



New South Wales

# Fisheries Management Legislation Amendment Regulation 2022

under the

Fisheries Management Act 1994

His Honour the Administrator, with the advice of the Executive Council, has made the following Regulation under the *Fisheries Management Act 1994*.

DUGALD SAUNDERS, MP  
Minister for Agriculture

## Explanatory note

The objects of this Regulation are to—

- (a) amend the *Fisheries Management (Aquaculture) Regulation 2017* as follows—
  - (i) to provide for the annual contribution of certain aquaculture permit holders,
  - (ii) to set out the Minister for Agriculture's duties in relation to endorsing aquaculture lease documents, including when the endorsement may be made using an online system,
  - (iii) to allow certain applications, transmissions and documents to be provided using an online system, and
- (b) amend the *Fisheries Management (Supporting Plan) Regulation 2006* to provide for the management charge payable by shareholders in certain share management fisheries.

This Regulation is made under the *Fisheries Management Act 1994*, including sections 57(1), 57A, 60(1), 76(3), 142, definition of *aquaculture*, paragraph (e), 163(4) and (8), 167(7), 191(h), (k) and (m1) and 289, the general regulation-making power.

## **Fisheries Management Legislation Amendment Regulation 2022**

under the

Fisheries Management Act 1994

### **1 Name of Regulation**

This Regulation is the *Fisheries Management Legislation Amendment Regulation 2022*.

### **2 Commencement**

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

## **Schedule 1      Amendment of Fisheries Management (Aquaculture) Regulation 2017**

**[1]    Clause 4A**

Insert after clause 4—

**4A    Activities that are not aquaculture**

For the Act, section 142, definition of *aquaculture*, paragraph (e), the storing or penning of fish in waters prior to sale by a commercial fisher is prescribed.

**[2]    Clause 25 Contributions to be made by certain class A permit holders**

Insert after clause 25(1)—

(1A) The class A annual contribution is—

- (a) if the Secretary is satisfied that all leases held under the permit meet the requirements for materials and construction method use on oyster aquaculture areas specified in the Aquaculture Strategy—the amount specified in Schedule 3, item 8(a), or
- (b) otherwise—the amount specified in Schedule 3, item 8(b).

**[3]    Clause 25(7)**

Insert after clause 25(6)—

(7) In this clause—

*Aquaculture Strategy* means the *NSW Oyster Industry Sustainable Aquaculture Strategy 2021*, August 2021, fourth edition, published by the Department.

**[4]    Clause 38 Application for renewal of aquaculture lease**

Omit “the lease document and” from clause 38(1)(b).

**[5]    Clause 44 Obtaining Minister’s consent to subletting of leased area**

Omit “must be accompanied by the processing fee specified in Schedule 3.” from clause 44(1).

Insert instead—

must be—

- (a) in a form approved by the Minister, and
- (b) accompanied by the processing fee specified in Schedule 3.

**[6]    Clause 47 Aquaculture lease may be surrendered**

Omit clause 47(1). Insert instead—

(1) An application to surrender an aquaculture lease must be—

- (a) in a form approved by the Minister, and
- (b) lodged with the Minister, and
- (c) accompanied by the processing fee specified in Schedule 3.

**[7]    Clause 48 Aquaculture leases may be consolidated**

Omit “the lease documents and” from clause 48(2)(c).

**[8] Clause 49 Aquaculture lease may be subdivided**

Omit “the lease document for the original lease and” from clause 49(2)(c).

**[9] Clause 49A**

Insert before clause 50—

**49A Definition**

In this Division—

**online system** means a facility approved by the Secretary that—

- (a) enables transactions about aquaculture permits and leases to be carried out electronically, and
- (b) allows information and documents relating to aquaculture permits and leases to be provided electronically.

