

EXPLANATORY STATEMENT

Select Legislative Instrument No. 177, 2014

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

Fisheries Levy Act 1984

Fisheries Levy (Torres Strait Prawn Fishery) Amendment (2014 Measures No. 1) Regulation 2014

The *Fisheries Levy (Torres Strait Prawn Fishery) Amendment (2014 Measures No. 1) Regulation 2014* (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 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 purpose of the Regulation is to decrease the levy for licences granted or renewed in the Fishery from \$3766.54 to \$3573.12 per licence (a \$193.42 decrease per licence) and to decrease the levy for each individual allocated fishing unit from \$25.63 to \$24.05 per unit (a \$1.58 decrease per unit).

The levies are issued on an annual basis and recover the costs of managing the Torres Strait Prawn Fishery (the Fishery). Licences cannot be issued for the 2015 fishing season until levies have been paid. The small decrease in the levies for the 2015 season is associated with a carry forward surplus from a 2013-14 budget underspend.

The *Torres Strait Prawn Fishery Management Plan 2009* (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 available effort for the fishery in a given season.

The attributable costs of managing 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 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.

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 2014–15 budget at an out of session meeting in May 2014 and again at a face to face meeting in June 2014. 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 and QDAFF about the Regulations and associated explanatory documents.

The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required for this Instrument. This is consistent with the agreement updated on 30th June 2014 not to require an impact statement assessment for routine legislative instruments of a minor or machinery nature, which specifically includes the annual setting of levies.

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 A.

Details of the *Fisheries Levy (Torres Strait Prawn Fishery) Amendment (2014 Measures No 1) Regulation 2014*

Section 1 – Name of Regulation

This section provides for the instrument to be cited as the *Fisheries Levy (Torres Strait Prawn Fishery) Amendment (2014 Measures No. 1) Regulation 2014*.

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 amends the instruments as set out in a Schedule to this Regulation.

Schedule 1 – Amendments

to the *Fisheries Levy (Torres Strait Prawn Fishery) Regulations 1998*.

Item 1 repeals the definition of allocated fishing day as this term is no longer used within the regulations.

Item 2 substitutes the words “fishing days” for “days” in paragraph 3(2)(b)

Item 3 replaces sub-regulation 3(3) to prescribe for the purposes of the *Fishing Levy Act 1998* the units of fishing capacity which are allocated or renewed specifically under the *Torres Strait Prawn Fishery Management Plan 2009*.

Item 4 replaces sub-regulation 4(1) and sub-regulation 4(2) to insert in sub-regulation (1) the levy for a grant of a licence prescribed under subsections 19(2) or (3) of the *Torres Strait Fisheries Act 1984* plus a levy for each unit of fishing capacity in respect of that licence. Sub-regulation (2) provides for the levy for a renewal of a licence prescribed under subsection 24(1) of the *Torres Strait Fisheries Act 1984* plus a levy for each unit of fishing capacity in respect of that licence. The levy for the grant or renewal of a licence is \$3 573.12 (previously \$3 766.54) and for each unit of fishing capacity is \$24.05 (previously \$25.63).

Item 5 repeals sub-regulation 4(3) which is redundant.

Item 6 adds to sub-regulation 4(4), which also imposes the levy on prescribed units of fishing capacity in respect of each licence that are allocated under the Management Plan, additional words to avoid duplication of levies that might also be payable by new sub-regulation 4(1).

Item 7 replaces the previous levy amount of \$\$25.63 with \$24.05.

Item 8 adds to sub-regulation 4(5), which also imposes the levy on prescribed units of fishing capacity in respect of each licence that are renewed under the Management Plan, words to avoid duplication of levies that might also be payable under new sub-regulation 4(2).

Item 9 replaces the previous levy amount of \$\$25.63 with \$24.05.

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 (2014 Measures No. 1) Regulation 2014

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 a decrease in the levy payable for licences granted or renewed and a decrease in the levy payable for the 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**