

1995—No. 11

FISHERIES MANAGEMENT ACT 1994—REGULATION

(Fisheries Management (General) Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Fisheries Management Act 1994, has been pleased to make the Regulation set forth hereunder.

I. R. CAUSLEY,
Minister for Agriculture and Fisheries.

PART 1—PRELIMINARY

Citation

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

Commencement

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

Definitions

3. (1) In this Regulation:

“**fish protected from commercial fishing**” means fish declared by this Regulation to be protected from commercial fishing for the purposes of section 20 of the Act;

“**fisheries official**” means a fisheries officer or an officer of NSW Fisheries;

“**inland waters**” means waters not subject to tidal influence;

“**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;

“ocean waters” is defined in Schedule 1;

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

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

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

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

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

“setting” includes fixing, placing and staking;

“the Act” means the Fisheries Management Act 1994;

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

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

The management plan for a fishery prevails over this Regulation

4. This Regulation is subject to section 62 of the Act.

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

PART 2—PROTECTED FISH, PROHIBITED SIZE FISH BAG LIMITS

Division 1—Protected fish

Protected fish

5. 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

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

PART 2—FRESHWATER SPECIES

<i>Common name</i>	<i>Species</i>
Australian grayling	<i>Prototroctes maraena</i>
Eastern freshwater cod	<i>Maccullochella ikei</i>
Trout cod	<i>Maccullochella macquariensis</i>
Macquarie perch	<i>Macquaria australasica</i>

Fish protected from commercial fishing

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

TABLE—FISH PROTECTED FROM COMMERCIAL FISHING
PART 1—MARINE OR ESTUARINE SPECIES

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

PART 2—FRESHWATER SPECIES

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

Division 2—Prohibited size fish**Prohibited size fish**

7. (1) For the purposes of section 15 (1) of the Act, a fish is a prohibited size fish if:

- (a) in the case of a fish of a species specified in Column 1 of Table 1—the measurement of the fish is less than the minimum measurement specified opposite that species of fish in Column 2 of that Table; or
- (b) in the case of a fish of a species specified in Column 1 of Table 2—the measurement of the fish is more than the maximum measurement specified opposite that species of fish in Column 2 of that Table.

(2) For the purposes of section 15 (2) of the Act, the method of determining the measurement of any class of fish is as follows:

- (a) except as provided by this subclause—the overall length of the fish is to be measured from the point of the snout to the tip of the tail;
- (b) in the case of abalone—the diameter of the shell is to be measured along its longest axis;
- (c) in the case of crab (other than spanner crab)—the length of the crab is to be measured along the body from the notch between the most protruding frontal teeth to the centre of the posterior margin of the carapace;
- (d) in the case of spanner crab—the length of the spanner crab is to be measured along the body from the base of the orbital notch to the centre of the posterior margin of the carapace;

- (e) in the case of freshwater spiny crayfish known as Murray or Murrumbidgee Crayfish—the length of the carapace of the crayfish is to be measured along the straight line from the posterior margin of the orbit (eye) socket to the centre of the posterior margin of the carapace;
- (f) in the case of rock lobster—the length of the carapace of the rock lobster is to be measured along the straight line from the point of union of the second antennae to the centre of the posterior margin of the carapace (ignoring any hairs attached to the carapace);
- (g) in the case of turban snail—the diameter of the shell is to be measured along its longest axis.

TABLE 1—PROHIBITED SIZE FISH (MINIMUM MEASUREMENTS)
PART 1 (FISH—MARINE OR ESTUARINE)

<i>Common name</i>	<i>Column 1 Species</i>	<i>Column 2 Minimum measurement in centimetres</i>
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>	33
Flathead, sand	<i>Platycephalus caeruleopunctatus</i>	33
Flathead, tiger	<i>Platycephalus richardsoni</i>	33
Luderick (or blackfish)	<i>Girella tricuspidata</i>	25
Morwong, jackass fish	<i>Nemadactylus macropterus</i>	28
Morwong, red or sea carp	<i>Cheilodactylus fuscus</i>	25
Morwong, rubberlip	<i>Nemadactylus douglasii</i>	28
Mullet, sea or bully	<i>Mugil cephalus</i>	30
Mulloway (or jewfish)	<i>Argyrosomus hololepidotus</i>	45
School shark	<i>Galeorhinus galeus</i>	91
Snapper	<i>Pagrus auratus</i>	28
Tailor	<i>Pomatomus saltatrix</i>	30
Tarwhine	<i>Rhabdosargus sarba</i>	20
Teraglin	<i>Atractoscion aequidens</i>	38
Yellowtail kingfish	<i>Seriola lalandi</i>	60
Whiting, sand or silver	<i>Sillago ciliata</i>	27

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PART 2 (INVERTEBRATES—MARINE OR ESTUARINE)

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

PART 3 (FISH—FRESHWATER OR ESTUARINE)

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

PART 4 (INVERTEBRATES—FRESHWATER)

<i>Common name</i>	<i>Column 1 Species</i>	<i>Column 2 Minimum measurement in centimetres</i>
Crayfish, Murray or freshwater spiny	<i>Euastacus armatus</i>	8

TABLE 2—PROHIBITED SIZE FISH (MAXIMUM MEASUREMENTS)

PART 1 (INVERTEBRATES—MARINE OR ESTUARINE)

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

Defence—taking of sea mullet for bait

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

Division 3—Bag limits**Bag limits—taking of fish**

9. (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.

Bag limits—possession of fish

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

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

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Column 2 of Part 3 or 4 of that Table, the quantity specified opposite that species of fish in Column 4 of Part 3 or 4 that Table.

Application of bag limits and possession limits to commercial fishers

11. (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.

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

12. 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 has previously been sold.

TABLE—BAG LIMITS

PART 1 (FISH—MARINE OR ESTUARINE)

<i>Common name</i>	<i>Column 1 Species</i>	<i>Column 2 Daily limit and possession limit</i>
Bar cod	<i>E. ergastulerius</i>	5 comprised of any single species or a combination of species
Bass groper	<i>Polyprion maeone</i>	
Hapuka	<i>Polyprion oxygeneios</i>	
Trevalla, blue-eye or deep sea	<i>Hyperoglyphe antarctica</i>	
Blackfish, rock	<i>Girella elevata</i>	10
Bream, black or southern Bream, yellowfin	<i>Acanthopagrus butcheri</i> <i>Acanthopagrus australis</i>	20 comprised wholly of black or southern bream or wholly of yellowfin bream or partly of each
Flathead, dusky or common	<i>Platycephalus fuscus</i>	10
Flathead, sand or eastern blue spot	<i>Platycephalus caeruleopunctatus</i>	20 comprised wholly of a single flathead species or a combination of species except for dusky or common flathead which are subject to a separate limit
Flathead, tiger	<i>Platycephalus richardsoni</i>	
Flathead, all other	<i>Platycephalus spp.</i>	

Groper, blue, red or brown	<i>Achoerodus viridis</i>	2
Hairtail	<i>Trichiurus lepturus</i>	10
Kingfish, yellow tail	<i>Seriola lalandi</i>	5
Luderick (or blackfish)	<i>Girella tricuspidata</i>	20
Mackerel, spotted	<i>Scomberomorus munroi</i>	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>	
Morwong, red	<i>Cheilodactylus fuscus</i>	5
Mulloway	<i>Argyrosomus hololepidotus</i>	5 (with not more than 2 longer than 70 cms)
Salmon, Australian	<i>Arripis trutta</i>	5
Snapper	<i>Pagrus auratus</i>	10
Tailor	<i>Pomatomus saltatrix</i>	20
Teraglin	<i>Atractoscion aequidens</i>	5
Trevallies	<i>Pseudocaranx dentex</i> <i>Caranx spp.</i>	20 comprised wholly of any single species or a combination of species
Tuna, yellowfin	<i>Thunnus albacares</i>	2 comprised of any single species or a combination of species, each of which is longer than 90cm
Tuna, albacore	<i>Thunnus alalunga</i>	
Tuna, big-eye	<i>Thunnus obesus</i>	
Tuna, northern bluefin	<i>Thunnus tonggol</i>	
Tuna, southern bluefin	<i>Thunnus maccoyii</i>	
Whiting	<i>Sillago spp.</i>	20 comprised of any single species or a combination of species

PART 2 (INVERTEBRATES AND TUNICATES)

<i>Common name</i>	<i>Column 1 Species</i>	<i>Column 2 Daily limit and possession limit</i>
Abalone	<i>Haliotis rubra</i>	10
Beach worms	Species of Family Onuphidae	20
Cockle Pipi Mussel	<i>Anadara spp.</i> <i>Donax deltooides</i> <i>Mytilis edulis</i>	50 comprised wholly of cockles or wholly of pipis or wholly of mussels or partly of each
Crab, blue swimmer	<i>Portunus pelagicus</i>	20
Crab, mud, black or mangrove	<i>Scylla serrata</i>	5
Crab, spanner	<i>Ranina ranina</i>	10
Crabs, all species other than blue swimmer, mud, black, mangrove, spanner, or soldier (Mictyris spp.)	Species of Subclass Brachyura	10 comprised wholly of any single species or a combination of species
Cunjevoi	<i>Pyura spp.</i>	20 comprised wholly of any single species or a combination of species
Lobster, eastern rock Lobster, southern rock Lobster, painted rock Lobster, painted rock Lobster, slipper (Shovelnose lobster)	<i>Jasus verreauxi</i> <i>Jasus edwardsii</i> <i>Panulirus Longipes</i> <i>Panulirus ornatus</i> <i>Scyllarides squammosus</i>	2 comprised wholly of any single species or a combination of species
Oyster, Sydney rock Oyster, Pacific Oyster, flat or drift	<i>Saccostrea commercialis</i> <i>Crassostrea gigas</i> <i>Ostrea angasi</i>	50 comprised wholly of any single species or a combination of species

Molluscs except squid, octopus and cuttlefish (Class Cephalopoda) and any other mollusc referred to in this Table	Species of Phylum Mollusca	20 comprised wholly of any single species or a combination of species
Scallops	Species of Family Pectinidae	50 (except where Division 4 of this Part applies)
Sea urchin	Species of Class Echinoidea	10 comprised wholly of any single species or a combination of species

PART 3 (FISH—FRESHWATER OR ESTUARINE)

<i>Common name</i>	<i>Column 1 Species</i>	<i>Column 2 Waters</i>	<i>Column 3 Daily limit</i>	<i>Column 4 Possession limit</i>
Murray cod	<i>Maccullochella peelii</i>	All waters of NSW	2	4
Golden perch	<i>Macquaria ambigua</i>	Backed up waters of dams and impoundments	5	10
		All other waters of NSW	10	20
Silver perch	<i>Bidyanus bidyanus</i>	Backed up waters of dams and impoundments	5	10
		All other waters of NSW	2	4
Catfish. eel-tailed	<i>Tandanus tandanus</i>	Backed up waters of dams and impoundments	5	10
		All other waters of NSW	2	4
Australian bass	<i>Macquaria novemaculeata</i>	All waters of NSW	2 comprised wholly of Australian bass	4 comprised of a combination of Australian bass and estuary perch (only 1 of which can be longer than 35 cm)
Estuary perch	<i>Macquaria colonorum</i>		or wholly of estuary perch or partly of each (only 1 of which can be longer than 35 cm)	

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

PART 4 (INVERTEBRATES—FRESHWATER)

<i>Common name</i>	<i>Column 1 Species</i>	<i>Column 2 Waters</i>	<i>Column 3 Daily limit</i>	<i>Column 4 Possession limit</i>
Murray crayfish	<i>Euastacu armatus</i>	All waters of NSW	10	20

Division 4—Special provisions relating to scallops

Definitions

13. 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.

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

14. (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.

Bag limits—scallops taken by means of a dredge

15. (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:

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

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

- (a) if all scallops on the boat are in approved sacks (whether wholly or partly filled)—30 approved sacks, less the number of approved sacks containing scallops that are on the boat and are not in that person's possession;
- (b) if all scallops on the boat are in approved crates (whether wholly or partly filled—48 approved crates, less the number of approved crates containing scallops that are on the boat and are not in that person's possession;
- (c) in any other case—nil.

(3) For the purposes of section 18 (1) of the Act, when a person in possession of scallops is not a commercial fisher and is on a boat containing a dredge or similar device capable of taking scallops, the possession limit of scallops for that person is nil.

PART 3—FISHING GEAR**Division 1—Lawful use of fishing gear generally**

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

Fishing gear cannot be used in circumstances where fishing prohibited

16. (1) A provision of this Part that declares the use of a net or other fishing gear to be lawful, or to be lawful in specified circumstances, does not affect any prohibition or conditions imposed by or under the Act with respect to the taking of fish.

(2) In particular' nothing in this Part is to be construed as authorising the use, in any circumstances, of a net or other fishing gear for any of the following:

- (a) the taking of fish in waters that are closed to fishing by virtue of a notification in force under section 8 of the Act;

- (b) the taking of fish that are prohibited size fish or protected fish;
- (c) the taking for sale of fish protected from commercial fishing.

Lawful use of fishing gear in restricted fisheries

17. (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.

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

18. (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 dip or scoop net for the purpose of taking fish and the use of that net by the person for taking those fish from those waters is, but for this clause, lawful; or
- (b) the person is using a net that is a prawn net (set pocket) for the purpose of taking fish from the waters described in Schedule 3 and the use of that net by the person for taking those fish from those waters is, but for this clause, lawful.

(2) Despite the other provisions of this Part, it is unlawful for a person to use a trap for the purpose of taking fish in any of the waters described in Schedule 2 unless:

- (a) the person is using a trap that is a bait trap for the purpose of taking fish and the use of that trap by the person for taking those fish from those waters is, but for this clause, lawful; or
- (b) the person is using a trap that is a lobster trap for the purpose of taking fish from the waters of Broken Bay south of a line between Little Box Head and the northern most point of Mt Ettalong and the use of that trap by the person for taking those fish from those waters is, but for this clause, lawful.

(3) A fishing closure to which clause 4 of Schedule 7 to the Act applies (being a fishing closure which was formerly a prohibition contained in section 19 of the 1935 Act) is revoked.

Division 2—Registration**Registration of fishing gear**

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

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

Applications for registration

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

Registration

21. (1) If an application for the registration of fishing gear is duly made and the fishing gear may lawfully be used, the Director may register the fishing gear.

(2) Registration of fishing gear is to be certified in such form or manner as the Director approves.

(3) Registration remains in force for the life of the fishing gear.

(4) The fee to be paid for the registration of fishing gear is \$20.

(5) Registration is not transferable.

(6) The Director may cause to be compiled a register of all fishing gear registered, containing in respect of each fishing gear the registration number, the name and address of the owner, the class of the fishing gear and the dimensions and mesh of the whole or of each part of the fishing gear.

Division 3—Lawful commercial nets**Application of Division**

22. The nets described in this Division may be lawfully used only by a commercial fisher.

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

Hauling net (general purpose)

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

- (a) The net is used only by the method of hauling.
- (b) The net has a bunt.
- (c) In waters (other than Ocean waters and sea beaches):
 - (i) the bunt of the net is in the centre of the net; and
 - (ii) the net has 2 wings of equal length.
- (d) In ocean waters and sea beaches, the bunt of the net:
 - (i) is in the centre of the net and the net has 2 wings of equal length; or
 - (ii) is located between the end of the net first cast or shot and the centre of the net.
- (e) Except as provided by paragraph (f), the length of each hauling line attached to the net does not exceed the total length of the net to which it is attached.
- (f) The length of each hauling line attached to the net does not exceed:
 - (i) 2,100 metres in length in the waters of St. Georges Basin. between 1 July and 30 September in any year; or
 - (ii) 190 metres in length in the waters of that part of the entrance to Wallaga Lake (together with all its inlets and tributaries) extending seawards from the bridge and embankment on the Narooma-Bermagui Road to the Pacific Ocean.
- (g) In the waters of the Wonboyn River or any other coastal lake or lagoon, the net is not landed by any method other than against a stake or back net (the total length of which does not exceed 50 metres with a mesh throughout of not less than 25 mm).

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- (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 intempion or delay until completed.
 - (i) Any fish contained in any part of the net are immediately removed on completion of the haul, or on removal of that part of the net from the water, whichever occurs first.
 - (j) The net is not used for taking garfish in waters other than ocean waters.
 - (k) The net is operated by at least 2 commercial fishers.
- (2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a hauling net (general purpose).

TABLE

HAULING NET (GENERAL PURPOSE)

1. (a) *Waters*—St. Georges Basin; Lake Macquarie; Watson Taylor's Lake; Queen's Lake; Tuggerah Lakes; Wallis Lake (excluding Wollomba, Wallingat, Coo loongolok and Wang Wauk Rivers).
- (b) *Description of net*—Total length not exceeding 1,000 metres; length of bunt not exceeding 90 metres or one-quarter of the total length of the net (whichever is the lesser) made up as follows: centre piece not exceeding 50 metres nor less than 25 metres in length, of mesh not less than 30 mm nor more than 50 mm; remainder of bunt not exceeding 50 metres in length, of mesh not less than 50 mm; mesh of wings not less than 80 mm.
2. (a) *Waters*—That part of Wallaga Lake extending upwards from the bridge and embankment on the Narooma-Bermagui Road; the Broadwater of the Clarence River; Lake Innes; Smiths Lake; Myall Lake; Booloombayt Lake; the Broadwater of Myall Lakes; Lake Illawarra.
- (b) *Description of net*—Total length not exceeding 725 metres; length of bunt not exceeding 90 metres or one-quarter of the total length of the net (whichever is the lesser) made up as follows: centre piece not exceeding 50 metres nor less than 25 metres in length, of mesh not less than 30 mm nor more than 50 mm; remainder of bunt not exceeding 50 metres in length, of mesh not less than 50 mm; mesh of wings not less than 80 mm.
3. (a) *Waters*—Terranora and Cobaki Broadwaters (Tweed River); Clarence River; those parts of the Hastings River and Limeburner's Creek lying between a line drawn northeast from the northernmost extremity of King's Point to the point where the southerly prolongation of the western boundary of Portion 3, Parish of Torrens, County of Macquarie meets the northern bank of the river, and a line drawn south from the southwestern corner of Portion 72, Parish of Torrens to the southern bank of Limeburner's Creek; that part of the Ana-Branch of

Hastings River lying between the westerly prolongation of the northern boundary of Portion 31, Parish of Redbank, County of Macquarie and a line drawn from the northeastern corner of Portion 54, Parish of Redbank to the southwestern corner of Portion 14, Parish of Redbank; Wollumboola Lake; Conjurong or Conjola Lake (including Berringer Lake); Coila Lake; Tuross Lake; Mummuga or Dalmeny Lake; Cuttagee Lake; Murrah Lake; Wapengo Lake; Nelson Lake; Curola Lake; Merimbula Lake; Wallagoot Lake.

- (b) *Description of net*—Total length not exceeding 450 metres; length of bunt not exceeding 90 metres or one-quarter of the total length of the net (whichever is the lesser) made up as follows: centre piece not exceeding 50 metres nor less than 25 metres in length, of mesh not less than 30 mm nor more than 50 mm; remainder of bunt not exceeding 50 metres in length, of mesh of not less than 50 mm; mesh of wings not less than 80 mm.
4. (a) *Waters*—Durras Water.
- (b) *Description of net*—Total length not exceeding 375 metres; mesh throughout not less than 80 mm.
5. (a) *Waters*—That part of the entrance to Wallaga Lake, together with all its inlets and tributaries extending seawards from the bridge and embankment on the Narooma-Bermagui Road to the Pacific Ocean.
- (b) *Description of net*—Total length not exceeding 375 metres; mesh throughout not less than 80 mm.
6. (a) *Waters*—That part of the Wagonga River and its tributaries westward of a line drawn northwest across the entrance from the northernmost extremity of Wagonga Head.
- (b) *Description of net*—Total length not exceeding 375 metres; mesh throughout not less than 80 mm (this net must be used only for the taking of Australian salmon (*Arripis trutta*) or of species of mullet included in the family mugilidae).
7. (a) *Waters*—Ocean waters and sea beaches.
- (b) *Description of net*—Length of bunt not exceeding one-third of the total length of net; mesh of bunt not less than 50 mm; mesh of wings not less than 80 mm.
8. (a) *Waters*—All other waters (except inland waters).
- (b) *Description of net*—Total length not exceeding 375 metres; length of bunt not exceeding 90 metres or one-quarter of the total length of the net (whichever is the lesser) made up as follows: centre piece not exceeding 50 metres nor less than 25 metres in length, of mesh not less than 30 mm nor more than 50 mm; remainder of bunt not exceeding 50 metres in length, of mesh not less than 50 mm; mesh of wings not less than 80 mm.

Trumpeter whiting net (hauling)

24. (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.

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

TABLE

TRUMPETER WHITING NET

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

Garfish net (bullringing)

25. (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, immediately splashing the water in the vicinity, then picking up the net, all of which is to be completed as a continuous operation).

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

TABLE
GARFISH NET (BULLRINGING)

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

Garfish net (hauling)

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

- (a) The net is used only by the method of hauling.
- (b) In offshore ocean waters, the net is not landed by any method other than onto the tray of the boat.

(2) It is also lawful to use a hauling net for taking any other fish (other than a prohibited size class of fish) that are taken by the net when it is being lawfully used for taking garfish.

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

TABLE
GARFISH NET (HAULING)

1. (a) *Waters*—That part of Port Jackson bounded by a line westerly from Green or Laings Point to Georges Head, by a line northwesterly from the northern extremity of Middle Head to Grotto Point and by a line northeasterly from Dobroyd Point to Manly Point; that part of Broken Bay bounded by a line westerly from Box or Hawk Head to Green Point, by a line from the most eastern extremity of Middle Head to the most northern extremity of West Head

and by a line northeasterly from Soldier's Point to Sand Point; that part of Botany Bay eastward of a line drawn from the western extremity of Bonna Point to the eastern extremity to the southern break wall of the Cooks River entrance; that part of Port Stephens east of a line northerly from Corlett Point to Orungall Point (excluding those parts which include Wobbegong Bay, Wobbegong Creek, Pindimar Bay, Corrie Creek, Paddy Marr's Bay and Myall River and its tributaries), generally north and northeast of a line from Orungall Point to a point being the southwestern corner of Oyster Farm No. 83-361, and a line from the last mentioned point to Myall Point; that part of Jervis Bay within New South Wales, together with all the bays and beaches of that part, generally westerly from a line drawn between Point Perpendicular and Bowen Island.