**[10] Clause 51**

Omit the clause. Insert instead—

**51 Minister’s duties in relation to endorsing lease documents**

- (1) The Minister must make an endorsement on a document attached to an aquaculture lease document to record a transfer, transmission, withdrawal or access way affecting the lease.
- (2) The Minister may make any endorsement necessary on a document attached to the aquaculture lease document to record a consent or other matter affecting an aquaculture lease.
- (3) The Minister must, at the request of the lessee and the other party to the dealing, endorse the particulars of any mortgage, charge or other interest to which an aquaculture lease document is subject on a document attached to the aquaculture lease document.
- (4) If a mortgage, charge or other interest affecting an aquaculture lease is discharged, the Minister must, at the request of the lessee and the other party to the dealing, endorse particulars of the discharge on a document attached to the aquaculture lease document.
- (5) The Minister may refuse to consent to a dealing relating to an aquaculture lease, and the Minister may refuse to make an endorsement in relation to an aquaculture lease document, if—
  - (a) an undischarged mortgage, charge or other interest is endorsed on a document attached to the aquaculture lease document, and
  - (b) the mortgagee, chargee or holder of the interest has not consented to the dealing.
- (6) A request made by a lessee for the Minister’s endorsement under this clause must be accompanied by the processing fee specified in Schedule 3.
- (7) If a lessee makes more than 1 request for the Minister’s endorsement under this clause at the same time and the request is to make the same endorsement on each of the aquaculture lease documents, a single fee, specified in Schedule 3, must be paid.
- (8) An endorsement under this clause may be made using the online system if the endorsement is in relation to an application or document that may be made, provided or lodged using the online system under clause 54A.

**[11] Clause 52 When Minister can require aquaculture lessee to lodge lease document**

Omit “endorse” from clause 52(1). Insert instead “make an endorsement in relation to”.

**[12] Clause 52(2)**

Omit “it has been endorsed”. Insert instead “the endorsement has been made”.

**[13] Clause 54A**

Insert after clause 54—

**54A Use of online system—the Act, ss 163(8), 167(7) and 191(h) and (m1)**

- (1) An application made under clause 31, 38, 44, 45 or 47–49 or a transmission lodged under clause 46 may be made or lodged using an online system.
- (2) The following may be provided using an online system—
  - (a) a document specified in clause 50, subject to requirements for the certifying of copies of aquaculture lease documents,
  - (b) a request made by a lessee under clause 51(3) or (4),
  - (c) a document specified in clause 52,
  - (d) a notice specified in clause 54.

**[14] Clause 66**

Insert after clause 65—

**66 Transitional provision for class A annual contributions**

The class A annual contribution payable by all permit holders under clause 25 for the period beginning on 1 July 2022 or 1 July 2023 is the amount specified in Schedule 3, item 8(a).

**[15] Schedule 3 Fees, charges and contributions**

Omit all of the matter relating to Item 8.

Insert instead—

- |     |  |
|-----|--|
| 8   | Class A annual contribution—   |
| (a) | for a permit holder referred to in clause 25(1A)(a)—for each hectare, or part of a hectare, of leased area or areas to which permit relates \$30 |
| (b) | for a permit holder referred to in clause 25(1A)(b)—for each hectare, or part of a hectare, of leased area or areas to which permit relates \$50 |

**[16] Schedule 3, items 12 and 13**

Omit “clause 44 (1)” wherever occurring. Insert instead “clause 44(1)(b)”.

**[17] Schedule 3, items 18 and 19**

Omit “clause 47 (1) (b)” wherever occurring. Insert instead “clause 47(1)(c)”.

## Schedule 2 Amendment of Fisheries Management (Supporting Plan) Regulation 2006

**[1] Appendix, clause 10A Management charge—special provisions**

Omit clause 10A(2)–(3B). Insert instead—

- (2) If a fishing business holds one or more classes of shares, in one or more relevant share management fisheries, the management charge payable in relation to the fishing business is not to exceed the total of the following—
- (a) \$1,000,
  - (b) the amount for all the shares held by the fishing business calculated according to the following formula—
- $$A \times B$$
- where—
- A* is the amount identified in Column 2 in Schedule 1 for the class of share identified in Column 1.
- B* is the number of shares in the class held by the fishing business.
- (3) If a fishing business holds ocean hauling—purse seine net shares, the amount for those shares for the purposes of subclause (2)(b) is \$2,582.17.

**[2] Appendix, clause 10A(5), definition of ‘class of share’**

Omit “, other than a class of quota shares,”.

**[3] Appendix, clause 10A(5), definition of ‘southern fish trawl endorsement’**

Omit the definition.

