

FISHERIES MANAGEMENT (GENERAL) REGULATION 1995
under the
FISHERIES MANAGEMENT ACT 1994

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Gazette No 124 of 29.10.1999, p 10245
Gazette No 133 of 26.11.1999, p 10865
Crimes Legislation Amendment (Sentencing) Act 1999 No 94
Gazette No 25 of 18.2.2000, pp 1071, 1103
Gazette No 52 of 28.4.2000, p 3609
Gazette No 54 of 28.4.2000, p 3677
Gazette No 81 of 30.6.2000, pp 5381, 5386
Gazette No 85 of 7.7.2000, p 6075
Gazette No 141 of 27.10.2000, pp 11301, 11308
Gazette No 146 of 10.11.2000, p 11602
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Gazette No 169A of 22.12.2000, p 13911
Gazette No 10 of 12.1.2001, p 63
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Gazette No 103 of 29.6.2001, p 4606
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[STATE ARMS]

New South Wales

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Fisheries Management (General) Regulation 1995

Part 1 Preliminary

1 Name of Regulation

This Regulation may be cited as the *Fisheries Management (General) Regulation 1995*.

2 Commencement

This Regulation commences on the commencement of the *Fisheries Management Act 1994*.

3 Definitions

(1) In this Regulation:

charter fishing boat has the meaning given by section 127A of the Act.

estuarine waters means waters ordinarily subject to tidal influence (other than ocean waters).

estuary general restricted fishery means the restricted fishery declared under Division 2C of Part 8.

estuary prawn trawl restricted fishery means the restricted fishery declared under Division 2D of Part 8.

fish protected from commercial fishing means fish declared by this Regulation to be protected from commercial fishing for the purposes of section 20 of the Act.

fisheries official means a fisheries officer or an officer of NSW Fisheries.

fishing business means a business that the Director determines to be a separate and identifiable fishing business (including any licensed fishing boat, fishing gear and catch history that is associated with that business).

hauling includes casting and shooting any net with or without hauling lines.

high water mark means the mean line between approximate high water at spring tide and neap tide.

inland restricted fishery means the restricted fishery declared under Division 3A of Part 8.

inland waters means waters not subject to tidal influence.

ocean fish trawl restricted fishery means the restricted fishery declared under Division 2A of Part 8.

ocean hauling restricted fishery means the restricted fishery declared under Division 4A of Part 8.

ocean prawn trawl restricted fishery means the restricted fishery declared under Division 2 of Part 8.

ocean trap and line restricted fishery means the restricted fishery declared under Division 2B of Part 8.

ocean waters is defined in Schedule 1.

prohibited size class of fish means any species of fish referred to in Column 1 of Table 1 or Table 2 in Division 2 of Part 2.

protected fish means fish declared by this Regulation to be protected fish for the purposes of section 19 of the Act.

recognised fishing ground means an area identified (in accordance with Division 1 of Part 5) as a recognised fishing ground on a map deposited at an office of NSW Fisheries.

sea urchin and turban shell restricted fishery means the restricted fishery declared under Division 1 of Part 8.

set line means any line not held in the hand, or not attached to fishing gear held in the hand, which is used or intended to be used for the purpose of taking fish.

set net means any net set in any waters for the purpose of taking fish and which is left unattended.

setting includes fixing, placing and staking.

the Act means the *Fisheries Management Act 1994*.

the 1935 Act means the *Fisheries Act 1935* (formerly the *Fisheries and Oyster Farms Act 1935*).

(2)Notes included in this Regulation are explanatory notes and do not form part of this Regulation.

4 The management plan for a fishery prevails over this Regulation

This Regulation is subject to section 62 of the Act.

Note. Section 62 of the Act provides that if a provision of the management plan for a share management fishery is inconsistent with any other regulation under the Act or any fishing closure, the management plan prevails (unless the provision of the regulation or fishing closure is expressed to have effect despite the management plan).

Part 2 Protected fish, prohibited size fish and bag limits

Division 1 Protected fish

5 Protected fish

For the purposes of section 19 of the Act, the species of fish listed in the Table to this clause are protected fish.

Table Protected fish

Part 1 Marine or estuarine species

Common name	Species
Ballina angelfish	<i>Chaetodontoplus ballinae</i>
Black rock cod (or saddle-tail rock cod)	<i>Epinephelus daemeli</i>
Eastern blue devil fish (or Bleekers devil fish)	<i>Paraplesiops bleekeri</i>
Elegant wrasse	<i>Anampses elegans</i>
Estuary cod	<i>Epinephelus coioides</i>
Giant Queensland groper	<i>Epinephelus lanceolatus</i>
Grey nurse shark	<i>Carcharius taurus</i>
Herbsts nurse shark	<i>Odontaspis ferox</i>
Weedy seadragon (or common seadragon)	<i>Phyllopteryx taeniolatus</i>

Part 2 Freshwater species

Common name	Species
Australian grayling	<i>Prototroctes maraena</i>
Eastern freshwater cod	<i>Maccullochella ikei</i>
Isopod	<i>Crenoicus harrisoni</i>

Trout cod	<i>Maccullochella macquariensis</i>
Macquarie perch	<i>Macquaria australasica</i>

6 Fish protected from commercial fishing

For the purposes of section 20 of the Act, the species of fish listed in the Table to this clause are protected from commercial fishing.

Table Fish protected from commercial fishing

Part 1 Marine or estuarine species

Common name	Species
Marlin, black	<i>Makaira indica</i>
Marlin, blue	<i>Makaira nigricans</i>
Marlin, striped	<i>Tetrapturus audax</i>
Groper, blue, brown or red	<i>Achoerodus viridis</i>

Part 2 Freshwater species

Common name	Species
Atlantic salmon	<i>Salmo salar</i>
Australian bass	<i>Macquaria novemaculeata</i>
Catfish, eel-tailed	<i>Tandanus tandanus</i>
Estuary perch	<i>Macquaria colonorum</i>
Freshwater crayfish	All species of the genera <i>Euastacus</i> and <i>Cherax</i> except for the common yabby <i>Cherax destructor</i>
Silver perch	<i>Bidyanus bidyanus</i>
Trout, brook	<i>Salvelinus fontinalis</i>
Trout, brown	<i>Salmo trutta</i>
Trout, rainbow	<i>Oncorhynchus mykiss</i>

6A Defence—striped marlin

For the purposes of section 21 (1) (d) of the Act, it is a defence to a prosecution for an offence under section 20 (3) of the Act (relating to sale of fish protected from commercial fishing) if:

- (a) the fish is striped marlin, and
- (b) the striped marlin was taken by a person while lawfully taking or attempting to take tuna for sale, by the method of long line (pelagic), minor line or pole fishing, under the authority of a permit issued under a law of the Commonwealth.

Division 2 Prohibited size fish

7 Prohibited size fish

- (1) For the purposes of section 15 (1) of the Act, a fish is a prohibited size fish if:
- (a) in the case of a fish of a species specified in Column 1 of Table 1—the measurement of the fish is less than the minimum measurement specified opposite that species of fish in Column 2 of that Table, or
 - (b) in the case of a fish of a species specified in Column 1 of Table 2—the measurement of the fish is more than the maximum measurement specified opposite that species of fish in Column 2 of that Table.
- (2) For the purposes of section 15 (2) of the Act, the method of determining the measurement of any class of fish is as follows:
- (a) except as provided by this subclause—the overall length of the fish is to be measured from the point of the snout to the tip of the tail,
 - (b) in the case of abalone—the diameter of the shell is to be measured along its longest axis,
 - (c) in the case of crab (other than spanner crab)—the length of the crab is to be measured along the body from the notch between the most protruding frontal teeth to the centre of the posterior margin of the carapace,
 - (d) in the case of spanner crab—the length of the spanner crab is to be measured along the body from the base of the orbital notch to the centre of the posterior margin of the carapace,
 - (e) in the case of freshwater spiny crayfish known as Murray or Murrumbidgee Crayfish—the length of the carapace of the crayfish is to be measured along the straight line from the posterior margin of the orbit (eye) socket to the centre of the posterior margin of the carapace,
 - (f) in the case of rock lobster—the length of the carapace of the rock lobster is to be measured along the straight line from the point of union of the second antennae to the centre of the posterior margin of the carapace (ignoring any hairs attached to the carapace),
 - (g) in the case of turban snail—the diameter of the shell is to be measured along its longest axis.
- (3) If a fish is frozen, refrigerated or chilled, the size of the fish is to be determined as so frozen, refrigerated or chilled.

Table 1 Prohibited size fish (minimum measurements)

Part 1 (Fish—Marine or estuarine)

	Column 1	Column 2
Common name	Species	Minimum measurement in centimetres
Blackfish, rock	<i>Girella elevata</i>	30
Bream, black or southern	<i>Acanthopagrus butcheri</i>	25
Bream, yellowfin	<i>Acanthopagrus australis</i>	25
Flathead, common or dusky	<i>Platycephalus fuscus</i>	36
Flathead, sand	<i>Platycephalus caeruleopunctatus</i>	33
Flathead, tiger	<i>Platycephalus richardsoni</i>	33
Luderick (or blackfish)	<i>Girella tricuspidata</i>	25

Morwong, jackass fish	<i>Nemadactylus macropterus</i>	28
Morwong, red or sea carp	<i>Cheilodactylus fuscus</i>	25
Morwong, rubberlip	<i>Nemadactylus douglasii</i>	28
Mullet, sea or bully	<i>Mugil cephalus</i>	30
Mulloway (or jewfish)	<i>Argyrosomus hololepidotus</i>	45
School shark	<i>Galeorhinus galeus</i>	91
Snapper	<i>Pagrus auratus</i>	30
Tailor	<i>Pomatomus saltatrix</i>	30
Tarwhine	<i>Rhabdosargus sarba</i>	20
Teraglin	<i>Atractoscion aequidens</i>	
38		
Yellowtail kingfish	<i>Seriola lalandi</i>	60
Whiting, sand or silver	<i>Sillago ciliata</i>	27

Part 2 (Invertebrates—Marine or estuarine)

	Column 1	Column 2
Common name	Species	Minimum measurement in centimetres
Abalone	<i>Haliotis rubra</i>	11.5
Crab, blue swimmer or sand	<i>Portunus pelagicus</i>	6
Crab, mud, black or mangrove	<i>Scylla serrata</i>	8.5
Crab, spanner	<i>Ranina ranina</i>	9.3
Lobster, eastern rock	<i>Jasus verreauxi</i>	10.4
Lobster, southern rock (male)	<i>Jasus edwardsii</i>	11
Lobster, southern rock (female)	<i>Jasus edwardsii</i>	10.5
Snail, Sydney turban	<i>Turbo torquatus</i>	7.5
Snail, military turban	<i>Turbo militaris</i>	7.5

Part 3 (Fish—Freshwater or estuarine)

	Column 1	Column 2
Common name	Species	Minimum measurement in centimetres
Catfish, eel-tailed	<i>Tandanus tandanus</i>	30
Cod, Murray	<i>Maccullochella peeli</i>	50
Perch, golden or yellow belly	<i>Macquaria ambigua</i>	30
Perch, silver	<i>Bidyanus bidyanus</i>	25
Trout, brook	<i>Salvelinus fontinalis</i>	25
Trout, brown	<i>Salmo trutta</i>	25
Trout, rainbow	<i>Oncorhynchus mykiss</i>	25
Salmon, Atlantic	<i>Salmo salar</i>	25

Part 4 (Invertebrates—Freshwater)

	Column 1	Column 2
Common name	Species	Minimum measurement in centimetres
Crayfish, Murray or freshwater spiny	<i>Euastacus armatus</i>	9

Part 5 (Fish—General)

	Column 1	Column 2
Common name	Species	Minimum measurement in centimetres
Eel, long finned	<i>Anguilla reinhardtii</i>	30
Eel, short finned	<i>Anguilla australis</i>	30

**Table 2 Prohibited size fish (maximum measurements)
Part 1 (Invertebrates—Marine or estuarine)**

	Column 1	Column 2
Common name	Species	Maximum measurement in centimetres
Lobster, eastern rock	<i>Jasus verreauxi</i>	20

8 Defence—taking of mullet for bait

For the purposes of section 21 (d) of the Act, it is a defence to a prosecution for an offence under section 16 (1) of the Act (relating to possession of prohibited size fish) if:

- (a) the prohibited size fish concerned are mullet, and
- (b) the fish do not exceed 15 cm in measurement as determined in accordance with clause 7 (2) (a), and
- (c) the fish have been lawfully taken by a person other than a commercial fisher, and
- (d) the fish are live bait, and
- (e) the person charged with the offence is in possession of no more than 20 of the prohibited size fish.

Division 3 Bag limits

9 Bag limits—taking of fish

- (1) For the purposes of section 17 (1) of the Act, the daily limit of fish (of a species specified in Column 1 of Part 1 or 2 of the Table to this Division) is the quantity specified opposite that species of fish in Column 2 of Part 1 or 2 of that Table.
- (2) For the purposes of section 17 (1) of the Act, the daily limit of fish (of a species specified in Column 1 of Part 3 or 4 of the Table to this Division) taken from waters specified opposite that species of fish in Column 2 of Part 3 or 4 of that Table is the quantity specified opposite that species of fish in Column 3 of Part 3 or 4 of that Table.

10 Bag limits—possession of fish

- (1) For the purposes of section 18 (1) of the Act, the possession limit of fish (of a species specified in Column 1 of Part 1 or 2 of the Table to this Division) is, when the person in possession of that species of fish is in or on or adjacent to any waters or is transporting or storing the fish, the quantity specified opposite that species of fish in Column 2 of Part 1 or 2 of that Table.
- (2) For the purposes of section 18 (1) of the Act, the possession limit of fish (of a species specified in Column 1 of Part 3 or 4 of the Table to this Division) is, when the person in possession of that species of fish is in or on or adjacent to the waters specified opposite that species of fish in Column 2 of Part 3 or 4 of that Table, the quantity specified opposite that species of fish in Column 4 of Part 3 or 4 of that Table.

10A General bag limit

- (1) For any species of marine or estuarine fish (including marine or estuarine invertebrates and tunicates) not included in the Table to this Division:

- (a) the daily limit of fish of that species is 20, and
- (b) the possession limit of fish of that species (when the person in possession is in or on or adjacent to any waters or is transporting or storing the fish) is 20.

Note. Examples of the species of fish to which this clause applies are squid, cuttlefish and octopus.

- (2) Subclause (1) does not apply to the following species of fish:

- (a) all species of family Clupeidae (such as pilchards, whitebait, blue bait and herring),
- (b) all species of family Engraulididae (such as anchovies),
- (c) all *Trachurus spp* (such as yellowtail and jack mackerel),
- (d) slimy mackerel (*Scomber australasicus*),
- (e) all species of family Hemiramphidae (such as garfish),
- (f) all species of family Atherinidae (such as hardy head),
- (g) all species of family Mictyridae (such as soldier crabs),
- (h) saltwater nippers (*Callianassa* and *Alpheus spp*),
- (i) all species of worms.

Note. Although this clause does not apply to worms, beach worms are the subject of a daily limit and possession limit of 20 under Part 2 of the Table to this Division.

11 Application of bag limits and possession limits to commercial fishers

- (1) A daily limit specified in this Division does not apply in respect of fish taken by a commercial fisher for sale.
- (2) A possession limit specified in this Division does not apply in respect of fish in the possession of a commercial fisher for sale.
- (3) However, those daily limits and possession limits do apply in respect of fish taken by, or in the possession of, a commercial fisher otherwise than for sale.

12 Possession limits do not apply to persons in possession of fish for sale

A possession limit specified in this Division does not apply in respect of fish which is in the possession of a person for sale or which has previously been sold.

Table Bag limits

Part 1 (Fish—Marine or estuarine)

	Column 1	Column 2
Common name	Species	Daily limit and possession limit
Bar cod	<i>Epinephelus, ergastularius</i>	5 comprised of any single species or a combination of species, with a maximum of 2 gemfish
Bass grouper	<i>Polyprion americanus</i>	
Gemfish	<i>Rexea solandri</i>	
Hapuka	<i>Polyprion oxygenios</i>	
Trevalla	<i>Hyperoglyphe antarctica</i>	
Billfish (all species)	Species of Family Xiphiidae and Family Istiophoridae	2 of each species
Blackfish, rock	<i>Girella elevata</i>	10
Bream, black or southern Bream, yellowfin	<i>Acanthopagrus butcheri</i> <i>Acanthopagrus australis</i>	20 comprised wholly of black or southern bream or wholly of yellowfin bream or partly of each
Flathead, dusky or common	<i>Platycephalus fuscus</i>	10 (with not more than one longer than 70 cm)
Flathead, sand or eastern blue spot Flathead, tiger	<i>Platycephalus caeruleopunctatus</i> <i>Platycephalus richardsoni</i> <i>Platycephalus spp</i>	
Flathead, all other 20 comprised wholly of a single flathead species or a combination of	species except for dusky or common flathead which are subject to a separate limit	
Groper, blue, red or brown	<i>Achoerodus viridis</i>	2
Hairtail	<i>Trichiurus lepturus</i>	10
Kingfish, yellow tail	<i>Seriola lalandi</i>	5
Luderick (or blackfish)	<i>Girella tricuspidata</i>	20

Mackerel, spotted	<i>Scomberomorus munroi</i> <i>Scomberomorus commerson</i>	5 comprised wholly of narrow barred or spanish mackerel or wholly of spotted mackerel or partly of each
Mackerel, spanish or narrow barred		
Mangrove Jack	<i>Lutjanus argentimaculatus</i>	5
Morwong, banded	<i>Cheilodactylus spectabilis</i>	5
Morwong, red	<i>Cheilodactylus fuscus</i>	5
Mulloway	<i>Argyrosomus hololepidotus</i>	5 (with not more than 2 longer than 70 cms)
Perch, moses	<i>Lutjanus russelli</i>	5
Perch, pearl	<i>Glaucosoma scapulare</i>	5
Salmon, Australian	<i>Arripis trutta</i>	5
Sharks and rays	All species	5 comprised of any single species or a combination of species, with a maximum of 2 of any species of wobbegong shark
Snapper	<i>Pagrus auratus</i>	10
Surgeon, sawtail	<i>Prionurus microlepidotus</i>	5
Tailor	<i>Pomatomus saltatrix</i>	20
Teraglin	<i>Atractoscion aequidens</i>	5
Trevallies	<i>Pseudocaranx dentex</i> <i>Caranx spp</i>	20 comprised wholly of any single species or a combination of species
Tuna, albacore	<i>Thunnus alalunga</i>	7 comprised of any single species or combination of species, of which no more than 2 can have a length of 90 cm or more and no more than 5 can have a length of less than 90 cm
Tuna, bigeye	<i>Thunnus obesus</i>	
Tuna, longtail	<i>Thunnus tonggol</i>	
Tuna, southern bluefin	<i>Thunnus maccoyii</i>	
Tuna, yellowfin	<i>Thunnus albacares</i>	
Wahoo	<i>Acanthocybium solandri</i>	5
Whiting	<i>Sillago spp</i>	20 comprised of any single species or a combination of species

Part 2 (Invertebrates and tunicates)

Column 1	Column 2	
Common name	Species	Daily limit and possession limit
Abalone	<i>Haliotis rubra</i>	10
Beach worms	Species of Family Onuphidae	20
Cockle Pipi Mussel	<i>Anadara spp</i> <i>Donax deltooides</i> <i>Mytilis edulis</i>	50 comprised wholly of cockles or wholly of pipis or wholly of mussels or partly of each
Crab, blue swimmer	<i>Portunus pelagicus</i>	20
Crab, mud, black or mangrove	<i>Scylla serrata</i>	5
Crab, spanner	<i>Ranina ranina</i>	10
Crabs, all species other than blue swimmer, mud, black, mangrove, spanner, or soldier (<i>Mictyris spp</i>)	Species of Subclass Brachyura	10 comprised wholly of any single species or a combination of species
Cunjevoi	<i>Pyura spp</i>	20 comprised wholly of any single species or a combination of species
Lobster, eastern rock, or Lobster, southern rock 2 comprised wholly of any	<i>Jasus verreauxi</i> <i>Jasus edwardsii</i> single species or a combination of those 2 species	
Lobster, painted, or Lobster, ornate	<i>Panulirus longipes</i> <i>Panulirus ornatus</i>	2 comprised wholly of any single species or a combination of those 2 species
Lobster, slipper (or flat)	<i>Scyllarides spp</i>	2
Oyster, Sydney rock Oyster, Pacific Oyster, flat or drift	<i>Saccostrea commercialis</i> <i>Crassostrea gigas</i> <i>Ostrea angasi</i>	50 comprised wholly of any single species or a combination of species
Molluscs except squid, octopus and cuttlefish (Class Cephalopoda) and any other mollusc referred to in this Table	Species of Phylum Mollusca	20 comprised wholly of any single species or a combination of species
Prawns	Species of Family Penaeidae and Macrobrachium spp	10 litres

Scallops	Species of Family Pectinidae	50 (except where Division 4 of this Part applies)
Sea urchin	Species of Class Echinoidea	10 comprised wholly of any single species or a combination of species

Part 3 (Fish—Freshwater or estuarine)

	Column 1	Column 2	Column 3	Column 4
Common name	Species	Waters	Daily limit	Possession limit
Murray cod	<i>Macculloch ellsae</i>	All waters of NSW	2	4 (only 1 of which can be longer than 100cm)
Golden perch	<i>Macquaria ambigua</i>	All waters of NSW	5	10
Silver perch	<i>Bidyanus bidyanus</i>	Waters from which silver perch may lawfully be taken	5	10

Note. The taking of silver perch from all waters (other than backed up waters of dams and impoundments) is prohibited by fishing closure under section 8 of the Act (published in the Gazette of 6 February 1998).

Catfish, eel-tailed	<i>Tandanus tandanus</i>	Backed up waters of dams and impoundments	5	10
		All other waters of NSW	2	4
Australian bass	<i>Macquaria novemaculeata</i>	Backed up waters of dams and impoundments	2 comprised wholly of Australian bass or wholly of estuary perch or partly of each	4
Estuary perch	<i>Macquaria colonorum</i>			All other waters of NSW

4 comprised of a combination of Australian bass and estuary perch (only 1 of which can be longer than 35 cm)

Atlantic salmon	<i>Salmo salar</i>	All waters of NSW	10 comprised of any single species or a combination of species	20 comprised of a combination of species
Trout, brook	<i>Salvelinus fontinalis</i>			
Trout, brown				
Trout, rainbow	<i>Salmo trutta</i>			
	<i>Oncorhynchus mykiss</i>			

Part 4 (Invertebrates—Freshwater)

	Column 1	Column 2	Column 3	Column 4
Common name	Species	Waters	Daily limit	Possession limit
Freshwater spiny crayfish (including Murray crayfish)	<i>Euastacus</i> spp	All waters of NSW	10	20

Note. A scientific name for a fish specified in this Table is the scientific name of the species as at the date the name of the fish was inserted in the Table.

Division 4 Special provisions relating to scallops

13 Definitions

In this Division:

approved sack means a sack that does not exceed 1,030 mm in length and 580 mm in width.

approved crate means a plastic crate the internal dimensions of which do not exceed 673 mm in length, 400 mm in width and 276 mm in depth.

14 Scallops taken by means of a dredge must be placed in approved sack or crate

(1) A commercial fisher who takes scallops by means of a dredge or similar device from a boat must:

- (a) immediately after taking the scallops, place them in approved sacks or approved crates, and
- (b) not remove the scallops from the approved sacks or approved crates in which they are placed until they are landed ashore.

Maximum penalty: 50 penalty units.

(2) A commercial fisher must not place scallops taken by means of a dredge or similar device from a boat in both sacks and crates on the boat.

Maximum penalty: 50 penalty units.

15 Bag limits—scallops taken by means of a dredge

(1) For the purposes of section 17 (1) of the Act, when scallops are taken by means of a dredge or similar device or by a combination of dredges and similar devices from a boat, the daily limit of scallops is whichever of the following applies:

- (a) if the scallops are placed in sacks—30 approved sacks of scallops,
- (b) if the scallops are placed in crates—48 approved crates of scallops.

(2) For the purposes of section 18 (1) of the Act, when a commercial fisher in possession of scallops is in a boat containing a dredge or similar device capable of taking scallops, the possession limit of scallops for that fisher is whichever of the following applies:

- (a) if all scallops on the boat are in approved sacks (whether wholly or partly filled)—30 approved sacks, less the number of approved sacks containing scallops that are on the boat and are not in that person's possession,
 - (b) if all scallops on the boat are in approved crates (whether wholly or partly filled)—48 approved crates, less the number of approved crates containing scallops that are on the boat and are not in that person's possession,
 - (c) in any other case—nil.
- (3) For the purposes of section 18 (1) of the Act, when a person in possession of scallops is not a commercial fisher and is on a boat containing a dredge or similar device capable of taking scallops, the possession limit of scallops for that person is nil.

Part 3 Fishing gear

Division 1 Lawful use of fishing gear generally

Note. Under section 24 of the Act it is an offence for a person to use a net or trap for taking any fish unless its use by the person for taking those fish is declared by the regulations to be a lawful use of the net or trap. Section 25 of the Act also makes it an offence for a person to be in possession of any fishing gear in, on or adjacent to any waters if the use by that person of that fishing gear for taking fish from those waters is, at that time, prohibited by or under the Act.

16 Fishing gear cannot be used in circumstances where fishing prohibited

- (1) A provision of this Part that declares the use of a net or other fishing gear to be lawful, or to be lawful in specified circumstances, does not affect any prohibition or conditions imposed by or under the Act with respect to the taking of fish.
- (2) In particular, nothing in this Part is to be construed as authorising the use, in any circumstances, of a net or other fishing gear for any of the following:
 - (a) the taking of fish in waters that are closed to fishing by virtue of a notification in force under section 8 of the Act,
 - (b) the taking of fish that are prohibited size fish or protected fish,
 - (c) the taking for sale of fish protected from commercial fishing.

17 Lawful use of fishing gear in restricted fisheries

- (1) For the purposes of this Part, a person who holds a commercial fishing licence that does not authorise the person to take fish for sale in a restricted fishery or a share management fishery is to be treated, in respect of that fishery, as a person who is not a commercial fisher.
- (2) Accordingly, despite the other provisions of this Part, it is unlawful for such a person to use a net or trap for taking any fish in that restricted fishery or share management fishery if the use of that net or trap for taking those fish would, if the person were not a commercial fisher, be unlawful.
- (3) This subclause applies if a restricted fishery or share management fishery is defined by reference to the use of a particular net or trap. If it is unlawful for a commercial fisher to use such a net or trap to take fish for sale in the fishery, it is unlawful for the fisher to use the net or trap to take fish for bait in the fishery.
- (4) Subclause (3) does not apply to the use of a pilchard, anchovy and bait net (hauling) to take fish for bait in the ocean hauling restricted fishery (within the meaning of Division 4A of Part 8).

18 Use of nets and traps prohibited in certain waters (Brisbane Waters, Port Hacking etc)

- (1) Despite the other provisions of this Part, it is unlawful for a person to use a net for the purpose of taking fish in any of the waters described in Schedule 2 unless:
 - (a) the person is using a net that is a landing net or a dip or scoop net for the purpose of taking fish and the use of that net by the person for taking those fish from those waters is, but for this clause, lawful, or
 - (b) the person is using a net that is a prawn net (set pocket) for the purpose of taking fish from the waters described in Schedule 3 and the use of that net

by the person for taking those fish from those waters is, but for this clause, lawful.

- (2) Despite the other provisions of this Part, it is unlawful for a person to use a trap for the purpose of taking fish in any of the waters described in Schedule 2 unless:
- (a) the person is using a trap that is a bait trap for the purpose of taking fish and the use of that trap by the person for taking those fish from those waters is, but for this clause, lawful, or
 - (b) the person is using a trap that is a lobster trap for the purpose of taking fish from the waters of Broken Bay south of a line between Little Box Head and the northern most point of Mt Ettalong and the use of that trap by the person for taking those fish from those waters is, but for this clause, lawful.
- (3) A fishing closure to which clause 4 of Schedule 7 to the Act applies (being a fishing closure which was formerly a prohibition contained in section 19 of the 1935 Act) is revoked.

Division 2 Registration

19 Registration of fishing gear

For the purposes of section 22 of the Act, the following classes of fishing gear are registrable:

- hauling net (general purpose)
- trumpeter whiting net (hauling)
- garfish net (bullringing)
- garfish net (hauling)
- pilchard, anchovy and bait net (hauling)
- purse seine net
- prawn net (hauling)
- prawn net (set pocket)
- prawn running net
- seine net (prawns)
- otter trawl net (fish)
- danish seine trawl net (fish)
- meshing net
- flathead net
- bait net
- lampara net
- hand-hauled prawn net
- push or scissors net (prawns)

20 Applications for registration

An application for registration of fishing gear is to be made to the Director in a form approved by the Director.

21 Registration

- (1) If an application for the registration of fishing gear is duly made and the fishing gear may lawfully be used, the Director may register the fishing gear.
- (2) Registration of fishing gear is to be certified in such form or manner as the Director approves.
- (3) Registration remains in force for the life of the fishing gear.
- (4) The fee to be paid for the registration of fishing gear is \$21.
- (5) Registration is not transferable.
- (6) The Director may cause to be compiled a register of all fishing gear registered, containing in respect of each fishing gear the registration number, the name and address of the owner, the class of the fishing gear and the dimensions and mesh of the whole or of each part of the fishing gear.

Division 3 Lawful commercial nets

22 Application of Division

The nets described in this Division may be lawfully used only by a commercial fisher, except for a beach safety meshing net which may be lawfully used only by an officer of NSW Fisheries or a person acting on behalf of the Director.

Note. Under section 24 of the Act it is an offence for a person to use a net for taking any fish unless its use by the person for taking those fish is declared by the regulations to be a lawful use of the net.

23 Hauling net (general purpose)

(1) It is lawful to use a hauling net for taking fish in the waters specified in the Table to this clause if the net (including hauling lines) complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:

- (a) The net is used only by the method of hauling.
- (b) The net has a bunt.
- (c) In waters (other than ocean waters and sea beaches):
 - (i) the bunt of the net is in the centre of the net, and
 - (ii) the net has 2 wings of equal length.
- (d) In ocean waters and sea beaches, the bunt of the net:
 - (i) is in the centre of the net and the net has 2 wings of equal length, or
 - (ii) is located between the end of the net first cast or shot and the centre of the net.
- (e) Except as provided by paragraph (f), the length of each hauling line attached to the net does not exceed the total length of the net to which it is attached.
- (f) The length of each hauling line attached to the net does not exceed:
 - (i) 2,100 metres in length in the waters of St Georges Basin between 1 July and 30 September in any year, or
 - (ii) 190 metres in length in the waters of that part of the entrance to Wallaga Lake (together with all its inlets and tributaries) extending seawards from the bridge and embankment on the Narooma–Bermagui Road to the Pacific Ocean.
- (g) In the waters of the Wonboyn River or any other coastal lake or lagoon, the net is not landed by any method other than against a stake or back net (the total length of which does not exceed 50 metres with a mesh throughout of not less than 25 mm).
- (h) The hauling of the net once commenced (that is, when any part of the net other than the hauling line has been shot or cast) is continued without any interruption or delay until completed.
- (i) Any fish contained in any part of the net are immediately removed on completion of the haul, or on removal of that part of the net from the water, whichever occurs first.
- (j) The net is not used for taking garfish in waters other than ocean waters.
- (k) The net is operated by at least 2 commercial fishers.

(2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a hauling net (general purpose).

Table Hauling net (general purpose)

- 1 (a) *Waters*—St Georges Basin; Lake Macquarie; Watson Taylor's Lake; Queen's Lake; Tuggerah Lakes; Wallis Lake (excluding Wollomba, Wallingat, Cooloongolok and Wang Wauk Rivers).
- (b) *Description of net*—Total length not exceeding 1,000 metres; length of bunt not exceeding 90 metres or one-quarter of the total length of the net (whichever is the lesser) made up as follows: centre piece not exceeding 50 metres nor less than 25 metres in length, of mesh not less than 30 mm nor more than 50 mm; remainder of bunt not exceeding 50 metres in length, of mesh not less than 50 mm; mesh of wings not less than 80 mm.

- 2 (a) *Waters*—That part of Wallaga Lake extending upwards from the bridge and embankment on the Narooma–Bermagui Road; the Broadwater of the Clarence River; Lake Innes; Smiths Lake; Myall Lake; Booloombayt Lake; the Broadwater of Myall Lakes; Lake Illawarra.
- (b) *Description of net*—Total length not exceeding 725 metres; length of bunt not exceeding 90 metres or one-quarter of the total length of the net (whichever is the lesser) made up as follows: centre piece not exceeding 50 metres nor less than 25 metres in length, of mesh not less than 30 mm nor more than 50 mm; remainder of bunt not exceeding 50 metres in length, of mesh not less than 50 mm; mesh of wings not less than 80 mm.
- 3 (a) *Waters*—Terranora and Cobaki Broadwaters (Tweed River); Clarence River; those parts of the Hastings River and Limeburner's Creek lying between a line drawn northeast from the northernmost extremity of King's Point to the point where the southerly prolongation of the western boundary of Portion 3, Parish of Torrens, County of Macquarie meets the northern bank of the river, and a line drawn south from the southwestern corner of Portion 72, Parish of Torrens to the southern bank of Limeburner's Creek; that part of the Ana-Branch of Hastings River lying between the westerly prolongation of the northern boundary of Portion 31, Parish of Redbank, County of Macquarie and a line drawn from the northeastern corner of Portion 54, Parish of Redbank to the southwestern corner of Portion 14, Parish of Redbank; Wollumboola Lake; Conjurong or Conjola Lake (including Berringer Lake); Coila Lake; Tuross Lake; Mummuga or Dalmeny Lake; Cuttagee Lake; Murrah Lake; Wapengo Lake; Nelson Lake; Curola Lake; Merimbula Lake; Wallagoot Lake.
- (b) *Description of net*—Total length not exceeding 450 metres; length of bunt not exceeding 90 metres or one-quarter of the total length of the net (whichever is the lesser) made up as follows: centre piece not exceeding 50 metres nor less than 25 metres in length, of mesh not less than 30 mm nor more than 50 mm; remainder of bunt not exceeding 50 metres in length, of mesh of not less than 50 mm; mesh of wings not less than 80 mm.
- 4 (a) *Waters*—Durras Water.
- (b) *Description of net*—Total length not exceeding 375 metres; mesh throughout not less than 80 mm.
- 5 (a) *Waters*—That part of the entrance to Wallaga Lake, together with all its inlets and tributaries extending seawards from the bridge and embankment on the Narooma–Bermagui Road to the Pacific Ocean.
- (b) *Description of net*—Total length not exceeding 375 metres; mesh throughout not less than 80 mm.
- 6 (a) *Waters*—That part of the Wagonga River and its tributaries westward of a line drawn northwest across the entrance from the northernmost extremity of Wagonga Head.
- (b) *Description of net*—Total length not exceeding 375 metres; mesh throughout not less than 80 mm (this net must be used only for the taking of Australian salmon (*Arripis trutta*) or of species of mullet included in the family mugilidae).
- 7 (a) *Waters*—Ocean waters and sea beaches.
- (b) *Description of net*
- (i) from 1 March to 31 July in each year—Total length not exceeding 400 metres; length of bunt not exceeding one-third of the total length of net; mesh of bunt not less than 50 mm nor

more than 65 mm; mesh of wings not less than 65 mm nor more than 86 mm.

- (ii) during any other period—Length of bunt not exceeding one-third of the total length of net; mesh of bunt not less than 50 mm; mesh of wings not less than 80 mm.

8 (a) *Waters*—All other waters (except inland waters).

- (b) *Description of net*—Total length not exceeding 375 metres; length of bunt not exceeding 90 metres or one-quarter of the total length of the net (whichever is the lesser) made up as follows: centre piece not exceeding 50 metres nor less than 25 metres in length, of mesh not less than 30 mm nor more than 50 mm; remainder of bunt not exceeding 50 metres in length, of mesh not less than 50 mm; mesh of wings not less than 80 mm.

24 Trumpeter whiting net (hauling)

(1) It is lawful to use a hauling net for taking trumpeter whiting in the waters specified in the Table to this clause if the net (including hauling lines) complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:

- (a) The net is used only as a sunk net.
- (b) The net is used only by the method of hauling, that is, by casting and shooting the net and picking up and landing the whole of the net, including both hauling lines, without delay or interruption, or in the following manner:
 - (i) the net and hauling lines attached to both ends of the net must be completely cast or shot from a boat,
 - (ii) the net and hauling lines may be towed to the point of landing if the distance of the tow does not exceed the difference between the length of the hauling lines and 225 metres.
- (c) Any fish contained in a part of the net are immediately removed from the net on completion of the haul, or on removal of that part of the net from the water, whichever occurs first.

(2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a trumpeter whiting net (hauling).

Table Trumpeter whiting net

- 1 (a) *Waters*—That part of Port Stephens east of a line drawn from Fame Point to Soldier's Point, but excluding that part of Port Stephens and the Myall River north of a line drawn from the southern extremity of Orungall Point to the southern extremity of Myall Point.
- (b) *Description of net*—Total length not exceeding 275 metres; mesh of wings not less than 50 mm nor more than 65 mm, having a depth of not more than 50 meshes, bunt 50 metres of mesh not less than 30 mm nor more than 40 mm; length of each hauling line not less than 100 metres nor more than 225 metres.

25 Garfish net (bullringing)

(1) It is lawful to use a net for taking garfish in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:

- (a) The net is used only between 1 February and 30 November in any year.
- (b) The net is used only by the method of bullringing (that is, casting the net in a circle, then retrieving the net to the vessel, both of which are to be completed as a continuous operation),
- (c) The length of any hauling line attached to the net does not exceed 25 metres.

(2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a garfish net (bullringing).

Table Garfish net (bullringing)

- 1 (a) *Waters*—Clarence River (excluding inland waters).
- (b) *Description of net*—Total length not exceeding 375 metres; mesh throughout not less than 28 mm nor more than 45 mm.
- 2 (a) *Waters*—Tuggerah Lakes (excluding inland waters).
- (b) *Description of net*—Total length not exceeding 550 metres; mesh throughout not less than 28 mm nor more than 36 mm.
- 3 (a) *Waters*—All other waters (except inland waters).
- (b) *Description of net*—Total length not exceeding 275 metres; mesh throughout not less than 28 mm nor more than 36 mm.

26 Garfish net (hauling)

- (1) It is lawful to use a hauling net for taking garfish in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) The net is used only by the method of hauling.
 - (b) In offshore ocean waters, the net is not landed by any method other than onto the tray of the boat.
- (2) It is also lawful to use a hauling net for taking any other fish (other than a prohibited size class of fish) that are taken by the net when it is being lawfully used for taking garfish.
- (3) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a garfish net (hauling).

Table Garfish net (hauling)

- 1 (a) *Waters*—That part of Port Jackson bounded by a line westerly from Green or Laings Point to Georges Head, by a line northwesterly from the northern extremity of Middle Head to Grotto Point and by a line northeasterly from Dobroyd Point to Manly Point; that part of Broken Bay bounded by a line westerly from Box or Hawk Head to Green Point, by a line from the most eastern extremity of Middle Head to the most northern extremity of West Head and by a line northeasterly from Soldier's Point to Sand Point; that part of Botany Bay eastward of a line drawn from the western extremity of Bonna Point to the eastern extremity to the southern break wall of the Cooks River entrance; that part of Port Stephens east of a line northerly from Corlett Point to Orungall Point (excluding those parts which include Wobbegong Bay, Wobbegong Creek, Pindimar Bay, Corrie Creek, Paddy Marr's Bay and Myall River and its tributaries), generally north and northeast of a line from Orungall Point to a point being the southwestern corner of Oyster Farm No 83–361, and a line from the last mentioned point to Myall Point; that part of Jervis Bay within New South Wales, together with all the bays and beaches of that part, generally westerly from a line drawn between Point Perpendicular and Bowen Island.
- (b) *Description of net*—Mesh of not less than 28 mm nor more than 36 mm.
- 2 (a) *Waters*—Ocean waters and sea beaches.
- (b) *Description of net*—Mesh of not less than 28 mm nor more than 85 mm.

27 Pilchard, anchovy and bait net (hauling)

- (1) It is lawful to use a hauling net for taking pilchards, anchovies, common or slimy mackerel or other fish (but not including garfish, prawns or a prohibited size class of fish) in the waters specified in the Table to this clause if the net (including hauling lines) complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) The net is used only by the method of hauling.
 - (b) The net, if used in Port Jackson, is not landed in any manner other than on to the tray of a boat.

- (2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a pilchard, anchovy and bait net (hauling).

Table Pilchard, anchovy and bait net (hauling)

- 1 (a) *Waters*—Ocean waters and sea beaches.
(b) *Description of net*—Mesh throughout of not less than 13 mm.
2 (a) *Waters*—Port Jackson.
(b) *Description of net*—Total length not exceeding 250 metres; length of each wing not exceeding 90 metres, mesh throughout not less than 80 mm; length of bunt not exceeding 60 metres, mesh throughout not less than 50 mm nor more than 65 mm; length of bag not exceeding 12 metres, mesh throughout not more than 30 mm; length of cod-end not exceeding 6 metres, mesh throughout not more than 25 mm; length of each hauling line not exceeding 125 metres.

28 Purse seine net

- (1) It is lawful to use a purse seine net for taking fish (other than garfish, kingfish, prawns, tuna or a prohibited size class of fish) in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table.
(2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a purse seine net.

Table Purse seine net

- 1 (a) *Waters*—Twofold Bay and Jarvis Bay.
(b) *Description of net*—Total length not exceeding 275 metres.
2 (a) *Waters*—Ocean waters.
(b) *Description of net*—Mesh throughout not more than 150 mm.

29 Prawn net (hauling)

- (1) It is lawful to use a hauling net for taking prawns in the waters specified in the Table to this clause if the net (including hauling lines) complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
(a) The net is used only by the method of hauling.
(b) The net is not set or staked at any time.
(c) The net is landed on the tray of a boat or in sufficient depth of water to enable prohibited size fish that are taken in the net to escape.
(d) There is no seine net (prawns) on the boat from which the net is used.
(2) It is also lawful to use a try net in the waters specified in the Table to this clause to facilitate the taking of prawns by the means of a prawn net (hauling) if the try net complies with the following description:
The net is attached to a frame not exceeding 0.6 metre in width and 0.5 metre in height, with a total length from the centre of the plane to the extremity of the net not exceeding 2 metres; mesh not less than 30 mm nor more than 36 mm.
(3) It is also lawful to use a hauling net to take other fish (other than a prohibited size class of fish) which are taken by the net when it is being lawfully used for taking prawns.
(4) For the purposes of this Regulation or any other instrument under the Act, a net described:
(a) in subclause (1) or in the Table to this clause may be referred to as a prawn net (hauling), and
(b) in subclause (2) may be referred to as a try net (prawns).

Table Prawn net (hauling)

- 1 (a) *Waters*—Tuggerah Lakes (other than that part described in Schedule 2).

- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 140 metres.
- 2 (a) *Waters*—Lake Illawarra (other than that part described in Schedule 2).
- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 220 metres.
- 3 (a) *Waters*—Botany Bay, Georges River, Shoalhaven River and St Georges Basin.
- (b) *Description of net*—Total length not exceeding 90 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 220 metres.
- 4 (a) *Waters*—Lake Macquarie, together with all its inlets, bays, creeks and tributaries within the following boundaries: commencing at the southernmost extremity of Wangi Wangi Point, and bounded then by a straight line to the northernmost extremity of Galgabba or Stony Point, by the foreshore generally northerly to a point distant about 1,000 metres southerly from the southern point of the junction of the waters of the entrance with those of the lake, then by a line drawn west about 800 metres, then by a line drawn northerly to a point about 800 metres west of the western extremity of Marks Point and then by that line to Marks Point, and then by the eastern, northern and western shore of Lake Macquarie and its tributaries to the point of commencement.
- (b) *Description of net*—Total length not exceeding 20 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 65 metres.
- 5 (a) *Waters*—Myall Lakes, Booloombayte Lakes, the Broadwater (Myall Lakes) and Smith's Lake.
- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 130 metres.
- 6 (a) *Waters*—That part of Wallis Lake included within the following boundaries: commencing at a post marked ``FD" situated at the high water mark of Pipers Bay (the post being located by a line bearing 186 degrees from an electricity pole numbered 14808, situated at the eastern end of Pipers Bay Drive Forster), then bounded by a line bearing 217 degrees to a second post marked ``FD" situated at the high water mark on the southern side of Big Island, then to a third post marked ``FD" situated at the high water mark of Wallis Island, bearing 245 degrees from the second post, then southerly, westerly and northerly along the high water mark of Wallis Island to a jetty located on the western side of Wallis Island, then westerly along the length of the jetty to its end, then to a fourth post marked ``FD", situated at the high water mark on the foreshore of Coomba Park, bearing 246 degrees and 30 minutes from the end of the jetty, then generally southerly, easterly and northerly by the high water mark of Wallis Lake to the point of commencement.
- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 140 metres.
- 7 (a) *Waters*—Port Jackson (including the Parramatta and Lane Cove Rivers and Middle Harbour).

- (b) *Description of net*—Total length not exceeding 60 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 130 metres.
- 8 (a) *Waters*—Wallagoot Lake and Blackfellows Lake.
- (b) *Description of net*—Total length not exceeding 90 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 190 metres.
- 9 (a) *Waters*—Coila Lake and Wallaga Lake.
- (b) *Description of net*—Total length not exceeding 75 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 130 metres.
- 10 (a) *Waters*—Tweed River and Terranora Inlet.
- (b) *Description of net*—Total length not exceeding 40 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 220 metres.
- 11 (a) *Waters*—Any other waters (except inland waters, the Manning River and the waters described in the Table to clause 30A).
- (b) *Description of net*—Total length not exceeding 40 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 130 metres.

30 Prawn net (hauling): Manning River

- (1) It is lawful to use a hauling net for taking prawns in the Manning River if the net (including hauling lines) complies with the description set out in subclause (2) and the conditions set out in subclauses (3), (4) and (5) are complied with.
- (2) The net must comply with the following description:
 - (a) The total length of the net must not exceed 40 metres.
 - (b) The mesh throughout must not be less than 30 mm nor more than 36 mm.
 - (c) The net must have no attachments except spreader poles and hauling lines.
 - (d) The hauling line run on the first leg to the net must not be longer than 220 metres.
 - (e) The hauling line running from the net to the motor boat used to assist in shooting the net must not be longer than 90 metres, and not be shorter than 60 metres.
- (3) The net must be used only by the method of hauling, and must not be set or staked at any time.
- (4) The net must be shot and hauled as follows:
 - (a) One end of the hauling line run on the first leg to the net must be:
 - (i) attached to a fixed point on shore, or
 - (ii) anchored ashore, or
 - (iii) attached to an unpowered boat which itself is secured on shore.
 - (b) The line must then be cast from a motor boat, and the net then shot.
 - (c) The second hauling line must then be cast (or laid out) from the motor boat as the boat moves in a circular path so as to return to a landing-up point near the shore end of the first hauling line.
 - (d) The second hauling line must be attached to a point on the motor boat by the line's extremity only (that is, one end must be attached to the net, and the other end secured to the boat to prevent loss of the line overboard).
 - (e) The second hauling line must not be towed until all of it has been shot away free of tangles, knots or anything else which would effectively shorten it.
 - (f) Once the shooting and hauling of the net have commenced, they must continue until the hauling lines have been removed from the water and the net landed in such depth of water, or onto the tray of the boat in such a way, as to enable any prohibited size fish taken in the net to escape.
 - (g) Once any prohibited size fish have been allowed to escape, the net must be fully removed from the water.

- (5)The net must be operated in accordance with the determination (if any) by the fisheries officer for the time being charged with the supervision of the Manning River as to the number of commercial fishers to constitute the crew operating the net.
- (6)For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a prawn net (hauling).

30A Prawn net (hauling): Wallis Lake

- (1)It is lawful to use a hauling net for taking prawns in the waters described in the Table to this clause if the net (including hauling lines) complies with the description set out in relation to those waters in that Table and the conditions set out in this clause are complied with.
- (2)The net must be used only by the method of hauling, and must not be set or staked at any time.
- (3)The net must be shot and hauled as follows:
- (a) The end of the hauling line first shot (or laid out) must be attached to a stationary boat that is secured by an anchor or post during the entire haul operation. There must be no motor in or on the boat. The boat must not contain any rope other than the mooring line and a maximum of 200 metres of hauling rope.
 - (b) The line must then be shot (or laid out) from a motor boat, and the net then shot.
 - (c) The second hauling line must then be shot (or laid out) from the motor boat as the boat moves in a circular path so as to return to the stationary boat from where the first hauling line was shot.
 - (d) The second hauling line must be attached to a point on the motor boat by the line's extremity only (that is, one end must be attached to the net, and the other end secured to the boat to prevent loss of the line overboard).
 - (e) The second hauling line must not be towed until all of it has been shot away free of tangles, knots or anything else that would effectively shorten it.
 - (f) Once the shooting and hauling of the net have commenced, the operation must continue until the hauling lines have been removed from the water and the net landed in such depth of water, or onto the tray of the boat in such a way, as to enable any prohibited size fish taken in the net to escape.
 - (g) Once any prohibited size fish have been allowed to escape, the net must be fully removed from the water.
- (4)The net must be operated in accordance with the determination (if any) by the fisheries officer for the time being charged with the supervision of the waters in which the net is being used as to the number of commercial fishers to constitute the crew operating the net.
- (5)For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a prawn net (hauling).

Table Prawn net (hauling): Wallis Lake

- 1 (a) *Waters*—That part of the Coolongolook and Wallingat Rivers upstream from a line across the river from a post marked FD8 due north of the eastern extremity of Junction Point, then due south to Junction Point, then generally south by the western foreshore of the Wallingat River to a post marked FD9, then extending across the Wallingat River on a bearing of 87 degrees to a jetty situated on the north-western foreshore of Lot 1, DP 589944.
- (b) *Description of net*—Total length not exceeding 40 metres; mesh throughout not less than 30 mm nor more than 36 mm; no attachments except spreader poles and hauling lines; hauling line run on the first leg to the net must not be longer than 200 metres; a marker buoy must be affixed to the hauling line every 50 metres along the line; the hauling line running from the net to the motor boat used to assist in shooting the net must not be longer than 50 metres.

- 2 (a) *Waters*—That part of the Wallamba River from a line drawn from the northern foreshore of the entrance of Muddy Creek to the eastern extremity of Hardy's Point upstream to the Pacific Highway Road Bridge at Nabiac.
- (b) *Description of net*—Total length not exceeding 40 metres; mesh throughout not less than 30 mm nor more than 36 mm; no attachments except spreader poles and hauling lines; hauling line run on the first leg to the net must not be longer than 200 metres; a marker buoy must be affixed to the hauling line every 50 metres along the line; the hauling line running from the net to the motor boat used to assist in shooting the net must not be longer than 50 metres.

31 Prawn net (set pocket)

- (1) It is lawful to use a set pocket net for taking prawns in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions (in addition to those in subclause (2), if applicable) are complied with:
 - (a) The net is used only by the method of setting.
 - (b) Hauling lines are not attached to the net.
 - (c) The net must not be left unattended during the period it is set.
- (2) If the net is used in the waters of the Clarence River, the following additional conditions must be complied with:
 - (a) The net must not be used in conjunction with a moored boat with the engine running unless the boat is licensed and is owned by a commercial fisher, or by a member of the crew of a commercial fisher, by whom or by which the net is being used.
 - (b) A person must not use a prawn net except during the following periods:
 - (i) on weekends during the dark (that is, the period commencing 3 days after a full moon and ending 3 days after the next new moon),
 - (ii) from sunset to sunrise on week days between 1 August in any year and 31 May in the next year,
 - (iii) from sunrise to sunset on week days between 1 December in any year and 31 May in the next year.
 - (c) Except in the area known as the South Arm Rocks:
 - (i) the inside peg of the net must not be set further than 5 metres from low-water mark, and
 - (ii) all pegs used in connection with the net must be painted white and show at least 1 metre above high-water mark.
 - (d) The net must be kept clear of the water when it is not in use.
- (3) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a prawn net (set pocket).

Table Prawn net (set pocket)

- 1 (a) *Waters*—That part of the Myall River from the junction of the Myall River with the Broadwater downstream to the road bridge between Tea Gardens and Hawk's Nest.
- (b) *Description of net*—Total length not exceeding 20 metres; mesh throughout not less than 30 mm nor more than 36 mm.
- 2 (a) *Waters*—Those parts of Wallis Lake included within the following boundaries: (i) the whole of that part of Wollomba Channel in Wallis Lake within the following boundaries: commencing at the line of high-water mark at the southern point of the entrance to Wollomba River, and bounded then by a straight line southerly to the northern shore of First Island at the southeastern foreshore corner of Oyster Farm No 77-3, by the northern shore of that island easterly to its extremity, and by a straight line southeasterly to the high-water mark of the northern shore of

Cockatoo Island (being a point about 180 metres southwesterly from the southeastern foreshore corner of Oyster Farm No 78–44), by the northern shore of that island generally easterly to the eastern foreshore corner of Oyster Farm No 74–138, then by a straight line northeasterly to the northern shore of Grassy Island at the most northerly southeastern foreshore boundary of Oyster Lease No 59–361, by the northern shore of that island easterly to its most eastern point, by a straight line north-northwesterly to the eastern extremity of Long Island, by the southern shore of that island generally westerly to its western extremity, by a straight line southwesterly to the eastern extremity of Sandy Island (such point being the most easterly foreshore corner of Oyster Farm No 74–24), by the southern shore of that island generally westerly to its most western point, and then by a straight line westerly to the point of commencement; (ii) the whole of that part of Bulmer's Channel in Wallis Lake within the following boundaries: commencing at the northeastern corner of Oyster Lease No 77–270 at the western end of Godwin Island, and bounded then by a straight line drawn west-northwesterly to the northeastern corner of Oyster Farm No 72–11 on Cockatoo Island, by the southern shore of that island generally westerly to its most western point, by a line southeasterly to the most eastern point of Northern Twin Island, by a line south-southwesterly to the most eastern foreshore corner of Oyster Farm No 76–112, by the southeastern shore of that island generally southwesterly to the most eastern foreshore corner of Oyster Farm No 68–31, by a straight line south-southwesterly to the high-water mark of Wallis Island at the westerly prolongation of the northern boundary of Portion 206, Parish of Forster, by the high-water mark of that island generally northeasterly and southeasterly to the southeastern foreshore corner of Oyster Farm No 71–360, section 1, and then by a line northeasterly to the point of commencement; (iii) the whole of that part of Stockyard Channel in Wallis Lake within the following boundaries: commencing at the northeastern corner of Oyster Lease No 77–270 at the western end of Godwin Island, and bounded then by a straight line drawn southwesterly to the southeastern foreshore corner of Oyster Farm No 71–360, section 1, on Wallis Island, by the high-water mark of that island generally southeasterly and southerly to the easterly prolongation of the southern boundary of Portion 221, Parish of Forster, by a straight line easterly to the most southerly corner of Oyster Farm No 73–253, by a straight line northeasterly to the southeastern foreshore corner of Oyster Farm No 73–216 on the southern end of Hadley Island, by the high-water mark of that island generally northwesterly and northeasterly to its northern extremity, by a line northerly to the northeastern foreshore corner of Oyster Farm No 70–245 on the southern shore of Godwin Island, by the high-water mark of that island generally westerly, northwesterly, southwesterly and northerly to the northeastern corner of Oyster Farm No 67–203, by a straight line westerly to the most western northeastern foreshore corner of Oyster Lease No 81–43, and again by the high-water mark of Godwin Island generally southerly, westerly, northerly, southwesterly and northwesterly to the point of commencement.

