



Queensland

# Fisheries Legislation Amendment Regulation (No. 1) 2013

## Subordinate Legislation 2013 No. 270

made under the

*Fisheries Act 1994*

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## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Fisheries Legislation Amendment Regulation (No. 1) 2013*.

## Part 2 Amendment of Fisheries Regulation 2008

### 2 Regulation amended

This part amends the *Fisheries Regulation 2008*.

### 3 Amendment of s 34B (Prohibited activities)

Section 34B—

*insert—*

(2) However, a person may take a juvenile eel in the following regulated waters if the person takes the eel under a licence on which is written the fishery symbol 'JE'—

- Mary River Barrage
- Burnett River Barrage
- Kolan River Barrage
- Fitzroy River Barrage.

### 4 Amendment of s 89 (Exception for Trinity Bay regulated waters)

(1) Section 89(3), definition *prescribed person*, paragraph (a)(iii) and (v)—

[s 5]

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*omit.*

- (2) Section 89(3), definition *prescribed person*, paragraph (a)(iv) to (viii)—

*renumber* as section 89(3), definition *prescribed person*, paragraph (a)(iii) to (vi).

## 5 Amendment of s 204 (Types of permits)

- (1) Section 204(1)(d)—

*omit, insert—*

- (d) a permit for an activity mentioned in subsection (2) (a ***general fisheries permit***).

- (2) Section 204(2) and (3)—

*omit, insert—*

- (2) Subject to part 4, division 1, the chief executive may issue a general fisheries permit for an activity that—

- (a) is not able to be carried out under another type of authority; and  
(b) is carried out for any purpose, regardless of whether it is for a commercial purpose or a non-commercial purpose.

*Example of activity carried out for a commercial purpose—*

collection of fish for aquaculture

*Example of activity carried out for a non-commercial purpose—*

fisheries research and monitoring

- (3) For a general fisheries permit for an activity for which the sole or main purpose is a commercial purpose, the chief executive must state a term for the permit that ends on a day that is not more than 2 years after the day on which the permit was issued.

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**6 Amendment of s 218A (Restriction on issue of general fisheries permit for taking fish in particular regulated waters)**

(1) Section 218A(1), ‘Subject to subsection (2), the’—  
*omit, insert—*

The

(2) Section 218A(2)—  
*omit.*

**7 Amendment of s 233 (Authorisation—assistant fisher)**

Section 233(4), after ‘232(a),’—  
*insert—*

(b),

**8 Amendment of s 242 (General conditions of a commercial fisher licence)**

(1) Section 242(4), ‘Subsections (5) and (6) apply’—  
*omit, insert—*

Subsection (5) applies

(2) Section 242(5) and (6)—  
*omit, insert—*

(5) The commercial fisher must not act in the commercial fishery under—

(a) if the commercial fisher is directing an assistant fisher acting under a commercial fishing boat licence in the commercial fishery at the same time as the commercial fisher—more than 2 commercial fishing boat licences at the same time; or

(b) otherwise—more than 1 commercial fishing boat licence at the same time.

[s 9]

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(3) Section 242(7), ‘Subsection (8)’—

*omit, insert*—

Subsection (7)

(4) Section 242(7) and (8)—

*renumber* as section 242(6) and (7).

**9 Amendment of s 627 (Using boats)**

Section 627(1)(c)(ii), ‘who is also using the boat’—

*omit.*

**10 Amendment of s 630 (Carrying fish taken for trade or commerce)**

Section 630(2)—

*insert*—

- (d) live mud crabs on a commercial fishing boat in Gulf of Carpentaria waters or relevant tropical waters.

**11 Insertion of new ch 14, pt 7, div 4, sdiv 1, hdg**

Chapter 14, part 7, division 4—

*insert*—

**Subdivision 1 VMS exemption notice**

**12 Amendment of s 684 (Application of div 4)**

(1) Section 684, heading, ‘div 4’—

*omit, insert*—

**sdiv 1**

- (2) Section 684, ‘division’—  
*omit, insert*—  
subdivision

### 13 Insertion of new ch 14, pt 7, div 4, sdiv 2

After section 686—

*insert*—

#### **Subdivision 2 Application for limited VMS exemption**

##### **686A Application of sdiv 2**

This subdivision applies if a relevant boat is—

- (a) identified in a licence, with the fishery symbol ‘M1’, ‘T1’ or ‘T2’ written on it, allowing its use under the East Coast Trawl Plan; and
- (b) incapable of trawling.

