



Queensland

Fisheries and Other Legislation Amendment Regulation (No. 1) 2006

Subordinate Legislation 2006 No. 26

made under the

Fisheries Act 1994

State Penalties Enforcement Act 1999

Transport Operations (Marine Safety) Act 1994

Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
Part 2	Amendment of Fisheries Regulation 1995	
3	Regulation amended in pt 2 and schedule	6
4	Replacement of ss 3 and 4	6
	3 References to boundaries, lines, shores and other points	6
	4 References to waterways	7
5	Replacement of s 7 (References to certain commercial fishing boats)	7
	7 Primary boats and tender boats	7
6	Insertion of new s 9A	8
	9A References to possession of fish	8
7	Amendment of s 21 (Measurement of size and weight of fish)	8
8	Omission of ss 25B, 32, 82, 103 and 109	9
9	Amendment of s 25F (Meaning of entitlement of SM unit holder)	9
10	Amendment of s 25G (When SM unit entitlement is used for an SM year)	10

11	Amendment of s 25H (No carrying forward of unused entitlement)	10
12	Amendment of s 25I (SM unit certificates)	10
13	Amendment of s 25J (Evidentiary provision for SM unit certificate)	10
14	Replacement of s 25L (Purpose and application of div 4)	11
	Subdivision 1 When SM units may or may not be transferred	
	25L Purpose of sdiv 1	11
15	Replacement of ss 25O and 25P	11
	Subdivision 2 Other provisions about SM unit transfers	
	25O SM unit certificate changes required	11
16	Amendment of s 25R (Entitlement of transferee)	11
17	Omission of pt 5C, div 5 (Substituting SM fishery licence to which SM units relate)	12
18	Replacement of s 30 (Licences chief executive may issue)	12
	30 Licences chief executive may issue	12
19	Replacement of s 33 (Restriction on issue of tender commercial fishing boat licences)	12
	33 Requirement to decide number of tender boats for particular licences	12
20	Amendment of s 34 (Permits chief executive may issue)	13
21	Amendment of s 35 (Restrictions on issue of general fisheries permits)	14
22	Replacement of pt 7, div 3, hdg (Other authorities)	14
23	Replacement of s 36 (Other authorities chief executive may issue)	14
	36 Power to issue	15
24	Replacement of ss 41–42.	15
	Subdivision 1 When fishery symbol may be written on an authority	
	41 General provision for writing fishery symbol.	15
	42 Restriction on writing multiple fishery symbols.	15
	42A Restrictions on writing fishery symbol 'SM'	16
	42B Restrictions on writing fishery symbol 'L4'	16
25	Amendment of s 43 (Restrictions on writing fishery symbols on authorities allowing the use of boats of certain lengths in commercial fisheries)	16
26	Insertion of new pt 7, div 4, sdiv 2, hdg	17
27	Amendment of s 45 (Restriction on things authorised by an authority with more than 1 fishery symbol on it)	17

28	Replacement of s 47 (When effect of certain fishery symbols end)	17
	47 Application to move fishery symbol to another licence	17
29	Replacement of pt 7, div 5, sdiv 1, (General authorisations and conditions)	19
	Subdivision 1 General authorisations	
	48 Operation of sdiv 1	19
	49 Buyer licence	20
	50 Carrier boat licence	20
	51 Charter fishing licence	20
	52 Commercial fisher licence	21
	53 Commercial fishing boat licence.	22
	54 Commercial harvest fishery licence	23
	55 Developmental fishing permit	24
	56 Indigenous fishing permit	25
	57 Resource allocation authority	26
	Subdivision 1A General conditions	
	58 Buyer licence	27
	58AA Charter fishing licence	27
	58AB Commercial fisher licence	28
	58AC Commercial fishing boat licence.	28
	58AD Authority that authorises the sale of fisheries resources	29
	Subdivision 1B Boat mark conditions	
	58AE Application of sdiv 1B.	29
	58AF Authority holder's obligation to ensure boat mark is placed	30
	58AG Obligation of person in control to ensure boat is not used without boat mark	30
	58AH Requirements for placing boat mark	31
30	Amendment of s 58A (Purpose of sdiv 2).	32
31	Amendment of s 58B (Definitions for sdiv 2)	32
32	Amendment of s 58C (Requirements for taking or possessing spanish mackerel on authorised boat)	34
33	Amendment of s 58G (General requirements after prior notice given)	34
34	Amendment of s 58H (Additional requirements if prior notice stated spanish mackerel will be unloaded).	35

35	Amendment of s 58K (Additional requirements for unloading spanish mackerel if prior notice given)	35
36	Amendment of s 58N (Notices to chief executive under this subdivision)	35
37	Amendment of s 58O (Criteria for suspending SM units)	36
38	Replacement of s 59 (Authorities that are not transferable)	36
	59 Commercial fisher licence not transferrable	36
39	Amendment of s 62 (Particulars to be contained in register of authorities)	36
40	Amendment of s 64B (Meaning of ready to fish)	37
41	Omission of pt 7, div 7, sdiv 3 (Changing fishery symbol 'SM' to another authority)	38
42	Replacement of ss 68-70	38
	68 Buying, possessing or using commercial fishing apparatus	38
	69 Using boats	38
	70 Conducting particular charter fishing trips	39
43	Amendment of s 71 (Taking fish)	39
44	Amendment of s 72 (Carrying fish)	39
45	Replacement of ss 73–76	39
	73 Buying Queensland fisheries resources before second point of sale	40
	74 Selling Queensland fisheries resources before second point of sale	40
	75 Processing Queensland fisheries resources before second point of sale	41
46	Amendment of s 91 (Possessing certain crabs or crab meat)	42
47	Insertion of new s 95B	42
	95B Declaratory provision about recreational fishing rights of persons who may take fish for trade or commerce	42
48	Replacement of s 105 (Prescribed authorities—Act, s 70C)	43
	105 Prescribed authorities—Act, s 70C	43
49	Amendment of s 108AA (Definitions for div 2)	43
50	Replacement of s 112 (Other fees payable under the Act)	44
	112 Other fees payable under the Act	44
51	Replacement of pt 13, hdg (Transitional provision for the Fisheries Amendment Regulation (No.1) 2004)	45
52	Insertion of new pt 13, div 2	45

	Division 2	Transitional provision for Fisheries and other Legislation Amendment Regulation (No. 1) 2006	
	115	Definition for div 2	45
	116	Existing buyer licences, carrier boat licences and commercial fisher licences	46
	117	Primary commercial fishing boat licences under the unamended regulation	46
	118	Authorities to take under the unamended regulation .	48
	119	Particular general fisheries permits	49
	120	Fees paid under old schedule 10	50
53		Amendment of sch 4A (Measurement of particular fish)	51
54		Amendment of sch 5B (Special provisions for the spanish mackerel fishery)	52
55		Replacement of sch 10 (Other fees).	53
		Schedule 10 Other fees	
56		Amendment of sch 12 (Line fisheries (commercial))	60
57		Amendment of sch 13 (Net fisheries (commercial))	61
58		Amendment of sch 14 (Trawl fishery (fin fish))	62
59		Insertion of new sch 14A	62
60		Amendment of sch 15 (Other fisheries (commercial))	62
	35	Use of tender boats	63
61		Amendment of sch 17 (Definitions)	65
Part 3		Amendment of State Penalties Enforcement Regulation 2000	
62		Regulation amended in pt 3	73
63		Amendment of sch 5 (Other legislation)	73
		'Fisheries (Coral Reef Fin Fish) Management Plan 2003	73
Part 4		Amendment of Transport Operations (Marine Safety) Regulation 2004	
64		Regulation amended in pt 4	75
65		Amendment of s 20 (Application of div 4).	75
66		Amendment of s 24 (Fishing ship less than 10m or licensed as tender commercial fishing boat)	75
67		Amendment of s 60 (Application of Act, pt 5, div 2)	75
68		Amendment of s 79 (Markings for particular tenders)	76
69		Amendment of sch 10 (Fees and charges)	76
70		Amendment of sch 15 (Dictionary).	76
Schedule		Other amendments of Fisheries Regulation 1995	77

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Fisheries and Other Legislation Amendment Regulation (No. 1) 2006*.

2 Commencement

This regulation commences on 1 July 2006.

Part 2 Amendment of Fisheries Regulation 1995

3 Regulation amended in pt 2 and schedule

This part and the schedule amend the *Fisheries Regulation 1995*.

4 Replacement of ss 3 and 4

Sections 3 and 4—

omit, insert—

‘3 References to boundaries, lines, shores and other points

‘In this regulation or a management plan the following apply unless the regulation or management plan provides otherwise—

- (a) a boundary or line along a shore follows high water mark;
- (b) a boundary or line along a shore intersected by a waterway crosses the waterway by the shortest line between its banks;
- (c) other boundaries and lines run from point to point in a straight line;

- (d) a reference to a shore is a reference to the shore at high water mark;
- (e) reference to a point or to the tip of an island or other geographical feature, is a reference to the point or tip on the shore at high water mark.

‘4 References to waterways

‘In this regulation or a management plan a reference to a waterway is a reference to all of the following unless the regulation or management plan provides otherwise—

- (a) the waterway upstream of the shortest line between its banks at their junction, at low water, with the body of water into which the waterway finally flows;
- (b) the foreshores of the waterway.’

5 Replacement of s 7 (References to certain commercial fishing boats)

Section 7—

omit, insert—

‘7 *Primary boats and tender boats*

- ‘(1) A *primary boat* is a boat identified in a commercial fishing boat licence or commercial harvest fishery licence for the fishery under schedule 15, part 7,¹ as the primary commercial fishing boat for the licence.
- ‘(2) A *tender boat* is a boat, other than a primary boat, that may be used under section 53.²
- ‘(3) In a provision of this regulation or a management plan about a commercial fishing boat licence or commercial harvest fishery licence—
 - (a) a reference to the primary boat is a reference to the primary boat identified in the licence; and

1 Schedule 15 (Other fisheries (commercial)), part 7 (Shell fishery)

2 Section 53 (Commercial fishing boat licence)

- (b) a reference to a tender boat is a reference to a tender boat that—
 - (i) under section 53, may be used under the licence; and
 - (ii) has its boat mark placed in a way that complies with section 58AH.³
- ‘(4) A reference in this regulation or a management plan to—
- (a) a primary boat’s tender boat is a reference to a tender boat that—
 - (i) under section 53, may be used under the commercial fishing boat licence in which the primary boat is identified; and
 - (ii) has its boat mark placed in a way that complies with section 58AH; and
 - (b) a tender boat’s primary boat is a reference to the primary boat identified in the commercial fishing boat licence under which the tender boat is being or may be used.’.

6 Insertion of new s 9A

After section 9—

insert—

‘9A References to possession of fish

- ‘(1) This section applies if a provision of this regulation or a management plan prohibits possession of a fish.
- ‘(2) To remove any doubt, it is declared that the reference to possession in the provision is a reference to possession wherever it takes place.’.

7 Amendment of s 21 (Measurement of size and weight of fish)

- (1) Section 21, heading—

³ Section 58AH (Requirements for placing boat mark)

omit, insert—

‘21 Measurement of size, weight or total volume’.

(2) Section 21, after ‘schedule 4A’—

insert—

‘, parts 1 and 2.’.

(3) Section 21—

insert—

‘(2) A total volume of fish must be measured in the way stated in schedule 4A, part 3.’.

8 Omission of ss 25B, 32, 82, 103 and 109

Sections 25B, 32, 82, 103 and 109—

omit.

9 Amendment of s 25F (Meaning of *entitlement* of SM unit holder)

(1) Section 25F(4)—

renumber as section 25F(5).

(2) Section 25F(3)—

omit, insert—

‘(3) However, the entitlement applies only while the holder holds an SM fishery licence that is in force.

‘(4) The entitlement is subject to any relevant prohibitions or restrictions under this regulation, a management plan or a condition or other provision of the SM unit or SM fishery licence.

Examples of relevant restrictions—

the restrictions under section 44(1) to (4)⁴.

4 Section 44 (Things authorised by fishery symbol)

10 Amendment of s 25G (When SM unit entitlement is used for an SM year)

Section 25G, ‘the holder’s SM fishery licence’—

omit, insert—

‘any SM fishery licence held by the SM unit holder’.

