

Queensland



*Fisheries Act 1994*

# **FISHERIES (CORAL REEF FIN FISH) MANAGEMENT PLAN 2003**

**Reprinted as in force on 19 December 2003  
(includes commenced amendments up to 2003 SL No. 379)**

**Reprint No. 1B revised edition**

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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

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- a correction
- a retrospective provision
- other relevant information.

# Queensland



## FISHERIES (CORAL REEF FIN FISH) MANAGEMENT PLAN 2003

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# **FISHERIES (CORAL REEF FIN FISH) MANAGEMENT PLAN 2003**

[as amended by all amendments that commenced on or before 19 December 2003]

## **CHAPTER 1—PRELIMINARY**

### **PART 1—INTRODUCTION**

#### **1 Short title**

This management plan may be cited as the *Fisheries (Coral Reef Fin Fish) Management Plan 2003*.

#### **2 Commencement**

(1) The following provisions commence 3 months after the notification day—

- (a) chapter 2, part 2;
- (b) chapter 3, part 3, division 1;
- (c) chapter 3, part 3, division 2, subdivisions 1 to 3;
- (d) chapter 4.

(2) The following provisions commence on 1 July 2004—

- (a) chapter 3, part 3, division 2, subdivision 4;
- (b) sections 153 to 156.

### 3 Application of plan

This plan applies to the taking, possessing and other uses of coral reef fin fish (the “fishery”).<sup>1</sup>

### 4 Main purpose of plan and its achievement

(1) The main purpose of this management plan is to provide for the use, conservation and enhancement of the community’s coral reef fin fish resources by managing commercial and recreational fishing, fishing by Aborigines and Torres Strait Islanders and commercial fishing tours, for the fishery in a way that seeks to—

- (a) apply and balance the principles of ecologically sustainable development; and
- (b) promote ecologically sustainable development.

(2) Schedule 1 states how the main purpose must be achieved.

(3) The achievement of the main purpose must be—

- (a) measured in the way stated in the schedule; and
- (b) reviewed by the chief executive under section 148<sup>2</sup> if a review event stated in the schedule happens.

(4) In this section—

**“principles of ecologically sustainable development”** has the meaning given under section 3(3) of the Act.

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1 See, also, schedule 12 (Line fisheries (commercial)), parts 4 (Line fishery (Queensland Fisheries Joint Authority No. 1)) and 5 (Line fishery (Queensland Fisheries Joint Authority No. 2)) of the regulation.

2 Section 148 (Consultation for review)

## PART 2—INTERPRETATION

### 5 Interpretation

(1) Unless this plan provides otherwise, terms used in it have the meaning given in the regulation.

(2) Subsection (1) is not limited to a term defined in the regulation but also applies to a provision of the regulation that aids the interpretation of a term used in the regulation.

*Example for subsection (2)—*

Part 2, divisions 2 and 3 of the regulation.

(3) The dictionary in schedule 8 defines particular terms used in this plan.

### 6 Scientific names of coral reef fin fish

(1) The scientific names of coral reef fin fish are stated in schedule 2.

(2) The scientific names follow—

- (a) for bar rockcod, crimson seaperch (small mouth nannygai), goldband snapper, hapuku and saddletail seaperch (large mouth nannygai)—Yearsley, G.K., Last, P.R. and Ward, R.D. (eds), 1999, *Australian Seafood Handbook, Domestic Species*, CSIRO Marine Research, Melbourne, Victoria; and
- (b) for eight-bar grouper—Heemstra, P.C. and Randall, J.E., 1993, *FAO Species Catalogue, volume 16, Groupers of the world (family Serranidae, subfamily Ephinephelidae), an annotated and illustrated catalogue of the grouper, rockcod, hind, coral grouper and lyretail species known to date*, *FAO Fish. Synop.*, (125) 16:382 p; and
- (c) for coral reef fin fish not mentioned in paragraph (a) or (b)—Randall, John E., Allen, Gerald R. and Steene, Roger C., 1997, *The Complete Divers and Fishermen's Guide to Fishes of the Great Barrier Reef and Coral Sea*, 2nd revised ed, University of Hawaii Press, United States of America.

## **6A References to latitudes and longitudes—sch 3A**

(1) Latitudes and longitudes mentioned in schedule 3A<sup>3</sup> are worked out using WGS 84.<sup>4</sup>

(2) In this section—

“**WGS 84**” means the ‘World Geodetic System 1984’ (commonly called ‘WGS 84’) defined in the technical report titled ‘Department of Defense—World Geodetic System 1984—Its Definition and Relationships with Local Geodetic Systems’, third edition, published by the (US) National Imagery and Mapping Agency.<sup>5</sup>

## **CHAPTER 2—CLOSED WATERS AND REGULATED FISH DECLARATIONS**

### **PART 1—CLOSED WATERS**

#### *Division 1—Annual closures*

## **7 Closures—sch 3**

(1) The following waters are closed waters—

- (a) waters east of longitude 142°31.49' east;
- (b) waters between latitude 10°41' south and latitude 25° south.

(2) The waters are closed waters for the periods stated in schedule 3.

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3 Schedule 3A (Grey nurse shark protection area water closures)

4 See also section 2A (References to latitudes and longitudes) of the regulation.

5 The technical report may be accessed on the Internet at the website of Geoscience Australia at <[www.ga.gov.au](http://www.ga.gov.au)>. At the commencement of this section, the report could be accessed at <[www.ga.gov.au/nmd/geodesy/datums/wgs.jsp](http://www.ga.gov.au/nmd/geodesy/datums/wgs.jsp)>.



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**8 Prohibited activities**

(1) Person must not—

- (a) take coral reef fin fish from closed waters under this division; or
- (b) possess coral reef fin fish taken from closed waters under this division; or
- (c) possess coral reef fin fish on board a boat in closed waters under this division, whether or not the fish were taken from the closed waters.

(2) This section applies to everybody.

*Division 2—Grey nurse shark protection area closures*

*Subdivision 1—Schedule 3A, part 1*

**8A Closures—sch 3A, pt 1**

- (1) The waters mentioned in schedule 3A, part 1 are closed waters.
- (2) The waters are closed every year, all year.

**8B Prohibited activities**

(1) This section applies to everybody.

(2) The following activities are prohibited—

- (a) taking coral reef fin fish from closed waters under this subdivision;
- (b) possessing coral reef fin fish taken in contravention of paragraph (a).

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***Subdivision 2—Schedule 3A, part 2***

**8C Closures—sch 3A, pt 2**

- (1) The waters mentioned in schedule 3A, part 2 are closed waters.
- (2) The waters are closed every year, all year.

**8D Prohibited activities—commercial fishers acting under ‘A1’ or ‘A2’ fishery symbol**

- (1) This section applies to commercial fishers acting under the fishery symbol ‘A1’ or ‘A2’.
- (2) The following activities are prohibited—
  - (a) taking coral reef fin fish in closed waters under this subdivision from 6 p.m. to 6 a.m. on any day;
  - (b) using a fishing line or cast net to take coral reef fin fish in closed waters under this subdivision from 6 a.m. to 6 p.m. on any day;
  - (c) possessing a fish taken in contravention of paragraph (a) or (b).

**8E Prohibited activities—other fishers**

- (1) This section applies to everybody other than commercial fishers acting under the fishery symbol ‘A1’ or ‘A2’.
- (2) The following activities are prohibited—
  - (a) taking coral reef fin fish from closed waters under this subdivision; or
  - (b) possessing coral reef fin fish taken in contravention of paragraph (a).

## **PART 2—REGULATED FISH**

### ***Division 1—Fish regulated by number***

#### **9 Fish regulated by number—sch 4, pt 1**

(1) This section applies to the following persons—

- (a) persons conducting commercial fishing tours and crew members for commercial fishing tours;
- (b) recreational fishers, including recreational fishers on commercial fishing tours.

(2) Coral reef fin fish mentioned in schedule 4, part 1 are regulated by number.

(3) However, only the following fish are regulated—

- (a) fish in excess of the number stated for a species, or a group of species, of coral reef fin fish;
- (b) a combined total of more than 20 coral reef fin fish of any species, other than—
  - (i) coral reef fin fish regulated by species; and
  - (ii) fusiliers.

(4) Taking or possessing fish regulated by number is prohibited.

#### **10 Exemption for recreational fishers on particular commercial fishing tours**

Despite section 9(3), a recreational fisher on a commercial fishing tour conducted for an uninterrupted period of 72 hours or more may—

- (a) on or after the 4th day of the tour—
  - (i) take not more than twice the number stated for a species, or group of species, of coral reef fin fish mentioned in schedule 4, part 1; and
  - (ii) possess not more than twice the number stated for the species, or group of species, of coral reef fin fish if the fish were taken during the tour; or

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- (b) on or after the 4th day, but before the 8th day, of the tour—possess a combined total of not more than 40 coral reef fin fish of any species if the fish were taken during the tour; or
- (c) on or after the 8th day of the tour—possess a combined total of not more than 60 coral reef fin fish of any species if the fish were taken during the tour.

*Division 2—Fish regulated by size*

**11 Fish regulated by size—sch 4, pt 2**

- (1) This section applies to everybody.
- (2) Fish mentioned in schedule 4, part 2 of the size stated are regulated fish.
- (3) Taking or possessing fish regulated by size is prohibited.

**12 Exemption for particular commercial fishers**

(1) Despite section 11(3), the holder of, or a person acting under, an authority with the fishery symbol ‘A1’ or ‘A2’ written on it, may take or possess a prescribed fish that is less than the minimum size stated in schedule 4, part 2.

(2) In this section—

“**prescribed fish**” means a coral reef fin fish for which a minimum size of 25 cm is stated in schedule 4, part 2, other than—

- (a) hussar (pink hussar); and
- (b) spanish flag (stripey).

*Division 3—Fish regulated by species*

**13 Fish regulated by species**

- (1) This section applies to everybody.
- (2) The following coral reef fin fish are regulated by species—

- (a) barramundi cod;
  - (b) chinamanfish;
  - (c) humphead Maori wrasse;
  - (d) paddletail;
  - (e) potato cod;
  - (f) Queensland grouper;
  - (g) red bass.
- (3) Taking or possessing fish regulated by species is prohibited.

## **CHAPTER 3—COMMERCIAL FISHERY**

### **PART 1—FISHERY SYMBOLS**

#### *Division 1—General provisions*

#### **14 Fishery symbols for commercial fishery**

The following are the fishery symbols for the commercial fishery—

- (a) 'RQ';
- (b) 'A1' and 'A2'.

#### **15 Restrictions on writing 'RQ' fishery symbol**

The chief executive may write the 'RQ' fishery symbol on an authority only—

- (a) under division 2 or 3; or
- (b) if—
  - (i) the authority replaces an authority on which the symbol was written under division 2 or 3; or

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- (ii) the chief executive renews an authority on which the symbol was written under division 2 or 3.

***Division 2—Obtaining fishery symbol ‘RQ’***

***Subdivision 1—Preliminary***

**16 Simplified outline of div 2**

In outline, this division—

- (a) states, in subdivision 2—
  - (i) the commercial fishing boat licences to which this division applies; and
  - (ii) the criteria that must be met for the chief executive to be required to write the fishery symbol ‘RQ’ on the licences; and
- (b) limits, in subdivision 3, the information the chief executive may use when considering whether a licence meets the criteria; and
- (c) provides, in subdivision 4—
  - (i) for the chief executive to give the holder a preliminary notice if the chief executive is not reasonably satisfied the licence meets the criteria; and
  - (ii) for the grounds on which the holder may ask the chief executive to reconsider whether the licence meets the criteria; and
- (d) states, in subdivision 5, how the criteria are adjusted for a reconsideration; and
- (e) provides, in subdivision 6, for the chief executive to give the holder an amendment notice if the chief executive is reasonably satisfied the licence meets the criteria or adjusted criteria.

**17 Definitions for div 2**

In this division—

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**“adjusted criteria”** see section 33(1)(a).

**“amendment notice”** means an amendment notice given to a licence holder under subdivision 6.

**“criteria”**, for a relevant licence, means—

- (a) if the licence has the fishery symbol ‘L3’ written on it—the first and second criteria; or
- (b) if the licence does not have the fishery symbol ‘L3’ written on it—the second criteria.

**“disregarded fish”** means coral reef fin fish—

- (a) recorded in relevant logbook information; and
- (b) disregarded by the chief executive under section 27(3).

**“event”**, for an event-based special circumstance, means an event, or a combination of events, mentioned in section 18(1)(b).

**“event-based special circumstance”** see section 18.

**“event period”**, for an event-based special circumstance, see section 18(1)(a).

**“first criteria”** means the criteria stated in section 24.

**“preliminary notice”** means a preliminary notice given to a licence holder under subdivision 4.

**“prescribed period”**, for the first or second criteria, means a prescribed period stated for the criteria in section 24 or 25.

**“reason for reconsideration”** see section 29(d).

**“recent entrant special circumstance”** see section 19.

**“reconsideration notice”** see section 30(2).

**“relevant licence”** see section 22.

**“seasonal effect special circumstance”** see section 20.

**“second criteria”** means the criteria stated in section 25.

**“special circumstance”**, for a the holder of a relevant licence, means an event-based special circumstance, a recent entrant special circumstance or a seasonal effect special circumstance.

## **18 Meaning of “event-based special circumstance”**

(1) An “**event-based special circumstance**” exists for the holder of a relevant licence if—

- (a) for an uninterrupted period (the “**event period**”) of at least 6 months during a prescribed period for the first or second criteria—
  - (i) fish were not taken under any fishery symbol written on the relevant licence; and
  - (ii) either—
    - (A) the boat identified on the licence was not used for taking fish under any fishery symbol; or
    - (B) there was no boat identified on the licence; and
- (b) fish were not taken during the event period because of any of the following—
  - (i) a relevant person was affected by illness or injury;
  - (ii) the death of a relevant person other than the holder;
  - (iii) for an event period starting on or before 19 May 1997—the boat identified on the licence—
    - (A) was destroyed or was unusable as a commercial fishing boat; and
    - (B) was not replaced or made usable during the period;
  - (iv) for an event period starting after 19 May 1997—the boat identified on the licence—
    - (A) was destroyed, or made unusable as a commercial fishing boat, by an unforeseeable and uncontrollable event; and
    - (B) was not replaced or made usable during the period; and
- (c) the holder, or, if there is more than 1 holder of the licence, at least 1 of the holders, held the licence throughout the event period.

(2) In this section—

“**relevant person**” means—

- (a) if the holder of the licence is an individual—



- (i) the holder; or
- (ii) a close relative of the holder; or
- (b) if the holder of the licence is a corporation—
  - (i) a director or member of the corporation; or
  - (ii) a close relative of the director or member.

### **19 Meaning of “recent entrant special circumstance”**

(1) A “recent entrant special circumstance” exists for the holder of a relevant licence if the holder was first named in the licence as the holder, or an application was made to transfer the licence to the holder, between 1 January 1996 and 19 May 1997.

(2) However, a recent entrant special circumstance does not exist for the holder if—

- (a) there is more than 1 holder of the licence; and
- (b) any of the holders held the licence on or before 1 January 1996.

### **20 Meaning of “seasonal effect special circumstance”**

(1) A “seasonal effect special circumstance” exists for an eligible holder if—

- (a) the holder was first named in the licence as the holder, or an application was made to transfer the licence to the holder, between 20 May 1995 and 31 December 1995; and
- (b) the majority of coral reef fin fish taken under the licence, or a former licence for the licence, during 1996 or 1997 were taken between 1 July and 31 December in the year.

(2) However, a seasonal effect special circumstance does not exist for the holder if—

- (a) there is more than 1 holder of the licence; and
- (b) any of the holders held the licence on or before 20 May 1995.

### **21 Effect of transfer of licence to corporation for ss 18–20**

For sections 18 to 20—

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- (a) an individual who transfers a licence to a corporation does not cease to be a holder of the licence if any of the following persons is a director or member of the corporation—
  - (i) the individual;
  - (ii) a close relative of the individual; and
- (b) a corporation that transfers a licence to an individual does not cease to be a holder of the licence if any of the following persons is a director or member of the corporation—
  - (i) the individual;
  - (ii) a close relative of the individual.

***Subdivision 2—Relevant licences and criteria***

## **22 Application of div 2 to relevant licences**

This division applies to a primary licence (a “**relevant licence**”)—

- (a) that, on the notification day—
  - (i) is in force; or
  - (ii) has expired, if the holder has applied to the chief executive for the licence’s renewal and the chief executive has not decided the application; and
- (b) on which 1 or more prescribed fishery symbols is written on the notification day.

## **23 Criteria to be met for relevant licence**

(1) The criteria to be used by the chief executive to decide whether the fishery symbol ‘RQ’ must be written on a relevant licence are stated in sections 24 and 25.

(2) For a relevant licence with the fishery symbol ‘L3’ written on it, both the first and second criteria must be met.

(3) For a relevant licence that does not have the fishery symbol ‘L3’ written on it, only the second criteria must be met.

## **24 First criteria**

(1) This section applies to a relevant licence with the fishery symbol 'L3' written on it.

(2) At least the minimum amount of coral reef fin fish stated in subsection (3) for a prescribed period stated in the subsection must have been taken lawfully—

- (a) during at least 2 of the periods; and
- (b) under a prescribed fishery symbol written on the relevant licence and any former licence for the relevant licence.

(3) The following are the prescribed periods and minimum amounts (expressed as whole weights)—

- 1 January 1994 to 31 December 1994—500 kg
- 1 January 1995 to 31 December 1995—500 kg
- 1 January 1996 to 31 December 1996—500 kg
- 1 January 1997 to 19 May 1997—190 kg.

