

FISHERIES AND OYSTER FARMS ACT 1935—REGULATION

(Relating to the rock lobster fishery)

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.

IAN R. CAUSLEY, M.P.,

Minister for Natural Resources.

Commencement

1. This Regulation commences on 26th March, 1993.

Amendments

2. The Fisheries and Oyster Farms (General) Regulation 1989 is amended by inserting after Part 3 the following Part:

PART 3A—RESTRICTED FISHERY—ROCK LOBSTER

Definitions

24A. In this Part:

“**permit**” means a restricted fishery permit issued in respect of rock lobsters for the purposes of section 22A of the Act;

“**restricted fishery**” means a restricted fishery specified in an order under section 22A (1) of the Act;

“**rock lobster**” means eastern rock lobster (*Jasus verreauxi*), southern rock lobster (*Jasus edwardsii*) or tropical rock lobster (*Panulirus longipes* and *Panulirus ornatus*).

Application of Part

- 24B. This Part has effect during any period that rock lobsters are a restricted fishery.

Application for permits

24C. (1) An application for a permit is to be made in writing to the Director within 42 days after the commencement of this Part.

(2) The application is to be accompanied by a fee of \$200.

Eligibility for permits

24D. (1) The Director may issue a permit to any applicant who is the holder of a current fisherman's licence under section 24C of the Act and who (according to the returns furnished to the Director under section 42 of the Act):

- (a) has taken an average of 100 kilograms of rock lobster for sale each year in the years 1987 to 1990 (inclusive); and
- (b) has taken rock lobsters for sale during 2 or more of those years; and
- (c) has taken at least one rock lobster for sale in the year 1991.

(2) The Director may only refuse to issue a permit to an applicant who is otherwise eligible for a permit under this clause if:

- (a) the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act; or
- (b) the applicant has been convicted of an offence relating to commercial fishing operations under the laws of the Commonwealth or of another State or of a Territory; or
- (c) the application for the permit is received by the Director more than 42 days after the commencement of this Part; or
- (d) the issue of the permit would result in there being more permits in force at that time than the maximum number of permits specified in relation to the restricted fishery in an order under section 22A (3) of the Act.

Renewal of permit

24E. (1) If an application for the renewal of a permit is made in writing to the Director, the Director may renew the permit.

(2) The Director may only refuse to renew a permit if:

- (a) the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act; or
- (b) the applicant has been convicted of an offence relating to commercial fishing operations under the laws of the Commonwealth or of another State or of a Territory; or
- (c) the application for renewal of the permit is received by the Director after the expiration of the permit.

(3) If application is duly made for the renewal of a permit and the renewal is not granted before the expiration of the permit:

- (a) the permit continues in force until the renewal is granted or refused; and
- (b) the renewal may be granted despite the fact that, but for this subclause, the permit would have expired.

Duration of permit

24F. A permit remains in force for the period specified in the permit, being not less than 1 year, except to the extent that its duration is affected by suspension, or unless it is cancelled.

Suspension of permit at request of permit holder

24G. (1) The holder of a permit may request the Director to suspend the permit for a specified period or to shorten or extend any such period of suspension, and the Director may comply with the request.

(2) This clause does not affect any other provision of this Regulation providing for the suspension of a permit.

Cancellation and suspension of permits

24H. (1) A permit held by a person is suspended during any period in which the fisherman's licence held by the person is suspended.

(2) If the fisherman's licence held by the person is cancelled, any permit held by the person is taken to have also been cancelled.

EXPLANATORY NOTE

Section 22A of the Fisheries and Oyster Farms Act 1935 enables the Minister, by order, to declare specified species of fish to be a restricted fishery. The effect of such an order is that a person must be a licensed fisherman and hold a permit in relation to the restricted fishery in order to be able to take fish, the subject of the order, for the purpose of sale. Rock lobsters are to be declared a restricted fishery under this provision.

The object of this Regulation is to amend the Fisheries and Oyster Farms (General) Regulation 1989:

- (a) to provide for the issue of restricted fishery permits in respect of rock lobsters by the Director of NSW Fisheries to licensed fishermen who have taken an average of 100 kilograms of rock lobster for sale each year in the years 1987 to 1990, taken rock lobster for sale in 2 or more of those years and taken at least one rock lobster for sale in 1991; and
- (b) to make provision as to the renewal, duration, suspension and cancellation of restricted fishery permits in respect of rock lobsters.