



Queensland

Fisheries Legislation Amendment Regulation (No. 3) 2009

Subordinate Legislation 2009 No. 114

made under the

Fisheries Act 1994

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Fisheries Legislation Amendment Regulation (No. 3) 2009*.

Part 2 Amendment of Fisheries Amendment Regulation (No. 5) 2008

2 Regulation amended

This part amends the *Fisheries Amendment Regulation (No. 5) 2008*.

Editor's note—

Legislation ultimately amended—

- *Fisheries Regulation 2008*

3 Amendment of s 8 (Replacement of s 87 (Regulated waters for div 2))

Section 8, inserted section 87, after entry for Endeavour River—

insert—

- 'Bizant River, North Kennedy River and Normanby River'.

4 Replacement of s 15 (Amendment of s 103 (Prohibited activities—Hervey Bay–Tin Can Bay (greater dugong protection area) regulated waters))

Section 15—

[s 5]

omit, insert—

‘15 Replacement of s 103 (Prohibited activities—Hervey Bay–Tin Can Bay (greater dugong protection area) regulated waters)

Section 103—

omit, insert—

‘103 Prohibited activities—Hervey Bay–Tin Can Bay (greater dugong protection area) regulated waters

- ‘(1) A regulated person must not—
- (a) use a set mesh net in the Hervey Bay–Tin Can Bay (greater dugong protection area) regulated waters; or
 - (b) use a net that is neither fixed nor hauled in offshore waters in the regulated waters.
- ‘(2) Despite subsection (1), the person may use a set mesh net or a net that is neither fixed nor hauled in offshore waters in the regulated waters if the net—
- (a) is made of monofilament no more than 0.65mm in diameter; and
 - (b) is no more than 33 meshes deep; and
 - (c) is used by at least 2 persons, each of whom is on a boat floating on the water and within 100m of the net.
- ‘(3) This section is subject to—
- (a) sections 104, 105 and 106; and
 - (b) for a person taking fish in the regulated waters under a licence for a commercial net fishery—the authorisations and conditions of the licence stated in chapter 9.’.’.

5 Omission of s 16 (Amendment of s 107 (Prohibited activities—Hervey Bay–Tin Can Bay (dugong protection area 4) waters))

Section 16—

omit.

6 Omission of s 17 (Amendment of s 108 (Prohibited activities—Hervey Bay–Tin Can Bay (dugong protection area 5) waters))

Section 17—

omit.

7 Amendment of s 18 (Amendment of s 109 (Prohibited activities))

(1) Section 18(1), inserted section 109(1)(b) to (d)—

omit, insert—

‘(b) fix more than 1 part of a mesh net if all of the net is in nearshore waters; or

(c) fix any part of a mesh net if part of the net is in offshore waters; or

(d) use a set mesh net; or

(e) use a net that is neither fixed nor hauled.’.

(2) Section 18(5) and (6)—

omit.

8 Amendment of s 19 (Replacement of ch 2, pt 11, div 5)

(1) Section 19, inserted section 111(1)(b) to (d)—

omit, insert—

‘(b) fix more than 1 part of a mesh net if all of the net is in nearshore waters; or

(c) fix any part of a mesh net if part of the net is in offshore waters; or

(d) use a set mesh net; or

(e) use a net that is neither fixed nor hauled.’.

(2) Section 19, inserted section 111(4)—

omit, insert—

[s 9]

‘(4) Despite subsection (1)(d), a regulated person may use a set mesh net in nearshore waters in the regulated waters if all of the net is in the nearshore waters.’.

9 Amendment of s 20 (Replacement of s 114 (Prohibited activities))

Section 20, inserted section 114(b) to (d)—

omit, insert—

- ‘(b) fix more than 1 part of a mesh net if all of the net is in nearshore waters; or
- (c) fix any part of a mesh net if part of the net is in offshore waters; or
- (d) use a set mesh net; or
- (e) use a net that is neither fixed nor hauled.’.

