

# Fisheries Legislation (Sea Cucumbers) Amendment Regulation 2025

## Human Rights Certificate

### Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, Anthony Perrett MP, Minister for Primary Industries, provide this human rights certificate with respect to the *Fisheries Legislation (Sea Cucumbers) Amendment Regulation 2025* made under the *Fisheries Act 1994*.

In my opinion, the *Fisheries Legislation (Sea Cucumbers) Amendment Regulation 2025*, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

## Overview of the Subordinate Legislation

The purposes of the *Fisheries Legislation (Sea Cucumbers) Amendment Regulation 2025* (Amendment Regulation) are to:

- Continue to ensure the sustainable management of the sea cucumber fishery in Queensland by reducing the amount of commercial take of Convention on International Trade in Endangered Species (CITES) listed species.
- Maintain the Queensland sea cucumber fishery's Wildlife Trade Operation (WTO) approval to export sea cucumber product, granted by the Commonwealth Minister for the Environment and Water under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), by implementing the condition of approval that specified annual harvest limits are introduced before the start of the 2025-26 fishing season on 1 July 2025.
- Support the sustainable management of sandfish by introducing catch limits for these fish in accordance with the decision rules in the relevant harvest strategy.

### *The Queensland sea cucumber fishery*

The Queensland sea cucumber fishery (fishery symbol B1) is a commercial harvest fishery operating predominately within an area that encompasses the Great Barrier Reef Marine Park, Boot, Ashmore, Marion and Saumarez reefs in the Coral Sea Marine Park. The majority of harvested product is exported.

Queensland fisheries legislation sets the total allowable commercial catch (TACC) for several species in this fishery. The TACC can be lowered or raised in response to pre-approved management arrangements under approved harvest strategies and is the most direct method to control commercial harvest levels.

The TACCs for this fishery are currently managed through Individual Transferable Quotas (ITQs). Under an ITQ system, the TACC for a species or set of species is determined through scientific assessment and management decisions, then divided into quotas that are allocated to the fisheries quota holders. These ITQs represent a fixed percentage of the TACC (rather than a fixed weight of fish), and are a fisher's secure and ongoing asset within a fishery, which can be bought, sold or leased between other commercial fishers.

In addition to ITQ, the TACC for a species may also be implemented through a Prescribed Commercial Catch (PCC) limit. For this option, the TACC is not divided up and allocated to fishers on an individual basis. The PCC is available on a competitive basis to all commercial fishers in the fishery until the PCC limit is reached for the fishing season.

Commercial fishing for sea cucumber is managed under the Queensland Fisheries Act. However, export of products taken under this fishery is managed under Commonwealth legislation. Amendments to Queensland fisheries management arrangements may sometimes be required in order to meet Commonwealth export approval requirements.

### ***Ensure compliance with Commonwealth conditions for export approvals***

To export Australian native animal or plant specimens and/or specimens listed under CITES for commercial purposes, the specimens must come from an approved program such as a WTO issued under the EPBC Act by the Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW).

The Queensland sea cucumber fishery has been declared an approved WTO under Part 13A of the EPBC Act until 30 November 2027, authorising the export of harvested product subject to 13 conditions being met by the Department of Primary Industries (DPI) throughout the period of the approval.

Condition 5 of the fishery accreditation requires that, by 1 July 2025, DPI must implement a 10,000 kg annual TACC for *Thelenota anax* (amberfish) and 40,000 kg TACC for *Thelenota ananas* (prickly redfish). These catch limits were set by the DCCEEW on a precautionary basis taking into account recent catch history for these species, due to the fact that these species were listed under Appendix II of CITES on 25 May 2024. Appendix II lists species that are not necessarily now threatened with extinction but that may become so unless trade is closely controlled.

Currently these species do not have species-specific catch limits or TACCs under Queensland fisheries legislation. They are included along with various other species in the 'other sea cucumber' TACC. In order to comply with the WTO conditions, it is necessary to introduce a species-level TACC for each of these species.

### ***Amend harvest limits for key fishery species in accordance with harvest strategies***

Harvest strategies provide clarity about overall fishery objectives, fishery performance targets, triggers for management action and appropriate management responses.

The *Sea Cucumber Harvest Strategy 2021-2026* (the Harvest Strategy) provides decision rules for commercial fishing. If the annual catch for certain species exceeds the trigger reference limit, the Harvest Strategy requires that a TACC be set to maintain the annual catches of that species at, or below, the trigger level until a further assessment can be undertaken.

The catch trigger for *Holothuria scabra* (sandfish) is 15,000 kg. In the 2023–2024 fishing season, the total catch of sandfish by the commercial fishing sector was 17,900 kg, almost 3 tonnes over the trigger reference limit. Therefore a catch limit must be set for this species to maintain harvest at the limit of 15,000 kg.

### ***Required amendments***

The Queensland sea cucumber fishery is managed under a quota management system, utilising ITQ for certain species. Prickly redfish, amberfish and sandfish currently managed under ITQ along with other designated species in the ‘other sea cucumber’ ITQ category, referred to as B1O-ITQ.

