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FISH RESOURCES MANAGEMENT ACT 1994

ESPERANCE ROCK LOBSTER FISHERY
MANAGEMENT PLAN AMENDMENT 2000

FD 1747/00 [357]

Made by the Minister under section 54(2).

Citation

1. This amendment may be cited as the *Esperance Rock Lobster Fishery Management Plan Amendment 2000*.

Principal Plan

2. In this amendment the *Esperance Rock Lobster Management Plan 1987** is referred to as the principal Plan.

Commencement

3. This amendment shall commence operation on 28 September 2000.

Clause 3 amended

4. Clause 3 of the principal Plan is amended—

- (a) by deleting the items commencing “licence” and “pot entitlement”; and
- (b) by deleting the item commencing “rock lobster” and substituting the following items—

“regulations” means the *Fish Resources Management Regulations 1995*;

“rock lobster” means fish of the common name southern rock lobster described by the scientific classification opposite that common name in Column 2 of Schedule 7 of the regulations; and”.

Clause 7 deleted

5. The principal Plan is amended by deleting clause 7.

Clause 8 amended

6. Clause 8 of the principal Plan is amended by deleting paragraphs (f), (g) and (h) and substituting the following—

“(f) the entitlement conferred by the licence; and

(g) any conditions imposed on the licence by the Executive Director.”.

Clause 9 deleted and substituted

7. The principal Plan is amended by deleting clause 9 and substituting the following—

“Times when fishing is prohibited

9. (1) A person must not fish in the Fishery under the authority of a licence at a time when fishing in the Fishery is prohibited under this clause.

(2) If the Executive Director has made a notice under subclause (4) in respect of a financial year after 30 June 2001, then fishing is prohibited during the period specified in the notice.

(3) If the Executive Director has not made a notice under subclause (4) in respect of a financial year after 30 June 2001, then fishing is prohibited except during the period 15 November to 30 June in that financial year.

(4) For the purposes of subclause (2) the Executive Director may, by notice published in the *Gazette* during the period 1 June and 14 June of any year, prohibit fishing during a period of not less than 136 days within the financial year immediately following the month in which the notice is published in the *Gazette*.

- (5) The Executive Director must not publish a notice under subclause (4) unless—
- (a) all the holders of the licences authorising fishing in the Fishery have been consulted by the Executive Director;
 - (b) a majority of the holders of the licences in the Fishery have consented in writing to the period during which fishing in the Fishery is to be prohibited; and
 - (c) the Executive Director is of the opinion that the prohibition will assist in the sustainable exploitation of rock lobster or that the economic, social and other benefits resulting from the prohibition would be not less than the benefits resulting from the prohibition provided for in subclause (3).
- (6) A notice published in the *Gazette* under subclause (4) shall be of no effect unless subclause (5) has first been complied with.
- (7) The Executive Director shall give written notice to the holders of all the licences immediately upon the publication of a notice under subclause (4).”.

Clauses 11, 12, 13, 14 and 15 deleted and substituted

8. The principal Plan is amended by deleting clauses 11, 12, 13, 14 and 15 and substituting the following —

“Entitlement conferred by a licence

11. (1) The entitlement to fish for rock lobster under the authority of a licence shall be expressed in terms of units of pot entitlement.
- (2) A unit of pot entitlement confers the right to use one (1) rock lobster pot in the Fishery.
- (3) The number of units of pot entitlement that shall be conferred by a licence on 28 September 2000 shall be the number of pot entitlements specified on the licence immediately before 28 September 2000.
- (4) A person must not fish, or permit fishing, in the Fishery under the authority of a licence by means of a number of rock lobster pots which exceeds the aggregate value of the units of entitlement conferred by the licence.

Grounds to refuse the transfer of a licence

12. The Executive Director may refuse to transfer a licence on the ground that the licence was granted or renewed on the basis that it would not be, or was not to be, transferred to another person.

Grounds to refuse the transfer of entitlement

13. The Executive Director may refuse to transfer any part of an entitlement under a licence to another licence on the grounds that—
- (a) the licence to which the entitlement is to be transferred would, if the transfer were given effect, confer an entitlement greater than 90 or the product of 10 and the length (in metres) of the relevant licensed boat; or
 - (b) the licence from which the entitlement is to be transferred was granted or renewed on the basis that it would not be, or was not to be, transferred to another person.

Procedure before this plan may be amended or revoked

14. For the purposes of section 65(1) of the Act the holders of the licences are the persons to be consulted before this plan is amended or revoked.

Offences and major provisions

15. A person who contravenes a provision of clause 6, 9, 10 or 11 commits an offence and for the purposes of section 75 of the Act these provisions are major provisions.”.

[* Published in the *Gazette* of 30 October 1987. For amendments to 18 August 2000 see *Esperance Rock Lobster Limited Entry Fishery Amendment Notice 1989* published in the *Gazette* of 8 September 1989, *Esperance Rock Lobster Limited Entry Fishery Amendment Notice (No. 2) 1989* published in the *Gazette* of 10 November 1989, *Esperance Rock Lobster Limited Entry Fishery Amendment Notice 1991* published in the *Gazette* of 25 January 1991 and *Esperance Rock Lobster Limited Entry Fishery Amendment Notice 1993* published in the *Gazette* of 15 October 1993.

See Regulation 183 of the *Fish Resources Management Regulations 1995* concerning the citation of Notices in force under the *Fisheries Act 1905* immediately before the commencement of those Regulations].

Dated this 25th day of September 2000.

MONTY HOUSE, Minister for Fisheries.

