

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2012 No. 273**

Issued by Authority of the Parliamentary Secretary for Agriculture, Fisheries and Forestry

*Fisheries Levy Act 1984*

*Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulation 2012 (No. 1)*

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 and of the allocation and renewal of units of fishing capacity issued under the *Torres Strait Fisheries Act 1984*. Section 6 of the Levy Act provides that the amount of levy imposed on the grant or renewal of a licence or on the allocation or renewal of units of fishing capacity is such an amount as is specified in the *Fisheries Levy (Torres Strait Prawn Fishery) Regulations 1998* (the Principal Regulations). Section 7 of the Levy Act provides that the levy is payable at the time of the grant, renewal or variation of the licence, and at the time of the allocation or renewal of units of fishing capacity.

The *Torres Strait Prawn Fishery Management Plan 2008* (the Plan) was determined on 6 February 2009. The Plan provides for the allocation of 'units of fishing capacity' to the Fishery licence holders. The units of fishing capacity are then converted annually into a number of fishing days (annual use entitlement) depending on the total allowable effort for the fishery in a given season.

The attributable costs of managing the Torres Strait Prawn Fishery (the Fishery) are recovered from industry pursuant to a decision of the Protected Zone Joint Authority (PZJA). The PZJA determined that costs would be recovered by charging a fixed amount for each fishing licence and a variable amount for each unit of fishing capacity allocated to that licence. This means that costs are divided between operators on an equitable basis, referable to their investment in the Fishery. The Fishery is the only Torres Strait fishery currently subject to cost recovery arrangements.

The levy costs for the Fishery are attributable to services provided by the Australian Fisheries Management Authority (AFMA) and Queensland Department of Agriculture, Fisheries and Forestry (QDAFF). QDAFF is responsible for administering the licensing and compliance component in management of the Fishery and distributing the annual levy invoices. AFMA is responsible for general management and consultation in relation to the Fishery.

The *Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulation 2012 (No. 1)* (the Regulation) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. The Regulation amends the Principal Regulations. The Regulation increases the 2013 levy for licences granted or renewed in the Fishery from \$3 089.01 to \$3 359.52 per licence (a \$270.51 increase per licence) and increase the levy for each individual allocated unit of fishing capacity from \$21.50 to \$23.75 per unit (a \$2.25 increase per unit).

Under the new levies, the total cost recovered budget (including the components recovered from industry and from QDAFF) for the 2012–13 financial year is \$421 033 compared to \$417 628 for the 2011–12 financial year. This is an increase of \$3 405 or 0.8 per cent. The amount of the budget which is recovered from industry (\$368 025) has also increased by \$31 933 (9.5 per cent) in the 2012–13 financial year compared to the 2011–12 financial year (\$336 092). The increase in the amount recovered from industry is due to the reduced carry forward surplus from the 2011–12 budget (\$53 008) compared to the amount carried forward for the 2010–11 (\$81 536) financial year and due to the \$6 799 increase in the QDAFF component of the budget.

For more detailed information on the basis of the 2012–13 financial year levy and comparisons to the 2011–12 levy see [Attachment A](#).

### **Consultation**

The budgets on which the rates for the levy are based were prepared in consultation with the Torres Strait Prawn Management Advisory Committee (TSPMAC). The TSPMAC, made up of representatives from industry and government, noted the draft 2012–13 budget at an out of session meeting in May 2012. The final budget was provided to the TSPMAC in August 2012 for information. The final budget and levy regulations will be provided to the TSPMAC and the PZJA for noting following their determination. AFMA consulted with the Department of Agriculture, Fisheries and Forestry as well as QDAFF about the Regulation and associated explanatory documents.

The Office of Best Practice Regulation was consulted in the preparation of the Regulation (ID: 14421).

The Regulation is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in [Attachment B](#).

### **The Regulation**

Details of the *Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulation 2012 (No. 1)* are set out below:

**Section 1** provides for the instrument to be cited as the *Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulation 2012 (No. 1)*.

**Section 2** provides that the instrument commences on the day after it is registered.

**Section 3** provides that Schedule 1 amends the *Fisheries Levy (Torres Strait Prawn Fishery) Regulations 1998*.

#### Schedule 1 – Amendments

**Item 1** amends subregulation 4(1) to provide for the 2013 fee for the granting of a licence, by omitting the figure \$3 089.01 and inserting the figure \$3 359.52.

**Item 2** amends subregulation 4(1) to provide for the additional fee payable on the grant of a licence, by omitting the figure \$21.50 and inserting the figure \$23.75 for each unit of fishing capacity allocated to the person.

**Item 3** amends subregulation 4(2) to provide for the 2013 fee for the renewal of a licence, by omitting the figure \$3 089.01 and inserting the figure \$3 359.52.

**Item 4** amends subregulation 4(2) to provide for the additional fee payable on the renewal of a licence, by omitting the figure \$21.50 and inserting the figure \$23.75 for each unit of fishing capacity allocated to the person.

