



Queensland

Fisheries Amendment Regulation (No. 1) 2007

Subordinate Legislation 2007 No. 22

made under the

Fisheries Act 1994

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1 Short title

This regulation may be cited as the *Fisheries Amendment Regulation (No. 1) 2007*.

2 Regulation amended

This regulation amends the *Fisheries Regulation 1995*.

3 Amendment of s 2A (References to latitudes and longitudes)

Section 2A(3)(d)—

omit, insert—

‘(d) a provision of former schedule 5B, as applied under part 13, division 3;’.

4 Insertion of new pt 5C, div 2, sdiv 1 hdg

Part 5C, after division 2 heading—

insert—

‘Subdivision 1 Entitlement’.**5 Amendment of s 25F (Meaning of *entitlement* of SM unit holder)**

Section 25F(5)—

omit.

6 Insertion of new s 25FA and pt 5C, div 2, sdiv 2 hdg

After section 25F—

insert—

‘25FA Meaning of *prescribed weight* of spanish mackerel for an SM unit

‘(1) For section 25F(1), the *prescribed weight*, of spanish mackerel, for an SM unit, is—

(a) 1kg of (whole weight) spanish mackerel; or

- (b) if, on the relevant day, the total number of SM units issued is more than 619520—the amount, of kilograms of (whole weight) spanish mackerel (the *adjusted weight equivalent*), worked out under subsection (2).
- ‘(2) If subsection (1)(b) applies, the adjusted weight equivalent is the amount worked out by using the following formula—

$$WWE = \frac{619520}{NSM}$$

where—

WWE is the adjusted weight equivalent for an SM unit.

NSM is the number of SM units issued by the chief executive.

- ‘(3) In this section—

relevant day means the earliest day on which—

- (a) all appeals against decisions about amending a licence by writing the fishery symbol ‘SM’ on the licence, are ended or fully decided; and
- (b) the chief executive has decided all applications for the issue of SM units under former schedule 5B, part 3, as applied under section 124; and
- (c) the period to appeal against all decisions about the issue of SM units has ended; and
- (d) all appeals against decisions about the issue of SM units are ended or fully decided; and
- (e) if, in deciding an appeal mentioned in paragraph (a) or (d), the tribunal has given the chief executive directions—the directions have been complied with.

‘Subdivision 2 Use of SM unit entitlements’.

7 Insertion of new s 25IA

After section 25I—

insert—

‘25IA Replacement SM unit certificate for adjusted weight equivalent of spanish mackerel

- ‘(1) This section applies if the adjusted weight equivalent of (whole weight) spanish mackerel is worked out under section 25FA(2).
- ‘(2) As soon as practicable after the adjusted weight equivalent is worked out, the chief executive must give each SM unit holder a replacement SM unit certificate that reflects the adjusted weight equivalent.’.

8 Amendment of s 25QA (Issue of fisher PIN for particular transferees)

Section 25QA(2), ‘(a *fisher PIN*)’—
omit.

9 Amendment of s 27 (Notice of filling of particular quotas)

Section 27(1)(b), ‘issued under schedule 5B’—
omit.

10 Amendment of s 42A (Restrictions on writing fishery symbol ‘SM’)

- (1) Section 42A(b)—
omit.
- (2) Section 42A(c), ‘schedule 5B, part 2’—
omit, insert—
‘former schedule 5B, part 2, or the part as applied under section 122 or 123’.
- (3) Section 42A(c)—
renumber as section 42A(b).

11 Amendment of pt 13 hdg

Part 13 heading, after ‘Transitional’—

insert—

‘and savings’.

12 Insertion of new pt 13, div 3

After section 120—

insert—

‘Division 3 Savings provisions for former schedule 5B

‘Subdivision 1 Definitions

‘121 Definitions for div 3

‘In this division—

eligible SM unit applicant means a person who—

- (a) before the expiry of former schedule 5B, made an appeal that—
 - (i) was against a decision the subject of a notice under section 21(1), 24(2) or 32(2) of the schedule; and
 - (ii) had not been decided before the expiry of the schedule; and
- (b) as a result of the decision on the appeal, or a later decision made by the chief executive or the tribunal, is the holder of a licence on which the fishery symbol ‘SM’ has been written.

relevant existing decision see section 122(1)(a).

relevant SM unit provisions see section 124(2)(a).

SM unit decision see section 125(1).

‘Subdivision 2 Directions and appeals relating to relevant existing decisions

‘122 Continuation of former sch 5B for following tribunal’s directions

- ‘(1) This section applies if—
- (a) before the expiry of former schedule 5B, a person appealed against a decision (a *relevant existing decision*) the subject of a notice under former schedule 5B, section 21(1), 24(2), 32(2) or 49(8); and
 - (b) the appeal is, or was, decided after the expiry of the schedule, whether before or after the commencement of this section; and
 - (c) in deciding the appeal, the tribunal sets, or has set, the relevant existing decision aside and returns, or has returned, the matter to the chief executive with directions under section 199(1)(c) of the Act.
- ‘(2) To remove any doubt, for following the directions, including, if directed by the tribunal, making a decision, former schedule 5B, parts 1 and 2 and part 3, divisions 1 to 3, continue to apply, and are taken to have always applied, as if the schedule had not expired.
- ‘(3) Subsection (2) also applies, if in deciding an appeal against a decision mentioned in the subsection, the tribunal sets the decision aside and returns the matter to the chief executive with directions under section 199(1)(c) of the Act.