11 Amendment of s 25H (No carrying forward of unused entitlement)

Section 25H(1), ‘, under the holder’s SM fishery licence,’—

omit.

12 Amendment of s 25I (SM unit certificates)

(1) Section 25I(1)—

omit, insert—

‘(1) The chief executive must issue a single certificate to each person who holds SM units.’.

(2) Section 25I(2)(c) to (f) and (h)—

omit.

(3) Section 25I(2)(g), ‘in relation to the licence’—

omit.

(4) Section 25I(2)(g), (i) and (j)—

renumber as section 25I(2)(c), (d) and (e) respectively.

13 Amendment of s 25J (Evidentiary provision for SM unit certificate)

Section 25J(a), from ‘units’—

omit, insert—

‘units held when the certificate was issued under section 25I, replaced under section 71 of the Act or changed or replaced under section 25O; and’.

14 Replacement of s 25L (Purpose and application of div 4)

Section 25L—

omit, insert—

‘Subdivision 1 When SM units may or may not be transferred

‘25L Purpose of sdiv 1

‘This subdivision states, for section 65(1)⁵ of the Act, the circumstances in which SM units may or may not be transferred.’.

15 Replacement of ss 25O and 25P

Sections 25O and 25P—

omit, insert—

‘Subdivision 2 Other provisions about SM unit transfers

‘25O SM unit certificate changes required

‘If, under section 65B⁶ of the Act, an application to transfer an SM unit is registered, the chief executive must give effect to the transfer by changing, cancelling or replacing the transferor’s and transferee’s current SM unit certificates.’.

16 Amendment of s 25R (Entitlement of transferee)

Section 25R(1)(a), ‘approved the transfer’—

omit, insert—

‘registers the transfer under section 65B⁷ of the Act’.

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

6 Section 65B (Registration of transfer of authority) of the Act

7 Section 65B (Registration of transfer of authority) of the Act

17 Omission of pt 5C, div 5 (Substituting SM fishery licence to which SM units relate)

Part 5C, division 5—

omit.

18 Replacement of s 30 (Licences chief executive may issue)

Section 30—

omit, insert—

‘30 Licences chief executive may issue

‘The chief executive may issue the following types of licence—

- (a) buyer licences;
- (b) carrier boat licences;
- (c) charter fishing licences;
- (d) commercial fisher licences;
- (e) commercial fishing boat licences;
- (f) commercial harvest fishery licences.’.

19 Replacement of s 33 (Restriction on issue of tender commercial fishing boat licences)

Section 33—

omit, insert—

‘33 Requirement to decide number of tender boats for particular licences

- ‘(1) This section applies if the chief executive decides to issue a commercial fishing boat licence.
- ‘(2) Before issuing the licence, the chief executive must decide how many tender boats are, for section 53, to be authorised for use under each fishery symbol to be written on the licence.
- ‘(3) Without limiting subsection (2), the decision may be that—
 - (a) no tender boats are to be authorised; or

-
- (b) an unlimited number of tender boats are to be authorised.
- ‘(4) Despite subsections (2) and (3), for a commercial fishing boat licence with the following fishery symbol to be written on it the number decided to be authorised must not be more than the following number—
- (a) for the fishery symbol ‘L2’—4;
 - (b) for the fishery symbol ‘L3’—1.
- ‘(5) If the decision is other than that an unlimited number of tender boats are to be authorised, the licence must state the number of tender boats authorised, in brackets immediately after the fishery symbol.
- ‘(6) If the decision is that an unlimited number of tender boats are to be authorised, the licence must not have any brackets or numbers in brackets written immediately after the fishery symbol.’.

20 Amendment of s 34 (Permits chief executive may issue)

Section 34, from ‘may issue’—

omit, insert—

‘may issue the following types of permit—

- (a) general fisheries permits for activities—
 - (i) other than activities that, under division 5,⁸ may be carried out under another type of authority; and
 - (ii) that are otherwise unlawful under this regulation or a management plan;
- (b) developmental fishing permits;
- (c) indigenous fishing permits.’.

8 Division 5 (Things authorised by, and conditions of, authorities)

21 Amendment of s 35 (Restrictions on issue of general fisheries permits)

- (1) Section 35, heading, ‘general fisheries’—
omit.
- (2) Section 35(1)—
omit.
- (3) Section 35(2), from ‘However’ to ‘fisheries’—
omit, insert—
‘The chief executive must not issue a’.
- (4) Section 35(2) to (4)—
renumber as section 35(1) to (3)
- (5) Section 35(2), as renumbered, ‘Subsection (2)(b)’—
omit, insert—
‘Subsection (1)(b)’.
- (6) Section 35(2)(a)(i), as renumbered, ‘primary commercial fishing boat licence’—
omit, insert—
‘commercial fishing boat licence’.
- (7) Section 35(3), as renumbered, ‘Subsection (3)(c)(iii)’—
omit, insert—
‘Subsection (2)(c)(iii)’.

22 Replacement of pt 7, div 3, hdg (Other authorities)

Part 7, division 3, heading—

omit, insert—

‘Division 3 Resource allocation authorities’.

23 Replacement of s 36 (Other authorities chief executive may issue)

Section 36—

omit, insert—

‘36 Power to issue

‘The chief executive may issue resource allocation authorities.’.

24 Replacement of ss 41–42

Sections 41 to 42—

omit, insert—

‘Subdivision 1 When fishery symbol may be written on an authority

‘41 General provision for writing fishery symbol

- ‘(1) The chief executive can not write a fishery symbol on an authority other than a commercial fishing boat licence or commercial harvest fishery licence.
- ‘(2) Subject to the other provisions of this division or any relevant management plan, the chief executive may—
- (a) write on a commercial fishing boat licence any fishery symbol for a commercial fishery; or
 - (b) write on a commercial harvest fishery licence—
 - (i) any fishery symbol for a commercial fishery under schedule 15; or
 - (ii) the fishery symbol ‘E’.

Note—

The fishery Symbol ‘E’ is the commercial fishery for eels under the Freshwater Plan. See part 8 of that plan.

‘42 Restriction on writing multiple fishery symbols

‘The chief executive can not write on an authority the same fishery symbol more than once, other than the fishery symbol ‘C3.’.

‘42A Restrictions on writing fishery symbol ‘SM’

‘The chief executive may write the fishery symbol ‘SM’ on a commercial fishing boat licence only—

- (a) if the chief executive has approved a fishery symbol movement application and, under the application, the symbol is to be written on the licence; or
- (b) under schedule 5B, part 2;⁹ or
- (c) if the licence is a replacement of a commercial fishing boat licence on which the symbol was written under schedule 5B, part 2.

‘42B Restrictions on writing fishery symbol ‘L4’

‘The chief executive may write the fishery symbol ‘L4’ on a commercial fishing boat licence only if—

- (a) the chief executive has approved a fishery symbol movement application and, under the application, the symbol is to be written on the licence; or
- (b) the licence is a replacement of a commercial fishing boat licence on which the symbol was written.’

25 Amendment of s 43 (Restrictions on writing fishery symbols on authorities allowing the use of boats of certain lengths in commercial fisheries)

- (1) Section 43(2)—
omit.
- (2) Section 43(3)—
renumber as section 43(2).
- (3) Section 43(2), as renumbered, ‘Also’—
omit, insert—
‘However’.

⁹ Schedule 5B (Special provisions for spanish mackerel commercial fishery), part 2 (Obtaining fishery symbol ‘SM’)

26 Insertion of new pt 7, div 4, sdiv 2, hdg

After section 43—

insert—

‘Subdivision 2 General provisions about fishery symbols’.

27 Amendment of s 45 (Restriction on things authorised by an authority with more than 1 fishery symbol on it)

(1) Section 45(1), ‘an authority’—

omit, insert—

‘a commercial fishing boat licence or commercial harvest fishery licence’.

(2) Section 45(1), ‘the authority’—

omit, insert—

‘the licence’.

28 Replacement of s 47 (When effect of certain fishery symbols end)

Section 47—

omit, insert—

‘47 Application to move fishery symbol to another licence

‘(1) This section applies if a fishery symbol is written on a commercial fishing boat licence or commercial harvest fishery licence (the *first licence*).

‘(2) The holder of the first licence and the holder of another licence on which the fishery symbol may, under this division and any relevant management plan, be written (the *second licence*) may apply to the chief executive to amend the licences by—

(a) removing from the first licence—

(i) the fishery symbol; and

-
- (ii) if, under section 33,¹⁰ a number, other than an unlimited number, of tender boats was decided to be authorised for use under the fishery symbol—the decided number and the brackets containing the number; and
 - (b) writing on the second licence—
 - (i) the same fishery symbol; and
 - (ii) if, under section 33, a number, other than an unlimited number, of tender boats was decided to be authorised for use under the fishery symbol—the decided number, in the way required under that section; and
 - (c) if any of the licences contain administrative conditions—amending the conditions in a way the chief executive considers appropriate to reflect the amendments under paragraphs (a) and (b).
 - ‘(3) The application—
 - (a) must be in the approved form and accompanied by—
 - (i) the fee prescribed under schedule 10; and
 - (ii) the written approval of each person, other than the holder, who has an interest in the first licence, as noted in the register; and
 - (b) may be made even though the same person holds the first licence and the second licence.
 - ‘(4) The chief executive may approve the application subject to conditions.
 - ‘(5) If the chief executive approves the application the chief executive must amend the first licence and second licence to—
 - (a) give effect to the approval; and
 - (b) include any amendments to administrative conditions decided by the chief executive under subsection (2)(c).

10 Section 33 (Requirement to decide number of tender boats for particular licences)

- ‘(6) If the chief executive decides to—
- (a) refuse the application; or
 - (b) approve the application subject to conditions to which the applicants have not agreed in writing; or
 - (c) amend the administrative conditions of the first licence or second licence and the applicants have not agreed in writing to the amendment;

the chief executive must give the applicants an information notice about the decision.

- ‘(7) In this section—

administrative conditions, of the first licence or second licence, means the conditions of the licence imposed other than under a regulation or management plan.

holder, of a licence, does not include a temporary transferee of the licence.’.

29 Replacement of pt 7, div 5, sdiv 1, (General authorisations and conditions)

Part 7, division 5, subdivision 1—

omit, insert—

‘Subdivision 1 General authorisations

‘48 Operation of sdiv 1

- ‘(1) This subdivision provides, under section 52 of the Act, for what things are permitted to be done under an authority.
- ‘(2) However, this subdivision does not limit what the authority or a management plan may authorise to be done under the authority.
- ‘(3) The carrying out of a thing authorised under this subdivision, a management plan or the authority is subject to any relevant prohibitions or restrictions under this regulation, a management plan or a condition or other provision of the authority.

Examples of relevant restrictions—

the restrictions under section 44(1) to (4)¹¹

‘49 Buyer licence

‘A buyer licence holder may do all or any of the following—

- (a) buy fisheries resources lawfully taken under an authority that authorises the person selling the resources to sell them to the buyer;
- (b) sell fisheries resources;
- (c) process, other than in or on a boat or vehicle, fisheries resources for trade or commerce;
- (d) authorise someone else to do any thing the holder may do under paragraphs (a) to (c).

‘50 Carrier boat licence

‘A carrier boat licence holder may—

- (a) use the boat identified in the licence to carry fish taken for trade or commerce by—
 - (i) a fisher; or
 - (ii) someone else who, under this regulation or a management plan, is authorised to take fish for trade or commerce under another authority; or
- (b) authorise someone else to use the boat in the way mentioned in paragraph (a).

‘51 Charter fishing licence

‘A charter fishing licence holder may conduct, or authorise someone else to conduct, charter fishing trips in offshore waters.

¹¹ Section 44 (Things authorised by fishery symbol)

'52 Commercial fisher licence

- '(1) A commercial fisher licence holder may do all or any of the following—
- (a) buy commercial fishing apparatus;
 - (b) use or possess commercial fishing apparatus;
 - (c) take fish for trade or commerce, but only while using a commercial fishing boat;
 - (d) possess the fish;
 - (e) sell the fish to someone else who—
 - (i) holds another authority that authorises the other person to buy the fish; or
 - (ii) is, under this regulation or a management plan, authorised to buy the fish under an authority mentioned in subparagraph (i);
 - (f) process the fish;
 - (g) authorise someone else to do any thing the holder may do under paragraphs (a) to (f).