##### **686B Making VMS exemption application**

- (1) The licence holder may apply to the chief executive to exempt the licence holder from the requirements relating to VMS equipment under section 679 and division 3 (a *VMS exemption application*).
- (2) The VMS exemption application—
  - (a) must state the reason why the relevant boat is incapable of trawling; and

*Examples of reasons why a relevant boat is incapable of trawling—*

there are no otter boards, trawl nets or winches used for trawling on the boat

[s 13]

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- (b) may be made orally or in writing.

*Examples of ways in which a VMS exemption application may be made—*

by telephone, fax, email

### **686C Deciding application**

- (1) The chief executive must consider each VMS exemption application within a reasonable period after receiving the application and decide to grant, or refuse to grant, the application.
- (2) The chief executive may grant the VMS exemption application only if satisfied that the relevant boat is incapable of trawling.
- (3) If the chief executive approves the VMS exemption application, the chief executive must write the exemption on the licence.

### **686D Information notice about refusal of VMS exemption application**

If the chief executive decides to refuse the VMS exemption application, the chief executive must give the licence holder an information notice about the decision.

### **686E Effect of approval of VMS exemption application**

- (1) If the chief executive approves a VMS exemption application, a requirement relating to VMS equipment that, under section 679 or division 3, would otherwise apply to the relevant boat, does not apply for the period—
  - (a) starting on the day the exemption is written on the licence; and

- (b) ending on the earlier of the following days—
- (i) the day the chief executive revokes the exemption under subsection (2);
  - (ii) the day the relevant boat is no longer incapable of trawling;
  - (iii) the day the licence holder requests that the exemption be removed from the licence;
  - (iv) the day the relevant boat for the licence changes.
- (2) The chief executive may revoke an exemption if the chief executive knows or reasonably suspects the relevant boat is no longer incapable of trawling.

#### **14 Amendment of sch 1 (Regulated waters)**

- (1) Schedule 1, part 1, entry for Northern rocklobster waters, column 2, paragraph (a), ‘Queensland’—  
*omit.*
- (2) Schedule 1, part 1, entry for Southern rocklobster waters, column 2, ‘Queensland’—  
*omit.*

#### **15 Amendment of sch 2 (Regulated fish declarations)**

- (1) Schedule 2, part 2—  
*insert—*

manta ray			a person taking or possessing the fish unless the person takes or possesses the fish under an agreement with the State for taking, tagging or disposing of the fish
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[s 16]

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- (2) Schedule 2, part 2, entry for ray (other than guitarfish and shovelnose ray), column 1, after ‘guitarfish’—

*insert—*

, manta ray

**16 Amendment of sch 6 (Glossary of scientific names for particular fish other than regulated coral reef fin fish)**

- (1) Schedule 6, part 5, heading, ‘bag’—

*omit, insert—*

**possession**

- (2) Schedule 6, part 6, entry for blue swimmer crab, ‘pelagicus’—

*omit, insert—*

*armatus*

- (3) Schedule 6, part 6—

*insert—*

manta ray

*Manta birostris*

**Part 3 Amendment of Fisheries (Coral Reef Fin Fish) Management Plan 2003**

**17 Plan amended**

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

**18 Amendment of s 149 (Serious fisheries offences)**

- (1) Section 149(1)(a)—

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*omit, insert—*

(a) contravening the *Great Barrier Reef Marine Park Act 1975* (Cwth), section 38BA;

(2) Section 149(2)—

*omit.*

## **Part 4                      Amendment of Fisheries (East Coast Trawl) Management Plan 2010**

### **19      Plan amended**

This part amends the *Fisheries (East Coast Trawl) Management Plan 2010*.

### **20      Amendment of s 64 (Obligation to nominate communication mode for boat)**

(1) Section 64(2)(a), after ‘of’—

*insert—*

a radio or

(2) Section 64(2), examples—

*omit, insert—*

*Example of mode that may be nominated—*

the number for a facsimile, mobile phone, radiophone or satellite phone on the boat

### **21      Amendment of s 65 (Obligation to ensure communication with person in control)**

Section 65, example—

*omit.*

[s 22]

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## **22 Amendment of s 188 (Serious fisheries offences)**

(1) Section 188(1)(b)—

*omit, insert—*

(b) contravening the *Great Barrier Reef Marine Park Act 1975* (Cwth), section 38BA.

(2) Section 188(2)—

*omit.*

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### ENDNOTES

- 1 Made by the Governor in Council on 5 December 2013.
- 2 Notified on the Queensland legislation website on 6 December 2013.
- 3 The administering agency is the Department of Agriculture, Fisheries and Forestry.

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