



Queensland

# Fisheries Legislation (Coral) Amendment Regulation 2023

## Subordinate Legislation 2023 No. 44

made under the

*Fisheries Act 1994*

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## **Part 1 Preliminary**

### **1 Short title**

This regulation may be cited as the *Fisheries Legislation (Coral) Amendment Regulation 2023*.

### **2 Commencement**

The following provisions commence on 1 July 2023—

- (a) part 2, division 3;
- (b) part 3;
- (c) part 5.

## **Part 2 Amendment of Fisheries (Commercial Fisheries) Regulation 2019**

### **Division 1 Preliminary**

#### **3 Regulation amended**

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

### **Division 2 Amendments commencing on notification**

#### **4 Amendment of sch 9 (Fish and management regions for particular quota units)**

- (1) Schedule 9, authorising provision, ‘and 106R’—  
*omit, insert—*

, 106R and *Fisheries (General) Regulation 2019*,  
schedule 2E, section 2

(2) Schedule 9—

*insert—*

## Part 5

## Select coral ITQ units

### Select coral ITQ unit

DS22-ITQ unit

DS23-ITQ unit

DS28-ITQ unit

DS36-ITQ unit

DS39-ITQ unit

DS48-ITQ unit

DS74-ITQ unit

### Prescribed

*Euphyllia glabrescens*

*Fimbriaphyllia ancora*

*Cycloseris cyclolites*

*Acanthophyllia deshayesiana*

*Homophyllia cf. australis*

*Micromussa lordhowensis*

*Trachyphyllia geoffroyi*

## 5 Amendment of sch 11 (Dictionary)

(1) Schedule 11—

*insert—*

*select coral* means coral of the following species—

- (a) *Acanthophyllia deshayesiana*;
- (b) *Cycloseris cyclolites*;
- (c) *Euphyllia glabrescens*;
- (d) *Fimbriaphyllia ancora*;
- (e) *Homophyllia cf. australis*;
- (f) *Micromussa lordhowensis*;

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(g) *Trachyphyllia geoffroyi*.

(2) Schedule 11, definition *other coral*, paragraph (a), 'Hydrozoa'—

*omit, insert—*

Hydrozoa

## **Division 3                      Amendments commencing on 1 July 2023**

### **6                      Insertion of new ch 4, pt 5D**

After section 106W—

*insert—*

## **Part 5D                      Select coral ITQ units**

### **Division 1                      Interpretation**

#### **106X Meaning of select coral ITQ year**

*Select coral ITQ year* means the period of 1 year starting on 1 July in a year and ending on 30 June in the next year.

#### **106Y References to prescribed select coral and hand-harvest ITQ licence**

- (1) A reference to prescribed select coral in relation to a select coral ITQ unit is a reference to the fish of the species of select coral stated for the select coral ITQ unit in schedule 9, part 5.
- (2) A reference to a hand-harvest ITQ licence in relation to a select coral ITQ unit is a reference to a primary commercial fishing licence for a commercial fishery in which the prescribed select

coral may be taken.

## **Division 2      Entitlement**

### **106Z Purpose of division**

This division states the quota entitlement for select coral ITQ units.

### **106ZA Entitlement under select coral ITQ unit**

- (1) The holder of, or a person acting under, a select coral ITQ unit may take in a select coral ITQ year the weight of prescribed select coral worked out by dividing the total quota entitlement for the fish for the year by the total number of select coral ITQ units of the same type that have been issued.
- (2) The authorisation for a select coral ITQ year under subsection (1)—
  - (a) is the holder's entitlement under the select coral ITQ unit for the select coral ITQ year; and
  - (b) imposes a quota on the entitlement for the year.
- (3) However, the entitlement applies only while the holder holds a hand-harvest ITQ licence for taking prescribed select coral that is in effect.
- (4) In this section—

*total quota entitlement*, for prescribed select coral, for a select coral ITQ year, means the total quota entitlement stated for the fish in the quota declaration for commercial hand-harvest fisheries for the select coral ITQ year.

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### **106ZB When select coral ITQ unit entitlement is used for a select coral ITQ year**

- (1) The entitlement under a select coral ITQ unit is used for a select coral ITQ year—
  - (a) when the holder of, or a person acting under, the select coral ITQ unit has taken in the select coral ITQ year, under any hand-harvest ITQ licence held by the holder, an amount of (whole weight) prescribed select coral equalling the holder's entitlement under the select coral ITQ unit; or
  - (b) if section 106ZC applies.
- (2) The *unused entitlement* under a select coral ITQ unit for a select coral ITQ year is the amount of (whole weight) prescribed select coral that has not been taken, for the select coral ITQ year, under any hand-harvest ITQ licence held by the holder of the select coral ITQ unit.