- (b) *Description of net*—Total length not exceeding 20 metres; mesh throughout not less than 30 mm nor more than 36 mm.

- 3 (a) *Waters*—The whole of Queen's Lake Entrance within the following boundaries: commencing at the northeastern corner of Oyster Farm No 81–179, and bounded then by a line northerly to the western bank of Queen's Lake Entrance, by the western bank generally northwesterly to the western foreshore corner of Oyster Farm No 83–95, by a line southwesterly to the eastern foreshore corner of Oyster Farm No 67–6, by the foreshore generally southwesterly to the eastern foreshore corner of Oyster Farm No 70–198, by a line drawn northeasterly through the most westerly point of an island at the western entrance to Queen's Lake Entrance, to the northern bank of Queen's Lake Entrance, then easterly and southerly, following the eastern bank of Queen's Lake Entrance generally southeasterly to a point east of the northeastern corner of Oyster Farm No 81–179, and then by a line to the point of commencement.
- (b) *Description of net*—Total length not exceeding 20 metres; mesh throughout not less than 30 mm nor more than 36 mm.
- 4 (a) *Waters*—That part of Watson Taylor Lake within the following boundaries: commencing at the northern point of Benson Inlet, then north along the eastern shore of Watson Taylor Lake to the northwestern corner of Portion 150, Parish of Camden Haven, County of Macquarie, then westerly to the northeast corner of Portion 70, Parish of Camden Haven, County of Macquarie, then southwest along the shore of Camden Haven Inlet and Moore's Island to the southwest tip of Moore's Island, then southwest to the northern corner of Grassy Island to the island's most southerly point, and then to the point of commencement.
- (b) *Description of net*—Total length not exceeding 20 metres; mesh throughout not less than 30 mm nor more than 36 mm.
- 5 (a) *Waters*—Those parts of Tuggerah Lakes and Lake Illawarra (and ocean waters adjoining) described in Schedule 3.
- (b) *Description of net*—Total length not exceeding 5 metres; mesh throughout not less than 30 mm nor more than 36 mm.
- 6 (a) *Waters*—That part of Cathie Creek within the following boundaries: the whole of that part of Cathie Creek north of a line bearing 110 degrees across the creek from a post (marked F[^]D) on the western bank of the creek to a Ti-tree (marked F[^]D) on the eastern bank of the creek, situated about 500 metres upstream from the Pacific Ocean.
- (b) *Description of net*—Total length not exceeding 10 metres; length of pocket, from cod-end to cork line, not exceeding 10 metres; mesh throughout not less than 30 mm nor more than 36 mm.
- 7 (a) *Waters*—That part of Sussex Inlet within the following boundaries: the whole of the waters of that part of Sussex Haven and the adjacent waters of the Pacific Ocean within the following boundaries: commencing at the southeastern corner of Reserve 75,429 for Public Recreation notified in the Gazette on 14 November 1952, and bounded then by a line drawn easterly to the point of junction of the eastern shore of Sussex Haven with the shore of the Pacific Ocean, by a line parallel to the western shore of the entrance to Sussex Haven to a point east of the southernmost extremity of that entrance, by a line westerly, and then by that shore northwesterly to the point of commencement.
- (b) *Description of net*—Total length not exceeding 5 metres; mesh throughout not less than 30 mm nor more than 36 mm.
- 8 (a) *Waters*—Limeburners Creek from its confluence with the Hastings River upwards to its source.

- (b) *Description of net*—Total length not exceeding 20 metres; mesh throughout not less than 30 mm nor more than 36 mm.
- 9 (a) *Waters*—The whole of the main arm of the Clarence River seawards of the Ulmarra Ferry Crossing (excluding all creeks, tributaries, effluents and secondary or back channels of that river, that part of the left or northern bank between Brown's or Goodwood Island Wharf and the new (or eastern) opening in the Iluka Boat Harbour training wall and that part of the river which lies seawards of a line drawn from the north-westernmost corner of Portion 64, Parish of Taloumbi, to the north-westernmost corner of Freeburn Island and generally south of Freeburn Island and the main training wall that extends seawards from the easterly extremity of Freeburn Island).
- (b) *Description of net*—Total length not exceeding 20 metres; mesh throughout not less than 30 mm nor more than 36 mm.
- 10 (a) *Waters*—Inlet cooling water canal to Munmorah Power Station.
- (b) *Description of net*—Total length not exceeding 20 metres nor less than 18 metres; mesh throughout not less than 25 mm nor more than 30 mm.
- 11 (a) *Waters*—Smiths Lake.
- (b) *Description of net*—Total length not exceeding 63 metres; length of pocket, bunt or bag not exceeding 9 metres; mesh throughout not less than 30 mm nor more than 36 mm; wings of net to be set at such an angle that the distance between the ends of the net does not exceed 45 metres.

32 Prawn running net

- (1) It is lawful to use a running net for taking prawns in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) If the net is not staked, the net is used only by the method of casting or shooting the net and picking up and landing the whole of the net into a boat in the manner known as "running the net" within 1 hour of the commencement of the casting or shooting.
 - (b) In the case of a net that is being used for taking prawns in the waters of Lake Illawarra:
 - (i) the net must be operated by at least 2 commercial fishers, and
 - (ii) the net must not be operated by, or with the assistance of, any commercial fisher who is also operating, or assisting in the operation of, any other such net, and
 - (iii) the net must not be staked (that is, the net must be used only by the method referred to in paragraph (a)).
 - (c) In the case of a staked net:
 - (i) the net is not set earlier than 1 hour before sunset, and
 - (ii) the net is not set within 10 metres of the high water mark, and
 - (iii) the net is not staked by means of a star or 3 sided stake, and
 - (iv) no stakes are left in the water in the period between sunrise and 1 hour before sunset.
- (2) It is also lawful to use a running net to take other fish (other than a prohibited size class of fish) which are taken by the net when it is being lawfully used for taking prawns.
- (3) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a prawn running net.

Table Prawn running net

- 1 (a) *Waters*—Conjurong or Conjola Lake, Burrill Lake, Wallaga Lake, Tuross Lake, Durras Water, Cuttagee Lake, Middle Lake, Lake Wollumboola, Swan Lake, Coila Lake, Corunna Lake, Tilba Lake, Mummuga or Dalmeny Lake, Lake Birroul or Brou Lake, including all their respective bays, inlets and creeks.

- (b) *Description of net*—Total length not exceeding 75 metres; mesh throughout not less than 25 mm nor more than 36 mm.
- 2 (a) *Waters*—St Georges Basin, Lake Macquarie, Tuggerah Lakes and Lake Illawarra, including all their respective bays, inlets and creeks (but excluding those parts of Tuggerah Lakes and Lake Illawarra described in Schedule 2).
- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 25 mm nor more than 36 mm.

33 Seine net (prawns)

- (1) It is lawful to use a seine net for taking prawns in the waters specified in the Table to this clause if the net (including hauling lines) complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) The net is cast or shot in the following manner:
 - (i) a hauling line (to the end of which is attached a float or basket with a marker buoy affixed) is cast or shot from a boat,
 - (ii) that hauling line, the net and a second hauling line is then cast or shot from the boat as it moves in a circular direction resulting in the boat returning to the marker buoy.
 - (b) The net is hauled back on to a boat in such a way that both hauling lines are hauled to the same spot on the boat so as to avoid any trawling action.
 - (c) The hauling in of the net, once commenced, is to continue uninterrupted until all portions of the net, including the hauling lines, have been removed from the water.
 - (d) The net, if used in Borang Lake, is used with a boat having no engine or powered by an engine having no more than 12 kilowatts of motive power.
 - (e) There is no prawn net (hauling) on the boat from which the net is used.
- (2) It is also lawful to use a try net in the waters specified in the Table to this clause to facilitate the taking of prawns by the means of a seine net (prawns) if the try net complies with the following description:

The net is attached to a frame not exceeding 0.6 metre in width and 0.5 metre in height, with a total length from the centre of the frame to the extremity of the net not exceeding 2 metres; mesh not less than 30 mm nor more than 36 mm.
- (3) For the purposes of this Regulation or any other instrument under the Act, a net described:
 - (a) in subclause (1) or in the Table to this clause may be referred to as a seine net (prawns), and
 - (b) in subclause (2) may be referred to as a try net (prawns).

Table Seine net (prawns)

- 1 (a) *Waters*—The whole of Lake Illawarra, including its bays, inlets and creeks (but excluding that part described in Schedule 2).
- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 220 metres.
- 2 (a) *Waters*—The whole of Tuggerah Lakes, including its bays, inlets and creeks (but excluding that part described in Schedule 2).
- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 140 metres.
- 3 (a) *Waters*—The whole of Lake Macquarie south of a line drawn between Wangi Wangi Point and Galgabba Point, including its bays, inlets and creeks.
- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 280 metres.

- 4 (a) *Waters*—The whole of St Georges Basin, including all its bays, inlets and creeks.
- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 220 metres.
- 5 (a) *Waters*—The whole of Queen's Lake and Watson Taylors Lake, including all their respective bays, inlets and creeks.
- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 140 metres.
- 6 (a) *Waters*—That part of Wallis Lake and Coolongolook and Wallingat Rivers covering an area south and east of the following boundaries: commencing at the southeastern corner of Portion 71, Parish of Forster, then by a line southwesterly to the most southeastern point of Wallis Island, then along the western foreshore of Wallis Island to a point directly east of the most easterly point of Regatta Island, then west to that point (Fisheries Division BM 18), then by the eastern foreshore of Regatta Island to the most northeasterly point of that island, then north to the most easterly point of Bandicoot Island (Fisheries Division BM 23), then west along Bandicoot Island to the most northwestern point on that island, then north by a line drawn to the northern bank of Wallis Lake (Fisheries Division BM 24), then west along the northern bank of Wallis Lake to the entrance of the Coolongolook River, then west along the northern foreshore of the Coolongolook River, excluding the whole of the waters of Minimbah and Duck Gully Creeks, to a point marked by a white post due north of the eastern extremity of Junction Point, then due south from that post to the eastern extremity of Junction Point, then extending across the Wallingat River on a bearing of 175 degrees to the northern foreshore corner of the jetty situated on the northwestern foreshore of Portion 66, Parish of Wallingat (and excluding all other waters of the Wallingat River).
- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 140 metres.
- 7 (a) *Waters*—The whole of the Macleay River extending from the Jerseyville Bridge upstream to the Kempsey Railway Bridge.
- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 140 metres.
- 8 (a) *Waters*—The whole of Borang Lake.
- (b) *Description of net*—Total length not exceeding 80 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 80 metres.

34 Otter trawl net (prawns)

- (1) It is lawful to use an otter trawl net for taking prawns in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
- (a) The net is used only by the method of trawling.
- (b) Not more than 2 nets are used at any one time in the Hawkesbury River (downstream from a line drawn between Juno Point and Eleanor Bluff), Clarence River, Botany Bay, Port Jackson, Jervis Bay or Coffs Harbour.
- (c) Not more than 1 net is used at any one time in the Hunter River or in the Hawkesbury River upstream from a line drawn between Juno Point and Eleanor Bluff to the ferry crossing at Lower Portland.

- (d) No string, rope, wire, cord, netting or other material is fixed to any meshes that are within 25 meshes of the draw or closing string of the cod-end of the net.
- (2) Despite subclause (1) (d), an otter trawl net may have attached to it any of the following:
- (a) a draw or closing string at the end of the cod-end,
 - (b) a frill of netting material, if the frill is not attached more than 5 meshes from the last row of meshes of the cod-end,
 - (c) a chafing piece, in accordance with clause 55 (2).
- (3) It is also lawful to use an otter trawl net to take other fish which are taken by the net when it is being lawfully used for taking prawns if:
- (a) the fish are not a prohibited size class of fish and are not of a species the taking of which is prohibited, or
 - (b) the fish are a prohibited size class of fish (other than abalone or crustaceans), are not of a prohibited size and are taken in waters north of a line drawn due east from the lighthouse situated at Smoky Cape (excluding inland waters, the Clarence River and Lake Woollooweyah), or
 - (c) the fish are a prohibited size class of fish (being crustaceans other than rock lobster) and are not of a prohibited size.
- (4) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as an otter trawl net (prawns).

Table Otter trawl net (prawns)

- | | |
|-------|--|
| 1 (a) | <i>Waters</i> —All waters (other than inland waters, the Clarence River and Lake Woollooweyah). |
| (b) | <i>Description of net</i> —Total length not exceeding 11 metres (except in respect of a net used in ocean waters, in which case the total length of the net is not to exceed 33 metres or, if a maximum length for otter trawl nets (prawns) is specified in the boat licence for the boat from which the net is used, the length so specified); mesh of cod-end (or portion of the net capable of being used as a cod-end) not less than 40 mm nor more than 50 mm; mesh of net (other than cod-end or the portion of the net capable of being used as a cod-end) not less than 40 mm nor more than 60 mm; length of sweep attached to net (being the distance between the point of attachment to the otter boards and the net) not exceeding 5 metres or the distance from the trawl gallows to the stern of the boat (whichever is the greater); sweep to be secured to the net and the otter board so that it cannot exceed 5 metres in length or the distance from the trawl gallows to the stern of the boat (whichever is the greater). |
| 2 (a) | <i>Waters</i> —Clarence River and Lake Woollooweyah. |
| (b) | <i>Description of net</i> —Total length of net (when towed as single gear) not exceeding 11 metres, total length of either net (when towed as twin gear) not exceeding 7.5 metres; mesh of cod-end (or portion of the net capable of being used as a cod-end) not less than 40 mm nor more than 50 mm; mesh of net (other than cod-end or the portion of the net capable of being used as a cod-end) not less than 40 mm nor more than 60 mm; length of sweep attached to net (being the distance between the point of attachment to the otter boards and the net) not exceeding 5 metres or the distance from the trawl gallows to the stern of the boat (whichever is the greater); sweep to be secured to the net and the otter board so that it cannot exceed 5 metres in length or the distance from the trawl gallows to the stern of the boat (whichever is the greater). |

35 Otter trawl net (fish)

- (1) It is lawful to use an otter trawl net for taking fish (other than prawns and rock lobsters) in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:

- (a) The net is used only by the method of trawling.
- (2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as an otter trawl net (fish).

Table Otter trawl net (fish)

- 1 (a) *Waters*—Ocean waters (other than waters north of a line drawn due east from the lighthouse at Smoky Cape).
- (b) *Description of net*—Mesh not less than 90 mm throughout; mesh of cod-end (or portion of net capable of being used as a cod end) not less than 90 mm.

36 Danish seine trawl net (fish)

- (1) It is lawful to use a danish seine trawl net for taking fish (other than prawns and rock lobsters) in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) The net is used only by the method of danish seining.
- (2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a danish seine trawl net (fish).

Table Danish seine trawl net (fish)

- 1 (a) *Waters*—Ocean waters.
- (b) *Description of net*—Mesh not less than 83 mm throughout; mesh of cod-end (or portion of net capable of being used as a cod-end) not less than 83 mm.

37 Meshing net

- (1) It is lawful to use a meshing net for taking fish in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the net is used:
 - (a) by the method of splashing (that is, shooting the net, immediately splashing and retrieving it as a continuous operation) at any time, or
 - (b) as a set net, but only:
 - (i) between February and November (inclusive) in any year, and
 - (ii) between sunset and sunrise, and
 - (iii) for no more than 3 hours at a time.
- (2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a meshing net.

Table Meshing net

- 1 (a) *Waters*—The tributaries of the Clarence River known as Lake Woollooweyah and the Broadwater.
- (b) *Description of net*—Total length not exceeding 1,450 metres; mesh throughout not less than 80 mm.
- 2 (a) *Waters*—Port Jackson (including the Parramatta and Lane Cove Rivers) above a line drawn between Little Sirius Point and Point Piper; Middle Harbour above The Spit.
- (b) *Description of net*—Total length not exceeding 225 metres; mesh throughout not less than 80 mm.
- 3 (a) *Waters*—Womboyn River, Durras Water and that part of Wallaga Lake, together with all its inlets and tributaries extending seawards from the bridge and embankment on the Narooma–Bermagui Road to the Pacific Ocean.
- (b) *Description of net*—Total length not exceeding 375 metres; mesh throughout not less than 80 mm.
- 4 (a) *Waters*—All other waters (except inland waters and ocean waters).
- (b) *Description of net*—Total length not exceeding 725 metres; mesh throughout not less than 80 mm.

37A Beach safety meshing net

- (1) It is lawful for an officer of NSW Fisheries or a person acting on behalf of the Director to use a beach safety meshing net for the purposes of shark meshing activities.
- (2) The meshing net may only be used as a sunk net. No part of the net (other than that used for the purposes of tagging) may be on the surface.
- (3) A meshing net must comply with the following specifications:
 - (a) **Floatline**
150 metres of not less than 8 mm diameter, synthetic rope with a breaking strain of not less than 900 kg.
 - (b) **Leadline**
150 metres of not less than 8 mm diameter, synthetic rope with a breaking strain of not less than 900 kg.
 - (c) **Floats**
Gill net floats used must be of not less than 10 cm diameter and not less than 5 cm thickness, or a float of equivalent buoyancy approved by the Director and spaced at not more than 5 metre centres.
 - (d) **Netting twine**
The twine must be continuous synthetic filament with a breaking strain of not less than 60 kg.
 - (e) **Mesh size**
The mesh size must be not less than 50 cm and not more than 60 cm. To measure the mesh size the net is to be soaked in water for a period of not less than 5 minutes, then stretched out and the distance between the inside edges of the knots measured using a steel rule certified in accordance with the *Trade Measurement Act 1989*.
 - (f) **Meshes depth**
The number of meshes for each mesh size must be as follows:
 - (i) 60 cm mesh—not less than 12 meshes deep,
 - (ii) 55 cm mesh—not less than 13 meshes deep,
 - (iii) 50 cm mesh—not less than 14 meshes deep,
 so that the height is approximately 6 metres when set.
- (4) Nets must be tagged at the surface with a minimum of 25 cm bubbles and clearly marked "Beach Safety Meshing Net".

38 Flathead net

- (1) It is lawful to use a flathead net for taking flathead in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) The net is used only by the method of meshing.
 - (b) The net is not used, set or left in Lake Illawarra for any period from 1 September to 31 May in any year or for a period exceeding 6 hours between sunrise and sunset from 1 June to 31 August in any year.
 - (c) The net is not used, set or left in any other waters:
 - (i) from 1 December to 31 January in any year, or
 - (ii) between sunrise and sunset from 1 February to 31 March and from 1 October to 30 November in any year, or
 - (iii) for a period exceeding 6 hours between sunrise and sunset from 1 April to 30 September in any year.
 - (d) Any cork or float forming part of the net must not exceed 40 mm in length or 25 mm in width and must not be nearer than 3.5 metres to any other cork or float when measured along the cork line of the net.
 - (e) The net is not used, set or left in such a manner as causes:
 - (i) the lead line to be raised from the bottom of the waters, or
 - (ii) the corks, floats, cork line or float line to be raised above the lead line for a distance greater than 0.5 metre, or
 - (iii) the corks, floats, cork line or float line not to be completely submerged.
- (2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a flathead net.

Table Flathead net

- 1 (a) *Waters*—Tuggerah Lakes, Lake Illawarra and St Georges Basin, and those parts of Wallis Lake included within the following boundaries: the whole of the tidal waters of that part of Wallis Lake, its creeks, tributaries and rivers, including the Wang Wauk, Wallingat and Coolongolok Rivers, south of lines drawn from Fisheries Division Mark 21 to the westernmost southwestern foreshore corner of Oyster Farm No 56.144, from the foreshore or western end of the airport wharf on the northeastern corner of Wallis Island to Fisheries Division Mark 4 and from Fisheries Division Mark 4 to the eastern entrance to Tony's Creek on Hadley Island.
- (b) *Description of net*—Total length not exceeding 725 metres; depth of net not exceeding 25 meshes; mesh throughout not less than 70 mm nor more than 80 mm.
- 2 (a) *Waters*—Smith's Lake.
- (b) *Description of net*—Total length not exceeding 375 metres; depth of net not exceeding 25 meshes; mesh throughout not less than 70 mm nor more than 80 mm.

39 Bait net

- (1) It is lawful to use a bait net (other than a lampara net) for taking fish (other than garfish, prawns or a prohibited size class of fish) in the waters specified in the Table to this clause if the net (including hauling lines) complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
- (a) The net is used only between sunrise and sunset on any day.
- (2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a bait net.

Table Bait net

- 1 (a) *Waters*—That part of the Tweed River within the following boundaries: commencing at the eastern extremity of the southern breakwater, bounded then generally westerly and southerly by that breakwater and the eastern training wall to the spur wall, then by a line to the northwestern corner of the river end of Florence Street, then by the western training wall and breakwater generally northerly and easterly to the eastern extremity of that breakwater, and then by a straight line to the point of commencement.
- (b) *Description of net*—Total length not exceeding 25 metres; mesh throughout not less than 13 mm nor more than 25 mm; length of each hauling line not exceeding 20 metres.
- 2 (a) *Waters*—That part of the Richmond River within the following boundaries: commencing at the eastern extremity of the southern training wall, and bounded then by that wall generally westerly and southwesterly to the southern bank of the Richmond River, by that bank generally westerly and southwesterly to Byrnes Point Ferry, by that ferry route to the northern bank of the Richmond River, by that bank generally northeasterly, by the retaining wall, the traffic bridge and the northern training wall generally easterly, northeasterly and southeasterly to the eastern extremity of that training wall, and then by a line to the point of commencement, (excluding Mobbs Bay, North Creek Canal and North Creek).

- (b) *Description of net*—Total length of net not exceeding 25 metres; mesh throughout not less than 13 mm nor more than 25 mm; length of each hauling line not exceeding 20 metres.
- 3 (a) *Waters*—That part of the Macleay River within a line drawn from the northeastern extremities of the western and eastern training walls upwards to the Jerseyville Road Bridge, excluding Spencer's Creek and Delaney's Creek.
- (b) *Description of net*—Total length of net not exceeding 25 metres; mesh throughout not less than 13 mm nor more than 25 mm; length of each hauling line not exceeding 20 metres.
- 4 (a) *Waters*—That part of the Hastings River within a line drawn from the eastern extremities of the northern and southern breakwater and the vehicular punt crossing at Settlement Point.
- (b) *Description of net*—Total length of net not exceeding 25 metres; mesh throughout not less than 13 mm nor more than 25 mm; length of each hauling line not exceeding 20 metres.
- 5 (a) *Waters*—Twofold Bay west of a line drawn from Worange Point to Red Point.
- (b) *Description of net*—Total length of net not exceeding 60 metres; length of bunt not exceeding 20 metres; length of wings not exceeding 20 metres; mesh of bunt not exceeding 13 mm; mesh of wings not exceeding 28 mm; length of each hauling line not exceeding 90 metres.

40 Lampara net

- (1) It is lawful to use a lampara net for taking fish (other than garfish, prawns or a prohibited size class of fish) in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) The net is used only between sunset and sunrise on any day.
 - (b) The net may be used only if it is aided by an attracting light.
- (2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a lampara net.

Table Lampara net

- 1 (a) *Waters*—Any waters (other than inland waters).
- (b) *Description of net*—Total length not exceeding 275 metres (except in respect of a net used in ocean waters or on sea beaches, in which case the length of net is not described); length of bunt or bag not exceeding 20 metres with a mesh not less than 13 mm throughout; length of throat or apron not exceeding 20 metres with a mesh not less than 50 mm throughout; length of wings not exceeding 110 metres with a mesh not less than 100 mm throughout.

41–43 (Repealed)

44 Submersible lift net (bait)

- (1) It is lawful to use a submersible lift net for taking slimy mackerel, yellowtail and pilchards in the waters specified in the Table to this clause if the net is used only for taking those fish for use as bait in the taking of tuna and the net complies with the description as set out in relation to those waters in that Table.
- (2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a submersible lift net (bait).

Table Submersible lift net (bait)

- 1 (a) *Waters*—Twofold Bay other than that part of Twofold Bay west of a line drawn between Snug Cove Breakwater and the eastern extremity of Cattle Bay.
- (b) *Description of net*—Total length not exceeding 15 metres, 15 metres in width, mesh throughout not less than 13 mm nor more than 25 mm.

- 2 (a) *Waters*—Ocean waters except any natural or artificial harbour and except the waters contained in the following boundaries: (i) those waters in a radius of 300 metres from the highest point of Park Beach Bombora (submerged) located about 904 metres generally north from the most northerly point of Muttonbird Island and about 760 metres generally east of the most easterly point of Little Muttonbird Island (latitudinal and longitudinal position highest point Bombora 153°9'08", 30°17'82"); (ii) those waters from MHW to 200 m seawards from MLWM around Cook Island; (iii) those waters within 200 m of Merimbula fishing platform and Tathra Wharf.
- (b) *Description of the net*—Total length not exceeding 15 metres, 15 metres in width, mesh throughout not less than 13 mm nor more than 25 mm.
- 3 (a) *Waters*—Jervis Bay.
- (b) *Description of net*—Total length not exceeding 15 metres, 15 metres in width, mesh throughout not less than 13 mm nor more than 25 mm.

Division 4 Lawful recreational nets

45 Application of Division

The nets described in this Division may be lawfully used by any person (whether or not a commercial fisher).

Note. Under section 24 of the Act it is an offence for a person to use a net for taking any fish unless its use by the person for taking those fish is declared by the regulations to be a lawful use of the net.

46 Spanner crab net

(1) It is lawful to use a net for taking spanner crabs in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:

- (a) In the case of a single commercial fisher, not more than 20 spanner crab nets are used at any one time.
- (b) In the case of a crew comprising a commercial fisher and 1 or more commercial fishers or crew members, not more than 30 spanner crab nets are used at any one time.
- (c) In the case of any person other than a commercial fisher or a member of a crew referred to in paragraph (b):
 - (i) not more than 1 spanner crab net is used by the person at any one time, and
 - (ii) the net is used only as a hand implement and only by the method of lowering the net into the water and then drawing the net vertically to the surface.

(2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a spanner crab net.

Table Spanner crab net

- 1 (a) *Waters*—Ocean waters north of Korogoro Point (Hat Head).
- (b) *Description of net*—Net attached to a rigid rectangular frame not exceeding 1.6 metres in length and 1 metre in width; net not capable of extending more than 0.1 metre beneath the frame when the frame is suspended in a horizontal position.

47 Hoop or lift net

(1) It is lawful to use a hoop or lift net for taking fish (including crabs and freshwater spiny crayfish, but excluding rock lobster in tidal waters or a prohibited size class of fish) in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:

- (a) The net is used only as a hand implement and only by the method of lowering the net into the water and then drawing the net vertically to the surface.
 - (b) Not more than 10 nets are used by a commercial fisher at any one time.
 - (c) Not more than 5 nets are used by any person (other than a commercial fisher) at any one time.
- (2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a hoop or lift net.

Table Hoop or lift net

- 1 (a) *Waters*—Any waters (other than ocean waters).
- (b) *Description of net*—Net attached to not more than 2 hoops, rings or frames not exceeding 1.25 metres in their greatest diameter (or at their greatest diagonal); hoops, rings or frames not attached to each other by means of any rigid frame; total length from the centre of the plane of the hoop, ring or frame to the extremity of the net, or between the 2 hoops, rings or frames, not exceeding 1 metre; mesh not less than 13 mm.

48 Hand-hauled prawn net

- (1) It is lawful to use a hand-hauled net for taking prawns in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) The net is not staked or set, or joined or placed together with any other net.
 - (b) The net is continuously and manually propelled and not used as a stationary net.
 - (c) The net is not attached to a hauling line.
- (2) It is also lawful to use a hand-hauled net to take other fish (other than a prohibited size class of fish) that are taken by the net when it is being lawfully used for taking prawns.
- (3) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a hand-hauled prawn net.

Table Hand-hauled prawn net

- 1 (a) *Waters*—Any waters (other than inland waters).
- (b) *Description of net*—Total length not exceeding 6 metres; mesh throughout not less than 30 mm nor more than 36 mm.

49 Push or scissors net (prawns)

- (1) It is lawful to use a push or scissors net for taking prawns in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) The net is used only as a hand implement and is not staked or set, or joined or placed together with any other net.
 - (b) The net is continuously propelled and not used as a stationary net.
 - (c) The net is operated only by 1 person without assistance from any other person.
 - (d) Only 1 net is used by a person at any one time.
- (2) It is also lawful to use a push or scissors net to take other fish (other than a prohibited size class of fish) that are taken by the net when it is being lawfully used for taking prawns.
- (3) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a push or scissors net (prawns).

Table Push or scissors net (prawns)

- 1 (a) *Waters*—Any waters (other than inland waters).
- (b) *Description of net*—Net attached to a scissors-type frame; length of lead or bottom line between the lower extremities of the poles not exceeding 2.75 metres; mesh not less than 30 mm nor more than 36 mm.

50 Dip or scoop net (prawns)

- (1) It is lawful to use a dip or scoop net for taking prawns in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) The net is used as a hand implement only and not staked or set, or joined or placed together with any other net.
 - (b) Only 1 net is used by a person at any one time.
- (2) It is also lawful to use a dip or scoop net to take other fish that are taken by the net when it is being lawfully used for taking prawns.
- (3) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a dip or scoop net (prawns).

Table Dip or scoop net (prawns)

- 1 (a) *Waters*—Any waters (other than inland waters).
- (b) *Description of net*—Net attached to a frame, hoop or ring not exceeding 0.6 metre in its greatest diameter, with a handle of not more than 1.2 metres in length, with a total length from the centre of the plane of the frame, hoop or ring to the extremity of the net not exceeding 1.25 metres; mesh not less than 20 mm.

51 Hand-hauled yabby net

- (1) It is lawful to use a hand-hauled net for taking freshwater crayfish (of the species commonly known as the yabby) in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) The net is used as a hand implement only and not staked or set, or joined or placed together with any other net.
 - (b) The net is continuously and manually propelled and not used as a stationary net.
 - (c) The net is operated only by 1 person (with the assistance of no more than 1 other person).
- (2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a hand-hauled yabby net.

Table Hand-hauled yabby net

- 1 (a) *Waters*—Inland waters, being ground tanks, bore drains or lagoons.
- (b) *Description of net*—Not exceeding 6 metres; mesh throughout not more than 40 mm; used with or without hauling lines or poles.

52 Landing net

- (1) It is lawful to use a landing net for taking fish (other than prawns) in the waters set out in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) The net is used only as an ancillary aid to a hand-line or rod.
- (2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a landing net.

Table Landing net

- 1 (a) *Waters*—Any waters.
- (b) *Description of net*—Net consisting of a hoop or ring not exceeding 0.6 metre in its greatest diameter and which is attached to netting having mesh not less than 25 mm.

Division 5 General provisions relating to lawful use of nets

53 Relaying of hauling lines prohibited

- (1) For the purposes of this Part, it is unlawful for a person, in the hauling of any net in any waters:

- (a) to relay the hauling lines, or either of them, from the point at which the casting of the net was commenced and finished, or
 - (b) to adopt any means for extending the depth or length of a haul so as to embrace in the haul any area not included in the haul when the net and both hauling lines were first cast.
- (2) Subclause (1) applies whether or not the net is cast from the shore, a sand bar, a boat or from any device or thing or from any place.

54 Joining of nets

- (1) For the purposes of this Part, it is unlawful for a person to use in any waters 2 or more nets joined together for the purpose of taking fish.
- (2) Subclause (1) does not apply if the nets:
- (a) are of a class specified in the Table to this clause, and
 - (b) when joined (in the waters specified in that Table) do not exceed the permitted number or length as set out in relation to those waters in that Table.
- (3) If lawfully joined, meshing nets used in the Clarence River must be operated from not less than 2 boats, by not less than 2 commercial fishers and only by the method known as bullringing (that is, casting the net in a circle, then immediately splashing the water in the vicinity, then immediately picking up the net, the whole to be completed as a continuous operation).
- (4) For the purposes of this Part, it is unlawful for a person to use in any waters 2 or more nets for the purpose of taking fish, being nets that are joined or placed together side by side (either on the cork line or otherwise) in such a manner that the effective mesh or meshes of those combined nets are reduced to a size less than the minimum mesh or meshes described as lawful under this Part.

Table Gill net

- 1 (a) *Waters*—Lake Victoria, Talpee Lake, Yanga Lake, Lake Benanee, Dry Lake, Lake Cargelligo, Lake Mulwala (backed-up waters of Yarrowonga Weir), Lake Nettlegoe, Lake Speculation, Lake Kangaroo, Lake Tandure, Lake Bijjie, Lake Balaka, Lake Malta, Lake Cowal and Lake Poon Boon.
- (b) *Permitted number and length of nets*—Not more than 3 gill nets may be joined and the total length of the joined nets must not exceed 80 metres.
- 2 (a) *Waters*—Lake Genoe.
- (b) *Permitted number and length of nets*—Not more than 2 gill nets may be joined and the total length of the joined nets must not exceed 55 metres.
- 3 (a) *Waters*—Lake Cawndilla, Lake Menindee and Lake Pamamaroo.
- (b) *Permitted number and length of nets*—Not more than 6 gill nets may be joined and the total length of the joined nets must not exceed 165 metres.

Table Meshing net

- 1 (a) *Waters*—Clarence River.
- (b) *Permitted number and length of nets*—Not more than 2 meshing nets may be joined and the total length of the joined nets must not exceed 1,450 metres.

55 Illegally reducing mesh size of nets

- (1) For the purposes of this Part, it is unlawful for a person to use a net:
- (a) in which any meshes are wholly or partly covered, or
 - (b) in which any string, rope, wire, cord, netting or other material is fixed to any meshes, or
 - (c) in which any meshes (or any bars) are twisted,
- in any manner so as to reduce the effective mesh size of the meshes to less than that specified under this Part as lawful.
- (2) Despite this clause, a person may attach a chafing piece to the cod-end of an otter trawl net (prawns) if:

- (a) the width of the chafing piece does not exceed half the effective operating diameter of the cod-end, and
- (b) the chafing piece is hung along the cod-end and is not attached in any manner to the cod-end other than at the top, and
- (c) the mesh of the chafing piece is not less than 80 mm.

56 Monofilament and certain multi-strand nets prohibited

For the purposes of this Part, it is unlawful for a person to use a net any mesh of which is constructed of synthetic material that comprises less than 7 strands.

57 Method of dragging or drawing nets

For the purposes of this Part, it is unlawful for any person to drag or draw ashore any net containing fish in such a way or to such a distance from the water as to prevent prohibited size fish from escaping through the meshes or by the wings of the net into the water, or to allow such prohibited size fish to remain on the shore.

Division 6 Lawful traps

Note. Under section 24 of the Act it is an offence for a person to use a trap for taking any fish unless its use by the person for taking those fish is declared by the regulations to be a lawful use of the trap.

58 Fish trap

(1) It is lawful for a commercial fisher to use a trap for taking fish (other than rock lobsters) in the waters specified in the Table to this clause if the trap complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:

- (a) The fish trap is not set or used unless its position is indicated by a buoy which:
 - (i) is moored so as to be positioned above the trap, and
 - (ii) has a diameter above the water of not less than 150 mm, and
 - (iii) has a weight of not less than 500 gm suspended not less than 5 metres under the float so that no rope is floating on the surface of the water, and
 - (iv) displays "LFB" followed by the licence number of the boat used to set the trap and "F" at the end of that number, in clearly visible letters and figures which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy.
- (b) The trap is not set or used in such a manner as to impede the free passage of fish on either or any side of the trap or in such a manner that any 2 traps are closer than 5 metres apart.
- (c) The commercial fisher does not set or use in any waters (other than ocean waters and sea beaches) more than 10 fish traps at any one time.
- (d) The trap is not set or used unless it is secured or weighted so that the trap rests on the seabed. This condition has effect on and from 1 April 1996.

(2) For the purposes of this Regulation or any other instrument under the Act, a trap referred to in this clause may be referred to as a fish trap.

Table Fish trap

- 1 (a) *Waters*—Any waters (other than inland waters or ocean waters).
- (b) *Description of trap*—Not exceeding 2 metres in length, 1.5 metres in width and 1 metre in depth; consisting of mesh (having a measurement from one plain wire to the opposite plain wire of not less than 50 mm); having an entrance funnel or funnels other than in the top; having at least 1 panel in a side or top of not less than 30 cm long by 30 cm wide consisting of galvanised wire.
- 2 (a) *Waters*—Ocean waters.
- (b) *Description of trap*—Not exceeding 2 metres in length, 2 metres in width and 2 metres in depth; consisting of mesh (having a measurement from one plain wire to the opposite plain wire of not less than 50 mm).

59 Lobster trap

(1) It is lawful for a person to use a trap for taking lobster in the waters specified in item 1 (a) of the Table to this clause if the trap complies with the description set out in relation to those waters in that Table and the conditions referred to in subclause (3) are complied with.

(2) (Repealed)

(3) The following conditions must be complied with:

- (a) The lobster trap is not set or used unless its position is indicated by a buoy which:
 - (i) is moored so as to be positioned above the trap, and
 - (ii) has a diameter above the water of not less than 100 mm, and
 - (iii) has a weight of not less than 50 gm suspended not less than 1.5 metres under the float so that no rope is floating on the surface of the water, and
 - (iv) (Repealed)
 - (v) displays "L" followed by the name of the person who set the trap, in clearly visible letters which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy.

(b) A person does not set or use more than 1 lobster trap at any one time.

(4) This clause does not apply to or in respect of a commercial fisher who is taking rock lobster (that is, fish of the species *Jasus verreauxi*, *Jasus edwardsii*, *Panulirus longipes* and *Panulirus ornatus*) for sale.

Note. The specifications for lobster traps used by commercial fishers are set out in the *Lobster Share Management Plan* (see *Fisheries Management (Lobster Share Management Plan) Regulation 2000*).

(5) For the purposes of this Regulation or any other instrument under the Act, a trap referred to in this clause may be referred to as a lobster trap.

Table Lobster trap

1 (a) *Waters*—Any waters (other than inland waters and any waters more than 10 metres deep (contour)).

(b) *Description of trap*—Consists of a rectangular base or floor not exceeding 1.2 metres by 1.2 metres (or a circular base not exceeding 1.2 metres in diameter); has 1, 2 or 3 rectangular unobstructed escape gaps (constructed of rigid material) fitted in the trap with at least 1 escape gap being not less than 57 mm by 500 mm, 2 escape gaps each being not less than 57 mm by 250 mm or 3 escape gaps each being not less than 57 mm by 200 mm and so that no part of any escape gap is more than 12 cm above the floor of the trap.

2 (Repealed)

60 Crab trap

(1) It is lawful to use a trap for taking crabs in the waters specified in the Table to this clause if the trap complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:

- (a) The crab trap is not set or used unless its position is indicated by a buoy which:
 - (i) is moored so as to be positioned above the trap, and
 - (ii) has a diameter above the water of not less than 100 mm, and
 - (iii) has a weight of not less than 50 gm suspended not less than 1 metre under the float so that no rope is floating on the surface of the water, and
 - (iv) in the case of a trap used by a commercial fisher—displays "LFB" followed by the licence number of the boat used to set the trap and "C" at the end of that number, in clearly visible letters and figures which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy, and

- (v) in the case of any other trap—displays the words "CRAB TRAP" followed by the name of the person who set the trap, in clearly visible letters which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy.
 - (b) The trap is not set or used in such a manner as to impede the free passage of fish on either or any side of the trap or in such a manner that any 2 traps are closer than 3 metres apart.
 - (c) A commercial fisher does not set or use in any waters (other than the waters of Wallis Lake and Port Stephens Broadwater specified in the Table to this clause) more than 10 crab traps at any one time.
 - (d) A commercial fisher does not set or use in the waters of Wallis Lake and Port Stephens Broadwater specified in the Table to this clause more than 20 crab traps at any one time.
 - (e) A person (other than a commercial fisher) does not set or use more than 1 crab trap at any one time.
 - (f) The crab trap is not made of entanglement material.
- (2) For the purposes of this Regulation or any other instrument under the Act, a trap described in this clause may be referred to as a crab trap.

Table Crab trap

- 1 (a) *Waters*—That part of Wallis Lake included within the following boundaries: commencing at a post marked "FD" situated at the high water mark of Pipers Bay (located by a line bearing 186 degrees from an electricity pole numbered 14808 situated at the eastern end of Pipers Bay Drive Forster) then bounded by a line bearing 217 degrees to a second post marked "FD" situated at the high water mark on the southern side of Big Island, then to a third post marked "FD" situated at the high water mark of Wallis Island, bearing 245 degrees from the second post, then southerly, westerly and northerly along the high water mark of Wallis Island to a jetty located on the western side of Wallis Island, then westerly along the length of the jetty to its end, then to a fourth post marked "FD", situated at the high water mark on the foreshore of Coomba Park, bearing 246 degrees and 30 minutes from the end of the jetty, then generally southerly, easterly and northerly by the high water mark of Wallis Lake to the point of commencement.
- (b) *Description of trap*—Not exceeding 1.2 metres in length, 1 metre in width and 0.5 metre in depth (or has a diameter not exceeding 1.6 metres at the top or bottom); consisting of mesh not less than 50 mm; having not more than 4 entrance funnels none of which are on the top of the trap (excluding any access doors for removing crabs from the trap or baiting the trap).
- 2 (a) *Waters*—That part of Port Stephens Broadwater commencing at Nelson Head then along the high water mark to Mud Point then by a line drawn south west intersecting the northern extremity of Bull Island to the high water mark at Lemon Tree Passage then along the high water mark to Tanilba Point then by a line drawn in a north westerly direction to Cockleshell Point then along the high water mark to Carcair Point then by a line drawn to the eastern most point of Wurrung Island then to Tahlee Point then along the high water mark to Baromee Point then by a line drawn in an easterly direction to Fame Point then by a line drawn in an easterly direction to Oringall Point then in an easterly direction to the southern most point of Corrie Island then in an easterly direction to Barnes Rocks then by a line drawn in a south easterly direction to the point of commencement.

- (b) *Description of trap*—Not exceeding 1.2 metres in length, 1 metre in width and 0.5 metre in depth (or has a diameter not exceeding 1.6 metres at the top or bottom); consisting of mesh not less than 50 mm; having not more than 4 entrance funnels none of which are on the top of the trap (excluding any access doors for removing crabs from the trap or baiting the trap).
- 3 (a) *Waters*—Any other waters (except inland and ocean waters).
- (b) *Description of trap*—Not exceeding 1.2 metres in length, 1 metre in width and 0.5 metre in depth (or has a diameter not exceeding 1.6 metres at the top or bottom); consisting of mesh not less than 50 mm; having not more than 4 entrance funnels none of which are on the top of the trap (excluding any access doors for removing crabs from the trap or baiting the trap).

61 Bait trap

- (1) It is lawful to use a trap for the taking of bait in any waters (other than inland waters) if the trap complies with the description as set out in the Table to this clause and a person (other than a commercial fisher) does not set or use more than 1 bait trap at any one time.
- (2) For the purpose of this Regulation or any other instrument under the Act, a trap referred to in this clause may be referred to as a bait trap.

Table Bait trap

Description of trap—Not exceeding 450 mm in length and 350 mm in diameter with any entrance funnel not exceeding 60 mm in diameter.

62 Yabby trap

- (1) It is lawful to use a trap for taking freshwater crayfish (of the species commonly known as the yabby) in the waters specified in the Table to this clause if the trap complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) A commercial fisher does not:
 - (i) set or use more than 50 yabby traps at any one time in Lake Victoria, Talpee Lake, Yanga Lake, Lake Benanee, Dry Lake, Lake Cargelligo, Lake Cowal, Lake Poon Boon, Lake Genoe, Lake Cawndilla, Lake Menindee, Lake Panamaroo, and all waters west of the Darling River, or
 - (ii) set or use more than 25 yabby traps at any one time in any other inland waters.
 - (b) A person (other than a commercial fisher) does not set or use more than 5 yabby traps at any one time.
 - (c) The position of a yabby trap is indicated by a buoy or stake above water level to which is attached the name of the person using the trap.
- (2) For the purposes of this Regulation or any other instrument under the Act, a trap referred to in this clause may be referred to as a yabby trap.

Table Yabby trap

- 1 (a) *Waters*—Inland waters.
- (b) *Description of trap*—Not exceeding 1 metre in length, 0.6 metre in width and 0.3 metre in depth; constructed of netting or mesh not less than 13 mm; has entrance funnels which are not more than 90 mm in width at the narrowest point measured on any axis.

63 Shrimp trap

- (1) It is lawful to use a trap for taking freshwater shrimp in the waters specified in the Table to this clause if the trap complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) A person does not set or use more than 1 shrimp trap at any one time.
 - (b) The shrimp trap must have attached to it a tag of not less than 80 mm by 45 mm with the name of the person using the trap marked on it.
- (2) For the purposes of this Regulation or any other instrument under the Act, a trap referred to in this clause may be referred to as a shrimp trap.

Table Shrimp trap

- 1 (a) *Waters*—Inland waters.
(b) *Description of trap*—Not exceeding 0.6 metre in length, 0.5 metre in width and 0.5 metre in depth; constructed of netting or mesh not greater than 13 mm; has entrance funnels which are not more than 35 mm in width at the narrowest point measured on any axis.

64 Eel trap

- (1) It is lawful for a commercial fisher to use a trap for taking eels in the waters specified in the Table to this clause if the trap complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
- (a) The eel trap is not set or used unless its position is indicated by a buoy which:
- (i) is moored so as to be positioned above the trap, and
 - (ii) has a diameter above the water of not less than 100 mm, and
 - (iii) has a weight of not less than 50 gm suspended not less than 1 metre under the float so that no rope is floating on the surface of the water, and
 - (iv) displays "LFB" followed by the licence number of the boat used to set the trap and "E" at the end of that number, in clearly visible letters and figures which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy.
- (b) The commercial fisher does not set or use more than 10 eel traps at any one time.
- (2) For the purposes of this Regulation or any other instrument under the Act, a trap referred to in this clause may be referred to as an eel trap.

Table Eel trap

- 1 (a) *Waters*—Any waters (other than inland waters, ocean waters or sea beaches).
(b) *Description of trap*—Not exceeding 2 metres in length, 0.5 metre in width and 0.5 metre in depth or not exceeding 1 metre in length, 1 metre in width and 0.5 metre in depth; consists of mesh not less than 20 mm diagonal nor more than 40 mm diagonal; has an entrance funnel not exceeding 100 mm.

Division 7 Miscellaneous

65 Set lines and hand held lines

- (1) A person (other than a commercial fisher) must not for the purpose of taking or attempting to take fish in any waters (other than inland waters):
- (a) set, use or lift more than 4 hand held lines, or
 - (b) set, use or lift any hand held line with more than 3 hooks or 3 gangs of hooks attached or with more than 3 treble hooks attached to a lure, or
 - (c) set, use or lift any hand held line with a gang of hooks which comprises more than 5 hooks attached.
- Maximum penalty: 100 penalty units.
- (2) Subclause (1) (b) does not apply to a person who, for the purpose of taking or attempting to take fish in any ocean waters or estuarine waters, sets, uses or lifts not more than 1 hand held line with not more than 6 hooks attached, if:
- (a) a lure is fixed to each hook, and
 - (b) the line, when being used for the purpose of taking or attempting to take fish, is not left unattended and is used only by the method of jigging.
- (3) A commercial fisher must not for the purpose of taking or attempting to take fish in any ocean waters or estuarine waters:
- (a) set, use or lift more than 10 set lines, or
 - (b) set, use or lift any set line with more than 6 hooks attached.

Maximum penalty: 100 penalty units.

- (4) Subclause (3) does not apply to ocean waters more than 3 nautical miles from coastal baselines.
- (5) Subclause (3) (b) does not apply to a commercial fisher who, for the purpose of taking shark only, in ocean waters south of a line drawn due east from the northern point of the entrance to the Moruya River, sets, uses or lifts a line with more than 6 hooks attached to it if each such hook is not smaller than 9/0.
- (6) A person must not for the purpose of taking fish (other than Atlantic salmon or trout) set, use or lift in any inland waters a set line or hand held line except as permitted by the following:
- (a) in the case of waters flowing generally in a westerly direction in or away from the Great Dividing Range—up to 4 set lines each with no more than 1 hook attached and 1 hand held line with no more than 2 hooks attached or 3 treble hooks attached to a lure are permitted,
 - (b) in the case of waters flowing generally in an easterly direction in or away from the Great Dividing Range—up to 2 hand held lines each with no more than 2 hooks attached or 3 treble hooks attached to a lure are permitted but no set lines are permitted,
 - (c) in the case of the backed up waters of any dam or impoundment—up to 2 hand held lines each with no more than 2 hooks attached or 3 treble hooks attached to a lure are permitted but no set lines are permitted.

Maximum penalty: 100 penalty units.

- (7) In this clause:

gang of hooks means a group of hooks, each of which is attached to, and in direct contact with, at least 1 other of those hooks.

hand held line means a rod and line or handline.

Note. Section 25 of the Act also makes it an offence for a person to be in possession of any fishing gear in, on or adjacent to any waters if the use by that person of that fishing gear for taking fish from those waters is, at that time, prohibited by or under the Act.

66 Leaving hand held line unattended

- (1) A person who is taking or attempting to take fish from any inland waters using a hand held line must not leave that line unattended unless that person remains within 10 metres of the hand held line while it is unattended and the hand held line is within that person's line of sight.

Maximum penalty: 50 penalty units.

- (2) In this clause, **hand held line** means a rod and line or handline.

67 Drift lines

- (1) A commercial fisher must not, for the purpose of taking fish in any waters (other than inland waters), set, use or lift a drift line to which is attached:

- (a) more than 1 hook unless each hook is part of a gang of hooks, or
- (b) more than 1 gang of hooks, or
- (c) a gang of hooks which comprises more than 5 hooks, or
- (d) another drift line.

Maximum penalty: 100 penalty units.

- (2) A commercial fisher must not, for the purpose of taking fish in any waters (other than inland waters), set, use or lift more than 30 drift lines.

Maximum penalty: 100 penalty units.

- (3) A commercial fisher must not, for the purpose of taking fish in any inland waters, set, use or lift a drift line.

Maximum penalty: 100 penalty units.

- (4) A person (other than a commercial fisher) must not, for the purpose of taking fish in any waters, set, use or lift a drift line.

Maximum penalty: 100 penalty units.

- (5) In this clause:

drift line means a line which is attached to a float, buoy or similar device, not being a float, buoy or device which is:

- (a) held in the hand or attached to fishing gear held in the hand, or
- (b) secured in any other manner which prevents it from drifting or floating freely.

gang of hooks means a group of hooks, each of which is attached to, and in direct contact with, at least 1 other of those hooks.

Note. Section 25 of the Act also makes it an offence for a person to be in possession of any fishing gear in, on or adjacent to any waters if the use by that person of that fishing gear for taking fish from those waters is, at that time, prohibited by or under the Act.

68 Identification of set fishing gear

(1) A person must not, in or on any waters, place or set any net or other fishing gear, or use or lift any set net or other set fishing gear, unless the net or gear is identified in accordance with subclause (2) or (3).

Maximum penalty: 50 penalty units.

(2) The net or gear must be identified by having securely attached to a part of the net or gear which is at or above water level a tag with dimensions of at least 80 mm by 25 mm on which are legibly and durably displayed in capital letters the person's name and:

- (a) if the person is the holder of a commercial fishing licence or a boat licence under Division 2 of Part 4 of the Act:
 - (i) the number indicated on the fishing licence as the number of the licence, or
 - (ii) the number indicated on the fishing licence as the file number of the licence, or
 - (iii) the letters "LFB" followed by the number indicated on the boat licence as the number of the licence, or
- (b) in any other case—the person's residential address or boat registration number.

(3) The net or gear must be identified by having securely attached to a part of the net or gear which is ordinarily at or above water level such an identification tag as may be supplied by the Director from time to time.

(4) This clause does not apply to any net or other fishing gear which is required by this Regulation to be identified in another manner.

69 Scuba diving

(1) A person must not, while using any apparatus capable of supplying air to facilitate breathing underwater, take or attempt to take fish by any method.

Maximum penalty: 100 penalty units.

(2) Subclause (1) does not apply to a person who takes or attempts to take:

- (a) for the purpose of sale—abalone, sea urchin or turban snail in compliance with the requirements of the Act and this Regulation, or
- (b) any fish while using a snorkel, or
- (c) (Repealed)
- (d) scallops, or
- (e) sea urchin.

70 Spear guns

(1) A person must not:

- (a) use a spear gun in inland waters for the purpose of taking fish, or
- (b) use a spear gun for the purpose of taking fish in any of the waters described in Schedule 4, or
- (c) use a spear gun aided by lights in any waters for the purpose of taking fish.

Maximum penalty: 50 penalty units.

(2) A person must not take or attempt to take any fish in any waters by means of a spear gun which is fitted with an explosive device.

Maximum penalty: 100 penalty units.

(3) In this clause, **spear gun** includes a spear, bow and arrow or other similar device.

Note. Section 25 of the Act also makes it an offence for a person to be in possession of any fishing gear in, on or adjacent to any waters if the use by that person of that

fishing gear for taking fish from those waters is, at that time, prohibited by or under the Act.

71 Firearms

- (1) A person must not take or attempt to take any fish in any waters by means of a firearm.
Maximum penalty: 50 penalty units.
- (2) It is not an offence under this clause for a commercial fisher to use a firearm to kill or attempt to kill shark or other fish lawfully taken by means of fishing gear (other than a firearm).
- (3) In this clause, *firearm* does not include a spear gun (within the meaning of clause 70).

72 Taking of rock lobster

- (1) A person must not take or attempt to take rock lobster by any method other than by hand picking (whether or not while wearing a glove).
Maximum penalty: 25 penalty units.
- (2) Subclause (1) does not apply to a person who uses a trap for taking or attempting to take rock lobster if the use of the trap by that person for that purpose is, but for this clause, lawful.

73 Taking of yabby, worms, pipis etc

- (1) A person must not take or attempt to take any yabby (pink nippers), squirt worms, blood worms, beach worms, pipis or any other intertidal invertebrate from a rock platform by any method other than by use of a single blade knife with a blade longer than it is wide, or from any other place by any method other than by use of:
 - (a) a pump or similar device having a barrel or cylinder with a diameter of not more than 85 mm, or
 - (b) a tube or cylinder (whether or not fitted with a cap at one end) with a length of not more than 250 mm and a diameter of not more than 85 mm, or
 - (c) a single blade knife with a blade longer than it is wide, or
 - (d) a spade or fork (except in a seagrass bed, mangrove or saltmarsh area or for the taking of pipis), or
 - (e) pliers.Maximum penalty: 25 penalty units.
- (2) Subclause (1) does not prevent a person from taking or attempting to take any fish by the method of hand picking (whether or not while wearing a glove).

