



New South Wales

Fisheries Management Legislation Amendment (Share Management Fisheries) Regulation 2010

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*.

STEVE WHAN, MP
Minister for Primary Industries

Explanatory note

The objects of this Regulation are as follows:

- (a) to transfer provisions relating to fishing gear that can be lawfully used in the estuary general fishery from the *Fisheries Management (General) Regulation 2002* to the share management plan for that fishery,
- (b) to transfer provisions relating to the rights of priority between commercial fishers from the *Fisheries Management (General) Regulation 2002* to the share management plans for the estuary general fishery and the ocean hauling fishery and the *Fisheries Management (Supporting Plan) Regulation 2006*,
- (c) to transfer provisions relating to the registration of fishing gear that is used by commercial fishers in the estuary general fishery and the ocean hauling fishery from the *Fisheries Management (General) Regulation 2002* to the share management plans for those fisheries,
- (d) to provide for the lawful use of a diamond mesh codend by fishers using an otter trawl net (prawns) in certain waters in the estuary prawn trawl fishery,
- (e) to provide for the lawful use of an increased mesh size by fishers using a hauling net (general purpose) in the ocean hauling fishery when taking fish other than sea mullet between March and July,
- (f) to extend the waters in South West Rocks in which use of the otter trawl net (prawns) is prohibited,
- (g) to convert a temporary fishing closure limiting the number of wobbegong sharks that can be lawfully taken or possessed in the lobster fishery and the ocean trap and line fishery into a permanent prohibition,

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- (h) to make it an offence for a person to assist a commercial fisher to take fish in a share management fishery if the commercial fisher is prohibited from taking fish with the assistance of that other person,
- (i) to provide that if an endorsement for a restricted fishery is cancelled by the Minister, the holder of that endorsement is no longer eligible for an endorsement in that fishery,
- (j) to update the labelling requirements for abalone that are sold,
- (k) to increase the prescribed penalties for certain penalty notice offences under the Act,
- (l) to make other minor and miscellaneous amendments and amendments of a statute law revision nature.

This Regulation is made under the *Fisheries Management Act 1994*, including sections 15, 17, 18, 20–24, 39, 40, 60, 68, 116, 118, 276 and 289 (the general regulation-making power).

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under the

Fisheries Management Act 1994

1 Name of Regulation

This Regulation is the *Fisheries Management Legislation Amendment (Share Management Fisheries) Regulation 2010*.

2 Commencement

This Regulation commences on 1 April 2010 and is required to be published on the NSW legislation website.

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[1] Appendix, clause 6 Types of endorsement

Insert “(seaward up to an imaginary line on the beach representing the lowest astronomical tide)” after “ocean beaches” in clause 6 (14).

[2] Appendix, clauses 9–11

Omit the clauses.

[3] Appendix, clause 14 Taking fish with the assistance of other persons

Insert after clause 14 (1):

- (1A) For the purposes of this clause, a person (the *commercial fisher*) takes fish with the assistance of another person if the other person:
- (a) is aboard a licensed fishing boat while the boat is being used by the commercial fisher to take fish in the fishery, or
 - (b) removes any fish from any fishing gear or licensed fishing boat being used by the commercial fisher to take fish in the fishery, or
 - (c) while in, on or adjacent to the waters of the fishery, stows or assists in stowing any fishing gear before or after its use by the commercial fisher to take fish in the fishery, or
 - (d) operates, or assists in operating, any fishing gear being used by the commercial fisher to take fish in the fishery, or
 - (e) while in, on or adjacent to the waters of the fishery, operates any motor vehicle or other device (such as a torch or light) to assist the commercial fisher to take fish in the fishery, or
 - (f) while in, on or adjacent to the waters of the fishery, places any fish into a container or other receptacle, or into a boat or motor vehicle, being used by the commercial fisher in connection with the taking of fish in the fishery.
- (1B) A person does not contravene this clause in respect of anything done by, or with the authority of, a fisheries officer.

[4] Appendix, clause 14C

Insert after clause 14B:

14C Storage of eels

For the purposes of section 68 (6A) of the Act, it is a condition of an eel trapping endorsement that the endorsement holder does not store any live eels taken, or possess any device used to store live eels, in, on, or adjacent to, the following waters:

- (a) any freshwater river, creek, stream, lake or lagoon,
- (b) waters in which commercial fishing for eel or the use of eel traps is prohibited.

[5] Appendix, Part 7 Fishing Gear

Insert before clause 17:

Division 1 Use of fishing gear

[6] Appendix, clauses 31A–31F

Insert after clause 31:

31A Hoop or lift net

- (1) It is lawful for the holder of a trapping endorsement or a mud crab trapping endorsement to use a hoop or lift net for taking any permitted species of fish (other than any prohibited size class of fish) in the waters specified in the Table to this clause if the net complies with the description set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) the net is used only as a hand implement and only by the method of lowering the net into the water and then drawing the net vertically to the surface,
 - (b) the total number of hoop or lift nets set or used in all waters at any one time does not exceed the net limit,
 - (c) if crab traps are also being set or used by the endorsement holder, the combined total of crab traps and hoop or lift nets set or used does not exceed the combination limit.
- (2) For the purposes of this Plan or any other instrument under the Act, a net described in this clause may be referred to as a hoop or lift net or a hoop or lift net—estuary general fishery.

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(3) In this clause:

combination limit means:

- (a) in the case of a holder of a mud crab trapping endorsement (but not a trapping endorsement), a combined total of 10 crab traps and hoop or lift nets, or
- (b) in the case of a dual endorsement holder, a combined total of 20 crab traps and hoop or lift nets.

Note. For example, a holder of a mud crab trapping endorsement who uses 3 hoop or lift nets may use only 7 crab traps and a dual endorsement holder who uses 12 hoop or lift nets may use only 8 crab traps. However, a dual endorsement holder who uses less than 10 hoop or lift nets cannot use more than 10 crab traps, despite the combination limit of 20.

dual endorsement holder means a holder of both a trapping endorsement and a mud crab trapping endorsement.

net limit means:

- (a) in the case of a holder of a trapping endorsement or a mud crab trapping endorsement (but not both), a total of 10 hoop or lift nets, or
- (b) in the case of a dual endorsement holder, a total of 20 hoop or lift nets.

Table Hoop or lift net

- 1 (a) *Waters*—All waters specified in the Table to clause 4.
- (b) *Description of net*—Net attached to not more than 2 hoops, rings or frames not exceeding 1.25 metres in their greatest diameter (or at their greatest diagonal); hoops, rings or frames not attached to each other by means of any rigid frame; total length from the centre of the plane of the hoop, ring or frame to the extremity of the net, or between the 2 hoops, rings or frames, not exceeding 1 metre; mesh not less than 13 mm.

