



Queensland

# **Fisheries Amendment Regulation (No. 5) 2008**

**Explanatory Notes for SL 2008 No. 448**

made under the

*Fisheries Act 1994*

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## **General Outline**

### **Short Title**

*Fisheries Amendment Regulation (No. 5) 2008.*

### **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 inshore finfish fisheries resources in a way that seeks to promote ecologically sustainable development. Fisheries resources are finite, and technology enables them to be depleted faster than they can regenerate. As there is

considerable economic incentive to exploit these resources government intervention is essential for them to be protected and to ensure they continue to provide benefits to the community and to those accessing them.

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

- Amending the ways under which the commercial and recreational harvest of inshore finfish can be undertaken, including apparatus restrictions;
- Implementing a range of minimum, and in some cases maximum, fish size limits that will apply; and
- Removing a number of unintended anomalies and inconsistencies in the Regulation.

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

## **Consistency with Authorising Law**

The new Amendment Regulation covers important matters that are necessary for the sustainable and responsible management of Queensland's inshore finfish fisheries resources, in order to deliver an ecologically sustainable management framework that is consistent with the main purpose of the *Fisheries Act 1994*.

## **Consistency with other Legislation**

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

## **Alternatives to the Legislation**

Three alternatives in regard to amending the Regulation have been considered:

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

There has been no comprehensive review of the inshore finfish fishery since before the introduction of the *Fisheries Regulation 1995*. Although the regulation was remade on 1 April 2008 as the *Fisheries Regulation 2008* this involved the transfer of the previous provisions into a newer format, and these provisions remained essentially unchanged. To ensure that the Regulation is current and able to ensure the sustainable management of the fishery the Department of Primary Industries and Fisheries commenced a review of the relevant regulatory provisions in October 2006. The amendment regulation represents the outcome of a comprehensive 18 month consultation process involving all stakeholders in the fishery. Given the extensive nature of the review and the number of appropriate reforms that have been identified it would be inappropriate not to implement its outcomes.

### **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 and over-capitalisation and reduced financial returns for 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 reforms were 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—Amending the Regulation**

It is recognised that the *Fisheries Regulation 2008* covers important matters that are necessary for the sustainable and responsible management of Queensland's inshore finfish fisheries resources, which should be maintained in the interests of ecologically sustainable management of fisheries. This preferred option proposes to amend the Regulation to achieve improved fisheries resource management outcomes for inshore finfish resources as identified in the review.

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

The costs associated with implementing the Amendment Regulation are expected to be minimal. There will be costs associated with administrative processes in issuing new fishery symbols and in combining activities previously undertaken under two separate fishery symbols, however these costs are one-off. There are costs associated with compliance activities for the changed regulations, however these are not anticipated to be any greater than for the previous regulations. It will be important to ensure public awareness of the regulations, particularly new and changed fish bag and size limits, however these costs are also short term and will be met through reprioritising current budget expenditure. Any other additional ongoing costs will also 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*.

Provisions related to the amalgamation of fishery symbols, and particularly the removal of N1 symbols from those licences, will impact on individual rights by preventing the separate transfer of the N1 fishery symbol as it currently applies. However the amalgamation is critical in ensuring that latent (under-utilised) fishing effort is not turned into additional effort on inshore fish stocks. The amalgamation will only have a nominal impact on the fishing rights of the affected commercial netting licence holders. The effect will be that licence holders will continue fishing in exactly the same manner as if the amalgamation had not occurred, albeit under the amended provisions set out by the amendment regulation. The legislation restores the rights to transfer individual net symbols once the amalgamation has been effected.

## **Consultation**

### **Community**

A comprehensive two stage consultation process was undertaken in recognition of the strong interest and participation in the fishery. The first stage of consultation which commenced in October 2006 involved seeking community views about how the fishery might be better managed into the future. Stakeholders identified the key issues facing the fishery and made suggestions about how these issues might be addressed. These comments were then developed into proposals that were outlined in a RIS and draft PBT that was released in December 2007.

A four month public consultation process was undertaken following the release of the RIS and draft PBT. A total of 45 public meetings were held along the Queensland east coast, which were attended by in excess of 2,000 people. A meeting record for each of these meetings was posted on the Department of Primary Industries and Fisheries (DPI&F) website. Over 1700 written responses were received.

Approximately 20 key stakeholder groups provided detailed written responses.

DPI&F sought advice from the Inshore Fin Fish Management Advisory Committee (MAC) and its working groups that were established to provide advice on specific elements of the regulatory framework. The MAC and its working groups met in April and May 2008 to consider all the public feedback and make recommendations on the final proposed changes. These recommendations were then considered by Government in late 2008, and the final decisions reached are represented in the changes outlined in this Amendment Regulation.

## **Government**

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

DPI&F has also taken a partnership approach with the Commonwealth Government during the review of the fishery and has worked closely to address any of its concerns. DEWHA and the Great Barrier Reef Marine Park Authority (GBRMPA) have been extensively involved in the process and have provided advice in relation to future management of the fishery. DPI&F also regularly liaises with NSW Fisheries to ensure complementary arrangements where possible.

## **Results of Consultation**

### **Community**

Many stakeholders have been seeking reforms to the fishery for more than 10 years and therefore welcomed the review. While there has been disagreement about some of the issues, each proposal has been thoroughly debated on its merits and is based on the best possible information and advice available at the time.

Stakeholders are generally supportive of the majority of the proposed changes, however, some individuals are likely to be impacted by and therefore object to particular changes. Many of the proposals are a balance between opposing views on issues and between protecting the sustainability of inshore fin fish and considering the impacts on recreational and commercial fishers. The Amendment Regulation represents changes that on balance address stakeholder concerns whilst still ensuring sustainable use of inshore finfish fisheries resources.

## **Government**

There is support from all elements of the Queensland Government for the Amendment Regulation. The new fishery management arrangements have been assessed by the Commonwealth Government and meet strict sustainability guidelines under the *Environment Protection and Biodiversity Conservation Act 1999*. Adjacent jurisdictions are supportive of the proposed size and bag limits, particularly for those shared species for which there is sustainability concern.

## **Notes on Provisions**

### **Short title**

Clause 1 provides that the short title of the regulation is the *Fisheries Amendment Regulation (No. 5) 2008*.

### **Commencement**

Clause 2 provides the date on which the following clauses of the amendment regulation commence as being—

- (1) Clause 119 (s 728), (s 729) & (s 730) commence on the day of notification
- (2) Clauses 31 to 36, 39 to 41, 118, 121(1), 121(3), 122, 123 & 124 commence 1 March 2009

- (3) Clauses 4 to 30, 37, 38, 42 to 117, 119 (731), 120, 125 & 126 commence 1 July 2009

### **Regulation amended**

Clause 3 provides that the Regulation amends the *Fisheries Regulation 2008*.

### **Insertion of new s 15A (References to doing a thing in a commercial fishery)**

Clause 4 inserts a new section to clarify that operating in a commercial fishery includes those activities undertaken under the authorisations and conditions of the relevant fishery symbol identifying the fishery. This clarifies the previous definition of a fishery which referred to the fishery area rather than the activities that can be undertaken using specific apparatus.

