

EXPLANATORY STATEMENT

Select Legislative Instrument No. 259, 2013

Issued by Authority of the Parliamentary Secretary to the Minister for Agriculture

Fisheries Levy Act 1984

Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulation 2013 (No. 1)

The *Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulation 2013 (No. 1)* (the Regulations) 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 a levy on, amongst other things, the grant or renewal of a licence and 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 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 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 agreed to split the costs to be recovered on the basis of fixed (per licence) and variable (per day – now per unit) components to provide an equitable division of expenses depending on operators' investment in the Fishery. The Fishery is the only Torres Strait fishery currently subject to cost recovery arrangements.

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 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 Regulation increases the levy for licences granted or renewed in the Fishery from \$3,359.52 to \$3766.54 per licence (a \$407.02 increase per licence) and increases the levy for each individual allocated fishing unit from \$23.75 to \$25.63 per unit (a \$1.88 increase per unit). The increase is a result of a reduced carry forward surplus compared to past years (\$11,969 in 2013/14 compared to \$53,008 in 2012/13). Collection of the increased levy will commence in December 2013.

For more detailed information on the basis of the 2013–14 financial year levy and comparisons to the 2012–13 levy see [Attachment A](#).

The levies are issued on an annual basis and recover the costs of managing the Fishery. Licences cannot be issued for the 2014 fishing season until levies have been paid. The small increase in the levies for the 2014 season is not expected to significantly affect licence holders.

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 2013–14 budget at an out of session meeting in April 2013. 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 as well as QDAFF about the Regulations 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 Secretary) Act 2011*. A full statement of compatibility is set out in [Attachment B](#).

Details of the *Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulation 2013 (No. 1)*

Section 1 – Name of Regulation

This section provides for the instrument to be cited as the *Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulation 2013 (No 1)*.

Section 2 – Commencement

This section provides that the instrument commences on the day after it is registered.

Section 3 - Authority

This section provides that the authority for making the regulation is the *Fisheries Levy Act 1984*.

Section 4 - Schedules

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

Schedule 1 – Amendments

Item 1 amends subregulation 4(1) and subregulation 4(2) to provide for the 2014 fee for the granting of a licence, by omitting the figure \$3359.52 and inserting the figure \$3766.54 and for the fee payable on the grant of a license for each unit of capacity allocated to the person by omitting the figure \$23.75 and inserting the figure \$25.63.

Item 2 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 \$23.75 and inserting the figure \$25.63.

ATTACHMENT A

Basis of the levy

Table 1. Levy Calculation. This describes the basis for the 2014 levy based on the 2013–14 financial year budget. Levy costs associated with different budget items (A, B and C below) are divided between the licences and units. These splits are agreed to by the Torres Strait Protected Zone Joint Authority.

	Cost recovered budget 2012–13	Cost recovered budget 2013-14	Licences		Unit	
			component 2014 levy	% of total	component 2014 levy	% of total
AFMA logbook management (A)	\$8,974	\$14,428	0	0	\$14,428	100
Queensland Boating and Fisheries Patrol (surveillance) (B)	\$67,594	\$62,301	\$31,151	50	\$31,151	50
Administration, data management, other & licensing (C)	\$344,465	\$340,988	\$204,593	60	\$136,395	40
Carry forward surplus/ (deficit) (D)	\$53,008	\$11,969	\$5,985	50	\$5,985	50
TOTAL = (A+B+C)-D	\$368,025	\$405,748	\$229,759		\$175,989	

The entire 2013-14 budget (including government contributions) is \$432,826 compared to \$429,865 for the 2012–13 financial year. This is an increase of \$2,960 or 0.7 per cent.

The portion of the budget cost recovered from industry (\$417,717) has decreased by \$3,316 (0.8 per cent) in the 2013–14 financial year compared to the 2012–13 financial year (\$421,033). When the carry forward surplus from 2012/13 is applied, the recoverable levy is \$405,748 (Table 1). This represents an increase of 10.3 compared to the 2012-13 recovered levy (\$368,025). This increase in the levy amount is a result of the reduced carry forward surplus in 2013/14 (\$11,969) compared to 2012-13 (\$53,008).

The \$405,748 levy amount comprises \$229,759 in licensing costs and \$175,989 in costs for the fishing unit component. The levy cost per licence is calculated by dividing the licence component by the number of licences in the fishery (61), equating to \$3,766.54 per licence for the 2014 season.

The levy cost per unit is calculated by dividing the unit component of the levy by the number of units in the fishery (6,867), equating to \$25.63 per unit.

ATTACHMENT B

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 2013 (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.

Senator the Hon. Richard Colbeck
Parliamentary Secretary to the Minister for Agriculture