



Queensland

Primary Industries and Fisheries Legislation Amendment Regulation (No. 1) 2009

Subordinate Legislation 2009 No. 33

made under the

Fisheries Act 1994

Food Production (Safety) Act 2000

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[s 1]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Primary Industries and Fisheries Legislation Amendment Regulation (No. 1) 2009*.

2 Commencement

- (1) The following provisions of this regulation commence on 1 July 2009—
 - sections 38, 46, 47, 49, 52, 61 and 62
 - section 58, other than to the extent it inserts chapter 4A heading and section 134H
 - section 60, to the extent it inserts sections 137 and 138
 - section 63, other than to the extent it inserts definition *production*.
- (2) Parts 2 to 6, other than section 38, commence on 1 January 2010.

Part 2 Amendment of Fisheries (Coral Reef Fin Fish) Management Plan 2003

3 Plan amended in pt 2

This part amends the *Fisheries (Coral Reef Fin Fish) Management Plan 2003*.

4 Amendment of s 150 (Criteria for suspending authorities)

Section 150(1)(d)—

omit.

Part 3 Amendment of Fisheries (East Coast Trawl) Management Plan 1999

5 Plan amended in pt 3

This part amends the *Fisheries (East Coast Trawl) Management Plan 1999*.

6 Amendment of s 233 (Restrictions on processing scallops on commercial fishing boat)

Section 233(2)(d)(iii)—

omit.

Part 4 Amendment of Fisheries (Freshwater) Management Plan 1999

7 Plan amended in pt 4

This part amends the *Fisheries (Freshwater) Management Plan 1999*.

[s 8]

8 Amendment of s 50 (Selling or processing eels taken under eel licence)

Section 50—

omit.

Part 5 Amendment of Fisheries Regulation 2008

9 Regulation amended in pt 5

This part amends the *Fisheries Regulation 2008*.

10 Amendment of s 173 (Possession of regulated fish obtained from particular persons)

Section 173(b), ‘to a person who was authorised to buy the fish’—

omit.

11 Amendment of s 205 (Types of licences)

(1) Section 205(a)—

omit.

(2) Section 205(b) to (f)—

renumber as section 205(a) to (e).

(3) Section 205, note—

omit, insert—

‘Note—

Part 5 provides for matters relating to licences mentioned in paragraphs (a) and (b) and parts 6 to 9 provide for matters relating to the licences mentioned in paragraphs (c) to (e).’.

-
- 12 Amendment of s 212 (Authorities that continue after holder's death—Act, s 70C)**
- (1) Section 212(a)—
omit.
- (2) Section 212(b) to (i)—
renumber as section 212(a) to (h).
- 13 Amendment of s 219 (Developmental fishing permit)**
- Section 219(d)—
omit, insert—
'(d) sell the fish.'
- 14 Amendment of s 220 (Indigenous fishing permit)**
- Section 220(d)—
omit, insert—
'(d) sell the fish.'
- 15 Omission of ch 5, pt 5, div 1 (Buyer licence)**
- Chapter 5, part 5, division 1—
omit.
- 16 Renumbering of ch 5, pt 5, divs 2 and 3**
- Chapter 5, part 5, divisions 2 and 3—
renumber as chapter 5, part 5, divisions 1 and 2.
- 17 Amendment of s 232 (Authorisation—commercial fisher)**
- Section 232(e)—
omit, insert—
'(e) sell the fish;'

[s 18]

18 Amendment of s 246 (Authorisation under a commercial fishing boat licence)

Section 246(1)(e)—

omit, insert—

‘(e) sell fish taken under this subsection;’.

19 Amendment of s 248 (Authorisation under a commercial harvest fishery licence)

Section 248(1)(e)—

omit, insert—

‘(e) sell the fish;’.

20 Amendment of s 286 (Selling fish)

Section 286, ‘to anyone’—

omit.

21 Omission of s 289 (Selling fish under the licence)

Section 289—

omit.

22 Amendment of s 299 (Selling bêche-de-mer)

Section 299, from ‘may only’—

omit, insert—

‘may be sold only by the licence holder or a nominee of the licence holder under section 294(1)(b).’.

23 Amendment of s 310 (Selling coral)

Section 310, ‘to anyone’—

omit.