10 Amendment of s 21 (Replacement of s 116 (Prohibited activities))

Section 21, inserted section 116—

omit, insert—

‘116 Prohibited activities—using mesh nets generally

- ‘(1) A regulated person must not in the regulated waters—
 - (a) use a mesh net with a mesh size of more than 115mm; or
 - (b) fix more than 1 part of a mesh net if all of the net is in nearshore waters; or
 - (c) fix any part of a mesh net if part of the net is in offshore waters; or
 - (d) use a set mesh net; or
 - (e) use a net that is neither fixed nor hauled.
- ‘(2) This section is subject to section 116A.’.

11 Amendment of s 22 (Replacement of ss 119 and 120)

Section 22, inserted section 119(d), ‘Subject’—

omit, insert—

‘subject’.

12 Replacement of s 67 (Amendment of s 479 (Use of mesh nets in offshore waters of Keppel Bay))

Section 67—

omit, insert—

‘67 Replacement of s 479 (Use of mesh nets in offshore waters of Keppel Bay)

Section 479—

omit, insert—

‘479 Use of nets that are neither fixed nor hauled in offshore waters of Keppel Bay

‘(1) This section applies for using a net that is neither fixed nor hauled in offshore waters in Keppel Bay west of a line from Cape Capricorn to Water Park Point.

‘(2) If all of the net is used within the waters, the net must—

(a) be no longer than 200m; and

(b) have a mesh size of at least 160mm but no more than 165mm.’.

13 Amendment of s 68 (Replacement of ss 480 and 481 and ch 9, pt 2, div 5)

(1) Section 68, inserted section 480, heading, after ‘waters’—

insert—

‘—generally’.

(2) Section 68, inserted section 480(2)—

omit, insert—

[s 14]

- ‘(2) If all of the net is used within the waters, the net must—
- (a) be no longer than 600m; and
 - (b) have a mesh size of at least 160mm but no more than 165mm.’.

(3) Section 68, inserted section 480(3), ‘Despite subsection (2), the net’—

omit, insert—

‘The net’.

14 Amendment of s 72 (Replacement of s 489 (Use of primary boats))

Section 72, inserted section 489(2)—

omit, insert—

- ‘(2) Despite subsection (1), section 517 applies if the fishery symbol ‘N4’ is written on the licence.’.’.

15 Amendment of s 82 (Replacement of ch 9, pt 4 and ch 9, pt 5, hdg)

Section 82, inserted section 525A—

omit, insert—

‘525A Permitted ways of taking fish

- ‘(1) Fish may only be taken by using a tunnel net.
- ‘(2) A commercial fisher and at least 1 other fisher must be within 100m of the net while it is in use.’.

16 Amendment of s 90 (Insertion of new ch 11, pt 2A)

Section 90, inserted section 608C(a), ‘of the species *Odontaspis ferox*’—

omit.

17 Amendment of s 97 (Amendment of sch 1 (Regulated waters))

- (1) Section 97, replacement schedule 1, part 2, entries for ‘Hervey Bay–Tin Can Bay (greater dugong protection area)’ and ‘Groper Creek, Yellow Gin Creek and the Burdekin River’—

omit.

- (2) Section 97, replacement schedule 1, part 2, after entry for Theodolite Creek—

insert—

‘Hervey Bay–Tin Can Bay (greater dugong protection area)	1 waters within the following boundary— <ul style="list-style-type: none"> • from latitude 25°01'01" south where it intersects the mainland shore to latitude 25°01'01" south, longitude 153° east • to latitude 25°12'29" south where it intersects the shore of Fraser Island • westerly and southerly along the shore of Fraser Island to longitude 153°04' east where it intersects the shore • to longitude 153°04' east where it intersects the mainland shore at Inskip Point • westerly and southerly along the shore to the north bank of Myers Creek • to the south bank of Teebar Creek • along the mainland shore to latitude 25°01'01" south where it intersects the mainland shore 2 waterways adjoining the waters described in item 1, other than the waters of the Mary River upstream of longitude 152°47'30" east (the western tip of Brothers Islands)	part 11, division 2’.
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- (3) Section 97, replacement schedule 1, part 2, after entry for Upstart Bay (greater dugong protection area)—

