

Queensland



Subordinate Legislation 1995 No. 34

Fisheries Act 1994

FISHERIES REGULATION 1995

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PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Fisheries Regulation 1995*.

Definitions

2. In this regulation—

“**assistant fisher**” means a person who holds an assistant fisher licence.

“**buyer**” means a person who holds a buyer licence.

“**commercial fisher**” means a person who holds a commercial fisher licence.

“**community fisher**” means a person who is a member of a community for which a person holds a community fisher licence.

“**fisher**” means a person who holds a fisher licence.

“**hull unit**”, for a boat, means a hull unit worked out under the Authority’s document entitled ‘Guidelines for Queensland East Coast Otter Trawl Vessels’.¹

“**processor**” means a person who holds a processor licence.

PART 2—AUTHORITIES

Division 1—Licences

Licences chief executive may issue

- 3.(1) The chief executive may issue the following types of licences—

¹ A copy of the document may be obtained, free of charge, from—
(a) the Authority’s office at 157 Ann Street, Brisbane 4000; or
(b) an office of the Department’s Queensland Boating and Fisheries Patrol.

- aquaculture licences
- aquaculture boat licences
- coral limestone licences.

(2) The chief executive may issue—

- (a) an aquaculture licence—
 - (i) for oystering; or
 - (ii) to occupy an oyster ground as an oyster bank; and
- (b) an aquaculture boat licence for use of a boat for pearling or oystering.

(3) The chief executive may issue a coral limestone licence as an exclusive coral limestone licence.

Licences Authority may issue

4.(1) The Authority may issue the following types of licences—

- boat licences
- buyer licences
- coral, shell grit or star sand licences
- fisher licences
- pearl dealer licences
- processor licences.

(2) The Authority may issue each of the following licences in the categories stated for the licence—

- (a) boat licences—carrier, community, coral, pearling, primary, shell grit, star sand or tender boat licence;
- (b) buyer licences—Class A, B, C or D buyer licence;
- (c) fisher licences—commercial, assistant or community fisher licence;
- (d) processor licences—Class A or B processor licence.

(3) The Authority may issue a coral, shell grit or star sand licence as an exclusive coral, shell grit or star sand licence.

What licences must state

5. The fisheries agency must state in—

- (a) an aquaculture, coral, coral limestone, shell grit or star sand licence—the area covered by the licence; and
- (b) a processor licence—the place covered by the licence.

Division 2—Permits

Permits chief executive may issue

6.(1) The chief executive may issue the following types of permits—

- aquaculture permits
- fisheries resources permits
- fish way permits
- marine plant permits.

(2) However, the chief executive may only issue the following permits for a purpose stated for the permit—

- (a) aquaculture permit—
 - cultivating fish (other than oysters) for human consumption
 - cultivating pearl oysters
 - keeping fish for stocking other waters
 - putting oysters in Queensland waters
 - using boats, aquaculture furniture and fishing apparatus for aquaculture purposes;
- (b) fisheries resources permit—
 - performing works or a related activity in a declared fish habitat area

- removing fisheries resources from waters for restocking other waters
 - research about stated fisheries resources, fishing apparatus or boats;
- (c) marine plant permit—
- displaying marine plants
 - burning, cutting, destroying, lopping or removing marine plants.

Permits Authority may issue

7.(1) The Authority may issue general fisheries permits.

(2) The Authority may issue a general fisheries permit for any of the following purposes—

- assessing the commercial viability of a fishing activity, apparatus, boat or activity
- buying, taking, possessing or selling regulated fish
- collecting broodstock for aquaculture activities
- conducting exploratory fishing
- conducting research about fish, fishing apparatus or boats
- developing fishing activities for a particular species of fish
- developing fishing apparatus or boats
- displaying fish
- releasing fish into the wild
- taking a particular species of fish for predator control and selling the fish
- taking fish for restocking other places
- taking, possessing or selling non-indigenous or noxious fish
- using fishing apparatus for shark management purposes

- taking a particular species of fish or worms for bait
- taking, possessing or selling a particular species of fish.

Division 3—Other authorities

Other authorities the Authority may issue

8.(1) The Authority may issue registration authorities.

