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[s 1]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Fisheries Legislation Amendment and Repeal Regulation (No. 1) 2011*.

Part 2 Amendment of Fisheries Regulation 2008

2 Regulation amended in pt 2 and schedule

This part and the schedule amend the *Fisheries Regulation 2008*.

3 Replacement of ch 2, pt 5, div 3

Chapter 2, part 5, division 3—
omit, insert—

‘Division 3 Barramundi

‘Subdivision 1 Waters other than Gulf of Carpentaria waters

‘43 Regulated waters for sdiv 1

‘This subdivision applies to the waters other than the Gulf of Carpentaria waters.

‘44 Prohibited activities and regulated period

- ‘(1) A regulated person must not in the regulated waters—
- (a) take barramundi in the regulated period; or

- (b) possess barramundi taken in contravention of paragraph (a).
- ‘(2) For subsection (1)(a), the regulated period is from midday on 1 November to midday on 1 February.

‘Subdivision 2 Gulf of Carpentaria waters

‘44A Regulated waters for sdiv 2

‘This subdivision applies to the Gulf of Carpentaria waters.

‘44B Prohibited activities and regulated periods

- ‘(1) A regulated person must not in the regulated waters—
- (a) take barramundi in the regulated taking period; or
 - (b) possess barramundi taken in contravention of paragraph (a).
- ‘(2) For subsection (1)(a), the regulated taking period is from midday on 7 October to midday on 1 February.
- ‘(3) Also, a regulated person must not in the regulated waters possess barramundi on a boat in the regulated possession period, whether or not the fish have been taken in the waters.
- ‘(4) For subsection (3), the regulated possession period is from midday on 17 October to midday on 1 February.

‘Subdivision 3 Exception for div 3

‘45 Recreational fishing in prescribed barramundi waterway

- ‘(1) This section applies despite sections 44 and 44B.
- ‘(2) A recreational fisher may—

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- (a) take no more than 1 barramundi in a prescribed barramundi waterway within the regulated waters under subdivision 1 or 2; or
 - (b) possess a barramundi taken under paragraph (a).
- ‘(3) However, subsection (2) applies only if the fisher does not possess the barramundi while taking fish in the regulated waters, other than a prescribed barramundi waterway.’

4 Insertion of new ch 5, pt 2, div 1A

After section 207—

insert—

‘Division 1A Activities for which authorities can not be issued

‘207A Prohibition on issue of authority authorising the use of bottom set line in Gulf of Carpentaria waters

‘The chief executive can not issue an authority authorising the use of a bottom set line in the Gulf of Carpentaria waters.’

5 Insertion of new s 218B

Chapter 5, part 4, division 1—

insert—

‘218B Prohibition on issue of developmental fishing permit for use of set mesh nets in Gulf of Carpentaria waters

‘The chief executive may issue a developmental fishing permit authorising the use of a set mesh net in the Gulf of Carpentaria waters only if the permit is a replacement of a developmental fishing permit under which the use of a set mesh net in the Gulf of Carpentaria waters is authorised.’

6 Amendment of s 247 (General conditions of a commercial fishing boat licence)

- (1) Section 247(4), ‘the ‘N11’ fishery provisions’—

omit, insert—

‘chapter 9, part 5’.

- (2) Section 247(7), definition ‘*N11* fish, ‘the ‘N11’ fishery provisions’—

omit, insert—

‘section 529’.

- (3) Section 247(7), definitions ‘*N11* fishery and ‘*N11* fishery provisions’—

omit, insert—

‘*“N11” fishery* means the fishery described in chapter 9, part 5.’.

7 Amendment of s 250 (Particular fishery symbols included in particular management plans)

- (1) Section 250(1), ‘(2) to (4)’—

omit, insert—

‘(2) and (3)’.

- (2) Section 250(4) and note—

omit.

8 Amendment of s 252 (Restriction on writing multiple fishery symbols)

Section 252, after “C3”—

insert—

‘or ‘N3’’.

9 Insertion of new ss 253BA–253BD

Chapter 6, part 3, division 2—

insert—

[s 9]

‘253BA Restrictions on writing fishery symbol ‘N3’

- ‘(1) The chief executive may write the fishery symbol ‘N3’ 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.
- ‘(2) However, the chief executive can not write the fishery symbol on a licence on which is written the fishery symbol ‘N9’, ‘N12’ or ‘N13’.

‘253BB Restriction on writing fishery symbol ‘N9’

‘The chief executive may write the fishery symbol ‘N9’ on a commercial fishing boat licence only if the licence is a replacement of a commercial fishing boat licence on which the symbol was written.

‘253BC Restrictions on writing fishery symbol ‘N12’

- ‘(1) The chief executive can not write the fishery symbol ‘N12’ on a commercial fishing boat licence other than under this section.
- ‘(2) The chief executive may write the fishery symbol ‘N12’ on a commercial fishing boat licence if, before the fishery symbol is written—
 - (a) the fishery symbol ‘N9’ was also written on the licence; and
 - (b) the holder of the licence held each other commercial fishing boat licence on which was written the fishery symbol ‘N9’; and
 - (c) the chief executive, at the request of the holder, has amended each commercial fishing boat licence held by the holder by removing the fishery symbol ‘N9’ from the licence; and

-
- (d) no more than 2 developmental fishing permits authorise the use of a set mesh net in the Gulf of Carpentaria waters.
- ‘(3) The chief executive may also write the fishery symbol ‘N12’ on a commercial fishing boat licence if—
- (a) the chief executive has approved a fishery symbol movement application and, under the application, the fishery symbol is to be written on the licence; or
 - (b) the licence is a replacement of a commercial fishing boat licence on which the fishery symbol was written.
- ‘(4) Despite subsections (2) and (3), the chief executive can not write the fishery symbol ‘N12’ on—
- (a) a licence on which is written the fishery symbol ‘N3’ or ‘N13’; or
 - (b) more than 3 commercial fishing boat licences.