## **25 Second criteria**

(1) This section applies—

- (a) to a relevant licence that does not have the fishery symbol 'L3' written on it; and
- (b) to a relevant licence with the fishery symbol 'L3' written on it only if the chief executive is reasonably satisfied the first criteria is met for the licence.

(2) At least the minimum amount of coral reef fin fish stated in subsection (3) for a prescribed period stated in the subsection must have been taken lawfully—

- (a) during at least 2 of the periods; and
- (b) under a prescribed fishery symbol written on the relevant licence and any former licence for the relevant licence.

(3) The following are the prescribed periods and minimum amounts (expressed as whole weights)—

- 20 May 1997 to 31 December 1997—310 kg

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- 1 January 1998 to 31 December 1998—500 kg
- 1 January 1999 to 31 December 1999—500 kg
- 1 January 2000 to 31 December 2000—500 kg
- 1 January 2001 to 31 December 2001—500 kg.

***Subdivision 3—First consideration by chief executive***

**26 First consideration of relevant licences by chief executive**

(1) Within 3 months after this division commences, the chief executive must decide whether the criteria for each relevant licence are met.

(2) For subsection (1), the chief executive must consider only relevant logbook information for a prescribed period for the criteria.

(3) The chief executive must round up to the nearest multiple of 10 kg the total amount of fish recorded in the relevant logbook information for a prescribed period.

(4) This section is subject to section 27.

**27 Interpretation of unlawful, ambiguous or incomplete logbook information**

(1) If relevant logbook information considered by the chief executive under section 26 is ambiguous or incomplete, the chief executive may—

- (a) disregard the information; or
- (b) interpret the information in a way that is, in the chief executive's opinion, reasonable.

*Example of ambiguous or incomplete information—*

the logbook information does not identify the species of the fish

(2) However, if there is more than 1 interpretation of the information the chief executive considers reasonable, the chief executive must prefer the interpretation most favourable to the holder.

(3) The chief executive must disregard relevant logbook information considered under section 26 if the chief executive reasonably believes coral reef fin fish recorded in the relevant logbook information were not taken or were taken unlawfully.

(4) For subsection (3), the chief executive may use any documents or information held or obtained by the chief executive to decide whether coral reef fin fish recorded in the relevant logbook information were not taken or were taken unlawfully.

#### ***Subdivision 4—Preliminary notice and application for reconsideration***

### **28 Chief executive to give preliminary notice**

(1) The chief executive must give the holder of a relevant licence a preliminary notice if the chief executive is not reasonably satisfied, under subdivision 3, the criteria for the licence are met.

(2) The chief executive must give the notice as soon as practicable after making the decision.

### **29 Requirements for preliminary notice**

A preliminary notice must state, in writing, each of the following—

- (a) that the chief executive is not reasonably satisfied the criteria for the licence are met;
- (b) from the relevant logbook information considered by the chief executive, for each prescribed period for the criteria—
  - (i) the amount of coral reef fin fish taken under the licence; and
  - (ii) the amount of unidentified fish interpreted by the chief executive as an amount of coral reef fin fish under section 27;
  - (iii) the amount of disregarded fish;
- (c) if there is an amount of disregarded fish—the documents or information used by the chief executive to decide whether the fish were not taken or were taken unlawfully;
- (d) that the holder may, by written notice, ask the chief executive to reconsider the decision only if the holder can establish any of the following (a “**reason for reconsideration**”)—
  - (i) an amount of coral reef fin fish recorded in the relevant logbook information for a prescribed period for the criteria,

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- other than an amount of disregarded fish, was not used by the chief executive in deciding whether the criteria are met;
- (ii) disregarded fish were taken and were not taken unlawfully;
  - (iii) a special circumstance for the holder exists;
- (e) that a reconsideration notice must be given within 6 weeks after the preliminary notice is given to the holder;
- (f) that if the holder does not give the chief executive a reconsideration notice under section 30—
- (i) the preliminary notice is taken to be final notice of the chief executive's decision; and
  - (ii) the holder may appeal against the decision to the tribunal within 28 days after the end of the 6 week period mentioned in paragraph (e); and
  - (iii) how to appeal.

### **30 Applying for reconsideration**

(1) The holder of a relevant licence may, by written notice, ask the chief executive to reconsider the chief executive's decision under subdivision 3.

(2) The notice (the “**reconsideration notice**”) must—

- (a) be given to the chief executive within 6 weeks after the preliminary notice is given to the holder; and
- (b) state the reason for reconsideration; and
- (c) if the reason for reconsideration is that disregarded fish were taken and were not taken unlawfully or that special circumstances exist for the holder—be accompanied by all documents or information on which the holder relies to establish the reason for reconsideration.

### **31 Chief executive to decide whether reason for reconsideration established**

(1) As soon as practicable after receiving a reconsideration notice, the chief executive must, using only the information stated in section 32, decide whether the reason for reconsideration stated in the notice is established.

(2) If the chief executive is not reasonably satisfied the reason for reconsideration is established, the chief executive must give the holder a decision notice about the decision.

**32 Information chief executive may consider in deciding whether reason for reconsideration is established**

(1) For section 31(1), the information is—

- (a) the relevant logbook information; and
- (b) the documents or information accompanying the notice; and
- (c) any further information or evidence given to the chief executive within the stated period under subsection (3); and
- (d) if the reason for reconsideration is that disregarded fish were taken and were not taken unlawfully—
  - (i) the documents or information used by the chief executive under section 27(4); and
  - (ii) any further information or evidence obtained by the chief executive under subsection (5) and any response from the holder received by the chief executive within the stated period under subsection (6).

(2) However, if the reason for reconsideration is that a seasonal effect special circumstance exists for the holder, the chief executive must not use the documents, information or evidence mentioned in subsection (1)(c) in deciding whether section 20(1)(b) is complied with for the holder.

(3) The chief executive may ask the holder to give, within a stated period of at least 14 days, any further relevant information or evidence the chief executive requires to decide whether—

- (a) disregarded fish were not taken or were taken unlawfully; or
- (b) a special circumstance exists for the holder.

(4) The holder must give the chief executive the further information or evidence requested.

(5) Also, the chief executive may obtain, other than from the holder, further information or evidence the chief executive requires to decide whether disregarded fish were not taken or were taken unlawfully.

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(6) If the chief executive obtains information or evidence under subsection (5), the chief executive must, before deciding whether the reason for reconsideration is established, give the holder a notice stating—

- (a) the information or evidence obtained; and
- (b) that the holder may respond, in writing, to the information or evidence within the period stated by the chief executive of at least 14 days after the notice is given to the holder.

(7) If relevant logbook information considered by the chief executive under this section is ambiguous or incomplete, the chief executive may—

- (a) disregard the information; or
- (b) interpret the information in a way that is, in the chief executive's opinion, reasonable.

(8) However, if there is more than 1 interpretation of the information the chief executive considers reasonable, the chief executive must prefer the interpretation most favourable to the holder.

(9) The chief executive must disregard relevant logbook information considered under this section if the chief executive reasonably believes coral reef fin fish recorded in the relevant logbook information were not taken or were taken unlawfully.

*Subdivision 5—Reconsideration and adjustment of criteria*

**33 Criteria reapplied if reason for reconsideration established**

(1) If the chief executive is reasonably satisfied a reason for reconsideration is established for the holder of a relevant licence, the chief executive must consider whether the following criteria are met for the relevant licence—

- (a) if the reason for reconsideration is that special circumstances exist for the holder—the criteria for the licence adjusted under sections 34 to 36 (the “**adjusted criteria**”);
- (b) for another reason for reconsideration—the criteria for the licence.

(2) In considering whether the criteria are met, the chief executive must use only—



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- (a) the relevant logbook information; and
- (b) any further information or evidence given to the chief executive within the stated period under section 32(3); and
- (c) if the reason for reconsideration is that disregarded fish were taken and were not taken unlawfully—the documents or information mentioned in section 32(1)(d).

(3) If relevant logbook information considered by the chief executive under this section is ambiguous or incomplete, the chief executive may—

- (a) disregard the information; or
- (b) interpret the information in a way that is, in the chief executive's opinion, reasonable.

(4) However, if there is more than 1 interpretation of the information the chief executive considers reasonable, the chief executive must prefer the interpretation most favourable to the holder.

(5) The chief executive must disregard relevant logbook information considered under this section if the chief executive reasonably believes coral reef fin fish recorded in the relevant logbook information were not taken or were taken unlawfully.

(6) The chief executive must give the licence holder the following notice—

- (a) if the chief executive is reasonably satisfied the criteria or adjusted criteria are met for the licence—an amendment notice;
- (b) if paragraph (a) does not apply—a decision notice about the decision.

### **34 Adjusted criteria for event-based special circumstance**

(1) This section applies, for section 33(1)(a)—

- (a) if the special circumstance is an event-based special circumstance; and
- (b) for the first and second criteria.

(2) The amount of coral reef fin fish taken under the relevant licence, and a former licence for the relevant licence, for a prescribed period must be decided as required under schedule 5.

### **35 Adjusted first criteria for recent entrant special circumstance**

(1) This section applies, for section 33(1)(a)—

- (a) if the special circumstance is a recent entrant special circumstance; and
- (b) only for the first criteria.

(2) The prescribed periods and minimum amounts stated in subsection (3) apply instead of the prescribed periods and minimum amounts stated in section 24(3).

(3) The following are the prescribed periods and minimum amounts (expressed as whole weights)—

- 1 January 1996 to 31 December 1996—500 kg
- 1 January 1997 to 19 May 1997—190 kg
- 20 May 1997 to 31 December 1997—310 kg
- 1 January 1998 to 31 December 1998—500 kg.

(4) The chief executive must round up to the nearest multiple of 10 kg the total amount of fish recorded in the relevant logbook information for a prescribed period mentioned in subsection (3).

### **36 Adjusted first criteria for seasonal effect special circumstance**

(1) This section applies, for section 33(1)(a)—

- (a) if the special circumstance is a seasonal effect special circumstance; and
- (b) only for the first criteria.

(2) The prescribed periods and minimum amounts stated in subsection (3) apply instead of the prescribed periods and minimum amounts stated in section 24(3).

(3) The following are the prescribed periods and minimum amounts (expressed as whole weights)—

- 1 January 1996 to 31 December 1996—500 kg
- 1 January 1997 to 19 May 1997—190 kg
- 20 May 1997 to 31 December 1997—310 kg.

(4) The chief executive must round up to the nearest multiple of 10 kg the total amount of fish recorded in the relevant logbook information for a prescribed period mentioned in subsection (3).

### *Subdivision 6—Amendment notice and amendment of licences*

#### **37 Chief executive to amend licences and give amendment notice**

(1) This section applies if the chief executive is reasonably satisfied—

- (a) under subdivision 3 or 5, that the criteria for a relevant licence are met; or
- (b) under subdivision 5, that the adjusted criteria are met.

(2) As soon as practicable after making the decision, the chief executive must—

- (a) amend the licence, and any tender licence identifying a tender boat of the primary boat identified on the relevant licence, by writing the fishery symbol 'RQ' on the licence or licences; and
- (b) give the holder an amendment notice.

#### **38 Requirements for amendment notice**

An amendment notice must state, in writing, each of the following—

- (a) that the chief executive is reasonably satisfied the criteria, or the adjusted criteria, for the relevant licence are met;
- (b) how the licence has been amended;
- (c) that the amendment takes effect when the holder receives the amendment notice;
- (d) that, until each of the following happens, a person taking or possessing coral reef fin fish under the fishery symbol 'RQ' must have the amendment notice available for immediate inspection while the person is taking or possessing the fish—
  - (i) the chief executive writes the fishery symbol 'RQ' on the licence;
  - (ii) the amended licence is returned to the holder;

- (e) that the holder may appeal against the decision to the tribunal within 28 days after the holder receives the amendment notice;
- (f) how to appeal.

### **39 Taking or possessing coral reef fin fish under amended licence**

(1) During the period stated in subsection (2), a relevant licence amended under this subdivision is subject to the condition that a person taking or possessing coral reef fin fish under the fishery symbol 'RQ' must have the amendment notice available for immediate inspection while the person is taking or possessing the fish.

(2) For subsection (1), the period—

- (a) starts on the day the holder receives the amendment notice; and
- (b) ends on the day the amended licence is returned to the holder with the fishery symbol 'RQ' written on it.

### ***Division 3—Changing fishery symbol 'RQ' to another authority***

#### **40 Definition for div 3**

In this division—

“**eligible authority**” see section 41.

#### **41 Application to change fishery symbol 'RQ' to another primary licence of holder**

A person who holds a licence on which the fishery symbol 'RQ' was written under division 2 may apply to the chief executive for the fishery symbol 'RQ' to be written on—

- (a) another primary licence (the “**eligible authority**”) held by the person on which a prescribed fishery symbol is written; and
- (b) any tender licence identifying a tender boat of the primary boat identified on the eligible authority.

## **42 How chief executive must deal with application**

(1) The chief executive must approve an application made under section 41 if it is accompanied by each of the following—

- (a) notice of the surrender of the person's RQ licence, as required under section 72 of the Act;
- (b) the RQ licence;
- (c) the eligible authority;
- (d) any tender licence identifying a tender boat of the primary boat identified on the eligible authority.

(2) The chief executive can not approve the application if it is not accompanied by the documents mentioned in subsection (1).

(3) If the chief executive approves the application, the chief executive must, as soon as practicable after approving the application—

- (a) amend the eligible authority, and any tender licence identifying a tender boat of the primary boat identified on the eligible authority, by writing the fishery symbol 'RQ' on the licence or licences; and
- (b) replace the line unit certificate issued to the holder for the line year in which the application is made to reflect the surrender of the RQ licence and the amendment of the eligible authority; and
- (c) send the amended authorities and the replacement line unit certificate to the holder.

## **PART 2—LINE UNITS**

### *Division 1—General*

## **43 Simplified outline of pt 2**

(1) This part provides for the issue of line units, their entitlements and conditions for their transfer.

(2) The following are the 3 types of line units—

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- (a) CT line units, for coral trout;
- (b) RTE line units, for red throat emperor;
- (c) OS line units, for other coral reef fin fish.

(3) The holder of a licence on which the fishery symbol 'RQ' was written under part 1, division 2 (an **"eligible holder"**) may apply to the chief executive for the issue of line units in relation to the licence.

(4) Division 3 states how the chief executive must decide the number of line units to be issued to an applicant in relation to an RQ licence.

(5) Under division 3, the total entitlements under all line units must not be more than the following amounts—

- (a) for CT line units—1 350 t of coral trout;
- (b) for RTE line units—700 t of red throat emperor;
- (c) for OS line units—1 011 t of other coral reef fin fish.

(6) Division 4 requires the chief executive, after all line units have been issued under division 3, to reduce the total entitlements of the line units if any of the entitlements mentioned in subsection (5) is exceeded.

(7) Divisions 5 and 6 provide for the entitlements of line units and working out when they are used.

(8) Division 7 prescribes conditions for the transfer of line units and provides for the entitlement under transferred line units.

(9) Division 8 provides for how a line unit holder may substitute the RQ licence to which the line units relate.

(10) Division 9 provides for the issue of tags to, and use of the tags by, line unit holders.

#### **44 Definitions for pt 2**

In this part—

**"adjusted allocation provisions"** see section 62.

**"disregarded fish"** means coral reef fin fish—

- (a) recorded in relevant logbook information; and
- (b) disregarded by the chief executive under section 57(4).

**"eligible holder"** see section 43(3).

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**“event”**, for an event-based special circumstance, means an event, or a combination of events, mentioned in section 45(1)(b).

**“event-based special circumstance”** see section 45.

**“event period”**, for an event-based special circumstance, see section 45(1)(a).

**“issued”** see section 50.

**“line unit factor”**, of an RQ licence, for CT line units, RTE line units or OS line units means the factor of the licence for the line units worked out under section 54.

**“reason for adjusted allocation”** see section 59(e).

**“recent entrant special circumstance”** see section 46.

**“recorded catch amount”** see section 56(2).

**“relevant years”** see section 56(1).

**“special circumstance”**, for an eligible holder, means an event-based special circumstance or a recent entrant special circumstance.

**“standardised catch amount”**, for an eligible holder’s RQ licence for a relevant year, means an amount worked out under section 56.

#### **45 Meaning of “event-based special circumstance”**

(1) An **“event-based special circumstance”** exists for an eligible holder if—

- (a) for an uninterrupted period (the **“event period”**) of at least 6 months between 1 January 1994 and 31 December 2001—
  - (i) fish were not taken under any fishery symbol written on the relevant licence; and
  - (ii) either—
    - (A) the boat identified on the licence was not used for taking fish under any fishery symbol; or
    - (B) there was no boat identified on the licence; and
- (b) fish were not taken during the event period because of any of the following—
  - (i) a relevant person was affected by illness or injury;

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- (ii) the death of a relevant person other than the holder;
- (iii) for an event period starting on or before 19 May 1997—the boat identified on the licence—
  - (A) was destroyed or was unusable as a commercial fishing boat; and
  - (B) was not replaced or made usable during the period;
- (iv) for an event period starting after 19 May 1997—the boat identified on the licence—
  - (A) was destroyed, or made unusable as a commercial fishing boat, by an unforeseeable or uncontrollable event; and
  - (B) was not replaced or made usable during the period; and
- (c) the holder, or, if there is more than 1 holder of the licence, at least 1 of the holders, held the licence throughout the event period.

(2) However, an event-based special circumstance does not exist for the holder if an event did not happen for at least 1 year in each of the following periods—

- (a) 1 January 1994 to 31 December 1996;
- (b) 1 January 1998 to 31 December 2001.

(3) In this section—

**“relevant person”** means—

- (a) if the holder of the licence is an individual—
  - (i) the holder; or
  - (ii) a close relative of the holder; or
- (b) if the holder of the licence is a corporation—
  - (i) a director or member of the corporation; or
  - (ii) a close relative of the director or member.

