**EXPLANATORY STATEMENT**

**Issued by the authority of the Protected Zone Joint Authority**

***Torres Strait Fisheries Act 1984***

***Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2024***

The *Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2024* (**the Instrument**) repeals the *Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2023* (**the Previous Instrument**).

Subsection 14(1) of the *Torres Strait Fisheries Act 1984* (**the Act**) provides that the Minister may, by legislative instrument, require the master of a boat licensed under section 19 of the Act, or a boat in respect of which an endorsement under section 20 of the Act is in force, to provide information relating to the taking of fish with the use of a boat in the course of commercial fishing (other than community fishing). Paragraph 35(1)(a) of the Act relevantly provides that, in respect of a Protected Zone Joint Authority fishery, the powers of the Minister under section 14 of the Act are exercisable under that provision by the Protected Zone Joint Authority (**PZJA**).

Subsection 28(1) of the Act provides that a ‘Protected Zone Joint Authority fishery’ is a fishery in respect of which an arrangement under Part V of the Act is in place which provides for the fishing to be under the management of the PZJA. The *Arrangement between the Commonwealth and the State of Queensland under section 31 of the Torres Strait Fisheries Act* 1984 (**the PZJA Arrangement**[[1]](#footnote-2)), made under Part V of the Act, provides that the PZJA is to have management of commercial fishing in the areas described in subsection 4(2) of the PZJA Arrangement. It follows that the PZJA can exercise the power of the Minister under subsection 14(1) of the Act, requiring a master of a boat to furnish information relating to the taking of fish in the course of commercial fishing in the fisheries listed in subsection 9(2) of the Instrument.

The PZJA is established under section 30 of the Act and consists of the Minister administering the Act, the Queensland Minister administering the laws of Queensland relating to marine fishing in the Protected Zone and the Chairperson of the Torres Strait Regional Authority (**TSRA**), which is the Commonwealth agency established under the *Aboriginal and Torres Strait Islander Act 2005* that represents the interests of Torres Strait Islanders.

The Instrument is a legislative instrument for the purpose of the *Legislation Act 2003* (**the Legislation Act**) and is:

* not subject to disallowance by way of parliamentary scrutiny, by application of subsection 44(1) of the Legislation Act, as the PZJA, the decision maker of this Instrument, is an intergovernmental body involving the Commonwealth and the State of Queensland; and
* not subject to sunsetting by application of subsection 54(1) and paragraph 54(2)(b) of the Legislation Act, read together with item 63AB of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015.*

**Details of the Instrument**

The Instrument provides that the master of a boat licensed under section 19 of the Act or a boat in respect of which an endorsement under section 20 of the Act is in force, who uses that boat in the course of commercial fishing (other than for community fishing) to take the fish, in any area of Australian jurisdiction under the Act is required to furnish information as is required by the logbooks listed in section 9 of the Instrument.

The Instrument repeals the Previous Instrument registered on 21 July 2023.

The Instrument introduces a new Finfish Fishery logbook (TSF02) which includes several changes to data reporting fields in the logbook, aligning with management needs for the Finfish fishery.

The instrument also brings minor changes to the fields that may be required to be completed within electronic logbooks (e-logs) for the Torres Strait Prawn Fishery, to remove unnecessary fields for the fishery, and to clarify others that were ambiguous.

Detail on the provisions of the Instrument is included at **Attachment A**.

**Publication and Commencement**

Subsection 14(11) of the Act provides that the PZJA must publish or broadcast the contents of an instrument made under section 14 in such manner as is prescribed. Section 3 of the *Torres Strait Fisheries Regulations 1985* states that, for the purpose of subsection 14(11) of the Act, the manner of publication is by publication in such a newspaper as in the opinion of the PZJA is appropriate having regard to the nature of the contents of the notice.

The PZJA has considered the nature and the contents of the Instrument and have determined that it would be appropriate for the Instrument to be published in the *Torres News*, which is the local newspaper in circulation across the islands of the Torres Strait.

Subsection 14(9) of the Act provides that an instrument made under subsection 14(1), (1A), (2), (2A) or (3) of the Act comes into force on the day specified for the purposes of the instrument, being a day not earlier than one month after the making of the instrument.

**Consultation**

The PZJA, and staff members of AFMA (who have been delegated responsibility for the day-to-day management of Torres Strait fisheries by the PZJA), are advised through a number of PZJA Advisory Committees established under subsection 40(7) of the Act, that incorporate representation from traditional inhabitants of the Torres Strait. The PZJA Advisory Committees generally consist of an independent Chair and representatives from the government (AFMA, the Queensland Department of Agriculture and Fisheries and TSRA), scientific experts, economists, traditional inhabitant fishing industry and, where applicable non-traditional inhabitant fishing industry. The Torres Strait Finfish Working Group (**working group**) and the Resource Assessment Group (**RAG**) are both PZJA Advisory Committees.