These species will not be managed as separate ITQ categories. They will remain within the general ‘other sea cucumber’ B1O-ITQ category. However they will additionally be subject to annual species-level PCC limits under Schedule 2, Part 2 of the Fisheries Declaration 2019:

- *Thelenota ananas* (prickly redfish) – 40,000 kg
- *Thelenota anax* (amberfish) – 10,000 kg
- *Holothuria scabra* (sandfish) – 15,000 kg.

Additionally, the common names and scientific names for these species will be added to Schedule 7, Part 6 of the *Fisheries (General) Regulation 2019*.

These changes must be introduced before the start of the 2025-26 fishing season on 1 July 2025.

## **Human Rights Issues**

### **Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 HR Act)**

#### **Property rights**

The Amendment Regulation engages and limits the property rights protected under section 24 of the HR Act. Under this section, “All persons have the right to own property alone or in association with others” and “a person must not be arbitrarily deprived of the person’s property.” Deprivation of property is not limited to physical dispossession of property and can take the form of any interference with the use, enjoyment or exploitation of private property.

The Amendment Regulation engages a person’s property rights because primary commercial fishing licences (PCFLs), which entitle the holder to participate in the commercial fisheries for which the relevant fishery symbols are written on his or her licence, and quota authorities, have property-like characteristics.

Whilst the management change made in the Amendment Regulation does not restrict a person from owning or trading quota, nor will it reduce his or her quota allocation, it does affect the possible value of the quota by reducing the quantity of certain high value sea cucumbers that may be taken annually. This limits the property right of the licence holder with respect to use and exploitation of his or her quota.

### **Consideration of reasonable limitations on human rights (section 13 HR Act)**

#### **Ø ) the nature of the right**

Section 24 of the HR Act provides for property rights. This clause is modelled on article 17 of the Universal Declaration of Human Rights. The right essentially protects a person from having his or her property unlawfully removed. Subsection (1) provides that all persons have the right to own property alone or with others. Subsection (2) provides that a person must not be arbitrarily deprived of his or her property.

#### **h ) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom**

The purpose of limiting a licence-holder's property rights by introducing prescribed commercial catch limits for particular sea cucumbers is to support the sustainable management of sea cucumber stocks by distributing the pressure of commercial take across a broad range of species. Distributing this pressure will ensure that particular high-value sea cucumbers are not targeted to a point that their sustainability is compromised. This will ensure that sea cucumbers continue to be sustainably harvested into the future.

The Amendment Regulation is also proposed to help maintain the Queensland Sea Cucumber Fishery's export approval through implementing the Wildlife Trade Operation (WTO) condition of approval by prescribing these catch limits before the start of the 2025-26 fishing season. Without a WTO export approval, sea cucumbers taken from the fishery would not be permitted to be exported. This would effectively prevent business operations for this primarily export fishery. Hence, the restriction on certain species associated with the quota authorities also enables the holder to continue to exploit his or her quota authorities.

Sustainable management of a fishery resource promotes the common good while enabling exploitation of quota authorities promotes the rights of holders of the property-like quota authorities. These purposes are consistent with a free and democratic society based on dignity, equality and freedom.

#### **Ø ) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose**

Limiting the property rights of a licence-holder by reducing the quantity of high value species that may be taken under his or her licence indirectly achieves the purposes of the amendments.

Restricting the quantity of high-value species that can be taken supports sustainable management of sea cucumber stocks by ensuring that these individual sea cucumbers are not overharvested as a consequence of their high value. Introducing prescribed catch limits at a species level will ensure that the sustainability pressure of commercial take is distributed across a broad range of sea cucumber species.

Implementing the fishery's WTO condition of approval by introducing these prescribed catch limits before the start of the 2025-26 fishing season will support the retention of the WTO export approval for Queensland sea cucumbers.

g) whether there are any less restrictive and reasonably available ways to achieve the purpose

The purposes of the amendments cannot be achieved through any less restrictive and reasonably available means.

To not act to implement the WTO condition of approval would be a less restrictive option, but would not support sustainable management of sea cucumber stocks in Queensland and would risk the WTO export approval for the fishery being revoked.

h) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

The pressing need to support sustainable management of sea cucumber stocks in Queensland and maintain the fishery's WTO export approval outweighs the limited impact on licence-holders. Whilst the value of quota authorities may be decreased by reducing the quantity of certain high value species that may be taken, this restriction is necessary to ensure that individual sea cucumber species are not overharvested and remain sustainably managed, and to maintain the ability to export sea cucumber taken under those authorities. The limitation on property rights is, therefore, reasonable and demonstrably justified in the circumstance.

## Conclusion

I consider that the *Fisheries Legislation (Sea Cucumbers) Amendment Regulation 2025* is compatible with the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

**Anthony Perrett MP**  
MINISTER FOR Primary Industries