

EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 2

LEGISLATIVE INSTRUMENT

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

Fisheries Levy Act 1984

Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2005 (No. 1)

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Section 8 of the *Fisheries Levy Act 1984* (Levy Act) provides that the Governor-General may make regulations for the purposes of sections 5 and 6 of the Levy Act.

Section 5 of the Levy Act imposes levy on, amongst other things, the grant or renewal of a licence under the *Torres Strait Fisheries Act 1984* (TSF Act). Section 6 of the Levy Act provides that the amount of levy imposed on the grant or renewal of a licence is such amount as is specified in, or calculated in accordance with, the regulations. Section 7 of the Levy Act provides that levy is payable at the time of the grant or renewal of the licence.

The *Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2005 (No.1)* (the Regulations) set a levy for licences granted or renewed in respect of the Torres Strait Prawn Fishery (the fishery).

Subsection 19(2) of the TSF Act provides that the Minister may, at his discretion, grant to a person a licence authorising the use of a specified boat for taking fish in the course of commercial fishing and for carrying, or processing and carrying, fish taken with the use of the licensed boat in areas of Australian jurisdiction. "Area of Australian jurisdiction" is defined in section 3 of the TSF Act and includes areas of waters within the Torres Strait Protected Zone, as defined in the Torres Strait Treaty, which is annexed to the TSF Act. Section 24 provides that the Minister may renew a licence granted under section 19.

In 1996 the Protected Zone Joint Authority, consisting of the relevant Commonwealth and State Ministers, agreed that levy would be imposed on Torres Strait Prawn Fishery fishing licences. Cost recovery was to be phased in over three years commencing with 40% in the 1997/98 financial year, then 70% in 1998/99 and finally 100% in 1999/2000 and subsequent years.

Levy is imposed in the Torres Strait Prawn Fishery in respect of a licence granted for the fishery and also in respect of the number of fishing days authorised by that permit. The Regulations amend the Torres Strait (Torres Strait Prawn Fishery) Regulations (the Principal Regulations) to set the levy that is imposed on Torres Strait Prawn Fishery fishing licences under subsection 19(2) of the TSF Act at \$2,699.20 for each

licence, plus \$9.43 for each fishing day authorised by that licence. This will be an overall decrease from \$2,703.60 and \$11.41 respectively.

The levy decrease has been endorsed by the Torres Strait Prawn Fishery Working Group. Representatives from the Torres Strait Prawn Entitlement Holders Association (TSPEHA), the peak industry body, are members of the working group and have accepted the proposed levy. Representatives of that organisation and the Queensland Seafood Industry Association have approved the levy.

Licenses will be granted or renewed in February 2005. Applications for grant or renewal will be made with the knowledge that this levy is payable.

The Office of Regulation Review advised that a Regulation Impact Statement is not mandatory on the basis that the levy is of a minor or machinery nature and does not substantially alter existing arrangements (ID7007).

The Levy Act does not specify any conditions as needing to be met before the power to make the Regulations may be exercised.

Details of the Regulations, which commenced on the day after they were registered on the Federal Register of Legislative Instruments, are set out below.

Regulation 1 provides for the Regulations to be cited as *Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2005 (No. 1)*.

Regulation 2 provides that the Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 provides that Schedule 1 amends the Principal Regulations.

Schedule 1 Item 1 amends regulation 4 of the Principal Regulations to change the amount of levy imposed.