



Queensland

# Fisheries Regulation 2008

## Explanatory Notes for SL 2008 No. 83

made under the

*Fisheries Act 1994*

*Integrated Planning Act 1997*

*Marine Parks Act 2004*

*Nature Conservation Act 1992*

*State Penalties Enforcement Act 1999*

*Transport Operations (Marine Pollution) Act 1995*

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## General Outline

### Authorising Law

Section 223 of the *Fisheries Act 1994*.

### Objectives of the Legislation

The objective of this legislation is to provide for the use, conservation and enhancement of the community's fisheries resources and fish habitats in a way that seeks to promote ecologically sustainable development. As

fisheries resources are finite, and technology enables them to be depleted faster than they can regenerate and there is considerable economic incentive to exploit them, government intervention is essential if fisheries resources are to be protected from destruction and are thus able to continue to provide benefits to the community and to those exploiting them.

The *Fisheries Regulation 2008* provides the detailed framework for the effective management and utilisation of Queensland's fisheries resources in accordance with the objectives of the *Fisheries Act 1994*. Specifically, the Regulation includes provisions for—

- The regulation of fish, fishing apparatus, fishing methods and waters that are regulated (or closed) to fishing activity;
- Conditions placed on fishing authorities, licences and permits;
- The authorisation of certain acts;
- The management and protection of fish habitats;
- The prohibition of activities to protect fisheries resources;
- Payment of fees; and
- Other matters for the management of fisheries resources.

The specific interventions contained in the Regulation take into account the need for efficient and cost effective management methods, the best available scientific estimates of sustainable catch levels, the impacts of different fishing gear and practices, habitat and environmental standards and other matters. Those interventions have been determined following detailed consideration of each fishery and the biological, social and economic factors affecting it.

### **Consistency with Authorising Law**

The new Regulation covers important matters that are necessary for the sustainable and responsible management of Queensland's fisheries resources, which should be maintained in the interests of ecologically sustainable management of fisheries consistent with the main purpose of the *Fisheries Act 1994*. The re-made Regulation aims to achieve the same fisheries resource management outcomes as the *Fisheries Regulation 1995*, but in a clearer, more consistent, and where possible, less regulatory way.

## **Consistency with other Legislation**

The Regulation is consistent with the policy objectives of other legislation.

## **Alternatives to the Legislation**

Three alternatives in regard to re-making the Regulation were considered—

### **Alternative 1—Retaining the Existing Regulation**

The *Statutory Instruments Act 1992* (SIA) provides for the automatic expiry of subordinate legislation on the first September after the ten year anniversary from the date the legislation was made. The Regulation was ten years old on 30 November 2005 and was due to automatically expire on 1 September 2006. A 12-month extension Regulation was granted under the provisions of the SIA, to allow sufficient time for public consultation and drafting of the new Regulation. As a consequence of the provisions of the SIA, retaining the existing Regulation is not a viable alternative.

### **Alternative 2—No Regulation**

Although no legislative intervention may be considered an alternative management mechanism, it raises serious difficulties. Experience worldwide has shown that where access to fisheries resources is unregulated, there is little incentive for individuals harvesting the resource to use fish stocks responsibly. As these stocks become fully utilised, competition between users often leads to resource depletion or economic inefficiency. Left unmanaged, the resulting increase in fishing effort is reflected in lower individual catches in all fishing sectors, over-capitalisation and reduced financial returns in the commercial fishing industry. Ultimately, unmanaged fisheries resources would collapse completely.

Recent reforms to Queensland's fisheries legislation, in particular the new licensing and fees regime, have recognised the need to remove unnecessary barriers to competition and business flexibility, and to clarify and strengthen fishery access rights. At the same time, these comprehensive reforms have been achieved within a fisheries management framework that recognises that regulation of access and use of fisheries resources is

essential in the interests of all fishing sectors and the wider community. The alternative of 'no regulation' is therefore considered inconsistent with the objectives of the Act and against the interests of all sectors of the community.

### **Alternative 3—a new Regulation**

It is recognised that the Fisheries Regulation covers important matters that are necessary for the sustainable and responsible management of Queensland's fisheries resources, which should be maintained in the interests of ecologically sustainable management of fisheries consistent with the main purpose of the Fisheries Act. This preferred option proposes to re-make a Regulation to achieve the same fisheries resource management outcomes as the existing Regulation, but in a clearer, more consistent, and where possible, less regulatory way.

### **Estimated costs for government implementation**

There are no financial implications resulting from the proposed amendments and if there were any additional costs, these would be met within existing government resources.

### **Consistency with fundamental legislative principles**

The regulatory amendments have sufficient regard to the rights and liberties of individuals and the institution of Parliament, and are consistent with the fundamental legislative principles provided for under the *Legislative Standards Act 1992*.

## **Consultation**

### **Community**

The major form of consultation was a Draft Public Benefit Test (PBT) that discussed the proposals and their perceived benefits and costs. This was released in conjunction with a Regulatory Impact Statement (RIS) as part of a public discussion document which received wide circulation. Further detailed consultation was conducted with relevant stakeholder peak bodies,

groups and individuals. This form of consultation provided opportunity for stakeholders to gain an understanding of the RIS proposals as well as making informal and formal responses. It also ensured that their input was properly considered by the government and reflected in the final form of the proposals.

During the consultation period, departmental officers met with key peak industry bodies including the Queensland Seafood Industry Association (QSIA) and Sunfish. The Great Barrier Reef Marine Park Authority, the Environmental Protection Agency, WWF Australia and the Australian Marine Conservation Society were also consulted.

## **Government**

The proposed Regulation has been developed in consultation with the Department of the Premier and Cabinet, as well as the Environmental Protection Agency and the Office of the Queensland Parliamentary Counsel.

The Department of State Development–Queensland Office of Regulatory Efficiency (formerly the Regulatory Reform Group) was consulted in the development of the RIS and draft PBT.

## **Results of Consultation**

### **Community**

QSIA and Sunfish are very supportive of the review, as they recognise the need to simplify and modernise the Regulation. There is substantial agreement on both general and specific issues arising from discussion about the proposed Regulation.

### **Government**

There was broad support from government that the proposed Regulation should proceed.

## **Notes on Provisions**

### **Chapter 1      Preliminary**

#### **Part 1            Introduction**

##### **Short Title**

Clause 1 provides that the short title of the regulation is the *Fisheries Regulation 2008*.

##### **Commencement**

Clause 2 provides that the Regulation commences on 1 April 2008.

#### **Part 2            Interpretation**

##### **Division 1        Relationship with management plans**

##### **Regulation to be read with particular management plans**

Clause 3 provides that the Regulation must be read together with management plans that concern taking, possessing or using certain fish. Neither the Regulation nor the management plans individually comprise all the matters relevant to taking, possessing or using these fish. The management plans generally prescribe matters that are only relevant to those authorised to take, possess or use these fish, while the Regulation generally prescribes matters that have a more generalised application.

## **Division 2                      Definitions**

### **Dictionary**

Clause 4 provides that the meaning of particular words used in the Regulation is defined in schedule 11.

## **Division 3                      Scientific names for fish**

### **Definition for div 3**

Clause 5 provides a definition of species in this division which includes another taxonomic group. This is because a common name has generally been allocated in Schedule 11 to a particular species, but there are some cases where a common name has been allocated to fish of several species, of a particular family or other taxonomic grouping.

### **Scientific names for species of fish**

Clause 6 provides that the scientific names of species of fish listed in column 1 of schedules 5 and 6 are listed opposite the names in column 2 in each schedule. The clause further provides that the scientific name generally follows the name for the species in the scientific reference document in schedule 7.

### **Alternative scientific names in prescribed reference documents**

Clause 7 provides for a hierarchy of references in schedule 7 in which to refer when a species of fish mentioned in the Regulation or management plans has an alternative or a variation of a scientific name mentioned in more than one prescribed reference document. In these circumstances, the scientific name will follow that mentioned in the prescribed reference document with the lowest category number.

## **Inconsistency between prescribed reference and scheduled names**

Clause 8 provides for cases where a reference document in schedule 7 uses an alternative scientific name to that given for the fish in schedules 5 or 6. This may occur where the taxonomy of a fish is revised and schedules 5 or 6 have not been updated accordingly. Where the context permits, a reference to the alternative name may be taken to be a reference to the scientific name in schedule 5 or 6.

## **Division 4                   Matters relating to fisheries declarations**

### **References to regulated waters by name or description**

Clause 9 provides that a reference to regulated waters either by name or description throughout the Regulation, is taken to be the regulated waters as described in schedule 1. The clause ties the reference to a regulated water by name or description to that of the full description in schedule 1 such that they are considered to reference the same area.

### **Regulated period for prohibited or restricted activities in regulated waters**

Clause 10 provides a convention for interpreting when an activity is regulated, where a regulated waters declaration under a relevant provision or management plan states a particular period. The prohibition or restriction to the activity exists only during the regulated period where one is stated in the provision.

### **Activity prohibited or restricted at all times if no regulated period stated**

Clause 11 provides that where a provision in either the Regulation or a management plan prohibits or restricts an activity under a regulated waters declaration and no regulated period is mentioned, then the prohibition or restriction exists for the waters at all times.



### **References to measurements of size of fish**

Clause 12 provides that references throughout the Regulation to the size of a fish is taken to mean the length of the fish unless stated otherwise.

## **Division 5                      Matters relating to authorities and commercial fisheries**

### **References to an authority includes its conditions**

Clause 13 provides that reference to an authority includes a reference to the conditions which may attach to the authority.

### **References to activities carried out under an authority**

Clause 14 is an interpretative provision which provides that a person carries out an activity under an authority if they are authorised to do it and they undertake the activity in accordance with the authority and any conditions attaching to it.

### **Who is a commercial fisher**

Clause 15 provides that, in those commercial fisheries where the ability to fish relies upon having a commercial fishing boat licence with the relevant fishery symbol attached, reference to a commercial fisher is a reference to the commercial fisher acting under that boat licence.

### **References to licence in a fishery provision**

Clause 16 provides that a reference to a licence in a commercial fishery provision is a reference to a licence on which the fishery symbol is written.

## **Division 6                      Working out boundaries of areas**

### **References to latitudes and longitudes**

Clause 17 states that latitudes and longitudes used to describe boundaries of areas mentioned in the Regulation or management plans, except for

those in schedule 3, parts 1 and 2, are worked out using the geodetic reference system Geocentric Datum of Australia 1994 (GDA 94) to ensure boundaries are accurately and consistently identified. The latitudes and longitudes used to describe the boundaries of the areas mentioned in parts 1 and 2 to schedule 3 are worked out using the geodetic references systems Geodetic Datum of Australia 1966 (AGD 66) and Geodetic Datum of Australia 1984 (AGD 1984). The clause further provides meaning to the terms AGD 66, AGD 84 and GDA 94 for the purposes of the provision.

### **References to boundaries, lines, shores and other points**

Clause 18 provides a convention for describing boundaries, lines, shores and other points, in order to ensure boundaries are accurately and consistently identified.

### **References to waterways**

Clause 19 provides a convention for describing waterways, in order to ensure waterways are accurately and consistently identified.

### **References to banks of waterways**

Clause 20 provides a convention for describing the banks of waterways, in order to ensure banks of waterways are accurately and consistently identified.

## **Division 7                      Other general provisions aiding interpretation**

### **References to aids to navigation**

Clause 21 provides clarification for interpreting what are navigational aids, in order to ensure consistency in compliance.

### **References to distances between nets**

Clause 22 provides a convention for measuring distances between nets, in order to ensure consistency in compliance.

## **References to drops and number of meshes**

Clause 23 provides a convention for describing the drop of a net and the number of meshes in a net's drop, in order to ensure consistency in compliance.

## **References to periods of days or months**

Clause 24 provides a convention for determining the start and end of days or months during which fish may be taken or possessed.

## **References to times**

Clause 25 provides a convention for determining the start and end of periods of time during which fish may be taken or possessed. The clause also provides an example of how the convention is applied.

# **Chapter 2      Regulated waters    declarations**

## **Part 1                      Preliminary**

### **Operation of ch 2**

Clause 26 states that this chapter provides for declarations to regulate the way in which fish may be taken under sections 37(5) and 42 of the Act ("regulated water declarations"). Formerly, a management plan could declare certain waters to be closed waters; or to be closed to fishing for certain periods (a closed season) pursuant to section 37(1)(a) and (b) of the Act. The new section 37(5) of the Act brings together the concepts of closed waters and closed seasons under the single concept of regulated waters. Regulated waters declarations may regulate particular activities, for example prohibit fishing, in the waters the subject of the declaration.

## **Part 2 Declaration of regulated waters**

### **Particular waters declared as regulated waters**

Clause 27 declares the regulated waters and provides a convention for interpreting schedule 1 to determine which waters are regulated and the names used to refer to those regulated waters.

### **Particular regulated waters shown on fisheries regulated water plans**

Clause 28 provides that where column 2 of schedule 1 refers to a fisheries regulated water plan, the waters shown to be regulated waters on the plan are declared to be regulated waters.

### **Boundaries of regulated waters on fisheries regulated waters plans**

Clause 29 provides a convention for interpreting regulated waters plans where certain waters are excluded from the regulated waters shown on the plan.

## **Part 3 Regulation of activities in regulated waters**

### **Regulated persons**

Clause 30 states that parts 4 to 12 prescribe the persons to whom the regulated waters declarations apply i.e. recreational fishers or all persons. These persons are “regulated persons”.

### **Activities prohibited or otherwise regulated**

Clause 31 states that the provisions under parts 4 to 12 prescribe the activities which are prohibited or otherwise regulated in the waters under the declaration.

## **Part 4                      Declarations about taking any fish**

### **Division 1                Regulated persons**

#### **Regulated persons for pt 4**

Clause 32 provides that the declarations of this part apply to all persons.

### **Division 2                Taking any fish in regulated waters**

#### **Regulated waters for div 2**

Clause 33 prescribes the regulated waters to which the declarations in this division apply.

#### **Prohibited activities**

Clause 34 provides that no-one can take fish in the regulated waters in this division or possess fish which have been taken from the regulated waters in this division.

### **Division 3                Taking any fish in particular shark protection areas**

#### **Subdivision 1        Regulated waters**

#### **Regulated waters for div 3**

Clause 35 prescribes the regulated waters to which the declarations in this division apply.

## **Subdivision 2 Prohibited activities**

### **Taking fish generally prohibited**

Clause 36 provides that no-one can take fish in the regulated waters or possess a fish which has been taken from the regulated waters.

## **Subdivision 3 Exceptions for div 3**

### **Application for sdiv 3**

Clause 37 provides that the exceptions outlined in this subdivision apply to this division, despite the prohibition on all persons taking and possessing any fish in the regulated waters.

### **Taking fish by hand or scoop net**

Clause 38 sets out exceptions to the prohibition on all persons taking fish from the regulated waters, provided that the fish are taken in accordance with the conditions outlined.

### **Taking spanner crab**

Clause 39 sets out an exception to the prohibition on all persons taking spanner crabs from the regulated waters, provided that the spanner crabs are taken in accordance with the conditions outlined.

### **Surface trolling in Flat Rock grey nurse shark protection area (western zone)**

Clause 40 sets out an exception to the prohibition on all persons taking fish by surface trolling in the Flat Rock grey nurse shark protection area (western zone), provided that the fish are taken in accordance with the conditions outlined.

## **Part 5                      Declarations about taking or possessing particular fish**

### **Division 1                      Regulated persons**

#### **Regulated persons for pt 5**

Clause 41 provides that the declarations of this part apply to all persons.

### **Division 2                      Australian Bass**

#### **Prohibited activities**

Clause 42 provides that no-one can take any Australian bass from the Australian bass regulated waters in the regulated period (from 1 June to 31 August) or possess a Australian bass taken from the Australian bass regulated waters in the regulated period.

### **Division 3                      Barramundi**

#### **Regulated waters for div 3**

Clause 43 provides the regulated waters to which the declarations in this division apply.

#### **Prohibited activities and regulated periods**

Clause 44 provides that no-one can take any barramundi from the regulated waters in the regulated periods or possess a barramundi that has been taken from the regulated waters in the regulated periods. The clause then prescribes the regulated periods.

#### **Exception for div 3**

Clause 45 sets out an exception to the prohibition on taking and possessing barramundi in this division. A recreational fisher may take and possess one

barramundi from a prescribed barramundi waterway (one that has been artificially stocked with barramundi); however, to facilitate compliance with the complete prohibition on taking barramundi elsewhere, the recreational fisher must not be in possession of the barramundi while taking fish in the regulated waters, unless those waters are a prescribed barramundi waterway within the regulated waters.

## **Division 4                      Regulated coral reef fin fish**

### **Subdivision 1                Regulated waters and prohibited activities etc.**

#### **Regulated waters for div 4**

Clause 46 prescribes the coral reef fin fish regulated waters, as defined in schedule 1 of the Regulation, as the waters to which the declarations in this division apply.

#### **Prohibited activities and regulated periods**

Clause 47 provides that no-one can take any coral reef fin fish in the regulated waters during the regulated period, or possess any coral reef fin fish in the regulated waters, regardless of where those fish were taken. The clause then prescribes the regulated periods.

### **Subdivision 2                Exceptions for div 4**

#### **Application of sdiv 2**

Clause 48 provides that the exceptions that are outlined in subdivision 2 apply to this division despite the prohibition on taking and possessing coral reef fin fish in this division.



### **Recreational fishing**

Clause 49 provides an exception to the prohibition on taking or possessing prescribed coral reef fin fish during regulated periods in regulated waters, where the fish have been taken lawfully (that is, not in contravention of clause 47) and are possessed for consumption on board a boat that is not carrying gear that is commonly used for taking coral reef fin fish or possessed on a boat being used for a charter fishing trip that has been conducted for at least 24 hours.

### **Commercial fishing**

Clause 50 provides an exception to the prohibition on taking or possessing prescribed coral reef fin fish during regulated periods in regulated waters, where the fish have been taken lawfully (that is, not in contravention of clause 47) under a licence with an RQ fishery symbol and are on an authorised boat in an unloading area. This exception provides for delays in unloading vessels which arrived in the unloading area prior to the closure.

## **Division 5                      Freshwater fish generally**

### **Regulated waters for div 5**

Clause 51 prescribes the regulated waters to which the declarations in this division apply.

### **Prohibited activities**

Clause 52 provides that no-one can take any freshwater fish in the regulated waters or possess a freshwater fish that has been taken from the regulated waters.

## **Division 6                      Murray cod in Barwon, Dumaresq and Macintyre rivers**

### **Regulated waters for div 6**

Clause 53 prescribes the regulated waters to which the declarations in this division apply.

### **Prohibited activities and regulated period**

Clause 54 provides, notwithstanding the prohibition in division 5, a prohibition on the taking of Murray cod in the regulated waters during the regulated period (1 September to 30 November) or possessing Murray cod which have been taken during this period from these waters.

## **Division 7                      Gastropods or bivalve molluscs**

### **Regulated waters for div 7**

Clause 55 prescribes the regulated waters to which the declarations in this division apply.

### **Prohibited activities**

Clause 56 provides that no-one can take any gastropods or bivalve molluscs in the regulated waters or possess a gastropod or bivalve mollusc which has been taken in these regulated waters.

## **Division 8                      Spanner crabs**

### **Prohibited activities and regulated period**

Clause 57 provides that no-one can take any spanner crabs in the Spanner crab fishery regulated waters in the regulated period (from midnight on 20 November to midnight on 20 December) or possess a spanner crab which has been taken from these regulated waters during this period. The clause then prescribes the “Spanner crab fishery regulated waters”.

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## **Division 9                      Saucer scallops**

### **Prohibited activities and regulated periods**

Clause 58 provides that no-one can take any saucer scallops in Saucer scallop regulated waters in the regulated period (from midday on 20 September to midday on 1 November, and from midday on 20 December to midday on 1 January). Further, the clause provides that no-one can possess a saucer scallop that has been taken from these regulated waters during the regulated possession period (from 6p.m. on 20 September to midday on 1 November, and from 6p.m. on 20 December to midday on 1 January). The clause prescribes the “Saucer scallop regulated waters”.

## **Division 10                      Other particular fish**

### **Prohibited activities—black jewfish**

Clause 59 provides that no-one can take black jewfish in North cape York regulated waters, or possess black jewfish which been taken in these regulated waters.

### **Prohibited activities—bêche-de-mer**

Clause 60 provides that no-one can take bêche-de-mer in bêche-de-mer regulated waters, defined in schedule 1, or possess bêche-de-mer which have been taken in these regulated waters.

### **Prohibited activities—fish other than fin fish**

Clause 61 provides that no-one can take fish, other than fin fish, in the Fitzroy Island–High Island regulated waters or possess fish, other than fin fish, which have been taken in these regulated waters.

### **Prohibited activities—mud crab**

Clause 62 provides that no-one can take mud crabs in the Eurimbulah Creek (north of Round Hill Creek) regulated waters or possess mud crabs which have been taken in these regulated waters.

### **Prohibited activities—pearl oysters**

Clause 63 provides that no-one can take pearl oysters in the Darnley Island regulated waters or possess pearl oysters which have been taken in these regulated waters.

### **Prohibited activities—worms of the class Polychaeta**

Clause 64 provides that no-one can take worms of the class Polychaeta in the Wynnum (worm area) regulated waters or possess worms of the class Polychaeta which have been taken in these regulated waters.

## **Part 6                      Declarations about possessing or using particular apparatus**

### **Division 1                      Regulated persons**

#### **Regulated persons for pt 6**

Clause 65 provides that the declarations in this part apply to all persons.

### **Division 2                      Possessing or using fishing lines**

#### **Prohibited activities**

Clause 66 provides that no-one can possess a fishing line, use a fishing line to catch a fish or possess a fish taken with a fishing line in the Obi Obi Creek regulated waters.

### **Division 3                      Possessing or using nets**

#### **Regulated waters for div 3**

Clause 67 prescribes the regulated waters to which the declarations in this division apply.

### **Prohibited activities**

Clause 68 provides that no-one can possess a net, use a net to catch a fish or possess a fish taken with a net in the regulated waters.

## **Division 4            Using shell dredges**

### **Regulated waters for div 4**

Clause 69 prescribes the regulated waters to which the declarations in this division apply.

### **Prohibited activities**

Clause 70 provides that no-one can possess a shell dredge, use a shell dredge to catch a fish or possess a fish taken with a shell dredge in the regulated waters.

## **Part 7                    Declarations applying to                                  recreational fishers**

### **Division 1            Regulated persons**

#### **Regulated persons for pt 7**

Clause 71 provides that recreational fishers are regulated persons for the declarations described in this part.

## **Division 2            Taking or possessing particular fish**

### **Subdivision 1        Barracuda, slender barracuda and spanish mackerel**

#### **Prohibited activities**

Clause 72 provides that recreational fishers cannot take a barracuda, slender barracuda or spanish mackerel from the Platypus Bay regulated waters or possess those species of fish if they have been taken from those regulated waters.

### **Subdivision 2        Fin fish**

#### **Prohibited activities—Fraser Island (Indian Head–Waddy Point)**

Clause 73 provides that recreational fishers cannot take a fin fish in the Fraser Island (Indian Head–Waddy Point) regulated waters during the regulated period (from midday 1 August to midday 30 September) or possess fin fish if they have been taken from those regulated waters during that period.

#### **Prohibited activities—Pine River Bay**

Clause 74 provides that recreational fishers cannot take a fin fish in the Pine River Bay regulated waters or possess fin fish if they have been taken from those regulated waters.

### **Subdivision 3        Tropical spiny rock lobsters**

#### **Prohibited activities and regulated period—northern rock lobster waters**

Clause 75 provides that recreational fishers cannot take a tropical spiny rock lobster in the northern rock lobster waters during the regulated period from midnight 1 October to midnight 31 January or possess tropical spiny

rock lobster if they have been taken from those waters during that period. The clause further provides that not more than three tropical spiny rock lobsters must be taken or possessed in northern rock lobster waters and if there is more than one recreational fisher on a boat in the regulated waters, there can only be a total of six tropical spiny rock lobsters allowed on the boat.

Clause 76 provides that recreational fishers in southern lobster regulated waters cannot take or possess more than five tropical spiny rock lobsters. The clause further provides that if there is more than one recreational fisher on a boat in the regulated waters, there can only be a total of ten tropical spiny rock lobsters allowed on the boat.

### **Division 3                    Possessing or using particular fishing apparatus**

#### **Subdivision 1            Possessing or using any nets**

##### **Regulated waters for sdiv 1**

Clause 77 prescribes the regulated waters to which the declarations in this subdivision apply.

##### **Prohibited activities**

Clause 78 provides that recreational fishers cannot possess or use a net to take fish in the Rodds Harbour and Hervey Bay regulated waters or possess fish if they have been taken from those waters.