74 Taking of shellfish by means of a dredge or similar device

- (1) A person, other than a commercial fisher, must not take or attempt to take shellfish by means of a dredge or similar device.
Maximum penalty: 100 penalty units.
- (2) A commercial fisher must not take or attempt to take shellfish by means of a dredge or similar device from any waters (other than ocean waters) unless the person is authorised to do so by an aquaculture permit or by a permit under section 37 (Defence—special permits for research or other authorised purposes) of the Act.
Maximum penalty: 100 penalty units.
- (3) A commercial fisher must not take or attempt to take shellfish by means of a dredge if the overall width of the dredge (or the overall width of any combined dredges joined together) exceeds 3.5 metres.
Maximum penalty: 100 penalty units.
- (4) A commercial fisher must not take or attempt to take shellfish by means of more than 1 dredge or similar device, or more than one combination of dredges or similar devices, from a boat at any one time.
Maximum penalty: 100 penalty units.

75 Jagging or foul hooking of fish

- (1) In this clause, *jagging* means the use of any device or instrument that is intended to hook fish otherwise than through the mouth.
- (2) A person must not take or attempt to take fish by the method of jagging.
Maximum penalty: 25 penalty units.
- (3) Nothing in this clause prevents the use of a gaff as an auxiliary to the taking of fish (other than trout) after the fish has been hooked.

76 Taking of Atlantic salmon or trout

(1) A person must not take or attempt to take Atlantic salmon or trout from any waters (other than the backed up waters of a dam or an impoundment) by any method other than by the use of a single rod and line with not more than 2 hooks attached or with not more than 3 treble hooks, or 3 double hooks, attached to a lure.

Maximum penalty: 50 penalty units.

(2) A person must not take or attempt to take Atlantic salmon or trout from the backed up waters of a dam or an impoundment by any method other than by the use of not more than 2 rods and lines, each with not more than 2 hooks attached or with not more than 3 treble hooks, or 3 double hooks, attached to a lure.

Maximum penalty: 50 penalty units.

(3) A person must not use a light for the purpose of taking Atlantic salmon or trout.

Maximum penalty: 50 penalty units.

(4) It is not an offence under this clause for a person to use a landing net as an auxiliary to the taking of Atlantic salmon or trout after the salmon or trout has been hooked.

77 Taking of groper

A person must not take or attempt to take in any waters blue, brown or red groper by any method other than by the use of a rod and line or a handline.

Maximum penalty: 100 penalty units.

78 Restrictions on the sale of commercial nets

(1) A person must not sell a commercial net to another person unless the person is satisfied that the other person:

- (a) is the holder of a commercial fishing licence, or
- (b) is the holder of a permit under this clause.

Maximum penalty: 100 penalty units.

(2) A person who sells a commercial net to another person must make a record of the sale containing the following information:

- (a) the date of the sale, and
- (b) a description of the net sold, together with the registration number (if any), and
- (c) the licence or permit number of the person to whom the net was sold.

Maximum penalty: 100 penalty units.

(3) A person who sells a commercial net to another person must retain the record referred to in subclause (2) for 5 years after the net was sold and must, during that 5 year period, produce the record when requested to do so by a fisheries officer.

Maximum penalty: 100 penalty units.

(4) The Director may, on application, issue a permit to a person authorising the person to buy commercial nets.

(5) A person who is engaged in the business of selling commercial nets to commercial fishers is entitled to a permit under this clause.

(6) For the purpose of this clause:

- (a) a net is a commercial net unless it is a net which may be lawfully used by a person who is not a commercial fisher in all waters or in any particular waters, and
- (b) a reference to a person is a reference to a person within New South Wales.

Part 4 Priorities in the use of fishing gear

Division 1 Offences

79 Offence of fishing contrary to rights of priority

A person must not attempt to take fish contrary to the rights of priority determined by this Part after being directed not to do so:

- (a) by a fisheries officer, or
- (b) by another fisher (who is using or intending to use a net or other fishing gear in accordance with this Part).

Maximum penalty: 50 penalty units.

80 Commercial fishers must use fishing gear in accordance with this Part

A commercial fisher must not use a net or other fishing gear in a manner that is contrary to the provisions of this Part.

Maximum penalty: 50 penalty units.

Division 2 Rights of priority between commercial and recreational fishers on recognised fishing grounds

81 Rights of priority between fishers on recognised fishing grounds

- (1) A fisher using a net or other fishing gear on a particular part of a recognised fishing ground has priority over any other fisher who intends to take fish on that part of the same recognised fishing ground and arrives at that part of the ground at a later time.
- (2) If the fisher who arrives at a later time is a commercial fisher exercising an entitlement to use a net at a particular part of a recognised fishing ground and at a particular time in accordance with a determination of rights of priority under this Part, that fisher has priority over the fisher who arrived first (despite subclause (1)).
- (3) This clause does not apply if the fishers are commercial fishers and the rights of priority between them are otherwise determined in accordance with this Part.

Division 3 Rights of priority between commercial fishers in the use of nets generally

82 Priority between commercial fishers using nets in inland waters

The rights of priority in the setting of nets in inland waters between commercial fishers working on the same recognised fishing ground are determined as follows:

- (a) the first turn belongs to the commercial fisher who, with lawful nets, first arrives at the point on the bank from which it is intended that those nets are to be set,
- (b) the next turn is to belong to the commercial fisher who next so arrives, and so on,
- (c) during a commercial fisher's turn, the fisher is to have the exclusive right of setting nets in so much of the inland waters as equals in metres measured from the point referred to in paragraph (a), the product of the number of nets the fisher is using or intends to use and 100, subject to the following:
 - (i) the point from which that measurement is made must be not less than 100 metres from any net set by and belonging to any other commercial fisher,
 - (ii) the maximum length of the inland waters measured as aforesaid to which any fisher is entitled in accordance with this clause is to be 1,600 metres,
 - (iii) no fisher is to be entitled to set any net within 100 metres of any net set by any other commercial fisher in accordance with this clause,
- (d) a turn must not exceed 24 hours at the expiration of which the nets must, if another commercial fisher is awaiting that fisher's turn with lawful nets ready to set, be removed from the water on to the bank,
- (e) no commercial fisher is to have a second turn until all the other commercial fishers on the fishing ground with lawful nets have had their first turn.

83 Priority between commercial fishers using nets in waters other than inland waters

(1) The rights of priority in the hauling of nets in all waters (other than inland waters) between commercial fishers working on the same recognised fishing ground are determined as follows:

- (a) the first turn belongs to the crew which first arrives at a recognised fishing ground with a licensed boat and with a registered lawful net laid ready for use,
- (b) the next turn belongs to the crew which next arrives with such a boat and net, and so on,

- (c) a turn concludes when a crew has shot its net, but in no case extends over a longer period than 24 hours as against any other crew ready and waiting to haul,
 - (d) during its turn a crew has exclusive rights to so much of a recognised fishing ground as equals in length, measured along the foreshore from the point where the boat belonging to that crew is or was positioned or lying, the total length of the net in use or intended to be used, in the direction in which the net is shot or laid ready for shooting,
 - (e) a crew is not entitled to a second turn until all other crews on the fishing ground have had their first turn,
 - (f) the crew of a boat waiting for a turn automatically forfeits its turn if any member of that crew acts as a member of the crew of a boat making a haul,
 - (g) 2 or more turns may be taken simultaneously if the waters being fished admit of double-banking, provided that no net is shot around an inner net within 7.5 metres of the cork line of that inner net without the consent of the crew operating that inner net.
- (2) In this clause, *crew* means such number of commercial fishers as are required to operate effectively the net in use or intended to be used from the boat from which it is being or will be used.
- (3) The local fisheries officer is to determine the number referred to in subclause (2) and that determination is final and conclusive.

83A Minimum crew number for hauling to sea beaches

- (1) The rights of priority in the hauling of nets to or from a sea beach between commercial fishers working the same recognised fishing ground is to be determined in accordance with clause 83, subject to the modifications in this clause.
- (2) A crew that has the minimum crew number (or more) has priority over any crew consisting of less than the minimum crew number (regardless of which crew arrived first at the recognised fishing ground).
- (3) A crew that has less than the minimum crew number is not entitled to a turn while another crew that has the minimum crew number (or more) is ready and waiting to haul (whether or not that other crew has already had a turn).
- (4) The minimum crew number is:
- (a) 4 ocean haul fishers (at least one of whom is a skipper), or
 - (b) in respect of particular waters, such greater number of ocean haul fishers as is determined by the local fisheries officer as being required to effectively operate the net in use or intended to be used.
- (5) If all crews ready and waiting to haul have less than the minimum crew number, the rights of priority between them is to be determined in accordance with clause 83.
- (6) In this clause:
- skipper* means an ocean haul fisher who holds a commercial fishing licence with a class A endorsement in respect of the ocean hauling restricted fishery (as referred to in clause 212D).
- ocean haul fisher* means a commercial fisher who is authorised (by endorsement on his or her commercial fishing licence) to take fish for sale in the ocean hauling restricted fishery.
- ocean hauling restricted fishery* means the restricted fishery declared under Division 4A of Part 8.

84 Division does not apply where rights of priority otherwise determined

This Division does not apply to the use of a net in accordance with a right of priority determined under Division 4, 5 or 6 of this Part.

Division 4 Rights of priority between commercial fishers using prawn nets (set pocket)

85 General

- (1) This Division applies to the use of prawn nets (set pocket) in the Myall River, the Clarence River and any other waters in which they may lawfully be used.
- (2) In this Division:

crew means a crew consisting only of commercial fishers.

fishing period means the period commencing on one full moon and ending on the next full moon.

local fisheries officer means the fisheries officer for the time being charged with the supervision of the waters in relation to which the expression is used.

position means a position at which prawn nets may be set.

prawn net means a prawn net (set pocket).

priority determination means a determination under this Division of the rights of priority (in the use of prawn nets) between commercial fishers working in waters to which this Division applies.

- (3) In relation to a determination by lot under this Division, a reference to a slip or ball bearing the name of a commercial fisher or crew includes a reference to a slip or ball which otherwise identifies a commercial fisher or crew.

86 Preliminary determination by local fisheries officer

- (1) A local fisheries officer for waters to which this Division applies is to determine from time to time in respect of each fishing period:

- (a) the number of prawn nets which may be used in the waters which the fisheries officer supervises, and
- (b) the positions at which those nets may be set, and
- (c) whether, in those waters, or at a particular position, a prawn net is to be operated by 1 commercial fisher or by a crew consisting of a specified number of commercial fishers, and
- (d) the setting times for the prawn nets.

- (2) A determination by a local fisheries officer under this clause is final and conclusive.

- (3) The local fisheries officer must, at least 24 hours before 4 pm on the day before the day of the full moon on which the fishing period commences, post in a conspicuous place a notice of the local fisheries officer's determination under this clause.

- (4) In relation to the Clarence River, the local fisheries officer is not required to give notice of the determination as referred to in subclause (3) but must announce the determination immediately before a determination by lot (as referred to in clause 92) is made.

87 Fishers to give notice of intention to use prawn nets

- (1) Any commercial fisher or crew intending to use a prawn net during a fishing period must, not later than 4 pm on the day before the full moon on which the fishing period commences, give written notice of that intention to the local fisheries officer for the waters in which it is intended to use the net.

- (2) The notice must:

- (a) contain the name of the commercial fisher, or of all the crew members, intending to use a prawn net, and
- (b) nominate one or more licensed fishing boats to be used in connection with the net (which must be owned by the commercial fisher, the crew or a member of the crew).

- (3) If it is intended to use the net in the Myall River, the notice must also nominate a position at which the commercial fisher or crew intends to set the net. Only 1 position may be nominated.

88 Special provisions relating to Myall River

- (1) This clause applies only to the Myall River.

- (2) The local fisheries officer must, at or around 8 am on the day of each full moon, post in a conspicuous place a notice setting out particulars of each commercial fisher who, or crew which, has notified an intention to set a prawn net during the fishing period and of the position nominated.

- (3) Any such commercial fisher or crew may, between 9 am and 10 am on the same day, apply in writing to the local fisheries officer to alter the notice previously given by the fisher or crew by nominating a different position at which the fisher's or crew's net is to be set.

- (4) A commercial fisher or crew may make only 1 application under subclause (3) in each fishing period.

89 Notice of priority determination

- (1) The local fisheries officer must, before 8 am on the day of the full moon on which a fishing period commences, post in a conspicuous place a notice stating the place at which a priority determination is to be made.
- (2) The priority determination is to be conducted by the local fisheries officer at the place specified in the notice as soon as practicable after 10 am on the same day.
- (3) A commercial fisher or crew is not entitled to be admitted to the priority determination unless the local fisheries officer is satisfied:
 - (a) that the commercial fisher who, or every member of the crew which, gave notice under clause 87 is personally present at the priority determination, and
 - (b) that the commercial fisher or crew, or a member of that crew, is the owner of the licensed fishing boat or boats nominated in that notice and of a registered prawn net.
- (4) Subclause (3) (a) does not apply to a person who has been granted an exemption by the Director from the requirement to be personally present which is in force at the time of the priority determination.

90 Local fisheries officer to make priority determination

- (1) A priority determination for waters to which this Division applies is to be made by a local fisheries officer in the manner set out in clauses 91 to 93 (as appropriate).
- (2) The determination of the fisheries officer is final and conclusive.
- (3) The priority determination is to be conducted at the place specified in the notice given by the local fisheries officer under clause 89 as soon as practicable after 10 am on the day of the full moon on which the relevant fishing period commences.

91 Manner of determining rights of priority—Myall River

- (1) The rights of priority (in the use of prawn nets) between commercial fishers working in the Myall River is to be determined in each fishing period in accordance with this clause.
- (2) If, in the notices referred to in clause 87, a position has been nominated by only 1 commercial fisher or crew, that fisher or crew is entitled to use a prawn net at that position on any night during the relevant fishing period.
- (3) In respect of each position which has been nominated by more than 1 fisher or crew, the local fisheries officer is to conduct a determination by lot for the position as follows:
 - (a) by placing in a receptacle slips or balls bearing the names of the commercial fishers who, and crews which, are entitled to be admitted to the determination and who nominated the position,
 - (b) by thoroughly mixing the slips or balls and drawing them from the receptacle one by one in respect of each night on which a net may be used in the fishing period.
- (4) The commercial fisher who, or crew which, is named on the slip or ball so drawn is the commercial fisher or crew entitled to use a prawn net at the position on the night in respect of which the draw was made.
- (5) If there are more nights during the fishing period than there are commercial fishers who, or crews which, have nominated that position the order in which those fishers or crews may set a net at that position on the nights that have not already been allocated in the period is to be the same order as determined under this clause.

92 Manner of determining rights of priority—Clarence River

- (1) The rights of priority (in the use of prawn nets) between commercial fishers working in the Clarence River is to be determined in each fishing period in accordance with this clause.
- (2) The local fisheries officer is to conduct a determination by lot as follows:
 - (a) by placing in a receptacle slips or balls bearing the names of the commercial fishers who, and crews which, are entitled to be admitted to the determination,
 - (b) by thoroughly mixing the slips or balls and drawing them one by one from the receptacle,

- (c) by allowing each commercial fisher or crew whose name appears on each successive slip or ball to choose a position in the order in which the slips or balls are drawn.
- (3) A commercial fisher who is allowed to choose a position may join with some other commercial fisher (being a fisher whose name is in the draw but has not been drawn) to form a crew, in which case:
 - (a) the crew so formed may then choose a position (but only if the member of the crew who owns the boat nominated in the notice to the local fisheries officer (referred to in clause 87) is the fisher whose name was drawn), and
 - (b) each member of the crew so formed must then be excluded from the draw.
- (4) The commercial fisher or crew who is allowed to choose a position is the fisher or crew entitled to use a prawn net at the position chosen on each night during the fishing period.
- (5) The priority determination is complete when all available positions have been chosen.

93 Manner of determining rights of priority—other waters

- (1) The rights of priority (in the use of prawn nets) between commercial fishers working in waters (other than the Myall River or the Clarence River) is to be determined in each fishing period in accordance with this clause.
- (2) The local fisheries officer is to conduct a determination by lot as follows:
 - (a) by placing in a receptacle slips or balls bearing the names of the commercial fishers who, and crews which, are entitled to be admitted to the determination,
 - (b) by thoroughly mixing the balls or slips and drawing them from the receptacle one by one in respect of each night on which nets may be set, a number of slips or balls corresponding with the number of nets which may be set on that night,
 - (c) by allowing each commercial fisher or crew whose name appears on each successive slip or ball to choose a position in the order in which the slips or balls are drawn.
- (3) The fisher or crew who is allowed to choose a position is the fisher or crew entitled to use a prawn net at that position on the night in respect of which the draw was made.
- (4) The slips or balls naming the fishers or crews who have already drawn a position on any night must not be returned to the receptacle until every fisher or crew entitled to be admitted to the determination by lot has been allotted a position.
- (5) If, after all slips or balls have been drawn from the receptacle, any positions on any nights have not been allotted, all slips or balls must be returned to the receptacle. The determination is to continue either by allotment of the remaining positions in the manner set out in this clause or (at the discretion of the local fisheries officer) on a rotation basis after each fisher or crew has been allotted a position.

94 Manner of making priority determination—general

- (1) For the purposes of the priority determination, a commercial fisher is not entitled:
 - (a) to choose more than 1 position, or
 - (b) to choose a position at which prawn nets may only be set by a crew, or
 - (c) to choose a position which has already been chosen.
- (2) For the purposes of the priority determination, a crew is not entitled:
 - (a) to choose more than 1 position, or
 - (b) to choose a position at which prawn nets may only be set by a commercial fisher, or
 - (c) to choose a position which has already been chosen.
- (3) For the purposes of any priority determination, no person may be regarded as being:
 - (a) both a commercial fisher and a member of a crew, or
 - (b) a member of more than 1 crew.

95 Notice of result of priority determination

- (1) As soon as practicable after making a priority determination under this Division, the local fisheries officer must post in a conspicuous place at the place at which the determination was made a notice of the result of the priority determination.

(2)The notice must specify in respect of each night during the fishing period on which prawn nets may be used:

- (a) the positions at which prawn nets may be set, and
- (b) the fisher and crews who may set prawn nets at those positions.

96 General conditions of use of prawn net following priority determination

(1)A person must not use a prawn net at any position or on any night unless that person is entitled to use the net at that position and on that night under this Division.

(2)In the case of a commercial fisher or any crew entitled (pursuant to a priority determination) to use a prawn net on any night the following conditions apply:

- (a) if the fisher or crew has not arrived to set the net on the relevant night by the time of sunset or by the time the tide has commenced to ebb (whichever is determined by the local fisheries officer as the appropriate time) the turn of that fisher or crew is forfeited (that is, the fisher or crew is not entitled to set the net on that night),
- (b) the turn of the fisher or crew endures for the duration of the outgoing tide, or from sunset to sunrise, or as determined by the local fisheries officer,
- (c) the fisher or crew must use on that night only one of the licensed fishing boats which were nominated for the purpose in the notice to the local fisheries officer under clause 87.

(3)If a fisher or crew contravenes subclause (2) (c), the turn of the fisher or crew is forfeited for that night (that is, the fisher or crew is not entitled to use a prawn net on that night). Nothing in this clause excuses a fisher for any liability under clause 80 for a contravention of this Part.

Note. Clause 80 makes it an offence to use a net or other fishing gear in a manner that is contrary to the provisions of this Part.

97 Prawn nets to be operated only by commercial fisher or crew

(1)If a commercial fisher is entitled (pursuant to a priority determination) to use a prawn net on any night, that fisher must set the net and must operate the net, and no other person must be allowed in the boat with the fisher.

(2)However, if a local fisheries officer is satisfied that weather conditions on any night make it dangerous for 1 person to manage a boat and tend a net in or on any waters, the fisheries officer may allow a commercial fisher to obtain the assistance of another commercial fisher for the sole purpose of managing the boat. That other commercial fisher must not be permitted to set or assist in setting, or operate or assist in operating, the net.

(3)If a crew is entitled (pursuant to a priority determination) to use a prawn net on any night, that crew must set the net and must operate the net, and no other person must be allowed in the boat with the crew and no substitution of crew members is to be permitted.

(4)If a commercial fisher or crew contravenes this clause, the local fisheries officer is to declare the turn of the fisher or crew to be forfeited for a period of 24 hours and the fisher or crew is not entitled to use a prawn net during that period.

(5)This clause does not prevent a commercial fisher or crew entitled to use a prawn net in the Clarence River from receiving assistance in setting the net or in the operation of the net from another commercial fisher or crew if:

- (a) the commercial fisher or crew providing the assistance is entitled to use a prawn net pursuant to that priority determination, and
- (b) the commercial fisher or crew providing the assistance does not use a prawn net in another position on the same night.

Division 5 Rights of priority between fishers using prawn running nets

98 General

(1)This Division applies to the use of prawn running nets in the following waters:

- Coila Lake
- Brou Lake
- Dalmeny Lake

- Corunna Lake
- Tilba Lake
- Durras Water
- Cuttagee Lake
- Middle Lake
- Wallaga Lake
- Tuross Lake

(2) In this Division:

appropriate fishing gear means a licensed fishing boat and a registered prawn running net which may be lawfully used to take prawns in waters to which this Division applies.

crew means a crew consisting of one or more commercial fishers, being the number of fishers required to operate a prawn running net.

determination date means 1 October in any year.

fishing period means the period commencing at 6 pm on the determination date and ending at sunrise on the next determination date.

local fisheries officer means the fisheries officer for the time being charged with the supervision of the waters in relation to which the expression is used.

net site means a position in waters to which this Division applies at which prawn running nets may be set.

99 Preliminary determination by local fisheries officer

(1) A local fisheries officer for waters to which this Division applies is to determine from time to time in respect of each fishing period:

- (a) the number of prawn running nets which may be set in the waters which the fisheries officer supervises, and
- (b) the positions at which those nets may be set, and
- (c) the number of commercial fishers (which may be one or more) required to operate a prawn running net in those waters.

(2) (Repealed)

(3) The determination by the local fisheries officer is final and conclusive.

(4) The local fisheries officer must post in a conspicuous place a notice of the local fisheries officer's determination under this clause.

100 Priority between fishers using prawn running nets

(1) The rights of priority (in the setting of prawn running nets) between fishers working on waters to which this Division applies are to be determined as follows:

- (a) the crew which is the first crew to arrive at a net site (with the appropriate fishing gear) on or after 6 pm on the determination date is the crew entitled to set a prawn running net at that site for the remainder of the fishing period,
- (b) if more than one crew are first to arrive at a net site (with the appropriate fishing gear) on or after 6 pm on the determination date, the local fisheries officer is to determine which crew is entitled to set a prawn running net at that site for the remainder of the fishing period and that determination is final and conclusive.

(2) For the purposes of subclause (1), a crew is taken to have arrived at a net site only when all the members of the crew are personally present at the site.

101 General conditions relating to use of prawn running net following priority determination

(1) A person must not set a prawn running net at a net site unless that person is entitled to set the net at that site under this Division.

(2) If all members of the crew entitled to set a prawn running net at a net site are not personally in attendance at that site (with the appropriate fishing gear) by 7 pm (daylight saving time) or 6 pm (eastern standard time) on any night, any other crew with all members personally in attendance at the site (and having the appropriate fishing gear) is entitled to set a prawn running net at the site on that night.

102 (Repealed)

Division 7 Miscellaneous

103 This Part does not affect the conditions relating to lawful use of a net (Part 3)

Nothing in this Part affects the conditions relating to the lawful use of a net or other fishing gear in any waters contained in Part 3.

104 Exemption from requirement to be personally present

(1) The Director may exempt a commercial fisher from being personally present in any circumstances the Director considers appropriate and, in particular, on any occasion where the fisher's presence is required by this Part, during a period required for travel to or from or attendance at:

- (a) a meeting of a Management Advisory Committee in the capacity of member of that Committee, or
- (b) (Repealed)
- (c) a conference or deputation with the Director or the Director's nominee on business of that Council or such a Committee, or
- (d) a meeting of officers of the NSW Fishing Industry Training Committee Limited in the capacity of officer of that corporation.

(2) A commercial fisher who, personally or as a member of a crew, is entitled to use a net on any night pursuant to this Part and who has been granted an exemption under this clause which is in force on that night, may nominate to the fisheries officer charged with the supervision of the waters concerned the name of another commercial fisher to act as the first-mentioned fisher's representative on that night. That nominated commercial fisher is, for the purposes of this Part, to be taken to be the first-mentioned fisher.

(3) A commercial fisher representing another commercial fisher in accordance with subclause (2) does not in any way prejudice the first-mentioned fisher's own entitlements under this Part.

Part 5 Miscellaneous provisions relating to fisheries management

Division 1 Recognised fishing grounds

105 Identification of recognised fishing grounds

(1) The Minister may, from time to time, prepare or cause to be prepared maps identifying areas as recognised fishing grounds.

(2) Any such map may identify any area which, in the opinion of the Minister, is an area of the sea or other public water land used historically for net fishing and which is used regularly or intermittently for net fishing by commercial fishers.

(3) Any such map is to be deposited at the head office of NSW Fisheries and at an office of NSW Fisheries located in the region of the recognised fishing ground.

(4) The Minister may alter or replace any such map from time to time.

(5) For the purposes of section 39 (4) of the Act, a recognised fishing ground (within the meaning of that section) is an area identified (in accordance with this clause) as a recognised fishing ground on a map deposited at an office of NSW Fisheries.

Division 2 Interference with fishing activities and set fishing gear

106 Interference with fishing activities

A person must not drive, ride or use a boat, surfboard, water ski, aquaplane or similar equipment:

- (a) in any waters on a recognised fishing ground in such a manner and in such proximity to the ground as is likely to cause the dispersal of schooling fish, or fish travelling in a school or shoal, or

- (b) in any waters in a manner that unreasonably interferes with the operations of a commercial fisher lawfully fishing in those waters or waiting to carry on lawful fishing in those waters,
after being directed to cease doing so by a fisheries officer.
Maximum penalty: 50 penalty units.

107 Interference with set fishing gear

- (1) A person must not, without reasonable excuse, interfere with any set fishing gear.
Maximum penalty: 50 penalty units.
(2) This clause does not apply to a fisheries officer, the person who owns the fishing gear or any other person acting in accordance with this Regulation.

108 Lawful interference with set fishing gear

- (1) Any commercial fisher may, for the purpose of using a net on any recognised fishing ground, remove any unattended fishing gear which has been so set as to obstruct the use of the fisher's net.
(2) A fisher who so removes set fishing gear is not, if he or she exercises reasonable care in the removal, liable for any damage to the fishing gear occasioned by such removal.
(3) This clause does not allow a commercial fisher to remove a net that has been lawfully set in the waters concerned.

109 Wilfully disturbing fish

- A person must not, without reasonable excuse, wilfully disturb fish in the vicinity of a commercial fisher using a net or other fishing gear on a recognised fishing ground.
Maximum penalty: 50 penalty units.

110 Interference with commercial fisher using line

- (1) A commercial fisher who is lawfully using a line (other than a drift line) in any waters for the purpose of taking fish may require any person intending to fish in those waters (in such close proximity to the fisher as gives the fisher reasonable cause to apprehend that fish in the fisher's vicinity will be frightened or that the fisher's line will be fouled) to move to another position on those waters (not more than 50 metres distant) that the fisher indicates.
(2) A person must not, without reasonable excuse, refuse or neglect to comply with such a requirement.
Maximum penalty: 25 penalty units.
(3) In this clause, *drift line* means a line which is attached to a float, buoy or similar device, not being a float, buoy or device which is:
(a) held in the hand or attached to fishing gear held in the hand, or
(b) secured in any other manner which prevents it from drifting or floating freely.

Division 3 Use of explosives, electrical devices and other dangerous substances

111 Dynamite and explosive substances

- (1) A person must not use dynamite or any other explosive substance to take or destroy fish in any waters.
Maximum penalty: 100 penalty units.
(2) A person must not explode any dynamite or other explosive substance in any waters.
Maximum penalty: 100 penalty units.
(3) It is a defence to a prosecution for an offence under subclause (2) if the person charged proves that the acts constituting the alleged offence were done:
(a) in pursuance of a permit issued by the Director, and
(b) in accordance with the conditions of the permit.

112 Permit to use explosives

- (1) An application for a permit to use dynamite or any other explosive substance in any waters is to be made in writing to the Director in the form approved by the Director.
(2) A permit may extend to:
(a) explosives generally or to a particular explosive specified in the permit, or
(b) waters generally or to the particular waters specified in the permit.

- (3) A permit remains in force, unless sooner cancelled or suspended by the Director, until the expiration of the period specified in the permit.
- (4) A permit is subject to such conditions as are attached to the permit by the Director.
- (5) The fee for a permit under this clause, or for the renewal of such a permit, is \$104.

113 Use of electrical devices prohibited in all waters

- (1) A person must not use an electrical device for the purpose of taking fish in any waters.
Maximum penalty: 100 penalty units.
- (2) It is a defence to a prosecution for an offence under subclause (1) if the person charged proves that the acts constituting the alleged offence were done:
 - (a) in pursuance of a permit issued by the Director, and
 - (b) in accordance with the conditions of the permit.

114 Permit to use electrical devices

- (1) An application for a permit to use an electrical device in any waters is to be made in writing to the Director in the form approved by the Director.
- (2) A permit may extend to:
 - (a) electrical devices generally or to a particular device specified in the permit, or
 - (b) waters generally or to the particular waters specified in the permit.
- (3) A permit remains in force, unless sooner cancelled or suspended by the Director, until the expiration of the period specified in the permit.
- (4) A permit is subject to such conditions as are attached to the permit by the Director.
- (5) The fee for a permit under this clause, or for the renewal of such a permit, is \$104.

Division 4 Measurement of fishing gear

115 Measuring length and mesh size of nets

- (1) For the purposes of testing or determining its length, a net must be measured along the cork line or head line of the net from the first hanging to the last hanging.
- (2) For the purposes of testing or determining the mesh size of a net that is described in Part 3 as being lawful (other than a net specified in the Table to this clause or a beach safety meshing net referred to in clause 37A) the device described in subclause (3) must be used in the manner set out in subclause (4).
- (3) The device (which must be verified in such manner as the Director may determine) must comply with the following description:
 - (a) Consisting of a fixed member (in the form of a metal cylinder) in which is fitted a sliding member weighing 225 grams.
 - (b) Both members must have attached a fixed knife edge.
 - (c) When in use, the device must be suspended from, or held by, the metal clip at the top of the fixed member.
 - (d) A scale and a point must be marked on both members.
- (4) The device must be used in the following manner:
 - (a) The net (the mesh size of which is to be measured) must be soaked in water for a period of not less than 5 minutes, after which both knife edges must be inserted in a mesh of the net, so that the mesh is supported by the knife edge of the fixed member at a knot while the knife edge of the sliding member is supported by the mesh at the knot diagonally opposite.
 - (b) The mesh being measured, when suspended as above, must hang in a plane parallel to the body of the device.
 - (c) The size of the mesh must then, without any unnecessary delay, be determined as the distance between the inside edges of the knots, as read from the scale on the sliding member, at a point indicated by a mark on the fixed member.
- (5) For the purposes of testing or determining the mesh size of a net specified in the Table to this clause, the device described in subclause (3) must be used in the manner set out in subclause (4) except that:
 - (a) the weight specified in relation to that net in that Table must be attached to the sliding member, and

- (b) the net (the mesh size of which is to be measured) must be soaked in water for a period of not less than 10 minutes.
- (6) In testing or determining the mesh size of a knotless net (being a net in which the mesh is formed by the fusion or interweaving of 2 or more threads of the netting material) the same method must apply, except that the knife edges of the members must be inserted in a mesh at diagonally opposite corners and the measurements taken from the inside of those corners.
- (7) The mesh size specified in respect of a lawful net in Part 3 is taken to be the mesh size, when determined in the manner and by the use of the measuring device, described in this clause.

Table

- 1 (a) *Nets*—Hauling net (general purpose), otter trawl net (prawns), drum net, prawn net (hauling), prawn net (set pocket), garfish net (hauling), prawn running net, seine net (prawns), hand-hauled prawn net.
- (b) *Weight attached*—1,585 grams.
- 2 (a) *Nets*—Otter trawl net (fish), danish seine trawl net (fish).
- (b) *Weight attached*—2,945 grams.

**Division 5
116–119(Repealed)**

**Division 5A Tagging of eastern rock lobsters taken for sale
119A–119E(Repealed)**

119F Eastern rock lobster must be sold with tag attached

- (1) A person must not sell (within the meaning of the Act) a whole eastern rock lobster, or the tail of an eastern rock lobster, that does not have a tag attached to it in such a manner that the tag cannot be removed without being broken.

Maximum penalty: 100 penalty units in the case of a corporation or 50 penalty units in any other case.

- (2) A person does not commit an offence if the rock lobster the subject matter of the charge was taken elsewhere than in the waters of or adjacent to New South Wales.

- (3) In this clause:

tag means a tag issued by the Director for attachment to eastern rock lobsters taken for sale.

whole eastern rock lobster includes an eastern rock lobster which has had parts (other than the abdomen of the rock lobster) removed.

Note. The *Fisheries Management (Lobster Share Management Plan) Regulation 2000* requires commercial fishers to tag eastern rock lobsters that are taken for sale.

119G–119I(Repealed)

Division 5B Recreational fishing fee

119J Definition

In this Division:

fishing fee means a fishing fee payable under Division 4A of Part 2 of the Act.

119K Exempt bodies of water

- (1) Any body of water comprising the backed up waters of a dam or impoundment located on private land is exempt for the purposes of section 34C (2) (g) of the Act if the surface area of the body of water (at full capacity) does not exceed 2 hectares.

- (2) For the purposes of this clause, a body of water is located on private land if the land on which it is located is not public water land.

119L Exempt fishers

- (1) For the purposes of section 34C (2) (h) of the Act, the following recreational fishers are exempt from paying a fishing fee:
- (a) a fisher who holds a current pensioner concession card,
 - (b) a fisher who is of or over the age of 18 years of age and is only assisting a fisher under 18 years of age to take fish by means of a single dip or scoop net (prawns),
 - (c) a fisher who is engaged in bait gathering, shore-based fishing or other activities ancillary to guided recreational charter fishing (within the meaning of clause 226C), if:
 - (i) a fishing fee exemption certificate under section 34I (3) (b) of the Act is already held in respect of the charter fishing boat, and
 - (ii) the fisher is in the immediate vicinity of the charter fishing boat.
- (2) It is a condition of an exemption referred to in subclause (1) (a) that, if required to do so by a fisheries officer, a person who claims such an exemption must produce his or her current pensioner concession card for the fisheries officer's inspection.
- (3) In this clause, *pensioner concession card* means a card known as a "pensioner concession card" and issued by Centrelink or the Commonwealth Department of Veterans' Affairs, or any other card approved by the Minister as being equivalent to that card.

119M Reductions in fishing fee for fishing in far north

For the purposes of section 34F of the Act, the amount of the fishing fee payable by a recreational fisher for fishing:

- (a) in the tidal waters of the Tweed River, upstream of a line joining the eastern extremities of the Tweed River Breakwaters to:
 - (i) Bray Park Weir on the Tweed River, and
 - (ii) Boat Harbour Bridge, Numinbah Road, on the Rous River, and
 - (iii) Scenic Drive Road Bridge on Duroby Creek, and
 - (iv) Scenic Drive Road Bridge on Bilambil Creek, and
 - (v) Robinson Road Bridge on Cobaki Creek, or
- (b) from the Tweed River Breakwaters, or
- (c) from the rocks and beach north of the Tweed River Breakwaters to the Queensland border, or
- (d) from the rocks and beach south of the Tweed River Breakwaters to the lighthouse at Fingal Head,

is reduced by 50 per cent of the fee otherwise payable.

119N Issue of replacement receipts

On payment of a fee of \$5, the Director may issue a replacement receipt for an official receipt issued under section 34G of the Act if satisfied that the original receipt is lost, damaged or destroyed.

119O Additional classes of persons to whom fishing fee exemption certificates may be issued

- (1) For the purposes of section 34I (3) (c) of the Act, the following persons are prescribed as classes of persons to whom fishing fee exemption certificates may be issued:
- (a) an owner or lessee of private land on which there is a body of water comprising the backed up waters of a dam or impoundment, but only in relation to recreational fishing activities undertaken in those waters,
 - (b) a Local Aboriginal Land Council, but only in relation to traditional cultural fishing undertaken in tidal waters within its Local Aboriginal Land Council area or in State waters immediately east of that area:
 - (i) by Aboriginal persons whose names are included in the roll kept under the *Aboriginal Land Rights Act 1983* in respect of that Council, or
 - (ii) by Aboriginal persons who are in the company of an Aboriginal person referred to in subparagraph (i).

(2) For the purposes of this clause, a body of water is located on private land if the land on which it is located is not public water land.

119P Fishing fee exemption certificates: period for which in force

- (1) Subject to this clause, a fishing fee exemption certificate under section 34I of the Act has effect for one year.
- (2) The Minister may issue an exemption certificate for a period determined by the Minister that is longer or shorter than one year.

119Q Fishing fee exemption certificates: fees

- (1) For the purposes of section 34I (4) of the Act:
 - (a) the fee for a one year exemption certificate under section 34I (3) (a) of the Act that operates to exempt up to 4 persons at a time carrying out recreational fishing activities under supervision or guidance is \$100, and
 - (a1) the fee for a one year exemption certificate under section 34I (3) (a) of the Act that operates to exempt up to 80 persons at a time carrying out recreational fishing activities under supervision or guidance on or from private land as part of a commercial tourism business operation is \$2,000, and
 - (b) the fee for a one year exemption certificate under section 34I (3) (b) of the Act that operates to exempt:
 - (i) up to 4 passengers at a time carrying out recreational fishing activities on a boat is \$100, or
 - (ii) between 5 and 9 passengers at a time carrying out recreational fishing activities on a boat is \$100, plus \$25 for the fifth and each additional passenger to be exempted, or
 - (iii) 10 or more passengers at a time carrying out recreational fishing activities on a boat is \$250.

Note. No fee is payable for an exemption certificate issued to a person referred to in clause 119O.

- (2) Any fee for an exemption certificate under section 34I (3) (a) or (b) of the Act is reduced by 50 per cent if the activities to which the certificate relates take place only in waters referred to in clause 119M.
- (3) If the Minister issues an exemption certificate under section 34I (3) (a) or (b) of the Act for a period that is longer or shorter than one year, the fee for the certificate is to be varied in proportion to the amount by which the period for which the certificate is issued differs from one year.
- (4) The fee for an exemption certificate must be paid before the certificate is issued.
- (5) An exemption certificate is to be in the form approved by the Minister and may be issued subject to such conditions as the Minister considers appropriate.

119R Amendment and cancellation of exemption certificates

- (1) The Minister may amend or cancel a fishing fee exemption certificate at any time by notice in writing to the holder of the certificate.
- (2) Without limiting subclause (1), the Minister may amend or cancel a fishing fee exemption certificate on the application of the holder of the certificate.
- (3) The following fees are payable in respect of an amendment of an exemption certificate under subclause (2):
 - (a) an application fee of \$10,
 - (b) a supplementary fee equivalent to the amount (if any) by which the fee payable for an exemption certificate in the form of the amended certificate exceeds the sum of all fees that had been paid for the certificate before the application was made.

Division 5C Acquisition of commercial fishing entitlements

119S Constitution of compensation review panel

- (1) For the purposes of section 34O (2) of the Act, a panel is to consist of 3 members appointed by the Minister, of whom:
 - (a) one is to be a person who, in the opinion of the Minister, has expertise in valuation and is otherwise appropriately qualified to conduct the review (not being a person who is engaged in the administration of the Act or in commercial fishing), and

- (b) one is to be a person who, in the opinion of the Minister, has extensive practical experience in the commercial fishing industry (not being a person who is engaged in the administration of the Act or a person who has a financial interest in the fishery to which the review relates), and
 - (c) one is to be an officer of NSW Fisheries.
- (2)The member referred to in subclause (1) (a) is to be the chairperson of the panel.
- (3)A decision supported by the majority of the members of a panel is the decision of the panel.
- (4)Subject to subclause (3), the procedure of the panel is to be determined by the Minister.

Division 6 Miscellaneous

120 Prohibited lures and baits

- (1)A person must not take or attempt to take any fish from inland waters with a lure or bait that is:
- (a) a live fin fish, or
 - (b) any fish or any part of a fish not native to the waters of New South Wales (other than dead carp), or
 - (c) trout or salmon roe or any product containing trout or salmon roe.
- (2)A person must not take or attempt to take salmon or trout with any lure or bait other than:
- (a) natural flies or insects, or their larvae, or
 - (b) worms, shrimps, yabbies or mussels, or
 - (c) artificial lures or baits, or
 - (d) plant matter.
- Maximum penalty: 50 penalty units.
- (3)A person fishing in inland waters must, on the demand of a fisheries officer, produce to that officer the lure or bait being used by that person.
- Maximum penalty: 50 penalty units.

121 Taking of octopus from rock platforms

- (1)A person must not take or attempt to take any octopus from any rock platform in ocean waters or the waters of Port Jackson.
- Maximum penalty: 25 penalty units.
- (2)For the purposes of this clause, *Port Jackson* includes the Parramatta and Lane Cove Rivers and Middle Harbour and the waters of Port Jackson up to a line drawn between the easternmost point of Outer North Head and the easternmost point of South Head.

122 Shucking of intertidal invertebrates

- (1)A person must not shuck any intertidal invertebrate (other than abalone, rock lobster or turban snail) in or on or adjacent to any waters except for immediate bait use.
- Maximum penalty: 25 penalty units.
- (2)A person must not shuck rock lobster or turban snail in or on or adjacent to any waters.
- Maximum penalty: 25 penalty units.

123 Shucking of abalone

- (1)A commercial fisher who is authorised to take fish for sale in the abalone fishery must not shuck abalone at any place other than:
- (a) a place approved for the purpose by the Director, or
 - (b) premises registered under the regulations made under the *Export Control Act 1982* of the Commonwealth for the preparation of abalone for export.
- (2)A person (other than a commercial fisher referred to in subclause (1)) must not shuck abalone in or on or adjacent to any waters.
- Maximum penalty: 50 penalty units.

124 Mutilation of fish

- (1)A person must not mutilate any fish of a class specified in clause 7 (Prohibited size fish) in or on or adjacent to any waters in any manner other than by gutting or by removing the gills or scales.
- Maximum penalty: 50 penalty units.

- (1A) A person (other than a commercial fisher) does not commit an offence under subclause (1) if the person establishes that the person:
- (a) mutilated the fish in the course of preparing the fish for immediate consumption, or
 - (b) mutilated the fish in the course of preparing the fish for immediate use as bait, or
 - (c) mutilated the fish at a place that is a fish cleaning facility or other place specifically provided or ordinarily used for the cleaning of fish, being a place that is not in or on any waters, or
 - (d) mutilated the fish in accordance with a permit issued by the Director.
- (2) A person must not deliver or consign for sale any fish of a class specified in clause 7 (Prohibited size fish) which has been mutilated in any manner other than by gutting or by removing the gills or scales.
Maximum penalty: 50 penalty units.
- (3) This clause does not apply to the delivery or consignment for sale of fish propagated, hatched or reared by the holder of an aquaculture permit under the authority of that permit or of any other fish that have already been lawfully sold.

125 Crayfish, rock lobsters, shovel-nosed lobsters and crabs carrying ova

- (1) A person must not take or sell or have in his or her possession a crayfish, a shovel-nosed lobster, a rock lobster or a crab, carrying ova externally.
Maximum penalty: 50 penalty units.
- (2) A person must not have in his or her possession a crayfish, a shovel-nosed lobster, a rock lobster or a crab, from which spawn or ova have been deliberately removed.
Maximum penalty: 50 penalty units.
- (3) In this clause, *shovel-nosed lobster* includes all species of bugs.

126 Sorting charge for fish

If, in the opinion of a fisheries officer, it is necessary to sort the whole or any part of a consignment of fish for sale for purposes of inspection because of the inclusion of fish which are prohibited size fish, protected fish or fish which it is unlawful to sell by or under the Act, a charge for sorting of \$10.40 per crate is payable by the owner of the fish to the Minister.

Part 6 Commercial share management fisheries

Division 1 General

127 Persons prohibited from holding shares (section 49 (2) of the Act)

- (1) A foreign person or a foreign-owned body is prohibited from holding shares in a share management fishery.
- (2) A subsidiary (within the meaning of the *Corporations Act 2001* of the Commonwealth) of a foreign person or of a foreign-owned body is prohibited from holding shares in a share management fishery.
- (3) A person is prohibited from holding shares in a share management fishery if the Minister is satisfied that the person is holding the shares on behalf of, or for the benefit of, a person who is prohibited by this clause from holding shares in a share management fishery.
- (4) Shares in a share management fishery may not be issued by the Minister to a person who is prohibited by this clause from holding shares or be recorded in the Share Register.
- (5) The Minister is to cancel any shares held by a person prohibited by this clause from holding shares. However, the Minister may allow the person to dispose of the shares in accordance with Part 3 of the Act.
- (6) In this clause:
foreign person means a person other than:

- (a) an individual ordinarily resident in Australia (within the meaning of the *Foreign Acquisitions and Takeovers Act 1975* of the Commonwealth), or
- (b) a company or an exempt body (within the meaning of the *Corporations Act 2001* of the Commonwealth).

foreign-owned body means a body corporate that has a substantial foreign ownership.

- (7) For the purposes of this clause, a body corporate has a substantial foreign ownership if the Minister is satisfied that more than 20% of its total paid-up share capital is held by foreign persons or (if it does not have a share capital) that foreign persons are in a position to control more than 20% of the voting power in the body.
- (8) For the purposes of this clause, the Minister may have regard to any relevant provisions of the *Corporations Act 2001* of the Commonwealth for the purposes of determining whether a person has an interest in shares or voting power in a body corporate.

128 Determination of catch history

- (1) For the purposes of section 51 (4) of the Act, the following documents are prescribed:
 - (a) a verified record of a commercial fishers' co-operative,
 - (b) a verified record relating to the income tax liability of a commercial fisher,
 - (c) a verified record of any fish processing company (whether a wholesaler or retailer).
- (2) In this clause, a reference to a verified record is a reference to an original record, or a copy of a record, audited by a registered company auditor (within the meaning of the *Corporations Act 2001* of the Commonwealth) or that forms part of a record audited by a registered company auditor.

Note. This clause prescribes the documents which the Minister may have regard to in determining the catch history of a person (in addition to the records, kept by the Director, of fish taken by the person).

129 Commencement of limited access to fishery—restricted fisheries

For the purposes of section 53 (2) of the Act, the following circumstances are prescribed (being circumstances in which the day appointed for limited access to a fishery need not be at least 6 months after the fishery became a share management fishery):

- (a) if the share management fishery is the abalone fishery,
- (b) if the share management fishery is the rock lobster fishery,
- (c) if the share management fishery is an estuarine prawn trawl fishery, or the ocean prawn trawl fishery (comprised of ocean waters more than 3 miles from coastal baselines which are north of a line drawn due east from Barrenjoey Headland), being a fishery to which clause 11 of Schedule 7 to the Act applies.

130 Limited access fishery—endorsement of licence

For the purposes of section 54 (3) of the Act, the following acquisitions are declared to be authorised acquisitions:

- (a)–(c) (Repealed)
- (d) an acquisition by a person of shares and catch history (as referred to in section 51 of the Act) in the abalone share management fishery in accordance with clause 132,
- (e) an acquisition by a person of shares in the lobster share management fishery, in accordance with clause 132 or 132A, if the acquisition results in the shareholder holding not less than 55 of the shares provisionally issued in the fishery.

Note. Section 54 (3) of the Act provides that a holder of shares in a limited access fishery is not entitled to have his or her licence endorsed to take fish in the limited access fishery (or to nominate another person to do so) if all the shares held by the person were acquired by dealings after the initial issue of shares in the fishery. This will not apply to acquisitions authorised by this clause.

130A (Repealed)

130B Nomination of commercial fisher by shareholder

- (1) A nomination under section 69 of the Act (a nomination by a shareholder of a commercial fisher to take fish on behalf of the shareholder in a share management fishery) is to be accompanied by a fee of \$300.
- (2) Until the commencement of the management plan for a fishery, only one commercial fisher may be nominated to take fish on behalf of the shareholder at any one time.
- (3) This clause ceases to have effect in respect of the abalone share management fishery on the commencement of the management plan for that fishery.
- (4) This clause ceases to have effect in respect of the lobster share management fishery on the commencement of the management plan for that fishery.

131 Special endorsements to take fish in share management fishery

For the purposes of section 70 (5) of the Act, the fee payable for an endorsement to which section 70 applies (being an endorsement which authorises the taking of fish for sale in a share management fishery even though the commercial fisher is not entitled under Part 3 of the Act to have his or her licence endorsed) is \$100.

132 Transfers and other dealings in shares—general

- (1) For the purposes of section 71 (5) of the Act, before the commencement of the management plan for a fishery, section 71 of the Act applies to allow the transfer, assignment or transmittance of the shares of a person (*the shareholder*) in the fishery only if:
 - (a) all the shares of the shareholder in all fisheries are transferred, assigned or transmitted to one person (*the transferee*), and
 - (b) the transferee acquires the whole of the shareholder's fishing business (that is, licensed fishing boats, associated fishing gear and associated catch history) that the Director determines to be associated with the taking of fish in those fisheries and to be a separate and identifiable business.
- (1A) In addition, in the case of shares in the abalone share management fishery:
 - (a) the transferee must be a person who satisfies the Director that:
 - (i) he or she does not already hold shares in the fishery, and
 - (ii) he or she does not have any interest in any body corporate or trust that holds shares in the fishery, such as by being a shareholder in, or director of, the body corporate or a beneficiary of the trust, and
 - (b) the transferee must acquire the whole of the shareholder's restricted fishery fishing business (ie the fishing business that is determined by the Director to be associated with the taking of sea urchin or turban shell (or both) for sale by the shareholder).
- (2) A reference in this clause to a shareholder's catch history includes, in the case of a shareholder who is not a natural person, the catch history associated with the commercial fishing operations of that shareholder.
- (3) Nothing in this clause authorises the mortgaging of shares in a share management fishery before the commencement of the management plan for the fishery.

Note. Under section 54 (3) of the Act, a holder of shares in a limited access fishery is not entitled to have his or her licence endorsed to take fish in the limited access fishery (or to nominate another person to do so) if all the shares held by the person were acquired by dealings after the initial issue of shares in the fishery. This does not apply to acquisitions in the fisheries referred to in clause 130.

132A Transfers and other dealings in shares—lobster share management fishery

- (1) In addition to the circumstances prescribed by clause 132, before the commencement of the share management plan for the lobster share management fishery, section 71 of the Act applies to allow the transfer, assignment or transmittance of the shares of a person (*the transferor*) in the lobster share management fishery if:
 - (a) all of the shares of the transferor in the fishery are transferred, assigned or transmitted to one person (*the transferee*), and
 - (b) the transferee is a commercial fisher who owns (either alone or together with other individuals) the whole of a fishing business.
- (2) In the case of a transfer or assignment, the transferor must surrender his or her commercial fishing licence to the Director for the purpose of enabling the licence to

be cancelled. This is not required if the transferor continues, despite the transfer or assignment, to be authorised to hold a commercial fishing licence by or under section 103 (2) of the Act (for example, if the transferor continues to own a recognised fishing operation after the share transfer).

(3) This clause does not authorise the mortgaging of shares in the lobster share management fishery before the commencement of the management plan for the fishery.

(4) In this clause:

recognised fishing operation has the same meaning as in clause 135.

Note. A person who holds shares in a share management fishery on a provisional basis is automatically authorised to hold a commercial fishing licence (clause 135 (1) (a)). If the individual sells the shares, he or she is no longer eligible to hold a commercial fishing licence unless he or she falls into one of the other eligibility categories set out in section 103 (2) of the Act or clause 135 (such as being the owner of a recognised fishing operation).

132B Maximum shareholding in lobster share management fishery not to be exceeded

A transfer, assignment or transmittance of shares in the lobster share management fishery is not authorised (despite clauses 132 and 132A) if the transfer, assignment or transmittance results in the shareholding of the person who acquires the shares exceeding 5% of the number of shares provisionally issued in the fishery.

133 Forfeiture of shares for failure to pay certain contributions

(1) For the purposes of section 75 (4) (b) of the Act, the Minister may order that the shares (or any of the shares) of a shareholder in a share management fishery be forfeited if the shareholder has failed to pay a community contribution or other amount due under Part 3 of the Act. However, the Minister is to order the forfeiture only of the number of shares that will be required, in the opinion of the Minister, to recover the amount due.

(2) The Minister is not to order forfeiture of shares unless the Minister is satisfied that all reasonable steps have been taken to recover the amount due or the shareholder's whereabouts are unknown.

(3) Following the sale of the forfeited shares, any part of the purchase price remaining after deduction of the amount of the community contribution or other amount due and the expenses reasonably incurred in connection with the sale is to be paid to the shareholder.

134 Making of appeals to Share Appeal Panel (section 84 of the Act)

(1) An appeal to the Share Appeal Panel must be lodged within 60 days after the person making the appeal is notified of the result of his or her application for shares.

(2) An appeal is to be made in a form approved by the Director and is to be accompanied by a lodgement fee of \$20 and a deposit of \$100.

(3) The Director is to notify the person making the appeal of the receipt of his or her appeal.

(4) On the determination of an appeal, the deposit in respect of the appeal is to be refunded only if the Share Appeal Panel directs that the deposit be refunded. The Share Appeal Panel may direct that the appeal deposit (or any part of that deposit) be refunded if the Panel is of the opinion that it is appropriate in the circumstances of the case because the appeal was wholly or mainly upheld.

134A Fee for registration of dealings in shares

(1) For the purposes of section 91 (3) (d) of the Act:

(a) the prescribed fee in respect of an application for registration of a transaction that purports to have the effect of transferring, assigning or transmitting a share is \$150, and

(b) the prescribed fee in respect of an application for registration of a transaction that purports to have the effect of mortgaging or otherwise creating an interest in a share (other than a transaction referred to in paragraph (a)) is \$300.

(2) This clause ceases to have effect in respect of the abalone share management fishery on the commencement of the management plan for that fishery.

(3) This clause ceases to have effect in respect of the lobster share management fishery on the commencement of the management plan for that fishery.

134B Fee for inspection of Share Register and registered documents

(1) For the purposes of section 97 (1) of the Act:

- (a) the prescribed fee for inspection of the Share Register is:
 - (i) in the case of an inspection that is conducted with the assistance of an officer of NSW Fisheries, \$10 for each entry inspected, and
 - (ii) in any other case, nil, and
- (b) the prescribed fee for inspection of copies of the documents retained by the Director under section 91 of the Act is \$50 in relation to each document that is inspected.

