



New South Wales

# Fisheries Management Amendment Regulation 2005

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 Primary Industries

## Explanatory note

The objects of this Regulation are as follows:

- (a) to require an additional annual contribution to be paid by commercial fishing licence holders who are authorised to fish in the sea urchin and turban shell restricted fishery,
- (b) to permit transfers of shares in a share management fishery before the commencement of the management plan for the fishery only if the entire fishing business (including any shares that are a component of the fishing business) is transferred to the new shareholder,
- (c) to make it clear that assignments of shares are subject to the same rules as transfers of shares in the abalone and lobster share management fisheries and that temporary transfers or assignments of shares are not permitted,
- (d) to make further provision with respect to fishing in Lord Howe Island waters,
- (e) to require further information to be included in records of receipt, sale and possession of fish,
- (f) to make minor changes relating to the details to be displayed on fish traps,
- (g) to make other minor changes by way of law revision.

This Regulation is made under the *Fisheries Management Act 1994*, including sections 23, 34T, 106, 116 and 289 (the general regulation-making power) and the sections referred to in the Regulation.

## **2005 No 59**

Clause 1 Fisheries Management Amendment Regulation 2005

---

# **Fisheries Management Amendment Regulation 2005**

under the

Fisheries Management Act 1994

### **1 Name of Regulation**

This Regulation is the *Fisheries Management Amendment Regulation 2005*.

### **2 Amendment of Fisheries Management (General) Regulation 2002**

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

### **3 Amendment of Fisheries Management (Abalone Share Management Plan) Regulation 2000**

The *Fisheries Management (Abalone Share Management Plan) Regulation 2000* is amended as set out in Schedule 2.

### **4 Amendment of Fisheries Management (Lobster Share Management Plan) Regulation 2000**

The *Fisheries Management (Lobster Share Management Plan) Regulation 2000* is amended as set out in Schedule 3.

---

## Schedule 1      Amendment of Fisheries Management (General) Regulation 2002

(Clause 2)

**[1] Clause 3 Definitions**

Insert in alphabetical order in clause 3:

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

**[2] Clause 3, definition of “fishing business”**

Omit the definition.

**[3] Clause 8A Prohibition on certain classes of commercial fishing**

Omit “and” at the end of clause 8A (a) (iv). Insert after that paragraph:

- (v) the use of an otter trawl net (fish) to take fish (other than prawns) from ocean waters that are not more than 3 nautical miles from the natural coast line and are south of a line drawn due east from Barrenjoey Headland,
- (vi) the taking of fish from Lord Howe Island waters by the holder of a Class 4 commercial fishing licence.

**[4] Clause 59 Fish trap**

Omit clause 59 (1) (a) (iv). Insert instead:

- (iv) displays “FL” followed by the commercial fishing licence number of the commercial fisher who set the trap and “F” at the end of that number, in clearly visible letters and figures which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy,

**[5] Clause 138 Transfers and other dealings in shares—general**

Omit clause 138 (1) and (2). Insert instead:

- (1) For the purposes of section 71 (5) of the Act, before the commencement of the management plan for a fishery, section 71 of the Act applies to allow the transfer, assignment or transmission of the shares of a person (the *shareholder*) in the fishery only if:
  - (a) all of the shares of the shareholder that are a component of the same fishing business (whether or not those shares are

## 2005 No 59

### Fisheries Management Amendment Regulation 2005

#### Schedule 1 Amendment of Fisheries Management (General) Regulation 2002

---

shares in the same fishery) are transferred, assigned or transmitted to one person (the *transferee*), and

- (b) the transferee becomes the owner of that fishing business (and all its components).
- (2) For the purposes of section 54 (3) of the Act, an acquisition of shares by a dealing that is allowed under subclause (1) is declared to be an authorised acquisition.

**[6] Clause 138 (3), note**

Insert “, unless the acquisition is declared by the regulations to be an authorised acquisition” after “shares in the fishery”.

**[7] Clause 150B**

Insert after clause 150A:

**150B Additional contribution for fishers in sea urchin and turban shell restricted fishery**

- (1) An annual contribution of \$290 is payable by the holder of a commercial fishing licence who is authorised by or under the Act to take fish for sale in the sea urchin and turban shell restricted fishery.
- (2) The annual contribution is payable, as provided by section 106 of the Act, towards the costs of carrying out an environmental assessment of fishing activities in the restricted fishery under Part 5 of the *Environmental Planning and Assessment Act 1979*.
- (3) The contribution is payable by a person who holds a commercial fishing licence and is an entitlement holder in the restricted fishery (within the meaning of Division 1 of Part 8) or, if the entitlement holder does not hold a commercial fishing licence, by the nominated fisher of an entitlement holder.
- (4) However, a contribution is not payable by the nominated fisher of an entitlement holder in respect of a period if the contribution has already been paid in respect of that period by the entitlement holder or another nominated fisher of the entitlement holder.
- (5) The contribution must be paid in accordance with arrangements for payment approved by the Minister.
- (6) The contribution payable under this clause is additional to any other contribution, fee or charge that is payable in relation to the licence (including the contributions referred to in clauses 150 and 150A).