#### **Subdivision 2            Possessing or using particular nets**

##### **Prohibited activities**

Clause 79 provides that recreational fishers cannot possess or use a net, other than a scoop net, to take fish in the Skyringville Creek regulated waters or possess fish if they have been taken from those waters by a net other than a scoop net.

### **Subdivision 3      Possessing or using spears or spear guns**

#### **Regulated waters for sdiv 3**

Clause 80 prescribes the regulated waters to which the declarations in this subdivision apply.

#### **Prohibited activities**

Clause 81 provides that recreational fishers cannot possess or use a spear or spear gun to take fish in the regulated waters in this subdivision, or possess fish if they have been taken by a spear or spear gun in those waters.

## **Part 8                      Declarations about taking or possessing fish for trade or commerce**

### **Division 1                  Regulated persons**

#### **Regulated persons for pt 8**

Clause 82 provides that the declarations in this part apply to all persons.

### **Division 2                  Taking or possessing any fish for trade or commerce**

#### **Prohibited activities—Pumicestone Strait**

Clause 83 provides that no-one can take any fish for commercial purposes in the Pumicestone Strait (commercial fishing) regulated waters, or possess a fish taken for commercial purposes from those regulated waters.



### **Prohibited activities and regulated period—Fraser Island (Indian Head–Waddy Point)**

Clause 84 provides that no-one can take fish for commercial purposes in the Fraser Island (Indian Head–Waddy Point) regulated waters during the regulated period (from midday 1 August to midday 30 September) or possess fish if they have been taken for commercial purposes from those regulated waters during that period.

## **Division 3                    Taking or possessing particular fish for trade or commerce**

### **Prohibited activities—Platypus Bay**

Clause 85 provides that no-one can take the species of fish listed in the provision for commercial purposes from the Platypus Bay regulated waters or possess the fish listed if they have been taken for commercial purposes from the Platypus Bay regulated waters.

## **Part 9                         Declarations about possessing or using any nets for taking fish for trade or commerce**

### **Division 1                    Regulated persons**

#### **Regulated persons for pt 9**

Clause 86 provides that the declarations in this part apply to all persons.

## **Division 2                      Possessing or using nets—no regulated period**

### **Regulated waters for div 2**

Clause 87 provides that the waters listed in the provision are regulated waters for this division.

### **Prohibited activities**

Clause 88 provides that no-one can use or possess a net to take fish for commercial purposes in the regulated waters in this division or possess fish which have been taken by a net for commercial purposes from the regulated waters.

### **Exception for Trinity Bay regulated waters**

Clause 89 provides an exception to the prohibition in clause 88. This clause provides that a prescribed person may take fish under a commercial fishing symbol N1, N2, N6 or N7 between 6pm on Sunday and 6pm on Friday. The clause then lists eight persons, and provides that those persons are prescribed persons when they hold specified commercial fisher licence numbers.

## **Division 3                      Possessing or using nets—regulated periods**

### **Regulated waters and regulated periods for div 3**

Clause 90 sets out the regulated waters to which the prohibitions in clause 91 apply and the regulated periods associated with each of the regulated waters.

### **Prohibited activities**

Clause 91 provides that no-one can possess or use a commercial fishing net for commercial purposes in the relevant regulated periods in the regulated waters or possess fish which have been taken by a commercial fishing net

for commercial purposes from these waters during the relevant regulated periods.

## **Part 10                      Declarations about possessing or using particular nets for taking fish for trade or commerce**

### **Division 1                      Regulated persons**

#### **Regulated persons for pt 10**

Clause 92 provides that the declarations in this part apply to all persons.

### **Division 2                      Using any commercial fishing nets**

#### **Prohibited activities—spanish mackerel waters**

Clause 93 provides that no-one can use a commercial fishing net to take spanish mackerel for commercial purposes in the Spanish mackerel regulated waters or possess spanish mackerel which have been taken for commercial purposes by a commercial fishing net from these waters.

#### **Prohibited activities—Fraser Island (tailor) waters**

Clause 94 provides that no-one can use a commercial fishing net to take tailor for commercial purposes in the Fraser Island (tailor) regulated waters or possess tailor which have been taken for commercial purposes by a commercial fishing net from these waters.

### **Division 3                      Possessing or using particular commercial fishing nets**

#### **Regulated waters for div 3**

Clause 95 prescribes that the waters listed in column 1 of the table below clause 96 are the regulated waters for this division.

#### **Prohibited activities**

Clause 96 provides that no-one can use or possess a prohibited commercial fishing net in the relevant regulated waters or possess fish which have been taken by the respective net from the respective regulated water. The clause then sets out a table where the regulated waters are listed in column 1 and the particular commercial fishing nets which are prohibited in each of the regulated waters are listed in column 2.

### **Division 4                      Possessing or using particular set mesh nets to take any fish**

#### **Regulated waters for div 4**

Clause 97 prescribes the regulated waters to which the prohibitions in clause 98 apply.

#### **Prohibited activities**

Clause 98 provides that no-one can possess or use a foreshore net or an offshore net in the regulated waters to take fish for trade or commerce during the regulated period (from midday 1 November to midday 1 February) or possess fish which have been taken by the use of these nets, from these regulated waters during the regulated period. The clause defines the terms “foreshore net” and “offshore net” for the purposes of the provision.

## **Division 5                      Possessing or using set mesh nets to take particular fish**

### **Regulated waters for div 5**

Clause 99 prescribes the regulated waters to which the prohibited activities in this division apply.

### **Prohibited activities**

Clause 100 provides that no-one can possess or use a set mesh net for taking fin fish, other than regulated coral reef fin fish, for commercial purposes in the regulated waters or possessing fin fish, other than coral reef fin fish, which have been taken by a set mesh net for commercial purposes from these regulated waters.

### **Exceptions for Wellesley Islands Protected Wildlife Area regulated waters**

Clause 101 sets out exceptions to the prohibitions in this division. The clause provides that a person may use or possess a set mesh net to take fin fish from offshore waters within the Wellesley Islands Protected Wildlife Area regulated waters provided the net conforms to the specifications prescribed. The clause also provides that a person may use or possess a set mesh net to take fin fish from the foreshore within the regulated waters provided the net conforms with the prescribed specifications.

## **Part 11**                      **Declarations about using particular nets in dugong protected regulated waters (zone A)**

### **Division 1**                      **Regulated persons**

#### **Regulated persons for pt 11**

Clause 102 provides that the declarations in this part apply to all persons.

### **Division 2**                      **Hervey Bay–Tin Can Bay (greater dugong area) regulated waters**

#### **Prohibited activities—Hervey Bay–Tin Can Bay (greater dugong area) regulated waters**

Clause 103 provides that no-one can use a set mesh net in the Hervey Bay–Tin Can Bay (greater dugong area) regulated waters. However, this clause provides an exception to the prohibition where a person may use the net in offshore waters within the regulated waters if the net conforms with the prescribed specifications and is used in the prescribed manner.

#### **Prohibited activities—Hervey Bay–Tin Can Bay (dugong area 1) regulated waters**

Clause 104 provides that no-one can use a set mesh net in the Hervey Bay–Tin Can Bay (dugong area 1) regulated waters.

#### **Prohibited activities regulated period—Hervey Bay–Tin Can Bay (dugong area 2) regulated waters**

Clause 105 provides that no-one can use a set mesh net in the Hervey Bay–Tin Can Bay (dugong area 2) regulated waters in the regulated period (from 3pm to 5am from 1 July to 31 October).

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**Prohibited activities—Hervey Bay–Tin Can Bay (dugong area 3) regulated waters**

Clause 106 provides that no-one can use a set mesh net in the Hervey Bay–Tin Can Bay (dugong area 3) regulated waters. However, this clause provides an exception to the prohibition where a person may use up to three set mesh net in the regulated waters if the nets conform with the prescribed specifications and are used in the prescribed manner.

**Prohibited activities—Hervey Bay–Tin Can Bay (dugong area 4) regulated waters**

Clause 107 provides that no-one can use a set mesh net in the Hervey Bay–Tin Can Bay (dugong area 4) regulated waters. However, this clause provides an exception to the prohibition where a person may use up to three set mesh nets in the regulated waters if each net is no longer than 120m.

**Prohibited activities—Hervey Bay–Tin Can Bay (dugong area 5) regulated waters**

Clause 108 provides that no-one can use a set mesh net in the Hervey Bay–Tin Can Bay (dugong area 5) regulated waters.

**Division 3                      Port Clinton (Reef Point–Cape Clinton) regulated waters****Prohibited activities**

Clause 109 provides that no-one can use a set mesh net on a foreshore, a set mesh net in offshore waters or a mesh net that is hauled or not fixed, in the Port Clinton (Reef Point–Cape Clinton) regulated waters. However, this clause provides also exception to this prohibition. A person may use a mesh, ring or seine net if the person is using the net under an N6 (bait fishery) symbol and the net conforms with the specifications and is used in accordance with the provision. Further, a person may use up to three set mesh nets in the areas shown on the Dugong Protection Area Plan DPA1 if the net conforms with the specifications prescribed and the net is being used in accordance with the provision.

## **Division 4 Shoalwater Bay regulated waters**

### **Prohibited activities**

Clause 110 provides that no-one can use or possess a net, other than a cast net, in the Shoalwater Bay regulated waters.

## **Division 5 Upstart Bay (greater) regulated waters and areas within the waters**

### **Prohibited activities—using set mesh net on foreshore**

Clause 111 provides that no-one can use a set mesh net on a foreshore in the Upstart Bay (greater) regulated waters. However, this clause provides exceptions to the prohibition. A person may use up to three set mesh nets on a foreshore in the regulated waters from midday 1 February to midday 1 November, if the net conforms with the specifications prescribed and the net is being used in accordance with the provision. Further, a person may use a set mesh net on a foreshore in the Upstart Bay (area 1) regulated waters.

### **Prohibited activities—using set mesh net offshore or net hauled or not fixed**

Clause 112 provides that no-one can, in the Upstart Bay (greater) waters, use a set mesh net in offshore waters or use a mesh net that is hauled or not fixed. However, the clause provides an exception to the prohibition whereby a person may use a mesh, ring or seine net in the regulated waters provided the net conforms with the specifications prescribed and is being used in accordance with the provision.

### **Prohibited activities—using set mesh nets in rivers or creeks**

Clause 113 provides that no-one can use a set mesh net in a river or creek in the Upstart Bay (greater) regulated waters. However, the clause provides an exception to the prohibition whereby a person may use up to three set mesh nets in a river or creek in the regulated waters if the nets conform with the



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specifications prescribed and they are being used in accordance with the provision.

## **Division 6                    Hinchinbrook Island (dugong area)    regulated waters**

### **Prohibited activities**

Clause 114 provides that no-one may, in the Hinchinbrook Island (dugong area) regulated waters, use a set mesh net in a river or creek, on a foreshore or in offshore waters, or use a mesh net that is not fixed or not hauled. However, this clause provides an exception to these prohibitions whereby a person may use a mesh, ring or seine net in the regulated waters, if the person is using the net under an N6 (bait fishery) symbol and the net is not fixed at any time and its dimensions are between 50mm and 115mm.

## **Division 7                    Other particular regulated waters**

### **Regulated waters for div 7**

Clause 115 prescribes the regulated waters to which the prohibitions and exceptions described in clause 116 apply.

### **Prohibited activities**

Clause 116 provides that no-one can use in the regulated waters, a set mesh net on a foreshore or in offshore waters, or use a mesh net that is not fixed or not hauled. However this clause provides exceptions to these prohibitions. A person may use a mesh, ring or seine net in the regulated waters if the person is using the net under an N6 (bait fishery) symbol and the net is not fixed at any time and its dimensions are between 50mm and 115mm. Further, a person may use up to three set mesh nets in a river or creek in the regulated waters in this division, if the nets conform with the specifications prescribed and are being used in accordance with the provision.

## **Part 12**                      **Declarations about using particular nets in dugong protected regulated waters (zone B)**

### **Division 1**                      **Regulated persons**

#### **Regulated persons for pt 12**

Clause 117 provides that the declarations in this part apply to all persons.

### **Division 2**                      **Regulated waters**

#### **Regulated waters for pt 12**

Clause 118 prescribes the regulated waters to which the prohibitions and exceptions described in this part apply.

### **Division 3**                      **Prohibited activities**

#### **Using mesh nets in offshore waters**

Clause 119 provides that no-one can use a set mesh net or a net that is hauled or not fixed in offshore waters in the regulated waters for this part. However, this clause provides an exception to the prohibition if the net is no longer than 600m and has a mesh size of between 150mm and 245mm and the person using the net is within 100m of it. The clause provides that if a person is using a net in accordance with the exception, and the net is used within 2km of the high water mark, the meshes of the net must not touch the seabed and the net must have sufficient floats to ensure the net is able to take fish from the surface of the water (i.e. the net must be suspended in the water column from the surface without the net touching the seabed). The clause further provides that if a person is using a net in accordance with the exception, two nets may be joined and used as one net if they are used in waters deeper than 20m and the combined length is not greater than 1200m.

### **Using set mesh nets on a foreshore**

Clause 120 provides that no-one can use a set mesh net on a foreshore in the regulated waters in this part. However, this clause provides an exception to this prohibition whereby a person may use up to three set mesh nets on a foreshore from midday 1 February to midday 1 November if the nets conform with the specifications prescribed and are being used in accordance with the provision.

### **Using set mesh nets on a headland**

Clause 121 provides that no-one can use a set mesh net on a headland in the regulated waters in this part. However, this clause provides an exception to this prohibition where a person may use up to three set mesh nets on a headland from midday 1 February to midday 1 November if the nets conform with the specifications prescribed and are being used in accordance with the provision.

### **Using set mesh nets in rivers or creeks**

Clause 122 provides that no-one can use a set mesh net in a river or creek in the regulated waters in this part. However, this clause provides an exception to this prohibition whereby a person may use up to three set mesh nets in a river or creek from midday 1 February to midday 1 November if the nets conform with the specifications prescribed and are being used in accordance with the provision.

### **Using a mesh, ring or seine net**

Clause 123 provides that no-one can use a mesh, ring or seine net in the regulated waters in this part. However, this clause provides exceptions to this prohibition. A person may use a mesh, ring or seine net in the regulated waters if only one end of the net is fixed when the net is being shot. Further, a person may use a ring net in a river or creek in the regulated waters if the net has a mesh size of between 50mm and 115mm and is no longer than 400m. Also, a person may use a mesh net that is hauled or not fixed in the regulated waters except for foreshore waters.

## **Part 13                      General exceptions**

### **Application of pt 13**

Clause 124 provides that the exceptions in part 13 apply despite the prohibitions described in parts 3 to 12 of chapter 2.

### **Person may carry out prohibited activity under permit**

Clause 125 provides that anyone may perform a prohibited activity in regulated waters, despite the regulated waters declarations described in chapter 2 or a management plan, if they are authorised under a permit to perform the activity and they comply with the permit conditions.

### **Possessing stowed and secured fishing apparatus**

Clause 126 sets out exceptions to specific prohibitions regarding the possession of fishing apparatus in the regulated waters in this chapter or a management plan. A person may possess fishing apparatus, other than an otter trawl net if the fishing apparatus is stored inboard a boat. Further, a person may possess an otter trawl net in regulated waters if the otter trawl net is stowed and secured. The clause provides a definition of the terms “stowed and secured” for the purposes of the provision.

### **Fishing apparatus testing**

Clause 127 sets out exceptions to the specific prohibitions regarding the use or possession of a trawl net in the regulated waters in this chapter or a management plan. A person may use or possess a trawl net, contrary to the prohibition, if its use or possession is only for testing the net or associated apparatus. The person in control must give the nearest Queensland Boating and Fisheries Patrol (QBFP) office notice of the testing to be undertaken and prescribes that the cod ends of the net are to be open such that no fish are taken during the test. The clause specifies the detail required to be given to the QBFP in the notice.

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## **Chapter 3      Regulated fish declarations**

### **Part 1              Preliminary**

#### **Operation of ch 3 and sch 2**

Clause 128 states that this chapter and schedule 2 provide for declarations to regulate the taking, purchase, sale, possession or use of particular fish under sections 37(2) and 42 of the Act. The regulated fish declarations in this chapters and schedule 2 consolidate provisions formerly prescribed in fisheries subordinate legislation by regulated fish declarations, as well as those formerly prescribed by a variety of stand alone offences including those relating to prohibited fish forms.

#### **Relationship with regulated waters declarations**

Clause 129 provides that if an activity that is allowed under a regulated fish declaration is performed in regulated waters, the activity may still contravene an applicable regulated waters declaration. For example, a person may take up to five barramundi from Gulf of Carpentaria regulated waters under a regulated fish declaration; however, if the person takes the barramundi in Gulf of Carpentaria regulated waters during the period midday 7 October 2008 to midday 2 February 2009—a period for which a regulated waters declaration exists—then the regulated waters declaration prevails and the taking of the fish would be prohibited during that period.

### **Part 2              Regulated fish**

#### **Declaration of particular fish as regulated fish**

Clause 130 provides that fish identified in schedule 2, column 1 are regulated fish, subject to the operation of clauses 131 to 138 and parts 5 and 7 of this chapter.

### **Fish regulated by form**

Clause 131 provides that, for a fish identified in schedule 2, part 2, column 1 and assigned the symbol “F” in schedule 2, part 2, column 2, the fish is a regulated fish only when it is in the “regulated form” (eg. cut, filleted or processed in a particular way) set out in schedule 2, part 2, column 3.

### **Fish regulated by gender or reproductive capacity**

Clause 132 provides that, for a fish identified in schedule 2, part 2, column 1 and assigned the symbol “G” in schedule 2, part 2, column 2, the fish is a regulated fish only when it is a fish of the “regulated gender” or “regulated” as set out in schedule 2, part 2, column 3.

### **Fish regulated by number separately**

Clause 133 provides that, for a fish identified in schedule 2, part 2, column 1 and assigned the symbol “N” in schedule 2, part 2, column 2, fish taken in excess of the “regulated number” set out in schedule 2, part 2, column 3 are regulated fish.

### **Fish regulated by number separately and in combination**

Clause 134 provides that, for fish identified separately and in combination in schedule 2, part 3, column 1, where a “regulated number” is stated in schedule 2, part 3, column 3, the particular fish, or fish in combination, in excess of the “regulated number” are regulated fish.

### **Fish regulated by size**

Clause 135 provides that, for a fish identified in schedule 2, part 2, column 1 and assigned the symbol “S” in schedule 2, part 2, column 2, the fish is a regulated fish only when it is smaller than the “regulated minimum size” as set out in schedule 2, part 2, column 3, or larger than the “regulated maximum size” as set out in schedule 2, part 2, column 3.

### **Fish regulated by volume**

Clause 136 provides that, for a fish identified in schedule 2, part 2, column 1 and assigned the symbol “V” in schedule 2, part 2, column 2, fish taken

in excess of the “regulated volume” as set out in schedule 2, part 2, column 3 are regulated fish.

### **Fish regulated by weight**

Clause 137 provides that, for a fish identified in schedule 2, part 2, column 1 and assigned the symbol “W” in schedule 2, part 2, column 2, the fish is a regulated fish only when it exceeds the “regulated weight” as set out in schedule 2, part 2, column 3.

### **Declaration subject to condition**

Clause 138 provides that, despite clauses 131 to 137 a declaration may be subject to a condition expressed in part 2, column 3 or part 3, column 3 of schedule 2.

### **Fish declared to be regulated fish in more than 1 way**

Clause 139 provides that fish can be regulated fish in more than one of the above ways.

## **Part 3                      Regulation of activities    involving regulated fish**

### **Meaning of activity involving regulated fish**

Clause 140 provides a definition of the expression “activity involving regulated fish”.

### **Particular activities involving regulated fish are prohibited activities**

Clause 141 provides that, for a regulated fish identified in schedule 2, part 2, column 1 or part 3, column 1, the activities set out in schedule 2, part 2, column 4 or part 3, column 4 regarding that fish are prohibited activities involving regulated fish.

### **Regulated person not to carry out prohibited activity involving regulated fish**

Clause 142 provides that, for a regulated fish identified in schedule 2, part 2, column 1 or part 3, column 1, a “regulated person” as identified in schedule 2, part 2, column 4 or part 3, column 4 cannot perform prohibited activities in relation to regulated fish.

### **Regulated fish declarations may apply differently**

Clause 143 provides that declarations for the same species of fish in schedule 2, part 2, column 1 or part 3, column 1, may apply differently to different categories of persons, for example providing different “bag limits” for commercial fishers, recreational fishers and those on extended licensed charter fishing trips.

## **Part 4 Declaration and regulation of particular regulated fish**

### **Division 1 Declaration and regulation of total number of regulated coral reef fin fish**

#### **Total number of regulated coral reef fin fish**

Clause 144 provides generally for an absolute limit (20) to the total number of prescribed coral reef fin fish which may be taken by a recreational fisher, with any fish in excess of that number being regulated fish.

#### **When other regulated fish declarations apply despite section 144**

Clause 145 sets out an exception to section 144. Where a recreational fisher takes fish of only one species regulated by number, if the number is less than 20, then this is the number of fish which the recreational fisher is allowed to take, not the absolute limit in clause 144. Where a recreational fisher takes fish of more than one species regulated by number, if the total



of the regulated numbers is less than 20, then this is the number of fish which the recreational fisher is allowed to take, not the absolute limit in clause 144.

### **When section 144 applies despite other regulated fish declarations**

Clause 146 provides that where a recreational fisher takes fish of more than one species regulated by number and the combined number of regulated fish species which may be taken by a recreational fisher under regulated fish declarations is more than 20, then the absolute limit in clause 144 applies.

### **Fillets counted as whole fish**

Clause 147 provides that for this division and clause 150, one whole regulated coral reef fin fish is taken to be equivalent to two whole or partial fillets of the fish.

## **Division 2                      Other particular declarations**

### **Particular fish taken from regulated waters**

Clause 148 provides that where a person takes or possesses a fish in regulated waters and the taking or possession of the fish is in contravention of a regulated waters declaration, then the fish is deemed to be regulated wherever it is subsequently possessed (i.e. including outside the regulated waters). A person must not possess the fish (even if another regulated fish declaration provides that the person may do so).

## **Part 5**                      **Special provisions for extended licensed charter fishing trips**

### **Division 1**                **Application**

#### **Application of pt 5**

Clause 149 provides that the exceptions in this part apply despite the prohibitions in part 4, division 1 (regarding the total number of coral reef fin fish) and schedule 2.

### **Division 2**                **Regulated coral reef fin fish**

#### **Extended number for regulated coral reef fin fish**

Clause 150 provides that more than the prescribed number (“the extended number”) of coral reef fin fish may be taken and possessed by a recreational fisher on board a boat during an uninterrupted, extended licensed charter fishing trip, than would be able to be taken under individual regulated fish declarations in schedule 2. Not more than 40 fish or combinations of fish may be taken and possessed where a trip duration is from more than 72 hours but less than 168 hours, and not more than 60 fish or combinations of fish may be taken and possessed where the trip duration is more than 168 hours.

#### **Form of regulated coral reef fin fish for extended licensed charter fishing trip**

Clause 151 provides that if a recreational fisher takes an extended number of coral reef fin fish under clause 150, a fillet of a prescribed coral reef fin fish may be possessed by the recreational fisher on board a boat during an extended licensed charter fishing trip only if the fillet has all the skin attached to it and the fillets are packaged and labelled so that the common name of the fish is identified.

## **Division 3                      Fin fish other than regulated coral reef fin fish**

### **Extended number for other particular fin fish**

Clause 152 provides that a recreational fisher may, on an extended licensed charter fishing trip, take and possess up to twice the number of fin fish of the species listed in schedule 6, part 5 that are regulated by number in schedule 2.

### **Form of other particular fin fish for extended licensed charter fishing trip**

Clause 153 provides that a recreational fisher may possess, on an extended licensed charter fishing trip, a fillet of a fin fish, only if the fillet has a 3cm square area of skin attached to it.

## **Part 6                              Measurement of fish**

### **Division 1                      Size**

#### **Balmain bug**

Clause 154 provides for how the size of a Balmain bug must be measured.

#### **Blue swimmer crab**

Clause 155 provides for how the size of a blue swimmer crab must be measured and also provides an illustration.

#### **Bug**

Clause 156 provides for how the size of a bug must be measured.

### **Fin fish**

Clause 157 provides for how the size of a fin fish must be measured and also provides a definition of the term “required position” in which a fin fish must be placed in order for it to be measured properly. The clause further provides an illustration of how a fin fish is to be measured.

### **Mud crab**

Clause 158 provides for how the size of a mud crab must be measured, with or without its carapace.

### **Painted crayfish**

Clause 159 provides for how the size of a painted crayfish must be measured, with or without its carapace.

### **Pearl oyster**

Clause 160 provides for how the size of a pearl oyster must be measured whether or not the shell is broken or chipped.

