



Queensland

Fisheries Legislation Amendment Regulation 2021

Subordinate Legislation 2021 No. 29

made under the

Fisheries Act 1994

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[s 1]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Fisheries Legislation Amendment Regulation 2021*.

Part 2 Amendment of Fisheries (Commercial Fisheries) Regulation 2019

2 Regulation amended

This part amends the *Fisheries (Commercial Fisheries) Regulation 2019*.

3 Amendment of s 32 (Authorisation—holder)

(1) Section 32(1)(d)(i), ‘the primary boat’—

omit, insert—

there is no primary boat identified in the licence or the primary boat identified in the licence

(2) Section 32(5), from ‘if’—

omit, insert—

if—

(a) the boat and the taking of the fish complies with schedule 4, part 7; and

(b) a fishery symbol for a fishery other than a hand-harvest only commercial fishery is written on the licence.

4 Amendment of s 37 (Condition about use of tender boat)

(1) Section 37(1)(a)—

omit, insert—

(a) either—

(i) the tender boat's primary boat—

(A) may be used in the fishery; and

(B) is not being used in another commercial fishery; or

(ii) there is no primary boat identified in the licence; and

(2) Section 37(2), 'Subsection (1)(a)(ii)'—

omit, insert—

Subsection (1)(a)(i)(B)

5 Amendment of s 117 (Eligibility of transferee for particular quota units)

Section 117—

insert—

(6) Despite subsections (3) to (5), a T1 effort unit or T2 effort unit may not be the subject of a transfer, other than a temporary transfer, between 22 April 2021 and 31 August 2021.

6 Amendment of sch 1 (Commercial harvest fisheries)

(1) Schedule 1, part 2, division 3—

omit, insert—

Division 3 Condition

29 Purpose of division

This division prescribes a condition for the licence.

[s 7]

30 Number of boats that may be used

Only the boat identified in the licence and 4 other boats may be used to take sea cucumber in the same location.

- (2) Schedule 1, part 8, division 3—

omit, insert—

Division 3 Condition

88 Purpose of division

This division prescribes a condition for the licence.

89 Number of boats that may be used

Only the boat identified in the licence and 4 other boats may be used to take trochus under the licence in the same location.

7 Amendment of sch 4 (Commercial net fisheries)

Schedule 4, sections 110, 136 and 148, ‘in a barramundi (Gulf) regulated period’—

omit, insert—

in the period from 7 October to 31 January

8 Amendment of sch 7 (Commercial crab fisheries)

- (1) Schedule 7, section 6(4), definition *Hervey Bay crab area*, paragraph (a), ‘north’—

omit, insert—

south

- (2) Schedule 7, section 6(4), definition *Hervey Bay crab area*, paragraph (b), ‘east of’—

omit, insert—

west of

9 Amendment of sch 11 (Dictionary)

(1) Schedule 11, definition *barramundi (Gulf) regulated period—*
omit.

(2) Schedule 11—

insert—

hand-harvest only commercial fishery means any of the following commercial fisheries—

- (a) aquarium fish fishery;
- (b) sea cucumber fishery (east coast);
- (c) coral fishery;
- (d) eel fishery;
- (e) shell fishery;
- (f) shell grit fishery;
- (g) star sand fishery;
- (h) trochus fishery (east coast);
- (i) juvenile eel fishery;
- (j) oyster fishery;
- (k) pearl fishery;
- (l) beachworm fishery;
- (m) bloodworm fishery;
- (n) marine yabby fishery.

particular

- (2) Section 121(a), after ‘mollusc shell’—

insert—

, other than an empty helmet shell or trumpet shell,

14 Amendment of s 127 (Painted crayfish)

- (1) Section 127, heading, ‘Painted’—

omit, insert—

Ornate

- (2) Section 127, ‘a painted’—

omit, insert—

an ornate

15 Amendment of sch 2 (Regulated fish declarations)

- (1) Schedule 2, part 2, entry for bivalve mollusc or gastropod, other than pipi, column 4, paragraph (a), after ‘fish’—

insert—

, other than under an A1 licence,

- (2) Schedule 2, part 2, after entry for octopus—

insert—

ornate crayfish	S	if the carapace is not damaged or separated from the body, minimum carapace size—90mm	a person taking or possessing the fish
	S	if the carapace is damaged or separated from the body, minimum tail size—115mm	a person taking or possessing the fish

[s 15]

(3) Schedule 2, part 2, entry for painted crayfish—
omit.

