**EXPLANATORY STATEMENT**

**SELECT LEGISLATIVE INSTRUMENT No. 258, 2013**

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

*Fishing Levy Act 1991*

*Fisheries Management Act 1991*

*Fishing Levy Regulation 2013*

Section 8 of the *Fishing Levy Act 1991* (Levy Act) empowers the Governor-General to make regulations for the purposes of section 6 of the Levy Act. Section 5 of the Levy Act imposes a levy in respect of a fishing concession. Section 6 of the Levy Act provides that the amount of levy imposed on the fishing concession is the amount prescribed by the regulation.

Section 168 of the *Fisheries Management Act 1991* (Management Act) empowers the Governor-General to make regulations for the purposes of the Management Act.

Section 110 of the Management Act provides that the levy imposed by the Levy Act is due and payable at a time or times prescribed in accordance with the regulations.

"Fishing concession" is defined, under the Levy Act and the Management Act, to mean a fishing permit, a statutory fishing right (SFR) or a foreign fishing license. A SFR is defined under the Management Act to mean, among other things, a right to take a particular quantity of fish, or a right to a particular proportion of the fishing capacity that is permitted by or under a plan of management for a fishery.

The *Fishing Levy Regulation 2013* (the Regulation) is:

* repealing the *Fishing Levy Regulation 2012* and replacing it with updated provisions;
* setting the amounts of levy payable on fishing concessions;
* setting the timeframes for when those amounts of levy are due and payable for the 2013-14 financial year; and
* setting the levy amounts for the 15 fisheries that are described in regulation 4B of the *Fisheries Management Regulations 1992* and in fisheries management plans that have been determined in accordance with section 17 of the Management Act.

The Regulation will collect:

* $11.385 million from fishing concession holders for the 2013-14 financial year. This amount comprises the budgeted cost recovery amount by the Australian Fisheries Management Authority (AFMA), plus or minus the acquittal from the previous financial year; and
* $738, 544 research levy of on behalf of the Fisheries Research Development Corporation

AFMA is required to prepare a cost recovery budget to cover the costs of Commonwealth fisheries management from concession holders each financial year. This includes the costs of developing and implementing management arrangements, data collection and costs of running the management advisory committees. The 2013-14 budget was calculated to be $13.308 million (excluding the Torres Strait Fishery), which is a decrease of 6.28 per cent or $0.831 million on the previous year. Levy amounts for the Torres Strait Fisheries are prescribed in a separate regulation.

Following the acquittal of an underspend in the AFMA budget from the 2012-13 financial year the amount to be recovered from fishing concession holders for 2013-14 has reduced by 17.54 per cent to $11.385 million over the previous financial year.

The cost recoverable budget for 2013-14 has primarily decreased due to reductions in and deferments of research projects in a number of fisheries. Less observer days, implementation of technologies and reduced fishing activity in some fisheries has also contributed to an overall decrease in the levy base for 2013-14.

Although the overall amount to be collected from the Commonwealth fishing industry has decreased, the amount to be recovered from each fishery varies due to factors including:

* changes in management and research priorities for each fishery;
* adjustments for prior year over/under collections; and
* changes in the financial year that alter the amount of resources required to administer the fishery.

AFMA remains focussed on providing efficient and cost effective fisheries management. AFMA is working closely with the Commonwealth Fisheries Association (CFA) to identify opportunities for future efficiencies.

There are nine fisheries and two sectors of the Southern and Eastern Scalefish and Shark Fishery, where there has been a decrease in levy for the 2013-14 financial year compared with the previous financial year. These are:

* Coral Sea Fishery 19.3 per cent ($17 314)
* Southern and Eastern Scalefish and Shark Fishery
	+ Commonwealth South East Trawl 24.4 per cent ($765 330)
	+ Gillnet Hook and Trap 24.7 per cent ($680 278)
* Bass Strait Central Zone Scallop Fishery 43.9 per cent ($123 013)
* Southern Squid Jig Fishery 4.0 per cent ($4 515)
* Eastern and Western Skipjack Fishery 12.6 per cent ($8 275)
* Heard and McDonald Island Fishery 38.5 per cent ($359 360)
* Western Deepwater Trawl Fishery 46.1 per cent ($42 967)
* Northern Prawn Fishery 16.3 per cent ($403 221)
* North West Slope Fishery 59.0 per cent ($90 839)
* Southern Bluefin Tuna Fishery 35.1 per cent ($571 145).