### **Red spot crab (three spot) crab**

Clause 161 provides for how the size of a red spot crab (three spot crab) must be measured.

### **Saucer scallop**

Clause 162 provides for how the size of a saucer scallop must be measured whether or not the shell is broken or chipped.

### **Spanner crab**

Clause 163 provides for how the size of a spanner crab must be measured, with or without its carapace.

## **Trochus**

Clause 164 provides for how the size of a trochus must be measured.

## **Division 2            Total volume**

### **How total volume must be measured**

Clause 165 provides for how the total volume of fish must be measured.

## **Division 3            Weight**

### **Green snails**

Clause 166 provides for how the weight of a green snail must be measured.

## **Division 4            Quantity**

### **Threshold percentage of saucer scallops**

Clause 167 provides for how the threshold percentage of undersized scallops taken or possessed by a person may be determined. The clause further provides for a definition of undersized scallops for the purposes of the provision.

## **Part 7                    General exceptions**

### **Application of pt 7**

Clause 168 provides general exceptions to the declarations concerning prescribed coral reef fin fish, described in part 3, part 4, division 1, part 5 and schedule 2.

### **Person may carry out prohibited activity under permit**

Clause 169 provides that anyone may perform an activity, despite the regulated fish declarations described in part 3 and schedule 2, if they are authorised under a permit to perform the activity and they comply with the permit conditions.

### **Person possessing fish in regulated form for immediate consumption**

Clause 170 provides that a person may possess fish in a regulated form which would otherwise be prohibited (e.g. a blue swimmer crab without its carapace) if they are going to immediately consume it.

### **Recreational fisher possessing fin fish for bait**

Clause 171 provides that a recreational fisher may possess one regulated fin fish if he has processed or is processing the fish for use as bait for recreational fishing. It further provides that if the fish being used for bait is either spanish mackerel or a prescribed coral reef fin fish, the fisher must ensure that the pectoral fin has been removed.

### **Person possessing fish in a regulated form on a transport boat**

Clause 172 provides that a person may possess fish in a form which would otherwise be prohibited on a boat, if they are a paying passenger and the boat is not used to take fish and only transports people or vehicles, such as a barge or a ferry.

### **Possession of regulated fish obtained from particular persons**

Clause 173 provides that a person may possess fish which have been produced in an authorised aquaculture facility and which have legally passed the first point of sale.

### **Possession of fish for display in aquarium**

Clause 174 provides that a person may possess regulated fish which have been bred for display in an aquarium.

## **Possession of mollusc shells for collection**

Clause 175 provides that a person may take and possess a mollusc shell for a non-commercial shell collection.

# **Chapter 4      Other fisheries declarations**

## **Part 1            Regulated fishing apparatus declarations**

### **Division 1        Preliminary**

#### **Operation of pt 1**

Clause 176 states that this part provides for declarations to regulate the purchase, sale, possession or use of particular fishing apparatus under sections 37(3) and 42 of the Act. Formerly, activities concerning certain fishing apparatus were “prohibited” in fisheries subordinate legislation under section 84 of the Act. Further, section 85 of the Act prohibited certain activities with respect to fishing apparatus for which an authority was required, unless a person held that authority. The regulated fishing apparatus declarations in this part consolidate the activities formerly prescribed under section 84 or 85 of the Act.

#### **Relationship with regulated waters declarations**

Clause 177 provides that if an activity that is allowed under a regulated fishing apparatus declaration is performed in regulated waters, the activity may still contravene an applicable regulated waters declaration. For example, a recreational fisher may possess a shell dredge, if it has a mouth not wider than 0.6m and prongs not longer than 75mm, however a recreational fisher must not use a shell dredge in Moreton Bay where the use is prohibited under a regulated waters declaration.

## **Division 2                      Declarations applying generally**

### **Regulation of commercial fishing apparatus**

Clause 178 provides that a person must not buy, sell, possess or use commercial fishing apparatus except under an authority or a provision of the regulation or management plan that allows the purchase, sale, possession or use of the apparatus.

### **Using nets—general**

Clause 179 provides the ways in which all persons are prohibited from using nets except where the method is otherwise authorised under the regulation or a management plan. The intent is to prevent nets being used in a way that increases their effectiveness in catching fish beyond what is lawfully permitted.

### **Prohibition of possession or use of purse seine nets**

Clause 180 provides a prohibition on all persons using or possessing a purse seine net to take fish in Queensland waters.

## **Division 3                      Declarations for trade or commerce**

### **Using nets in a commercial fishery**

Clause 181 provides a prohibition on commercial fishers performing an activity, without a reasonable excuse, that effectively reduces the mesh size of a net, except where the activity is otherwise authorised under the Regulation or a management plan. The clause is not intended to prevent the use of nets in a commercial fishery such as tunnel nets, which are sometimes partially overlapped in order for individual panels of the net to be joined or staked.



## **Division 4                      Declarations for recreational fishers**

### **Subdivision 1                Possessing particular fishing apparatus**

#### **Cast nets**

Clause 182 provides for the dimensions of a cast net for use by recreational fishers in tidal waters.

#### **Scoop nets**

Clause 183 provides for the dimensions of a scoop net for use by recreational fishers in tidal waters.

#### **Seine nets**

Clause 184 provides for the dimensions of a seine net for use by recreational fishers in tidal waters.

#### **Shell dredges**

Clause 185 provides for the dimensions of a shell dredge for use by recreational fishers in tidal waters.

### **Subdivision 2                Regulation of particular fishing apparatus in tidal waters**

#### **Application of sdiv 2**

Clause 186 provides for the ways in which particular fishing apparatus may be used by recreational fishers in tidal waters or on tidal land.

### **Prohibition of use of particular traps**

Clause 187 provides a prohibition on recreational fishers using a canister trap, funnel trap or round trap to take fish in tidal waters or on tidal land.

### **Using crab apparatus**

Clause 188 provides that a recreational fisher may use crab apparatus only if the recreational fisher does not use more than a total of four items of crab apparatus, attaches identification to the apparatus and attaches the apparatus to a fixed object or a float. Where the apparatus is attached to a float, the float must comply with prescribed specifications. Further, where the apparatus is a collapsible trap or an inverted dilly, the apparatus must comply with prescribed specifications.

### **Using fishing lines and hooks**

Clause 189 provides that a recreational fisher must not use more than three fishing lines and must not attach more than a total of 6 hooks or lures to the fishing lines being used. The clause further provides that a recreational fisher must not use a fishing line with a mechanically operated reel to take fish in Gulf of Carpentaria regulated waters.

### **Using hand-held forks**

Clause 190 provides that a recreational fisher must not use a hand-held fork for taking any other species of fish other than worms.

### **Using hand pumps**

Clause 191 provides that a recreational fisher must not use a hand pump for taking any other species of fish other than yabbies.

### **Using shell dredges**

Clause 192 provides a prohibition on a recreational fisher who is under 15 years of age using a shell dredge to take fish and provides that a recreational fisher who is 15 years of age or older, must not use a shell dredge to take any other species of fish other than a prescribed mollusc.

### **Using seine nets**

Clause 193 provides a prohibition on recreational fishers under 15 years of age using a seine net, unless they are supervised by a person who is 15 years of age or older.

### **Using spears or spear guns**

Clause 194 provides that recreational fishers may use spears or spear guns.

## **Division 5                    General exception**

### **Person may carry out prohibited activity under permit**

Clause 195 provides that anyone may perform a prohibited activity in regulated waters, despite the regulated fishing apparatus declarations described in divisions 2 to 4, if they are authorised under a permit to perform the activity and they comply with the permit conditions.

## **Part 2                            Regulated fishing method declarations**

### **Division 1                    Preliminary**

#### **Operation of pt 2**

Clause 196 states that this part provides for declarations to regulate the way in which fish may be taken under sections 37(4) and 42 of the Act. Formerly, section 80 of the Act provided that it was an offence to take fish in a prohibited way and subordinate legislation prohibited certain fishing practices. Such matters are now dealt with by regulated fishing method declarations under section 37(4) of the Act. The regulated fishing method declarations in this part consolidate the activities formerly prescribed under section 80 of the Act and those formerly prohibited by a variety of stand alone offences in fisheries subordinate legislation.

## **Division 2                      Declarations applying generally**

### **Taking fish using fishing apparatus**

Clause 197 is a sustainability provision which provides a prohibition on a person allowing apparatus containing fish to remain out of the water unless the person immediately removes the fish from the apparatus. Further, the clause provides that if a person does not intend to keep the fish, the person must immediately release the fish into water deep enough to allow the fish to escape.

### **Particular fishing methods prohibited**

Clause 198 is a sustainability provision which prohibits taking fish in specified ways to ensure that fishing methods which injure fish or jeopardise the sustainability of fish stocks are not used. The clause defines the terms “crab hook” and “jagging or foul-hooking” for the purposes of the provision.

## **Division 3                      Declarations applying to recreational fishers**

### **Taking regulated coral reef fin fish**

Clause 199 provides the only ways by which a recreational fisher can take regulated coral reef fin fish.

## **Division 4                      General exception**

### **Person may carry out prohibited activity under permit**

Clause 200 provides that, despite the regulated fishing method declarations described in divisions 2 and 3, anyone may perform a prohibited activity, if they are authorised under a permit to perform the activity and they comply with the permit conditions.

## **Chapter 5      Authorities**

### **Part 1              Preliminary**

#### **Simplified outline of ch 5**

Clause 201 provides an outline of what parts 2 to 9 in chapter 5 operationally set out.

### **Part 2              General provisions about authorities**

#### **Division 1        Types of authorities**

#### **Subdivision 1    Prescribed authorities**

##### **Purpose of sdiv 1**

Clause 202 provides that this subdivision generally describes the types of authorities that may be issued under the Act. Given the broad definition of “authority” under the Act, the authority is not limited to authority under a provision of the regulation or a Management Plan; however, the authority must be one of the types in the subdivision.

##### **Types of authorities**

Clause 203 provides an inclusive list of the types of authorities, other than a quota, which may be issued by the chief executive, namely resource allocation authorities, permits and licences.

## **Types of permits**

Clause 204 provides an inclusive list of the types of permits which may be issued by the chief executive, namely developmental fishing permits, indigenous fishing permits and “general fisheries permits”.

## **Types of licences**

Clause 205 provides an inclusive list of the types of licences which may be issued by the chief executive, namely buyer licences, carrier boat licences, charter fishing licences, commercial fisher licences, commercial fishing boat licences and commercial harvest fishery licences.

## **Subdivision 2      Other authorities**

### **Types of quota authorities**

Clause 206 provides that types of quota authorities are provided for by provisions of the regulation or specific management plans, namely SM units are provided by for chapter 10 of the regulation, ITQ units are provided for under the Spanner Crab Plan, T1 effort units and T2 effort units are provided for under the East Coast Trawl Plan and CT line units, OS line units and RTE line units are provided for under the Coral Reef Plan.

## **Division 2                      Authorisations under authorities**

### **Definition for div 2**

Clause 207 defines the term “authorising provision” as being a provision under parts 3 to 10 or chapters 6 to 11 for the purposes of the division.

### **Authorisations subject to regulation, management plans and authorities**

Clause 208 provides that an authority under parts 3 to 10, part 5 of chapter 6 or chapters 7 to 11, a management plan or an authority itself is subject to

the prohibitions or restrictions pertinent to the authority under which actions are taken.

### **Authority holder only requires 1 authority for an activity**

Clause 209 states that if there are two kinds of authorities that can authorise a particular activity, only one of those authorities is needed, not both.

## **Division 3                      Register of authorities**

### **Particulars to be contained in register—Act, s 73**

Clause 210 sets out the information about authority holders, other interested parties, boats and fishing entitlements that must be recorded in the register of authorities.

### **Holder to notify chief executive of particular changes—Act, s 73**

Clause 211 requires authority holders to provide advice to the chief executive when there is a change to details recorded in the register of authorities about the ownership, address, boat or interests of other parties.

## **Division 4                      Other Matters**

### **Authorities that continue after holder's death—Act, s 70C**

Clause 212 provides a list of the authorities which are prescribed for section 70C of the Act which continue on in perpetuity despite the death of the authority holder, namely a buyer licence, charter fishing licence, commercial fishing boat licence, commercial harvest fishery licence, and effort unit an ITQ unit, a line unit, a resource allocation or an SM unit.

### **Authorities in which inspectors may have an interest**

Clause 213 limits the purposes for which inspectors may hold authorities, for example, to activities such as research and fish stocking. This provision

clearly indicates the types of activities that inspectors may conduct under a permit to avoid any conflict of interest.

## **Part 3                      Resource allocation authorities**

### **Division 1                      Preliminary**

#### **Meaning of prescribed development purpose for declared fish habitat area**

Clause 214 defines “prescribed development purposes” which may be permitted within declared fish habitat areas.

### **Division 2                      Issue of and authorisation under resource allocation authorities**

#### **Restriction on issue of particular resource allocation authorities**

Clause 215 provides that the chief executive may issue a resource allocation authority for a declared fish habitat area only if the activity is for a prescribed development purpose for the declared fish habitat area. This clause lists the matters, including the matters regarding parts of the declared fish habitat area that are management A or B areas, that the chief executive must have regard to before issuing the resource allocation authority, such as the effects on community use, fishing, fish habitats and natural processes in the area.

#### **Authorisation under resource allocation authority**

Clause 216 outlines the activities that holders of three types of resource allocation authorities can do in a declared fish habitat area, provided the activity is done in accordance with the resource allocation authority and is carried out in a way authorised under the Planning Act.



## **Part 4                      Permits**

### **Division 1                      Restrictions on issue of particular permits**

#### **Prohibition on issue of permit for possessing or using purse seine net**

Clause 217 provides that the chief executive cannot issue a permit to allow the possession or use of a purse seine net to take fish or the possession fish which have been taken by a purse seine net. This provision is intended to protect dolphins, which are particularly susceptible to capture in purse seine nets.

#### **Restriction on issue of permit for taking or possessing maray or pilchard**

Clause 218 provides that the chief executive cannot issue a permit to allow the taking or possession of maray or pilchards for trade or commerce. However, the clause also sets out exceptions to this prohibition. The chief executive can issue such a permit for the taking or possessing of pilchards and marays, for use as bait in by under a commercial fishing boat licence or a commercial fisher licence, to feed display fish, for research purposes or to replace a permit issued under section 71 of the Act.

### **Division 2                      Authorisations under particular permits**

#### **Developmental fishing permit**

Clause 219 provides that a developmental fishing permit may authorise the use of fishing apparatus and the taking and sale of fish in order to assess the commercial viability of a fishing activity (that is not already a managed fishery), fishing apparatus or a boat.

## **Indigenous fishing permit**

Clause 220 provides that an indigenous fishing permit may authorise the use of fishing apparatus and the taking and sale of fish in order to assess the commercial viability of a fishing activity (that is not already a managed fishery), fishing apparatus or a boat.

# **Part 5                      Licences, other than licences for commercial fishing**

## **Division 1                      Buyer licence**

### **Authorisation under a buyer licence**

Clause 221 sets out what the holder of a buyers licence can do in regard to buying, selling and processing fish.

### **Conditions of a buyer licence**

Clause 222 requires buyers to sign accurate catch disposal records when they buy coral reef fin fish and spanish mackerel from appropriately licensed fishers. This ensures the product can be traced through the marketing chain.

## **Division 2                      Carrier boat licence**

### **Authorisation under carrier boat licence**

Clause 223 sets out what the holder of a carrier boat licence can do in regard to carrying fish.

## **Division 3 Charter fishing licence**

### **Authorisation under charter fishing licence**

Clause 224 sets out what the holder of a charter fishing licence can do in regard to charter fishing trips.

### **Condition of charter fishing licence**

Clause 225 provides that a person who conducts a charter fishing trip may take or allow someone else to take, maray and pilchards but only for use as bait during the trip and only if the taking complies with the fishing apparatus declarations applying to recreational fishers.

## **Part 6 General provisions about authorities for commercial fishing**

### **Division 1 Authorities for sale of fisheries resources**

#### **Conditions of authority**

Clause 226 prescribes the conditions for an authority that authorises a person to sell fisheries resources. The clause provides that if the authority states (directly or by a provision identified by a fishery symbol) the way in which the resources may be sold, they can only be sold in that way; however, this may be further restricted by other provisions of the Regulation or a management plan.

## **Division 2**

## **Conditions about boat marks**

### **Application of div 2**

Clause 227 provides that the division applies to an authority that authorises the use of a boat and provides how the authorised boat must be marked under an authority.

### **Reference to a boat mark for an authorised boat**

Clause 228 provides the meaning of references to boat marks for both primary and tender boats.

### **Requirements for placing boat mark on authorised boat**

Clause 229 provides that the authority holder is responsible for placing the boat mark on the authorised boat in the way prescribed in the provision. The clause also provides a convention for the dimensions and details of the boat mark and for where the boat mark is to be placed on the boat regarding boats of different lengths.

### **Authorised boat must not be used without boat mark**

Clause 230 provides that a person in control of a boat must not use an authorised boat for commercial fishing or allow it to be used for commercial fishing without a boat mark placed on it in accordance with clause 229.

### **Requirement to remove boat mark**

Clause 231 provides that it is a condition of the authority that the holder must remove the boat mark if the boat is replaced or if the authority expires or is surrendered or cancelled. The clause further defines what a “holder” is in relation to an expired authority for the purposes of the provision.

## **Part 7                      Commercial fisher licence**

### **Division 1                      Authorisation—general**

#### **Authorisation—commercial fisher**

Clause 232 sets out what holders of commercial fisher licences can do in regard to taking and selling fish and possessing and using commercial fishing apparatus.

#### **Authorisation—assistant fisher**

Clause 233 sets out what assistant fishers can do in regard to taking and selling fish and possessing and using commercial fishing apparatus.

### **Division 2                      Authorisation—fishing priority**

#### **Subdivision 1                  Preliminary**

##### **Definitions for div 2**

Clause 234 provides definitions for the terms “ocean beach fishery flag”, and “ocean beach net area” and provides a convention for the placement of those flags.

##### **Meaning of ready to fish**

Clause 235 defines when a commercial fisher is “ready to fish”.

#### **Subdivision 2                  Fishing priorities**

##### **Fishing priority—ocean beach fisheries**

Clause 236 provides that when commercial fishers are acting under commercial fishing boat licences with listed symbols written on them, the

fishers are authorised to use a net in an ocean beach net area for which the licence is issued and the fishing priority is the order in which the fishers are ready to fish with the net in the area.

### **Fishing priority—other commercial fisheries**

Clause 237 provides that when commercial fishers are acting under commercial fishing boat licences, the fishers are authorised to use a net in an area other than an ocean beach fishery for which the licence is issued in the area within a net's length of each boat and the fishing priority is the order in which fishers are ready to fish with the net in the area.

### **Duration of fishing priority**

Clause 238 limits the duration of fishing priority in clauses 236 and 237 to six hours and only while a fisher remains ready to net fish in the area. The provision stops a fisher claiming an area without actually fishing, to prevent other fishers from using their nets in the area.

### **Joint fishers taken to be 1 fisher**

Clause 239 provides that two commercial fishers jointly using nets are treated as one commercial fisher for the purpose of determining fishing priority.

## **Subdivision 3      Offences relating to fishing priorities**

### **Interfering with ocean beach fishery flag**

Clause 240 provides that it is an offence to interfere with a flag marking an ocean beach net area.

### **Obstructing exercise of a fishing priority**

Clause 241 provides that it is an offence to obstruct a commercial fisher exercising his fishing priority.

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## **Division 3                      Conditions**

### **General conditions of a commercial fisher licence**

Clause 242 provides that it is a condition of a commercial fisher licence that its holder must not act, or direct an assistant fisher to act, under more than one commercial fishing boat licence in the same commercial fishery at the same time. This limits a commercial fisher to one boat and one fishery at a time. The clause further clarifies the activities based on whether the fisher is using SM units held by another person.

## **Division 4                      Other matters**

### **Commercial fisher licence not transferable**

Clause 243 provides that a commercial fisher licence is not transferable. The licence is specific to the holder.

## **Part 8                              Commercial fishing boat licence**

### **Division 1                      Issue**

#### **Restriction on issue of commercial fishing boat licences**

Clause 244 provides that only one commercial fishing boat licence to apply to a primary boat at any one time. This is to ensure that there can be no dispute as to who is responsible for the boat and any activity it might be involved in.

#### **Requirement to decide number of tender boats for commercial fishing boat licences**

Clause 245 provides that the chief executive must decide the authorised number of tender boats that are authorised for each fishery symbol to be

written on the licence, and specifies a convention regarding how the number and type of tender boats are to be shown on boat licences.

## **Division 2                    Authorisation**

### **Authorisation under a commercial fishing boat licence**

Clause 246 sets out what a commercial fishing boat licence holder is authorised to do when a tender boat is used instead of a primary boat and what rules apply to VMS reporting by trawlers in this circumstance.

## **Division 3                    Conditions**

### **General conditions of a commercial fishing boat licence**

Clause 247 prescribes general conditions which apply to commercial fishing boat licences.

## **Part 9                        Commercial harvest fishery licence**

### **Authorisation under a commercial harvest fishery licence**

Clause 248 sets out what activities a commercial harvest fishery licence holder may undertake. The clause also provides a definition of the term “nominated person” for the purposes of the provision.



## **Chapter 6            General provisions about fishery symbols**

### **Part 1                Preliminary**

#### **Simplified outline of ch 6**

Clause 249 provides an outline of the matters dealt with by the provisions in each part of this chapter.

### **Part 2                Fishery symbols for particular commercial fisheries**

#### **Particular fishery symbols included in particular management plans**

Clause 250 sets out the fishery symbols that are provided for under particular management plans.

### **Part 3                Writing fishery symbols**

#### **Division 1            General provisions**

##### **Writing fishery symbols on commercial fishing boat or harvest fishery licence**

Clause 251 provides that fishery symbols can be written on commercial fishing boat or commercial harvest licences, but not on any other type of authority. Further this clause provides that any fishery symbol may be written on a boat licence, but that only harvest and eel symbols can be written on a harvest licence. This ensures that symbols for fisheries that can only be fished with a boat are only written on a boat licence.

## **Restriction on writing multiple fishery symbols**

Clause 252 provides that a symbol cannot be written on a licence more than once, except for the spanner crab C3 symbol. This is to prevent fishers using more than one set of fishing apparatus at a time and being unable to attend to it properly. The exception for the spanner crab C3 fishery symbol allows an increased daily catch limit in the northern area if the fisher holds multiple symbols, but the management plan places overall limits on the quantity of fishing apparatus that may be used in that area.

## **Division 2                      Particular fishery symbols**

### **Restrictions on writing fishery symbol ‘SM’**

Clause 253 provides for the writing of an SM symbol on a licence only if that symbol is transferred from another licence, or if a licence with an SM symbol is itself being replaced entirely. This is to ensure that the number of SM symbols does not increase.

### **Restriction on writing fishery symbols on licences allowing the use of boats of particular lengths in commercial fisheries**

Clause 254 provides for the writing of a fishery symbol on a licence only if the boat mentioned in the licence is within the maximum length allowed for that fishery. An exception applies where a boat that is over the length limit was licensed before 1 December 1995 and is being replaced. This is to ensure that the number of over sized boats already in the fishery does not increase.

## **Part 4                              Moving fishery symbols**

### **Definitions for pt 4**

Clause 255 provides definitions for “administrative conditions”, “first licence” and “second licence” for the purposes of part 4.

## **Application to move fishery symbol to another licence**

Clause 256 provides that an application may be made to move a fishery symbol and associated tender boats and conditions from one licence to another. An application must be made in the appropriate form and accompanied by the fee prescribed under schedule 9.

## **Deciding application**

Clause 257 provides that the chief executive may either approve or refuse a fishery symbol movement application and, if approving the application, the chief executive may impose conditions.

## **Amendments required if application approved**

Clause 258 sets out the administrative actions the chief executive must take if the fishery symbol movement application is approved, either without conditions, or with conditions to which the applicants have agreed within the specified timeframe (28 days). The clause further provides a definition of the term “authorised tender boat number” for the purposes of the provision.

## **Information notice about refusal of conditions**

Clause 259 provides that if the fishery symbol movement application is refused, or if conditions are imposed to which the applicants have not agreed within the specified timeframe (28 days), the chief executive must advise the applicant of the reasons for the refusal or the conditions imposed. This provides an applicant with a decision within a reasonable time and the basis for an appeal against a decision which the applicant may find unfavourable.

## **Part 5**                      **General provisions about authorisations under licences with fishery symbols**

### **Authorisation under licences on which fishery symbols are written**

Clause 260 provides that a fishery symbol written on a licence allows a commercial fisher to do what is authorised under the licence under this part or part 6, chapters 7 or 10 or a management plan in the particular fishery concerned. The symbol may limit the fisher's activities in relation to the area that may be fished in, the species that may be taken and the number and types of fishing apparatus that may be used.