(2) In the case of an inspection of more than one entry in the Register or more than one document retained under section 91 of the Act, the Director may, having regard to the time taken by officers of NSW Fisheries to assist in the inspection, reduce the fee payable under this clause.

Division 2 Lobster fishery—limited access stage

134C Application of Division

This Division applies to the lobster fishery but only while it is a limited access fishery (within the meaning of section 54 of the Act).

134D Definitions

In this Division:

fishing period means a period of 12 months ending on 30 June.

lobster fishery means the lobster share management fishery specified in Schedule 1 to the Act.

shareholder means a holder of shares in the lobster fishery.

Note. Immediately before the commencement of this Division rock lobsters were a restricted fishery under Division 2 of Part 8. The Act provides that a share management fishery that is also a restricted fishery ceases to be a restricted fishery on the commencement of limited access to the share management fishery. (See section 55 of the Act.) Further, an endorsement of a commercial fishing licence to take rock lobster in the restricted fishery becomes, on the fishery ceasing to be a restricted fishery, an endorsement under Part 3 of the Act to take rock lobster in the share management fishery.

The Minister may give an endorsement to a shareholder or to a person duly nominated in the Share Register by the shareholder to take fish in the lobster fishery on behalf of the shareholder. Section 68 of the Act provides that an application for endorsement is to be made in a form and manner approved by the Minister. An endorsement remains in force, unless sooner suspended or cancelled, for a specified fishing period. Until the commencement of the management plan for the fishery, this period is to be determined by the Minister. Until the plan commences, the Minister may also determine the reasons for which an endorsement may be suspended or cancelled.

A shareholder may transfer his or her shares to another person, provided the shareholder transfers all of his or her shares in the fishery to that person and the transfer does not result in that person's shareholding exceeding 5% of the shares provisionally issued in the fishery. (See section 71 of the Act and clause 132 of this Regulation.) The person acquiring the shares can then apply for an endorsement. (See section 54 of the Act and clause 130 of this Regulation.)

134E Total allowable catch

(1) The Minister may, from time to time by notice published in the Gazette, determine the maximum quantity of eastern rock lobster that may be taken from the lobster fishery during any period.

(2) The total allowable catch is to be determined by the Minister after consultation with industry.

134F Quotas for eastern rock lobster

- (1)The Director may determine from time to time the maximum quantity of eastern rock lobster that may be taken in the rock lobster fishery by or on behalf of a shareholder during a particular fishing period.
- (2)The Director is to give written notice of such a quota determination to the shareholder concerned and to any person who holds a licence that is endorsed under Part 3 of the Act for the taking of rock lobster in the fishery on behalf of the shareholder.
- (3)The Director is to determine quotas by allocating the total allowable catch for the relevant fishing period between shareholders in proportion to their shareholdings.
- (4)This clause does not prevent the Director from adjusting the quota of a shareholder in an appropriate manner to take account of the shareholder exceeding his or her quota in a previous period or to take account of any mistake in the calculation of quota in a previous period.
- (5)The Minister may determine that part only of the total allowable catch of eastern rock lobster is to be allocated between shareholders in a fishing period.
- (6)For the purposes of section 104 (4) (a) of the Act, it is a condition of a commercial fishing licence that is endorsed under Part 3 of the Act for the taking of lobster in the lobster fishery that the licensee (whether or not a shareholder) does not cause the quota of a shareholder to be exceeded.
- (7)Such a condition has effect on and from the date notice in writing of the quota determination for a shareholder is served on the shareholder or, if the shareholder has duly nominated a commercial fisher to take lobster in the lobster fishery on the shareholder's behalf, the person so nominated.

134G Transfer of quota

- (1)A quota for a fishing period (or any part of it) is, to such extent as may be advised from time to time by the Director, transferable within that period in accordance with this clause.
- (2)An application for transfer of quota is to be made in writing to the Director jointly by the shareholder seeking to transfer quota and the shareholder seeking to acquire quota. The application must specify the amount of quota to be transferred.
- (3)The application is to be accompanied by a fee of \$100.
- (4)The Director may transfer the quota or refuse to transfer the quota.
- (5)Without limiting subclause (4), the Director may refuse to transfer the quota (or any part of the quota) of a shareholder whose endorsement for the taking of lobster in the lobster fishery is suspended or cancelled.
- (6)The Director transfers quota by giving notice in writing of the transfer to the shareholders affected by the transfer.
- (7)The Director must also give notice in writing of the transfer to any person who holds a commercial fishing licence that is endorsed under Part 3 of the Act for the taking of lobster in the lobster fishery on behalf of the shareholders affected by the transfer.
- (8)The conditions of a commercial fishing licence that is endorsed for the taking of lobster in the lobster fishery are taken to be amended in accordance with the transfer of quota, with effect on and from the date notice of the transfer is served on the licensee.

134H Transfer of tags in connection with quota transfer

- (1)At the time of a transfer of quota, the Director may:
 - (a) require the shareholder whose quota is being transferred to surrender to the Director the number of tags that the Director determines is appropriate in respect of the quota being transferred, or
 - (b) if the Director considers it appropriate, approve that the shareholder whose quota is being transferred give the number of tags that the Director determines is appropriate to the shareholder to whom the quota is being transferred.
- (2)(Repealed)
- (3)A shareholder may request that the Minister review a determination of the Director under this clause and the Director is to give effect to the determination of the Minister in respect of that review.

(4) In this clause:

tag means a commercial fishing tag issued by the Director for attachment to an eastern rock lobster taken for sale in accordance with Division 5A of Part 5.

Division 3 Abalone share management fishery—limited access stage

134I Application of Division

This Division applies to the abalone fishery but only while it is a limited access fishery (within the meaning of section 54 of the Act).

134J Definitions

In this Division:

abalone fishery means the abalone share management fishery specified in Schedule 1 to the Act.

quota means the maximum quantity of abalone that may be taken for sale by or on behalf of a shareholder during any period, as determined by the Director pursuant to clause 134L.

shareholder means a holder of shares in the abalone fishery.

Note. This Division deals with the limited access stage of the abalone share management fishery. Formerly, abalone was a restricted fishery. Section 55 of the Act provides that a share management fishery that is also a restricted fishery ceases to be a restricted fishery on the commencement of limited access to the share management fishery. Further, an endorsement of a commercial fishing licence to take abalone in the restricted fishery becomes, on the fishery ceasing to be a restricted fishery, an endorsement under Part 3 of the Act to take abalone in the share management fishery.

The Minister may give an endorsement to a shareholder or to a person duly nominated in the Share Register by the shareholder to take fish in the abalone fishery on behalf of the shareholder. Section 68 of the Act provides that an application for endorsement is to be made in a form and manner approved by the Minister. An endorsement remains in force, unless sooner suspended or cancelled, for a specified fishing period. Until the commencement of the management plan for the fishery, this period is to be determined by the Minister. Until the plan commences, the Minister may also determine the reasons for which an endorsement may be suspended or cancelled.

134K Endorsement fee

(1) For the purposes of section 68 (5) of the Act, the prescribed fee in respect of an endorsement that authorises a commercial fisher to take abalone in the abalone share management fishery is \$22,000 in respect of each period, or further period, of 12 months in respect of which the endorsement is given.

(2) If the endorsement is given for a period of less than 12 months, the prescribed fee is an appropriate proportion of \$22,000 (that is, the proportion that the period for which the endorsement is given bears to the period of 12 months).

(3)–(5) (Repealed)

Note. Section 76 of the Act also provides for the payment of management charges by shareholders. The Minister may determine what management charges are payable by shareholders and may authorise the payment of management charges by instalment.

134L Quotas for abalone

(1) The Director may from time to time determine the maximum quantity of abalone that may be taken in the abalone fishery by or on behalf of a shareholder during a particular period.

(2) The Director is to give written notice of such a quota determination to the shareholder concerned and to any person who holds a licence that is endorsed under Part 3 of the Act for the taking of abalone in the fishery on behalf of the shareholder.

(3) Quotas are to be determined for shareholders in proportion to their shareholdings in the abalone fishery.

- (4) However, subclause (3) does not prevent the Director from adjusting the quota of a shareholder in an appropriate manner to take account of the shareholder having exceeded his or her quota in a previous period or to take account of any mistake in the calculation of quota in a previous period.
- (5) If an adjustment results in a shareholder's quota being reduced, the amount by which it is so reduced is not to be allocated to another shareholder.
- (6) A quota (or any unused part of it) may not be carried over from one period to another.
- (7) For the purposes of section 104 (4) (a) of the Act, it is a condition of a commercial fishing licence that is endorsed under Part 3 of the Act for the taking of abalone in the abalone fishery that the licensee (whether or not a shareholder) does not cause the quota of a shareholder to be exceeded.
- (8) Such a condition has effect on and from the date notice in writing of the quota of the shareholder is served on the shareholder or, if the shareholder has duly nominated a commercial fisher to take abalone in the abalone fishery on the shareholder's behalf, on the person so nominated.

134M Transfer of quota

- (1) A quota for a period (or any part of it) is transferable within that period, but only with the approval of the Director.
- (2) An application for the Director's approval:
 - (a) is to be made to the Director, in a form approved by the Director, and
 - (b) is to specify the amount of quota to be transferred, and
 - (c) is to be accompanied by a fee of \$125.
- (3) Quota may be transferred only in 100 kilogram lots, unless otherwise approved by the Director.
- (4) The Director may transfer the quota or refuse to transfer the quota.
- (5) Without limiting subclause (4), the Director may refuse to transfer the quota (or any part of the quota) of a shareholder whose endorsement for the taking of abalone in the abalone fishery is suspended or cancelled.
- (6) A transfer of quota takes effect when the Director gives notice in writing of his or her approval of the transfer to the shareholders whose quotas are affected.
- (7) The Director must also give notice in writing of the transfer to any person who has been duly nominated to take abalone in the abalone fishery on behalf of either of the shareholders whose quotas are affected.
- (8) The conditions of a commercial fishing licence that is endorsed under Part 3 of the Act for the taking of abalone in the abalone fishery are taken to be amended in accordance with a transfer of quota approved under this clause, with effect on and from the date notice of the approved transfer is served on the licensee.

134N Special licence conditions for shareholders who nominate fishers

For the purposes of section 104 (4) (a) of the Act, it is a condition of a commercial fishing licence that the licensee, if he or she is a shareholder who has duly nominated another commercial fisher to take abalone in the abalone fishery on the shareholder's behalf:

- (a) must not assist, encourage or permit that other commercial fisher to contravene the Act, the regulations under the Act or the conditions of that other fisher's commercial fishing licence in connection with the taking of abalone in the abalone fishery, and
- (b) must take all reasonable steps to ensure that the other commercial fisher does not contravene the Act, the regulations under the Act or the conditions of that other fisher's commercial fishing licence in connection with the taking of abalone in the abalone fishery.

Part 7 Licensing and other commercial fisheries management

Division 1 Commercial fishing licences

135 Who may hold commercial fishing licence

- (1) For the purposes of section 103 (2) (c) of the Act, the following individuals are authorised to hold a commercial fishing licence:
- (a) an individual who holds shares in a share management fishery on a provisional basis (under section 48 of the Act),
 - (b) an individual who satisfies the Minister that he or she (either alone or together with other individuals) owns the whole of a recognised fishing operation or that he or she is the nominated fisher of a person who owns the whole of a recognised fishing operation,
 - (c) an individual who satisfies the Minister that if a licence is not issued to the person an available fisheries resource would not be utilised and that the manner in which the individual proposes to utilise the fisheries resource will not threaten its sustainability and will not result in an inequitable allocation of the resource,
 - (c1) an individual who satisfies the Minister that he or she requires the licence for the purpose of training a person who has purchased his or her fishing business,
 - (c2) an individual who satisfies the Minister that he or she requires the licence for the purpose of training to become a commercial fisher,
 - (c3) an individual who is authorised under any law of the Commonwealth to take fish for sale in the fishery known as the "Commonwealth tuna long line fishery" and who satisfies the Minister that he or she requires a commercial fishing licence in order to be able to use fishing gear lawfully to take bait,
 - (c4) an individual who satisfies the Minister that he or she is eligible for a skipper's endorsement or a conditional skipper's endorsement in the ocean prawn trawl restricted fishery, but only if the licence for the fishing boat on which the individual is employed as a skipper has an endorsement from the Director of a kind known as "P1" or "P2",
 - (d) an individual who satisfies the Minister that he or she is eligible for an endorsement in the inland restricted fishery,
 - (d1) an individual who satisfies the Minister that he or she is eligible for an endorsement in the sea urchin and turban shell restricted fishery,
 - (e) in the case of a Class 4 licence, an individual who is a resident of Lord Howe Island,
 - (f) in the case of a Class 5 licence, an individual who satisfies the Minister that he or she (either alone or together with other individuals) owns a fishing business and that:
 - (i) because of that fishing business, the individual would be entitled, if he or she held a Class 1, 2 or 3 commercial fishing licence, to an endorsement in a restricted fishery or a share management fishery, or would be likely to be entitled to such an endorsement, and
 - (ii) the individual requires the licence in order to be eligible to be elected as a member of a Management Advisory Committee and to vote in an election of members of a Management Advisory Committee.
- (1A) If more than one individual owns a fishing business referred to in clause 135 (1) (f), only one of them may be issued with a Class 5 commercial fishing licence in respect of the business.
- (2) For the purposes of this clause, a **recognised fishing operation** is a fishing business that falls into any of the following categories:
- (a) the catch history associated with the business (as determined by the Director in accordance with this clause) exceeds 5 tonnes, or \$10,000 in value, in at least 2 years out of the years 1986 to 1990 (inclusive) and 1 year out of the years 1991 to 1993 (inclusive),

- (b) at least one of the licensed fishing boats that form part of the business may lawfully be used to take fish in any one of the following fisheries:
 - (i) the ocean prawn trawl restricted fishery, but only if the licence for the fishing boat authorises the use of the boat for prawn trawling in offshore waters (within the meaning of clause 174) and has an endorsement from the Director of a kind known as ``P1" or ``P2",
 - (ii) the fishery known as the ``estuary prawn trawl fishery",
 - (iii) the fishery known as the ``Commonwealth tuna long line fishery",
 - (iv) the fishery known as the ``south east trawl fishery" (but only if the quota for the taking of fish in that fishery has been imposed on the person).

(2A) For the purposes of this clause, *nominated fisher* means an individual nominated under clause 212X to take fish for sale in a restricted fishery.

(3) The catch history associated with a fishing business is the historical takings of fish for sale by or in connection with a fishing business. The catch history is to be determined by the Director in such manner as the Director considers appropriate, having regard to the records, kept by the Director, of fish taken for sale by any person involved in the business, or of fish taken for sale by use of a licensed fishing boat operated by the business, or to a combination of both. If a fishing business is sold by a person, the catch history associated with that business is transferable only in accordance with guidelines issued by the Director from time to time.

Note. The Act provides that a licence issued to an individual under section 24C of the 1935 Act and in force immediately before the repeal of that section, is taken to be a commercial fishing licence issued to the individual under this Act. Accordingly it will not be necessary for fishers already licensed at the commencement of this Regulation to apply for the issue of a new licence.

136 Fee to accompany application for commercial fishing licence

For the purposes of section 104 (2) of the Act, the prescribed fee in respect of an application for a commercial fishing licence is:

- (a) in the case of an application for a Class 1, Class 2 or Class 3 licence—\$416, or
- (b) in the case of an application for a Class 4 or Class 5 licence—\$104.

137 Grounds for refusal to issue commercial fishing licence to otherwise eligible applicant

(1) For the purposes of section 104 (3) of the Act, the Minister is authorised to refuse to issue a commercial fishing licence to an eligible applicant if:

- (a) the applicant has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand, or
- (b) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (c) the applicant has been convicted of an offence relating to an assault on a fisheries official, or
- (d) the applicant has not paid any fee or contribution due and payable in connection with the issue of his or her licence, or
- (e) the Minister is satisfied that the applicant has not demonstrated that he or she has the capacity or qualifications necessary to enable the individual to successfully engage in commercial fishing operations.

(2) Subclause (1) (e) does not apply to an applicant who is eligible for a commercial fishing licence by virtue of clause 135 (1) (e) or (f).

138 Prescribed conditions of commercial fishing licence

(1) For the purposes of section 104 (4) (a) of the Act the following conditions are prescribed:

- (a) any fish taken for sale or landed in New South Wales by a member of the unlicensed crew pursuant to the licence, while working under the

- supervision of the holder of the licence, must be sold by the holder of the licence,
- (b) the holder of the licence must not engage any person as a member of the unlicensed crew unless the holder is satisfied that the person has the necessary skills, experience or capacity to participate successfully in fishing operations authorised by the licence,
 - (c) the holder of the licence must not use any unlicensed crew member on a boat being used by the licensee to take fish, unless the boat is being used as follows:
 - (i) to take fish from ocean waters (but not from the shore) by use of a trap, line, purse seine net, lampara net or spanner crab net, or
 - (ii) to take prawns from estuary waters (but not from the shore) by use of a seine net (prawns), or
 - (iii) to take fish from any waters by use of an otter trawl net (fish), otter trawl net (prawns) or danish seine trawl net (fish), or
 - (iv) to take abalone in the abalone share management fishery in accordance with paragraph (c1), or
 - (v) to take yabbies or carp in the inland restricted fishery in accordance with paragraph (c2),
 - (c1) the holder of the licence, being a licence that is endorsed under the Act for the taking of abalone in the abalone share management fishery, must not use any unlicensed crew member on a boat being used by the licence holder for the taking of abalone from the fishery, unless the crew member is assisting the licence holder in the operation of the boat or other fishing equipment and is not taking abalone from the fishery on the licence holder's behalf,
 - (c2) the holder of the licence must not use any unlicensed crew member on a boat being used by the licence holder to take yabbies or carp in the inland restricted fishery unless:
 - (i) if the boat is being used to take yabbies, the licence holder is using no more than one unlicensed crew member to assist in that purpose and the licence holder is authorised to take yabbies in the inland restricted fishery pursuant to a class A endorsement in the fishery, or
 - (ii) if the boat is being used to take carp, the licence holder is authorised to take carp in the inland restricted fishery pursuant to a class A, class B or class D endorsement in the fishery,
 - (d) the holder of the licence must not take native finfish from any inland waters during the months of September, October and November in any year.
- (2) In this clause, a reference to an unlicensed crew member is a reference to a crew member who is not the holder of a commercial fishing licence.

Note. Additional licence conditions apply to endorsement holders in share management fisheries and in restricted fisheries (see Part 6 and Part 8).

139 Renewal of commercial fishing licence

- (1) The holder of a commercial fishing licence may apply in writing to the Minister for the renewal of his or her licence.
- (2) The application is to be accompanied by a fee of:
 - (a) in the case of an application for a Class 1, 2 or 3 licence—\$208, or
 - (b) in the case of an application for a Class 4 or Class 5 licence—\$104.
- (3) The Minister may refuse to renew the licence if:
 - (a) the applicant has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand, or
 - (b) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or

- (c) the applicant has been convicted of an offence relating to an assault on a fisheries official, or
 - (d) the applicant has, in the opinion of the Minister, contravened a condition of his or her licence or of an endorsement on that licence or of a permit issued to him or her under the Act, or
 - (e) the applicant has sold his or her licensed fishing boat or boats and the Minister is of the opinion that the applicant is not able to maintain a viable fishing operation because he or she has an insufficient number of licensed boats or catch history (as referred to in section 51 of the Act), or
 - (f) the application for renewal of the licence is received by the Minister more than 60 days after the date the licence would have expired (but for subclause (6)), or
 - (g) the applicant is not authorised, by or under section 103 (2) of the Act, to hold a commercial fishing licence, or
 - (h) the applicant has not paid any fee or contribution due and payable in connection with the renewal of his or her licence.
- (4) The Minister may renew a licence for a period of 1 year or such other period as is specified in the licence.
- (5) If an application is duly made for renewal of a commercial fishing licence and is received by the Minister before the expiration of the period in which it remains in force, and the licence is not renewed before the expiration of that period, the licence:
- (a) is taken to continue in force until the licence is renewed or the application for renewal is refused, and
 - (b) may be renewed despite the fact that, but for this subclause, the licence would have expired.
- (6) If an application for renewal of a commercial fishing licence is not received by the Minister before the expiration of the period in which it remains in force, the licence:
- (a) is taken to continue in force for 30 days after the date the licence would have expired (but for this subclause), or until the licence is renewed or the application for renewal is refused, whichever happens first, and
 - (b) may be renewed despite the fact that, but for this subclause, the licence would have expired.
- (7) If an application for renewal of a commercial fishing licence (other than a Class 4 or Class 5 licence) is received by the Minister more than 30 days after the date the licence would have expired (but for subclause (6)), an additional application fee of \$104 is payable.
- (8) An application for renewal of a commercial fishing licence (other than a Class 4 or Class 5 licence) received by the Minister more than 60 days after the date the licence would have expired (but for subclause (6)) may be treated as an application for the issue of a commercial fishing licence, but in such a case the total fee payable in respect of the application is the fee prescribed in respect of an application for the licence concerned under clause 136.

140 Grounds for suspension or cancellation of a licence

For the purposes of section 104 (4) (e) of the Act, the Minister may cancel or suspend a commercial fishing licence if:

- (a) the holder of the licence has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand, or
- (b) the holder of the licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (c) the holder of the licence has been convicted of an offence relating to an assault on a fisheries official, or

- (d) the holder of the licence has, in the opinion of the Minister, contravened a condition of the licence or of an endorsement on that licence or of a permit issued to him or her under the Act, or
- (e) the holder of the licence has sold or disposed of the holder's licensed fishing boat or boats, or transferred the holder's right to a fishing boat licence or licences, and the Minister is of the opinion that the holder is not able to maintain a viable fishing operation because the holder has an insufficient number of licensed boats or catch history (as referred to in section 51 of the Act), or
- (f) the holder of the licence made a statement in connection with the holder's application for the issue or renewal of the licence that was, in the opinion of the Minister, false or misleading in a material particular, or
- (g) the holder of the licence is not authorised, by or under section 103 (2) of the Act, to hold a commercial fishing licence.

141 Classes of commercial fishing licences

For the purposes of section 104 (5) of the Act, the following classes of licences are prescribed:

- **Class 1.** A Class 1 commercial fishing licence is a licence in force at the commencement of this Regulation (being a licence issued to an individual who is eligible for a licence under section 103 (2) (b) of the Act).
- **Class 2.** A Class 2 commercial fishing licence may be issued only to an individual who is eligible for a licence under section 103 (2) (a) of the Act (relating to share management fisheries).
- **Class 3.** A Class 3 commercial fishing licence may be issued only to an individual who is eligible for a licence by virtue of clause 135 (1) (a), (b), (c), (c1), (c2), (c3), (c4), (d) or (d1).
- **Class 4.** A Class 4 commercial fishing licence may be issued only to an individual who is eligible for a licence by virtue of clause 135 (e).
- **Class 5.** A Class 5 commercial fishing licence may be issued only to an individual who is eligible for a licence by virtue of clause 135 (1) (f).

Note. The Act provides that a licence issued to an individual under section 24C of the 1935 Act and in force immediately before the repeal of that section is taken to be a commercial fishing licence issued to the individual under this Act. Under this Regulation, these licences will be taken to be Class 1 commercial fishing licences.

142 Annual contribution to cost of research and to other industry costs

- (1) For the purposes of section 106 of the Act, the annual contribution payable by a person who holds a Class 1, Class 2, Class 3 or Class 5 commercial fishing licence which is issued or renewed on or after 1 February 1996 and before 1 July 2001 is \$275.
- (1A) For the purposes of section 106 of the Act, the annual contribution payable by a person who holds a Class 1, Class 2, Class 3 or Class 5 commercial fishing licence which is issued or renewed on or after 1 July 2001 is \$323.
- (2) The contribution must be paid on or before the issue or renewal of the commercial fishing licence.
- (3) The contribution payable under this clause in relation to a commercial fishing licence is additional to any other contribution, fee or charge that is payable under the Act in relation to the licence.

Division 2 Boat licences

143 Fee to accompany application for issue of fishing boat licence

- (1) For the purposes of section 108 (2) of the Act, the prescribed fee in respect of an application for a fishing boat licence is:
 - (a) if the application relates to a boat that is 3 metres or less in length—\$145, or
 - (b) if the application relates to a boat that is more than 3 metres in length—\$145 plus \$21 for each metre or part of a metre by which the length of the boat exceeds 3 metres.

- (2) An application (made after the commencement of this subclause) for the issue of a fishing boat licence that is for a boat that replaces a boat for which a fishing boat licence is in abeyance under clause 149 must be accompanied by an additional fee referred to in subclause (3) for each year or part of a year for which the licence has been in abeyance.
- (3) The additional fee (with a pro rata adjustment in the fee for any period of less than one year) for an application referred to in subclause (2) is to be determined as follows:
- (a) if the application relates to a boat that is 3 metres or less in length—the fee is \$42,
 - (b) if the application relates to a boat that is more than 3 metres in length—the fee is \$42 plus \$21 for each metre or part of a metre by which the length of the boat exceeds 3 metres.
- (4) If an application is made (after the commencement of this subclause) for the issue of a fishing boat licence:
- (a) for a boat that was previously licensed and for which the licence has expired, or
 - (b) for a boat that replaces a boat that was previously licensed and for which the licence has expired,
- the application is to be dealt with as if the expired licence has been in abeyance under clause 149 since the date the expired licence would have expired but for clause 146 (6). Accordingly, the additional fee referred to in subclause (3) is payable.
- (5) The additional fee referred to in subclause (3) is not payable in respect of any day that occurred before the commencement of this subclause.

144 Grounds for refusal to issue fishing boat licence

For the purposes of section 108 (3) of the Act, the Minister is authorised to refuse to issue a fishing boat licence if:

- (a) the boat is not licensed under the Act at the commencement of this Regulation (unless paragraph (b) applies), or
- (b) the boat replaces another boat (*the original boat*) that is licensed under the Act or for which the licence is in abeyance under clause 149:
 - (i) the Minister is of the opinion that the boat concerned is not of sufficiently similar dimensions or characteristics to the original boat, or
 - (ii) the licence for the original boat has been in abeyance for a period of more than 2 years, or
- (b1) the application for the fishing boat licence is an application for renewal of an expired fishing boat licence that is treated as an application for issue of a fishing boat licence in accordance with clause 146 (8) and that is received by the Minister more than 2 years after the date the licence would (but for clause 146 (6)) have expired, or
- (c) in the case of a boat licensed under the Act at the commencement of this Regulation, the boat was sold or disposed of after that commencement or the right to a fishing boat licence for the boat was transferred after that commencement (unless the transfer of the right to a licence for the boat to the applicant has been approved by the Director under clause 150), or
- (d) the Minister is authorised to refuse to issue a licence in respect of the boat under a share fishery management plan, or
- (e) the owner of the boat has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand and the Minister is satisfied that the boat was used by that owner for or in connection with the commission of the offence, or
- (f) the owner of the boat has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or

- (g) the owner of the boat has been convicted of an offence relating to an assault on a fisheries official, or
- (h) the applicant has not paid any fee due and payable in connection with his or her fishing boat licence.

145 Prescribed conditions of fishing boat licences

(1) For the purposes of section 108 (4) (a) of the Act, the following conditions are prescribed:

- (a) that the boat in respect of which the licence was issued or renewed is not used for or in connection with the taking of fish for sale or the landing of fish in New South Wales for sale in New South Wales by any person other than the holder of the licence or the holder's employees or agents,
- (b) that the holder of the licence displays on the outside of both sides of the bow of the licensed boat and on the outside of the top of the wheelhouse of the boat in clearly visible letters and figures (in a colour which contrasts with that of the background) the letters "LFB" and the licence number allotted to that boat by the boat licence and that those letters and figures are:
 - (i) in the case of a boat that is more than 7.5 metres long—not less than 300 mm in height and 150 mm in width, or
 - (ii) in any other case—not less than 150 mm in height,
- (c) that the holder of the licence displays on the outside of both sides of any dinghy or vessel which is not separately licensed under the Act and which is carried on the boat in respect of which the licence was issued, the letter "D" and the licence number of that licensed boat (such letter and number not to be less than 50 mm in height),
- (d) that the holder of the licence does not use, or permit to be used, unlicensed crew members on the licensed fishing boat, unless the boat is being used as follows:
 - (i) to take fish from ocean waters (but not from the shore) by use of a trap, line, purse seine net, lampara net or spanner crab net, or
 - (ii) to take prawns from estuary waters (but not from the shore) by use of a seine net (prawns), or
 - (iii) to take fish from any waters by use of an otter trawl net (fish), otter trawl net (prawns) or danish seine trawl net (fish), or
 - (iv) to take abalone in the abalone share management fishery in accordance with clause 138 (1) (c1), or
 - (v) to take yabbies or carp in the inland restricted fishery in accordance with clause 138 (1) (c2),
- (e) in the case of a licence that authorises the use of the boat for prawn trawling in the Clarence River or Lake Woollooweyah:
 - (i) the length, depth and breadth of the boat, and the power rating of its engine, are not increased by more than 10% in any ten year period, and
 - (ii) if the boat is replaced at any time, the length, depth and breadth of the boat (*the current boat*), and the power rating of its engine, are not more than 10% greater than that of any other boat used by the licensee for prawn trawling in the Clarence River or Lake Woollooweyah within the last 10 years and which the current boat replaces, and
 - (iii) the engine of the boat is not replaced without the written consent of the Director, and
 - (iv) a by-catch reduction device, of a kind approved by the Director, is used when the boat is used for prawn trawling in the Clarence River or Lake Woollooweyah, and
 - (v) prawns caught are graded immediately after each such prawn trawl, and the sorted section of the catch is returned to the water as soon as practicable,

- (f) in the case of a licence that authorises the use of the boat for prawn trawling in offshore waters, the engine of the boat is not replaced without the written consent of the Minister.
- (2) For the purposes of subclause (1) (e):
- (a) boat dimensions are as specified in a survey certificate for the boat, and
 - (b) the power rating of the engine of a boat is to be determined in accordance with the Manufacturers Continuous Rating method under heavy duty fishing conditions.
- (3) In this clause:
- offshore waters* means ocean waters that are more than 3 nautical miles from the natural coast line (as defined in Schedule 1) and north of a line drawn due east from Barrenjoey Headland.
- unlicensed crew member* means a member of the crew of a licensed fishing boat who is not the holder of a commercial fishing licence.

146 Renewal of fishing boat licence

- (1) The holder of a fishing boat licence may apply in writing to the Minister for the renewal of his or her licence.
- (2) The application is to be accompanied by a fee determined as follows:
- (a) if the application relates to a boat that is 3 metres or less in length—the fee is \$42,
 - (b) if the application relates to a boat that is more than 3 metres in length—the fee is \$42 plus \$21 for each metre or part of a metre by which the length of the boat exceeds 3 metres.
- (3) The Minister may refuse to renew the licence if:
- (a) the holder of the licence has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand and the Minister is satisfied that the boat was used by that holder for or in connection with the commission of the offence, or
 - (b) the holder of the licence has, in the opinion of the Minister, contravened a condition of the licence, or
 - (c) the holder of the licence has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (d) the holder of the licence has been convicted of an offence relating to an assault on a fisheries official, or
 - (e) the application for renewal of the licence is received by the Minister more than 60 days after the date the licence would have expired (but for subclause (6)), or
 - (f) the holder of the licence has not paid any fee due and payable in connection with the renewal of his or her licence, or
 - (g) the licence has been in abeyance under clause 149 for a period of more than 2 years.
- (4) The Minister may renew a licence for a period of 1 year or such other period as is specified in the licence.
- (5) If an application is duly made for renewal of a fishing boat licence and is received by the Minister before the expiration of the period in which it remains in force, and the licence is not renewed before the expiration of that period, the licence:
- (a) is taken to continue in force until the licence is renewed or the application for renewal is refused, and
 - (b) may be renewed despite the fact that, but for this subclause, the licence would have expired.
- (6) If an application for renewal of a fishing boat licence is not received by the Minister before the expiration of the period in which it remains in force, the licence:

- (a) is taken to continue in force for 30 days after the date the licence would have expired (but for this subclause), or until the licence is renewed or the application for renewal is refused, whichever happens first, and
 - (b) may be renewed despite the fact that, but for this subclause, the licence would have expired.
- (7) If an application for renewal of a fishing boat licence is received by the Minister more than 30 days after the date the licence would have expired (but for subclause (6)), an additional application fee of \$104 is payable.
- (8) An application for renewal of a fishing boat licence received by the Minister more than 60 days after the date the licence would have expired (but for subclause (6)) may be treated as an application for the issue of a fishing boat licence but in such a case the total fee payable in respect of the application is the fee prescribed in respect of an application for the issue of the licence concerned, together with any additional fee payable under clause 143.
- (9) An application (made after the commencement of this subclause) for the renewal of a fishing boat licence that has been in abeyance under clause 149 must be accompanied by an additional fee referred to in subclause (10) for each year or part of a year for which the licence has been in abeyance.
- (10) The additional fee is to be determined (with a pro rata adjustment in the fee for any period of less than one year) as follows:
- (a) if the application relates to a boat that is 3 metres or less in length—the fee is \$42,
 - (b) if the application relates to a boat that is more than 3 metres in length—the fee is \$42 plus \$21 for each metre or part of a metre by which the length of the boat exceeds 3 metres.

147 Additional licence fee for boats authorised to prawn trawl in ocean prawn trawl restricted fishery

- (1) This clause applies to fishing boat licences authorising the use of the boat to take prawns in the ocean prawn trawl restricted fishery (being the restricted fishery declared under Division 2 of Part 8).
- (2) An application for the issue or renewal of a fishing boat licence to which this clause applies is to be accompanied by a unitage fee (calculated by multiplying the total unitage of the boat by \$1.56) for each year or part of a year in respect of which the licence is issued or renewed.
- (3) The unitage fee is in addition to any fee required under clause 143 or 146.
- (4) The **total unitage** of a boat is the sum of the following:
- (a) the total units of the hull of the boat, determined in accordance with the Uniform Shipping Code for ship measurement (as at 1 January 1986),
 - (b) the total units of the engine of the boat (as installed at 1 January 1986), determined in accordance with the Manufacturers Continuous Rating method.
- (5) If an application relates to a boat that was not licensed at 1 January 1986 the total unitage is to be determined in accordance with subclause (4) as at the date of the application.
- (6) If an application is for:
- (a) the issue of a licence that relates to a boat that replaces another boat the licence for which is in abeyance under clause 149, or
 - (b) the renewal of a licence that relates to a boat the licence for which is in abeyance under clause 149,
- the application must be accompanied by an additional fee (calculated by multiplying the total unitage of the relevant boat by \$1.56) for each year or part of a year in which the licence has been in abeyance under clause 149, with a pro rata adjustment in the fee for any period of less than one year.

148 Grounds for suspension or cancellation of a fishing boat licence

For the purposes of section 108 (4) (d) of the Act, the Minister may cancel or suspend a fishing boat licence if:

- (a) the holder of the licence made a statement in connection with the holder's application for the issue or renewal of the licence that was, in the opinion of the Minister, false or misleading in a material particular, or
- (b) the holder of the licence has, in the opinion of the Minister, contravened a condition of the licence, or
- (c) the holder of the licence has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand and the Minister is satisfied that the boat was used by that holder for or in connection with the commission of the offence, or
- (d) the holder of the licence has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (e) the holder of the licence has been convicted of an offence relating to an assault on a fisheries official, or
- (f) the holder of the licence has transferred his or her right to the licence in accordance with clause 150, or
- (g) the boat has been lost at sea or otherwise disposed of by the holder of the licence.

149 Licence may be placed in abeyance during period boat cannot be used

- (1)The Minister may suspend a fishing boat licence by placing the licence in abeyance for a period specified by the Minister, from time to time, if the Minister is of the opinion that the holder of the licence is unable to use the licensed boat for a particular period (for example, because the boat has been disposed of or lost at sea).
- (2)The holder of a fishing boat licence for a boat (*the original boat*) that is in abeyance under this clause may apply in writing:
 - (a) for the issue of a fishing boat licence for a boat that replaces the original boat, or
 - (b) for the renewal of the licence for the original boat.

150 Transfer of right to a fishing boat licence

- (1)The Director may approve the transfer of the right to a fishing boat licence in accordance with this clause.
- (2)An application for approval of the transfer of the right to a fishing boat licence may be made in writing to the Director jointly by the holder of the fishing boat licence and a person intending to acquire the right to that licence.
- (3)The application is to be accompanied by a fee of \$260.
- (4)The Director may approve the transfer, or may refuse to approve the transfer, of the right to a fishing boat licence to the person.
- (5)The Director may refuse to approve the transfer on any of the grounds on which the Minister could refuse to approve the issue of a fishing boat licence to the person.
- (6)If the transfer is approved, the transferee may apply for, and is to be issued with, a fishing boat licence (whether for the boat previously licensed to the transferor or for another boat that replaces the boat licensed to the transferor).
- (7)Nothing in this clause affects the power of the Minister to refuse to issue a licence as authorised by clause 144 (including on the ground that the boat concerned is not of sufficiently similar dimensions or characteristics to the licensed boat of the transferor).
- (8)This clause applies to a licence whether or not it is suspended or in abeyance under clause 149.

151 Boats taken to be licensed under the Act

- (1)For the purposes of section 107 (2) of the Act, a boat is taken to be licensed under the Act if the boat is registered by the Director in accordance with subclause (2).
- (2)The Director may, on receiving an application in writing by the owner of a boat, register the boat under this clause if the Director is satisfied that the boat:
 - (a) is licensed or otherwise authorised to be used for the purpose of taking fish under a law of the Commonwealth or of another State or a Territory, and

- (b) operates from or to a New South Wales port.
- (3) An application for registration of a boat under this clause is to be accompanied by a fee of \$104 and is to contain a description of the boat (including identification numbers and distinguishing characteristics) and such other information as the Director requires.
- (4) The owner of a boat must not make an application for registration under this clause knowing that the application is false or misleading in a material particular.
Maximum penalty: 25 penalty units.
- (5) If a change occurs in a material particular of the information provided to the Director in or in connection with an application for registration under this clause, the owner of the boat must forthwith give the Director written particulars of that change.
Maximum penalty: 25 penalty units.
- (6) When particulars of the change are given, those particulars are then to be considered part of the original application, and subclause (5) applies in relation to any further change in the information provided.
- (7) Registration under this clause is to be certified by the Director in such form as the Director approves.
- (8) Registration is for a period of one year or such other period as is specified in the registration and is subject to such conditions as are attached to the registration by the Director or specified by the Director from time to time by notice in writing served on the owner of the registered boat.
- (9) The Director may revoke the registration of a boat under this clause, or refuse to renew the registration, if the Director is of the opinion that the owner of the boat has contravened a condition of registration.

152 Only licensed boats may be marked "LFB"

A person must not display the letters "LFB" on a boat in any waters if the boat is not licensed under the Act.

Maximum penalty: 50 penalty units.

Division 3 Provisions relating to crew members

153 Fee to accompany application for registration

For the purposes of section 110 (7) of the Act, the prescribed fee is \$104.

154 Eligibility for registration as a crew member

A person who has been convicted of any of the following offences is not eligible to be registered as a crew member under section 110 of the Act, unless the Director is of the opinion that, despite the conviction, the person is a fit and proper person to be registered:

- (a) an offence under the Act or regulations made under the Act or an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand,
- (b) an offence relating to the theft of fish, fishing gear or a boat,
- (c) an offence relating to an assault on a fisheries official.

155 Period of registration

Registration of a crew member remains in force for a period of 1 year or such other period as is notified by the Director when the crew member is registered.

156 Application for authority to use unregistered crew members

- (1) The holder of a commercial fishing licence or fishing boat licence may apply in writing to the Director for an authorisation under section 110 (5) of the Act (which allows a commercial fishing licence or the licence for a boat to authorise the use of persons who are not registered as crew members on a boat).
- (2) The application is to be accompanied by a fee of \$52 in respect of each unregistered crew member to be authorised.

157 Records to be kept about crew members

- (1) The holder of a fishing boat licence must make, or cause to be made, in respect of a person who is a crew member on the boat, a record containing the following information:

- (a) if the person is a registered crew member, the registration number of the crew member or, if the person is not registered, the name and address of the person,
- (b) the dates or periods during which the person is engaged as a crew member on the boat.

Maximum penalty: 25 penalty units.

(2) The holder of a fishing boat licence:

- (a) must keep, or cause to be kept, the record referred to in subclause (1) on the licensed boat concerned for a period of 5 years after the crew member concerned ceases to be engaged by the holder of the fishing boat licence, and
- (b) must, during that 5 year period, produce the record when requested to do so by a fisheries officer.

Maximum penalty: 25 penalty units.

158 Records to be kept by registered crew members

(1) The Director may, by notice in writing served on a registered crew member, require the crew member to make and keep such records as the Director requires (in such manner and form as is specified by the Director) in connection with his or her registration.

(2) A registered crew member who fails to comply with such a requirement is guilty of an offence.

Maximum penalty: 25 penalty units.

159 False and misleading information in records

A person must not make, or cause to be made, an entry in a record kept for the purposes of this Division knowing that the entry is false or misleading in a material particular.

Maximum penalty: 25 penalty units.

Part 8 Restricted fisheries

Division 1A

159A–159E (Repealed)

Division 1 Sea urchin and turban shell

160 Definitions

In this Division:

endorsement means an endorsement on a commercial fishing licence that authorises the holder of the licence to take sea urchin or turban shell (or both) for sale.

endorsement holder means the holder of a commercial fishing licence that has an endorsement.

entitlement holder means a person who is eligible for an endorsement in the fishery as provided for by clause 163 or 164, but does not include any person who is eligible for an endorsement only because the person is the nominated fisher of another person.

nominated fisher means a person duly nominated by a person to take sea urchin or turban shell (or both) for sale on behalf of the person.

quota means the maximum quantity of sea urchin and turban shell that may be taken for sale by or on behalf of an entitlement holder during any period, as determined by the Director pursuant to clause 171.

restricted fishery means the restricted fishery declared under this Division.

161 Sea urchin and turban shell are a restricted fishery

For the purposes of section 111 of the Act, sea urchin and turban shell are declared to be a restricted fishery.

162 Types of endorsement in restricted fishery

The following classes of endorsement are available in the restricted fishery:

- **Sea urchin endorsement.** This endorsement authorises the holder to take sea urchin for sale.
- **Turban shell endorsement.** This endorsement authorises the holder to take turban shell for sale.

163 Eligibility for endorsements

(1) Eligibility for an endorsement in the restricted fishery is as follows:

- (a) A person who holds shares in the abalone share management fishery at the relevant date is eligible for both a sea urchin endorsement and a turban shell endorsement.
- (b) A person who acquires, after the relevant date, a restricted fishery fishing business is eligible for an endorsement of the type determined by the Minister to be relevant to the operation of that fishing business (that is, a sea urchin endorsement, a turban shell endorsement or both), but only if the Minister is satisfied that the person has acquired the fishing business:
 - (i) in accordance with guidelines relating to the transfer of fishing businesses issued from time to time by the Director, or
 - (ii) in connection with a transfer of shares in the abalone share management fishery that is allowed by clause 132 or by the management plan for that fishery.

Note. Abalone, sea urchin and turban shell were initially a restricted fishery. The fishery was later split into the abalone fishery (which became a share management fishery) and the sea urchin and turban shell fishery (which continued to be a restricted fishery).

- (2) Only one person is eligible for an endorsement in respect of each shareholding or fishing business. That is, it does not matter that a shareholding or a fishing business is owned by more than one person, only one of them (being a person designated by the owners or, in the absence of such a designation, by the Director) is eligible for an endorsement.
- (3) If a person referred to in subclause (1) sells or otherwise disposes of any part of a restricted fishery fishing business, the person ceases to be eligible for an endorsement of the type or types determined by the Minister to be relevant to the operation of that fishing business.

Note. Clause 132 requires a person who transfers shares in the abalone share management fishery to another person to also transfer his or her restricted fishery fishing business to that other person.

(4) In this clause:

relevant date means the date of commencement of Schedule 2 to the *Fisheries Management (General) Amendment (Abalone, Sea Urchin and Turban Shell) Regulation 1999*.

restricted fishery fishing business means a fishing business that is determined by the Director to be associated with the taking of sea urchin or turban shell (or both) for sale, being a fishing business that, at the relevant date, was owned by a shareholder in the abalone share management fishery.

transfer of shares, includes an assignment or transmittance of shares, but excludes a mortgage.

164 Public tender for issue of further endorsements

- (1) The Minister may, at any time after considering the status of stock levels in the restricted fishery, call for public tenders for the issue of further endorsements in the restricted fishery.
- (2) Notice of the public tender is to be published in the Gazette.
- (3) The conditions of the public tender are to be determined by the Minister and published in the Gazette notice.
- (4) A person is eligible for an endorsement in the restricted fishery if the person is a successful tenderer.

165 Nominated fishers

- (1) An entitlement holder may nominate a person (being a natural person) to take sea urchin or turban shell (or both) for sale on behalf of the entitlement holder.
- (2) The nomination:
 - (a) is to be made in a form approved by the Director, and
 - (b) is to include the written consent of the nominee to the nomination, and
 - (c) is to be accompanied by a fee of \$312.
- (3) No more than one person may be nominated by the entitlement holder to take sea urchin or turban shell (or both) on behalf of the entitlement holder at any one time. If the entitlement holder is eligible for both a sea urchin and a turban shell endorsement, one person must be nominated to take both sea urchin and turban shell on the entitlement holder's behalf.
- (4) A nomination has no effect unless it is approved by the Director. The Director may impose conditions on the grant of such an approval.
- (5) The Director may refuse to approve a nomination if:
 - (a) the nominated fisher has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) the nominated fisher has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage of fishing gear or a boat, or
 - (c) the nominated fisher has, in the opinion of the Minister, contravened a condition of his or her commercial fishing licence or of an endorsement on that licence, or
 - (d) the nominated fisher already holds an endorsed licence, or
 - (e) any fee due and payable in connection with the endorsement has not been paid, or
 - (f) the entitlement holder's endorsement or commercial fishing licence is suspended or has been cancelled.
- (6) If the Director approves the nomination, the nominated fisher is eligible for an endorsement (of the same type or types as the entitlement holder).
- (7) Any endorsement held by the entitlement holder is revoked when the nomination takes effect.
- (8) A nomination is to have effect for a period of not less than 4 weeks, unless otherwise approved by the Director.
- (9) An entitlement holder may, subject to subclause (8), revoke the entitlement holder's nomination of a nominated fisher by notice in writing served on the Director. The nominated fisher then ceases to be eligible for an endorsement under this clause.
- (10) Division 4C of this Part does not apply in respect of the restricted fishery.

Note. Division 4C provides for similar matters to those provided for by this clause, namely, the entitlement of owners of fishing businesses in certain circumstances to nominate fishers to take fish on their behalf.

166 Endorsement of commercial fishing licences

- (1) The Minister may endorse the commercial fishing licence of a person if the person satisfies the eligibility requirements for an endorsement.
- (2) The Minister may refuse to endorse the commercial fishing licence of a person who is otherwise eligible if:
 - (a) the person or, if the person is a nominated fisher, the entitlement holder who nominated the person has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) the person or, if the person is a nominated fisher, the entitlement holder who nominated the person has, in the opinion of the Minister, contravened a condition of his or her commercial fishing licence or of any endorsement on that licence, or
 - (c) the person or, if the person is a nominated fisher, the entitlement holder who nominated the person has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or

- (d) the person (being an entitlement holder in the fishery) has duly nominated a person to take sea urchin or turban shell (or both) on his or her behalf, or
- (e) any fee due and payable in connection with the endorsement has not been paid.

(3) An application for an endorsement is to be made to the Minister in a form approved by the Director.

167 Endorsement of licence for further period

(1) The Minister may, on application in a form approved by the Director, endorse the commercial fishing licence of a person who has an endorsement (a *current endorsement*) for such further period as the Minister determines.

(2) The Minister may refuse such an application only if:

- (a) the endorsement holder or, if the endorsement holder is a nominated fisher, the entitlement holder who nominated the endorsement holder has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the endorsement holder or, if the endorsement holder is a nominated fisher, the entitlement holder who nominated the endorsement holder has, in the opinion of the Minister, contravened a condition of an endorsement or a commercial fishing licence, or
- (c) the endorsement holder or, if the endorsement holder is a nominated fisher, the entitlement holder who nominated the endorsement holder has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the endorsement holder or, if the endorsement holder is a nominated fisher, the entitlement holder who nominated the endorsement holder ceases to be eligible for an endorsement, or
- (e) the endorsement holder (being an entitlement holder in the fishery) has duly nominated a person to take sea urchin or turban shell (or both) on his or her behalf, or
- (f) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement, or
- (g) any fee due and payable in connection with the endorsement has not been paid.

(3) If an application is duly made for the endorsement of a commercial fishing licence for a further period before the expiration of the current endorsement, and the application is not granted or refused before the expiration of the current endorsement:

- (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
- (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.

168 Endorsement fee

(1) The fee payable for an endorsement in the restricted fishery is as follows:

- (a) in the case of a sea urchin endorsement—\$416,
- (b) in the case of a turban shell endorsement—\$208.

(2) The fee is payable in respect of each period, or further period, of 12 months in respect of which the endorsement is given.

(3) If the endorsement is given for a period of less than 12 months, the fee payable is an appropriate proportion of the fee referred to in subclause (1) (that is, the proportion that the period for which the licence is endorsed bears to the period of 12 months).

(4)–(6) (Repealed)

169 Suspension and cancellation of endorsements

The Minister may suspend or cancel an endorsement if:

- (a) the endorsement holder or, if the endorsement holder is a nominated fisher, the entitlement holder who nominated the endorsement holder has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or

- (b) the endorsement holder or, if the endorsement holder is a nominated fisher, the entitlement holder who nominated the endorsement holder has, in the opinion of the Minister, contravened a condition of an endorsement or a commercial fishing licence, or
- (c) the endorsement holder or, if the endorsement holder is a nominated fisher, the entitlement holder who nominated the endorsement holder has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the endorsement holder or, if the endorsement holder is a nominated fisher, the entitlement holder who nominated the endorsement holder ceases to be eligible for an endorsement, or
- (e) any fee payable in connection with the endorsement has not been paid.

170 Total allowable catch

- (1) The Minister may, from time to time by notice published in the Gazette, determine a total allowable catch for the restricted fishery in any period.
- (2) This clause does not prevent the Minister from requiring the TAC Committee to determine the total allowable catch for the restricted fishery under section 28 (3) of the Act.

171 Quotas for sea urchin and turban shell

- (1) If there is a total allowable catch for any period, the Director is to determine the maximum quantity of sea urchin and turban shell that may be taken for sale by or on behalf of each entitlement holder during that period.
- (2) The Director is to make that determination by allocating the total allowable catch for the period equally between entitlement holders.
- (3) The Director is to give written notice of the quota determination in respect of an entitlement holder to the entitlement holder and, if the entitlement holder has a nominated fisher, to the nominated fisher.
- (4) For the purposes of section 104 (4) (a) of the Act, it is a condition of a commercial fishing licence that is endorsed for the taking of sea urchin or turban shell (or both) in the restricted fishery that the endorsement holder (whether or not an entitlement holder) does not cause the quota of an entitlement holder to be exceeded.

172 Transfer of quota

- (1) A quota for a period (or any part of it) is transferable within that period, but only with the approval of the Director.
- (2) An application for the Director's approval:
 - (a) is to be made to the Director, in a form approved by the Director, and
 - (b) is to specify the amount of quota to be transferred, and
 - (c) is to be accompanied by a fee of \$156.
- (3) The Director may transfer the quota or refuse to transfer the quota.
- (4) Without limiting subclause (3), the Director may refuse to transfer the quota (or any part of the quota) of an entitlement holder whose endorsement is suspended or cancelled.
- (5) A transfer of quota takes effect when the Director gives notice in writing of his or her approval of the transfer to the entitlement holders whose quotas are affected.
- (6) The Director must also give notice in writing of the approval to any nominated fishers of the entitlement holders.
- (7) The conditions of a commercial fishing licence that is endorsed are taken to be amended in accordance with a transfer of quota approved under this clause, with effect on and from the date notice of the approved transfer is served on the licensee.

173 Special licence conditions for licence holders who nominate fishers

For the purposes of section 104 (4) (a) of the Act, it is a condition of a commercial fishing licence that the licensee, if he or she has duly nominated another commercial fisher to take sea urchin or turban shell (or both) on his or her behalf:

- (a) must not assist, encourage or permit that commercial fisher to contravene the Act, the regulations under the Act or the conditions of that other fisher's commercial fishing licence or of an endorsement on that licence in connection with the taking of such sea urchin or turban shell, and

- (b) must take all reasonable steps to ensure that the other commercial fisher does not contravene the Act, the regulations under the Act or the conditions of that other fisher's commercial fishing licence or of an endorsement on that licence in connection with the taking of sea urchin or turban shell.

173A Savings and transitional

- (1) The restricted fishery declared under this Division is a continuation of, and the same restricted fishery as, the restricted fishery that had effect under this Regulation immediately before the amendment date.
- (2) An endorsement on a commercial fishing licence that authorised the licence holder to take sea urchin and turban shell (or turban snail) for sale, being an endorsement that had effect immediately before the amendment date, is taken, on that date, to be both a sea urchin endorsement and a turban shell endorsement.
- (3) A reference in this Division to an offence or to a contravention of a condition of an endorsement or of a commercial fishing licence includes an offence that was committed, or a contravention that occurred, before the amendment date.
- (4) In this clause:
amendment date means the date of commencement of Schedule 2 to the *Fisheries Management (General) Amendment (Abalone, Sea Urchin and Turban Shell) Regulation 1999*.

Division 2 Ocean prawn trawl restricted fishery

174 Definitions

In this Division:

deepwater prawns means prawns of the families Solenoceridae and Aristaeidae.

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take fish for sale in the restricted fishery.

inshore waters means ocean waters that are not more than 3 nautical miles from the natural coast line (as defined in Schedule 1).

nominated fisher means a person nominated in accordance with clause 212X to take fish for sale in the restricted fishery.

ocean prawn trawl fishery means the fishery described in clause 176.

offshore waters means ocean waters that are more than 3 nautical miles from the natural coast line (as defined in Schedule 1) and north of a line drawn due east from Barrenjoey Headland.

restricted fishery means the restricted fishery declared under this Division.

175 Ocean prawn trawl fishery is a restricted fishery

For the purposes of section 111 of the Act, the ocean prawn trawl fishery is declared to be a restricted fishery.

176 Description of ocean prawn trawl fishery

The ocean prawn trawl fishery consists of the use of an otter trawl net (prawns) to take fish from any of the following waters:

- (a) inshore waters,
- (b) offshore waters,
- (c) the waters of Coffs Harbour and Jervis Bay.

177 Types of endorsement in restricted fishery

- (1) The following classes of endorsement are available in the restricted fishery:
- **Inshore endorsement.** This endorsement authorises the holder to use an otter trawl net (prawns) to take fish (other than deepwater prawns) for sale from inshore waters, Coffs Harbour and Jervis Bay.
 - **Offshore endorsement.** This endorsement authorises the holder to use an otter trawl net (prawns) to take fish (other than deepwater prawns) for sale from offshore waters, or from such offshore waters as may be specified in the endorsement by the Minister.