Note—

For the fishery under the East Coast Trawl Plan there are restrictions on what an assistant fisher may do. See section 48(3) of this regulation and section 33¹² of that plan.

- '(2) A person authorised under subsection (1)(g) is an ***assistant fisher***.
- '(3) Despite subsection (1)(g)—
- (a) an assistant fisher may do the following only if the assistant fisher is acting under direction of the holder—
 - (i) a thing the holder may do under subsection (1) (b) or (c);
 - (ii) a thing the holder may do under subsection (1) (d), (e) or (f) if the thing is being done on a boat; and

12 Section 48 (Operation of sdiv 1) of this regulation and section 33 (Assistant fishers) of the East Coast Trawl Plan

- (b) an assistant fisher may, other than on a boat, do a thing the holder may do under subsection (1)(a), (d), (e) or (f) only if the assistant fisher is following the holder's instructions.

'53 Commercial fishing boat licence

- '(1) A commercial fishing boat licence holder may do all or any of the following—
 - (a) use the primary commercial fishing boat identified in the licence to take fish for trade or commerce in the commercial fisheries identified in the licence;
 - (b) for any 1 of the commercial fisheries, use at the same time, to take fish for trade or commerce, no more than the number of other boats decided, under section 33,¹³ to be authorised for use under the fishery symbol for the fishery;
 - (c) use a boat mentioned in paragraph (b) as if it were the primary boat if—
 - (i) the primary boat is not also being used to take fish for trade or commerce; and
 - (ii) the licence is kept on board the boat mentioned in paragraph (b) while it is being used as the primary boat;
 - (d) use any boat mentioned in this subsection to carry fish taken under this subsection if they have been lawfully taken in a commercial fishery;
 - (e) sell the fish to someone else who—
 - (i) holds another authority that authorises the other person to buy the fish; or
 - (ii) is, under this regulation or a management plan, authorised to buy the fish under an authority mentioned in subparagraph (i);
 - (f) process fish mentioned in paragraph (a) or (b);

13 Section 33 (Requirement to decide number of tender boats for particular licences)

- (g) authorise someone else to do any thing the holder may do under paragraphs (a) to (f).
- ‘(2) For subsection (1)(a), a commercial fishery is identified in the licence only if the fishery symbol for the fishery is written on the licence.
- ‘(3) For subsection (1)(c), the use of the primary boat to take fish does not include merely having fishing apparatus or fish on board the boat.
- ‘(4) While a boat other than a primary fishing boat is being used under subsection (1)(c), the provisions of this regulation and any relevant management plan apply to the boat as if it were a primary boat.
- ‘(5) Despite subsection (4), the licence holder need not comply with a VMS equipment or manual reporting condition for the commercial fishing boat if—
 - (a) the VMS equipment or manual reporting condition for the primary boat is complied with; and
 - (b) during the whole period the boat is being used as the primary boat, no trawl net, or fish taken by the use of a trawl net, is on or attached to it.
- ‘(6) In this section—

VMS equipment or manual reporting condition means a condition imposed under the East Coast Trawl Plan, chapter 3, part 5.¹⁴

‘54 **Commercial harvest fishery licence**

- ‘(1) A commercial harvest fishery licence holder may do all or any of the following—
 - (a) buy, use or possess commercial fishing apparatus;
 - (b) take fish for trade or commerce in the commercial fisheries identified in the licence;
 - (c) use a boat to take the fish and to carry the fish;

¹⁴ East Coast Trawl Plan, chapter 3 (General provisions for licences and fishery symbols), part 5 (VMS Equipment and manual reporting conditions)

- (d) possess the fish;
- (e) sell the fish to someone else who—
 - (i) holds another authority that authorises the other person to buy the fish; or
 - (ii) is, under this regulation or a management plan, authorised to buy the fish under an authority mentioned in subparagraph (i);
- (f) process the fish;
- (g) authorise a nominated person to do any thing the holder may do under paragraphs (a) to (f).

Note—

The commercial fishery for eels under the Freshwater Plan has authorisations and restrictions for commercial harvest fishery licences with the fishery symbol 'E' written on them. See section 48(3) of this regulation and part 8 of that plan.

'(2) For subsection (1)(b), a commercial fishery is identified in the licence only if the fishery symbol for the fishery is written on the licence.

'(3) In this section—

nominated person means—

- (a) generally—a person who, under schedule 15,¹⁵ has been nominated by the licence holder; or
- (b) if the licence is an eel licence under the Freshwater Plan—the holder's approved nominee under that plan.

'55 **Developmental fishing permit**

'A developmental fishing permit holder and anyone else identified in the permit may do all or any of the following—

- (a) assess the commercial viability of a fishing activity, fishing apparatus or boat for a fishery identified in the permit, other than a commercial fishery;

- (b) buy, use or possess fishing apparatus to carry out the assessment;
- (c) possess or process fish lawfully taken while carrying out the assessment;
- (d) sell the fish to someone else who—
 - (i) is identified in the permit; or
 - (ii) holds another authority that authorises the other person to buy the fish; or
 - (iii) is, under this regulation or a management plan, authorised to buy the fish under an authority mentioned in subparagraph (ii).

'56 Indigenous fishing permit

'An indigenous fishing permit holder and anyone else identified in the permit may do all or any of the following—

- (a) assess the commercial viability of a fishing activity, fishing apparatus or boat proposed to be carried out by an indigenous person or a community of indigenous persons in a commercial fishery identified in the permit;
- (b) buy, use or possess fishing apparatus to carry out the assessment;
- (c) possess or process fish lawfully taken while carrying out the assessment;
- (d) sell the fish to someone else who—
 - (i) is identified in the permit; or
 - (ii) holds another authority that authorises the other person to buy the fish; or
 - (iii) is, under this regulation or a management plan, authorised to buy the fish under an authority mentioned in subparagraph (ii).

'57 Resource allocation authority

- '(1) A resource allocation authority holder may do all or any of the following—
- (a) for an authority relating to prescribed declared fish habitat area development or development mentioned in the Planning Act, schedule 8, part 2, table 1, item 3(b) or (c) or table 4, item 3(b) or (c)—interfere with the declared fish habitat area mentioned in the authority;
 - (b) for an authority relating to prescribed aquaculture development—interfere with the fish habitat in the Queensland waters or on the unallocated tidal land mentioned in the authority;
 - (c) for an authority relating to development mentioned in the Planning Act, schedule 8, part 2, table 4, item 4(a)—collect dead marine wood for trade or commerce from the unallocated State land mentioned in the authority;
 - (d) for an authority relating to development mentioned in the Planning Act, schedule 8, part 2, table 4, item 4(c)—remove, destroy or damage marine plants in the area mentioned in the authority, if the removal, destruction or damage is reasonably necessary—
 - (i) for educational or research purposes; or
 - (ii) to monitor the impact of development on marine plants.
- '(2) However, the holder may do an act mentioned in subsection (1) only if—
- (a) the holder does the act in relation to the development to which the authority relates; and
 - (b) the development is carried out in a way that is authorised under the Planning Act.

‘Subdivision 1A General conditions

‘58 Buyer licence

‘(1) It is a condition of a buyer licence that anyone acting under the licence (the *buyer*) must sign the relevant part of a catch disposal record for a relevant licence if—

- (a) the buyer has bought coral reef fin fish or spanish mackerel from the holder of, or a person acting under, the relevant licence; and
- (b) the holder or person has asked the buyer to sign the relevant part of the record; and
- (c) the buyer is reasonably satisfied the record is accurate to the extent the record relates to the coral reef fin fish or spanish mackerel bought by the buyer from the holder or person.

‘(2) In this section—

catch disposal record, for a relevant licence, means the approved form for recording the sale of coral reef fin fish or spanish mackerel under the licence.

relevant licence means—

- (a) an SM fishery licence; or
- (b) a licence with the fishery symbol ‘RQ’ written on it.

‘58AA Charter fishing licence

‘It is a condition of a charter fishing licence that anyone who conducts a charter fishing trip under the licence must not take, or allow someone else to take, maray or pilchards during the trip unless—

- (a) they are taken to use as bait for fishing during the trip; and
- (b) the taking complies with schedule 8, part 3.¹⁶

¹⁶ Schedule 8 (Recreational fishing—use of fishing apparatus), part 3 (Nets)

‘58AB Commercial fisher licence

‘It is a condition of a commercial fisher licence that its holder must not act, or direct an assistant fisher to act, in the same commercial fishery under more than 1 commercial fishing boat licence at the same time.

‘58AC Commercial fishing boat licence

- ‘(1) This section prescribes conditions to which a commercial fishing boat licence is subject.
- ‘(2) Only a commercial fisher or an assistant fisher under direction of the commercial fisher may use the primary boat or any of its tender boats.
- ‘(3) The primary boat may be used in a commercial fishery, other than the ‘N6’ fishery, only if the fishery symbol for the fishery is written on the licence.
- ‘(4) The primary boat and any of its tender boats may be used in the ‘N6’ fishery to take ‘N6’ fish without the ‘N6’ fishery symbol being written on the licence if the boat and the taking of the fish complies with the ‘N6’ fishery provisions.
- ‘(5) However, if the primary boat or any of its tender boats is used as mentioned in subsection (4), the ‘N6’ fish may be sold only if the ‘N6’ fishery symbol is written on the licence.
- ‘(6) A tender boat may be used in a commercial fishery only if—
 - (a) its length is no more than 7m; and
 - (b) its primary boat—
 - (i) may be used in the fishery; and
 - (ii) is not being used in another commercial fishery, other than the crab fishery.
- ‘(7) In this section—

‘N6’ fish means fish that may, under the ‘N6’ fishery provisions, be taken in the ‘N6’ fishery.

‘N6’ fishery means the fisheries described in schedule 13, part 1 and the Gulf Plan, section 37.

‘N6’ fishery provisions means schedule 13, part 1 and the Gulf Plan, part 5, division 4.

‘58AD Authority that authorises the sale of fisheries resources

- ‘(1) This section prescribes conditions to which an authority that authorises a person to sell fisheries resources is subject.
- ‘(2) If—
- (a) a fishery symbol is written on the authority; and
 - (b) a fishery provision for the commercial fishery identified by the fishery symbol states the way in which fisheries resources may be sold;
- a person may sell fisheries resources under the authority only in that way.
- ‘(3) If the authority states the way in which fisheries resources may be sold, a person may sell fisheries resources under the authority only in that way.
- ‘(4) This section does not limit another provision of this regulation or a management plan applying to the sale of fisheries resources by the authority holder or someone else acting under the authority.

‘Subdivision 1B Boat mark conditions

‘58AE Application of sdiv 1B

- ‘This subdivision applies to an authority that authorises the use of a boat if—
- (a) the authority has, stated on it, a sequence of letters or numbers for the boat; or
 - (b) the chief executive has given the authority holder a written notice stating a sequence of letters or numbers for the boat.

‘58AF Authority holder’s obligation to ensure boat mark is placed

- ‘(1) It is a condition of the authority that its holder must ensure the following mark (the *boat mark* for the boat) is placed on the boat, in a way that complies with section 58AH—
- (a) if the boat is a primary boat or another boat identified in the authority—the stated or notified sequence of letters or numbers;
 - (b) if the boat is a tender boat or another boat not identified in the authority—the stated or notified sequence of letters or numbers, followed by—
 - (i) a dash; and
 - (ii) a number, chosen by the authority holder, for the tender boat or other boat.¹⁷
- ‘(2) For subsection (1)(b)(ii), the chosen number must not be the same as the number for any other boat used under the authority and marked under subsection (1)(b).
- ‘(3) The boat mark is in addition to any other marking required to be placed on the boat under another Act.

Example of a marking required under another Act—

the marking required under the Transport Operations (Marine Safety) Regulation 2004, section 79¹⁸

‘58AG Obligation of person in control to ensure boat is not used without boat mark

‘It is a condition of the authority that the person in control of the boat must not use the boat, or allow it to be used, to take fish for trade or commerce, unless—

- (a) the boat mark for the boat has been placed, and continues to be placed, in a way that complies with section 58AH; or

¹⁷ See also section 103A (Removing mark placed on boat)

¹⁸ *Transport Operations (Marine Safety) Regulation 2004*, section 79 (Markings for particular tenders).