31B Hand-hauled prawn net

- (1) It is lawful for the holder of a prawning endorsement to use a hand-hauled net for taking prawns in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) the net is not staked or set, or joined or placed together with any other net,

- (b) the net is continuously and manually propelled and not used as a stationary net,
 - (c) the net is not attached to a hauling line.
- (2) It is also lawful to use a hand-hauled net to take other fish (other than a prohibited size class of fish) that are taken by the net when it is being lawfully used for taking prawns.
- (3) For the purposes of this Plan or any other instrument under the Act, a net described in this clause may be referred to as a hand-hauled prawn net or a hand-hauled prawn net—estuary general fishery.

Table Hand-hauled prawn net

- 1 (a) *Waters*—All waters specified in the Table to clause 4.
- (b) *Description of net*—Total length not exceeding 6 metres; mesh throughout not less than 30 mm nor more than 36 mm.

31C Push or scissors net (prawns)

- (1) It is lawful for the holder of a prawning endorsement to use a push or scissors net for taking prawns in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
- (a) the net is used only as a hand implement and is not staked or set, or joined or placed together with any other net,
 - (b) the net is continuously propelled and not used as a stationary net,
 - (c) the net is operated only by 1 person without assistance from any other person,
 - (d) only 1 net is used by a person at any one time.
- (2) It is also lawful to use a push or scissors net to take other fish (other than a prohibited size class of fish) that are taken by the net when it is being lawfully used for taking prawns.
- (3) For the purposes of this Plan or any other instrument under the Act, a net described in this clause may be referred to as a push or scissors net (prawns) or a push or scissors net (prawns)—estuary general fishery.

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Table Push or scissors net (prawns)

- 1 (a) *Waters*—All waters specified in the Table to clause 4.
- (b) *Description of net*—Net attached to a scissors-type frame; length of lead or bottom line between the lower extremities of the poles not exceeding 2.75 metres; mesh not less than 30 mm nor more than 36 mm.

31D Dip or scoop net (prawns)

- (1) It is lawful for the holder of a prawning endorsement to use a dip or scoop net for taking prawns in the waters specified in the Table to this clause if the net complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
 - (a) the net is used as a hand implement only and not staked or set, or joined or placed together with any other net,
 - (b) only 1 net is used by a person at any one time.
- (2) It is also lawful to use a dip or scoop net to take other fish that are taken by the net when it is being lawfully used for taking prawns.
- (3) For the purposes of this Plan or any other instrument under the Act, a net described in this clause may be referred to as a dip or scoop net (prawns) or a dip or scoop net (prawns)—estuary general fishery.

Table Dip or scoop net (prawns)

- 1 (a) *Waters*—All waters specified in the Table to clause 4.
- (b) *Description of net*—Net attached to a frame, hoop or ring not exceeding 0.6 metre in its greatest diameter, with a handle of not more than 1.2 metres in length, with a total length from the centre of the plane of the frame, hoop or ring to the extremity of the net not exceeding 1.25 metres; mesh not less than 20 mm.

31E Crab trap

- (1) It is lawful for the holder of a mud crab trapping endorsement to use a trap for taking crabs in the waters specified in the Table to this clause if the trap complies with the description as set out in

relation to those waters in that Table and the following conditions are complied with:

- (a) the crab trap is not set or used unless its position is indicated by a buoy that:
 - (i) is moored so as to be positioned above the trap, and
 - (ii) has a diameter above the water of not less than 100 mm, and
 - (iii) has a weight of not less than 50 gm suspended not less than 1 metre under the float so that no rope is floating on the surface of the water, and
 - (iv) displays the registration number of the commercial fishing licence of the fisher who set the trap and the letter "C" at the end of that number, in clearly visible letters and figures that are not less than 50 mm in height and are of a colour that contrasts with that of the buoy,
- (b) the crab trap is not set or used in such a manner as to impede the free passage of fish on either or any side of the trap or in such a manner that any 2 traps are closer than 3 metres apart,
- (c) the crab trap is not made of entanglement material,
- (d) the total number of crab traps set or used in all waters at any one time does not exceed 10,
- (e) if hoop or lift nets are also being set or used by the endorsement holder, the combined total of crab traps and hoop or lift nets set or used does not exceed the combination limit.

(2) In this clause:

combination limit means:

- (a) in the case of a holder of a mud crab trapping endorsement (but not a trapping endorsement), a combined total of 10 crab traps and hoop or lift nets, or
- (b) in the case of a dual endorsement holder, a combined total of 20 crab traps and hoop or lift nets.

Note. For example, a holder of a mud crab trapping endorsement who uses 3 hoop or lift nets may use only 7 crab traps and a dual endorsement holder who uses 12 hoop or lift nets may use only 8 crab traps.

dual endorsement holder means a holder of both a trapping endorsement and a mud crab trapping endorsement.

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- (3) For the purposes of this Plan or any other instrument under the Act, a trap described in this clause may be referred to as a crab trap or a commercial crab trap.

Table Crab trap

- 1 (a) *Waters*—All waters specified in the Table to clause 4.
- (b) *Description of trap*—Not exceeding 1.2 metres in length, 1 metre in width and 0.5 metre in depth (or has a diameter not exceeding 1.6 metres at the top or bottom); consisting of mesh not less than 50 mm; having not more than 4 entrance funnels none of which are on the top of the trap (excluding any access doors for removing crabs from the trap or baiting the trap).

31F Eel trap

- (1) It is lawful for the holder of an eel trapping endorsement to use an eel trap for taking eels in the waters specified in the Table to this clause if the trap complies with the description as set out in relation to those waters in that Table and the following conditions are complied with:
- (a) the eel trap is not set or used unless its position is indicated by a buoy that:
- (i) is moored so as to be positioned above the trap, and
 - (ii) has a diameter above the water of not less than 100 mm, and
 - (iii) has a weight of not less than 50 gm suspended not less than 1 metre under the float so that no rope is floating on the surface of the water, and
 - (iv) displays the letters “LFB” followed by the licence number of the boat used to set the trap and the letter “E” at the end of that number, in clearly visible letters and figures that are not less than 50 mm in height and are of a colour that contrasts with that of the buoy,
- (b) no more than 10 eel traps are used or set at any one time.
- (2) It is also lawful for the trap (or each trap if more than one trap is used) to be fitted with a bycatch reduction device of a kind approved by the Director-General for use in the waters in which the trap is used, if that device is fitted in accordance with any specifications approved by the Director-General and published in the Gazette.

- (3) For the purposes of this Plan or any other instrument under the Act, a trap referred to in this clause may be referred to as an eel trap or an eel trap—estuary general fishery.

Table Eel trap

- 1 (a) *Waters*—All waters specified in the Table to clause 4.
- (b) *Description of trap*—
- (i) total length not exceeding 4 metres; rigid trap or trap frame not exceeding 2 metres in length, 0.5 metre in width and 0.5 metre in depth; optional fibre based netting codend no less than 1 metre in length; mesh not less than 20 mm diagonal nor more than 50 mm diagonal; a maximum of 2 entrance funnels, each fitted with a fixed rigid ring with an internal diameter not exceeding 100 mm, or
 - (ii) total length not exceeding 2 metres, rigid trap or trap frame not exceeding 1 metre in length, 1 metre in width and 0.5 metre in depth; optional fibre based netting codend no less than 0.5 metre in length but no greater than 1 metre in length; mesh not less than 20 mm diagonal nor more than 50 mm diagonal; a maximum of two entrance funnels, each fitted with a fixed rigid ring with an internal diameter not exceeding 100 mm.