- **Deepwater endorsement.** This endorsement authorises the holder to use an otter trawl net (prawns) to take deepwater prawns for sale from offshore waters.

(2) For the purpose of section 112 (2) of the Act, it is a condition of an endorsement that the holder of the endorsed licence does not take fish for sale in the restricted fishery except as authorised by the class or classes of endorsement on his or her commercial fishing licence.

Note. Additional classes of endorsement are provided for by Division 4B of this Part.

178 Eligibility for endorsement

(1) **Inshore endorsement.** A person is eligible for an inshore endorsement if the Minister is satisfied that:

- (a) the person owns a licensed fishing boat and:
 - (i) the boat was the subject of an ocean going survey certificate issued by the Waterways Authority (or its predecessor, the Maritime Services Board) for at least one of the years from 1986 to 1990, or
 - (ii) the fishing boat licence for the boat has an endorsement from the Director authorising prawn trawling in waters closed to prawn trawling under the fishing closure notification known as ``OP1", and
- (b) the fishing boat licence is not subject to a ``not to prawn trawl" condition, and
- (c) on the basis of ocean waters catch returns submitted to the Director by the person:
 - (i) the person has taken not less than 100 kilograms per year of school or king prawns (or a combination of the two) from ocean waters in at least 3 of the years from 1986 to 1990, or
 - (ii) the person has taken a total of not less than 1,000 kilograms of school or king prawns (or a combination of the two) from ocean waters in the years from 1986 to 1990.

(2) **Offshore endorsement.** A person is eligible for an offshore endorsement if the Minister is satisfied that the person owns a licensed fishing boat, or is the holder of a licence for a fishing boat that is in abeyance (under clause 149), and the fishing boat licence for the boat has an endorsement from the Director authorising prawn trawling in waters closed to prawn trawling under the fishing closure notification known as ``OP1".

(3) **Deepwater endorsement.** A person is eligible for a deepwater endorsement if the Minister is satisfied that:

- (a) the person owns a licensed fishing boat and:
 - (i) the boat was the subject of an ocean going survey certificate issued by the Waterways Authority (or its predecessor, the Maritime Services Board) in one of the years from 1986 to 1990, or
 - (ii) the fishing boat licence for the boat has an endorsement from the Director authorising prawn trawling in waters closed to prawn trawling under the fishing closure notification known as ``OP1", and
- (b) the fishing boat licence is not subject to a ``not to prawn trawl" condition or the boat can lawfully be used for the purpose of taking deepwater prawns for sale by the method of trawling, and
- (c) on the basis of ocean waters catch returns submitted to the Director by the person:
 - (i) the person has taken a total of not less than 1,000 kilograms of royal red or scarlet prawns (or a combination of the two) for sale from ocean waters in the years 1986 to 1993 (in the case of a person whose fishing boat licence has an endorsement from the Director authorising prawn trawling in waters closed to prawn

trawling under the fishing closure notification known as "OP1"), or

- (ii) the person has taken a total of not less than 1,000 kilograms of royal red or scarlet prawns (or a combination of the two) for sale from ocean waters in the years from 1986 to 1990 (in any other case).

(4) If the Minister is satisfied that the catch history associated with a fishing business satisfies any of the eligibility criteria set out in this clause, the owner of the fishing business is taken to have satisfied that criteria, even if the owner did not personally take the fish for sale or submit the catch returns to the Director. In such a case, however, any person who actually took the fish for sale or submitted the returns (for example, while working as an employee of the fishing business) does not, by having done so, satisfy that criteria.

(5) In determining a person's eligibility for an endorsement, the Minister may have regard to records kept by the Director (including records of net registration, licence records and records of fish taken by a commercial fisher).

(6) The catch history associated with a fishing business is to be determined in accordance with clause 135 (3).

(7) In this clause:

"not to prawn trawl" condition means a condition of a fishing boat licence that prohibits the use of the boat for the purpose of taking prawns for sale from ocean waters by the method of trawling.

ocean waters catch return means a return under section 42 of the 1935 Act that relates to takings of fish in ocean waters.

179 Application for endorsement

(1) An application for an endorsement is to be in a form approved by the Director.

(2) The application is to be accompanied by a fee of \$30.

(3) The Minister may endorse the commercial fishing licence of a person who satisfies the eligibility requirements for the endorsement or who is the nominated fisher of a person who satisfies the eligibility requirements for an endorsement.

(4) The Minister may refuse to endorse the commercial fishing licence of a person if:

- (a) the person has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the person has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (c) the person has not paid any fee due and payable in connection with the endorsement.

(5) The Minister may endorse the commercial fishing licence of a person who applied for an endorsement before the commencement of the restricted fishery if the person is otherwise eligible for the endorsement.

180 Duration of endorsement

An endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

181 Application for endorsement for further period

(1) The holder of a commercial fishing licence that has an endorsement that is in force (a **current endorsement**) may apply to the Minister for an endorsement for a further period.

(2) The application is to be in a form approved by the Director.

(3) The Minister may endorse the applicant's commercial fishing licence for such further period as the Minister determines or refuse the application.

(4) The Minister may refuse an application only if:

- (a) the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the applicant has, in the opinion of the Minister, contravened a condition of the endorsement, or
- (c) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or

- (d) the applicant, or if the applicant is a nominated fisher, the owner of the fishing business who nominated the fisher, has ceased to be entitled to the endorsement (see clause 212Y), or
 - (e) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement, or
 - (f) the applicant has not paid any fee due and payable in connection with the endorsement.
- (5) If application is duly made for the endorsement of a commercial fishing licence for a further period and the licence is not so endorsed before the expiration of the current endorsement:
- (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
 - (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.

182 Cancellation and suspension of endorsements

The Minister may cancel or suspend an endorsement if:

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the holder of the endorsed licence has, in the opinion of the Minister, contravened a condition of the endorsement, or
- (c) the holder of the endorsed licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the holder of the endorsed licence, or if the holder of the endorsed licence is a nominated fisher, the owner of the fishing business who nominated the holder of the endorsed licence, ceases to be entitled to the endorsement (see clause 212Y).

Division 2A Ocean fish trawl restricted fishery

183 Definitions

In this Division:

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take fish for sale in the restricted fishery.

nominated fisher means a person nominated in accordance with clause 212X to take fish for sale in the restricted fishery.

ocean fish trawl fishery means the fishery described in clause 185.

restricted fishery means the restricted fishery declared under this Division.

184 Ocean fish trawl fishery is a restricted fishery

For the purposes of section 111 of the Act, the ocean fish trawl fishery is declared to be a restricted fishery.

185 Description of ocean fish trawl fishery

The ocean fish trawl fishery consists of the use of an otter trawl net (fish) to take fish from the following waters:

- (a) ocean waters that are north of a line drawn due east from Barrenjoey Headland (other than the waters in which use of an otter trawl net (fish) is prohibited under clause 35),
- (b) ocean waters that are not more than 3 nautical miles from the natural coast line (as defined in Schedule 1) and are south of a line drawn due east from Barrenjoey Headland.

186 Types of endorsement in restricted fishery

(1) The following classes of endorsement are available in the restricted fishery:

- **Northern zone endorsement.** This endorsement authorises the holder to use an otter trawl net (fish) to take fish (other than prawns) for sale from ocean waters that are north of a line drawn due east from Barrenjoey

Headland (other than the waters in which use of an otter trawl net (fish) is prohibited under clause 35).

- **Southern zone endorsement.** This endorsement authorises the holder to use an otter trawl net (fish) to take fish (other than prawns) for sale from ocean waters that are not more than 3 nautical miles from the natural coast line (as defined in Schedule 1) and are south of a line drawn due east from Barrenjoey Headland.

(2) For the purpose of section 112 (2) of the Act, it is a condition of an endorsement that the holder of the endorsed licence does not take fish for sale in the restricted fishery except as authorised by the class or classes of endorsement on his or her commercial fishing licence.

Note. Additional classes of endorsement are provided for by Division 4B of this Part.

187 Eligibility for endorsement

(1) **Northern zone endorsement.** A person is eligible for a northern zone endorsement if the Minister is satisfied that the person owns an otter trawl net (fish) that was registered in the name of the person at any time before 1 January 1993 and that:

- (a) the person submitted to the Director at least 15 ocean waters catch returns in the years from 1986 to 1990 that indicate that the person took fish from an area designated on the return as zone 1, 2, 3, 4, 5 or 6 by the method of fish trawl, or
- (b) the person submitted to the Director at least 3 ocean waters catch returns in the years from 1986 to 1990, and at least 5 ocean waters catch returns in the years from 1991 to 1993, that indicate that the person took fish from an area designated on the return as zone 1, 2, 3, 4, 5 or 6 by the method of fish trawl and that the person took not less than 20 tonnes of fish trawl species in those zones in at least 3 of the years from 1986 to 1993 by the method of fish trawl.

(2) **Southern zone endorsement.** A person is eligible for a southern zone endorsement if the Minister is satisfied that the person owns a licensed fishing boat and that:

- (a) the person holds a permit for the boat known as a "Commonwealth South East Fishery fish trawl permit", or
- (b) the person submitted to the Director at least 6 ocean waters catch returns in any one of the years from 1986 to 1990 that indicate that the person took fish from an area designated on the return as zone 6, 7, 8, 9 or 10 by the method of fish trawl and that the applicant took not less than 25 tonnes of fish trawl species in those zones in any one of the years from 1986 to 1990 by the method of fish trawl.

(3) In determining a person's eligibility for an endorsement, the person's catch history in zone 6 may not be counted twice. The person is to nominate whether takings of fish in zone 6 are to be used in determining the person's eligibility for a northern zone endorsement or a southern zone endorsement. In the absence of such a nomination, the Director may determine which class of endorsement those takings are to be counted toward.

(4) If the Minister is satisfied that:

- (a) the catch history associated with a fishing business satisfies any of the eligibility criteria set out in this clause, or
- (b) a fishing business includes a registered otter trawl net (fish) that was registered in the name of a person prior to 1 January 1993, as referred to in the eligibility criteria set out in subclause (1),

the owner of the fishing business is taken to have satisfied that criteria, even if the owner did not personally take the fish for sale, submit the catch returns or have an otter trawl net (fish) registered in his or her name. In such a case, however, the person who actually took the fish for sale or submitted the returns (for example, while working as an employee of the fishing business) does not, by having done so, satisfy the criteria.

(5) In determining a person's eligibility for an endorsement, the Minister may have regard to the records kept by the Director (including records of net registration, licence records and records of fish taken by a commercial fisher).

(6) The catch history associated with a fishing business is to be determined in accordance with clause 135 (3).

(7) In this clause:

fish trawl species means redfish, ling, mirror dory, john dory, ocean perch, tiger flathead, gemfish, ribbonfish, silver trevally, squid, cuttlefish, red gurnard, latchet, sand flathead, leatherjacket, southern calamari, snapper, tarwhine, yellowfin bream, mullo way, rubberlip morwong, balmain bug, boarfish, moonfish, angel shark, gummy shark, school shark, hammerhead shark, endeavour dogfish, roughskin shark or saw shark.

ocean waters catch return means a return under section 42 of the 1935 Act that relates to takings of fish in ocean waters.

188 Application for endorsement

(1) An application for an endorsement is to be in a form approved by the Director.

(2) The application is to be accompanied by a fee of \$30.

(3) The Minister may endorse the commercial fishing licence of a person who satisfies the eligibility requirements for the endorsement or who is the nominated fisher of a person who satisfies the eligibility requirements for an endorsement.

(4) The Minister may refuse to endorse the commercial fishing licence of a person if:

- (a) the person has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the person has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (c) the person has not paid any fee due and payable in connection with the endorsement.

(5) The Minister may endorse the commercial fishing licence of a person who applied for an endorsement before the commencement of the restricted fishery if the person is otherwise eligible for the endorsement.

189 Duration of endorsement

An endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

190 Application for endorsement for further period

(1) The holder of a commercial fishing licence that has an endorsement that is in force (a *current endorsement*) may apply to the Minister for an endorsement for a further period.

(2) The application is to be in a form approved by the Director.

(3) The Minister may endorse the applicant's commercial fishing licence for such further period as the Minister determines or refuse the application.

(4) The Minister may refuse an application only if:

- (a) the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the applicant has, in the opinion of the Minister, contravened a condition of the endorsement, or
- (c) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the applicant, or if the applicant is a nominated fisher, the owner of the fishing business who nominated the fisher, has ceased to be entitled to the endorsement (see clause 212Y), or
- (e) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement, or
- (f) the applicant has not paid any fee due and payable in connection with the endorsement.

(5) If application is duly made for the endorsement of a commercial fishing licence for a further period and the licence is not so endorsed before the expiration of the current endorsement:

- (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
- (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.

191 Cancellation and suspension of endorsements

The Minister may cancel or suspend an endorsement if:

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the holder of the endorsed licence has, in the opinion of the Minister, contravened a condition of the endorsement, or
- (c) the holder of the endorsed licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the holder of the endorsed licence, or if the holder of the endorsed licence is a nominated fisher, the owner of the fishing business who nominated the fisher, ceases to be entitled to the endorsement (see clause 212Y).

Division 2B Ocean trap and line restricted fishery

191A Definitions

In this Division:

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take fish for sale in the restricted fishery.

nominated fisher means a person nominated in accordance with clause 212X to take fish for sale in the restricted fishery.

ocean trap and line fishery means the fishery described in clause 191C.

restricted fishery means the restricted fishery declared under this Division.

191B Ocean trap and line fishery is a restricted fishery

For the purposes of section 111 of the Act, the ocean trap and line fishery is declared to be a restricted fishery.

191C Description of ocean trap and line fishery

The ocean trap and line fishery consists of the following:

- (a) the use of a fish trap to take fish from ocean waters,
- (b) the use of a line with hooks attached to take fish from ocean waters,
- (c) the use of a spanner crab net to take spanner crab from ocean waters that are north of a line drawn due east from Korogoro Point (Hat Head).

Note. The use of a spanner crab net in waters south of Korogoro Point (Hat Head) is prohibited under clause 46.

191D Types of endorsement in restricted fishery

(1) The following classes of endorsement are available in the restricted fishery:

- **Demersal fish trap endorsement.** This endorsement authorises the holder to use a fish trap to take fish for sale from ocean waters.
- **Line fishing (western zone) endorsement.** This endorsement authorises the holder to use a line to take fish for sale from ocean waters that are less than 183 metres in depth. The endorsement does not authorise the holder to take school or gummy shark from waters that are south of a line drawn due east from the northern point of the entrance to Moruya River.
- **Line fishing (eastern zone) endorsement.** This endorsement authorises the holder to use a line to take fish for sale from ocean waters that are not less than 183 metres in depth. The endorsement does not authorise the holder to take school or gummy shark from waters that are south of a line drawn due east from the northern point of the entrance to Moruya River.
- **School and gummy shark endorsement.** This endorsement authorises the holder to take school and gummy shark for sale from waters that are south of a line drawn due east from the northern point of the entrance to Moruya River.

- **Spanner crab (northern zone) endorsement.** This endorsement authorises the holder to use a spanner crab net to take spanner crab for sale from ocean waters that are north of a line drawn due east from the southern breakwall at Yamba.
- **Spanner crab (southern zone) endorsement.** This endorsement authorises the holder to use a spanner crab net to take spanner crab for sale from ocean waters that are south of a line drawn due east from the southern breakwall at Yamba.

(2) For the purpose of section 112 (2) of the Act, it is a condition of an endorsement that the holder of the endorsed licence does not take fish for sale in the restricted fishery except as authorised by the class or classes of endorsement on his or her commercial fishing licence.

Note. Additional classes of endorsement are provided for by Division 4B of this Part.

191E Eligibility for endorsement

- (1) **Demersal fish trap endorsement.** A person is eligible for a demersal fish trap endorsement if the Minister is satisfied that the person submitted to the Director at least 6 ocean waters catch returns in the years 1986 to 1990, and 4 ocean waters catch returns in the years 1991 to 1993, that indicate that fish were taken using a fish trap of a kind known as a bottom or demersal fish trap.
- (2) **Line fishing (western zone) endorsement.** A person is eligible for a line fishing (western zone) endorsement if the Minister is satisfied that the person submitted to the Director at least 6 ocean waters catch returns in the years 1986 to 1990, and 4 ocean waters catch returns in the years 1991 to 1993, that indicate that fish were taken by the method of line fishing.
- (3) **Line fishing (eastern zone) endorsement.** A person is eligible for a line fishing (eastern zone) endorsement if the Minister is satisfied that:
 - (a) the person owns a fishing boat and the fishing boat licence for the boat has an endorsement from the Director known as an "OG1" authorisation (relating to use of the boat in offshore waters), and
 - (b) the person submitted to the Director at least 4 ocean waters catch returns in the years 1986 to 1990, and 2 ocean waters catch returns in the years 1991 to 1993, each of which indicate that at least 2 of the following species of fish were taken by line methods:
 - blue-eye trevalla
 - hapuku
 - ling
 - bass groper
 - gemfish.
- (4) **School and gummy shark endorsement.** A person is eligible for a school and gummy shark endorsement if the Minister is satisfied that, on the basis of ocean waters catch returns submitted to the Director by the person, the person took a total of not less than 200 kilograms of school or gummy shark (or a combination of the two) in the years 1986 to 1990 and not less than 100 kilograms of school or gummy shark (or a combination of the two) in the years 1991 to 1993.
- (5) **Spanner crab (northern zone) endorsement.** A person is eligible for a spanner crab (northern zone) endorsement if the Minister is satisfied that:
 - (a) on the basis of ocean waters catch returns submitted to the Director by the person, the person took a total of not less than 1,200 kilograms of spanner crab in the years 1986 to 1990 from an area designated on the return as zone 1 or 2 using a spanner crab net, or
 - (b) the person holds a permit issued under the Act that authorised the holder to take spanner crab for sale from ocean waters north of a line drawn due east from the southern breakwall at Yamba.
- (6) **Spanner crab (southern zone) endorsement.** A person is eligible for a spanner crab (southern zone) endorsement if the Minister is satisfied that:

- (a) the person submitted to the Director at least 3 ocean waters catch returns in the years 1986 to 1993 that indicate that spanner crab were taken from an area designated on the return as zone 2 or 3 using a spanner crab net, and
 - (b) the person holds a permit issued under the Act that authorised the holder to take spanner crab for sale from ocean waters south of a line drawn due east from the southern breakwall at Yamba.
- (7) A person is not eligible for both a spanner crab (northern zone) endorsement and a spanner crab (southern zone) endorsement.
- (8) If the Minister is satisfied that the catch history associated with a fishing business satisfies any of the eligibility criteria set out in this clause, the owner of the fishing business is taken to have satisfied that criteria, even if the owner did not personally take the fish for sale or submit any catch returns to the Director. In such a case, however, the person who actually took the fish for sale and submitted the returns (for example, while working as an employee of the fishing business) does not, by having done so, satisfy the criteria.
- (9) In determining a person's eligibility for an endorsement, the Minister may have regard to the records kept by the Director (including licence records and records of fish taken by a commercial fisher).
- (10) The catch history associated with a fishing business is to be determined in accordance with clause 135 (3).
- (11) In this clause:
ocean waters catch return means a return under section 42 of the 1935 Act that relates to takings of fish in ocean waters.

191F Application for endorsement

- (1) An application for an endorsement is to be in a form approved by the Director.
- (2) The application is to be accompanied by a fee of \$31.
- (3) The Minister may endorse the commercial fishing licence of a person who satisfies the eligibility requirements for an endorsement or who is the nominated fisher of a person who satisfies the eligibility requirements for an endorsement.
- (4) The Minister may refuse to endorse the commercial fishing licence of a person if the person:
 - (a) has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (c) has not paid any fee due and payable in connection with the endorsement.
- (5) The Minister may endorse the commercial fishing licence of a person who applied for an endorsement before the commencement of the restricted fishery if the person is otherwise eligible for the endorsement.

191G Duration of endorsement

An endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

191H Application for endorsement for further period

- (1) The holder of an endorsed licence (being an endorsement that is in force at the time of application) may apply to the Minister for an endorsement for a further period.
- (2) The application is to be in a form approved by the Director.
- (3) The Minister may endorse the applicant's commercial fishing licence for such further period as the Minister determines or refuse the application.
- (4) The Minister may refuse an application only if:
 - (a) the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) the applicant has, in the opinion of the Minister, contravened a condition of the endorsement, or
 - (c) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or

- (d) the applicant, or if the applicant is a nominated fisher, the owner of the fishing business who nominated the fisher, has ceased to be entitled to the endorsement (see clause 212Y), or
 - (e) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement, or
 - (f) the applicant has not paid any fee due and payable in connection with the endorsement.
- (5) If application is duly made for the endorsement of a commercial fishing licence for a further period and the licence is not so endorsed before the expiration of the current endorsement:
- (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
 - (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.

191I Cancellation and suspension of endorsements

The Minister may cancel or suspend an endorsement if:

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the holder of the endorsed licence has, in the opinion of the Minister, contravened a condition of the endorsement, or
- (c) the holder of the endorsed licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the holder of the endorsed licence, or if the holder of the endorsed licence is a nominated fisher, the owner of the fishing business who nominated the holder of the endorsed licence, ceases to be entitled to the endorsement (see clause 212Y).

Division 2C Estuary general restricted fishery

191J Definitions

In this Division:

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take fish for sale in the restricted fishery.

estuary general fishery means the fishery described in clause 191L.

hand picking, of fish, means any method of taking fish by hand (whether or not while wearing a glove) including taking fish by hand while diving or while using an instrument referred to in clause 73.

nominated fisher means a person nominated in accordance with clause 212X to take fish for sale in the restricted fishery.

restricted fishery means the restricted fishery declared under this Division.

191K Estuary general fishery is a restricted fishery

For the purposes of section 111 of the Act, the estuary general fishery is declared to be a restricted fishery.

191L Description of estuary general fishery

The estuary general fishery consists of:

- (a) the taking of fish from estuarine waters by any lawful method other than prawn trawling, and
- (b) the taking of fish from ocean beaches by the method of hand picking.

191M Types of endorsement in restricted fishery

(1) The following classes of endorsement are available in the restricted fishery:

- **Hand lining and hauling crew endorsement.** This endorsement authorises the holder to take fish for sale from estuarine waters using a hand line or by assisting another commercial fisher who holds a category one or category two hauling endorsement and is acting as authorised by that endorsement.

- **Meshing endorsement.** This endorsement authorises the holder to take fish for sale from estuarine waters using any of the following nets:
meshing net
flathead net.
- **Prawning endorsement.** This endorsement authorises the holder to take prawns for sale from estuarine waters using any of the following nets:
prawn net (hauling)
prawn net (set pocket)
prawn running net
seine net (prawns)
hand-hauled prawn net
push or scissors net (prawns)
dip or scoop net (prawns).
- **Trapping endorsement.** This endorsement authorises the holder to take fish (other than eels and mud crabs) for sale from estuarine waters using any of the following nets and traps:
fish trap
hoop or lift net.
- **Eel trapping endorsement.** This endorsement authorises the holder to use an eel trap to take eels for sale from estuarine waters.
- **Mud crab trapping endorsement.** This endorsement authorises the holder to use a crab trap to take mud crabs for sale from estuarine waters.
- **Hand gathering endorsement.** This endorsement authorises the holder to take beach worm, pipi, cockle, yabby and mussel for sale from estuarine waters and ocean beaches by the method of hand picking.
- **Category one hauling endorsement.** This endorsement authorises the holder to take fish for sale from estuarine waters using any of the following nets:
Hauling net (general purpose)
Trumpeter whiting net (hauling)
Pilchard, anchovy and bait net (hauling)
Garfish net (hauling)
Garfish net (bullringing)
Bait net
Lampara net.
- **Category two hauling endorsement.** This endorsement authorises the holder to take fish for sale from estuarine waters using any of the following nets:
Garfish net (hauling)
Garfish net (bullringing)
Bait net
Lampara net.

(2)An endorsement may specify a particular region or regions, determined by the Minister, in which the endorsement holder is authorised to take fish for sale by his or her endorsement.

(3)For the purpose of section 112 (2) of the Act, it is a condition of an endorsement that the holder of the endorsed licence does not take fish for sale in the restricted fishery except as authorised by the class or classes of endorsement on his or her commercial fishing licence.

Note. Additional classes of endorsement are provided for by Division 4B of this Part.

191N Eligibility for endorsement

(1)**General requirements.** The general requirements for an endorsement are that the person:

- (a) owns a licensed fishing boat that is suitable for use in the restricted fishery, and

- (b) has submitted to the Director at least 12 estuary waters catch returns in any 4 years (not necessarily consecutive) from 1986 to 1993, and at least one of those returns relates to a month prior to January 1991.
- (2)**Hand lining and hauling crew endorsement.** A person is eligible for a hand lining and hauling crew endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
 - (b) the person holds a commercial fishing licence that is not subject to a condition known as a "beach worm only" condition.
- (3)**Meshing endorsement.** A person is eligible for a meshing endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
 - (b) the person submitted to the Director at least 8 estuary waters catch returns in the years 1986 to 1993 that indicate that fish were taken from estuarine waters using a meshing net or a flathead net and at least one of those returns relates to a month prior to January 1991.
- (4)**Prawning endorsement.** A person is eligible for a prawning endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
 - (b) the person submitted to the Director at least 8 estuary waters catch returns in the years 1986 to 1993 that indicate that prawns were taken by methods other than prawn trawling and at least one of those returns relates to a month prior to January 1991.
- (5)**Trapping endorsement.** A person is eligible for a trapping endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
 - (b) the person submitted to the Director at least 8 estuary waters catch returns in the years 1986 to 1993 that indicate that fish (other than eels and mud crabs) were taken using a fish trap or a hoop or lift net and at least one of those returns is for a month prior to January 1991.
- (6)**Eel trapping endorsement.** A person is eligible for an eel trapping endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
 - (b) the person submitted to the Director at least 5 estuary waters catch returns in the years 1986 to 1993 that indicate that eels were taken using an eel trap.
- (7)**Mud crab trapping endorsement.** A person is eligible for a mud crab trapping endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
 - (b) the person submitted to the Director a total of at least 8 estuary waters catch returns in the years 1986 to 1993 that indicate that mud crab were taken by the method of trapping and at least one of those returns relates to a month prior to January 1991.
- (8)**Hand gathering endorsement.** A person is eligible for a hand gathering endorsement if the Minister is satisfied that:
- (a) the person holds a commercial fishing licence that is subject to a condition known as a "beach worm only" condition, or
 - (b) the person fulfils the general requirements for an endorsement and submitted to the Director at least 8 ocean waters or estuary waters catch returns in the years 1986 to 1993 that indicate a catch of beach worm, pipi, cockle, yabby or mussel and at least one of those returns relates to a month prior to January 1991.

Any ocean waters or estuary waters catch return that records cockle as catch and prawn trawling as the only catch method is not to be counted toward the criteria set out in paragraph (b).

- (9)**Category one hauling endorsement.** A person is eligible for a category one hauling endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and

- (b) at least 10 estuary waters catch returns have been submitted to the Director in the person's name or listing the person as a crew member in the years 1986 to 1990 that indicate that fish were taken by the method of hauling.
- (10) **Category two hauling endorsement.** A person is eligible for a category two hauling endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
 - (b) the person submitted to the Director at least 8 estuary waters catch returns in the years 1986 to 1993 that indicate that fish were taken by the method of hauling and at least one of those returns relates to a month prior to January 1991.
- (11) If the Minister is satisfied that the catch history associated with a fishing business satisfies any of the eligibility criteria set out in the clause, the owner of the fishing business is taken to have satisfied the criteria, even if the owner did not personally take the fish for sale or submit any catch returns to the Director. In such a case, however, the person who actually took the fish for sale or submitted the returns (for example, while working as an employee of the fishing business) does not, by having done so, satisfy that criteria.
- (12) In determining a person's eligibility for an endorsement, the Minister may have regard to the records kept by the Director (including records of net registration, licence records and records of fish taken by a commercial fisher).
- (13) The catch history associated with a fishing business is to be determined in accordance with clause 135 (3).
- (14) In this clause:
- estuary waters catch return* means a return under section 42 of the 1935 Act that relates to takings of fish in estuarine waters.
 - ocean waters catch return* means a return under section 42 of the 1935 Act that relates to takings of fish in ocean waters.

191O Application for endorsement

- (1) An application for an endorsement is to be in a form approved by the Director.
- (2) The application is to be accompanied by a fee of \$30.
- (3) The Minister may endorse the commercial fishing licence of a person who satisfies the eligibility requirements for an endorsement or who is the nominated fisher of a person who satisfies the eligibility requirements for an endorsement.
- (4) The Minister may refuse to endorse the commercial fishing licence of a person if the person:
 - (a) has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (c) has not paid any fee due and payable in connection with the endorsement.
- (5) The Minister may endorse the commercial fishing licence of a person who applied for an endorsement before the commencement of the restricted fishery if the person is otherwise eligible for the endorsement.

191P Duration of endorsement

An endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

191Q Application for endorsement for further period

- (1) The holder of a commercial fishing licence that has an endorsement that is in force (a *current endorsement*) may apply to the Minister for an endorsement for a further period.
- (2) The application is to be in a form approved by the Director.
- (3) The Minister may endorse the applicant's commercial fishing licence for such further period as the Minister determines or refuse the application.
- (4) The Minister may refuse an application only if:
 - (a) the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or

- (b) the applicant has, in the opinion of the Minister, contravened a condition of the endorsement, or
 - (c) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (d) the applicant, or if the applicant is a nominated fisher, the owner of the fishing business who nominated the fisher, has ceased to be entitled to the endorsement (see clause 212Y), or
 - (e) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement, or
 - (f) the applicant has not paid any fee due and payable in connection with the endorsement.
- (5) If application is duly made for the endorsement of a commercial fishing licence for a further period and the licence is not so endorsed before the expiration of the current endorsement:
- (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
 - (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.

191R Cancellation and suspension of endorsements

The Minister may cancel or suspend an endorsement if:

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the holder of the endorsed licence has, in the opinion of the Minister, contravened a condition of the endorsement, or
- (c) the holder of the endorsed licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the holder of the endorsed licence, or if the holder of the endorsed licence is a nominated fisher, the owner of the fishing business who nominated the holder of the endorsed licence, ceases to be entitled to the endorsement (see clause 212Y).

Division 2D Estuary prawn trawl restricted fishery

191S Definitions

In this Division:

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take fish for sale in the restricted fishery.

estuary prawn trawl fishery means the fishery described in clause 191U.

nominated fisher means a person nominated in accordance with clause 212X to take fish for sale in the restricted fishery.

restricted fishery means the restricted fishery declared under this Division.

191T Estuary prawn trawl fishery is a restricted fishery

For the purposes of section 111 of the Act, the estuary prawn trawl fishery is declared to be a restricted fishery.

191U Description of estuary prawn trawl fishery

The estuary prawn trawl fishery consists of the use of an otter trawl net (prawns) to take prawns from estuarine waters.

191V Eligibility for endorsement

- (1) A person is eligible for an endorsement if the Minister is satisfied that the person owns a licensed fishing boat, or is the holder of a licence for a fishing boat that is in abeyance (under clause 149), and the licence for the boat had, at 31 December 1996, any of the following endorsements from the Director:

- (a) an endorsement known as ``S1 Botany Bay Prawn Trawl'',
- (b) an endorsement known as ``S2 Port Jackson Prawn Trawl'',
- (c) an endorsement known as ``S3 Hawkesbury River Prawn Trawl'',

- (d) an endorsement known as "S4 Hunter River Prawn Trawl",
 - (e) an endorsement known as "S5 Clarence River Prawn Trawl",
 - (f) an endorsement known as "S6 Lake Woollooweyah Prawn Trawl".
- (2) In determining a person's eligibility for an endorsement, the Minister may have regard to the records kept by the Director (including licence records).

191W Application for endorsement

- (1) An application for an endorsement is to be in a form approved by the Director.
- (2) The application is to be accompanied by a fee of \$30.
- (3) The Minister may endorse the commercial fishing licence of a person who satisfies the eligibility requirements for an endorsement or who is the nominated fisher of a person who satisfies the eligibility requirements for the endorsement.
- (4) The Minister may refuse to endorse the commercial fishing licence of a person if the person:
 - (a) has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (c) has not paid any fee due and payable in connection with the endorsement.
- (5) The Minister may endorse the commercial fishing licence of a person who applied for an endorsement before the commencement of the restricted fishery if the person is otherwise eligible for the endorsement.

191X Duration of endorsement

An endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

191Y Application for endorsement for further period

- (1) The holder of a commercial fishing licence that has an endorsement that is in force (a *current endorsement*) may apply to the Minister for an endorsement for a further period.
- (2) The application is to be in a form approved by the Director.
- (3) The Minister may endorse the applicant's commercial fishing licence for such further period as the Minister determines or refuse the application.
- (4) The Minister may refuse an application only if:
 - (a) the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) the applicant has, in the opinion of the Minister, contravened a condition of the endorsement, or
 - (c) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (d) the applicant, or if the applicant is a nominated fisher, the owner of the fishing business who nominated the fisher, has ceased to be entitled to the endorsement (see clause 212Y), or
 - (e) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement, or
 - (f) the applicant has not paid any fee due and payable in connection with the endorsement.
- (5) If application is duly made for the endorsement of a commercial fishing licence for a further period and the licence is not so endorsed before the expiration of the current endorsement:
 - (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
 - (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.

191Z Cancellation and suspension of endorsements

The Minister may cancel or suspend an endorsement if:

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or

- (b) the holder of the endorsed licence has, in the opinion of the Minister, contravened a condition of the endorsement, or
- (c) the holder of the endorsed licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the holder of the endorsed licence, or if the holder of the endorsed licence is a nominated fisher, the owner of the fishing business who nominated the holder of the endorsed licence, ceases to be entitled to the endorsement (see clause 212Y).

Division 3 Scallops in Jervis Bay

192 Definitions

In this Division:

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take scallops for sale in the restricted fishery.

restricted fishery means the restricted fishery declared under this Division.

scallop means scallop (*Pecten fumatus*).

Note. Clause 10 of Schedule 7 to the Act provides that a restricted fishery permit issued under section 22A of the 1935 Act (as in force before the commencement of this Regulation) that was in force immediately before the repeal of that section is taken to be an endorsement on the commercial fishing licence of the holder of the permit. As a result, the holder of an existing permit automatically becomes the holder of an endorsed licence and is not required to apply for a new endorsement under this Regulation.

193 Scallops in Jervis Bay are a restricted fishery

For the purposes of section 111 of the Act, scallops in Jervis Bay (being the whole of the waters of Jervis Bay together with its creeks, tributaries and inlets, generally westerly from a line drawn between the eastern point of Point Perpendicular southwesterly to the most northerly point of Bowen Island) are declared to be a restricted fishery until 30 June 1995.

194 Application of Division

This Division has effect during any period scallops in Jervis Bay are a restricted fishery.

195 Maximum number of commercial fishing licences that may be endorsed

The maximum number of commercial fishing licences that may be endorsed in respect of the restricted fishery is 6.

196 Ballot for issue of new endorsements

- (1) If at any time the Minister is satisfied that more commercial fishing licences may be endorsed, having regard to the maximum number of commercial fishing licences that may be endorsed in respect of the restricted fishery, the Minister may, by public notice, invite applications to participate in a ballot to be conducted for the number of endorsements available.
- (2) A ballot conducted under subclause (1) is subject to such conditions as may be determined by the Minister.
- (3) If the number of applications received by the Minister does not exceed the number of endorsements available, the Minister may, subject to clause 195, endorse the licences of all applicants.
- (4) If the number of applications received by the Minister exceeds the number of endorsements available, the Minister is to conduct a ballot, in such manner as the Minister considers appropriate, to determine the order of allocation of endorsements. All names entered in the ballot are to be drawn and the order of their drawing recorded.
- (5) The Minister may, subject to clause 195, endorse the commercial fishing licences of the applicants in the order in which their names were drawn in the ballot until the number of endorsements available is exhausted.

197 Fee for new endorsements

- (1) The Minister is not to endorse a licence unless:
 - (a) the applicant has paid a fee for the endorsement of \$5,200 or such lesser amount as the Minister determines and the Director notifies in writing to all applicants to whom endorsements are to be given, or
 - (b) the Director has approved the payment of that fee by instalments and the applicant has paid the first instalment specified by the Director.
- (2) If the fee, or first instalment, for an endorsement is not paid by a successful applicant in accordance with this clause, the Minister may endorse the commercial fishing licence of another applicant in accordance with clause 196.

198 (Repealed)

199 Duration of endorsement

An endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

200 Cancellation and suspension of endorsements

The Minister may suspend or cancel an endorsement if the holder of the commercial fishing licence to which the endorsement is attached has, in the opinion of the Minister, breached a condition of the endorsement.

Division 3A Inland restricted fishery

200A Definitions

In this Division:

carp means all species of carp, including goldfish, and any other species of finfish not indigenous to inland waters of New South Wales, such as redfin perch (*Perca fluviatilis*).

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take fish for sale in the restricted fishery.

native finfish means any species of finfish indigenous to inland waters in New South Wales, such as Murray cod (*Maccullochella peelii*), golden perch (*Macquaria ambigua*) and bony herring (*Nematalosa erebi*), and excludes carp.

restricted fishery means the restricted fishery declared under this Division.

yabby means a fish of the species *Cherax destructor*.

200B Inland fishery is a restricted fishery

- (1) For the purposes of section 111 of the Act, the inland fishery is declared to be a restricted fishery.
- (2) The inland fishery comprises the following:
 - (a) the taking of yabbies for sale from inland waters,
 - (b) the taking of carp for sale from inland waters,
 - (c) the taking of native finfish for sale from inland waters.
- (3) The taking of native finfish for sale from inland waters ceases to be part of the inland fishery on 1 September 2001 and, accordingly, ceases to be part of the restricted fishery on that date.

Note. Native finfish are currently the subject of a fishing closure order under section 8 of the Act (see Government Gazette No 158 of 6 November 1998, at page 8703). The order prohibits the taking of freshwater native finfish from non-tidal waters by all methods and takes effect on 1 September 2001.

- (4) The restricted fishery may be referred to in this Regulation as the inland restricted fishery.

200C Types of endorsement in restricted fishery

The following classes of endorsement are available in the restricted fishery:

- **Class A: Yabby and carp endorsement (transferable).** This endorsement authorises the holder to take yabbies and carp for sale from inland waters and is transferable in accordance with clause 200L.
- **Class B: Carp endorsement (transferable).** This endorsement authorises the holder to take carp for sale from inland waters and is transferable in accordance with clause 200L.

- **Class C: Yabby and carp endorsement (non-transferable).** This endorsement authorises the holder to take yabbies and carp for sale from inland waters, but not from inland waters that are closed to commercial fishing by an order in force under section 8 of the Act (whether made before or after the commencement of this Division). This endorsement is not transferable.
- **Class D: Carp endorsement (non-transferable).** This endorsement authorises the holder to take carp for sale from inland waters as specified in the endorsement. This endorsement is not transferable.
- **Class E: Native finfish endorsement (non-transferable).** This endorsement authorises the holder to take native finfish for sale from inland waters and is not transferable. This endorsement is not available after 31 August 2001.

Note. All class E endorsements are cancelled on 1 September 2001.

200D Eligibility for endorsement

- (1) A person is eligible for a class A endorsement if:
 - (a) the Minister is satisfied that, immediately before the commencement of this Division, the person held a commercial fishing licence that authorised the person to take fish for sale from inland waters and the licence was unrestricted, and
 - (b) the Minister is satisfied that the person's gross average annual income derived from commercial fishing activities is more than \$20,000 (calculated on the basis of the records held by the Director for the period from 1 January 1993 to 30 June 1997), and
 - (c) the person agrees to the cancellation of the person's class E endorsement (if such an endorsement is held by the person), with effect before the person is given a class A endorsement.
- (2) **Class B endorsement.** A person is eligible for a class B endorsement if the Minister is satisfied that the person is eligible for assistance under the scheme known as the Carp Production Incentive Scheme, conducted by NSW Fisheries, or is a member of a group that is eligible for assistance under that scheme.
- (3) **Class C endorsement.** A person is eligible for a class C endorsement if the Minister is satisfied that, immediately before the commencement of this Division, the person held a commercial fishing licence that authorised the person to take fish for sale from inland waters and the licence was unrestricted.
- (4) **Class D endorsement.** A person is eligible for a class D endorsement if the Minister is satisfied that, immediately before the commencement of this Division, the person held a commercial fishing licence or permit that authorised the person to take carp for sale from inland waters.
- (5) **Class E endorsement.** A person is eligible for a class E endorsement if the Minister is satisfied that, immediately before the commencement of this Division, the person held a commercial fishing licence that authorised the person to take native finfish for sale from inland waters and the licence was unrestricted.
- (6) **Persons who surrender their commercial fishing licences not eligible.** A person is not eligible for an endorsement under this clause if the person enters into an agreement (whether before or after the commencement of this clause) to surrender his or her commercial fishing licence to the Director.
- (7) **Closing date for applications under this clause.** A person is not eligible for an endorsement under this clause unless the person applies for an endorsement, in accordance with clause 200G (1), by 31 July 2001. However, failure to do so does not prevent the person from becoming eligible for an endorsement under clause 200E or 200EA or by means of a transfer of endorsement that is permitted by this Division.
- (8) In this clause:

unrestricted, in relation to a commercial fishing licence, means that the conditions of the licence do not prevent the person from taking any particular species of fish or require the person to take fish only while under supervision.

Note. This Division commenced on 26 February 1999.

200E Ballot or tender for issue of further endorsements

- (1) The Minister may, at any time after considering the status of stock levels in the restricted fishery:
 - (a) conduct a ballot for the issue of further class A or class B endorsements in the restricted fishery (or both), or
 - (b) call for public tenders for the issue of further class A or class B endorsements in the restricted fishery (or both).
- (2) Notice of the ballot or public tender is to be published in the Gazette.
- (3) The conditions of the ballot or public tender are to be determined by the Minister and published in the Gazette notice.
- (4) A person is eligible for an endorsement in the restricted fishery if the person is successful in such a ballot or is a successful tenderer.

200EA Class D endorsement—special grounds for eligibility

A person is eligible for a class D endorsement if:

- (a) the person prepares and submits a business strategy that sets out the carp fishing operations proposed to be undertaken by the person, and
- (b) the Director is satisfied that:
 - (i) the person has experience with commercial fishing equipment, and
 - (ii) the person is able to take carp in commercial quantities, and
 - (iii) the person has an adequate strategy to minimise the accidental taking of species of fish other than carp, and
 - (iv) the carp fishing operations proposed to be undertaken by the person are commercially viable and environmentally sustainable, and
 - (v) the person satisfies the requirements of any licensing guidelines issued by the Director from time to time.

200F General restrictions on eligibility

- (1) Despite anything to the contrary in this Division, a person is not eligible for, and may not hold:
 - (a) both a class A and a class B endorsement, or
 - (b) both a class C and a class D endorsement, or
 - (c) both a transferable endorsement (ie a class A or class B endorsement) and a non-transferable endorsement (ie a class C, class D or class E endorsement), except as provided by subclause (1A).
- (1A) A member of a group that is eligible for a class B endorsement under clause 200D (2) is eligible for, and may hold, a class B endorsement, even if the person holds a class C or class E endorsement.
- (1B) A person who at any stage holds a class A endorsement is not eligible for a class C or class E endorsement (even if the person ceases to hold a class A endorsement).
- (2) A person is not eligible for an endorsement unless the person is a natural person.

Note. Section 103 (1) of the Act prevents corporations from holding commercial fishing licences.
- (3) Division 4C of this Part does not apply in respect of the restricted fishery.

200G Applications for endorsement

- (1) An application for an endorsement is to be made to the Minister in a form approved by the Director.
- (2) The Minister may endorse the commercial fishing licence of a person only if the person satisfies the eligibility requirements for an endorsement.
- (3) The Minister may refuse to endorse the commercial fishing licence of a person who is otherwise eligible if the person:
 - (a) has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand, or

- (b) has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (c) has not paid any fee due and payable in connection with the endorsement.

200H Endorsement of licence for further period

- (1) The holder of a commercial fishing licence that has an endorsement that is in force (*current endorsement*) may apply to the Minister for an endorsement for a further period.
- (2) The application is to be in a form approved by the Director.
- (3) The Minister may endorse the applicant's commercial fishing licence for such further period as the Minister determines or refuse the application.
- (4) The Minister may refuse an application only if:
 - (a) the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand, or
 - (b) the applicant has, in the opinion of the Minister, contravened a condition of the endorsement or a condition of his or her commercial fishing licence, or
 - (c) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (d) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement, or
 - (e) the applicant has not paid any fee due and payable in connection with the endorsement, or
 - (f) in the case of an application relating to a class B endorsement, the applicant has, in the opinion of the Minister:
 - (i) failed to comply with any agreement relating to the taking of carp that the holder made with the Director or with NSW Fisheries, or
 - (ii) not attempted to take carp for a period of 12 months, or
 - (f1) in the case of an application relating to a class D endorsement, the applicant has, in the opinion of the Minister, not attempted to take carp for a period of 12 months, or
 - (g) the applicant is no longer eligible for the endorsement.
- (5) If application is duly made for the endorsement of a commercial fishing licence for a further period and the licence is not so endorsed before the expiration of the current endorsement:
 - (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
 - (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.
- (6) A commercial fishing licence cannot be endorsed with a class E endorsement for any period that extends beyond 31 August 2001 and, despite subclause (5), a class E endorsement does not continue in force after that day.

200I Endorsement fees

- (1) The following fees are payable for an endorsement in the restricted fishery:
 - (a) in the case of a class A endorsement—\$2,080,
 - (b) in the case of a class B endorsement—\$260,
 - (c) in the case of a class C endorsement—\$1,040,
 - (d) in the case of a class D endorsement—\$260,
 - (e) in the case of a class E endorsement—\$1,040.
- (2) The fee is payable in respect of each period, or further period, of 12 months in respect of which the endorsement is given.
- (3) If the endorsement is given for a period of less than 12 months, the fee payable is an appropriate proportion of the fee referred to in subclause (1) (that is, the proportion that the period for which the licence is endorsed bears to the period of 12 months).
- (4) The fee is to be paid before the endorsement is given.
- (5), (6) (Repealed)

200J Duration of endorsement

- (1) An endorsement takes effect from the date it is given and remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension and unless it is sooner cancelled.
- (2) All class E endorsements are taken to be cancelled on 1 September 2001, unless sooner cancelled.

200K Cancellation and suspension of endorsements

The Minister may cancel or suspend an endorsement if:

- (a) the endorsement holder has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand, or
- (b) the endorsement holder has, in the opinion of the Minister, contravened a condition of the endorsement or of his or her commercial fishing licence, or
- (c) the endorsement holder has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) in the case of a class B endorsement, the endorsement holder has, in the opinion of the Minister:
 - (i) failed to comply with any agreement relating to the taking of carp that the holder made with the Director or with NSW Fisheries, or
 - (ii) not attempted to take carp for a period of 12 months, or
- (d1) in the case of a class D endorsement, the endorsement holder has, in the opinion of the Minister, not attempted to take carp for a period of 12 months, or
- (e) the endorsement holder ceases to be eligible for the endorsement.

200L Transfer of class A and class B endorsements

- (1) The holder of a commercial fishing licence with a class A or class B endorsement may transfer that endorsement to another person (being a natural person), but only with the approval of the Director.
- (2) An application for the Director's approval is to be made to the Director in a form approved by the Director.
- (3) The Director may refuse to approve the transfer if:
 - (a) the person to whom the endorsement is to be transferred has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand, or
 - (b) the person to whom the endorsement is to be transferred has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (c) the person to whom the endorsement is to be transferred already holds a class A or class B endorsement in the restricted fishery, or
 - (d) the person to whom the endorsement is to be transferred already holds a non-transferable endorsement in the restricted fishery, unless the person agrees to the cancellation of all non-transferable endorsements held by the person, or
 - (e) the transfer does not comply with any guidelines relating to the transfer of endorsements that are from time to time approved by the Director.
- (4) If the transfer of an endorsement is approved, the person transferring the endorsement ceases to be eligible for the endorsement and the person to whom the endorsement is transferred becomes eligible for the endorsement.
- (5) If the person to whom the endorsement is to be transferred already holds a non-transferable endorsement, the person ceases to be eligible for the non-transferable endorsement.
- (6) An endorsement that is suspended or cancelled is not transferable under this clause.

(7) In this clause:

non-transferable endorsement means a class C, class D or class E endorsement.

200M Transfer fee

(1) The fee payable for an approval of a transfer of an endorsement is \$2,600.

(2) The fee is to be paid before the transfer is approved.

(3), (4) (Repealed)

200N Class A, B, C and D endorsement holders must not take or possess native finfish

(1) For the purpose of section 104 (4) (a) of the Act, it is a condition of a commercial fishing licence that is endorsed with a class A, class B, class C or class D endorsement that the holder of the endorsed licence does not:

(a) take native finfish for sale, or

(b) have native finfish in his or her possession for sale.

Note. Contravention of a condition of a commercial fishing licence is an offence under section 104 (7) of the Act and attracts a maximum penalty of 100 penalty units. Contravention of a licence condition is also grounds for cancellation or suspension of an endorsement.

Section 105 of the Act provides that the fact that a person holds a commercial fishing licence is evidence that fish taken by the person or in the person's possession were fish taken or in possession for sale.

(2) This clause does not apply in respect of the holder of a commercial fishing licence with a class E endorsement, but only while the class E endorsement is in force.

Note. All class E endorsements are cancelled on 1 September 2001.

200O Transitional arrangements

A person who, immediately before 26 February 1999, was authorised to take fish for sale from inland waters and who applied for an endorsement before 30 July 1999 is taken to be authorised to take fish for sale from inland waters, subject to any restrictions that had effect in respect of the person immediately before 26 February 1999, but only until:

(a) 30 November 1999, or

(b) the person is given an endorsement (of any class) in the restricted fishery, or

(c) the person's application for an endorsement is refused by the Minister, whichever happens first.

Division 4 Jellyfish

201 Definitions

In this Division:

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take jellyfish for sale in the restricted fishery.

jellyfish means jellyfish (*Catostylus mosaicus*).

quota means the maximum quantity of jellyfish that may be taken for sale by the holder of an endorsed licence during the period in which jellyfish are a restricted fishery.

restricted fishery means the restricted fishery declared under this Division.

total allowable catch means the maximum quantity of jellyfish that may be taken from the restricted fishery during the period in which jellyfish are a restricted fishery.

202 Jellyfish are a restricted fishery

(1) For the purposes of section 111 of the Act, jellyfish are declared to be a restricted fishery for 2 years from the commencement of this Regulation.

(2) The restricted fishery is a developmental fishery.

203 Application of Division

This Division has effect during any period that jellyfish are a restricted fishery.

204 Maximum number of commercial fishing licences that may be endorsed

The maximum number of commercial fishing licences that may be endorsed in respect of the restricted fishery is 100.

205 Total allowable catch for jellyfish

The maximum quantity of jellyfish that may be taken from the restricted fishery during the period in which jellyfish are a restricted fishery is 1,500 tonnes.

206 Endorsing of licences

- (1) The Minister may, by public notice, invite commercial fishers to apply for endorsements to their licences, having regard to the maximum number of commercial fishing licences that may be endorsed in respect of the restricted fishery.
- (2) The notice is to specify a period (*the application period*), commencing after the day the notice is published, in which the Minister will receive applications for endorsements.
- (3) An application for an endorsement is to be in writing.
- (4) If the number of applications received by the Minister in the application period does not exceed the number of endorsements available, the Minister may endorse the commercial fishing licences of all the applicants.
- (5) If the number of applications received by the Minister in the application period exceeds the number of endorsements available, the Minister may endorse the licences of the applicants in the order in which their applications were received by the Minister until the number of endorsements available is exhausted.
- (6) If at any time after the endorsing of commercial fishing licences in accordance with this clause the Minister is satisfied that more endorsements are available (having regard to the maximum number of licences that may be endorsed under this Division), the Minister may endorse the commercial fishing licences of any remaining applicants in the order referred to in subclause (5) or, if all applications for endorsement have been exhausted, by inviting further applications in accordance with this clause.

207 Grounds for refusal to endorse licence

The Minister may only refuse to endorse the commercial fishing licence of an applicant who is otherwise entitled to an endorsement under clause 206 if:

- (a) the applicant does not hold a current commercial fishing licence, or
- (b) the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (c) the applicant has been convicted of an offence relating to commercial fishing operations under the laws of the Commonwealth or of another State or Territory.

208 Fee for endorsements

- (1) The Minister is not to endorse a commercial fishing licence under clause 206 unless the applicant has paid a fee of \$208 for the endorsement.
- (2) If the fee for an endorsement is not paid by a successful applicant within the time required by the Minister, the Minister may endorse the commercial fishing licence of another applicant in accordance with that clause.

209 Duration of endorsement

An endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

210 Cancellation and suspension of endorsements

The Minister may suspend or cancel an endorsement if:

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the holder of the endorsed licence has been convicted of an offence relating to commercial fishing operations under the laws of the Commonwealth or of another State or Territory, or
- (c) the holder of the endorsed licence has, in the opinion of the Minister, taken the whole of his or her quota, or
- (d) the holder of the endorsed licence has, in the opinion of the Minister, breached a condition to which the endorsement is subject.

211 Application for endorsement of licence for a further period

- (1) The holder of an endorsed licence (a ***current endorsement***) may apply in writing to the Minister for an endorsement for a further period.
- (2) The Minister may endorse the applicant's commercial fishing licence for such further period as the Minister determines or refuse the application.
- (3) The Minister may only refuse the application if:
 - (a) the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) the applicant has been convicted of an offence relating to commercial fishing operations under the laws of the Commonwealth or of another State or Territory, or
 - (c) the applicant has, in the opinion of the Minister, breached a condition to which the endorsement on his or her commercial fishing licence is subject, or
 - (d) the application for endorsement of the licence for a further period is received by the Minister after the expiration of the current endorsement.
- (4) If application is duly made for endorsement of a licence for a further period and the licence is not endorsed for a further period before the expiration of the current endorsement:
 - (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
 - (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.

212 Quota for jellyfish

- (1) For the purposes of section 112 (2) of the Act, it is a condition of an endorsement that the holder of the endorsed licence does not take more than 15 tonnes of jellyfish for sale from the restricted fishery during the period in which jellyfish is a restricted fishery.
- (2) The holder of an endorsed licence may apply in writing to the Director (jointly with the holder of another endorsed licence) for approval of the transfer of the quota or a specified part of the quota.
- (3) The Director may approve, or refuse to approve, such a transfer.
- (4) If the transfer is approved the conditions of each endorsed licence concerned are taken to be amended in accordance with the transfer, with effect from the date notice of the approval of the transfer is served on the holder of the endorsed licence concerned.