(4) Schedule 2, part 2, entry for red champagne lobster—
omit, insert—

red champagne lobster	S	minimum carapace size—7.5cm	a person taking or possessing the fish
-----------------------	---	-----------------------------	--

(5) Schedule 2, part 2, entry for spanish mackerel, after second row—
insert—

F	a form other than— (a) whole; or (b) gilled and gutted	a person possessing the fish on a commercial fishing boat in waters east of longitude 142°31'49" east, other than if the fish has been filleted under a filleting permit
---	--	--

(6) Schedule 2, part 2, last entry—
omit, insert—

any fish, other than Australian anchovy, Australian sardine, common hardyhead, freshwater prawn, herring, marine yabby, silver biddy, soldier crabs or worms, that is not— (a) regulated by number by another entry in this part; or (b) mentioned in column 1 of the table in part 3	N	maximum—20	a recreational fisher taking or possessing the fish
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Part 4 **Amendment of Fisheries (General) Regulation 2019**

16 **Regulation amended**

This part amends the *Fisheries (General) Regulation 2019*.

17 **Amendment of s 13 (References to *primary boat* and *tender boat* and related references)**

(1) Section 13(3)(b), ‘section’—

omit.

(2) Section 13—

insert—

- (4) However, if a tender boat is being used under a primary commercial fishing licence as if it were the primary boat identified in the licence, a reference to a primary boat is taken to be a reference to the tender boat.

Note—

See the *Fisheries (Commercial Fisheries) Regulation 2019*, section 32(1)(d) and (4).

18 **Amendment of s 32 (Deciding number of tender boats for licence)**

Section 32(5), from ‘The’ to ‘a’—

omit, insert—

For the fishery symbol ‘L1’, ‘L2’, ‘L3’, ‘L4’, ‘RQ’, ‘SM’ or ‘R’, the chief executive must state the authorised number of tender boats for the

[s 19]

19 Amendment of s 75 (Authorities that continue after holder's death—Act, s 70C)

Section 75(a), after 'licence'—

insert—

other than a commercial fisher licence

20 Amendment of s 76 (Activities for which inspectors may have an authority)

Section 76(d), before 'stocked'—

insert—

prescribed

21 Amendment of s 133 (Prescribed entities for delegation of functions or powers—Act, s 222)

Section 133(2), before 'stocked'—

insert—

prescribed

22 Amendment of sch 2A (Effort units for trawl regions)

(1) Schedule 2A, after section 1—

insert—

1A Application of part

This part applies only to T1 effort units or T2 effort units held by a person on 22 April 2021.

(2) Schedule 2A, section 14(2)(a) and (b)—

omit, insert—

(a) half of the days are to be issued among all eligible persons who hold an M1 licence in proportion to the number of M1 licences each eligible person holds relative to the total number of M1 licences;

(b) half of the days are to be issued among all eligible persons who hold an M2 licence in proportion to the number of M2 licences each eligible person holds relative to the total number of M2 licences.

(3) Schedule 2A, section 16, heading, after ‘issued’—

insert—

to holder of M1 licence

(4) Schedule 2A, section 16(1), from ‘would’ to ‘conversion’—

omit, insert—

who holds an M1 licence would be higher than the number (the *capped number*) of T1 effort units held by the eligible person for the licence before the conversion of the effort units

23 Amendment of sch 2B (Issue of ENL-ITQ units)

Schedule 2B, section 10, ‘31 May 2021’—

omit, insert—

21 July 2021

24 Amendment of sch 2C (Issue of C1-ITQ units)

Schedule 2C, section 10, ‘31 May 2021’—

omit, insert—

21 July 2021

25 Amendment of sch 7 (References relating to particular fish)

(1) Schedule 7, part 6, entry for painted crayfish—

omit.