- 24 Omission of s 319 (Selling molluscs)**
Section 319—
omit.
- 25 Omission of s 327 (Selling shell grit)**
Section 327—
omit.
- 26 Omission of s 335 (Selling star sand)**
Section 335—
omit.
- 27 Omission of s 345 (Selling trochus)**
Section 345—
omit.
- 28 Omission of s 354 (Selling juvenile eels)**
Section 354—
omit.
- 29 Omission of s 363 (Selling oysters)**
Section 363—
omit.
- 30 Omission of s 377 (Selling beachworms)**
Section 377—
omit.

[s 31]

31 Omission of s 384 (Selling bloodworms)

Section 384—

omit.

32 Omission of s 392 (Selling marine yabbies)

Section 392—

omit.

33 Omission of s 631 (Buying Queensland fisheries resources before second point of sale)

Section 631—

omit.

34 Amendment of s 632 (Selling Queensland fisheries resources before second point of sale)

Section 632(1)—

omit, insert—

‘(1) A person (a *seller*) may sell fisheries resources taken from Queensland waters only if the seller—

(a) holds an authority that authorises the sale; and

(b) gives the person buying the fisheries resources the number of the authority.’.

35 Omission of s 633 (Processing Queensland fisheries resources before second point of sale)

Section 633—

omit.

36 Amendment of s 655 (Information requirements for wholesale sale of fisheries resources)

(1) Section 655(1)(b)—

omit, insert—

‘(b) the buyer’s accreditation number under the seafood food safety scheme or, if the buyer is not accredited under the scheme, the address of the buyer;’.

(2) Section 655—

insert—

‘(3) In this section—

seafood food safety scheme means the seafood scheme under the *Food Production (Safety) Act 2000*.’.

37 Replacement of ss 656 and 657

Sections 656 and 657—

omit, insert—

‘656 Additional requirements for wholesale seller of fisheries resources

‘(1) The seller must keep a copy of the sale docket for the sale of the fish for 5 years after the day the seller stops possessing the fish.

‘(2) If the seller consigns fish to the buyer, the seller must ensure the consignment is accompanied by a copy of the sale docket for the sale of the fish.

‘657 Additional requirements for wholesale buyer of fisheries resources

‘(1) The buyer must keep the sale docket for the sale of the fish available for immediate inspection while the buyer possesses the fisheries resources, or part of the fisheries resources, to which the docket relates.

[s 38]

- ‘(2) The buyer must keep a copy of the sale docket for the sale of the fish for 5 years after the day the buyer stops possessing the fish.’.

38 Insertion of new ch 16, pt 2, div 3

Chapter 16, part 2—

insert—

‘Division 3 Transitional provisions for Primary Industries and Fisheries Legislation Amendment Regulation (No. 1) 2009

‘735 Applications for buyer licence

- ‘(1) Despite section 205(a), the chief executive may not issue a buyer licence after the commencement of this section.
- ‘(2) Subsections (3) and (4) apply to an application for the issue of a buyer licence if—
- (a) the application was made before the commencement of this section; and
 - (b) the application has not been decided on the commencement.
- ‘(3) The application is taken to have lapsed.
- ‘(4) The chief executive must refund the fee accompanying the application.

‘736 Buyer licence fees for accreditation holders under seafood food safety scheme

- ‘(1) This section applies to the holder of a buyer licence if the holder is granted an accreditation under the seafood food safety scheme before 1 January 2010.
- ‘(2) If the accreditation is granted between the commencement of this section and 30 September 2009, the fee under schedule 9,

table 3, is not payable for the buyer licence by the holder for the period from the commencement to 31 December 2009.

- ‘(3) If the accreditation is granted between 1 October 2009 and 31 December 2009, the fee under schedule 9, table 3, is not payable for the buyer licence by the holder for the period from 1 October 2009 to 31 December 2009.
- ‘(4) From the day the accreditation is granted, the buyer licence is taken to be no longer in force.
- ‘(5) In this section—

accreditation means an accreditation granted under the *Food Production (Safety) Act 2000*, part 5.’.

seafood food safety scheme means the seafood food safety scheme under the *Food Production (Safety) Act 2000*.’.

