1)(e) of the Act, the disposal otherwise than by sale of fish taken as broodstock is prescribed as being an action able to be taken only by a holder of a licence in respect of this Part.

169. LABELLING OF FISH, &c., FROM AQUACULTURE FACILITY

The holder of a licence in respect of this Part shall ensure that fish or aquatic life leave the aquaculture facility with a statement indicating -

- (a) the number of the licence under which the fish or aquatic life were bred or held;

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- (b) that the fish or aquatic life is the product of an aquaculture facility in the Northern Territory; and
- (c) such other information as required by the Director,

attached to or accompanying the fish or aquatic life and that the statement remains attached to or accompanies the fish at all times when the fish is in the possession or control of the holder of the licence outside the aquaculture facility.

Division 2 - Aquaculture Licence

170. NO AQUACULTURE WITHOUT LICENCE

A person may take fish as broodstock, purchase fish, breed fish or aquatic life, rear or hold such fish or aquatic life and process and sell such fish or aquatic life, under and in accordance with an Aquaculture licence.

171. CONDITIONS OF LICENCE

The conditions to which an Aquaculture licence may be subject include -

- (a) limitation of the species of fish which may be kept and the stages of the life cycle of a fish at which the fish may be kept;
- (b) limitation of the number of fish which may be kept or sold;
- (c) limitation of the use of chemicals or drugs, including the regulation or prohibition, for such period as the Director thinks fit, of the transport or release from the aquaculture facility of fish exposed to chemicals or drugs;
- (d) a requirement for the lodgement of a bank guarantee or securities to cover the cost of damage which may be caused by the operation of the aquaculture facility;
- (e) a condition that the licensee shall operate the aquaculture facility in accordance with the plan of operation submitted in accordance with regulation 161(d) and approved by the Director; and
- (f) the method of water discharge or other waste disposal.

Fisheries Regulations

172. LICENCE CONDITIONAL ON CONSTRUCTION

(1) The Director may, on receipt of an application for an Aquaculture licence, grant the licence on condition that the aquaculture facility to which the licence relates is constructed or altered in accordance with the specifications or plans accompanying the application under regulation 161(c), as modified by the conditions or requirements, if any, imposed by the Director.

(2) The conditions referred to in subregulation (1) may include a requirement that construction or alteration take place in stages and at times determined by the Director.

(3) At the completion of a stage of construction or alteration determined by the Director under subregulation (2), the Director or a person authorised by the Director for that purpose shall examine the aquaculture facility and, if satisfied that the construction or alteration complies with the specifications or plans referred to in subregulation (1) for that stage of construction as determined in accordance with subregulation (2), shall certify that construction or alteration may proceed to the next stage.

(4) Where -

(a) the Director or a person authorised by the Director -

(i) has inspected the aquaculture facility at a stage of construction specified in the licence and cannot certify that construction or alteration may proceed to the next stage or that the facility, when completed, would be constructed or altered in accordance with the requirements of subregulation (1); or

(ii) at any time during the period in which the licence is valid has reasonable grounds for concluding that the aquaculture facility will not be constructed or altered in accordance with those requirements; or

(b) the licensee has breached another condition of the licence or committed an offence under the Act,

the Director may, if he or she thinks fit, refuse to permit the construction or alteration of the aquaculture facility to continue to the next stage and the licensee shall, notwithstanding any other provision in these Regulations, cease to be permitted to take, purchase, breed, hold, process or sell fish or aquatic life under the licence.

Fisheries Regulations

173. POSSESSION OF BROODSTOCK

An Aquaculture licensee shall not possess fish for breeding except those fish -

- (a) taken under and in accordance with the Act;
- (b) obtained from a person who holds a commercial fishing licence;
- (c) imported in accordance with a permit;
- (d) obtained from another Aquaculture licensee; or
- (e) obtained from an aquaculture facility operated by a statutory corporation.

174. SALE OF FISH

An Aquaculture licensee may sell fish to -

- (a) a Fish Retailer licensee;
- (b) a Fish Broker licensee;
- (c) a Trader/Processor licensee;
- (d) an Aquaculture licensee; or
- (e) a member of the public not purchasing fish for resale.

175. DISPOSAL OF BROODSTOCK

An Aquaculture licensee shall not sell or otherwise dispose of fish taken as broodstock under this Part to another person except -

- (a) after 12 months after the date the fish was taken; and
- (b) with the prior approval of the Director.

