

# Fisheries and Another Regulation Amendment Regulation (No. 1) 2015

Explanatory Notes for SL 2015 No. 125

made under the

*Fisheries Act 1994*

*Rural and Regional Adjustment Act 1994*

## General Outline

### Short title

Fisheries and Another Regulation Amendment Regulation (No. 1) 2015.

### Authorising law

Sections 37, 42 and 223 of the *Fisheries Act 1994*.

Sections 10, 11 and 44 of the *Rural and Regional Adjustment Act 1994*.

### Policy objectives and the reasons for them

The Queensland Government's Sustainable Fishing Policy (the Policy) was an election commitment. Part of the Policy is a commitment to establish three net-free fishing zones in north and central Queensland:

- Trinity Bay - Cairns,
- St Helens Beach – Cape Hillsborough, North of Mackay
- Yeppoon/Keppel Bay/Fitzroy River, Capricorn Coast.

The Policy also committed the Government to set aside \$10 million to fund a buyout of commercial fishing activity in these areas and meet the compensation needed to establish the three net-free fishing zones.

This amendment regulation implements those parts of the Policy. The policy objectives of this amendment regulation are to:

- establish the three net-free fishing zones
- provide for the buyout of particular commercial fishing boat licences
- provide for payments to commercial fishers affected by the establishment of the zones.

#### Net free fishing zones

The purpose of establishing net free zones is to increase the economic value of the state's fisheries resource. The net free zones will increase the economic value of the

resource by enhancing recreational fishing in these areas, recognising that the total value of fish caught by recreational fishing tourists includes spending on local tourism-related businesses such as charter boats, caravan parks and bait and tackle suppliers.

#### Buyout of commercial fishing boat licences

As part of the Policy the Government has set aside \$10 million to fund the necessary buyout of commercial fishing activity in the new net free fishing zones.

The intent of the buyout scheme is to offset the impact on commercial fishing boat licence holders affected by the prohibition on the use of particular nets in the new net free zones and to ensure that fishing effort is not increased in other areas along the coast.

#### Payments to holders of commercial fisher licences affected by the establishment of the zones

Commercial fisher licence holders take fish under commercial fishing boat licences. Commercial fisher licence holders who are not the holder of a commercial fishing boat licence would not be eligible under the *Fisheries Act 1994* to apply for compensation despite their livelihood being affected by the introduction of the new net free zones.

The intent of the payments is to assist eligible commercial fisher licence holders transition their business in response to the establishment of the net free zones.

### **Achievement of policy objectives**

The amendment regulation will achieve its objectives by amendments to the *Fisheries Regulation 2008* and the *Rural and Regional Adjustment Regulation 2011*.

#### Net free fishing zones

The amendment regulation will achieve its objective of establishing the net free zones by making the following amendments to the *Fisheries Regulation 2008*:

- Prescribing (in Schedule 1) the following to be regulated waters that are named by reference to their location:
  - (a) Yeppoon–Keppel Bay–Fitzroy River–Capricorn Coast;
  - (b) St Helens Beach–Cape Hillsborough–North of Mackay;
  - (c) Trinity Bay–Cairns.
- Prohibiting the use of a cast net, mesh net, set pocket net or seine net by commercial fishers in these areas for the purposes of trade and commerce.
- Prohibiting the possession of a cast net, mesh net, set pocket net or seine net in these areas for taking fish for trade or commerce unless stowed and secured.
- Removing the exception provided for certain fishers to use commercial fishing nets in the Trinity Bay- Cairns regulated waters.

#### Particular commercial fishing boat licences surrender scheme

The amendment regulation will achieve its objective of a buyout of commercial fishing boat licences by inserting (as Schedule 26) the *Particular commercial fishing boat licences surrender scheme* in the *Rural and Regional Adjustment Regulation 2011* as an approved assistance scheme under the *Rural and Regional Adjustment Act 1994*. The

scheme will provide for the buyout of eligible commercial fishing boat licences which are voluntarily offered for surrender on a competitive basis. The scheme will buy eligible commercial fishing boat licences and all attached fishing symbols on those licences from the commercial fishers looking to exit the industry and who submit a surrender offer under the scheme. Applications will be decided on a competitive basis to the limit of the available funding. The scheme does not buy out boats, nets or other equipment.