- (b) *Description of net*—Mesh of not less than 28 mm nor more than 36 mm.
- 2. (a) *Waters*—Ocean waters and sea beaches.
- (b) *Description of net*—Mesh of not less than 28 mm nor more than 85 mm.

Pilchard, anchovy and bait net (hauling)

27. (1) It is lawful to use a hauling net for taking pilchards, anchovies, common or slimey mackerel or other fish (but not including garfish, prawns or a prohibited size class of fish) in the waters specified in the Table to this clause if the net (including hauling lines) complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:

- (a) The net is used only by the method of hauling.
- (b) The net, if used in Port Jackson, is not landed in any manner other than on to the tray of a boat.

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

TABLE

PILCHARD, ANCHOVY AND BAIT NET (HAULING)

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

Purse seine net

28. (1) It is lawful to use a purse seine net for taking fish (other than garfish, kingfish, prawns, tuna or a prohibited size class of fish) in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table.

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

TABLE
PURSE SEINE NET

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

Prawn net (hauling)

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

- (a) The net is used only by the method of hauling.
- (b) The net is not set or staked at any time.
- (c) The net is landed on the tray of a boat or in sufficient depth of water to enable prohibited size fish that are taken in the net to escape.
- (d) There is no seine net (prawns) on the boat from which the net is used.

(2) It is also lawful to use a try net in the waters specified in the Table to this clause to facilitate the taking of prawns by the means of a prawn net (hauling) if the try net complies with the following description:

The net is attached to a frame not exceeding 0.6 metre in width and 0.5 metre in height, with a total length from the centre of the plane to the extremity of the net not exceeding 2 metres; mesh not less than 30 mm nor more than 36 mm.

(3) It is also lawful to use a hauling net to take other fish (other than a prohibited size class of fish) which are taken by the net when it is being lawfully used for taking prawns.

(4) For the purposes of this Regulation or any other instrument under the Act, a net described:

- (a) in subclause (1) or in the Table to this clause may be referred to as a prawn net (hauling); and
- (b) in subclause (2) may be referred to as a try net (prawns).

TABLE
PRAWN NET (HAULING)

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

situated at the high water mark on the southern side of Big Island, then to a third post marked "FD" situated at the high water mark of Wallis Island, bearing 245 degrees from the second post, then southerly, westerly and northerly along the high water mark of Wallis Island to a jetty located on the western side of Wallis Island, then westerly along the length of the jetty to its end, then to a fourth post marked "FD", situated at the high water mark on the foreshore of Coomba Park, bearing 246 degrees and 30 minutes from the end of the jetty, then generally southerly, easterly and northerly by the high water mark of Wallis Lake to the point of commencement.

- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 140 metres.
7. (a) *Waters*—Port Jackson (including the Parramatta and Lane Cove Rivers and Middle Harbour).
- (b) *Description of net*—Total length not exceeding 60 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 130 metres.
8. (a) *Waters*—Wallagoot Lake and Blackfellows Lake.
- (b) *Description of net*—Total length not exceeding 90 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 190 metres.
9. (a) *Waters*—Coila Lake and Wallaga Lake.
- (b) *Description of net*—Total length not exceeding 75 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 130 metres.
10. (a) *Waters*—Tweed River and Terranora Inlet.
- (b) *Description of net*—Total length not exceeding 40 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 220 metres.
11. (a) *Waters*—Any other waters (except inland waters and the Manning 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 130 metres.

Prawn net (hauling): Manning River

30. (1) It is lawful to use a hauling net for taking prawns in the Manning River if the net (including hauling lines) complies with the description set out in subclause (2) and the conditions set out in subclauses (3), (4) and (5) are complied with.

(2) The net must comply with the following description:

- (a) The total length of the net must not exceed 40 metres.
- (b) The mesh throughout must not be less than 30 nun nor more than 36 mm.

- (c) The net must have no attachments except spreader poles and hauling lines.
 - (d) The hauling line run on the first leg to the net must not be longer than 220 metres.
 - (e) The hauling line running from the net to the motor boat used to assist in shooting the net must not be longer than 90 metres, and not be shorter than 60 metres.
- (3) The net must be used only by the method of hauling, and must not be set or staked at any time.
- (4) The net must be shot and hauled as follows:
- (a) One end of the hauling line run on the first leg to the net must be:
 - (i) attached to a fixed point on shore; or
 - (ii) anchored ashore; or
 - (iii) attached to an unpowered boat which itself is secured on shore.
 - (b) The line must then be cast from a motor boat, and the net then shot.
 - (c) The second hauling line must then be cast (or laid out) from the motor boat as the boat moves in a circular path so as to return to a landing-up point near the shore end of the first hauling line.
 - (d) The second hauling line must be attached to a point on the motor boat by the line's extremity only (that is, one end must be attached to the net, and the other end secured to the boat to prevent loss of the line overboard).
 - (e) The second hauling line must not be towed until all of it has been shot away free of tangles, knots or anything else which would effectively shorten it.
 - (f) Once the shooting and hauling of the net have commenced, they must continue until the hauling lines have been removed from the water and the net landed in such depth of water, or onto the tray of the boat in such a way, as to enable any prohibited size fish taken in the net to escape.
 - (g) Once any prohibited size fish have been allowed to escape, the net must be fully removed from the water.
- (5) The net must be operated in accordance with the determination (if any) by the fisheries officer for the time being charged with the supervision of the Manning River as to the number of commercial fishers to constitute the crew operating the net.

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

Prawn net (set pocket)

31. (1) It is lawful to use a set pocket net for taking prawns in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions (in addition to those in subclause (2), if applicable) are complied with:

- (a) The net is used only by the method of setting.
- (b) Hauling lines are not attached to the net.
- (c) The net must not be left unattended during the period it is set.

(2) If the net is used in the waters of the Clarence River, the following additional conditions must be complied with:

- (a) The net must not be used in conjunction with a moored boat with the engine running unless the boat is licensed and is owned by a commercial fisher, or by a member of the crew of a commercial fisher, by whom or by which the net is being used.
- (b) A person must not use a prawn net except during the following periods:
 - (i) on weekends during, the dark (that is, the period commencing 3 days after a full moon and ending 3 days after the next new moon);
 - (ii) from sunset to sunrise on week days between 1 August in any year and 31 May in the next year;
 - (iii) from sunrise to sunset on week days between 1 December in any year and 31 May in the next year.
- (c) Except in the area known as the South Arm Rocks:
 - (i) the inside peg of the net must not be set further than 5 metres from low-water mark; and
 - (ii) all pegs used in connection with the net must be painted white and show at least 1 metre above high-water mark.
- (d) The net must be kept clear of the water when it is not in use.

(3) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a prawn net (set pocket).

TABLE
PRAWN NET (SET POCKET)

1. (a) *Waters*—That part of the Myall River from the junction of the Myall River with the Broadwater downstream to the road bridge between Tea Gardens and Hawk's Nest.
- (b) *Description of net*—Total length not exceeding 20 metres; mesh throughout not less than 30 mm nor more than 36 mm.
2. (a) *Waters*—Those parts of Wallis Lake included within the following boundaries:
 - (i) the whole of that part of Wollomba Channel in Wallis Lake within the following boundaries: commencing at the line of high-water mark at the southern point of the entrance to Wollomba River, and bounded then by a straight line southerly to the northern shore of First Island at the southeastern foreshore corner of Oyster Farm No. 77-3, by the northern shore of that island easterly to its extremity, and by a straight line southeasterly to the high-water mark of the northern shore of Cockatoo Island (being a point about 180 metres southwesterly from the southeastern foreshore corner of Oyster Farm No. 78-44), by the northern shore of that island generally easterly to the eastern foreshore corner of Oyster Farm No. 74-138, then by a straight line northeasterly to the northern shore of Grassy Island at the most northerly southeastern foreshore boundary of Oyster Lease No. 59-361, by the northern shore of that island easterly to its most eastern point, by a straight line north-northwesterly to the eastern extremity of Long Island, by the southern shore of that island generally westerly to its western extremity, by a straight line southwesterly to the eastern extremity of Sandy Island (such point being the most easterly foreshore corner of Oyster Farm No. 74-24), by the southern shore of that island generally westerly to its most western point, and then by a straight line westerly to the point of commencement; (ii) the whole of that part of Bulmer's Channel in Wallis Lake within the following boundaries: commencing at the northeastern corner of Oyster Lease No. 77-270 at the western end of Godwin Island, and bounded then by a straight line drawn west-northwesterly to the northeastern corner of Oyster Farm No. 72-11 on Cockatoo Island, by the southern shore of that island generally westerly to its most western point, by a line southeasterly to the most eastern point of Northern Twin Island, by a line south-southwesterly to the most eastern foreshore corner of Oyster Farm No. 76-112, by the southeastern shore of that island generally southwesterly to the most eastern foreshore corner of Oyster Farm No. 68-31, by a straight line south-southwesterly to the high-water mark of Wallis Island at the westerly prolongation of the northern boundary of Portion 206, Parish of Forster, by the high-water mark of that island generally northeasterly and southeasterly to the southeastern foreshore corner of Oyster Farm No. 71-360, section 1, and then by a line northeasterly to the point of commencement; (iii) the whole of that part of Stockyard Channel in Wallis Lake within the following boundaries: commencing at the northeastern corner of Oyster Lease No. 77-270 at the western end of Godwin Island, and bounded then by a straight line drawn southwesterly to the southeastern foreshore corner of Oyster Farm No. 71-360, section 1, on Wallis Island, by the high-water mark of that island generally southeasterly and southerly to the easterly prolongation of the southern boundary of Portion 221, Parish of

Forster, by a straight line easterly to the most southerly corner of Oyster Farm No. 73–253, by a straight line northeasterly to the southeastern foreshore corner of Oyster Farm No. 73–216 on the southern end of Hadley Island, by the high-water mark of that island generally northwesterly and northeasterly to its northern extremity, by a line northerly to the northeastern foreshore corner of Oyster Farm No. 70–245 on the southern shore of Godwin Island, by the high-water mark of that island generally westerly, northwesterly, southwesterly and northerly to the northeastern corner of Oyster Farm No. 67–203, by a straight line westerly to the most western northeastern foreshore corner of Oyster Lease No. 81–43, and again by the high-water mark of Godwin Island generally southerly, westerly, northerly, southwesterly and northwesterly to the point of commencement.

- (b) *Description of net*—Total length not exceeding 20 metres; mesh throughout not less than 30 mm nor more than 36 mm.
3. (a) *Waters*—The whole of Queen’s Lake Entrance within the following boundaries: commencing at the northeastern corner of Oyster Farm No. 81–179, and bounded then by a line northerly to the western bank of Queen’s Lake Entrance, by the western bank generally northwesterly to the western foreshore corner of Oyster Farm No. 83–95, by a line southwesterly to the eastern foreshore corner of Oyster Farm No. 67–6, by the foreshore generally southwesterly to the eastern foreshore corner of Oyster Farm No. 70–198, by a line drawn northeasterly through the most westerly point of an island at the western entrance to Queen’s Lake Entrance, to the northern bank of Queen’s Lake Entrance, then easterly and southerly, following the eastern bank of Queen’s Lake Entrance generally southeasterly to a point east of the northeastern corner of Oyster Farm No. 81–179, and then by a line to the point of commencement.
 - (b) *Description of net*—Total length not exceeding 20 metres; mesh throughout not less than 30 mm nor more than 36 mm.
4. (a) *Waters*—That part of Watson Taylor Lake within the following boundaries: commencing at the northern point of Benson Inlet, then north along the eastern shore of Watson Taylor Lake to the northwestern corner of Portion 150, Parish of Camden Haven, County of Macquarie, then westerly to the northeast corner of Portion 70, Parish of Camden Haven, County of Macquarie, then southwest along the shore of Camden Haven Inlet and Moore’s Island to the southwest tip of Moore’s Island, then southwest to the northern corner of Grassy Island to the island’s most southerly point, and then to the point of commencement.
 - (b) *Description of net*—Total length not exceeding 20 metres; mesh throughout not less than 30 mm nor more than 36 mm.
5. (a) *Waters*—Those parts of Tuggerah Lakes and Lake Illawarra (and ocean waters adjoining) described in Schedule 3.
 - (b) *Description of net*—Total length not exceeding 5 metres; mesh throughout not less than 30 mm nor more than 36 mm.
6. (a) *Waters*—That part of Cathie Creek within the following boundaries: the whole of that part of Cathie Creek north of a line bearing 110 degrees across the creek from a post (marked F^D) on the western bank of the creek to a Ti-tree (marked F^D) on the eastern bank of the creek, situated about 500 metres upstream from the Pacific Ocean.

- (b) *Description of net*—Total length not exceeding 10 metres; length of pocket, from cod-end to cork line, not exceeding 10 metres; mesh throughout not less than 30 mm nor more than 36 mm.
7. (a) *Waters*—That part of Sussex Inlet within the following boundaries: the whole of the waters of that part of Sussex Haven and the adjacent waters of the Pacific Ocean within the following boundaries: commencing at the southeastern corner of Reserve 75,429 for Public Recreation notified in the Gazette on 14 November 1952, and bounded then by a line drawn easterly to the point of junction of the eastern shore of Sussex Haven with the shore of the Pacific Ocean. by a line parallel to the western shore of the entrance to Sussex Haven to a point east of the southernmost extremity of that entrance, by a line westerly, and then by that shore northwesterly to the point of commencement.
- (b) *Description of net*—Total length not exceeding 5 metres; mesh throughout not less than 30 mm nor more than 36 mm.
8. (a) *Waters*—Limeburners Creek from its confluence with the Hastings River upwards to its source.
- (b) *Description of net*—Total length not exceeding 20 metres; mesh throughout not less than 30 mm nor more than 36 mm.
9. (a) *Waters*—The whole of the main arm of the Clarence River seawards of the Ulmarra Ferry Crossing (excluding all creeks, tributaries, effluents and secondary or back channels of that river, that part of the left or northern bank between Brown's or Goodwood Island Wharf and the new (or eastern) opening in the Iluka Boat Harbour training wall and that part of the river which lies seawards of a line drawn from the north-westernmost corner of Portion 64, Parish of Taloumbi, to the north-westernmost corner of Freeburn Island and generally south of Freeburn Island and the main training wall that extends seawards from the easterly extremity of Freeburn Island).
- (b) *Description of net*—Total length not exceeding 20 metres; mesh throughout not less than 30 mm nor more than 36 mm.
10. (a) *Waters*—Inlet cooling water canal to Munmorah Power Station.
- (b) *Description of net*—Total length not exceeding 20 metres nor less than 18 metres; mesh throughout not less than 25 mm nor more than 30 mm.
11. (a) *Waters*—Smiths Lake.
- (b) *Description of net*—Total length not exceeding 63 metres; length of pocket, bunt or bag not exceeding 9 metres; mesh throughout not less than 30 mm nor more than 36 mm; wings of net to be set at such an angle that the distance between the ends of the net does not exceed 45 metres.

Prawn running net

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

-
- (a) If the net is not staked, the net is used only by the method of casting or shooting the net and picking up and landing the whole of the net into a boat in the manner known as “running the net” within 1 hour of the commencement of the casting or shooting.
 - (b) In the case of a net that is being used for taking prawns in the waters of Lake Illawarra:
 - (i) the net must be operated by at least 2 commercial fishers; and
 - (ii) the net must not be operated by, or with the assistance of, any commercial fisher who is also operating, or assisting in the operation of, any other such net; and
 - (iii) the net must not be staked (that is, the net must be used only by the method referred to in paragraph (a)).
 - (c) In the case of a staked net:
 - (i) the net is not set earlier than 1 hour before sunset; and
 - (ii) the net is not set within 10 metres of the high water mark; and
 - (iii) the net is not staked by means of a star or 3 sided stake; and
 - (iv) no stakes are left in the water in the period between sunrise and 1 hour before sunset.

(2) It is also lawful to use a running net to take other fish (other than a prohibited size class of fish) which are taken by the net when it is being lawfully used for taking prawns.

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

TABLE
PRAWN RUNNING NET

1. (a) *Waters*—Conjurong or Conjola Lake, Burrill Lake, Wallaga Lake, Tuross Lake, Durras Water, Cuttagee Lake, Middle Lake, Lake Wollumboola, Swan Lake, Coila Lake, Corunna Lake, Tilba Lake, Mummuga or Dalmeny Lake, Lake Birroul or Brou Lake, including all their respective bays, inlets and creeks.
 - (b) *Description of net*—Total length not exceeding 75 metres; mesh throughout not less than 25 mm nor more than 36 mm.
2. (a) *Waters*—St. Georges Basin, Lake Macquarie, Tuggerah Lakes and Lake Illawarra, including all their respective bays, inlets and creeks (but excluding those parts of Tuggerah Lakes and Lake Illawarra described in Schedule 2).
 - (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 25 mm nor more than 36 mm.

Seine net (prawns)

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

- (a) The net is cast or shot in the following manner:
 - (i) a hauling line (to the end of which is attached a float or basket with a marker buoy affixed) is cast or shot from a boat;
 - (ii) that hauling line, the net and a second hauling line is then cast or shot from the boat as it moves in a circular direction resulting in the boat returning to the marker buoy.
- (b) The net is hauled back on to a boat in such a way that both hauling lines are hauled to the same spot on the boat so as to avoid any trawling action.
- (c) The hauling in of the net, once commenced, is to continue uninterrupted until all portions of the net, including the hauling lines, have been removed from the water.
- (d) The net, if used in Borang Lake, is used with a boat having no engine or powered by an engine having no more than 12 kilowatts of motive power.
- (e) There is no prawn net (hauling) on the boat from which the net is used.

(2) It is also lawful to use a try net in the waters specified in the Table to this clause to facilitate the taking of prawns by the means of a seine net (prawns) if the try net complies with the following description:

The net is attached to a frame not exceeding 0.6 metre in width and 0.5 metre in height, with a total length from the centre of the frame to the extremity of the net not exceeding 2 metres; mesh not less than 30 mm nor more than 36 mm.

(3) For the purposes of this Regulation or any other instrument under the Act, a net described:

- (a) in subclause (1) or in the Table to this clause may be referred to as a seine net (prawns); and
- (b) in subclause (2) may be referred to as a try net (prawns).

TABLE
SEINE NET (PRAWNS)

1. (a) *Waters*—The whole of Lake Illawarra, including its bays, inlets and creeks (but excluding that part described in Schedule 2).
(b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 220 metres.
2. (a) *Waters*—The whole of Tuggerah Lakes, including its bays, inlets and creeks (but excluding that part described in Schedule 2).
(b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 140 metres.
3. (a) *Waters*—The whole of Lake Macquarie south of a line drawn between Wangi Wangi Point and Galgabba Point, including its bays, inlets and creeks.
(b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 280 metres.
4. (a) *Waters*—The whole of St. Georges Basin, including all its bays, inlets and creeks.
(b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 220 metres.
5. (a) *Waters*—The whole of Queen's Lake and Watson Taylors Lake, including all their respective bays, inlets and creeks.
(b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 140 metres.
6. (a) *Waters*—That part of Wallis Lake and Coolongolook and Wallingat Rivers covering an area south and east of the following boundaries: commencing at the southeastern corner of Portion 71, Parish of Foster, 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 B.M. 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 B.M. 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 B.M. 24), then west along the northern bank of Wallis Lake to the entrance of the Coolongolook River, then west along the northern foreshore of the Coolongolook River, excluding the whole of the waters of Minimbah and Duck Gully Creeks, to a point marked by a white post due north of the eastern extremity of Junction Point, then due south from that post to the eastern extremity of Junction Point, then extending across the Wallingat River on a bearing of 175 degrees to the northern foreshore corner of the jetty situated on the northwestern foreshore of Portion 66, Parish of Wallingat (and excluding all other waters of the Wallingat River).

- (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 140 metres.
- 7. (a) *Waters*—The whole of the Macleay River extending from the Jerseyville Bridge upstream to the Kempsey Railway Bridge.
 - (b) *Description of net*—Total length not exceeding 140 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 140 metres.
- 8. (a) *Waters*—The whole of Borang Lake.
 - (b) *Description of net*—Total length not exceeding 80 metres; mesh throughout not less than 30 mm nor more than 36 mm; length of each hauling line not exceeding 80 metres.

Otter trawl net (prawns)

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

- (a) The net is used only by the method of trawling.
- (b) Not more than 2 nets are used at any one time in the Hawkesbury River (downstream from a line drawn between Juno Point and Eleanor Bluff), Clarence River, Botany Bay, Port Jackson, Jervis Bay or Coffs Harbour.
- (c) Not more than 1 net is used at any one time in the Hunter River or in the Hawkesbury River upstream from a line drawn between Juno Point and Eleanor Bluff to the ferry crossing at Lower Portland.
- (d) No string, rope, wire, cord, netting or other material is fixed to any meshes that are within 25 meshes of the draw or closing string of the cod-end of the net.

(2) Despite subclause (1) (d), an otter trawl net may have attached to it any of the following:

- (a) a draw or closing string at the end of the cod-end;
- (b) a frill of netting material, if the frill is not attached more than 5 meshes from the last row of meshes of the cod-end;
- (c) a chafing piece, in accordance with clause 55 (2).

