



New South Wales

Fisheries Management (General) Amendment (Reviews relating to Charter Boat Licences) Regulation 2004

under the

Fisheries Management Act 1994

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

IAN MICHAEL MACDONALD, M.L.C.,

Minister for Agriculture and Fisheries

Explanatory note

Part 10 (Charter fishing management) of the *Fisheries Management (General) Regulation 2002 (the Regulation)* requires the licensing of charter fishing boats if they are used for certain purposes (such as gamefishing). Eligibility for a licence is dependent on, among other things, the applicant's being able to claim a history of operations in respect of certain activities of the relevant charter fishing boat that were carried out before 4 August 1999.

Division 3 (Review panel) of Part 10 provides for the review of decisions relating to the issue of a charter boat licence. Currently, Division 3 provides for any such review to be conducted by a panel established by the Minister.

The object of this Regulation is to amend the Regulation to provide, instead, that the reviews are to be conducted by the Director-General of NSW Fisheries.

This Regulation also repeals a provision that excludes from review decisions relating to licences that have been renewed since their issue.

This Regulation is made under the *Fisheries Management Act 1994*, including sections 127C (Provisions relating to licensing of charter fishing boats) and 289 (the general regulation-making power).

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Clause 1 Fisheries Management (General) Amendment (Reviews relating to Charter Boat Licences) Regulation 2004

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1 Name of Regulation

This Regulation is the *Fisheries Management (General) Amendment (Reviews relating to Charter Boat Licences) Regulation 2004*.

2 Amendment of Fisheries Management (General) Regulation 2002

The *Fisheries Management (General) Regulation 2002* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 2)

[1] Division 3 of Part 10 (clauses 313–317)

Omit the heading to the Division (but not the Note to the Division).

Insert instead:

Division 3 Reviews relating to issue of licences

[2] Division 3 of Part 10, Note

Omit “by a panel established by the Minister”.

[3] Clause 313 Application for review by third party

Omit clause 313 (4) (b).

[4] Clause 314

Omit the clause. Insert instead:

314 Director-General to review decision

- (1) If a review request is duly made under this Division, the Director-General is to conduct the review.
- (2) The review is to be conducted in accordance with any guidelines approved by the Minister.
- (3) Despite subclause (1), the Director-General may reject a review request without any review having been conducted if:
 - (a) the matter has already been the subject of a review by the Director-General under this Division, or
 - (b) the Director-General is of the opinion that the review request is frivolous or vexatious.

[5] Clause 315 Conduct of review

Omit “The panel” from clause 315 (1).

Insert instead “The Director-General”.

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Schedule 1 Amendments

[6] Clause 315 (2)

Omit “A panel that conducts a review of a decision of the Minister to refuse to issue a licence to a person may recommend that the person be issued with a licence, but only if the panel”.

Insert instead “On conducting a review of a decision of the Minister to refuse to issue a licence to any person, the Director-General may recommend that the person be issued with a licence, but only if the Director-General”.

[7] Clause 315 (2) (d) (ii)

Omit “the panel”. Insert instead “the Director-General”.

[8] Clause 315 (3)

Omit “a panel”. Insert instead “the Director-General”.

[9] Clause 315 (4)

Omit “A panel that conducts a review of a decision of the Minister to issue a licence to a person may recommend that the licence be cancelled, but only if the panel”.

Insert instead “On conducting a review of a decision of the Minister to issue a licence to any person, the Director-General may recommend that the licence be cancelled, but only if the Director-General”.

[10] Clause 316 Procedure to be followed by panel

Omit the clause.

[11] Clause 317 Action by Minister following review

Omit “by a panel” from clause 317 (1).

Insert instead “under this Division”.

[12] Clause 317 (1) (a), (b) and (c) and (2)

Omit “panel” wherever occurring. Insert instead “Director-General”.

[13] Clause 317 (4)

Omit “under this clause”. Insert instead “under this Division”.

BY AUTHORITY