### **Fishery symbol does not authorise taking fish in particular Joint Authority fisheries**

Clause 261 provides that this chapter and chapters 7 to 10 do not authorise a person acting under a licence to take fish in a Joint Authority fishery, unless the Joint Authority endorses the licence to extend the licence to activities that the Joint Authority manages, and those activities include taking fish.

## **Part 6**                      **Conditions applying generally to licences with fishery symbols**

### **Application of pt 6**

Clause 262 provides that the provisions of this part apply to authorised persons acting under a licence in a commercial fishery.

### **Taking fish in a fishery area of a commercial fishery**

Clause 263 provides a general condition applying to licences to which fishery symbols are attached, such that a person acting under a licence for a

commercial fishery, must only take fish in the area relating to the fishery symbol or the area stated on the licence.

### **Taking fish in an area stated on a licence**

Clause 264 provides that an authorised person may take fish only from a particular area if a provision about the relevant fishery restricts the taking of fish to an area within the fishery stated on the authorised person's licence, and the particular area is stated on that licence.

### **Taking particular fish**

Clause 265 provides that an authorised person may take only particular fish if a provision about the relevant fishery provides that only those fish may be taken in the fishery area.

### **Using fishing apparatus**

Clause 266 provides that an authorised person must use particular fishing apparatus, or use fishing apparatus in a particular way, or use no more than a particular number of fishing apparatus, if a provision about the relevant fisher provides that only particular fishing apparatus may be used, or fishing apparatus must be used in a particular way, or a maximum number of particular type of fishing apparatus may be used. Further, an authorised person must use no more than one fishing apparatus if no fishery provision about the relevant fishery specifies a maximum number of particular type of fishing apparatus that may be used.

### **Taking fish in a particular way**

Clause 267 provides that an authorised person may only take fish in a particular way, if a provision about the relevant fishery provides that the fish may only be taken in the fishery in that particular way.

### **Taking fish during a fishery period**

Clause 268 provides that an authorised person may only use apparatus or take fish in a particular period, if a fishery provision about the relevant

fishery states a period during which particular fishing apparatus may be used or particular fish may be taken.

### **Activities prohibited or restricted in particular areas within fishery areas**

Clause 269 provides that an activity is prohibited or restricted in a particular area within the fishery, if a fishery provision about the relevant fishery prohibits or restricts an activity within the particular area.

### **Conditions of licence may apply in more than 1 way**

Clause 270 provides that the conditions in the above clauses in this part, chapters 7 to 10 or a management plan may apply to licences in more than one way. The clause provides an example of how more than one condition may apply.

### **Conditions of licences on which more than 1 fishery symbol is written**

Clause 271 limits commercial fishers to operating in only one fishery at a time. However, commercial fishers may take crabs in the crab fishery and fish in one other commercial fishery at the same time. Further, a commercial fisher may take spanish mackerel under fishery symbol “SM”, regulated coral reef fin fish under fishery symbol “RQ” and other fin fish under fishery symbols “L1”, “L2”, “L3”, “L6”, “L7” or “L8” at the same time. The use of SM and RQ fishery symbols in conjunction with a range of L (line fishery) symbols, is allowed, as the L symbols only serve to denote the areas in which particular SM and RQ fishers are entitled to operate.

## **Chapter 7      Commercial harvest fisheries**

### **Part 1            Aquarium fish fishery ('A1', 'A2')**

#### **Division 1        Definition**

##### **What is the aquarium fish fishery**

Clause 272 provides a definition of the “aquarium fish fishery”.

#### **Division 2        Fishery symbols and area**

##### **Fishery symbols**

Clause 273 states that the fishery symbols for the aquarium fish fishery are A1 and A2.

##### **Fishery area**

Clause 274 prescribes the fishery area for the aquarium fish fishery.

#### **Division 3        Conditions about taking fish in fishery—general**

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

Clause 275 prescribes the species of fish which may be taken under a licence on which the fishery symbols A1 or A2 are written (an “aquarium fish licence”), namely any fish other than barramundi, bêche-de-mer, shell grit, star sand and any species of coral, oyster, pearl oyster or trochus.

### **Where fish may be taken**

Clause 276 prescribes the waters within the aquarium fish fishery area from which fish may be taken under an aquarium fish licence. In relation to most of the aquarium fish fishery area, the fish may only be taken if the particular waters are stated on the licence.

### **Other conditions about taking fish**

Clause 277 prescribes conditions about the taking of fish under an aquarium fish licence. No more than three people may take fish at the same time. Only the boat identified in the licence plus one other boat may be used to take fish in the same location. The fish must not be taken for human consumption and must be taken only by prescribed methods.

### **Use of fishing lines**

Clause 278 provides that a fishing line may be used to take fish under an aquarium fish licence only if the fishing line has a single barbless hook.

### **Use of cast nets**

Clause 279 provides that a cast net may be used to take fish under an aquarium fish licence only if the dimensions of the cast net are no more than specified dimensions.

### **Use of scoop nets**

Clause 280 provides that a scoop may be used to take fish under an aquarium fish licence only if the dimensions of the scoop net are no more than specified dimensions.

### **Use of seine nets**

Clause 281 provides that a seine net may be used to take fish under an aquarium fish licence only if the dimensions of the seine net are no more than specified dimensions and the person using the seine net is within 100 metres of it.



## **Selling fish**

Clause 282 provides that fish may be sold under an aquarium fish licence only if the fish are to be used for one of the prescribed purposes.

## **Division 4                      Additional authorisations and conditions for licences with fishery symbol “A1”**

### **Application of div 4**

Clause 283 provides that the provisions of this division apply to licences which have an A1 fishery symbol written on them.

### **Nominees for taking or selling fish**

Clause 284 provides that up to three persons (“nominees”) may, on behalf of the licence holder, take or sell fish which have been taken under a licence on which the fishery symbol A1 is written. The licence holder must give written notice of the nomination of each nominee to the chief executive.

### **Who may take fish**

Clause 285 provides that, subject to clause 277 (which provides that no more than 3 persons may take fish at the same time), fish can be taken under a licence on which the fishery symbol A1 is written only by the licence holder, a nominee or another person in the presence of the licence holder or nominee. Furthermore, the provision states that a person must not take or possess more than 10 fish and more than 2 fish of the same species.

### **Selling fish**

Clause 286 provides that the licence holder or a nominee may sell fish to anyone.

## **Division 5                      Additional authorisations and conditions for licences with fishery symbol “A2”**

### **Application of div 5**

Clause 287 provides that the provisions of this division apply to licences which have an A2 fishery symbol written on them.

### **Who may take fish**

Clause 288 provides that, subject to clause 277 (which provides that no more than 3 persons may take fish at the same time), fish can be taken under a licence on which the fishery symbol A2 is written only by the licence holder or a nominee.

### **Selling fish under the licence**

Clause 289 provides that the licence holder may sell fish to anyone under a licence on which the fishery symbol A2 is written.

## **Part 2                              Bêche-de-mer fishery (east coast) (‘B1’)**

### **What is the bêche-de-mer fishery**

Clause 290 provides a definition of the “bêche-de-mer fishery”.

### **Fishery symbol**

Clause 291 states that the fishery symbol for the bêche-de-mer fishery is B1.

### **Fishery area**

Clause 292 describes the fishery area for the bêche-de-mer fishery.

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

Clause 293 provides that only bêche-de-mer may be taken in the area under a licence on which the fishery symbol B1 is written (a “bêche-de-mer licence”).

### **Nominees for taking or selling bêche-de-mer**

Clause 294 provides that up to three persons (“nominees”) may, on behalf of the licence holder, take or sell fish which have been taken under a bêche-de-mer licence. The licence holder must give written notice of the nomination of each nominee to the chief executive.

### **Who may take bêche-de-mer**

Clause 295 provides that, subject to clause 297 (which provides that no more than 10 persons may take bêche-de-mer at the same time), bêche-de-mer can be taken under a bêche-de-mer licence only by the licence holder, a nominee or another person in the presence of the licence holder or nominee.

### **Permitted ways of taking bêche-de-mer**

Clause 296 provides that bêche-de-mer may be taken under a bêche-de-mer licence only by hand. Underwater breathing apparatus may be used when doing so.

### **General conditions of taking bêche-de-mer**

Clause 297 provides general conditions which apply to the taking of bêche-de-mer under a bêche-de-mer licence. No more than ten people may take fish at the same time. Only the boat identified in the licence plus four other boats may be used to take fish in the same location. Boats other than the boat identified in the licence must comply with prescribed dimensions.

### **Annual quota**

Clause 298 provides that the annual quota of bêche-de-mer that may be taken under a bêche-de-mer licence is the quota that is stated on the licence.

### **Selling bêche-de-mer**

Clause 299 provides that only the licence holder or a nominee may sell bêche-de-mer under a bêche-de-mer licence. Further they may only sell the bêche-de-mer to a person who holds an authority to buy bêche-de-mer or a person who is authorised under this regulation to buy bêche-de-mer.

### **VMS equipment and other requirements apply**

Clause 300 provides that the licence holder or person in control of a boat identified in a bêche-de-mer licence must install, maintain and use VMS equipment in compliance with VMS equipment requirements. Should the VMS equipment malfunction, a person cannot take bêche-de-mer until the equipment is fixed.

## **Part 3                      Coral fishery ('D')**

### **What is the coral fishery**

Clause 301 provides a definition of the “coral fishery”.

### **Fishery symbol**

Clause 302 states that the fishery symbol for the coral fishery is D.

### **Fishery area**

Clause 303 prescribes the fishery area for the coral fishery.

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

Clause 304 prescribes the species of fish which may be taken in the area under a licence on which the fishery symbol D is written (a “coral licence”).

### **Nominees for taking or selling coral**

Clause 305 provides that up to three persons (“nominees”) may, on behalf of the licence holder, take or sell fish which have been taken under a coral licence. The licence holder must give written notice of the nomination of each nominee to the chief executive.

### **Who may take coral**

Clause 306 provides that coral may be taken under a coral licence only by the licence holder or a nominee. However only one person—the licence holder or a nominee—may take coral at a time.

### **Where coral may be taken**

Clause 307 provides that coral may be taken under a coral licence from the area within the coral fishery that is stated on the licence, not the entire fishery area.

### **Permitted ways of taking coral**

Clause 308 provides that coral may be taken under a coral licence only by hand or using hand-held implements that are not mechanical implements. Underwater breathing apparatus may be used when doing so.

### **Annual quota**

Clause 309 provides that the annual quota of coral that may be taken under a coral licence is the quota that is stated on the licence.

### **Selling coral**

Clause 310 provides that the licence holder or a nominee may sell coral to anyone under a coral licence.

## **Part 4                      Shell fishery ('F')**

### **What is the shell fishery**

Clause 311 provides a definition of the “shell fishery”.

### **Fishery symbol**

Clause 312 states that the fishery symbol for the shell fishery is F.

### **Fishery area**

Clause 313 prescribes the fishery area for the shell fishery.

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

Clause 314 prescribes the fish which may be taken under a licence on which the fisher symbol F is written (a “shell licence”), namely molluscs except for green snails, oysters, pearl oysters, trochus and scallops.

### **Who may take molluscs**

Clause 315 provides that molluscs can be taken under a shell licence by the licence holder or another person in the presence of the licence holder.

### **Permitted ways of taking molluscs**

Clause 316 provides the ways in which broken and unbroken molluscs may be taken under a shell licence.

### **Use of primary boats**

Clause 317 prescribes the maximum length of a primary boat which may be used under a shell licence.

### **Use of shell dredges**

Clause 318 prescribes the dimensions of shell dredges which may be used under a shell licence.

### **Selling molluscs**

Clause 319 provides that the licence holder may sell molluscs to anyone.

## **Part 5 Shell grit fishery ('G')**

### **What is the shell grit fishery**

Clause 320 provides a definition of the “shell grit fishery”.

### **Fishery symbol**

Clause 321 states that the fishery symbol for the shell grit fishery is G.

### **Fishery area**

Clause 322 prescribes the fishery area for the shell grit fishery.

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

Clause 323 prescribes the fish which may be taken under a licence on which the fishery symbol G is written (a “shell grit licence”), namely shell grit.

### **Who may take shell grit**

Clause 324 prescribes the persons that are able to only take shell grit under a shell grit licence.

### **Where shell grit may be taken**

Clause 325 provides that shell grit may only be taken under a shell grit licence from the area within the shell grit fishery area that is stated on the shell grit licence, not the entire fishery area.

### **Permitted way of taking shell grit**

Clause 326 provides that shell grit may be taken under a shell grit licence only if the person replaces the total volume of shell grit with an equal volume of lawfully obtained sand.

### **Selling shell grit**

Clause 327 provides that the licence holder may sell shell grit to anyone.

## **Part 6                      Star sand fishery ('H')**

### **What is the star sand fishery**

Clause 328 provides a definition of the “star sand fishery”.

### **Fishery symbol**

Clause 329 states that the fishery symbol for the star sand fishery is H.

### **Fishery area**

Clause 330 prescribes the fishery area for the star sand fishery.

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

Clause 331 prescribes the fish which may be taken under a licence on which the fishery symbol H is written (a “star sand licence”), namely star sand.



### **Who may take star sand**

Clause 332 provides that the star sand may be taken under a star sand licence by the licence holder only.

### **Where star sand may be taken**

Clause 333 prescribes that star sand may only be taken under a star sand licence from the area within the star sand fishery area that is stated on the star sand licence, not the entire fishery area.

### **Permitted ways of taking star sand**

Clause 334 provides that star sand may be taken under a star sand licence only by hand or using hand-held implements that are not mechanical implements.

### **Selling star sand**

Clause 335 provides that the licence holder may sell star sand to anyone.

## **Part 7                      Trochus fishery (east coast)    ('J1')**

### **What is the trochus fishery**

Clause 336 provides a definition of the “trochus fishery”.

### **Fishery symbol**

Clause 337 states that the fishery symbol for the trochus fishery is J1.

### **Fishery area**

Clause 338 describes the fishery area for the trochus fishery.

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

Clause 339 prescribes the fish which may be taken under a licence on which the fishery symbol J1 is written (the “trochus licence”), namely trochus.

### **Nominees for taking trochus**

Clause 340 provides that the licence holder may nominate other persons (“nominees”) to take trochus on his behalf under the licence. The licence holder must give the chief executive written notice of the nominees.

### **Who may take trochus**

Clause 341 provides that, subject to clause 343 (which sets out general conditions for the taking of trochus), trochus can be taken under a trochus licence by the licence holder, a nominee, or another person in the presence of the licence holder or nominee.

### **Permitted ways of taking trochus**

Clause 342 provides that trochus may be taken under a trochus licence only by hand or using hand-held implements that are not mechanical implements. Underwater breathing apparatus may be used when doing so.

### **General conditions of taking trochus**

Clause 343 prescribes general conditions which apply to the taking of trochus under a trochus licence. Only the boat identified in the trochus licence and four other boats may be used at the same time to take trochus. The boats other than the boat identified in the trochus licence must not exceed prescribed dimensions. No more than the number of people stated on the licence may take trochus at the same time.

### **Quantity of trochus that may be taken**

Clause 344 provides that the total quantity of trochus that may be taken under a trochus licence in a year cannot exceed the amount stated on the trochus licence. This enables a limit to be set regarding the amount of trochus which can be taken for the entire fishery each year.

### **Selling trochus**

Clause 345 provides that only the licence holder may sell trochus under a trochus licence. Further they may only sell the trochus to a person who holds a licence to buy trochus or a person who is authorised under this regulation to buy trochus.

## **Part 8                      Juvenile eel fishery ('JE')**

### **What is the juvenile eel fishery**

Clause 346 provides a definition of the “juvenile eel fishery”.

### **Fishery symbol**

Clause 347 states that the fishery symbol for the juvenile eel fishery is JE.

### **Fishery area**

Clause 348 describes the fishery area for the juvenile eel fishery.

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

Clause 349 prescribes the fish which may be taken under a licence on which the fishery symbol JE is written (a “juvenile eel licence”), namely a juvenile eel of the genus *Anguilla*.

### **Who may take juvenile eels**

Clause 350 provides that, subject to clause 353 (which sets out general conditions for the taking of juvenile eels), juvenile eels can be taken under a juvenile eel licence by the licence holder, a nominee, or another person in the presence of the licence holder or nominee. The licence holder must give the chief executive written notice of the nominees.

### **Where juvenile eels may be taken**

Clause 351 prescribes that juvenile eels may only be taken under a juvenile eel licence from the area within the juvenile eel fishery area that is stated on the juvenile eel licence, not the entire fishery area.

### **Permitted ways of taking juvenile eels**

Clause 352 provides that juvenile eels may be taken under a juvenile eel licence only in the manner that is stated on that licence.

### **General conditions for taking juvenile eels**

Clause 353 provides the general condition that no more than the number of people stated on the licence may take juvenile eels at the same time.

### **Selling juvenile eels**

Clause 354 provides that the licence holder may sell juvenile eels to anyone.

## **Part 9 Oyster fishery ('O')**

### **What is the oyster fishery**

Clause 355 provides a definition of the "oyster fishery".

### **Fishery symbol**

Clause 356 states that the fishery symbol for the oyster fishery is O.

### **Fishery area**

Clause 357 prescribes the fishery area for the oyster fishery.

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

Clause 358 prescribes the fish which may be taken under a licence on which the fishery symbol O is written (an “oyster licence”), namely blacklip and milky oysters.

### **Who may take oysters**

Clause 359 provides that, subject to clause 362 (which sets out general conditions for the taking of oysters), oysters can be taken under an oyster licence by the licence holder, a nominee, or another person in the presence of the licence holder or nominee. The licence holder must give the chief executive written notice of the nominees.

### **Where oysters may be taken**

Clause 360 prescribes that oysters may only be taken under an oyster licence from the area within the oyster fishery area that is stated on the oyster licence, not the entire fishery area.

### **Permitted ways of taking oysters**

Clause 361 provides that oysters may be taken under an oyster licence only in the manner that is stated on that licence.

### **General conditions for taking oysters**

Clause 362 provides the general condition that no more than the number of people stated on the licence may take oysters at the same time.

### **Selling oysters**

Clause 363 provides that the licence holder may sell oysters to anyone.

## **Part 10 Pearl fishery ('P')**

### **What is the pearl fishery**

Clause 364 provides a definition of the “pearl fishery”.

### **Fishery symbol**

Clause 365 states that the fishery symbol for the pearl fishery is P.

### **Fishery area**

Clause 366 prescribes the fishery area for the pearl fishery.

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

Clause 367 prescribes the fish which may be taken under a licence on which the fishery symbol P is written (a “pearl licence”), namely live pearl oysters.

### **Permitted ways of taking live pearl oysters**

Clause 368 provides that live pearl oysters may be taken under a pearl licence only by hand or using hand-held implements. Underwater breathing apparatus may be used when doing so.

### **Selling live pearl oysters**

Clause 369 provides that the licence holder may sell live pearl oysters taken under the pearl licence. Further they may only sell the live pearl oysters to a person acting under a development approval for prescribed aquaculture development.

## **Part 11                      Beachworm fishery ('W1')**

### **What is the beachworm fishery**

Clause 370 provides a definition of the “beachworm fishery”.

### **Fishery symbol**

Clause 371 states that the fishery symbol for the beachworm fishery is W1.

### **Fishery area**

Clause 372 prescribes the fishery area for the beachworm fishery.

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

Clause 373 prescribes the fish which may be taken under a licence on which the fishery symbol W1 is written (a “beachworm licence”), namely beachworms.

### **Who may take beachworms**

Clause 374 provides that beachworms may be taken under the beachworm licence only by the licence holder.

### **Where beachworms may be taken**

Clause 375 prescribes that beachworms may only be taken under a beachworm licence from the area within the fishery area that is stated on the beachworm licence, not the entire fishery area.

### **Permitted ways of taking beachworms**

Clause 376 provides that beachworms may be taken under a beachworm licence only by hand.

## **Selling beachworms**

Clause 377 provides that only the licence holder may sell beachworms taken under a beachworm licence. Further they may only sell the beachworms to a person who holds a licence to buy beachworms or a person who is authorised under this regulation to buy them under a licence.

## **Part 12                      Bloodworm fishery ('W2')**

### **What is the bloodworm fishery**

Clause 378 provides a definition of the “bloodworm fishery”.

### **Fishery symbol**

Clause 379 states that the fishery symbol for the bloodworm fishery is W2.

### **Fishery area**

Clause 380 prescribes the fishery area for the bloodworm fishery.

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

Clause 381 prescribes the fish which may be taken under a licence on which the fishery symbol W2 is written (a “bloodworm licence”), namely bloodworms.

### **Who may take bloodworms**

Clause 382 provides that bloodworms may be taken under a bloodworm licence only by the licence holder.

### **Permitted ways of taking bloodworms**

Clause 383 provides that bloodworms may be taken under a bloodworm licence only by hand or by hand-held forks. Further, the clause provides that any



seagrass disturbed in the process of taking the bloodworms must be put in an upright position immediately after the bloodworms are taken.

### **Selling bloodworms**

Clause 384 provides that only the licence holder may sell bloodworms under a bloodworm licence. Further they may only sell the bloodworms to a person who holds a licence to buy bloodworms or a person who is authorised under this regulation to buy them under a licence.

## **Part 13                      Marine yabby fishery ('Y')**

### **What is the marine yabby fishery**

Clause 385 provides a definition of the “marine yabby fishery”.

### **Fishery symbol**

Clause 386 states that the fishery symbol for the marine yabby fishery is Y.

### **Fishery area**

Clause 387 prescribes the fishery area for the marine yabby fishery.

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

Clause 388 prescribes the fish which may be taken under a licence on which the fishery symbol Y is written (a “marine yabby licence”), namely a marine yabby.

### **Who may take marine yabbies**

Clause 389 provides that marine yabbies may be taken under a marine yabby licence only by the licence holder.

### **Where marine yabbies may be taken**

Clause 390 prescribes that marine yabbies may only be taken under a marine yabby licence from the area within the marine yabby fishery area that is stated on the marine yabby licence, not the entire fishery area.

### **Permitted ways of taking marine yabbies**

Clause 391 provides that marine yabbies may be taken under a marine yabby licence only by using hand pumps. Further, mechanical pumps can be used if the marine yabby licence states that it is possible to do so.

### **Selling marine yabbies**

Clause 392 provides that only the licence holder may sell marine yabbies taken under a marine yabby licence. Further they may only sell the marine yabbies to a person who holds a licence to buy marine yabbies or a person who is authorised under this regulation to buy them under a licence.

## **Chapter 8      Commercial line fisheries**

### **Part 1              Line fishery (other than Great Barrier Reef region) ('L1')**

#### **What is the line fishery (other than Great Barrier Reef region)**

Clause 393 provides a definition of the “line fishery (other than Great Barrier Reef region)”.

#### **Fishery symbol**

Clause 394 states that the fishery symbol for the line fishery (other than Great Barrier Reef region) is L1.

### **Fishery area**

Clause 395 prescribes the fishery area for the fishery.

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

Clause 396 prescribes the fish which may be taken under a licence on which the fishery symbol L1 is written, namely fin fish other than spanish mackerel or regulated coral reef fin fish.

### **Permitted ways of taking fin fish**

Clause 397 provides that the fish may be taken under a licence on which the fishery symbol L1 is written only with fishing lines. A maximum of 3 fishing lines per person can be used at the same time. Further a maximum of 6 hooks may be attached to the lines being used at the same time.

### **Use of primary boats**

Clause 398 prescribes the maximum length of a primary boat which may be used under a licence on which the fishery symbol L1 is written.

### **Use of tender boats**

Clause 399 prescribes the maximum distance a tender boat may be used from the primary boat under a licence on which the fishery symbol L1 is written.

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

Clause 400 prescribes the maximum distance a commercial fisher and an assistant fisher can be from each other if they are on different boats under a licence on which the fishery symbol L1 is written, for the assistant fisher to be considered under direction of the commercial fisher.

## **Part 2                                  Line fishery (reef) ('L2', 'L3')**

### **What is the line fishery (reef)**

Clause 401 provides a definition of the “line fishery (reef)”.

### **Fishery symbols**

Clause 402 states that the fishery symbols for the line fishery (reef) are L2 or L3.

### **Fishery area**

Clause 403 prescribes the fishery area for the fishery.

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

Clause 404 prescribes the fish which may be taken under a licence on which the fishery symbol L2 or L3 is written, namely fin fish other than barramundi, spanish mackerel or regulated coral reef fin fish.

### **Permitted ways of taking fin fish**

Clause 405 provides that the fish may be taken under a licence on which the fishery symbol L2 or L3 is written only with fishing lines. A maximum of 3 fishing lines per person can be used at the same time. Further a maximum of 6 hooks may be attached to the lines being used at the same time.

### **Use of primary boats**

Clause 406 prescribes the maximum length of a primary boat which may be used under a licence on which the fishery symbol L2 or L3 is written.