- (b) the person has a reasonable excuse for not placing the boat mark for the boat as mentioned in paragraph (a).

'58AH Requirements for placing boat mark

- '(1) The boat mark for the boat must—
 - (a) be placed on each side of the boat's hull and on—
 - (i) if the boat has a deck or shelter at its front—the deck or shelter or an enclosed cabin or wheelhouse on the deck; or
 - (ii) if the boat does not have a deck or shelter at its front—a flat surface on the boat; and
 - (b) have a yellow background; and
 - (c) be written in black; and
 - (d) not be placed below the water line or be otherwise obscured from view.
- '(2) If the boat has a length of less than 10m—
 - (a) each letter or number in the boat mark must have a height of at least 20cm; and
 - (b) each stroke or serif of the letter or number must have a width of at least 2cm but no more than 2.5cm.
- '(3) If the boat has a length of 10m or more but less than 25m—
 - (a) each letter or number in the boat mark must have a height of at least 30cm; and
 - (b) each stroke or serif of the letter or number must have a width of at least 3.5cm but no more than 4cm.
- '(4) If the boat has a length of 25m or more—
 - (a) each letter or number in the boat mark must have a height of at least 45cm; and
 - (b) each stroke or serif of the letter or number must have a width of at least 6cm but no more than 6.5cm.'

30 Amendment of s 58A (Purpose of sdiv 2)

Section 58A(b), ‘or assistant fisher’—
omit.

31 Amendment of s 58B (Definitions for sdiv 2)

(1) Section 58B, definitions *authorised boat*, *complying number* and *retained fish conditions*—

omit.

(2) Section 58B—

insert—

‘*authorised boat*, for an SM unit holder, means—

- (a) the primary boat under any of the SM fishery licences held by the SM unit holder; or
- (b) any of the primary boat’s tender boats.

retained fish conditions—

1 The *retained fish conditions*, for a prior notice, are that—

- (a) an authorised boat must not leave the unloading area for the landing place for the prior notice with spanish mackerel unless the holder, or someone else acting for the holder, has given the chief executive a notice (a *retained fish notice*) that complies with paragraph 2; and
- (b) if any of the following apply, none of the authorised boats may leave the unloading area unless an inspector has given the holder a written notice approving the departure—
 - (i) the total amount of spanish mackerel on board all the authorised boats is 50kg or less;
 - (ii) any of the spanish mackerel on board are not frozen.

2 The retained fish notice must—

- (a) be given at least the following period before the boat leaves or is proposed to leave the unloading area—
 - (i) if the landing place is at or north of latitude 15°50.30' south—6 hours;
 - (ii) if the landing place is south of latitude 15°50.30' south—3 hours; and
 - (b) state the retained fish notice particulars.’.
- (3) Section 58B, definition *amending notice deadline*, paragraph (a)(ii), ‘; or’—
omit, insert—
‘;’.
- (4) Section 58B, definition *amending notice deadline*, paragraph (b)—
renumber as paragraph (c).
- (5) Section 58B, definition *amending notice deadline*—
insert—
‘(b) for an amending notice to add 5 fish or less—when the first authorised boat, for the SM unit holder by or for whom the prior notice was given, enters the area within 0.5n miles of the landing place mentioned in the prior notice; or’.
- (6) Section 58B, definition *landing period*, ‘paragraph (f)’—
omit, insert—
‘paragraph (e)’.
- (7) Section 58B, definition *prescribed person*, paragraph (b), ‘commercial fisher or assistant’—
omit.
- (8) Section 58B, definitions *prior notice particulars, retained fish notice particulars, transshipment notice particulars, unloaded fish notice particulars* and *unnotifiable landing notice particulars*, paragraph (b), ‘SM units’—
omit, insert—

‘spanish mackerel the subject of the notice’.

- (9) Section 58B, definition *prior notice particulars*, paragraph (e)—
omit.
- (10) Section 58B, definition *prior notice particulars*, paragraph (f), before ‘the estimated’—
insert—
‘if the person giving the prior notice is prompted by the AIVR system to enter the following information—the following information—’.
- (11) Section 58B, definition *prior notice particulars*, paragraph (g), before ‘the total number’—
insert—
‘if the person giving the prior notice is prompted by the AIVR system to enter the following information—the following information—’.
- (12) Section 58B, definition *prior notice particulars*, paragraphs (f) and (g)—
renumber as paragraphs (e) and (f).
- (13) Section 58B, definition *retained fish notice*, ‘paragraph (d)’—
omit, insert—
‘paragraph 1(a)’.

32 Amendment of s 58C (Requirements for taking or possessing spanish mackerel on authorised boat)

Section 58C(2) to (4)—
omit.

33 Amendment of s 58G (General requirements after prior notice given)

- (1) Section 58G(2)(b), ‘complying number’—
omit, insert—

‘number that is the same as the number stated in the prior notice or is, having regard to the circumstances, close to that number’.

- (2) Section 58G(5) and (6)—

renumber as section 58G(6) and (7).

- (3) Section 58G—

insert—

- ‘(5) In deciding under subsection (2)(b) whether a number is close, regard must be had to the degree of difficulty in counting the number stated in the prior notice.’.

34 Amendment of s 58H (Additional requirements if prior notice stated spanish mackerel will be unloaded)

- (1) Section 58H(6), definition *prescribed time*, from ‘the earlier’ to ‘the time’—

omit, insert—

‘when’.

- (2) Section 58H(6)(b)—

omit.

35 Amendment of s 58K (Additional requirements for unloading spanish mackerel if prior notice given)

Section 58K(3)(b)—

omit, insert—

- ‘(b) if the spanish mackerel are to be unloaded from, or by using, a tender boat—only if the tender boat is attached to, or is within 200m of, its primary boat; and’.

36 Amendment of s 58N (Notices to chief executive under this subdivision)

Section 58N(1), ‘paragraph (d),’—

omit, insert—

‘paragraph 1(a)’.

37 Amendment of s 58O (Criteria for suspending SM units)

(1) Section 58O(2)(a), ‘, under the holder’s SM fishery licence,’—

omit.

(2) Section 58O(2)(b)—

omit, insert—

‘(b) any SM fishery licence held by the SM unit holder is suspended.’.

38 Replacement of s 59 (Authorities that are not transferable)

Section 59—

omit, insert—

‘59 Commercial fisher licence not transferrable

‘A commercial fisher licence is not transferrable.’.

39 Amendment of s 62 (Particulars to be contained in register of authorities)

(1) Section 62, heading, ‘of authorities’—

omit.

(2) Section 62, from ‘of authorities’ to ‘must keep’—

omit.

(3) Section 62(g)—

omit, insert—

‘(g) for all quota authorities of the same type held by the same person—

(i) the person’s name; and

(ii) how many of them the person holds; and

- (iii) if conditions have been imposed on any of the them—the conditions; and
- (iv) if any of them are suspended—how many are suspended and the period of the suspension;’.
- (4) Section 62(h),(i), (k) and (l)—
omit.
- (5) Section 62(j), from ‘its mark’ to ‘identified in the licence’—
omit, insert—
‘the boat mark for the boat identified in the licence and the following details under the plan about the boat’.
- (6) Section 62(j)—
renumber as section 62(h).
- (7) Section 62—
insert—
- ‘(2) In this section—
quota authorities means any of the following—
 - (a) SM units;
 - (b) ITQ units;
 - (c) T1 effort units;
 - (d) T2 effort units;
 - (e) CT line units;
 - (f) OS line units;
 - (g) RTE line units under the Coral Reef Plan.’.

40 Amendment of s 64B (Meaning of *ready to fish*)

Section 64B(a)(ii), ‘crew’—
omit, insert—
‘assistant fishers’.

41 Omission of pt 7, div 7, sdiv 3 (Changing fishery symbol ‘SM’ to another authority)

Part 7, division 7, subdivision 3—
omit.

42 Replacement of ss 68-70

Sections 68 to 70—
omit, insert—

‘68 Buying, possessing or using commercial fishing apparatus

‘(1) This section applies to the buying, possession or use (the *activity*) of commercial apparatus.

‘(2) A person may carry out the activity only if—

- (a) the person holds an authority that authorises the carrying out of the activity; or
- (b) under this regulation or a management plan, the person is authorised to carry out the activity under a authority mentioned in paragraph (a).

Note—

Section 85 of the Act prohibits the sale of commercial fishing apparatus in particular circumstances.

‘69 Using boats

‘(1) A person may use a primary boat or tender boat to take fish for trade or commerce only if the person—

- (a) holds, or is acting under, a commercial fishing boat licence for the boat; and
- (b) is—
 - (i) a commercial fisher; or
 - (ii) an assistant fisher acting under direction of a commercial fisher who is also using the boat.

‘(2) A person may use another type of boat to take fish for trade or commerce only if the person holds, or is acting under, an

authority under which the boat may be used for taking fish for trade or commerce.

‘70 Conducting particular charter fishing trips

‘If any part of a charter fishing trip is to be conducted in offshore waters a person may conduct the trip only if the person holds or is acting under a charter fishing licence.’.

43 Amendment of s 71 (Taking fish)

(1) Section 71(1)(c)—

omit, insert—

‘(c) holds, or is authorised to act under, another authority that authorises the taking of fish for trade or commerce.’.

(2) Section 71(2), from ‘holds’—

omit, insert—

‘holds, or is authorised to act under, an authority that authorises the taking of fish in the fishery.’.

44 Amendment of s 72 (Carrying fish)

(1) Section 72(2), after ‘prescribed fish’—

insert—

‘in Queensland waters’.

(2) Section 72(3)—

omit.

(3) Section 72(4)—

renumber as section 72(3).

45 Replacement of ss 73–76

Sections 73 to 76—

omit, insert—

‘73 Buying Queensland fisheries resources before second point of sale

‘A person (the *buyer*) may buy from someone else (the *seller*) fisheries resources taken from Queensland waters only if—

- (a) the fisheries resources have already been sold (the *earlier sale*) by someone else (the *earlier seller*) to a person (the *earlier buyer*) other than the buyer and—
 - (i) at the time of the earlier sale both the earlier seller and the earlier buyer held an authority that authorised the earlier sale; or
 - (ii) the earlier seller cultivated the fisheries resources in a way that is authorised under the Planning Act; or
- (b) both the buyer and the seller hold an authority that authorises the purchase; or
- (c) the purchase is authorised under schedule 15 or a management plan; or

Note—

For the authorisation for commercial harvest fishery licences with the fishery symbol ‘E’ written on them, see section 48(3) of this regulation and part 8 of the Freshwater Plan.

- (d) the seller cultivated the fisheries resources in a way that is authorised under the Planning Act.

‘74 Selling Queensland fisheries resources before second point of sale

‘A person (the *seller*) may sell by wholesale fisheries resources taken from Queensland waters to someone else (the *buyer*) only if—

- (a) the fisheries resources have already been sold (the *earlier sale*) by someone else (the *earlier seller*) to a person (the *earlier buyer*) other than the seller and—
 - (i) at the time of the earlier sale both the earlier seller and the earlier buyer held an authority that authorised the earlier sale; or

- (ii) the earlier seller cultivated the fisheries resources in a way that is authorised under the Planning Act; or
- (b) both the seller and the buyer hold an authority that authorises the sale; or
- (c) the sale is authorised under schedule 15¹⁹ or a management plan; or
- (d) the seller cultivated the fisheries resources in a way that is authorised under the Planning Act; or
- (e) under the sale, the fisheries resources are sold for use as bait and the seller—
 - (i) reasonably expects that the seller's annual gross income from the sale of fisheries resources for use as bait in the financial year in which the fisheries resources are sold will not be more than \$7500; and
 - (ii) does not hold an authority that authorises the sale of the fisheries resources.

'75 Processing Queensland fisheries resources before second point of sale

'A person (the *processor*) may process for trade or commerce fisheries resources taken from Queensland waters only if—

- (a) at any time before the processor took possession of the fisheries resources, they were sold by someone else (the *earlier seller*) to a person other than the processor and—
 - (i) when the earlier seller sold the fisheries resources, the earlier seller held or was acting under an authority that authorised the earlier seller to sell the fisheries resources; or
 - (ii) the earlier seller cultivated the fisheries resources in a way that is authorised under the Planning Act; or

- (b) the processing is authorised under an authority; or
- (c) the processor cultivated the fisheries resources in a way that is authorised under the Planning Act.’.