39 Amendment of sch 2 (Regulated fish declarations)

Schedule 2, part 2, entry for saucer scallop—

omit, insert—

‘saucer scallop	F	scallop meat that has been removed from the shell	a person possessing the fish on a boat unless— (a) the fish were processed on a commercial fishing boat in the waters mentioned in the East Coast Trawl Plan, schedule 6; and (b) the licence for the boat is a ‘T1’ licence under the East Coast Trawl Plan; and (c) the person in control of the boat is a commercial fisher
	N S	more than the threshold percentage of 7% of fish less than 9cm	a person taking, possessing or selling the fish’.

[s 40]

40 Amendment of sch 9 (Other fees)

- (1) Schedule 9, table 3, entry for item 1—
omit.
- (2) Schedule 9, table 3, items 2 to 6—
renumber as schedule 9, table 3, items 1 to 5.

41 Amendment of sch 11 (Dictionary)

Schedule 11, part 2, definition *buyer licence*—
omit.

**Part 6 Amendment of Fisheries
(Spanner Crab) Management
Plan 1999**

42 Plan amended in pt 6

This part amends the *Fisheries (Spanner Crab) Management Plan 1999*.

43 Omission of s 83 (Buyer licences—conditions)

Section 83—
omit.

**44 Amendment of s 85 (Criteria for suspending certain
authorities—convictions)**

- (1) Section 85(1)(c)—
omit.
- (2) Section 85(1)(d)—
renumber as section 85(1)(c).

Part 7 **Amendment of Food Production (Safety) Regulation 2002**

45 **Regulation amended in pt 7**

This part amends the *Food Production (Safety) Regulation 2002*.

46 **Amendment of s 9 (Preparation of programs and management statements)**

(1) Section 9(2)—

insert—

Note—

In relation to whether a program or management statement is required under a food safety scheme—

- for the dairy scheme—see section 57B
- for the egg scheme—see section 87CB
- for the meat scheme—see section 89B
- for the seafood scheme—see section 134F.’.

(2) Section 9(3)—

insert—

Note—

For an applicant engaging in the production of bivalve molluscs under the seafood scheme, see section 134V.’.

47 **Amendment of s 16 (Record keeping requirements)**

Section 16(1)—

insert—

‘(d) for the seafood scheme—section 134T.’.

[s 48]

48 Insertion of new s 28A

After section 28—

insert—

‘28A Waiver of prescribed fee for approval as auditor

‘Safe Food may waive the prescribed fee payable for an approval, or renewal of approval, as an auditor if the applicant is employed by Safe Food as an auditor.’.

49 Amendment of s 31 (Application of pt 4)

Section 31(1), ‘scheme’—

omit, insert—

‘scheme, other than the seafood scheme’.

50 Amendment of ch 2, pt 5, div 1, hdg

Chapter 2, part 5, division 1, heading, ‘requirements’—

omit, insert—

‘**requirement**’.

51 Omission of s 41 (Audits of program)

Section 41—

omit.

52 Amendment of s 43 (Frequency of audits for risk category)

(1) Section 43(3)—

insert—

‘(d) for the seafood scheme—in schedule 5A, part 1.’.

(2) Section 43(4), from ‘for the meat scheme’—

omit, insert—

‘are mentioned—

(a) for the meat scheme—in schedule 5, part 2; or

(b) for the seafood scheme—in schedule 5A, part 2.’.

(3) Section 43(5)—

insert—

‘(d) for the seafood scheme—in schedule 5A, part 3.’.

53 Amendment of s 57B (Requirement for program)

(1) Section 57B, heading, after ‘program’—

insert—

‘or management statement’.

(2) Section 57B, ‘or producer’—

omit.

(3) Section 57B—

insert—

‘(2) An applicant for a grant or renewal of an accreditation under the dairy scheme as a producer must prepare a management statement under the scheme.’.

54 Omission of ch 3, pt 3, div 6 (Auditing requirements)

Chapter 3, part 3, division 6—

omit.

55 Amendment of s 87CB (Requirement for program or management statement)

(1) Section 87CB(1), ‘or producer’—

omit.

(2) Section 87CB(2), ‘transporter’—

[s 56]

omit, insert—

‘producer or transporter’.

56 Amendment of s 87J (Identifying eggs and egg products)

Section 87J, ‘to a retailer, manufacturer or commercial user’—

omit.

