

Fisheries Management (General) Regulation 2002

Does not include amendments by:

Parliamentary Electorates and Elections Amendment Act 2006 No 68 (not commenced)

See also:

Statute Law (Miscellaneous Provisions) Bill (No 2) 2007

Reprint history:

Reprint No 1

10 May 2005

Reprint No 2

19 September 2007

Part 1 – Preliminary

1 Name of Regulation

This Regulation is the *Fisheries Management (General) Regulation 2002*.

This Regulation replaces the *Fisheries Management (General) Regulation 1995* which is repealed on 1 September 2002 under section 10 (2) of the *Subordinate Legislation Act 1989*.

2 Commencement

This Regulation commences on 1 September 2002.

3 Definitions

In this Regulation:

"abalone fishery" means the share management fishery of that name, as described in Schedule 1 to the Act.

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

"critical habitat of the grey nurse shark" means the areas declared by a notification under section 220T of the Act to be critical habitat of the grey nurse shark and identified as such in the maps in Schedule 1A.

"eligible fisher" means a person for the time being registered as an eligible fisher under Part 8A.

"endorsement" means an endorsement on a commercial fishing licence that authorises a person to take fish for sale in a restricted fishery or to take fish in a share management fishery (and includes any endorsement given in the form of a document that is separate from the commercial fishing licence of a person, pursuant to an arrangement referred to in section 68 (8C), 70 (6) or 112 (5) of the Act).

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

"estuary general fishery" means the share management fishery of that name, as described in Schedule 1 to the Act.

"estuary prawn trawl fishery" means the share management fishery of that name, as described in Schedule 1 to the Act.

"fish protected from commercial fishing" means fish declared by this Regulation to be protected from commercial fishing for the purposes of section 20 (1) of the Act.

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

"fishing authority" has the same meaning as in Division 4C of Part 2 of the Act.

"fishing business card" has the meaning given by Part 8B.

"fishing business transfer rules" means the provisions of Part 5A.

"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 8 of Part 8.

"inland waters" means waters not subject to tidal influence.

"lobster fishery" means the share management fishery of that name, as described in Schedule 1 to the Act.

"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.

"Lord Howe Island waters" means the waters within 3 nautical miles of:

- (a) the high water mark on Lord Howe Island, or
- (b) Balls Pyramid.

"natural coast line" is defined in Schedule 1.

"ocean hauling fishery" means the share management fishery of that name, as described in Schedule 1 to the Act.

"ocean trap and line fishery" means the share management fishery of that name, as described in Schedule 1 to the Act.

"ocean trawl fishery" means the share management fishery of that name, as described in Schedule 1 to the Act.

"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.

"public holiday" means a day that is observed as a public holiday throughout New South Wales.

"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.

"repealed regulation" means the *Fisheries Management (General) Regulation 1995*.

"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.

"southern fish trawl restricted fishery" means the restricted fishery declared under Division 3 of Part 8.

"the Act" means the *Fisheries Management Act 1994*.

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

"wire trace line" means a line that is made from or includes one or more metal strands.

4 Notes

Notes included in this Regulation do not form part of this Regulation.

5 The management plan for a fishery prevails over this Regulation

This Regulation is subject to section 62 of the Act.

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, protected waters, prohibited size fish and bag limits

Division 1 – Protected fish

6 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	Chaetodontoplus ballinae
Black rock cod (or saddle-tail rock cod)	Epinephelus daemeli
Eastern blue devil fish (or Bleekers devil fish)	Paraplesiops bleekeri
Elegant wrasse	Anampses elegans
Estuary cod	Epinephelus coioides
Ghost pipefish	All species of the family Solenostomidae
Giant Queensland groper	Epinephelus lanceolatus
Grey nurse shark	Carcharias taurus
Herbsts nurse shark	Odontaspis ferox
Pipefish, pipehorse, seadragon and seahorse	All species of the family Syngnathidae
Seamoth	All species of the family Pegasidae
Weedy seadragon (or common seadragon)	Phyllopteryx taeniolatus

Part 2 Freshwater species

Common name	Species
Australian grayling	Prototroctes maraena
Eastern freshwater cod	Maccullochella ikei
Isopod	Crenoicus harrisoni
Trout cod	Maccullochella macquariensis
Macquarie perch	Macquaria australasica

7 Fish protected from commercial fishing

For the purposes of section 20 (1) 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
Groper, blue, brown or red	Achoerodus viridis
Marlin, black	Makaira indica
Marlin, blue	Makaira mazara
Marlin, striped	Tetrapturus audax

Part 2 Freshwater species

Common name	Species
Atlantic salmon	Salmo salar
Australian bass	Macquaria novemaculeata
Catfish, eel-tailed	Tandanus tandanus
Estuary perch	Macquaria colonorum

Freshwater crayfish	All species of the genera <i>Euastacus</i> and <i>Cherax</i> except for the common yabby <i>Cherax destructor</i>
Golden perch	<i>Maccaullochella peeli peeli</i>
Murray cod	<i>Macquaria ambigua</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>

8 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) (b) 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 1A – Protected waters

8A Prohibition on certain classes of commercial fishing

Pursuant to section 20 (2) of the Act, it is declared that:

- (a) all ocean and estuarine waters are waters in which the class of commercial fishing that consists of any commercial fishing activity other than the following is prohibited:
 - (i) a fishing activity referred to in Schedule 1 to the Act,
 - (ii) the taking of sea urchin or turban shell,
 - (iii), (iv) (Repealed)
 - (v) the use of an otter trawl net (fish) or danish seine trawl net (fish) to take fish (other than prawns) from ocean waters that are not more than 3 nautical miles from the natural coast line and are south of a line drawn due east from Barrenjoey Headland,
 - (vi) the taking of fish from Lord Howe Island waters,
- (b) all inland waters are waters in which the class of commercial fishing that consists of any commercial fishing activity other than the following is prohibited:
 - (i) the taking of yabbies,
 - (ii) the taking of carp, and
- (c) all waters specified in the column headed "Waters" in the Table to this clause are waters in which the classes of commercial fishing specified in the column headed "Class of commercial fishing prohibited" in relation to those waters in that Table are prohibited.

The *Fisheries Management (Supporting Plan) Regulation 2006* contains further prohibitions that apply to commercial fishing in share management fisheries.

Table Waters protected from certain commercial fishing

Waters	Class of commercial fishing prohibited
Back Lake (also known as Back Lagoon): the whole of the waters of Back Lake, including all its tributaries, creeks, bays and inlets, from its confluence with the South Pacific Ocean upstream to its source.	All commercial fishing.
Bega River: the whole of the waters of Bega River, including all its tributaries, creeks, bays and inlets, from its confluence with the South Pacific Ocean upstream to its source.	All commercial fishing.

Bellinger River (including Kalang River):	
the whole of the waters of Bellinger River, from its confluence with the Pacific Ocean upstream to its source, including Kalang River and all their tributaries, creeks, bays, inlets and lagoons.	All commercial fishing.
Bermagui River:	
the whole of the waters of Bermagui River, from a line drawn between the eastern extremity of the northern breakwall south to Bermagui Point upstream to its source, including all its tributaries, creeks, bays and inlets.	All commercial fishing, except the carriage of stowed fishing gear by boat directly from Bermagui Harbour to ocean waters.
Botany Bay:	
the whole of the waters of Botany Bay, together with all its tributaries, creeks, bays and inlets.	All commercial fishing, other than the taking of lobsters and abalone in accordance with the relevant share management plan.
Burrill Lake:	
the whole of the waters of Burrill Lake and Burrill Lake Entrance Channel, together with all their tributaries, creeks, bays and inlets.	All commercial fishing.
Camden Haven River:	
the whole of the waters of Camden Haven River from a line drawn between the eastern extremities of its northern and southern breakwalls upstream to North Haven Bridge and Dunbogan Bridge, which waters include the waters under those bridges, Gogleys Lagoon and all tributaries, creeks, bays and inlets.	All commercial fishing.
Clarence River:	
(a) the waters enclosed within a line drawn across the river entrance from the eastern extremity of the northern breakwall to the eastern extremity of the southern breakwall, and then upstream to a line drawn from the Waterways Authority Front Lead Beacon No 122 at mean high water mark on the northern side of Hickey Island, then northwesterly to the Waterways Authority Navigation Aid No 097 located on the downstream side of the most easterly opening in Middle Wall, then northeasterly across to the western extremity of Moriartys Wall,	All commercial fishing, except the class of commercial fishing that consists of the use of a hauling net (general purpose) in accordance with clause 26 on and from 1 April in any year up to and including 31 August in that year in the waters adjacent to Wave Trap Beach located at the western end of the northern breakwall at the entrance of the Clarence River.
(b) the whole of the waters of Oyster Channel from a line drawn from the NSW Fisheries marker post RFH1, located on the southern shore adjacent to the intersection of Micalo and Yamba Roads, northeasterly to the NSW Fisheries marker post RFH2 located on the shore north of Whyna Island, then following the mean high water mark upstream to a NSW Fisheries marker post RFH3 beneath the second set of powerlines crossing Oyster Channel, located	All commercial fishing.

approximately 420m upstream of the Oyster Channel Road Bridge, then westerly following the powerlines to a NSW Fisheries marker post RFH4 on the shore of Micalo Island,	
(c) the whole of the waters of Romiaka Channel south from a line drawn from the NSW Fisheries marker post RFH5, located on the shore of the northern extremity of Romiaka Island, northerly across to the NSW Fisheries marker post RFH6 on the shore at Palmers Island, west of Ungundam Island, and then upstream to a line drawn from the NSW Fisheries marker post RFH7 located on the shore of Romiaka Island at the southern end of the rock retaining wall on "Burn's farm", then westerly across Romiaka Channel to the NSW Fisheries marker post RFH8 on the shore of Palmers Island,	All commercial fishing.
(d) the whole of the waters of the North Arm of the Clarence River within the following boundaries, commencing at the NSW Fisheries marker post RFH9 located on the shore beneath the multiple overhead powerlines crossing the waters of the North Arm near Marandowie Drive, Iluka, then westerly directly beneath those powerlines for 100 metres, then upstream and parallel to the shore to a line parallel to the powerlines drawn from the NSW Fisheries marker post RFH10 located on the shore near the northern end of the rock retaining wall at the entrance to Saltwater Inlet).	All commercial fishing.
Deep Creek:	
the whole of the waters of Deep Creek, from its confluence with the Pacific Ocean upstream to its source, including all its tributaries, creeks, bays and inlets.	All commercial fishing.
Hastings River:	
the whole of the waters of Hastings River from a line drawn between the eastern extremities of the northern and southern breakwalls upstream to its source, including all its tributaries, creeks, bays and inlets.	All commercial fishing.
Lake Brunderee:	
the whole of the waters of Lake Brunderee, together with all its tributaries, creeks, bays and inlets.	All commercial fishing.
Lake Conjola:	
the whole of the waters of Lake Conjola (and Berringer Lake), together with all their tributaries, creeks, bays and inlets.	All commercial fishing.
Lake Macquarie:	
the whole of the waters of Lake Macquarie, together with all its tributaries, creeks, bays and inlets.	All commercial fishing.
Little Lake (also known as Little Tilba Lake and Hoyers Lake):	
the whole of the waters of Little Lake immediately south of Tilba Lake, including all its tributaries, creeks, bays and inlets.	All commercial fishing.
Manning River:	
the whole of the waters of Manning River, from its confluences with the South Pacific Ocean upstream to and including:(a) Ghinni Ghinni Creek, from a line drawn from a point on the south western shoreline at the mouth of Ghinni Ghinni Creek at 31° 52' 984"S, 152° 33' 565"E (using Datum WGS84) directly across the Manning River in a generally easterly direction to the eastern shoreline on Oxley Island at 31° 53' 066"S, 152° 34' 011"E (using Datum WGS84), and(b) Berady Creek, from a line drawn from the	All commercial fishing.

upriver bank of Berady Creek due east to the eastern side of the Manning River, in the south channel, which waters include Scotts Creek and all tributaries, creeks, bays and inlets.	
Meroo Lake:	
the whole of the waters of Meroo Lake, together with all its tributaries, creeks, bays and inlets.	All commercial fishing.
Mummaga Lake (also known as Dalmeny Lake):	
the whole of the waters of Mummaga Lake, together with all its tributaries, creeks, bays and inlets.	All commercial fishing.
Narrawallee Inlet:	
the whole of the waters of Narrawallee Inlet, together with all its tributaries, creeks and bays.	All commercial fishing.
Nelson Lagoon (also known as Nelson Lake):	
the whole of the waters of Nelson Lagoon, including all its tributaries, creeks, bays and inlets, from its confluence with the South Pacific Ocean upstream to its source.	All commercial fishing.
Nullica River:	
the whole of the waters of Nullica River, including all its tributaries, creeks, bays and inlets, from its confluence with Twofold Bay upstream to its source.	All commercial fishing.
Pambula River and Yowaka River:	
the whole of the waters of Pambula River and Yowaka River, including all their tributaries, creeks, bays and inlets, upstream of a line drawn from the southern end of Tea Tree Point and then due west to the boat ramp.	All commercial fishing.
Richmond River:	
(a) from a line drawn between the eastern extremities of the northern and southern breakwalls upstream to a line drawn across the River between the Burns Point Ferry ramps, including all the tributaries, creeks, bays, inlets and canal estates within those boundaries,	All commercial fishing.
(b) from a line drawn across the River between the Burns Point Ferry ramps upstream to a line drawn east across the River from the south-eastern corner of Portion 21 at the eastern end of Emigrant Point Lane, including Emigrant Creek and all other tributaries, creeks, bays, inlets and canal estates within those boundaries.	All commercial fishing, except the class of commercial fishing that consists of the use of a crab trap in accordance with clause 61, or of an eel trap in accordance with clause 65.
St Georges Basin:	
the whole of the waters of St Georges Basin, together with all its tributaries, creeks, bays and inlets.	All commercial fishing.
Tabourie Lake:	
the whole of the waters of Tabourie Lake, together with all its tributaries, creeks, bays and inlets.	All commercial fishing.
Tomaga River:	
the whole of the waters of Tomaga River, together with all its tributaries, creeks, bays and inlets.	All commercial fishing.
Towamba River (also known as Kiah River):	
the whole of the waters of Towamba River, including all its tributaries, creeks, bays and inlets, from its confluence with Twofold Bay upstream to its source.	All commercial fishing.

Tuross Lake (including Tuross River and Borang Lake):	
the whole of the waters of Tuross Lake, together with all its tributaries, creeks, bays, inlets and lagoons, including Tuross River and Borang Lake.	All commercial fishing.
Tweed River:	
the following waters of the Tweed River:(a) from a line drawn between the eastern extremities of the northern and southern breakwalls upstream to Boyds Bay Bridge (including the waters under the bridge) and a line drawn from the southern point of Rocky Point due east to Fingal Road, including Jack Evans Boat Harbour, the Southern Boat Harbour and all the tributaries, creeks, bays, inlets and canal estates within those boundaries,(b) the canal estate off Bingham Bay known as Seagulls Canal, as well as its continuation on the other side of The Lakes Drive,(c) the canal estate off Cobaki Broadwater known as Tweed West Canals,(d) the tributary behind Caddy's Island known as Blue Water Canals,(e) the canal estate behind Crystal Waters Drive known as Crystal Waters Canal,(f) the canal estate west of Boyd's Island known as Endless Summer Canal Estate,(g) the canal estate generally north of Chinderah Island known as Oxley Cove,(h) Wommin Lagoon,(i) Wommin Lake.	All commercial fishing.
Wonboyn River and Wonboyn Lake:	
the whole of the waters of Wonboyn River, including Wonboyn Lake, and all the tributaries, creeks, bays and inlets, from its confluence with the South Pacific Ocean upstream to its source.	All commercial fishing.
Wonboyn Beach:	
the whole of the waters adjacent to the shoreline and 500 metres seaward of the mean high water mark of the entire length of Wonboyn Beach between Green Cape Peninsula in the north and Greenglade in the south, including Bay Cliff Headland.	All methods of net fishing.

Division 2 – Prohibited size fish

9 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,
 - (b1) in the case of Balmain bug--the width of the carapace is to be measured at its widest point from spike to spike (whether or not damaged),
 - (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 spiny crayfish, Murray or eastern freshwater--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
Flounders and Soles	Species of Families Bothidae, Pleuronectidae, Cynoglossidae and Soleidae	25
Groper, blue, red or brown	<i>Achoerodus viridis</i>	30
Luderick (or blackfish)	<i>Girella tricuspidata</i>	27
Mackerel, spanish	<i>Scomberomorus commerson</i>	75
Mackerel, spotted	<i>Scomberomorus munroi</i>	60
Mahi-mahi (or dolphin fish)	<i>Coryphaena hippurus</i>	60
Morwong, jackass	<i>Nemadactylus macropterus</i>	30
Morwong, red or sea carp	<i>Cheilodactylus fuscus</i>	30
Morwong, rubberlip	<i>Nemadactylus douglasii</i>	30
Mullet, sea or bully	<i>Mugil cephalus</i>	30
Mulloway (or jewfish)	<i>Argyrosomus japonicus</i>	45
Perch, pearl	<i>Glaucosoma scapulare</i>	30
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
Trevally, silver	<i>Pseudocaranx dentex</i>	30

Whiting, sand or silver	Sillago ciliata	27
Yellowtail kingfish	Seriola lalandi	65

Part 2 Invertebrates--Marine or estuarine

	Column 1	Column 2
Common name	Species	Minimum measurement in centimetres
Abalone	Haliotis rubra	11.5
Balmain bug	Ibacus peronii or ibacus chacei	10
Crab, blue swimmer or sand	Portunus pelagicus	6
Crab, mud, black or mangrove	Scylla serrata	8.5
Crab, spanner	Ranina ranina	9.3
Lobster, eastern rock	Jasus verreauxi	10.4
Lobster, southern rock (male)	Jasus edwardsii	11
Lobster, southern rock (female)	Jasus edwardsii	10.5
Snail, Sydney turban	Turbo torquatus	7.5
Snail, military turban	Turbo militaris	7.5

Part 3 Fish--Freshwater or estuarine

	Column 1	Column 2
Common name	Species	Minimum measurement in centimetres
Catfish, eel-tailed	Tandanus tandanus	30
Cod, Murray	Maccullocheiella peeli	50 (for fish in possession or sold before 30 November 2007) 55 (for fish in possession or sold on or after 1 December 2007 and before 1 December 2008) 60 (for fish in possession or sold on or after 1 December 2008)
Eel, longfinned	Anguilla reinhardtii	58
Eel, shortfinned	Anguilla australis	30
Perch, golden or yellow belly	Macquaria ambigua	30
Perch, silver	Bidyanus bidyanus	25
Salmon, Atlantic	Salmo salar	25
Trout, brook	Salvelinus fontinalis	25
Trout, brown	Salmo trutta	25
Trout,		25

rainbow	Oncorhynchus mykiss	
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Part 4 Invertebrates--Freshwater or estuarine

	Column 1	Column 2
Common name	Species	Minimum measurement in centimetres
Spiny crayfish, Murray or eastern freshwater	Euastacus spp.	9

Part 5

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	Jasus verreauxi	20

10 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 9 (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

11 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.

12 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:
 - (a) when a person is in or on or adjacent to the waters specified opposite that species of fish in Column 2 of Part 3 or 4 of the Table, the quantity specified opposite that species of fish in Column 4, or
 - (b) when a person is transporting or storing fish otherwise than while in or on or adjacent to waters, the quantity specified opposite that species of fish in Column 4

of Part 3 or 4 of the Table or, if different quantities of that species of fish are specified in relation to different waters, the lower or lowest quantity specified.

(3) It is a defence to a prosecution for an offence against section 18 (2) of the Act that is constituted by transporting or storing fish, otherwise than while in or on or adjacent to waters, in a quantity that exceeds the possession limit of the fish, if the person charged proves that:

(a) the fish were taken from waters specified opposite the fish in Column 2 of Part 3 or 4 of the Table, and

(b) the quantity of fish in the person's possession did not exceed the possession limit for the fish that would have applied if the person had been in or on or adjacent to the waters from which they were taken.

13 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.

(2) For any species of native freshwater fish (other than invertebrates) not included in the Table to this Division:

(a) the daily limit of fish of that species is 10, 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 10.

14 Application of bag 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.

(4) Despite subclauses (1)-(3), the daily bag limits and possession limits specified in this Division do apply in respect of fish taken by, or in the possession of, a commercial fisher (whether or not the fish are taken or in possession for sale) if the fish were taken in Lord Howe Island waters by use of a boat and at the time that the fish were taken:

(a) the boat was being used as a charter fishing boat, or

(b) there were four or more persons on the boat (including any commercial fisher).

(5) Subclause (4) is subject to the exemption for charter fishing operations set out in clause 14A.

14A Application of bag limits to charter fishing boat operations

(1) A daily limit or possession limit specified in this Division does not apply in relation to any charter fishing exempt fish that is in the possession of the master of a boat that is a licensed charter fishing boat, or an exempt charter fishing boat, if the fish were taken while on board the boat for use as bait in guided recreational charter fishing, and the fish is not taken or in possession for sale.

(2) In this clause: "**charter fishing exempt fish**" means any of the following species of fish:

(a) Australian anchovy,

(b) garfish, except eastern sea garfish,

(c) hardyhead and silverfish,

(d) southern herring,

(e) slimy mackerel,

(f) maray (or round herring),

- (g) pilchard,
- (h) blue sprat (or bluebait),
- (i) sandy sprat (or whitebait),
- (j) yellowtail and jack mackerel.

"exempt charter fishing boat" means a charter fishing boat in respect of which a licence under Part 4A of the Act is not required under clause 335. **"guided recreational charter fishing"** means guided recreational charter fishing of a kind referred to in clause 298. **"licensed charter fishing boat"** means a charter fishing boat licensed under Part 4A of the Act.

Clause 335 contains an exemption from licensing requirements for boats used principally in Lord Howe Island waters.

15 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
Anchovy, Australian	<i>Engraulis australis</i>	50
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	1 of each species
Blackfish, rock	<i>Girella elevata</i>	10
Bonito, Australian	<i>Sarda australis</i>	10
Bream and Tarwhine	<i>Rhabdosargus sarba</i> , <i>Acanthopagrus australis</i> and <i>A.butcheri</i>	20 comprised wholly of any single species or a combination of species
Bream, yellowfin	<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	<i>Platycephalus caeruleopunctatus</i>	20 comprised wholly of a single flathead species or a combination of species except for dusky or common flathead

spot		which are subject to a separate limit
Flathead, tiger	<i>Platycephalus richardsoni</i>	
Flathead, all other	<i>Platycephalus</i> spp.	
Flounders and Soles	Species of Families Bothidae, Pleuronectidae, Cynoglossidae and Soleidae	20 comprised wholly of any single species or a combination of species
Garfish, eastern sea	<i>Hyporhamphus australis</i>	20
Garfish, except eastern sea garfish	Species of Family Hemiramphidae	50 comprised wholly of any single species or a combination of species
Groper, blue, red or brown	<i>Achoerodus viridis</i>	2 (with not more than one longer than 60 cm)
Hairtail	<i>Trichiurus lepturus</i>	10
Hardyhead and Silverfish	Species of Family Atherinidae	50 comprised wholly of any single species or a combination of species
Herring, southern	<i>Herklotsichthys castelnaui</i>	50
Kingfish, yellow tail	<i>Seriola lalandi</i>	5
Leatherjacket	Species of Family Monacanthidae	20 comprised wholly of any single species or a combination of species
Luderick (or blackfish)	<i>Girella tricuspidata</i>	20
Mackerel, slimy	<i>Scomber australasicus</i>	50
Mackerel, spotted	<i>Scomberomorus munroi</i>	5 comprised wholly of narrow barred or spanish mackerel or wholly of spotted mackerel or partly of each
Mackerel, spanish or narrow barred	<i>Scomberomorus commerson</i>	
Mahi-mahi (or dolphin fish)	<i>Coryphaena hippurus</i>	10 (only 1 of which can be longer than 110 cm)
Mangrove Jack	<i>Lutjanus argentimaculatus</i>	5
Maray (or round herring)	<i>Etrumeus teres</i>	50 comprised wholly of any single species or a combination of species
Morwong, banded	<i>Cheilodactylus spectabilis</i>	5
Morwong, jackass	<i>Nemadactylus macropterus</i>	10
Morwong, red	<i>Cheilodactylus fuscus</i>	5
Morwong, rubberlip (or grey morwong)	<i>Nemadactylus douglasii</i>	10

or blue morwong)		
Mullet	Species of Family Mugilidae	20 comprised wholly of any single species or a combination of species
Mulloway	Argyrosomus japonicus	5 (with not more than 2 longer than 70 cms)
Perch, mores	Lutjanus russelli	5
Perch, pearl	Glaucosoma scapulare	5
Pilchard	Sardinops neopilchardus	50
Salmon, Australian	Arripis trutta	5
Samsonfish and Amberjack	Seriola hippos and S. dumerili	5 comprised wholly of any single species or a combination of species
Scorpion fish, eastern red (or eastern red rock cod)	Scorpaena cardinalis	5
Sharks and Rays (other than wobbegong sharks)	All species (other than wobbegong sharks)	5 comprised wholly of any single species or a combination of species but with no more than one of each of the following:(a) tiger shark,(b) mako shark,(c) blue shark,(d) hammerhead shark (any species),(e) whaler shark (any species).
Snapper	Pagrus auratus	10
Sprat, blue (or bluebait)	Spratelloides robustus	50
Sprat, sandy (or whitebait)	Hyperlophus vittatus	50
Surgeon, sawtail	Prionurus microlepidotus	5
Tailor	Pomatomus saltatrix	20
Teraglin	Atractoscion aequidens	5
Trevallies	Pseudocaranx dentex Caranx spp.	20 comprised wholly of any single species or a combination of species
Tuna, albacore	Thunnus alalunga	7 comprised of any single species or combination of species, of which 2 have a length of 90 cm or more and 5 have a length of less than 90 cm
Tuna, bigeye	Thunnus obesus	
Tuna, longtail	Thunnus tonggol	
Tuna, southern bluefin	Thunnus maccoyii	
Tuna, yellowfin	Thunnus albacares	
Wahoo	Acanthocybium solandri	5
Whiting	Sillago spp.	20 comprised of any single species or a combination of

		species
Yellowtail and Mackerel, jack	Trachurus spp.	50 comprised wholly of any single species or a combination of species

Part 2 Invertebrates

	Column 1	Column 2
Common name	Species	Daily limit and possession limit
Abalone	Haliotis rubra	2
Beachworms	Species of Family Onuphidae	20
Cockle	Anadara trapezia	50 comprised wholly of cockles or wholly of pipis or wholly of mussels or partly of each
Pipi	Donax deltoides	
Mussel	Mytilus edulis	
Crab, blue swimmer	Portunus pelagicus	20
Crab, mud, black or mangrove	Scylla serrata	5
Crab, spanner	Ranina ranina	10
Crabs, all species other than blue swimmer, mud, black, mangrove, spanner, or soldier (Mictyris spp.)	Species of Subclass Brachyura	10 comprised wholly of any single species or a combination of species
Cunjevoi	Pyura spp.	20 comprised wholly of any single species or a combination of species
Lobster, eastern rock	Jasus verreauxi	2 comprised wholly of any single species or a combination of species
Lobster, southern rock	Jasus edwardsii	
Lobster, painted	Panulirus longipes	2 comprised wholly of any single species or a combination of species
Lobster, ornate	Panulirus ornatus	
Lobster, slipper (or flat)	Scyllarides spp.	2
Octopus	All species	10 comprised wholly of any single species or a combination of species
Oyster, Sydney rock	Saccostrea commercialis	50 comprised wholly of any single species or a combination of species
Oyster, Pacific	Crassostrea gigas	
Oyster, flat or drift	Ostrea angasi	
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
Saltwater nippers	Callinassa and Alpheus spp.	100 comprised wholly of any single species or a combination of species

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
Soldier crab	Species of Family Mictyridae	100 comprised wholly of any single species or a combination of species
Squid and Cuttlefish	All species	20 comprised wholly of any single species or a combination of species
Worms, except beach worms	Species of class Polychaeta	100 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
Golden perch	Macquaria ambigua	All waters of NSW	5	10
Murray cod	Maccullochella peeli	All waters of NSW	2	4 (only 1 of which can be longer than 100 cm)
Silver perch	Bidyanus bidyanus	Waters from which silver perch may lawfully be taken	5	10
	The taking of silver perch from all waters (other than backed up waters of dams and impoundments) is prohibited by a fishing closure notice under section 8 of the Act (published in the Gazette of 24 January 2003 at page 461) which has effect from 5 February 2003 to 4 February 2008, inclusive.			
Catfish, eel-tailed	Tandanus tandanus	Backed up waters of dams and impoundments	5	10
		All other waters of NSW	2	4
Australian bass and Estuary perch	Macquaria novemaculeata and M. colonorum	Backed up waters of dams and impoundments	2 comprised wholly of a single species or of a combination of species	4 comprised wholly of a single species or of a combination of species
	All other waters of NSW	2 comprised wholly of one	4 comprised wholly of one	

		species or of a combination of species (with not more than one, of either species, being longer than 35 cm)	species or of a combination of species (with not more than one, of either species, being longer than 35 cm)	
Atlantic salmon	Salmo salar	All waters of NSW	10 comprised of any single species or a combination of species	20 comprised of a combination of species
Trout, brook	Salvelinus fontinalis			
Trout, brown	Salmo trutta			
Trout, rainbow	Oncorhynchus mykiss			

Part 4 Invertebrates--Freshwater

	Column 1	Column 2	Column 3	Column 4
Common name	Species	Waters	Daily limit	Possession limit
Spiny crayfish, eastern freshwater	Euastacus spp.	All waters of NSW	5 (only 1 of which can be longer than 12 cm)	10 (only 1 of which can be longer than 12 cm)
Murray crayfish	Euastacus armatus	All waters of NSW	5 (only 1 of which can be longer than 12 cm) during the months of May, June, July and August	10 (only 1 of which can be longer than 12 cm) during the months of May, June, July and August
Yabby	Cherax spp.	All waters of NSW	200	200

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

16 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.

