

Fish Resources Management Act 1994

Section 7(2)

EXEMPTION

I, Jon Ford, Minister for Fisheries; the Kimberley, Pilbara and Gascoyne, pursuant to section 7(2) of the *Fish Resources Management Act 1994*, do hereby exempt the persons and entities listed in Schedule 1 from only those provisions of the *Fish Resources Management Act 1994*, *Fish Resources Management Regulations 1995*, the *North Coast Shark Fishing (Professional) Fishing Notice 1993* and the *Mackerel Fishery (Interim) Management Plan 2004* which would otherwise prevent those persons from lawfully pursuing those specific activities listed in Schedule 2 and provided these activities are undertaken:

1. only in the areas described in Schedule 3;
2. only during the periods listed in Schedule 4;
3. only to the maximum number of gear day units listed in Schedule 5; and
4. subject to the conditions specified in Schedule 6.

Schedule 1 Exemptees

1. Authorised Persons and Entities:
 - a. Tasmanian Seafoods Pty Ltd;
 - b. R B Lowden Pty Ltd;
 - c. Parkway Holdings; and
 - d. Scott Wallace Steele;
- or
2. A Permitted Operator (which may be another Authorised Person or Entity) nominated by an Authorised person or entity to fish on behalf, or instead of the Authorised person, and approved in writing by the Executive Director.

Schedule 2 Activities

1. Fishing for sharks in the areas described in Schedule 3 using gill nets or longlines.
2. Processing sharks without a Fish Processing Permit.
3. Taking Mackerel as bycatch while fishing for sharks.
4. Using longlines that do not accord with any definition of “longlines” and restrictions on the material and gear used in longlines that may be provided under the *Fish Resources Management Act 1994* or any of this Act’s subsidiary legislation.

Schedule 3 Areas

Southern Zone

All waters bounded by a line commencing at the intersection of 18° 00.00' south latitude and the high water mark on the coastline between Riddell Point and Gantheaume Point; thence west along the parallel to its intersection with 120° 00.00' east longitude; thence north along the meridian to its intersection with 16° 23.00' south latitude; thence east along the parallel to its intersection with the high water mark on the coastline between Cape Leveque and Swan Point; thence generally southerly along the high water mark on the coastline to the commencement point.

Northern Zone

All waters bounded by a line commencing at the intersection of 16° 23.00' south latitude and the high water mark on the coastline between Cape Leveque and Swan Point; thence west along the parallel to its intersection with 120° 00.00' east longitude; thence north along the meridian to its intersection with the boundary of the Australian Fishing Zone; thence generally north easterly along the boundary of the Australian Fishing Zone to its intersection with 123° 45.00' east longitude; thence south along the meridian to its intersection with the high water mark of the mainland south of Koolan Island; thence westerly and generally southerly along the high water mark its the intersection with 16° 23.00' on the southern side of Gerald Peninsula; thence west along the parallel to its intersection with the mainland between Easton Point and Swan Point; thence northerly and south westerly along the high water mark on the coastline to the commencement point.

Schedule 4 Period

1. During the period for which this Exemption is valid:
 - a. fishing in the southern zone may only be undertaken between 1 October and 31 January (inclusive) each year; and
 - b. fishing in the northern zone may be undertaken year round.
2. This Exemption will expire on the earliest of the following events:
 - a. in five years from the date of signing this instrument; or
 - b. the replacement of this Exemption with an Interim Management Plan or another form of authorization permitting fishing for sharks.

Schedule 5
Annual Allowed Gear-days

1. The following table outlines the total allocation of allowed gear days that can be used annually by each Authorised Person or Entity and any Permitted Operator nominated by an Authorised Person or Entity including days that may be used in the Southern Zone:

Authorised Persons and Entities	Gill Net Days		Longline Days	
	Year Ending 30 Apr 06	Subsequent Years	Year Ending 30 Apr 06	Subsequent Years
Parkway Holdings	75	100	37.5	50
Scott Wallace Steele	18.75	25	9.4	12.5
R B Lowden Pty Ltd	37.5	50	18.75	25
Tasmanian Seafoods Pty Ltd	18.75	25	9.4	12.5
Total	150	200	75.05	100

