



New South Wales

Fisheries Management Legislation Amendment Regulation 2007

under the

Fisheries Management Act 1994

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fisheries Management Act 1994*.

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

Explanatory note

The object of this Regulation is to make provision for the following:

- (a) additional fishing business transfer rules (these affect the transfer of shares in share management fisheries or endorsements in restricted fisheries),
- (b) records to be made by commercial fishers and fishing employers,
- (c) certain administrative arrangements with respect to commercial fishing licences and fishing boat licences, and fees and contributions that are charged in connection with those licences (including arrangements to facilitate a uniform expiry date for commercial fishing licences and fishing boat licences of 30 June),
- (d) the phasing-out of annual contributions by commercial fishers under section 106 of the *Fisheries Management Act 1994*,
- (e) the declaration of the southern fish trawl restricted fishery (currently a component of the ocean fish trawl restricted fishery),
- (f) new arrangements for the nomination of fishers in restricted fisheries (these complement arrangements for the nomination of fishers in share management fisheries),
- (g) amendments consequential on the making of share management plans for the following share management fisheries:
 - (i) estuary general,
 - (ii) estuary prawn trawl,
 - (iii) ocean hauling,

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Explanatory note

- (iv) ocean trap and line,
- (v) ocean trawl,
- (h) savings and transitional matters.

This Regulation also makes minor amendments to other fisheries management legislation, including amendments to the *Abalone Share Management Plan* and the *Lobster Share Management Plan* that adopt the provisions of the *Fisheries Management Supporting Plan* relating to nomination of fishers.

This Regulation is made under the *Fisheries Management Act 1994*, including sections 34T, 40, 60, 104, 108, 113, 116, 230, 231 and 289 (the general regulation-making power) and the sections referred to in the Regulation.

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under the

Fisheries Management Act 1994

1 Name of Regulation

This Regulation is the *Fisheries Management Legislation Amendment Regulation 2007*.

2 Commencement

This Regulation commences on 5 February 2007.

3 Amendment of Fisheries Management (General) Regulation 2002

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

4 Amendment of other legislation

The Regulations specified in Schedule 2 are amended as set out in that Schedule.

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Schedule 1 Amendment of Fisheries Management (General) Regulation 2002

Schedule 1 Amendment of Fisheries Management (General) Regulation 2002

(Clause 3)

[1] The whole Regulation (except for clause 414 (a)–(d))

Omit “Director” and “Director’s” wherever occurring.

Insert instead “Director-General” and Director-General’s” respectively.

[2] Clause 3 Definitions

Omit the definitions of *estuary general restricted fishery*, *estuary prawn trawl restricted fishery*, *ocean hauling restricted fishery*, *ocean fish trawl restricted fishery*, *ocean prawn trawl restricted fishery* and *ocean trap and line restricted fishery*.

[3] Clause 3

Insert in alphabetical order:

abalone fishery means the share management fishery of that name, as described in Schedule 1 to the Act.

eligible fisher means a person for the time being registered as an eligible fisher under Part 8A.

endorsement means an endorsement on a commercial fishing licence that authorises a person to take fish for sale in a restricted fishery or to take fish in a share management fishery (and includes any endorsement given in the form of a document that is separate from the commercial fishing licence of a person, pursuant to an arrangement referred to in section 68 (8C), 70 (6) or 112 (5) of the Act).

estuary general fishery means the share management fishery of that name, as described in Schedule 1 to the Act.

estuary prawn trawl fishery means the share management fishery of that name, as described in Schedule 1 to the Act.

fishing business card has the meaning given by Part 8B.

fishing business transfer rules means the provisions of Part 5A.

lobster fishery means the share management fishery of that name, as described in Schedule 1 to the Act.

ocean hauling fishery means the share management fishery of that name, as described in Schedule 1 to the Act.

ocean trap and line fishery means the share management fishery of that name, as described in Schedule 1 to the Act.

ocean trawl fishery means the share management fishery of that name, as described in Schedule 1 to the Act.

southern fish trawl restricted fishery means the restricted fishery declared under Division 3 of Part 8.

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

Omit clause 8A (a) (iii) and (iv).

[5] Clause 8A (a) (v)

Insert “or danish seine trawl net (fish)” after “otter trawl net (fish)”.

[6] Clause 8A (a) (vi)

Omit “by the holder of a Class 4 commercial fishing licence”.

[7] Clause 8A (c), note

Insert after clause 8A (c):

Note. The *Fisheries Management (Supporting Plan) Regulation 2006* contains further prohibitions that apply to commercial fishing in share management fisheries.

[8] Clause 20 Lawful use of fishing gear

Omit clause 20 (3) and (4).

[9] Clause 26 Hauling net (general purpose)

Omit clause 26 (1) (ia).

[10] Clause 26 (1) (j)

Omit “in waters other than ocean waters”.

[11] Clause 26 (1) (l)

Insert “or less” after “500 metres length”.

[12] Clause 26 (1) (l)

Omit “estuary general restricted fishery (as referred to in clause 209)”.

Insert instead “estuary general fishery”.

[13] Clause 26 (1) (l) (ii)

Omit “of that length”. Insert instead “of 500 metres length or less”.

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- [14] **Clause 26 (1) (m)**
Omit “ocean hauling restricted fishery”.
Insert instead “ocean hauling fishery”.
- [15] **Clause 28 Garfish net (bullringing)**
Omit clause 28 (1) (d).
- [16] **Clause 29 Garfish net (hauling)**
Omit clause 29 (1) (c).
- [17] **Clause 29 (1) (d) (i) and (ii)**
Omit the subparagraphs.
- [18] **Clause 30 Pilchard, anchovy and bait net (hauling)**
Omit clause 30 (1) (b).
- [19] **Clause 30 (1) (c) (i) and (ii)**
Omit the subparagraphs.
- [20] **Clause 30, Table**
Omit item (2) of the Table.
- [21] **Clause 31 Purse seine net**
Omit clause 31 (1) (b) and (c).
- [22] **Clause 38 Otter trawl net (prawns)**
Omit “Port Jackson,” from clause 38 (1) (b) and from item 1 (a) of the Table to the clause.
- [23] **Clause 38 (1) (e)**
Omit the paragraph. Insert instead:
(e) the net (or each net if more than one net is used) is fitted with a by-catch reduction device of a kind approved by the Director-General for use in the waters in which the net is used, and that device is fitted in accordance with any specifications issued by the Director-General.
- [24] **Clause 39 Otter trawl net (fish)**
Omit “(other than waters north of a line drawn due east from the lighthouse at Smoky Cape)” from item 1 (a) of the Table to the clause.

[25] Clause 41 Meshing net

Omit “primary fishing” wherever occurring from clause 41 (3).

[26] Clause 41 (9)

Omit the subclause. Insert instead:

- (9) In this clause, a reference to a *region* is a reference to a region described in the *Estuary General Share Management Plan* under the *Fisheries Management (Estuary General Share Management Plan) Regulation 2006*.

[27] Clause 48 Hoop or lift net

Omit “estuary general restricted fishery” from clause 48 (1) (e).

Insert instead “estuary general fishery”.

[28] Clause 48 (1) (e), note

Omit the note. Insert instead:

Note. The *Estuary General Share Management Plan* under the *Fisheries Management (Estuary General Share Management Plan) Regulation 2006* contains further restrictions on the use of hoop or lift nets by commercial fishers in the estuary general fishery.

[29] Clause 58B Prohibition on use of certain nets in vicinity of seagrass

Omit “estuary general restricted fishery” from clause 58B (a).

Insert instead “estuary general fishery”.

[30] Clause 58B (b)

Omit “ocean hauling restricted fishery”.

Insert instead “ocean hauling fishery”.

[31] Clause 58B (c)

Omit “estuary prawn trawl restricted fishery”.

Insert instead “estuary prawn trawl fishery”.

[32] Clause 59 Fish trap

Omit “estuary general restricted fishery” from clause 59 (1) (e).

Insert instead “estuary general fishery”.

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[33] Clause 59 (1) (e), note

Omit the note. Insert instead:

Note. The *Estuary General Share Management Plan* under the *Fisheries Management (Estuary General Share Management Plan) Regulation 2006* contains further restrictions on the use of fish traps by commercial fishers in the estuary general fishery.

[34] Clause 61 Crab trap

Omit “estuary general restricted fishery” from clause 61 (1) (g).

Insert instead “estuary general fishery”.

[35] Clause 61 (1) (g), note

Omit the note. Insert instead:

Note. The *Estuary General Share Management Plan* under the *Fisheries Management (Estuary General Share Management Plan) Regulation 2006* contains further restrictions on the use of crab traps by commercial fishers in the estuary general fishery.

[36] Clause 79A Certain implements prohibited

Omit “estuary general restricted fishery” wherever occurring.

Insert instead “estuary general fishery”.

[37] Clause 79A

Omit “estuary prawn trawl restricted fishery” wherever occurring.

Insert instead “estuary prawn trawl fishery”.

[38] Clause 79B

Insert after clause 79A:

79B Storage of eels

A commercial fisher who is authorised to take eels for sale from estuarine waters must 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.

Maximum penalty: 100 penalty units.

[39] Clause 85 Minimum crew number for hauling to sea beaches

Omit “(at least one of whom is a skipper)” from clause 85 (4) (a).

[40] **Clause 85 (6)**

Omit “restricted” from the definition of *ocean haul fisher*.

[41] **Clause 85 (6), definition of “skipper”**

Omit the definition.

[42] **Part 5A Fishing business transfer rules**

Insert before clause 133C:

Division 1 Preliminary

[43] **Part 5A, Division 2**

Insert before clause 133D:

Division 2 Transfer of dual operator fishing businesses

[44] **Clause 133DA**

Insert after clause 133D:

133DA Notice of transfer of external fishing authorities

A person must not transfer (including by surrender) an external fishing authority that is a component of a dual operator fishing business unless the person gives written notice of the proposed transfer to the Minister no less than 7 days before the proposed transfer, or within a lesser period approved by the Minister in the particular case.

Maximum penalty: 50 penalty units.

[45] **Clause 133E Transfer of external fishing authorities by dual operator fishing businesses**

Insert “or clause 133DA” after “subclause (1) or (2)” wherever occurring in clause 133E (3) and (5).

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[46] Part 5A, Divisions 3–6

Insert after clause 133E:

Division 3 Transfer of restricted fishery endorsements

133F Transfer of sea urchin and turban shell endorsements

- (1) For the purposes of section 114 of the Act, the transfer of a sea urchin endorsement or turban shell endorsement, in accordance with this clause, is authorised.
- (2) A sea urchin endorsement or turban shell endorsement that is a component of a fishing business may be transferred by the owner of the fishing business to another person only if:
 - (a) all components of the fishing business are transferred to that person, or
 - (b) the transfer is part of an arrangement for the endorsement concerned to be surrendered to the Minister for cancellation.