[7] Appendix, clause 32 Fish trap

Omit clause 32 (1) (d). Insert instead:

- (d) the total number of fish traps set or used in all waters at any one time does not exceed the trap limit.

[8] Appendix, clause 32 (3)

Insert after clause 32 (2):

- (3) In this clause:
- Port Stephens Broadwater*** means that part of Port Stephens Broadwater commencing at Nelson Head then along the high water mark to Mud Point then by a line drawn south west intersecting the northern extremity of Bull Island to the high water mark at Lemon Tree Passage then along the high water mark to Tanilba Point then by a line drawn in a north westerly direction to Cockleshell Point then along the high water mark to Carcair Point then by a line drawn to the eastern most point of Wirrung Island then to Tahlee Point then along the high water

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mark to Baromee Point then by a line drawn in an easterly direction to Fame Point then by a line drawn in an easterly direction to Orungall Point then in an easterly direction to the southernmost point of Corrie Island then in an easterly direction to Barnes Rocks then by a line drawn in a south easterly direction to the point of commencement.

trap limit means:

- (a) in the case of an endorsement holder taking fish in the waters of Wallis Lake Broadwater or Port Stephens Broadwater (or both), a total of 20 fish traps, or
- (b) in the case of an endorsement holder taking fish in the waters of Wallis Lake Broadwater or Port Stephens Broadwater (or both) and in other waters, a total of 20 fish traps, or
- (c) in the case of an endorsement holder taking fish in waters other than Wallis Lake Broadwater and Port Stephens Broadwater, a total of 10 fish traps.

Wallis Lake Broadwater means that part of Wallis Lake included within the following boundaries: commencing at a post marked "FD" situated at the high water mark of Pipers Bay (located by a line bearing 186 degrees from an electricity pole numbered 14808 situated at the eastern end of Pipers Bay Drive Forster) then bounded by a line bearing 217 degrees to a second post marked "FD" situated at the high water mark on the southern side of Big Island, then to a third post marked "FD" situated at the high water mark of Wallis Island, bearing 245 degrees from the second post, then southerly, westerly and northerly along the high water mark of Wallis Island to a jetty located on the western side of Wallis Island, then westerly along the length of the jetty to its end, then to a fourth post marked "FD", situated at the high water mark on the foreshore of Coomba Park, bearing 246 degrees and 30 minutes from the end of the jetty, then generally southerly, easterly and northerly along the high water mark of Wallis Lake to the point of commencement.

[9] Appendix, clause 32, Table

Omit the Table. Insert instead:

Table Fish trap

- 1 (a) *Waters*—All waters specified in the Table to clause 4.
- (b) *Description of trap*—Not exceeding 2 metres in length, 1.5 metres in width and 1 metre in depth; consisting of mesh that measures not less than 50 mm from one plain wire to the opposite plain wire; an entrance funnel or funnels other than in the top; at least 1 panel in a side or the top of not less than 30 cm long and 30 cm wide consisting of galvanised wire.

[10] Appendix, Part 7, Division 2

Insert after clause 35:

Division 2 Registration of fishing gear

35A Registration of fishing gear

For the purposes of section 22 of the Act, the following classes of fishing gear are registrable:

- (a) bait net,
- (b) flathead net,
- (c) garfish net (bullringing),
- (d) garfish net (hauling),
- (e) hauling net (general purpose),
- (f) meshing net,
- (g) pilchard, anchovy and bait net (hauling),
- (h) prawn net (hauling),
- (i) prawn net (set pocket),
- (j) prawn running net,
- (k) seine net (prawns),
- (l) trumpeter whiting net (hauling).

35B Applications for registration

An application for registration of fishing gear is to be made to the Director-General in a form approved by the Director-General.

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35C Registration

- (1) If an application for the registration of fishing gear is duly made and the fishing gear may lawfully be used in the fishery, the Director-General may register the fishing gear.
- (2) Registration of fishing gear is to be certified in such form or manner as the Director-General approves.
- (3) Registration remains in force for the life of the fishing gear.
- (4) The fee to be paid for the registration of fishing gear is \$27.
- (5) Registration is not transferable.
- (6) The Director-General may cause to be compiled a register of all fishing gear registered, containing in respect of each fishing gear the registration number, the name and address of the owner, the class of the fishing gear and the dimensions and mesh of the whole or of each part of the fishing gear.

[11] Appendix, Part 7A

Insert after Part 7:

Part 7A Rights of priority

Note. This Part sets out the rights of priority between endorsement holders in the estuary general fishery. Rights of priority between commercial fishers and recreational fishers on recognised fishing grounds are set out in the *Fisheries Management (General) Regulation 2002*. Rights of priority between endorsement holders in the estuary general fishery and endorsement holders in other fisheries on recognised fishing grounds are set out in the *Fisheries Management (Supporting Plan) Regulation 2006*.

Division 1 General

35D Fishing contrary to rights of priority

For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that the endorsement holder does not take fish in the fishery contrary to the rights of priority provided for by this Part after being directed not to do so:

- (a) by a fisheries officer, or
- (b) by another endorsement holder (who is using or intending to use a net or other fishing gear in accordance with this Part).

35E Endorsement holders must use fishing gear in accordance with this Part

For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that the endorsement holder does not use a net or other fishing gear in a manner that is contrary to the provisions of this Part.

Division 2 General rights of priority

35F Priority between endorsement holders using certain nets

- (1) The rights of priority between endorsement holders taking or intending to take fish by use of a relevant net from any estuarine waters are determined as follows:
 - (a) the first turn belongs to the crew that first arrives at the waters concerned with a licensed fishing boat and a relevant net laid ready for use, but only if there is at least one crew member in attendance ready to shoot the net and the other crew members are in the immediate vicinity,
 - (b) the next turn belongs to the crew that next arrives with such a boat and net, and so on,
 - (c) a turn concludes when a crew has shot its net, but in no case extends over a longer period than 24 hours as against any other crew ready and waiting to use a relevant net,
 - (d) during its turn a crew has exclusive rights to so much of the estuarine waters as equals in length, measured along the foreshore from the point where the boat belonging to that crew is or was positioned or lying, the total length of the net in use or intended to be used, in the direction in which the net is shot or laid ready for shooting,
 - (e) a crew is not entitled to a second turn until all other crews in the area have had their first turn,
 - (f) the crew of a boat waiting for a turn automatically forfeits its turn if any member of that crew acts as a member of the crew of a boat using a relevant net,
 - (g) 2 or more turns may be taken simultaneously if the waters being fished admit of double-banking, provided that no net is shot around an inner net within 7.5 metres of the cork line of that inner net without the consent of the crew operating that inner net.