(2) The Authority may issue the authority for a boat, place or vehicle.

What authorities must state

9. A registration authority must state the particulars necessary to identify the boat, place or vehicle registered and the activity covered by the authority.

Examples—

1. A place may be registered as a place where fish may be inspected or processed.
2. A boat or vehicle may be registered as a boat or vehicle in which fish may be carried.

Division 4—Transfer

Authorities that are not transferable

10. Each of the following authorities is not transferable—

- an aquaculture boat licence for use of a boat for pearling
- an aquaculture licence for oystering
- a community boat licence
- a pearl dealer licence
- a coral, shell grit or star sand boat licence
- a fisher licence
- a pearling boat licence

- a processor licence for processing fish other than for human consumption.

PART 3—FISHERIES OFFENCES

Division 1—Acts that may be done only by authority holders

Use of boat

11.(1) This section does not apply to a boat used for taking coral, coral limestone, shell grit or star sand.

(2) A person may use, be in control of, or allow the use of, a boat (other than a pearling boat) to take fish for trade or commerce only if—

- (a) a boat licence is in force for the boat; or
- (b) a general fisheries permit allows the boat's use for taking fish for trade or commerce.

(3) A person may use, be in control of, or allow the use of, a pearling boat only if—

- (a) the person is a commercial pearl fisher or holds a pearling boat licence for the boat; or
- (b) a pearling boat licence is in force for the boat.

Who may be on a boat

12.(1) The owner of a boat, or a person in control of the boat, may allow another person to be on board it while it is used to take fish for trade or commerce only if—

- (a) the other person is a commercial, assistant or community fisher; or
- (b) the boat is being used under an authority other than a licence.

(2) However, subsection (1)(a) does not apply to the spouse, de facto

spouse or a child of the boat's owner or of a commercial or community fisher if the spouse, de facto spouse or child does not help take fish.

Taking fish

13.(1) This section does not apply to the taking of coral, coral limestone, green snails, pearls, pearl oysters, pearl shells, shell grit, star sand or trochus.

(2) A person may take fish for trade or commerce only if—

- (a) the person is—
 - (i) a commercial or community fisher; or
 - (ii) an assistant fisher who takes fish in the company of and under the direction of a commercial or community fisher; or
- (b) the person takes fish under an authority (other than a licence) allowing the person to take fish for trade or commerce.

Processing fish

14.(1) A person may, for trade or commerce, process fish, or use a place for fish processing, only if the person is a processor or holds a permit allowing the processing or use.

(2) However, subsection (1) does not apply—

- (a) to a person who processes fish for immediate human consumption; or
- (b) for fish lawfully taken by a commercial or community fisher, or a holder of a primary or tender boat licence—to freezing, refrigerating, cleaning, filleting, sorting, salting or cooking fish; or
- (c) for a buyer or fish retailer—to refrigerating, thawing or sorting fish.

Selling fish

15.(1) This section does not apply to—

- (a) the sale of coral, coral limestone, green snails, pearls, pearl

oysters, pearl shells, shell grit, star sand or trochus; or

- (b) the wholesale sale of fish to a person engaged in the retail sale of fish.

(2) A person may sell fish lawfully taken by the person only if the person—

- (a) is a commercial or community fisher; or
- (b) holds a primary or tender boat licence; or
- (c) holds an authority allowing the sale of fish.

Buying fish

16.(1) This section does not apply to a person who lawfully buys fish for resale by retail.

(2) A person may buy fish for trade or commerce, or act as an agent of a person who buys fish for trade or commerce, only if the person holds a buyer licence or another authority allowing the person to buy fish.

Aquaculture

17. A person may engage in aquaculture only if the person holds an aquaculture licence or permit and cultivates the fisheries resources stated in the licence or permit.

Coral, coral limestone, shell grit or star sand

18.(1) A person may take coral, coral limestone, shell grit or star sand only if the person takes the coral, coral limestone, shell grit or star sand under an authority allowing it to be taken.

(2) A person may take coral, coral limestone, shell grit or star sand from an area stated in an exclusive coral, coral limestone, shell grit or star sand licence, only if the person holds the licence.