### **Replacement of s 33 (Regulated waters for div 2)**

Clause 5 replaces s 33 to remove all references to “downstream” in order to combine upstream and downstream regulated waters at Tinana Creek Barrage, Mary River Barrage, Burnett River Barrage, Kolan River Barrage and Fitzroy River Barrage, ensuring these regulated waters prohibit the taking of all fish by all persons, as well as simplifying their description.

### **Replacement of s 51 (Regulated waters for div 5)**

Clause 6 replaces s 51 to remove all regulated waters that had a reference to “upstream” in order to combine upstream and downstream regulated waters at Tinana Creek Barrage, Mary River Barrage, Burnett River Barrage, Kolan River Barrage and Fitzroy River Barrage, ensuring these regulated waters prohibit the taking of all fish by all persons, as well as simplifying their description.



### **Amendment of s 62 (Prohibited activities—mud crab)**

Clause 7 amends s 62 to simplify the description of the regulated waters.

### **Replacement of s 87 (Regulated waters for div 2)**

Clause 8 replaces s 87 to reorder the waters from south to north. It also clarifies some regulated waters by—

- removing the reference to Bribie Island's eastern shore and the sand spit at Kings Beach in order to simplify the prohibitions on fishing around the mouth of Pumicestone Passage. This area is now included in the definition of Pumicestone Passage, where all commercial fishing is prohibited;
- clarifying that the regulated waters for commercial fishing nets in the middle part of Hinchinbrook Channel is a prohibition on the use of all nets;
- renaming the net fishing regulated waters described as 'Burdekin River' to be the 'Burdekin River Anabranh' to better reflect the area that is regulated; and
- inserting a reference to 'Daintree River' as part of moving the current regulated waters for any commercial fishing net in the 'Daintree River (area 1)' from s 96 to s 87 where it belongs. As the reference to 'Daintree River (area 2)' in s 96 is to be deleted, the area 1 regulated waters will simply become 'Daintree River'.

### **Amendment of s 89 (Exception for Trinity Bay regulated waters)**

Clause 9 amends s 89 to remove reference to N6 and N7 symbols which have been removed from the Regulation. A new N11 symbol is being introduced to provide for the commercial harvesting of fish using a mesh net with a maximum mesh size of 45 mm (see Clause 81).

### **Replacement of s 90 (Regulated waters and regulated periods for div 3)**

Clause 10 replaces s 90 to reorder the waters from south to north. It also amends one of the regulated waters by aligning the seasonal prohibition on commercial net fishing at Caloundra (Kings Beach to Shelly Beach) to the ocean beach net fishing season to open the area during the entire season.

### **Amendment of s 96 (Prohibited activities)**

Clause 11 amends s 96 to—

1. Simplify the provisions relating to where some types of commercial nets cannot be used by instead identifying these areas in the provisions describing the use of the nets by—
  - deleting the reference to “Moreton Bay (whole)” as this regulated waters description is unneeded with the use of small mesh nets in various areas now clarified under amended s 533, 533A and 533B;
  - deleting the reference to “Cassim and King Islands (Moreton Bay)” as this regulated waters description for tunnel nets is now excluded from the area in which such apparatus can be used under amended s 524(b);
  - deleting the reference to “Great Sandy Strait and Hervey Bay (netting)” as these regulated waters are unneeded with the use of small mesh nets in various areas now clarified under amended s 533, 533A and 533B;
  - deleting the reference to “South of Burnett River” as these regulated waters are unneeded with the use of small mesh nets in various areas now clarified under amended s 533, 533A and 533B;
  - deleting the reference to “South of Baffle Creek” as these regulated waters are unneeded with 800m general purpose nets to be used south of Baffle Creek under amended s477 and the deletion of all reference to the previous N5 fishery;
  - deleting the reference to “Hervey Bay (netting area 1)” as these regulated waters are unneeded with 800m general purpose nets to be used south of Baffle Creek under

amended s477 and the deletion of all reference to the previous N5 fishery;

- deleting the reference to north of Burnett River as these regulated waters are unneeded with the use of small mesh nets in various areas now clarified under amended s533, s533A and s533B;
  - deleting the reference to “North of Baffle Creek” as these regulated waters are unneeded with the use of general purpose nets in rivers and creeks clarified under amended s481 and the deletion of all reference to the previous N7 fishery;
  - deleting the reference to “Keppel Bay (netting)” as restrictions on the use of offshore set mesh nets and nets that are neither fixed nor hauled in this area is clarified under amended s 479, s 480, s 485 and s 486;
2. Remove references to those regulated waters that have been superseded or are no longer necessary by—
- deleting the reference to “rivers and creeks east of longitude 142°09' east”, as these regulated waters for a set mesh net or a net that is neither fixed nor hauled used in offshore waters is unneeded as the definition of offshore waters in Schedule 11 excludes rivers and creeks;
  - deleting the reference to “Baffle Creek-Cape Flattery” as these regulated waters for foreshore set nets in rivers and creeks is unneeded because amended s498 now refers to the use of nets in nearshore waters, and the definition of nearshore waters in Schedule 11 excludes rivers and creeks;
  - deleting the reference to “Hervey Bay (netting area 2)” as these regulated waters previously related to 150mm offshore set mesh nets and nets that are neither fixed nor hauled to provide for the legal use of a smaller size (88mm) net. This is no longer necessary under new provisions for the use of 100 - 165mm offshore set nets and nets that are neither fixed nor hauled south of Baffle Creek under amended s 480 and s 483;
  - deleting the reference to “Burnett River-Baffle Creek” as these regulated waters are unneeded with the use of

- nearshore set nets no longer permitted under the N1 fishery and the deletion of all reference to the previous N5 fishery;
- deleting the reference to “Shoalwater Bay”, which closed this area to the use of set mesh nets. This is unneeded as the Shoalwater Bay dugong protected area (s110) closes this area to the use of any net other than a cast net;
  - deleting the reference to “Hinchinbrook Channel (fishing apparatus area 1)” as the use of a 400m 12-45mm mesh net will be allowed under the N11 symbol, other than in the central section of the channel where all netting is prohibited;
  - deleting the reference to the “north of Cape Flattery” these regulated waters for foreshore set nets in rivers and creeks as these regulated waters are unneeded because amended s 503 now refers to the use of nets in nearshore waters, and the definition of nearshore waters in Schedule 11 excludes rivers and creeks;
3. Delete the reference to “Hinchinbrook Channel (fishing apparatus area 2)” to move these regulated waters to s 87 as these regulated waters for the use of all commercial fishing nets in the central section of the channel as specified in clause 12(2);
  4. Delete the references to “Daintree River (area 1)” and “Daintree River (area 2)” to move these regulated waters to s 87 as regulated waters to the use of all commercial fishing nets as specified in clause 8;
  5. Realign the regulated waters “Fraser Island (rivers and creeks)” to the correct section numbers [s 481(3) and s 499] as a consequential amendment resulting from other amendments to the Regulation; and
  6. Clarify that the “Pioneer River (downstream)” and “O’Connell River” regulated waters apply to all commercial fishing nets other than a cast net or a mesh net that is used as a seine net.