Note 1. Endorsements in a restricted fishery are not transferable unless authorised by the regulations under section 114 of the Act.

Note 2. Clause 171 provides that if the transfer of an endorsement is in accordance with this Part, the person who transfers the endorsement ceases to be eligible for that endorsement, and the person to whom the transfer is made becomes eligible for that endorsement.

- (3) In this clause:
sea urchin and turban shell endorsement means an endorsement that authorises the taking of fish for sale in the sea urchin and turban shell restricted fishery.

133G Transfer of southern fish trawl endorsements

- (1) For the purposes of section 114 of the Act, the transfer of a southern fish trawl endorsement, in accordance with this clause, is authorised.
- (2) A southern fish trawl endorsement that is a component of a fishing business may be transferred by the owner of the fishing business to another person (the *transferee*) only if:
 - (a) all components of the fishing business are transferred to the transferee, or
 - (b) all shares (if any) in the ocean trawl fishery that are a component of the fishing business are transferred to the transferee and that transferee is, immediately before the

transfer, an owner of a fishing business the components of which include a share in a fishery referred to in clause 133J (2), or

- (c) the transferee is, immediately before the transfer, a shareholder in the ocean trawl fishery, or
- (d) the transfer is part of an arrangement for the endorsement concerned to be surrendered to the Minister for cancellation.

Note 1. Endorsements in a restricted fishery are not transferable unless authorised by the regulations under section 114 of the Act.

Note 2. Clause 194 provides that if the transfer of an endorsement is in accordance with this Part, the person who transfers the endorsement ceases to be eligible for that endorsement, and the person to whom the transfer is made becomes eligible for that endorsement.

- (3) In this clause:

southern fish trawl endorsement means an endorsement that authorises the taking of fish for sale in the southern fish trawl restricted fishery.

133H Effect of contravention

- (1) If an endorsement that is a component of a fishing business is transferred in contravention of this Division, the Minister may take one or more of the following actions:
 - (a) cancel or refuse to renew any NSW fishing authority that is a component of the fishing business or of the fishing business of the other party to the transfer,
 - (b) refuse to transfer, or to approve the transfer of, a NSW fishing authority that is a component of the fishing business, or refuse to issue a new NSW fishing authority to the other party to the transfer,
 - (c) impose (in accordance with the Act) conditions on any NSW fishing authority that is a component of the fishing business or of the fishing business of the other party to the transfer (or both), so as to restrict the fishing activities of the fishing business, or exercise any other powers conferred on the Minister by the Act so as to restrict the fishing activities of either or both fishing businesses.
- (2) The Director-General may refuse an application to revoke or amend a fishing business determination of a fishing business if satisfied that an endorsement that is a component of that fishing business has been transferred in contravention of this Division.

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Division 4 Transfer of shares

133I Definitions

In this Division:

ocean share means a share of any of the following classes:

- (a) Ocean trawl—inshore prawn shares,
- (b) Ocean trawl—offshore prawn shares,
- (c) Ocean trawl—deepwater prawn shares,
- (d) Ocean trawl—fish northern zone shares,
- (e) Ocean trap and line—spanner crab northern zone shares,
- (f) Ocean hauling—general ocean hauling shares—Regions 1, 2, 3, 4, 5, 6 and 7,
- (g) Ocean hauling—pilchard, anchovy and bait net (hauling) shares—Regions 1, 2, 3, 4, 5, 6 and 7,
- (h) Ocean hauling—garfish net (hauling) shares—Regions 1, 2, 3, 4, 5, 6 and 7,
- (i) Ocean hauling—hauling net (general purpose) shares—Regions 1, 2, 3, 4, 5, 6 and 7,
- (j) Ocean hauling—purse seine net shares.

southern fish trawl endorsement means an endorsement that authorises the taking of fish for sale in the southern fish trawl restricted fishery.

133J Application of Division

- (1) For the purposes of section 34T of the Act, the owner of a fishing business may transfer shares that are a component of the fishing business only in accordance with this Division.
- (2) This Division applies in respect of transfers of shares in the following fisheries only:
 - (a) ocean trawl fishery,
 - (b) ocean trap and line fishery,
 - (c) ocean hauling fishery,
 - (d) estuary general fishery,
 - (e) estuary prawn trawl fishery.
- (3) If the transfer of shares also involves a transfer of an endorsement in a restricted fishery, Division 3 of this Part must also be complied with.

133K Transfer to owners in the same fishery

- (1) A share that is a component of a fishing business may be transferred by the owner of the fishing business (the *transferor*) to another person (the *transferee*) if the transferee is, immediately before the transfer, an owner of a fishing business the components of which include a share or shares in the same fishery as the share being transferred.
- (2) If the share being transferred is an ocean share, the share may be transferred to the transferee only if:
 - (a) the transferee holds a share or shares of that class immediately before the transfer, or
 - (b) all shares of that class held by the transferor, that are a component of the transferor's fishing business, are transferred to the transferee.
- (3) If the share being transferred is an ocean share in the ocean trawl fishery, the share may also be transferred if the transferee is, immediately before the transfer, the owner of a fishing business the components of which include a southern fish trawl endorsement and all ocean shares of the class proposed to be transferred, that are a component of the transferor's fishing business, are transferred to the transferee.

133L Transfer to owners in other fisheries

- (1) A share in a fishery that is a component of a fishing business may be transferred by the owner of the fishing business (the *transferor*) to another person if the person is, immediately before the transfer, an owner of a fishing business the components of which include a share in another fishery referred to in clause 133J (2) and all shares held in the fishery, that are a component of the transferor's fishing business, are transferred to that person.
- (2) If the share being transferred is a share in the ocean trawl fishery, any southern fish trawl endorsement that is a component of the same fishing business must also be transferred to the person.

133M Other transfers

A share that is a component of a fishing business may be transferred by the owner of the fishing business to any person (whether or not the owner of a fishing business) if:

- (a) all components of the fishing business are transferred to that person, or

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- (b) the transfer is part of an arrangement for the shares concerned to be surrendered to the Minister for cancellation.

133N Effect of contravention

- (1) If a share that is a component of a fishing business is transferred in contravention of this Division, the Minister may take one or more of the following actions:
 - (a) cancel or refuse to renew any NSW fishing authority that is a component of the fishing business or of the fishing business of the other party to the transfer,
 - (b) refuse to transfer, or to approve the transfer of, a NSW fishing authority that is a component of the fishing business, or refuse to issue a new NSW fishing authority to the other party to the transfer,
 - (c) impose (in accordance with the Act) conditions on any NSW fishing authority that is a component of the fishing business or of the fishing business of the other party to the transfer (or both), so as to restrict the fishing activities of the fishing business, or exercise any other powers conferred on the Minister by the Act so as to restrict the fishing activities of either or both fishing businesses.
- (2) The Director-General may refuse an application to revoke or amend a fishing business determination of a fishing business if satisfied that a share that is a component of that fishing business has been transferred in contravention of this Division.

Note. In addition, under clause 133O, the Director-General may refuse to approve a transfer that contravenes this Part.

Division 5 Dealings in endorsements and shares

133O Approval of transfers by Director-General

- (1) In addition to the other requirements relating to the transfer of components of fishing businesses under this Part, an endorsement or share that is a component of a fishing business referred to in this Part may be transferred only with the approval of the Director-General.
- (2) The Director-General may refuse to approve a transfer of an endorsement or share that is a component of a fishing business if:
 - (a) the transaction would contravene the Act, or the regulations, or

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- (b) the person to whom the endorsement or share is to be transferred is a person who:
- (i) is prohibited from holding the endorsement or share, or
 - (ii) is a natural person who may not be nominated to take fish on behalf of the fishing business, or
 - (iii) could be refused an endorsement, or
- (c) the Director-General is satisfied that the purpose of the transaction is to avoid share forfeiture, or
- (d) any fee, contribution or other amount owing under the Act or the regulations in respect of the endorsement or share has not been paid, or
- (e) any mortgage that applies to the share has not been discharged or cancelled, or
- (f) there is a nominated fisher in respect of the fishing business and the nomination has not been revoked by the owner of the fishing business transferring the endorsement or share.
- (3) An application for the Director-General's approval under this clause:
- (a) is to be made jointly by the owner of the fishing business transferring the endorsement or share (as the case may be) and the person to whom the endorsement or share is to be transferred, and
 - (b) is to be in a form approved by the Director-General.
- (4) If the transfer relates to shares, the approved form of application under this clause may include or be comprised of the approved form of application for registration of the transaction under section 91 of the Act, so as to enable the applications for approval and registration to be dealt with together.
- Note.** A transaction that has the effect of transferring, assigning or transmitting a share is to be registered in the Share Register, and a prescribed fee in respect of the application for registration is payable under clause 141.
- (5) If the transfer relates to an endorsement, and no fee is charged in respect of the registration of the transaction, the Director-General may charge a fee in respect of the application for approval of \$238.

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- (6) An owner of a fishing business who proposes to transfer an endorsement or share may request that the Minister review a determination of the Director-General under this clause in relation to the transfer within 30 days after notice of the determination is given to the owner of the fishing business.
- (7) The Director-General is to give effect to any determination made by the Minister in respect of that review.

133P Transferee owns more than one fishing business

- (1) If a transfer of an endorsement or share is permitted if the person to whom the transfer is made (the *transferee*) is the owner of a fishing business (or a particular kind of fishing business), and the transferee is the owner of more than one fishing business, the transferee must nominate one fishing business against which compliance with the fishing business transfer rules, in respect of that transfer, is to be assessed.
- (2) If the transfer is approved by the Director-General, the fishing business determination in respect of the nominated fishing business is to be amended so that the transferred endorsement or share becomes a component of the nominated fishing business.

Division 6 General

133Q Application of rules

- (1) The fishing business transfer rules apply to the following transfers in the same way as they apply to a transfer made or proposed to be made by the owner of a fishing business:
 - (a) a transfer of a fishing business, or a component of a fishing business, that is made or proposed to be made by a mortgagee, receiver, liquidator or trustee in bankruptcy in the exercise of a power of sale,
 - (b) a transfer of a fishing business, or a component of a fishing business, that is made or proposed to be made by a person in his or her capacity as the legal personal representative of a deceased person.
- (2) For that purpose, a reference in this Part to the owner of a fishing business includes a reference to any such mortgagee, receiver, liquidator, trustee in bankruptcy or legal personal representative.

