



Torres Strait Fisheries (Tropical Rock Lobster) Management Instrument 2018

The Protected Zone Joint Authority makes the following instrument.

Dated 19 July 2018

Senator the Hon. Anne Ruston
Assistant Minister for Agriculture and Water Resources
for and on behalf of the Protected Zone Joint Authority

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1 Name

This instrument is the *Torres Strait Fisheries (Tropical Rock Lobster) Management Instrument 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1 Provisions	Column 2 Commencement	Column 3 Date/Details
1. The whole of this Instrument	A single day to be fixed by the Minister by notifiable instrument. However, if the instrument does not commence within the period of 6 months beginning on the day this instrument is registered, the instrument is repealed on the day after then end of that period.	

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 16 of the Act.

4 Definitions

- Note: A number of expressions used in this instrument are defined in section 3 of the Act, including the following:
- (a) boat;
 - (b) fish;
 - (c) Torres Strait Treaty;
 - (d) Treaty endorsement.

In this instrument:

Act means the *Torres Strait Fisheries Act 1984*.

Administration Act means the *Fisheries Administration Act 1991*

AFMA staff member means a member of staff assisting the CEO as described in section 68 of the Administration Act.

boat means a boat licenced under the Act to operate in the Torres Strait Tropical Rock Lobster Fishery.

CEO means the Chief Executive Officer of the Australian Fisheries Management Authority appointed under section 10B of the Administration Act.

diving equipment means a face mask and fins.

hookah gear means equipment to enable a person to breathe underwater where the air is supplied from either an air compressor or one or more air cylinders above the surface of the water, and includes equipment which may be described as surface supplied breathing equipment or surface supplied breathing apparatus.

implement means a tool or utensil, including lobster scissors and forceps, but not including nets, explosives and poisons.

officer means:

- (a) an AFMA staff member who is responsible for management of fisheries in the Torres Strait; or
- (b) a person appointed as an officer under subsection 83(1) of the *Fisheries Management Act 1991*.

PZJA means the Protected Zone Joint Authority established under section 30 of the Act.

PZJA Arrangement means the *Arrangement between the Commonwealth and the State of Queensland under section 31 of the Torres Strait Fisheries Act 1984*.

Regulations means the *Torres Strait Fisheries Regulations 1985*.

scoop net means a net not more than 1.5 metres in any dimension having a handle or shaft not longer than 3 metres.

Torres Strait Tropical Rock Lobster Fishery means the area of waters described as the 'area of the tropical rock lobster fishery' in item 9 of Schedule 2 of the Regulations.

Total Allowable Catch means Australia's share of the allowable catch of Tropical Rock Lobster which is apportioned to Australian boats under article 23 of the Torres Strait Treaty.

Tropical Rock Lobster means fish of the species *Panulirus* spp.

TSRA has the meaning given by subsection 28(1) of the Act.

5 Schedules

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.

6 Prohibition on taking, processing or carrying Tropical Rock Lobster

Subject to sections 7 and 8, the taking, processing or carrying of Tropical Rock Lobster in the area of the Torres Strait Tropical Rock Lobster Fishery is prohibited.

Note: This prohibition does not apply to traditional inhabitants engaged in traditional fishing due to application of the PZJA Arrangement.

7 Licence holders within a Fishing Season

- (1) A person is exempt from the prohibition in section 6 where:
 - (a) the person holds a licence granted under subsections 19(2) or 19(3) of the Act; and
 - (b) the licence authorises the person to take, process or carry Tropical Rock Lobster; and
 - (c) the licence is not suspended under section 26 of the Act; and
 - (d) the person takes, processes or carries Tropical Rock Lobster within the period described in subsection (2) (***Fishing Season***).
- (2) The Fishing Season is from 1 December in any given year until the earlier of:
 - (a) 30 September in the following year; or
 - (b) the Total Allowable Catch Date.
- (3) The ***Total Allowable Catch Date*** is a date determined by the CEO in respect of a Fishing Season.
- (4) The CEO must not make a determination under subsection (3) in respect of a Fishing Season unless:
 - (a) the CEO reasonably believes the Total Allowable Catch for the Fishing Season will be reached on or before the date to be determined as the Total Allowable Catch Date; and
 - (b) before the determination is made, the CEO notified the Queensland Department of Agriculture and Fisheries and the TSRA of his or her intention to make the determination.
- (5) If the CEO determines the Total Allowable Catch Date in respect of a Fishing Season, the CEO must send written notice (***TAC Notice***) of the determination to all persons granted a licence under section 19 of the Act which authorise the person to take, process or carry Tropical Rock Lobster (***TAC Notice***).
- (6) In the event that a TAC Notice is not sent at least 5 days before the Total Allowable Catch Date, the Total Allowable Catch Date is 5 days after the day on which the notice is sent.

8 Treaty endorsements

A person is exempt from section 6 where:

- (a) he or she takes, carries or processes Tropical Rock Lobster on a boat for which a Treaty endorsement is in force;
- (b) the person takes, processes or carries Tropical Rock Lobster between 1 December in any given year and 30 September of the following year; and
- (c) the Tropical Rock Lobster is taken, processed or carried in accordance with conditions specified by the PZJA on the Treaty endorsement under section 22 of the Act.