(2) Schedule 7, part 6—

[s 26]

insert—

ornate crayfish

Panulirus ornatus

26 Amendment of sch 11 (Dictionary)

Schedule 11, definition *trunked—*

omit, insert—

trunked—

- (a) for a fish other than a shark or ray—means the fish has had its head or tail removed; or
- (b) for a shark or ray—means the shark or ray has had its head removed.

Part 5 Amendment of Fisheries Legislation Amendment Regulation 2020

27 Regulation amended

This part amends the *Fisheries Legislation Amendment Regulation 2020*.

28 Amendment of s 127 (Replacement of ss 15A and 15B)

Section 127, inserted section 15B(1)—

omit, insert—

- (1) This section applies to fish other than fish taken under a D, L4, N3, N12, N13, R, RQ, SM or T1 licence.

Editor's note—

Legislation ultimately amended—

- *Fisheries (Commercial Fisheries) Regulation 2019*

29 Amendment of s 156 (Insertion of new chs 5 and 6)

- (1) Section 156, inserted section 124, ‘physically possess, or have access to,’—

omit, insert—

hold

- (2) Section 156, inserted section 124—

insert—

- (2) For subsection (1), a commercial fisher in control of a fishing operation **holds** an approved logbook if the commercial fisher—

- (a) physically possesses the logbook; or
(b) for an approved logbook that is an electronic logbook—has access to the logbook in a way that allows the commercial fisher to—
(i) make an entry in the logbook; and
(ii) keep the entry in the logbook available for immediate inspection.

- (3) Section 156, inserted section 125(4), definition *prescribed way*, paragraph (d), ‘the logbook.’—

omit, insert—

the logbook in a way that allows the person to—

- (i) make an entry in the logbook; and
(ii) keep the entry in the logbook available for immediate inspection.

- (4) Section 156, inserted section 129, after ‘the chief executive’—

insert—

the original or

- (5) Section 156, inserted section 130—

insert—

- (3) This section does not require the holder to give the

[s 29]

chief executive an entry in the part of the approved logbook (commercial fishing) mentioned in subsection (1) if the original of the entry was given to the chief executive under section 129.

(6) Section 156, inserted section 133, after ‘the chief executive’—

insert—

the original or

(7) Section 156, inserted section 134—

insert—

(4) This section does not require the holder to give the chief executive an entry in the part of the approved logbook (TEP animal interaction) mentioned in subsection (2) if the original of the entry was given to the chief executive under section 133.

(8) Section 156, inserted section 154(1)(a)—

omit, insert—

(a) any of the following fish are proposed to be transferred, at sea, to a transport vessel—

(i) fish taken under a D, R, RQ, SM or T1 licence;

(ii) hammerhead sharks taken under an L4, N3, N12 or N13 licence;

(iii) black jewfish taken under an N3, N12 or N13 licence; and

(9) Section 156, inserted section 155(1), after ‘D’—

insert—

, L4, N3, N12, N13

(10) Section 156, inserted section 158(2)—

insert—

-
- (aa) the commercial fisher has given a transhipment notice to the chief executive under section 154; or
- (11) Section 156, inserted section 158(2)(aa) and (b), as amended by this regulation—
renumber as section 158(2)(b) and (c).
- (12) Section 156, inserted section 162—
insert—
- (c) fish taken by a trawl net other than fish taken under a T5, T6, T7, T8 or T9 licence.