### **Replacement of s 97 (Regulated waters for div 4)**

Clause 12 replaces s 97, to reorder the waters from south to north. It also—

1. Deletes reference to “Port Douglas” and “Endeavour River area” to remove regulated waters that have been superseded by a prohibition on the use of commercial fishing nets under the Great Barrier Reef Marine Park Zoning Plan.
2. Renames the Burdekin River Anabranch regulated waters to better describe the area affected

### **Amendment of s 98 (Prohibited activities and regulated period)**

Clause 13 amends s 98 to have it refer to the use of nearshore nets to reflect a change from the former reference to foreshore nets and align these restrictions to the new definition of nearshore waters.

### **Amendment of s 101 (Exceptions for Wellesley Islands Protected Wildlife Area regulated waters)**

Clause 14 amends s 101 to have it refer to the use of nearshore nets to reflect a change from the former reference to align these restrictions to the new definition of nearshore waters.

### **Amendment of s 107 (Prohibited activities-Hervey Bay-Tin Can Bay (dugong protection area 4) waters)**

Clause 15 amends s 107 to clarify the boundary of the DPA in the Mary River

### **Amendment of s 108 (Prohibited activities-Hervey Bay-Tin Can Bay (dugong protection area 5) waters)**

Clause 16 amends s 108 to clarify the boundary of the DPA in the Mary River and Burrum River

### **Amendment of s 109 (Prohibited activities)**

Clause 17 amends s 109 to—

1. simplify the provision as the current wording is unnecessarily complex.

2. clarify that one end of a general purpose net may be fixed but that the use of a mesh net that is neither fixed nor hauled is prohibited.

### **Omission of s 110A (Prohibited activities - using mesh nets generally)**

Clause 18 deletes s 110A (Prohibited activities-using mesh nets generally) with these provisions now covered under the amended s 111.

### **Replacement of s 111 - 113**

Clause 19 replaces s 111 to 113 to—

1. simplify the provision as the current wording is unnecessarily complex;
2. clarify that one end of a general purpose net may be fixed but that the use of a mesh net that is neither fixed nor hauled is prohibited;
3. clarify the use of set nets in this area and to align these restrictions to the new definition of nearshore waters;
4. remove redundant provisions related to the prohibition on joining nets or using a set mesh net within 200m of a jetty or wharf as these restrictions apply generally throughout the fishery area; and
5. Amend reference to foreshores to align to the new definition of nearshore waters.

### **Replacement of s 114 (Prohibited activities)**

Clause 20 replaces s 114 to simplify the provision as the current wording is unnecessarily complex.

### **Replacement of s 116 and insertion of s 116A**

Clause 21—

1. replaces s 116 to simplify the provision as the minimum mesh for an N1 net is 50mm and the maximum mesh for an N11 net is 45mm, both of which are less than 115mm.
2. inserts a new s 116A setting out prohibited activities regarding the use of set mesh nets in rivers or creeks that were previously included in s 116.

### **Replacement of s 119 and 120**

Clause 22—

1. replaces s 119 with a section dealing with the use of mesh nets generally in the Upstart Bay (greater dugong protection area) to set out the division in a more logical fashion. Provisions relating to the length of nets that may be used have been omitted as these restrictions apply generally throughout the fishery (s 486);
2. replaces s 120 to clarify the requirement for a fisher to be on a boat to be in attendance at an offshore net; and
3. insert a new s 120A to align the provisions with the new definition of nearshore waters.

### **Amendment of s 121 (Using set mesh nets on a headland)**

Clause 23 amends s 121 to remove reference to the barramundi regulated season as this has no bearing on the primary purpose of the provision which is to reduce the risk of nets to dugong. Redundant provisions related to the prohibition on joining nets or using a set mesh net within 200m of a jetty or wharf in nearshore waters have been removed, as these restrictions apply generally throughout the fishery.

### **Amendment of s122 (Using set mesh nets in rivers or creeks)**

Clause 24 amends s 122 to remove reference to the barramundi regulated season as this has no bearing on the primary purpose of the provision to reduce the risk of nets to dugong.

### **Omission of s123 (Using a mesh, ring or seine net)**

Clause 25 deletes s 123 as these provisions are now effectively covered in the amended s 119.

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

Clause 26 amends the example provided in s 141(3) as the current example will no longer be valid because the link between possessing spotted flagtail and jungle perch has been removed.

### **Amendment of s 143 (Regulated fish declarations may apply differently)**

Clause 27 amends the example provided in s 143(1) as the current example will no longer be valid because of a name change to grey mackerel and a change in the regulated size and possession limit.

### **Amendment of s 157 (Fin fish)**

Clause 28 amends the provisions relating to measuring finfish to incorporate directions on the measurement of shark and rays to support a maximum size limit for the group. It also provides a method intended to be used for measuring a shark or shark-like ray using the distance between dorsal fins for those fish that will have been processed to a “barrel” or trunk form. As not all rays have this form of dorsal fin, the interdorsal size limit will not be able to be applied, however this group do not get processed to a barrel nor do they reach a size to which the limit would apply. It should be noted that a take and possession limit is also being introduced, and that this limit will apply to all members of the shark and ray group, including those to which an interdorsal measurement cannot be applied.

### **Insertion of new of s 157A**

Clause 29 inserts a new s 157A to describe the method for measuring the interdorsal length of a shark or ray to which the interdorsal length can be applied.



## **Replacement of s 192 and 193**

Clause 30—

1. amends s 192 to remove the age restriction on the use of a recreational shell dredge; and
2. amends s 193 to remove the age restriction on the use of a recreational seine net.

## **Amendment of s 197 (Taking fish using fishing apparatus)**

Clause 31 amends s 197 to remove the prohibition on having non-regulated fish in fishing apparatus that is out of the water.

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

Clause 32 amends s 247 to remove reference to the N6 symbol which has been removed from the Regulation and will be removed from the Gulf Plan. A new N11 symbol is being introduced to provide for the commercial harvesting of fish using a mesh net with a maximum mesh size of 45 mm (see Clause 82-86).

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

Clause 33 amends s 250 to remove reference to N6 and N7 symbols which have been removed from the Regulation and will be removed from the Gulf Plan. A new N11 symbol is being introduced to provide for the commercial harvesting of fish using a mesh net with a maximum mesh size of 45 mm (see Clause 82-86).

## **Amendment of s 265 (Taking particular fish)**

Clause 34 amends s 265 to remove reference to area to provide for an expanded definition of fishery that includes the use of apparatus and other constraints.

### **Amendment of s 266 (Using fishing apparatus)**

Clause 35 amends s 266 to insert an example in subsection (5) to clarify that two nets used in different ways under one net symbol do not constitute different types of fishing apparatus. The intent is that under a net symbol only one net may be used at a time, unless the relevant provision specifically allows for the use of more than one net, as for example is allowed in the N2 fishery. Thus only one net may be used at a time within the N1 fishery; it is not permissible for example to use an offshore mesh net and a general purpose mesh net in nearshore waters at the same time.

