



New South Wales

Fisheries Management (General) Amendment (Eligible Fishers and Fishing Business Cards) Regulation 2006

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 MACDONALD, M.L.C.,
Minister for Primary Industries

Explanatory note

The object of this Regulation is to amend the *Fisheries Management (General) Regulation 2002* to make provision for:

- (a) the registration of persons eligible to be nominated fishers in respect of a fishing business (“eligible fishers”), and the cancellation of registration of those persons, and
- (b) the issuing of fishing business cards to fishing business owners, and the possession and return of those cards.

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

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Clause 1

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1 Name of Regulation

This Regulation is the *Fisheries Management (General) Amendment (Eligible Fishers and Fishing Business Cards) Regulation 2006*.

2 Commencement

This Regulation commences on 5 February 2007.

3 Amendment of Fisheries Management (General) Regulation 2002

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

Schedule 1 Amendment

(Clause 3)

Parts 8A and 8B

Insert after Part 8:

Part 8A Registration of persons eligible to be nominated fishers

280A Application to register eligible fishers

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

280B Registration of eligible fisher

- (1) If an application for a person to be registered as an eligible fisher is duly made, the Director-General must accept the application or refuse the application.
- (2) The Director-General may refuse the application if:
 - (a) the person proposed to be registered does not hold a current Class 1 commercial fishing licence, or
 - (b) the owner of the fishing business has not paid any fee or contribution due and payable under the Act or the regulations, or

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- (c) in the case of an application relating to a fishing business the components of which include shares in a share management fishery, the person proposed to be registered is not entitled to be registered as an eligible fisher under the share management plan for the fishery, or
 - (d) there are grounds for suspending or cancelling the commercial fishing licence of the person proposed to be registered, or an endorsement on that commercial fishing licence (whether or not the licence or endorsement is in fact suspended or cancelled).
- (3) If the Director-General accepts the application for a person to be registered as an eligible fisher in relation to a fishing business, the Director-General is to register the name of the person as an eligible fisher in respect of the fishing business.
- (4) Registration remains in force until it is cancelled by the Director-General.

280C Cancellation of registration of person as eligible fisher

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

- (a) the owner of the fishing business requests it by notice in writing to the Director-General in a form approved by the Director-General, or
- (b) the eligible fisher requests it, or
- (c) the eligible fisher ceases to be the holder of a current Class 1 commercial fishing licence, or
- (d) there are grounds for suspending or cancelling the commercial fishing licence of the eligible fisher, or an endorsement on that commercial fishing licence (whether or not the licence or endorsement is in fact suspended or cancelled), or
- (e) the owner of the fishing business transfers the fishing business or any component of the fishing business to another person, or
- (f) in the case of a person registered as an eligible fisher in respect of a fishing business the components of which include shares in a share management fishery, the person ceases to be entitled to be registered as an eligible fisher under the share management plan for the fishery.

Part 8B Fishing business cards

280D Definitions

In this Part:

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

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

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

280E Possession of fishing business card

- (1) This clause applies if a fishing business owner is issued with a fishing business card.
- (2) A fishing business owner must not cause or allow physical possession of his or her fishing business card to be given to a person unless the person is the nominated fisher of the fishing business owner.

Maximum penalty: 100 penalty units.

280F Return of fishing business card

- (1) The Minister may at any time require a fishing business owner, by notice in writing to the fishing business owner, to return a fishing business card to the Minister within the period specified in the notice.
- (2) A person must not, without reasonable excuse, fail to comply with a requirement made under subclause (1).
Maximum penalty: 100 penalty units.
- (3) This clause does not of itself authorise the Minister to cancel an endorsement.

Note. Other provisions of this Regulation and the share management plans for share management fisheries provide for the circumstances in which the Minister is authorised to cancel an endorsement. The Minister might require a fishing business card to be returned under this clause because an endorsement has been or is to be cancelled under those

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provisions. However, the Minister might also require a fishing business card to be returned merely to allow annotations on the card to be changed.

- (4) If the nomination of a person as a nominated fisher is revoked, that person must immediately return the fishing business card of the fishing business to which the revoked nomination relates to the fishing business owner or such other person as the fishing business owner directs.
- (5) A person must not, without reasonable excuse, fail to comply with subclause (4).
Maximum penalty: 100 penalty units.

BY AUTHORITY
