

Management Arrangements for the Heard Island & McDonald Islands Fishery 2021-2022



The following document contains management arrangements relating to the Heard Island and McDonald Islands (HIMI) Fishery. It includes the *Heard Island and McDonald Islands Fishery Management Plan 2002*, the Determinations and Directions made under the Plan, Regulations and the current Conditions on Statutory Fishing Rights (SFRs) for the 2021/22 fishing season.

PART	TITLE
1.	MANAGEMENT PLAN
2.	DETERMINATIONS
3.	DIRECTION
4.	CONDITIONS ON STATUTORY FISHING RIGHTS
5.	REGULATIONS
6.	NEW CCAMLR CONSERVATION MEASURES
7.	UNCHANGED CONSERVATION MEASURES
8.	REPORTING REQUIREMENTS
9.	MARINE PROTECTED AREAS



Heard Island and McDonald Islands Fishery Management Plan 2002

as amended

made under section 17 of the

Fisheries Management Act 1991

This compilation was prepared on 4 May 2016
taking into account amendments up to *Heard Island and McDonald Islands Fishery Management Plan Amendment 2016*

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Part 1 Preliminary

1 Name of Management Plan [see Note 1]

This Management Plan is the *Heard Island and McDonald Islands Fishery Management Plan 2002*.

2 Commencement [see Note 1]

This Management Plan commences on gazettal.

Note See subsections 19 (1) and (2) of the Act and section 48 of the *Acts Interpretation Act 1901*.

3 Definitions

In this Management Plan:

1998–2000 Management Policy means the Heard Island and McDonald Islands Fishery Management Policy 1998–2000, first published by AFMA in February 1998 and in force from 25 February 1998 until 30 November 2001.

Act means the *Fisheries Management Act 1991*.

acting for a person means acting with the consent of, and on behalf of, the person.

agent, of the holder of a statutory fishing right, means:

- (a) a person responsible for the affairs and property of the holder under a law of the Commonwealth, a State or a Territory, including a receiver, liquidator, trustee or guardian of the holder, or an executor or administrator of the holder's estate; or
- (b) a person appointed as the holder's agent under section 34.

approved form means the form approved by AFMA for the section in which the term is used.

area of the fishery means the area described in Schedule 1.

bycatch means the incidental catch of marine life other than target species.

CCAMLR means the Commission for the Conservation of Antarctic Marine Living Resources.

certificate, for a statutory fishing right, means a certificate given under subsection 22 (2) of the Act as evidence of the grant of the statutory fishing right.

eligible person means a person who is registered as an eligible person for a grant of a statutory fishing right under section 26 of the Act.

fishery means the Heard Island and McDonald Islands Fishery.

fishing year means a period of 12 months beginning on 1 December in any year.

Heard Island and McDonald Islands Fishery means fishing for fish of a target species in the area of the fishery.

identification code, for a boat, means the identification code allocated by AFMA to the boat under regulation 12 of the *Fisheries Management Regulations 1992*.

Interim Management Policy means the HIMI Exploratory Fishery Interim Management Policy published by AFMA in November 1996 and in force from 2 November 1996 until 31 August 1997.

MAC means the Management Advisory Committee established under section 54 of the *Fisheries Administration Act 1991*.

nominated boat, for a holder of statutory fishing rights, means a boat whose details are entered in the Register, under section 45 of the Act, as the nominated boat for the holder of the rights.

observer means a person who is authorised by AFMA to carry out the functions of an observer under this Management Plan.

quota, for a statutory fishing right, means the amount of fish of a particular target species that may be taken, in a fishing year, under the right.

Note For the determination of the quota for a statutory fishing right, see subsection 13 (3).

RAG means the Resource Assessment Group established by AFMA to provide advice in relation to the research needs, stock status, environment and economics of Southern Ocean fisheries.

statutory fishing right means a right to take, from the area of the fishery, in each fishing year, a particular proportion of the total allowable catch of a target species.

target species means any of the following species:

- (a) a species mentioned in Schedule 2;
- (b) if AFMA makes a declaration under section 20 in relation to a species mentioned in Schedule 3 — that species.

total allowable catch, for a target species, means the total weight of fish of that species that may be taken under statutory fishing rights in a fishing year by fishing in the area of the fishery, as determined by AFMA under section 11.

trawl methods means fishing using:

- (a) demersal otter trawl gear; or
- (b) mid-water trawl gear.

Note Unless otherwise stated, a term used in this Management Plan and in the Act has the same meaning in this Management Plan as it has in the Act. The following terms are defined in subsection 4 (1) of the Act:

- AFMA
- AFZ

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- Australian boat
 - coastal waters
 - fish
 - fishing
 - fishing permit
 - officer
 - Panel
 - precautionary principle
 - processing
 - Register
 - scientific permit
 - statutory fishing right
 - take.

4 Origin of geographical coordinates

The origin of geographical coordinates used in this Management Plan is the World Geodetic System 1984 (WGS84).

5 Objectives (Act s 17 (5))

The objectives of this Management Plan are:

- (a) to manage the fishery efficiently and cost-effectively for the Commonwealth; and
- (b) to ensure that the exploitation of the resources of the fishery and the carrying on of any related activities are conducted in a manner consistent with the principles of ecologically sustainable development and the exercise of the precautionary principle, and in particular, the need to have regard to the impact of fishing activities on non-target species and the long-term sustainability of the marine environment; and
- (c) to maximise economic efficiency in the exploitation of the resources of the fishery; and
- (d) to ensure AFMA's accountability to the fishing industry and to the Australian community in management of the resources of the fishery; and
- (e) to reach Government targets for the recovery of the costs of AFMA in relation to the fishery; and
- (f) to ensure, through proper conservation and management, that the living resources of the AFZ are not endangered by over-exploitation; and
- (g) to achieve the best use of the living resources of the AFZ; and
- (h) to ensure that conservation and management measures in the fishery implement Australia's obligations under international agreements that deal with fish stocks, and other relevant international agreements.

6 Measures by which the objectives are to be attained

(Act s 17 (5))

The measures by which the objectives of this Management Plan are to be attained include the following:

- (a) determining reference points for maintaining ecologically sustainable stocks of each target species;
- (b) setting the total allowable catch for each target species and each year in the fishery, as needed, to manage the species, taking account of information from the RAG, the MAC and CCAMLR on appropriate harvest levels;
- (c) granting transferable statutory fishing rights for the fishery to eligible persons;
- (d) developing and implementing a management strategy to ensure that fishing is conducted in an ecologically sustainable way;
- (e) implementing long-term management arrangements that pursue economic efficiency for the fishery;
- (g) ensuring that a fisheries assessment plan is developed and reviewed in accordance with section 9;
- (h) monitoring the impact of fishing on target species, species that are caught as bycatch, ecologically-related species and the marine environment, and implementing any related strategies that are necessary to ensure the sustainability of those species and the marine environment, and to ensure that bycatch limitations are not exceeded;
- (i) continually evaluating the mechanisms that have been put into place to monitor fishing against statutory fishing rights and the total allowable catch, and modifying those mechanisms, as necessary, to improve the monitoring;
- (j) periodically checking the accuracy and consistency of information kept in relation to the fishery;
- (k) issuing directions prohibiting the use of the fishery, or part of the fishery, during specified periods, telling the holders of statutory fishing rights about those directions, and requiring the holders to comply with the directions;
- (l) preparing an annual budget of costs associated with managing the fishery, and setting and collecting levies and fees for the fishery;
- (m) periodically evaluating whether the range and extent of management services provided by AFMA are consistent with cost-effective management;
- (n) managing fishing operations in the fishery in a way that implements relevant CCAMLR Conservation Measures and complies with other relevant international agreements.

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7 Performance criteria against which measures taken may be assessed (Act s 17 (5))

- (1) The performance criteria against which the measures taken may be assessed are:
 - (a) that the target species meet the sustainable reference points set for each target species; and
 - (b) that a total allowable catch is set for each target species for each fishing year, and that (unless provision is made for corresponding reductions in subsequent years) the amount of fish that may be taken in a fishing year is not exceeded in the year; and
 - (c) that transferable statutory fishing rights are granted to eligible persons; and
 - (d) that the requirements of section 12 are met; and
 - (e) that effective strategies are in place to ensure that stocks of any depleted fish resources are being rebuilt; and
 - (f) that the catch of non-target species is reduced to, or kept at, a minimum, and below a level that will allow stocks of the species to be maintained at ecologically-sustainable levels; and
 - (g) that cost-effective and high quality research is carried out in relation to the fishery in accordance with a 5-year strategic research plan, the results of which are:
 - (i) included in the assessment process of the fishery; and
 - (ii) published in the assessment reports of the fishery; and
 - (iii) taken into consideration in determining the total allowable catch, and other management arrangements, in a fishing year; and
 - (h) that the monitoring required by the fisheries assessment plan developed under section 9 has been undertaken; and
 - (i) that data is collected and analysed in a timely manner to enable:
 - (i) evaluation of the effectiveness of the strategies to maintain or rebuild the resources of the fishery at, or to, an acceptable level; and
 - (ii) modification of those strategies; and
 - (j) that the cost-effectiveness of management is assessed periodically; and
 - (k) that the economic efficiency of the fishery is assessed periodically using economic data provided, on request, by statutory fishing right holders; and
 - (l) that the budgetary objectives of the fishery are achieved.
- (2) AFMA and the MAC must, at least once every 5 years, assess the effectiveness of the Plan including the measures taken to achieve the objectives of this Management Plan by reference to the performance criteria mentioned in subsection (1).

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- (3) AFMA must include in its annual report for a financial year a statement of the extent to which the performance criteria mentioned in subsection (1) were met in the year.
 - (4) Each year, the MAC must assess the extent to which the performance criteria mentioned in subsection (1) have been met in that year.

8 Bycatch (Act s 17 (6D))

- (1) AFMA must ensure that bycatch is reduced to, or kept at, a minimum.
- (2) AFMA must ensure that:
 - (a) the total catch of non-target species is kept below a level that will allow stocks of the species to be maintained at an ecologically sustainable level; and
 - (b) all reasonable steps are taken to minimise incidental interactions with seabirds and marine mammals; and
 - (c) the ecological impacts of fishing operations on habitats in the area of the fishery are minimised and kept below an acceptable level.

9 Fisheries assessment plan

- (1) AFMA must develop and implement a fisheries assessment plan to ensure that an adequate program of monitoring takes place in the fishery.
- (2) The fisheries assessment plan must provide for:
 - (a) an adequate program of monitoring to ensure that reliable fisheries stock estimates can be made for each target species; and
 - (b) adequate monitoring of the direct impact of the fishery on non-target species and the ecosystem in the area of the fishery; and
 - (c) the allocation, by 1 March of each fishing year, of monitoring responsibilities to statutory fishing right holders in proportion to the numbers of statutory fishing rights they are likely to hold at the beginning of that fishing year.
- (3) In developing and implementing a fisheries assessment plan, AFMA must:
 - (a) consult, and have regard to the views of, the MAC, the RAG and the holders of statutory fishing rights; and
 - (b) have regard to the 5-year strategic research plan mentioned in paragraph 7 (1) (g).

Part 2

Total allowable catch

10 Reference points

- (1) As soon as practicable after this Management Plan comes into force, AFMA must determine, for each target species, reference points that are appropriate for maintaining ecologically viable stocks of the target species and an ecologically sustainable fishery.
- (2) Each year, AFMA may review the reference points set under subsection (1) to ensure that they remain appropriate for maintaining ecologically viable stocks of the target species and an ecologically sustainable fishery.

11 Determination of total allowable catch

- (1) Before the beginning of each fishing year, AFMA must determine the total allowable catch for each species of fish for the fishing year.
- (2) Before the beginning of each fishing year, AFMA may determine a limit to the amount of any other species (including a limit that is a total for a number of species) that may be taken from the fishery in the fishing year.
- (3) Before deciding the total allowable catch and any other catch limits for a fishing year, AFMA:
 - (a) must take into account:
 - (i) the total allowable catch (if any) set by CCAMLR; and
 - (ii) the reference points determined under section 10; and
 - (b) must consult, and consider the views of, the MAC and the RAG.
- (4) Before the beginning of each fishing year, AFMA must give to the holder of each statutory fishing right a notice stating:
 - (a) the total allowable catch for the species to which the right relates for the fishing year; and
 - (b) the quota allocated to the right for the fishing year; and
 - (c) any catch limits for other species that may be taken from the fishery in that fishing year.

11A Determination of fishing capacity

- (1) AFMA must determine the minimum quota for trawl methods, expressed as a percentage of statutory fishing rights, for a fishing year.
- (2) The determination:
 - (a) may apply to one or more fishing years; and
 - (b) for a determination that applies to one fishing year, must be made before the start of that fishing year; and

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- (c) for a determination that applies to more than one fishing year, must be made before the start of the first fishing year to which it relates.
 - (3) Before the beginning of each fishing year, AFMA must give to the holder of each statutory fishing right a notice stating the determined minimum quota for trawl methods.
 - (4) If this provision comes into force during a fishing year, AFMA must make the determination for that fishing year within one month of this provision coming into force.

Part 3 Right to fish in the fishery

12 Who may fish in the fishery

Subject to section 15, a person may fish in the fishery only if the person:

- (a) if using trawl methods, holds, or is acting for a person who holds, the minimum quota for trawl methods as determined by AFMA under subsection 11A (1) for each trawler; and
- (b) if using non-trawl methods, holds, or is acting for a person who holds, statutory fishing rights; and
- (c) in either case, is using the boat that is nominated for those fishing rights.

NOTE: For example, if AFMA determines the minimum quota at 25.5%, a person would need to hold at least 51% to operate a second trawler.

13 Quantity of fish that may be taken

- (1) Subject to section 14, in a fishing year, a person who holds, or is acting on behalf of another person who holds, statutory fishing rights must not take from the area of the fishery an amount of fish of a target species greater than the quota allocated to those rights in relation to that species for the fishing year.
- (2) The quota allocated to a statutory fishing right for each target species and fishing year is worked out by dividing the total allowable catch for the species in the fishing year by the total number of statutory fishing rights in force for the species at the start of the fishing year.
- (3) In working out the quota allocation for a statutory fishing right in a fishing year, a statutory fishing right that is suspended under subsection 38 (1) or (3), or paragraph 98 (3) (d), of the Act is taken to be in force.
- (4) For subsection (1), a person may take fish of a target species from the area of the fishery only if, at the time the fish are taken, the person holds statutory fishing rights with a combined uncaught quota at least equal to the amount of fish taken.

14 Overcatch

- (1) This subsection applies to a person if:
 - (a) in a fishing year (the **first year**), the person takes an amount of fish of a target species that exceeds, by no more than 10 tonnes, the quota allocated to the statutory fishing rights held by the person in the fishing year; and
 - (b) at the beginning of the following fishing year (the **second year**), the person holds statutory fishing rights that would, in the absence of this

section, entitle the person to take an amount of fish of that species at least equal to the amount by which the person exceeded the quota mentioned in paragraph (a).

- (2) If subsection (1) applies to a person, the person is considered, for section 13, to have taken:
- (a) during the first year, an amount of fish equal to the quota allocated to the statutory fishing rights held by the person in the first year; and
 - (b) during the second year, an amount of fish, in tonnes, according to the formula:

where:

amount is the amount of fish, in tonnes, the person is considered to have taken in the second year.

1st year take is the amount of fish, in tonnes, actually taken in the first year.

1st year quota is the quota, in tonnes, allocated to the statutory fishing rights held by the person in the first year.

2nd year take is the amount of fish, in tonnes, actually taken in the second year.

- (3) This subsection applies to a person if:
- (a) the person exceeds the person's quota, in the manner described in subsection (1), by more than 10 tonnes but not more than 20 tonnes; and
 - (b) at the beginning of the following fishing year (the **second year**), the person holds statutory fishing rights that would, in the absence of this section, enable the person to take an amount of fish, in tonnes, at least equal to the amount computed according to the formula:

$$\text{amount} = [3 \times (1\text{st year take} - 10 - 1\text{st year quota})] + 10$$

where:

amount is the amount computed according to the formula.

1st year take has the same meaning as in subsection (2).

1st year quota has the same meaning as in subsection (2).

2nd year take has the same meaning as in subsection (2).

- (4) A person to whom subsection (3) applies is considered, for section 13, to have taken:
- (a) during the first year, an amount of fish equal to the quota allocated to the statutory fishing rights held by the person in the first year; and
 - (b) during the second year, an amount of fish, in tonnes, according to the formula:

$$\text{amount} = [3 \times (\text{1st year take} - 10 - \text{1st year quota})] + 10 + \text{2nd year take}$$

where:

amount has the same meaning as in subsection (2).

1st year take has the same meaning as in subsection (2).

1st year quota has the same meaning as in subsection (2).

2nd year take has the same meaning as in subsection (2).

- (5) This subsection applies to a person if the person exceeds the person's quota, in the manner described in subsection (1), by more than 20 tonnes.
- (6) A person to whom subsection (5) applies is considered, for section 13, during the second year, to have taken an amount of fish according to the formula set out in paragraph (4) (b).
- (7) To avoid any doubt, in a case to which subsection (5) applies the person is still considered to have taken, in the first year, the amount of fish actually taken in that year, as well as being considered to have taken an additional amount in the second year.

15 Right to use a boat for scientific research

- (1) A person may use a boat in the area of the fishery for scientific research about the fishery only if the person is, or is acting for, the holder of a scientific permit that authorises the use of the boat in the area of the fishery for that purpose.

Note 1 See section 33 of the Act about the grant of a scientific permit.

Note 2 Scientific permits may be issued under the Act to cover research that does not target target species.

- (2) However, a person who holds a scientific permit and a statutory fishing right, or statutory fishing rights, may take fish of a target species from the area of the fishery only in accordance with section 13.

Part 4 Statutory fishing rights

Division 4.1 Registration of eligible persons for grant of statutory fishing rights

16 Conditions for registration — Schedule 2 target species (Act s 26)

- (1) Subsection (2) applies if AFMA publishes a notice, under section 24 of the Act, declaring that AFMA intends to grant statutory fishing rights for the target species mentioned in Schedule 2.
- (2) The conditions for registration as an eligible person for the grant of statutory fishing rights are that the person:
 - (a) applied for a permit under the Interim Management Policy or the 1998–2000 Management Policy; and
 - (b) either:
 - (i) if the person applied under 1 of the policies mentioned in paragraph (a) — met all of the essential requirements for a permit under that policy; or
 - (ii) if the person applied under both of the policies mentioned in paragraph (a) — met all of the essential requirements for a permit under either policy.

- (3) In this regulation:

essential requirements, in relation to either the Interim Management Policy or the 1998–2000 Management Policy, has the meaning given by that Policy.

Note 1 See section 24 of the Act about publication of a notice by AFMA declaring that AFMA intends to grant statutory fishing rights for fishing in a managed fishery.

Note 2 An application for registration as an eligible person for the grant of a statutory fishing right must be made within the period stated in a notice published under section 24 of the Act: see paragraph 25 (f), and subsection 26 (1), of the Act.

Note 3 Under subsection 26 (2) of the Act, AFMA must register as an eligible person an applicant for registration who meets the conditions for registration and who has paid the prescribed fee (if any). At present there is no prescribed fee.

Note 4 A decision under subsection 26 (2) of the Act is subject to reconsideration under section 165 of the Act: see subsection 165 (2). Application may be made to the Administrative Appeals Tribunal for review of a decision under section 165 of the Act: see subsection 165 (7).

Division 4.2 Grant of statutory fishing rights

17 Provisional grants — Schedule 2 target species (Act s 23)

- (1) This section applies to a person who is registered as an eligible person for the grant of statutory fishing rights for the target species mentioned in Schedule 2.
- (2) If the person did not hold a permit under either the Interim Management Policy or the 1998–2000 Management Policy, AFMA must make a provisional grant to the person of 2 700 statutory fishing rights for each target species mentioned in Schedule 2.
- (3) If the person held a permit under the Interim Management Policy, AFMA must make a provisional grant to the person of 6 000 statutory fishing rights for each target species mentioned in Schedule 2.
- (4) If the person held a permit under the 1998–2000 Management Policy, AFMA must, in addition to any grant under subsection (3), make a provisional grant to the person of 7 650 statutory fishing rights for each target species mentioned in Schedule 2.