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- (2) In this clause, *crew* means a crew consisting of an endorsement holder and such number of other endorsement holders (if any) as are required to operate effectively the net in use or intended to be used from the boat from which the net is being or will be used.
- (3) A fisheries officer is to determine the number of endorsement holders required to effectively operate a net and that determination is final and conclusive.
- (4) This clause applies whether or not the waters concerned are a recognised fishing ground (within the meaning of the *Fisheries Management (General) Regulation 2002*).
- (5) This clause does not apply to the use of a net in accordance with a right of priority determined under Division 3 or 4 of this Part.
- (6) In this clause:
relevant net means a hauling net (general purpose), a trumpeter whiting net (hauling), a garfish net (bullringing), a garfish net (hauling), a pilchard, anchovy and bait net (hauling), a prawn net (hauling), a prawn running net or a seine net (prawns).

Division 3 Rights of priority—prawn nets (set pocket)

35G Preliminary

- (1) This Division applies to the use of prawn nets (set pocket) in the Myall River, the Clarence River and any other waters in which they may lawfully be used.
- (2) In this Division:
crew means a crew consisting only of holders of prawning endorsements.
net site means a position in waters to which this Division applies at which a prawn net (set pocket) may be set.

35H Preliminary determination by fisheries officer

- (1) A fisheries officer may determine from time to time:
 - (a) the number of prawn nets (set pocket) that may be used in the waters that the fisheries officer supervises, and
 - (b) the net sites, and
 - (c) the minimum number of endorsement holders (which may be one or more) required to operate a prawn net (set pocket) in those waters, and
 - (d) the setting times for the prawn nets (set pocket).

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- (2) For the purposes of this Division, this determination is a *preliminary determination*.
 - (3) A preliminary determination has effect for the period specified in the determination.
 - (4) The fisheries officer must notify endorsement holders of a preliminary determination made under this clause in the manner required by guidelines issued by the Director-General under this Division.

35I Guidelines of Director-General for priority determination

- (1) The Director-General is to issue guidelines for the manner in which priority between endorsement holders fishing in waters to which this Division applies is to be determined.
- (2) The guidelines may require endorsement holders to make, from time to time, a determination as to the rights of priority between endorsement holders working in waters to which this Division applies (referred to in this Division as a *priority determination*).
- (3) Without limiting the above, the guidelines may require a priority determination to be made by ballot or by some other method specified in the guidelines.
- (4) A priority determination for waters to which this Division applies must be made in accordance with the guidelines issued by the Director-General.
- (5) A priority determination is to be notified to a fisheries officer in the manner specified in the guidelines issued by the Director-General.
- (6) A priority determination, once notified to a fisheries officer, is final and conclusive.

35J Minimum requirements for priority determination

- (1) A priority determination must be made in writing and must set out, in relation to the waters to which it applies:
 - (a) the endorsement holder (or crew where relevant) who has priority at each net site in the waters,
 - (b) the period during which that endorsement holder or crew has priority.
- (2) A priority determination must be consistent with any preliminary determination made by a fisheries officer.

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35K General conditions of use of prawn net (set pocket) following priority determination

- (1) A person must not use a prawn net (set pocket) at any position or at any time unless that person is entitled to use the net at that position and at that time under a priority determination.
- (2) In the case of an endorsement holder or any crew entitled (pursuant to a priority determination) to use a prawn net (set pocket) at any time the following conditions apply:
 - (a) if the endorsement holder or crew has not arrived to set the net on the relevant night by the time of sunset, the time the tide has commenced to ebb or the time determined by a fisheries officer as the appropriate time, the turn of that endorsement holder or crew is forfeited (that is, the endorsement holder or crew is not entitled to set the net at that time),
 - (b) the turn of the endorsement holder or crew endures for the duration of the outgoing tide, or from sunset to sunrise, or as determined by a fisheries officer.

Division 4 Rights of priority—prawn running nets

35L Preliminary

- (1) This Division applies to the use of prawn running nets in the following waters:
 - (a) Coila Lake,
 - (b) Lake Brou,
 - (c) Corunna Lake,
 - (d) Tilba Tilba Lake,
 - (e) Cuttagee Lake,
 - (f) Middle Lake (Bega),
 - (g) Wallaga Lake.

- (2) In this Division:

appropriate fishing gear means a licensed fishing boat and a registered prawn running net that may be lawfully used to take prawns in waters to which this Division applies.

crew means a crew consisting of one or more endorsement holders, being the number of endorsement holders required to operate a prawn running net.

net site means a position in waters to which this Division applies at which a prawn running net may be set.

35M Preliminary determination by fisheries officer

- (1) A fisheries officer is to determine from time to time:
 - (a) the number of prawn running nets that may be set in the waters that the fisheries officer supervises, and
 - (b) the net sites, and
 - (c) the minimum number of endorsement holders (which may be one or more) required to operate a prawn running net in those waters.
- (2) For the purposes of this Division, this determination is a *preliminary determination*.
- (3) A preliminary determination has effect for the period specified in the determination (referred to in this Division as the *determination period*).
- (4) The fisheries officer must post in a conspicuous place a notice of the preliminary determination.

35N Priority between endorsement holders using prawn running nets

- (1) The rights of priority in the setting of prawn running nets between endorsement holders working on waters to which this Division applies are to be determined as follows:
 - (a) the crew that is the first crew to arrive at a net site (with the appropriate fishing gear) on or after 6 pm on the date the preliminary determination takes effect (the *determination date*) is the crew entitled to set a prawn running net at that site for the remainder of the determination period,
 - (b) if two or more crews arrive simultaneously and before any other crew at a net site (with the appropriate fishing gear) on or after 6 pm on the determination date, a fisheries officer is to determine which crew is entitled to set a prawn running net at that site for the remainder of the determination period and that determination is final and conclusive.
- (2) If a crew who has the right of priority has not arrived at a net site with the appropriate fishing gear by 7 pm (daylight saving time) or 6 pm (Eastern Standard Time) on any night, any other crew that has arrived at the site and has the appropriate fishing gear is entitled to set a prawn running net at the site on that night.
- (3) For the purposes of this clause, a crew is taken to have arrived at a net site only when all the members of the crew are personally present at the site.

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Schedule 1

Amendment of Fisheries Management (Estuary General Share Management Plan) Regulation 2006

[12] Appendix, Schedule 1

Omit “Pacific” from Column 1 in the matter relating to “Shoalhaven River—Set Meshing Net” in Schedule 1.

Insert instead “Princes”.

Schedule 2 **Amendment of Fisheries Management (Estuary Prawn Trawl Share Management Plan) Regulation 2006**

[1] Appendix, clause 17A Otter trawl net (prawns)

Omit “then onto Challenger Head, and upstream of a line drawn from Middle Head to West Head” from clause 17A (4).