**Item 5** amends subregulation 4(3), subregulation 4(4) and subregulation 4(5) to provide the fee payable for each unit of fishing capacity by omitting the figure \$21.50 and inserting the figure \$23.75.

**Basis of the levy****Table 1:** Levy Calculation – this describes the basis for the levy for 2013 based on the 2012-13 financial year budget.

	<b>Cost recovered budget 2011-12 (\$)</b>	<b>Cost recovered budget 2012-13 (\$)</b>	<b>Carry forward Surplus/ (deficit) from 2011-12 budget (\$)</b>	<b>Amount to be recovered via 2013 levy (levy base) (\$)</b>
	a	b	c	<b>b-c = d</b>
AFMA logbook management	8 439	8 974	(6 234)	<b>15 208</b>
Queensland Boating and Fisheries Patrol (surveillance)	64 292	67 594	0	<b>67 594</b>
Administration, data management, other & licensing	344 897	344 465	59 242	<b>285 233</b>
<b>TOTAL</b>	<b>417 628</b>	<b>421 033</b>	<b>53 008</b>	<b>368 025</b>

**Table 2:** The levy costs (Table 1) for 2013 season based on the 2012-13 budget, as split between licence and unit components.

	<b>Licence component 2013 (\$)</b>	<b>Unit component 2013 (\$)</b>	<b>Amount to be recovered via 2013 levy (\$)</b>
	a	b	<b>a+b = c</b>
AFMA logbook management	0	15 208	<b>15 208</b>
Queensland Boating and Fisheries Patrol (surveillance)	33 797	33 797	<b>67 594</b>
Administration, data management, other & licensing	171 133.80	114 089.20	<b>285 223</b>
<b>TOTAL</b>	<b>1 204 930.80</b>	<b>1 163 094.20</b>	<b>368 025</b>

The 2012-13 cost recovered budget is \$421 033 compared to \$417 628 for the 2011–12 financial year. This is an increase of \$3 405 or 0.8 per cent.

The amount of the budget which is recovered from industry (\$368 025) has also increased by \$31,933 (9.5 per cent) in the 2012–13 financial year when compared to the 2011–12 financial year (\$336 092). The increase is due to the reduced carry forward surplus from the 2011-12 budget (\$53 008) underspend when compared to the amount carried forward for the 2010-11 (\$81 536) financial year. There was also an increase of \$6 799 in the QDAFF component of the budget associated with incremental increases in salary, including the compliance and licensing sections.

The \$368 025 levy amount comprises \$204 930.80 in ‘fixed’ licensing costs and \$63 094.20 in ‘variable’ costs for the fishing unit component. The levy cost per licence for 2013 is \$3 359.52. This is derived by dividing the total ‘fixed’ licence component of \$204 930.80 by the total number of licences in the Fishery (61).

The levy cost per unit allocated for 2013 is \$23.75. This is derived by dividing the total ‘variable’ unit component of \$163 094.20 by the total number of units allocated to Australian licence holders in the Fishery (6 867).

**Decreases to the budget have occurred in the following areas:**

- *Australian Fisheries Management Authority (AFMA) – Observers* – the 2012-13 observer budget forecast has decreased by \$27 482 from 2011-12. This decrease is because the proportion of the total observer days allocated to the Torres Strait Prawn Fishery as a proportion of the overall AFMA observer program has changed. If the number of observer days allocated to any fishery during a season changes as a result of changes to management arrangements, this will alter the actual observer budget for all other fisheries. Should changes occur during a fishing season this would be carried forward as a surplus or deficit into the 2013-14 budget.
- *AFMA – Data management* – data management costs are charged to fisheries as actual usage charges. Although a specific value is budgeted for in each fishery’s budget, the data management team log work generated by a fishery and reconcile this every three months. Actual expenses are adjusted accordingly. This resulted in a \$9 587 decrease for the 2012-2013 budget.
- *AFMA – Broader marine research projects* –this item pertains to research projects which relate broadly to Commonwealth fisheries (broader marine component) and are attributed to each fishery depending on Gross Value of Production (GVP) in that fishery. There is a minimum GVP threshold at which fisheries begin contributing to this budget item. The Torres Strait Prawn Fishery GVP is below this threshold and as such there is no budget (\$0) for this financial year, a reduction of \$5 726.

**Increases to the budget have occurred in the following areas:**

- *AFMA – Salaries* – a \$12 156 increase occurred due to increased staff time allocations in the fishery.
- *AFMA – Overheads* – an increase of \$17 775 occurred due to an increase in depreciation expenditure as well as marginal increases in rent and staff salary payments.

- *Queensland Department of Agriculture, Fisheries and Forestry – Fisheries management and compliance costs* –an increase of \$6 799 occurred due to incremental increases in salary for officers.

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulation 2012 (No. 1)**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

The instrument amends the *Fisheries Levy (Torres Strait Prawn Fishery) Regulations 1998* to allow for an increase in the levy payable for licences granted or renewed and units of fishing capacity in the Torres Strait Prawn Fishery.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon. Peter Douglas Sidebottom MP  
Parliamentary Secretary for Agriculture, Fisheries and Forestry**