**[4] Appendix, Schedule 1**

Insert before Schedule 3—

### Schedule 1 Management charge

clause 10A

Column 1	Column 2
Class of share	Amount per share
<b>Estuary general fishery</b>	
Estuary general—beachworm quota shares	\$5.70
Estuary general—blue swimmer crab quota shares	\$0.50
Estuary general—category one hauling shares—Region 1, 2, 3, 4, 5, 6 or 7	\$3.34
Estuary general—category two hauling shares—Region 1, 2, 3, 4, 5, 6 or 7	\$0.50
Estuary general—cockle quota shares	\$1.39
Estuary general—eel quota shares	\$0.50
Estuary general—eel trapping shares—Region 1, 2, 3, 4, 5, 6 or 7	\$0.50
Estuary general—ghost nipper quota shares	\$2.61
Estuary general—hand gathering shares—Region 1, 2, 3, 4, 5, 6 or 7	\$0.50

<b>Column 1</b>	<b>Column 2</b>
<b>Class of share</b>	<b>Amount per share</b>
Estuary general—handline shares—Region 1, 2, 3, 4, 5, 6 or 7	\$0.50
Estuary general—meshing shares—Region 1, 2, 3, 4, 5, 6 or 7	\$2.61
Estuary general—mud crab quota shares	\$5.77
Estuary general—mud crab trapping shares—Region 1, 2, 3, 4, 5, 6 or 7	\$0.50
Estuary general—pipi quota shares	\$12.46
Estuary general—prawning shares—Region 1, 2, 3, 4, 5, 6 or 7	\$0.78
Estuary general—trapping shares—Region 1, 2, 3, 4, 5, 6 or 7	\$0.50
<b>Estuary prawn trawl fishery</b>	
Estuary prawn trawl—Clarence River shares	\$3.15
Estuary prawn trawl—Hawkesbury River shares	\$4.30
Estuary prawn trawl—Hunter River shares	\$2.46
<b>Ocean hauling fishery</b>	
Ocean hauling—Australian sardine quota shares	\$8.61
Ocean hauling—blue mackerel quota shares	\$4.42
Ocean hauling—eastern sea garfish quota shares	\$1.89
Ocean hauling—garfish net (hauling) shares—Region 1, 2, 3, 4, 5, 6 or 7	\$0.50
Ocean hauling—general ocean hauling shares—Region 1, 2, 3, 4, 5, 6 or 7	\$0.50
Ocean hauling—hauling net (general purpose) shares—Region 1	\$17.01
Ocean hauling—hauling net (general purpose) shares—Region 2, 4 or 6	\$27.21
Ocean hauling—hauling net (general purpose) shares—Region 3	\$11.34
Ocean hauling—hauling net (general purpose) shares—Region 5	\$19.44
Ocean hauling—hauling net (general purpose) shares—Region 7	\$8.50
Ocean hauling—pilchard, anchovy and bait net (hauling) shares—Region 1, 2, 3, 4, 5, 6 or 7	\$11.47
Ocean hauling—yellowtail scad quota shares	\$18.15
<b>Ocean trap and line fishery</b>	
Ocean trap and line—bass grouper quota shares	\$3.83
Ocean trap and line—bigeye ocean perch quota shares	\$1.32
Ocean trap and line—blue-eye trevalla quota shares	\$0.77
Ocean trap and line—demersal fish trap shares	\$8.50
Ocean trap and line—gemfish quota shares	\$0.50
Ocean trap and line—hapuku quota shares	\$0.50
Ocean trap and line—line fishing eastern zone shares	\$1.32
Ocean trap and line—line fishing western zone shares	\$7.62
Ocean trap and line—pink ling quota shares	\$1.93
Ocean trap and line—school and gummy shark shares	\$0.94

<b>Column 1</b>	<b>Column 2</b>
<b>Class of share</b>	<b>Amount per share</b>
Ocean trap and line—spanner crab quota shares	\$25.00
Ocean trap and line—spanner crab northern zone shares	\$0.50
Ocean trap and line—spanner crab southern zone shares	\$0.50
<b>Ocean trawl fishery</b>	
Ocean trawl—bluespotted flathead quota shares	\$1.36
Ocean trawl—deepwater prawn shares	\$2.42
Ocean trawl—fish northern zone shares	\$15.05
Ocean trawl—gemfish quota shares	—
Ocean trawl—inshore prawn shares	—
Ocean trawl—offshore prawn shares	—
Ocean trawl—prawn effort quota shares	\$0.54
Ocean trawl—silver trevally quota shares	\$0.50
Ocean trawl—tiger flathead quota shares	\$0.75
Ocean trawl—trawl whiting quota shares	\$8.71

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