46 Amendment of s 91 (Possessing certain crabs or crab meat)

Section 91(1), from ‘person—’ to ‘authority.’—

omit, insert—

‘person may, under section 73, 74 or 75, buy, sell or process the crab.²⁰’.

47 Insertion of new s 95B

Part 11, division 1—

insert—

‘95B Declaratory provision about recreational fishing rights of persons who may take fish for trade or commerce

- ‘(1) This section applies to a person who—
 - (a) holds an authority that authorises its holder to take fish for trade or commerce; or
 - (b) is, under this regulation or a management plan, authorised to take fish for trade or commerce under an authority mentioned in paragraph (a).
- ‘(2) To remove any doubt, it is declared that the person may act as a recreational fisher.
- ‘(3) However, the acting of the person as a recreational fisher is subject to any relevant prohibitions or restrictions under this regulation or a management plan.

²⁰ Section 73 (Buying Queensland fisheries resources before second point of sale), 74 (Selling Queensland fisheries resources before second point of sale) or 75 (Processing Queensland fisheries resources before second point of sale)

Note—

If the person holds, or is acting under, an SM unit or line unit, fish taken by the person as a recreational fisher are included in the use of entitlements under relevant quotas under this regulation or the Coral Reef plan. See part 7, division 5, subdivision 2 and the Coral Reef Plan, chapter 3, part 3, division 2, subdivision 4.²¹.

48 Replacement of s 105 (Prescribed authorities—Act, s 70C)

Section 105—

omit, insert—

‘105 Prescribed authorities—Act, s 70C

‘The following authorities are prescribed for section 70C²² of the Act—

- (a) buyer licences;
- (b) charter fishing licences;
- (c) commercial fishing boat licences;
- (d) commercial harvest fishery licences;
- (e) resource allocation authorities;
- (f) SM units;
- (g) effort units;
- (h) ITQ units;
- (i) line units.’.

49 Amendment of s 108AA (Definitions for div 2)

- (1) Section 108AA, definition *authorised boat*, paragraph (a), ‘primary commercial fishing boat’—

omit, insert—

‘primary boat’.

21 Part 7, division 5, subdivision 2 (Conditions for SM units) and the Coral Reef Plan, chapter 3, part 3, division 2, subdivision 4 (Line units)

22 Section 70C (Continuance of particular authorities) of the Act

(2) Section 108AA, definition *relevant fishing authority*, paragraph (c)—

omit, insert—

‘(c) a charter fishing licence.’.

50 Replacement of s 112 (Other fees payable under the Act)

Section 112—

omit, insert—

‘112 Other fees payable under the Act

- ‘(1) The fees payable under the Act, other than the fees payable under section 110O and schedule 9 or section 111, are stated in schedule 10.
- ‘(2) The fees stated in schedule 10, table 1, are annual fees, payable in arrears at the start of each quarter.
- ‘(3) If schedule 10, table 1, states a fee for an authority, the fee is payable by the holder of the authority.
- ‘(4) If schedule 10, table 1, states a fee for a fishery symbol—
- (a) the fee is for each fishery symbol of that type written on a licence; and
 - (b) the amount of the fee is—
 - (i) if the schedule states a unit or an area for the fishery symbol—the amount stated for each of the units or areas; or
 - (ii) otherwise—the amount stated for the symbol; and
 - (c) the fee is payable by the holder of the licence; and
 - (d) the fee is payable in addition to any registration fee for the licence stated in the table.
- ‘(5) If a fee stated in schedule 10, table 1, is not paid as required under subsection (4), the amount of the fee becomes a debt payable to the State.
- ‘(6) If, under schedule 10, a fee for a matter is stated to be at reasonable cost, but no more than actual cost—

- (a) the chief executive must decide the amount the chief executive considers is the likely reasonable cost for the matter; and
- (b) if the actual cost of deciding the matter or doing the thing to which the fee relates is less than the fee paid, the chief executive must refund to the person who pays the fee the difference between the fee paid and the actual cost.

‘(7) In this section—

holder, of a licence or other authority, does not include a temporary transferee of the licence.’.

51 Replacement of pt 13, hdg (Transitional provision for the Fisheries Amendment Regulation (No.1) 2004)

Part 13, heading—

omit, insert—

‘Part 13 Transitional provisions

‘Division 1 Transitional provision for Fisheries Amendment Regulation (No. 1) 2004’.

52 Insertion of new pt 13, div 2

After section 114—

insert—

‘Division 2 Transitional provision for Fisheries and other Legislation Amendment Regulation (No. 1) 2006

‘115 Definition for div 2

‘In this division—

unamended regulation means this regulation as in force immediately before 1 July 2006.

‘116 Existing buyer licences, carrier boat licences and commercial fisher licences

- ‘(1) This section applies to a buyer licence, carrier boat licence or commercial fisher licence (an *existing licence*) in force immediately before 1 July 2006.
- ‘(2) From 1 July 2006, the term of an existing licence is taken to be the term that ends on its cancellation or surrender or other expiry under the Act.
- ‘(3) The chief executive must issue to the holder of an existing licence a licence (the *replacement licence*) of the same type to replace the existing licence.
- ‘(4) The replacement licence—
 - (a) must not take effect before 1 July 2006; and
 - (b) must be the same, or substantially the same as the existing licence it replaced.
- ‘(5) However, the term of the replacement licence must be the term mentioned in subsection (2).

‘117 Primary commercial fishing boat licences under the unamended regulation

- ‘(1) A primary commercial fishing boat licence (the *old licence*) under the unamended regulation that is in force immediately before 1 July 2006 is, on 1 July 2006, taken to be a commercial fishing boat licence (the *converted licence*).
- ‘(2) If—
 - (a) the fishery symbol ‘L5’ was written on the old licence; and
 - (b) the fishery symbol ‘L4’ was not written on the old licence;

the fishery symbol ‘L4’ is taken to be written on the converted licence instead of the fishery symbol ‘L5’.

- ‘(3) For section 53(1)(b), the number of other boats decided, under section 33,²³ to be authorised for use under a fishery symbol for a commercial fishery identified in the converted licence is taken to be the following number (the **designated number** of tender boats for the fishery symbol)—
- (a) for the fishery symbol ‘L4’ if subsection (2) applies—the number of tender commercial fishing boat licences under the unamended regulation schedule 12, part 5,²⁴ in force for the fishery symbol ‘L5’ written on the old licence;
 - (b) for the fishery symbol ‘L4’ if subsection (2) does not apply or if the fishery symbol is ‘SM’, ‘L1’, ‘L2’, ‘L3’, ‘L6’, ‘L7’, ‘R’ or ‘RQ’—the number of tender commercial fishing boats that, under the unamended regulation, may be used in the fishery with the primary boat;
 - (c) otherwise—an unlimited number.
- ‘(4) The term of the converted licence is taken to be the term that ends on its cancellation or surrender or other expiry under the Act.
- ‘(5) The chief executive must issue to the holder of the converted licence a commercial fishing boat licence (the **replacement licence**) to replace the converted licence.
- ‘(6) Subsection (5) applies despite section 42B.²⁵
- ‘(7) Subject to subsections (8) and (9), the replacement licence must be the same, or substantially the same, as the old licence.
- ‘(8) The replacement licence—
- (a) must not take effect before 1 July 2006; and
 - (b) must be for the term mentioned in subsection (4); and

23 Section 33 (Requirement to decide number of tender boats for particular licences)

24 Unamended regulation, schedule 12, part 5 (Line fishery (Queensland Fisheries Joint Authority (No. 2)))

25 Section 42B (Restrictions on writing fishery symbol ‘L4’)

-
- (c) must, despite section 33,²⁶ provide, in the way required under that section, for each fishery symbol written on the licence, to have the designated number of tender boats for the fishery symbol.
- ‘(9) If, under subsection (2), the fishery symbol ‘L4’ is taken to be written on the converted licence, the replacement licence—
- (a) must not have the fishery symbol ‘L5’ written on it; and
- (b) must have the fishery symbol ‘L4’ written on it together with the designated number of tender boats for the fishery symbol, in the way required under section 33.
- ‘(10) For a fishery symbol movement application relating to the converted or replacement licence, the number of tender boats for each fishery symbol written on the licence is to have been decided under section 33.

‘118 Authorities to take under the unamended regulation

- ‘(1) An authority to take under the unamended regulation that is in force immediately before 1 July 2006 is, on 1 July 2006, taken to be a commercial harvest fishery licence (the *converted licence*).
- ‘(2) The term of the converted licence is taken to be the term that ends on its cancellation or surrender or other expiry under the Act.
- ‘(3) The chief executive may issue to the holder of the converted licence a commercial harvest fishery licence (the *replacement licence*) to replace the converted licence.
- ‘(4) The replacement licence—
- (a) must not take effect before 1 July 2006; and
- (b) must be the same, or substantially the same as the converted licence.
- ‘(5) However, the term of the replacement licence must be the term mentioned in subsection (2).

²⁶ Section 33 (Requirement to decide number of tender boats for particular licences)

‘119 Particular general fisheries permits

- ‘(1) This section applies if a general fisheries permit in force immediately before 1 July 2006 authorises—
- (a) the conduct of commercial fishing tours in offshore waters using a boat; or
 - (b) an activity mentioned in section 55 or 56.²⁷
- ‘(2) To the extent the general fisheries permit authorises the tours, the permit is, on 1 July 2006, taken to be a charter fishing licence (the *converted licence*) to conduct the tours.
- ‘(3) The term of the converted licence is taken to be the term that ends on its cancellation or surrender or other expiry under the Act.
- ‘(4) The chief executive must issue to the holder of the general fisheries permit a charter fishing licence (the *new licence*) to conduct the tours, to replace the converted licence.
- ‘(5) To the extent the general fisheries permit is for activities mentioned in section 55, the permit is, on 1 July 2006, taken to be a developmental fishing permit for the same activities.
- ‘(6) The chief executive must issue to the holder of the general fisheries permit a developmental fishing permit for the activities mentioned in subsection (5).
- ‘(7) To the extent the general fisheries permit is for activities mentioned in section 56, the permit is, on 1 July 2006, taken to be an indigenous fishing permit for the same activities.
- ‘(8) The chief executive must issue to the holder of the general fisheries permit an indigenous fishing permit for the activities mentioned in subsection (7).
- ‘(9) A licence or permit required to be issued under this section must not take effect before 1 July 2006.
- ‘(10) The conditions of a licence or permit issued under this section are the conditions of the general fisheries permit that are relevant to the activities authorised under the licence or permit.

²⁷ Section 55 (Developmental fishing permit) or 56 (Indigenous fishing permit)

- ‘(11) This section does not affect the general fisheries permit to the extent it is for activities not mentioned in subsection (1).

‘120 Fees paid under old schedule 10

- ‘(1) This section applies if—
- (a) before 1 July 2006, a person who holds an authority pays the chief executive an annual fee under old schedule 10; and
 - (b) the payment relates to all or part of a financial year starting on or after 1 July 2006; and
 - (c) the amount paid is more than—
 - (i) if the payment was for all of the financial year—the fee payable under new schedule 10 for the year (the *new schedule 10 fee*); or
 - (ii) if the payment was for part of the financial year—the proportion of the fee payable under new schedule 10 attributable to that part of the year.
- ‘(2) The chief executive must credit the amount of the overpayment to any future fees payable under new schedule 10 for authorities held by the person from 1 July 2006.
- ‘(3) However, subsection (2) does not limit section 113.²⁸
- ‘(4) In this section—

new schedule 10 means schedule 10 as in force from time to time from 1 July 2006.

old schedule 10 means schedule 10 as in force from time to time before 1 July 2006.

overpayment means the difference between the amount of the payment and—

- (a) if the payment was for all of the financial year—the new schedule 10 fee; or

- (b) if the payment was for part of the financial year—the proportion of the fee payable under new schedule 10 attributable to that part of the year.’.

