



New South Wales

# **Fisheries Management (General Amendment (Share Transfers) Regulation 1998**

under the

**Fisheries Management Act 1994**

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Fisheries Management Act 1994*.

Bob Martin  
Minister for Fisheries

## **Explanatory note**

The objects of this Regulation are:

- (a) to permit the transfer of shares issued provisionally in the lobster share management fishery in certain circumstances without requiring the transferor to sell all of his or her fishing business to the person who is acquiring the shares. and
- (b) to apply a minimum shareholding requirement to new entrants to the lobster share management fishery during the limited access stage of the fishery. and
- (c) to make other amendments to the *Fisheries Management (General) Regulation 1995* for the purpose of law revision.

This Regulation is made under the *Fisheries Management Act 1994*, including section 54 (3), section 71 (5) and section 289 (the general regulation-making power).

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Clause 1 Fisheries Management (General) Amendment (Share Transfers) Regulation 1998

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**Fisheries Management (General) Amendment  
(Share Transfers) Regulation 1998**

**1 Name of Regulation**

This Regulation is the *Fisheries Management (General) Amendment (Share Transfers) Regulation 1998*.

**2 Amendment of Fisheries Management (General) Regulation  
1995**

The *Fisheries Management (General) Regulation 1995* is amended as set out in Schedule 1.

**3 Notes**

The explanatory note does not form part of this Regulation.

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## Schedule 1 Amendments

(Clause 2)

**[1] Clause 130 Limited access fishery—endorsement of licence**

Omit clause 130 (a), (b) and (c).

**[2] Clause 130 (d)**

Insert “in the abalone share management fishery” after “Act”.

**[3] Clause 130 (e)**

Insert after clause 130 (d):

- (e) an acquisition by a person of shares in the lobster share management fishery, in accordance with clause 132 or 132A, if the acquisition results in the shareholder holding not less than 55 of the shares provisionally issued in the fishery.

**[4] Clause 132 Transfers and other dealings in shares—general**

Omit clause 132 (1A).

**[5] Clauses 132A and 132B**

Insert after clause 132:

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

- (1) In addition to the circumstances prescribed by clause 132, before the commencement of the share management plan for the lobster share management fishery, section 71 of the Act applies to allow the transfer, assignment or transmittance of the shares of a person (*the transferor*) in the lobster share management fishery if:

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Schedule 1 Amendments

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- (a) all of the shares of the transferor in the fishery are transferred, assigned or transmitted to one person (*the transferee*), and
  - (b) the transferee is a commercial fisher who owns (either alone or together with other individuals) the whole of a fishing business.
- (2) In the case of a transfer or assignment, the transferor must surrender his or her commercial fishing licence to the Director for the purpose of enabling the licence to be cancelled. This is not required if the transferor continues, despite the transfer or assignment, to be authorised to hold a commercial fishing licence by or under section 103 (2) of the Act (for example, if the transferor continues to own a recognised fishing operation after the share transfer).
- (3) This clause does not authorise the mortgaging of shares in the lobster share management fishery before the commencement of the management plan for the fishery.
- (4) In this clause:
- recognised fishing operation* has the same meaning as in clause 135.

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

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

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

**[6] Clause 275**

Insert after clause 274:

**275 Minimum shareholding or new entrants to lobster share management fishery**

Clause 130 (e), as inserted by the *Fisheries Management (General) Amendment (Share Transfers) Regulation 1998*, does not apply in respect of an acquisition of shares in the lobster share management fishery that was made before the commencement of that Regulation. Such an acquisition is an authorised acquisition for the purposes of clause 130 if it was made in accordance with clause 130, as in force at the time of the acquisition.