‘253BD Restrictions on writing fishery symbol ‘N13’

- ‘(1) The chief executive can not write the fishery symbol ‘N13’ on a commercial fishing boat licence other than under this section.
- ‘(2) The chief executive may write the fishery symbol on a commercial fishing boat licence if, before the fishery symbol is written—
- (a) the holder of the licence also held a developmental fishing permit (the *relevant permit*) that included a Gulf set mesh net authorisation; and
 - (b) the chief executive has—
 - (i) at the request of the holder of the relevant permit, amended the relevant permit by removing the Gulf set mesh net authorisation; and
 - (ii) at the request of the holder of each other developmental fishing permit that included a Gulf set mesh net authorisation, amended each permit

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by removing the Gulf set mesh net authorisation;
and

- (c) the fishery symbol ‘N12’ has been written on 3 commercial fishing boat licences.
- ‘(3) The chief executive may also write the fishery symbol ‘N13’ on a commercial fishing boat licence 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.
- ‘(4) Despite subsections (2) and (3), the chief executive can not write the fishery symbol ‘N13’ on—
- (a) a licence on which is written the fishery symbol ‘N3’ or ‘N12’; or
 - (b) more than 2 commercial fishing boat licences.
- ‘(5) In this section—

Gulf set mesh net authorisation, for a developmental fishing permit, means an authorisation under the permit for the use of a set mesh net in the Gulf of Carpentaria waters.’.

10 Amendment of s 261A (Restriction on amending a licence to reflect boat modification or replacement)

Section 261A(2)(a), “T4” —

omit, insert—

“T4’, ‘N12’ or ‘N13”.

11 Amendment of s 429 (Permitted ways of taking fin fish)

Section 429(1), from ‘using’ —

omit, insert—

‘using—

-
- (a) a line that is weighted so the line is vertical while it is being used in water (a *drop line*); or
 - (b) a bottom set line.’.

12 Insertion of new ch 9, pt 3A

Chapter 9—

insert—

‘Part 3A Net fishery (Gulf of Carpentaria no. 1) (‘N3’)

‘Division 1 Definition

‘507A What is the *net fishery (Gulf of Carpentaria no. 1)*

‘The *net fishery (Gulf of Carpentaria no. 1)* is activities by way of fishing—

- (a) in the fishery area mentioned in section 507C; and
- (b) under the authorisations and conditions stated in this part.

‘Division 2 Fishery symbol and area

‘507B Fishery symbol

‘The fishery symbol for the fishery is ‘N3’.

‘507C Fishery area

‘The fishery area under section 507A(a) consists of the tidal waters—

- (a) in the Gulf of Carpentaria west of longitude 142°31'49" east that are within 7n miles of—

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- (i) the mainland shore; or
- (ii) the shore of an island; and
- (b) of waterways that join the waters mentioned in paragraph (a).

‘Division 3 Taking fish

‘507D What fish may be taken

‘Only the following fish may be taken under the licence—

- (a) barramundi;
- (b) barred javelin;
- (c) black jewfish;
- (d) blue threadfin;
- (e) king threadfin;
- (f) queenfish;
- (g) scaly jewfish;
- (h) other fin fish, excluding regulated coral reef fin fish, if the fish are taken while taking fish mentioned in paragraphs (a) to (g).

Note—

See, however, section 208 (Authorisations subject to regulation, management plans and authorities).

‘507E Permitted ways of taking fish—set mesh nets

- ‘(1) Fish may be taken only by using a set mesh net.
- ‘(2) A power assisted device may be used with a set mesh net.

‘Division 4 Use of mesh nets

‘507F General restrictions on use of set mesh nets

- ‘(1) A set mesh net must not be used—
- (a) in a marked navigation channel; or
 - (b) within 400m of a jetty or wharf; or
 - (c) across a waterway or navigation channel so that—
 - (i) its ropes make the waterway or navigation channel impassable to a boat; or
 - (ii) the net extends to more than one-half of the width of the waterway or navigation channel where the net is used.
- ‘(2) A reference in subsection (1) to using a set mesh net across a waterway or navigation channel includes using more than 1 set mesh net in a line across the waterway or navigation channel, regardless of the distance between the nets.
- ‘(3) A set mesh net must not be used within 100m of any other net that is in use.
- ‘(4) Despite subsection (3), a person using more than 1 set mesh net other than in a river or creek may set the nets within 100m of each other.
- ‘(5) If a set mesh net is used in a river or creek, no other net may be used at the same time other than in a river or creek.

‘507G Fishery period

‘A set mesh net may not be used in a barramundi (Gulf) regulated period.

‘507H Use in a river or creek

- ‘(1) A set mesh net may be used in a river or creek only if the set mesh net—

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- (a) is no longer than 120m; and
 - (b) has a mesh size of at least 160mm but no more than 215mm; and
 - (c) a drop of no more than 50 meshes.
- ‘(2) Up to 6 nets may be set if—
- (a) their combined length is no longer than 360m; and
 - (b) the distance between the first and last net is no longer than 5n miles.
- ‘(3) A person using a net must be no more than 5n miles from any net the person is using.
- ‘(4) If a power assisted device is on a boat, no more than 360m of the net may be attached to the device.
- ‘(5) If a power assisted device is used, all nets on the boat, other than the net on the device, must be stowed and secured.

