



New South Wales

Fisheries Management Legislation Amendment (Fees and Other Matters) Regulation 2008

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 objects of this Regulation (in relation to the amendments set out in Schedule 1) are as follows:

- (a) to increase certain fees, charges and contributions payable under the *Fisheries Management Act 1994 (the Act)*, with the increases generally in line with movements in the Consumer Price Index,
- (b) to repeal clauses 150 (annual contribution for cost of research and other industry costs paid by commercial fishers who hold a class 1 or 2 commercial fishing licence), 150A (transitional arrangements for payment of the fee under clause 150) and 150B (annual contribution payable by participants in the tuna bait fishery) of the *Fisheries Management (General) Regulation 2002 (the General Regulation)* as a consequence of the repeal (with effect on and from 30 June 2008) of section 106 (Annual contribution to cost of research and to other industry costs) of the Act,
- (c) to increase the annual contribution amounts set out in clauses 150C (Annual contribution by participants in southern fish trawl restricted fishery) and 150D (Annual contribution by participants in sea urchin and turban shell restricted fishery) of the General Regulation to take into account the costs of carrying out research (pursuant to section 115A (1) of the Act) in the calculation of the annual contribution,
- (d) to provide (in clause 150C of the General Regulation) that the annual contribution by participants in a southern fish trawl restricted fishery is:
 - (i) \$530 for each southern fish trawl business (other than a fishing business described in paragraph (ii)), and
 - (ii) \$338 for each southern fish trawl fishing business the other components of which include shares in a share management fishery,

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Explanatory note

- (e) to provide that the Minister for Primary Industries (*the Minister*) may waive all or part of the fee payable for an endorsement in the inland restricted fishery under clause 238 of the General Regulation in such cases as the Minister considers appropriate,
- (f) to repeal an out-of-date provision (clause 427 of the General Regulation),
- (g) to increase the maximum management charge payable under section 76 (3) of the Act (and as set out in clause 10A (2) and (3) (a) of the *Fisheries Management (Supporting Plan) Regulation 2006*) by holders of shares in relevant share management fisheries to take into account the costs of carrying out research and other industry costs in the calculation of the management charge.

The objects of this Regulation (in relation to the amendments set out in Schedule 2) are as follows:

- (a) to increase the minimum legal size of abalone from 11.5 centimetres to 11.7 centimetres,
- (b) to provide for the conversion of certain non-transferable charter fishing boat licences into transferable licences with the Minister's approval,
- (c) to provide that the Minister may refuse an application for a charter fishing boat licence for a boat if the applicant has previously held a licence that has been suspended or cancelled,
- (d) to amend the share management plans for various fisheries to provide that the minimum shareholding of one share of a particular class for original entitlement holders ceases to apply if any of the shares are cancelled.

This Regulation is made under the *Fisheries Management Act 1994*, including sections 15, 60, 67, 76, 115A, 127C and 289 (the general regulation-making power).

Fisheries Management Legislation Amendment (Fees and Other Matters) Regulation 2008

under the

Fisheries Management Act 1994

1 Name of Regulation

This Regulation is the *Fisheries Management Legislation Amendment (Fees and Other Matters) Regulation 2008*.

2 Commencement

This Regulation commences on 1 July 2008.

3 Amendments relating to fees, charges and contributions

- (1) The *Fisheries Management (Abalone Share Management Plan) Regulation 2000* is amended as set out in Schedule 1.1.
- (2) The *Fisheries Management (Aquaculture) Regulation 2007* is amended as set out in Schedule 1.2.
- (3) The *Fisheries Management (General) Regulation 2002* is amended as set out in Schedule 1.3.
- (4) The *Fisheries Management (Lobster Share Management Plan) Regulation 2000* is amended as set out in Schedule 1.4.
- (5) The *Fisheries Management (Supporting Plan) Regulation 2006* is amended as set out in Schedule 1.5.

4 Other amendments

- (1) The *Fisheries Management (Estuary General Share Management Plan) Regulation 2006* is amended as set out in Schedule 2.1.
- (2) The *Fisheries Management (Estuary Prawn Trawl Share Management Plan) Regulation 2006* is amended as set out in Schedule 2.2.
- (3) The *Fisheries Management (General) Regulation 2002* is amended as set out in Schedule 2.3.
- (4) The *Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006* is amended as set out in Schedule 2.4.
- (5) The *Fisheries Management (Ocean Trap and Line Share Management Plan) Regulation 2006* is amended as set out in Schedule 2.5.

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Clause 4 Regulation 2008

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- (6) The *Fisheries Management (Ocean Trawl Share Management Plan) Regulation 2006* is amended as set out in Schedule 2.6.