(3) It is also lawful to use an otter trawl net to take other fish which are taken by the net when it is being lawfully used for taking prawns if:

- (a) the fish are not a prohibited size class of fish and are not of a species the taking of which is prohibited; or

- (b) the fish are a prohibited size class of fish (other than abalone or crustaceans), are not of a prohibited size and are taken in waters (other than inland waters) north of a line drawn due east from the lighthouse situated at Smokey Cape; 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*—All waters (other than inland waters and the Clarence River).
- (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 45 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 stem 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 stem of the boat (whichever is the greater).
2. (a) *Waters*—Clarence River.
- (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 45 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 stem of the boat (whichever is the greater).

Otter trawl net (fish)

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

- (a) The net is used only by the method of trawling.

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

TABLE

OTTER TRAWL NET (FISH)

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

Danish seine trawl net (fish)

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

- (a) The net is used only by the method of danish seining.

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

TABLE

DANISH SEINE TRAWL NET (FISH)

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

Meshing net

37. (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 following conditions are complied with:

- (a) The net is used only by the method of splashing (that is, shooting the net, splashing and retrieving it as a continuous operation) during December and January in any year, or from sunrise to sunset each day during February, March, October and November in any year.

(b) The net is not set (that is, used by any method other than splashing) during January and December in any year, or from sunrise to sunset on any day during February, March, October and November in any year.

(c) The net is not set for more than 3 hours.

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

TABLE
MESHING NET

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

Flathead net

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

- (a) The net is used only by the method of meshing.
- (b) The net is not used, set or left in Lake Illawarra for any period from 1 September to 31 May in any year or for a period exceeding 6 hours between sunrise and sunset from 1 June to 31 August in any year.

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- (c) The net is not used, set or left in any other waters:
- (i) from 1 December to 31 January in any year; or
 - (ii) between sunrise and sunset from 1 February to 31 March and from 1 October to 30 November in any year; or
 - (iii) for a period exceeding 6 hours between sunrise and sunset from 1 April to 30 September in any year.
- (d) Any cork or float forming part of the net must not exceed 40 mm in length or 25 mm in width and must not be nearer than 3.5 metres. to any other cork or float when measured along the cork line of the net.
- (e) The net is not used, set or left in such a manner as causes:
- (i) the lead line to be raised from the bottom of the waters; or
 - (ii) the corks, floats, cork line or float line to be raised above the lead line for a distance greater than 0.5 metre; or
 - (iii) the corks, floats, cork line or float line not to be completely submerged.
- (2) For the purposes of this Regulation or any other instrument under the Act, a net described in this clause may be referred to as a flathead net.

TABLE

FLATHEAD NET

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

Bait net

39. (1) It is lawful to use a bait net (other than a lampara net) for taking fish (other than garfish, prawns or a prohibited size class of fish) in the waters specified in the Table to this clause if the net (including hauling lines) complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:

(a) The net is used only between sunrise and sunset on any day.

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

TABLE

BAIT NET

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

- (b) *Description of net*—Total length of net not exceeding 25 metres; mesh throughout not less than 13 mm nor more than 25 mm; length of each hauling line not exceeding 20 metres.
- 5. (a) *Waters*—Twofold Bay west of a line drawn from Worange Point to Red Point.
- (b) *Description of net*—Total length of net not exceeding 60 metres; length of bunt not exceeding 20 metres; length of wings not exceeding 20 metres; mesh of bunt not exceeding 13 mm; mesh of wings not exceeding 28 mm; length of each hauling line not exceeding 90 metres.

Lampara net

40. (1) It is lawful to use a lampara net for taking fish (other than garfish, prawns or a prohibited size class of fish) in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:

- (a) The net is used only between sunset and sunrise on any day.
- (b) The net may be used only if it is aided by an attracting light.

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

TABLE
LAMPARA NET

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

Pound net

41. (1) It is lawful to use a pound 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 following conditions are complied with:

- (a) The net is used only in conjunction with a hauling net described as lawful for use in the waters specified in the Table to this clause.
- (b) Not more than 1 net is used at any 1 site at any one time.
- (c) The net is used only during the period from February to July (inclusive) in any year.
- (d) The net is not left in the water for a period exceeding 24 hours without all fish being removed from the net.

(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 pound net.

TABLE
POUND NET

1. (a) *Waters*—The following parts of Port Stephens: Shoal Bay, Salamander Bay (between Round Head and Kangaroo Point), Wanderrabah or Jimmy's Beach and Ocean waters at The Spit (between Fingel Bay and Fly Road).
- (b) *Description of net*—Total length not exceeding 300 metres; mesh of net not less than 80 mm nor more than 90 mm.

Drum net

42. (1) It is lawful to use a drum net for taking fish (other than fish protected from commercial fishing) 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 has not more than 3 hoops and is made of twine.
- (b) The net is not set within 90 metres of any other set drum net.
- (c) Not more than 20 drum nets may be used at any one time.
- (d) The net is not set for any period exceeding 24 hours.
- (e) The net is not used in the months of September, October and November in any year.

(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 drum net.

TABLE
DRUM NET

1. (a) *Waters*—Inland waters.
- (b) *Description of net*—Diameter of each hoop not exceeding 1.25 metres; outermost hoops not more than 1.5 metres apart; hoops to be connected only by netting or twine; length of each wing not exceeding 3 metres; mesh on hoops not less than 130 mm; mesh on wings not less than 150 mm.

Gill net

43. (1) It is lawful to use a gill net for taking any species of freshwater fish (other than fish protected from commercial fishing) 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 set within 90 metres of any other set gill net.

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- (b) The net is not set for any period exceeding 24 hours.
- (c) The net is not used in the months of September, October and November in any year.

(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 gill net.

TABLE
GILL NET

1. (a) *Waters*—Inland waters.
- (b) *Description of net*—Total length not exceeding 27.5 metres; mesh throughout not less than 130 mm.

Submersible lift net (bait)

44. (1) It is lawful to use a submersible lift net for taking slimy mackerel, yellowtail and pilchards in the waters specified in the Table to this clause if the net is used only for taking those fish for use as bait in the taking of tuna and the net complies with the description as set out in relation to those waters in that Table.

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

TABLE
SUBMERSIBLE LIFT NET (BAIT)

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

Division 4—Lawful recreational nets

Application of Division

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

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

Spanner crab net

46. (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.

Hoop or lift net

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

- (a) The net is used only as a hand implement and only by the method of lowering the net into the water and then drawing the net vertically to the surface.
- (b) Not more than 10 nets are used by a commercial fisher at any one time.
- (c) Not more than 5 nets are used by any person (other than a commercial fisher) at any one time.

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

TABLE

HOOP OR LIFT NET

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

Hand-hauled prawn net

48. (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.

Push or scissors net (prawns)

49. (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.

Dip or scoop net (prawns)

50. (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:

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- (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.

Hand-hauled yabby net

51. (1) It is lawful to use a hand-hauled net for taking freshwater crayfish (of the species commonly known as the yabby) in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:

- (a) The net is used as a hand implement only and not staked or set, or joined or placed together with any other net.
- (b) The net is continuously and manually propelled and not used as a stationary net.
- (c) The net is operated only by 1 person (with the assistance of no more than 1 other person).

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

TABLE

HAND-HAULED YABBY NET

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

Landing net

52. (1) It is lawful to use a landing net for taking fish (other than prawns) in the waters set out in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:

(a) The net is used only as an ancillary aid to a hand-line or rod.

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

TABLE
LANDING NET

1. (a) *Waters*—Any waters.

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

Division 5—General provisions relating to lawful use of nets**Relaying of hauling lines prohibited**

53. (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.

Joining of nets

54. (1) For the purposes of this Part, it is unlawful for a person to use in any waters 2 or more nets joined together for the purpose of taking fish.

(2) Subclause (1) does not apply if the nets:

(a) are of a class specified in the Table to this clause; and

(b) when joined (in the waters specified in that Table) do not exceed the permitted number or length as set out in relation to those waters in that Table.

(3) If lawfully joined, meshing nets used in the Clarence River must be operated from not less than 2 boats, by not less than 2 commercial fishers and only by the method known as bullringing (that is, casting the net in a circle, then immediately splashing the water in the vicinity, then immediately picking up the net, the whole to be completed as a continuous operation).

(4) For the purposes of this Part, it is unlawful for a person to use in any waters 2 or more nets for the purpose of taking fish, being nets that are joined or placed together side by side (either on the cork line or otherwise) in such a manner that the effective mesh or meshes of those combined nets are reduced to a size less than the minimum mesh or meshes described as lawful under this Part.

TABLE

GILL NETS

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

MESHING NETS

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.

Illegally reducing mesh size of nets

55. (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.

Monofilament and certain multi-strand nets prohibited

56. 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.

Method of dragging or drawing nets

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

Division 6—Lawful traps

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

Fish trap

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

- (a) The fish trap is not set or used unless its position is indicated by a buoy which:
 - (i) is moored so as to be positioned above the trap; and
 - (ii) has a diameter above the water of not less than 150 mm; and
 - (iii) has a weight of not less than 500 gm suspended not less than 5 metres under the float so that no rope is floating on the surface of the water; and

- (iv) displays “LFB” followed by the licence number of the boat used to set the trap and “F” at the end of that number, in clearly visible letters and figures which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy.
- (b) The trap is not set or used in such a manner as to impede the free passage of fish on either or any side of the trap or in such a manner that any 2 traps are closer than 5 metres apart.
- (c) The commercial fisher does not set or use in any waters (other than ocean waters and sea beaches) more than 10 fish traps at any one time.
- (2) For the purposes of this Regulation or any other instrument under the Act, a trap referred to in this clause may be referred to as a fish trap.

TABLE
FISH TRAP

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

Lobster trap

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

(2) It is lawful for a commercial fisher to use a trap for taking lobster in the waters specified in item 2 (a) of 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 conditions referred to in subclause (3) are complied with.

(3) The following conditions must be complied with:

- (a) The lobster trap is not set or used unless its position is indicated by a buoy which:

-
- (i) is moored so as to be positioned above the trap; and
 - (ii) has a diameter above the water of not less than 100 mm; and
 - (iii) has a weight of not less than 50 gm suspended not less than 1.5 metres under the float so that no rope is floating on the surface of the water; and
 - (iv) in the case of a trap set or used by a commercial fisher—displays “LFB” followed by the licence number of the boat used to set the trap and “L” 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 “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 (other than a commercial fisher who is authorised to take rock lobster for sale) does not set or use more than 1 lobster trap at any one time.
- (4) It is also lawful to use a trap for taking other fish (other than a prohibited size class of fish) in the waters specified in item 2 (a) of the Table if the other fish are taken by the trap when it is being lawfully used for taking lobster.
- (5) For the purposes of this Regulation or any other instrument under the Act, a trap referred to in this clause may be referred to as a lobster trap.

TABLE
LOBSTER TRAP

1. (a) *Waters*—Any waters (other than inland waters and any waters more than 10 metres deep (contour)).
- (b) *Description of trap*—Consists of a rectangular base or floor not exceeding 1.2 metres by 1.2 metres (or a circular base not exceeding 1.2 metres in diameter); has 1, 2 or 3 rectangular unobstructed escape gaps (constructed of rigid material) fitted in the trap with at least 1 escape gap being not less than 57 mm by 500 mm, 2 escape gaps each being not less than 57 mm by 250 mm or 3 escape gaps each being not less than 57 mm by 200 mm and so that no part of any escape gap is more than 12 cm above the floor of the trap.
2. (a) *Waters*—Ocean waters more than 10 metres deep (contour).
- (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).

Crab trap

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

- (a) The crab trap is not set or used unless its position is indicated by a buoy which:
 - (i) is moored so as to be positioned above the trap; and
 - (ii) has a diameter above the water of not less than 100 mm; and
 - (iii) has a weight of not less than 50 gm suspended not less than 1 metre under the float so that no rope is floating on the surface of the water; and
 - (iv) in the case of a trap used by a commercial fisher—displays “LFB” followed by the licence number of the boat used to set the trap and “C” at the end of that number, in clearly visible letters and figures which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy; and
 - (v) in the case of any other trap—displays the words “CRAB TRAP” followed by the name of the person who set the trap, in clearly visible letters which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy.
- (b) The trap is not set or used in such a manner as to impede the free passage of fish on either or any side of the trap or in such a manner that any 2 traps are closer than 3 metres apart.
- (c) A commercial fisher does not set or use in any waters (other than the waters of Wallis Lake and Port Stephens Broadwater specified in the Table to this clause) more than 10 crab traps at any one time.
- (d) A commercial fisher does not set or use in the waters of Wallis Lake and Port Stephens Broadwater specified in the Table to this clause more than 20 crab traps at any one time.
- (e) A person (other than a commercial fisher) does not set or use more than 1 crab trap at any one time.
- (f) The crab trap is not made of entanglement material.

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

TABLE
CRAB TRAP

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

Bait trap

61. (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.

Yabby trap

62. (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 the 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 Poon, Lake Genoe, Lake Cawndilla, Lake Menindee, Lake Panamaroo, and all waters west of the Darling River; or
 - (ii) set or use more than 25 yabby traps at any one time in any other inland waters.
- (b) A person (other than a commercial fisher) does not set or use more than 5 yabby traps at any one time.
- (c) The position of a yabby trap is indicated by a buoy or stake above water level to which is attached the name of the person using the trap.

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

TABLE
YABBY TRAP

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

Shrimp trap

63. (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.

Eel trap

64. (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 m; and
 - (iii) has a weight of not less than 50 gm suspended not less than 1 metre under the float so that no rope is floating on the surface of the water; and
 - (iv) displays “LFB” followed by the licence number of the boat used to set the trap and “E” at the end of that number, in clearly visible letters and figures which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy.

(b) The commercial fisher does not set or use more than 10 eel traps at any one time.

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

TABLE
EEL TRAP

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

Division 7—Miscellaneous

Set lines and hand held lines

65. (1) A person (other than a commercial fisher) must not for the purpose of taking or attempting to take fish in any waters (other than inland waters):

- (a) set, use or lift more than 4 hand held lines; or
- (b) set, use or lift any hand held line with more than 3 hooks or 3 gangs of hooks attached or with more than 3 treble hooks attached to a lure; or
- (c) set, use or lift any hand held line with a gang of hooks which comprises more than 5 hooks attached.

Maximum penalty: 100 penalty units.

(2) Subclause (1) (b) does not apply to a person who, for the purpose of taking or attempting to take fish in any Ocean waters or estuarine waters, sets, uses or lifts not more than 1 hand held line with not more than 6 hooks attached, if:

- (a) a lure is fixed to each hook; and
- (b) the line, when being used for the purpose of taking or attempting to take fish, is not left unattended and is used only by the method of jigging.

(3) A commercial fisher must not for the purpose of taking or attempting to take fish in any Ocean waters or estuarine waters:

- (a) set, use or lift more than 10 set lines; or
- (b) set, use or lift any set line with more than 6 hooks attached.

Maximum penalty: 100 penalty units.

(4) Subclause (3) does not apply to ocean waters more than 3 nautical miles from coastal baselines.

(5) Subclause (3) (b) does not apply to a commercial fisher who, for the purpose of taking shark only, in Ocean waters south of a line drawn due east from the northern point of the entrance to the Moruya River, sets, uses or lifts a line with more than 6 hooks attached to it if each such hook is not smaller than 9/0.

(6) A person must not for the purpose of taking fish (other than Atlantic salmon or trout) set, use or lift in any inland waters a set line or hand held line except as permitted by the following:

- (a) in the case of waters flowing generally in a westerly direction in or away from the Great Dividing Range—up to 4 set lines each with no more than 1 hook attached and 1 hand held line with no more than 2 hooks attached or 3 treble hooks attached to a lure are permitted;
- (b) in the case of waters flowing generally in an easterly direction in or away from the Great Dividing Range—up to 2 hand held lines each with no more than 2 hooks attached or 3 treble hooks attached to a lure are permitted but no set lines are permitted;
- (c) in the case of the backed up waters of any dam or impoundment—up to 2 hand held lines each with no more than 2 hooks attached or 3 treble hooks attached to a lure are permitted but no set lines are permitted.

Maximum penalty: 100 penalty units.

(7) In this clause:

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

“hand held line” means a rod and line or handline.

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

Leaving hand held line unattended

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

Maximum penalty: 50 penalty units.

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

Drift lines

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

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

Maximum penalty: 100 penalty units.

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

Maximum penalty: 100 penalty units.

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

Maximum penalty: 100 penalty units.

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

Maximum penalty: 100 penalty units.

(5) In this clause:

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

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

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

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

Identification of set fishing gear

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

Maximum penalty: 50 penalty units.

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

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

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

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

Scuba diving

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

Maximum penalty: 100 penalty units.

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

- (a) for the purpose of sale—abalone, sea urchin or turban snail in compliance with the requirements of the Act and this Regulation; or
- (b) any fish while using a snorkel; or
- (c) abalone while using scuba gear (unless the gear is used by the person while working from or in conjunction with a vessel in respect of which a Class 1 or 2 vessel permit has been issued under the Commercial Vessels Act 1979); or
- (d) scallops; or
- (e) sea urchin.

Spear guns

70. (1) A person must not:

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

Maximum penalty: 50 penalty units.

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

Maximum penalty: 100 penalty units.

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

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

Firearms

71. (1) A person must not take or attempt to take any fish in any waters by means of a firearm.

Maximum penalty: 50 penalty units.

(2) It is not an offence under this clause for a commercial fisher to use a firearm to kill or attempt to kill shark or other fish lawfully taken by means of fishing gear (other than a firearm).

(3) In this clause, “**firearm**” does not include a spear gun (within the meaning of clause 70).

Taking of rock lobster

72. (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.

Taking of yabby, worms, pipis etc.

73. (1) A person must not take or attempt to take any yabby (pink nippers), squirt worms, blood worms, beach worms, pipis or any other intertidal invertebrate from a rock platform by any method other than by use of a single blade knife with a blade longer than it is wide, or from any other place by any method other than by use of:

- (a) a pump or similar device having a barrel or cylinder with a diameter of not more than 85 mm; or
- (b) a tube or cylinder (whether or not fitted with a cap at one end) with a length of not more than 250 mm and a diameter of not more than 85 mm; or
- (c) a single blade knife with a blade longer than it is wide; or
- (d) a spade or fork (except in a seagrass bed, mangrove or saltmarsh area or for the taking of pipis); or
- (e) pliers.

Maximum penalty: 25 penalty units.

(2) Subclause (1) does not prevent a person from taking or attempting to take any fish by the method of hand picking (whether or not while wearing a glove).

Taking of shellfish by means of a dredge or similar device

74. (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.

Jagging or foul hooking of fish

75. (1) In this clause, “**jagging**” means the use of any device or instrument that is intended to hook fish otherwise than through the mouth.

(2) A person must not take or attempt to take fish by the method of jagging.

Maximum penalty: 25 penalty units.

(3) Nothing in this clause prevents the use of a gaff as an auxiliary to the taking of fish (other than trout) after the fish has been hooked.

Taking of Atlantic salmon or trout

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

Maximum penalty: 50 penalty units.

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

Maximum penalty: 50 penalty units.

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

Maximum penalty: 50 penalty units.

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

Taking of groper

77. 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: 50 penalty units.

Restrictions on the sale of commercial nets

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

(a) is the holder of a commercial fishing licence; or

(b) is the holder of a permit under this clause.

Maximum penalty: 100 penalty units.

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

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

Maximum penalty: 100 penalty units.

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

Maximum penalty: 100 penalty units.

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

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

(6) For the purpose of this clause:

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

PART 4—PRIORITIES IN THE USE OF FISHING GEAR

Division 1—Offences

Offence of fishing contrary to rights of priority

79. 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.

Commercial fishers must use fishing gear in accordance with this Part

80. 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**Rights of priority between fishers on recognised fishing grounds**

81. (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**Priority between commercial fishers using nets in inland waters**

82. 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.

Priority between commercial fishers wing nets in waters other than inland waters

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

- (a) the first turn belongs to the crew which first arrives at a recognised fishing ground with a licensed boat and with a registered lawful net laid ready for use;
- (b) the next turn belongs to the crew which next arrives with such a boat and net, and so on;
- (c) a turn concludes when a crew has shot its net, but in no case extends over a longer period than 24 hours as against any other crew ready and waiting to haul;
- (d) during its turn a crew has exclusive rights to so much of a recognised fishing ground as equals in length, measured along the foreshore from the point where the boat belonging to that crew is or was positioned or lying, the total length of the net in use or intended to be used, in the direction in which the net is shot or laid ready for shooting;
- (e) a crew is not entitled to a second turn until all other crews on the fishing ground have had their first turn;
- (f) the crew of a boat waiting for a turn automatically forfeits its turn if any member of that crew acts as a member of the crew of a boat making a haul;

(g) 2 or more turns may be taken simultaneously if the waters being fished admit of double-banking, provided that no net is shot around an inner net within 7.5 metres of the cork line of that inner net without the consent of the crew operating that inner net.

(2) In this clause, “**crew**” means such number of commercial fishers as are required to operate effectively the net in use or intended to be used from the boat from which it is being or will be used.

(3) The local fisheries officer is to determine the number referred to in subclause (2) after consultation with the local CFAC Regional Advisory Committee and that determination is final and conclusive.

Division does not apply where rights of priority otherwise determined

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

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

General

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

(2) In this Division:

“**crew**” means a crew consisting only of commercial fishers;

“**fishing period**” means the period commencing on one full moon and ending on the next full moon;

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

“**position**” means a position at which prawn nets may be set;

“**prawn net**” means a prawn net (set pocket);

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

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

Preliminary determination by local fisheries officer

86. (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 to be made after consultation with the local CFAC Regional Advisory Committee and is final and conclusive.

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

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

Fishers to give notice of intention to use prawn nets

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

(2) The notice must:

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

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

Special provisions relating to Myall River**88. (1) This clause applies only to the Myall River.**

(2) The local fisheries officer must, at or around 8 a.m. 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 a.m. and 10 a.m. on the same day, apply in writing to the local fisheries officer to alter the notice previously given by the fisher or crew by nominating a different position at which the fisher's or crew's net is to be set.