There are four fisheries and one sector of the Southern and Eastern Scalefish and Shark Fishery, where there has been an increase in levy for the 2013-14 financial year compared with the previous financial year. These are:

* Southern and Eastern Scalefish and Shark Fishery
	+ Great Australian Bight Trawl 36.6 per cent ($68 501)
* Macquarie Island Fishery 56.3 per cent ($141 945)
* Eastern Tuna and Billfish Fishery 1.1 per cent ($14 811)
* Western Tuna and Billfish Fishery 33.0 per cent ($68 998)
* Small Pelagic Fishery 221.6 per cent ($276 621).

Details of the Regulation, including rates of levy and when the levy is due and payable, are set out in Attachment A.

**Consultation with fishery stakeholders**

The cost recovered budget for each fishery has been prepared in consultation with either the relevant fishery MACs, established under section 54 of the *Fisheries Administration Act 1991*, or the relevant consultative body for the fishery. Each stage of the budget preparation process has proceeded in consultation with the peak industry body, the CFA.

AFMA is required to recover the costs of fishery management from the fishing industry. Cost recovery is in accordance with AFMA’s Cost Recovery Impact Statement 2010 (CRIS 2010), which was approved on 30 September 2010. Cost recovery occurs through annual levy regulations and fee for service. The CRIS 2010 is available at <http://www.afma.gov.au/resource-centre/publications-and-forms/corporate/cost-recovery-impact-statement-2010/>

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.

 **ATTACHMENT A**

**Details of the *Fishing Levy Regulation 2013***

**Part 1- Preliminary**

Section 1 - Name of Regulation

This regulation provides for the regulation to be cited as the *Fishing Levy Regulation 2013* (the Regulation).

Section 2 - Commencement

This regulation provides that the Regulation commences on the day after it is registered.

Section 3 - Authority

This regulation provides that the Regulation is made under the *Fishing Levy Act 1991* and the *Fisheries Management Act 1991*.

Section 4 - Schedule(s)

This regulation repeals *Fishing Levy Regulation 2012*.

Section 5 - Definitions

This regulation defines terms used in the Regulation.

Section 6 - References to fisheries

This regulation provides that, where a reference is made to the name of a fishery in the Regulation, that it is the name that corresponds to one described in the Management Regulations or in a plan of management.

**Part 2 Bass Strait Central Zone Scallop Fishery**

Section 2.1 - Definitions

This section defines the terms used in the Part.

Section 2.2 - Amount of levy- leviable BSCZSF SFR

This section sets the levy payable for a Bass Strait Central Zone Scallop Fishery (BSCZSF) commercial scallop quota statutory fishing right (SFR) in force on or after the commencement of the Regulation and before 30 June 2014.

The levy amount is $0.3571. The levy includes a FRDC component of $0.00391 per SFR.

Table 1: Comparison of the BSCZSF levy base between 2012-13 and 2013-14.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  |  |  |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 364 414 | 291 921 | - 72 493 | - 19.89% |
| Prior year (over)/under recoveries | -84 422 | -134 942 |  |  |
| Amount payable (Excludes FRDC) | 279 992 | 156 979 | - 123 013 | - 43.93% |

There has been a 43.93 per cent ($123 013) decrease in the levy amount payable for 2013-14 ($156 979) compared to the levy amount payable for 2012-13 ($279 992). This reduction is primarily due to reduced costs for staff time ($67 761) and overheads.

To calculate the levy payable for each commercial scallop quota SFR the research component ($1 739) is added to the total management levy to be collected ($156 979) and then divided by the number of commercial scallop quota SFRs in the fishery (444 500).

Section 2.3 -When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 3 Coral Sea Fishery**

Section 3.1 - Definitions

This section defines the terms used in the Part.

Section 3.2 - Amount of levy- leviable CSF fishing permit

This section sets the levy payable for a Coral Sea Fishery (CSF) fishing permit in force on or after the commencement of the Regulation and before 30 June 2014.

The levy is made up of two components: a base amount (Tier 1) levy plus an additional amount (Tier 2) for each sector of the fishery to which the permit provides access. The Tier 1 levy covers general management costs incurred equally across each sector including salaries, travel, logbook processing, data management, licensing and compliance costs. Tier 2 levies reflect observer costs associated with each sector of the fishery.

The Tier 1 levy is $2 757.19 for each permit and includes a FRDC component of $56.06 (16 permits).

The Tier 2 amounts per permit are:

* Hand collection - $974.56 (6 permits); and
* Line, Trap and Trawl - $2 338.88 (10 permits).