Schedule 1 Amendments relating to fees, charges and contributions

(Clause 3)

1.1 Fisheries Management (Abalone Share Management Plan) Regulation 2000

[1] Appendix Abalone Share Management Plan

Omit "\$244" from clause 9 (2) (a). Insert instead "\$254".

[2] Appendix, clause 9 (2) (b)

Omit "\$427". Insert instead "\$445".

[3] Appendix, clause 19 (2) (b)

Omit "\$182". Insert instead "\$190".

1.2 Fisheries Management (Aquaculture) Regulation 2007

[1] Clause 5 Fee payable when applying for an aquaculture permit

Omit "\$244" wherever occurring in clause 5 (1) (a) and (b).
Insert instead "\$254".

[2] Clause 5 (1) (c) and (f)

Omit "\$366" wherever occurring. Insert instead "\$381".

[3] Clause 5 (1) (d), (g) and (h)

Omit "\$609" wherever occurring. Insert instead "\$635".

[4] Clause 5 (1) (e)

Omit "\$487". Insert instead "\$507".

[5] Clause 5 (1) (i) and (2) (a)

Omit "\$61" wherever occurring. Insert instead "\$64".

[6] Clause 5 (2) (b)

Omit "\$122". Insert instead "\$127".

[7] Clause 7 Aquaculture permit holders liable to pay contributions towards cost of administration

Omit "\$427" from clause 7 (2). Insert instead "\$445".

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Schedule 1 Amendments relating to fees, charges and contributions

- [8] **Clause 11 Aquaculture permit holders liable to pay contributions for research**
Omit “\$34” from clause 11 (3) (a). Insert instead “\$35”.
- [9] **Clause 11 (3) (b) and (c) (i)**
Omit “\$122” wherever occurring. Insert instead “\$127”.
- [10] **Clause 11 (3) (c) (ii)**
Omit “\$25”. Insert instead “\$26”.
- [11] **Clause 31 Application for, and refusal of, an aquaculture lease**
Omit “\$609” wherever occurring in clause 31 (2) (a)–(c).
Insert instead “\$635”.
- [12] **Clause 31 (2) (d)**
Omit “\$976”. Insert instead “\$1,017”.
- [13] **Clause 38 Application for renewal of an aquaculture lease**
Omit “\$487” from clause 38 (2) (a). Insert instead “\$507”.
- [14] **Clause 38 (2) (b) and (d)**
Omit “\$366” wherever occurring. Insert instead “\$381”.
- [15] **Clause 38 (2) (c)**
Omit “\$609”. Insert instead “\$635”.
- [16] **Clause 40 Minimum rent for leased area**
Omit “\$122” from clause 40 (1) (a). Insert instead “\$127”.
- [17] **Clause 40 (1) (b)**
Omit “\$45”. Insert instead “\$47”.
- [18] **Clause 44 Fee payable for Minister’s consent to subletting of leased area**
Omit “\$427”. Insert instead “\$445”.
- [19] **Clause 45 Procedure for getting Minister’s consent to transfer of aquaculture lease**
Omit “\$671” from clause 45 (2) (c). Insert instead “\$699”.
- [20] **Clause 45 (3)**
Omit “\$61”. Insert instead “\$64”.

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- [21] **Clause 46 Transmission of aquaculture lease on lessee's death**
Omit "\$427" from clause 46 (1) (b). Insert instead "\$445".
- [22] **Clause 46 (2)**
Omit "\$61". Insert instead "\$64".
- [23] **Clause 47 Aquaculture lease may be surrendered**
Omit "\$305" from clause 47 (1) (b). Insert instead "\$318".
- [24] **Clause 47 (2)**
Omit "\$61". Insert instead "\$64".
- [25] **Clause 47 (3) (d)**
Omit "\$427". Insert instead "\$445".
- [26] **Clause 48 Aquaculture leases may be consolidated**
Omit "\$487" from clause 48 (2) (c). Insert instead "\$507".
- [27] **Clause 49 Aquaculture leases may be subdivided**
Omit "\$487" from clause 49 (2) (c). Insert instead "\$507".
- [28] **Clause 50 Certified copy of lease or plan**
Omit "\$61" wherever occurring in clause 50 (1) (a) and (3) (c).
Insert instead "\$64".
- [29] **Clause 54 Obligations of aquaculture lessee to mark out leased area**
Omit "\$61" from clause 54 (4). Insert instead "\$64".
- [30] **Clause 66 Permit required to gather marine vegetation for commercial purposes**
Omit "\$122" from clause 66 (10). Insert instead "\$127".
- [31] **Clause 67 Fee for permit under section 37**
Omit "\$182" from clause 67 (1). Insert instead "\$190".
- 1.3 Fisheries Management (General) Regulation 2002**
- [1] **Clause 24 Registration**
Omit "\$25" from clause 24 (4). Insert instead "\$26".