17 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.

18 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.

Division 5 – Miscellaneous

18A Part does not authorise action contrary to prohibitions or other controls

(1) Nothing in this Part affects any prohibition or conditions imposed by or under the Act or the *Marine Parks Act 1997* with respect to the taking of fish.

(2) In particular, a provision of this Part that specifies:

- (a) the minimum measurements, or
- (b) the daily limit (within the meaning of section 17 (1) of the Act), or
- (c) the possession limit (within the meaning of section 18 (1) of the Act),

in respect of any species of fish is not to be construed as authorising any of the following:

- (d) the taking of fish in waters that are closed to fishing by virtue of a notification in force under section 8 of the Act,
- (e) the taking for sale of any fish protected from commercial fishing,
- (f) the taking for sale of fish from any area protected from commercial fishing,
- (g) the taking of fish in contravention of:
 - (i) a regulation relating to aquatic reserves made under section 197 of the Act, or
 - (ii) a management plan for an aquatic reserve made under section 197A of the Act, or
 - (iii) an aquatic reserve notification in force under section 197E of the Act,
- (h) the taking of fish in contravention of any provision of, or any instrument or notification under, the *Marine Parks Act 1997*.

Part 3 – Fishing gear

Division 1 – Lawful use of fishing gear generally

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.

19 Fishing gear cannot be used in contravention of other restrictions

- (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 or the *Marine Parks Act 1997* 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,
 - (d) the taking for sale of fish from any area protected from commercial fishing,
 - (e) the taking of fish in contravention of:
 - (i) a regulation relating to aquatic reserves made under section 197 of the Act, or
 - (ii) a management plan for an aquatic reserve made under section 197A of the Act, or
 - (iii) an aquatic reserve notification in force under section 197E of the Act,
 - (f) the taking of fish in contravention of any provision of, or any instrument or notification under, the *Marine Parks Act 1997*,
 - (g) the taking of fish in contravention of a condition of a commercial fishing licence or an endorsement on a commercial fishing licence.

20 Lawful use of fishing gear

- (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), (4) (Repealed)

20A Use of certain fishing gear prohibited in vicinity of critical habitat of grey nurse shark

- (1) Clause 66 (1) and (2) apply to commercial fishers who take or attempt to take fish in the vicinity of critical habitat of the grey nurse shark in the same way as they apply, in relation to any waters other than inland waters, to persons who are not commercial fishers.
- (2) A commercial fisher must not, in the vicinity of critical habitat of the grey nurse shark, take or attempt to take fish in contravention of the provisions that apply because of subclause (1).
- (3) A person must not, in the vicinity of critical habitat of the grey nurse shark, take or attempt to take fish by means of a wire trace line from a vessel that is anchored, moored or otherwise held stationary.
- (4) This clause does not apply:
 - (a) in respect of the critical habitat of the grey nurse shark located at Julian Rocks--from 1 November in any year to 30 April in the following year, or
 - (b) in respect of the critical habitat of the grey nurse shark located at Montague Island--from 1 May to 31 October in any year.

(5) In this clause: "**vicinity of critical habitat of the grey nurse shark**" means the areas identified as "**buffer zones**" in the maps in Schedule 1A showing the areas of critical habitat of the grey nurse shark. The buffer zones are, generally, the areas within 800 metres of the critical habitat. However, the buffer zones do not all extend 800 metres in all directions--see, for example, the map relating to Little Broughton Island.

Maximum penalty: 100 penalty units.

20B Use of certain fishing gear prohibited in vicinity of Fish Rock

(1) This clause applies to all waters within 500 metres of the mean high water mark of Fish Rock. See also Division 1 of Part 11A. Part of the area around Fish Rock is critical habitat of the grey nurse shark (see Gazette No 237 of 29.11.2002, p 10137).

(2) A person must not take or attempt to take, by means of a spear, speargun or similar device, any fish from waters to which this clause applies other than fish of the following families or species:

(a) families:

- (i) Carangidae (including all trevallies, kingfish and rainbow runner),
- (ii) Scombridae (mackerel and wahoo tuna),
- (iii) Istiophoridae (marlin and sailfish),

(b) species:

- (i) cobia (*Rachycentron canadus*),
- (ii) tailor (*Pomatomus saltator*),
- (iii) dolphin fish (*Corphaena hippurus*),
- (iv) Australian salmon (*Arripis trutta*).

Maximum penalty: 100 penalty units.

(3) A person must not, while using any apparatus (other than a snorkel) capable of supplying air to facilitate breathing underwater, take or attempt to take fish from waters to which this clause applies by any method. Maximum penalty: 100 penalty units.

21 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.

Any fishing closure to which clause 4 of Schedule 7 to the Act applied (being a fishing closure which was formerly a prohibition contained in section 19 of the 1935 Act) was revoked by the *Fisheries Management (General) Regulation 1995*.

Division 2 – Registration

22 Registration of fishing gear

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

- (a) hauling net (general purpose)
- (b) trumpeter whiting net (hauling)
- (c) garfish net (bullringing)
- (d) garfish net (hauling)
- (e) pilchard, anchovy and bait net (hauling)
- (f) purse seine net
- (g) prawn net (hauling)
- (h) prawn net (set pocket)
- (i) prawn running net
- (j) seine net (prawns)
- (k) otter trawl net (fish)
- (l) danish seine trawl net (fish)
- (m) meshing net
- (n) flathead net
- (o) bait net
- (p) hand-hauled prawn net
- (q) push or scissors net (prawns)

23 Applications for registration

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

24 Registration

- (1) If an application for the registration of fishing gear is duly made and the fishing gear may lawfully be used, the Director-General may register the fishing gear.
- (2) Registration of fishing gear is to be certified in such form or manner as the Director-General 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 \$25.
- (5) Registration is not transferable.
- (6) The Director-General 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

25 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-General.

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.

26 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) 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, or
 - (ii) 725 metres in length in the waters of 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 and Lake Illawarra, or
 - (iii) 1000 metres in length in the waters of Tuggerah Lakes and Wallis Lake (excluding Wollomba, Wallingat, Cooloongolok and Wang Wauk Rivers),
- (g) in the waters of any 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,
- (ia) (Repealed)
- (j) the net is not used for taking garfish,
- (k) the net is operated by at least 2 commercial fishers,
- (l) in the case of a net of 500 metres length or less used in the waters specified in item 1 or 2 of the Table to this clause under the authority of a category one hauling endorsement in the estuary general fishery:
- (i) the net is hauled no more than once between midnight on one day and midnight on the immediately following day, and
 - (ii) no more than one net of 500 metres length or less is used by the holder of the endorsement during that period,
- (m) in the case of a net that is being used under the authority of an endorsement on a commercial fishing licence authorising the holder of the licence to take fish for sale in the ocean hauling fishery, the net is deployed from, and hauled to, a beach.

(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 --Tuggerah Lakes; Wallis Lake (excluding Wollomba, Wallingat, Cooloongolok and Wang Wauk Rivers).(b) Description of net --Total length not exceeding 500 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 500 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; Wollumboola Lake; Coila Lake; Cuttagee Lake; Murrah Lake; Wapengo 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 (<i>Arripis trutta</i>) 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; no rings or other devices attached to net (including on lead line) that facilitate the pursing of the net.(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; no rings or other devices attached to net (including on lead line) that facilitate the pursing of the net.
7 A	(a) Waters --Jervis Bay.(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; no rings or other devices attached to net (including on lead line) that facilitate the pursing of the net.(ii) during any other period--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; no rings or other devices attached to net (including on lead line) that facilitate the pursing of the net.
8	(a) Waters --All other waters (except inland waters and the estuaries of Dalhousie Creek, Oyster Creek, Saltwater Creek, Towradgie Creek, Spring Creek, Nerrindilah Creek, Congo Creek and Meringo River).(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.

27 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 (hauling)

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.
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28 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.
- (d) (Repealed)

(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 ocean waters, inland waters and the estuaries of Saltwater Creek, Towradgie Creek, Spring Creek, Nerrindilah Creek, Congo Creek and Meringo River).(b) Description of net --Total length not exceeding 275 metres; mesh throughout not less than 28 mm nor more than 36 mm.

29 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,
- (c) (Repealed)
- (d) in the waters of Jervis Bay specified in the Table to this clause and in ocean waters:
 - (i), (ii) (Repealed)
 - (iii) 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, and
 - (iv) if the hauling of the net is conducted from a boat, no more than one boat is used, and the boat remains stationary while the net is being retrieved, and
 - (v) the net is operated by at least 2 commercial fishers.

(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 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.(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 --Total length not exceeding 300 metres; no rings or other devices attached to net (including on lead line) that facilitate the pursing of the net; mesh of not less than 28 mm nor more than 85 mm.
3	(a) Waters --Jervis Bay.(b) Description of net --Total length not exceeding 300 metres; no rings or other devices attached to net (including on lead line) that facilitate pursing the net; mesh of not less than 28 mm not more than 36 mm.

30 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) (Repealed)
- (c) in ocean waters:

(i), (ii) (Repealed)

(iii) 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, and

(iv) if the hauling of the net is conducted from a boat, no more than one boat is used, and the boat remains stationary while the net is being retrieved, and

(v) 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 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 --Total length (excluding hauling lines) not exceeding 300 metres; total length of hauling lines not exceeding 500 metres; no rings or other devices attached to net (including on lead line) that facilitate the pursing of the net; mesh throughout of not less than 13 mm.
2	

31 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 and the following conditions are complied with:

(a) the net is cast or shot from, and retrieved to, a boat,

(b), (c) (Repealed)

(d) 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, and is conducted from a single 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 purse seine net.

Table Purse seine net

1	(a) Waters --Twofold Bay and Jervis Bay.(b) Description of net--Total length not exceeding 275 metres; rings and purse rope or other devices that facilitate pursing attached to lead line; mesh throughout not more than 150 mm.
2	(a) Waters --Ocean waters.(b) Description of net--Total length not exceeding 1,000 metres; rings and purse rope or other devices that facilitate pursing attached to lead line; mesh throughout not more than 150 mm.

32 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 --Shoalhaven River.(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 --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.
5	(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.
6	(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.
7	(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.
8	(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.
9	(a) Waters --Tweed River.(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.
10	(a) Waters --Any other waters (except inland waters, the Manning River and the waters described in the Table to clause 34).(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.

33 Prawn net (hauling): Manning River

- (1) It is lawful to use a hauling net for taking prawns in the Manning River upstream from Ghinni Ghinni Creek and Berady Creek if the net (including hauling lines) complies with the description set out in subclause (2) and the conditions set out in subclauses (3)-(10) 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,
 - (f) a marker buoy with a diameter of not less than 100 millimetres must be affixed to the hauling line at intervals of 55 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 (first rope shot) to the net must be attached to a stationary licensed fishing boat that:
 - (i) does not have a motor on or in it, and
 - (ii) does not contain any rope other than the mooring line, the anchor line and a maximum of 220 metres of hauling line, and
 - (iii) is secured by an anchor (with the length of the anchor line not exceeding 50 metres) in such a position that both the boat and the anchor are at least 10 metres from the water's edge (regardless of the tide) during the entire hauling operation,
 - (b) the line must then be cast (or laid out) 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 of the first hauling line of the net has commenced, the two hauling lines of the net must not be shortened or manipulated in any way so as to alter the shape of the haul (other than as a necessary part of the process of landing the net),
 - (g) once any part of the net other than the hauling line has been shot or cast, the shooting and hauling operation is to be continued without interruption or delay 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 in the net to escape.
- (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) The entire hauling operation must take place at least 10 metres from the water's edge (regardless of the tide).

- (7) The hauling lines must not be towed by more than one boat at any stage in the hauling operation.
- (8) A crew that uses a net must not operate more than one mechanically powered boat in the Manning River.
- (9) A crew that uses a net must not operate a mechanically powered boat within 50 metres of another crew that is taking prawn from the Manning River, except as provided by subclause (10).
- (10) A crew may operate a mechanically powered boat within 50 metres of another crew that is taking prawn from the Dawson River for the purpose of passing the other crew. The crew passing must pass the other crew as quickly as possible and must not assist the other crew.
- (11) 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).

34 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
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	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.

35 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

	<p>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.</p>
3	<p>(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.</p>
4	<p>(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.</p>
5	<p>(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.</p>
Clause 21 of, and Schedule 2 to, this Regulation have the effect of closing certain waters (including parts of Tuggerah Lakes and Lake Illawarra and ocean waters adjoining	

<p>Lake Illawarra) to net and trap fishing. However, clause 21 (1) (b) and Schedule 3 provide an exemption to that closure (in respect of prawn nets (set pockets) only) in relation to the parts of those waters specified in Schedule 3.</p>	
<p>6</p>	<p>(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.</p>
<p>7</p>	<p>(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.</p>
<p>8</p>	<p>(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</p>

	nor more than 36 mm.
9	(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.
10	(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.

36 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 --Wallaga Lake, Durras Water, Cuttagee Lake, Middle Lake, Lake Wollumboola, Swan Lake, Coila Lake, Corunna Lake, Tilba 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 --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.

37 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) 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 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.
4	(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.

5	(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.
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38 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, 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,
- (e) the net (or each net if more than one net is used) is fitted with a by-catch reduction device of a kind approved by the Director-General for use in the waters in which the net is used, and that device is fitted in accordance with any specifications issued by the Director-General.

(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 56 (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 Wooloweyah), 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) Waters --Hawkesbury River, Hunter River and all ocean waters.(b) Description of net -- 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
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	(whichever is the greater).
2	(a) Waters --Clarence River and Lake Wooloweyah.(b) Description of net --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).

39 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 condition is complied with: 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.(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.
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40 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 condition is complied with: 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.
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41 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 conditions set out in subclauses (2)-(7) are complied with.

(2) The net must be 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) from 1 February to 30 November in any year, and

(ii) between sunset and sunrise, and

(iii) for no more than 3 hours at a time.

(3) The 3 hour time limit referred to in subclause (2) (b) (iii) (the "**3-hour limit**") does not apply:

(a) from 1 June to 31 August in any year in the waters of regions 1, 2 and 3, and

(b) from 1 June to 30 September in any year in the waters of regions 4, 5, 6 and 7.

(4) If used as a set net, the net must not be set until on or after sunset and it must be retrieved, or be in the process of being retrieved, by the relevant deadline. If more than one net has been set by a fisher, all nets must have been retrieved by the relevant

deadline. Alternatively, all nets, but one, must have been retrieved by the relevant deadline and the last one must be in the process of being retrieved.

(5) For the purpose of subclause (4), the "**relevant deadline**" is sunrise or, if the 3-hour limit applies, the end of the 3-hour limit (whichever occurs first).

(6) Both ends of a set net must be marked on the surface of the water by a white buoy displaying, in clearly visible figures and letters that are not less than 50 mm in height, the letters "FL" followed by the commercial fishing licence number of the fisher who set the net, followed by the letter "M". The buoy is to have a diameter above the water of not less than 300mm and a weight (of not less than 50 grams) attached to the rope connecting the buoy and the net. The weight is to be suspended not less than 1.5 metres under the buoy.

(7) If the net is used as a set net by a person in excess of 3 hours and in combination with, or in the same waters as, a flathead net being used by the person, the combined total length of the nets must not exceed 1450 metres.

(7A) If the net is used in the waters of the Clarence River (including the waters referred to in item 1 (a) of the Table to this clause) an alternative method of splashing (that is, shooting the net in a ring or semi-circle, remaining in attendance of the net while it is set and commencing retrieval of the net within 45 minutes of the net being shot) may be used instead of the method described in subclause (2) (a). To avoid doubt, subclauses (2) (b) and (3)-(7) do not apply when the net is being used by that alternative method of splashing.

(8) 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.

(9) In this clause, a reference to a "**region**" is a reference to a region described in the *Estuary General Share Management Plan* under the *Fisheries Management (Estuary General Share Management Plan) Regulation 2006*.

Table Meshing net

1	(a) Waters --The tributaries of the Clarence River known as Lake Wooloweyah and the Broadwater.(b) Description of net --Total length not exceeding 1,450 metres; mesh throughout not less than 95 mm when the net is used as a set net in excess of 3 hours and 80 mm in any other case.
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 95 mm when the net is used as a set net in excess of 3 hours and 80 mm in any other case.
3	(a) Waters --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 95 mm when the net is used as a set net in excess of 3 hours and 80 mm in any other case.
4	(a) Waters --All other waters (except inland waters and ocean waters and the estuaries of Towradgie Creek, Spring Creek and Nerrindilah Creek).(b) Description of net --Total length not exceeding 725 metres; mesh throughout not less than 95 mm when the net is used as a set net in excess of 3 hours and 80 mm in any other case.

42 Beach safety meshing net

(1) It is lawful for an officer of NSW Fisheries or a person acting on behalf of the Director-General 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) The meshing net must comply with the following specifications:

- (a) 150 metres of not less than 8 mm diameter, synthetic rope with a breaking strain of not less than 900 kg.
- (b) 150 metres of not less than 8 mm diameter, synthetic rope with a breaking strain of not less than 900 kg.
- (c) 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-General and spaced at not more than 5 metre centres.
- (d) The twine must be continuous synthetic filament with a breaking strain of not less than 60 kg.
- (e) 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) 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".

43 Flathead net

- (1) It is lawful to use a flathead net for taking flathead and blue swimmer crab 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 November to 31 March in any year, or
 - (ii) between sunrise and sunset during any other period,
 - (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 0.8 metre, or
 - (iii) the corks, floats, cork line or float line not to be completely submerged,
 - (f) if the net is set after sunset:
 - (i) it must be retrieved, or be in the process of being retrieved, by sunrise, and
 - (ii) if more than one net has been set by a fisher, all nets must have been retrieved by sunrise or all nets, but one, must have been retrieved by sunrise and the last one must be in the process of being retrieved,
 - (g) if the net is used, set or left after sunset by a person in combination with, or in the same waters as, a meshing net being used as a set net by the person in excess of 3 hours, the combined total length of the nets must not exceed 1450 metres,
 - (h) both ends of a set net must be marked on the surface of the water by a white

buoy displaying, in clearly visible figures and letters that are not less than 50 mm in height, the letters "FL" followed by the commercial fishing licence number of the fisher who set the net, followed by the letter "F". The buoy is to have a diameter above the water of not less than 300mm and a weight (of not less than 50 grams) attached to the rope connecting the buoy and the net. The weight is to be suspended not less than 1.5 metres under the buoy.

(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 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 16 meshes; mesh throughout not less than 80 mm.
2	(a) Waters --Smith's Lake.(b) Description of net --Total length not exceeding 375 metres; depth of net not exceeding 16 meshes; mesh throughout not less than 80 mm.

44 Bait net

(1) It is lawful to use a bait 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 condition is complied with: 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 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.
2	(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.

45 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.
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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°08'30", 30°17'28");(ii) those waters from Mean High Water Mark to 200 metres seawards from Mean Low Water Mark around Cook Island;(iii) those waters within 200 metres of Merimbula fishing platform and Tathra Wharf.(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.
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

46 Application of Division

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

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.

47 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.
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48 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) the net is not set or left in the water in the period between sunset and sunrise,
- (c) if the net is used or set by a commercial fisher, the net is identified by the fisher's commercial fishing licence number, in the manner required by clause 69,
- (d) not more than 5 nets are used by any person (other than a commercial fisher) at any one time,
- (e) if the fisher is a commercial fisher who holds an endorsement authorising the fisher to take fish for sale in the estuary general fishery, the commercial fisher does not set or use the net in contravention of any conditions of that endorsement.

The *Estuary General Share Management Plan* under the *Fisheries Management (Estuary General Share Management Plan) Regulation 2006* contains further restrictions on the use of hoop or lift nets by commercial fishers in the estuary general fishery.

(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.
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49 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.
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50 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.
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51 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.
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52 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 by 1 person only (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.
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53 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 condition is complied with: 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.
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Division 5 – General provisions relating to lawful use of nets

54 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.

55 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 no fewer than 2 boats, by no fewer 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 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.
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56 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.

57 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.

58 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.

58A Sorting of prawns caught in certain nets

(1) This clause applies in respect of the use of the following nets:

- (a) a prawn net (hauling),
- (b) a prawn net (hauling): Manning River,
- (c) a prawn net (hauling): Wallis Lake,
- (d) a prawn net (set pocket),
- (e) a prawn running net,
- (f) a seine net (prawns),
- (g) a hand-hauled prawn net,
- (h) an otter trawl net (prawns).

(2) For the purposes of this Part, it is unlawful to use a net to which this clause applies for taking prawns unless:

- (a) the prawns caught in the net are graded immediately after the net is retrieved, and
- (b) the unwanted portion of the catch is returned to the water, alive, as soon as practicable (and in any case before the cooking of the retained portion of the catch).

58B Prohibition on use of certain nets in vicinity of seagrass

For the purposes of this Part, it is unlawful to do any of the following:

(a) to use any of the following nets over, or adjacent to, a bed of strapweed seagrass (*Posidonia australis*) in the estuary general fishery:

- (i) hauling net (general purpose),
- (ii) trumpeter whiting net (hauling),
- (iii) garfish net (hauling),
- (iv) pilchard, anchovy and bait net (hauling),
- (v) garfish net (bullringing),
- (vi) bait net,
- (vii) prawn net (hauling),
- (viii) prawn net (hauling): Manning River,
- (ix) prawn net (hauling): Wallis Lake,
- (x) seine net (prawns),
- (xi) hand-hauled prawn net,

(b) to haul a hauling net (general purpose) over, or adjacent to, a bed of strapweed seagrass (*Posidonia australis*) in the ocean hauling fishery,

(c) to use an otter trawl net (prawns) over, or adjacent to, a bed of:

- (i) strapweed seagrass (*Posidonia australis*), or
- (ii) eelgrass (*Zostera capricorni*),

in the estuary prawn trawl fishery,

(d) to haul a prawn net (hauling) or seine net (prawns) over a bed of any other seagrass, being a bed that is identified on a map approved by the Minister, published in the Gazette and held at an office of NSW Fisheries located in the region of the relevant seagrass bed.

Division 6 – Lawful traps

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.

59 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 "FL" followed by the commercial fishing licence number of the commercial fisher who 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) (Repealed)
- (d) the trap is not set or used unless it is secured or weighted so that the trap rests on the seabed,
- (e) if the commercial fisher holds an endorsement authorising the fisher to take fish for sale in the estuary general fishery, the commercial fisher does not set or use the trap in contravention of any conditions of that endorsement.

The Estuary General Share Management Plan under the Fisheries Management (Estuary General Share Management Plan) Regulation 2006 contains further restrictions on the use of fish traps by commercial fishers in the estuary general fishery.

(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 waters referred to elsewhere in this Table).(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).
3	(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 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 the top of not less than 30 cm long by 30 cm wide consisting of galvanised wire.
4	(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 easternmost 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 southernmost 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 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 the top of not less than 30 cm long by 30 cm wide consisting of galvanised wire.

60 Lobster trap

(1) It is lawful for a person to use a trap for taking lobster in the waters specified in 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 (2) are complied with.

(2) 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) 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.

(3) 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. 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*).

(4) 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.
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61 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 "FL" followed by the commercial fishing licence number of the commercial fisher who 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), (d) (Repealed)
- (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,
- (g) if the fisher is a commercial fisher who holds an endorsement authorising the fisher to take fish for sale in the estuary general fishery, the commercial fisher does not set or use the trap in contravention of any conditions of that endorsement.

The *Estuary General Share Management Plan* under the *Fisheries Management (Estuary General Share Management Plan) Regulation 2006* contains further restrictions on the use of crab traps by commercial fishers in the estuary general fishery.

(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 Wurring 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).

62 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.

63 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 and does not leave any trap set for more than 24 hours in any period of 48 consecutive hours,
 - (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, other than:(i) waters east of the Newell Highway,(ii) the Murray River from the Newell Highway at Tocumwal downstream to the Echuca road bridge,(iii) the Edward River from the Murray River at Picnic Point downstream to Stevens Weir,(iv) the Murrumbidgee River from Narrandera to the Darlington Point road bridge.(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 being rigid mesh, such as metal or hard plastic) not less than 13 mm;

has entrance funnel or funnels containing a rigid ring with a maximum internal diameter of 90 mm permanently affixed at some point along the funnel or funnels.

64 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.
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65 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.
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Division 7 – Miscellaneous

66 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) in any inland waters:

(a) use or lift more than 2 hand held lines, or

(b) use or lift any line with more than 2 hooks or 3 treble hooks attached to a lure.

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.

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.

67 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 50 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.

68 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.

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.

69 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-General 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.

70 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 and (in the case of abalone) the *Fisheries Management (Abalone Share Management Plan) Regulation 2000*, or

(b) any fish while using a snorkel, or

(c) scallops, or

(d) sea urchin.

71 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.

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.

72 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 71).

73 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.

74 Taking of yabby, worms, pipis etc

(1) A person must not take or attempt to take any yabby (pink nippers), squirt worms, blood worms, beachworms, 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).

75 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.

76 Jaggging or foul hooking of fish

(1) In this clause, "**jaggging**" 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 jaggging. Maximum penalty: 25 penalty units.

(3) A person must not use a gaff for the purpose of taking fish from any inland waters. Maximum penalty: 25 penalty units.

77 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 3 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.

78 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.

79 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-General 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.

79A Certain implements prohibited

(1) The purpose of this clause is to protect any fish or other organisms that have been taken in a catch of fish in the estuary general fishery or the estuary prawn trawl fishery and are to be returned to the water.

(2) A person must not, when sorting a catch of fish that has been taken:

- (a) in the estuary general fishery, or
- (b) in the estuary prawn trawl fishery,

use any implement (such as a spike or club) that could pierce, impale, beat or otherwise injure any fish or other organism taken in the catch. Maximum penalty: 25 penalty units.

79B Storage of eels

A commercial fisher who is authorised to take eels for sale from estuarine waters must not store any live eels taken, or possess any device used to store live eels, in, on or adjacent to the following waters:

- (a) any freshwater river, creek, stream, lake or lagoon,
- (b) waters in which commercial fishing for eel or the use of eel traps is prohibited.

Maximum penalty: 100 penalty units.

Part 4 – Priorities in the use of fishing gear

Division 1 – Offences

80 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.

81 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

82 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

83 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.

84 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 or ocean beach area (whether or not a recognised fishing ground) are determined as follows:
- (a) the first turn belongs to the crew which first arrives at a recognised fishing ground or ocean beach area 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 or ocean beach area 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 or ocean beach area 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.

85 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 or ocean beach area (whether or not a recognised fishing ground) is to be determined in accordance with clause 84, 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, 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 84.

(6) In this clause: "**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 fishery.

86 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 or 5 of this Part.

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

87 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. "**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.

88 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 94) is made.

89 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 one position may be nominated.

90 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 one application under subclause (3) in each fishing period.

91 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 89 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-General from the requirement to be personally present which is in force at the time of the priority determination.

92 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 93 to 95 (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.

93 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 89, a position has been nominated by only one 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.

94 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 89) 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.

95 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 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.

96 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 one 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 one 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 one crew.

97 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 commercial fishers and crews who may set prawn nets at those positions.

98 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 89.
- (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 81 for a contravention of this Part. Clause 81 makes it an offence to use a net or other fishing gear in a manner that is contrary to the provisions of this Part.

99 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 one 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

100 General

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

(a) Coila Lake,

(b) Brou Lake,

(c) Corunna Lake,

(d) Tilba Lake,

(e) Durras Water,

(f) Cuttagee Lake,

(g) Middle Lake,

(h) Wallaga 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. "**net site**" means a position in waters to which this Division applies at which prawn running nets may be set.

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

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

102 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 two or more crews arrive simultaneously and before any other crew 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.

103 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.

Division 6 – Miscellaneous

104 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.

105 Exemption from requirement to be personally present

(1) The Director-General may exempt a commercial fisher from being personally present in any circumstances the Director-General 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) a conference or deputation with the Director-General or the Director-General's nominee on business of such a Committee, or
- (c) 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 local fisheries officer 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

106 Identification of recognised fishing grounds

(1) For the purposes of section 39 (4) of the Act, a recognised fishing ground is an area identified as a recognised fishing ground by being marked as such on a map ("**an RFG map**") approved by the Minister and published in the Gazette.

(2) An RFG map is to identify any one or more areas 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) Section 284 (2) of the Act (which specifies the way in which the public is to be given an opportunity to make submissions on certain matters) applies in respect of a draft RFG map in the same way as it applies in respect of the matters specified in section 284 (1) of

the Act.

(4) Before taking the action required by section 284 (2) of the Act in relation to a draft RFG map, the Minister must:

- (a) provide a copy of the draft map to both the Seafood Industry Advisory Council and the Advisory Council on Recreational Fishing, and
- (b) invite each of those Councils to make recommendations about the draft map within such time (being not less than 30 days from the date on which the copy of the draft map is provided to the Council concerned) as the Minister may specify in the invitation, and
- (c) take any such recommendations into consideration when finalising the draft map for public exhibition under section 284 (2) of the Act.

(5) Each RFG 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 relevant recognised fishing ground.

(6) The Minister may alter or replace an RFG map from time to time by publishing an amended or replacement RFG map in the Gazette. However, the consultations required by subclauses (3) and (4) must be undertaken in relation to such an alteration or replacement unless, in the case of an alteration, the Minister is of the opinion that the alteration is of a minor nature.

(7) A map identifying an area as a recognised fishing ground and held, on the commencement of the *Fisheries Management (General) Amendment (Commercial Fishing and Miscellaneous Matters) Regulation 2003*, at the head office of NSW Fisheries and at an office of NSW Fisheries located in the region of the relevant recognised fishing ground is taken to be an RFG map prepared in accordance with this clause. However, each such RFG map is to be published in the Gazette as soon as practicable after the commencement of the *Fisheries Management (General) Amendment (Commercial Fishing and Miscellaneous Matters) Regulation 2003*.