Note See:

- (a) section 23 of the Act about the provisional grant of a statutory fishing right; and
- (b) Part 8, Division 3 of the Act about review by the statutory fishing rights Allocation Review Panel.

18 Request for grant — Schedule 2 target species (Act s 31)

- (1) AFMA may grant a statutory fishing right for a target species mentioned in Schedule 2 to a person only if:
 - (a) a notice mentioned in subsection 23 (2) of the Act stating that the person is to be granted the right is published in the *Gazette* (the ***Gazette notice***); and
 - (b) the person asks AFMA to make the grant.

Note Under subsection 23 (3) of the Act, AFMA must not grant a statutory fishing right:

- (a) until the end of the period within which applications may be made to the Panel for review of provisional grants; or
 - (b) if an application has been made to the Panel — before the application has been dealt with by the Panel or otherwise disposed of.
- (2) If the person does not make the request within 30 days after the *Gazette notice* is published, AFMA must send a notice (the ***reminder notice***) to the person telling the person that the person must make the request within a period stated in the notice.
 - (3) If the person does not make the request within the period stated in the reminder notice, AFMA must send another notice (the ***final notice***) to the person stating that the person's registration will be cancelled if the person does not, within 14 days after the final notice is sent:

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- (a) make the request; and
 - (b) explain why the person did not make the request within the period stated in the reminder notice.
 - (4) AFMA must cancel the person's registration as an eligible person if, despite a final notice, the person does not:
 - (a) make the request within 14 days after the final notice is sent; and
 - (b) satisfy AFMA that the person had a reasonable excuse for not making the request within the period stated in the reminder notice.
 - (5) If AFMA cancels a person's registration as an eligible person, AFMA must amend its records accordingly.

Note 1 AFMA must grant a statutory fishing right to a person to whom the grant of the right is available if the person asks AFMA to grant the right: see section 31 of the Act.

Note 2 A decision under section 31 of the Act (other than a decision following an auction, tender or ballot) is subject to reconsideration under section 165 of the Act: see subsection 165 (2). Application may be made to the Administrative Appeals Tribunal for review of a decision under section 165 of the Act: see subsection 165 (7).

Note 3 A statutory fishing right ceases to have effect if AFMA revokes this Management Plan: see subsections 20 (4) and 22 (3) of the Act.

Note 4 AFMA must register all statutory fishing rights granted: see section 45 of the Act.

19 Certificate showing grant (Act s 22 (2))

- (1) AFMA must note the following details on the certificate for a statutory fishing right:
 - (a) the name of the person to whom the right is granted;
 - (b) a description of the right;
 - (c) that the right is granted for the fishery;
 - (d) the conditions to which the right is subject.
- (2) A certificate may show the grant of more than 1 statutory fishing right to a person.
- (3) AFMA must give to a person to whom a statutory fishing right is granted an extract of the Register:
 - (a) that states the conditions to which the right is subject; and
 - (b) that is signed for AFMA by a person having authority to sign it.

Note 1 Section 45 of the Act provides that AFMA must enter certain information in the Register for each statutory fishing right that it grants, including such particulars as are prescribed. The *Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002* prescribe details that must be entered in the Register in relation to a nominated boat.

Note 2 Divisions 4.1 and 4.2 provided for the registration of eligible persons and the grant to them of statutory fishing rights in the fishery. That process is now complete. AFMA has granted 30 000 statutory fishing rights for the taking of each quota species mentioned in

Schedule 2 and does not intend to grant any further statutory fishing rights for the taking of those species in the fishery.

Division 4.3 Additional target species

20 Declaration of additional target species

- (1) Subject to subsection (2), AFMA may, by notice published in the *Gazette*, declare that a species mentioned in Schedule 3 is a target species.
- (2) Before making a declaration, AFMA must:
 - (a) consult, and consider the views of, CCAMLR, the MAC and the RAG; and
 - (b) assess the stock of the species in the area of the fishery, and be satisfied that the species can be harvested in a sustainable manner.

21 Conditions for registration — additional target species (Act s 26)

- (1) Subsection (2) applies if AFMA publishes a notice, under section 24 of the Act, declaring that AFMA intends to grant statutory fishing rights for a species mentioned in Schedule 3.
- (2) The condition for registration as an eligible person for the grant of statutory fishing rights for the species mentioned in the notice is that the person owns a statutory fishing right, or statutory fishing rights, for an existing target species.

Note 1 See section 24 of the Act about publication of a notice by AFMA declaring that AFMA intends to grant statutory fishing rights for fishing in a managed fishery.

Note 2 An application for registration as an eligible person for the grant of a statutory fishing right must be made within the period stated in a notice published under section 24 of the Act: see paragraph 25 (f), and subsection 26 (1), of the Act.

Note 3 Under subsection 26 (2) of the Act, AFMA must register as an eligible person an applicant for registration who meets the conditions for registration and who has paid the prescribed fee (if any). At present there is no prescribed fee.

Note 4 A decision under subsection 26 (2) of the Act is subject to reconsideration under section 165 of the Act: see subsection 165 (2). Application may be made to the Administrative Appeals Tribunal for review of a decision under section 165 of the Act: see subsection 165 (7).

22 Provisional grants — additional target species (Act s 23)

- (1) If AFMA makes a declaration under section 20 in relation to a species, AFMA must make a provisional grant, of the number of statutory fishing rights for that species worked out in accordance with subsections (2) and (3), to each person who owns statutory fishing rights for an existing target species when AFMA makes the declaration.

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- (2) The total number of statutory fishing rights granted under this section for a species must equal the average of the total number of statutory fishing rights owned for each existing target species when AFMA makes the declaration.
 - (3) The statutory fishing rights for the additional target species must be allocated to each person who owns statutory fishing rights for an existing target species in proportion to the total number of statutory fishing rights that the person owns when AFMA makes the declaration.

23 Request for grant — additional target species (Act s 31)

If AFMA makes a provisional grant of a statutory fishing right to a person under subsection 22 (1), section 18 applies to the right as if it were a right for a target species mentioned in Schedule 2.

Division 4.4 Nomination of boat

24 Nomination of boat

AFMA must not register a boat as the nominated boat for a person if:

- (a) the boat does not meet the requirements for an Australian boat, within the meaning given by subsection 4 (1) of the Act; or
- (b) a nominated surveyor has not conducted a safety assessment of the boat and has not issued a statement of compliance indicating that the boat passed the safety assessment.

Part 5

Fishing in the fishery

Division 5.1

Obligations of holders of statutory fishing rights

28 Environmental requirements

- (1) It is a condition of a statutory fishing right that the holder must, while in the area of the fishery:
 - (a) take all reasonable steps to avoid losing any gear or other non-biodegradable items from the boat; and
 - (b) tell AFMA, in writing, about any loss of gear or other non-biodegradable item within 48 hours after the loss (including details of the quantity and description of the lost item, the time, date and position at which it was lost, and the circumstances surrounding the loss); and
 - (c) ensure that no poultry products (including eggs or egg shells) or brassicas (for example, broccoli, cabbage, cauliflower, brussels sprouts or kale) are discharged from the boat; and
 - (d) subject to subsection (4) and any conditions attached to the statutory fishing right, ensure that no offal or bycatch is discharged from the boat; and
 - (e) subject to subsection (5), ensure that no fish meal is discharged from the boat; and
 - (f) ensure that the amount of light showing from the boat does not exceed the amount necessary for the safe operation of the boat; and
 - (g) take all reasonable steps to minimise the risk and severity of collision with sea birds and marine mammals, and comply with any reasonable direction of an observer to minimise such risk; and
 - (h) if asked to do so by AFMA, and if possible, take the carcass, or any parts of the carcass, of a sea bird or marine mammal killed in an incident involving the boat to a place nominated by AFMA; and
 - (i) ensure that, if possible, plastic packing bands are not used to secure items on board the boat, unless the bands are an essential part of the boat's gear; and
 - (j) if items secured by plastic packing bands are brought on board the boat, and those bands are removed, ensure that:
 - (i) they are cut so that they do not form a continuous loop; and
 - (ii) they are incinerated at the earliest opportunity; and
 - (iii) any plastic residue from the incinerator is stored on board the boat and disposed of on reaching port.

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- (2) It is also a condition of a statutory fishing right that the holder must not, while in the area of the fishery, target species of marine life other than target species.
 - (3) For paragraph (1) (b), the holder is not taken to have complied with the paragraph unless AFMA has replied, in writing, saying that the holder's transmission has been fully received and is legible.
 - (4) If, because of a mechanical breakdown of the meal plant, it is not practicable to retain all offal and bycatch on board the boat, the holder:
 - (a) may discharge offal or bycatch from the boat; and
 - (b) must:
 - (i) tell AFMA, in writing, about the breakdown and discharge of offal within 48 hours after it becomes necessary to discharge offal; and
 - (ii) take all reasonable steps that are necessary to ensure that birds and mammals are not attracted to the boat during discharge; and
 - (iii) comply with regulations made for the purpose of this subsection; and
 - (c) must, if he or she can practicably do so, discharge the offal or bycatch whole, and at night.
 - (5) If a batch of fish meal contains more than 10.5% moisture or the holder reasonably believes that there is a risk that the batch will spontaneously ignite, the holder:
 - (a) may discharge the batch of meal, but not the container in which it is stored, from the boat; and
 - (b) must comply with regulations made for the purpose of this subsection.

30 Other obligations of holders of statutory fishing rights

It is a condition of a statutory fishing right that the holder must:

- (a) comply with this Management Plan, and any Regulations made for the purposes of this Management Plan; and
- (c) take reasonable measures to ensure that the following are kept to a minimum:
 - (i) the catch of target species not taken in accordance with this Management Plan;
 - (ii) the incidental catch of species other than target species;
 - (iii) the impact of fishing operations on the marine environment; and
- (d) comply with the fisheries assessment plan developed under section 9; and
- (f) if AFMA asks the holder to give AFMA reasonable access to biological, economic or technical information, or biological samples that are available to the holder — give AFMA reasonable access to the information or samples; and

Note 1 Other conditions of a statutory fishing right are set out on the certificate for the right. These include bycatch limits, reporting requirements and conditions regarding AFMA's vessel monitoring system. As new monitoring technologies are developed, the conditions may also include conditions regarding the use of those technologies.

Note 2 The holder of a statutory fishing right must also comply with relevant regulations, including the *Fisheries Management Regulations 1992*, the *Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002* and the annual Levy Regulations.

Note 3 See section 42 of the Act and Part 9 of the *Fisheries Management Regulations 1992* about the requirement to keep a logbook. If the holder of a statutory fishing right does not keep a logbook under Part 9 of those Regulations, AFMA may issue an infringement notice under Part 10 of those Regulations or suspend the operation of the statutory fishing right.

Note 4 See also subsections 22 (3), (4) and (5) of the Act for other conditions to which a statutory fishing right is subject.

Note 5 See section 38 of the Act about AFMA's power to suspend a statutory fishing right if it has reasonable grounds to believe that there has been a contravention of a condition of the right.

Part 6 Miscellaneous

32 Certificates

- (1) If a certificate issued by AFMA for a statutory fishing right is lost, stolen, destroyed or is otherwise not available to the owner of the right, the owner may ask AFMA, in writing, to give to the owner a replacement certificate.
- (2) The request must include:
 - (a) a statement explaining why the certificate is unavailable; and
 - (b) an agreement that the owner will surrender it to AFMA if it becomes available.

33 Delegation

AFMA may, by writing under its common seal, delegate to an employee of AFMA any of its powers or functions under this Management Plan, except its powers under section 11 and this section.

Note See subsection 17 (11) of the Act about the delegation of powers under section 11.

34 Agents

- (1) If the holder of a statutory fishing right appoints a person to be the holder's agent for a matter to which this Management Plan applies, the holder must give AFMA a notice that states:
 - (a) the name of the agent; and
 - (b) the powers that may be exercised by the agent.
- (2) A notice must be accompanied by the instrument, or a certified copy of the instrument, by which the holder appointed the agent.
- (3) For this Management Plan, the appointment of an agent by the holder of a statutory fishing right is of no effect unless AFMA has been told about the appointment under subsection (1).
- (4) In deciding an application under this Management Plan:
 - (a) AFMA may assume that a notice given under this section is properly given; and
 - (b) AFMA need not verify, by other means, the authority of the agent to make the application.

35 Notices

- (1) In this section:
residential, office, postal or e-mail address, or *facsimile number*, for the holder of a statutory fishing right, means the holder's residential, office, postal or e-mail address, or facsimile number, stated in the Register.
notice means a notice that is required, or allowed, by this Management Plan to be given in writing.
- (2) A notice to the holder of a statutory fishing right is taken to be given to the holder if it is:
 - (a) delivered to the holder's residential or office address; or
 - (b) posted to the holder's postal address; or
 - (c) sent by facsimile to the holder's facsimile number; or
 - (d) sent by e-mail to the holder's e-mail address.
- (3) A notice to AFMA must be addressed to the Manager, Licensing and Quota Management, Australian Fisheries Management Authority, and:
 - (a) delivered to the reception desk at:
Level 6
73 Northbourne Avenue
Canberra ACT; or
 - (b) posted to:
PO Box 7051
Canberra Business Centre
ACT 2610; or
 - (c) sent by fax (from within Australia) to:
(02) 6225 5426; or
 - (d) sent by fax (from outside Australia) to:
612 6225 5426; or
 - (e) sent by e-mail to:
licensing@afma.gov.au; or
 - (f) delivered, posted or sent by fax or e-mail to another office address, postal address or facsimile number notified by AFMA by notice published in a newspaper circulating in the State or Territory in which the address or facsimile receiver is located.
- (4) A notice to a person is taken to have been given to the person if it is delivered, or sent by fax or e-mail, to the person's last known address.
- (5) A notice given to the holder of a statutory fishing right under this section is taken to have been given to the holder:
 - (a) if the notice is delivered to the holder's residential or office address — on the day when it is delivered; and

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- (b) if the notice is sent by facsimile to the holder's facsimile number:
 - (i) on a working day between 9 am and 4 pm — 1 hour after the notice is sent; and
 - (ii) otherwise — at 9 am on the next working day after the day when the notice is sent.

Note Under subsection 160 (1) of the *Evidence Act 1995*, it is presumed (unless evidence is sufficient to raise doubt about the presumption is adduced) that a postal article sent by pre-paid post addressed to a person at a specified address in Australia or in an external Territory was received at that address on the fourth working day after having been posted.

- (6) In this section:

working day means a day that is not:

- (a) a Saturday or Sunday; or
- (b) a public holiday or a bank holiday in the place to which the notice is sent.

Part 7 Transitional

36 Transitional

- (1) This section ceases to have effect on the day specified in a notice published in the *Gazette* under subsection (2).
- (2) When the first statutory fishing rights granted under this Management Plan come into effect, AFMA must publish a notice in the *Gazette* stating that this section ceases to have effect on a day specified in the notice.
- (3) The day specified in a notice under subsection (2) must not be earlier than the day on which the notice is published.
- (4) Despite section 12, a person may engage in fishing in the area of the fishery if the person holds a fishing permit that is in force.
- (5) This Management Plan does not affect a fishing permit, or a condition to which the permit is subject.
- (6) This Management Plan does not prevent AFMA from granting or transferring a fishing permit.

Schedule 1 Area of the fishery

(section 3)

That part of the AFZ contained within the area bounded by a line beginning at 53° 14' 07" S, 60°00' 00" E and running progressively:

- east along the parallel that passes through that point to its intersection with the meridian 67° 03' 20" E;
- north-easterly along the geodesic to 52° 42' 28" S, 68° 05' 31" E;
- north-easterly along the geodesic to 51° 58' 18" S, 69° 44' 02" E;
- north-easterly along the geodesic to 51° 24' 32" S, 71° 12' 29" E;
- north-easterly along the geodesic to 51° 03' 09" S, 72° 28' 28" E;
- north-easterly along the geodesic to 50° 54' 23" S, 72° 49' 21" E;
- north-easterly along the geodesic to 49° 49' 34" S, 75° 36' 08" E;
- north-easterly along the geodesic to 49° 24' 07" S, 76° 42' 17" E;
- east along the parallel that passes through that point to its intersection with the meridian 80° 00' 00" E;
- south along that meridian to its intersection with the parallel 56° 00' 00" S;
- west along that parallel to its intersection with the meridian 60° 00' 00" E;
- north along that meridian to the point of commencement.

Note Fishing in the waters within 12 nautical miles of either Heard Island or the McDonald Islands, except in accordance with a permit under section 15 of the *Environment Protection and Management Ordinance 1987* of the Territory of Heard Island and McDonald Islands, is prohibited by section 14 of that Ordinance. Paragraph 6.12 of the Heard Island Reserve Management Plan, made under section 8 of the Ordinance, states that permits will not be issued for fishing activity within those waters. Fishing in other waters within the area of the fishery may be prohibited by a direction.

Schedule 2 Target species

(section 3)

Item	Common name	Scientific name
1	Patagonian toothfish	<i>Dissostichus eleginoides</i>
2	Mackerel icefish	<i>Champsocephalus gunnari</i>

Schedule 3 Additional target species subject to declaration by AFMA

(sections 3 and 20)

Item	Common name	Scientific name
1	Grey rockcod	<i>Lepidonotothen squamifrons</i>
2	Unicorn icefish	<i>Channichthys rhinoceratus</i>
3	Rat tails or Grenadiers	<i>Macrourus</i> spp.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the amendment is set out in the endnotes.

Endnote 2—Abbreviation key

A = Act	orig = original
ad = added or inserted	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
am = amended	pres = present
amdt = amendment	prev = previous
c = clause(s)	(prev...) = previously
C[x] = Compilation No. x	Pt = Part(s)
Ch = Chapter(s)	r = regulation(s)/rule(s)
def = definition(s)	Reg = Regulation/Regulations
Dict = Dictionary	reloc = relocated
disallowed = disallowed by Parliament	renum = renumbered
Div = Division(s)	rep = repealed
exp = expires/expired or ceases/ceased to have effect	rs = repealed and substituted
F = Federal Register of Legislative Instruments	s = section(s)/subsection(s)
gaz = gazette	Sch = Schedule(s)
LI = Legislative Instrument	Sdiv = Subdivision(s)
LIA = <i>Legislative Instruments Act 2003</i>	SLI = Select Legislative Instrument
(md) = misdescribed amendment	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
o = order(s)	<u>underlining</u> = whole or part not commenced or to be commenced
Ord = Ordinance	

Endnote 3—Legislation history

Name	FRLI registration	Commencement	Application, saving and transitional provisions
Heard Island and McDonald Islands Fishery Management Plan 2002	Gazette 2002, No. GN21	29/05/2002	
Heard Island and McDonald Islands Fishery Management Plan Amendment 2004 (No. 1)	Gazette 2004, No. S469	23/11/2004	
Heard Island and McDonald Islands Fishery Management Plan Amendment 2006 (No. 1)	F2006L01608	25/05/2006	
Fisheries Legislation (Management Plans) Amendment 2011 (No. 1)	F2011L02746	20/12/2011	
Heard Island and McDonald Islands Fishery Management Plan Amendment 2011	F2012L00372	23/02/2012	
Fisheries Management Plan Amendment 2016	F2016L00627	04/05/2016	

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
S. 3	am. 2011 No. 1; F2012L00372
S. 4	am. F2012L00372
S. 6	am. 2011 No. 1; F2012L00372
S. 7	am. F2012L00372
S. 8	am. F2012L00372
Note to s. 8 (3)	rep. 2011 No. 1
S. 9	am. 2006 No. 1; F2012L00372
Part 2	
S. 11	am. 2006 No. 1; F2012L00372
S. 11A	ad. F2012L00372
Part 3	
S. 12	rs. F2012L00372
S. 13	am. F2012L00372
S. 14	am. 2006 No. 1
Part 4	
Division 4.1	
Note to s. 19	rep. 2006 No. 1
Notes 1 and 2 to s. 19	ad. 2006 No. 1
Division 4.3	
S. 20	am. F2012L00372
S. 22	am. 2004 No. 1
Division 4.4	
S. 24	rs. 2011 No. 1; F2012L00372
Div. 4.5 of Part 4	rep. 2011 No. 1
S. 25	rep. 2011 No. 1
S. 26	rep. 2011 No. 1
S. 27	rep. 2011 No. 1
Part 5	
Division 5.1	
S. 29	rep. 2011 No. 1
S. 30	am. 2011 No. 1; F2016L00627
Div. 5.2 of Part 5	rep. 2011 No. 1
S. 31	am. 2006 No. 1 rep. 2011 No. 1
Part 6	
S. 33	am. 2011 No. 1
Note to s. 33	am. 2011 No. 1
S. 35	am. 2011 No. 1
Schedule 1	
Schedule 1	am. 2004 No. 1

Provision affected	How affected
Note to Schedule 1	am. 2011 No. 1



Heard Island and McDonald Islands Fishery (Total Allowable Catch) Determination 2021

The Australian Fisheries Management Authority makes the following determination in accordance with a decision made by the Commission under section 23 of the *Fisheries Administration Act 1991*.