#### Payments to holders of commercial fisher licences for prohibition on use of particular nets

The amendment regulation will achieve its objective of providing assistance to commercial fisher licence holders by inserting (as Schedule 27) the *Payments to holders of commercial fisher licences for prohibition on use of particular nets scheme* in the *Rural and Regional Adjustment Regulation 2011* as an approved assistance scheme. Applications for a payment will be decided in order that the applications are received to the limit of the available funding.

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

The amendment regulation is consistent with the main object of the *Fisheries Act 1994*, which is to ensure the use, conservation and enhancement of the community's fisheries resources and fish habitats whilst applying, balancing and promoting the principles of ecologically sustainable development.

The amendment regulation is consistent with the objective of the *Rural and Regional Adjustment Act 1994*, which is to establish QRAA primarily to administer assistance schemes that foster the development of a more productive and sustainable rural and regional sector in Queensland.

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

The amendment regulation is consistent with the policy objectives of other legislation.

### **Alternative ways of achieving policy objectives**

#### Net free fishing Zones

Self-regulation by commercial fishers is not considered feasible for the management of a common property resource. It is unlikely that commercial fishers would comply with a voluntary closure of the areas to commercial net fishing because many commercial fishers do not support the proposed net free zones. Comparable closures in Queensland are implemented by regulation to ensure compliance and the objectives of the closed waters are achieved.

#### Particular commercial fishing boat licences surrender scheme

An alternative to the *Particular commercial fishing boat licences surrender scheme* is to allow market forces to determine netting effort in areas outside the new net free zones. However the Sustainable Fishing Policy, which was an election commitment, provides for the buyout of commercial fishing activity in these areas. Further, the results of consultation showed one of the concerns amongst stakeholders was there may be

increased net fishing in adjacent areas if licence numbers were not reduced to prevent this increased net fishing in adjacent areas.

### Payments to holders of commercial fisher licences for prohibition on use of particular nets

There is no alternative to the *Payments to holders of commercial fisher licences for prohibition on use of particular nets scheme* as there is no compensation available to commercial fisher licence holders other than commercial fishing boat licence holders under the *Fisheries Act 1994*. The scheme is consistent with stakeholder's expectations that others in the industry should also be compensated, particularly licenced commercial fishers.

## **Benefits and costs of implementation**

Social, economic and environmental benefits to the community will include:

- protection of fish populations located in the zones from commercial net exploitation;
- an increased likelihood of "fishing success" for recreational and charter fishing;
- growth in recreational and charter fishing participation;
- increased jobs servicing the recreational and charter fishing industries; and
- increased protection for protected species that can become entangled in commercial fishing nets including dugong, turtles and dolphins.

Social and economic costs to the community will include:

- reduced commercial net harvest of fish;
- loss of jobs in the commercial net fishing industry;
- loss of jobs that service the commercial net fishing industry; and
- movement of effort by commercial fisher licence holders to other areas.

The costs to Government will be up to \$10 million for funding the schemes. Other implementation costs will be met within existing resources. The ongoing costs of monitoring and compliance within the zones will be achieved within the existing resources.

## **Consistency with fundamental legislative principles**

No fundamental legislative principle issues have been identified in the preparation of this amendment regulation.

## **Consultation**

Prior to the 2015 election, Queensland Labor consulted with recreational fishing stakeholders to develop the Sustainable Fishing Policy. This policy was released to the public as a 2015 election commitment with a copy also sent to all major stakeholders.

Since the 2015 election, both targeted consultation and public consultation has occurred with commercial fishers, recreational fishers and charter fishers on aspects of the proposed implementation package, including zone boundaries, the buyout scheme and the potential for a payment scheme. Consultation included face to face meetings, written submissions and an internet survey.

Public consultation on the boundaries of the zones was conducted from 15 May 2015 to 15 July 2015 via an internet survey. In excess of 6000 individuals and non-Government organisations provided feedback. A diverse range of stakeholders responded; approximately 90 per cent were either supportive of the proposed boundaries or sought an increase in their size.

The Office of Best Practice Regulation (OBPR) of the Queensland Competition Authority (now the Queensland Productivity Commission) was consulted as to whether the amendments qualified for an exclusion from the Regulatory Impact Statement (RIS) system. The OBPR advised that a RIS was not required for the amendments as public consultation was undertaken on the boundaries of the regulated waters, the impacts of the zones are well understood and a buyback scheme and settlement scheme will mitigate these impacts.