Division 2 – Interference with fishing activities and set fishing gear

107 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.

108 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.

109 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.

110 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.

111 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

112 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-General, and

(b) in accordance with the conditions of the permit.

113 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-General in the form approved by the Director-General.

(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-General, 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-General.

(5) The fee for a permit under this clause, or for the renewal of such a permit, is \$122.

114 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-General, and

(b) in accordance with the conditions of the permit.

115 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-General in the form approved by the Director-General.

- (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-General, 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-General.
- (5) The fee for a permit under this clause, or for the renewal of such a permit, is \$122.

Division 4 – Measurement of fishing gear

116 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 42) 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-General may determine) must comply with the following description:
 - (a) it consists of a fixed member (in the form of a metal cylinder) in which is fitted a sliding member weighing 225 grams,
 - (b) both members have attached a fixed knife edge,
 - (c) when in use, the device is suspended from, or held by, the metal clip at the top of the fixed member,
 - (d) a scale and a point is 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 two 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, push or scissor 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 4A – Tagging of eastern rock lobster taken for sale

116A Eastern rock lobster not to be sold unless 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 under this clause unless the rock lobster concerned was taken in the waters of, or adjacent to, New South Wales.

(3) In this clause: "**tag**" means a tag issued by the Director-General for attachment to eastern rock lobsters taken for sale. "**whole eastern rock lobster**" includes an eastern rock lobster that has had parts (other than the abdomen of the rock lobster) removed.

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

Division 4B – Labelling of abalone for sale

116B Abalone not to be sold unless labelled

A person must not sell abalone unless the immediate packaging of the abalone is marked or labelled in accordance with clause 289 (3).

Maximum penalty: 100 penalty units.

116C Abalone packaging not to be removed or damaged

(1) A person must not remove, deface, damage or destroy any immediate packaging of abalone (or label attached to the packaging) that contains the details required by clause 289 (3). Maximum penalty: 20 penalty units.

(2) Subclause (1) does not prevent a person from removing packaging or a label from abalone at a place where the abalone is to be cooked or eaten, immediately before it is cooked or eaten.

Division 5 – Recreational fishing fee

117 Definition

In this Division:

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

118 Exempt bodies of water

(1) For the purposes of section 34C (2) (g) of the Act, the following bodies of water are exempt:

(a) a body of water comprising the backed up waters of a dam or impoundment located on private land if the surface area of the body of water (at full capacity) does not exceed 2 hectares,

(b) the waters of Lake Hume, being all waters (and land covered by water when the lake is at full capacity) in the Murray River arm of Lake Hume, from the weir wall upstream to the point where 7 Mile Creek enters the Murray River on the northern bank of the Murray River, and in the Mitta Mitta River arm of Lake Hume, from the weir wall upstream to the Murray Valley Highway Bridge situated east of Tallangatta.

(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.

119 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 296), 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.

119A Prescribed fishing fees

For the purposes of section 34E (2) of the Act, the amount of the fishing fee for each period specified is as follows:

- (a) for a period of 3 days--\$6,
- (b) for a period of 1 month--\$12,
- (c) for a period of 12 months--\$30,
- (d) for a period of 3 years--\$75.

120 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.

121 Issue of replacement receipts

On payment of a fee of \$6, the Director-General 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.

122 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.

123 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.

124 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 \$120, and

(b) 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 \$2,400, and

(c) 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 \$120, or

(ii) between 5 and 9 passengers at a time carrying out recreational fishing activities on a boat is \$120, plus \$30 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 \$300.

No fee is payable for an exemption certificate issued to a person referred to in clause 122.

(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 120.

(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.

125 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 \$11,
- (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 6 – Acquisition of commercial fishing entitlements

126 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 7 – Miscellaneous

127 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.

Maximum penalty: 50 penalty units.

(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.

128 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.

129 Shucking of intertidal invertebrates

(1) A person must not shuck any intertidal invertebrate (other than abalone, rock lobster or turban snail), or have such a shucked intertidal invertebrate in his or her possession, 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, or have shucked rock lobster or turban snail in his or her possession, in or on or adjacent to any waters. Maximum penalty: 25 penalty units.

130 Shucking of abalone

(1) A commercial fisher who is authorised to take fish for sale in the abalone share management fishery must not shuck abalone, or have shucked abalone in his or her possession, at any place other than:

(a) a place approved for the purpose by the Director-General, 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, or have shucked abalone in his or her possession, in or on or adjacent to any waters.

(3) A person in possession of shucked abalone does not commit an offence against this clause as a result of that possession if the person establishes that the abalone were shucked at a place or premises referred to in subclause (1).

Maximum penalty: 50 penalty units.

131 Mutilation of fish

(1) A person must not mutilate any fish of a class specified in clause 9 (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.

(2) 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-General.

(2A) A person must not have in his or her possession in or on or adjacent to any waters any fish of a class specified in clause 9 (Prohibited size fish) that has been mutilated in any manner other than by gutting or by removing the gills or scales. Maximum penalty: 50 penalty units.

(2B) A person (other than a commercial fisher) does not commit an offence under subclause (2A) if the person establishes that the fish was mutilated in accordance with subclause (2).

(3) A person must not deliver or consign for sale any fish of a class specified in clause 9 (Prohibited size fish) that has been mutilated in any manner other than by gutting or by removing the gills or scales. Maximum penalty: 50 penalty units.

(4) 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.

132 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.

133 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 \$13 per crate is payable by the owner of the fish to the Minister.

133A Fees for marine park permits under section 37 of the Act

(1) For the purposes of section 37 (6) of the Act, the fee for any permit under section 37 with respect to a marine park is \$61.

(2) In this clause: "**marine park**" means a marine park declared under the *Marine Parks Act 1997*.

133B Contravention of condition of permit under section 37 of Act

A person who contravenes a condition of a permit issued under section 37 of the Act is guilty of an offence.

Maximum penalty: 100 penalty units.

Part 5A – Fishing business transfer rules

Division 1 – Preliminary

133C Definitions

(1) Expressions used in this Part have the same meaning as they have in Division 4C of Part 2 of the Act.

(2) In this Part: "**dual operator fishing business**" means a fishing business the components of which include one or more NSW fishing authorities and one or more external fishing authorities. "**external fishing authority**" means a fishing authority that is not a NSW fishing authority.

Division 2 – Transfer of dual operator fishing businesses

133D Surrender of fishing authority to be treated as transfer

(1) For the purposes of the definition of "**transfer**" in section 34P of the Act, a transfer of a component of a fishing business includes the surrender of an external fishing authority that is a component of a fishing business.

(2) For the purposes of this Part, the "**surrender**" of an external fishing authority means the surrender, voluntary cancellation or relinquishment of an external fishing authority that is a component of a fishing business (whether or not for consideration).

133DA Notice of transfer of external fishing authorities

A person must not transfer (including by surrender) an external fishing authority that is a component of a dual operator fishing business unless the person gives written notice of the proposed transfer to the Minister no less than 7 days before the proposed transfer, or within a lesser period approved by the Minister in the particular case.

Maximum penalty: 50 penalty units.

133E Transfer of external fishing authorities by dual operator fishing businesses

(1) An external fishing authority that is a component of a dual operator fishing business is not to be transferred (other than by surrender of the authority) to a person unless:

(a) all components of the fishing business (other than NSW fishing authorities) are transferred to that same person, and

- (b) all NSW fishing authorities that are a component of the fishing business are transferred to that same person or surrendered to the Minister for cancellation.
- (2) An external fishing authority that is a component of a dual operator fishing business is not to be transferred by surrender of the authority unless all NSW fishing authorities that are components of the fishing business are surrendered to the Minister for cancellation.
- (3) If an external fishing authority that is a component of a dual operator fishing business is transferred in contravention of subclause (1) or (2) or clause 133DA, the Minister may take one or more of the following actions:
- (a) cancel or refuse to renew any NSW fishing authority that is a component of the fishing business,
 - (b) refuse to transfer a NSW fishing authority that is a component of the dual operator fishing business, or refuse to issue a new NSW fishing authority, to any person to whom a component of the dual operator fishing business is transferred,
 - (c) refuse to issue a new NSW fishing authority if eligibility for that fishing authority is determined on the basis of catch history that is a component of the dual operator fishing business,
 - (d) impose (in accordance with the Act) conditions on any NSW fishing authority that is a component of the fishing business, so as to restrict the fishing activities of the fishing business, or exercise any other powers conferred on the Minister by the Act so as to restrict the fishing activities of the fishing business.
- (4) Despite a contravention of subclause (2), the Minister may defer taking any action under subclause (3) until an assessment is undertaken of the actual or potential level of fishing effort by the fishing business, or by fishing businesses generally, in any waters to which the Act applies since the surrender of an external fishing authority or a class of external fishing authorities.
- (5) The Director-General may refuse an application to revoke or amend a fishing business determination in respect of a dual operator fishing business if satisfied that:
- (a) the purpose of the application is to avoid the requirements of subclause (1) or (2) or clause 133DA, or
 - (b) a component of the fishing business has been transferred in contravention of subclause (1) or (2) or clause 133DA.

Division 3 – Transfer of restricted fishery endorsements

133F Transfer of sea urchin and turban shell endorsements

- (1) For the purposes of section 114 of the Act, the transfer of a sea urchin endorsement or turban shell endorsement, in accordance with this clause, is authorised.
- (2) A sea urchin endorsement or turban shell endorsement that is a component of a fishing business may be transferred by the owner of the fishing business to another person only if:
- (a) all components of the fishing business are transferred to that person, or
 - (b) the transfer is part of an arrangement for the endorsement concerned to be surrendered to the Minister for cancellation.

Endorsements in a restricted fishery are not transferable unless authorised by the regulations under section 114 of the Act. Clause 171 provides that if the transfer of an endorsement is in accordance with this Part, the person who transfers the endorsement ceases to be eligible for that endorsement, and the person to whom the transfer is made becomes eligible for that endorsement.

- (3) In this clause: "**sea urchin and turban shell endorsement**" means an endorsement that authorises the taking of fish for sale in the sea urchin and turban shell restricted fishery.

133G Transfer of southern fish trawl endorsements

- (1) For the purposes of section 114 of the Act, the transfer of a southern fish trawl endorsement, in accordance with this clause, is authorised.
- (2) A southern fish trawl endorsement that is a component of a fishing business may be

transferred by the owner of the fishing business to another person (the "**transferee**") only if:

- (a) all components of the fishing business are transferred to the transferee, or
- (b) all shares (if any) in the ocean trawl fishery that are a component of the fishing business are transferred to the transferee and that transferee is, immediately before the transfer, an owner of a fishing business the components of which include a share in a fishery referred to in clause 133J (2), or
- (c) the transferee is, immediately before the transfer, a shareholder in the ocean trawl fishery, or
- (d) the transfer is part of an arrangement for the endorsement concerned to be surrendered to the Minister for cancellation.

Endorsements in a restricted fishery are not transferable unless authorised by the regulations under section 114 of the Act. Clause 194 provides that if the transfer of an endorsement is in accordance with this Part, the person who transfers the endorsement ceases to be eligible for that endorsement, and the person to whom the transfer is made becomes eligible for that endorsement.

(3) In this clause: "**southern fish trawl endorsement**" means an endorsement that authorises the taking of fish for sale in the southern fish trawl restricted fishery.

133H Effect of contravention

(1) If an endorsement that is a component of a fishing business is transferred in contravention of this Division, the Minister may take one or more of the following actions:

- (a) cancel or refuse to renew any NSW fishing authority that is a component of the fishing business or of the fishing business of the other party to the transfer,
- (b) refuse to transfer, or to approve the transfer of, a NSW fishing authority that is a component of the fishing business, or refuse to issue a new NSW fishing authority to the other party to the transfer,
- (c) impose (in accordance with the Act) conditions on any NSW fishing authority that is a component of the fishing business or of the fishing business of the other party to the transfer (or both), so as to restrict the fishing activities of the fishing business, or exercise any other powers conferred on the Minister by the Act so as to restrict the fishing activities of either or both fishing businesses.

(2) The Director-General may refuse an application to revoke or amend a fishing business determination of a fishing business if satisfied that an endorsement that is a component of that fishing business has been transferred in contravention of this Division.

Division 4 – Transfer of shares

133I Definitions

In this Division:

"**ocean share**" means a share of any of the following classes:

- (a) Ocean trawl--inshore prawn shares,
- (b) Ocean trawl--offshore prawn shares,
- (c) Ocean trawl--deepwater prawn shares,
- (d) Ocean trawl--fish northern zone shares,
- (e) Ocean trap and line--spanner crab northern zone shares,
- (f) Ocean hauling--general ocean hauling shares--Regions 1, 2, 3, 4, 5, 6 and 7,
- (g) Ocean hauling--pilchard, anchovy and bait net (hauling) shares--Regions 1, 2, 3, 4, 5, 6 and 7,
- (h) Ocean hauling--garfish net (hauling) shares--Regions 1, 2, 3, 4, 5, 6 and 7,
- (i) Ocean hauling--hauling net (general purpose) shares--Regions 1, 2, 3, 4, 5, 6 and 7,
- (j) Ocean hauling--purse seine net shares.

"**southern fish trawl endorsement**" means an endorsement that authorises the taking of fish for

sale in the southern fish trawl restricted fishery.

133J Application of Division

(1) For the purposes of section 34T of the Act, the owner of a fishing business may transfer shares that are a component of the fishing business only in accordance with this Division.

(2) This Division applies in respect of transfers of shares in the following fisheries only:

- (a) ocean trawl fishery,
- (b) ocean trap and line fishery,
- (c) ocean hauling fishery,
- (d) estuary general fishery,
- (e) estuary prawn trawl fishery.

(3) If the transfer of shares also involves a transfer of an endorsement in a restricted fishery, Division 3 of this Part must also be complied with.

133K Transfer to owners in the same fishery

(1) A share that is a component of a fishing business may be transferred by the owner of the fishing business (the "**transferor**") to another person (the "**transferee**") if the transferee is, immediately before the transfer, an owner of a fishing business the components of which include a share or shares in the same fishery as the share being transferred.

(2) If the share being transferred is an ocean share, the share may be transferred to the transferee only if:

- (a) the transferee holds a share or shares of that class immediately before the transfer, or
- (b) all shares of that class held by the transferor, that are a component of the transferor's fishing business, are transferred to the transferee.

(3) If the share being transferred is an ocean share in the ocean trawl fishery, the share may also be transferred if the transferee is, immediately before the transfer, the owner of a fishing business the components of which include a southern fish trawl endorsement and all ocean shares of the class proposed to be transferred, that are a component of the transferor's fishing business, are transferred to the transferee.

133L Transfer to owners in other fisheries

(1) A share in a fishery that is a component of a fishing business may be transferred by the owner of the fishing business (the "**transferor**") to another person if the person is, immediately before the transfer, an owner of a fishing business the components of which include a share in another fishery referred to in clause 133J (2) and all shares held in the fishery, that are a component of the transferor's fishing business, are transferred to that person.

(2) If the share being transferred is a share in the ocean trawl fishery, any southern fish trawl endorsement that is a component of the same fishing business must also be transferred to the person.

133M Other transfers

A share that is a component of a fishing business may be transferred by the owner of the fishing business to any person (whether or not the owner of a fishing business) if:

- (a) all components of the fishing business are transferred to that person, or
- (b) the transfer is part of an arrangement for the shares concerned to be surrendered to the Minister for cancellation.

133N Effect of contravention

(1) If a share that is a component of a fishing business is transferred in contravention of this Division, the Minister may take one or more of the following actions:

- (a) cancel or refuse to renew any NSW fishing authority that is a component of

the fishing business or of the fishing business of the other party to the transfer,
(b) refuse to transfer, or to approve the transfer of, a NSW fishing authority that is a component of the fishing business, or refuse to issue a new NSW fishing authority to the other party to the transfer,
(c) impose (in accordance with the Act) conditions on any NSW fishing authority that is a component of the fishing business or of the fishing business of the other party to the transfer (or both), so as to restrict the fishing activities of the fishing business, or exercise any other powers conferred on the Minister by the Act so as to restrict the fishing activities of either or both fishing businesses.

(2) The Director-General may refuse an application to revoke or amend a fishing business determination of a fishing business if satisfied that a share that is a component of that fishing business has been transferred in contravention of this Division.

In addition, under clause 133O, the Director-General may refuse to approve a transfer that contravenes this Part.

Division 5 – Dealings in endorsements and shares

133O Approval of transfers by Director-General

(1) In addition to the other requirements relating to the transfer of components of fishing businesses under this Part, an endorsement or share that is a component of a fishing business referred to in this Part may be transferred only with the approval of the Director-General.

(2) The Director-General may refuse to approve a transfer of an endorsement or share that is a component of a fishing business if:

(a) the transaction would contravene the Act, or the regulations, or

(b) the person to whom the endorsement or share is to be transferred is a person who:

(i) is prohibited from holding the endorsement or share, or

(ii) is a natural person who may not be nominated to take fish on behalf of the fishing business, or

(iii) could be refused an endorsement, or

(c) the Director-General is satisfied that the purpose of the transaction is to avoid share forfeiture, or

(d) any fee, contribution or other amount owing under the Act or the regulations in respect of the endorsement or share has not been paid, or

(e) any mortgage that applies to the share has not been discharged or cancelled, or

(f) there is a nominated fisher in respect of the fishing business and the nomination has not been revoked by the owner of the fishing business transferring the endorsement or share.

(3) An application for the Director-General's approval under this clause:

(a) is to be made jointly by the owner of the fishing business transferring the endorsement or share (as the case may be) and the person to whom the endorsement or share is to be transferred, and

(b) is to be in a form approved by the Director-General.

(4) If the transfer relates to shares, the approved form of application under this clause may include or be comprised of the approved form of application for registration of the transaction under section 91 of the Act, so as to enable the applications for approval and registration to be dealt with together. A transaction that has the effect of transferring, assigning or transmitting a share is to be registered in the Share Register, and a prescribed fee in respect of the application for registration is payable under clause 141.

(5) If the transfer relates to an endorsement, and no fee is charged in respect of the registration of the transaction, the Director-General may charge a fee in respect of the application for approval of \$244.

(6) An owner of a fishing business who proposes to transfer an endorsement or share may

request that the Minister review a determination of the Director-General under this clause in relation to the transfer within 30 days after notice of the determination is given to the owner of the fishing business.

(7) The Director-General is to give effect to any determination made by the Minister in respect of that review.

133P Transferee owns more than one fishing business

(1) If a transfer of an endorsement or share is permitted if the person to whom the transfer is made (the "**transferee**") is the owner of a fishing business (or a particular kind of fishing business), and the transferee is the owner of more than one fishing business, the transferee must nominate one fishing business against which compliance with the fishing business transfer rules, in respect of that transfer, is to be assessed.

(2) If the transfer is approved by the Director-General, the fishing business determination in respect of the nominated fishing business is to be amended so that the transferred endorsement or share becomes a component of the nominated fishing business.

Division 6 – General

133Q Application of rules

(1) The fishing business transfer rules apply to the following transfers in the same way as they apply to a transfer made or proposed to be made by the owner of a fishing business:

(a) a transfer of a fishing business, or a component of a fishing business, that is made or proposed to be made by a mortgagee, receiver, liquidator or trustee in bankruptcy in the exercise of a power of sale,

(b) a transfer of a fishing business, or a component of a fishing business, that is made or proposed to be made by a person in his or her capacity as the legal personal representative of a deceased person.

(2) For that purpose, a reference in this Part to the owner of a fishing business includes a reference to any such mortgagee, receiver, liquidator, trustee in bankruptcy or legal personal representative.

Part 6 – Commercial share management fisheries

Division 1 – General

134 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.

135 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.

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-General, of fish taken by the person).

136 (Repealed)

137 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 \$122.

138 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 transmission of the shares of a person (the "**shareholder**") in the fishery only if:

- (a) all of the shares of the shareholder that are a component of the same fishing business (whether or not those shares are shares in the same fishery) are transferred, assigned or transmitted to one person (the "**transferee**"), and
- (b) the transferee becomes the owner of that fishing business (and all its components).

(2) For the purposes of section 54 (3) of the Act, an acquisition of shares by a dealing that is allowed under subclause (1) is declared to be an authorised acquisition.

(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.

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, unless the acquisition is declared by the regulations to be an authorised acquisition.

139 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.

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

(1) An appeal to the Share Appeal Panel must be lodged within 90 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-General and is to be accompanied by a lodgment fee of \$275.

(3) The Director-General may waive or reduce the fee, or refund the fee or any part of it, in such circumstances as the Director-General considers appropriate.

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

141 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 \$244, 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 \$427.

(2) This clause does not apply in respect of a share management fishery if the management plan for the fishery prescribes a different fee in respect of an application referred to in subclause (1).

142 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, \$13 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-General under section 91 of the Act is \$61 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-General 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 – Application of Part 3 of the Act to redefined share management fisheries

142A Preliminary

(1) Pursuant to section 45 of the Act, this Division modifies the application of Part 3 of the Act in respect of any redefinition of the estuary general fishery or the estuary prawn trawl fishery (or both) that is effected by means of a relevant proclamation made on or after the commencement of this Division and before the commencement of the management plan for the fishery.

(2) For the purposes of this Division, a "**relevant proclamation**" means a proclamation under section 42 of the Act that omits the description of the estuary general fishery or the estuary prawn trawl fishery from Schedule 1 to the Act and inserts a new description of the fishery in Schedule 1 to the Act that operates to exclude the waters of Port Jackson from the description of the fishery (whether or not any other changes are made to the description of the fishery).

(3) In this Division: "**existing fishery**" means the estuary general fishery, or the estuary

prawn trawl fishery, as described in Schedule 1 to the Act immediately before the commencement of this Division. "**Port Jackson**" includes Sydney Harbour. "**redefined fishery**" means the estuary general fishery, or the estuary prawn trawl fishery, as described in Schedule 1 to the Act immediately after a relevant proclamation in relation to that fishery takes effect. "**share cancellation date**", in relation to an existing fishery, means the date the description of the fishery is omitted from Schedule 1 to the Act by means of a relevant proclamation (being the date on which shares in the fishery are cancelled as a consequence of section 44 (2) of the Act).

(4) To avoid doubt, a reference in this Division to a fishery that corresponds to another fishery is a reference to a fishery with the same name as the other fishery.

(5) For the purposes of this Division, a share is taken to confer an "**entitlement**" to take fish in particular waters if the shareholder is entitled, as a result of holding that share, to have his or her commercial fishing licence endorsed for the taking of fish in those waters or to nominate another person to have his or her commercial fishing licence so endorsed (or would be so entitled had all shares held by the person been issued to the person on a provisional basis in the initial issue of shares in the fishery).

Section 44 (2) of the Act provides that if the description of a fishery is omitted from Schedule 1 to the Act (including for the purpose of redefining an existing share management fishery), all shares in the fishery are cancelled. It is intended that the estuary general fishery and estuary prawn trawl fisheries will be redefined to exclude the waters of Port Jackson from the fisheries and to make other changes by way of clarification to the description of the estuary general fishery. This Division modifies the application of Part 3 of the Act in respect of the redefined fisheries.

142B Consultation

The Minister is not required to consult relevant commercial fishing industries bodies about whether a redefined fishery should be a share management fishery.

142C Identification of fishery and shareholders

(1) Sections 46, 47, 48, 50 and 51 of the Act do not apply in respect of a redefined fishery.

(2) The Minister is to issue shares in a redefined fishery to persons who are eligible for shares in the redefined fishery in accordance with their entitlement to shares under this Division.

(3) The persons who are eligible for shares in a redefined fishery are the persons who, immediately before the share cancellation date for the corresponding existing fishery, hold shares provisionally issued in that existing fishery.

(4) A person who is eligible for shares in a redefined fishery is, subject to this clause, eligible for the same number of shares, and shares of the same class, or conferring the same entitlements, as the shares held by the person in the corresponding existing fishery immediately before the share cancellation date.

(5) A person who, immediately before the share cancellation date in relation to an existing fishery, holds shares in the existing fishery that confer an entitlement to take fish in the waters of Port Jackson (or shares that would do so, but for a fishing closure under section 8 of the Act) is not, on that basis, eligible for shares in the corresponding redefined fishery.

(6) However, if the person holds any shares in an existing fishery that confer an entitlement to take fish in estuarine waters other than the waters of Port Jackson, the person is eligible for shares in the corresponding redefined fishery that confer the same entitlements in respect of those other waters as the shares held by the person in the existing fishery immediately before the share cancellation date.

(7) Shares in a redefined fishery are to be issued by the Minister on a provisional basis pending the commencement of the management plan for the redefined fishery.

(8) On or as soon as practicable after the share cancellation date in relation to an existing

fishery, the Minister is to give each person who, immediately before that date, holds shares in the fishery or is an applicant for shares in the fishery who has duly lodged an appeal to the Share Appeal Panel that is still pending, a notice that:

- (a) advises the person that the fishery has been redefined and, as a result, shares in the fishery are cancelled, and
- (b) advises the person of the number of shares (if any) provisionally issued to the person in the corresponding redefined fishery and the date the provisional issue of shares in the redefined fishery takes effect, and
- (c) contains such other information in relation to the redefinition of the fishery as the Minister considers appropriate.

(9) Shares issued in a redefined fishery may be described or identified in the same manner as shares issued in the corresponding existing fishery if the Minister considers it appropriate.

(10) Nothing in this Division permits shares to be issued in the estuary general fishery that confer any entitlement to take fish in the waters of Jervis Bay by use of a fishing method in those waters that falls within the description of the ocean hauling fishery (as described in Schedule 1 to the Act).

142D Appeals pending on share cancellation date

(1) There is no appeal against a decision relating to the provisional issue of shares in a redefined fishery, except to the extent provided by this clause.

(2) If an appeal in relation to the provisional issue of shares in an existing fishery was duly made to the Share Appeal Panel before the share cancellation date in relation to the fishery and the appeal is still pending before the Share Appeal Panel on the share cancellation date, that appeal is to be heard and determined by the Panel under Part 3 of the Act as if the existing fishery had not been redefined.

(3) If, as a result of a decision of the Share Appeal Panel on such an appeal, a person is eligible for shares in an existing fishery, the person is taken as a consequence of that decision to be eligible for shares in the corresponding redefined fishery of the same class or that confer the same entitlements.

(4) Subclause (3) applies only if the Share Appeal Panel decides the person is eligible for shares in an existing fishery that confer an entitlement to take fish in estuarine waters other than the waters of Port Jackson.

(5) Any shares issued in a redefined fishery as a result of a decision of the Share Appeal Panel may be issued on a provisional basis, pending the final issue of shares in the redefined fishery.

(6) Sections 52, 52A and 54 (2) (a) of the Act apply in relation to a redefined fishery as if a reference to an appeal to the Share Appeal Panel were a reference to an appeal referred to in subclause (2).

142E Final issue of shares

Section 52 (3) of the Act applies in relation to a redefined fishery as if a reference to an applicant for shares were a reference to an applicant for shares in the corresponding existing fishery.

142F Continuation of limited access arrangements

(1) Section 53 of the Act does not apply in respect of a redefined fishery.

(2) Shares issued provisionally in a redefined fishery take effect on the date advised by the Minister under clause 142C as the date on which the provisional issue of shares in the redefined fishery takes effect. That date is taken, for the purposes of section 54 (1) and (2) of the Act, to be the day appointed for the commencement of limited access to the redefined fishery. From the commencement of the limited access stage, only shareholders in the redefined fishery will be entitled to take fish in the fishery or nominate other persons to do so (see section 54 (2) of the Act).

(3) A holder of shares in a redefined fishery that is a limited access fishery is not entitled

to have his or her licence endorsed to take fish in the redefined fishery (or to nominate another person to do so) if all shares held by the person in the corresponding existing fishery immediately before the share cancellation date were acquired by dealings after the initial issue of shares in that existing fishery, unless the acquisition concerned was of a type declared by the regulations to be an authorised acquisition for the purposes of section 54 (3) of the Act.

(4) Subclause (3) applies in respect of a redefined fishery in addition to the provisions of section 54 (3) of the Act. Section 54 (3) of the Act contains a similar provision to subclause (3) that prevents a shareholder from acquiring an entitlement to an endorsement in the redefined fishery if all shares in the fishery are acquired after the initial issue of shares in the redefined fishery.

(5) Until a redefined fishery becomes a limited access fishery, a commercial fishing licence does not authorise a person to take fish in the redefined fishery unless:

(a) the licensee is a person who held shares in the corresponding existing fishery immediately before the share cancellation date or is an applicant for shares in the corresponding existing fishery who duly lodged an appeal to the Share Appeal Panel and whose appeal was pending immediately before the share cancellation date, or

(b) the licensee is duly nominated in the Share Register by a person referred to in paragraph (a) to take fish on behalf of that person,

and the licence is duly endorsed under Part 3 of the Act for the taking of fish in the corresponding existing fishery.

142G Continuation of endorsements, nominations and regulations relating to existing fisheries

(1) The endorsement of a commercial fishing licence to take fish in an existing fishery (other than a Port Jackson endorsement) becomes, when the redefined fishery becomes a limited access fishery, an endorsement under Part 3 of the Act to take fish in the corresponding redefined fishery, subject to this clause.

(2) Any such endorsement does not authorise the taking of fish in the waters of Port Jackson.

(3) A person duly nominated in the Share Register to take fish on behalf of a shareholder in an existing fishery, immediately before the share cancellation date for the fishery, is taken, when the corresponding redefined fishery becomes a limited access fishery, to have been duly nominated in the Share Register to take fish on behalf of the shareholder in the redefined fishery.

(4) Any provisions of the regulations that apply to an existing fishery immediately before the share cancellation date, including any restricted fishery provisions that applied to the existing fishery as a consequence of section 55 (3) of the Act, are taken to continue to apply, on and from the share cancellation date, to the corresponding redefined fishery (with any necessary modifications), until those provisions are repealed or until the commencement of the management plan for the redefined fishery (whichever occurs first).