Table 2: Comparison of the CSF levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 157 204 | 140 569 | - 16 635 | - 10.58 |
| Prior year (over)/under recoveries | -67 435 | -68 115 |  |  |
| Amount payable (Excludes FRDC) | 89 769 | 72 454 | - 17 314 | - 19.00 |

There has been a 19 per cent ($17 314) decrease in the levy amount payable for 2013-14 ($72 454) compared to the levy amount payable for 2012-13 ($89 769). There were reductions in the budget for 2013-14 reflecting reduced data management costs ($8 432) and observer costs ($12 164). In addition there was an underspend of $68 115 in 2012-13 reflecting reduced staffing and the postponement of a stakeholder meeting.

Section 3.3 - When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 4 Eastern Skipjack Fishery**

Section 4.1- Definitions

This section defines the terms used in the Part.

Section 4.2 - Amount of levy- leviable ESF fishing permit

This section sets out the levy payable for an Eastern Skipjack Fishery (ESF) fishing permit in force on or after the commencement of the Regulation and before 30 June 2014.

The levy amount is $1 746.15 per permit; there is no research component.

Table 3: Comparison of the ESF and WSF levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 60 708  | 58 041  | - 2 667 | - 4.39 |
| Prior year (over)/under recoveries | 5 190 | 418 |  |  |
| Amount payable (Excludes FRDC) | 65 898 | 57 623 | - 8 275 | - 13.00 |

There has been a 13 per cent ($8 275) decrease in the levy payable for 2013-14 ($57 623) compared to the levy payable for 2012-13 ($65 898). There has been little fishing activity in either the Eastern or Western Skipjack Fishery in recent years and management costs are mainly associated with Licensing functions and implementing obligations from the Western and Central Pacific Fisheries Commission and the Indian Ocean Tuna Commission.

The Eastern Skipjack Fishery is managed under a single budget for both the Eastern and Western Skipjack Fisheries. The method used to calculate the levies combines both Eastern and Western Skipjack Fishery permits and then divides the total levy base by the total number of permits. There are currently 19 permits in the Eastern Fishery and 14 permits in the Western Fishery. Therefore, to determine the individual levies the levy base of $57 623 was divided by 33 permits.

Section 4.3 - When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 5 Eastern Tuna and Billfish Fishery**

Section 5.1 - Definitions

This section defines the terms used in the Part.

Section 5.2 - Amount of levy - leviable ETBF SFR

This section sets the levy payable for the Eastern Tuna and Billfish Fishery (ETBF) quota SFR and boat SFR in force on or after the commencement of this regulation and before 30 June 2014, as:

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Management Levy** | **FRDC Levy** | **Total Levy** |
| Longline Boat SFR | $2 649.86 | - | $2 649.86 |
| Minor Line Boat SFR | $1 189.04 | - | $1 189.04 |
| Albacore Tuna Quota SFR | $0.0624 | $0.0042 | $0.0666 |
| Bigeye Tuna Quota SFR | $0.1675 | $0.0113 | $0.1788 |
| Broadbill Swordfish Quota SFR | $0.1833 | $0.0124 | $0.1957 |
| Striped Marlin Quota SFR | $0.0425 | $0.0029 | $0.0454 |
| Yellowfin Tuna Quota SFR | $0.4681 | $0.0317 | $0.4998 |

 Table 4: Comparison of the ETBF levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 1 764 652 | 1 599 614 | - 95 038 | - 5.6 |
| Prior year (over)/under recoveries | -307 848 | 147 999 |  |  |
| Less Observer Fee for Service | -70 000 | -50 000 |  |  |
| Amount payable (Excludes FRDC) | 1 386 804 | 1 401 615 | 14 811 | 1.07 |

There has been a 1.07 per cent ($14 811) increase in the levy amount payable for 2013-14 ($1 401 615) compared to the levy amount payable for 2012-13 ($1 386 804). Expenditure for the 2012-13 budget year was $123 795 less than budgeted. Despite the reduction in budget for the 2013-14 financial year the slight increase is due to the previous year’s levy being artificially lowered by a return of funds ($307 848) from an over collection in the 2011-12 financial year.

There is a two tiered system for the payment of levies in the ETBF. Tier 1 represents the fixed costs of managing the fishery. These costs are divided between Longline Boat SFRs and Minor Line Boat SFRs, with two thirds of the Tier 1 levy recovered equally amongst Longline Boat SFR holders and the remaining one third recovered equally from Minor Line Boat SFR holders. Tier 2 represents the costs which are variable depending on the level of fishing effort, such as compliance data collection, logbooks and observers. These costs are divided between each Quota SFR based on the relative market value of each quota species.

Operators who wish to fish in the Coral Sea Zone of the fishery are required to hold both a Longline Boat SFR and a Coral Sea Zone Boat SFR, hence there is no separate charge for a Coral Sea Zone Boat SFR.

Section 5.3 - When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 6 Heard Island and McDonald Islands Fishery**

Section 6.1 - Definitions

This section defines the terms used in the Part.