Division 3 - Pearl Oyster Culture Industry Licence

176. DEFINITIONS

In this Division, unless the contrary intention appears -

- "licence" means a licence granted in respect of the Pearl Oyster Culture Industry Fishery;
- "licensee" means the holder of a Pearl Oyster Culture Industry licence;

Fisheries Regulations

"restricted licence" means a restricted licence within the meaning of the Pearl Oyster Culture Industry Fishery Management Plan;

"unrestricted licence" means an unrestricted licence within the meaning of the Pearl Oyster Culture Industry Fishery Management Plan.

177. DIRECTOR MAY GRANT LICENCE

The Director may grant a maximum of 6 licences in respect of the managed fishery known as the Pearl Oyster Culture Industry declared on 25 November 1991 and published in *Gazette* No. G28 on 17 July 1991.

178. RENEWAL OF LICENCES

(1) Subject to this Division, the Director may, in respect of a licensing year, renew a maximum of 6 licences.

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

179. CRITERIA FOR RENEWAL OF LICENCE

The Director shall not renew a licence held in the previous licensing year unless -

- (a) satisfied that the applicant has applied for renewal of a Pearl Oyster Fishery licence and that the Joint Authority intends to renew it; and
- (b) the applicant -
 - (i) meets the requirements of regulation 180;
 - (ii) has complied with the Act, and any other instrument of a legislative or administrative character applicable to the pearl oyster fishery; and
 - (iii) has met the performance criteria specified in Appendix A of the Schedule to the Pearl Oyster Culture Industry Management Plan.

180. COMPANY STRUCTURE

(1) A natural person shall not hold a licence unless the person is an Australian citizen.

Fisheries Regulations

(2) Subject to subregulation (6), a body corporate shall not hold a licence unless -

- (a) no more than 49 % of the shareholdings of the body corporate are held beneficially, entirely or in part (whether directly or indirectly, including through interposed corporations and/or trusts) by persons other than Australian citizens;
- (b) the Chairman and a majority of the committee of management, board of directors, or other governing authority of the body corporate are Australian citizens and are nominated by and represent Australian interests; and
- (c) all office bearers are Australian citizens.

(3) Where the holder of a restricted licence is a body corporate it shall, within 3 months after the commencement of the Pearl Oyster Culture Industry Fishery Management Plan, provide the Minister with a statement of the beneficial ownership of shareholdings in the company to which the licence has been granted.

(4) Where a licensee, being a body corporate, proposes to alter the beneficial ownership of a shareholding in the company which holds the licence, it shall submit to the Minister details of the proposed alteration before it takes place.

(5) An alteration to the beneficial ownership of a shareholding in a company to which a licence has been granted must be approved, in writing, by the Minister.

(6) Notwithstanding regulation 181(1), where the Minister is of the opinion, after considering information provided to him or her under subregulation (3) or (4), that a licensee holds the licence in contravention of this regulation, the Minister shall give written notice to the licensee that the licensee shall, within 3 months after the date of the notice, transfer that licence to another person to whom that licence may be transferred under regulation 181, as if the licence were an unrestricted licence under that regulation.

(7) A licensee to whom notice has been given under subregulation (6) who does not, within 3 months from the date of the notice, transfer the licence in accordance with that subregulation, is guilty of an offence.

Penalty: \$10,000.

181. TRANSFER OF LICENCE

(1) Subject to regulation 180(6), a licensee shall not transfer a restricted licence to another person.

Fisheries Regulations

(2) A person may not transfer an unrestricted licence unless the Minister has given prior written notice of approval of the transfer to the transferor and the transferee.

(3) A licensee may apply to the Minister, in the approved form, for approval to transfer an unrestricted licence.

(4) The Minister shall not approve the transfer of a licence unless -

- (a) the transferee complies with the requirements of regulation 180;
- (b) application has been made to the Joint Authority for the transfer of the licensee's Pearl Oyster Fishery licence to the same person as the person to whom the licensee has applied for approval to transfer the licence under subregulation (3) and the Minister is satisfied that the Joint Authority will approve the transfer of the Pearl Oyster Fishery licence; and
- (c) the transfer will be in accordance with criteria laid down by the Minister from time to time.

(5) Where the Minister approves the transfer of a licence and the licence is transferred, he or she shall direct the Director to remove the name of the transferor of the licence from the register of licences and vessels and replace the name with the name of the transferee.