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

Notice of priority determination

89. (1) The local fisheries officer must, before 8 a.m. 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 a.m. on the same day.

(3) A commercial fisher or crew is not entitled to be admitted to the priority determination unless the local fisheries officer is satisfied:

- (a) that the commercial fisher who, or every member of the crew which, gave notice under clause 87 is personally present at the priority determination; and
- (b) that the commercial fisher or crew, or a member of that crew, is the owner of the licensed fishing boat or boats nominated in that notice and of a registered prawn net.

(4) Subclause (3) (a) does not apply to a person who has been granted an exemption by the Director from the requirement to be personally present which is in force at the time of the priority determination.

Local fisheries officer to make priority determination

90. (1) A priority determination for waters to which this Division applies is to be made by a local fisheries officer in the manner set out in clauses 91 to 93 (as appropriate).

(2) The determination of the fisheries officer is final and conclusive.

(3) The priority determination is to be conducted at the place specified in the notice given by the local fisheries officer under clause 89 as soon as practicable after 10 a. m. on the day of the full moon on which the relevant fishing period commences.

Manner of determining rights of priority—Myall River

91. (1) The rights of priority (in the use of prawn nets) between commercial fishers working in the Myall River is to be determined in each fishing period in accordance with this clause.

(2) If, in the notices referred to in clause 87, a position has been nominated by only 1 commercial fishes 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.

Manner of determining rights of priority—Clarence River

92. (1) The rights of priority (in the use of prawn nets) between commercial fishers working in the Clarence River is to be determined in each fishing period in accordance with this clause.

(2) The local fisheries officer is to conduct a determination by lot as follows:

- (a) by placing in a receptacle slips or balls bearing the names of the commercial fishers who, and crews which, are entitled to be admitted to the determination;
- (b) by thoroughly mixing the slips or balls and drawing them one by one from the receptacle;
- (c) by allowing each commercial fisher or crew whose name appears on each successive slip or ball to choose a position in the order in which the slips or balls are drawn.

(3) A commercial fisher who is allowed to choose a position may join with some other commercial fisher (being a fisher whose name is in the draw but has not been drawn) to form a crew, in which case:

- (a) the crew so formed may then choose a position (but only if the member of the crew who owns the boat nominated in the notice to the local fisheries officer (referred to in clause 87) is the fisher whose name was drawn); and
- (b) each member of the crew so formed must then be excluded from the draw.

(4) The commercial fisher or crew who is allowed to choose a position is the fisher or crew entitled to use a prawn net at the position chosen on each night during the fishing period.

(5) The priority determination is complete when all available positions have been chosen.

Manner of determining rights of priority—other waters

93. (1) The rights of priority (in the use of prawn nets) between commercial fishers working in waters (other than the Myall River or the Clarence River) is to be determined in each fishing period in accordance with this clause.

(2) The local fisheries officer is to conduct a determination by lot as follows:

- (a) by placing in a receptacle slips or balls bearing the names of the commercial fishers who, and crews which, are entitled to be admitted to the determination;
- (b) by thoroughly mixing the balls or slips and drawing them from the receptacle one by one in respect of each night on which nets may be set, a number of slips or balls corresponding with the number of nets which may be set on that night;
- (c) by allowing each commercial fisher or crew whose name appears on each successive slip or ball to choose a position in the order in which the slips or balls are drawn.

(3) The fisher or crew who is allowed to choose a position is the fisher or crew entitled to use a prawn net at that position on the night in respect of which the draw was made.

(4) The slips or balls naming the fishers or crews who have already drawn a position on any night must not be returned to the receptacle until every fisher or crew entitled to be admitted to the determination by lot has been allotted a position.

(5) If, after all slips or balls have been drawn from the receptacle, any positions on any nights have not been allotted, all slips or balls must be returned to the receptacle. The determination is to continue either by allotment of the remaining positions in the manner set out in this clause or (at the discretion of the local fisheries officer) on a rotation basis after each fisher or crew has been allotted a position.

Manner of making priority determination—general

94. (1) For the purposes of the priority determination, a commercial fisher is not entitled:

- (a) to choose more than 1 position; or
- (b) to choose a position at which prawn nets may only be set by a crew; or
- (c) to choose a position which has already been chosen.

(2) For the purposes of the priority determination, a crew is not entitled:

- (a) to choose more than 1 position; or
- (b) to choose a position at which prawn nets may only be set by a commercial fisher; or
- (c) to choose a position which has already been chosen.

(3) For the purposes of any priority determination, no person may be regarded as being:

- (a) both a commercial fisher and a member of a crew; or
- (b) a member of more than 1 crew.

Notice of result of priority determination

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

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

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

General conditions of use of pram net following priority determination

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

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

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

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

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

Prawn nets to be operated only by commercial fisher or crew

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

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

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

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

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

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

Division 5—Rights of priority between fishers using prawn running nets

General

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

- Coila Lake
- Brou Lake
- Dalmeny Lake
- Corunna Lake
- Tilba Lake
- Durras Water
- Cuttagee Lake
- Middle Lake
- Wallaga Lake
- Tuross Lake

(2) In this Division:

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

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

“determination date” means 1 October in any year;

“fishing period” means the period commencing at 6 p.m. on the determination date and ending at sunrise on the next determination date;

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

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

Preliminary determination by local fisheries officer

99. (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 is to be made after consultation by the local fisheries officer with the local CFAC Regional Advisory Committee.

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

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

Priority between fishers using prawn running nets

100. (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 p.m. on the determination date is the crew entitled to set a prawn running net at that site for the remainder of the fishing period;
 - (b) if more than one crew are first to arrive at a net site (with the appropriate fishing gear) on or after 6 p.m. 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.

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

- 101. (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 p.m. (daylight saving time) or 6 p.m. (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—Rights of priority between fishers using pound nets in Port Stephens

Priority between fishers using pound nets in the waters of Port Stephens

- 102. (1)** This clause applies to the use of pound nets and hauling nets in the waters of Port Stephens.
- (2) The fisheries officer for the time being charged with the supervision of the waters of Port Stephens must determine, from time to time, whether a pound net is to be operated by 1 commercial fisher or by a crew consisting of a specified number of commercial fishers.
- (3) The rights of priority (in the operation of pound nets and the hauling of nets) between fishers working on the same ground are to be determined as follows:

- (a) the first turn belongs to the crew which first arrives at a recognised fishing ground with a licensed and marked boat and with a registered lawful pound net and hauling net laid ready for shooting;
 - (b) the next turn belongs to the crew which next arrives with a boat and hauling net, and so on;
 - (c) a turn concludes when a crew has shot any part of its hauling net other than hauling lines, but must not in any case extend over a longer period than 24 hours as against any other crew ready and waiting provided that a crew which has shot its hauling net is to complete its haul and clear all fish contained in the pound net;
 - (d) during its turn a crew is to have exclusive rights to so much of a recognised fishing ground as equals in length, measured along the foreshore from the position where the pound net belonging to the crew is or was moored or lying, the total length of the pound net in use and a crew must not have an exclusive right to more than 300 metres of any recognised fishing ground;
 - (e) no crew is to be entitled to a second turn until all other crews on the ground have had their first turn;
 - (f) the crew of a boat waiting for a turn is to automatically forfeit its turn if any member of that crew acts as a member of the crew of a boat making a haul;
 - (g) a crew intending to use a pound net combined with a hauling net is to be entitled to priority as against a crew intending to use a meshing net;
 - (h) at least 1 member of the crew operating a pound net must remain in attendance of the net during the whole period the net is in use.
- (4) In subclause (3), a reference to a crew includes a reference to a single commercial fisher operating a pound net or hauling net.

Division 7—Miscellaneous

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

103. 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.

Exemption from requirement to be personally present

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

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

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

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

PART 5—MISCELLANEOUS PROVISIONS RELATING TO FISHERIES MANAGEMENT**Division 1—Recognised fishing grounds****Identification of recognised fishing grounds**

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

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

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

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

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

Division 2—Interference with fishing activities and set fishing gear

Interference with fishing activities

106. 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.

Interference with set fishing gear

107. (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.

Lawful interference with set fishing gear

108. (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.

Wilfully disturbing fish

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

Maximum penalty: 50 penalty units.

Interference with commercial fisher using line

110. (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

Dynamite and explosive substances

111. (1) A person must not use dynamite or any other explosive substance to take or destroy fish in any waters.

Maximum penalty: 100 penalty units.

(2) A person must not explode any dynamite or other explosive substance in any waters.

Maximum penalty: 100 penalty units.

(3) It is a defence to a prosecution for an offence under subclause (2) if the person charged proves that the acts constituting the alleged offence were done:

- (a) in pursuance of a permit issued by the Director; and
- (b) in accordance with the conditions of the permit.

Permit to use explosives

112. (1) An application for a permit to use dynamite or any other explosive substance in any waters is to be made in writing to the Director in the form approved by the Director.

(2) A permit may extend to:

- (a) explosives generally or to a particular explosive specified in the permit; or
- (b) waters generally or to the particular waters specified in the permit.

(3) A permit remains in force, unless sooner cancelled or suspended by the Director, until the expiration of the period specified in the permit.

(4) A permit is subject to such conditions as are attached to the permit by the Director.

(5) The fee for a permit under this clause, or for the renewal of such a permit, is \$100.

Use of electrical devices prohibited in all waters

113. (1) A person must not use an electrical device for the purpose of taking fish in any waters.

Maximum penalty: 100 penalty units.

(2) It is a defence to a prosecution for an offence under subclause (1) if the person charged proves that the acts constituting the alleged offence were done:

- (a) in pursuance of a permit issued by the Director; and
- (b) in accordance with the conditions of the permit.

Permit to use electrical devices

114. (1) An application for a permit to use an electrical device in any waters is to be made in writing to the Director in the form approved by the Director.

(2) A permit may extend to:

- (a) electrical devices generally or to a particular device specified in the permit; or
- (b) waters generally or to the particular waters specified in the permit.

(3) A permit remains in force, unless sooner cancelled or suspended by the Director, until the expiration of the period specified in the permit.

(4) A permit is subject to such conditions as are attached to the permit by the Director.

(5) The fee for a permit under this clause, or for the renewal of such a permit, is \$100.

Division 4—Measurement of fishing gear

Measuring length and mesh size of nets

115. (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) the device described in subclause (3) must be used in the manner set out in subclause (4).

(3) The device (which must be verified in such manner as the Director may determine) must comply with the following description:

- (a) Consisting of a fixed member (in the form of a metal cylinder) in which is fitted a sliding member weighing 225 grams.
- (b) Both members must have attached a fixed knife edge.
- (c) When in use, the device must be suspended from, or held by, the metal clip at the top of the fixed member.
- (d) A scale and a point must be marked on both members.

(4) The device must be used in the following manner:

- (a) The net (the mesh size of which is to be measured) must be soaked in water for a period of not less than 5 minutes, after which both knife edges must be inserted in a mesh of the net, so that the mesh is supported by the knife edge of the fixed member at a knot while the knife edge of the sliding member is supported by the mesh at the knot diagonally opposite.
- (b) The mesh being measured, when suspended as above, must hang in a plane parallel to the body of the device.
- (c) The size of the mesh must then, without any unnecessary delay, be determined as the distance between the inside edges of the knots, as read from the scale on the sliding member, at a point indicated by a mark on the fixed member.

(5) For the purposes of testing or determining the mesh size of a net specified in the Table to this clause, the device described in subclause (3) must be used in the manner set out in subclause (4) except that:

- (a) the weight specified in relation to that net in that Table must be attached to the sliding member; and
- (b) the net (the mesh size of which is to be measured) must be soaked in water for a period of not less than 10 minutes.

(6) In testing or determining the mesh size of a knotless net (being a net in which the mesh is formed by the fusion or interweaving of 2 or more threads of the netting material) the same method must apply, except that the knife edges of the members must be inserted in a mesh at diagonally opposite corners and the measurements taken from the inside of those corners.

(7) The mesh size specified in respect of a lawful net in Part 3 is taken to be the mesh size, when determined in the manner and by the use of the measuring device, described in this clause.

TABLE

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

Division 5—Tagging of rock lobsters taken for recreational purposes

Definitions

116. In this Division:

“**fishing period**” means a period of 12 months ending on 30 June;

“**rock lobster**” means eastern rock lobster (*Jasus verreauxi*), southern rock lobster (*Jasus edwardsii*) and painted rock lobster (*Panulirus longipes* and *Panulirus ornatus*);

“**tag**” means a recreational fishing tag issued by the Director for attachment to a rock lobster taken other than for sale.

Issue of tags by Director

117. (1) The Director may issue recreational fishing tags for attachment to rock lobsters taken in a particular fishing period other than for sale and may approve the use of those tags in any subsequent fishing period.

(2) Any person may apply to the Director, or a person authorised by the Director, for the issue of tags. The application must be for a multiple of 10 tags and is to be in a form approved by the Director.

(3) The application must be accompanied by a fee of \$2 for each tag applied for.

Rock lobsters taken for recreational purposes to have tags attached

118. (1) A person who takes rock lobster from any waters must:

- (a) attach a tag issued or approved by the Director for use in the fishing period in which the rock lobster is taken to the rock lobster as soon as practicable after the rock lobster is taken; and
- (b) attach the tag in such a manner that it cannot be removed without being broken.

Maximum penalty: 50 penalty units.

(2) It is a defence to a prosecution for an offence under subclause (1) if the person charged satisfies the court that the rock lobster was taken by the person for sale.

(3) A person must not, in or on or adjacent to any waters, be in possession of a 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: 50 penalty units.

(4) It is a defence to a prosecution for an offence under subclause (3) if the person charged satisfies the court that the rock lobster was in the person's possession for sale.

(5) This clause does not have effect until 1 July 1995.

Note: Division 2 of Part 8 of this Regulation (relating to the rock lobster restricted fishery) requires that eastern rock lobsters taken for sale or in possession for sale have a commercial fishing tag attached to them.

Division does not affect other requirements as to lawful taking of rock lobster

119. Nothing in this Division authorises the taking or possession of rock lobster contrary to any other requirements of this Regulation, such as

those contained in Part 2 (Protected fish, prohibited size fish and bag limits).

Note: Part 2 of this Regulation contains bag limits and maximum and minimum size requirements for rock lobster.

Division 6—Miscellaneous

Prohibited lures and baits

120. (1) A person must not take or attempt to take any fish from inland waters with a lure or bait that is:

- (a) a live fin fish; or
- (b) any fish or any part of a fish not native to the waters of New South Wales (other than dead carp); or
- (c) trout or salmon roe or any product containing trout or salmon roe.

(2) A person must not take or attempt to take salmon or trout with any lure or bait other than:

- (a) natural flies or insects, or their larvae; or
- (b) worms, shrimps, yabbies or mussels; or
- (c) artificial lures or baits; or
- (d) plant matter.

Maximum penalty: 50 penalty units.

(3) A person fishing in inland waters must, on the demand of a fisheries officer, produce to that officer the lure or bait being used by that person.

Maximum penalty: 50 penalty units.

Taking of octopus from rock platforms

121. (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 eastern most point of Outer North Head and the eastern most point of South Head.

Shucking of intertidal invertebrates

122. (1) A person must not shuck any intertidal invertebrate (other than abalone, rock lobster or turban snail) in or on or adjacent to any waters except for immediate bait use.

Maximum penalty: 25 penalty units.

(2) A person must not shuck rock lobster or turban snail in or on or adjacent to any waters.

Maximum penalty: 25 penalty units.

Shucking of abalone

123. (1) A commercial fisher who is authorised to take fish for sale in the abalone fishery must not shuck abalone at any place other than:

- (a) a place approved for the purpose by the Director; or
- (b) premises registered under the regulations made under the Export Control Act 1982 of the Commonwealth for the preparation of abalone for export.

(2) A person (other than a commercial fisher referred to in subclause (1)) must not shuck abalone in or on or adjacent to any waters.

Maximum penalty: 50 penalty units.

Mutilation of fish

124. (1) A person must not, without reasonable excuse, mutilate any fish of a class specified in clause 7 (Prohibited size fish) in or on or adjacent to any waters in any manner other than by gutting or by removing the gills or scales.

Maximum penalty: 50 penalty units.

(2) A person must not deliver or consign for sale any fish of a class specified in clause 7 (Prohibited size fish) which has been mutilated in any manner other than by gutting or by removing the gills or scales.

Maximum penalty: 50 penalty units.

(3) This clause does not apply to the delivery or consignment for sale of fish propagated, hatched or reared by the holder of an aquaculture permit under the authority of that permit or of any other fish that have already been lawfully sold.

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

125. (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.

Sorting charge for fish

126. If, in the opinion of a fisheries officer, it is necessary to sort the whole or any part of a consignment of fish for sale for purposes of inspection because of the inclusion of fish which are prohibited size fish, protected fish or fish which it is unlawful to sell by or under the Act, a charge for sorting of \$10 per crate is payable by the owner of the fish to the Minister.

PART 6—COMMERCIAL SHARE MANAGEMENT FISHERIES

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

127. (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 Law) 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 of any jurisdiction (within the meaning of the Corporations Law);

“**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 Law for the purposes of determining whether a person has an interest in shares or voting power in a body corporate.

Determination of catch history

128. (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 Law) or that forms part of a record audited by a registered company, auditor.

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

Commencement of limited access to fishery—restricted fisheries

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

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

Limited access fishery—endorsement of licence

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

- (a) an acquisition in the abalone fishery;
- (b) an acquisition in the rock lobster fishery;
- (c) an acquisition in an estuarine prawn trawl fishery, or the Ocean prawn trawl fishery (comprised of Ocean waters more than 3 miles from coastal baselines which are north of a line drawn due east from Barrenjoey Headland), being a fishery to which clause 11 of Schedule 7 to the Act applies;
- (d) an acquisition by a person of shares and catch history (as referred to in section 51 of the Act) in accordance with clause 132.

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

Special endorsements to take fish in share management fishery

131. 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 or sale in a share management fishery even though the commercial fisher is not entitled under Part 3 of the Act to have his or her licence endorsed) is \$100.

Transfers and other dealings in shares

132. (1) For the purposes of section 71 (5) of the Act, before the commencement of the management plan for a fishery, section 71 of the Act applies to allow the transfer, assignment or transmittance of the shares of a person (“the shareholder”) in the fishery only if:

- (a) all the shares of the shareholder in all fisheries are transferred, assigned or transmitted to one person (“the transferee”); and
- (b) the transferee acquires the whole of the shareholder’s catch history (as referred to in section 51 of the Act) in those fisheries.

(2) A reference in this clause to a shareholder’s catch history includes, in the case of a shareholder who is not a natural person, the catch history associated with the commercial fishing operations of that shareholder.

(3) Nothing in this clause authorises the mortgaging of shares in a share management fishery before the commencement of the management plan for the fishery.

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

Forfeiture of shares for failure to pay certain contributions

133. (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.

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

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

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

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

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

**PART 7—LICENSING AND OTHER COMMERCIAL
FISHERIES MANAGEMENT**

Division 1—Commercial fishing licences

Who may hold commercial fishing licence

135. For the purposes of section 103 (2) (c) of the Act, the following individuals are authorised to hold a commercial fishing licence:

- (a) an individual who holds shares in a share management fishery on a provisional basis (under section 48 of the Act);
- (b) an individual who satisfies the Minister that the individual (either alone or together with other individuals) has a licensed fishing boat or boats and a catch history (as referred to in section 51 of the Act) which are sufficient to enable the individual to maintain a viable commercial fishing operation;
- (c) an individual who satisfies the Minister that if a licence is not issued to the person an available fisheries resource would not be utilised;
- (d) in the case of a Class 3 licence, an individual who satisfies the Minister that he or she has a long history of association with the commercial fishing industry and wishes to obtain a commercial fishing licence so that he or she can be eligible to be a member and take part in the proceedings of CFAC or a CFAC Regional Advisory Committee;
- (e) in the case of a Class 4 licence, an individual who is a resident of Lord Howe Island.

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

Fee to accompany application for commercial fishing licence

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

- (a) in the case of an application for a Class 1, Class 2 or Class 3 licence—\$400; or
- (b) in the case of an application for a Class 4 licence—\$100.

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

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

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

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

Prescribed conditions of commercial fishing licences

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

- (a) any fish taken for sale or landed in New South Wales by a member of the unlicensed crew pursuant to the licence, while working under the supervision of the holder of the licence, must be sold by the holder of the licence;
- (b) the holder of the licence must not engage any person as a member of the unlicensed crew unless the holder is satisfied that the person has the necessary skills, experience or capacity to participate successfully in fishing operations authorised by the licence;
- (c) the holder of the licence must not use any unlicensed crew member on a boat being used by the licensee to take fish, unless the boat is being used as follows:
 - (i) to take fish from ocean waters (but not from the shore) by use of a trap, line, purse seine net, lampara net or spanner crab net; or

- (ii) to take prawns from estuary waters (but not from the shore) by use of a seine net (prawns); or
 - (iii) to take fish from any waters by use of an otter trawl net (fish), otter trawl net (prawns) or danish seine trawl net (fish);
- (d) the holder of the licence must not take fin fish from any inland waters during the months of September, October and November in any year.

(2) In this clause, a reference to an unlicensed crew member is a reference to a crew member who is not the holder of a commercial fishing licence.

Renewal of commercial fishing licence

139. (1) The holder of a commercial fishing licence may apply in writing to the Minister for the renewal of his or her licence.

(2) The application is to be accompanied by a fee of:

- (a) in the case of an application for a Class 1, 2 or 3 licence—\$200; or
- (b) in the case of an application for a Class 4 licence—\$100.