(5) In this clause, a "**Port Jackson endorsement**" means an endorsement on a commercial fishing licence issued before the commencement of this Division, being an endorsement that authorises the taking of fish in the waters of Port Jackson and no other waters.

Part 7 – Licensing and other commercial fisheries management

Division 1 – Commercial fishing licences

143 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 is the owner of a fishing business the components of which

include an endorsement that authorises the taking of fish for sale in a restricted fishery or who is duly nominated to take fish on behalf of the owner of such a fishing business,

(b) an individual who is the subject of an application to be an eligible fisher in respect of a fishing business under Part 8A and who does not already hold a Class 1 commercial fishing licence,

(c) an individual who applies for a permit under section 37 of the Act in relation to a commercial fishing activity and who does not already hold a Class 1 or Class 2 commercial fishing licence,

(d) an individual who satisfies the Minister that he or she requires a commercial fishing licence in order to work as a crew member for a person who holds a commercial fishing licence that authorises the person to take fish in a share management fishery or restricted fishery.

(e)-(k) (Repealed)

Section 103 (2) (a) of the Act provides that a shareholder in a share management fishery, or an individual who is duly nominated by a shareholder, is authorised to hold a commercial fishing licence.

(2)-(5) (Repealed)

144 Fee for application for issue of commercial fishing licence

(1) A fee is payable in respect of an application for the issue of a commercial fishing licence.

(2) The fee for an application for the issue of a commercial fishing licence is, subject to subclauses (3) and (4), the following:

(a) in the case of a Class 1 licence--\$487,

(b) in the case of a Class 2 licence--\$487,

(c) in the case of a Class 3 licence--\$122.

(3) The fee for an application for the issue of a Class 1 or 2 commercial fishing licence is, if the licence is issued to have effect for a period of less than 12 months commencing on a date other than 1 July, the prescribed proportion of the relevant fee referred to in subclause (2).

(4) The fee for an application for the issue of a Class 1 or 2 commercial fishing licence is, if the licence is issued to have effect for a period exceeding 12 months commencing on a date other than 1 July, the total of the following:

(a) the relevant fee referred to subclause (2),

(b) the prescribed proportion of the relevant fee referred to in subclause (2).

(5) In this clause, the "**prescribed proportion**" means the proportion specified in column 2 of the Table to this clause next to the commencement date of the licence concerned.

(6) If an amount calculated under this clause includes a fraction of a dollar, the amount is to be rounded down to the nearest whole dollar.

Table

Column 1	Column 2
Commencement date of licence	Prescribed proportion
After 1 July but before 1 October	100%
On or after 1 October but before 1 January (in the following year)	75%
On or after 1 January but before 1 April	50%
On or after 1 April but before 1 July	25%

It is intended that all licences will have a uniform expiry date of 30 June.

145 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 or found guilty 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 or found guilty 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 or found guilty 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 a commercial fishing 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, or
- (f) the applicant has made a statement in connection with the application for the licence that was, in the opinion of the Minister, false or misleading in a material particular, or
- (g) the applicant has previously held a commercial fishing licence that has been cancelled or holds a commercial fishing licence that is currently suspended, or
- (h) the applicant has been required to forfeit any of his or her shares in a share management fishery under the Act, or
- (i) the applicant has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations under that Act.

(2) (Repealed)

146 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 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)-(iii) (Repealed)
 - (iv) to take abalone in the abalone share management fishery in accordance with paragraph (d), or
 - (v) to take yabbies or carp in the inland restricted fishery in accordance with paragraph (e), or
 - (vi) to take sea urchin or turban shell in the sea urchin and turban shell restricted fishery in accordance with paragraph (f),
- (d) 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,
- (e) 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,

(f) the holder of the licence, being a licence that is endorsed under the Act for the taking of sea urchin or turban shell (or both) in the sea urchin and turban shell restricted fishery, must not use any unlicensed crew member on a boat being used by the licence holder for the taking of sea urchin or turban shell 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 sea urchin or turban shell from the fishery on the licence holder's behalf,

(g) the holder of the licence must co-operate with, and provide any assistance reasonably required by, a fisheries officer or other person exercising functions conferred by the Act or the regulations,

(h) in the case of a Class 3 licence, the holder of the licence must not take fish for sale in a restricted fishery, or take fish in a share management fishery, except as a member of the crew of a person who holds an endorsement in the fishery authorising that other person to take the fish concerned,

(i) any fish taken in a restricted fishery or share management fishery by a Class 3 licence holder while working as a member of the crew of a person who holds an endorsement in the restricted fishery or share management fishery must be sold by the endorsement holder.

(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.

Additional licence conditions apply to endorsement holders in restricted fisheries (see Part 8) or share management fisheries (under the management plans for those fisheries).

146A (Repealed)

147 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) A fee is payable in respect of an application for the renewal of a commercial fishing licence.

(2A) The fee for an application for the renewal of a commercial fishing licence is:

- (a) in the case of a Class 1 or Class 2 licence--\$244, and
- (b) in the case of a Class 3 licence--\$122.

(3) The Minister may refuse to renew the licence if:

(a) the applicant has been convicted or found guilty 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 or found guilty 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 or found guilty 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 application for renewal of the licence is received by the Minister after the expiry date of the licence, or
- (f) the applicant has made a statement in connection with the application for renewal of the licence that, in the opinion of the Minister, is false or misleading in a material particular, or
- (fa) the applicant has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations under that Act, or
- (fb) the applicant has been required to forfeit any of his or her shares in a share management fishery under the Act, 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) An application for renewal of a commercial fishing licence received by the Minister after the expiry date of the licence may be treated as an application for the issue of a commercial fishing licence, and in such a case the fee payable in respect of the application is the fee for the application for the issue of a commercial fishing licence under clause 144 (2).
- (7), (8) (Repealed)

147A Early renewal of licences--transitional arrangements to facilitate uniform licence expiry date of 30 June

- (1) The Minister may renew a commercial fishing licence that was in force immediately before the commencement of this clause, without an application being made by the holder of the licence, for a period commencing on the date the new licence is issued and ending on 30 June 2008 (this is referred to as an "**early renewal**").
- (2) The renewed licence may be of the same or a different class from the licence that was in force immediately before the commencement of this clause.
- (3) If a commercial fishing licence is given an early renewal under this clause, a fee is payable in respect of the renewal by the commercial fisher whose licence is renewed, in lieu of the fee for an application for renewal of a licence.
- (4) The amount of the fee varies, depending on whether the licence that is given an early renewal was due to expire on or before 30 June 2007 (a "**pre-30 June licence**") or was due to expire on or after 1 July 2007 (a "**post-30 June licence**").
- (5) Pre-30 June licences In the case of a pre-30 June licence that is given an early renewal, the amount of the fee payable by the holder of the licence is calculated as follows:
- "A" is the fee payable. "RF" is the renewal fee for a licence. "D" is the number of days in the period starting on the day after the date the pre-30 June licence would have expired, but for the early renewal, and ending on (and including) 30 June 2007.
- (6) Post-30 June licences In the case of a post-30 June licence that is given an early renewal, the amount of the fee payable by the holder of the licence is calculated as

follows:

"A" is the fee payable. "RF" is the renewal fee for a licence. "D" is the number of days in the period starting on the day after the post-30 June licence would have expired, but for the early renewal, and ending on (and including) 30 June 2008.

(7) The fee must be paid in accordance with arrangements for payment approved by the Minister.

(8) The fee is not payable if the new licence is cancelled before the date that the previous commercial fishing licence would have expired, but for an early renewal.

(9) If an amount calculated under this clause includes a fraction of a dollar, the amount is to be rounded down to the nearest whole dollar.

(10) For the purposes of this clause, "renewal fee" for a licence means the fee payable under clause 147 (2A) for an application for renewal of the class of licence issued to the person following the early renewal (being the fee applicable under clause 147 (2A) at the date that the holder of the licence is invoiced for the fee payable under this clause).

147B Issue of class 3 licences to registered crew--transitional arrangements to facilitate uniform licence expiry date of 30 June

(1) The Minister may issue a class 3 commercial fishing licence, without an application being made for the licence, to a person who, immediately before the commencement of this clause, was registered as a crew member under section 110 of the Act.

(2) The licence may be issued to have effect for a period commencing on the date it is issued and ending on 30 June 2008.

(3) Clause 147A applies in respect of a licence issued under this clause as if the person to whom it was issued was, immediately before it was issued, the holder of a class 3 commercial fishing licence that was due to expire on the date the registration of the person as a crew member was due to expire and the licence was given an early renewal under that clause.

148 Grounds for suspension or cancellation of 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 or found guilty 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 or found guilty 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 or found guilty 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 not paid any fee or contribution due and payable in connection with a licence, 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, or

(h) the holder of the licence has requested to the Minister, in writing, that the licence be cancelled or suspended, or

(i) the holder of the licence has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations under that Act.

149 Classes of commercial fishing licences

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

- (a) A Class 1 commercial fishing licence is a licence issued to an individual eligible for a licence under section 103 (2) (a) or (b) of the Act, or under clause 143 (1) (a) or (b).
- (b) A Class 2 commercial fishing licence is a licence issued to an individual eligible for a licence under clause 143 (1) (c).
- (c) A Class 3 commercial fishing licence is a licence issued to an individual eligible for a licence under clause 143 (1) (d).
- (d), (e) (Repealed)

150 Annual contribution to cost of research and other industry costs

(1) For the purposes of section 106 of the Act, an annual contribution of \$428 is payable by a commercial fisher who holds a Class 1 or Class 2 commercial fishing licence in respect of the period from 1 July 2007 to 30 June 2008, subject to this clause and clause 150A. Section 106 is to be repealed on 30 June 2008. This clause and clause 150A provide for the phasing-out of the annual contribution by that date, in connection with the transition to a uniform licence expiry date of 30 June.

(2) If a Class 1 or Class 2 commercial fishing licence is first issued to a person before 1 July 2007:

- (a) the prescribed proportion of the annual contribution is payable by the person in respect of the period from the commencement date of the licence to 30 June 2007, and
- (b) the annual contribution of \$428 is payable by the person in respect of the period from 1 July 2007 to 30 June 2008.

(3) If a Class 1 or Class 2 commercial fishing licence is first issued to a person after 1 July 2007 and before 1 July 2008, the prescribed proportion of the annual contribution is payable by the person in respect of the period from the commencement date of the licence to 30 June 2008.

(4) An amount payable under this clause must be paid in accordance with arrangements for payment approved by the Minister.

(5) In this clause, the "**prescribed proportion**" of the annual contribution means the proportion of \$428 specified in column 2 of the Table to this clause next to the commencement date of the licence concerned.

(6) If an amount calculated under this clause includes a fraction of a dollar, the amount is to be rounded down to the nearest whole dollar.

Table

Column 1	Column 2
Commencement date of licence	Prescribed proportion
After 1 July but before 1 October	100%
On or after 1 October but before 1 January (in the following year)	75%
On or after 1 January but before 1 April	50%
On or after 1 April but before 1 July	25%

150A Transitional arrangements for payment of annual contributions

(1) This clause provides for transitional arrangements in respect of the payment of annual contributions by commercial fishers who, immediately before the commencement of this clause:

- (a) held a commercial fishing licence that was due to expire before 30 June 2007 (a "**pre-30 June licence**"), or
- (b) held a commercial fishing licence that was due to expire on or after 1 July

2007 (a "post-30 June licence").

Before the commencement of this clause, an annual contribution was payable by holders of Class 1, Class 2, Class 3 or Class 5 commercial fishing licences on the issue or renewal of a licence. New arrangements provide for all commercial fishing licences to have a uniform expiry date of 30 June. This clause sets out the transitional arrangements for payment of annual contributions by commercial fishers who, immediately before the commencement of this clause, held licences that were due to expire on a date other than 30 June.

(2) Pre-30 June licences If a pre-30 June licence is renewed:

(a) the relevant proportion of the annual contribution is payable by the person in respect of the period from the date the pre-30 June licence expires (or would have expired but for an early renewal under clause 147A) to 30 June 2007, and

(b) the annual contribution of \$428 is payable by the person in respect of the period from 1 July 2007 to 30 June 2008 (as provided for by clause 150).

(3) The "**relevant proportion**" of the annual contribution is calculated as follows:

"**P**" is the relevant proportion of the annual contribution. "**AC**" is \$428. "**D**" is the number of days in the period starting on the day after the pre-30 June licence expires (or would have expired but for an early renewal under clause 147A) and ending on (and including) 30 June 2007.

(4) If the amount calculated under subclause (3) includes a fraction of a dollar, it is to be rounded down to the nearest whole dollar.

(5) The relevant proportion of the annual contribution must be paid in accordance with arrangements for payment approved by the Minister.

(6) Post-30 June licences If a post-30 June licence is renewed, there is to be deducted from the annual contribution payable by the commercial fisher under clause 150 in respect of the period from 1 July 2007 to 30 June 2008 an allowance for the amount of annual contribution already paid by the commercial fisher in respect of the period from 1 July 2007 to the date the post-30 June licence expires (or would have expired but for an early renewal under clause 147A).

(7) The allowance is to be calculated as follows:

"**A**" is the allowance to be deducted. "**AC**" is \$428. "**D**" is the number of days in the period starting on 1 July 2007 and ending on (and including) the date the post-30 June licence expires (or would have expired but for early renewal under clause 147A).

(8) If the amount calculated under subclause (7) includes a fraction of a dollar, it is to be rounded up to the nearest whole dollar.

(9) This clause does not require the payment of any contribution in respect of any Class 4 commercial fishing licence held immediately before the commencement of this clause.

A fee may also be payable by the fisher if the licence is given an early renewal under clause 147A. That fee is in lieu of the fee for an application for renewal of a licence.

150B Annual contribution by participants in tuna bait fishery

(1) For the purposes of section 106 of the Act, an annual contribution of \$324 is payable by the holder of a commercial fishing licence who is authorised by or under the Act to take fish for use as bait in the tuna bait fishery.

(2) The annual contribution is payable towards the cost of carrying out fishery monitoring programs approved by the Minister.

(3) The contribution must be paid in accordance with arrangements for payment approved by the Minister.

(4) The Minister may determine that all or part of a contribution is not payable under this clause in such cases, or classes of case, as the Minister considers appropriate.

(5) 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 in relation to the licence (including the contributions referred to in clauses 150 and 150A).

(6) In this clause: "**tuna bait fishery**" means the fishery comprised of the use of a purse

seine net or submersible lift net (bait) to take blue mackerel, yellowtail scad or pilchards from ocean waters within 3 nautical miles of the natural coast line for use as live bait in tuna fishing operations.

150C Annual contribution by participants in southern fish trawl restricted fishery

- (1) For the purposes of section 115A of the Act, an annual contribution is payable, towards the costs referred to in section 115A (1) of the Act, by a participant in the southern fish trawl restricted fishery who is the owner of a fishing business a component of which is an endorsement authorising the taking of fish for sale in that restricted fishery (a "**southern fish trawl fishing business**").
- (2) The amount of the contribution is \$324 for each southern fish trawl fishing business.
- (3) The contribution must be paid in accordance with arrangements for payment approved by the Minister.
- (4) The Minister may determine that all or part of a contribution is not payable under this clause in such cases, or classes of case, as the Minister considers appropriate.
- (5) The contribution payable under this clause is additional to any other contribution, fee or charge that is payable in relation to a licence (including the contributions referred to in clauses 150 and 150A).

150D Annual contribution by participants in sea urchin and turban shell restricted fishery

- (1) For the purposes of section 115A of the Act, an annual contribution is payable, towards the costs referred to in section 115A (1) of the Act, by a participant in the sea urchin and turban shell restricted fishery who is the owner of a fishing business a component of which is an endorsement authorising the taking of fish for sale in that restricted fishery (a "**SUTS fishing business**").
- (2) The amount of the contribution is \$1,036 for each SUTS fishing business.
- (3) The contribution must be paid in accordance with arrangements for payment approved by the Minister.
- (4) The Minister may determine that all or part of a contribution is not payable under this clause in such cases, or classes of case, as the Minister considers appropriate.
- (5) The contribution payable under this clause is additional to any other contribution, fee or charge that is payable in relation to a licence (including the contributions referred to in clauses 150 and 150A).

Division 2 – Boat licences

150E Definition

In this Division:

"**maximum boat specifications**" has the meaning given by clause 152A.

151 Fee for application for issue of fishing boat licence

- (1) A fee is payable in respect of an application for the issue of a fishing boat licence.
- (2) The fee for an application for the issue of a fishing boat licence is, subject to subclauses (3) and (4), the following:
 - (a) in the case of a licence that relates to a boat that has a length not exceeding 3 metres--\$171,
 - (b) in the case of a licence that relates to a boat that has a length exceeding 3 metres--\$171 plus \$25 for each metre or part of a metre by which the length of the boat exceeds 3 metres.
- (3) The fee for an application for the issue of a fishing boat licence is, if the licence is issued to have effect for a period of less than 12 months commencing on a date other than 1 July, the prescribed proportion of the licence fee.
- (4) The fee for an application for the issue of a fishing boat licence is, if the licence is issued to have effect for a period exceeding 12 months commencing on a date other than 1 July, the total of the following:

- (a) the licence fee, and
 - (b) the prescribed proportion of the licence fee.
- (5) If an amount calculated under this clause includes a fraction of a dollar, the amount is to be rounded down to the nearest whole dollar.
- (6) In this clause: "**licence fee**" means the fee referred to in subclause (2). "**prescribed proportion**" means the proportion specified in column 2 of the Table to this clause next to the commencement date of the licence concerned.

Table

Column 1	Column 2
Commencement date of licence	Prescribed proportion
After 1 July but before 1 October	100%
On or after 1 October but before 1 January (in the following year)	75%
On or after 1 January but before 1 April	50%
On or after 1 April but before 1 July	25%

It is intended that all licences will have a uniform expiry date of 30 June.

152 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 was not licensed under the Act at 5 February 2007, or
- (b) the applicant has made a statement in connection with the application for the licence that is, in the opinion of the Minister, false or misleading in a material particular, or
- (c) the applicant has previously held a fishing boat licence that has been suspended or cancelled by the Minister, or
- (d) in the case of a boat licensed under the Act at 5 February 2007, the boat was sold or disposed of after that date or the right to a fishing boat licence for the boat was transferred after that date (unless the transfer of the right to a licence for the boat to the applicant has been approved by the Director-General under clause 158), or
- (e) the applicant fails to provide any information required by the Minister in connection with the application (such as identifying particulars for the boat), or
- (f)-(h) (Repealed)
- (i) the applicant has not paid any fee due and payable in connection with his or her fishing boat licence.

152A Form of licence

- (1) A fishing boat licence is to be issued or renewed in such form as the Minister approves.
- (2) Without limiting subclause (1), a licence may specify:
 - (a) any maximum length, or maximum hull units, or maximum engine power (collectively referred to as "**maximum boat specifications**") that apply in respect of the boat the subject of the licence, as determined by the Minister, and
 - (b) identifying particulars for the boat, including:
 - (i) the name of the boat,
 - (ii) the identifying number for the boat,
 - (iii) the hull identification number for the boat,
 - (iv) the hull units for the boat,
 - (v) the engine power of the boat,
 - (vi) the name of the boat's home port.

153 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 or on the outside of both sides 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 LFB number allotted to that boat by the Director-General and that those letters and figures are:

(i) in the case of a boat that is more than 7.5 metres long and is used in ocean waters--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 with unregistered crew members as authorised under section 110 (5) of the Act, or

(ii) to take yabbies or carp in the inland restricted fishery in accordance with clause 146 (1) (e), or

(iii) to take sea urchin or turban shell in the sea urchin and turban shell restricted fishery in accordance with clause 146 (1) (f),

(iv) (Repealed)

(v), (vi) (Renumbered)

(e) that the holder of the licence does not assist, encourage or permit the master of the licensed boat to contravene the Act, the regulations under the Act or the conditions of that licence in connection with the taking of fish for sale,

(f) that the holder of the licence takes all reasonable steps to ensure that the master of the licensed boat does not contravene the Act, the regulations under the Act or the conditions of that licence in connection with the taking of fish for sale,

(g) that the boat to which the licence applies is not modified in such a manner that it ceases to comply with any maximum boat specifications set out on the licence,

(h) that the holder of the licence does not cause or allow the boat to be modified in such a manner as to affect its length, hull units, or engine power, if any of those particulars are noted on the licence, unless, before carrying out that modification, an application is made to the Minister, in accordance with this Division, for the licence to be amended so as to change the identifying particulars noted on the licence in accordance with the proposed boat modifications,

(i) that the holder of the licence must not use the boat in connection with activities for which the boat must be licensed under the Act unless the identifying particulars for the boat have been noted on the licence,

(j) that, if the boat is disposed of, destroyed or lost at sea, the holder of the licence must notify the Minister, in writing, of that occurrence within 30 days.

(2) The conditions prescribed by this clause are in addition to any conditions prescribed by the management plan for a share management fishery.

(3) In this clause: "**unlicensed crew member**" means a member of the crew of a licensed

fishing boat who is not the holder of a commercial fishing licence.

154 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) A fee is payable in respect of an application for the renewal of a fishing boat licence.
- (2A) The fee for an application for the renewal of a fishing boat licence is:
 - (a) in the case of a licence that relates to a boat having a length not exceeding 3 metres--\$48, and
 - (b) in the case of a licence that relates to a boat having a length that exceeds 3 metres--\$48 plus \$25 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 application for renewal of the licence is received by the Minister after the date the licence expires, or
 - (b) the holder of the licence has, in the opinion of the Minister, contravened a condition of the licence, or
 - (c) the applicant has made a statement in connection with the application for the licence that is, in the opinion of the Minister, false or misleading in a material particular, or
 - (d) the boat does not comply with any maximum boat specifications set out on the licence, or
 - (e) the applicant fails to provide any information required by the Minister in connection with the application (such as identifying particulars for the boat), or
 - (f) the applicant has not paid any fee due and payable in connection with a fishing boat 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 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) An application for renewal of a fishing boat licence received by the Minister after the date the licence expires may be treated as an application for the issue of a fishing boat licence and in such a case the fee payable in respect of the application is to be calculated in accordance with clause 151.
- (7)-(10) (Repealed)

154A Transitional arrangements to facilitate uniform licence expiry date of 30 June

- (1) The Minister may renew a fishing boat licence that was in force immediately before the commencement of this clause, without an application being made by the holder of the licence, for a period commencing on the date the new licence is issued and ending on 30 June 2008 (this is referred to as an "**early renewal**").
- (2) If a fishing boat licence is given an early renewal under this clause, a fee is payable by the holder of the licence, in accordance with this clause, in respect of the renewal of the licence, in lieu of the fee for an application for renewal of a licence.
- (3) The amount of the fee varies depending on whether the licence that is given an early renewal was due to expire on or before 30 June 2007 (a "**pre-30 June licence**") or was due to expire on or after 1 July 2007 (a "**post-30 June licence**").
- (4) Pre-30 June licences If a pre-30 June licence is given an early renewal, the amount of the fee is calculated as follows:

"A" is the fee payable."RF" is the renewal fee for a licence."D" is the number of days in the period starting on the day after the date the pre-30 June licence would have expired, but for the early renewal, and ending on (and including) 30 June 2007.

(5) Post-30 June licences If a post-30 June licence is given an early renewal, the amount of the fee is calculated as follows:

"A" is the fee payable."RF" is the renewal fee for a licence."D" is the number of days in the period starting on the day after the date the post-30 June licence would have expired, but for the early renewal, and ending on (and including) 30 June 2008.

(6) The fee must be paid in accordance with arrangements for payment approved by the Minister.

(7) The fee is not payable if the licence is cancelled before the date the previous licence would have expired, but for the early renewal.

(8) If an amount calculated under this clause includes a fraction of a dollar, the amount is to be rounded down to the nearest whole dollar.

(9) In this clause: "**renewal fee**" for a licence means the fee payable under clause 154 (2A) for an application for renewal of the fishing boat licence (being the fee applicable under clause 154 (2A) at the date that the holder of the licence is invoiced for the fee payable under this clause).

155 (Repealed)

156 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 boat has been seized under section 265 of the Act, or
- (d) the holder of the licence has not paid any fee due and payable in connection with the issue or renewal of the licence, or
- (e) the boat does not comply with any maximum boat specifications set out on the licence, or
- (f) the holder of the licence has transferred his or her right to the licence in accordance with clause 158, or
- (g) the boat has been destroyed, lost at sea or disposed of by the holder of the licence, or
- (h) the holder of the licence has requested in writing to the Minister that the licence be cancelled or suspended.

157 Voluntary suspension of licence

- (1) If a licensed fishing boat is disposed of, destroyed or lost at sea, and has not been replaced by the holder of the licence, the holder of the licence may, by application in writing to the Minister in a form approved by the Director-General, request the Minister to suspend the fishing boat licence.
- (2) If the Minister grants the request and suspends the licence, the Minister may amend the licence so as to omit the identifying particulars for the boat from the licence.
- (3) The holder of the suspended licence is required to pay an annual fee in respect of the suspended licence.
- (4) The amount of the annual fee is the amount that would be charged in respect of an application to renew the licence had the boat not been disposed of, destroyed or lost at sea and the licence not been suspended.

- (5) The annual fee is to be calculated as at 1 July in each year (the "**charging date**") and must be paid in accordance with such arrangements for payment as may be approved by the Minister and advised to the holder of the suspended licence.
- (6) On replacement of the boat disposed of, destroyed or lost at sea, the holder of the suspended licence may apply for the suspension to be lifted, but only if a request is made for the licence to be amended to insert the identifying particulars for the new boat on the licence (as provided for by clause 157A).
- (7) The lifting of a suspension does not affect the licence holder's obligation to pay an annual fee under this clause in respect of a charging date that occurred before the lifting of the suspension, and does not affect the calculation of that fee.
- (8) The Minister may refuse a request for a suspension under this clause if the holder of the licence has transferred his or her right to a licence under clause 158.

This clause allows the holder of a fishing boat licence to retain a right to a licence in respect of a boat if the licensed boat is disposed of, destroyed or lost at sea. Under clause 152 (a), the Minister is authorised to refuse to issue a new fishing boat licence in respect of a boat that was not licensed before 5 February 2007.

157A Change to identifying particulars of boat noted on licence

- (1) The holder of a fishing boat licence may, by application in writing to the Minister in a form approved by the Director-General, request the Minister to amend the licence:
 - (a) by changing any identifying particulars for the boat that are noted on the licence, or
 - (b) by inserting new identifying particulars for a boat on the licence.
- (2) The Minister may:
 - (a) grant the request, or
 - (b) refuse to grant the request.
- (3) The Minister may refuse to grant a request if:
 - (a) the applicant fails to provide sufficient information or evidence to enable the Minister to grant the request, such as information or evidence of any identifying particulars for the boat, or
 - (b) the identifying particulars for the boat do not comply with any maximum boat specifications set out on the fishing boat licence, or
 - (c) the applicant has transferred his or her right to the fishing boat licence under clause 158.
- (4) This clause does not affect the power of the Minister to cancel or suspend a fishing boat licence if a boat does not comply with any maximum boat specifications set out on a fishing boat licence.
- (5) If an amendment to a licence affects the calculation of the fee payable in respect of the renewal of a licence, the amendment applies only to a renewal that occurs on or after the amendment to the licence takes effect.

158 Transfer of right to a fishing boat licence

- (1) The Director-General 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-General jointly by the holder of the fishing boat licence and a person intending to acquire the right to that licence.
- (3) A fee of \$305 is payable in respect of an application for approval of the transfer of the right to a fishing boat licence.
- (4) The Director-General 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-General 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 152 (including on the ground that the boat does not comply with the maximum boat specifications set out on the licence).

(8) This clause applies to a licence whether or not it is suspended.

159 Boats taken to be licensed under the Act

For the purposes of section 107 (2) of the Act, a boat that 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 is taken to be licensed under the Act but only for the purpose of landing fish in New South Wales that were taken from waters to which the Act does not apply.

159A Compliance with maximum boat specifications

(1) This clause applies for the purpose of determining whether a boat complies with any maximum boat specifications set out on a fishing boat licence.

(2) The length of a boat is to be determined in accordance with the *Uniform Shipping Laws Code*.

(3) If a survey certificate has been issued in respect of a boat, the length of the boat is taken to be the length of the boat as specified on the most recent survey certificate for the boat.

(4) The engine power of a boat is to be determined in accordance with the continuous or A brake kilowatt rating for the engine as published by the manufacturer of the engine.

(5) The hull units of a boat are to be determined as follows:

"H" is the hull units of a boat. "L" is the length of the boat. "D" is the moulded depth of the boat, determined in accordance with the *Uniform Shipping Laws Code*. "B" is the moulded breadth of the boat, determined in accordance with the *Uniform Shipping Laws Code*.

(6) In this clause: "**Uniform Shipping Laws Code**" means the Code referred to in section 427 of the *Navigation Act 1912* of the Commonwealth.

160 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

161 Fee to accompany application for registration

For the purposes of section 110 (7) of the Act, the prescribed fee is \$122.

162 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-General 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.

163 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-General when the crew member is registered.

164 (Repealed)

165 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.

166 Records to be kept by registered crew members

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

167 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 1 – Sea urchin and turban shell restricted fishery

168 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 171 or 172, 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 nominated in accordance with Division 12 to take fish in the restricted fishery.

"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-

General pursuant to clause 180.

"restricted fishery" means the restricted fishery declared under this Division.

169 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.

170 Types of endorsement in restricted fishery

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

- (a) This endorsement authorises the holder to take sea urchin for sale.
- (b) This endorsement authorises the holder to take turban shell for sale.