[s 18]

insert—

‘Groper Creek, Yellow Gin Creek and the Burdekin River	1	Groper Creek and Yellow Gin Creek and adjoining waterways upstream of the line of longitude 147°35.35' east	part 9, division 2’.
	2	Burdekin River and adjoining waterways upstream of the line of longitude 147°35.1' east	

- (4) Section 97, replacement schedule 1, part 2, after entry for Bizant River, Princess Charlotte Bay—

insert—

‘Bizant River, North Kennedy River and Normanby River	the following waters and adjoining waterways—		part 9, division 2’.
	•	waters of the Bizant River upstream of the line of latitude 14°28'57" south	
	•	waters of the North Kennedy River upstream of the line of latitude 14°29'40" south	
	•	waters of the Normanby River upstream of the line of latitude 14°24'08" south	

18 Amendment of s 103 (Amendment of sch 11 (Dictionary))

Section 103(1), inserted section 4A(2)—

omit, insert—

- ‘(2) However, *nearshore waters* do not include waters—
- (a) in a river or creek upstream of a line across its banks at low water; or
 - (b) in an inlet.’.

Part 3 Amendment of Fisheries Regulation 2008

19 Regulation amended

This part amends the *Fisheries Regulation 2008*.

20 Replacement of ss 104–106

Sections 104 to 106—

omit, insert—

**‘104 Prohibited activities—Mary River–Burrum River
(dugong protection area) waters**

‘(1) This section applies to the following waters (the *Mary River–Burrum River (dugong protection area) waters*)—

(a) waters within the following boundary—

- from latitude 25°10'24" south where it intersects the mainland shore near Burrum River to latitude 25°10'24" south, longitude 152°39'06" east
- to latitude 25°13'24" south, longitude 152°40'12" east
- along latitude 25°13'24" east to where it intersects the mainland shore
- along the mainland shore to latitude 25°10'24" south;

(b) waterways adjoining the waters mentioned in paragraph (a), other than waters of the Burrum River upstream of 152°35'50" east;

(c) waters of the Mary River downstream of longitude 152°54'24" east and south of latitude 25°25'45" south.

‘(2) A regulated person must not use a set mesh net in the Mary River–Burrum River (dugong protection area) waters.

‘105 Prohibited activities and regulated period—Hervey Bay (dugong protection area) waters

‘(1) This section applies to waters and adjoining waterways south of latitude 25°04'30" south and west of longitude 152°40' east (the *Hervey Bay (dugong protection area) waters*).

‘(2) A regulated person must not use a set mesh net or a net that is neither fixed nor hauled in the Hervey Bay (dugong protection area) waters in the regulated period.

[s 21]

- ‘(3) For subsection (2), the regulated period is from 3p.m. to 5a.m. from 1 July to 31 October.

‘106 Prohibited activities—Hervey Bay—Great Sandy Strait waterways (dugong protection area) waters

- ‘(1) This section applies to tidal waters of a river or creek between the north bank of Kauri Creek and latitude 25°01'01" south where it intersects the mainland shore, other than—
- (a) waters of the Burrum River downstream of 152°35'50" east; and
 - (b) waters of the Mary River that are—
 - (i) downstream of longitude 152°54'24" east, and south of latitude 25°25'45" south; or
 - (ii) upstream of longitude 152°47'30" east (the western tip of Brothers Islands).
- ‘(2) The waters to which this section applies are the *Hervey Bay—Great Sandy Strait waterways (dugong protection area) waters*.
- ‘(3) A regulated person must not use a set mesh net in the Hervey Bay—Great Sandy Strait waterways (dugong protection area) waters unless the net—
- (i) is no longer than 50m; and
 - (ii) has a drop of no more than 50 meshes.
- ‘(4) For a person taking fish in the regulated waters under a licence for a commercial net fishery, this section is subject to the authorisations and conditions of the licence stated in chapter 9.’.

21 Omission of ss 107 and 108

Sections 107 and 108—

omit.

