

EXPLANATORY STATEMENT

Select Legislative Instrument 2007 No. 2

Issued by the authority of the Minister for Fisheries, Forestry and Conservation
Fisheries Levy Act 1984

Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2007 (No. 1)

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

The Regulation amends the *Fisheries Levy (Torres Strait Prawn Fishery) Regulations 1998* (Principal Regulations) to increase the levy for licences granted or renewed in respect of the Torres Strait Prawn Fishery (the fishery) from \$2,680.27 to \$3,187.21 per licence and increase the levy for each individual fishing day authorised by licences from \$14.93 to \$16.50 per day.

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 a 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 an amount as is specified in the regulations. Section 7 of the Levy Act provides that the levy is payable at the time of the grant or renewal of the licence.

The fishery is a Protected Zone Joint Authority (PZJA) fishery under the TSF Act pursuant to an arrangement under section 31 of the TSF Act which came into effect on 1 April 1999. Subsection 36(2) of the TSF Act provides that the powers of the Minister under Part IV (Licences, endorsement and entries) of the TSF Act are exercisable under those provisions by the PZJA as if references to the Minister were references to the PZJA.

Subsections 19(2) and 19(3) of the TSF Act provide that the Minister may, at his or her 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. The “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 at Schedule 1 of the TSF Act an area “outside but near” the Protected Zone. Section 24 of the TSF Act provides that the Minister may renew a licence granted under section 19.

The Principal Regulations were adopted pursuant to a decision of the PZJA on 26 October 1996 to introduce cost recovery in the fishery and a further decision on 5 November 1997 that the formula to be used for the levy would be split on the basis of fixed (per boat) and variable (per day) components. The Torres Strait Prawn Working Group agreed in December 2002 that the administration, licensing and other costs would be considered as one component for levy calculations, which would be split 60:40 between fixed and variable components. In subsequent years the levies have been calculated using this split for administration, licensing and other costs. The PZJA decided on 26 October 2006 that the levy for 2007 continues to be calculated using the current formula for fixed and variable components, which is as follows:

- Logbook data entry costs – charged to the variable component;
- Other logbook costs – charged to the fixed component;
- Surveillance costs – split equally between fixed and variable components;
- Entry and exit costs – charged to the fixed component; and
- Administration, licensing and other costs – split between the fixed (60%) and variable (40%) components.

The levy costs are attributable to services provided by the Australian Fisheries Management Authority (AFMA) and the Queensland Department of Primary Industries and Fisheries (QDPI&F), which includes the Queensland Boating and Fisheries Patrol (QB&FP), who manage the fishery on behalf of the PZJA under the “Agreement Between the Commonwealth of Australia and the State of Queensland Relating to the management of fisheries in the area of the Australian jurisdiction of the Torres Strait Protected Zone established under the Torres Strait Treaty” dated 10 July 1999.

Table 1 describes the basis for the levy costs in accordance with previous practice and indicates the changes from the levy collected in 2006.

Table 1: Levy Calculation

	Licence Component	Day Component	2007 levy	2006 levy	Increase / (Decrease)
Logbook data – AFMA		\$34,694	\$34,694	\$13,227	\$21,467
Other logbook - AFMA	\$29,610		\$29,610	\$44,956	(\$15,346)
Surveillance					
- QB&FP	\$28,635	\$28,636	\$57,271	\$49,700	\$7,571
- AFMA	\$5,572	\$5,571	\$11,143	\$26,572	(\$15,429)
Administration and Licensing					
- AFMA	\$210,806	\$140,538	\$351,344	\$162,790	\$188,554
- QDPI&F	\$60,677	\$40,450	\$101,127	\$87,592	\$13,535
Levy relief	(\$125,000)	(\$125,000)	(\$250,000)		(\$250,000)
Surplus	(\$15,880)	(\$11,639)	(\$27,519)		(\$27,519)
Total levy base	\$194,420	\$113,250	\$307,670	\$384,837	(\$77,167)

This equates to a levy of \$3,187.21 for each of the 61 licence holders and \$16.50 for each of the 6,867 days issued in the fishery.