### **106ZC No carrying forward of unused entitlement**

- (1) This section applies if, in a select coral ITQ year, the holder of, or a person acting under, select coral ITQ units takes an amount of prescribed select coral that is less than the total entitlements under the holder's select coral ITQ units.
- (2) The holder of the select coral ITQ units is taken, at the end of the select coral ITQ year, to have used all the entitlements under the select coral ITQ units held by the holder for the select coral ITQ year.

## **Division 3                      Evidentiary aids for use of entitlement**



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**106ZD Weight notice is evidence of use of entitlement**

- (1) This section applies if a commercial fisher in control of a fishing operation gives the chief executive a weight notice for prescribed select coral taken under select coral ITQ units.
- (2) The notice is evidence that the holder of the select coral ITQ units has taken, under the select coral ITQ units, the whole weight equivalent of the amount of prescribed select coral stated in the notice.
- (3) For subsection (2), the whole weight equivalent of the amount of prescribed select coral stated in the notice is the weight, in kilograms, of the fish.

**7 Amendment of s 107 (Definitions for part)**

- (1) Section 107, definition *quota units*—

*insert—*

- (i) select coral ITQ units.

- (2) Section 107, definition *quota year*—

*insert—*

- (i) for select coral ITQ units—a select coral ITQ year.

**8 Amendment of s 109 (Application of division)**

Section 109(2)—

*insert—*

- (i) for select coral ITQ units—a select coral ITQ certificate.

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**9 Amendment of s 111 (Quota authority certificates for more than 1 type of particular quota units)**

Section 111(1)—

*insert—*

- (e) select coral ITQ units.

**10 Amendment of sch 7A, s 28 (Fish may be taken only with unused entitlements)**

Schedule 7A, section 28—

*insert—*

- (2) Select coral of the following species may be taken in a select coral ITQ year only if the coral is taken under the select coral ITQ units stated for the species with unused entitlements for the select coral ITQ year—
  - (a) *Acanthophyllia deshaysiana*—DS36-ITQ units;
  - (b) *Cycloseris cyclolites*—DS28-ITQ units;
  - (c) *Euphyllia glabrescens*—DS22-ITQ units;
  - (d) *Fimbriaphyllia ancora*—DS23-ITQ units;
  - (e) *Homophyllia cf. australis*—DS39-ITQ units;
  - (f) *Micromussa lordhowensis*—DS48-ITQ units;
  - (g) *Trachyphyllia geoffroyi*—DS74-ITQ units.

**11 Amendment of sch 9 (Fish and management regions for particular quota units)**

Schedule 9, authorising provision, ‘*Fisheries (General) Regulation 2019*, schedule 2E, section 2’—

*omit, insert—*

106Y(1)

## 12 Amendment of sch 11 (Dictionary)

- (1) Schedule 11, definitions *hand-harvest ITQ licence*, *specialty coral*, *unused entitlement* and *used*—

*omit.*

- (2) Schedule 11—

*insert*—

*entitlement* under a select coral ITQ unit, see section 106ZA(2)(a).

*hand-harvest ITQ licence*—

- (a) in relation to a hand-harvest ITQ unit, see section 106R(2); or  
(b) in relation to a select coral ITQ unit, see section 106Y(2).

*prescribed select coral*, in relation to a select coral ITQ unit, see section 106Y(1).

*select coral ITQ year* see section 106X.

*specialty coral* means—

- (a) hard coral other than—  
(i) hard coral of the family Acroporidae or Pocilloporidae; or  
(ii) select coral; or  
(b) sea anemones.

*unused entitlement*—

- (a) for effort units, see section 70(6); or  
(b) for SM units, see section 87(2); or  
(c) for line units, see section 94(2); or  
(d) for C2-ITQ units, see section 100(2); or

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- (e) for T4-ITQ units, see section 105(2); or
- (f) for ENL-ITQ units, see section 106F(2); or
- (g) for C1-ITQ units, see section 106M(2); or
- (h) for hand-harvest ITQ units, see section 106U(2); or
- (i) for select coral ITQ units, see section 106ZB(2).

*used—*

- (a) for an entitlement under effort units, see section 70(1); or
- (b) for an entitlement under an SM unit, see section 87(1); or
- (c) for an entitlement under a line unit, see section 94(1); or
- (d) for an entitlement under a C2-ITQ unit, see section 100(1); or
- (e) for an entitlement under a T4-ITQ unit, see section 105(1); or
- (f) for an entitlement under an ENL-ITQ unit, see section 106F(1); or
- (g) for an entitlement under a C1-ITQ unit, see section 106M(1); or
- (h) for an entitlement under a hand-harvest ITQ unit, see section 106U(1); or
- (i) for an entitlement under a select coral ITQ unit, see section 106ZB(1).

