

Fisheries Management (Bass Strait Central Zone Scallop Fishery) Amendment Regulations 2004 (No. 1) 2004 No. 335

EXPLANATORY STATEMENT

STATUTORY RULES 2004 No. 335

Issued by the authority of the Minister for Fisheries, Forestry and Conservation

Fisheries Management Act 1991

Fisheries Management (Bass Strait Central Zone Scallop Fishery) Amendment Regulations 2004
(No. 1)

Subsection 168(1) of the *Fisheries Management Act 1991* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary, or convenient to be prescribed, in carrying out or giving effect to the Act. Paragraph 168(2)(c) provides that regulations may be made providing for giving effect to, and enforcing the observance of, plans of management.

Subsection 17(1) of the Act provides that the Australian Fisheries Management Authority (AFMA) is to determine plans of management for all fisheries. Under these provisions AFMA has determined the *Bass Strait Central Zone Scallop Fishery Management Plan 2002* (the Plan).

Subsection 20(1) of the Act provides that AFMA may amend a plan of management. AFMA is currently amending the Plan and expects that the proposed amendments will commence on the date of their notification in the *Gazette*.

The *Fisheries Management (Bass Strait Central Zone Scallop Fishery) Regulations 2002* (the Principal Regulations) complement the Plan and prescribe matters in support of the Act relevant to the fishery.

The purpose of the proposed Regulations is to omit certain provisions from the Principal Regulations so that those matters may be regulated through the Plan. This would afford AFMA the flexibility to more easily adjust the regulation of these matters as required.

The proposed Regulations omit regulation 4 and subregulations 10(2) to 10(4) from the Principal Regulations. Regulation 4 sets out the beginning and end dates of the fishing season for the fishery in each year. Subregulations 10(2) to 10(4) provide details of the circumstances under which AFMA must increase the Total Allowable Catch (TAC) for beds of commercial scallops in the fishery.

The omission of these provisions clears the way for AFMA's amendments to the Plan to have effect. The amended Plan allows AFMA to set the fishing season dates annually and set a smaller TAC each year. The TAC will also be able to be increased in a single increment each year rather than over three increments, as currently provided for by the Principal Regulations. The amended Plan also corrects a small error in the definition of the area of waters for the fishery and increase the minimum size limit of scallops from 80mm to 90mm from the start of the 2005 fishing season.

Details of the Regulations, which commenced on the date of their notification in the *Gazette* are set out below. This occurred on the same date as notification of the amendments to the Plan:

Regulation 1

Regulation 1 provides for the Regulations to be cited as the Fisheries Management (Bass Strait Central Zone Scallop Fishery) Amendment Regulations 2004 (No. 1).

Regulation 2

Regulation 2 provides that the Regulations commence on the date of their notification in the *Gazette*.

Regulation 3

Regulation 3 provides that Schedule 1 amends the principal Regulations.

Schedule 1 Item 1

Schedule 1 Item 1 omits Regulation 4

Schedule 1 Item 2

Schedule 1 Item 2 omits subregulations 10(2) to 10(4)