#### **46 Meaning of “recent entrant special circumstance”**

(1) A **“recent entrant special circumstance”** exists for an eligible holder if the holder was first named in the licence as the holder, or an



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application was made to transfer the licence to the holder, between 1 January 1996 and 19 May 1997.

(2) However, a recent entrant special circumstance does not exist for the holder if—

- (a) there is more than 1 holder of the licence; and
- (b) any of the holders held the licence on or before 1 January 1996.

#### **47 Effect of transfer of licence to corporation for ss 45 and 46**

For sections 45 and 46—

- (a) an individual who transfers a licence to a corporation does not cease to be a holder of the licence if any of the following persons is a director or member of the corporation—
  - (i) the individual;
  - (ii) a close relative of the individual; and
- (b) a corporation that transfers a licence to an individual does not cease to be a holder of the licence if any of the following persons is a director or member of the corporation—
  - (i) the individual;
  - (ii) a close relative of the individual.

### *Division 2—General provisions about line units*

#### **48 Nature of a line unit**

Each line unit is—

- (a) an authority, the entitlement for which is provided for under division 5; and
- (b) a quota for the fishery.

#### **49 General condition for issue of line units**

A line unit may be issued only under this part.

## **50 When line unit is “issued”**

A line unit is “issued” when—

- (a) a line unit certificate that includes the unit is issued; or
- (b) a line unit certificate is amended under this part to include the unit.

### *Division 3—Issue of line units*

#### *Subdivision 1—Number of line units to be issued to eligible holders*

## **51 Purpose of subdiv 1**

(1) This subdivision provides for how the chief executive must work out the number of line units to be issued to an eligible holder, in relation to an RQ licence, if the holder applies for the issue of line units under section 60.

(2) This subdivision is subject to section 62.<sup>6</sup>

## **52 Number of line units to be issued to eligible holders**

The number of line units the chief executive must issue to an eligible holder, in relation to an RQ licence, is—

- (a) each of the following—
  - (i) 800 CT line units;
  - (ii) 400 RTE line units;
  - (iii) 800 OS line units; and
- (b) if the line unit factor of the licence, for CT line units, RTE line units or OS line units, is greater than 0—the number of additional line units worked out by the chief executive under section 53.

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<sup>6</sup> Section 62 (Allocation provisions to be applied if reason for adjusted allocation is established)

### 53 Working out number of additional line units

(1) For section 52(b), the number of additional CT line units, RTE line units or OS line units is the number worked out by applying the following formula—

$$AU = \left( \frac{LUF}{B} \right) \times C$$

where—

“AU” means the number of additional CT line units, RTE line units or OS line units, rounded up to the nearest whole number, worked out by applying the formula.

“LUF” means the line unit factor, of the holder’s RQ licence, for CT line units, RTE line units or OS line units.

“B” means the following amount—

- (a) for CT line units—1 129 130;
- (b) for RTE line units—574 828;
- (c) for OS line units—749 305.

“C” means the following amount—

- (a) for CT line units—918 000;
- (b) for RTE line units—482 000;
- (c) for OS line units—613 000.

### 54 Working out line unit factor

The line unit factor, of an eligible’s holder RQ licence, for CT line units, RTE line units or OS line units is the factor worked out by applying the following formula—

$$LUF = \left( \frac{AC}{B} \times C \right) - D$$

where—

“LUF” means the line unit factor, of the licence, for CT line units, RTE line units or OS line units worked out by applying the formula.

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“**AC**” means the average catch amount (in kilograms) for the licence, worked out under section 55, of the prescribed coral reef fin fish for the line units.

“**B**” means the following amount—

- (a) for CT line units—2 069 764;
- (b) for RTE line units—1 131 411;
- (c) for OS line units—1 492 651.

“**C**” means the following amount—

- (a) for CT line units—1 350 000;
- (b) for RTE line units—700 000;
- (c) for OS line units—1 011 000.

“**D**” means the following amount—

- (a) for CT line units—800;
- (b) for RTE line units—400;
- (c) for OS line units—800.

## **55 Average catch amount**

(1) For section 54, the average catch amount (in kilograms), for an eligible holder’s RQ licence, of the prescribed coral reef fin fish for CT line units, RTE line units or OS line units is one-half of the total of the 2 highest amounts mentioned in subsection (2).

(2) For subsection (1), the amounts are—

- (a) the highest standardised catch amount of the prescribed coral reef fin fish, for the licence, for 1994, 1995 or 1996; and
- (b) the standardised catch amount of the prescribed coral reef fin fish, for the licence, for 1997; and
- (c) the highest standardised catch amount of the prescribed coral reef fin fish, for the licence, for 1998, 1999, 2000 or 2001.

## 56 Standardised catch amount

(1) This section provides for how the chief executive must work out the standardised catch amount, for an eligible holder's RQ licence, for each year from 1994 to 2001 (the "**relevant years**"), of the prescribed coral reef fin fish for CT line units, RTE line units or OS line units.

(2) The standardised catch amount is the amount worked out by applying the following formula—

$$SC = \frac{RC \times A}{TC}$$

where—

"**SC**" means the standardised catch amount (in kilograms), for the licence, of the prescribed coral reef fin fish worked out by applying the formula.

"**RC**" means the amount (in whole weight) (the "**recorded catch amount**") of the prescribed coral reef fin fish taken lawfully during the year under a prescribed fishery symbol written on the RQ licence and a former licence for the RQ licence.

"**A**" means the following amount—

- (a) for coral trout—1 350 000;
- (b) for red throat emperor—700 000;
- (c) for other coral reef fin fish—1 011 000.

"**TC**" means the total catch of the prescribed coral reef fin fish, for the year, worked out using the table in schedule 6.

(3) Subject to section 57, in deciding the recorded catch amount the chief executive must consider only relevant logbook information for the relevant years.

## 57 Interpretation of unlawful, ambiguous or incomplete relevant logbook information

(1) If relevant logbook information for a relevant year is ambiguous or incomplete the chief executive may—

- (a) disregard the information; or

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- (b) interpret the information in a way that is, in the chief executive's opinion, reasonable.

*Example of ambiguous or incomplete information—*

the logbook information does not identify the species of the fish

(2) However, if there is more than 1 interpretation of the information that the chief executive considers reasonable, the chief executive must prefer the interpretation most favourable to the holder.

(3) Despite subsections (1)(b) and (2), the chief executive must not interpret, as an amount of coral trout, an amount of unidentified fish recorded in the relevant logbook information if the relevant logbook information also records any of the following as being taken on the same day as the unidentified fish—

- (a) an amount of fish identified as 'trout';
- (b) an amount of fish identified as coral trout.

(4) The chief executive must disregard relevant logbook information for a relevant year if the chief executive reasonably believes coral reef fin fish recorded in the relevant logbook information were not taken or were taken unlawfully.

(5) For subsection (4), the chief executive may use any documents or information held or obtained by the chief executive to decide whether coral reef fin fish recorded in the relevant logbook information were not taken or were taken unlawfully.

*Subdivision 2—Catch history notice*

**58 Chief executive to give catch history notice**

(1) The chief executive must give an eligible holder a catch history notice.

(2) The catch history notice must accompany the amendment notice given to the holder under part 1, division 2, subdivision 2.

**59 Requirements for catch history notice**

A catch history notice must state, in writing, each of the following—

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- (a) that the eligible holder may apply for the issue of line units in relation to an RQ licence held by the holder;
- (b) the recorded catch amounts, for the licence for each relevant year of—
  - (i) coral trout; and
  - (ii) red throat emperor; and
  - (iii) other coral reef fin fish;
- (c) from relevant logbook information for each relevant year—
  - (i) the amount of unidentified fish interpreted by the chief executive as an amount of coral trout, red throat emperor or other coral reef fin fish; and
  - (ii) the amount of fish taken under the licence for a relevant year that is—
    - (A) identified in the logbook information as ‘sweetlips’ or ‘emperor’; and
    - (B) not identified, in the logbook information, as a particular species of fish; and
    - (C) interpreted by the chief executive as an amount of red throat emperor;
  - (iii) the amount of disregarded fish;
- (d) if there is an amount of disregarded fish—the documents or information used by the chief executive to decide whether the fish were not taken or were taken unlawfully;
- (e) that the holder may, when applying for the issue of line units, ask the chief executive to decide the number of line units to be issued to the holder using the adjusted allocation provisions if the holder can establish any of the following (a “**reason for adjusted allocation**”)—
  - (i) the relevant logbook information or copies of docketts identify, as coral trout—
    - (A) unidentified fish recorded in the relevant logbook information and interpreted by the chief executive as other coral reef fin fish, except if an amount of fish identified as ‘trout’ or coral trout is recorded in the

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- logbook information as being taken on the same day as the unidentified fish; or
- (B) fish (the “**identified fish**”) identified in the logbook information as other coral reef fin fish, except if an amount of fish identified as ‘trout’ or coral trout is recorded in the logbook information as being taken on the same day as the identified fish;
- (ii) the relevant logbook information or copies of docketts identify, as red throat emperor—
    - (A) unidentified fish recorded in the relevant logbook information and interpreted by the chief executive as other coral reef fin fish; or
    - (B) fish identified in the logbook information as other coral reef fin fish;
  - (iii) the relevant logbook information or copies of docketts identify, as a species of coral reef fin fish other than red throat emperor, fish mentioned in paragraph (c)(ii);
  - (iv) disregarded fish were taken and were not taken unlawfully;
  - (v) a special circumstance for the holder exists;
- (e) that an application for line units must be received by the chief executive on or after 2 February 2004 but before 15 March 2004.

*Subdivision 3—Application for issue of line units*

**60 Application for issue of line units**

(1) An eligible holder may, by written notice, apply to the chief executive for the issue of line units under this part.

(2) The application must—

- (a) be received by the chief executive on or after 2 February 2004 but before 15 March 2004; and
- (b) if the holder wishes the chief executive to decide the number of line units to be issued to the holder using the adjusted allocation provisions—
  - (i) state the reasons for adjusted allocation; and



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- (ii) be accompanied by all documents or information on which the holder relies to establish the reasons for adjusted allocation.

(3) Despite subsection (2)(a), the chief executive may consider an application received after 15 March 2004 if the chief executive is reasonably satisfied the holder was prevented from giving the application to the chief executive by 15 March 2004 by reasons beyond the holder's control.

### **61 Deciding application for issue of line units**

(1) The chief executive must, as soon as practicable after receiving an application for line units from an eligible holder, decide the number of line units to be issued to the holder.

(2) If the application states a reason for adjusted allocation exists, the chief executive must decide whether the reason for adjusted allocation is established using only the following—

- (a) the relevant logbook information;
- (b) any copies of dockets accompanying the application;
- (c) any further information or evidence given to the chief executive within the stated period under subsection (3);
- (d) if the reason for adjusted allocation is that disregarded fish were taken and were not taken unlawfully—
  - (i) the documents or information used by the chief executive under section 57(5); and
  - (ii) the documents or information accompanying the application; and
  - (iii) any further information or evidence obtained by the chief executive under subsection (5) and any response from the holder received by the chief executive within the stated period under subsection (6).

(3) The chief executive may ask the applicant to give, within the period stated by the chief executive of at least 14 days, further relevant information or evidence the chief executive requires to decide whether a reason for adjusted allocation exists.

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(4) The applicant must give the chief executive the further information or evidence requested.

(5) Also, the chief executive may obtain, other than from the holder, further information or evidence the chief executive requires to decide whether disregarded fish were not taken or were taken unlawfully.

(6) If the chief executive obtains information or evidence under subsection (5), the chief executive must, before deciding the application, give the holder a notice stating—

- (a) the information or evidence obtained; and
- (b) that the holder may respond, in writing, to the information or evidence within the period stated by the chief executive of at least 14 days after the notice is given to the holder.

(7) In deciding the number of line units to be issued to the holder, the chief executive must use only the information mentioned in subsection (2)(a) to (d).

(8) As soon as practicable after deciding the application, the chief executive must—

- (a) issue to the holder—
  - (i) a line unit certificate for the line units for the first line year; and
  - (ii) a 4-digit identity number (a “**notice identity number**”) for the line units; and
  - (iii) tags for use by the holder during the first line year; and
- (b) give the holder a decision notice for the decision.

## **62 Allocation provisions to be applied if reason for adjusted allocation is established**

If the chief executive is reasonably satisfied a reason for adjusted allocation is established for an eligible holder, the chief executive must decide the number of line units to be issued to the holder using the following provisions (the “**adjusted allocation provisions**”)—

- (a) if the reason for adjusted allocation is that special circumstances exist for the holder—sections 52 to 57 adjusted under section 63 or 64;
- (b) for another reason for adjusted allocation—sections 52 to 57.

### **63 Adjusted allocation provisions for event-based special circumstance**

(1) This section applies if the special circumstance is an event-based special circumstance.

(2) The amount mentioned in subsection (3) is taken to be an additional amount mentioned in section 55(2).<sup>7</sup>

(3) The amount is the recorded catch amount of the prescribed coral reef fin fish for the following period, whichever is higher—

- (a) the year ending immediately before the start of the event;
- (b) the year starting immediately after the end of the event.

(4) However, coral reef fin fish taken before 1 January 1990 or after 31 December 2001 must not be included in the recorded catch amount.

(5) If the standardised catch amounts mentioned in section 55(2)(a) to (c) for the RQ licence and a former licence for the RQ licence are 0 kg, the average catch amount (in kilograms) of the prescribed coral reef fin fish is the amount mentioned in subsection (3).

### **64 Adjusted allocation provisions for recent entrant special circumstance**

(1) This section applies if the special circumstance is a recent entrant special circumstance.

(2) The following amounts apply instead of the amounts mentioned in section 55(2)—

- (a) the standardised catch amount of the prescribed coral reef fin fish, for the licence, for 1997;

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<sup>7</sup> Section 55 (Average catch amount)

- (b) the standardised catch amount of the prescribed coral reef fin fish, for the licence, for 1998;
- (c) the highest standardised catch amount of the prescribed coral reef fin fish, for the licence, for 1999, 2000 or 2001.

#### **65 Particular applications for line units must be decided before start of 1st line year**

(1) The chief executive must decide all on time applications for line units before the first line year starts.

(2) In this section—

“**on time application**” for line units means an application for line units received by the chief executive before 15 March 2004.

#### *Division 4—Reduction in entitlements of line units*

#### **66 Application of div 4**

(1) This division applies if, on the relevant day, more than any of the following line units have been issued—

- (a) 1 350 000 CT line units;
- (b) 700 000 RTE line units;
- (c) 1 011 000 OS line units.

(2) In this section—

“**relevant day**” means the earliest day on which—

- (a) the period for each eligible holder to apply for the issue of line units has ended; and
- (b) the period to appeal against all decisions about the issue of line units or amending a licence by writing the fishery symbol ‘RQ’ on it has ended; and
- (c) all appeals mentioned in paragraph (b) are ended or fully decided; and
- (d) if, in deciding an appeal, the tribunal gave the chief executive directions—the directions have been complied with.

## **67 Chief executive to amend entitlements**

The chief executive must amend this plan by reducing the entitlement of all CT line units, RTE line units or OS line units so that the total entitlements of the line units is not more than—

- (a) for CT line units—1 350 000 t of coral trout; or
- (b) for RTE line units—700 000 t of red throat emperor; or
- (c) for OS line units—1 011 000 t of other coral reef fin fish.

## **68 Notice and taking of effect of reduction in entitlement**

(1) The chief executive must, as soon as practicable after the reduction of entitlements under section 67, give each line unit holder a replacement line unit certificate that reflects the reduction.

(2) The reduction for the holder takes effect when the holder is given the replacement line unit certificate.

### *Division 5—Line unit entitlement and use*

## **69 Meaning of “entitlement” of line unit holder**

(1) The holder of a line unit, or a person acting under the line unit, may take, in a line year, 1 kg (whole weight) of the prescribed coral reef fin fish for the line unit.

(2) The authorisation for each line year is the holder’s “**entitlement**” under the line unit for that line year.

(3) However, the entitlement applies only while—

- (a) the holder holds the RQ licence identified in the line unit certificate issued to the holder for the line year; and
- (b) the RQ licence is in force.

## **70 When line unit entitlement is “used” for a line year**

(1) The entitlement of a line unit held by a person is “**used**” for a line year—

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- (a) when the holder, or a person acting under the line unit, has taken, in that line year under the holder's RQ licence, an amount (in whole weight) of the prescribed coral reef fish for the line unit equalling the holder's entitlement under the line unit; or
- (b) if section 71(2) applies.

(2) The **“unused entitlement”** of a holder's line unit for a line year is the amount (in whole weight) of the prescribed coral reef fin fish for the line unit that has not been taken, for the line year, under the holder's RQ licence.

### **71 No carrying forward of unused entitlement**

(1) This section applies if, in a line year, a line unit holder takes, under the holder's RQ licence, an amount of the prescribed coral reef fin fish for the line units that is less than the total entitlements under the holder's line units.

(2) The holder is taken, at the end of the line year, to have used all the entitlements under the line units held by the holder for the line year.

### **72 Line unit certificates**

(1) The chief executive must, as soon as practicable before the start of each line year, issue to each line unit holder a certificate (a **“line unit certificate”**), for the line year, in relation to each RQ licence held by the holder.

(2) The certificate must state each of the following—

- (a) the certificate number;
- (b) the holder's name;
- (c) the notice identity number for the holder's line units relating to the RQ licence;
- (d) the licence number of the licence;
- (e) the boat mark of the primary boat identified on the licence;
- (f) the licence number of any tender licence identifying a tender boat of the primary boat;
- (g) the line year to which the certificate applies;

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- (h) how many of the following line units the holder has in relation to the licence—
  - (i) CT line units;
  - (ii) RTE line units;
  - (iii) OS line units;
- (i) the amount (in whole weight) of the prescribed coral reef fin fish that may be taken in the line year under each of the following—
  - (i) CT line units;
  - (ii) RTE line units;
  - (iii) OS line units;
- (j) if the chief executive has imposed conditions on the line units—the conditions;
- (k) if the chief executive has suspended any of the line units—
  - (i) the number and type of line units suspended; and
  - (ii) the period of the suspension.