171 Eligibility for endorsements

- (1) A person who, immediately before 5 February 2007, was eligible for an endorsement in the restricted fishery under this clause remains eligible for that endorsement, subject to this clause.
- (2) If a fishing business owner transfers an endorsement that is a component of a fishing business to another person, in accordance with the fishing business transfer rules:
 - (a) the fishing business owner, or any nominated fisher of the fishing business owner, ceases to be eligible for that endorsement, and
 - (b) the person to whom the endorsement is transferred becomes eligible for that endorsement.

Historically, eligibility for an endorsement was determined on the basis of shareholdings in the abalone fishery (which previously formed part of the sea urchin and turban shell restricted fishery).

172 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.

173 (Repealed)

174 Endorsement of commercial fishing licences

- (1) The Minister may endorse the commercial fishing licence of a person only 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 or found guilty 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 a law of the Commonwealth, of another State, a Territory or of New Zealand, 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 or found guilty 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, or if the person is a nominated fisher, the entitlement holder who nominated the person has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations made under that Act, or

(e) any fee or contribution due and payable in connection with the endorsement has not been paid, or

(f) the person has previously held an endorsement which has been suspended or cancelled by the Minister.

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

175 Duration of endorsement

An endorsement remains in force unless cancelled or suspended.

176, 177 (Repealed)

178 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 or found guilty 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 a law of the Commonwealth, of another State, a Territory or of New Zealand, 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 or found guilty 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 ceases to be eligible for an endorsement, or

(e) any fee or contribution payable in connection with the endorsement has not been paid, or

(f) the endorsement holder or, if the endorsement holder is a nominated fisher, the entitlement holder who nominated the person has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations made under that Act.

179 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.

180 Quotas for sea urchin and turban shell

(1) If there is a total allowable catch for any period, the Director-General 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-General is to make that determination by allocating the total allowable catch for the period equally between entitlement holders.

(3) The Director-General 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 a entitlement holder to be exceeded.

181 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-General.
- (2) An application for the Director-General's approval:
 - (a) is to be made to the Director-General, in a form approved by the Director-General, and
 - (b) is to specify the amount of quota to be transferred, and
 - (c) is to be accompanied by a fee of \$182.
- (3) The Director-General may transfer the quota or refuse to transfer the quota.
- (4) Without limiting subclause (3), the Director-General 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-General gives notice in writing of his or her approval of the transfer to the entitlement holders whose quotas are affected.
- (6) The Director-General 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.

182 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.

Division 2 – (Repealed)

Division 3 – Southern fish trawl restricted fishery

191 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 276 to take fish for sale in the restricted fishery.

"restricted fishery" means the restricted fishery declared under this Division.

"southern fish trawl fishery" means the fishery described in clause 192.

192 Southern fish trawl fishery is a restricted fishery

(1) For the purposes of section 111 of the Act, the southern fish trawl fishery is declared to be a restricted fishery.

(2) The southern fish trawl fishery is comprised of the use of an otter trawl net (fish) or a danish seine trawl net (fish) to take fish (other than prawns) from ocean waters that are not more than 3 nautical miles from the natural coast line and are south of a line drawn due east of Barrenjoey Headland.

193 Southern fish trawl endorsement

(1) An endorsement in the fishery (referred to as a "**southern fish trawl endorsement**") authorises the holder to take fish for sale in the restricted fishery.

(2) A southern zone endorsement in the ocean fish trawl restricted fishery in force immediately before the commencement of the *Fisheries Management Legislation Amendment Regulation 2007* is taken, on that commencement, to be a southern fish trawl endorsement.

194 Eligibility for endorsement

(1) A person who, immediately before 5 February 2007, was eligible for a southern zone endorsement in the ocean fish trawl restricted fishery under this clause remains eligible for an endorsement in the restricted fishery, subject to this clause.

(2) If a fishing business owner transfers an endorsement that is a component of a fishing business to another person, in accordance with the fishing business transfer rules:

(a) the fishing business owner, or any nominated fisher of the fishing business owner, ceases to be eligible for that endorsement, and

(b) the person to whom the endorsement is transferred becomes eligible for that endorsement.

Historically, eligibility for an endorsement was determined on the basis of catch history in the fishery and other matters.

195 Application for endorsement

(1) The Minister may endorse the commercial fishing licence of a person only if the person satisfies the eligibility requirements for an endorsement.

(2), (3) (Repealed)

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

(a) the person has been convicted or found guilty 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 a law of the Commonwealth, of another State, a Territory or of New Zealand, or

(b) the person has been convicted or found guilty 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, or

(d) the person has previously held an endorsement which has been suspended or cancelled by the Minister, or

(e) the person has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations made under that Act.

196 Duration of endorsement

An endorsement remains in force unless cancelled or suspended.

197 (Repealed)

198 Cancellation and suspension of endorsements

The Minister may cancel or suspend an endorsement if:

(a) the holder of the endorsed licence has been convicted or found guilty 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 a law of the Commonwealth, of another State, a Territory or of New Zealand, 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 or found guilty 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 an endorsement, or
- (e) the holder of the endorsed licence has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations made under that Act.

Divisions 4-7 – (Repealed)

Division 8 – Inland restricted fishery

229 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.

"inland fishery" means the fishery described in clause 230 (2).

"restricted fishery" means the restricted fishery declared under this Division.

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

230 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.

231 Types of endorsement in restricted fishery

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

- (a) This endorsement authorises the holder to take yabbies and carp for sale from inland waters and is transferable in accordance with clause 241.
- (b) This endorsement authorises the holder to take carp for sale from inland waters and is transferable in accordance with clause 241.
- (c) This endorsement authorises the holder to take carp for sale from inland waters as specified in the endorsement. This endorsement is not transferable.

232 Eligibility for endorsement

- (1) Class A endorsement A person is eligible for a class A endorsement if:
 - (a) the Minister is satisfied that, immediately before the commencement of the restricted fishery, 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-General for the period from 1 January 1993 to 30 June 1997).

(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 D endorsement A person is eligible for a class D endorsement if the Minister is satisfied that, immediately before the commencement of the restricted fishery, the person held a commercial fishing licence or permit that authorised the person to take carp for sale from inland waters.

(4) 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 the restricted fishery) to surrender his or her commercial fishing licence to the Director-General.

(5) A person is not eligible for endorsement under this clause unless the person had duly applied, by 31 July 2001, for endorsement under clause 200D of the repealed regulation. However, failure to apply by that date does not prevent the person from becoming eligible for an endorsement under clause 233 or 234 or by means of a transfer of endorsement that is permitted by this Division. Subclauses (1)-(4) and (6) contain the substance of clause 200D of the *Fisheries Management (General) Regulation 1995*, except that clause 200D also provided for Class C endorsements (in relation to yabbies and carp) and Class E endorsements (in relation to native finfish). All Class E endorsements were cancelled on 1 September 2001. A person who was eligible under clause 200D for an endorsement lost that eligibility if he or she had not duly applied for endorsement by 31 July 2001.

(6) 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.

The restricted fishery commenced on 26 February 1999.

233 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.

234 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-General 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-General from time to time.

235 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 transferable endorsement (ie a class A or class B endorsement) and a non-transferable endorsement (ie a class D endorsement).

(2) A person is not eligible for an endorsement unless the person is a natural person. Section 103 (1) of the Act prevents corporations from holding commercial fishing licences.

(3) Division 12 of this Part does not apply in respect of the restricted fishery.

236 Endorsement

(1) The Minister may endorse the commercial fishing licence of a person only 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 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.

237 Endorsement of licence 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-General.

(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-General or with NSW Fisheries, or
 - (ii) not attempted to take carp for a period of 12 months, or
- (g) 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

- (h) 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.

238 Endorsement fees

- (1) The following fees are payable for an endorsement in the restricted fishery:
 - (a) in the case of a class A endorsement--\$2,438,
 - (b) in the case of a class B endorsement--\$305,
 - (c) in the case of a class D endorsement--\$305.
- (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.

239 Duration of endorsement

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, or unless it is cancelled.

240 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-General or with NSW Fisheries, or
 - (ii) not attempted to take carp for a period of 12 months, or
- (e) 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
- (f) the endorsement holder ceases to be eligible for the endorsement.

241 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-General.
- (2) An application for the Director-General's approval is to be made to the Director-General in a form approved by the Director-General.
- (3) The Director-General 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-General.

(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 D endorsement.

242 Transfer fee

(1) The fee payable for an approval of a transfer of an endorsement is \$3,047.

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

243 Endorsement holders must not take or possess native finfish

For the purpose of section 104 (4) (a) of the Act, it is a condition of a commercial fishing licence that is endorsed under this Division 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.

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.

Divisions 9-11 – (Repealed)

Division 12 – Nominated fishers

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

276 Definitions

In this Division:

"**fishing business owner**" means the owner of a fishing business the components of which include an endorsement in a restricted fishery.

"**nominated fisher**" of a fishing business owner, means a person who has been duly nominated by a fishing business owner to take fish in a restricted fishery on behalf of the fishing business owner, pursuant to this Division.

277 Nomination of fisher to take fish in restricted fishery

(1) A fishing business owner may nominate another person to take fish on behalf of the fishing business owner in a restricted fishery under an endorsement.

(2) A nominated fisher is eligible for an endorsement in a restricted fishery of the same kind as the endorsement for which the fishing business owner is eligible, or would be eligible (were it not for a nomination), during the period in which the nomination has effect.

(3) A fishing business owner who nominates another person to take fish on behalf of the fishing business owner under an endorsement ceases to be eligible for that endorsement, during the period in which the nomination has effect.

(4) Despite the nomination, an endorsement remains a component of the fishing business in respect of which the nomination is made, and may be transferred by the fishing business owner in accordance with the fishing business transfer rules.

277A Procedure for nomination of fisher

(1) A fishing business owner may nominate a person to take fish on behalf of the fishing business owner in a restricted fishery only if the nominated person is an eligible fisher in respect of the fishing business. Eligible fishers are persons registered by the Director-General as eligible fishers in respect of a fishing business under Part 8A.

(2) The nomination of an eligible fisher does not take effect until:

(a) the nomination is given to the Director-General in the form and manner approved by the Director-General, and

(b) if the fishing business owner has been issued with a fishing business card in respect of the fishing business to which the nomination applies, possession of the fishing business card is given to the nominated fisher.

(3) A nomination has effect for a minimum period of 48 hours, or a lesser period approved by the Director-General.

(4) If a nomination is revoked before the end of the period of 48 hours (or the lesser period approved by the Director-General), a further nomination cannot be made until the end of the relevant period.

277B One nominated fisher per fishing business

(1) An eligible fisher nominated to take fish on behalf of a fishing business owner must be nominated in respect of all endorsements in a restricted fishery that are a component of that fishing business and all shares that are a component of that fishing business.

(2) A fishing business owner may nominate one (and not more than one) eligible fisher to take fish on behalf of the fishing business owner for each fishing business of which he or she is the owner.

(3) A nomination applies in respect of the fishing business indicated by the fishing business owner and operates to authorise an eligible fisher to take fish only in respect of those endorsements (and shares) that are a component of the relevant business.

(4) A separate nomination must be made in respect of each separate fishing business.

(5) If a person owns more than one fishing business the components of which include endorsements in a restricted fishery, either the same or a different eligible fisher may be nominated in respect of each separate fishing business, subject to this clause.

277C Revocation of nomination of commercial fisher

(1) A fishing business owner's nomination of a person to take fish on behalf of the fishing business owner may be revoked:

(a) by the fishing business owner, or

(b) by the Director-General, if revocation by the Director-General is authorised by this clause.

(2) A revocation of a nomination by a fishing business owner is to be made in a form and manner approved by the Director-General.

(3) The fishing business owner must inform the nominated fisher of the revocation of the nomination.

(4) The Director-General is authorised to revoke a fishing business owner's nomination of a person to take fish on behalf of the fishing business owner (without the consent of the

fishing business owner) if:

- (a) the nominated fisher requests the revocation, in a form and manner approved by the Director-General, or
 - (b) the Director-General cancels the registration of the person as an eligible fisher in respect of the fishing business owner under this Regulation.
- (5) The Director-General revokes a nomination by giving the fishing business owner notice in writing of the revocation.
- (6) The Director-General must, by notice in writing, inform the person whose nomination has been revoked of that revocation.
- (7) A nomination of a fisher ceases to have effect when revoked under this clause.

Division 13 – Miscellaneous

278, 278A (Repealed)

279 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.

280 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.

Part 8A – Registration of persons eligible to be nominated fishers

280A Application to register eligible fishers

- (1) The owner of a fishing business may apply to the Director-General to register a person specified in the application as an eligible fisher in respect of the fishing business. Only persons registered as eligible fishers may be nominated to take fish on behalf of a person in respect of a fishing business.
- (2) An application under this clause:
- (a) is to be in a form approved by the Director-General, and
 - (b) is to be accompanied by evidence that the person to be registered as an eligible fisher consents to the registration.
- (3) A person may be registered as an eligible fisher only if the person holds a current Class 1 commercial fishing licence.
- (4) A fee may be charged by the Director-General in respect of an application under this clause.

280B Registration of eligible fisher

- (1) If an application for a person to be registered as an eligible fisher is duly made, the Director-General must accept the application or refuse the application.
- (2) The Director-General may refuse the application if:
- (a) the person proposed to be registered does not hold a current Class 1 commercial fishing licence, or
 - (b) the owner of the fishing business has not paid any fee or contribution due and payable under the Act or the regulations, or
 - (c) in the case of an application relating to a fishing business the components of which include shares in a share management fishery, the person proposed to be registered is not entitled to be registered as an eligible fisher under the share management plan for the fishery, or
 - (d) there are grounds for suspending or cancelling the commercial fishing licence of the person proposed to be registered, or an endorsement on that commercial fishing licence (whether or not the licence or endorsement is in fact suspended or

cancelled).

(3) If the Director-General accepts the application for a person to be registered as an eligible fisher in relation to a fishing business, the Director-General is to register the name of the person as an eligible fisher in respect of the fishing business.

(4) Registration remains in force until it is cancelled by the Director-General.

280C Cancellation of registration of person as eligible fisher

The Director-General may cancel the registration of a person as an eligible fisher in respect of a fishing business, by notice in writing to the owner of the fishing business, if:

(a) the owner of the fishing business requests it by notice in writing to the Director-General in a form approved by the Director-General, or

(b) the eligible fisher requests it, or

(c) the eligible fisher ceases to be the holder of a current Class 1 commercial fishing licence, or

(d) there are grounds for suspending or cancelling the commercial fishing licence of the eligible fisher, or an endorsement on that commercial fishing licence (whether or not the licence or endorsement is in fact suspended or cancelled), or

(e) the owner of the fishing business transfers the fishing business or any component of the fishing business to another person, or

(f) in the case of a person registered as an eligible fisher in respect of a fishing business the components of which include shares in a share management fishery, the person ceases to be entitled to be registered as an eligible fisher under the share management plan for the fishery.

Part 8B – Fishing business cards

280D Definitions

In this Part:

"fishing business card" means an endorsement issued in the form of a document that is separate from the commercial fishing licence of a person, under an arrangement referred to in section 68 (8C), 70 (6) or 112 (5) of the Act, and identified as a fishing business card.

"fishing business owner" means the owner of a fishing business the components of which include an endorsement in a restricted fishery, or shares in a share management fishery.

"nominated fisher" of a fishing business owner means a person who has been duly nominated by the fishing business owner to take fish in a fishery on behalf of the fishing business owner, pursuant to this Regulation or the share management plan for a fishery.

280E Possession of fishing business card

(1) This clause applies if a fishing business owner is issued with a fishing business card.

(2) A fishing business owner must not cause or allow physical possession of his or her fishing business card to be given to a person unless the person is the nominated fisher of the fishing business owner. Maximum penalty: 100 penalty units.

280F Return of fishing business card

(1) The Minister may at any time require a fishing business owner, by notice in writing to the fishing business owner, to return a fishing business card to the Minister within the period specified in the notice.

(2) A person must not, without reasonable excuse, fail to comply with a requirement made under subclause (1). Maximum penalty: 100 penalty units.

(3) This clause does not of itself authorise the Minister to cancel an endorsement. Other provisions of this Regulation and the share management plans for share management fisheries provide for

the circumstances in which the Minister is authorised to cancel an endorsement. The Minister might require a fishing business card to be returned under this clause because an endorsement has been or is to be cancelled under those provisions. However, the Minister might also require a fishing business card to be returned merely to allow annotations on the card to be changed.

(4) If the nomination of a person as a nominated fisher is revoked, that person must immediately return the fishing business card of the fishing business to which the revoked nomination relates to the fishing business owner or such other person as the fishing business owner directs.

(5) A person must not, without reasonable excuse, fail to comply with subclause (4).
Maximum penalty: 100 penalty units.

Part 9 – Fish receivers and fish records

Division 1 – Fish receivers

281 Definition

In this Division:

"**registration**" means registration as a fish receiver under Division 4 of Part 4 of the Act.

282 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 8 of Part 8 of this Regulation).

283 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.

284 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) Class A 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) Class B Registered Fish Receivers --being all other registered fish receivers.

285 Applications for registration as fish receiver

(1) An application for registration as a fish receiver must identify each of the premises at which the fish receiver proposes to receive fish.

(2) For the purpose of section 118 (2) of the Act, the prescribed fee in respect of an application for registration as a Class A Registered Fish Receiver is \$914.

(3) For the purpose of section 118 (2) of the Act, the prescribed fee in respect of an application for registration as a Class B Registered Fish Receiver is:

(a) \$2,977 for one or two premises that are identified in the application at which the fish receiver receives fish from commercial fishers or persons acting on behalf of commercial fishers, and

(b) \$1,488 for each additional premises that are identified in the application at which the fish receiver receives fish from commercial fishers or persons acting on behalf of commercial fishers.

286 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 the application is not otherwise made in accordance with clause 285, 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 that Act.

286A Registration limited to specified premises

- (1) Each of the premises identified in the application for registration as a fish receiver is to be specified in the certificate of registration issued under section 118 (5) of the Act.
- (2) For the purposes of section 117 of the Act, registration as a fish receiver has effect only in relation to the premises so specified.
- (3) It is a condition of registration as a fish receiver that a fish receiver receives fish only at the premises so specified.

287 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 that Act.

288 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 that Act.

289 Fish consignments by registered fish receivers to be labelled

(1) For the purposes of section 118 (5) (a) of the Act, the registration of a fish receiver is subject to the conditions set out in subclause (2) and, if relevant, subclause (3).

(2) 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-General.

(3) A registered fish receiver who, in that capacity, receives abalone must, before consigning the abalone, mark the outside of the immediate packaging of the abalone with the following details (or affix a label containing those details to that packaging):

(a) the name and address of the commercial fisher from whom the abalone was received,

(b) the registered fish receiver's registration number, or the number issued to the fish receiver by the Australian Quarantine and Inspection Service,

(c) the net weight in kilograms, and the number, of the abalone,

(d) the date that the abalone were packaged by or on behalf of the registered fish receiver.

Division 2 – Fish records

290 Definition

In this Division, "**prescribed record**" means a record that includes any of the following information:

(a) particulars of all fishing activities engaged in by a commercial fisher or nominated fisher (including those where no fish were taken),

(b) particulars of all fish taken during those fishing activities,

(c) particulars of all fish disposed of during or after those fishing activities,

(d) particulars of the location in which all fish taken during those fishing activities were carried out,

(e) particulars of the fishing gear used in connection with those fishing activities, including any fishing gear lost during those activities,

(f) particulars of the boats used in connection with those fishing activities,

(g) particulars of all individuals who engaged in or assisted with those fishing activities,

(h) the fishing business number allocated to the fishing business under which those fishing activities were authorised to be undertaken,

(i) particulars of all sightings or any other interaction with any threatened species or protected species,

(j) any period in which the commercial fisher or nominated fisher did not engage in fishing activities that he or she is authorised to engage in by his or her commercial fishing licence.

290A Records to be made by commercial fishers

(1) For the purposes of section 121 of the Act, a commercial fisher is required to make the prescribed record of fishing activities engaged in by the commercial fisher for commercial purposes, for each relevant period that the commercial fisher engages in

fishing activities.

(2) For the purposes of this clause, a "**relevant period**" means a month, or in the case of the sea urchin and turban shell restricted fishery or the abalone fishery, a day.

(3) The commercial fisher must make a separate record in respect of each fishing business that relate to the fishing activities engaged in by the commercial fisher for commercial purposes.

(4) The commercial fisher must ensure that a copy of the record is sent to the Director-General within 28 days after the end of the relevant period to which the record relates (or in the case of the sea urchin and turban shell restricted fishery or the abalone fishery, within 24 hours of the end of the relevant period to which the record relates).

(5) A commercial fisher who engages in fishing activities in any of the following fisheries, on behalf of a fishing employer (within the meaning of section 122 of the Act), is not required to make a record under this clause in respect of those activities:

- (a) a share management fishery (other than the abalone or lobster fishery),
- (b) a restricted fishery (other than the sea urchin and turban shell restricted fishery).

However, section 122 (5) of the Act requires the commercial fisher to provide the fishing employer with such information concerning those activities as the fishing employer may reasonably require to comply with section 122 of the Act.

(6) This clause does not apply in respect of fishing activities in a share management fishery if the share management plan for the fishery makes alternative arrangements for the records to be made in respect of those activities under section 121 of the Act.

290B Records to be made by fishing employers

(1) For the purposes of section 122 of the Act, a fishing employer is required to make the prescribed record of fishing activities engaged in by all nominated fishers on behalf of the fishing employer, for each period of a month that the nominated fishers engage in fishing activities.

(2) The fishing employer must make a separate record in respect of each fishing business that relates to the fishing activities engaged in by all nominated fishers on behalf of the fishing employer for commercial purposes.

(3) The fishing employer must ensure that a copy of the record is sent to the Director-General within 28 days after the end of the monthly period to which the record relates.

(4) A fishing employer is not required to make a record under this clause in respect of activities engaged in by a nominated fisher in any of the following fisheries:

- (a) the abalone or lobster fishery,
- (b) the sea urchin and turban shell restricted fishery.

(5) This clause does not apply in respect of fishing activities in a share management fishery if the share management plan for the fishery makes alternative arrangements for the records to be made by fishing employers in respect of those activities under section 122 of the Act.

291 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 beachworms--20 worms or parts of worms,
- (e) in any other case--5 kg.

292 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,
 - (i) if the fish were taken by a commercial fisher under a fishing authority that is a component of a fishing business, the number allocated to the fishing business by the Director-General under the Act,
 - (j) if the fish were taken by a commercial fisher using a licensed commercial fishing boat, the licence number of the boat.
- (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,
 - (i) if the fish were taken by a commercial fisher under a fishing authority that is a component of a fishing business, the number allocated to the fishing business by the Director-General under the Act,
 - (j) if the fish were taken by a commercial fisher using a licensed commercial fishing boat, the licence number of the boat.

293 Records and 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,
 - (ca) if the fish were received from a commercial fisher who took the fish under a fishing authority that is a component of a fishing business, the number allocated to the fishing business by the Director-General under the Act,
 - (cb) if the fish were received from a commercial fisher who took the fish using a licensed commercial fishing boat, the licence number of the boat,
 - (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-General within 28 days after the end of each quarter (or such other reasonable period as the Director-General may specify by notice published in the Gazette), a report for the period concerned containing the following information:
- (a) the full name and address of the receiver or the receiver's registration number (if applicable),
 - (b) the period (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 period to which the report relates and the name of the person from whom the fish was received,
 - (ca) if the fish were received from a commercial fisher who took the fish under a fishing authority that is a component of a fishing business, the number allocated to the fishing business by the Director-General under the Act,
 - (cb) if the fish were received from a commercial fisher who took the fish using a licensed commercial fishing boat, the licence number of the boat,
 - (d) such information as the Director-General may require of the receiver in relation to the quantity and species of fish that are held in stock by the receiver at the end of the period to which the report relates.

Part 10 – Charter fishing management

Division 1 – Preliminary

294 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.

295 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-General. "**coastal waters**" means ocean waters that are west of the 183 metre isobath. "**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 296. "**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 297. "**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 to clause 310.
- (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.

296 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.

297 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

298 What boats must be licensed?

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.

There is an exemption for boats used by Lord Howe Island residents in waters around Lord Howe Island. See Division 6.

299 Annual licence fee

(1) The fee for the issue or renewal of a licence is \$457, plus \$92 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 310.

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.

300 Classes of licence

There are two classes of licence, as follows:

- (a) transferable,
- (b) non-transferable.

301 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.

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.

302 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.

303 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 7 July 2000, in accordance with the policies of NSW Fisheries with respect to such transfers, or

(ii) on or after 7 July 2000, in accordance with clause 305, 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 7 July 2000, in accordance with the policies of NSW Fisheries with respect to such transfers, or

(ii) on or after 7 July 2000, in accordance with clause 305.

(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.

304 Limitation on eligibility

(1) Despite clauses 301 and 302, a person who:

(a) was eligible, under Part 9A of the repealed regulation before its repeal, for a licence in respect of a history of operations, and

(b) did not apply for such a licence by 30 April 2001,

is not eligible to apply for a licence under this Part.

(2) (Repealed)

305 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 \$305.

(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 operations 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).

306 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 \$305.

(2) If 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.

307 Refusal of licence

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) 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

(c) 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

(d) the applicant has been convicted of an offence relating to an assault on a fisheries

official, or

(e) the applicant has not paid any fee due and payable in connection with the licence.

308 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) 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

(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 Minister is satisfied that the holder of the licence has contravened a condition of the licence, or

(f) 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 \$122 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.

309 Cancellation or suspension of licence

(1) The Minister may cancel or suspend a licence if:

(a) the holder of the licence ceases to be eligible for the licence, or

(b) 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

(c) 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

(d) the holder of the licence is convicted of an offence relating to an assault on a fisheries official, or

(e) the Minister is satisfied that the holder of the licence has contravened a condition of the licence, or

- (f) the holder of the licence fails to pay any fee due and payable in connection with the licence, or
 - (g) the boat is lost at sea or disposed of by the holder of the licence, or
 - (h) (Repealed)
- (2) In addition, in the case of a non-transferable licence, the Minister may cancel or suspend the licence if:
- (a) the licence is held by, or the boat is owned by, one or more natural persons and:
 - (i) one or more of those persons has become bankrupt, or
 - (ii) a person has acquired or disposed of a beneficial interest in the boat, or
 - (b) the licence is held or otherwise under the control of a corporation, or the boat is owned by a corporation, and:
 - (i) a person has acquired or disposed of a controlling interest in the corporation, or
 - (ii) the corporation has become the subject of a winding up order or a controller or administrator has been appointed for the corporation.

309A Voluntary suspension of licence

- (1) The Minister may, from time to time, on the application of a licence holder, suspend the licence by placing the licence in abeyance for such period, not exceeding two years, as the Minister may specify.
- (2) Such an application may be granted in any case where the Minister is satisfied that there is sufficient reason for the suspension (for example, because the boat has been disposed of or lost at sea or because the licence holder has temporarily ceased trading).
- (3) The Minister may, on written application by the licence holder, extend a period of suspension under this clause if satisfied that there is sufficient reason for the extension.
- (4) The total period for which a licence is suspended under this clause must not exceed 3 years.
- (5) The annual licence fee payable in respect of a licence continues to be payable in respect of any year or part of a year for which a licence is suspended under this clause.
- (6) The Minister may cancel a licence suspended under this clause if:
- (a) any fee payable in connection with the licence is not paid by the end of the suspension period or such further period as the Minister may allow, or
 - (b) the holder of the licence fails (without lawful excuse) to comply with any request for information in connection with the suspension that is made by the Minister by notice in writing to the holder.
- (7) A notice referred to in subclause (6) (b) must specify a period (of not less than 14 days) in which the request for information must be complied with.
- (8) Nothing in this clause limits the powers of the Minister under clause 309.
- (9) The Minister is to refuse an application for suspension under this clause (not being an application for an extension of a suspension) if the licence has previously been suspended on the application of the holder and the period of suspension ended less than 3 years before the application is made.
- (10) Subclause (9) does not apply if the Minister is satisfied that, in the circumstances of the case, the suspension should be granted because the boat to which the licence applies has been lost at sea or damaged beyond repair.

310 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 301 or 302) 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 to this clause 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.

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	<i>Istiophoridae</i> spp.
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</i> spp.
Thresher shark	<i>Alopias</i> spp.
Porbeagle shark	<i>Lamna nasus</i>

Tunas	Thunnus spp.
Albacore	Thunnus alalunga
Yellowfin tuna	Thunnus albacares
Southern bluefin tuna	Thunnus maccoyii
Longtail tuna	Thunnus tonggol
Bigeye tuna	Thunnus obesus

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 Thunnus spp.)
Cobia	Rachycentron canadum
Tailor	Pomatomus saltatrix
Dolphinfish	Coryphaena hippurus
Australian salmon	Arripis trutta
Whaler shark, blue shark	Family Carcharhinidae (excluding Galeocerdo cuvier)
Barracuda, snook, striped seapike	Family Sphyraenidae

Part 4

All species of fish other than those listed in Parts 1, 2 and 3.
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311 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 301 or 302, as the case requires.

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).

312 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. 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-General within 7 days after the end of the calendar month in which the trip to which the record relates was made.

Division 3 – Reviews relating to issue of licences

This Part provides for the review of decisions relating to the issue of a licence. A decision relating to a licence is also appellable to the Administrative Decisions Tribunal under the Act.

313 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-General 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 305 of a person's entitlement to a history of operations in respect of a boat, or

(b) (Repealed)

Until 30 June 2001 a person who was refused a licence because the Minister was not satisfied that the person was eligible for the licence could request a review of that decision under this Division. The review request had to be made within 60 days after notice of the refusal was given to the person.

314 Director-General to review decision

(1) If a review request is duly made under this Division, the Director-General is to conduct the review.

(2) The review is to be conducted in accordance with any guidelines approved by the Minister.

(3) Despite subclause (1), the Director-General may reject a review request without any review having been conducted if:

(a) the matter has already been the subject of a review by the Director-General under this Division, or

(b) the Director-General is of the opinion that the review request is frivolous or vexatious.