(3) A person may use a boat for taking coral, coral limestone, shell grit or star sand only if the person uses the boat under an authority allowing its use for taking coral, coral limestone, shell grit or star sand.

Pearls, pearl oysters, pearl shells, trochus and green snails

19.(1) A person may take pearls, pearl oysters, pearl shells, trochus or green snails only if the person is a commercial pearl fisher.

(2) A person may assist in taking pearls, pearl oysters, pearl shells, trochus or green snails only if the person is a commercial pearl fisher or assistant pearl fisher.

(3) A person may, in an area in Queensland waters, put pearl oysters, trochus or green snails taken from another area only under an authority allowing the person to put the pearl oysters, trochus or green snails in the area.

Division 2—Miscellaneous**Offence to contravene condition of an authority**

20. An authority holder must not contravene a condition of the authority.

Maximum penalty—100 penalty units.

Prohibited ways of taking fish

21.(1) The following ways of taking fish are prohibited—

- (a) jaggging;
- (b) using a spear or spear gun and underwater breathing apparatus (other than a snorkel).

(2) However, subsection (1)(b) does not apply to a commercial, assistant or community fisher if the person's licence or permit allows the use of a spear or spear gun.

(3) For fish in fresh water that is not privately owned, the following ways of taking fish are prohibited—

- (a) using a fishing line other than a fishing line with only 1 hook or a lure attached;
- (b) setting a fishing line as a cross-line;
- (c) setting more than 6 fishing lines.

Example of 'privately owned fresh water' in subsection (3)—

Water in a dam on privately owned land, if the dam is not built across a waterway.

(4) For fish in tidal water, taking fish by using a fishing line with more than 6 hooks attached is prohibited.

Noxious fisheries resources

22. The following fisheries resources are noxious fisheries resources—

- European carp (*Cyprinus carpio*)
- piranha (all species of the genera *Pygocentrus*, *Pygopristis* and *Serrasalmus*)
- tilapia (all species of the genus *Tilapia* and *Oreochromis*)
- walking catfish (all species of the family Clariidae).

PART 4—MISCELLANEOUS

Regulated fish

23. The following fish are regulated fish—

- (a) gastropod or bivalve mollusc (all species other than oysters (family Ostreidae));
- (b) fish included in the *Fishing Industry Organisation and Marketing Regulation 1991*, sections 37² and 38³ and Schedule 8.⁴

² Section 37 (Fish or marine product protected on account of gender)

³ Section 38 (Fish or marine product protected on account of genus, species, name or other classification)

⁴ Schedule 8 (Species of fish and marine product protected on account of size or weight)

Declared fisheries resources

24. Regulated fish are fisheries resources to which section 154 of the Act⁵ applies.

Forfeiture offences

25. An offence mentioned in section 78 of the Act⁶ is an offence to which section 154 of the Act⁵ applies.

Threshold percentage

26. The threshold percentage for section 154 of the Act⁵ is 5%.

Service fee

27.(1) The fee payable to the Authority for—

- (a) entering particulars of a boat licence and boat for which the licence was issued pending construction or purchase of another boat is $\frac{1}{2}$ the fee payable for renewing the licence; and
- (b) changing an entry of particulars mentioned in paragraph (a) is—
 - (i) for a primary otter trawl boat—each hull unit—\$33.00; or
 - (ii) for a primary boat (other than an otter trawl boat)—\$233.00; or
 - (iii) for a tender boat (endorsed for a line fishery)—\$104.00; or
 - (iv) for a tender boat (not endorsed)—\$73.00.

(2) In subsection (1)—

“fee payable for renewing the licence” means the total of the following fees—

- (a) assessment fee;

⁵ Section 154 of the Act (Seizure of fisheries resources in heap etc.)

⁶ Section 78 of the Act (Prohibited acts about regulated fish)

- (b) renewal fee;
- (c) endorsement fee.

Other fees

28.(1) The fees payable under the Act and this regulation are stated in the Schedule.

(2) Unless otherwise stated in the Schedule—

- (a) the fee stated for an authority is for its issue; and
- (b) the renewal fee for an authority (other than a permit) is the same as the fee stated for its issue; and
- (c) a fee stated is not an assessment fee.⁷

PART 5—AMENDMENTS

Division 1—Amendment of Fisheries Regulation 1977

Regulation amended

29. This Division amends the *Fisheries Regulation 1977*.

Omission of Sch 2 (Fees)

30. Schedule 2—

omit.