Division 4A Ocean hauling fishery

212A Definitions

In this Division:

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take fish for sale in the restricted fishery.

hauling net means any one or more of the following types of nets:

- (a) hauling net (general purpose),
- (b) garfish net (hauling),
- (c) garfish net (bullringing),
- (d) pilchard, anchovy and bait net (hauling).
- (e) (Repealed)

nominated fisher means a person nominated in accordance with clause 212X to take fish for sale in the restricted fishery.

ocean hauling fishery means the fishery described in clause 212C.

restricted fishery means the restricted fishery declared under this Division.

waters of the restricted fishery means the waters referred to in clause 212C (1).

212B Ocean hauling fishery is a restricted fishery

For the purposes of section 111 of the Act, the ocean hauling fishery is declared to be a restricted fishery.

212C Description of ocean hauling fishery

- (1) The ocean hauling fishery consists of the use of a hauling net or purse seine net to take fish for sale from any of the following waters:
- (a) ocean waters within 3 nautical miles of the natural coast line (as defined in Schedule 1),
 - (b) the waters of Jervis Bay,
 - (c) the waters of Botany Bay east of a line drawn from Bear Island generally southeast to the northernmost extremity of Sutherland Point,
 - (d) the waters of Coffs Harbour.
- (2) The ocean hauling fishery extends to the use of any net by the method of hauling to take fish for sale from any of the waters referred to in subclause (1).

212D Types of endorsement in restricted fishery

- (1) The following classes of endorsement are available in the restricted fishery:
- **Class A endorsement.** This endorsement authorises the holder to take fish for sale using one or more types of hauling net specified in the endorsement in a particular region of the restricted fishery. The holder may also use a hauling net while assisting another person who holds a licence with a class A endorsement that authorises the other person to use the net concerned in that region of the fishery.
 - **Class B endorsement.** This endorsement authorises the holder to take fish for sale using a hauling net in a particular region of the restricted fishery but only if the holder is assisting another person who holds a licence with a class A endorsement that authorises the other person to use the net concerned in that region of the fishery.
 - **Class C endorsement.** This endorsement authorises the holder to take fish for sale by use of a purse seine net from ocean waters within 3 nautical miles of the natural coast line (as defined in Schedule 1) and the waters of Jervis Bay.
 - **Class D endorsement.** This endorsement authorises the holder to take fish for sale (being fish of a species specified in the endorsement) by the use of a purse seine net from ocean waters that lie north of latitude 32° south within 3 miles of the natural coast line (as defined in Schedule 1).
- (2) For the purpose of section 112 (2) of the Act, it is a condition of an endorsement that the holder of the endorsed licence does not take fish for sale in the restricted fishery except as authorised by the class or classes of endorsement on his or her commercial fishing licence.

Note. Additional classes of endorsement are provided for by Division 4B of this Part.

212E Application for endorsement

- (1) An application for endorsement is to be in a form approved by the Director.
- (2) The application is to be accompanied by 2 identical passport sized photographs of the applicant and the appropriate application fee.
- (3) The application fee is:
- (a) in the case of an application for a class A endorsement—\$260, or
 - (b) in the case of an application for a class B endorsement—\$52, or
 - (c) in the case of an application for a class C endorsement—\$31 if the applicant is the holder of a class A endorsement or \$260 in any other case, or
 - (d) in the case of an application for a class D endorsement—\$31 if the applicant is the holder of a class A endorsement or \$260 in any other case.
- (4) The Minister may endorse the commercial fishing licence of a person who satisfies the eligibility requirements for the endorsement or who is the nominated fisher of a person who satisfies the eligibility requirements for the endorsement.
- (5) The Minister may refuse to endorse the commercial fishing licence of a person if the person:
- (a) has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or

- (c) has not paid any fee due and payable in connection with the endorsement.
- (6) The Minister may endorse the commercial fishing licence of a person who applied for an endorsement before the commencement of this Division if the applicant is otherwise eligible for the endorsement under this Division.

212F Eligibility for an endorsement

- (1) A person is eligible for a class A endorsement if:
 - (a) the person submitted at least one return under section 42 of the 1935 Act during a relevant year and, according to that return, the person caught mullet, bream, salmon, blackfish, pilchard or garfish using a hauling net and at the time had a fishing boat that was licensed to the person, and
 - (b) the Minister is satisfied that the person had a hauling net of the type in respect of which an endorsement is sought, which was registered in the name of the person, before 31 December 1990 and that the person currently has such a registered hauling net, and
 - (c) the Minister is satisfied that the person currently has a suitable boat for use in the ocean hauling fishery that is licensed to the person.
- (2) A person is eligible for a class B endorsement if the person demonstrates to the satisfaction of the Minister that the person has participated in the ocean hauling fishery at any time after 1 January 1986.
- (2A) A person is eligible for a class C endorsement if the Minister is satisfied that:
 - (a) the person owns a licensed fishing boat, and
 - (b) the person owns a purse seine net that was registered in the name of the person before 1 January 1991 and the net was used to take fish for sale in at least one of the years from 1991 to 1994, and
 - (c) the person has taken for sale at least 10 tonnes of pilchard, anchovy, whitebait, mackerel, yellowtail or Australian salmon, or at least 10 tonnes of any combination of those fish, in the years 1986 to 1990 (inclusive) using a purse seine net, and
 - (d) the person submitted at least 3 catch returns to the Director in the years from 1991 to 1994 that record purse seining as a catch method.
- (2B) A person is also eligible for a class C endorsement if the Minister is satisfied that:
 - (a) the person owns a fishing business that is a recognised fishing operation (within the meaning of clause 135), and
 - (b) the fishing business includes a purse seine net that was registered before 1 January 1991, and that was used to take fish for sale in at least one of the years from 1991 to 1994, and
 - (c) the catch history associated with the fishing business of the person (determined in accordance with clause 135) satisfies the criteria set out in subclause (2A) (c) and (d).
- (2C) A person is eligible for a class D endorsement if the Minister is satisfied that:
 - (a) the person owns a licensed fishing boat, and
 - (b) the person owns a purse seine net:
 - (i) that was registered in the person's name before 1 January 1991, and
 - (ii) that was used, in at least one of the years from 1991 to 1994 (inclusive), to take fish for sale, and
 - (c) the person has, in the years from 1986 to 1993 (inclusive), using a purse seine net, taken for sale:
 - (i) at least 10 tonnes of pilchard, anchovy, whitebait, mackerel, yellowtail or Australian salmon, or
 - (ii) at least 10 tonnes of any combination of those fish, from ocean waters that lie north of latitude 32° south within 3 miles of the natural coast line (as defined in Schedule 1), and
 - (d) the person submitted at least 3 catch returns to the Director in the years from 1991 to 1994 (inclusive) that record purse seining as a catch method, and

- (e) the person has, in the years from 1986 to 1990 (inclusive), using a purse seine net, taken for sale at least 2.5 tonnes of each species of fish for which the endorsement is sought from ocean waters that lie north of latitude 32° south within 3 miles of the natural coast line (as defined in Schedule 1).
- (2D) A person is also eligible for a class D endorsement if the Minister is satisfied that:
- (a) the person owns a fishing business that is a recognised fishing operation (within the meaning of clause 135), and
 - (b) the fishing business includes a purse seine net:
 - (i) that was registered in the person's name before 1 January 1991, and
 - (ii) that was used, in at least one of the years from 1991 to 1994 (inclusive), to take fish for sale, and
 - (c) the catch history associated with the fishing business of the person (determined in accordance with clause 135) satisfies the criteria set out in subclause (2C) (c), (d) and (e).
- (3) In determining a person's eligibility for an endorsement, the Minister may have regard to the following:
- (a) the records kept by the Director (including records of net registration, licence records and records of fish taken by a commercial fisher),
 - (b) a verified record of a commercial fishers' co-operative,
 - (c) a verified record relating to the income tax liability of a commercial fisher,
 - (d) a verified record of any fish processing company (whether a wholesaler or a retailer).
- (3A) The Minister may, for the purpose of determining a person's eligibility for an endorsement, require a net to be presented for inspection by officers of NSW Fisheries.
- (4) In this clause:
- (a) a reference to a relevant year is a reference to 1986, 1987, 1988, 1989 or 1990, and
 - (b) a reference to a verified record is a reference to an original record, or a copy of a record, audited by a registered company auditor (within the meaning of the *Corporations Act 2001* of the Commonwealth) or that forms part of a record audited by a registered company auditor.

212G Duration of endorsement

An endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

212H Type of hauling net that may be used (class A endorsement)

- (1) It is a condition of a class A endorsement that the holder of the endorsed licence does not take fish for sale by use of a hauling net from the waters of the restricted fishery unless the holder is authorised to use that type of hauling net by his or her endorsement.
- (2) The holder of the endorsed licence does not contravene this condition if the fisher is using the hauling net concerned while assisting, and in the presence of, another person who holds a commercial fishing licence with a class A endorsement that authorises that other person to use the hauling net.
- (3) In this clause, a reference to a hauling net includes any net used by the method of hauling.

212I Region in which hauling nets may be used (class A endorsement)

- (1) It is a condition of a class A endorsement that the holder of the endorsed licence does not take fish for sale by use of a hauling net from the waters of the restricted fishery except in a region of the fishery specified by the Minister in the endorsement.
- (2) The Minister is to specify the region which, in the opinion of the Minister, was the fisher's primary area of activity in the ocean hauling fishery in the years 1986 to 1990 inclusive (*the relevant years*). However, a different region may be specified if the Minister considers it appropriate in the circumstances, for example, because the fisher has changed his or her place of residence.
- (3) The region specified is to be an electoral region (unless subclause (4) or (5) applies).

(4)The region need not be an electoral region if the Minister is satisfied that the fisher's commercial fishing operations in the ocean hauling fishery in the relevant years were primarily conducted by ocean hauling to a boat and that, for the purpose of those operations, the fisher used any of the following types of hauling net:

- (a) garfish net (hauling),
- (b) garfish net (bullringing),
- (c) pilchard, anchovy and bait net (hauling).

(5)In addition, in special circumstances the Minister may specify a region that comprises parts of two or more electoral regions (for example, because the fisher concerned is resident in an area that is close to the boundary between two electoral regions).

(6)In this clause:

electoral region means a region of the ocean hauling restricted fishery (as defined in the notes to the Table to clause 231).

ocean hauling to a boat means the use of a hauling net on or from a boat to take fish by landing them on the boat.

212J Class B endorsement holder may only assist class A endorsement holder

It is a condition of a class B endorsement that the holder of the endorsed licence does not take fish for sale by use of a hauling net from the waters of the restricted fishery except:

- (a) in a region of the fishery specified by the Minister in the endorsement, and
- (b) while assisting, and in the presence of, a person who holds a commercial fishing licence with a class A endorsement that authorises that other person to use the hauling net concerned in that region of the fishery.

212K Identity card

It is a condition of an endorsement that the holder of the endorsed licence does not take fish for sale in the restricted fishery except while in possession of an identity card issued to the holder by the Director.

212L Code of conduct

It is a condition of an endorsement that the holder of the endorsed licence comply with the mandatory requirements of any code of conduct issued by the Director to the holder of the endorsed licence.

212M (Repealed)

212N Holder of class A, C or D endorsement unable to take fish

(1)The holder of a commercial fishing licence with a class A, class C or class D endorsement may apply in writing to the local fisheries officer for approval for another commercial fisher (who is authorised to take fish for sale in the same region of the restricted fishery as the applicant) to take the benefit of the authority conferred by the class A, class C or class D endorsement for a specified period.

(2)The local fisheries officer may, in writing, approve the application if the fisheries officer is satisfied that the applicant is, or is likely to be, unable to take fish for sale in the restricted fishery during the specified period.

(3)If the local fisheries officer approves the application, the person nominated by the applicant to take the benefit of the class A, class C or class D endorsement is taken to hold an endorsement of the kind held by the applicant during the period specified in the approval. During that period, the person nominated does not contravene the condition of his or her own endorsement referred to in clause 212D, 212H or 212J (as appropriate) if the person is acting as authorised by the class A, class C or class D endorsement.

Note. Clause 212P (b) makes contravention of the conditions of an endorsement by a person who is authorised to take the benefit of the endorsement grounds for cancellation or suspension of the endorsement.

212O Application for endorsement of licence for further period

(1)The holder of a commercial fishing licence to which an endorsement in force (a *current endorsement*) is attached may apply to the Minister for an endorsement for a further period.

(2)The application is to be in a form approved by the Director and is to be accompanied by the appropriate application fee.

- (3) The appropriate application fee is:
- (a) in the case of an application for a class A endorsement for a further period—\$260, or
 - (b) in the case of an application for a class B endorsement for a further period—\$52, or
 - (c) in the case of an application for a class C endorsement for a further period—\$31 if the applicant is the holder of a class A endorsement or \$260 in any other case, or
 - (d) in the case of an application for a class D endorsement for a further period—\$31 if the applicant is the holder of a class A endorsement or \$260 in any other case.
- (4) The Minister may endorse the applicant's commercial fishing licence for such further period as the Minister determines or refuse the application.
- (5) The Minister may only refuse such an application if:
- (a) the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) the applicant has, in the opinion of the Minister, contravened a condition of the endorsement, or
 - (c) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (c1) the applicant, or if the applicant is a nominated fisher, the owner of the fishing business who nominated the fisher, has ceased to be entitled to the endorsement (see clause 212Y), or
 - (d) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement, or
 - (e) the applicant has not paid any fee due and payable in connection with the endorsement.
- (6) If application is duly made for the endorsement of a commercial fishing licence for a further period and the licence is not so endorsed before the expiration of the current endorsement:
- (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
 - (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.

212P Cancellation and suspension of endorsements

The Minister may cancel or suspend an endorsement if:

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the holder of the endorsed licence, or a person authorised (under clause 212N) to take the benefit of the authority conferred by the holder's endorsement, has, in the opinion of the Minister, contravened a condition of the endorsement, or
- (c) the holder of the endorsed licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the holder of the endorsed licence, or if the holder of the endorsed licence is a nominated fisher, the owner of the fishing business who nominated the holder of the endorsed licence, ceases to be entitled to an endorsement (see clause 212Y).

Division 4B Special classes of endorsement

212Q Definitions

In this Division:

endorsement means an endorsement on a commercial fishing licence that authorises a person to take fish for sale in a restricted fishery.

special endorsement means an endorsement provided for by this Division.

212R Skipper's endorsement

- (1) A skipper's endorsement is available in the following fisheries:
 - (a) ocean prawn trawl restricted fishery,
 - (b) ocean fish trawl restricted fishery,
 - (c) ocean trap and line restricted fishery,
 - (d) estuary prawn trawl restricted fishery,
 - (e) ocean hauling restricted fishery (but only in that part of the fishery that relates to the use of a purse seine net to take fish for sale).
- (2) This class of endorsement authorises a person to take fish for sale in a specified restricted fishery while acting as the skipper of a boat that is owned by another person. The endorsement may specify a particular method by which the fisher is authorised to take fish for sale and may contain other limitations.
- (3) A person is eligible for a skipper's endorsement if the Minister is satisfied that:
 - (a) the person held a commercial fishing licence in 1996 that did not restrict the fishing activities of the person to any particular fishing boat or boats, and
 - (b) on the basis of the records, kept by the Director, of fish taken by the person, or other evidence provided by the person, the person was employed as a skipper in the fishery concerned in 1996 and took fish for sale using the catch method authorised by the endorsement sought, and
 - (c) the person is employed as a skipper on a fishing boat that belongs to another person and the other person is eligible for an endorsement in the fishery (other than an endorsement provided for by this Division), and
 - (d) (Repealed)
- (4) A person is also eligible for a skipper's endorsement if the Minister is satisfied that:
 - (a) the person is a commercial fisher, and
 - (b) the person is a part owner of a fishing business and was a part owner of that fishing business in 1996, and
 - (c) because of that fishing business, the person is eligible for an endorsement but is not entitled to the endorsement because of clause 212X (3) (which sets a limit of one endorsement per fishing business).

212S Conditional skipper's endorsement

- (1) A conditional skipper's endorsement is available in the ocean prawn trawl restricted fishery.
- (2) This class of endorsement authorises a person to take fish for sale in the ocean prawn trawl restricted fishery, in the same manner as an offshore endorsement in the fishery, while acting as the skipper of an offshore prawn trawl boat that is owned by another person.
- (3) A person is eligible for a conditional skipper's endorsement if the Minister is satisfied that:
 - (a) the person is employed as a skipper on an offshore prawn trawl boat, and
 - (b) the owner of the offshore prawn trawl boat agrees to give up any entitlement the owner has to any endorsement in the estuary general restricted fishery or the ocean hauling restricted fishery.
- (4) In this clause:

offshore prawn trawl boat means a fishing boat that is the subject of a fishing boat licence that has an endorsement of a kind known as "P1" or "P2" in the fishery known as the "offshore prawn trawl fishery".

212T Training endorsement

- (1) A training endorsement is available in all restricted fisheries, except the inland restricted fishery.
- (2) This class of endorsement authorises a person to take fish for sale in a restricted fishery, or a specified restricted fishery:
 - (a) in the course of training another person to become a commercial fisher, or
 - (b) in the course of being trained to become a commercial fisher.
- (3) The endorsement may specify a particular method in which the fisher is authorised to take fish for sale and contain other limitations.

- (4)A commercial fisher is eligible for such an endorsement if the Minister is satisfied that the person:
- (a) is authorised to hold a commercial fishing licence under clause 135 (1) (c1), or
 - (b) is authorised to hold a commercial fishing licence under clause 135 (1) (c2), or
 - (c) holds a commercial fishing licence that was issued for training purposes.

212U Application for special endorsement

- (1)An application for a special endorsement is to be in a form approved by the Director.
- (2)The application is to be accompanied by a fee of \$31.
- (3)The Minister may endorse the commercial fishing licence of a person who satisfies the eligibility requirements for the endorsement.
- (4)The Minister may refuse to endorse the commercial fishing licence of a person if the person:
 - (a) has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (c) has not paid any fee due and payable in connection with the endorsement.
- (5)The Minister may endorse the commercial fishing licence of a person who applied for an endorsement before the commencement of this Division if the person is otherwise eligible for the endorsement.

212V Duration of special endorsement

A special endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

212W Cancellation and suspension of special endorsements

The Minister may cancel or suspend a special endorsement if:

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the holder of the endorsed licence has, in the opinion of the Minister, contravened a condition of the endorsement, or
- (c) the holder of the endorsed licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the holder of the endorsed licence ceases to be eligible for the endorsement.

Division 4C Entitlements of fishing business owners

Note. This Division does not apply in respect of the inland restricted fishery.

212X Eligibility for an endorsement (owners of fishing businesses)

- (1)If the owner of a fishing business is eligible for an endorsement in a restricted fishery, the owner may:
 - (a) if the owner is a natural person, apply to have his or her commercial fishing licence endorsed, or
 - (b) whether or not the owner is a natural person, nominate an individual to take fish for sale on behalf of the business.
- (2)Only one individual is entitled to an endorsement in respect of a fishing business. Accordingly, only one individual may be nominated under this clause to take fish for sale on behalf of the fishing business at any one time.
- (3)If a fishing business is owned by more than one person, they may nominate one of them to take fish for sale on behalf of the business or may nominate another individual to take fish for sale on behalf of the business.
- (4)Despite subclause (3), if a fishing business is owned by a partnership, each partner may be entitled to an endorsement, but only an endorsement in the estuary general restricted fishery.
- (5)A nomination must be in a form approved by the Director and may be revoked at any time by the owner of the fishing business by notice in writing to the Director.

- (6)A nomination has no effect unless it is approved by the Director. The Director may impose conditions on the granting of such approvals. For example, the Director may impose a limit on the number of nominations that may be made in respect of a fishing business under this clause.
- (6A)The Director is to refuse to approve any nomination made in respect of a fishing business that is owned or partly owned by a person who holds a skipper's endorsement under clause 212R in respect of a fishing business that is owned by another person.
- (7)If a nomination is approved, the Minister is to cancel or suspend any other endorsement held in respect of the fishing business.
- (8)If a nomination is revoked, the Minister is to cancel the endorsement of the nominated fisher. This does not limit the powers of the Minister to refuse to endorse a commercial fishing licence, or suspend or cancel an endorsement, under the provisions of this Part.

(9)In this clause:

endorsement means an endorsement on a commercial fishing licence that authorises a commercial fisher to take fish for sale in a restricted fishery but does not include the classes of endorsement provided for by Division 4B (Special classes of endorsement).

owner, of a fishing business, means the person or persons who own the fishing business.

Note. Clause 135 provides that if the fishing business is a recognised fishing operation, the individual nominated under this clause by the owner of the business is authorised to hold a commercial fishing licence. Accordingly, if the business is a recognised fishing operation, the individual nominated under this clause need not be a commercial fisher at the time of nomination.

Division 4B allows special endorsements to be obtained by individuals. The limit of one endorsement per fishing business does not apply in respect of those endorsements.

212Y Effect of sale or disposal of fishing business on eligibility

- (1)A person ceases to be entitled to an endorsement in a restricted fishery if any part of the fishing business that made the person eligible for the endorsement is sold or disposed of. For example, if a person sells the licensed fishing boat that made the person eligible for an endorsement, the person ceases to be entitled to such an endorsement.
- (2)A person who acquires any part of the fishing business of another person does not thereby become eligible for an endorsement in a restricted fishery, except in accordance with guidelines relating to the transfer of fishing businesses issued from time to time by the Director.

Division 5 Miscellaneous

213 Manner of attaching conditions to endorsements

- (1)For the purposes of section 112 (2) of the Act, the Minister may attach conditions to endorsements by notice in writing served on the holder of the endorsed commercial fishing licence.
- (2)Such a condition has effect in respect of the holder of the endorsed licence on and from the date the notice is served on the holder.

213A Cancellation of endorsement with consent of licence holder

The Minister may, with the consent of the holder of a commercial fishing licence, cancel any endorsement on that licence that authorises the holder to take fish for sale in a restricted fishery.

213B Endorsements do not authorise unlawful use of fishing gear

An endorsement on a commercial fishing licence that authorises the holder of the licence to take fish for sale, or to assist in taking fish for sale, in a restricted fishery using a net, trap or other fishing gear is subject to Part 3. That is, the endorsement does not authorise the use of a net, trap or other fishing gear contrary to that Part.

214 Revocation of existing orders

- (1) A restricted fishery declared under Division 3 of Part 4 of the Act (other than a fishery to which clause 11 of Schedule 7 to the Act applies) in force immediately before the commencement of this Regulation is revoked.
- (2) Any act, matter or thing that, immediately before the revocation of a revoked declaration, had effect under that declaration is taken to have effect under this Regulation.

Division 6 Review of eligibility and catch history determinations—transitional

214A Application for review of determination by person affected by determination

- (1) A person may request a review of a determination relating to the person's eligibility for an endorsement in a restricted fishery or a determination as to the person's catch history in a particular fishery.
- (2) A review request may be made only in respect of an eligibility or catch history determination that relates to the following:
 - (a) a class C endorsement in the ocean hauling restricted fishery, or
 - (b) any endorsement in the following fisheries:
 - (i) the ocean prawn trawl restricted fishery,
 - (ii) the ocean fish trawl restricted fishery,
 - (iii) the ocean trap and line restricted fishery,
 - (iv) the estuary prawn trawl restricted fishery,
 - (v) the estuary general restricted fishery.
- (3) The review request must:
 - (a) be made by 31 December 1997 in a form approved by the Director, and
 - (b) be lodged with the Director, and
 - (c) be accompanied by a fee of \$100 (for each restricted fishery in relation to which a review is sought).
- (3A) The Minister may, in relation to any review request that was lodged with the Director by 31 December 1997 without the required fee, determine that in the circumstances payment of the fee should be deferred, in which case the review request is taken to have been duly made.
- (4) The Minister may direct that the required fee (or part of the fee) for a review request be refunded or, if payment of the fee was deferred, waived. The Minister may give such a direction if the Minister is of the opinion that it is appropriate in the circumstances of the case, for instance, because the review confirms submissions made by the applicant.

214B Conduct of review

- (1) If a review request is duly made, the Minister is to establish a panel to conduct the review.
- (2) The panel is to consist of 3 members, as follows:
 - (a) the chairperson of the panel, being a person who is neither engaged in the administration of the Act nor in commercial fishing and who, in the opinion of the Minister, is appropriately qualified to conduct the review,
 - (b) the Director or a nominee of the Director,
 - (c) a person with extensive practical experience in the commercial fishing industry (but not a person who has a financial interest in the fishery to which the review request relates).
- (3) The panel is to review the determination the subject of the review request and provide the Minister with a written report on the matter within the time specified by the Minister or any extension of that time granted by the Minister.
- (4) A decision of the panel is a decision supported by the majority of its members.
- (5) The procedure of the panel is, subject to this clause, to be determined by the panel.

214C Grounds for review

- (1) A panel that conducts a review may consider any circumstances that are relevant to the determination that is the subject of the review request.

(2) A panel that conducts a review may decide that a person is eligible for an endorsement in a restricted fishery, or should be eligible for an endorsement in the fishery, if the person who applied for the review satisfies the panel:

- (a) that the records relied on to make a determination whether the person is eligible for an endorsement (for example, catch history records or records of net registration) are, for reasons that are not attributable to the fault of the person, inaccurate or incomplete and, on the basis of verified records produced to the panel by the person, the person does in fact satisfy the eligibility criteria for the endorsement, or
- (b) that a determination as to the catch history associated with the person's fishing business is incorrect and, on the basis of verified records produced to the panel by the person, the person does in fact satisfy the eligibility criteria for the endorsement, or
- (c) if eligibility is based on the person's activities in a fishery during a particular period, that:
 - (i) the person suffered illness or other incapacity for a significant period and the illness or incapacity substantially affected his or her ability to satisfy the eligibility criteria for the endorsement, or
 - (ii) the person lost his or her commercial fishing boat due to accident or misadventure and the loss substantially affected his or her ability to satisfy the eligibility criteria for the endorsement, or
 - (iii) the person was engaged in fishing during that period and for other significant reasons (that are not attributable to the fault of the person) the person was unable to satisfy the eligibility criteria.

(3) This clause does not limit the inclusion in a report by a panel of any other decision or recommendation relating to a person's entitlements in a restricted fishery.

(4) In this clause, *verified record* means a document prescribed for the purposes of section 51 (4) of the Act (dealing with determination of catch history).

Note. Clause 128 sets out the documents that are prescribed for the purposes of section 51 (4) of the Act.

214D Action by Minister following review

(1) On receipt of a report by a panel, the Minister may:

- (a) in accordance with the decision of the panel, confirm the determination that was reviewed by the panel or set that determination aside and substitute a new determination, or
- (b) refer the matter back to the panel (together with comments or recommendations) for further consideration.

(2) The Minister may, following a review, determine that a person is eligible for an endorsement in a restricted fishery, even though the person does not satisfy the eligibility criteria for the endorsement, only if the panel decides that the person should be eligible for an endorsement. If the Minister makes such a determination, the person is taken, for the purposes of the provisions of this Part that deal with eligibility for an endorsement in the fishery concerned, to be eligible for the endorsement.

(3) A person who applies for a review under this Division is to be notified of the outcome of the application as soon as practicable after it is known.

214E Transitional

This Division extends to a determination referred to in clause 214A that was made before the commencement of this Division.

Part 9 Fish receivers and fish records

Division 1 Fish receivers

215 Commencement

This Division commences on the deregulation date (within the meaning of section 20 of the *Fish Marketing Act 1994*).

Note. The deregulation date is 1 November 1999.

216 Definition

In this Division:

registration means registration as a fish receiver under Division 4 of Part 4 of the Act.

217 Registration not required in certain cases

(1) For the purposes of section 117 (2) (e) of the Act, a person is not required to be registered in respect of fish received from a registered fish receiver.

(2) For the purposes of section 117 (2) (e) of the Act, a person is not required to be registered in respect of fish taken in the inland restricted fishery by the holder of an endorsed licence (within the meaning of Division 3A of Part 8 of this Regulation).

218 Registration requirements do not apply in respect of certain fish

For the purposes of section 117 (2) (e) of the Act, a person is not required to be registered in respect of oysters received for resale or other commercial use.

218A Classes of registered fish receiver

For the purposes of section 118 (4) of the Act, the following classes of registered fish receiver are prescribed:

- (a) Restricted Registered Fish Receivers—being registered fish receivers who are commercial fishers and whose registration as a fish receiver is subject to a condition that the receiver must not receive fish for resale or other commercial use from any other commercial fisher,
- (b) Registered Fish Receiver—being all other registered fish receivers.

218B Fee to accompany application for registration as fish receiver

For the purposes of section 118 (2) of the Act, the prescribed fee in respect of an application for registration as a fish receiver is:

- (a) in the case of an application for registration as a Restricted Registered Fish Receiver—\$780, or
- (b) in the case of an application for registration as a Registered Fish Receiver—\$2,600.

219 Grounds for refusing application for registration

For the purposes of section 118 (3) of the Act, the Minister is authorised to refuse an application for registration as a fish receiver if:

- (a) the applicant has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand, or
- (b) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat, or
- (c) the applicant has not paid any fee due and payable in connection with registration as a fish receiver, or
- (d) the Minister is not satisfied that the applicant has any necessary development consent required by the *Environmental Planning and Assessment Act 1979* to receive fish for resale or other commercial use on the applicant's premises, or
- (e) the Minister is not satisfied that the applicant has the capacity to meet the requirements of the *Food Act 1989* and the regulations made under that Act or a food safety scheme relating to fish that has been prescribed by regulations under the *Food Production (Safety) Act 1998*.

220 Renewal of registration

(1) A registered fish receiver may apply in writing to the Minister for renewal of his or her registration.

(2) The Minister may refuse to renew the registration if:

- (a) the Minister receives the application after the expiration of the period in which the fish receiver's current certificate of registration remains in force, or
- (b) the Minister is satisfied the fish receiver has contravened a condition of his or her registration, or
- (c) the fish receiver has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand, or
- (d) the fish receiver has been convicted of an offence relating to the theft of fish, fishing gear or a boat, or
- (e) the fish receiver has not paid any fee due and payable in connection with registration as a fish receiver, or
- (f) the Minister is not satisfied that the fish receiver has any necessary development consent required by the *Environmental Planning and Assessment Act 1979* to receive fish for resale or other commercial use on the applicant's premises, or
- (g) the Minister is not satisfied that the fish receiver has the capacity to meet the requirements of the *Food Act 1989* and the regulations made under that Act or a food safety scheme relating to fish that has been prescribed by regulations under the *Food Production (Safety) Act 1998*.

221 Cancellation or suspension of registration

The Minister may cancel or suspend the registration of a fish receiver if:

- (a) the Minister is satisfied that the fish receiver has contravened a condition of his or her registration, or
- (b) the fish receiver has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand, or
- (c) the fish receiver has been convicted of an offence relating to the theft of fish, fishing gear or a boat, or
- (d) the Minister is satisfied that the fish receiver does not have any necessary development consent required by the *Environmental Planning and Assessment Act 1979* to receive fish for resale or other commercial use on the applicant's premises, or
- (e) the Minister is satisfied that the fish receiver does not have the capacity to meet the requirements of the *Food Act 1989* and the regulations made under that Act or a food safety scheme relating to fish that has been prescribed by regulations under the *Food Production (Safety) Act 1998*.

221A Fish consignments by registered fish receivers to be labelled

For the purposes of section 118 (5) (a) of the Act, it is a prescribed condition of registration that a registered fish receiver must not receive fish in a container or consign fish in a container for sale unless the container is labelled in a manner approved by the Director.

Division 2 Fish records

222 Form of record to be kept by commercial fisher—transitional

For the purposes of section 121 (3) of the Act, if the Minister has not approved a form of record to be kept by a commercial fisher under section 121 of the Act (being the record of fish taken by a commercial fisher), the prescribed record for the fisher is:

- (a) in the case of a commercial fisher taking fish for sale from any waters (other than inland waters) and landing the fish in New South Wales—Form 19 of Schedule 1 to the *Fisheries and Oyster Farms (General) Regulation 1989* (as in force immediately before the commencement of this Regulation), or

- (b) in the case of a commercial fisher taking fish for sale from inland waters—Form 20 of Schedule 1 to the *Fisheries and Oyster Farms (General) Regulation 1989* (as in force immediately before the commencement of this Regulation).

223 Prescribed period for furnishing catch records to Director

For the purposes of section 122 of the Act, the prescribed period (being the period in which commercial fishers must send a copy of a record of catch to the Director) is:

- (a) in the case of a record relating to abalone taken by a commercial fisher—24 hours after the abalone is landed in New South Wales, or
- (b) in any other case—28 days after the end of the month to which the record relates.

224 Records of sale and possession of fish—prescribed quantity

For the purposes of section 123 of the Act, the prescribed quantity of fish is the following:

- (a) in respect of abalone—2 kg meat weight or 200 grams dried meat weight,
- (b) in respect of crustaceans—3 kg,
- (c) in respect of fin fish—10 kg whole weight and 5 kg fillet weight,
- (d) in respect of beach worms—20 worms or parts thereof,
- (e) in any other case—5 kg.

225 Information to be included in records of sale and possession of fish

(1) For the purposes of section 123 (1) of the Act, a prescribed record concerning the sale of fish must include the following information:

- (a) the marketing name and weight of each species of fish sold,
- (b) the date of the sale,
- (c) the full name and address of the seller,
- (d) the full name and address of the purchaser,
- (e) the full name, address and signature of the person completing the record,
- (f) the price per kilogram, price per packet or price per unit of each species of fish sold,
- (g) the total sales value of each species of fish sold,
- (h) in respect of each sale, a unique identifying number allocated to the sale for the purposes of the record, being a number that is one of a sequence of unique identifying numbers where each subsequent sale is allocated the next number in the sequence.

(2) For the purposes of section 123 (2) and (3) of the Act, a prescribed record concerning the possession of fish must include the following information:

- (a) the marketing name and weight of each species of fish purchased or otherwise acquired,
- (b) the date when the fish were purchased or otherwise acquired,
- (c) the full name and address of the person who purchased or otherwise acquired the fish,
- (d) the full name and address of the person from whom the fish were purchased or, if not purchased, details of how the fish were acquired,
- (e) the full name, address and signature of the person completing the record,
- (f) the price per kilogram, price per packet or price per unit of each species of fish purchased or otherwise acquired,
- (g) the total value of each species of fish purchased or otherwise acquired,
- (h) in respect of each purchase or acquisition, a unique identifying number allocated to the sale or acquisition for the purposes of the record, being a number that is one of a sequence of unique identifying numbers where each subsequent purchase or acquisition is allocated the next number in the sequence.

225A Records and monthly reports by registered fish receivers

(1) For the purposes of section 119 (2) of the Act, a registered fish receiver must keep records that include the following information:

- (a) the marketing name and weight of each species of fish received for resale or other commercial use by the receiver,

- (b) the date of receipt,
 - (c) the full name and address of the person from whom the fish was received,
 - (d) the price paid by the receiver per kilogram, price per packet or price per unit of each species of fish received,
 - (e) the total purchase value of each species of fish received.
- (2) A registered fish receiver must prepare and send to the Director within 28 days after the end of each named month a report for that month containing the following information:
- (a) the full name and address of the receiver or the receiver's registration number (if applicable),
 - (b) the month (and year) to which the report relates,
 - (c) the marketing name and weight of each species of fish received for resale or other commercial use by the receiver during the month to which the report relates and the name of the person from whom the fish was received,
 - (d) the quantities of fish of each species that are held in stock by the receiver as at the end of the month to which the report relates.
- (3) This clause commences on 1 November 2000. Accordingly, the first report under subclause (2) is due by 28 December for the month of November.

Division 3 Transitional

226 Transitional

- (1) A person who held an exemption, consent or approval under section 40C, 40D or 40E of the 1935 Act immediately before the repeal of those sections is taken to be registered as a fish receiver under Division 4 of Part 4 of the Act.
- (2) The registration of a person pursuant to this clause:
- (a) if the person is a commercial fisher, is subject to the condition that the person must not receive fish for resale or other commercial use from any other commercial fisher, and
 - (b) remains in force only for the period specified in the relevant exemption or consent or, in the case of an approval, remains in force until 1 July 2000.
- (3) The Minister may, at any time, by notice in writing to a person taken to be a registered fish receiver in accordance with this clause, revoke, or vary any conditions of registration or add new conditions. This subclause does not apply to conditions of registration prescribed by the regulations under section 118 (5) (a) of the Act.

Part 9A Charter fishing management

Division 1 Preliminary

226A Object

The object of this Part is to provide for the regulation and management of guided recreational charter fishing in the marine and estuarine charter fishing sector.

226B Definitions

- (1) In this Part:

Advisory Committee means the Marine and Estuarine Recreational Charter Management Advisory Committee established under this Part.

appointed member of the Advisory Committee means a member of the Advisory Committee appointed by the Minister.

carrying capacity of a boat means the number of crew and passengers that may be carried on the boat in accordance with the certificate of survey for the boat.

certificate of survey of a boat means the certificate of survey issued by or in accordance with the requirements of the Waterways Authority or another relevant authority approved by the Director.

coastal waters means ocean waters that are west of the 183 metre isobath.

commencement date means the date of commencement of this Part.

deep sea bottom fishing means any recreational fishing activity that involves taking or attempting to take fish in ocean waters, being fish of a species listed in Part 1 of the Table.

estuarine fishing means any recreational fishing activity that involves taking or attempting to take fish from estuarine waters, being fish of a species listed in Part 3 or 4 of the Table.

gamefishing means any recreational fishing activity that involves taking or attempting to take fish in ocean waters, being fish of a species listed in Part 2 or 3 of the Table.

guided recreational charter fishing—see clause 226C.

industry member of the Advisory Committee means a member of the Advisory Committee who is elected by licence holders.

licence means a charter fishing boat licence.

marine and estuarine charter fishing sector—see clause 226D.

nearshore bottom fishing and sportfishing means any recreational fishing activity that involves taking or attempting to take fish in ocean waters, being fish of a species listed in Part 3 or 4 of the Table.

non-industry member of the Advisory Committee means an appointed member of the Advisory Committee, other than an industry member.

Table means the table of fish species set out at the end of this Part.

(2)A reference in this Part to an activity that involves the taking of fish includes an activity that involves taking, and later releasing, fish.

226C Guided recreational charter fishing—meaning

In this Part, **guided recreational charter fishing** means the use of a boat as a charter fishing boat under an arrangement where a person is provided, for payment or other consideration, to operate the charter fishing boat or to guide or instruct the persons using the boat in fishing operations.

226D Marine and estuarine charter fishing sector—meaning

In this Part, the **marine and estuarine charter fishing sector** means that part of the charter fishing boat industry in which charter fishing boats are used for the purpose of any of the following recreational fishing activities:

- (a) estuarine fishing,
- (b) nearshore bottom fishing and sportfishing,
- (c) gamefishing,
- (d) deep sea bottom fishing.

Division 2 Licences

226E What boats must be licensed?

(1)For the purposes of section 127B of the Act, it is declared that a charter fishing boat is required to be licensed under Part 4A of the Act if it is used for any guided recreational charter fishing that involves:

- (a) estuarine fishing, or
- (b) nearshore bottom fishing and sportfishing, or
- (c) gamefishing, or
- (d) deep sea bottom fishing.

Note. There is an exemption for boats used by Lord Howe Island residents in the waters around Lord Howe Island. See Division 6.

(2)This clause does not take effect until 13 November 2000.

226F Annual licence fee

(1)The fee for the issue or renewal of a licence is \$390, plus \$78 for each authorised activity specified on the licence, for each year or part of a year for which the licence is issued or renewed.

(2)In this clause, **authorised activity** means a recreational fishing activity authorised by the Minister as referred to in clause 226P.

Note. Section 127C of the Act provides that an application for a licence may be made by the owner of a boat or a person authorised by the owner (eg a lessee). An application for a licence is to be in a form approved by the Minister.

226G Classes of licence

There are two classes of licence, as follows:

- (a) transferable,
- (b) non-transferable.

226H Eligibility criteria—transferable licence

(1) A person is eligible for a transferable licence in respect of a boat owned or otherwise under the control of the person if the person satisfies the Minister that:

- (a) the person is entitled to claim a history of operations in respect of a boat that:
 - (i) was actively used for guided recreational charter fishing activities in the marine and estuarine charter fishing sector before 22 October 1997, and
 - (ii) was actively used for those activities for at least 100 days during any period of 24 consecutive months between 22 October 1995 and 4 August 1999, and
 - (iii) was used in accordance with the requirements of the certificate of survey for the boat at all times during the period in which it was used for those activities, and
- (b) the certificate of survey for the boat referred to in paragraph (a) was, at all times during the period in which it was used for those activities, consistent with the type of licence applied for by the person.

Note. 22 October 1997 is the date on which the Minister announced a ministerial warning against further investment in the New South Wales recreational charter fishing boat industry, because of moves to cap the number of operators in the industry at the level then present (see second reading speech for the *Fisheries Management Amendment Bill 1997*, which inserted Part 4A in the Act, Hansard of 22 October 1997, page 1208).

- (2) If any one of the eligibility criteria is not satisfied, the person is not eligible for a transferable licence.
- (3) A person can be eligible only for the same number of licences as boats in respect of which the person is entitled to claim a history of operations. That is, if the person is entitled to claim a history of operations in respect of one boat, the person can be eligible for a licence in respect of one boat only.

226I Eligibility criteria—non-transferable licence

(1) A person is eligible for a non-transferable licence in respect of a boat owned or otherwise under the control of the person if the person satisfies the Minister that:

- (a) the person is entitled to claim a history of operations in respect of a boat that:
 - (i) was actively used for guided recreational charter fishing activities in the marine and estuarine charter fishing sector before 22 October 1997, and
 - (ii) was actively used for those activities for at least 50 days during any period of 24 consecutive months between 22 October 1995 and 4 August 1999, and
 - (iii) was used in accordance with the requirements of the certificate of survey for the boat at all times during the period in which it was used for those activities, and
- (b) the certificate of survey for the boat referred to in paragraph (a) was, at all times during the period in which it was used for those activities, consistent with the type of licence applied for by the applicant.

- (2) If any one of the eligibility criteria is not satisfied, the applicant is not eligible for a non-transferable licence.
- (3) A person can be eligible only for the same number of licences as boats in respect of which the person is entitled to claim a history of operations. That is, if the person is

entitled to claim a history of operations in respect of one boat only, the person can be eligible for a licence in respect of one boat only.

226J Entitlement to claim a history of operations

(1) For the purposes of this Part, a person is entitled to claim a history of operations in respect of a boat if:

- (a) the boat was used by the person for guided recreational charter fishing activities in the marine and estuarine charter fishing sector during the periods relevant for the purposes of the eligibility criteria for a licence, and the person has not transferred his or her entitlement to that history of operations pursuant to a transfer made:
 - (i) before the commencement date, in accordance with the policies of NSW Fisheries with respect to such transfers, or
 - (ii) on or after the commencement date, in accordance with clause 226L, or
- (b) the person has acquired a history of operations of a kind referred to in paragraph (a) in respect of a boat from another person pursuant to a transfer made:
 - (i) before the commencement date, in accordance with the policies of NSW Fisheries with respect to such transfers, or
 - (ii) on or after the commencement date, in accordance with clause 226L.

(2) Only one person is entitled to claim a history of operations with respect to one boat.

(3) If more than one person claims a history of operations of a kind referred to in subclause (1) (a) in respect of a boat, the person who is entitled to make that claim is the person who, in the opinion of the Minister, was principally responsible for the use of the boat for guided recreational charter fishing activities in the marine and estuarine sector during the periods relevant for the purpose of determining eligibility for a licence.

226K Eligibility—time limit on applications

(1) Despite clauses 226H and 226I, eligibility for a licence in respect of a history of operations lapses if no licence has been applied for in respect of that history of operations by 30 April 2001.

(2) This clause does not apply in any case where the Minister is satisfied that there were good reasons why the licence was not applied for by 30 April 2001.

226L Transfer of entitlement to history of operations

(1) A person who holds a transferable licence may transfer the person's entitlement to a history of operations in respect of a boat, being the history of operations relied on by the person to satisfy the eligibility criteria for the licence.

(2) Such a transfer may be made only with the approval of the Minister.

(3) An application for the Minister's approval is to be in an approved form and accompanied by a fee of \$260.

(4) If the Minister approves the transfer:

- (a) the person who acquires the entitlement is entitled to claim the history of operations in respect of the boat, for the purposes of the eligibility criteria for a licence, and
- (b) the person who transfers the entitlement ceases to be entitled to claim the history of operation in respect of the boat, for the purposes of the eligibility criteria for a licence.

(5) A transfer of a history of operations need not be accompanied by a transfer of the boat concerned. However, a person who transfers a history of operations without transferring the boat ceases to be eligible for a licence in respect of the boat (because the person ceases to be entitled to claim the history of operations).

226LA Boat replacement

(1) A person who holds a transferable or a non-transferable licence in respect of a licenced charter fishing boat may replace the boat if:

- (a) the replacement is approved by the Minister, and
- (b) the application for the Minister's approval is accompanied by a fee of \$260.

- (2) When the Minister approves the replacement, the person's entitlement to a history of operations, in respect of the boat being replaced, is transferred to the replacement boat.
- (3) Nothing in this clause permits a person who holds a non-transferable licence to transfer that licence to another person.

226M Issue of licence

- (1) The Minister is authorised to refuse an application for a licence for a boat if:
 - (a) the Minister is not satisfied that the applicant is eligible to be issued with the licence, or the class of licence applied for, in respect of the boat, or
 - (b) (Repealed)
 - (c) the applicant has been convicted of an offence under the Act, the regulations made under the Act, or an offence relating to commercial or recreational fishing under a law of the Commonwealth or of another State or a Territory or of New Zealand, or
 - (d) the applicant has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (e) the applicant has been convicted of an offence relating to an assault on a fisheries official, or
 - (f) the applicant has not paid any fee due and payable in connection with the licence.

Note. Under clause 226S a person who is refused a licence because the Minister is not satisfied that the person is eligible for the licence may request a review of that decision.

- (2) If before 31 May 2001 the Minister decides to issue a licence for a boat, the Minister is to cause notice of the decision to be published in the Gazette and in a newspaper circulating in the area in which the boat is used, or is to be used, as a charter fishing boat.

Note. Under clause 226T a third party can request a review of the Minister's decision to issue a licence to a person.

226N Renewal of licence

- (1) An application for renewal of a licence is to be made in a form approved by the Minister.
- (2) The Minister is authorised to refuse to renew a licence if:
 - (a) the holder of the licence is not eligible for the licence, or
 - (b) (Repealed)
 - (c) the holder of the licence has been convicted of an offence under the Act, the regulations made under the Act, or an offence relating to commercial or recreational fishing under a law of the Commonwealth or of another State or a Territory or of New Zealand, or
 - (d) the holder of the licence has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (e) the holder of the licence has been convicted of an offence relating to an assault on a fisheries official, or
 - (f) the Minister is satisfied that the holder of the licence has contravened a condition of the licence, or
 - (g) the holder of the licence has not paid any fee due and payable in connection with the licence.
- (3) If an application is duly made for renewal of a licence and is received by the Minister before the expiration of the period in which it remains in force, and the licence is not renewed before the expiration of that period, the licence:
 - (a) is taken to continue to be in force until the licence is renewed or the application for renewal is refused, whichever happens first, and
 - (b) may be renewed despite the fact that, but for this subclause, the licence would have expired.
- (4) If an application for renewal of a licence is not received by the Minister before the expiration of the period in which it remains in force, the licence:

- (a) is taken to continue to be in force for 30 days after the date the licence would have expired (but for this subclause), or until the licence is renewed or the application for renewal is refused, whichever happens first, and
 - (b) may be renewed despite the fact that, but for this subclause, the licence would have expired.
- (5) If an application for renewal of a licence is received by the Minister more than 30 days after the date the licence would have expired (but for subclause (4)), an additional licence fee of \$104 is payable.
- (6) If an application for renewal of a licence is received by the Minister more than 90 days after the date the licence would have expired (but for subclause (4)), the Minister may refuse to renew the licence.

226O Cancellation or suspension of licence

The Minister may cancel or suspend a licence if:

- (a) the holder of the licence ceases to be eligible for the licence, or
- (b) (Repealed)
- (c) the holder of the licence is convicted of an offence under the Act, the regulations made under the Act, or an offence relating to commercial or recreational fishing under a law of the Commonwealth or of another State or a Territory or of New Zealand, or
- (d) the holder of the licence is convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (e) the holder of the licence is convicted of an offence relating to an assault on a fisheries official, or
- (f) the Minister is satisfied that the holder of the licence has contravened a condition of the licence, or
- (g) the holder of the licence fails to pay any fee due and payable in connection with the licence, or
- (h) the boat is lost at sea or otherwise disposed of by the holder of the licence, or
- (i) the Minister is satisfied that the ownership or shareholding of a non-transferable licence has changed.

226P Conditions of licence—authorised activities

- (1) The Minister may, by means of an endorsement on a licence for a boat, authorise the use of the boat for guided recreational charter fishing that involves one or more of the following recreational fishing activities (as indicated by the endorsement):
- (a) estuarine fishing,
 - (b) nearshore bottom fishing and sportfishing,
 - (c) gamefishing,
 - (d) deep sea bottom fishing.
- (2) It is a condition of a licence for a boat that the boat, while being used for any activity for which it is required to be licensed under this Part, is not used for any of the recreational fishing activities referred to in subclause (1) unless the licence authorises the use of the boat for that activity.
- (3) The Minister may refuse to authorise the use of a boat for a recreational fishing activity if the Minister is not satisfied that the certificate of survey for the boat relied on by the licence holder to satisfy the eligibility criteria for the licence (that is, the boat referred to in clause 226H or 226I) was, at all times during the periods relevant for the purposes of determining eligibility for a licence, consistent with that type of activity.
- (4) Despite subclause (2):
- (a) if a licence authorises the use of a boat for gamefishing, the taking of one fish of a species listed in Part 1 or Part 4 of the Table for each person who is on the boat, is permitted, and
 - (b) if a licence authorises the use of a boat for nearshore bottom fishing and sportfishing, the taking of one fish of a species listed in Part 1 or Part 2 of the Table, for each person who is on the boat, is permitted, and

- (c) if a licence authorises the use of a boat for estuarine fishing, the taking of one fish of a species listed in Part 1 or Part 2 of the Table, for each person who is on the boat, is permitted.

(5) This clause:

- (a) does not affect the application of any bag limits or possession limits in force under section 17 or 18 of the Act, and
- (b) does not authorise the use of a boat to take any protected fish.

226Q Other conditions of licences

- (1) It is a condition of a licence for a charter fishing boat that any fish taken while the boat is used for any activity for which it is required to be licensed under this Part, and that are retained, have their right side pectoral fin removed, just above the fin base, before being removed from the boat.
- (2) Despite subclause (1), the removal of the right side pectoral fin may be delayed until immediately after weigh-in if the fish is to be weighed:
 - (a) for the purpose of claiming a record, or
 - (b) in accordance with the rules of a fishing tournament in connection with which the fish has been caught.
- (3) Subclause (1) applies to the following species of fish only, namely, yellowfin tuna, southern bluefin tuna, all species of marlin, yellowtail kingfish and snapper.
- (4) It is a condition of a licence for a charter fishing boat that the boat displays the letters "CFB" adjacent to, and in the same size and colour of lettering as, the permit number for the boat wherever appearing on the outside of the hull.
- (5) It is a condition of a licence for a charter fishing boat that the number of persons permitted to fish from the boat at any one time does not exceed the carrying capacity (as at 4 August 1999) of the boat relied on by the licence holder to satisfy the eligibility criteria for the licence under clause 226H or 226I, as the case requires.

Note. The Act also provides that it is a condition of a licence that the boat, while being used for recreational fishing activities for which it is required to be licensed:

- (a) is not also used to take fish for sale, and
- (b) is not equipped with fishing gear for use to take fish for sale (except as authorised by the licence).

226R Records of catch

- (1) The master of a charter fishing boat must make a record of fish taken by persons on the boat when used for guided recreational charter fishing.

Note. It is an offence to contravene the requirements set out in this clause (see section 127E of the Act).

- (2) A record is to be made in relation to each trip that is made by the boat, being a trip during which the boat was used for any activity for which it is required to be licensed.
- (3) A record is to be made in a form or forms approved by the Minister and provided to licence holders by NSW Fisheries.
- (4) A copy of the record is to be sent to the Director within 7 days after the end of the calendar month in which the trip to which the record relates was made.

Division 3 Review panel

Note. This Part provides for the review of decisions relating to the issue of a licence by a panel established by the Minister. A decision relating to a licence may also be appealed to the Administrative Decisions Tribunal under the Act.

226S Application for review of refusal to issue a licence

- (1) A person who is refused a licence because the Minister is not satisfied that the person is eligible for the licence may request a review of that decision.
- (2) The review request must:
 - (a) be made within 60 days after notice of the refusal is given to the person, and
 - (b) be made in a form approved by the Minister, and

- (c) be lodged with the Director, and
 - (d) be accompanied by a fee of \$100.
- (3) The Minister may direct that the required fee (or part of the fee) for a review request be refunded if the Minister is of the opinion that it is appropriate in the circumstances of the case, for instance, because the review confirms submissions made by the person requesting the review.
- (4) A review request cannot be made under this clause after 30 June 2001.

226T Application for review by third party

- (1) Any person may request a review of a decision of the Minister to issue a licence to another person.
- (2) The review request must:
- (a) be made in a form approved by the Minister, and,
 - (b) be lodged with the Director within 30 days after notice of the Minister's decision to issue the licence is published in the Gazette, and
 - (c) be accompanied by a fee of \$100.
- (3) The Minister may direct that the required fee (or part of the fee) for a review request be refunded if the Minister is of the opinion that it is appropriate in the circumstances of the case, for instance, because the review confirms submissions made by the person requesting the review.
- (4) This clause does not apply to:
- (a) a licence for which an application is made following the transfer under clause 226L of a person's entitlement to a history of operations in respect of a boat, or
 - (b) a licence that has been renewed under clause 226N.

226U Establishment of panel to review decision

- (1) If a review request is duly made under this Division, the Minister is to establish a panel to conduct the review.
- (2) The panel is to consist of 3 members, as follows:
- (a) one person who, in the opinion of the Minister, has no pecuniary interest in the charter fishing boat industry and who is not engaged in the administration of the Act,
 - (b) one person who, in the opinion of the Minister, has experience in the charter fishing boat industry and who is not engaged in the administration of the Act,
 - (c) an officer of NSW Fisheries.
- (3) The member of the panel referred to in subclause (2) (a) is to be chairperson of the panel.
- (4) Despite subclause (1), the Minister may reject a review request without establishing a panel to conduct the review if:
- (a) the matter has already been the subject of a review by a panel under this Division, or
 - (b) the Minister is of the opinion that the review request is frivolous or vexatious.

