

**Fisheries Act 1905**  
KIMBERLEY PRAWN LIMITED ENTRY FISHERY NOTICE 1993  
Arrangement

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Fisheries Act 1905  
KIMBERLEY PRAWN LIMITED ENTRY FISHERY NOTICE 1993

Notice No. 600

Made by the Minister under section 32.

**Citation**

1. This notice may be cited as the *Kimberley Prawn Management Plan 1993* and hereafter in this management plan is referred to as "this plan".

**Interpretation**

2. In this plan unless the contrary intention appears —

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- "ALC" means an Automatic Location Communicator as defined in regulation 55A of the regulations that is capable of transmitting to the Executive Director at any time accurate information as to the geographical position course and speed of the authorised boat;
- "approved directions for use" means the directions for use of an ALC given by the Executive Director in a notice in writing to the master of an authorised boat or a licence holder
- "authorised boat" means a boat which is authorised by licence or endorsement to be used to take prawns from the waters of the Fishery;
- "boat units" means boat units calculated in accordance with the formula specified in Schedule 3;
- "calendar year" means the period of twelve months commencing on each first day of January and ending on the last day or the next December;
- "Class A units" means Class A units as referred to in the Northern Prawn Fishery Management Plan\*\*;
- "Class B unit" means a Class B unit as referred to in the Northern Prawn Fishery Management Plan\*\*;
- "closed waters" means any waters of the Fishery in which fishing is prohibited;
- "code" means the Uniform Shipping Laws Code adopted by the Marine and Ports Council of Australia and published in the *Commonwealth of Australia Gazette* on 11 May 1981;
- "fish" means all species of fish except for prawns;
- "Fishery" means the Kimberley Prawn Managed Fishery as declared in Clause 3;
- "headrope length " means the distance measured along the headrope of an otter trawl net from where the otter trawl net attaches to one of the headrope to where it attaches to the other end of the headrope;
- "licence" means a managed fishery licence authorising a person to fish in the Fishery;
- "licensed fishing boat number" has the same meaning as in the regulations;
- "otter board" means a board or plate used on a fishing net which, when the net is being towed, keeps the mouth of the net open;
- "otter trawl net" means a fishing net designed or intended to be towed by a boat and having the mouth or opening of the net controlled by the use of otter boards;
- "prawns" means fish of that common name described by the scientific classification opposite that name in column 2 of Schedule 7 of the regulations;
- "Regulations" means the *Fish Resources Management Regulations 1995*;
- "transferred" means the passing of ownership or effective control of a licence from one person to another person; and
- "try net" means an otter trawl net with a headrope length not exceeding five metres.

#### **Declaration of limited entry fishery**

**3.** The taking of prawns from the waters described in Schedule 1, previously declared under the repealed Act to constitute a limited entry fishery to be called the Kimberley Prawn Limited Entry Fishery and taken to be a managed fishery under item 8 of Schedule 3 of the Act, is a managed fishery and may be referred to as the Kimberley Prawn Managed Fishery.

#### **Prohibition on taking prawns**

**4.** A person, other than a person fishing in accordance with the Act for a non commercial purpose, shall not take, or attempt to take, prawns by any means in the waters described in Schedule 1 —

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- (a) other than in accordance with the provisions of this plan;
- (b) unless that person is operating from a boat which is an authorised boat.

**Prohibition on selling or dealing**

**5.** A person shall not sell or deal or attempt to sell or deal with prawns taken from the Fishery unless those prawns were taken —

- (a) in accordance with the provisions of this plan;
- (b) by the holder of a commercial fishing licence when operating from an authorised boat.

**Class of licence**

**6.** A licence issued to authorise a boat to operate in the Fishery shall be either a Class 1 licence, a Class 2 licence or a Class 3 licence.

