

# **Fisheries Legislation Amendment Regulation (No. 1) 2015**

Explanatory Notes for SL 2015 No. 12

made under the

*Fisheries Act 1994*

## **General Outline**

### **Short title**

*Fisheries Legislation Amendment Regulation (No. 1) 2015*

### **Authorising law**

Sections 32, 34, 42 and 223 of the *Fisheries Act 1994*.

### **Policy objectives and the reasons for them**

The policy objectives of this amendment regulation are to consolidate the *Fisheries (Coral Reef Fin Fish) Management Plan 2003* (the Plan) into the *Fisheries Regulation 2008* (the Regulation).

The amendments aim to reduce the number, complexity and duplication of the suite of fisheries legislation by incorporating the Plan into the Regulation.

### **Achievement of policy objectives**

The subordinate legislation will achieve its objectives by repealing the Plan and making the required amendments to the Regulation to incorporate the obligations currently prescribed in the Plan into the Regulation. While there will be some streamlining of provisions to avoid unnecessary duplication in the Regulation, there will be no significant modifications to the existing provisions of the Plan. The amendments will also include a number of consequential amendments to the Regulation, such as removing redundant references to the Plan.

### **Consistency with policy objectives of authorising law**

The subordinate legislation is consistent with the main policy objectives of the *Fisheries Act 1994*.

## **Inconsistency with policy objectives of other legislation**

The subordinate legislation is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The State Government and commercial fishers will not incur any additional costs in the implementation of this subordinate legislation.

## **Consistency with fundamental legislative principles**

The subordinate legislation is generally consistent with fundamental legislative principles.

A potential breach of the fundamental legislative principles arises in respect of the prescribed suspension period criteria for serious offences. The subordinate legislation amends section 625A of the Regulation which prescribes criteria for the suspension or cancellation of an authority. Attaching the prescribed criteria for suspension of a licence in section 625A for serious offences has the consequence of decreasing or increasing the suspension period for some offences.

The prescribed periods for the suspension of a licence will change as follows:

### **A. Offences other than quota offences**

1. the 2 to 3 months suspension for the first conviction will change to a 3 to 9 months suspension
2. the 6 months to 1 year suspension for the second conviction will change to a 9 months to 5 years suspension
3. the 1 to 5 years suspension for a third or subsequent conviction will change to a 5 years suspension.

### **B. Quota offences**

1. the 1 year's suspension for the first conviction will change to a 3 to 9 months suspension
2. the 1 to 5 years suspension for the second or subsequent conviction will change to a 9 months to 5 years suspension for the second conviction and to a 5 years suspension for the third and subsequent conviction.

The increases in suspension period are consistent with the other suspension criteria in the Regulation for other fisheries. The suspension periods reflect the seriousness of the offences which can impact on the sustainability of the fisheries resources. These increases only relate to the suspension of licences. The prescribed criteria for the suspension and cancellation of line units remain unchanged.

## **Consultation**

No prior consultation with commercial fishers has been conducted as there will be no changes to obligations other than transitioning them from the Plan to the Regulation. A similar approach was taken when other Management Plans were incorporated into the Regulation such as those for the Gulf of Carpentaria Inshore Finfish Fishery and the Spanner Crab Fishery. Stakeholders will be advised once the amendments have been made.

The Department of Justice and Attorney-General was consulted regarding the increase in the suspension period and no concerns were raised.

The Office of Best Practice Regulation (OBPR) of the Queensland Competition Authority was consulted as to whether the amendments qualified for an exclusion from the Regulatory Impact Statement (RIS) system. The OBPR advised that a RIS is not required for the amendments as they are excluded from the RIS System on the basis that the amendments are of a machinery nature in that they provide for the consolidation of the Plan into the Regulation.