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FISH RESOURCES MANAGEMENT ACT 1994
WEST COAST DEMERSAL GILLNET AND DEMERSAL LONGLINE
INTERIM MANAGED FISHERY MANAGEMENT PLAN AMENDMENT (NO. 2) 2008

FD 435/02 [832]

Made by the Minister under section 54.

1. Citation

This instrument is the *West Coast Demersal Gillnet and Demersal Longline Interim Managed Fishery Management Plan Amendment (No.2) 2008*.

2. Plan amended

The amendments in this instrument are to the *West Coast Demersal Gillnet and Demersal Longline Interim Managed Fishery Management Plan 1997*. *

3. Clause 1 amended

Clause 1 is amended by deleting “ plan ” and inserting instead—
“ Plan ” .

4. Clause 4 amended

Clause 4 is amended—

- (a) in the sentence immediately preceding the definitions in that clause by deleting “ management plan “ and inserting instead—
“ Plan ” ; and
- (b) by deleting the definition of “ gear unit ” ; and
- (c) by deleting the definition of “ gillnet gear unit ” ; and
- (d) by deleting the definition of “ longline gear unit ” ; and
- (e) by deleting the definition of “ time gear unit ” ; and
- (f) in the definition of “ total fee ” by deleting “ as specified in item 3(26a) of ” and inserting instead—
“ relating to permits as specified in ” ; and
- (g) by inserting in the appropriate alphabetical positions the following definitions—
“ **Plan** ” means the West Coast Demersal Gillnet and Demersal Longline Interim Managed Fishery Management Plan 1997; ”
“ **usual units of entitlement** ” means the entitlement conferred by a permit without regard to any entitlement temporarily transferred to or from that permit under s.141 of the Act; ”.

5. Clause 5 replaced

Clause 5 is repealed and the following clause is inserted instead—

Procedure before amending this Plan

5. For the purposes of section 65 of the Act, the permit holders are the persons that are to be consulted before this Plan is amended or revoked. ”.

6. Clause 7 repealed

Clause 7 is repealed.

7. Clause 12 replaced

Clause 12 is repealed and the following clause is inserted instead—

Prohibited means of fishing in the Fishery

12. (1) A person shall not fish in the Fishery by any means other than by a demersal gillnet or a demersal longline as described in subclause (2) or subclause (3).

- (2) A person shall not use a demersal gillnet in the Fishery unless the gillnet—
- (a) has a mesh size of not less than 175 millimetres; and
 - (b) has a mesh depth not exceeding 20 meshes.
- (3) A person shall not use a demersal gillnet or a demersal longline in the Fishery unless surface floats which—
- (a) have a diameter not less than 20 centimetres; and
 - (b) are branded or stamped with the licensed fishing boat number of the authorised boat (without the letters “LFB”) in legible characters not less than 6 centimetres high and 1 centimetre wide,
- are attached.
- (4) A person using a demersal gillnet or demersal longline in the Fishery must remove that gear from the water at least once each day.
- (5) A person shall not fish in the Fishery by means of demersal gillnet and demersal longline at the same time. ”.

8. Clause 14 replaced

Clause 14 is repealed and the following clause is inserted instead—

“ Permits

14. Where a permit that expires on 31 May 2008 is renewed it shall be renewed as a permit without distinction by class or zone. ”.

9. Clause 15 amended

Clause 15 is amended—

- (a) in subclause 15(1) by deleting “ Class A permit to authorise access to zone 1 of the Fishery ” and inserting instead—
“ permit ”; and
- (b) in subclause 15(2) by deleting “ Class A permit to authorise access to zone 2 of the Fishery ” and inserting instead—
“ permit ”; and
- (c) in subclause 15(3) by deleting “ Class B ”.

10. Clause 18 amended

Clause 18 is amended—

- (a) by deleting paragraph (f) and inserting instead—
“ (f) the usual, temporary and total units of entitlement conferred by the permit; ” and
- (b) by deleting paragraphs (g), (h), (i), (j) and (k), and inserting instead—
“ (g) any conditions imposed on the permit by the CEO. ”.