315 Conduct of review

(1) The Director-General 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) On conducting a review of a decision of the Minister to refuse to issue a licence to any person, the Director-General may recommend that the person be issued with a licence, but only if the Director-General 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 subparagraph (i) and it is fair and reasonable in the circumstances to grant the person a licence, or
- (d) the person had, before 7 July 2000, acquired (or had entered into (and has subsequently completed) a contract to purchase) a boat for use in connection with marine and estuarine charter fishing in New South Wales, and:
- (i) has used the boat in accordance with an appropriate certificate of survey, and
- (ii) there are reasons acceptable to the Director-General why the person failed to satisfy the eligibility criteria and it is fair and reasonable in the circumstances to grant the person a licence.
- (3) Regardless of the nature of licence originally applied for, the Director-General may recommend the issue of either a transferable or a non-transferable licence.
- (4) On conducting a review of a decision of the Minister to issue a licence to any person, the Director-General may recommend that the licence be cancelled, but only if the Director-General is satisfied that:
- (a) the person is not eligible for the licence, or
- (b) there are other grounds for the cancellation of the licence.

316 (Repealed)

317 Action by Minister following review

- (1) On receipt of a report under this Division, 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 Director-General, 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 Director-General, or
- (c) in any case, refer the matter back to the Director-General (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 Director-General 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 the Minister decides to issue a licence for a boat following a review under this Division, 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.

Division 4 – Advisory Committee

318 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 of this Part 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-General or a nominee of the Director-General.
- (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 Minister may, by advertisement published in a newspaper circulating throughout the State, call for expressions of interest in membership of the Advisory Committee.
- (6) 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.
- (7) 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.
- (8) 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.

319 Chairperson and deputy chairperson of Advisory Committee

- (1) The Minister is to appoint the chairperson of the Advisory Committee.
- (2) The chairperson is to be a person who:
 - (a) in the opinion of the Minister, is neither engaged in the administration of the Act nor engaged in charter fishing, and
 - (b) is not a member of the Advisory Committee.
- (3) The Minister may appoint a deputy chairperson for the Advisory Committee. The appointee may be a member of the Advisory Committee.
- (4) Both the chairperson and the deputy chairperson (if any) are entitled to attend and (in accordance with this clause) chair meetings of the Advisory Committee.
- (5) A meeting of the Advisory Committee is to be chaired:
 - (a) by the chairperson of the Advisory Committee, or
 - (b) in the absence of the chairperson:
 - (i) by the deputy chairperson of the Advisory Committee, or
 - (ii) in the absence of the deputy chairperson (or if no deputy chairperson has been appointed)--by the person appointed by the Minister to chair the

meeting in such circumstances (who may be a member of the Advisory Committee), or

(iii) in the absence of the person appointed under subparagraph (ii)--by a member of the Advisory Committee elected by the members present to chair the meeting.

(6) The person chairing a meeting of the Advisory Committee is entitled to vote at the meeting only if the person is a member of the Committee.

320 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.

321 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.

322 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.

323 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.

324 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.

325 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.

326 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, subject to clause 327.

(2) The Minister is to call at least 2 meetings of the Advisory Committee each calendar year, unless otherwise determined by the Advisory Committee.

327 Transaction of business outside meetings or by telephone

(1) The Advisory Committee may, with the written approval of the Director-General, transact any of its business by the circulation of papers among all the members of the Advisory Committee for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Advisory Committee.

(2) The Advisory Committee may, with the written approval of the Director-General, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

(a) the approval of a resolution under subclause (1), or

(b) a meeting held in accordance with subclause (2),

each member of the Advisory Committee has the same voting rights as the member has at an ordinary meeting of the Advisory Committee.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Advisory Committee.

(5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

328 Quorum

The quorum for a meeting of the Advisory Committee consists of the majority of its industry members for the time being.

329 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

330 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 $28^{\circ}10'S$ and $29^{\circ}40'S$),

(b) 1 member for the Mid North Coast and Central Coast region (the part of the State between $29^{\circ}40'S$ and $32^{\circ}26'S$),

(c) 1 member for the Central Coast region (the part of the State between $32^{\circ}26'S$ and $33^{\circ}35'S$),

(d) 2 members for the Sydney region (the part of the State between $33^{\circ}35'S$ and $34^{\circ}05'S$),

(e) 1 member for the Illawarra region (the part of the State between $34^{\circ}05'S$ and $34^{\circ}50'S$),

(f) 1 member for the Mid South Coast region (the part of the State between $34^{\circ}50'S$ and $36^{\circ}10'S$),

(g) 1 member for the Far South Coast region (the part of the State between $36^{\circ}10'S$ and $37^{\circ}30'S$).

(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.

331 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.

332 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.

333 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.

334 Election procedure

(1) Division 5 of Part 12, 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 382 and 383 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.

Division 6 – Miscellaneous

335 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 Lord Howe Island waters.
- (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 Lord Howe Island waters 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) (Repealed)

336 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 312.

Maximum penalty: 100 penalty units.

Part 11 – Protection of aquatic habitats

337 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-General.

337A Contravention of condition of permit under Part 7 of Act

A person who contravenes a condition of a permit issued under Part 7 of the Act is guilty of an offence.

Maximum penalty: 100 penalty units.

338 Marine vegetation--regulation of harm (section 205 of the Act)

- (1) Attached marine and estuarine macroalgae (except for sea lettuce (*Ulva* spp.) and blackfish weed (*Enteromorpha* spp.) when taken for use as bait) are declared to be marine vegetation to which section 205 of the Act applies.
- (2) 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.

339 Fees for permits under Part 7 of the Act

- (1) An application for a permit under Part 7 of the Act is to be accompanied by a fee of \$216, except as otherwise provided by this clause.
- (2) The fee for 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:
- (a) if the Director-General is of the opinion that an inspection of the relevant area is required before the application can be determined--\$119, or

(b) if the Director-General is not of that opinion--\$61.

(3) The Minister may waive all or part of a fee payable under this clause in such cases as the Minister considers appropriate.

339A Activities harmful to marine vegetation (section 205B of the Act)

The following activities are prescribed for the purposes of section 205B of the Act:

(a) the hauling by any person of any net over, or adjacent to, a bed of strapweed seagrass (*Posidonia australis*) in estuarine waters, or any of the waters to which the ocean hauling fishery (as described in Schedule 1 to the Act) applies, that are in a protected area,

(b) the use by any person of an otter trawl net (prawns) over, or adjacent to, a bed of:

(i) strapweed seagrass (*Posidonia australis*), or

(ii) eelgrass (*Zostera capricorni*),

in estuarine waters in a protected area,

(c) the hauling by any person of a prawn net (hauling) or seine net (prawns) over a bed of any other seagrass in a protected area, being a bed that is identified on a map approved by the Minister, published in the Gazette and held at an office of NSW Fisheries located in the region of the relevant seagrass bed.

340 Noxious fish and noxious marine vegetation (section 209 of the Act)

(1) For the purpose of section 209 (1) (a) of the Act, the following fish are declared to be noxious fish:

(a)

(i) tilapia (*Oreochromis mossambicus*, *Tilapia zillii*, *Tilapia mariae*),

(ii) black striped mussel (all species of the genus *Mytilopsis*),

(iii) plague minnow (*Gambusia holbrooki*), but only in waters other than the waters specified in paragraph (c) (ii).

(b)

(i) banded grunter (*Amniataba percooides*),

(ii) Pacific oysters (*Crassostrea gigas*), but only in estuarine and ocean waters (other than Port Stephens),

(iii) speckled mosquito fish (*Phalloceros caudimaculatus*).

(c)

(i) carp (*Cyprinus carpio*),

(ii) plague minnow (*Gambusia holbrooki*), but only in waters in the local government areas of Ashfield, Auburn, Bankstown, Baulkham Hills, Blacktown, Botany Bay, Burwood, Camden, Campbelltown, Canada Bay, Canterbury, City of Sydney, Fairfield, Gosford, Holroyd, Hornsby, Hunters Hill, Hurstville, Kogarah, Ku-ring-gai, Lake Macquarie, Lane Cove, Leichhardt, Liverpool, Manly, Marrickville, Mosman, Newcastle, North Sydney, Parramatta, Penrith, Pittwater, Randwick, Rockdale, Ryde, Strathfield, Sutherland, Warringah, Waverley, Willoughby, Wollongong, Woollahra and Wyong.

(2) For the purpose of section 209 (1) (b) of the Act, the following marine vegetation is declared to be noxious marine vegetation:

Aquarium caulerpa (*Caulerpa taxifolia*).

(3) Sections 210, 211 and 213 (1) and (2) of the Act do not apply to or in respect of Class 3 noxious fish.

(4) Sections 211 and 213 (1) and (2) of the Act do not apply to or in respect of Class 2 noxious fish or Class 2 noxious vegetation if the fish or vegetation concerned is kept in a fully-contained aquarium.

340AA Importation of certain live fish (section 217 of the Act)

(1) The following classes of fish are exempt from the operation of section 217 of the Act:

(a) fish traded in the aquarium industry,

- (b) fish imported for human consumption.
- (2) This clause does not apply to the following fish:
- (a) fish declared as noxious fish under section 209 (1) (a) of the Act,
- (b) fish listed in the Table to this clause.

Table

Common name	Species/Family
Piranha	Serrasalmus spp., Pygocentrus spp.
Airbreathing/walking catfish	All species in the Family Clariidae
Grass carp	Ctenopharyngodon idella
Roach	Rutilus rutilus
Tench	Tinca tinca
Electric eels	All species in the Family Gymnotidae
Snakeheads	Channa spp., Parachanna spp.
Bluegills	Lepomis spp.
Largemouth bass	Micropterus spp.
African tigerfish	Hydrocynus spp.
South American tigerfish or trahira	Erythrinus, Hoplerythrinus and Hoplias spp.
Parasitic (or candiru or pencil) catfish	All species in the Family Trichomycteridae
Nile perch (live)	Lates niloticus
Pike cichlid	Crenicichla spp.
Tiger catfish	Pseudoplatystoma fasciatum
Electric catfish	All species in the Family Malapteruridae
African lung fish	Protopterus annectens
Channel catfish	Ictalurus punctatus
Freshwater stingrays	Himantura spp.
Pikes	All species in the Family Esocidae
Freshwater Garfish	All species in the Family Lepisosteidae
Sticklebacks	All species in the Family Gasterosteidae
Bichirs	All species in the Family Polypteridae
Schilbe catfish	Schilbe spp.
Redfin perch	Perca fluviatilis
Barcoo Grunter	Scortum barcoo
Welchs Grunter	Bidyanus welchi
Sooty Grunter	Hephaestus fuliginosus
Sleepy cod	Oxyeleotris lineolatus
	Any hybrid between species in the Family Terapontidae including Barcoo Grunter, Welchs Grunter, Silver Perch, Banded Grunter, Sooty Grunter or Spangled Perch.
Atlantic salmon	Salmo salar
Brook trout	Salvelinus fontinalis
Brown trout	Salmo trutta
Rainbow trout	Oncorhynchus mykiss
Barramundi	Lates calcarifer
Marron	Cherax tenuimanus
Redclaw	Cherax quadricarinatus

Part 11A – Threatened species conservation

Division 1 – Prohibition or restriction of actions on critical habitat of grey nurse shark

340A Application of Division

This Division applies:

- (a) in respect of the critical habitat of the grey nurse shark that is located at Julian Rocks--on and from 1 May up to and including 31 October in each year, and
- (b) in respect of the critical habitat of the grey nurse shark that is located at Montague Island--on and from 1 November in each year up to and including 30 April in the following year, and
- (c) in respect of all other critical habitat of the grey nurse shark--at all times.

340B Restrictions on certain fishing

- (1) Clause 66 (1) and (2) apply to commercial fishers who take or attempt to take fish on or in critical habitat of the grey nurse shark in the same way as they apply, in relation to any waters other than inland waters, to persons who are not commercial fishers.
- (2) A commercial fisher must not take or attempt to take fish on or in critical habitat of the grey nurse shark in contravention of the provisions that apply because of subclause (1).
- (3) A person (including a commercial fisher) must not, on or in critical habitat of the grey nurse shark:
 - (a) if in a vessel that is anchored, moored or otherwise held stationary, take or attempt to take fish by means of a line:
 - (i) using bait (whether dead or alive), or
 - (ii) using a fly other than an artificial fly or a lure other than an artificial lure, or
 - (iii) that is a wire trace line, or
 - (b) if on land, take or attempt to take fish by means of a wire trace line, or
 - (c) take or attempt to take fish in any circumstances by means of a line that has weights totalling more than 500 grams attached to it, or
 - (d) take or attempt to take fish by means of a net other than a landing net of the kind described in clause 53 and used in accordance with that clause.

Maximum penalty: 100 penalty units.

340C Restrictions on diving and other activities

A person must not, on or in critical habitat of the grey nurse shark, do any of the following:

- (a) swim or dive between sunset and sunrise while using any apparatus capable of supplying air to facilitate breathing underwater,
- (b) block an entrance to a cave or gutter containing a shark,
- (c) feed or touch a shark,
- (d) chase or harass a shark,
- (e) wear or use an electronic shark repelling device,
- (f) use a powered scooter.

Maximum penalty: 100 penalty units.

Division 2 – Exemption from offence of buying, selling or possessing threatened species

340D Exemption

Any fish the taking of which does not constitute an offence under Part 7A of the Act are exempt from section 220ZB of the Act.

Part 11B – Listing criteria

This Part prescribes the criteria for a determination by the Fisheries Scientific Committee of the matters required to establish eligibility for listing in accordance with Part 7A of the Act:

- (a) of a species as a critically endangered species, endangered species or vulnerable species (see Division 1), or
- (b) of a population as an endangered population (see Division 2), or
- (c) of an ecological community as a critically endangered ecological community, endangered ecological community or vulnerable ecological community (see Division 3).

Division 4 provides for the interpretation and application of the prescribed criteria.

Division 1 – Criteria for listing of species

340E Criteria for listing determinations by Fisheries Scientific Committee

- (1) Critically endangered species For the purposes of section 220F (2) of the Act, a species is facing an extremely high risk of extinction in New South Wales in the immediate future if, in the opinion of the Fisheries Scientific Committee, it meets the criteria specified for critically endangered species in this Division.
- (2) Endangered species For the purposes of section 220F (3) of the Act, a species is facing a very high risk of extinction in New South Wales in the near future if, in the opinion of the Fisheries Scientific Committee, it meets the criteria specified for endangered species in this Division.
- (3) Vulnerable species For the purposes of section 220F (4) of the Act, a species is facing a high risk of extinction in New South Wales in the medium-term future if, in the opinion of the Fisheries Scientific Committee, it meets the criteria specified for vulnerable species in this Division.

340F Criteria--reduction in abundance, geographic distribution or genetic diversity

- (1) It is observed, estimated, inferred or reasonably suspected that the species has undergone, or is likely to undergo, within a time frame appropriate to the life cycle and habitat characteristics of the taxon:
 - (a) for "**critically endangered species**" --an extremely large reduction in one or more of the following:
 - (i) an index of abundance appropriate to the taxon,
 - (ii) geographic distribution,
 - (iii) genetic diversity, or
 - (b) for "**endangered species**" --a very large reduction in one or more of the following:
 - (i) an index of abundance appropriate to the taxon,
 - (ii) geographic distribution,
 - (iii) genetic diversity, or
 - (c) for "**vulnerable species**" --a large reduction in one or more of the following:
 - (i) an index of abundance appropriate to the taxon,
 - (ii) geographic distribution,
 - (iii) genetic diversity.
- (2) The Fisheries Scientific Committee must have regard to the following in determining

the extent of the reduction referred to in subclause (1):

- (a) the rate of and trends in the reduction,
- (b) the potential of the species to maintain relatively stable abundance under high levels of mortality,
- (c) the ability of the species to recover rapidly from low numbers,
- (d) the reproductive potential of the species in relation to the following:
 - (i) reproductive ecology and behaviour and the relationship of these to any threatening process or processes, and the probability of recruitment failure,
 - (ii) historical, anecdotal or scientific data suggesting a reduction in the production of eggs or progeny compared to the unexploited state, to an extent that the ability of the species to maintain viable populations has been compromised,
 - (iii) evidence of a reduction in the generation time and life span of the species relative to the unexploited state,
 - (iv) population density, and the significance of population density in the species' reproductive strategies,
 - (v) effective population size,
- (e) other aspects of the life history and ecology of the species, including any of the following:
 - (i) age and growth patterns,
 - (ii) habitat types and usages,
 - (iii) susceptibility to disease,
 - (iv) obligate migration requirements,
- (f) evidence of recovery from low numbers following the introduction of protection measures or changes to management strategies,
- (g) the current management strategies in relation to life history and reproductive ecology,
- (h) assessment of the probability of extinction,
- (i) evidence of declining populations across the species range for wide ranging or naturally rare or uncommon species,
- (j) whether the species is at the edge of its geographic distribution,
- (k) restricted or disjunct populations of naturally rare and uncommon species,
- (l) the status of the species outside the State as appropriate for the taxon,
- (m) the precautionary principle, namely, that if there are threats of serious or irreversible damage to the species, lack of full scientific certainty should not be used as a reason for postponing measures to prevent that damage,
- (n) other supporting information, including the following:
 - (i) expert advice,
 - (ii) anecdotal information where there is independent verification,
 - (iii) written evidence, especially of a historical nature,
 - (iv) any other corroborating evidence.

340G Criteria--threatening processes

- (1) For "**critically endangered**", "**endangered**" and "**vulnerable species**", there is, or there is observed, estimated, inferred or reasonably suspected to be, a historical, current or potential threatening process, or threatening processes affecting the species.
- (2) The Fisheries Scientific Committee must have regard to the following in determining the relevant extent of the effect of the threatening process or processes:
 - (a) the number and nature of the threatening processes,
 - (b) the potential for synergistic effects between threatening processes,
 - (c) the extent of the threatening processes relative to the geographic distribution of the species,

- (d) the impact of the threatening processes on the diversity and quality of the species' habitat,
- (e) the level of protection offered to the species within existing reserve systems, other forms of refuge or by current management strategies.

Division 2 – Criteria for listing of endangered populations

340H Criteria for listing determinations by Fisheries Scientific Committee

For the purposes of section 220FA (1) of the Act, a population is facing a very high risk of extinction in New South Wales in the near future if, in the opinion of the Fisheries Scientific Committee:

- (a) it is clearly defined, and
- (b) it satisfies any one or more of the following:
 - (i) it is disjunct or near the limit of its geographic range,
 - (ii) it is, or is likely to be, genetically, biologically, morphologically or ecologically distinct,
 - (iii) it is otherwise of significant conservation value, and
- (c) it meets the criteria specified in this Division.

340I Criteria--reduction in abundance, geographic distribution or genetic diversity

(1) It is observed, estimated, inferred or reasonably suspected that the population has undergone, or is likely to undergo, within a time frame appropriate to the life cycle and habitat characteristics of the taxon, a very large reduction in one or more of the following:

- (a) an index of abundance appropriate to the taxon,
 - (b) geographic distribution,
 - (c) genetic diversity.
- (2) The Fisheries Scientific Committee must have regard to the following in determining the extent of the reduction referred to in subclause (1):
- (a) the rate of and trends in the reduction,
 - (b) the resilience of the population in relation to current or potential threatening processes,
 - (c) the ability of the population to recover rapidly from low numbers,
 - (d) the reproductive potential of the population in relation to the following:
 - (i) reproductive ecology and behaviour and the relationship of these to any threatening process or processes, and the probability of recruitment failure,
 - (ii) historical, anecdotal or scientific data suggesting a reduction in the production of eggs or progeny compared to the unexploited state, to an extent that the ability of the species to maintain viable populations has been compromised,
 - (iii) evidence of a reduction in the generation time and life span of the species relative to the unexploited state,
 - (iv) population density, and the significance of population density in the species' reproductive strategies,
 - (v) effective population size,
 - (e) evidence of recovery from low numbers following the introduction of protection measures or changes to management strategies,
 - (f) the current management strategies in relation to life history and reproductive ecology,
 - (g) assessment of the probability of extinction,
 - (h) evidence of declining abundance across the population's range for wide ranging or naturally rare or uncommon species,
 - (i) other aspects of the life history and ecology of the population, including any of

the following:

- (i) age and growth patterns,
- (ii) habitat types and usages,
- (iii) susceptibility to disease,
- (iv) obligate migration requirements,
- (j) restricted or disjunct populations of naturally rare and uncommon species,
- (k) the precautionary principle, namely, that if there are threats of serious or irreversible damage to the population, lack of full scientific certainty should not be used as a reason for postponing measures to prevent that damage,
- (l) other supporting information, including the following:
 - (i) expert advice,
 - (ii) anecdotal information where there is independent verification,
 - (iii) written evidence, especially of a historical nature,
 - (iv) any other corroborating evidence.

340J Criteria--threatening processes

There is, or there is observed, estimated, inferred or reasonably suspected to be, a historical, current or potential threatening process, or threatening processes affecting the population, having regard to the following:

- (a) the number and nature of the threatening processes,
- (b) the potential for synergistic effects between threatening processes,
- (c) the extent of the threatening processes relative to the geographic distribution of the population,
- (d) the impact of the threatening processes on the diversity and quality of the population's habitat,
- (e) the level of protection offered to the population within existing reserve systems, other forms of refuge or by current management strategies.

Division 3 – Criteria for listing of ecological communities

340K Criteria for listing determinations by Fisheries Scientific Committee

(1) Critically endangered ecological communities For the purposes of section 220FB (1) of the Act, an ecological community is facing an extremely high risk of extinction in New South Wales in the immediate future if, in the opinion of the Fisheries Scientific Committee:

- (a) it is defined by species occupying a particular area, and
- (b) it meets the criteria specified for critically endangered ecological communities in this Division.

(2) Endangered ecological communities For the purposes of section 220FB (2) of the Act, an ecological community is facing a very high risk of extinction in New South Wales in the near future if, in the opinion of the Fisheries Scientific Committee:

- (a) it is defined by species occupying a particular area, and
- (b) it meets the criteria specified for endangered ecological communities in each of the other clauses in this Division.

(3) Vulnerable ecological communities For the purposes of section 220FB (3) of the Act, an ecological community is facing a high risk of extinction in New South Wales in the medium-term future if, in the opinion of the Fisheries Scientific Committee:

- (a) it is defined by species occupying a particular area, and
- (b) it meets the criteria specified for vulnerable ecological communities in each of the other clauses in this Division.

340L Criteria--reduction in ecological function, geographic distribution or genetic diversity

(1) It is observed, estimated, inferred or reasonably suspected that the ecological community has undergone, or is likely to undergo, within a time frame appropriate to the life cycle and habitat characteristics of the component species:

(a) for "**critically endangered ecological communities**" --an extremely large reduction in one or more of the following:

- (i) ecological function,
- (ii) geographic distribution,
- (iii) genetic diversity, or

(b) for "**endangered ecological communities**" --a very large reduction in one or more of the following:

- (i) ecological function,
- (ii) geographic distribution,
- (iii) genetic diversity, or

(c) for "**vulnerable ecological communities**" --a large reduction in one or more of the following:

- (i) ecological function,
- (ii) geographic distribution,
- (iii) genetic diversity.

(2) The Fisheries Scientific Committee must have regard to the following in determining the extent of the reduction referred to in subclause (1):

- (a) the rate of and trends in the reduction,
- (b) the resilience of the ecological community in relation to current or potential threatening processes,
- (c) evidence of recovery of the ecological community following the introduction of protection measures or changes to management strategies,
- (d) assessment of the probability of extinction,
- (e) the precautionary principle, namely, that if there are threats of serious or irreversible damage to the ecological community, lack of full scientific certainty should not be used as a reason for postponing measures to prevent that damage,
- (f) other supporting information, including the following:
 - (i) expert advice,
 - (ii) anecdotal information where there is independent verification,
 - (iii) written evidence, especially of a historical nature,
 - (iv) any other corroborating evidence.

340M Criteria--threatening processes

(1) For "**critically endangered**", "**endangered**" and "**vulnerable ecological communities**", there is, or there is observed, estimated, inferred or reasonably suspected to be, a historical, current or threatening process, or threatening processes affecting the ecological community.

(2) The Fisheries Scientific Committee must have regard to the following in determining the relevant extent of the effect of the threatening process or threatening processes:

- (a) the number and nature of the threatening processes,
- (b) the potential for synergistic effects between threatening processes,
- (c) the extent of the threatening processes relative to the geographic distribution of the ecological community,
- (d) the impact of the threatening processes on the diversity and quality of the ecological community's habitat,
- (e) the level of protection offered to the ecological community within existing reserve systems, other forms of refuge or by current management strategies.

Division 4 – Interpretation

340N Application of Division

(1) This Division applies for the purposes of the interpretation and application of the criteria prescribed by this Part.

(2) Use in a provision of this Division of the term "population" does not limit the operation of the provision to Division 2 and use of the term "species" does not limit the

operation of a provision to Division 1.

340O Geographic distribution

(1) Geographic distribution is the area or areas, or the volume of occupancy, in which a species, population or ecological community occurs, excluding cases of vagrancy in species.

(2) This may be assessed by estimating:

(a) the extent of occurrence (the area of the total geographic range that includes all extant populations of the species or all extant occurrences of the ecological community), or

(b) the area or volume of occupancy (the area or volume within the total range that is currently occupied by the species or ecological community, that is, it excludes unsuitable and unoccupied habitat), or

(c) the area or volume of suitable habitat (the area or volume within the total range that includes occupied and unoccupied suitable habitat, but excludes unsuitable habitat).

(3) The scale at which a geographic distribution is assessed should be appropriate to the biology of the species (or component species in ecological communities), the nature of threats and available data.

This clause applies in respect of Divisions 1, 2 and 3.

340P Effective population size

Effective population size is the number of mature individuals of a species or population that contribute to the production of viable offspring and the maintenance of genetic variation.

Effective population size is usually much less than total population size due to the presence of juveniles, old (senescent), diseased, moribund and other non-breeding individuals, uneven sex ratios, unsuitable environmental conditions for breeding and recruitment at some localities and in some years, variation between family sizes and fluctuating population sizes between generations.

This clause applies in respect of Divisions 1 and 2.

340Q Ecological function

(1) Ecological function encompasses the ecological and evolutionary processes and interactions between living and non-living components of ecosystems and ecological communities at all spatial and temporal scales.

(2) Reductions in ecological function may be indicated by the following:

(a) a change to community structure,

(b) a change in species composition,

(c) the disruption of ecological processes,

(d) the invasion and establishment of exotic species,

(e) the degradation of habitat,

(f) the fragmentation of habitat,

(g) the declining abundance or distribution of constituent species within an ecological community.

This clause applies in respect of Division 3.

340R Relevance of matters and adequacy and accuracy of information

If the Fisheries Scientific Committee is required to have regard to a particular matter, the Committee must consider the matter:

(a) to the extent that it is relevant to the assessment of a proposed listing, and

(b) to the extent that relevant information is available in relation to the matter, having regard to the adequacy and accuracy of the information.

This clause applies in respect of Divisions 1, 2 and 3.

Part 12 – Administration

Division 1 – The Director-General

341 Seal of the Director-General

- (1) The Director-General 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 2 – (Repealed)

Division 3 – Establishment, composition and functions of ministerial advisory councils

347 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.

348 Establishment of advisory councils

For the purposes of section 229 of the Act, the following advisory councils are to be established:

- (a) a Seafood Industry Advisory Council,
- (b) an Advisory Council on Recreational Fishing.
- (c), (d) (Repealed)

349 Seafood Industry Advisory Council

- (1) The Seafood Industry Advisory Council is to be composed of the following members:
 - (a) one person appointed on the nomination of each Management Advisory Committee referred to in Division 5 (that is, one member for each Management Advisory Committee),
 - (b) one person appointed to represent the retail fish industry,
 - (c) one person appointed to represent the wholesale fish industry,
 - (d) one person appointed to represent commercial fishers co-operatives,
 - (e) 2 persons appointed to represent the aquaculture industry, one of whom is nominated by the Peak Oyster Advisory Group established by the Department of Primary Industries,
 - (f) one person appointed on the nomination of the Indigenous Fisheries Strategy Working Group established by the Department of Primary Industries or such other body representing Indigenous persons as the Minister considers appropriate,
 - (g) one person appointed on the nomination of the Nature Conservation Council of New South Wales.
- (2) The Minister may, by advertisement published in a newspaper circulating throughout the State, call for expressions of interest in membership of the Seafood Industry Advisory Council.
- (3) The Seafood Industry Advisory Council is to include the following members, who are not entitled to vote at meetings of the Council:
 - (a) the Director-General or a nominee of the Director-General,
 - (b) the Director-General of the NSW Food Authority or a nominee of the Director-General of the NSW Food Authority,
 - (c) such other persons as the Minister considers appropriate.

350 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) one person appointed on the nomination of the Nature Conservation Council,
- (c) the Director-General or a nominee of the Director-General,
- (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.

351, 352 (Repealed)

353 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 two 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.

Division 4 – Provisions relating to members and procedure of advisory councils

354 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.

355 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) A person who, on the commencement of this clause, is a member of an advisory council or a MAC retains that person's membership of that council or MAC (subject to

this Division) for the balance of the term for which the person was appointed.

(3) Subclause (2) does not apply to a person who was taken to be a member of an advisory council or a MAC by virtue of the fact that the person was appointed to be the deputy of a member of the advisory council or MAC.

356 Allowances for members

(1) 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.

(2) Any allowance payable to a member of an advisory council on the commencement of this clause is taken to be an allowance determined under this clause.

357 Deputies

(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 such appointment.

(2) Such an appointment may be made only 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 may, if available, act in the place of the member.

(4) 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.

358 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 359, 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-General or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister or Director-General 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-General or a nominee of the Director-General, the member ceases to be the Director-General or the Director-General 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.

359 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.

360 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.