‘507I Use in nearshore waters

- ‘(1) This section applies to the use of a set mesh net in nearshore waters.
- ‘(2) A set mesh net may be used only if—
- (a) it is no longer than 600m; and
 - (b) has a mesh size of at least 160mm but no more than 215mm.
- ‘(3) Despite subsection (2), no more than one-third of the net’s length may extend out to sea beyond low water.
- ‘(4) Up to 6 nets may be set if—
- (a) their combined length is no longer than 600m; and
 - (b) the distance between the first and last net is no longer than 6n miles.
- ‘(5) A person using a net must be no more than 6n miles from any net the person is using.

-
- ‘(6) If a power assisted device is on a boat, no more than 600m of the net may be attached to the device.
 - ‘(7) If a power assisted device is used, all nets on the boat, other than the net on the device, must be stowed and secured.

‘507J Use in offshore waters if ‘N3’ written on licence only once

- ‘(1) This section applies if the licence has the fishery symbol ‘N3’ written on it only once.
- ‘(2) A set mesh net may be used in offshore waters only if—
 - (a) the net is no longer than 300m, whether or not a power assisted device is used; and
 - (b) the net has a mesh size of at least 160mm but no more than 165mm; and
 - (c) the net’s drop is not more than 50 meshes; and
 - (d) there are no other nets on the boat; and
 - (e) the person using the net remains on a boat floating on the water and within 100m of the net while the net is being used; and
 - (f) the net is not used as a bottom set net.

‘507K Use in offshore waters if ‘N3’ written on licence more than once

- ‘(1) This section applies if the licence has the fishery symbol ‘N3’ written on it more than once.
- ‘(2) A set mesh net may be used in offshore waters only if—
 - (a) the net is no longer than 600m, whether or not a power assisted device is used; and
 - (b) the net has a mesh size of at least 160mm but no more than 165mm; and
 - (c) the net’s drop is not more than 50 meshes; and

[s 12]

- (d) all other nets on the boat are stowed and secured; and
- (e) the person using the net remains on a boat floating on the water and within 100m of the net while the net is being used; and
- (f) the net is not used as a bottom set net.

'507L Marking nets

- '(1) A set mesh net being used during the day must be marked by—
 - (a) light coloured floats no more than 20m apart along its length; and
 - (b) a white float—
 - (i) at least 15cm in each of its dimensions; and
 - (ii) with the primary boat mark written on it at the end of the net that is the farthest from the primary boat; and
 - (iii) with a radar reflector attached to it.
- '(2) A set mesh net being used at night must also be marked by—
 - (a) if the combined length of the net and equipment used to set it is no more than 50m—
 - (i) a white light, visible at least 400m in all directions, at its end farthest from the shore; and
 - (ii) a reflectorised float, at least 15cm in each of its dimensions, at its end nearest the shore; or
 - (b) if the combined length of the net and equipment used to set it is more than 50m—a white light, visible at least 400m in any direction, at both ends of the net.
- '(3) Also, if the net is being used in offshore waters, it must be marked by—
 - (a) 6 floats along its length, each not less than 15cm in each of their dimensions; and

-
- (b) a pole with an orange flag on it at least 2m above the water attached to its end farthest from the shore.

‘Division 5 Other conditions

‘507M Use of primary boats

‘A primary boat longer than 14m must not be used.

‘507N Permitted distance for an assistant fisher to be under direction

‘The permitted distance for an assistant fisher to be under direction of a commercial fisher is 5n miles.

‘507O Prohibition on use of bottom set nets in offshore waters

‘A bottom set net must not be used in offshore waters.’.

13 Insertion of new ch 9, pt 4AA

After section 521—

insert—

‘Part 4AA Net fishery (Gulf of Carpentaria no. 2) (‘N9’)

‘Division 1 Definition

‘521A What is the *net fishery (Gulf of Carpentaria no. 2)*

‘The net fishery (Gulf of Carpentaria no. 2) is activities by way of fishing—

- (a) in the fishery area mentioned in section 521C; and

[s 13]

- (b) under the authorisations and conditions stated in this part.

‘Division 2 Fishery symbol and area

‘521B Fishery symbol

‘The fishery symbol for the fishery is ‘N9’.

‘521C Fishery area

- ‘(1) The fishery area under section 521A(a) consists of all tidal waters in the Gulf of Carpentaria west of longitude 142°31'49" east that are between the 25n mile line and the 7n mile line.
- ‘(2) However, the fishery area does not include tidal waters in the area mentioned in subsection (1) that are within 7n miles of an island.

‘Division 3 Taking fish

‘521D What fish may be taken

‘Only the following fish may be taken under the licence—

- (a) barred javelin;
- (b) black jewfish;
- (c) blue threadfin;
- (d) king threadfin;
- (e) queenfish;
- (f) scaly jewfish;
- (g) other fin fish, excluding regulated coral reef fin fish, if the fish are taken while taking fish mentioned in paragraphs (a) to (f).

Note—

See, however, section 208 (Authorisations subject to regulation, management plans and authorities).

'521E Permitted ways of taking fish

- '(1) Fish may be taken only by using a set mesh net.
- '(2) A power assisted device may be used with the net only if—
 - (a) the net is no longer than 1200m; and
 - (b) all other nets on board the boat from which the net is being used are stowed and secured.