### **Amendment of s 267 (Taking fish in a particular way)**

Clause 36 amends s 267 to remove reference to area to provide for an expanded definition of fishery that includes the use of apparatus and other constraints.

### **Amendment of s 268 (Taking fish during a fishery period)**

Clause 37 amends s 268 to remove reference to area to provide for an expanded definition of fishery that includes the use of apparatus and other constraints.

### **Insertion of new s 271A**

Clause 38 inserts a new s 271A to clarify that, even if a commercial fishery symbol allows a fisher to operate in more than one fishery, they can only operate in one fishery at a time. This is necessary with the amalgamation of certain net symbols, for example a holder of an N2 symbol is now able to operate in the N1 fishery, but not at the same time.

### **Amendment of s 317 (Use of primary boats)**

Clause 39 amends s 317 to bring the wording of the boat length provision for the Shell fishery into line with that used for other fishery symbols.

### **Amendment of s 412 (What fish may be taken)**

Clause 40 amends s 412 to change fish names to meet the Fish Names Standard.

### **Replacement of ch 9, pt 1, hdg, div 1, hdg and s 435**

Clause 41—

1. replaces the heading of Chapter 9 Part 1 to indicate that these symbols will now also provide for the use of mesh nets as specified under the N1 symbol provisions (i.e. “general netting”) as set out under Chapter 9 Part 2;
2. replaces the heading of Chapter 9 Part 1 Division 1 to indicate that the K1 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions (i.e. “general netting”) as set out under Chapter 9 Part 2.; and
3. replaces s 435 to provide for this change. This effectively amalgamates the two fishery symbols to remove current latent effort that could be activated through one of the symbols being transferred to a commercial fishing boat licence not previously engaged in the net fishery.

### **Amendment of s 437 (Fishery area)**

Clause 42 amends s 437 to clarify that this description relates only to the ocean beach fishery area 1, and does not restrict the use of nets by K1 fishers as set out under Chapter 9 Part 2 to this area.

### **Replacement of ch 9, pt 1, div 2, hdg and s 438**

Clause 43—

1. replaces the heading of Chapter 9 Part 1 Division 2 to indicate that the K2 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions (i.e. “general netting”) as set out under Chapter 9 Part 2; and
2. replaces s 438 to provide that the K2 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions as set out under Chapter 9 Part 2. This

effectively amalgamates the two fishery symbols to remove currently latent effort that could be activated through one of the symbols being transferred to a commercial fishing boat licence not previously engaged in the net fishery.

### **Amendment of s 440 (Fishery area)**

Clause 44 amends s440 to clarify that this description relates only to the ocean beach fishery area 2, and does not restrict the use of nets by K2 fishers as set out under Chapter 9 Part 2 to this area.

### **Replacement of ch 9, pt 1, div 3, and s 441**

Clause 45—

1. replaces the heading of Chapter 9 Part 1 Division 3 to indicate that the K3 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions (i.e. “general netting”) as set out under Chapter 9 Part 2; and
2. replaces s 441 to provide that the K3 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions as set out under Chapter 9 Part 2. This effectively amalgamates the two fishery symbols to remove currently latent effort that could be activated through one of the symbols being transferred to a commercial fishing boat licence not previously engaged in the net fishery.

### **Amendment of s 443 (fishery area)**

Clause 46 amends s 443 to clarify that this description relates only to the ocean beach fishery area 3, and does not restrict the use of nets by K3 fishers as set out under Chapter 9 Part 2 to this area.

### **Replacement of ch 9, pt 1, div 4, hdg and s 444**

Clause 47—

1. replaces the heading of Chapter 9 Part 1 Division 4 to indicate that the K4 symbol will now also provide for the use of mesh nets

as specified under the N1 symbol provisions (i.e. “general netting”) as set out under Chapter 9 Part 2; and

2. replaces s 444 to provide that the K4 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions as set out under Chapter 9 Part 2. This effectively amalgamates the two fishery symbols to remove currently latent effort that could be activated through one of the symbols being transferred to a commercial fishing boat licence not previously engaged in the net fishery.

### **Amendment of s446 (Fishery area)**

Clause 48 amends s 446 to clarify that this description relates only to the ocean beach fishery area 4, and does not restrict the use of nets by K4 fishers as set out under Chapter 9 Part 2 to this area.

### **Replacement of ch 9, pt 1, div 5, hdg and s 447**

Clause 49—

1. replaces the heading of Chapter 9 Part 1 Division 5 to indicate that the K5 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions (i.e. “general netting”) as set out under Chapter 9 Part 2; and
2. replaces s 447 to provide that the K5 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions as set out under Chapter 9 Part 2. This effectively amalgamates the two fishery symbols to remove currently latent effort that could be activated through one of the symbols being transferred to a commercial fishing boat licence not previously engaged in the net fishery.

### **Amendment of s 449 (Fishery area)**

Clause 50 amends s 449 to clarify that this description relates only to the ocean beach fishery area 5, and does not restrict the use of nets by K5 fishers as set out under Chapter 9 Part 2 to this area. The northern boundary of the fishery has also been moved from the northern tip of Bribie Island to align with the boundary of the Pumicestone Strait

regulated waters for all commercial fishing (see Schedule 1 amendments in Clause 96 relating to s 83).

### **Replacement of ch 9, pt 1, div 6, hdg and s 450**

Clause 51—

1. replaces the heading of Chapter 9 Part 1 Division 6 to indicate that the K6 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions (i.e. “general netting”) as set out under Chapter 9 Part 2; and
2. replaces s 450 to provide that the K6 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions as set out under Chapter 9 Part 2. This effectively amalgamates the two fishery symbols to remove currently latent effort that could be activated through one of the symbols being transferred to a commercial fishing boat licence not previously engaged in the net fishery.

### **Amendment of s 452 (Fishery area)**

Clause 52 amends s 452 to clarify that this description relates only to the ocean beach fishery area 6, and does not restrict the use of nets by K6 fishers as set out under Chapter 9 Part 2 to this area. It also amend the southern boundary of the K6 fishery to align with the boundary of the Pumicestone Strait regulated waters for all commercial fishing (see Schedule 1 amendments in Clause 96 relating to s 83).

### **Replacement of ch 9, pt 1, div 7, hdg and s 453**

Clause 53—

1. replaces the heading of Chapter 9 Part 1 Division 7 to indicate that the K7 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions (i.e. “general netting”) as set out under Chapter 9 Part 2; and
2. amends s 453 to provide that the K7 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions as set out under Chapter 9 Part 2. This effectively amalgamates the two fishery symbols to remove

currently latent effort that could be activated through one of the symbols being transferred to a commercial fishing boat licence not previously engaged in the net fishery.