[2] Appendix, clause 17A

Insert after clause 17A (4):

(4A) For the purposes of this clause, a *square shaped mesh codend* is a codend that complies with the following description:

- (a) the mesh of the codend is not less than 27 mm nor more than 40 mm, constructed of single twine knotless polyamide or polyethylene material not more than 2.5 mm in diameter and hung on the bar so that the meshes are square shaped,
- (b) the codend of the net is not less than 1 metre nor more than 3 metres in length,
- (c) the codend of the net has a circumference not exceeding 3.2 metres.

(4B) For the purposes of this clause, a *diamond shaped mesh codend* is a codend that complies with the following description:

- (a) the mesh of the codend is not less than 40 mm nor more than 60 mm, constructed of single twine material not more than 2.5 mm in diameter and hung so that the meshes are diamond shaped,
- (b) the codend of the net does not consist of a greater amount of net in circumference than that part of the net immediately forward of the codend when stretched transversely.

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Amendment of Fisheries Management (Estuary Prawn Trawl Share Management Plan) Regulation 2006

[3] Appendix, clause 17A, Table

Omit the Table to the clause. Insert instead:

Table Otter trawl net (prawns)

- 1 (a) *Waters*—Clarence River, Hunter River and that part of Hawkesbury River upstream from a line drawn from Juno Point to Eleanor Buff.
- (b) *Description of net*—Total length of net (length of head line between the first and last hanging) not exceeding 11 metres; total length of either net (when towed as twin gear in Clarence River) not exceeding 7.5 metres; mesh of the body of the net (or that portion of net not capable of being used as a codend) not less than 40 mm nor more than 60 mm; codend of the net (or that portion of net capable of being used as codend) is a square shaped mesh codend; sweeps secured to head line and otter board so that the distance between the point of attachment to the otter boards and the first hanging of the net does not exceed 5 metres or the distance from the trawl gallows to the stern of the boat (whichever is the greater).
- 2 (a) *Waters*—That part of Hawkesbury River downstream from a line drawn from Juno Point to Eleanor Buff.
- (b) *Description of net*—Total length of net (length of head line between the first and last hanging) not exceeding 11 metres; total length of either net not exceeding 7.5 metres; mesh of the body of the net (or that portion of net not capable of being used as a codend) not less than 40 mm nor more than 60 mm; codend of the net (or that portion of net capable of being used as codend) is either a square shaped mesh codend or a diamond shaped mesh codend; except where a V-bridle is used, sweeps secured to head line and otter board so that the distance between the point of attachment to the otter boards and the first hanging of the net does not exceed 5 metres or the distance from the trawl gallows to the stern of the boat (whichever is the greater).

Schedule 3 Amendment of Fisheries Management (General) Regulation 2002

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

Omit “the use of a hauling net (general purpose) in accordance with clause 26” from the second column of the Table to the clause in the matter relating to the Clarence River.

Insert instead “the lawful use of a hauling net (general purpose)”.

[2] Clause 8A, Table

Omit paragraph (a) from the first column in the matter relating to Manning River.

Insert instead:

- (a) Ghinni Ghinni Creek, from a line drawn from a point on the south western shoreline at the mouth of Ghinni Ghinni Creek at 31°52.984’S, 152°33.565’E in a generally easterly direction to the shoreline of Oxley Island at 31°53.066’S, 152°34.011’E, and

[3] Clause 8A, Table

Omit the matter relating to the Richmond River. Insert instead:

Insert instead:

Richmond River:

- | | |
|---|---|
| <ul style="list-style-type: none">(a) from a line drawn between the eastern extremities of the northern and southern breakwalls upstream to a line drawn across the River between the Burns Point Ferry ramps, including all the tributaries, creeks, bays, inlets and canal estates within those boundaries, | <p>All commercial fishing, except the class of commercial fishing that consists of the lawful use of a hauling net (general purpose) to take sea mullet (<i>Mugil cephalus</i>) during April to July each year from the waters enclosed north of a line drawn from the southernmost extremity of the rock embankment at the eastern end of Missingham Bridge to a point approximately 225 metres in an east south east direction along the northern breakwater adjacent to Shaws Bay.</p> |
|---|---|

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Schedule 3 Amendment of Fisheries Management (General) Regulation 2002

- (b) from a line drawn across the River between the Burns Point Ferry ramps upstream to a line drawn east across the River from the south-eastern corner of Portion 21 at the eastern end of Emigrant Point Lane, including Emigrant Creek and all other tributaries, creeks, bays, inlets and canal estates within those boundaries. All commercial fishing, except the class of commercial fishing that consists of the lawful use of a crab trap or an eel trap.

[4] Clause 8A, Table

Omit “inlets” from the first column in the matter relating to St Georges Basin. Insert instead “Sussex Inlet”.

[5] Clause 9 Prohibited size fish

Insert “or weight” after “measurement” in clause 9 (1) (a) wherever occurring.

[6] Clause 9 (1A)

Insert after clause 9 (1):

- (1A) For a species that has both a minimum measurement and a minimum weight, the fish is not a prohibited size fish if either the measurement or the weight exceeds the minimum.

[7] Clause 9, Table 1, Part 5

Insert after Part 4:

Part 5 Minimum weight

	Column 1	Column 2
Common name	Species	Minimum weight in grams
Eel, longfinned	<i>Anguilla reinhardtii</i>	500

[8] Clause 9, Table 2, Part 1 Invertebrates—Marine or estuarine

Omit “20” from Column 2. Insert instead “18”.

[9] Part 2, Division 4 Special provisions relating to scallops

Omit the Division.

[10] Part 3, Division 2 Registration

Omit the Division.

[11] Clause 48 Hoop or lift net

Omit clause 48 (1) (b), (c) and (e) and the note.

[12] Clause 48 (1) (d)

Omit “(other than a commercial fisher)”.

[13] Clause 48 (1A)

Insert after clause 48 (1):

- (1A) This clause does not apply to or in respect of the holder of an endorsement in the estuary general fishery when taking fish for sale in that fishery.

Note. See the *Fisheries Management (Estuary General Share Management Plan) Regulation 2006* in relation to the use of hoop or lift nets in the estuary general fishery.

[14] Clause 49 Hand-hauled prawn net

Insert after clause 49 (2):

- (2A) This clause does not apply to or in respect of the holder of an endorsement in the estuary general fishery when taking fish for sale in that fishery.

Note. See the *Fisheries Management (Estuary General Share Management Plan) Regulation 2006* in relation to the use of hand-hauled prawn nets in the estuary general fishery.

[15] Clause 50 Push or scissors net (prawns)

Insert after clause 50 (2):

- (2A) This clause does not apply to or in respect of the holder of an endorsement in the estuary general fishery when taking fish for sale in that fishery.

Note. See the *Fisheries Management (Estuary General Share Management Plan) Regulation 2006* in relation to the use of push or scissors nets (prawns) in the estuary general fishery.

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[16] Clause 51 Dip or scoop net (prawns)

Insert after clause 51 (2):

- (2A) This clause does not apply to or in respect of the holder of an endorsement in the estuary general fishery when taking fish for sale in that fishery.

Note. See the *Fisheries Management (Estuary General Share Management Plan) Regulation 2006* in relation to the use of dip or scoop nets (prawns) in the estuary general fishery.

