



Torres Strait Fisheries Amendment (Tropical Rock Lobster) Management Instrument 2018

I, Richard Colbeck, Assistant Minister for Agriculture and Water Resources and Parliamentary Secretary to the Minister for Agriculture and Water Resources, acting for and on behalf of the Protected Zone Joint Authority, make the following instrument.

Dated 2018

Richard Colbeck [**DRAFT ONLY—NOT FOR SIGNATURE**]
Assistant Minister for Agriculture and Water Resources
Parliamentary Secretary to the Minister for Agriculture and Water Resources

1 Name

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

2 Commencement

This instrument commences on 1 December 2018.

3 Authority

This instrument is made under section 16 of the *Torres Strait Fisheries Act 1984*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1—Amendments

Torres Strait Fisheries (Tropical Rock Lobster) Management Instrument 2018

1 Section 4

Insert:

allocation day has the meaning given by the Management Plan.

fishing season means the period commencing on 1 December and ending on 30 September in the following year.

Note: This definition does not, by implication or otherwise, affect the interpretation of TIB Fishing Season or TVH Fishing Season.

hold, in respect of a licence granted under subsections 19(2) or 19(3) of the Act, includes where a person:

- (a) has been granted the licence; and
- (b) has been transferred (whether or not on a temporary basis) the licence under section 25 of the Act.

Management Plan means the management plan determined by the PZJA under section 15A of the Act in relation to the TRL fishery as may be in force from time to time.

purchased licences: see paragraph 4A(3)(a).

primary boat licence means a commercial fishing licence that:

- (a) authorises the use of an Australian boat for taking tropical rock lobster in the TRL fishery; and
- (b) is not a commercial fishing licence that is described as a Torres Strait traditional inhabitant fishing boat licence; and
- (c) is not a tender boat licence.

quota units has the meaning given by the Management Plan.

snapshot day has the meaning given by the Management Plan.

TAC for the TIB sector (short for Total Allowable Catch for the traditional inhabitant boat sector): see section 4A.

TAC for the TVH sector (short for Total Allowable Catch for the transferrable vessel holding sector) means the percentage of the Total Allowable Catch that is not the TAC for the TIB sector.

tender boat licence means a commercial fishing licence that:

- (a) is granted in respect of an Australian boat that is a boat generally known as a tender; and
- (b) authorises the use of the boat for taking tropical rock lobster in the TRL fishery; and
- (c) specifies a primary boat, that is the subject of a primary boat licence, with which the tender must operate.

TIB Fishing Season: see subsection 7(2).

transferor: see paragraph 4A(3)(b).

TRL fishery (short for tropical rock lobster fishery) means the area of Australian jurisdiction described by item 9 of Schedule 2 to the Regulations.

TSRA provisional notice: see paragraph 4A(2)(a).

TVH Fishing Season: see subsection 7A(2).

2 Section 4 (definition of *boat*)

Omit “Torres Strait Tropical Rock Lobster Fishery”, substitute “TRL fishery”.

3 Section 4 (definition of *Torres Strait Tropical Rock Lobster Fishery*)

Omit the definition.

4 After section 4

Insert:

4A TAC for the TIB sector

(1) The **TAC for the TIB sector** is:

- (a) 56.20% of the Total Allowable Catch; and
- (b) 9.97% of the Total Allowable Catch, or that percentage of the Total Allowable Catch that the CEO has determined under subsections (2) or (3) would be represented by the quota units likely to be allocated to the TSRA on account of the primary boat licences and tender boat licences it holds.

Alignment with provisional allocation

(2) The CEO may determine, by instrument, a percentage of the Total Allowable Catch that the CEO reasonably believes represents the number of quota units likely to be allocated to the TSRA on the allocation day having regard to the number of quota units which the TSRA has been provisionally allocated under subsection 20(6) of the Management Plan if:

- (a) the Minister has given a notice to the TSRA under paragraph 20(1)(d) of the Management Plan that sets out the number of quota units provisionally allocated to it under subsection 20(6) of the Management Plan (the **TSRA provisional notice**); and
- (b) the number of quota units set out in the TSRA provisional notice does not represent 9.97% of the Total Allowable Catch.

Purchase of primary boat licences or tender boat licences by the TSRA

(3) If:

- (a) after the snapshot day, the TSRA has been permanently transferred a primary boat licence or tender boat licence, or primary boat licences and tender boat licences, under section 25 of the Act (the **purchased licences**); and
- (b) the Minister has given a notice to the person who was, on the snapshot day, the principal holder of the purchased licences (the **transferor**) provisionally

allocating a number of quota units to the person under paragraph 20(1)(d) of the Management Plan

the CEO may determine, by instrument, a percentage of the Total Allowable Catch that the CEO reasonably believes represents the number of quota units that would be allocated to the TSRA on the allocation day having regard to the number of quota units which have been provisionally allocated to the TSRA and to the transferor under subsection 20(6) of the Management Plan.

Notification

- (4) An instrument determined by the CEO under subsections (2) or (3) must:
 - (a) be sent to all persons who hold a licence granted under subsections 19(2) or 19(3) of the Act which authorise the taking of tropical rock lobster; and
 - (b) be published on the PZJA's website.
- (5) The CEO may exercise his or her powers under subsections (2) and (3) from time to time as occasion requires.