### **Use of tender boats**

Clause 407 prescribes the maximum distance a tender boat may be used from the primary boat under a licence on which the fishery symbol L2 or

L3 is written. However, the clause provides that this limitation does not apply where the primary and tender boat are located on the same reef.

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

Clause 408 prescribes the maximum distance a commercial fisher and an assistant fisher can be from each other if they are on different boats under a licence on which the fishery symbol L2 or L3 is written, for the assistant fisher to be considered under direction. However, the clause provides that this limitation does not apply where the primary and tender boat are located on the same reef.

## **Part 3                      Line fishery (Queensland Fisheries Joint Authority No. 1) ('L4')**

### **What is the line fishery (Queensland Fisheries Joint Authority No. 1)**

Clause 409 provides a definition of the “line fishery (Queensland Fisheries Joint Authority No. 1)”.

### **Fishery symbol**

Clause 410 states that the fishery symbol for the line fishery (Queensland Fisheries Joint Authority No. 1) is L4.

### **Fishery area**

Clause 411 prescribes the fishery area for the fishery.

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

Clause 412 prescribes the fish which may be taken under a licence on which the fishery symbol L4 is written, namely fin fish other than

barramundi, black jewfish, blue salmon, jewel fish, king salmon, queenfish and spotted grunter bream.

### **Permitted ways of taking fin fish**

Clause 413 provides that the fish may be taken under a licence on which the fishery symbol L4 is written only with fishing lines. A maximum of 3 fishing lines per person can be used at the same time. Further a maximum of 6 hooks may be attached to the lines being used at the same time.

### **Use of primary boats**

Clause 414 prescribes the maximum length of a primary boat which may be used under a licence on which the fishery symbol L4 is written.

### **Use of tender boats**

Clause 415 prescribes the maximum distance a tender boat may be used from the primary boat under a licence on which the fishery symbol L4 is written.

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

Clause 416 prescribes the maximum distance a commercial fisher and an assistant fisher can be from each other if they are on different boats under a licence on which the fishery symbol L4 is written, for the assistant fisher to be considered under direction.

## **Part 4                      Line fishery (south Queensland) ('L6', 'L7')**

### **What is the line fishery (south Queensland)**

Clause 417 provides a definition of the "line fishery (south Queensland)".

### **Fishery symbols**

Clause 418 states that the fishery symbols for the line fishery (south Queensland) are L6 or L7.

### **Fishery area**

Clause 419 prescribes the fishery area for the fishery.

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

Clause 420 prescribes the fish which may be taken under a licence on which the fishery symbol L6 or L7 is written, namely fin fish other than barramundi, spanish mackerel or regulated coral reef fin fish.

### **Permitted ways of taking fin fish**

Clause 421 provides that the fish may be taken under a licence on which the fishery symbol L6 or L7 is written only with fishing lines. A maximum of 3 fishing lines per person can be used at the same time. Further a maximum of 6 hooks may be attached to the lines being used at the same time.

### **Use of primary boats**

Clause 422 prescribes the maximum length of a primary boat which may be used under a licence on which the fishery symbol L6 or L7 is written.

### **Use of tender boats**

Clause 423 prescribes the maximum distance a tender boat may be used from the primary boat under a licence on which the fishery symbol L6 or L7 is written.

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

Clause 424 prescribes the maximum distance a commercial fisher and an assistant fisher can be from each other if they are on different boats under a

licence on which the fishery symbol L6 or L7 is written, for the assistant fisher to be considered under direction.

## **Part 5**                      **Line fishery (multiple hook—east coast) ('L8')**

### **What is the line fishery (multiple hook—east coast)**

Clause 425 provides a definition of the “line fishery (multiple hook—east coast)”.

### **Fishery symbol**

Clause 426 states that the fishery symbol for the line fishery (multiple hook—east coast) is L8.

### **Fishery area**

Clause 427 prescribes the fishery area for the fishery.

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

Clause 428 prescribes the fish which may be taken under a licence on which the fishery symbol L8 is written, namely fin fish other than barramundi, snapper, spanish mackerel or regulated coral reef fin fish.

### **Permitted ways of taking fin fish**

Clause 429 provides that the fish may be taken under a licence on which the fishery symbol L8 is written only by using bottom set lines or drop lines; however, it is not possible to use a bottom set line and a drop line at the same time. A person must be within 100 metres of the line or group of lines while they are being used.



### **Use of drop lines**

Clause 430 provides that no more than 6 drop lines may be used at the same time under a licence on which the fishery symbol L8 is written. Each drop line must have no more than 50 hooks attached to it and must have a light coloured float that accords with prescribed dimensions attached to it.

### **Use of bottom set lines**

Clause 431 provides that no more than 3 bottom set lines may be used at the same time under a licence on which the fishery symbol L8 is written. A bottom set line must have no more than 300 hooks attached to it; however, if more than one bottom set line is used, the combined total of hooks must not exceed 300. Further, each bottom set line must have a light coloured float that accords with prescribed dimensions attached to its end.

### **Use of primary boats**

Clause 432 prescribes the maximum length of a primary boat which may be used under a licence on which the fishery symbol L8 is written.

### **Use of tender boats**

Clause 433 prescribes the maximum distance a tender boat may be used from the primary boat under a licence on which the fishery symbol L8 is written.

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

Clause 434 prescribes the maximum distance a commercial fisher and an assistant fisher can be from each other if they are on different boats under a licence on which the fishery symbol L8 is written, for the assistant fisher to be considered under direction.

## **Chapter 9      Commercial net fisheries**

### **Part 1            Ocean beach fisheries ('K1' to 'K8')**

#### **Division 1        Net fishery (ocean beach—area 1) ("K1")**

##### **What is the net fishery (ocean beach—area 1)**

Clause 435 provides a definition of the “net fishery (ocean beach—area 1)”.

##### **Fishery symbol**

Clause 436 states that the fishery symbol for the net fishery (ocean beach—area 1) is K1.

##### **Fishery area**

Clause 437 prescribes the fishery area for the fishery.

#### **Division 2        Net fishery (ocean beach—area 2) ("K2")**

##### **What is the net fishery (ocean beach—area 2)**

Clause 438 provides a definition of the “net fishery (ocean beach—area 2)”.

##### **Fishery symbol**

Clause 439 states that the fishery symbol for the net fishery (ocean beach—area 2) is K2.

### **Fishery area**

Clause 440 prescribes the fishery area for the fishery.

### **Division 3                      Net fishery (ocean beach—area 3)    (“K3”)**

#### **What is the net fishery (ocean beach—area 3)**

Clause 441 provides a definition of the “net fishery (ocean beach—area 3)”.

#### **Fishery symbol**

Clause 442 states that the fishery symbol for the net fishery (ocean beach—area 3) is K3.

### **Fishery area**

Clause 443 prescribes the fishery area for the fishery.

### **Division 4                      Net fishery (ocean beach—area 4)    (“K4”)**

#### **What is the net fishery (ocean beach—area 4)**

Clause 444 provides a definition of the “net fishery (ocean beach—area 4)”.

#### **Fishery symbol**

Clause 445 states that the fishery symbol for the net fishery (ocean beach—area 4) is K4.

### **Fishery area**

Clause 446 prescribes the fishery area for the fishery.

**Division 5                      Net fishery (ocean beach—area 5)  
   (“K5”)**

**What is the net fishery (ocean beach—area 5)**

Clause 447 provides a definition of the net fishery (ocean beach—area 5).

**Fishery symbol**

Clause 448 states that the fishery symbol for the net fishery (ocean beach—area 5) is K5.

**Fishery area**

Clause 449 prescribes the fishery area for the fishery.

**Division 6                      Net fishery (ocean beach—area 6)  
   (“K6”)**

**What is the net fishery (ocean beach—area 6)**

Clause 450 provides a definition of the net fishery (ocean beach—area 6).

**Fishery symbol**

Clause 451 states that the fishery symbol for the net fishery (ocean beach—area 6) is K6.

**Fishery area**

Clause 452 prescribes the fishery area for the fishery.

**Division 7                      Net fishery (ocean beach—area 7)  
   (“K7”)**

**What is the net fishery (ocean beach—area 7)**

Clause 453 provides a definition of the “net fishery (ocean beach—area 7)”.

**Fishery symbol**

Clause 454 states that the fishery symbol for the net fishery (ocean beach—area 7) is K7.

**Fishery area**

Clause 455 prescribes the fishery area for the fishery.

**Division 8                      Net fishery (ocean beach—area 8)  
   (“K8”)**

**What is the net fishery (ocean beach—area 8)**

Clause 456 provides a definition of the net fishery (ocean beach—area 8).

**Fishery symbol**

Clause 457 states that the fishery symbol for the net fishery (ocean beach—area 8) is K8.

**Fishery area**

Clause 458 prescribes the fishery area for the fishery.

## **Division 9**

## **Authorisations and conditions of licences for ocean beach fisheries**

### **Application of div 9**

Clause 459 provides that the provisions of this division apply to licences to fish in the ocean beach fisheries.

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

Clause 460 prescribes that any fish which may be taken under a licence on which the symbol K1, K2, K3, K4, K5, K6, K7 or K8 (an “ocean beach fishery symbol”) is written. However, this is subject to other provisions in the regulation, management plans and authorities.

### **Who may take fish**

Clause 461 provides that fish can be taken under a licence on which an ocean beach fishery symbol is written by the commercial fish and at least two, but no more than four assistant fishers. Where two or more commercial fishers jointly use one or more primary boats, and each primary boat may be used in the fishery under a commercial fishing boat licence, a maximum of four assistant fishers for each commercial fisher may take fish.

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

Clause 462 provides that fish may be taken under a licence on which an ocean beach fishery symbol is written by seine net only.

### **Fishery period**

Clause 463 provides that fish can only be taken under a licence on which an ocean beach fishery symbol is written during the period 1 April to 31 August.

### **Use of seine nets in the fishery area**

Clause 464 provides the dimension of a seine net that can be used to take fish under a licence on which an ocean beach fishery symbol is written.

### **Use of primary boats**

Clause 465 prescribes the maximum length of a primary boat which may be used under a licence on which an ocean beach fishery symbol is written.

### **Use of tender boats**

Clause 466 prescribes the maximum distance a tender boat may be used from the primary boat under a licence on which an ocean beach fishery symbol is written.

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

Clause 467 prescribes the maximum distance a commercial fisher and an assistant fisher can be from each other under a licence on which an ocean beach fishery symbol is written, for the assistant fisher to be considered under direction.

## **Part 2                      Net fishery (east coast no. 1)    ('N1')**

### **Division 1                      Definition**

#### **What is the net fishery (east coast no. 1)**

Clause 468 provides a definition of the “net fishery (east coast no. 1)”.

## **Division 2                      Fishery symbol and area**

### **Fishery symbol**

Clause 469 states that the fishery symbol for the net fishery (east coast no. 1) is N1.

### **Fishery area**

Clause 470 prescribes the fishery area for the fishery.

## **Division 3                      Taking fish**

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

Clause 471 provides that any fish may be taken under a licence on which the fishery symbol N1 is written. However, this is subject to other provisions in the regulation, management plan and authorities.

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

Clause 472 provides that fish may be taken under a licence on which the fishery symbol N1 is written by using mesh, seine, set mesh, set pocket or tunnel nets. A net that is hauled or not fixed and used in offshore waters; and a set mesh net cannot be used in a marked navigation channel used in offshore waters, or within 400 metres of a jetty or wharf, or 100 metres of another net that is being used. However, a person using more than one set mesh net may set the nets within 100 metres of one another, as long as they are not being set in a river or a creek.



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## **Division 4                      Use of mesh or seine nets in particular areas within the fishery area**

### **Use of seine nets in Lake Weyba**

Clause 473 provides that a seine net that may be used in Lake Weyba under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions. The clause further provides a limitation on the use of a seine net in that it may only be used to take prawns.

### **Use of mesh nets in Lakes Cootharaba, Cooroibah and Weyba**

Clause 474 provides that a mesh net used as a ring net that may be used in Lakes Cootharaba, Cooroibah and Weyba under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions.

### **Use of seine nets north of the Mary River**

Clause 475 provides that a seine net that may be used north of the Mary River under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions. The clause further provides a limitation on the use of a seine net in that it may only be used to take prawns.

### **Use of mesh nets in and near Hervey Bay**

Clause 476 provides that a mesh net that is hauled or not fixed may be used in offshore waters within a specified area of Hervey Bay under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions. Regarding particular parts of the specified area, the clause prescribes dimensions for the net that differ from those that apply generally, a time period during which the mesh net cannot be used and attendance requirements.

### **Use of mesh or seine nets south of Baffle Creek**

Clause 477 provides that a mesh or a seine net can be used south of Baffle Creek under a licence on which the fishery symbol N1 is written if it

accords with prescribed dimensions. The clause specifies the way in which a net that is hauled or not fixed or a back net may be used. Regarding a particular part, the clause specifies a time period during which the net cannot be used.

### **Use of mesh or seine nets north of Baffle Creek**

Clause 478 provides that a mesh or a seine net can be used north of Baffle Creek under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions. The clause specifies the way in which a net that is hauled or not fixed may be used. Regarding particular parts of the waters, the clause prescribes the types of mesh or seine nets that may be used, dimensions that differ from those that apply generally and a time period during which the net cannot be used.

### **Use of mesh nets in offshore waters of Keppel Bay**

Clause 479 provides that a mesh net that is hauled or not fixed that may be used in offshore waters of Keppel Bay under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions.

### **Use of mesh nets in offshore waters**

Clause 480 provides that a mesh net that is hauled or not fixed can be used in offshore waters under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions. The clause further provides that two such nets may be used if they accord with further prescribed dimensions and are used in particular parts of the waters. Further, regarding particular parts of the waters, the clause prescribes the time periods during which the net cannot be used.

### **Use of mesh or seine nets in rivers and creeks**

Clause 481 provides that a ring or seine net or a net that is hauled or not fixed can be used in rivers and creeks under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions. The clause specifies the way in which a net that is hauled or not fixed may be used. Regarding particular parts of the waters, the clause prescribes the types of

nets that may be used, dimensions that differ from those that apply generally and time periods during which a net can and cannot be used.

## **Division 5                      Use of set mesh nets in particular areas within the fishery area**

### **Use of set mesh nets in rivers and creeks between Kauri and Baffle Creeks**

Clause 482 provides that a set mesh net can be used in rivers and creeks between Kauri and Baffle Creeks under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions. The clause specifies that way in which two or three nets may be used in the waters and specifies attendance limits depending on the number of nets that are set.

### **Use of set mesh nets in and near Hervey Bay**

Clause 483 provides that a set mesh net that may be used in offshore waters within a specified area of Hervey Bay under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions. Regarding particular parts of the waters, the clause prescribes dimensions that differ from those that apply generally, a time period during which the net cannot be used and attendance limits.

### **Use of set mesh nets on foreshores between the Burnett River and Baffle Creek**

Clause 484 provides that a set mesh net that may be used on foreshores between the Burnett River and Baffle Creek under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions, but only outside a specified time period. The clause specifies the way in which the net may be used. Regarding a particular part of the waters, the clause prescribes a further time period during which the net cannot be used.

### **Use of set mesh nets in Keppel Bay**

Clause 485 provides that a set mesh net that may be used in offshore waters in a specific area within Keppel Bay under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions.

### **Use of set mesh nets in offshore waters**

Clause 486 provides that a set mesh net can be used in offshore waters under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions. The clause further provides that two such nets may be used if they accord with further prescribed dimensions and are used in particular parts of the waters. Regarding particular parts of the waters, the clause prescribes time periods during which the net cannot be used. Further, the clause provides an exception to attendance limits.

## **Division 6                      Use of set pocket nets in particular areas within the fishery area**

### **Use of set pocket nets in rivers**

Clause 487 provides that a set pocket net can be used in specified rivers under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions. The clause specifies the way in which the net may be used and attendance limits. Further, the clause provides a limitation on the use of a set pocket net in that it may only be used to take prawns. Also, the clause provides an exception to attendance limits.

## **Division 7                      Use of tunnel nets in particular areas within the fishery area**

### **Use of tunnel nets**

Clause 488 provides that a tunnel net can be used in specified waters under a licence on which the fishery symbol N1 is written if it accords with prescribed dimensions. The clause further provides for attendance provisions.

## **Division 8                      Other conditions**

### **Use of primary boats**

Clause 489 prescribes the maximum length of a primary boat which may be used under a licence on which the fishery symbol N1 is written.

### **Use of tender boats**

Clause 490 prescribes the distance a tender boat may be used from the primary boat under a licence on which the fishery symbol N1 is written.

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

Clause 491 prescribes the maximum distance a commercial fisher and an assistant fisher can be from each other under a licence on which the fishery symbol N1 is written, for the assistant fisher to be considered under direction.

### **Marking nets**

Clause 492 prescribes the way in which a set mesh net must be marked including the dimensions of floats under a licence on which the fishery symbol N1 is written.

## **Part 3                              Net fishery (East coast no. 3) (‘N2’)**

### **What is the net fishery (east coast no. 3)**

Clause 493 provides a definition of the “net fishery (east coast no. 3)”.

### **Fishery symbol**

Clause 494 states that the fishery symbol for the net fishery (east coast no. 3) fishery is N2.

## **Fishery area**

Clause 495 prescribes the fishery area for the fishery.

## **What fish may be taken**

Clause 496 prescribes that any fish and the waters in which they may be taken under a licence on which the fishery symbol N2 is written. However, this is subject to other provisions in the regulation, management plan and authorities.

## **Permitted ways of taking fish**

Clause 497 provides that fish may be taken under a licence on which the fishery symbol N2 is written only by using a set mesh net. The clause provides that the net cannot be set within 400 metres of a jetty or wharf, or 100 metres of another net that is being used; however, a person using more than one set mesh net may set the nets within 100 metres of one another, as long as they are not being set in a river or a creek. The clause also provides for attendance provisions when using set mesh nets.

## **Use of set mesh nets on foreshores between Baffle Creek and Cape Flattery**

Clause 498 provides that a set mesh net that may be used on foreshores between the Baffle Creek and Cape Flattery and no more than one kilometre from the lowwater shore of Girt Island under a licence on which the fishery symbol N2 is written if it accords with prescribed dimensions. The clause specifies that way in which a net, and two or three nets, may be used in the waters. Regarding particular parts of the waters, the clause prescribes the way that the net may be used and dimensions that differ from those that apply generally.

## **Use of set mesh nets in rivers and creeks between Kauri Creek and Cape Flattery**

Clause 499 provides that a tunnel net can be used in rivers and creeks between Kauri Creek and Cape Flattery under a licence on which the fishery symbol N2 is written if it accords with prescribed dimensions. The clause specifies that way in which two or three nets may be used in the

waters. Regarding a particular part of the waters, the clause prescribes a time period during which the net cannot be used.

### **Use of mesh nets in offshore waters between Baffle Creek and Cape Flattery**

Clause 500 provides that a mesh net can be used in offshore waters between Baffle Creek and Cape Flattery under a licence on which the fishery symbol N2 is written if it accords with prescribed dimensions, but only outside a specified time period. The clause specifies that way in which a net, and two nets combined together, may be used in the waters and specifies attendance limits.

### **Use of set mesh nets in offshore waters between Baffle Creek and Cape Flattery**

Clause 501 provides that a set mesh net can be used in offshore waters between Baffle Creek and Cape Flattery under a licence on which the fishery symbol N2 is written if it accords with prescribed dimensions, but only outside a specified time period. The clause specifies that way in which a net, and two nets combined together, may be used in the waters and specifies attendance limits.

### **Use of set mesh nets in rivers and creeks north of Cape Flattery**

Clause 502 provides that a set mesh net can be used in rivers and creeks north of Cape Flattery under a licence on which the fishery symbol N2 is written if it accords with prescribed dimensions, but only outside a specified time period. The clause specifies that way in which up to six nets may be used in the waters.

### **Use of set mesh nets on foreshores north of Cape Flattery**

Clause 503 provides that a set mesh net can be used on foreshores north of Cape Flattery under a licence on which the fishery symbol N2 is written if it accords with prescribed dimensions, but only outside a specified time period. The clause specifies that way in which up to six nets may be used in the waters.

### **Use of primary boats**

Clause 504 prescribes the maximum length of a primary boat which may be used under a licence on which the fishery symbol N2 is written.

### **Use of tender boats**

Clause 505 prescribes the maximum distance a tender boat may be used from the primary boat under a licence on which the fishery symbol N2 is written.

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

Clause 506 prescribes the maximum distance a commercial fisher and an assistant fisher can be from each other under a licence on which the fishery symbol N2 is written, for the assistant fisher to be considered under direction.

### **Marking nets**

Clause 507 prescribes the way in which a set mesh net must be marked including the dimensions of floats under a licence on which the fishery symbol N2 is written.

## **Part 4                      Net fishery (Baffle Creek to Kauri Creek) ('N5')**

### **Division 1                      Definition**

#### **What is the net fishery (Baffle Creek to Kauri Creek)**

Clause 508 provides a definition of the “net fishery (Baffle Creek to Kauri Creek)”.



## **Division 2                      Fishery symbol and area**

### **Fishery symbol**

Clause 509 states that the fishery symbol for the net fishery (Baffle Creek to Kauri Creek) is N5.

### **Fishery area**

Clause 510 prescribes the fishery area for the fishery.

## **Division 3                      Taking fish**

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

Clause 511 prescribes that any fish that may be taken under a licence on which the fishery symbol N5 is written. However, this is subject to other provisions in the regulation, management plan and authorities.

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

Clause 512 provides that fish may be taken under a licence on which the fishery symbol N5 is written by using mesh, seine, set mesh or tunnel nets. A net that is hauled or not fixed in offshore waters; or a set mesh net cannot be used in a marked navigation channel used in offshore waters, or within 400 metres of a jetty or wharf, or 100 metres of another net that is being used. However, a person using more than one set mesh net may set the nets within 100 metres of one another, as long as they are not being set in a river or a creek. The clause further specifies that only one end of a mesh or seine net may be fixed and attendance limits.

## **Division 4                      Use of mesh or seine nets**

### **Use of mesh or seine nets in the fishery area**

Clause 513 provides that a mesh or seine net that can be used in the fishery area under a licence on which the fishery symbol N5 is written if it accords

with prescribed dimensions. The clause specifies the way in which a net that is hauled or not fixed or a back net may be used. Regarding a particular part of the waters, the clause prescribes a time period during which the net cannot be used.

### **Use of mesh nets in offshore waters**

Clause 514 provides that a mesh net that is hauled or not fixed can be used in offshore waters under a licence on which the fishery symbol N5 is written if it accords with prescribed dimensions. Regarding particular parts of the waters, the clause prescribes that two nets may be combined together if they accord with further prescribed dimensions, and a time period during which the net cannot be used.

### **Use of mesh or seine nets in rivers and creeks**

Clause 515 provides that a mesh net that is hauled or not fixed can be used in rivers and creeks under a licence on which the fishery symbol N5 is written if it accords with prescribed dimensions. The clause specifies the way in which the net may be used. Regarding nets used in a specified period, the clause sets out further prescribed dimensions that the net must accord with.

### **Use of mesh nets in and near Hervey Bay**

Clause 516 provides that a mesh net that is hauled or not fixed can be used within a specified areas in offshore waters of Hervey Bay under a licence on which the fishery symbol N5 is written if it accords with prescribed dimensions. Regarding particular parts of the waters, the clause prescribes further prescribed dimensions that the net must accord with, and a time period during which the net cannot be used.

## **Division 5                      Use of set mesh nets**

### **Use of set mesh nets in offshore waters**

Clause 517 provides that a set mesh net can be used in offshore waters under a licence on which the fishery symbol N5 is written if it accords with

prescribed dimensions. Regarding particular parts of the waters, the clause prescribes that two nets may be combined together if they accord with further prescribed dimensions, and a time period during which the net cannot be used.

### **Use of set mesh nets in rivers and creeks**

Clause 518 provides that a set mesh net can be used in rivers and creeks under a licence on which the fishery symbol N5 is written if it accords with prescribed dimensions. The clause specifies that way in which two or three nets may be used in the waters and specifies attendance limits depending on the number of nets that are set. Further, the clause specifies that a mesh net may be set in a marked navigation channel or within 400m of a jetty or wharf of 100m of another net that is in use.

### **Use of set mesh nets in and near Hervey Bay**

Clause 519 provides that a set mesh net that can be used within specified areas in offshore waters of Hervey Bay under a licence on which the fishery symbol N5 is written if it accords with prescribed dimensions. Regarding particular parts of the waters, the clause prescribes further prescribed dimensions that the net must accord with, a time period during which the net cannot be used and an exception to attendance limits.