57 Amendment of s 89B (Requirement for program or management statement)

(1) Section 89B(1), after ‘meat scheme’—

omit, insert—

‘as any of the following must prepare a program under the scheme—

- (a) an exporter or processor;
- (b) a retailer who undertakes a high risk activity under the scheme.’.

(2) Section 89B(2), after ‘meat scheme’—

omit, insert—

‘as any of the following must prepare a management statement under the scheme—

- (a) a cold store operator, game box operator, transporter or wild game harvester;
- (b) a retailer who does not undertake a high risk activity under the scheme.’.

58 Insertion of new ch 4A

After chapter 4—

insert—

‘Chapter 4A Seafood scheme

‘Part 1 Preliminary

‘134A Purpose of ch 4A

‘The main purpose of this chapter is to give effect to the food standards code, standard 4.2.1 (Primary production and processing standard for seafood), known as the ‘National Seafood Standard’.

Editor’s note—

The National Seafood Standard may be viewed on Safe Food’s website at <www.safefood.qld.gov.au>.

‘Part 2 Contents of seafood scheme

‘134B Seafood scheme applies for particular seafood

- ‘(1) The seafood food safety scheme (the *seafood scheme*) applies for estuarine, freshwater or marine fish, and other aquatic animals, intended for human consumption.
- ‘(2) However, the seafood scheme does not apply to amphibians, aquatic plants, mammals or reptiles.

‘134C Production of seafood for which seafood scheme applies

‘The seafood scheme applies for the production of seafood, including, for example, the following—

- (a) catching, collecting, cultivating, growing, harvesting or picking seafood;

[s 58]

- (b) handling, processing or transporting seafood, at any stage, from seafood premises to a retailer, commercial user of seafood or manufacturer of seafood;
- (c) freezing, packing, refrigerating, storing, treating or washing seafood;
- (d) dismembering, filleting, peeling or shucking seafood;
- (e) adding brine to seafood;
- (f) boiling crustaceans or shellfish;
- (g) supplying seafood from seafood premises.

‘134D Production of seafood for which seafood scheme does not apply

‘(1) Despite section 134C, the seafood scheme does not apply for the following—

- (a) manufacturing seafood;
- (b) taking seafood by an Aborigine or Torres Strait Islander under Aboriginal tradition or Island custom;
- (c) harvesting seafood for personal consumption.

Example—

recreational catch

‘(2) Also, the seafood scheme does not apply to a business that—

- (a) processes seafood, other than bivalve molluscs, at premises other than on a commercial fishing boat or at an aquaculture facility; and
- (b) only supplies the seafood directly to a person for the person’s consumption.

Example—

cooking and selling seafood at a fish and chip shop

‘(3) In this section—

manufacturing, in relation to seafood, means dealing with the seafood under a process, including, for example, canning the

[s 58]

‘Part 4 Food safety requirements

‘Division 1 Preliminary

‘134G Application of pt 4

‘This part applies for food safety requirements for the seafood scheme.

‘Division 2 General

‘Subdivision 1 Information requirements

‘134H Information about seafood business to be given to Safe Food

- ‘(1) This section applies to a person who has the management and control of a business that engages in the production of seafood and is, or is required to be, an accreditation holder under the seafood scheme.
- ‘(2) Before starting production of seafood, the person must, in writing, give Safe Food the following information about the person’s business—
 - (a) the contact details for the business, including its business name;
 - (b) the name and business address of the proprietor of the business;
 - (c) the nature of the business;
 - (d) the location of all premises intended to be used by the person for the production of seafood.

Maximum penalty—20 penalty units.

- ‘(3) Before any change happens in the person’s business that will result in information given by the person to Safe Food under

this section being incomplete or inaccurate, the person must give Safe Food written notice of the change unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

‘Subdivision 2 Seafood production activities

‘134I Seafood safety management

‘(1) An accreditation holder who engages in the production of seafood must—

(a) systematically examine all of the holder’s activities in relation to the seafood—

(i) to identify potential food safety hazards for the seafood; and

(ii) to implement controls that are appropriate for managing the food safety hazards; and

(b) keep records or other evidence to demonstrate that the holder has implemented controls that are appropriate for managing the food safety hazards.

Maximum penalty—20 penalty units.

