

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1985, No. 39*

Regulations under the *Fish and Fisheries Act*

I, ERIC EUGENE JOHNSTON, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the *Fish and Fisheries Act*.

Dated this 20th day of December, 1985.

E. E. JOHNSTON

Administrator

By His Honour's Command

S. P. HATTON

Minister for Ports and Fisheries

AMENDMENTS OF THE FISH AND FISHERIES REGULATIONS

1. PRINCIPAL REGULATIONS

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

2. REPEAL AND SUBSTITUTION

(1) Regulations 4, 5, 6 and 7 are repealed and the following substituted:

"4. AMATEUR GEAR

"(1) An amateur fisherman shall not use an item of fishing gear other than an item that is listed in the Table to this regulation, and the items that are listed in that Table are accordingly prescribed for the purposes of section 27(1)(a) of the Act.

* Notified in the *Northern Territory -Government Gazette* on 20 DEC 1985.

G. L. DUFFIELD, Government Printer of the Northern Territory

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Fish and Fisheries Regulations

"(2) An amateur fisherman shall not use more than 3 amateur's pots.

Penalty: \$1,000.

"(3) Where an amateur fisherman establishes that -

(a) he is a member of a fishing party; and

(b) the number of amateur's pots being used by the members of the party does not exceed 3 times the number of fishermen in the party who are no younger than 8 years of age,

he may, notwithstanding subregulation (2), use any number of the amateur's pots used by the fishing party up to the limit specified in paragraph (b).

Penalty: \$1,000.

"(4) An amateur fisherman shall not take fish when using underwater breathing apparatus.

Penalty: \$1,000.

"(5) An amateur fisherman shall not use an amateur's pot at any time unless a float, clearly marked with his name, is attached to the amateur's pot.

Penalty: \$1,000.

"TABLE

"Amateur gear

Rod and line attachments
Handline and attachments
Handspear
Spear gun
Hand-net
Cast-net
Amateur's pot
Beach seine
Long bow

"5. SIZE LIMIT

"(1) An amateur fisherman shall not take a crab with a carapace width of less than 130 mm measured across the widest part of the carapace.

Penalty: \$2,000.

"(2) It is a defence to a charge under subregulation (1) if the defendant proves that the undersize crab was, immediately after being taken, returned, with as little injury as possible, to the water.

Fish and Fisheries Regulations

"6. SPEAR GUNS

"An amateur fisherman shall not have in his possession a loaded spear-gun or use a spear-gun -

- (a) except in the open sea; or
- (b) within 50 m of another person who is not in his company.

Penalty: \$1,000.

"7. BEACH SEINES

"(1) An amateur fisherman shall not use a beach seine the dimensions of which exceed 40 m in length, 2 m drop and 65 mm mesh.

Penalty: \$1,000.

"(2) An amateur fisherman shall not -

- (a) anchor, stake or otherwise fix a beach seine; or
- (b) use a beach seine except in the waters of the sea, seawards of the seaward extremities of rivers and river mouths.

Penalty: \$1,000."

(2) Regulations 15, 16 and 17 of the Principal Regulations are repealed and the following substituted:

"14A. RESTRICTIONS ON CRAB FISHING EFFORT

"(1) The Director of Fisheries may endorse a Class A1 licence with one or more endorsements each authorizing the licence holder to use 60 pots in the Crab Fishery (in this regulation and in regulation 51 referred to as a crab pot endorsement).

"(2) The Director of Fisheries shall not make more than 55 crab pot endorsements in total.

"(3) A crab pot endorsement shall not be made to a licence until the fee specified for it in regulation 51 is paid.

"(4) The rights and powers conferred by a crab pot endorsement may be transferred to the holder of a Class A1 licence if the whole of those rights and powers are transferred.

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"15. WATERS OPEN TO CRABBING

"All waters subject to tidal influence are open to the taking of crabs by a Class A1 licensee except the waters of -

- (a) Port Darwin enclosed by a straight line drawn between the most landward point on the seaward side of the Mandorah jetty and the northernmost point on Lee Point within the Port; and
- (b) Buffalo Creek, Mecketts Creek, King Creek, the Howard River and Leaders Creek.