PART 11 - SPECIAL LICENCES

Division 1 - Licensing Generally

182. CRITERIA FOR GRANT OR RENEWAL

The matters to which the Director may have regard in considering an application for the grant or renewal of a licence in respect of this Part include -

- (a) whether the applicant has all approvals required under any other Act of the Territory to operate the licence;
- (b) where an applicant has previously held a licence under this Act, whether the applicant has supplied all accounts, records, returns and information in the approved manner and form and within the time specified by the Director; and
- (c) any other criteria set out in these Regulations in respect of the licence type for which application for grant or renewal is made.

Fisheries Regulations

Division 2 - Aboriginal Coastal Licence

183. APPLICATION FOR LICENCE

An Aboriginal person who -

- (a) is a member of a community or group in respect of which land has been granted to a trust for the benefit of Aboriginals entitled by Aboriginal tradition to the use or occupation of that land under the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth;
- (b) is permanently resident on the land; and
- (c) has -
 - (i) where there is a council within the meaning of the *Local Government Act*, the approval of that council; or
 - (ii) where there is no such council, the approval of persons accepted by the majority of the community or group to be its leaders,

may apply to the Director for an Aboriginal Coastal licence.

184. DIRECTOR MAY GRANT LICENCE

(1) The Director may, subject to this Division, grant an Aboriginal Coastal licence to an applicant.

(2) An Aboriginal Coastal licence shall not be granted to a person other than a natural person.

(3) Only one licence may be granted in respect of each community or group in respect of which land has been granted to a trust for the benefit of Aboriginals entitled by Aboriginal tradition to the use or occupation of that land under the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth.

185. NO TRANSFER OF LICENCE

An Aboriginal Coastal licensee shall not transfer his or her licence.

186. LAPSE OF LICENCE

It shall be a condition of each Aboriginal Coastal licence that it lapses where the licensee ceases to be a permanent resident on the land granted for the benefit of the members of the community or group of which he or she is a member as referred to in regulation 183(a).

Fisheries Regulations

187. CERTAIN PEOPLE NOT TO HOLD LICENCE

An Aboriginal Coastal licensee shall not -

- (a) hold a commercial fishing licence; or
- (b) be an assistant of the holder of a commercial fishing licence.

188. AREA OF LICENCE

An Aboriginal Coastal licensee shall not take fish for sale under the licence except from within the area specified on the licence as the area in which fish may be taken under the licence.

189. FISHING GEAR

An Aboriginal Coastal licensee shall not use gear under the licence other than amateur fishing gear and shall not use such gear other than under and in accordance with the provisions of these Regulations relating to amateur fishing.

190. CONDITIONS OF LICENCE

(1) The Director shall, in determining the conditions, if any, to be placed on an Aboriginal Coastal licence, take into consideration suggestions made by members of the community or group of Aboriginals of which the applicant is a member who are resident on the relevant land.

(2) An Aboriginal Coastal licensee shall not sell barramundi, threadfin salmon, spanish mackerel or mud crab.

191. TO WHOM FISH MAY BE SOLD

(1) An Aboriginal Coastal licensee shall not sell fish or aquatic life to a person who intends to resell the fish.

(2) An Aboriginal Coastal licensee shall only sell fish within the area of land granted for the benefit of the community or group of which he or she is a member as referred to in regulation 183(a).

Division 3 - Fishing Tour Operator Licence

192. TOUR OPERATOR TO BE LICENSED

(1) For the purposes of section 10(1)(e) of the Act, the operation of a vessel for the purposes of fishing tours is prescribed as being able to be done only by the holder of a Fishing Tour Operator licence.

Fisheries Regulations

(2) For the purposes of subregulation (1), a person conducts a fishing tour operation if he or she has responsibility for the vessel employed in the provision of fishing tours.

193. CRITERIA FOR GRANT OR RENEWAL

(1) The matters to which the Director may have regard in considering an application for the grant or renewal of a Fishing Tour Operator licence include whether -

- (a) the applicant has attained the age of 18 years;
- (b) the applicant has all approvals required under this or any other Act of the Territory to conduct fishing tour operations; and
- (c) where the applicant has previously been granted a licence under the Act, the applicant has supplied to the Director accounts and records in the approved manner and form within the time prescribed or specified by the Director.

194. NO TRANSFER OF LICENCE

A Fishing Tour Operator licensee shall not transfer his or her licence.

195. AREA OF FISHERY

A Fishing Tour Operator licensee shall not take fish or conduct a fishing tour operation under the licence except in areas in which a person engaged in amateur fishing may take fish.