Section 6.2 - Amount of levy - leviable HIMI SFR

This section sets the levy payable for a Heard Island and McDonald Islands (HIMI) Fishery quota SFR in force on the commencement of this regulation and before 30 June 2014.

The levy amount is $11.65 for each quota SFR and includes a FRDC component of $2.08 per SFR.

Table 5: Comparison of the HIMI Fishery levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 1 272 472 | 846 196 | -426 276 |  -33.5 |
| Prior year (over)/under recoveries | -57 124 | 24 123 |  |  |
| Less Observer Fee for Service | -281 260 | -295 610 |  |  |
| Amount payable (Excludes FRDC) | 934 088 | 574 728 | -359 360 | -38.5 |

There has been a 38.5 per cent ($359 360) decrease in the levy amount payable for 2013-14 ($574 728) compared to the levy amount payable for 2012-13 ($934 088). The decrease is due to the removal of the costs associated with the Random Stratified Trawl Survey (RSTS) from the levy base. In 2013-14 the RSTS is being funded by Industry outside the levy base.

To calculate the levy payable for each SFR, the research component ($124 561) is added to the total management levy to be collected ($574 728) and then divided by the number of commercial SFRs in the fishery (60 000).

Section 6.3 - When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 7 Macquarie Island Toothfish Fishery**

Section 7.1 - Definitions

This section defines the terms used in the Part.

Section 7.2 - Amount of levy - leviable MITF SFR

This section sets the levy payable for a Macquarie Island Toothfish Fishery (MITF) quota SFR in force on the commencement of this regulation and before 30 June 2014.

The levy amount is $20.50 for each quota SFR and includes a FRDC component of $0.80 per SFR.

Table 6: Comparison of the MITF levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 245 485 | 316 241 |  70 756 |  28.8 |
| Prior year (over)/under recoveries | 47 888 | 151 272 |  |  |
| Less Observer Fee for Service | -41 325 | -73 975 |  |  |
| Amount payable (Excludes FRDC) | 252 048 | 393 993 |  141 945 | 56.3 |

There has been a 56.3 per cent ($141 945) increase in the levy amount payable for 2013-14 ($393 993) compared to the levy amount payable for 2012-13 ($252 048). The increase is due to an increase in the number of boats in the fishery resulting in an increase in the number of budgeted observer days to comply with required observer coverage levels in the fishery.

To calculate the levy payable for each SFR, the research component ($15 970) is added to the total management levy to be collected ($393 993) and then divided by the number of commercial SFRs in the fishery (20 000).

Section 7.3 - When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 8 Northern Prawn Fishery**

Section 8.1 - Definitions

This section defines the terms used in the Part.

Section 8.2 - Amount of levy - leviable NPF gear SFR

This section sets the levy payable for a Northern Prawn Fishery (NPF) gear SFR that is in force on or after the commencement of this regulation and before 30 June 2014.

The levy amount is $63.58 for each gear SFR and includes a FRDC component of $5.33 per gear SFR.

Table 7: Comparison of the NPF levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 2 277 992 | 2 126 807 |  - 151 185 | -6.6 |
| Prior year (over)/under recoveries | 191 910 | -60 126 |  |  |
| Amount payable (Excludes FRDC) | 2 469 902 | 2 066 681 | - 403 221 | -16.3 |

There has been a 16.3 per cent ($403 221) decrease in the levy amounts payable for 2013-14 ($2 066 681) compared with the levy amount payable for 2012-13 ($2 469 902). The primary reason for the decrease is a reduction in the targeted observer days and the phasing of milestone payments for multi-year research projects such as the Integrated Monitoring Program (IMP) and Resource Assessment Group (RAG) Assessments.

To calculate the levy payable for each NPF gear SFR, the total FRDC research levy ($189 173) is added to the total management levy to be collected ($2 066 681) and divided by the number of gear SFRs in the fishery (35 479).

Section 8.3 When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 9 North West Slope Trawl Fishery**

Section 9.1 Definitions

This section defines the terms used in the Part.

Section 9.2 Amount of levy - leviable NWSTF fishing permit

This section sets the levy payable for a North West Slope Trawl (NWSTF) fishing permit in force on or after the commencement of this regulation and before 30 June 2014.

The amount of levy is $9 365.43 for each fishing permit and includes a FRDC component of $334.00 per permit.