361 Chairperson and deputy chairperson of advisory council

- (1) The Minister is to appoint the chairperson of each advisory council.
- (2) The chairperson is to be a person who:
 - (a) in the opinion of the Minister, has no direct or indirect pecuniary interest in the fishery concerned, and
 - (b) is not a member of the advisory council.
- (3) (Repealed)
- (4) The Minister may appoint a deputy chairperson for any advisory council. The appointee may be a member of the advisory council concerned.
- (5) Both the chairperson and the deputy chairperson (if any) are entitled to attend and (in accordance with this clause) chair meetings of the advisory council.
- (6) A meeting of an advisory council is to be chaired:
 - (a) by the chairperson of the advisory council, or
 - (b) in the absence of the chairperson:
 - (i) by the deputy chairperson of the advisory council, or
 - (ii) in the absence of the deputy chairperson (or if no deputy chairperson has been appointed)--by the person appointed by the Minister to chair the meeting in such circumstances (who may be a member of the advisory council), or
 - (iii) in the absence of the person appointed under subparagraph (ii)--by a member of the advisory council elected by the members present to chair the meeting.
- (7) The person chairing a meeting of an advisory council is entitled to vote at the meeting only if the person is a member of that council.

362 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, subject to clause 363.
- (2) An advisory council is to hold at least 2 meetings each calendar year, unless the advisory council otherwise determines.

363 Transaction of business outside meetings or by telephone

- (1) An advisory council may, with the written approval of the Director-General, transact any of its business by the circulation of papers among all the members of the advisory council for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the advisory council.
- (2) An advisory council may, with the written approval of the Director-General, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or

(b) a meeting held in accordance with subclause (2), the chairperson and each member have the same voting rights as they have at an ordinary meeting of the advisory council.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the advisory council.

(5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

364 Quorum

The quorum for a meeting of an advisory council consists of a majority of its members for the time being.

365 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.

366 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.

367 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 5 – Composition of Management Advisory Committees and qualifications for election

368 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. "**industry member**", of a MAC, means a member of a MAC who is elected and appointed pursuant to section 230 (2) (a) of the Act. "**MAC**" means a Management Advisory Committee. "**Table**" means the Table to clause 369.

(2) Despite clause 4, the notes to the Table (at the end of the Table) form part of this Regulation.

369 Composition of MAC

(1) A MAC that is established for a restricted fishery or 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 this Division, and

(b) the members appointed by the Minister pursuant to section 230 (2) (b) of the Act.

(2) If the Table specifies the class of endorsement or shareholder to be represented by an industry member, the MAC is to be composed of industry members representing endorsement holders or shareholders of that class.

(3) A single MAC is established for the ocean trawl fishery and the southern fish trawl restricted fishery. Those fisheries are taken, for the purposes of this Part, to be a single fishery which is referred to as the ocean trawl fishery and is treated as a share management fishery for the purposes of this Part.

(4) For that purpose, a reference in this Part to class of shares or a shareholder in the ocean trawl fishery, in relation to the part of the fishery that is the southern fish trawl restricted fishery, is taken to be a reference to an endorsement or an endorsement holder in the southern fish trawl restricted fishery (as the case requires).

The number of appointed members of a MAC is to be less than the number of industry members of the MAC--see clause 399 (2).

Table Composition of MACs (industry members)

Column 1	Column 2	Column 3
Name of fishery	Number of industry members	Class of shareholders or endorsement holders to be represented
Abalone fishery	5	Not applicable
Ocean hauling fishery	8	7 members representing shareholders who hold shares in each of the regions of the fishery (that is, 1 member for each region), being shareholders who hold the Ocean hauling--general ocean hauling class of shares and at least 1 of the following classes of shares:(a) Ocean hauling--hauling net (general purpose),(b) Ocean hauling--garfish net (hauling),(c) Ocean hauling--pilchard, anchovy and bait net (hauling).1 member representing shareholders who hold Ocean hauling--purse seine net class of shares.
Ocean trap and line fishery	7	3 members representing shareholders who are resident in the north of the State, with those members representing shareholders who hold the following classes of shares (that is, 1 member for each class of share):(a) Ocean trap and line--line fishing western zone,(b) Ocean trap and line--line fishing eastern zone,(c) Ocean trap and line--demersal fish trap.3 members representing shareholders who are

		resident in the south of the State, with those members representing shareholders who hold the following classes of shares (that is, 1 member for each class of share):(a) Ocean trap and line--line fishing western zone,(b) Ocean trap and line--line fishing eastern zone,(c) Ocean trap and line--demersal fish trap.1 member representing shareholders who hold Ocean trap and line-- spanner crab northern zone or Ocean trap and line-- spanner crab southern zone class of shares.
Ocean trawl fishery	6	1 member representing shareholders in the upper north coast region of the fishery who hold at least one of the following classes of shares:(a) Ocean trawl--inshore prawn,(b) Ocean trawl--offshore prawn,(c) Ocean trawl--deepwater prawn.1 member representing shareholders in the Clarence region of the fishery who hold at least one of the following classes of shares:(a) Ocean trawl--inshore prawn,(b) Ocean trawl--offshore prawn,(c) Ocean trawl--deepwater prawn.1 member representing shareholders in the north coast region of the fishery who hold at least one of the following classes of shares:(a) Ocean trawl--inshore prawn,(b) Ocean trawl--offshore prawn,(c) Ocean trawl--deepwater prawn.1 member representing shareholders in the central region of the fishery who hold at least one of the following classes of shares:(a) Ocean trawl--inshore prawn,(b) Ocean trawl--offshore prawn,(c) Ocean trawl--deepwater prawn.2 members representing shareholders in the metropolitan, upper south coast and lower south coast regions of the fishery (or any combination of those regions) who hold both:(a) Ocean trawl--inshore prawn, Ocean trawl--offshore prawn, or Ocean trawl--deepwater prawn shares, and(b) Ocean trawl--fish northern zone shares or an endorsement in the southern fish trawl restricted fishery.
Estuary general fishery	8	6 members representing shareholders who hold shares in each of the upper north coast, Clarence, north coast, metropolitan, upper south coast and lower south coast regions of the fishery (that is, 1 member for each of those regions). 1 member representing shareholders who hold shares in the central north region of the fishery. 1 member representing shareholders who hold shares in the central south region of the fishery.
Estuary prawn trawl fishery	3	1 member representing shareholders who hold the Estuary prawn trawl--Clarence River class of shares. 1 member representing shareholders who hold the Estuary prawn trawl--Hunter River class of shares. 1 member representing shareholders who hold the Estuary prawn trawl--Hawkesbury River class of shares.
Lobster fishery	5	Not applicable

1 (Repealed)

2 For the purposes of the ocean trap and line 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 Head."**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 Head.

3 For the purposes of the ocean trawl fishery and ocean hauling fishery, the following are the regions of those fisheries:

- (a) 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.
- (b) Clarence. That part of the State lying generally between the parallel 29°15' south latitude and the parallel 29°45' south latitude.
- (c) North coast. That part of the State lying generally between the parallel 29°45' south latitude and the parallel 31°44' south latitude.
- (d) Central. That part of the State lying generally between the parallel 31°44' south latitude and the parallel 33°25' south latitude.

(e) Metropolitan. That part of the State lying generally between the parallel 33°25' south latitude and the parallel 34°20' south latitude.

(f) Upper south coast. That part of the State lying generally between the parallel 34°20' south latitude and the parallel 35°25' south latitude.

(g) 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 estuary general fishery, the following are the regions of the fishery:

(a) 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.

(b) Clarence. That part of the State lying generally between the parallel 29°15' south latitude and the parallel 29°45' south latitude.

(c) North coast. That part of the State lying generally between the parallel 29°45' south latitude and the parallel 31°44' south latitude.

(d) Central north. That part of the State lying generally between the parallel 31°44' south latitude and the parallel 32°30' south latitude.

(e) Central south. That part of the State lying generally between the parallel 32°30' south latitude and the parallel 33°25' south latitude.

(f) Metropolitan. That part of the State lying generally between the parallel 33°25' south latitude and the parallel 34°20' south latitude.

(g) Upper south coast. That part of the State lying generally between the parallel 34°20' south latitude and the parallel 35°25' south latitude.

(h) 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.

5 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.

370 Qualifications for election to 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, if the industry member is to be elected to represent holders of a particular class or classes of shares, a shareholder who holds shares of that class or those classes, or

(b) a person the Minister considers likely to be a shareholder referred to in paragraph (a), 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 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 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.

Under section 230 (2) of the Act, only commercial fishers can be elected to a MAC.

371 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.

(3) A person is not qualified to stand as a candidate in an election for a period of 5 years after the person:

(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) is dealt with under section 10 of the *Crimes (Sentencing Procedure) Act 1999* in respect of an offence referred to in paragraph (b). Under section 10 of the *Crimes (Sentencing Procedure) Act 1999* a Court may find a person guilty of an offence without proceeding to a conviction (having regard to such matters as the character, antecedents, age, health and mental condition of the offender, the trivial nature of the offence and the extenuating circumstances in which the offence was committed).

372 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, if the industry member is to be elected to represent holders of a particular class of shares, a shareholder who holds shares of that class, or

(b) a person the Minister considers likely to be a shareholder referred to in paragraph (a), 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 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 the Table next to the fishery concerned.

373 (Repealed)

Division 6 – Procedure for election of industry members of Management Advisory Committees

374 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 376 or, if that close has been extended, the time and date fixed under clause 377.

"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 376 or, if that close has been extended, the time and date fixed under clause 377.

"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 376 or, if that close has been extended, the time and date fixed under clause 377.

"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 section 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-General under this Division.

375 Notice that election is required

When an election is required under section 230 (2) (a) of the Act, the Director-General 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-General, are qualified to vote in the election, to stand as a candidate and to nominate a candidate in the election.

376 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-General 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.

377 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 376.
- (2) The returning officer may exercise the power conferred by this clause more than once in respect of an election.

378 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.

379 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.

380 Exhibition of roll

- (1) The Director-General 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-General may cause the copies of the roll to be exhibited at such other places the Director-General considers appropriate.

381 Application for enrolment by person not already enrolled

- (1) A person may apply to the Director-General, in a form approved by the Director-General, 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-General 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-General may, before the close of the roll, make any other necessary correction of the roll.
- (5) A determination by the Director-General as to whether or not a person is likely to be a shareholder or commercial fisher in a fishery is final and conclusive.

382 Uncontested election--share management fishery

- (1) In the case of an election for industry members of a MAC for a share management fishery for which members are not elected to represent shareholders of a particular class of shares in the fishery, if by the close of nominations the number of candidates duly nominated for election does not exceed the number of industry members of which the MAC is composed, the returning officer is to declare all those candidates duly elected.
- (2) In the case of an election for industry members of a MAC for a share management fishery for which members are elected to represent shareholders who hold shares of a particular class in the fishery, if by the close of nominations the number of candidates duly nominated for election to represent shareholders who hold shares of a particular class does not exceed the number required to be elected to represent those shareholders (as specified in relation to the fishery concerned in column 3 of the Table to clause 369), the returning officer is to declare those candidates duly elected.
- (3) If the number of candidates in the election exceeds the number required to be elected, a ballot must be held.

383 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 to clause 369), 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.

384 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-General of that fact.

(2) Within 7 days after having been so notified by the returning officer, the Director-General 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.

385 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 two 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.

386 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.

387 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.

388 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.

389 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.

390 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.

391 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.

392 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 389 in respect of the ballot, other than any envelope purporting to contain a ballot-paper rejected under clause 389 (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 393.

393 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 by lot from a receptacle containing the names of each of the candidates having equal votes.

394 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.

395 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.

396 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.

397 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-General 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 7 – Provisions relating to members and procedure of Management Advisory Committees

398 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 6 of this Part).

399 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) (Repealed)

400 (Repealed)

401 Appointment of Nature Conservation Council representatives

(1) For the purposes of clauses 399 (1) (c) and 400 (c), the Minister is to request the Nature Conservation Council to nominate one or more persons from among its officers and members as a candidate or as candidates for appointment to the MAC concerned.

(2) The Minister may decline to accept the nomination of any such 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 or candidates.

(3) If the Nature Conservation Council:

- (a) fails to nominate a candidate, or a sufficient number of candidates, for appointment to the relevant MAC within 60 days after being requested to do so by

the Minister, or

(b) fails to nominate within that period a candidate, or a sufficient number of candidates, whose nomination is, or whose nominations are, accepted by the Minister,

the Minister may appoint as a member of that MAC any person or persons whom the Minister considers suitable to represent the interests of the Council, instead of a person nominated by the Council.

402 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 such appointment.

(2) Such an appointment may be made only 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.

403 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.

404 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.

405 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 5 of this Part), or
- (d) has, in the opinion of the Minister, ceased to effectively represent the shareholders or commercial fishers he or she was elected to represent, or
- (e) has, in the opinion of the Minister, engaged in conduct that is likely to bring the fishing industry into disrepute, or
- (f) has been formally reprimanded by the chairperson of the MAC of which he or she is a member for unruly or disruptive behaviour at a meeting of the MAC on not less than 3 occasions (whether occurring at the same meeting or at different meetings of the MAC).

406 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 6 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.

407 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, subject to clause 408.
- (2) The Minister is to call at least 2 meetings of a MAC each calendar year, unless otherwise determined by the MAC.

408 Transaction of business outside meetings or by telephone

- (1) A MAC may, with the written approval of the Director-General, transact any of its business by the circulation of papers among all the members of the MAC the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the MAC.
- (2) A MAC may, with the written approval of the Director-General, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the chairperson and each member have the same voting rights as they have at an ordinary meeting of the MAC.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the MAC.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

409 Quorum

The quorum for a meeting of a MAC consists of the majority of its industry members for the time being.

410 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) (Repealed)

Part 13 – Enforcement

Division 1 – Fisheries officers

411 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.

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

412 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 14 of the Act (Offences relating to closures),
- (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 2002*,
- (h) an offence against clause 112 of this Regulation (Dynamite and explosive substances),
- (i) an offence against clause 114 of this Regulation (Use of electrical devices prohibited in all waters).

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

413 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.

(2) 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.

(3) 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) is the class of fisheries officers.

414 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) Deputy Director of Fisheries,

- (b) Director, Fisheries Services,
- (c) Director, Office of Conservation,
- (d) Director, Aquaculture,
- (e) Principal Manager Commercial,
- (f) Principal Manager Regional Services,
- (g) Principal Manager Recreational Fisheries,
- (h) Senior Manager Licensing,
- (i) Share Registrar,
- (j) Registered Fish Receiver Registrar.

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-General 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

415 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 14 – Savings and transitional

416 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.

417 Savings provision concerning repealed regulation

Any act, matter or thing that had effect under the repealed regulation immediately before its repeal is taken to have effect under this Regulation.

418 Restricted fisheries--continuation of existing restricted fisheries

(1) The sea urchin and turban shell restricted fishery declared under clause 169 is a continuation of the restricted fishery declared under clause 161 of the repealed regulation.

(2)-(6) (Repealed)

(7) The inland fishery restricted fishery declared under clause 230 is a continuation of the restricted fishery declared under clause 200B of the repealed regulation.

(8) (Repealed)

419 Committees, Councils and Panels

(1) Any Committee, Council or Panel established under or in accordance with the repealed regulation and in existence on the repeal of that regulation is taken to be established under or in accordance with (as the case may be) this Regulation.

(2) Any person who is a member of any such Committee, Council or Panel on the repeal of the repealed regulation is taken to have been appointed or elected to that Committee, Council or Panel under or in accordance with the Act or this Regulation.

(3) Any person who is the chairperson of any such Committee, Council or Panel on the repeal of the repealed regulation is taken to have been appointed as such under this regulation.

(4) However, the chairperson of the Marine and Estuarine Recreational Charter

Management Advisory Committee ceases, despite retaining the office of Chairperson, to be a member of that Committee on the repeal of the repealed regulation.

(5) A person who so ceases to be a member of the Marine and Estuarine Recreational Charter Management Advisory Committee is not entitled to any remuneration or compensation because of the loss of that membership.

420 Refund in respect of review request

Clause 226S (3) of the repealed regulation applies, as if that subclause were still in force, to and in respect of any request made under clause 226S and not finally determined as at the commencement of this Regulation.

421 Interim licence

(1) Clause 226Y (2)-(7) of the repealed regulation applies, as if that clause were still in force, to and in respect of any interim licence issued under clause 226Y and in force on the commencement of this Regulation.

(2) The Minister may renew any such interim licence (on payment of the fee referred to in clause 226Y (3)) pending the outcome of the review that gave rise to its issue.

422 Change in ownership of charter fishing boat licence

(1) Clause 309 (2), as inserted by the *Fisheries Management Legislation Amendment (Miscellaneous) Regulation 2004*, does not authorise the suspension or cancellation of a licence on account of any act or omission that occurred before 1 December 2004.

(2) Clause 309 (h), as in force immediately before 1 December 2004, continues to apply in respect of any change in ownership or shareholding of a non-transferable licence that occurred before 1 December 2004.

423 Voluntary suspension of charter fishing boat licence--clause 309A

(1) If a licence was suspended by the Minister under clause 309 (g), before the commencement of this clause, on the application of the licence holder and that suspension had effect immediately before the commencement of clause 309A, as inserted by the *Fisheries Management Legislation Amendment (Miscellaneous) Regulation 2004*, the licence is taken, on that commencement, to have been suspended under clause 309A and that clause applies in respect of the suspension.

(2) However, clause 309A does not require an annual licence fee to be paid in respect of any period during which a licence was suspended before the commencement of this clause and any such period is to not to be counted for purpose of clause 309A (4) and (9).

424 Abolition of Advisory Council on Commercial Fishing and Aquaculture

(1) The following Advisory Councils are abolished on the commencement of the *Fisheries Management (General) Amendment (Advisory Bodies) Regulation 2004*:

- (a) Advisory Council on Commercial Fishing,
- (b) Advisory Council on Aquaculture.

(2) A person who was a member of any such body immediately before its abolition ceases to be a member and is not entitled to any remuneration or compensation for the loss of that membership.

425 Amalgamation of MACs for ocean fish trawl and ocean prawn trawl restricted fisheries

(1) The following Management Advisory Committees are abolished on the commencement of the *Fisheries Management (General) Amendment (Advisory Bodies) Regulation 2004*:

- (a) Management Advisory Committee for the ocean fish trawl restricted fishery,
- (b) Management Advisory Committee for the ocean prawn trawl restricted fishery.

(2) A person who was a member of any such body immediately before its abolition ceases to be a member and is not entitled to any remuneration or compensation for the loss of that membership.

426 Extension of time for appeals

Clause 140 as amended by the *Fisheries Management (General) Amendment (Appeals) Regulation 2005* extends to an appeal lodged by a person who was notified of the result of his or her application for shares in the period of 90 days immediately before the commencement of that Regulation.

427 Waiver of contribution towards fishery monitoring programs

Clause 150A (5A), as inserted by the *Fisheries Management (General) Amendment (Miscellaneous) Regulation 2005*, extends to a contribution that was payable before the commencement of that subclause.

428 Transitional provision--pending licence applications under Division 6 of Part 7A of the Act

If an application for a licence under Division 6 of Part 7A of the Act was made before, but not determined by, 31 October 2005 (the date of commencement of the amendment to section 220ZZ of the Act by the *Threatened Species Conservation Amendment Act 2002*), the application is to be determined as if that amendment had not been made.

429 Changes to arrangements for payment of fees and contributions

The amendments made to Part 7 by the *Fisheries Management Legislation Amendment Regulation 2007* do not affect any obligation to pay a contribution or fee, or an instalment of a contribution or fee, if the contribution or fee first became payable before the commencement of those amendments.

430 Saving of arrangements for licences voluntarily suspended

(1) A licence placed in abeyance under clause 157 before that clause was substituted by the *Fisheries Management Legislation Amendment Regulation 2007* (the "**amending Regulation**"), which is still in abeyance immediately before the commencement of the amending Regulation, is taken to have been suspended under clause 157 (as substituted by the amending Regulation).

(2) Accordingly, the holder of such a suspended licence is required to pay an annual fee in respect of the suspended licence as provided by clause 157. The first charging date in respect of the annual fee is 1 July 2007.

(3) If the suspension of such a licence is lifted, the holder of the licence is required to pay any fee that the holder would have been required to pay under clauses 154 (9), 154 (10) and 155 (6), as in force before their repeal by the amending Regulation, but only in respect of each year or part of a year for which the licence was in abeyance before 1 July 2007.

431 Continuation of MACs following commencement of certain management plans

(1) On the commencement of the *Fisheries Management Legislation Amendment Regulation 2007*:

(a) a Management Advisory Committee established for a restricted fishery that has become a share management fishery is taken to have been established for the corresponding share management fishery, and

(b) an industry member of a Management Advisory Committee who was elected and appointed to represent a particular class of endorsement holder in a restricted fishery that has become a share management fishery is taken to have been elected and appointed to represent the corresponding class of shareholder (as determined by the Minister) in the share management fishery, subject to subclause (2).

(2) Any person who, immediately before the commencement of the *Fisheries Management Legislation Amendment Regulation 2007*, held office as a member of the MAC for the estuary prawn trawl restricted fishery and was elected to represent

commercial fishers who held an endorsement referred to in clause 217 (1) (a) (as in force immediately before the commencement of that Regulation), ceases to hold that office and is not entitled to any remuneration or compensation for the loss of that office.

432 Nominated fishers--savings consequent on Fisheries Management Legislation Amendment Regulation 2007

(1) A person duly nominated to take fish on behalf of another in a restricted fishery and whose nomination was in force immediately before the commencement of the *Fisheries Management Legislation Amendment Regulation 2007* is taken, on that commencement, to have been registered as an eligible fisher in respect of the fishing business concerned.

(2) Any such person is taken to have been nominated to take fish on behalf of the relevant person in accordance with Division 12 of Part 8.

(3) Subclause (2) does not apply in respect of a fishing business owned by a partnership if, immediately before the commencement of the *Fisheries Management Legislation Amendment Regulation 2007*, there is more than one nominated fisher in respect of the fishing business.

(4) Any person who, immediately before the commencement of the *Fisheries Management Legislation Amendment Regulation 2007*, held an endorsement in respect of a fishing business under clause 270, 271 or 272 of the *Fisheries Management (General) Regulation 2002*, as in force immediately before the repeal of those clauses by the *Fisheries Management Legislation Amendment Regulation 2007*, is taken, on that repeal, to have been registered as an eligible fisher in respect of the fishing business concerned under Part 8A.

(5) This clause does not affect the power of the Director-General to revoke a nomination under Division 12 of Part 8 or to cancel the registration of an eligible fisher under Part 8A.

433 Continuation of old transfer rules

Clause 277, as in force immediately before the commencement of the *Fisheries Management Legislation Amendment Regulation 2007*, continues to apply in respect of the sale or disposal of any part of a fishing business before 5 February 2007.

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 1A Maps of critical habitat of grey nurse shark

(Clause 3)

Schedule 2 Waters in which net and trap fishing are prohibited

(Clause 21)

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 21)

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 71)

This Schedule lists the waters from which taking fish by use of a spear gun is prohibited under clause 71 (1) (b). Clause 71 (1) (a) also prohibits the taking of fish from any inland waters by use of a spear gun.

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, together with the waters of the South Pacific Ocean for a distance of 50 metres from the northern breakwall of the River.

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

See clause 71 (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 Å— 10

centimetre peg on the foreshore, thence along mean high water mark to the point of commencement.

Schedule 5 Penalty notice offences

(Clause 413)

Column 1	Column 2
Offence	Amount of penalty
	Part 1 Offences under the Act
Section 14 (1)	\$500
Section 14 (2)	\$500
Section 16 (1)	\$300
Section 16 (2)	\$300
Section 17 (2)	\$300
Section 18 (2)	\$300
Section 19 (2)	\$500
Section 19 (3)	\$500
Section 20 (3) (a)	\$2,750
Section 20 (3) (b)	\$2,750
Section 20 (3) (c)	\$5,500
Section 22 (2)	\$200
Section 24 (1)	\$500
Section 25 (1)	\$500
Section 34J (1)	\$200
Section 34J (2)	\$200
Section 35 (1)	\$500
Section 39 (2)	\$200
Section 65 (1)	\$200
Section 87 (4)	\$200
Section 87 (5)	\$200
Section 88 (2)	\$200
Section 102 (1)	\$500
Section 104 (7)	\$200
Section 107 (1)	\$300
Section 108 (7)	\$200
Section 110 (9)	\$100
Section 117 (1)	\$500
Section 118 (7)	\$200
Section 119 (3)	\$300
Section 121	\$200
Section 122	\$100
Section 123 (1) (a)	\$200
Section 123 (1) (b)	\$200
Section 123 (1) (c)	\$200
Section 123 (2) (a) (i)	\$200
Section 123 (2) (a) (ii)	\$200
Section 123 (2) (b)	\$200

Section 123 (2) (c)	\$200
Section 123 (3)	\$200
Section 124	\$300
Section 127B (2)	\$200
Section 127B (3)	\$500
Section 127C (7)	\$200
Section 144 (1)	\$500
Section 152 (3)	\$200
Section 155	\$100
Section 170 (3)	\$200
Section 171 (3)	\$200
Section 179 (1) (a)	\$200
Section 179 (1) (b)	\$200
Section 183 (5)	\$500
Section 184	\$300
Section 185	\$300
Section 186	\$300
Section 190 (2)	\$200
Section 197K (1)	\$500
Section 197K (2)	\$500
Section 200 (1)	\$1,000
Section 201 (1)	\$1,000
Section 204B (2)	\$1,000
Section 205 (2)	\$500
Section 206 (1)	\$200
Section 207 (2)	\$200
Section 210 (1)	\$300
Section 211 (1)	\$300
Section 216 (1)	\$300
Section 217 (1)	\$300
Section 217 (2)	\$300
Section 219 (1) (a)	\$1,000
Section 219 (1) (b)	\$1,000
Section 219 (1) (c)	\$1,000
Section 220I (4)	\$100
Section 220ZA in relation to the offence of harming fish or marine vegetation of an endangered species, population or ecological community	\$2,500
Section 220ZA in relation to the offence of harming fish or marine vegetation of a vulnerable species	\$1,000
Section 220ZB (1) in relation to the offence of buying, selling or having in possession fish or marine vegetation of an endangered species	\$2,500
Section 220ZB (1) in relation to the offence of buying, selling or having in possession fish or marine vegetation of a vulnerable species	\$1,000
Section 220ZC (1)	\$5,500
Section 220ZD	\$2,500
Section 221D (3)	\$500
Section 221IJ	\$2,500
Section 221O (5)	\$5,000
Section 247 (1)	\$200
Section 247 (2) in relation to assaulting, abusing or threatening fisheries officer	\$200

Section 247 (2) in relation to encouraging another person to assault, abuse or threaten fisheries officer	\$200
Section 247 (3)	\$200
Section 248 (4)	\$200
Section 249 (3)	\$200
Section 251 (2)	\$200
Section 256 (4)	\$200
Section 257 (4)	\$200
Section 258 (2)	\$200
Section 259 (1)	\$300
	Part 2 Offences under
Clause 20A	\$500
Clause 20B (2)	\$500
Clause 20B (3)	\$500
Clause 66 (1) (a)	\$300
Clause 66 (1) (b) in relation to hand held line with more than 3 hooks or gangs of hooks attached	\$500
Clause 66 (1) (b) in relation to hand held line with more than 3 treble hooks attached to lure	\$500
Clause 66 (1) (c)	\$300
Clause 66 (3) (a)	\$500
Clause 66 (3) (b)	\$500
Clause 66 (6)	\$200
Clause 67 (1)	\$100
Clause 68 (1) (a)	\$200
Clause 68 (1) (b)	\$200
Clause 68 (1) (c)	\$200
Clause 68 (1) (d)	\$200
Clause 68 (2)	\$300
Clause 68 (3)	\$200
Clause 68 (4)	\$200
Clause 69 (1)	\$100
Clause 70 (1)	\$300
Clause 71 (1) (a)	\$300
Clause 71 (1) (b)	\$300
Clause 71 (1) (c)	\$300
Clause 72 (1)	\$300
Clause 73 (1)	\$300
Clause 74 (1)	\$100
Clause 75 (1)	\$300
Clause 75 (2)	\$500
Clause 75 (3)	\$300
Clause 75 (4)	\$300
Clause 76 (2)	\$200
Clause 76 (3)	\$200
Clause 77 (1)	\$200
Clause 77 (2)	\$200
Clause 77 (3)	\$300
Clause 78	\$500
Clause 79 (1)	\$500

Clause 79 (2)	\$300
Clause 79 (3)	\$300
Clause 79A (2)	\$200
Clause 80	\$200
Clause 81	\$300
Clause 107 in relation to the causing the dispersal of fish	\$200
Clause 107 in relation to the interference with the operations of commercial fisher	\$200
Clause 108 (1)	\$200
Clause 110	\$200
Clause 111 (2)	\$200
Clause 116B	\$200
Clause 116C	\$100
Clause 127 (1)	\$100
Clause 127 (2)	\$100
Clause 127 (3)	\$200
Clause 128 (1)	\$200
Clause 129 (1)	\$200
Clause 129 (2)	\$200
Clause 130 (1)	\$300
Clause 130 (2)	\$200
Clause 131 (1)	\$300
Clause 131 (2A)	\$100
Clause 131 (3)	\$300
Clause 132 (1)	\$300
Clause 132 (2)	\$300
Clause 133B	\$200
Clause 165 (1)	\$200
Clause 165 (2) (a)	\$200
Clause 165 (2) (b)	\$200
Clause 166 (2)	\$200
Clause 167	\$200
Clause 336	\$500
Clause 337A	\$200
Clause 340B	\$500
Clause 340C	\$500
	Part 3 Offences under
Clause 54 (1)	\$200
Clause 54 (6)	\$200
Clause 54 (7)	\$200
Clause 55 (5)	\$200
Clause 56 (7)	\$200
	Part 4 Offences under
	Long Reef
Clause 8 (1) (a)	\$500
Clause 8 (1) (b)	\$500
Clause 8 (2) (a)	\$500
Clause 8 (2) (b)	\$500
	Shiprock