**Criteria to determine the boats which may operate in the Fishery (Class 1 licence)**

**7.** (1) The criteria that shall be applied to determine the boats which may operate in the Fishery are that —

- (a) as at 9 November 1990 the boat was licensed under Regulation 2 of the *Fisheries Regulations 1938\** and that licence was endorsed to permit the boat to be used to take prawns by means of trawling in all Western Australian waters of the Indian Ocean and Timor Sea off the Kimberley coast between 123° east longitude and 127° east longitude; and
  - (b) immediately before the date this plan commences operation the boat was licensed under Regulation 2 of the *Fisheries Regulations 1938\**.
- (2) The licensee of a boat which fulfils the criteria specified in subclause (1) of this clause may apply within 60 days of the date this plan commences operation for a Class 1 licence.

**Criteria the grant of a Class 1 licence after 13 June 2002**

**7A.** Notwithstanding the provisions of clause 7, the criteria to be satisfied before the Executive Director may grant a person a Class 1 licence after 13 June 2002 are that —

- (a) the person was eligible to apply for a licence in accordance with clause 7, but failed to do so;
- (b) the failure referred to in paragraph (a) was due to inadvertence;
- (c) had the person applied for a licence in accordance with clause 7 then the person would have been granted a licence; and
- (d) the persons applies for a Class 1 licence before 1 September 2002.

**Retention of a Class 1 licence (Following compulsory reduction of Class A units)**

**8.** The licensee of a boat authorised to operate in the Northern Prawn Fishery\*\* and who, in accordance with the Northern Prawn Fishery Management Plan, as at 1 April 1993 suffered a compulsory reduction of Class A units assigned to the boat and the Class B unit was still assigned to the boat, may within 60 days of the date this plan commences operation apply in writing in and with the written approval of a licensing officer retain the Class 1 licence to the Fishery.

**Class 2 licence**

**9.** (1) The licensee of a boat which qualifies for access to the Fishery in accordance with clause 7 and —

- (a) the boat does not have a Western Australian fishing boat registration number in the sequence LFBP200 to LFBP500 inclusive;

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- (b) the boat is not endorsed on another limited entry fishery licence authorising the boat to be used in either the Shark Bay Prawn Limited Entry Fishery \*\*\*, the Exmouth Gulf Prawn Limited Entry Fishery \*\*\*\* or the Nickol Bay Prawn Limited Entry Fishery \*\*\*\*\*;
  - (c) (i) prior to 1 April 1993 transferred or surrendered the Class A units assigned to the boat to a level below that required to operate the boat in the Northern Prawn Fishery\*\* and the Class B unit formerly attached to the boat is unassigned; or
  - (ii) on or after 1 April 1993 transferred or surrendered by any means other than an adjustment scheme either all the Class A units attached to the boat or sufficient of the Class A units attached to the boat so that the boat no longer retains access to the Northern Prawn Fishery \*\* and the Class B unit is unassigned; or
  - (iii) after 1 April 1993 as a result of a Commonwealth adjustment scheme, there is a change of status to any of the licences or endorsements attached to the boat to which the Kimberley Prawn Limited Entry Fishery Licence is issued and as a result of the change of status the boat no longer retains access to the Northern Prawn Fishery\*\* and the Class B unit formerly assigned to the boat is unassigned; or
  - (iv) after 1 April 1993 as a result of a fisheries adjustment scheme established under this Act, there is a change of status to any of the licences or endorsements giving access to the Shark Bay Prawn Limited Entry Fishery \*\*\*, the Exmouth Gulf Prawn Limited Entry Fishery \*\*\*\* or the Nickol Bay Prawn Limited Entry Fishery \*\*\*\*\* which are attached to the boat to which the Kimberley Prawn Limited Entry Fishery Licence is issued and as a result of the change of status the boat no longer retains access to a Western Australian trawl fishery other than the Fishery; and
  - (d) does not have any other access authorisation qualifying the boat for access to the Fishery; or
  - (e) does not have any other access approved by the Minister, shall within 60 days of the date this plan commences operation or the transfer of the units takes place or the status of the licence or endorsement changes surrender to the Minister the Class 1 licence and apply for a Class 2 Kimberley Prawn Limited Entry Fishery Licence.
- (2) The licensee of a boat as described in subclause (1) who does not apply for a Class 2 licence may apply to have the Class 1 licence cancelled and be paid compensation.
  - (3) The amount of compensation paid shall be at the sole discretion of the Minister.
  - (4) If the licensee of a boat as described in subclause (1) does not apply within 60 days for either a Class 2 licence or for compensation in accordance with subclause (2) the Class 1 licence shall be cancelled.
  - (5) Any licence surrendered or cancelled under the provisions of this clause shall not be reissued.
  - (6) Notwithstanding the provisions of clause 7(2) and subclauses (1), (2) and (4) of this clause, a person who -
    - (a) qualifies for access to the Fishery in accordance with clause 7 but did not apply within the time specified in that clause for a Class 1 licence; and
    - (b) being the licensee of a boat which fits the description in subclause (1) of this clause and did not apply for either -
      - (i) a Class 2 licence; or
      - (ii) compensation in accordance with subclause (2) of this clause,and satisfies the Minister that -