The RAG recommended these changes in data reporting fields in 2023 and the Working Group was consulted at its meeting 5-6 December 2023 and supported the changes.

The Torres Strait Prawn Management Advisory Committee were consulted on the introduction of the electronic logbooks in 2022, when the electronic logbooks were originally introduced. This Instrument implements minor changes to the fishing data reporting fields which the licence holder may need to complete as a part of the e-log submission.

The other relevant Advisory Committees including the Hand Collectables Working Group and the Tropical Rock Lobster Working Group were not consulted on the changes to the Instrument, noting no changes were made which effect these fisheries. Having regard to the Finfish Working Group and RAG’s advice, the PZJA agreed to remake the Instrument at their meeting on **08 October 2024.**

**Native Title**

Native title notification under section 24HA of the *Native Title Act 1993* (**the Native Title Act**) is not required for the determination of this instrument. This is because section 24HA of the Native Title Act provides that native title notification is only required in respect of the ‘grant of a lease, licence, permit or authority under legislation’. Native title notification is not required for the determination of a Fisheries Logbook Instrument noting that such determination is not grant of a lease, licence, permit or authority under legislation.

**Statement of compatibility with human rights**

As the Instrument is exempt from disallowance through the process of parliamentary scrutiny, by application of subsection 44(1) of the Legislation Act, a statement of compatibility with human rights does not have to be prepared for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Impact Analysis**

The Office of Impact Analysis advised that an Impact analysis was not required for the Instrument (OIA24-07341).

**Attachment A**

**Details of the *Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2024***

***Section 1*** Provides that the name of the Instrument is the *Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2024*.

***Section 2*** Provides that the Instrument commences one month after it is registered.

***Section 3*** Provides that the Instrument is made under subsection 14(1) of the Act.

***Section 4*** Provides that the Instrument ceases to have effect **31 August 2027** unless earlier revoked.

***Section 5*** Provides the relevant definitions for the purpose of the Instrument.

***Section 6*** Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

***Section 7*** Provides that the Instrument may require logbooks to be kept in electronic form (referred to as e-logs) that must have a particular form and content (referred to as electronic schema) (subsection 7(1)). The electronic schema for the purposes of this instrument is ADC EPRAWN (subsection 7(2)). The content required to be kept and maintained for ADC EPRAWN are prescribed in Appendix -1 (subsection 7(3)).

Subsection 7(4) provides for standard units of measurement in which the content for electronic schema must be provided.

Subsection 7(5) requires that an e-log must be furnished to AFMA with the use of an e-log program that conforms with the detailed specifications available through the AFMA e-log developer portal available on the AFMA website page titled: E-logs Information.

***Section 8*** Provides that the Instrument does not apply to a person who is a traditional inhabitant engaged in community fishing.

***Section 9*** Paragraphs 9(1)(a) and 9(1)(b) provide that the master of any boat licensed under section 19 or, the master of any boat licensed in Papua New Guinea but endorsed to commercially fish in the area of the Australian jurisdiction under section 20 of the Act, who uses the boat for the taking of fish, is required to furnish information.

Subsection 9(2) provides for the types of information to be furnished by the master of a licensed boat in the form of a specific logbook.

Subsection 9(3) provides that the master must provide all information relating to the taking, disposal or sale of fish by the logbook, secure the logbook and store the logbook in accordance with the instructions provided in the relevant logbook.

Subsection 9(4) provides that the master is required to provide information in the logbook for each calendar day upon which commercial fishing activities occur.

Subsection 9(5) provides that the master is required to furnish information kept and maintained in accordance with section 9(2) to AFMA in the manner prescribed by section 10 of this instrument.

It is noted at this section that failure to provide information required by this Instrument is a strict liability offence.

***Section 10*** Provides the manner and frequency in which the master must furnish information to AFMA. The manner and frequency in which the master must furnish information to AFMA is described in the instructions of each relevant logbook.

Subsection 10(2) provides that the holder must furnish any e-log kept and maintained under section 7 to AFMA before the boat docks at the end of each trip, or when rendezvousing with a mothership, whichever is sooner.

***Schedule 1*** Repeals the *Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2023.*

***Appendix-1*** Provides the content of e-logs required to be kept and maintained for the electronic schema ADC EPRAWN.

1. PZJA Arrangement means the document titled “*Arrangement between the Commonwealth and the State of Queensland under section 31 of the Torres Strait Fisheries Act 1984”* dated 17 March 1999andpublished on the Federal Register of Legislation, as that document exists at the commencement of this Instrument. The PZJA Arrangement could in 2024 be viewed free of charge on the website of the Federal Register of Legislation (https://www.legislation.gov.au/Details/F2008B00750). [↑](#footnote-ref-2)