"16. ILLEGAL CRABBING

"(1) Where a person is licensed to engage in the Crab Fishery, it is a condition of the licence that the licensee shall mark with a consecutive number each pot he is licensed to use and that the licensee shall not -

- (a) use more pots than the number he is licensed to use;
- (b) use a pot unless there is attached to the pot a float that is clearly marked with his licence number, either incised into the float or painted on the float in waterproof paint;
- (c) take a crab with a carapace width of less than 130 mm measured across the widest part of the carapace;
- (d) take a crab by the use of a net;
- (e) take a crab by the use of a pot that has -
 - (i) a capacity of more than 0.5 m³; or
 - (ii) more than 2 openings into any one enclosure; or
- (f) have crab pots in his possession in or in the vicinity of waters that are closed to the taking of crabs by a Class A1 licensee unless -
 - (i) the pots are stowed in or on a vehicle or boat; or
 - (ii) he has them at a camp site and he has notified the Director of Fisheries of the location of the camp site and that his pots will be stored and repaired there.

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Penalty for an offence against paragraph (a):

For a first offence against that paragraph - \$3,000.

For a second offence against that paragraph - \$5,000.

For a third or subsequent offence against that paragraph - \$10,000.

Penalty for an offence against paragraph (b), (d), (e) or (f) - \$1,000.

Penalty for an offence against paragraph (c) - \$2,000.

"(2) It is a defence to a charge under subregulation (1)(c) if the defendant proves that the undersized crab was returned to the water, with as little injury as possible, as soon as practicable after it was taken.

"17. MONTHLY RETURNS

"Where a person is licensed to engage in the Crab Fishery, it is a condition of the licence that -

(a) the licensee shall, within 14 days after the end of each month, lodge with the Director of Fisheries a monthly return in a form approved by the Director of Fisheries;

(b) the form shall be duly completed; and

(c) the information contained in the form shall be true and correct in every material particular.

Penalty: \$1,000."

3. DECLARATION OF BARRAMUNDI FISHERY

Regulation 18 of the Principal Regulations is amended by adding at the end the following -

"(3) A person who is licensed in the Barramundi Fishery shall not fish for or take barramundi or fish of the family *Polynemidae* between the 1st of October and the 31st of January inclusive in the following year.

Penalty: For a first offence - \$5,000.

For a second or subsequent offence - \$10,000."

Fish and Fisheries Regulations

4. REPEAL AND SUBSTITUTION

Regulation 19 of the Principal Regulations is repealed and the following substituted:

"19. TRANSFER OF LICENCES

"(1) In this regulation, 'spouse', in relation to a person, means -

- (a) a person who is legally married to the person and who was, at the relevant time, living with the person on a permanent and bona fide domestic basis;
- (b) a person who is legally married to the person but was not living with the person on a permanent and bona fide domestic basis at the relevant time and who, in the opinion of the Director of Fisheries, was wholly or substantially dependent on the person at that time;
- (c) a person who is not legally married to the person but who, for a continuous period of not less than 2 years immediately preceding the relevant time, had ordinarily lived with the person as the person's husband or wife on a permanent and bona fide domestic basis; and
- (d) where that person is an aboriginal native of Australia, a person referred to in paragraphs (a), (b) or (c) or who is, according to the customs of the group or tribe of aboriginal natives of Australia to which he belongs, married to him.

"(2) Subject to subregulation (3) and the approval of the Director of Fisheries, a licence may be transferred.

"(3) A licence to engage in the Barramundi Fishery and any interest, right or other power in or relating to the licence shall not be transferred except to the spouse or children of the licence holder, but where the Director of Fisheries, by notice in the *Gazette*, declares that the total length of gill-netting endorsed on licences as being used in the Barramundi Fishery has been reduced to 35,000 m or lesser figure as provided in regulation 23A(4), the licence, interest, right or power may be transferred without restriction."

5. CLOSED SEASON

Regulation 20 of the Principal Regulations is amended by adding at the end the following:

"(4) In this regulation, 'fish' does not include barramundi or fish of the family *Polynemidae*."