5 Section 6

Repeal the section, substitute:

6 Prohibition on taking, processing or carrying Tropical Rock Lobster

Subject to sections 7, 7A, 7B and 8, the taking, processing or carrying of Tropical Rock Lobster in the area of the TRL fishery is prohibited.

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

6 Section 7

Repeal the section, substitute:

7 Licence holders within the TIB 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 is:
 - (i) a licence granted to a traditional inhabitant for the purposes of a requirement under the Act or an instrument made under the Act that such a licence is required for the purpose of taking Tropical Rock Lobster in the course of community fishing; or
 - (ii) a primary boat licence or a tender boat licence owned by the TSRA; and
 - (c) the licence is not suspended under section 26 of the Act; and
 - (d) the licence authorises the person to take, process or carry Tropical Rock Lobster in the TRL fishery; and
 - (e) the person takes, processes or carries Tropical Rock Lobster within the period described in subsection (2) (*TIB Fishing Season*).
- (2) The TIB Fishing Season is from 1 December 2018 until the earlier of:
 - (a) 30 September 2019; or

(b) the TIB Total Allowable Catch Date.

Note: A person is not exempt from the prohibition in section 6 by way of subsection (1) at any time after 30 September 2019.

- (3) Subject to subsection (5), the **TIB Total Allowable Catch Date** is a date determined by the CEO in respect of the TIB Fishing Season.
- (4) The CEO must not make a determination under subsection (3) in respect of the TIB Fishing Season unless:
- (a) the CEO reasonably believes that the TAC for the TIB sector will be taken on or before the date to be determined as the TIB 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 TIB Total Allowable Catch Date in respect of the TIB Fishing Season, the CEO must send written notice (**TIB TAC Notice**) of the determination to all persons who hold a licence referred to in paragraphs (1)(a) to (d).
- (6) In the event that a TIB TAC Notice is not sent at least 5 days before the TIB Total Allowable Catch Date determined under subsection (3), the TIB Total Allowable Catch Date is 5 days after the day on which the notice is sent.
- (7) This section ceases to have effect at the end of the day before the first fishing season following allocation day.

7A Licence holders within the TVH Fishing Season

- (1) A person is exempt from the prohibition in section 6 where:
- (a) the person holds a licence granted under subsection 19(2) or 19(3) of the Act; and
 - (b) the licence is:
 - (i) not a licence granted to a traditional inhabitant for the purposes of a requirement under the Act or an instrument made under the Act that such a licence is required for the purpose of taking Tropical Rock Lobster in the course of community fishing; and
 - (ii) not a primary boat licence or a tender boat licence owned by the TSRA; and
 - (c) the licence is not suspended under section 26 of the Act; and
 - (d) the licence authorises the person to take, process or carry Tropical Rock Lobster in the TRL fishery; and
 - (e) the person takes, processes or carries Tropical Rock Lobster within the period described in subsection (2) (**TVH Fishing Season**).
- (2) The TVH Fishing Season is from 1 December 2018 until the earlier of:
- (a) 30 September 2019; or
 - (b) the TVH Total Allowable Catch Date.

Note: A person is not exempt from the prohibition in section 6 by way of subsection (1) at any time after 30 September 2019.

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- (3) Subject to subsection (6), the *TVH Total Allowable Catch Date* is a date determined by the CEO in respect of the TVH Fishing Season.
 - (4) The CEO must not make a determination under subsection (3) in respect of the TVH Fishing Season unless:
 - (a) the CEO reasonably believes that the TAC for the TVH sector will be taken on or before the date to be determined as the TVH 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 TVH Total Allowable Catch Date in respect of the TVH Fishing Season, the CEO must send written notice (*TVH TAC Notice*) of the determination to all persons who hold a licence referred to in paragraphs (1)(a) to (d).
 - (6) In the event that a TVH TAC Notice is not sent at least 5 days before the TVH Total Allowable Catch Date determined under subsection (3), the TVH Total Allowable Catch Date is 5 days after the day on which the notice is sent.
 - (7) This section ceases to have effect at the end of the day before the first fishing season following allocation day.

7B Licence holder with unused quota after the allocation day

- (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 person has unused quota units within the meaning given by the Management Plan; and
 - (c) the person takes, carries or processes tropical rock lobster within a fishing season.
- (2) This section applies from the first fishing season following the allocation day.

7 Subsection 9(1)

Omit “Torres Strait Tropical Rock Lobster Fishery”, substitute “TRL fishery”.

8 Subsection 10(1)

Omit “Torres Strait Tropical Rock Lobster Fishery”, substitute “TRL fishery”.

9 Subsection 11(1)

Omit “Torres Strait Tropical Rock Lobster Fishery”, substitute “TRL fishery”.

10 Section 12

Repeal the section, substitute:

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

Subject to section 13, a person is prohibited from using, from having in his or her possession, or from having under his or her control, on a boat in the TRL 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.

11 Section 14

Omit “Torres Strait Tropical Rock Lobster Fishery”, substitute “TRL fishery”.

12 Section 15

Omit “Torres Strait Tropical Rock Lobster Fishery”, substitute “TRL fishery”.

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