

Miles Brian Franklin you have pleaded guilty to a charge of knowingly making false or misleading statements in keeping records contrary to s 265(a) of the *Living Marine Resources Management Act* 1995. This charge relates to two false entries that you made in a log book record that you were required to keep pursuant to that Act in relation to a rock lobster fishing trip in April 2020.

You have been a professional fisherman for about ten years. On the occasion in question you went fishing for rock lobster on a vessel that you operated, departing from Hobart and going around the south of Tasmania and up the west coast to the area around Conical Rocks, which for the purposes of the Act is in the north-west region of the State.

Because of depletion in the rock lobster stocks in the north-west region, the rules under the Act had been changed to prohibit the taking of female rock lobsters with carapaces shorter than 120mm in the north-west region. Outside the north-west region the size limit was 110mm. According to the accurate part of the records that you kept, you caught a total of 302 rock lobster over several days before you went into the north-west region, and then on 2 and 3 April 2020 you caught a total of 248 additional rock lobster. There is no evidence that any of the rock lobster that you took were below the size limit. The practical effect of the rules that were then in force was that if you had taken any female rock lobster with a carapace of between 110mm and 120mm before entering the north-west region, you were required to throw them back. However, it has been put to me that at that time of year there were not any female rock lobster about, and that has not been disputed, so I will be proceeding on the basis that you created misleading records, but that there is no suggestion that you took or kept any rock lobster that you should not have taken or kept.

In the beginning you filled out a page in the log book that you were required to keep under the relevant rules with accurate information as to where you had fished on 2 and 3 April. This was your first rock lobster fishing trip since the rules had been changed to introduce a different size limit in the north-west. After getting back to port you learned of the change, panicked, altered the page in the log book that had the correct information on it, then filled in a new page with inaccurate information as to where you fished on 2 and 3 April, giving information that falsely suggested that you had fished outside the north-west region on those two days. However, you did not dispose of the conspicuously altered original document and, in any event, your vessel had a form of global positioning system that recorded where it had been. The police commenced an investigation, most likely because of rumours that you had done something wrong in the north-west region. They found the altered page in your log book. They took the GPS software and interrogated that, apparently not an easy task, and established that you had in fact been fishing in the north-west region on those two days.

There are a number of things that count in your favour. You were 25 at the time. You are now 28. You have been a professional fisherman since you were 18. You have no convictions for fisheries offences, despite the complexity of the regulatory requirements under the fisheries legislation. You have no significant prior convictions. What you did was out of character. You did it because of panic. Initially you were charged with trafficking in fish, a charge that the Crown decided eventually not to proceed with. It took quite some months to get to that point and that is not your fault. When the Crown decided instead to proceed with a charge of knowingly making false or misleading statements in keeping records, you promptly pleaded

guilty to that charge. The plea of guilty counts in your favour because it spared the State the cost and inconvenience of preparing this matter for trial and taking it to trial, and because it is an acknowledgment of your willingness to co-operate and facilitate the administration of justice.

However, there is big money in commercial fishing, and the penalties for offences relating to record keeping have to be large in order to deter fishers from poaching fish and depleting the resource, which needs to be preserved for future generations. It is not uncommon for people charged with offences relating to false record keeping to be given suspended prison sentences, although that is more usually the case when they have profited from their offending, often profiting very handsomely. In your case there is no suggestion that you did profit as a result of taking or keeping rock lobster that you should not have taken or kept. However I think it is appropriate to impose a significant fine.

I convict you and order that you pay a fine of \$3000 within 28 days.