Fish and Fisheries Regulations

6. REPEAL AND SUBSTITUTION

Regulation 21 of the Principal Regulations is repealed and the following substituted:

"21. WATERS CLOSED TO GILL NETTING

"(1) All waters are closed to gill-netting except the waters -

- (a) of the sea seawards of the extremities of river mouths; and
- (b) described in Table 1 to this regulation including the tributaries of the rivers that are named in that Table where those tributaries are downstream from the closure lines described in that Table.

"(2) For the purpose of these Regulations, the line described in Table 2 to this regulation shall be deemed to delineate the river mouths described in that Table regardless of the geographical location of the river mouth.

"TABLE 1

Map Sheet - Millik Monmir 4967

The waters downstream of a straight line running across the Victoria River the co-ordinates of which are:

621000 E	to	621000 E
8292000 N		8293200 N

Map Sheet - Fitzmaurice 4968

The waters downstream of a straight line running across the Fitzmaurice River the co-ordinates of which are:

617000 E	to	617000 E
8366250 N		8364800 N

Map Sheet - Anson 4971

The waters downstream of a straight line running across the Daly River the co-ordinates of which are:

642450 E	to	642850 E
8511800 N		8512200 N

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Map Sheet - Fog Bay 4972

The waters downstream of a straight line running across the Finnis River the co-ordinates of which are:

649600 E		649600 E
	to	
8573500 N		8573420 N

Map Sheet - Koolpinyah 5173

The waters downstream of a straight line running across the Adelaide River the co-ordinates of which are:

749300 E		748500 E
	to	
8639850 N		8639850 N

Map Sheet - Point Stuart 5273

A straight line running across Tommy Cut Creek the co-ordinates of which are:

794325 E		794500 E
	to	
8632250 N		8632250 N

A straight line running across Sampan Creek the co-ordinates of which are:

802490 E		802500 E
	to	
8632250 N		8632250 N

Map Sheet - Field Island 5373

The waters downstream of a straight line running across Wildman River the co-ordinates of which are:

187500 E		187700 E
	to	
8632250 N		8632250 N

Map Sheet - Field Island 5373

The waters downstream of a straight line running across the West Alligator River the co-ordinates of which are:

198350 E		198550 E
	to	
8632250 N		8632250 N

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Map Sheet - Field Island 5373

The waters downstream of a straight line running across the South Alligator River the co-ordinates of which are:

214850 E		216500 E
	to	
8632250 N		8632250 N

Map Sheet - East Alligator 5473

The waters downstream of a straight line running across the East Alligator River the co-ordinates of which are:

247800 E		247800 E
	to	
8659600 N		8656350 N

Map Sheet - Roper 5968

The waters downstream of a straight line running across the Roper River the co-ordinates of which are:

512250 E		512900 E
	to	
8365600 N		8365600 N

Map Sheet - Roper 5968

The waters downstream of a straight line running across the Towns River the co-ordinates of which are:

544000 E		544000 E
	to	
8346450 N		8346750 N

Map Sheet - Mount Young 6067

The waters downstream of a straight line running across the Limmen Bight River the co-ordinates of which are:

556400 E		556400 E
	to	
8313200 N		8313950 N

Map Sheet - Pellew 6266

The waters downstream of a straight line running across the McArthur River the co-ordinates of which are:

663950 E		663950 E
	to	
8240800 N		8242100 N

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Map Sheet - Wearyan 6265

The waters downstream of a straight line running across the Wearyan River the co-ordinates of which are:

696500 E		696500 E
	to	
8229750 N		8229850 N

Map Sheet - Robinson 6365

The waters downstream of a straight line running across the Robinson River the co-ordinates of which are:

723300 E		723600 E
	to	
8215500 N		8215500 N

Map Sheet - Calvert River 6465

The waters downstream of a straight line running across the Calvert River the co-ordinates of which are:

786000 E		786650 E
	to	
8189750 N		8189750 N

"TABLE 2

Map Sheet - Roper 5968

A straight line running across the Roper River the co-ordinates of which are:

540900 E		540900 E
	to	
8371850 N		8373550 N

A straight line running across the Towns River the co-ordinates of which are:

546500 E		546250 E
	to	
8351100 N		8351550 N

Map Sheet - Field Island 5373

A straight line running across the South Alligator River the co-ordinates of which are:

211600 E		218600 E
	to	
8649900 N		8649500 N

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A straight line running across the West Alligator River the co-ordinates of which are:

201250 E 207900 E
 to
8647000 N 8647000 N

A straight line running across the Wildman River the co-ordinates of which are:

180500 E 181000 E
 to
8638000 N 8638000 N

Map Sheet - East Alligator 5473

A straight line running across the East Alligator River the co-ordinates of which are:

244000 E 244000 E
 to
8661600 N 8658000 N

Map Sheet - Anson 4971

A straight line running across the Daly River the co-ordinates of which are:

638850 E 637600 E
 to
8528700 N 8525550 N

Map Sheet - Koolpinyah 5173

A straight line running across the Adelaide River the co-ordinates of which are:

741600 E 742900 E
 to
8647200 N 8648500 N

Map Sheet - Fog Bay 4972

A straight line running across the Finnis River the co-ordinates of which are:

645000 E 645150 E
 to
8575100 N 8575000 N

Map Sheet - Point Stuart 5273

A straight line running across Tommy Cut Creek the co-ordinates of which are:

793600 E 793700 E
 to
8640800 N 8640800 N

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A straight line running across Sampan Creek the co-ordinates of which are:

801600 E	to	801800 E
8642100 N		8642300 N

Map Sheet - Keyling 4868

A straight line running across the Fitzmaurice River the co-ordinates of which are:

582400 E	to	582400 E
8358950 N		8360500 N

Map Sheet - Victoria River 4867

A straight line running across the Victoria River the co-ordinates of which are:

556300 E	to	567350 E
8340000 N		8340000 N

Map Sheet - Pellew 6226

A straight line running across the McArthur River the co-ordinates of which are:

679350 E	to	679350 E
8250750 N		8251400 N

A straight line running across the Wearyan River the co-ordinates of which are:

698800 E	to	699200 E
8240000 N		8239600 N

Map Sheet - Mount Young 6067

A straight line running across the Limmen Bight River the co-ordinates of which are:

575000 E	to	575000 E
8329750 N		8330250 N
577000 E	and	577000 E
8328100 N	to	8329350 N

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Map Sheet - Calvert River 6465

A straight line running across the Calvert River the co-ordinates of which are:

792850 E 793550 E
 to
8199650 N 8199650 N

Map Sheet - Robinson 6365

A straight line running across the Robinson River the co-ordinates of which are:

724235 E 724220 E
 to
8226400 N 8225800 N

Map Sheet - Murgarella 5474

A straight line running across Murgarella Creek the co-ordinates of which are:

244250 E 244350 E
 to
8685050 N 8684300 N

Map Sheet - Milingimbi 5873

A straight line running across the Blyth River the co-ordinates of which are:

454100 E 455200 E
 to
8666150 N 8665100 N

Map Sheet - Buckingham Bay 6073

A straight line running across the Kalarwoi River the co-ordinates of which are:

572400 E 572800 E
 to
8638450 N 8638400 N
 and
572350 E 572500 E
 to
8638300 N 8637850 N

A straight line running across the Buckingham River the co-ordinates of which are:

578650 E 579050 E
 to
8637200 N 8637100 N

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Map Sheet - Arnhem 6173

A straight line running across the Goromuru River the co-ordinates of which are:

632800 E	to	634600 E
8621500 N		8621500 N

A straight line running across the Cato River the co-ordinates of which are:

646750 E	to	647900 E
8643350 N		8642750 N

A straight line running across the Peter John River the co-ordinates of which are:

648700 E	to	648700 E
8645400 N		8644600 N"

7. ILLEGAL FISHING

Regulation 22 of the Principal Regulations is amended -

- (a) by inserting in paragraphs (d)(i) and (e)(ii) after "barramundi" the words "or fish of the family *Polynemidae*";
- (b) by omitting from paragraph (e)(ii) "licence; or" and substituting "licence;";
- (c) by inserting after paragraph (e)(iii) the following:
 - "(iv) use a gill net that has a mesh size of less than 15.0 cm; or
 - (v) use a monofilament gill net that is constructed of material having a diameter of less than 1.1 mm or less than a rating of 50 ply."; and
- (d) by adding at the end the following:
 - "(g) a condition shall be implied in the licence that the licensee shall not fish for or take barramundi or fish of the family *Polynemidae* from upstream of the river mouth lines as described in Table 2 of regulation 21 in Tommy Cut and Sampan Creeks, except during the periods 1 June 1986 to 30 September 1986 and 1 June 1987 to 30 September 1987.

"Penalty for an offence against paragraph (a) or (b) - \$1,000.

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Penalty for an offence against paragraph (c), (d), (e), (f) or (g):

For a first offence against any of those paragraphs - \$3,000.

For a second offence against the same paragraph - \$5,000.

For a third or subsequent offence against the same paragraph - \$10,000."

8. TAKING FISH OTHER THAN BARRAMUNDI, &c.

Regulation 22A of the Principal Regulations is amended by adding at the end the following:

"(2) A person who acts in contravention of the directions given by the Director of Fisheries pursuant to subregulation (1) commits an offence.

Penalty: \$2,000."

9. MONTHLY RETURNS

Regulation 23 of the Principal Regulations is amended by adding at the end "Penalty: \$1,000."

10. REPEAL AND SUBSTITUTION

Regulations 23A and 23B of the Principal Regulations are repealed and the following substituted:

"23A. SURRENDER OF LICENCE OR UNIT OF GILL-NETTING

"(1) A Class A1 licensee in the Barramundi Fishery may apply to the Director of Fisheries to surrender his licence or a unit or units of gill-netting endorsed on the licence in consideration of an amount calculated in accordance with the method determined by the Minister after consultation with the Northern Territory Commercial Fisherman's Association.

"(2) An application under subregulation (1) shall be made by -

(a) 31 December 1988; or

(b) the date of publication of the Gazette notice under subregulation (4),

whichever is the sooner.

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"(3) Where an application for the renewal of a Class A1 licence in the Barramundi Fishery or an endorsement on that licence is refused under the Act or is not made by the licensee, the licensee may nevertheless apply under subregulation (1) to surrender his units of gill-netting if the application is made before the expiry of a period of 6 months commencing with the day the licence ceases to have effect.

"(4) When the Director of Fisheries is satisfied that the total length of gill-netting endorsed on Class A1 licences for use in the Barramundi Fishery has been reduced to 35,000 m or such lesser figure as the Minister may approve, he shall give notice of that fact in the *Gazette* and, from the date of publication of the notice, shall refuse to accept any further application under subregulation (1) to surrender a licence or units of gill-netting.

"(5) Notwithstanding the surrender of a licence or unit of gill-netting, the person who was the licensee remains liable for -

(a) an act or omission done, caused, permitted or made by him; and

(b) all liabilities incurred by him under the Act,

whilst he was so licensed.

"23B. LEVY

"(1) A levy of \$100 is payable on each unit of gill-netting endorsed on a Class A1 licence to engage in the Barramundi Fishery and is payable each time the licence or endorsement is renewed.

"(2) The levy is in addition to any fees payable under regulation 51, and is payable together with those fees.

"(3) The levy shall be applied in defraying the costs of purchasing licences and units of gill-netting pursuant to regulation 23A(1).

"(4) When the Director of Fisheries is satisfied that the total amount of levy paid under this regulation is approximately 50% of the costs referred to in subregulation (3), he shall give notice of that fact in the *Gazette*, and the liability for levy under this regulation shall cease as from the date of publication of the notice."

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11. FEES

Regulation 51 of the Principal Regulations is amended by omitting from the item relating to the Crab Fishery in the Table "and in addition for each pot, with a minimum of 40 pots - \$5" and substituting "and in addition for each crab pot endorsement - \$300".