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Schedule 1 Amendments relating to fees, charges and contributions

- [2] **Clause 113 Permit to use explosives**
Omit "\$122" from clause 113 (5). Insert instead "\$127".
- [3] **Clause 115 Permit to use electrical devices**
Omit "\$122" from clause 115 (5). Insert instead "\$127".
- [4] **Clause 133A Fees for marine park permits under section 37 of the Act**
Omit "\$61" from clause 133A (1). Insert instead "\$64".
- [5] **Clause 133O Approval of transfers by Director-General**
Omit "\$244" from clause 133O (5). Insert instead "\$254".
- [6] **Clause 137 Special endorsements to take fish in share management fishery**
Omit "\$122". Insert instead "\$127".
- [7] **Clause 141 Fee for registration of dealings in shares**
Omit "\$244" from clause 141 (1) (a). Insert instead "\$254".
- [8] **Clause 141 (1) (b)**
Omit "\$427". Insert instead "\$445".
- [9] **Clause 142 Fee for inspection of Share Register and registered documents**
Omit "\$61" from clause 142 (1) (b). Insert instead "\$64".
- [10] **Clause 144 Fee for application for issue of commercial fishing licence**
Omit "\$487" wherever occurring in clause 144 (2) (a) and (b).
Insert instead "\$507".
- [11] **Clause 144 (2) (c)**
Omit "\$122". Insert instead "\$127".
- [12] **Clause 147 Renewal of commercial fishing licence**
Omit "\$244" from clause 147 (2A) (a). Insert instead "\$254".
- [13] **Clause 147 (2A) (b)**
Omit "\$122". Insert instead "\$127".

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- [14] **Clauses 150 (Annual contribution to cost of research and other industry costs), 150A (Transitional arrangements for payment of annual contributions) and 150B (Annual contribution by participants in tuna bait fishery)**
Omit the clauses.
- [15] **Clause 150C Annual contribution by participants in southern fish trawl restricted fishery**
Omit clause 150C (2). Insert instead:
- (2) The amount of the contribution is:
 - (a) \$530 for each southern fish trawl fishing business (other than a fishing business described in paragraph (b)), and
 - (b) \$338 for each southern fish trawl fishing business the other components of which include shares in a share management fishery.
- [16] **Clause 150C (5)**
Omit “(including the contributions referred to in clauses 150 and 150A)”.
- [17] **Clause 150D Annual contribution by participants in sea urchin and turban shell restricted fishery**
Omit “\$1,036” from clause 150D (2). Insert instead “\$1,272”.
- [18] **Clause 150D (5)**
Omit “(including the contributions referred to in clauses 150 and 150A)”.
- [19] **Clause 151 Fee for application for issue of fishing boat licence**
Omit “\$171” wherever occurring in clause 151 (2) (a) and (b).
Insert instead “\$178”.
- [20] **Clause 151 (2) (b)**
Omit “\$25”. Insert instead “\$26”.
- [21] **Clause 154 Renewal of fishing boat licence**
Omit “\$48” wherever occurring in clause 154 (2A) (a) and (b).
Insert instead “\$50”.
- [22] **Clause 154 (2A) (b)**
Omit “\$25”. Insert instead “\$26”.

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- [23] **Clause 158 Transfer of right to a fishing boat licence**
Omit “\$305” from clause 158 (3). Insert instead “\$318”.
- [24] **Clause 161 Fee to accompany application for registration**
Omit “\$122”. Insert instead “\$127”.
- [25] **Clause 181 Transfer of quota**
Omit “\$182” from clause 181 (2) (c). Insert instead “\$190”.
- [26] **Clause 238 Endorsement fees**
Omit “\$2,438” from clause 238 (1) (a). Insert instead “\$2,540”.
- [27] **Clause 238 (1) (b) and (c)**
Omit “\$305” wherever occurring. Insert instead “\$318”.
- [28] **Clause 238 (5)**
Insert after clause 238 (4):
(5) The Minister may waive all or part of a fee payable under this clause in such cases as the Minister considers appropriate.
- [29] **Clause 242 Transfer fee**
Omit “\$3,047” from clause 242 (1). Insert instead “\$3,175”.
- [30] **Clause 285 Applications for registration as fish receiver**
Omit “\$914” from clause 285 (2). Insert instead “\$952”.
- [31] **Clause 285 (3) (a)**
Omit “\$2,977”. Insert instead “\$3,102”.
- [32] **Clause 285 (3) (b)**
Omit “\$1,488”. Insert instead “\$1,550”.
- [33] **Clause 299 Annual licence fee**
Omit “\$457” from clause 299 (1). Insert instead “\$476”.
- [34] **Clause 299 (1)**
Omit “\$92”. Insert instead “\$96”.
- [35] **Clause 305 Transfer of entitlement to history of operations**
Omit “\$305” from clause 305 (3). Insert instead “\$318”.