Dated 23 November 2021

Wez Norris

Chief Executive Officer

for and on behalf of the Australian Fisheries Management Authority

1 Name

This instrument is the *Heard Island and McDonald Islands Fishery (Total Allowable Catch) Determination 2021*.

2 Commencement

This instrument commences on 1 December 2021.

3 Cessation

This instrument ceases on 1 December 2022.

4 Authority

This instrument is made pursuant to paragraph 17(6)(aa) of the Act and under section 11 of the Management Plan.

5 Definitions

Note 1: A number of expressions used in this instrument are defined in definitions section of the Management Plan, including the following:

- (a) *fishing year*;
- (b) *fishery*;
- (c) *target species*; and
- (d) *total allowable catch*;

Note 2: A number of expressions used in this instrument are defined in definitions section of the Act, including the following:

- (a) *take*.

In this instrument:

Management Plan means the *Heard Island and McDonald Islands Fishery Management Plan 2002*.

Act means the *Fisheries Management Act 1991*.

6 Determination of total allowable catch

- (1) The total allowable catch for target species and the limits to the amounts that may be taken of other species in the fishery for the 2021/2022 fishing year, commencing on 1 December 2021 and ending on 30 November 2022, are determined in accordance with this section.
- (2) For the purpose of subsection 11(1) of the Management Plan, the total allowable catch for target species is determined to be:
 - (a) 2,760 tonnes for Patagonian toothfish (*Dissostichus eleginoides*); and
 - (b) 1,528 tonnes for Mackerel icefish (*Champsocephalus gunnari*).

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- (3) For the purpose of subsection 11(2) of the Management Plan, the limits to the amounts that may be taken of other species are determined to be:
- (a) 409 tonnes combined for Caml grenadier (*Macrourus caml*) and Whitson's grenadier (*Macrourus whitsoni*); and
 - (b) 360 tonnes combined for Bigeye grenadier *Macrourus holotrachys* and Ridge scaled rattail (*Macrourus carinatus*); and
 - (c) 1,663 tonnes for Unicorn icefish (*Channichthys rhinoceratus*); and
 - (d) 120 tonnes combined for skates and rays (*Bathyraja* spp.); and
 - (e) 80 tonnes for Grey rockcod (*Lepidonotothen squamifrons*); and
 - (f) for all other species caught in the fishery, 50 tonnes for each individual species.

EXPLANATORY STATEMENT

Issued by the authority of the Australian Fisheries Management Authority

Fisheries Management Act 1991

Heard Island and McDonald Islands Fishery Management Plan 2002

Heard Island and McDonald Islands Fishery (Trawl Fishing Capacity) Determination 2020

Section 17 of the *Fisheries Management Act 1991* (the Act) provides for the Australian Fisheries Management Authority (the Authority) to determine plans of management for a fishery.

Paragraph (aa) of subsection 17(6) of the Act provides that a plan of management may determine, or provide for the Authority to determine, the fishing capacity, for a fishery measured by that method or those methods, permitted for the fishery or a part of the fishery in respect of a particular period or periods.

Section 11A of the *Heard Island and McDonald Islands Fishery Management Plan 2002* (the Plan) provides that the Authority must determine the minimum quota for trawl methods, expressed as a percentage of statutory fishing rights for a fishing year.

The instrument determines the trawl fishing capacity in the Heard Island and McDonald Islands Fishery for the fishing years commencing on 1 December 2020 and ending on 30 November of the following year until the year 2025.

Background

The Heard Island and McDonald Islands Fishery (the Fishery) includes external territories of Australia located in the Southern Indian Ocean about 4,000 kilometres south-west of Perth. The islands lie within the Antarctic Convergence. The waters surrounding the islands out to 200 nautical miles are part of the Australian Fishing Zone which is managed by the Authority.

The Plan provides that access to the HIMI Fishery is limited to those operators holding statutory fishing rights (SFRs) granted under the Plan.

SFRs granted under the Plan allow a quantity of Patagonian toothfish or Mackerel icefish to be taken in the Fishery. This instrument determines the trawl fishing capacity by specifying the percentage of statutory fishing rights that must be held to operate a trawler in the fishery.

Consultation

The Authority considered the views of the Sub-Antarctic Fisheries Management Advisory Committee (SouthMAC) and the Sub-Antarctic Resource Assessment Group (SARAG) in making the decision. The AFMA Commission supported the recommendation made by SouthMAC.

Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) advised that a Regulation Impact Statement was not required for this Determination consistent with the agreement in place to cover all regulatory changes deemed to be of a minor or machinery nature (OBPR reference 14421).

Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

AFMA assesses under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* that this legislative instrument is compatible with human rights. The Authority's Statement of Compatibility is attached as a supporting document.

Details of the Determination are set out below:

- Clause 1** Provides for the Instrument to be cited as the *Heard Island and McDonald Islands Fishery (Trawl Fishing Capacity) Determination 2020*.
- Clause 2** Provides that the Instrument commences on 1 December 2020.
- Clause 3** Provides for the Instrument to cease on 1 December 2025.
- Clause 4** Provides that the Instrument is made pursuant to section 17(6)(aa) of the *Fisheries Management Act 1991* and under Section 11 of the *Heard Island and McDonald Islands Fishery Management Plan 2002*.
- Clause 5** Defines the particular terms used in the Determination
- Clause 6** Specifies the minimum quota holding for trawl methods to be 25.5% of the statutory fishing rights held in the fishery for each trawler for each fishing year from 2020 to 2025.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Heard Island and McDonald Islands Fishery (Trawl Fishing Capacity) Determination 2020

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill/Legislative Instrument

This legislative instrument specifies the minimum quota holding for trawl methods to be 25.5% of the statutory fishing rights held in the Heard Island and McDonald Islands Fishery for each trawler for each fishing season commencing on 1 December 2020 and finishing on 30 November of the following year for fishing years until 2025.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues. The AFMA Commission is satisfied that the instrument is consistent with AFMA's obligation to pursue its statutory objectives. The instrument is machinery in nature and sets the trawl fishing capacity in the fishery for the 2020/21 to 2024/25 fishing years.



Heard Island and McDonald Islands Fishery (Trawl Fishing Capacity) Determination 2020

The Australian Fisheries Management Authority makes the following determination in accordance with a decision made by the Commissioners under section 23 of the *Fisheries Administration Act 1991*.

Dated 19 November 2020

Wez Norris
Chief Executive Officer
for and on behalf of the Australian Fisheries Management Authority

1 Name

This instrument is the *Heard Island and McDonald Islands Fishery (Trawl Fishing Capacity) Determination 2020*.

2 Commencement

This instrument commences on 1 December 2020.

3 Cessation

This instrument ceases on 1 December 2025.

4 Authority

This instrument is made pursuant to paragraph 17(6)(aa) of the *Fisheries Management Act 1991* under section 11 of the *Heard Island and McDonald Islands Fishery Management Plan 2002* (the Plan).

5 Definitions

A term used in this instrument that is defined for the purposes of the Plan has the same meaning in this instrument as it has in the Plan.

Note: Terms defined in the *Fisheries Management Act 1991* have the same meanings in this instrument.

6 Determination of fishing capacity

For the purposes of Section 11A of the Plan, AFMA determines the minimum quota for trawl methods expressed as a percentage of Statutory Fishing Rights for the fishing years which commence on 1 December 2020 and ends on 30 November of the following year until 2025 to be 25.5% of the statutory fishing rights held in the fishery for each trawler.

EXPLANATORY STATEMENT

Issued by the Authority of the Australian Fisheries Management Authority

Fisheries Management Act 1991

Fisheries management (Heard Island and McDonald Islands Fishery) (Closures) Direction 2019

The Heard Island and McDonald Islands Fishery (Closures) Direction 2019 (the Direction) is a legislative instrument for the purposes of the *Legislation Act 2003*.

Subsection 41A(2) of the *Fisheries Management Act 1991* (the Management Act) relevantly provides that the Australian Fisheries Management Authority (AFMA) may, after such consultation as set out in subsection 41A(2), direct that fishing is not to be engaged in the fishery, or a particular part of the fishery, during a particular period or periods.

Paragraph 41A(2)(a) specifically provides that, before AFMA issues a Direction, it must consult with the management advisory committee for the Heard Island and McDonald Islands Fishery (the Fishery), the Sub-Antarctic Fisheries Management Advisory Committee (SouthMAC), about the content of the Direction unless the Direction is issued in circumstances of an emergency.

The Fishery

The Fishery surrounds the external territories of Australia located in the Southern Indian Ocean about 4,000 km south-west of Perth. The islands lie within the Antarctic Convergence. The waters surrounding the islands out to 200 nautical miles are part of the Australian Fishing Zone which is managed by AFMA.

The Direction

The Direction prohibits targeting mackerel icefish (*Champsocephalus gunnari*) in any area of the Fishery outside of the Heard Island Plateau as defined in the Schedule to the Direction. This closure was agreed to by the Commission for the Conservation of Antarctic Marine Living Resources, of which Australia is a member, because mackerel icefish stocks are not considered sufficient to support commercial harvest outside the Heard Island Plateau.

The Direction also prohibits fishing in waters between 12 and 13 nautical miles of the Heard Island and McDonald Islands. This area is a buffer zone adjacent to the Inner Marine Zone of the Heard Island and McDonald Islands Marine Reserve.

The Direction repeals the Heard Island and McDonald Islands Fishery Direction (HIMIFD) No.1&2 (the Previous Directions). The Direction continues the prohibition to targeting mackerel icefish contained within the Previous Direction (HIMIFD No.1) and the prohibition to fishing in the same area contained within the Previous Direction (HIMIFD No.2).

Regulation Impact Statement

The Office of Best Practice Regulation advised that a Regulation Impact Statement was not required for this Direction (OBPR ID: 14421)

Statement of compatibility with human rights

In accordance with section 9 of the *Human Rights (Parliamentary Scrutiny) Act 2011*, AFMA assesses that this legislative instrument is compatible with human rights. AFMA's Statement of Compatibility is included at Attachment A below.

Consultation

In accordance with paragraph 41A(2)(a) of the Management Act, AFMA consulted with the SouthMAC on the Direction. SouthMAC was supportive of the Direction and its contents.

Details of the Direction are set out below:

- | | |
|------------|--|
| Section 1 | Provides for the Direction to be cited as the <i>Fisheries Management (Heard Island and McDonald Islands Fishery) (Closures) Direction 2019</i> . |
| Section 2 | Provides that the Direction commences on the day after registration on the Federal Register of Legislation. |
| Section 3 | Provides that the Direction is made under subsection 41A(2) of the Management Act. |
| Section 4 | Prescribes relevant definitions for the purpose of the Directions. |
| Section 5 | Provides authority for the Schedules to the Direction. |
| Section 6 | <p>Provides that fishing:</p> <p>is not to be engaged in, targeting mackerel icefish, outside the part of the Fishery that is the Heard Island Plateau as described in Schedule 2 (subsection (1)); and</p> <p>is not to be engaged in waters between 12 and 13 nautical miles of the Heard Island and McDonald Islands (a buffer zone adjacent to the Inner Marine Zone of the Heard Island and McDonald Islands Marine Reserve).</p> |
| Schedule 1 | Revokes the First Prior Direction and the Second Prior Direction from the date of commencement of the Direction. |
| Schedule 2 | Describes the area of the Heard Island Plateau as relevant to the direction in subsection 6(1) of the Direction. |



Fisheries Management (Heard Island and McDonald Islands Fishery) (Closures) Direction 2019

I, Anna Willock, A/g Chief Executive Officer of the Australian Fisheries Management Authority, make the following direction.

Dated 27 February 2019

Anna Willock
A/g Chief Executive Officer

1 Name

This instrument is the *Fisheries Management (Heard Island and McDonald Islands Fishery) (Closures) Direction 2019*.

2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

3 Authority

This instrument is made under subsection 41A(2) of the Act.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 4 of the Act, including the following:

- (a) AFZ;
- (b) fish;
- (c) fishing;
- (d) fishing concession.

(1) In this instrument:

Act means the *Fisheries Management Act 1991*.

Australian-France Maritime Delimitation Agreement Southern Boundary means the boundary between the Commonwealth of Australia and the Government of the French Republic established under article 2 of the *Agreement on Maritime Delimitation between the Government of Australia and the Government of the French Republic*, done at Melbourne on 4 January 1982.

Note: As of the date this instrument commences this Agreement is available in the Australian Treaty Series [1983] 3.

baseline means the baseline established under international law or otherwise as determined by Proclamation under section 7 of the *Seas and Submerged Lands Act 1973* from time to time.

Note: As of the date this instrument commences no such Proclamation is in force.

Fishery means the area of the fishery defined in section 3 of the Management Plan.

Heard Island Plateau means the part of the Fishery described in Schedule 2.

incidental take means the taking of fish unintentionally while fishing for commercial purposes.

holder means a person who is a holder of a fishing concession issued under, or pursuant to, the Management Plan that authorises the person take fish in the Fishery.

mackerel icefish means fish of the species *Champsocephalus gunnari*.

Management Plan means the *Heard Island and McDonald Islands Management Plan*.

Territory of Heard Island and McDonald Islands has the meaning given by the *Heard Island and McDonald Islands Act 1953*.

- (2) Geographic coordinates in this instrument are expressed in terms of the World Geodetic System of 1972 (WGS72).

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 Direction that fishing is not to be engaged in

- (1) A holder, or a person acting on a holder's behalf, is directed not to engage in fishing targeting mackerel icefish outside the part of the Fishery that is the Heard Island Plateau during the period that this instrument is in force.

Note: Mackerel icefish taken as incidental take outside of the parts of the Heard Island and McDonald Islands Fishery described in Schedule 2 will be decremented from the holder's quota holding.

- (2) A holder, or a person acting on a holder's behalf, is directed not to engage in fishing in the part of the Fishery that is between 12 and 13 nautical miles of the baseline of the Territory of Heard Island and McDonald Islands during the period that this instrument is in force.

Schedule 1—Repeals

Heard Island and McDonald Islands Fishery (Closures) Direction No. 1 2014

1 The whole of the Instrument

Repeal the instrument

Heard Island and McDonald Islands Fishery (Closures) Direction No. 2 2014

2 The whole of the Instrument

Repeal the instrument

Schedule 2—Heard Island Plateau

1 Heard Island Plateau

The area of the Heard Island Plateau is that part of the Fishery bounded by a line starting at the point described at item 1 in the table and running sequentially as described in the table.

Area of the Heard Island Plateau	
Item	Description
1	The point of intersection between the Australian-France Maritime Delimitation Agreement Southern Boundary and the meridian 72°15'E
2	South along that meridian to its intersection with the parallel 53°25'S
3	East along that parallel to its intersection with meridian 74°E
4	North-easterly along the geodesic to its intersection with 52°40'S 72°E
5	North along the meridian 72°E to its intersection with parallel 52°S
6	North-westerly along the geodesic to its intersection with 51°S 74°30'E
7	South-westerly along the Australian-France Maritime Delimitation Agreement Southern Boundary to the point of commencement

General conditions for the Heard Island and McDonald Islands (HIMI) Fishery - 2021/22

Conditions applying to this Statutory Fishing Right

In addition to the conditions specified by sub sections 22(3) and 22 (4A) of the *Fisheries Management Act 1991* (the Act), and the condition in sub section 42(2) of the Act to comply with any log book determination made by AFMA under subsection 42(1) of the Act, the following conditions are specified for the purposes of paragraph 22(4) (a) of the Act:

Note: Under sub section 22(5) of the Act these conditions may be varied, revoked or a further condition specified by written notice from AFMA.

The concession holder must also comply with all the obligations prescribed in the *Heard Island and McDonald Islands Fishery Management Plan 2002* (the Plan) in particular:

Section 12 titled	<i>Who may fish in the fishery;</i>
Section 13 titled	<i>Quantity of fish that may be taken;</i>
Section 28 titled	<i>Environmental requirements; and</i>
Section 30 titled	<i>Other obligations of holders of statutory fishing rights.</i>

Further, the concession holder must comply with all obligations prescribed in the *Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002* in particular:

Regulation 8 titled	Mesh size of trawl nets;
Regulation 9 titled	Size of fishing gear;
Regulation 10 titled	Net monitor cables;
Regulation 15 titled	Appointment of data collection officer;
Regulation 16 titled	Data collection officer's duties;
Regulation 17 titled	Payment of data collection officer;
Regulation 19 titled	Nominated surveyor's inspection;
Regulation 20 titled	Declaration by owner or operator;
Regulation 21 titled	Identification of International Telecommunications Union Radio/Call Sign (IRCS);
Regulation 22 titled	Identification of marker buoys;
Regulation 24 titled	Mechanical breakdown of meal plant;
Regulation 25 titled	Report to AFMA;
Regulation 26 titled	Contingency arrangements for breakdown of meal plant;
Regulation 27 titled	When contingency arrangements do not apply;
Regulation 29 titled	Disposal of fish meal;
Regulation 30 titled	CCAMLR inspections;
Regulation 31 titled	Inspections when in port;
Regulation 32 titled	Report on inspection;

Regulation 33 titled Packaging and labeling of fish; and
Regulation 34 titled Unloading of fish - notice requirements.

By section 42B (2) of the Act, Regulations may prescribe conditions that apply to fishing concessions. Regulations have been prescribed in the *Fisheries Management Regulations 2019* (FM Regulations) providing conditions that apply to this fishing concession in particular:

Regulation 33:	Nominated boat must be used on trip.
Regulation 37:	Concession holder to ensure that vessel monitoring system is fitted and operating.
Regulation 39:	Requirement to carry observer.
Regulation 40:	Concession holder to ensure provision for observer and equipment.
Regulation 41:	Concession holder to ensure observer is able to perform functions.
Regulation 44 - 65:	Catch limits.*
Regulation 66 - 68:	Fish processing during a trip.
Regulation 70:	No interaction with protected organism.
Regulation 71:	Reporting interaction with protected organism.
Regulation 72:	Requirements if protected organisms is injured by interaction.
Regulation 73:	Requirements if protected organisms killed by interaction.

* not applicable to some concessions

Any terms used in these conditions that are defined in the Act, the Plan, the *Fisheries Management (Heard Island and McDonald Islands) Regulations 2002* or FM Regulations are to be read consistently.

Area of the Fishery

1. This concession is granted for the area of the fishery as described in Schedule 1 of the Plan.

Area Limitations

2. The concession holder must not fish under this concession outside the area of the fishery.

Gear Limitations

3. The concession holder is permitted to use longline fishing methods to target Patagonian Toothfish (*Dissostichus eleginoides*) during the period 1 May to 14 September. Further, longline fishing to target Patagonian Toothfish is permitted during the longline season extension period 1 April to 30 April and 15 September to 30 November. The extensions to the longline fishing season is subject to a total catch limit of three (3) seabirds per boat as outlined in paragraph 15 below.
4. The concession holder must tow paired streamer lines when deploying longlines. Each of the two streamer lines must be set up in accordance with specifications of streamer lines and method of deployment given in Annex 25-02/A of CCAMLR Conservation Measure (CM) 25-02 (2018).