'521F Fishery period

'A net must not be used in a barramundi (Gulf) regulated period.

'Division 4 Use and marking of nets

'521G Use of nets

- '(1) A net may be used only if—
 - (a) it is no longer than 1200m; and
 - (b) has a mesh size of at least 160mm but no more than 165mm; and
 - (c) its drop is no more than 85 meshes; and
 - (c) one end of the net is anchored or fixed to a place; and
 - (d) the other end of the net is fixed to a boat.
- '(2) The line thickness of a net must be at least 0.9mm.
- '(3) A person using a net must be within 100m of it.

'521H Marking nets

'A net that is being used must be marked by—

[s 13]

- (a) light coloured floats no more than 20m apart along its length; and
- (b) a white float—
 - (i) at least 15cm in each of its dimensions; and
 - (ii) with the primary boat mark written on it at the end of the net that is the farthest from the primary boat; and
 - (iii) with a radar reflector attached to it.

‘Division 5 Other conditions

‘521I VMS equipment requirements apply

‘The licence holder or person in control of the primary boat or substitute primary boat identified in the licence must ensure that VMS equipment is installed, maintained and used on the boat in compliance with the VMS equipment requirements.

Note—

See chapter 14 (Reporting), part 7 (VMS equipment requirements).

‘521J Notice of entry to ‘N3’ waters

- ‘(1) This section applies if the primary boat identified in the commercial fishing boat licence is going from the fishery area to ‘N3’ waters.
- ‘(2) Before the boat enters the ‘N3’ waters, the person in control of the boat must notify the chief executive or an inspector, by facsimile, radio or telephone, that the boat is entering the waters.
- ‘(3) The notice must state—
 - (a) the purpose of the entry; and
 - (b) the destination of the boat in the ‘N3’ waters; and
 - (c) how long the person proposes to have the boat in the waters.

‘(4) In this section—

‘**N3**’ *waters* means the waters mentioned in section 507C.

‘521K Use of primary boats

‘A primary boat longer than 20m must not be used.

‘521L Use of tender boats

‘A tender boat must not be used more than 6n miles from its primary boat.

‘521M Permitted distance for an assistant fisher to be under direction

‘The permitted distance for an assistant fisher to be under direction from a commercial fisher is 6n miles.’.

14 Replacement of ss 528–530

Sections 528 to 530—

omit, insert—

‘528 Fishery area

‘The fishery area consists of—

- (a) tidal waters east of longitude 142°31'49" east (the *eastern ‘N11’ area*); and
- (b) tidal waters (the *Gulf ‘N11’ area*)—
 - (i) in the Gulf of Carpentaria west of longitude 142°31'49" east between—
 - (A) the 25n mile line; and
 - (B) the mainland shore or the shore of an island; and
 - (ii) of waterways that join the waters mentioned in subparagraph (i).

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‘529 What fish may be taken

- ‘(1) Any fish, other than barramundi or regulated coral reef fin fish, may be taken in the eastern ‘N11’ area.
- ‘(2) Only the following fish may be taken in the Gulf ‘N11’ area—
 - (a) garfish;
 - (b) mullet;
 - (c) other fin fish, excluding barramundi and regulated coral reef fin fish, but only if the fish are taken while taking garfish or mullet.

Note—

See, however, section 208 (Authorisations subject to regulation, management plans and authorities).

‘530 Permitted ways of taking fish

- ‘(1) Fish may only be taken—
 - (a) in the eastern ‘N11’ area—by using cast or mesh nets;
or
 - (b) in the Gulf ‘N11’ area—by using cast, mesh, scoop or seine nets.
- ‘(2) However, for taking fish in the Gulf ‘N11’ area, a power assisted device must not be used with a net.
- ‘(3) A person using a net must be within 100m of it.
- ‘(4) Only 1 end of a net may be fixed while the net is in use.
- ‘(5) However, for taking fish in the eastern ‘N11’ area, both ends of a net may be fixed for no more than 2 hours if each end is in nearshore waters.’.

15 Insertion of new s 532A

Chapter 9, part 5—

insert—

‘532A Use of scoop nets

‘A scoop net may be used in the fishery area only if the net—

- (a) is no more than 2m in each of its dimensions; and
- (b) has a mesh size of at least 25mm and a handle or shaft no longer than 2.5m.’.

16 Amendment of s 533 (Use of mesh nets in particular offshore and nearshore waters)

- (1) Section 533, heading, after ‘waters’—

insert—

‘in the eastern ‘N11’ area’.

- (2) Section 533(1), after ‘nearshore waters’—

insert—

‘in the eastern ‘N11’ area’.

17 Amendment of s 533A (Use of mesh nets in other offshore and nearshore waters)

- (1) Section 533A, heading, after ‘waters’—

insert—

‘in the eastern ‘N11’ area’.

- (2) Section 533A(1), after ‘nearshore waters’—

insert—

‘in the eastern ‘N11’ area’.

18 Insertion of new s 533AA

After section 533A—

insert—

[s 19]

‘533AA Use of mesh nets in offshore and nearshore waters in the Gulf ‘N11’ area

- ‘(1) This section applies to using a mesh net in the Gulf ‘N11’ area.
- ‘(2) A mesh net may be used—
- (a) in offshore waters, only if it—
 - (i) is no longer than 400m; and
 - (ii) has a mesh size of at least 25mm but no more than 45mm; and
 - (b) in nearshore waters, only if it—
 - (i) is no longer than 200m; and
 - (ii) has a mesh size of at least 25mm but no more than 45mm.’.