53 Amendment of sch 4A (Measurement of particular fish)

- (1) Schedule 4A, heading, ‘particular’—
omit.
- (2) Schedule 4A, section 2, heading, after ‘fin fish’—
insert—
‘other than gulf fin fish’.
- (3) Schedule 4A, section 2(1), after ‘fin fish’—
insert—
‘, other than gulf fin fish under the Gulf Plan,’.
- (4) Schedule 4A, section 2—
insert—
Note—
For the size of gulf fin fish under the Gulf Plan, see section 14(2) of that plan.’.
- (5) Schedule 4A—
insert—

‘Part 3 Measurement of total volume of fish

‘8 How total volume must be measured

- ‘(1) This section provides for how a total volume of fish is measured.
- ‘(2) The volume of any fish that are in a container (*contained fish*) must be measured by reference to the volume of the container when it is empty.

Note—

- 1 An empty container with internal dimensions of 571mm x 381mm x 305mm, commonly called a ‘lug basket’, has a capacity of approximately 66L.
 - 2 An empty container with internal dimensions of 605mm x 280mm x 90mm, commonly called a ‘prawn carton’, has a capacity of approximately 0.0153m³.
- ‘(3) For subsection (2), a fish is not a contained fish if any part of it protrudes above the top of the container.
- ‘(4) The volume of any of fish that are not contained fish (***uncontained fish***) must be measured by—
- (a) placing them in a container or containers so that no part of any of the fish protrudes above the top of the container or containers; and
 - (b) measuring the volume of each container when it is empty; and
 - (c) reference to the volume of the container or containers.
- ‘(5) The total volume is worked out by adding together the volume of all of the contained and uncontained fish.’.

54 Amendment of sch 5B (Special provisions for the spanish mackerel fishery)

- (1) Schedule 5B, section 1, definition *decision notice*—
omit.
- (2) Schedule 5B, section 17, after ‘applies to a’—
insert—
‘commercial fishing boat licence that, under this regulation as in force on the commencement of this section, was a’.
- (3) Schedule 5B, section 17(a), ‘day this section commences’—
omit, insert—
‘commencement’.
- (4) Schedule 5B, section 17(a)(i), ‘is’—
omit, insert—

‘was’.

- (5) Schedule 5B, sections 24(2) and 26(6)(b), ‘a decision notice’—

omit, insert—

‘an information notice’.

- (6) Schedule 5B, section 32(2)(a), from ‘, and any tender’ to ‘licence or licences’—

omit, insert—

‘by writing on it the fishery symbol ‘SM’ ’.

- (7) Schedule 5B, section 49(8)(b), ‘a decision notice for the decision’—

omit, insert—

‘an information notice about the decision’.

55 Replacement of sch 10 (Other fees)

Schedule 10—

omit, insert—

‘Schedule 10 Other fees

section 112

Table 1—Annual fees						
	Fishery access right	2006–2007 financial year	2007–2008 financial year	2008–2009 financial year	2009–2010 financial year	2010–2011 financial year and any later financial year
		\$	\$	\$	\$	\$
Net fisheries under regulation or Gulf Plan						
1	For the fishery symbol ‘N1’	155	180	215	250	290

*Fisheries and Other Legislation Amendment
Regulation (No. 1) 2006*

No. 26, 2006

Table 1—Annual fees						
	Fishery access right	2006–2007 financial year \$	2007–2008 financial year \$	2008–2009 financial year \$	2009–2010 financial year \$	2010–2011 financial year and any later financial year \$
2	For the fishery symbol 'N2'	155	180	215	250	290
3	For the fishery symbol 'N3'	870	920	970	1020	1100
4	For the fishery symbol 'N5'	155	180	215	250	290
5	For the fishery symbol 'N6'	0	0	0	0	0
6	For the fishery symbol 'N7'	155	180	215	250	290
7	For the fishery symbol 'N8'	155	180	215	250	290
8	For the fishery symbol 'N9'	13500	14050	14600	15100	15700
9	For the fishery symbol 'K1'	155	180	215	250	290
10	For the fishery symbol 'K2'	155	180	215	250	290
11	For the fishery symbol 'K3'	155	180	215	250	290
12	For the fishery symbol 'K4'	155	180	215	250	290
13	For the fishery symbol 'K5'	155	180	215	250	290
14	For the fishery symbol 'K6'	155	180	215	250	290
15	For the fishery symbol 'K7'	155	180	215	250	290
16	For the fishery symbol 'K8'	155	180	215	250	290

*Fisheries and Other Legislation Amendment
Regulation (No. 1) 2006*

No. 26, 2006

Table 1—Annual fees						
	Fishery access right	2006–2007 financial year \$	2007–2008 financial year \$	2008–2009 financial year \$	2009–2010 financial year \$	2010–2011 financial year and any later financial year \$
Crab fisheries under regulation or Spanner Crab Plan						
1	For the fishery symbol 'C1'	155	180	215	250	290
2	For the fishery symbol 'C2'	0	0	0	0	0
3	For the fishery symbol 'C3'	155	180	215	250	290
4	For an ITQ unit	1.80	2.10	2.40	2.70	3.00
Line fisheries under regulation or Coral Reef Plan						
1	For the fishery symbol 'L1'	155	180	215	250	290
2	For the fishery symbol 'L2'	155	180	215	250	290
3	For the fishery symbol 'L3'	155	180	215	250	290
4	For the fishery symbol 'L4'	470	565	660	755	850
5	For the fishery symbol 'L6'	155	180	215	250	290
6	For the fishery symbol 'L7'	155	180	215	250	290
7	For the fishery symbol 'L8'	470	565	660	755	850
8	For the fishery symbol 'RQ'	0	0	0	0	0
9	For the fishery symbol 'SM'	0	0	0	0	0
10	For an SM unit	.05	.05	.10	.10	.15

*Fisheries and Other Legislation Amendment
Regulation (No. 1) 2006*

No. 26, 2006

Table 1—Annual fees						
	Fishery access right	2006–2007 financial year \$	2007–2008 financial year \$	2008–2009 financial year \$	2009–2010 financial year \$	2010–2011 financial year and any later financial year \$
11	For a CT line unit	.10	.15	.20	.25	.30
12	For an OS line unit	.05	.05	.10	.10	.15
13	For an RTE line unit	.05	.05	.10	.10	.15
Trawl fisheries under regulation or East Coast Trawl Plan						
1	For the fishery symbol 'M1'	0	0	0	0	0
2	For the fishery symbol 'M2'	470	565	660	755	850
3	For the fishery symbol 'T1'	0	0	0	0	0
4	For the fishery symbol 'T2'	0	0	0	0	0
5	For the fishery symbol 'T4'	5650	6210	6760	7310	7850
6	For the fishery symbol 'T5'	155	180	215	250	290
7	For the fishery symbol 'T6'	155	180	215	250	290
8	For the fishery symbol 'T7'	155	180	215	250	290
9	For the fishery symbol 'T8'	155	180	215	250	290
10	For the fishery symbol 'T9'	155	180	215	250	290
11	For a 'T1' effort unit	.10	.15	.20	.25	.30
12	For a 'T2' effort unit	.10	.15	.20	.25	.30

*Fisheries and Other Legislation Amendment
Regulation (No. 1) 2006*

No. 26, 2006

Table 1—Annual fees						
	Fishery access right	2006–2007 financial year \$	2007–2008 financial year \$	2008–2009 financial year \$	2009–2010 financial year \$	2010–2011 financial year and any later financial year \$
Other fisheries under regulation or management plan						
1	For the fishery symbol 'R'	155	180	215	250	290
2	For the fishery symbol 'A1'	155	180	215	250	290
3	For the fishery symbol 'A2'	55	65	75	85	95
4	For the fishery symbol 'B1', where a unit equals each whole 100kg entitled to be taken under the symbol	5/unit	6/unit	7/unit	8/unit	10/unit
5	For the fishery symbol 'D', where a unit equals each whole 100kg entitled to be taken under the symbol	2/unit	2/unit	3/unit	4/unit	5/unit
6	For the fishery symbol 'JE'	55	65	75	85	95
7	For the fishery symbol 'O', for an area in which oysters may be taken under the symbol	20/area	25/area	30/area	40/area	50/area
8	For the fishery symbol 'P'	155	180	215	250	290

*Fisheries and Other Legislation Amendment
Regulation (No. 1) 2006*

No. 26, 2006

Table 1—Annual fees						
	Fishery access right	2006–2007 financial year \$	2007–2008 financial year \$	2008–2009 financial year \$	2009–2010 financial year \$	2010–2011 financial year and any later financial year \$
9	For the fishery symbol 'F'	55	65	75	85	95
10	For the fishery symbol 'G'	55	65	75	85	95
11	For the fishery symbol 'H'	55	65	75	85	95
12	For the fishery symbol 'J1', where a unit equals each whole 100kg entitled to be taken under the symbol	5/unit	6/unit	7/unit	8/unit	10/unit
13	For the fishery symbol 'W1'	55	65	75	85	95
14	For the fishery symbol 'W2'	55	65	75	85	95
15	For the fishery symbol 'Y'	55	65	75	85	95
16	For the fishery symbol 'E'	55	65	75	85	95
Registration fees						
1	For a commercial fisher licence	250	250	250	250	250
2	For a commercial fishing boat licence	250	250	250	250	250
3	For a commercial harvest fishing licence	250	250	250	250	250

*Fisheries and Other Legislation Amendment
Regulation (No. 1) 2006*

No. 26, 2006

Table 1—Annual fees						
	Fishery access right	2006–2007 financial year \$	2007–2008 financial year \$	2008–2009 financial year \$	2009–2010 financial year \$	2010–2011 financial year and any later financial year \$
4	For a buyer licence	250	250	250	250	250
5	For a carrier boat licence	250	250	250	250	250
6	For a charter fishing licence	250	250	250	250	250

Table 2—Other Fees		
\$		
1	For a general fisheries permit application	250
2	For a developmental fishing permit application	4700
3	For an indigenous fishing permit application	0
4	For a stocked impoundment permit under the Freshwater Plan— (a) permit fee for 1 week	7
5	(b) permit fee for 1 year for a person (an <i>eligible person</i>) who holds any of the following— (i) a Queensland Government seniors card; (ii) a pensioner concession card; (iii) a current Health Care Card; (iv) a Repatriation health card—for all conditions (gold card)	31.50
6	(c) permit fee for 1 year for a person other than an eligible person	35
7	For another application for an authority other than an authority mentioned in items 1 to 6 of this table or in section 1100	at reasonable cost, but no more than actual cost
8	For a request to amend a licence if the request is to replace a boat identified in the licence (Act, s 63) . . .	125
9	To amend an authority at its holder's request (Act, s 63(4)(d)).	at reasonable cost, but no more than actual cost

Table 2—Other Fees		
		\$
10	For a fishery symbol movement application	125
11	For an application to register transfer of an authority (Act, s 65A)	125
12	For an application to register temporary transfer of an authority (Act, ss 65A and 65C)	25
13	For a replacement authority application (Act, s 71) . .	25
14	For inspecting, or obtaining a copy of details in, the register (Act, s 73)	at reasonable cost, but no more than actual cost
15	For an application for a certificate under section 74 of the Act	125
16	For filing a notice of appeal (Act, s 197)	125’.

56 Amendment of sch 12 (Line fisheries (commercial))

(1) Schedule 12, parts 2 and 5—

omit.

(2) Schedule 12, sections 7, 23, 30, 44 and 51, headings, ‘primary commercial fishing boats’—

omit, insert—

‘primary boats’.

(3) Schedule 12, sections 7, 8, 23, 24(1), 30, 31(1), 44, 45(1) and (2), 51 and 52(1), ‘primary commercial fishing boat’—

omit, insert—

‘primary boat’.

(4) Schedule 12, sections 8, 24, 31, 45 and 52 headings, ‘tender commercial fishing boats’—

omit, insert—

‘tender boats’.

(5) Schedule 12, section 8, 24(1), 31(1), 45(1) and (2) and 52(1), ‘tender commercial fishing boat’—

omit, insert—

‘tender boat’.

- (6) Schedule 12, sections 24(2) and (3), 31(2) and (3), 45(3) and (4) and 52(2) and (3)—

omit.