- (13) Section 156, after inserted section 162—
insert—

162A Approving record books

- (1) The holder of a primary commercial fishing licence may apply to the chief executive for approval of a record book for the licence for making a record under this division.
- (2) The application must be in the approved form.
- (3) The chief executive may—
- (a) approve the record book for the licence; or
- (b) refuse to approve the record book for the licence.
- (4) If the chief executive refuses to approve the record book, the chief executive must give the applicant an information notice about the decision.
- (14) Section 156, inserted section 163(1), ‘form’—
omit, insert—
catch disposal record book
- (15) Section 156, inserted section 163(2)(c), ‘catch disposal record’—

[s 30]

omit, insert—

approved catch disposal record book for the primary commercial fishing licence under which the fish are taken

(16) Section 156, inserted section 163(4)—

insert—

approved catch disposal record book, for a primary commercial fishing licence, means an electronic or paper record book—

(a) in the approved form for making a record under this division; or

(b) approved by the chief executive under section 162A(3)(a) for the licence.

(17) Section 156, inserted section 164, ‘commercial fisher’s physical possession.’—

omit, insert—

physical possession of the commercial fisher or an assistant fisher who is under direction of the commercial fisher.

Editor’s note—

Legislation ultimately amended—

- *Fisheries (Commercial Fisheries) Regulation 2019*

30 Amendment of s 157 (Insertion of new ch 7, pt 2, div 3)

Section 157, after inserted section 172—

insert—

172A Effort unit conversion factor for particular boats identified in T1 or T2 licence on commencement

(1) This section applies in relation to a boat that on the commencement—

(a) is identified in a T1 or T2 licence; and

- (b) has 70 or more hull units.
- (2) Despite schedule 10, the effort unit conversion factor for the boat is 62.
- (3) This section applies in relation to the boat until the boat is no longer identified in the T1 or T2 licence.

Editor's note—

Legislation ultimately amended—

- *Fisheries (Commercial Fisheries) Regulation 2019*

31 Amendment of s 159 (Replacement of sch 2 (East coast trawl fishery))

Section 159, inserted schedule 2, sections 14(1), 27(1), 40(1)(b), 62(1)(a), 81(1)(c) and 91(1)(b), 'but no more than 60mm'—

omit.

Editor's note—

Legislation ultimately amended—

- *Fisheries (Commercial Fisheries) Regulation 2019*

32 Amendment of s 161 (Amendment of sch 4, pt 2 (Net fishery (east coast no. 1)))

Section 161(3) to (10), inserted schedule 4, sections 43(3)(b), 45(2)(c) and (3)(b), 47(2)(c), 48(a)(ii), 50(1)(a)(iii), 51(a)(iii) and 52(2)(a)(iii), '0.5mm'—

omit, insert—

1.25mm

Editor's note—

Legislation ultimately amended—

- *Fisheries (Commercial Fisheries) Regulation 2019*

[s 33]

33 Amendment of s 162 (Amendment of sch 4, pt 3 (Net fishery (east coast no. 2)))

(1) Section 162(3), (4) and (7), inserted schedule 4, sections 63(1)(c), 64(4)(c) and 67(1)(c), ‘0.5mm’—

omit, insert—

1.25mm

(2) Section 162(5) and (6)—

omit.

Editor’s note—

Legislation ultimately amended—

- *Fisheries (Commercial Fisheries) Regulation 2019*

34 Amendment of s 163 (Amendment of sch 4, pt 4 (Net fishery (east coast no. 3)))

Section 163(2), inserted schedule 4, section 77(2)(b), ‘0.5mm’—

omit, insert—

1.25mm

Editor’s note—

Legislation ultimately amended—

- *Fisheries (Commercial Fisheries) Regulation 2019*

35 Amendment of s 168 (Amendment of sch 7, pt 1 (Commercial crab fishery))

Section 168(1), inserted schedule 7, section 5(2)—

omit, insert—

- (2) An item of crab apparatus used to take mud crabs must—
 - (a) have positioned on the bottom edge of the apparatus—
 - (i) 1 large rectangular escape vent; or

- (ii) 2 small rectangular escape vents; or
- (iii) 1 round escape vent; and
- (b) be constructed in a way so that an escape vent mentioned in paragraph (a)—
 - (i) can not collapse; and
 - (ii) is not impeded by another part of the item of crab apparatus.