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- (c) the failure to apply for the Class 1 licence and subsequently a Class 2 licence or compensation was due to inadvertence; and
  - (d) in the opinion of the Executive Director had the person applied within the time specified in subclause (1) and subclause (4) of this clause the person would have been granted a Class 1 licence and subsequently a Class 2 licence or compensation as the case may be,
- may apply at any time to the Executive Director for a Class 1 licence and the Executive Director may treat that application as if it were an application within clause 7(2).
- (7) If an application made in accordance with subclause (6) of this clause is granted and a Class 1 licence issues, the holder of that licence may within 14 days of that licence being issued, apply to the Executive Director in the approved form to surrender that licence on payment of compensation in an amount as fixed by the minister as if the application was an application under subclause (2) and the compensation was to be paid under subclause (3).
  - (8) If the holder of a licence which has been issued in accordance with subclauses (6) and (7) of this clause does not apply within 14 days to surrender that licence and be paid compensation then that failure to apply shall be grounds for the Executive Director to cancel the licence.

**Class 3 Licence (Reduction of Northern Prawn Fishery units after 1 April 1993)**

- 10.** (1) The licensee of a boat which qualifies for access to the Fishery under the provisions of a Class 1 licence and who —
- (a) does not have to surrender that licence under the provisions of clause 9;
  - (b) after 1 April 1993 reduces the Class A units attached to the boat by any means other than a compulsory adjustment scheme to either 100 units or to a number which is less than the number required to permit the boat to operate in the Northern Prawn Fishery \*\*;
  - (c) retains the Class B unit attached to the boat; and
  - (d) does not have any other access authorisation qualifying the boat for access to the Fishery,
- may within 60 days of reducing the Class A units to the level described in part (b) of this clause surrender the Class 1 licence and apply for a Class 3 licence.
- (2) The licensee of a boat as described in subclause (1) who does not apply for a Class 3 licence may apply to have the Class 1 licence cancelled and be paid compensation.
  - (3) If the licensee of a boat as described in subclause (1) does not apply within 60 days for either a Class 3 licence or for compensation in accordance with subclause (2) the Class 1 licence shall be cancelled.
  - (4) The amount of compensation paid shall be at the sole discretion of the Minister.
  - (5) If at any time after the licensee is issued with a Class 3 licence there is a change of status to the Northern Prawn Fishery access such that the Class B unit formerly assigned to the boat becomes unassigned then the licensee shall surrender the Class 3 licence and may apply for a Class 2 licence.
  - (6) The licensee of a boat as described in subclause (5) who does not apply for a Class 2 licence may apply to have the Class 3 licence cancelled and be paid compensation.
  - (7) If the licensee of a boat as described in subclause (5) does not apply within 60 days for either a Class 2 licence or for compensation then the Class 3 licence shall be cancelled.
  - (8) The amount of compensation paid shall be at the sole discretion of the Minister.
  - (9) Any licence surrendered or cancelled under the provisions of this clause shall not be reissued.

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**Conversion of a Class 3 licence to a Class 1 licence**

11. (1) The licensee of a boat operating in the Fishery under the provisions of a Class 3 licence may, upon purchasing sufficient units to qualify for full access to the *Northern Prawn Fishery*\*\* apply to surrender the Class 3 licence and for the issue of a Class 1 licence.
- (2) The provisions of subclause (1) of this clause shall only apply to the holder of a current Class 3 licence.