5. The concession holder must use internally weighted longlines with an integrated weight of at least 50g/m.
6. A bird exclusion device (BED) designed to discourage birds from accessing baits during the hauling of longlines must be deployed to the extent allowed by prevailing weather conditions. Guidelines for a BED are given in Annex 25-02/B of CCAMLR CM 25-02 (2018).
7. The concession holder may use trawl methods to target Patagonian Toothfish and Mackerel Icefish (*Champsocephalus gunnari*) from 1 December to 30 November but must not fish for Mackerel Icefish using mid-water trawl gear during the period 1 February to 31 March in any year.
8. The concession holder must not use any means or device which would obstruct or diminish the size of the meshes of trawl gear.
9. The concession holder shall ensure trawl nets are cleaned prior to shooting to remove items that might attract birds.
10. If three (3) or more seabirds are caught and killed by mid-water trawl gear used under this concession in a fishing season, the concession holder:
 - a. must immediately cease fishing using mid-water trawl gear during daylight hours (i.e. during the period after nautical dawn and before nautical dusk); and
 - b. may only fish using mid-water trawl gear during the hours of darkness between the times of nautical twilight (i.e. during the period after nautical dusk and before nautical dawn) for the remainder of that season.

Note: In these conditions nautical twilight means the times set forth in the Nautical Almanac tables for the relevant latitude, local time and date. A copy of the algorithm for calculating these times is available from the CCAMLR Secretariat.

11. The concession holder must ensure that the Fishery operates under Coordinated Universal Time (UTC) and that all times for boat operations are referenced to UTC.
12. The concession holder is permitted to use pot fishing method to target Patagonian Toothfish from 1 December to 30 November.
13. All pots must be fitted with an escape mechanism that must only be secured using a biodegradable or corrodible material to ensure that animals can freely escape from any lost pots.
14. During the period 1 December to 30 November the concession holder is permitted to retrieve any fishing gear that has previously been reported to AFMA as lost under paragraph 28 1(b) of the Plan or that has been lost by Illegal, Unreported or Unregulated (IUU) fishing operators.

Interactions with Seabird Obligations

15. If three (3) seabirds are caught during the season extension period outlined in Condition 3, longline fishing shall cease immediately for that boat for the remainder of the season extension in that fishing season.
16. If the boat nominated to this concession is involved in an incident that results in a seabird being caught, the concession holder must:
 - a. if the bird is alive, make every effort to ensure that the bird is released alive and that, wherever possible, any hooks are removed without jeopardising the life of the bird; or
 - b. if the bird is dead, ensure:
 - i. if feasible, the dead seabird is brought aboard the boat;
 - ii. provide whatever assistance is necessary for the observer to:
 - take photographs or video footage of the dead seabird;
 - keep whatever parts of the dead seabird the observer believes are necessary (including, in particular, leg rings of banded seabirds); and
 - collect any other data and make any other observations requested by AFMA.
 - c. immediately tell the observer on board the boat about the incident, and allow the observer to observe the consequences of the incident.
 - d. notify AFMA in writing about the incident within 24 hours after the incident, including:
 - i. number of seabirds caught;
 - ii. species of seabirds caught;
 - iii. life status of seabirds caught;
 - iv. type of bait used;
 - v. fishing gear and mitigation measures used and stage of operation when the seabird bycatch occurred;
 - vi. time of day/night of line setting and haul (UTC);
 - vii. date and location of the catch;
 - viii. any external factors (such as weather conditions and moon phase) that may influence seabird bycatch; and
 - ix. whether the bird is dead or alive, and, if applicable, a description of the injuries the bird sustained;
 - x. if the bird is banded;
 - xi. whether the seabird was retained on board the boat or released.
17. The concession holder has not complied with the above paragraph unless AFMA has replied in writing within 72 hours, stating that the concession holder's notification has been fully received. The concession holder must re-send the report if AFMA has not replied in writing within 72 hours.

Interactions with Marine Mammals Obligations

18. If the boat nominated to this concession is involved in an incident that results in an injury

to, or the death of, a marine mammal, the concession holder must:

- a. either:
 - i. if the mammal is injured ensure that the marine mammal is given as much assistance as is practicable; or
 - ii. if the mammal is dead,
 - a. provide whatever assistance is necessary for the observer to:
 - i. take photographs or video footage of the dead mammal; and
 - ii. while meeting any boat food safety requirements established by the Australian Department of Agriculture, Water and the Environment, keep whatever parts of the carcass the observer believes are necessary; and
 - iii. collect any other data, or make any other observations, requested by AFMA; and
 - b. discharge the remains of the carcass from the boat in a manner that does not attract birds or mammals to the boat;
- b. report the interaction to the observer on board the boat about the incident, and allow the observer to observe the consequences of the incident; and
- c. Notify AFMA in writing about the interaction within 24 hours after the incident.

19. The concession holder has not complied with the above paragraph unless AFMA has replied in writing within 72 hours from when the report was sent, stating that the holder's transmission has been fully received. The concession holder must re-send the report if AFMA has not replied in writing within 72 hours.

Interactions with other bycatch Obligations

20. All skates and rays must be brought on board or alongside the roller to be checked for tags and for their condition to be assessed. Unless otherwise specified by an observer, all other skates and rays caught alive with a high probability of survival should be released alive, cutting snoods, and when practical removing the hooks.

Movement Obligations

21. If the concession holder takes in any one haul more than 100 kg of *Champsocephalus gunnari* (Mackerel Icefish), and more than 10% of *Champsocephalus gunnari* by number are smaller than 240mm total length, the boat nominated to the concession shall:
- a. move to another fishing location at least 5 nautical miles distant;
 - b. must not set any gear at any point within 5 nautical miles of the location where the catch of small *Champsocephalus gunnari* exceeded 10% for a period of at least five days; and
 - c. notify AFMA via email AntarcticReporting@afma.gov.au about the move on obligation within 24 hours after the incident.
22. The location where the catch of small *Champsocephalus gunnari* exceeded 10% is defined as the path followed by the boat from the point at which the fishing gear was first

deployed from the boat to the point at which the fishing gear was retrieved by the boat.

Note: The total length of a mackerel icefish is considered to be the distance from the tip of the snout to the furthest tip of the tail.

23. If the concession holder takes in any one haul an amount of bycatch, regardless of whether it is retained or released, of:
- 5 tonnes or more of the species Unicorn Icefish; or
 - 3 tonnes or more of all *Macrourus spp* combined; or
 - 2 tonnes or more of Grey rockcod; or
 - 2 tonnes or more of *Somniosus spp*; or
 - 2 tonnes or more of skates and rays; or
 - 1 tonne or more of any other species for which bycatch limits apply.

The concession holder must:

- ensure that the boat does not, for five days at any point within 5 nautical miles of the location of the haul, use that same fishing method to fish; and
- notify AFMA in writing about the move on obligation within 24 hours after the incident.

Note: For a trawl the path is defined from the point at which the fishing gear was first deployed from the boat to the point at which the fishing gear was retrieved by the boat. For a longline the path is defined from the point at which the first anchor of a set was deployed to the point at which the last anchor of that set was deployed. For a longline, a haul refers to a single longline regardless of how contiguous sections of gear are connected

Handling and treatment of bycatch

24. The concession holder (or a person acting on the holder's behalf) must not mistreat bycatch.
25. The concession holder must, where reasonably possible, release alive shark taken as bycatch, especially juveniles and gravid females.

Definitions: For the purpose of clauses 23 and 24 above:

Mistreat: means taking, or failing to take, any reasonable action or actions, which results, or is likely to result, in the;

- death of, or
- injury to, or
- causing of physiological stress to any bycatch.

Bycatch: means any species that physically interact with fishing boats and/or fishing gear (including auxiliary equipment) and which are not usually kept by commercial fishers (Bycatch species may include fish, crustaceans, sharks, molluscs, marine mammals, reptiles and birds. Bycatch includes listed protected species under the *Environment Protection and Biodiversity Conservation Act 1999*.)

Notes: For the purposes of this condition ‘mistreat’ does not include the taking, or failing to take, action where it is reasonably necessary to take, or not take, the action;

- to ensure the safety of the boat and or its crew, or
- to comply with the requirements of any AFMA approved bycatch management plan(s) (these may include Seabird Management Plans, Vessel Management Plans etc.).

Transshipping Obligations

26. The concession holder must notify AFMA via email AntarcticReporting@afma.gov.au and the CCAMLR Secretariat via email data@ccamlr.org of any transshipments within the CCAMLR Convention Area by providing the following details:
 - a. Name;
 - b. IMO number;
 - c. International Radio Call Sign (IRCS);
 - d. Flag State;
 - e. proposed time, date and position, in latitude and longitude, of transshipment; and
 - f. details of the type and amount of harvested marine living resources and any other goods or materials to be transhipped.
27. Any transshipment notifications must be sent at least 72 hours in advance of the boat transshipping for harvested Antarctic marine living resources, bait or fuel and at least two (2) hours in advance for all other goods or materials to the Secretariat and AFMA using the template shown in Annex 10-09/A of CCAMLR CM 10-09 (2019).
28. The concession holder may, upon written approval from AFMA:
 - a. carry fish taken with the use of another boat on the nominated boat; or
 - b. tranship fish caught by the nominated boat to another boat by transferring at sea (or outside of a port) provided the observer agrees with the quantity transhipped as specified on the *Dissostichus* catch document, and notifies AFMA of their concurrence in writing via email AntarcticReporting@afma.gov.au.
29. The concession holder must, within three (3) working days of any of its vessels having transhipped within the Convention Area, confirm the information provided in accordance with paragraph 26 to the Secretariat and AFMA using the template shown in Annex 10-09/A of CCAMLR CM 10-09 (2019) or indicate if this information has changed.

Observer Obligations

30. The boat nominated to this concession must have at least two scientific observers, on board whilst conducting any fishing activities within the April season extension (1 April to 30 April) and whilst conducting the random stratified trawl survey.
31. The boat nominated to this concession must have at least one scientific observer on board

whilst conducting any fishing activities methods within the periods 1 December to 31 March and 1 May – 30 November..

32. One scientific observer may be a data collection officer as specified in paragraphs 33 and 34 below.
33. If the concession holder appoints a data collection officer as a scientific observer on board the nominated boat:
 - a. the data collection officer must be:
 - i. approved by AFMA; and
 - ii. employed by an agency on the Register of Accredited Agencies kept by AFMA; and
 - b. the concession holder must pay the agency with whom the data collection officer is employed a fixed daily rate that:
 - i. is not subject to the amount of fish caught;
 - ii. does not include the payment of a bonus; and
 - iii. is not paid directly to the data collection officer.
34. The concession holder must:
 - a. not direct the duties of the data collection officer;
 - b. ensure that the data collection officer has no other duties on the nominated boat relating to crewing the boat; and
 - c. ensure that the data collection officer works in cooperation with the other observer(s) on the boat.
35. The concession holder must give scientific observers the status of ship's officers. Accommodation and meals for scientific observers on board must be of a standard commensurate with this status. This is what AFMA considers to be adequate food and accommodation for the purpose of Division 5 regulation 40 of the FM Regulations.
36. The concession holder must not:
 - a. offer a scientific observer, either directly or indirectly, any gratuity, gift, favour, loan or anything of monetary value, except for meals and accommodations when provided by the vessel;
 - b. intimidate, or interfere with the duties of a scientific observer;
 - c. interfere with or bias the sampling procedure employed by a scientific observer;
 - d. tamper with, destroy, or discard a scientific observer's collected samples, equipment, records, photographic film, papers, or effects without the express consent of the observer;
 - e. prohibit, impede, threaten, or coerce, an observer from/into collecting samples, making observation, or otherwise performing the observer's duties;
 - f. harass a scientific observer; or
 - g. interfere with or prevent the observer from communicating with the Designating Member, including by preventing the scientific observer from having access to the vessel's communication equipment.

37. To obtain AFMA Scientific observer(s) for the nominated boat, the concession holder must provide AFMA via email observer@afma.gov.au with at least 35 days notice before the date of departure.
38. The concession holder must ensure that scientific observer/s are given assistance by the concession holder, the master of the boat and the crew members of the boat, and has access to all areas of the boat, so as to enable the observer/s to carry out their data collection duties to the extent reasonably necessary, as specified in the CCAMLR Scientific Observers Manual and Annex I of the Text of the Scheme of International Scientific Observation, as amended from time to time, without impediment or influence.
39. The concession holder must help each scientific observer on board the nominated boat:
- record the number, type and circumstance of each interaction of the nominated boat with seabirds or mammals;
 - record details of other boats sighted, and information about the activities of those boats in the AFZ including vessel type identification, vessel position, activity;
 - assist with meeting the tagging requirements for the fishery; and
 - cooperate and assist the observer with performing data collection requirements if requested by the observer (*e.g. Conversion Factor tests, lifting*).
40. The concession holder must not interfere with or prevent the scientific observer from communicating with his/her employer, including by preventing the scientific observer from having access to the boat's communication equipment.
41. The concession holder must ensure that any AFMA observer on board the nominated boat during a trip is given access to internet (available via wifi or cabling) for the purpose of:
- communicating with AFMA and other government agencies as required from time to time; and
 - reasonable personal use.
42. Where an observer onboard the boat is injured or falls ill the concession holder must:
- take all reasonable action to ensure they are provided with adequate medical care including, at the master's discretion, the immediate return of the boat or the evacuation of the observer to a location able to provide appropriate medical care;
 - immediately contact the AFMA Duty Officer (24hrs) by phone on +612 6275 5818 to report injury or illness; and
 - within 12 hours of an observer reporting to the Master of taking ill or suffering an injury which prevents them from completing their duties, inform AFMA via email AntarcticReporting@afma.gov.au of the following:
 - current condition of the observer;
 - likely illness or, in case of an injury, a detailed description of the cause of the injury;
 - treatment of the observer and if any further medical assistance is required or to be obtained;

- iv. extent of incapacity of the observer;
- v. expected duration of the illness/incapacity, if known;
- vi. current activity of the boat (e.g. steaming to port, fishing, searching); and
- vii. expected date of return to port.

43. If the illness or injury is likely to last less than five (5) days such as viruses, flu, sprained ankle or where the boat is likely to cease fishing within five (5) days and return to port:

- a. the boat may function with one observer (if there is one available);
- b. AFMA and the remaining observer will agree on a reduced program for observation for the duration of the illness. This will be done at the time and will depend on the expected activity of the boat and the level of contribution the incapacitated observer can continue to make (e.g. bird counts from the wheelhouse);
- c. the reduced program will still include elements of both fisheries and ecological data collection; and
- d. the holder and/or the master will report to AFMA at least every second day on the health of the ill observer and the effectiveness and practicality of the arrangements implemented.

44. If the illness or injury is likely to cause the observer to be unfit for duty for a period in excess of five (5) days:

- a. the holder must provide a crew member, suitable to the unaffected observer, to act as an assistant to the unaffected observer in their work;
- b. AFMA and the unaffected observer will agree on a reduced program for observation and suitable duties for the deputised crew member. This will be done at the time and will depend on the expected activity of the boat, the expertise of the deputised crew member and the level of contribution the incapacitated observer can continue to make (e.g. bird counts from the wheelhouse);
- c. the reduced program will still include elements of both fisheries and ecological data collection; and
- d. the holder and/or the master will report to AFMA at least every second day on the health of the incapacitated observer and the effectiveness and practicality of the arrangements implemented.

45. Should both observers fall ill or suffer an injury that simultaneously prevents both of them from carrying out their duties or if there is only one observer on board, the holder must advise AFMA within 12 hours of the observer, or both observers, reporting to the master of taking ill or suffering an injury:

- a. current condition of the observer/s;
- b. likely illness/es or, in case of an injury/s, a detailed description of the cause of the injury/s;
- c. treatment of the observer/s and if any further medical assistance is required or to be obtained;
- d. extent of incapacity of the observer/s;
- e. expected duration of the illness/incapacity, if known;
- f. current activity of the boat (e.g. steaming to port, fishing, searching); and

g. expected date of return to port.

46. Subject to the particular circumstances prevailing at the time, AFMA will advise the holder of an appropriate course of action, which may include a cessation of fishing activity, until at least one observer is fit enough to undertake their duties.

Note: For the purposes of these contingency arrangements an advice to AFMA is considered to be contacting the AFMA Observer Manager during office hours (8am-5pm, Monday to Friday) on telephone number +612 6225 5555 or 24 hours on +61 427 496 446 or email at AntarcticReporting@afma.gov.au. Email messages will not be taken to be received unless they are confirmed, in writing by AFMA within 72 hours. If unable to contact the AFMA Observer Manager advice may be made to the AFMA Duty Officer 24 hours on phone number +612 6275 5818.

47. In the event an observer dies, is missing or presumed fallen overboard, the concession holder must:
- a. immediately suspend all fishing operations;
 - b. immediately commence search and rescue if the observer is missing or presumed fallen overboard, and search for at least 72 hours, or until the search is called off by the Joint Rescue Coordination Centre (JRCC), unless the observer is found sooner, or unless instructed by the Receiving Member to continue searching;
 - c. immediately notify the AFMA Observer Manager during office hours (8am-5pm, Monday to Friday) on telephone number +612 6225 5555 or 24 hours on 0427 496 446, and email AntarcticReporting@afma.gov.au. If unable to contact the AFMA Observer Manager advice may be made to the AFMA Duty Officer 24 hours on phone number +612 6275 5818.
 - d. immediately notify the appropriate Rescue Coordination Centre and alert other boats in the vicinity by using all available means of communication;
 - e. cooperate fully in any search and rescue operation;
 - f. provide a report to the appropriate authorities on the incident; and
 - g. cooperate fully in any and all official investigations and with all directions, including by returning to port if appropriate, and preserves any potential evidence and the personal effects and quarters of the deceased or missing observer.
48. In the event an observer dies, the concession holder must ensure that the body is well-preserved for the purposes of an autopsy and investigation.
49. In the event that an observer suffers from a potentially serious illness or serious injury that may threaten his or her life or safety, the concession holder must seek medical advice through the relevant RCC. If the RCC has been advised by the pertinent medical professional that the observer suffers from a serious illness or injury that threatens his or her life or safety, the concession holder must:
- a. immediately suspend fishing operations;
 - b. immediately notify the Receiving Member and the RCC;
 - c. take all reasonable actions to care for the observer and provide any medical treatment available and possible on board the boat;

- d. if recommended by the RCC or requested by AFMA, facilitate the disembarkation and transport of the observer to a medical facility equipped to provide the required care, as soon as practicable; and
- e. cooperate fully in any and all official investigations into the cause of the illness or injury.

Reporting Obligations

- 50. At least 24 hours prior to a nominated boat leaving port to commence fishing, the concession holder must notify AFMA, via email to AntarcticReporting@afma.gov.au. The notification must include the name of the port of departure and an estimated time and date of departure.
- 51. The concession holder must notify the CCAMLR secretariat (via email to vms@ccamlr.org) before the boat enters, exits or moves between Statistical Subareas and Statistical Divisions of the CCAMLR Convention Area using the format outlined in Annex 10-04/A of CM 10-04 (2018) and notify AFMA (via email to AntarcticReporting@afma.gov.au) before the boat enters, exits or moves between Statistical Subareas and Statistical Divisions of the CCAMLR Convention Area including the HIMI Fishery and notify the Department of Agriculture, Water and the Environment (dairyeggfish@awe.gov.au) when the boat enters or exits the HIMI Fishery, using the format outlined in Appendix A.
- 52. Whilst fishing, the concession holder must transmit the form CCAMLR Data Form CEFv2022 (ten (10) day catch and effort report) before the third day after the end of each ten (10) day period (days 1-10, 11-20, 21-end of the month respectively) to the Data Manager via email AntarcticReporting@afma.gov.au and AAD via email AntarcticObserver@aad.gov.au.
- 53. For trawl operations, the concession holder must:
 - a. ensure the CCAMLR Data Form CEFv2022, CCAMLR Data Form C1v2022a (electronic Fine-Scale Catch and Effort Data for Trawl Fisheries) is accurately completed in accordance with the instructions contained in the electronic logbooks;
 - b. ensure that within seven (7) days after the end of the month in which fishing took place, CCAMLR Data Form C1v2022a is supplied to the AFMA Data Manager (via email AntarcticReporting@afma.gov.au), to AAD (via email AntarcticObserver@aad.gov.au) and to the Department of Agriculture, Water and the Environment (via email dairyeggfish@awe.gov.au); and
 - c. ensure that before exiting the HIMI Fishery at the completion of a trip the CCAMLR Data Form C1v2022a is supplied to the AFMA Data Manager (via email AntarcticReporting@afma.gov.au), to AAD (via email AntarcticObserver@aad.gov.au) and to the Department of Agriculture, Water and the Environment (via email dairyeggfish@awe.gov.au).
- 54. For longline operations, the concession holder must:

- a. ensure the CCAMLR Data Form CEfv2022, CCAMLR Data Form C2v2022a (electronic Fine-Scale Catch and Effort Data for Longline Fisheries) is accurately completed in accordance with the instructions contained in the electronic logbooks;
- b. ensure that within seven (7) days after the end of the month in which fishing took place, CCAMLR Data Form C2v2022a is supplied to the AFMA Data Manager via email AntarcticReporting@afma.gov.au, to AAD (via email AntarcticObserver@aad.gov.au) and to the Department of Agriculture, Water and the Environment (via email dairyeggfish@awe.gov.au); and
- c. ensure that before exiting the HIMI Fishery at the completion of a trip , CCAMLR Data Form C2v2022a is supplied to the AFMA Data Manager via email AntarcticReporting@afma.gov.au, to AAD (via email AntarcticObserver@aad.gov.au) and to the Department of Agriculture, Water and the Environment (via email dairyeggfish@awe.gov.au).