⁷ Under section 60 of the Act (Notice of refusal of application for issue or renewal etc.) assessment fees are not refundable.

***Division 2—Amendment of Fishing Industry Organisation and
Marketing Regulation 1991***

Regulation amended

31. This Division amends the *Fishing Industry Organisation and Marketing Regulation 1991*.

Omission of Sch 2 (Fees)

32. Schedule 2—
omit.

Division 3—Expiry

Expiry of Part

33. This Part expires on the day it commences.

SCHEDULE

FEES

section 28 of the regulation

PART 1—FEES PAYABLE TO THE CHIEF EXECUTIVE

Division 1—Licences

	\$
1. Aquaculture licence—	
(a) to conduct oystering operations	32.00
(b) to occupy an oyster ground as an oyster bank—	
(i) for a licence based on area—each hectare or part of a hectare	43.00
(ii) for a licence based on length—each 200 m or part of 200 m	43.00
(iii) minimum fee	236.00
2. Transfer of an aquaculture licence to occupy an oyster ground as an oyster bank	80.00
3. Aquaculture boat licence for oystering (other than a dinghy less than 4 m long)—	
• unpowered	31.00
• powered and not over 10 m long	119.00
• powered and over 10 m but not over 15 m long . . .	124.00
• powered and over 15 m but not over 20 m long . . .	147.00
• powered and over 20 m long	257.00
4. Transfer of aquaculture boat licence for oystering	26.00

 SCHEDULE (continued)
Division 2—Permits

5.	Aquaculture permit—	
	(a) to keep pearl oysters for farming—	
	(i) each hectare or part of a hectare of tidal land . . .	7.00
	(ii) minimum fee	924.00
	(b) to use a boat for pearling—	
	(i) boat with net registered tonnage not over 10 t . . .	43.00
	(ii) other boat—	
	• for the first 10 t	43.00
	• for each tonne or part of a tonne over 10 t	5.00
	• maximum fee	299.00
	(c) to keep fish for stocking other waters—assessment fee	105.00
	(d) to cultivate fish (other than oysters) for human consumption—	
	(i) each hectare or part of a hectare of tidal land or ponds	6.00
	(ii) minimum fee	136.00
6.	Marine plant permit to cut, lop, burn, remove or destroy mangroves or other marine plants	135.00

Division 3—Other fees

7.	Survey for a licence or permit mentioned in this Part . . .	s u r v e y c o s t s reasonably incurred
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SCHEDULE (continued)

PART 2—FEES PAYABLE TO THE AUTHORITY*Division 1—Licences*

8.	Coral, shell grit or star sand licence—	
	(a) exclusive licence	267.00
	(b) other than an exclusive	140.00
9.	Transfer of coral, shell grit or star sand licence	25.00
10.	Boat for use to take coral, shell grit or star sand (other than a dinghy less than 4 m long)—	
	• unpowered	31.00
	• powered and not over 10 m long	119.00
	• powered and over 10 m but not over 15 m long	124.00
	• powered and over 15 m but not over 20 m long	147.00
	• powered and over 20 m long	257.00
11.	Boat for use to take pearl shell—	
	(a) boat with net registered tonnage not over 10 t	43.00
	(b) other boat—	
	• for the first 10 t	43.00
	• for each tonne or part of a tonne over 10 t	5.00
	• maximum fee	299.00
12.	Carrier boat licence—	
	(a) for issue	1 298.00
	(b) for renewal	142.00
	(c) for transfer	70.00
13.	Community boat licence	59.00
14.	Primary boat licence—	
	(a) assessment fee—for issue or renewal	15.00
	(b) for issue—	
	(i) boat (other than otter trawl boat)—	
	• under 10 m long	192.00
	• 10 m to under 14 m long	215.00
	• 14 m to under 16 m long	239.00
	• 16 m to under 19 m long	287.00
	• 19 m or more long	383.00

SCHEDULE (continued)