### **Use of set mesh nets on foreshores between the Burnett River and Baffle Creek**

Clause 520 provides that a set mesh net that can be used on foreshores between the Burnett River and Baffle Creek under a licence on which the fishery symbol N5 is written if it accords with prescribed dimensions but only outside a specified time period. The clause specifies that way in which the net may be used. Regarding a particular part of the waters, the clause prescribes a further time period during which the net cannot be used.

## **Division 6                      Use of tunnel nets**

### **Use of tunnel nets**

Clause 521 provides that a tunnel net can be used on foreshores of Great Sandy Strait and Wide Bay Harbour within a specific boundary under a licence on which the fishery symbol N5 is written if it accords with prescribed dimensions and attendance limits.

## **Division 7                      Other conditions**

### **Use of primary boats**

Clause 522 prescribes the maximum length of a primary boat which may be used under a licence on which the fishery symbol N5 is written.

### **Use of tender boats**

Clause 523 prescribes the maximum distance a tender boat may be used from the primary boat under a licence on which the fishery symbol N5 is written.

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

Clause 524 prescribes the maximum distance a commercial fisher and an assistant fisher can be from each other under a licence on which the fishery symbol N5 is written, for the assistant fisher to be considered under direction.

### **Marking nets**

Clause 525 prescribes the way in which a set mesh net must be marked including the dimensions of floats, under a licence on which the fishery symbol N5 is written.

## **Part 5**                      **Net fishery (bait no. 1) ('N6')**

### **What is the net fishery (bait no. 1)**

Clause 526 provides a definition of the “net fishery (bait no. 1)”.

### **Fishery symbol**

Clause 527 states that the fishery symbol for the net fishery (bait no. 1) is N6.

### **Fishery area**

Clause 528 prescribes the fishery area for the fishery.

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

Clause 529 prescribes that any fish that may be taken under a licence on which the fishery symbol N6 is written. However, this is subject to other provisions in the regulation, management plan and authorities.

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

Clause 530 provides that fish may be taken under a licence on which the fishery symbol N6 is written by using a cast, net or seine net. The clause specifies attendance limits. Only one end of a net may be fixed and, in some waters, it may only be fixed for up to one hour.

### **Use of primary boats**

Clause 531 prescribes the maximum length of a primary boat which may be used under a licence on which the fishery symbol N6 is written.

### **Use of cast nets**

Clause 532 prescribes that a cast net that may be used under a licence on which the fishery symbol N6 is written if it accords with prescribed dimensions.

### **Use of mesh or seine nets**

Clause 533 provides that a mesh or seine net can be used in specified areas under a licence on which the fishery symbol N6 is written if it accords with prescribed dimensions. Further, a back net may be used in some of the specified areas if it accords with prescribed dimensions.

### **Use of tender boats**

Clause 534 prescribes the maximum distance a tender boat may be used from the primary boat under a licence on which the fishery symbol N6 is written.

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

Clause 535 prescribes the maximum distance a commercial fisher and an assistant fisher can be from each other under a licence on which the fishery symbol N6 is written, for the assistant fisher to be considered under direction.

## **Part 6                      Net fishery (bait no. 2) ('N7')**

### **What is the net fishery (bait no. 2)**

Clause 536 provides a definition of the “net fishery (bait no. 2)”.

### **Fishery symbol**

Clause 537 states that the fishery symbol for the net fishery (bait no. 2) is N7.

### **Fishery area**

Clause 538 prescribes the fishery area for the fishery.

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

Clause 539 prescribes the fish that may be taken under a licence on which the fishery symbol N7 is written. However, this is subject to other provisions in the regulation, management plan and authorities.

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

Clause 540 provides that fish may be taken under a licence on which the fishery symbol N7 is written. The clause specifies attendance limits and the way that a net that is hauled or not fixed may be used. Only one end of a net may be fixed and, in some waters, it may only be fixed for up to one hour

### **Use of primary boats**

Clause 541 prescribes the maximum length of a primary boat which may be used under a licence on which the fishery symbol N7 is written.

### **Use of nets south of Baffle Creek**

Clause 542 prescribes the dimensions of nets that can be used in waters south of Baffle Creek under a licence on which the fishery symbol N7 is written. The clause also provides a prohibition on using a net during a specific period in a specified area.

### **Use of nets north of Baffle Creek**

Clause 543 provides the dimensions of nets that can be used in waters north of Baffle Creek under a licence on which the fishery symbol N7 is written. Regarding specified parts of the waters, the clause provides that a ring net must not be used, and nets may be used downstream of a creek or river's shortest line between its banks during a specified period if they comply with prescribed dimensions.

### **Use of tender boats**

Clause 544 prescribes the maximum distance a tender boat may be used from the primary boat which may be used under a licence on which the fishery symbol N7 is written.

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

Clause 545 prescribes the maximum distance a commercial fisher and an assistant fisher can be from each other under a licence on which the fishery symbol N7 is written, for the assistant fisher to be considered under direction.

## **Chapter 10 Licences for spanish mackerel**

### **Part 1 Spanish mackerel commercial fishery ('SM')**

#### **Division 1 Preliminary**

##### **Definitions for pt 1**

Clause 546 provides definitions of the terms line fishery area and line fishery symbol for the purposes of the part.

##### **What is the spanish mackerel commercial fishery**

Clause 547 provides a definition of the spanish mackerel commercial fishery.

#### **Division 2 Fishery symbol and area**

##### **Fishery symbol**

Clause 548 states that the fishery symbol for the spanish mackerel commercial fishery is SM.



## **Fishery area**

Clause 549 describes the fishery area for the spanish mackerel commercial fishery and the line fishery symbols for each respective line fishery area. The provisions in Chapter 10 apply only to fishing for trade or commerce and do not regulate other forms of fishing for spanish mackerel such as charter fishing or recreational fishing.

## **Division 3 Authorisations and conditions**

### **Subdivision 1 General provisions**

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

Clause 550 provides that only spanish mackerel that may be taken under a licence on which the SM fishery symbol is written. Spanish mackerel cannot be taken under any other commercial licence incidentally. An SM fishery licence holder can retain by-catch of other species caught under an SM fishery licence as long as it is authorised under their relevant line fishery symbol that is relevant to the line fishery area in which they are fishing.

#### **Permitted ways of taking spanish mackerel**

Clause 551 provides that spanish mackerel may be taken under an SM fishery licence only in the way stated in the provisions for the relevant line fishery symbol in the relevant line fishery area in which the spanish mackerel are taken.

#### **Use of primary boats**

Clause 552 provides that a primary boat may be used under an SM fishery licence only in the way stated in the provisions for the relevant line fishery symbol in the relevant line fishery area in which the primary boat is being used.

## **Use of tender boats**

Clause 553 provides that a tender boat may be used under an SM fishery licence only in the way stated in the provisions for the relevant line fishery symbol in the relevant fishery area in which the tender boat is being used.

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

Clause 554 provides that where a commercial fisher and assistant fisher are on separate commercial fishing boats, the permitted distance for the assistant fisher to be under direction is the same distance as that prescribed under the regulation for taking fish under the line fishery symbol for the line fishery area in which the assistant fisher is taking spanish mackerel.

## **Subdivision 2 SM (Flat Rock) fishery licence**

### **Restriction on transfer of SM (Flat Rock) fishery licences**

Clause 555 under this sunset provision, licences that are authorised to take spanish mackerel in the Flat Rock grey nurse shark protection area are limited by number and cannot be transferred. This is to ensure that trolling in the area is only carried out by people who historically have been dependent on fishing in the area and so that no new fishers will be allowed access to what is intended to eventually become a closed area.

## **Part 2 Provisions about SM units**

### **Division 1 General provision**

#### **Nature of an SM unit**

Clause 556 describes the nature of an SM unit. It states that each SM unit is an authority for the purpose of the *Fisheries Act 1994*, the entitlement of which is provided for under divisions 2 and 3 as well as being a quota for the commercial spanish mackerel commercial fishery established by Chapter 10.

## **Division 2                      Entitlement**

### **Entitlement under SM unit**

Clause 557 provides for what is meant by the entitlement of an SM unit holder. Each SM unit represents the entitlement for the holder of an SM fishery licence [or a person acting under an SM fishery licence] to take spanish mackerel to the value of the SM unit in each SM year (commencing 1 January each year). The value of an SM unit is 1kg of whole weight of spanish mackerel (see meaning of whole weight SM in the Regulation). The entitlement applies only if the SM unit holder also holds an SM fishery licence which is current at the time of taking the fish and is subject to restrictions or prohibitions in this Regulation, a management plan or a condition or provision of an SM unit or fishery licence.

## **Division 3                      Use of SM unit entitlement**

### **When SM unit entitlement is used for an SM year**

Clause 558 defines when an SM unit entitlement is used in an SM year. The unit is used when an amount equivalent to 1kg of spanish mackerel (whole weight) is taken by the holder of the SM unit, or any other person operating under the same SM unit, using any SM fishery licence held by the SM unit holder. The unused SM unit entitlement for an SM year is the amount of spanish mackerel for the SM unit that has not been taken under the holders SM fishery licence in that SM year.

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

Clause 559 provides that, if at the end of an SM year, the total entitlement of all the SM units held by a holder has not been fully expended, it is taken to have been fully expended or used. The reason for preventing unused SM units to be carried forward to the next SM year is to remove the potential for increasing the level of SM units (and consequently spanish mackerel taken) in an SM year beyond sustainable levels.

## **Division 4                    SM unit certificates**

### **Content of SM unit certificates**

Clause 560 sets out the information that must be recorded on each SM unit certificate including the total number of SM units held by an SM unit holder. The certificate is separate from the holder's fishery licence(s) reflecting the statutory intent that SM units may be used under any SM fishery licence held by the SM unit holder. The certificate is issued when the unit holder transfers or acquires units.

### **Evidentiary provision for SM unit certificate**

Clause 561 is an evidentiary provision that provides that an SM unit certificate may be used as evidence of the number of SM units, and associated conditions, held by a holder at the time the certificate was issued. The SM certificate can be used in enforcement proceedings and as a commercial document for use in SM unit transactions.

## **Division 5                    Evidentiary aids for use of entitlement**

### **Unloaded fish notice is evidence of use of entitlement**

Clause 562 is an evidentiary provision which provides the unloaded fish notice is evidence that the holder has taken the whole weight equivalent of Spanish mackerel specified in the notice under their SM fishery licence. The used quota entitlement is subtracted from the annual entitlement. At the time of unloading, fishers report by telephone to the chief executive using AIVR particulars of quota species taken, including an accurate weight of spanish mackerel. As quota entitlement is issued on the basis of the weight of whole fish, in the case of fish that have already been processed to some degree at sea, the provision links to the formula for how the notified weights of processed fish are to be converted to an equivalent whole weight for that species.

### **Particular notice is evidence of unused entitlement**

Clause 563 is an evidentiary provision whereby written notice from the chief executive is evidence of the amount of the unused entitlement under the SM units for the stated SM year on the stated day in the notice.

## **Part 3                      Conditions for SM units**

### **Division 1                      Purpose**

#### **Purpose of pt 3**

Clause 564 states that the conditions prescribed by this Part apply to the SM units and, where a commercial fisher is acting under the units owned by another SM unit holder, then the conditions apply to the fisher's commercial fisher licence. The reason for applying the conditions to the fishery licence of a commercial fisher acting under the SM units held by another fisher is to ensure that both the SM unit holder and the other commercial fisher share joint responsibility for complying with the prescribed conditions.

### **Division 2                      Interpretation**

#### **Definitions for pt 3**

Clause 565 provides definitions for terms used in Part 3 'Conditions for SM units'.

#### **Notices to chief executive**

Clause 566 lists the provisions in respect of which any required notice to the chief executive must be given using the Automated Interactive Voice Response (AIVR) system.

### **Division 3                      Requirements for taking or possessing spanish mackerel**

#### **Spanish mackerel to be taken or possessed only with unused SM unit entitlements**

Clause 567 permits a prescribed person to take spanish mackerel from, or possess spanish mackerel on board, an authorised boat for an SM unit holder in an SM year only if the holder holds SM units with unused entitlements for the SM year.

### **Division 4                      Requirements for giving prior notice of spanish mackerel**

#### **Requirement to give prior notice**

Clause 568 requires an SM unit holder where spanish mackerel is on board an authorised boat which enters a prior notice area to unload spanish mackerel, to give a prior notice before landing the first authorised fishing boat (primary or tender). The main purpose of the prior notice requirement is to provide the opportunity for random fisheries inspection upon landing.

The notice must be given before the boat enters a ‘prior notice area’ regardless of whether or not the holder intends to unload spanish mackerel unless the boat is proposed to be landed north of latitude 15°16.57' south or on an island specified in the clause. The ‘prior notice area’ is the major Queensland coastal ports and, if landing outside a port, waters within half a nautical mile of any other possible landing site (excluding all islands other than those specified in the clause with significant human habitation if it is intended that the boat will land on the island without unloading).

The time by which a prior notice must be given is the ‘prior notice deadline’ defined in the Regulation. The deadlines ensure there is sufficient time for an inspection to be arranged and take into account the locality of the proposed landing place.

The notice must be given by telephoning the AIVR and answering questions by using a telephone keypad to enter data. The required prior notice particulars relate to details of the catch on board, location of the boats and proposed landing times. Although the reporting obligation

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resides with the unit holder another person may lodge the prior notice particulars. This flexibility allows the unit holder to establish an appropriate system, for example—

- ensuring that the commercial fisher conducting the fishing trip uses the fisher PIN for the quota units when giving prior notice; or
- organising a shore based representative contacted by radio to give notice of the prior notice particulars.

It is possible for trips of less than a day's duration to give a prior notice before departure and state a nil catch to comply with timing requirements.

### **Particulars to be stated in prior notice**

Clause 569 lists the particular information a prior notice must contain.

### **Requirement to give replacement prior notice if unloading particular changes**

Clause 570 provides for a change of intention where the prior notice has indicated that there would be no catch unloaded. If the SM unit holder or a person authorised by the holder provides a further notice before the prior notice deadline for the prior notice has ended, unloading can take place in line with the updated (replacement) notice (the replacement notice must state new prior notice particulars). This provision recognises that circumstances may arise, such as a change in weather conditions, which change an original intention to return to sea after landing without unloading. To prevent avoidance of the notice provisions, and to allow for equal monitoring opportunity, a fisher must see out a new waiting period before unloading.

### **Amendment or withdrawal of prior notice**

Clause 571 provides for the circumstances in which prior notices can be withdrawn or changed, and the deadlines by which this must occur.

The deadlines allow amendments about the notified landing place and time up until the earlier of 1–3 hours before landing (depending on the remoteness of the landing place) or the time the boat reaches .5 n mile of the first notified landing place. The later cut off time for amendments applies north of a line running approximately eastward of Rattlesnake

Point. The extra time reflects the greater difficulty in changing arrangements made to inspect a landing in remote locations at short notice. The deadlines allow realistic time limits for fishers to be able to make amendments to prior notices to accurately reflect the nature of their operation.

## **Division 5                      Requirements after prior notice of spanish mackerel**

### **General requirements after prior notice given**

Clause 572 prescribes general conditions to ensure that the landing of the boat and the details of its catch at the time of landing correspond with the prior notice particulars. Given the ability to amend landing details up to a relatively short time before landing, estimates are expected to be accurate to within an hour. This requirement supports the inspection regime by requiring accuracy and by ensuring that boats stay at the landing place until the notified time.

The numbers of fish reported in the prior notice are expected to be extremely accurate when assessed against catch upon landing.

### **Requirement to give retained fish notice**

Clause 573 provides for circumstances where a fisher indicated that the catch would be unloaded upon landing and a later decision is made not to unload all of the catch and to return to sea with unloaded fish. Unless the number of spanish mackerel on board when the fisher returns to sea can be verified, there is a risk that fishers will claim to have returned to sea with more fish than was the case providing cover for illegally taking up to that amount again without reporting this as additional catch. The requirements in this clause implement a risk-based approach to allowing the practice of returning to sea with some catch on board. Provided a retained fish notice is given detailing what is being taken outside the unloading area, frozen fish up to 50kg may be taken. For quantities greater than this, or where any of the fish is not frozen, the unit holder must obtain written approval from an inspector in addition to giving the retained fish notice. The deadlines for giving the retained fish notice reflect those for giving a prior notice



allowing sufficient time for fisheries officers to travel to the landing place to conduct random inspections to check the accuracy of the notice.

### **Requirement to obtain approval to leave unloading area**

Clause 574 provides that an SM unit holder must not allow an authorised boat to leave the unloading area without written approval from an inspector if there is more than 50kg of unfrozen spanish mackerel on the boat.

### **Additional requirements if prior notice stated spanish mackerel will be unloaded**

Clause 575 ensures that the effect of giving a prior notice that spanish mackerel will be unloaded is preserved by prescribing further conditions. These conditions include preventing further fishing from a boat until the notified catch has been unloaded and an unloaded fish notice has been given. These requirements do not apply if the fisher has given an unloaded fish notice and complied with other conditions. While the unloading time does not have to be specifically notified, and can occur at one or more places within a certain vicinity of the landing place, details of unloading must be advised to an inspector upon request. From an enforcement perspective, this avoids indefinite waiting for unloading to occur so that fish can be inspected against the prior notice. For holders, this reduces the need for an inspector to open containers to inspect catch while it is still stored on the boat, which is difficult to facilitate and possibly adverse to the quality of the product.

### **Requirement to give transshipment notice**

Clause 576 prescribes notification obligations in the case of fish transhipped to another vessel, most commonly a large carrier ship, which carries the load to port. The notice must be given as soon as practicable after the spanish mackerel are transferred to the transport vessel by telephoning the AIVR, which will then ask a series of prompted questions that may be answered by entering data using a telephone keypad. The responses given are the ‘transshipment notice particulars’ that detail the fish transhipped, the carrier boat and the proposed date and place when the carrier boat will be landing and unloading the fish.

## **Division 6                      Requirements for unloading spanish mackerel**

### **General requirement for unloading spanish mackerel**

Clause 577 prescribes an authority condition that fish can not be unloaded from a boat unless a transshipment or prior notice has been given as required. Accurate prior advice of landing and catch is the key to successful enforcement of the quota for the fishery and notification obligations will be stringently enforced. For example, holders must ensure that they have appropriate functioning communication equipment and systems in place to make the at sea prior or transshipment notice as a precondition to exercising fishing rights in the fishery. While situations in which unannounced landing may be necessitated are acknowledged by the inclusion of a defence for unforeseen and uncontrollable situations, these are intended to be the most extraordinary of cases. In the event landing occurs without notification, the provision requires a substitute notice ('unnotifiable landing notice') to be given as soon as possible after landing. The boat must remain at the notified place for the same time as if a prior notice was given before fish are unloaded from it, allowing sufficient time for fisheries officers to travel to the landing place to conduct random inspections to check the accuracy of the notice.

### **Requirement to give unnotifiable landing notice**

Clause 578 prescribes the obligations for giving an unnotifiable landing notice. The notice must be given by telephoning the AIVR, which will then ask a series of prompted questions that may be answered by entering data using a telephone keypad. The responses given are the 'unnotifiable landing notice particulars' that detail the catch on board and the landing place of the fishing boats.

### **Additional requirements for unloading spanish mackerel if prior notice given**

Clause 579 prescribes authority conditions for unloading fish the subject of a prior notice. Unloading of catch can not begin until after the expiry of the landing time of the boat advised in the prior/transshipment notices. An exception to this is the unloading of fish by removing the boat itself from

the water. This occurs in the case of trailer-boats for which it can be important from a safety perspective to land immediately. In this case, the boat must remain with its product within 200 m of the landing spot. Also, there is a general exception permitting early unloadings provided an inspector is already at the site and supervises the action. Catch can only be unloaded if it complies with the prior/transshipment notices, and only within the same port area or otherwise within 200 m of the notified landing place. As the act of unloading will be the primary focus of inspection, this must occur at a public place, such as a beach or public wharf, so that inspectors are entitled to enter the area. If a particular quota holder wishes to unload at a place closed to an inspector, such within a private wharf, they may continue if they elect to list the place as one open for inspection at particular times as a condition of the authority. Again, as the act of unloading will be the primary focus of inspection, unloading of fish by a tender must be within 200 m of the primary boat to facilitate observation of the whole act of unloading from all the authorised boats for the holder.

### **Requirements for weighing unloaded spanish mackerel**

Clause 580 prescribes authority conditions for weighing unloaded fish. The practice in this fishery is that product is frequently transferred from holder/fisher to buyer at the site it is unloaded. This is where accurate weights are customarily recorded as part of the transaction. Storing or transporting fish long distances before it is weighed or transferring it to the buyer before it is weighed would impinge on the integrity of the catch quota to an unacceptable degree, give that the weight is the basis for calculation of quota usage. The provision requires that accurate weights of catch under quota be taken at a place open to an inspector's supervision as soon as practicable after it is unloaded.

### **Requirement to give unloaded fish notice**

Clause 581 prescribes the conditions requiring an unloaded fish notice to be given by or on behalf of the quota holder. The notice must be given by telephoning the AIVR, which will then ask a series of prompted questions that may be answered by entering data using a telephone keypad. The responses detail the weight of fish in various forms that were unloaded and are evidence of use of quota entitlement. The holder/fisher must retain possession of the product for which they are responsible until the notice is given.

## **Part 4                      Transfer of SM units**

### **Division 1                      When SM units may or may not be transferred**

#### **Purpose of div 1**

Clause 582 sets out the circumstances in which SM units may or may not be transferred for section 65(1) of the Act. Section 65 of the Act provides for a right to apply for registration of a transfer provided any circumstances affecting transferability under the Regulation are met.

#### **Only whole SM units may be transferred**

Clause 583 provides that only whole units may be transferred. In other words, a part of an SM unit cannot be transferred.

#### **Eligibility of transferee**

Clause 584 is intended to ensure that generally SM units do not become separated from SM fishery licences which are also required in order to fish commercially in the fishery. Therefore, this provision provides that SM units can only be transferred to an SM licence holder.

### **Division 2                      Other provisions about SM unit transfers**

#### **SM unit certificate changes required**

Clause 585 provides that the chief executive gives effect to registered permanent transfers by changing the SM unit certificates of both parties to the transfer. As the SM unit certificate evidences a person's total SM unit holding, it will need to be updated to reflect any changes to numbers of SM units.

## **Entitlement of transferee**

Clause 586 provides for the entitlement of the transferee to whom SM units are transferred. For the SM year in which the transfer was made, the entitlement is whatever the transferor's entitlement was when the transfer was registered (as opposed to the date of the application to register the transfer). For example, if at the date of registration, 100 SM units are transferred, each giving an entitlement to take 1kg whole weight spanish mackerel, and 60kg have already been taken in that SM year, the transferee receives 100 SM units, which comprises 60 SM units without an entitlement to take spanish mackerel for that SM year, and 40 SM units with a total entitlement to take 40kg of (whole weight) spanish mackerel in that year. For any subsequent SM years, section 25R(1)(b) provides that the entitlement of the transferee in the following SM year, reverts to the entitlement the transferor would have had under the SM units at the beginning of the SM year had the transfer not taken place. In the above example, this would revert to a total entitlement for the transferee of 100 SM units (or 100 kilograms) of whole weight spanish mackerel in each subsequent year following the year of the transfer (assuming no adjustment to the prescribed weight). Section 25R(2) provides that where part of the entitlement has been used under a particular SM unit to be transferred, the whole of the entitlement is taken to be fully expended. In the example, if 99.5kg of spanish mackerel had been taken under the 100 SM units on the date the transfer of units had been approved, the transfer would be taken to be of 100 SM units with a fully expended entitlement for the year—the 500 grams remaining under the 100th unit would be taken to be used.

## **Issue of fisher PIN for particular transferees**

Clause 587 provides for the issue of a fisher PIN to a transferee who does not already have one to enable them to fulfil their reporting obligations check their unused entitlement using the AIVR.

# **Part 5                      Change of PINs**

## **Change of unit PIN**

Clause 588 provides for how a line unit or SM unit holder may change the unit PIN assigned to them. The notice identity number is a confidential

code that aids holder's security in the giving of notices reporting the use of quota entitlement. It verifies the authority of the provider of the notice through the quotation of the unit PIN. The concept is similar to the personal identification numbers commonly used in automated banking. A holder may request, in writing, a change to their unit PIN at any time. To ensure that no two Unit PINs are the same, a holder cannot nominate his or her own Unit PIN, rather it is assigned by the chief executive and is confidential to the holder. Once the notice identity number is changed, the chief executive must provide to the holder a written notice to advise of the change. Once the notice has been given, the amended unit PIN takes effect.

### **Change of fisher PIN**

Clause 589 provides for changing a fisher PIN. The Fisher PIN is used for authentication when giving notices or checking the quota balances using the AIVR. As holders may not be the commercial fisher fishing under the quota units, they may need to give the fisher PIN details to the commercial fisher to allow the fisher to comply with the notice requirements. If the unit holder wishes to invalidate a fisher PIN, for example because a commercial fisher has left their employment, this can be done immediately using the AIVR. The unit PIN issued to the quota holder is required as authentication, allowing the holder to then nominate a new Fisher PIN.

