



New South Wales

Fisheries Management Legislation Amendment Regulation 2011

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 remove Class 2 commercial fishing licences as a class of licence under the *Fisheries Management Act 1994 (the Act)*,
- (b) to make it clear that it is an offence for a person to leave any set net, trap or hand held line unattended, unless the person has identified it in accordance with certain identification requirements,
- (c) to make provision for the specific identification requirements of certain types of set fishing gear,
- (d) to repeal certain rules relating to the transfer of a fishing business which is comprised of at least one NSW fishing authority and one external fishing authority,
- (e) to grant certain powers to fisheries officers in relation to extending the prawn trawl season in the Clarence River and Lake Wooloweyah,
- (f) to introduce certain limits to the quantity of wobbegong sharks that an endorsement holder may take from any waters in one day, or that an endorsement holder may have in possession in any specified circumstances.

This Regulation is made under the *Fisheries Management Act 1994*, including sections 17, 18, 24, 34T, 68, 104 and 289 (the general regulation-making power).

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Clause 1 Fisheries Management Legislation Amendment Regulation 2011

Fisheries Management Legislation Amendment Regulation 2011

under the

Fisheries Management Act 1994

1 Name of Regulation

This Regulation is the *Fisheries Management Legislation Amendment Regulation 2011*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Fisheries Management Legislation Amendment Regulation 2011

Amendment of Fisheries Management (Abalone Share Management Plan) Schedule 1
Regulation 2000

**Schedule 1 Amendment of Fisheries Management
 (Abalone Share Management Plan)
 Regulation 2000**

Appendix Abalone Share Management Plan

Omit clause 22.

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Fisheries Management Legislation Amendment Regulation 2011

Schedule 2 Amendment of Fisheries Management (Estuary General Share Management Plan) Regulation 2006

Schedule 2 Amendment of Fisheries Management (Estuary General Share Management Plan) Regulation 2006

[1] Appendix Estuary General Share Management Plan

Omit clause 18 (1) (a).

[2] Appendix, clause 27 (1) (a)

Omit the paragraph.

[3] Appendix, clause 31A (1) (d)

Insert after clause 31A (1) (c):

- (d) the endorsement holder identifies the position of the net by attaching to a part of that net, which is at or above water level, a tag with dimensions of at least 80 mm by 25 mm and which clearly displays:
 - (i) the endorsement holder's name in capital letters, and
 - (ii) the registration number of the commercial fishing licence of the endorsement holder who set the net or, if the endorsement holder is the holder of a fishing boat licence, the letters "LFB" followed by the licence number of the boat that the holder has used to set the net.

[4] Appendix, clause 31B (1) (c)

Omit the paragraph. Insert instead:

- (c) the net may be attached to up to 2 hauling lines that are not more than 2 metres in length each.

[5] Appendix, clause 31C (1) (c) and (d)

Omit the paragraphs.

[6] Appendix, clause 31D

Omit clause 31D (1) and (2). Insert instead:

- (1) It is lawful for the holder of a prawning endorsement to use a dip or scoop net for taking prawns or any other fish 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 net is used as a hand implement only and not staked or set, or joined or placed together with any other net.

[7] Appendix, clause 31E (1) (a) (iii)

Omit the subparagraph. Insert instead:

- (iii) is moored in such a way that no rope is floating on the surface of the water, and

[8] Appendix, clause 31F (1) (a) (iii)

Omit the subparagraph. Insert instead:

- (iii) is moored in such a way that no rope is floating on the surface of the water, and

[9] Appendix, clause 32 (1) (a) (iii)

Omit the subparagraph. Insert instead:

- (iii) is moored in such a way that no rope is floating on the surface of the water, and

[10] Appendix, clause 33 (1A)

Insert after clause 33 (1):

(1A) An endorsement holder must not, for the purpose of taking fish in the fishery, use a set line unless the endorsement holder identifies that line by attaching to a part of that line, which is at or above water level, a tag with dimensions of at least 80 mm by 25 mm and which clearly displays:

- (a) the endorsement holder's name in capital letters, and
- (b) the registration number of the commercial fishing licence of the endorsement holder who set the line or, if the endorsement holder is the holder of a fishing boat licence, the letters "LFB" followed by the licence number of the boat that the holder has used to set the line.