### **73 Evidentiary provision for line unit certificate**

A line unit certificate is evidence of—

- (a) the number of line units held, at the time the certificate was issued, by the holder in relation to the RQ licence identified in the certificate; and
- (b) the conditions, if any, imposed on the line units.

### *Division 6—Evidentiary aids for use of entitlement*

### **74 Transhipment notice and landed fish notice are evidence of use of entitlement**

(1) This section applies if the holder of CT line units, RTE line units or OS line units, or the person in control of the primary boat identified in the holder's line unit certificate for the line year, gives the chief executive a landed fish notice or a transhipment notice for the prescribed coral reef fin fish for the line units.

(2) The notice is evidence that the holder has taken, under the line units, the amount of coral reef fin fish stated in the notice.

(3) However, subsection (2) does not apply for a transshipment notice if a landed fish notice later given for the prescribed coral reef fin fish states an amount of fish that is different to the amount stated in the transshipment notice.

### *Division 7—Transfer of line units*

#### **75 Purpose and application of div 7**

This division—

- (a) prescribes, for section 65(4)(a)<sup>8</sup> of the Act, conditions for the granting, by the chief executive, of an application to transfer line units; and
- (b) provides for the entitlement of the transferee under transferred line units.

#### **76 Only whole line units may be transferred**

A part of a line unit can not be transferred.

#### **77 Eligibility of transferee**

A line unit may be transferred only by the holder of an RQ licence to another person who holds an RQ licence.

#### **78 Application for line unit certificate changes required**

(1) The proposed transferor and proposed transferee must apply to the chief executive for line unit certificate changes that reflect the proposed transfer of the line units, and their entitlement.

(2) The application must state, for the line year in which the transfer is proposed to take effect, whether the entitlements of the line units to be transferred are used or unused.

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8 Section 65 (Transfer of authority (other than permit)) of the Act



## **79 Required minimum line units after transfer**

(1) The chief executive must not approve the application if, were the transfer to be made, the number of line units held by the transferor in relation to an RQ licence after the transfer would be less than—

- (a) 400 CT line units; or
- (b) 400 RTE line units; or
- (c) 400 OS line units.

(2) However, the chief executive may approve the application if—

- (a) the application is to transfer all the line units held by the transferor in relation to an RQ licence; and
- (b) the transferor has also applied to amend the transferor's RQ licence by removing the fishery symbol 'RQ' from the licence.

(3) If the application states that the entitlements of the line units to be transferred are unused, and the chief executive is not reasonably satisfied the entitlements of the line units are unused when the application is approved, the chief executive may approve the application on the condition that the entitlements of the line units transferred are used.

## **80 When transfer of line units takes effect**

If the chief executive approves the application, the transfer takes effect for the rest of the line year in which the approval is given.

## **81 Entitlement of transferee**

(1) The entitlement of the transferee under transferred line units is—

- (a) for the line year in which the transfer takes effect—the entitlement of the transferor under the units immediately before the chief executive approved the transfer; and
- (b) for a later line year—the entitlement the transferor would have had under the units, had the transfer not taken place, at the beginning of the line year.

(2) For subsection (1)(a), if part of the entitlement of the transferor under a transferred line unit is used, the whole entitlement of the transferee under the transferred line unit is taken to be used.

***Division 8—Substituting RQ licence to which line units relate***

**82 Application to substitute RQ licence to which line units relate**

(1) A line unit holder may apply to the chief executive for line unit certificate changes to substitute the RQ licence held by the holder to which the line units relate.

(2) The application must state whether the entitlements of the line units to which the substitution is to apply are used or unused.

**83 How chief executive must deal with application**

(1) The chief executive must not approve an application made under section 82 if, were the substitution to be made, the number of line units held by the line unit holder in relation to an RQ licence after the substitution would be less than—

- (a) 400 CT line units; or
- (b) 400 RTE line units; or
- (c) 400 OS line units.

(2) However, the chief executive may approve the application if—

- (a) the substitution applies to all the line units held by the holder in relation to an RQ licence; and
- (b) the holder has also applied to amend the RQ licence by removing the fishery symbol ‘RQ’ from the licence.

(3) If the application states that the entitlements of the line units to which the substitution applies are unused, and the chief executive is not reasonably satisfied the entitlements of the line units are unused when the application is approved, the chief executive may approve the application on the condition that the entitlements of the line units are used.

(4) If the chief executive approves the application, the chief executive must replace the relevant line unit certificates issued to the holder for the line year in which the application is made to reflect the substitution of the RQ licence to which the line units relate.

### ***Division 9—Tags***

#### **84 Chief executive must issue tags**

(1) The chief executive must, before the start of each line year—

- (a) estimate the number of tags a holder of line units would require for the line year if all the holder's entitlements under the line units were used; and
- (b) issue the estimated number of tags to the holder.

(2) For subsection (1)(b), the tags must be issued to the holder with the holder's line unit certificate for the year.

(3) The tags issued to the holder must—

- (a) each be marked with a unique identifying number; and
- (b) be marked with consecutive identifying numbers.

#### **85 Additional or replacement tags**

(1) During a line year, a holder of line units may apply in writing to the chief executive for—

- (a) tags to replace tags issued to the holder under section 84; or
- (b) additional tags for the line year.

(2) The application must state—

- (a) for an application for replacement tags—
  - (i) the reason the holder requires the replacement tags; and
  - (ii) the identifying numbers of the tags being replaced; and
- (b) for an application for additional tags—that the holder has used, or is about to use, all the tags issued to the holder under section 84.

(3) If the chief executive is reasonably satisfied that the replacement tags or additional tags are required by the holder, the chief executive must issue the replacement tags or additional tags to the holder.

***Division 10—Change of notice identity number***

**86 Change of notice identity number**

(1) The holder of line units may, by written notice, ask the chief executive to change the notice identity number for the line units.

(2) On receiving the notice, the chief executive must—

- (a) change the notice identity number for the line units to another 4-digit number decided by the chief executive; and
- (b) give the holder a written notice stating that the notice identity number has been changed.

(3) The change of notice identity number takes effect when the notice mentioned in subsection (2) is given to the holder.

**PART 3—CONDITIONS FOR PARTICULAR  
AUTHORITIES**

***Division 1—Fishing under fishery symbol ‘A1’ or ‘A2’***

**87 Application of div 1**

(1) This division applies to the taking and possessing of coral reef fin fish under the fishery symbol ‘A1’ or ‘A2’.

(2) However, this division is subject to chapter 2.<sup>9</sup>

**88 Area for fishery symbol ‘A1’ or ‘A2’**

The area for fishery symbol ‘A1’ or ‘A2’ comprises all tidal waters south of latitude 10°41' south and east of longitude 142°31'49" east.

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<sup>9</sup> Chapter 2 (Closed waters and regulated fish declarations)

### **89 Where coral reef fin fish may be taken**

Coral reef fin fish may be taken from the area mentioned in section 88.

### **90 What coral reef fin fish may be taken**

Any coral reef fin fish may be taken.

### **91 Permitted ways of taking fish**

(1) Fish may be taken only by hand or by using fishing lines or cast, scoop or seine nets.

(2) Underwater breathing apparatus may also be used when taking fish.

(3) A herding device, including, for example, a rod, may be used when taking fish.

### **92 General conditions of taking fish**

(1) The authority holder must be present when the fish are taken.

(2) Fish may be taken only in the waters mentioned in section 88 or stated in the authority.

(3) Only the boat identified on the authority and 1 other boat may be used to take fish at the same location.

(4) Fish must not be taken for human consumption.

(5) Not more than the number of persons stated in the authority may take fish at the same time.

### **93 Selling fish**

The authority holder may sell fish taken under the authority only for—

- (a) display as aquarium fish; or
- (b) use as broodstock.

### **94 Using fishing lines**

A fishing line may be used only if it has a single barbless hook.

### **95 Using cast nets**

A cast net may be used only if it is not more than 6 m in diameter and has a mesh size of not more than 28 mm.

### **96 Using scoop nets**

A scoop net may be used only if it is not more than 2 m in any dimension and has a mesh size of not more than 25 mm and a handle or shaft not longer than 2.5 m.

### **97 Using seine nets**

(1) A seine net may be used only if it is not longer than 16 m and has a mesh size of not more than 28 mm and a drop of not more than 3 m.

(2) A person using the net under an authority must be within 100 m of it.

## ***Division 2—Fishing under fishery symbol ‘RQ’***

### ***Subdivision 1—Preliminary***

### **98 Purpose of subdiv 1–3**

(1) Subdivisions 1 to 3 prescribe conditions to which the following authorities are subject—

- (a) an RQ licence;
- (b) the commercial fisher licence of a commercial fisher acting under an RQ licence.

(2) This division is subject to chapter 2.

### **99 Area for ‘RQ’ fishery symbol**

The area for the fishery symbol ‘RQ’ consists of—

- (a) if the fishery symbol is written on a licence that also has the fishery symbol ‘L1’ written on it—the L1 fishery area; and

- (b) if the fishery symbol is written on a licence that also has the fishery symbol 'L2' or 'L3' written on it—the L2 or L3 fishery area; and
- (c) if the fishery symbol is written on a licence that also has the fishery symbol 'L6' or 'L7' written on it—the L6 or L7 fishery area; and
- (d) if the fishery symbol is written on an RQ(L8) licence—the L8 fishery area.

***Subdivision 2—General requirements about taking coral reef fin fish***

**100 Where coral reef fin fish may be taken**

Coral reef fin fish may be taken from the areas mentioned in section 99.

**101 What coral reef fin fish may be taken**

- (1) The following coral reef fin fish may be taken—
  - (a) under an RQ(L8) licence—any coral reef fin fish other than coral trout and red emperor;
  - (b) under another licence on which the fishery symbol 'RQ' is written—any coral reef fin fish.
- (2) This section is subject to subdivision 4.

**102 Permitted ways of taking fish (other than under RQ(L8) licence)**

(1) This section applies to the taking of coral reef fin fish under a licence on which the fishery symbol 'RQ' is written, other than an RQ(L8) licence.

(2) Coral reef fin fish may be taken only by using hand or mechanically operated fishing lines or fishing rods with hand or mechanically operated reels.

(3) A person must not use more than 3 fishing lines at a time.

(4) The total number of hooks or lures attached to the lines must not be more than 6.

*Example—*

A person might use—

- (a) 1 fishing line with 6 hooks attached to it; or
- (b) 3 fishing lines with 1 lure attached to 2 of the lines and 4 hooks attached to the other line.

### **103 Permitted ways of taking fish—RQ(L8) licence**

(1) This section, and sections 104 and 105, apply to the taking of coral reef fin fish under an RQ(L8) licence.

(2) Coral reef fin fish may be taken only by using drop lines or bottom set lines as required under section 104 or 105.

(3) A person must be within 100 m of a line or group of lines while they are in use.

(4) A drop line and a bottom set line must not be used at the same time.

### **104 Using drop lines—RQ(L8) licence**

(1) A drop line must not have more than 50 hooks attached to it.

(2) Not more than 6 drop lines may be used at a time.

(3) Each drop line must have attached to it a light coloured float that is—

- (a) marked with the boat mark of the primary boat identified on the holder's RQ licence; and
- (b) at least 30 cm in each of its dimensions.

### **105 Using bottom set lines—RQ(L8) licence**

(1) A bottom set line must not have more than 300 hooks attached to it.

(2) Not more than 3 bottom set lines may be used at a time.

(3) However, if more than 1 bottom set line is used, the combined number of hooks on the lines must not be more than 300.

(4) Each end of a bottom set line must have attached to it a light coloured float that is—



- (a) marked with the boat mark of the primary boat identified on the holder's RQ licence; and
- (b) at least 30 cm in each of its dimensions.

### **106 Prohibitions to allow identification or counting of coral reef fin fish**

The person may possess coral reef fin fish on board a commercial fishing boat only in 1 of the following forms—

- (a) whole;
- (b) gilled and gutted;
- (c) if the fish is filleted under a filleting permit—filleted.

#### *Subdivision 3—Use of commercial fishing boats*

### **107 Using primary boats**

Subject to section 43(2) and (3)<sup>10</sup> of the regulation, a primary boat longer than 20 m must not be used.

### **108 Using tender boats**

(1) A tender boat must not be used—

- (a) in the L1 fishery area, the L2 or L3 fishery area or the L6 or L7 fishery area—more than 5 n miles from its primary boat; or
- (b) in the L8 fishery area—more than 800 m from its primary boat.

(2) Subsection (1) does not apply if—

- (a) the tender boat and its primary boat are located—
  - (i) in L2 or L3 fishery area; and
  - (ii) on the same reef; or
- (b) both of the following apply—

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<sup>10</sup> Section 43 (Restrictions on writing fishery symbols on authorities allowing the use of boats of certain lengths in commercial fisheries) of the regulation

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- (i) the tender boat is used only to carry—
  - (A) fish taken by its primary boat; or
  - (B) fishing apparatus used from its primary boat;
- (ii) the tender boat and its primary boat are both within 2 km of the mainland shore.

(3) The tender licence must have the fishery symbol 'RQ' written on it.

(4) For tender boats identified in a licence with the fishery symbol 'RQ' written on it, not more than the number of tender boats authorised by the chief executive for the fishery may be used at a time.

### **109 Permitted distance for assistant fisher to be under direction**

(1) If a commercial fisher and an assistant fisher are on separate commercial fishing boats, the permitted distance for the assistant fisher to be under direction is—

- (a) in the L8 fishery area—800 m; or
- (b) in other waters—5 n miles.

(2) However, any distance is permitted if the boats are located—

- (a) in the L2 or L3 fishery area; and
- (b) on the same reef.

### ***Subdivision 4—Line units***<sup>11</sup>

#### ***110 Purpose and application of subdiv 4***

*This subdivision—*

- (a) *prescribes conditions to which the following are subject—*
  - (i) *line units;*
  - (ii) *for a commercial fisher acting under line units held by another person—the person's commercial fisher licence; and*

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<sup>11</sup> Subdivision 4 (sections 110–120) had not commenced on or before the reprint date.

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- (b) *applies to each of the following persons (the “prescribed persons”)—*
- (i) *the holder of line units;*
  - (ii) *a commercial fisher acting under line units held by another person.*

### **111 Definitions for subdiv 4**

*In this subdivision—*

**“authorised boat” means—**

- (a) *the primary boat identified in the line unit holder’s line unit certificate for the line year; and*
- (b) *a tender boat, the licence number for which is stated in the line unit certificate, of the primary boat.*

**“prescribed persons” see section 110(b).**

### **112 Requirements for taking fish or possessing fish on board authorised boat**

*A prescribed person may take coral reef fin fish, or possess coral reef fin fish on board an authorised boat, in a line year only if—*

- (a) *the line unit holder holds the following line units with unused entitlements for the line year—*
  - (i) *for coral trout—CT line units;*
  - (ii) *for red throat emperor—RTE line units;*
  - (iii) *for other coral reef fin fish—OS line units; and*
- (b) *if the fish are brought ashore—*
  - (i) *the applicable notice requirements in sections 115 to 117 are complied with for the fish; and*
  - (ii) *the fish brought ashore comply, or substantially comply, with any notice given under this subdivision; and*
- (c) *the tagging requirements under section 118 are complied with for the fish.*

### **113 Requirement for bringing fish ashore**

*A prescribed person must not bring ashore coral reef fin fish taken from an authorised boat unless—*

- (a) a prior notice has been given for the fish as required under section 115; or*
- (b) a transhipment notice has been given for the fish as required under section 116.*

### **114 Requirement for possessing fish**

*(1) A prescribed person may possess coral reef fin fish only if the person complies with the tagging requirements under section 118.*

*(2) This section applies even if the fish were not taken by the person.*

### **115 Prior notice**

*(1) This section applies if coral reef fin fish taken from an authorised boat are proposed to be brought ashore from the authorised boat.*

*(2) The line unit holder must give notice (“**prior notice**”) of the following to the chief executive—*

- (a) the notice identity number for the line units;*
- (b) the place where the fish will be brought ashore;*
- (c) the estimated day and time when the fish will be brought ashore;*
- (d) the estimated number of coral reef fin fish on board the boat;*
- (e) if there are filleted coral reef fin fish on board the boat—the estimated number of containers in which the fillets are kept.*

*(3) A prior notice must be given to the chief executive no later than 4 p.m. on the day before the day the fish are brought ashore.*

*(4) The holder or person in control of the boat may, by notice to the chief executive—*

- (a) no less than 3 hours before the fish are brought ashore—amend a detail given under subsection (2); or*
- (b) at any time—withdraw the prior notice.*

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(5) *However, a detail given under subsection (2) may not be amended after the authorised boat berths at a mainland mooring.*

(6) *The holder or person in control must record the receipt number given by or for the chief executive for the prior notice.*

(7) *The holder complies with subsection (2) if the person in control of the boat gives the notice, in compliance with the subsection, for the holder.*

### **116 Transshipment notice**

(1) *This section applies if coral reef fin fish are—*

- (a) *taken from an authorised boat; and*
- (b) *transferred, before the fish are brought ashore, to a following vessel (a “transport vessel”)—*
  - (i) *a boat identified in a carrier boat licence;*
  - (ii) *a ship, within the meaning of the Transport Operations (Marine Safety) Act 1994, registered under that Act; and*
- (c) *proposed to be brought ashore from the transport vessel.*