### **Amendment of s 455 (Fishery area)**

Clause 54 replaces s 455 to clarify that this description relates only to the ocean beach fishery area 7, and does not restrict the use of nets by K7 fishers as set out under Chapter 9 Part 2 to this area.

### **Replacement of ch 9, pt 1, div 8, hdg ans s 456**

Clause 55—

1. replaces the heading of Chapter 9 Part 1 Division 8 to indicate that the K8 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions (i.e. “general netting”) as set out under Chapter 9 Part 2; and
2. replaces s 456 to provide that the K8 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions as set out under Chapter 9 Part 2. This effectively amalgamates the two fishery symbols to remove currently latent effort that could be activated through one of the symbols being transferred to a commercial fishing boat licence not previously engaged in the net fishery.

### **Amendment of s 458 (Fishery area)**

Clause 56 amends s 458 to clarify that this description relates only to the ocean beach fishery area 8, and does not restrict the use of nets by K8 fishers as set out under Chapter 9 Part 2 to this area.

### **Replacement of s 459 (Application of div 9)**

Clause 57 replaces s 459 to clarify that the division relates only to the ocean beach fishery areas and that the use of mesh nets as specified under the N1 symbol provisions are instead subject to the requirements set out under Chapter 9 Part 2.

### **Replacement of ch9, pt 2, hdg (Net fishery (east coast no. 1) ('N1'))**

Clause 58 replaces the heading of part 2 to indicate that the symbols K1 to K8, N2, N4 and N10 also apply to all or elements of the part.

### **Amendment of s 468 (What is the net fishery (east coast no. 1))**

Clause 59 amends s 468 to include the relevant sections covering the area and authorisations of the symbols K1 to K8, N2, N4 and N10.

### **Replacement of ch9, pt 2, div 2 (Fishery symbol and area)**

Clause 60—

1. replaces the heading of division 2 to indicate that the symbols K1 to K8, N2, N4 and N10 also apply to all or elements of the division; and
2. replaces s 470 for the N1 symbol to move the delineation between the east coast and Gulf of Carpentaria commercial net fisheries to longitude 142°31'49" east to align with the management responsibilities for fish species that is set out under the Offshore Constitutional Settlement of 1995.

### **Replacement of s 472 and ch 9, pt 2, div 4, hdg**

Clause 61—

1. amends s 472 to—
  - Simplify the definition of the way in which a mesh net can be used under the N1 symbol by introducing a general purpose net;
  - Clarify that only one net can be used at a time under the N1 as previous provisions relating to the use of multiple set nets in some areas have been removed from the regulation. The amendment will allow a single net to be separated into two or more pieces (for example by detaching a pocket or bunt) once the fish have been captured by the net to facilitate the final removal of the fish from the net;



- Provide for the development and use of a bycatch reduction device in a mesh net. In the past such innovation has been stifled by the fact that such innovations may not fit the apparatus description provided in the regulation; and
  - Specify that attendance at nets other than haul nets is to be “on the water”. A fisher hauling a net would not be on the water but would be in the act of retrieving the net. In some cases it may also be necessary to go ashore to effectively set a net, at this time a fisher would also not be “on the water” but would still be in attendance; and
2. omit the heading of division 4, which is no longer relevant.

### **Amendment of s 473 (Use of seine nets in Lake Weyba)**

Clause 62 amends the heading of s 473 to clarify that the described net can only be used to take prawns.

### **Amendment of s 474 (Use of mesh nets in Lakes Cootharaba, Cooroibah and Weyba)**

Clause 63 amends s 474 to simplify the description of the way in which the net can be used and to introduce a maximum mesh size of 175mm.

### **Amendment of s 475 (Use of seine nets north of the Mary River)**

Clause 64 amends s 475 to clarify that the described net can only be used to take prawns.

### **Omission of ss 476-478**

Clause 65

1. deletes s 476 as—
  - Subsections (1) and (2) are provisions relating to the use of offshore nets, which will now apply more broadly to all waters under the amended s 480;

- Subsections (3) and (4) have been superseded by the introduction of the Hervey Bay DPA and unnecessarily add to the complexity of the netting regulations in this area; and
  - There is now a compulsory requirement to be in attendance at all offshore nets.
2. replaces s 477 to—
- Introduce the concept of a general purpose net under the N1 symbol to simplify the definition of the way in which a can be used;
  - Introduce a maximum mesh size of 165mm for a general purpose net;
  - Remove the unnecessary prohibition on allowing a net that is neither fixed nor hauled to touch the seabed; and
  - Clarify the use of a backnet with a GP net, but specify that the mesh size of this part of the net must be between 25mm and 50mm.
3. amends s 478 to—
- Introduce the concept of a general purpose net under the N1 symbol to simplify the definition of the way in which a can be used and remove the redundant prohibition on using the net as a ring net north of the Endeavour River;
  - Remove the unnecessary prohibition on allowing a net that is neither fixed nor hauled to touch the seabed;
  - Remove reference to Gulf of Carpentaria waterways as they are excluded from the fishery area; and
  - Delete subsection (6) which has been superseded by provisions allowing for both ends of a 115mm general purpose net to be set in nearshore waters for up to two hours (s 480A).

### **Amendment of s 479 (Use of mesh nets in offshore waters of Keppel Bay)**

Clause 66 amends s 479 to—

- specify provisions for nets that are neither fixed nor hauled in offshore waters of Keppel Bay; and
- Introduce a mesh size for these nets of between 160mm and 165mm.

### **Replacement of ss 480 and 481 and ch 9, pt 2, div 5**

Clause 67—

1. replaces s 480 to—

Specify provisions for nets that are neither fixed nor hauled in offshore waters throughout the permitted fishery area; and

Introduce a mesh size for these nets of between 160mm and 165mm;

2. amends s 481 to—

- Introduce the concept of a general purpose net under the N1 to simplify the definition by replacing the previous use of descriptions of a ‘mesh, ring or seine net’.
- cater for the long-standing practice of holding a net in place to effect a “partial drain-off” of an intertidal area, both ends of the net of up to 115mm mesh size are allowed to be fixed for up to two hours.

3. replaces s 481 to—

- Introduce the concept of a general purpose net under the N1 symbol to simplify the definition of the way in which such a can be used in rivers and creeks; and
- Simplify length restrictions by having a 400m restriction except when the net is used as a seine net, at which time a 200m length restriction will apply;
- Prohibit setting a general purpose net in waterways north of Baffle Creek. Allow both ends to be set between Baffle Creek and Kauri Creek and one end to be set south of Kauri Creek;
- Remove the unnecessary prohibition on allowing a net that is neither fixed nor hauled to touch the seabed; and

- Remove reference to Gulf of Carpentaria waterways as they are excluded from the fishery area.
- 4. inserts a separate division to deal with the use of set mesh nets;
- 5. deletes s 482 as these descriptions relate to the use of multiple nets under the N2 and are now redundant in the N1 provisions;
- 6. replaces s 483 with a section dealing with the use of set mesh nets south of Baffle Creek to introduce a generally uniform length restriction of 600m and a mesh of between 100mm and 165mm. The section also specifies those parts of the fishery area in which an offshore set mesh may not be used;
- 7. deletes s 484 as these provisions are redundant as they will now only relate to the use of nearshore set nets under the N2 symbol;
- 8. replaces s 485 to—
  - Specify provisions for set mesh nets in offshore waters of Keppel Bay; and
  - Introduce a mesh size for these nets of between 160mm and 165mm.
- 9. replaces s 486 to—
  - Specify provisions for set mesh nets in offshore waters throughout the permitted fishery area; and
  - Introduce a mesh size for these nets of between 160mm and 165mm;

### **Amendment of s 487 (Use of set pocket nets in rivers)**

Clause 68 Deletes the definition of set pocket net which has been moved to schedule 11.