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

- (a) the applicant has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations. under the law of the Commonwealth, another State, a Territory or New Zealand; or
- (b) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat; or
- (c) the applicant has been convicted of an offence relating to an assault on a fisheries official; or
- (d) the applicant has, in the opinion of the Minister, contravened a condition of his or her licence or of an endorsement on that licence or of a permit issued to him or her under the Act; or
- (e) the applicant has sold his or her licensed fishing boat or boats and the Minister is of the opinion that the applicant is not able to maintain a viable fishing operation because he or she has an insufficient number of licensed boats or catch history (as referred to in section 51 of the Act); or
- (f) the application for renewal of the licence is received by the Minister more than 60 days after the date the licence would have expired (but for subclause (6)); or

- (g) the applicant is not authorised, by or under section 103 (2) of the Act, to hold a commercial fishing licence; or
 - (h) the applicant has not paid any fee or contribution due and payable in connection with the renewal of his or her licence.
- (4) The Minister may renew a licence for a period of 1 year or such other period as is specified in the licence.
- (5) If an application is duly made for renewal of a commercial fishing licence and is received by the Minister before the expiration of the period in which it remains in force, and the licence is not renewed before the expiration of that period, the licence:
- (a) is taken to continue in force until the licence is renewed or the application for renewal is refused; and
 - (b) may be renewed despite the fact that, but for this subclause, the licence would have expired.
- (6) If an application for renewal of a commercial fishing licence is not received by the Minister before the expiration of the period in which it remains in force, the licence:
- (a) is taken to continue in force for 30 days after the date the licence would have expired (but for this subclause), or until the licence is renewed or the application for renewal is refused, whichever happens first; and
 - (b) may be renewed despite the fact that, but for this subclause, the licence would have expired.
- (7) If an application for renewal of a commercial fishing licence (other than a Class 4 licence) is received by the Minister more than 30 days after the date the licence would have expired (but for subclause (B)), an additional application fee of \$100 is payable.
- (8) An application for renewal of a commercial fishing licence (other than a Class 4 licence) received by the Minister more than 60 days after the date the licence would have expired (but for subclause (6)) may be treated as an application for the issue of a commercial fishing licence, but in such a case the total fee payable in respect of the application is the fee prescribed in respect of an application for the licence concerned under clause 136.

Grounds for suspension or cancellation of a licence

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

- (a) the holder of the licence has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand; or

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

Classes of commercial fishing licences

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

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

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

Annual contribution to cost of research and to other industry costs

142. (1) For the purposes of section 106 of the Act, an annual contribution of \$75 is payable by the holder of a Class 1, Class 2 or Class 3 commercial fishing licence for each year or part of a year in respect of which the commercial fishing licence is issued or renewed.

(2) The contribution must be paid on or before the issue or renewal of the commercial fishing licence.

Division 2—Boat licences**Fee to accompany application for issue of fishing boat licence**

143. For the purposes of section 108 (2) of the Act, the prescribed fee in respect of an application for a fishing boat licence is:

- (a) if the application relates to a boat that is 3 metres or less in length—\$140; or
- (b) if the application relates to a boat that is more than 3 metres in length—\$140 plus \$20 for each metre or part of a metre by which the length of the boat exceeds 3 metres.

Grounds for refusal to issue fishing boat license

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

- (a) the boat is not licensed under the Act at the commencement of this Regulation (unless paragraph (b) applies); or
- (b) the boat replaces another boat (“**the original boat**”) that is licensed under the Act or for which the licence is in abeyance under clause 149:
 - (i) the Minister is of the opinion that the boat concerned is not of sufficiently similar dimensions or characteristics to the original boat; or
 - (ii) the licence for the original boat has been in abeyance for a period of more than 2 years; or
- (c) in the case of a boat licensed under the Act at the commencement of this Regulation, the boat was sold or disposed of after that commencement or the right to a fishing boat licence for the boat was transferred after that commencement (unless the transfer of the right to a licence for the boat to the applicant has been approved by the Director under clause 150); or
- (d) the Minister is authorised to refuse to issue a licence in respect of the boat under a share fishery management plan; or

- (e) the owner of the boat has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand and the Minister is satisfied that the boat was used by that owner for or in connection with the commission of the offence; or
- (f) the owner of the boat has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat; or
- (g) the owner of the boat has been convicted of an offence relating to an assault on a fisheries official; or
- (h) the applicant has not paid any fee due and payable in connection with his or her fishing boat licence.

Prescribed conditions of fishing boat licences

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

- (a) that the boat in respect of which the licence was issued or renewed is not used for or in connection with the taking of fish for sale or the landing of fish in New South Wales for sale in New South Wales by any person other than the holder of the licence or the holder's employees or agents;
- (b) that the holder of the licence displays on the outside of both sides of the bow of the licensed boat and on the outside of the top of the wheelhouse of the boat in clearly visible letters and figures (in a colour which contrasts with that of the background) the letters "LFB" and the licence number allotted to that boat by the boat licence and that those letters and figures are:
 - (i) in the case of a boat that is more than 7.5 metres long—not less than 300 mm in height and 150 mm in width; or
 - (ii) in any other case—not less than 150 mm in height;
- (c) that the holder of the licence displays on the outside of both sides of any dinghy or vessel which is not separately licensed under the Act and which is carried on the boat in respect of which the licence was issued, the letter "D" and the licence number of that licensed boat (such letter and number not to be less than 50 mm in height);
- (d) that the holder of the licence does not use, or permit to be used, unlicensed crew members on the licensed fishing boat, unless the boat is being used as follows:

- (i) to take fish from ocean waters (but not from the shore) by use of a trap, line, purse seine net, lampara net or spanner crab net; or
 - (ii) to take prawns from estuary waters (but not from the shore) by use of a seine net (prawns); or
 - (iii) to take fish from any waters by use of an otter trawl net (fish), otter trawl net (prawns) or danish seine trawl net (fish);
- (e) in the case of a licence that authorises the use of the boat for prawn trawling in the Clarence River:
- (i) the boat is not to be altered so as to increase its length, depth or breadth; and
 - (ii) the engine of the boat is not to be altered or replaced so as to increase its power rating by more than 10% of the power rating of the engine of the boat as at 1 January 1994; and
 - (iii) the engine of the boat is not to be replaced without the written consent of the Director; and
 - (iv) the length, depth and breadth of the boat (“**the current boat**”) and the power rating of its engine are not to be greater than that of any boat that it replaces (that is, any other boat used by the licensee for prawn trawling in the Clarence River on or after the commencement of this Regulation and before the licence for the current boat was issued);
- (f) in the case of a licence that authorises the use of the boat for prawn trawling in the east coast fishery:
- (i) the power rating of the engine of the boat is not more than 10% greater than the power rating of the engine of the boat, or of any other boat that it replaced for use in prawn trawling in the east coast fishery, as at 5 November 1985 (unless paragraph (ii) applies); and
 - (ii) if the power rating of the engine of the boat, or of any other boat that it replaced for use in prawn trawling in the east coast fishery, was increased after 5 November 1985 and before 1 November 1994, the power rating of the engine of the boat is not greater than the power rating of the engine of the boat or replaced boat (as at 1 November 1994) used in prawn trawling in the east coast fishery at that date; and
 - (iii) the engine of the boat is not replaced without the written consent of the Director.

- (2) For the purposes of subclause (1) (e) and (f):
- (a) boat dimensions are as specified in a survey certificate for the boat; and
 - (b) the power rating of the engine of a boat is to be determined in accordance with the Manufacturers Continuous Rating method under heavy duty fishing conditions.
- (3) In this clause:
- “east coast fishery”** means the east coast prawn trawl fishery, that consists of all waters which are more than 3 nautical miles from coastal baselines and are north of a line drawn due east from Barrenjoey Headland (being a fishery to which clause 11 of Schedule 7 to the Act applies);
- “unlicensed crew member”** means a member of the crew of a licensed fishing boat who is not the holder of a commercial fishing licence.

Renewal of fishing boat licence

- 146.** (1) The holder of a fishing boat licence may apply in writing to the Minister for the renewal of his or her licence.
- (2) The application is to be accompanied by a fee determined as follows:
- (a) if the application relates to a boat that is 3 metres or less in length—the fee is \$40;
 - (b) if the application relates to a boat that is more than 3 metres in length—the fee is \$40 plus \$20 for each metre or part of a metre by which the length of the boat exceeds 3 metres.
- (3) The Minister may refuse to renew the licence if:
- (a) the holder of the licence has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations under the law of the Commonwealth, another State, a Territory or New Zealand and the Minister is satisfied that the boat was used by that holder for or in connection with the commission of the offence; or
 - (b) the holder of the licence has, in the opinion of the Minister, contravened a condition of the licence; or
 - (c) the holder of the licence has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat; or
 - (d) the holder of the licence has been convicted of an offence relating to an assault on a fisheries official; or

(e) the application for renewal of the licence is received by the Minister more than 60 days after the date the licence would have expired (but for subclause (6)); or

(f) the holder of the licence has not paid any fee due and payable in connection with the renewal of his or her licence.

(4) The Minister may renew a licence for a period of 1 year or such other period as is specified in the licence.

(5) If an application is duly made for renewal of a fishing boat licence and is received by the Minister before the expiration of the period in which it remains in force, and the licence is not renewed before the expiration of that period, the licence:

(a) is taken to continue in force until the licence is renewed or the application for renewal is refused; and

(b) may be renewed despite the fact that, but for this subclause, the licence would have expired.

(6) If an application for renewal of a fishing boat licence is not received by the Minister before the expiration of the period in which it remains in force, the licence:

(a) is taken to continue in force for 30 days after the date the licence would have expired (but for this subclause), or until the licence is renewed or the application for renewal is refused, whichever happens first; and

(b) may be renewed despite the fact that, but for this subclause, the licence would have expired.

(7) If an application for renewal of a fishing boat licence is received by the Minister more than 30 days after the date the licence would have expired (but for subclause (6)), an additional application fee of \$100 is payable.

(8) An application for renewal of a fishing boat licence received by the Minister more than 60 days after the date the licence would have expired (but for subclause (6)) may be treated as an application for the issue of a fishing boat licence but in such a case the total fee payable in respect of the application is the fee prescribed in respect of an application for the issue of the licence concerned.

Additional licensing fee for fishing boat operating in the east coast prawn trawl fishery

147. (1) This clause applies to fishing boat licences authorising the use of the boat to take prawns in the east coast prawn trawl fishery. The east coast prawn trawl fishery is all waters that are more than 3 nautical miles

from coastal baselines and are north of a line drawn due east from Barrenjoey Headland (being a fishery to which clause 11 of Schedule 7 of the Act applies).

(2) An application for the issue or renewal of a fishing boat licence to which this clause applies is to be accompanied by a unitage fee (calculated by multiplying the total unitage of the boat by \$1.50) for each year or part of a year in respect of which the licence is issued or renewed.

(3) The unitage fee is in addition to any fee required under clause 143 or 146.

(4) The “**total unitage**” of a boat is the sum of the following:

(a) the total units of the hull of the boat, determined in accordance with the Uniform Shipping Code for ship measurement (as at 1 January 1986);

(b) the total units of the engine of the boat (as installed at 1 January 1986), determined in accordance with the Manufacturers Continuous Rating method.

(5) If an application relates to a boat that was not licensed at 1 January 1986 the total unitage is to be determined in accordance with subclause (4) as at the date of the application.

(6) If an application relates to a boat (not licensed at the commencement of this Regulation) that replaces a boat the licence for which is in abeyance under clause 149, the application must be accompanied by an additional fee (calculated by multiplying the total unitage of the replacement boat by \$1.50) for each year or part of a year in which the licence has been in abeyance under clause 149.

Grounds for suspension or cancellation of a fishing boat licence

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

(a) the holder of the licence made a statement in connection with the holder’s application for the issue or renewal of the licence that was, in the opinion of the Minister, false or misleading in a material particular; or

(b) the holder of the licence has, in the opinion of the Minister, contravened a condition of the licence; or

(c) the holder of the licence has been convicted of an offence under the Act or regulations made under the Act or of an offence relating to commercial fishing operations under the law of the

Commonwealth, another State, a Territory or New Zealand and the Minister is satisfied that the boat was used by that holder for or in connection with the commission of the offence; or

- (d) the holder of the licence has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat; or
- (e) the holder of the licence has been convicted of an offence relating to an assault on a fisheries official; or
- (f) the holder of the licence has transferred his or her right to the licence in accordance with clause 150; or
- (g) the boat has been lost at sea or otherwise disposed of by the holder of the licence.

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

149. (1) The Minister may suspend a fishing boat licence by placing the licence in abeyance for a period specified by the Minister, from time to time, if the Minister is of the opinion that the holder of the licence is unable to use the licensed boat for a particular period (for example, because the boat has been disposed of or lost at sea).

(2) The holder of a fishing boat licence that is in abeyance under this clause may apply in writing for the issue of a fishing boat licence for a boat that replaces the boat for which the licence is in abeyance.

Transfer of right to a fishing boat licence

50. (1) The Director may approve the transfer of the right to a fishing boat licence in accordance with this clause.

(2) An application for approval of the transfer of the right to a fishing boat licence may be made in writing to the Director jointly by the holder of the fishing boat licence and a person intending to acquire the right to that licence.

(3) The application is to be accompanied by a fee of \$250.

(4) The Director may approve the transfer, or may refuse to approve the transfer, of the right to a fishing boat licence to the person.

(5) The Director may refuse to approve the transfer on any of the grounds on which the Minister could refuse to approve the issue of a fishing boat licence to the person.

(6) If the transfer is approved, the transferee may apply for, and is to be issued with, a fishing boat licence (whether for the boat previously licensed to the transferor or for another boat that replaces the boat licensed to the transferor).

(7) Nothing in this clause affects the power of the Minister to refuse to issue a licence as authorised by clause 144 (including on the ground that the boat concerned is not of sufficiently similar dimensions or characteristics to the licensed boat of the transferor).

(8) This clause applies to a licence whether or not it is suspended or in abeyance under clause 149.

Boats taken to be licensed under the Act

151. (1) For the purposes of section 107 (2) of the Act, a boat is taken to be licensed under the Act if the boat is registered by the Director in accordance with subclause (2).

(2) The Director may, on receiving an application in writing by the owner of a boat, register the boat under this clause if the Director is satisfied that the boat:

(a) is licensed or otherwise authorised to be used for the purpose of taking fish under a law of the Commonwealth or of another State or a Territory; and

(b) operates from or to a New South Wales port.

(3) An application for registration of a boat under this clause is to be accompanied by a fee of \$100 and is to contain a description of the boat (including identification numbers and distinguishing characteristics) and such other information as the Director requires.

(4) The owner of a boat must not make an application for registration under this clause knowing that the application is false or misleading in a material particular.

Maximum penalty: 25 penalty units.

(5) If a change occurs in a material particular of the information provided to the Director in or in connection with an application for registration under this clause, the owner of the boat must forthwith give the Director written particulars of that change.

Maximum penalty: 25 penalty units.

(6) When particulars of the change are given, those particulars are then to be considered part of the original application, and subclause (5) applies in relation to any further change in the information provided.

(7) Registration under this clause is to be certified by the Director in such form as the Director approves.

(8) Registration is for a period of one year or such other period as is specified in the registration and is subject to such conditions as are attached to the registration by the Director or specified by the Director from time to time by notice in writing served on the owner of the registered boat.

(9) The Director may revoke the registration of a boat under this clause, or refuse to renew the registration, if the Director is of the opinion that the owner of the boat has contravened a condition of registration.

Only licensed hats may be marked “LFB”

152. 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

Fee to accompany application for registration

153. For the purposes of section 110 (7) of the Act, the prescribed fee is \$100.

Eligibility for registration as a crew member

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

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

Period of registration

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

Application for authority to use unregistered crew members

156. (1) The holder of a commercial fishing licence or fishing boat licence may apply in writing to the Director for an authorisation under section 110 (5) of the Act (which allows a commercial fishing licence or the licence for a boat to authorise the use of persons who are not registered as crew members on a boat).

(2) The application is to be accompanied by a fee of \$50 in respect of each unregistered crew member to be authorised.

Records to be kept about crew members

157. (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.

Records to be kept by registered crew members

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

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

Maximum penalty: 25 penalty units.

False and misleading information in records

159. 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—Abalone****Definitions**

160. In this Division:

“**abalone**” includes sea urchin and turban snail;

“**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 abalone for sale in the restricted fishery, and includes an original endorsement;

“**original endorsement**” means an endorsement which was in force at the commencement of this Regulation and which relates to a restricted fishery permit under section 22A of the 1935 Act (as in force before the commencement of this Regulation) for the abalone restricted fishery, that was in force immediately before 22 February 1985;

“**quota**” means the maximum quantity of abalone that may be taken by the holder of an endorsed licence during the period in which the endorsement is in force;

“**restricted fishery**” means the restricted fishery declared under this Division;

“**total allowable catch**” means the maximum quantity of abalone that may be taken from the restricted fishery during any period;

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

Abalone is a restricted fishery

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

Maximum number of commercial fishing licences that may be endorsed

162. The maximum number of commercial fishing licences that may be endorsed in respect of the restricted fishery is 37.

Total allowable catch

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

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

Application for new endorsement

164. (1) The holder of a commercial fishing licence may apply for an endorsement in accordance with this clause.

(2) An application for an endorsement is to be made in writing to the Minister.

(3) The application is to be accompanied by:

- (a)** 2 original endorsements or 1 endorsement which is not an original endorsement; and
- (b)** a copy of an agreement in respect of each such endorsement to cancel the endorsement, signed by the holder of the endorsed licence; and
- (c)** a fee of \$300.

(4) The Minister may, subject to clause 167, endorse the licence of the applicant and cancel the endorsements accompanying the application.

(5) The Minister must not endorse the commercial fishing licence of a person under this clause if

- (a)** the person already has an endorsed licence under this Division; or
- (b)** the person has, in the opinion of the Minister, applied for the endorsement principally for the purpose of having the endorsement cancelled to enable another person to apply for an endorsement under this clause.

Public tender for new endorsements

165. (1) If at any time the Minister is satisfied that more commercial fishing licences may be endorsed, having regard to the maximum number of commercial fishing licences that may be endorsed in respect of the restricted fishery, the Minister may, by notice published in the Gazette, call public tenders for those endorsements.

(2) The public tender is subject to such conditions as may be determined by the Minister and specified in the notice referred to in subclause (1).

(3) The Minister may, subject to clause 162 and to this clause, endorse the commercial fishing licences of the successful tenderers.

(4) The Minister must not endorse the commercial fishing licence of a tenderer pursuant to this clause if:

- (a) the tenderer already holds an endorsed licence; or
- (b) the tenderer has, in the opinion of the Minister, tendered for an endorsement principally for the purpose of having the endorsement cancelled to enable another person to apply for an endorsement under clause 164.

Application for endorsement of licence for further period

166. (1) The holder of an endorsed licence (a “current endorsement”) may apply in writing to the Minister for an endorsement for a further period.

(2) The Minister may, subject to clauses 162 and 167, endorse the applicant’s commercial fishing licence for a further period.

(3) The Minister may refuse to endorse the applicant’s licence for a further period if:

- (a) the applicant has, in the opinion of the Minister, breached a condition of the endorsement; or
- (b) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat.

(4) 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.

Endorsement fee and quota fee

167. (1) The Minister is not to endorse a commercial fishing licence or endorse a commercial fishing licence for a further period unless the applicant has paid the endorsement fee and quota fee or the Director has approved the payment of such fees by instalments under clause 168.

(2) The endorsement fee is \$2,650, and the quota fee is \$16,850, in respect of each whole period of 12 months for which the licence is endorsed.

(3) If a licence is endorsed for a period of less than 12 months, the endorsement fee and the quota fee is an appropriate proportion of the fees referred to in subclause (2). That is, the proportion that the period for which the licence is endorsed bears to the period of 12 months.

(4) The Minister is to reduce the total fees payable under this clause for an endorsement under clause 164 by the relevant proportion.

(5) The relevant proportion is the proportion that the period for which an endorsement cancelled under clause 164 would otherwise remain in force bears to the period for which the commercial fishing licence to which it was attached was endorsed. If 2 original endorsements were cancelled, the relevant proportion is the average of those proportions.

Director may approve payment of fees by instalments

168. (1) The Director may approve payment of the fees referred to in clause 167 by instalments payable at such times as the Director determines.

(2) The total amount of all instalments, unpaid on the date provided for the payment of an instalment, becomes due and payable if the person fails to pay the instalment on or before the date provided for payment of that instalment.

Duration of endorsements

169. Except to the extent that its duration is affected by suspension, or unless it is sooner cancelled, an endorsement remains in force for such period as may be specified in the endorsement.

Quota for abalone

170. (1) For the purposes of section 112 (2) of the Act, it is a condition of an endorsement that the holder of the endorsed licence does not take more than a maximum quantity of abalone for sale determined by the Director in respect of the period in which the endorsement is in force and notified to the holder of the endorsed licence by notice in writing served on the holder.

(2) The Director is to determine quotas by allocating the total allowable catch, or part of the total allowable catch, for the relevant period equally between the holders of endorsed licences.

Transfer of quota

171. (1) A quota determined by the Director is, to such extent as may be advised from time to time by the Director, transferable in accordance with this clause.

(2) An application for a transfer of quota may be made in writing to the Director jointly by the holder of an endorsed licence specifying the quota and the holder of another endorsed licence who intends to purchase any transferable portion of the quota.

(3) Such an application is to be accompanied by a fee of \$50.

(4) The Director, at the Director's discretion, may transfer the relevant portion of the quota or may refuse to transfer any such portion.

(5) If the Director transfers any portion of the quota, the conditions of each endorsed licence concerned are taken to be amended in accordance with the transfer, with effect from the date notice of the transfer is served on the holder of the endorsed licence.

(6) The holder of an endorsed licence may request that the Minister review the Director's determination under this clause and the Director is to give effect to the determination of the Minister in respect of that review.

Cancellation or suspension of endorsements

172. The Minister may cancel or suspend an endorsement if the holder of the endorsed licence:

- (a) has, in the opinion of the Minister, breached a condition of the endorsement; or
- (b) has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat; or
- (c) fails to pay any fee, or instalment of a fee, payable in connection with an endorsement on or before the date it is due.