196. FISHING GEAR

(1) A Fishing Tour Operator licensee shall not, under the licence, use fishing gear except amateur fishing gear amateur fishing gear and shall not use such gear other than under and in accordance with the provisions of these Regulations relating to amateur fishing.

(2) A Fishing Tour Operator licensee shall not take fish under another licence whilst conducting a fishing tour.

197. LICENSEE'S LIABILITY

A Fishing Tour Operator licensee shall be deemed liable for an offence against the Act committed by a person on and during a fishing tour conducted under the licence.

Fisheries Regulations

198. FISH NOT TO BE TRADED

A Fishing Tour Operator licensee shall not accept, take or agree to take, whether by way of payment or as barter, a fish taken by a person in the course of a fishing tour conducted under the licence.

Division 4 - Aquarium Trader Licence

199. SALE AND PURCHASE OF FISH

(1) A person may sell fish or aquatic life for use in an aquarium if he or she holds an Aquarium Trader licence.

(2) An Aquarium Trader licensee shall not purchase fish or aquatic life except -

- (a) from an Aquarium Fishing/Display Fishery licensee;
- (b) from an Aquarium Trader licensee;
- (c) from an Aquaculture licensee;
- (d) under and in accordance with a permit; or
- (e) from an interstate or overseas supplier.

200. PLACE OF TRADE TO BE SET OUT IN LICENCE

(1) An Aquarium Trader licensee shall not hold fish for sale or sell fish except at a place specified in the licence.

(2) The Director shall not grant an Aquarium Trader licence in respect of a domestic dwelling unless the dwelling will not contravene planning instruments made under the *Planning Act*.

201. LICENCE TO BE DISPLAYED

An Aquarium Trader licensee shall display, in a prominent position at each of the places specified on the licence, the number and expiry date of the licence.

202. APPOINTEE

Where an Aquarium Trader licensee holds fish for sale or sells fish at more than one place, he or she shall appoint a person engaged at each place to be responsible for the activities at the place, and shall, as soon as practicable, advise the Director in writing of the name and date of birth of such persons.

Fisheries Regulations

Division 5 - Net Licence

203. SALE OF NET

(1) For the purposes of section 10(1)(e) of the Act, the selling or repair of nets, other than nets which may be used in amateur fishing, is prescribed.

(2) Subject to subregulation (3), a person shall not sell net, make or repair net or be in possession of net material from which fishing nets may be, but have not been made, unless he or she -

- (a) holds a Net licence granted in accordance with this Division; or
- (b) is permitted to use the net under and in accordance with another licence or permit.

(3) Subregulation (2) does not apply to net which a person is permitted to use whilst engaged in amateur fishing.

204. PLACES WHERE NET MAY BE KEPT

(1) The holder of a Net licence shall not have possession of net or net material under the licence except -

- (a) at approved premises; or
- (b) in a vehicle or vessel transporting them by the most direct route practicable to or from persons who may lawfully possess them or to other approved premises.

205. RESTRICTIONS ON SALE AND REPAIR

The holder of a Net licence shall not make, repair or sell net which a person shall not have possession of except under a licence or a permit except for or to a person who, under the Act, may lawfully have possession of the net under a licence or permit.

PART 12 - FEES AND LEVIES

206. MINISTER MAY PRESCRIBE FEES

(1) The Minister may, by notice in the *Gazette*, prescribe the fee payable for -

- (a) the grant or renewal of a licence or permit specified in Schedule 2;
- (b) the registration of a vessel;

Fisheries Regulations

- (c) the transfer of a licence from a licensee to an approved person;
 - (d) a replacement of a licence, permit or certificate of registration of a vessel;
 - (e) the approval by the Director of a person to carry on the licensee's fishing operations under section 14 of the Act; and
 - (f) the issue of a logbook or document, or its replacement, in the approved form in respect of information required by the Director under section 34 of the Act.
- (2) The Treasurer may -
- (a) prescribe an amount, not exceeding 10% of the licence fees paid, to be credited to Consolidated Revenue for the purpose of funding the administration of this licensing or permit scheme; and
 - (b) distribute the remainder of the fees as he or she sees fit to the Fishing Industry Research and Development Trust Fund continued under section 51 of the Act.

207. NTFIC LEVY PAYABLE

(1) Subject to subsection (2), an applicant for the grant, renewal or transfer of a licence listed in Schedule 3, shall -

- (a) where the licence applied for is the first licence to be held by the person in the licensing year - pay a levy of \$150; or
- (b) where the licence applied for is a second or subsequent licence to be held by the person in the licensing year - pay a levy of \$50,

for the purpose of assisting the Northern Territory Fishing Industry Council.