Table 8: Comparison of the NWSTF levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 109 511 | 96 570 | 12 941 |  11.8 |
| Prior year (over)/under recoveries | 44 546 |  -33 351 |  |  |
| Amount payable (Excludes FRDC) | 154 057 | 63 218 |  90 839 |  59.0 |

There has been a 59.0 per cent ($90 839) decrease in the levy amount payable for 2013-14 ($63 218), compared to the levy amount payable for 2012-13 ($154 057). This decrease is primarily due to reduced observer days and a reduction in the requirement to attend meetings in the 2013-14 financial year.

To calculate the levy payable for each NWSTF permit, the total FRDC research levy ($2 339) is added to the total management levy ($63 218) and divided by the number of permits in the fishery (7).

Section 9.3 -When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 10 Small Pelagic Fishery**

Section 10.1 - Definitions

This section defines the terms used in the Part.

Section 10.2 - Amount of levy - leviable SPF SFR

This section sets the levy payable for a Small Pelagic Fishery (SPF) quota SFR in force on or after the commencement of this regulation and before 30 June 2014.

The levy amount is $0.006582 for each SFR and includes a FRDC component of $0.0000063 per SFR.

Table 9: Comparison of the SPF levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget |  292 958 | 396 136 | 103 178 | 35.2% |
| Prior year (over)/under recoveries |  -168 124 | 5 319 |  |  |
| Amount payable (Excludes FRDC) |  124 834 | 401 455 | 276 621 | 221.6% |

There has been a 221.6 per cent ($276 621) increase in the levy amount payable for 2013-14 ($401 455) compared to the levy amount payable for 2012-13 ($124 834). This increase is mainly a result of the significant underspend in 2011-12 ($168 124) that was carried over into 2012-13 reducing the amount payable in 2012-13 ($124 834). Actual expenditure in 2012-13 was close to budgeted expenditure.

To calculate the levy payable for each SPF quota SFR, the total FRDC research levy ($385) is added to the total management levy to be collected ($401 455) and divided by the number of quota SFRs in the fishery (61 047 305).

Section 10.3 - When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 11 Southern and Eastern Scalefish and Shark Fishery**

Section 11.1 - Definitions

This section defines the terms used in the Part.

The Southern and Eastern Scalefish and Shark Fishery (SESSF) incorporates the management of the previously individually managed East Coast Deepwater Trawl Fishery (ECDT); the Great Australian Bight Trawl Fishery (GABT); the Gillnet Hook and Trap Fishery (GHT); the South East Trawl Fishery (SET); and the Victorian Coastal Waters Fishery (VCW) under a single management framework (the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* (SESSF management plan)).

Under the SESSF management plan the different sectors are managed under a system of SFRs and permits.

At industry’s request the total budget for the SESSF fishery continues to be set in terms of individually managed sectors. As a result the SESSF budget is a combined total of the GABT, GHT and SET budgets.

Section 11.2 and 11.3 - Amount of levy - leviable SESS fishing permits and SFRs

* **Great Australian Bight Trawl Sector (GABT)**

The total levy base for the fishery is $284 955 including a research component of $29 365. In addition, a fishing concession holder will pay an amount per quota species as shown in the table below to recover the total amount payable for the GABT.

The table below sets out the levy payable for GABT boatand quotaSFRs in force on or after the commencement of this regulation and before 30 June 2014 as;

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Management Levy** | **FRDC Levy** | **Total Levy** |
| GABT boat SFR | $25 559.00 | - | $25 559.00 |
| Bight Redfish quota SFR | - | $0.00523 | $0.00523 |
| Deepwater flathead quota SFR |  - | $0.00782 | $0.00782 |
| Orange Roughy (Albany and Esperance) quota SFR | - | $0.00334 | $0.00334 |

Table 10: Comparison of the GABT levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 339 943 | 317 510 | - 22 433 | - 6.6 |
| Prior year (over)/under recoveries | -152 854 | -61 920 |  |  |
| Amount payable (Excludes FRDC) | 187 089 | 255 590 |  68 501 |  36.6 |

There has been a 36.6 per cent ($68 501) increase in the levy amount payable for 2013-14 ($255 590) compared to the levy payable for 2012-13 ($187 089). This was mostly due to a large reimbursement of levy savings in 2011-12 ($152 854) applied to the 2012-13 levy year, reducing the amount payable in that year. There was also a significant reduction in budgeted expenditure in 2012-13 against MAC and Resource Advisory Group meetings ($44 335) due to an industry decision that members not claim travel costs. The cost recovered budget was reduced in 2013-14 to account for these savings.

* **Gillnet Hook and Trap Sector (GHT)**

The total levy base for the fishery is $2 133 769 including a research component of $54 268. In addition, a fishing concession holder will pay an amount per quota species as shown in the table below to recover the total amount payable for the GHT.

