

FISHERIES AND OYSTER FARMS ACT 1935—REGULATION

(Relating to nets, traps and miscellaneous matters)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Fisheries and Oyster Farms Act 1935, has been pleased to make the Regulation set forth hereunder.

I. R. CAUSLEY,
Minister for Natural Resources.

The Fisheries and Oyster Farms (Nets and Other Fishing Gear) Regulation 1989 is amended:

- (a) by omitting from clause 6 (2) (d) the words “the licensed fishing boat (being a boat owned by the licensed fisherman, the crew or a member of the crew) to be used” and by inserting instead the words “one or more licensed fishing boats (all of which are owned by the licensed fisherman, the crew or a member of the crew)”;
- (b) by inserting after clause 6 (2) (d) the following paragraph:
 - (d1) if a licensed fisherman and a crew nominate more than one licensed fishing boat, only one of them may be used at any one time;
- (c) by omitting from clause 7 (2) (e) the words “the licensed fishing boat (being a boat owned by the fisherman, the crew or a member of the crew) to be used” and by inserting instead the words “one or more licensed fishing boats (all of which are owned by the fisherman, the crew or a member of the crew)”;
- (d) by inserting after clause 7 (2) (e) the following paragraph:
 - (e1) if any licensed fisherman and a crew nominate more than one licensed fishing boat, only one of them may be used at any one time;

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- (e) by inserting in clauses 6 (2) (g) and 7 (2) (k) after the word “boat” wherever occurring the words “or boats”;
- (f) by omitting from clause 6 (2) (1) and 7 (2) (s) the words “the licensed fishing boat which was” wherever occurring and by inserting instead the words “only one of the licensed fishing boats which were”;
- (g) by omitting clause 6 (5) (a)–(c) and by inserting instead the following paragraphs:
 - (a) a meeting of the Commercial Fishing Advisory Council in the capacity of member of that Council; or
 - (b) a meeting of a Regional Advisory Committee in the capacity of member of that Committee; or
 - (c) a conference or deputation with the Director of N.S.W. Fisheries (or the Director’s nominee) on business of that Council or such a Committee; or
- (h) by omitting clause 7 (5) (a)–(c) and by inserting instead the following paragraphs:
 - (a) a meeting of the Commercial Fishing Advisory Council in the capacity of member of that Council; or
 - (b) a meeting of a Regional Advisory Committee in the capacity of member of that Committee; or
 - (c) a conference or deputation with the Director of N.S.W. Fisheries (or the Director’s nominee) on business of that Council or such a Committee; or
- (i) by omitting clause 17 (1) (c) and (d) and by inserting instead the following paragraphs:
 - (c) In waters (other than ocean waters and sea beaches):
 - (i) the bunt of the net is in the centre of the net; and
 - (ii) the net has 2 wings of equal length.
 - (d) In ocean waters and sea beaches, the bunt of the net:
 - (i) is in the centre of the net and the net has 2 wings of equal length; or
 - (ii) is located between the end of the net first cast or shot and the centre of the net.
- (j) by inserting after clause 17 (1) (i) the following paragraph:
 - (k) the net is operated by at least 2 licensed fishermen.

- (k) by omitting from item 7 (b) of the Table to clause 17 the word “one-quarter” and by inserting instead the word “one-third”;
- (l) by omitting from the Tables to clauses 19, 23, 24 and 26 the matter “32” wherever occurring and by inserting instead the matter “36”;
- (m) by inserting after clause 20 (1) (a) the following paragraph:
 - (b) In offshore ocean waters, the net is not landed by any method other than onto the tray of the boat.
- (n) by omitting from item 1 (a) of the Table to clause 20 the words “; all ocean waters and sea beaches”;
- (o) by inserting after item 1 of the Table to clause 20 the following item:
 - 2. (a) *Waters*—Ocean waters and sea beaches.
 - (b) *Description of net*—Mesh of not less than 28 mm nor more than 85 mm.
- (p) by omitting from the Table to clause 25 the matter “30” wherever occurring and by inserting instead the matter “36”;
- (q) by omitting clause 45 (1) and by inserting instead the following subclauses:
 - (1) All fish (other than a prohibited size class of fish or fish the taking of which is prohibited) taken by a garfish net (hauling) when lawfully used for taking garfish may be retained by the person using that net.
 - (1A) All fish (other than prohibited size fish or fish the taking of which is prohibited) taken by a prawn net (hauling), a push or scissors net (prawns) or a dip or scoop net (prawns) when lawfully used for taking prawns may be retained by the person using that net.
- (r) by omitting clause 49 and by inserting instead the following clause:

Illegally reducing mesh size of nets

49. (1) For the purposes of this Part, it is unlawful for a person to use a net:

- (a) in which any meshes are wholly or partly covered; or
 - (b) in which any string, rope, wire, cord, netting or other material is fixed to any meshes; or
 - (c) in which any meshes (or any bars) are twisted,
- in any manner so as to reduce the effective mesh size of the meshes to less than that specified under this Part as lawful.

- (2) Despite subclause (1), a person may attach a chafing piece to the cod-end of an otter trawl net (prawns) if:
- (a) the chafing piece is attached to the net at the top of the cod-end; and
 - (b) the width of the chafing piece does not exceed half the effective operating diameter of the cod-end; and
 - (c) the chafing piece is hung along the cod-end and is not attached in any manner to the cod-end other than at the top; and
 - (a) the mesh of the chafing piece is not less than 80 mm.
- (s) by omitting clause 53 (1) (a) and by inserting instead the following paragraph:
- (a) The fish trap is not set or used unless its position is indicated by a buoy which:
 - (i) is moored so as to be positioned directly above the trap; and
 - (ii) has a diameter above the water of not less than 100 mm; and
 - (iii) has a weight of not less than 500 gm suspended not less than 5 metres under the float so that no rope is floating on the surface of the water; and
 - (iv) in the case of a trap set or used by a licensed fisherman—displays “LFB” followed by the licence number of the boat used to set the trap and “F” at the end of that number, in letters and figures which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy; and
 - (v) in the case of any other trap—displays the words “FISH TRAP” and the name of the person who set the trap, in letters which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy.
- (t) by inserting before clause 54 (1) (a) the following paragraph:
- (a) The lobster trap is not set or used unless its position is indicated by a buoy which:
 - (i) is moored so as to be positioned directly above the trap; and
 - (ii) has a diameter above the water of not less than 100 mm; and

- (iii) has a weight of not less than 50 gm suspended not less than 1.5 metres under the float so that no rope is floating on the surface of the water; and
 - (iv) in the case of a trap set or used by a licensed fisherman—displays “LFB” followed by the licence number of the boat used to set the trap and “L” at the end of that number, in letters and figures which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy; and
 - (v) in the case of any other trap—displays “L” followed by the name of the person who set the trap, in letters which are not less than 50 mm in height and are of a colour which contrasts with that of the buoy.
- (u) by renumbering clause 54 (1) (a) as clause 54 (1) (b).

EXPLANATORY NOTE

The object of this Regulation is to amend the Fisheries and Oyster Farms (Nets and Other Fishing Gear) Regulation 1989 as follows:

- (a) to allow licensed fishermen (when indicating their intention to prawn in certain waters) to nominate more fishing boats than they expect to use so that they are not prevented from prawning because of boat breakdowns or other unforeseen circumstances;
- (b) to amend the provision exempting licensed fishermen from being personally present during prawning in certain waters to enable them to carry out other professional responsibilities by replacing references to meetings of the New South Wales Association of Professional Fishermen or its Board with references to the Commercial Fishing Advisory Council and Regional Advisory Committees;
- (c) to alter the permitted methods of operating hauling nets (general purpose);
- (d) to increase the permissible maximum mesh size of the following nets:
 - garfish net (bullringing)
 - garfish net (hauling)
 - prawn net (hauling)
 - prawn net (set pocket)
 - prawn running net
 - seine net (prawns)
- (e) to restrict the fish which may be retained by licensed fishermen when the fish have been caught by a garfish net (hauling);
- (f) to amend the provision prohibiting the reduction of the mesh size of nets so as to allow certain objects to be attached to the nets to prevent the nets from being damaged while in use;

- (g) to omit the requirement for poles to be attached to buoys which indicate the position of fish traps and to change the requirements for the marking of such buoys;
 - (h) to require the position of lobster traps to be indicated by buoys marked in a specified manner.
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