‘123 Continuation of former sch 5B for deciding certain appeals

- ‘(1) This section applies if—
- (a) before the expiry of former schedule 5B, a person appealed against a relevant existing decision; and
 - (b) the appeal has not been decided.
- ‘(2) This section also applies if a person appeals against a decision mentioned in section 122(2).

- ‘(3) For deciding the appeal, former schedule 5B, parts 1 and 2 and part 3, divisions 1 to 3, continue to apply, and are taken to have always applied, as if the schedule had not expired.

‘Subdivision 3 Applications for SM units

‘124 Continuation of former sch 5B for eligible SM unit applicant applying for SM units

- ‘(1) An eligible SM unit applicant may apply to the chief executive, under former schedule 5B, part 3, for the issue of SM units.
- ‘(2) For an eligible SM unit applicant making the application and the application being decided—
- (a) the following provisions of former schedule 5B (the *relevant SM unit provisions*) continue to apply as if the schedule had not expired—
- (i) parts 1 and 2;
- (ii) part 3, divisions 1 to 3, other than sections 36(2), section 37, definition *eligible holder*, 47(e), 48(2)(a) and 56; and
- (b) a reference in a relevant SM unit provision to an eligible holder is taken to be a reference to an eligible SM unit applicant.

‘125 Continuation of former sch 5B for deciding appeals against SM unit decisions

- ‘(1) Subsection (3) applies if an eligible SM unit applicant appeals against a decision made under former schedule 5B, section 49(1), as applied under section 124(2), (an *SM unit decision*).
- ‘(2) Subsection (3) also applies if an eligible SM unit applicant appeals against a decision mentioned in section 126(2).
- ‘(3) For deciding the appeal, the relevant SM unit provisions, as changed under section 124(2)(b), continue to apply as if former schedule 5B had not expired.

‘126 Continuation of former sch 5B for following tribunal’s directions

- ‘(1) Subsection (2) applies if, in deciding an appeal against an SM unit decision, the tribunal sets the decision aside and returns the matter to the chief executive with directions under section 199(1)(c) of the Act.
- ‘(2) For following the directions, including, if directed by the tribunal, making a decision, the relevant SM unit provisions, as changed under section 124(2)(b), continue to apply as if former schedule 5B had not expired.
- ‘(3) Subsection (2) also applies, if in deciding an appeal against a decision mentioned in the subsection, the tribunal sets the decision aside and returns the matter to the chief executive with directions under section 199(1)(c) of the Act.’.

13 Amendment of sch 17 (Definitions)

- (1) Schedule 17, part 2, definitions *SM unit* and *unit PIN*—
omit.

- (2) Schedule 17, part 2—
insert—

‘*eligible SM unit applicant*, for part 13, division 3, see section 121.

former schedule 5B means expired schedule 5B as in force immediately before it expired.

Editor’s note—

Schedule 5B expired 11 September 2006. For the text of the schedule immediately before its expiry, see superseded reprint 8B of this regulation.

relevant existing decision, for part 13, division 3, see section 121.

relevant SM unit provisions, for part 13, division 3, see section 121.

SM unit means a unit issued under former schedule 5B, part 3 or the part as applied under part 13, division 3.

SM unit decision, for part 13, division 3, see section 121.

unit PIN, for SM units, means the 4-digit identity number issued for the units under former schedule 5B, section 49(8)(a)(ii) or the provision as applied under part 13, division 3.’.

- (3) Schedule 17, part 2, definition *current fisher PIN*, paragraph (b)—

omit, insert—

‘(b) otherwise—the fisher PIN originally issued to the holder of the units under—

(i) section 25QA(2); or

(ii) former schedule 5B, section 49A(2) or the provision as applied under part 13, division 3.’.

- (4) Schedule 17, part 2, definition *fisher PIN*, paragraph (b)—

omit, insert—

‘(b) for SM units—means the 4-digit identity number issued for the units under—

(i) section 25QA(2); or

(ii) former schedule 5B, section 49A(2) or the provision as applied under part 13, division 3.’.

- (5) Schedule 17, part 2, definition *SM (Flat Rock) fishery licence*, ‘schedule 5B’—

omit, insert—

‘former schedule 5B’.

ENDNOTES

- 1 Made by the Governor in Council on 1 March 2007.
- 2 Notified in the gazette on 2 March 2007.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Primary Industries and Fisheries.

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