(2) *As soon as practicable after the fish are transferred to the transport vessel, the line unit holder must give notice (“transshipment notice”) of the following to the chief executive—*

- (a) *the notice identity number for the line units;*
- (b) *for a transport vessel mentioned in subsection (1)(b)(i)—the boat mark of the boat;*
- (c) *for a transport vessel mentioned in subsection (1)(b)(ii)—the ship’s registration number;*
- (d) *the estimated weight of whole coral trout, red throat emperor and other coral reef fin fish taken from the authorised boat and proposed to be brought ashore from the transport vessel;*
- (e) *if filleted coral reef fin fish are proposed to be brought ashore—*
  - (i) *the estimated number of containers in which the fillets are kept; and*
  - (ii) *the estimated weight of the fillets of coral trout, red throat emperor and other coral reef fin fish proposed to be brought ashore.*

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(3) *The holder or person in control must record the receipt number given by or for the chief executive for the transshipment notice.*

(4) *The holder complies with subsection (2) if another person gives the notice, in compliance with the subsection, for the holder.*

### **117 Landed fish notice**

(1) *This section applies if coral reef fin fish are—*

- (a) *taken from an authorised boat; and*
- (b) *brought ashore from the authorised boat or a transport vessel.*

(2) *The line unit holder must give notice (“**landed fish notice**”) of the following matters to the chief executive as soon as practicable after the fish are brought ashore—*

- (a) *the notice identity number for the line units;*
- (b) *the receipt number for the prior notice or the transshipment notice given for the fish;*
- (c) *the number and whole weight of coral trout, red throat emperor and other coral reef fin fish brought ashore.*

(3) *For subsection (2)(c), the whole weight must be worked out using a scale that is certified under the Trade Measurement Act 1990.*

(4) *The holder or a commercial fisher must retain possession of the coral reef fin fish until the landed fish notice is given.*

(5) *The holder complies with subsection (2) if the person who was in control of the boat when the fish were taken gives the notice, in compliance with the subsection, for the holder.*

### **118 Requirement to tag fish**

(1) *A prescribed person must, at all times while a coral reef fin fish taken from an authorised boat is in the person’s possession, ensure—*

- (a) *for a fish that is dead, other than a filleted fish—a tag is securely attached to the fish; and*
- (b) *for a live or filleted fish—a tag is secured to the outside of the container in which the fish or fillets are kept.*

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*(2) If the prescribed person gives possession of the fish to a person to whom section 153 or 154<sup>12</sup> applies, the prescribed person must ensure the fish is, when possession is given, tagged as required under subsection (1).*

### ***119 Use of tags by holder***

*(1) The holder of line units must, during a line year, use the tags issued to the holder for the line year consecutively according to the identifying numbers on the tags.*

*(2) The holder must not—*

- (a) use a tag more than once; or*
- (b) use a tag that is not completely intact.*

### ***120 Notices to chief executive under this subdivision***

*(1) This section applies to a notice given to the chief executive under section 115, 116 or 117.*

*(2) The notice must be given to the chief executive by telephone to a telecommunications service provider for the chief executive appointed by a gazette notice.*

*(3) The chief executive may make guidelines about how to give a notice under subsection (2).*

*(4) A person is taken to have given a notice under this subdivision if, to the extent they are relevant, the guidelines are complied with.*

## ***Division 4—General provisions about guidelines***

### **121 Application of div 4**

This division applies if the chief executive makes guidelines under section 120(3).

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12 Section 153 (Possession of coral reef fin fish in trade or commerce after fish brought ashore—buyers) or 154 (Possession of coral reef fin fish in trade or commerce after fish brought ashore—persons other than authority holders)

## **122 Notification**

(1) As soon as practicable after making the guidelines, the chief executive must notify the guidelines in the gazette.

(2) The Minister must, within 14 sitting days after the gazettal, table the guidelines in the Legislative Assembly as if they were subordinate legislation.

(3) The *Statutory Instruments Act 1992*, part 6,<sup>13</sup> applies to the guidelines as if they were subordinate legislation.

## **123 Inspection**

The chief executive must ensure a copy of the guidelines is available for inspection at the department's head office, free of charge, by members of the public during office hours on business days.

## **124 Admissibility of guidelines in proceedings**

(1) This section provides for the admissibility of the guidelines in certain offence proceedings.

(2) The guidelines are admissible in a proceeding relating to contravention of a requirement to give notice to the chief executive under section 115, 116 or 117.<sup>14</sup>

(3) However, the guidelines are not admissible in evidence against a person unless the guidelines were gazetted and tabled in the Legislative Assembly before the act or omission that is alleged to form the offence.

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13 *Statutory Instruments Act 1992*, part 6 (Procedures after making of subordinate legislation)

14 Section 115 (Prior notice), 116 (Transshipment notice) or 117 (Landed fish notice)



## **PART 4—CONDITIONS FOR BOAT LICENCES**

### **125 Restriction on amending RQ licence to modify or replace boat**

(1) The chief executive must not amend an RQ licence to allow a modification or replacement of the boat identified on the licence (the **“identified boat”**) unless the condition in subsection (2) is complied with.

(2) The amendment must not result in the modified or replacement boat being longer than—

- (a) if the identified boat is 10 m or less in length—10 m; or
- (b) if the identified boat is more than 10m but 14 m or less in length—14 m; or
- (c) if the identified boat is more than 14 m in length—the length of the identified boat.

(3) This section expires on 1 July 2004.

### **126 Conditions of RQ licences about transshipping**

(1) An RQ licence is subject to the conditions mentioned in subsections (2) and (3).<sup>15</sup>

(2) Coral reef fin fish taken from the primary boat must not be transhipped to any of the following boats (the **“prescribed boats”**)—

- (a) another primary boat;
- (b) the tender boat of another primary boat.

(3) Coral reef fin fish taken from a prescribed boat must not be transhipped to the primary boat.

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15 See also, for example, sections 43 (Restrictions on writing fishery symbols on authorities allowing the use of boats of certain lengths in commercial fisheries) and 54 (Primary commercial fishing boat licence) of the regulation.

### **127 Conditions of particular tender licences**

A tender licence with the fishery symbol 'RQ' written on it is subject to the conditions<sup>16</sup> that—

- (a) coral reef fin fish taken from the tender boat must not be transhipped to a boat other than—
  - (i) the tender boat's primary boat; or
  - (ii) another tender boat of its primary boat; and
- (b) coral reef fin fish taken from any of the following boats must not be transhipped to the tender boat—
  - (i) a primary boat, other than the tender boat's primary boat;
  - (ii) the tender boat of a primary boat mentioned in subparagraph (i).

### **128 No new carrier boat licences**

(1) The chief executive must not issue a carrier boat licence allowing the carriage of coral reef fin fish.

(2) The chief executive may replace or renew a carrier boat licence allowing the carriage of coral reef fin fish only if—

- (a) the licence was issued before the notification day; and
- (b) the holder applying for the replacement or renewal has held the licence continuously from the notification day; and
- (c) the application is for the replacement or renewal of the licence on the same, or substantially the same, conditions.

(3) A carrier boat licence issued before the notification day is subject to the condition that the boat must not be used to carry live coral reef fin fish unless—

- (a) the boat is also identified in a commercial fishing boat licence; and
- (b) the fish were taken from any of the following—
  - (i) the boat;

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<sup>16</sup> See also, for example, section 56 (Tender commercial fishing boat licence) of the regulation.

- (ii) if the boat is a tender boat—the boat’s primary boat;
- (iii) if the boat is a primary boat—a tender boat of the boat.

## **PART 5—FILLETING PERMITS**

### **129 Chief executive may issue filleting permits**

- (1) The chief executive may issue filleting permits.
- (2) The chief executive may issue a filleting permit only to the holder of an RQ licence.

### **130 What filleting permit authorises**

The holder of a filleting permit, or a commercial fisher acting under the holder’s RQ licence, may fillet coral reef fin fish stated in the permit on board the primary boat identified on the holder’s RQ licence.

## **CHAPTER 4—OTHER FISHING**

### **PART 1—COMMERCIAL FISHING TOURS**

#### **131 Application of pt 1**

- (1) This part applies to all tidal waters.
- (2) However, this part is subject to chapter 2.<sup>17</sup>

#### **132 What fish may be taken**

- (1) Any coral reef fin fish may be taken.

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<sup>17</sup> Chapter 2 (Closed waters and regulated fish declarations)

(2) However, the fish must be taken under a general fisheries permit allowing a commercial fishing tour to be conducted.

### **133 Permitted ways of taking fish**

(1) Coral reef fin fish may be taken only by using—

- (a) hand or mechanically operated fishing lines; or
- (b) fishing rods with hand or mechanically operated reels; or
- (c) hand-held spears or spear guns.

(2) Each of the following persons must use a total of not more than 3 fishing lines at a time—

- (a) the person in control of a boat used for a commercial fishing tour;
- (b) a crew member for the tour.

(3) The total number of hooks or lures attached to the lines must not be more than 6.

*Example—*

A person might use—

- (a) 1 fishing line with 6 hooks attached to it; or
- (b) 3 fishing lines with 1 lure attached to 2 of the lines and 4 hooks attached to the other line.

### **134 General conditions of taking coral reef fin fish**

If the authority under which coral reef fin fish are taken has an area stated on it, the fish may be taken only in the stated area.

### **135 Prohibitions to allow identification or counting of coral reef fin fish**

(1) A person conducting a commercial fishing tour, or a crew member for the tour, may possess coral reef fin fish on board the boat used to conduct the tour only in 1 of the following forms—

- (a) whole;
- (b) gilled and gutted;
- (c) if subsection (2) or (3) applies—filleted.

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Maximum penalty—100 penalty units.

(2) If the tour is conducted for an uninterrupted period of not more than 48 hours, the person may possess, on board the boat, a fillet from a coral reef fin fish only if—

- (a) the fish is a species other than chinese footballer (blue spot trout) and—
  - (i) the length of the fillet is at least 40 cm; and
  - (ii) skin and scales are attached to the fillet; or
- (b) an inspector reasonably believes the fillet is intended for immediate consumption by persons on board the boat.

(3) If the tour is an extended commercial fishing tour, the person may possess, on board the boat, a fillet from a coral reef fin fish only if—

- (a) skin and scales are attached to the fillet; and
- (b) the fillets from the fish are packaged together; and
- (c) the package is labelled with the common name of the species of the fish.

(4) If a coral reef fin fish taken from a boat is filleted ashore, the person must not return a fillet from the fish to a boat unless—

- (a) the length of the fillet is at least 40 cm; and
- (b) skin and scales are attached to the fillet.

Maximum penalty—100 penalty units.

(5) The person must not put a coral reef fin fish, that is whole or gilled and gutted, into cool storage unless a pectoral fin has been removed from the fish.

Maximum penalty—100 penalty units.

*Example of cool storage—*

a cooler or refrigerator

(6) For subsection (5), the pectoral fin must be removed from the fish after it has died and before it is put into cool storage.

### **136 Prohibition on bringing live coral reef fin fish ashore**

(1) A person conducting a commercial fishing tour, or a crew member for the tour, must not bring a live coral reef fin fish ashore.

Maximum penalty—100 penalty units.

(2) Subsection (1) does not apply if the person brings a live coral reef fin fish, other than coral trout or red throat emperor, ashore for display in an aquarium.

## **PART 2—RECREATIONAL FISHING**

### **137 Application of pt 2**

(1) This part applies to—

- (a) all tidal waters; and
- (b) all recreational fishers, including, for example, recreational fishers on a commercial fishing tour.

(2) This part is subject to chapter 2.

### **138 What fish may be taken**

Any coral reef fin fish may be taken.

### **139 Permitted ways of taking coral reef fin fish**

(1) Coral reef fin fish may be taken only by using—

- (a) hand or mechanically operated fishing lines; or
- (b) fishing rods with hand or mechanically operated reels; or
- (c) hand-held spears or spear guns.

(2) A recreational fisher must not use more than 3 fishing lines at a time.

(3) The total number of hooks or lures attached to the lines must not be more than 6.

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*Example—*

A recreational fisher might use—

- (a) 1 fishing line with 6 hooks attached to it; or
- (b) 3 fishing lines with 1 lure attached to 2 of the lines and 4 hooks attached to the other line.

### **140 Prohibitions to allow identification or counting of coral reef fin fish**

**(1)** A recreational fisher must not possess, on board any boat, coral reef fin fish taken from a boat other than in 1 of the following forms—

- (a) whole;
- (b) gilled and gutted;
- (c) if subsection (2) or (3) applies—filleted.

Maximum penalty—100 penalty units.

**(2)** If the fisher is not on a commercial fishing tour, or is on a commercial fishing tour conducted for an uninterrupted period of not more than 48 hours, the fisher may possess, on board a boat, a fillet from a coral reef fin fish only if—

- (a) the fish is a species other than chinese footballer (blue spot trout); and—
  - (i) the length of the fillet is at least 40 cm; and
  - (ii) skin and scales are attached to the fillet; or
- (b) an inspector reasonably believes the fillet is intended for immediate consumption by persons on board the boat; or
- (c) the boat is used only for transporting people or vehicles and the fisher is a paying passenger on board the boat.

**(3)** If the fisher is on an extended commercial fishing tour, the fisher may possess, on board a boat, a fillet from a coral reef fin fish only if—

- (a) skin and scales are attached to the fillet; and
- (b) the fillets from the fish are packaged together; and
- (c) the package is labelled with the common name of the species of the fish.

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(4) If a coral reef fin fish taken from a boat is filleted ashore, the fisher must not return a fillet from the fish to a boat unless—

- (a) the length of the fillet is at least 40 cm; and
- (b) skin and scales are attached to the fillet.

Maximum penalty—100 penalty units.

(5) The fisher must not put a coral reef fin fish, that is whole or gilled and gutted, into cool storage unless a pectoral fin has been removed from the fish.

Maximum penalty—100 penalty units.

*Example of cool storage—*

a cooler or refrigerator

(6) For subsection (5), the pectoral fin must be removed from the fish after it has died and before it is put into cool storage.

#### **141 Prohibition on bringing live coral reef fin fish ashore**

(1) A recreational fisher must not bring a live coral reef fin fish ashore.

Maximum penalty—100 penalty units.

(2) Subsection (1) does not apply if the recreational fisher brings a live coral reef fin fish, other than coral trout or red throat emperor, ashore for display in an aquarium.

### **PART 3—ABORIGINAL AND TORRES STRAIT ISLANDER FISHING**

#### **142 Aboriginal and Torres Strait Islander rights not affected**

This plan does not limit the right of an Aborigine or Torres Strait Islander to take, use or keep coral reef fin fish under Aboriginal tradition or Island custom.



## **CHAPTER 5—MISCELLANEOUS PROVISIONS**

### **PART 1—REVIEW OF PLAN**

#### *Division 1—Reviews required*

#### **143 General review**

(1) The chief executive must review this plan to decide whether its provisions remain appropriate.

(2) The review must start at least 5 years, but not more than 9 years, after the notification day.

(3) Despite subsection (2), the chief executive must review the provisions of the plan about regulated fish<sup>18</sup> every 5 years after the notification day or at an earlier time the chief executive considers appropriate.

#### **144 Review of average annual catch of coral reef fin fish**

(1) The chief executive must, no later than 4 years after the notification day, review this plan to decide—

- (a) whether there has been a consistent decrease in the average annual catch of coral reef fin fish in an area during the preceding 4 year period; and
- (b) if so, whether—
  - (i) the decrease is due to the taking of the fish in an area located near a populated area; and
  - (ii) the average annual catch in the area is consistent with ecologically sustainable development.

(2) If the chief executive reasonably believes paragraphs (a) and (b)(i) are satisfied and that the average annual catch in the area is not consistent with ecologically sustainable development, the chief executive must amend

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18 See chapter 2 (Closed waters and regulated fish declarations), part 2 (Regulated fish).

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this plan to take measures to achieve an average annual catch for coral reef fin fish in the area that is consistent with ecologically sustainable development.

(3) In this section—

**“average annual catch”** of coral reef fin fish in an area means the amount of coral reef fin fish taken in the area in a year by recreational and commercial fishers, divided by the number of days in the year on which boats were used to take coral reef fin fish in the area.

### **145 Ongoing review of entitlements under line units**

(1) The chief executive must, every 2 years after the last day of the first line year, review this plan to decide—

- (a) whether the total entitlements of line units, in the immediately preceding line year, for each of the following species or groups of species are consistent with ecologically sustainable development—
  - (i) coral trout;
  - (ii) red throat emperor;
  - (iii) other coral reef fin fish; and
- (b) if so, whether the chief executive reasonably believes the total entitlements are appropriate having regard to the main purpose of this plan.

(2) If the chief executive decides, for a species or group of species mentioned in subsection (1)(a)(i) to (iii), that the total entitlements are not consistent with ecologically sustainable development, the chief executive must amend this plan to take measures to achieve entitlements for the species the chief executive reasonably believes are consistent with ecologically sustainable development.

(3) If the chief executive decides, for a species or group of species mentioned in subsection (1)(a)(i) to (iii), that the total entitlements are not appropriate having regard to the main purpose of this plan, the chief executive may amend this plan to take measures to achieve entitlements the chief executive reasonably believes are appropriate having regard to the main purpose of this plan.

### 146 Review of total line unit entitlements

(1) The chief executive must, if the event mentioned in subsection (2) happens, review the total entitlements of line units to decide whether the chief executive reasonably believes the level of entitlements is appropriate having regard to the main purpose of this plan.

(2) For subsection (1), the event is that immediately after all line units have been issued under chapter 3, part 2, division 3,<sup>19</sup> the total entitlements of the line units is less than—

- (a) for CT line units—1 350 t of coral trout; or
- (b) for RTE line units—700 t of red throat emperor; or
- (c) for OS line units—1 011 t of other coral reef fin fish.

