

EXPLANATORY STATEMENT

STATUTORY RULES 1983

NO.117

Issued by the Authority of the Minister for Primary Industry

FOREIGN FISHING BOATS LEVY ACT 1981

FOREIGN FISHING BOATS LEVY REGULATIONS

Section 7 of the Foreign Fishing Boats Levy Act 1981 ("the Act") provides that the Governor-General may make regulations prescribing, inter alia, the amount of levy payable in respect of foreign fishing boats by reference to any matter or matters relating to the boat or its operation, including any agreement to which the Commonwealth is a party, or the methods of fishing authorised by the licence.

The Act provides for the imposition of a levy on the grant of a licence in respect of a foreign fishing boat except where licensed under an agreement with the government of another country or where the boat is included in a prescribed class of temporarily imported boats. The Fisheries Act 1952 provides for the collection of any levy imposed under the Act.

Section 5 of the Act provides that the amount of levy imposed on the grant of a licence in respect of a foreign fishing boat is such amount as is prescribed by the regulations or as is calculated in accordance with the regulations.

The Foreign Fishing Boats Levy Regulations prescribe the levy payable on the grant of a licence pursuant to an agreement entered into by the Minister for Primary Industry, on behalf of the Commonwealth with the Kaohsiung Fishing Boat Commercial Guild ("the Guild") and KKFC Proprietary Limited ("KKFC"). This agreement expires on 31 July 1983.

The Minister for Primary Industry has entered into a new agreement with KKFC and the Guild to permit access to the Australian fishing zone (AFZ) from 1 August 1983 to 31 July 1984 ("the Agreement"). The Agreement provides for payment of a lump sum access fee totalling \$1,271,753 for a maximum of 120 pair trawlers and 30 gillnetters.

The regulations prescribe the new levy. The total access fee negotiated under the Agreement has been expressed as a per boat amount in the regulations because the Act ties the imposition of a levy to the granting of a licence.

Although the Agreement provides for the licensing of a maximum of 150 boats for the period concerned there is the possibility that because of unforeseen circumstances affecting the availability of boats associated with the Guild which choose to fish in the AFZ, a lesser number may in fact be licensed. The final number of boats will not be known until the latter part of the Agreement period. However at the present time it is known that a minimum of 104 boats will operate under the Agreement.

The regulations amend the Foreign Fishing Boats Levy Regulations to prescribe a levy of \$12,219.54 for each of the first 104 licences granted under the Agreement and a method for calculating the levy payable in respect of the remaining 46 boats. The lump sum access fee is to be paid to the Commonwealth in total by KKFC within 30 days of the issue of a licence and the prescribing of the levy in this form only seeks to provide legal support for collection of the fee, in a form most appropriate for the Commonwealth's purposes. The prescribing of differential rates will not affect the amounts payable by individual fishermen to KKFC which are determined privately between KKFC, the Guild and the fishermen concerned.

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The regulations also prescribe a levy of \$20 for each replacement boat. A replacement boat would only be accepted where it replaces another boat withdrawn from fishing because of an act of God or other unforeseen circumstances.

The regulations also prescribe a levy of \$15,000 for licences granted to foreign fishing boats other than in accordance with the Agreement. Boats other than boats licensed under the Agreement, that have been imported for a limited period and deemed to be Australian boats under sub-section 4(2) of the Fisheries Act 1952 are prescribed as a class of foreign fishing boats to be exempt from this general levy.

Under current policy relating to the operation of foreign fishing boats the levy of \$15,000 will apply only in respect of boats operating under joint Australian/foreign fishing arrangements under which all or part of the levy may be waived in accordance with section 9C of the Fisheries Act 1952. The prescribed levy becomes payable if certain terms of the joint fishing arrangement are not fulfilled. The amount of levy has been determined at a level which is slightly higher than that payable for boats licensed under other foreign fishing arrangements to provide an incentive for joint venture operators to comply with the provisions of the arrangements rather than opting to pay the levy at a later date.

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