[47] Clause 136 Nomination of commercial fisher by shareholder

Omit the clause.

[48] Clause 141 Fee for registration of dealings in shares

Omit "\$178" from clause 141 (1) (a). Insert instead "\$238".

[49] Clause 141 (1) (b)

Omit "\$357". Insert instead "\$417".

[50] Clause 141 (2)

Omit the subclause. Insert instead:

- (2) This clause does not apply in respect of a share management fishery if the management plan for the fishery prescribes a different fee in respect of an application referred to in subclause (1).

[51] Clause 143 Who may hold commercial fishing licence

Omit clause 143 (1) (a)–(k).

Insert instead:

- (a) an individual who is the owner of a fishing business the components of which include an endorsement that authorises the taking of fish for sale in a restricted fishery or who is duly nominated to take fish on behalf of the owner of such a fishing business,
- (b) an individual who is the subject of an application to be an eligible fisher in respect of a fishing business under Part 8A and who does not already hold a Class 1 commercial fishing licence,
- (c) an individual who applies for a permit under section 37 of the Act in relation to a commercial fishing activity and who does not already hold a Class 1 or Class 2 commercial fishing licence,
- (d) an individual who satisfies the Minister that he or she requires a commercial fishing licence in order to work as a crew member for a person who holds a commercial fishing licence that authorises the person to take fish in a share management fishery or restricted fishery.

Note. Section 103 (2) (a) of the Act provides that a shareholder in a share management fishery, or an individual who is duly nominated by a shareholder, is authorised to hold a commercial fishing licence.

[52] Clause 143 (2)–(5)

Omit the subclauses.

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[53] Clause 144

Omit the clause. Insert instead:

144 Fee for application for issue of commercial fishing licence

- (1) A fee is payable in respect of an application for the issue of a commercial fishing licence.
- (2) The fee for an application for the issue of a commercial fishing licence is, subject to subclauses (3) and (4), the following:
 - (a) in the case of a Class 1 licence—\$476,
 - (b) in the case of a Class 2 licence—\$476,
 - (c) in the case of a Class 3 licence—\$119.
- (3) The fee for an application for the issue of a Class 1 or 2 commercial fishing licence is, if the licence is issued to have effect for a period of less than 12 months commencing on a date other than 1 July, the prescribed proportion of the relevant fee referred to in subclause (2).
- (4) The fee for an application for the issue of a Class 1 or 2 commercial fishing licence is, if the licence is issued to have effect for a period exceeding 12 months commencing on a date other than 1 July, the total of the following:
 - (a) the relevant fee referred to subclause (2),
 - (b) the prescribed proportion of the relevant fee referred to in subclause (2).
- (5) In this clause, the *prescribed proportion* means the proportion specified in column 2 of the Table to this clause next to the commencement date of the licence concerned.
- (6) If an amount calculated under this clause includes a fraction of a dollar, the amount is to be rounded down to the nearest whole dollar.

Table

Column 1	Column 2
Commencement date of licence	Prescribed proportion
After 1 July but before 1 October	100%
On or after 1 October but before 1 January (in the following year)	75%

Column 1	Column 2
Commencement date of licence	Prescribed proportion
On or after 1 January but before 1 April	50%
On or after 1 April but before 1 July	25%

Note. It is intended that all licences will have a uniform expiry date of 30 June.

- [54] **Clauses 145 (1) (a)–(c), 147 (3) (a)–(c), 148 (a)–(c), 174 (2) (a) and (c), 178 (a) and (c), 195 (4) (a) and (b) and 198 (a) and (c)**
 Insert “or found guilty” after “convicted” wherever occurring.
- [55] **Clause 145 (1) (d)**
 Omit “the issue of his or her” from clause 145 (1) (d).
 Insert instead “a commercial fishing”.
- [56] **Clause 145 (1) (f)–(i)**
 Insert at the end of clause 145 (1) (e):
 , or
 (f) the applicant has made a statement in connection with the application for the licence that was, in the opinion of the Minister, false or misleading in a material particular, or
 (g) the applicant has previously held a commercial fishing licence that has been cancelled or holds a commercial fishing licence that is currently suspended, or
 (h) the applicant has been required to forfeit any of his or her shares in a share management fishery under the Act, or
 (i) the applicant has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations under that Act.
- [57] **Clause 145 (2)**
 Omit the subclause.
- [58] **Clause 146 Prescribed conditions of commercial fishing licence**
 Omit “unlicensed” from clause 146 (1) (b).
- [59] **Clause 146 (1) (c) (i)–(iii)**
 Omit the subparagraphs.

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[60] Clause 146 (1) (h) and (i)

Insert after clause 146 (1) (g):

- (h) in the case of a Class 3 licence, the holder of the licence must not take fish for sale in a restricted fishery, or take fish in a share management fishery, except as a member of the crew of a person who holds an endorsement in the fishery authorising that other person to take the fish concerned,
- (i) any fish taken in a restricted fishery or share management fishery by a Class 3 licence holder while working as a member of the crew of a person who holds an endorsement in the restricted fishery or share management fishery must be sold by the endorsement holder.

[61] Clause 146A Special conditions of Class 4 commercial fishing licence

Omit the clause.

[62] Clause 147 Renewal of commercial fishing licence

Omit clause 147 (2). Insert instead:

- (2) A fee is payable in respect of an application for the renewal of a commercial fishing licence.
- (2A) The fee for an application for the renewal of a commercial fishing licence is:
 - (a) in the case of a Class 1 or Class 2 licence—\$238, and
 - (b) in the case of a Class 3 licence—\$119.

[63] Clause 147 (3) (e)–(fb)

Omit clause 147 (3) (e) and (f). Insert instead:

- (e) the application for renewal of the licence is received by the Minister after the expiry date of the licence, or
- (f) the applicant has made a statement in connection with the application for renewal of the licence that, in the opinion of the Minister, is false or misleading in a material particular, or
- (fa) the applicant has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations under that Act, or
- (fb) the applicant has been required to forfeit any of his or her shares in a share management fishery under the Act, or

[64] Clause 147 (6)

Omit clause 147 (6)–(8). Insert instead:

- (6) An application for renewal of a commercial fishing licence received by the Minister after the expiry date of the licence may be treated as an application for the issue of a commercial fishing licence, and in such a case the fee payable in respect of the application is the fee for the application for the issue of a commercial fishing licence under clause 144 (2).

[65] Clauses 147A and 147B

Insert after clause 147:

147A Early renewal of licences—transitional arrangements to facilitate uniform licence expiry date of 30 June

- (1) The Minister may renew a commercial fishing licence that was in force immediately before the commencement of this clause, without an application being made by the holder of the licence, for a period commencing on the date the new licence is issued and ending on 30 June 2008 (this is referred to as an *early renewal*).
- (2) The renewed licence may be of the same or a different class from the licence that was in force immediately before the commencement of this clause.
- (3) If a commercial fishing licence is given an early renewal under this clause, a fee is payable in respect of the renewal by the commercial fisher whose licence is renewed, in lieu of the fee for an application for renewal of a licence.
- (4) The amount of the fee varies, depending on whether the licence that is given an early renewal was due to expire on or before 30 June 2007 (a *pre-30 June licence*) or was due to expire on or after 1 July 2007 (a *post-30 June licence*).

(5) Pre-30 June licences

In the case of a pre-30 June licence that is given an early renewal, the amount of the fee payable by the holder of the licence is calculated as follows:

$$A = (RF \times D/365) + RF$$

where:

A is the fee payable.

RF is the renewal fee for a licence.

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D is the number of days in the period starting on the day after the date the pre-30 June licence would have expired, but for the early renewal, and ending on (and including) 30 June 2007.

(6) **Post-30 June licences**

In the case of a post-30 June licence that is given an early renewal, the amount of the fee payable by the holder of the licence is calculated as follows:

$$A = RF \times D / 365$$

where:

A is the fee payable.

RF is the renewal fee for a licence.

D is the number of days in the period starting on the day after the post-30 June licence would have expired, but for the early renewal, and ending on (and including) 30 June 2008.

- (7) The fee must be paid in accordance with arrangements for payment approved by the Minister.
- (8) The fee is not payable if the new licence is cancelled before the date that the previous commercial fishing licence would have expired, but for an early renewal.
- (9) If an amount calculated under this clause includes a fraction of a dollar, the amount is to be rounded down to the nearest whole dollar.
- (10) For the purposes of this clause, *renewal fee* for a licence means the fee that would be payable under clause 147 (2A) if an application were made for a renewal of a commercial fishing licence of the class issued to the person following the early renewal.

147B Issue of class 3 licences to registered crew—transitional arrangements to facilitate uniform licence expiry date of 30 June

- (1) The Minister may issue a class 3 commercial fishing licence, without an application being made for the licence, to a person who, immediately before the commencement of this clause, was registered as a crew member under section 110 of the Act.
- (2) The licence may be issued to have effect for a period commencing on the date it is issued and ending on 30 June 2008.

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- (3) Clause 147A applies in respect of a licence issued under this clause as if the person to whom it was issued was, immediately before it was issued, the holder of a class 3 commercial fishing licence that was due to expire on the date the registration of the person as a crew member was due to expire and the licence was given an early renewal under that clause.

[66] Clause 148 Grounds for suspension or cancellation of licence

Omit clause 148 (e). Insert instead:

- (e) the holder of the licence has not paid any fee or contribution due and payable in connection with a licence, or

[67] Clause 148 (h) and (i)

Insert at the end of clause 148 (g):

, or

- (h) the holder of the licence has requested to the Minister, in writing, that the licence be cancelled or suspended, or
- (i) the holder of the licence has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations under that Act.

[68] Clause 149 Classes of commercial fishing licences

Omit clause 149 (a)–(e). Insert instead:

(a) **Class 1**

A Class 1 commercial fishing licence is a licence issued to an individual eligible for a licence under section 103 (2) (a) or (b) of the Act, or under clause 143 (1) (a) or (b).

(b) **Class 2**

A Class 2 commercial fishing licence is a licence issued to an individual eligible for a licence under clause 143 (1) (c).

(c) **Class 3**

A Class 3 commercial fishing licence is a licence issued to an individual eligible for a licence under clause 143 (1) (d).

[69] Clauses 150–150D

Omit clauses 150–150B. Insert instead:

150 Annual contribution to cost of research and other industry costs

- (1) For the purposes of section 106 of the Act, an annual contribution of \$418 is payable by a commercial fisher who holds a Class 1 or

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Class 2 commercial fishing licence in respect of the period from 1 July 2007 to 30 June 2008, subject to this clause and clause 150A.