22 Amendment of s 141 (Particular activities involving regulated fish are prohibited activities)

- (1) Section 141(1), ‘subsection (2)’—
omit, insert—
‘subsections (2) and (3)’.
- (2) Section 141(3)—
renumber as section 141(4).
- (3) Section 141—
insert—
- ‘(3) If the activity is taking or possessing the fish, or taking or possessing the fish for trade or commerce, the activity is not a prohibited activity if the taking or possessing is carried out under a contract entered into by the chief executive for the establishment or management of the shark control program.’.

23 Amendment of s 504 (Use of primary boats)

- Section 504—
insert—
- ‘(2) Despite subsection (1), section 517 applies if the fishery symbol ‘N4’ is written on the licence.’.

24 Amendment of sch 2 (Regulated fish declarations)

- (1) Schedule 2, part 2, entries for ‘dwarf sawfish’, ‘freshwater sawfish’, ‘green sawfish’, ‘grey mackerel’, ‘grey nurse shark’, ‘grey reef shark’, ‘guitarfish’, ‘mangrove jack’, ‘narrow sawfish’, ‘ray’, ‘shark, other than great white shark, grey nurse shark, grey reef shark, speartooth shark or whitetip reef shark’, ‘speartooth shark’, ‘spotted mackerel’, ‘whitetip reef shark’—
omit.
- (2) Schedule 2, part 2—

[s 24]

insert—

'grey mackerel	N	more than 5	a recreational fisher taking or possessing the fish
	N	more than 15	if the prescribed commercial catch for the fish in waters east of longitude 142°31'49" is more than 250 tonnes—a person taking the fish for trade or commerce in, or possessing the fish taken for trade or commerce in, the waters
	S	less than 60cm	a person taking or possessing the fish
grey nurse shark			a person taking or possessing the fish
grey reef shark	F	the fish, its tail or fins if its tail or any of its fins are removed from the body	a person possessing the fish, tail or fins on a boat
	N	more than 1	a person taking or possessing the fish for trade or commerce
guitarfish	F	the fish, its tail or fins if its tail or any of its fins are removed from the body	a person possessing the fish, tail or fins on a boat
mangrove jack	N	more than 5	a recreational fisher taking or possessing the fish in waters other than the Gulf of Carpentaria waters
	N	more than 5	a person taking the fish in the Gulf of Carpentaria waters
	S	less than 35cm	a person taking or possessing the fish
sawfish			a person taking or possessing the fish

shark (other than speartooth shark, great white shark and grey nurse shark) or ray (other than sawfish)	F	the fish divided into portions in a way that does not allow an inspector to count the number of the fish reasonably easily	a person possessing the fish on a boat
	F	the fish, its tail or fins if its tail or any of its fins are removed from the body	a person taking the fish in waters east of longitude 142°31'49" east or possessing the fish taken in the waters, unless the person is acting under a commercial fishing boat licence on which is written the fishery symbol 'S'
	F	the fin separated from the body of the fish	a person possessing the fin on a boat unless the person also possesses, on the boat, the body of the fish from which the fin was taken
	N	more than 1	a recreational fisher taking or possessing the fish
	N	more than 4	<ol style="list-style-type: none"> 1 a person taking the fish while acting under a licence on which is written the fishery symbol 'L1', 'L2', 'L3' or 'L8', unless the person is also acting under a licence on which is written the fishery symbol 'S' 2 if the prescribed commercial catch for the fish in waters north of latitude 24°30' and east of longitude 142°31'49" is more than 480t—a person taking the fish in, or possessing the fish taken in, the waters while acting under a licence on which is written the fishery symbol 'L2', 'L3' or 'L8' 3 if the prescribed commercial catch for the fish in waters south of latitude 24°30' is more than 120t—a person taking the fish in, or possessing the fish taken in, the waters while acting under a licence on which is written the fishery symbol 'L1' or 'L8'

[s 24]

