

# LIVING MARINE RESOURCES MANAGEMENT ACT 1995

## GUIDELINE ISSUED UNDER SECTION 75

### INDUSTRY LEVY

I issue the following guideline under Section 75 of the *Living Marine Resources Management Act 1995*.

#### 1. Short title

This guideline may be cited as *Minister's Guideline (Industry Levy) 2016*.

#### 2. Related matter

This guideline is issued as a reference regarding interpretation of section 279 of the *Living Marine Resources Management Act 1995* (the Act) in relation to a request from a fishing body that I determine that a levy is payable by persons undertaking any activity under an authorisation.

The statement of reasons for my decision, and consequent issuing of this guideline, is as follows:

- Material questions of fact:
  - A fishing body may request that I determine that a levy is payable by persons undertaking any activity under an authorisation under section 279 of the Act.
  - Section 279 requires that I be satisfied that the majority of persons likely to be affected is in favour of the levy.
  - Section 279 is silent on how I am to be satisfied.
- Material on which my decision is based:
  - I consider that, as Minister, I have an obligation to the Parliament to administer the intentions contained in section 279 of the Act.
  - Clearly, Parliament intended that it be possible for a fishing body to request of me that I determine that some or all of its members pay a levy to the benefit of that fishing body.
  - I consider that to calculate the majority of persons likely to be affected based on the number of responses to a poll of all persons likely to be affected is a sufficiently high standard for a fishing body to achieve.
  - Provided all persons likely to be affected are informed and are provided an opportunity to return a vote, I do not consider it necessary to calculate the majority in relation to non-responses.
  - Rather, the majority calculated using responses only should be considered as to its generalizability. This matter concerns the minimum number of responses in relation to the total number polled. Schedule 1 should be followed in this regard. Bear in mind that the majority calculated should be considered in light of its confidence level and interval.
- Reasons for my decision:
  - It is reasonable that I indicate to a fishing body, and to the persons it represents, how I may be adequately satisfied under section 279 of the Act.
  - It is reasonable that I thus provide transparency to those requesting a levy, as well as to those who may oppose a levy, as to the process to be followed in order that I might determine that a levy is payable.

#### 3. To whom guideline is issued

In performing a function or exercising a power relating to any request by a fishing body that I determine that a levy is payable by persons undertaking any activity under an authorisation, the Secretary or delegate is to take into account, in addition to any other matter the Secretary or delegate considers relevant, the following guideline.

#### 4. Guideline issued

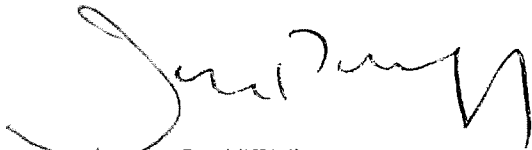
That in the case of a request by a fishing body made pursuant to section 279 (1) of the Act that I determine that a levy is payable by persons undertaking any activity under an authorisation such a levy will only be considered if:

I am satisfied that the majority of persons likely to be affected is in favour of the levy,

where,

- "persons" means the holder of an authorisation;
- all holders of an authorisation should be polled;
- authorisations held by other than a single natural person are polled through the nominated natural person;
- each authorisation held by a single natural person or represented by a nominated natural person receives one vote in the poll;
- the poll must ask the question, and record, whether the person is in favour of the levy;
- the poll must be accompanied by sufficient material to enable a person to reach an informed position regarding the question;
- if a vote is not returned by a person, that person can not be counted as being in favour or as being opposed to the levy; and
- "majority" means the majority of persons returning a vote.

Dated this 25 day of August 2016



Jeremy Rockliff MP

Minister for Primary Industries and Water

Schedule I

95% confidence level with a margin of error of +/- 5%  
<http://www.surveysystem.com/sscalc.htm>