- [36] Clause 306 Boat replacement**
Omit "\$305" from clause 306 (1) (b). Insert instead "\$318".
- [37] Clause 308 Renewal of licence**
Omit "\$122" from clause 308 (5). Insert instead "\$127".
- [38] Clause 339 Fees for permits under Part 7 of the Act**
Omit "\$216" from clause 339 (1). Insert instead "\$225".
- [39] Clause 339 (2) (a)**
Omit "\$119". Insert instead "\$124".
- [40] Clause 339 (2) (b)**
Omit "\$61". Insert instead "\$64".
- [41] Clause 427 Waiver of contribution towards fishery monitoring programs**
Omit the clause.
- 1.4 Fisheries Management (Lobster Share Management Plan) Regulation 2000**
- [1] Appendix Lobster Share Management Plan**
Omit "\$244" from clause 9 (2) (a). Insert instead "\$254".
- [2] Appendix, clause 9 (2) (b)**
Omit "\$427". Insert instead "\$445".
- [3] Appendix, clause 19 (2) (b)**
Omit "\$182". Insert instead "\$190".
- 1.5 Fisheries Management (Supporting Plan) Regulation 2006**
- [1] Appendix**
Omit "\$335" wherever occurring in clause 10A (2) and (3) (a).
Insert instead "\$795".
- [2] Appendix, Clause 10A (3) (b)**
Omit "\$95". Insert instead "\$99".

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Schedule 2 Other amendments

Schedule 2 Other amendments

(Clause 4)

2.1 Fisheries Management (Estuary General Share Management Plan) Regulation 2006

Appendix

Insert “or if any shares of that class are cancelled” after “that class” in clause 7 (3).

2.2 Fisheries Management (Estuary Prawn Trawl Share Management Plan) Regulation 2006

Appendix

Insert “or if any shares of that class are cancelled” after “that class” in clause 7 (3).

2.3 Fisheries Management (General) Regulation 2002

[1] Clause 9 Prohibited size fish

Omit “11.5” from Column 2 of Part 2 of Table 1 to the clause in the matter relating to Abalone.

Insert instead “11.7”.

[2] Clause 305A

Insert after clause 305:

305A Conversion of non-transferable licence into transferable licence (estuarine fishing only)

- (1) A person who holds a non-transferable licence for a boat that authorises the use of the boat for guided recreational charter fishing in the estuarine fishing sector may apply to the Minister to have that licence converted into a transferable licence.
- (2) The Minister may approve the conversion of the relevant licence into a transferable licence if the Minister is satisfied that:
 - (a) the person was actively engaged in guided recreational charter fishing in the estuarine fishing sector before 3 December 2005, and
 - (b) the person held a licence that authorised the use of the boat for guided recreational charter fishing in the estuarine fishing sector on 3 December 2005, and

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- (c) the person has held that licence continuously since 3 December 2005, and
 - (d) the licence does not authorise, and has not authorised at any time since 3 December 2005, the use of the boat for any of the following recreational fishing activities:
 - (i) nearshore bottom fishing and sportfishing,
 - (ii) gamefishing,
 - (iii) deep sea bottom fishing.
 - (3) An application for the Minister's approval is to be in an approved form.
 - (4) If the Minister approves the conversion of a licence under this clause, it is taken to be a transferable licence.
 - (5) In this clause, *estuarine fishing sector* means that part of the charter fishing boat industry in which charter fishing boats are used for the purpose of recreational estuarine fishing.

[3] Clause 307 Refusal of licence

Insert at the end of clause 307 (e):

, or

- (f) the applicant has previously held a licence that has been suspended or cancelled by the Minister.

2.4 Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006

Appendix

Insert "or if any shares of that class are cancelled" after "that class" in clause 7 (3).

2.5 Fisheries Management (Ocean Trap and Line Share Management Plan) Regulation 2006

Appendix

Insert "or if any shares of that class are cancelled" after "that class" in clause 6 (3).

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Schedule 2 Other amendments

2.6 Fisheries Management (Ocean Trawl Share Management Plan) Regulation 2006**Appendix**

Insert “or if any shares of that class are cancelled” after “that class” in clause 6 (3).

BY AUTHORITY