(3) If the chief executive reasonably believes the level of line unit entitlements is not appropriate having regard to the main purpose of this plan, the chief executive may amend this plan to increase the entitlement of a line unit.

(4) If the entitlement of a line unit is increased under subsection (3), the total entitlements under the line units must not exceed the amounts stated in subsection (2).

### 147 Review of catch under OS line units

(1) The chief executive must, if the event mentioned in subsection (2) happens, review this plan to decide whether the catch of the relevant species or the relevant group of species is consistent with ecologically sustainable development.

(2) For subsection (1), the event is that—

- (a) the catch of a species of other coral reef fin fish (the “**relevant species**”) under OS line units in a line year is at least 10% higher than the catch of the relevant species under OS line units in the first line year; or
- (b) the catch of a relevant group of species of coral reef fin fish under OS line units in a line year is at least 20% higher than the catch of the relevant group of species under the line units in the first line year.

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<sup>19</sup> Chapter 3 (Commercial fishery), part 2 (Line units), division 3 (Issue of line units)

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(3) If the chief executive reasonably believes the catch of the relevant species or the relevant group of species is not consistent with ecologically sustainable development, the chief executive must take steps, including, for example, amending this plan, to achieve a catch of the relevant species or relevant group of species under OS line units that is consistent with ecologically sustainable development.

(4) In this section—

“**relevant group of species**” means coral reef fin fish of the same family, other than coral trout or red throat emperor.

*Division 2—Consultation requirements for reviews*

**148 Consultation for review**

(1) In conducting a review, the chief executive must take reasonable steps to engage in consultation about the plan.

(2) When the review starts, the chief executive must give written notice of each of the following—

- (a) that the plan is being reviewed;
- (b) that a plan review paper is available for comment;
- (c) where the paper can be obtained;
- (d) that a person may make written comments to the chief executive on the paper;
- (e) the address to which the comments may be made;
- (f) the period, of at least 28 days after the notice is given, during which any comments must be made to the chief executive.

(3) After considering any comments made during the period, the chief executive must give written notice of where the results of the review can be obtained.

(4) A notice required to be given by the chief executive under this section must be given by publication in the gazette and a newspaper circulating generally throughout the State.

## **PART 2—OFFENCES AND CRITERIA FOR SUSPENSION AND CANCELLATION**

### *Division 1—Prescribed serious fisheries offences*

#### **149 Serious fisheries offences**

For the Act, schedule, definition “serious fisheries offence”, an offence against fisheries legislation about any of the following in relation to the fishery is a serious fisheries offence—

- (a) taking, possessing in trade or commerce, selling or buying coral reef fin fish—
  - (i) without an authority; or
  - (ii) in contravention of the authority;
- (b) taking or possessing, in contravention of chapter 2, part 2,<sup>20</sup> coral reef fin fish regulated by species;
- (c) failing to give a prior notice as required under section 115;
- (d) failing to give a transshipment notice as required under section 116;
- (e) failing to give a landed fish notice as required under section 117;
- (f) taking coral reef fin fish in a prohibited way using fishing apparatus other than a fishing line;
- (g) taking coral reef fin fish using a fishing line or lines with a combined total of more than 9 hooks or lures attached to the line or lines;
- (h) using a carrier boat to carry coral reef fin fish in contravention of a carrier boat licence;<sup>21</sup>
- (i) obstructing, hindering or resisting an inspector exercising a power in relation to the fishery;<sup>22</sup>

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20 Chapter 2 (Closed waters and regulated fish declarations), part 2 (Regulated fish)

21 See section 128 (No new carrier boat licences).

22 See section 182 (Obstruction etc. of inspector) of the Act.

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- (j) contravening section 79<sup>23</sup> of the Act;
- (k) contravening section 89 or 90<sup>24</sup> of the Act;
- (l) entering or using a zone, within the meaning of the *Great Barrier Reef Marine Park Act 1975* (Cwlth), in contravention of section 38A<sup>25</sup> of that Act;
- (m) using a tender boat in way that contravenes the *Great Barrier Reef Marine Park Regulations 1983* (Cwlth), regulation 41;<sup>26</sup>
- (n) entering or using a zone or designated area, within the meaning of the *Marine Parks Regulation 1990*, in contravention of section 8A<sup>27</sup> of that regulation;
- (o) the holder of a licence failing to ensure another person acting under the licence complies with the Act if the non-compliance constitutes a serious fisheries offence mentioned in paragraphs (a) to (n).<sup>28</sup>

***Division 2—Prescribed suspension and cancellation criteria***

**150 Criteria for suspending authorities**

(1) This section prescribes criteria under section 67(2)(b)(i)<sup>29</sup> of the Act for suspending each of the following authorities on the ground mentioned in section 67(1)(b) of the Act—

- (a) a commercial fisher licence;
- (b) an assistant fisher licence;

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23 Section 79 (Quota offences) of the Act

24 Section 89 (Noxious fisheries resources not to be possessed, released etc.) or 90 (Nonindigenous fisheries resources not to be possessed, released etc.) of the Act

25 *Great Barrier Reef Marine Park Act 1975* (Cwlth), section 38A (Zones to be used only for permitted purposes)

26 *Great Barrier Reef Marine Park Regulations 1983* (Cwlth), regulation 41 (Tender commercial fishing vessels)

27 *Marine Parks Regulation 1990*, section 8A (Entry and use of zones and designated areas)

28 See section 219(2) (Holder of authority responsible for ensuring Act complied with) of the Act.

29 Section 67 (Suspension or cancellation of authorities by chief executive) of the Act

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- (c) a commercial fishing boat licence;
  - (d) an authority with the fishery symbol 'A1' or 'A2' written on it;
  - (e) a buyer licence.
- (2) The prescribed criteria stated in subsection (3) apply only if—
- (a) the authority holder has been convicted of a serious fisheries offence mentioned in section 149(a) to (i) or (k) to (o); and
  - (b) the conviction is not a spent conviction.
- (3) For subsection (2), the prescribed criteria are as follows—
- (a) for the first conviction—2 to 3 months suspension;
  - (b) for the second conviction—6 months to 1 year's suspension;
  - (c) for the third or subsequent conviction—1 to 5 years suspension.
- (4) The prescribed criteria stated in subsection (5) apply only if—
- (a) the authority holder has been convicted of a serious fisheries offence mentioned in section 149(j); and
  - (b) the conviction is not a spent conviction.
- (5) For subsection (4), the prescribed criteria are as follows—
- (a) for the first conviction—1 year's suspension;
  - (b) for the second or subsequent conviction—1 to 5 years suspension.
- (6) In this section—

**“spent conviction”** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived under section 11 of that Act.

### **151 Criteria for suspending line units**

(1) This section prescribes criteria under section 67(2)(b)(i) of the Act for suspending line units on the ground mentioned in section 67(1)(a) of the Act.

- (2) The prescribed criteria apply if, in a line year—

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- (a) the line unit holder takes, under the holder's RQ licence, an amount of the prescribed coral reef fin fish for the line units that exceeds the holder's total entitlements under the line units; or
  - (b) the holder's RQ licence is suspended.
- (3) The prescribed criteria are—
- (a) for subsection (2)(a)—suspension for the following line year of the number of line units with entitlements equal to the amount by which the entitlements were exceeded; or
  - (b) for subsection (2)(b)—suspension for the line year of all the holder's line units with unused entitlements.

### **152 Criteria for cancelling line units**

(1) This section prescribes criteria under section 67(2)(b)(i) of the Act for cancelling line units on the ground mentioned in section 67(1)(b) of the Act.

(2) The prescribed criteria apply if, in a line year, a line unit holder is convicted of a serious fisheries offence involving taking or possessing an amount of coral reef fin fish that exceeds the holder's unused line unit entitlements for the line year by 500 kg (whole weight) or more.

(3) The prescribed criteria are cancellation of the number of the holder's line units with an entitlement equivalent to the amount of coral reef fin fish unlawfully taken or possessed by the holder.

## **PART 3—GENERAL PROVISIONS**

### ***153 Possession of coral reef fin fish in trade or commerce after fish brought ashore—buyers***

(1) *This section prescribes conditions to which a buyer licence is subject.*

(2) *A buyer who possesses, in trade or commerce, a coral reef fin fish after the fish is brought ashore must ensure, at all times while the fish is in the buyer's possession—*



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- (a) *for a fish that is dead and in whole form—a tag is securely attached to the fish; or*
- (b) *for a fish that is dead and not in whole form—a tag is kept—*
  - (i) *at the premises where the fish is kept; and*
  - (ii) *if the premises are open to the public for the carrying on of business—in a part of the premises accessible to the public; or*
- (c) *for a live fish—a tag is secured to the outside of the container in which the fish are kept.*

*(3) If the buyer gives possession of the fish to a person to whom this section or section 154 applies, the buyer must ensure the fish is, when possession is given, tagged as required under subsection (2).<sup>30</sup>*

***154 Possession of coral reef fin fish in trade or commerce after fish brought ashore—persons other than authority holders***

*(1) This section applies to a person, other than an authority holder, who possesses, in trade or commerce, a coral reef fin fish after the fish is brought ashore.*

*(2) The person must ensure, at all times while the fish is in the person's possession—*

- (a) *for a fish that is dead and in whole form—a tag is securely attached to the fish; or*
- (b) *for a fish that is dead and not in whole form—a tag is kept—*
  - (i) *at the premises where the fish is kept; and*
  - (ii) *if the premises are open to the public for the carrying on of business—in a part of the premises accessible to the public; or*
- (c) *for a live fish—a tag is secured to the outside of the container in which the fish are kept.*

*Maximum penalty—100 penalty units.*

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<sup>30</sup> This provision had not commenced on or before the reprint date.

*(3) If the person gives possession of the fish to a person to whom this section or section 153 applies, the person must ensure the fish is, when possession is given, tagged as required under subsection (2).*

*Maximum penalty—100 penalty units.<sup>31</sup>*

### **155 Statistical returns and information about coral reef fin fish**

*(1) The following persons must keep and give to the chief executive the returns required by the chief executive—*

- (a) a buyer who buys any amount of coral reef fin fish from a commercial fisher or the holder of a primary licence;*
- (b) the holder of an RQ licence;*
- (c) the holder of line units.*

*(2) A holder mentioned in subsection (1)(b) or (c) complies with subsection (1) if a commercial fisher acting under the holder's RQ licence or line units gives the returns, in compliance with the subsection, for the holder.<sup>32</sup>*

### **156 Daily record of use of boat identified on RQ licence**

*(1) The person in control of a primary boat identified on an RQ licence must keep a record of the matters stated in subsection (2) for each day on which coral reef fin fish are taken from—*

- (a) the primary boat; or*
- (b) a tender boat of the primary boat.*

*(2) For subsection (1), the matters are each of the following—*

- (a) the day to which the record relates;*
- (b) the latitude and longitude of the primary boat's location, or the name of the reef, where the majority of coral reef fin fish were taken during the day;*
- (c) the number of coral reef fin fish, in a way that reasonably identifies the species or group of species of the fish, taken from*

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<sup>31</sup> This provision had not commenced on or before the reprint date.

<sup>32</sup> This provision had not commenced on or before the reprint date.

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*the primary boat, or a tender boat of the primary boat, during the day;*

*(d) the first and last identifying numbers of the tags used to tag the coral reef fin fish mentioned in paragraph (c).*

**(3)** *The record must be—*

*(a) made as soon as practicable after fishing under the RQ licence ends for the day; and*

*(b) kept on board the primary boat, and made available for immediate inspection, at all times until a landed fish notice is given for all the fish mentioned in subsection (2)(c).*

**(4)** *In this section—*

**“group of species”** *means the species of coral reef fin fish identified under a heading in schedule 2.<sup>33</sup>*

### **157 Counting fillets as whole fish**

For this plan,<sup>34</sup> 2 whole or partial fillets of a coral reef fin fish are equivalent to 1 whole coral reef fin fish.

## **CHAPTER 6—TRANSITIONAL PROVISIONS**

### **158 Existing approval to replace boat**

Section 125<sup>35</sup> does not apply to an amendment of an RQ licence to replace the boat identified on the licence if—

**(a)** before this section commences, the chief executive or a former Authority gave the holder written approval to replace the boat; and

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33 This provision had not commenced on or before the reprint date.

34 See, for example, chapter 2 (Closed waters and regulated fish declarations), part 2 (Regulated fish), division 1 (Fish regulated by number).

35 Section 125 (Restriction on amending RQ licence to modify or replace boat)

- (b) the amendment complies with any conditions of the approval; and
- (c) the amendment is made before 1 July 2004.

### **159 Existing approval of temporary boat**

Section 125 does not apply to an amendment of an RQ licence to replace the boat identified on the licence if—

- (a) before this section commences, the chief executive or a former Authority gave the holder written approval stating that the boat (the “**temporary boat**”) is identified on the licence temporarily; and
- (b) the modification or replacement does not result in the boat being longer than the boat identified on the licence immediately before the temporary boat; and
- (c) the amendment complies with any conditions of the approval; and
- (d) the amendment is made before 1 July 2004.

### **160 Primary licence QFV 121 78I**

(1) For chapter 3, part 1, division 2 and chapter 3, part 2, division 3, prescribed fin fish taken under the primary licence numbered QFV 121 78I are taken to be coral reef fin fish.

(2) For section 56, the chief executive must, in deciding the standardised catch amount for the licence—

- (a) treat prescribed fin fish as if they were coral trout if the prescribed fin fish are recorded in logbook information for the licence as coral trout; and
- (b) treat prescribed fin fish as if they were red throat emperor if the prescribed fin fish are recorded in logbook information for the licence as any of the following—
  - (i) red throat emperor;
  - (ii) ‘sweetlips’;
  - (iii) ‘emperor’; and

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- (c) treat any other prescribed fin fish recorded in logbook information for the licence as if it were other coral reef fin fish.

(3) In this section—

**“prescribed fin fish”** means fin fish other than—

- (a) fish of any of the following families—
- (i) Carangidae;
  - (ii) Sphyraenidae;
  - (iii) Scombridae;
  - (iv) Xiphiidae;
  - (v) Istiophoridae; and
- (b) fish of the class Chondrichthyes.

### **161 Expiry of ch 6**

This chapter expires 3 years after it commences.

## SCHEDULE 1

### HOW MAIN PURPOSE IS TO BE ACHIEVED

section 4(2) and (3)

#### 1 Definitions for sch 1

In this schedule—

**“average commercial catch”** of coral reef fin fish in a region in a year, means the amount of coral trout, red throat emperor or other coral reef fin fish taken under RQ licences in the region in the year, divided by the number of days in the year on which a primary boat identified on an RQ licence was used in the region to take coral reef fin fish.

**“catch and effort data”**, for commercial fishing boats or boats used to conduct commercial fishing tours, includes information about the following—

- (a) the number of commercial fishing boats, or boats used for commercial fishing tours, operating in the fishery in a particular period;
- (b) the number of days the boats operated in the fishery in the period;
- (c) the number of tonnes of coral reef fin fish taken from the boats in the period.

**“region”** means an area described as a region in the document titled ‘A description of commercial reef line fishery logbook data’, figure 2, prepared by Mapstone B. D., McKinlay J. P. and Davies C. R., May 1996 and held by the chief executive.<sup>36</sup>

**“reliable information”** means information the chief executive reasonably believes is accurate.

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<sup>36</sup> The document is available for inspection during office hours on business days at the department’s office at 80 Ann Street, Brisbane.

SCHEDULE 1 (continued)

**2 How main purpose is to be achieved**

The main purpose of this plan is to be achieved by—

- (a) regulating the taking and possessing of coral reef fin fish under this plan; and
- (b) ensuring commercial and recreational fishers, including fishers on commercial fishing tours, and Aborigine and Torres Strait Islander fishers, have adequate access to the fishery under this plan; and
- (c) requiring, under the Act, statistical returns for—
  - (i) commercial fishers and commercial fishing tours for the fishery; and
  - (ii) holders of RQ licences; and
  - (iii) commercial buyers of coral reef fin fish.

**3 How achievement is to be measured**

Achievement of the main purpose must be measured by the following—

- (a) reliable information about the abundance, or the fish size or age distribution, of coral reef fin fish in the fishery;
- (b) catch and effort data, that the chief executive reasonably believes is accurate, for commercial fishing and commercial fishing tours for the fishery;
- (c) reliable information about recreational fishing in the fishery;
- (d) reliable information about the level of by-catch of coral reef fin fish regulated by species;
- (e) reliable information from economic studies about the fishery;
- (f) reliable information measuring the level of community—
  - (i) compliance with this plan; and
  - (ii) satisfaction with management of the fishery and opportunity for fishing in the fishery;
- (g) the level of compliance with the requirements under the Act about statistical returns for—

SCHEDULE 1 (continued)

- (i) commercial fishers and commercial fishing tours for the fishery; and
- (ii) holders of RQ licences; and
- (iii) commercial buyers of coral reef fin fish.