‘(2) In this section—

controls mean the following—

(a) measures to control hazards from air, bait or other feedstuff, fertilizers, pesticides, soil, veterinary drugs, water or any other agent used in the production of seafood;

(b) measures to protect any seafood from contamination by faeces or another substance.

fertilizer includes a natural fertilizer.

[s 58]

‘134J Contamination and handling

- ‘(1) An accreditation holder who engages in the production of seafood must take all necessary steps to prevent the seafood becoming contaminated.

Maximum penalty—20 penalty units.

- ‘(2) An accreditation holder who engages in the production of seafood at seafood premises must take all reasonable measures to ensure that seafood handlers at the premises handle the seafood, or surfaces likely to come into contact with the seafood, in a way that is not likely to affect the acceptability of the seafood.

Maximum penalty—20 penalty units.

‘134K Inputs and harvesting areas

- ‘(1) An accreditation holder who engages in the production of seafood must take all reasonable steps to ensure inputs do not adversely affect the acceptability of the seafood.

Maximum penalty—20 penalty units.

- ‘(2) An accreditation holder must not harvest seafood in an area if the holder knows, or ought reasonably to know, the seafood may not be acceptable for human consumption when it is sold.

Maximum penalty—20 penalty units.

- ‘(3) In this section—

inputs means any chemicals or feed or other substances used in, or in connection with, the production of seafood.

‘134L Storing seafood

- ‘(1) An accreditation holder who stores seafood, other than live seafood, must—

- (a) store the seafood under temperature control; and
(b) have a way of monitoring the temperature of the seafood while it is stored.

Maximum penalty—20 penalty units.

- ‘(2) An accreditation holder who stores live seafood must store the seafood in a way that will not adversely affect the acceptability of the seafood.

Maximum penalty—20 penalty units.

‘134M Transporting seafood

- ‘(1) An accreditation holder who transports seafood, other than live seafood, must—

- (a) transport the seafood under temperature control; and
- (b) have a way of monitoring the temperature of the seafood during the transportation.

Maximum penalty—20 penalty units.

- ‘(2) An accreditation holder who transports live seafood must transport the seafood under conditions that will not adversely affect the acceptability of the seafood.

Maximum penalty—20 penalty units.

‘134N Packaging seafood

‘An accreditation holder who packages seafood must—

- (a) use only packaging material that is—
 - (i) fit for its intended use; and
 - (ii) not likely to cause contamination of the seafood; and
- (c) take all reasonable measures to ensure that the seafood does not become contaminated during the packaging of the seafood.

Maximum penalty—20 penalty units.

[s 58]

‘134O Seafood for disposal

- ‘(1) An accreditation holder who engages in the production of seafood must ensure that seafood for disposal is held and kept separate until—
- (a) the seafood is destroyed, or otherwise used or disposed of, so that it can not be used for human consumption; or
 - (b) the seafood is returned to its supplier; or
 - (c) the seafood is processed in a way that ensures it is acceptable; or
 - (d) the accreditation holder ascertains by validation, and Safe Food agrees, that the seafood is acceptable for sale.

Maximum penalty—20 penalty units.

- ‘(2) The accreditation holder must clearly identify any seafood that is held and kept separate under subsection (1) as—
- (a) recalled seafood; or
 - (b) returned seafood; or
 - (c) seafood that is acceptable; or
 - (d) seafood that may not be acceptable.

Maximum penalty—20 penalty units.

- ‘(3) In this section—

seafood for disposal means—

- (a) seafood that is subject to a recall, has been returned or is not acceptable; or
- (b) seafood the accreditation holder reasonably suspects is not acceptable.

‘134P Receipt of seafood

- ‘(1) An accreditation holder who engages in the production of seafood must take all reasonable steps to ensure the holder accepts only seafood that is protected from the likelihood of contamination.

Maximum penalty—20 penalty units.

- ‘(2) An accreditation holder who is receiving seafood, other than live seafood, must take all reasonable measures to ensure the holder accepts only seafood that is under temperature control.

Maximum penalty—20 penalty units.

- ‘(3) An accreditation holder who is receiving live seafood must take all reasonable measures to ensure the seafood has been transported in a way that has not or will not adversely affect the acceptability of the seafood.

Maximum penalty—20 penalty units.