Note. Section 106 is to be repealed on 30 June 2008. This clause and clause 150A provide for the phasing-out of the annual contribution by that date, in connection with the transition to a uniform licence expiry date of 30 June.

- (2) If a Class 1 or Class 2 commercial fishing licence is first issued to a person before 1 July 2007:
 - (a) the prescribed proportion of the annual contribution is payable by the person in respect of the period from the commencement date of the licence to 30 June 2007, and
 - (b) the annual contribution of \$418 is payable by the person in respect of the period from 1 July 2007 to 30 June 2008.
- (3) If a Class 1 or Class 2 commercial fishing licence is first issued to a person after 1 July 2007 and before 1 July 2008, the prescribed proportion of the annual contribution is payable by the person in respect of the period from the commencement date of the licence to 30 June 2008.
- (4) An amount payable under this clause must be paid in accordance with arrangements for payment approved by the Minister.
- (5) In this clause, the *prescribed proportion* of the annual contribution means the proportion of \$418 specified in column 2 of the Table to this clause next to the commencement date of the licence concerned.
- (6) If an amount calculated under this clause includes a fraction of a dollar, the amount is to be rounded down to the nearest whole dollar.

Table

Column 1	Column 2
Commencement date of licence	Prescribed proportion
After 1 July but before 1 October	100%
On or after 1 October but before 1 January (in the following year)	75%
On or after 1 January but before 1 April	50%
On or after 1 April but before 1 July	25%

150A Transitional arrangements for payment of annual contributions

- (1) This clause provides for transitional arrangements in respect of the payment of annual contributions by commercial fishers who, immediately before the commencement of this clause:
- (a) held a commercial fishing licence that was due to expire before 30 June 2007 (a *pre-30 June licence*), or
 - (b) held a commercial fishing licence that was due to expire on or after 1 July 2007 (a *post-30 June licence*).

Note. Before the commencement of this clause, an annual contribution was payable by holders of Class 1, Class 2, Class 3 or Class 5 commercial fishing licences on the issue or renewal of a licence. New arrangements provide for all commercial fishing licences to have a uniform expiry date of 30 June. This clause sets out the transitional arrangements for payment of annual contributions by commercial fishers who, immediately before the commencement of this clause, held licences that were due to expire on a date other than 30 June.

(2) Pre-30 June licences

If a pre-30 June licence is renewed:

- (a) the relevant proportion of the annual contribution is payable by the person in respect of the period from the date the pre-30 June licence expires (or would have expired but for an early renewal under clause 147A) to 30 June 2007, and
 - (b) the annual contribution of \$418 is payable by the person in respect of the period from 1 July 2007 to 30 June 2008 (as provided for by clause 150).
- (3) The *relevant proportion* of the annual contribution is calculated as follows:

$$P = AC \times D / 365$$

where:

P is the relevant proportion of the annual contribution.

AC is \$418.

D is the number of days in the period starting on the day after the pre-30 June licence expires (or would have expired but for an early renewal under clause 147A) and ending on (and including) 30 June 2007.

- (4) If the amount calculated under subclause (3) includes a fraction of a dollar, it is to be rounded down to the nearest whole dollar.

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(5) The relevant proportion of the annual contribution must be paid in accordance with arrangements for payment approved by the Minister.

(6) **Post-30 June licences**

If a post-30 June licence is renewed, there is to be deducted from the annual contribution payable by the commercial fisher under clause 150 in respect of the period from 1 July 2007 to 30 June 2008 an allowance for the amount of annual contribution already paid by the commercial fisher in respect of the period from 1 July 2007 to the date the post-30 June licence expires (or would have expired but for an early renewal under clause 147A).

(7) The allowance is to be calculated as follows:

$$A = AC \times D / 365$$

where:

A is the allowance to be deducted.

AC is \$418.

D is the number of days in the period starting on 1 July 2007 and ending on (and including) the date the post-30 June licence expires (or would have expired but for early renewal under clause 147A).

(8) If the amount calculated under subclause (7) includes a fraction of a dollar, it is to be rounded up to the nearest whole dollar.

(9) This clause does not require the payment of any contribution in respect of any Class 4 commercial fishing licence held immediately before the commencement of this clause.

Note. A fee may also be payable by the fisher if the licence is given an early renewal under clause 147A. That fee is in lieu of the fee for an application for renewal of a licence.

150B Annual contribution by participants in tuna bait fishery

(1) For the purposes of section 106 of the Act, an annual contribution of \$316 is payable by the holder of a commercial fishing licence who is authorised by or under the Act to take fish for use as bait in the tuna bait fishery.

(2) The annual contribution is payable towards the cost of carrying out fishery monitoring programs approved by the Minister.

(3) The contribution must be paid in accordance with arrangements for payment approved by the Minister.

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- (4) The Minister may determine that all or part of a contribution is not payable under this clause in such cases, or classes of case, as the Minister considers appropriate.
 - (5) The contribution payable under this clause in relation to a commercial fishing licence is additional to any other contribution, fee or charge that is payable in relation to the licence (including the contributions referred to in clauses 150 and 150A).
 - (6) In this clause:
tuna bait fishery means the fishery comprised of the use of a purse seine net or submersible lift net (bait) to take blue mackerel, yellowtail scad or pilchards from ocean waters within 3 nautical miles of the natural coast line for use as live bait in tuna fishing operations.

150C Annual contribution by participants in southern fish trawl restricted fishery

- (1) For the purposes of section 115A of the Act, an annual contribution is payable, towards the costs referred to in section 115A (1) of the Act, by a participant in the southern fish trawl restricted fishery who is the owner of a fishing business a component of which is an endorsement authorising the taking of fish for sale in that restricted fishery (a *southern fish trawl fishing business*).
- (2) The amount of the contribution is \$316 for each southern fish trawl fishing business.
- (3) The contribution must be paid in accordance with arrangements for payment approved by the Minister.
- (4) The Minister may determine that all or part of a contribution is not payable under this clause in such cases, or classes of case, as the Minister considers appropriate.
- (5) The contribution payable under this clause is additional to any other contribution, fee or charge that is payable in relation to a licence (including the contributions referred to in clauses 150 and 150A).

150D Annual contribution by participants in sea urchin and turban shell restricted fishery

- (1) For the purposes of section 115A of the Act, an annual contribution is payable, towards the costs referred to in section 115A (1) of the Act, by a participant in the sea urchin and turban

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shell restricted fishery who is the owner of a fishing business a component of which is an endorsement authorising the taking of fish for sale in that restricted fishery (a *SUTS fishing business*).

- (2) The amount of the contribution is \$1012 for each SUTS fishing business.
- (3) The contribution must be paid in accordance with arrangements for payment approved by the Minister.
- (4) The Minister may determine that all or part of a contribution is not payable under this clause in such cases, or classes of case, as the Minister considers appropriate.
- (5) The contribution payable under this clause is additional to any other contribution, fee or charge that is payable in relation to a licence (including the contributions referred to in clauses 150 and 150A).

[70] Clause 150E

Insert before clause 151 in Division 2:

150E Definition

In this Division:

maximum boat specifications has the meaning given by clause 152A.

[71] Clause 151

Omit the clause. Insert instead:

151 Fee for application for issue of fishing boat licence

- (1) A fee is payable in respect of an application for the issue of a fishing boat licence.
- (2) The fee for an application for the issue of a fishing boat licence is, subject to subclauses (3) and (4), the following:
 - (a) in the case of a licence that relates to a boat that has a length not exceeding 3 metres—\$167,
 - (b) in the case of a licence that relates to a boat that has a length exceeding 3 metres—\$167 plus \$24 for each metre or part of a metre by which the length of the boat exceeds 3 metres.

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- (3) The fee for an application for the issue of a fishing boat licence is, if the licence is issued to have effect for a period of less than 12 months commencing on a date other than 1 July, the prescribed proportion of the licence fee.
- (4) The fee for an application for the issue of a fishing boat licence is, if the licence is issued to have effect for a period exceeding 12 months commencing on a date other than 1 July, the total of the following:
- (a) the licence fee, and
 - (b) the prescribed proportion of the licence fee.
- (5) If an amount calculated under this clause includes a fraction of a dollar, the amount is to be rounded down to the nearest whole dollar.
- (6) In this clause:
- licence fee* means the fee referred to in subclause (2) plus, if the licence is a licence to which clause 155 applies, the fee referred to in that clause.
- prescribed proportion* means the proportion specified in column 2 of the Table to this clause next to the commencement date of the licence concerned.

Table

Column 1	Column 2
Commencement date of licence	Prescribed proportion
After 1 July but before 1 October	100%
On or after 1 October but before 1 January (in the following year)	75%
On or after 1 January but before 1 April	50%
On or after 1 April but before 1 July	25%

Note. It is intended that all licences will have a uniform expiry date of 30 June.

[72] Clause 152 Grounds for refusal to issue fishing boat licence

Omit “at the commencement of the Act (unless paragraph (b) applies)” from clause 152 (a).

Insert instead “at 5 February 2007”.

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[73] Clause 152 (b) and (c)

Omit the paragraphs. Insert instead:

- (b) the applicant has made a statement in connection with the application for the licence that is, in the opinion of the Minister, false or misleading in a material particular, or
- (c) the applicant has previously held a fishing boat licence that has been suspended or cancelled by the Minister, or

[74] Clause 152 (d)

Omit “16 January 1995 (the date of the commencement of the Act)”.

Insert instead “5 February 2007”.

[75] Clause 152 (e)

Omit clause 152 (e)–(h). Insert instead:

- (e) the applicant fails to provide any information required by the Minister in connection with the application (such as identifying particulars for the boat), or

[76] Clause 152A

Insert after clause 152:

152A Form of licence

- (1) A fishing boat licence is to be issued or renewed in such form as the Minister approves.
- (2) Without limiting subclause (1), a licence may specify:
 - (a) any maximum length, or maximum hull units, or maximum engine power (collectively referred to as *maximum boat specifications*) that apply in respect of the boat the subject of the licence, as determined by the Minister, and
 - (b) identifying particulars for the boat, including:
 - (i) the name of the boat,
 - (ii) the identifying number for the boat,
 - (iii) the hull identification number for the boat,
 - (iv) the hull units for the boat,
 - (v) the engine power of the boat,
 - (vi) the name of the boat’s home port.