**4 Review events**

Each of the following is a review event for achievement of the main purpose—

- (a) reliable information shows—
  - (i) the estimated abundance of coral trout or red throat emperor has, in each of the last 3 years, decreased from the preceding year; or
  - (ii) the fish size and age distribution of coral trout or red throat emperor in a region have, in each of the last 3 years, changed from the preceding year; or
  - (iii) the fishery is having a significant impact on stocks of other coral reef fin fish;
- (b) reliable information shows any of the following—
  - (i) the estimated abundance of coral reef fin fish has, in each of the last 3 years, decreased from the preceding year;
  - (ii) the fish size and age distribution for other coral reef fin fish have, in each of the last 3 years, changed from the preceding year;
  - (iii) the level of by-catch of coral reef fin fish regulated by species has increased by more than 10% in a 4 year period;
- (c) information in statistical returns required under the Act shows any of the following for the fishery—
  - (i) recreational catch, including recreational catch from commercial fishing tours, in the fishery increased more than 10% in a 4 year period;



## SCHEDULE 1 (continued)

- (ii) commercial fishing, or recreational fishing on commercial fishing tours, in a region in a year increased more than 20% from the preceding year;
- (iii) the average commercial catch of coral trout, red throat emperor or other coral reef fin fish in a region in each of the last 3 years decreased from the preceding year;
- (iv) a significant decrease in participation in commercial fishing tours in a period of at least 3 years;
- (d) reliable information shows—
  - (i) a significant decrease in community compliance with this plan; or
  - (ii) increased, significant community dissatisfaction with management of the fishery and opportunity for fishing in the fishery;
- (e) reliable information from an economic study about the fishery shows a significant decrease in the fishery's economic efficiency;
- (f) compliance with the requirements under the Act about statistical returns for any of the following decreases progressively or significantly—
  - (i) commercial fishers and commercial fishing tours for the fishery;
  - (ii) holders of RQ licences;
  - (iii) commercial buyers of coral reef fin fish;
- (g) the chief executive does not receive information about levels of recreational catch and participation for the fishery;
- (h) the chief executive reasonably believes information given to the chief executive by commercial or recreational fishers, or commercial fishing tour operators, under the Act is not accurate.

## SCHEDULE 2

### CORAL REEF FIN FISH

sections 6(1) and 156(4), definition “group of species” and schedule 8, definitions “coral reef fin fish”, “species of cod or groper”, “species of emperor”, “species of parrotfish, surgeonfish or sweetlips”, “species of tropical snapper or seaperch” and “species of wrasse”

<b>Common name</b>	<b>Scientific name</b>
<b>cods and gropers</b>	
areolate rockcod	<i>Epinephelus areolatus</i>
barramundi cod	<i>Cromileptes altivelis</i>
bar rockcod	<i>Epinephelus ergastularius</i>
blacksaddle rockcod	<i>Epinephelus howlandi</i>
black-tipped rockcod	<i>Epinephelus fasciatus</i>
blue-lined rockcod	<i>Cephalopholis formosa</i>
blue Maori	<i>Epinephelus cyanopodus</i>
blue-spotted rockcod	<i>Cephalopholis cyanostigma</i>
brown-barred rockcod	<i>Cephalopholis boenak</i>
camouflage rockcod	<i>Epinephelus polyphekadion</i>
chinaman rockcod	<i>Epinephelus rivulatus</i>
comet grouper	<i>Epinephelus morrhua</i>
coral cod	<i>Cephalopholis miniata</i>
coral rockcod	<i>Epinephelus corallicola</i>
dothead rockcod	<i>Cephalopholis microprion</i>

SCHEDULE 2 (continued)

<b>Common name</b>	<b>Scientific name</b>
dwarf spotted rockcod (wire netting rockcod)	<i>Epinephelus merra</i>
eight bar grouper	<i>Epinephelus octofasciatus</i>
flagtail rockcod	<i>Cephalopholis urodeta</i>
flowery cod	<i>Epinephelus fuscoguttatus</i>
four-saddle rockcod	<i>Epinephelus spilotoceps</i>
greasy rockcod	<i>Epinephelus tauvina</i>
hapuku	<i>Polyprion americanus</i> and <i>Polyprion oxygeneios</i>
hexagon rockcod	<i>Epinephelus hexagonatus</i>
leopard rockcod	<i>Cephalopholis leopardus</i>
longfin rockcod (honeycomb rockcod)	<i>Epinephelus quoyanus</i>
Maori cod	<i>Epinephelus undulatostratus</i>
oblique-banded grouper	<i>Epinephelus radiatus</i>
peacock rockcod	<i>Cephalopholis argus</i>
potato cod	<i>Epinephelus tukula</i>
Queensland grouper	<i>Epinephelus lanceolatus</i>
redmouth rockcod	<i>Aethaloperca rogaa</i>
six bar rockcod	<i>Epinephelus sexfasciatus</i>
six spot rockcod	<i>Cephalopholis sexmaculata</i>
snubnose rockcod	<i>Epinephelus macrospilos</i>
speckled-fin rockcod	<i>Epinephelus ongus</i>

SCHEDULE 2 (continued)

<b>Common name</b>	<b>Scientific name</b>
speckled grouper	<i>Epinephelus magniscuttis</i>
strawberry rockcod	<i>Cephalopholis spiloparaea</i>
thinspine rockcod	<i>Gracila albomarginata</i>
tomato rockcod	<i>Cephalopholis sonnerati</i>
trout cod	<i>Epinephelus maculatus</i>
white-lined rockcod	<i>Anyperodon leucogrammicus</i>
white-spotted rockcod	<i>Epinephelus caeruleopunctatus</i>
<b>coral trout</b>	
barred-cheek coral trout	<i>Plectropomus maculatus</i>
chinese footballer (blue spot trout)	<i>Plectropomus laevis</i>
coral trout (leopard trout)	<i>Plectropomus leopardus</i>
coronation trout	<i>Variola louti</i>
highfin coral trout	<i>Plectropomus oligacanthus</i>
lyretail trout	<i>Variola albimarginata</i>
squaretail coral trout (passionfruit trout)	<i>Plectropomus areolatus</i>
<b>emperors</b>	
big-eye bream	<i>Monotaxis grandoculis</i>
collared sea bream	<i>Gymnocranius audleyi</i>
gold-lined sea bream	<i>Gnathodentex aureolineatus</i>
Japanese sea bream	<i>Gymnocranius euanus</i>
lancer	<i>Lethrinus genivittatus</i>

SCHEDULE 2 (continued)

<b>Common name</b>	<b>Scientific name</b>
long-nosed emperor	<i>Lethrinus olivaceus</i>
Mozambique large-eye bream	<i>Wattsia mosambica</i>
orange-striped emperor	<i>Lethrinus obsoletus</i>
pink-eared emperor	<i>Lethrinus lentjan</i>
red-eared emperor	<i>Lethrinus rubrioperculatus</i>
Robinson's sea bream	<i>Gymnocranius grandoculis</i>
spangled emperor	<i>Lethrinus nebulosus</i>
spotted sea bream	<i>Gymnocranius</i> sp.
sweetlip emperor (red-throat emperor)	<i>Lethrinus miniatus</i>
thumbprint emperor	<i>Lethrinus harak</i>
variegated emperor	<i>Lethrinus variegatus</i>
yellowlip emperor	<i>Lethrinus xanthochilus</i>
yellow-spotted emperor	<i>Lethrinus erythracanthus</i>
yellow-striped emperor	<i>Lethrinus ornatus</i>
yellow-tailed emperor	<i>Lethrinus atkinsoni</i>
<b>fusiliers</b>	
fusiliers	<i>Caesio</i> spp. or <i>Pterocaesio</i> spp.
<b>parrotfishes</b>	
bicolour parrotfish	<i>Cetoscarus bicolor</i>
bumphead parrotfish	<i>Bolbometapon muricatum</i>
miscellaneous parrotfish	<i>Scarus</i> spp.

SCHEDULE 2 (continued)

<b>Common name</b>	<b>Scientific name</b>
<b>surgeonfishes</b>	
surgeonfishes	<i>Acanthurus</i> spp.
unicornfish	<i>Naso</i> spp.
<b>sweetlips</b>	
miscellaneous sweetlips	<i>Plectorhinchus</i> spp.
painted sweetlips (slaty bream)	<i>Diagramma</i> spp.
<b>tropical snappers and sea perches</b>	
bigeye seaperch	<i>Lutjanus lutjanus</i>
black and white seaperch	<i>Macolor niger</i>
black-spot snapper	<i>Lutjanus fulviflamma</i>
bluestripe seaperch	<i>Lutjanus kasmira</i>
brownstripe seaperch (brown hussar)	<i>Lutjanus vitta</i>
chinamanfish	<i>Symphorus nematophorus</i>
crimson jobfish (rosy jobfish)	<i>Pristipomoides filamentosus</i>
crimson seaperch (small mouth nannygai)	<i>Lutjanus erythropterus</i>
dark-tailed seaperch	<i>Lutjanus lemniscatus</i>
five-lined seaperch	<i>Lutjanus quinquelineatus</i>
flame snapper	<i>Etelis coruscans</i>
goldband snapper	<i>Pristipomoides multidens</i> and <i>Pristipomoides typus</i>

SCHEDULE 2 (continued)

<b>Common name</b>	<b>Scientific name</b>
green jobfish	<i>Aprion virescens</i>
hussar (pink hussar)	<i>Lutjanus adetii</i>
lavender jobfish	<i>Pristipomoides sieboldii</i>
Maori seaperch	<i>Lutjanus rivulatus</i>
midnight seaperch	<i>Macolor macularis</i>
moses perch	<i>Lutjanus russelli</i>
onespot seaperch	<i>Lutjanus monostigma</i>
paddletail	<i>Lutjanus gibbus</i>
red bass	<i>Lutjanus bohar</i>
red emperor	<i>Lutjanus sebae</i>
ruby snapper	<i>Etelis carbunculus</i>
saddletail seaperch (large mouth nannygai)	<i>Lutjanus malabaricus</i>
sailfin snapper	<i>Symphoricthys spilurus</i>
small-toothed jobfish	<i>Aphareus furca</i>
spanish flag (stripey)	<i>Lutjanus carponotatus</i>
yellow-margined seaperch	<i>Lutjanus fulvus</i>
<b>wrasses</b>	
anchor tuskfish	<i>Choerodon anchorago</i>
blackspot tuskfish	<i>Choerodon schoenleinii</i>
blue tuskfish	<i>Choerodon cyanodus</i>
grass tuskfish (purple tuskfish)	<i>Choerodon cephalotes</i>

## SCHEDULE 2 (continued)

<b>Common name</b>	<b>Scientific name</b>
hogfish	<i>Bodianus</i> spp.
humphead Maori wrasse	<i>Cheilinus undulatus</i>
redbreasted Maori wrasse	<i>Cheilinus fasciatus</i>
tripletail Maori wrasse	<i>Cheilinus trilobatus</i>
venus tuskfish	<i>Choerodon venustus</i>



### **SCHEDULE 3**

#### **PERIODS FOR ANNUAL WATER CLOSURES**

section 7(2)

For 2004—

- (a) from 8 October to 16 October; and
- (b) from 6 November to 14 November; and
- (c) from 6 December to 14 December.

For 2005—

- (a) from 27 September to 5 October; and
- (b) from 27 October to 4 November; and
- (c) from 25 November to 3 December.

For 2006—

- (a) from 16 October to 24 October; and
- (b) from 14 November to 22 November; and
- (c) from 14 December to 22 December.

For 2007—

- (a) from 5 October to 13 October; and
- (b) from 3 November to 11 November; and
- (c) from 3 December to 11 December.

For 2008—

- (a) from 22 October to 30 October; and
- (b) from 21 November to 29 November; and
- (c) from 21 December to 29 December.

## **SCHEDULE 3A**

### **GREY NURSE SHARK PROTECTION AREA CLOSURES**

sections 6A(1), 8A(1) and 8C(1)

#### **PART 1—WOLF ROCK GREY NURSE SHARK PROTECTION AREA CLOSURE**

##### **1 Wolf Rock**

Waters within a 1.2 km radius of latitude 25°54.60' south, longitude 153°11.85' east.

#### **PART 2—OTHER GREY NURSE SHARK PROTECTION AREA CLOSURES**

##### **2 Flat Rock**

Waters within a 1.2 km radius of latitude 27°23.41' south, longitude 153°33.07' east.

##### **3 Henderson Rock**

Waters within a 1.2 km radius of latitude 27°07.92' south, longitude 153°28.71' east.

##### **4 Cherub's Cave**

Waters within a 1.2 km radius of latitude 27°07.67' south, longitude 153°28.67' east.

## SCHEDULE 4

### REGULATED FISH

sections 9(2), 10(a)(i), 11(2), 12 and schedule 8, definition “species of  
jobfish”

#### PART 1—FISH REGULATED BY NUMBER

##### **cods and groper**

a combination of any species of cod or groper, other than barramundi cod, potato cod or Queensland grouper 5

##### **coral trout**

a combination of any species of coral trout 7

##### **emperors**

a species of emperor, other than sweetlip emperor (red-throat emperor) 5

sweetlip emperor (red-throat emperor) 8

##### **parrotfishes, surgeonfishes and sweetlips**

a species of parrotfish, surgeonfish or sweetlips 5

##### **tropical snappers and sea perches**

a species of tropical snapper or sea perch, other than chinamanfish, crimson jobfish (rosy jobfish), crimson seaperch (small mouth nannygai), hussar (pink hussar), lavender jobfish, paddletail, red bass or saddletail seaperch (large mouth nannygai) 5

a combination of crimson seaperch (small mouth nannygai) and saddletail seaperch (large mouth nannygai) 9

a combination of crimson jobfish (rosy jobfish) and lavender jobfish 8

hussar (pink hussar) 10

SCHEDULE 4 (continued)

**wrasses**

a species of wrasse, other than anchor tuskfish, blackspot tuskfish, blue tuskfish, grass tuskfish (purple tuskfish), humphead Maori wrasse or venus tuskfish 5

a combination of anchor tuskfish, blackspot tuskfish, blue tuskfish, grass tuskfish (purple tuskfish) or venus tuskfish 6

**PART 2—FISH REGULATED BY SIZE**

**cods and groupers**

a species of cod or grouper, other than barramundi cod, camouflage rockcod, flowery cod, greasy rockcod, Maori cod, potato cod or Queensland grouper—less than 38 cm

camouflage rockcod—less than 50 cm or more than 100 cm

flowery cod—less than 50 cm or more than 100 cm

greasy rockcod—less than 38 cm or more than 100 cm

Maori cod—less than 45 cm

**coral trout**

a species of coral trout, other than chinese footballer (blue spot trout)—less than 38 cm

chinese footballer (blue spot trout)—less than 50 cm or more than 80 cm

**emperors**

a species of emperor, other than long-nosed emperor, spangled emperor or sweetlip emperor (red-throat emperor)—less than 25 cm

long-nosed emperor—less than 38 cm

**SCHEDULE 4 (continued)**

spangled emperor—less than 45 cm

sweetlip emperor (red-throat emperor)—less than 38 cm

**parrotfishes, surgeonfishes and sweetlips**

a species of parrotfish, surgeonfish or sweetlips—less than 25 cm

**tropical snappers and sea perches**

a species of tropical snapper or seaperch, other than a species of jobfish, chinamanfish, crimson seaperch (small mouth nannygai), paddletail, red bass, red emperor or saddletail seaperch (large mouth nannygai)—less than 25 cm

a species of jobfish—less than 38 cm

crimson seaperch (small mouth nannygai)—less than 40 cm

red emperor—less than 55 cm

saddletail seaperch (large mouth nannygai)—less than 40 cm

**wrasses**

a species of wrasse, other than hogfish, humphead Maori wrasse, redbreasted Maori wrasse or tripletail Maori wrasse—less than 30 cm

hogfish—less than 25 cm

redbreasted Maori wrasse—less than 25 cm

tripletail Maori wrasse—less than 25 cm

## **SCHEDULE 5**

### **ADJUSTED CRITERIA FOR EVENT-BASED SPECIAL CIRCUMSTANCES**

section 34(2) and schedule 8, definitions “eligible coral reef fin fish”,  
“event” and “unaffected year”

#### **1 Definitions for sch 5**

In this schedule—

**“eligible coral reef fin fish”**, for a period, means coral reef fin fish—

- (a) taken lawfully during the period under a prescribed fishery symbol written on the holder’s RQ licence and a former licence for the RQ licence; and
- (b) recorded in relevant logbook information.

**“unaffected year”** means a year in which an event was not happening.

#### **2 Prescribed period of 1 year’s duration**

(1) This section applies for a prescribed period for the first or second criteria, other than a prescribed period mentioned in section 3 or 4 of this schedule.

(2) If the chief executive is reasonably satisfied an event happened for at least 9 months during the prescribed period, the amount of coral reef fin fish taken under the relevant licence, and a former licence for the relevant licence, is the highest of the following amounts—

- (a) the amount of eligible coral reef fin fish for the year ending immediately before the start of the event;
- (b) the amount of eligible coral reef fin fish for the year starting immediately after the end of the event;
- (c) the amount of eligible coral reef fin fish for the prescribed period.

(3) If subsection (2) does not apply, the amount of coral reef fin fish taken under the relevant licence, and a former licence for the relevant

**SCHEDULE 5 (continued)**

licence, is the amount of eligible coral reef fin fish for the number of days in the period when an event did not happen increased by a rateable amount for 365 days.

**3 Prescribed period 1/1/97–19/5/97**

(1) This section applies for the prescribed period 1 January 1997 to 19 May 1997.

(2) If the chief executive is reasonably satisfied an event happened for at least 109 days during the prescribed period, the amount of coral reef fin fish taken under the relevant licence, and a former licence for the relevant licence, is the highest of the following amounts—

- (a) the amount of eligible coral reef fin fish for the period 1 January to 19 May in the first unaffected year after 1997;
- (b) the amount of eligible coral reef fin fish for the period 1 January to 19 May in the last unaffected year before 1997;
- (c) the amount of eligible coral reef fin fish for the prescribed period.

(3) If subsection (2) does not apply, the amount of coral reef fin fish taken under the relevant licence, and a former licence for the relevant licence, is the highest of the following amounts—

- (a) the amount of eligible coral reef fin fish for the number of days in the prescribed period when the event was not happening, increased by a rateable amount for a period of 139 days;
- (b) the amount of eligible coral reef fin fish for the prescribed period.

**4 Prescribed period 20/5/97–31/12/97**

(1) This section applies for the prescribed period 20 May 1997 to 31 December 1997.