### **Omission of ch 9, pt 2, div 7 (Use of tunnel nets in particular areas within the fishery area)**

Clause 69 deletes division 7 for the introduction of a new part in the chapter that provides for an N10 symbol regulating the use of tunnel nets.

### **Amendment of ch 9, pt 2, div 8 (Other conditions)**

Clause 70 rennumbers division 8 as division 7 as a result of deleting division 7.

### **Amendment of s 489 (Use of primary boats)**

Clause 71 amends s 489 to make it consistent with other sections dealing with the size of boats used under a fishery symbol.

### **Amendment of s 490 (Use of tender boats)**

Clause 72 amends s 490 to—

- Remove reference to using more than one net, as only one net can be used at a time under the N1;
- Remove reference to tunnel nets, as this apparatus is now dealt with under the new East Coast No. 4 net fishery (Part 4A).

### **Amendment of ss 491 and 492**

Clause 73—

1. amends s 491 to—
  - Remove reference to using more than one net, as only one net can be used at a time under the N1;
  - Remove reference to tunnel nets, as this apparatus is now dealt with under the new East Coast No. 4 net fishery (Part 4A).
2. replaces s 492 to clarify that having a series of surface floats along the length of a bottom set mesh net is unnecessary as it is impractical.

### **Amendment of ch 9, pt 3, hdg and s 493**

Clause 74—

1. amends the description of the N2 net from “east coast no. 3” to “east coast no. 2” to align the symbol number with the descriptor number; and

2. replaces s 493 to—
  - Align the symbol number with the descriptor number; and
  - Provide that the N2 symbol will now also provide for the use of mesh nets as specified under the N1 symbol provisions as set out under Chapter 9 Part 2. This effectively amalgamates the two fishery symbols to remove currently latent effort that could be activated through one of the symbols being transferred to a commercial fishing boat licence not previously engaged in the net fishery.

### **Replacement of s 495 (Fishery area)**

Clause 75 replaces s 495 for the N2 symbol to move the delineation between the east coast and Gulf of Carpentaria commercial net fisheries to longitude 142°31'49" east to align with the responsibilities set out under the Offshore Constitutional Settlement of 1995.

### **Replacement of s 497 and 498**

Clause 76—

1. replaces s 497 to?
  - Clarify that the required attendance includes being between the nets; and
  - Provide for the development and use of a bycatch reduction device in a set mesh net. In the past such innovation has been stifled by the fact that such innovations may not fit the apparatus description provided in the regulation.
2. inserts a new s 497A to deal with the amalgamation of the previous N5 and N2 fisheries. The new section is based on the previous 520 providing for the use of set mesh nets on foreshores (now in nearshore waters) between the Burnett River and Baffle Creek; and
3. replaces s 498 to—
  - Introduce the concept of nearshore waters to replace the previous description of nets on foreshores. The previous regulation made it unclear what regulations applied to a net

that was not on a foreshore or in waters >2m deep (i.e. offshore waters); and

- Clarify the prohibition on the use of set mesh nets around Girt Island.

### **Amendment of s 499 (Use of set mesh nets in rivers and creeks between Kauri Creek and Cape Flattery)**

Clause 77 amends s 499 to—

- Introduce a single river set net with the intention that it will be used to take threadfin from May to August; and
- Clarify that a river set mesh net cannot be set within 400m of a jetty or wharf.

### **Omission of ss 500 and 501**

Clause 78—

1. deletes s 500 as offshore mesh nets that are neither fixed nor hauled will only be allowed to be used under the provisions set out for the N1 symbol in s 480; and
2. deletes s 501 as offshore set mesh nets will only be allowed to be used under the provisions set out for the N1 symbol in s 483 and s 486.

### **Amendment of s 502 (Use of set mesh nets in rivers and creeks north of Cape Flattery)**

Clause 79 amends s 502 (Use of set mesh nets in rivers and creeks north of Cape Flattery) to clarify that a river set mesh net cannot be set within 400m of a jetty or wharf.

### **Replacement of s503 (Use of set mesh nets on foreshores north of Cape Flattery)**

Clause 80 replaces s 503 to—

- Introduce the concept of nearshore waters to replace the previous description of nets on foreshores. The previous regulation made

it unclear what regulations applied to a net that was not on a foreshore or in waters >2m deep (i.e. offshore waters); and

- Clarify that a nearshore set mesh net cannot be set within 200m of a jetty or wharf.

### **Replacement of ch 9, pt 4 and ch 9 pt 5, hdg**

Clause 81—

1. replaces the previous Part 4 of Chapter 9 dealing with the N5 fishery.
  - Components of this fishery dealing with the use of set mesh nets for taking barramundi have been amalgamated with Part 3 dealing with the N2 fishery symbol.
  - Components of this fishery dealing with the use of tunnel nets have been amalgamated with Part 4A dealing with the N10 fishery symbol (see subclause 2).
  - The Part is replaced by provisions for the N4 symbol which provide for the use of large mesh nets in offshore waters greater than 20m deep. The primary provisions of the symbol are set out in the part, however an N4 symbol holder can also undertake the majority of net fishing activities allowed under the N1 symbol. When activities are undertaken using apparatus under the N1 symbol, then all the requirements and limitations applying to someone acting under the N1 symbol also apply to the N4 symbol;
2. inserts a new Part 4A into chapter 9 dealing with the N10 symbol that provides for the use of tunnel nets. The new part consolidates tunnel net provisions previously regulated under the N1 and redundant N5 symbols; an
3. amends the heading of this part to the new N11 net fishery which will prescribe the use of small mesh nets to take fish from waters on the east coast of Queensland.

### **Amendment of s 526 (What is the net fishery (bait no. 1))**

Clause 82 amends the heading of this section to refer to the new net fishery described as net no. 11.



### **Amendment of s 527 (Fishery symbol)**

Clause 83 amends this section to provide that the net no. 11 fishery symbol is N11.

### **Amendment of s 528 (Fishery area)**

Clause 84 amends s 528 to provide that the N11 fishery under regulation covers the area east of 142°31'49" east, excluding waterways that flow to the sea west of that longitude.

### **Amendment of s 530 (Permitted ways of talking fish)**

Clause 85 amends s 530 to cater for the long-standing practice of holding a net in place to effect a “partial drain-off” of an intertidal area, by allowing both ends of the net to be fixed for up to two hours.