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- [77] **Clause 153 Prescribed conditions of fishing boat licences**
Omit “and on the outside of the top of the wheelhouse” from clause 153 (1) (b).
Insert instead “or on the outside of both sides of the wheelhouse”.
- [78] **Clause 153 (1) (b)**
Omit “the licence number allotted to that boat by the boat licence”.
Insert instead “the LFB number allotted to that boat by the Director-General”.
- [79] **Clause 153 (1) (b) (i)**
Insert “and is used in ocean waters” after “7.5 metres long”.
- [80] **Clause 153 (1) (d) (i)–(iv)**
Omit the paragraphs. Insert instead:
(i) to take fish with unregistered crew members as authorised under section 110 (5) of the Act, or
- [81] **Clause 153 (1) (d) (v) and (vi)**
Renumber the subparagraphs as subparagraphs (ii) and (iii).
- [82] **Clause 153 (1) (e)–(j)**
Omit clause 153 (1) (e)–(f). Insert instead:
(e) that the holder of the licence does not assist, encourage or permit the master of the licensed boat to contravene the Act, the regulations under the Act or the conditions of that licence in connection with the taking of fish for sale,
(f) that the holder of the licence takes all reasonable steps to ensure that the master of the licensed boat does not contravene the Act, the regulations under the Act or the conditions of that licence in connection with the taking of fish for sale,
(g) that the boat to which the licence applies is not modified in such a manner that it ceases to comply with any maximum boat specifications set out on the licence,
(h) that the holder of the licence does not cause or allow the boat to be modified in such a manner as to affect its length, hull units, or engine power, if any of those particulars are noted on the licence, unless, before carrying out that modification, an application is made to the Minister, in accordance with this Division, for the licence to be

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amended so as to change the identifying particulars noted on the licence in accordance with the proposed boat modifications,

- (i) that the holder of the licence must not use the boat in connection with activities for which the boat must be licensed under the Act unless the identifying particulars for the boat have been noted on the licence,
- (j) that, if the boat is disposed of, destroyed or lost at sea, the holder of the licence must notify the Minister, in writing, of that occurrence within 30 days.

[83] Clause 153 (2)

Omit the subclause. Insert instead:

- (2) The conditions prescribed by this clause are in addition to any conditions prescribed by the management plan for a share management fishery.

[84] Clause 153 (3)

Omit the definition of *offshore waters*.

[85] Clause 154 Renewal of fishing boat licence

Omit the subclause. Insert instead:

- (2) A fee is payable in respect of an application for the renewal of a fishing boat licence.
- (2A) The fee for an application for the renewal of a fishing boat licence is:
 - (a) in the case of a licence that relates to a boat having a length not exceeding 3 metres—\$47, and
 - (b) in the case of a licence that relates to a boat having a length that exceeds 3 metres—\$47 plus \$24 for each metre or part of a metre by which the length of the boat exceeds 3 metres.

[86] Clause 154 (3)

Omit the subclause. Insert instead:

- (3) The Minister may refuse to renew the licence if:
 - (a) the application for renewal of the licence is received by the Minister after the date the licence expires, or
 - (b) the holder of the licence has, in the opinion of the Minister, contravened a condition of the licence, or

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- (c) the applicant has made a statement in connection with the application for the licence that is, in the opinion of the Minister, false or misleading in a material particular, or
 - (d) the boat does not comply with any maximum boat specifications set out on the licence, or
 - (e) the applicant fails to provide any information required by the Minister in connection with the application (such as identifying particulars for the boat), or
 - (f) the applicant has not paid any fee due and payable in connection with a fishing boat licence.

[87] Clause 154 (6)

Omit clause 154 (6)–(10). Insert instead:

- (6) An application for renewal of a fishing boat licence received by the Minister after the date the licence expires may be treated as an application for the issue of a fishing boat licence and in such a case the fee payable in respect of the application is to be calculated in accordance with clause 151 and clause 155 (if applicable).

[88] Clause 154A

Insert after clause 154:

154A Transitional arrangements to facilitate uniform licence expiry date of 30 June

- (1) The Minister may renew a fishing boat licence that was in force immediately before the commencement of this clause, without an application being made by the holder of the licence, for a period commencing on the date the new licence is issued and ending on 30 June 2008 (this is referred to as an *early renewal*).
- (2) If a fishing boat licence is given an early renewal under this clause, a fee is payable by the holder of the licence, in accordance with this clause, in respect of the renewal of the licence, in lieu of the fee for an application for renewal of a licence.
- (3) The amount of the fee varies depending on whether the licence that is given an early renewal was due to expire on or before 30 June 2007 (a *pre-30 June licence*) or was due to expire on or after 1 July 2007 (a *post-30 June licence*).

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(4) **Pre-30 June licences**

If a pre-30 June licence is given an early renewal, the amount of the fee is calculated as follows:

$$A = (RF \times D/365) + RF$$

where:

A is the fee payable.

RF is the renewal fee for a licence.

D is the number of days in the period starting on the day after the date the pre-30 June licence would have expired, but for the early renewal, and ending on (and including) 30 June 2007.

(5) **Post-30 June licences**

If a post-30 June licence is given an early renewal, the amount of the fee is calculated as follows:

$$A = RF \times D/365$$

where:

A is the fee payable.

RF is the renewal fee for a licence.

D is the number of days in the period starting on the day after the date the post-30 June licence would have expired, but for the early renewal, and ending on (and including) 30 June 2008.

- (6) The fee must be paid in accordance with arrangements for payment approved by the Minister.
- (7) The fee is not payable if the licence is cancelled before the date the previous licence would have expired, but for the early renewal.
- (8) If an amount calculated under this clause includes a fraction of a dollar, the amount is to be rounded down to the nearest whole dollar.
- (9) In this clause:
renewal fee for a licence means the fee for an application for a renewal of the fishing boat licence under clause 154 (2A) plus, if the licence is a licence to which clause 155 applies, the additional fee referred to in that clause.

[89] Clause 155

Omit the clause. Insert instead:

155 Additional licence fee for certain boats—ocean trawl fishery

- (1) This clause applies in respect of any fishing boat licence authorising the use of the boat to take prawns in the ocean trawl fishery, being a licence that specifies the maximum hull units of the boat or the engine power of the boat.
- (2) An additional fee is payable in respect of an application for the issue or renewal of a fishing boat licence to which this clause applies. The fee is additional to the fee under clause 151 or 154.
- (3) The additional fee is calculated by multiplying the total units of the boat to which the licence applies by \$1.78.
- (4) The total units of a boat is the sum of the following:
 - (a) the maximum hull units for the boat, as specified on the licence for the boat,
 - (b) the engine power of the boat, as determined by the Director-General on the basis of the continuous or A brake kilowatt rating of the boat as at 5 November 1985 (or, if the Director-General is of the opinion that the boat replaces another boat that was licensed at 5 November 1985, the continuous or A brake kilowatt rating of that other boat as at 5 November 1985).

[90] Clause 156 Grounds for suspension or cancellation of a fishing boat licence

Omit clause 156 (c)–(e). Insert instead:

- (c) the boat has been seized under section 265 of the Act, or
- (d) the holder of the licence has not paid any fee due and payable in connection with the issue or renewal of the licence, or
- (e) the boat does not comply with any maximum boat specifications set out on the licence, or

[91] Clause 156 (g)

Insert “destroyed,” after “has been”.

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[92] Clause 156 (h)

Insert at the end of clause 156 (g):

or,

- (h) the holder of the licence has requested in writing to the Minister that the licence be cancelled or suspended.

[93] Clauses 157 and 157A

Omit clause 157. Insert instead:

157 Voluntary suspension of licence

- (1) If a licensed fishing boat is disposed of, destroyed or lost at sea, and has not been replaced by the holder of the licence, the holder of the licence may, by application in writing to the Minister in a form approved by the Director-General, request the Minister to suspend the fishing boat licence.
- (2) If the Minister grants the request and suspends the licence, the Minister may amend the licence so as to omit the identifying particulars for the boat from the licence.
- (3) The holder of the suspended licence is required to pay an annual fee in respect of the suspended licence.
- (4) The amount of the annual fee is the amount that would be charged in respect of an application to renew the licence had the boat not been disposed of, destroyed or lost at sea and the licence not been suspended (including any additional fee that would have been charged under clause 155).
- (5) The annual fee is to be calculated as at 1 July in each year (the *charging date*) and must be paid in accordance with such arrangements for payment as may be approved by the Minister and advised to the holder of the suspended licence.
- (6) On replacement of the boat disposed of, destroyed or lost at sea, the holder of the suspended licence may apply for the suspension to be lifted, but only if a request is made for the licence to be amended to insert the identifying particulars for the new boat on the licence (as provided for by clause 157A).
- (7) The lifting of a suspension does not affect the licence holder's obligation to pay an annual fee under this clause in respect of a charging date that occurred before the lifting of the suspension, and does not affect the calculation of that fee.

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- (8) The Minister may refuse a request for a suspension under this clause if the holder of the licence has transferred his or her right to a licence under clause 158.

Note. This clause allows the holder of a fishing boat licence to retain a right to a licence in respect of a boat if the licensed boat is disposed of, destroyed or lost at sea. Under clause 152 (a), the Minister is authorised to refuse to issue a new fishing boat licence in respect of a boat that was not licensed before 5 February 2007.

157A Change to identifying particulars of boat noted on licence

- (1) The holder of a fishing boat licence may, by application in writing to the Minister in a form approved by the Director-General, request the Minister to amend the licence:
- (a) by changing any identifying particulars for the boat that are noted on the licence, or
 - (b) by inserting new identifying particulars for a boat on the licence.
- (2) The Minister may:
- (a) grant the request, or
 - (b) refuse to grant the request.
- (3) The Minister may refuse to grant a request if:
- (a) the applicant fails to provide sufficient information or evidence to enable the Minister to grant the request, such as information or evidence of any identifying particulars for the boat, or
 - (b) the identifying particulars for the boat do not comply with any maximum boat specifications set out on the fishing boat licence, or
 - (c) the applicant has transferred his or her right to the fishing boat licence under clause 158.
- (4) This clause does not affect the power of the Minister to cancel or suspend a fishing boat licence if a boat does not comply with any maximum boat specifications set out on a fishing boat licence.
- (5) If an amendment to a licence affects the calculation of the fee payable in respect of the renewal of a licence, the amendment applies only to a renewal that occurs on or after the amendment to the licence takes effect.

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[94] Clause 158 Transfer of right to a fishing boat licence

Omit clause 158 (3). Insert instead:

- (3) A fee of \$298 is payable in respect of an application for approval of the transfer of the right to a fishing boat licence.