[11] Appendix, clause 34 (2A)

Insert after clause 34 (2):

(2A) An endorsement holder must not, for the purpose of taking fish in the fishery, use a drift line unless the endorsement holder identifies that line by attaching to a part of the float, buoy or similar device to which that line is attached, which is at or above water level, a tag with dimensions of at least 80 mm by 25 mm and which clearly displays:

- (a) the endorsement holder's name in capital letters, and
- (b) the registration number of the commercial fishing licence of the endorsement holder who set the line or, if the

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Schedule 2 Amendment of Fisheries Management (Estuary General Share
Management Plan) Regulation 2006

endorsement holder is the holder of a fishing boat licence, the letters "LFB" followed by the licence number of the boat that the holder has used to set the line.

[12] Appendix, clause 35K (3)

Insert after clause 35K (2):

- (3) This clause does not prevent any endorsement holder or crew entitled to use a prawn net (set pocket) in the Clarence River from receiving assistance in the use of the net from another endorsement holder or crew if:
 - (a) the endorsement holder or crew providing assistance is entitled to use a prawn net (set pocket), at the time of providing such assistance, pursuant to a priority determination, and
 - (b) the endorsement holder or crew providing assistance does not use a prawn net (set pocket) in another position while providing assistance.

**Schedule 3 Amendment of Fisheries Management
(Estuary Prawn Trawl Share
Management Plan) Regulation 2006**

[1] Appendix Estuary Prawn Trawl Share Management Plan

Insert after clause 14 (4):

- (4A) A fisheries officer may, in the notice extending the trawl season, limit the extension to specified parts of the Clarence River, or to specified types of fishing gear, or both.

[2] Appendix, clause 15 (3A)

Insert after clause 15 (3):

- (3A) A fisheries officer may, in the notice extending the trawl season, limit the extension to specified parts of Lake Wooloweyah, or to specified types of fishing gear, or both.

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Schedule 4 Amendment of Fisheries Management (General) Regulation 2010

Schedule 4 Amendment of Fisheries Management (General) Regulation 2010

[1] Clause 45

Omit the clause. Insert instead:

45 Identification of set nets and traps

- (1) A person must not, in or on any waters, place or set any net or trap, or use any set net or trap, unless the net or trap is identified in accordance with any requirements relating to identification of nets or traps in this Regulation.

Maximum penalty: 50 penalty units.

- (2) In this clause, *set net* means any net set in any waters for the purpose of taking fish that is left unattended.

[2] Clause 46 Hand held lines

Insert after clause 46 (2):

- (2A) A person who is taking fish from any waters (other than inland waters) using a hand held line must not leave that line unattended unless that person identifies that line by attaching to a part of that line, which is at or above water level, a tag:

- (a) with dimensions of at least 80 mm by 25 mm, and
- (b) which clearly displays, in capital letters:
- (i) the person's name, and
 - (ii) the person's residential address or the person's boat registration number.

Maximum penalty: 50 penalty units.

[3] Clause 100

Omit the clause. Insert instead:

100 Definitions

Expressions used in this Part have the same meaning as they have in Division 4C of Part 2 of the Act.

[4] Part 6, Division 2

Omit the Division.

[5] Clause 126 Classes of commercial fishing licences

Omit "125 (a), (b) or (c)," from clause 126 (a). Insert instead "125."

[6] Clause 126 (b)

Omit the paragraph.

[7] Clause 127 Fee for application for issue of commercial fishing licence

Omit “or Class 2” from clause 127 (2).

[8] Clause 129 Prescribed conditions of commercial fishing licence

Omit clause 129 (1) (h).