---

**[8] Clause 173 Nominated fishers**

Insert “or contribution” after “fee” in clause 173 (5) (e).

**[9] Clause 173 (5) (g)**

Insert at the end of clause 173 (5) (f):

, or

- (g) the entitlement holder has not made arrangements to the satisfaction of the Director-General to reimburse the nominated fisher for any liability for a contribution referred to in clause 150B (Additional contribution for fishers in sea urchin and turban shell restricted fishery).

**[10] Clause 174 Endorsement of commercial fishing licences**

Insert “or contribution” after “fee” in clause 174 (2) (e).

**[11] Clause 176 Application for endorsement for further period**

Insert “or contribution” after “fee” in clause 176 (4) (g).

**[12] Clause 178 Suspension and cancellation of endorsements**

Insert “or contribution” after “fee” in clause 178 (e).

**[13] Clause 199 Definitions**

Insert “, but does not include Lord Howe Island waters” after “March 2004)” in the definition of *ocean trap and line fishery*.

**[14] Clause 199 (2)**

Insert at the end of the clause:

- (2) In this Division, *ocean waters* does not include Lord Howe Island waters.

**[15] Clause 292 Information to be included in records of sale and possession of fish**

Insert after clause 292 (1) (h):

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

## 2005 No 59

Fisheries Management Amendment Regulation 2005

Schedule 1 Amendment of Fisheries Management (General) Regulation 2002

---

### [16] Clause 292 (2) (i) and (j)

Insert after clause 292 (2) (h):

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

### [17] Clause 293 Records and reports by registered fish receivers

Insert after clause 293 (1) (c):

- (ca) if the fish were received from a commercial fisher who took the fish under a fishing authority that is a component of a fishing business, the number allocated to the fishing business by the Director-General under the Act,
- (cb) if the fish were received from a commercial fisher who took the fish using a licensed commercial fishing boat, the licence number of the boat,

### [18] Clause 293 (2) (ca) and (cb)

Insert after clause 293 (2) (c):

- (ca) if the fish were received from a commercial fisher who took the fish under a fishing authority that is a component of a fishing business, the number allocated to the fishing business by the Director-General under the Act,
- (cb) if the fish were received from a commercial fisher who took the fish using a licensed commercial fishing boat, the licence number of the boat,

## **Schedule 2      Amendment of Fisheries Management (Abalone Share Management Plan) Regulation 2000**

(Clause 3)

**[1] Appendix, Clause 2 Definitions**

Insert at the end of the clause:

- (2) In this Plan, a reference to a transfer of a share includes a reference to an assignment of a share.

**[2] Appendix, Clause 7 Dealings in shares—general**

Omit clause 7 (1). Insert instead:

- (1) Shares in the fishery may be transferred, transmitted or mortgaged only as provided by the following:
  - (a) a shareholder may transfer, transmit or mortgage a package of shares or any number of packages of shares, or such other number of shares as may be approved by the Minister, to one person,
  - (b) a shareholder may transfer, transmit or mortgage all shares held by the shareholder to one person.
- (1A) A transfer of a share is not permitted unless the transfer is permanent.

**[3] Appendix, Clause 7, note**

Omit “assigning”.

**[4] Appendix, Clause 8 Special provisions relating to transfers**

Omit “or assigned”, “or assignment”, “assignment or” and “or assign” wherever occurring.

**[5] Appendix, Clause 9 Registration of share transactions**

Omit “, assigning” from clause 9 (2) (a).

**2005 No 59**

Fisheries Management Amendment Regulation 2005

Schedule 3

Amendment of Fisheries Management (Lobster Share Management Plan) Regulation 2000

---

**Schedule 3      Amendment of Fisheries Management  
(Lobster Share Management Plan)  
Regulation 2000**

(Clause 4)

**[1] Appendix, Clause 2 Definitions**

Insert at the end of the clause:

- (2) In this Plan, a reference to a transfer of a share includes a reference to an assignment of a share.

**[2] Appendix, Clause 5 Minimum shareholding**

Omit “or assigns” wherever occurring in clause 5 (3) and the note to the clause.

**[3] Appendix, Clause 7 Dealings in shares—general**

Omit clause 7 (1)–(3). Insert instead:

- (1) Shares in the fishery may be transferred, transmitted or mortgaged only as provided by the following:
- (a) a shareholder may transfer, transmit or mortgage a package of shares or any number of packages of shares, or such other number of shares as may be approved by the Minister, to one person,
  - (b) a shareholder may transfer, transmit or mortgage all shares held by the shareholder to one person.
- (2) A transfer of a share is not permitted unless the transfer is permanent.

**[4] Appendix, Clause 7, note**

Omit “assigning”.

**[5] Appendix, Clause 8 Special provisions relating to transfers**

Omit “or assigned”, “or assignment”, “assignment or” and “or assign” wherever occurring.

**[6] Appendix, Clause 9 Fee for registration of share transactions**

Omit “, assigning” from clause 9 (2) (a).

BY AUTHORITY