The table below sets out the levy payable for GHT boatSFRs and permits in force on or after the commencement of this regulation and before 30 June 2014 as;

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Management Levy** | **FRDC Levy** | **Total Levy** |
| Gillnet boat SFR | $3 589.44 | - | $3 589.44 |
| Scalefish boat SFR | $1 536.33 | - | $1 536.33 |
| Shark hook boat SFR | $1 943.39 | - | $1 943.39 |
| GHT fishing permit | $1 108.08 | - | $1 108.08 |
| GHT trap fishing permit | $1 052.67 | - | $1 052.67 |
| GHT auto longline fishing permit | $3 742.83 | - | $3 742.83 |

Table 11: Comparison of the GHT levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 2 496 400 | 2 260 939 | 235 461  | 9.4 |
| Prior year (over)/under recoveries | 263 378 | -181 438 |  |  |
| Amount payable (Excludes FRDC) | 2 759 779 | 2 079 501 | 680 278 | -24.7 |

There has been a 24.7 per cent ($680 278) decrease in the levy amount payable for 2013-14 ($2 079 501) compared to the levy amount payable for 2011-12 ($2 674 051). This decrease is due to a reduction in indirect fishery management costs and a deduction for an under expenditure of levies in 2012-13 ($181 438). Decreases in indirect costs in the 2013-14 budget include a reduction in the cost of on-board observers with greater use of electronic monitoring and a reduction in research costs as some stock assessments and the fishery independent survey were deferred.

* **Commonwealth South East Trawl Sector (CSET)**

The total levy base for the fishery is $2 504 196 including a research component of $135 404. In addition, a fishing concession holder will pay an amount per quota species as shown in the table below to recover the total amount payable for the CSET.

The table below sets out the levy payable for CSET boat SFRs and permits in force on or after the commencement of this regulation and before 30 June 2014 as;

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Management Levy** | **FRDC Levy** | **Total Levy** |
| SET Trawl boat SFR | $8 350.23 | - | $8 350.23 |
| East Coast Deepwater Trawl fishing permit | $488.17 | - | $488.17 |
| Victorian Coastal Waters fishing permit | $332.84 | - | $332.84 |

Table 12: Comparison of the CSET levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |   Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 2 765 779 | 2 579 287 | - 186 492 | - 6.7 |
| Prior year (over)/under recoveries | 368 344 | -210 495 |  |  |
| Amount payable (Excludes FRDC) | 3 134 122 | 2 368 792 | - 765 330 | - 24.4 |

There was a 24.4 per cent ($765 330) decrease in the levy amount payable for 2013-14 ($2 368 792) compared to the levy payable for 2012-13 ($2 986 696). The difference in the amount of collectable levy from 2012-13 to 2013-14 is primarily due to a reduction in budget of a 6.7 per cent ($186 492), and savings made in budgeted research costs ($315 254) by deferring a Fisheries Independent Survey (FIS) for an additional year.

A number of quota species are caught in both the GHAT and the CSET sectors of the SESSF. The table below sets out the levy payable for SESS quotaSFRs in force on or after the commencement of this regulation and before 30 June 2014 as;

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Management Levy** | **FRDC Levy** | **Total Levy** |
| Alfonsino  | $0.0189 | $0.00148 | $0.02039 |
| Blue Eye Trevalla | $0.3820 | $0.01272 | $0.39468 |
| Blue Grenadier | $0.0955 | $0.00764 | $0.10317 |
| Blue Warehou | $0.0123 | $0.00090 | $0.01320 |
| Deepwater shark basket east  | $0.0219 | $0.00163 | $0.02354 |
| Deepwater shark basket west  | $0.0340 | $0.00265 | $0.03670 |
| Elephant fish | $0.3609 | $0.00758 | $0.36852 |
| Flathead | $0.1521 | $0.01218 | $0.16429 |
| Gemfish - east | $0.1366 | $0.00932 | $0.14596 |
| Gemfish - west | $0.0636 | $0.00450 | $0.06813 |
| Gummy Shark | $0.4638 | $0.01541 | $0.47919 |
| Jackass Morwong | $0.0569 | $0.00453 | $0.06141 |
| John Dory | $0.0390 | $0.00312 | $0.04215 |
| Mirror Dory | $0.0934 | $0.00748 | $0.10085 |
| Ocean Perch | $0.0912 | $0.00629 | $0.09748 |
| Orange Roughy Cascade | $0.0059 | $0.00047 | $0.00636 |
| Orange Roughy - east | $0.0004 | $0.00003 | $0.00044 |
| Orange Roughy - south | $0.0006 | $0.00005 | $0.00061 |
| Orange Roughy - west | $0.0050 | $0.00040 | $0.00536 |
| Oreo | $0.0191 | $0.00153 | $0.02067 |
| Oreo cascade | $0.0006 | $0.00005 | $0.00061 |
| Oreo smooth | $0.0005 | $0.00004 | $0.00053 |
| Pink Ling | $0.3727 | $0.01877 | $0.39149 |
| Redfish | $0.0239 | $0.00191 | $0.02583 |
| Ribaldo | $0.1771 | $0.00312 | $0.18023 |
| Royal Red Prawn | $0.0385 | $0.00308 | $0.04155 |
| Sawshark | $0.2398 | $0.00435 | $0.24410 |
| School Shark | $0.4516 | $0.01456 | $0.46620 |
| School Whiting | $0.0284 | $0.00227 | $0.03065 |
| Silver Trevally | $0.0530 | $0.00424 | $0.05725 |
| Spotted Warehou | $0.1576 | $0.01263 | $0.17026 |