[95] Clause 158 (7)

Omit “(including on the ground that the boat concerned is not of sufficiently similar dimensions or characteristics to the licensed boat of the transferor)”.

Insert instead “(including on the ground that the boat does not comply with the maximum boat specifications set out on the licence)”.

[96] Clause 158 (8)

Omit “or in abeyance under clause 157”.

[97] Clauses 159 and 159A

Omit clause 159. Insert instead:

159 Boats taken to be licensed under the Act

For the purposes of section 107 (2) of the Act, a boat that is licensed or otherwise authorised to be used for the purpose of taking fish under a law of the Commonwealth or of another State or a Territory is taken to be licensed under the Act but only for the purpose of landing fish in New South Wales that were taken from waters to which the Act does not apply.

159A Compliance with maximum boat specifications

- (1) This clause applies for the purpose of determining whether a boat complies with any maximum boat specifications set out on a fishing boat licence.
- (2) The length of a boat is to be determined in accordance with the *Uniform Shipping Laws Code*.
- (3) If a survey certificate has been issued in respect of a boat, the length of the boat is taken to be the length of the boat as specified on the most recent survey certificate for the boat.
- (4) The engine power of a boat is to be determined in accordance with the continuous or A brake kilowatt rating for the engine as published by the manufacturer of the engine.

- (5) The hull units of a boat are to be determined as follows:

$$H = L \times D \times B \times 0.212014$$

where:

H is the hull units of a boat.

L is the length of the boat.

D is the moulded depth of the boat, determined in accordance with the *Uniform Shipping Laws Code*.

B is the moulded breadth of the boat, determined in accordance with the *Uniform Shipping Laws Code*.

- (6) In this clause:

Uniform Shipping Laws Code means the Code referred to in section 427 of the *Navigation Act 1912* of the Commonwealth.

[98] Clause 164 Application for authority to use unregistered crew members

Omit the clause.

[99] Part 8, Division 1, heading

Insert instead “restricted fishery” after “shell”.

[100] Clause 168 Definitions

Omit the definition of *nominated fisher*. Insert instead:

nominated fisher means a person nominated in accordance with Division 12 to take fish in the restricted fishery.

[101] Clause 171

Omit the clause. Insert instead:

171 Eligibility for endorsements

- (1) A person who, immediately before 5 February 2007, was eligible for an endorsement in the restricted fishery under this clause remains eligible for that endorsement, subject to this clause.
- (2) If a fishing business owner transfers an endorsement that is a component of a fishing business to another person, in accordance with the fishing business transfer rules:
 - (a) the fishing business owner, or any nominated fisher of the fishing business owner, ceases to be eligible for that endorsement, and

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- (b) the person to whom the endorsement is transferred becomes eligible for that endorsement.

Note. Historically, eligibility for an endorsement was determined on the basis of shareholdings in the abalone fishery (which previously formed part of the sea urchin and turban shell restricted fishery).

[102] Clause 173 Nominated fishers

Omit the clause.

[103] Clause 174 Endorsement of commercial fishing licences

Omit clause 174 (1). Insert instead:

- (1) The Minister may endorse the commercial fishing licence of a person only if the person satisfies the eligibility requirements for an endorsement.

[104] Clause 174 (2) (a)

Insert “or of an offence relating to commercial fishing operations under a law of the Commonwealth, of another State, a Territory or of New Zealand” after “under the Act”.

[105] Clause 174 (2) (d)

Omit the paragraph. Insert instead:

- (d) the person, or if the person is a nominated fisher, the entitlement holder who nominated the person has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations made under that Act, or

[106] Clause 174 (2) (f)

Insert at the end of clause 174 (2) (e):

, or

- (f) the person has previously held an endorsement which has been suspended or cancelled by the Minister.

[107] Clause 175

Omit the clause. Insert instead:

175 Duration of endorsement

An endorsement remains in force unless cancelled or suspended.

[108] Clause 176 and 177

Omit the clauses.

[109] Clause 178 Suspension and cancellation of endorsements

Insert “or of an offence relating to commercial fishing operations under a law of the Commonwealth, of another State, a Territory or of New Zealand” after “under the Act” in clause 178 (a).

[110] Clause 178 (d)

Omit the paragraph. Insert instead:

- (d) the endorsement holder ceases to be eligible for an endorsement, or

[111] Clause 178 (f)

Insert at the end of clause 178:

, or

- (f) the endorsement holder or, if the endorsement holder is a nominated fisher, the entitlement holder who nominated the person has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations made under that Act.

[112] Part 8, Divisions 2, 4–7 and 9–11

Omit the Divisions.

[113] Part 8, Division 3, heading

Omit “Ocean”. Insert instead “Southern”

[114] Clause 191 Definitions

Omit the definition of *ocean fish trawl fishery*.

Insert instead in alphabetical order:

southern fish trawl fishery means the fishery described in clause 192.

[115] Clause 192

Omit the clause. Insert instead:

192 Southern fish trawl fishery is a restricted fishery

- (1) For the purposes of section 111 of the Act, the southern fish trawl fishery is declared to be a restricted fishery.

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- (2) The southern fish trawl fishery is comprised of the use of an otter trawl net (fish) or a danish seine trawl net (fish) to take fish (other than prawns) from ocean waters that are not more than 3 nautical miles from the natural coast line and are south of a line drawn due east of Barrenjoey Headland.

[116] Clauses 193 and 194

Omit the clauses. Insert instead:

193 Southern fish trawl endorsement

- (1) An endorsement in the fishery (referred to as a *southern fish trawl endorsement*) authorises the holder to take fish for sale in the restricted fishery.
- (2) A southern zone endorsement in the ocean fish trawl restricted fishery in force immediately before the commencement of the *Fisheries Management Legislation Amendment Regulation 2007* is taken, on that commencement, to be a southern fish trawl endorsement.

194 Eligibility for endorsement

- (1) A person who, immediately before 5 February 2007, was eligible for a southern zone endorsement in the ocean fish trawl restricted fishery under this clause remains eligible for an endorsement in the restricted fishery, subject to this clause.
- (2) If a fishing business owner transfers an endorsement that is a component of a fishing business to another person, in accordance with the fishing business transfer rules:
 - (a) the fishing business owner, or any nominated fisher of the fishing business owner, ceases to be eligible for that endorsement, and
 - (b) the person to whom the endorsement is transferred becomes eligible for that endorsement.

Note. Historically, eligibility for an endorsement was determined on the basis of catch history in the fishery and other matters.

[117] Clause 195 Application for endorsement

Omit clause 195 (1)–(3). Insert instead:

- (1) The Minister may endorse the commercial fishing licence of a person only if the person satisfies the eligibility requirements for an endorsement.

[118] Clause 195 (4)

Insert “who is otherwise eligible” after “of a person”.

[119] Clause 195 (4) (a)

Insert “or of an offence relating to commercial fishing operations under a law of the Commonwealth, of another State, a Territory or of New Zealand” after “under the Act”.

[120] Clause 195 (4) (d) and (e)

Insert at the end of clause 195 (4) (c):

, or

- (d) the person has previously held an endorsement which has been suspended or cancelled by the Minister, or
- (e) the person has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations made under that Act.

[121] Clause 196

Omit the clause. Insert instead:

196 Duration of endorsement

An endorsement remains in force unless cancelled or suspended.

[122] Clause 197 Application for endorsement for further period

Omit the clause.

[123] Clause 198 Cancellation and suspension of endorsements

Insert “or of an offence relating to commercial fishing operations under a law of the Commonwealth, of another State, a Territory or of New Zealand” after “under the Act” in clause 198 (a).

[124] Clause 198 (d) and (e)

Omit clause 198 (d). Insert instead:

- (d) the holder of the endorsed licence ceases to be eligible for an endorsement, or
- (e) the holder of the endorsed licence has been convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations made under that Act.

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[125] Part 8, Division 12

Omit the Division. Insert instead:

Division 12 Nominated fishers

Note. This Division does not apply in respect of the inland restricted fishery.

276 Definitions

In this Division:

fishing business owner means the owner of a fishing business the components of which include an endorsement in a restricted fishery.

nominated fisher of a fishing business owner, means a person who has been duly nominated by a fishing business owner to take fish in a restricted fishery on behalf of the fishing business owner, pursuant to this Division.

277 Nomination of fisher to take fish in restricted fishery

- (1) A fishing business owner may nominate another person to take fish on behalf of the fishing business owner in a restricted fishery under an endorsement.
- (2) A nominated fisher is eligible for an endorsement in a restricted fishery of the same kind as the endorsement for which the fishing business owner is eligible, or would be eligible (were it not for a nomination), during the period in which the nomination has effect.
- (3) A fishing business owner who nominates another person to take fish on behalf of the fishing business owner under an endorsement ceases to be eligible for that endorsement, during the period in which the nomination has effect.
- (4) Despite the nomination, an endorsement remains a component of the fishing business in respect of which the nomination is made, and may be transferred by the fishing business owner in accordance with the fishing business transfer rules.

277A Procedure for nomination of fisher

- (1) A fishing business owner may nominate a person to take fish on behalf of the fishing business owner in a restricted fishery only if the nominated person is an eligible fisher in respect of the fishing business.

Note. Eligible fishers are persons registered by the Director-General as eligible fishers in respect of a fishing business under Part 8A.

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- (2) The nomination of an eligible fisher does not take effect until:
 - (a) the nomination is given to the Director-General in the form and manner approved by the Director-General, and
 - (b) if the fishing business owner has been issued with a fishing business card in respect of the fishing business to which the nomination applies, possession of the fishing business card is given to the nominated fisher.
 - (3) A nomination has effect for a minimum period of 48 hours, or a lesser period approved by the Director-General.
 - (4) If a nomination is revoked before the end of the period of 48 hours (or the lesser period approved by the Director-General), a further nomination cannot be made until the end of the relevant period.

277B One nominated fisher per fishing business

- (1) An eligible fisher nominated to take fish on behalf of a fishing business owner must be nominated in respect of all endorsements in a restricted fishery that are a component of that fishing business and all shares that are a component of that fishing business.
- (2) A fishing business owner may nominate one (and not more than one) eligible fisher to take fish on behalf of the fishing business owner for each fishing business of which he or she is the owner.
- (3) A nomination applies in respect of the fishing business indicated by the fishing business owner and operates to authorise an eligible fisher to take fish only in respect of those endorsements (and shares) that are a component of the relevant business.
- (4) A separate nomination must be made in respect of each separate fishing business.
- (5) If a person owns more than one fishing business the components of which include endorsements in a restricted fishery, either the same or a different eligible fisher may be nominated in respect of each separate fishing business, subject to this clause.