Clause 11 (1) (a)	\$500
Clause 11 (1) (b)	\$500
Clause 11 (2) (a)	\$500
Clause 11 (2) (b)	\$500
	Julian Rocks
Clause 14 (1) (a)	\$500
Clause 14 (1) (b)	\$500
Clause 14 (2) (a)	\$500
Clause 14 (2) (b)	\$500
	North Harbour
Clause 17 (1) (a)	\$500
Clause 17 (1) (b)	\$500
Clause 17 (2) (a)	\$500
Clause 17 (2) (b)	\$500
	Bushranger's Bay
Clause 21 (1) (a)	\$500
Clause 21 (1) (b)	\$500
Clause 21 (2) (a)	\$500
Clause 21 (2) (b)	\$500
	Fly Point-Halifax Park
Clause 24 (1) (a)	\$500
Clause 24 (1) (b)	\$500
Clause 24 (2) (a)	\$500
Clause 24 (2) (b)	\$500
	Towra Point
Clause 27 (1) (a)	\$500
Clause 27 (1) (b)	\$500
Clause 27 (2) (a)	\$500
Clause 27 (2) (b)	\$500

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	No	number	Schs	Schedules
Cl	clause	p	page	Sec	section
ClI	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 2002* published in Gazette No 135 of 30.8.2002, p 6698 and amended as follows:*Fisheries Management (General) Amendment (Fees) Regulation 2002* (GG No 160 of 1.10.2002, p 8496)*Fisheries Management (General) Amendment (Miscellaneous) Regulation 2002* (GG No 237 of 29.11.2002, p 10072)*Fisheries Management (General) Amendment (Commercial Fishing and Miscellaneous Matters) Regulation 2003* (GG No 14 of

17.1.2003, p 226) *Fisheries Management (General) Amendment (Fees) Regulation 2003* (GG No 104 of 27.6.2003, p 6082) *Natural Resources Commission Act 2003 No 102*. Assented to 11.12.2003. Date of commencement, 23.1.2004, sec 2 and GG No 16 of 23.1.2004, p 259. *Food Legislation Amendment Act 2004 No 16*. Assented to 24.3.2004. Date of commencement, 5.4.2004, sec 2 and GG No 69 of 2.4.2004, p 1795. *Fisheries Management (General) Amendment (Restricted Fisheries) Regulation 2004* (GG No 63 of 26.3.2004, p 1519) *Fisheries Management (General) Amendment (Protected Fish) Regulation 2004* (GG No 77 of 30.4.2004, p 2226) *Fisheries Management (General) Amendment (Reviews relating to Charter Boat Licences) Regulation 2004* (GG No 77 of 30.4.2004, p 2229) *Fisheries Management Amendment (Fees) Regulation 2004* (GG No 104 of 25.6.2004, p 4505) *Fisheries Management (General) Amendment (Annual Contributions) Regulation 2004* (GG No 104 of 25.6.2004, p 4518) *Fisheries Management (General) Amendment (Manning River Prawn Nets) Regulation 2004* (GG No 138 of 27.8.2004, p 6771) *Fisheries Management (General) Amendment (Recreational Fishing Fee) Regulation 2004* (GG No 138 of 27.8.2004, p 6775) *Fisheries Management Legislation Amendment (Miscellaneous) Regulation 2004* (GG No 187 of 26.11.2004, p 8560) *Fisheries Management (General) Amendment (Advisory Bodies) Regulation 2004* (GG No 195 of 3.12.2004, p 8892) *Fisheries Management (General) Amendment (Management Advisory Committee Membership) Regulation 2004* (GG No 195 of 3.12.2004, p 8898) *Fisheries Management (General) Amendment (Section 220ZB Exemption) Regulation 2004* (GG No 195 of 3.12.2004, p 8901) *Statute Law (Miscellaneous Provisions) Act (No 2) 2004 No 91*. Assented to 10.12.2004. Date of commencement of Sch 2.30, assent, sec 2 (2). *Fisheries Management (General) Amendment (Fish Receivers) Regulation 2005* (GG No 14 of 21.1.2005, p 180) *Fisheries Management (General) Amendment (Appeals) Regulation 2005* (GG No 25 of 11.2.2005, p 334) *Fisheries Management Amendment Regulation 2005* (GG No 28 of 25.2.2005, p 487)

2005	(132)	<i>Fisheries Management (General) Amendment (Jervis Bay Purse Seine Net Permit Fee) Regulation 2005</i> . GG No 42 of 8.4.2005, p 1242. Date of commencement, on gazettal.
	(231)	<i>Fisheries Management (General) Amendment (Miscellaneous) Regulation 2005</i> . GG No 73 of 17.6.2005, p 2357. Date of commencement, 1.7.2005, cl 2.
	(269)	<i>Fisheries Management (General) Amendment (Clarence River) Regulation 2005</i> . GG No 77 of 24.6.2005, p 2966. Date of commencement, on gazettal.
	(307)	<i>Fisheries Management Amendment (Fees) Regulation 2005</i> . GG No 81 of 1.7.2005, p 3331. Date of commencement, 1.7.2005, cl 2.
	(709)	<i>Fisheries Management (General) Amendment (Transitional) Regulation 2005</i> . GG No 133 of 28.10.2005, p 9297. Date of commencement, 31.10.2005, cl 2.
	(727)	<i>Fisheries Management (General) Amendment (Abalone) Regulation 2005</i> . GG No 140 of 18.11.2005, p 9407. Date of commencement, on gazettal.
2006	(497)	<i>Fisheries Management Legislation Amendment (Miscellaneous) Regulation 2006</i> . GG No 110 of 31.8.2006, p 6813. Date of commencement, on gazettal.
	(554)	<i>Fisheries Management Legislation Amendment (Fees and Contributions) Regulation 2006</i> . GG No 114 of 8.9.2006, p 7865. Date of commencement, on gazettal.
	(601)	<i>Fisheries Management (General) Amendment (Listing Criteria) Regulation 2006</i> . GG No 120 of 29.9.2006, p 8454. Date of commencement, 29.9.2006, cl 2.
	(739)	<i>Fisheries Management (General) Amendment (Eligible Fishers and Fishing Business Cards) Regulation 2006</i> . GG No 183 of 15.12.2006, p 10888. Date of commencement, 5.2.2007, cl 2.
2007	(24)	<i>Fisheries Management Legislation Amendment Regulation 2007</i> . GG No 17 of

7		25.1.2007, p 411. Date of commencement, 5.2.2007, cl 2.
	(285)	<i>Fisheries Management Legislation Amendment (Fees, Charges and Contributions) Regulation 2007</i> . GG No 83 of 29.6.2007, p 4031. Date of commencement, 1.7.2007, cl 2.
	(286)	<i>Fisheries Management (Supporting Plan) Amendment (Management Charges) Regulation 2007</i> . GG No 83 of 29.6.2007, p 4042. Date of commencement, 1.7.2007, cl 2.
	(374)	<i>Fisheries Management (General) Amendment (Prohibited Size Fish and Bag Limits) Regulation 2007</i> . GG No 98 of 3.8.2007, p 5340. Date of commencement, 3.9.2007, cl 2.

Table of amendments

Cl 3	Am 29.11.2002; 17.1.2003; 26.11.2004; 25.2.2005; 2007 (24), Sch 1 [2] [3].
Part 2, heading	Am 17.1.2003.
Cl 6	Am 30.4.2004.
Cl 7, 8	Am 17.1.2003.
Part 2, Div 1A	Ins 17.1.2003.
Cl 8A	Ins 17.1.2003. Am 25.2.2005; 2007 (24), Sch 1 [4]-[7].
Cl 8A, table	Ins 17.1.2003. Am 26.11.2004; 2006 (497), Sch 1 [1].
Cl 9	Am 26.11.2004; 2007 (374), Sch 1 [1].
Cl 9, table	Am 26.11.2004; 2007 (374), Sch 1 [2]-[11].
Cl 12	Am 2007 (374), Sch 1 [12].
Cl 13	Am 2007 (374), Sch 1 [13].
Cl 14	Am 29.11.2002; 2007 (374), Sch 1 [14].
Cl 14A	Ins 2007 (374), Sch 1 [15].
Part 2, Div 3, table	Am 29.11.2002; 17.1.2003; 26.11.2004; 2005 (727), Sch 1; 2007 (374), Sch 1 [16]-[25].
Part 2, Div 5 (cl 18A)	Ins 17.1.2003.
Cl 19	Am 17.1.2003; 26.11.2004.
Cl 20	Am 2007 (24), Sch 1 [8].
Cl 20A	Ins 29.11.2002.
Cl 20B	Ins 17.1.2003. Am 3.12.2004.
Cl 24	Am 27.6.2003; 2006 (554), Sch 3 [1]; 2007 (285), Sch 3 [1].
Cl 26	Am 17.1.2003; 26.11.2004; 2007 (24), Sch 1 [9]-[14].
Cl 26, table	Am 17.1.2003; 26.11.2004.
Cl 28	Am 17.1.2003; 2007 (24), Sch 1 [15].
Cl 28, table	Am 17.1.2003; 26.11.2004.
Cl 29	Am 17.1.2003; 26.11.2004; 2007 (24), Sch 1 [16] [17].
Cl 29, table	Am 26.11.2004.
Cl 30	Am 26.11.2004; 2007 (24), Sch 1 [18] [19].
Cl 30, table	Am 26.11.2004; 2007 (24), Sch 1 [20].
Cl 31	Am 26.11.2004; 2007 (24), Sch 1 [21].
Cl 31, table	Am 26.11.2004.
Cl 33	Am 27.8.2004.
Cl 38	Am 17.1.2003; 26.11.2004; 2007 (24), Sch 1 [22] [23].
Cl 38, table	Am 26.11.2004.
Cl 39	Am 2007 (24), Sch 1 [24].
Cl 41	Am 26.11.2004; 2005 (269), Sch 1; 2007 (24), Sch 1 [25] [26].
Cl 41, table	Am 17.1.2003; 26.11.2004.

Cl 43	Am 26.11.2004; 2005 (132), Sch 1 [1].
Cl 43, table	Am 26.11.2004.
Cl 48	Am 26.11.2004; 2007 (24), Sch 1 [27] [28].
Cl 58A	Ins 17.1.2003.
Cl 58B	Ins 17.1.2003. Am 2007 (24), Sch 1 [29]-[31].
Cl 59	Am 26.11.2004; 25.2.2005; 2007 (24), Sch 1 [32] [33].
Cl 59, table	Am 26.11.2004.
Cl 61	Am 26.11.2004; 2007 (24), Sch 1 [34] [35].
Cl 63 and table	Am 26.11.2004.
Cl 66	Am 2007 (374), Sch 1 [26].
Cl 67	Am 2007 (374), Sch 1 [27].
Cl 76	Am 2007 (374), Sch 1 [28].
Cl 77	Am 2007 (374), Sch 1 [29].
Cl 79A	Ins 17.1.2003. Am 2007 (24), Sch 1 [36] [37].
Cl 79B	Ins 2007 (24), Sch 1 [38].
Cl 84	Am 26.11.2004.
Cl 85	Am 26.11.2004; 2007 (24), Sch 1 [39]-[41].
Cl 106	Subst 17.1.2003. Am 3.12.2004.
Cl 113	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [1]; 2006 (554), Sch 3 [2]; 2007 (285), Sch 3 [2].
Cl 115	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [2]; 2006 (554), Sch 3 [3]; 2007 (285), Sch 3 [3].
Cl 116, table	Am 26.11.2004.
Part 5, Div 4A (cl 116A)	Ins 17.1.2003.
Part 5, Div 4B (cll 116B, 116C)	Ins 26.11.2004.
Cl 118	Am 27.8.2004.
Cl 119A	Ins 2005 (231), Sch 1 [1].
Cl 121	Am 2006 (554), Sch 3 [4].
Cl 124	Am 2005 (231), Sch 1 [2]-[5].
Cl 125	Am 2006 (554), Sch 3 [5].
Cll 129-131	Am 26.11.2004.
Cl 133	Am 27.6.2003; 25.6.2004; 2007 (285), Sch 3 [4].
Cl 133A	Ins 1.10.2002. Am 27.6.2003; 25.6.2004. Subst 2005 (132), Sch 1 [2]. Am 2005 (307), Sch 3 [3]; 2006 (554), Sch 3 [6]; 2007 (285), Sch 3 [5].
Cl 133B	Ins 17.1.2003.
Part 5A	Ins 2006 (497), Sch 1 [2].
Part 5A, Div 1, heading	Ins 2007 (24), Sch 1 [42].
Cl 133C	Ins 2006 (497), Sch 1 [2].
Part 5A, Div 2, heading	Ins 2007 (24), Sch 1 [43].
Cl 133D	Ins 2006 (497), Sch 1 [2].
Cl 133DA	Ins 2007 (24), Sch 1 [44].
Cl 133E	Ins 2006 (497), Sch 1 [2]. Am 2007 (24), Sch 1 [45].
Part 5A, Divs 3, 4 (cll 133F-133N)	Ins 2007 (24), Sch 1 [46].
Part 5A, Div 5	Ins 2007 (24), Sch 1 [46].
Cl 133O	Ins 2007 (24), Sch 1 [46]. Am 2007 (285), Sch 3 [6].
Cl 133P	Ins 2007 (24), Sch 1 [46].

Part 5A, Div 6 (cl 133Q)	Ins 2007 (24), Sch 1 [46].
Part 6, Div 1, heading	Ins 2006 (497), Sch 1 [3].
Cl 136	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [4]; 2006 (554), Sch 3 [7]. Rep 2007 (24), Sch 1 [47].
Cl 137	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [5]; 2006 (554), Sch 3 [8]; 2007 (285), Sch 3 [7].
Cl 138 and note	Am 25.2.2005.
Cl 140	Am 27.6.2003; 3.12.2004; 11.2.2005.
Cl 141	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [6] [7]; 2006 (554), Sch 3 [9] [10]; 2007 (24), Sch 1 [48]-[50]; 2007 (285), Sch 3 [8] [9].
Cl 142	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [8] [9]; 2006 (554), Sch 3 [11]; 2007 (285), Sch 3 [10] [11].
Part 6, Div 2 (cll 142A-142G)	Ins 2006 (497), Sch 1 [4].
Cl 143	Am 2007 (24), Sch 1 [51] [52].
Cl 144	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [10] [11]; 2006 (554), Sch 3 [12]-[14]. Subst 2007 (24), Sch 1 [53]. Am 2007 (285), Sch 3 [12] [13].
Cl 145	Am 2007 (24), Sch 1 [54]-[57].
Cl 146	Am 26.11.2004; 2007 (24), Sch 1 [58]-[60].
Cl 146A	Ins 29.11.2002. Rep 2007 (24), Sch 1 [61].
Cl 147	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [12] [13]; 2006 (554), Sch 3 [15] [16]; 2007 (24), Sch 1 [54] [62]-[64]; 2007 (285), Sch 3 [14] [15].
Cl 147A	Ins 2007 (24), Sch 1 [65]. Am 2007 (286), Sch 2 [1].
Cl 147B	Ins 2007 (24), Sch 1 [65].
Cl 148	Am 2007 (24), Sch 1 [54] [66] [67].
Cl 149	Am 2007 (24), Sch 1 [68].
Cl 150	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [14]; 2006 (554), Sch 3 [17]. Subst 2007 (24), Sch 1 [69]. Am 2007 (285), Sch 3 [16].
Cl 150A	Ins 25.6.2004. Am 2005 (231), Sch 1 [6]; 2005 (307), Sch 3 [15]-[17]; 2006 (554), Sch 3 [18]-[20]. Subst 2007 (24), Sch 1 [69]. Am 2007 (285), Sch 3 [17].
Cl 150B	Ins 25.2.2005. Am 2006 (554), Sch 3 [21]. Subst 2007 (24), Sch 1 [69]. Am 2007 (285), Sch 3 [18].
Cl 150C	Ins 2007 (24), Sch 1 [69]. Am 2007 (285), Sch 3 [19].
Cl 150D	Ins 2007 (24), Sch 1 [69]. Am 2007 (285), Sch 3 [20].
Cl 150E	Ins 2007 (24), Sch 1 [70].
Cl 151	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [18] [19]; 2006 (554), Sch 3 [22]-[25]. Subst 2007 (24), Sch 1 [71]. Am 2007 (285), Sch 3 [21] [22]; 2007 (286), Sch 2 [2].
Cl 152	Am 2007 (24), Sch 1 [72]-[75].
Cl 152A	Ins 2007 (24), Sch 1 [76].
Cl 153	Am 17.1.2003; 26.11.2004; 2007 (24), Sch 1 [77]-[84].
Cl 154	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [20] [21]; 2006 (554), Sch 3 [26]-[28]; 2007 (24), Sch 1 [85]-[87]; 2007 (285), Sch 3 [23] [24]; 2007 (286), Sch 2 [3].
Cl 154A	Ins 2007 (24), Sch 1 [88]. Am 2007 (286), Sch 2 [4].
Cl 155	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [22]; 2006 (554), Sch 3 [29]. Subst 2007 (24), Sch 1 [89]. Rep 2007 (286), Sch 2 [5].
Cl 156	Am 2007 (24), Sch 1 [90]-[92].

CI 157	Subst 2007 (24), Sch 1 [93]. Am 2007 (286), Sch 2 [6].
CI 157A	Ins 2007 (24), Sch 1 [93].
CI 158	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [23]; 2006 (554), Sch 3 [30]; 2007 (24), Sch 1 [94]-[96]; 2007 (285), Sch 3 [25].
CI 159	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [24]; 2006 (554), Sch 3 [31]. Subst 2007 (24), Sch 1 [97].
CI 159A	Ins 2007 (24), Sch 1 [97].
CI 161	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [25]; 2006 (554), Sch 3 [32]; 2007 (285), Sch 3 [26].
CI 164	Am 27.6.2003; 2005 (307), Sch 3 [26]; 2006 (554), Sch 3 [33]. Rep 2007 (24), Sch 1 [98].
Part 8, Div 1, heading	Am 2007 (24), Sch 1 [99].
CI 168	Am 2007 (24), Sch 1 [100].
CI 171	Subst 2007 (24), Sch 1 [101].
CI 173	Am 27.6.2003; 25.6.2004; 25.2.2005; 2005 (307), Sch 3 [27]; 2006 (554), Sch 3 [34]. Rep 2007 (24), Sch 1 [102].
CI 174	Am 25.2.2005; 2007 (24), Sch 1 [54] [103]-[106].
CI 175	Subst 2007 (24), Sch 1 [107].
CI 176	Am 25.2.2005. Rep 2007 (24), Sch 1 [108].
CI 177	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [28] [29]; 2006 (554), Sch 3 [35] [36]. Rep 2007 (24), Sch 1 [108].
CI 178	Am 25.2.2005; 2007 (24), Sch 1 [54] [109]-[111].
CI 181	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [30]; 2006 (554), Sch 3 [37]; 2007 (285), Sch 3 [27].
Part 8, Div 2	Rep 2007 (24), Sch 1 [112].
CI 183	Am 26.3.2004. Rep 2007 (24), Sch 1 [112].
CII 184-186	Rep 2007 (24), Sch 1 [112].
CI 187	Am 2006 (554), Sch 3 [38]. Rep 2007 (24), Sch 1 [112].
CII 188-190	Rep 2007 (24), Sch 1 [112].
Part 8, Div 3, heading	Am 2007 (24), Sch 1 [113].
CI 191	Am 26.3.2004; 2007 (24), Sch 1 [114].
CI 192	Subst 2007 (24), Sch 1 [115].
CI 193	Subst 2007 (24), Sch 1 [116].
CI 194	Am 2006 (497), Sch 1 [5]. Subst 2007 (24), Sch 1 [116].
CI 195	Am 2006 (554), Sch 3 [39]; 2007 (24), Sch 1 [54] [117]-[120].
CI 196	Subst 2007 (24), Sch 1 [121].
CI 197	Rep 2007 (24), Sch 1 [122].
CI 198	Am 2007 (24), Sch 1 [54] [123] [124].
Part 8, Div 4	Rep 2007 (24), Sch 1 [112].
CI 199	Am 26.3.2004; 25.2.2005. Rep 2007 (24), Sch 1 [112].
CII 200-202	Rep 2007 (24), Sch 1 [112].
CI 203	Am 2006 (554), Sch 3 [40]. Rep 2007 (24), Sch 1 [112].
CI 204-206	Rep 2007 (24), Sch 1 [112].
Part 8, Div 5	Rep 2007 (24), Sch 1 [112].
CI 207	Am 26.3.2004. Rep 2007 (24), Sch 1 [112].
CI 208	Rep 2007 (24), Sch 1 [112].
CI 208A	Ins 17.1.2003. Rep 2007 (24), Sch 1 [112].
CI 209	Am 17.1.2003; 26.11.2004. Rep 2007 (24), Sch 1 [112].
CI 209A	Ins 17.1.2003. Am 2006 (497), Sch 1 [6]. Rep 2007 (24), Sch 1 [112].

Cl 209B	Ins 17.1.2003. Rep 2007 (24), Sch 1 [112].
Cl 210	Rep 2007 (24), Sch 1 [112].
Cl 211	Am 2006 (554), Sch 3 [41]. Rep 2007 (24), Sch 1 [112].
Cll 212-214	Rep 2007 (24), Sch 1 [112].
Cll 214A-214C	Ins 26.11.2004. Rep 2007 (24), Sch 1 [112].
Part 8, Div 6	Rep 2007 (24), Sch 1 [112].
Cl 215	Am 26.3.2004. Rep 2007 (24), Sch 1 [112].
Cl 216	Rep 2007 (24), Sch 1 [112].
Cl 216A	Ins 17.1.2003. Rep 2007 (24), Sch 1 [112].
Cl 217	Am 26.11.2004. Rep 2007 (24), Sch 1 [112].
Cl 218	Am 2006 (554), Sch 3 [42]. Rep 2007 (24), Sch 1 [112].
Cll 219-221	Rep 2007 (24), Sch 1 [112].
Part 8, Div 7	Rep 2007 (24), Sch 1 [112].
Cll 222-225	Rep 2007 (24), Sch 1 [112].
Cl 226	Am 2005 (307), Sch 3 [31]; 2006 (554), Sch 3 [43]. Rep 2007 (24), Sch 1 [112].
Cll 227, 228	Rep 2007 (24), Sch 1 [112].
Cl 238	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [32] [33]; 2006 (554), Sch 3 [44] [45]; 2007 (285), Sch 3 [28] [29].
Cl 242	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [34]; 2006 (554), Sch 3 [46]; 2007 (285), Sch 3 [30].
Part 8, Div 9	Rep 2007 (24), Sch 1 [112].
Cll 244-249	Rep 2007 (24), Sch 1 [112].
Cl 250	Am 2006 (554), Sch 3 [47]. Rep 2007 (24), Sch 1 [112].
Cll 251-254	Rep 2007 (24), Sch 1 [112].
Part 8, Div 10	Rep 2007 (24), Sch 1 [112].
Cl 255	Am 26.3.2004. Rep 2007 (24), Sch 1 [112].
Cl 256	Rep 2007 (24), Sch 1 [112].
Cl 256A	Ins 17.1.2003. Rep 2007 (24), Sch 1 [112].
Cl 256A, table	Ins 17.1.2003. Am 26.11.2004. Rep 2007 (24), Sch 1 [112].
Cl 257	Rep 2007 (24), Sch 1 [112].
Cl 258	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [35]-[37]; 2006 (554), Sch 3 [48]-[50]. Rep 2007 (24), Sch 1 [112].
Cll 259-261	Rep 2007 (24), Sch 1 [112].
Cl 262	Am 17.1.2003. Rep 2007 (24), Sch 1 [112].
Cll 263-266	Rep 2007 (24), Sch 1 [112].
Cl 267	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [38]-[40]; 2006 (554), Sch 3 [51]-[53]. Rep 2007 (24), Sch 1 [112].
Cl 268	Rep 2007 (24), Sch 1 [112].
Part 8, Div 11	Rep 2007 (24), Sch 1 [112].
Cll 269-272	Rep 2007 (24), Sch 1 [112].
Cl 273	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [41]; 2006 (554), Sch 3 [54]. Rep 2007 (24), Sch 1 [112].
Cll 274, 275	Rep 2007 (24), Sch 1 [112].
Part 8, Div 12	Subst 2007 (24), Sch 1 [125].
Part 8, Div 12, note	Subst 2007 (24), Sch 1 [125].
Cll 276, 277	Subst 2007 (24), Sch 1 [125].
Cll 277A-277C	Ins 2007 (24), Sch 1 [125].
Cl 278	Rep 2007 (24), Sch 1 [126].
Cl 278A	Ins 17.1.2003. Rep 2007 (24), Sch 1 [126].
Parts 8A, 8B (cll	Ins 2006 (739), Sch 1.

280A-280F)	
Cl 285	Am 27.6.2003; 25.6.2004. Subst 21.1.2005. Am 2005 (307), Sch 3 [42]; 2006 (554), Sch 3 [55]-[57]; 2007 (285), Sch 3 [31]-[33].
Cl 286	Am 2004 No 16, Sch 2.4; 21.1.2005.
Cl 286A	Ins 21.1.2005.
Cll 287, 288	Am 2004 No 16, Sch 2.4.
Cl 289	Subst 26.11.2004.
Cl 290	Subst 2007 (24), Sch 1 [127].
Cll 290A, 290B	Ins 2007 (24), Sch 1 [127].
Cl 292	Am 25.2.2005.
Cl 293	Am 29.11.2002; 25.2.2005.
Cl 299	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [43] [44]; 2006 (554), Sch 3 [58] [59]; 2007 (285), Sch 3 [34] [35].
Cl 304	Am 26.11.2004.
Cl 305	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [45]; 2006 (554), Sch 3 [60]; 2007 (285), Sch 3 [36].
Cl 306	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [46]; 2006 (554), Sch 3 [61]; 2007 (285), Sch 3 [37].
Cl 308	Am 27.6.2003; 25.6.2004; 2005 (307), Sch 3 [47]; 2006 (554), Sch 3 [62]; 2007 (285), Sch 3 [38].
Cl 309	Am 26.11.2004.
Cl 309A	Ins 26.11.2004.
Part 10, Div 3, heading	Subst 30.4.2004.
Part 10, Div 3, note	Am 30.4.2004.
Cl 313	Am 30.4.2004.
Cl 314	Subst 30.4.2004.
Cl 315	Am 29.11.2002; 30.4.2004.
Cl 316	Rep 30.4.2004.
Cl 317	Am 30.4.2004.
Cl 335	Am 29.11.2002.
Cl 337A	Ins 17.1.2003.
Cl 339	Am 27.6.2003; 25.6.2004. Subst 26.11.2004. Am 2005 (307), Sch 3 [48]-[50]; 2006 (554), Sch 3 [63]-[65]; 2007 (285), Sch 3 [39]-[41].
Cl 339A	Ins 17.1.2003. Am 26.3.2004.
Cl 340	Subst 29.11.2002. Am 26.11.2004; 3.12.2004.
Cl 340AA	Ins 26.11.2004.
Part 11A, heading	Ins 29.11.2002. Subst 3.12.2004.
Part 11A	Ins 29.11.2002.
Part 11A, Div 1, heading	Ins 3.12.2004.
Cl 340A	Ins 29.11.2002. Am 3.12.2004.
Cll 340B, 340C	Ins 29.11.2002.
Part 11A, Div 2, heading	Ins 3.12.2004.
Cl 340D	Ins 29.11.2002. Rep 17.1.2003. Ins 3.12.2004.
Part 11B, Divs 1-4 (cll 340E-340R)	Ins 2006 (601), Sch 1.
Part 12, Div 2 (cll 342-346)	Rep 2003 No 102, Sch 2.3 [1].
Cl 348	Am 2003 No 102, Sch 2.3 [2]; 3.12.2004.

Cl 349	Subst 3.12.2004. Am 2005 (231), Sch 1 [7].
Cl 351	Rep 2003 No 102, Sch 2.3 [3].
Cl 352	Rep 3.12.2004.
Cl 357	Am 2004 No 91, Sch 2.30.
Cl 361	Am 3.12.2004.
Cl 368	Am 2007 (24), Sch 1 [128].
Cl 369	Am 3.12.2004; 2007 (24), Sch 1 [129] [130].
Cl 369, table	Am 3.12.2004; 2005 (231), Sch 1 [8]; 2007 (24), Sch 1 [131]-[135].
Cl 370	Am 2007 (24), Sch 1 [136]-[138].
Cl 371	Am 26.11.2004.
Cl 372	Am 2007 (24), Sch 1 [139]-[141].
Cl 373	Rep 2007 (24), Sch 1 [142].
Cl 382	Subst 2007 (24), Sch 1 [143].
Cl 399	Am 2005 (231), Sch 1 [9].
Cl 400	Rep 2005 (231), Sch 1 [10].
Cl 405	Am 3.12.2004.
Cl 410	Am 2005 (231), Sch 1 [11].
Cl 418	Am 2007 (24), Sch 1 [144].
Cll 422, 423	Ins 26.11.2004.
Cll 424, 425	Ins 3.12.2004.
Cl 426	Ins 11.2.2005.
Cl 427	Ins 2005 (231), Sch 1 [12].
Cl 428	Ins 2005 (709), Sch 1.
Cll 429-433	Ins 2007 (24), Sch 1 [145].
Sch 1A	Ins 29.11.2002.
Sch 4	Am 26.11.2004.
Sch 5	Am 29.11.2002; 17.1.2003; 26.11.2004; 2007 (374), Sch 1 [30].
The whole Regulation (cl 414 (a)-(d) excepted)	Am 2007 (24), Sch 1 [1] ("Director" and "Director's" omitted wherever occurring, "Director-General" and "Director-General's" inserted instead, respectively).