

Fisheries (Regulated Periods) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 149

made under the

Fisheries Act 1994

General Outline

Short title

Fisheries (Regulated Periods) Amendment Regulation 2018

Authorising law

Sections 3A and 223 of the *Fisheries Act 1994* (the Act).

Policy objectives and the reasons for them

The purpose of the subordinate legislation is to amend the regulated periods for the taking and possession of spanner crabs; and the take and possession of coral reef fin fish.

Spanner crab fishery spawning closure

The Queensland spanner crab fishery is a predominantly commercial fishery that operates off the east coast of Queensland. The take of spanner crabs in the fishery is limited by a quota which, in addition to other restrictions, helps to ensure the fishery operates sustainably.

Section 57 of the *Fisheries Regulation 2008* (the Regulation) prescribes a regulated period (or closure) on the taking of spanner crabs in spanner crab regulated waters. A regulated person must not take a spanner crab in the regulated waters during the closure or possess a spanner crab taken during the closure. The closure is intended to protect adult spanner crabs at times when they are known to aggregate to reproduce and spawn.

The current closure for the spanner crab fishery prescribed in section 57 of the Regulation is from midnight 20 November to midnight 20 December each year.

Stock assessments show that the spanner crab stock spawn earlier in the northern sector of the fishery. This spawning occurs in the period just prior to the commencement of the current closure and is when the majority of the spanner crab harvest occurs.

In order to provide greater protection to spanner crab stocks, maintain access by the commercial sector to the valuable Christmas market and achieve greater economic certainty, the subordinate legislation changes the closure so that it will apply from 1 November to 15 December, annually.

Coral reef fin fish fishery closure

The coral reef fin fish fishery operates predominantly in the Great Barrier Reef World Heritage area and is a line only commercial and recreational fishery. The commercial catch in the fishery is limited by a quota which, in addition to other restrictions, helps to ensure the fishery remains sustainable. The recreational catch is managed by possession limits.

Section 47 of the Regulation establishes a closure on the take of coral reef fin fish in October and November each year. These closures are intended to protect adult reef fish at times when they are known to aggregate to reproduce and spawn. The Regulation currently prescribes the dates of these closures for the years 2014 to 2018. To ensure that these closures continue to apply to the fishery in years beyond 2018, the subordinate legislation prescribes the dates of the closures for the years 2018 to 2023.

Achievement of policy objectives

Spanner crab fishery spawning closure

The subordinate legislation provides greater protection to spanner crab stocks off Queensland while providing the commercial sector with improved access prior to the Christmas period when seafood prices are traditionally high. The science suggests that increasing the closure period by 15 days and having it commence earlier will have a beneficial impact on spawning and the productivity of the stock. The subordinate legislation therefore aids in achieving the sustainability and economic objectives of the Fishery.

Coral reef fin fish fishery closure

The closures that apply to the coral reef fin fish fishery in October and November are an important component of the management framework of the fishery and assist in ensuring the long-term sustainability of coral reef fin fish species. The subordinate legislation will maintain these existing management arrangements.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the objectives of the Act.

Inconsistency with policy objectives of other legislation

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

Alternative ways of achieving policy objectives

Spanner crab fishery spawning closure

An alternative option is to maintain the current period for the take and possession of spanner crabs. This option is not appropriate on the basis that the *status quo* is proven to limit the profitability and operating capacity of the commercial sector of the fishery. Furthermore, maintaining the *status quo* was not supported by industry which strongly advocated for the proposed change to the closure during regular consultation.

Coral reef fin fish fishery closure

The subordinate legislation is necessary to maintain management arrangements that currently apply to the coral reef fin fish fishery. No alternative policy options have been considered. Maintaining the current closures contributes to the sustainable management of this fishery and is important for ongoing commercial fishing access with the Great Barrier Reef World Heritage Area.

Benefits and costs of implementation

Spanner crab fishery spawning closure

The changes to the regulated period will provide additional protection to Queensland's spanner crabs stocks during important lifecycle stages and result in beneficial impacts on spawning and productivity of spanner crabs stocks.

Despite the closure being of a longer duration, the change is expected to benefit industry by providing greater economic opportunities for commercial fishers by providing access to the lucrative Christmas market. This supports the fishery-specific objective to maximise the commercial economic benefits of the fishery.

The increase to the closure by 15 days will impose additional costs on the Department of Agriculture and Fisheries (DAF) in terms of additional enforcement and surveillance for those 15 days. The additional costs are expected to be minimal however and will be absorbed within the existing compliance and enforcement budget.

Coral reef fin fish fishery closure

The subordinate legislation is needed to maintain management arrangements that currently apply to the coral reef fin fish fishery. No additional benefits or costs are associated with this subordinate legislation.

Consistency with fundamental legislative principles

The subordinate legislation has been drafted with regard to the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

Consultation

Spanner crab fishery spawning closure

DAF met with the majority of industry participants in February 2018 and there was general agreement on the need to extend the existing closure for the Fishery.

A further workshop was conducted by DAF with industry in May 2018 and participants unanimously supported a proposal to change the closure to apply from 1 November to 15 December.

The Office of Best Practice Regulation, within the Queensland Productivity Commission provided opinion that the proposal was unlikely to result in significant adverse impacts, and therefore no further regulatory impact analysis was required under the *Queensland Government Guide to Better Regulation*.

Coral reef fin fish fishery closure

No consultation has been undertaken in relation to the dates of the coral reef fin fish fishery closures. The subordinate legislation continues existing management arrangements in this fishery. DAF has undertaken an agency-assessment of this proposal in accordance with the *Queensland Government Guide to Better Regulation* and determined that it is excluded from the need for further regulatory impact analysis on the basis of category (g) - regulatory proposals that are of a machinery nature.