Based on a forecast gross value of production (GVP) for 2006/07 of approximately \$15 million, the levy budget represents 2% of GVP. This ratio is less than most other Commonwealth fisheries such as the Northern Prawn Fishery (NPF) at 3% GVP, the South East Trawl (SET) Fishery at 6% GVP and the Western Trawl fishery at 9% GVP. In addition, it is noteworthy that the NPF and SET fisheries are approximately 5 and 3 times the value of the Torres Strait Fishery and have considerable economies of scale.

The reasons for the increase in costs are as follows.

The increase in log book data costs of \$21,467 reflects the increased use of AFMA data services for the fishery. There are two data cost centers. One relates to fishery specific data extracting and reporting costs. The proportion of actual hours spent doing work for the fishery in the preceding year is recovered together with attributable overheads. The second cost centre relates to the generic costs of managing data at AFMA. A formula consisting of three factors is used to apportion these data management costs. The formula uses logbook data entry costs (30% weighting), observer days (10% weighting) and data reporting services (60% weighting). Costs for data management in the 2005/06 financial year were based upon the three

indices from 2003/04. These are provided in Table 2 below. All indices increased significantly in the following 2004/05 year leading to a higher proportion of the data management costs being attributed to the fishery in the 2006/07 year.

Table 2: Use of AFMA Data Management services by the Torres Strait Prawn Fishery

	03/04 Data entry \$	04/05 data entry \$	03/04 observer days	04/05 observer days	04 data reporting hrs	05 data reporting hrs
Torres Strait Prawn Fishery	7952	9608	0	83	13.00	28.00

The \$188,554 increase in AFMA administration costs are composed of the following elements.

- \$35,806 for increased management costs associated with formulation and development of the management plan to implement a PZJA decision.
- \$28,768 for overheads associated with extra staff employed to formulate and develop the management plan.
- \$6,850 for travel and subsistence for members of the Torres Strait Prawn Management Advisory Committee (TSPMAC) to attend one additional meeting of the TSPMAC (three instead of two) in the 2006/07 financial year and for Government officials to conduct a port visit to consult on the management plan development. These measures are to ensure genuine stakeholder consultation in the development of the management plan and related matters.
- \$14,999 for the administration costs for the Thursday Island office. This is 2% of the overall administration cost, and is the proportion of Torres Strait fisheries staff time (for staff based on Thursday Island only) spent on management for the fishery. In previous years these costs have been carried fully by the Government.
- \$102,131 for the observer programme in the fishery. The programme implements the recommendations from the Department of Environment and Heritage following the strategic assessment of the fishery to permit trade in wildlife. The observer programme for the fishery was conducted last year for the first time but its costs were not included in the levy base as it was late in receiving approval from the Prawn Working Group and PZJA. The programme allows for 180 days observer coverage in the fishery. This equates to 2.6% coverage of days allocated to Australian fishers and a somewhat higher percentage of days fished. This coverage is generally consistent with other Commonwealth fisheries.

The \$7,571 increase in QB&FP costs are for the charter patrol boat and the \$13,535 increase in QDPI&F costs are due to an increase in salaries and associated costs and an increase in the travel budget for Queensland Government staff to attend extra meetings in regard to the fishery.

These increased costs are offset by a levy relief of \$250,000 provided by the Australian Government.

A higher levy base than that contained in the Regulation was discussed at the TSPMAC (including representatives from industry) in June 2006 and a letter dated 24 November 2006 was sent to the Torres Strait Prawn Entitlement Holder's Association, the Queensland Seafood Industry Association and all licence holders notifying them that the license levy would be \$4,295.61 and that the levy per authorised fishing day would be \$23.97. Based on concerns raised by industry about the increase in costs, AFMA and QDPI&F reviewed the budget and found savings that have led to the decrease of both levies.

As detailed earlier the licence levy is be \$3,187.21 and the proposed levy per authorised fishing day is \$16.50. As there are 16 less licences and 2,333 less days

issued in the fishery this year compared to last year, the overall levy collected will decrease from \$384,837 in 2006 to \$307,670 in 2007.

The Office of Best Practice Regulation has determined that a Regulation Impact Statement is not required for the proposed Regulations (ID8820).

The PZJA is not an agency to which the Commonwealth Cost Recovery Policy applies and, accordingly, a Cost Recovery Impact Statement is not required for the Regulation.

Details of the Regulation, 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 2006 (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.