55. For pot operations, the concession holder must:

- a. ensure the CCAMLR Data Form CEfv2022, CCAMLR Data Form C5v2022a (electronic Fine-Scale Catch and Effort Data for Pot Fisheries, including Pot Design) are accurately and fully completed in accordance with the instructions contained in the electronic logbooks;
- b. ensure that within seven (7) days after the end of the month in which fishing took place, CCAMLR Data Form C5v2022a is supplied to the AFMA Data Manager via email AntarcticReporting@afma.gov.au, to AAD via email AntarcticObserver@aad.gov.au and to the Department of Agriculture, Water and the Environment via email dairyeggfish@awe.gov.au; and
- c. ensure that before exiting the HIMI Fishery at the completion of a trip , CCAMLR Data Form C5v2022a are supplied to the AFMA Data Manager via email AntarcticReporting@afma.gov.au, to AAD via email AntarcticObserver@aad.gov.au and to the Department of Agriculture, Water and the Environment via email dairyeggfish@awe.gov.au.

56. If it is not possible to transmit via electronic logbook any one or more reports referred to within the time frames, then the concession holder must contact the AFMA Data Manager via email AntarcticReporting@afma.gov.au to identify alternative means to provide the information to AFMA.

57. If it is not possible to transmit any one or more of the reports or an acknowledgment of any of those reports is not received within nine (9) days of the end of a reporting period, then the concession holder must:

- a. immediately stow all fishing gear and take the boat directly to a port;
- b. as soon as possible, report to AFMA that the boat is being, or has been, taken to the above-mentioned port with gear stowed, due to an inability to transmit the reports; and
- c. as soon as possible (whether before or after arriving at port), transmit any outstanding reports to AFMA.

Note: A transmission will not be taken to have been received by AFMA unless a return email is

sent by AFMA within 72 hours and received by the concession holder/Master in reply, stating that the complete report has been received. The concession holder must re-send the report if AFMA has not replied in writing within 72 hours.

58. The concession holder must record and at the end of each fishing trip report to AFMA, via email AntarcticReporting@afma.gov.au, the total number and weight of each species taken, including amounts taken for personal consumption or rendered to offal. These amounts will be decremented against quota allocations and the total allowable catch for each species.

Reporting of Boat Sightings

59. The concession holder must ensure, in the event that the master of the boat sights a fishing boat within the Convention Area that is not authorised to fish in the HIMI fishery, that the master documents as much information as possible on each such sighting, including:
- a. name and description of the boat;
 - b. boat call sign;
 - c. registration number and the Lloyds/IMO number of the boat;
 - d. Flag State of the boat;
 - e. photographs of the boat to support the report; and
 - f. any other relevant information regarding the observed activities of the sighted boat.
60. The concession holder must ensure that the master forwards a report containing the information referred to in the above paragraph to AFMA via email AntarcticReporting@afma.gov.au as soon as possible.

Other Obligations

61. The concession holder must ensure that no offal or bycatch is discharged from the boat in the fishery or within the exclusive economic zone (EEZ) of another country, unless in compliance with paragraphs 20 and 25 or if offal is discharged in the EEZ southwest of the following line:
- a. 069°30' East, and the point that intersects with the HIMI / Kerguelen EEZ
 - b. 53°00' South, 070°30' East
 - c. 54°30' South, 070°30' East
 - d. 55°30' South, 072°30' East
 - e. 56°00' South, and the point that intersects with the HIMI EEZ.

Notes: If discharging offal in the waters described above, the concession holder must advise AFMA in writing via email AntarcticReporting@afma.gov.au within 24 hours after the completion of the offal discharge, including the time (UTC) and coordinates where the discharge took place.

In this paragraph:

- a. 'offal' is defined as bait and by-products from the processing of fish and other organisms, including parts or sections of fish or organisms which are by-products of processing
- b. 'discards' are defined as whole fish or other organisms returned to the sea dead or with low expectation of survival, as described in the Observer Longline Logbook 'Observed Haul Catch' form instructions.

62. Before any offal is discharged from the nominated boat the concession holder must remove all fish hooks from the offal prior to discharge.

63. The concession holder must ensure that no plastics are discharged into the sea, in accordance with MARPOL Annex V on Regulations from the Prevention of Pollution by Garbage from ships.

Note: MARPOL Annex V, paragraph 1 does not apply to:

(i) the discharge of plastics from a vessel necessary for the purpose of securing the safety of a vessel and those on board or saving life at sea; or

(ii) the accidental loss of plastics resulting from damage to a vessel or its equipment provided that all reasonable precautions have been taken before and after the occurrence of the damage, to prevent or minimise the accidental loss; or,

(iii) the accidental loss of fishing gear consisting of or containing plastic from a vessel provided that all reasonable precautions have been taken to prevent such loss; or

(iv) the discharge of fishing gear consisting of or containing plastic from a vessel for the protection of the marine environment or for the safety of that vessel or its crew.

64. The concession holder must ensure that no plastic packaging bands are used to secure bait boxes.

65. The concession holder must not use plastic packaging bands for any other purposes on the fishing vessel unless there is an on-board incinerator (closed system). The concession holder must ensure that any packaging bands, once removed from packages, shall be cut into approximately 30cm sections so that they do not form a continuous loop and at the earliest opportunity are incinerated. Any plastic residue shall be stored on board the vessel until it can be discharged at adequate port reception facilities and in no case discarded at sea.

66. The concession holder, is prohibited from dumping or discharging oil or fuel products or oily mixtures into the sea, in accordance with MARPOL Annex I.

67. The concession holder must ensure that an extract from the Register, or a true copy of it, is carried by the fishing boat and is available for inspection at any time by a maritime officer or a designated CCAMLR inspector.

68. For the boat nominated to this concession, at all times when the boat is being used under this concession, the concession holder must have provided to AFMA via email

AntarcticReporting@afma.gov.au a current emergency contact facility for the nominated boat.

69. The emergency contact facility provided by the concession holder must enable AFMA to contact the boat immediately and directly at any time when the boat is at sea, including in the event of an emergency.

Note: The emergency contact facility may take the form of a satellite phone number, or skipper or crew member's mobile phone number - any number that may be used by AFMA to contact the boat while it is at sea at any time, including in the event of an emergency.

70. The concession holder must immediately notify AFMA of any change in contact details, via email to AntarcticReporting@afma.gov.au; and the boat must not depart on a fishing trip unless AFMA has been so notified of the change in contact details.
71. The concession holder must ensure that the unload of any toothfish product does not commence until an authorised inspector is present.

Catch Documentation Scheme

72. The concession holder must:
- ensure that each landing or transshipment of *Dissostichus* species is accompanied by an accurately completed DCD as outlined in Annex 10-05/A, Attachment 1 of CCAMLR CM 10-05 (2021); and
 - send a copy of the completed DCD by electronic means to AFMA via email AntarcticReporting@afma.gov.au.

In this clause:

"DCD": means a *Dissostichus* catch document.

"transshipment": means the transfer of *Dissostichus* species that have not previously been landed, from one boat to another, either at sea or in port.

"landing": means the initial unloading or transfer of *Dissostichus* spp. in any form from a boat to dockside, even if subsequently transferred to another boat, in a port or free-trade zone where the *Dissostichus* spp. are certified by an authority of the Port state as landed. The definition also includes the offload or transfer in port of *Dissostichus* species from a vessel to a container.

73. The concession holder must land catch only in States that are fully implementing the CCAMLR Catch Documentation Scheme (CDS) as listed in Appendix B.

Vessel Monitoring System Obligations

74. The concession holder must have installed on the nominated boat an operational Automatic Location Communicator (ALC) at all times. The ALC must meet the minimum standards contained in Annex 10-04/C to CCAMLR CM 10-04 (2018).

In this clause: an ALC means a satellite position transmitter that is capable of continuously, automatically and independently of any intervention of the vessel, transmitting the vessel monitoring system (VMS) data.

75. The concession holder must ensure that:
- i. the ALC is not tampered with in any way;
 - ii. VMS data are not altered in any way;
 - iii. the antennae connected to the ALC is not obstructed in any way;
 - iv. the power supply to the ALC is not interrupted in any way; and
 - v. the ALC must not be moved from the boat, except for the purpose of repair or replacement.
76. If the ALC fails to transmit VMS data while at sea, manual positional reports must be provided every four hours to AFMA (via email to VMSreporting@afma.gov.au) and the CCAMLR Secretariat (via email to vms@ccamlr.org).
77. If the ALC fails to transmit VMS data, the concession holder must repair or replace the ALC as soon as possible, and within two months of the VMS data transmission failure.
78. When in port, if the nominated boat is undergoing maintenance, berthed for an extended period or in other exceptional circumstances that render ALC operation impractical, the concession holder can apply for a Temporary Switch Off (TSO) by sending a completed 'Application for VMS Temporary Switch Off' form to AntarcticReporting@afma.gov.au at least 72 hours prior to the ALC being switched off.
79. The concession holder must ensure that the ALC is not be switched off without first obtaining a TSO.
80. The concession holder must ensure that the nominated boat does not move from the place stipulated under the TSO without prior written approval from AFMA.

Direction to Fit

81. When directed by AFMA in writing, the concession holder (or a person acting on the holder's behalf) must:
- a. make available, within 14 days of the date of the written direction, the boat nominated to this concession for the purposes of installation of an AFMA ALC unit by an AFMA marine technician; and
 - b. provide all reasonable assistance to the AFMA marine technician including (but not limited to);
 - i. the provision of an un-interrupted connection to the boat's main power source, and
 - ii. an appropriate position for the mounting of the AFMA ALC unit.
82. When directed by AFMA in writing, the concession holder (or a person acting on the holder's behalf) must:
- a. make available, within 14 days of the date of the direction, the boat nominated to

this concession for the purposes of removal of the AFMA ALC unit by an AFMA approved technician; and

- b. Provide all reasonable assistance to the AFMA marine technician.

The concession holder must not interfere with the AFMA VMS Unit

83. The concession holder (or a person acting on the holder's behalf) must not interfere, or attempt to interfere, with the operation of the AFMA ALC Unit.

Definitions:

AFMA ALC Unit: An Automatic Location Communicator unit wholly owned by AFMA, marked with AFMA identifications and supplied by AFMA and fitted by an AFMA approved technician.

Interfere: For the purposes of these conditions 'interfere' includes, but is not limited to;

- Physical obstruction or removal of the AFMA ALC unit, or
- Deliberately disconnecting or otherwise interfering with the power supply to the AFMA ALC unit, or
- Deliberate physical interference with the casing or any external or internal components of the AFMA ALC unit.

Notes:

Must Make boat available: Where the boat is not made available in accordance with condition 15 1 (a) or 15 2(a), AFMA may suspend this concession pursuant to paragraph 38(1)(c) of the Act.

Must maintain ALC Unit: Regardless of AFMA's decision to fit an AFMA ALC unit, the holder must continue to maintain an ALC in accordance with regulation 37 of the FM Regulations.

Remains the property of AFMA: At all times the AFMA ALC unit remains the sole property of the Commonwealth of Australia, as represented by AFMA. The holder is liable to the Commonwealth of Australia for the payment of any costs incurred as a result of loss or damage to the unit.

Agent Obligations

84. The concession holder accepts concurrent liability for all conduct infringing the Act, any

delegated legislation made under the Act or any condition on their concession by its servants or agents who may be engaged by the concession holder to conduct on the holder's behalf activity under this concession.

85. Liability for the conduct of the concession holder's servants or agents arises, even if the conduct may be, or actually is, beyond the scope of the servant or agent's actual or apparent authority where it is a breach that occurs during the conduct of activity authorised by this concession.
86. The concession holder may avoid concurrent liability for conduct whilst conducting activity under this concession if, but only if, the holder can establish that the infringing conduct could not possibly have been prevented by any action or precaution that the holder might have reasonably taken. The giving of an indemnity by the servant or agent to the concession holder for any penalties incurred by the holder, for infringing conduct by the servant or agent is not, of itself, a reasonable precaution to prevent infringing conduct.
87. The concession holder must not give any indemnity to their servant or agent as to their conduct of activity authorised by this concession.

Temporary Orders Obligations

88. The concession holder must comply with any Temporary Order made by AFMA under sub section 43(2) of the Act and to the extent that any concession condition is inconsistent with a Temporary Order sub section 43(9) provides that the concession condition is overridden by the Temporary Order until the Temporary Order ceases to have effect.

Direction Obligations

89. The concession holder must comply with any Direction that fishing is not to be engaged in in the fishery, or a particular part of the fishery or during a particular period or periods made under sub section 41A of the Act.

Navigating in Closed Zones

90. AFMA may suspend this concession in accordance with this condition, pursuant to section 38(1)(c) of the Act, if it reasonably appears by VMS transmission from the nominated boat, that there is a failure by that boat while in a closed zone for the purposes of Division 3 regulation 85 of the FM Regulations, to meet the exempting provisions of sub regulations 86(2), or (3). Such suspension will then continue until the concession holder provides a full written explanation, to the satisfaction of the delegate responsible for issuing that suspension, of the lawful reason for the boat being in that closed zone at that time, or until the expiration of the suspension under sub section 38(2); whichever is the earlier.

Inspections when in port

91. The concession holder must, at least 48 hours in advance of port entry:
 - a. Provide the information required in the template within CM 10-03 (2019) Annex 10-03/A to the Port State and AFMA at AntarcticReporting@afma.gov.au; and
 - b. Convey a written declaration that they have:
 - i. not engaged in or supported IUU fishing in the CCAMLR Convention Area; and
 - ii. complied with relevant requirements.
92. The concession holder must, on request by a person, allow the person to inspect the holder's nominated boat if:
 - a. the boat is anchored or moored at a port in a State or Territory of Australia, or at a port in another country; and
 - b. the person is authorised to inspect the boat under a law of the State, Territory or country.
93. If an inspection is conducted:
 - a. at a port in a country other than Australia; and
 - b. by a person who is authorised to do so under a law of that country relating to fisheries; the concession holder must, within 72 hours after the inspection, send AFMA a notification of the inspection, via email AntarcticReporting@afma.gov.au. The notification must include the following details:
 - i. the nominated boat's name;
 - ii. the data and time of the inspection;
 - iii. the location of the boat when the inspection was conducted; and
 - iv. the nationality of the inspection agency.

APPENDIX A – Exit and Entry information

Data element	Remarks
Radio call sign:	<i>{record radio call sign of the boat}</i>
IMO Number:	<i>{record the boats IMO number here}</i>
Vessel Name:	<i>{record the boat name}</i>
Latitude:	<i>{record Latitude - direction of exit/entry/movement}</i>
Longitude:	<i>{record Longitude – direction of exit/entry/movement}</i>
Date (UTC):	<i>{record date of entry, exit or movement}</i>
Time (UTC):	<i>{record time of entry, exit or movement}</i>
Subarea/division/area exit:	<i>{record the CCAMLR subarea or division being exited or moved to}</i>
Subarea/division/area entry:	<i>{record the CCAMLR subarea or division being entered or moved to}</i>
Activity:	<i>{transiting, transshipping, fishing for toothfish, fishing for icefish, offal discharge}</i>

Addition Information: (not required if leaving the zone, returning and fishing is to continue)

Port of Registry :	<i>{record port name here}</i>
Flag:	Australia
MMSI:	<i>{record MMSI number here}</i>
Is all fishing gear stowed:	<i>{record Yes or No here}</i>

We have on board the following quantities and species (where applicable, this is not required if leaving the zone, returning and fishing is to continue)

<u>Total Kilos</u> : {record total kilos}	<i>{record common species name}</i>	<i>{record scientific species name}</i>
<u>Total Kilos</u> : {record total kilos}	<i>{record common species name}</i>	<i>{record scientific species name}</i>

If you need to add more species please add further lines and record the total kilos, common name and scientific name.

APPENDIX B- States that are fully implementing the CCAMLR Catch Documentation Scheme (CDS)

CCAMLR Members

Argentina
Australia
Belgium
Brazil
Chile
China, People's Republic of
European Union
France
Germany
India
Italy
Japan
Korea, Republic of
Namibia
Netherlands
New Zealand
Norway
Poland
Russian Federation
South Africa
Spain
Sweden
Ukraine
United Kingdom of Great Britain and Northern Ireland
United States of America
Uruguay

Acceding States

Bulgaria
Canada
Cook Islands
Finland
Greece
Mauritius
Pakistan, Islamic Republic of

Panama, Republic of
Peru
Vanuatu



Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002

Statutory Rules No. 115, 2002

made under the

Fisheries Management Act 1991

Compilation No. 3

Compilation date:	1 October 2019
Includes amendments up to:	F2019L00380
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About this compilation

This compilation

This is a compilation of the *Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002* that shows the text of the law as amended and in force on 1 October 2019 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Introduction

1 Name of Regulations

These Regulations are the *Fisheries Management (Heard Island and McDonald Islands Fishery) Regulations 2002*.

3 Interpretation

- (1) In these Regulations:

Act means the *Fisheries Management Act 1991*.

IRCS, for a nominated boat, means the International Telecommunications Union Radio/Call Sign.

Management Plan means the *Heard Island and McDonald Islands Fishery Management Plan 2002*.

nominated surveyor means a marine surveyor nominated by AFMA to conduct a safety assessment.

office hours means the hours between 9 am and 4 pm on a day that is not a Saturday, Sunday, public holiday or bank holiday in Canberra.

safety assessment means an assessment conducted under Division 5.3.

- (2) An expression used in these Regulations and in the Management Plan has the same meaning in these Regulations as it has in the Management Plan.

Note: The following terms are defined in section 3 of the Management Plan:

- area of the fishery
- CCAMLR
- eligible boat
- fishery
- holder
- ICVMS
- identification code
- nominated boat
- observer
- owner
- statutory fishing right.

Part 4—Use of certain gear

8 Mesh size of trawl nets

- (1) The holder of a statutory fishing right may use a trawl net to fish for Patagonian toothfish (*Dissostichus eleginoides*) or mackerel icefish (*Champsocephalus gunnari*) only if:
 - (a) the trawl net has a mesh size of at least:
 - (i) for Patagonian toothfish—120 millimetres at every part of the net; or
 - (ii) for mackerel icefish—90 millimetres at every part of the net; or
 - (b) the holder is acting in accordance with a scientific permit granted to the holder.

Penalty: 25 penalty units.

Note: See section 33 of the Act about the grant of a scientific permit and section 15 of the Management Plan about using a boat in the area of the fishery for scientific research.

- (2) In this regulation:

mesh size, for a net, means the mesh size of the net measured in accordance with the method described in Articles 1 to 6 (inclusive) of CCAMLR Conservation Measure 22-01 (1986), set out in Schedule 1.

- (3) An offence against subregulation (1) is an offence of strict liability.

9 Size of fishing gear

- (1) The holder of a statutory fishing right must not use either of the following for fishing in the area of the fishery:
 - (a) a bobbin that is less than 520 millimetres in diameter;
 - (b) a rock hopper rubber disc that is less than 400 millimetres in diameter.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

10 Net monitor cables

- (1) The holder of a statutory fishing right must not use a net monitor cable when the holder's nominated boat is in the area of the fishery.

Penalty: 25 penalty units.

- (2) In this regulation:

net monitor cable means a cable used to link the nominated boat to a monitor attached to a part of the net.

- (3) An offence against subregulation (1) is an offence of strict liability.