(2) If the chief executive is reasonably satisfied an event happened for at least 166 days during the prescribed period, the amount of coral reef fin fish taken under the relevant licence, and a former licence for the relevant licence, is the highest of the following amounts—

- (a) the amount of the prescribed coral reef fin fish for the period 20 May to 31 December in the last unaffected year before 1997;

## SCHEDULE 5 (continued)

- (b) the amount of the prescribed coral reef fin fish for the period 20 May to 31 December in the first unaffected year after 1997;
- (c) the amount of the prescribed coral reef fin fish for the prescribed period.

(3) If subsection (2) does not apply, the amount of coral reef fin fish taken under the relevant licence, and a former licence for the relevant licence, is the highest of the following amounts—

- (a) the amount of eligible coral reef fin fish for the number of days in the prescribed period when the event was not happening, increased by a rateable amount for a period of 226 days;
- (b) the amount of eligible coral reef fin fish for the prescribed period.

**5 Coral reef fin fish taken before 1/1/90 or after 31/12/01 not to be included**

For sections 2(2)(a) and (b), 3(2)(a) and (b) and 4(2)(a) and (b) of this schedule, coral reef fin fish taken before 1 January 1990 or after 31 December 2001 must not be included in the amount of eligible coral reef fin fish.

**6 Amounts of eligible coral reef fin fish to be rounded up to nearest 10 kg**

For sections 2 to 5 of this schedule, the chief executive must round up to the nearest multiple of 10 kg the total amount of eligible coral reef fin fish for a period.



## SCHEDULE 6

### TOTAL CATCH OF CORAL REEF FIN FISH FOR ALLOCATION OF LINE UNITS

section 56(2), definition "TC"

Year	Coral trout (kg)	Red throat emperor (kg)	Other coral reef fin fish (kg)
1994	1 304 000	711 000	585 000
1995	1 540 000	652 000	709 000
1996	1 738 000	768 000	894 000
1997	1 448 000	1 024 000	1 312 000
1998	1 531 000	925 000	1 637 000
1999	1 517 000	839 000	1 471 000
2000	1 697 000	866 000	1 428 000
2001	2 094 000	941 000	1 796 000

## **SCHEDULE 7**

### **WHOLE WEIGHT**

schedule 8, definition “whole weight”, paragraph (b)

#### **1 Fillets**

For fillets from a fish, the whole weight of the fillets is the amount calculated using the formula—

$$\mathbf{WW = W \times CF}$$

where—

“**WW**” means the whole weight in kilograms.

“**W**” means the weight of the fillets in kilograms.

“**CF**” means the following conversion factor—

- (a) for coral trout—2;
- (b) for a species of cod or groper—2.1;
- (c) for goldband snapper—2.3;
- (d) for crimson jobfish (rosy jobfish) or lavender jobfish—2.1;
- (e) for a species of tropical snapper or seaperch not mentioned in paragraph (c) or (d)—2.6;
- (f) for a species of emperor—2.5;
- (g) for any other species of coral reef fin fish or fish not identified as a particular species—2.

#### **2 Gilled and gutted fish**

For gilled and gutted fish, the whole weight of the fish is the amount calculated using the formula—

## SCHEDULE 7 (continued)

$$\mathbf{WW = W \times 1.1}$$

where—

“**WW**” means the whole weight in kilograms.

“**W**” means the weight of the gilled and gutted fish in kilograms.

**3 Trunked fish**

For a trunked fish, the whole weight of the fish is the amount calculated using the formula—

$$\mathbf{WW = W \times 1.4}$$

where—

“**WW**” means the whole weight in kilograms.

“**W**” means the weight of the trunked fish in kilograms.

**4 Number of fish**

For a number of fish, the whole weight (in kilograms) of the fish is the the number of fish.

**5 Any other form**

For fish in a form not mentioned in sections 1 to 4 of this schedule, the whole weight is the weight of the fish in kilograms.

## SCHEDULE 8

### DICTIONARY

section 5(3)

“**adjusted allocation provisions**”, for chapter 3, part 2, see section 62.

“**adjusted criteria**”, for chapter 3, part 1, division 2, see section 33(1)(a).

“**amendment notice**”, for chapter 3, part 1, division 2, see section 17.

“**authorised boat**”, for chapter 3, part 3, division 2, subdivision 4, see section 111.

“**average commercial catch**”, for schedule 1, see schedule 1, section 1.

“**boat mark**” means a mark under section 103 of the regulation.

“**catch and effort data**”, for schedule 1, see schedule 1, section 1.

“**catch history notice**” means a catch history notice given to a licence holder under chapter 3, part 2, division 3, subdivision 2.

“**close relative**”, of an individual, means—

- (a) a spouse, parent or child, including a step-parent or step-child, of the individual; or
- (b) a parent or child, including a step-parent or step-child, of the individual’s spouse.

“**coral reef fin fish**” means a fish mentioned schedule 2.

“**coral trout**” means a fish of the genus *Plectropomus* or *Variola*.

“**crew member**”, for a commercial fishing tour, means a person acting under the direction of the person conducting the tour.

“**criteria**”, for chapter 3, part 1, division 2, see section 17.

“**CT line units**” means coral trout line units.

“**decision notice**”, about a decision mentioned in section 31(2), 33(6)(b) or 61(6)(b), means a notice stating each of the following—

- (a) the decision and the reasons for it;

SCHEDULE 8 (continued)

- (b) that the person may appeal against the decision to the tribunal within 28 days after the person receives the notice;
- (c) how to appeal.

**“director”** has the meaning given under the Corporations Act, section 9.<sup>37</sup>

**“disregarded fish”**—

- (a) for chapter 3, part 1, division 2, see section 17; and
- (b) for chapter 3, part 2, see section 44.

**“ecologically sustainable development”** has the meaning given under section 3<sup>38</sup> of the Act.

**“eligible authority”**, for chapter 3, part 1, division 3, see section 41.

**“eligible coral reef fin fish”**, for schedule 5, see schedule 5, section 1.

**“eligible holder”**, for chapter 3, part 2, see section 43(3).

**“entitlement”** see section 69(2).

**“event”**—

- (a) for chapter 3, part 1, division 2 and schedule 5, see section 17; and
- (b) for chapter 3, part 2, see section 44.

**“event-based special circumstance”**—

- (a) for chapter 3, part 1, division 2, see section 18; and
- (b) for chapter 3, part 2, see section 45.

**“event period”**—

- (a) for chapter 3, part 1, division 2, see section 18(1)(a); and
- (b) for chapter 3, part 2, see section 45(1)(a).

**“first criteria”**, for chapter 3, part 1, division 2, see section 17.

**“first line year”** means the period from midnight on 1 July 2004 to midnight on 1 July 2005.

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<sup>37</sup> Corporations Act, section 9 (Dictionary)

<sup>38</sup> Section 3 (Main purpose of Act) of the Act

SCHEDULE 8 (continued)

**“fishery”** see section 3.

**“former Authority”** means—

- (a) the former Queensland Fisheries Management Authority under the Act; or
- (b) the former Queensland Fish Management Authority under the repealed *Fishing Industry Organisation and Marketing Act 1982*.

**“former licence”**, for a commercial fishing boat licence (the **“current licence”**), means a licence that—

- (a) was replaced or renewed by the current licence; or
- (b) expired before the current licence was issued and—
  - (i) authorised the same, or substantially the same, things that are authorised under the current licence; and
  - (ii) was issued to the same person as the holder of the current licence when it was issued or transferred to the person; or
- (c) was replaced or renewed by a licence mentioned in paragraph (a) or (b); or
- (d) expired before the issue of a licence (the **“later licence”**) mentioned in paragraph (a), (b) or (c) that—
  - (i) authorised the same, or substantially the same, things that are authorised under the current licence; and
  - (ii) was issued to the same person as the holder of the later licence when it was issued or transferred to the person; or
- (e) was surrendered in exchange for the issue or amendment of the current licence or a later licence under paragraphs (b), (c) or (d) to allow the boat identified on the licence to be modified or replaced.

**“issued”**, for chapter 3, part 2, see section 50.

**“L1 fishery area”** means the area mentioned in the regulation, schedule 12, section 20.

**“L2 or L3 fishery area”** means the area mentioned in the regulation, schedule 12, section 41.

SCHEDULE 8 (continued)

“**L6 or L7 fishery area**” means the area mentioned in the regulation, schedule 12, section 48.

“**L8 fishery area**” means the area mentioned in the regulation, schedule 12, section 2.

“**landed fish notice**” see section 117(2).

“**length**”, of a fillet from a fish, means the length of the fillet’s longest plane.

“**line unit certificate**” see section 72(1).

“**line unit certificate changes**” means amending, cancelling or issuing line unit certificates.

“**line unit factor**”, for chapter 3, part 2, see section 44.

“**line year**”—

1. A “**line year**” means the period from midnight on 1 July in a year to midnight on 1 July in the next year.
2. However, the first line year does not start until midnight on 1 July 2004.

“**logbook information**” means—

- (a) information in a statistical logbook return kept in the way and form and as directed by the chief executive or a former Authority at the time the return was made; and
- (b) information about the return held by the chief executive in electronic form.

“**member**” of a corporation includes a member within the meaning of the Corporations Act, section 231.<sup>39</sup>

“**notice identity number**” see section 61(8)(a)(ii).

“**notification day**” means the day this plan is notified in the gazette.

“**OS line units**” means other species line units.

“**other coral reef fin fish**” means coral reef fin fish other than coral trout and red throat emperor.

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<sup>39</sup> Corporations Act, section 231 (Membership of a company)

SCHEDULE 8 (continued)

**“plan”** means management plan.

**“preliminary notice”**, for chapter 3, part 1, division 2, see section 17.

**“prescribed coral reef fin fish”**, for a line unit, means—

- (a) for a CT line unit—coral trout; or
- (b) for an RTE line unit—red throat emperor; or
- (c) for an OS line unit—other coral reef fin fish.

**“prescribed period”**, for chapter 3, part 1, division 2, see section 17.

**“prescribed persons”**, for chapter 3, part 3, division 2, subdivision 4, see section 110(b).

**“primary boat”** means the commercial fishing boat identified on a primary commercial fishing boat licence.

**“primary licence”** means a primary commercial fishing boat licence.

**“prior notice”** see section 115(2).

**“reasonably believes”** means believes on grounds that are reasonable in the circumstances.

**“reason for adjusted allocation”**, for chapter 3, part 2, see section 59(e).

**“reason for reconsideration”**, for chapter 3, part 1, division 2, see section 29(d).

**“recent entrant special circumstance”**—

- (a) for chapter 3, part 1, division 2, see section 19; and
- (b) for chapter 3, part 2, see section 46.

**“reconsideration notice”**, for chapter 3, part 1, division 2, see section 30(2).

**“recorded catch amount”**, for chapter 3, part 2, see section 56(2).

**“red throat emperor”** means a fish of the species *Lethrinus miniatus*.

**“region”**, for schedule 1, see schedule 1, section 1.

**“regulation”** means the *Fisheries Regulation 1995*.

**“relevant licence”**, for chapter 3, part 1, division 2, see section 22.



## SCHEDULE 8 (continued)

**“relevant logbook information”**, for a prescribed period or relevant year, means logbook information received by the chief executive or a former Authority no later than the following day—

- (a) for a prescribed period or relevant year ending not later than 31 December 1997—31 December 1998;
- (b) for a prescribed period or relevant year ending on 31 December 2001—30 June 2002;
- (c) for a prescribed period or relevant year not mentioned in paragraph (a) or (b)—the day that is 1 year from the last day of the period or year.

**“relevant years”**, for chapter 3, part 2, see section 56(1).

**“reliable information”**, for schedule 1, see schedule 1, section 1.

**“RQ licence”** means a commercial fishing boat licence, issued under section 30 of the regulation, with the ‘RQ’ fishery symbol written on it.

**“RQ(L8) licence”** means an RQ licence that also has the fishery symbol ‘L8’ written on it.

**“RTE line units”** means red throat emperor line units.

**“seasonal effect special circumstance”**, for chapter 3, part 1, division 2, see section 20.

**“second criteria”**, for chapter 3, part 1, division 2, see section 17.

**“special circumstance”**—

- (a) for chapter 3, part 1, division 2, see section 17; and
- (b) for chapter 3, part 2, see section 44.

**“species of cod or groper”** means a species listed under the heading cods and gropers in schedule 2.

**“species of emperor”** means a species listed under the heading emperors in schedule 2.

**“species of jobfish”**, for schedule 4, means any of the following species—

- (a) crimson jobfish (rosy jobfish);
- (b) flame snapper;

SCHEDULE 8 (continued)

- (c) goldband snapper;
- (d) green jobfish;
- (e) lavender jobfish;
- (f) ruby snapper;
- (g) small-toothed jobfish.

**“species of parrotfish, surgeonfish or sweetlips”**, for schedule 4, means a species listed under the heading parrotfishes, surgeonfishes or sweetlips in schedule 2.

**“species of tropical snapper or seaperch”** means a species listed under the heading tropical snappers and sea perches in schedule 2.

**“species of wrasse”**, for schedule 4, means a species listed under the heading wrasses in schedule 2.

**“standardised catch amount”**, for chapter 3, part 2, see section 44.

**“tag”**, for coral reef fin fish, means a tag issued to the holder of line units by the chief executive under section 84 or 85.

**“tender boat”** means a boat identified on a tender licence.

**“tender licence”** means a tender commercial fishing boat licence.

**“transport vessel”** see section 116(1)(b).

**“transhipment notice”** see section 116(2).

**“unaffected year”**, for schedule 5, see schedule 5, section 1.

**“unidentified fish”**, for an authority, means fish—

- (a) taken under the authority for a relevant year; and
- (b) recorded in relevant logbook information; and
- (c) not identified, in the logbook information, as—
  - (i) coral reef fin fish; or
  - (ii) a particular species of fish; or
  - (iii) a particular species, or group of species, of coral reef fin fish.

**“unused entitlement”** see section 70(2).

## SCHEDULE 8 (continued)

**“used”** see section 70(1).

**“whole weight”**, for an amount of coral reef fin fish recorded in logbook information, means—

- (a) for an amount recorded on the basis of the weight of whole fish—the amount recorded (in kilograms); or
- (b) for an amount recorded on another basis—the amount calculated in the way stated in schedule 7.

*Example of another basis for paragraph (b)—*

the weight of filleted fish or a number of fish

## ENDNOTES

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 19 December 2003. Future amendments of the Fisheries (Coral Reef Fin Fish) Management Plan 2003 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

## 5 List of legislation

### **Fisheries (Coral Reef Fin Fish) Management Plan 2003 SL No. 212**

made by the chief executive on 2 September 2003

notfd gaz 12 September 2003 pp 128–31

ss 1–2 commenced on date of notification

ch 2 pt 2, ch 3 pt 3 div 1, ch 3 pt 3 div 2 sdivs 1–3, ch 4 commenced 13 December 2003 (see s 2(1))

ch 3 pt 3 div 2 sdiv 4, ss 153–156 commence 1 July 2004 (see s 2(2))

remaining provisions commenced on date of notification

exp 1 September 2014 (see SIA s 54)

Note—(1) The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

(2) A regulatory impact statement and explanatory note were prepared.

### **Fisheries Management Plans Amendment Management Plan (No. 4) 2003 SL No. 368 pts 1–2**

notfd gaz 19 December 2003 pp 1307–13

ss 1–2 commenced on date of notification

s 4 commences 20 December 2003 (see s 2)

remaining provisions commenced on date of notification

### **Fisheries Management Plans Amendment Management Plan (No. 5) 2003 SL No. 379 pts 1–2**

notfd gaz 19 December 2003 pp 1307–13

commenced on date of notification

## 6 List of annotations

**References to latitudes and longitudes—sch 3A**  
s 6A ins 2003 SL No. 379 s 3

**Division 1—Annual closures**  
div hdg ins 2003 SL No. 379 s 4

**Closures—sch 3**  
s 7 prov hdg sub 2003 SL No. 379 s 5

**Prohibited activities**  
s 8 amd 2003 SL No. 379 s 6

**Division 2—Grey nurse shark protection area closures**  
div 2 (ss 8A–8E) ins 2003 SL No. 379 s 7

**Exemption for particular commercial fishers**

s 12            amd 2003 SL No. 368 s 5

**Meaning of “seasonal effect special circumstance”**

s 20            amd 2003 SL No. 368 s 6

**Definitions for pt 2**

s 44            def “**adjusted allocation provisions**” amd 2003 SL No. 368 s 7

**No new carrier boat licences**

s 128          amd 2003 SL No. 368 s 8

**Restriction on amending RQ licence to modify or replace boat**

s 125          exp 1 July 2004 (see s 125(3))

**CHAPTER 6—TRANSITIONAL PROVISIONS**

ch 6 (ss 158–161) exp 12 September 2006 (see s 161)

**CHAPTER 7—AMENDMENT OF FISHERIES (GULF OF CARPENTARIA  
INSHORE FIN FISH) MANAGEMENT PLAN 1999**

ch 7 (ss 162–163) om R1 (see RA s 40)

**SCHEDULE 3—PERIODS FOR ANNUAL WATER CLOSURES**

sch hdg      amd 2003 SL No. 379 s 8

sch 3          amd 2003 SL No. 368 s 9

**SCHEDULE 3A—GREY NURSE SHARK PROTECTION AREA CLOSURES**

ins 2003 SL No. 379 s 9

**SCHEDULE 5—ADJUSTED CRITERIA FOR EVENT-BASED SPECIAL  
CIRCUMSTANCES**

amd 2003 SL No. 368 s 10

**SCHEDULE 8—DICTIONARY**

def “**adjusted allocation provisions**” amd 2003 SL No. 368 s 11