277C Revocation of nomination of commercial fisher

- (1) A fishing business owner's nomination of a person to take fish on behalf of the fishing business owner may be revoked:
 - (a) by the fishing business owner, or
 - (b) by the Director-General, if revocation by the Director-General is authorised by this clause.

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- (2) A revocation of a nomination by a fishing business owner is to be made in a form and manner approved by the Director-General.
- (3) The fishing business owner must inform the nominated fisher of the revocation of the nomination.
- (4) The Director-General is authorised to revoke a fishing business owner's nomination of a person to take fish on behalf of the fishing business owner (without the consent of the fishing business owner) if:
 - (a) the nominated fisher requests the revocation, in a form and manner approved by the Director-General, or
 - (b) the Director-General cancels the registration of the person as an eligible fisher in respect of the fishing business owner under this Regulation.
- (5) The Director-General revokes a nomination by giving the fishing business owner notice in writing of the revocation.
- (6) The Director-General must, by notice in writing, inform the person whose nomination has been revoked of that revocation.
- (7) A nomination of a fisher ceases to have effect when revoked under this clause.

[126] Clauses 278 and 278A

Omit the clauses.

[127] Clauses 290–290B

Omit clause 290. Insert instead:

290 Definition

In this Division, *prescribed record* means a record that includes any of the following information:

- (a) particulars of all fishing activities engaged in by a commercial fisher or nominated fisher (including those where no fish were taken),
- (b) particulars of all fish taken during those fishing activities,
- (c) particulars of all fish disposed of during or after those fishing activities,
- (d) particulars of the location in which all fish taken during those fishing activities were carried out,
- (e) particulars of the fishing gear used in connection with those fishing activities, including any fishing gear lost during those activities,

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- (f) particulars of the boats used in connection with those fishing activities,
 - (g) particulars of all individuals who engaged in or assisted with those fishing activities,
 - (h) the fishing business number allocated to the fishing business under which those fishing activities were authorised to be undertaken,
 - (i) particulars of all sightings or any other interaction with any threatened species or protected species,
 - (j) any period in which the commercial fisher or nominated fisher did not engage in fishing activities that he or she is authorised to engage in by his or her commercial fishing licence.

290A Records to be made by commercial fishers

- (1) For the purposes of section 121 of the Act, a commercial fisher is required to make the prescribed record of fishing activities engaged in by the commercial fisher for commercial purposes, for each relevant period that the commercial fisher engages in fishing activities.
- (2) For the purposes of this clause, a *relevant period* means a month, or in the case of the sea urchin and turban shell restricted fishery or the abalone fishery, a day.
- (3) The commercial fisher must make a separate record in respect of each fishing business that relate to the fishing activities engaged in by the commercial fisher for commercial purposes.
- (4) The commercial fisher must ensure that a copy of the record is sent to the Director-General within 28 days after the end of the relevant period to which the record relates (or in the case of the sea urchin and turban shell restricted fishery or the abalone fishery, within 24 hours of the end of the relevant period to which the record relates).
- (5) A commercial fisher who engages in fishing activities in any of the following fisheries, on behalf of a fishing employer (within the meaning of section 122 of the Act), is not required to make a record under this clause in respect of those activities:
 - (a) a share management fishery (other than the abalone or lobster fishery),

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- (b) a restricted fishery (other than the sea urchin and turban shell restricted fishery).

Note. However, section 122 (5) of the Act requires the commercial fisher to provide the fishing employer with such information concerning those activities as the fishing employer may reasonably require to comply with section 122 of the Act.

- (6) This clause does not apply in respect of fishing activities in a share management fishery if the share management plan for the fishery makes alternative arrangements for the records to be made in respect of those activities under section 121 of the Act.

290B Records to be made by fishing employers

- (1) For the purposes of section 122 of the Act, a fishing employer is required to make the prescribed record of fishing activities engaged in by all nominated fishers on behalf of the fishing employer, for each period of a month that the nominated fishers engage in fishing activities.
- (2) The fishing employer must make a separate record in respect of each fishing business that relates to the fishing activities engaged in by all nominated fishers on behalf of the fishing employer for commercial purposes.
- (3) The fishing employer must ensure that a copy of the record is sent to the Director-General within 28 days after the end of the monthly period to which the record relates.
- (4) A fishing employer is not required to make a record under this clause in respect of activities engaged in by a nominated fisher in any of the following fisheries:
 - (a) the abalone or lobster fishery,
 - (b) the sea urchin and turban shell restricted fishery.
- (5) This clause does not apply in respect of fishing activities in a share management fishery if the share management plan for the fishery makes alternative arrangements for the records to be made by fishing employers in respect of those activities under section 122 of the Act.

[128] Clause 368 Definitions

Omit “but does not include the classes of endorsement provided for by Division 11 of Part 8 (other than a skipper’s endorsement under clause 270)” from the definition of *endorsement* in clause 368 (1).

[129] Clause 369 Composition of MAC

Insert “a restricted fishery or” after “established for” in clause 369 (1).

[130] Clause 369 (2)–(4)

Omit clause 369 (2) and (3). Insert instead:

- (2) If the Table specifies the class of endorsement or shareholder to be represented by an industry member, the MAC is to be composed of industry members representing endorsement holders or shareholders of that class.
- (3) A single MAC is established for the ocean trawl fishery and the southern fish trawl restricted fishery. Those fisheries are taken, for the purposes of this Part, to be a single fishery which is referred to as the ocean trawl fishery and is treated as a share management fishery for the purposes of this Part.
- (4) For that purpose, a reference in this Part to class of shares or a shareholder in the ocean trawl fishery, in relation to the part of the fishery that is the southern fish trawl restricted fishery, is taken to be a reference to an endorsement or an endorsement holder in the southern fish trawl restricted fishery (as the case requires).

[131] Clause 369, Table

Omit the Table (but not the notes to the Table). Insert instead:

Table Composition of MACs (industry members)

Column 1	Column 2	Column 3
Name of fishery	Number of industry members	Class of shareholders or endorsement holders to be represented
Abalone fishery	5	Not applicable
Ocean hauling fishery	8	7 members representing shareholders who hold shares in each of the regions of the fishery (that is, 1 member for each region), being shareholders who hold the Ocean hauling—general ocean hauling class of shares and at least 1 of the following classes of shares: <ol style="list-style-type: none"> (a) Ocean hauling—hauling net (general purpose), (b) Ocean hauling—garfish net (hauling), (c) Ocean hauling—pilchard, anchovy and bait net (hauling).

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Column 1	Column 2	Column 3
Name of fishery	Number of industry members	Class of shareholders or endorsement holders to be represented
Ocean trap and line fishery	7	<p>1 member representing shareholders who hold Ocean hauling—purse seine net class of shares.</p> <p>3 members representing shareholders who are resident in the north of the State, with those members representing shareholders who hold the following classes of shares (that is, 1 member for each class of share):</p> <ul style="list-style-type: none">(a) Ocean trap and line—line fishing western zone,(b) Ocean trap and line—line fishing eastern zone,(c) Ocean trap and line—demersal fish trap. <p>3 members representing shareholders who are resident in the south of the State, with those members representing shareholders who hold the following classes of shares (that is, 1 member for each class of share):</p> <ul style="list-style-type: none">(a) Ocean trap and line—line fishing western zone,(b) Ocean trap and line—line fishing eastern zone,(c) Ocean trap and line—demersal fish trap. <p>1 member representing shareholders who hold Ocean trap and line— spanner crab northern zone or Ocean trap and line— spanner crab southern zone class of shares.</p>

Column 1	Column 2	Column 3
Name of fishery	Number of industry members	Class of shareholders or endorsement holders to be represented
Ocean trawl fishery	6	<p>1 member representing shareholders in the upper north coast region of the fishery who hold at least one of the following classes of shares:</p> <ul style="list-style-type: none"> (a) Ocean trawl—inshore prawn, (b) Ocean trawl—offshore prawn, (c) Ocean trawl—deepwater prawn. <p>1 member representing shareholders in the Clarence region of the fishery who hold at least one of the following classes of shares:</p> <ul style="list-style-type: none"> (a) Ocean trawl—inshore prawn, (b) Ocean trawl—offshore prawn, (c) Ocean trawl—deepwater prawn. <p>1 member representing shareholders in the north coast region of the fishery who hold at least one of the following classes of shares:</p> <ul style="list-style-type: none"> (a) Ocean trawl—inshore prawn, (b) Ocean trawl—offshore prawn, (c) Ocean trawl—deepwater prawn. <p>1 member representing shareholders in the central region of the fishery who hold at least one of the following classes of shares:</p> <ul style="list-style-type: none"> (a) Ocean trawl—inshore prawn, (b) Ocean trawl—offshore prawn, (c) Ocean trawl—deepwater prawn.

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Column 1	Column 2	Column 3
Name of fishery	Number of industry members	Class of shareholders or endorsement holders to be represented
		2 members representing shareholders in the metropolitan, upper south coast and lower south coast regions of the fishery (or any combination of those regions) who hold both: <ul style="list-style-type: none"> (a) Ocean trawl—inshore prawn, Ocean trawl—offshore prawn, or Ocean trawl—deepwater prawn shares, and (b) Ocean trawl—fish northern zone shares or an endorsement in the southern fish trawl restricted fishery.
Estuary general fishery	8	6 members representing shareholders who hold shares in each of the upper north coast, Clarence, north coast, metropolitan, upper south coast and lower south coast regions of the fishery (that is, 1 member for each of those regions).
		1 member representing shareholders who hold shares in the central north region of the fishery.
		1 member representing shareholders who hold shares in the central south region of the fishery.
Estuary prawn trawl fishery	3	1 member representing shareholders who hold the Estuary prawn trawl—Clarence River class of shares.
		1 member representing shareholders who hold the Estuary prawn trawl—Hunter River class of shares.
		1 member representing shareholders who hold the Estuary prawn trawl—Hawkesbury River class of shares.
Lobster fishery	5	Not applicable

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- [132] Clause 369, Notes to Table**
Omit “ocean trap and line restricted fishery” from Note 2.
Insert instead “ocean trap and line fishery”.
- [133] Clause 369, Note 2 to Table**
Omit “Barrenjoey Point” wherever occurring.
Insert instead “Barrenjoey Head”.
- [134] Clause 369, Note 3 to Table**
Omit “ocean trawl restricted fishery and ocean hauling restricted fishery”.
Insert instead “ocean trawl fishery and ocean hauling fishery”.
- [135] Clause 369, Note 4 to Table**
Omit “estuary general restricted fishery”.
Insert instead “estuary general fishery”.
- [136] Clause 370 Qualifications for election to MAC**
Insert “or, if the industry member is to be elected to represent holders of a particular class or classes of shares, a shareholder who holds shares of that class or those classes” after “fishery” in clause 370 (1) (a).
- [137] Clause 370 (1) (b)**
Omit “in the fishery”. Insert instead “referred to in paragraph (a)”.
- [138] Clause 370 (2)**
Omit “Part B of” wherever occurring.
- [139] Clause 372 Qualifications to vote**
Insert “or, if the industry member is to be elected to represent holders of a particular class of shares, a shareholder who holds shares of that class” after “fishery” in clause 372 (1) (a).
- [140] Clause 372 (1) (b)**
Omit “in the fishery”. Insert instead “referred to in paragraph (a)”.
- [141] Clause 372 (2)**
Omit “Part B of” wherever occurring.