### **Replacement of s 533 (Use of mesh or seine nets)**

Clause 86—

1. replaces s 533 to provide for the use of small mesh nets in some offshore and nearshore waters. A 400m long net with a mesh size of 12mm to 45mm can be used in waters outside a river or creek north of Baffle Creek. in Moreton Bay, Hervey Bay, Great Sandy Strait, Wide Bay Harbour, Pelican Bay, Tin Can Bay and Tin Can Inlet. A back net may be used in nearshore waters south of the northern bank of Baffle Creek; and
2. inserts a new s 533A (Use of mesh nets in other offshore and nearshore waters) to provide for the use of small mesh nets in offshore and nearshore waters other than those described in s 533. A 600m long net with a mesh size of 12 to 45mm can be used in the majority of waters south of the northern bank of Baffle Creek. A back net may be used in the nearshore waters. From 1 April to 31 August a net must be no longer than 200m with a mesh size from 12mm to 25mm;
3. inserts a new s 533B (Use of mesh nets in rivers and creeks) to specify conditions on the use of a small mesh net under the N11 in a river or creek east of 142°31'49" east. The net may be no

longer than 200m and must have a mesh size of from 25mm to 45mm.

### **Insertion of new s 535A**

Clause 87 inserts a new s 535A (Marking nets) imposes conditions for the marking of small mesh nets under the N11 in waters east of 142°31'49" east.

### **Omission of ch 9, pt 6 (Net fishery (bait no. 2) ('N7'))**

Clause 88 deletes the previous Part 6 of Chapter 9 dealing with the redundant N7 fishery.

### **Insertion of new ch 11, pt 2A**

Clause 89 inserts a new part 2A dealing with the S fishery symbol that provides for the commercial take of sharks and rays by net or line. Commercial line fishers who do not hold an S symbol will be subject to an in-possession limit of 4; commercial net fishers will be subjected to an in-possession limit of 10. Restrictions on processing the fish will also apply to non-S symbol holders.

### **Amendment of s 642B (Prescribed waters-Act, s 14)**

Clause 90 amends s 642B to remove all references to “downstream” in order to combine upstream and downstream regulated waters at Tinana Creek Barrage, Mary River Barrage, Burnett River Barrage, Kolan River Barrage and Fitzroy River Barrage, ensuring these regulated waters prohibit the taking of all fish by all persons, as well as simplifying their description.

### **Amendment of s700 (Prescribed entities for delegating power to issue particular permits under Freshwater Plan - Act, s21)**

Clause 91 amends s 700 to include charter fishing operators as a delegate of the Chief Executive able to issue Stocked Impoundment Permits.

### **Replacement of ch 16, pt 2, div 1, hdg**

Clause 92 inserts a new division 1 to deal with transitional provisions for the amendment regulation

### **Amendment of s715 (Definitions for part 2)**

Clause 93 amends s 715 to accommodate the new division.

### **Amendment of ch 16, pt 2, div 2-5, hdgs**

Clause 94 amends the heading to accommodate the new division.

### **Insertion of new ch 16, pt 2, div 2**

Clause 95 inserts a new division that deals with transitional provision related to the implementation of the amendment regulation. These matters are primarily concerned with supporting the amalgamation of the N1 fishery symbol with the ocean beach K1 to K8 fishery symbols (see clauses 41 to 60) and the N2 fishery symbol (see clause 94). Amalgamation is being undertaken to address the significant risk of activating currently underutilized net fishing effort through the movement of these fishery symbols to another commercial fishing boat licence that does not have one of these net fishery symbols. The National Competition Policy review of fisheries legislation recommended the simplification of commercial licensing arrangements through the removal of unnecessary licence types. The amalgamation also reduces the number of symbols that a licence holder will need on their licence to use a range of netting apparatus under the Regulation.

Overall this new part will reduce the potential for an increase in net fishing effort into the future.

S 728 defines the terms used.

SS 729 and 730 prohibit the movement of an N1, N2 or K1 to K8 symbol from or to a commercial fishing boat licence if such a movement would result in a greater number of licences being able to access the N1 fishery after the amalgamation. Following the implementation of the amalgamation provisions the relevant symbol will also be able to undertake net activities under the N1 symbol, thus

potentially increasing effort in this fishery. The section expires after the amalgamation process is completed.

S 731 establishes that any applications to move a symbol submitted before the commencement of s 729 and 730 have to be dealt with under the legislation as it was before the section commenced. This ensures that the prohibition does not act retrospectively.

S 732 implements the removal of the N1 fishery symbols from all commercial fishing boat licenses that also have a relevant symbol. This means that, while the fishing licence will still have the right to undertake the same range of netting activities as before the amalgamation, those rights will no longer be individually transferable. This section also expires after the commencement to ensure that any subsequent movement of an N1 symbol onto a licence with a relevant symbol will not trigger its removal.

### **Amendment of sch 1 (Regulated waters)**

Clause 96 amends part 2 of schedule 1 to delete or amend descriptions of regulated waters made redundant or altered as a result of changes under this Amendment Regulation, and to implement the following amendments—

- Introduce Fisheries Regulated Waters maps to describe a number of closed waters including the following—Hervey Bay (recreational netting), Hervey Bay (commercial netting), Rodds Harbour (recreational netting); Rodds Harbour (commercial netting); Eurimbula Creek
- Brisbane River (netting)—to refer to the starboard beacon at the junction of the Koopa Channel and the Brisbane River Channel to cater for the ongoing expansion of the Port of Brisbane;
- Caloundra (Kings Beach to Shelly Beach)—incorporate navigation marks to align with the northern boundary of the K5 ocean beach fishery and Pumicestone Passage boundaries at the northern end of Bribie Island and at Kings Beach;
- Pumicestone Strait (commercial fishing)—remove the need for permanent netting regulated waters at Caloundra and the northern tip of Bribie Island by aligning the northern boundary of the Strait with the northern boundary of the K5 ocean beach

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fishery and the southern boundary of the K6 fishery (see s 449 s 452)

- Fraser Island (Hook Point to northern tip)—amend the definition of Hook Point to ensure it is in a more stable area and refer to a navigation mark;
- Rename and better define the regulated waters “the Narrows near Curtis Island” as “Port of Gladstone and The Narrows”;
- Great Keppel Island—clarify the regulated waters as they do not cover the southern part of the island and is not associated with Coconut Point;
- Groper Creek, Yellow Gin Creek and the Burdekin River—clarify the regulated waters by referring to navigation marks; and
- Hinchinbrook Island (dugong protection area)—align the northern boundary with Marine Parks yellow zone for simplicity.