Part 5—Requirements for observers

Division 5.2—Data collection officers

15 Appointment of data collection officer

- (1) The holder of a statutory fishing right may appoint a data collection officer as an observer on board the holder's nominated boat.
- (2) The holder must not appoint a data collection officer:
 - (a) without AFMA's written permission; or
 - (b) who is not accredited by AFMA; or
 - (c) who is not employed by an agency on the Register of Accredited Agencies kept by AFMA.

Penalty: 25 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

16 Data collection officer's duties

- (1) A data collection officer appointed under subregulation 15(1) must give any information he or she collects on the nominated boat to AFMA or AFMA's agent.

Penalty: 25 penalty units.

- (2) The holder who appointed the data collection officer:
 - (a) must not direct the duties of the data collection officer; and
 - (b) must ensure that the data collection officer has no other duties on the nominated boat relating to crewing or manning the boat; and
 - (c) must ensure that the data collection officer works in cooperation with other observers on board the boat.

Penalty: 25 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

17 Payment of data collection officer

- (1) The holder of a statutory fishing right who appoints a data collection officer under subregulation 15(1) must pay the agency by whom the data collection officer is employed a fixed daily sum that:
 - (a) is not subject to the amount of fish caught; and
 - (b) does not include the payment of a bonus; and
 - (c) is not paid directly to the data collection officer.

Penalty: 25 penalty units.

Regulation 17

- (2) An offence against subregulation (1) is an offence of strict liability.

Division 5.3—Safety assessment

18 Meaning of *relevant boat*

For this Division, a boat is a ***relevant boat*** if:

- (a) the holder of a statutory fishing right intends to apply to AFMA to have the boat registered as a nominated boat; and
- (b) the holder has asked AFMA to arrange for a nominated surveyor to conduct a safety assessment of the boat.

19 Nominated surveyor's inspection

- (1) The holder of a statutory fishing right for a relevant boat must, on request by the nominated surveyor for the boat, allow the nominated surveyor to inspect:
 - (a) all safety and lifesaving equipment on board the boat; and
 - (b) all areas of the boat that are proposed to be used by an observer, including:
 - (i) accommodation; and
 - (ii) bathing and meal areas; and
 - (iii) any deck area, including the gantries, where the observer may need to carry out his or her duties.
- (2) The holder must, on request by the nominated surveyor, allow the nominated surveyor to inspect the following documents relating to the boat:
 - (a) statutory and classification society certificates;
 - (b) the ship's log;
 - (c) the muster list;
 - (d) all certificates for lifesaving, safety equipment and medical outfit.

20 Declaration by owner or operator

- (1) The owner or operator of a relevant boat must, on request by the nominated surveyor for the boat:
 - (a) make a written declaration that:
 - (i) the boat satisfies the survey requirements of:
 - (A) a certificate of survey for a fishing vessel (USL Code Class 3A) issued under the *Navigation Act 1912* by AMSA; or
 - (B) any of the following classification societies:
 - (I) American Bureau of Shipping;
 - (II) Bureau Veritas;
 - (III) Det Norske Veritas;
 - (IV) Germanischer Lloyd;
 - (V) Lloyd's Register of Shipping;
 - (VI) Nippon Kaiji Kyokai; and
 - (ii) each officer has a valid certificate of competency; and
 - (b) allow the nominated surveyor to inspect the declaration.

Regulation 20

(2) In this regulation:

AMSA means the Australian Maritime Safety Authority established under subsection 5(1) of the *Australian Maritime Safety Authority Act 1990*.

Part 6—Boat and fishing gear marking requirements

21 Identification of International Telecommunications Union Radio/Call Sign (IRCS)

- (1) The holder of a statutory fishing right must ensure that, when the holder's nominated boat is in the area of the fishery, the boat's IRCS is displayed in accordance with subregulations (2) and (3).

Penalty: 25 penalty units.

- (2) The IRCS must be shown on the boat's deck and each side of the hull.
- (3) The characters of the IRCS:
 - (a) must be in block form; and
 - (b) must be:
 - (i) white on a black background; or
 - (ii) black on a white background; and
 - (c) on the hull, must be:
 - (i) at least 1 metre high; and
 - (ii) of a width that is proportionate to the height; and
 - (iii) for adjacent letters with sloping sides (for example, *A* and *V*)—separated by a space of at least 10 centimetres and no more than 12.5 centimetres; and
 - (iv) for any other characters—separated by a space of no more than 16.6 centimetres; and
 - (d) on the deck, must be:
 - (i) at least 30 centimetres high; and
 - (ii) of a width that is proportionate to the height; and
 - (iii) for adjacent letters with sloping sides (for example, *A* and *V*)—separated by a space of at least 3 centimetres and no more than 3.75 centimetres; and
 - (iv) for any other characters—separated by a space of no more than 5 centimetres.
- (4) This regulation applies in addition to Part 9 of the *Fisheries Management Regulations 2019*.
- (5) An offence against subregulation (1) is an offence of strict liability.

22 Identification of marker buoys

- (1) The holder of a statutory fishing right must ensure that, when the holder's nominated boat is in the area of the fishery, a marker buoy or similar object that belongs to the boat, and is used to indicate the location of fixed or set fishing gear, is clearly marked with the boat's IRCS.

Part 6 Boat and fishing gear marking requirements

Regulation 22

Penalty: 25 penalty units.

(2) An offence against subregulation (1) is an offence of strict liability.

Part 7—Contingency arrangements in certain events

Division 7.1—Contingency arrangements—breakdown of meal plant

23 Application of Division

This Division applies to the holder of a statutory fishing right if, while in the area of the fishery:

- (a) the meal plant on the holder's nominated boat breaks down; and
- (b) it is not practicable to retain all offal and bycatch on board the boat.

24 Mechanical breakdown of meal plant

- (1) For subsection 28(4) of the Management Plan, the holder must, immediately after a mechanical breakdown of the meal plant:
 - (a) tell the observers on board the nominated boat that the meal plant has broken down; and
 - (b) stop fishing; and
 - (c) if there is catch on board the nominated boat to be processed:
 - (i) move the boat at least 5 nautical miles from the fishing area; and
 - (ii) process the remainder of the catch; and
 - (iii) discharge all waste.

Penalty: 25 penalty units.

Note: If it is necessary to discharge offal, AFMA recommends that the offal:

- (a) be discharged whole rather than macerated; and
- (b) not be discharged during trawling and shooting; and
- (c) be discharged at night.

If it is not practicable to discharge offal at night, or to avoid discharging offal during trawling or shooting, the holder may discharge the offal in whole, from the side of the boat and at any speed.

- (2) Within 48 hours after the breakdown of the meal plant, the holder:
 - (a) must repair the meal plant and give AFMA a report on the breakdown and repair in accordance with regulation 25; or
 - (b) must give AFMA a report on the breakdown in accordance with regulation 25 and seek AFMA's approval to adopt the contingency arrangements set out in subregulation 26(1).

Penalty: 25 penalty units.

- (3) If the breakdown of the meal plant occurs after office hours, the holder must notify the AFMA Duty Officer about the breakdown by telephone on: 0419 205 329.

Penalty: 25 penalty units.

Regulation 25

- (4) In this regulation:

fishing area, for a nominated boat, means the area in which the nominated boat has undertaken fishing activities in the 120 hours before the breakdown of the boat's meal plant.

- (5) An offence against subregulation (1), (2) or (3) is an offence of strict liability.

25 Report to AFMA

- (1) For subregulation 24(2), the holder of a statutory fishing right must include the following information in a report to AFMA:
- (a) the date, time, location and activity of the nominated boat when the breakdown occurred;
 - (b) the exact circumstances of the breakdown;
 - (c) the actions taken when the breakdown occurred, including:
 - (i) how soon fishing stopped after the breakdown; and
 - (ii) the approximate amount of fish processed; and
 - (iii) the location of the discharge of offal (if any);
 - (d) if the meal plant has been repaired, the time when the meal plant was repaired and the time when fishing resumed;
 - (e) if the meal plant is being repaired when the report is sent to AFMA, the estimated time needed to complete the repairs;
 - (f) if repairs to the meal plant must be carried out in port, the estimated date of return to port.
- (2) The holder:
- (a) must address the report to the Manager, Sub-Antarctic Fisheries, Australian Fisheries Management Authority; and
 - (b) must send the report:
 - (i) by fax to:
612 6272 5784; or
 - (ii) by e-mail to:
himie@afma.gov.au.
- (3) As soon as practicable after receiving the report, AFMA must tell the holder:
- (a) that AFMA has received the report; and
 - (b) whether AFMA agrees to the holder adopting the contingency arrangements set out in subregulation 26(1).

26 Contingency arrangements for breakdown of meal plant

- (1) For paragraph 24(2)(b), the following contingency arrangements apply:
- (a) offal must not be discharged when:
 - (i) fishing gear is in the water; or
 - (ii) the nominated boat is in the territorial waters of the Territory of Heard Island and McDonald Islands;

- (b) at least once a day and at different times, the observer must observe the offal discharge and record:
 - (i) the date, location, weather and sea conditions during the observation; and
 - (ii) the approximate amount of offal discharged during the observation; and
 - (iii) the behaviour of the discharge; and
 - (iv) the location and activity of the nominated boat during the discharge; and
 - (v) the interaction of seabirds and marine mammals with the discharge;
 - (c) the observer must try to collect random samples of the offal discharge for analysis.
- (2) If the holder cannot comply with the contingency arrangements in subregulation (1), the holder:
- (a) must stop fishing in the area of the fishery; and
 - (b) must stow all fishing gear;
- until after the meal plant is repaired.
- Penalty: 25 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.

27 When contingency arrangements do not apply

- (1) If AFMA notifies the holder or master of the nominated boat that it is satisfied, on reasonable grounds, that the holder or master was aware, before leaving port, that the meal plant was not, or was likely not to be, working:
- (a) the contingency arrangements in subregulation 26(1) do not apply; and
 - (b) the boat must return to port.
- (2) The holder or master of the boat must return the boat to port if he or she receives a notice under subregulation (1).
- Penalty: 25 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.

Division 7.2—Contingency arrangements—disposal of fish meal

28 Application of Division

This Division applies to the holder of a statutory fishing right if, while the nominated boat is in the area of the fishery:

- (a) a batch of fish meal on the holder's nominated boat contains more than 10.5% moisture; or
- (b) the holder reasonably believes that there is a risk that the batch will spontaneously ignite.

29 Disposal of fish meal

- (1) For subsection 28(5) of the Management Plan, the holder:
 - (a) must tell the observers on board the nominated boat of the intention to discharge a batch of fish meal from the boat; and
 - (b) must ensure that, when the batch is being discharged, at least 1 of the observers monitors the discharge; and
 - (c) must ensure that the observer records, in writing in the observer's report to AFMA:
 - (i) the date, time and location of the discharge; and
 - (ii) the weather and sea conditions at the time of the discharge; and
 - (iii) the amount of fish meal discharged; and
 - (iv) the reason for the discharge, including the temperature or moisture content of the fish meal; and
 - (v) the behaviour of the discharge; and
 - (vi) any interactions of birds or marine mammals with the fish meal.

Penalty: 25 penalty units.

- (2) The holder:
 - (a) must give AFMA written notice about the discharge of the fish meal within 48 hours after the discharge occurs; and
 - (b) must address the notice to the Manager, Sub-Antarctic Fisheries, Australian Fisheries Management Authority; and
 - (c) must send the notice:
 - (i) by fax to:
612 6272 5784; or
 - (ii) by e-mail to:
himie@afma.gov.au.

Penalty: 25 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Part 8—Inspection requirements

30 CCAMLR inspections

- (1) The holder of a statutory fishing right must allow a CCAMLR inspector to board the holder's nominated boat, and conduct an inspection, in accordance with the CCAMLR System of Inspection.

Penalty: 25 penalty units.

- (2) Within 48 hours after an inspection is conducted, the holder must give AFMA a report on the inspection in accordance with regulation 32.

Penalty: 25 penalty units.

- (3) In this regulation:

CCAMLR inspector means an inspector who is on the register of certified inspectors maintained by CCAMLR under the CCAMLR System of Inspection.

CCAMLR System of Inspection means the system described in the document called 'Text of the CCAMLR System of Inspection', as adopted by CCAMLR and in force at the commencement of this regulation.

- (4) An offence against subregulation (1) or (2) is an offence of strict liability.

31 Inspections when in port

- (1) The holder of a statutory fishing right must, on request by a person, allow the person to inspect the holder's nominated boat if:
- (a) the boat is anchored or moored at a port in a State or Territory of Australia, or at a port in another country; and
 - (b) the person is authorised to inspect the boat under a law of the State, Territory or country.

Penalty: 25 penalty units.

- (2) If an inspection is conducted:
- (a) at a port in a country other than Australia; and
 - (b) by a person who is authorised to do so under a law of that country relating to fisheries;

the holder must, within 48 hours after the inspection, give AFMA a report on the inspection in accordance with regulation 32.

Penalty: 25 penalty units.

- (3) An offence against subregulation (1) or (2) is an offence of strict liability.

Regulation 32

32 Report on inspection

- (1) For subregulations 30(2) and 31(2), a report on an inspection of a nominated boat:
 - (a) must include the following details:
 - (i) the nominated boat's name;
 - (ii) the date and time of the inspection;
 - (iii) the location of the boat when the inspection was conducted;
 - (iv) the nationality of the inspector; and
 - (b) must be:
 - (i) addressed to the AFMA Monitoring Section; and
 - (ii) sent by e-mail to:
himie@afma.gov.au.

Part 9—Packaging and unloading requirements

33 Packaging and labelling of fish

- (1) The holder of a statutory fishing right must ensure that:
 - (a) all fish taken under the right are packaged according to:
 - (i) species; and
 - (ii) the size grade of the fish, as assessed by the holder; and
 - (iii) the form of the fish after processing; and
 - (b) each package is clearly labelled with the species, size grade and the form after processing of the fish it contains.

Penalty: 25 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

34 Unloading of fish—notice requirements

- (1) The holder of a statutory fishing right must ensure that, at least 72 hours before the holder's nominated boat arrives at a port or other place to unload fish, written notice in accordance with subregulation (2) is given to:
 - (a) AFMA; and
 - (b) if the port or place is within the territorial waters of a country other than Australia—the authorities in that country that are responsible for supervising the unloading of the fish.

Penalty: 25 penalty units.

- (2) For subregulation (1), the notice:
 - (a) must include the following details:
 - (i) the nominated boat's name;
 - (ii) the nominated boat's distinguishing symbol;
 - (iii) an estimate of the whole weight of each species of fish on board the boat;
 - (iv) the name of the port, or other place, at which the fish are to be unloaded;
 - (v) the estimated date and time that the boat will arrive at the port or place;
 - (vi) the estimated date and time that unloading is to commence at the port or place; and
 - (b) when given to AFMA, must be:
 - (i) addressed to AFMA Compliance; and
 - (ii) either:
 - (A) sent by fax to:
612 6272 5784; or

Regulation 34

(B) sent by e-mail to:
monitoring@afma.gov.au.

Note: The contact details for the authorities that are responsible for supervising the unloading of fish in countries other than Australia are available from AFMA on request.

(3) In this regulation:

distinguishing symbol, for a nominated boat, means the symbol issued to the boat by AFMA or a relevant State authority.

whole weight means the weight of a whole fish before any processing (other than washing, sorting, packing or freezing) has occurred.

(4) An offence against subregulation (1) is an offence of strict liability.

Schedule 1—CCAMLR Conservation Measure 22-01 (1986): Regulation on mesh size measurement

(subregulation 8(2))

Article 1 Description of gauges

1. Gauges to be used for determining mesh sizes shall be 2 mm thick, flat, of durable material and capable of retaining their shape. They shall have either a series of 2 parallel-edged sides connected by intermediate tapering edges with a taper of one to eight on each side, or only tapering edges with the taper defined above. They shall have a hole at the narrowest extremity.
2. Each gauge shall be inscribed on its face with the width in millimetres both on the parallel-sided section, if any, and on the tapering section. In the case of the latter the width shall be inscribed every 1 mm interval and the indication of the width shall appear at regular intervals.

Article 2 Use of the Gauge

1. The net shall be stretched in the direction of the long diagonal of the meshes.
2. A gauge as described in Article 1 shall be inserted by its narrowest extremity into the mesh opening in a direction perpendicular to the plane of the net.
3. The gauge shall be inserted into the mesh opening either with a manual force or using a weight or dynamometer, until it is stopped at the tapering edges by the resistance of the mesh.

Article 3 Selection of Meshes to be Measured

1. Meshes to be measured shall form a series of 20 consecutive meshes chosen in the direction of the long axis of the net.
2. Meshes less than 50 cm from lacings, ropes or codline shall not be measured. This distance shall be measured perpendicular to the lacings, ropes or codline with the net stretched in the direction of that measurement. Nor shall any mesh be measured which has been mended or broken or has attachments to the net fixed at that mesh.
3. By way of derogation from paragraph 1, the meshes to be measured need not be consecutive if the application of paragraph 2 prevents it.
4. Nets shall be measured only when wet and unfrozen.

Article 4 Measurement of Each Mesh

The size of each mesh shall be the width of the gauge at the point where the gauge is stopped, when using this gauge in accordance with Article 2.

Article 5 Determination of the Mesh Size of the Net

1. The mesh size of the net shall be the arithmetical mean in millimetres of the measurements of the total number of meshes selected and measured as provided for in Articles 3 and 4, the arithmetical mean being rounded up to the next millimetre.
2. The total number of meshes to be measured is provided for in Article 6.

Article 6 Sequence of Inspection Procedure

1. The inspector shall measure one series of 20 meshes, selected in accordance with Article 3, inserting the gauge manually without using a weight or dynamometer. The mesh size of the net shall then be determined in accordance with Article 5. If the calculation of the mesh size shows that the mesh size does not appear to comply with the rules in force, then two additional series of 20 meshes selected in accordance with Article 3 shall be measured. The mesh size shall then be recalculated in accordance with Article 5, taking into account the 60 meshes already measured. Without prejudice to paragraph 2, this shall be the mesh size of the net.
2. If the captain of the vessel contests the mesh size determined in accordance with paragraph 1, such measurement will not be considered for the determination of the mesh size and the net shall be remeasured. A weight or dynamometer attached to the gauge shall be used for remeasurement. The choice of weight or dynamometer shall be at the discretion of the inspector. The weight shall be fixed to the hole in the narrowest extremity of the gauge using a hook. The dynamometer may either be fixed to the hole in the narrowest extremity of the gauge or be applied at the largest extremity of the gauge. The accuracy of the weight or dynamometer shall be certified by the appropriate national authority. For nets of a mesh size of 35 mm or less as determined in accordance with paragraph 1, a force of 19.61 newtons (equivalent to a mass of 2 kilograms) shall be applied and for other nets, a force of 49.03 newtons (equivalent to a mass of 5 kilograms). For the purposes of determining the mesh size in accordance with Article 5 when using a weight or dynamometer, one series of 20 meshes only shall be measured.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
115, 2002	14 June 2002	14 June 2002 (r 2)	
91, 2005	26 May 2005 (F2005L01149)	27 May 2005 (r 2)	—
135, 2011	3 Aug 2011 (F2011L01592)	Sch 4: 4 Aug 2011 (r 2)	—

Name	Registration	Commencement	Application, saving and transitional provisions
Fisheries Legislation Amendment (Repeals and Consequential Provisions) Regulations 2019	25 Mar 2019 (F2019L00380)	Sch 1 (item 4): 1 Oct 2019 (s 2(1) item 1)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
Part 1 heading.....	ad. 2005 No. 91
r. 2.....	rep. LA s 48D
r. 3.....	rs. 2005 No. 91
	am. 2011 No. 135
Part 2.....	ad. 2005 No. 91
	rep. 2011 No. 135
r. 4.....	rs. 2005 No. 91
	rep. 2011 No. 135
r. 5.....	rs. 2005 No. 91
	rep. 2011 No. 135
r. 6.....	rs. 2005 No. 91
	rep. 2011 No. 135
Part 3.....	ad. 2005 No. 91
	rep. 2011 No. 135
r. 7.....	ad. 2005 No. 91
	rep. 2011 No. 135
Part 4	
Part 4.....	ad. 2005 No. 91
r. 8.....	ad. 2005 No. 91
r. 9.....	ad. 2005 No. 91
r. 10.....	ad. 2005 No. 91
Part 5	
Part 5.....	ad. 2005 No. 91
Division 5.1	rep. 2011 No. 135
r. 11.....	ad. 2005 No. 91
	rep. 2011 No. 135
r. 12.....	ad. 2005 No. 91
	rep. 2011 No. 135
r. 13.....	ad. 2005 No. 91
	rep. 2011 No. 135
r. 14.....	ad. 2005 No. 91
	rep. 2011 No. 135
Division 5.2	
r. 15.....	ad. 2005 No. 91
r. 16.....	ad. 2005 No. 91
r. 17.....	ad. 2005 No. 91

Endnote 4—Amendment history

Provision affected	How affected
Division 5.3	
r. 18.....	ad. 2005 No. 91
r. 19.....	ad. 2005 No. 91
r. 20.....	ad. 2005 No. 91
Part 6	
Part 6.....	ad. 2005 No. 91
r. 21.....	ad. 2005 No. 91
	am F2019L00380
r. 22.....	ad. 2005 No. 91
Part 7	
Part 7.....	ad. 2005 No. 91
Division 7.1	
r. 23.....	ad. 2005 No. 91
r. 24.....	ad. 2005 No. 91
r. 25.....	ad. 2005 No. 91
r. 26.....	ad. 2005 No. 91
r. 27.....	ad. 2005 No. 91
Division 7.2	
r. 28.....	ad. 2005 No. 91
r. 29.....	ad. 2005 No. 91
Part 8	
Part 8.....	ad. 2005 No. 91
r. 30.....	ad. 2005 No. 91
r. 31.....	ad. 2005 No. 91
r. 32.....	ad. 2005 No. 91
Part 9	
Part 9.....	ad. 2005 No. 91
r. 33.....	ad. 2005 No. 91
r. 34.....	ad. 2005 No. 91
Schedule 1	
Schedule 1.....	ad. 2005 No. 91

NEW CCAMLR
CONSERVATION MEASURES
FOR 2021/2022
(relevant to HIMI Fishery)

10-05 – Catch Documentation Scheme for *Dissostichus* spp.