(ii)	otter trawl boat—	
•	under 10 m long	212.00
•	10 m to under 11 m long	279.00
•	11 m to under 12 m long	294.00
•	12 m to under 13 m long	322.00
•	13 m to under 14 m long	345.00
•	14 m to under 15 m long	472.00
•	15 m to under 16 m long	552.00
•	16 m to under 17 m long	679.00
•	17 m to under 18 m long	762.00
•	18 m to under 19 m long	842.00
•	19 m or more long	1 019.00
(c)	for renewal—	
(i)	boat (other than otter trawl boat)—	
•	under 10 m long	139.00
•	10 m to under 14 m long	162.00
•	14 m to under 16 m long	186.00
•	16 m to under 19 m long	234.00
•	19 m or more long	330.00
(ii)	otter trawl boat—	
•	under 10 m long	159.00
•	10 m to under 11 m long	226.00
•	11 m to under 12 m long	241.00
•	12 m to under 13 m long	269.00
•	13 m to under 14 m long	292.00
•	14 m to under 15 m long	419.00
•	15 m to under 16 m long	499.00
•	16 m to under 17 m long	626.00
•	17 m to under 18 m long	709.00
•	18 m to under 19 m long	789.00
•	19 m or more long	966.00
(d)	for transfer—	
(i)	otter trawl boat—for each hull unit	33.00
(ii)	other than otter trawl boat	233.00
15.	Tender boat licence—	
(a)	assessment fee	15.00
(b)	for issue	62.00

SCHEDULE (continued)

(c)	for transfer—	73.00
(i)	not endorsed	
(ii)	endorsed for a line fishery	104.00
16.	Endorsement fee, each endorsement—	
(a)	for primary boat—	
•	Gulf of Carpentaria net fishery	789.00
•	East Coast barramundi or set gill net fishery . .	233.00
•	ocean beach net fishery	79.00
•	multiple hook fishery	315.00
•	fin fish fishery	5 100.00
•	other fishery (1st endorsement)	72.00
•	other fishery (other than 1st endorsement) . . .	57.00
(b)	for tender boat—line fishery	18.00
17.	Fisher licence—	
(a)	assessment fee—	
(i)	for commercial fisher	60.00
(ii)	for assistant fisher	25.00
(b)	licence fee—	
(i)	commercial fisher—	
•	for issue	355.00
•	for renewal	66.00
(ii)	assistant fisher	45.00
(iii)	assistant fisher—‘trainee commercial fisher’ endorsed	88.00
(iv)	commercial pearl fisher	130.00
(v)	assistant pearl fisher	32.00
(vi)	community fisher	59.00
18.	Buyer licence—	
(a)	assessment fee	25.00
(b)	licence fee—	
(i)	Class A—	
•	for issue	1 952.00
•	for renewal	298.00
(ii)	Class B	298.00
(iii)	Class C	159.00
(iv)	Class D—	
•	for issue	1 952.00

 SCHEDULE (continued)

• for renewal	298.00
(c) transfer of licence	70.00
19. Pearl dealer licence	162.00
20. Processor licence—	
(a) assessment fee	25.00
(b) licence fee—	
(i) Class A—	
• for issue	1 952.00
• for renewal	298.00
(ii) Class B	298.00
(iii) for processing fish (other than for human consumption)	267.00
(c) transfer of Class A or B licence	70.00

Division 2—Permits

21. General fisheries permit—	
(a) for research	59.00
(b) to buy barramundi for stocking waters	17.00
(c) for another purpose—assessment fee	105.00

Division 3—Other authorities

22. Registration authority for a place—	
(a) assessment fee	25.00
(b) for issue	659.00
(c) for renewal	159.00
(d) for transfer	70.00

Division 4—Other fees

23. Survey for a licence or permit mentioned in this Part . . .	s u r v e y c o s t s
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 SCHEDULE (continued)

	reasonably incurred
24. Pearl shell or trochus inspection fee, per tonne or part of a tonne	100.00
25. Issue of duplicate licence, permit, authority or commercial fisher identity card	22.00
26. Fee for appeal to Tribunal	50.00

ENDNOTES

1. Made by the Governor in Council on 23 February 1995.
2. Notified in the Gazette on 24 February 1995.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Primary Industries.