[17] Clause 59 Traps used in share management fisheries

Insert the following in Columns 1 and 2 respectively at the end of the Table to the clause:

Commercial crab trap	Estuary general
Eel trap	Estuary general

[18] Clause 61 Recreational crab trap

Omit clause 61 (1) (a) (iv).

[19] Clause 61 (1) (a) (v)

Omit “in the case of any other trap—”.

[20] Clause 61 (1)

Omit clause 61 (1) (g) and the note.

[21] Clause 61 (2)

Insert “or recreational crab trap” after “crab trap”.

[22] Clause 61, Table

Omit items 1 and 2.

[23] Clause 61, Table

Omit “Any other waters (except inland and ocean waters)” from item (3) (a).
Insert instead “Any waters (other than inland and ocean waters)”.

[24] Clause 65 Eel trap

Omit the clause.

[25] Clause 75 Taking of shellfish by means of a dredge or similar device

Omit “, other than a commercial fisher,” from clause 75 (1).

[26] **Clause 75 (2)–(4)**

Omit the subclauses.

[27] **Clause 79B Storage of eels**

Omit the clause.

[28] **Part 4 Priorities in the use of fishing gear**

Insert before Division 1:

Note. This Part sets out the rights of priority between commercial fishers and recreational fishers on recognised fishing grounds and the rights of priority between commercial fishers in inland waters. Rights of priority between commercial fishers in share management fisheries are set out in the share management plans for the fisheries. Rights of priority between commercial fishers on recognised fishing grounds are set out in the *Fisheries Management (Supporting Plan) Regulation 2006*.

[29] **Part 4, Divisions 2–6**

Omit the Divisions. Insert instead:

Division 2 Rights of priority

82 Priority between commercial fishers and recreational fishers—recognised fishing grounds

A commercial fisher who is taking or who intends to take fish on a recognised fishing ground, by the method for which the area concerned is a recognised fishing ground, has priority over any other person who is taking or intends to take fish in the recognised fishing ground by any other method.

83 Priority between commercial fishers using nets in inland waters

The rights of priority in the setting of nets in inland waters between commercial fishers working on the same recognised fishing ground are determined as follows:

- (a) the first turn belongs to the commercial fisher who, with lawful nets, first arrives at the point on the bank from which it is intended that those nets are to be set,
- (b) the next turn is to belong to the commercial fisher who next so arrives, and so on,
- (c) during a commercial fisher's turn, the fisher is to have the exclusive right of setting nets in so much of the inland waters as equals in metres measured from the point referred to in paragraph (a), the product of the number of

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nets the fisher is using or intends to use and 100, subject to the following:

- (i) the point from which that measurement is made must be not less than 100 metres from any net set by and belonging to any other commercial fisher,
- (ii) the maximum length of the inland waters to which any fisher is entitled in accordance with this clause is to be 1,600 metres,
- (iii) no fisher is to be entitled to set any net within 100 metres of any net set by any other commercial fisher in accordance with this clause,
- (d) a turn must not exceed 24 hours at the expiration of which the nets must, if another commercial fisher is waiting that fisher's turn with lawful nets ready to set, be removed from the water on to the bank,
- (e) no commercial fisher is to have a second turn until all the other commercial fishers on the fishing ground with lawful nets have had their first turn.

[30] **Clause 106 Identification of recognised fishing grounds**

Insert after clause 106 (2):

- (2A) An RFG map is to identify the method of net fishing for which the area is a recognised fishing ground.

[31] **Clause 116B**

Omit the clause. Insert instead:

116B Abalone not to be sold unless labelled

A person must not sell abalone unless the immediate packaging of the abalone is marked or labelled with the following details:

- (a) the date on which the abalone was packaged,
- (b) the number and total net weight in kilograms of abalone,
- (c) the name of the commercial fisher who took the abalone or the name and address of the person on whose behalf the abalone was packaged,
- (d) the number issued by the Australian Quarantine and Inspection Service to the commercial fisher who took the abalone or the seller's registered fish receiver's registration number.

Maximum penalty: 100 penalty units.

[32] Clause 116C Abalone packaging not to be removed or damaged

Omit “clause 289 (3)” from clause 116C (1). Insert instead “clause 116B”.

[33] Clause 133

Omit the clause. Insert instead:

133 Person must not assist a commercial fisher

- (1) A person must not assist a commercial fisher to take fish in contravention of a share management plan.
Maximum penalty: 100 penalty units.
- (2) A person assists a commercial fisher to take fish in contravention of a share management plan if the person provides any assistance, or does any other thing, that results in the commercial fisher contravening a provision of the share management plan that prohibits the commercial fisher from taking fish with the assistance of another person.
- (3) A person may be proceeded against and convicted under this clause whether or not the commercial fisher has been proceeded against or convicted for an offence constituted by taking fish with the assistance of another person.

[34] Clause 171 Eligibility for endorsements

Insert after clause 171 (2) before the note to the clause:

- (3) A person whose endorsement is cancelled by the Minister under this Division (otherwise than because the person has ceased to be eligible for an endorsement) is taken, on that cancellation, to cease to be eligible for the endorsement.

[35] Clause 194 Eligibility for endorsement

Insert after clause 194 (2) before the note to the clause:

- (3) A person whose endorsement is cancelled by the Minister under this Division (otherwise than because the person has ceased to be eligible for an endorsement) is taken, on that cancellation, to cease to be eligible for the endorsement.

[36] Clause 198 Cancellation and suspension of endorsements

Insert after clause 198 (d):

- (d1) any fee or contribution payable in connection with the endorsement has not been paid, or

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[37] Clause 289

Omit the clause. Insert instead:

289 Fish consignments by registered fish receivers to be labelled

For the purposes of section 118 (5) (a) of the Act, it is a condition of the registration of a fish receiver that the registered fish receiver must not receive fish in a container or consign fish in a container for sale unless the container is labelled in a manner approved by the Director-General.

Note. See also clause 116B for specific requirements relating to abalone.

[38] Schedule 5 Penalty notice offences

Omit "\$200" from Column 2 of Part 2 in the matter relating to clause 80.

Insert instead "\$500".

[39] Schedule 5, Part 2

Omit "\$300" from Column 2 in the matter relating to clause 81.

Insert instead "\$500".

[40] Schedule 5, Part 2

Insert the following into Column 1 and 2 respectively after the matter relating to clause 132 (2):

Clause 133

\$500

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

[1] **Appendix, clause 46A**

Insert after clause 46:

46A Bag limits for certain species

- (1) For the purposes of section 17 (1) of the Act, the daily limit of a species of fish described in Column 1 of Schedule 2 is, when the fish are taken by an endorsement holder from waters specified opposite that species of fish in Column 3 of that Schedule, the quantity specified next to that species in Column 2 of that Schedule.
- (2) For the purposes of section 18 (1) of the Act, the possession limit of fish of a species described in Column 1 of Schedule 2 is, when the fish are taken by an endorsement holder from waters specified opposite that species of fish in Column 3 of that Schedule, the quantity specified next to that species in Column 2 of that Schedule.
- (3) For the purposes of section 21 (1) (d) of the Act, it is a defence to a prosecution for an offence under section 18 (2) of the Act that is constituted by being in possession of fish in contravention of a possession limit imposed by this Plan if the person charged satisfies the court that the fish were lawfully taken from outside the fishery.