226V Conduct of review

- (1) The panel is to review the decision that is the subject of the review request and provide the Minister with a written report on the matter within the time specified by the Minister or any extension of that time granted by the Minister.
- (2) A panel that conducts a review of a decision of the Minister to refuse to issue a licence to a person may recommend that the person be issued with a licence, but only if the panel is satisfied that:
- (a) the person is eligible for the licence, or
 - (b) the person:
 - (i) would have satisfied the eligibility criteria but for circumstances beyond the control of the person, (for example illness or delays in the repair of a boat), and

- (ii) was actively engaged in guided recreational charter fishing activities in the marine and estuarine charter fishing sector before 22 October 1997, or
 - (c) the person had, before 22 October 1997, clearly demonstrated his or her financial investment or commitment in a boat for use in connection with marine and estuarine charter fishing in New South Wales and:
 - (i) the boat has been actively used for guided recreational charter fishing activities in the marine and estuarine charter fishing sector for at least 50 days during any period of 24 consecutive months between 22 October 1995 and 4 August 1999, or
 - (ii) there are valid reasons why the person failed to satisfy the eligibility criteria in paragraph (i) and it is fair and reasonable in the circumstances to grant the person a licence.
- (2A) Regardless of the nature of licence originally applied for, a panel may recommend the issue of either a transferable or a non-transferable licence.
- (3) A panel that conducts a review of a decision of the Minister to issue a licence to a person may recommend that the licence be cancelled, but only if the panel is satisfied that:
- (a) the person is not eligible for the licence, or
 - (b) there are other grounds for the cancellation of the licence.

226W Procedure to be followed by panel

- (1) A decision of the panel is a decision supported by the majority of its members.
- (2) The procedure of the panel is to be determined by the panel, subject to this clause and to any guidelines approved by the Minister.

226X Action by Minister following review

- (1) On receipt of a report by a panel, the Minister may:
 - (a) in the case of a review of a decision to refuse to issue a licence, confirm the refusal or set that decision aside and substitute a new decision in accordance with the recommendations of the panel, or
 - (b) in the case of a review of a decision to issue a licence, confirm the issue of the licence or cancel the licence in accordance with the recommendations of the panel, or
 - (c) in any case, refer the matter back to the panel (together with comments or recommendations) for further consideration.
- (2) The Minister may, following a review, determine that a person is eligible for a licence even though the person does not satisfy the eligibility criteria for the licence only if the panel recommends that the person be issued with a licence. If the Minister makes such a determination, the person is taken, for the purposes of the provisions of this Part that deal with eligibility for a licence, to be eligible for the licence.
- (3) A person who applies for a review under this Division is to be notified of the outcome of the application as soon as practicable after it is known.
- (4) If before 30 June 2002 the Minister decides to issue a licence for a boat following a review under this clause, the Minister is to cause notice of the decision to be published in the Gazette and in a newspaper circulating in the area in which the boat is used, or is to be used, as a charter fishing boat.

226Y Interim licence

- (1) If a decision to refuse to issue a licence to a person is referred to a panel for a review under this Division, the Minister may issue a licence to the person on an interim basis.
- (2) After the panel has reviewed the decision concerned and made recommendations to the Minister, the Minister is to either cancel the licence, or confirm the issue of the licence, by notice in writing to the holder.
- (3) For avoidance of doubt, the fee for the licence is as provided for by clause 226F.
- (4) The holder of a licence issued under this clause cannot transfer his or her entitlement to a history of operations in respect of a boat, despite clause 226L.
- (5) If the Minister confirms the issue of the licence, and the licence is a transferable licence, subclause (4) ceases to apply in respect of the licence.

(6) If the Minister cancels the licence, an appropriate proportion of the annual licence fee (the fee paid by the applicant under clause 226F) is refundable.

(7) The refund payable is to be calculated as follows:

[*Formula*]

$$R = F \times \frac{Wr}{52}$$

where:

R is the refund payable,

F is the annual licence fee paid by the applicant (under clause 226F),

Wr is the number of weeks remaining on the licence (that is, the number of weeks during which the licence would have remained in force if the Minister had not cancelled the licence).

Division 4 Advisory Committee

226Z Advisory Committee

- (1) The Minister may establish an advisory committee for the charter fishing industry, to be known as the Marine and Estuarine Recreational Charter Management Advisory Committee.
- (2) The Advisory Committee is to be composed of the following members:
 - (a) 8 industry members, being persons who are elected by licence holders in accordance with Division 5 and appointed by the Minister,
 - (b) one person appointed by the Minister on the nomination of the Nature Conservation Council,
 - (c) other persons selected and appointed by the Minister,
 - (d) the Director or a nominee of the Director,
 - (e) a chairperson of the Committee, being a person who is neither engaged in the administration of the Act nor engaged in charter fishing.
- (3) Of the members referred to in subclause (2) (c):
 - (a) one is to be a person who, in the opinion of the Minister, has expertise in commercial fishing, and
 - (b) one is to be a person who, in the opinion of the Minister, has expertise in Aboriginal culture, and
 - (c) one is to be a person who, in the opinion of the Minister, has expertise in recreational fishing.
- (4) Subclause (3) does not prevent the Minister from selecting and appointing additional persons as members of the Advisory Committee.
- (5) The chairperson of the Advisory Committee is entitled to attend and chair meetings of the Committee but is not entitled to vote at any such meeting.
- (6) The Minister may, by advertisement published in a newspaper circulation throughout the State, call for expressions of interest in membership of the Advisory Committee.
- (7) For the purpose of subclause (2) (b), the Minister is to request the Nature Conservation Council to nominate 2 candidates for appointment to the Advisory Committee.
- (8) The Minister may decline to accept the nomination of any candidate. In such a case the Minister:
 - (a) is to advise the Nature Conservation Council of that decision and of the reason for that decision, and
 - (b) if the Minister considers it appropriate, is to give the Nature Conservation Council an opportunity to nominate another candidate.
- (9) If the Nature Conservation Council fails to nominate a candidate within 60 days after being requested to do so by the Minister, or fails to nominate within that period a candidate whose nomination is accepted by the Minister, the Minister may appoint any person whom the Minister considers suitable to represent the interests of the Council as a member of the Advisory Committee, instead of a person nominated by the Council.

226ZA Functions of Advisory Committee

The functions of the Advisory Committee are as follows:

- (a) to assist with the development of and monitor the implementation of a fishery management strategy for the marine and estuarine charter fishing sector,
- (b) to advise the Minister on whether the objectives of the strategy are being attained,
- (c) to make recommendations to the Minister concerning the strategy, including to recommend any changes to the strategy or to this Part that it considers necessary or desirable for the purpose of attaining the objectives of the strategy,
- (d) such other functions as may be conferred on the Advisory Committee by the Minister.

226ZB Deputies of members

- (1) An appointed member may, from time to time, appoint a person to be the deputy of the member, and may at any time revoke any appointment.
- (2) Such an appointment may only be made with the approval of the Minister. The Minister may revoke such approval at any time.
- (3) In the absence of a member, the member's deputy:
 - (a) may, if available, act in the place of the member, and
 - (b) while so acting, has all the functions of the member and is to be taken to be the member.
- (4) A person, while acting in the place of a member, is entitled to be paid such allowances as the Minister may from time to time determine in respect of the person.

226ZC Terms of office

Subject to this Part:

- (a) an industry member holds office for a term of 3 years but is eligible (if otherwise qualified) for re-election and re-appointment, and
- (b) a non-industry member holds office for the term specified in his or her appointment (not exceeding 3 years) but is eligible (if otherwise qualified) for re-appointment.

226ZD Allowance for members

An appointed member is entitled to be paid such allowances as the Minister may from time to time determine in respect of the member.

226ZE Vacancy in office of member

- (1) The office of an appointed member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-elected or re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 3 consecutive meetings of the Advisory Committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person.
- (2) The Minister may remove an industry member from office if the member:
 - (a) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
 - (b) is convicted of an offence under the Act, this Regulation or any other regulation made under the Act or an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or

(c) ceases to be qualified to be elected to the Committee.

(3) The Minister may remove a non-industry member from office at any time.

226ZF Filling of vacancy in office of member

(1) If the office of an industry member becomes vacant because the term of office of the member has ended, an election is to be held in accordance with Division 5 of this Part for the purpose of appointing a new member.

(2) If a vacancy occurs in the office of an industry member otherwise than because the term of office of the member has ended, the Minister may appoint a person to fill the office for the remainder of that term, being a person who would be qualified to be elected to the office and who the Minister decides, after consultation with the relevant industry sector, is appropriate for that office.

(3) Any person so appointed is taken to be an industry member for the purposes of this Part.

226ZG General procedure for calling and holding meetings

(1) The procedure for the calling and holding of meetings of the Advisory Committee is to be determined by the Minister.

(2) The Minister is to call at least 2 meetings of the Advisory Committee each calendar year, unless otherwise determined by the Advisory Committee.

226ZH Quorum

The quorum for a meeting of the Advisory Committee consists of the majority of its industry members for the time being.

226ZI Decisions

A decision supported by a majority of members at a meeting of the Advisory Committee at which a quorum is present is the decision of the Advisory Committee.

Division 5 Election of industry members of Advisory Committee

226ZJ Regions for which members are to be elected

(1) The 8 industry members of the Advisory Committee are to be elected to represent the different regions of the industry as follows:

(a) 1 member for the Far North Coast region (the part of the State between 28°10'S and 29°40'S),

(b) 1 member for the Mid North Coast and Central Coast region (the part of the State between 29°40'S and 32°26'S),

(c) (Repealed)

(d) 1 member for the Central Coast region (the part of the State between 32°26'S and 33°35'S),

(d1) 2 members for the Sydney region (the part of the State between 33°35'S and 34°05'S),

(d2) 1 member for the Illawarra region (the part of the State between 34°05'S and 34°50'S),

(e) 1 member for the Mid South Coast region (the part of the State between 34°50'S and 36°10'S),

(f) 1 member for the Far South Coast region (the part of the State between 36°10'S and 37°30'S).

(2) A map setting out the boundaries for the regions described in subclause (1) is to be made available for inspection in offices of NSW Fisheries.

(3) The person holding office as an industry member for the Mid North Coast and Central Coast region under subclause (1) (c) as in force immediately before its repeal by the *Fisheries Management (General) Amendment Regulation 2002* is taken to represent the Mid North Coast and Central Coast region for the duration of the term for which the person was appointed to hold office as an industry member.

226ZK Qualifications for election

In order to qualify for election as an industry member of the Advisory Committee, a person must:

(a) hold a licence for a charter fishing boat, or be a person nominated by the holder of a licence for a charter fishing boat, and

- (b) reside in the region which the person seeks to be elected to represent.

226ZL General restrictions on election

- (1) A person is not qualified to be elected as an industry member of the Advisory Committee if the person:
 - (a) is already a member of the Advisory Committee (unless the person is seeking re-election to the Advisory Committee) or of a Management Advisory Committee appointed under section 230 of the Act, or
 - (b) is already a candidate for election to any such other Management Advisory Committee.
- (2) Officers and employees of NSW Fisheries are not qualified to be elected as an industry member.

226ZM Voting entitlements

- (1) In order to be qualified to vote in an election for an industry member of the Advisory Committee, a person must be:
 - (a) the holder of a charter fishing boat licence for a boat, and
 - (b) reside in the region which the industry member is to be elected to represent.
- (2) A person who is qualified to vote in an election is entitled to one vote only, regardless of the number of charter fishing boats for which the person holds a licence.

226ZN Election procedure

- (1) Division 3 of Part 11, with any necessary modifications, applies to an election of industry members of the Advisory Committee in the same way as it applies to an election of a Management Advisory Committee for a restricted fishery.
- (2) In the application of those provisions, clauses 244 and 245 are to be excluded, and subclause (3) is to be applied instead.
- (3) If by the close of nominations in an election, the number of candidates duly nominated for election to represent a region does not exceed the number of industry members to be elected to represent that region, the returning officer is to declare those candidates elected. If more than that number are nominated, a ballot must be held.

226ZO Continuity of membership of Committee—transitional

- (1) Four of the first industry members appointed as members of the Advisory Committee are to hold office for a term of 18 months (rather than 3 years).
- (2) As soon as practicable after the returning officer for the election has determined the results of the election of the first industry members of the Advisory Committee, the returning officer is to determine, by lot, the names of the industry members who are to hold office for an 18 month term.
- (3) The determination by lot is to be made as follows:
 - (a) the names of each of the industry members are to be written on separate and similar slips of paper,
 - (b) each slip is to be folded so as to prevent identification of the name on it,
 - (c) the slips are to be mixed and one is to be drawn at random,
 - (d) the name on the slip drawn is the name determined by lot.

Division 6 Miscellaneous

226ZP Exemption for Lord Howe Island residents

- (1) A licence is not required in respect of a boat if:
 - (a) the boat is owned or under the control of a person who is a resident of Lord Howe Island, and
 - (b) the boat is used for guided recreational charter fishing principally in the Lord Howe Island area.
- (2) For the purpose of determining whether a person is eligible for a licence in respect of a boat, any activities for which the boat was used during a period in which the boat was used for guided recreational charter fishing activities principally in the Lord Howe Island area are to be disregarded. That is, the activities for which the boat was used during that period cannot be relied on to satisfy the eligibility criteria.
- (3) In this clause:

Lord Howe Island area means the waters within 3 nautical miles of the high water mark on Lord Howe Island.

226ZQ False or misleading information

A person must not furnish information, knowing it to be false or misleading in a material particular, in or in connection with:

- (a) any application for a licence, or
- (b) any catch record referred to in clause 226R.

Maximum penalty: 100 penalty units.

Table—Fish species

Part 1

Common name	Scientific name
Hapuka	<i>Polyprion oxygeneios</i>
Bass groper	<i>Polyprion americanus</i>
Blue-eye trevalla	<i>Hyperoglyphe antarctica</i>
Bar cod	<i>Epinephelus ergastularius</i>
Gemfish	<i>Rexea solandri</i>

Part 2

Common name	Scientific name
Billfishes	
Sailfish	<i>Istiophorus platypterus</i>
Black marlin	<i>Makaira indica</i>
Blue marlin	<i>Makaira mazara</i>
Striped marlin	<i>Tetrapturus audax</i>
Shortbill spearfish	<i>Tetrapturus angustirostris</i>
Broadbill swordfish	<i>Xiphias gladius</i>
Sharks	
Shortfin mako	<i>Isurus oxyrinchus</i>
Tiger shark	<i>Galeocerdo cuvier</i>
Hammerhead shark	<i>Sphyrna spp.</i>
Thresher shark	<i>Alopias spp.</i>
Porbeagle shark	<i>Lamna nasus</i>

Tunas

Albacore	<i>Thunnus alalunga</i>
Yellowfin tuna	<i>Thunnus albacares</i>
Southern bluefin tuna	<i>Thunnus maccoyii</i>
Longtail tuna	<i>Thunnus tonggol</i>
Bigeye tuna	<i>Thunnus obesus</i>

Part 3

Common name	Scientific name
Yellowtail, jack mackerel, trevally, rainbow runner, kingfish, samson fish, amberjack	Family CARANGIDAE
Mackerel, wahoo, bonito, skipjack tuna, mackerel tuna	Family SCOMBRIDAE (excluding <i>Thunnus spp.</i>)
Cobia	<i>Rachycentron canadum</i>
Tailor	<i>Pomatomus saltatrix</i>
Dolphinfish	<i>Coryphaena hippurus</i>
Australian salmon	<i>Arripis trutta</i>
Whaler shark, blue shark	Family CARCHARHINIDAE (excluding <i>Galeocerdo cuvier</i>)
Barracuda, snook, striped seapike	Family SPHYRAENIDAE

Part 4

All species of fish other than those listed in Parts 1, 2 and 3.

Note. The scientific names set out in the Table are the scientific names as at the commencement date.

Part 10 Protection of aquatic habitats

227 Application for permit under Part 7

An application for a permit under Part 7 of the Act is to be in a form approved by the Director.

227A Protection of prescribed marine vegetation (section 204 (c) of the Act)

- (1) For the purposes of section 204 (c) of the Act, attached marine and estuarine macroalgae are prescribed as marine vegetation to which Division 4 (Protection of mangroves and certain other marine vegetation) of Part 7 of the Act applies.
- (2) Despite subclause (1), sea lettuce (*Ulva spp*) and blackfish weed (*Enteromorpha spp*), if taken for use as bait, are prescribed as marine vegetation to which Division 4 of Part 7 of the Act applies.
- (3) In this clause:

marine and estuarine macroalgae means those species of non-microscopic plants commonly known as seaweeds that belong to the plant classification divisions of *Rhodophyta*, *Phaeophyta* and *Chlorophyta*, and that are endemic to New South Wales marine and estuarine waters.

228 Fee for permit to harm marine vegetation (section 205 of the Act)

An application for a permit under Part 7 of the Act that authorises a person to harm any marine vegetation to which section 205 of the Act applies is to be accompanied by a fee of \$104 but if, in the opinion of the Director, an inspection of the area affected is not required, a fee of \$52 only is required.

229 Noxious fish and vegetation (section 209 of the Act)

(1) For the purposes of the Act, the following fish are declared to be noxious fish:

(a) **Class 1 (General noxious fish):**

- (i) *Tilapia (Oreochromis mossambicus, Tilapia zillii, Tilapia mariae),*
- (ii) black striped mussel (all species of the genus *Mytilopsis*).

(b) **Class 2 (Noxious fish in specific waters):**

Pacific oyster (*Crassostrea gigas*) but only in estuarine waters and ocean waters (other than the waters of Port Stephens).

(2) For the purposes of the Act, the following marine vegetation is declared to be noxious marine vegetation:

Class 3 (Noxious marine vegetation in specific waters):

Caulerpa taxifolia in all coastal waters other than those coastal waters adjacent to Lord Howe Island and Balls Pyramid.

Part 11 Administration

Division 1 The Director

229A Seal of the Director

(1) The Director is to have a seal.

(2) The seal may be used for official purposes, including to certify the issue of a document (such as a share in a share management fishery) under the Act.

Division 1A Fisheries Resource Conservation and Assessment Council

229AA Definitions

In this Division:

Council means the Fisheries Resource Conservation and Assessment Council established by the Act.

member means a member of the Council.

229AB Government representatives

(1) The government representatives on the Council are to be officers or employees of the government agencies referred to in the first column of the table at the end of this clause, appointed by the Minister for Fisheries on the nomination of the Minister referred to in the second column of the table, next to the agency concerned.

(2) If a Minister referred to in the table declines or fails to nominate a person for appointment to the Council, the Minister for Fisheries is not required to appoint an officer or employee of the agency concerned as a member of the Council.

Government representatives

National Parks and Wildlife Service	Minister for the Environment
Department of Urban Affairs and Planning	Minister for Urban Affairs and Planning
Department of Land and Water Conservation	Minister for Land and Water Conservation
Environment Protection Authority	Minister for the Environment

229AC Other representatives

- (1) The Minister may request nominations for appointment of members of the Council from any organisation, group or body that the Minister considers to have a sufficient interest in the area that the member concerned is required to represent.
- (2) The Minister must request the organisations, groups or bodies referred to in the first column of the following table to nominate one or more persons for appointment as representatives of a kind referred to in the second column, next to the organisation or body concerned.

Nomination of representatives

Advisory Council on Recreational Fishing	Recreational fishing representatives
Advisory Council on Commercial Fishing	Commercial fishing representatives
Nature Conservation Council Advisory Council on Fisheries Conservation	Conservation and environmental representatives
Advisory Council on Aquaculture	Aquaculture industry representatives
New South Wales Aboriginal Land Council	Indigenous representatives

- (3) The Minister is to request nominations for appointment by notice in writing given to the organisation, group or body being requested to make the nomination.
- (4) The Minister may also request nominations for appointment by causing a notice, inviting nominations for appointment, to be published in a newspaper.
- (5) After requesting nominations, the Minister is to allow at least 30 days for receipt of those nominations, before appointing a person to fill the position concerned.
- (6) Except as required by section 228A (7) (a) and (b) of the Act, the Minister is not required to appoint a person who is nominated for appointment as a member of the Council.
- (7) This clause applies in respect of all members of the Council, other than the chairperson of the Council and the government representatives.

229AD Members and procedure of Council

- (1) Schedule 2 to the Act (clause 9 excepted) applies to the Council and to the members of the Council in the same way as it applies to the Total Allowable Catch Setting and Review Committee and the members of that Committee, subject to this clause.
- (2) If the office of a member becomes vacant, the Minister is not required to appoint a person to fill the vacancy, except as required by section 228A of the Act.
- (3) The Minister may, if the Minister considers it appropriate, appoint a person to fill such a vacancy on an interim basis, during the period required to request, receive and consider nominations for appointment to the position.
- (4) A person appointed on an interim basis may be, but is not required to be, a person previously nominated for appointment to the position.
- (5) If the vacancy is in the position referred to in section 228A (7) (a) and (b) of the Act, the position must be filled by a person nominated, or previously nominated, by a group or body referred to in those provisions.
- (6) A quorum for a meeting of the Council is not affected by the requirements of section 228A (11) and (12) of the Act.

Division 1A Establishment, composition and functions of ministerial advisory councils

229B Definitions

In this Division:

advisory council means an advisory council established under section 229 of the Act.

member means a member of an advisory council.

229C Establishment of advisory councils

For the purposes of section 229 of the Act, the following advisory councils are to be established:

- (a) an Advisory Council on Commercial Fishing,
- (b) an Advisory Council on Recreational Fishing,
- (c) (Repealed)
- (d) an Advisory Council on Fisheries Conservation,
- (e) an Advisory Council on Aquaculture.

229D Advisory Council on Commercial Fishing

(1) The Advisory Council on Commercial Fishing is to be composed of the following members:

- (a) 9 persons appointed to represent the following fisheries (that is, one member for each fishery), on the nomination of the Management Advisory Committee for the fishery:
 - (i) abalone share management fishery,
 - (ii) lobster share management fishery,
 - (iii) ocean prawn trawl restricted fishery,
 - (iv) ocean fish trawl restricted fishery,
 - (v) ocean trap and line restricted fishery,
 - (vi) estuary general restricted fishery,
 - (vii) estuary prawn trawl restricted fishery,
 - (viii) ocean hauling restricted fishery,
 - (ix) inland restricted fishery,
- (b) (Repealed)
- (c) 1 person appointed on the nomination of the Nature Conservation Council,
- (d) the Director or a nominee of the Director,
- (e) such other persons as the Minister considers appropriate.

(2) The persons nominated for appointment by a Management Advisory Committee must be industry members (within the meaning of clause 230 (1)) of the Committee.

229E Advisory Council on Recreational Fishing

(1) The Advisory Council on Recreational Fishing is to be composed of the following members:

- (a) persons who, in the opinion of the Minister, have expertise in one or more of the following areas:
 - (i) estuary fishing,
 - (ii) offshore fishing,
 - (iii) freshwater fishing,
 - (iv) underwater fishing,
 - (v) sale of fishing tackle,
 - (vi) the media (reporting on fishing),
 - (vii) charter boat fishing,
 - (viii) Aboriginal culture,
- (b) 1 person appointed on the nomination of the Nature Conservation Council,
- (c) the Director or a nominee of the Director,
- (d) such other persons as the Minister considers appropriate.

(2) The Minister may, by advertisement published in a newspaper circulating throughout the State, call for expressions of interest in membership of the Advisory Council on Recreational Fishing.

229F (Repealed)

229G Advisory Council on Fisheries Conservation

(1) The Advisory Council on Fisheries Conservation is to be composed of the following members:

- (a) 8 persons who, in the opinion of the Minister, have expertise in one or more of the following areas:
 - (i) fish habitat protection and rehabilitation,
 - (ii) biodiversity conservation,
 - (iii) marine protected areas,
 - (iv) threatened species conservation,
 - (v) aquatic vertebrates or invertebrates,
 - (vi) marine vegetation,
 - (vii) marine or freshwater ecology,
 - (viii) commercial fisheries,
 - (ix) recreational fisheries,
 - (x) aquaculture,
 - (b) 1 person appointed on the nomination of the Nature Conservation Council,
 - (c) the Director or a nominee of the Director,
 - (d) such other persons as the Minister considers appropriate.
- (2)The Minister may, by advertisement published in a newspaper circulating throughout the State, call for expressions of interest in membership of the Advisory Council on Fisheries Conservation.

229GA Advisory Council on Aquaculture

- (1)The Advisory Council on Aquaculture is to be composed of the following members:
- (a) industry members, being persons who, in the opinion of the Minister, have expertise in one or more sectors of the aquaculture industry, such as the following:
 - (i) silver perch and other native freshwater fish,
 - (ii) freshwater crayfish,
 - (iii) marine finfish,
 - (iv) prawns,
 - (v) shellfish,
 - (vi) salmonids (trout and salmon),
 - (vii) ornamentals (aquarium fish species),
 - (b) the Director or a nominee of the Director,
 - (c) one or more officers from other government departments, if the Minister considers it appropriate,
 - (d) one person who, in the opinion of the Minister, has expertise in recreational fishing,
 - (e) one person appointed on the nomination of the Nature Conservation Council,
 - (f) such other persons as the Minister considers appropriate.
- (2)The Minister may, by advertisement published in a newspaper circulating throughout the State, call for expressions of interest in membership of the Advisory Council on Aquaculture.
- (3)For the purposes of section 157 of the Act, the Minister may appoint any or all of the members of the Advisory Council as members of a committee under section 157 of the Act (subject to section 157 (7) of the Act).

Note. Under section 157 of the Act, the Minister may appoint a committee of persons to advise the Minister regarding the operation of trust accounts for annual contributions made by permit holders under the Act.

229H Appointment of nominees

- (1)If a member of an advisory council is to be appointed on the nomination of a Management Advisory Committee or the Nature Conservation Council, the Minister is to request the body concerned to nominate 2 candidates for appointment to the advisory council.
- (2)The Minister may decline to accept the nomination of any candidate. In such a case the Minister:
- (a) is to advise the body concerned of that decision and of the reason for the decision, and

- (b) if the Minister considers it appropriate, is to give the body concerned an opportunity to nominate another candidate.
- (3) If a Management Advisory Committee or the Nature Conservation Council fails to nominate a candidate for appointment to the advisory council within 60 days after being requested to do so by the Minister, or fails to nominate within that period a candidate whose nomination is accepted by the Minister, the Minister may appoint any person whom the Minister considers suitable to represent the interests of the body concerned as a member of the advisory council, instead of a person nominated by that body.

229I Continuation of certain appointments—transitional

- (1) The Minister may, if the Minister considers it appropriate, appoint as member of an advisory council any person who, immediately before the commencement of this Division, was a member of any body established on an interim basis to give the Minister advice on matters relevant to the fishing industry sector for which the advisory council is established.
- (2) Such a person may be appointed as a member instead of or in addition to a person required to be appointed to an advisory council under clause 229D, 229E, 229F or 229G.
- (3) This clause applies only in respect of the first advisory councils established as referred to in clause 229C.

Division 1B Provisions relating to members and procedure of advisory councils

229J Definitions

In this Division:

advisory council means an advisory council established under section 229 of the Act.

MAC means a Management Advisory Committee.

MAC nominee means a member of an advisory council appointed on the nomination of a MAC.

member means a member of an advisory council.

229K Terms of office

- (1) Subject to this Division, a member holds office for the term specified in his or her instrument of appointment (not exceeding 3 years) but is eligible (if otherwise qualified) for re-appointment.
- (2) The Minister may appoint some of the first members appointed to an advisory council for a shorter term than the others, for the purpose of ensuring continuity of membership.

229L Allowances for members

A member is entitled to be paid such allowances as the Minister from time to time determines, in accordance with any relevant Government policies or guidelines, in respect of the member.

229M Deputies

- (1) A member may from time to time, with the approval of the chairperson of the advisory council of which he or she is a member, appoint a person to be the deputy of the member, and may revoke any such appointment.
- (2) In the absence of a member, the member's deputy may, if available, act in the place of the member.
- (3) While acting in the place of a member, a person:
 - (a) has all the functions of the member and is taken to be a member, and
 - (b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

229N Vacancy in office of member

The office of a member of an advisory council becomes vacant if:

- (a) the member dies, or
- (b) the member completes a term of office and is not re-appointed, or

- (c) the member resigns the office by instrument in writing addressed to the Minister, or
- (d) the member is removed from office by the Minister under clause 229O, or
- (e) the member is absent from 3 consecutive meetings of the advisory council of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or Director or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister or Director for having been absent from those meetings, or
- (f) the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
- (g) the member becomes a mentally incapacitated person, or
- (h) in the case of a member of the advisory council who is a MAC nominee, the member ceases to be a member of the MAC, or
- (i) in the case of a member of the advisory council appointed on the nomination of the Nature Conservation Council, the Nature Conservation Council withdraws its nomination, or
- (j) in the case of a member who is appointed because he or she is the Director or a nominee of the Director, the member ceases to be the Director or the Director withdraws his or her nomination of the member, or
- (k) in the case of a member who is appointed because he or she is an officer of a government department, the member ceases to be an officer of that department.

229O Removal of member from office by Minister

- (1)The Minister may remove a member from office in accordance with this clause.
- (2)The Minister is to consult the advisory council of which the person is a member before removing him or her from office.
- (3)The Minister may remove the member from office:
 - (a) after the period of 30 days has elapsed since the Minister first gave notice to the advisory council concerned of the proposal to remove the member from office, or
 - (b) if the removal of the member is agreed to by the advisory council concerned, at any time.

229P Filling of vacancy in office of member

- (1)If the office of a member of an advisory council becomes vacant, the Minister is to appoint a person to fill the vacancy.
- (2)The Minister may appoint a person to fill a vacancy by calling for expressions of interest in the position or by appointing a person who was previously nominated for the position.

229Q Chairperson

- (1)The Minister is to appoint the chairperson of each advisory council.
- (2)The chairperson is to be a person who:
 - (a) has no direct or indirect pecuniary interest in the fishery concerned, and
 - (b) is not a member of the advisory council.
- (2A)Subclause (2) (a) does not apply in respect of the chairperson of the Advisory Council on Aquaculture.
- (3)The chairperson is entitled to attend and chair meetings of the advisory council but is not entitled to vote at those meetings.
- (4)In the absence of the chairperson, a meeting of an advisory council is to be chaired by a member elected by the members present to chair the meeting.
- (5)The person so elected retains his or her entitlement to vote at the meeting.

229R General procedure for calling and holding meetings of advisory council

- (1)The procedure for the calling and holding of meetings of an advisory council is to be determined by the Minister.
- (2)An advisory council is to hold at least 2 meetings each calendar year, unless the advisory council otherwise determines.

229S Quorum

The quorum for a meeting of an advisory council consists of a majority of its members for the time being.

229T Voting

A recommendation supported by a majority of votes cast at a meeting of an advisory council at which a quorum is present is the recommendation of the advisory council.

229U Disclosure of pecuniary interests

(1) A member of an advisory council:

- (a) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the advisory council, and
- (b) whose interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest to the chairperson of the advisory council.

(2) A disclosure by a member of the advisory council at a meeting of the advisory council that the member:

- (a) is a member, or is in the employment, of a specified company or other body, or
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

(3) After a member of an advisory council has disclosed the nature of an interest in any matter, the member must not, if the chairperson of the advisory council so determines:

- (a) be present during any deliberation of the advisory council with respect to the matter, or
- (b) take part in any decision of the advisory council with respect to the matter.

(4) A contravention of this clause does not invalidate any decision of the advisory council.

229V Functions of members

(1) The members of an advisory council are to ensure that the advisory council exercises its advisory functions conferred by section 229 (3) of the Act and this Regulation.

(2) The functions of the members do not include the expenditure of funds on behalf of the advisory council or representing the Minister, unless they are expressly authorised to do so by the Minister.

Division 2 Composition of Management Advisory Committees and qualifications for election

230 Definitions

(1) In this Division:

election means an election conducted for the purposes of electing one or more members of a MAC as provided by section 230 (2) (a) of the Act.

endorsement means an endorsement on a commercial fishing licence that authorises a person to take fish for sale in a restricted fishery but does not include the classes of endorsement provided for by Division 4B of Part 8 (other than a skipper's endorsement under clause 212R).

industry member, of a MAC, means a member of a MAC who is elected and appointed pursuant to clause 230 (2) (a) of the Act.

MAC means a Management Advisory Committee.

new restricted fishery means any of the following restricted fisheries:

- (a) the ocean prawn trawl restricted fishery,
- (b) the ocean fish trawl restricted fishery,
- (c) the ocean trap and line restricted fishery,
- (d) the estuary general restricted fishery,

(e) the estuary prawn trawl restricted fishery.

Table means the Table at the end of clause 231.

(2) The notes to the Table (at the end of the Table) form part of this Regulation.

231 Composition of MAC

(1) A MAC that is established for a share management fishery that is specified in column 1 of Part A of the Table is to be comprised of:

- (a) the number of industry members set out in column 2 next to the fishery concerned, elected in accordance with Division 3, and
- (b) the members appointed by the Minister pursuant to section 230 (2) (b) of the Act.

(2) A MAC that is established for a restricted fishery that is specified in column 1 of Part B of the Table is to be comprised of:

- (a) the number of industry members set out in column 2 next to the fishery concerned, elected in accordance with Division 3, and
- (b) the members appointed by the Minister pursuant to section 230 (2) (b) of the Act.

A MAC for such a fishery is to be composed of industry members representing commercial fishers who hold an endorsement in the fishery of the type specified in column 3 of Part B of the Table next to the fishery concerned.

Note. The number of appointed members of a MAC is to be less than the number of industry members of the MAC—see clause 261 (2).

Table Composition of MACs (industry members)

Part A Share management fisheries

Column 1	Column 2
Name of fishery	Number of industry members
Abalone share management fishery	5
Lobster share management fishery	5

Part B Restricted fisheries

Column 1	Column 2	Column 3
Name of fishery	Number of industry members	Fishers to be represented
Ocean hauling restricted fishery 7 members representing commercial fishers who hold a class 1 endorsement (a hauling net endorsement that authorises a person to	8 act as skipper) in each region of the fishery (that is, 1 member for each region)	1 member representing commercial fishers who hold a class C endorsement (a purse seine net endorsement)
Ocean prawn trawl restricted fishery	5	1 member representing commercial fishers who hold an endorsement in the upper north coast region of the fishery 1 member representing commercial fishers who hold an endorsement in the Clarence region of the fishery

1 member representing commercial fishers who hold an endorsement in the north coast region of the fishery	1 member representing commercial fishers who hold an endorsement in the central	region of the fishery 1 member representing commercial fishers who hold an endorsement in the metropolitan, upper south coast or lower south coast regions of the fishery
Ocean fish trawl restricted fishery	4	3 members representing commercial fishers who hold an endorsement in the northern region of the fishery 1 member representing commercial fishers who hold an endorsement in the southern region of the fishery
Ocean trap and line restricted fishery	7	4 members representing commercial fishers who are resident in the north of the State, with 1 representing holders of a demersal fish trap endorsement, 1 representing holders of a line fishing (eastern zone) endorsement, 1 representing holders of a line fishing (western zone) endorsement and 1 representing holders of a spanner crab endorsement 3 members representing commercial fishers who are resident in the south of the State, with 1 representing holders of a demersal fish trap endorsement, 1 representing holders of a line fishing (eastern zone) endorsement and 1 representing holders of a line fishing (western zone) endorsement
Estuary general restricted fishery	8	8 members representing commercial fishers who hold an endorsement in each region of the fishery (that is, 1 member for each region)
Estuary prawn trawl restricted fishery	4	1 member representing commercial fishers who hold an endorsement (including an endorsement for a further period) for which the fishers were eligible under clause 191V (1) (b) 1 member representing commercial fishers who hold an endorsement (including an endorsement for a further period) for which the fishers were eligible under clause 191V (1) (c) 1 member representing commercial fishers who hold an endorsement (including an endorsement for a further period) for which the fishers were eligible under clause 191V (1) (d)

1 member representing commercial fishers who hold an endorsement	(including an endorsement for a further period)	for which the fishers were eligible under clause 191V (1) (e) or (f)
Inland restricted fishery	3	2 members representing commercial fishers who hold a class A endorsement, class C endorsement or class E endorsement (or any combination of the three) 1 member representing commercial fishers who hold a class B endorsement or class D endorsement (or both)

Notes to Table

- (1) For the purposes of the ocean fish trawl restricted fishery:
northern region of the fishery means that part of the waters that are comprised in the fishery that are north of a line drawn due east from Barrenjoey Point.
southern region of the fishery means that part of the waters that are comprised in the fishery that are south of a line drawn due east from Barrenjoey Point.
- (2) For the purposes of the ocean trap and line restricted fishery:
north of the State means that part of the State lying generally to the north of a line drawn due east and due west from Barrenjoey Point.
south of the State means that part of the State lying generally to the south of a line drawn due east and due west from Barrenjoey Point.
- (3) For the purposes of the ocean prawn trawl restricted fishery and the ocean hauling restricted fishery, the following are the regions of those fisheries:
- Upper north coast. That part of the State lying generally between the border between the States of Queensland and New South Wales and the parallel 29°15' south latitude.
 - Clarence. That part of the State lying generally between the parallel 29°15' south latitude and the parallel 29°45' south latitude.
 - North coast. That part of the State lying generally between the parallel 29°45' south latitude and the parallel 31°44' south latitude.
 - Central. That part of the State lying generally between the parallel 31°44' south latitude and the parallel 33°25' south latitude.
 - Metropolitan. That part of the State lying generally between the parallel 33°25' south latitude and the parallel 34°20' south latitude.
 - Upper south coast. That part of the State lying generally between the parallel 34°20' south latitude and the parallel 35°25' south latitude.
 - Lower south coast. That part of the State lying generally between the parallel 35°25' south latitude and the border between the States of New South Wales and Victoria.
- (3A) For the purposes of the estuary general restricted fishery, the following are the regions of the fishery:
- Upper north coast. That part of the State lying generally between the border between the States of Queensland and New South Wales and the parallel 29°15' south latitude.

- Clarence. That part of the State lying generally between the parallel 29°15' south latitude and the parallel 29°45' south latitude.
 - North coast. That part of the State lying generally between the parallel 29°45' south latitude and the parallel 31°44' south latitude.
 - Central north. That part of the State lying generally between the parallel 31°44' south latitude and the parallel 32°30' south latitude.
 - Central south. That part of the State lying generally between the parallel 32°30' south latitude and the parallel 33°25' south latitude.
 - Metropolitan. That part of the State lying generally between the parallel 33°25' south latitude and the parallel 34°20' south latitude.
 - Upper south coast. That part of the State lying generally between the parallel 34°20' south latitude and the parallel 35°25' south latitude.
 - Lower south coast. That part of the State lying generally between the parallel 35°25' south latitude and the border between the States of New South Wales and Victoria.
- (4) For the purposes of the Table, a fisher holds an endorsement in a particular part of a fishery if the endorsement authorises the holder to take fish for sale in that part of the fishery.

232 Qualifications for election to a MAC

(1) Share management fisheries

In order to qualify for election as an industry member for a MAC for a share management fishery, a person must be:

- (a) a shareholder in the fishery, or
- (b) a person the Minister considers likely to be a shareholder in the fishery, or
- (c) an individual nominated by a person in paragraph (a) or (b) who:
 - (i) is the fisher nominated by that person under section 69 of the Act, or
 - (ii) owns the highest (or equal highest) percentage of that person's fishing business and is directly involved in the administration of that business, or
 - (iii) owns at least 25 per cent of that person's fishing business and is directly involved in the administration of that business.

Only one nomination is permitted per shareholder or likely shareholder in relation to each election.

(2) Restricted fisheries

In order to qualify for election as an industry member for a MAC for a restricted fishery specified in Column 1 of Part B of the Table, a person must be:

- (a) a commercial fisher who holds an endorsement in the fishery of the type specified in Column 3 of Part B of the Table next to the fishery concerned, or
- (b) an individual nominated by a commercial fisher in paragraph (a) who:
 - (i) owns the highest (or equal highest) percentage of the commercial fisher's fishing business and is directly involved in the administration of that business, or
 - (ii) owns at least 25 per cent of the commercial fisher's fishing business and is directly involved in the administration of that business.

Only one nomination is permitted per commercial fisher in relation to each election.

233 General restrictions on election to a MAC

- (1) A person is not qualified to be elected to a position of industry member on a MAC if the person:
 - (a) is already a member of that MAC (unless the person is seeking re-election to the MAC) or another MAC, or
 - (b) is already a candidate for election to any other MAC.
- (2) Officers and employees of NSW Fisheries are not qualified to be elected to a position of industry member on a MAC.

234 Qualifications to vote

(1) Share management fisheries

In order to be qualified to vote in an election for the position of industry member on a MAC for a share management fishery, a person must be:

- (a) a shareholder in the fishery, or
- (b) a person the Minister considers likely to be a shareholder in the fishery, or
- (c) if the person in paragraph (a) or (b) is not a natural person, an individual nominated by that person.

(2) Restricted fisheries

In order to be qualified to vote in an election for the position of industry member on a MAC for a restricted fishery (as specified in Column 3 of Part B of the Table in relation to each fishery), a person must be a commercial fisher who holds an endorsement in the fishery of the type specified in Column 3 of Part B of the Table next to the fishery concerned.

235 Qualifications of owners of fishing businesses that operate in restricted fisheries

- (1) This subclause applies if an individual is issued with a class 5 commercial fishing licence because the person owns (either alone or together with other individuals) a fishing business and, because of that fishing business:

- (a) the individual would be entitled, if he or she held a Class 1, 2 or 3 commercial fishing licence, to an endorsement in a restricted fishery, or
- (b) the individual would be likely to be entitled to an endorsement in a restricted fishery.

The person who holds the licence is taken, for the purposes of this Part, to hold an endorsement of the type he or she would be entitled to, or would be likely to be entitled to, as determined by the Director. Accordingly, the person is qualified for election to a position of industry member on a MAC representing endorsement holders of that type and to vote in an election for such a MAC.

- (2) Any person who holds an endorsement in a restricted fishery, or who applied to the Minister for such an endorsement, and whose entitlement to such an endorsement arises only because he or she is employed in the fishing business of the holder of a Class 1, 2, 3 or 5 commercial fishing licence is not, by reason of holding that endorsement or having applied for that endorsement, qualified for election to a position as industry member on a MAC or to vote in an election for such a MAC.

Division 3 Procedure for election of industry members of Management Advisory Committees

236 Definitions

In this Division:

close of ballot, in relation to an election, means the time and date for the close of the ballot for the election that have been fixed under this Regulation by notice under clause 238 or, if that close has been extended, the time and date fixed under clause 239.

close of nominations, in relation to an election, means the time and date for the close of nominations for the election that have been fixed under this Regulation by notice under clause 238 or, if that close has been extended, the time and date fixed under clause 239.

close of roll, in relation to an election, means the time and date for the close of the roll for the election that have been fixed under this Regulation by notice under clause 238 or, if that close has been extended, the time and date fixed under clause 239.

election means an election conducted for the purposes of electing one or more members of a MAC as provided by section 230 (2) (a) of the Act.

industry member, of a MAC, means a member of a MAC who is elected and appointed pursuant to clause 230 (2) (a) of the Act.

MAC means a Management Advisory Committee.

returning officer means:

- (a) the Electoral Commissioner for New South Wales, or
- (b) a person nominated by the Electoral Commissioner for the purpose of exercising the functions of a returning officer.

roll, in relation to an election, means the roll prepared for the election by the Director under this Division.

237 Notice that election is required

When an election is required under section 230 (2) (a) of the Act, the Director is:

- (a) to give the returning officer written notice that an election is required, and
- (b) to prepare, certify and deliver to the returning officer a roll containing the full names and addresses of the persons who, in the opinion of the Director, are qualified to vote in the election, to stand as a candidate and to nominate a candidate in the election.

238 Notification of election

- (1) The returning officer is to publish written notice of an election as soon as practicable after having been notified in writing by the Director that the election is required.
- (2) The notice is to be published in at least one newspaper that circulates throughout New South Wales and in such other local newspaper (if any) as the returning officer considers appropriate.
- (3) The notice of the election must:
 - (a) fix a time and date for the close of nominations, and
 - (b) fix a time and date for the close of the roll, and
 - (c) state that if the election is contested a ballot will be held, and fix a time and date for the close of the ballot.

The notice may contain such other information concerning the election as the returning officer considers appropriate.

- (4) The close of nominations and the close of the roll must be not earlier than 21 days, and not later than 28 days, after the date on which the notice is published.
- (5) The returning officer must also forward to each person included in the roll a notice setting out the matters set out in the notice of election and including such other information as the returning officer considers appropriate.

239 Postponement of closing dates

- (1) The returning officer may postpone (for a period not exceeding 14 days) the close of nominations, the close of the roll or the close of the ballot by written notice in a form similar to, and published in the same manner as, the notice referred to in clause 238.
- (2) The returning officer may exercise the power conferred by this clause more than once in respect of an election.

240 Nomination of candidates

- (1) A person is qualified to nominate a candidate for an election if, and only if, the person is entitled to vote in the election.
- (2) A person is not entitled to nominate more than the number of candidates that are required to be elected to represent the person.
- (3) A nomination of a candidate:
 - (a) must be in a form approved by the returning officer, and
 - (b) must be made by no fewer than 2 persons (other than the candidate) who are qualified to nominate a candidate, and
 - (c) must be lodged with the returning officer before the close of nominations.
- (4) If the returning officer is of the opinion that an insufficient number of the persons by whom a candidate has been nominated are qualified to nominate a candidate, the returning officer must, as soon as practicable, cause notice of that fact to be given to the candidate.

- 241 Withdrawal of nomination**
A candidate may withdraw his or her nomination by notice in writing addressed to the returning officer at any time before the close of nominations.
- 242 Exhibition of roll**
(1)The Director is to cause copies of the roll to be exhibited for public inspection at offices of NSW Fisheries for a period of at least 14 days ending at the close of the roll.
(2)The Director may cause the copies of the roll to be exhibited at such other places the Director considers appropriate.
- 243 Application for enrolment by person not already enrolled**
(1)A person may apply to the Director, in a form approved by the Director, for inclusion in the roll.
(2)The application must be lodged on or before the close of the roll.
(3)On receipt of the application the Director must:
(a) if satisfied that the applicant is qualified to vote in the election, accept the application and enter the name and address of the applicant in the roll, or
(b) if not so satisfied, reject the application and inform the applicant in writing that the application has been rejected.
(4)The Director may, before the close of the roll, make any other necessary correction of the roll.
(5)A determination by the Director as to whether or not a person is likely to be a shareholder or commercial fisher in a fishery is final and conclusive.
- 244 Uncontested election—share management fishery**
(1)In the case of an election for industry members of a MAC for a share management fishery, if by the close of nominations no more than the minimum number of candidates have been duly nominated for election, the returning officer is to declare all those candidates duly elected.
(2)If there are more than the minimum number of candidates, a ballot must be held.
(3)In this clause, a reference to the minimum number of candidates is a reference to the number of industry members on a MAC, as specified in column 2 of Part A of the Table at the end of clause 231 next to the fishery concerned.
- 245 Uncontested elections—restricted fisheries**
(1)In the case of an election for industry members of a MAC for a restricted fishery, if by the close of nominations the number of candidates duly nominated for election to represent commercial fishers holding a particular type of endorsement in the fishery does not exceed the number required to be elected to represent those fishers (as specified in relation to the fishery concerned in column 3 of Part B of the Table at the end of clause 231), the returning officer is to declare those candidates duly elected.
(2)If the number of candidates in the election exceeds the number required to be elected, a ballot must be held.
- 246 Up-dating of roll**
(1)As soon as practicable after it becomes apparent to the returning officer that a ballot must be held, the returning officer is to notify the Director of that fact.
(2)Within 7 days after having been so notified by the returning officer, the Director is to certify and deliver to the returning officer a copy of the roll, as in force at the close of the roll, together with an appropriately addressed label or an appropriately addressed envelope for each person whose name is included in that roll.
(3)This clause does not apply to an election which is held as a consequence of an earlier election which has failed but in respect of which the relevant roll has been furnished to the returning officer under this clause.
- 247 Printing of ballot-papers**
(1)The returning officer must, as soon as practicable after the close of nominations in an election:
(a) determine the order in which the candidates' names are to be listed on a ballot-paper by means of a ballot held in accordance with the procedure

prescribed for the purposes of section 82A of the *Parliamentary Electorates and Elections Act 1912*, and

- (b) cause sufficient ballot-papers to be printed so that a ballot-paper may be forwarded to each person included in each of the rolls.

(2) A ballot-paper for an election must contain:

- (a) the names of the candidates arranged in the order determined in accordance with subclause (1) (a), with a small square set opposite each name, and
- (b) if, in the opinion of the returning officer, the names of 2 or more of the candidates are so similar as to cause confusion, such other matter as will, in the opinion of the returning officer, distinguish between those candidates, and
- (c) such directions as to the manner in which a vote is to be recorded, and the ballot-paper returned to the returning officer, as the returning officer considers appropriate.

248 Distribution of ballot-papers

The returning officer must, as soon as practicable after the printing of the ballot-papers for an election, forward to each person included in the roll for the election:

- (a) a ballot-paper initialled by the returning officer or by a person authorised by the returning officer in that behalf, and
- (b) an unsealed reply-paid envelope addressed to the returning officer and bearing on the back the words "Name and address of voter" and "Signature of voter", together with appropriate spaces for the insertion of the person's name, address and signature.

249 Duplicate ballot-papers

(1) At any time before the close of the ballot, the returning officer may supply a duplicate ballot-paper to any voter to whom a ballot-paper was forwarded if the voter satisfies the returning officer by statutory declaration that the ballot-paper has been spoilt, lost or destroyed, and that the voter has not already voted in the election to which the ballot-paper relates.

(2) The returning officer is to maintain a record of all duplicate ballot-papers supplied under this clause.

250 Recording of votes

In order to vote in an election, an elector must:

- (a) complete the ballot-paper in accordance with the directions printed on it, and
- (b) place the completed ballot-paper (folded so that the vote cannot be seen) in the envelope addressed to the returning officer and forwarded with the ballot-paper, and
- (c) seal the envelope, and
- (d) insert his or her full name and address on the back of the envelope and sign the back of the envelope, and
- (e) return the envelope to the returning officer so that it is received by the returning officer before the close of the ballot.

251 Receipt of ballot-papers

(1) In any ballot, the returning officer must reject any envelope purporting to contain a ballot-paper, being an envelope:

- (a) that is not received by the returning officer before the close of the ballot, or
- (b) that is unsealed,

without opening the envelope or inspecting the ballot-paper.

(2) On receipt, before the close of the ballot, of an envelope purporting to contain a ballot-paper, the returning officer must examine the name on the back of the envelope and:

- (a) if the returning officer is satisfied that a person of that name is included in the relevant roll for the election, accept the ballot-paper in the envelope for scrutiny without opening the envelope and draw a line through that person's name in the roll, or

(b) if the returning officer is not so satisfied, or if a signature does not appear on the back of the envelope, reject the ballot-paper in the envelope without opening the envelope.

(3) If it appears to the returning officer that the signature on the back of any such envelope is not the signature of the person whose name and address appear on the back of the envelope, the returning officer may make such inquiries as the returning officer thinks fit. If the returning officer is satisfied after making those inquiries that the signature is not the signature of that person, the returning officer is to reject the ballot-paper in the envelope without opening the envelope.

252 Ascertaining result of ballot

The result of a ballot is to be ascertained by the returning officer as soon as practicable after the close of the ballot.

253 Scrutineers

Each candidate in a ballot is entitled to appoint, by notice in writing to the returning officer, a scrutineer to represent the candidate at all stages of the scrutiny.

254 Scrutiny of votes

(1) At the scrutiny of votes in a ballot, a ballot-paper must be rejected as informal if:

- (a) it is neither initialled by the returning officer (or by a person authorised by the returning officer in that behalf) nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*, or
- (b) it has on it any mark or writing which, in the opinion of the returning officer, could enable any person to identify the voter who completed it, or
- (c) it has not been completed in accordance with the directions shown on it.

(2) A ballot-paper must not be rejected as informal merely because:

- (a) there is any mark or writing on it that is not authorised or required by this Division (not being a mark or writing referred to in subclause (1) (b)) if, in the opinion of the returning officer, the voter's intention is clearly indicated on the ballot-paper, or
- (b) the number of candidates the voter has recorded a vote for is less than the number to be elected.

(3) The scrutiny of votes in a ballot is to be conducted as follows:

- (a) the returning officer must produce unopened the envelopes containing the ballot-papers accepted for scrutiny under clause 251 in respect of the ballot, other than any envelope purporting to contain a ballot-paper rejected under clause 251 (3),
- (b) the returning officer must then open each such envelope, extract the ballot-paper and (without unfolding it) place it in a locked ballot-box,
- (c) when the ballot-papers from all the envelopes so opened have been placed in the ballot-box, the returning officer must then unlock the ballot-box and remove the ballot-papers,
- (d) the returning officer must then examine each ballot-paper and reject those that are informal,
- (e) the returning officer must then proceed to count the votes and ascertain the result of the election in accordance with clause 255.

255 Counting of votes

(1) In any election the method of counting votes is to be the "first past the post" method, that is, the candidate or candidates with the most votes is or are taken to be elected.

(2) If the number of candidates to be elected cannot be determined because of an equality of votes, the candidate taken to be elected is the candidate whose name is drawn from a lot containing the names of each of the candidates having equal votes.

256 Notification of result of election

(1) As soon as practicable after a candidate has been elected, the returning officer must notify the Minister, in writing, of the name of the candidate or candidates so elected.

(2) The Minister is to publish written notice of the appointment of elected industry members in the Gazette.

257 Decisions of returning officer final

If the returning officer is permitted or required by the Act or this Division to make a decision on any matter relating to the conduct of a ballot in an election, the decision of the returning officer on that matter is final.

258 Offence

Any person who:

- (a) votes, or attempts to vote, more than once in any election, or
- (b) votes, or attempts to vote, in an election in which the person is not entitled to vote, or
- (c) makes a false or wilfully misleading statement (not being a statement verified by statutory declaration):
 - (i) to the returning officer in connection with an election, or
 - (ii) in any document that the person furnishes for the purposes of an election,

is guilty of an offence.

Maximum penalty: 5 penalty units.

259 Death of a candidate

Where a candidate dies after the close of nominations and before the close of the ballot for an election:

- (a) the returning officer must cause a notification of the death to be published in the Gazette, and
- (b) all proceedings in the election taken after the Director notified the returning officer that the election was required to be held are to be of no effect and those proceedings must be taken again.

Division 4 Provisions relating to members and procedure of Management Advisory Committees

260 Definitions

In this Division:

industry member means a member of a MAC elected and appointed pursuant to section 230 (2) (a) of the Act.

MAC means a Management Advisory Committee.

member means a member of a MAC.

non-elected member means a member of a MAC appointed pursuant to section 230 (2) (b) of the Act.

returning officer means the returning officer for an election (within the meaning of Division 2 of this Part).

261 Non-elected members

(1) For the purposes of section 230 (2) (b) of the Act, non-elected members are to be appointed from among the following interested groups:

- (a) NSW Fisheries,
- (b) groups representing recreational fishers,
- (c) the Nature Conservation Council,
- (d) groups representing indigenous Australians,
- (e) such other groups as the Minister considers appropriate.

(2) The number of non-elected members appointed to a MAC is to be less than the number of industry members of the MAC.

(3) At least one of the non-elected members appointed to each MAC is to be a person selected from a panel of nominees of the Nature Conservation Council.

(4) This clause does not apply in respect of the MAC for the inland restricted fishery.