11. Clause 19 replaced

Clause 19 is repealed and the following clause is inserted instead—

“ Scheme of entitlement

19. (1) On and after 1 June 2008 the entitlement to fish in the Fishery under the authority of a permit shall be expressed as a number of units.
- (2) The extent of the entitlement to fish that arises from a unit, to be known as the unit value, shall be limited by reference to a quantity of gear and a period of time, as provided for in clause 19A.
- (3) The units of entitlement that are conferred by a permit renewed on or after 1 June 2008 shall be the number of the gear units specified on that permit immediately prior to renewal multiplied by 20, and without distinction by class or zone.
- (4) The maximum number of units that may be conferred by all permits is 13 340 units.
- (5) The extent of the entitlement to fish in the Fishery under the authority of a permit is limited to the value of the units of entitlement conferred by the permit. ”.

12. Clause 19A inserted

After Clause 19 the following clause is inserted—

“ Unit value

19A. The unit value of a unit of entitlement is the use for 12 days of either 27 metres of demersal gillnet or 9 hooks on a demersal longline, as the case requires. ”.

13. Clause 19B inserted

After Clause 19A the following clause is inserted—

“ Prohibition on fishing except in accordance with unit entitlement

- 19B. (1) A person must not fish in the Fishery on 30 or 31 May 2008 other than in accordance with the gear units specified on the relevant permit.
- (2) On and after 1 June 2008 a person must not fish in the Fishery unless the extent of fishing carried out under the relevant permit during the year for which the permit has been issued, expressed in terms of units of entitlement, is less than the value of the units of entitlement conferred by the permit.

(3) For the purposes of subclause (1) the conversion of fishing carried out under the relevant permit into an expression of units of entitlement is to be determined in accordance with Schedule 7. ”.

14. Clause 20 repealed

Clause 20 is repealed.

15. Clause 21 amended

Clause 21(1) is amended by deleting “ Executive Director ” and “ 5 gear units ” and inserting instead—

“ CEO ” and “ 100 usual units of entitlement ” respectively.

16. Clause 22 replaced

Clause 22 is repealed and the following clause is inserted instead—

“ Grounds for refusal to transfer entitlement

22. The CEO may refuse to transfer part of an entitlement from one permit to another permit on the grounds that—

- (a) the value of the units of entitlement (including the value of units temporarily transferred to the permit but excluding the value of units temporarily transferred from the permit to another permit) that would be conferred by the permit from which the units are being transferred after the transfer would be less than the extent of fishing carried out under the permit in the relevant year; or
- (b) the transfer is not of a whole number of units; or
- (c) if the transfer were given effect the number of usual units of entitlement conferred by the permit from which the units are being transferred would be less than 100 usual units of entitlement; or
- (d) if the transfer were given effect the number of usual units of entitlement conferred by the permit to which the units are being transferred would be more than 2 640 usual units of entitlement. ”.

17. Clause 23 replaced

Clause 23 is repealed and the following clause is inserted instead—

“ Temporary transfer of entitlement

23. (1) Part of an entitlement under a permit may be temporarily transferred to another permit for a period ending at the time the permit expires, provided that—

- (a) the value of the units of entitlement (including the value of units temporarily transferred to the permit but excluding the value of units temporarily transferred from the permit to another permit) that would be conferred by the permit after the transfer would be not less than the extent of fishing carried out under the permit in the relevant year; and
- (b) the transfer is of a whole number of units; and
- (c) the permit from which the units are being temporarily transferred would, after the temporary transfer, confer an entitlement of not less than 1 unit; and
- (d) the permit to which the units are being temporarily transferred would, after the temporary transfer, confer an entitlement of not more than 2 640 units. ”.

18. Clause 24 amended

Clause 24 is amended—

- (a) in the heading to the clause by deleting “ Class B ”; and
- (b) by deleting “ Executive Director ” and inserting instead—
“ CEO ”; and
- (c) by deleting “ Class B ”.