**Restricted operation of specified licences**

12. (1) A boat authorised to operate in the Fishery under a Class 1 licence and the Licensed Fishing Boat registration number for that boat is within the sequence LFBP200 to LFBP500 inclusive shall —
- (a) take or attempt to take prawns from the waters of the Fishery only;
  - (b) take or attempt to take prawns by the method of demersal trawling only; and
  - (c) not take or attempt to take prawns or fish from any other Western Australian waters.
- (2) A boat authorised to operate in the Fishery under a Class 2 or Class 3 licence shall —
- (a) take or attempt to take prawns from the waters of the Fishery only;
  - (b) take or attempt to take prawns by the method of demersal trawling only; and
  - (c) not take or attempt to take prawns or fish by means of trawling from any other Western Australian waters.

**Cancellation of a licence**

13. (1) Without limiting the operation of clauses 9, 10, 11 and 18A, a licence may be cancelled on the ground that —
- (a) a fishing boat licence is in force in respect of the relevant authorised boat and the relevant licensed fishing boat number is comprised of the letter “P” followed by a number between 200 and 500 (inclusive);
  - (b) the authorised boat may not be used to fish for prawns in accordance with the -
    - (i) *Shark Bay Prawn Managed Fishery*\*\*\*;
    - (ii) *Exmouth Gulf Prawn Managed Fishery*\*\*\*\*; or
    - (iii) *Nickol Bay Prawn Managed Fishery*\*\*\*\*\*; and
  - (c) the holder of the licence is not authorised to fish for prawns in accordance with the *Northern Prawn Fishery*\*\*.
- (2) Without limiting the operation of clauses 9, 10, 11, and 18A, a Class 2 licence or a Class 3 licence may be cancelled on the ground that the size of the relevant authorised boat exceeds 375 boat units.
- (3) For the purpose of subclause (2) boat units shall be calculated in accordance with the formula as specified in Schedule 3.
- (4) The licensee of any authorised boat, or its replacement which —
- (a) loses access to the Fishery by any means whatsoever;
  - (b) has a Western Australian licensed fishing boat number in the sequence LFBP200 - LFBP500 inclusive; and
  - (c) does not have access to any other Western Australian trawl fishery, shall not use that boat to take any fish or prawns by any means in any Western Australian waters.

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**Details on a licence**

15. A licence shall contain the following details —
- (a) the name and licensed fishing boat number in respect of which it is issued;
  - (b) the name and address of the holder of the licence;
  - (c) the licence number;
  - (d) the day of issue;
  - (e) the period for which the licence is valid;
  - (f) the Class of licence; and
  - (g) any conditions imposed on the licence.

**Prohibition on the use of certain fishing gear**

16. The master of a boat that is being used in the Fishery must not use, or permit the use of —
- (a) any fishing net that is not an otter trawl net;
  - (b) more than one try net;
  - (c) more than two otter trawl nets which are not try nets; or
  - (d) otter trawl nets which are not try nets where the total headrope length of those nets is more than 58.5 metres.

**Closure of areas within the Fishery**

17. (1) The Executive Director may, by notice published in the Gazette, prohibit fishing in any part of the Fishery for the period specified in the notice if, in the opinion of the Executive Director, the prohibition is required in the better interest of the Fishery.
- (2) A notice made under subclause (1) may prohibit fishing in a part of the Fishery by reference to —
- (a) an area described in Schedule 2; or
  - (b) any other area described in the notice.
- (3) A person must not fish in any waters of the Fishery at a time when fishing in those waters is prohibited by a notice made under subclause (1).
- (4) A notice made under subclause (1) revokes any previous notice made under that subclause.

**Grounds to refuse the transfer of a licence**

18. The transfer of a licence may be refused upon the grounds that -
- (a) the intended transferee does not hold an authorization to fish in another Western Australian trawl fishery;
  - (b) all the authorizations, including fishing boat licences, held by the intended transferor are not being contemporaneously transferred to the intended transferee; or
  - (c) in the case of a class 2 licence or a class 3 licence, the fishing boat license for the authorised boat is not being contemporaneously transferred to the intended transferee.