9 Prohibition on taking, processing or carrying undersize Tropical Rock Lobster

- (1) The taking, processing or carrying of Tropical Rock Lobster that have a dimension less than those specified in subsection (2) in the Torres Strait Tropical Rock Lobster Fishery is prohibited.

Note: This prohibition does not apply to traditional inhabitants engaged in traditional fishing due to application of the PZJA Arrangement.

- (2) For the purpose of subsection (1), the dimensions are that:
 - (a) the length of the carapace of the Tropical Rock Lobster is 90 millimetres when measured in accordance with subsection (3); and
 - (b) the length of the tail of the Tropical Rock Lobster is 115 millimetres when measured in accordance with subsection (4).
- (3) For the purpose of paragraph (2)(a), the length of the carapace of a Tropical Rock Lobster is to be measured along the dorsal surface from the anterior mid-dorsal margin to the posterior mid-dorsal margin of the carapace.
- (4) For the purpose of paragraph (2)(b), the length of the tail of a Tropical Rock Lobster is to be measured:
 - (a) in a straight line along the dorsal surface from the anterior margin of the first abdominal somite to the posterior margin of the sixth abdominal somite when the tail is laid flat on a horizontal surface; and
 - (b) with firm downward pressure placed on the third abdominal somite.

10 Prohibition on the use of certain methods

- (1) The taking, processing or carrying of Tropical Rock Lobster in the Torres Strait Tropical Rock Lobster Fishery using methods to which subsection (2) applies is prohibited.

Note: This prohibition does not apply to traditional inhabitants engaged in traditional fishing due to application of the PZJA Arrangement.

- (2) This subsection applies to all fishing methods apart from collecting by hand or with the use of a spear, scoop net or other implement held in the person's hand at all times.

11 Prohibition on the use of certain equipment

- (1) The taking, processing or carrying of Tropical Rock Lobster in the Torres Strait Tropical Rock Lobster Fishery with the use of equipment to which subsection (2) applies is prohibited.

Note: This prohibition does not apply to traditional inhabitants engaged in traditional fishing due to application of the PZJA Arrangement.

- (2) This subsection applies to:
 - (a) any kind of mechanical equipment that provides underwater propulsion; and
 - (b) any kind of equipment that provides for breathing underwater, excluding hookah gear.

12 Prohibition on the use, possession or control of hookah gear

- (1) Subject to section 13, a person is prohibited from using, having in his or her possession, or having under his or her control, on a boat, in the Torres Strait Tropical Rock Lobster Fishery, any quantity of hookah gear.

Note: This prohibition does not apply to traditional inhabitants engaged in traditional fishing due to application of the PZJA Arrangement.

13 Hookah gear

- (1) A person is exempt from section 12 where:
 - (a) the person uses, possesses or has under his or her control, on a boat, hookah gear to take, process or carry Tropical Rock Lobster between 1 February and 30 September in any one year (*Hookah Season*); and
 - (b) the CEO has not sent the person a notice under subsection (2).
- (2) The CEO may send notice to a person that the use, possession or control, on a boat, of hookah gear to take, process or carry Tropical Rock Lobster is not permitted during a specified period, or specified periods, within the Hookah Season (*Hookah Moontide Notice*).
- (3) Before sending a Hookah Moontide Notice to a person under subsection (2), the CEO must provide a copy of the notice to the Queensland Department of Agriculture and Fisheries and the TSRA.
- (4) The specified period, or first specified period, in which the use, possession, or control, on a boat, of hookah gear is not permitted in a Hookah Moontide Notice must not be earlier than 5 days after the date the CEO sends the notice to the person.

14 Prohibition on carrying Tropical Rock Lobster that has been processed

The carrying on a boat in the area of the Torres Strait Tropical Rock Lobster Fishery of any part of a Tropical Rock Lobster that has been processed by removing the meat from the shell is prohibited.

Note: This prohibition does not apply to traditional inhabitants engaged in traditional fishing due to application of the PZJA Arrangement.

15 Prohibition on the use, possession or control of diving equipment

Subject to section 16, a person is prohibited from using, having in his or her possession, or having under his or her control, on a boat, any quantity of diving equipment for taking, processing or carrying Tropical Rock Lobster in the Torres Strait Tropical Rock Lobster Fishery between 1900 hours and 0600 hours (Australian Eastern Standard Time) unless the diving equipment is stowed and secured.

Note: This prohibition does not apply to traditional inhabitants engaged in traditional fishing due to application of the PZJA Arrangement.

16 Permission to use, possess or control diving equipment

A person is exempt from section 15 where an officer has given written permission to a person to use or to have in his or her possession, or under his or her control on a boat, diving equipment between 1900 hours and 0600 hours in the following day (Australian Eastern Standard Time).

Schedule 1—Repeals

Torres Strait Fisheries Management Instrument No. 9 (26/08/2011)

1 The whole of the instrument

Repeal the instrument.