19. Clause 25 replaced

Clause 25 is repealed and the following clause is inserted instead—

“ Requirements as to records and returns

25. (1) The master of an authorised boat who engages in any fishing in the Fishery in any calendar month must—

- (a) make records in accordance with subclauses (2) and (3);
 - (b) keep and maintain records in accordance with subclause (4); and
 - (c) provide to the CEO copies of records and returns in accordance with subclauses (5) and (6).
- (2) The records to be made under subclause (1)(a) must—
- (a) be in writing and signed by the relevant master; and
 - (b) be in a form approved by the CEO; and
 - (c) specify accurate details of—
 - (i) the time at which any fishing gear commenced being placed in the water for the purpose of a fishing session;
 - (ii) the nature of, and the total quantity of, fishing gear used during any fishing session (in terms of metres of gillnet or the number of hooks on a longline, as the case may be);

- (iii) the time at which all fishing gear was fully removed from the water at the completion of the fishing session; and
 - (iv) the authorisations under which any fishing was carried out.
- (3) A record to be made under subclause (1)(a) must not be made more than one hour after the earliest time that the record could have been made.
- (4) The master of an authorised boat who is required to make records under this clause must keep and maintain in a safe place all records required to be made under this clause for a period of not less than 5 years.
- (5) The master of an authorised boat who is required to keep records under this clause must provide to the CEO—
- (a) a copy of any record made under subclause (1)(a); and
 - (b) where the CEO has approved a form for the purposes of this Plan, returns of all fishing in the Fishery specifying accurate details of—
 - (i) the persons fishing under the authority of the relevant authorisation;
 - (ii) the relevant authorisations under which fishing was carried out;
 - (iii) the nature of, and the total quantity of, fishing gear used (in terms of metres of gillnet or the number of hooks on a longline, as the case may be);
 - (iv) the extent and location of the fishing that was carried out;
 - (v) the fish taken; and
 - (vi) bycatch.
- (6) A copy of a record or a return to be provided to the CEO under subclause (5) must be delivered—
- (a) to the address specified on the approved form; and
 - (b) not later than the 15th day of the calendar month following the calendar month to which the information in the copy of the record or return relates.
- (7) The master of an authorised boat must not use the authorised boat for fishing in the Fishery unless—
- (a) all records required to be made under this clause have been made; and
 - (b) all records to which subclause (1)(b) applies are being kept and maintained in accordance with subclause (4); and
 - (c) all copies of records and all returns required to have been provided to the CEO under subclause (5) have been delivered to the Chief Executive Officer.
- (8) For the purposes of subclause (2), “**fishing session**” means a period of time during a fishing trip when a quantity of gear is being used in the waters of the Fishery, including any times where any part of that gear is being pulled to remove fish and is then immediately re-set.”.

20. Clause 27 amended

Clause 27 is amended—

- (a) by deleting subparagraph (a) and inserting instead—
 - “(a) clause 9, 10, 11, 12, 12A, 13, 17(4), 19B, 25(1), 25(5), 25(7), or 26;”
- and
- (b) in subparagraph 27(b) by deleting “25(1), 25(2) or 25(3) “ and inserting instead—
 - “25(4), 25(6) ”.

21. Schedule 2 repealed

Schedule 2 is repealed.

22. Schedule 6 amended

Schedule 6 is amended in the heading to that Schedule by inserting in a centred position on the following line underneath “Schedule 6”—

“**Longline Specifications**”.

23. Schedule 7 inserted

After Schedule 6 the following Schedule is inserted—

“

Schedule 7

Conversion of fishing effort into units of entitlement

For the purposes of clause 19B fishing that has been carried out is to be converted from actual quantities of gear used and time fished into the equivalent number of units (for example, the use of 540 metres of gillnet for 3 days is equivalent to the use of 27 metres of gillnet for 60 days, which is equivalent to 5 units, where 1 unit would comprise the use of 27 metres of gillnet for 12 days).”.

[* Published in the Gazette of 30 May 1997.]

Dated this 29th day of May 2008.

JON FORD, Minister for Fisheries.