## **Part 6 Prescribed criteria for suspending and cancelling SM units**

### **Criteria for suspending SM units**

Clause 590 provides the criteria to which a court must have regard in deciding whether to suspend SM units under section 68B(2) of the Act. The provision applies if in an SM year the SM unit holder takes an amount of spanish mackerel in excess of the holder's total entitlements under the SM units. The provision also applies if the licence to which the SM unit's attach is suspended. For the first circumstance, the court can suspend for the following SM year, the number of SM units equivalent to the amount exceeded in the previous SM year. For the second circumstance, where an

SM unit holder's licence has been suspended, the intention of allowing the court to suspend for the entire year all the holder's unused SM units, highlights the relationship between the fishery licence and the SM units and the importance of not allowing a fisher to take spanish mackerel under SM units when a fisher's licence is suspended.

### **Criteria for cancelling SM units**

Clause 591 provides the criteria to which a court must have regard in deciding whether to cancel SM units under section 68B(2) of the Act. The provision applies if in an SM year an SM unit holder is convicted of a serious fisheries offence which involves the taking or possessing of more than 500kg of spanish mackerel in excess of the holder's unused SM units. Such a conviction would be a significant quota offence and an offender convicted of an offence of this magnitude may be regarded as a serious threat to the sustainability of the east coast spanish mackerel fishery.

## **Chapter 11 Other commercial fisheries**

### **Part 1 Commercial crab fishery ('C1')**

#### **What is the commercial crab fishery**

Clause 592 provides a definition of the commercial crab fishery.

#### **Fishery symbol**

Clause 593 states that the fishery symbol for the Commercial crab fishery is C1.

#### **Fishery area**

Clause 594 describes the fishery area for the fishery.

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

Clause 595 prescribes that crabs (other than spanner crabs) may be taken under a licence on which the C1 fishery symbol is written.

### **Permitted ways of taking crabs**

Clause 596 provides the ways in which crabs may be taken under a licence on which the C1 fishery symbol is written.

### **Use of primary boats**

Clause 597 prescribes the length of a primary boat which may be used under a licence on which the C1 fishery symbol is written.

### **Use of tender boats**

Clause 598 prescribes the distance a tender boat may be used from the primary boat which may be used under a licence on which the C1 fishery symbol is written.

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

Clause 599 prescribes the maximum distance a commercial fisher and an assistant fisher can be from each other, for the assistant fisher to be considered under direction.

### **Marking of fishing apparatus**

Clause 600 prescribes the way in which crab apparatus must be marked including the dimensions of floats.



## **Part 2                      Commercial crayfish and rock lobster fishery ('R')**

### **What is the commercial crayfish and rock lobster fishery**

Clause 601 provides a definition of the commercial crayfish and rock lobster fishery.

### **Fishery symbol**

Clause 602 states that the fishery symbol for the Commercial crayfish and rock lobster fishery is R.

### **Fishery area**

Clause 603 describes the fishery area for the fishery.

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

Clause 604 prescribes the fish that may be taken under a licence on which the R fishery symbol is written, namely barking crayfish and tropical spiny rock lobsters.

### **Permitted ways of taking crayfish and rock lobsters**

Clause 605 provides the ways in which crayfish and rock lobsters may be taken under a licence on which the R fishery symbol is written.

### **Use of primary boats**

Clause 606 prescribes the length of a primary boat which may be used under a licence on which the R fishery symbol is written.

### **Use of tender boats**

Clause 607 prescribes the distance a tender boat may be used from the primary boat which may be used under a licence on which the R fishery symbol is written.

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

Clause 608 prescribes the maximum distance a commercial fisher and an assistant fisher can be from each other, for the assistant fisher to be considered under direction.

## **Part 3                      Commercial trawl fishery (fin fish) ('T4')**

### **What is the commercial trawl fishery (fin fish)**

Clause 609 provides a definition of the commercial trawl fishery (fin fish).

### **Fishery symbol**

Clause 610 states that the fishery symbol for the commercial trawl fishery (fin fish) is T4.

### **Fishery area**

Clause 611 describes the fishery area for the fishery.

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

Clause 612 prescribes the fish that may be taken under a licence on which the T4 fishery symbol is written, namely red spot or stout whiting.

### **Permitted ways of taking whiting**

Clause 613 provides the ways in which red spot or stout whiting may be taken under a licence on which the T4 fishery symbol is written.

### **Fishery period**

Clause 614 prescribes the period during which red spot or stout whiting can be taken under a licence on which the T4 fishery symbol is written.

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## **Chapter 12      Protection of fish habitats and fisheries resources**

### **Part 1              Declared fish habitat areas**

#### **Division 1        Declaration of fish habitat areas**

##### **Areas declared to be fish habitat areas**

Clause 615 provides that the area for each declared fish habitat area is shown on a plan mentioned in Schedule 3, and that a plan is to be interpreted subject to the sections of this Division. It further prescribes that the declared fish habitat area plans may be inspected at the department's head office during office hours, or on the department's website.

##### **Areas included in declared fish habitat area**

Clause 616 provides that schedule 3 of the Regulation may list parcels of land specifically included for each declared fish habitat area. This provision also provides a convention for interpretation of the declared fish habitat areas in Schedule 3, part 1. Boundaries of declared fish habitat areas in this part are generally identified by tidal influence (e.g. the highest astronomical tide) which may shift over time or may not be able to be mapped to a fine scale. Therefore, in addition to all tidal land within the area, tidal land of lagoons, lakes or waterways adjoining the area—even if outside the boundary shown on the plan—is within the declared fish habitat area. A convention for interpretation of the declared fish habitat areas in Schedule 3, part 2 is also provided, stating that all unallocated State land and national park land within the boundary on the plan is within the declared fish habitat area, regardless of whether the land is tidal or non-tidal.

##### **Areas excluded from declared fish habitat area**

Clause 617 provides that any channel marked with aids to navigation is deemed outside of a declared fish habitat area, even if it appears to be within the boundary shown on a plan. It further states that parcels of land

specifically excluded from the relevant declared fish habitat area may be listed in schedule 3 or on the declared fish habitat area plan; and that for declared fish habitat areas listed in schedule 3 part 2, land that is not unallocated state land or national park land within the boundary of the declared fish habitat area is excluded from the area, unless specifically mentioned as included in Schedule 3.

### **Particular cables and air space excluded from declared fish habitat area**

Clause 618 provides that overhead cables are outside the declared fish habitat area, even if within the boundary of the area as shown on a plan or described in the regulation. Overhead cables, such as powerlines and communications cables, have no impact on the fish habitats of a declared fish habitat area, if not in contact with the land, water or plants in the area. However, structures that support such cables are in the declared fish habitat area if these are both within the boundary of the area, and in contact with the land, water or plants in the area. Proposed overhead cables, and the airspace to be occupied by such cables, will also be outside the declared fish habitat area once installed, if these will not be in contact with the land, water or plants in the area.

### **Interpretation of fish habitat area plans**

Clause 619 provides a convention for the interpretation of boundaries shown on declared fish habitat area plans, and that reference should be made to specific information about boundaries listed in Schedule 3.

## **Division 2                      Prohibited activities in or affecting declared fish habitat areas**

### **Person not to take bait using digging implement**

Clause 620 prescribes that a person must not take bait in a declared fish habitat area using a digging implement (for example a spade), due to the degree of habitat disturbance digging implements can cause. It further prescribes that a hand pump is not a digging implement when it is used only for taking yabbies.

**Person not to remove weeds etc.**

Clause 621 prescribes that removing weeds, using pesticides or undertaking biological control of a pest are unlawful activities within a declared fish habitat area. It further prescribes that a person may not perform these activities if they are outside a declared fish habitat area, if the activity is likely to affect a fish habitat in the declared fish habitat area, unless the activity is performed in accordance with the fish habitat area code of practice.

**Part 2                      Diseased fisheries resources****Declared diseases**

Clause 622 prescribes that which is declared a disease for the purpose of the Act, being bacteria, fungus, parasite, pest or virus under of section 97(1) of the Act. It further provides that a residue of the chemical BHC in excess of the stated concentration for fisheries resources is included in the definition of a declared disease.

**Part 3                      Noxious fisheries resources****Fisheries resources prescribed as noxious fisheries resources**

Clause 623 prescribes the fish which are noxious fisheries resources. It further provides that fish which are hybrids of the fish stated in the Schedule 6, part 1 with fish of another species are also considered noxious fisheries resources.

## **Part 4                      Nonindigenous fisheries resources**

### **Prescribed nonindigenous fisheries resources prohibitions and to which duties apply—Act, ss 90 and 92**

Clause 624 prescribes the nonindigenous fish to which the prohibitions in section 90(1)(a) and (b) of the Act do not apply (i.e. unlawfully bring nonindigenous fisheries resources or cause them to be brought into Queensland or possess, rear, sell or buy nonindigenous fisheries resources). The clause further prescribes the nonindigenous fish to which the provisions of section 92(1) of the Act do not apply (i.e. upon either taking or possessing a nonindigenous fisheries resource which is either a fish or a plant, to kill or destroy it).

## **Chapter 13              Fisheries offences and related matters**

### **Part 1                      Serious fisheries offences**

#### **Fisheries offences prescribed as serious fisheries offences—Act, schedule**

Clause 625 provides that offences against quota provisions are defined as serious fisheries offences.

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## **Part 2**

# **Prescribed acts that must be done only by authority holders**

### **Purpose of pt 2**

Clause 626 prescribes for section 82 of the Act, those acts that must be done only by the holder of an authority.

### **Using boats**

Clause 627 provides that only a commercial fishing boat licence holder who holds either a commercial fisher licence or is an assistant fisher acting under the direction of the licence holder, may use a primary or tender boat to take fish for trade or commerce. The clause further provides that a person may use another type of boat to take fish for trade or commerce, other than a primary or tender boat, only if the person acts under an authority under which the boat is authorised.

### **Conducting charter fishing trips in offshore waters**

Clause 628 provides the licence which must be held by a person to conduct a charter fishing trip in offshore waters. This includes people other than the licence holder acting under the licence.

### **Taking fish for trade or commerce**

Clause 629 provides who and the circumstances under which a person may take fish for trade or commerce.

### **Carrying fish taken for trade or commerce**

Clause 630 provides the circumstances under which a person may use a boat or allow it to be used to take fish for trade or commerce. Further this provision provides an exemption to the holding of a carrier boat licence if the boat carries fish other than coral reef fin fish or other fish intended to be sold live. This exemption is further qualified by the carrying of coral reef fin fish or other fish intended to be sold live.

### **Buying Queensland fishery resources before second point of sale**

Clause 631 requires that the first purchase of fisheries resources must be by a person holding an authority to buy them from a person holding an authority to sell them or authorised to sell them under the Regulation or authorised to sell them under a management plan. Alternatively any person may purchase them from another person authorised to cultivate them under the Planning Act. Once they have been purchased in either of these ways, the fisheries resources may be bought by any person.

### **Selling Queensland fisheries resources before second point of sale**

Clause 632 complements clause 631 by prescribing who may sell fisheries resources. It requires that the first sale of fisheries resources must be from a person holding an authority to sell them or authorised to sell them under the Regulation or authorised to sell them under a management plan to a person holding an authority to buy them. Alternatively the first sale of fisheries resources may be from a person authorised to cultivate them under the Planning Act to another person. Once they have been sold in this way the fisheries resources may be sold by any person.

### **Processing Queensland fisheries resources before second point of sale**

Clause 633 requires that fisheries resources may only be processed before the first lawful sale if the processor holds an authority allowing it or if the processor cultivated them under the Planning Act. After the first lawful sale they may be processed by any person.

### **Releasing aquaculture fisheries resources**

Clause 634 provides that a person may release aquaculture fisheries resources into Queensland waters only if the person holds a general fisheries permit specifically allowing their release. It further provides that a person may release aquaculture fisheries resources without a general fisheries permit, if the release is undertaken under a management plan or the release is for carrying out fisheries development related to aquaculture and is carried out in a way authorised under the Planning Act.



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### **Placement of fisheries resources cultivated other than for sale**

Clause 635 provides that a person may place fisheries resources, which are cultivated other than for sale, whether or not they are cultivated inside or outside of the State, in an area, only if they hold an authority allowing their placement.

### **Carrying out particular development in declared fish habitat area**

Clause 636 states that a resource allocation authority is required for the works listed in schedule 8, part 2, table 1, item 3(d) of the Planning Act or schedule 1, table 3 of the 'Code for self-assessable development—Minor impact works in a declared fish habitat area or involving the removal, destruction or damage of marine plants' if they are performed in a declared fish habitat area.

### **Collecting dead marine wood from unallocated State land**

Clause 637 provides that a person may collect dead marine wood from unallocated state land for trade or commerce only if they hold a resource allocation authority allowing its collection. This particular activity is a development activity which is authorised under Schedule 8, part 2, table 4 of the Planning Act if it is undertaken in accordance with the relevant self-assessable code.

### **Nonindigenous fisheries resources**

Clause 638 specifies the acts involving nonindigenous fish which a person may perform only if they have an authority allowing them to do so. The clause further provides an exception where the act is authorised under a management plan or the Planning Act. A further exception is provided if a person performs an act involving fish listed in Schedule 6, part 2 of the Regulation and the fish are released into waters, other than waters on unallocated State land and they are kept securely to prevent their escape.

### **Noxious fisheries resources**

Clause 639 provides that a person may possess, rear, sell or buy noxious fisheries resources or bring or release noxious fisheries resources, or cause

them to be brought or released into Queensland only if they hold an authority allowing that activity.

### **Entering, or taking particular oysters from, particular areas**

Clause 640 provides that a person may enter a marked authority area or take blacklip or milky oysters from a marked authority area only if the person holds an authority allowing them to do so.

## **Part 3                      Miscellaneous offences**

### **Obstructing persons fishing under an authority**

Clause 641 provides for various offences for persons obstructing fishers or other persons acting under an authority to take fish. This provision was specifically created to address conflict in the ocean beach fishery.

### **Particulars to be legible, visible and in English**

Clause 642 requires particulars, where they are required to be written or marked in or on a document or thing under a management plan or the Regulation, other than under the general reporting requirements in Chapter 14, parts 1 to 5, to be legible, visible and in English. The clause further provides for another language to be used in addition to English.

## **Chapter 14      Reporting**

### **Part 1                      Preliminary**

#### **Simplified outline of ch 14**

Clause 643 provides an outline of what parts 2 to 8 operationally set out.

## **Part 2**                      **Requirements for persons acting under particular authorities**

### **Division 1**                **Definitions**

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

Clause 644 provides definitions of the terms “authorised boat” and “relevant authority” for the purposes of the part. Persons acting under these authorities are required to keep and give information in accordance with the specific provisions of this part.

### **Division 2**                **Person other than relevant authority holder using authorised boat under relevant authority**

#### **Application of div 2**

Clause 645 provides that the provisions of the division in keeping and giving information concerning the daily use of a fishing boat, apply to the person in control of the boat if they are not the authority holder.

#### **Information requirement for authority holder**

Clause 646 provides an obligation upon the authority holder, prior to the commencement of fishing, to provide an approved form or logbook to the person who is going to be in control of the fishing boat. A number of commercial fisheries, as well as the charter fisheries, have daily requirements in place for the completion of logbooks about fishing activities. The intention of this provision is to clarify the obligations where the person acting under the authority is not the named holder. Logbook data is an invaluable source of information for fisheries monitoring, assessment and management. Also, in the case of quota fisheries, the completion of logbook returns on a daily basis (at sea) is an integral part of the compliance arrangements for quota management. Logbook returns contain a progressive count of the number (and estimated weight) of fish taken

under the licence. The logbook has a capacity to be reconciled with numbers of fish reported and acts as a significant deterrent to subsequent under-reporting of landed catch. The intention of these provisions is to clarify the obligations where the person acting under the authority is not the named holder. This clause applies where the logbook obligation applies in respect of an authority entitling the holder to use a boat to fish, and another person is exercising that right under the authority. The holder (to whom the approved form is sent) must ensure it is on the boat before the other person assumes control of it. The person in control must then fill out the relevant information as soon as possible after the day's fishing ends. As it is still the holder responsible for sending the completed logs to the chief executive, the books must be returned at the holder's request. While the ultimate responsibility for ensuring the information is sent on time rests with the holder, this can be discharged on the holder's behalf by another person.

### **Information requirements for person in control of authorised boat**

Clause 647 provides an obligation upon the person in charge of the fishing boat who acted under the authority during the period, to provide the completed logbook to the authority holder or leave it on the boat so that the authority holder can access it.

### **Additional requirements for person in control of authorised boat**

Clause 648 provides an additional obligation upon the person in control of the boat to ensure that during fishing the logbook is kept on the boat and is available for immediate inspection. The clause provides an exception to this obligation if the boat is being used in a quota managed fishery and the fishing period is not more than 24 hours.

## **Division 3                      Person other than relevant authority holder fishing under authority**

### **Application of div 3**

Clause 649 provides that the provisions of the division in keeping and giving information concerning fishing under an authority, apply to the person who acts under the authority if they are not the authority holder.

### **Information requirement for relevant authority holder**

Clause 650 provides an obligation upon the authority holder to provide the logbook to the person who will be fishing under the authority before fishing commences.

### **Information requirements for relevant person**

Clause 651 provides an obligation upon the person fishing under the authority on the authority holder's behalf to keep the logbook for the fishing period and give it to the authority holder as soon as possible at the conclusion of fishing.

### **Additional requirements for relevant person**

Clause 652 provides an additional obligation upon the person fishing under the authority on the authority holder's behalf to ensure they keep the logbook in an immediately accessible place while fishing.

## **Part 3                              Wholesale selling**

### **Division 1                      Preliminary**

#### **Application of pt 3**

Clause 653 provides that the provisions of the part apply to the buying and selling of fish for trade or commerce.

## **Meaning of relevant quantity particulars**

Clause 654 provides a definition of the term “relevant quantity particulars” in respect of different species of fish.

## **Division 2                    General requirements**

### **Information requirements for wholesale sale of fisheries resources**

Clause 655 requires that, except in the case of a retail sale of fisheries resources, a docket for the sale must be given by the seller to the buyer containing particulars about the transaction. Alternatively the buyer may prepare the docket, provided the seller signs it. The buyer must keep the docket available for immediate inspection while the buyer retains any of the fisheries resources in their possession. The docket must state the specifics of the sale as outlined in the provision. The particulars that must be recorded vary depending on the fish and the potential use of the docket to reconcile transactions against the use of quota entitlement in Queensland or interstate.

### **Additional requirement for wholesale buyer of fisheries resources**

Clause 656 provides a further obligation on a wholesale buyer of fish to keep the sale docket available for immediate inspection whilst the fish are in the buyer’s possession.

### **Additional information requirements for consignment of particular fish**

Clause 657 provides additional obligations on sellers and wholesale buyers of abalone, Spanish mackerel and prescribed coral reef fin fish such that each consignment of these species is required to be accompanied by a copy of the sale docket with the seller keeping the sale docket for five years and the buyer keeping a copy of the sale docket for five years.

## **Part 4                      Abalone**

### **Information requirements for processing abalone**

Clause 658 provides an obligation on a person who conducts a business processing abalone to keep a record of the particulars of all abalone processed and to retain the record for five years after the abalone has been processed. The clause further provides a definition of the term “processing” for the purposes of the provision.

## **Part 5                      Spanish mackerel**

### **Division 1                  Importation**

#### **Definition for div 1**

Clause 659 provides a clarification that the term “the State” includes Queensland waters.

#### **Information requirements—spanish mackerel bought outside the State**

Clause 660 provides criteria for information to be kept on spanish mackerel which have been taken outside the state and brought into Queensland for trade or commerce.

#### **Information requirements—spanish mackerel taken outside ‘SM’ fishery area**

Clause 661 provides an obligation on a person who takes spanish mackerel from outside of the SM fishery area and unloads them in Queensland for trade or commerce to keep a record of prescribed information in the approved form. The clause further provides that the person must keep the record for five years from the date they stop possessing the fish.

## **Division 2                      Commercial carriage**

### **Application of div 2**

Clause 662 provides that the provisions of the division apply to the commercial carriage of spanish mackerel on boats or vehicles where a sale docket does not accompany the consignment.

### **Information requirements for commercial carriage of spanish mackerel**

Clause 663 provides that the person in control of the vehicle or the boat on which the fish are being carried, must keep details of the owner of the cargo, its origin and destination. This document need not be kept if the cargo is being consigned from a buyer to a seller and a docket for the sale under clause 654 accompanies the cargo.

### **Additional requirements for commercial carriage of spanish mackerel**

Clause 664 provides that the document required under the clause above must be available for immediate inspection by a fisheries inspector during the journey through Queensland. It is envisaged that the usual consignment notes will satisfy this requirement. The provision is intended to enable inspectors, together with powers of inspection conferred by the *Fisheries Act 1994*, to easily establish the legitimacy of spanish mackerel detected on its way in or out of the State, or in transit within Queensland.

## **Division 3                      Commercial storage**

### **Application of div 3**

Clause 665 provides that the provisions of the division apply to a person who stores spanish mackerel commercially for another person, for example the person may be the proprietor of a cold storage facility.



### **Information requirement for storage of spanish mackerel**

Clause 666 requires the warehouse keeper to keep a written record stating the name of the consignor of the fish.

### **Additional requirement for storage of spanish mackerel**

Clause 667 provides that the warehouse keeper must ensure that while the fish are stored, the written record is kept at the place at which they are stored and is available for immediate inspection. This enables fisheries inspectors to easily establish the legitimacy of commercially stored fish.

## **Part 6                      Automated interactive voice response system**

### **Division 1                  Preliminary**

#### **Purpose of pt 7**

Clause 668 states the purpose of the part is to provide for the chief executive to establish and operate an automated interactive voice response system; and state the requirements and procedures that apply to the operation and use of the system.

### **Division 2                  The AIVR system**

#### **Chief executive must establish and operate AIVR system**

Clause 669 requires the chief executive to establish an AIVR system to support obligations under fisheries legislation for the giving or receiving of information in this manner. The technology is in widespread use by the community, for example in the context of telephone banking services.

### **Requirements for AIVR system**

Clause 670 states the minimum capabilities the AIVR system must provide for recording transactions undertaken whilst using it.

### **Record kept by AIVR system is evidence of particular information**

Clause 671 provides the evidentiary basis for records of information entered into it by users.

### **Transaction number given by AIVR system is evidence of transaction**

Clause 672 provides that a transaction number evidences the fact the particular transaction occurred.

## **Division 3                      Using the AIVR system**

### **Requirement to keep record of transaction number**

Clause 673 provides that transaction numbers be recorded for six months in the event of a dispute or for investigative reasons, making retention of this record important.

### **Procedure if AIVR system not working properly**

Clause 674 obliges the chief executive to ensure, that in the event the AIVR system malfunctions, an alternate system to provide and receive information is available. In this eventuality, callers will be diverted to a 24-hour help desk and may give the required information to an officer, who will record the particulars and provide a transaction number.

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## **Part 7                      VMS equipment requirements**

### **Division 1                      Preliminary**

#### **Purpose and application of pt 7**

Clause 675 provides that the provisions of the part apply if VMS equipment under the Regulation or a management plan require it to be installed, maintained or used on a boat.

#### **Definitions for pt 7**

Clause 676 provides definitions of the terms “licence holder” and “prescribed way” for the purposes of the provision.

### **Division 2                      Requirements about installation, maintenance and use**

#### **Installation of VMS equipment**

Clause 677 provides an obligation on a licence holder to ensure that when installing VMS equipment on a boat, that both the equipment and the person installing it are approved by the chief executive and that the equipment is installed in accordance with the VMS Installation and Maintenance Standards.

#### **Nominating an alternative way of communication**

Clause 678 provides an obligation on the licence holder to nominate by written notice to the chief executive, one or more alternative modes of communication (other than VMS) for the person in control of the boat. This provision assists with monitoring and compliance in that it ensures licence holders nominate and have available a mode of communication with the chief executive at all times. The VMS system is integral to the ability of the chief executive to monitor a boat’s movement and activity. Should a boat’s VMS system fail, the chief executive may notify the person in control to ensure they are aware of the failure and the consequent manual reporting

obligations that then apply. In the absence of an agreed mode of communication, it is difficult for this notice to be given. The provision of a mode of communication, such as a radio or satellite telephone, will ensure the notice can be given so that the person in control may be made aware of their obligations in these circumstances. It may also alert the person in control to a problem of which he or she was otherwise unaware so that it may, if possible, be corrected.

### **Using and maintaining VMS equipment**

Clause 679 provides an obligation on both the licence holder and the person in control of the boat to ensure that the installed VMS equipment on the boat is used correctly at all times and maintained in such a manner to ensure its proper functioning.