261A Non-elected members—inland restricted fishery

In the case of the MAC for the inland restricted fishery, non-elected members are to be appointed from the following interested groups:

- (a) NSW Fisheries,
- (b) groups representing recreational fishers,
- (c) the Nature Conservation Council,
- (d) groups representing indigenous Australians.

262 Deputies of members

- (1) A member may, from time to time, appoint a person to be the deputy of the member, and may at any time revoke any appointment.
- (2) Such an appointment may only be made with the approval of the Minister. The Minister may revoke such approval at any time.
- (3) In the absence of a member, the member's deputy:
 - (a) may, if available, act in the place of the member, and
 - (b) while so acting, has all the functions of the member and is to be taken to be the member.
- (4) A person, while acting in the place of a member, is entitled to be paid such allowances as the Minister may from time to time determine in respect of the person.

263 Terms of office

Subject to this Division:

- (a) an industry member holds office for a term of 3 years but is eligible (if otherwise qualified) for re-election and re-appointment, and
- (b) a non-elected member holds office for the term specified in his or her appointment (not exceeding 3 years) but is eligible (if otherwise qualified) for re-appointment.

264 Continuation of membership of MAC

- (1) Some of the first industry members elected to a MAC are to hold office for a term of 18 months (rather than 3 years). The Minister is to determine the number of industry members on each MAC who will hold office for an 18 month term and is to notify the returning officer of that number.
- (2) As soon as practicable after the returning officer has determined the results of the first election of members of a MAC for a fishery, the returning officer is to determine, by lot, the names of the industry members who are to hold office for an 18 month term.
- (3) The determination by lot is to be made as follows:
 - (a) the names of each of the industry members elected to a position on a MAC are to be written on separate and similar slips of paper,
 - (b) each slip is to be folded so as to prevent identification of the name on it,
 - (c) the slips are to be mixed and one is to be drawn at random,
 - (d) the name on the slip drawn is the name determined by lot.

265 Allowances for members

A member is entitled to be paid such allowances as the Minister from time to time determines in respect of the member.

266 Vacancy in office of a member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-elected or re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 3 consecutive meetings of the MAC of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person.
- (2) The Minister may remove a non-elected member from office at any time.
- (3) The Minister may remove an industry member from office if the member:
 - (a) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or

- (b) is convicted of an offence under the Act, this Regulation or any other regulation made under the Act or an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (c) ceases to be qualified to be elected to the MAC (see Division 2 of this Part).

267 Filling of vacancy in office of member

- (1) If the office of an industry member becomes vacant because the term of office of the member has ended, an election is to be held in accordance with Division 3 of this Part for the purpose of appointing a new member.
- (2) If a vacancy occurs in the office of an industry member otherwise than because the term of office of the member has ended, the Minister may appoint a person to fill the office for the remainder of that term, being a person who would be qualified to be elected to the office and who the Minister decides, after consultation with the relevant industry sector, is appropriate for that office.

267A General procedure for calling and holding meetings of a MAC

- (1) The procedure for the calling and holding of meetings of a MAC is to be determined by the Minister.
- (2) The Minister is to call at least 2 meetings of a MAC each calendar year, unless otherwise determined by the MAC.

267B Quorum

The quorum for a meeting of a MAC consists of the majority of its industry members for the time being.

267C Voting

- (1) A decision supported by a majority of votes cast at a meeting of a MAC at which a quorum is present is the decision of the MAC, but only if the majority of members present are industry members.
- (2) In the case of the MAC for the inland restricted fishery, a decision supported by a majority of votes cast at a meeting of a MAC at which a quorum is present, and by a majority of industry members for the time being, is a decision of the MAC.

Division 5 Transitional

267D (Repealed)

Part 12 Enforcement

Division 1 Fisheries officers

268 Class of persons that may be appointed as fisheries officers

For the purposes of section 243 (1) (d) of the Act, the prescribed class of persons consists of persons appointed to enforce a law relating to commercial fishing operations of the Commonwealth, another State or a Territory.

Note. This clause allows persons responsible for the enforcement of fisheries laws of other Australian jurisdictions to be appointed as fisheries officers for the purposes of the Act (in addition to other persons who may be appointed as fisheries officers under section 243 of the Act).

Division 2 Seizure

269 Forfeiture offences

For the purposes of section 265 (2) of the Act, the following fisheries offences are declared to be forfeiture offences:

- (a) an offence against section 8 of the Act (Closure of waters to fishing),
- (b) an offence against section 17 of the Act (Bag limits—taking of fish),
- (c) an offence against section 18 of the Act (Bag limits—possession of fish),
- (d) an offence against section 24 of the Act (Lawful use of nets or traps),

- (e) an offence against section 25 of the Act (Possession of illegal fishing gear),
- (f) an offence against section 247 of the Act (Obstructing, impersonating etc fisheries officers),
- (g) an offence against the *Fisheries Management (Aquatic Reserves) Regulation 1995*,
- (h) an offence against clause 111 of this Regulation (Dynamite and explosive substances),
- (i) an offence against clause 113 of this Regulation (Use of electrical devices prohibited in all waters).

Note. A fisheries officer may seize a boat or motor vehicle that the officer has reason to believe has been used by a person engaged in commercial fishing activities for the purpose of committing a forfeiture offence (section 265 of the Act). This clause sets out the offences that are forfeiture offences.

Division 3 Criminal proceedings

270 Penalty notices

- (1) For the purposes of section 276 of the Act:
 - (a) an offence specified in Column 1 of Schedule 5 (being an offence under the Act or Regulation indicated in the heading to the relevant part of that Schedule) is a prescribed offence, and
 - (b) an amount shown in Column 2 of Schedule 5 opposite the prescribed offence is the amount of penalty prescribed for the offence if that offence is dealt with under section 276 of the Act.
- (1A) If the reference to a provision in Column 1 of Schedule 5 is qualified by words that restrict its operation to specified kinds of offence or to offences committed in specified circumstances, an offence created by the provision is a prescribed offence only if it is an offence of a kind so specified or is committed in the circumstances so specified.
- (2) For the purposes of section 276 (9) of the Act, in relation to each offence referred to in Schedule 5, the prescribed class of persons (being persons who are "authorised officers" in relation to those offences) consists of the Director and fisheries officers.

270A Short description of offences

- (1) For the purposes of section 145B of the *Justices Act 1902*, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 5 is the IPB Code set out in relation to the offence in Column 3 of Schedule 5, together with:
 - (a) the text set out in relation to the offence in Column 4 of Schedule 5, or
 - (b) if a choice of words is indicated in that text, the words remaining after the omission of the words irrelevant to the offence.
- (2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 5, the prescribed expression is taken to relate to the offence created by the provision, as the provision was in force when the offence is alleged to have been committed.
- (3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used.
- (4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.
- (5) In this clause:

Infringement Processing Bureau means the Infringement Processing Bureau within the Police Service.

IPB Code, in relation to an offence, means the code allocated to the offence by the Infringement Processing Bureau.

270B Transitional provision

(1) This clause applies to any document (being an information, complaint, summons, warrant, notice, order or other document that relates to an offence alleged to have been committed before the repeal of the *Justices (Short Descriptions of Fisheries Offences) Regulation 1995 (the 1995 Regulation)* by the *Justices (Fisheries Offences) Repeal Regulation 2000*), and so applies whether the document was issued, given or made before or after that repeal.

(2) The repeal of the 1995 Regulation does not affect the validity of any document to which this clause applies in which an expression that was prescribed by the 1995 Regulation, as in force immediately before its repeal, is used.

271 Evidence in relation to fishing authorities

For the purposes of section 280 of the Act, the following officers of NSW Fisheries are prescribed officers:

- (a) Director Fisheries Services,
- (b) Director Conservation,
- (c) Director Aquaculture,
- (d) Principal Manager Commercial and Licensing,
- (e) Principal Manager Fisheries Services,
- (f) Principal Manager Recreational Fisheries,
- (g) Chief Fisheries Officer,
- (h) Share Registrar,
- (i) Registered Fish Receiver Registrar.

Note. Under section 280 of the Act, a certificate (relating to a fishing authority under the Act) signed, or purporting to be signed, by the Director of NSW Fisheries or by a person referred to in this clause is admissible in proceedings for an offence under the Act or the regulations and is evidence of the matters stated in the certificate.

Division 4 Miscellaneous

271A Payment by instalments

- (1) Despite any other provision of this Regulation, but subject to the Act, the Minister may approve the payment by instalments of any fee, charge or other sum of money payable under the Act or this Regulation.
- (2) An approval may establish guidelines in accordance with which instalments are to be paid.
- (3) An approval may require interest to be paid on late instalments, at a rate not exceeding the rate payable on judgments of the Supreme Court.
- (4) If a person fails to pay an instalment on or before the due date, the total amount of all instalments unpaid on that date, together with any interest, becomes due and payable.

Part 13 Savings and transitional

272 Provisions relating to repeal and amendment of regulations under 1935 Act

- (1) Any act, matter or thing that, immediately before the commencement of this Regulation, had effect under a provision of the *Fisheries and Oyster Farms (General) Regulation 1989* that corresponds with a provision of this Regulation is taken to have effect under the corresponding provision of this Regulation.
- (2) Any act, matter or thing that, immediately before the commencement of this Regulation, had effect under a provision of a repealed regulation that corresponds with a provision of this Regulation is taken to have effect under the corresponding provision of this Regulation.
- (3) In this clause, **repealed regulation** means any of the following regulations:
 - (a) the *Fisheries and Oyster Farms (Nets and Other Fishing Gear) Regulation 1989*,
 - (b) the *New South Wales Commercial Fishing Advisory Council Regulation 1990*.

273 Offences under 1935 Act

In this Regulation, a reference to an offence under the Act or regulations made under the Act is taken to include a reference to an offence under the 1935 Act or regulations made under that Act.

274 Restricted fisheries—duration of existing endorsements

(1) An endorsement on a commercial fishing licence authorising the holder of the licence to take fish in a restricted fishery declared under Part 8 that is in force at the commencement of this Regulation is taken to specify a period in which the endorsement remains in force. The period taken to be specified is the same as the period specified in the restricted fishery permit to which it relates as being the period in which the permit remains in force.

(2) In this clause, *restricted fishery permit* means a permit issued under section 22A of the 1935 Act (as in force immediately before the repeal of that section) that was in force immediately before the commencement of this Regulation.

275 Minimum shareholding for new entrants to lobster share management fishery

Clause 130 (e), as inserted by the *Fisheries Management (General) Amendment (Share Transfers) Regulation 1998*, does not apply in respect of an acquisition of shares in the lobster share management fishery that was made before the commencement of that Regulation. Such an acquisition is an authorised acquisition for the purposes of clause 130 if it was made in accordance with clause 130, as in force at the time of the acquisition.

276 Provision consequent on enactment of Fisheries Management and Environmental Assessment Legislation Amendment Act 2000

Anything done or omitted to be done by the Director before the commencement of Schedule 3 [14] and [15] to the *Fisheries Management and Environmental Assessment Legislation Amendment Act 2000* in connection with the exercise of a function under the Act or this Regulation, being a function that after that commencement is exercisable by the Minister, is taken to have been done or omitted by the Minister.

277 Inland commercial fishery nomination to Advisory Council on Commercial Fishing

The person holding office under clause 229D (1) (b) immediately before its repeal is taken to have been appointed as the person to represent the inland restricted fishery under clause 229D (1) (a) (ix), but only for the remainder of the term for which the person was appointed to hold office under clause 229D (1) (b).

278 Central region estuary general MAC representatives

(1) The person holding office under Part 11 as the restricted fishery MAC representative for the central region of the estuary general restricted fishery immediately before the commencement of this clause continues to hold office for the remainder of the term for which the person was elected to the MAC.

(2) Persons are not required to be elected under Part 11 as restricted fishery MAC representatives for the central north region and central south region of the estuary general restricted fishery until the election for the MAC first occurring after the commencement of this clause.

279 Provisions relating to closure of Botany Bay estuary prawn trawl restricted fishery

(1) Until 1 May 2002, clause 231 (2) (a) is taken to require 5 members to be appointed to the Management Advisory Committee for the estuary prawn trawl restricted fishery, including the Botany Bay industry member.

(2) Despite clause 263, the term of office of the Botany Bay industry member ends on 1 May 2002.

(3) In this clause:

Botany Bay industry member means the person holding office under Part 11 immediately before the commencement of this clause as the estuary prawn trawl restricted fishery Management Advisory Committee representative for commercial fishers who hold an endorsement (including an endorsement for a further period) for which the fishers were eligible under clause 191V (1) (a).

Schedule 1 Ocean waters

(Clause 3 (1))

Ocean waters

1 Ocean waters means waters east of the natural coast line of New South Wales.

2 The natural coast line is defined by a line drawn along the high water mark of the sea.

3 Where an estuary meets the coast, the natural coast line is defined as follows (unless item 4 applies):

- (a) if an estuary has two breakwalls at the confluence with the South Pacific Ocean, by a line drawn across the easternmost extremity of both break walls,
- (b) if an estuary has only one breakwall, by a line drawn from the easternmost extremity of the breakwall to the northern or southern extremity of the high water mark on the opposite bank,
- (c) if an estuary enters the South Pacific Ocean and there are no defined points available, by a line drawn across the entrance between the easternmost extremity of the drying points on each bank.

4 In relation to the following waters, the natural coast line is defined as follows:

- (a) Port Stephens—by a line drawn between the southern extremity of Yacaaba Point to the Northern extremity of Tomaree Point,
- (b) Broken Bay—by a line drawn from the southern extremity of Box Head to the northern extremity of Barrenjoey Head,
- (c) Port Jackson—by a line drawn from the southern extremity of North Head to the northern extremity of South Head,
- (d) Botany Bay—by a line drawn from Endeavour Light to the northern extremity of Sutherland Point,
- (e) Port Hacking—by a line drawn from the southernmost extremity of Hungry Point to the northern most extremity of Cabbage Tree or Pulpit Point,
- (f) Jervis Bay—by a line drawn from the southeastern point of Point Perpendicular to the southeastern point of Bowen Island thence to the northeastern point of Governor Head,
- (g) Wogonga River—by a line drawn northwest across the entrance from the northernmost extremity of Wogonga Head,
- (h) Batemans Bay—by a line drawn from the southwestern extremity of Square Point to the northernmost extremity of Observation Point.

Schedule 2 Waters in which net and trap fishing are prohibited

(Clause 18)

Brisbane Water/Broken Bay

Brisbane Water or any of its tributaries; Broken Bay north of a line drawn from Little Box Head to Green Point.

Port Hacking

Port Hacking or its tributaries to the westward of a line drawn southerly from the southernmost extremity of Hungry Point to the northernmost extremity of Cabbage Tree or Pulpit Point.

Wagonga River

Wagonga River or its tributaries westward of a line drawn north-west across the entrance from the northernmost extremity of Wagonga Head.

Narrabeen Lake

County of Cumberland. The whole of the waters of Narrabeen Lake and its tributaries including Deep Creek, Middle Creek, South Creek and Mullet Creek together with their affluents and tributaries.

Dee Why Lagoon, Curl Curl Lagoon and Manly Lagoon

County of Cumberland. The whole of the waters of Dee Why Lagoon, Curl Curl Lagoon and Manly Lagoon together with their affluents and tributaries.

Wallis Lake

County of Gloucester, parishes of Tuncurry and Forster at Wallis Lake: The whole of the waters within the following boundaries: Commencing at the entrance to Wallis Lake at the eastern extremity of the northern breakwater and bounded thence by that breakwater and a part of the foreshores of the village of Tuncurry generally southerly to the prolongation of the western side of Wharf Street; thence by a line bearing approximately 239 degrees to the north-eastern corner of Oyster Lease 71.295; thence by a line bearing approximately 168 degrees to the north-western corner of Oyster Lease 70.434 and by a line bearing approximately 155 degrees across the water to the south-western corner of Oyster Lease 57.295 on Godwin Island; thence by the northern foreshore of that island north-easterly to its most northern point; thence by a line bearing 60 degrees to the foreshore of the village of Forster at the prolongation of the southern boundary of Section 27; thence by that foreshore generally northerly to the southern breakwater, by that breakwater north-easterly to its eastern extremity and by a line across the entrance to the point of commencement.

Tuggerah Lake and Ocean Waters Adjoining

County of Northumberland: The waters of that part of Tuggerah Lake, its channel entrance and the adjacent ocean waters included within the following boundaries: Commencing on the line of high water mark at the southern extremity of Karagi, the headland on the northern side of that channel entrance, and bounded thence by the high water mark of the eastern shore of that channel entrance bearing generally northerly to Tuggerah Lake and by the high water mark of part of the eastern shore of that lake bearing generally northerly and north-easterly to a point distant 201 metres south-westerly from the north-western corner of portion 39 in the parish of Wallarah; thence by lines bearing 282 degrees 887 metres and 325 degrees 814 metres, respectively, into the waters of that lake; thence by a line bearing 210 degrees 2,743 metres; thence by lines bearing 91 degrees 631 metres and 136 degrees 1,102 metres, respectively, to a point on the high water mark of the eastern shore of that lake distant 805 metres southerly from the northern extremity of Picnic Point; thence by the high water mark of part of the eastern shore of that lake to that extremity of that point; thence by the high water mark of the southern-western shore of that channel entrance bearing generally south-easterly to the junction of that shore with the shore of the South Pacific Ocean; thence by a line bearing 135 degrees 443 metres into the waters of that ocean; thence by a line bearing northerly to a point due east of and distant 443 metres from the point of commencement, and thence by a line to that point.

Terrigal Lagoon, Wamberal Lagoon, Avoca Lake and Cockrone Lake

County of Northumberland. The whole of the waters of Terrigal Lagoon, Wamberal Lagoon, Avoca Lake (including Bulbararing Lagoon) and Cockrone Lake together with their affluents and tributaries.

Lake Illawarra and Ocean Waters Adjoining

County of Camden: The whole of the waters of that part of Lake Illawarra, the entrance thereto and the adjacent ocean waters comprised within the following boundaries: Commencing at the north-western corner of portion 44 in the parish of Wollongong; thence by lines bearing 291 degrees 30 minutes 333 metres 228 degrees 57 minutes 174 metres and 191 degrees 30 minutes 718 metres, respectively, to a post marked broad-arrow over FD on the north-western shore of Bevan's Island; thence by that shore of that island bearing generally south-westerly, in all about 233 metres to a point marked broad-arrow over FD at the westernmost extremity of that island, and thence by a line bearing approximately 205 degrees about 565 metres to a peg marked broad-arrow over E on the southern shore of Lake Illawarra and bounded thence by the southern shore of that lake, by the south-western shore of the entrance thereto and by that line of mean high water mark of the ocean beach to a point, bearing 237 degrees from the Trigonometrical Station on Windang Island, being the intersection of a line drawn from the Trigonometrical Station to the junction of Lake Entrance and Shellharbour Roads, thence by a line to that Trigonometrical Station and thence by a line to the sand spit at the northern point of entrance to that lake at its intersection with a line drawn from the Trigonometrical Station to the southern corner of portion 44 in the parish of Wollongong; thence by the north-eastern shore of that entrance and the eastern shore of that lake to the point of commencement.

Schedule 3 Waters in which use of prawn net (set pocket) is permitted

(Clause 18)

Tuggerah Lake and Ocean Waters Adjoining

County of Northumberland: The whole of the waters of the channel entrance to Tuggerah Lake within a distance of 46 metres measured rectangularly on the lake side of a line drawn across that channel entrance and being the prolongation of the outer shore of the (for the time being) more westerly point of entrance from the ocean to the channel entrance and also the whole of the ocean waters to the entrance to Tuggerah Lake described in Schedule 2.

Lake Illawarra and Ocean Waters Adjoining

County of Camden: The whole of the waters of that part of the channel entrance to Lake Illawarra within a distance of 46 metres measured rectangularly on the lake side of a line drawn across that channel entrance and being the prolongation of the outer shore of the (for the time being) more westerly point of entrance from the ocean to that channel entrance and also the whole of the waters of that channel entrance lying on the ocean side of that line and the whole of the ocean waters adjacent to the entrance of Lake Illawarra described in Schedule 2.

Schedule 4 Waters in which spearfishing is prohibited

(Clause 70)

Bellinger River

County of Raleigh: The whole of the waters of that part of the Bellinger River within the following boundaries. Commencing at a point on the western bank of the north arm of the River due west of the northern extremity of the northern training wall and thence bounded by a line easterly to that training wall; thence by the northern training wall and the northern breakwater southerly and southeasterly to the eastern extremity of the northern breakwater; thence by a line southeasterly to the eastern

extremity of the southern breakwater; thence by that breakwater and the southern training wall northwesterly to the northwestern extremity of the southern training wall; thence by a line northeast to the inner training wall; thence by that training wall and the western bank of the north arm southeasterly and northerly to the point of commencement; and the whole of the waters of South Lagoon together with all its creeks, tributaries and inlets.

Boambee Creek

County of Raleigh, Parish of Bonville: The whole of the waters of Boambee Creek, together with all its creeks, tributaries and inlets extending from the South Pacific Ocean upwards to its source.

Bonville Creek

County of Raleigh, Parish of Bonville: The whole of the waters of Bonville Creek, together with all its creeks, tributaries and inlets extending from the South Pacific Ocean upwards to its source.

Brisbane Water

County of Northumberland: The whole of the waters of that part of Brisbane Water together with all its creeks, tributaries, inlets and bays north of a line drawn westerly from the southern extremity of Box or Hawk Head to the eastern extremity of Green Point.

Brunswick River

That part of the Pacific Ocean within the following boundaries: Commencing at high water mark at a point 1,000 metres north of the northwestern corner of the northern training wall of the Brunswick River, County of Rouse, Parish of Billinudgel, then by that high water mark and the training wall to the easternmost point of the northern training wall; thence by a line to the easternmost point of the southern training wall; thence by that training wall and high water mark to a point 1,000 metres south of the southwestern corner of the southern training wall; thence by a line due east for 400 metres; thence by a line generally northwesterly to a point 400 metres due east of the point of commencement and thence by a line due west to the point of commencement.

Brunswick River

County of Rouse, Parishes of Brunswick and Billinudgel: The whole of the waters of Brunswick River and its tributaries from the most eastern extremities of the training walls to its source, excluding that part west of the traffic bridge (Pacific Highway) and that part north of the training walls in Marshall Creek and that part south of the foot bridge which crosses Simpsons Creek.

Burrill Lake

County of St Vincent, Parishes of Ulladulla and Woodburn: The whole of the entrance waters to Burrill Lake, including the bays and inlets and tributaries extending from a line drawn across the entrance waters from the northernmost point of Thisleton's Point in a northeastern direction bearing 23 degrees, about 291 metres to a point on the northeastern foreshore of the lake, downwards to the South Pacific Ocean.

Camden Haven Inlet

The waters of that part of Camden Haven Inlet, from a line drawn across the entrance to the inlet from the easternmost extremity of the northern training wall to the easternmost extremity of the southern training wall, upstream to the bridge across the Inlet at Laurieton and including the waters of Gogley's Bay and Gogley's Creek, and that part of the waters of Queens Lake Entrance, from their confluence with Camden Haven Inlet upstream to the North Haven road bridge.

Candlagan Creek

County of St Vincent: The whole of the waters of Candlagan Creek and adjacent ocean waters below the traffic bridge, commencing from the southeast pylon of the bridge, thence by a line bearing 130 degrees to an established concrete cairn at the entrance of the creek, thence by a line bearing 66 degrees to a position marked by a broad arrow painted white on the rocks on the northern side of the entrance, thence bounded by the northern shore of Candlagan Creek to the northeastern pylon of the bridge, thence along the bridge to the point of commencement.

Clarence River

County of Clarence: The waters of that part of the main Clarence River from a line drawn across the entrance to that river from the eastern extremity of the Iluka training wall to the eastern extremity of the Yamba training wall, upstream to a line drawn southwesterly from the northwestern extremity of the Goodwood Island training wall to the northwestern extremity of Orogandiman or Freeburn Island, thence generally southeasterly by the northern and northeastern foreshores of that island to the northwestern extremity of the middle training wall at the northern end of the old viaduct and thence across to the southern end of that viaduct on the southern foreshore of the Clarence River, thence by the southern foreshore of the Clarence River (including Yamba Bay) to the commencing point at the eastern extremity of the Yamba training wall; together with the waters of those parts of the Clarence River and the South Pacific Ocean from the Yamba training wall by the coastline to a point 20 metres south of Yamba Point and extending easterly from that coastline for a distance of 400 metres.

Conjola Lake

County of St Vincent: the waters of that part of Conjola Lake and the whole of the waters of Berringer Lake, together with all their creeks, tributaries and inlets eastwards of a line drawn from the northern extremity of Roberts Point to the western extremity of Station Point, downstream to the South Pacific Ocean.

Crescent Head

County of Macquarie, Parish of Palmerston, Suburban Lands of Crescent Head. The whole of the tidal waters of that part of the South Pacific Ocean extending seawards for a distance of 400 metres from the line of high water, between the prolongation of the northern boundary of portion 325, and the prolongation of the northernmost northwestern boundary of Reserve No 63725 for Public Recreation and Resting Place, notified 13 January 1933.

Cudgen Creek

County of Rouse, Parish of Cudgen: The whole of the waters of that part of Cudgen Creek north of the traffic bridge at Kingscliff.

Cudgera Creek

County of Rouse, Parish of Cudgen: The whole of the waters of Cudgera Creek, together with its inlets, bays and tributaries upwards to its source from the South Pacific Ocean.

Evans River

County of Richmond, Parish of Riley at Evans Head: The whole of the tidal waters of the Evans River together with all of its tributaries, from the Pacific Highway Bridge, downstream to its meeting with the South Pacific Ocean.

Gordons Bay

County of Cumberland: The whole of the waters of Gordons Bay (or Thompsons Bay) from a line drawn southwesterly from the eastern most point on the northern foreshore adjacent to the recreation reserve at the end of Clovelly Road, to the eastern most point on the southern foreshore to the entrance to Gordons Bay (or Thompsons Bay) adjacent to Arcadia Street.

Hastings River

County of Macquarie: The whole of the waters of that part of the Hastings River within the following boundaries: commencing at the eastern extremity of the northern breakwater and bounded thence by that breakwater and the northern training wall generally westerly and northerly to the P.W.D. Coal Wharf; thence by a line southwesterly to a point on the high water mark of that river at its intersection with the northerly prolongation of the eastern side of Park Street, Port Macquarie; thence by that high water mark, southeasterly, the confluence of Kooloonbung Creek with that river northeasterly, and again the high water mark of the Hastings River generally northeasterly to the southern training wall; thence by that training wall, and the southern breakwater generally easterly to the eastern extremity of that breakwater and thence by a line northerly to the point of commencement; also the whole of the waters of Kooloonbung Creek, Lake Innes, Cathie Lake and Cathie Creek, together with all their creeks, tributaries and inlets.

Inland Waters

Note. See clause 70 (1) (a) of this Regulation.

Killick Creek

County of Macquarie, Parish of Palmerston and Beranghi, Suburban Lands of Crescent Head: The whole of the waters of Killick or Crescent Head Creek and its creeks, tributaries, inlets and lagoons upwards from its confluence with the South Pacific Ocean to its source.

Korogoro Creek

County of Macquarie, Parish of Kinchela: The whole of the waters of Korogoro (Hat Head) Creek and Killick or Crescent Head Creek and their creeks, tributaries, inlets and lagoons upwards from their confluence with the South Pacific Ocean to their source.

Lake Illawarra

County of Camden, Parish of Wollongong: The waters described hereunder: commencing at the southeasternmost extremity of Berrwarra Point and bounded thence generally northwesterly by the northern foreshore of Lake Illawarra to the

northwestern corner of portion 44, Parish of Wollongong; thence by lines bearing north 68 degrees 30 minutes west 444 metres south 48 degrees 57 minutes west 175 metres and south 11 degrees 30 minutes west 718 metres respectively, to a post marked broad arrow over "FD" on the northwestern shore of Bevans Island; thence by that shore of that island bearing generally south-southwesterly, in all about 233 metres to a point marked broad arrow over "FD" at the westernmost extremity of the said island, and thence by a line bearing approximately south 25 degrees west about 565 metres to a peg marked broad arrow over "E" on the southern shore of Lake Illawarra at the eastern point of entrance to Forster's Creek; thence by the southern foreshore of Lake Illawarra generally northeasterly and southeasterly to the northeasternmost extremity of Purr Purr Point; thence by a line northeasterly to the westernmost extremity of Windang Island; and thence by a line northwesterly to the point of commencement.

Lake Macquarie

County of Northumberland: The whole of the waters of that part of the entrance to Lake Macquarie including Black Ned's Bay extending generally easterly to the South Pacific Ocean, from a line across that entrance being the easterly prolongation of the northern side of Rawson Street, Swansea, County Northumberland: and the whole of the waters of that part of the South Pacific Ocean west of a line joining the more easterly extremities of the northern and southern breakwaters at the entrance to Lake Macquarie.

Manning River

Counties of Gloucester and Macquarie: The whole of the tidal waters of that part of the Manning River at Harrington within the following boundaries: Commencing at the southwestern extremity of the northern training wall and bounded thence by a line west to the northwestern bank of Manning River, by the line of high water mark generally northerly and easterly to the breakwater; by that breakwater generally easterly to its eastern extremity: by a line southwesterly to the northern extremity of the sandbank forming the southern point of entrance of Manning River (Harrington Inlet): by the line of high water mark of the southeastern bank of the Manning River generally southwesterly to the eastern shore of the mouth of Mangrove Creek; and thence by a line generally northeasterly to the point of commencement.

Manning River

County of Macquarie, Parish of Harrington: The whole of the waters of the lagoon north of the northern training wall at Manning River and near the entrance of the said river, known as the Harrington Swimming Lagoon.

Minnamurra River

County of Camden, Parishes of Terragong and Kiama: the whole of the waters of Minnamurra River, its creeks and tributaries from its source downwards to the South Pacific Ocean.

Mooball Creek

County of Rouse, Parish of Cudgen: The whole of the tidal waters of that part of Mooball Creek from the traffic bridge at Pottsville downstream to its confluence with the waters of the South Pacific Ocean.

Myall River

County of Gloucester, Parish of Fens: The whole of the waters of Myall River and Paddy Marr's Bar between a line drawn from the southern tip of Dredge Island due east to the eastern bank and due west to the western bank of the river and a line drawn due east and west from the southwestern end of the training wall in Paddy Marr's Bar but exclusive of Corrie Creek from its confluence with the Myall River.

Nambucca River

County of Raleigh, Parish of Nambucca: The tidal waters of that part of the Nambucca River within the following boundaries, together with all the creeks, tributaries, inlets, bays, lagoons etc, of that part, with the exception of Warrell or Gurravembi Creek: commencing at the eastern extremity of the northern breakwater at the entrance of the Nambucca River; and bounded thence by a line bearing southwest to the northernmost extremity of the right bank of that river at its entrance aforesaid; thence by that bank generally southwesterly to a point due east of Warrell Point, and by a line to that point: again by that bank southwesterly to a point due east of the southern extremity of Stuart's Island; and by a line due west to the left bank of the river: thence by that bank northeasterly and easterly to the northern breakwater aforesaid: and by that breakwater easterly to the point of commencement.

Narrabeen Lake

County of Cumberland, Parishes of Narrabeen and Manly Cove: The whole of the waters of Narrabeen Lake together with all its creeks, tributaries, and inlets.

Nelson Bay Boat Harbour

County of Gloucester, Parish of Tomaree: The whole of the waters of Nelson Bay Boat Harbour within the walls and extending a distance of 50 metres from the outer edge of both walls into the waters of Port Stephens commencing at the junction of the western wall and Teramby Street to the junction of the eastern wall and Nelson Bay beach.

Ocean Beaches

The whole of the waters within territorial limits on the whole of the ocean beaches within the State of New South Wales, but exclusive of 20 metres at each extremity of each of the said ocean beaches.

Port Hacking

County of Cumberland: The whole of the waters of Port Hacking together with all its tributaries, inlets and bays west of a line drawn from the eastern extremity of Glashier Point to the northern extremity of Port Hacking Point.

Port Jackson

County of Cumberland, Parish of Willoughby: The whole of the waters of North Harbour, Manly Cove, Little Manly Cove and Spring Cove, their bays and tributaries, north of a line drawn between Grotto Point and outer North Head and those waters of Chowder Bay west of a line drawn from the eastern most extremity of Chowder Head, to the foreshore of the southeastern most extremity of Georges Head on the eastern side of the Army Maritime School.

Red Bank River

Counties of Fitzroy and Clarence: The waters of Red Bank River, Saltwater and Corindi Creeks, including all their creeks, inlets and tributaries, downstream from a line drawn from a white post marked "FD↑" erected on Jewfish point, and bearing 344 degrees across the River, to the River's confluence with the South Pacific Ocean.

Richmond River

Counties of Richmond and Rouse: The whole of the waters of the Richmond River including creeks and tributaries upstream from a line drawn between eastern extremities of the northern and southern breakwalls at its confluence with the South Pacific Ocean to the Burns Point ferry crossing.

Sandy Beach Creek

County of Auckland, Parish of Bournda: The whole of the waters of Sandy Beach Creek and Bournda Lagoon, together with all their inlets, creeks and tributaries.

South West Rocks Creek

County of Macquarie, Parish of Arakoon: The whole of the waters of South West Rocks Creek (or Back Creek) and the whole of the waters of that part of the Macleay River and that part of the South Pacific Ocean lying generally north and northeasterly of a line drawn across the River in a southeasterly direction from the southernmost extremity of Shark Island to the point of highwater mark on the northern edge of the public boat ramp on the eastern training wall, fronting portion 302: to the easternmost extremities of the northern and southern breakwaters of the Macleay River; and including the waters of the South Pacific Ocean within 100 metres of the northwestern side of the northern breakwater and within 100 metres on the southeastern side of the southern breakwater.

Sussex Haven

County of St Vincent, Parishes of Farnham and Bherewerre: The whole of the waters of that part of Sussex Haven, its creeks and inlets, and that part of St Georges Basin, its creeks and bays, between a line drawn northeasterly from the most easterly southeastern corner of Reserve 81746 for Public Recreation notified 3 July 1959, to the point of junction of the eastern shore of Sussex Haven with the shore of the South Pacific Ocean and a line from the easternmost extremity of Kangaroo Point bearing 144 degrees to a point marked broad arrow over "FD" on the southern shore of the said Basin, situated about 1.6 km easterly from the junction of the southern shore of the said Basin with the eastern shore of Sussex Haven.

Tuggerah Lake Entrance

County of Northumberland: The waters of Tuggerah Lake Entrance within the following boundaries: commencing at the northwest corner of lots A and B of Strata Plan No 4000 on Marine Parade; thence by a line bearing 90° for a distance of 160 metres; then by a line bearing generally northwesterly to the southeast extremity of Karagi Point; then continuing generally northerly along mean highwater mark of the eastern shore of Tuggerah Lake to PWD Survey mark No 215 at Coogee Avenue; then continuing generally southwesterly to the northwesternmost point of Terilbah Island and to PWD Survey Mark No 217 on Picnic Point; then generally easterly and southeasterly along mean highwater mark of the southern shore of Tuggerah Lake to the point where the line bearing 90° from the point of commencement intersects mean highwater mark.

Tweed River

County of Rouse, Parish of Terranora: The whole of the tidal waters of that part of the Tweed River comprised within the following boundaries: commencing at the easternmost extremity of the northern breakwater at the entrance to Tweed River and bounded thence by the high water mark of the western training wall, inclusive of northern boatharbour, generally south to its point of commencement, by the high water mark of Greenbank Island as reclaimed to the southern boatharbour, by the high water mark of the boatharbour, by the high water mark generally southwest to Boyd's Bay bridge, by the eastern side of that bridge, by the southwestern bank of Ukerebagh Passage to a point being the intersection of the northeastern prolongation of the northwestern boundary of portion 374 with the high water mark of that bank, and thence by a line easterly to the westernmost extremity of Ukerebagh Island, by the northwestern shore of Ukerebagh Island to the northernmost extremity of that island then by a line drawn north-easterly to the end of the eastern training wall by the high water mark of that wall inclusive of the tidal waters of Kerosene Inlet on the eastern side of the Eastern Training Wall and thence to the high water mark of the southern breakwater northwesterly and northeasterly to the easternmost extremity of that breakwater and thence by a line across the entrance to the Tweed River to the point of commencement.

Wagonga River

County of Dampier, Parishes of Wagonga and Narooma: That part of the waters of Wagonga River, east of a line from the Princess Highway Road Bridge to a line drawn between the eastern extremities of the northern and southern training walls at the entrance to Wagonga River.

Wallis Lake

County of Gloucester, Parish of Forster, at Wallis Lake: That part of the tidal waters within the following boundaries: commencing at the entrance to Wallis Lake at the eastern extremity of the northern breakwater; and bounded thence by that breakwater and a part of the foreshores of the Village of Tuncurry generally southerly to the southerly prolongation of the western side of Wharf Street; thence by a line drawn southwesterly to the northern foreshore corner of Oyster Farm 71–295; thence by a line drawn generally southerly to the northern foreshore corner of Oyster Farm 83–20; thence by a line drawn generally southeasterly to the southwestern foreshore of Oyster Farm 57–295 on the Godwin Island; thence by the northern foreshore of that island northeasterly to the most northern point; thence by a line drawn generally northeasterly to the western prolongation of the southern boundary of section 27, Village of Forster; thence by that foreshore generally northerly to the southern breakwater; by that breakwater to its eastern extremity and by a line across the entrance to the point of commencement.

Wonboyn River

County of Auckland, Parishes of Wonboyn and Narrabarba: The whole of the entrance waters of Wonboyn River downwards to their confluence with the South Pacific Ocean from a line drawn in a southerly direction from the northwesternmost foreshore corner of Oyster Farm No 71–305 to the westernmost foreshore corner of Oyster Farm No 74–1.

Woody Bay

County of Clarence, Parish of Nanegai, Shire of Maclean: Being the area known as Woody Bay and commencing from the broad arrow on a rock and marked FD, north

of portion 54 thence in a northerly direction for approximately 300 metres to a spike in the rock, thence generally in a westerly direction to Big Knobby Rock, thence in a southwesterly direction to a 10 x 10 centimetre peg on the foreshore, thence along mean high water mark to the point of commencement.

Schedule 5 Penalty notice offences and short descriptions

(Clauses 270 and 270A)

Column 1	Column 2	Column 3	Column 4
Offence	Amount of penalty	IPB Code	Short description
Part 1 Offences under the Act			
Section 14 (1)	\$500	7998	take fish contrary to fishing closure
Section 14 (2)	\$500	8000	possess fish taken contrary to fishing closure
Section 16 (1)	\$300	8001	possess prohibited size fish
Section 16 (2)	\$300	8002	sell prohibited size fish
Section 17 (2)	\$300	8003	take more fish than daily limit
Section 18 (2)	\$300	8004	possess more than maximum quantity of fish
Section 19 (2)	\$500	8005	take protected fish
Section 19 (3)	\$500	8006	possess protected fish
Section 20 (2)	\$500	8007	take commercial protected fish for sale
Section 20 (3)	\$500	8008	sell commercial protected fish
Section 22 (2)	\$200	8009	use unregistered fishing gear
Section 24 (1)	\$500	8010	unlawful use of net/trap
Section 25 (1)	\$500	8011	possess fishing gear near waters when use of that gear/taking of fish prohibited
Section 34J (1)	\$200	7001	Fail to pay fishing fee
Section 34J (2)	\$200	7002	Fail to have official receipt in possession
Section 35 (1)	\$500	8012	possess fish illegally taken
Section 39 (2)	\$200	8013	fail to remove obstruction on fishing ground

Section 65 (1)	\$200	8014	shareholder contravenes provision of management plan
Section 65 (1)	\$200	7826	shareholder's nominee contravenes management plan
Section 87 (4)	\$200	7827	fail to appear/attend hearing
Section 87 (5)	\$200	7828	fail to take oath or make affirmation/answer question/produce document
Section 88 (2)	\$200	7829	fail to comply with notice to produce documents
Section 102 (1)	\$500	7830	take fish for sale when unlicensed
Section 104 (7)	\$200	7831	contravene commercial fishing licence
Section 107 (1)	\$300	7832	use unlicensed boat to take fish/land fish
Section 108 (7)	\$200	7833	contravene condition of boat licence
Section 110 (9)	\$100	7834	carry unregistered crew
Section 117 (1)	\$500	7835	unregistered fish receiver
Section 118 (7)	\$200	7836	contravene condition of fish receiver registration
Section 119 (3)	\$300	7837	fail to give information/keep records
Section 121	\$200	7838	fail to make catch record
Section 122	\$100	7839	fail to send catch record to Director
Section 123 (1) (a)	\$200	7840	fail to deliver record of sale to purchaser
Section 123 (1) (b)	\$200	7841	fail to retain record of sale for 5 years
Section 123 (1) (c)	\$200	7842	fail to produce record of sale
Section 123 (2) (a) (i)	\$200	7843	fail to make record of possession
Section 123 (2) (a) (ii)	\$200	7844	fail to obtain record of possession
Section 123 (2) (b)	\$200	7845	fail to retain record of possession for 5 years
Section 123 (2) (c)	\$200	7846	as seller, fail to produce record of possession
Section 123 (3)	\$200	7847	fail to produce record of possession

Section 124	\$300	7848	make false/misleading entry in fish record
Section 127B (2)	\$200	8123	Use of unlicensed charter fishing boat
Section 127B (3)	\$500	8124	Permit use of unlicensed charter fishing boat
Section 127C (7)	\$200	8125	Contravene charter fishing boat licence
Section 144 (1)	\$500	7849	undertake aquaculture without permit
Section 152 (3)	\$200	7850	contravene condition of aquaculture permit
Section 155	\$100	7851	fail to notify change in particulars by lessee
Section 170 (3)	\$200	7852	fence leased area without authority
Section 171 (3)	\$200	7853	fail to remove improvements on expired lease
Section 179 (1) (a)	\$200	7854	interfere with fish/vegetation/thing within leased area
Section 179 (1) (b)	\$200	7855	deposit thing on/dredge/dig within leased area
Section 183 (5)	\$500	7856	contravene quarantine order

Section 184	\$300	7857	communicate a disease to live fish/vegetation
Section 185	\$300	7858	sell infected fish/marine vegetation
Section 186	\$300	7859	deposit infected fish/marine vegetation
Section 190 (2)	\$200	7860	take oysters without authority
Section 200 (1)	\$500	7861	local government authority dredging/reclaiming without permit
Section 201 (1)	\$500	7862	carry out dredging/reclamation work without permit
Section 205 (2)	\$300	7863	harm marine vegetation
Section 206 (1)	\$200	7864	damage gravel beds
Section 207 (2)	\$200	7865	take/disturb fish while spawning/on or near spawning beds
Section 210 (1)	\$300	7866	sell live noxious fish/noxious marine vegetation without permit
Section 211 (1)	\$300	7867	possess live noxious fish/noxious marine vegetation without permit
Section 216 (1)	\$300	7868	release live fish without permit
Section 217 (1)	\$300	7869	import live fish without permit
Section 217 (2)	\$300	7870	sell/buy/possess live fish imported without permit
Section 219 (1)	\$200	7871	obstruct fish
Section 247 (1)	\$200	7872	resist/obstruct fisheries officer
Section 247 (2) in relation to assaulting, abusing or threatening fisheries officer	\$200	7873	assault/abuse/threaten fisheries officer
Section 247 (2) in relation to encouraging another person to assault, abuse or threaten fisheries officer	\$200	7874	encourage person to assault/abuse/threaten fisheries officer
Section 247 (3)	\$200	7875	impersonate fisheries officer
Section 248 (4)	\$200	7876	fail to assist in boarding and search of boat

Section 249 (3)	\$200	7877	fail to remove gear from water
Section 251 (2)	\$200	7878	fail to move vehicle for search
Section 256 (4)	\$200	7879	fail to produce records/answer questions
Section 257 (4)	\$100	7880	fail to produce authority
Section 258 (2)	\$200	7881	fail to provide information
Section 259 (1)	\$300	7882	make statement/provide information/produce document that is false/misleading

Part 2 Offences under Fisheries Management (General) Regulation 1995

Clause 65 (1) (a)	\$300	7883	more than 4 hand lines
Clause 65 (1) (b) in relation to hand held line with more than 3 hooks or gangs of hooks attached	\$500	7884	hand line with more than 3 hooks/3 gangs of hooks
Clause 65 (1) (b) in relation to hand held line with more than 3 treble hooks attached to lure	\$500	7885	hand line with more than 3 treble hooks on lure
Clause 65 (1) (c)	\$300	7886	hand line with more than 5 ganged hooks
Clause 65 (3) (a)	\$500	7887	more than 10 set lines
Clause 65 (3) (b)	\$500	7888	set line with more than 6 hooks
Clause 65 (6)	\$200	7889	set line/hand line when unauthorised
Clause 66 (1)	\$100	7890	leave hand line unattended
Clause 67 (1) (a)	\$200	7891	drift line with more than 1 hook
Clause 67 (1) (b)	\$200	7892	drift line with more than 1 gang of hooks
Clause 67 (1) (c)	\$200	7893	drift line with gang of more than 5 hooks
Clause 67 (1) (d)	\$200	7894	drift line with another drift line attached
Clause 67 (2)	\$300	7895	more than 30 drift lines
Clause 67 (3)	\$200	7896	commercial fisher use drift line in inland waters

Clause 67 (4)	\$200	7897	recreational fisher use drift line in any waters
Clause 68 (1)	\$100	7898	fishing gear not properly identified
Clause 69 (1)	\$300	7899	take fish while scuba diving
Clause 70 (1) (a)	\$300	7900	use spear gun in inland waters
Clause 70 (1) (b)	\$300	7901	use spear gun in Schedule 4 waters
Clause 70 (1) (c)	\$300	7902	use spear gun aided by lights
Clause 71 (1)	\$300	7903	take fish by firearm
Clause 72 (1)	\$300	7904	take lobster other than by hand
Clause 73 (1)	\$100	7905	take intertidal invertebrate by unauthorised method
Clause 74 (1)	\$300	7906	recreational fisher take shellfish by dredge
Clause 74 (2)	\$500	7907	take shellfish by dredge from non-ocean waters
Clause 74 (3)	\$300	7908	take shellfish with oversize dredge
Clause 74 (4)	\$300	7909	take shellfish by more than 1 dredge
Clause 75 (2)	\$200	7910	take fish by jugging
Clause 76 (1)	\$200	7911	take salmon/trout from waters by unauthorised method
Clause 76 (2)	\$200	7912	take salmon/trout from dam/impoundment by unauthorised method

Clause 76 (3)	\$300	7913	use light to take salmon/trout
Clause 77	\$500	7914	take groper by unauthorised method
Clause 78 (1)	\$500	7915	sell commercial net to unauthorised person
Clause 78 (2)	\$300	7916	sell commercial net without making record of sale
Clause 78 (3)	\$300	7917	fail to retain and produce record of sale of commercial net
Clause 79	\$200	7918	attempt to fish contrary to rights of priority
Clause 80	\$300	7919	use fishing gear contrary to Part 4
Clause 106 in relation to the causing the dispersal of fish	\$200	7920	cause dispersal of fish
Clause 106 in relation to the interference with the operations of commercial fisher	\$200	7921	interfere with commercial fishing
Clause 107 (1)	\$200	7922	interfere with set fishing gear
Clause 109	\$200	7923	disturb fish in vicinity of commercial fisher
Clause 110 (2)	\$200	7924	refuse/neglect to move from fishing position
Clause 118 (1)	\$200	7925	fail to attach tag to rock lobster
Clause 118 (3)	\$200	7926	possess rock lobster without tag near waters
Clause 119F (1) in relation to the sale of whole lobster	\$200	9829	sell whole lobster without tag
Clause 119F (1) in relation to the sale of tail of lobster	\$200	9830	sell tail of lobster without tag
Clause 120 (1)	\$100	7927	use live fin fish/exotic fish/trout roe/salmon roe/trout or salmon roe product
Clause 120 (2)	\$100	7928	take salmon/trout with unauthorised lure/bait
Clause 120 (3)	\$200	7929	

fail to produce lure/bait			on demand by officer
Clause 121 (1)	\$200	7930	take octopus from rock platform/waters of Port Jackson
Clause 122 (1)	\$200	7931	shuck intertidal invertebrate near waters except bait
Clause 122 (2)	\$200	7932	shuck rock lobster/turban snail near waters
Clause 123 (1)	\$300	7933	commercial fisher, shuck abalone in unauthorised place
Clause 123 (2)	\$200	7934	recreational fisher, shuck abalone near waters
Clause 124 (1)	\$300	7935	mutilate fish near waters in unauthorised manner
Clause 124 (2)	\$300	7936	deliver/consign for sale fish mutilated in unauthorised manner

Clause 125 (1)	\$300	7937	take/sell/possess crayfish/shovel-nosed lobster/rock lobster/crab carrying ova externally
Clause 125 (2)	\$300	7938	possess crayfish/shovel-nosed lobster/rock lobster/crab with ova/spawn removed
Clause 157 (1)	\$200	7939	fail to make record of crew member
Clause 157 (2) (a)	\$200	7940	fail to keep crew record for 5 years
Clause 157 (2) (b)	\$200	7941	fail to produce record of crew member
Clause 158 (2)	\$200	7942	crew member, fail to keep records of registration
Clause 159	\$200	7943	false/misleading entry in crew record
Clause 226ZQ	\$500	8130	Provide false information

Part 3 Offences under Fisheries Management (Aquaculture) Regulation 1995

Clause 49 (1)	\$200	7945	fail to mark boundaries of lease
Clause 49 (6)	\$200	7946	fail to maintain boundary mark
Clause 49 (7)	\$200	7947	unlawfully mark out aquaculture lease
Clause 50 (5)	\$200	7948	fail to maintain marked boat channel
Clause 51 (7)	\$200	7949	fail to maintain marked access way

Part 4 Offences under Fisheries Management (Aquatic Reserves) Regulation 1995 Long Reef

Clause 8 (1) (a)	\$200	7950	take/attempt to take fish from Long Reef Reserve
Clause 8 (1) (b)	\$200	7951	gather marine vegetation from Long Reef Reserve
Clause 8 (2) (a)	\$200	7952	interfere with fish in Long Reef Reserve
Clause 8 (2) (b)	\$200	7953	interfere with marine vegetation in Long Reef Reserve

Shiprock

Clause 11 (1) (a)	\$200	7954	take fish from Shiprock Reserve
Clause 11 (1) (b)	\$200	7955	gather marine vegetation from Shiprock Reserve

Clause 11 (2) (a)	\$200	7956	interfere with fish in Shiprock Reserve
Clause 11 (2) (b)	\$200	7957	interfere with marine vegetation in Shiprock Reserve
Julian Rocks			
Clause 14 (1) (a)	\$200	7958	take fish from Julian Rocks Reserve

Clause 14 (1) (b)	\$200	7959	gather marine vegetation from Julian Rocks Reserve
Clause 14 (2) (a)	\$200	7960	interfere with fish in Julian Rocks Reserve
Clause 14 (2) (b)	\$200	7961	interfere with marine vegetation in Julian Rocks Reserve
North Harbour			
Clause 17 (1) (a)	\$200	7962	take fish from North Harbour Reserve
Clause 17 (1) (b)	\$200	7963	gather marine vegetation from North Harbour Reserve
Clause 17 (2) (a)	\$200	7964	interfere with fish in North Harbour Reserve
Clause 17 (2) (b)	\$200	7965	interfere with marine vegetation in North Harbour Reserve
Bushranger's Bay			
Clause 21 (1) (a)	\$200	7966	take fish from Bushranger's Bay Reserve
Clause 21 (1) (b)	\$200	7967	gather marine vegetation from Bushranger's Bay Reserve
Clause 21 (2) (a)	\$200	7968	interfere with fish in Bushranger's Bay Reserve
Clause 21 (2) (b)	\$200	7969	interfere with marine vegetation in Bushranger's Bay Reserve
Fly Point–Halifax Park			
Clause 24 (1) (a)	\$200	7970	take fish from Fly Point Reserve
Clause 24 (1) (b)	\$200	7971	gather marine vegetation from Fly Point Reserve
Clause 24 (2) (a)	\$200	7972	interfere with fish in Fly Point Reserve
Clause 24 (2) (b)	\$200	7973	interfere with marine vegetation in Fly Point Reserve
Towra Point			
Clause 27 (1) (a)	\$200	7974	take fish from Towra Point Reserve
Clause 27 (1) (b)	\$200	7975	gather marine vegetation from Towra Point Reserve

Clause 27 (2) (a)	\$200	7976	interfere with fish in Towra Point Reserve
Clause 27 (2) (b)	\$200	7977	interfere with marine vegetation in Towra Point Reserve
Solitary Islands			
Clause 32 (1) (a)	\$200	7982	take fish/vegetation for sale from general use zone
Clause 32 (1) (b)	\$200	7983	gather/interfere with marine vegetation in general use zone
Clause 33 (1) (a)	\$200	7984	take fish/vegetation for sale from recreation zone

Clause 33 (1) (b)	\$500	7985	take fish from recreation zone
Clause 33 (1) (c)	\$200	7986	take fish by trap from recreation zone
Clause 33 (1) (d)	\$200	7987	take fish by commercial net
Clause 33 (1) (e)	\$200	7988	gather/interfere with marine vegetation in recreation zone
Clause 34 (1) (a)	\$200	7989	take fish from refuge zone
Clause 34 (1) (b)	\$200	7990	take fish for aquarium from refuge zone
Clause 34 (1) (c)	\$200	7991	gather vegetation from refuge zone
Clause 34 (1) (d)	\$200	7992	interfere with vegetation in refuge zone
Clause 35 (1) (a)	\$200	7993	take fish from sanctuary zone
Clause 35 (1) (b)	\$200	7994	gather vegetation from sanctuary zone
Clause 35 (2) (a)	\$200	7995	interfere with fish in sanctuary zone
Clause 35 (2) (b)	\$200	7996	interfere with vegetation in sanctuary zone
Clause 35 (3)	\$200	7997	use anchor in sanctuary zone

Notes

The following abbreviations are used in the tables of amending instruments and amendments:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
Cll	clauses	pp	pages	Secs	sections
Div	Division	Reg	Regulation	Subdiv	Subdivision
Divs	Divisions	Regs	Regulations	Subdivs	Subdivisions
GG	Government Gazette	Rep	repealed	Subst	substituted
Ins	inserted	Sch	Schedule		

Table of amending instruments

Fisheries Management (General) Regulation 1995 published in Gazette of 13.1.1995 and amended in Gazettes of 1.3.1995, 6.10.1995, 27.10.1995, 25.1.1996, 31.1.1996, 9.2.1996, p 500, 9.2.1996, p 501 (Disallowed, Legislative Council, 30.4.1996), 1.3.1996, 24.5.1996, 28.6.1996, 12.7.1996, 6.9.1996, 25.10.1996, 15.11.1996, 6.12.1996 (Disallowed, Legislative Council, 13.5.1997) and No 22 of 28.2.1997, pp 1017, 1019, 1063, 1069, No 36 of 11.4.1997, p 1898, No 43 of 24.4.1997, pp 2240,

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