19 Replacement of ss 534 and 535

Sections 534 and 535—

omit, insert—

‘534 Use of tender boats

‘A tender boat must not be used—

- (a) in the eastern ‘N11’ area—more than 800m from its primary boat; or
- (b) in the Gulf ‘N11’ area—more than 6n miles from its primary boat.

‘535 Permitted distance for an assistant fisher to be under direction

‘The permitted distance for an assistant fisher to be under direction of a commercial fisher is—

- (a) 800m in the eastern ‘N11’ area; and
- (b) 6n miles in the Gulf ‘N11’ area.’.

20 Insertion of new ch 9, pts 6 and 7

Chapter 9—

insert—

‘Part 6 Net fishery (Gulf of Carpentaria no. 3) (‘N12’)

‘Division 1 Definition

‘536 What is the *net fishery (Gulf of Carpentaria no. 3)*

‘The *net fishery (Gulf of Carpentaria no. 3)* is activities by way of fishing—

- (a) in the fishery area mentioned in section 538; and
- (b) under the authorisations and conditions stated in this part.

‘Division 2 Fishery symbol and area

‘537 Fishery symbol

‘The fishery symbol for the fishery is ‘N12’.

‘538 Fishery area

‘(1) The fishery area under section 536(a) consists of all tidal waters in the Gulf of Carpentaria west of longitude 142°31'49" east that are beyond the 7n mile line and within the following boundary—

- from latitude 16°23.6' south, longitude 138°4.56' east to latitude 16°12.17' south, longitude 138°16.03' east
- to latitude 16°12.18' south, longitude 138°16.04' east
- to latitude 16°8.09' south, longitude 138°19.36' east

[s 20]

- to latitude 16°7.45' south, longitude 138°19.89' east
- to latitude 15°54.91' south, longitude 138°30.07' east
- to latitude 15°52.26' south, longitude 138°30.07' east
- to latitude 14°29.91' south, longitude 138°30.07' east
- to latitude 14°29.91' south, longitude 139°15.07' east
- to latitude 13°34.33' south, longitude 139°15.07' east
- to latitude 10°59.91' south, longitude 139°15.07' east
- to latitude 10°50.91' south, longitude 139°12.57' east
- to latitude 10°49.91' south, longitude 139°12.07' east
- to latitude 11°8.91' south, longitude 139°23.07' east
- to latitude 10°58.91' south, longitude 140°0.07' east
- to latitude 10°58.41' south, longitude 140°0.89' east
- to latitude 10°10.24' south, longitude 141°20.07' east
- to latitude 10°27.91' south, longitude 141°20.07' east
- to latitude 10°27.91' south, longitude 141°51' east

‘(2) However, the fishery area does not include tidal waters within the area mentioned in subsection (1) that are within 7n miles of an island.

‘Division 3 Taking fish

‘539 What fish may be taken

‘Only the following fish may be taken under the licence—

- (a) barred javelin;
- (b) black jewfish;
- (c) blue threadfin;
- (d) grey mackerel;
- (e) king threadfin;

- (f) queenfish;
- (g) scaly jewfish;
- (h) shark, other than white shark, sandtiger shark or spartooth shark;

Note—

The grey nurse shark (*Carcharias taurus*) is prescribed as endangered wildlife under the *Nature Conservation Act 1992*. See section 88 (Restrictions on taking protected animal and keeping or use of unlawfully taken protected animal) of that Act.

- (i) other fin fish, excluding barramundi and regulated coral reef fin fish, if the fish are taken while taking fish mentioned in paragraphs (a) to (h).

Note—

See, however, section 208 (Authorisations subject to regulation, management plans and authorities).

‘540 Permitted ways of taking fish

- ‘(1) Fish may be taken only by using a set mesh net.
- ‘(2) A power assisted device may be used with a set mesh net only if—
 - (a) the net is no longer than 1800m; and
 - (b) all other nets on board the boat from which the net is being used are stowed and secured.

‘541 Fishery period

‘A net must not be used in a barramundi (Gulf) regulated period.

‘Division 4 Use and marking of nets

‘542 Use of nets

- ‘(1) A net may be used only if—

[s 20]

- (a) it is no longer than 1800m; and
 - (b) has a mesh size of at least 160mm but no more than 165mm; and
 - (c) the net's drop is no more than 85 meshes; and
 - (d) one end of the net is anchored or fixed to a place; and
 - (e) the other end of the net is fixed to a boat; and
 - (f) the net is not used as a bottom set net.
- '(2) The line thickness of a net must be at least 0.9mm.
- '(3) A person using a net must be within 100m of it.

'543 Marking nets

- '(1) A net that is being used must be marked by—
- (a) light coloured floats no more than 20m apart along its length; and
 - (b) a white float with the primary boat mark written on it at the end of the net that is the farthest from the primary boat.
- '(2) The white float must—
- (a) be at least 15cm in each of its dimensions; and
 - (b) have a radar reflector attached to it.

'Division 5 Other conditions

'544 VMS equipment requirements apply

'The licence holder or person in control of the primary boat or substitute primary boat identified in the licence must ensure that VMS equipment is installed, maintained and used on the boat in compliance with the VMS equipment requirements.

Note—

See chapter 14 (Reporting), part 7 (VMS equipment requirements).