**Grounds to suspend or cancel a licence**

18A. A licence may be suspended or cancelled upon the ground that the licence was transferred to the holder of the licence contemporaneously with one or more other authorizations and one or more of those other authorizations has been transferred to another person.

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**Boat replacement**

**19.** (1) With the prior written approval of the Director, a boat authorised to operate in the Fishery under a Class 1 licence may be replaced by another boat if the replacement boat is equipped for prawn trawling.

(2) With the prior written approval of the Director, a boat authorised to operate in the Fishery under a Class 2 or Class 3 licence may be replaced by another boat if the replacement boat is equipped for prawn trawling and does not exceed 375 boat units as calculated in accordance with the formula as specified in Schedule 3.

(3) For the purpose of this Clause a boat is equipped for prawn trawling if —

- (a) more than one net is used;
- (b) the overall length of the trawl gear including sweeps, bridles and headrope exceeds 274.32 metres; and
- (c) the mesh of the trawl nets is less than 50 millimetres.

**Requirement for the installation of an Automatic Location Communicator**

**20.** (1) For the purpose of this clause “approved” and “approved person” have the same meaning as provided for in regulation 55A of the regulations.

(2) A licence holder must not allow the authorised boat specified on that licence to be used in the Fishery unless —

- (a) an ALC has been installed in that boat in accordance with the approved directions for use and by an approved person;
- (b) the ALC installed on that boat has been serviced in accordance with the approved directions for use, by an approved person and at intervals specified by the Executive Director in the approved directions for use; and
- (c) the licence holder has given a legible copy of the approved directions for use to the master of that authorised boat; and
- (d) the ALC installed on the boat is being used in the manner specified in the approved directions for use.

(3) It is a condition of the licence that an authorised boat referred to in subclause (2) must not be used in the Fishery unless an ALC is fitted to the boat and serviced in accordance with subclause (2) and the approved directions for use are being complied with.

(4) It is a condition of a licence that regulation 55C of the regulations is complied with at all times.

**Presence in the Fishery**

**21.** (1) The master of an authorised boat must, when intending to fish within the Fishery, not allow that boat to enter the waters of the Fishery at any time when any part of the Fishery is open to fishing unless—

- (a) the Department has received from the master of that boat a nomination of intention to enter the Fishery and comply with the requirements of the Management Plan; and
- (b) the nomination is current.

(2) If the Department receives a nomination pursuant to subclause 1(a) in any calendar year, that nomination is current for the remainder of that year unless the Department receives a nomination from a master of that boat cancelling it.

(3) A licence holder must not allow the master of an authorised boat specified on that licence to fish in the waters of the Fishery unless —

- (a) the Department has received a nomination pursuant to subclause 1(a); and
- (b) that nomination is current.

(4) The master of an authorised boat must not allow that boat to enter or be under way in closed waters when any part of the Fishery is open to fishing unless the Department -

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- (a) has received a nomination to enter or remain in closed waters (as the case may be); and
- (b) received the nomination no more than one hour before the boat entered or was under way in those waters.

(5) Any nomination to the Department made in accordance with this clause must be made using an ALC in accordance with the approved directions for use.

(6) In any proceedings for an offence against the Act, unless proven to the contrary, a reading of the position of an authorised boat received by the Department from an ALC installed on that boat is to be taken to be conclusive proof of the actual position of that boat at that time.

(7) For the purposes of Section 62(1) of the Act the areas specified are the areas detailed in Schedule 1 and Schedule 2.

#### **Offences and major provisions**

**22.** A person who contravenes a provision of –

- (a) clauses 4, 5, 12(1), 12(2), 13(4), 16, 17(3), 20(2)(a), or 21(4); or
- (b) clauses 20(2)(c), 21(1), 21(3) or 21(5)

commits an offence and for the purposes of section 75 of the Act the offences specified in subclause (a) are major offences.

#### **Procedure before this Plan is amended or revoked.**

**23.** For the purposes of section 65(1) of the Act the licence holders are to be consulted before this Plan is amended or revoked.