2. A fishing year commences on 1 May and ends on 30 April the following year.
3. A day is defined as a 24 hour period spent fishing in the waters of the fishery for shark as notified by the Master of the fishing boat by VMS in accordance with Condition 26.
4. The following table outlines the maximum number of annual allowed gear days of any gear type that may be used in the Southern Zone, as part of those provided for in the Table above for each Authorised Person or Entity or Permitted Operators nominated by each Authorised Person or Entity:

Authorised Persons and Entities	Gear Days
Parkway Holdings	50
Scott Wallace Steele	12.5
Seafresh Pty Ltd	25
Tasmanian Seafoods Pty Ltd	12.5
Total	100

Schedule 6 Conditions

1. The number of annual gear days used by an Authorised Person or Entity and any Permitted Operator(s) must not exceed that provided for in Schedule 5 for any gear type or combination of gear types.

2. Prior to an Authorised Person and Entity or Permitted Operator commencing fishing in any year, the Authorised Person and Entity (listed in Schedule 1) must notify the Executive Director of their intention to fish their allowed longline or gill net days (“fishing nomination”). This nomination must be delivered by letter (to Department of Fisheries, Locked Bag 39, Cloisters Square Post Office, 6850) or facsimile (to (08) 94827 224) and marked to the attention of the “Commercial Shark Fishing Policy Officer”. This letter or facsimile must be delivered at least 1 business day prior to the intended date of fishing and must include the following information:
 - a. the name of the Permitted Operator if the Authorised Person or Entity is not fishing;
 - b. the maximum number of gill net or longline days proposed to be used;
 - c. the Fishing Boat Licence number to be used and the name and Licensed Fishing Boat number of the boat as shown on that Fishing Boat Licence; and
 - d. the name of the Master of the fishing boat.

3. Where an Authorised Person or Entity is nominating a Permitted Operator to fish on behalf or instead of him, the Authorised Person or Entity must notify the Executive Director (in writing) of the number and type of gear days (provided for in Schedule 5) that he has allowed the permitted operator to use, noting that:
 - a. Such notifications will -
 - i. modify (to the extent of the number and type of gear days notified);
 - ii. substitute (if it is for the same number and type of gear days as the original fishing nomination); or
 - iii. revoke (if the notification is that the Permitted Operator is no longer nominated to fish on behalf of the Authorised Person or Entity);
 - iv. any fishing nomination previously submitted by the Authorised Person or Entity relating to their proposed fishing activities;
 - b. Where such a nomination modifies or substitutes the original nomination it must include (if these matters are also modified or substituted) -
 - i. the Fishing Boat Licence number;
 - ii. the name and Licensed Fishing Boat number; and
 - iii. the name of the Master of that boat;
 - c. An Authorised Person, Entity or nominated Operator must not commence commercial fishing until the Department has confirmed the receipt of, and approved (in writing/facsimile) the fishing nomination or

any notification modifying, substituting or revoking the current fishing nomination.

4. The Authorised Person or Entity and his Permitted Operator must ensure that a copy of the following documents are on board the fishing boat at all times:
 - a. this Exemption;
 - b. a copy of the Authorised Person's or Entities' fishing nomination in accordance with Condition 2 and 3;
 - c. the Executive Director's approval of the fishing nomination;
 - d. the VMS Approved Directions for Use when issued; and
 - e. the appropriate Research logbook as specified by Department's Research Division.
5. Exemptees may only use the following gear types:
 - a. pelagic gill nets of a length no greater than 2000 metres with a mesh size of no less than 160 millimetres and no more than 185 millimetres and be no greater than 100 meshes deep;
 - b. demersal longlines must have no more than 1000 hooks attached and be no longer than 18.6 kilometres; or
 - c. any other gear approved in writing by the Executive Director.
6. At least one float (clearly marked with the LFB number of the fishing boat being used under the authority of this Exemption) must be attached to the terminal end(s) of a pelagic gillnet or demersal longline.
7. The use of automated baiting devices is not permitted.
8. Pelagic gill nets must not have hooks attached to any part of the gear (including floats).
9. Pelagic gill nets must not be used within 3 nautical miles of the high water mark.
10. An Exemptee must not permit a gillnet and longline to be onboard a fishing boat at the same time.
11. An Exemptee must not fish, or attempt to fish with a gillnet and a longline during the same fishing trip.
12. No more than 18.6 kilometres of rigged longline with no more than 100 fully rigged spare snoods may be carried onboard a fishing boat at any time.
13. No more than 2000 metres of rigged gill net may be carried onboard a fishing boat at any time.

