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FISH RESOURCES MANAGEMENT ACT 1994

PILBARA TRAP MANAGEMENT PLAN AMENDMENT 1997

FD 67/97 [135]

Made by the Minister under section 54.

Citation

1. This amendment may be cited as the *Pilbara Trap Management Plan Amendment 1997*.

Principal Plan

2. In this amendment the *Pilbara Trap Management Plan 1992** is referred to as the principal Plan.

Arrangement amended

3. The arrangement to the principal Plan is amended by—

- (a) deleting “12. Supplementary access to the Fishery”;
- (b) deleting “13. Performance criteria”;
- (c) renumbering item 10 as item 12;
- (d) renumbering item 11 as item 13;
- (e) renumbering item 9 as item 11;
- (f) inserting after item 8 the following items—
 - “9. Capacity of the Fishery;
 10. Entitlement ”;
- (g) deleting “14. Transfer of licence” and substituting the following—
“14. Transfer of entitlement”;
- (h) deleting “16. Boat replacement” and substituting the following—
“16. Cancellation of licence”;
- (i) deleting “17. Application and fees” and substituting the following—
“17. Procedure before this Plan may be amended”.
- (j) deleting “18. Appeals” and substituting the following—
“18. Offences and major provisions”;
- (k) deleting “20. Determination of position by reference to the Australian Geodetic Datum”.

Clause 3 amended

4. Clause 3 of the principal Plan is amended—

- (a) in the item commencing “authorised boat” by deleting “by a licence or a supplementary access endorsement issued in accordance with this notice” and substituting the following—
“under the authority of a licence”;
- (b) inserting after the item commencing “authorised boat” the following item—
“fish” means all fish other than crabs or rock lobster; ”;
- (c) by deleting the item commencing “licence” and substituting the following—
“licence” means a managed fishery licence which authorises a person to fish for fish by means of traps in the waters of the Fishery”; and
- (d) by deleting the item commencing “transfer”.

Clause 5 deleted and substituted

5. Clause 5 of the principal Plan is deleted and the following clause substituted—

- “5. A person shall not fish for fish by means of traps in the waters of the Fishery other than—
- (a) in accordance with this Plan; and
 - (b) under the authority of a licence. ”.

Clauses 12 and 13 deleted

6. The principal Plan is amended by deleting clauses 12 and 13.

Clause 10 amended

7. Clause 10 of the principal Plan is amended by renumbering it as clause 12.

Clause 11 amended

8. Clause 11 of the principal Plan is amended by renumbering it as clause 13.

Clause 9 amended

9. Clause 9 of the principal Plan is amended by renumbering it as clause 11.

Clauses 9 and 10 inserted

10. The principal Plan is amended by inserting after clause 8 the following clauses—

“Capacity of the Fishery

9. (1) The capacity of the Fishery shall be limited to the maximum number of traps that the Executive Director determines from time to time may be used in the Fishery.
- (2) A determination made under subclause (1) may only be made after consultation with licensees and the Department's Director Research Services.
- (3) A determination—
- (a) must be published in the Gazette within 14 days of the making of the determination;
 - (b) may be made to take effect on gazettal or at a specified future time; and
 - (c) revokes any previous determination.

Entitlement

10. (1) The entitlement conferred by a licence at the commencement of this instrument shall be determined in accordance with the following formula—

$$\frac{A}{B} = C$$

where—

- A = Capacity of the Fishery expressed as a number of traps determined in accordance with clause 9 (1);
- B = Number of licences issued in respect of the Fishery; and
- C = Number or traps that may be used under the authority of a licence.

(2) Following a determination by the Executive Director under clause 9(1), the extent of the entitlements conferred by a licence shall be varied in accordance with the following formula—

$$\frac{D}{F} \times \frac{E}{1} = C \text{ (varied)}$$

where—

- D = The determination of the new capacity of the Fishery expressed as a number of traps;
- E = The number of traps conferred by a licence; and
- F = The previous capacity of the Fishery
- C (varied) = The maximum number of traps that may be used under the authority of the licence after the date the determination takes effect.

(3) Any calculation made in accordance with subclause (1) or subclause (2) shall be rounded to the nearest whole number with 0.5 being rounded down. ”.

Clause 14 deleted and substituted

11. Clause 14 of the principal Plan is deleted and the following clause substituted—

“Transfer of entitlement

14. If the holder of a licence applies to the Executive Director to transfer part of an entitlement or the whole of an entitlement conferred by that licence, the Executive Director, subject to clause 16 may transfer the whole entitlement or part of an entitlement, as the case may be, from that licence to another licence. ”.

Clause 16 deleted and substituted

12. The principal Plan is amended by deleting clause 16 and substituting the following—

“Cancellation of licence

16. For the purposes of section 143 of the Act it shall be grounds for the Executive Director to cancel a licence if, following an application by the licensee, the Executive Director transfers the whole of an entitlement from that licence. ”.

Clause 17 deleted and substituted

13. The principal Plan is amended by deleting clause 17 and substituting the following clause—

“Procedure before this Plan may be amended

17. For the purposes of section 65(1) of the Act, the licensees are the persons who are to be consulted before this Plan is amended or revoked. ”.

Clause 18 deleted and substituted

14. The principal Plan is amended by deleting clause 18 and substituting the following—

“Offences and major provisions

18. A person who contravenes a provision of clause 5, 6, 12, 13 or 15 commits an offence and for the purposes of section 75 of the Act these are major provisions. ”.

Clause 20 deleted

15. The principal Plan is amended by deleting clause 20.

*[*Declared by Notice No. 501 published in the gazette on 3 April 1992. For amendments to 5 February 1997 see Notice No. 640 published in the Gazette on 11 March 1993.]*

Dated this 8th day of March 1997.

MONTY HOUSE, Minister for Fisheries.