	N	more than 10	<p>1 a person taking the fish while acting under a licence on which is written the fishery symbol 'N1', 'N2', 'N4', 'N10', 'K1', 'K2', 'K3', 'K4', 'K5', 'K6', 'K7' or 'K8', unless the person is also acting under a licence on which is written the fishery symbol 'S'</p> <p>2 if the prescribed commercial catch for the fish in waters north of latitude 24°30' and east of longitude 142°31'49" is more than 480t—a person taking the fish in, or possessing the fish taken in, the waters while acting under a licence on which is written the fishery symbol 'N1', 'N2', 'N4', 'N10', 'K1', 'K2', 'K3', 'K4', 'K5', 'K6', 'K7' or 'K8'</p> <p>3 if the prescribed commercial catch for the fish in waters south of latitude 24°30' is more than 120t—a person taking the fish in, or possessing the fish taken in, the waters while acting under a licence on which is written the fishery symbol 'N1', 'N2', 'N4', 'N10', 'K1', 'K2', 'K3', 'K4', 'K5', 'K6', 'K7' or 'K8'</p>
	S	more than 150cm or interdorsal length more than 60cm	<p>a person taking or possessing the fish, unless the person is acting under a licence on which is written—</p> <p>(a) the fishery symbol—</p> <p>(i) 'N1', 'N2', 'N4', 'N10', 'K1', 'K2', 'K3', 'K4', 'K5', 'K6', 'K7' or 'K8'; and</p> <p>(ii) 'S'; or</p> <p>(b) the fishery symbol 'N3' or 'N9'</p>
shovelnose ray	F	the fish, its tail or fins if its tail or any of its fins are removed from the body	a person possessing the fish, tail or fins on a boat
spartooth shark			a person taking or possessing the fish

spotted mackerel	N	more than 50	if the prescribed commercial catch for the fish is not more than 100t—a person using a commercial fishing net to take the fish for trade or commerce or possessing the fish taken in that way
	N	more than 15	if the prescribed commercial catch for the fish is more than 100t—a person using a commercial fishing net to take the fish for trade or commerce or possessing the fish taken in that way
	N	more than 15	if the prescribed commercial catch for the fish is more than 140t—a person taking or possessing the fish for trade or commerce
whitetip reef shark	F	the fish, its tail or fins if its tail or any of its fins are removed from the body	a person possessing the fish, tail or fins on a boat
	N	more than 1	a person taking or possessing the fish for trade or commerce’.

- (3) Schedule 2, part 3, entries for ‘a particular regulated cod or grouper or any combination of regulated cod or grouper’ and ‘shark or ray or a combination of these fish’—

omit.

- (4) Schedule 2, part 3—

insert—

‘a particular regulated cod or grouper, or blackspotted rockcod or goldspotted rockcod, or any combination of regulated cod or grouper, or blackspotted rockcod or goldspotted rockcod	N	more than 5 (see also note 2)	a recreational fisher taking or possessing the fish
guitarfish or shovelnose ray or a combination of these fish	N	more than 5	a person taking or possessing the fish for trade or commerce’.

[s 25]

25 Amendment of sch 5 (Glossary of scientific names for particular coral reef fin fish species)

Schedule 5, part 1, entries for ‘blackspotted rockcod’ and ‘goldspotted rockcod’—

omit.

26 Amendment of sch 6 (Glossary of scientific names for particular fish other than regulated coral reef fin fish)

(1) Schedule 6, part 6, entries for ‘dwarf sawfish’, ‘freshwater sawfish’, ‘green sawfish’, ‘guitarfish’, ‘narrow sawfish’, ‘ray’ and ‘shark’—

omit.

(2) Schedule 6, part 6—

insert—

‘goldspotted rockcod	<i>Epinephelus coioides</i>
guitarfish	family Rhynchobatidae
sawfish	family Pristidae
shark	order Carcharhiniformes, order Lamniformes and order Orectolobiformes
shovelnose ray	family Rhinobatidae’.

27 Amendment of sch 11 (Dictionary)

Schedule 11, part 2, definition *prescribed commercial catch*, paragraph (a), ‘30 April’—

omit, insert—

‘30 June’.

ENDNOTES

- 1 Made by the Governor in Council on 25 June 2009.
- 2 Notified in the gazette on 26 June 2009.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Employment, Economic Development and Innovation.

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