Suspension of endorsement at request of holder

173. (1) The holder of an endorsed licence may request the Minister to suspend the endorsement on his or her licence for a specified period or to shorten or extend any such period of suspension, and the Minister may comply with the request.

(2) This clause does not affect any other provision of this Regulation providing for the suspension of an endorsement.

Division 2—Rock lobster**Definitions**

174. 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 rock lobster for sale in the restricted fishery;

“**fishing period**” means a period of 12 months ending on 30 June;

“**quota**” means the maximum quantity of eastern rock lobster that may be taken for sale by the holder of an endorsed licence in a specified fishing period in which his or her endorsement is in force;

“**restricted fishery**” means the restricted fishery declared under this Division;

“**rock lobster**” means eastern rock lobster (*Jasus verreauxi*), southern rock lobster (*Jasus edwardsii*) or tropical rock lobster (*Panulirus longipes* and *Panulirus ornatus*);

“**tag**” means a commercial fishing tag issued by the Director in accordance with this Division for attachment to an eastern rock lobster;

“**total allowable catch**” means the maximum quantity of eastern rock lobster that may be taken from the restricted fishery during a fishing period.

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

Rock lobsters are a restricted fishery

175. For the purposes of section 111 of the Act, rock lobsters are declared to be a restricted fishery.

Maximum number of commercial fishing licences that may be endorsed

176. The maximum number of commercial fishing licences that may be endorsed in respect of the restricted fishery is 157.

Total allowable catch

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

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

New endorsements

178. (1) If at any time the Minister is satisfied that more commercial fishing licences may be endorsed, having regard to the maximum number of commercial fishing licences that may be endorsed in respect of the restricted fishery, the Minister may invite applications for endorsements by public notice.

(2) The Minister may take action under this clause in anticipation of an increase in the maximum number of commercial fishing licences that may be endorsed in respect of the restricted fishery.

(3) The notice is to specify a period (“**the application period**”) commencing after the day the notice is published, in which the Minister will receive applications for endorsements.

(4) An application for an endorsement is to be in writing.

(5) The notice is to specify the basis on which priority for the issue of endorsements will be determined.

(6) The Minister may refuse to endorse the commercial fishing licence of an applicant under this clause if

- (a)** the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act; or
- (b)** the applicant has been convicted of an offence relating to commercial fishing operations under the laws of the Commonwealth or of another State or of a Territory; or
- (c)** his or her application ~~or~~ for an endorsement is not received by the Director in the application period.

Duration of endorsement

179. An endorsement expires at the end of the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

Application for endorsement of licence for further period

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

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

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

- (a) the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act; or
- (b) the applicant has been convicted of an offence relating to commercial fishing operations under the laws of the Commonwealth or of another State or of a Territory; or
- (c) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement; or
- (d) the applicant has, in the opinion of the Minister, breached a condition of the endorsement of his or her licence; or
- (e) 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
- (f) the applicant has not paid any fee due and payable under or in connection with the endorsement of his or her licence.

(4) 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.

Suspension of endorsement at request of holder

181. (1) The holder of an endorsed licence may request the Minister to suspend his or her endorsement for a specified period or to shorten or extend any such period of suspension, and the Minister may comply with the request.

(2) This clause does not affect any other provision of this Regulation providing for the suspension of an endorsement.

Cancellation and suspension of endorsements

182. (1) The Minister may suspend or cancel an endorsement if the holder of the endorsed licence:

- (a) has, in the opinion of the Minister, breached a condition of the endorsement; or
- (b) has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat.

(2) The Minister may suspend an endorsement if the holder of the endorsed licence sells or disposes of the licensed boat used by the licence holder in connection with the taking of rock lobster until such time as the Minister is satisfied that the holder of the endorsed licence has acquired another licensed boat of the same type to be used in connection with the taking of rock lobster.

Holder of endorsed licence unable to take rock lobster

183. (1) The holder of an endorsed licence may apply in writing to the Minister for approval for another commercial fisher to take the benefit of the authority conferred by the endorsement of his or her licence for a specified period.

(2) The Minister may, in writing, approve the application if the Minister is satisfied that special circumstances exist (such as the holder of the endorsed licence being incapacitated) and as a result the holder of the endorsed licence is, or is likely to be, unable to take rock lobster for sale during the specified period.

(3) If the Minister approves the application, then during the period specified in the approval:

- (a) the person who obtains the benefit of the authority conferred by the endorsement is taken to be the holder of the endorsed licence; and
- (b) the takings of rock lobster for sale by the person who obtains the benefit of the authority conferred by the endorsement are taken to be the takings of the holder of the endorsed licence.

(4) The Minister may refuse to approve an application under this clause if the person who is to take the benefit of the authority conferred by an endorsement:

- (a) has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act; or
- (b) has been convicted of an offence relating to commercial fishing operations under the laws of the Commonwealth or of another State or of a Territory; or

- (c) 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.

Quota for eastern rock lobster

184. (1) For the purposes of section 112 (2) of the Act, it is a condition of an endorsement that the holder of an endorsed licence does not take more than a maximum quantity of eastern rock lobster for sale determined by the Director in respect of a specified fishing period in which the endorsement is in force and notified to the holder of the endorsed licence by notice in writing served on the holder.

(2) The Director is to determine quotas by allocating the total allowable catch for the relevant fishing period between the holders of endorsed licences.

(3) The Minister may determine that part only of the total allowable catch of eastern rock lobster is to be allocated between holders of endorsed licences in a fishing period.

(4) However, whether the whole or part only of the total allowable catch is to be allocated in a fishing period, the allocation is to be made by the Director among holders of endorsed licences in proportion to their catch history in the eastern rock lobster fishery during the best 3 out of 4 years during the years 1987 to 1990 inclusive.

(5) The catch history of holders of endorsed licences is to be determined by the Director having regard to such information as the Director considers appropriate.

Eastern rock lobsters to have tags attached

185. (1) It is a condition of an endorsement that:

- (a) the holder of an endorsed licence; or
- (b) a member of the crew of a licensed boat being used by the holder of an endorsed licence, in the presence of the holder of the endorsed licence,

attach a tag issued by the Director to each eastern rock lobster taken for sale by the holder of the endorsed licence before it is landed on shore or is transferred from the boat on which it was taken to any other boat.

(2) An officer of NSW Fisheries may attach a tag to an eastern rock lobster for the purposes of the administration or enforcement of the Act or this Regulation.

(3) The tag must be attached in such a manner that it cannot be removed without being broken.

(4) The tag attached must be a commercial fishing tag that is issued by the Director for use in the fishing period in which the rock lobster is taken.

(5) A person must not attach a tag to an eastern rock lobster unless the person:

- (a) is the holder of an endorsed licence; or
- (b) is a member of the crew of a licensed boat being used by the holder of an endorsed licence and attaches the tag in the presence of the holder of the endorsed licence; or
- (c) is an officer of NSW Fisheries acting in accordance with this clause.

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

Application for tags

186. (1) An application for tags must be in writing and must specify the number of tags applied for.

(2) The minimum number of tags that a holder of an endorsed licence may apply for is 150 tags or 25% of the number of tags available to the licensee in the fishing period to which his or her endorsement relates, whichever is the greater. If the number of tags available to the holder of an endorsed licence in the fishing period to which his or her endorsement relates, or the balance of that period, is less than 150, the licensee may only apply for all of the tags available to him or her.

(3) An application must be accompanied by a fee of \$2 for each tag.

(4) The holder of an endorsed licence must, before 31 March in each year, apply and pay for all tags available to him or her in the fishing period to which his or her endorsement relates.

(5) If the holder of an endorsed licence fails to apply and pay for all tags available to the licensee in accordance with subclause (4), the Minister may suspend his or her endorsement, and refuse to endorse his or her commercial fishing licence for a further period, until such time as the licensee pays for the tags.

Determination of number of tags available to holders of endorsed licences

187. (1) For the purposes of this Division, the number of tags available to the holder of an endorsed licence in the fishing period to which his or her endorsement relates is the number of tags that the Director determines will be required by the licensee to allow him or her to take the whole of his or her quota for that period.

(2) For the purposes of this Division, the number of tags available to the holder of an endorsed licence for the balance of a fishing period is (if an earlier issue or issues of tags have been made to the licensee or the licensee has received tags from the holder of another endorsed licence in accordance with a transfer of quota) the number of tags that the Director determines will be required by the licensee to allow the licensee to take the balance of his or her quota for that period.

(3) In determining the number of tags required by a holder of an endorsed licence the Director is to have regard to the average weight of eastern rock lobster taken by the licensee in the fishing period to which the endorsement relates or in previous fishing periods.

(4) The average weight of eastern rock lobster taken by a holder of an endorsed licence in a particular period is to be determined by the Director having regard to such information as the Director considers appropriate.

Issue of tags by Director

188. (1) The Director is not to issue any tags to a person unless:

- (a) the person is the holder of an endorsed licence or the issue of tags to the person is accompanied by an endorsement of the person's licence or endorsement of that licence for a further period; and
- (b) the fee for the issue of the tags applied for has been paid; and
- (c) the Director is satisfied that the number of tags to be issued does not exceed the number of tags available to the person for the fishing period to which his or her endorsement relates or for the balance of that period (if an earlier issue or issues of tags have been made to the holder of the endorsed licence or the licensee has received tags from the holder of another endorsed licence in accordance with a transfer of quota).

(2) It is a condition of an endorsement that a tag issued to, but not used by, the holder of an endorsed licence during the fishing period to which his or her endorsement relates must be surrendered to the Director within 30 days after the end of that period.

(3) A person who is issued with a tag may, subject to subclause (2), surrender the unused tag to the Director at any other time.

(4) The Director is to refund the fee of \$2 per tag in respect of each tag surrendered in accordance with this clause.

(5) Nothing in this clause prevents the Director from issuing tags to an officer of NSW Fisheries for attachment to eastern rock lobsters for the purposes of the enforcement or administration of the Act or this Regulation.

Tags not transferable

189. (1) Tags remain the property of the Director of NSW Fisheries.

(2) It is a condition of an endorsement that a tag issued to the holder of the endorsed licence must not be given to any other person unless:

- (a) it is surrendered to the Director; or
- (b) it is attached to an eastern rock lobster in such a manner that it cannot be removed without being broken; or
- (c) it is given to the holder of another endorsed licence (together with a transfer of quota to that licensee) in accordance with the approval of the Director referred to in clause 190 (6) (b).

Transfer of quota

190. (1) A quota determined by the Director is, to such extent as may be advised from time to time by the Director, transferable in accordance with this clause.

(2) An application for such a transfer may be made in writing to the Director, in such manner as the Director approves, jointly by the holder of an endorsed licence, specifying the quota concerned, and the holder of another endorsed licence who intends to purchase any transferable portion of the quota.

(3) The application is to be accompanied by a fee of \$100.

(4) The Director may, in the Director's discretion, transfer the relevant portion of the quota or refuse to transfer any such portion.

(5) If the Director transfers any portion of the quota, the conditions of each endorsed licence concerned are taken to be amended in accordance with the transfer, with effect from the date notice of the transfer is served on the holder of the endorsed licence.

(6) At the time of the transfer, the Director may:

- (a) require the holder of the endorsed licence the portion of whose quota is being transferred to surrender to the Director the number of tags that the Director specifies is appropriate in respect of the portion of the quota being transferred; or
- (b) if the Director considers it appropriate, approve that the holder of the endorsed licence the portion of whose quota is being transferred give the number of tags that the Director specifies is appropriate to the holder of the endorsed licence to whom that portion is being transferred.

(7) The Director is to refund the fee of \$2 per tag in respect of each tag surrendered in accordance with subclause (6) (a).

(8) The holder of an endorsed licence to whom a quota is transferred under this clause may apply for the issue of tags in respect of that quota in accordance with this Division.

(9) The holder of an endorsed licence may request that the Minister review a determination of the Director under this clause and the Director is to give effect to the determination of the Minister in respect of that review.

Eastern rock lobster must be sold with tag attached

191. (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, which does not have a tag attached to it in such a manner that the tag cannot be removed without being broken.

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

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

(3) In this clause, “whole eastern rock lobster” includes an eastern rock lobster which has had parts (other than the abdomen of the rock lobster) removed.

Note: Under section 4 of the Act, “sell” includes consign or deliver for sale and have in possession for sale.

Division 3—Scallops in Jervis Bay

Definitions

192. In this Division:

“**endorsed licence**” means an endorsed commercial fishing licence;

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

“**restricted fishery**” means the restricted fishery declared under this Division;

“**scallop**” means scallop (*Pecten fumatus*).

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

Scallops in Jervis Bay are a restricted fishery

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

Application of Division

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

Maximum number of commercial fishing licences that may endorsed

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

Ballot for issue of new endorsements

196. (1) If at any time the Minister is satisfied that more commercial fishing licences may be endorsed, having regard to the maximum number of commercial fishing licences that may be endorsed in respect of the restricted fishery, the Minister may, by public notice, invite applications to participate in a ballot to be conducted for the number of endorsements available.

(2) A ballot conducted under subclause (1) is subject to such conditions as may be determined by the Minister.

(3) If the number of applications received by the Minister does not exceed the number of endorsements available, the Minister may, subject to clause 195, endorse the licences of all applicants.

(4) If the number of applications received by the Minister exceeds the number of endorsements available, the Minister is to conduct a ballot, in such manner as the Minister considers appropriate, to determine the order of allocation of endorsements. All names entered in the ballot are to be drawn and the order of their drawing recorded.

(5) The Minister may, subject to clause 195, endorse the commercial fishing licences of the applicants in the order in which their names were drawn in the ballot until the number of endorsements available is exhausted.

Fee for new endorsements

197. (1) The Minister is not to endorse a licence unless:

- (a) the applicant has paid a fee for the endorsement of \$5,000 or such lesser amount as the Minister determines and the Director notifies in writing to all applicants to whom endorsements are to be given; or
- (b) the Director has approved the payment of that fee by instalments and the applicant has paid the first instalment specified by the Director.

(2) If the fee, or first instalment, for an endorsement is not paid by a successful applicant in accordance with this clause, the Minister may endorse the commercial fishing licence of another applicant in accordance with clause 196.

Director may approve payment of fees by instalments

198. (1) The Director may approve payment of the fee referred to in clause 197 by instalments payable at such times as the Director determines.

(2) The Minister may cancel an endorsement if an instalment is not paid on or before the date specified by the Director for the payment of the instalment.

(3) If an endorsement is cancelled under subclause (2), the Minister may endorse the commercial fishing licence of another applicant in accordance with clause 196.

Duration of endorsement

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

Cancellation and suspension of endorsements

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

Division 4—Jellyfish**Definitions**

201. In this Division:

“**endorsed licence**” means an endorsed commercial fishing licence;

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

“**jellyfish**” means jellyfish (*Catostylus mosaicus*);

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

“**restricted fishery**” means the restricted fishery declared under this Division;

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

Jellyfish are a restricted fishery

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

(2) The restricted fishery is a developmental fishery.

Application of Division

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

Maximum number of commercial fishing licences that may be endorsed

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

Total allowable catch for jellyfish

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

Endorsing of licences

206. (1) The Minister may, by public notice, invite commercial fishers to apply for endorsements to their licences, having regard to the maximum number of commercial fishing licences that may be endorsed in respect of the restricted fishery.

(2) The notice is to specify a period (“**the application period**”), commencing after the day the notice is published, in which the Minister will receive applications for endorsements.

(3) An application for an endorsement is to be in writing.

(4) If the number of applications received by the Minister in the application period does not exceed the number of endorsements available, the Minister may endorse the commercial fishing licences of all the applicants.

(5) If the number of applications received by the Minister in the application period exceeds the number of endorsements available, the Minister may endorse the licences of the applicants in the order in which their applications were received by the Minister until the number of endorsements available is exhausted.

(6) If at any time after the endorsing of commercial fishing licences in accordance with this clause the Minister is satisfied that more endorsements are available (having regard to the maximum number of licences that may be endorsed under this Division), the Minister may endorse the commercial fishing licences of any remaining applicants in the order referred to in subclause (5) or, if all applications for endorsement have been exhausted, by inviting further applications in accordance with this clause.

Grounds for refusal to endorse licence

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

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

Fee for endorsements

208. (1) The Minister is not to endorse a commercial fishing licence under clause 206 unless the applicant has paid a fee of \$200 for the endorsement.

(2) If the fee for an endorsement is not paid by a successful applicant within the time required by the Minister, the Minister may endorse the commercial fishing licence of another applicant in accordance with that clause.

Duration of endorsement

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

Cancellation and suspension of endorsements

210. The Minister may suspend or cancel an endorsement if:

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

Application for endorsement of licence for a further period

211. (1) The holder of an endorsed licence (a “**current endorsement**”) may apply in writing to the Minister for an endorsement for a further period.

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

(3) The Minister may only refuse the application if:

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

(d) the application for endorsement of the licence for a further period is received by the Minister after the expiration of the current endorsement.

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

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

Quota for jellyfish

212. (1) For the purposes of section 112 (2) of the Act, it is a condition of an endorsement that the holder of the endorsed licence does not take more than 15 tonnes of jellyfish for sale from the restricted fishery during the period in which jellyfish is a restricted fishery.

(2) The holder of an endorsed licence may apply in writing to the Director (jointly with the holder of another endorsed licence) for approval of the transfer of the quota or a specified part of the quota.

(3) The Director may approve, or refuse to approve, such a transfer.

(4) If the transfer is approved the conditions of each endorsed licence concerned are taken to be amended in accordance with the transfer, with effect from the date notice of the approval of the transfer is served on the holder of the endorsed licence concerned.

Division 5—Miscellaneous

Manner of attaching conditions to endorsements

213. (1) For the purposes of section 112 (2) of the Act, the Minister may attach conditions to endorsements by notice in writing served on the holder of the endorsed commercial fishing licence.

(2) Such a condition has effect in respect of the holder of the endorsed licence on and from the date the notice is served on the holder.

Revocation of existing orders

214. (1) A restricted fishery declared under Division 3 of Part 4 of the Act (other than a fishery to which clause 11 of Schedule 7 to the Act applies) in force immediately before the commencement of this Regulation is revoked.

(2) Any act, matter or thing that, immediately before the revocation of a revoked declaration, had effect under that declaration is taken to have effect under this Regulation.

PART 9—FISH RECEIVERS AND FISH RECORDS

Division 1—Fish receivers

Commencement

215. This Division commences on the deregulation date (within the meaning of section 20 of the Fish Marketing Act 1994).

Note: The deregulation date is 31 October 1997.

Definition

216. In this Division:

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

Registration not required—minimum quantity over prescribed period

217. (1) For the purposes of section 117 (2) (b) of the Act, the minimum quantity of fish is the following:

- (a) in respect of crustaceans—3 kg;
- (b) in respect of fin fish—10 kg whole weight;
- (c) in respect of any other fish (other than abalone)—5 kg.

(2) For the purposes of section 117 (2) (b) of the Act, the prescribed period is 1 day.

Registration requirements do not apply in respect of certain fish

218. 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.

Grounds for refusing application for registration

219. 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.

Renewal of registration

220. (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.

Cancellation or suspension of registration

221. 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.

Division 2—Fish records

Form of record to be kept by commercial fisher—transitional

222. For the purposes of section 121 (3) of the Act, if the Minister has not approved a form of record to be kept by a commercial fisher under

section 121 of the Act (being the record of fish taken by a commercial fisher), the prescribed record for the fisher is:

- (a) in the case of a commercial fisher taking fish for sale from any waters (other than inland waters) and landing the fish in New South Wales—Form 19 of Schedule 1 to the Fisheries and Oyster Farms (General) Regulation 1989 (as in force immediately before the commencement of this Regulation); or
- (b) in the case of a commercial fisher taking fish for sale from inland waters—Form 20 of Schedule 1 to the Fisheries and Oyster Farms (General) Regulation 1989 (as in force immediately before the commencement of this Regulation).

Prescribed period for furnishing catch records to Director

223. For the purposes of section 122 of the Act, the prescribed period (being the period in which commercial fishers must send a copy of a record of catch to the Director) is:

- (a) in the case of a record relating to abalone taken by a commercial fisher—24 hours after the abalone is landed in New South Wales; or
- (b) in any other case—28 days after the end of the month to which the record relates.

Records of sale and possession of fish—prescribed quantity

224. For the purposes of section 123 of the Act, the prescribed quantity of fish is the following:

- (a) in respect of abalone—2 kg meat weight or 200 grams dried meat weight;
- (b) in respect of crustaceans—3 kg;
- (c) in respect of fin fish—10 kg whole weight and 5 kg fillet weight;
- (d) in respect of beach worms—20 worms or parts thereof;
- (e) in any other case—5 kg.

Information to be included in records of sale and possession of fish

225. (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.

(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.

Division 3—Transitional

Persons taken to be registered as fish receivers

226. For the purposes of section 117 (2) (a) of the Act, the following classes of authority are prescribed:

- (a) a certificate of exemption under section 40C of the 1935 Act that is in force (an exemption from selling fish in a market);
- (b) a consent under section 40D of the 1935 Act that is in force (consent to sales of fish by a commercial fisher);
- (c) an approval under section 40E of the 1935 Act that is in force (an approval for a trading society to establish, control or operate a market).

PART 10—PROTECTION OF AQUATIC HABITATS

Application for permit under Part 7

227. An application for a permit under Part 7 of the Act is to be in a form approved by the Director.

Fee for permit to cut etc. marine vegetation (section 205 of the Act)

228. An application for a permit under section 205 (Permit required to cut etc. marine vegetation) of the Act is to be accompanied by a fee of \$100 but if, in the opinion of the Director, an inspection of the area affected is not required, a fee of \$50 only is required.

