

Fisheries Management Amendment Regulations 1999 (No. 3)

1999 No. 130

EXPLANATORY STATEMENT

STATUTORY RULES 1999 No. 130

Issued by the authority of the Minister for Agriculture, Fisheries & Forestry

Fisheries Management Act 1991

Fisheries Management Amendment Regulations 1999 (No. 3)

Subsection 168(1) of the *Fisheries Management Act 1991* (the Act) empowers the Governor-General to make regulations required or permitted by the Act to be prescribed and regulations necessary or convenient to be prescribed in carrying out or giving effect to the Act.

Section 4(1) of the Act defines a fishery as a class of activities by way of fishing, including activities identified by reference to amongst other things, an area of waters. paragraph 4(4)(a) of the Act provides that for the purposes of the Act, in relation to a fishery or a managed fishery that is identified by reference to an area, a reference to activities in the fishery or in the managed fishery includes activities in that area. Section 32(1) of the Act provides that the Australian Fisheries Management Authority (AFMA) may, upon application made in the approved form, grant to a person a fishing permit, authorising the use of a boat for fishing in a specified area of the AFZ or a specified fishery,

Paragraph 168(2)(p) of the Act provides that regulations may be made prescribing short methods of reference to areas of the Australian Fishing Zone (AFZ) specified in the regulations and the purposes for which those methods of reference may be used. Subparagraph 169(2)(e)(ii) provides that regulations may be made for the imposition and recovery of fees in respect of the making of applications under the Act.

The Fisheries Management Regulations (the principal Regulations) prescribe matters in support of the Act, including references to fisheries managed by AFMA, and the setting of application fees.

The Fisheries Management Amendment Regulations (the Regulations) amend the principal Regulations to deal with three matters:

- * the first matter is the inclusion of a reference to the Christmas Island and Cocos (Keeling) Islands Fishery as a fishery managed by AFMA listed in existing Regulation 4B, and the definition of the area of that Fishery in Schedule 1A of the Regulations;
- * the *second* matter is the changing of a reference from Macquarie Island Developmental Fishery to the Macquarie Island Fishery as the developmental phase of the fishery has ended; and
- * the *third* matter is the setting of an application fee for entry to the Macquarie Island Fishery. Access to the Macquarie Island Fishery is restricted to a single fishing permit, to ensure ecologically sustainable development. The one permit holder is to be selected through an open and competitive application process and will involve evaluation by an expert evaluation panel. A separate application fee is imposed for the Macquarie Island Fishery. This fee is set at 55350 per application. This is significantly higher than the usual fee associated with a permit application, due to the process involved and is based on an estimate of the costs which will be incurred by AFMA in that process.

Details of the Regulations, which commenced on gazettal, are set out below:

Regulation 1 provides that the Regulations are named the Fisheries Management Amendment Regulations 1999 (No. 3)

Regulation 2 provides that the Regulations commence on gazettal.

Regulation 3 provides that Schedule 1 amends the principal Regulations.

Schedule 1 Item 1 inserts a reference to the Christmas Island and Cocos (Keeling) islands Fishery into paragraph 4B of the principal Regulations,

Schedule 1 Item 2 omits the word 'Developmental' from the reference to the Macquaries Island

Developmental Fishery in paragraph 4B of the principal Regulations.

Schedule 1 Item 3 inserts a description of the area of the Christmas Island and Cocos (Keeling) Islands Fishery into Schedule 1A of the principal Regulations.

Schedule 1 Item 4 amends the heading for Part 5 of Schedule 1A of the principal Regulations to

omit the word 'Developmental',.

Schedule 1 Item 5 amends the principal Regulations to provide that a separate application fee be

charged for a permit in respect of a boat in the Macquarie Island Fishery.

Schedule 1 Item 6 sets the application fee for a fishing permit in respect of a boat in the Macquarie Island Fishery at \$5350.