57 Amendment of sch 13 (Net fisheries (commercial))

- (1) Schedule 13, sections 5, 14, 39, 49, 82, 92, 94G, 94P, 94Y, 94ZH, 94ZQ, 94ZZ, 94ZAI and 104, headings, ‘primary commercial fishing boats’—

omit, insert—

‘primary boats’.

- (2) Schedule 13, sections 5, 8, 14, 17, 39, 40, 49, 50, 82, 83, 92, 93, 94G, 94H, 94P, 94Q, 94Y, 94Z, 94ZH, 94ZI, 94ZQ, 94ZR, 94ZZ, 94ZAA, 94ZAI, 94ZAJ, 104 and 105, ‘primary commercial fishing boat’—

omit, insert—

‘primary boat’.

- (3) Schedule 13, sections 8, 17, 40, 50, 83, 93, 94H, 94Q, 94Z, 94ZI, 94ZR, 94ZAA, 94ZAJ and 105, headings, ‘tender commercial fishing boats’—

omit, insert—

‘tender boats’.

- (4) Schedule 13, sections 8, 17, 40, 50, 83, 93, 94H, 94Q, 94Z, 94ZI, 94ZR, 94ZAA, 94ZAJ and 105, ‘tender commercial fishing boat’—

omit, insert—

‘tender boat’.

- (5) Schedule 13, sections 89(2) to (4), 94D(2) to (4), 94M(2) to (4), 94V(2) to (4), 94ZE(2) to (4), 94ZN(2) to (4), 94ZW(2) to (4) and 94ZAF(2) to (4)—

omit, insert—

- ‘(2) Fish may only be taken by a commercial fisher and at least 2, but no more than 4, assistant fishers.

‘(3) However, if—

- (a) fish are taken by 2 or more commercial fishers jointly using 1 or more primary boats and seine nets; and
- (b) each of the primary boats may be used in the fishery under a commercial fishing boat licence;

the maximum number of assistant fishers is 4 for each one of the commercial fishers.’

58 Amendment of sch 14 (Trawl fishery (fin fish))

Schedule 14, heading, ‘Trawl’—

omit, insert—

‘**Commercial trawl**’.

59 Insertion of new sch 14A

After schedule 14—

insert—

**‘Schedule 14A Commercial crayfish and rock
lobster fishery**

schedule 17, definitions *commercial fishery* and *fishery schedule*’.

60 Amendment of sch 15 (Other fisheries (commercial))

- (1) Schedule 15, heading, ‘Other fisheries (commercial)’—

omit, insert—

‘**Commercial harvest fisheries**’.

- (2) Schedule 15, section 3(2), ‘*Fisheries (Coral Reef Fin Fish) Management Plan 2003*’—

omit, insert—

‘Coral Reef Plan’.

- (3) Schedule 15, section 17(1) from ‘a buyer’—

omit, insert—

‘someone else who—

- (a) holds another authority that authorises the other person to buy the *bêche-de-mer*; or
- (b) is, under this regulation, authorised to buy the *bêche-de-mer* under an authority mentioned in paragraph (a).’.

- (4) Schedule 15, parts 3 and 11—

omit.

- (5) Schedule 15, part 5, heading—

omit.

- (6) Schedule 15, section 33(3) and (4)—

omit, insert—

‘(3) The only boats that may be used to take crayfish or rock lobsters are primary boats or tender boats.

‘(4) No more than 1 person may take crayfish or rock lobsters from a primary boat or tender boat at the same time.’.

- (7) Schedule 15, sections 34 and 52, headings, ‘primary commercial fishing boats’—

omit, insert—

‘primary boats’.

- (8) Schedule 15, sections 34 and 52, ‘primary commercial fishing boat’—

omit, insert—

‘primary boat’.

- (9) Schedule 15, section 35—

omit, insert—

‘35 Use of tender boats

‘A tender boat must not be used further than 5n miles from the following—

- (a) generally—its primary boat;

-
- (b) if its primary boat is located at a reef—the reef.’.
- (10) Schedule 15, sections 30 to 36, as amended under this regulation—
relocate and renumber to schedule 14A, as inserted under this regulation, as schedule 14A, sections 1 to 7.
- (11) Schedule 15, section 56(1)—
omit, insert—
- ‘(1) The holder of commercial fishing boat licence or commercial harvest fishery licence that authorises the holder to take molluscs may sell them only to someone else who—
- (a) holds another authority that authorises the other person to buy the molluscs; or
- (b) is, under this regulation, authorised to buy the molluscs under an authority mentioned in paragraph (a).’.
- (12) Schedule 15, section 75 from ‘a buyer’—
omit, insert—
‘someone else who—
- (a) holds another authority that authorises the other person to buy the trochus; or
- (b) is, under this regulation, authorised to buy the trochus under an authority mentioned in paragraph (a).’.
- (13) Schedule 15, section 87, from ‘a buyer’—
omit, insert—
‘someone else who—
- (a) holds another authority that authorises the other person to buy the beachworms; or
- (b) is, under this regulation, authorised to buy the beachworms under an authority mentioned in paragraph (a).’.
- (14) Schedule 15, section 93, from ‘a buyer’—
omit, insert—
‘someone else who—

- (a) holds another authority that authorises the other person to buy the bloodworms; or
 - (b) is, under this regulation, authorised to buy the bloodworms under an authority mentioned in paragraph (a).’.
- (15) Schedule 15, section 99, from ‘a buyer’—
omit, insert—
‘someone else who—
- (a) holds another authority that authorises the other person to buy the yabbies; or
 - (b) is, under this regulation, authorised to buy the yabbies under an authority mentioned in paragraph (a).’.

61 Amendment of sch 17 (Definitions)

- (1) Schedule 17, part 1—

insert—

‘1A Meaning of *defined port area*

- ‘(1) A *defined port area* means any of the following—
- the Southport port area
 - the Brisbane port area
 - the Mooloolaba port area
 - the Tin Can Bay port area
 - the Urangan port area
 - the Bundaberg port area
 - the Gladstone port area
 - the Rosslyn Bay port area
 - the Mackay port area
 - the Bowen port area
 - the Townsville port area
 - the Lucinda port area

- the Mourilyan port area
- the Innisfail port area
- the Cairns port area
- the Port Douglas port area
- the Cooktown port area.

‘(2) In this section—

Bowen port area means the area within the following boundary—

- from latitude 20°01.18' south, longitude 148°16.32' east to latitude 20°01.70' south, longitude 148°15.76' east
- to latitude 20°01.46' south, longitude 148°14.81' east
- to latitude 20°00.75' south, longitude 148°14.75' east
- to latitude 20°01.18' south, longitude 148°16.32' east.

Brisbane port area means the area within the following boundary—

- from latitude 27°30.00' south, longitude 153°00.00' east to latitude 27°00.00' south, longitude 153° east
- to latitude 27°00.00' south, longitude 153°12.00' east
- to latitude 27°30.00' south, longitude 153°12.00' east
- to latitude 27°30.00' south, longitude 153°00.00' east.

Bundaberg port area means the area within the following boundary—

- from latitude 24°45.15' south, longitude 152°19.83' east to latitude 24°45.15' south, longitude 152°25.68' east
- to latitude 24°52.49' south, longitude 152°25.68' east
- to latitude 24°52.49' south, longitude 152°19.83' east
- to latitude 24°45.15' south, longitude 152°19.83' east.

Cairns port area means the area within the following boundary—

- from latitude 16°54.00' south, longitude 145°44.50' east to latitude 17°00.00' south, longitude 145°44.50' east

- to latitude 17°00.00' south, longitude 145°48.75' east
- to latitude 16°54.00' south, longitude 145°48.75' east
- to latitude 16°54'00' south, longitude 145°44.50' east.

Cooktown port area means the area within the following boundary—

- from latitude 15°26.00' south, longitude 145°10.75' east
to latitude 15°28.00' south longitude 145°10.75' east
- to latitude 15°28.00' south, longitude 145°15.50' east
- to latitude 15°26.00' south longitude 145°15.50' east
- to latitude 15°26.00' south, longitude 145°10.75' east.

Gladstone port area means the area within the following boundary—

- from latitude 23°49.67' south, longitude 151°14.24' east
to latitude 23°49.67' south, longitude 151°15.24' east
- to latitude 23°50.29' south, longitude 151°15.24' east
- to latitude 23°50.29' south, longitude 151°14.24' east
- to latitude 23°49.67' south, longitude 151°14.24' east.

Innisfail port area means the area within the following boundary—

- from latitude 17°30.00' south longitude 146°00.75' east
to latitude 17°32.00' south, longitude 146°00.75' east
- to latitude 17°32.00' south, longitude 146°04.75' east
- to latitude 17°30.00' south, longitude 146°04.75' east
- to latitude 17°30.00' south longitude 146°00.75' east.

Lucinda port area means the area within the following boundary—

- from latitude 18°29.72' south, longitude 146°19.09' east
to latitude 18°32.89' south, longitude 146°19.28' east
- to latitude 18°33.76' south, longitude 146°16.72' east
- to latitude 18°29.80' south, longitude 146°14.95' east
- to latitude 18°29.72' south, longitude 146°19.09' east.

Mackay port area means the area within the following boundary—

- from latitude 21°06.91' south, longitude 149°11.53' east to latitude 21°08.54' south, longitude 149°10.92' east
- to latitude 21°09.01' south, longitude 149°13.38' east
- to latitude 21°05.94' south, longitude 149°13.62' east
- to latitude 21°06.91' south, longitude 149°11.53' east.

Mooloolaba port area means the area within the following boundary—

- from latitude 26°42.72' south, longitude 153°07.06' east to latitude 26°40.86' south, longitude 153°08.28' east
- to latitude 26°40.54' south, longitude 153°06.27' east
- to latitude 26°38.03' south, longitude 153°06.13' east
- to latitude 26°38.07' south, longitude 153°03.68' east
- to latitude 26°42.72' south, longitude 153°07.06' east.

Mourilyan port area means the area within the following boundary—

- from latitude 17°35.76' south, longitude 146°06.25' east to latitude 17°37.36' south, longitude 146°06.84' east
- to latitude 17°36.34' south, longitude 146°08.07' east
- to latitude 17°35.51' south, longitude 146°07.63' east
- to latitude 17°35.76' south, longitude 146°06.25' east.

Port Douglas port area means the area within the following boundary—

- from latitude 16°28.50' south, longitude 145°27.00' east to latitude 16°29.50' south longitude 145°27.00' east
- to latitude 16°29.50' south, longitude 145°28.00' east
- to latitude 16°28.50' south, longitude 145°28.00' east
- to latitude 16°28.50' south, longitude 145°27.00' east.

Rosslyn Bay port area means the area within the following boundary—

-
- from latitude 23°09.54' south, longitude 150°47.00' east to latitude 23°09.54' south, longitude 150°47.44' east
 - to latitude 23°09.87' south, longitude 150°47.44' east
 - to latitude 23°09.87' south, longitude 150°47.00' east
 - to latitude 23°09.54' south, longitude 150°47.00' east.

Southport port area means the area within the following boundary—

- from latitude 27°55.73' south, longitude 153°23.53' east to latitude 27°55.73' south, longitude 153°26.01' east
- to latitude 27°59.47' south, longitude 153°26.01' east
- to latitude 27°59.47' south, longitude 153°23.53' east
- to latitude 27°55.73' south, longitude 153°23.53' east.

Tin Can Bay port area means the area within the following boundary—

- from latitude 25°49.60' south, longitude 152°57.80' east to latitude 25°49.60' south, longitude 153°04.24' east
- to latitude 25°59.89' south, longitude 153°04.24' east
- to latitude 25°59.89' south, longitude 152°57.80' east
- to latitude 25°49.60' south, longitude 152°57.80' east.

Townsville port area means the area within the following boundary—

- from latitude 19°14.13' south, longitude 146°48.00' east to latitude 19°18.12' south, longitude 146°47.78' east
- to latitude 19°16.63' south, longitude 146°50.55' east
- to latitude 19°14.41' south, longitude 146°50.15' east
- to latitude 19°14.13' south, longitude 146°48.00' east.