Section 11.4 - When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 12 Southern Bluefin Tuna Fishery**

Section 12.1 - Definitions

This section defines the terms used in the Part.

Section 12.2 - Amount of levy - leviable SBTF SFR

This section sets the levy payable for a Southern Bluefin Tuna Fishery (SBT) quota SFR in force on or after the commencement of this regulation and before 30 June 2014.

The levy amount is $0.2176 for each quota SFR and includes a FRDC component of $0.02 per quota SFR.

Table 13: Comparison of the SBT levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 1 514 987 | 1 292 049 | -222 938 | -14.7 |
| Prior year (over)/under recoveries | 112 278 | -237 930 |  |  |
| Adjustments |  | -193 585 |  |  |
| Amount payable (Excludes FRDC) | 1 627 264 | 1 056 119 | -571 145 | -35.1 |

There has been a 35.1 per cent ($571 145) decrease in the levy amount payable for 2013-14 ($1 056 119) compared to the levy amount payable for 2012-13 ($1 627 264). This decrease reflects the decision to not implement stereo video in the fishery until the stereo video systems are fully automated.

To calculate the levy payable for each SBT quota SFR the research component ($102 372) is added to the total management levy to be collected ($1 056 119). The total ($1 158 491) is then divided by the number of commercial SBT SFRs in the fishery (5 324 422).

Section 12.3 - When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 13 Southern Squid Jig Fishery**

Section 13.1- Definitions

This section defines the terms used in the Part.

Section 13.2 - Amount of levy - leviable SSJF gear SFR

This section sets the levy payable for each Southern Squid Jig Fishery (SSJF) gear SFR in force on or after the commencement of this regulation and before 30 June 2014.

The levy amount is $20.22 for each gear SFR and includes a FRDC component of $0.55 per gear SFR.

Table 14: Comparison of the SSJF levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 111 363 | 133 782 |  22 419 |  20.13 |
| Prior year (over)/under recoveries | 1 325 | -25 609 |  |  |
| Amount payable (Excludes FRDC) | 112 688 | 108 173 | - 4 515 | - 4.01 |

There has been a 4.01 per cent ($4 515) decrease in the levy payable for 2013-14 ($108 173) compared to the levy payable for 2012-13 ($112 688). There has been an increase in budget for 2013-14, however, this is offset by a reduction for over recovery of levies in 2012-13 ($25 609). The budget increase is primarily due to an increase in staff time allocated to the squid fishery in 2013-14.

To calculate the levy payable for each gear SFR, the research component of $3 034 is added to the total management levy to be collected ($108 173) and then divided by the number of commercial gear SFRs in the fishery (5 500).

Section 13.3 - When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 14 Western Deepwater Trawl Fishery**

Section 14.1 - Definition

This section defines the terms used in the Part.

Section 14.2 - Amount of levy - leviable WDTF fishing permit

This section sets the levy payable for a Western Deepwater Trawl Fishery (WDTF) fishery fishing permit in force on or after the commencement of this regulation and before 30 June 2014.

The levy amount is $4 601.16 per fishing permit and includes a FRDC component of $35.00 per fishing permit.

Table 15: Comparison of the WDTF levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 | Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 109 309 | 92 690 | - 16 619 | - 15.2 |
| Prior year (over)/under recoveries | -16 110 | -42 460 |  |  |
| Amount payable (Excludes FRDC) | 93 198 | 50 231 | - 42 967 | - 46.1 |

There has been a 46.1 per cent ($42 967) decrease in the levy payable for 2013-14 ($50 231) compared to the levy amount payable for 2012-13 ($93 198). This decrease is primarily due to reduced observer days and a reduction in the requirement to attend meetings in the 2013-14 financial year.