- (3) Schedule 11, definition *other coral*, after ‘specialty coral’—  
*insert—*

or select coral





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**20 Amendment of sch 2D, s 7 (Hand-harvest ITQ certificate)**

Schedule 2D, section 7(1), ‘harvest-ITQ units’—  
*omit, insert—*  
hand-harvest ITQ units

**21 Insertion of new sch 2E**

After schedule 2D—  
*insert—*

**Schedule 2E Issue of select coral  
ITQ units**

Section 58E

**1 Definitions for schedule**

In this schedule—

*eligible person* means a person who, on 19 June 2023, holds a hand-harvest ITQ certificate for DS-ITQ units.

*hand-harvest ITQ certificate* see schedule 2D, section 7(1).

**2 References to prescribed select coral**

In this schedule, a reference to prescribed select coral in relation to a select coral ITQ unit is a reference to fish of the species of select coral under the *Fisheries (Commercial Fisheries) Regulation 2019* stated for the select coral ITQ unit in schedule 9, part 5 of that regulation.

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### 3 Issue of select coral ITQ units

The chief executive must, on or before 30 June 2023, issue to each eligible person the number of select coral ITQ units worked out under section 4 for the person.

### 4 Process for deciding number of select coral ITQ units to be issued

- (1) The chief executive must decide the number of select coral ITQ units to be issued to an eligible person for prescribed select coral using the following formula—

$$SC-ITQ = \frac{D \times P}{Q}$$

where—

**SC-ITQ** means the number of select coral ITQ units to be issued to the eligible person for fish of a species of prescribed select coral.

**D** means the number of DS-ITQ units held by the eligible person on 19 June 2023.

**P** means the amount of fish of the species of prescribed select coral, in kilograms, that is the prescribed commercial catch for the species under the *Fisheries Declaration 2019*.

**Q** means the total quota entitlement for specialty coral in the coral fishery under the *Fisheries Quota Declaration 2019*.

- (2) If, after applying the formula, the number of select coral ITQ units for fish of a species of prescribed select coral is not a whole number, the number of the units to be issued is taken to be the nearest whole number, rounded up.



## 5 When select coral ITQ units take effect

Select coral ITQ units take effect on 1 July 2023.

## 6 Select coral ITQ certificate

- (1) The chief executive must issue a certificate (a *select coral ITQ certificate*) to each person who holds select coral ITQ units.
- (2) The select coral ITQ certificate must state the following—
  - (a) the holder's name;
  - (b) for each type of select coral ITQ unit, that the units are issued for the taking of prescribed select coral for the type of the unit;
  - (c) how many select coral ITQ units of each type the holder has;
  - (d) if the chief executive has imposed conditions on the select coral ITQ units under section 61 of the Act—the conditions.

## 22 Amendment of sch 6 (Other fees)

Schedule 6, part 2, table, under heading 'Hand-harvest fisheries', after entry for R-ITQ unit—

*insert—*

DS22-ITQ unit	nil
DS23-ITQ unit	nil
DS28-ITQ unit	nil
DS36-ITQ unit	nil
DS39-ITQ unit	nil
DS48-ITQ unit	nil

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DS74-ITQ unit

nil

## 23 Amendment of sch 11 (Dictionary)

Schedule 11—

*insert—*

*select coral ITQ unit* means a DS22-ITQ unit, DS23-ITQ unit, DS28-ITQ unit, DS36-ITQ unit, DS39-ITQ unit, DS48-ITQ unit or DS74-ITQ unit.

## Part 5 Amendment of Fisheries Quota Declaration 2019

### 24 Declaration amended

This part amends the *Fisheries Quota Declaration 2019*.

### 25 Amendment of sch 1 (Total quota entitlements)

- (1) Schedule 1, part 3, table, under heading ‘Coral fishery’, entry for specialty coral, column 2, ‘60,040kg’—

*omit, insert—*

50,570kg

- (2) Schedule 1, part 3, table, under heading ‘Coral fishery’, after entry for specialty coral—

*insert—*

select coral—

- *Acanthophyllia deshayesiana* 600kg
- *Cycloseris cyclolites* 600kg
- *Euphyllia glabrescens* 926kg

- *Fimbriaphyllia ancora* 1,863kg
- *Homophyllia cf. australis* 1,065kg
- *Micromussa lordhowensis* 3,715kg
- *Trachyphyllia geoffroyi* 701kg

ENDNOTES

- 1 Made by the Governor in Council on 31 May 2023.
- 2 Notified on the Queensland legislation website on 2 June 2023.
- 3 The administering agency is the Department of Agriculture and Fisheries.

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