24-05 – Fishing for research purposes pursuant to Conservation Measure 24-01

25-03 – Minimisation of the incidental mortality of seabirds and marine mammals in the course of trawl fishing in the Convention Area

33-02 – Limitation of by-catch in Statistical Division 58.5.2

41-08 – Limits on the fishery for *Dissostichus eleginoides* in Statistical Division 58.5.2 in the 2021/22 and 2022/23 seasons

42-02 – Limits on the fishery for *Champsocephalus gunnari* in Statistical Division 58.5.2 in the 2021/22 and 2022/23 seasons

UNCHANGED
CCAMLR CONSERVATION MEASURES
(relevant to HIMI Fishery)

- 10-01 (2014) – Marking of fishing vessels and fishing gear
- 10-02 (2016) – Licensing and inspection obligations of Contracting Parties with regard to their flag vessels operating in the Convention Area
- 10-03 (2019) – Port inspections for fishing vessels carrying Antarctic marine living resource
- 10-04 (2018) – Automated satellite-linked Vessel Monitoring Systems (VMS)
- 10-06 (2016) – Scheme to promote compliance by Contracting Party vessels
- 10-07 (2016) – Scheme to promote compliance by non-Contracting Party vessels
- 10-08 (2017) - Scheme to promote compliance by Contracting Party nationals with CCAMLR conservation measures
- 10-09 (2019) – Notification system for transshipments within the Convention Area
- 10-10 (2019) – CCAMLR Compliance Evaluation Procedure
- 22-01 (1986) – Regulation on mesh size measurement
- 22-02 (1984) – Mesh size
- 22-03 (1990) – Mesh size for *Champsocephalus gunnari*
- 22-04 (2010) – Interim prohibition on deep-sea gillnetting
- 22-05 (2008) – Restrictions on the use of bottom trawling gear in high-seas areas of the Convention Area.
- 23-02 (2016) – Ten-day Catch and Effort Reporting System
- 23-03 (2016) – Monthly Catch and Effort Reporting System
- 23-04 (2016) – Monthly Fine-Scale Catch and Effort Data Reporting System for Trawl, Longline and Pot Fisheries
- 23-05 (2000) – Monthly Fine-Scale Biological Data Reporting System for Trawl, Longline and Pot Fisheries
- 24-01 (2019) – The application of conservation measures to scientific research
- 24-02 (2014) – Longline weighting for seabird conservation
- 25-02 (2018) – Minimisation of the incidental mortality of seabirds in the course of longline fishing or longline fishing research in the Convention Area
- 26-01 (2019) – General environmental protection during fishing
- 31-02 (2007) – General measure for the closure of all fisheries
- 32-01 (2001) – Fishing seasons
- 32-02 (2017) – Prohibition of directed fishing

32-18 (2006) – Conservation of sharks

91-01 (2004) – Procedure for according protection to CEMP sites

91-02 (2012) – Protection of the values of Antarctic Specially Managed and Protected Areas

RESOLUTION 15/XXII – Use of ports not implementing the Catch Documentation Scheme for *Dissostichus* spp.

RESOLUTION 16/XIX – Application of VMS in the Catch Documentation Scheme

RESOLUTION 17/XX – Use of VMS and other measures for the verification of CDS catch data for areas outside the Convention Area, in particular, in FAO Statistical Area 51

RESOLUTION 28/XXVII – Ballast water exchange in the Convention Area

RESOLUTION 33/XXX – Provision of flag vessel information to Maritime Rescue Coordination Centres

RESOLUTION 34/XXXI – Enhancing the safety of fishing vessels in the Convention Area

Text of the CCAMLR System of Inspection

Text of the CCAMLR Scheme of International Scientific Observation

AFMA REPORTING REQUIREMENTS FOR FISHING OPERATIONS IN THE HIMI FISHERY

DURING THE 2021/22 SEASON

The following table outlines the roles and responsibilities of the Statutory Fishing Rights (SFR) holder. These requirements are a summary only. More details are in the *HIMI Fishery Management Plan 2002*, *HIMI Fishery Regulations 2002*, the SFR Conditions and CCAMLR Conservation Measures (CMs). Please also note the information on Bycatch Move-on Provisions at the end of this document.

Reference	WHAT	WHEN TO REPORT	WHO TO REPORT TO	WHAT HAPPENS
VESSEL MOVEMENTS				
SFR Condition 50 and USA trade requirement	Departure from port – boat name, port of departure, estimated time and date of departure, destination (eg HIMI), estimated time and date of arrival on fishing area.	At least 24 hours prior to the boat leaving port	AFMA: AntarcticReporting@afma.gov.au Relevant fisheries authority if outside Australia.	AFMA Data Services Manager acknowledges message receipt from vessel AFMA Data Services Manager requests CCAMLR Secretariat to check VMS is polling directly to the CCAMLR Secretariat.
SFR Condition 51 and CCAMLR CM 10-04	Entry and exit to CCAMLR statistical subareas or statistical divisions, including the HIMI Fishery (Division 58.5.2), using the format shown in Annex 10-04/A of CM 10-04	Before the boat enters or exits the CCAMLR statistical subareas or statistical divisions	AFMA: AntarcticReporting@afma.gov.au AND CCAMLR Secretariat: yms@ccamlr.org	AFMA Data Services Manager acknowledges message receipt from vessel
CCAMLR CM 10-04 and French authorities	Entry and exit to the French zone (58.5.1), using format shown in Annex 10-04/A of CM 10-04	Prior to entering and exiting the French zone.	surpeche-crossru@developpement-durable.gouv.fr and AFMA : AntarcticReporting@afma.gov.au	
S34 – HIMI Fishery Regulations	Prior reporting before the boat moors or anchors in a port or any other place to unload fish	At least 72 hours before the time that the boat is intended to moor	AFMA Compliance Section: AntarcticReporting@afma.gov.au and to the relevant authority if outside Australia (contact details can be provided on request)	AFMA Compliance Section acknowledges message receipt from vessel and if in an Australian port arranges for Fisheries Officers to monitor the unloading of catch

Reference	WHAT	WHEN TO REPORT	WHO TO REPORT TO	WHAT HAPPENS
AFMA requirement	<p>For AFMA to provide a courtesy port access letter, the vessel must provide AFMA with:</p> <ul style="list-style-type: none"> - advance notice of entry into port - reason for seeking port access - estimate of catch to be unloaded - a written declaration that the vessel has not engaged in or supported IUU fishing <p>confirmation of compliance with relevant CCAMLR CMs.</p>	At least seven days prior to entry into port	AFMA Compliance Section: AntarcticReporting@afma.gov.au	AFMA Compliance Section reviews all available information in order to assess the vessel's compliance with Conservation Measures. Once satisfied, AFMA Compliance to send a letter of support to the Port State.
CCAMLR CM 10-03 (2019)	Complete Annex 10-03/A of CCAMLR CM 10-03	At least 48 hours prior to entry into port	<p>Relevant Port State (ie. Australia or Mauritius or New Zealand)</p> <p>If reporting to Australia, send to AntarcticReporting@afma.gov.au</p>	<p>An inspection must be undertaken by the Port State (Contracting Party) within 48 hours of entry into port.</p> <p>Contracting party must provide an inspection report promptly to the CCAMLR Secretariat. Any refusals for entry must also be reported to the Secretariat.</p>
SFR condition 21	Move on obligations for <i>Champscephalus gunnari</i> (Mackerel Icefish) if in any one haul more than 100kgs and more than 10% by number are smaller than 240 mm in total length.	Within 24 hours	AntarcticReporting@afma.gov.au	AFMA Antarctic Fisheries Manager acknowledges receipt of notification.
VMS				
Condition 76 and CCAMLR CM 10-04	<p>VMS malfunction</p> <p>Manual reporting (if required) must include:</p>	Immediately after malfunction is discovered on board the vessel or when the vessel master is informed by AFMA that the unit	<p>AFMA: AntarcticReporting@afma.gov.au phone: +612 6225 5555 during business hours – EST</p>	When AFMA detects a VMS malfunction, the boat and representative of the Company are notified by AFMA for the vessel to start manual reporting.

Reference	WHAT	WHEN TO REPORT	WHO TO REPORT TO	WHAT HAPPENS
(2018) and Section 37 of <i>Fisheries Management Regulations 2019</i>	<ul style="list-style-type: none"> - boat name and Distinguishing Symbol - current position by latitude and longitude (degrees and minutes) - date and time of current position 	<p>has ceased to report.</p> <p>Vessel must manually report positions to AFMA every four hours until the Master is notified that the unit is reporting to AFMA again.</p>	<p>or AFMA compliance Duty Officer mobile: +612 6275 5818(a/h)</p> <p>AFMA & CCAMLR Secretariat Manual reporting every 4 hours to email: monitoring@afma.gov.au and vms@ccamlr.org or if email not working then phone: +612 6225 5369</p>	<p>AFMA Data Services Manager forwards position reports to CCAMLR Secretariat.</p> <p>AFMA Data Services Manager to check with CCAMLR Secretariat about whether the VMS unit is still reporting directly to the Secretariat.</p> <p>AFMA Data Services Manager advises the vessel to cease manual reporting once it is confirmed the VMS is functioning correctly.</p>
Permit condition 78	If the boat intends to be in port for over one week, the operator must notify AFMA if they intend to turn the ALC off during this period.	<p>Within a week of arrival into port.</p> <p>Application for ALC Temporary Switch Off must be completed 72 hours prior to the ALC being switched off</p>	<p>AFMA: AntarcticReporting@afma.gov.au</p>	AFMA Data Services Manager acknowledges receipt of notification on receipt of message
VESSEL INSPECTION				
S 30, 31 & 32 of <i>HIMF Fishery Regulations 2002</i>	Report details of a CCAMLR System Inspection or an inspection by an authorised officer of the port State in a country other than Australia. Refer to S32 of Regulations for details of what to report.	Within 48 hours of the inspection.	<p>AFMA: AntarcticReporting@afma.gov.au</p>	AFMA Compliance Section acknowledges message receipt from vessel and forwards the report to the Australian Antarctic Division
TRANSHIPMENT				
SFR Condition 26-28 & CM 10-09 (2019)	Transshipment of harvested marine living resources, or any other goods or material	For each boat involved in the transshipment at least 72 hours in advance of a transshipment of marine living resources, bait or fuel or at least 2 hours for items other than listed above – refer to paragraph 4 of CM 10-09 (2019) for details to be reported.	<p>CCAMLR Secretariat: data@ccamlr.org and AFMA: AntarcticReporting@afma.gov.au</p>	AFMA Data Services Manager acknowledges message receipt from vessel.

Reference	WHAT	WHEN TO REPORT	WHO TO REPORT TO	WHAT HAPPENS
SFR condition 29	Confirmation of transshipment	Within 3 working days of having transhipped	AFMA: AntarcticReporting@afma.gov.au AND CCAMLR Secretariat: data@ccamlr.org	AFMA Data Services Manager acknowledges message receipt from vessel.
CATCH REPORTING				
SFR Condition 52 CM 23-04 (2016)	Reporting on the electronic logbook CCAMLR Data Form CEfv2022 (10 day or monthly catch & effort report).	Before the third day after the end of each 10 day period (days 1-10, 11-20, 21-end of the month respectively)	AFMA: AntarcticReporting@afma.gov.au AND AAD: AntarcticObserver@aad.gov.au If it is not possible to transmit electronic logbooks, contact the AFMA at AntarcticReporting@afma.gov.au to identify alternative means to provide the data to AFMA.	AFMA Data Services Manager forwards information to CCAMLR Secretariat no later than the end of the next reporting period. AFMA Data Manager acknowledges receipt of data from vessel. If it is not possible to transmit any of the reports, or an acknowledgement of any of the reports is not received within 9 days, refer to SFR Condition 57.
SFR Condition 53, 54 & 55	Reporting on the electronic logbook CCAMLR Data Form C1 (v2022a), C2 (v2022a) or C5(v2022a)) (Fine-Scale Catch and Effort Data for Trawl (C1), longline (C2) or Pot (C5) fisheries.	Within 7 days of the end of each month		AFMA Data Services Manager forwards information to CCAMLR Secretariat by the end of the following month. AFMA Data Services Manager acknowledges receipt of data from vessel. If it is not possible to transmit the reports, or acknowledgement of reports is not received within 9 days, refer to SFR Condition 57.
SFR Condition 72 and CM 10-05 (2021)	Ensure each landing or transshipment of <i>Dissostichus</i> is accompanied by an accurately completed DCD. Send a copy of the accurately completed DCD to AFMA (Note: for detailed electronic	As soon as possible after the DCD is completed	AFMA: AntarcticReporting@afma.gov.au	AFMA Data Services Manager acknowledges data receipt from vessel

Reference	WHAT	WHEN TO REPORT	WHO TO REPORT TO	WHAT HAPPENS
	completion and submission of the DCD see the CCAMLR e-CDS user manual which can be found on the CCAMLR Website www.ccamlr.org			
SFR condition 58	The total number and weight of each species taken, including amounts taken for personal consumption and rendered to offal.	At the end of each fishing trip	AFMA: AntarcticReporting@afma.gov.au	AFMA Antarctic Fisheries Manager acknowledges receipt of notification on receipt of message
OBSERVERS				
SFR Condition 37	Notification to obtain observer coverage	At least 21 days before the date of departure.	AFMA: AntarcticReporting@afma.gov.au And Antarcticobserver@afma.gov.au	AFMA Observer Section deals directly with the Company
SFR Condition 42	Reporting the illness or incapacity of an observer	Within 12 hours of an Observer reporting to the Master of taking ill or suffering injury – refer to SFR condition 42c for reporting requirements	AFMA: AntarcticReporting@afma.gov.au (during office hours - EST) or AFMA Compliance Duty Officer mobile: +612 6275 5818 (a/h)	AFMA Observer Section or the Duty Officer deals directly with the Company and vessel to determine the appropriate course of action
SFR Condition 43	If the illness or injury is likely to last less than 5 days, or the boat is likely to cease fishing within 5 days and return to port	Report to AFMA at least every second day on the health of the observer, and the effectiveness and practicability of the arrangements implemented.	AFMA: AntarcticReporting@afma.gov.au	AFMA Observer Section acknowledges receipt of the email.

Reference	WHAT	WHEN TO REPORT	WHO TO REPORT TO	WHAT HAPPENS
SFR Condition 44	If the illness or injury is likely to cause the observer to be unfit for duty for a period in excess of 5 days	Report to AFMA at least every second day on the health of the observer, and the effectiveness and practicability of the arrangements implemented.	AFMA: AntarcticReporting@afma.gov.au	AFMA Observer Section acknowledges receipt of the email.
SFR Condition 45	Should both observers fall ill or suffer an injury	Advise AFMA within 12 hours of the second observer reporting to the Master of taking ill or suffering an injury, including details at SFR Condition 42.	AFMA: AntarcticReporting@afma.gov.au (during office hours - EST) or AFMA Observer Duty Officer Mobile: +61 427 496 446 AFMA Duty Officer mobile: +612 6275 5818 (a/h)	AFMA Observer Section or the Duty Officer deals directly with the Company and vessel to determine the appropriate course of action
SFR Condition 47	If an observer dies, is missing or presumed fallen overboard Provide a report to the appropriate authorities on the incident	Immediately contact the AFMA Duty Officer Immediately notify the appropriate Joint Rescue Coordination Centre and alert other boats in the vicinity by using all available means of communication	AFMA Duty Officer: +612 6275 5818	AFMA Duty Officer speaks to vessel representative
SFR Condition 49	Observer suffers from a potentially serious illness or serious injury that may threaten his or her life or safety	Immediately notify the appropriate Joint Rescue Coordination Centre	AFMA Duty Officer: +612 6275 5818	AFMA Duty Officer speaks to vessel representative
OFFAL DISCHARGE				
SFR Condition 61	If discharging offal in the waters described in SFR condition 61, the concession holder must advise the time (UTC) and coordinates where the discharge took place.	Within 24 hours after the completion of the offal discharge.	AFMA: AntarcticReporting@afma.gov.au	AFMA Antarctic Fisheries Manager or Antarctic Fisheries Senior Management Officer acknowledges receipt of notification on receipt of email.