‘134Q Skills and knowledge

‘An accreditation holder who engages in the production of seafood at seafood premises must ensure each seafood handler at the premises has the following, appropriate for the handler’s work and the food safety hazards relevant to the production of the seafood—

- (a) skills in food safety and food hygiene;
- (b) knowledge of food safety and food hygiene matters.

Maximum penalty—20 penalty units.

‘Division 3 Health and hygiene of persons, and premises, vehicles and equipment

‘134R Health and hygiene requirements

- ‘(1) A seafood handler at seafood premises must, in the handling or supervision of the production of seafood at the premises, exercise personal hygiene and health practices that—

- (a) are appropriate for managing the food safety hazards relevant to the production of the seafood; and
- (b) do not adversely affect the acceptability of the seafood.

Maximum penalty—20 penalty units.

[s 58]

- ‘(2) Subsection (3) applies if a seafood handler at seafood premises knows, or ought reasonably to know, the handler—
- (a) has a symptom that indicates the handler may have a food-borne disease; or
 - (b) has a food-borne disease; or
 - (c) is a carrier of a food-borne disease.

- ‘(3) The seafood handler must not handle seafood at the premises if there is a reasonable likelihood of contamination of the seafood because of the disease.

Maximum penalty—20 penalty units.

- ‘(4) An accreditation holder must take all reasonable measures to ensure a seafood handler at the holder’s seafood premises exercises personal hygiene and health practices at the premises that—

- (a) are appropriate for managing the food safety hazards relevant to the production of the seafood; and
- (b) do not adversely affect the acceptability of the seafood.

Maximum penalty—20 penalty units.

- ‘(5) In this section—

food-borne disease means a disease caused by consuming food containing bacteria, pathogens or viruses.

‘134S Seafood premises and equipment

- ‘(1) This section applies to—
- (a) an accreditation holder’s seafood premises, including live seafood premises; and
 - (b) the equipment used in the production of seafood at the premises.
- ‘(2) The accreditation holder must ensure the seafood premises and equipment are kept clean, so far as is reasonably necessary, and are designed, constructed, maintained and

operated in a way that the acceptability of seafood produced at the premises will not be adversely affected.

Maximum penalty—20 penalty units.

‘(3) For the seafood premises and equipment, the accreditation holder must comply with—

(a) the food standards code, standards 3.2.2, division 5 and 3.2.3; or

Editor’s note—

food standards code, standards 3.2.2 (Food safety practices and general requirements), division 5 (Cleaning, sanitising and maintenance) and 3.2.3 (Food premises and equipment)

(b) other requirements approved or imposed by Safe Food.

Examples—

- requirements in an approved program or approved management statement
- conditions imposed on an accreditation

Maximum penalty—20 penalty units.

‘(4) In this section—

live seafood premises—

(a) means seafood premises used for the production of live seafood; and

(b) includes sea cages.

‘Division 4 Records

‘134T Tracing seafood

‘An accreditation holder who engages in the production of seafood must, to ensure the safety of the seafood, keep records to identify the following—

(a) any person who supplies the seafood to the holder;

[s 58]

- (b) any person to whom the holder supplies the seafood.
Maximum penalty—20 penalty units.

‘Division 5 Bivalve molluscs

‘134U Application of div 5

- ‘(1) This division applies to an accreditation holder who engages in the production of bivalve molluscs.
- ‘(2) The food safety requirements mentioned in division 2, 3 or 4 apply to the accreditation holder in addition to the food safety requirements mentioned in this division.

‘134V Types of programs

- ‘(1) If the accreditation holder is a processor, the holder’s program complies with section 9 if the program—
 - (a) is a program under the food standards code, standard 3.2.1; or
Editor’s note—
food standards code, standard 3.2.1 (Food safety programs)
 - (b) implements a food safety management system under the *Export Control (Dairy, Eggs and Fish) Orders 2005* (Cwlth); or
 - (c) implements the hazard analysis and critical control point system (HACCP) for food safety management, adopted by the Codex Alimentarius Commission and set out in the document CAC/RCP 1-1969, Rev. 4-2003, Annex; or
Editor’s note—
A copy of the document can be viewed at www.codexalimentarius.net/web/index_en.jsp.
 - (d) is another program approved by Safe Food.

‘(2) In this section—

hazard analysis and critical control point system (HACCP) means a methodology that systematically identifies, evaluates and controls hazards that are significant for food safety.