Editor's note—

Legislation ultimately amended—

- *Fisheries (Commercial Fisheries) Regulation 2019*

36 Amendment of s 169 (Insertion of new sch 7A)

- (1) Section 169, inserted schedule 7A, section 85(2), definition *approved aquaculture facility*—

omit, insert—

approved aquaculture facility means a facility—

- (a) used for aquaculture in accordance with a material change of use of premises for aquaculture that is or was—
 - (i) accepted development under the Planning Act; or
 - (ii) the subject of a development approval; or
 - (b) used for aquaculture in another State under the laws of the other State.
- (2) Section 169, inserted schedule 7A, section 127—

omit, insert—

127 Who may take fish

Only a commercial fisher may take beachworms under the licence.

- (3) Section 169, inserted schedule 7A, section 133—

[s 37]

omit, insert—

133 Who may take fish

Only a commercial fisher may take bloodworms under the licence.

- (4) Section 169, inserted schedule 7A, section 140—

omit, insert—

140 Who may take fish

Only a commercial fisher may take marine yabbies under the licence.

Editor's note—

Legislation ultimately amended—

- *Fisheries (Commercial Fisheries) Regulation 2019*

37 Amendment of s 174 (Amendment of sch 11 (Dictionary))

- (1) Section 174(2), inserted schedule 11, definition *authorised boat*, paragraph (b)(i), after 'licence'—

insert—

(if any)

- (2) Section 174(2), inserted schedule 11, definition *hand-harvest only commercial fishery*—

omit.

- (3) Section 174(2), inserted schedule 11, definition *transport vessel*, paragraph (b), after 'D'—

insert—

, L4, N3, N12, N13

- (4) Section 174—

insert—

- (2A) Schedule 11, definition *hand-harvest only commercial fishery*—

insert—

(ka) commercial crayfish and rocklobster fishery;

(2B) Schedule 11, definition *hand-harvest only commercial fishery*, paragraphs (ka) to (n)—
renumber as paragraphs (l) to (o).

Editor's note—

Legislation ultimately amended—

- *Fisheries (Commercial Fisheries) Regulation 2019*

38 Amendment of s 186 (Insertion of new ss 15A–15D)

(1) Section 186, inserted section 15A(1)(a), after ‘operation’—

insert—

, other than a fishing operation in the beachworm fishery, bloodworm fishery or marine yabby fishery,

(2) Section 186, inserted section 15A(1)—

insert—

(aa) a fishing operation in the beachworm fishery, bloodworm fishery or marine yabby fishery involving using a boat to take fish other than by using a seine net—

(i) starts when the commercial fisher in control of the fishing operation arrives at the place from which fish are to be taken; and

(ii) ends when the commercial fisher stops taking fish and leaves the place;

(3) Section 186, inserted section 15A(1)(aa) to (c), as amended by this regulation—

renumber as section 15A(1)(b) to (d).

(4) Section 186, inserted section 15C(2)—

omit, insert—

[s 39]

- (2) A *landing place* for a boat is a place at which the boat may be landed, including, for example, a marina berth, mooring or wharf.

Editor's note—

Legislation ultimately amended—

- *Fisheries (General) Regulation 2019*

39 Insertion of new s 193A

After section 193—

insert—

193A Amendment of sch 1 (Prescribed acts for which authority required)

Schedule 1, entry for Carrying fish for trade or commerce—

omit.

Editor's note—

Legislation ultimately amended—

- *Fisheries (General) Regulation 2019*

Part 6 Amendment of Fisheries Quota Declaration 2019

40 Declaration amended

This part amends the *Fisheries Quota Declaration 2019*.

41 Amendment of s 6 (Commercial spanner crab fishery (managed area A))

- (1) Section 6(1) and (2), 'ITQ'—

omit, insert—

C2-ITQ

- (2) Section 6(1), ‘section 122(b)’—
omit, insert—
section 167(b)

ENDNOTES

- 1 Made by the Governor in Council on 13 April 2021.
- 2 Notified on the Queensland legislation website on 14 April 2021.
- 3 The administering agency is the Department of Agriculture and Fisheries.

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