[2] **Appendix, Schedule 2**

Insert after Schedule 1:

Schedule 2 Bag limits

(Clause 46A)

Column 1	Column 2	Column 3
Species of fish	Daily limit and possession limit	Waters
Wobbegong shark (<i>Orectolobus</i> spp.).	6 comprised of any single species or a combination of species.	All waters.

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Schedule 5

Amendment of Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006

**Schedule 5 Amendment of Fisheries Management
(Ocean Hauling Share Management Plan)
Regulation 2006**

[1] Appendix, Part 6A, Division 1

Insert before clause 13A:

Division 1 Use of fishing gear

[2] Appendix, clause 13A Hauling net (general purpose)

Insert “if taking any fish in the fishery or not less than 95 mm nor more than 102 mm if taking fish other than sea mullet (*Mugil cephalus*)” after “nor more than 65 mm” in paragraph (b) (i) in items 1 and 2 of the Table to the clause.

[3] Appendix, Part 6A, Division 2

Insert after the Table to clause 13D:

Division 2 Registration of fishing gear

13E Registration of fishing gear

For the purposes of section 22 of the Act, the following classes of fishing gear are registrable:

- (a) garfish net (hauling),
- (b) hauling net (general purpose),
- (c) pilchard, anchovy and bait net (hauling),
- (d) purse seine net.

13F Applications for registration

An application for registration of fishing gear is to be made to the Director-General in a form approved by the Director-General.

13G Registration

- (1) If an application for the registration of fishing gear is duly made and the fishing gear may lawfully be used in the fishery, the Director-General may register the fishing gear.
- (2) Registration of fishing gear is to be certified in such form or manner as the Director-General approves.
- (3) Registration remains in force for the life of the fishing gear.
- (4) The fee to be paid for the registration of fishing gear is \$27.

- (5) Registration is not transferable.
- (6) The Director-General may cause to be compiled a register of all fishing gear registered, containing in respect of each fishing gear the registration number, the name and address of the owner, the class of the fishing gear and the dimensions and mesh of the whole or of each part of the fishing gear.

[4] Appendix, Part 7A

Insert after Part 7:

Part 7A Rights of priority

Note. This Part sets out the rights of priority between endorsement holders in the ocean hauling fishery. Rights of priority between commercial fishers and recreational fishers on recognised fishing grounds are set out in the *Fisheries Management (General) Regulation 2002*. Rights of priority between endorsement holders in the ocean hauling fishery and endorsement holders in other fisheries on recognised fishing grounds are set out in the *Fisheries Management (Supporting Plan) Regulation 2006*.

Division 1 General

18A Fishing contrary to rights of priority

For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that the endorsement holder does not take fish in the fishery contrary to the rights of priority provided for by this Part after being directed not to do so:

- (a) by a fisheries officer, or
- (b) by another endorsement holder (who is using or intending to use a net or other fishing gear in accordance with this Part).

18B Endorsement holders must use fishing gear in accordance with this Part

For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that the endorsement holder does not use a net or other fishing gear in a manner that is contrary to the provisions of this Part.

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Schedule 5 Amendment of Fisheries Management (Ocean Hauling Share Management Plan) Regulation 2006

Division 2 Rights of priority

18C Priority between endorsement holders taking fish from same ocean beach

- (1) The rights of priority between endorsement holders taking or intending to take fish by use of a relevant net from the same ocean beach are determined as follows:
 - (a) the first turn belongs to the crew that first arrives at the ocean beach with a licensed fishing boat and with a relevant net laid ready for use, but only if there is at least one crew member in attendance, ready to shoot the net, and the other crew members are in the immediate vicinity,
 - (b) the next turn belongs to the crew that next arrives with such a boat and net, and so on,
 - (c) a turn concludes when a crew has shot its net, but in no case extends over a longer period than 24 hours as against any other crew ready and waiting to haul,
 - (d) during its turn a crew has exclusive rights to so much of the ocean beach as equals in length, measured along the foreshore from the point where the boat belonging to that crew is or was positioned or lying, the total length of the net in use or intended to be used, in the direction in which the net is shot or laid ready for shooting,
 - (e) a crew is not entitled to a second turn until all other crews on the ocean beach have had their first turn,
 - (f) the crew of a boat waiting for a turn automatically forfeits its turn if any member of that crew acts as a member of the crew of a boat making a haul,
 - (g) 2 or more turns may be taken simultaneously if the waters being fished admit of double-banking, provided that no net is shot around an inner net within 7.5 metres of the cork line of that inner net without the consent of the crew operating that inner net.
- (2) In this clause, *crew* means a crew consisting of a holder of a hauling net (general purpose) endorsement and such number (if any) of other endorsement holders that are required to effectively operate the net in use or intended to be used from the boat from which it is being or will be used.
- (3) A fisheries officer is to determine the number of endorsement holders required to effectively operate a net and that determination is final and conclusive.

- (4) Despite the above, a crew that has the minimum crew number (or more) has priority over any crew consisting of less than the minimum crew number (regardless of which crew arrived first at the relevant ocean beach).
- (5) A crew that has less than the minimum crew number is not entitled to a turn while another crew that has the minimum crew number (or more) is ready and waiting to haul (whether or not that other crew has already had a turn).
- (6) The minimum crew number is:
 - (a) 4 endorsement holders, or
 - (b) in respect of particular waters, such greater number of endorsement holders as is determined by a fisheries officer as being required to effectively operate the net in use or intended to be used.
- (7) This clause applies whether or not the ocean beach is a recognised fishing ground (within the meaning of the *Fisheries Management (General) Regulation 2002*).
- (8) In this clause:
relevant net means a hauling net (general purpose), a garfish net (hauling) or a pilchard, anchovy and bait net (hauling).

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Schedule 6

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

**Schedule 6 Amendment of Fisheries Management
(Ocean Trap and Line Share
Management Plan) Regulation 2006**

[1] Appendix, clause 7C Types of hooks to be used on set lines

Omit “and commonly referred to as a circle hook” from the definition of *circle hook*.

[2] Appendix, Schedule 1 Primary and key secondary species

Omit “*Orectolobus ornatus*” and “*Orectolobus maculatus*” from the Column “**Scientific name**” in the matter relating to Wobbegong sharks in Table 2 to the Schedule.

Insert instead “*Orectolobus* spp.”.

[3] Appendix, Schedule 3 Bag limits

Insert in Columns 1, 2, 3 and 4, respectively, at the end of the Table to the Schedule:

Wobbegong shark (<i>Orectolobus</i> spp.).	6 comprised of any single species or a combination of species.	All endorsement holders.	All ocean waters.
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Schedule 7 Amendment of Fisheries Management (Ocean Trawl Share Management Plan) Regulation 2006

[1] Appendix, Schedule 1 Primary and key secondary species

Omit "*Squatina australis*" from the Column "Scientific name" in the matter relating to Angel shark in Table 2 to the Schedule.