Noxious fish (section 209 of the Act)

229. For the purposes of Division 6 of Part 7 of the Act, the following fish are declared to be noxious fish:

- (a) **Class 1 (General noxious fish)**—Tilapia (*Oreochromis mossambicus*, *Tilapia zillii*, *Tilapia mariae*);
- (b) **Class 2 (Noxious fish in specific waters)**—Pacific oyster (*Crassostrea gigas*) but only in estuarine waters and Ocean waters (other than the waters of Port Stephens).

PART 11—ADMINISTRATION**Division 1—Election and appointment of members of NSW Commercial Fishing Advisory Council and CFAC Regional Advisory Committees****Definitions**

238. (1) In this Division:

“**approved**” means approved for the time being by the Director;

“**calling of the ballot**”, in relation to an election, means the date on which a notification is first published in respect of the election under clause 247;

“**calling of the election**”, in relation to an election, means the date on which a notification is first published in respect of the election under clause 239;

“**CFAC**” means the New South Wales Commercial Fishing Advisory Council constituted by section 229 of the Act;

“**close of enrolments**”, in relation to an election, means the time and date for the close of enrolments in the election fixed by the notification:

- (a) except as provided by paragraph (b)—published under clause 247; or
- (b) if the returning officer fixes a later time and date for the close of enrolments in the election than that fixed by a previous notification—last published under clause 248;

“close of nominations”, in relation to an election, means the time and date for the close of nominations in respect of the election fixed by the notification:

- (a) except as provided by paragraph (b)—published under clause 239; or
- (b) if the returning officer fixes a later time and date for the close of nominations in respect of the election than that fixed by a previous notification—last published under clause 240;

“close of the ballot”, in relation to an election, means the time and date for the close of the ballot in respect of the election fixed by the notification:

- (a) except as provided by paragraph (b)—published under clause 247; or
- (b) if the returning officer fixes a later time and date for the close of the ballot in respect of an election than that fixed by a previous notification—last published under clause 248;

“election” means an election conducted for the purposes of the appointment of one or more members to CFAC (other than regional members) or to a Regional Advisory Committee;

“electoral region” means a region described in clause 231;

“final roll”, in relation to an election, means the roll prepared for the election by the returning officer under this Division;

“preliminary roll”, in relation to an election, means the roll furnished for the election under clause 246 to the returning officer;

“Regional Advisory Committee” means a CFAC Regional Advisory Committee constituted by section 233 of the Act;

“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.

(2) A reference to a commercial fisher who is a resident of an electoral region:

- (a) in relation to Region 1—includes a reference to a commercial fisher who is a resident of Queensland; and
- (b) in relation to Region 7—includes a reference to a commercial fisher who is a resident of South Australia, Tasmania or Victoria.

Regional members of CFAC

231. (1) For the purposes of section 230 (2) (b) of the Act, the following regions are prescribed:

- (a) Region 1 (Upper North Coast)—that part of the State of New South Wales lying generally between the border between the States of Queensland and New South Wales and the parallel 29°15' south latitude;
- (b) Region 2 (Clarence)—that part of the State of New South Wales lying generally between the parallel 29° 15' south latitude and the parallel 29°45' south latitude;
- (c) Region 3 (North Coast)—that part of the State of New South Wales lying generally between the parallel 29°45' south latitude and the parallel 3°44' south latitude;
- (d) Region 4 (Central)—that part of the State of New South Wales lying generally between the parallel 31°44' south latitude and the parallel 33°25' south latitude;
- (e) Region 5 (Metropolitan)—that part of the State of New South Wales lying generally between the parallel 33°25' south latitude and the parallel 34°20' south latitude;
- (f) Region 6 (Upper South Coast)—that part of the State of New South Wales lying generally between the parallel 34°20' south latitude and the parallel 35°25' south latitude;
- (g) Region 7 (Lower South Coast)—that part of the State of New South Wales lying generally between the parallel 35°25' south latitude and the border between the States of New South Wales and Victoria.

(2) For the purposes of section 230 (3) of the Act, the specified period (being the period of appointment of a regional member) is 3 years.

Election of members of CFAC and of Regional Advisory Committees

232. The industry sector members of CFAC and members of Regional Advisory Committees are to be elected in accordance with this Division.

Industry sector members of CFAC

233. (1) For the purposes of section 230 (2) (c) of the Act, the following sectors of the fishing industry are prescribed:

- (a) Sector 1—ocean prawn trawling;
- (b) Sector 2—fin fish trawling;
- (c) Sector 3—commercial tuna fishing;
- (d) Sector 4—commercial abalone fishing;
- (e) Sector 5—commercial inland fishing.

(2) An elected industry sector member of CFAC must be a commercial fisher resident in New South Wales and must:

- (a) in relation to a member elected for Sector 1—be authorised to take prawns for sale by trawling in Ocean waters off New South Wales (including waters out to the 4,000 metre isobath approximately 80 nautical miles from the coast) and operate a boat which is the subject of a licence under the Act; and
- (b) in relation to a member elected for Sector 2—be authorised to take fin fish for sale by trawling and operate a boat which is the subject of a licence under the Act or a licence or permit under the Commonwealth Act; and
- (c) in relation to a member elected for Sector 3—be authorised to take tuna for sale and operate a boat which is the subject of a licence under the Act, or of a licence or permit under the Commonwealth Act, authorising commercial tuna fishing; and
- (d) in relation to a member elected for Sector 4—be authorised to take abalone for sale; and
- (e) in relation to a member elected for Sector 5—be authorised to take fish for sale from inland waters.

Qualifications for voting for elected industry sector members of CFAC

234. For the purposes of section 230. (4) (b) of the Act, an elected industry sector member of CFAC is to be elected by commercial fishers each of whom:

- (a) in relation to the election of a member for Sector 1—is authorised to take prawns for sale by trawling in Ocean waters off New South Wales (including waters out to the 4,000 metre isobath approximately 80 nautical miles from the coast) and operates a boat which is the subject of a licence under the Act; and
- (b) in relation to the election of a member for Sector 2—is authorised to take fin fish for sale by trawling and operates a boat which is the subject of a licence under the Act or a licence or permit under the Commonwealth Act; and
- (c) in relation to the election of a member for Sector 3—is authorised to take tuna for sale and operates a boat which is the subject of a licence under the Act, or of a licence or permit under the Commonwealth Act, authorising commercial tuna fishing; and
- (d) in relation to the election of a member for Sector 4—is authorised to take abalone for sale; and

- (e) in relation to the election of a member for Sector 5—is authorised to take fish for sale from inland waters.

Regional Advisory Committee for Region 4 to consist of P2 members

235. The CFAC Regional Advisory Committee for Region 4 (as referred to in clause 231) is to consist of 12 members.

Note: By virtue of section 233 of the Act a Regional Advisory Committee for any other region will consist of 10 members.

Qualifications for voting for members of Regional Advisory Committees

236. The members of a Regional Advisory Committee are to be elected by commercial fishers resident within the relevant electoral region.

Persons to be candidate for 1 position only

237. (1) A person may not be a candidate for, or hold, more than 1 position of member on CFAC.

(2) A person may not be a candidate for the position of member on more than 1 Regional Advisory Committee.

Conduct of elections

238. (1) Elections for members of CFAC and of Regional Advisory Committees are to be held every 3 years and must be conducted by postal ballot.

(2) Nominations are to be invited from commercial fishers qualified to vote in the election:

- (a) in relation to an election of a CFAC industry sector member under section 230 (4) of the Act, by advertisement in a newspaper circulating throughout New South Wales or in an official CFAC magazine; and
- (b) in relation to an election of a member of a Regional Advisory Committee, by advertisement in a newspaper circulating throughout the relevant electoral region or in an official CFAC magazine.

Notification of election

239. (1) The returning officer must, as soon as practicable after having been notified in writing by or on behalf of the Minister that a member is required to be appointed for CFAC or for a Regional Advisory Committee:

- (a) cause to be published in at least one newspaper circulating throughout New South Wales (or, in the case of an election of a member of a Regional Advisory Committee, throughout the relevant electoral region) or in an official CFAC magazine, a notification:
- (i) stating that an election is to be held for that purpose; and
 - (ii) specifying that a member is required to be appointed; and
 - (iii) calling for nominations of candidates; and
 - (iv) fixing the time and date for the close of nominations; and
 - (v) advising where nomination forms may be obtained; and
 - (vi) specifying the places where nominations may be lodged; and
 - (vii) specifying the qualifications that qualify a person to nominate a candidate; and
- (b) notify the Chairperson of CFAC in writing:
- (i) that an election is to be held for the purpose; and
 - (ii) of the time and date fixed under paragraph (a) for the close of nominations.

(2) The date fixed under subclause (1) for the close of nominations by the notification must be not earlier than 21 days, and not later than 28 days, after the date on which the notification is first published.

Postponement of close of nominations

240. (1) The returning officer may, by a notification in a form similar to, and published in the same manner as, a notification referred to in clause 239 (1) (a), postpone (for a period not exceeding 14 days) the close of nominations if, in the returning officer's opinion, it is desirable to do so.

(2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

Qualifications for nominating candidates

241. (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 1 candidate in an election.

Nomination of candidates

242. (1) A nomination of a candidate:

- (a) must be in the approved form; 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.

(2) 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.

(3) For the purpose of enabling the returning officer to form an opinion as to whether a person by whom a candidate in an election has been nominated is qualified to nominate a candidate, the returning officer may require the Executive Director of CFAC to furnish the returning officer with such information regarding the person as the returning officer may specify.

(4) The Executive Director of CFAC must comply with such a requirement as soon as practicable.

(5) A candidate who has been nominated in an election may, by notice in writing addressed to the returning officer, withdraw the nomination at any time before the close of nominations.

Uncontested elections

243. (1) If, by the close of nominations in an election for an industry sector member of CFAC, only one person has been duly nominated as a candidate for the sector, that person is to be taken to have been elected.

(2) In the case of an election for the members of a Regional Advisory Committee, if, by the close of nominations in the election, not more than the minimum number of persons have been duly nominated as candidates, those persons are taken to have been elected.

(3) In such a case, if fewer than the minimum number of members are taken to have been elected, the Minister may appoint as a member of the Regional Advisory Committee any person elected (in such manner as the Minister directs) by the elected members of the Regional Advisory Committee who are commercial fishers.

(4) In this clause, “**the minimum number**” is 10 or, in the case of an election for members of a Regional Advisory Committee for Region 4 (as referred to in clause 231), 12.

Contested elections

244. (1) If, by the close of nominations in an election for an industry sector member of CFAC, more than one person has been duly nominated as a candidate for the sector, a ballot must be held.

(2) If, by the close of nominations in an election for the members of a Regional Advisory Committee, more than the minimum number of persons have been duly nominated as candidates a ballot must be held.

(3) In this clause, “**the minimum number**” is 10 or, in the case of an election for members of a Regional Advisory Committee for Region 4 (as referred to in clause 231), 12.

Candidate information sheets

245. (1) A candidate may, at any time before the close of nominations, submit to the returning officer a statutory declaration, in the approved form, containing information intended for inclusion in a candidate information sheet.

(2) If, by the close of nominations, the election is contested, the returning officer must draw up a candidate information sheet consisting of the information contained in the statutory declarations submitted by the candidates.

(3) If the returning officer considers that the information contained in such a statutory declaration:

(a) is not appropriate for inclusion in a candidate information sheet;
or

(b) is false or misleading in a material particular; or

(c) is of a length greater than that permitted by the approved form,

the returning officer may, in drawing up the candidate information sheet:

(d) omit the information; or

(e) omit or rectify the particular; or

(f) reduce the length of the information.

(4) If a candidate does not submit a statutory declaration to the returning officer, the returning officer may, in drawing up a candidate information sheet, include in the sheet in respect of the candidate the words “NO INFORMATION RECEIVED”.

(5) For the purposes of this clause, an election is contested if, in the case of an election for an industry sector member of CFAC, more than one person is duly nominated as a candidate for the sector or, in the case of an election for members of a Regional Advisory Committee, more than the minimum number of persons are duly nominated as candidates.

(6) In this clause, “**the minimum number**” is 10 or, in the case of an election for members of a Regional Advisory Committee for Region 4 (as referred to in clause 231), 12.

Preparation of preliminary rolls

246. (1) The returning officer must, as soon as practicable after it becomes apparent to the returning officer that a ballot is required to be held in respect of an election, notify the Executive Director of CFAC:

- (a) that a ballot is to be held; and
- (b) that the Executive Director is required to furnish the returning officer, within such time after the calling of the ballot as may be specified in the notice, with:
 - (i) a preliminary roll of the persons who, in the opinion of the Executive Director, are qualified to vote in the election; and
 - (ii) an appropriately addressed label or an appropriately addressed envelope for each person whose name is included in that roll.

(2) The Executive Director of CFAC must comply with such a requirement as soon as practicable.

(3) A preliminary roll:

- (a) must contain the names (consecutively numbered and listed in alphabetical order) and addresses of the persons whose names are included in the roll; and
- (b) must be certified by the Chairperson of CFAC.

(4) 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 preliminary roll has been furnished to the returning officer under this clause.

Notification of ballot

247. (1) The returning officer must, as soon as practicable after receiving the preliminary roll for an election, cause to be published in at least one newspaper circulating throughout New South Wales (or, in the case of the election of a member of a Regional Advisory Committee, circulating throughout the relevant electoral region) or in an official CFAC magazine a notification:

- (a) stating that an election is being held for the purpose of appointing a member for the purposes of section 230 (4) or 233 (2) of the Act; and
- (b) stating that a ballot is to be taken; and
- (c) fixing the time and date for the close of enrolments; and

- (d) specifying the qualifications that qualify a person to vote; and
- (e) specifying the places where applications for enrolment and objections against enrolment may be lodged; and
- (f) fixing the time and date for the close of the ballot.

(2) The date fixed under this clause for:

- (a) the close of the ballot—must be not earlier than 28 days after the calling of the ballot; and
- (b) the close of enrolments—must be not earlier than the close of exhibition of the roll and not later than 14 days before the close of the ballot.

Postponement of ballot

248. (1) The returning officer may, by a notification in a form similar to, and published in the same manner as, a notification referred to in clause 247, postpone (for a period not exceeding 14 days) the close of enrolments or the close of the ballot if, in the returning officer's opinion, it is desirable to do so.

(2) The power conferred on the returning officer by this clause may be exercised more than once in respect of an election.

Applications for enrolment

249. (1) An application for enrolment in respect of an election must be in the approved form and must be lodged at the office of the returning officer before the close of enrolments.

(2) On receipt of an application for enrolment, the returning officer must:

- (a) if satisfied that the applicant is qualified to vote, accept the application and enter the name and address of the applicant in the relevant final roll; or
- (b) if not so satisfied, reject the application and inform the applicant in writing that the application has been rejected; or
- (c) if the application is not in the proper form or is incomplete:
 - (i) return the application for correction or completion; and
 - (ii) if the application is corrected or completed and returned within such time as the returning officer may specify, deal with the corrected or completed application in accordance with this subclause.

Objections to enrolment

250. (1) The returning officer, and any person who is qualified to vote in an election, may, before the close of enrolments, object to the inclusion in the final roll of the name of any person.

(2) An objection must:

- (a) be in the approved form; and
- (b) state the grounds on which the objection is made; and
- (c) be signed by the objector; and
- (d) be lodged with the returning officer.

(3) The returning officer must forward particulars of an objection to the person to whom the objection relates.

(4) The person to whom an objection relates may lodge a reply, in writing, with the returning officer within 14 days after the date on which particulars of the objection were forwarded to that person.

(5) The returning officer must consider each objection, and any reply received within that 14 day period, and may make such inquiries as the returning officer thinks fit.

(6) The returning officer may, after complying with subclause (5), accept or refuse to accept an objection.

(7) If the returning officer accepts an objection, the returning officer must exclude from the final roll for the election the name of the person to whom the objection relates and must inform the person and the objector, in writing, that the person's name is so excluded.

(8) If the returning officer does not accept an objection, the returning officer must notify the person to whom the objection relates and the objector, in writing, that the returning officer has not accepted the objection.

(9) The returning officer may require a person who lodges an objection, or who replies to an objection under subclause (4), to verify the objection or reply by statutory declaration.

Postponement of ballot not to affect final roll

251. A notification published under clause 248 after the close of enrolments in an election, being a notification whereby the close of the ballot is postponed, does not affect the validity of a final roll for the election prepared in accordance with this Division and, regardless of the publication of the notification, that roll remains a final roll for the election.

Printing of ballot-papers

252. (1) The returning officer must, as soon as practicable after the close of enrolments 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; and
- (c) if a candidate information sheet has been drawn up under clause 245, cause sufficient copies to be printed so that a copy may be forwarded to each person included in that roll.

(2) A ballot-paper for an election must contain:

- (a) the names of the candidates arranged in the order determined in accordance with subclause (1) (a), with a small square set opposite each name; and
- (b) if, in the opinion of the returning officer, the names of 2 or more of the candidates are so similar as to cause confusion, such other matter as will, in the opinion of the returning officer, distinguish between those candidates; and
- (c) such directions as to the manner in which a vote is to be recorded, and the ballot-paper returned to the returning officer, as the returning officer considers appropriate, including the direction that the voter must record a vote for at least the number of candidates to be elected.

(3) A candidate information sheet must be printed in such a manner that the information relating to each candidate appears on the sheet in the same order as the order in which the candidates' names are listed on the ballot-papers.

Distribution of ballot-papers

253. The returning officer must, as soon as practicable after the printing of the ballot-papers for an election, forward to each person included in a final 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; and
- (c) if applicable, a candidate information sheet.

Duplicate ballot-papers

254. (1) If any voter to whom a ballot-paper has been forwarded under clause 253 satisfies the returning officer by statutory declaration that the ballot-paper has been spoiled, lost or destroyed, and that the voter has not already voted in the election to which the ballot-paper relates, the returning officer may, at any time before the close of the ballot, issue to the voter a new ballot-paper and envelope.

(2) The returning officer must maintain a record of all duplicate ballot-papers so issued.

Recording of votes

255. A person whose name is included in a final roll for an election and who wishes to vote in the election must, on receipt of a ballot-paper:

- (a) record a vote on the ballot-paper in accordance with the directions shown 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) complete his or her full name and address and inscribe his or her signature on the back of the envelope; and
- (e) return the envelope to the returning officer so as to be received by the returning officer before the close of the ballot.

Receipt of ballot-papers

256. (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 final 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 and must, if satisfied after making those inquiries that the signature is not the signature of that person, reject the ballot-paper in the envelope without opening the envelope.

Ascertaining result of ballot

257. The result of a ballot is to be ascertained by the returning officer as soon as practicable after the close of the ballot.

Scrutineers

258. Each candidate in a ballot is entitled to appoint, by notice in writing, a scrutineer to represent the candidate at all stages of the scrutiny.

Scrutiny of votes

259. (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 256 in respect of the ballot, other than any envelope purporting to contain a ballot-paper rejected under clause 256 (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 which are informal;
 - (e) the returning officer must then proceed to count the votes and ascertain the result of the election in accordance with clause 260.

Counting of votes

260. (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 taken to be elected.

(2) In the event of an equality of votes, the candidate taken to be elected is the candidate whose name is drawn from a lot containing the names of each of the candidates having equal votes.

Notification of result of election

261. As soon as practicable after a candidate has been elected, the returning officer must notify the Minister and the Chairperson of CFAC, in writing, of the name of the candidate so elected.

Decisions of returning officer final

262. 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.

Forms

263. A form is to be completed in accordance with such directions as may be contained in it.

Offence

264. 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; or
 - (d) applies for enrolment in respect of an election in respect of which the person is already enrolled,
- is guilty of an offence.

Maximum penalty: 5 penalty units.

Death of candidate

265. 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 Minister 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 2—Annual contributions towards CFAC's costs

Annual contribution

266. (1) For the purposes of section 237 of the Act, the following contributions are prescribed (being the contributions to be made towards the funds of CFAC):

- (a) for a commercial fisher—\$300 for each year or part of a year in respect of which the fisher's commercial fishing licence is issued or renewed (unless the licence is a Class 4 licence, in which case there is no contribution);
- (b) for a registered member of the crew of a licensed fishing boat—\$50 for each year or part of a year in respect of which the crew member's registration is in force;
- (c) for an unregistered member of the crew of a licensed fishing boat (who is authorised by a commercial fishing licence or a fishing boat licence to act as a crew member on a licensed fishing boat)—\$50 for each year or part of a year in which the authorisation is in force.

(2) A commercial fishing licence is not to be issued to a person or renewed unless the relevant contribution of the person has been paid.

(3) A person is not to be registered as a crew member unless the relevant contribution of the person has been paid.

(4) An authorisation on a commercial fishing licence or fishing boat licence allowing the use of a person who is not registered as a crew member is not to be given unless the relevant contribution in respect of the crew member to be authorised has been paid.

Division 3—NSW Recreational Fishing Advisory Council

Establishment of NSW Recreational Fishing Advisory Council

267. (1) For the purposes of section 238 (2) of the Act, the New South Wales Recreational Fishing Advisory Council (“**RFAC**”) is to consist of no fewer than 6 and not more than 11 members.

(2) For the purposes of section 238 (3) of the Act, the following organisations are specified:

- New South Wales Game Fishing Association Inc.
- New South Wales Fishing Clubs Association Inc.
- Australian National Sportfishing Association (New South Wales Branch)
- The North and North West Amateur Fisherman’s Association
- Institute of Freshwater Anglers (New South Wales)
- South West Anglers Association
- Australian Underwater Federation (New South Wales Branch)
- Australian Fishing Tackle Association Inc.

(3) Each member of RFAC is to be appointed from a panel of 3 persons nominated in writing to the Minister by an organisation referred to in subclause (2).

PART 12—ENFORCEMENT

Division 1—Fisheries officers

Class of persons that may be appointed as fisheries officers

268. For the purposes of section 243 (1) (d) of the Act, the prescribed class of persons consists of persons appointed to enforce a law relating to commercial fishing operations of the Commonwealth, another State or a Territory.