‘545 Notice of entry to ‘N3’ waters

- ‘(1) This section applies if the primary boat identified in the commercial fishing boat licence is going from the fishery area to ‘N3’ waters.
- ‘(2) Before the boat enters the ‘N3’ waters, the person in control of the boat must notify the chief executive or an inspector, by facsimile, radio or telephone, that the boat is entering the waters.
- ‘(3) The notice must state—
- (a) the purpose of the entry; and
 - (b) the destination of the boat in the ‘N3’ waters; and
 - (c) how long the person proposes to have the boat in the waters.
- ‘(4) In this section—
- ‘*N3’ waters* means the waters mentioned in section 507C.

‘545A Use of primary boats

‘A primary boat longer than 25m must not be used.

‘545B Use of tender boats

‘A tender boat must not be used more than 6n miles from its primary boat.

‘545C Permitted distance for an assistant fisher to be under direction

‘The permitted distance for an assistant fisher to be under direction of a commercial fisher is 6n miles.

[s 20]

‘Part 7 Net fishery (Gulf of Carpentaria no. 4) (‘N13’)

‘Division 1 Definition

‘545D What is the *net fishery (Gulf of Carpentaria no. 4)*

‘The *net fishery (Gulf of Carpentaria no. 4)* is activities by way of fishing—

- (a) in the fishery area mentioned in section 545F; and
- (b) under the authorisations and conditions stated in this part.

‘Division 2 Fishery symbol and area

‘545E Fishery symbol

‘The fishery symbol for the fishery is ‘N13’.

‘545F Fishery area

‘(1) The fishery area under section 545D(a) consists of the tidal waters in the Gulf of Carpentaria west of longitude 142°31'49" east that are beyond the 25n mile line and within the following boundary—

- from latitude 16°12.18' south, longitude 138°16.04' east to latitude 16°8.09' south, longitude 138°19.36' east
- to latitude 16°7.45' south, longitude 138°19.89' east
- to latitude 15°54.91' south, longitude 138°30.07' east
- to latitude 15°52.26' south, longitude 138°30.07' east
- to latitude 14°29.91' south, longitude 138°30.07' east
- to latitude 14°29.91' south, longitude 139°15.07' east

- to latitude 13°34.33' south, longitude 139°15.07' east
 - to latitude 10°59.91' south, longitude 139°15.07' east
 - to latitude 10°50.91' south, longitude 139°12.57' east
 - to latitude 10°49.91' south, longitude 139°12.07' east
 - to latitude 11°8.91' south, longitude 139°23.07' east
 - to latitude 10°58.91' south, longitude 140°0.07' east
 - to latitude 10°58.41' south, longitude 140°0.89' east
 - to latitude 10°10.24' south, longitude 141°20.07' east
 - to latitude 10°27.91' south, longitude 141°20.07' east
 - to latitude 10°27.91' south, longitude 141°30.85' east
- ‘(2) However, the fishery area does not include tidal waters within the area mentioned in subsection (1) that are within 25n miles of an island.

‘Division 3 Taking fish

‘545G What fish may be taken

‘Only the following fish may be taken under the licence—

- (a) barred javelin;
- (b) black jewfish;
- (c) blue threadfin;
- (d) grey mackerel;
- (e) king threadfin;
- (f) queenfish;
- (g) scaly jewfish;
- (h) shark, other than white shark, sandtiger shark or speartooth shark;

Note—

[s 20]

The grey nurse shark (*Carcharias taurus*) is prescribed as endangered wildlife under the *Nature Conservation Act 1992*. See section 88 (Restrictions on taking protected animal and keeping or use of unlawfully taken protected animal) of that Act.

- (i) other fin fish, excluding barramundi and regulated coral reef fin fish, if the fish are taken while taking fish mentioned in paragraphs (a) to (h).

Note—

See, however, section 208 (Authorisations subject to regulation, management plans and authorities).

‘545H Permitted ways of taking fish

- ‘(1) Fish may be taken only by using a set mesh net.
- ‘(2) A power assisted device may be used with the net only if—
 - (a) the net is no longer than 1800m; and
 - (b) all other nets on board the boat from which the net is being used are stowed and secured.

‘545I Fishery period

‘A net must not be used in a barramundi (Gulf) regulated period.

‘Division 4 Use and marking of nets

‘545J Use of nets

- ‘(1) A net may be used only if—
 - (a) it is no longer than 1800m; and
 - (b) has a mesh size of at least 160mm but no more than 165mm; and
 - (c) its drop is no more than 85 meshes; and
 - (d) one end of the net is anchored or fixed to a place;

- (e) the other end of the net is fixed to a boat; and
 - (f) it is not used as a bottom set net.
- ‘(2) The line thickness of a net must be at least 0.9mm.
- ‘(3) A person using a net must be within 100m of it.

‘545K Marking nets

- ‘(1) A net being used must be marked by—
- (a) light coloured floats no more than 20m apart along its length; and
 - (b) a white float with the primary boat mark written on it at the end of the net that is the farthest from the primary boat.
- ‘(2) The white float must—
- (a) be at least 15cm in each of its dimensions; and
 - (b) have a radar reflector attached to it.

‘Division 5 Other conditions

‘545L VMS equipment requirements apply

‘The licence holder or person in control of the primary boat or substitute primary boat identified in the licence must ensure that VMS equipment is installed, maintained and used on the boat in compliance with the VMS equipment requirements.

Note—

See chapter 14 (Reporting), part 7 (VMS equipment requirements).