Insert instead "*Squatina* spp."

[2] Appendix, Schedule 2 Waters closed to ocean trawling

Insert in Columns 1, 2 and 3, respectively, after the matter relating to South West Rocks:

South West Rocks (school prawn corridor)

The whole of the waters within the area bounded by a line commencing at the eastern extremity of the southern breakwater 30°52.430' S and 153°01.620' E, then north east to the point 30°51.900' S and 153°02.700' E, then north west to the point 30°51.500' S and 153°02.000' E, then north west to the point 30°49.500' S and 153°01.000' E, then north west to the point 30°47.800' S and 153°00.500' E, then west to the mean high water mark at or nearest to 30°47.800' S and 153°00.020' E, then generally south along the mean high water mark to the eastern extremity of the northern breakwater then back to the point of commencement (references to directions are indicative only).

Otter trawl net (prawns).

Between sunset and sunrise each day between 1 November and 1 March each ensuing year.

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Schedule 8 Amendment of Fisheries Management (Supporting Plan) Regulation 2006

Schedule 8 Amendment of Fisheries Management (Supporting Plan) Regulation 2006

[1] Appendix, clause 11E Illegally reducing mesh size of nets and traps

Insert after clause 11E (1):

- (1A) It is unlawful for a person to use a trap in which any meshes are wholly or partly covered in any manner so as to reduce the effective mesh size of the meshes to less than that specified under the share management plan for a fishery as lawful.

[2] Appendix, clause 13 Fish protected from commercial fishing

Omit the note to the clause.

[3] Appendix, Part 5C

Insert after Part 5B:

Part 5C Rights of priority—recognised fishing grounds

Note. This Part sets out the rights of priority between endorsement holders on recognised fishing grounds. Rights of priority between commercial fishers and recreational fishers on recognised fishing grounds are set out in the *Fisheries Management (General) Regulation 2002*. Rights of priority between endorsement holders in share management fisheries are set out in the share management plans for the fisheries.

Division 1 General

11J Recognised fishing grounds

In this Part, *recognised fishing ground* has the same meaning as it has in the *Fisheries Management (General) Regulation 2002*.

11K Fishing contrary to rights of priority

For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that the endorsement holder does not take fish on a recognised fishing ground contrary to the rights of priority provided for by this Part after being directed not to do so:

- (a) by a fisheries officer, or
- (b) by another endorsement holder (who is using or intending to use a net or other fishing gear in accordance with this Part).

11L Endorsement holders must use fishing gear in accordance with this Part

For the purposes of section 68 (6A) of the Act, it is a condition of an endorsement that the endorsement holder does not use a net or other fishing gear in a manner that is contrary to the provisions of this Part.

Division 2 Rights of priority

11M Priority to be given to method for which recognised fishing ground is created

An endorsement holder who is taking or who intends to take fish on a recognised fishing ground, by the method for which the area concerned is a recognised fishing ground, has priority over any other endorsement holder who is taking or intends to take fish on the recognised fishing ground by any other method.

11N Priority between endorsement holders using nets on recognised fishing grounds

- (1) The rights of priority between endorsement holders taking or intending to take fish on the same recognised fishing ground, by the method for which the area concerned is a recognised fishing ground, are determined as follows:
 - (a) the first turn belongs to the crew that first arrives at a recognised fishing ground with a licensed fishing boat and with a net laid ready for use by the relevant method,
 - (b) the next turn belongs to the crew that next arrives with such a boat and net, and so on,
 - (c) a turn concludes when a crew has shot its net, but in no case extends over a longer period than 24 hours as against any other crew ready and waiting to haul,
 - (d) during its turn a crew has exclusive rights to so much of a recognised fishing ground or ocean beach area as equals in length, measured along the foreshore from the point where the boat belonging to that crew is or was positioned or lying, the total length of the net in use or intended to be used, in the direction in which the net is shot or laid ready for shooting,
 - (e) a crew is not entitled to a second turn until all other crews on the fishing ground or ocean beach area have had their first turn,

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Fisheries Management Legislation Amendment (Share Management Fisheries) Regulation 2010

Schedule 8 Amendment of Fisheries Management (Supporting Plan) Regulation 2006

- (f) the crew of a boat waiting for a turn automatically forfeits its turn if any member of that crew acts as a member of the crew of a boat making a haul,
 - (g) 2 or more turns may be taken simultaneously if the waters being fished admit of double-banking, provided that no net is shot around an inner net within 7.5 metres of the cork line of that inner net without the consent of the crew operating that inner net.
- (2) In this clause, *crew* means such number of endorsement holders as are required to effectively operate the net in use or intended to be used from the boat from which it is being or will be used.
 - (3) A fisheries officer is to determine the number of endorsement holders required to effectively operate a net and that determination is final and conclusive.

[4] Appendix, Schedule 3 Waters closed permanently to fishing

Omit “the use of a hauling net (general purpose) in accordance with clause 26 of the Regulation” from Column 2 in the matter relating to Clarence River.

Insert instead “the lawful use of a hauling net (general purpose)”.

[5] Appendix, Schedule 3

Omit paragraph (a) from Column 1 in the matter relating to Manning River.

Insert instead:

- (a) Ghinni Ghinni Creek, from a line drawn from a point on the south western shoreline at the mouth of Ghinni Ghinni Creek at 31°52.984'S, 152°33.565'E in a generally easterly direction to the shoreline of Oxley Island at 31°53.066'S, 152°34.011'E, and

[6] Appendix, Schedule 3

Omit the matter relating to Richmond River. Insert instead:

Richmond River:

- | | | |
|-----|--|--|
| (a) | from a line drawn between the eastern extremities of the northern and southern breakwalls upstream to a line drawn across the River between the Burns Point Ferry ramps, including all the tributaries, creeks, bays, inlets and canal estates within those boundaries, | All commercial fishing, except the class of commercial fishing that consists of the lawful use of a hauling net (general purpose) to take sea mullet (<i>Mugil cephalus</i>) during April to July each year from the waters enclosed north of a line drawn from the southernmost extremity of the rock embankment at the eastern end of Missingham Bridge to a point approximately 225 metres in an east south east direction along the northern breakwater adjacent to Shaws Bay. |
| (b) | from a line drawn across the River between the Burns Point Ferry ramps upstream to a line drawn east across the River from the south-eastern corner of Portion 21 at the eastern end of Emigrant Point Lane, including Emigrant Creek and all other tributaries, creeks, bays, inlets and canal estates within those boundaries. | All commercial fishing, except the class of commercial fishing that consists of the lawful use of a crab trap or an eel trap. |

[7] Appendix, Schedule 3

Omit “inlets” from Column 1 in the matter relating to St Georges Basin.
Insert instead “Sussex Inlet”.