Urangan port area means the area within the following boundary—

- from latitude 25°17.59' south, longitude 152°54.70' east to latitude 25°17.62' south, longitude 152°55.09' east
- to latitude 25°18.02' south, longitude 152°54.91' east

- to latitude 25°18.00' south, longitude 152°54.50' east
 - to latitude 25°17.59' south, longitude 152°54.70' east.'.
- (2) Schedule 17, section 4, 'commercial fishing'—
omit.
- (3) Schedule 17, section 6(1), 'knotted mesh net'—
omit, insert—
'net that is knotted'.
- (4) Schedule 17, section 6(2), 'knotless mesh net'—
omit, insert—
'net that is knotless'.
- (5) Schedule 17, section 12(3)(b), 'tender commercial fishing boat'—
omit, insert—
'tender boat'.
- (6) Schedule 17, part 2, definitions *assistant fisher, buyer, commercial fishing boat, commercial fishing tour, complying number, defined port area, extended commercial fishing tour, fisher, primary commercial fishing boat, SM unit certificate, tender commercial fishing boat* and *Torres Strait Protected Zone*—
omit.
- (7) Schedule 17, part 2—
insert—
'**assistant fisher** see section 52(2).
boat mark, for a boat, see section 58AF(1).
buyer licence means a buyer licence issued under part 7.
carrier boat licence means a carrier boat licence issued under part 7.
charter fishing licence means a charter fishing licence issued under part 7.

charter fishing trip means a boat trip during which a person uses a boat to take paying passengers to, as recreational fishers, fish from or by using the boat.

Examples of using a boat to fish—

using the boat as a platform for spear fishing or to fish on a reef or sandbank

commercial fisher licence means a commercial fisher licence issued under part 7.

commercial fishing boat means a primary boat or tender boat.

commercial fishing boat licence means a commercial fishing boat licence issued under part 7.

commercial harvest fishery licence means a commercial harvest fishery licence issued under part 7.

Coral Reef Plan means the *Fisheries (Coral Reef Fin Fish) Management Plan 2003*.

CT line unit means a CT line unit under the Coral Reef Plan.

defined port area see section 1A of this schedule.

developmental fishing permit means a developmental fishing permit issued under part 7.

effort unit means an effort unit under the East Coast Trawl Plan.

extended licensed charter fishing trip means a charter fishing trip conducted under a charter fishing licence for an uninterrupted period of at least 48 hours.

fisher means a commercial fisher or assistant fisher.

fishery symbol movement application means an application under section 47.

Freshwater Plan means the *Fisheries (Freshwater) Management Plan 1999*.

general fisheries permit means a general fisheries permit issued under part 7.

Gulf Plan means the *Fisheries (Gulf of Carpentaria Inshore Fin Fish) Management Plan 1999*.

indigenous fishing permit means an indigenous fishing permit issued under part 7.

information notice, about a decision, means a notice stating each of the following—

- (a) the decision, and the reasons for it;
- (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.

ITQ unit means an ITQ unit under the Spanner Crab Plan.

line unit means a line unit under the Coral Reef Plan.

OS line unit means an OS line unit under the Coral Reef Plan.

primary boat see section 7(1).

register, when used as a noun, means the register the chief executive keeps under section 73 of the Act.

resource allocation authority means a resource allocation authority issued under part 7.

RTE line unit means an RTE line unit under the Coral Reef Plan.

SM unit certificate means a certificate issued under section 25I, as replaced under section 71 of the Act or changed or replaced under section 25O.

Spanner Crab Plan means the *Fisheries (Spanner Crab) Management Plan 1999*.

T1 effort unit means a T1 effort unit under the East Coast Trawl Plan.

T2 effort unit means a T2 effort unit under the East Coast Trawl Plan.

temporary transferee, of an authority, means a person who holds the authority because of a temporary transfer under section 65D of the Act.

tender boat see section 7(2).'

- (8) Schedule 17, part 2, definition *fisher PIN*, paragraph (a), ‘*Fisheries (Coral Reef Fin Fish) Management Plan 2003*’—
omit, insert—
‘Coral Reef Plan’.
- (9) Schedule 17, part 2, definition *fishery schedule*, after ‘14’—
insert—
‘, 14A’.
- (10) Schedule 17, part 2, definition *recreational fisher*, paragraph (a), after ‘trade or commerce’—
insert—
‘that is not the mere conduct of a charter fishing trip’.

Part 3

Amendment of State Penalties Enforcement Regulation 2000

62 Regulation amended in pt 3

This part amends the *State Penalties Enforcement Regulation 2000*.

63 Amendment of sch 5 (Other legislation)

- (1) Schedule 5, entry for *Fisheries (Coral Reef Fin Fish) Management Plan 2003*—
omit, insert—

‘Fisheries (Coral Reef Fin Fish) Management Plan 2003

**Column 1
Infringement notice offence**

**Column 2
Infringement notice
fine (penalty units)**

s 134(1) For a contravention involving—

*Fisheries and Other Legislation Amendment
Regulation (No. 1) 2006*

No. 26, 2006

	• 1 coral reef fin fish	2
	• 2 coral reef fin fish	3
	• 3 coral reef fin fish	4
	• 4 coral reef fin fish	5
s 137	For a contravention involving—	
	• 1 coral reef fin fish	2
	• 2 coral reef fin fish	3
	• 3 coral reef fin fish	4
	• 4 coral reef fin fish	5
s 138	For a contravention involving—	
	• 1 coral reef fin fish fillet	2
	• 2 coral reef fin fish fillets	3
	• 3 coral reef fin fish fillets	4
	• 4 coral reef fin fish fillets	5

Authorised person for service of infringement notices—an inspector under the *Fisheries Act 1994*, section 140²⁹.

(2) Schedule 5, entry for *Fisheries Regulation 1995*—
insert—

‘s 85	For—	
	• a contravention of the condition under section 58AF(1)	3
	• a contravention of the condition under section 58G.....	3’.

(3) Schedule 5, entry for *Fisheries Regulation 1995*, entries for sections 103(2) and 103(4)—
omit.

Part 4 **Amendment of Transport
Operations (Marine Safety)
Regulation 2004**

64 **Regulation amended in pt 4**

This part amends the *Transport Operations (Marine Safety) Regulation 2004*.

65 **Amendment of s 20 (Application of div 4)**

Section 20(2)(a), '*Fisheries Regulation 1995*'—
omit, insert—
'*Fisheries Act 1994*'.

66 **Amendment of s 24 (Fishing ship less than 10m or
licensed as tender commercial fishing boat)**

(1) Section 24, heading—
omit, insert—

'24 **Fishing ship less than 10m or tender boat under
Fisheries Act 1994'.**

(2) Section 24(1)(b)—
omit, insert—

'(b) a fishing ship that is a tender boat under the *Fisheries Act 1994*'.

67 **Amendment of s 60 (Application of Act, pt 5, div 2)**

(1) Section 60(2)(h), '*tender commercial fishing boat under the Fisheries Regulation 1995*'—
omit, insert—

'*tender boat under the Fisheries Act 1994*'.

(2) Section 60(2)(h)(i)—
omit, insert—

- ‘(i) the tender is operated only within the same distance from the fishing ship as a tender boat under the *Fisheries Act 1994* may, under that Act, operate from its primary boat; and’.

68 Amendment of s 79 (Markings for particular tenders)

- (1) Section 79(1)(a), ‘tender commercial fishing boat under the *Fisheries Regulation 1995*’—

omit, insert—

‘tender boat under the *Fisheries Act 1994*’.

- (2) Section 79(3)(a) and (b)—

omit, insert—

‘(a) if subsection 1(a) applies—the boat mark required under the *Fisheries Act 1994* for the ship to which the tender is a tender; or

(b) if subsection 1(b) applies—the registration number of the ship to which the tender is a tender.’.

69 Amendment of sch 10 (Fees and charges)

Schedule 10, section 2(4), ‘\$12.60’—

omit, insert—

‘\$15.00’.

70 Amendment of sch 15 (Dictionary)

Schedule 15, definition *fishing ship*, paragraphs (a) and (b)—

omit, insert—

‘(a) a ship authorised for fishing purposes, under an authority under the *Fisheries Act 1994*; or

(b) a ship authorised for aquaculture purposes, under a development permit under the *Integrated Planning Act 1997*; or’.

Schedule **Other amendments of Fisheries
Regulation 1995**

section 3

- 1** **Sections 5, 6, 8, 9 and 11, after ‘in this regulation’—**
insert—
‘or a management plan’.

- 2** **Section 10(1), after ‘in this regulation’—**
insert—
‘and, if the same fish are also mentioned in a management plan, the management plan.’.

- 3** **Sections 18(3), example, paragraph (b) and 99A(1)(b),
‘Fisheries (Freshwater) Management Plan 1999’—**
omit, insert—
‘Freshwater Plan’.

- 4** **Section 18(3), example, paragraph (c), ‘Fisheries (Gulf of
Carpentaria Inshore Fin Fish) Management Plan 1999’—**
omit, insert—
‘Gulf Plan’.

- 5** **Sections 24(2)(a) and 98(3), ‘extended commercial fishing
tour’—**
omit, insert—
‘extended licensed charter fishing trip’.

Schedule (continued)

- 6 Section 27(1)(c), ‘Fisheries (Coral Reef Fin Fish) Management Plan 2003’—**
omit, insert—
‘Coral Reef Plan’.
- 7 Section 27(6), definition *relevant holder*, paragraph (b), example—**
omit, insert—
‘Examples of an authority that is a quota—
an effort unit or ITQ unit’.
- 8 Section 32A, ‘primary commercial fishing boat licence’—**
omit, insert—
‘commercial fishing boat licence’.
- 9 Sections 90A(1)(a) and 109E(4), ‘commercial fishing tour’—**
omit, insert—
‘charter fishing trip’.
- 10 Section 90A(1)(a), ‘tour’, second mention—**
omit, insert—
‘trip’.
- 11 Section 97, from ‘a mark’—**
omit, insert—
‘its boat mark.’.

Schedule (continued)

- 12 Section 103A, heading, ‘mark placed on boat’—**
omit, insert—
‘boat mark’.
- 13 Section 103A(1)(a), ‘a mark on a boat under section 103’—**
omit, insert—
‘a boat mark on a boat’.
- 14 Section 103A(1)(a), ‘of that section’—**
omit, insert—
‘under section 58AH’.
- 15 Section 103A(2), ‘mark from the boat’—**
omit, insert—
‘boat mark’.
- 16 Section 110A(1)(a)(i), ‘109,’—**
omit.
- 17 Section 110A(1)(a)(ii)(A)—**
omit, insert—
‘(A) the former Authority; or’.
- 18 Schedule 4, part 1, division 2, subdivision 3 and division 3, subdivision 1, headings, ‘, L5 or L9’—**
omit.

Schedule (continued)

- 19** **Schedule 5B, section 4(4)(b)(ii), ‘2001’—**
omit, insert—
‘2001; or’.
- 20** **Schedule 5B, section 37, definition *reason for adjusted allocation*, ‘section 47(e)’—**
omit, insert—
‘section 47(d)’.
- 21** **Schedule 7, section 46(3)(a), second dot point, ‘;’—**
omit, insert—
‘; and’.
- 22** **Schedule 7, section 46(3)(f)(i) and (ii), ‘and’ second mention—**
omit.
- 23** **Schedule 9, part 3, item 1(b), ‘item 5’—**
omit, insert—
‘item 8’.
- 24** **Schedule 11, section 5 heading, ‘primary commercial fishing boats’—**
omit, insert—
‘primary boats’.
- 25** **Schedule 11, sections 5 and 6, schedule 11A section 5, ‘primary commercial fishing boat’—**
omit, insert—
‘primary boat’.

Schedule (continued)

- 26** **Schedule 11, section 6 and schedule 11A, section 6 headings, ‘tender commercial fishing boats’—**
omit, insert—
‘tender boats’.
- 27** **Schedule 11, section 6 and schedule 11A, section 6, ‘tender commercial fishing boat’—**
omit, insert—
‘tender boat’.
- 28** **Schedule 11, section 8, ‘owner’s primary commercial fishing boat marking’—**
omit, insert—
‘boat mark for its owner’s primary boat’.
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ENDNOTES

- 1 Made by the Governor in Council on 23 February 2006.
- 2 Notified in the gazette on 24 February 2006.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Primary Industries and Fisheries.