‘545M Notice of entry to Gulf of Carpentaria waters within 25n mile line

- ‘(1) This section applies if the primary boat identified in the commercial fishing boat licence is going from the fishery area

[s 21]

to the Gulf of Carpentaria waters within the 25n mile line (the *25n mile line waters*).

- ‘(2) Before the boat enters the 25n mile line waters, the person in control of the boat must notify the chief executive or an inspector, by facsimile, radio or telephone, that the boat is entering the waters.
- ‘(3) The notice must state—
 - (a) the purpose of the entry; and
 - (b) the destination of the boat in the 25n mile line waters; and
 - (c) how long the person proposes to have the boat in the waters.

‘545N Use of primary boats

‘A primary boat longer than 25m must not be used.

‘545O Use of tender boats

‘A tender boat must not be used more than 6n miles from its primary boat.

‘545P Permitted distance for an assistant fisher to be under direction

‘The permitted distance for an assistant fisher to be under direction of a commercial fisher is 6n miles.’.

21 Amendment of s 711 (Other fees payable under the Act)

Section 711(2)—

omit, insert—

- ‘(2) Each of the fees stated in schedule 9, tables 1 to 3—
 - (a) is the annual fee for—

-
- (i) an authority or quota authority stated in the table for the financial year in which the authority or quota authority is held; or
 - (ii) a fishery symbol stated in the table for the financial year in which the fishery symbol is written on a licence; and
- (b) is payable in arrears at the end of each half of the financial year.’.

22 Insertion of new ch 16, pt 2, div 5

Chapter 16, part 2—

insert—

‘Division 5 Transitional provisions for Fisheries Legislation Amendment and Repeal Regulation (No. 1) 2011

‘748 Definitions for div 5

‘In this division—

commencement means the commencement of this section.

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

‘749 Licences continue

- ‘(1) This section applies to a commercial fishing boat licence—
- (a) that was in force immediately before the commencement; and
 - (b) on which is written the fishery symbol ‘N3’, ‘N9’ or ‘N11’.
- ‘(2) The licence is taken to be a licence of the same type under this regulation.

[s 23]

‘750 References to repealed Gulf plan

‘In a document, a reference to a particular provision (the *old provision*) of the repealed Gulf plan may, if the context permits, be taken to be a reference to any provision of this regulation that corresponds, or substantially corresponds, to the old provision.’.

23 Amendment of sch 1 (Regulated waters)

- (1) Schedule 1, part 2, entry for waters other than the Gulf of Carpentaria waters, column 3, ‘division 3’—

omit, insert—

‘division 3, subdivision 1’.

- (2) Schedule 1, part 2, entry for North Cape York—

omit, insert—

‘North Cape York	FRW-223	section 59’.
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- (3) Schedule 1, part 2, entry for Gulf of Carpentaria waters, column 3, ‘division 3’—

omit, insert—

‘division 3, subdivision 2’.

- (4) Schedule 1, part 2, entry for Port Musgrave and Wenlock River—

omit, insert—

‘Port Musgrave and Wenlock River	FRW-274	part 10, division 5’.
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- (5) Schedule 1, part 2, entry for Pine River Bay—

omit, insert—

‘Pine River (north of Weipa)	1	waters of the Pine River that are north of Weipa and east of a line between the F↑B sign on the northern bank of the river and the F↑B sign on the southern bank of the river	section 74 part 9, division 2’.
	2	waterways that join the waters mentioned in item (1)	

(6) Schedule 1, part 2, entry for Chapman River—

omit, insert—

‘Chapman River	FRW-260	part 9, division 2’.
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(7) Schedule 1, part 2, entry for Moonkan Creek—

omit, insert—

‘Moonkan Creek	FRW-259	part 9, division 2’.
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(8) Schedule 1, part 2, entry for Wellesley Islands Protected Wildlife Area—

omit, insert—

‘Wellesley Islands Protected Wildlife Area	FRW-275	part 10, division 5’.
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24 Amendment of sch 2 (Regulated fish declarations)

(1) Schedule 2, part 2, entries for barramundi, barred javelin, black jewfish, golden snapper and shark (other than grey reef shark, whitetip reef shark, speartooth shark, white shark and sandtiger shark) or ray (other than guitarfish and shovelnose ray)—

omit.

(2) Schedule 2, part 2—

[s 24]

insert—

'barramundi			a recreational fisher— (a) taking the fish by using a spear from 6p.m. to 6a.m.; or (b) possessing the fish taken under paragraph (a)
	N	more than 5	a recreational fisher taking or possessing the fish
	S	less than 58cm	a person taking or possessing the fish
	S	more than 120cm	a person taking or possessing the fish unless— (a) the person takes and possesses only 1 fish from a prescribed barramundi waterway; and (b) the person is not in possession of the barramundi while the person takes fish in waters, other than a prescribed barramundi waterway
barred javelin	F	filleted—	a recreational fisher possessing the fish on a boat
	S	(a) with the skin removed; or (b) less than 26cm	
	N	more than 20	a recreational fisher possessing the fish taken in the Gulf of Carpentaria waters
	F	fillets of the fish	
	N	more than 10	a recreational fisher taking or possessing the fish
S	whole, or with the head or tail removed, less than 40cm	a person taking or possessing the fish	
black jewfish	N	more than 2	a recreational fisher taking or possessing the fish
	S	less than 60cm	a person taking the fish in the Gulf of Carpentaria waters or possessing the fish taken in the waters