(2) Subregulation (1) does not apply to an applicant for an Aquarium Fishing/Display Fishery licence, an Aquarium Trader licence, a Fish Retailer licence, an Aboriginal Coastal licence, a Fish Broker licence, a Fishing Tour Operator licence or a Net licence.

(3) Where the Director refuses to grant, renew or transfer a licence listed in the Table to these Regulations, he or she shall refund to the applicant the prescribed fee in respect of the application and the levy prescribed in subregulation (1).

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(4) The Minister may prescribe, by notice in the *Gazette*, an amount, not exceeding 10% of any levy collected, to be credited to the Consolidated Fund.

(5) Subject to an amount prescribed under subregulation (4) as being payable to the Consolidated Fund, all levies collected under this regulation shall be credited to a trust account established by the Treasurer under the *Financial Administration and Audit Act* as an account forming part of the Trust Fund, within the meaning of that Act, for the purpose for which the levy is prescribed.

(6) Levies credited to a trust account in accordance with subregulation (5) shall from time to time be disbursed by the Treasurer from that account to the Northern Territory Fishing Industry Council Inc. from which a receipt, given by the Secretary or other principal officer of the Council, shall be a sufficient discharge to the Treasurer.

208. BARRAMUNDI LEVY.

(1) In this regulation, "unit of net" means a length of 100 m of gillnetting, measured along so much of the headrope as has gill net attached to it.

(2) A Barramundi Fishery licensee shall pay a levy of \$100 on each unit of net endorsed on a Barramundi Fishery licence and is payable each time the licence or endorsement is renewed until the Minister declares, by notice in the *Gazette*, that 50% of the original cost of the buy-back scheme has been met.

(3) The levy referred to in subregulation (2) is in addition to any fees or levies otherwise payable under the Act or these Regulations.

209. GENERAL OFFENCES

A person who contravenes or fails to comply with -

- (a) a provision of these Regulations; or
- (b) a direction, restriction, requirement or condition given, made or imposed under these Regulations,

commits an offence and section 37(2) of the Act applies.

210. REPEAL AND SAVINGS

(1) The Fish and Fisheries Regulations, as amended by Act No. 49 of 1985, and Regulations 1980 No. 5; 1980, No. 12; 1980, No. 29; 1980, No. 44; 1980, No. 48; 1981, No. 33; 1982, No. 3(a); 1982, No. 48; 1983, No.1; 1983, No. 2; 1984, No. 17; 1984, No. 18; 1985, No. 8; 1985, No.

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39; 1986, No. 19; 1988, No. 16; 1988, No. 43; 1988, No. 52; 1989, No. 3; 1990, No. 1; 1991, No. 11, are repealed.

(2) Where a licence was held immediately before the commencement of these Regulations, the licence continues until 31 January 1993, notwithstanding that it might have expired under the repealed Regulations before that date, as if the repealed Regulations had not been repealed under these Regulations.

SCHEDULE 1

Regulation 3(1)

NOXIOUS FISH

Common Name	Scientific Name
Tinfoil Barb	<i>Barbus schwanenfeldi</i>
Snakehead	<i>Channa</i> (all species)
Chocolate Cichlid	<i>Cichlasoma coryphaenoides</i>
European Carp	<i>Cyprinus carpio</i>
Walking Catfish	Family Clariidae (all species)
Mosquito fish	<i>Gambusia</i> (all species)
Piranha	<i>Serrasalmus</i> , <i>Pygopristis</i> , <i>Pygocentrus</i> (all species)
Mouthbreeder	<i>Tilapia</i> (all species)

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 licence
Barramundi licence
Coastal Line licence
Coastal Net licence
Demersal licence
Fish Broker licence
Fixed Fish Trap licence
Fish Trader/ Processor licence
Mud Crab licence
Mollusc licence
Pearl Oyster Culture Industry licence
Pearl Oyster Fishery licence
Permit under section 16 or 17 of the Act

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Spanish Mackerel licence
Shark licence
Trepang licence

SCHEDULE 3

Regulations 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
Fixed Fish Trap Fishery licence
Mud Crab Fishery licence
Mollusc Fishery licence
Pearl Oyster Fishery licence
Permit under section 16 or 17 of the Act
Spanish Mackerel Fishery licence
Shark Fishery licence
Transfer of licence
Trepang Fishery licence
