

1995—No. 640

FISHERIES MANAGEMENT ACT 1994—REGULATION

(Relating to mutilation of fish)

NEW SOUTH WALES



[Published in Gazette No. 131 of 27 October 1995]

HIS Excellency the Lieutenant-Governor, with the advice of the Executive Council, and in pursuance of the Fisheries Management Act 1994 has been pleased to make the Regulation set forth hereunder.

Bob Martin,
Minister for Mineral Resources and Minister for Fisheries.

Commencement

1. This Regulation commences on 1 December 1995.

Amendments

2. The Fisheries Management (General) Regulation 1995 is amended:
 - (a) by omitting from clause 124 (1) the words “, without reasonable excuse,”;
 - (b) by inserting after clause 124 (1) the following subclause:
 - (1A) A person (other than a commercial fisher) does not commit an offence under subclause (1) if the person establishes that the person:
 - (a) mutilated the fish in the course of preparing the fish for immediate consumption; or
 - (b) mutilated the fish in the course of preparing the fish for immediate use as bait; or
 - (c) mutilated the fish at a place that is a fish cleaning facility or other place specifically provided or ordinarily used for the cleaning of fish, being a place that is not in or on any waters; or
 - (d) mutilated the fish in accordance with a permit issued by the Director.

EXPLANATORY NOTE

At present, the Fisheries Management (General) Regulation 1995 contains size requirements in respect of certain fish taken from New South Wales waters. It is an offence to mutilate fish the subject of a size requirement (for example by filleting them) in or on or adjacent to any waters other than by gutting them or removing their gills or scales. It is not an offence if the mutilation is done with “reasonable excuse”.

The object of this Regulation is to remove the defence of “reasonable excuse” and instead set out clearly the circumstances in which it is permissible to mutilate fish in, on or adjacent to waters.

Pursuant to the Regulation, a recreational fisher is not guilty of the mutilation offence if the fisher establishes that the fish were mutilated:

- (a) for the purposes of on-the-spot consumption; or
- (b) for immediate use as bait; or
- (c) for the purpose of cleaning the fish at a place adjacent to waters that is a fish cleaning facility or other place provided or used for the cleaning of fish; or
- (d) in accordance with a permit issued by the Director of NSW Fisheries.

There are no defences for a commercial fisher.

This Regulation is made under the Fisheries Management Act 1994, in particular section 40 (Regulations relating to general management of fisheries) and section 289 (the general regulation making power).