	S	less than 75cm	a person taking the fish in waters other than the Gulf of Carpentaria waters or possessing the fish taken in the waters
golden snapper	N	more than 5	a recreational fisher taking or possessing the fish
	S	less than 35cm	a person taking or possessing the fish
ray (other than guitarfish and shovelnose ray)	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, or its tail or fins unless its tail and all of its fins are secured to the body	a person possessing the fish taken in waters east of longitude 142°31'49" east unless the person is acting under a commercial fishing boat licence on which is written the fishery symbols— (a) 'N1', 'N2', 'N4', 'N10', 'K1', 'K2', 'K3', 'K4', 'K5', 'K6', 'K7' or 'K8'; and (b) 'S'
	F	the fin or tail separated from the body of the fish	a person possessing the fin or tail on a boat unless the person also possesses, on the boat, the body of the fish from which the fin or tail was taken
	F	filleted	a person possessing the fish taken in waters east of longitude 142°31'49" east unless the person is acting under a commercial fishing boat licence on which is written the fishery symbols— (a) 'N1', 'N2', 'N4', 'N10', 'K1', 'K2', 'K3', 'K4', 'K5', 'K6', 'K7' or 'K8'; and (b) 'S'

[s 24]

	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' south and east of longitude 142°31'49" east 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' south 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'

	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' south and east of longitude 142°31'49" east 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' south 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 symbols—</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', 'N9', 'N12' or 'N13'.</p>

[s 24]

shark (other than grey reef shark, whitetip reef shark, speartooth shark, white shark and sandtiger shark)	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, or its tail or fins unless its tail and all of its fins are secured to the body	a person possessing the fish taken in waters east of longitude 142°31'49" east unless the person is acting under a commercial fishing boat licence on which is written the fishery symbols— (a) 'N1', 'N2', 'N4', 'N10', 'K1', 'K2', 'K3', 'K4', 'K5', 'K6', 'K7' or 'K8'; and (b) 'S'
	F	the fin or tail separated from the body of the fish	a person possessing the fin or tail on a boat unless the person also possesses, on the boat, the body of the fish from which the fin or tail was taken
	F	filleted	a person possessing the fish taken in waters east of longitude 142°31'49" east unless the person is acting under a commercial fishing boat licence on which is written the fishery symbols— (a) 'N1', 'N2', 'N4', 'N10', 'K1', 'K2', 'K3', 'K4', 'K5', 'K6', 'K7' or 'K8'; and (b) 'S'

	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' south and east of longitude 142°31'49" east 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' south 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' south and east of longitude 142°31'49" east 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' south 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 symbols—</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', 'N9', 'N12' or 'N13'</p>

	W F	more than 100kg of the fish in filleted form	a person taking the fish in the Gulf of Carpentaria waters or possessing the fish taken in the waters while acting under a commercial fishing boat licence or developmental fishing permit authorising the taking of fish for trade or commerce using a fishing line
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- (3) Schedule 2, part 2, entry for giant queenfish, column 4—
omit, insert—
'a recreational fisher taking or possessing the fish'.

25 Amendment of sch 3 (Declared fish habitat areas)

Schedule 3—
insert—

'Pine River Bay FHA-073	The declared fish habitat area includes the tidal lands on lots 4, 5, 6, 7 and 8 on plan WP50.'
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26 Amendment of sch 9 (Other fees)

- (1) Schedule 9, table 1, under the heading 'Commercial net fisheries', items 11 to 13—
omit, insert—

'11	N3	1133.00
12	N4	2266.00
13	N9	16171.00
14	N10	875.50
15	N11	154.50
16	N12	18000.00
17	N13	10000.00'.

[s 27]

- (2) Schedule 9, table 2, heading ‘Gulf plan’ and items 1 and 2 under that heading—

omit.

27 Amendment of sch 11 (Dictionary)

- (1) Schedule 11, part 2, definitions *bottom set line* and *Gulf Plan*—

omit.

- (2) Schedule 11, part 2—

insert—

‘barramundi (Gulf) regulated period means a regulated period mentioned in section 44B(2).

bottom set line means a line that is anchored to the bed of a body of water in which the line is being used.

bottom set net means a mesh net, all or part of which is set within 2 metres of the seabed.

eastern ‘N11’ area see section 528(a).

Gulf ‘N11’ area see section 528(b).

power assisted device means an electrical or mechanical device for setting or retrieving fishing apparatus.

primary boat mark, for a net, means the boat mark written on the primary boat under which the net is being used.

stowed and secured, for chapter 9, means stowed inboard a boat.

substitute primary boat means any tender boat that, under section 246(1)(c), is being used as the primary boat.’.

Part 3 Repeal of management plan

28 Management plan repealed

The Fisheries (Gulf of Carpentaria Inshore Fin Fish) Management Plan 1999, SL No. 55 is repealed.

Schedule **Minor and consequential
amendments of Fisheries
Regulation 2008**

section 2

- 1** **Section 3(c)—**
omit.

- 2** **Section 74, ‘Pine River Bay’—**
omit, insert—
‘Pine River (north of Weipa)’.

- 3** **Section 87, ‘Pine River Bay’—**
omit, insert—
‘Pine River (north of Weipa)’.

- 4** **Section 527, note—**
omit.

- 5** **Section 655(1), ‘in the approved form’—**
omit.

ENDNOTES

- 1 Made by the Governor in Council on 24 November 2011.
- 2 Notified in the gazette on 25 November 2011.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Employment, Economic Development and Innovation.

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