### **Modifying or replacing VMS equipment**

Clause 680 provides that the chief executive may, by written notice, require the licence holder to modify or replace the VMS equipment installed on the boat. If the chief executive provides a written notice requesting a modification or replacement to installed VMS equipment, the licence holder is then obliged to undertake the requested action within the time stated on the notice.

## **Division 3                      Requirements if VMS equipment malfunctions**

### **Application of div 3**

Clause 681 provides that the provisions of the division apply if VMS equipment installed on the boat malfunctions.

### **Requirement to give notice of malfunction**

Clause 682 provides an obligation on the licence holder to give the chief executive notice advising of the malfunction of the VMS equipment immediately after they become aware of it.

## **Manual reporting requirement**

Clause 683 provides that a person in control of a boat must continue to comply with the manual reporting obligation in accordance with the provision until the VMS maintenance and use obligations imposed under clause 679 are again complied with.

## **Division 4                      Limited exemption from maintenance and use requirements**

### **Application of div 4**

Clause 684 provides that the provisions of the division apply if a boat upon which VMS equipment is installed, will not be used for fishing during a period for any of the stated reasons.

### **VMS exemption notice**

Clause 685 provides that if the licence holder or the person in control of the boat, upon which VMS equipment is installed, gives the chief executive a notice advising the boat will not be used for fishing during a period, the notice must be given in the prescribed way and must state the reason why the boat will not be used. The clause further provides that if the reason the boat will not be used for fishing is due to maintenance of the VMS equipment, the VMS exemption period under the notice must not be more than 6 hours. If the licence holder or person in control of the boat gives an exemption notice for any of the reasons stated under clause 684, the VMS maintenance and use obligations imposed under clause 679 do not apply during the exemption period but only whilst the boat is not used for fishing.

### **Withdrawal notice**

Clause 686 provides that if a licence holder or person in control of the boat has given a VMS exemption notice, they have the ability to withdraw it by providing a withdrawal notice in the prescribed way to the chief executive. Once a withdrawal notice is given to the chief executive, the boat may be used for fishing and all the VMS maintenance and use obligations imposed under clause 679 again apply.

## **Part 8**                      **Guidelines for giving information or notices**

### **Chief executive may make guidelines**

Clause 687 provides that the chief executive may make guidelines about giving information or notices that are required to be given to the chief executive under the regulation or a management plan.

### **Effect of guidelines**

Clause 688 provides that where the chief executive has made a guideline about giving information or a notice, a person has taken to have fulfilled their obligations under the legislation to give the information or notice where they comply with the guideline. The clause further provides that there may be more than one way in which to give the information or notice.

### **Notification**

Clause 689 obliges the chief executive to publish a guideline in the gazette as soon as practicable after it is made and for the responsible Minister to table it in Parliament within 14 sitting days after gazettal. The clause indicates that the provisions of Part 6 of the *Statutory Instruments Act 1992* apply to guidelines as though they are subordinate legislation.

### **Inspection**

Clause 690 obliges the chief executive to ensure that copies of the guidelines which are made and notified can be inspected by interested members of the public free of charge at the head office of the Department of Primary Industries and Fisheries during business hours.

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

Clause 691 provides that properly made and notified guidelines are admissible as evidence in prosecutions about contraventions of giving or receiving information. The clause further provides that a guideline is not admissible as evidence unless the guideline was gazetted and tabled before the offence.

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## **Chapter 15      Other matters relating to fisheries management**

### **Part 1              Enforcement**

#### **Division 1         Inspectors**

##### **Persons who may be appointed inspectors**

Clause 692 provides for the categories of persons who may be appointed inspectors, in accordance with s140 of the Act. Persons are selected based on their requisite knowledge of fisheries resources or fish habitat in a particular area, which are considered relevant by the chief executive or, where they are a local government employee, or a person authorised to enforce fisheries legislation in other jurisdictions.

#### **Division 2              Matters prescribed for seizure of fisheries resources**

##### **Declared fisheries resources for seizure in a heap—Act, s 154**

Clause 693 provides that species of a regulated fish are declared fisheries resources subject to the operation of section 154 of the Act.

##### **Threshold percentage for declared fisheries resources—Act, s 154**

Clause 694 provides for a threshold percentage in order to give limitations for the operation of section 154 of the Act. This allows fisheries enforcement officers to seize the entire load of fish once a breach of the threshold percentage is quantified. There is an exception outlined in part 2 of the clause whereby the threshold operation does not apply to the declared fisheries resources in the East Coast Trawl Management Plan.

### **Forfeiture offences—Act, s 154**

Clause 695 provides the operation of the seizure provision in s154 of the Act is triggered by a breach of an offence under ss 77 and 78, making them forfeiture offences.

## **Division 3                    Evidentiary matters**

### **Prescribed matters and equipment for certificates—Act, s 184**

Clause 696 sets down that under s 184(4)(g) of the Act where further evidence can be prescribed in regulation that whereby a certificate is purported to be signed by a person as prescribed in s 184(1)–(3) of the Act, further information may also considered evidence. Part 2 of the clause extends the operation of s184(5) of the Act to include evidence gained from any equipment used as part of a system that monitors the position and operation of a boat. This clause broadens the possible evidence acceptable under s184 of the Act.

## **Part 2                            Chief executive’s functions and powers**

### **Division 1                    Agreements or arrangements about fisheries resources**

#### **Prescribed entity for entering into agreements or arrangements—Act, s 20A**

Clause 697 provides that the Great Barrier Reef Marine Park Authority is a prescribed entity through the operation of 20A(1)(g) of the Act, whereby the chief executive may make agreements or arrangements with prescribed stakeholders such as the Commonwealth, State or other entities under regulation.



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## **Division 2                      Delegation of functions of chief executive**

### **Delegation of functions or powers to a prescribed entity**

Clause 698 provides that under a delegation made to a prescribed entity under s21(1)(a) of the Act, the delegate must have the prescribed qualifications to be a valid delegate or subdelegate to exercise the functions or powers of the chief executive.

### **Prescribed entity for delegating power under s 20A(1)(h) of the Act—Act, s 21**

Clause 699 provides that QRAA is a prescribed entity through the operation of 21(1)(a) of the Act, whereby the chief executive may delegate his power under the Act to formulate and operate arrangements (including funding) for adjusting the use of fisheries resources. Part 2 of clause provides a further subdelegation to the delegates, employee, member or officer.

### **Prescribed entities for delegating power to issue particular permits under Freshwater Plan—Act, s 21**

Clause 700 provides prescribed entities through the operation of 21(1)(a) of the Act is given the power to issue permits to take freshwater fish from stocked impoundments under the Freshwater Plan, where the chief executive may delegate his power under the Act. Part 3 of the clause provides a further subdelegation to the delegates, employee, member or officer.

## **Part 3                              Codes for IDAS**

### **Purpose of pt 3**

Clause 701 provides the declaration of the self-assessable codes under the Planning Act for fisheries development, as described under s22(2) of the Act. This allows fisheries development undertaken in accordance with a

self-assessable code eliminates the need to hold a resource allocation authority for the development.

### **Codes for building work in declared fish habitat area**

Clause 702 provides specific reference to the self-assessable codes under IDAS for development mentioned in the Planning Act. This allows the documents to be accessed in order to progress self-assessable development under the code which then eliminates the need to hold a resource allocation authority for the development.

### **Code for material change of use of premises for aquaculture**

Clause 703 provides specific reference to the self-assessable code under IDAS for development mentioned in the Planning Act, specifically low impact aquaculture. This allows the document to be accessed in order to progress self-assessable development under the code which then eliminating the need to hold a resource allocation authority for the development.

### **Codes for operational work for constructing or raising a waterway barrier works**

Clause 704 provides specific reference to the self-assessable codes under IDAS for development mentioned in the Planning Act, specifically the areas of; minor waterway barrier works on low order inland waterways and temporary waterway barrier works in fresh water. This allows the documents to be accessed in order to progress self-assessable development under the code which then eliminates the need to hold a resource allocation authority for the development.

### **Codes for operational work completely or partly within a declared fish habitat area**

Clause 705 provides specific reference to the self-assessable codes under IDAS for development mentioned in the Planning Act, specifically the areas of; works for educational, research or monitoring purposes, maintenance works on existing lawful structures (other than powerlines and on farm drains) and maintenance works on powerlines and associated

infrastructure in declared fish habitat areas. This allows the documents to be accessed in order to progress self-assessable development under the code which then eliminates the need to hold a resource allocation authority for the development.

### **Codes for operational work that is the removal, destruction or damage of marine plants**

Clause 706 provides specific reference to the self-assessable codes under IDAS for development mentioned in the Planning Act, specifically the areas regarding the removal, destruction or damage of marine plants. This allows the documents to be accessed in order to progress self-assessable development under the code which then eliminates the need to hold a resource allocation authority for the development.

### **Codes available for inspection**

Clause 707 provides the locations and times where the self-assessable codes are available for inspection by the public. This access includes the ability to obtain a copy from the department's head office free of charge.

## **Part 4 Fees and allowances**

### **Division 1 Development fees**

#### **Fees relating to development under Planning Act**

Clause 708 provides that the fees payable regarding; resource allocation authority, or fish movement exemption notice; or a fee payable to the chief executive under the relevant Planning Act functions are contained within this Regulation.

#### **What is the relevant assessment fee**

Clause 709 provides for the specific fees payable for each level of assessment the chief executive undertakes. Part 2 of this clause sets out the

criteria that the chief executive must have regard to in determining the assessment fee under part 1.

### **Applicable fee if application relates to more than 1 development**

Clause 710 provides a test in the event of the occurrence of multiple fees payable being accrued for development mentioned in this Regulation, whereby the fee for the assessment of the application that is charged is taken only once, and to be the higher of the applicable assessment fees.

## **Division 2                      Other fees**

### **Other fees payable under the Act**

Clause 711 provides for the administrative process of all fees other than fees relating to development under the Planning Act.

### **Chief executive may waive or refund a fee**

Clause 712 provides for the chief executive to exercise discretion to wholly or partly refund or waive a fee payable under the Act.

## **Division 3                      Allowances**

### **Witness fees for persons appearing before the tribunal—Act, s 194**

Clause 713 provides that witness fees for appearances before the tribunal under s 194(6) of the Act are consistent with the witness fees set out in the *Uniform Civil Procedure (Fees) Regulation 1999*.

## **Chapter 16      Repeal and transitional provisions**

### **Part 1              Repeal provision**

#### **Repeal**

Clause 714 provides that this Regulation repeals the *Fisheries Regulation 1995*.

### **Part 2              Transitional provisions**

#### **Division 1          Definitions**

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

Clause 715 provides definitions of “commencement”, “former schedule 5B” and “repealed regulation” for the purposes of this part.

#### **Division 2          General transitional provisions**

##### **References to repealed regulation**

Clause 716 provides that where the context permits, a reference to a provision in the repealed regulation is taken to be a reference to a corresponding provision where one exists in this Regulation.

##### **References to former scientific names for species of fish**

Clause 717 provides in the event that any inconsistencies between the scientific names of fish species in schedules 16 or 16A of the repealed Regulation and schedules 5 and 6 of this Regulation are encountered, that where the context permits, they are considered the same. This provision caters for the smooth transition to the new scientific names for industry.

## **Division 3                      Authorities**

### **Authorities continue**

Clause 718 provides for transitional provisions relating to authorities in force immediately before the commencement of the new Regulation.

### **Nominees under particular authorities continue**

Clause 719 provides for transitional provisions relating to nominees acting under authorities in a commercial fishery in Schedule 15 of the repealed regulation where such nominations were current immediately before the commencement of the new Regulation.

### **Licences for boats longer than permitted length**

Clause 720 provides for transitional provisions relating to the issue of commercial fishing boat licences for boats which are longer than the permitted length for the fishery. The clause provides that the chief executive may issue a commercial fishing boat licence that is longer than the permitted length only if it is a replacement for a boat identified in another licence and the other licence has the same fishery symbol on it and was in force immediately before 1 December 1995.

## **Division 4                      Particular fees**

### **Fees payable for fishery symbols and authorities for 2007–2008 financial year**

Clause 721 provides that the fees stated in schedule 10, table 1 payable for the 2007–2008 financial year are still payable despite the repeal of the former regulation. This transitional provision was specifically included for the spanner crab ITQ unit fees. The spanner crab ITQ unit fees for the third and fourth quarters of the 2007–2008 financial year were decreased by the *Fisheries Amendment Regulation (No. 1) 2008* and this provision avoids the necessity and confusion of having to particularise these quarterly fees in the schedule.

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## **Division 5                      SM units**

### **Declaration of law to which the Acts Interpretation Act 1954, s 20A applies**

Clause 722 provides that the savings and transitional provisions for the former schedule 5B of the repealed regulation are subject to the provisions of section 20A of the *Acts Interpretation Act 1954*.

### **SM units continue**

Clause 723 provides for transitional provisions relating to SM units such that an SM unit is continued as an SM unit under the new Regulation.

### **SM unit certificates continue**

Clause 724 provides for transitional provisions relating to SM unit certificates such that an SM unit certificate is continued as an SM unit certificate under the new Regulation.

### **Fisher PINs for SM units continue**

Clause 725 provides for transitional provisions relating to fisher PINs for SM units such that a fisher PIN for an SM unit is continued as a fisher PIN for an SM unit under the new Regulation.

### **Unit PINs for SM units continue**

Clause 726 provides for transitional provisions relating to unit PINs for SM units such that a unit PIN for an SM unit is continued as a unit Pin for an SM unit under the new Regulation.

### **Reduction in entitlement of SM units**

Clause 727 sets out the authorised weight for an SM unit which is 1 kilogram of (whole weight) spanish mackerel or, where on the relevant day the total number of SM units issued is more than 619520 [being the commercial total allowable catch], the amount of kilograms of (whole

weight) spanish mackerel calculated as the adjusted weight equivalent worked out by the formula provided.

## **Chapter 17      Amendment of plans and regulations**

### **Part 1              Amendment of Integrated Planning Regulation 1998**

#### **Regulation amended in pt 1**

Clause 728 provides that this part amends the *Integrated Planning Regulation 1998*.

#### **Amendment of sch 1 (Type of assessment and applicable codes, laws and policies for particular development)**

Clause 729 provides that various references to the repealed regulation are replaced with the new Regulation.

### **Part 2              Amendment of Marine Parks (Declaration) Regulation 2006**

#### **Regulation amended in pt 2**

Clause 730 provides that this part amends the *Marine Parks (Declaration) Regulation 2006*.

#### **Amendment of sch 4 (Dictionary)**

Clause 731 provides an updated definition of the “Trinity Inlet fish habitat area”.



## **Part 3**                      **Amendment of Marine Parks (Great Barrier Reef Coast) Zoning Plan 2004**

### **Regulation amended in pt 3**

Clause 732 provides that this part amends the *Marine Parks (Great Barrier Reef Coast) Zoning Plan 2004*.

### **Amendment of s 56 (Special management provision)**

Clause 733 updates the references to waters where nets may be used in dugong protection areas in the repealed regulation to the relevant regulated waters declaration provisions in the new Regulation.

### **Amendment of sch 8 (Designated areas)**

Clause 734 updates the references to waters where nets may be used in dugong protection areas in the repealed regulation to the relevant regulated waters declaration provisions in the new Regulation.

### **Amendment of sch 11 (Dictionary)**

Clause 735 provides a new definition of “Fisheries Regulation”.

## **Part 4**                      **Amendment of Marine Parks (Great Sandy) Zoning Plan 2006**

### **Regulation amended in pt 4**

Clause 736 provides that this part amends the *Marine Parks (Great Sandy) Zoning Plan 2006*.

### **Amendment of s 81 (Bait netting)**

Clause 737 updates references to bait netting provisions in the repealed regulation to the relevant provisions in the new Regulation.

### **Amendment of s 88 (Netting other than bait netting)**

Clause 738 updates references to netting (other than bait netting) provisions in the repealed regulation to the relevant provisions in the new Regulation.

### **Amendment of sch 5 (Dictionary)**

Clause 739 updates definitions of the terms “Fisheries Regulation”, “limited crabbing” and “limited spearfishing”.

## **Part 5                      Amendment of Nature Conservation (Dugong) Conservation Plan 1999**

### **Regulation amended in pt 5**

Clause 740 provides that this part amends the *Nature Conservation (Dugong) Conservation Plan 1999*.

### **Amendment of s 2 (Definitions)**

Clause 741 updates references to “dugong protection area” in the repealed regulation to the relevant provisions in the new Regulation.



## **Schedule 1      Regulated waters**

Clause 746 provides a schedule which lists in tabular form, the names and descriptions of regulated waters to which the provisions of chapter 2 apply. The schedule is interpreted from left to right in that the waters named in column 1 and described in column 2 are regulated for the persons and activities described in column 3.

## **Schedule 2      Regulated fish declarations**

### **Part 1              Preliminary**

#### **Meaning of symbols used in sch 2**

Clause 747 provides a legend of the symbols used in Part 2, column 2, of the schedule.

### **Part 2              Fish regulated separately**

Clause 748 provides a schedule which lists in tabular form, the species of fish, regulated separately, to which the provisions of chapter 3 apply. The schedule is interpreted from left to right in that the fish mentioned in column 1 are regulated in the form expressed by the symbol in column 2. The information in column 3 provides a qualification of how the fish are regulated in the form described, either by a specific number or size and the information in column 4 describes the persons to whom the taking or possessing of the regulated fish applies.

## **Part 3                      Fish regulated by number separately and in combination**

Clause 749 provides a schedule which lists in tabular form, the species of fish, regulated by number separately and in combination with other species of fish, to which the provisions of chapter 3 apply.

## **Schedule 3      Declared fish habitat areas**

### **Part 1                      Areas including particular tidal land**

Clause 750 lists in tabular form all Part 1 declared fish habitat areas, which are those declared fish habitat areas generally with tidal boundaries. Column 2 provides further information on how the boundary is defined and any areas that are specifically included and excluded.

### **Part 2                      Areas within outer boundaries on fish habitat area plans**

Clause 751 lists in tabular form all Part 2 declared fish habitat areas, which are those declared to cadastral boundaries wherever possible. Column 2 provides further information about the boundary for each declared fish habitat area and specific inclusions (for example, land other than unallocated State land or national park land) and exclusions (for example, parcels of unallocated State land or national park land).

## **Schedule 4      Declared diseases**

### **Part 1                  Bacteria**

Clause 752 states the bacteria that, for the purposes of the Regulation, constitute a declared disease.

### **Part 2                  Fungi**

Clause 753 states the fungi, that for the purposes of the Regulation, constitute a declared disease.

### **Part 3                  Parasites**

Clause 754 states the parasites, that for the purposes of the Regulation, constitute a declared disease.

### **Part 4                  Pests**

Clause 755 states the pests, that for the purposes of the Regulation, constitute a declared disease.

### **Part 5                  Viruses**

Clause 756 states the viruses, that for the purposes of the Regulation, constitute a declared disease.

## **Schedule 5      Glossary of scientific names for particular coral reef fin fish species**

### **Part 1              Particular cods and groupers**

Clause 757 provides a source reference to determine the scientific names of particular species of coral reef fin fish mentioned in this Regulation or management plans from their common name. Part 1 of this clause pertains specifically to particular cods and groupers.

### **Part 2              Particular coral trout**

Clause 758 provides the common and scientific names pertaining to particular coral trout species.

### **Part 3              Particular emperors**

Clause 759 provides the common and scientific names pertaining to particular emperor species.

### **Part 4              Fusiliers**

Clause 760 provides the common and scientific name pertaining to fusiliers species.

## **Part 5**                      **Particular parrotfish**

Clause 761 provides the common and scientific names pertaining to particular parrotfish species.

## **Part 6**                      **Particular surgeonfish**

Clause 762 provides the common and scientific names pertaining to particular surgeonfish species.

## **Part 7**                      **Particular sweetlips**

Clause 763 provides the common and scientific names pertaining to particular sweetlips species.

## **Part 8**                      **Particular tropical snappers and seaperches**

Clause 764 provides the common and scientific names pertaining to particular tropical snapper and seaperch species.

## **Part 9**                      **Particular wrasses**

Clause 765 provides the common and scientific names pertaining to particular wrasse species.



## **Schedule 6      Glossary of scientific names for particular fish other than regulated coral reef fin fish**

### **Part 1              Noxious fish**

Clause 766 provides a source reference to determine the scientific names of noxious fish mentioned in this Regulation or management plans from their common name.

### **Part 2              Particular nonindigenous fish**

Clause 767 provides the common and scientific names pertaining to particular nonindigenous fish.

### **Part 3              Particular freshwater fish**

Clause 768 provides the common and scientific names pertaining to particular freshwater fish.

### **Part 4              Particular fish found in the East Coast Trawl fishery area**

Clause 769 provides the common and scientific names pertaining to particular fish found in the East Coast Trawl fishery area.

## **Part 5**                      **Particular fish to which extended bag limits apply**

Clause 770 provides the common and scientific names pertaining to particular fish to which extended bag limits apply.

## **Part 6**                      **Other particular fish**

Clause 771 provides the common and scientific names pertaining to other particular fish.

## **Schedule 7**                **Prescribed reference documents for scientific names for fish**

### **Part 1**                      **General reference documents**

Clause 772 provides the general source reference documents and the order in which they must be referred in order to ascertain the scientific names of fish mentioned in this Regulation or management plans.

### **Part 2**                      **Reference documents for particular fish**

Clause 773 provides the source reference documents and the order in which they must be referred in order to ascertain the scientific names of the species of fish listed in Schedule 6 of this Regulation.

## **Schedule 8      Fees relating to development under Planning Act**

### **Part 1                      Resource allocation authorities**

Clause 774 prescribes the fees payable for resource allocation authorities, payable for particular developments.

### **Part 2                      Fish movement exemption notices**

Clause 775 prescribes the fees payable for fish movement exemption notices.

### **Part 3                      Assessment of development application**

Clause 776 prescribes the relevant assessment fees payable for particular development applications.

### **Part 4                      Other fees relating to development applications**

Clause 777 prescribes other fees relevant to development applications not already addressed in Parts 1–3.

## **Schedule 9      Other fees**

### **Table 1                      Fees for fishery symbols or authorities under regulation**

Clause 778 sets out in tabular form, the annual fees payable with respect to each fisheries symbol, licence or authority until 2010/11 and any later financial year.

### **Table 2                      Fees for fishery symbols or authorities under management plans**

Clause 779 Set out other fees which are payable including those for non-renewable authorities.

### **Table 3                      Registration fees for particular licences**

Clause 780 sets out registration fees which are payable for particular licences.

### **Table 4                      Other Fees**

Clause 781 sets out other fees which are payable for various permits or to amend authorities in particular ways.

## **Schedule 10 Defined port areas**

Clause 782 provides geographical descriptions of defined port areas mentioned in this Regulation or management plans.

## **Schedule 11 Dictionary**

### **Part 1 Extended definitions**

#### **References to a commercial fishery identified by a fishery symbol**

Clause 783 provides a definition of the term “identified by” in the context of a fishery symbol written on an authority.

#### **References to drainage divisions**

Clause 784 provides that references to a drainage division by name is a reference to that drainage division under the Freshwater Plan.

#### **Meaning of length of boat**

Clause 785 provides a definition of the term “length” in the context of the measurement of a boat’s size and provides examples of things which are not considered to increase the boat’s effective length.

#### **Meaning of length of a net other than an otter trawl net**

Clause 786 provides a definition of the term “length” in the context of the measurement of nets other than an otter trawl net.

#### **Meaning of mesh size of a net**

Clause 787 provides a convention for measuring nets which are both knotted and knotless.

### **References to primary boat and tender boat and related references**

Clause 788 provides a definition of the terms “primary boat” and “tender boat” where those expressions are used in fishery provisions about commercial fishing boat licences or commercial harvest fishery licences.

### **Meaning of recreational fisher and recreational fishing**

Clause 789 provides a definition of the terms “recreational fisher” and “recreational fishing”. The clause reflects the provisions of s14 of the Fisheries Act and clarifies, particularly for enforcement officers, that taking or possessing fish, other than for the reasons stated in the provision, constitutes recreational fishing.

### **References to river basins**

Clause 790 provides that references to a river basin by name is a reference to that river basin under the Freshwater Plan.

### **Meaning of under direction for an assistant fisher**

Clause 791 provides a definition of the term “under direction” in the context of an assistant fisher taking fish or performing an activity in a commercial fishery under the direction of a commercial fisher.

### **Meaning of whole weight of spanish mackerel**

Clause 792 provides for how the whole weight of spanish mackerel may be determined depending on whether the fish are in whole form, gilled, gutted or trunked.

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## **Part 2                      Other definitions**

Clause 793 provides definitions for other words and terms used throughout the Regulation or management plans.

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### ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Primary Industries and Fisheries.

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