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[142] Clause 373 Qualifications of owners of fishing businesses that operate in restricted fisheries

Omit the clause.

[143] Clause 382

Omit the clause. Insert instead:

382 Uncontested election—share management fishery

- (1) In the case of an election for industry members of a MAC for a share management fishery for which members are not elected to represent shareholders of a particular class of shares in the fishery, if by the close of nominations the number of candidates duly nominated for election does not exceed the number of industry members of which the MAC is composed, the returning officer is to declare all those candidates duly elected.
- (2) In the case of an election for industry members of a MAC for a share management fishery for which members are elected to represent shareholders who hold shares of a particular class in the fishery, if by the close of nominations the number of candidates duly nominated for election to represent shareholders who hold shares of a particular class does not exceed the number required to be elected to represent those shareholders (as specified in relation to the fishery concerned in column 3 of the Table to clause 369), the returning officer is to declare those candidates duly elected.
- (3) If the number of candidates in the election exceeds the number required to be elected, a ballot must be held.

[144] Clause 418 Restricted fisheries—continuation of existing restricted fisheries

Omit clause 418 (2)–(6) and (8).

[145] Clauses 429–433

Insert after clause 428:

429 Changes to arrangements for payment of fees and contributions

The amendments made to Part 7 by the *Fisheries Management Legislation Amendment Regulation 2007* do not affect any obligation to pay a contribution or fee, or an instalment of a contribution or fee, if the contribution or fee first became payable before the commencement of those amendments.

430 Saving of arrangements for licences voluntarily suspended

- (1) A licence placed in abeyance under clause 157 before that clause was substituted by the *Fisheries Management Legislation Amendment Regulation 2007* (the **amending Regulation**), which is still in abeyance immediately before the commencement of the amending Regulation, is taken to have been suspended under clause 157 (as substituted by the amending Regulation).
- (2) Accordingly, the holder of such a suspended licence is required to pay an annual fee in respect of the suspended licence as provided by clause 157. The first charging date in respect of the annual fee is 1 July 2007.
- (3) If the suspension of such a licence is lifted, the holder of the licence is required to pay any fee that the holder would have been required to pay under clauses 154 (9), 154 (10) and 155 (6), as in force before their repeal by the amending Regulation, but only in respect of each year or part of a year for which the licence was in abeyance before 1 July 2007.

431 Continuation of MACs following commencement of certain management plans

- (1) On the commencement of the *Fisheries Management Legislation Amendment Regulation 2007*:
 - (a) a Management Advisory Committee established for a restricted fishery that has become a share management fishery is taken to have been established for the corresponding share management fishery, and
 - (b) an industry member of a Management Advisory Committee who was elected and appointed to represent a particular class of endorsement holder in a restricted fishery that has become a share management fishery is taken to have been elected and appointed to represent the corresponding class of shareholder (as determined by the Minister) in the share management fishery, subject to subclause (2).
- (2) Any person who, immediately before the commencement of the *Fisheries Management Legislation Amendment Regulation 2007*, held office as a member of the MAC for the estuary prawn trawl restricted fishery and was elected to represent commercial fishers who held an endorsement referred to in clause 217 (1) (a) (as in force immediately before the commencement of that Regulation), ceases to hold that office and is not entitled to any remuneration or compensation for the loss of that office.

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432 Nominated fishers—savings consequent on Fisheries Management Legislation Amendment Regulation 2007

- (1) A person duly nominated to take fish on behalf of another in a restricted fishery and whose nomination was in force immediately before the commencement of the *Fisheries Management Legislation Amendment Regulation 2007* is taken, on that commencement, to have been registered as an eligible fisher in respect of the fishing business concerned.
- (2) Any such person is taken to have been nominated to take fish on behalf of the relevant person in accordance with Division 12 of Part 8.
- (3) Subclause (2) does not apply in respect of a fishing business owned by a partnership if, immediately before the commencement of the *Fisheries Management Legislation Amendment Regulation 2007*, there is more than one nominated fisher in respect of the fishing business.
- (4) Any person who, immediately before the commencement of the *Fisheries Management Legislation Amendment Regulation 2007*, held an endorsement in respect of a fishing business under clause 270, 271 or 272 of the *Fisheries Management (General) Regulation 2002*, as in force immediately before the repeal of those clauses by the *Fisheries Management Legislation Amendment Regulation 2007*, is taken, on that repeal, to have been registered as an eligible fisher in respect of the fishing business concerned under Part 8A.
- (5) This clause does not affect the power of the Director-General to revoke a nomination under Division 12 of Part 8 or to cancel the registration of an eligible fisher under Part 8A.

433 Continuation of old transfer rules

Clause 277, as in force immediately before the commencement of the *Fisheries Management Legislation Amendment Regulation 2007*, continues to apply in respect of the sale or disposal of any part of a fishing business before 5 February 2007.

Schedule 2 Amendment of other fisheries management legislation

(Clause 4)

2.1 Fisheries Management (Abalone Share Management Plan) Regulation 2000

[1] **Appendix, clause 9 Registration of share transactions**

Omit clause 9 (1).

[2] **Appendix, clause 10 Nominated fishers**

Omit clause 10 (2)–(8), and the note to the clause. Insert instead:

Note. See Part 3 of the *Fisheries Management Supporting Plan* set out in the *Fisheries Management (Supporting Plan) Regulation 2006* for further provisions in relation to nomination of fishers.

[3] **Appendix, clause 21 Registration of crew**

Omit the clause.

[4] **Appendix, clause 22 Limited use of unlicensed crew**

Omit “an authorised crew member” from clause 22 (1) and (2) wherever occurring.

Insert instead “a licensed crew member”.

[5] **Appendix, clause 22 (4)**

Omit the definition of *authorised crew member*. Insert instead:

licensed crew member means a crew member who is the holder of a Class 3 commercial fishing licence.

[6] **Appendix, clause 39A**

Insert after clause 39:

39A Adoption of Part 3 of Supporting Plan

For the purposes of section 57A (5) of the Act, the provisions of Part 3 of the *Fisheries Management Supporting Plan* set out in the *Fisheries Management (Supporting Plan) Regulation 2006*, as they relate to the fishery, and as in force from time to time, are adopted by this Plan.

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Schedule 2 Amendment of other fisheries management legislation

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

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

Insert “or an endorsement of a type that authorises the person to assist the endorsement holder” after “endorsement holder” where secondly occurring in clause 14 (1).

2.3 Fisheries Management (Lobster Share Management Plan) Regulation 2000

[1] Appendix, clause 9 Registration of share transactions

Omit clause 9 (1).

[2] Appendix, clause 10 Nominated fishers

Omit clause 10 (2)–(8), and the note to the clause. Insert instead:

Note. See Part 3 of the *Fisheries Management Supporting Plan* set out in the *Fisheries Management (Supporting Plan) Regulation 2006* for further provisions in relation to nomination of fishers.

[3] Appendix, clause 46 Registration of crew

Omit the clause.

[4] Appendix, clause 47 Limited use of unlicensed crew

Omit “an authorised crew member” from clause 47 (1).

Insert instead “a licensed crew member”.

[5] Appendix, clause 47 (3)

Omit the definition of *authorised crew member*. Insert instead:

licensed crew member means a crew member who is the holder of a Class 3 commercial fishing licence.

[6] Appendix, clause 56A

Insert after clause 56:

56A Adoption of Part 3 of Supporting Plan

For the purposes of section 57A (5) of the Act, the provisions of Part 3 of the *Fisheries Management Supporting Plan* set out in the *Fisheries Management (Supporting Plan) Regulation 2006*, as they relate to the fishery, and as in force from time to time, are adopted by this Plan.

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

[1] Appendix, Note to Part 3

Omit “(other than any waters in which use of an otter trawl net (fish) is prohibited under the regulations)” from paragraph (c).

[2] Appendix, clause 9 Boat capacity restrictions

Omit clause 9 (1) (b).

2.5 Fisheries Management (Supporting Plan) Regulation 2006

[1] Clause 3 Fisheries Management Supporting Plan

Omit “*Share Management Fishery*”. Insert instead “*Fisheries Management*”.

[2] Appendix, clause 1 Name of Plan

Omit “*Share Management Fishery*”. Insert instead “*Fisheries Management*”.

[3] Appendix, clause 6 One nominated fisher per fishing business

Insert “and all endorsements in a restricted fishery that are a component of that fishing business” after “fishing business” in clause 6 (1).

[4] Appendix, clause 6 (3)

Insert “(and endorsements)” after “shares”.

[5] Appendix, clause 8 Cancellation and suspension of endorsements

Insert at the end of clause 8 (d):

, or

- (e) is convicted or found guilty of an offence under the *Marine Parks Act 1997* or the regulations made under that Act.

[6] Appendix, Part 7

Insert after Part 6:

Part 7 Savings and transitional

26 Nominated fishers—savings consequent on commencement of share management plans

- (1) A person duly nominated to take fish on behalf of another in a share management fishery and whose nomination was in force immediately before the commencement of this Plan is taken, on

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that commencement, to have been registered as an eligible fisher in respect of the fishing business concerned under Part 8A of the *Fisheries Management (General) Regulation 2002*.

- (2) Any such person is taken to have been nominated to take fish on behalf of the relevant shareholder in accordance with Part 3 of this Plan.
- (3) Subclause (2) does not apply in respect of a fishing business owned by a partnership if, immediately before the commencement of this Plan, there is more than one nominated fisher in respect of the fishing business.
- (4) This clause does not affect the power of the Director-General to revoke a nomination under Part 3 or to cancel the registration of an eligible fisher under Part 8A of the *Fisheries Management (General) Regulation 2002*.

BY AUTHORITY