Note: This clause allows persons responsible for the enforcement of fisheries laws of other Australian jurisdictions to be appointed as fisheries officers for the purposes of the Act (in addition to other persons who may be appointed as fisheries officers under section 243 of the Act).

Division 2—Seizure**Boat forfeiture offences**

269. For the purposes of section 265 (2) of the Act, the following fisheries offences are declared to be boat forfeiture offences:

- (a) an offence against section 8 of the Act (Closure of waters to fishing);
- (b) an offence against section 17 of the Act (Bag limits—taking of fish);
- (c) an offence against section 18 of the Act (Bag limits—possession of fish);
- (d) an offence against section 24 of the Act (Lawful use of nets or traps);
- (e) an offence against section 25 of the Act (Possession of illegal fishing gear);
- (f) an offence against section 247 of the Act (Obstructing, impersonating etc. fisheries officers);
- (g) an offence against the Fisheries Management (Aquatic Reserves) Regulation 1995;
- (h) an offence against clause 111 of this Regulation (Dynamite and explosive substances);
- (i) an offence against clause 113 of this Regulation (Use of electrical devices prohibited in all waters).

Note: Under section 265 of the Act, a fisheries officer may seize a boat that the officer has reason to believe has been used by a person engaged in commercial fishing activities for the purpose of committing a boat forfeiture offence. This clause sets out the offences which are boat forfeiture offences.

Division 3—Criminal proceedings**Penalty notices**

270. (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) For the purposes of section 276 (9) of the Act, in relation to each offence referred to in Schedule 5, the prescribed class of persons (being persons who are “authorised officers” in relation to those offences) consists of the Director and fisheries officers.

Evidence in relation to fishing authorities

271. For the purposes of section 280 of the Act, the following officers of NSW Fisheries are prescribed officers:

- (a) Director (Fisheries Management);
- (b) Director (Compliance and Advisory Services);
- (c) Principal Fisheries Manager (Commercial);
- (d) Principal Fisheries Manager (Habitat);
- (e) Principal Fisheries Manager (Aquaculture);
- (f) Senior Compliance Manager;
- (g) Fisheries Manager (Administration);
- (h) Share Registrar;
- (i) Licensing Officer.

Note: Under section 280 of the Act, a certificate (relating to a fishing authority under the Act) signed, or purporting to be signed, by the Director of NSW Fisheries or by a person referred to in this clause is admissible in proceedings for an offence under the Act or the regulations and is evidence of the matters stated in the certificate.

PART 13—SAVINGS AND TRANSITIONAL

Provisions relating to repeal and amendment of regulations under 1935 Act

272. (1) Any act, matter or thing that, immediately before the commencement of this Regulation, had effect under a provision of the Fisheries and Oyster Farms (General) Regulation 1989 that corresponds with a provision of this Regulation is taken to have effect under the corresponding provision of this Regulation.

(2) Any act, matter or thing that, immediately before the commencement of this Regulation, had effect under a provision of a repealed regulation that corresponds with a provision of this Regulation is taken to have effect under the corresponding provision of this Regulation.

(3) In this clause, “**repealed regulation**” means any of the following regulations:

- (a) the Fisheries and Oyster Farms (Nets and Other Fishing Gear) Regulation 1989;
- (b) the New South Wales Commercial Fishing Advisory Council Regulation 1990.

Offences under 1935 Act

273. 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.

Restricted fisheries—duration of existing endorsements

274. (1) An endorsement on a commercial fishing licence authorising the holder of the licence to take fish in a restricted fishery declared under Part 8 that is in force at the commencement of this Regulation is taken to specify a period in which the endorsement remains in force. The period taken to be specified is the same as the period specified in the restricted fishery permit to which it relates as being the period in which the permit remains in force.

(2) In this clause, “**restricted fishery permit**” means a permit issued under section 22A of the 1935 Act (as in force immediately before the repeal of that section) that was in force immediately before the commencement of this Regulation.

SCHEDULE 1—OCEAN WATERS

(Cl. 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.

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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 pint of Governor Head;
 - (g) Wogonga River—by a line drawn northwest across the entrance from the northernmost extremity of Wogonga Head;
 - (h) Batemans Bay—by a line drawn from the southwestern extremity of Square Point to the northernmost extremity of Observation Point.

SCHEDULE 2—WATERS IN WHICH NET AND TRAPFISHING ARE PROHIBITED(Cl. 18)

Brisbane Water/Broken Bay

Brisbane Water or any of its tributaries; Broken Bay north of a line drawn from Little Box Head to Green Point.

Port Hacking

Port Hacking or its tributaries to the westward of a line drawn southerly from the southernmost extremity of Hungry Point to the northernmost extremity of Cabbage Tree or Pulpit Point.

Wagonga River

Wagonga River or its tributaries westward of a line drawn north-west across the entrance from the northernmost extremity of Wagonga Head.

Narrabeen Lake

County of Cumberland. The whole of the waters of Narrabeen Lake and its tributaries including Deep Creek, Middle Creek, South Creek and Mullet Creek together with their affluents and tributaries.

Wallis Lake

County of Gloucester, parishes of Tuncuny 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 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.

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 BRAWN NET (SET POCKET) IS PERMITTED

(Cl. 18)

Tuggerah Lake and Ocean Waters Adjoining

County of Northumberland: The whole of the waters of the channel entrance to Tuggerah Lake within a distance of 46 metres measured rectangularly on the lake side of a line drawn across that channel entrance and being the prolongation of the outer shore of the (for the time being) more westerly point of entrance from the ocean to the channel entrance and also the whole of the Ocean waters to the entrance to Tuggerah Lake described in Schedule 2.

Lake Illawarra and Ocean Waters Adjoining

Country 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(Cl. 70)

Bellinger River

County of Raleigh: The whole of the waters of that part of the Bellinger River within the following boundaries. Commencing at a point on the western bank of the north arm of the River due west of the northern extremity of the northern training wall and thence bounded by a line easterly to that training wall; thence by the northern training wall and the northern breakwater southerly and southeasterly to the eastern extremity of the northern breakwater; thence by a line southeasterly to the eastern extremity of the southern breakwater; thence by that breakwater and the southern training wall northwesterly to the northwestern extremity of the southern training wall; thence by a line northeast to the inner training wall; thence by that training wall and the western bank of the north arm southeasterly and northerly to the point of commencement; and the whole of the waters of South Lagoon together with all its creeks, tributaries and inlets.

Boambee Creek

County of Raleigh, Parish of Bonville: The whole of the waters of Boambee Creek, together with all its creeks, tributaries and inlets extending from the South Pacific Ocean upwards to its source.

Bonville Creek

County of Raleigh, Parish of Bonville: The whole of the waters of Bonville Creek, together with all its creeks, tributaries and inlets extending from the South Pacific Ocean upwards to its source.

Brisbane Water

County of Northumberland: The whole of the waters of that part of Brisbane Water together with all its creeks, tributaries, inlets and bays north of a line drawn westerly from the southern extremity of Box or Hawk Head to the eastern extremity of Green Point.

Brunswick River

That part of the Pacific Ocean within the following boundaries: Commencing at high water mark at a point 1,000 metres north of the northwestern corner of the northern training wall of the Brunswick River, County of Rouse, Parish of Billinudgel, then by that high water mark and the training wall to the easternmost point of the northern training wall; thence by a line to the easternmost point of the southern training wall; thence by that training wall and high water mark to a point 1,000 metres south of the southwestern corner of the southern training wall; thence by a line due east for 400 metres; thence by a line generally northwesterly to a point 400 metres due east of the point of commencement and thence by a line due west to the point of commencement.

Brunswick River

County of Rouse, Parishes of Brunswick and Billinudgel: The whole of the waters of Brunswick River and its tributaries from the most eastern extremities of the training walls to its source, excluding that part west of the traffic bridge (Pacific Highway) and that part north of the training walls in Marshall Creek and that part south of the foot bridge which crosses Simpsons Creek.

Burrill Lake

County of St Vincent, Parishes of Ulladulla and Woodburn: The whole of the entrance waters to Burrill Lake, including the bays and inlets and tributaries extending from a line drawn across the entrance waters from the northernmost point of Thisleton's Point in a northeastern direction bearing 23 degrees, about 291 metres to a point on the northeastern foreshore of the lake, downwards to the South Pacific Ocean.

Camden Haven Inlet

The waters of that part of Camden Haven Inlet, from a line drawn across the entrance to the inlet from the easternmost extremity of the northern training wall to the easternmost extremity of the southern training wall, upstream to the bridge across the Inlet at Laurieton and including the waters of Gogley's Bay and Gogley's Creek, and that part of the waters of Queens Lake Entrance, from their confluence with Camden Haven Inlet upstream to the North Haven road bridge.

Candlagan Creek

County of St Vincent: The whole of the waters of Candlagan Creek and adjacent ocean waters below the traffic bridge, commencing from the southeast pylon of the bridge, thence by a line bearing 130 degrees to an established concrete cairn at the entrance of the creek, thence by a line bearing 44 degrees to a position marked by a broad arrow painted white on the rocks on the northern side of the entrance, thence bounded by the northern shore of Candlagan Creek to the northeastern pylon of the bridge, thence along the bridge to the point of commencement.

Clarence River

County of Clarence: The waters of that part of the main Clarence River from a line drawn across the entrance to that river from the eastern extremity of the Iluka training wall to the eastern extremity of the Yamba training wall, upstream to a line drawn southwesterly from the northwestern extremity of the Goodwood Island training wall to the northwestern extremity of Orogandiman or Freeburn Island, thence generally southeasterly by the northern and northeastern foreshores of that island to the northwestern extremity of the middle training wall at the northern end of the old viaduct and thence across to the southern end of that viaduct on the southern foreshore of the Clarence River, thence by the southern foreshore of the Clarence River (including Yamba Bay) to the commencing point at the eastern extremity of the Yamba training wall; together with the waters of those parts of the Clarence River and the South Pacific Ocean from the Yamba training wall by the coastline to a point 20 metres south of Yamba Point and extending easterly from that coastline for a distance of 400 metres.

Conjola Lake

County of St Vincent: the waters of that part of Conjola Lake and the whole of the waters of Berringer Lake, together with all their creeks, tributaries and inlets eastwards of a line drawn from the northern extremity of Roberts Point to the western extremity of Station Point, downstream to the South Pacific Ocean.

Crescent Head

County of Macquarie, Parish of Palmerston, Suburban Lands of Crescent Head. The whole of the tidal waters of that part of the South Pacific Ocean extending seawards for a distance of 400 metres from the line of high water, between the prolongation of the northern boundary of portion 325, and the prolongation of the northernmost northwestern boundary of Reserve No.63725 for Public Recreation and Resting Place, notified 13 January 1933.

Cudgen Creek

County of Rouse, Parish of Cudgen: The whole of the waters of that part of Cudgen Creek north of the traffic bridge at Kingscliff.

Cudgera Creek

County of Rouse, Parish of Cudgen: The whole of the waters of Cudgera Creek, together with its inlets, bays and tributaries upwards to its source from the South Pacific Ocean.

Evans River

County of Richmond, Parish of Riley at Evans Head: The whole of the tidal waters of the Evans River together with all of its tributaries, from the Pacific Highway Bridge, downstream to its meeting with the South Pacific Ocean.

Gordons Bay

County of Cumberland: The whole of the waters of Gordons Bay (or Thompsons Bay) from a line drawn southwesterly from the eastern most point on the northern foreshore adjacent to the recreation reserve at the end of Clovelly Road, to the eastern most point on the southern foreshore to the entrance to Gordons Bay (or Thompsons Bay) adjacent to Arcadia Street.

Hastings River

County of Macquarie: The whole of the waters of that part of the Hastings River within the following boundaries: commencing at the eastern extremity of the northern breakwater and bounded thence by that breakwater and the northern training wall generally westerly and northerly to the P.W.D. Coal Wharf; thence by a line southwesterly to a point on the high water mark of that river at its intersection with the northerly prolongation of the eastern side of Park Street, Port Macquarie; thence by that high water mark, southeasterly, the confluence of Kooloonbung Creek with that river northeasterly, and again the high water mark of the Hastings River generally northeasterly to the southern training wall; thence by that training wall; and the southern breakwater generally easterly to the eastern extremity of that breakwater and thence by a line northerly to the point of commencement; also the whole of the waters of Kooloonbung Creek, Lake Innes, Cathie Lake and Cathie Creek, together with all their creeks, tributaries and inlets.

Inland Waters

Note: See clause 70 (1) (a) of this Regulation.

Killick Creek

County of Macquarie, Parish of Palmerston and Beranghi, Suburban Lands of Crescent Head: The whole of the waters of Killick or Crescent Head Creek and its creeks, tributaries, inlets and lagoons upwards from its confluence with the South Pacific Ocean to its source.

Korogoro Creek

County of Macquarie, Parish of Kinchela: The whole of the waters of Korogoro (Hat Head) Creek and Killick or Crescent Head Creek and their creeks, tributaries, inlets and lagoons upwards from their confluence with the South Pacific Ocean to their source.

Lake Illawarra

County of Camden, Parish of Wollongong: The waters described hereunder: commencing at the southeasternmost extremity of Berrwarra Point and bounded thence generally northwesterly by the northern foreshore of Lake Illawarra to the northwestern corner of portion 44, Parish of Wollongong; thence by lines bearing north 68 degrees 30 minutes west 444 metres south 48 degrees 57 minutes west 175 metres and south 11 degrees 30 minutes west 71 8 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 Come 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.

Narabeen 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 Mead 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 Bums 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 \$ay bridge, by the eastern side of that bridge, by the southwestern bank of Ukerebagh Passage to a point being the intersection of the northeastern prolongation of the northwestern boundary of portion 374 with the high water mark of that bank, and thence by a line easterly to the westernmost extremity of Ukerebagh Island, by the northwestern shore of Ukerebagh Island to the northernmost extremity of that island then by a line drawn north-easterly to the end of the eastern training wall by the high water mark of that wall inclusive of the tidal waters of Kerosene Inlet on the eastern side of the Eastern Training Wall and thence to the high water mark of the southern breakwater northwesterly and northeasterly to the easternmost extremity of that breakwater and thence by a line across the entrance to the Tweed River to the point of commencement.

Wagonga River

County of Dampier, Parishes of Wagonga and Narooma: That part of the waters of Wagonga River, east of a line from the Princess Highway Road Bridge to a line drawn between the eastern extremities of the northern and southern training walls at the entrance to Wagonga River.

Wallis Lake

County of Gloucester, Parish of Forster, at Wallis Lake: That part of the tidal waters within the following boundaries: commencing at the entrance to Wallis Lake at the eastern extremity of the northern breakwater; and bounded thence by that breakwater and a part of the foreshores of the Village of Tuncurry generally southerly to the southerly prolongation of the western side of Wharf Street; thence by a line drawn southwesterly to the northern foreshore corner of Oyster Farm 71 -295; thence by a line drawn generally southerly to the northern foreshore corner of Oyster Farm 83-20; thence by a line drawn generally southeasterly to the southwestern foreshore of Oyster Farm 57-295 on the Godwin Island' thence by the northern foreshore of that island northeasterly to the most northern point; thence by a line drawn generally northeasterly to the western prolongation of the southern boundary of section 27, Village of Forster; thence by that foreshore generally northerly to the southern breakwater; by that breakwater to its eastern extremity and by a line across the entrance to the point of commencement.

Wonboyn River

County of Auckland, Parishes of Wonboyn and Narrabarba: The whole of the entrance waters of Wonboyn River downwards to their confluence with the South Pacific Ocean from a line drawn in a southerly direction from the northwesternmost foreshore corner of Oyster Farm No. 71-305 to the westernmost foreshore corner of Oyster Farm No.74-1.

Woody Bay

County of Clarence, Parish of Nanegai, Shire of Maclean: Being the area known as Woody Bay and commencing from the broad arrow on a rock and marked FD, north of portion 54 thence in a northerly direction for approximately 300 metres to a spike in the rock, thence generally in a westerly direction to Big Knobby Rock, thence in a southwesterly direction to a 10 x 10 centimetre peg on the foreshore, thence along mean high water mark to the point of commencement.

SCHEDULE 5—PENALTY NOTICES

(Cl. 270)

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 (2)	\$500
Section 20 (3)	\$500
Section 22 (2)	\$200
Section 24 (1)	\$500
Section 25 (1)	\$500
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 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 200 (1)	\$500
Section 201 (1)	\$500
Section 205	\$300
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)	\$200
Section 247 (1)	\$200
Section 247 (2)	\$200
Section 247 (3)	\$200
Section 248 (4)	\$200
Section 249 (3)	\$200
Section 251 (2)	\$200
Section 256 (4)	\$200
Section 257 (4)	\$100
Section 258 (2)	\$200
Section 259 (1)	\$300

Part 2—Offences under this Regulation

Clause 65 (1) (a)	\$300
Clause 65 (1) (b)	\$500
Clause 65 (1) (c)	\$300
Clause 65 (3) (a)	\$500
Clause 65 (3) (b)	\$500
Clause 65 (6)	\$200
Clause 66 (1)	\$100
Clause 67 (1) (a)	\$200
Clause 67 (1) (b)	\$200
Clause 67 (1) (c)	\$200
Clause 67 (1) (d)	\$200
Clause 67 (2)	\$300
Clause 67 (3)	\$200
Clause 67 (4)	\$200
Clause 68 (1)	\$100
Clause 69 (1)	\$300
Clause 70 (1) (a)	\$300
Clause 70 (1) (b)	\$300
Clause 70 (1) (c)	\$300
Clause 71 (1)	\$300
Clause 72 (1)	\$300
Clause 73 (1)	\$100
Clause 74 (1)	\$300
Clause 74 (2)	\$500
Clause 74 (3)	\$300
Clause 74 (4)	\$300
Clause 75 (2)	\$200
Clause 76 (1)	\$200
Clause 76 (2)	\$200

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Clause 76 (3)	\$300
Clause 77	\$300
Clause 78 (1)	\$500
Clause 78 (2)	\$300
Clause 78 (3)	\$300
Clause 79	\$200
Clause 80	\$300
Clause 106	\$200
Clause 107 (1)	\$200
Clause 109	\$200
Clause 110 (2)	\$200
Clause 118 (1)	\$200
Clause 118 (3)	\$200
Clause 120 (1)	\$100
Clause 120 (2)	\$100
Clause 120 (3)	\$200
Clause 121 (1)	\$200
Clause 122 (1)	\$200
Clause 122 (2)	\$200
Clause 123 (1)	\$300
Clause 123 (2)	\$200
Clause 124 (1)	\$300
Clause 124 (2)	\$300
Clause 125 (1)	\$300
Clause 125 (2)	\$300
Clause 157 (1)	\$200
Clause 157 (2) (a)	\$200
Clause 157 (2) (b)	\$200
Clause 158 (2)	\$200
Clause 159	\$200
Clause 191	\$200

**Part 3—Offences under the Fisheries Management (Aquaculture) Regulation
1995**

Clause 49 (1)	\$200
Clause 49 (6)	\$200
Clause 49 (7)	\$200
Clause 50 (5)	\$200
Clause 51 (7)	\$200

**Part 4—Offences under the Fisheries Management (Aquatic Reserves)
Regulation 1995**

Clause 8 (1) (a)	\$200
Clause 8 (1) (b)	\$200
Clause 8 (2) (a)	\$200
Clause 8 (2) (b)	\$200

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Clause 11 (1) (a)	\$200
Clause 11 (1) (b)	\$200
Clause 11 (2) (a)	\$200
Clause 11 (2) (b)	\$200
Clause 14 (1) (a)	\$200
Clause 14 (1) (b)	\$200
Clause 14 (2) (a)	\$200
Clause 14 (2) (b)	\$200
Clause 17 (1) (a)	\$200
Clause 17 (1) (b)	\$200
Clause 17 (2) (a)	\$200
Clause 17 (2) (b)	\$200
Clause 21 (1) (a)	\$200
Clause 21 (1) (b)	\$200
Clause 21 (2) (a)	\$200
Clause 21 (2) (b)	\$200
Clause 24 (1) (a)	\$200
Clause 24 (1) (b)	\$200
Clause 24 (2) (a)	\$200
Clause 24 (2) (b)	\$200
Clause 27 (1) (a)	\$200
Clause 27 (1) (b)	\$200
Clause 27 (2) (a)	\$200
Clause 27 (2) (b)	\$200
Clause 31 (1) (a)	\$200
Clause 31 (1) (b)	\$500
Clause 31 (1) (c)	\$200
Clause 31 (1) (d)	\$200
Clause 32 (1) (a)	\$200
Clause 32 (1) (b)	\$200
Clause 33 (1) (a)	\$200
Clause 33 (1) (b)	\$200
Clause 33 (1) (c)	\$200
Clause 33 (1) (d)	\$200
Clause 33 (1) (e)	\$200
Clause 34 (1) (a)	\$200
Clause 34 (1) (b)	\$200
Clause 34 (1) (c)	\$200
Clause 34 (1) (d)	\$200
Clause 35 (1) (a)	\$200
Clause 35 (1) (b)	\$200
Clause 35 (2) (a)	\$200
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Clause 35 (3)	\$200

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EXPLANATORY NOTE

The object of this Regulation is to provide for the management of fisheries in accordance with the Fisheries Management Act 1994.

This Regulation replaces the provisions of the Fisheries and Oyster Farms (Nets and Other Fishing Gear) Regulation 1989 and the New South Wales Commercial Fishing Advisory Council Regulation 1990 and most of provisions of the Fisheries and Oyster Farms (General) Regulation 1989.

The Regulation also contains new matters, such as provisions relating to commercial share management fisheries, registration of crew members, restricted fisheries and fish receivers.

This Regulation is made under the Fisheries Management Act 1994, including section 289 (the general regulation making power), section 40 (Regulations relating to general management of fisheries) and the sections specifically referred to in the Regulation.