#### **Revocation**

**24.** The following notices are cancelled –

- Number 475 published in the *Gazette* of 22 February 1991,
- Number 492 published in the *Gazette* of 19 April 1991,
- Number 531 published in the *Gazette* of 7 February 1992 and
- Number 271 published in the *Gazette* of 6 November 1987.

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#### **Schedule 1**

All Western Australian waters of the Indian Ocean and the Timor Sea off the Kimberley coastline lying east of 123°45' east longitude and west of 126°58' east longitude.

#### **Schedule 2**

##### **York Sound**

1. All waters of York Sound bounded by the mainland and a line commencing at the intersection of the high water mark on the mainland at 124°40.80' east longitude (High Bluff); thence northerly along the geodesic to the intersection of 15°09.50' south latitude and 124°40.50' east longitude; thence north east by north along the geodesic to the intersection of 15°04.60' south latitude and 124°43.20' east longitude; thence east north east along the geodesic to the intersection of 15°01.85 south latitude and 124°51.20 east longitude; thence east north east along the geodesic to the intersection of 14°57.90' south latitude and 125°01.20' east longitude; thence north east by north along the geodesic to the intersection of 14°45.30' south latitude and 125°08.10' east longitude (Cape Pond).

##### **Collier Bay**

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2. All waters off the Kimberley coast bounded by the mainland and a line commencing at the intersection of the high water mark on the mainland and 124°00' east longitude; thence north along the meridian to the intersection of 15°50' south latitude; thence east along the parallel to the intersection of the high water mark on the mainland.

Admiralty Gulf

3. All waters of Admiralty Gulf bounded by the mainland and a line commencing at the intersection of 14°19.50' south latitude and 125°43.50' east longitude; thence south by east along the geodesic to the intersection of 14°24.70' south latitude and 125°44.90' east longitude (Pickering Point); thence east south east along the geodesic to the intersection of 14°27.40' south latitude and 125°51.10' east longitude; thence north easterly along the geodesic to the intersection of 14°19.40' south latitude and 125°57.60' east longitude; thence east along the parallel to the intersection of the high water mark on the mainland.

**Schedule 3**

"Boat units" means the units of a boat calculated by the formula —

$$\frac{ML \times B \times D \times 0.6}{2.83} + IEP$$

where

"ML" means "measured length" as defined in the Code measured in accordance with Appendix A to Section 1 of the Code;

"B" means "breadth" as defined in the Code;

"D" means "depth" as defined in the Code; and;

"IEP" is installed engine power in kilowatts of the boat's engine as certified by the supplier.

[\* Reprinted as at 15 September 1988. For amendments to 4 June 1993 see 1992 Index to Legislation of Western Australia, Table 4, pp. 80-1, and Gazettes of 9 March, 23 April, 28 May 1993 and 29 June 1993.]

[\*\* Established by the Northern Prawn Fishery Management Plan No. NPF 1 notified in GN21 of 30 May 1990 as amended by Plan of Management Nos. NPF 2 notified in S292 of 9 November 1990; NPF 3 notified in GN48 of 5 December 1990; NPF 4 notified in GN49 of 12 December 1990; NPF 5 notified in GN49 of 12 December 1990; NPF 7 notified in GN17 of 8 May 1991; NPF 8 notified in S280 of 17 October 1991; NPF 9 notified in S319 of 19 November 1991; NPF 10 notified in S367 of 11 December 1992 and NPF 11 notified in S84 of 12 March 1993.]

[\*\*\*Declared by Notice published in the Gazette on 12 March 1993.]

[\*\*\*\*Declared by Notice published in the Gazette of 17 March 1989. For amendments to 1 November see Notice No. 437 published in the Gazette of 23 February 1990, Notice No. 486 published in the Gazette of 5 April 1991 and Notice No. 537 published in the Gazette of 20 March 1992.]

[\*\*\*\*\*Declared by Notice published in the Gazette of 19 April 1991. For amendments to 1 November see Notice No. 533 published in the Gazette of 3 March 1992 and Notice No. 591 published in the Gazette of 2 March 1993.]

Dated this 22nd day of October 1993.

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MONTY HOUSE, Minister for Fisheries

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