‘134W Additional food safety requirements

‘The accreditation holder must comply with—

- (a) the requirements stated in the food standards code, standard 4.2.1, schedule; or

Editor’s note—

food standards code, standard 4.2.1 (Primary production and processing standard for seafood), schedule (ASQAP manual conditions)

- (b) other requirements Safe Food decides give the same or a higher level of protection for managing exposure to risks in relation to food safety as the requirements mentioned in paragraph (a).

Maximum penalty—20 penalty units.

‘134X Co-mingling of bivalve molluscs

‘(1) The accreditation holder must ensure that each batch of bivalve molluscs harvested is—

- (a) separated from other batches of bivalve molluscs in a way that prevents co-mingling of batches; and
- (b) kept separate from the other batches during any depuration or other handling of the bivalve molluscs in the batch.

Maximum penalty—20 penalty units.

‘(2) In this section—

batch, of bivalve molluscs, means bivalve molluscs that are harvested on the same day and from the same area.’

[s 59]

59 Amendment of ch 5, hdg

Chapter 5, heading—

omit, insert—

‘Chapter 5 Transitional provisions

**‘Part 1 Transitional provision for Food
Production (Safety)
Amendment Regulation (No. 2)
2004’.**

60 Insertion of new ch 5, pt 2

After section 135—

insert—

**‘Part 2 Transitional provisions for
Primary Industries and
Fisheries Legislation
Amendment Regulation (No. 1)
2009**

‘136 Application of s 134H before 1 July 2009

‘Before 1 July 2009, section 134H applies to a person engaged in the production of seafood on the commencement of the section as if—

- (a) the seafood scheme mentioned in section 134H had commenced; and
- (b) the requirement in section 134H to give Safe Food information before starting production of seafood were a requirement to give the information before 1 May 2009.

‘137 Delayed application of fees for accreditation under seafood scheme

‘(1) Until 1 January 2010, no fee is payable for an application for an accreditation by a person who must prepare and maintain a program or management statement under the seafood scheme.

‘(2) Subsection (1) applies despite section 27.

Editor’s note—

section 27 (Fees for accreditation)

‘138 Application of the Act, s 79 to seafood scheme before 1 January 2010

‘For applying section 79 of the Act to a person engaged in the production of seafood, the seafood scheme is taken to commence on 1 January 2010.

Editor’s note—

section 79 of the Act (Unauthorised production of primary produce)’.

61 Amendment of sch 1 (Fees)

Schedule 1, part 1—

omit, insert—

‘Part 1 Accreditation

	\$
1 Application fee.	116.60
2 Accreditation fee—	
(a) for a wild game harvester or game box operator	210.00
(b) for a wild animal harvester	210.00
(c) for a retailer	373.35
(d) for a transporter	210.00
(e) for a cold store operator.	210.00
(f) for a producer.	291.65
(g) for a processor	1 166.75

[s 62]

	\$
(h) for an exporter	5 835.15
(i) for a person other than a person mentioned in paragraphs (a) to (h).....	198.25’.

62 Insertion of new schs 5A and 5B

After schedule 5—

insert—

‘Schedule 5A Risk categories for seafood scheme

section 43

‘Part 1 Low risk

all activities carried out under an accreditation by a wild animal harvester, other than activities in relation to bivalve molluscs

‘Part 2 Medium risk

all activities carried out under an accreditation by a producer or processor, other than activities in relation to bivalve molluscs

‘Part 3 High risk

all activities carried out by an accreditation holder in relation to bivalve molluscs

‘Schedule 5B Activities for seafood scheme

section 134E(2)

‘Part 1 Wild animal harvester

- 1 any of the following activities carried out on a commercial fishing boat or in relation to bivalve molluscs—
 - catching, collecting, harvesting or picking seafood
 - freezing, packing, refrigerating, storing, treating or washing seafood
 - adding brine to seafood
 - transporting seafood
 - supplying seafood
- 2 other activities authorised under the accreditation holder’s approved program or approved management statement

‘Part 2 Producer

- 1 any of the following activities carried out at an aquaculture facility, on a commercial fishing boat or in relation to bivalve molluscs—

[s 62]