To calculate the levy payable for each WDTF fishing permit, the total FRDC research levy ($382) is added to the total management levy to be collected ($50 231) and divided by the number of fishing permits in the fishery (11).

Section 14.3 - When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 15 Western Skipjack Fishery**

Section 15.1 - Definitions

This section defines the terms used in the Part.

Section 15.2 - Amount of levy - leviable WSF fishing permit

This section sets out the levy payable for a Western Skipjack Fishery (WSF) fishing permit in force on or after the commencement of this regulation and before 30 June 2014.

The levy amount is $1 746.15 per permit; there is no research component.

Table 16: Comparison of the Skipjack Fisheries levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 | Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 60 708 | 58 041 | - 2 667 | - 4.4 |
| Prior year (over)/under recoveries | 5 190 | 418 |  |  |
| Amount payable (Excludes FRDC) | 65 898 | 57 623 | - 8 275 | - 12.6 |

There has been a 12.6 per cent ($8 275) decrease in the levy payable for 2013-14 ($57 623) compared to the levy payable for 2012-13 ($65 898). There has been little fishing activity in either the Eastern or Western Skipjack Fishery in recent years and management costs are mainly associated with Licensing functions and implementing obligations from the Western and Central Pacific Fisheries Commission and the Indian Ocean Tuna Commission. After taking into account the acquittal from 2011-12, the amount to be collected for 2013-14 is $57 623 (there is no research component).

The Western Skipjack Fishery is managed under a single budget for both the Eastern and Western Skipjack Fisheries. The method used to calculate the levies combines both Eastern and Western Skipjack Fishery permits and then divides the total levy base by the total number of permits. There are currently 19 permits in the Eastern Skipjack Fishery and 14 permits in the Western Skipjack Fishery. Therefore, to determine the individual levies the levy base of $57 623 was divided by 33 permits.

Section 15.3 - When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**Part 16 Western Tuna and Billfish Fishery**

Section 16.1 - Definition

This section defines the terms used in the Part.

Section 16.2 - Amount of levy - leviable WTBF SFR

This section sets the levy payable for a Western Tuna and Billfish Fishery (WTBF) boat SFR and quota SFR in force on or after the commencement of this regulation and before 30 June 2014, as:

|  |  |  |  |
| --- | --- | --- | --- |
| **Item** | **Management Levy** | **FRDC Levy** | **Total Levy** |
| Longline Boat SFR | $1 115.37 | $119.08 | $1 234.45 |
| Bigeye Tuna Quota SFR | $0.0564 | - | $0.0564 |
| Broadbill Swordfish Quota SFR | $0.0564 | - | $0.0564 |
| Striped Marlin Quota SFR  | $0.0564 | - | $0.0564 |
| Yellowfin Tuna Quota SFR | $0.0564 | - | $0.0564 |

Table 17: Comparison of the WTBF levy base between 2012-13 and 2013-14.

|  |  |  |  |
| --- | --- | --- | --- |
|  | 2012-13 | 2013-14 |  Difference |
|  | $ | $ | $ | % |
| Cost recovered budget | 257 132 | 281 019 | 23 887 | 9.3 |
| Prior year (over)/under recoveries | -48 001 | -2 890 |  |  |
| Amount payable (Excludes FRDC) | 209 131 | 278 129 | 68 998 | 33.0 |

There has been a 33.0 per cent ($68 998) increase in the levy amount payable for 2013-14 ($278 129) compared to the levy amount payable for 2012-13 ($209 131). The increase is due to an increase in the number of boats in the fishery resulting in an increase in the number of budgeted observer days.

There is a two tiered system for the payment of levies in the WTBF. Tier 1 represents the fixed costs of managing the fishery and the research component. These costs are divided equally between each boat SFR. Tier 2 represents the costs which are variable depending on the level of fishing effort, such as compliance data collection, logbooks and observers. The different options of dividing the Tier 2 costs among the quota SFRs has been discussed with industry members, however no agreement could be reached. Therefore, without industry consensus, it was considered the most equitable option was to divide the costs equally between each quota SFR.

Section 16.3 - When levy must be paid

This section provides that a levy is payable in three instalments. The full amount of the first instalment is payable by 11 February 2014. The full amount of the second instalment is payable by 8 April 2014. The full amount of the third instalment is payable by 3 June 2014.

The Regulation also provides that should a dealing occur that would transfer ownership, the levy becomes due and payable.

**ATTACHMENT B**

**Statement of Compatibility with Human Rights**

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

**Fishing Levy Regulation 2013**

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 sets the amounts of levy that are payable for Commonwealth fishing concessions and in the timeframes for when those amounts of levy are due and payable, for the 2013-14 financial year.

**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**