## **Amendment of sch 2 (Regulated fish declarations)**

Clause 97 amends Schedule 2 (Regulated fish declarations) to—

- Amend reference to a range of inshore finfish to use the common name specified under the Standard Fish Names standard;
- Implement a range of changes to legal size and in-possession limits for a number of inshore finfish from 1 March 2009. The amended size limits were developed through extensive consultation. A number of guiding principles were used in the development of the limits; the primary one being to set size limits at a point where fish have an opportunity to spawn at least once before capture. Other principles included simplicity, consistency with adjacent jurisdictions, discard mortality and the potential impacts on commercial and recreational fishers. The new and amended limits represent the best balance between these principles. Where appropriate these size limits have also been introduced for all Queensland waters for simplicity, however a small number of differences between the regulations applying to east coast waters and waters in the Gulf of Carpentaria remain.
- Introduce a maximum size limit for sharks and rays to protect larger breeding individuals by reducing the potential for them to

be targeted. Scientific analysis has shown that a fishery based on smaller individuals can be a sustainable management strategy for these species, provided an appropriate level of protection is afforded to the mature fish. The size limit will not apply to fish taken by net in recognition that the survival rate of such sharks would generally be much lower than for line-caught. The introduction of a very restricted mesh size in the offshore set net fishery will reduce the potential for these nets to take larger sharks;

- Implement further changes to the size limits for a small number of inshore finfish from 1 March 2010. The delay in increasing the size limit for bream, tarwhine and tailor will allow fishers an additional period of one year to change the way in which they target these fish to minimise future impacts on immature fish;
- Introduce a ban on spearing barramundi at night to prevent the practice of spotlighting and spearing the fish;
- Introducing a prohibition on any fisher taking or possessing any species of sawfish or Glyphis shark;
- Introducing a take and possession limit for all persons of 1 grey reef shark and 1 white-tip reef shark

**Table 1. Summary of changes to in-possession and size limits for inshore finfish**

Species	East Coast		Gulf of Carpentaria	
	Possession	Size	Possession	Size
Amberjack and Samsonfish	2	75 cm	2	75 cm
Barred javelin	10	40 cm	10 whole or 20 fillets	40 cm
Black jewfish	2	75 cm	5 (2 > 100 cm)	60-120 cm
Blue threadfin	10	40 cm	20	40 cm
Bream (pikey and yellowfin) (commences 1 March 2010)	30	25 cm	30	25 cm
Cobia	2	75 cm	2	75 cm

Species	East Coast		Gulf of Carpentaria	
	Possession	Size	Possession	Size
Diamond scale mullet	20	30cm	20	30cm
Dusky flathead	5	40-75 cm	5	40-75 cm
Estuary cod	5	38-120 cm	5	38-120 cm
Flathead (not dusky)	10	30 cm	10	30 cm
Garfish	50	No limit	50	No limit
Grass sweetlip	10	30 cm	10	30 cm
Yellowtail kingfish	2	60 cm	2	60 cm
Garfish	50	No limit	50	No limit
Golden snapper	5	35 cm	10	35 cm
King threadfin	5	60 cm	5	60 cm
Luderick	10	30 cm	10	30 cm
Grey mackerel	5	60 cm	5	60 cm
Mahi mahi	5	60 cm	5	60 cm
Mangrove jack	5	35 cm	5	35 cm
Mulloway	2	75 cm	2	75 cm
Giant queenfish	5	50 cm	No limit	50 cm
Sea mullet	20	30 cm	20	30 cm
School mackerel	10	50 cm	10	50 cm
Shark or ray (line caught)	1	150 cm	1	150cm
Silver javelin	10	30 cm	10	30 cm
Silver jewfish	No limit	No limit	No limit	No limit
Shark mackerel	10	50 cm	10	50 cm
Spotted mackerel	5	60 cm	5	60 cm
Swallowtail dart	30	30 cm	30	30 cm
Tailor (commences 1 March 2010)	20	35 cm	20	35 cm
Tarwhine (commences 1 March 2010)	30	25 cm	30	25 cm

Species	East Coast		Gulf of Carpentaria	
	Possession	Size	Possession	Size
Trevally	20	No limit	20	No limit
Wahoo	2	75 cm	2	75 cm
Whiting (sand, northern and golden-lined)	30	23 cm	30	23 cm
Winter whiting	50	No limit	50	No limit
Wolf herring	10	No limit	10	No limit

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

Clause 98 amends schedule 5 (Glossary of scientific names for particular coral reef fin fish species) to include the two species of estuary cod as coral reef finfish under the Regulation.

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

Clause 99 amends schedule 6 to reflect the removal of these species from the list of species to which an extended in-possession limit applies and to amend references to a range of inshore finfish to use the common name specified under the Standard Fish Names, which is a recognised National Standard.

### **Amendment of sch 7 (Prescribed reference documents for scientific names for fish)**

Clause 100 amends schedule 7 to amend reference to a range of inshore finfish to use the common name specified under the Standard Fish Names, which is a recognised National Standard

### **Amendment of sch 9 (Other fees)**

Clause 101 amends Schedule 9 (Other fees) to implement licence fees for the new symbols introduced through this Amendment Regulation and to reflect the amalgamation of the N2 and K1 to K8 fisheries with



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the N1 fishery. These fees are consistent with National Competition Policy principles, and the introduction of a rights-based licensing model for Queensland fisheries in 2006.

### **Amendment of sch 11 (Dictionary)**

Clause 102 amends Schedule 11 (Dictionary) to—

- Clarify the way in which a mesh of a net is measured to specify that when it is measured it should not be stretched, and that no more tension should be applied than is required to close the mesh being measured;
- Delete the reference to a “gill net” which is no longer used anywhere within the Regulation;
- Amend the definition for “backnet” to clarify that the net cannot be used to drain off an intertidal area as it must remain in the water at all times. This is important with changes to mesh sizes for this net designed to provide greater flexibility, without impacting on other fisheries resources;
- Amend the definition for “fix” by clarifying that the intent is to prevent the net from shifting position;
- Introduce a new definition for “general purpose mesh net” which combines the types of nets previously described throughout the Regulation as mesh, ring or seine nets, with the restrictions on how the net is used provided in s 477, 478, 480A and 481;
- Introduce a new definition to “haul” a net to be consistent with the definition of a “haul seine net”;
- Introduce a new definition for “inlet” to clarify the areas that fall under the definition of a waterway;
- Amend the definition for “mesh net” to be consistent with the concept of a general purpose net and the limitations on hauling a mesh net;
- Clarify that a net that is “neither fixed nor hauled” is a mesh net used in a particular way;
- Introduce a new definition for “nearshore waters” to replace the previous use of nets in foreshore waters, primarily to remove

uncertainty over the type of nets that can be used between the intertidal area and offshore waters;

- Amend the definition for “offshore waters” to clarify that these waters commence where “nearshore” waters end;

Introduce a new definition for “on the water” to clarify the obligation of a commercial fisher using a net where it is a requirement to be on the water to be in attendance of that net;

Amend the definition for “ring net” by removing any reference to the figure six and setting out that it's intent is to encircle the fish being targeted; and

Amend the definition for “set mesh net” to clarify the net is a mesh net used in a particular way, either anchored or fixed securely in place (usually at either end of the net), or fixed at one end with a boat attached at the other end (in this configuration the boat would usually maintain a strain on the net due to wind or tide influence to keep the net tightly strung)

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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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