- catching, collecting, cultivating, growing, harvesting or picking seafood
 - freezing, packing, refrigerating, storing, treating or washing seafood
 - adding brine to seafood
 - gilling or gutting fish
 - filleting or cutting fish into portions
 - boiling crustaceans
 - transporting seafood
 - supplying seafood
- 2 other activities authorised under the accreditation holder's approved program or approved management statement

'Part 3 Processor

- 1 any of the following activities—
- catching, collecting, cultivating, growing, harvesting or picking seafood
 - freezing, packing, refrigerating, storing, treating or washing seafood
 - adding brine to seafood
 - gilling or gutting fish
 - filleting or cutting fish into portions
 - boiling crustaceans and shellfish
 - receiving seafood from wild animal harvesters or producers
 - activities in relation to bivalve molluscs
 - transporting seafood

- supplying seafood
- 2 other activities authorised under the accreditation holder's approved program'.

63 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *mixed retail premises* and *unsuitable*—

omit.

- (2) Schedule 6—

insert—

'aquaculture facility means premises at which aquaculture activities are carried out under an authority under the *Fisheries Act 1994*.

bivalve molluscs—

- 1 *Bivalve mollusc* includes a cockle, clam, mussel, oyster, pipi and scallop, intended for human consumption.
- 2 The term does not include—
 - (a) a scallop or pearl oyster, if the only part consumed is the adductor muscle; or
 - (b) a juvenile bivalve mollusc taken for the sole purpose of growing on.

commercial fishing boat means a commercial fishing boat under the *Fisheries Act 1994*.

depuration means a process using a controlled environment to reduce the level of particular pathogenic organisms that may be present in live crustaceans or shellfish.

growing on means the process of translocating a juvenile bivalve mollusc to enable it to develop before it is sold.

harvesting means the capture or taking of seafood and includes the capture or taking of seafood from an enclosure or pond used in aquaculture.

processing, of seafood, includes the following—

[s 63]

- (a) cutting into portions, dismembering, filleting, gilling, gutting, killing or skinning seafood;
- (b) depuration of crustaceans or shellfish;
- (c) peeling or shucking seafood;
- (d) boiling of crustaceans;
- (e) adding brine to seafood;
- (f) freezing, refrigerating, packing, storing, treating or washing seafood.

processor, under the seafood scheme, means a person accredited under the scheme in the category of processor.

producer, under the seafood scheme, means a person accredited under the scheme in the category of producer.

production, of seafood—

- (a) means any of the following—
 - (i) catching, collecting, cultivating, growing, harvesting or picking seafood;
 - (ii) growing on of seafood;
 - (iii) delivering or transporting seafood;
 - (iv) holding live seafood;
 - (v) supplying seafood; and
- (b) includes the processing of seafood.

seafood handler means a person who engages in or supervises the production of seafood at seafood premises.

seafood premises means any premises or vehicle at which an activity carried on at the premises or vehicle is the production of seafood.

seafood scheme see section 134B(1).

temperature control, for seafood, means maintaining seafood at a temperature of—

- (a) 5°C or below, if necessary to minimise the growth of infectious or toxicogenic micro-organisms in the

seafood to ensure the microbiological safety of the food will not be adversely affected while the food is at the temperature; or

- (b) more than 5°C, if maintenance of the seafood at the temperature, for the period for which it will be maintained, will not adversely affect the microbiological safety of the food.

treating seafood, includes the following—

- (a) enhancing the appearance of the seafood;
- (b) dealing with the seafood solely to kill bacteria or germs in the seafood.

unsuitable means—

- (a) for pet meat, a pet meat product or a rendered product for animal consumption—the meat or product is in a condition, or contains a substance, a person would ordinarily regard as making the meat or product unfit for animal consumption; or
- (b) for seafood—the seafood is in a condition, or contains a substance, a person would ordinarily regard as making the seafood unfit for human consumption.

wild animal harvester, under the seafood scheme, means a person accredited under the scheme in the category of wild animal harvester.

wild game harvester means a person accredited under the meat scheme to kill wild animals for meat.’.

- (3) Schedule, definition *acceptable*—

insert—

‘(d) for seafood—not unsafe or not unsuitable.’.

- (4) Schedule, definition *wild animal*, ‘, other than seafood,’—
omit.

ENDNOTES

- 1 Made by the Governor in Council on 16 April 2009.
- 2 Notified in the gazette on 17 April 2009.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Employment, Economic Development and Innovation.

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