14. Exemptees must not fish in more than one of the following jurisdictions during the same trip:
 - a. the southern zone;
 - b. the northern zone; or
 - c. the Joint Authority Northern Shark Fishery.
15. All sharks taken in the southern zone must be landed in Broome.
16. Sharks taken in the southern zone must not be filleted, but may have their fins removed with both the fins and trunk retained on board. The trunk may be transversely sectioned but each section must have the majority of its skin intact.
17. When fishing in the northern zone, all shark product on board or brought onto land from the fishing boat being used under the authority of this Exemption must conform to the following weight ratios:
 - a. sharks taken may be filleted and/or have their fins removed provided that the total landed weight of fins (excluding upper tail) does not exceed 11 % of the total weight of shark fillets, cartilage, liver, skin, head and upper tail;
 - b. if not filleted, the total landed weight of fins (excluding the upper tail) must not exceed 5.5 % of the total weight of shark products.
18. Exemptees must not be in possession of or bring onto land, shark other than whole shark unless it is done so in accordance with Condition 17.
19. Sharks must not be processed on a licensed fishing boat being used under the authority of this Exemption unless:
 - a. the fishing boat has a current fish processing permit; or
 - b. a competent application for a fish processing permit has been lodged with the Department and the application has not been refused.
20. When requested, with at least 24 hours notice, by a Departmental officer of Level 7 or above, the Master of a fishing boat named on a fishing nomination must take an observer on a fishing trip under conditions acceptable to the observer.
21. The Master of the fishing boat must complete catch and unload records on a form approved by the Department's Research Division. Nothing under this condition detracts from the reporting and record keeping requirements under the *Fish Resources Management Regulations 1995*.
22. Exemptees may catch mackerel with pelagic gillnets or longlines provided they hold a Mackerel Interim Managed Fishery Permit in Area 1 or 2 of the Mackerel Interim Managed Fishery and have nominated to operate in the Mackerel Fishery and the area in which they are fishing is open for the take of mackerel under the Mackerel Fish (Interim) Management Plan 2004.

23. Exemptees not holding a Mackerel Interim Managed Fishery Permit or who have not nominated to operate in the Mackerel Fishery or who are fishing in an area which is closed waters under the Mackerel Fish (Interim) Management Plan 2004 may land a total of 24 mackerel per fishing trip, of which no more than 12 may be spanish mackerel. These mackerel must be landed with their head on but can be gilled and gutted.
24. Any Licensed Fishing Boat being used in accordance with a fishing nomination under the authority of this Exemption must be fitted with an automatic location communicator (ALC), installed on the fishing boat pursuant to regulations 55A (except where the Executive Director has approved in writing a different model of ALC), 55B, 55C and 55D of the *Fish Resources Management Regulations 1995*.
25. Exemptees persons must adhere to the relevant Directions for Use as notified in writing by the Executive Director.
26. Prior to the commencement of fishing the Master of a fishing boat must nominate by VMS an intention to fish under the authority of this Exemption in accordance with the relevant Directions For Use. Such a nomination must also include the name of any Authorised Licensees for whom any Permitted Operator is fishing on behalf of and must be made prior to leaving the port area for the relevant port. Such a nomination will remain valid at any time the fishing boat is in the waters of the Fishery or until one of the following occurs:
 - a. it is cancelled by the Master of the boat;
 - b. superseded by another nomination; or
 - c. the Authorised Licensee revokes the permission of the Permitted Operator(s).
27. When a Permitted Operator nominates by VMS that he will fish for or on behalf of an Authorised Person or Entity, then all Authorised Persons or Entities who have a current nomination to use that boat will be deemed to have jointly permitted that Permitted Operator to fish on their behalf at any time the boat is in the waters of the Fishery.
28. The Authorised Persons and Entities must take appropriate steps to ensure that their Permitted Operator and/or Master of the fishing boat operating under his Exemption, is aware of, and complies with all the conditions of this Exemption.

**Hon Jon Ford JP MLC
MINISTER FOR FISHERIES; THE KIMBERLEY, PILBARA
AND GASCOYNE**