Reference	WHAT	WHEN TO REPORT	WHO TO REPORT TO	WHAT HAPPENS
S24 HIMI Fishery Regulations 2002	Mechanical breakdown of meal plant Report to AFMA of breakdown and repair	To observer – immediately after the mechanical breakdown of the fish meal plant. Within 48 hours of the breakdown of the meal plant and before the resumption of fishing in the Fishery.	Verbal notification to Observer AFMA: AntarcticReporting@afma.gov.au (during office hours - EST) or AFMA Duty Officer mobile: +612 6275 5818 (a/h)	If out of office hours the Duty Officer collects all relevant information and advises the Antarctic Fisheries Manager AFMA Antarctic Fisheries Manager acknowledges receipt of notification on receipt of message
S25 HIMI Fishery Regulations 2002	Report on circumstances of meal plant breakdown – refer to Regulations	Within 48 hours of the breakdown occurring and before the resumption of fishing in the Fishery.	AFMA: AntarcticReporting@afma.gov.au	AFMA Antarctic Fisheries Manager acknowledges receipt of notification on receipt of email.
S29 HIMI Fishery Regulations 2002	Disposal of fish meal inside the HIMI Fishery	To observer - prior to the disposal of the fish meal Written notice within 48 hours after discharge occurs	Verbal notification to Observer AFMA: AntarcticReporting@afma.gov.au	AFMA Antarctic Fisheries Manager acknowledges receipt of notification on receipt of email.
INTERACTIONS WITH SEABIRDS AND MARINE MAMMALS, AND GEAR LOSS / RECOVERY				
SFR Conditions 15 & Environment Protection and Biodiversity Conservation Act	Reporting of any interaction (gear or other) resulting in the injury to, or death of, a seabird.	Report incident to observer immediately Within 24 hours of the event occurring – refer to SFR Condition 15 for reporting requirements when the seabird is caught	Verbal notification to Observer AFMA: AntarcticReporting@afma.gov.au and AAD: AntarcticObserver@aad.gov.au	AFMA Antarctic Fisheries Manager or Antarctic Fisheries Senior Management Officer acknowledges receipt of notification within 72 hours of receipt of email.
SFR Conditions 18	Reporting of any interaction (gear or other) resulting in the injury to, or death of, a marine mammal.	Report incident to observer immediately Within 24 hours of the event occurring – refer to SFR Condition 18 for reporting requirements	Verbal notification to Observer AFMA: AntarcticReporting@afma.gov.au	AFMA Antarctic Fisheries Manager or AFMA Senior Management Officer acknowledges receipt of notification within 72 hours of receipt of email.
EPBC Act	Reporting of any interaction with other protected species Eg Porbeagle shark	Report incident to observer immediately Within 24 hours of the event occurring	Verbal notification to Observer AFMA: AntarcticReporting@afma.gov.au	

Reference	WHAT	WHEN TO REPORT	WHO TO REPORT TO	WHAT HAPPENS
S28 1(b) – HIMI Fishery Management Plan	Reporting of loss of gear or other non-biodegradable items, including: <ul style="list-style-type: none"> - details of the quantity and description of the lost or recovered item; - time; - date; - position at which gear was lost / recovered; and - circumstances surrounding loss/ recovery. 	Within 48 hours of the event occurring – refer to Management Plan	AFMA: AntarcticReporting@afma.gov.au	AFMA Antarctic Fisheries Manager or AFMA Senior Fisheries Management Officer acknowledges receipt of notification on receipt of email.
SFR Condition 14	Reporting the retrieval of any fishing gear that has previously been reported to AFMA as lost under section 28 1(b) of HIMI Fishery MP.	As soon as possible after the event occurs	AFMA: AntarcticReporting@afma.gov.au	AFMA Antarctic Fisheries Manager or AFMA Senior Fisheries Management Officer acknowledges receipt of notification on receipt of email.
BOAT SIGHTINGS				
CCAMLR CM 10-02 (2016) Annex A & SFR condition 58	Sighting of another boat that is not authorised to fish in the HIMI Fishery.	As soon as possible	AFMA: AntarcticReporting@afma.gov.au or AFMA Duty Officer mobile: +612 6275 5818	Antarctic Fisheries Manager acknowledges receipt of notification on receipt of message. If required under CM 10-02, AFMA sends details to the CCAMLR Secretariat. AFMA Compliance Section deals directly with the vessel
OTHER REPORTING REQUIREMENTS				
SFR Condition 68	Emergency contact facility	When a boat is nominated to a concession and immediately if the details change	AFMA: AntarcticReporting@afma.gov.au	AFMA Data Services Manager acknowledges receipt of email.
SFR Condition 70	Change in contact details	AFMA must be notified immediately of any change in contact details	AFMA: AntarcticReporting@afma.gov.au	AFMA Data Services Manager acknowledges receipt of email.

Reference	WHAT	WHEN TO REPORT	WHO TO REPORT TO	WHAT HAPPENS
SFR Condition 91	Notice in advance of Port entry. Details in CCAMLR CM 10-03/A	At least 48 hours in advance of Port entry	AFMA: AntarcticReporting@afma.gov.au	AFMA Data Services Manager acknowledges receipt of email.
SFR Condition 93	Inspection at a port in a country other than Australia. Notification details under SFR condition 92	Within 72 hours after inspection	AFMA: AntarcticReporting@afma.gov.au	AFMA Data Services Manager acknowledges receipt of email.
AAD	To seek access to the Territory of Heard Island and McDonald Islands in the event of an emergency	As soon as the vessel is aware that the emergency access is required	Australian Antarctic Division 03 6232 3159 or at Territories@aad.gov.au .	Australian Antarctic Division

BYCATCH MOVE-ON PROVISIONS

It is the vessel's responsibility, rather than an observer responsibility, to monitor the situation to ensure compliance with CCAMLR Conservation Measure 33-02 (2021) – Limitation of by-catch in Statistical Division 58.5.2 in the 2021/22 season.

The Sub-Antarctic Resource Assessment Group (SARAG) agreed to the following protocol to apply in trawl operations where there was some doubt about the quantity of bycatch and whether a bycatch trigger had been reached. The procedure to determine the weight of the bycatch species should begin immediately.

The procedure would be undertaken by the observer on duty at the time with the full assistance of the crew. The proposed procedure is to:

- batch weigh 200 randomly selected fish from the bycatch species to determine the average weight of each fish. The average weight would then be applied to a count of the numbers of fish;
- count the fish of the bycatch species, using the determined average weight, until the trigger level is reached. A program in Fishlog using the average weight will be developed to assist observers with this task;
- immediately the trigger level is reached the observer will advise the fishing master that the limit had been reached and that there is a requirement to 'move-on';
- if the trawl gear is in the water at the time the master is notified and is within 5 nautical miles of the tow which triggered the bycatch limit, then the gear must be hauled immediately; and
- the vessel will immediately move at least 5 nautical miles away from the location of the tow that triggered the bycatch limit for a period of at least 5 days if using the same method to fish.

In situations where the trigger limit has clearly been exceeded without the need to undertake the above procedure, the vessel will immediately move at least 5 nautical miles away from the location of the tow that triggered the bycatch limit for a period of at least 5 days.

In longline operations the bycatch is monitored as the line is hauled and therefore the above procedure should not be required.

CONTACTS

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HEARD ISLAND AND MCDONALD ISLANDS FISHERY AREA CLOSURES 2021/22 SEASON

The attached map specifies the co-ordinates for the HIMI
Marine Reserve and Conservation Zones

Any fishing activity in these areas requires authorisation
from the Australian Antarctic Division

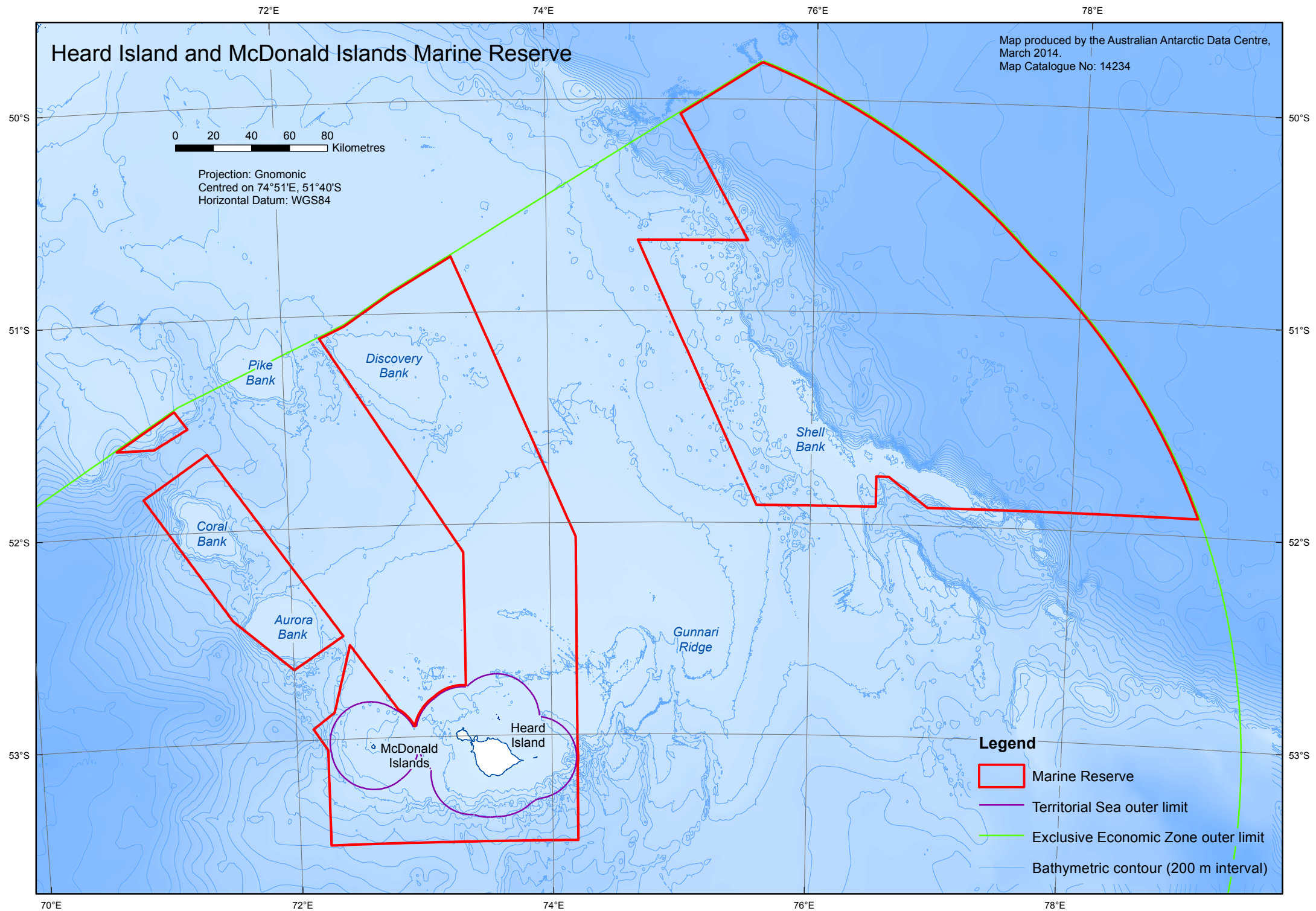
- **HIMI Marine Reserve** – is a representative marine protected area declared in October 2002 with 65,000km² set aside as IUCN category 1a area (strict nature reserve: protected area managed mainly for science). No commercial fishing can occur in these waters without appropriate authorisation from AAD.
- **Closure of the area outside of the Heard Island Plateau to mackerel icefish fishing** – this area is closed to mackerel icefish fishing as the stocks outside the Plateau are not considered sufficient to support commercial harvesting. The coordinates are provided in the attached AFMA Direction
- **Closure of waters adjacent to Heard Island and McDonald Islands** – in the HIMI Fishery an additional buffer zone of 1 nautical mile has been added to the closure of territorial waters (out to 12 nautical miles as part of the Heard Island Wilderness Reserve). This is specified in the attached AFMA Direction

Heard Island and McDonald Islands Marine Reserve

Map produced by the Australian Antarctic Data Centre,
March 2014.
Map Catalogue No: 14234

0 20 40 60 80
Kilometres

Projection: Gnomonic
Centred on 74°51'E, 51°40'S
Horizontal Datum: WGS84



Legend

- Marine Reserve
- Territorial Sea outer limit
- Exclusive Economic Zone outer limit
- Bathymetric contour (200 m interval)



Australian Government

Department of the Environment

Australian Antarctic Division

Emergency access to the Territory of Heard Island and McDonald Islands

What does the Territory of Heard Island and McDonald Islands encapsulate?

Territory of Heard Island and McDonald Islands (the Territory) encapsulates Heard Island, the McDonald Islands, their associated offshore rocks, and the water extending 12 nautical miles out from their high water marks (i.e. the territorial sea). The Territory is administered by the Australian Antarctic Division on behalf of the Commonwealth.

Why is access to the Territory strictly controlled?

Being World Heritage listed for its outstanding natural universal values and located within an International Union for Conservation of Nature (IUCN) Category 1a Strict Nature Reserve¹, access to the Territory is strictly controlled.

What laws govern access to the Territory?

Access to the Territory is governed by the *Environment Protection and Management Ordinance 1987* (the EPMO) and the *Heard Island and McDonald Islands Marine Reserve Management Plan 2014-2024* (the management plan).

When can the Territory be accessed?

Section 12(2)(a) of the EPMO stipulates that a person may enter the Territory in accordance with a permit. Section 15(3) stipulates that the Minister must consider the need to protect the Territory's environment and the safety of persons, aircraft, vehicles and vessels in the Territory when deciding to grant a permit. In considering the need to protect the environment, the Minister shall have regard to the Reserve's management objectives as set out in the management plan. Permits issued under the EPMO will contain conditions requiring compliance with the management plan.

s.12(2)(b) stipulates that a person may enter the Territory during the course of an **emergency** involving *possible loss of human life or injury to persons, or risk to the safety of an aircraft, a vehicle or a vessel*. The transshipment of goods or personnel may therefore only be conducted inside the HIMI Territory (i.e. inside 12 nautical miles) in the event of an emergency as defined in the EPMO.²

What is the penalty for accessing the Territory contrary to s.12(2) of the EPMO?

If a person enters the Territory contrary to s.12(2) of the EPMO, that person is guilty of an offence under s.12(1). For a natural person, this offence is punishable upon conviction by a fine not exceeding 100 penalty units or imprisonment for 5 years or both. For a body corporate, this offence is punishable upon conviction by a fine not exceeding 500 penalty units.

¹ IUCN Category 1a Strict Nature Reserves are designated to protect habitats, ecosystems and native species in an as undisturbed state as possible. Public access is primarily limited to scientific research and environmental monitoring. It is the highest level of protection afforded under the IUCN principles.

² The transshipment of equipment or personnel for operational convenience alone does not constitute an emergency under s.12(2)(b) of the EPMO.

Avoid undertaking shore landings in emergencies wherever possible

The Territory's natural values are very susceptible to the risks posed by invasive species. Accordingly, in the interests of biosecurity, shore landings in the Territory should only be undertaken during an emergency when the emergency cannot be reasonably managed or resolved on board a vessel in the territorial sea.

Temporary refuge facilities within the Territory

Land-based temporary refuge facilities have been established by the Australian Antarctic programme at the Atlas Cove and Spit Bay Main Use Zones and in the Wilderness Zones adjoining Brown Lagoon, Long Beach and Red Island. These refuges may be accessed during emergencies involving possible loss of human life or injury to persons. Given the Territory's typically severe weather conditions and the irregularity of management operations, *the presence and condition of these refuges must not be assumed or relied upon.*

Contact information

For more information or to seek access to the Territory in the event of an emergency, please contact the Australian Antarctic Division on 03 6232 3159 or at Territories@aad.gov.au.



Environment Protection and Biodiversity Conservation (Heard Island and McDonald Islands Marine Reserve) Proclamation 2002

as amended

made under subsection 344(1) of the

Environment Protection and Biodiversity Conservation Act 1999

Compilation start date: 28 March 2014

Includes amendments up to: Environment Protection and Biodiversity
Conservation Amendment (Heard Island and
McDonald Islands) Proclamation 2014

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Environment Protection and Biodiversity Conservation (Heard Island and McDonald Islands Marine Reserve) Proclamation 2002* as in force on 28 March 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 28 March 2014.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under subsection 344(1) of the *Environment Protection and Biodiversity Conservation Act 1999*:

- (a) declare the area specified in the Schedule to be a Commonwealth reserve for the purpose of protecting the conservation values of Heard and McDonald Islands and the adjacent unique and vulnerable marine ecosystems; and
- (b) assign to the reserve the name “Heard Island and McDonald Islands Marine Reserve”; and
- (c) specify that the land and seabed to a depth of 1000 metres within the declared area is within the reserve; and
- (d) assign the reserve to the World Conservation Union (IUCN) category of strict nature reserve.

Schedule 1—Area specified as Heard Island and McDonald Islands Marine Reserve

Note: See paragraph (a).

1 Area specified as Heard Island and McDonald Islands Marine Reserve

- (1) The Heard Island and McDonald Islands Marine Reserve consists of:
- (a) the land that forms part of Heard Island and McDonald Islands; and
 - (b) the territorial sea of Australia adjacent to Heard Island and McDonald Islands; and
 - (c) the area bounded by a line starting at latitude 51°30'35"S, longitude 71°15'40"E then running progressively:
 - (i) along the geodesic to the intersection of the meridian of longitude 71°10'00"E and the French maritime boundary; and
 - (ii) along the French maritime boundary to latitude 51°36'00"S; and
 - (iii) along the parallel to latitude 51°36'00"S, longitude 71°00'00"E; and
 - (iv) along the geodesic to latitude 51°30'35"S, longitude 71°15'40"E; and
 - (d) the area bounded by a line starting at latitude 51°50'00"S, longitude 70°54'00"E then running progressively:
 - (i) along the geodesic to latitude 52°25'30"S, longitude 71°32'30"E; and
 - (ii) along the geodesic to latitude 52°40'00"S, longitude 72°00'00"E; and
 - (iii) along the geodesic to latitude 52°30'51"S, longitude 72°23'26"E; and
 - (iv) along the geodesic to latitude 51°38'00"S, longitude 71°24'00"E; and
 - (v) along the geodesic to latitude 51°50'00"S, longitude 70°54'00"E; and
 - (e) the area bounded by a line starting at latitude 52°57'00"S, longitude 72°08'00"E then running progressively:
 - (i) along the geodesic to latitude 53°03'00"S, longitude 72°14'30"E; and
 - (ii) along the meridian to latitude 53°30'00"S, longitude 72°14'30"E; and
 - (iii) along the parallel to latitude 53°30'00"S, longitude 74°12'00"E; and
 - (iv) along the meridian of longitude 74°12'00"E to its intersection by the outer limit of the territorial sea; and
 - (v) along the outer limit of the territorial sea to longitude 74°12'00"E; and
 - (vi) along the meridian to latitude 52°04'00"S, longitude 74°12'00"E; and
 - (vii) along the geodesic to the intersection of the meridian of longitude 73°17'00"E and the French maritime boundary; and
 - (viii) along the French maritime boundary to longitude 72°17'00"E; and
 - (ix) along the geodesic to latitude 52°08'00"S, longitude 73°20'00"E; and
 - (x) along the meridian of longitude 73°20'00"E to its intersection by the outer limit of the territorial sea; and
 - (xi) along the outer limit of the territorial sea to longitude 72°48'00"E; and
 - (xii) along the geodesic to latitude 52°33'28"S, longitude 72°26'21"E; and
 - (xiii) along the geodesic to latitude 52°52'28"S, longitude 72°18'09"E; and
 - (xiv) along the geodesic to latitude 52°57'00"S, longitude 72°08'00"E; and

- (f) the area bounded by a line starting at latitude 51°55'00"S, longitude 75°35'09"E then running progressively:
- (i) along the parallel to latitude 51°55'00"S, longitude 76°30'00"E; and
 - (ii) along the meridian to latitude 51°46'27"S, longitude 76°30'00"E; and
 - (iii) along the parallel to latitude 51°46'27"S, longitude 76°35'42"E; and
 - (iv) along the geodesic to latitude 51°55'00"S, longitude 76°53'46"E; and
 - (v) along the parallel of latitude 51°55'00"S to the outer limit of the exclusive economic zone; and
 - (vi) along the outer limit of the exclusive economic zone to the French maritime boundary; and
 - (vii) along the French maritime boundary to longitude 75°00'00"E; and
 - (viii) along the geodesic to latitude 50°40'00"S, longitude 75°30'18"E; and
 - (ix) along the parallel to latitude 50°40'00"S, longitude 74°41'00"E; and
 - (x) along the geodesic to latitude 51°55'00"S, longitude 75°35'09"E.

- (2) In this clause:

French maritime boundary means the line described in article 2 of the Agreement on Maritime Delimitation between the Government of Australia and the Government of the French Republic, done at Melbourne on 4 January 1982.

Note: The Agreement is in Australian Treaty Series 1983 No. 3 ([1983] ATS 3) and could in 2014 be viewed in the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

- (3) The geographic coordinates in subclause (1) are expressed in terms of the World Geodetic System 1984.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history
- Endnote 5—Uncommenced amendments
- Endnote 6—Modifications
- Endnote 7—Misdescribed amendments
- Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2

The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

Modifications—Endnote 6

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

Misdescribed amendments—Endnote 7

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

Miscellaneous—Endnote 8

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

Endnote 2—Abbreviation key

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub--Ch = Sub--Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub--subparagraph(s)	

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Title	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
Environment Protection and Biodiversity Conservation (Heard Island and McDonald Islands Marine Reserve) Proclamation 2002 (F2007B00733)	16 Oct 2002 (<i>see</i> Gazette 2002, No GN41)	16 Oct 2002	
Environment Protection and Biodiversity Conservation Amendment (Heard Island and McDonald Islands) Proclamation 2014	27 Mar 2014 (<i>see</i> F2014L00361)	28 Mar 2014	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Sch 1	
Sch 1	rs F2014L00361

Endnotes

Endnote 5—Uncommenced amendments [none]

Endnote 5—Uncommenced amendments [none]

Endnote 6—Modifications [none]

Endnote 7—Misdescribed amendments [none]

Endnote 8—Miscellaneous [none]