[9] Clause 130 Renewal of commercial fishing licence

Omit “or a Class 2” from clause 130 (3).

[10] Clause 153 Unlicensed crew members must not sell fish

Omit “or who holds a limited licence” from clause 153 (1).

[11] Clause 153 (3)

Omit the subclause. Insert instead:

- (3) For the purposes of this clause, a person is *unlicensed* if the person does not hold a commercial fishing licence.

[12] Schedule 8 Fees

Omit the matter relating to an “Application for issue of Class 2 commercial fishing licence (clause 127 (2))” and an “Application for renewal of Class 2 commercial fishing licence (clause 130 (3))” from columns 1 and 2.

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Schedule 5 Amendment of Fisheries Management (Lobster Share Management Plan)
Regulation 2000

**Schedule 5 Amendment of Fisheries Management
(Lobster Share Management Plan)
Regulation 2000**

Appendix Lobster Share Management Plan

Omit clause 47.

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

[1] Appendix Ocean Trap and Line Share Management Plan

Insert after clause 7B (1) (b):

- (c) the endorsement holder identifies the position of the net by attaching to a part of the net, which is at or above water level, a tag with dimensions of at least 80 mm by 25 mm and which clearly displays:
 - (a) the endorsement holder's name in capital letters, and
 - (b) the registration number of the commercial fishing licence of the endorsement holder who set the net or, if the endorsement holder is the holder of a fishing boat licence, the letters "LFB" followed by the licence number of the boat that the holder has used to set the net.

[2] Appendix, clause 7D (2) (d)

Insert at the end of clause 7D (2) (c):

, or

- (d) use a set line unless the endorsement holder identifies that line by attaching to a part of that line, which is at or above water level, a tag with dimensions of at least 80 mm by 25 mm and which clearly displays:
 - (a) the endorsement holder's name in capital letters, and
 - (b) the registration number of the commercial fishing licence of the endorsement holder who set the line or, if the endorsement holder is the holder of a fishing boat licence, the letters "LFB" followed by the licence number of the boat that the holder has used to set the line.

[3] Appendix, clause 7E (6A)

Insert after clause 7E (6):

- (6A) The endorsement holder must not, for the purpose of taking fish in the fishery in accordance with this clause, use a set line unless the endorsement holder identifies that line by attaching to a part of that line, which is at or above water level, a tag with

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

dimensions of at least 80 mm by 25 mm and which clearly displays:

- (a) the endorsement holder's name in capital letters, and
- (b) the registration number of the commercial fishing licence of the endorsement holder who set the line or, if the endorsement holder is the holder of a fishing boat licence, the letters "LFB" followed by the licence number of the boat that the holder has used to set the line.

[4] Appendix, clause 7F (2A)

Insert after clause 7F (2):

- (2A) The endorsement holder must not, for the purpose of taking fish in the fishery, use a drift line unless the endorsement holder identifies that line by attaching to a part of the float, buoy, or similar device to which that line is attached, which is at or above water level, a tag with dimensions of at least 80 mm by 25 mm and which clearly displays:
 - (a) the endorsement holder's name in capital letters, and
 - (b) the registration number of the commercial fishing licence of the endorsement holder who set the line or, if the endorsement holder is the holder of a fishing boat licence, the letters "LFB" followed by the licence number of the boat that the holder has used to set the line.

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Amendment of Fisheries Management (Ocean Trawl Share Management Plan) Regulation 2006 Schedule 7

Schedule 7 Amendment of Fisheries Management (Ocean Trawl Share Management Plan) Regulation 2006

Appendix Ocean Trawl Share Management Plan

Insert at the end of Schedule 3, in columns 1–4:

| | | | |
|------------------------------------------------|-------------------------------------------------------------------------|-----------------------------|-------------|
| Wobbegong shark (<i>Orectolobus</i> spp.). | 6 comprised of any single species or a combination of species. | All endorsement holders. | All waters. |
|------------------------------------------------|-------------------------------------------------------------------------|-----------------------------|-------------|